



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

## SENATE—Monday, May 18, 2009

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, we are reminded of Your mercies that have been of old; You have been our dwelling place in all generations, before the mountains were brought forth or ever You had formed the Earth and sea. From everlasting to everlasting, You are God.

Guard and guide our Senators. Provide them with a sense of purposeful direction. Give Your enabling grace to our legislative leaders that they may unite their best efforts for the health and strength of the Nation and for peace and justice in our world. Cleanse anything in them that would block the flow of Your joy. May love for You be the motive for their work, as they strive to live worthy of Your grace.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 18, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following remarks of the leaders, the Senate will be in a period of morning business, with Senators allowed to speak for up to 10 minutes each. There will be no rollovers today. The next vote will be tomorrow morning at about 10 a.m. That vote will be on the motion to invoke cloture on the substitute amendment to H.R. 627, the credit card bill.

### FINAL WEEK OF APRIL/MAY WORK PERIOD

Mr. REID. Mr. President, in these past few weeks, we have seen the good that can happen when we look out for Main Street, not just Wall Street. We have accomplished a lot. This work period has been tremendously productive, but we have a lot to finish this week before we can adjourn for Memorial Day. We have to finish an important bill that puts fairness and common sense back into credit cards—those credit cards we use every day. It stops companies from taking advantage of their customers with hidden charges and misleading terms. We need to finish a bill we passed a couple weeks ago that will crack down on corporate fraud and mortgage scams. We need to finish a bill that will help millions of families keep their homes. We need to finish a bill that reins in out-of-control Government contractors who waste taxpayer money, the so-called procurement bill. We need to confirm President Obama's nominee to be Deputy Secretary of the Department of the Interior—a man who is supremely qualified and held the same position in President Clinton's Cabinet. Finally, we have to pass a supplemental appro-

priations bill to give our troops the tools they need to succeed as they fight in two wars. This funding will strengthen our military, rebuild our standing in the world, and reduce our key security threats.

So I hope this week we can cap off a productive and successful work period with another fruitful week, but it will take the cooperation of both Democrats and Republicans to do this. I have had a brief conversation with the floor staff, and it is something we should be able to do fairly quickly. I hope that, in fact, is the case. I look forward to visiting, sometime today, with my counterpart, the Republican leader, to see what we can do to work toward this common goal of finishing our work as quickly as we can. We all have scheduled a lot of things for the Memorial Day recess. It is one of those rare times when we can be home during the week. We look forward to that. We want to make that time as lengthy as possible, and we will do what we can on this side to see if we can move through these very important pieces of legislation.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### GUANTANAMO AND THE SUPPLEMENTAL

Mr. McCONNELL. Mr. President, 2 years ago, our Nation was in the midst of a global battle against terrorism, and much of our time and energy in the Senate was devoted to that fight, from

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

updating laws for monitoring terrorists overseas, to fighting an insurgency in Iraq, to combating the Taliban in Afghanistan.

Two years later, we are still engaged in the same battle and in many of the same debates. On most of these issues, the Senate has had an opportunity to express itself very clearly. Yet rarely has it done so with as much unity as on the question of whether to send terrorists at Guantanamo to U.S. soil. On that important question, the vote was 94 to 3 against.

But something has changed. Now a number of Democrats who voted against sending detainees from Guantanamo to the United States are expressing a willingness to do so, in contradiction of their earlier vote. What has changed? America is still at war against terror networks around the world. The detainees held at Guantanamo are still some of the most dangerous terrorists alive. Indeed, over the past 2 years, the inmates there have been winnowed down to an even higher percentage of committed killers than were there before. Americans still do not want these men in their neighborhoods. They saw what the residents of Alexandria, VA, endured a few years ago when just one terrorist was held there, and they do not want armed agents patrolling their streets, ID checks, bomb-sniffing dogs, or millions of their tax dollars diverted to secure terrorists.

When we voted on this question 2 years ago, the prospect of shipping terrorists to U.S. soil was not imminent, even though the previous administration had expressed a desire to close the facility at some point. The new administration, on the other hand, set an arbitrary date for closure before it even had a chance to review the intelligence and the evidence of the 240 men who are down at Guantanamo now.

So I think it is perfectly appropriate, as we look to ensure the safety of the American people, to have another vote on this issue. Later this week, we will have an opportunity to do just that as the Senate takes up the supplemental war spending bill. The administration has requested funds within this bill to close Guantanamo, and Senators should take this opportunity to clarify their positions. So we will have a number of amendments this week on the supplemental that will allow the Senate to express itself once again on this most important issue.

#### AUNG SAN SUU KYI

Mr. MCCONNELL. Mr. President, I would like to briefly discuss a troubling situation a world away in Burma. The situation involves Nobel Peace Prize laureate Aung San Suu Kyi, who, this very morning, stood trial—stood trial this very morning—for permitting a misguided soul to enter her house.

With some regularity, we in the West are reminded of the tyranny that exists in this troubled land.

In 2007, Buddhist monks and other peaceful Burmese protesters were brutally put down by Government authorities. Scores were slain, hundreds more were imprisoned or had to flee the country simply to survive.

In 2008, Burma was lashed by a terrible cyclone. This natural disaster was exacerbated by a manmade disaster: the dismal relief and response effort of the governing State Peace and Development Council, which refused outside aid in the immediate aftermath, resulting in untold numbers of Burmese citizens dying. At the same time, the regime devoted its energies to its referendum of its new Constitution, a document clearly intended to permanently entrench military rule.

In 2009, this familiar pattern of governmental malfeasance has continued. First, the Government refused to permit Suu Kyi's doctor to see her, despite her very poor health. Then the Government took the flimsiest of pretexts to drag Suu Kyi into this trial.

It was in this context that the Obama administration last week issued an Executive order extending for another year sanctions against the Burmese regime. I applaud the administration for taking this step, and I look forward to working with the administration once it has concluded its review of Burma policy, which I have discussed on several occasions with Secretary Clinton.

The Government of Burma should be aware that its actions are highly troubling to democracies the world over. This is reflected not only in the administration's new Executive order but also in the strong support the Burmese people enjoy in the Senate. My colleagues and I on both sides of the aisle will continue to follow Suu Kyi's trial with great interest and deep concern.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

#### HEALTH CARE REFORM

Mr. SPECTER. Mr. President, I have sought recognition to address the sub-

ject of health care reform. I support President Obama's call for health care reform legislation this year. It has long been obvious that there is a need for health care reform in the United States. There are some 47 million people, perhaps more—the precise figure is not known—who do not have health insurance or who are underinsured.

I have prepared an extensive statement outlining some of the issues which I think ought to be addressed, and I have sought recognition this afternoon to summarize those comments briefly. I ask unanimous consent that, at the conclusion of my statement, the full text of my statement be included in the RECORD as if read in full.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the question of health care coverage has long been debated in the Congress. There is a general consensus that we need to cover all Americans who, as I say, either have no insurance or are underinsured.

In my capacity as ranking member or chairman of the Appropriations Subcommittee on Labor, Health, Human Services, and Education for more than a decade, I have taken the lead, along with Senator TOM HARKIN—then on a bipartisan basis, where we, as we have said frequently, have shifted the gavel seamlessly—to provide for a great deal of health care coverage. During that time, the issue of funding for the National Institutes of Health has received special attention, where that figure has been raised from some \$12 billion to \$30 billion; and with the recent stimulus package, an additional \$10 billion has been added. In addition to extensive coverage and increased funding for the National Institutes of Health, which resulted in very substantial improvements in the health of Americans on items such as stroke and cancer and heart disease, that subcommittee has taken the lead on many other health care issues, which I will not take time now to enumerate.

I have cosponsored the legislation proposed on a bipartisan basis by Senator WYDEN, Democrat of Oregon, and Senator BENNETT, Republican of Utah. I have had a series of discussions with Senator BAUCUS, chairman of the Finance Committee, and discussed the issue with Senator ENZI, ranking member on the Health, Education, Labor, and Pension Committee, and have directed my staff to work with the staffs of all the other Senators. I have noted the comment made by Senator GRASSLEY when he came from a meeting at the White House of the interest in a bipartisan approach, and noted Senator ENZI's statement that it was his hope we would have a consensus for perhaps as many as 80 Senators, which I think is the objective. But one way or another, I do support what the President

has said about moving forward health care insurance at this time.

It is my preference, my position, that we rely principally on the private sector. I think it is undesirable to put a massive bureaucracy between the doctor and the patient. I am open to some intervention on a public plan, as I delineate in my formal written statement. Pennsylvania has a plan where, when the insurance was unavailable on medical liability, the State stepped in with an insurance plan. And then, when the insurance was available, the plan was to have it phased out.

I have noted with interest the suggestions made by Senator SCHUMER to have a public sector for a number of dimensions. One is to cover areas where there are no private plans. Certainly that is something that ought to be considered so that everyone has the availability of health care coverage. Senator SCHUMER's proposal further delineates the standing of a public plan to be on a level playing field with the private sector, and has specified a number of issues where that level playing field would be maintained, and they are specified in some detail in my written statement, although not exhaustively.

Here again, it is a matter for discussion and deliberation. Health care reform is an opportunity for the United States Senate to verify and confirm its standing as the world's greatest deliberative body. All of these ideas are in their formative stages, and plans are being worked on. We have the Wyden-Bennett model. I joined that plan, not that I thought it was perfect—and in my floor statement adding my cosponsorship I specified the concerns I had—but I thought it was highly desirable. At that time there were some 14 Senators, equally divided between the two parties, which provided a critical mass, and I thought that was a good start to give impetus.

Of course, with President Obama's emphasis, with his convening a forum on health care, where I was invited to attend and did participate, we are moving forward. I think it is very important to focus on items where we may have savings within the existing health care system. We have had very substantial Federal involvement in the TARP program proposed by President Bush last fall, which is very expensive. We have had very substantial Federal expenditures on President Obama's stimulus package, of which we all know the cost. And at a time when there is a substantial deficit and a very substantial national debt, we ought to look for ways for savings, and I think there are some very specific and concrete ways where savings can be obtained.

I begin that analysis with the National Institutes of Health. What better way to cut down on health care costs than to prevent illness. What better way than to have scientific re-

search provide the ways to prevent illness. I have introduced specific legislation recently—again delineated in some detail in my written statement—on a Cures Acceleration Network, an effort to bring the research from the National Institutes of Health, from the laboratory, to the bedside—as it is summarized, from bench to the bedside. The advances in medical research, statistics—and again they are delineated in my formal written statement—specify the tremendous improvements in health, where mortality has gone up and prolonged or saved lives in so many fields—cancer, heart disease, stroke, et cetera. When you have a program for health care, then I think there are realistic ways to save money; where people who develop chronic ailments, which are very expensive, can be ameliorated or perhaps even prevented, but holding down health care costs.

A separate item, which has received considerable attention, and which I spoke about at the President's health forum, is lifestyle, on exercise and on diet. Those are items which I have always been concerned about, being a squash player almost on a daily basis, and more recently taking up weight training as a result of an experience I have had with Hodgkin's and with some of the efforts to bring back balance. I feel that exercise is very important. My wife has always been very consistent on dietary considerations. There are some programs I recently heard a presentation on by the chief executive officer of Safeway on exercise and health, and there is a correlation along some lines in reducing health care premiums depending on people avoiding smoking, exercising, and care for their diet. I do believe there are very substantial savings that are involved. It would be my hope that the Congressional Budget Office could quantify some of these savings—savings on NIH, savings on lifestyle, savings on advanced directives. And in presenting a health care reform plan to the American people, I believe it would be enormously beneficial to be able to point to these savings as offsets to whatever the cost may be.

On the subject of advanced directives and living wills, there is a great deal to be saved. One study showed as much as 27 percent of Medicare costs in the last few days, few months, or the last year of a person's life. No one ought to say to anybody else what their directive should specify in terms of what kind of care they want under those circumstances, but I think it is fair to ask people to focus on it, to think about it, and to make a directive in that respect—revocable, they can change it but not leave it to the family in some extremist situation when they are in the hospital and the passion is all in one direction or another.

On the subcommittee on Labor, Health, Human Services and Edu-

cation, we took the lead on including information in the "Medicare and You" handbook to encourage people to have advanced directives and living wills, so that is an item where a savings could be attained.

Another line for possible savings would be a toughening up of criminal penalties for people who cheat on Medicare and Medicaid. From my experience as district attorney of Philadelphia, I saw very concrete examples about the effectiveness of jail sentences on deterrence. If we are dealing with a domestic dispute or dealing with a barroom drunken knife brawl, tough sentences are not going to deter anybody. But if we talk about white collar crime, talk about people who are thoughtful in the way they may engage in Medicare fraud or Medicaid fraud, jail sentences would be effective. This is a subject I have taken up with the Attorney General and with the Assistant Attorney General in the Criminal Division. It will be the subject of a hearing this Wednesday afternoon, the day after tomorrow, when we will bring in experts in the field of Medicare and Medicaid and get into the issue as to what kind of savings might be available.

That is a brief summary of the longer written statement I have. I will conclude by emphasizing my thought that all Americans need to be covered with adequate health care assurance, and this is a matter of the highest priority. It is President Obama's No. 1 priority, as I understand it, and I think properly so. I am prepared, as I said before, to put my shoulder to the wheel to try to get this job done. The experience in the Subcommittee on Appropriations for Health and Human Services provides some insights and some guidance, and it is something I think we ought to accomplish.

I have already asked consent my full statement be printed in the RECORD. I would ask the stenographer to print it out exactly as if I read it. Sometimes it appears in smaller type, so I would like it in big type and, with the explanation I have given, people will understand why there is some repetition between these extemporaneous comments and the written text.

Mr. President, there is no doubt America is in need of major health care reform. With a reported 47 million people without health insurance the status quo is not acceptable. Additionally, there are millions more Americans who are underinsured, with health insurance that is inadequate to cover their needs. Families are forced to make tough sacrifices in order to pay medical expenses or make the agonizing choice to go without health care coverage. There are far too many Americans whose financial and physical health is jeopardized by the rising costs of health care.

In the coming weeks and months Congress will consider health care reform which seeks to address the health care crisis, by addressing access to quality care, wellness programs and payment improvements. We need to agree on a balanced, common sense solution that reins in costs, protects the personal doctor-patient relationship and shifts our focus to initiatives in preventive medicine and research.

I believe that ensuring all Americans have access to quality, affordable health care coverage is essential for the health and future of our Nation. The creation of an insurance pooling system, such as the one established in Massachusetts in 2006, could serve as a model to provide health insurance to all individuals. The Massachusetts program created a connector which allowed individuals to group together to improve purchasing power to achieve affordable, quality coverage for the entire population and to equitably share risk. However, Congress must be mindful of the cost of providing this care and reforms should not affect those who want to maintain their current insurance through their employer.

Health reform legislation should include health benefit standards that promote healthy lifestyles, wellness programs and provide preventive services and treatment needed by those with serious and chronic diseases. Health care coverage must be affordable with assistance to those who do not have the ability to pay for health care. While I am concerned about a requirement to obtain health insurance, I understand that without it, health providers are forced to write off expensive, uncompensated care that we all pay in the form of higher premiums.

In reforming health care we must work to ensure equity in health care access, treatment, and resources to all people and communities regardless of geography, race or preexisting conditions. The effort to improve health care should improve care in underserved communities in both urban and rural areas.

The effect of these reforms on employers and providers must be kept in mind. Affordable and predictable health costs to businesses and employers and effective cost controls that promote quality, lower administrative costs and long-term financial sustainability should be a part of these reforms. Payment reforms for physicians and other health providers should reflect the cost of providing health care so that there will be providers in the future.

This legislation will present an opportunity to address a number of other health related issues, including fraud and abuse in the health care industry, advanced directives, medical research and Medicare reforms. These ideas are an outline for health care reform legislation, which I believe can benefit all

Americans. I am eager to discuss these ideas and look forward to hearing from constituents, colleagues and interested parties on all aspects of health care reform.

On March 5, 2009, at the request of President Obama, I participated in the White House Forum on Health Reform. During this forum, my colleagues from the Senate and House of Representatives and other health care interest representatives shared priorities and concerns for health care reform. This open process helped flush out ideas and develop a path for reform. Since that time, regional forums have been held throughout the country so more voices can be heard on this important issue and President Obama has worked closely with those representing all health care sectors to find common ground on reform. This effort was highlighted on May 12, 2009, by an agreement with executives of a number of groups, including the Service Employees International Union and PhRMA, to provide \$2 trillion in health care savings.

While the White House Health Forum was a bipartisan event, I am concerned that the passage of health reform legislation could be lost to partisanship. The effort to bring about health reform can and should be a bipartisan effort. As a cosponsor of the Healthy Americans Act, introduced by Senators WYDEN and BENNETT and cosponsored by seven Democrats and four Republicans, I have firsthand experience with finding common ground on health care.

From the outset, the goal for passage of this legislation should be to have 80 Senators vote in support of it. Recently Senator GRASSLEY, after a lunch with President Obama, noted that "the White House prefers a bipartisan agreement." While some people have indicated they would prefer a bill passed by 51 percent, the White House's sentiments are encouraging. We have to try to get as broad a base as possible to get a bill passed.

The most talked about issue to date is that of a public plan or Government-operated program competing against private plans in the insurance market. A starting point for discussion on this issue could be the proposal made by Senator SCHUMER on May 4, 2009, which seeks to maintain a level playing field between the private sector and any public plan. The proposal holds that any public program should comply with all the rules and standards by which the private insurers must abide. The principles include that the public plan should be self-sustaining through premiums and co-pays. Further, the public plan should not be subsidized by Government funds and must maintain a reserve fund as private insurers do; not require health care providers to participate because they participate in Medicare and payments to providers must be higher than Medicare; be required to offer the same minimum ben-

efits as private plans; and be managed by different officials than those regulating the insurance market.

I recently spoke with Senator ENZI about this issue and he raised some concerns regarding fair competition between private and public plans. Specifically, he was concerned that there wouldn't be a level playing field as the Government doesn't have to make a profit, whereas private companies do. Further, if the public plan becomes insolvent will the Government intervene? I agree that competition lies at the heart of any successful market economy and these concerns and others need to be addressed as we discuss and consider a public plan option.

There are many variations in which a public plan could be brought forward, including offering it as a fallback if no private insurers are willing to provide coverage in a region. In Pennsylvania, a State administered insurance program for doctors and hospitals was established to provide access to medical malpractice insurance. This program could be phased out if the insurance commissioner certifies, pursuant to annual review, that sufficient private insurance capacity exists. These principles could be extended to a public plan offered to individuals. Whereby a public plan could be put into place subject to annual certification by the Secretary of Health and Human Services that a public plan is necessary to provide stable and affordable health insurance; if it isn't needed then the Government plan shall be privatized or eliminated.

This issue will be hotly debated as health reform moves forward. As we begin, let me be clear that I am opposed to placing a giant bureaucracy between a doctor and patient regarding health decisions. Americans should be able to get treatment when they need it, and I will work to protect this right as we move forward. As I have stated, I am open to discussing the best method in which to cover all Americans, including considering a public plan option and look forward to examining all of the options with my colleagues as the legislation progresses.

Another issue that will be the focus of great debate will be the cost of the legislation. Until bill language is produced by the Finance and HELP Committees, it will be difficult to determine the cost of health reform. A recent estimate of this reform is \$120 billion per year, which is, by all standards, a large sum. However, the cost of inaction may be far greater. The United States spent approximately \$2.2 trillion on health care in 2007, or \$7,421 per person. This comes to 16.2 percent of gross domestic product, nearly twice the average of other developed nations. Every effort to find cost saving proposals that can also bring improvements to health reform should be included in this legislation.



The National Institutes of Health—NIH—is the crown jewel of the Federal Government and is responsible for enormous strides in combating the major ailments of our society including heart disease, diabetes, cancer, Alzheimer's, and Parkinson's diseases. I believe continued funding for the NIH and medical research should be another tenet of the health care debate. The NIH provides funding for biomedical research at our Nation's universities, hospitals, and research institutions. I along with Senator HARKIN led the effort to double funding for the NIH from 1998 through 2003. When I became chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee in 1996, funding for the NIH was \$12 billion; in fiscal year 2009 funding was increased to \$30 billion.

Regrettably, Federal funding for NIH has steadily declined from the \$3.8 billion increase provided in 2003, when the 5-year doubling of NIH ended. To jumpstart the funding in NIH, I worked to include a provision in the American Recovery and Reinvestment Act to increase NIH funding by a total of \$10 billion.

NIH research has provided tremendous benefits to many individuals with diseases. The following are examples of the cost of and success in reducing cancer deaths and cardiovascular disease.

**Cancer:** The NIH estimates overall costs of cancer in 2007 at \$219.2 billion: \$89 billion for direct medical costs; \$18.2 billion for lost productivity due to illness; and \$112 billion for loss of productivity due to premature death.

**Breast Cancer:** Breast cancer death rates have steadily decreased in women since 1990. The 5-year relative survival for localized breast cancer has increased from 80 percent in the 1950s to 98 percent today. If the cancer has spread regionally, the current 5-year survival is 84 percent.

**Childhood cancer:** For all childhood cancers combined, 5-year relative survival has improved markedly over the past 30 years, from less than 50 percent before the 1970s to 80 percent today.

**Leukemia:** Death rates have decreased by about 0.8 percent per year since 1995. For acute lymphocytic leukemia, the survival rate has increased from 42 percent in 1975–1977 to 65 percent in 1996–2003.

**Lymphoma:** The 5-year survival rates for Hodgkin's lymphoma has increased dramatically from 40 percent in 1960–1963 to more than 86 percent in 1996–2003. For non-Hodgkin's lymphoma, the survival rates have increased from 31 percent in 1960–1963 to 63.8 percent in 1996–2003.

**Prostate Cancer:** Over the past 25 years, the 5-year survival rate has increased from 69 percent to almost 99 percent.

**Cardiovascular disease:** According to the American Heart Association, the estimated direct and indirect cost of

cardiovascular disease in the United States in 2008 was \$448.5 billion.

**Coronary artery disease:** Between 1994 and 2004, the number of deaths from coronary artery disease declined by 18 percent.

**Stroke:** Between 1995 and 2005, the number of stroke deaths declined 13.5 percent.

These are tremendous accomplishments and more must be done to build on our advancements. We ought to include the \$10 billion in stimulus money in the NIH base funding level to see to it that the funding was not just a one-time shot. The \$10 billion that was provided in the stimulus package for NIH was for a 2-year period; however, I feel that that \$10 billion should be added to the \$30 billion already appropriated in fiscal year 2009. I support a funding level of \$40 billion for fiscal year 2010 which would require raising the appropriation by another \$5 billion.

Scientists have approached me with stories of how NIH grant applications have skyrocketed since the NIH funding increase in the American Recovery and Reinvestment Act and that the boost has encouraged a new generation of scientists to dedicate themselves to medical research. The effort to increase NIH funding should also be matched by an effort to translate scientific discoveries in the laboratory to the patient's bedside. To meet this need, I introduced S. 914, to establish the cures acceleration network—CAN. This \$2 billion network would be a separate independent agency and would not take research dollars away from the NIH. The network would make research awards to promising discoveries. The grant projects would also have a flexible expedited review process to get funds into the hands of scientists as quickly as possible. Drugs or devices that were funded by the CAN—would benefit from a streamlined FDA review to speed up the approval process for patient use. Implementing this legislation as part of health reform would enhance the important research of NIH by bridging the chasm between a basic scientific discovery and new health care treatments.

The issue of end of life treatment is such a sensitive subject and no one should decide for anyone else what decision that person should make for end-of-life medical care. Advanced directives give an individual an opportunity to make the very personal decision as to the nature of care a person wants at the end of their life. That is, to repeat, a highly personalized judgment for the individual.

Advanced directives should be examined because of the great expense of end of life care. Statistics show that 27 percent of Medicare expenditures occur during a person's last year of life. Beyond the last year of life, a tremendous percentage of medical costs occur in the last month, weeks and days. It has

been estimated that the use of advanced directives could save 6 percent of all Medicare spending or \$24 billion in 2008.

Individuals should have access to information about advanced directives. As part of a public education program, I included an amendment to the Medicare Prescription Drug and Modernization Act of 2003, which directed the Secretary of Health and Human Services to include in its annual "Medicare and You" handbook, a section that specifies information on advanced directives, living wills, and durable powers of attorney. As the former ranking member and chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I worked to ensure that this information continues to be published in the "Medicare and You" handbook.

There are many ways which have been discussed to improve the use of advanced directives. One approach could be to increase education for beneficiaries. It has also been suggested that filling out an advanced directive could be a requirement for joining Medicare. Another suggestion I received was to provide a discount on Medicare Part B premiums for those who fill out an advanced directive. While efforts to inform beneficiaries have improved, including a requirement that the issue be discussed at the beneficiaries' introductory Medicare exam, more must be done to increase usage of advanced directives. On this front, I am eager to explore and analyze the range of possibilities while ensuring that individuals and their families' sensitivities surrounding the end of life care receive paramount priority.

Some of the most prevalent diseases of today can be prevented by small changes in people's behavior. For example, 30 minutes of moderate physical activity each day, the equivalent of a brisk walk, can reduce the risk of a heart attack by up to 50 percent. Increasing one's fruit and vegetable consumption can reduce the risk of colon cancer by up to 50 percent. Obese and overweight individuals suffering metabolic syndrome and Type 2 diabetes showed health improvements after only 3 weeks of diet and moderate exercise. Health care reform should include policies that encourage people to make responsible decisions about their health and create environments to do so. The health benefits are real, achievable, measurable, and cost effective.

One way in which to encourage healthy behavior is through health education in schools, which is proven to reduce the prevalence of health risk behaviors among young people. For example, health education resulted in a 37 percent reduction in the onset of smoking among 7th graders. In addition, obese girls in the 6th and 8th grades lost weight through a health education program, and students who

attended a school-based life-skills training program were less likely than other students to smoke or use alcohol or marijuana.

Funding community-based health programs could also be a tenet of health reform. In July 2008, the Trust for America's Health stated that an investment of \$10 per person per year in proven community-based programs to increase physical activity, improve nutrition, and prevent smoking and other tobacco use could save the country more than \$16 billion annually within 5 years. This is a return of \$5.60 for every \$1 invested. Opportunities to save money on the cost of health care through education and proactive community based prevention programs should be included in health reform legislation.

Surveying recent caselaw reveals that individual criminals convicted of health care fraud can be sentenced to anywhere from 5 to 13 years in prison, substantial penalties and supervised release for a period of years. In any health care reform proposal, I believe we must address the significant potential for people of ill will and profit motives to defraud the Government at the expense of the taxpayers. Therefore, I will push hard for enhanced sentences with real jail time for white collar fraudsters. As the chairman of the Crime and Drug Judiciary Subcommittee, I will push for consideration of sentencing enhancements as at least one alternative and, where appropriate, lengthy jail sentences where the financial losses to the Government are great. It would be intolerable for criminals to defraud the Government of millions of dollars only to have to pay a fine that amounts to the cost of doing business.

According to the National Insurance Crime Bureau and the National Health Care Anti-Fraud Association, the annual loss from health fraud is 10 percent of the \$2.2 trillion spent annually on health care, or \$220 billion. This amount of fraud must be identified and warrants real jail time, which should be taken up in this reform.

Health care reform provides an opportunity to correct a longstanding problem in the Medicare payment system. In determining the payments to hospitals for services, Medicare takes into account the location of a hospital and how much those employees are paid. It is understandable that some areas of the country, where the cost of living is higher, should be reimbursed at higher levels. However, the current system has led to many imbalances that have left some areas of the country disadvantaged. In Pennsylvania, for example, the Scranton—Wilkes-Barre area and Allegheny Valley have received decreasing Medicare payments, which have forced a pay reduction to employees and a reduction in services to patients that rely on them.

Last year, the Medicare Payment Advisory Commission—MedPAC—released a report calling for the system to be reformed. The commission stated that the current system created “cliffs” in payments, which resulted in arbitrary changes in payments in neighboring areas. These disparities can affect competition for employees and will harm services to Medicare beneficiaries. This legislation must include the reforms supported by MedPAC to correct this serious problem of inequity.

The health care crisis in our country endangers the health of our people, our economic viability and our future stability. Now, more so than ever before, it is critical that we pass legislation to ensure all Americans have access to quality and affordable health care. This undertaking requires prompt and effective action. I remain open to ideas on how to accomplish this exceptional task and look forward to working with my colleagues to determine the best path to do so.

In the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for such time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CREDIT CARD REFORM

Mr. DORGAN. Mr. President, this week we will once again take up legislation—and, hopefully, finish it—called the credit card reform bill. I wanted to speak for a few minutes about what the bill contains and why it is important we enact that legislation.

I have spoken many times in the last year and a half about the subprime mortgage scandal. It is another adjunct of this. A substantial amount of debt, debt to purchase a home, is not unusual. Almost no one can purchase a home by using cash because they don't have that kind of cash. So they borrow money, which is called a home mortgage. The subprime home mortgage scandal is unbelievable, and I have spoken about it at length. I have shown advertisements from Countrywide Mortgage which was the largest mortgage lender, from Millennium Mortgage and Zoom Credit, and other mortgage companies that were advertising to people with: If you have been bankrupt, if you have bad credit, if you

don't pay your bills on time, come to us. We will give you a mortgage. It was unbelievable what was going on. Bad credit, no credit, slow credit, bankrupt, come to us. We will give you a home mortgage.

That sort of thing steered this country's economy right into the ditch and caused a massive amount of problems. Now we see all of these foreclosures and banks in trouble. It is an unbelievable mess. At its root is a substantial amount of greed and a massive amount of mortgage debt. In some cases mortgages were made to people who couldn't pay them, with teaser rates of 2 percent which, when reset, would be 10 and 12 percent, and prepayment penalties so that someone couldn't get out of this mess. It is unbelievable. That is the home mortgage subprime scandal. A lot of folks got rich. The guy who ran Countrywide Mortgage left with \$200 million. The company collapsed, a substantial amount of people were injured and hurt, but he left with a couple hundred million dollars. He was given the Horatio Alger award. He won businessman of the year, a big deal. He steered his company right into the ditch as well.

This isn't about subprime mortgages. It is about another form of indebtedness, credit card debt. Let me talk for a moment about where we find ourselves with credit cards. It is interesting. In 2008, there were 4.2 billion credit card solicitations sent to consumers. Think of that, 4.2 billion credit card solicitations sent to consumers. We are told it was a bad year—the economy was collapsing—but apparently not in the credit card industry. The average credit card debt per household that has a balance is \$10,000. That is the average credit card debt of households that have a credit card balance. Total amount of credit made available by issuers in 2007 was about \$5 trillion.

This legislation will start to help to curb some of the unfair credit card practices. Let me be quick to say that I use credit cards. I am sure all of my colleagues do. There is a very significant value to credit cards. I am not suggesting there is not. I am saying, when you wallpaper the entire country with credit cards, including especially targeting kids who have no jobs, and then saying, as they did in the subprime mortgage, if you have bad credit, come to us, we will give you a credit card, there is something wrong with that. Yet that is what has been happening. Now we are seeing credit card companies who have had customers for 5, 10, 20 years, who have never been late with a payment, jack up their interest rates from 7 percent to 27 percent. Credit card holders are completely astounded by the penalties and interest rate increases, despite the fact that they have never had a late payment. Those are some of the abuses

that have existed. This legislation will begin to deal with those abuses.

Let me show a couple of charts. This is an advertisement for a platinum card. It says:

Even if your credit is less than perfect.

That is just a little offshoot of what they did in the subprime mortgage. Hey, if your credit ain't perfect, as they say, come to us. You got bad credit, slow credit, no credit, been bankrupt, come over here; let us give you a hand. That is what this credit card says.

Here is a debit card. This is one by the Bank of America. It makes a point but that I think is important. You can see the colors on this debit card. Obviously, this is aimed at kids. This is obviously a children's approach to Joe Camel for cigarettes. But we have a debit card that is about the same thing.

Let me show first this chart. This shows Bruce Guiliano, senior vice president for licensing for Sanrio, Inc., which owns the Hello Kitty brand. That is the next card I will show you. It says:

We think our target age group will be from 10 to 14, although it certainly could be younger.

Can you imagine grown men and women sitting around saying: What is our target group for credit cards. We think this is our target group for the new Hello Kitty Platinum Plus Visa credit card. Is this unbelievable? If somebody said to you in class at Harvard Business School: Here is a business proposition. What do you think it will be like if you run a company and you are putting credit cards out there and you are aiming credit cards at kids, 12-year-old kids.

This is, obviously, the Hello Kitty Platinum Plus card. I would love to know the person who thought this up, to ask: Are you nuts?

My son happened to get a credit card solicitation a long while ago. He is in college now. He got a solicitation from a credit card company saying: We have a preapproved credit card for you, and we want you to take a trip to Paris, France. So actually I came to the floor of the Senate and explained to this credit card company, my son is only 12 years old. He is not going to Paris. He is not going to take your credit card either.

But what are the credit card companies doing soliciting young kids to get a credit card?

This is not an accident. I just showed you: Our target audience is 10 to 14. So what do we do with the targets? We design a credit card, a Hello Kitty Platinum Plus, pink and white and yellow. Unbelievable.

Let me show you a credit card for people who don't have such great credit. They get a gold card. This is First Premier Bank. Here is what they do. You don't have such good credit? We

will give you a credit card. Come on. The limit is going to be \$250. It is going to be gold. But here is the trick. In order to get this credit card that you can use for up to \$250, you have to pay a \$48 annual fee. You have to pay a \$29 account set-up fee, a \$95 program fee and \$7 a month for servicing. Does that sound like good business to you? Not to me. It sounds like the kind of thing I used to see in the movies. They wore strange suits with big thick stripes, and they carried violin cases. They loaned each other money.

I understand this. Michigan State University. I could use this for any university. A credit card company wanting to wallpaper the dorms and fraternity houses of virtually anyone who is going to college. Most of them don't have a job; some do. I understand the value of a credit card for a college student. What I don't understand is, the credit cards are given to a college student and, in many cases, the parents will cosign because if the student doesn't have a job, you have to have the parents' cosignature. Then all of a sudden the credit card limit is increased without the permission of the cosigner. That is the game.

Here are some notes from constituents of mine. This is a couple from Minot:

My wife and I both have credit scores greater than 800 and have never been late on any of our payments. So Capital One just sent us a notice that our interest rate on our credit card will almost triple.

Never been late, always made payments on time. Their interest rate is going to triple.

Here is one from Fairmount:

I just wanted to let you know how upset I am with the credit card company (Citibank). They have decided to raise my interest rate to 27 percent. I have always paid my bill on time, have a good credit rating (820). Why would a company that has been bailed out by taxpayers because of bad practices then decide to stick it to us by raising interest rates so high.

He refers to the local mafia, but the fact is, I know there are no local mafia there.

From Williston:

Enough is enough. We have shored up these banks with our hard-earned tax dollars just to have them raise the interest rates on their credit cards to 28 percent and 26.3 percent for absolutely no reason. Something has to be done.

Let me reiterate that I think credit cards are valuable and useful. Most of us use credit cards. But what I think has happened is certain practices have evolved and developed that are pretty unseemly. A practice that says: We need to figure out how to go after kids. It reminds me of the tobacco debate. Because if you don't get a kid when they are a kid, you are not going to get them to smoke; right? Anybody know of somebody who has reached the age of 30 and they are sitting around their living room thinking to themselves, all

right, I need to do something different, what haven't I yet done that I should begin doing, and decides the answer is to start smoking? Does anybody know anyone like that? The only way you get somebody to smoke is you find a kid and addict the kid to cigarettes. What about this, aiming a Visa card at 10 to 14-year-olds? It is unbelievable to me.

We bring a bill to the floor of the Senate that we think we will vote on tomorrow. We will have a cloture vote first. We will see if we can't put a stop to some of the practices that have allowed some of the same companies that have gotten substantial bailout funds to say to their customers, who have always paid their bills on time, never been late: We have a treat for you. We have a big, old surprise in your mailbox. You know that 7 percent or 9 percent interest rate you used to pay on your credit card balance? No more. Now it is going to be 27 or 28 percent.

That is not a business practice I think is justifiable. I think Senator DODD and Senator SHELBY from the Banking Committee have brought us legislation that is necessary and one that will be helpful in trying to put a stop to unfair business practices.

I know there are some who say this is none of government's business. I think it is. When consumers are injured, consumers individually and even in a significant group are no match for the size of the companies that have decided to engage in this and do this to the American people. This legislation is very simple. It sets up the conditions under which we will try to protect consumers from arbitrary interest rates, fee and finance increases, and we will prohibit interest charges on paid-off balances from previous billing cycles, prohibit interest charges on debt that is paid on time. We will require payments to be applied first to the credit card balance with the highest interest rate. We will protect students and other young consumers from aggressive credit card solicitations. We will require greater disclosure of rates and terms and billings, details by credit card companies, and establish tougher penalties for companies that violate these laws.

This is not rocket science. It is very simple. When you engage in these practices and start injuring consumers, often without their knowledge, when you are doing something that is fundamentally unfair and doing it all across the country, the Banking Committee, led by Senators DODD and SHELBY, has a right and the Senate has a right to say: We will try to put a stop to it. There needs to be some semblance of fairness and equity for the American people. There are a whole lot of folks who go to work every day, work hard, try to do the best they can to care for their family and deal with their daily lives. They pay their bills.

They have credit cards. They pay those credit card bills. They have made a deal with the credit card company over time about the conditions of that credit card bill, only to discover one day when they come home from work their mailbox contains a little message from the credit card company: Yes, you are a good customer. We have news for you. You are going to pay higher fees and triple the interest rates, and there is not a thing you can do about it.

Well, do you know what? The American people can do something about it through the actions of the Senate. I think that is going to happen—beginning tomorrow—and I think it will be good news for the American people.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

#### CREDIT CARD ACCOUNTABILITY, RESPONSIBILITY AND DISCLOSURE ACT

Ms. KLOBUCHAR. Mr. President, I am here to speak out in support of the Credit Card Accountability, Responsibility and Disclosure Act.

I am proud to be a cosponsor of this bipartisan legislation, which will help to end the abusive practices of the credit card industry that are hurting so many hard-working middle-class families. I thank Senator DODD and Senator SHELBY for their efforts to come together on a bill that protects consumers and brings so much needed relief to Main Street families. It has been a long time in coming. I wish we had been able to pass this a few weeks ago, but I am hopeful we will be able to get it done this week.

As families are sitting around the kitchen table looking at their budgets, they have a lot of expenses to deal with—the basics such as food, electricity, the rising cost of college and health care, and growing credit card bills.

Seventy-eight percent of households in this country have at least one credit card. At the end of last year, Americans' credit card debt was more than \$972 billion. The average household debt is more than \$8,300. This does basically track—when you look back over the last 8 to 10 years—where wages have gone down and expenses have gone up. I know that before we entered this economic crisis, it was about \$6,000 that the average middle-class family was behind. Now you see \$8,300—their credit cards. But it is not just debt that families are paying off. In 2006,

two-thirds of the credit card companies' profits came from interest payments.

So millions of families are dealing with huge amounts of credit card debt at the same time they are dealing with the many other challenges that are a result of this economic downturn. Their hours have been reduced or one of them may have lost a job or they may have difficulty sending their kids to college.

This isn't just an economic issue, it is also an issue of fairness and common sense. I believe Americans have the obligation and duty to pay the debts they owe. But too many credit card companies are using deceptive practices and fine print to take advantage of hard-working American families. The credit card companies are using tiny words on the back of the bills, and they are doing this to pad their own profits.

Many companies hide the terms of the agreement behind fine print and confusing language. They apply payments to the low-rate balances before high-rate balances and, worst of all, they raise interest rates without proper notice.

According to the Consumers Union, a study of the 12 largest credit card issuers found that 93 percent of credit cards allowed the issuer to raise the interest rate "at any time" by changing the agreement; 93 percent of credit cards allow the issuer—the credit card company—to raise the interest rate at any time by simply changing the agreement.

This isn't right. Credit card companies should not be making a profit by pulling the rug out from under American consumers.

When I think about this issue, I don't just think about that 93 percent figure. I think about people in my State who have played by the rules and used credit cards responsibly and made timely payments and have good credit ratings—only to turn around and have the rules changed.

I heard from one man in Mahtomedi, MN, who had a credit rating of 800. He had never made a late payment, had never been delinquent on his account in any way. He got word in April that his fixed rate of 5.9 percent was going up to 10.9 percent in May and would thereafter be a variable rate; that is, what used to be a fixed rate at 5.9 percent will be changing constantly. He will have no control.

He called the credit card company to complain and, do you know what. The credit card company told him he ought to be happy because his was one of the lower rate increases. They told him he should not take it personally.

It is awfully hard not to take these rate increases personally when you have not done anything to justify having your rate increased, when you are going to have a tough time making ends meet anyway because of the tough

economy, and because you have to pay so much more to keep a card you have had for years and years.

I also heard from a woman in St. Joseph, MN. She had her credit card for 12 years. She had never been late on a payment and has her credit card bill automatically paid from her checking account every month. She recently contacted her credit card company because she noticed her interest rate had suddenly gone up a lot in 1 month. She had received no advance notice from her bank about the interest rate increase.

But her problems didn't stop there. The problem was that the credit card company applied the new interest rate to her existing balance, and with the new interest rate factored in, her balance suddenly exceeded her available credit.

Do you know what? She got hit with another interest rate increase. This woman, who had been a great customer for 12 years, saw her interest rate go up from 8 percent, to 19.3 percent, to 27 percent—all in a matter of 16 days—and through absolutely no fault of her own. She started at 8 percent and she had the money deducted from her checking account every month and she had not had any problems with late payments. She starts at 8 percent, goes up to 19.3 percent, and she ends up at 27 percent—all in a matter of 16 days, through no fault of her own. They raised the interest rate without telling her, applied it to her existing account balance and, suddenly, she was stuck with a problem she didn't even create.

In the letter she wrote to me, she asked some valid and heartbreaking questions:

How is something like this legal? How can the credit card companies make it even harder in such hard times?

These are questions a lot of hard-working Minnesotans and other Americans are asking today, and they deserve answers.

We want Americans to pay their debt, and we want our businesses to succeed, but consumers deserve a level playing field, they deserve some rules of the road, and they deserve an end to the abuses and deceptive practices by the credit card industry.

The credit card bill that is on the floor is going to do that. The bill will put commonsense rules into place to ensure fairness for consumers.

First, the bill protects people from arbitrary interest rate increases, such as we saw with the man from Mahtomedi, MN, and the woman from St. Joseph, MN. It establishes fair rules and makes sense for how and when companies can raise interest rates. Additionally, the bill prohibits credit card companies from increasing rates on a cardholder for the first year when that account is open.

Second, the bill requires credit card companies to give people 45 days' notice of interest rate, fee, and finance

charge increases. This will ensure that people such as the woman from St. Joseph, MN, who wrote me, would not see any surprises on their credit card statements anymore. They will get a notice.

Third, the bill prevents credit card companies from charging abusive fees. For example, credit card companies would not be able to charge you a fee for the "privilege" of paying down your credit card.

Fourth, the bill requires more transparency from credit card companies. Credit card bills will be mailed 3 weeks before they are due to give consumers plenty of advance warning. Credit card companies will have to disclose any changes to the terms of a credit card agreement when people renew their cards. They will have to be upfront about the length of time and the total interest it will take to pay off the card balance if people only make minimum monthly payments. I think that would be helpful for many people I know, if they knew exactly how long it would take—if they just pay the minimum amount—and how much extra they would be paying. They will have to post their credit card agreements on the Internet so people can look at them anytime and compare them.

Fifth, the bill strengthens oversight of the credit card industry so we can hold companies accountable for their behavior.

This legislation will give consumers much-needed protections from bad practices that have been going on for too long. It is the beginning of leveling the playing field.

If we are going to get our economy moving, we need to restore trust in our financial systems, and when it comes to the credit card industry, that means protecting consumers from unfair practices and putting into place common-sense rules that will bring much-needed transparency and accountability.

We will be voting on this bill shortly. When I cast my vote, I will be voting for all the people in my State who are working hard and playing by the rules and just want the credit card companies to do the same.

We cannot forget that the ultimate goal of reviving our economy is to make it possible for people in this country—who have worked hard, done everything right, paid their bills, and gotten these credit card bills—to get ahead. This bipartisan legislation, which I cosponsored, will end the unfair practices that have been going on too long for Main Street families, so they can keep more of their hard-earned money.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JUSTICE SANDRA DAY O'CONNOR

Mr. DURBIN. Mr. President, I just left a ceremony in the Hart Office Building, not far from where we are meeting, which is an annual event where the University of Illinois presents the Senator Paul H. Douglas Ethics in Government Award. The 2008 recipient is former Supreme Court Justice Sandra Day O'Connor. She is the first woman to be so honored.

There has been a long list of public servants who have distinguished themselves with their integrity and their show of ethics in government who have been acknowledged for this award, and Justice Sandra Day O'Connor certainly follows in that tradition.

It was my good fortune as a young college student to work as an intern in the office of Senator Paul Douglas. It truly shaped my life and convinced me that public service was a good calling, and I was lucky, as I have said many times, to be inspired by the gospels of St. Paul—that would be former Senator Paul Douglas and former Senator Paul Simon—who showed me what I thought was the very best in public service in their honesty—not only dollar honesty but honesty on the issues. It is a great honor for me to continue and serve in the same Senate seat that both of these men occupied.

But today the University of Illinois honored Sandra Day O'Connor, and she is well deserving—the first woman to serve on the U.S. Supreme Court. By the time her career was coming to a close, she became one of the most decisive forces on that High Court. During her last decade on the Court, 193 decisions were made by the Court by a vote of 5 to 4. One Justice's vote made the difference, and in 148 of those 193 cases, that one vote was cast by Justice Sandra Day O'Connor.

There were so many issues—issues regarding privacy, the rights of people with disabilities, affirming the voting rights of Americans, preserving the rights of universities to use affirmative action, protecting the rights established under McCain-Feingold to have cleaner elections in America, upholding State laws giving individuals their rights under health insurance contracts, preserving the authority of the Federal Government to protect the environment, banning the execution of children, reaffirming America's time-honored tradition of separation of church and state.

One New York Times reporter wrote in 2001 that Justice O'Connor's vote tipped the scale so often that "we are all living now in Sandra Day O'Connor's America."

As I said a few moments ago in introducing her at this gathering, one of her most significant and oft-quoted opin-

ions was a recent one—her landmark decision in *Hamdi v. Rumsfeld*, in which she famously wrote:

A state of war is not a blank check for the President when it comes to the rights of a Nation's citizens.

Mr. President, I wanted to come to the floor briefly today to add my voice to so many Americans in gratitude to Sandra Day O'Connor for her great service to Arizona and to the United States of America and to the Supreme Court. I am glad her voice is still strong and part of the public chorus, calling on us to be better as a people and better in government.

Mr. President, I ask unanimous consent to have printed in the RECORD the speech I gave during the awards ceremony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY ASSISTANT SENATE MAJORITY LEADER RICHARD J. DURBIN CONGRATULATING JUSTICE SANDRA DAY O'CONNOR ON RECEIVING THE 2008 SENATOR PAUL H. DOUGLAS ETHICS IN GOVERNMENT AWARD

I would like to acknowledge University of Illinois President Joseph White, Chairman Shah and members of the University of Illinois Board of Trustees; Robert Rich and the staff of the Institute of Government and Public Affairs; and members of the Douglas family.

I also want to acknowledge the members of the Douglas Senate family—those of us who had the good fortune to have worked for Paul Douglas in the Senate and whose hearts and minds and lives were enlarged by his example.

Sadly, there is one important member of the Douglas Senate family who is missing this year. Paul Douglas lost the use of his left arm when it was smashed to pieces in Okinawa in World War II. But he gained another strong right arm when he and Howard Shuman joined forces in the United States Senate. On the Civil Rights Act, the Voting Rights Act and so many important battles, Howard Shuman truly was Paul Douglas' "right hand man." We are all free-er because of their partnership. It's good to see Howard's daughter Ellen and other members of the Shuman family here today.

We are here today to celebrate a woman whose courage, character and wisdom helped preserve many of the same principles that Paul Douglas spent his life fighting to protect and enlarge. It is an honor to join you in recognizing Justice Sandra Day O'Connor.

Before I say a few words about Justice O'Connor, I want to acknowledge another person whose wisdom and integrity has served our nation so well—Supreme Court Justice David Souter.

Thank you, Justice Souter, for your many years of service to our nation and our Constitution. Your voice on the Court has made a difference.

Someone asked me once where I found my political inspiration.

I said, "Most of it comes from the gospel of St. Paul." Paul Douglas. And another brilliant and compassionate statesman, Paul Simon. Much of what I know that is good and important about politics, I learned from them.

Paul Simon once said that the test for a Supreme Court nominee is not where he or she stands on a given issue. The real test is:

Will this Justice use his or her power on the Court to restrict freedom, or expand it?

Justice O'Connor and Justice Souter, you have both scored high grades on the Paul Simon test. Our nation is better for your service. And we are grateful to you.

If the man or woman President Obama nominates to serve as America's next Supreme Court Justice is as independent, open-minded and fair as the two of you—and I feel confident they will be—our country and our Constitution will be in good hands.

And now, regarding our guest of honor. What can you give a woman who has already been inducted into the National Cowgirl Hall of Fame?

It took 190 years and 101 male Justices before Sandra Day O'Connor broke the gender barrier on the United States Supreme Court. It took only 14 years and 16 male recipients for Justice O'Connor to become the first woman recipient of the Paul Douglas Ethics in Government Award. That is progress.

Paul Douglas is most closely associated with the civil rights movement. But he was a true egalitarian. He believed in equality of opportunity for all people. And he greatly admired strong, intelligent women.

He kept a series of photographs in his office. One was a photo of one of his political heroes, Jane Addams, the great social reformer from Chicago whom he first met in 1921.

My first introduction to Jane Addams was that 1966 campaign. We started off by making a visit to Freeport to lay flowers on the grave of Jane Addams.

I think it would make Senator Douglas quite proud to see an award bearing his name presented to a woman who has done so much to advance the causes of equal justice and equal opportunity, which were so dear to him.

There are some strong similarities between Senator Douglas and Justice O'Connor.

He grew up in the Maine woods. She grew up on a ranch in the high desert on the Arizona-New Mexico border. It was in those isolated environments of their childhoods that they both developed a lifelong love of reading and learning.

(Of course, life on the Lazy B Ranch wasn't all books and reading. By the time she was 8 years old, Justice O'Connor could drive a truck ... mend a fence ... brand cattle ... and shoot her own .22 caliber rifle. She had cowboys for friends and a bobcat for a playmate—good preparation for all those Supreme Court conferences.)

Another, more important similarity between Senator Douglas and Justice O'Connor is their shared distrust of ideology.

Here is a fact about Paul Douglas that many people do not know. His first foray into elected politics was running for mayor of Chicago as a Republican. He was elected to the Board of Aldermen as an Independent. It wasn't until he first ran for the Senate that he aligned himself with the Democratic Party.

Justice O'Connor's ability to see beyond partisan divides was reflected early when every member of the Senate Judiciary Committee—from Strom Thurmond to Ted Kennedy—voted to support her nomination. And it grew over her 24 years on the Court.

Their mutual commitment to principle rather than political ideologies enabled both Paul Douglas and Sandra Day O'Connor to build coalitions to advance our nation's common good. And for that, we are very grateful.

Here is another similarity: As a member of the Arizona state Senate, Sandra Day O'Connor once introduced an amendment to remove a misplaced comma from a bill.

As a college intern, I sat next to Senator Douglas many nights as he read, and edited, and signed every single letter that went out under his name. Because he couldn't use his left arm, it was my job to pull the letters off the top of the pile as he finished them. Believe me, no misplaced comma ever escaped his editing pen, either.

But the most important similarity—the reason we are all here today—is because, like Paul Douglas, Justice O'Connor used the power she was given to defend and expand our freedom. With her voice and her vote, she said—time and time again—that government has an obligation to defend the powerless from the powerful.

Justice O'Connor was always open to those who could make a strong case. She listened to the arguments and weighed the evidence.

During her last decade on the Court, 193 decisions were decided by a vote of 5-to-4. One Justice's vote made the difference. And in 148 of those 193 cases, that one vote was cast by Justice Sandra Day O'Connor.

She cast the fifth and deciding vote safeguarding Americans' right to privacy; requiring that courtrooms be accessible to people with disabilities; affirming the obligation of states to protect the voting rights of minorities; and preserving the rights of universities to use affirmative action programs.

Justice O'Connor cast the deciding vote preserving the right of the federal government under the McCain-Feingold law to place reasonable restrictions on campaign contributions so that special interest money can't gain overwhelm our democracy—a vote, I think, that Senator Douglas would have applauded.

She cast the deciding vote upholding state laws giving individuals the right to a second doctor's opinion if their HMO denies them treatment; preserving the authority of the federal government to protect the environment; banning the execution of children in America; and reaffirming America's time-honored tradition of separation of church and state.

Indeed, as a New York Times reporter wrote in 2001, Justice O'Connor's vote tipped the scales so often that—quote, “we are all living now in Sandra Day O'Connor's America.”

And that was before what is perhaps her most significant opinion: the landmark decision of *Hamdi v. Rumsfeld*, in which Justice O'Connor famously wrote: “A state of war is not a blank check for the President when it comes to the rights of the Nation's citizens.”

It strikes me as ironic that Sandra Day O'Connor could have grown up in a place called the Lazy B Ranch because lazy is about the last word you could ever use to describe her. Since leaving the Court nearly four years ago, she has written and spoken extensively. She has been especially eloquent and courageous in speaking out in defense of an independent judiciary.

In 2005, she wrote an op-ed for the *Wall Street Journal* about those who seek to score political points by railing against and trying to intimidate what they call “activist federal judges.”

She warned that “using judges as punching bags presents a grave threat to the independent judiciary.” She added: “We must be more vigilant in making sure that criticism does not cross over into intimidation ... that the current mood of cynicism does not end up compromising the rule of law.”

For all she has done to advance the cause of equal justice and equal opportunity in America, and for her continued defense of our courts and our Constitution, Justice

Sandra Day O'Connor is a true American she-ro and a worthy recipient of the Paul Douglas Ethics in Government Award. Thank you again, Justice O'Connor, for your selfless service to our nation.

Mr. DURBIN. I thank the Presiding Officer for this time.

## HONORING OUR ARMED FORCES

SPECIALIST ADAM KULIGOWSKI

Mrs. SHAHEEN. Madam President, I wish to express my sympathy over the loss of Army SPC Adam Kuligowski, a 21-year-old from Derry, NH. Kuligowski died on April 6, 2009 in Bagram, Afghanistan. Specialist Kuligowski was a signals intelligence analyst assigned to the Special Troops Battalion, 101st Airborne Division.

Specialist Kuligowski grew up in Derry, NH, and attended Gilbert H. Hood Middle School and Pinkerton Academy. He had lived all over the world including South Korea, Saudi Arabia, Nigeria, Honduras, and Utah, before he enlisted in the military in October 2006. Specialist Kuligowski had been in Afghanistan for about a year and was scheduled to return home this summer.

Specialist Kuligowski served with honor and distinction throughout his young military career, earning the National Defense Service Medal, the Afghanistan Campaign Medal, the Global War on Terrorism Service Medal, the Army Service Ribbon and the NATO Medal. New Hampshire is proud of Specialist Kuligowski's service to and sacrifice for our country. He, and the thousands of brave men and women of the U.S. Armed Forces serving today, deserve America's highest honor and recognition.

Specialist Kuligowski is survived by his parents, Michael and Tracie Kuligowski of Derry, his grandparents, Stanley and Phyllis Kuligowski, two brothers and a sister. He will be missed dearly by all those who knew him.

I ask my colleagues to join me and all Americans in honoring U.S. Army Specialist Adam Kuligowski.

SPECIALIST CRAIG R. HAMILTON

Madam President, I wish to express my sympathy over the loss of U.S. Army SPC Craig R. Hamilton, a 35-year-old native of Nashua, NH. Specialist Hamilton died on March 27 at Fort Sam Houston in San Antonio, TX.

Born in Nashua in 1974, Specialist Hamilton was raised and educated in nearby Milford. After graduating from Milford High School in 1992, he joined the U.S. Marine Corps, rising to the rank of corporal before being honorably discharged in 1996. Hamilton spent 11 years back home in Milford before deciding to once again serve his country by enlisting in the U.S. Army in 2007. He was assigned to Fort Sam Houston where he was recovering from a shoulder injury.

New Hampshire is proud of Specialist Hamilton's service to and sacrifice for



our country. His decision to reenlist in the U.S. Army following his time in the Marine Corps demonstrates a deep commitment to duty and service for which his country will forever be grateful. He, and the thousands of brave men and women of the U.S. Armed Forces serving today, deserve America's highest honor and recognition.

Specialist Hamilton is survived by his wife Stacey; his father and step-mother Chuck and Kathy Hamilton; his mother Karen Hamilton; and his brothers Jon and Adam. He will be missed dearly by all those who knew him.

I ask my colleagues to join me and all Americans in honoring U.S. Army SPC Craig Hamilton.

#### CELEBRATING TUNISIAN AMERICAN DAY

Mrs. BOXER. Madam President, I ask my colleagues to join me in celebrating Tunisian American Day on May 27. This annual celebration is in recognition of the many contributions that Tunisian Americans have made to enrich our culture and society.

The United States has maintained diplomatic relations with Tunisia for more than two centuries. On March 26, 1799, the first agreement of friendship and trade was concluded between the United States and Tunisia. The first American consulate was established in Tunis, the Tunisian capital, on January 20, 1800. On May 17, 1956, the United States was the first major power to recognize the sovereign state of Tunisia. Throughout the years, the United States and Tunisia have forged an amicable and enduring relationship that is based on a common commitment to the ideals of democracy and liberty.

Currently, there are more than 13,500 Americans of Tunisian descent residing in the United States. The Tunisian American community has made invaluable contributions to improving our cultural diversity by sharing their proud heritage and rich cultural traditions.

As Tunisian Americans gather to celebrate Tunisian American Day, I wish them a joyous and inspiring day and thank them for their contributions to cultural diversity.

#### ADDITIONAL STATEMENTS

##### REMEMBERING DOM DeLUISE

• Mrs. BOXER. Madam President, California and our Nation have lost one of our most talented entertainers. Dominick "Dom" DeLuise, a wonderful comedian and chef who entertained America with his delightful sense of humor, recently passed away. I would like to take a few moments to recognize Dom DeLuise's many accomplishments and the tremendous impact he made on our lives.

Born in New York City, DeLuise entered acting at an early age. Although discouraged at first, he persisted in finding his way in the field of entertainment and into the hearts of his fans. His hard work and dedication earned him many entertaining and prestigious acting roles in film, television, and theater. Many films which feature Dom DeLuise, such as "The Cannonball Run," "Blazing Saddles," "History of the World Part 1," and "Spaceballs" have become classics in their own right and will ensure that future generations will enjoy and appreciate his talent.

Later in life, DeLuise worked toward furthering his love for the culinary arts and establishing himself as a chef. His efforts resulted in the publishing of two successful cookbooks: "Eat This It Will Make You Feel Better!" and "Eat This Too! It'll Also Make You Feel Good."

I invite all of my colleagues to join me in recognizing and honoring Dominick "Dom" DeLuise for his work, which touched the lives of generations of Americans. He is survived by his wife of 54 years, Carol Arthur, and his three sons, Peter, David and Michael.●

#### 125TH ANNIVERSARY OF THE ADRIAN DOMINICAN SISTERS

• Mr. LEVIN. Madam President, service to your community and to those most in need is one of the most important legacies we can leave as individuals or as institutions. It is with this in mind that I am honored to congratulate the Adrian Dominican Sisters, the Congregation of the Most Holy Rosary as they celebrate their 125th anniversary today. Guided by the humble yet inspiring mission to seek truth, make peace, and reverence life, this congregation has made a profound and enduring impact on many lives.

The Adrian Dominicans trace their history back to the establishment of the Holy Cross convent in 1233. A presence in the United States was established in 1853 with the arrival in New York of three sisters from this convent. Since the establishment of a hospital for injured railroad workers in 1884 to meet a pressing need in the Adrian community, the sisters of this congregation have devoted their energy, talent, and efforts in pursuit of meeting the spiritual, educational, and practical needs of those within the Adrian community and those far beyond its borders. Mother Camilla Madden was the first mother provincial, and she became the first mother general when the province became an independent congregation in 1923.

Adrian has grown steadily since its founding and has not only maintained a presence in Adrian, but has branched out into communities far beyond through ministries in 31 States, the

District Of Columbia, Puerto Rico, Canada, the Dominican Republic, Italy, and Swaziland. The Adrian Dominican Sisters currently number more than 900 and are involved in ministries primarily in areas of education, health care, and social work. The congregation currently sponsors two universities, including Siena Heights University; two hospital systems; a long-term health care facility; three congregation-owned schools; and two retreat centers.

The Adrian Dominican Sisters have impacted many throughout its rich history, and I am truly delighted to recognize this impressive milestone, as well as their many important contributions over the years. Their influence and service to the community are apparent and appreciated by the many who have benefitted from their many spiritual and outreach efforts. I know my colleagues join me in congratulating Adrian Dominican Sisters on 125 years of dedicated service, and I wish them continued success as they build upon their legacy of accomplishment and excellence.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13047 OF MAY 20, 1997, WITH RESPECT TO BURMA, AS RECEIVED DURING AN ADJOURNMENT OF THE SENATE ON MAY 15, 2009—PM 19

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a



notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, stating that the Burma emergency is to continue for 1 year beyond May 20, 2009.

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma, including its engaging in large-scale repression of the democratic opposition in Burma that led to the declaration of a national emergency in Executive Order 13047 of May 20, 1997, as modified in scope and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

BARACK OBAMA.  
THE WHITE HOUSE, May 14, 2009.

#### MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 347. An act to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

H.R. 1209. An act to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

H.R. 2187. An act to direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 347. An act to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during

World War II; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1209. An act to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2187. An act to direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1637. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to the notification of Congress that during the period of January 1, 2008, through December 31, 2008, no exceptions to the prohibition against favored treatment of a government securities broker or government securities dealer were granted by the Secretary of the Treasury; to the Committee on Banking, Housing, and Urban Affairs.

EC-1638. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to material violations or suspected material violations of regulations relating to Treasury auctions and other Treasury securities offerings for the period of January 1, 2008 through December 31, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-1639. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to significant modifications to the auction process for issuing United States Treasury obligations; to the Committee on Banking, Housing, and Urban Affairs.

EC-1640. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Final Rule Amending the Terrorism List Governments Sanctions Regulations" (31 CFR Parts 596) received in the Office of the President of the Senate on May 12, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1641. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to programs and projects of the International Atomic Energy Agency (IAEA); to the Committee on Foreign Relations.

EC-1642. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of a Determination and Certification under Section 40A of the Arms Export Control Act relative to countries not cooperating fully with United States antiterrorism efforts; to the Committee on Foreign Relations.

EC-1643. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2009-0062-2009-0067); to the Committee on Foreign Relations.

EC-1644. A communication from the Acting Secretary, Department of Health and Human Services, transmitting, pursuant to law, a report entitled "Delays in Approvals of Applications Related to Citizen Petitions and Petitions for Stay of Agency Action for Fiscal Year 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-1645. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a confirmation in the position of Director of National Drug Control Policy, received in the Office of the President of the Senate on May 13, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1646. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Department's activities regarding civil rights era homicides; to the Committee on the Judiciary.

EC-1647. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Measurement, Science and Engineering Research Grants Programs; Availability of Funds" (RIN0693-ZA84) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1648. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Construction Grant Program Notice of Availability of Funds" (RIN0693-ZA81) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1649. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Precision Measurement Grants Programs; Availability of Funds" (RIN0693-ZA83) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1650. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Undergraduate Research Fellowships (SURF) NIST Gaithersburg and Boulder Programs; Availability of Funds" (RIN0693-ZA85) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1651. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Undergraduate Research Fellowships (SURF) NIST Gaithersburg and Boulder Programs; Availability of Funds" (RIN0693-ZA85) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1651. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Technology Innovation Program (TIP) Notice of Availability of Funds and Announcement of Public Meeting (Proposers' Conference)" (RIN0693-ZA89) received in the Office of the President of the Senate on May 6, 2008; to the Committee on Commerce, Science, and Transportation.

EC-1652. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments" ((Docket No. 30663) (Amendment No. 3318)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1653. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Requirements for Private Use Transport Category Airplanes" ((RIN2120-A161) (Docket No. FAA-2007-28250)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1654. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments" ((Docket No. 30664) (Amendment No. 3319)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1655. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D and Class E Airspace; Albemarle, NC" ((Docket No. FAA-2009-0203) (Airspace Docket No. 09-ASO-12)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1656. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters" ((Docket No. FAA-2009-0351) (Directorate Identifier 2009-SW-08-AD)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1657. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Rutland, VT" ((Docket No. FAA-2008-1076) (Airspace Docket No. 08-ANE-102)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1658. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Refugio, TX" ((Docket No. FAA-2009-0241) (Airspace Docket No. 09-ASW-6)) received in the Office of the President of the Senate on

May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1659. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Clewiston, FL" ((Docket No. FAA-2008-1168) (Airspace Docket No. 08-ASO-19)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1660. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Russellville, AL" ((Docket No. FAA-2008-1094) (Airspace Docket No. 08-ASO-18)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1661. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Morehead, KY" ((Docket No. FAA-2008-0809) (Airspace Docket No. 08-ASO-13)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300 -400 and -500 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2008-1070)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Emission Standards for Turbine Engine Powered Airplanes" ((RIN2120-AJ41) (Docket No. FAA-2009-0112)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Communication and Area Navigation Equipment (RNAV) Operations in Remote Locations and Mountainous Terrain" ((RIN2120-AJ46) (Docket No. FAA-2002-14002)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes" ((RIN2120-AA64) (Docket No. FAA-2008-1327)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300 -400 and -500 Series Airplanes" ((RIN 2120-AA64) (Docket No. FAA-2008-1275)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science,

and Transportation; to the Committee on Commerce, Science, and Transportation.

EC-1667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 Airplanes" ((RIN2120-AA64) (Docket No. FAA-2008-1239)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1668. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from October 1, 2008 through March 31, 2009 received in the Office of the President of the Senate during an adjournment of the Senate on May 15, 2009; ordered to lie on the table.

#### EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. DORGAN for the Committee on Indian Affairs.

\*Larry J. Echo Hawk, of Utah, to be an Assistant Secretary of the Interior.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO:

S. 1059. A bill to permit commercial vehicles at weights up to 129,000 pounds to use certain highways of the Interstate System in the State of Idaho which would provide significant savings in the transportation of goods throughout the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 1060. A bill to comprehensively prevent, treat, and decrease overweight and obesity in our Nation's populations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S. 1061. A bill to reauthorize the Uranium Enrichment Decontamination and Decommissioning Fund and to direct the Secretary of Energy to provide a plan for the re-enrichment of certain uranium tailings; to the Committee on Energy and Natural Resources.

By Mr. TESTER:

S. 1062. A bill to amend the Beef Research and Information Act to allow the promotion of beef that is born and raised exclusively in the United States and to establish new referendum requirements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 1063. A bill to amend the USEC Privatization Act to authorize the Secretary of Energy to pay affected participants under a pension plan referred to in the USEC Privatization Act for benefit increases not received; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. BURRIS, and Mrs. MCCASKILL):

S. 1064. A bill to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted under such Act, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWNBACK (for himself and Mr. CASEY):

S. 1065. A bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. SESSIONS, Mr. CONRAD, Ms. LANDRIEU, Mr. LEAHY, and Mr. SANDERS):

S. 1066. A bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program; to the Committee on Finance.

#### ADDITIONAL COSPONSORS

S. 370

At the request of Mr. JOHANNIS, his name was added as a cosponsor of S. 370, a bill to prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes.

S. 448

At the request of Mr. SPECTER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 448, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 475

At the request of Mr. BURR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 511

At the request of Mr. BROWNBACK, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 511, a bill to amend part B of title XVIII of the Social Security Act to provide for an exemption of pharmacies and pharmacists from certain Medicare accreditation requirements in the same manner as such exemption applies to certain professionals.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 658

At the request of Mr. TESTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 658, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 676

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 676, a bill to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

S. 707

At the request of Mr. AKAKA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 707, a bill to enhance the Federal Telework Program.

S. 726

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 726, a bill to amend the Public Health Service Act to provide for the licensing of biosimilar and biogeneric biological products, and for other purposes.

S. 752

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 795

At the request of Mr. HATCH, the names of the Senator from Missouri (Mr. BOND), the Senator from Indiana (Mr. BAYH) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 795, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 819

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 827

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S.

827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 833

At the request of Mr. SCHUMER, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 846

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 908

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 909

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 909, a bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

At the request of Mr. BEGICH, his name was added as a cosponsor of S. 909, *supra*.

S. 925

At the request of Mrs. GILLIBRAND, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 925, a bill to direct the Secretary of Health and Human Services to study the presence of contaminants and impurities in cosmetics and personal care products marketed to and used by children.

S. 956

At the request of Mr. TESTER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 956, a bill to amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

S. 982

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S.

982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Nevada (Mr. ENSIGN), the Senator from Arizona (Mr. KYL) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1052

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1052, a bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965.

S. 1057

At the request of Mr. TESTER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1060. A bill to comprehensively prevent, treat, and decrease overweight and obesity in our Nation's populations; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Obesity Prevention, Treatment and Research Act of 2009. This legislation would develop a national strategy to organize our efforts to combat childhood and adult obesity. It would help foster unprecedented collaborations and collective actions across agencies, and among private entities, individuals, and communities.

The prevalence of obesity in the U.S. has grown to staggering proportions. According to the Centers for Disease Control and Prevention National Center for Health Statistics, 66 percent of adults and 32 percent of children are considered either overweight or obese. Over the past 30 years, the obesity rate has more than doubled across all age groups. The U.S. now has the highest prevalence of obesity among the developed nations. In fact, the prevalence of obesity in the U.S. in 2006, 34 percent, is more than twice the average for other developed nations.

The Obesity Prevention, Treatment and Research Act of 2009 comprehensively addresses the obesity and overweight epidemic by focusing on coordinating and augmenting existing prevention and treatment activities. This legislation is based on recommendations of the Institutes of Medicine, IOM, to confront the obesity epidemic. It focuses on developing dynamic new collaborations and will improve access for beneficiaries in Medicare, Medicaid, and other Federal programs to nutritional counseling, prevention services, and physical education programs.

Obesity is a costly problem for the U.S. both in terms of health care expenditures and the loss of life. The incidence of type 2 diabetes, high blood pressure, and progressive liver disease—ailments once associated only with adults—is rising among overweight children. These health risks compound with age, since overweight children and adolescents are more likely to become obese adults. For the first time in our history, the lifespan of a child born today may be less than that of his or her parents. Interventions aimed at significantly decreasing the prevalence of these illnesses are extremely cost effective and are critical to overall disease prevention and health promotion efforts. The Trust for America's Health recently reported that an investment of just \$10 per person per year in proven community-based disease prevention programs would yield a \$2.8 billion annual health expenditure reduction. Put another way, our nation would recoup nearly \$1 over and above the cost of a comprehensive disease prevention and health promotion program for every \$1 invested in the first 1 to 2 years of the program. To that end, my legislation creates grant programs to provide funding to schools, community health centers, academic institutions, State medical societies, State health departments, and communities to reduce the prevalence of obesity and improve the prevention and treatment of individuals who are obese or overweight.

The Obesity Prevention, Treatment and Research Act of 2009 establishes the U.S. Council on Overweight & Obesity Prevention, USCO-OP, which is charged with creating a comprehensive strategy to prevent, treat and reduce

the prevalence of overweight individuals and obesity. This advisory council will update Federal guidelines; identify best practices; conduct ongoing surveillance and monitoring of existing Federal programs; and make recommendations to coordinate budgets, policies, and programs across Federal agencies in collaboration with private and public partners. In addition, the Council will help develop and update the daily physical activity requirements in our schools, and identify activities that families can do together.

It is also critical to recognize that certain populations are more vulnerable than others to the obesity epidemic. Minorities, especially from Hispanic and Native American communities, are disproportionately affected by this disease. For example, in my home State of New Mexico, approximately 26 percent of Hispanic and 32 percent of Native American adolescents, grades 9-12, are overweight or obese; the rate of prevalence is less than 20 percent among white, non-Hispanic adolescents. I have, therefore, prioritized grants in this legislation to these populations and required Federal reporting on research and data related to obesity in disproportionately affected groups. This includes grants aimed at behavioral risk factors such as sedentary lifestyles and poor nutrition.

This bill will help further develop and then increase funding to the Department of Agriculture's Fresh Fruit and Vegetable Program. This will help ensure that low-income children will have access to healthier foods within their schools. In addition, the Secretary of Health and Human Services and the Secretary of Agriculture will be tasked to consult with the USCO-OP to update and reform Federal oversight of food and beverage labeling. Such reforms include improving the transparency of labeling with regard to nutritional and caloric value of food and beverages.

I think it is imperative that we provide treatment to those individuals who are likely to develop obesity-related ailments before the full onset of disease. The Obesity Prevention, Treatment and Research Act of 2009 does this by expanding coverage of Medicare to include medical nutritional counseling for beneficiaries who are overweight or obese and are considered prediabetics. In addition, my legislation gives States the option to include medical nutrition therapy services in Medicaid and SCHIP.

There is no doubt that the obesity epidemic has grown immensely. I am confident, however, that it can be stopped but it requires a nationwide commitment for resolution. I look forward to working with my colleagues to enact this legislation this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1060

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. SHORT TITLE.

This Act may be cited as the "Obesity Prevention, Treatment, and Research Act of 2009".

## SEC. 2. FINDINGS.

Congress finds the following:

(1) In 2001, the United States Surgeon General released the Call to Action to Prevent and Decrease Overweight and Obesity to bring attention to the public health problems related to obesity.

(2) Since the Surgeon General's call to action, the problems of obesity and overweight have become epidemic, occurring in all ages, ethnicities and races, and individuals in every State.

(3) The United States now has the highest prevalence of obesity among the developed nations, according to 2006 data by the Organisation for Economic Co-operation and Development. The prevalence of obesity in the United States (34 percent) is more than twice the average for other developed nations (13 percent). The closest nation in prevalence of obesity is the United Kingdom (24 percent) which is over 25 percent less than the United States.

(4) The National Health and Nutrition Examination Survey in 2006 estimated that 32 percent of children and adolescents aged 2 to 19 and an alarming 66 percent of adults are overweight or obese.

(5) More than 30 percent of young people in grades 9 through 12 do not regularly engage in vigorous intensity physical activity, while almost 40 percent of adults are sedentary and 70 percent report getting less than 20 minutes of regular physical activity per day.

(6) The Institute of Medicine, in their 2005 publication "Preventing Childhood Obesity: Health in the Balance", reported that over the last 3 decades, the rate of childhood obesity has tripled for children aged 6 to 11 years, and doubled for children aged 2 to 5 years old and in adolescents aged 12 to 19 years old. In 2004, approximately 9,000,000 children over 6 years of age were obese. Only 2 percent of children eat a healthy diet consistent with Federal nutrition guidelines.

(7) For children born in 2000, it is estimated the lifetime risk of being diagnosed with type 2 diabetes is 40 percent for females and 30 percent for males.

(8) Overweight and obesity disproportionately affect minority populations and women. According to the 2006 Behavioral Risk Factor Surveillance System of the Centers for the Disease Control and Prevention, 61 percent of adults in the United States are overweight or obese.

(9) The Centers for the Disease Control and Prevention estimates the annual expenditures related to overweight and obesity in the United States to be \$117,000,000,000 in 2001 and rising rapidly.

(10) The Centers for the Disease Control and Prevention estimates that the increase in the number of overweight and obese Americans between 1987 and 2001 resulted in a 27 percent increase in per capita health costs, and that as many as 112,000 deaths per year are associated with obesity.

(11) Being overweight or obese increases the risk of chronic diseases including diabetes, heart disease, stroke, certain cancers, arthritis, and other health problems.

(12) According to the National Institute of Diabetes and Digestive and Kidney Diseases, individuals who are obese have a 50 to 100 percent increased risk of premature death.

(13) Healthy People 2010 goals identify overweight and obesity as 1 of the Nation's leading health problems and include objectives for increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(14) Another Healthy People 2010 goal is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionately impacts medically underserved populations.

(15) Food and beverage advertisers are estimated to spend \$10,000,000 to \$12,000,000,000 per year to target children and youth.

(16) The United States spends less than 2 percent of its annual health expenditures on prevention.

(17) Employer health promotion investments net a return of \$3 for every \$1 invested.

(18) High-energy dense and low-nutrient dense foods represent 30 percent of American's total calorie intake. Fast food company menus are twice the energy density of recommended healthful diets.

(19) Research suggests that individuals eat too much high-energy dense foods without feeling full because the brain's pathways that regulate hunger and influence normal food intake are not triggered by these foods.

(20) Packaging, product placement, and high-energy dense food content manipulation contribute to the overweight and obesity epidemic in the United States.

(21) Such marketing and content manipulation techniques have been used by other industries to encourage consumption at the expense of health. To help individuals make healthy choices, education and information must be available with clear, consistent, and accurate labeling.

## TITLE I—OBESITY TREATMENT, PREVENTION, AND REDUCTION

### SEC. 101. UNITED STATES COUNCIL ON OVERWEIGHT-OBESITY PREVENTION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by—

(1) redesignating section 399R (as inserted by section 2 of Public Law 110-373) as section 399S;

(2) redesignating section 399R (as inserted by section 3 of Public Law 110-374) as section 399T; and

(3) adding at the end the following:

#### "SEC. 399U. UNITED STATES COUNCIL ON OVERWEIGHT-OBESITY PREVENTION.

"(a) ESTABLISHMENT.—The Secretary shall convene a United States Council on Overweight-Obesity Prevention (referred to in this section as 'USCO-OP').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—USCO-OP shall be composed of 20 members, which shall consist of—

"(A) the Secretary;

"(B) the Secretary (or his or her designee) of—

"(i) the Department of Agriculture;

"(ii) the Department of Education;

"(iii) the Department of Housing and Urban Development;

"(iv) the Department of the Interior

"(v) the Federal Trade Commission;

"(vi) the Department of Transportation; and

"(vii) any other Federal agency that the Secretary of Health and Human Services determines appropriate;

"(C) the Chairman (or his or her designee) of the Federal Communications Commission;

"(D) the Director (or his or her designee) of the Centers for Disease Control and Prevention, the National Institutes of Health, and the Agency for Healthcare Research and Quality;

"(E) the Administrator of the Centers for Medicare and Medicaid Services (or his or her designee);

"(F) the Commissioner of Food and Drugs (or his or her designee); and

"(G) a minimum of 5 representatives, appointed by the Secretary, of expert organizations such as public health associations, key healthcare provider groups, planning and development organizations, education associations, advocacy groups, relevant industries, State and local leadership, and other entities as determined appropriate by the Secretary.

"(2) APPOINTMENTS.—The Secretary shall accept nominations for representation on USCO-OP through public comment before the initial appointment of members of USCO-OP under paragraph (1)(G), and on a regular basis for open positions thereafter, but not less than every 2 years.

"(3) CHAIRPERSON.—The chairperson of USCO-OP shall be—

"(A) an individual appointed by the President; and

"(B) until the date that an individual is appointed under subparagraph (A), the Secretary.

"(c) MEETINGS.—

"(1) IN GENERAL.—USCO-OP shall meet—

"(A) not later than 180 days after the date of enactment of the Obesity Prevention, Treatment, and Research Act of 2009; and

"(B) at the call of the chairperson thereafter, but in no case less often than 2 times per year.

"(2) MEETINGS OF FEDERAL AGENCIES.—The representatives of the Federal agencies on USCO-OP shall meet on a regular basis, as determined by the Secretary, to develop strategies to coordinate budgets and discuss other issues that are not otherwise permitted to be discussed in a public forum. The purpose of such meetings shall be to allow more rapid interagency strategic planning and intervention implementation to address the overweight and obesity epidemic.

"(d) DUTIES OF USCO-OP.—USCO-OP shall—

"(1) develop strategies to comprehensively prevent, treat, and reduce overweight and obesity;

"(2) coordinate interagency cooperation and action related to the prevention, treatment, and reduction of overweight and obesity in the United States;

"(3) identify best practices in communities to address overweight and obesity;

"(4) work with appropriate entities to evaluate the effectiveness of obesity and overweight interventions;

"(5) update the National Institutes of Health 1998 'Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults: The Evidence Report' and include sections on childhood obesity in such updated report;

"(6) conduct ongoing surveillance and monitoring using tools such as the National Health and Nutrition Examination Survey and the Behavioral Risk Factor Surveillance System and assure adequate and consistent funding to support data collection and analysis to inform policy;

"(7) make recommendations to coordinate budgets, grant and pilot programs, policies, and programs across Federal agencies to cohesively address overweight and obesity, including with respect to the grant programs

carried out under sections 306(n), 399V, and 1904(a)(1)(H);

“(8) make recommendations to update and improve the daily physical activity requirements for students under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and include recommendations about physical activities that families can do together, and involving parents in these activities;

“(9) make recommendations about coverage for obesity-related services and for an early and periodic screening, diagnostic, and treatment services program under the State Children's Health Insurance Program established under title XXI of the Social Security Act;

“(10) make recommendations for obesity-related information, including height, weight, and body mass index, to be included in electronic health records for the purpose of ongoing surveillance and monitoring; and

“(11) provide guidelines for childhood obesity health care related treatment under the early and periodic screening, diagnostic, and treatment services program under the Medicaid program established under title XIX of the Social Security Act and otherwise described in section 2103(c)(5) of such Act.

“(e) REPORT.—Not later than 18 months after the date of enactment of the Obesity Prevention, Treatment, and Research Act of 2009, and on an annual basis thereafter, USCO-OP shall submit to the President and to the relevant committees of Congress, a report that—

“(1) summarizes the activities and efforts of USCO-OP under this section to coordinate interagency prevention, treatment, and reduction of obesity and overweight, including a detailed strategic plan with recommendations for each Federal agency;

“(2) evaluates the effectiveness of these coordinated interventions and conducts interim assessments and reporting of health outcomes, achievement of milestones, and implementation of strategic plan goals starting with the second report, and yearly thereafter; and

“(3) makes recommendations for the following year's strategic plan based on data and findings from the previous year.

“(f) TECHNICAL ASSISTANCE.—The Department of Health and Human Services may provide technical assistance to USCO-OP to carry out the activities under this section.

“(g) PERMANENCE OF COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to USCO-OP.”.

**SEC. 102. GRANTS AND DEMONSTRATION PROGRAMS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 101, is amended by adding at the end the following:

**“SEC. 399V. GRANTS AND DEMONSTRATION PROGRAMS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.**

“(a) ELIGIBLE ENTITY.—For purposes of this section, the term ‘eligible entity’ means—

“(1) a city, county, Indian tribe, tribal organization, territory, or State;

“(2) a local, tribal, or State educational agency;

“(3) a Federal medical facility, including a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act), an Indian Health Service hospital or

clinic, any health facility or program operated by or pursuant to a contractor grant from the Indian Health Service, an Indian Health Service entity, an urban Indian center, an Indian tribal clinic, a health care for the homeless center, a rural health center, migrant health center, and any other Federal medical facility;

“(4) any entity meeting the criteria for medical home under section 204 of the Tax Relief and Health Care Act of 2006 (Public Law 109-432);

“(5) a nonprofit organization (such as an academic health center or community health center);

“(6) a health department;

“(7) any licensed or certified health provider;

“(8) an accredited university or college;

“(9) a community-based organization;

“(10) a local city planning agency; and

“(11) any other entity determined appropriate by the Secretary.

“(b) APPLICATION.—An eligible entity that desires a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of any training that will be provided under such grant.

**“(c) GRANT DEMONSTRATION AND PILOT PROGRAM.—**

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in consultation with the United States Council on Overweight-Obesity Prevention under section 399U, shall establish and evaluate a grant demonstration and pilot program for entities to—

“(A) prevent, treat, or otherwise reduce overweight and obesity;

“(B) increase the number of children and adults who safely walk or bike to school or work;

“(C) increase the availability and affordability of fresh fruits and vegetables in the community;

“(D) expand safe and accessible walking paths and recreational facilities to encourage physical activity, and other interventions to create healthy communities;

“(E) create advertising, social marketing, and public health campaigns promoting healthier food choices, increased physical activity, and healthier lifestyles targeted to individuals and to families;

“(F) promote increased rates and duration of breast-feeding; and

“(G) increase worksite and employer promotion of and involvement in community initiatives that prevent, treat, or otherwise reduce overweight and obesity.

“(2) SPECIAL PRIORITY.—Special priority will be given to grant proposals that target communities or populations disproportionately affected by overweight or obesity, including Native Americans, other minorities, and women.

“(d) GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to eligible entities to promote health behaviors for women and children in target populations, especially racial and ethnic minority populations in medically underserved communities.

“(2) USE OF FUNDS.—An award under this section shall be used to carry out any of the following:

“(A) To educate, promote, prevent, treat and determine best practices in overweight and obese populations.

“(B) To address behavioral risk factors including sedentary lifestyle, poor nutrition, being overweight or obese, and use of tobacco, alcohol or other substances that increase the risk of morbidity and mortality. Special priority will be given to grant applications that—

“(i) propose interventions that address embedded levels of influence on behavior, including the individual, family, peers, community and society; and

“(ii) utilize techniques that promote community involvement in the design and implementation of interventions including community diagnosis and community-based participatory research.

“(C) To develop and implement interventions to promote a balance of energy consumption and expenditure, to attain healthier weight, prevent obesity, and reduce morbidity and mortality associated with overweight and obesity.

“(D)(i) To train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

“(ii) To use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

“(I) how to treat or prevent obesity, being overweight, and eating disorders;

“(II) the link between obesity, being overweight, eating disorders and related serious and chronic medical conditions;

“(III) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

“(IV) how to identify overweight, obese, individuals with eating disorders, and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions; and

“(V) how to conduct a comprehensive assessment of individual and familial health risk factors and evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.

“(iii) In awarding a grant to carry out an activity under this subparagraph, preference shall be given to an entity described in subsection (a)(4).

“(e) REPORTING TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention shall submit to the Secretary and Congress a report concerning the result of the activities conducted through the grants awarded under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$50,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2013.”.

**SEC. 103. NATIONAL CENTER FOR HEALTH STATISTICS.**

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m)(4)(B), by striking “subsection (n)” each place it appears and inserting “subsection (o)”;

(2) by redesignating subsection (n) as subsection (o); and



(3) by inserting after subsection (m) the following:

“(n)(1) The Secretary, acting through the Center, may provide for the—

“(A) collection of data for determining the fitness levels and energy expenditure of adults, children, and youth; and

“(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

“(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

“(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.”.

#### SEC. 104. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities carried out under this Act (and the amendments made by this Act) and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a-1(c)(3)).

#### SEC. 105. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended by adding at the end the following:

“(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.”.

#### SEC. 106. REPORT ON OBESITY AND EATING DISORDERS RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications (including mental health implications) of being overweight, obesity, and eating disorders.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes, prevention, and treatment of, being overweight, obesity, and eating disorders; and

(3) recommendations on further research that is needed, including research among diverse populations, the plan of the Department of Health and Human Services for conducting such research, and how current knowledge can be disseminated.

#### TITLE II—FOOD AND BEVERAGE LABELING FOR HEALTHY CHOICES

##### SEC. 201. FOOD AND BEVERAGE LABELING FOR HEALTHY CHOICES.

(a) USCO-OP.—In this section, the term “USCO-OP” means the United States Coun-

cil on Overweight-Obesity Prevention under section 399U of the Public Health Service Act (as added by section 101).

(b) REFORM OF FOOD AND BEVERAGE LABELING.—The Secretary of Health and Human Services and the Secretary of Agriculture, in consultation with the USCO-OP, shall, through regulation or other appropriate action, update and reform Federal oversight of food and beverage labeling. Such reform shall include improving the transparency of such labeling with regard to nutritional and caloric value of food and beverages.

#### TITLE III—HEALTHY CHOICES FOOD AND BEVERAGE PROGRAMS

##### SEC. 301. FRESH FRUIT AND VEGETABLE PROGRAM.

Section 19(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a(i)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8); and

(2) by inserting after paragraph (2) the following:

“(3) ADDITIONAL MANDATORY FUNDING.—

“(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out and expand the program under this section, to remain available until expended—

“(i) on October 1, 2009, \$80,000,000;

“(ii) on July 1, 2010, \$130,000,000;

“(iii) on July 1, 2011, \$202,000,000;

“(iv) on July 1, 2012, \$300,000,000; and

“(v) on July 1, 2013, and on each July 1 thereafter, the amount made available for the previous fiscal year, as adjusted under subparagraph (B).

“(B) ADJUSTMENT.—On July 1, 2013, and on each July 1 thereafter the amount made available under subparagraph (A)(v) shall be calculated by adjusting the amount made available for the previous fiscal year to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for fresh fruits and vegetables, with the adjustment—

“(i) rounded down to the nearest dollar increment; and

“(ii) based on the unrounded amounts for the preceding 12-month period.

“(C) ALLOCATION.—Funds made available under this paragraph shall be allocated among the States and the District of Columbia in the same manner as funds made available under paragraph (1).”.

#### TITLE IV—AMENDMENTS TO THE SOCIAL SECURITY ACT

##### SEC. 401. COVERAGE OF EVIDENCE-BASED PREVENTIVE SERVICES UNDER MEDICARE, MEDICAID, AND SCHIP.

(a) MEDICARE.—Section 1861(ddd) of the Social Security Act, as added by section 101 of the Medicare Improvements for Patients and Providers Act of 2008, is amended—

(1) in paragraph (2), by striking “paragraph (1)” and inserting “paragraphs (1) and (3)”; and

(2) by adding at the end the following new paragraph:

“(3) The term ‘additional preventive services’ includes any evidence-based preventive services which the Secretary has determined are reasonable and necessary, including, as so determined, smoking cessation and prevention services, diet and exercise counseling, and healthy weight and obesity counseling.”.

(b) STATE OPTION TO PROVIDE MEDICAL ASSISTANCE FOR EVIDENCE-BASED PREVENTIVE SERVICES.—

(1) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) in paragraph (27), by striking “and” at the end;

(ii) by redesignating paragraph (28) as paragraph (29); and

(iii) by inserting after paragraph (27) the following:

“(28) evidence-based preventive services described in subsection (y); and”; and

(B) by adding at the end the following:

“(y) For purposes of subsection (a)(28), evidence-based preventive services described in this subsection are any preventive services which the Secretary has determined are reasonable and necessary through the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under title XVIII, including, as so determined, smoking cessation and prevention services, diet and exercise counseling, and healthy weight and obesity counseling.”.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of such Act is amended by inserting “, and (28)” after “(24)”.

(c) STATE OPTION TO PROVIDE CHILD HEALTH ASSISTANCE FOR EVIDENCE-BASED PREVENTIVE SERVICES.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj(a)) is amended—

(1) by redesignating paragraph (28) as paragraph (29); and

(2) by inserting after paragraph (27) the following:

“(28) Evidence-based preventive services described in section 1905(y).”.

##### SEC. 402. COVERAGE OF MEDICAL NUTRITION COUNSELING UNDER MEDICARE, MEDICAID, AND SCHIP.

(a) MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES FOR PEOPLE WITH PRE-DIABETES.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)) is amended by inserting after “beneficiary with diabetes” the following “, pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, or overweight).”.

(b) STATE OPTION TO PROVIDE MEDICAL ASSISTANCE FOR MEDICAL THERAPY SERVICES.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d), as amended by section 401(b), is amended—

(A) in paragraph (28), by striking “and” at the end;

(B) by redesignating paragraph (29) as paragraph (30); and

(C) by inserting after paragraph (28) the following:

“(29) medical nutrition therapy services (as defined in section 1861(vv)(1)) for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary); and”.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of such Act, as amended by section 401(b)(2), is amended by striking “and (28)” and inserting “(28), and (29)”.

(c) STATE OPTION TO PROVIDE CHILD HEALTH ASSISTANCE FOR MEDICAL NUTRITION THERAPY SERVICES.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj(a)), as amended by section 401(c), is amended—

(1) by redesignating paragraph (29) as paragraph (30); and

(2) by inserting after paragraph (28) the following:

“(29) Medical nutrition therapy services (as defined in section 1861(vv)(1)) for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary).”.

##### SEC. 403. AUTHORIZING EXPANSION OF MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES.

(a) AUTHORIZING EXPANDED ELIGIBLE POPULATION.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)), as amended by section 402, is amended—



(1) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting each such clause an additional 2 ems;

(2) by striking “in the case of a beneficiary with diabetes, pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, overweight), or a renal disease who—” and inserting “in the case of a beneficiary—

“(i) with diabetes, pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, overweight), or a renal disease who—”;

(III) of clause (i), as so redesignated; and

(4) by adding at the end the following new clause:

“(ii) who is not described in clause (i) but who has another disease, condition, or disorder for which the Secretary has made a national coverage determination (as defined in section 1869(f)(1)(B)) for the coverage of such services”;

(b) **COVERAGE OF SERVICES FURNISHED BY PHYSICIANS.**—Section 1861(vv)(1) of the Social Security Act (42 U.S.C. 1395x(vv)(1)) is amended by inserting “or which are furnished by a physician” before the period at the end.

(c) **NATIONAL COVERAGE DETERMINATION PROCESS.**—In making a national coverage determination described in section 1861(s)(2)(V)(ii) of the Social Security Act, as added by subsection (a)(4), the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall—

(1) consult with dietetic and nutrition professional organizations in determining appropriate protocols for coverage of medical nutrition therapy services for individuals with different diseases, conditions, and disorders; and

(2) consider the degree to which medical nutrition therapy interventions prevent or help prevent the onset or progression of more serious diseases, conditions, or disorders.

**SEC. 404. CLARIFICATION OF EPSDT INCLUSION OF PREVENTION, SCREENING, AND TREATMENT SERVICES FOR OBESITY AND OVERWEIGHT; SCHIP COVERAGE.**

(a) **IN GENERAL.**—Section 1905(r)(5) of the Social Security Act (42 U.S.C. 1396d(r)(5)) is amended by inserting “, including weight and BMI measurement and monitoring, as well as appropriate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399U of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary” before the period.

(b) **SCHIP.**—

(1) **REQUIRED COVERAGE.**—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking “and (7)” and inserting “(7), and (9)”;

(B) in subsection (c)—

(i) by redesignating paragraph (7) as paragraph (9); and

(ii) by inserting after paragraph (6), the following:

“(7) **PREVENTION, SCREENING, AND TREATMENT SERVICES FOR OBESITY AND OVERWEIGHT.**—The child health assistance provided to a targeted low-income child shall include coverage of weight and BMI measurement and monitoring, as well as appro-

priate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399U of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary.”.

(2) **CONFORMING AMENDMENT.**—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by striking “section 2103(c)(5)” and inserting “paragraphs (5) and (7) of section 2103(c)”.

**SEC. 405. INCLUSION OF PREVENTIVE SERVICES IN QUALITY MATERNAL AND CHILD HEALTH SERVICES.**

Section 501(b) of the Social Security Act (42 U.S.C. 701(b)) is amended by adding at the end the following new paragraph:

“(5) The term ‘quality maternal and child health services’ includes the following:

“(A) Evidence-based preventive services described in section 1905(y).

“(B) Medical nutrition counseling for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary).

“(C) Weight and BMI measurement and monitoring, as well as appropriate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399U of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary.”.

**SEC. 406. CHILDHOOD OBESITY INFORMATION, GUIDELINES, AND REPORTING.**

The Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare and Medicaid Services, shall—

(1) not later than 18 months after the date of the enactment of this Act, provide the State agencies responsible for administering the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the State child health plan approved under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) with relevant data, information, and recommendations, as the Administrator deems appropriate, regarding the risks associated with childhood obesity and the importance of identifying at-risk children for treatment;

(2) not later than 18 months after the date of the enactment of this Act, issue guidelines, or amend existing guidelines, concerning the development of pediatric obesity prevention programs for at-risk populations through the use of managed care techniques, integrated service delivery models, disease management programs, and other methods that the Administrator deems appropriate;

(3) provide for the annual reporting by such State agencies of the number of children enrolled in a State Medicaid or child health plan that are—

(A) screened for overweight or obesity; and

(B) identified as at-risk for overweight or obesity and have been provided with appropriate medical follow-up services or counseling; and

(4) prepare and submit an annual report to Congress on the percentage of children enrolled in a State Medicaid or child health plan that are screened for overweight or obesity and, for those identified as at-risk, receive appropriate medical follow-up services or counseling.

**SEC. 407. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this title, and the amendments made under this title, take effect on October 1, 2010.

(b) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**NOTICES OF HEARINGS**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Thursday, May 21, 2009 at 10:30 a.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

**PRIVILEGES OF THE FLOOR**

Mr. DORGAN. Mr. President, I ask unanimous consent that William “Bill” Curlin have full floor privileges during the consideration of the supplemental appropriations bill. He is a fellow in my office.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 134, 135, 136, 137, 138, 141, 142, 143, 145, 146, 147, 148, 149, 150, and 151.

**NOMINATION OF THOMAS R. LAMONT**

I would like to add, Madam President, before I ask for this consent, that one of the numbers I have just read relates to the nomination of Thomas Lamont, to serve as Assistant Secretary

of the Army for Manpower and Reserve Affairs.

Mr. Lamont is a friend of mine. He lives in my hometown, and I have known him for many years. He and his wife Bridget are close friends.

Tom is a dedicated public servant. He has spent 25 years in the Judge Advocate General's division of the Illinois Army National Guard, where he was a State staff judge advocate general before retiring with the rank of colonel in the year 2007.

He was also elected to the board of trustees at the University of Illinois. He served in the highest capacities with the Office of the State Attorney Appellate Prosecutor, Civil Litigation in the Office of the Illinois Attorney General, and the Illinois Board of Higher Education.

He has practiced law in Springfield, my hometown, where he has built a sterling reputation for integrity and ability.

Most recently, Tom has served as special counsel to the University of Illinois.

With this confirmation, his broad array of service and experience will serve our Nation. The Army and America need leaders such as Tom Lamont.

With our Army's soldiers deployed around the world, with their families counting on good leadership in the Pentagon to make certain they are well trained, serve us well, and come home safely, we have an excellent person to serve as Assistant Secretary of the Army for Manpower and Reserve Affairs in Tom Lamont of Springfield, IL.

I was happy to recommend his name to the President.

#### NOMINATION OF MARGARET A. HAMBURG

Madam President, one of the nominees to be considered and voted out this evening is to serve in the administration with a special responsibility for the Food and Drug Administration. Margaret A. Hamburg is certainly well qualified to serve in that capacity. There are many responsibilities to be dealt with in the agency, including the safety of drugs, pharmaceuticals, medical devices, and food in America. It is an issue that is near and dear to me. I have spoken to the nominee about it personally, and I wish to commend her.

Madam President, I ask unanimous consent that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF THE TREASURY

Neal S. Wolin, of Illinois, to be Deputy Secretary of the Treasury.

#### DEPARTMENT OF VETERANS AFFAIRS

John U. Sepulveda, of Virginia, to be an Assistant Secretary of Veterans Affairs (Human Resources).

Jose D. Riojas, of Texas, to be an Assistant Secretary of Veterans Affairs (Operations, Security, and Preparedness).

William A. Gunn, of Virginia, to be General Counsel, Department of Veterans Affairs.

Roger W. Baker, of Virginia, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

#### DEPARTMENT OF THE INTERIOR

Rhea S. Suh, of California, to be an Assistant Secretary of the Interior.

#### DEPARTMENT OF ENERGY

David B. Sandalow, of the District of Columbia, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

Daniel B. Poneman, of Virginia, to be Deputy Secretary of Energy.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

Margaret A. Hamburg, of the District of Columbia, to be Commissioner of Food and Drugs, Department of Health and Human Services.

#### DEPARTMENT OF DEFENSE

Robert O. Work, of Virginia, to be Under Secretary of the Navy.

Raymond Edwin Mabus, Jr., of Mississippi, to be Secretary of the Navy.

Thomas R. Lamont, of Illinois, to be an Assistant Secretary of the Army.

Paul N. Stockton, of California, to be an Assistant Secretary of Defense.

Andrew Charles Weber, of Virginia, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

Charles A. Blanchard, of Arizona, to be General Counsel of the Department of the Air Force.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, as in executive session, I ask unanimous consent that on Tuesday, May 19, following disposition of H.R. 627, the Senate proceed to executive session to consider Calendar No. 29, the nomination of Gary Gensler to be a Commissioner of the Commodity Futures Trading Commission; that there be 60 minutes of debate with respect to the nomination, with the time equally divided and controlled between Senators HARKIN and CHAMBLISS or their designees, with Senators CANTWELL, CARDIN, and SANDERS each controlling 5 minutes of the majority's time; that at 2:15 p.m. the Senate proceed to vote on confirmation of the nomination; that upon confirmation of Calendar No. 29, the Senate then proceed to Calendar No. 30, that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action,

and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDERS FOR TUESDAY, MAY 19, 2009

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. tomorrow, Tuesday, May 19; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 627, the credit card bill, as provided for under the previous order; that upon disposition of H.R. 627, the Senate proceed to executive session to consider the Gensler nomination as provided under a previous order; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conference lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. DURBIN. Madam President, under the previous order, tomorrow there will be a rollcall vote shortly after we convene. The vote will be on the motion to invoke cloture on the Dodd-Shelby substitute amendment to H.R. 627, the credit card bill. If cloture is invoked, the Senate will dispose of the pending amendments and vote on passage of the bill, as amended. As a result, Senators should expect at least two rollcall votes tomorrow morning.

At 2:15 p.m., there will be a vote on confirmation of the Gensler nomination. We also expect to begin consideration of the Iraq and Afghanistan supplemental appropriations bill sometime later tomorrow afternoon.

### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:13 p.m., adjourned until Tuesday, May 19, 2009, at 10 a.m.

### NOMINATIONS

Executive nominations received by the Senate:

#### DEPARTMENT OF DEFENSE

ZACHARY J. LEMNIOS, OF MASSACHUSETTS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE JOHN J. YOUNG, JR.

#### DEPARTMENT OF EDUCATION

ANTHONY W. MILLER, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE RAYMOND SIMON, RESIGNED.

## DEPARTMENT OF ENERGY

RICHARD G. NEWELL, OF NORTH CAROLINA, TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION, GUY GUY F. CARUSO.

## DEPARTMENT OF THE TREASURY

ROSA GUMATAOTAO RIOS, OF CALIFORNIA, TO BE TREASURER OF THE UNITED STATES, VICE ANNA ESCOBEDO CABRAL, RESIGNED.

## IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211(A)(2):

*To be commander*

SCOTT W. CRAWLEY  
MICHAEL F. PIERSON

*To be lieutenant commander*

JAMES J. BAILEY  
JOSE M. BOLANOS  
MICHAEL R. CAIN  
PATRICK A. CULVER  
ASA S. DANIELS  
JEFFREY B. DORWART  
LEE A. FLEMING  
MARK C. FOCKEN  
DOUGLAS C. HALL  
JOHN M. HARTLOVE  
DEAN A. HINES  
BRIAN P. HUFF  
HENRY M. KONCZYNSKI  
HEATHER M. KOSTECKI  
MANUEL P. LOMBA  
MATTHEW I. MARLOW  
STEVEN J. MCKECHNIE  
ANN M. MCSPADDEN  
DAVID W. MITCHELL  
GUY A. MORROW  
DAWN W. MURRAY  
JOSEPH B. NOTCH  
MICHAEL G. ODOM  
MARK S. PALMER  
BRYAN C. PAPE  
BENJAMIN L. PERKINS  
WILLIAM W. PRESTON  
BRIAN W. ROBINSON  
ROBERT A. ROSENOW  
EDWARD P. SORIANO  
FRAMAR L. STENSON  
PRUDENCIO M. TUBALADO  
JON T. WARNER  
ROBERT D. WYMAN  
JAMES T. ZAWROTNY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211(A)(2):

*To be lieutenant commander*

MICHAEL J. CAPELLI

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211(A)(2):

*To be lieutenant commander*

MICHAEL J. HAUSCHEN

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. STANLEY A. MCCHRISTAL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. DAVID M. RODRIGUEZ

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JOSEPH D. KERNAN

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

THOMAS J. SOBIESKI

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be major*

JOHN E. BLAIR  
SAMANTHA L. BUTLER  
DAVID M. CRAWFORD  
MICHAEL W. FOUNTAIN  
ROD S. JOHNSON  
MICHAEL J. MATSUURA  
MARSHA D. MITCHUM  
JAMES REED  
KADEE E. THOMPSON  
PETER T. TRAN

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

KINDALL L. JONES  
WILLIAM J. NOVAK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

SHARON E. BLONDEAU  
KAREN D. CHAMBERS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

REBECCA D. LANGE  
FRANK PIPER  
ROBERT SANTIAGO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

WALTER A. BEHNERT  
ROBERT J. BROODY  
MARION S. CALOW  
DANIEL L. DUCKER  
DAVID E. FLOYD, JR.  
TAMARA J. FREEMAN  
VIRGINIA W. GERDE  
JOHN R. GOVIN  
MICHAEL D. KOLODZIEJ  
SUSAN MORRIS  
RAYMOND B. MURRAY  
INGER M. NILSSON  
ROBERT J. ROLLE  
KELLY L. SNYDER  
BRUCE A. SPAULDING  
YANN STANCZEWSKI  
SHELLY M. WALKER  
ZACHARIAH P. WHEELER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

ARTHUR R. BAKER  
SARY O. BEIDAS  
DAVID E. BENTLEY  
MARY M. BRANDT  
LISA M. BREITENBACH  
JOHN R. BRINEMAN  
WALLACE B. BRUCKER  
JOHN W. BUCKNER III  
DANIEL A. BUTLER  
THOMAS E. CASHERO  
KARIN A. COX  
ERIC C. DESSAIN  
GARY L. DOUBLESTEIN  
GARTH A. ELIAS  
MARIO F. GOLLE, JR.  
MELVYN L. HARRIS  
JOHN E. HARTMANN  
EDWARD P. HORVATH  
JAMES A. JEFFERSON  
HELEN R. JOHNSON  
KEVIN R. JOHNSON  
TIMOTHY L. KINZIE  
STEVEN B. KNIGHT  
FREDERICK C. LOUGH  
SCOTT A. LYNCH  
PAUL F. MALINDA  
RONALD F. MARTIN  
MARK A. MATOSKY  
JAIME L. MAYORAL  
JOHN J. MCGRAW  
STEPHEN B. PALTE  
MARK L. PASSAMONTI  
ROY D. PENDERGRAFT  
ANGEL PEREZTORO  
PAUL C. PERLIK  
ANDREA J. PLASKIEWICZ  
MICHAEL J. RABORN  
FELIX E. ROQUE  
HENRY J. SCHILLER  
STEVEN A. SEVERYN  
ROBERT A. SHIVELY  
ROBERT A. SOLOMON  
JOHN B. SORENSEN  
DONALD K. SPANER

DENNIS M. SULLIVAN  
ANITA M. YEARLEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DENNIS C. AYER  
JAMES E. BARRON  
MARK D. BRUM  
DAVID M. COLLINS  
MARCEL S. DENARD  
OCIE DRAKE, JR.  
JOSEPH K. DRINKWATER  
BRIAN D. FOW  
JEFFREY O. YOUNG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MICHAEL C. OGUINN  
CHRISTOPHER D. PRIEST  
TRACY L. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LARRY D. BARTHOLOMEW  
DAVID M. LENNON  
TIMOTHY V. MAULDIN  
CRAIG W. MEINKING  
WILLIAM G. REISZ  
RANDY L. SPEAR  
KENNETH A. WADE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DAWN B. BARROWMAN  
SUSAN K. HAGMANN  
REBA J. MUELLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LAUREN J. ALUKONIS  
MARYETTA M. BECK  
MARY P. BOLK  
ELIZABETH BONET  
ROSETTE BROWNRIVING  
MARY D. BURNS  
CYNTHIA M. CAMPBELL  
CELESTINE CARTER  
JOHNNIE M. CARTER  
GERALD A. CHAMBERS  
MARTHA L. CLINTON  
DOUGLAS W. COFFEY  
JEAN A. DAYRIT  
NOREEN K. DIEDO  
JOHN E. FLOOD  
VEDA K. FORTE  
DAVID J. FREEMAN  
LORENA A. GIRON  
MARGARET M. HENNESSY  
JAMES W. HUGHES  
GRETCHEN E. MADEYAWOLFSON  
PHYLLIS D. MCCORSTIN  
JANECE M. MOLLHOFF  
KATHRYN M. MOORE  
RHONDA M. MOORE  
KARA T. MURRAY  
ELSA NEGRIN  
KEVIN L. NELSON  
IRENE L. PARRISH  
CHARLES K. PERSINGER  
ELIZABETH M. PETRAS  
BEVERLY I. RIVELL  
JANE A. RUTLEDGE  
NORMA SANDOW  
ROBERT P. SAVAGE  
YEE L. SIMMONS  
CORWYN R. VOKOUN  
LUCY D. WALKER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

PETER H. GUEVARA  
JON R. LUNDQUIST  
EDWARD A. MOORE  
LESTER D. OBANION  
MATTHEW A. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

RICHARD CANER  
ROBIN J. DELEON  
BENJAMIN W. GOH

JOAQUIN HERNANDEZ  
 WILLIAM G. HUBER  
 EMMETT W. MOSLEY  
 DAVID A. NATHAN  
 JOSE I. RUIZQUINONES  
 JEFFREY A. SCZUBLEWSKI  
 CHARLES W. WHITE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
 TO THE GRADE INDICATED IN THE RESERVE OF THE  
 ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MICHAEL J. BEAULIEU  
 EUGENE C. BLACKWELL  
 HARRY B. CARAVAGGIO  
 CHRISTOPHER E. CONLEY  
 RICHARD H. DAHLMAN  
 DANIEL D. DARLAND  
 GARY L. MILLER  
 STEVEN J. OWENS  
 JEFFREY K. PETERS  
 HEATHER C. TAYLOR  
 LINDA K. WOMACK  
 JAMES A. YOUNG

## CONFIRMATIONS

### Executive nominations confirmed by the Senate, Monday, May 18, 2009:

#### DEPARTMENT OF THE TREASURY

NEAL S. WOLIN, OF ILLINOIS, TO BE DEPUTY SEC-  
 RETARY OF THE TREASURY.

#### DEPARTMENT OF VETERANS AFFAIRS

JOHN U. SEPULVEDA, OF VIRGINIA, TO BE AN ASSIST-  
 ANT SECRETARY OF VETERANS AFFAIRS (HUMAN RE-  
 SOURCES).

JOSE D. RIOJAS, OF TEXAS, TO BE AN ASSISTANT SEC-  
 RETARY OF VETERANS AFFAIRS (OPERATIONS, SECUR-  
 ITY, AND PREPAREDNESS).

WILLIAM A. GUNN, OF VIRGINIA, TO BE GENERAL COUN-  
 SEL, DEPARTMENT OF VETERANS AFFAIRS.

ROGER W. BAKER, OF VIRGINIA, TO BE AN ASSISTANT  
 SECRETARY OF VETERANS AFFAIRS (INFORMATION AND  
 TECHNOLOGY).

#### DEPARTMENT OF THE INTERIOR

RHEA S. SUH, OF CALIFORNIA, TO BE AN ASSISTANT  
 SECRETARY OF THE INTERIOR.

#### DEPARTMENT OF ENERGY

DAVID B. SANDALOW, OF THE DISTRICT OF COLUMBIA,  
 TO BE AN ASSISTANT SECRETARY OF ENERGY (INTER-  
 NATIONAL AFFAIRS AND DOMESTIC POLICY).

DANIEL B. PONEMAN, OF VIRGINIA, TO BE DEPUTY SEC-  
 RETARY OF ENERGY.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARGARET A. HAMBURG, OF THE DISTRICT OF COLUM-  
 BIA, TO BE COMMISSIONER OF FOOD AND DRUGS, DE-  
 PARTMENT OF HEALTH AND HUMAN SERVICES.

#### DEPARTMENT OF DEFENSE

ROBERT O. WORK, OF VIRGINIA, TO BE UNDER SEC-  
 RETARY OF THE NAVY.

RAYMOND EDWIN MABUS, JR., OF MISSISSIPPI, TO BE  
 SECRETARY OF THE NAVY.

THOMAS R. LAMONT, OF ILLINOIS, TO BE AN ASSIST-  
 ANT SECRETARY OF THE ARMY.

PAUL N. STOCKTON, OF CALIFORNIA, TO BE AN ASSIST-  
 ANT SECRETARY OF DEFENSE.

ANDREW CHARLES WEBER, OF VIRGINIA, TO BE AS-  
 SISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR  
 AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.

CHARLES A. BLANCHARD, OF ARIZONA, TO BE GENERAL  
 COUNSEL OF THE DEPARTMENT OF THE AIR FORCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT  
 TO THE NOMINEES' COMMITMENT TO RESPOND TO RE-  
 QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY  
 CONSTITUTED COMMITTEE OF THE SENATE.

## HOUSE OF REPRESENTATIVES—Monday, May 18, 2009

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Ms. HIRONO).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 18, 2009.

I hereby appoint the Honorable MAZIE HIRONO to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

### PROTECTION OF INNOCENT LIFE

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. DANIEL E. LUNGREN) for 5 minutes.

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to make a comment on the appearance yesterday at my alma mater, the University of Notre Dame, by President Barack Obama. As I said, I am a graduate of the university. My dad is a graduate of the university. My two brothers are graduates of the university. My son is a graduate of the university. I have three nieces who have graduated from the university. It is always an honor when the President of the United States addresses your university, particularly when he gives its commencement address.

I have known the former president of the University of Notre Dame, Father Hesburgh, for almost my entire life, having met him when I was about 6 years old, and consider him a friend to this day. His record on civil rights is unparalleled in this country, and he is one of the great leaders of the civil rights movement. Now in his nineties, I am sure it was with genuine joy that we saw tears in his eyes as the Presi-

dent of the United States addressed the University of Notre Dame yesterday.

However, Madam Speaker, I must register my concern about the President's address yesterday, and it is because the President has, through his actions and his statements, made very clear his position on a fundamental issue to this Nation, to the question of ethics and morality and public policy. And it is an issue that has generated much controversy, but goes to the essence of the Catholic Church's teaching on the value of life.

The church teaches that there are a number of moral principles upon which there can be serious discussion and disagreement: areas such as a just war; areas about social welfare policy; areas in which the Commandments of our Lord must guide us, but the manner in which those are applied can differ. Those moral judgments are called prudential judgments where we are called upon to use our prudence to come to the conclusions as to our proper actions, both individually and as a society.

But there are a few, and very few, principles upon which there is not prudential judgment but upon which there is specific moral guidance, and protection of innocent life is among them. The question of whether one is ever able to take the innocent life of another intentionally lies at the root of not only Catholic doctrine, but lies at the root of the Judeo-Christian tradition which has given voice to the Constitution where it says we have the right to life, liberty and the pursuit of happiness, with life being the first of those three.

So the question was when the President appeared at the University of Notre Dame, was he engaging in a dialogue in which there was an exchange of ideas of substance, or was it an episode in which there would be moral confusion afterwards in which the question of the taking of innocent life was just a prudential judgment type of issue which was the same as many other issues that we can debate and disagree on about whether we should go to war, how we should conduct war, how much money we should pay for welfare programs, what the level of education is, and so forth.

And that's the question that bothers me. I guess the question I could ask would be whether this administration at the University of Notre Dame would have asked Stephen Douglas or Abraham Lincoln to deliver the commencement address following the great de-

bate that took place between those two some 150 years ago. Because one was successful, that is Stephen Douglas, he was elected, he was considered a great man in many different ways, a great statesman; and the other was Abraham Lincoln who had failed in several attempts at election. And the one said that slavery was one of those things upon which you could not essentially disagree when you really looked at the question of whether one man could own another man.

And while he was unsuccessful in that, he carried the moral argument of the day, and the suggestion here is: Was there any dialogue and would the suggestion be that all we have to do is reason together and use better words rather than essentially go to the substance of the issue.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 38 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

### AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of the ages, ever-present to Your people today, You befriend humanity by revealing Yourself to all and inserting Your acts in our history through strong manifestations of Your Power and the inner strength of Your Word.

Your grace flows in relationships once personal attitudes change and a fresh openness occurs toward another. Such is the subtle way Your love works in us and through us.

Be with the Members of Congress and all Americans this week. May they imitate Your initiative to befriend others and give You the glory.

Lord, bring forth honest words from us, even when born out of hesitancy and anguish. May affirmative actions follow which will reach across the gap of difference and indifference, so You will lead us to new understandings, healing and transformation of the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

world. This will inspire new hope in Your people and give glory to Your Holy Name, both now and forever.  
Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. TONKO) come forward and lead the House in the Pledge of Allegiance.

Mr. TONKO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ADMINISTRATION CLOSES PRIVATE CHRYSLER DEALERSHIPS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, the administration closed 900 Chrysler dealerships overnight last week and put an estimated 100,000, mostly non-union workers, on the street and out of work. Even though many of these dealerships were profitable, it didn't make any difference to the Auto Task Force, since these unelected and unaccountable bureaucrats have absolute power ever since the government nationalized Chrysler.

And I thought the administration promised more jobs, not fewer ones.

In Chicago-business style, the administration is strong-arming these businesses and workers with a process that leaves them without legal recourse and sticks the business owner with millions of dollars of unsold vehicles by forcing them to close.

It should hardly escape anyone's notice that this is just what Dictator Hugo Chavez did earlier this month when he nationalized two U.S. oil company production facilities in Venezuela. Echoing a scheme that handed a U.S. company's assets over to Chavez's cronies, the administration nationalized these auto businesses and rewarded their own special interest groups, and once again, is picking the winners and losers in Chicago-style politics.

And that's just the way it is.

### CONGRATULATING THE ARKANSAS ASSOCIATION FOR EDUCATION AND REHABILITATION OF BLIND AND VISUALLY IMPAIRED FOR 25 YEARS OF SERVICE

(Mr. BOOZMAN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. BOOZMAN. Madam Speaker, today I rise to congratulate the Arkansas Association For Education and Rehabilitation of the Blind and Visually Impaired for 25 years of dedicated service to the people of Arkansas.

This important organization provides support to the professionals who work with the visually impaired. I have seen the results of the work this organization does through my involvement with the AER, working with the Arkansas School for the Blind in Little Rock and also as an optometrist practicing in Rogers, Arkansas.

This important resource for Arkansans has been recognized recently as the AER chapter showing the greatest increase in membership over the past year. This national recognition is one reason why Arkansas was selected to host the 2010 AER International Conference.

With the help of organizations like this, Arkansas is building a brighter future for the visually impaired community. I commend the service providers for their good work and wish them continued success for another 25 years.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mrs. CAPPS) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,  
May 15, 2009.

Hon. NANCY PELOSI,  
*The Speaker, The Capitol,  
House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, May 15, 2009 at 11:50 a.m., and said to contain a message from the President whereby he notifies the Congress he has extended the national emergency with respect to Burma.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-39)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides

for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the Federal Register for publication, stating that the Burma emergency is to continue for 1 year beyond May 20, 2009.

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma, including its engaging in large-scale repression of the democratic opposition in Burma that led to the declaration of a national emergency in Executive Order 13047 of May 20, 1997, as modified in scope and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

BARACK OBAMA,  
THE WHITE HOUSE, May 14, 2009.

### COMMUNICATION FROM COUNSEL, THE HONORABLE BOBBY RUSH, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Angelle Kwemo, Counsel, the Honorable BOBBY RUSH, Member of Congress:

BOBBY L. RUSH,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 15, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,  
Washington, DC.*

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ANGELLE KWEMO,  
*Counsel.*

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas

and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

#### CONGRATULATING UNIVERSITY OF CALIFORNIA AT DAVIS

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 448) congratulating the University of California, Davis, for a century as a premier public research university and one of our Nation's finest institutions of higher education.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 448

Whereas the University of California, Davis (UC Davis), was authorized by Governor George Pardee in 1905 as an agricultural research campus and opened its doors to students in 1908;

Whereas UC Davis became a full University of California campus in 1959;

Whereas UC Davis has since expanded its student body to more than 30,000 students, and its academic offerings to more than 100 undergraduate majors, 87 graduate programs, and 6 professional schools including education, law, management, medicine, nursing, and veterinary medicine;

Whereas UC Davis—true to its land-grant mission—has in a century touched everything that matters to us as human beings, from our health to the economy, to what we eat and drink, to how we experience and interpret life;

Whereas UC Davis scientists and alumni have transformed agriculture to the benefit of California and the world;

Whereas the UC Davis art program has influenced the course of art history and brought critical attention to artists in California;

Whereas UC Davis scientists have helped to protect Lake Tahoe, Mono Lake, and other environmental treasures;

Whereas the UC Davis Medical Center is a top research hospital that also serves as the primary acute-care and trauma center for 6,000,000 people in the region;

Whereas UC Davis research and instruction has fueled the growth of the \$45,000,000,000-a-year California wine industry and provided worldwide leadership and innovation in enology and viticulture;

Whereas from its earliest days UC Davis has hosted international scholars, and currently ranks in the top 5 of all American universities for number of international scholars;

Whereas the often-overlapping and collaborating communities of UC Davis and the City of Davis have forged innovations in environmental housing and bicycle transportation;

Whereas the UC Davis athletics program is as notable for its athletic accomplishments—including a national record for football league championships and a Division II national championship in basketball—as well as for the academic accomplishments of its athletes, which include 3 National Collegiate Athletic Association Woman of the Year award winners;

Whereas UC Davis has 186,000 alumni who make an impact in communities worldwide—and in space—and include UNICEF Director,

Ann Veneman, former Treasurer of the United States, Anna Escobedo Cabral, former California State Superintendent of Public Instruction, Delaine Eastin, renowned celebrity chef, Martin Yan, and NASA astronauts, Steve Robinson and Tracy Caldwell;

Whereas UC Davis professors and researchers have achieved accomplishments from determining the age of the solar system to identifying and neutralizing numerous diseases;

Whereas UC Davis professors, graduate students and researchers annually generate more than \$500,000,000 in research funding, which is translated into scientific breakthroughs, medical cures, industrial innovations and other benefits to civilization;

Whereas UC Davis undergraduates—who hail from across the State and represent every race and economic class—are California's top young students and future leaders; and

Whereas UC Davis continues to serve California in new and vital ways, through such new facilities as the Betty Irene Moore School of Nursing, the Robert Mondavi Institute for Wine and Food Science, the Tahoe Environmental Research Center, and the expansion of its emergency medical facilities and its schools of law and management: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates the University of California, Davis, for 100 successful years of providing superb educational opportunities for California;

(2) recognizes the incredible range of accomplishments by the faculty, staff, students, and alumni of the University of California, Davis, across the whole range of human endeavor; and

(3) thanks the University of California, Davis, for its contribution to the betterment of our communities, our State, and our Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 448.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself, Madam Speaker, as much time as I may consume.

I rise today to commemorate the University of California at Davis for completing more than 100 years as a public university. First opening its doors to students in 1908 and being formally established as a University of California campus in 1959, UC Davis has grown into one of the Nation's finest research universities.

With over 30,000 students representing all racial and economic classes, over 100 undergraduate majors, 87 graduate programs, six professional schools and world renowned faculty,

UC Davis generates more than \$500 million in research funding and consistently contributes meaningful research to academia while also impacting its local community and the world.

UC Davis' medical center serves more than 6 million people in the region. Its research has helped fuel the \$45-billion-a-year California wine industry, helped to preserve local environmental treasures and assisted the city of Davis with innovations in environmental housing and bicycle transportation.

Nicknamed the "Aggies," UC Davis has also produced successful athletic programs. Aggie athletics have produced records in football and a Division II national championship in basketball while also gaining recognition for the academic accomplishments of its athletes.

Initially founded as the University Farm of UC Berkley, UC Davis has grown to receive premier status as a top-tier research university with prestigious graduate programs that is a national leader in interdisciplinary research. One example of UC Davis' leadership in academia was its creation of the very first Native American Studies department and doctoral program in the Nation. The regular success of UC Davis alumni across the spectrum of public and private life demonstrates the prowess of this great university. Today we salute this university's dedication to excellence. And I do want to thank Representative THOMPSON for bringing this resolution forward.

Madam Speaker, once again, I applaud the University of California at Davis.

And I reserve the balance of my time.

Mr. GUTHRIE. Mr. Speaker, I yield myself as much time as I might consume.

Mr. Speaker, I rise today in support of House Resolution 448 congratulating the University of California, Davis, for reaching the century mark as a premier public research university and one of our Nation's finest institutions of higher education. The University of California, Davis, was authorized by Governor George Pardee in 1905 as an agriculture research campus and opened its doors to students in 1908. In 1959 UC at Davis became a full University of California campus.

□ 1415

Since then, UC Davis has expanded its student body to more than 30,000 students, and its academic offerings to more than 100 undergraduate majors, 87 graduate programs, and six professional schools, including education, law, management, medicine, nursing, and veterinary medicine.

Embracing a philosophy of learning, discovery, and engagement, UC Davis provides students with a rewarding undergraduate experience while preparing them for success after graduation. Students benefit from a wide range of academic and extracurricular programs,



an interdisciplinary research community involved in local and global issues, and an abundance of opportunities to lead and make an impact on society. With a student body drawn from every State and more than 75 countries, UC Davis reflects and is enriched by cultural traditions from around the world.

The campus' breadth of academic programs, commitment to providing an attentive and research-enriched education, and a determination to address society's needs is truly distinctive. UC Davis is the only UC campus with schools of law, medicine, education, management, and veterinary medicine.

In 2007–08, UC Davis received \$586 million in research awards, an increase of 10 percent over the previous year. The campus ranks first in the UC system and fifth in the Nation in non-Federal research expenditures, reflecting the real world applicability of its research. Additionally, UC Davis leads the Nation in graduate and undergraduate education in biological sciences. Year after year, UC Davis tops the charts in the numbers of doctoral and bachelor degrees conferred in biological sciences.

It is truly a privilege to stand before the House today to congratulate the University of California at Davis, on the occasion of their 100th anniversary. I extend my congratulations to the University of California at Davis Chancellor Larry Vanderhoef, the faculty and staff, the students and alumni. I wish all involved continued success, and I ask my colleagues to support this resolution.

I reserve the balance of my time.

Mr. TONKO. Does the gentleman from Kentucky have any further speakers?

Mr. GUTHRIE. Mr. Speaker, we have no further speakers, and I yield back.

Mr. TONKO. Mr. Speaker, obviously the resolution before the House is one that speaks to the greatness of a prestigious institution like the University of California at Davis. It obviously has excelled in several program areas and holds high standards in its interdisciplinary research areas. For those reasons and the many others cited by Representative GUTHRIE and myself, I believe that it is important for the House to move forward with this resolution and would encourage everyone to support the resolution before the House.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of House Resolution 448. I have the privilege of representing a part of the University of California at Davis. It is a privilege because U.C. Davis is truly one of the premier institutions of higher learning in our Nation.

Since the University first opened its doors to students in 1908 as an agricultural research institution it has played a critical role in the growth of California agriculture as one of our State's major industries and a producer of food for the world.

At a time when the delivery of health care services is an issue of such paramount importance to our Nation it should be acknowledged that the Medical Center at U.C. Davis serves as the primary acute-care trauma center for millions of residents in our region. It should also be mentioned that the University is recognized for its work as a top tier research hospital.

While the veterinary school at the U.C. Davis is recognized as one of the finest such schools in the Nation, I would be remiss not to point out that its law school has also attained the highest standards of excellence.

U.C. Davis is the home of the California Biomass Collaborative, which is a statewide collaborative of government, industry, environmental groups, and educational institutions administered for the state by the University of California, Davis. The Collaborative is sponsored by the California Energy Commission as well as other agency and private industry partners. I worked with the Collaborative in putting together a Biomass Policy Forum last fall to discuss the use of woody biomass as a viable alternate energy source, as well as a means by which to reduce the threat of wildfires.

The University has also done tremendous work in the field of sustainable transportation, and is the new hub of collaboration and research on plug-in hybrid electric vehicles in California. Such vehicles have zero-tailpipe emissions and could well be the future of clean transportation.

In my capacity as a member of the Committee on Homeland Security I am particularly interested in the work conducted by the University through the Western Institute of Food Safety and Security, WIFSS, regarding the need to protect our Nation's feedstock from the threat of bio-terrorism. Furthermore, U.C. Davis is engaged in cutting-edge research regarding flame retardant materials which has both civilian as well as military applications.

It is therefore an honor for me to commend the University of California at Davis to you and ask your support for House Resolution 448.

Mr. TONKO. I yield back my time, Mr. Speaker.

The SPEAKER pro tempore (Mr. GRIFFITH). The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 448.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### COMMENDING UNIVERSITY OF GEORGIA GYMNASTICS TEAM

Mr. TONKO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 386) commending the University of Georgia Gymnastics Team for winning the 2009 NCAA National Championship, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 386

Whereas the University of Georgia (UGA) Gymnastics program has won its 10th National Collegiate Women's Gymnastics Championship;

Whereas the University of Georgia Gymnastics program has won 16 SEC Championships;

Whereas the University of Georgia Gymnastic program has produced 8 Honda Award winners;

Whereas the 2009 national title is the program's fifth consecutive national championship;

Whereas the Gym Dogs are now the most successful gymnastics program in the country;

Whereas the University of Georgia's gymnastics team, the Gym Dogs, has made 26 consecutive appearances in the NCAA Gymnastics Championships;

Whereas the 2009 Gym Dogs team's overall record was an amazing 32–1;

Whereas the 2009 Gym Dogs also achieved the school's highest team GPA, 3.36;

Whereas the gymnastics team's coach, Suzanne Yoculan, is retiring as the most successful collegiate gymnastics coach in NCAA history; and

Whereas Coach Suzanne Yoculan has, in 19 of her 26 years as head coach at the University of Georgia, taken her squad to an SEC title, an NCAA title, or both: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commends the University of Georgia Gymnastics Team for winning the 2009 NCAA National Championship;

(2) recognizes that the Gym Dogs have won more national championships than any other program in the Nation; and

(3) congratulates Suzanne Yoculan for a spectacular career as the University of Georgia's gymnastics coach.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 386 in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume.

I rise today, Mr. Speaker, to congratulate the University of Georgia's gymnastics team on their 2009 NCAA National Championship.

On April 17, the University of Georgia supporters were treated to a 10th national championship. Closing out a spectacular season for the Gym Dogs, while also closing the immaculate career of retiring Coach Suzanne Yoculan on the highest note possible.

The Gym Dogs entered the NCAA championship as the number one seed and won their fifth consecutive national championship, scoring a 197.825,

their second best point total of the season, to beat out second place Alabama's 197.575, and third place Utah's 197.425 in the final meet of Coach Yoculan's illustrious career.

Coach Yoculan's 26-year career finishes with a long list of accolades: Nine NCAA championships, 16 Southeastern Conference titles, 21 NCAA regional crowns, eight Southeastern Conference Coach of the Year honors, five NCAA Coach of the Year awards, 33 individual titles, and 57 All-Americans.

Coach Yoculan and the Gym Dogs have also been a force in the community under her tenure, raising more than \$125,000, assisting with causes such as northeast Georgia's United Way, the Athens area Habitat for Humanity, the Athens Regional Medical Center's Breast Health Center, and the Special Olympics.

The Gym Dogs represent one of the most consistently successful athletic programs in NCAA history. The 2009 national champions were led by seniors Courtney Kupets, a three-time all-around champion, Abby Stack, Paige Burris, and Tiffany Tolnay. The team also included the juniors by the names of Lauren Johnson, Courtney McCool, Marcia Newby, Lauren Sessler, and Grace Taylor; sophomores Hilary Mauro and Cassidy McComb; and freshmen Mariel Box, Kathryn Ding, Gina Nuccio and Amber Trani.

As we congratulate the Gym Dogs, Mr. Speaker, who carried a cumulative 3.36 GPA, we must also acknowledge the University of Georgia for being consistently ranked as one of the Nation's top public universities. UGA encompasses 16 schools and colleges that offer students a range of educational opportunities. UGA's graduate school offers 95 doctoral, 143 master's, and 19 specialist degrees across its programs, as well as a variety of professional development and portfolio-enhancing programs.

I want to thank Representative BROWN for bringing this resolution forward.

Mr. Speaker, once again, I congratulate the University of Georgia and the Gym Dogs for their consistent success.

I reserve the balance of my time.

Mr. GUTHRIE. Mr. Speaker, I yield as much time as he may consume to the gentleman from Georgia, the sponsor of this resolution, Mr. BROWN.

Mr. BROWN of Georgia. Mr. Speaker, I rise today in support of my resolution, House Resolution 386, which honors my alma mater, the University of Georgia, and especially the women's gymnastic team, who have, once again, won the NCAA national championship.

I would like to thank the chairman, the ranking member, and the staff of the House Committee on Education and Labor for working with me and my staff to bring this resolution to the floor.

A new level of excellence has now been set by the University of Georgia's

gymnastics program. For 5 consecutive years, this team has earned a championship crown, giving the University of Georgia the most successful women's gymnastics program in collegiate history and making Suzanne Yoculan the sport's most successful coach.

This historic team, led by four dedicated seniors, rallied for a dramatic come-from-behind win to allow Coach Yoculan to retire on top. In fact, during 18 of Ms. Yoculan's 26 years as head coach, she has taken her squad to a Southeastern Conference title, an NCAA championship title, or both.

The University of Georgia's women's gymnastics team certainly deserves our congratulations for their hard work in winning a championship, but they should also be recognized for their outstanding academic achievements. They posted a collective 3.36 GPA. Boy, that is something for an athlete to be able to have that kind of GPA. But to have the coach of a team that gives us that collective GPA, that is unheard of almost.

I congratulate the Gym Dogs for another championship, and I urge my colleagues to join me in praising their achievements, both in and out of the classroom, by voting for this resolution.

Mr. TONKO. Mr. Speaker, I reserve the balance of my time.

Mr. GUTHRIE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, in the interest of time, I will submit my full remarks for the RECORD, but I do want to extend my congratulations to the University of Georgia President Michael Adams, Athletic Director Damon Evans, Head Coach Suzanne Yoculan, and her staff, the hardworking gymnasts, and the fans. I wish all involved continued success, and I ask my colleagues to support this resolution.

Mr. Speaker, I rise today in support of House Resolution 386 commending the University of Georgia Gymnastics Team for winning the 2009 NCAA National Championship.

There are many words which could be used to describe the Gym Dogs at the University of Georgia, but without question the one constant is success.

UGA's gymnastics program has won 10 National Collegiate Women's Gymnastics Championships, and the 2009 title represents the team's 5th consecutive honor. In addition, the program has won 16 Southeastern Conference Championships. Sixty-eight gymnasts have earned 267 All-American awards, 33 gymnasts have won NCAA individual titles, and, for 12 of the past 17 years, there has been at least one Gym Dog atop the awards stand as an NCAA individual title winner.

Chartered by the Georgia General Assembly in 1785, the University of Georgia is America's first state chartered university and the birthplace of the American system of public higher education. With its statewide mission and core characteristics, UGA endeavors to prepare the university community for full participation in

the global society of the twenty-first century. Through its programs and practices, UGA seeks to foster the understanding of and respect for cultural differences necessary for an enlightened and educated citizenry. UGA provides for cultural, ethnic, gender and racial diversity in the faculty, staff and student body.

Whether it is success on the field of play, or commitment to academic excellence, the University of Georgia is a shining example of our nation's system of higher education.

I extend my congratulations to University of Georgia President, Michael Adams; Athletic Director, Damon Evans; Head Coach, Suzanne Yoculan and her staff, the hard working gymnasts, and the fans. I wish all involved continued success and ask my colleagues to support this resolution.

I yield back the balance of my time.

Mr. TONKO. Mr. Speaker, the resolution before the House obviously congratulates an outstanding team. The Gym Dogs, under their coach at the University of Georgia, Coach Yoculan, have achieved great records. They have broken records and established a tremendous multiyear record, all while being great achievers in the classroom. For these reasons, I commend the Gym Dogs and encourage the House to support this resolution honoring a great team.

I yield back my time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 386, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### CONGRATULATING CAMP DUDLEY ON ITS 125TH ANNIVERSARY

Mr. TONKO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 300) congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 300

Whereas Camp Dudley YMCA ("Camp Dudley") was founded in 1885 by Sumner F. Dudley, a YMCA volunteer;

Whereas Camp Dudley is located in Westport, New York, with two miles of frontage on Lake Champlain and surrounded by the Adirondack Mountains;

Whereas Camp Dudley is the oldest Camp in continuous operation in the United States;

Whereas Camp Dudley's motto of "The Other Fellow First", is at the heart of camp life;

Whereas Camp Dudley is a place that celebrates timeless traditional values, inspiring boys, girls, men, and women alike to seek

something higher than their own self-interest;

Whereas Camp Dudley has remained true to its mission to develop moral, personal, physical, and leadership skills in the spirit of fellowship and fun, enabling boys and girls to lead lives characterized by devotion to others;

Whereas Camp Dudley's leadership development program is a dynamic part of the camp experience;

Whereas Camp Dudley has a great legacy of Cabin Leadership, driven by caring and bold leaders whose devotion to their campers is the cornerstone for successful summers;

Whereas Camp Dudley is committed to providing a balanced program for campers that includes team sports, individual sports, the arts, outdoor offerings, and spiritual traditions;

Whereas campers can participate in a variety of activities and sports including arts and crafts, archery, band, baseball, basketball, canoeing, ceramics, chorus, drama, fishing, flag football, golf, hiking, high and low ropes courses, kayaking, lacrosse, lifesaving, mountaineering, music, photography, publications, riflery, rock climbing, sailing, soccer, softball, swimming, diving, tennis, track and field, water polo, weight training, writing, video, and volleyball;

Whereas Camp Dudley expanded its reach by welcoming Camp Kiniya for girls into its family in 2006;

Whereas Camp Dudley welcomes a diverse camper body of boys of all faiths into their community;

Whereas Camp Dudley is committed to making camp affordable for all socioeconomic levels;

Whereas Camp Dudley offers the Dr. William J. Schmidt Memorial Scholarship program, in which approximately 20 percent of summer campers are awarded scholarships on the basis of financial need, and are funded from generous alumni and parents support;

Whereas Camp Dudley's current and former campers and staff have made significant differences in their own communities and families;

Whereas campers representing 35 States and 12 foreign countries have spent their summers at Camp Dudley and has a camper return rate of 84 percent; and

Whereas one of the unique characteristics of Camp Dudley is the loyalty and support of its alumni both through financial support and attendance at the more than 47 alumni gatherings occurring each year across the country and around the world: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary; and

(2) recognizes Camp Dudley YMCA's current staff, campers, and alumni for their contributions to their community.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 300 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 300, which recognizes Camp Dudley YMCA for the contributions made to their community.

Located in Westport, New York, Camp Dudley was founded in 1885 by Sumner F. Dudley, a YMCA volunteer. It is the oldest camp in continuous operation in our United States. Camp Dudley is a place that celebrates timeless traditional values, inspiring boys, girls, men, and women alike to seek something higher than their own self-interests. This dedication to personal development of campers can be exhibited in the camp's motto of "The other fellow first."

The admirable mission of Camp Dudley includes helping campers to develop moral, personal, physical, and leadership skills in the spirit of fellowship and fun, enabling boys and girls to lead lives characterized by devotion to others.

□ 1430

In this way, Camp Dudley has shown dedication to creating a community of selflessness, teaching boys and girls to think of the larger community before one's self. A variety of activities offered at Camp Dudley, including arts and crafts, a multitude of sports, photography, writing, and many more, allow the campers to have new experiences and new adventures.

With a great legacy of cabin leadership, Camp Dudley is driven by caring and bold leaders, whose devotion to their campers is the cornerstone for successful summers. As such, the camp's leadership development program is a dynamic and vital part of the camp experience. Camp Dudley has committed itself to making camp affordable for all socioeconomic levels, never letting financial capabilities stand in the way of opportunities for our young adults.

Demonstrating such, Camp Dudley's scholarship program awards scholarships to approximately 20 percent of summer campers. This also serves as proof of the strong foundation built by the camp's alumni. The scholarships awarded are generously funded by both alumni and parents. Some notable alumni include Burgess Meredith, Bob Pettit, C. Roland Stichweh, Ink Clark, Pete Willmott, Paul Grinwis, John Harbison, Robert Appleyard, Gerald La Grange, Johnny Jones, and many others. The impact of Camp Dudley's influence expands beyond the campgrounds. Current and former campers, as well as staff, continue to make significant differences in their own communities and families.

Mr. Speaker, this resolution serves to recognize the successes of Camp Dud-

ley, and it congratulates the institution on the occasion of its 125th anniversary. I want to thank Representative McHUGH for bringing this resolution forward, and I do urge my colleagues to resoundingly pass this resolution.

I reserve the balance of my time, Mr. Speaker.

Mr. GUTHRIE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 300, congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary.

Founded by Sumner F. Dudley in 1885, Camp Dudley is a place that celebrates timeless traditional values by inspiring boys and men alike to seek something higher than their own self-interests. Their motto, "The other fellow first," is at the heart of camp life. For more than 125 years, Camp Dudley has been able to maintain tremendous momentum by remaining true to its original mission to develop boys' moral, personal and physical skills in the spirit of fellowship and fun.

Camp Dudley is committed to providing a balanced program for campers that includes team sports, individual sports, the arts, outdoor offerings, and spiritual traditions. Their leadership development program is a dynamic part of camp experience and is integrated into all parts of the camp.

Recognizing the benefits that summer camp can provide for girls, Camp Dudley at Kiniya opened for its first summer season in 2006. Girls from all over the country can enjoy camp that celebrates leadership, friendship and kindness. Camp Dudley at Kiniya is a camping experience that allows for individual and community growth where each person feels safe to try new things and has the time and opportunity to develop meaningful relationships and passions.

One of Camp Dudley's great legacies is its history of cabin leadership. From the earliest days, the summer experience has been driven by a group of caring leaders, whose devotion to their campers has been the cornerstone for successful summers. At Camp Dudley, the counselors are called "leaders" because that is what is expected of them. The majority of camp employees have attended Camp Dudley before its campers. Of the 48 cabin leaders hired last summer, all were former campers. This commitment to consistency carries over to each level of the summer staff, and ensures that the campers will find success in a safe and supportive environment.

Institutions such as Camp Dudley provide a foundation of leadership and citizenry that enriches our Nation. I am honored to stand before the House today to congratulate Camp Dudley on the occasion of its 125th anniversary. I

encourage the camp to continue to enhance the lives of our children, and I ask my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. TONKO. Does the gentleman from Kentucky have any further speakers?

Mr. GUTHRIE. Madam Speaker, I have no further speakers, and I yield back.

Mr. TONKO. Madam Speaker, the tradition of 125 years with Camp Dudley, whereby they have nurtured our young and have strengthened our future by creating the leaders of tomorrow, is commendable, and I would encourage strongly that the House support House Resolution 300, honoring the 125th anniversary of Camp Dudley.

Mr. MCHUGH. Madam Speaker, I rise today as the proud sponsor of H. Res. 300, which congratulates Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary. I want to thank the gentlemen from California (Mr. MILLER and Mr. MCKEON) for their work to bring this resolution to the floor today. Likewise, I wish to thank many of my colleagues in the House who have signed on as cosponsors.

Camp Dudley is the oldest camp in continuous operation in the United States. It was founded in 1885 by Sumner F. Dudley, a YMCA volunteer, and will celebrate its 125th anniversary this year. The camp is located in picturesque Westport, New York, on the shores of Lake Champlain and surrounded by the Adirondack Mountains.

Camp Dudley is truly a special place. It is a place that celebrates timeless traditional values and inspires boys, girls, men and women to seek something higher than their own self-interest. In fact, Camp Dudley's motto is appropriately "The Other Fellow First."

Over the years, Camp Dudley has remained true to its mission to develop moral, personal, physical and leadership skills in the spirit of fellowship and fun. In fact, leadership development is a dynamic part of the Dudley experience. Camp Dudley uniquely refers to its counselors as Leaders. This resolution recognizes this legacy of leadership.

It is also important to recognize that Camp Dudley welcomes a diverse camper body of all faiths into their community. This resolution further recognizes Camp Dudley's commitment to making camp affordable for all socioeconomic levels. In fact, approximately 20 percent of summer campers are awarded scholarships on the basis of financial need and are funded from the generous support of alumni and parents. This support has allowed campers and staff to make significant contributions in their own communities and families. Many alumni have gone on to excel in a variety of fields including medicine, law, business, and government, to name just a few. This resolution also recognizes Camp Dudley's decision to expand its reach to include Camp Kiniya for girls in 2006. Camp Kiniya is located on the Vermont side of Lake Champlain in Colchester, Vermont.

Of note, the William J. Schmidt Annual Scholarship Fund, named after former Camp Director Willie Schmidt, was launched in 2004.

Thanks in large part to Dr. Schmidt's generosity and fundraising efforts, thousands of boys and girls have the joy of a Camp Dudley experience.

Campers representing 35 states and 12 foreign countries have spent their summers at Camp Dudley. They have enjoyed this experience so immensely that the camper return rate stands at 84 percent. One of the unique characteristics of Camp Dudley is the loyalty and support of its alumni both through financial support and attendance at the more than forty-seven alumni gatherings occurring each year across the country and around the world.

Accordingly, I ask my colleagues to support this resolution honoring Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary and join with me in recognizing Camp Dudley's current staff, campers, and alumni for their contributions to their communities.

Mr. TONKO. I yield back my time.

The SPEAKER pro tempore (Mrs. CAPPS). The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 300, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### COMMUNICATION FROM DEPUTY CHIEF OF STAFF, THE HONORABLE EDOLPHUS TOWNS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Roberta Hopkins, Deputy Chief of Staff, the Honorable EDOLPHUS TOWNS, Member of Congress:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 12, 2009.

HON. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ROBERTA HOPKINS,  
Deputy Chief of Staff.

#### RECOGNIZING NATIONAL MISSING CHILDREN'S DAY

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the

resolution (H. Res. 297) recognizing May 25, 2009, as National Missing Children's Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 297

Whereas May 25, 2009, will be the 27th National Missing Children's Day;

Whereas National Missing Children's Day honors our Nation's obligation to locate and recover missing children by prompting parents, guardians, and other trusted-adult role models to make child safety an utmost priority;

Whereas in the United States nearly 800,000 children are reported missing a year, more than 58,000 children are abducted by non-family members, and more than 2,000 children are reported missing every day;

Whereas Congress's efforts to provide resources, training, and technical assistance has increased the capabilities of State and local law enforcement to find children and to return them home safely;

Whereas the 1979 disappearance of 6-year-old Etan Patz served as the impetus for the creation of National Missing Children's Day, first proclaimed in 1983; and

Whereas Etan's photo was distributed nationwide and appeared in media globally, and the powerful image came to represent the anguish of thousands of searching families: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes National Missing Children's Day and encourages all Americans to join together to plan events in communities across America to raise public awareness about the issue of missing children and the need to address this national problem,

(2) recognizes that one of the most important tools for law enforcement to use in the case of a missing child is an up-to-date, good quality photograph and urges all parents and guardians to follow this important precaution, and

(3) acknowledges that National Missing Children's Day should remind Americans not to forget the children who are still missing and not to waver in the effort to reunite them with their families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 297 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 297, which recognizes May 25, 2009, as the 27th National Missing Children's Day, and urges everyone to do what they can to prevent the tragedy of a missing child.

In the late 1970s, a succession of high-profile missing children cases helped heighten the awareness and underline the seriousness of child victimization. When Etan Patz went missing on his way to school in 1979, the first major national media campaign surrounding a missing child took place. The considerable media attention and comprehensive search helped highlight the problem of child abduction nationwide.

Etan's case and others helped expose a flaw in the system. At that time, there was no national response system in place to coordinate State and local cooperation or a central mechanism to support searching families. In 1983, May 25 was proclaimed National Missing Children's Day, and a nationwide movement was born. May 25 was chosen because it is the anniversary of Etan's disappearance.

More than 2,000 children are reported missing every day, but strides have been made to change this disturbing statistic. Programs such as the AMBER Alert program, which notifies law enforcement officials and the public of child abduction cases, have done a lot to help return missing children to their families. To date, 443 children have been recovered because of the AMBER Alert program. Each May, we reflect on missing children, and we renew our efforts to reunite those young people with their families.

National Missing Children's Day is an opportunity to remind families of the importance of maintaining up-to-date photographs of their children and to encourage everyone to give their full attention to the photographs and posters of missing children. Anyone can be a hero and offer the tip that helps return children to their families. Protecting young people is one of our Nation's top priorities.

On May 25, Madam Speaker, we will pause to remember the children whose lives have been lost. We will celebrate those who have been reunited with their families, and we will renew our effort to continue searching for children who continue to be missing.

Madam Speaker, once again, I express my support for National Missing Children's Day, and I thank Representative BIGGERT for bringing this resolution to the floor. I do urge my colleagues to support this important resolution.

I reserve the balance of my time.

Mr. GUTHRIE. I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 297, recognizing May 25, 2009, as National Missing Children's Day. In our country, every year, hundreds of thousands of children are abducted or go missing. Today, more missing children come home safely than ever before, but there is still work to be done.

First proclaimed by President Ronald Reagan in 1983, National Missing Chil-

dren's Day honors the work being conducted on a daily basis throughout the U.S. to locate and to recover missing children by prompting parents, guardians and other trusted adult role models to make child safety an utmost priority.

In 1979, 6-year-old Etan Patz disappeared. Etan's photo appeared in the media across the Nation and around the world. His image came to represent the distress of thousands of families searching for their missing children. This tragedy served as the motivation for the establishment of National Missing Children's Day.

In the United States, more than 2,000 children are reported missing every day. Nearly 800,000 children are reported missing each year, and more than 58,000 children are abducted by non-family members. Too many children do not make it home, and many more continue to be victimized by acts of violence. Children are the most victimized segment of our society, and crimes committed against children of all ages are the most underreported of any victim category.

Every day, local, State and Federal law enforcement are working diligently in an effort to find children and to reunite them with their families. In June 2008, President Bush signed the Protecting Our Children Comes First Act into law. The law reauthorized the Missing and Exploited Children's Program under the Missing Children's Assistance Act. Our reauthorization efforts provided resources, training and technical assistance in order to assist in increasing the capabilities of State and local law enforcement to locate missing children.

The recognition of May 25, 2009, as National Missing Children's Day serves to remind us that we still have work to do to reunite families and to ensure that parents, families, neighbors, and law enforcement work together to locate all missing children. For this reason, I stand in support of this resolution. I thank the gentlewoman from Illinois (Mrs. BIGGERT) for introducing House Resolution 297. I ask for my colleagues' support.

I reserve the balance of my time.

Mr. TONKO. Does the gentleman from Kentucky have further speakers?

Mr. GUTHRIE. Madam Speaker, I have no further speakers, and I yield back.

Mr. TONKO. Madam Speaker, the impact of missing children on those children and their families is obviously immeasurable, and it is important for us to continue that unfinished business that needs to be accomplished here in this country so as to recognize the missing children situation for the gravity that it poses. For that, I believe strongly that we should support this resolution and recognize our missing children through a day of observance.

Mrs. BIGGERT. Madam Speaker, I rise today in strong support of House Resolution

297, recognizing May 25, 2009, as National Missing Children's Day.

On May 25, 1979, 6-year-old Etan Patz disappeared somewhere on the two blocks between his SoHo apartment to the West Broadway bus stop. Despite a massive search effort and international media exposure, Etan has never been found. His image has come to represent the anguish of thousands of families who are still searching for their missing children.

In 1983, President Ronald Reagan declared May 25 National Missing Children's Day. Doing so has provided an annual reminder of the disappearance of Etan and countless other children whose whereabouts have yet to be discovered.

Today, nearly 800,000 children are reported missing each year in the United States and more than 2,000 children are reported missing every day. Children continue to be the most victimized segment of our society and crimes committed against children of all ages are the most underreported of any victim category.

In December 2007, the House of Representatives passed a bill to reauthorize the Missing and Exploited Children's program under the Missing Children's Assistance Act. I would like to urge my colleagues to join me in supporting full funding for the invaluable programs authorized by this legislation. Our efforts here in Congress provide resources, training, and technical assistance that increase the capabilities of State and local law enforcement to locate missing children.

It is a shame that, 30 years after Etan's disappearance, thousands of children continue to be abducted or go missing in our country. While more missing children come home safely today than ever before, the recognition of National Missing Children's Day serves to remind us of the unfinished work we have to do to reunite families and protect the most vulnerable among us. I ask for my colleagues' support of this important resolution.

Ms. JACKSON-LEE —of Texas. Madam Speaker, I rise today in strong support of H. Res. 297, "Recognizing May 25, 2009, as National Missing Children's Day." I would like to thank my colleague Representative JUDY BIGGERT for introducing this resolution, as well as the co-sponsors, Representatives LEONARD LANCE, TED POE, BART STUPAK, ZOE LOFGREN, THOMAS ROONEY, and FRANK WOLF.

I support this important resolution, because there are few things that are as frightening to a parent as the prospect of the losing, kidnapping, or murder of their child. Far too many Americans see these fears materialize. In the United States nearly 800,000 children are reported missing a year, more than 58,000 children are abducted by non-family members, and more than 2,000 children are reported missing every day.

It is for these families that Congress has in years past—as it does today—recognized National Missing Children's Day. If passed, this would mark the 27th time this Congress has marked a day in May, in honor of our Nation's obligation to locate and recover missing children by prompting parents, guardians, and other trusted-adult role models to make child safety an utmost priority.

National Missing Children's Day first began in 1979, with the disappearance of 6-year-old

Etan Patz. This New York City event served as the impetus for the creation of National Missing Children's Day to be first proclaimed in 1983. Etan's photo was distributed nationwide and appeared in media globally, and the powerful image came to represent the anguish of thousands of families who found themselves searching for their loved ones.

This day brings serious problems to the forefront of our Nation's thoughts. It is from this increased awareness, Congress has put forward efforts—to provide resources, training, and technical assistance—which have increased the capabilities of State and local law enforcement to find children and to return them home safely.

For these reasons, I join my colleagues in recognizing National Missing Children's Day. One of the most important tools for law enforcement to use in the case of a missing child is an up-to-date, good quality photograph. I support the resolution, as it urges all parents and guardians to follow this important precaution.

I also join in encouraging all Americans to plan events in communities across America to raise public awareness about the issue of missing children and the need to address this national problem. Commemoration of National Missing Children's Day should remind Americans not to forget the children who are still missing and not to waver in the effort to reunite missing children with their families.

Mr. TONKO. I yield back my time, Madam Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 297.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### CONGRATULATING AVERETT UNIVERSITY

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 347) congratulating Averett University in Danville, Virginia, for 150 years of service and leadership to the United States.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 347

Whereas in 1859, Union Female College, the forerunner of Averett University was established to provide educational opportunities

for young women who did not have many educational opportunities;

Whereas the name Averett College was officially adopted to honor the institution's early founders;

Whereas in 1971, Averett became a fully accredited, coeducational, 4-year institution of higher education;

Whereas in 1980, Averett awarded its first master's degrees;

Whereas in 1988, Averett became the first institution of higher education in Virginia to offer an innovative, accelerated program for working adults who wished to earn advanced degrees;

Whereas in 2001, Averett College officially became known as Averett University in recognition of its growth;

Whereas Averett University enrolls more than 2,450 students from 25 states and 12 countries and employs more than 350 people statewide;

Whereas Averett University offers 32 undergraduate majors and master's degree programs in business and education;

Whereas Averett University confers nearly 800 degrees each year;

Whereas Averett University serves students on its main campus in Danville, Virginia, and at 20 other locations around the Commonwealth;

Whereas Averett University has 13 NCAA III athletic teams that have won various championships, including a national championship in golf; and

Whereas Averett University has been led by 23 presidents and is currently led by Dr. Tiffany McKillip Franks: Now, therefore, be it

*Resolved*, That Congress congratulates Averett University in Danville, Virginia, for 150 years of service and leadership to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 347 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. Thank you. I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 347, which celebrates Averett University's 150 years of service and leadership to the Commonwealth of Virginia and to our United States.

Originally founded in 1859 as an educational institution for women, Union Female College grew to what is now known as Averett University. For the past 150 years, Averett University has remained steadfast in its commitment to its students and to its community. With a mission of preparing students for a lifetime of success, Averett University has a renowned liberal arts curriculum that provides individuals with

the skills necessary to succeed on campus and beyond.

□ 1445

Demonstrating a spirit of innovation that dates back to 1859, Averett University was one of the first universities in Virginia to offer a business degree program for working adults. Because of its reputation, Averett University places nearly 100 percent of its education program graduates in employment positions each year. In fact, numerous students have job offers prior to even completing their student teaching. With faculty members that are successful entrepreneurs, artists, and scientists, Averett University students are prepared to succeed inside and outside the classroom.

Since its inception, Averett University students have been dedicated to the surrounding community. This commitment continues to this day with students now participating in service organizations like Big Brothers Big Sisters, Habitat for Humanity, and the Boys and Girls Club. With more than 20,800 alumni in 50 States and 38 countries, this commitment now spreads the globe.

As the university celebrates 150 years of achievement, may it renew its commitment and passion to service, to its students, and its community. Madam Speaker, I again congratulate Averett University. And I thank Congressman PERRIELLO for bringing this resolution forward. I urge my colleagues to support the resolution.

I reserve the balance of my time.

Mr. GUTHRIE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 347, congratulating Averett University in Danville, Virginia, for 150 years of service and leadership to the United States.

Founded in 1859, Averett University has a long history of preparing women and men to be leaders in their careers and in their communities. Averett began as a school for young women at a time when educating women was not a popular idea. That spirit of innovation continues today as they are among the first in Virginia to create an accelerated program for working adults and are among the select few in the Nation to offer bachelor's degrees in both aeronautics and equestrian studies.

Averett University's educational philosophy is simple: Prepare our students for a lifetime of success. At Averett, students receive the skills and knowledge to get that first job or enter graduate school, and they develop the habits of the mind that will allow them to adapt to a constantly changing, globally connected world. The university combines the liberal arts with professional education, and many experts agree that regardless of one's job, a



person must be able to analyze information, think critically, communicate effectively, work in teams, and adapt to new conditions—the very skills provided by a liberal arts education. Averett provides a powerful experience that will energize an individual for a lifetime career and for productive citizenship.

I extend my congratulations to Averett University president, Dr. Tiffany McKillip Franks, the faculty and staff, the students, and alumni. I wish all involved continued success and ask my colleagues to support this resolution.

I yield back my time.

Mr. TONKO. Madam Speaker, the history of Averett University is well documented and has been of service to so many students who are achieving their professional goals. They have inspired them in the classroom, and they have encouraged a community responsiveness within its student body that continues as a tradition.

With all of that being said, I congratulate Congressman PERRIELLO for the resolution and encourage my colleagues to support the resolution.

I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 347.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### RECOGNIZING IMPORTANCE OF CHILD AND ADULT CARE FOOD PROGRAM

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 442) recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low-income children and families.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 442

Whereas Child and Adult Care Food Program participants under the Richard B. Russell National School Lunch Act include sponsoring organizations, child care centers, family day care homes, Head Start programs, at-risk after-school care centers, outside-school hours care centers, emergency shelters, and adult day care centers;

Whereas 49,624 licensed child care centers with 2,300,000 children participated in the Child and Adult Care Food Program in 2008;

Whereas 141,535 licensed or approved family child care homes with 849,000 children participated in the Child and Adult Care Food Program in 2008;

Whereas 872 family child care sponsoring organizations participated in the Child and Adult Care Food Program in 2008;

Whereas in 2008, 71 percent of all meals served in child care centers participating in the Child and Adult Care Food Program qualified for reimbursement at the rates established for free or reduced price meals;

Whereas 78 percent of all meals served in family day care homes participating in the Child and Adult Care Food Program qualified for tier I reimbursement factors in 2008;

Whereas the Child and Adult Care Food Program was cited as one of the important supports for long-term success in building strong family child care for low-income families;

Whereas 87 percent of the family child care homes considered to be providing good quality child care participated in the Child and Adult Care Food Program;

Whereas the Child and Adult Care Food Program, due to its unique combination of training and oversight, is an effective vehicle for supporting family child care providers and enhancing the care they provide;

Whereas the Department of Agriculture's evaluation of the Child and Adult Care Food Program found that children in the Child and Adult Care Food Program received meals that were nutritionally superior to those meals served in child care settings outside of the Child and Adult Care Food Program;

Whereas studies have shown that young children feel safe and secure, pay attention, behave, and stay healthy, when they are well nourished;

Whereas research has shown that children who participate in the Child and Adult Care Food Program eat more fruits, vegetables, milk, and have a better overall diet quality;

Whereas the current economic crisis is causing more families to rely on the Child and Adult Care Food Program as they struggle to feed their children;

Whereas the Child and Adult Care Food Program contributes to and supports quality child care that provides early education experiences; and

Whereas participation in the Child and Adult Care Food Program, provides a basis for lifetime healthy eating behaviors: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the importance of the Child and Adult Care Food Program and its overall positive effect on the lives of low-income children and families, as well as its positive effect on improving the quality of a child's child care environment;

(2) promotes program collaboration and encourages States to better coordinate the use of all Federal and State funding streams across early learning and child development systems and programs, including the Child and Adult Care Food Program;

(3) recognizes the need to provide adequate resources to improve the availability and quality of nutritious meals and snacks served by Child and Adult Care Food Program facilities;

(4) recognizes the impact of nonprofit and community organizations that work to increase the awareness of, and access to, the Child and Adult Care Food Program;

(5) recognizes the need to provide States with resources to improve the availability of nutritious meals in child care;

(6) recognizes that the Child and Adult Care Food Program provides a higher meal quality and a substantial nutrition contribution to the diets of children in child care; and

(7) recognizes the Child and Adult Care Food Program can help young children establish healthy eating habits which help to prevent childhood obesity.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 442 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 442, which expresses Congress' support for the important work of the Child and Adult Care Food Program.

Participation in nutrition programs sets the foundation for healthy lifetime eating behaviors. Studies prove that it is only when young children are well nourished that they feel secure, pay attention, behave and maintain good health. Through the Child and Adult Care Food Program's provisioning of nutritious meals and snacks, millions of children are able to experience the positive effects of improved nutrition.

Authorized by the Richard B. Russell National School Lunch Act, the Child and Adult Care Food Program seeks to improve the quality of child care through the support of programs providing early education experiences while making such programs more affordable to our low-income families. As part of their day care program, licensed child care centers and child care homes participating in the Child and Adult Care Food Program provide 2.9 million nutritious meals and snacks every day of operation. These meals and snacks have been found to be nutritionally superior to the meals provided by nonparticipating providers. In fact, the program that has its children participating in it, has them consuming more fruits, vegetables and milk than nonparticipants. They even have higher quality diets overall.

Beyond the services provided to young children in child care, the Child and Adult Care Food Program also provides meals for children in emergency shelters and those enrolled in eligible after-school care programs. Additionally, the program serves 86,000 adults receiving care in nonresidential adult day care centers.

Sponsorship of the child and adult care food program is critical now that the economic crisis is making it even harder for families to adequately feed their children. All children who qualify should be able to experience the positive benefits of the high-quality child care and nutritious meals as provided by the Child and Adult Care Food Program.



Madam Speaker, once again, I express my support for the Child and Adult Care Food Program, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. GUTHRIE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 442, recognizing the importance of The Child and Adult Food Care Program and its positive effect on the lives of low-income children and families.

The U.S. Department of Agriculture's food and nutrition service administers the Child and Adult Care Food Program through grants to States.

The Child and Adult Care Food Program serves nutritious meals and snacks to eligible children and adults who are enrolled for care at participating child care centers, day care homes, and adult day care centers. Every day, 2.9 million children receive nutritious meals and snacks with the Child and Adult Food Program. The program provides meals and snacks to 86,000 adults who receive care in those residential adult day care centers.

The program also provides meals to children residing in emergency shelters and snacks and suppers to youth participating in eligible after-school care programs.

Studies have shown that young children pay attention, behave, and stay healthy when they are well nourished. The Department of Agriculture's evaluation of the Child and Adult Care Food Program found that children in the program receive meals that were nutritionally superior to those meals served in child care settings outside of the program.

The program plays an important role in improving the quality of day care and making it more affordable for many low-income families. I stand in support of this resolution and ask for my colleagues to support it as well.

I yield back the balance of my time.

Mr. TONKO. Madam Speaker, obviously the value of nutrition and nutrition programs provides a longtime benefit for all age demographics in our population and certainly a lifetime of benefits for our children. And I would firmly request that the House stand in full support of the resolution before us, H. Res. 442.

Mr. BACA. Madam Speaker, I rise today in strong support of H. Res. 442, a resolution recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low income children and families. I'd like to thank my friend, Representative GEORGE MILLER, for introducing this legislation—and for his commitment to ending childhood hunger in America.

The Child and Adult Care Food Program plays a vital role in improving the quality of day care for children and elderly adults by making care more affordable for many low-in-

come families. Through CACFP, 2.9 million children and 86,000 adults receive nutritious meals and snacks each day as part of their day care.

For many years—I have stressed the importance of a healthy diet for America's school children. We now have scientific proof that a direct connection exists between a nutritious diet and student achievement in the classroom.

As Chairman of the House Agriculture Subcommittee on nutrition—I fought to include important expansions of fresh fruit and vegetable programs for our schools in last year's farm bill. This legislation works in conjunction with programs like CACFP to create a healthier school environment for America's children.

Congress has expanded CACFP to support children in a variety of new settings including at-risk after-school programs and homeless, domestic violence and runaway shelters. In addition, CACFP has been made available to adult day care centers serving chronically impaired adults or people over age 60.

In today's terrible economic climate—the benefits of the CACFP program are having a greater impact than ever before. The program plays a vital role in creating and maintaining quality, affordable care for preschool and school-age children. I am proud to support this resolution—which gives the CACFP program much deserved Congressional recognition. I urge my colleagues to support the resolution.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today support of H. Res. 442, "Recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low income children and families." I would also like to thank my distinguished colleague, Representative GEORGE MILLER of California for introducing this important legislation. There are too many in our nation that too often go hungry. It is important to extend our support to those domestic programs that alleviate suffering in our own nation.

The U.S. Department of Agriculture (USDA) reported that in 2007:

36.2 million people lived in households considered to be food insecure.

Of these 36.2 million, 23.8 million are adults (10.6 percent of all adults) and 12.4 million are children (16.9 percent of all children).

The number of people in the worst-off households increased to 11.9 from 10.8 in 2005. This increase in the number of people in the worst-off category is consistent with other studies and the Census Bureau poverty data, which show worsening conditions for the poorest Americans.

Black (22.2 percent) and Hispanic (20.1 percent) households experienced food insecurity at far higher rates than the national average.

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The ten states with the highest food insecurity rates in 2007 were Mississippi, New Mexico, Texas, Arkansas, Maine, South Carolina, Georgia, Kansas, Oklahoma, and Missouri.

USDA's Child and Adult Care Food Program plays a vital role in improving the quality of day care and making it more affordable for many low-income families. Each day, 2.9 million children receive nutritious meals and snacks through CACFP. The program also provides meals and snacks to 86,000 adults

who receive care in nonresidential adult day care centers. CACFP reaches even further to provide meals to children residing in emergency shelters, and snacks and suppers to youths participating in eligible after school care programs.

As a Co-Chair of the Congressional Children's Caucus, the issues that plague the children of our nation are important to me. Children are the future of our nation, and it is of vital importance that we raise a strong, intelligent generation that will be able to lead our country. The Child and Adult Food Care Program ensure that families with children receive nutritious meals; meals are a staple in a healthy prosperous life that are constantly overlooked and mitigated. Nutritious food can make life more enjoyable and prolong life. People who eat a more balanced, nutrient dense diet are more likely to be physically fit, feel better, and have fewer illnesses as well as lower risk of heart disease and diabetes. In this age of epidemic obesity, eating a well-balanced diet needs to be of utmost importance for the American population, particularly the children.

Children who are well-nourished feel safe and secure, pay attention, behave, and stay healthy. Children who participate in the Child and Adult Care Food Program eat more fruits, vegetables, milk, and have a better overall diet quality. The CACFP will instill good eating habits in children from an early age. Additionally, the CACFP sponsors The National School Lunch Program (NSLP) which is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act, signed by President Harry Truman in 1946.

#### TEXAS

For the second year in a row, the study revealed Texas having the #1 rate of child hunger at 22.1 percent. Texas is also in the top five states with children under five at risk of hunger (23.3 percent). Additionally, in Texas, there are 6,644,060 under the age of 18. 1,470,704 of these children are food insecure. Food insecurity refers to the lack of access to enough food to fully meet basic needs at all times due to lack of financial resources. There are different levels of food insecurity.

According to the results of the Census Bureau survey, those at greatest risk of being hungry or on the edge of hunger (i.e., food insecure) live in households that are: headed by a single woman; Hispanic or Black; or with incomes below the poverty line. Overall, households with children experience food insecurity at almost double the rate for households without children. Geographically, food insecurity is more common in central city households. The survey data also show that households are more likely to be hungry or food insecure if they live in states in the Midwest and South.

H. Res. 442 is essential to recognizing the importance of nutrition within our national boundaries. The Child and Adult Care Food Program has been cited as one of the most important support for long-term success in building strong family child care for low-income families and has proved an effective vehicle for supporting family child care providers.

During the recent economic crisis, more people have begun to rely on the Child and Adult Food Program to feed their families.

I firmly believe that H. Res. 442 contributes to and support quality child care that provides early education experiences and provides a basis for lifetime healthy eating behaviors, and I know that these are essential to building a strong foundation for our youth and our nation. I urge my colleague to support this bill as well as we come together and demonstrate our support for nutrition and the children of our nation.

Mr. TONKO. I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 442.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### RECOGNIZING AMERICA'S TEACHERS

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 374) recognizing the roles and contributions of America's teachers to building and enhancing our Nation's civic, cultural, and economic well-being.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 374

Whereas education and knowledge are the foundation of America's current and future strength;

Whereas teachers and other education staff have earned and deserve the respect of their students and communities for their selfless dedication to community service and the future of our Nation's children;

Whereas the purpose of "National Teacher Appreciation Week", held during May 3, 2009, through May 10, 2009, is to raise public awareness of the unquantifiable contributions of teachers and to promote greater respect and understanding for the teaching profession; and

Whereas a number of organizations representing educators, such as the National Education Association and the National Parent Teacher Association, are hosting teacher appreciation events in recognition of "National Teacher Appreciation Week": Now, therefore, be it

*Resolved*, That the House of Representatives thanks and promotes the profession of teaching to encourage students, parents, school administrators, and public officials to participate in teacher appreciation events during National Teacher Appreciation Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 374 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. Madam Speaker, I yield myself such time as I may consume.

I rise today to recognize the important role teachers play in the edification of our Nation. Madam Speaker, we celebrated National Teacher Appreciation Week from May 3 through May 10. The national PTA created Teacher Appreciation Week in 1984 to show gratitude to the many teachers of our United States. It is a chance for us to thank those individuals who have contributed to society in ways that cannot be measured. It is a chance for us to recognize the selflessness and dedication that teachers continue to show, and it is a chance for us to promote greater respect and understanding for the teaching profession.

Madam Speaker, we know that having good teachers greatly improves the outcomes of our Nation's youth. During the last decade, a body of evidence has grown to support the notion that teacher quality is an important factor in determining student achievement. In fact, research tells us that teacher quality accounts for the majority of variance in student learnings and test scores. Highly qualified teachers serve as excellent role models and instill a love for knowledge and lifelong learning in our students.

We all know that teaching is an important profession that deserves our support and respect. Teachers have the important job of shaping tomorrow's leaders. Those in the teaching profession work tirelessly for little reward, and good teachers constantly reflect on their lessons and modify instruction to reach the diverse needs of students in their classrooms.

Quality teachers hone their skills and are experts not only in their subject matter but also at connecting with young people and making learning come alive. Teaching is a dynamic profession, and educators continually attend professional development in order to sharpen their skills and increase their own knowledge.

Unfortunately, research has also shown us that negative effects of teacher shortages exist. It is imperative that schools and communities support teachers. National Teacher Appreciation Week is an opportunity for us to all pause and recognize the selfless dedication of our Nation's educators.

In a survey of teachers across the country, nearly one-half said the best gift they could receive was a simple "thank you."

Madam Speaker, once again, I express my support for National Teacher Appreciation Week, and I hope this resolution serves as a big "thank you" to all of the teaching profession. I encourage everyone to take a moment and reflect on a motivational teacher that helped you realize your potential and reach your dream.

I want to thank Representative GRAVES for bringing this resolution to the floor, and I urge my colleagues to pass this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. GUTHRIE. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, I rise today in support of House Resolution 374, recognizing the roles and contributions of America's teachers in building and enhancing our Nation's civic, cultural, and economic well-being, and supporting National Teacher Appreciation Week.

□ 1500

Teachers make a lasting impression on America's young people and are key to the development of students in the classroom. I bet that almost every Member of this Chamber could name at least one teacher that had a profound impact on their lives and helped shape the person they are today.

This resolution is important because it provides public recognition to those individuals who have dedicated their lives to helping educate our youth. National Teacher Appreciation Week, which took place May 3-10, is an act of gratitude that reminds us how important teachers are and the integral role they play in our lives. It is important that we recognize teachers for the critical work they do in improving our Nation civically, culturally, and economically.

Well-trained, dedicated, and skilled teachers are vitally important to the fabric of our country. This Chamber often discusses the importance of ensuring that our high school and college graduates are able to compete in the global marketplace. Having top-notch graduates who are able to think both creatively and analytically is vital as our country competes with other countries like China and India, who are also stepping up their efforts to produce high-quality graduates. We only get these types of graduates when we have in place a dedicated and skilled teacher workforce. Congress has placed an emphasis on these attributes which has led to an increased demand for high-quality, experienced teachers. In this vein, I am pleased to see the President's support of the Teacher Incentive Fund, which rewards principals and teachers for the hard work they do.

Teachers today devote an extraordinary amount of time to teaching young people and also spend a lot of time on professional development, their own education, and on class preparation outside the classroom, oftentimes for salaries that average about \$37,000 a year. The future of our Nation's children is dependent on the individuals that make these time, energy, and monetary commitments, and they deserve recognition for such.

I stand in support of this resolution, recognizing the roles and contributions of America's teachers and recognizing National Teacher Appreciation Week, and I thank my colleague, Mr. GRAVES from Missouri, for introducing this resolution.

I ask for my colleagues' support.

I reserve the balance of my time.

Mr. TONKO. Does the gentleman from Kentucky have any further speakers?

Mr. GUTHRIE. Madam Speaker, I do have one other speaker.

Mr. TONKO. Madam Speaker, I reserve my time.

Mr. GUTHRIE. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. I thank the gentleman from Kentucky for yielding.

Madam Speaker, Aristotle once wrote that "teachers are to be given the highest honor because they teach us how to live well," and of course, that's a correct statement.

Today, I am proud to rise in support of America's teachers and pleased to be a cosponsor of H. Res. 374. This measure recognizes the significant roles and contributions that America's teachers have made to building and enhancing our country.

The United States Census Bureau reports that today there are more than 6 million schoolteachers throughout the United States, not counting all the other types of teachers in this country.

I come from a long line of teachers. My mother was a schoolteacher. My wife's a schoolteacher. My three daughters are trained teachers. Two of them teach young kids at the elementary level, God bless them, and one of them is a professor at Baylor University. The most influential person that taught me in public school was my seventh grade Texas history teacher, Ms. Wilson.

But teaching isn't just a tradition in my family. Teaching has been a tradition in this country since its very inception. At our Nation's founding, of course, most of the teaching happened at home under the instruction of parents. Today, parents have many options when it comes to the education of their children. Some are taught in private schools, others in public schools. Some are charter schools, and others continue to be educated at home.

Regardless of where the education takes place, teachers play a primary

role in equipping our youth to be good citizens, to take pride in the democratic heritage of our Nation, and to be competitive in the marketplace of ideas.

An American author and historian Henry Adams once said, "A teacher affects eternity. The teacher can never tell where that influence stops."

Mr. Adams was right. Let's be sure to let the teachers who have touched our lives and the lives of our children know how thankful we, as a Nation, are.

Mr. GUTHRIE. Madam Speaker, I yield back our time.

Mr. TONKO. Madam Speaker, I guess the role of teachers in our lives is quite profound. I think we can each think of that teacher or those teachers who made that impact on us to perhaps allow us to achieve our individual best or create a career path.

That being said, I was recently with some students from the State of Maryland who gathered here at the Capitol to celebrate their thank you notes in joint fashion. It's a great recognition nationwide to pay tribute to a very sound profession, one that impacts our present and our future.

For those reasons, I suggest strongly that we support the resolution before the House, House Resolution 374.

I yield back my time, Madam Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 374.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### SUPPORTING NATIONAL CHILD AWARENESS MONTH

Mr. TONKO. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 438) expressing support for designation of September as "National Child Awareness Month".

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 438

Whereas millions of American children and youth represent the hopes and future of our Nation;

Whereas numerous individuals, children's organizations, and youth-serving organiza-

tions that work with children and youth collaborate to provide invaluable services to enrich and better the lives of the young;

Whereas heightening awareness of and increasing support for organizations that provide access to healthcare, social services, education, the arts, sports, and other services will assist in the development of character and the future success of our Nation's youth;

Whereas September is a time when parents, families, teachers, school administrators, and communities in general increase their focus on children and youth nationwide as the school year begins;

Whereas September is a time for the people of the United States as a whole to highlight and be mindful of the needs of children and youth;

Whereas the House of Representatives unanimously passed H. Res. 1296 in 2008 to support the designation of September as "National Child Awareness Month";

Whereas private corporations and businesses have joined with hundreds of national and local charitable organizations throughout the Nation in support of a month-long focus on children and youth; and

Whereas designating September 2009 as National Child Awareness Month would recognize that a long-term commitment to children and youth is in the public interest, and will encourage widespread support for the charities and organizations that seek to provide a better future for the children and youth of the United States: Now, therefore, be it

*Resolved*, That the House of Representatives supports the designation of a National Child Awareness Month to promote awareness of children's charities and youth-serving organizations across the United States and recognizes their efforts on behalf of children and youth as a critical contribution to the future of our Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

#### GENERAL LEAVE

Mr. TONKO. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 438 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 438, which designates September as National Child Awareness Month.

Today, thousands of individuals, such as guardians, effective teachers, and youth-serving organizations, enhance the lives of young people and prepare them for success. They recognize that without the appropriate supports, the children of our country cannot grow into healthy, educated, self-sufficient adults.

National Child Awareness Month is an opportunity for this country to honor her children's charities and youth-serving organizations across the United States that uplift our youth.

Organizations such as the YMCA, one of the Nation's most prominent youth-serving organizations, is an example. It serves almost 9.5 million children each year. They have implemented over 500,000 programs nationwide to strengthen the mind, the body, and the soul of our youth.

Of course, the YMCA is not alone when it comes to serving our youth. The Boys and Girls Clubs, Big Brother Big Sister, the Children's Defense Fund, the National Education Association, and many other organizations have a long history of providing support for our children and youth.

While we want to designate September as National Child Awareness Month, we must also remember that it is a long-term commitment that will ensure the advancement of our children. This long-term commitment includes the President's education, health care, and environment agenda that I look forward to working with my colleagues in the House and Senate in making a reality. Our children deserve no less.

I want to thank Representative SANCHEZ for bringing this resolution forward.

Madam Speaker, once again, I express my support for House Resolution 438, and I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. GUTHRIE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 438, expressing support for designation of September as National Child Awareness Month.

Last year, the House unanimously passed House Resolution 1296 to support the designation of September as National Child Awareness Month. In 2008, that resolution was sponsored by my colleague, Representative KEN CALVERT, the lead Republican sponsor of the resolution we are here to support today.

In preparation for each new school year, parents, families, teachers, school administrators, and communities focus even more fully on children and youth during the month of September. Designating September as National Child Awareness Month helps to promote our attentiveness to children's charities and youth-serving organizations across the United States.

Private corporations and businesses have joined with hundreds of national and local charitable organizations throughout the Nation in support of a month-long focus on children and youth.

Children and youth-serving organizations provide access to health care, social services, education, the arts, sports, and other services that assist in the development of character and the future success of our Nation's youth.

Children's charities and youth-serving organizations provide invaluable services to enrich the lives of the Nation's children on a daily basis. Through this resolution, Congress is able to recognize the efforts of these organizations on behalf of children and youth as a positive investment for the future of our Nation.

Designating September as National Child Awareness Month acknowledges the inherent public interest that a long-term commitment to children and youth promotes. I stand in support of this resolution. I ask for my colleagues' support in designating September as National Child Awareness Month.

I yield back the balance of my time.

Mr. TONKO. Madam Speaker, the importance of recognizing the impact we can have on our children through programs, through resources, through legislation, through budgeted areas that can support their development are all reason to support this legislation which brings it to laser sharp focus during the month of September where we dedicate a month to growing awareness of the needs of our children.

For those reasons, I strongly support this resolution and encourage our colleagues to do likewise.

Ms. LORETTA SANCHEZ of California. Madam Speaker, as the sponsor of H. Res. 438 I rise in support of this bipartisan resolution expressing support for recognizing the month of September as National Child Awareness Month.

My colleague from California, Congressman KEN CALVERT and I were pleased to introduce H. Res. 438 because it will raise awareness of children's charities and youth-serving organizations across the United States. This resolution recognizes that these organizations' efforts on behalf of children and youth are critical contributions to the future of our nation.

As we know, September is traditionally back-to-school month, a time when families focus on preparing children for the coming school year. In addition to academic preparation, it is also a time when the American public should be focused on the physical, social and economic well-being of our nation's children.

It is my hope that H. Res. 438 will encourage more individuals to volunteer for or contribute to causes that help our children.

An enhanced awareness of children's charities and youth-serving organizations, made possible by this resolution, will assist these organizations' efforts to encourage volunteers to become involved in the lives of the most disadvantaged children in our communities across the country.

I am confident that National Child Awareness Month will serve as a banner that will unite charitable organizations of diverse missions, size, geography and scope to focus on a common goal—improving the lives of our nation's youth.

Many non-profit youth-serving organizations and charities across the country have expressed their strong support for the recognition of September as National Child Awareness Month.

I am hopeful that president Obama will share my enthusiasm and issue a Presidential Proclamation to designate September as National Child Awareness Month. With his support, both public and private programs across the nation will be acknowledged for their contributions to ensuring our children's well-being.

In the meantime, I would like to thank my colleagues for their unanimous support for the adoption of H. Res. 438—National Child Awareness Month as it will serve to bring the nation's focus back to the one resource that guarantees our future success—our children.

Mr. CALVERT. Madam Speaker, I stand in strong support of House Resolution 438, a bipartisan resolution which expresses the sense of the U.S. House of Representatives that National Child Awareness Month should be established in the month of September.

September is traditionally "back-to-school" month, a time when families focus on preparing children for the coming school year. Recognizing September as National Child Awareness Month will heighten the American public's attentiveness to the importance of our children's health, education, safety and character development through the ongoing efforts of the numerous organizations and individuals who help to protect and nurture them. With this resolution we express our support for a month-long effort to recognize the importance of children in our society as they grown into responsible citizens.

It is widely recognized that a strong, supportive family unit is the most important factor in the well-being of a child. Unfortunately there is no guarantee that every child will have a support system to depend on. Thankfully there are many organizations that provide for the most disadvantaged children in communities across the country. Even children with solid support systems benefit from youth-serving organizations which enrich their lives through activities such as sports, the arts, philanthropy and further education outside of the classroom.

I would like to extend my sincerest appreciation to the 69 bipartisan cosponsors and to the gentlelady from Orange County, the lead sponsor, LORETTA SANCHEZ, for her efforts on behalf of this resolution. In addition I would like to extend a special thanks to the Education and Labor Committee for moving the bill quickly. It is my hope that Senators FEINSTEIN and BURR will quickly pass a companion resolution in the Senate chamber and that President Obama will by Presidential Proclamation, designate September as National Child Awareness Month so that the many child-focused programs of the federal government might also be highlighted.

Most importantly, I commend the many local and national youth-serving organizations and charities dedicated to the well-being of children across the nation and the world.

Mr. ISSA. Madam Speaker, today I rise in support of H. Res. 438, "Expressing support for designation of September as 'National Child Awareness Month.'" This bipartisan resolution sponsored by Rep. LORETTA SANCHEZ (D-CA-47) and cosponsored by me, would recognize the efforts of our community leaders as they participate in growing the hopes and dreams of our children; the future of our Nation.

September, a month characterized by the return to school, signifies the start of the new school year. All around the country, corporations and businesses gear-up to highlight our youth and support children's charities and youth serving organizations. Declaring September as National Child Awareness Month will provide an excellent collaborative platform for these charitable groups to bring national attention to issues of vital concern to our children such as education, health, social services, sports, arts, and character development.

H. Res. 438 would recognize these efforts as a positive investment for the future of our Nation. National Child Awareness Month is supported by many regional and national youth organizations among which are the Make-A-Wish Foundation and Big Brothers Big Sisters program.

Madam Speaker, I applaud my colleagues in recognizing the efforts those children's charities and youth serving organizations have put forth and also honor children for their widespread participation in these groups.

Mr. TONKO. I yield back my time, Madam Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 438.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate amendment to the House amendments is as follows:

Senate amendment to House amendments: On page 31, line 13, after "the Commission" insert: "*including an affirmative vote of at least one member appointed under subparagraph (C) or (D) of subsection (b)(1)*"

Resolved further, That the Senate agree to the amendment of the House of Representatives to the title of the aforesaid bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that

all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, the bill, S. 386, the Fraud Enforcement and Recovery Act of 2009, is a bill crafted to combat the financial fraud that contributed to causing, and worsening, our Nation's mortgage crisis, as well as other financial schemes such as securities fraud, ID theft, and organized retail theft. Not only does the bill clarify certain Criminal Code sections, but more importantly, it provides resources to law enforcement agencies to enforce present antifraud statutes.

This is essentially the same bill the House passed 2 weeks ago, with a minor amendment that the Senate added before it approved the House-amended bill last week, by unanimous consent.

It also keeps the independent bipartisan commission proposed by the gentleman from Connecticut (Mr. LARSON) to examine more broadly the circumstances giving rise to the current financial crisis.

The Senate has clarified the subpoena power of the commission to specify that at least one Republican-appointed commissioner must approve the issuance of any subpoena.

I would like to thank, once again, the chairman of the full Judiciary Committee, the gentleman from Michigan (Mr. CONYERS); the ranking member of the full committee, the gentleman from Texas (Mr. SMITH); the ranking member of the Crime Subcommittee, Mr. GOHMERT; and other Members of the committee, such as the gentleman from Texas (Mr. POE) as well as the gentlelady from Illinois (Mrs. BIGGERT), and our colleagues in the other body for their help in making this such a strong bipartisan bill.

I urge my colleagues to support the bill and to send it to the President.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, S. 386, the Fraud Enforcement and Recovery Act of 2009 improves current criminal and civil fraud statutes to help the Federal Government bring predatory lenders and unscrupulous financial institutions to justice.

Judiciary Chairman CONYERS and Ranking Member SMITH sponsored the companion legislation in the House, H.R. 1748, the Fight Fraud Act of 2009. S. 386, as amended, merges these two important pieces of legislation together to provide comprehensive and effective solutions to combating mortgage fraud, securities fraud, and other financial crimes.

The House passed this legislation in early May with overwhelming bipartisan support.

□ 1515

The Senate has returned the bill to us with one important change. Section 5 of the bill creates a Financial Crisis Inquiry Commission within the legislative branch. This commission is charged with examining the causes, both domestic and global, of the current financial and economic crisis in the United States and reporting its findings to Congress.

The bill grants the commission the authority to issue subpoenas, as necessary, to conduct its investigation and meet its obligation to Congress. A subpoena may be issued only by the agreement of the chairperson and vice chairperson or by approval from a majority of the commission's members.

The Senate amendment clarifies that a majority vote must include the vote of at least one Member appointed by either the minority leader of the House or the minority leader of the Senate.

This provides additional assurance that the examination undertaken by the commission, and in its exercise of subpoena authority, will not be politicized. I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. SCOTT of Virginia. I reserve the balance of my time.

Mr. POE of Texas. I yield 3 minutes to the gentleman from Texas (Mr. BURGESS.)

Mr. BURGESS. I thank the gentleman for yielding. My concern today involves just that creation of a financial commission. I spoke on this when the bill passed this House earlier this month.

Madam Speaker, I'm generally not in favor of commissions. I think Congress needs to do the work that the people sent us here to do. But if we have to create a commission then, please, let us create that commission so it is above reproach, so that it does not appear to have a political agenda.

The 9/11 Commission really should be the model that this body uses for the creation of this financial commission. After all, the events we saw in September of 2008 have been very devastating to this country, even as the events of September 2001 were devastating to this country.

We have not looked back into the causes of this crisis. We have not held anyone accountable. Most importantly, since we don't know what went wrong, we don't know how to keep it from happening again.

Congressman BRADY from Texas and myself introduced a bill earlier this year for just such a commission, H.R. 2111, but it differs substantially from the bill under consideration today. The bill we are considering again creates a 10-member commission, but composed of 6 Democrats and 4 Republicans.

The 9/11 Commission was split 50–50. So why would we unbalance this commission and, quite frankly, if there's guilt on one side, there's guilt on the other. And why would we tip the scale in one direction or the other?

S. 386 allows the chairman of the Senate Banking Committee to select a commissioner. The chairman of the Senate Banking Committee may have been part of the problem.

This bill allows the chairman of the House Financial Services Committee to appoint a representative to the commission. The chairman of the House Financial Services Committee may have been part of the problem.

S. 386 creates an accountability commission focused on protecting not the people, but the government. H.R. 2111, however, creates an accountability commission focused on protecting taxpayers and restoring public confidence, something that is missing at this critical juncture.

This commission that we are authorizing today is little more than a fig leaf to provide some measure of congressional cover. And, Madam Speaker, when do we get the report? December of 2010. Conveniently timed a month after the next election. If we are so serious about doing this, what is to prevent us from wrapping this work up within a year's time, or September of 2010 at the latest, so that the American people would have this information before they go to the polls next fall?

Now, I just want to close by quoting a few lines from *Investors Business Daily*, an article entitled: "Probe Yourself, from April 16, 2009." The article says: "Regulators also deserve blame for lowering lending standards that then contributed to riskier home ownership and the housing bubble." Exactly correct.

Continuing to quote: "As such, the proposed commission will be little more than a fig leaf to cover Congress' own multitude of sins."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POE of Texas. I yield the gentleman 1 additional minute.

Mr. BURGESS. I thank the gentleman. "Letting Members, the true creators of this financial mess, to bash business leaders as they pose as populist saviors of Main Street from Wall Street."

Continuing to quote: "On NPR Thursday," back in April, "a reporter confronted Representative FRANK, the chairman of the Financial Services Committee, with the fact that his \$300 billion Hope for Homeowners program passed with much fanfare a year ago that has so far helped one homeowner." One. One homeowner. And the response was: "It was the fault of the right. And Bush."

Quoting again: "Truth is, the chairman's party has been in charge since 2006. And during that time, Democrats

have presided over one of the most disgraceful and least accomplished Congresses in history. This financial mess began on their watch, yet they pretend otherwise."

Further quoting from the *Investors Business Daily*, the commission that is outlined "won't get to the bottom of our financial crisis; it will carefully select scapegoats to be ritually shamed by the liberal media, stripped of their wealth, and exiled. Then new rules will be imposed that will no doubt make things worse. And the cycle will begin again."

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. POE of Texas. I yield the gentleman an additional 2 minutes.

Mr. BURGESS. Madam Speaker, quoting again: "Wall Street didn't create this subprime mess. Congress, through repeated interventions in healthy markets, did. And when the whole thing failed, it was Congress' fault."

*Investors Business Daily* concludes by saying: "We'd be happy to support a 9/11-style commission to look into the causes of the financial meltdown. But only if Congress agrees to put itself under the microscope. Anything less would be a sham."

Madam Speaker, they're exactly correct. It will be a sham. The American people will see through this. We should do this correctly. If we're going to have a commission, it should be a 50–50 bipartisan split.

Let's investigate. Let's figure out what went wrong. Most importantly, rather than just assigning blame, let us create an environment where this never is able to happen again.

Mr. POE of Texas. I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, the bill as it's before us passed the Senate by unanimous consent. I urge my colleagues to concur in the Senate amendment, thereby passing the bill so it can go to the President so that resources can be made available to law enforcement and those who are guilty of fraudulent schemes can be held accountable. I would urge us to pass the bill.

Mr. DINGELL. Madam Speaker, I rise today in support of S. 386, the Fraud Enforcement and Recovery Act. This legislation provides the Department of Justice with the tools it needs to fight fraud in the use of funds under TARP and the American Recovery and Reinvestment Act. S. 386 has a number of provisions that seek to protect Americans by ensuring the agencies tasked with investigating and prosecuting mortgage and financial fraud have the funding and personnel they need to do so. I am also pleased the House recognizes the need for increased accountability for mortgage lending businesses not directly regulated or insured by the Federal Government, an industry responsible for nearly half the residential mortgage market before the housing crash.

I am more hesitant to support other provisions of S. 386. This bill includes an amendment to establish a special commission to investigate the causes of the current financial crisis. I believe that any such commission should be comprised of members of this body, who are furthermore from the committees of jurisdiction relevant to the matter. I have introduced a resolution, H. Res. 345, to do precisely that. It is my long-held belief that the Congress should, contrary to the prevailing fashion of the times, conduct its own oversight work. For the simple fact that members of this body will ultimately write the legislation to re-impose a strict regulatory framework upon the financial services industry, they should be personally involved in vigorous efforts to expose the many and sundry causes of this country's recent economic collapse. In brief, well-informed members of Congress write more effective legislation.

With this in mind, I voice my support for aggressive oversight of the financial services industry, but respectfully object to the manner in which S. 386, as amended, mandates it be performed.

Mr. BERMAN. Madam Speaker, I rise today in support of the Fraud Enforcement & Recovery Act of 2009. I want to specifically address the language in this bill that will strengthen the provisions of our Nation's most effective fraud-fighting tool, the federal False Claims Act. With our Nation spending hundreds of billions of dollars to revitalize our faltering economy, now is the time to plug the loopholes that have been created in the False Claims Act over the last quarter century. Now is the time to update this law to ensure that it reaches the modern fraud schemes that are draining our public fisc with impunity. As one of the authors of both the 1986 False Claims Act Amendments and the relevant language in S. 386 which we consider today, I submit this statement to clarify the true intent of the False Claims Act and to send a clear message that all government funds should be protected from fraud.

#### I. HISTORY OF THE FALSE CLAIMS ACT

Before I get into the provisions of the bill we are considering today, Madam Speaker, I'd like to provide some background on the False Claims Act, how it came to be and how it has been amended in the past.

Congress enacted the False Claims Act in 1863, in response to complaints about "the frauds and corruptions practiced in obtaining pay from the Government during the [Civil] War." Proposed by President Lincoln, the legislation offered private citizens a reward if they assisted the Government in combating fraud. The sponsor of the original False Claims Act explained that the statute, "offers, in short, a reward to the informer who comes into court and betrays his coconspirator, if he be such; but it is not confined to that class."

The 1863 Act authorized private individuals, called "qui tam relators," to bring lawsuits on behalf of the United States to prosecute fraud against the Government and to recover funds that were wrongfully obtained. The Act provided for double damages and a \$2,000 civil penalty per false claim, and private individuals who successfully pursued claims under the Act were entitled to half of the Government's recovery. The Act did not authorize the Government to intervene in the private individual's



case, nor did it preclude qui tam actions based upon the source of the relator's information.

Nearly eighty years later, in the midst of World War II, Attorney General Francis Biddle requested that Congress make changes to the False Claims Act that would prevent parasitic lawsuits. Biddle was concerned that qui tam complaints were being filed based solely on information contained in criminal indictments. Biddle argued that such cases contributed nothing new and could interfere with the Government's criminal prosecutions. So, he urged Congress to repeal the authorization for qui tam actions.

The Senate and House of Representatives each considered Attorney General Biddle's request, and the House went so far as to pass a bill, H.R. 1203, proposing repeal of the False Claims Act's qui tam provisions. The Senate demurred. The House Judiciary Committee then considered legislation providing that jurisdiction would be barred on qui tam suits that were based on information in the possession of the Government, unless the relator was an original source of that information. Without explanation, the resulting conference report dropped the reference to "original sources."

The 1943 amendments changed the False Claims Act in several ways. Most significantly, these amendments authorized the Department of Justice to take over cases initiated by relators. The 1943 amendments required relators to submit all of their supporting evidence to the Department of Justice at the time the relator filed his complaint and gave the Department sixty days to decide whether or not to intervene and take exclusive control of the suit. If the Government elected to intervene, the relator would have no role in the case and no voice in its resolution.

The 1943 amendments also included a "government knowledge bar," which deprived courts of jurisdiction over qui tam actions that were "based upon evidence or information in the possession of the United States, or any agency, officer or employee thereof, at the time such suit was brought." The 1943 amendments also significantly reduced the amount of the relator's share of any recovery. In fact, under the 1943 amendments, relators were not assured of a minimum recovery at all. The amendments provided that if the Government prosecuted the suit, the court could award the informer "fair and reasonable compensation" not to exceed 10-percent of the proceeds. If the Government did not intervene, the informer's award could not exceed 25-percent of the proceeds.

These changes put the False Claims Act into hibernation. By the 1980s, it had become evident that the False Claims Act was no longer an effective tool against fraud. In particular, some courts, for example in *United States ex rel. State of Wis. (Dept. of Health and Social Services) v. Dean*, 729 F.2d 1100 (7th Cir. 1984), had broadly interpreted the government knowledge bar adopted in 1943, holding that the bar precluded all qui tam cases involving information already known to the Government, even when the qui tam relator had been the source of that information.

Additionally, the changes to the amount of the relator's share undermined the Act's use-

fulness. Individuals with information about fraud against the Government were far less likely to become relators without some guarantee that they would be rewarded if they prevailed, particularly since relators often exposed fraud by their employers and were terminated from their jobs as a result. The 1943 amendments did not provide relators with an adequate incentive to bring qui tam actions. Consequently, from 1943 to 1986, fewer than ten False Claims Act cases were brought each year.

As a result of the problems that arose following the 1943 amendments, by the 1980s, fraud against the Government had grown to unprecedented levels. A 1981 three-volume General Accounting Office report, *Fraud in Government Programs:—How Extensive is It?—How Can it Be Controlled*, concluded that fraud against the Government was "widespread." The report also noted that false or fraudulent claims against the Government result both in monetary losses and a broad spectrum of non-monetary losses. These include, for example, loss of confidence in Government programs, Government benefits not going to intended recipients, and harm to public health and safety. During this same period, several legal scholars began discussing the merits of increased use of the False Claims Act to address fraud against the Government.

In response to these concerns, Senators CHARLES GRASSLEY, CARL LEVIN, and Dennis DeConcini introduced S. 1562 in 1985. The Committee on Administrative Practice and Procedure of the Senate Committee on the Judiciary held hearings on S. 1562 and S. 1673, a similar bill supported by the Reagan Administration. The House of Representatives took up a similar bill, H.R. 3317, and the Subcommittee on Administrative Law and Governmental Relations of the House Committee on the Judiciary held hearings on that measure.

Both Committees heard from a range of witnesses, including whistleblowers and the Department of Justice. The Senate Committee heard testimony that "45 of the 100 largest defense contractors—including 9 of the top 10—were under investigation for multiple fraud offenses." In addition, the Committee learned that, due to limited Government resources, "[a]llegations that perhaps could develop into very significant cases are often left unaddressed at the outset due to a judgment that devoting scarce resources to a questionable case may not be efficient. And with current budgetary constraints, it is unlikely that the Government's corps of individuals assigned to anti-fraud enforcement will substantially increase." The Senate and House bills sought to address this resource problem by constructing legislation which would empower private citizens with knowledge of fraud or false claims to come forward and bring the resources of private counsel to bear on Government investigations under the Act.

In response to the problems Congress identified, as well as concerns raised by the Department of Justice and potential defendants, Congress adopted the False Claims Amendments Act of 1986. President Reagan signed the bill into law on November 23, 1986. The 1986 amendments made a number of changes to the False Claims Act. Although the amendments did not include a provision for re-

covering consequential damages, they increased the penalty provision, which had been unchanged for more than 100 years, from double damages to treble damages. In order to limit interference with Government investigations, the amendments provided that qui tam actions be filed under seal for sixty days and served on the United States, but not the defendant, to provide the Government time to determine whether to take over the action. However, while the amendments limited the seal period to sixty days, they permitted the Government the opportunity to request and receive an extension for good cause. The amendments also provided the Government, for the first time, the option of intervening later in a case, even if it had initially declined to join, if it had "good cause" to do so. Furthermore, the legislation provided that a qui tam relator would remain a fully participating party even if the Government joined the case, but provided that a court could, under specified circumstances, restrict the relator's role.

Additionally, in order to incentivize individuals to report false claims and fraud, Congress eliminated the uncertainty of purely discretionary rewards. Rather, since 1986, rewards to qui tam relators have been based on the relator's contributions. In most cases, relators would be guaranteed at least a 15-percent share of the Government's recovery. The 1986 amendments also eliminated a potent disincentive for relators, by creating a new right of action for any employee who is retaliated against for lawful acts in furtherance of False Claims Act proceedings. Under the 1986 amendments, employees who suffered retaliation would be entitled to all relief necessary to make them whole, including double back pay and attorneys' fees. The 1986 amendments also sought to replace the government knowledge bar with a "public disclosure bar" that would only bar truly parasitic relators whose complaints were "based upon allegations or transactions in a . . . [Government proceeding] or investigation, or from the news media," and were not an "original source" as defined under the Act. Congress also authorized the award of attorneys' fees to a defendant prevailing in a suit that "the court finds . . . was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment."

#### II. THE CURRENT FALSE CLAIMS ACT

Currently, the False Claims Act permits the Government to recover treble damages from those who knowingly present, or cause to be presented, false claims to a United States Government officer, employee or member of the Armed Forces; or who knowingly make, or cause to be made, false statements to get such claims paid by the United States. The Act also applies to those who make false statements to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government. It also covers certain conspiracies to violate the Act. In addition to damages, the courts are required to award the Government a civil penalty of \$5,500 to \$11,000 for each violation of the Act. The Government is entitled to recover such forfeitures upon any showing that a defendant violated the False Claims Act, without needing to prove that the violation resulted in damages in the case at hand. Thus, a defendant may be held liable for these penalties under the False



Claims Act whether or not payment was made on the tainted claim.

The Act defines several statutory terms. The term "person" is broadly defined in the law's civil investigative demand provision to include partnerships, associations, and corporations, as well as States and political subdivisions thereof. The statutory definition of "claim" is also intended to be read broadly and, indeed, is not an exclusive list. The definition applies to any request or demand for Government money or property, regardless of whether it is submitted to the Government or to another entity, such as a Government contractor, agency, instrumentality, quasi-governmental corporation, or a non-appropriated fund. In defining the word "claim" so broadly, Congress intended in 1986 to make sure that the FCA would impose liability even if the claims or false statements were made to a party other than the Government, if the payment thereon could potentially result in a loss to the Government or cause the Government to wrongfully pay out money. For example, because any fraud that reduces the effectiveness of programs and initiatives the Government has sought to advance also undermines the Government's purpose in supplying funding support, Congress intended for a false claim to the recipient of a grant from the United States or to a State under a program financed in part by the United States, to be considered a false claim to the United States.

In sum, Congress intended the False Claims Act to protect all Government funds and property, without qualification or limitation. However, over the years, some courts have incorrectly grafted limitations to the reach of the Act, leaving billions of dollars vulnerable to fraud. Most recently, in June 2008, the Supreme Court ruled in the *Allison Engine* decision that, absent the "Government itself" inking the check or approving a false claim, the Act does not impose liability for false claims on Government funds disbursed for a Government purpose by a Government contractor or other recipient of Government funds, even if such fraud damages the Government or its programs. Because so many inherently governmental functions are carried out by government contractors these days, including contracting and program management functions, this ruling severely limits the reach of the law. The primary impetus for the current corrective legislation is to reverse these unacceptable limitations and restore the False Claims Act to its original status as the protector of all Government funds or property. While we cannot possibly predict the breadth of fraudulent schemes that can be used to target the public fisc, I take this opportunity to stress that, when done knowingly, the following conduct clearly violates the False Claims Act:

Charging the Government for more than was provided.

Seeking payment pursuant to a program for which the claimant was not eligible.

Demanding payment for goods or services that do not conform to contractual or regulatory requirements.

Fraudulently withholding property from the Government or attempting to pay the Government less than is owed in connection with any goods, services, concession, or other benefits provided by the Government.

Fraudulently seeking to obtain a Government contract.

Submitting a fraudulent application for a grant of Government funds.

Submitting a false application for a Government loan.

Requesting payment for goods or services that are defective or of lesser quality than those for which the Government contracted.

Making false statements for a loan guaranteed by the Government that later defaults.

Requesting Government services to which one is not entitled.

Submitting a claim that falsely certifies that the defendant has complied with a law, contract term, or regulation.

Submitting a claim by a person who has violated a statute or regulation, the violation of which is capable of influencing the payment decision.

Submitting a false application in a multi-staged grant application process, where the second stage of the application would not have been granted had the applicant been truthful in the first stage.

Submitting a claim for payment even though the defendant was violating the Government-funded program's conditions of participation or payment.

Submitting a claim that seeks payment for an estimate or opinion that the defendant knows to be false.

Submitting claims based on an interpretation of a regulation or contract that the defendant knows has been rejected by the Government.

Fraudulently cashing a Government check or knowingly keeping Government funds that were initially wrongfully or mistakenly obtained.

The False Claim Act does not specify a particular method for assessing damages. Courts, however, should liberally measure damages to effectuate the remedial purpose of the Act, which is to afford the Government a full and complete recovery. The Government has finite resource. So when a fraudfeasor wrongfully obtains or retains Government owned or administered funds, it prevents the Government from achieving the full purposes and benefits intended to result from its spending or from utilizing funds wasted as a result of fraud or abuse for other purposes. Indeed, when a defendant obtains a Government contract under false pretenses or wrongfully qualifies for a Government-funded program, it has no right to receive payment for the services it provides. In such a case, the Government should be awarded damages of the entire amount paid by the Government. Finally, it has long been the law that where the Government received legitimate value from the defendant's work, any offset occurs after, rather than before, trebling. This assures, for example, that defendants who know they are not eligible to participate in a Government program or contract cannot substantially evade and defeat the purposes of eligibility requirements by contending that the services or products they provided under false pretenses have similar market value to services or products that otherwise would have been provided by persons whom the Government intended to be eligible.

When a court calculates civil penalties under the False Claims Act, it should consider each separate bill, voucher or other demand,

concealment of payment, or other prohibited act as a separate violation for which a civil penalty should be imposed. This is true although many such claims may be submitted at one time. For example, a doctor who completes separate Medicare claims for each patient treated will be liable for a civil penalty for each such claim, even though several paper claims forms or electronic requests for payment may be submitted to a Medicare contractor at one time. Likewise, each claim for payment submitted under a contract, loan guarantee, or other agreement which was originally obtained by means of false statements or other corrupt or fraudulent conduct, or in violation of any statute or applicable regulation, constitutes a false claim. For example, claims submitted under a contract obtained through collusive bidding are false and actionable under the Act, as are all Medicare claims submitted by or on behalf of a physician who knows he or she is ineligible to participate in the program.

### III. PURPOSE OF THE FALSE CLAIMS ACT AMENDMENTS

Since its inception, the central purpose of the False Claims Act has been to enlist private citizens in combating fraud against the U.S. Treasury. Specifically, the Act's qui tam provisions were crafted to provide a clear procedural roadmap, so as to assist and encourage private citizens to not only report fraudulent schemes, but to actively participate in investigating and prosecuting those who steal from the public fisc. However, over the course of the Act's history, courts have embraced a number of conflicting interpretations that have removed protection for billions of federal dollars and discouraged qui tam relators from filing suits under the Act.

The False Claims Act amendments included in S. 386, the Fraud & Enforcement & Recovery Act of 2009, remove some of the confusion that is currently undermining the Act's ability to fully reach those who target the American tax dollar. S. 386 clarifies a number of key provisions and reaffirms that the False Claims Act is intended to protect all Government funds, without qualification or limitation, from the predation of those who would avail themselves of taxpayer money without the right to do so. This legislation is the first step in correcting the erosion of the effectiveness of the False Claims Act that has resulted from court decisions contrary to the intent of Congress. This mounting confusion occurs at a time when the country can least afford weakened antifraud legislation. Particularly now, at a time of dramatically-increased reliance on private contractors to perform what have traditionally been viewed as governmental functions, clarity of purpose and effect must be the hallmarks of the False Claims Act.

The False Claims Act also needs to be amended to bolster protections for qui tam plaintiffs, the individuals who bring fraud on government programs to the attention of the federal government and file FCA suits on behalf of the United States. Qui tam relators have been able to uncover vast amounts of fraud, and their efforts have resulted in the return of billions to the Treasury. In Fiscal Year 1986, the year prior to Congress revitalizing the False Claims Act qui tam provisions, the Department of Justice recovered just \$54 million under the Act. Since then, there has been

a steady increase in recoveries, culminating in settlements and judgments of more than \$5 billion in the past two years. This success has been due, in large part, to qui tam relators who ferreted out and prosecuted False Claims Act violations. Indeed, of the \$21.6 billion recovered under the False Claims Act from 1986 to 2008, \$13.7 billion was the result of qui tam actions. However, with estimates of fraud and abuse losses remaining in the range of 10% of disbursements to contractors, much remains to be done.

In February 27, 2008, testimony before the Senate Committee on the Judiciary, Michael F. Hertz, Deputy Assistant Attorney General, Civil Division of the U.S. Department of Justice, whose long career as the Government's chief False Claims Act prosecutor predates the 1986 amendments, noted the critical role played by qui tam plaintiffs:

[T]he 1986 qui tam amendments to the Act that strengthened whistleblower provisions have allowed us to recover losses to the federal fisc that we might not have otherwise been able to identify.

Recent testimony heard by the House Committee on the Judiciary underscores the critical role qui tam relators play in uncovering and prosecuting violations of the False Claims Act. The Subcommittee on Courts, the Internet and Intellectual Property and the Subcommittee on Commercial and Administrative Law held a joint legislative hearing on June 19, 2008, on H.R. 4854, the False Claims Act Corrections Act of 2007, a bill I sponsored with Mr. SENBRENNER to address many of the same problems that are addressed in S. 386, as amended by the House of Representatives. At that hearing, the Subcommittees heard testimony from Shelley R. Slade, a Washington, D.C. attorney who represents qui tam plaintiffs and serves on the Board of Directors of Taxpayers Against Fraud, a national nonprofit public interest organization dedicated to fighting fraud against the federal and state governments. Ms. Slade, who also handled FCA cases and related matters for the U.S. Department of Justice for ten years, testified that:

Qui tam plaintiffs are key to the Government's efforts to fight fraud, mainly for two reasons. First, as inside witnesses, they produce evidence that can be absolutely critical to establishing liability. Fraudulent activity by its very nature is concealed. . . . Without the help of insiders who brought the Government documents and other hard evidence of the fraud, it would have been extremely difficult for the Government to develop sufficient evidence to establish liability in many of the successful FCA cases. Second, it is the relentless, zealous pursuit of qui tam litigation by qui tam plaintiffs and their counsel that has led to many of the largest FCA cases in the last eighteen years. A close study of the largest recoveries will reveal that, in many instances, the qui tam plaintiff spent years either trying to persuade the Government of the merits of the case before finally achieving an intervention decision, or litigating the case following a Government declination.

Over the course of the last twenty years, it has become increasingly evident that fraud permeates a very wide range of Government programs, ranging from welfare and food stamps benefits to multi-billion dollar defense procurements; from crop subsidies to disaster

relief programs; and from Government-backed loan programs to health care and homeland security.

While fraud is not limited to any one Government agency, fraud in the health care arena has been particularly pernicious, covering nearly every facet of this industry from hospitals and laboratory work to drug companies, durable medical equipment makers, nursing homes, and renal care facilities. In the health care arena, recovery in the top twenty hospital fraud cases settled under the False Claims Act totaled more than \$3.4 billion. The largest twenty settlements against pharmaceutical companies exceed, in total, \$4.6 billion.

While qui tam relators have long increased the efficiency of the Federal Government in identifying fraud and false claims and understanding the mechanics and scope of particular schemes, the role of relators has been particularly important in the health care arena where the complexity of frauds might otherwise thwart a Government investigation.

Of the 6,199 qui tam False Claims Act cases filed between 1986 and 2008, more than half (3,306) focused on fraud against Government health care programs, such as Medicare and Medicaid. These cases were responsible for recovering \$10.1 billion, or more than 74-percent of the total \$13.7 billion recovered in qui tam cases. Along with fraud against the health care programs, fraud against the Department of Defense still appears to be pervasive, with about 12-percent of recoveries, or \$1.7 billion, recovered due to qui tam actions involving DoD contracts. The cost of fraud cannot be measured only in dollars and cents. GAO pointed out in its 1981 report, fraud erodes public confidence in the Government's ability to efficiently and effectively manage its programs. General Accounting Office, *Fraud in Government Programs: How Extensive is It?—How Can it Be Controlled?* (1981).

Thus, fraud continues to drain funds from the public fisc, and the Government is increasingly relying on relators to uncover these fraudulent schemes. However, there are mounting legal divisions and uncertainties among the circuit courts that are jeopardizing Government funds and discouraging potential qui tam relators from filing actions. The bill on the floor today, S. 386, is a critical first step needed to remove the confusion and to ensure that qui tam actions continue to assist the Government in protecting its limited resources.

The False Claims Act amendments in S. 386 clarify the reach of the Act's liability provisions, strengthen anti-retaliation protections, and remove impediments to the Government's investigative powers under the Act. Other corrections and clarifications that are needed to the False Claims Act have not been included in S. 386 due to the particular overall purpose of S. 386. Those additional False Claims Act corrections and clarifications should be taken up in separate legislation. However, I rise today to clarify the intent behind the False Claims Act amendments that are included in S. 386.

#### A. SECTION 4(a): LIABILITY PROVISIONS

In Section 4(a), the legislation updates the liability provisions of Section 3729(a) of the False Claims Act to address misreadings of

the Act by the courts, to remove ambiguities created by inconsistency of language in the present provisions, and to clarify how the Act should be applied when the Government implements its programs with the help of contractors and intermediaries or administers funds on behalf of beneficiaries such as another government or a Tribal authority. Existing provisions of Section 3729(a) are also renumbered. I want to go through each of the issues addressed.

#### 1. Fraud Against Government Contractors and Grantees

In *United States ex rel. Totten v. Bombardier Corp.*, 380 F. 3d 488 (D.C. Cir. 2005), the D.C. Court of Appeals ruled that, notwithstanding the FCA's broad definition of the term "claim," liability will not lie under subsection (a)(1) of 31 U.S.C. § 3729, which imposes liability for knowing false claims, unless the false claims are presented directly to the United States Government itself. According to the D.C. Court of Appeals, when third parties disburse federal funds in furtherance of federal contracts, they are not the same as the "U.S. Government" for purposes of this liability provision. Following that decision, a number of courts held that the False Claims Act does not reach false claims that are (i) presented to Government grantees or contractors and (ii) paid with Government grant or contract funds. In *Allison Engine Co. v. United States ex rel. Sanders*, 128 S.Ct. 2123 (2008), the U.S. Supreme Court similarly ruled that liability will not lie under subsection (a)(2) of 31 U.S.C. Section 3729, which imposes liability for knowing false statements, unless the false statements are made to get false claims paid by the United States Government itself. Moreover, the Supreme Court held that plaintiffs must show that the fraudfeasor "intended" for its false statements to cause the "Government itself" to "rely" on the false statements as a "condition of payment."

With the Government increasingly relying on private entities to disburse Government funds, it is a rare instance in which the "Government itself" would be paying the claims. The implications are considerable. The amendments clarify that liability under Section 3729(a) attaches whenever a person knowingly makes a false claim to obtain money or property, any part of which is provided by the Government without regard to whether the wrongdoer deals directly with the Federal Government; with an agent acting on the Government's behalf; or with a third party contractor, grantee, or other recipient of such money or property. To ensure that the Act is not interpreted to federalize fraud that threatens no harm to Government purposes or federal program objectives, the Amendment explicitly excludes from liability requests or demands for money or property that the Government has paid to an individual as compensation for federal employment or as an income subsidy, such as Social Security retirement benefits, with no restrictions on that individual's use of the money or property at issue.

The amendments also clarify that the False Claims Act may be used to redress fraud on Medicare's new Part D prescription drug benefit program and fraud on Medicare managed care. Both of these programs are administered by Government contractors. The legislation

eliminates any argument that the False Claims Act does not reach false claims submitted to State-administered Medicaid programs, as some have argued under the Totten case (and as the Atkins court held).

The amendments clarify that the False Claims Act can be used to redress false claims submitted to recipients of federal block grants administered by state agencies or other third parties. Such claims undermine the purpose of those grants by diverting funding away from the objectives that the federal program sought to achieve and cause harm to the United States. Thus, for example, if a large non-minority owned business falsely applied for grant funds that the Government provided a municipality to assist small, minority-owned businesses, the business entity would be subject to False Claims Act liability.

These clarifications are consistent with what Congress intended to achieve in 1986. By removing from Section 3729(a)(1) language that can be narrowly read to limit liability to persons who present false claims directly “to an officer or employee of the Government, or to a member of the Armed Forces,” the amendments finish the job Congress intended to complete in 1986, when it defined actionable “claims” in the current Act to include “any request or demand . . . for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.”

## 2. Fraud Against Funds Administered by the United States

In a 2006 decision involving Iraq reconstruction fraud, a federal trial court in Virginia held that the False Claims Act does not reach false claims against funds administered, but not owned, by the U.S. Government. This was *United States ex rel. DRC, Inc. v. Custer Battles, LLC*, 376 F. Supp. 2d 617, 636–641 (E.D. Va. 2006). This result is not consistent with what Congress intended in 1986. When the United States Government elects to invest its resources in administering funds or managing property belonging to another entity, it does so because use of such investments or property for their designated purposes will further interests of the United States. Misdirection of such money or property as the result of false or fraudulent conduct by contractors frequently creates funding gaps which either thwart federal interests or require infusions of federal money to see program goals achieved. Accordingly, false claims made against Government-administered funds damage the interests of the United States in essentially the same way as does misappropriation or wasting of funds owned by the United States. Whenever money directed to address Government interests is wasted, it becomes necessary either to redirect other funds to complete the contemplated task at hand or to make do with diminished returns on Government program investments. The amendments address this problem by defining “claim” to include, among other things, requests or demands for money or property that are presented to an officer,

employee, or agent of the United States “whether or not the United States has title to the money or property.” See new 31 U.S.C. 3729(b)(2)(A). This amendment to the existing statutory language clarifies that FCA liability attaches to knowingly false requests or demands upon the United States for money or property administered by the United States on behalf of another person.

## 3. Conspiracy

Currently, Section 3729(a)(3) imposes liability on persons “who conspire to defraud the Government by getting a false or fraudulent claim allowed or paid.” This wording can be construed to apply only to conspiracies that violate subsections 3729(a)(1), (2) or (7). Some courts have interpreted the section to be even more limited. For example the court in *United States ex rel. Huangyan Import & Export Corp. v. Nature’s Farm Products, Inc.*, 370 F. Supp. 2d 993 (N.D. Cal. 2005) held that section 3729(a)(3) does not extend to conspiracies to violate section 3729(a)(7). The current provision does not explicitly impose liability on those who conspire to violate other provisions of the False Claims Act, such as delivery of less Government property than that promised the Government or making false statements to conceal an obligation to pay money to the Government. Section 4(a) of S. 386 amends current Section 3729(a)(3) to clarify that conspiracy liability can arise whenever a person conspires to violate any of the provisions of Section 3729 imposing False Claims Act liability. Because this expands conspiracy liability to other sub-sections of 3729, this particular amendment is a substantive change. The rest of the Section 4 amendments are meant to merely clarify the existing scope of False Claims Act liability.

## 4. Wrongful Possession, Custody or Control of Government Property

The amendments to the False Claims Act in S. 386 also update current Section 3729(a)(4) of the False Claims Act, which makes the Government’s ability to recover for conversion of Government assets dependent upon issuance of an inaccurate certificate or receipt. This language is unchanged from the original Act as drafted in 1863. This outmoded phraseology led the court in *United States ex rel. Aakhos v. DynCorp, Inc.*, 136 F.3d 676 (10th Cir. 1998), to dismiss a case on the technical grounds that no receipt was provided. Where knowing conversion of Government property occurs, it should make no difference whether the person committing the offense receives an inaccurate certificate or receipt documenting the transaction. The updated provision eliminates reference to such documentation. It appears in the renumbered provisions of the Act as Section 3729(a)(1)(D).

## 5. Wrongful Retention of Government Money or Property

Currently, Section 3729(a)(7) of the False Claims Act imposes liability for “reverse” False Claims Act violations when a person makes or uses false records or statements to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government. This liability provision is analogous to the liability established under current Section

3729(a)(2) for making false records or statements to get false or fraudulent claims paid or approved. The Act, however, currently contains no provision that expressly imposes liability on a person who wrongfully avoids a duty to return funds or property to the United States by remaining silent. The amendments address this issue by expressly imposing liability on anyone who “knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the United States.” This language is intended to make clear that a person who retains an overpayment, while avoiding a duty to disclose or return the overpayment that arises from a statute, regulation or contract, violates the False Claims Act. Indeed, to address any potential confusion among the courts as to what is intended to be encompassed within the term “obligation” as used in Section 3729(a)(7), the amendments define that term in new Section 3729(b)(3) as encompassing legal duties that arise from the retention of any overpayment.

A legal obligation to disclose or refund an overpayment can arise in various ways. Examples include, but are not limited to: (i) Government contracts that incorporate a rule of the Federal Acquisition Regulations that requires disclosure of an overpayment, and (ii) criminal statutes that penalize a party’s non-disclosure of an overpayment in order to fraudulently secure the overpayment. Importantly, the amendments do not impose liability in situations in which the law clearly permits the recipient of the overpayment to retain the overpayment without disclosure pending a reconciliation process.

Liability for all non-disclosed overpayments of the same type also should be imposed once an organization or other person is on notice that it has been employing a practice that has led to multiple instances of overpayment. For example, if a corporation learns after-the-fact that it has been violating a billing rule or a contract requirement in its billing, and it nonetheless fails to comply with a legal obligation to disclose the resulting overpayments, this amendment renders the corporation liable under the Act for all overpayments resulting from the violation of the billing rule or contract requirement, even those not specifically identified or quantified.

We use the term “disclose” in this provision to mean full disclosure of all the pertinent facts concerning the overpayment to the appropriate Government officials with authority to determine what actions, if any, the recipient of the overpayment should take to remedy the situation.

The amendments also define the term “obligation” to include fixed and contingent duties owed to the Government, a term intended to encompass, among other things, ad valorem and other customs duties, such as custom duties for mismarking country of origin on imported products. The amendments are intended to overrule the result reached in *American Textile Manufacturers Institute, Inc.*, supra, as applied to ad valorem duties imposed for import violations. Reference to that particular custom duty is not intended to exclude other types of customs duties or statutory obligations that are similar in effect and purpose or that otherwise meet the definition set forth in the proposed amendments.

## B. SECTION 4(b): GOVERNMENT COMPLAINTS-IN-INTERVENTION

Section 4(b) of S. 386 deals with the Government's ability to intervene in a relator's case. The False Claims Act does not expressly provide that the United States may amend the qui tam plaintiff's complaint—or, if more practical, file its own complaint upon intervention in a qui tam case—subject to the same rules on “relation back” of amended claims as would apply if it were amending its own complaint. Federal Rule of Civil Procedure 15(c)(2) provides that a party's amendment of a pleading will relate back to the date of its original pleading when the claim “asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading.” In *United States v. Baylor Univ. Medical Center*, 469 F.3d 263 (2d Cir. 2006), the Second Circuit suggested that the United States may not be able to avail itself of this rule when amending a qui tam plaintiff's complaint. The implication of this ruling is that the United States could sometimes be forced to forgo a thorough investigation of the merits of qui tam allegations in order to ensure that it does not lose claims due to the running of the statute of limitations.

Section 4(b) clarifies that the Government's complaint in intervention or amended complaint will relate back to the date of the original qui tam complaint so long as the conditions of Federal Rule of Civil Procedure 15(c)(2) otherwise are met. Thus, Section 4(b) adds a new paragraph (c) to Section 3731 that expressly provides that the United States' complaint-in-intervention or amended complaint relates back to the date of the complaint filed by the qui tam plaintiff “to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.”

## C. SECTION 4(c)—CIVIL INVESTIGATIVE DEMANDS

The False Claims Act was amended in 1986 to give the Department of Justice an effective investigative tool: civil investigative demands or “CIDs,” which are administrative subpoenas for documents, interrogatory responses and sworn testimony that may be used to investigate allegations of potential violations of the False Claims Act. Use of this tool, provided for in Section 3733, is increasingly necessary for effective investigation of False Claims Act allegations. Program agencies are strapped for resources and unable to assign investigators even to meritorious cases, let alone issue Office of Inspector General subpoenas.

Nevertheless, as a result of restrictive language in the False Claims Act's CID provisions, the Department of Justice very rarely uses CIDs. The Assistant U.S. Attorneys and Main Justice trial attorneys are disinclined to use these subpoenas because of the length of time required to obtain review and approval by the Attorney General. Pursuant to Section 3733, the Attorney General may not delegate his authority to issue CIDs.

Moreover, Department attorneys are concerned that the False Claims Act, by limiting access to CID material to Government “custodians” and “false claims law investigators,” implicitly may preclude them from showing the documents, interrogatory responses

and testimony obtained through CIDs to fact and expert witnesses and consultants, and the parties, in connection with their investigation or litigation of the case or proceeding. While statutory language does permit them to make “official use” of this material, they are nonetheless disinclined to rely on this language alone because of potential ambiguity as to its reach. Without being able to share the evidence in this manner, they fear that they may be unable to make sense of the documents and information produced and, accordingly, rarely employ CIDs.

Section 4(c) of S. 386 facilitates the issuance of CIDs by amending Section 3733 to authorize the Attorney General to delegate the authority to issue CIDs to a designee, and clarifying that CIDs may be issued during the investigation of qui tam allegations prior to the Government's intervention decision. Section 4(c) also clarifies that the Attorney General or his designee may disclose CID material to the qui tam plaintiff when necessary to further a False Claims Act investigation or litigation. Qui tam plaintiffs are not only parties to the False Claims Act proceeding, they often are fact witnesses or experts in the subject matter under investigation. Accordingly, more often than not, it will be necessary for the Department of Justice to show information obtained through CIDs to the relator in order to investigate or litigate the allegations effectively. However, the Department of Justice retains the discretion to evaluate whether disclosure to the relator is appropriate under the circumstances of the case, taking into account such factors as the need to protect the integrity of its investigation.

Finally, to eliminate any ambiguity on the question of whether Department of Justice attorneys may use and disclose the documents, testimony and interrogatory responses obtained through CIDs in connection with the steps that law enforcement customarily takes to investigate, and, if required, litigate allegations of wrongdoing, Section 4(c) of the bill clarifies Section 3733 by adding a new definition of “official use” in subsection 3733(1). The definition provides that “official use” includes “any use that is consistent with the law, and the regulations and policies of the Department of Justice.” The new definition of “official use” also includes specific examples of the types of uses that fall within the term “official use.” These examples are not meant to be an exhaustive list, but rather illustrative of the ordinary, lawful uses of subpoenaed material in a Department of Justice investigation or litigation that we intend the Department of Justice to employ in False Claims Act cases. Section 4(c) of the bill also removes confusing language in Section 3733(i)(2)(B) and (C) that could be misinterpreted by the courts to prevent the custodian of CID material from sharing the material with other Department of Justice or program agency personnel for these official uses in the absence of authority from regulations or a court.

## D. SECTION 4(d): RELIEF FROM RETALIATORY ACTIONS

Section 3730(h) of the False Claims Act imposes liability on any employer who discriminates in the terms or conditions of employment against an employee because of the employee's lawful acts in furtherance of a qui tam action. This section needs to be amended so

that it is clear that it covers the following types of retaliation that whistleblowers commonly have faced over the course of the last twenty years: (i) retaliation against not only those who actually file a qui tam action, but also against those who plan to file a qui tam that never gets filed, who blow the whistle internally or externally without the filing of a qui tam action, or who refuse to participate in the wrongdoing; (ii) retaliation against the family members and colleagues of those who have blown the whistle; and, (iii) retaliation against contractors and agents of the discriminating party who have been denied relief by some courts because they are not technically “employees.”

To address the need to widen the scope of protected activity, Section 4(d) of S. 386 provides that Section 3730(h) protects all “lawful acts done” . . . in furtherance of . . . other efforts to stop 1 or more violations” of the False Claims Act. This language is intended to make clear that this subsection protects not only steps taken in furtherance of a potential or actual qui tam action, but also steps taken to remedy the misconduct through methods such as internal reporting to a supervisor or company compliance department and refusals to participate in the misconduct that leads to the false claims, whether or not such steps are clearly in furtherance of a potential or actual qui tam action.

To address the concern about indirect retaliation against colleagues and family members of the person who acts to stop the violations of the False Claims Act, Section 4(d) clarifies Section 3730(h) by adding language expressly protecting individuals from employment retaliation when “associated others” made efforts to stop False Claims Act violations. This language is intended to deter and penalize indirect retaliation by, for example, firing a spouse or child of the person who blew the whistle.

To address the need to protect persons who seek to stop violations of the Act regardless of whether the person is a salaried employee, an employee hired as an independent contractor, or an employee hired in an agency relationship, Section 4(d) of S. 386 amends Section 3730(h) so that it expressly protects not just “employees” but also “contractors” and “agents.” Among other things, this amendment will ensure that Section 3730(h) protects physicians from discrimination by health care providers that employ them as independent contractors, and government subcontractors from discrimination or other retaliation by government prime contractors.

I should note that this amendment does not in any way require that a qui tam plaintiff must have refused to engage in the misconduct or tried to stop the fraud internally before he or she may avail themselves of the incentives and protections in the False Claims Act. As the Congress recognized when the False Claims Act's qui tam provisions were first enacted in the nineteenth century, and as we have repeatedly affirmed in different contexts, including the new IRS whistleblower law, sometimes it “takes a rogue to catch a rogue.” An individual who participates in the fraud, and who for whatever reason does not challenge the misconduct within his or her organization, is still entitled to a relator's award and the protections of Section 3730(h) unless he or she is otherwise barred by a specific provision in the law.

## E. SECTION 4(e): SERVICE UPON STATE PLAINTIFFS

Increasingly, qui tam plaintiffs are filing False Claims Act actions on behalf of not only the Federal Government, but also one or more States joined as co-plaintiffs pursuant to state False Claims Act statutes. Such cases ordinarily allege false claims submitted to Medicaid, which is a program funded jointly by the United States and the states. These cases are increasing in number as many states recently have enacted qui tam statutes, and many more are expected to do so in light of provisions in the Deficit Reduction Act of 2005. False Claims Act Section 3732 provides that state law claims may be asserted in a case filed under the federal False Claims Act if the claims arise from the same transaction or occurrence. The statute is unclear, however, as to whether the seal imposed by the U.S. District Court on the case pursuant to Section 3730(b) precludes the qui tam plaintiff from complying with state requirements to serve the complaint, or restricts the qui tam plaintiff and the Federal Government in their ability to serve other pleadings on the States, and disclose other materials to the States.

The amendment in Section 4(e) of S. 386 adds a new paragraph (c) to Section 3732 that clarifies that the seal does not preclude service or disclosure of such materials to the State officials authorized to investigate and prosecute the allegations that the qui tam plaintiff raises on behalf of the State. This paragraph also clarifies that State officials and employees must respect the seal imposed on the case to the same extent as other parties to the proceeding must respect the seal.

## F. SECTION 4(f): EFFECTIVE DATE AND APPLICATION

Section 4(f) of S. 386 provides that the amendments in Section 4 take effect upon enactment and apply to conduct on or after the date of enactment, with the exception of the amendment of Section 3729(a)(1)(B), which shall apply to False Claims Act claims pending on or after June 7, 2008, and the amendments set forth in Section 4(b), (c), and (e) of the Bill, each of which shall apply to all cases pending on the date of enactment. We intend for the definition of claim also to apply to all False Claims Act claims pending on or after June 7, 2008, as that definition is an intrinsic part of amended Section 3729(a)(1)(B). The purpose of this amendment is to avoid the extensive litigation over whether the amendments apply retroactively, as occurred following the 1986 False Claims Act amendments.

However, while the amendments state that the remainder of the Section 4(a) liability provisions are not retroactive, the courts should recognize that Section 4(a) only includes one substantive change to existing False Claims Act liability, which is the expansion of the conspiracy liability. All of the other Section 4(a) amendments merely clarify the law as it currently exists under the False Claims Act. With the exception of conspiracy liability, the courts should rely on these amendments to clarify the existing scope of False Claims Act liability, even if the alleged violations occurred before the enactment of these amendments.

In other words, the clarifying amendments in Section 4(a) do not create a new cause of action where there was none before. Moreover, these clarifications do not remove a potential defense or alter a defendant's potential expo-

sure under the Act. In turn, courts should consider and honor these clarifying amendments, for they correctly describe the existing scope of False Claims Act liability under the current and amended False Claims Act. The amended conspiracy provision, on the other hand, is limited to those violations that occur after the enactment of these amendments.

Each of the provisions in S. 386 dealing with the False Claims Act is key to protecting taxpayer dollars, and I urge my colleagues to support this legislation.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 386.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURGESS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 23 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1833

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HEINRICH) at 6 o'clock and 33 minutes p.m.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 111-113) on the resolution (H. Res. 450) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 300, by the yeas and nays;

Concurring in the Senate amendment to the House amendments to S. 386, de novo;

House Resolution 442, by the yeas and nays.

Remaining postponed votes will be taken later in the week.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## CONGRATULATING CAMP DUDLEY ON ITS 125TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 300, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 300, as amended.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 45, as follows:

[Roll No. 267]

YEAS—388

Abercrombie	Boucher	Coble
Ackerman	Boustany	Coffman (CO)
Aderholt	Boyd	Cohen
Adler (NJ)	Brady (PA)	Cole
Akin	Brady (TX)	Conaway
Alexander	Braley (IA)	Connolly (VA)
Altmire	Bright	Conyers
Andrews	Brown (GA)	Cooper
Arcuri	Brown (SC)	Costa
Austria	Brown-Waite,	Courtney
Baca	Ginny	Crenshaw
Bachmann	Buchanan	Crowley
Bachus	Burgess	Cuellar
Baird	Burton (IN)	Culberson
Baldwin	Butterfield	Cummings
Barrow	Buyer	Dahlkemper
Bartlett	Calvert	Davis (CA)
Barton (TX)	Camp	Davis (IL)
Bean	Campbell	Davis (KY)
Becerra	Cantor	Davis (TN)
Berkley	Cao	DeFazio
Berman	Capito	DeGette
Berry	Capps	DeLauro
Bilbray	Capuano	Dent
Bilirakis	Cardoza	Diaz-Balart, L.
Bishop (GA)	Carnahan	Diaz-Balart, M.
Bishop (NY)	Carson (IN)	Dicks
Bishop (UT)	Carter	Dingell
Blackburn	Cassidy	Doggett
Blumenauer	Castle	Donnelly (IN)
Blunt	Castor (FL)	Doyle
Bocchieri	Chaffetz	Dreier
Boehner	Chandler	Driehaus
Bonner	Childers	Duncan
Bono Mack	Clarke	Edwards (MD)
Boozman	Clay	Edwards (TX)
Boren	Cleaver	Ehlers
Boswell	Clyburn	Ellsworth

Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foss  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin

Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loeb  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCauley  
McClintock  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley

Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rojas  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (WI)  
Salazar  
Sarbanes  
Schalick  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schroeder  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Space  
Spratt  
Stearns  
Sutton  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Watson  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

Barrett (SC)  
Bigert  
Brown, Corrine  
Carney  
Costello  
Davis (AL)  
Deal (GA)  
Delahunt  
Ellison  
Garrett (NJ)  
Gerlach  
Graves  
Grayson  
Grijalva  
Gutierrez  
Harman

Holden  
Johnson (IL)  
Kanjorski  
Kennedy  
Kissell  
Kosmas  
Lewis (GA)  
Maloney  
Marchant  
McCollum  
Mica  
Moran (VA)  
Rohrabacher  
Ryan (OH)  
Sanchez, Linda  
T.

Sanchez, Loretta  
Shuler  
Smith (WA)  
Snyder  
Souder  
Speier  
Stark  
Stupak  
Sullivan  
Tanner  
Townes  
Wamp  
Waters  
Watt

Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Frank (MA)  
Frelinghuysen  
Fudge  
Gallegly  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kagen  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil  
Kind  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil  
Kind  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil

Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loeb  
Lofgren, Zoe  
Lowey  
Luetkemeyer  
Lujan  
Lungren, Daniel  
E.  
Lynch  
Maffei  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCauley  
McClintock  
McCotter  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nunes  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paulsen  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley

Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rojas  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (WI)  
Salazar  
Sarbanes  
Schalick  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schroeder  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NJ)  
Smith (TX)  
Snyder  
Space  
Spratt  
Stearns  
Sutton  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Watson  
Waxman  
Weiner  
Welch  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

#### □ 1900

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and concurring in the Senate amendment to the House amendments to the Senate bill, S. 386. The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 386.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 338, nays 52, not voting 43, as follows:

[Roll No. 268]

#### YEAS—338

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachus  
Baird  
Baldwin  
Barrow  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blumenauer

Blunt  
Bocchieri  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Butterfield  
Buyer  
Calvert  
Cantor  
Cao  
Capito  
Capps  
Capuano

Cardoza  
Carnahan  
Carson (IN)  
Cassidy  
Castle  
Castor (FL)  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Cummings

Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Frank (MA)  
Frelinghuysen  
Fudge  
Gallegly  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kagen  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil

Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loeb  
Lofgren, Zoe  
Lowey  
Luetkemeyer  
Lujan  
Lungren, Daniel  
E.  
Lynch  
Maffei  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCauley  
McClintock  
McCotter  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nunes  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paulsen  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley

Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rojas  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (WI)  
Salazar  
Sarbanes  
Schalick  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schroeder  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NJ)  
Smith (TX)  
Snyder  
Space  
Spratt  
Stearns  
Sutton  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Watson  
Waxman  
Weiner  
Welch  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

#### NAYS—52

Akin  
Bachmann

Bartlett  
Barton (TX)

Bishop (UT)  
Blackburn

Boehner  
Boustany  
Brady (TX)  
Broun (GA)  
Burgess  
Burton (IN)  
Camp  
Campbell  
Carter  
Chaffetz  
Cole  
Conaway  
Culberson  
Davis (KY)  
Duncan  
Ehlers

Flake  
Foxy  
Franks (AZ)  
Garrett (NJ)  
Granger  
Hensarling  
Johnson, Sam  
Jordan (OH)  
King (IA)  
Kingston  
Kline (MN)  
Lamborn  
Latta  
Lucas  
Lummis  
Mack

Manzullo  
McHenry  
Miller (FL)  
Myrick  
Neugebauer  
Olson  
Paul  
Pence  
Price (GA)  
Sessions  
Shadegg  
Smith (NE)  
Thornberry  
Westmoreland

## NOT VOTING—43

Barrett (SC)  
Biggart  
Brown, Corrine  
Carney  
Costello  
Davis (AL)  
Deal (GA)  
Delahunt  
Ellison  
Gerlach  
Graves  
Grayson  
Grijalva  
Gutierrez  
Harman

Holden  
Johnson (IL)  
Kanjorski  
Kennedy  
Kissell  
Kosmas  
Lewis (GA)  
Maloney  
Marchant  
McCollum  
Mica  
Moran (VA)  
Rohrabacher  
Ryan (OH)

Sánchez, Linda  
T.  
Sanchez, Loretta  
Shuler  
Smith (WA)  
Souder  
Speier  
Stark  
Stupak  
Sullivan  
Tanner  
Towns  
Wamp  
Waters  
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1909

Mr. ROYCE changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment to the House amendments was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# RECOGNIZING IMPORTANCE OF CHILD AND ADULT CARE FOOD PROGRAM

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 442, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 442.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 10, not voting 46, as follows:

[Roll No. 269]

## YEAS—377

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca

Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley

Berman  
Berry  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt

Bocchieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Capuano  
Cardoza  
Carnahan  
Carson (IN)  
Carter  
Cassidy  
Castle  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly

Garrett (NJ)  
Giffords  
Gingrey (GA)  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Hersteth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Klein (FL)  
Kline (MN)  
Kratovil  
Kucinich  
Lamborn  
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Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
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Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loeback  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungrun, Daniel  
E.  
Lynch  
Mack  
Maffei  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)

McCarthy (NY)  
McCaul  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Molohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (WI)  
Salazar  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt

Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
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Smith (TX)  
Snyder  
Space

Spratt  
Stearns  
Sutton  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky

Walden  
Walz  
Wasserman  
Schultz  
Watson  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NAYS—10

Akin  
Broun (GA)  
Campbell  
Chaffetz

Flake  
King (IA)  
Kingston  
McClintock

Paul  
Shadegg

## NOT VOTING—46

Barrett (SC)  
Biggart  
Brown, Corrine  
Capps  
Carney  
Castor (FL)  
Costello  
Davis (AL)  
Deal (GA)  
Delahunt  
Ellison  
Gerlach  
Gohmert  
Graves  
Grayson  
Grijalva

Gutierrez  
Harman  
Holden  
Johnson (IL)  
Kanjorski  
Kennedy  
Kissell  
Kosmas  
Lewis (GA)  
Maloney  
Marchant  
McCollum  
Mica  
Moran (VA)  
Rohrabacher  
Ryan (OH)

Sánchez, Linda  
T.  
Sanchez, Loretta  
Shuler  
Smith (WA)  
Souder  
Speier  
Stark  
Stupak  
Sullivan  
Tanner  
Towns  
Wamp  
Waters  
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1916

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber today. Had I been present, I would have voted “yea” on rollcall votes 267, 268 and 269.

## PERSONAL EXPLANATION

Mr. MICA. Mr. Speaker, due to mechanical problems relating to US Airways flight #859, I was unavoidably detained and was unable to vote on rollcalls 267, 268, and 269. Had I been present, I would have voted “yea” on each of these measures.

# HONORING THE SACRIFICE OF PETTY OFFICER SECOND CLASS TYLER TRAHAN

(Mr. NYE asked and was given permission to address the House for 1 minute.)

Mr. NYE. Mr. Speaker, I rise today to honor the life, the service and the sacrifice of Petty Officer Second Class



Tyler Trahan, who was killed in action by a roadside bomb outside Fallujah, Iraq, on April 30.

Petty Officer Trahan was an explosive ordnance disposal technician, one of the most dangerous assignments, assigned to Unit 12 based in Norfolk, Virginia, and at the time of his death, he was deployed with the SEAL team based out of Virginia Beach.

Three years ago, like his father and grandfather before him, he signed up to bravely serve his country in uniform, telling his hometown newspaper, "I want to go and fight for the freedom I enjoyed growing up."

During his service, he earned numerous commendations and medals, including a Bronze Star with a Combat "V" Distinguishing Device and a Purple Heart.

On Sunday I had the opportunity to have dinner with the warfighters of the EOD Unit 10, which was based in Norfolk, like Trahan's unit. In an asymmetric conflict, where we are faced not with tanks and planes, but with roadside bombs with cell phone triggers, our EOD personnel, like Tylar Trahan, are critical for our success in the region.

Tyler Trahan was killed while performing his duties in al Anbar Province. While we may never know how many lives were saved by his actions, we must ensure that his life, his service and his sacrifice are never forgotten.

#### PRESIDENT OBAMA'S RHETORIC CONTRADICTS HIS ACTIONS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, President Obama last week told a town hall audience that "we are mortgaging our children's future with more and more debt." He talked about how borrowing would lead to higher interest rates. I appreciate the President acknowledging these dangers. Unfortunately, it is his budget and his allies in Congress that will produce more debt in the next decade than all previous administrations combined. They are his policies that are borrowing too much, spending too much and taxing too much.

On the other hand, Republicans continue to offer a better way forward. Our policies would help small businesses and entrepreneurs have the capital and freedom to innovate and create jobs.

At some point, the President's actions need to match his words. American families cannot afford for President Obama to try to have it both ways.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### AMERICA'S NATIONAL SECURITY DEPENDS ON A STRONG MANUFACTURING BASE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Across the United States, the word in the last few weeks is that America is going to lose many auto plants that provide thousands of jobs that have kept the economy of communities going for generations. And with that, thousands of dealerships now will close.

Think about it, America. America is going out of the car business. We are going out of the steel business. The things that enable us to defend our country we are giving up.

We have a resolution, House Resolution 444, which says that it is time that America took a stand and had a strategic industrial policy which declares that the maintenance of steel, automotive, aerospace and shipping is vital to our national security.

With China now getting bragging rights about how they are moving their auto industry forward and with America having about a \$700 billion trade deficit with China, isn't it time that America woke up and started restoring our auto industry instead of pushing it into bankruptcy?

#### DEBT DAY

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise because April 26 was Debt Day.

Debt Day is the day that the Federal Government runs out of revenue and starts paying for its reckless spending by borrowing more money. This means that all of the money spent by the Federal Government for the rest of the year will either be borrowed from other countries or, as the gentleman who preceded me here on this side of the aisle said, or borrowed from future generations.

Deficits are nothing new in Washington. And it is not a one-party disease. However, American families and small businesses across the country are tightening their belts, and certainly Congress needs to do the same.

Instead, the Obama administration offers a budget that doubles the national debt in 8 years, and by 2012, the American people will be paying \$1 billion per day in net interest on that debt.

The American people know that we cannot borrow and spend our way back to economic health. The path to economic recovery starts with fiscal responsibility.

I believe that the Federal Government should follow the example set by

our Nation's families and eliminate unneeded and excessive spending.

#### HOUSTON ROCKETS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. There comes a time when you need to acknowledge the hometown team and thank them for their best effort. The Rockets wanted to win. They put their heart in it. They came back in game 6. They came back in other games. They were down 20 points or more in other games. They lost by a large amount, but they came back. And boy, did they give us a game in game 6.

So you can see the faces of the Houston Rockets. And I'm cheering them on. Congratulations for getting into this part of the NBA, getting into what they have not done before, which is the playoffs. So I am grateful for the young team that they are. Some that don't have height, we are aware of the injuries of some of our teammates, but Houston is very proud. And we celebrated our Houston Rockets because they did a darn good job. It is a good lesson for young people to know in the face of adversity, to keep on keeping on. That is what sports is all about. And that is what the message is when we tell our children to play, play fair, have good judgment, have integrity and keep on keeping on, and some day, you will be a winner.

Winners never quit, and quitters never win.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### AMERICANS ARE NOW IN THE CAR BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, the people of the United States are now in the car business. Our taxpayers own the majority share of Chrysler, and maybe General Motors before long.

Why? Wall Street financial shenanigans and fraud left banks without credit to loan to dealers and to consumers who wanted to buy cars in this very credit-sensitive auto sector.

The result? Car sales started plummeting last year, and this occurred despite the fact that the Big Three had reached an important plateau in the production of the cars of the future.

In 2007 Ford won 102 quality awards, including AutoPacific's Best in Class

for three models and Germany's largest auto magazine's Auto 1 of Europe Award for its S-MAX.

□ 1930

In 2008, *Forbes* awarded the 2008 Chrysler 300 "the highest-quality car in the near-luxury category" over the Audi A4, BMW 3 Series, Lexus IS, and Mercedes-Benz C Class.

Of the 15 global finalists for the 2008 Motor Trend Car of the Year Award, the Big Three manufactured nine, the Japanese only four, and the Europeans two. The 2008 winner was GM's Cadillac CTS, which Motor Trend described as "proof that Detroit can still build a world-class car."

America cannot afford to let the auto industry vanish any more than we can allow our national economy or defense to vanish. They are inextricably linked.

America needs an auto industry that competes on a level playing field globally. And America needs Presidential advisors who tell the President the truth.

And what is the truth?

Truth 1: The U.S. auto industry was poised to rebuild market share with its new models until the Wall Street-manufactured financial crisis hit. In this situation, Wall Street is the perpetrator and our auto industry and our communities the victim.

Truth 2: The global market in which our auto sector competes has been far from fair for a very long time. Closed markets and tax and trade policies have really crippled our industry.

Truth 3: The unfair marketplace players include Japan, South Korea, and Communist China. Managed markets in Europe, as well, complicate the playing field.

Japan has the third largest economy in the world, but its automobile market is essentially closed to American carmakers. Import penetration in Japan by all foreign firms is less than 3 percent, while Japanese companies just in this country now command more than half of our market share.

Until recent cutbacks, one manufacturer, Chrysler Jeep turned out more vehicles at one factory, the Toledo North Assembly Plant, in a single month than the U.S. auto industry sold in Japan and Korea, combined, in an entire year. Superlative products made by U.S. workers in U.S. factories are still systematically barred entry into the closed markets of Asia: Japan, South Korea, and Communist China.

Truth 4: China and Mexico, whose workers build vehicles the majority of their populations cannot afford to buy, while being paid subhuman wages, export cars anywhere in the world. We are told now China and Mexico are poised, through GM restructuring, to deliver more cars to our country. That's right. To get GM profitable as fast as possible, America must con-

tinue to shut plants down and unemploy our own workers? What kind of a solution is that?

Millions of our own people are falling out of gainful employment, so we will use our tax dollars to deep-six U.S. workers while employing more Chinese and Mexican citizens? What sense does this make?

Why would any first-world nation leave its auto sector in shambles?

America's tax policy and our trade policy are seriously out of whack. Germany, through VAT, can export a vehicle here and get a 19 percent credit. Our vehicles there are saddled with a 19 percent tax. What's fair about managed markets all across the world that disadvantage autos from our Nation?

While the former administration and Wall Street placed our auto industry on the operating table, President Obama had best ask his White House advisors from Wall Street for the truth.

Why have the credit lines to the automotive sector been frozen for months, like a tourniquet, cutting off their blood supply?

Why are Japan and South Korea's markets still closed to American vehicles?

Why do nations like Germany employ a VAT tax to their advantage and our detriment?

Let's get real before this White House's Wall Street advisors ask our Nation to take more Chinese and Mexican car imports while thousands upon thousands of Main Street Americans hit the unemployment lines.

Here is the plain, unvarnished truth. The world might be flat in America because our markets are wide open, but tax-and-trade terrain is mountainous across the world for our country, surely in Asia and in Europe, in managed markets, and even on our own continent where tariff and nontariff barriers keep out our products.

What sense does it make for our middle class to prop up companies hitting bottom from this financial crisis only to have more jobs outsourced, resulting in more unemployment here and more citizens expecting care from our government?

It is time for this administration to employ section 201 trade relief in order to get our beleaguered industry back on its feet.

And frankly, it is time for some truth.

#### GITMO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the administration plans to close the state-of-the-art Guantanamo Bay detention facility by January. The problem is, they have no plan for what to do with

the terrorist detainees. These are the people who have tried to kill Americans, and they want to keep up their sinful ways by trying to kill more Americans. These are people picked up off the battlefield, sometimes hiding between children and women's skirts in villages. They were not wearing uniforms. They were not state sponsored, but they were there for a reason, and that was to kill innocent people.

For example, they use women and children for two purposes: one, to hide behind as cover, and the other reason is to murder in the name of religion. That's why they're called terrorists. They try to inflict terror and fear in all peoples.

Some of these people have been waterboarded. They gave us vital information that saved American lives. Apparently, two plots were uncovered by waterboarding. One crime was to crash a plane into a Los Angeles skyscraper and another to blow up the Brooklyn Bridge.

I wonder if the would-be victims appreciated the waterboarding?

What are we supposed to do to get this information?

But some are now to be more concerned about the treatment of Gitmo detainees than they are about potential American victims. Maybe we don't have our priorities straight. And by the way, Mr. Speaker, I have been to Gitmo, and its facilities are better than many American jails where we keep Americans.

Let's look a little bit at history. General George Washington had a very different way of dealing with folks that were captured who weren't wearing uniforms. A British spy named Major John Andre, who was a buddy of Benedict Arnold, fell into these circumstances. After surveying West Point, Benedict Arnold met with Andre and gave him a sheaf of papers outlining the state of the garrison and the arrangements that had been made for its defense at West Point. Andre removed his uniform as a senior British officer, put on a plain coat, stuffed Arnold's secret instructions into his silk stockings, and set off for New York and his headquarters. Militiamen caught up with him on the road, however, found the papers from Arnold in his boots, and turned him over to George Washington, who had him hanged. Is that better than being waterboarded?

So what do we do with these terrorists if we close Gitmo? If we take hundreds of hard-core terrorists from an isolated island like Gitmo and put them in American prisons, we expose the nearby communities, inmates, law enforcement, prison guards, officials and their families to the possibility of payback, attacks aimed at breaking them out or retaliation against the community for holding them.

If they go to an American prison, they, in all likelihood, would eventually be released into the United States. That's not good news.

We don't want them brought to Texas, by the way, Mr. Speaker. We have enough problems from the Federal Government neglecting our southern border.

Last week, in the Judiciary Committee hearing, Attorney General Holder couldn't name one State that wants these outlaws sent to them. So what are we going to do?

Are we going to reopen Alcatraz and put them there? Who knows?

Do we bring them here and try them in our Federal courts?

Mr. Speaker, if we stop and take a look at why we have separate legal systems for our citizens and for military purposes, maybe the reasons will be crystal clear even to administration lawyers: The American domestic legal system wasn't built to deal with enemies in a war. Military courts have always handled combatants captured on the battlefield.

Nonuniformed enemies in a time of war do not have the same rights under the U.S. Constitution as American citizens, at least that's what we have always thought.

So what's next? Are our soldiers going to have to warn terrorists of their Miranda Rights?

Are the Army Rangers going to need a search warrant from a Federal judge to go into an al Qaeda hideout in Afghanistan?

Will the troops need to consult a Federal lawyer and get permission to shoot back when being shot at? Now, wouldn't that be helpful.

So what is the administration going to do with these terrorists?

They have set the date of January 22, 2010, to close down Gitmo. Let's hope the administration reevaluates its decisions regarding letting these terrorists go and keep them locked up.

And that's just the way it is.

#### HONORING STEWART WINSTEIN ON HIS 95TH BIRTHDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HARE) is recognized for 5 minutes.

Mr. HARE. Mr. Speaker, I rise today to honor Stewart Winstein, who turns 95 years young on May the 28th. Stewart is a giant of Rock Island County and one of the most respected leaders in my entire congressional district.

Stewart's contributions to the Quad Cities region are enough to fill up three biographies. He was the longest serving chairman in the history of the Rock Island County Metropolitan Airport Authority. In that position, he fostered unprecedented growth at the Quad City International Airport. He oversaw major expansion projects, as well as

the increased security that resulted from the September 11 terrorist attacks. Through it all, Stewart was committed to providing the people of the Quad Cities with a safe, reliable, and very bustling airport. The thousands of people that fly in and out of the Quad City airport are fortunate to have had Stewart's leadership and his dedication.

From 1974 to 1978, Stewart served as president of the Rock Island County Welfare Information and Referral Services. And as if that didn't keep him busy enough, he was also public administrator, public guardian, and conservator during that time.

Amazingly, all the things I've named so far were just Stewart's extracurricular activities. His day job was being the best attorney in all of Rock Island County. Stewart is renowned for the law firm he founded with his two partners, Frank Wallace and Harrison Kavensky, nearly 50 years ago. Winstein, Kavensky & Wallace has withstood the test of time as a result of the tremendous leadership of Stewart and the outstanding service he has provided to all of his clients.

But it was in the arena of politics that I got to know Stewart so well. He is a fierce and articulate advocate of the Democratic Party and our principles. He worked tirelessly for local Democrats, including myself and my predecessor, Congressman Lane Evans. Stewart has hosted events for candidates from the White House to the courthouse at his home. He witnessed history as a delegate to the 1968 Democratic Convention in Chicago and attended several more in the years that followed. He served long stints as vice chairperson and treasurer of the Illinois State Democratic Central Committee.

To list Stewart's numerous accomplishments only tells half the story. Stewart is a great man. He always had tremendous love for family, especially his late wife, Dorothy. Dorothy was not just Stewart's wife, she was his very best friend.

I have had the honor and privilege of calling Stewart a longtime friend and trusted advisor for many years. Our community has benefited greatly from his generosity and his goodwill. To put it simply, the Quad Cities is a better place to live because of Stewart Winstein.

I would like to join Stewart's son, Arthur, his stepson, Max, and all of his family and friends in wishing him a very happy 95th birthday.

#### THE FAIR TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. INGLIS) is recognized for 5 minutes.

Mr. INGLIS. Mr. Speaker, I rise tonight to ask my colleagues that may

be supporters of the Fair Tax whether we have got some parallel idea that we have been, that I have been talking about on this House floor for a while now.

In the Fair Tax, what happens is you reduce taxes, income taxes, payroll taxes, those sorts of things, and you impose a tax on consumption. And the very good idea behind that is that you want to tax the things that you don't necessarily want to incentivize, and you want to free up from taxation those things that you do want to incentivize.

So right now, under our current Tax Code, savings and investing, investments are treated shabbily in the Tax Code. Consumption is treated pretty well, because if you are a business, you can deduct those things. And so the idea is to turn that around. That's one of the good arguments for the Fair Tax.

Now, of course, the downside of the Fair Tax is that it comes with a pretty substantial increase in the price of goods sold if they are new goods because it's a substantial consumption tax, perhaps 23 percent. Of course, Fair Tax proponents immediately point out that that wouldn't be the actual total increase in the price of a good because the income tax assumptions would come out of the pricing of that product; and so the dollar candy bar wouldn't be a \$1.23, it would be something less than a \$1.23 because the candy bar company would not have to pay income taxes, nor would the sugar company and all the components. Good arguments.

So I am wondering if it's the same thing as what I've been talking about with a revenue-neutral carbon tax, the same kind of deal, that what we are doing here is we are switching what you tax, swapping out one tax for another.

So in the concept that I have been describing here in a series of Special Orders, what we would do is we would reduce taxes on payroll, and that's something we want more of, labor industry income, and we would impose a tax, essentially a consumption tax, on carbon dioxide.

□ 1945

The result would be that the things that would be incentivized would be payroll, which is again labor, industry work. The thing that would be disincentivized would be carbon emissions.

Now, the interesting thing is that it's sort of the son of fair tax, a much smaller impact than fair tax—what I'm talking about here when it comes to the dollar shock—because in the case of the fair tax, gasoline, presumably, would go up by a 23 percent sales tax. Natural gas would have a 23 percent sales tax. Electricity would have a 23 percent sales tax on it. Now, of course,

some of that would be knocked down by the income tax assumptions coming out of the provisions of those products, but the result would be a switch in taxes in the fair taxes. It would be a big, old switch from income taxes and from those sorts of things—payroll tax—to a consumption tax. What I'm talking about is that it would be sort of a small version of that where you would take reduced payroll taxes and then would impose a tax on carbon dioxide, but the difference between the two is this:

In what I'm talking about, there would be an incentive to switch technologies, too. In the fair tax, you are talking about just hitting every new product sold with a 23 percent sales tax. In the case that I'm talking about, you would be just targeting one particular kind of product. The result would be that nuclear would be possible, that all kinds of new transportation fuels would be possible and that we would be breaking this addiction to oil, cleaning up the air and creating new jobs in this sort of son of fair tax, in this little, small version of a fair tax. That is the fair tax plus this very important technology shift.

That's what I'm after, Mr. Speaker, is that technology shift that can give us an expansion of this economy and be part of the means of our growing out of this recession. We did it in the '90s with the productivity we got out of the Internet and the PC. I think we can do it again now with energy. Energy security is our ticket out of this recession. Similar to the tech boom in the 1990s, this is our opportunity to grow the economy and to clean up the air, to create jobs and, by the way, to help balance the Federal budget, because that's what happened in the late '90s. The growth of the economy because of the productivity from the Internet and the PC gave us new revenues.

I think we can do the same thing in energy, but the start of it is getting the economics right, and if we do that, Mr. Speaker, I think we can help change the energy insecurity of the United States into energy security. It all starts with economics and with free enterprise making it happen.

#### U.S. STRATEGY IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, just last week, the House approved a \$96.7 billion spending bill that provides funding for our military operations in Iraq and Afghanistan. I joined many of my House colleagues in voting for this funding. Our men and women in uniform and troops in the field deserve the best training and equipment our Nation can provide.

While America's military personnel faithfully conduct their mission

abroad, elected officials here in Washington should take seriously their responsibility to develop a viable, long-term strategy for these operations. I have always voiced my support for the United States military action to topple the Taliban in Afghanistan following the tragedy of September 11. Yet, nearly 8 years later, I am concerned that the United States has not articulated a clear strategy for victory or an end point to our efforts in that country.

Because of this concern, I join more than 70 Members of Congress in cosponsoring H.R. 2404, Congressman JIM MCGOVERN's legislation to require the Secretary of Defense to submit a report to Congress outlining the exit strategy for the United States military forces in Afghanistan. Without focus and targeted objectives, adding more manpower to our efforts in Afghanistan could cause the United States to go the way of many great armies and leave our troops in never-ending, no-win situations.

Many world leaders have noted that military action in Afghanistan alone is not going to free us of terrorism. Colonel Douglas McGregor, a veteran of Vietnam, put it well when he recently wrote for the Armed Forces Journal: "When national military strategy fails to answer the question of purpose, method and end state, military power becomes an engine of destruction, not just for its intended enemies but for its supporting society and economy, too."

The United States continues to devote its blood and treasure in Afghanistan while the Afghan Government has yet to purge itself of many who are funneling support to the Taliban. Meanwhile, here at home, money and manpower are needed to address our Nation's serious economic concerns and to protect our citizens from the violence at our southern border with Mexico where drug wars are growing more dangerous every day. Given the problem our Nation faces at home, we need to make wise decisions about how we spend our money and military resources abroad.

Andrew Basevich is a West Point graduate, a retired Army colonel, a Vietnam and Gulf War veteran, a professor, and a military historian. Mr. Speaker, he is also the father of a son who gave his life in Iraq in 2007. In an article he wrote for the American Conservative, titled "To Die for a Mystique: The Lessons our Leaders didn't Learn from the Vietnam War," I quote Mr. Basevich: "Americans today profess to 'support the troops,' but that support is a mile wide and an inch deep. It rarely translates into serious or sustained public concern about whether those same troops are being used wisely and well. With the long war already this Nation's second most expensive conflict, trailing only to World War II, and with the Federal Government projecting trillion-dollar deficits

for years to come, how much can we afford, and where is the money coming from? The President who vows to 'change the way Washington works' has not yet exhibited the imagination needed to conceive of an alternative to the project that his predecessor began."

Mr. Speaker, again, that is from the father of a son who died in 2007 for this country. It is essential that the President work with his military commanders and with the Congress to develop the best strategy for achieving our goals and for wrapping up our military commitment in Afghanistan. I hope that many of my colleagues in both parties will join me in cosponsoring Congressman MCGOVERN's legislation, H.R. 2404.

Before closing, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God, in his loving arms, to hold the families who have given a child, a child who has died for freedom in Afghanistan and Iraq. I close three times by asking God: Please, please, please, God. Continue to bless America.

#### THE STEAMROLLER OF SOCIALISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Georgia. Mr. Speaker, this week, the Energy and Commerce Committee will take up a bill that will put a huge tax on every single family in America—rich, poor and in between. It's going to hurt the people who can afford this tax the least—the poor, the retirees who are on a limited income. It has been estimated that this tax is going to increase the tax burden on every single family by over \$3,000. Most families in this country can't afford to pay an extra \$3,000 in taxes. Not only that, it is going to raise the cost of every single good and service in America. Food is going to go up. Medicine is going to go up. Health care insurance is going to go up. Everything in this country will go up because it's an attack on the energy producers and on the energy consumers in America.

We have got to stop it. The American people need to understand what this is all about. It's not about cleaning up the environment. It's about creating more revenue for the Federal Government to grow a bigger Federal Government, a bigger socialistic government. We are taxing too much. We are spending too much. We are borrowing too much.

What this will do is it will steal our grandchildren's future. It is immoral. The people who are promoting this should be ashamed of themselves. We've got to stop it, and the American people need to stand up and say "no" to this tax-and-trade. I call it tax-and-

cap. A lot of people on our side call it cap-and-tax. It's about taxing. It's about more revenue for the Federal Government. It's about just taking money from people who cannot afford to give money to the Federal Government. It's about promoting an agenda that FDR followed during the Great Depression that extended deep into the recession and depression during that time. That is exactly what I believe is going to happen to our economy if we go down this road.

We have a steamroller of socialism being driven by NANCY PELOSI and by HARRY REID, and it's being fueled by the administration and Barack Obama. The American people need to put a stop sign and speed bumps in the path of this steamroller. We see the federalization and the nationalization of the financial services industry. We see car dealerships being closed by this administration. That's unconstitutional. It has never been done in the history of this Nation, and we need to stop it.

We see this administration and the Congress wanting to socialize health care, making a Washington-based health care system that is going to take away patients' choices. It's going to increase the cost of all health care. It's going to destroy the quality of health care in America. We've got to stop it, and it's up to the American people to do so by contacting their Members of Congress and saying "no." We have to develop a grassfire of grassroots support all over this country to say "no" to this steamroller of socialism.

Former U.S. Senator Everett Dirksen at one time said, when he feels the heat, he sees the light. The American people need to put the heat on Members of Congress in the House and the Senate and say "no" to a Washington-based health care system. Say "yes" to a patient-based health care system that the Republicans and, in fact, in our office are generating. We need to change the health care financing system, but it needs to be patient-based, not Washington-based. It needs to be based on choice by patients where decisions are made within the doctor-patient relationship, not made by some bureaucrat in Washington, DC.

So we have got to put a stop to this. We are stealing our children's future. We are going to destroy what this country was built upon. This country was built upon a free market system, and we are taking over the free market system here in Washington and are making it all socialized, all Washington-based. So it's up to the American people to say "no." I encourage you to contact your Congressman, your Senator and say "no" to this cap-and-trade bill. Say "no" to socialized medicine and what is being promoted by the Democratic majority. Say "no" to this socialization of all of our market system.

We've got a picture of exactly where we're going. All we've got to do is look in Venezuela. We are going down the same track that Venezuela is going down. We see the end results, too. We've got a clear picture of that. All we have to do is look at East Berlin during the time that the wall was there under Communist rule. All we have to do is look at Cuba today, and we see where this country is headed if we don't put a stop to it.

It's up to the American people. So please, folks out there, say "no" to this steamroller of socialism and "yes" to a free market solution to all of these problems so that we can build a stronger economy. We have to leave dollars in the hands of small businesses to create jobs and to buy inventory. That's what, as Republicans, we are proposing. So, please, American people. Say "no" to this steamroller of socialism.

#### CBC FOCUS ON HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Ohio (Ms. FUDGE) is recognized for 60 minutes as the designee of the majority leader.

Ms. FUDGE. Thank you very much, Mr. Speaker. Good evening.

Mr. Speaker, I am here this evening to anchor the hour for the CBC for our Special Order tonight, which will be health care.

The Congressional Black Caucus, the CBC, is proud to anchor this hour. The CBC is chaired by the Honorable BARBARA LEE from the Ninth Congressional District of California. My name is Congresswoman MARCIA L. FUDGE, and I represent the 11th Congressional District of Ohio.

CBC members are advocates for families nationally, internationally, regionally, and locally. We continue to work diligently to be the conscience of the Congress. We stand firm as the voice of the people, and we provide dedicated, focused service to the citizens and to the congressional districts that elected us to Congress.

The vision of the founding members of the Congressional Black Caucus is to promote the public welfare through legislation designed to meet the needs of millions of neglected citizens. It continues to be a beacon and focal point for the legislative work and political activities of the Congressional Black Caucus today.

Tonight, the CBC will focus its attention on health care reform. Specifically, we must ensure access to quality health care for all Americans. We must control health care costs and eradicate health care disparities.

At this time, Mr. Speaker, I yield to our Chair, the gentlelady from California, the Honorable BARBARA LEE.

□ 2000

Ms. LEE of California. Thank you for yielding.

Let me say once again as Chair of the Congressional Black Caucus how grateful I am to Congresswoman MARCIA FUDGE, the gentlelady from Ohio, for continuing to lead our Special Orders on Monday evening and for continuing to keep our caucus very focused on the key issues addressing and facing our Nation today. And also let me thank you for your sacrifices and everything you do each and every day to make sure that this hour is solidified so the rest of the country really understands the Congressional Black Caucus's agenda as the conscience of the Congress. Thank you, Congresswoman FUDGE.

Let me thank and acknowledge our colleague, Congresswoman DONNA CHRISTENSEN, who Chairs the Congressional Health Caucus Health Brain Trust and also serves as the second vice Chair of the Congressional Black Caucus. She has been such a phenomenal leader in leading the House of Representatives and, really, our country to address racial and ethnic disparities, health disparities in our country.

Let me take a moment to thank Representative DANNY DAVIS who co-chairs the Congressional Black Caucus' Health and Wellness Taskforce along with Congresswoman CHRISTENSEN. Together they have developed a very comprehensive set of principles with regard to health care reform, and I would like to insert, Mr. Speaker, a copy of those principles for the RECORD this evening.

#### CONGRESSIONAL BLACK CAUCUS HEALTH AND WELLNESS TASKFORCE BENCHMARKS FOR THE 111TH CONGRESS

1. Every measure must apply equitably to American Indian tribes and the Territories.
2. The elimination of health disparities of any population group must be a central goal of any healthcare reform process, and the process must be coordinated within HHS and across all agencies at the state, local and community levels.
3. Coverage and every other provision must extend to everyone residing legally in this country.
4. Communities must be engaged from the identification of the challenges to the crafting of solutions and their implementation. They must receive the funding, education and technical assistance to fully carry out this role.
5. In this process, health and health care must be comprehensive and include mental and dental health services fully and equitably with physical health.
6. Creating and expanding a diverse workforce on all levels must be a priority, and these efforts must begin in concert with efforts to improve K through 12 education and with outreach efforts beginning at least in junior high school with underrepresented minorities including those with disabilities.
7. There must be increased focus and spending on prevention, irrespective of any offset.
8. Recognizing that the traditional "medical home" has been the office of the family and other primary care provider, efforts must be undertaken to increase their numbers and their reimbursement and they must be an integral part of the implementation of this program.

9. Health information technology (HIT) must be an integral part of any reform effort and access to it by all providers must be supported where needed so that every provider and all communities enjoy its benefits and savings. Additionally, all HIT systems included and subsequently implemented must ensure patient privacy, as well as robust penalties for any violation of such privacy.

10. There must be an increase in research that is community based, looks at the causes of disparities and includes minorities in clinical trials. Beneficial findings must be fast tracked into practice.

11. The collection of data by race, ethnicity, language, geography and socioeconomic factors must be mandated and uniform.

12. Reform must be done within the context of and include provisions that address the social, ambient and built environmental issues affecting health.

Also, let me thank and recognize Congresswoman EDDIE BERNICE JOHNSON who brings a wealth of knowledge and expertise to this health care debate. As a registered nurse, she has been very involved in health care reform for many, many years.

First, let me just say as one who personally supports a single-payer form of universal health care, I also believe that health care must be and should be a fundamental human right. But I also know that whatever form health care reform takes, that we must have a public option very similar to that of Medicare.

Forty-seven million people lack health insurance in America, and although racial and ethnic minorities account for about one-third of the American population, they account for about half of the uninsured. In my district alone in Alameda County—and also throughout the country—there are very profound inequities in health insurance coverage between various racial and ethnic groups. Among non-elderly adults 18–64 years of age, Latinos are five times as likely as whites to be uninsured; African Americans and Asian-Pacific Islanders are also more likely than whites to be uninsured.

And because medical costs have been steadily rising, medical bills are the number one cause of bankruptcy in the United States. In today's economic climate with unemployment numbers—for instance, in my own State of California reaching over 11 percent—that means that millions more are falling into bankruptcy every day, and, of course, that means millions more are losing their health care coverage. And, of course, African Americans, Latinos, Native Americans and Asian-Pacific Islanders, unfortunately, are disproportionately affected.

The statistics are irrefutable. African American women are nearly four times more likely to die during childbirth than white women from pregnancy complications. Nearly half of all those living with HIV and AIDS in the United States are African Americans, and the AIDS rates for African Ameri-

cans are nearly 10 times that of whites. And a recent study by the CDC found that nearly one in two young African American girls is infected with one of the four more commonly sexually transmitted infections as opposed to one in four among the general population.

African Americans are two times more likely to have diabetes than whites, and African Americans are nearly 3½ times more likely than whites to have an amputation as a result of the diabetes. African American men with colon cancer are more than 40 percent less likely than white men with the same condition to receive major diagnostic and treatment procedures. While medical science has made a lot of advances over the last 10 years, the gains made by the discovery of new drugs and treatments have not passed on to all segments of our population.

For example, going back to my own district in Alameda County in California, from 2001–2003, we had an average rate of 2,033 people die of coronary heart disease, a mortality rate of about 160 per 100,000 people. Across every category, African American men and women in my district had higher mortality rates than any other group: 286 per 100,000 for African American men and 199 per 100,000 for African American women. While the overall mortality rate has declined in my district by 7 percent since 1998, the gap, mind you, the gap between African Americans and the overall county rate has grown dramatically. In 1990–1991, the African American rate was 16 percent higher than the county rate. In 2002–2003, it was 50 percent higher. Something is seriously wrong.

The story is the same with cancer and with diabetes, and these statistics are not only in my district but they are reflected throughout the country and all of our Congressional Black Caucus, Congressional Hispanic Caucus, and Congressional Asian-Pacific American Caucus members' districts. It is a shame and a disgrace.

This is a serious health care crisis that warrants a clarification call immediately. Our Nation has failed to guarantee what is often federally funded, health research, which fully benefits everyone across the Nation.

So that is why we're here tonight, Mr. Speaker, to speak with clarity, with one voice, to demand health care reform now and to demand an end to the factors that perpetrate racial and ethnic health disparities in this country. We can't do one without the other.

I'm sure that Congresswoman Dr. CHRISTENSEN is going to review tonight the Health Equity and Accountability Act. Let me mention a couple of the provisions. It will bolster efforts to ensure culturally and linguistically appropriate health care and remove language and cultural barriers to health care; it will improve workforce diver-

sity; it will strengthen and coordinate data collection; it will ensure accountability and improve evaluation, and it will improve health care services in general. This is the Health Equity and Accountability Act which Congresswoman CHRISTENSEN has worked so hard on with our tri-caucus for several years. It will help put our country back on track to eliminating health disparities in our country. So I must applaud again Congresswoman CHRISTENSEN and her staff for spearheading the development of this initiative, and I look forward to its introduction in the next few weeks.

Finally, let me just say we all know that the profit motive has driven the health care industry. It should not be an industry. It's an industry that has rewarded and provided profits for the wealthy and for the insurance industry; yet it's been, unfortunately, at the expense of the people it's intended to serve.

And so as the conscience of the Congress, we are insisting that the public health option or a public health option similar to Medicare be part of any health care reform package and that closing health care disparities be part of any health care reform effort. These are central principles that we are making sure our perspective incorporates as it relates to whatever health care bill that comes out because, quite frankly, we can't have some of the same old business in the health care business.

So thank you again, Congresswoman FUDGE, for this evening. And let me just say we're sounding the alarm once again that members of the Congressional Black Caucus, we're not going to stand for any health care bill that doesn't include closing health care disparities which our community, unfortunately, has suffered under since our presence here in the United States of America.

Thank you very much, Congresswoman FUDGE.

Ms. FUDGE. Thank you, Madam Chair, and thank you for your leadership and your vision as well as your focus.

Mr. Speaker, I would now like to turn the podium to my colleague from the State of California, the gentle lady from California, DIANE WATSON.

Ms. WATSON. Thank you, Ms. FUDGE. And, Mr. Speaker, I'm here along with my colleagues to speak about health care.

As we all know, the United States is the only industrialized Nation not to offer universal health care to its citizens. Currently, there are over 47 million people without health insurance, and as a Nation, we are facing a health care crisis.

Also, due to the ailing economy, the number of uninsured is on the rise as many Americans have lost their access to employer-based health care. We are

aware that all Americans need access to quality health care. Many of us for years have repeatedly called for a national solution to the health care crisis, especially those of us who are deeply concerned about health care disparities in minority communities. For years we have continually noted how minorities are less likely to have quality health care.

For example, one-third of all African Americans lack comprehensive health care, but health care is not just a minority issue. Just this past weekend, thousands of students graduated from colleges and universities around the country. They walked across the stage to grasp their diplomas in return for their hard work, achievement, and their health insurance card. For those of us in California, we are blessed that children can remain on their parents' health insurance plan until they are 25 years old, but this is not the case in many States. Can you imagine overnight thousands of graduates who have not been able to find jobs in this struggling economy have now become uninsured? Yes, young people may be the healthiest portion of the population, but they, too, at some point will fall ill.

This past weekend's graduations have made me realize how necessary it is to act quickly. That is why I support universal health care and H.R. 676. We have twiddled our thumbs long enough, and now it's time to act as quickly as possible to give all Americans the right to quality health care.

Now, I want to talk about another health issue that is very close to my heart, the issue of mercury amalgams. Dentists have been using silver dental fillings for over 150 years without informing consumers that these silver fillings are actually more than 50 percent mercury. A 2006 poll showed that 78 percent of American people are not aware that mercury is the majority component in silver fillings. Congress has acted to remove mercury from public schools in the form of thermometers, the Environmental Protection Agency warns the public when mercury levels are high in certain fish. However, the Food and Drug Administration has done nothing to warn consumers of the risk of mercury in their mouth.

Mercury is a known neurotoxin. It can harm the mental development of a fetus and children. Mercury vapors from dental fillings can enter the blood stream and cross the blood-brain barrier. In an expecting mother, mercury can pass through the placenta into the fetus, potentially causing neurological damage. For example, autism in young children has been linked to mercury exposure. In adults, studies are beginning to show mercury as the root of neurological diseases such as Alzheimer's. I will admit that more studies are needed to strengthen the rela-

tionship between mercury and neurological illness. The studies that have been done thus far have been woefully shortsighted and have failed to look at the long-term effects of mercury fillings in children and adults. Rather, they have focused on only 2 or 3 years of an individual's life.

I support more research on the subject. However, I do not support watching more Americans becoming ill without the knowledge of the potential health risk caused by mercury. The burden of proof is on the producers of mercury amalgam and on the dentist. If there is a chance that mercury is toxic to consumers' health, the consumer has the right to know.

□ 2015

In the coming months, I will be introducing a bill about the effects of mercury amalgam fillings and its potential health risks. I hope that you will support me in making consumers more aware of this critical issue.

Ms. FUDGE. I thank the gentlelady from California. I would now, Mr. Speaker, like to yield to my colleague, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentlelady from Ohio for organizing this opportunity for us to discuss health care.

Access to quality, affordable health care is critical to the well-being of all Americans today and in the future. We are seeing millions of Americans suffering from illnesses that could have easily been prevented with basic preventive health care, but people did not seek that care because they didn't have health insurance. In fact, 46 million Americans lack health insurance, and tens of millions more lack health coverage during some part of the year.

In these tough economic times, we must seek to provide universal health care and must seek to reduce the cost of health care insurance, especially for children and pregnant women. We also must address other health concerns, such as the health disparity that exists between racial and ethnic minorities and the need to fund cutting-edge research to find cures for diseases.

We also need to strengthen the Medicaid and Medicare systems and give patients the tools needed to challenge the decisions of all health insurers. Only through action in these critical issues can we meet the pressing health care needs of our Nation.

Providing health care for all and reducing the costs of health care will relieve the financial strain on all families and businesses. It will also go a long way to addressing the racial disparities in health indicators in this country because minorities, as it's already been said, are less likely to be covered by health insurance than others.

On child health, one of the first actions of this Congress was the passage

of the Children's Health Insurance Program, the SCHIP, where we were able to provide coverage for 7 million children already covered by SCHIP, plus an additional 4 million more. While this was a good step in the right direction, it is not enough, because 5 million children are still left without health insurance.

That's why I introduced legislation that would provide health insurance for all children, the All Healthy Children Act, which was endorsed by the Children's Defense Fund as a logical, achievable, and incremental next step to closing the child health coverage gap. This proposal would ensure that all children and pregnant women are covered by expanding the coverage of both Medicaid and the SCHIP programs by eliminating the procedural red tape that currently prevents them from being covered by either program. This comprehensive program will include all basic health care coverage, as well as coverage for mental health, prenatal, and well-child care.

Mr. Speaker, our health care system is unfortunately riddled with inefficiencies, excessive administrative expenses, inflated prices, poor management, and inappropriate care and waste. These problems significantly increase the cost of medical care and health insurance for employers and workers and affect the security of the financial security of our families. We all know that reforming health care is not going to be easy, but we have a good opportunity now to finally reform the health care system by cutting costs, protecting families from bankruptcy or debt because of medical costs, investing in prevention and wellness, and improving patient safety and quality of care.

We have taken the first step in reforming our health care system by passing a Federal budget for fiscal year 2010 that includes more than \$630 billion to establish a reserve fund to finance fundamental health care reform that will first bring down health care costs and then expand coverage.

The budget does a number of things. It accelerates the adoption of health care information technology and expansion of electronic health records.

The budget expands research comparing the effectiveness of medical treatments to give patients and physicians better information on what works best.

It invests over \$6 billion for cancer research at the National Institutes of Health as part of the administration's multiyear commitment to double cancer research funding.

It strengthens the Indian health system, which sustained investments in health care services for American Indians and Alaska Natives to address persistent health disparities and foster healthy Indian communities.



It invests \$330 million to increase the number of physicians, nurses, and dentists practicing in areas of the country experiencing shortages of health professionals.

It supports families by providing additional funding for affordable, high-quality child care, expanding Early Head Start and Head Start, and creating the Nurse Home Visitation program to support first-time mothers.

It strengthens the Medicare program by encouraging high quality and efficient care and improving program integrity.

And finally, it invests over \$1 billion for Food and Drug Administration food safety efforts to increase and improve inspections, domestic surveillance, laboratory capacity, and initiatives to prevent and control food-borne illnesses.

Mr. Speaker, for years we've been at a stalemate in Congress and haven't been able to enact real health care reform. As a Nation, we are already spending more on health care than any other Nation. We spend a higher percentage of our GDP. We spend a higher amount per capita, and yet by any measure, by any of the health indicators, we are still in poor health, and we still suffer from significant disparities in different parts of our population.

So we're already paying for health care. What we need to do under the present administration and Congress is to finally do more than talk about health care reform and actually do something about it.

Mr. Speaker, I'm delighted to have this opportunity and, again, want to thank the gentlelady from Ohio for organizing this Special Order.

Ms. FUDGE. I would like to, Mr. Speaker, again thank Representative SCOTT for his vision. To put in place an act that really does address the needs of babies and children is very significant for this Congress, and I thank you as well.

GENERAL LEAVE

Ms. FUDGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on health care reform.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. Mr. Speaker, I would now like to yield to my colleague, the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, let me begin by thanking the gentlelady from Ohio, Congresswoman MARCIA FUDGE, for anchoring this evening's Special Order on health care. I want to say that her continued diligence in bringing issues that confront our Nation, in general, but African Americans, in particular, week after week has been a

great addition to our Congressional Black Caucus, and let me commend you again for your diligence.

Ms. FUDGE. Thank you.

Mr. PAYNE. I want to also recognize our distinguished Chair of the CBC Health Brain Trust, Congresswoman DONNA CHRISTENSEN, for her leadership in health care debates and for introducing legislation which you will hear about tonight which will address the root causes of our Nation's health disparities and the crisis that we find ourselves in.

You've heard from other Members, Congressman SCOTT, Congresswoman BARBARA LEE, and you will hear from others tonight, because health care is one of the most important issues that confronts our Nation in general, as I mentioned before, but in particular, communities of minorities, whether they be black, Hispanic, Native American, foreign born.

Mr. Speaker, I join and I am pleased to join the other Members tonight to talk about the costs, health care access, the lack of it, the need for quality care, and the eradication of health disparities which are so important to us.

Our Nation's health care costs are increasing rapidly. In 2007, the United States spent \$2.2 trillion on health care. We also spent twice as much on health care than any other developed countries.

In 2006, the U.S. spent \$6,714 per capita on health care, more than double that for any country in the Organization for Economic Cooperation and Development, OECD, with an average of \$2,915, and these are developed nations in the world.

Our health care quality system compares poorly to other developed nations. For example, the U.S. ranks 22nd out of 30 OECD countries on life expectancy. We have the third highest infant mortality rate in OECD countries, with 6.9 deaths per 1,000. Only Mexico and Turkey have worse infant mortality rates.

As alarming as that is, though, if we take out the infant mortality rate for African Americans, it's astounding. If you take the city of Minneapolis, 9.2 per 1,000; Seattle, 10.3; Los Angeles, 10.1; Phoenix, 12.9—that's per 1,000 live births in the African American community—Detroit, 17.3 deaths, when 6.9 deaths are in OECD countries. My own city, 15.5. It's an abomination. It's wrong. It should not be in a Nation, a developed Nation of this—13.6 in Philadelphia; and the Nation's capital, 14.4; Charlotte, 14.1; Orlando, 13.8; New Orleans, 13.2; Miami, 11.8, when it's 6.9 in OECD countries.

And so we really have to talk strongly about health care reform, and we have to go into the disparity of health care in our communities. The costs of health care are straining American families' pocketbooks. Half of all personal bankruptcies are at least partly

the result of medical expenses. More than 80 percent of the 47 million Americans in this country are uninsured, and these are many working families.

Mr. Speaker, there is strong support for comprehensive health care reform. In fact, a solid majority of the public, 59 percent, believes health care reform is more important than ever. Sixty-seven percent of all Americans favor a public health insurance option similar to Medicare to compete with the private health insurance plans, and I am a strong supporter of that public health insurance option.

Mr. Speaker, I believe that our Nation's health is its most precious asset; however, health disparities plague this country and lead to deteriorating conditions for millions of Americans. Because of deficiencies in health insurance and health care access, minorities suffer at greater rates and greater levels of severity from health-related issues than their like counterparts.

Education and awareness alone cannot combat these issues. While vigilance and groundbreaking health research have reduced the incidence of death and illness among white Americans, health statistics on minorities remain staggering. Even though deaths caused by breast cancer have decreased among white women, African American women continue to have higher rates of mortality from breast and cervical cancer.

While the national HIV and AIDS mortality rate lessens, this disease remains a leading cause of death among African American men. In 2002, more than 2.5 times more African American newborns died than white newborns at that time.

Research shows that quality health care could eliminate some of these health-related issues and reduce the onset of others. Unfortunately, especially during the current state of the economy, health insurance and quality health care continues to be widely unavailable.

□ 2030

I represent one of the most expensive States for health care. In New Jersey, health care and health insurance remain out of reach for many low-income citizens—a large percentage of them living in my congressional district.

Many of my constituents are aware of habits and actions that lead to health complications. Despite awareness efforts, non-Hispanic black males and females continue to have the highest prevalence of hypertension. Diabetes disproportionately affects the ethnic and racial minorities. Heart disease is the leading cause of death in the United States for African Americans. Its prevalence is double that of the broader community.

Access to health care and the lack of health insurance prevents even some of the most knowledgeable from avoiding illness.

In conclusion, on May 9, Congresswoman CHRISTENSEN and the Congressional Black Caucus Foundation co-sponsored a Health and Wellness Expo in my district. It began on Friday evening. We were fortunate enough to have Congressman ALBIO SIRES and Congressman ED TOWNS join Congresswoman CHRISTENSEN in my district. That was on May 8th. The next afternoon, the next day, Congresswoman CLARKE came to the district to the Health and Wellness Expo.

We served over 400 people, with an overwhelmingly positive response to screenings and workshops, where people were told on the spot that they should immediately see a physician. I know that we saved the lives of many people because we had screenings of blood pressure and a bone marrow drive and bone density and cholesterol and depression. We had a screening for diabetes and glucose. We had a glaucoma screening. HIV/AIDS screening was held, kidney disease, oral and dental, and on and on.

I, again, would like to thank DONNA CHRISTENSEN, our Congresswoman who heads our Health Brain Trust, for her being there. This is the third time she's been to my district. We have a serious problem in my district, but I will continue to work to bring those statistics down. They should not be the way they are.

So, Mr. Speaker, our society's institutions, from government to business to not-for-profits, must provide opportunities to bring affordable and quality health care to all Americans. More importantly, I believe that our society's leaders and major institutions must create incentives and lower barriers so that individuals and families can take steps to achieve healthier lifestyles. Finally, in order to reduce the cost of health care, there must be an increased focus on spending for prevention.

Mr. Speaker, I look forward to working with my colleagues on both sides of the aisle to develop policies that will improve the delivery of our health system in the most effective and efficient way that we can.

With that, thank you once again, Congresswoman FUDGE, and thank you, Congresswoman DONNA CHRISTENSEN, for the outstanding work that you are both doing.

I yield back the balance of my time.

Ms. FUDGE. Thank you, Mr. PAYNE. Thank you for always continuing to fight for those who are most in need.

Mr. Speaker, I would, at this time, yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. First of all, I want to commend Representative MARCIA FUDGE for the tremendous leadership that she continues to display each and every week by hosting, organizing, convening, and giving all of us the opportunity to discuss issues that are pertinent to all of America,

but especially to the African American community.

I also want to commend Representative DONNA CHRISTENSEN for the outstanding leadership that she has displayed for a number of years as chairperson of the Congressional Black Caucus Health Brain Trust, and all of the members who consistently try and protect, promote, and project the health care needs and opportunities that should exist for all of us in America.

We are poised right now to do serious health reform. I want to commend President Obama for having the courage to tackle one of the most pernicious issues of our day, and that is the issue of trying to make sure that each and every American, that each and every one of our citizens have the opportunity to receive cost-effective, as comprehensively as we can provide it, quality health care that is culturally competent, provided by individuals who understand their needs and individuals that they can understand instructions and what is being given.

We are about to do something that has been needed, and that is we're going to expand—and I'm confident that we will do it. No matter which option people look at, no matter what kind of coverage they suggest, that when we finish, we're going to have the best health care delivery system that this country has ever seen.

In many instances, I don't think that we have to reinvent the wheel. Yes, there are large numbers of uninsured individuals in our country, probably about 50 million of them, and some of those individuals, no matter what plan we come up with, are going to be covered. But just as important as coverage—just as important are the delivery mechanisms and systems which are provided.

I often say to people that as far as health care improvement, I don't think anything has done much more than Medicare, Medicaid, and the development of community health centers and community mental health centers. And so any plan or system that we come up with, I hope that we will expand community health centers, because as deliverers of primary care, I don't think that there's anything in America that has done a more effective job for low-income people than what these institutions have done.

In addition to that, I would hope that we take a hard look at nursing home care. What happens to people once they begin to reach the "golden" ages? What happens to them as they have given every measure of devotion that they could possibly provide for their country? We need to make sure that they don't languish in some place.

One of the proudest things in my family is the fact that we decided, for example, that neither one of our parents would have to experience that kind of care. My mother was an invalid

for about the last 10 or 12 years of her life. But, of course, we decided that she would stay at somebody's house, in somebody's home, and that we could be assured. I think that every senior citizen should have the assurance of knowing that they're going to be cared for.

I don't want us to forget those individuals with disabilities, those individuals who are sometimes shunned aside, who are not perceived as being a part of the mainstream population. And so in order to be effective, health care reform must be quite comprehensive.

I know that our committees on Energy and Commerce, Ways and Means, Education, all of these committees are working jointly together to come up with the kind of plan that the President is going to be proud of.

So, again, Representative FUDGE, I want to commend and thank you for the opportunity to be here, and I want to thank, again, my classmate who has led the charge, and that's Representative DONNA CHRISTENSEN, who, for so many years, has been the caucus' point person on health care. And we're going to make health care in this country a right so people will understand that it does not have to be a privilege. I thank you all so much.

Ms. FUDGE. Thank you, Mr. DAVIS. I just want to say that you have always talked of the need to make sure that we have community health clinics and how it probably does in many ways serve our communities better. I thank you for discussing that with us this evening.

Mr. Speaker, I would now like to yield to the person that we have all talked about this evening, our go-to person, our expert, our Chair, and the person that we really do look to as we tackle health care, and that is my colleague from the Virgin Islands, Dr. CHRISTENSEN.

Mrs. CHRISTENSEN. Thank you, Congresswoman FUDGE. I just want to add my word of thanks and commendation for the way that you bring us together every week on Monday evenings to discuss issues of importance, not just to the African American community or communities of color, but issues of importance to our entire country.

I want to thank my colleagues for their kind words. I did have the opportunity to visit with Congressman PAYNE in his district. It was a wonderful event, very well attended, and the people who came, I know, really benefited from what he and his staff and others in the community came together to provide.

And Congressman SCOTT, who's been working on SCHIP, but he also has worked tirelessly on another issue that's not always seen as a public health issue, but it is a public health issue, and that's the issue of juvenile violence among our young people, and

working to prevent that. We look forward to continuing to work with him on the PROMISE Act and other legislation that he has introduced.

Of course, Congressman DAVIS is my co-Chair on the Health Brain Trust, so I share all of the accolades with him, as he has long been working in the area of health care.

This weekend I had the honor of giving the commencement address at LSU Health Sciences Center in New Orleans, Louisiana. I want to recognize and congratulate the 546 graduates. As we look to health care reform, we're wondering where the health care personnel are going to come from. The LSU Health Sciences Center made a great contribution in doctors, nurses, dentists, health researchers, and allied health.

We commend them, and we commend them not just on graduating and completing their coursework, but I want to commend them especially because, for those who started about 4 years ago, as the medical students would have, and others, they started just before Katrina. Their school was devastated by Katrina. Some of them had to go to classes in other parts of our country to keep their coursework going.

But the LSU administration, faculty, and staff really pulled together when they had very limited help and support to bring their students back together and to see to it that they did complete their coursework and do great research and be able to move on to very promising careers in all of the fields of health.

So I want to congratulate them and commend them on that. It's good to see that they are now in the process of rebuilding some of the facilities there and continuing to grow and will be educating another cadre of young people and graduating another cadre next year.

I want to thank our chairlady for our steadfast commitment to the issue of the elimination of health disparities as well, as we heard her speak to it a few minutes ago.

I want to just highlight some of the key themes from a report that's often overlooked. It's the National Health Care Disparities Report that's done by the Department of Health and Human Services. They do it every year. It's done by the Agency for Health Research and Quality.

This is the report for 2008. It's amazing because it really is very similar to the report that Surgeon General Heckler did 25 years ago when she found that persistent disparities remain and, as she said, was an affront to the ideals of this country and the quality of medicine that we have here.

But three key themes emerge in the 2008 report: one, that disparities persist in health care quality and access; two, that the magnitude and pattern of disparities are different within subpopulations; three, that some disparities exist across multiple priority populations.

As they look at some of these highlights, some of the trends that we still see today in communities of color, for blacks and Asians, 60 percent of the core measures used to track access remained unchanged or got worse in that year. That's 60 percent for African Americans and for Asians.

□ 2045

For Hispanics, 80 percent of core access measures remained unchanged or got worse in 2008; and for poor populations, 57 percent of core access measures remained unchanged or got worse in that year.

So as we move towards health care reform, the issue of access and insurance is very important. As we begin that work when we get back from our Memorial Day break, it will be critical that we work arduously to remove the 46 million Americans off of the rolls of the uninsured and an additional 20 million Americans out of the category of being underinsured.

Studies confirm that more than 5 in 10 or 55 percent of Hispanics, and 4 in 10 African Americans were uninsured for all or part of 2007 and 2008, compared to just 2 in 10 or 25 percent in whites. Additionally, in total, more than three in every four people of color, 76 percent, were uninsured for 6 months or more in 2007–2008.

I agree with Congressman DAVIS that we will enact universal coverage before the end of this year and bring insurance to every person living in this country. But while eliminating uninsurance is critical, it's also important that we remember that health and wellness is about more than just having an insurance card.

Only about 20 percent of health disparities can be attributed to uninsurance. We have to ensure as well that health equity is an integral component of efforts not only to reform but to transform our Nation's health care system so that all Americans, regardless of race or ethnicity, regardless of whether you live in an urban or rural area, regardless of your gender or sexual orientation that you receive equitable and appropriate care every single time that it is needed.

The time to eliminate the current inequities in health and in health care is long overdue, and the evidence detailing the impact that they have had and continue to have on the health and well-being of Americans is staggering.

In fact, across every chronic condition and every acute disease, and across every measure of health care quality, racial and ethnic minorities, as you have heard this evening, are disproportionately more likely than whites to be on the downside and to be detrimentally affected.

In addition to eliminating uninsurance and achieving health equity with comprehensive health reform, we also have to ensure that we

identify the health policy that exists in every policy, and this is something that I want to just focus on for a few minutes.

We were reminded of this by a Dr. Ogilvie who spoke at our spring Braintrust a few weeks ago. From climate and urban planning policies to environmental and education policies, from housing and transportation policies, from employment and criminal justice policies, every week a new study is released that confirms that there is a health policy in every policy. So it's not a surprise then that by addressing the health repercussions of the policies that are not overtly health-related, we are more likely to champion policies that not only complement our health care reform efforts but that further improve the health and wellness of every person living in this country. And that's where we're also going to see some of those savings come about when we address health in a very holistic way, not just disease entities but the whole community creating cultures of wellness.

For example, a March 2009 report from Public Health Law and Policy explains, the human health aspects of climate change policy by focusing on food systems and land use planning, that is, health policy in every policy. In their analyses and recommendations, they note that because both climate change policy and public health policy ultimately seek to improve the lives of people, it is critical that they work towards complementary goals and in a complementary manner to have the greatest potential to create healthy and sustainable communities and neighborhoods.

You can take that into education if we don't have a strong educational system where every child has access to quality education. We know that poor education is also linked to poor health. We can never build the diverse workforce that we need if we don't have good K–12 education.

If you live in substandard housing, it's difficult to be healthy. If you don't have access to healthy foods, you cannot adopt those lifestyles that are necessary to improving and supporting good health.

And so insurance for everyone. Universal coverage is important. I will work hard with my colleagues to ensure that we get that done, as the President has asked, before we go out for the August recess.

But insurance is not enough. We have to reform the system. We have to improve the standard of living in our communities. And then with the insurance, with the improvements in the system, with the healthy communities, then we can ensure that every American will have access to quality health care, and our country will be a stronger and better country because of it.

Ms. FUDGE. Thank you so much again to our expert, Representative CHRISTENSEN.

Mr. Speaker, I would like to close this session by saying a few things. Dr. Martin Luther King, Jr. said, "Of all the forms of inequality, injustice in health care is the most shocking and inhumane."

Mr. Speaker, I come from the 11th District of Ohio, a place where arguably you can find the best health care providers in the world, but still people cannot see a doctor. There is something wrong with what is going on in America today.

Anytime we have a health care system that is more reactive than proactive, something is wrong in America today. Anytime we look at a health care system whose cost is rising so rapidly that our paychecks can't keep up, something is wrong with what is going on in America today, Mr. Speaker. If your health is determined by where you are born or the neighborhood you live in, something is wrong with what is going on in America today.

And I say to you that the members of this caucus are going to fight in every way we know how to ensure that every American, be they rich, be they poor, be they minority is going to have a right to have health care that is going to be not only affordable but is going to take care of their needs in a preventive way, in a cost-effective way and in a humane way.

Because right now if you can get to see a doctor if you are poor, they may make you sit in an emergency room for 5 or 6 hours. They don't really take you seriously when you come in with serious problems, and that is why we have all of these hospitalizations that we really shouldn't have because these issues should have been treated early on in the process.

So I say to you, Mr. Speaker, that as members of the Congressional Black Caucus, we are determined to make sure that by the time health care is approved in this country, every single person who wishes to have health care will have it. Every single person who has a job will be able to afford it. And for those who are not, we are going to take care of those people.

Now they can call it anything they want to call it, but government's job is to take care of its people. That is what we intend to do, and that is what we intend to help our President do. We are going to continue to fight as hard as we can to make sure that every American in every district we serve has health care.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, health care in the United States has degraded in accessibility and quality, to the extent that we are a nation in crisis. Fundamental change is needed to truly make progress toward a healthier America.

My experiences as a federal legislator—and as a nurse—have provided a unique vantage

point from which to discuss this issue. During my years as chief psychiatric nurse at the Veterans' Administration Hospital in Dallas, I have seen, first-hand, the state of affairs of our health care system.

When it comes to mental health, for example, our system is particularly weak. Insurers do not provide sufficient or consistent coverage of mental health care services. Individuals with mental illness must navigate a patchwork of community service providers. Those with severe illness often have limited options for care. They end up homeless and are victims of a system that does not work. Others may not have an employer who understands mental illness. Others may be unemployed, and uninsured; or they may work for minimum wage and earn "too much" to qualify for Medicaid. People with mental illness are among those least served by our local and national care systems.

We need relief from the harsh and unfair practices of the health insurance industry. We need a guarantee of quality, affordable health care for all of us. We need to set and enforce the rules so insurance companies put health care above profits. We must be able to keep the health care that we have, and in addition, we need the choice of a public plan, so we're not left at the mercy of the same private insurance companies that have gotten us into this mess.

It is my belief that we need not re-invent the wheel. We can achieve savings and improve value in our current systems of Medicare, Medicaid and CHIP—and make them available to anyone who needs coverage. Legislation like H.R. 676 makes a strong case for this policy strategy. Tonight I would like to share some good suggestions for health care reform. A study by the Commonwealth Fund analyzed policy options and their economic impact on health care costs. Five major strategies emerged, and I think these should be priorities.

First, we must extend affordable health insurance to all.

Second, we should offer financial incentives to reward efficiency and quality in health care that is provided.

The third strategy is to ensure that care is accessible, coordinated and patient-centered.

A fourth strategy for a high performance health system is that we must set benchmarks for quality and efficiency.

Last, a reformed health care system must hold national leadership accountable, and it must allow for public/private collaboration.

We can take the best of current models, and lessons learned, and use that to reform our health care system. Only then will we begin to reduce the health disparities that plague African Americans and other minorities.

Forty-six million uninsured Americans, including 5.7 million Texans, need health care coverage.

The time to act is now.

#### INEQUITIES IN THE RULES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the minority leader.

Mr. CARTER. Thank you, Mr. Speaker.

If you read this statement right here, Speaker of the House NANCY PELOSI on November 8, 2006 made this statement, which has been quoted quite a bit, "The American people voted to restore integrity and honesty in Washington, D.C., and Democrats intend to lead the most honest, most open, and most ethical Congress in history," November 8, 2006. That's a very, very noble goal, a noble goal that unfortunately doesn't seem to be being met by the majority.

I've been here on the floor of the House talking about ethics now and talking about basically right and wrong, stuff that anybody can understand, I think; that there are just certain things that really just by their very nature just don't seem right.

I credit the American people with an awful lot of common sense, and I think that common sense leads them to look at some of the things that go on in Washington and say, You know what, that doesn't make sense. That's just not right. Something's wrong here.

Generally when the American people are saying to themselves, That doesn't sound right, something's wrong, that's just not the way it ought to be, generally they've got a pretty good judgment of what they're looking at and what they're hearing.

It's been my—I wouldn't say duty—but the goal that I've taken on to try to point out some of these things. And I started off with a good friend, a gentleman named CHARLIE RANGEL.

CHARLIE is the chairman of one of the most important committees in the House of Representatives, the Ways and Means Committee, the taxation committee of the House of Representatives. I actually discovered when Mr. RANGEL spoke on the floor of the House about the fact that he hadn't paid taxes on a piece of Caribbean real estate that he owned for a long period of time because he just misunderstood that that was income to him and that he had submitted the unpaid past-due taxes and would pay any penalties and interest that might be assessed. But none had been assessed.

It just struck me, having been a small-town lawyer and a judge in a medium-sized suburban county, that that didn't sound like the IRS that most of my friends and neighbors were familiar with. Because most of my friends and neighbors were familiar with the IRS that when they just didn't pay on April 15 but paid on October 15 of the same year, they looked at their tax bill, and along with the taxes was interest and sometimes penalties. If they went longer than that, there was even more interest and even larger penalties.

It seemed to me when you're talking about something like 10 years I believe, but don't hold me to that—it was in double figures anyway—when you're talking about the years that Mr. RANGEL didn't pay his taxes, and it was in

the sum of, as I recall, it was about \$10,000 or \$12,000 that he had to pay. I don't remember the exact number on that either. But for there to be no penalties and interest, when somebody who pays their tax bill 6 months late, and they only owe maybe \$400, \$500, and they look down there and there's penalties and interest. I thought—and I think people listening to that would have thought the same thing—Well, that's not right. If everybody else is paying penalties and interest, why isn't the chairman of the Ways and Means Committee paying penalties and interest? Surely it's not because he's the chairman of the Ways and Means Committee and is in charge of overseeing taxation for the House of Representatives. Surely that is not the case. But if it is the case, then the rest of the world is being treated differently than Mr. RANGEL.

So I introduced a bill to this august body to create the Rangel Rule. The Rangel Rule is very simple. If you fail to pay taxes for whatever reason, and you're willing to pay those past-due taxes, but you don't want to pay penalties and interest—even if it's been 10 or 20 years that you haven't paid the taxes—just like Mr. RANGEL, you can claim the Rangel Rule, and you won't have to pay penalties and interest.

All you basically do is write on your taxes when you pay your taxes, "exercising the Rangel Rule," and then you will be treated the same as the chairman of the Ways and Means Committee, and your penalties and interest should be excused.

□ 2100

Now, a lot of people thought that was funny. And a lot of people caught on to it and thought it was a good idea. And it is still here looking for signatures on a discharge petition which is growing which would allow us to bring this to the floor of the House. But its real purpose was to have people who use common sense apply common sense to this issue and say, That is not right. That is not fair. And it put a spotlight on one particular incident that is not fair. But I have got three pages here of various people that have issues.

And then of course, in our current news, we have issues with the Speaker. So, we will get to all that as we go through this evening. But right now, I don't want everybody to think I'm just picking on Mr. RANGEL because quite frankly, there is a lot of other issues here.

And to start off with, we have the Secretary of the Treasury. Do you know that guy? That is the guy that has told us we need to spend these trillions of dollars to save the world. Well, the man who has spent us into the poorhouse almost didn't pay his taxes. Now, the difference between Mr. Geithner and Mr. RANGEL, in Mr. RANGEL's defense, is what we call the

"Geithner rule precedent." Even with solid evidence that a taxpayer was aware of their self-employment tax liability, was given funds specifically to pay their obligation and still consciously failed to pay, only interest should be assessed. Because Mr. Geithner failed to pay his self-employment tax, even though the people who paid him sent him the money in a check, \$30,000 worth, and said, Here it is. This is to pay yourself employment tax. And he didn't pay it. Now, I assume he kept the money. But he didn't pay it. And when he then was at that time being offered up as the nominee for the job of the Treasurer of the United States, he did rush down and pay that amount of money. But he didn't have any penalties assessed against him, even though, arguably, it is an intentional act, because he was specifically told, Here is the check to pay your taxes, and he didn't pay them. And it took the fact that the President of the United States chose him to be Treasurer to get him to pay those taxes. We don't know if he ever would have paid them if he hadn't come under the spotlight of this government. But when he did, he paid them.

And if anybody intentionally did something like that, you would think that there would be some kind of penalties about it. And yet all he had to do was, he did have to pay some interest, so that is why it is not exactly a Rangel Rule. But he didn't have to pay any penalties. And my gosh, if the ordinary citizen from Toledo, Ohio, just doesn't pay on the 15th of April and pays on the 15th of October, he will pay some penalties. It may not be a lot, but he will pay some penalties, and he'll pay some interest.

The question you have to ask yourself is, what makes Mr. Geithner so special that he doesn't have to pay penalties for intentionally not paying his taxes? And I guess the answer is it is because he was the second highest man in the Treasury, and now he is the Treasurer of the United States, and he is the man who is advising us on this massive spending program that this House has set forward before it in the last 100 days. More money has been spent by this House in the last 100 days than all the Congresses and all the Presidencies that have ever gone before put together on the advice of the man who was aware that he had to pay his self-employment tax because he got a letter telling him that which he had in his possession and he didn't pay it.

I think almost everybody thinks it is not right for somebody, because they have a government position, to be treated differently from somebody else. I think common sense in America tells us that is the right thing to do. The right thing to do is treat everybody the same. And just because you're a big shot doesn't mean that you don't have to pay your fair share and you

shouldn't be treated exactly like anybody else in this country. And that is what we have been talking about. So that is just an extension of the Rangel Rule.

We could stop there because I talked about this before. But there are others that need to be mentioned.

This is an article from The Washington Post, Federal funding funneled to Representative MURTHA's supporters. A Pennsylvania defense research center regularly consulted with two handlers close to Representative JOHN MURTHA, a Democrat from Pennsylvania, as it collected nearly \$250 million in Federal funding through the lawmaker, according to documents obtained by The Washington Post and sources familiar with the funding request. The center then channeled a significant portion of the funding to companies that were among MURTHA's campaign supporters.

This brought to attention another issue. This issue has to do with the fact that Representative MURTHA has steered millions of dollars to a group of people, contracts, to a group headed by a man named Bill Kuchera, who is a government contractor. And these offices of this firm, PMA, were raided by Federal officers on January 3 of this year. It says, this contact has very close ties to JOHN MURTHA. The agents were from the FBI, IRS and the Defense Criminal Investigative Service. They searched the offices of Kuchera Industries and Kuchera Defense Systems in three different locations in Pennsylvania. This is the same group that has contributed thousands of dollars to Mr. MURTHA's campaign.

Now, this is something that, at a very minimum, should be talked about by the Ethics Committee. I didn't mention that in the ethics report on CHARLIE RANGEL we were promised by the Speaker of the House, NANCY PELOSI, back when this all broke last fall, that the Ethics Committee would have concluded the investigation and cleared up the Rangel situation by the beginning of this Congress. So we all waited in anticipation of finding out if there was a solution to this issue concerning Mr. RANGEL. Nothing has come. And we have heard nothing, absolutely nothing, from the Ethics Committee.

The same thing, NANCY PELOSI has actively blocked seven resolutions that would require the Ethics Committee to form an investigative subcommittee that would look into the relationship between PMA-awarded earmarks and campaign donations with Mr. MURTHA. Why does she feel the need to protect PMA? Well, we have a body here called the Ethics Committee. And that Ethics Committee's job is to go look into these allegations against our Members and come up with solutions to that problem. Either they have violated the rules of this House or they haven't violated the rules of this House. Either

they have violated, more importantly, rules of the laws of the land or they haven't violated the law of the land. And if that is the case, the Justice Department should, I assume by this search that they had, be looking into this issue.

These issues need to be resolved. These issues prevent us from having the most open, ethical Congress in history and caused that rule to rest in peace. So that statement is now resting in peace in those two cases because nothing has been done.

And there is more. An organization got earmarks from Representative ALAN MOLLOHAN that gave free rent to a family charity. MOLLOHAN provided millions of dollars in earmarks to a group he helped to start, and that group gave the Mollohan Family Charitable Foundation \$75,000 in free rent, according to Roll Call newspaper on the Hill. The West Virginia High Technology Consortium has provided more than \$75,000 in free rent and administrative services to the Robert H. Mollohan Family Charitable Foundation according to the tax records while receiving millions of dollars' worth of earmarks from ALAN MOLLOHAN, Democrat from West Virginia, who serves as the family charitable foundation's secretary.

Here is a copy of The Washington Post article, upon taking control of the Congress in November of midterm elections, Democrats vowed to require lawmakers to disclose their requests and to certify that money they are requesting does not benefit them. Another key Democratic reform requires House Members seeking earmarks to certify that neither they nor their spouses have any financial interest in the project. In the Democratic Congress, pork is still getting served. That is from The Washington Post, May 24, 2007.

And then, West Virginia charity got rent deal, Roll Call, March 10, 2009. The West Virginia High Technology Consortium has provided more than \$75,000 in free rent and administrative services to the Robert H. Mollohan Family Charitable Foundation while receiving millions of dollars of earmarks from ALAN MOLLOHAN.

Now Mr. MOLLOHAN says that this is perfectly legitimate. And do you know what? It might be. It might be. But that is not for us to judge.

Once again, if you are trying to have the most open, ethical and honest Congress in the history of the Republic, then when you have questions raised like this, there should be a place you go to resolve those questions. To me, at least the starting place is the Ethics Commission and the Ethics Committee. And yet here we are. There has been no ethics investigations that we know of launched to look at these allegations.

I think the American citizens ought to look at this and say, well, why not?

If in reality this is innocent and there is nothing wrong with it, then why couldn't it be brought before the Ethics Committee and they can tell us this is perfectly all right, normal behavior to give large amounts of earmarks to a company and then get free rent for your charitable foundation. Maybe it is perfectly legitimate. I don't know. But if you listen to that, and you think of the most honest, open, ethical Congress in the history of the Republic, then you would say, something needs to be resolved about this issue.

And really that is what we are about here. We are saying we want resolution. We want someone to look into these matters, and let's be what NANCY PELOSI has promised us we would be.

I would like to say that was all. But there was also this issue recently. Representative MAXINE WATERS pushed for a \$12 million TARP giveaway to One United Bank. WATERS' husband is a stockholder and member of the board of directors of that bank. Daughter Karen Waters and her firm have made over \$450,000 charging candidates and ballot measures sponsors for endorsements for Ms. WATERS. And L.A. County supervisor, Yvonne Burke, supported a measure to lease the Chester Washington Golf Course to American Golf, owned partly by Representative WATERS' husband and son after WATERS supported Burke in her campaign. All these allegations came out in the Los Angeles newspapers.

Now, there may be absolutely nothing to this. We don't know. But you ask yourself, does it sound like there is nothing to it? Because what I failed to say was part of that article was that it is a clear indication that Ms. WATERS used influence to get them to look at giving TARP money to One United Bank. And doesn't that talk about benefits to House Members or their spouses, any financial interest in the project?

I would argue if that is the rule passed by the Democratic Congress, the ethics rule for this Congress, imposed upon themselves and others, shouldn't we follow that rule?

□ 2115

Doesn't it make sense? Doesn't it make sense to say let's get answers to that question? I don't understand why that also is not something for the Ethics Committee to report on.

Rahm Emanuel, a former Member of this body, now the, some would argue, the number two man in the White House, the man who has President Obama's ear, he got free rent from ROSA DELAURO, who is also a Member of this body, by living in her basement in an apartment. I mean, you know, I am sure it was a nice place, for 5 years. Rent free.

Now, you say to yourself, Well, isn't it all right for one Member of this Congress to allow another Member of this

Congress to stay in their place if they want to and not charge them any rent?

I would say, yeah, I don't really see anything wrong with that. But then, if you knew that Ms. DELAURO's husband was a lobbyist who regularly lobbied this Congress, then all of a sudden you have got to say, wait a minute. Now we're talking about this rule right here, these requests, and spouses and Members and financial interests and interest in lobby events in this Congress.

And, you know, the lobby right now, they are the enemy of the state as far as we hear around this place all the time. These are the most horrible people on Earth we hear from people around here. I don't agree with that. They're human beings just like anybody else and they're doing a job, but those who aren't doing it properly are an issue for this Congress. And I would argue that that ought to at least be looked into.

No action has been taken by the Ethics Committee, and when Rahm Emanuel was put on as Chief of Staff to the President, the Ethics Committee said it now has no jurisdiction over him. So I guess if there is an issue there, it's gone away by moving from the legislative branch to the executive branch. But just because you move doesn't make it right. It's an issue that ought to be answered to.

And it may be absolutely positively nothing there, but what do you think? What do the Members of this body think? Does it sound like it ought to be looked into? Does it sound like it ought to be questioned? Does it sound like something you would like to know the answer to? Because, let me tell you, I can almost take judicial notice of the fact that rent in Washington, D.C., it's not cheap. And so if he's getting rent every month for 5 years, I would say, I don't know what the place looks like, but I've shopped around for those basement apartments. I rented a room with a microwave for a thousand dollars a month. Others rent those apartments down in the basement of people's townhouses around here for anywhere from \$1,500 to \$1,800 a month, times 5 years. That's a pretty decent gift. That's a pretty decent reward.

And it wouldn't be bad if it was just a Member of this Congress, but it is the lobbyist spouse who also is giving that gift, and it ought to be talked about. It ought to be looked into.

We say that we don't want to have conflicts of interest in this House. We want to disclose those conflicts of interest. Anyway, you are supposed to disclose what you're doing. Here. Disclose the requests and the money being certified and what you do.

Now, Hilda Solis served, who has now been appointed to the Labor Department, Secretary of Labor. She was the treasurer with fiduciary duties for a labor organization, in direct violation



of House Ethics Rules. Her group lobbied Congress and took direct action in elections under all her fiscal approval while serving in Congress.

Her husband failed to pay taxes, even after the IRS liens, for 16 years. And I guess the shift to the executive branch is the solution to that problem, but it really ought to be the Ethics Committee's job. But once again, now that she's Secretary of Labor, the Ethics Committee has no jurisdiction over here. But does that make it right? Does that make it not—does that make it okay to do that? Is that the kind of government that our President promised us he wanted to have? He was going to have the kind of a government that we could be proud of; and yet this lady, in violation of House rules, represented a labor group that lobbied this Congress, and she was part of their executive committee and didn't report it, and now she's Secretary of Labor and all is forgiven. And yet she's right where the conflict was, if there was a conflict. I mean, doesn't that make sense to anybody that that ought to be looked into by somebody?

We had an ethics issue down in Florida, and it caused one of the Members of this House, rightfully, for other reasons also, to lose the election. Tim Mahoney, the Democrat, we learned through the press and from his own lips, paid off a mistress that he had with Federal funds so that she'd keep quiet. He is accused of using these taxpayer Federal funds to pay a former staffer and his mistress. The Speaker of the House refused to take action. Florida voters told her she was wrong and kicked him out.

Compare that to the pledge. The Ethics Committee took no action. He was voted out of office after one term. The people took some action. So maybe that's where we are today. Maybe that's the only place we get recourse is from the people of the United States. They have to step up.

You know, we took a big battering as a party. I was very offended, as were many Members, when we were accused of all being part of a culture of corruption. You don't hear me accusing every Democrat in this House, because of these people on this list, being part of a culture of corruption. There are good-hearted people on that side of the aisle who are doing the right thing, and I don't think it's fair for anybody to step up and classify a whole party because of the issues of some.

But I do think that when those issues come up, it's the duty and responsibility of that party to make sure those issues are resolved. We resolved ours. Many people resigned. Many people didn't run for reelection because of issues that came up, and here we are with these issues.

And then finally, once again, resting in peace is the most open, ethical, honest Congress in history, and that very

noble phrase basically died between January 4, 2007, and February 10, 2009. And it died because of all these issues not resolved by this House, not resolved by its Ethics Committee, not resolved by the Justice Department if it is applicable. And when you come out of a world of right and wrong and you try, to the best you can—and people make mistakes. You know, some of these things could be mistakes. I want to make that very clear.

But these are the kinds of things that others have been accused of being part of a culture of corruption, and those issues were resolved. These issues go unresolved, and the leader who set the standard, who has told us that these things would be resolved, has not only not resolved them, she has been a stumbling block for resolving these issues.

And now, that brings us to an issue that we have with the Speaker. Speaker NANCY PELOSI is having an ongoing war with the CIA. I think most of the country is aware of that, and it has to do with accusations and allegations concerning what some call torture and others call interrogation practices with those people who are, have been held in Guantanamo or other places as potential terrorist enemies of our state. And the issue, of course, that makes the front page is waterboarding. Whether it's good or evil, whether it's torture or not torture is not what we are talking about today. That's for—I think each of us has our own opinion about that.

I think the real issue here, the issue we have to resolve, is that the Speaker of the House has attacked unmercifully this entire operation and all of these things to do with the—who got told what about this interrogation practice. And she denied vehemently that she had ever gotten any knowledge of these extensive interrogation tactics. And she's just really stood up and in no uncertain words said, I never knew about it.

Well, the current CIA director, the current Democrat CIA director who was appointed by President Obama, has released information to the fact that Ms. PELOSI was, when she was the minority leader and in the minority, she was in the room when these interrogation methods were discussed and that there are notes to show she was there. And she has said—she's basically taking the position that the CIA is not telling the truth. Some say either Ms. PELOSI's not telling the truth or the CIA is not telling the truth. That's kind of where we are.

But truthfulness, public statement truthfulness is what we would expect from a Speaker who tells us this is going to be the most open, ethical, and honest Congress in history.

I don't know. I think most everybody comes from a part of the world sort of like mine, honesty means telling the truth. And I think at your parents' or

your grandparents' knee, they would tell you, You be honest. You tell the truth.

I have told my children, when something was broken or something happened. Now, you be honest and you tell me the truth, because if you don't, it will be worse on you than if you did tell the truth. And I believe they will testify to that fact. Because the truth is just, that's something we instill in our children. We hopefully all do that because, quite frankly, truth and honesty is a goal we set for ourselves as Americans. We set the goal for ourselves as a Nation to be an open, honest Nation. And we do that by raising the next generation, hopefully, to understand the difference between telling the truth and not telling the truth.

□ 2130

I don't like the word "lie" or "liar," and I'm not going to use it. Others might, but I'm not. I will tell you that you are not honest if you are not telling the truth. It comes down to: Is this CIA telling the truth or is the Speaker of the House telling the truth?

Now, why would somebody go off on this in such a big way? Well, I don't think I'm going off on it in nearly as big a way as are some of the people in the press right now. Let's wake up, folks. The reality is we're talking about a person who, through a series of horrible disasters, might end up being the President of the United States, an unelected President of the United States, because if something should happen to the President or to the Vice President, God forbid, the Speaker of the House stands in line to be the President of these United States. The Speaker of the House of Representatives is an important, important position.

This issue of truth plays on how we want this place to operate and who we want to be. Do we want to talk to each other straight, tell each other the truth, look each other in the eye, give our word, and keep it? When something happens, do we want to tell them, yes, it happened or, no, it didn't happen, and it's the truth? How do 400-plus people get together and try to work things out and keep saying, let's all work together, if we don't talk honestly to each other?

So it's either the CIA—the agency that is in charge of intelligence for this Nation—or it's the Speaker of the House. They're both important. I would allege the Speaker is more important even though the duty of protecting this Nation by National Intelligence is really what has kept us safe for these last 8 years since the attack on 9/11. Even so, as for the Speaker of the House, who is standing in line to be President should a disaster strike this Nation, I think the truth should be part of what comes from her lips.

So this needs to be resolved. The American people have a right to know.



This Congress has a right to know. We have a right to know all that we can about those meetings where enhanced interrogation was discussed, whether it was at one or whether it was at 50. I don't know how many it was discussed at, but I know it has been clearly stated by the head of the CIA that at one Ms. PELOSI was present, and it was clearly stated that enhanced interrogation was being used.

So I guess the best, real title to this discussion we are having these days is: Let's get to the bottom of it. Let's get to the bottom of this stuff. Let's get through it and find out what the truth is. Let's lay it out before the American people, and let's let the cards fall where they may. That's what I think ought to happen.

As a solution finder for 20 years, everybody who comes into the courthouse is looking for a solution to their problems. You hope most of the time you're right, and sometimes you might not be right, but your job that day is to try to solve that problem to the best of your ability under the law.

We owe a duty to this wonderful body, to the greatest legislative body ever created on the face of the Earth. We owe a duty to this great bunch of folks out there—we call them Americans of all sorts—that this government speaks the truth.

I am really pleased to see my friend MARK KIRK join me. I am going to yield such time as he would like to use. He is a very intelligent man about the military in general, so I would like to hear his comments.

Mr. KIRK. I would just like to raise this point:

As you well know from criminal law—and I think the code is section 5, U.S.C. 1001—lying to Congress is a felony. So the question will be: Will criminal charges be brought by congressional officials against CIA briefers for lying, as they've said, which is a felony—then we can expose that record, have a criminal investigation and possibly a trial—or are these empty charges and no criminal process will be put forward because there were no crimes, and the Speaker will not be able to back up what she said on national television, and will not come forward with any potential felony accusations? It seems clear to us that she won't, and that puts quite a light on the statements that she made before the country.

I yield back to the gentleman.

Mr. CARTER. The gentleman raises an excellent point, and that's just what we've been talking about here. I thank the gentleman for reminding me of that fact. In reality, that testimony is treated under oath, and lying to Congress carries penalties. If the CIA is lying, as Ms. PELOSI seems to be alleging, then, quite frankly, we ought to look into it. I mean, the one thing this body should do is enforce the laws of

this land. So I thank the gentleman for reminding me of that.

As we've been talking here today about solutions, that would be one solution, to bring this to light. It's all about sunlight. You know, sunlight is purifying, and if you put the light of day on things, we generally get the answers to questions we have. All of the things I've talked about today, all of them, just need sunlight on them. Maybe they'll all clear up, but we've got to have somebody asking for it, and that's what I've been doing these last 6 or 8 weeks.

I see my good friend from Texas, a fellow judge and fellow Congressman is here, LOUIE GOHMERT. He is one of my very dearest friends. I yield such time as he would choose to consume.

Mr. GOHMERT. Well, I appreciate both of my friends' comments here tonight. As always, they are very thoughtful.

These are serious issues. As a former judge, like my friend from Texas, when you hear serious issues and serious allegations, you know that somebody lying, it's a serious allegation. So you look for evidence. Is there evidence to show maybe so? As my friend from Texas knows, as a judge, the rules of evidence don't allow prior activity to be introduced as evidence of what happened in a later activity unless it rises to the level in some cases of habit where it's sufficient to possibly avoid that rule. So, anyway, I've been looking for indications that, maybe, you know, it's something else.

We had the printout from some of the information on the Speaker's Web site in the last Congress, and the statement was made that our goal is to restore accountability, honesty and openness—very much like the 2006 statement—at all levels of government, and to do so, we will create and enforce rules that demand the highest ethics.

Of course, my friends have pointed out situations that didn't necessarily meet that test where, clearly, there were ethical violations that were alleged that needed to be investigated. Each time those were brought up, they were tabled. They were not allowed to go forward. So do you think this was a lie—and I ask rhetorically—when it says that we're going to enforce the rules that demand the highest ethics from everybody here? I would pose the possibility that maybe she forgot that this was the promise originally.

If you look at another statement, it says that bills should be developed following full hearings and open subcommittee and committee markups with appropriate referrals to other committees. Well, I mean, you can look at so many of the bills in the last Congress. In fact, most of the biggest bills, when they involved money, didn't go through full committee markup in the regular order of things.

Look at the stimulus package: \$800 billion. It was the biggest spending

stimulus bill of any kind that just dwarfed by 500 percent the one that I was against that President Bush did. I mean, it's incredible. There were no subcommittee or committee markups. There were no amendments that were allowed, but it says here that bills were supposed to be developed with full hearings, with open subcommittee and committee markups and with referrals to other committees.

Then it went on to say that there should be at least 24 hours to examine a bill prior to consideration at even the subcommittee level. Well, there wasn't even a subcommittee level. They rammed that right through the floor and down everybody's throats. So you could say, well, was this a lie then? I don't think so. I think they forgot that this was what they promised. I think this was just a mistake. They forgot.

Then it goes on to say that bills should generally come to the floor under a procedure that allows open, full, fair debate, consisting of a full amendment process. Now, like the stimulus package, it didn't come to the floor with any chance of amendments on the stimulus package. It was take it or leave it. It got rammed down our throats.

You say: So was this a lie? Not if they forgot that they made these promises. I pose that as another possibility. Maybe they just forgot that they kept making these promises, including right up to the election in November of 2006 and again in 2008. There was no full amendment process as promised here.

Then it goes on to say, though, that the minority would be granted "the right to offer its alternatives, including a substitute." Well, there was the biggest spending bill in history like this, and there was no opportunity for a substitute. There was no opportunity for alternatives. So would you say they were lying? I think you could say they forgot that they had made those promises.

Then it goes on to say that Members should have at least 24 hours to examine the bill. As we'll recall, it was put on the Internet at around midnight, and the next morning we were voting on it. We were debating and voting. There was no alternative. There was no substitute. We just had to go with that bill. We could fuss about it, but the bottom line was it was going to be rammed down our throats. I think maybe they had forgotten that they had promised that we would have 24 hours.

The President made promises about how many days the people would have to review this on his Web site. I don't necessarily think he was lying. I just think he forgot that he promised. With the stimulus, we were told that it had to be signed immediately. We didn't have time to have 24 hours. It had to be done. People were losing jobs every

day. It passed the House over much of our fussing about it, and then it went to la-la land for 4 days because the President wasn't going to sign it until he had an adequate photo-op in Colorado 4 days later. According to what we were told, people were losing jobs every day, and it had to be passed immediately. I think, during those 4 days, they forgot that people were losing jobs every day, and they forgot that they told us they had to pass it immediately. That's why they took so long to do that.

It goes on to say, too, that conference report text prior to floor consideration would be provided. Well, as my friends know, in the last Congress, they came up with a way to go around conference committee reports where, if the Senate has one version and the House has another version, then under the rules, you have to go to a conference—to a bipartisan, bicameral committee. They didn't want the Republicans in the House to have any say in that, so they secretly met and worked out a compromise without having a conference as the rules required. Then they rammed that down our throats but not as a conference report. I think they forgot that they made that promise as well.

Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day. With the biggest bills, that's not done. I think they forgot. I think they forgot.

We were also told on the current Web site of the Speaker's of honest leadership and open government. The culture of corruption practice under the Republican-controlled Congress was an affront to the idea of a representative democracy, and its consequences were devastating. See, we'd been told about all of the bipartisanship that was going to be taking effect once the Speaker was in power. This is on the official Web site. It's just a slam at the Republican-controlled Congress. I think they forgot they were in the majority. I think they forgot, and that's why they're still making political statements. This isn't bipartisanship. These are mean, partisan statements here. I think they forgot. They're in control, and there's no reason to be partisan when you're in control.

Another statement: The American people demanded not just high ethical standards but also transparency. Well, there have been requests to come forward and to disclose everything, and things have come out. They aren't transparent. We've asked the administration: Tell us what were the benefits of the waterboarding. There has been no transparency there. There has been no request from the Speaker to have that kind of transparency. I think they forgot that this was a promise that there would be this kind of transparency and disclosure and accountability.

□ 2145

That is also promised on the Web site. I think they forgot. They made those. So it may not be lies that some would assert—and I'm certainly not willing to assert that. I think they forgot. And this final statement—and I appreciate the yielding—but on the Speaker's Web site it says, Led by our newest Members, House Democrats have acted to make this Congress the most honest and open Congress in history.

I think they forgot they made that promise.

So I think by my friend from Texas taking the Special Order time to remind us of the promises that were made, perhaps that will jog the memory and we'll be able to get back to complete some of these promises that were made. So maybe it's just a memory problem. Memories. How about that?

Mr. CARTER. Reclaiming my time.

I'm reminded of when I was in law school. It's a beautiful spring day and the baseball team was playing off in the distance. And the professor called on every member in the back row to respond to a case, and every one of them stood up and said, I'm unprepared, Mr. Fritz. And when he finally went all the way across the back row of the auditorium, he said, Everyone stand and look around. You're seeing the greatest concentration of ignorance in the history of man.

Maybe we're witnessing the greatest lapse of memory in the history of this Congress, because if you give them credit for forgetting, they sure have forgotten a lot. And I thank the gentleman for pointing that out.

There are those that say that the way politics should work is you tell people what you're going to do in the campaign, and then you do it, and then you tell them what you did to get elected the next time. Of course, the new modern world is you tell them over and over and over what you're going to do, you don't do it, and you tell them over and over and over that you didn't. Maybe that is where we are. All of these things are curious, but the reality is, we raised enough issues here tonight that we don't meet anywhere close to this standard.

I want to ask the Speaker how much time we have left.

The SPEAKER pro tempore (Mr. MINNICK). Six minutes.

Mr. CARTER. Thank you.

I thank my friend from Texas, a wise counsel, to look at that and decide maybe it's not that we're not having any untruths here; maybe we're just having a gigantic lapse of memory by the leadership of this House, the Democratic leadership of this House and possibly some of its participants. But I don't think all of the participants. There are open, honest, ethical men and women in this House. I think their

voices all should be heard on both sides of the aisle.

Resolve these issues, Madam Speaker. Make the Ethics Committee work. Make your office work. Follow the rules and procedures. As Mr. KIRK says, if we have the top leader of the House of Representatives saying a Federal agency has lied to Members of Congress and to its leadership, then file charges and let's go take them to task on this and find out if they did lie, and then let's open the pages of the books and let's look at the events and let's decide.

The burden of proof will be on the state. That is fair. Our Founding Fathers created that. They don't have to defend themselves other than sit there if they want to. But the state has to prove that they are lying. But if someone is accusing them of untruth—because I just used a word I swore I wouldn't use—then the law says telling a falsehood to Congress is an actionable offense, as Mr. KIRK pointed out. Let's take that action. If the CIA has been lying to this body, let's take them to court. Let's find out. Let's have a hearing before this body. Let's find out and let the sunlight, the purifying sunlight of day shine upon this issue between the Speaker of the House and the CIA.

And by the way, the CIA director appointed by President Obama confirms what other CIA directors and other Members of this Congress who were present said, that there was a briefing. Maybe it's part of Mr. GOHMERT's famous memory lapse or just forgotten. Maybe that is the defense to all of this we've talked about. Maybe all of these issues we raised, the solution is, I forgot. Maybe with all of the ethics issues that have been raised before this Congress, someone would think could be resolved by, I forgot that was a rule. It's not the way it works, and that's not the way it should work.

We've got issues before this Congress that are issues that divide this Nation. We are about putting back this Nation together, not dividing it. That is what our President has told us. We, in this body, are about putting this body back together in a healthy way. The noble statements made by the Speaker are only noble if they're carried out. But if they're only words—we hear lots of words around this place. There is more than just words involved in everything we do. There is action. Let's resolve these issues. That is all I ask. That is all the Members of Congress ask. And I think that is all that the American people ask. Let's resolve these issues.

I guess the ultimate resolution will be at the polling place, but that is not really the solution we should have. There should be more pride in this institution than having to settle it at the ballot box. That is kind of like settle it out in the street in Gunsmoke. That is not the law we want to have in this country. Let's settle these issues.

I thank the Speaker for his patience, and I yield back the balance of my time.

#### HEALTH CARE AROUND THE GLOBE

The SPEAKER pro tempore (Mr. MINNICK). Under the Speaker's announced policy of January 6, 2009, the gentleman from Illinois (Mr. KIRK) is recognized for 60 minutes.

Mr. KIRK. Mr. Speaker, when I returned home from Afghanistan, I have been spending the last several months on the health care issue and the need for reform in this country.

Before being elected to Congress long ago, I used to work for the American Hospital Association as a young researcher in their hospital research and educational trust. Now, with the service in the Congress and this background, I have been working for several weeks now intensively building a bipartisan and centrist agenda for health care reform. Our base for this is the Tuesday Group, 32 centrist GOP moderates, which I co-Chair along with Congressman CHARLES DENT. Tomorrow, we will outline a detailed health care reform agenda with 70 representatives of patients, doctors, hospitals, employer and insurer groups.

Our President has set three top goals for health care reform: to lower costs, to increase choice, and to expand access. But what model should the Congress use in providing the reform that our country needs?

I want to talk tonight to provide some details on key issues that we are facing to review comparisons of health care systems in the United States and among our key allies and then to discuss detailed centrist, bipartisan solutions that we could put forward—especially in Senate health care legislation—that could make its way to the President's desk.

First, on the details. Our system is built largely on private health care for people under age 65, and we have seen a tremendous explosion in defensive medicine. Defensive medicine is driving costs up in our country probably faster than other countries because, as you can see from this chart, the cost of defending across a lawsuit has been rising steadily in recent years, and this is unique to the United States. This chart alone shows that especially for obstetricians, gynecologists, and neurosurgeons, the need is clear for lawsuit reform to restrain the growth in medical costs, especially in health insurance.

This chart shows a comparison in the critical issue, which I believe that our top focus is not in health care costs but in health care outcomes. The question should be whether you live or die in the system first, then how much does it cost.

When we look at, for example, patient-reported health care outcomes in

pap smears and mammograms, we see stark differences in coverage for Americans and in other countries. Here you see pap smears in the last 3 years, women aged 25–64, 89 percent coverage for the United States; but among our British allies, only 77 percent, and probably the key model that many in Congress are looking at, Canada, falls well below the United States.

Also in mammograms, key for long-term health status among women in the United States, 86 percent coverage for women aged 50–64, and much lower across the board in more status, government-controlled health care systems.

We also looked at a key fact in health care, which is health care delayed is health care denied. The problem with waiting times is present in the United States, but it's much more acute in other countries. When we look at patients who waited more than 4 weeks to see a specialist doctor, we see in the United States it's about 23 percent, 1 percent better, actually better, in the German Republic. But in the principal cases of Canada and the United Kingdom, which offer so many examples to many in this Congress for the kind of health legislation they would like to put forward, waiting times are double what they are in the United States. That means that the health care that they provide would be much poorer than for our country, especially during a long wait.

This chart shows even a more serious situation. It shows the percent of patients that had to wait more than 4 months for health care. In the United States, just 8, even slightly better in Germany, but when you look at Canada, and especially the United Kingdom, now reporting 41 percent of patients who have waited more than 4 months for health care.

Health care outcomes are distinctly different for the United States and other countries, especially with breast cancer incidents. This chart shows mortality per 100,000 females of breast cancer, and it shows that the United States actually has the best numbers compared to Canada and the United Kingdom at 28 for the U.S., 29 for Canada, and 34 for the United Kingdom.

When we look at high-tech medical procedures in Britain, Canada, and the United States, the critical procedures necessary to actually survive key bits of morbidity are not available in Britain and Canada as compared to our country. In dialysis, and I speak especially as the co-Chair of the Kidney Caucus here in Congress, we can see access in Britain is far lower than in the United States. For coronary bypass, the United States is clearly much better. And in coronary angioplasty, we are significantly, by almost a factor of 6, better than other countries.

One of the key differences between the United States and other countries

is people ask, Why do we spend so much money? Why do we have, in some areas, lower health outcomes? And part of it might be the health practices of Americans themselves.

This shows obesity across countries, and we know that, in general, Americans will be heavier than people from other countries.

□ 2200

And that leads to higher health care costs. The question is whether building a large State control which will restrict access to health care is the way to go, or whether a program, I think, that would have strong bipartisan support to encourage a reduction in obesity would be the more appropriate stand.

When we look at how to address health care needs, that is primary through health insurance. Health insurance currently in the United States is governed by the States. Some States have a fairly modest threshold for offering health insurance and therefore their health insurance costs would be expected to be fairly low. Other States would have extremely high mandates for health insurance, making it more expensive. As you can see here, the pattern differs, and it sets up a way for Federal officials to compare outcomes of health systems in our countries.

Probably the biggest difference that we see is in the difference of health care costs between New Jersey and California. In New Jersey, we see that health care costs are totaling \$6,048 per patient, whereas in California they're down to \$1,885. That roughly \$5,000 difference is a tremendous barrier to access for medium- and low-income persons in New Jersey that is not present in California.

It should be the policy of the United States to remove barriers so that we can offer low-cost insurance like what is offered to the people of California and not have a highly regulated, high-barrier system, like New Jersey, prevail for the United States.

When we look at the uninsured, a number of people look just at the overall number, totaling \$37 million in 2002, totaling \$49 million just afterwards. Obviously, with the recession that's going on, the number of uninsured has been rising. But we ought to look a little bit deeper as to who the uninsured are.

As this data shows from the National Survey on America's Families, we see that out of the 49 million uninsured, 22 percent were uninsured for just less than 5 months. Another 25 percent were uninsured for 6 months to 11 months. Roughly half were the long-term uninsured—over 12 months—that I think is very appropriate for Federal policy to look at.

As you can see, this problem might be somewhat smaller than originally estimated. Also, when you look at the

uninsured, you have to ask the question: Can people access or do people have a problem accessing health insurance because they can't afford it? Or, for some, is it because they simply have decided not to pay for it?

When we look at the uninsured by household income, we find that 19 percent are over \$75,000 in income, who really should have paid for health insurance on their own with that kind of income. That is above average for the United States. Eighteen percent, \$50,000 to \$74,000. Then, for the modest- and low-income, we see roughly 60 percent. Especially for the plus-\$75,000 income, we ought to ask: Should the State, should the taxpayer be paying for their health insurance, or should we instead look for them to make some of their own decisions?

When we look at the very low-income uninsured, obviously we have a number of programs already addressing the needs of low-income Americans. This chart shows that a considerable number of low-income Americans are already eligible for public coverage. But as we have seen, for example, in the State of Massachusetts, for some of the very hardest to insure, with unsteady addresses, sometimes registering in the emergency room under different names, an insurance model may not be the best way to care for this group of people, our fellow citizens. A better way may be the public hospital approach that can take anyone at any time, for a community in the 1 percent to 2 percent range that is very difficult in keeping solid addresses, solid identities, or keeping appointments.

When we look at the uninsured and how much the Federal Government already pays, by one estimate in 2004, the Kaiser Commission on Medicaid and the Uninsured estimated that we already commit about \$35 billion on coverage for lower-income Americans. And the question that we may ask, which may not be fully explored in this Congress, is: Is that sum of money substantially above the gross domestic product of many of the members of the United Nations? Is that sum of money being wisely used already, or is there a system which would provide a more flexible and effective coverage for low-income Americans, which would in fact return a considerable amount of authority and power to them in making their own health care insurance decisions?

Now, in briefly reviewing the key details and issues before us, I want to also compare health care in the United States to that in other countries, especially the two principal models that many here in the Congress are looking to, Canada and the United Kingdom, for what they can tell us about how health care could be changed for the better or the worse in the United States.

In my view, our country should work towards providing a universal access to

health care. While a nationalized government HMO could prompt tax increases, inflation, and a decline in quality, I think this Congress can enact policies to dramatically expand health care access for Americans.

When we reform health care, in my view, we should follow key principles, first and foremost, that reform should enhance the relationship that you have with your doctor. Insurance companies already interfere too much with our care. But a government HMO might do far worse.

Second, reforms should reward the development of better treatments and cures. Americans strongly support treating diseases like diabetes, heart disease, or cancer, but they are passionate about a cure.

Finally, reforms should be sustainable, because especially the sickest and most elderly of our citizens will depend for their very lives on these reforms.

The worst thing that we can do is to enact a health care program that the Federal Government cannot afford to keep. In considering United States health care reforms, many Americans look to Canada and Britain as our model. But Canadians have a very different view.

While over 60 percent of Americans are actually satisfied with their health care plan, only 55 percent of Canadians report the same satisfaction. Over 90 percent of Americans facing breast cancer are treated in less than 3 weeks, but only 70 percent of Canadians get such treatment. Meanwhile, thousands of Canadians come to U.S. hospitals instead.

The average Brit waits even longer—62 days. And Britain now has fewer oncologists treating cancer than any other Western European country. It may be no wonder that Britain ranks 17 out of 17 industrialized countries for surviving lung cancer.

Similar statistics tell a tale of lower quality care for coronary heart disease, where 94 percent of Americans are treated, versus 88 percent of Canadians; or emphysema, where 73 percent of Americans are treated versus just 53 percent of Canadians.

The most dramatic differences come in the field of cancer, where Britain's most respected medical journal, *The Lancet*, published the details of a very broad review of cancer and its survival rates in Europe and America. In short, here is what the *Lancet* reported:

The cancer survival rate for American men in September of 2007 was 66 percent. For European men, just 47 percent. The cancer survival rate for American women was 63 percent. For European women, just 56. Of the 16 cancers studied, only Sweden showed survival rates that were close to the American rates, but still well below our level.

We know that diabetes is one of the principal causes of senior health care

problems. In the United States, 93 percent of Americans are treated within 6 months, while in Canada, less than half—43 percent—see a doctor in the same time. In Britain, it is even worse. Only 15 percent of British diabetics are seen within 6 months.

□ 2210

Over 80 percent of American women receive a mammogram, while only 73 percent of Canadians receive one.

Hip replacements offer a very stark contrast between the countries. In the United States over 90 percent of seniors are treated with a hip replacement within 6 months. In Canada, less than half of patients are treated in the same time, but many Canadians wait for a hip for over a year. Britain is not the place to break a hip because only 15 percent of patients are treated within 6 months, and many die during the wait.

Many advances of 21st century medicine come from MRI scans. Most Americans wait less than a week for an MRI. Most Canadians wait for over a year. In the United States, doctors use 27 MRI scans per million people. In Canada and Britain, it's less than a fifth of that at just five MRI scans per million.

The care for children also varies. Newborns most at risk need the close care of a neonatal specialist. In the United States there are over six neonatologists per 10,000 live births. In Canada they have fewer than four, and Britain has fewer than three. In our country we have over three neonatal intensive care beds per 10,000 births, just two and a half in Canada and less than one in Britain. It may be no wonder that babies in Britain have a 17 percent higher chance of dying compared to 13 percent a decade ago. Overall, the life expectancy of a British woman below the poverty line is falling.

The starkest difference in care between the countries comes when you are the sickest. In Britain, government hospitals maintain just nine intensive care beds per 100,000 people. In America we have three times that number at 31 per 100,000. In sum, Britain has less than two doctors per 1,000 people, ranking it next to Mexico and Turkey.

Even dentists are in short supply. The average American dentist sees 12 patients a day while the average British dentist must see over 30.

Stories of poor care under a government-only system are common in Britain. Last February, the *Daily Mail* reported Ms. Dorothy Simpson, age 61, had an irregular heartbeat. Officials at the National Health Service denied her care because she was "too old" at age 61. The *Guardian* reported in June that one in eight British NHS hospital patients wait more than a year for treatment.

We know that governments regularly run out of money, and this can have a real impact if they are in charge of you or your family's health care. Ontario

canceled funding for childhood immunizations, routine eye exams and physical therapy services when they ran out of money. Government unions also regularly go on strike. In British Columbia they had to cancel 5,300 surgeries during a health care worker strike. The Fraser Institute, an independent Canadian research organization, reported that the average wait for surgery is now up from 14 to 18 weeks. Queen Elizabeth Hospital in Halifax reports that its X-ray machine—by the way, no MRI available—was installed during the Nixon administration. To compare, Northwest Community Hospital in Arlington Heights, Illinois, flunks its own publicly reported quality standard if a patient does not receive a PCI test within 90 minutes of surgery.

In Washington there are many proposals to have the government take control of health care. Some bills in Congress even call for pushing all uninsured people, including illegal aliens, into Medicare. We should look very carefully at such proposals.

Remember, Medicare covers 40 million Americans at a taxpayer cost of \$400 billion annually. Adding another 40 million patients to Medicare's costs would likely cost taxpayers an additional \$400 billion annually. Knowing the government will run a \$2 trillion deficit this year during the worst recession in living memory, can we enact an enormous tax increase, or do we just have to borrow the money from China?

Seniors and low-income Americans will absolutely depend on the Congress's promises, and I believe the worst thing that we can do is make commitments that are too expensive and then pull the rug out from those who can least afford to cope. Instead, we should back bipartisan reforms that the government can afford to keep.

There are a number of steps Congress should take to expand access to care and bring down the cost of medicine. First, we should expand the number of Americans who have access to employer-provided health care. One of the best ways to do this is to allow small businesses to band together to form larger pools of insurable employees to share risks and administrative costs. We should also allow franchises to offer national health care plans so that their members, working at Starbucks or AlphaGraphics or Subway, can create one large national insurable pool of their generally younger and currently uninsured employees.

Second, Congress should expand access to care for millions of self-employed Americans who do not have insurance. A refundable tax credit for individuals and families equal to the same tax credit large employers get would help millions buy insurance. Individuals could be eligible for a credit of up to \$5,000 annually, and lower income families would be eligible for a credit worth up to \$8,000.

Third, as jobs become more portable, so should health insurance. We should protect Americans who lose their jobs, and their families, who are excluded from coverage by pre-existing conditions. Congress should also remove the current 18-month time limit on COBRA continuing health insurance coverage. This would give families the option of always, if they wanted to, at their own expense, sticking with the health insurance plan they like and currently have. This expanded coverage should also act as a bridge for retirees who may not yet be eligible at age 65 for Medicare.

Fourth, we must pass commonsense measures to bring down health care costs. The Veterans Administration already uses fully electronic medical records to care for 20 million patients while saving lives and cutting wasteful spending.

We also need lawsuit reform. State supreme courts controlled by the plaintiff's bar, like in my home State of Illinois, are expected to strike down local lawsuit reforms that cap noneconomic damages in medical liability cases. We need Federal lawsuit reforms to lower insurance rates across the country, keeping doctors in the practice of medicine.

Finally, the Federal Government should mandate and enforce the right to see in-house infections caused by hospitals. Nearly 2 million Americans contract hospital infections every year, costing Medicare about \$5 billion annually. We should create incentives for hospitals to reduce their infection rates and to publish their results.

In sum, there's a great deal that the President and Congress could do without making the mistake of Xeroxing the 40 years of mistakes made in Canada and Britain.

So having described some of the issues that we face, let's look in detail at one of the key numbers driving the debate here in Washington—the uninsured. According to last year's Census, there are 45.7 million uninsured in America. But according to CRS, 9.5 million of those are illegal aliens, 6 million are children now covered by the SCHIP program that I voted for that was signed into law by President Obama in January, about 10.8 million have above-average incomes in the United States, and about 9.1 million are only temporarily uninsured. That means that if we focus on the problem of U.S. citizens who are of lower income, who have not been insured for longer than a year, it is 10.3 million folks, hardly a number that justifies a government takeover of health care, but one that a bipartisan centrist agenda could address to make sure that those family members have the health insurance they need.

Yesterday I took a survey of voters in Illinois. We received 3,400 responses, and the question we asked was this,

"Should Congress raise taxes to fund a new government health care plan?"

□ 2220

The answers came back: 2,730, or 80.3 percent, said "no"; and only 454, or 13.4 percent, said "yes"; 214, or 6.3 percent, said they didn't know. Clearly, in the face of the deepest recession in modern memory, we should not raise taxes in a significant way throwing millions of families out of work for a government program that we cannot afford to keep.

Therein comes the third part of my discussion tonight. Given these problems, given the comparisons to other countries, and given the fiscal constraints on the Federal Government, is there room for a bipartisan reform agenda in Congress? The answer is emphatically "yes." And we will outline that tomorrow in front of 70 different groups.

In the view of the Tuesday Group reform agenda, our comprehensive reform agenda will accomplish eight major goals. Number one, we will guarantee the doctor-patient relationship. Number two, we will put forward reforms that will lower the cost of health insurance. Number three, we will increase the number of Americans who have insurance. Number four, we will allow Americans to keep insurance they like. Number five, we will improve quality and accountability. Number six, we will increase personal responsibility. Number seven, we will lower the demand for federal borrowing. And, finally, number eight, we will do it in a bipartisan and sustainable way so that momentum for this program will not just be built up during the Obama administration, but future presidencies, including Republican presidents.

In this agenda, our primary objective is to guarantee your relationship with your doctor. That is why tomorrow we will be putting forward the Medical Rights Act. The Medical Rights Act will guarantee the rights of patients to carry out the decisions of their doctor without delay or denial of care by the government. This legislation will uphold the right of individuals to receive medical services as prescribed by their doctor and will not allow the government to restrict or deny care if the care is privately provided. We allow, of course, the government to run its own health care programs for the military, for TRICARE, for the VA, for the Indian Health Service and others. But if the health care is paid for by you, you should control it. And there should be no attempt to control your health care by the Federal Government.

The reason why we think this is necessary is because in other countries it is illegal for patients to pay for the care out of their own pocket. The most infamous restriction comes against Canadian citizens that face this barrier. For them, they at least have one out,

because the drive is not too far to the United States. But if we have the government take over health care in America, where will we be able to drive? And how will we find care if it is denied by a government program? That is why we need the Medical Rights Act. And in my judgment, it fulfills the promise of the President that you will always have choice and control of your health care. It is a bill that he should support.

Secondly, our goal is to lower the cost of health insurance. What we would like to do is allow alliances to form, for example, among the Libertyville Chamber of Commerce members or among national franchise members to build larger and larger insurance pools from self-employed or small employers to spread risks, lower cost and share administrative expenses.

We would also like to equalize the tax benefits that the self-employed receive so that small and self-employed individuals have the same tax break that large employers have when they provide health insurance to their employees.

To lower the cost of health insurance, you also need lawsuit reform. And the proliferation of frivolous malpractice lawsuits, as demonstrated on late-night TV for all the ads that you see, would be a huge reform that would help us drive down the practice of defensive medicine and therefore the cost of health insurance.

Doctors who practice in certain high-risk fields such as emergency medicine, general surgery, thoracic surgery and obstetrics and gynecology especially need this reform to stay in the practice of medicine. By one estimate, the cost of defensive medicine in the United States is over \$100 billion a year. Our reforms will call for blame to be allocated responsibly among key parties, to stabilize the compensation for insured patients and to encourage the States to adopt innovative strategies, especially alternative dispute resolution incentives for doctors and hospitals, and new health care courts specializing in resolving medical injury disputes.

We will also be calling for State innovation programs to reward States that reform insurance markets to provide a more flexible insurance product to meet the needs of patients. Instead of dictating and controlling health insurance from a new Washington national office, the Congress should follow the direction of the National Governors Association that said that States must have the flexibility to respond to justifiable variation in local conditions and costs. Obviously, health care in Alaska is very different from health care in Florida. And we should allow States to manage that flexibility in the most appropriate way. Programs that we focused on and looked at most

intensely are Idaho's high-risk reinsurance program and the Massachusetts State insurance program. And these flexible programs should not be over-ridden by Congress.

We also want to provide more control and flexibility, but most importantly, dignity to low-income patients. With 25 percent of people already eligible for public coverage, not even enrolling in the public plans currently offered, we should find ways to have patients be able to join lower-cost private plans that with a combination of subsidies and tax credits, lawsuit reform, health information technology and deductions would not only make their insurance more affordable but would suddenly give lower-income Americans the same control over their health care that middle- and upper-income Americans have.

Another key point of our agenda reform is to increase the number of Americans who have access to health insurance. There is a key point of common sense here that lowering the cost of health insurance will expand access. As I outlined earlier, on average, health insurance in California costs about \$5,000 less than health insurance in New Jersey. By permitting health alliances and pooling national resources, deploying health information technology and equalizing tax breaks for self-employed Americans, we will dramatically lower the cost of insurance and therefore expand access.

We should also take some time to expand rural health care. In the Congress, the National Health Service Corps and the area health care centers should be reauthorized and expanded to make sure that we can address this critical rural need, especially in primary care.

One of the items not talked about very much in the House or the Senate is the potential for damage that we could cause to the health insurance that Americans currently have. Legislation in the House and Senate called the Healthy Americans Act would end the tax break for employer-provided health insurance in the United States. That sounds like a technical phrase, but you should remember that employer-provided health plans cover 160 million Americans. And most of those plans are supported through the ERISA legislation and tax break that employers receive. Legislation like the Healthy Americans Act not only kills the Federal Employer Health Benefit Plan that covers every Member of this Capital, staffer, Senator, Congressman and all Federal employees, but it then goes on to wipe out the Federal tax break under ERISA for the other 155 million Americans that depend on this health insurance.

□ 2230

In fact, just yesterday, the Director of the Office of Management and Budget

said we may need to look at cutting back the tax benefit that supports employer-provided health care. In my view, this is an idea whose time has never come.

One of the key rules in health care is to do no harm, and for this Congress to attack employer-provided health care is an attack on the health care of every Federal employee and 155 million civilian employees who depend on employer-provided health care.

Instead, our bipartisan agenda strengthens employer health care and continues the benefits under ERISA that cover 160 million Americans. We should not only allow Americans to keep the health insurance they like, we should also improve quality and accountability. One of the best ways to do that is to accelerate the deployment of health information technology.

The Congress should accelerate the setting of standards and using payment incentives under Medicare, Medicaid, TRICARE, which covers military retirees, and the VA and Indian Health Service to encourage the more rapid deployment of health information technology to reduce medical errors, to limit the waste of defensive medicine, and to improve health outcomes. Many of these advances, especially with electronic medical records, have already been made at the Veterans Administration, leading to an 80 percent reduction in health errors.

Key health information technologies also include e-prescribing, chronic disease registries, and clinical decision systems that will dramatically lower cost, improve outcomes, and eliminate errors.

This Congress also needs to work on eliminating fraud, waste, and abuse in the current government health care systems. The Congressional Budget Office estimates that more than \$10 billion in improper Medicare payments were made in 2008 alone. There is strong bipartisan support for a number of policies outlined in both the Ways and Means and Finance Committees to improve transparency, to prosecute fraud, and to require provider accountability.

When we look to the future, I think we should emphasize research and not rationing. It was a bipartisan effort led by President Clinton and Speaker Gingrich that doubled the resources to the National Institutes of Health. In my view, we should accelerate that momentum on basic research.

The Congress also approved funding for comparative effective research. Now, this research has the potential to help patients and doctors to make informed decisions. But many in the Congress would like to use the \$1 billion recently approved for comparative effectiveness research to actually begin a system of restrictions and rationing in the United States. In my view, this takes us into the problems that I described earlier in my talk and would

ruin some of the key advances that distinguish American health care among those of our allies.

We should also foster public-private partnerships to avoid an innovation gap that is currently existing between where public research, especially funded by the NIH, ends and where real health care delivery mechanisms can begin.

Congress can use this opportunity to foster a new bridge for biotech companies, universities, patient advocacy organizations, pharmaceutical companies, and research institutions to accelerate the deployment of new research in the practice of medicine, an area where the United States has excelled, a country that has already received more Nobel Prizes in medicine than any other country on Earth.

Finally, on the research side, we should look at compassionate access. With little to lose, many terminally ill patients can only hope for the very quick FDA approval of cutting-edge treatments and drugs for hope in their own case. Compassionate access can provide real hope to patients that need it most, can save their lives, and can accelerate treatments for nearly everyone, but especially the seriously ill.

When we look at the key objectives of this bipartisan agenda, we also have to return to a basic principle, I believe, central to the American character, which is increasing personal responsibility. It's time, like the chart that I outlined here, to look at bad health habits, principally obesity, drinking, and smoking, and to encourage or reward Americans who do not exhibit these habits. Normally, we see 75 percent of the Nation's health care spending is dedicated to chronic diseases related to these three areas, all entirely preventable if we encourage the right habits.

Also, we ought to expand the use of health savings accounts, because we know that Americans who directly control health spending from their own tax-deferred health savings account, much like an IRA, will take a much greater role in the health care decisions they make. Their patient compliance will likely be higher, and the choices they make will be more appropriate for end-of-life care. These health savings accounts are critical, not just to empowering patients, but also to eventually either becoming part of a patient retirement savings or an estate for their children.

Finally, when we look at all of these reforms, we have to pay key attention to the bottom line. Health care reform in the United States has to lower the demand for Federal borrowing, now at what the President already describes as a completely unsustainable rate. Because many sick and elderly Americans will depend on the reforms that we make, the reforms instituted by this Congress must be fiscally responsible and sustainable over time.

The Congressional Budget Office reports that we will borrow \$1.18 trillion just in fiscal year 2009 in a completely unsustainable way, and that new revenues for a health care bill that could be put forward by this House are simply not there.

In its place, this Congress could look at an enormous tax increase or at faltering climate change legislation that already looks like it will not provide the revenues initially hoped for in its early drafts. In the face of this lack of funding, either on the borrowing side or the unwillingness of Americans to go through a new tax increase and faltering prospects for a climate change bill, it's essential that we return to the kind of reforms that I just outlined here tonight as a way to lower the cost of health insurance, expand access, and improve health care outcomes.

I spent quite a bit of time here tonight talking about the situation in detail because, in my view, this is going to be the biggest subject this Congress deals with this summer. When we look at the worst angels of our nature, we might be able to expect a fairly fierce and partisan debate here in the House. That is predictable but unfortunate.

My hope lies in the moderates of the Senate who can come forward and make sure that we have a bipartisan, modest, and sustainable set of health care reforms that will improve health care for every American in this country in a sustainable way across Presidential administrations and across parties, and not end up making the same mistakes as our allies in Canada and Britain.

Well, those are the details. We will be providing further details in the Tuesday Group meeting tomorrow, and we look forward to joining with many Members on the Democratic side in building what can be one of the greatest opportunities for this Congress to affect the daily lives of the Americans that we represent.

And I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ELLISON (at the request of Mr. HOYER) for today on account of official business in district.

Mr. KANJORSKI (at the request of Mr. HOYER) for today on account of official business.

Mr. STUPAK (at the request of Mr. HOYER) for today.

Mr. WAMP (at the request of Mr. BOEHNER) for today on account of his 24th wedding anniversary.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HARE) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. HARE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BROUN of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, May 22.

Mr. JONES, for 5 minutes, May 22.

Mr. PAUL, for 5 minutes, May 19, 20 and 21.

Mr. MCHENRY, for 5 minutes, May 19, 20, 21 and 22.

Mr. MORAN of Kansas, for 5 minutes, today, May 19, 20 and 21.

Mr. BROUN of Georgia, for 5 minutes, today.

#### ADJOURNMENT

Mr. KIRK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 19, 2009, at 10:30 a.m., for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1876. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's reports entitled, "The National Healthcare Quality Report 2008 (NHQR)" and "The National Healthcare Disparities Report 2008 (NHDR)", pursuant to Public Law 106-129; to the Committee on Energy and Commerce.

1877. A letter from the Acting Assoc. Bur. Chief, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Part 90 of the Commission's Rules [WP Docket No.: 07-100] received April 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1878. A letter from the Acting Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — Additions and Revisions to the List of Approved End-Users and Respective Eligible Items for the People's Republic of China (PRC) Under Authorization Validated End-User (VEU) [Docket No.: 090415662-9687-01] (RIN: 0694-AE61) received April 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

1879. A letter from the Chairman, Federal Accounting Standards Advisory Board, transmitting the Board's report entitled, "Estimating the Historical Cost of General Property, Plant, and Equipment: Amending Statements of Federal Financial Accounting Standards 6 and 23", pursuant to Section 307 of the Chief Financial Officers Act of 1990; to



the Committee on Oversight and Government Reform.

1880. A letter from the Director of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule — Per Diem for Nursing Home Care of Veterans in State Homes (RIN: 2900-AM97) received April 27, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1881. A letter from the Director of Regulation Management, Department of Veterans Affairs, transmitting the Department's final rule — Headstones and Markers (RIN: 2900-AN29) received April 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1882. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Credit for Residential Energy Efficient Property [Notice 2009-41] received April 24, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1883. A letter from the Deputy Chief Counsel, Regulations, Department of Homeland Security, transmitting the Department's final rule — Rail Transportation Security [Docket No.: TSA-2006-26514; Amendment nos. 1520-6, 1580-1] (RIN: 1652-AA51) received April 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Homeland Security.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERLMUTTER: Committee on Rules. House Resolution 450. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 111-113). Referred to the House Calendar.

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 885. A bill to elevate the Inspector General of certain Federal entities to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978; with an amendment (Rept. 111-114). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 2182. A bill to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted pursuant to such Act, and for other purposes (Rept. 111-115). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 626. A bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes (Rept. 111-116 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 1676. A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; with an amendment (Rept. 111-117). Referred to the Committee of the Whole House on the State of the Union.

#### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII, the Committee on House Administration

discharged from further consideration, H.R. 626 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FALEOMAVAEGA (for himself, Ms. BORDALLO, Mr. DELAHUNT, and Ms. HIRONO):

H.R. 2455. A bill to amend the Whale Conservation and Protection Study Act to promote international whale conservation, protection, and research, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committees on Natural Resources, Ways and Means, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California (for herself, Mr. BISHOP of New York, Mr. HARE, Mr. CUMMINGS, Mr. WU, and Mr. COSTELLO):

H.R. 2456. A bill to amend section 484B of Higher Education Act of 1965 to provide for tuition reimbursement and loan forgiveness to students who withdraw from an institution of higher education to serve in the uniformed services, and for other purposes; to the Committee on Education and Labor.

By Mrs. DAVIS of California (for herself, Mr. MCCOTTER, Mr. RUSH, Mr. WITTMAN, and Mr. HARE):

H.R. 2457. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code to require that group health plans and issuers of health insurance coverage provide coverage for second opinions; to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMBORN (for himself, Mr. AKIN, Mrs. BACHMANN, Mr. BARTLETT, Mrs. BLACKBURN, Mr. BOOZMAN, Mr. BRADY of Texas, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CONAWAY, Ms. FALLIN, Mr. FLEMING, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. HENSARLING, Mr. HOEKSTRA, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mr. JONES, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LATTA, Mr. LINDER, Mr. MARCHANT, Mr. MCCLINTOCK, Mr. MCCOTTER, Mr. MCHENRY, Mr. MCKEON, Mrs. MCMORRIS RODGERS, Mr. MORAN of Kansas, Mr. NEUGEBAUER, Mr. PENCE, Mr. PITTS, Mrs. SCHMIDT, Mr. SHIMKUS, Mr. SOUDER, Mr. TIAHRT, Mr. WITTMAN, and Mr. MILLER of Florida):

H.R. 2458. A bill to amend the General Education Provisions Act to prohibit Federal education funding for elementary or secondary schools that provide access to emergency postcoital contraception; to the Committee on Education and Labor.

By Mr. BURTON of Indiana (for himself and Mr. WEXLER):

H.R. 2459. A bill to amend the Public Health Service Act with respect to the Na-

tional Vaccine Injury Compensation Program; to the Committee on Energy and Commerce.

By Ms. DELAURO (for herself, Mr. GEORGE MILLER of California, Mr. HARE, Mr. HINCHHEY, Mr. SERRANO, Ms. SCHAKOWSKY, Mrs. CAPPS, Mr. NADLER of New York, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mrs. MALONEY, Mr. GUTIERREZ, Mrs. MCCARTHY of New York, Mr. WALZ, Mr. RUSH, Ms. BALDWIN, Mr. HOLT, Ms. LINDA T. SANCHEZ of California, Ms. NORTON, Mr. FILNER, Ms. JACKSON-LEE of Texas, Mr. STARK, Ms. SCHWARTZ, Mr. JOHNSON of Georgia, Mr. WAXMAN, Ms. CASTOR of Florida, Ms. ZOE LOFGREEN of California, Ms. MOORE of Wisconsin, Mr. CONNOLLY of Virginia, Mrs. LOWEY, Mr. KILDEE, Mr. BISHOP of New York, Mr. OLVER, Mr. BLUMENAUER, Mr. RYAN of Ohio, Ms. WASSERMAN SCHULTZ, Mr. CLEAVER, Mr. ELLISON, Mr. KUCINICH, Ms. SUTTON, Mr. ORTIZ, Mr. ISRAEL, Mr. BRADY of Pennsylvania, Mr. MARKEY of Massachusetts, Ms. WOOLSEY, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. RODRIGUEZ, Mr. LYNCH, Mr. MICHAUD, Ms. BERKLEY, Mr. VAN HOLLEN, Mr. JACKSON of Illinois, Mr. SARBANES, Mr. ROTHMAN of New Jersey, Mr. OBERSTAR, Ms. HIRONO, Mr. GRAYSON, Mr. GRIJALVA, Ms. PINGREE of Maine, Mr. CARSON of Indiana, Mr. CAPUANO, Mr. COHEN, Mr. CONYERS, Mr. COSTELLO, Ms. ESHOO, Mr. HONDA, Ms. KILPATRICK of Michigan, Mr. LARSON of Connecticut, Ms. LEE of California, Ms. MCCOLLUM, Mr. MORAN of Virginia, Mr. MURPHY of Connecticut, Mr. PASCRELL, Mr. PRICE of North Carolina, Mr. SHERMAN, Mr. KENNEDY, Ms. VELAZQUEZ, Mr. WEINER, Mr. DOYLE, Mr. FATTAH, Mr. SIREs, Mr. DAVIS of Illinois, Mr. CLAY, Ms. CORRINE BROWN of Florida, Mr. PALLONE, Mr. MEEKS of New York, Mr. BERMAN, Mr. COURTNEY, Mr. MEEK of Florida, Mrs. CHRISTENSEN, Mr. PAYNE, Ms. CLARKE, Ms. SHEA-PORTER, Mr. ABERCROMBIE, Ms. EDWARDS of Maryland, Mr. SABLAN, and Ms. FUDGE):

H.R. 2460. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families; to the Committee on Education and Labor, and in addition to the Committees on Oversight and Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH SANDLIN (for herself and Mr. BOOZMAN):

H.R. 2461. A bill to amend title 38, United States Code, to clarify the responsibility of the Secretary of Veterans Affairs to verify the veteran status of the owners of small business concerns listed in the database maintained by the Secretary; to the Committee on Veterans' Affairs.

By Mr. KING of New York:

H.R. 2462. A bill to eliminate the backlog in performing DNA analyses of DNA samples collected from convicted child sex offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. KING of New York (for himself and Mr. TIAHRT):

H.R. 2463. A bill to amend the Internal Revenue Code of 1986 to establish and provide a checkoff for a Breast and Prostate Cancer Research Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY:

H.R. 2464. A bill to amend title 49, United States Code, to prohibit advance notice to certain individuals, including security screeners, of covert testing of security screening procedures for the purpose of enhancing transportation security at airports, and for other purposes; to the Committee on Homeland Security.

By Mrs. LOWEY:

H.R. 2465. A bill to amend the Internal Revenue Code of 1986 to reward those Americans who provide volunteer services in times of national need; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2466. A bill to amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready Reserve and National Guard while serving abroad; to the Committee on Ways and Means.

By Mr. LYNCH:

H.R. 2467. A bill to provide for semiannual actuarial studies of the FHA mortgage insurance program of the Secretary of Housing and Urban Development; to the Committee on Financial Services.

By Mr. MCDERMOTT:

H.R. 2468. A bill to establish a United States-India interparliamentary exchange group; to the Committee on Foreign Affairs.

By Mr. POE of Texas (for himself, Mr. BURTON of Indiana, Mr. McCaul, Mr. COBLE, Mr. CHAFFETZ, Mr. SOUDER, and Mr. GALLEGLY):

H.R. 2469. A bill to amend the Controlled Substances Act to enhance criminal penalties for drug trafficking offenses relating to distribution of heroin, marijuana, and methamphetamine and distribution to and use of children, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROONEY (for himself, Mr. MILLER of Florida, Ms. ROS-LEHTINEN, Ms. CORRINE BROWN of Florida, Mr. KLEIN of Florida, Ms. KOSMAS, Mr. MARIO DIAZ-BALART of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. POSEY, Mr. MACK, Mr. BUCHANAN, Mr. HASTINGS of Florida, Mr. MEEK of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. MICA, Mr. PUTNAM, Ms. WASSERMAN SCHULTZ, Mr. STEARNS, Ms. CASTOR of Florida, Mr. BILIRAKIS, Mr. CRENSHAW, Mr. WEXLER, Mr. BOYD, Mr. GRAYSON, and Mr. YOUNG of Florida):

H.R. 2470. A bill to designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the "Lieutenant Commander Roy H. Boehm Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. WHITFIELD:

H.R. 2471. A bill to reauthorize the Uranium Enrichment Decontamination and De-

commissioning Fund, to authorize the Secretary of Energy to pay affected participants under a pension plan referred to in the USEC Privatization Act for benefit increases not received, to direct the Secretary of Energy to provide a plan for the re-enrichment of certain uranium tailings, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUSH (for himself, Mr. PAYNE, Mr. MCDERMOTT, Mr. RANGEL, Ms. KILPATRICK of Michigan, Ms. CLARKE, Mr. CLAY, Mr. FATTAH, Mr. CUMMINGS, Mr. MEEKS of New York, Mr. CAO, and Mr. ROYCE):

H. Con. Res. 128. Concurrent resolution expressing the sense of Congress that Africa is of significant strategic, political, economic, and humanitarian importance to the United States; to the Committee on Foreign Affairs.

By Mr. BOOZMAN:

H. Res. 451. A resolution expressing the sense of the House of Representatives with respect to childhood stroke and designating an appropriate date as "National Childhood Stroke Awareness Day"; to the Committee on Energy and Commerce.

By Mr. CAPUANO:

H. Res. 452. A resolution expressing support for designation of September 15, 2009, as "National Kids' Philanthropy Day"; to the Committee on Education and Labor.

By Ms. MATSUI (for herself, Mr. PRICE of North Carolina, Mr. PLATTS, Mr. EHLERS, Mr. BERMAN, Mr. BERRY, Mr. BLUMENAUER, Mrs. CAPPS, Mr. CARDOZA, Mr. COSTA, Mr. DOGGETT, Mr. FALEOMAVAEGA, Mr. FARR, Mr. HODES, Mr. HONDA, Mr. LEWIS of Georgia, Mr. LOEBSSACK, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. NORTON, Mr. POLIS of Colorado, Mr. SARBANES, Mr. SCHIFF, Ms. SLAUGHTER, Mr. THOMPSON of California, Mr. VAN HOLLEN, and Mr. WAXMAN):

H. Res. 453. A resolution recognizing the significant accomplishments of the AmeriCorps and encouraging all citizens to join in a national effort to salute AmeriCorps members and alumni, and raise awareness about the importance of national and community service; to the Committee on Education and Labor.

By Mr. POE of Texas (for himself, Mr. COSTA, Mr. STUPAK, Mrs. BIGGERT, Mr. WOLF, and Ms. ZOE LOFGREN of California):

H. Res. 454. A resolution recognizing the 25th anniversary of the National Center for Missing and Exploited Children; to the Committee on Education and Labor.

By Mr. TIAHRT:

H. Res. 455. A resolution congratulating the Wichita State University men's and women's bowling teams for winning the 2009 United States Bowling Congress Intercollegiate Bowling National Championship; to the Committee on Education and Labor.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Ms. WATERS, Mr. BONNER, and Mr. NEAL of Massachusetts.

H.R. 52: Mr. TANNER.

H.R. 197: Mr. SAM JOHNSON of Texas, Mr. CHANDLER, Mr. NUNES, and Mrs. KIRKPATRICK of Arizona.

H.R. 416: Mr. MORAN of Virginia.

H.R. 442: Mr. CASSIDY, Mrs. BACHMANN, and Mr. KING of Iowa.

H.R. 450: Mr. MORAN of Kansas.

H.R. 484: Mr. CALVERT and Mr. COURTNEY.

H.R. 574: Mr. HIGGINS and Ms. SCHAKOWSKY.

H.R. 606: Ms. JACKSON-LEE of Texas.

H.R. 622: Ms. MARKEY of Colorado.

H.R. 669: Mr. PETERSON.

H.R. 863: Mr. SCHIFF, Mr. SNYDER, Ms. KILPATRICK of Michigan, Ms. MCCOLLUM, Mr. CONNOLLY of Virginia, Mr. PRICE of North Carolina, Mr. HINCHEY, Mrs. TAUSCHER, Mr. MORAN of Virginia, and Mrs. CAPPS.

H.R. 904: Ms. SCHAKOWSKY.

H.R. 913: Mr. COHEN.

H.R. 952: Mr. EDWARDS of Texas and Mr. HILL.

H.R. 981: Mr. MCDERMOTT.

H.R. 984: Mr. MCDERMOTT.

H.R. 1064: Mr. CAPUANO, Mr. DRIEHAUS, Mr. ISRAEL, and Mr. VAN HOLLEN.

H.R. 1067: Mr. MASSA and Mr. ALEXANDER.

H.R. 1074: Mr. MICHAUD, Mr. SALAZAR, Mr. CULBERSON, Mr. BILIRAKIS, Mr. SCHOCK, Mrs. BACHMANN, Mr. LATTI, and Mr. KING of Iowa.

H.R. 1115: Mr. CHAFFETZ.

H.R. 1118: Mr. ROHRBACHER.

H.R. 1150: Mr. CHANDLER.

H.R. 1203: Mr. CARSON of Indiana, Mr. MCGOVERN, Mr. ARCURI, Mr. DAVIS of Tennessee, Mr. BRALEY of Iowa, Mr. LARSEN of Washington, Mr. STUPAK, Ms. SCHAKOWSKY, Mr. CALVERT, Mr. BOREN, and Mr. SIMPSON.

H.R. 1210: Mr. WALZ.

H.R. 1213: Mr. BARROW.

H.R. 1215: Ms. CLARKE.

H.R. 1242: Mr. MOORE of Kansas and Mrs. BONO MACK.

H.R. 1257: Mr. SCALISE.

H.R. 1313: Mr. MICHAUD.

H.R. 1327: Mr. LUETKEMEYER, Mr. CUMMINGS, Mr. BOYD, Mr. BOSWELL, Mr. COBLE, and Mr. MINNICK.

H.R. 1329: Ms. CASTOR of Florida and Mr. CARSON of Indiana.

H.R. 1380: Mr. YARMUTH.

H.R. 1389: Mr. ROTHMAN of New Jersey.

H.R. 1441: Mr. GUTHRIE.

H.R. 1443: Mr. PRICE of North Carolina.

H.R. 1454: Mr. FRANK of Massachusetts, Mr. WOLF, and Mr. BERMAN.

H.R. 1458: Mr. LEWIS of Georgia, Mr. CARNAHAN, and Mr. PRICE of North Carolina.

H.R. 1478: Mr. CONYERS and Mr. COHEN.

H.R. 1507: Mr. CUMMINGS.

H.R. 1521: Mr. KLEIN of Florida.

H.R. 1522: Mr. FILNER, Ms. CORRINE BROWN of Florida, and Mr. MEEKS of New York.

H.R. 1548: Mr. SAM JOHNSON of Texas.

H.R. 1550: Mr. BOCCIERI.

H.R. 1552: Mr. CUMMINGS.

H.R. 1558: Mr. WILSON of Ohio, Mr. LEVIN, and Mr. BOUCHER.

H.R. 1585: Mr. CARSON of Indiana.

H.R. 1587: Mr. LAMBORN, Mr. DUNCAN, Mr. SMITH of Nebraska, Mr. SCHOCK, and Mr. HUNTER.

H.R. 1588: Mr. WITTMAN, Mr. GOHMERT, and Mr. HOEKSTRA.

H.R. 1597: Ms. KOSMAS.

H.R. 1607: Mr. KILDEE.

H.R. 1616: Mr. JACKSON of Illinois, Mr. DEFazio, Mr. MEEK of Florida, Mr. OLVER, Ms. ROYBAL-ALLARD, Mr. KENNEDY, and Mr. SHERMAN.

H.R. 1662: Mr. HALL of New York, Mrs. TAUSCHER, Mr. ACKERMAN, Mr. ELLISON, Mr. CHILDERS, Mr. JONES, Mr. MCNERNEY, Mr. RUSH, Mr. SCOTT of Georgia, Mr. BISHOP of Georgia, and Ms. CORRINE BROWN of Florida.

H.R. 1670: Ms. SHEA-PORTER and Mr. CONNOLLY of Virginia.

H.R. 1671: Mrs. MILLER of Michigan, Mr. CUMMINGS, and Mr. SABLAN.

H.R. 1691: Mr. RAHALL and Mr. LATHAM.

H.R. 1708: Ms. LEE of California, Ms. ROYBAL-ALLARD, Mr. JONES, Ms. SUTTON, Mr. SCOTT of Virginia, and Mr. LOBIONDO.

H.R. 1712: Mr. LATTA.

H.R. 1765: Mr. PITTS.

H.R. 1799: Mr. BOYD and Mr. TEAGUE.

H.R. 1803: Mr. BOUCHER.

H.R. 1898: Mr. THOMPSON of California, Ms. SCHWARTZ, and Mr. McDERMOTT.

H.R. 1940: Ms. CASTOR of Florida.

H.R. 1948: Mr. KIRK.

H.R. 2006: Mr. COHEN and Mr. GONZALEZ.

H.R. 2014: Mr. LARSEN of Washington, Mr. KIND, Mr. INSLEE, Mr. NUNES, Mr. BURTON of Indiana, Mr. COURTNEY, Mrs. DAHLKEMPER, Mr. JONES, Ms. DEGETTE, Ms. SHEA-PORTER, Ms. FUDGE, and Mr. PUTNAM.

H.R. 2017: Mrs. DAHLKEMPER.

H.R. 2048: Mr. BURTON of Indiana.

H.R. 2049: Mr. ROE of Tennessee and Mr. LATHAM.

H.R. 2053: Mrs. NAPOLITANO.

H.R. 2058: Mr. BRADY of Texas, Mr. HINCHEY, and Mr. MASSA.

H.R. 2060: Ms. ROS-LEHTINEN.

H.R. 2070: Ms. TITUS.

H.R. 2076: Mr. HOLT.

H.R. 2081: Ms. MCCOLLUM.

H.R. 2112: Ms. EDWARDS of Maryland.

H.R. 2123: Mr. MURTHA.

H.R. 2141: Ms. SPEIER and Mr. CUMMINGS.

H.R. 2193: Mr. BISHOP of Utah, Mr. BRADY of Texas, Ms. FALLIN, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. HUNTER, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mrs. LUMMIS, Mr. MCCLINTOCK, Mr. McKEON, Mr. POSEY, Mr. LATTA, Mr. ROONEY, Mr. POE of Texas, Mr. BROUN of Georgia, Mr. COFFMAN of Colorado, Mr. ROE of Tennessee, and Mr. COLE.

H.R. 2194: Mr. LUETKEMEYER, Mr. RYAN of Wisconsin, Mr. SHULER, Mrs. BONO MACK, Mr. CROWLEY, Mr. ROSS, Ms. BERKLEY, Mr. BOREN, Mr. ROTHMAN of New Jersey, Ms. GINNY BROWN-WAITE of Florida, Mr. MAFFEI, and Mr. DANIEL E. LUNGREN of California.

H.R. 2209: Mr. QUIGLEY and Mr. FILNER.

H.R. 2245: Mr. TOWNS, Mr. KANJORSKI, Mrs. MALONEY, Mr. CUMMINGS, Mr. MICA, Ms. FUDGE, Mr. COURTNEY, and Mr. HARE.

H.R. 2246: Mr. PETERSON.

H.R. 2263: Mr. FARR.

H.R. 2269: Ms. CORRINE BROWN of Florida.

H.R. 2294: Mr. KINGSTON, Mr. GOHMERT, Mr. McKEON, Mr. CAO, Mr. McHENRY, Mr. HALL of

Texas, Mr. HENSARLING, Mr. FORBES, Mr. RYAN of Wisconsin, Mr. EHLERS, Mr. BRADY of Texas, Mr. ROYCE, and Mr. MCCLINTOCK.

H.R. 2312: Mr. HONDA.

H.R. 2350: Mr. WU, Mr. SARBANES, and Mr. HEINRICH.

H.R. 2360: Mr. WELCH, Mr. WILSON of Ohio, Mr. PLATTS, and Mr. MICHAUD.

H.R. 2365: Mr. McNERNEY, Mr. FILNER, Mr. MCINTYRE, Mr. SABLAN, and Mr. GORDON of Tennessee.

H.R. 2368: Mr. HINCHEY.

H.R. 2389: Mr. WU and Mr. BLUMENAUER.

H.R. 2397: Mr. CHAFFETZ.

H.R. 2404: Mr. LOEBSACK, Mr. FRANK of Massachusetts, and Mr. YARMUTH.

H.R. 2426: Mr. ELLISON.

H.R. 2427: Mr. FRANK of Massachusetts.

H.R. 2450: Mr. BRADY of Pennsylvania and Mr. MURTHA.

H. Con. Res. 102: Mr. PLATTS.

H. Con. Res. 108: Mr. BRADY of Pennsylvania, Ms. DEGETTE, and Mr. McDERMOTT.

H. Con. Res. 118: Mr. GOODLATTE.

H. Con. Res. 120: Mr. CALVERT.

H. Con. Res. 127: Mr. MEEKS of New York, Mr. WILSON of South Carolina, Mr. HASTINGS of Florida, Mr. PIERLUISI, and Ms. CORRINE BROWN of Florida.

H. Res. 57: Mr. BLUMENAUER, Mrs. CHRISTENSEN, Mr. MEEK of Florida, and Mr. GENE GREEN of Texas.

H. Res. 111: Mr. MARCHANT, Mr. ANDREWS, Mr. SAM JOHNSON of Texas, Mr. PAYNE, Mr. TEAGUE, Mr. FATTAH, Mrs. LUMMIS, Mr. MICHAUD, and Mr. PLATTS.

H. Res. 175: Mr. MASSA.

H. Res. 196: Mr. WILSON of South Carolina, Mr. COBLE, Mr. MCCOTTER, Mr. ROGERS of Kentucky, Mr. BURTON of Indiana, and Mr. WITTMAN.

H. Res. 225: Mr. HOEKSTRA and Mr. ISSA.

H. Res. 252: Mr. RUSH, Mr. BRALEY of Iowa, Mr. DEFazio, and Mr. YARMUTH.

H. Res. 260: Mr. TOWNS.

H. Res. 267: Mr. WU.

H. Res. 318: Mr. INGLIS, Mr. FLEMING, Mr. MCCOTTER, and Mr. WILSON of South Carolina.

H. Res. 355: Mr. DOYLE, Ms. BORDALLO, and Ms. LINDA T. SANCHEZ of California.

H. Res. 386: Mr. WITTMAN.

H. Res. 390: Mr. WITTMAN, Mr. ISSA, and Mr. YOUNG of Florida.

H. Res. 397: Mr. DEAL of Georgia.

H. Res. 407: Mr. GUTIERREZ, Ms. CLARKE, Mr. LOEBSACK, Mr. THOMPSON of Mississippi, Ms. ROS-LEHTINEN, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Mrs. CAPPS, Mr. WILSON of Ohio, Mr. KILDEE, Mr. KAGEN, and Mr. CROWLEY.

H. Res. 408: Mr. WITTMAN.

H. Res. 426: Mr. CALVERT.

H. Res. 430: Mr. BRADY of Pennsylvania, Mrs. HALVORSON, Mr. OBERSTAR, Mr. PAL-LONE, Ms. DELAURO, Mr. CROWLEY, Mr. DOYLE, Mr. RYAN of Ohio, Mr. TOWNS, Mr. MARKEY of Massachusetts, Mr. PAYNE, Mr. NEAL of Massachusetts, Mr. FALEOMAVEAGA, Mr. PERRIELLO, and Mr. GALLEGLY.

H. Res. 433: Mr. GRIJALVA, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. HOLT, Ms. NOR-TON, and Mr. MORAN of Virginia.

H. Res. 437: Mr. BAIRD, Mr. ALTMIRE, and Ms. MCCOLLUM.

H. Res. 439: Mr. PIERLUISI, Mrs. CHRISTENSEN, and Mr. SCOTT of Virginia.

### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee on Transportation and Infrastructure is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives that are included in the manager's amendment to H.R. 915, the "FAA Reauthorization Act of 2009". It is not clear if the definition of "congressional earmark" under clause 9(d) of rule XXI applies to the provision described below. However, in the interest of full disclosure and transparency, the Committee has required Members of Congress to comply with all requirements of clause 9(d), 9(e) of rule XXI.

The Amendment No. \_\_ to be offered by Mr. OBERSTAR of Minnesota, or his designee, to H.R. 915 contains a provision requested by Representative JIM MATHESON, which allows the release of certain restrictions on the use of a parcel of property conveyed to the City of St. George, Utah for airport purposes. The proceeds from the sale of such property will be used for the development of a replacement airport. No other provision in the amendment includes an earmark, limited tax benefit, or limited tariff benefit.

## EXTENSIONS OF REMARKS

HONORING REX DAVIDSON

**HON. YVETTE D. CLARKE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Ms. CLARKE. Madam Speaker, I rise today to congratulate, pay tribute, and honor Mr. Rex Davidson on the occasion of his retirement from his post as a very valued Board Member of the New York City Workforce Investment Board (WIB) and as President and CEO of Goodwill Industries of Greater New York and Northern New Jersey of 36 years.

On April 8th, I had the pleasure of visiting the New York City WIB for a briefing on the programs that we in Congress fund through the Workforce Investment Act (WIA) and how these programs reach the constituents of my district.

During this visit I had the opportunity to tour the Brooklyn Workforce1 Career Center which provides important customized services to both jobseekers and businesses to promote and increase the employment, job retention, earnings, and improve the occupational skills of New Yorkers.

The Career Center, funded through WIA and operated by Goodwill Industries of Greater New York and Northern New Jersey, just recently celebrated its 15,000th placement; an exciting and momentous achievement.

In my district alone in 2008, 7,083 customers received services through the Brooklyn Workforce1 Career Center and 1,554 Constituents from New York's 11th Congressional District found jobs.

Rex Davidson attended my visit to the Brooklyn Workforce1 Career Center to give both the perspective of an operator of one of our City's local One-Stop service locations and Board Member of the WIB.

It was clear from this interaction with Rex that he is passionate about his work both with Goodwill Industries and the Workforce Investment Board; he cares about the role of the business-driven workforce development system in New York City and the important need to link economic and workforce development to achieve the best outcomes for New Yorkers and New York City businesses.

Throughout his tenure with the WIB, Rex exhibited this passion helping to drive the increasing performance of not only the Center which Goodwill operates, but also that of the entire Workforce1 Career Center system.

Of his many accomplishments as a WIB Member, Rex served as Chair of the WIB's Prisoner Re-Entry Steering Committee.

The make-up of the Steering Committee is of experts representing the critical sectors and disciplines in New York City that focus on prisoner reentry issues, as well as, other key Board Members. Its goal is to address the complex issues associated with the reentry of people with criminal histories into New York City's workforce.

In June of this year, Rex Davison will leave his post at the New York City WIB and at Goodwill Industries as he pursues other ventures out West.

At this critical moment in our nation's history, as we seek to improve the economic vitality of neighborhoods and ensure that more Americans can get back to work, it seems particularly fitting to honor Rex and the work that he does in New York City, particularly for the residents in my district, and ensuring that more New Yorkers than ever have access to services provided through WIA.

The Workforce Investment Board, Goodwill Industries, the people of New York City, and indeed the people of New York State will truly miss Rex. Rex Davidson is truly a credit to our nation.

I hope that you will join me in thanking him for his service and wishing him well on his future adventures.

JESUS TORRES

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jesus Torres who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jesus Torres is a senior at Arvada High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Jesus Torres is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jesus Torres for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

ALEXANDER WATSON

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Alexander Watson who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Alexander Watson is a senior at Pomona High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Alexander Watson is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Alexander Watson for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

INTRODUCTION OF THE RIGHT TO  
A SECOND MEDICAL OPINION  
ACT OF 2009**HON. SUSAN A. DAVIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mrs. DAVIS of California. Madam Speaker, I rise today to introduce the Right to a Second Medical Opinion Act of 2009 to ensure the accessibility and coverage of medical second opinions.

Imagine that your doctor tells you that you must undergo surgery that may threaten the use of a limb or leave you with a serious chronic condition. It is only natural to want a second opinion from another doctor when facing such a serious health event.

Besides giving patients much-needed peace of mind, second opinions can benefit health plans by reducing the number of invasive procedures and result in better patient care through increased dialogue about treatment options. Some health care groups see the value in such requests and provide patients with a second opinion.

When I was a member of the California State Assembly, I heard from a number of patients who experienced a glitch in their health care coverage. They noticed the absence of a clear process for obtaining medical second opinions. These patients, many struggling with challenging health conditions, had difficulties obtaining second opinions through their health plans.

After meeting with patients, physicians and health groups, I authored a law in California that guarantees coverage of second opinions. The law in California was a good first step. Unfortunately, only a small number of states have similar laws on the books. It is time to extend second opinion coverage to health plans nationwide.

Americans deserve quality and comprehensive health care coverage. I urge you, Madam Speaker, and all of my colleagues to pass this critical legislation into law.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A TRIBUTE TO BILLIE WESTERNOFF, CALAVERAS COUNTY RESOURCE CONNECTION FOOD BANK DIRECTOR

### HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to pay tribute to Billie Westernoff, who is retiring after 20 years of dedicated service at the Calaveras County Connection Food Bank.

Ms. Westernoff's career at this important community facility has been solely based on her desire to serve the public. Her vibrant personality and remarkable ability to connect with people have brought national recognition to the food bank. Furthermore, her determination to provide comprehensive programs and services related to nutrition, prevention and intervention for families in Calaveras County has strengthened my district and our Nation.

Let me also say that in 2007, Ms. Westernoff testified before Congress on the importance of fresh fruits and vegetables as a part of a child's daily diet. As a result of her testimony, the Mother Infant Child Harvest program was piloted in Calaveras County and served as the model for the federal Women Infant Children program nationally.

Her dynamic focus and ability to inspire others to assist individuals in need will be her legacy. It is an honor to recognize Billie Westernoff for her immense dedication to improving the quality of life for so many individuals and for her commitment to collaboration and equality. She has served my district and our Nation proudly.

### INDIAN ELECTIONS

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. WILSON of South Carolina. Madam Speaker, I want to commend the people of India on their successful election concluded Saturday. I want to congratulate Prime Minister Manmohan Singh and his United Progressive Alliance for winning the most seats, 262, in what is a month long voting process with as many as 700 million eligible voters.

Prime Minister Singh has been instrumental in forging a stronger alliance between India, the world's largest democracy, and the United States, the world's oldest democracy—including the U.S.-India civilian nuclear agreement which will mean jobs and cleaner energy for both our nations. As evidenced by the vibrant success of Indian Americans in American commerce and society, the shared values of our two nations are stronger than ever before.

I have met Prime Minister Singh in New Delhi and Washington, and I wish him and the people of India much success moving forward. There are tremendous challenges in that region, but I know that working together with their neighbors and allies, India can have a bright future.

CHARLIE WAGNER

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Charlie Wagner who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Charlie Wagner is a senior at Pomona High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Charlie Wagner is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Charlie Wagner for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

### CELEBRATING TAIWAN'S PRESIDENT MA YING-JEOU FIRST ANNIVERSARY

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. CLEAVER. Madam Speaker, I rise today to convey my support for the Taiwanese president, Ma Ying-jeou, his many successes, and the guiding principles of his country. President Ying-jeou is to be commended for championing strengthened ties between Taiwan and the People's Republic of China, since assuming office on May 20, 2008.

It is with tremendous pride that we will collaborate with our long-time friend and ally, the Republic of China (Taiwan), at the upcoming World Health Assembly (WHA) later this month in Geneva, Switzerland. This is the first time since 1972 that Taiwan has been afforded international standing among sovereign nations at a United Nations event. This Congress most recently honored the U.S.-Taiwan bilateral relationship with the passage of H. Con. Res. 55, recognizing the 30th anniversary of the Taiwan Relations Act, the cornerstone of U.S.-Taiwan relations. The passage of this Act illustrates the commitment and friendship between our two great nations. The strong leadership and cooperation of President Obama and President Ma Ying-jeou will unquestionably help strengthen our nations' unity.

Charged with the task of promoting global public health, the work of the WHA assumes great significance particularly in the midst of H1N1, HIV/AIDS, SARS, and avian flu threats. We welcome the meaningful cooperation of world-wide partners to make for safe and sensible solutions amidst continued dangers that jeopardize public health. I am confident of Taiwan's intention and ability to help combat

these threats and help meet the ever-changing demands and needs of its people and the global community at large.

I urge my colleagues of the 111th Congress to please join me in extending continued best wishes to President Ma Ying-jeou on his first anniversary in office on May 20, 2009.

### IN RECOGNITION OF SUSAN J. SPUNGIN'S RECEIPT OF THE MIGEL MEDAL FROM THE AMERICAN FOUNDATION FOR THE BLIND

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. NADLER of New York. Madam Speaker, I rise today in recognition of Dr. Susan J. Spungin. In March of 2009, the American Foundation for the Blind (AFB) awarded the M.C. Migel Medal to Dr. Spungin at their Josephine L. Taylor Leadership Institute in Washington, DC.

The M.C. Migel Medal was established in 1937 by the late M.C. Migel, the first chairperson of the American Foundation for the Blind. The award was created to honor professionals and volunteers whose dedication and achievements have improved the lives of people who are blind or visually impaired. It is the highest honor in the blindness field.

This year's recipient, Dr. Spungin recently retired from her position as Vice President of International Programs and Special Projects at the American Foundation for the Blind, and as Treasurer of the World Blind Union.

An internationally renowned expert on the education and rehabilitation of individuals who are blind or visually impaired, Dr. Spungin joined AFB in 1972 as a national specialist in education. In this capacity, she identified nationwide issues affecting blind, deaf-blind, and severely visually impaired children and youths, and worked in partnership with schools, agencies, state departments of education, universities, the federal government, and other organizations to resolve those issues. Additionally, she was instrumental in shaping the American Foundation for the Blind's research and policy work, specifically, its national programs in the areas of early childhood development, aging, employment, rehabilitation teaching, low vision, orientation and mobility, and career education.

Dr. Spungin's leadership and influence within the field of blindness and vision impairment are evident in her many publications and workshops, lectures, and keynote speeches she's presented around the world; in her mentorship of newer leaders in the field; and the awards and honors she has received and the enormous respect and reverence that greet her wherever she goes.

Dr. Spungin's forty-four years of distinguished work on education and rehabilitation of blind people in national and international arenas is commendable and fully deserving of the commendation of the M.C. Migel Medal.

## TRIBUTE TO WESLEY SAVAGE

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. SKELTON. Madam Speaker, each May, I hold a small business procurement conference at the University of Central Missouri in Warrensburg, Missouri. Through the years, many individuals have contributed to the success of this event, which helps entrepreneurs and small business owners to cut through bureaucratic red tape associated with the procurement process and to make business connections.

One individual who was particularly helpful in gluing together my annual conference was Wes Savage, a good friend and expert in entrepreneurial studies and business development. Wes passed away rather unexpectedly last July, so the 2009 conference will be the first one without him.

As I prepare for this year's event, let me take a moment to reflect on the life of a truly outstanding figure at the University of Central Missouri, a good family man, and a friend to so many people.

Wes was born on May 25, 1937, in Decatur, Illinois. He received a bachelor's degree in mechanical engineering & industrial engineering from the University of Missouri—Rolla and a master's degree in production management & human resource management from Butler University. He also completed continuing education courses in psychology, banking, and basic programming.

Wes enjoyed working and became an expert while being employed in a wide range of industries and organizations. He was a Registered Professional Engineer in the state of Missouri and gave time to the Engineers Club of Kansas City. He was affiliated with the Missouri Board of Architects, the Engineers and Land Surveyors, and the National Development Council.

In 1987, Wes began working at the University of Central Missouri as the Consulting Engineer for the Small Business Development Center (SBDC) and became coordinator for the SBDC in 1990. Wes served as the Center's director until he became Director of the Institute for Entrepreneurial Studies and Development at the University.

In his role at the University, Wes assisted and advised numerous Missouri business owners and entrepreneurs. He gave sound advice to help Missourians begin or improve business operations, which in turn, helped to create jobs and boost economic productivity in the Show-Me State. I have heard from many individuals through the years who have expressed gratitude for working with the SBDC because of the Center's positive impact on business.

Wes also cared deeply about teaching university students about entrepreneurship and the unique opportunities and business tools available to people in this country. This is why he was particularly thrilled when the University created the Institute for Entrepreneurial Studies and Development and why he helped create an online course and co-taught with staff the first entrepreneurial course at the University.

Wes Savage applied the things he learned in education and in life to his professional career. He was an experienced manager who motivated those around him with his strong work ethic and his relaxed, friendly demeanor.

I know Members of the House will join me in expressing gratitude for Wes's life and for extending best wishes to his wife, Jane; his sons and their wives, Craig and Deana Savage, Scott and Gina Savage, and Grant and Erika Savage; his six grandchildren; and all of his friends and colleagues.

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HANNAH TURNER

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**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Hannah Turner who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Hannah Turner is a senior at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Hannah Turner is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Hannah Turner for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

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INTRODUCTION OF VETERANS  
EDUCATION TUITION SUPPORT  
ACT OF 2009

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**HON. SUSAN A. DAVIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mrs. DAVIS of California. Madam Speaker, I rise today to introduce the Veterans Education Tuition Support Act of 2009 or the VETS Act to address some of the difficulties our military personnel face when they are activated while attending college.

Thousands of military reservists have been activated to fight in Iraq and Afghanistan directly from their college campuses. Unfortunately, students who serve in the military face unique hardships when called upon to defend the United States.

Most colleges and universities refund tuition and fees to students when the activation occurs during the academic calendar. However, instances have occurred when a service member has not been reimbursed.

The goal of the VETS Act is to provide our service members with certain rights when they are activated while in college to defend our country. The legislation requires colleges and

universities to refund tuition and fees for unearned credit for unexpected withdrawals due to activation.

It also sets guidelines for the Department of Education to forgive student loans when a student service member for the semester or quarter in which the service member is activated to defend the United States.

Madam Speaker, I urge passage of this legislation to give rights and protections to the service members activated while attending a college or university. This is the least we can do for our brave men and women in uniform who sacrifice so much for us.

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ON THE BIRTH OF JOHN PATE  
MCMAHON

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**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. WILSON of South Carolina. Madam Speaker, today I am happy to congratulate Aris and Gibson McMahon of Alexandria, Virginia, on the birth of their new baby boy. John Pate McMahon was born on May 6, 2009, weighing 8 pounds and 11 ounces. He has been born into a loving home, where he will be raised by parents who are devoted to his well-being and bright future.

On behalf of my wife Roxanne, and our entire family, we want to wish Aris, Gibson, and John all the best.

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A TRIBUTE TO HUGH "SMITTY"  
SMITH, AN AMERICAN HERO

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**HON. DANIEL E. LUNGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to pay tribute to Hugh "Smitty" Smith, an American hero who served our nation through five major campaigns in France, Belgium, Holland and Germany during World War II.

Mr. Smith served on the front lines with the 744th Light Tank Battalion of the United States Army. As he advanced on the Axis Powers as the commander of an M24 tank, he was wounded by a German sniper in the face. Determined to fight for the liberation of Europe, he returned to his battalion three weeks later. Epitomizing the strength of the Allied Forces, Smitty staved off starvation and suffered a concussion, only to stay his new post guarding German prisoners until they were relocated.

Serving as a de facto battalion commander and even as a medic when his comrades were targets of German snipers, Smitty was known by his men as a "go to guy." Always rising to the occasion during the worst battlefield conditions, Smitty guided, calmed and assisted his men when they needed him most. Mr. Smith's bravery was simply unmatched.

One of Mr. Smith's most admirable leadership qualities is his fervor for serving others. As this was evident in his youth, he continues

today to lead by example and improve the wellbeing of his community by being a member of the CAPS team, the volunteer citizens patrol unit for the Galt Police Department. This role only solidifies what we know to be true about Smitty, that he is always ready and willing to serve others.

The ability to inspire and live a life of complete selflessness is the legacy of a true hero. It is an honor to recognize Hugh "Smitty" Smith for his immense dedication to improving the quality of life for so many individuals both here and abroad, and for his unwavering commitment to equality and justice. He has truly served my district and the United States of America proudly.

JOSEPH STIKA

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Joseph Stika who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Joseph Stika is a senior at Arvada High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Joseph Stika is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Joseph Stika for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

HONORING MRS. KIM SCHMIDT

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Mrs. Kim Schmidt, recipient of the Harford County Public Schools Teacher of the Year award. Kim is dedicated to motivating her students and ensuring they receive an excellent education.

Kim has been an educator for 18 years, 16 of which have been in the Harford County Public School System. While Kim wanted to be a teacher from the time she was a little girl, her dream of teaching temporarily faded while she became interested in physical therapy. However, in college, Kim discovered her love for history and her desire to teach others.

Graduating from the University of Delaware in 1991, Kim began her teaching career as a middle school Social Studies teacher at Old Court Middle School in Baltimore. In 1993, she began teaching at Havre de Grace High School and in 1996 she became the History

Department Chairperson at Fallston Middle School. From 1997 to 2005, Kim held a variety of positions in the Harford County Public School System before moving back to the classroom at Havre de Grace High School to teach United States History.

Throughout her career in Harford County, Kim has served on the School Based Instructional Decision Making Teams, School Improvement Teams, the Maryland Geographic Alliance, and the Maryland State Department of Education reading in the content area task force. In addition to receiving this award, Kim will compete for the title of Maryland Teacher of the Year to represent Maryland's teachers as an education spokesperson.

Madam Speaker, I ask that you join with me today to honor Mrs. Kim Schmidt on this memorable occasion. Her dedication to the students of Harford County is showcased by her continuing drive to motivate her students to success, and ensure that they receive the highest quality of education.

TRIBUTE TO SAMUEL L. GRAVELY, JR., FIRST AFRICAN AMERICAN U.S. NAVY FLAG OFFICER

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. THOMPSON of Mississippi. Madam Speaker, I rise today, to recognize the christening of the USS *Gravelly*, the 57th Arleigh Burke class Aegis Guided Missile Destroyer, in honor of the late Vice Admiral Samuel L. Gravelly, Jr.

Samuel L. Gravelly, born in Richmond, Virginia in 1922, was the first African American to command a fighting ship (USS *Falgout*) and to command a major warship (USS *Jouett*). As a full commander, he made naval history in 1966 as the first African American commander to lead a ship—the USS *Tauessig*—into direct offensive action. He was the first African American to achieve flag rank and eventually Vice Admiral.

In 1942, Gravelly interrupted his education at Virginia Union University and enlisted in the U.S. Naval Reserve. He attended Officer Training Camp at the University of California in Los Angeles after boot camp at the Great Lakes Naval Training Station in Illinois, and then midshipman school at Columbia University. When he boarded his first ship in May of 1945, he became its first African American officer.

In 1945, when his first ship reached its berth in Key West, Florida, he was specifically forbidden entry into the Officers' Club on the base. Gravelly survived the indignities of racial prejudice and displayed unquestionable competence as a naval officer.

Vice Admiral Gravelly's tenure in the naval service was challenged with the difficulties of racial discrimination. As a new recruit, he was trained in a segregated unit; as an officer, he was barred from living in the Bachelor's Officers' Quarters.

Gravelly exemplified the highest standards and demanded very high standards from his crew. Vice Admiral Gravelly was a trailblazer

for African Americans in the military arena. He fought for equal rights quietly but effectively, letting his actions speak for him. Vice Admiral Gravelly died on October 22, 2004, at the naval hospital in Bethesda, Maryland.

Samuel L. Gravelly, Jr.'s performance and leadership as an African American naval officer demonstrated to America the value and strength of diversity. Gravelly was a true professional with superb skills as a seaman and admirable leadership attributes. His spirit aboard the USS *Gravelly* will be an inspiration to its crew, the United States Navy, and America for generations to come.

HONORING CLEO ZENT

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Ms. WOOLSEY. Madam Speaker, I rise today to celebrate Cleo Estelle King Zent of Petaluma, California, for an unusual accomplishment. Cleo just celebrated her 100th birthday, an event few people have the opportunity to enjoy.

There is no one secret to Cleo's longevity. Cleo maintains that genetics and a healthy lifestyle have kept her spry. She always avoided alcohol and tobacco use and, since she never drove, she got her exercise by walking everywhere. Cleo's positive outlook has also allowed her to experience ten fulfilling decades of life.

Cleo, daughter of Hugh and Laura Walker King, was born in Floyd, New Mexico on April 9, 1909. Her father was a leading citizen who championed education and promoted school issues among voters.

In 1927, Hugh and Laura King moved the family to Rio Vista, California where Hugh and his sons worked for Speckels Sugar Company until moving to Lodi, California three years later.

Following Prohibition, Cleo worked as a waitress in a local coffee shop where local winemakers gathered for breakfast and conversations. Cesar Mondavi and August Sebastiani were among Cleo's customers.

On May 2, 1942, Cleo married Claude R. Zent. The couple spent most of the World War II years in Alameda, where Claude worked as an electrical engineer at the Naval Air Station. Their first son, William R. Zent, was born in 1945, followed by the birth of Jack Zent in 1948.

After the War, the Zent family moved to a 12-acre plot of land just outside the city of Petaluma and Claude transferred his employment to the Mare Island Naval Shipyard in Vallejo.

For the next twenty years, Cleo and her family spent their time building and improving their homestead. According to Cleo, for years their house looked like they were just moving in or just moving out. When Cleo's dreams for her home were almost realized in 1966, Claude died of a brain hemorrhage. Cleo remained on the family's property walking to and from the grocery store, mowing the lawn and maintaining her home until she was in her 90s.



Today, Cleo lives in the Golden Living Care Home in Petaluma and she shares her life with her sons and her four grandchildren, Caryn Estelle, Kevin, Christy and Christopher Zent.

Madam Speaker, I am pleased to honor Cleo Zent whose experience is a testament to the fact that a healthy lifestyle and optimistic outlook can lead to a long and fulfilling life. Happy Birthday, Cleo!

MELISSA TEBEAU

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Melissa Tebeau who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Melissa Tebeau is an 8th grader at Moore Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Melissa Tebeau is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Melissa Tebeau for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

SOUTH CAROLINA ARMY NATIONAL GUARD RECEIVES HONOR

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. WILSON of South Carolina. Madam Speaker, I am grateful to recognize the South Carolina Army National Guard's 218th Brigade Combat Team who was recently honored with the Joint Meritorious Unit Award. Presented by the Department of Defense's Joint Chiefs of Staff, this award is given to units that have achieved distinction in their duties and is the second highest award given to a military unit.

The 218th, led by Major General Bob Livingston, served for a year in Afghanistan as part of Task Force Phoenix advising and training Afghan police and army forces. As a result of their heroic and dedicated service, Afghanistan has doubled the size of its army to 52,000 troops, and the number of Afghan police officers killed in action each month has been cut dramatically.

As a 28 year veteran of the 218th, I want to extend my gratitude and that of the entire nation to Major General Stan Spears, commander of the South Carolina National Guard, Major General Livingston, his brave soldiers

and their families for their tremendous commitment to protecting American families by defeating terrorists overseas.

### TRIBUTE TO KEVIN FAHEY

### HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. COURTNEY. Madam Speaker, for the past 30 years, Kevin Fahey has dedicated his personal and professional life to the students and faculty of the University of Connecticut. This year, he will retire as the President of the University of Connecticut Professional Employees Association (UCPEA), the union for professional staff at the university. While he will remain an active member of the UConn community, I rise to recognize his years of contributions to faculty and staff at the university.

Kevin joined the UConn faculty over three decades ago and currently serves as the Senior Associate Director in the Department of Student Activities. As Senior Associate Director in the Department of Student Activities, he advises the Student Union Board of Governors (SUBOG), Kappa Alpha Theta, and Tau Kappa Epsilon in academics, community outreach, and personal and professional growth. For the past 15 years, Kevin has also served as the President of UCPEA.

Madam Speaker, the success of our education systems relies on the strength and passion of our academic leaders. I can personally attest to Kevin's passion for education, the UConn community, and the students he advises, which has led many to conclude that he "bleeds husky blue". While his leadership with the UCPEA will certainly be missed, he will continue to enrich the UConn community and energize its students. I ask my colleagues to join with me and the UConn community in recognizing his decades of service.

### BRITTANY SMITH

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Brittany Smith who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Brittany Smith is a senior at Wheat Ridge High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Brittany Smith is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Brittany Smith for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

### TRIBUTE TO JEFFREY M. COHEN

### HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. MACK. Madam Speaker, I rise today to honor one of my most trusted advisors and closest friends, Jeffrey M. Cohen.

Jeff has a long history with the Mack Family, going back almost 20 years. He interned for my father, U.S. Senator Connie Mack III, and later served as his press secretary for several years. After working in a variety of public relations and management positions in the private sector and on political campaigns, Jeff agreed to serve as my campaign manager during my first run for Congress in 2004.

Since then, Jeff has been my right-hand man, effectively and efficiently managing my congressional office as well as my 2006 and 2008 campaigns. He is my sounding board, a dedicated public servant, and a strong advocate for the ideals of freedom and free markets. Jeff is passionate about what he does and his work and management style reflect this.

A professional with Jeff's talents and expertise would be an attractive candidate for any firm, and I've been fortunate to have him by my side for so many years. But Jeff has been afforded a wonderful opportunity that will allow him to grow in his career.

After 5½ years as my chief of staff, Jeff is moving on to take a position in the private sector.

Jeff has been named executive vice president of Alexandria, Virginia-based Direct Impact, a leading national grassroots, public affairs, public education and corporate reputation firm, and a subsidiary of Burson-Marsteller.

While I am happy for Jeff to begin this next phase of his professional career, make no mistake about it, he will be greatly missed. He has been a valuable member and irreplaceable part of my team, but I will continue to count on his advice and friendship in the years ahead.

Madam Speaker, I would not be where I am today were it not for Jeff's dedication, service and hard work. On behalf of the people of Florida's Fourteenth Congressional District, I want to thank Jeff for his years of service to the people of Florida and the Nation. He is my friend, he is a true public servant in every sense of the word, and I wish him all the best as he begins this new and exciting chapter of his life.

### HONORING 43 YEARS OF MILITARY SERVICE OF ROBERT WAYNE WILCOX

### HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. LUETKEMEYER. Madam Speaker, I rise today to honor the 43 years of military service of Robert Wayne Wilcox, a farmer from Moberly and Randolph County Eastern

District Commissioner. I want to commend Mr. Wilcox for his two combat tours in Vietnam and two tours in Iraq, and I would also like to draw special attention to the fact that Mr. Wilcox volunteered for multiple tours of duty in both Vietnam and Iraq.

Mr. Wilcox began his military career by entering active duty on March 21, 1966 and served proudly until this past March 23, 2009. Mr. Wilcox accumulated more than 4,000 hours of flight time as a military pilot and during his last tour of duty in Iraq, he flew Black Hawk helicopters in over 400 hours of combat.

Mr. Wilcox has attained numerous awards, including: three Bronze Stars for meritorious service, one Meritorious Service Medal, one Army Commendation Medal, 18 Air Medals, the Army Reserve Component Achievement Medal, a Vietnam Service Medal, the Global War on Terrorism Expeditionary Medal, a Global War on Terrorism Service Medal, the Armed Forces Reserve Medal with "M" device, one Army Service Ribbon, an Army Reserve Component Overseas Training Ribbon, the Republic of Vietnam Campaign Medal, and the Vietnam Gallantry Cross with bronze star attachment.

Our soldiers, sailors, and pilots sacrifice everything they have in service to America and will serve as a permanent reminder of the bravery, loyal patriotism, and love of country.

In closing, Madam Speaker, I ask all my colleagues to join me in wishing Robert Wayne Wilcox our sincerest thanks and appreciation for his commitment, dedication, and service to our nation. It is an honor to represent him in the United States Congress.

IN MEMORY OF MAYOR BOB  
WASSON

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. SKELTON. Madam Speaker, it is with deep sadness that I inform the House of the death of Mayor Bob Wasson of Sedalia, Missouri. Bob was a lovely man and a dedicated servant to the city of Sedalia, his family, and his friends.

Bob was born on October 20, 1933, in Las Vegas, Nevada. He was raised in Sedalia, Missouri, and graduated from Hughesville High School. In 1953, Bob dedicated his services to the country by volunteering for the army during the Korean War. He spent his time in Korea as a typist and played a pivotal role in hiring KATUSA soldiers, Korean Augmentation Troops to the United States.

In 1962, Bob married his wife, Eleanor. In 1974, they moved back to Missouri, where Bob spent the remainder of his years dedicating his time and efforts to the community. He began his service as owner of his local grocery store, Bob's AF Super. It was through his store that Bob began to meet and interact with residents of Sedalia. In addition, Bob also spent several years as the director of the Sedalia Senior Center. In 1994, he began to reach out to the community by preaching at the Broadway Baptist Church. He was ordained in 1997 and spent time preaching at

the Dresden Baptist Church and the Lamine Baptist Church before becoming the pastor at Mt. Herman Baptist Church, where he remained pastor up until his death. As Bob steadily became a noticeable figure in the Sedalia area, the decision was made to run for public office in 2002. Having no previous political experience, Bob was victorious in his first mayoral election, defeating the 11-year incumbent, winning more than 70 percent of the votes.

As a politician, Bob is noted for starting the new recycling program, building a new community center, supporting Whiteman Air Force Base, and developing the economy. However, he is most known for his visibility in the community and his interaction with Sedalia citizens. Councilwoman Wanda Monsees framed it well when she said, "When I think of Mayor Wasson, the image I get, is of how he would be in the parades, and he would have his young grandsons with him. That just personifies the kind of guy he was to me."

In 2008, Bob was diagnosed with a brain tumor and in April he underwent surgery to remove it. In May, he underwent a second surgery to remove a tumor discovered in his colon. However, even while battling cancer, Bob continued to serve Sedalia as Mayor. I admire the tenacity he displayed as he battled cancer and the courage it took to continue working and providing sound advice during difficult times.

Madam Speaker, Bob Wasson was a great man. It was a pleasure to work with him on issues that affected Sedalia and central Missouri because he fought hard to make it a better area. I will miss him terribly and I hope the House will join me in expressing our deepest condolences to his family and friends. He was a dedicated servant to the Sedalia community, but above all he was a dedicated husband, father, grandfather, great grandfather, brother, son and friend.

DARYA SHEVCHENKO

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Darya Shevchenko who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Darya Shevchenko is a senior at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Darya Shevchenko is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Darya Shevchenko for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

DAYTON PLAYS IMPORTANT ROLE  
IN AMERICA'S AMATEUR RADIO  
SERVICE

**HON. MICHAEL R. TURNER**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. TURNER. Madam Speaker, last weekend the Dayton, Ohio area played host to America's Amateur Radio operators. The Dayton Hamvention, located in Trotwood, has been a fixture of the Amateur Radio community since the event's founding in 1952.

There are 663,000 FCC-licensed amateurs in the United States and Ohio ranks fourth nationally with a total of 27,800. Many traveled to the Dayton area to attend the Hamvention.

The Amateur Radio Service, which began in the early 1900s, is both a challenging hobby and a valuable national resource in times of local and national disasters. Amateur Radio has repeatedly proven its value in providing two-way communications for local emergency operations centers and public safety officials during hurricanes, tornadoes, floods, earthquakes and even terror attacks. Its motto, "When all else fails . . . Amateur Radio," is more relevant today than ever.

For most of the 20th century, Amateur Radio attracted and nurtured telecommunications skills in America's youth, inspiring many to seek careers in communications and engineering while advancing the art of radio communications. Today, Amateur Radio satellites link hobbyists around the globe, and Amateur Radio operators combine the latest computer technology and digital communications with a commitment to public service.

The Dayton Hamvention, sponsored by the Dayton Amateur Radio Association, has steadily grown in size and popularity to become the premier annual gathering of ham radio operators from around the world. The three day event offered exhibits of the latest in radio and digital communications technology and forums for hams to share their skills and interests.

Thanks to the never ending hard work of the Dayton Amateur Radio Association, hams eagerly look to Dayton each year for innovation and inspiration.

IN TRIBUTE TO BISHOP SEDGWICK  
DANIELS

**HON. GWEN MOORE**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Ms. MOORE of Wisconsin. Madam Speaker, I rise today to recognize a compassionate spiritual and community leader from the Fourth Congressional District, Bishop Sedgwick Daniels. Bishop Daniels is the pastor and spiritual leader of Holy Redeemer Institutional Church of God in Christ. His involvement in the well-being of this community, whether it is his church ministry or providing critical services, has been a lifelong pursuit. Bishop Daniels is a recognized leader at the national, regional and local level for his work.

Bishop Daniels has been recently honored with his election and elevation to the General

Board for the International Church of God in Christ. The General Board oversees both the temporal and spiritual affairs of the church in the United States and in more than 50 countries. The 12-member General Board of Bishops is elected to this board from the Church of God in Christ's International Board of Bishops.

Bishop Daniels is the jurisdictional Bishop for the historic Wisconsin 1st Jurisdiction, where he oversees more than 90 congregations and includes all of Wisconsin and northern Illinois. In addition to his duties as jurisdictional Bishop, he oversees an array of resources and services to assist the community as leader of the Holy Redeemer Institutional Church including: a credit union, youth programs through the Daniels-Mardak Boys and Girls Club, educational programs and plans for the development of Bishop Creek Initiative.

Madam Speaker, for these reasons, I am honored to pay tribute to Bishop Sedgwick Daniels' contributions to the Fourth Congressional District.

#### HONORING THE 19TH ANNUAL DC BLACK PRIDE CELEBRATION

#### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA  
IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Ms. NORTON. Madam Speaker, Memorial Day Weekend, May 17th–25th, is the 19th Annual DC Black Pride celebration in Washington, DC.

DC Black Pride is an exciting six-day event complete with dynamic workshops, receptions, cultural arts activities, small and large nightclub events that culminates in the world's oldest, most inclusive Black Pride Festival. Many consider DC's festival one of the world's preeminent Black Pride celebrations. The Festival consistently draws more than 30,000 people to the Nation's Capital. Attendees come from every major urban area in the United States as well as Canada, the Caribbean, South Africa, Great Britain, France, Germany, and the Netherlands. The Black Pride Festival features activities for the entire family, including performances by national recording artists, 200 exhibition booths, book signings from noted writers, participation from national and local health organizations, and arts and crafts.

Black Lesbian and Gay Pride Day, Inc. (BLGPD), the celebration's organizing body, chose the theme "Pure Love" to encourage the Black lesbian, gay, bisexual, and transgender (LGBT) community to recommit themselves to advocacy, continuing the work towards combating homophobia and heterosexism, promote health and wellness, strengthen their community, and inspire Black LGBT people everywhere to live their lives with pride and integrity.

Black Lesbian and Gay Pride Day, Inc., a non-profit organization with a volunteer Board of Directors, coordinates this annual event. BLGPD's 2009 Board of Directors consists of: Khalid Parker, President; Christopher Lane, Secretary; Maegan Marcano, Treasurer; and the following Members at Large: Jhahbriel Moore, Karim Shabazz, and Jimma Eliot-Stevens; and these Members Emeriti: Earl Fowlkes, James W. Hawkins, Eric E. Richardson, Clarence J. Fluker, Courtney Snowden, Sterling Washington and Cheryl Dunn, who lead BLGPD in its mission to build knowledge of and to create greater pride in the Black LGBT community's diversity, while raising funds to ameliorate and prevent health problems in this community, especially HIV/AIDS.

I ask the House to join me in welcoming all attending the 19th annual DC Black Pride celebration in Washington, DC, and I take this opportunity to remind the celebrants that United States citizens who reside in Washington, DC, are taxed without full voting representation in Congress.

#### JUSTIN TRUJILLO

#### HON. ED PERLMUTTER

OF COLORADO  
IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Justin Trujillo who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Justin Trujillo is a senior at Arvada High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Justin Trujillo is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Justin Trujillo for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

#### IN HONOR OF FRANCIS "BOB" GALANTE OF BROCKTON, MASSACHUSETTS

#### HON. STEPHEN F. LYNCH

OF MASSACHUSETTS  
IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. LYNCH. Madam Speaker, I rise today in honor of Francis Galante, in recognition of his bravery, sacrifice and service to the United States of America.

Francis is the son of Teresa (Ferrante) and Carl Galante who emigrated from Frigento, Italy. He was born on August 28, 1916 in Brockton, Massachusetts, and lived in West Bridgewater with his aunt and uncle through the Depression.

He graduated from Brockton High School, married Diana Ferrini in 1939, enlisted in the United States Reserves, and was then drafted into the United States Army. He was deployed overseas and stationed in Africa, leaving his wife and ten-month-old daughter.

Francis was later shipped to Salerno, Italy, with the 34th Infantry nicknamed the Red Bull

Division. He served as a ranger behind enemy lines. He was hit with shrapnel in Leghorn, Italy, wounding both of his legs and his head. He crawled for days to get back to base in order to receive medical treatment. He received the Purple Heart while in the hospital August 9, 1945.

After being hospitalized in Italy, Atlantic City, and Framingham, Massachusetts, he was discharged August 9, 1945, VJ Day, and returned home to Brockton. He then drove an Eastern Mass bus and also worked for his father-in-law's bakery, Superior Bakery, making over 200 deliveries in one day. Later, he was an important part of the creation of the cabinet company, Wood-Hu Kitchens, in Brockton, later becoming President. He retired from Wood-Hu Kitchens in August, 1981.

Francis was a star athlete, held records in track, and was also a professional gymnast performing in many Brockton clubs. He was a member of the YMCA since he was eight years old and was the longest standing member of the YMCA until his recent illness. He was a member of the Thorny Lea Golf Club in Brockton for over forty years.

Madam Speaker, Francis had many passions in life, the most important being family. He was married at the age of twenty-three to the love of his life, the late Diana. He was the proud parent of two children, four grandchildren, and two great-grandchildren. Francis was known for his amazing health and vigor at the age of 92. He always had the ability to make people laugh while poking fun at the same time. Francis is remembered and admired by his family and many friends.

Madam Speaker, it is my distinct honor to take the floor of the House today to join with Francis Galante's family, friends, and contemporaries to thank him for his remarkable service to his community of Brockton and to the United States of America.

#### TRIBUTE TO HELEN CROFT

#### HON. JASON ALTMIRE

OF PENNSYLVANIA  
IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. ALTMIRE. Madam Speaker, I rise today to pay tribute to the extraordinary life of Helen Croft, who died unexpectedly this month at the age of 45.

Known for her warmth, optimism and contagious enthusiasm, Helen was an art teacher at North Allegheny School District's Hosack Elementary School. In this capacity, she positively impacted the lives of thousands of young students, including most recently my two daughters, Natalie and Grace.

She treated every student, teacher and parent with respect, and brought a smile to the face of seemingly everyone with whom she came into contact. She exhibited a love of life that extended well beyond the school.

She also worked as a coach in a community soccer league, and cultivated at her home a renowned colonial-style garden that drew admirers from across western Pennsylvania. A graduate of Buffalo State University and the Fashion Institute of New York City, she was known for her talent for embroidery, which she regularly shared with friends and neighbors.

She will be greatly missed by those friends and neighbors, as well as the entire North Allegheny School District, especially her students. But of course her loss will be most deeply felt by her husband Corky and their two children, Jacob and Hannah.

Her work lives on in the hearts of everyone she touched, and she serves as a lasting inspiration to the students who loved her.

IN RECOGNITION OF THE 20TH ANNIVERSARY OF THE OHIO AEROSPACE INSTITUTE

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in recognition of the Ohio Aerospace Institute, as they celebrate their 20th anniversary on 20th of May, 2009.

The Ohio Aerospace Institute (OAI) is a non-profit organization whose work is supported by several institutions, including the NASA Glenn Research Center, the Air Force Research Laboratory, and the Wright Patterson Air Force Base. The institute works in conjunction with ten public and private universities in the State of Ohio by offering students the opportunity to study aerospace engineering for their graduate work, as well as with numerous companies around the country.

The OAI leads research projects and develops technology partnerships in order to connect universities, laboratories and industries working in the field of aerospace engineering. Their partnerships with local universities educate and mentor local students, creating the future leaders of our aerospace workforce. The OAI also brings together various representatives of the governmental, industrial and educational sectors—fostering and improving stronger cooperation between them.

Since OAI's inception 20 years ago, they now have 80 employees and have led more than 250 research and development projects funded by 206 million dollars from the space industry sector and the federal government. The OAI is continuing Ohio's instrumental and historical role in space research by inspiring our future John Glenns, Wright Brothers, and Neil Armstrongs.

Madam Speaker and colleagues, please join me in honor of the tireless service and significant contribution that the Ohio Aerospace Institute has provided to the State of Ohio and to our entire nation.

**SHELBY WEST**

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Shelby West who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Shelby West is an 8th grader at Moore Middle School and received this award because her deter-

mination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Shelby West is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Shelby West for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

CONGRATULATING TAIWAN ON OBTAINING OBSERVER STATUS IN WORLD HEALTH ASSEMBLY

**HON. WALLY HERGER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. HERGER. Madam Speaker, I rise today to congratulate Taiwan on its participation as an observer in the 62nd annual World Health Assembly (WHA), which is taking place in Geneva this week. The recent H1N1 influenza outbreak serves as yet another reminder that international cooperation is vital to protecting against the spread of infectious diseases. In order to achieve this goal, it is important to have broad participation in the activities of the World Health Organization (WHO), and I commend the WHO for inviting Taiwan to assist in carrying out its mission.

Taiwan is a key trading partner for the United States and the fifth largest overseas market for U.S. agricultural exports. With growing attention to ensuring the safety of the food supply in a global economy, our close economic ties with the people of Taiwan present another compelling argument for Taiwan's involvement in the WHA. Furthermore, I believe the Taipei delegation will bring a valuable perspective to the WHA in light of Taiwan's remarkable success in advancing the public health of its people.

This Congress has repeatedly passed legislation promoting Taiwan's meaningful participation in the WHO, and I am encouraged to see these efforts finally come to fruition. I am especially pleased that this development comes in the context of steady improvement in relations between Taipei and Beijing, and I applaud officials on both sides of the Taiwan Strait for their efforts to pursue peace and stability in the region.

I look forward to increased cooperation among Taiwan, the United States, and other members of the international community to share public health information and guard against global pandemics.

TRIBUTE TO MONSIGNOR WILLIAM KERR

**HON. JASON ALTMIRE**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. ALTMIRE. Madam Speaker, I rise to commemorate the incredible life of a truly great man, Monsignor William Kerr, who died last week at the age of 68. Monsignor Kerr was known, respected and loved throughout the world and his loss will be felt around the globe.

His professional life began as a parish priest in his hometown of St. Louis, and ended as Executive Director of the Claude Pepper Center for International Dialogue in Tallahassee, Florida. In between, he spent his entire career traveling the world working for peace, fighting for human rights, and promoting education and diplomacy.

He spent the majority of his professional life in Pittsburgh, Washington, DC, and Tallahassee, home of his beloved Florida State University, where he received multiple degrees and spent the early part of his career as an adjunct faculty member and an instructor of history, in addition to his position as Catholic Campus Minister.

Throughout his life, Monsignor Kerr traveled the globe to carry out his true callings of spiritual ministry and education. His travels gave him the opportunity to meet and befriend countless dignitaries, and to advance the cause for which he dedicated his life, human rights.

He served as a vice president at Catholic University here in Washington, DC, and as president of La Roche College in McCandless, Pennsylvania.

It was at La Roche College that I first met Monsignor Kerr. As a Trustee at La Roche, I worked closely with him and witnessed firsthand his love of education and the ease with which he interacted with people, whether they be Heads of State or freshman students.

During his twelve years as president of La Roche College he created programs to educate future leaders and assist students from war-ravaged countries to get an American education. The Pacem in Terris Institute, which he created at La Roche, established a scholarship program for outstanding college age men and women from conflict and post-conflict nations, such as Bosnia and Rwanda. The students would receive an education at La Roche to study leadership and diplomacy in return for their agreeing to return to their home country after graduation to help rebuild their nations. In all, 450 students from 21 countries received scholarships. This program fulfilled Monsignor Kerr's dream of educating the future leaders of developing regions as a way to stem conflict and promote peace.

Through this program he developed a lifelong friendship with many world leaders and throughout his life he cultivated a wide and eclectic network of friends and colleagues. And while he was comfortable hosting high profile dignitaries, Monsignor Kerr was at his best when he was among the students that he loved. It seemed that he knew the names and life details of every student he encountered

during his daily walks across campus, and he could often be seen sharing laughter and camaraderie with groups of students in between their classes.

After leaving La Roche College in 2004, he returned to Washington, DC, to become the director of the Pope John Paul II Center, where he stayed until returning to Tallahassee to lead the Claude Pepper Center.

Through it all he maintained his commitment to spiritual leadership, and he continued to celebrate mass. And it was during his celebration of mass at the Co-Cathedral of St. Thomas More in Tallahassee that he suffered the stroke that claimed his life at the age of 68.

I count myself fortunate to be one of the many that have had the opportunity to know and work with Monsignor William Kerr. He had a profound impact on my life as he did the lives of nearly everyone he encountered. His like will not be seen again, and he will be deeply missed.

#### IN RECOGNITION OF PEARL ROAD AUTO PARTS AND WRECKING

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of Pearl Road Auto Parts and Wrecking of the Old Brooklyn neighborhood of Cleveland, Ohio, as they become the first business ever in the City of Cleveland to implement wind technology by constructing a wind turbine at their place of business. Pearl Road Auto Parts and Wrecking, owned by the Kaplan family for four generations, will generate nearly 100% of the electricity needed to run their business from a wind turbine. I also rise in honor of Susan Spear and the entire staff of EcoWatch Ohio, who collaborated with the Kaplans to make this project become a reality.

The wind turbine will be set upon a 140-foot tower, capturing the north coast drafts high above Pearl Road near Interstate 480. For years, current owners Myron Kaplan, and his sons, Jon and Kevin, worked toward realizing their vision of constructing a wind turbine on the property. Their innovative ideas are part of the legacy of the Kaplan business and for nearly eighty years, the owners of Pearl Road Auto Parts and Wrecking have been leaders in implementing environmentally progressive practices, including solid waste reduction, fuel reduction and other recycling programs.

Moreover, the Kaplan family of Pearl Road Auto Parts and Wrecking is active in community programs and events, and has reflected an unwavering commitment to the betterment of the Old Brooklyn neighborhood. As leaders in community arts as well, from 1980 to 1990, residents gathered free of charge at the Auto Parts lot as Kaplan family hosted live theater, musical and poetry performances.

Madam Speaker and colleagues, please join me in honor and recognition of the Kaplan family, the entire staff of Pearl Road Auto Parts and Wrecking, and EcoWatch Ohio, for their collective vision and persistence in being the first ever to construct a wind turbine to run

a business, inspiring others to follow in their path. Whether catching gentle breezes or gale force winds rushing south across Lake Erie, the wind turbine holds the promise of clean power, renewable resources and endless possibilities in alternative energy programs and job development throughout our community and our nation.

#### WEBCASTER SETTLEMENT ACT OF 2009

**HON. JAY INSLEE**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. INSLEE. Madam Speaker, I rise today to thank Chairman CONYERS and my colleagues on the Judiciary Committee for reporting the Webcaster Settlement Act of 2009, a bill I introduced to clear the path for private negotiations to determine the royalty rates for the use of music over Internet radio.

The Copyright Royalty Board (CRB) is a government body tasked with determining royalty rates for the use of music over Internet radio. In 2004, the CRB was tasked with determining a rate structure at the direction of Congress, and released its decision in March of 2007. The rate structure determined by the CRB substantially increased royalty fees that webcasters would be forced to pay.

Since the CRB is authorized to set and establish a royalty rate structure, stakeholders need Congressional authority to forge an agreement that the government would adopt. H.R. 2344 provides that critical authority, and allows private groups 30 days from enactment to work out a settlement amongst themselves to replace the rate structure established by the government.

Webcasters and copyright holders, including those in Washington State, like Washington's 101, WebRadioPugetSound, WildMixRadio Network.com, and Hollow Earth Radio need this legislation so they have the freedom to negotiate and craft a fair royalty rate structure for all impacted parties. Currently, Internet radio pays 47% of its annual revenue in royalty fees, a rate that will eventually crush the industry.

An estimated 42 million people tune to Internet radio on a weekly basis. Internet radio offers consumers not only entertainment value, but it serves niche markets and allows access to independent labels and artists, diversifying programming. Webcasters in Washington State allow small, local, Northwest bands an opportunity to have their music heard across the country. This bill will allow small webcasters serving those markets to continue to compete and be an outlet for minority voices.

I urge my colleagues to consider this important bill, and to help keep the music playing online.

#### IN HONOR OF THE SURVIVORS AND VICTIMS OF THE PONTIAN GENOCIDE

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mrs. MALONEY of New York. Madam Speaker, I rise to honor the survivors and victims of the Pontian Genocide of 1915–1923. On May 19 we remember the treacherous actions of those who murdered hundreds of thousands of Pontian Hellenes and destroyed their communities, and we remember the survivors and the fallen.

Nearly a century ago, there were large communities of Hellenes living across the Ottoman Empire. In a few short years, these communities were destroyed, and hundreds of thousands of lives were taken at the order of the Ottoman government. Hellenic Pontians had lived along the southeastern coast of the Black Sea in what is now northern Turkey for more than three millennia. The perfidious decision to destroy these peaceful communities resulted from the fear that foreign populations under Ottoman rule would join with their mother countries and destroy a crumbling empire.

During a bloody eight year reign of terror, the Ottoman government orchestrated the killing or displacement of hundreds of thousands of Greeks, Armenians and Assyrians who had been living in the Pontus region. Thousands of people were murdered outright. The rest were uprooted and forcibly marched across the Anatolian border, without food or other provisions, to the Syrian border. Mass rapes and abductions of women and children also occurred. More than half of the Pontian population perished from violence, starvation or disease.

Roughly 400,000 Pontians refugees survived the onslaught and fled to Greece, Russia, and the United States. Despite the huge number of people who died or were displaced, most of the world paid no attention to their suffering. The fact that so many people could be murdered or removed from their homes without facing any consequences empowered future genocidal regimes to take similar actions.

One of the greatest tragedies of genocide is that the aggressors often succeed in eliminating the memory of those who fled. Few Americans today know about the Pontian Genocide. We have an obligation to honor the memory of those who died and teach our children about those dreadful times in hope that they will never be repeated. On May 19th, 2009, on the annual day of remembrance, members of the Pan-Pontian Federation will pay solemn homage to the victims. Although the genocide almost caused the extinction of the Pontian people, their traditions and culture still resonate today.

Madam Speaker, I ask my colleagues to join me in honoring the Pan-Pontian Federation as they honor the sacrifices and memory of their noble ancestors. I commend the Pan-Pontian Federation in their efforts to preserve Greek culture and history. May the victims of the Pontian Genocide rest in peace.

IN MEMORY OF JUDGE JIM  
HUDSON

**HON. MIKE ROSS**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. ROSS. Madam Speaker, I rise today to honor the memory of Jim Hudson of Texarkana, Arkansas, who passed away on May 3, 2009, at the much too early age of 56. As a man of faith, a devoted husband and father, and a committed statesman, his life and legacy is an example to us all.

As a circuit judge for the 8th judicial district south serving Miller and Lafayette Counties since 1991 and as a former prosecuting attorney, Jim was one of the most fair-minded and selfless people I have had the pleasure to know. Arkansas lost a true public servant with Jim's passing and he will be deeply missed.

I knew Jim my entire adult life and was proud to call him my friend. His steadfast commitment to justice and his devotion to his community made Jim a person many of us looked up to and respected, as we witnessed Jim help countless individuals and families throughout his career in public service. He was so respected in his profession that both Arkansas's U.S. Senators Blanche Lincoln and Mark Pryor recently selected Jim as a possible nominee to fill a U.S. district judge's position in the Western District of Arkansas, a position for which he would have been perfectly suited.

Jim's cheerful personality was contagious and he was liked by all he encountered. In fact, over the course of Jim's difficult five-week struggle with post-surgical complications, a website updated daily with information regarding his progress was visited more than 60,000 times.

As a respected jurist, Jim's greatest legacy is to the legal profession where he had a coveted grasp of complex legal issues and a commitment to helping troubled youth find their way. He also mentored numerous young lawyers and jurists that now practice across the region, passing on his knowledge and teachings that exemplified his fairness and passion for law. His legacy will live on for decades in our region's legal system through the many lives and careers he touched.

My thoughts and prayers and those of every Arkansan are with Jim's family during this difficult time, especially to his wife, Kathy; his two daughters, Sarah and Claire Hudson; his stepmother, Jane Hudson; and, his grandson, Jaxson Hudson.

Jim left us much too early and those of us who knew him will always remember the laughter and lessons he shared with us all. We too often forget how much one person can make a difference in this world and Jim's life and legacy is an example of how one man can better the lives of so many, the profession he cared so deeply about and the church, community and state he called home.

DOÑA STOREY, PRESIDENT AND  
CEO, QUALITY TECHNICAL SERV-  
ICES, INC., VIRGINIA BEACH, VA

**HON. GLENN C. NYE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. NYE. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn and our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17-23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Ms. Doña Storey for her tremendous accomplishments on behalf of small businesses. Ms. Storey is president and CEO of Quality Technical Services, Inc. (QTS), a minority and woman-owned small disadvantaged business. Founded in 1980, QTS provides strategic management consulting and manages multiphase, multi-location interior design projects. QTS counts among its clients some of the nation's largest corporations such as Time Inc. and Johnson & Johnson, and has contracted with federal, state and local governments.

Ms. Storey has garnered several accolades for her entrepreneurial success and contributions to the business community, including being named by the Small Business Administration in 2007 as Virginia's "Women in Business Champion of the Year." She participates in speeches and mentoring programs to educate other entrepreneurs about navigating the government contracting process, and is the

creator of an online guide that provides information on how to succeed in the federal marketplace.

Madam Speaker, Ms. Storey has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, she will testify before the House Small Business Committee to share her story. I ask that you and the entire U.S. House of Representatives join with me in honoring her for the extraordinary work she has done for the small business economy. Her efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

25TH ANNIVERSARY OF FATHER  
AVED TERZIAN

**HON. JAMES P. MCGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 18, 2009*

Mr. MCGOVERN. Madam Speaker, I rise today to recognize the 25th anniversary of Father Aved Terzian serving at the Parish of the Armenian Church of Our Saviour.

Father Aved was born in Istanbul in 1956. He grew up in the church and decided to study divinity after high school. The person who really influenced his life was His Beatitude Archbishop Torkom Manoogian, Armenian Patriarchate of Jerusalem, and it was at his invitation that Father Aved came to America in February of 1975. In 1984, "Deacon Onnig" was ordained by his spiritual mentor Patriarch Torkom Manoogian. Following the tradition of the Armenian Church, the Patriarch named him Aved.

As the longest serving Armenian priest in Worcester, Father Aved has played a vital role in the promotion of Armenian culture, bringing the community together for Genocide Commemorations, Joint Christmas Eve Services, and the Greater Worcester Armenian Chorale. He has maintained a positive relationship with the Armenian Church of Our Saviour's neighbor, Worcester Polytechnic Institute, giving commencement prayers and providing crisis counseling.

In 1984, he participated in a Task Force to introduce holocaust studies to the Worcester Public Schools Curriculum. He has served on the Community Partnership for Police and Clergy, the City Manager's Coalition on Bias and Hate, the Diocesan Council Governing Body, the St. Nersess Seminary Board, and as an advisor to the Dean of Clark University.

Father Aved was instrumental in coordinating efforts to renovate the Armenian Church of Our Saviour, an ambitious project that included the Church Sanctuary, Sunday School, Church Hall, Cultural Center and an elevator to accommodate the handicapped and elderly. During his tenure, Memorial Endowment Funds were established as a means to generate income for the church.

Looking back over the past twenty-five years, Father Aved believes one of his greatest accomplishments has been to bring the parishioners, "the backbone of his ministry," to work together in serving the church. Father

Aved is thankful that the people of Worcester have accepted him, and been generous with their love and respect. When asked how he came to serve the Armenian Church as a priest, Father Aved referred to his calling as a process of getting closer to God, one that unfolded within him. Being a priest has been very rewarding for Father Aved. It is not a job, but a life he has chosen. As a representative of Christ, he is able to give people comfort, and lift their spirits when they are faced with life's challenges. He is, in his own words, a "wounded healer."

Madam Speaker, I commend Father Aved Terzian for his commitment to the Parish of the Armenian Church of Our Saviour for 25 years. The Parish celebrates this Silver Anniversary milestone with Der Hayr, his wife Yeretzgin Vivian and sons Onnig and Raffi. I ask my colleagues in the House to join me in paying tribute to this remarkable man.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 19, 2009 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

MAY 20

- 9 a.m.  
Foreign Relations  
African Affairs Subcommittee  
To hold hearings to examine developing a coordinated and sustainable strategy for Somalia.  
SD-419
- 9:30 a.m.  
Banking, Housing, and Urban Affairs  
To hold an oversight hearing to examine the Troubled Asset Relief Program (TARP).  
SD-538
- Homeland Security and Governmental Affairs  
Business meeting to consider S. 599, to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any certain diseases is the result of the performance of such employee's duty, S. 629, to facilitate the part-time reemployment of annuitants, S. 707, to enhance the Federal

Telework Program, proposed Enhanced Oversight of State and Local Economic Recovery Act, S. 920, to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, S. 942, to prevent the abuse of Government charge cards, S. 469, to amend chapter 83 of title 5, United States Code, to modify the computation for part-time service under the Civil Service Retirement System, S. 692, to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances, H.R. 918, to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the "Stan Lundine Post Office Building", H.R. 1595, to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the "Brian K. Schramm Post Office Building", H.R. 663, to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building", H.R. 987, to designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the "John Scott Challis, Jr. Post Office", H.R. 1284, to designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the "Major Ed W. Freeman Post Office", and the nominations of David Heyman, of the District of Columbia, to be Assistant Secretary of Homeland Security, Cass R. Sunstein, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, Robert M. Groves, of Michigan, to be Director of the Census, Department of Commerce, Marisa J. Demeo, of the District of Columbia, and Florence Y. Pan, of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD-342

Appropriations  
State, Foreign Operations, and Related Programs Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of State.

SD-192

- 10 a.m.  
Finance  
To hold a closed meeting to examine financing comprehensive health reform.  
SD-215
- Judiciary  
Immigration, Refugees and Border Security Subcommittee  
To hold hearings to examine securing the border and America's points of entry.  
SD-226

Appropriations  
Interior, Environment, and Related Agencies Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Forest Service.  
SD-124

Joint Economic Committee  
To hold hearings to examine oil and the economy, focusing on the impact of rising global demand on the United States recovery.  
210, Cannon Building

11 a.m.  
Foreign Relations  
To hold closed hearings to examine developments on the ground in Pakistan and Afghanistan.  
SVC-217

1:30 p.m.  
Foreign Relations  
To hold hearings to examine foreign policy priorities in the President's proposed budget request for fiscal year 2010 for international affairs.  
SH-216

2 p.m.  
Commerce, Science, and Transportation  
Business meeting to consider pending calendar business.  
SR-253

Armed Services  
Strategic Forces Subcommittee  
To hold hearings to examine the Defense Authorization request for fiscal year 2010 and Future Years Defense Program for military space programs; to be possibly followed by a closed session in SVC-217.  
SR-232A

Aging  
To hold hearings to examine pension plans.  
SR-432

2:30 p.m.  
Homeland Security and Governmental Affairs  
Disaster Recovery Subcommittee  
To hold hearings to examine the role of Community Development Block Grant Program in disaster recovery.  
SD-342

Judiciary  
Crime and Drugs Subcommittee  
To hold hearings to examine criminal prosecution as a deterrent to health care fraud.  
SD-226

Armed Services  
Personnel Subcommittee  
To hold hearings to examine the Defense Authorization request for fiscal year 2010 and Future Years Defense Program for active component, reserve component, and civilian personnel programs.  
SR-222

MAY 21

9:30 a.m.  
Armed Services  
To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for the Department of the Air Force.  
SD-106

Foreign Relations  
To hold hearings to examine a new strategy for Afghanistan and Pakistan.  
SD-419

Veterans' Affairs  
Business meeting to markup pending legislation.  
SR-418



10 a.m.

## Environment and Public Works

To hold an oversight hearing to examine the Economic Development Administration.

SD-406

## Finance

To hold hearings to examine The United States-Panama Trade Promotion Agreement.

SD-215

## Judiciary

Business meeting to consider S. 417, to enact a safe, fair, and responsible state secrets privilege Act, S. 257, to amend title 11, United States Code, to disallow certain claims resulting from high cost credit debts, S. 448 and H.R. 985, bills to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media, the nominations of Thomas E. Perez, of Maryland, to be Assistant Attorney General, Civil Rights Division, Department of Justice, David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit, Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit, and committee's subcommittee assignments.

SD-226

## Small Business and Entrepreneurship

To hold hearings to examine the role of small business in stimulus contracting.

SR-428A

10:30 a.m.

## Commerce, Science, and Transportation

## Consumer Protection, Product Safety, and Insurance Subcommittee

To hold hearings to examine health and product safety issues associated with imported drywall.

SR-253

## Appropriations

## Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Missile Defense Agency.

SD-124

## Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

## Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the National Institutes of Health.

SD-138

11 a.m.

## Appropriations

Commerce, Justice, Science, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the National Aeronautics and Space Administration.

SD-192

2 p.m.

## Appropriations

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Food and Drug Administration.

SD-192

Homeland Security and Governmental Affairs

To hold hearings to examine financial regulatory lessons from abroad.

SD-342

2:15 p.m.

## Indian Affairs

To hold hearings to examine executive branch authority to acquire trust lands for Indian tribes.

SD-628

2:30 p.m.

## Appropriations

Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Government Accountability Office, the Government Printing Office, and the Congressional Budget Office.

SD-138

Commerce, Science, and Transportation

Science and Space Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2010 for NASA.

SR-253

## Intelligence

To hold hearings to examine the nominations of Stephen Woolman Preston, of the District of Columbia, to be General

Counsel of the Central Intelligence Agency, and Robert S. Litt, of Maryland, to be General Counsel of the Office of the Director of National Intelligence.

SH-216

JUNE 10

9:30 a.m.

## Veterans' Affairs

To hold an oversight hearing to examine the Department of Veterans Affairs' construction process.

SR-418

JUNE 24

9:30 a.m.

## Veterans' Affairs

To hold an oversight hearing to examine the Department of Veterans Affairs quality management activities.

SR-418

## POSTPONEMENTS

MAY 20

2:15 p.m.

## Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine funding and oversight of the U.S. Army Corp of Engineers and the Bureau of Reclamation.

SD-192

MAY 21

Time to be announced

## Health, Education, Labor, and Pensions

Business meeting to consider S. 717, to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and any pending nominations.

SD-430

2 p.m.

## Appropriations

Military Construction and Veterans Affairs, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of Veterans Affairs.

SD-124

## HOUSE OF REPRESENTATIVES—Tuesday, May 19, 2009

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. TONKO).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 19, 2009.

I hereby appoint the Honorable PAUL TONKO to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

### HONORING ARMY SPECIALIST JEREMIAH P. MCCLEERY

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. MCCLINTOCK) for 5 minutes.

Mr. MCCLINTOCK. Mr. Speaker, I rise today with the sad duty of recognizing the death in combat of Army Specialist Jeremiah P. McCleery, age 24, of Portola, California.

Mr. Speaker, if you read the observations of his friends, you very quickly realize this was not only an irreplaceable loss to his family and a monumental loss to his community, but it was also a terrible loss for our country.

Miah, as he was known, was simply a good kid. He made friends easily, he had a great sense of humor, and he had wanted to join the Army since he was 4 years old. He was an exemplary soldier who commanded the friendship and respect of his colleagues. He had fallen in love with a girl at Fort Hood before he shipped out, with their whole lives ahead of them.

A friend of his, Josh Rodgers, was asked when Miah McCleery was happiest, and the answer was, "doing anything with his dad." They had lost his mother, Collette, to cancer a few

years ago. His father, Joe, worked at a refuse collection company and later at a sheet metal business, and Miah was often at his side.

That same friend was asked why Jeremiah had enlisted. The response, "he always wanted to when he was a kid. He probably just wanted to out of patriotic duty to go serve. And I think he wanted to go do his part."

The question first asked by Jim Michener thunders across the countryside with a loss like this: "Where do we get such men?" Mr. Speaker, I don't know how to offer condolences to Miah McCleery's family, to his father, Joe, to his sisters, Lynette and Chastity, and to his grandparents and many friends. The loss they bear is beyond my comprehension.

I can only offer my awe and gratitude that humanity has within itself a small band of brothers like Jeremiah McCleery who stepped forward not for treasure or profit nor even to defend their own freedom. But rather, to win the freedom of a people half a world away. And they do it because their country asks and because it is virtuous and noble.

A few feet from here in the Capitol Rotunda is a fresco called the "Apotheosis of Washington." It depicts General Washington, in uniform, ascending to the heavens, flanked by victory and freedom, and surrounded by the essence and fruits of a free Nation. And in that depiction, Washington beckons.

From little towns like Portola, California, decent young men and women with promising futures, like Jeremiah McCleery, have answered. And I don't know where we get such men, and I don't know how their families can bear it. But I do know what we owe them. And I do know that we can never repay that debt, except to honor their memory and keep their sacrifice always in mind, those who gave up everything "to proclaim liberty throughout all the land, and unto all the inhabitants thereof."

### HONORING AND REMEMBERING LES SARNOFF

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. This is an era where new media and communication devices are seemingly created overnight. Was it only 3 years ago that YouTube bounced on the scene? It seems like it was last week that we first heard about Twitter.

Well, the first and most influential of the "new media" still plays a large role in our lives. Radio captures that magic in part because of the radio personalities who captivated us with their distinctive voices and wit, made larger than life by how much was left to our imagination in terms of the production and even what they looked like. William Conrad was the radio voice of Gunsmoke's marshal, Matt Dillon, who was played on TV by actor James Arness, 6 foot 6, tall and rangy with craggy good looks. William Conrad, the radio voice, sounded that way, but he was short and rotund. And while he looked distinctive, few would confuse him with a matinee idol. From Fred Alan, Jack Benny and Edward R. Murrow to Scott Simon, Garrison Keillor today, these people play an important role not just in a communication and entertainment medium, but in the lives of Americans.

In much of the commercial radio wasteland today, where content is centralized and digitized, while costs are cut, local personalities, who played such a profound role in virtually every community, are more and more a distant memory.

In my hometown of Portland, Oregon, we are still blessed with a few distinctive local voices. But sadly last month, we lost one who can only be described as an icon. For decades Les Sarnoff was the most distinctive personality in what started as an idiosyncratic, offbeat and obscure FM station. He helped it grow into a major commercial success and a Portland fixture. The characteristics that made him such a well respected professional and beloved local figure helped him rise above and survive the turmoil in the industry, the often destructive changes, to brighten the mornings of tens of thousands of my neighbors every day for the better part of three decades.

Les was a dedicated and disciplined professional, arising shortly after midnight every weekday to spend hours in preparation before his morning shift. He was a step ahead of legitimate trends in music, but with a profound respect for both music and artists that was timeless. He had a rapport and a chemistry with not only his audience, but the outstanding people that were part of his morning team over the years. Despite a demanding schedule and brutal hours, Les always made time to be part of public events and public affairs.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Now, media and people in politics need for, professional and ethical reasons, to maintain a certain distance. That is far more important to a media personality like Les, than for a politician like me. And observe that distance he did, but always with a sense that I was a friend, with a sense of interest and awareness whenever I would visit him in the station or more often do a telephone interview from our Nation's Capitol or an occasional lunch or interaction at a civic event. But it was not Les Sarnoff letting his guard down. It was Les revealing that at core he liked, understood and respected everyone. He was curious, funny and caring. Even in his passing, Les brought our community together as thousands gathered last Sunday to honor his memory in Portland's Pioneer Square, our City's front yard. By reflecting on his life, we reflect on ours.

To his wife Rita, Les' many friends and colleagues, because of his love for and work with you, we have all been touched. We will never be the same without Les, but also, we will never be the same because of Les Sarnoff.

#### WORLD HEPATITIS DAY

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. TOWNS) for 5 minutes.

Mr. TOWNS. Mr. Speaker, today, May 19, marks the second annual World Hepatitis Day, when the need for greater public awareness towards prevention and treatment of this silent killer is recognized internationally.

Hepatitis is a prime example of an issue that must be addressed now, as Congress and the administration work together to create a sustainable health care system for future generations.

Of those infected with viral hepatitis C, more than three-quarters are unaware of their infection, making the long-term consequences of HCV infection, including cirrhosis of the liver and liver cancer, a greater, greater danger.

A study about HCV released just yesterday by Milliman Incorporated, one of the Nation's most respected firms, tells a troubling story. They are saying that over the next 20 years, medical costs for patients with HCV infections are expected to increase from \$30 billion in 2009 to over \$85 billion in 2024.

Chronic viral hepatitis is a leading cause of primary liver cancer, one of the fastest growing cancers, which significantly impacts 6 million Americans and has a 5-year survival rate. The minority population will be disproportionately affected. Hepatitis C is twice as common among African Americans as among whites.

As a Member of the United States House of Representatives, I will continue to support increased funding towards public education, early detection, testing and counseling for pa-

tients. We cannot afford to be silent about this disease any longer. We must speak out and take action. That is what we need to do to curtail this very, very serious problem.

#### THE DROUGHT CRISIS IN SAN JOAQUIN VALLEY

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. COSTA) for 5 minutes.

Mr. COSTA. Mr. Speaker, I rise today to bring attention to a drought crisis that is affecting California's San Joaquin Valley. Three years of below-average rainfall have created tremendous hardships in valley communities that are the backbone of California's agriculture economy. We have heard time and time again about the deep, deep financial impacts affecting all regions of our country. But in places like Detroit and in places like the San Joaquin Valley, where you have 30 and 40 percent unemployment, it is no longer a deep recession, but it is a depression.

Farmers and farm workers in the San Joaquin Valley grow over 350 different crops, employing tens of thousands of people and providing half the Nation's fruits and vegetables. It is number one in the dairy industry and a host of other important agricultural commodities that are not subsidized, that don't use subsidized water, that, in fact, are critical to healthy diets for Americans and provide a tremendous balance of payments on our trade efforts abroad.

Sadly, though, three critical years of drought shortage have had a devastating effect on communities in the San Joaquin Valley and in my district. My district and Congressman CARDOZA's district are at ground zero where we have communities that have 30 and 40 percent unemployment, communities that have 10 and 12,000 people, 30,000 people, 50,000 people. When one-third of the people in your community don't have jobs, it is a depression.

Today, clearly, our environmental regulations are not working. We have an inability to move water around California.

□ 1045

We know that, if this drought lasts a fourth and fifth year, Katy, bar the door.

These are food lines in communities in my district. The irony is that these are some of the hardest working people you will ever meet. Normally, they would be working in fields, working in processing facilities, putting food on America's dinner plates. Sadly, they're in food lines. How horrific in America. Many of my colleagues for the last 4 months, 5 months have been working to try to bring attention to our State representatives, to our Governor and, here, to our President and to the new administration in town because we know, in California, like other parts of

the country, droughts and floods are cyclical.

This photograph is an almond orchard that has been pulled out because of a lack of water. So, to that degree, Congressman CARDOZA and I, in January, began meeting with the new administration, laying out a host of administrative efforts that we thought, with flexibility, could allow us to move water around from parts of the State that have water. We have met with Secretary Salazar and his staff, with the Mid-Pacific Region and their staff time and time again and with the Governor and his director of water resources, and we have brought to the attention of the President and of his White House staff the fact that they should come to the valley and see firsthand the devastating impacts.

We need to have flexibility during times of drought. Clearly, people are as important as the other environmental balances and trade-offs that are there. If the Environmental Species Act were working, we would not have a decline in the fisheries that have taken place over the last two decades. So we are working on short-term efforts to try to deal with the current situation in the event that this drought lasts a fourth or a fifth or a sixth year.

The last drought we had in California lasted 6 years, from 1988 to 1993. I predict to my colleagues that if, in fact, this drought lasts a fourth or a fifth year, California will be rationing water in southern California and in the Bay Area, and we will see a horrific set of circumstances affecting our State.

So it is time to act now, both with the short-term remedies as well as with the long-term remedies. We need to try to do everything we can to plan for the next year in the event that this drought continues. We need to provide flexibility at the Federal and State pumps to move water around, to make water banks work, and yes, in the long term, we need to fix the plumbing system in the delta.

California has 38 million people. By the year 2030, it is estimated we will have 50 million people. We have a water system designed for 20 million people. It cannot work. So, with a larger coalition of the Latino Water Caucus, we marched on water in April. We are going to continue to march. We are going to continue to try to seek out our colleagues who want to constructively help us with the administration to understand that both short-term and long-term investments in California infrastructure are critical if we are going to solve this problem.

This is a forerunner of what's occurring, not just here in California but around the world. Water is the lifeblood of man's ability to produce food and fiber. The problems we are having in California today are happening around the world. We need to act today.

#### VETERANS COMMUNICATION IMPROVEMENT ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Mexico (Mr. HEINRICH) for 5 minutes.

Mr. HEINRICH. Thank you, Mr. Speaker.

I rise today to introduce the Veterans Communication Improvement Act. This bill will provide for a smoother transition for servicemembers moving to veteran status, and it will help facilitate the communication between all veterans and veterans' services.

Currently, when a servicemember concludes his service to our country, he fills out a form known as the DD-214. This form is essentially a compilation of a member's time in the military. It includes awards and medals and other pertinent service information such as promotions, combat service or service overseas. The DD-214 also contains information needed to verify military service for benefits, retirement, employment, and membership in veterans' organizations, which makes it one of the most important documents in the military.

As to be expected, the DD-214 contains the current physical address and phone number of the veteran, but there is no place on the form for a veteran to include his or her e-mail as the best way to be contacted. Far too often, however, when servicemembers return home from active duty or if a veteran has simply moved to a new home, they lose contact with the Department of Veterans Affairs. This bill will enable one more avenue of communication, an e-mail address, to be included on each servicemember's DD-214 form.

For many veterans, particularly for our youngest veterans returning from Iraq and Afghanistan, a personal e-mail address is the most common and efficient way to communicate with them. In utilizing modern e-mail technology, this legislation will make great strides in expediting the delivery of benefits that our country's veterans unquestionably deserve. These brave Americans and their families have made immeasurable sacrifices to our Nation's well-being. I am honored to sponsor this legislation, and I urge my colleagues to support it.

#### REGIONAL IMPACTS OF CLEAN ENERGY LEGISLATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. I thank the Speaker.

Today, I rise as a southern Congressman to discuss the regional impacts, Mr. Speaker, on clean energy legislation and on a renewable electricity standard in particular.

We have heard that it is impossible to have a national renewable elec-

tricity standard, because different States have different renewable energy resources, and that the southeastern United States, in particular, would be unable to meet targets established by the renewable electricity standard in the draft American Clean Energy and Security Act now being considered by the Energy and Commerce Committee of this body.

I represent a State in which there is not a single utility-scale renewable generation facility. The Virginia General Assembly has not enacted a mandatory renewable electricity standard, so we have failed to create market certainty for firms that would invest in renewable energy otherwise. In contrast, New Jersey has 44 megawatts of grid-connected solar capacity, fueled in part by a 22.5 percent renewable electricity standard with solar set aside. New Jersey has more than twice as much grid-connected solar energy generation than the total for all States without a renewable electricity standard, including Virginia, even though it has less solar exposure than any State in the Southeast. What we have witnessed in the Southeast is not a lack of natural resources but, perhaps, a lack of political will.

Since we are in the midst of the most severe economic contraction since the Great Depression, the clean energy jobs legislation before us represents not an academic debate but, rather, an opportunity to spur economic growth and to reduce greenhouse gas pollution based in successful policies that have been enacted at home and abroad.

Just as more than half of our States have enacted successful renewable electricity standards, so too have other nations. Germany, for example, has a lower solar exposure than almost all of the United States, and yet it is the world's leader in renewable energy, as documented in a recent article in the National Journal. In the last decade, the number of Germans employed in the renewable energy sector has grown from 30,000 to 280,000. Germany has installed 22,247 megawatts of wind energy and 3,811 megawatts of solar photovoltaic. Strong mandatory incentives for renewable energy have fueled this jobs boom in Germany.

The number of coal mining jobs in the United States has fallen by 50 percent in the last three decades, principally due to mechanization. Those coal jobs disappeared from States like Virginia and West Virginia, which lack incentives for renewable energy. In Germany, on the other hand, the number of coal mining jobs also has fallen, but the number of renewable energy jobs created has more than offset the lost jobs by a factor of five. Unfortunately, many U.S. companies, like First Solar, have built factories in Germany rather than here in America because Germany had requirements for renewable energy production.

The minority claims that a clean energy bill will result in net job losses, but in reality, we are losing jobs right now because we do not have a stronger clean energy policy. We cannot cling to antiquated modes of energy production that are hemorrhaging jobs and then expect to achieve, much less expedite, an economic recovery here at home. If we are to drive economic growth, we must invest in innovation and in job creation, not in exhausted resources and outmoded systems of production.

Here in the South, where we have not benefited from strong renewable energy incentives, we need a national renewable electricity standard to create new jobs in both mill towns that have lost jobs overseas and in prosperous business centers such as those I represent in northern Virginia. The Southeast has wind resources in the Continental Shelf, in the Appalachian Mountains, and it has good solar exposure throughout our entire region.

Now is the time, Mr. Speaker, to exploit those natural resources and to produce energy right here at home. Now is the time to pass clean energy jobs legislation with a strong renewable electricity standard.

#### CROSSROADS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. YARMUTH) for 2 minutes.

Mr. YARMUTH. Thank you, Mr. Speaker.

Mr. Speaker, this Congress is being called on to make some very critical decisions. We are at a crossroads in this country and in the world.

You know, we are trying to make bold moves. President Obama has proposed a very bold agenda in the area of health care reform, energy and education, and we have taken up that cause in this Congress, and we are moving very decisively to make significant changes in this country.

From the other side, we hear reasonable questions: How much is this going to cost? What about the deficits we will be incurring? What about fiscal responsibility? Well, you know, there are two aspects to fiscal responsibility. One is living within your means. There's no question about that. We need to be able to do that. The other question is: How do you prepare for the future? If we are living within our means and are not willing to make the investments that we need to make, then the future is going to be very bleak, indeed.

You heard just a few minutes ago my colleague from California, Mr. COSTA, talking about the need to promote infrastructure, to invest in infrastructure and in the water supply in California. Well, this is just one microcosm of the challenge we will face across the country with bridges, roads, airports, air traffic controls, water systems,

sewers. We need to make significant investments in all of those areas in order to provide the foundation, the infrastructure, for future growth, and we're going to have to borrow money to do that. Similarly, if we don't make the changes in our health care system and in our energy system and in our education, we will not have the human infrastructure that we need to move into the future.

You know, I've heard the minority leader on the other side say: How much is it going to cost to do health care reform? Well, I'm not sure, but we know how much it's going to cost not to do health care reform. We've seen the projections. Tens of trillions of dollars over the next 70 years in additional deficit are forecasted for Medicare. That's if we don't act. So we know what the cost of not acting is. It is time to act. It is the fiscally responsible thing to do to adopt the agenda of the Obama administration, and I look forward to being a part of that historic effort.

#### WORLD HEPATITIS DAY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. CASSIDY) for 2 minutes.

Mr. CASSIDY. I thank you.

Today is World Hepatitis Day. This has special meaning for me because I'm a liver doctor, and I've spent 20 years treating hepatitis patients. Three to four million Americans have hepatitis, and about two-thirds of those folks are baby boomers. Maybe it has special meaning for me because I'm a baby boomer, but it also includes firemen, those affected at birth, Vietnam veterans, and many others who are affected by this disease. Indeed, almost every person, almost every family is touched by someone who has liver diseases.

Every year in this country, thousands die from liver disease. We spend, roughly, \$30 billion a year treating liver disease, and many more are frightened, even though they shouldn't be, because they know the terrible statistics I just cited. Hepatitis doesn't affect people at the end of life, but rather, it can affect people in the primes of their lives. When it does so, it potentially leaves behind orphans, widows and widowers.

The best of the American spirit is compassion. Public policy should reflect this compassion, and in this case, it will be for our friends, our families and, in my case, my patients touched by hepatitis. Today, on World Hepatitis Day, I ask that we, through public policy, pledge our compassion to those so affected.

#### THE IMPORTANCE OF FISCAL RESPONSIBILITY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. PERRIELLO) for 5 minutes.

Mr. PERRIELLO. Thank you, Mr. Speaker.

I rise today as one of the younger Members of this body to speak out about the importance of fiscal responsibility. As one of those young enough who will take on much of the burden of the deficits created today, I speak out of the urgency of our considering future generations in the decades ahead as we look at this. It's certainly true that both political parties have much to answer for in terms of the deficits that have been run up, but it's also important that we do not embark on revisionist history and suggest moral equivalence between the sides.

□ 1100

We must remember that the last administration walked into a situation where they had a \$5.6 trillion surplus—a \$5.6 trillion surplus—that they turned into a \$4.5 trillion deficit. That turnaround, you could hear future generations crying as that great opportunity to restore fiscal sanity was passed up and our national debt was doubled.

The Clinton administration and this body in the early 1990s took bold steps to get us on the path towards fiscal responsibility. We saw the same kind of bold leadership from the Democrats in my state, the Commonwealth of Virginia, when MARK WARNER came in as Governor, inheriting a huge deficit, and turning it into a surplus and making Virginia the best-managed State in the country. Governor Kaine moved in and continued that tradition, even under much more difficult economic times, of fiscal responsibility and sanity. So we know that this can be done because we have seen Democrats do it at the national level, and we have seen Democrats do it at the State level.

We have taken steps in this body to move in the right direction. I think the budget should have gone further which is why I didn't support it. But let there be no doubt that we turned this ship around from unending deficits to cutting those deficits in more than half in the next 5 years. This is the decent thing to do. It is the right thing to do.

But in addition to the budget deficits that were run up in recent years, there was also a running up of a jobs deficit. We hear people talking now, worried suddenly about the jobs we could lose by getting in front of the energy economy. What about the jobs we have already lost? My colleague, Mr. CONNOLLY, has already spoken to how many millions of jobs have already gone overseas, good paying, advanced manufacturing jobs, engineering jobs, that could have been here if this body had the courage and the leadership to look forwards and not backwards.

Again, both parties have been part of trade deals that I think have been a bad bargain for the American worker. But let us have no doubt that there are those in this body now ready to have

the courage to be ahead of the next big jobs boom and make sure that those next generation of jobs will be created here in the United States as we move towards a balanced budget, the kind of business climate where people want to locate and where we dare the American consumer and American business leaders to lead, to innovate, to create, to be at the forefront of that new energy economy.

This jobs deficit that has been created hand in hand with our budget deficit is one we can conquer. I believe we have taken great steps already in this Congress to put ourselves at the forefront of science, of research, of green energy. I come from an area of the country that has a great deal of pain right now. We have more than 20 percent unemployment in some of the towns in our districts as factories have gone overseas.

As we look at the possibility for alternative energies, energy efficiency technology, smart grid technology, advanced battery manufacturing, I believe our side has the courage to say America can do that better than anybody else. I believe southside Virginia can do that better than anyone else. But we will not get it by continuing the moral deficit we have had in our politics in recent years that puts the easy ahead of what is right. That puts partisan gains of right and left ahead of right and wrong.

The Democrats have a strong track record of fiscal responsibility in my State of Virginia and here in this body. We have begun a path that I hope we will continue to march down toward fiscal responsibility that will generate the jobs and the economic competitiveness that this country needs.

So I rise today hopeful and happy that we are part of that new change here to bring back and close in this time, to close the moral deficit, close the jobs deficit, and close the budget deficit and restore the kind of responsibility that future generations deserve.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 4 minutes a.m.), the House stood in recess until noon.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BLUMENAUER) at noon.

#### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

One God and Father of all, we ask You to renew Your spirit within us and lift up this Nation in confidence, in determination and transformative thinking.

Members of Congress are distinctly unique individuals representative of America. They are not only racially, religiously and politically different; they are personally and philosophically different, one from another, closest to their families and the people of their districts.

Yet by coming here, they are called to form one body, to guide and protect this Nation as a whole. By unfolding before their very eyes the depth and variety of human needs and by seeking a common response to economic and social concerns, may they become Your instrument to breathe hope in Your people and sustain perseverance in the historical institutions of this great Nation, both now and forever. Amen.

#### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

#### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Minnesota (Mr. PAULSEN) come forward and lead the House in the Pledge of Allegiance.

Mr. PAULSEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### AIRSPACE REDESIGN OVER CONNECTICUT, NEW YORK AND NEW JERSEY

(Mr. HIMES asked and was given permission to address the House for 1 minute.)

Mr. HIMES. Mr. Speaker, I rise today to talk about the FAA's redesign of the airspace over Connecticut, New York and New Jersey. Plans for this redesign have moved forward, certainly in my district, without proper and appropriate input from the stakeholders and from my constituents affected by this move.

Planes are being rerouted to fly over southwestern Connecticut upon descent into New York's airports, and my constituents have been subjected to unnecessary and unprecedented levels of noise in their homes and places of business. A day does not go by that I don't hear this concern from my constituents.

Later this week I will be submitting an amendment along with my colleagues Congressman SESTAK and Con-

gressman ENGEL during floor consideration of H.R. 915, the FAA reauthorization bill. This amendment will call simply for a cost-benefit analysis to be performed before the redesign proceeds any further.

The amendment will require the cost-benefit analysis to take into account direct costs as well as the indirect costs of alleviating the noise that so affects my constituents.

I urge my colleagues to support this commonsense amendment to the FAA reauthorization bill.

#### MEDICAL RIGHTS ACT

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, many are concerned about waiting lines that would come with a government health care program, and their fears are well-founded. Canada and Europe restrict care for patients, especially the elderly.

The President has outlined three principles for his bill: lower cost, choice and access. I support these goals; and to back them, the President should also endorse the Medical Rights Act.

Congressman DENT and I will introduce the Medical Rights Act tomorrow. Our legislation is founded on this: The Congress should make no law that blocks the decisions of American patients made with their doctor.

If patients are our prime focus, then their rights should be protected in law. If we do not enact the Medical Rights Act, patients will be at risk when the government denies care, as routinely happens in Canada.

Once denied government care, many Canadians find doctors in America. If Congress orders the government to take over America's health care system, then where will we be able to drive once denied from a government health care system?

To prevent the mistakes of Canada and Britain, Congress should enact the Medical Rights Act.

#### REDUCING THE DEFICIT

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, Congress and the President continue to work together to strengthen our economy and begin the process of reducing the mountain the debt that has accumulated over the past 8 years.

We enacted a budget that reduces the deficit by two-thirds over the next 4 years and by hundreds of billions over the next year alone. We made the necessary hard choices to dig our way out of the hole we inherited by eliminating programs that don't work and holding

government contractors accountable for every penny they spend.

We are addressing the issues that are driving our long-term deficit. By making health care more affordable for every American, reducing our dependence on foreign oil, and improving our education system to be more globally competitive, we're taking the necessary steps today to ensure that we correct the fiscal mistakes of the past and don't just send the bill along to future generations.

#### CLOSING AUTOMOBILE DEALERSHIPS

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, recently the President's automobile task force eliminated more than 3,000 Chrysler and GM dealerships nationwide. These dealerships are small businesses with an average of 52 good-paying jobs each.

So the actions by the Federal Government, not the private auto industry, just put over 150,000 people out of work with the wave of a government wand. Most troubling is that the government's decision on which dealers would close appears to be arbitrary, and the reasons are not being shared with the public.

In my district, a long-time local dealer, Bill Mason's Chrysler Jeep in Excelsior, was given 30 days by the President's auto task force to shut its doors. Thirty days. It didn't matter that he built the business, owns the land and provides good-paying jobs.

Mr. Speaker, it is wrong to let Washington bureaucrats pick winners and losers without public notice at the expense of thousands of jobs.

#### RESTORING FISCAL ACCOUNTABILITY

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, Democrats have been committed to fiscal responsibility since taking control of the House in 2007. The President's budget calls for health care reform, job creation, a clean environment, energy efficiency, and college affordability to be completely deficit neutral.

We are constantly reviewing the progress and spending of our recovery programs to ensure a strong return on every public dollar spent. We're also working to cut programs that don't work or government contracts that don't deliver for the American people. We're working hard to reform our Nation's health care system, which will reduce the deficit, save money for consumers, and improve efficiencies in the health care system.

In a key step, we scheduled oversight hearings and carefully reviewed all

Federal spending within the committee's jurisdiction to eliminate waste, fraud and abuse.

I applaud President Obama and the Democratic Congress for taking these critical steps and we will continue working with him to reduce our Nation's deficit and debt.

#### A TRIBUTE TO THE WILKES VFW POST 1142 HONOR GUARD

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to pay tribute to the Wilkes County, North Carolina, VFW Honor Guard. This band of brothers has faithfully served the veterans and families of Wilkes County for the past 12 years by honoring the lives of deceased veterans in Wilkes County.

Every member of the Honor Guard volunteers his time throughout the year to execute the Honor Guard's primary duty of performing military funeral rights for deceased veterans. Their commitment to those who have served our Nation demonstrates that they not only understand and revere the life of sacrifice chosen by those who serve in the Armed Forces, but they also know the toll military service takes on the family of veterans.

In paying their respects to deceased veterans, the Wilkes VFW Honor Guard is offering a tangible thank you to veterans' families and also preserving an American tradition of marking the death of veterans with dignity and respect.

I commend the Wilkes VFW Honor Guard members for their selfless service to their community and their Nation. They are true patriots.

#### 55TH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, on Sunday this Nation recognized the 55th anniversary of a great Supreme Court case—*Brown v. Board of Education of Topeka*. That case overruled a case called *Plessy v. Ferguson*, which legalized segregation in this country.

The people who brought about the *Brown v. Board of Education* effort did much to start the civil rights movement and kindled a spirit and a spark in America that has led to more equal justice and a better nation that we are continually improving upon.

John Hope Franklin, who recently died and has been honored by this House, researched the law on the subject; and Thurgood Marshall, who later became a United States Supreme Court Justice, argued the case on behalf of the NAACP Legal Defense Fund.

On this, the 55th anniversary of that historic case that kindled a movement in this country that went from the streets and the churches to this Congress, we need to recognize those who have fought so valiantly for justice and liberty and civil rights in this Nation. I appreciate their efforts and what they've done for our Nation.

#### CALIFORNIA BAILOUT

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the State of California boasts the highest tax rates, the highest number of unemployed residents, the lowest credit rating and largest deficit in the United States of America.

Businesses are leaving the State in droves because the tax burden continues to hammer them. Spendacrats in California have been running their State for decades, just like the new left government in D.C. wants to run the entire country: tax and borrow and spend and spend.

Some spendacrats in D.C. want the American taxpayer to bail out California by cosigning a guarantee for their municipal bonds, placing the full faith and credit of the United States taxpayer on the hook.

Texas taxpayers and other States with responsible government shouldn't be forced to send their money to a State that mismanages its money, wastes its resources and spends money it doesn't have on programs that don't work. Why doesn't California cut its spending binge and addiction to government programs rather than expect the rest of us to bail them out?

Next we'll hear that taxpayers will make money off the California bailout investment, just like we were promised would happen with all the money we gave Wall Street. Yeah, right.

And that's just the way it is.

#### FOCUS ON RENEWABLE ENERGY

(Mr. TEAGUE asked and was given permission to address the House for 1 minute.)

Mr. TEAGUE. In 2007 when I announced that I would be running for Congress, people were surprised to find an oilman like myself campaigning on a platform that emphasized energy independence through a focus on renewable energy. But I told people in Hobbs, Roswell, Carlsbad and across southern New Mexico that technologies like wind, solar and biofuels were not only good for the environment but would also create jobs in our communities and bolster our national security.

One area in which we can do a lot of good is biofuels. My State of New Mexico is fortunate to have several biofuel organizations on the cutting edge of re-

search. Both private companies and the national labs in my State are making excellent progress towards commercially producing oil from algae and other green sources.

The United States currently uses 20 million barrels of petroleum each day. American biofuels producers are aiming to reach 1 million barrels a day of biofuel production, which will really be sending a message to OPEC that America is serious about her energy independence.

□ 1215

#### QUALITY SOLUTIONS FOR PATIENTS

(Mr. BOUSTANY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUSTANY. Mr. Speaker, over the weekend, I was privileged to give the weekly Republican address. And as a doctor, I've seen firsthand the difficult challenges that face health reform, and at first glance, the task really seems daunting. However, working together we can achieve real results for the American people. We can lower out-of-pocket costs for families and reduce the Federal deficit, which is ballooning out of control. We can increase the quality of care by increasing the choices and information patients have in order to work with their doctor, the doctor they choose to decide the best care possible. Let's begin by ensuring families can keep their current coverage, as the President has promised to do. Then we can work to lower the cost of health care by giving patients flexibility and choice rather than one-size-fits-all, government-run health care. Working together, we can achieve real results and make health care more affordable and accessible.

We all agree, improving our system will make America more competitive and give families peace of mind. Let's work together to put the doctor and patient back in control.

#### RESTORING FISCAL RESPONSIBILITY

(Ms. TITUS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. TITUS. Mr. Speaker, after 8 years of economic policies that have left our Nation's fiscal house awash in red ink, this Congress is taking important steps to restore fiscal responsibility. We inherited a fiscal and economic mess that included soaring unemployment, a record deficit and a housing crisis. Faced with the worst recession in a generation, this Congress took unprecedented action in an effort to end our economic slide and turn our economy around.



First was the recovery package that invested in needed infrastructure and provided tax relief to 95 percent of working Americans. And now, with a budget that calls for health care reform, job creation, clean energy and investments in education, we will grow our economy while cutting the deficit by two-thirds over the next 5 years. By providing real oversight and honest accounting and with a commitment to fiscal responsibility, we are changing the way business is done in Washington.

#### NATIONAL ENERGY TAX KILLS JOBS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, it is troubling that with so many other strategies to move our country to a cleaner energy future, there are still some advocating that we impose a national energy tax. This tax will attack the budgets of American families, costing an extra \$3,000 each year. And it will drive businesses and the jobs they create overseas.

The administration and Democratic Congress who claim to be opposed to offshoring of American jobs are encouraging companies to leave America. This Nation does not need to impose new taxes on its citizens to achieve the common goal of a clean energy future. We have the natural resources here that can provide the revenue and the bridge to that future. We have the scientists and entrepreneurs that will create the next generation of energy resources. And we have the citizens who understand the benefit to their lives and to their budgets of commonsense conservation. We should explore, innovate and conserve, not tax and eliminate jobs.

In conclusion, God bless our troops, and we will never forget September the 11th and the global war on terrorism.

#### PAYING TRIBUTE TO CLAUDINE WILLIAMS, A TRUE LAS VEGAS PIONEER

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. I rise today to pay tribute to a dear friend and a true Las Vegas pioneer, Claudine Williams, who died last week at the age of 88. Claudine was a smart, savvy, tough businesswoman with a heart of gold and a true commitment to the community she helped shape into the 21st century. Las Vegas, known around the world. As the first woman to own and run a casino on the Las Vegas Strip, the famous Silver Slipper, Claudine redefined Nevada's gaming industry and

in the process opened the doors for countless others to follow in her footsteps. She was a generous philanthropist, contributing millions of dollars to local charities. And while she had very little formal education herself, she was a major contributor and supporter to the University of Nevada Las Vegas.

Claudine was a gracious hostess for the millions she welcomed through the doors of her successful hotel casinos. Claudine was truly one of a kind. She is irreplaceable. She will be missed. But her charitable contributions and the many lives this fabulous woman touched both inside and outside the gaming industry will continue to enrich Las Vegas for decades to come. I loved her. She is truly a dear woman. And I will miss her terribly.

#### NATIONAL SMALL BUSINESS WEEK

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute.)

Mrs. DAHLKEMPER. Mr. Speaker, I rise today during National Small Business Week on behalf of the millions of small businesses across the country.

As a family business owner and chairwoman of a Small Business subcommittee, I know firsthand that these small firms are the driving force behind job creation and our economic recovery. Therefore we have an obligation to assist these hardworking Americans during these difficult times.

The Recovery Act was an important first step generating \$21 billion in new lending and investment opportunities for entrepreneurs. However, we must go further and relieve the pressure small businesses experience from the skyrocketing cost of health insurance. Finally, we must help small businesses get the resources they need like those found in the Job Creation Through Entrepreneurship Act that the House will take up this week.

Mr. Speaker, small businesses are critical both to job creation and our Nation's recovery. During National Small Business Week, Congress should renew our commitment to giving them the assistance they deserve.

#### CONGRATULATING AVERETT UNIVERSITY IN DANVILLE, VIRGINIA

(Mr. PERRIELLO asked and was given permission to address the House for 1 minute.)

Mr. PERRIELLO. Mr. Speaker, yesterday the House unanimously passed a resolution I was pleased to introduce in recognition of Averett University's 150 years of service and leadership to the Commonwealth of Virginia and the Nation. Averett University stands at the center of knowledge and innovation in southern Virginia. Founded in historic Danville in 1859, Averett stands as a

testament to the virtues of progress and opportunity.

It began as a school for young women at a time when educating women was an unconventional notion. Continuing in this spirit, Averett was among the first colleges in Virginia to give tangible meaning to the terms "lifelong learning" and "career education" by creating an accelerated program of higher learning for working adults.

Today Averett has an enrollment of over 2,500 students and offers 32 major academic fields of study. The university was recently recognized nationally by U.S. News and World Report as one of the leading baccalaureate-granting colleges in the South. For over 150 years, Averett University has contributed to the strength of our Nation by providing men and women with the tools of thought and the spirit of service.

I congratulate them on this accomplishment and look forward to their next chapter.

#### HONORING THE REVEREND JOHN PRATT

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. I rise to talk about the passing of Rev. John Pratt of the Zion Shiloh Baptist Church in Brooklyn, New York. He pastored that church for 30 years. John Pratt is going to be missed in the Borough of Brooklyn. He was the kind of person that was always involved in community efforts. Whatever you needed to have done, John Pratt was a person that you could count on. Not only that, he was unusual in many ways, because you could talk to him and, of course, he wouldn't call a press conference on you. You just could have a discussion with him and then he would do whatever it was, and you didn't have to worry about him calling a big press conference to let the world know that you had asked him to do something.

He was the kind of person that was able to pull people together. He was a coalition builder. We are going to miss John and his coalition skills because he could talk to anybody at any point in any time. And that was the thing that he was able to do so well.

I will never forget that when my mother passed, how John was there on behalf of my family. So let me say to the Pratt family that you have my support in every way. If there is anything I can do, just let me know. I would be delighted to do it, because he was there for me, and I want to be there for you.

#### FISCAL RESPONSIBILITY

(Mr. ELLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ELLISON. Mr. Speaker, I want to talk this morning about a matter of great importance to the American people. As this new Congress and President Obama begin to repair and reshape our economy, I think it is critically important for Americans to know and remember how we got into this mess we find ourselves in today.

President Obama and this Congress inherited a fiscal mess from the Bush administration, including a record deficit and soaring unemployment. Since taking control of the House in 2007, Democrats have committed to restoring fiscal responsibility, taking steps to cut waste, fraud and abuse. The President's budget slashes the deficit by nearly two-thirds in 4 years. The budget also calls for health care reform, job creation, clean energy and energy efficiency, and college affordability.

We will continue to work to repair the damage of the last 8 years of irresponsibility.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### ENHANCED OVERSIGHT OF STATE AND LOCAL ECONOMIC RECOVERY ACT

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2182) to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted pursuant to such Act, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2182

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Oversight of State and Local Economic Recovery Act".

#### SEC. 2. REQUIREMENTS FOR FUNDING FOR STATE AND LOCAL OVERSIGHT UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

(a) **FEDERAL AGENCY REQUIREMENT.**—Section 1552 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 297) is amended—

(1) by inserting "(a) **FEDERAL AGENCY REQUIREMENT.**—" before "Federal agencies receiving";

(2) by striking "may," and all that follows through "reasonably" and inserting "shall,

subject to guidance from the Director of the Office of Management and Budget,"; and

(3) by striking "data collection requirements" and inserting "data collection requirements, auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse".

(b) **STATE AND LOCAL GOVERNMENT AUTHORITY.**—Such section is further amended by adding at the end the following new subsection:

"(b) **STATE AND LOCAL GOVERNMENT AUTHORITY.**—Notwithstanding any other provision of law, State and local governments receiving funds under this Act may set aside an amount up to 0.5 percent of such funds, in addition to any funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, fraud, and abuse."

(c) **CONFORMING AMENDMENT.**—The heading for section 1552 of such Act is amended to read as follows:

**"SEC. 1552. FUNDING FOR STATE AND LOCAL GOVERNMENT OVERSIGHT."**

#### SEC. 3. AUTHORIZATION FOR ACQUISITION BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

Section 502 of title 40, United States Code, is amended by adding at the end the following:

"(e) **USE OF SUPPLY SCHEDULES FOR ECONOMIC RECOVERY.**—

"(1) **IN GENERAL.**—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are funded by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

"(2) **VOLUNTARY USE.**—In the case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

"(3) **DEFINITIONS.**—The definitions in subsection (c)(3) shall apply for purposes of this subsection."

#### SEC. 4. DEFINITION OF JOBS CREATED AND JOBS RETAINED.

Section 1512(g) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 288) is amended by adding at the end "The Director of the Office of Management and Budget shall issue guidance to ensure accurate and consistent reporting of 'jobs created' and 'jobs retained' as those terms are used in subsection (c)(3)(D)."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Speaker, I yield myself as much time as I may consume.

I rise in support of H.R. 2182, the Enhanced Oversight of State and Local

Economic Recovery Act. H.R. 2182 will help ensure efficient and effective use of the taxpayers' money provided to State and local governments for stimulus projects. This legislation grew out of a hearing the Oversight Committee held on the Recovery Act. Many State and local officials responsible for overseeing spending of stimulus dollars pointed out to us that in these troubled economic times, they are under tremendous pressure to conduct their normal oversight work, let alone cope with the increase that the Recovery Act requires.

Our hearings, Mr. Speaker, made clear, that State and local governments need additional resources to monitor the large infusion of funds the Recovery Act directs. H.R. 2182 will provide State and local governments with the flexibility to set aside a portion of their stimulus funds for auditing, contract and grant planning and management, and investigations of waste, fraud and abuse.

The bill also permits State and local governments to use the Federal supply schedules of the General Services Administration for stimulus projects. The GSA schedules are prenegotiated Federal contracts for a range of common goods and services.

This is a win-win situation because it will allow State and local governments to acquire certain items without engaging in time-consuming contracting procedures while guaranteeing the lowest rate price for them.

Lastly, H.R. 2182 requires the Office of Management and Budget to give detailed guidance to State and local governments to ensure consistency in their reporting of job creation data. Our State and local governments are on the front lines of the efforts to fight mismanagement of Recovery Act dollars. Their success is vital to making the stimulus work for the American people.

Let me pause here and thank Ranking Member ISSA, who has worked very closely with me in crafting this legislation, and I want to thank him for that. I would also like to thank Representative KUCINICH, who has worked with us, Representative PLATTS, and Representatives WELCH and CONNOLLY for working with me on this bill.

I should note that the legislation incorporates part of H.R. 1911, which was introduced by Representative CONNOLLY from Virginia. H.R. 2182 is a strong bill. I urge all Members to support this critical oversight and accountability measure.

And I reserve the balance of my time.

□ 1230

Mr. ISSA. Thank you, Mr. Speaker. I yield myself such time as I may consume.

I join with the chairman in urging all Members to vote for this important correction piece of legislation. I say

“correction” because, in fact, we in Congress make mistakes. It wasn’t out of malice that we spent \$800 billion without asking the question of where would the money for oversight come from. These kinds of things happen in every organization where you’re in such a rush to do one thing that it’s not until later on in the light of the next day, or in the case of Chairman TOWNS and myself, it’s when we held a field hearing in his district in Brooklyn and people said, Thank you very much for the money, but here is A, B, C, D—what’s really happening? I commend Chairman TOWNS for quickly reacting to this and to some other issues that were found to be less than optimal in the stimulus package.

In the case of this legislation, H.R. 2182, we seek to empower with existing funds State and local governments to not have to reach into other money in order to do oversight. This is not to say that we wouldn’t prefer that the oversight be done at all times even without Federal money, but at a time in which the stimulus needs to be spent quickly and accurately, this legislation recognizes that money in short supply in States and in cities is likely not to go into the oversight necessary.

Particularly with the chairman’s initiative to ensure that transparency be greater than in any previous Congress, I recognize—and he has recognized—that if we want greater transparency, we are going to have to ensure that we not only supply the funds to do the oversight but that we supply the new technology and means to do the oversight. This legislation is deliberately intended to allow for cities and States to make investments in hardware or software that allows for them to better dig down into their procurement process, their spending, to work smarter, not just harder.

Having no other speakers at this time, I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, in closing, I would like to reiterate my strong support of H.R. 2182 as it provides State and local governments with the flexibility and resources they need to properly monitor the stimulus project. In our hearing, they asked for help, and of course, with Congressman ISSA and with members of the committee, we are now giving them that help. I urge my colleagues to join me in supporting the passage of this measure.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand before you today in support of H.R. 2182, the “Enhanced Oversight of State and Local Economic Recovery Act.” I would like to thank my colleague Representative TOWNS for introducing this bill and I urge my colleagues to support H.R. 2182, amending the American Recovery and Reinvestment Act of 2009. Supporting this bill will ensure that those people responsible for monitoring and accounting the \$787 billion currently being allocated through the Recovery Act are able to do so both fairly

and efficiently. I would also like to thank my legislative director, Mr. Arthur D. Sidney, for all his hard work.

This bill will require federal agencies receiving funds under the American Recovery and Reinvestment Act, subject to guidance from the Director of the Office of Management and Budget (OMB), to reasonably adjust applicable limits on administrative expenditures for federal awards to help award recipients defray costs of data collection, auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse required under such Act.

The “Enhanced Oversight of State and Local Economic Recovery Act” modifies the Recovery Act and provides state and local governments the flexibility to set aside a portion of their stimulus funds, up to .5% of such funds, in addition to any funds already allocated to administrative expenditures, to conduct planning, management and oversight investigations to prevent and detect waste, fraud, and abuse.

Furthermore, H.R. 2182 will permit the Administrator of the General Services Administration (GSA) to provide for the use by state and local governments of GSA federal supply schedules for goods or services funded by such Act. The GSA schedules are pre-negotiated federal contracts for a range of common goods and services, for stimulus projects. In addition, this bill will make participation by a firm that sells to a state or local government through such schedule, voluntary as well as require the OMB Director to issue guidance to ensure accurate and consistent reporting of “jobs created” and “jobs retained” data.

There is much concern that state and local governments are unable to meet the oversight demands placed on them by the Recovery Act. The stimulus calls for unparalleled oversight and accountability, so we must provide those whose job it is to root out waste, fraud, and abuse with the adequate tools to get the job done. Our state and local governments are on the front lines of this monumental effort to fight mismanagement of Recovery Act dollars and their success is vital to making the stimulus work. Not initially providing funds for state auditors under the Recovery Act was an omission that needs to be rectified. I encourage all of my colleagues to support this bill.

Mr. TOWNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and pass the bill, H.R. 2182.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### ADAPTED HOUSING ASSISTIVE TECHNOLOGY GRANT PROGRAM

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1170) to amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the devel-

opment of new assistive technologies for specially adapted housing, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1170

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SPECIALLY ADAPTED HOUSING ASSISTIVE TECHNOLOGY GRANT PROGRAM.

(a) *IN GENERAL.*—Chapter 21 of title 38, United States Code, is amended by adding at the end the following new section:

##### “§2108. Specially adapted housing assistive technology grant program

“(a) *ESTABLISHMENT.*—The Secretary shall make grants to encourage the development of new assistive technologies for specially adapted housing.

“(b) *APPLICATION.*—A person seeking a grant under this section shall submit to the Secretary an application for the grant in such form and manner as the Secretary shall specify.

“(c) *GRANT FUNDS.*—(1) The amount of each grant awarded under this section shall be an amount of not more than \$200,000 per year.

“(2) For each year in which the Secretary makes a grant under this section, the Secretary shall make the grant by not later than October 1 of that year.

“(d) *USE OF FUNDS.*—(1) The recipient of a grant under this section shall use the grant to develop assistive technologies for use in specially adapted housing.

“(2) If the recipient of a grant under this section is awarded a patent related to assistive technology developed with amounts under the grant, the Secretary shall retain not less than a 30 percent interest in such patent.

“(e) *REPORT.*—Not later than March 1 of each year, the Secretary shall submit to Congress a report containing information related to each grant awarded under this section during the preceding calendar year, including—

“(1) the name of the grant recipient;

“(2) the amount of the grant; and

“(3) the goal of the grant.

“(f) *FUNDING.*—From amounts appropriated to the Department for Medical Services for each fiscal year, \$2,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

“(g) *TERMINATION.*—The authority to make a grant under this section shall terminate on the date that is five years after the date of the enactment of this section.”.

(b) *CLERICAL AMENDMENT.*—The table of sections at the beginning of chapter 21 of title 38, United States Code, is amended by adding at the end the following:

“2108. Specially adapted housing assistive technology grant program.”.

(c) *DEADLINE FOR IMPLEMENTATION.*—The Secretary shall implement the grant program under section 2108 of title 38, United States Code, as added by subsection (a), by not later than 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise

and extend their remarks and to include extraneous material on H.R. 1170, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. I yield myself such time as I may consume.

Mr. Speaker, in about a week, on Monday, May 25, our country will mark the 38th year in which Congress has formally recognized the last Monday of May as Memorial Day in honor of our brave men and women who have made the ultimate sacrifice for our Nation, so I stand before you today with a series of bills to honor our fallen men and women and our current veterans and those on current active duty with deeds and not just with words that we speak on Memorial Day. So we want to honor the legacy of our fallen servicemembers. We look forward to ensuring that our veterans are cared for at the same level of dedication and service that they have provided while in service to our country.

The bills before you today have all come through our Economic Opportunity Subcommittee, chaired by Ms. HERSETH SANDLIN from South Dakota and with her ranking member, Mr. BOOZMAN from Arkansas. They have proven to be a formidable team, a team which works well together, which brings our committee together and which brings us bills that are very important to our veterans today. So I thank both the Chair and her ranking member for all of the good work that they do with our committee.

I think I will yield to Ms. HERSETH SANDLIN to explain the bills because she has played such an important role in them. I will yield to her such time as she may consume.

Ms. HERSETH SANDLIN. Thank you, Mr. Speaker, and I thank the chairman for yielding.

As the chairwoman of the Veterans Affairs' Economic Opportunity Subcommittee, I rise today in strong support of H.R. 1170, as amended. I would like to thank Chairman FILNER, Ranking Member BUYER on the full committee and the sponsor of the bill, and subcommittee ranking member, Mr. BOOZMAN, for their leadership and bipartisan support of this bill, which the full committee passed on May 6.

The bill offers important improvements to the Department of Veterans Affairs' Specially Adapted Housing Program by creating a 5-year pilot program to promote the research and development of adaptive technologies. With many veterans returning from the conflicts in Iraq and Afghanistan with injuries such as traumatic brain injury, it is important that research and development help meet the demand for cost-effective solutions that could mitigate the needs for around-the-clock nursing care or institutionaliza-

tion for seriously wounded veterans. These solutions can be as simple as ramps or other structural modifications or they can be more complex, such as voice recognition controls for a home's heating system.

Also, H.R. 1170, as amended, gives the Department of Veterans Affairs a 30 percent stake in any patent approved as a result of this grant program. This measure will allow taxpayers to receive a reasonable return on their investment as well as to promote creativity and ingenuity among the designers and inventors working with the VA on these grants.

The Specially Adapted Housing Program has been a tremendous help to many veterans, and it is expected to fund 1,250 projects in 2010. This bill will expand and improve this program, and it is a wise investment in our veterans.

I thank Chairman FILNER for noting the working relationship that I have with the distinguished ranking member, Mr. BOOZMAN of Arkansas. When he once chaired the subcommittee, we worked together then and continue to work today on a whole host of programs, particularly housing for our disabled veterans in light of the current needs of veterans and their families.

I want to thank Mr. BOOZMAN for sponsoring this important bill, and I encourage my colleagues to support H.R. 1170, as amended.

Mr. BOOZMAN. I yield myself as much time as I may consume.

Mr. Speaker, on February 25, 2009, I, along with Congresswoman STEPHANIE HERSETH SANDLIN, introduced H.R. 1170, which would amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new, assistive technologies for specially adapted housing. H.R. 1170, as amended, would authorize the VA to use up to \$2 million per year to provide grants of up to \$200,000 to expand research and development in the areas of adaptive technologies that can be used in the VA's Specially Adapted Housing Program.

The goal of VA's specially adapted housing benefit is to enable severely disabled veterans to live in a home with modifications that make daily life and daily living easier—typical adaptations or structural modifications such as ramps, wider halls and doors, grab rails, and lower counters. Yet there are many emerging technologies that lend themselves well to improving the livability of adapted homes. Some examples of possible home modifications are voice recognition and voice-commanded operations, integrated computer-managed functions, alternative human computer interfaces, living environment controls, adaptive feeding equipment, fall prevention devices, and recreation assistance equipment.

Finally, the bill includes a provision that is a result of funding an R&D program. Under this authorization, the VA

would retain a 30 percent interest in any patents evolving from the grant.

I truly appreciate Congresswoman HERSETH SANDLIN in working with me on this very important bipartisan legislation.

Again, Mr. Speaker, I want to thank the chairwoman of the Subcommittee on Economic Opportunity, Ms. HERSETH SANDLIN, committee Chairman FILNER, and Ranking Member STEVE BUYER for moving this bill forward in a timely manner, as well as thanking our staffs. I urge my colleagues to support H.R. 1170, as amended.

With that, having no other speakers, I yield back my time.

Mr. FILNER. Mr. Speaker, I just want to conclude by telling the House that, recently, we had a committee meeting to learn more about how new technologies can augment the VA's ability to efficiently meet the adaptive needs of our veterans and improve the healing process. We have a new Secretary of the VA, who has committed himself to transformation. We have a new Deputy Secretary, Mr. Gould, who comes from IBM and who understands how a big organization can innovate. That's going to be an important part of the VA's moving into the 21st century. This is a part of that.

I thank Mr. BOOZMAN for introducing it. I thank Chair HERSETH SANDLIN for working with him to move this along. I recommend that everybody vote for H.R. 1170.

I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 1170, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### MANDATORY VETERAN SPECIALIST TRAINING ACT OF 2009

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1088) to amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1088

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Mandatory Veteran Specialist Training Act of 2009".

**SEC. 2. ONE-YEAR PERIOD FOR TRAINING OF NEW DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES BY NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICES INSTITUTE.**

(a) **ONE-YEAR PERIOD.**—Section 4102A(c)(8)(A) of title 38, United States Code is amended by striking “three-year period” and inserting “one-year period”.

(b) **EFFECTIVE DATE.**—

(1) **APPLICABILITY TO NEW EMPLOYEES.**—The amendment made by subsection (a) shall apply with respect to a State employee assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under chapter 41 of such title who is so assigned on or after the date of the enactment of this Act.

(2) **APPLICABILITY TO PREVIOUSLY-HIRED EMPLOYEES.**—In the case of such a State employee who is so assigned on or after January 1, 2006, and before the date of the enactment of this Act, the Secretary of Veterans Affairs shall require the State to require, as a condition of a grant or contract under which funds are made available to the State in order to carry out section 4103A or 4104 of title 38, United States Code, each such employee to satisfactorily complete the training described in section 4102A(c)(8)(A) of such title by not later than the date that is one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

**GENERAL LEAVE**

Mr. FILNER. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 1088.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. I yield myself such time as I may consume.

Mr. Speaker, this legislation was introduced by Ms. HERSETH SANDLIN of South Dakota. She has demonstrated her commitment to our Nation's veterans for many, many years. Her work as Chair of the Economic Opportunity Subcommittee, with Mr. BOOZMAN, always bears fruit. H.R. 1088 is one of those bills.

I yield to the gentlewoman from South Dakota (Ms. HERSETH SANDLIN) as much time as she may consume to explain the bill.

Ms. HERSETH SANDLIN. Thank you, Mr. Speaker, and I thank the chairman once again.

I rise today in strong support of H.R. 1088, the Mandatory Veteran Specialist Training Act of 2009, which the Economic Opportunity Subcommittee passed on March 19 and which the full committee approved on May 6.

I want to thank again Chairman FILNER, the ranking member of the full committee, Mr. BUYER, and once again

the distinguished ranking member of the subcommittee, Mr. BOOZMAN, for their leadership and for, again, their bipartisan support of this bill, which I introduced on February 13, 2009.

The bill would amend title 38 to reduce from 3 years to 1 year the period during which disabled veterans' outreach program specialists or local veterans' employment representatives with the Department of Labor must complete the specialized veterans' employment training program provided by the National Veterans' Training Institute. The National Veterans' Training Institute program is designed to give those specialists the correct skill set that can help veterans so that they can help veterans with a wide variety of employment services such as transition assistance and case management.

□ 1245

Through several oversight hearings held by the Subcommittee on Economic Opportunity that we have held throughout the 110th and 111th Congresses, we learned it was taking on average 2.5 years before individuals were completing the National Veterans Training Institute Program. This fact, therefore, leaves untrained specialists who don't have the necessary skills trying to help veterans with their employment needs. So this bill takes an important step in the right direction to providing better employment assistance to those who have bravely served their country.

Again, I thank Chairman FILNER for his support of this important bill, and I urge my colleagues to support this bill.

Mr. BOOZMAN. I yield myself such time as I may consume.

Mr. Speaker, providing first-class employment services to veterans is the most basic way to ensure they can support themselves and their families, and that is why I rise in strong support of H.R. 1088, the Mandatory Veteran Specialist Training Act of 2009. This measure would amend title 38 of the United States Code to provide for a 1-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by the National Veterans' Employment and Training Services Institute.

H.R. 1088 was introduced by our distinguished colleague, the chairwoman of the Subcommittee on Economic Opportunity, STEPHANIE HERSETH SANDLIN, on February 13, 2009. Mr. Speaker, I was pleased to work with Ms. HERSETH SANDLIN in the 109th Congress to begin the process of improving the training levels of State and employment service staff. We did that because there was a significant backlog of untrained staff and we needed to give States adequate time to train their veterans' employment staff that were paid for with Federal funds. Together,

we passed legislation to require State employment services to send their disabled veterans' outreach program specialists—or DVOPS—and local veterans' employment representatives through basic job placement training within 3 years.

States have had sufficient time to meet the initial training backlog, and we should now require that employment specialists be trained within a shorter period of time to ensure veterans' employment staff is trained properly and promptly after being hired by the State employment service.

Again, I appreciate Ms. HERSETH SANDLIN for bringing this forward. I think it's an excellent bill.

Having no other speakers, I want to thank committee Chairman FILNER and Ranking Member STEVE BUYER, along with our staffs, and urge my colleagues to support H.R. 1088.

With that, I yield back my time.

Mr. FILNER. I, again, thank the chair and the ranking member, and I urge all of my colleagues to unanimously support H.R. 1088, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 1088.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

**VETERANS EMPLOYMENT RIGHTS REALIGNMENT ACT OF 2009**

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1089) to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1089

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Veterans Employment Rights Realignment Act of 2009”.*

**SEC. 2. ENFORCEMENT THROUGH OFFICE OF SPECIAL COUNSEL OF VETERANS' EMPLOYMENT OR REEMPLOYMENT RIGHTS WITH RESPECT TO EMPLOYERS THAT ARE FEDERAL EXECUTIVE AGENCIES.**

(a) **ENFORCEMENT OF RIGHTS THROUGH OFFICE OF SPECIAL COUNSEL.**—Section 4322 of title 38, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

“(a)(1)(A) A person described in subparagraph (B) may file a complaint with the Secretary, and the Secretary shall investigate such complaint.

“(B) A person described in this subparagraph is a person who claims that—

“(i) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer other than an employer that is a Federal executive agency; and

“(ii) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter.

“(2)(A) A person described in subparagraph (B) may file a complaint with the Special Counsel established by section 1211 of title 5.

“(B) A person described in this subparagraph is a person who claims that—

“(i) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer that is a Federal executive agency; and

“(ii)(I) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

“(II) such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter.”;

(2) by striking subsections (d) and (e) and inserting the following new subsections (d) and (e):

“(d)(1) The Secretary shall investigate each complaint submitted pursuant to subsection (a)(1). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

“(2) If the efforts of the Secretary with respect to any complaint filed under subsection (a)(1) do not resolve the complaint, the Secretary shall notify the person who submitted the complaint of—

“(A) the results of the Secretary’s investigation; and

“(B) the complainant’s entitlement to proceed under the enforcement of rights provisions provided under section 4323.

“(e)(1) In the case of a complaint filed under subsection (a)(2), the Special Counsel shall investigate the complaint. If the Special Counsel determines as a result of the investigation that the action alleged in such complaint occurred, the Special Counsel shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

“(2) If the efforts of the Special Counsel with respect to any complaint filed under subsection (a)(2) do not resolve the complaint, the Special Counsel shall notify the person who submitted the complaint of—

“(A) the results of the investigation by the Special Counsel; and

“(B) the complainant’s entitlement to proceed under the enforcement of rights provisions provided under section 4324.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such title is further amended—

(1) in section 4322(b), by striking “Such complaint” and inserting “Each complaint filed under subsection (a)”;

(2) in section 4323(a)—

(A) in paragraph (1), by striking “section 4322(e)” and inserting “section 4322(d)(2)”;

(B) in paragraph (3)(A), by striking “section 4322(a)” and inserting “section 4322(a)(1)”;

(3) in section 4324—

(A) in subsection (a)(1)—

(i) in the first sentence, by striking “Secretary” each place it appears and inserting “Special Counsel”;

(ii) by striking “section 4322(e)” and inserting “section 4322(e)(2)”;

(iii) by striking the second sentence; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking “Secretary” and inserting “Special Counsel”;

(II) by striking “section 4322(a)” and inserting “section 4322(a)(2) of this title”;

(ii) in paragraph (2)—

(I) by striking “Secretary” and inserting “Special Counsel”;

(II) by striking “section 4322(e)” and inserting “section 4322(e)(2) of this title”;

(4) in section 4325(c), by striking “section 4322(d)” and inserting “section 4322(d)(1)”;

(5) in section 4326—

(A) in subsection (a), by inserting “or the Special Counsel’s” after “Secretary’s”; and

(B) by striking “Secretary” each place it appears and inserting “Secretary or the Special Counsel”.

(c) CONFORMING REPEAL.—The Veterans Benefits Improvement Act of 2004 (Public Law 108–454) is amended by striking section 204.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to complaints filed on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I would yield myself such time as I may consume and again thank our dynamic duo on the Economic Opportunity Subcommittee for bringing us another bill which will protect the rights of our veterans and especially in job opportunities.

I yield as much time as she may consume to the gentlelady from South Dakota (Ms. HERSETH SANDLIN).

Ms. HERSETH SANDLIN. Thank you, Mr. Chairman, for being so supportive of the work of the subcommittee.

I rise today in strong support of H.R. 1089, as amended, the Veterans Employment Rights Realignment Act of 2009, which the Economic Opportunity Subcommittee passed on March 19 and the full committee approved on May 6.

Once again, we wouldn’t be able to consider this bill today if not for the support and leadership of the chairman and ranking member both of the full committee as well as Mr. BOOZMAN on the subcommittee. And we introduced this bill on February 13, 2009, again in response to a number of hearings that were held in the 110th Congress.

The bill would amend title 38 of the U.S. Code to move the enforcement of the Uniform Services Employment and Reemployment Rights Act—known as USERRA—to the enforcement of those protections, USERRA protections, of veterans and members of the armed services employed by Federal executive agencies to the U.S. Office of Special Counsel.

The Office of Special Counsel is an independent Federal investigative and prosecutorial agency that was created by Congress with the goal of protecting

employees, former employees and applicants for employment from prohibited personnel practices.

Under a demonstration project established by Public Law 108–454, the Office of Special Counsel investigated some Federal sector USERRA claims from 2004 until 2007. This demonstration project showed that the Office of Special Counsel had the expertise and ability to quickly obtain corrective action for federally employed veterans.

By granting the Office of Special Counsel initial jurisdiction over all of these Federal USERRA claims, we give claimants a single agency to investigate and resolve their complaint. This will be more efficient than the current circumstance where first the Department of Labor investigates the claim, and then the claim is then transferred to OSC at the veteran’s request if the Department of Labor fails to find a resolution, which then prompts a second investigation.

So, again, I want to thank the chairman, Chairman FILNER, for his support. I also want to thank Congresswoman KIRKPATRICK for her amendment during the subcommittee consideration of the bill that clarified the role of the Office of Special Counsel in this important piece of legislation. Again, I encourage my colleagues to support H.R. 1089.

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1089 as amended, the Veterans Employment Rights Realignment Act of 2009 which would amend title 38, United States Code, to provide for the investigation and enforcement of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies through the Office of Special Counsel and for other purposes.

This bill was introduced by the chairwoman of the Subcommittee on Economic Opportunity, Ms. STEPHANIE HERSETH SANDLIN, on February 13, 2009. Mr. Speaker, as I stated earlier today when speaking about H.R. 466, as amended, the Uniform Services Employment and Reemployment Rights Act provides significant protections to veterans returning to civilian employment. In the past, enforcement of these rights was limited to the Department of Labor’s veterans employment and training services—VETS. Unfortunately, the VETS case investigation and enforcement process took too long and the 108th Congress required a comparison of the time it took the Office of Special Counsel and VETS to process employee claims involving Federal agencies.

I believe that having the Office of Special Counsel handle all Federal claims is the right way to go because of their expertise in dealing with Federal agencies in other similar matters.

I am hopeful that H.R. 1089, as amended, will not only shorten the



time it takes to complete action on the case but that veterans will ultimately see a friendlier Federal bureaucracy when it comes to veterans returning to their former Federal employer.

I appreciate Ms. HERSETH SANDLIN's leadership in this area in bringing forward this important legislation. I want to thank Chairman FILNER and Ranking Member STEVE BUYER in moving this bill in a timely manner.

And having no further speakers, I yield back the balance of my time.

#### GENERAL LEAVE

Mr. FILNER. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1089, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MITCHELL. Mr. Speaker, I rise today in support of H.R. 1089, the Veterans Employment Rights Realignment Act of 2009. I thank Representative HERSETH SANDLIN of South Dakota for her leadership on the issues of veteran employment and education, and I commend her for bringing this bill to the Floor today.

Members of the Armed Forces—including the National Guard and Reserves—serve our nation with selflessness and courage. They deserve our gratitude, and in these difficult economic times, I believe that means we must redouble our efforts to ensure they have full and fair access to employment after their service.

H.R. 1089 will remove bureaucratic hurdles for veterans in search of redress for discriminatory employment practices, and it will allocate new resources to the Office of Special Counsel—the federal investigative and prosecutorial agency tasked with protecting federal employees from prohibited personnel practices.

In 1994, Congress put in place a strong set of employment protections for service members and veterans in the Uniformed Services Employment and Reemployment Rights Act. We need to enforce this law quickly and efficiently, and the Veterans Employment Rights Realignment Act of 2009 will help the Office of Special Counsel to do just that.

I was proud to support H.R. 1089 when it was considered by the House Committee on Veterans' Affairs, and I am pleased to support this bill on the House floor today. I urge my colleagues to join me in voting for this important legislation to protect service members and veterans from inappropriate employment practices.

Mr. FILNER. I ask my colleagues to unanimously support H.R. 1089, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 1089, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### URGING ALL AMERICANS AND PEOPLE OF ALL NATIONALITIES TO VISIT THE NATIONAL CEMETERIES, MEMORIALS, AND MARKERS ON MEMORIAL DAY

Mr. FILNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 360) urging all Americans and people of all nationalities to visit the national cemeteries, memorials, and markers on Memorial Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 360

Whereas the United States has fought in wars outside and inside of its borders to restore freedom and human dignity;

Whereas the United States has spent its national treasure and shed its blood in fighting those wars;

Whereas the National Cemetery Administration of the Department of Veterans Affairs maintains 128 national cemeteries that serve as the final resting place for nearly 3,000,000 veterans and their dependents;

Whereas each year, millions of Americans visit the national cemeteries, memorials, and markers;

Whereas overseas sites annually recognize Memorial Day with speeches, a reading of the Memorial Day Proclamation, wreath laying ceremonies, military bands and units, and the decoration of each grave site with the flag of the United States and that of the host country; and

Whereas these splendid commemorative sites inspire patriotism, evoke gratitude, and teach history: Now, therefore, be it

*Resolved*, That the House of Representatives strongly urges Americans and people of all nationalities to visit national cemeteries, memorials, and markers on Memorial Day, where the spirit of American generosity, sacrifice, and courage are displayed and commemorated.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Thank you, Mr. Speaker. I yield myself as much time as I may consume.

I think it is only appropriate, Mr. Speaker, that we bring this resolution to the floor as we approach Memorial Day. The resolution encourages people to visit the cemeteries, memorials, and markers overseen by the American Battle Monuments Commission. Now, that is a commission that I am sure many people have not heard of.

What is the American Battle Monuments Commission, and what do they do? Back in 1923, Congress created this commission to control the construction of military cemeteries, monuments, and markers erected to honor American servicemembers killed on foreign soil. Host countries provide the necessary lands for the sites to the United States in perpetuity and free of charge.

The commission cares for 24 military cemeteries, 25 memorials, monuments and markers in 15 countries around the world. These sites serve as the final resting place for almost 125,000 Americans who fought in the Mexican-American War, World War I and World War II. The commission takes special care that all cemeteries under its supervision are maintained to the highest standard attainable. The commission extends an open invitation for all to visit these magnificent shrines and to go beyond the most well known, like Normandy, and venture into others.

Each site has its own sense of history, sacrifice and beauty, and each offers a unique experience. For example, no two have the same guard nor architecture. Perhaps only the spiritual qualities are similar. In less than a month from now, on June 6, the commission will commemorate the 63rd anniversary of the D-day landing by opening a new Normandy-American cemetery visitors center. This center, which has been under construction since 2002, will tell the story of the American soldiers memorialized at Normandy.

I encourage all to visit this new D-day center and any of the sites under the jurisdiction of the commission. Overseas cemeteries are the lasting reminders of America's willingness to come to the defense of others. These tangible symbols of American values endure long after the fighting is over.

Mr. Speaker, I would reserve the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I rise in strong support of H. Res. 360 urging all Americans and people of all nationalities to visit the national cemeteries, memorials and markers on Memorial Day. This legislation was sponsored by our colleague from Tennessee and a new and very active member of the Veterans Affairs' Committee, Congressman DAVID ROE, on April 23, 2009, and we all appreciate him bringing this forward.

Mr. Speaker, properly honoring a veteran's memory is one of our most solemn obligations. These patriots are due the final tribute of a grateful Nation. Here in the U.S., the National Cemetery Administration of the Department of Veterans Affairs cares for 128 national cemeteries that serve as the final resting place for over three million of our Nation's veterans and their dependents. The National Park Service cares for 14 veterans' cemeteries as well.



But it's not just here in the United States that our fallen are honored. The overseas national cemeteries of the American Battle Monuments Commission provide our Nation's heroes an honored repose in national shrines far from the homes they left in order to protect democracy. These overseas cemeteries have become the gold standard in memorializing the precious gift to us by those who fell in our defense.

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The commission oversees 24 overseas military cemeteries that serve as resting places for almost 125,000 American war dead. Tablets of the missing memorialize more than 94,000 U.S. servicemen and -women as well as 25 memorials, monuments and markers.

These memorials and cemeteries are mute testimony to the sacrifices of Americans who fought in battles across the globe such as Flanders Field, Belgium; Manila, Philippines; North Africa, Tunisia; Sicily-Rome, Italy; Corozal, Panama; Lorraine, France; Mexico City, Mexico; and Normandy, France.

Mr. Speaker, with Memorial Day less than a week away, this is a most fitting time to consider this resolution. I ask all my colleagues to support it, and I look forward to its passage.

With that, I reserve the balance of my time.

Mr. FILNER. I continue to reserve.

Mr. BOOZMAN. Mr. Speaker, I yield as much time as he would require to the author of the resolution, the gentleman from Tennessee (Mr. ROE).

Mr. ROE of Tennessee. Mr. Speaker, I rise in support of House Resolution 360, urging all Americans and people of all nationalities to visit the national cemeteries, memorials, and markers this Memorial Day.

Following a tradition begun in 1868, our Nation will pause this Monday in remembrance of those who have sacrificed their lives in defense of our free Republic. Fond mourners and friends will set flowers and flags on the graves of the fallen. Our flag, flown at half staff since sunrise, will at noon be raised high and those gathered will be called to pledge allegiance. A bugle will sound Taps, and we will make another pledge: to aid the widows, widowers, and orphans of our heroic dead, and our disabled veterans.

There is no central location for this observance. Our servicemembers' final resting places are in all our towns and communities. The National Cemetery Administration of the Department of Veterans Affairs maintains 128 national cemeteries in 39 States and Puerto Rico. One of those cemeteries is in my hometown of Johnson City, Tennessee. The Department of the Army maintains Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery.

Americans have died defending liberty around the globe and have been laid to rest far from home. The American Battle Monuments Commission oversees 24 military cemeteries abroad where 125,000 of our war dead remain.

The freedoms we enjoy today, the freedoms enjoyed by a civilized Europe, and those free from despots rising to national power are the proof these men and women did not die in vain. This sacrifice should be celebrated, and never forgotten.

Not all who serve perish fulfilling their duty. They return to us as veterans and deserve our thanks and a commitment to serve them. We erect monuments and markers and make pilgrimages there to honor them.

That is this resolution's call. Congress should urge Americans to visit these cemeteries, these monuments and memorials, and I as a veteran encourage my colleagues to support this resolution.

Mr. FILNER. Does the gentleman have further speakers?

Mr. BOOZMAN. Yes, I have two more.

Mr. FILNER. I think this may be the first time in American history that a Roe is followed by a Poe, but that's just the way it is. I would reserve the balance of our time.

Mr. BOOZMAN. Mr. Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. POE).

Mr. POE of Texas. I thank the gentleman for yielding.

Mr. Speaker, it's been said, "From this day to the ending of the world, we in it shall be remembered. We few, we happy few, we band of brothers; for he today that sheds his blood with me shall be my brother." Shakespeare penned these words in Henry V, describing the commitment of a soldier to his fellow soldiers.

I rise today in support of H. Res. 360 which calls on all Americans to honor our veterans by visiting memorials and national cemeteries on Memorial Day. I am proud to cosponsor this very important legislation.

Since 2004, 26 men and women from the Second Congressional District area of Texas have served honorably and given their lives for the cause of freedom in Iraq and Afghanistan. Every time a brave member of America's military from my area dies for this country, I come down to this House floor, and I talk about their lives, their legacy, their family, and those others that they have left behind.

Every year, millions of Americans visit the national cemeteries and the memorials and the war markers all over the United States to remember the men and women who have so courageously fought to defend America's freedom.

Mr. Speaker, in a land far, far away, there are over 9,000 Americans buried in a place called Normandy in France,

most of them young teenage boys that left America and went off to war to defend our country. They shed their blood in 1944 for not only us but for those folks in Europe. My father who served in the great World War II as an 18-year-old never talked about his service in Europe until he and Mom visited Normandy and its cemetery 50 years after that important event. He, like many other veterans, is proud to have served but keeps saying that the heroes are still buried in places throughout the world.

Each Memorial Day all across America, parades are held, wreaths are laid, grave sites are decorated as a tribute to our fallen warriors. On Veterans Day, we remember those who fought and came home, but on Memorial Day, we remember those who fought and did not come home.

The Department of Veterans Affairs preserves 128 cemeteries all over the world that are the final resting place for over 3 million Americans. These national cemeteries and memorials remind us of the warriors who have fought and gave all to protect the rest of us. When called, they went.

I am pleased to support this legislation and urge all Members to approve this resolution.

As Toby Keith so eloquently put it in his tribute to the American soldiers, he said about the American soldier: "I don't do it for money, there's bills that I can't pay. I don't do it for the glory, I just do it anyway. I'm an American soldier, an American beside my brothers and sisters, I will proudly take a stand. When liberty's in jeopardy I will always do what's right. I'm out here on the front lines, so sleep in peace tonight. I'm an American soldier."

These warriors, Mr. Speaker, are our sons of liberty and the daughters of democracy. They are our heroes, and they need to be honored and remembered by the rest of us for all time.

And that's just the way it is.

Mr. FILNER. I continue to reserve.

Mr. BOOZMAN. Mr. Speaker, that was my last speaker on the subject.

I want to thank Mr. ROE of Tennessee for bringing this forward in a very timely way and such an important message that we remember those that have sacrificed so much for all of us.

I want to thank Committee Chairman BOB FILNER and Ranking Member STEVE BUYER for allowing us to go forward with the bill, and certainly I want to urge all of my colleagues to support H. Res. 360.

And with that, having no further speakers, I yield back the balance of my time.

#### GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Resolution 360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. Mr. Speaker, the United States has fought wars throughout our history to restore both freedom and dignity inside of its own borders, as well as around the world. We have shed our blood and spent our national treasure fighting these wars. On Memorial Day, the Nation is reminded of the phrase spoken constantly, that freedom is not free.

These wonderful commemorative sites that we spoke of today inspire patriotism, invoke gratitude, serve as a permanent and lasting reminder of the sacrifices made by the men and women of the United States military. They are reminders of America's willingness to come to the defense of others, to protect the freedom and liberty of its people, and ensure the prosperity of our Republic.

Mr. Speaker, I urge my colleagues to unanimously support House Resolution 360.

Mr. SALAZAR, Mr. Speaker, I rise today in support of H. Res. 360, a bill encouraging all Americans to honor our veterans by visiting national cemeteries and memorials this Memorial Day.

Since 1862, more than three million burials have been made in VA national cemeteries.

National cemeteries are the testimony of a grateful nation to appropriately commemorate the Americans who have served our nation in the armed forces.

My home state of Colorado has a population of over 427,000 veterans.

I am proud to represent a district that is home to almost 70,000 veterans.

As a veteran myself, I know how much of an honor it was to serve my country during the Vietnam era.

My father, Henry Salazar, was a staff sergeant in the Army during World War II.

Two years after being diagnosed with Alzheimer's, my father came down to breakfast one morning and told us that he wanted to be buried in his uniform.

As I held my father just before he passed away he told me that he loved me and his last word was "Uniform."

Throughout the four years that my father lived with Alzheimer's, the two things he never forgot were how much he loved his family and how proud he was to serve his country.

It is this dedication to duty and unyielding commitment that have ensured our freedom and our way of life even in our nation's most troubled times.

The courage and sacrifices of our veterans set a necessary example to our youth and all Americans.

Their stories are important chapters in the history of our nation.

That is why I am working with members of the Colorado delegation to bring a national veterans cemetery to southern Colorado.

Current standards place many VA cemeteries closer to large metropolitan areas.

This is an issue that is faced by veterans in small and rural communities similar to those in the Third Congressional District of Colorado.

I look forward to continue working on issues that improve the lives of our veterans and honor their service.

Mr. GINGREY of Georgia. Mr. Speaker, I rise today, as an original cosponsor, to voice my strong support for H. Res. 360, which urges Americans and people of every nationality to visit national cemeteries, memorials, and markers on this upcoming Memorial Day.

Today, we rightfully take time to recognize the men and women who have dedicated their lives to the service of our nation. We are proud of all of our servicemen and women and are eternally grateful for their efforts in the Global War on Terror. Indeed, the democracy on display here today with our presence in this chamber is testament to the courage and valor of our Armed Services.

Memorial Day is a federal holiday to celebrate the lives of those that have died while defending our nation. The soldiers, sailors, airmen, and marines who have served in our Armed Services deserve the utmost respect from our nation, and those that have died have made the ultimate sacrifice for the liberties that we enjoy every day.

It is at their final resting place that there will forever be enshrined the spirit of American generosity, sacrifice, and courage that our brave men and women have so graciously provided in defense of our freedom.

Let us also honor and say a gracious thank you to each and every military family member for the encouragement, love, and kindness they exhibit in supporting their precious loved ones as they serve a nation that will forever be free because of their sacrifice. It is to the family members that we say thank you now.

Mr. Speaker, I believe it will be a worthwhile endeavor to spend time on this holiday remembering the sacrifice our heroes have made for America. I encourage every American to visit our national cemeteries and memorials so that they may take part in dedicating this holiday to the memory of the excellent men and women of our Armed Services who have spent a lifetime of service to America.

I urge all of my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 360, "Urging all Americans and people of all nationalities to visit the national cemeteries, memorials, and markers on Memorial Day". I would like to thank my colleague Representative DAVID ROE for introducing this resolution, as well as the co-sponsors.

I do not believe there is a person in this body, or a person in this building, who does not feel a remarkable pride in the presence of the men and women who serve in our Nation's military. Their incredible sacrifices and courage in the face of innumerable hazards have been critical to the preservation of the freedom, security, and prosperity enjoyed that we as Americans have come to love, enjoy, and even expect.

Likewise, I do not believe there is a person in this body, or a person in this building, who does not feel an intense tragedy in seeing these men and women make the ultimate sacrifice—whether it is seeing the loss of such extraordinary Americans, or the immense pain and sympathy for their families and loved ones.

When the United States has fought in wars outside and inside of its borders to restore freedom and human dignity, they were the ones who made the true sacrifices. The United States has spent its national treasure and shed its blood in fighting those wars.

Our government has sought to do its part in honoring these brave men and women. The National Cemetery Administration of the Department of Veterans Affairs maintains 128 national cemeteries that serve as the final resting place for nearly 3,000,000 of these veterans and their dependents. Each year, millions of Americans visit these national cemeteries, memorials, and markers.

Across the globe, we find similar efforts. Overseas sites annually recognize Memorial Day with speeches, a reading of the Memorial Day Proclamation, wreath laying ceremonies, military bands and units, and the decoration of each grave site with the flag of the United States and that of the host country.

Wherever the proud fallen American soldier is honored, these splendid commemorative sites inspire patriotism, evoke gratitude, and teach history.

My residents of my city, Houston, have long honored their veterans. Within city limits stands the Michael E. DeBakey VA Medical Center. It was awarded the Robert W. Carey Organizational Excellence Award in 2005, the Robert W. Carey Circle of Excellence Quality Award in 2007, and re-designation for Magnet Recognition for Excellence in Nursing Services in 2008.

The MEDVAMC serves as the primary health care provider for more than 120,000 veterans in southeast Texas and over 13,000 from Houston. Veterans from around the country are referred to the MEDVAMC for countless medical services, and their outpatient clinics logged nearly 900,000 outpatient visits in fiscal year 2008 alone. All this in a state with over 1.7 million veterans, 247,000 of which are disabled and over 25,000 buried in her soil.

There is another great example that comes to mind, of how my district has honored those who defend them. In Memorial Plaza, stands a pillar holding a stone globe; written on the pillar are several names of US soldiers, fallen in the Second World War, as well as a quote by Father Dennis Edward O'Brien, chaplain of the U.S. Marines:

"IT'S THE SOLDIER: When the country has been the need, it has always been the soldier! It's the soldier, not the newspaper who has given us Freedom of the Press. It's the soldier, not the poet, who has given us Freedom of Speech. It's the soldier, not the campus organizer, who has given us the Freedom to Demonstrate. It's the soldier who salutes the flag, serves under the flag and whose coffin is draped by the flag who gives the protester the right to burn the flag. And it's the soldier who is called upon to defend our way of life!"

That is why I proudly join my colleagues in strongly urging Americans and people of all nationalities to visit national cemeteries, memorials, and markers on Memorial Day. It is so that they may see words like these, even if it is only once a year, and know where the spirit of American generosity, sacrifice, and courage are displayed and commemorated.

Mr. FILNER. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and agree to the resolution, H. Res. 360.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. ROE of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SUPPORTING NATIONAL WOMEN'S HEALTH WEEK

Mrs. CAPPS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 120) supporting the goals and ideals of National Women's Health Week, and for other purposes, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

#### H. CON. RES. 120

Whereas women of all backgrounds should be encouraged to greatly reduce their risk of common diseases through preventative measures, such as engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular check-ups and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African-American women, Asian/Pacific Islander women, Latinas, and American Indian/Alaskan Native women;

Whereas healthy habits should begin at a young age;

Whereas preventative care saves Federal dollars designated for health care;

Whereas it is imperative to educate women and girls about key female health issues;

Whereas it is recognized that offices of women's health within the Department of Health and Human Services, the Food and Drug Administration, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality provide services that support women's health research, education, and other services that benefit women of all ages, races, and ethnicities;

Whereas the annual National Women's Health Week begins on Mother's Day and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women's health issues; and

Whereas in 2009, the week of May 10 through May 16 is designated National Women's Health Week: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) supports the goals and ideals of National Women's Health Week;

(3) calls on the people of the United States to use National Women's Health Week as an

opportunity to learn about the health issues women face;

(4) calls on the women of the United States to observe National Women's Check-Up Day by receiving preventative screenings from their health care providers; and

(5) recognizes the importance of Federal, State, and private programs that provide research and collect data on common diseases in women.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentlewoman from Tennessee (Mrs. BLACKBURN) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in strong support of H. Con. Res. 120, recognizing National Women's Health Week, and I'd like to commend my colleagues, Mr. HINCHEY and Mrs. BONO MACK, for introducing this legislation.

We have worked together on this recognition for several years now. This year marks the 10th anniversary of National Women's Health Week. It's an opportunity to recognize the progress made in women's health.

Much of this progress is due to the offices of women's health in multiple key Federal agencies. These offices work to promote research on women's health issues and the provision of important women's health services. In fact, the office of Women's Health at the Department of Health and Human Services just celebrated 10 years of the womenshealth.gov Web site.

What this resolution rightly notes is that women's health issues matter throughout a woman's lifespan. Promoting health education among girls and women of all ages will increase healthy behaviors and the use of important preventive screenings and services.

This resolution also notes that there are significant disparities among women of different racial and ethnic backgrounds and women with disabilities, all of which must be considered and taken into account as we address women's health.

I urge my colleagues to join in the bipartisan sponsorship of this bill and supporting National Women's Health Week.

Mr. Speaker, I reserve the balance of my time.

Mrs. BLACKBURN. Mr. Speaker, I yield myself such time as I may consume.

I want to first express my appreciation to Mrs. CAPPS, who is also a mem-

ber of the Energy and Commerce Committee and has been a very outspoken and consistent supporter of women's health and women's health issues, and we have worked on many of those in committee and certainly continue to raise awareness of women's health.

One such instrument that is placed before us that we can use is National Women's Health Week, and May 10-16 was that week, and this is, as Mrs. CAPPS stated, the 10th annual National Women's Health Week. And I think it is so fitting, Mr. Speaker, that it was kicked off this year on Mother's Day and how very appropriate that it started on Mother's Day. And I think the gentlelady from California will join me in saying it's also Grandmother's Day, those of us who do delight in those grandchildren.

The nationwide initiative empowers women across the country to make their health a top priority and ensure they take the steps to live a longer, healthier and happier life. And certainly, we are so pleased that there is that emphasis on women's health and having women make the decision to have their health and their well-being be a top priority in their life.

I would like to express my gratitude to the national and community organizations in working to promote public awareness of National Women's Health Week and provide the proper information to encourage women and girls that healthy habits should begin at a very young age.

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The efforts of the national community to support regular checkups and preventive screenings will help to prevent diseases that commonly affect women.

I would also like to thank the author of the resolution, the gentleman from New York (Mr. HINCHEY) for taking his efforts and energy and his time in order to place an emphasis on women's health, and to say thank you for his leadership in improving awareness of women's key health issues.

I encourage all of my colleagues to vote in favor of the resolution, and I reserve the balance of my time.

Mrs. CAPPS. Mr. Speaker, I am pleased now to yield to the gentleman from New York (Mr. HINCHEY) for such time as he may consume.

Mr. HINCHEY. Mr. Speaker, I would like to take a moment, first of all, to express my appreciation to Chairman WAXMAN for supporting this resolution and for helping to bring it to the floor today. Also, I would like to thank Mr. HOYER for his determination in bringing this measure to the floor to honor National Women's Health Week, despite the very crowded schedule that we have.

I would also like to thank Chairman FALLONE and all the fine members of the Energy and Commerce Health Subcommittee for their work on women's

health issues and for making it possible for this resolution to reach the floor.

Finally, and most importantly, I would like to thank my good friends Congresswoman LOIS CAPPS and Congresswoman MARY BONO MACK for taking the lead with me on this resolution for the fourth time in a row. And MARSHA, I thank you very much also for your statement today and your participation in getting this legislation passed.

This resolution has the bipartisan sponsorship of 117 Members. The National Council of Women's Organizations fully endorsed this bill on behalf of its more than 200 member organizations representing more than 10 million women nationwide.

National Women's Health Week begins annually on Mother's Day. This year marks the 10th annual National Women's Health Week that we have experienced and honored.

National Women's Health Week is a week celebrated across America. During this week, families, communities, businesses, government, health organizations, and other groups work together to educate women about steps they could take to improve their physical and mental health to prevent disease and to enable them to live longer and stronger.

This week is also used as an opportunity to educate the entire population of our country about important health issues that women face.

This resolution recognizes the importance of a number of things, including preventing diseases that commonly affect women, federally funded programs that provide research and collect data on common diseases that women are subject to, and also calls on women to observe National Women's Check-up Day by receiving preventive screenings.

It is vitally important that women have knowledge about the health risks that confront them and that they know they can greatly reduce those risks through preventive measures such as a healthy lifestyle and regular medical screenings.

Healthy habits should begin at a young age; therefore, it is imperative that we take the time to educate young girls on the benefits of exercise and proper eating. If these habits start at a young age, it is more likely that they will continue throughout their lives.

It is important and essential that we do everything we can to prevent disease. In this spirit, I encourage women to get the necessary checkups and preventive screenings from their health care providers so they can live long, healthy, and productive lives.

I urge full support and passage of this measure.

Mrs. BLACKBURN. Mr. Speaker, at this time there are no further speakers

from our side of the aisle, so I will thank Mr. HINCHEY for his wonderful work on this. I will thank Mrs. CAPPS for the bipartisan efforts that we have put into addressing the issues that affect women in leading healthy, productive lives.

I yield back the balance of my time.

Mrs. CAPPS. Mr. Speaker, I will just make the comment that it is exceedingly gratifying to notice the leadership of our colleague from New York, Mr. HINCHEY, and other men who realize that Women's Health Week really affects their lives as well, because women are often the leaders within the family setting and the educators and the standard bearers often for communities as well. So we are talking about awareness of national women's health, which really is also talking about health for us all.

And I'm pleased also to note that our bipartisan caucus for women's issues has championed this resolution and is very grateful to the authors for introducing it and for this opportunity for us to recognize the 10th annual National Women's Health Week.

Mr. DINGELL. Mr. Speaker, I rise today in support of H. Con Res. 120, a resolution supporting the goals and ideals of National Women's Health Week. Throughout my career as a member of Congress, I have consistently fought to ensure that all Americans have access to quality, affordable, and comprehensive health care. As a cosponsor of the Breast Cancer Patient Protection Act, a supporter of additional research on diseases that target women, and a longstanding advocate of securing health care for all women, I am pleased to support this resolution.

Women's health issues are of the utmost importance to me, and this resolution helps to promote awareness for healthy lifestyles and disease prevention for women. It is important to ensure that women both in Michigan's 15th District and across the United States understand the steps that can be taken to reduce the risk of disease, are aware of the disease disparities that exist among women from different backgrounds, and are exposed to healthy habits and key health issues from an early age. I understand that encouraging preventative care for women is important for reducing the cost of health care. As a longtime supporter of improvements to our Nation's health care system and increased research on women's health issues, I am pleased to support National Women's Health Week and to cosponsor H. Con. Res. 120.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today, I rise in support of H. Con. Res. 120 "Supporting the goals and ideals of National Women's Health." I would also like to extend my gratitude to my distinguished colleague from New York, Representative MAURICE D. HINCHEY, for introducing this important legislation. I thank my legislative director, Arthur D. Sidney.

National Women's Health Week is a weeklong health observance coordinated by the U.S. Department of Health and Human Services' Office on Women's Health (OWH). National Women's Health Week empowers

women to make their health a top priority. With the theme "It's Your Time," the nationwide initiative encourages women to take simple steps for a longer, healthier, and happier life. During National Women's Health Week, communities, businesses, government, health organizations, and other groups work together to educate women about steps they can take to improve their physical and mental health and lower their risks of certain diseases. Important steps include: getting at least 2½ hours of moderate physical activity, 1 hour and 15 minutes of vigorous physical activity, or a combination of both each week; eating a nutritious diet; visiting a health care professional for regular checkups and preventive screenings; avoiding risky behaviors, like smoking and not wearing a seatbelt; and paying attention to mental health, including getting enough sleep and managing stress.

Research has established the existence of persistent racial and socioeconomic disparities in women's health in the United States. We know that coronary disease is the leading cause of death for both men and women. But, nearly twice as many women in the U.S. die of heart disease and stroke every year as die from all types of cancer. Yet, multiple studies have shown that women are less likely than men to be referred for invasive cardiac procedures.

While the life expectancy of women in the United States has risen, as a group, African American women have a shorter life expectancy and experience earlier onset of such chronic conditions as diabetes and hypertension. If we look at the death rates for diseases of the heart, African American women are clearly at risk with 147 deaths per 100,000. When we look at cervical cancer, we see that the incidence rate of invasive cervical cancer is higher among Asian-American women. Yet, we cannot explain the causes of these higher rates.

Disparities are perhaps most alarming when we look at HIV/AIDS. Twenty-two percent of Americans currently living with HIV are women, and 77 percent of those are African American or Hispanic. Many people are shocked to know that AIDS is the second leading cause of death among African American women age 25 to 44.

There are nearly 40 million women in America who are members of racial and ethnic minority groups. These women suffer disproportionately from premature death, disease, and disabilities. Many also face tremendous barriers to optimal health. This is a growing challenge in our nation.

The challenge is even greater when we consider the aging population. By the year 2050, nearly 1 in 4 adult women will be 65 years old or older, and an astonishing 1 in 17 will be 85 years old or older. We must ensure that our Federal agencies are in the forefront, working to find solutions to the challenges our nation faces in caring for the health of our women.

It is important to celebrate National Women's Health Week to remind women that taking care of themselves is essential to living longer, healthier, and happier lives. Women are often the caregivers for their spouses, children, and parents and forget to focus on their own health. But research shows that when women take care of themselves, the health of

their family improves. During National Women's Health Week it is important to educate our wives, mothers, grandmothers, daughters, sisters, aunts, and girlfriends about the steps they can take to improve their health and prevent disease. After all, when women take even the simplest steps to improve their health, the results can be significant and everyone can benefit.

H. Con. Res. 120 is an important way to support the women of this nation, and I am proud to stand today in support of this important legislation. I urge my colleagues to support this legislation as well.

Mrs. CAPPS. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 120, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

### PACT ACT

Mr. WEINER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1676) to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1676

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) **SHORT TITLE.**—This Act may be cited as the “Prevent All Cigarette Trafficking Act of 2009” or “PACT Act”.

(b) **FINDINGS.**—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children, without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking

billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) **PURPOSES.**—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

#### SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) **DEFINITIONS.**—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the “Jenkins Act”) (referred to in this Act as the “Jenkins Act”), is amended by striking the first section and inserting the following:

##### “SECTION 1. DEFINITIONS.

“As used in this Act, the following definitions apply:

“(1) **ATTORNEY GENERAL.**—The term ‘Attorney General’ means the Attorney General of the United States.

“(2) **ATTORNEY GENERAL.**—The term ‘attorney general’, with respect to a State, means the attorney general or other chief law enforcement officer of the State.

“(3) **CIGARETTE.**—

“(A) **IN GENERAL.**—For purposes of this Act, the term ‘cigarette’ shall—

“(i) have the same meaning given that term in section 2341 of title 18, United States Code; and

“(ii) include ‘roll-your-own tobacco’ (as that term is defined in section 5702 of the Internal Revenue Code of 1986).

“(B) **EXCEPTION.**—For purposes of this Act, the term ‘cigarette’ does not include a ‘cigar’, as that term is defined in section 5702 of the Internal Revenue Code of 1986.

“(4) **COMMON CARRIER.**—The term ‘common carrier’ means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

“(5) **CONSUMER.**—The term ‘consumer’ means any person that purchases cigarettes or smokeless tobacco, but does not include

any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

“(6) **DELIVERY SALE.**—The term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco to a consumer if—

“(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

“(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

“(7) **DELIVERY SELLER.**—The term ‘delivery seller’ means a person who makes a delivery sale.

“(8) **INDIAN COUNTRY.**—The term ‘Indian country’ means—

“(A) Indian country as defined in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

“(B) any other land held by the United States in trust or restricted status for one or more Indian tribes.

“(9) **INDIAN TRIBE.**—The term ‘Indian tribe’, ‘tribe’, or ‘tribal’ refers to an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

“(10) **INTERSTATE COMMERCE.**—The term ‘interstate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

“(11) **INTO A STATE, PLACE, OR LOCALITY.**—A sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in interstate commerce, as defined herein, shall be deemed to have been made into the State, place, or locality in which such cigarettes or smokeless tobacco are delivered.

“(12) **PERSON.**—The term ‘person’ means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such government, or joint stock company.

“(13) **STATE.**—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

“(14) **SMOKELESS TOBACCO.**—The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

“(15) **TOBACCO TAX ADMINISTRATOR.**—The term ‘tobacco tax administrator’ means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

“(16) **TRIBAL ENTERPRISE.**—The term ‘tribal enterprise’ means any business enterprise, incorporated or unincorporated under Federal or tribal law, of an Indian tribe or group of Indian tribe.

“(17) USE.—The term ‘use’, in addition to its ordinary meaning, means the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.”

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking “cigarettes” each place it appears and inserting “cigarettes or smokeless tobacco”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “CONTENTS.” after “(a)”;

(ii) by striking “or transfers” and inserting “, transfers, or ships”;

(iii) by inserting “, locality, or Indian country of an Indian tribe” after “a State”;

(iv) by striking “to other than a distributor licensed by or located in such State.”; and

(v) by striking “or transfer and shipment” and inserting “, transfer, or shipment”;

(B) in paragraph (1)—

(i) by striking “with the tobacco tax administrator of the State” and inserting “with the Attorney General and with the tobacco tax administrators of the State and place”; and

(ii) by striking “; and” and inserting the following: “, as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person.”;

(C) in paragraph (2), by striking “and the quantity thereof,” and inserting “the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and”;

(D) by adding at the end the following:

“(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of such memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.”;

(3) in subsection (b)—

(A) by inserting “PRESUMPTIVE EVIDENCE.” after “(b)”;

(B) by striking “(1) that” and inserting “that”; and

(C) by striking “, and (2)” and all that follows and inserting a period; and

(4) by adding at the end the following:

“(c) USE OF INFORMATION.—A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice under paragraph (2) or (3) of subsection (a) shall use such memorandum or invoice solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in such memorandum or invoice except as required for such purposes.”.

(c) REQUIREMENTS FOR DELIVERY SALES.—The Jenkins Act is amended by inserting after section 2 the following:

**“SEC. 2A. DELIVERY SALES.**

“(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

“(1) the shipping requirements set forth in subsection (b);

“(2) the recordkeeping requirements set forth in subsection (c);

“(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if such delivery sales occurred entirely within the specific State and place, including laws imposing—

“(A) excise taxes;

“(B) licensing and tax-stamping requirements;

“(C) restrictions on sales to minors; and

“(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

“(4) the tax collection requirements set forth in subsection (d).

“(b) SHIPPING AND PACKAGING.—

“(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: ‘CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS’.

“(2) FAILURE TO LABEL.—Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nondeliverable matter by a common carrier or other delivery service, if the common carrier or other delivery service knows or should know the package contains cigarettes or smokeless tobacco. If a common carrier or other delivery service believes a package is being submitted for delivery in violation of paragraph (1), it may require the person submitting the package for delivery to establish that it is not being sent in violation of paragraph (1) before accepting the package for delivery. Nothing in this paragraph shall require the common carrier or other delivery service to open any package to determine its contents.

“(3) WEIGHT RESTRICTION.—A delivery seller shall not sell, offer for sale, deliver, or cause to be delivered in any single sale or single delivery any cigarettes or smokeless tobacco weighing more than 10 pounds.

“(4) AGE VERIFICATION.—

“(A) IN GENERAL.—A delivery seller who mails or ships tobacco products—

“(i) shall not sell, deliver, or cause to be delivered any tobacco products to a person under the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery;

“(ii) shall use a method of mailing or shipping that requires—

“(I) the purchaser placing the delivery sale order, or an adult who is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery, to sign to accept delivery of the shipping container at the delivery address; and

“(II) the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

“(iii) shall not accept a delivery sale order from a person without—

“(I) obtaining the full name, birth date, and residential address of that person; and

“(II) verifying the information provided in subclause (I), through the use of a commer-

cially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery.

“(B) LIMITATION.—No database being used for age and identity verification under subparagraph (A)(iii) shall be in the possession or under the control of the delivery seller, or be subject to any changes or supplementation by the delivery seller.

“(c) RECORDS.—

“(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within such State, by the city or town and by zip code, into which such delivery sale is so made.

“(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) in the year in which the delivery sale is made and for the next 4 years.

“(3) ACCESS FOR OFFICIALS.—Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that apply their own local or tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of such local governments and Indian tribes, and to the Attorney General in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

“(d) DELIVERY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver to any consumer, or tender to any common carrier or other delivery service, any cigarettes or smokeless tobacco pursuant to a delivery sale unless, in advance of the sale, delivery, or tender—

“(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

“(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

“(C) any required stamps or other indicia that such excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

“(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

“(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS.—

“(1) IN GENERAL.—

“(A) INITIAL LIST.—Not later than 90 days after this subsection goes into effect under the Prevent All Cigarette Trafficking Act of 2009, the Attorney General shall compile a list of delivery sellers of cigarettes or smokeless tobacco that have not registered with the Attorney General pursuant to section 2(a), or that are otherwise not in compliance with this Act, and—

“(i) distribute the list to—



“(I) the attorney general and tax administrator of every State;

“(II) common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

“(III) any other persons who the Attorney General believes can promote the effective enforcement of this Act; and

“(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

“(B) LIST CONTENTS.—To the extent known, the Attorney General shall include, for each delivery seller on the list described in subparagraph (A)—

“(i) all names the delivery seller uses or has used in the transaction of its business or on packages delivered to customers;

“(ii) all addresses from which the delivery seller does or has done business, or ships or has shipped cigarettes or smokeless tobacco;

“(iii) the website addresses, primary e-mail address, and phone number of the delivery seller; and

“(iv) any other information that the Attorney General determines would facilitate compliance with this subsection by recipients of the list.

“(C) UPDATING.—The Attorney General shall update and distribute the list at least once every 4 months, and may distribute the list and any updates by regular mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General regularly updates.

“(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General shall include in the list under subparagraph (A) any noncomplying delivery sellers identified by any State, local, or tribal government under paragraph (5), and shall distribute the list to the attorney general or chief law enforcement official and the tax administrator of any government submitting any such information, and to any common carriers or other persons who deliver small packages to consumers identified by any government pursuant to paragraph (5).

“(E) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list required by subparagraph (A), the Attorney General shall—

“(i) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on for the purpose of determining that such delivery seller is noncomplying;

“(ii) not later than 14 days prior to including any delivery seller on such list, make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on such list, with that notice citing the relevant provisions of this Act and the specific reasons for being placed on such list;

“(iii) provide an opportunity to such delivery seller to challenge placement on such list;

“(iv) investigate each such challenge by contacting the relevant Federal, State, tribal, and local law enforcement officials, and provide the specific findings and results of such investigation to such delivery seller not later than 30 days after the challenge is made; and

“(v) upon finding that any placement is inaccurate, incomplete, or cannot be verified, promptly delete such delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of such finding.

“(F) CONFIDENTIALITY.—The list distributed pursuant to subparagraph (A) shall be confidential, and any person receiving the list shall maintain the confidentiality of the list but may deliver the list, for enforcement purposes, to any government official or to any common carrier or other person that delivers tobacco products or small packages to consumers. Nothing in this section shall prohibit a common carrier, the United States Postal Service, or any other person receiving the list from discussing with a listed delivery seller the delivery seller's inclusion on the list and the resulting effects on any services requested by such listed delivery seller.

“(2) PROHIBITION ON DELIVERY.—

“(A) IN GENERAL.—Commencing on the date that is 60 days after the date of the initial distribution or availability of the list under paragraph (1)(A), no person who receives the list under paragraph (1), and no person who delivers cigarettes or smokeless tobacco to consumers, shall knowingly complete, cause to be completed, or complete its portion of a delivery of any package for any person whose name and address are on the list, unless—

“(i) the person making the delivery knows or believes in good faith that the item does not include cigarettes or smokeless tobacco;

“(ii) the delivery is made to a person lawfully engaged in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) the package being delivered weighs more than 100 pounds and the person making the delivery does not know or have reasonable cause to believe that the package contains cigarettes or smokeless tobacco.

“(B) IMPLEMENTATION OF UPDATES.—Commencing on the date that is 30 days after the date of the distribution or availability of any updates or corrections to the list under paragraph (1), all recipients and all common carriers or other persons that deliver cigarettes or smokeless tobacco to consumers shall be subject to subparagraph (A) in regard to such corrections or updates.

“(C) EXEMPTIONS.—Subparagraphs (A) and (B), subsection (b)(2), and any other requirements or restrictions placed directly on common carriers elsewhere in this subsection, shall not apply to a common carrier that is subject to a settlement agreement relating to tobacco product deliveries to consumers or, if any such settlement agreement to which the common carrier was a party is terminated or otherwise becomes inactive, is administering and enforcing, on a nationwide basis, policies and practices that are at least as stringent as any such agreement. For the purposes of this section, ‘settlement agreement’ shall be defined to include the Assurance of Discontinuance entered into by the Attorney General of New York and DHL Holdings USA, Inc. and DHL Express (USA), Inc. on or about July 1, 2005, the Assurance of Discontinuance entered into by the Attorney General of New York and United Parcel Service, Inc. on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and Federal Express Corporation and FedEx Ground Package Systems, Inc. on or about February 3, 2006, so long as each is honored nationwide to block illegal deliveries of cigarettes or smokeless tobacco to consumers, and also includes any other active agreement between a common carrier and the States that operates nationwide to ensure that no deliveries of cigarettes and smokeless tobacco shall be made to consumers for illegally operating Internet or mail-order sellers and that any such deliveries to consumers shall not be

made to minors or without payment to the States and localities where the consumers are located of all taxes on the tobacco products.

“(3) SHIPMENTS FROM PERSONS ON LIST.—

“(A) IN GENERAL.—In the event that a common carrier or other delivery service delays or interrupts the delivery of a package it has in its possession because it determines or has reason to believe that the person ordering the delivery is on a list distributed under paragraph (1), and that clauses (i)(ii), and (iii) of paragraph (2)(a) do not apply.—

“(i) the person ordering the delivery shall be obligated to pay—

“(I) the common carrier or other delivery service as if the delivery of the package had been timely completed; and

“(II) if the package is not deliverable, any reasonable additional fee or charge levied by the common carrier or other delivery service to cover its extra costs and inconvenience and to serve as a disincentive against such noncomplying delivery orders; and

“(ii) if the package is determined not to be deliverable, the common carrier or other delivery service shall offer to provide the package and its contents to a Federal, State, or local law enforcement agency.

“(B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any deliveries interrupted pursuant to this paragraph and provide that information, upon request, to the Attorney General or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

“(C) CONFIDENTIALITY.—Any person receiving records under subparagraph (B) shall use such records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in such records not otherwise required for such purposes.

“(4) PREEMPTION.—

“(A) IN GENERAL.—No State, local, or tribal government, nor any political authority of 2 or more State, local, or tribal governments, may enact or enforce any law or regulation relating to delivery sales that restricts deliveries of cigarettes or smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

“(i) requiring that the common carrier or other delivery service verify the age or identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that such person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

“(ii) requiring that the common carrier or other delivery service obtain a signature from the consumer accepting the delivery;

“(iii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

“(iv) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

“(v) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or



is not identified on any list of delivery sellers maintained and distributed by any entity other than the Federal Government.

“(B) RELATIONSHIP TO OTHER LAWS.—Except as provided in subparagraph (C), nothing in this paragraph shall be construed to nullify, expand, restrict, or otherwise amend or modify—

“(i) section 14501(c)(1) or 41713(b)(4) of title 49, United States Code;

“(ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

“(iii) any provision of State, local, or tribal law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4)(B) of title 49 of the United States Code.

“(C) STATE LAWS PROHIBITING DELIVERY SALES.—Nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to a delivery sale, of cigarettes or other tobacco products to individual consumers or personal residences except that no State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residences without proof that the common carrier is not exempt under paragraph (2)(C) of this subsection.

“(5) STATE, LOCAL, AND TRIBAL ADDITIONS.—

“(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General with—

“(i) all known names, addresses, website addresses, and other primary contact information of any delivery seller that offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land involved, but has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

“(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

“(B) UPDATES.—Any government providing a list to the Attorney General under subparagraph (A) shall also provide updates and corrections every 4 months until such time as such government notifies the Attorney General in writing that such government no longer desires to submit such information to supplement the list maintained and distributed by the Attorney General under paragraph (1).

“(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General shall remove from the list compiled under paragraph (1) any persons that are on the list solely because of such government's prior submissions of its list of noncomplying delivery sellers of cigarettes or smokeless tobacco or its subsequent updates and corrections.

“(6) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General shall—

“(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (5) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General; and

“(B) distribute any such list or update to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (5).

“(7) NOTICE TO DELIVERY SELLERS.—Not later than 14 days prior to including any delivery seller on the initial list distributed or made available under paragraph (1), or on any subsequent list or update for the first time, the Attorney General shall make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on such list or update, with that notice citing the relevant provisions of this Act.

“(8) LIMITATIONS.—

“(A) IN GENERAL.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to—

“(i) determine whether any list distributed or made available under paragraph (1) is complete, accurate, or up-to-date;

“(ii) determine whether a person ordering a delivery is in compliance with this Act; or

“(iii) open or inspect, pursuant to this Act, any package being delivered to determine its contents.

“(B) ALTERNATE NAMES.—Any common carrier or other person making a delivery subject to this subsection shall not be required to make any inquiries or otherwise determine whether a person ordering a delivery is a delivery seller on the list under paragraph (1) who is using a different name or address in order to evade the related delivery restrictions, but shall not knowingly deliver any packages to consumers for any such delivery seller who the common carrier or other delivery service knows is a delivery seller who is on the list under paragraph (1) but is using a different name or address to evade the delivery restrictions of paragraph (2).

“(C) PENALTIES.—Any common carrier or person in the business of delivering packages on behalf of other persons shall not be subject to any penalty under section 14101(a) of title 49, United States Code, or any other provision of law for—

“(i) not making any specific delivery, or any deliveries at all, on behalf of any person on the list under paragraph (1);

“(ii) refusing, as a matter of regular practice and procedure, to make any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person or for any person not in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

“(D) OTHER LIMITS.—Section 2 and subsections (a), (b), (c), and (d) of this section shall not be interpreted to impose any responsibilities, requirements, or liability on common carriers.

“(f) PRESUMPTION.—For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.”

(d) PENALTIES.—The Jenkins Act is amended by striking section 3 and inserting the following:

“SEC. 3. PENALTIES.

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), whoever knowingly violates

any provision of this Act shall be guilty of a felony and shall be imprisoned not more than 3 years, fined under title 18, United States Code, or both.

“(2) EXCEPTIONS.—

“(A) GOVERNMENTS.—Paragraph (1) shall not apply to a State, local, or tribal government.

“(B) DELIVERY VIOLATIONS.—A common carrier or independent delivery service, or employee of a common carrier or independent delivery service, shall be subject to criminal penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed knowingly—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (3), whoever violates any provision of this Act shall be subject to a civil penalty in an amount not to exceed—

“(A) in the case of a delivery seller, the greater of—

“(i) \$5,000 in the case of the first violation, or \$10,000 for any other violation; or

“(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of such person during the 1-year period ending on the date of the violation.

“(B) in the case of a common carrier or other delivery service, \$2,500 in the case of a first violation, or \$5,000 for any violation within 1 year of a prior violation.

“(2) RELATION TO OTHER PENALTIES.—A civil penalty imposed under paragraph (1) for a violation of this Act shall be imposed in addition to any criminal penalty under subsection (a) and any other damages, equitable relief, or injunctive relief awarded by the court, including the payment of any unpaid taxes to the appropriate Federal, State, local, or tribal governments.

“(3) EXCEPTIONS.—

“(A) DELIVERY VIOLATIONS.—An employee of a common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(B) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

“(i) the common carrier or independent delivery service has implemented and enforces effective policies and practices for complying with that section; or

“(ii) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes packages, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).”

(e) ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

“SEC. 4. ENFORCEMENT.

“(a) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and

to provide other appropriate injunctive or equitable relief, including money damages, for such violations.

“(b) **AUTHORITY OF THE ATTORNEY GENERAL.**—The Attorney General shall administer and enforce the provisions of this Act.

“(c) **STATE, LOCAL, AND TRIBAL ENFORCEMENT.**—

“(1) **IN GENERAL.**—

“(A) **STANDING.**—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may bring an action in a United States district court to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

“(B) **SOVEREIGN IMMUNITY.**—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(2) **PROVISION OF INFORMATION.**—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of this Act to the Attorney General or a United States attorney, who shall take appropriate actions to enforce the provisions of this Act.

“(3) **USE OF PENALTIES COLLECTED.**—

“(A) **IN GENERAL.**—There is established a separate account in the Treasury known as the ‘PACT Anti-Trafficking Fund’. Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the United States Government in enforcing the provisions of this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General for purposes of enforcing the provisions of this Act and other laws relating to contraband tobacco products.

“(B) **ALLOCATION OF FUNDS.**—Of the amount available to the Attorney General under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

“(4) **NONEXCLUSIVITY OF REMEDY.**—

“(A) **IN GENERAL.**—The remedies available under this section and section 3 are in addition to any other remedies available under Federal, State, local, tribal, or other law.

“(B) **STATE COURT PROCEEDINGS.**—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

“(C) **TRIBAL COURT PROCEEDINGS.**—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

“(D) **LOCAL GOVERNMENT ENFORCEMENT.**—Nothing in this Act shall be construed to ex-

pand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

“(d) **PERSONS DEALING IN TOBACCO PRODUCTS.**—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in an appropriate United States district court to prevent and restrain violations of this Act by any person other than a State, local, or tribal government.

“(e) **NOTICE.**—

“(1) **PERSONS DEALING IN TOBACCO PRODUCTS.**—Any person who commences a civil action under subsection (d) shall inform the Attorney General of the action.

“(2) **STATE, LOCAL, AND TRIBAL ACTIONS.**—It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that commences a civil action under this section should inform the Attorney General of the action.

“(f) **PUBLIC NOTICE.**—

“(1) **IN GENERAL.**—The Attorney General shall make available to the public, by posting such information on the Internet and by other appropriate means, information regarding all enforcement actions brought by the United States, or reported to the Attorney General, under this section, including information regarding the resolution of such actions and how the Attorney General has responded to referrals of evidence of violations pursuant to subsection (c)(2).

“(2) **REPORTS TO CONGRESS.**—The Attorney General shall submit to Congress, one year after the date of the enactment of the Prevent All Cigarette Trafficking Act of 2009, at the end of each of the four succeeding 1-year periods, a report containing the information described in paragraph (1).”

### **SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.**

(a) **IN GENERAL.**—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716D the following:

#### **“§ 1716E. Tobacco products as nonmailable**

“(a) **PROHIBITION.**—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this subsection. For the purposes of subsection (a) reasonable cause includes—

“(1) a statement on a publicly available website, or an advertisement, by any person that such person will mail matter which is nonmailable under this section in return for payment; or

“(2) the placement of the person on the list created under section 2A(e) of the Jenkins Act.

“(b) **EXCEPTIONS.**—This section shall not apply to the following:

“(1) **CIGARS.**—Cigars (as that term is defined in section 5702(a) of the Internal Revenue Code of 1986).

“(2) **GEOGRAPHIC EXCEPTION.**—Mailings within the State of Alaska or within the State of Hawaii.

“(3) **BUSINESS PURPOSES.**—Tobacco products mailed only for business purposes be-

tween legally operating businesses that have all applicable State and Federal Government licenses or permits and are engaged in tobacco product manufacturing, distribution, wholesale, export, import, testing, investigation, or research, or for regulatory purposes between any such businesses and State or Federal Government regulatory agencies, pursuant to a final rule that the Postal Service shall issue, not later than 180 days after the date of the enactment of the Prevent All Cigarette Trafficking Act of 2009, which shall establish the standards and requirements that apply to all such mailings, which shall include the following:

“(A) The Postal Service shall verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized by this paragraph is a business or government agency permitted to make such mailings pursuant to this section and the related final rule.

“(B) The Postal Service shall ensure that any recipient of an otherwise nonmailable tobacco product sent through the mails pursuant to this paragraph is a business or government agency that may lawfully receive such product.

“(C) The mailings shall be sent through the Postal Service's systems that provide for the tracking and confirmation of the delivery.

“(D) The identities of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the business or government entity receiving the mailing shall be clearly set forth on the package and such information shall be kept in Postal Service records and made available to the Postal Service, the Attorney General, and to persons eligible to bring enforcement actions pursuant to section 3(d) of the Prevent All Cigarette Trafficking Act of 2009 for a period of at least three years thereafter.

“(E) The mailings shall be marked with a Postal Service label or marking that makes it clear to Postal Service employees that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to a permitted government agency or business and may not be delivered to any residence or individual person.

“(F) The mailing shall be delivered only to a verified adult employee of the recipient business or government agency, who shall be required to sign for the mailing.

“(4) **CERTAIN INDIVIDUALS.**—Tobacco products mailed by adult individuals for non-commercial purposes, including the return of a damaged or unacceptable tobacco product to its manufacturer, pursuant to a final rule that the Postal Service shall issue, not later than 180 days after the date of the enactment of the Prevent All Cigarette Trafficking Act of 2009, which shall establish the standards and requirements that apply to all such mailings, which shall include the following:

“(A) The Postal Service shall verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized by this section is the individual identified on the return address label of the package and is an adult.

“(B) For a mailing to an individual, the Postal Service shall require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this subsection to affirm that the recipient is an adult.

“(C) The package shall not weigh more than 10 ounces.

“(D) The mailing shall be sent through the Postal Service's systems that provide for the tracking and confirmation of the delivery.

“(E) No package shall be delivered or placed in the possession of any individual who is not a verified adult. For a mailing to an individual, the Postal Service shall deliver the package only to the verified adult recipient at the recipient address or transfer it for delivery to an Air/Army Postal Office (APO) or Fleet Postal Office (FPO) number designated in the recipient address.

“(F) No person shall initiate more than ten such mailings in any thirty-day period.

“(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—Subject to paragraph (8), nothing in this Act shall preclude a legally operating cigarette manufacturer operating on its own or through its legally authorized agent from using the Postal Service to mail cigarettes to verified adult smokers solely for consumer testing purposes, provided that—

“(A) the cigarette manufacturer has a federal permit, in good standing, pursuant to section 5713 of the Internal Revenue Code of 1986;

“(B) any package of cigarettes mailed pursuant to this paragraph shall contain no more than 12 packs of cigarettes (240 cigarettes);

“(C) no individual shall receive more than 1 package of cigarettes per manufacturer pursuant to this paragraph in any 30-day period;

“(D) all taxes on the cigarettes levied by the State and locality of delivery have been paid to the State and locality prior to delivery, and tax stamps or other tax-payment indicia have been affixed to the cigarettes as required by law;

“(E)(i) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

“(ii) the recipient is paid a fee by the manufacturer or manufacturer's agent for participation in consumer product tests; and

“(iii) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent;

“(F) the mailing is made pursuant to a final rule that the Postal Service shall issue, not later than 180 days after the date of the enactment of the Prevent All Cigarette Trafficking Act of 2009, which shall establish standards and requirements that apply to all such mailings, which shall include the following:

“(i) The Postal Service shall verify that any person submitting a tobacco product into the mails pursuant to this paragraph is a manufacturer permitted to make such mailings pursuant to this paragraph, or an agent legally authorized by the manufacturer to submit the tobacco product into the mails on the manufacturer's behalf.

“(ii) The Postal Service shall require the manufacturer submitting the cigarettes into the mails pursuant to this paragraph to affirm that the manufacturer or its legally authorized agent has verified that the recipient is an adult established smoker who has not made any payment for the cigarettes, has formally stated in writing that he or she wishes to receive such mailings, and has not withdrawn that agreement despite being offered the opportunity to do so by the manufacturer or its legally authorized agent at least once in every 3-month period.

“(iii) The Postal Service shall require the manufacturer or its legally authorized agent submitting the cigarettes into the mails pursuant to this paragraph to affirm that the package contains no more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all re-

lated State tax stamps or other tax-payment indicia have been applied.

“(iv) The mailings shall be sent through the Postal Service's systems that provide for the tracking and confirmation of the delivery and all related records shall be kept in Postal Service records and made available to persons enforcing this section for a period of at least 3 years thereafter.

“(v) The mailing shall be marked with a Postal Service label or marking that makes it clear to Postal Service employees that it is a permitted mailing of otherwise non-mailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult.

“(vi) The Postal Service shall deliver the mailing only to the named recipient and only after verifying that the recipient is an adult.

“(6) DEFINITION OF CONSUMER TESTING.—For purposes of this Act, the term ‘consumer testing’ means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

“(7) DEFINITION OF ADULT.—For purposes of paragraph (5), the term ‘adult’ means an individual of at least 21 years of age. For purposes of paragraphs (3) and (4), the term ‘adult’ means an individual of at least the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(8) LIMITATIONS.—Paragraph (5) shall not—

“(A) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

“(B) permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar years in a cumulative amount greater than one percent of its total cigarette sales in the United States in the previous calendar year.

“(9) UNITED STATES GOVERNMENT AGENCIES.—Agencies of the United States Government involved in the consumer testing of tobacco products solely for public health purposes may make mailings pursuant to the same requirements, restrictions, and Postal Service rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that no such agency shall be required to pay the recipients for participating in the consumer testing.

“(c) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made non-mailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco products so seized and forfeited shall either be destroyed or retained by Government officials for the detection or prosecution of crimes or related investigations and then destroyed.

“(d) ADDITIONAL PENALTIES.—In addition to any other fines and penalties imposed by this Act for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount of 10 times the retail value of the non-mailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

“(e) CRIMINAL PENALTY.—Whoever knowingly deposits for mailing or delivery, or

knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that this section declares to be non-mailable matter shall be fined under this title, imprisoned not more than 1 year, or both.

“(f) DEFINITION.—As used in this section, the term ‘State’ has the meaning given that term in section 1716(k).

“(g) USE OF PENALTIES.—There is established a separate account in the Treasury of the United States, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal and civil fines or monetary penalties collected by the United States Government in enforcing the provisions of this subsection shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing the provisions of this subsection.

“(h) COORDINATION OF EFFORTS.—In the enforcement of this section, the Postal Service shall cooperate and coordinate its efforts with related enforcement activities of any other Federal agency or of any State, local, or tribal government, whenever appropriate.”.

(b) ACTIONS BY STATE, LOCAL OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.—

(1) A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of section 1716E of title 18, United States Code. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of that section to addressees in that State.

(2) Nothing in this section shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

(3) Nothing in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(4) A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of paragraph (1) for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of paragraph (1) to the Attorney General, who shall take appropriate actions to enforce the provisions of this subsection.

(5) The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18 is amended by adding after the item

relating to section 1716D the following new item:

“1716E. Tobacco products as nonmailable.”.

**SEC. 4. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.**

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in a State that is a party to the Master Settlement Agreement, any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, and with any regulations promulgated pursuant to such statute.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—

(1) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) INITIATION OF ACTION.—A State, through its attorney general, may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(3) ATTORNEY FEES.—In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have knowingly violated subsection (a).

(4) NONEXCLUSIVITY OF REMEDIES.—The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law. No provision of this Act or any other Federal law shall be held or construed to prohibit or preempt the Master Settlement Agreement, the Model Statute (as defined in the Master Settlement Agreement), any legislation amending or complementary to the Model Statute in effect as of June 1, 2006, or any legislation substantially similar to such existing, amending, or complementary legislation hereinafter enacted.

(5) OTHER ENFORCEMENT ACTIONS.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(c) DEFINITIONS.—In this section the following definitions apply:

(1) DELIVERY SALE.—The term “delivery sale” means any sale of cigarettes or smokeless tobacco to a consumer if—

(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

(2) IMPORTER.—The term “importer” means each of the following:

(A) SHIPPING OR CONSIGNING.—Any person in the United States to whom nontaxpaid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or

a possession of the United States are shipped or consigned.

(B) MANUFACTURING WAREHOUSES.—Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs-bonded manufacturing warehouse.

(C) UNLAWFUL IMPORTING.—Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

(3) MASTER SETTLEMENT AGREEMENT.—The term “Master Settlement Agreement” means the agreement executed November 23, 1998, between the attorneys general of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and 4 territories of the United States and certain tobacco manufacturers.

(4) MODEL STATUTE; QUALIFYING STATUTE.—The terms “Model Statute” and “Qualifying Statute” means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(5) TOBACCO PRODUCT MANUFACTURER.—The term “Tobacco Product Manufacturer” has the meaning given that term in section II(uu) of the Master Settlement Agreement.

**SEC. 5. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS; CIVIL PENALTY.**

Section 2343(c) of title 18, United States Code, is amended to read as follows:

“(c)(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

“(A) any records or information required to be maintained by such person under the provisions of law referred to in this chapter; or

“(B) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

“(2) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by paragraph (1).

“(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed \$10,000.”.

**SEC. 6. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.**

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to amend, modify, or otherwise affect—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian country;

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under Federal or State law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes, tribal members, tribal enterprises, or in Indian country;

(4) any Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, tribal enterprises, tribal reservations, or other lands held by the United States in trust for one or more Indian tribes; and

(5) any State or local government authority to bring enforcement actions against persons located in Indian country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Nothing in this Act or the amendments made by this Act shall be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act shall prohibit, limit, or restrict enforcement by the Attorney General of the provisions herein within Indian country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application and any other provision of this Act shall be resolved in favor of this section.

**SEC. 7. ENHANCED CONTRABAND TOBACCO ENFORCEMENT.**

(a) REQUIREMENTS.—The Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives shall—

(1) create 6 regional contraband tobacco trafficking teams over a 3-year period in New York City, Washington DC, Detroit, Los Angeles, Seattle, and Miami,

(2) create a new Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as a nerve center for all ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world,

(3) establish a covert national warehouse for undercover operations, and

(4) create a computer database that will track and analyze information from retail sellers of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) \$8,500,000 for each of the 5 fiscal years beginning with fiscal year 2010.

**SEC. 8. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) BATFE AUTHORITY.—Section 5 shall take effect on the date of enactment of this Act.

**SEC. 9. SEVERABILITY.**

If any provision of this Act, or any amendment made by this Act, or the application

thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of the Act to any other person or circumstance shall not be affected thereby.

**SEC. 10. SENSE OF CONGRESS CONCERNING THE PRECEDENTIAL EFFECT OF THIS ACT.**

It is the sense of Congress that unique harms are associated with online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of certain tobacco products. This Act was enacted recognizing the long-standing interest of Congress in urging compliance with States' laws regulating remote sales of certain tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which established reporting requirements for out-of-State companies that sell certain tobacco products to citizens of the taxing States, and which gave authority to the Department of Justice and the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the Jenkins Act. In light of the unique harms and circumstances surrounding the online sale of certain tobacco products, this Act is intended to help collect cigarette excise taxes, to stop tobacco sales to underage youth, and to help the States enforce their laws that target the online sales of certain tobacco products only. This Act is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validity of efforts to impose other types of taxes on, out-of-State entities that do not have a physical presence within the taxing State.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. WEINER) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

**GENERAL LEAVE**

Mr. WEINER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEINER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as States and localities face increasing pressure on their budgets around the country, there is one source of revenue that not only raises money for those localities but also performs an important health function, and that is to provide taxation on packs of cigarettes. The taxation varies dramatically from State to State, and, frankly, in New York State we have the highest State tax in the Nation, \$2.75 a pack, and the highest local tax as well. We have a \$4.25 per pack. In some places it's much lower.

But every State in the union has some taxation that they put on their tobacco products, and it is collected, by and large, by wholesalers that put a tax stamp on. Most citizens, when they

go out and purchase their cigarettes, do so legally, pay the tax, and there is no problem.

However, as the taxes have gone up, we have unwittingly created a large and growing black market for smuggled tobacco products. And this legislation, which has bipartisan support in the Judiciary Committee and in this House, seeks to solve that problem. It does so in a number of ways.

One, it makes it much more difficult for someone to sell tobacco over the Internet. Right now, UPS, DHL, the common carriers all are under agreement that they, themselves, are saying, We are not going to ship tobacco across the Internet because too often it's used as a way to avoid paying the taxes. There is one common carrier, the Postal Service, which still permits it. That is the carrier of choice for the overwhelming number of illegally smuggled cigarettes. And, frankly, the Postal Service has said, Congress, if you want us not to ship those cigarettes, you've got to tell us in a law that you want us not to. That's what we are doing today.

Also, it increases the penalties under the Jenkins Act. If someone is going to seek to avoid paying tobacco taxes, violating the Jenkins Act is going to be a felony under this act. It is going to make it a requirement that sellers of Internet tobacco verify the purchaser's age and identify them through easily accessible databases, which is, in many cases, going to put some of these Internet tobacco carriers out of business.

This is not only a matter of revenue, though, Mr. Speaker. This is also the source for a black market that has emerged that, according to the GAO, has allowed organizations as nefarious as Hezbollah to make the money on the float: buying tobacco, say, in South Carolina, driving it to Michigan, taking money that they saved by not charging people the tax, and taking that money and exporting it to fund terrorist activities. That is not a hypothetical. That's something that the GAO actually found to have happened.

So I urge my colleagues to support this. This has broad support. We have worked very hard, that even organizations as disparate as the wholesale marketers, Phillip Morris, the National Association of Attorneys General, Lorillard, and the Campaign for Tobacco-Free Kids, all are supporters of the PACT Act.

I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank my colleague and friend on the Judiciary Committee, Mr. WEINER, for introducing H.R. 1676, the Prevent All Cigarette Trafficking or PACT Act. This bipartisan legislation will help Federal, State, and local law enforcement offi-

cials combat cigarette smuggling and trafficking in the United States.

Tobacco smuggling has become one of the most prevalent forms of smuggling in recent years in our country. Its effects are not felt only in the United States but other parts of the world as well.

The World Health Organization estimates that illegal cigarettes account for 10.7 percent, or approximately 600 billion cigarettes, of the more than 5.7 trillion cigarettes sold globally each year.

According to a study by the World Bank, cigarettes are appealing to smugglers because taxes typically account for a large portion of the price, making it highly profitable to traffic them for resale at a reduced price.

Tobacco smuggling traditionally involves the diversion of large quantities of cigarettes from wholesale distribution into the black market. This typically occurs during the transit of the cigarettes, thus allowing the traffickers to avoid most, if not all, taxes that will be imposed at retail on the cigarettes.

The profits from tobacco trafficking can be and likely are used to finance other illegal activities such as organized crime and drug trafficking syndicates. In addition to the sale of smuggled tobacco on the black market, it deprives States of significant amounts of tax revenue every year.

Over the last 15 years, cigarette taxes have increased more than 65 percent throughout the United States; yet, during this same time, States' tax revenues increased by only 35 percent.

California officials estimate that taxes are unpaid on about 15 percent of all tobacco sold in its markets at a cost of \$276 million every year. In a recently released study, the State of New York put its losses at more than \$576 million per year.

The State of Texas raised cigarette taxes recently, and this increase is supposed to generate an additional \$800 million in revenue for the State.

This bill would help to ensure that States like California, New York, and Texas receive or recover tax revenue that is due them by people who buy cigarettes.

Two senior ranking members of the Judiciary Committee, Ranking Member SMITH and Mr. WEINER, have teamed together to cosponsor the PACT Act for the second consecutive Congress.

In the 110th Congress, this House passed similar legislation on a suspension calendar; however, our colleagues in the Senate did not ever take up the bill.

H.R. 1676 varies slightly from the previous legislation passed by the 110th Congress. Provisions that were under the jurisdiction of the Oversight and Government Reform Committee have been removed.

This bill also contains an authorization for additional funding for anticigarette trafficking efforts for the Bureau of Alcohol, Tobacco, Firearms and Explosives.

This bipartisan legislation closes loopholes in current tobacco trafficking laws, provides law enforcement with new tools to combat innovative methods being used by the cigarette traffickers to distribute their products, and bolsters the States' ability to enforce State law.

I urge all my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WEINER. I thank the gentleman for his leadership on this and so many issues on the Judiciary Committee.

It is indeed the fact that a lot of these Web sites continue to exist because they provide delivery by the United States Postal Service. The irony here is that UPS, FedEx, DHL, the big carriers have entered into an agreement with the State of New York that they are now following in all 50 States that they won't transport those tobacco products because there is a reasonable expectation that these Web sites are operating, and often brag about the idea that, if you go shopping for tobacco on the Internet, you're not going to have to pay the taxes.

□ 1330

Well, we need to stop that activity. You can be against the high taxes in some States, or in favor of them. I think that the States, in their sovereign responsibility, have the right to come up with their own levels of taxation. But I think that we should all be able to agree that right now there is a giant truck-sized loophole that exists in the law that allows many people to avoid paying the taxes and allows the funds to go to nefarious hands.

According to the GAO, Hezbollah raised \$1.5 million from the sale of illegal tobacco in the 5 years 1996 through 2000. The largest case that they found was that millions of dollars of cigarettes were smuggled to Michigan from North Carolina in 1996—seized cigarettes and property and currency worth \$2 million and proceeds that had been transferred to Beirut.

But it's more obviously often smaller bore problems that have been created as well; that if you have people who are increasingly seeking, because of the large amount of taxation that there is on many of these products, a lot of the programs in our States that are funded theoretically from the tax revenues from tobacco are seeing shortfalls. In fact, we're reaching a point now where the rising tobacco tax rights are producing less revenue in some States.

Some people thump their chest and say, Isn't that great. We have less smoking. But if you look at the back end, you see that the wholesalers and

the manufacturers are still sending the same number of cigarettes out; we're just not collecting the revenues for it.

I want to offer my gratitude to Mr. SCOTT for his chairmanship on the Crime Subcommittee, through which the bill passed. I also want to express gratitude to many members of the staff who have worked to make not only the bill work, but also the compromises and changes that we made.

Mr. COBLE, for example, was concerned that we wanted to allow some of the smaller test brands to be able to be sent out so market research could be done. We accommodated those concerns. And I think his staff was very, very helpful.

If the Speaker will indulge me, I want to mention some of them by name: Perry Apfelbaum of the Judiciary Committee; and Ameer Gopalani, Jesselyn McCurdy, Kimani Little and Caroline Lynch of the Subcommittee on Crime, Terrorism, and Homeland Security; John Mautz of Congressman COBLE's staff; and Joseph Dunn of my staff.

Also, some of the folks in the private sector who helped us craft this bill in a way that doesn't impact legitimate operators: Artie Katz, Lenny Schwartz, and Steve Rosenthal with the New York Association of Wholesale Marketers, who helped enlighten the committee on how the process actually worked; John Hoel and Sarah Knakmuhs with Altria; Eric Lindblom with the Campaign for Tobacco Free Kids; Anne Holloway with the American Wholesale Marketers Association; Lynn Beckwith with the National Association of Convenience Stores; and Laurie McKay with Dickstein Shapiro.

Mr. Speaker, I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, this bill has nothing to do with whether cigarettes should be taxed or not, whether tobacco should be taxed or not. The issue is the black market sale of cigarettes and those individuals who fail to pay lawfully imposed taxes on them.

This legislation is supported by the tobacco industry and by law enforcement, the Attorney General, and I urge the adoption of this legislation.

I yield back the balance of my time.

Mr. WEINER. I thank Mr. POE again, and I just want to make one other point: that there are colleagues on other committees who have had an interest in this, and they have been working hand-in-hand with the Judiciary Committee.

I will insert an exchange of letters with one of those committees, the Oversight and Reform Committee, at this point in the RECORD.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, May 19, 2009.

Hon. JOHN CONYERS, JR.,  
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CONYERS: I am writing about H.R. 1676, the "Prevent All Cigarette Trafficking Act of 2009." The Judiciary Committee ordered this measure reported, as amended, on April 28, 2009.

I appreciate your efforts to consult with the Committee on Oversight and Government Reform regarding those provisions of H.R. 1676 that fall within the Oversight Committee's jurisdiction. These provisions relate to the treatment of cigarettes and smokeless tobacco as nonmailable matter and new requirements which will be placed on the U.S. Postal Service as a result.

In the interest of expediting consideration of H.R. 1676, the Oversight Committee will not separately consider relevant provisions of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 1676 or a similar Senate bill be considered in conference with the Senate. Moreover, this letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 1676 that fall within the jurisdiction of the Oversight Committee.

Please include our exchange of letters on this matter in the Congressional Record during consideration of this legislation on the House floor.

Again, I appreciate your willingness to consult the Committee on these matters.

Sincerely,

EDOLPHUS TOWNS,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, May 19, 2009.

Hon. EDOLPHUS TOWNS,  
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding your committee's jurisdictional interest in H.R. 1676, the Prevent All Cigarette Trafficking Act of 2009.

I appreciate your willingness to support expediting floor consideration of this important legislation today. I understand and agree that this is without prejudice to your Committee's jurisdictional interests in this or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support your request for an appropriate number of conferees.

I will include a copy of your letter and this response in the Congressional Record in the debate on the bill. Thank you for your cooperation as we work towards enactment of this legislation.

Sincerely,

JOHN CONYERS, JR.,  
Chairman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, H.R. 1676, the Prevent All Cigarette Trafficking Act of 2009 or PACT Act. This bill was introduced by Representative WIENER of New York. This legislation makes it a federal offense for any seller making a "delivery sale" to fail to comply with all state excise tax, sales tax licensing, and tax sampling laws. I urge my colleagues to support this bill.



I also thank my legislative director, Arthur D. Sidney.

Every year tens of billions of cigarettes disappear into a lucrative black market for tobacco products and are trafficked throughout the world. Smuggling harms public health and minors by undermining tobacco tax policies. Smuggling also makes tax-free cigarettes available to minors who might otherwise quit smoking. It is reported that cigarette smuggling also helps finance criminal activity and terrorist organizations.

By diverting cigarettes while they are in the wholesale distribution chain, large-scale smugglers generally avoid all taxes. Increasingly, cigarette smuggling is on the rise throughout the United States. The U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has reported that the number of ATF tobacco smuggling investigations has increased from 10 in 1998 to 425 in 2005. Some of these investigations and convictions have occurred in Texas.

Currently, the Jenkins Act, 15 USC 375, requires any person who sells and ships cigarettes across a state line to a buyer, other than a licensed distributor, to report the sale to the buyer's state tobacco collection officials. Compliance allows states to collect a cigarette excise tax. There are misdemeanor penalties for violation. Smugglers are circumventing the Jenkins Act by virtue of internet-based tobacco sales. Sales of tobacco through the internet have resulted in the loss of billions of dollars in tax revenue.

The Contraband Cigarette Trafficking Act, 18 USC 2342, makes it illegal for persons to knowingly ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes or contraband smokeless tobacco. It also prohibits a person from knowingly making any false statement or representation with respect to information required by law to be kept in the records of any person who ships, sells, distributes cigarettes in excess of 10,000 in a single transaction.

Cigarette smuggling is on the rise due to the internet and sales to and between Native American tribes and others. The PACT Act introduced by the Honorable Anthony Weiner makes it a federal offense for any seller to fail to comply with all state excise tax, sales tax licensing, and tax stamping laws. This bill also increases the Jenkins Act's existing penalties from a misdemeanor to a felony. It further empowers states to enforce the Jenkins Act against out of state sellers sending delivery sales into its territory by giving the Attorney General the power to seek injunctive relief and civil penalties. The Act prohibits the shipment of cigarettes and tobacco through the U.S. Postal Service and provides the ATF with the ability to inspect a distributor's business. Refusal to submit to inspection results in additional penalties. Internet sellers are required to verify a seller's age and identity through databases and the person accepting delivery must verify age and identity when signing for delivery.

I urge my colleagues to support this bill.

Mr. WEINER. I urge support for the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New York (Mr. WEINER) that the House suspend the rules and pass the bill, H.R. 1676, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. POE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### HONORING POLICE OFFICERS AND LAW ENFORCEMENT PROFESSIONALS DURING POLICE WEEK

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 426) honoring police officers and law enforcement professionals during Police Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 426

Whereas President John F. Kennedy signed a proclamation declaring May 15th as Peace Officers Memorial Day to honor law enforcement officers killed in the line of duty, and to designate the calendar week in which May 15th occurs as Police Week;

Whereas police officers protect communities across our Nation;

Whereas police officers selflessly put their lives on the line to keep Americans safe;

Whereas police officers perform a variety of duties to pursue justice and maintain public safety;

Whereas in just the last decade, hundreds of police officers were killed in the line of duty, and in just the first four months of 2009 more than 40 officers around the country have made the ultimate sacrifice; and

Whereas police officers and law enforcement personnel have been adversely affected by the current economic situation, yet continue to serve bravely: Now, therefore, be it

*Resolved*, That—

(1) it is the sense of the House of Representatives that—

(A) Police Week provides an opportunity to honor police officers and law enforcement personnel for their selfless acts of bravery;

(B) police officers and law enforcement personnel risk their lives daily to protect Americans; and

(C) police officers and law enforcement personnel who have made the ultimate sacrifice should be remembered and honored;

(2) the House of Representatives honors police officers for their efforts to create safer and more secure communities; and

(3) the House of Representatives expresses its strong support for the Nation's police officers and law enforcement personnel.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution honors police officers and law enforcement professionals during Police Week. In 1962, President Kennedy proclaimed the week in which May 15 occurs to be Police Week. For over 40 years, the week of May 15 has continued to be the time to honor men and women in our Nation's law enforcement agencies, who protect our neighborhoods, our homes, and our loved ones.

The men and women who dedicate their careers to our safety do so at the expense of spending long hours away from their own families, putting themselves at great risk—and, in too many instances, making the ultimate sacrifice.

In fact, we have lost over 20,000 officers in the line of duty over the course of our history. Since January 1 of this year, we've lost 48 officers—five since the beginning of this month alone. Yet regardless of the continuing danger, day after day, and year after year, these dedicated professionals continue to make the sacrifices for their communities, without asking for thanks or praise.

And so the law enforcement professionals and police officers who toil in our communities across the Nation deserve our unwavering support and our thankful recognition.

I commend the gentleman from California (Mr. MCNERNEY) for introducing this resolution and for giving the House of Representatives the opportunity to show respect and admiration for our law enforcement professionals. I urge my colleagues to support the resolution.

I reserve the balance of my time.

Mr. POE of Texas. I yield myself such time as I may consume.

I would like to thank the gentleman from California (Mr. MCNERNEY) for introducing H. Res. 426, which honors police officers and law enforcement professionals during National Police Week. I'm pleased to cosponsor this resolution that supports the brave men and women who wear the badge, as well as all the professionals who support them in their mission throughout the country, especially their families.

As they continue to protect and serve, we take a moment to salute them for everything that they do every day, much of which goes unnoticed. We're able to go about our daily routines because officers in small towns



and big cities and in rural areas throughout this country stand ready to take those risks on our behalf.

Each year, 50,000—50,000—peace officers are assaulted in the United States. On May 17, 1792, New York City's Deputy Sheriff Isaac Smith became the first recorded police officer to be killed in the line of duty in the United States. Since that time, 19,705 peace officers have been killed while on duty protecting the rest of us.

In 2008, 140 officers died in the line of duty while upholding the values that make this country great—duty, honor, sacrifice. Those values and their sacrifice are a somber reminder that the freedoms that we share do not come without a cost. Of those 140, 10 percent, or 14, were from my home State of Texas.

Sadly, already in 2009, 48 peace officers have died in the line of duty. Once again, 10 percent from the State of Texas. This number includes two additional officers since I spoke on the House floor about peace officers 5 days ago. Those individuals, Sergeant Dulan Earl Murray, Jr. from the Nags Head Police Department in North Carolina, and Deputy Sheriff Tom Wilson from Warren County Sheriff's Department in Mississippi, died over the weekend while on duty.

In 1961, Congress created Peace Officers Memorial Day and designated it to be commemorated each year on May 15. Correspondingly, each year, the President issues a proclamation naming May 15 as National Peace Officers Memorial Day.

I'm proud to sponsor this year's resolution to recognize Peace Officer Memorial Day, which passed the House unanimously in February of this year. Peace Officer Memorial Day takes place during National Police Week, which was held in Washington, D.C. last week.

Many of the families, friends, and colleagues of these fallen officers came to Washington last week to remember them as mothers and fathers, brothers and sisters, sons and daughters, and friends of their communities, guarding all of us.

They came together to celebrate in many ways. They participated in candlelight vigils and torch runs, they broke bread and shared stories, but more importantly, they honored and remembered the fallen. Today, we do as well.

Those officers have no doubt returned to serve their communities while quietly making all of our lives a little better.

We commemorate the 186 officers that died in 2008 and 2009, and all law enforcement officers that have died in the line of duty while representing every State, the District of Columbia, U.S. territories, as well as Federal law enforcement and the military police.

Today, we thank them the best way that we can in the House of Represent-

atives. I urge people across the country to similarly thank them for their service with a simple smile or a handshake or a thank you.

I urge my colleagues to support this important resolution.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman who, prior to coming to Congress, was a law enforcement professional himself, the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. I thank the gentleman for yielding. And I stand today in support of House Resolution 426, a resolution offered by our friend, Mr. MCNERNEY from California. This resolution is to recognize Police Week and all the law enforcement officers across the country that keep us and our communities safe.

As a former city police officer and as a Michigan State police trooper, law enforcement has always been a legislative priority for me. When I was elected to Congress 17 years ago, I was surprised to learn that there was no formal organization within Congress to advocate on behalf of law enforcement. So I founded the Law Enforcement Caucus with the help of then-Democratic caucus chairman STENY HOYER.

Today, the Law Enforcement Caucus has 110 members and we hold regular briefings throughout the year. I'm proud to be cochair of the caucus, along with my friend DAVE REICHERT, the gentleman from the State of Washington.

As you know, this is a time of great change for the law enforcement community. During an economic downturn, there's an increase in crime and in the drug trade. Many in Washington have paid a lot of attention to the integral role that law enforcement plays in protecting our country. But the Federal Government has to do more than talk about the problem. We must also provide resources, training, and equipment to ensure that it is there for local law enforcement.

We made a strong commitment to this goal by providing \$3 billion in the American Recovery and Reinvestment Act of 2009 for law enforcement programs. This effort must continue as we consider fiscal year 2010 appropriation bills. After all, our law enforcement officers are on the front lines every day, keeping us and our communities safe.

I urge my colleagues to not only support this resolution honoring Police Week, but support law enforcement programs by fully funding the Byrne Justice Assistance Grants, the Community Oriented Policing Services grants, and many Federal programs that have gone underfunded when the need is ever growing.

Mr. POE of Texas. I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as he may consume to

the sponsor of this important resolution, the gentleman from California (Mr. MCNERNEY).

Mr. MCNERNEY. I rise in proud support of H. Res. 426. I thank the gentleman from Texas for his words and support. We're basically here to honor police officers and law enforcement professionals.

I introduced this resolution last Tuesday in recognition of National Police Week. H. Res. 426 commends police officers and law enforcement professionals for the hard and often dangerous work they perform to keep us safe.

Almost 47 years ago, in October of 1962, President John F. Kennedy signed a resolution designating May 15 as Peace Officers Memorial Day and the week in which it occurs as Police Week. Since then, police officers have held events during Police Week honoring their fallen brethren and officers who worked tirelessly to keep us safe.

□ 1345

May 15 just passed, but our law enforcement officials should be celebrated daily.

So far this year more than 40 officers from around the country have lost their lives in the line of duty. Four officers from California, including Sergeants Mark Dunakin of Tracy and Ervin Romans of Danville, both from my district, were killed earlier this year. My thoughts and prayers are with the families and loved ones of these dedicated officers.

In honor of their memory and in thanks for the hard work and selfless dedication of our Nation's police officers and law enforcement professionals, I urge my colleagues to support this resolution. These brave men and women deserve our respect and gratitude. I further encourage my colleagues to support our law enforcement professionals not just during Police Week but every day of the year.

Mr. POE of Texas. Mr. Speaker, I want to thank the gentleman from Virginia and the gentleman from California for proposing this legislation. Also, we need to constantly remember that we here in the United States Capitol are protected daily by the Capitol Police, two of whom just a few years ago gave their lives protecting Members of Congress.

I would also like to introduce into the RECORD the names of the 19 police officers from the State of Texas who have been killed in 2008 and 2009.

In 2008, 140 peace officers were killed. Of these fallen officers, 14 were from Texas:

Deputy Constable David Joubert, Harris County Constable's Office—Precinct 7, TX, EOW: Sunday, January 13, 2008.

Police Officer Matthew B. Thebeau, Corpus Christi Police Department, TX, EOW: Sunday, January 20, 2008.

Corporal Harry Thielepape, Harris County Constable's Office—Precinct 6, TX, EOW: Wednesday, February 20, 2008.

Senior Corporal Victor A. Lozada Sr., Dallas Police Department, TX, EOW: Friday, February 22, 2008.

Trooper James Scott Burns, Texas Department of Public Safety—Texas Highway Patrol, TX, EOW: Tuesday, April 29, 2008.

Police Officer Everett William Dennis, Carthage Police Department, TX, EOW: Tuesday, June 3, 2008.

Sergeant Barbara Jean Shumate, Texas Department of Criminal Justice, TX, EOW: Friday, June 13, 2008.

Police Officer Gary Gryder, Houston Police Department, TX, EOW: Sunday, June 29, 2008.

Detective Tommy Keen, Harris County Sheriff's Department, TX, EOW: Monday, September 15, 2008.

Game Warden George Harold Whatley Jr., Texas Parks and Wildlife Department—Law Enforcement Division, TX, EOW: Friday, October 10, 2008.

Sheriff Brent Lee, Trinity County Sheriff's Department, TX, EOW: Thursday, November 27, 2008.

Police Officer Robert Davis, San Antonio Police Department, TX, EOW: Monday, December 1, 2008.

Police Officer Timothy Abernethy, Houston Police Department, TX, EOW: Sunday, December 7, 2008.

Police Officer Mark Simmons, Amarillo Police Department, TX, EOW: Wednesday, December 17, 2008.

In 2009, 48 officers have died in the line of duty. 5 of these officers were from Texas:

Senior Corporal Norman Smith, Dallas Police Department, TX, EOW: Tuesday, January 6, 2009.

Detention Officer Cesar Arreola, El Paso County Sheriff's Office, TX, EOW: Sunday, January 18, 2009.

Lieutenant Stuart J. Alexander, Corpus Christi Police Department, TX, EOW: Wednesday, March 11, 2009.

Sergeant Randy White, Bridgeport Police Department, TX, EOW: Thursday, April 2, 2009.

Deputy Sheriff D. Robert Harvey, Lubbock County Sheriff's Department, TX, EOW: Sunday, April 26, 2009.

I yield back the balance of my time.

Mr. SCOTT of Virginia. I yield myself as much time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Texas, the gentleman from California and the gentleman from Michigan for their strong support of this resolution. I urge my colleagues to support it.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H. Res. 426, a resolution that honors and celebrates National Peace Officers' Memorial Service Observance Day on May 15, 2009 and National Police Week, May 11–15, 2009.

President John F. Kennedy first proclaimed May 15th as National Peace Officers' Memorial Day. Every year on this day, we celebrate the lives and honor the deaths of our fallen law enforcement officers. We also recognize the important role that our peace officers play in the daily lives of all citizens, and the responsibilities, hazards, and sacrifices of their work.

As a former police officer, I salute those law enforcement officers who died in the line of duty in 2008 and continue to honor those police officers who gave their lives in past years. I join my colleagues on the Congressional Law Enforcement Caucus in urging continued sup-

port for programs, such as the Community Oriented Policing Services (COPS) program, to hire additional police officers and help law enforcement acquire the latest crime-fighting technologies.

Mr. Speaker, I ask my colleagues to join me in recognizing and paying respect to our fallen heroes. In these difficult and changing times, we honor their work to protect our communities and families and promote safety and peace on our streets. I urge my colleagues to support this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 426, "Honoring police officers and law enforcement professionals during Police Week". I would like to thank my colleague Representative JERRY MCNERNEY, as well as the co-sponsors, for introducing this resolution.

I stand in support of this important resolution, because police officers of every rank and from every walk of life are working every day to keep communities across our nation safe. These hard working men and women perform a variety of duties to pursue justice and maintain public safety, and selflessly put their lives on the line to keep their neighbors and countrymen safe.

These Americans are reminded of these threats all too often—in just the last decade, hundreds of police officers were killed in the line of duty, and in just the first four months of 2009 more than 40 officers around the country have made the ultimate sacrifice. And as if that weren't bad enough, police officers and law enforcement personnel have been not been immune to the collapse of our economy, and have been adversely affected by the current economic situation.

In my home city of Houston, nearly 70 officers of the law have been killed in the line of duty, and 11 police officers have fallen in the past decade alone.

The most recent tragedy came less than six months ago, when Police Officer Timothy Scott Abernethy was shot and killed during a foot pursuit of a suspect who fled following a traffic stop. Officer Abernethy had lost sight of the man as he chased him around a building in an apartment complex. After going around the corner the man hid behind a gate and then shot the officer in the head as he ran by. Tim was transported to Memorial Hermann Hospital where he succumbed to his wounds a short time later. He is survived by his wife, son, daughter, parents, and siblings.

Before him, there was Police Officer Gary Allen Gryder. He was struck and killed by a drunk driver while directing traffic at a construction site on the Katy Freeway. The drunk driver drove through a barricade and struck Officer Gryder and another officer without braking. The vehicle continued until striking a brick wall. Gryder is survived by his wife, son, step-daughter, two grandchildren, parents, and two sisters.

And before either of them, there was Officer Rodney Joseph Johnson. Officer Johnson had stopped a large white pickup truck occupied by a man and woman on Randolph at Braniff, just south of Hobby Airport, at about 5:30 p.m. He placed the male driver—who, it would turn out, was in the country illegally—under arrest after he was unable to produce a drivers license. After handcuffing the male, he placed

him in the backseat of the patrol car and then returned to the driver's seat. The subject in the backseat was able to move his hands to his front, retrieve a concealed handgun, and then shot Officer Johnson in the back of the head four times.

Despite being fatally wounded, Officer Johnson was able to push an emergency button, alerting dispatch to the incident. When other officers arrived, the male was still handcuffed and sitting in the patrol car, and the weapon was recovered. Officer Johnson was taken to Ben Taub Hospital, where he was pronounced dead.

For these reasons, and more, our country has found respect for these brave men and women throughout its history. In 1962, President John F. Kennedy signed a proclamation declaring May 15 as Peace Officers Memorial Day to honor law enforcement officers killed in the line of duty, and to designate the calendar week in which May 15 occurs as Police Week.

And it is this tradition that we continue today, as this body, the House of Representatives, honors police officers for their efforts to create safer and more secure communities, and who risk their lives daily to protect Americans.

I wholeheartedly agree with my colleagues that Police Week provides an opportunity to honor police officers and law enforcement personnel for their selfless acts of bravery, and that police officers and law enforcement personnel who have made the ultimate sacrifice should be remembered and honored.

So let there be no doubt that the House of Representatives expresses its strong support for the Nation's police officers and law enforcement personnel.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 426.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability, as amended.

The Clerk read the title of the Senate bill.

The text of the Senate bill, as amended, is as follows:

S. 896

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### DIVISION A—PREVENTING MORTGAGE FORECLOSURES

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Helping Families Save Their Homes Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents of this division is the following:  
Sec. 1. Short title; table of contents.

#### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

- Sec. 101. Guaranteed rural housing loans.  
Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.  
Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.  
Sec. 104. Mortgage modification data collecting and reporting.  
Sec. 105. Neighborhood Stabilization Program Refinements.

#### TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

- Sec. 201. Servicer safe harbor for mortgage loan modifications.  
Sec. 202. Changes to HOPE for Homeowners Program.  
Sec. 203. Requirements for FHA-approved mortgagees.  
Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.  
Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.  
Sec. 206. Mortgages on certain homes on leased land.  
Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

#### TITLE III—MORTGAGE FRAUD TASK FORCE

- Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

#### TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

- Sec. 401. Sense of the Congress on foreclosures.  
Sec. 402. Public-Private Investment Program; Additional Appropriations for the Special Inspector General for the Troubled Asset Relief Program.  
Sec. 403. Removal of requirement to liquidate warrants under the TARP.  
Sec. 404. Notification of sale or transfer of mortgage loans.

#### TITLE V—FARM LOAN RESTRUCTURING

- Sec. 501. Congressional Oversight Panel special report.

#### TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

- Sec. 601. Enhanced oversight of the Troubled Asset Relief Program.

#### TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

- Sec. 701. Short title.  
Sec. 702. Effect of foreclosure on preexisting tenancy.  
Sec. 703. Effect of foreclosure on section 8 tenancies.  
Sec. 704. Sunset.

#### TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

- Sec. 801. Comptroller General additional audit authorities.

#### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

##### SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

“(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

“(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

“(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) expenses related to a partial claim or modification are not to be charged to the borrower;

“(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

“(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

“(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

“(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

“(15) ASSIGNMENT.—

“(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

“(B) PROGRAM REQUIREMENTS.—

“(i) IN GENERAL.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and as-

signment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

“(ii) ACCEPTANCE OF ASSIGNMENT.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

“(I) the mortgage is in default or facing imminent default;

“(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

“(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

“(C) PAYMENT OF GUARANTY.—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

“(D) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(E) LOAN SERVICING.—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”

(b) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking “(as defined in paragraph (13))” and inserting “(as defined in paragraph (17))”; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking “paragraphs (3), (6), (7)(A), (8), and (10)” and inserting “paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)”; and

(B) striking “paragraphs (2) through (13)” and inserting “paragraphs (2) through (15)”.  
(c) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting “at the time of origination” after “loan”.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

**SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.**

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to \$5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years

2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.

**SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.**

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased between 10 percent and 20 percent.

(E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

(A) higher monthly payments by the homeowner;

(B) equivalent monthly payments by the homeowner;

(C) lower monthly payments by the homeowner of up to 10 percent;

(D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or

(E) lower monthly payments by the homeowner of more than 20 percent.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements estab-

lished under paragraph (1) to each committee receiving the report required under subsection (a).

**SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.**

(a) IN GENERAL.—Section 2301(c) of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

“(3) EXCEPTION FOR CERTAIN STATES.—Each State that has received the minimum allocation of amounts pursuant to the requirement under section 2302 may, to the extent such State has fulfilled the requirements of paragraph (2), distribute any remaining amounts to areas with homeowners at risk of foreclosure or in foreclosure without regard to the percentage of home foreclosures in such areas.”.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110-289).

**TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY**

**SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.**

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values, local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) SAFE HARBOR.—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

**“SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

“(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

“(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

“(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

“(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

“(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

“(b) NO LIABILITY.—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

“(c) STANDARD INDUSTRY PRACTICE.—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

“(d) SCOPE OF SAFE HARBOR.—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

“(e) REPORTING.—Each servicer that engages in qualified loss mitigation plans under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer’s modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘qualified loss mitigation plan’ means—

“(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

“(B) a refinancing of a mortgage under the Hope for Homeowners program;

“(2) the term ‘servicer’ means the person responsible for the servicing for others of residential mortgage loans (including of a pool of residential mortgage loans); and

“(3) the term ‘securitization vehicle’ means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).

“(g) RULE OF CONSTRUCTION.—No provision of subsection (b) or (d) shall be construed as affecting the liability of any servicer or person as described in subsection (d) for actual fraud in the origination or servicing of a loan or in the implementation of a qualified loss mitigation plan, or for the violation of a State or Federal law, including laws regu-

lating the origination of mortgage loans, commonly referred to as predatory lending laws.”.

#### SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

(a) PROGRAM CHANGES.—Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking “THE BOARD” and inserting “SECRETARY”;

(B) in paragraph (1), by striking “Board” inserting “Secretary, after consultation with the Board.”;

(C) in paragraph (1)(A), by inserting “consistent with section 203(b) to the maximum extent possible” before the semicolon; and

(D) by adding after paragraph (2) the following:

“(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.”;

(2) by striking “Board” each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting “Secretary”;

(3) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

“(1) BORROWER CERTIFICATION.—

“(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

“(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

“(C) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).”;

(B) in paragraph (4)—

(i) in subparagraph (A), by striking “, subject to standards established by the Board under subparagraph (B).”;

(ii) in subparagraph (B)(i), by striking “shall” and inserting “may”;

(C) in paragraph (7), by striking “; and provided that” and all that follows through “new second lien”;

(D) in paragraph (9)—

(i) by striking “by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)” and inserting “in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are

consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure”;

(ii) by striking “and by any other method, in accordance with procedures and standards that the Board shall establish”;

(E) in paragraph (10)—

(i) by striking “The mortgagor shall not” and inserting the following:

“(A) PROHIBITION.—The mortgagor shall not”;

(ii) by adding at the end the following:

“(B) DUTY OF MORTGAGEE.—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).”;

(F) in paragraph (11), by inserting before the period at the end the following: “, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property”;

(G) by adding at the end:

“(12) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.”;

(4) in subsection (h)(2), by striking “The Board shall prohibit the Secretary from paying” and inserting “The Secretary shall not pay”;

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking “For each” and inserting the following:

“(1) PREMIUMS.—For each”;

(C) in subparagraph (A), as redesignated by this paragraph, by striking “equal to 3 percent” and inserting “not more than 3 percent”;

(D) in subparagraph (B), as redesignated by this paragraph, by striking “equal to 1.5 percent” and inserting “not more than 1.5 percent”;

(E) by adding at the end the following:

“(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

“(A) the financial integrity of the HOPE for Homeowners Program; and

“(B) the purposes of the HOPE for Homeowners Program described in subsection (b).”;

(6) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE”;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”;

(C) in paragraph (2), by striking “and the mortgagor” and all that follows through the end and inserting “may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with “or assign the rights of any amounts due to the Secretary to” the holder

of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.”;

(7) in the heading for subsection (n), by striking “THE BOARD” and inserting “SECRETARY”;

(8) in subsection (p), by striking “Under the direction of the Board, the” and inserting “The”;

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking “Board of Directors of” and inserting “Advisory Board for”; and

(B) in paragraph (3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(10) in subsection (v), by inserting after the period at the end the following: “The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”; and

(11) by adding at the end the following new subsections:

“(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

“(1) servicer of the existing senior mortgage “or existing subordinate mortgage” for every loan insured under the HOPE for Homeowners Program; and

“(2) originator of each new loan insured under the HOPE for Homeowners Program.

“(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.”.

(b) REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$1,244,000,000,” after “\$700,000,000,000”.

(c) TECHNICAL CORRECTION.—The second section 257 of the National Housing Act (Public Law 110-289; 122 Stat. 2839; 12 U.S.C. 1715z-24) is amended by striking the section heading and inserting the following:

**“SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.”**  
**SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.**

(a) MORTGAGEE REVIEW BOARD.—

(1) IN GENERAL.—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting “and” after the semicolon;

(B) in subparagraph (F), by striking “; and” and inserting “or their designees.”; and

(C) by striking subparagraph (G).

(2) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

“(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.”.

(b) LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.—

Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

“(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

“(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

“(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

“(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

“(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant’s integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

“(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

“(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

“(E) convicted of, or who has pled guilty to, nolo contendere to, a felony related to participation in the real estate or mortgage loan industry—

“(i) during the 7-year period preceding the date of the application for licensing and registration; or

“(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

“(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

“(G) in violation of any other requirement as established by the Secretary.

“(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.”; and

(3) by adding at the end the following new subsection:

“(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

“(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

“(2) to maintain copies of all such advertisements and promotional materials, in

such form and for such period as the Secretary requires.”.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting “or faces imminent default, as defined by the Secretary” after “default”;

(2) by inserting “support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,” after “loan modification,”; and

(3) by striking “204(a)(1)(A)” and inserting “subsection (a)(1)(A) or section 230(c)”.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting “or imminent default, as defined by the Secretary” after “default”;

(B) by striking “loss” and inserting “loan”;

(C) by inserting “preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,” after “loan modification,”;

(D) by inserting “as required,” after “deeds in lieu of foreclosure,”; and

(E) by inserting “or section 230(c),” before “as provided”.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

“(b) PAYMENT OF PARTIAL CLAIM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

“(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

“(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

“(E) expenses related to the partial claim or modification may not be charged to the borrower;

“(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

“(G) the Secretary may permit incentive payments to the mortgagee, on the borrower’s behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

“(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that



the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.”.

(3) **ASSIGNMENT.**—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting “(1)” after “(c)”;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(iii) in clause (i) (as so redesignated), by inserting “or facing imminent default, as defined by the Secretary” after “default”;

(D) in paragraph (1)(C) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(E) by adding at the end the following:

“(2) **ASSIGNMENT AND LOAN MODIFICATION.**—

“(A) **AUTHORITY.**—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

“(B) **PAYMENT OF BENEFITS AND ASSIGNMENT.**—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

“(C) **DISPOSITION.**—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(D) **LOAN SERVICING.**—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to

subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”.

(4) **IMPLEMENTATION.**—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) **CHANGE OF STATUS.**—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f-10) and inserting the following new section:

**“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

“(a) **NOTIFICATION.**—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

“(b) **ACTIONS.**—The actions described in this subsection are as follows:

“(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

“(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.”.

(f) **CIVIL MONEY PENALTIES.**—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or any of its owners, officers, or directors” after “mortgagee or lender”;

(ii) in subparagraph (H), by striking “title I” and all that follows through “under this Act.” and inserting “title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.”; and

(iii) by inserting after subparagraph (J) the following:

“(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

“(L) Use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.”;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; or”;

(iii) by adding at the end the following new subparagraph:

“(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.”; and

(C) by amending paragraph (3) to read as follows:

“(3) **PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.**—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Hous-

ing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.”; and

(2) in subsection (g), by striking “The term” and all that follows through the end of the sentence and inserting “For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.”.

(g) **EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.**—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgagees originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

**SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.**

(a) **TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.**—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(b) **EXTENSION OF RESTORATION PLAN PERIOD.**—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.

(c) **FDIC AND NCUA BORROWING AUTHORITY.**—

(1) **FDIC.**—Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking “\$30,000,000,000” and inserting “\$100,000,000,000”;

(B) by striking “The Corporation is authorized” and inserting the following:

“(1) **IN GENERAL.**—The Corporation is authorized”;

(C) by striking “There are hereby” and inserting the following:

“(2) **FUNDING.**—There are hereby”; and



(D) by adding at the end the following:

“(3) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$500,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above \$100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

“(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.”.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

“(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate \$6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.”.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

“(4) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$30,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above \$6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and

need for the additional borrowing authority and its intended uses.”.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

“(ii) REPAYMENT OF LOSS.—

“(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.”.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

“(D) FUND RESTORATION PLANS.—

“(i) IN GENERAL.—Whenever—

“(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

“(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made, the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

“(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

“(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union

Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section: “SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

“(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the ‘Temporary Corporate Credit Union Stabilization Fund.’ The Board will administer the Stabilization Fund as prescribed by section 209.

“(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

“(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

“(2) Prior to authorizing each payment the Board shall—

“(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

“(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

“(c) AUTHORITY TO BORROW.—

“(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

“(2) REPAYMENT OF ADVANCES.—

“(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

“(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

“(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

“(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally

insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union's previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

“(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund's equity ratio below the normal operating level and does not reduce the Insurance Fund's available assets ratio below 1.0 percent.

“(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board's judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board's discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

“(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board's discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.”

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting “, subject to the requirements of section 217(e),” after “The Board shall”.

**SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.**

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for

mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

**SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.**

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

“(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.”

**SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.**

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof.

**TITLE III—MORTGAGE FRAUD TASK FORCE**

**SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.**

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the “Task Force”) to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) MANDATORY FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) OPTIONAL FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

**TITLE IV—FORECLOSURE MORATORIUM PROVISIONS**

**SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.**

(a) IN GENERAL.—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President's “Homeowner Affordability and Stability Plan” have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) SCOPE OF MORATORIUM.—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner's principal dwelling.

(c) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from

a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

**SEC. 402. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) **SHORT TITLE.**—This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) **PUBLIC-PRIVATE INVESTMENT PROGRAM.**—

(1) **IN GENERAL.**—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary, on a periodic basis, each investor that, individually or together with affiliates, directly or indirectly, holds equity interests equal to at least 10 percent of the equity interest of the fund including if such interests are held in a vehicle formed for the purpose of directly or indirectly investing in the fund.

(2) **INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.**—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage

that could result from interactions between such programs.

(3) **REPORT.**—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) **ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.**—

(1) **IN GENERAL.**—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) **PRIORITIES.**—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under “any program that is funded in whole or in part by funds appropriated under the Emergency Economic Stabilization Act of 2008,” to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) **RULE OF CONSTRUCTION.**—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) **DEFINITION.**—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) **OFFSET OF COSTS OF PROGRAM CHANGES.**—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$1,259,000,000,” after “\$700,000,000”.

(g) **REGULATIONS.**—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this section.

**SEC. 403. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.**

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking “shall liquidate warrants associated with such assistance at the current market price” and inserting “, at the market price, may liquidate warrants associated with such assistance”.

**SEC. 404. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.**

(a) **IN GENERAL.**—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

“(g) NOTICE OF NEW CREDITOR.—

“(1) **IN GENERAL.**—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

“(A) the identity, address, telephone number of the new creditor;

“(B) the date of transfer;

“(C) how to reach an agent or party having authority to act on behalf of the new creditor;

“(D) the location of the place where transfer of ownership of the debt is recorded; and

“(E) any other relevant information regarding the new creditor.

“(2) **DEFINITION.**—As used in this subsection, the term ‘mortgage loan’ means any consumer credit transaction that is secured by the principal dwelling of a consumer.”.

(b) **PRIVATE RIGHT OF ACTION.**—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting “subsection (f) or (g) of section 131,” after “section 125.”.

**TITLE V—FARM LOAN RESTRUCTURING**

**SEC. 501. CONGRESSIONAL OVERSIGHT PANEL SPECIAL REPORT.**

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

“(3) **SPECIAL REPORT ON FARM LOAN RESTRUCTURING.**—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

“(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

“(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.”.

**TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM**

**SEC. 601. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.**

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.”; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (F); and

(B) by striking subparagraphs (A) and (B) and inserting the following:

“(A) **DEFINITION.**—In this paragraph, the term ‘governmental unit’ has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under

section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

“(B) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

“(C) ACCESS TO RECORDS.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

“(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

“(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

“(D) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

“(E) RESTRICTION ON PUBLIC DISCLOSURE.—

“(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

“(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.”.

## TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

### SEC. 701. SHORT TITLE.

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

### SEC. 702. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide

tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor “or the child, spouse, or parent of the mortgagor” under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property “or the unit’s rent is reduced or subsidized due to a Federal, State, or local subsidy”.

(c) DEFINITION.—For purposes of this section, the term “federally-related mortgage loan” has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

### SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence; and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

### SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements

under this title shall terminate, on December 31, 2012.

## TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

### SEC. 801. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’),”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Federal Reserve Board,” and inserting “Board”; and

(B) in paragraph (4), by striking “of Governors”.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(c) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence;

(2) in paragraph (2), by inserting “, copies of any record,” after “records”; and

(3) by adding at the end the following:

“(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

“(i) any entity established by any action taken by the Board described under subsection (e);

“(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

“(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

“(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

“(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.”.

(d) AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.”.

#### **DIVISION B—HOMELESSNESS REFORM**

##### **SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

#### **DIVISION B—HOMELESSNESS REFORM**

Sec. 1001. Short title; table of contents.  
Sec. 1002. Findings and purposes.  
Sec. 1003. Definition of homelessness.  
Sec. 1004. United States Interagency Council on Homelessness.

#### **TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS**

Sec. 1101. Definitions.  
Sec. 1102. Community homeless assistance planning boards.  
Sec. 1103. General provisions.  
Sec. 1104. Protection of personally identifying information by victim service providers.  
Sec. 1105. Authorization of appropriations.

#### **TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM**

Sec. 1201. Grant assistance.  
Sec. 1202. Eligible activities.  
Sec. 1203. Participation in Homeless Management Information System.  
Sec. 1204. Administrative provision.  
Sec. 1205. GAO study of administrative fees.

#### **TITLE III—CONTINUUM OF CARE PROGRAM**

Sec. 1301. Continuum of care.  
Sec. 1302. Eligible activities.  
Sec. 1303. High performing communities.  
Sec. 1304. Program requirements.  
Sec. 1305. Selection criteria, allocation amounts, and funding.  
Sec. 1306. Research.

#### **TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM**

Sec. 1401. Rural housing stability assistance.  
Sec. 1402. GAO study of homelessness and homeless assistance in rural areas.

#### **TITLE V—REPEALS AND CONFORMING AMENDMENTS**

Sec. 1501. Repeals.  
Sec. 1502. Conforming amendments.  
Sec. 1503. Effective date.  
Sec. 1504. Regulations.  
Sec. 1505. Amendment to table of contents.

##### **SEC. 1002. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—  
(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

(b) PURPOSES.—The purposes of this division are—

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

##### **SEC. 1003. DEFINITION OF HOMELESSNESS.**

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—For purposes of this Act, the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’ means—

“(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

“(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

“(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

“(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

“(5) an individual or family who—

“(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

“(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

“(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

“(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

“(B) has no subsequent residence identified; and

“(C) lacks the resources or support networks needed to obtain other permanent housing; and

“(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

“(A) have experienced a long term period without living independently in permanent housing,

“(B) have experienced persistent instability as measured by frequent moves over such period, and

“(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

“(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.”.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of “homeless”, “homeless individual”, or “homeless person” for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

##### **SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.**

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following “whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness”;

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

“(16) The Commissioner of Social Security, or the designee of the Commissioner.

“(17) The Attorney General of the United States, or the designee of the Attorney General.

“(18) The Director of the Office of Management and Budget, or the designee of the Director.”

“(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.”

“(20) The Director of USA FreedomCorps, or the designee of the Director.”;

(B) in subsection (c), by striking “annually” and inserting “four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year”; and

(C) by adding at the end the following:

“(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.”;

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

“(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually.”;

(C) in paragraph (5), as redesignated by subparagraph (A), by striking “at least 2, but in no case more than 5” and inserting “not less than 5, but in no case more than 10”;

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

“(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

“(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies’ identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled ‘Homelessness: Coordination and Evaluation of Programs Are Essential’, issued February 26, 1999, and ‘Homelessness: Barriers to Using Mainstream Programs’, issued July 6, 2000;

“(8) conduct research and evaluation related to its functions as defined in this section;

“(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency.”;

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking “and” at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

“(12) develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sit-

ting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person’s property without due process, or are selectively enforced against homeless persons; and

“(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of ‘homeless’ under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.”

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—

(A) by striking “Federal” and inserting “national”;

(B) by striking “; and” and inserting “and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made.”;

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking “property.” and inserting “property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.”; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

#### “SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this title \$3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

## TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

### SEC. 1101. DEFINITIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

#### “Subtitle A—General Provisions”;

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

#### “SEC. 401. DEFINITIONS.

“For purposes of this title:

“(1) AT RISK OF HOMELESSNESS.—The term ‘at risk of homelessness’ means, with respect to an individual or family, that the individual or family—

“(A) has income below 30 percent of median income for the geographic area;

“(B) has insufficient resources immediately available to attain housing stability; and

“(C)(i) has moved frequently because of economic reasons;

“(ii) is living in the home of another because of economic hardship;

“(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

“(iv) lives in a hotel or motel;

“(v) lives in severely overcrowded housing;

“(vi) is exiting an institution; or

“(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

“(2) CHRONICALLY HOMELESS.—

“(A) IN GENERAL.—The term ‘chronically homeless’ means, with respect to an individual or family, that the individual or family—

“(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

“(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

“(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

“(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

“(3) COLLABORATIVE APPLICANT.—The term ‘collaborative applicant’ means an entity that—

“(A) carries out the duties specified in section 402;

“(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

“(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

“(4) COLLABORATIVE APPLICATION.—The term ‘collaborative application’ means an application for a grant under subtitle C that—

“(A) satisfies section 422; and

“(B) is submitted to the Secretary by a collaborative applicant.

“(5) CONSOLIDATED PLAN.—The term ‘Consolidated Plan’ means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

“(6) ELIGIBLE ENTITY.—The term ‘eligible entity’ means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

“(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term ‘families with children and youth defined as homeless under other Federal statutes’ means any children or youth that are defined as ‘homeless’ under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

“(8) GEOGRAPHIC AREA.—The term ‘geographic area’ means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

“(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

“(A) IN GENERAL.—The term ‘homeless individual with a disability’ means an individual who is homeless, as defined in section 103, and has a disability that—

“(i) (I) is expected to be long-continuing or of indefinite duration;

“(II) substantially impedes the individual’s ability to live independently;

“(III) could be improved by the provision of more suitable housing conditions; and

“(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

“(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

“(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

“(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

“(10) LEGAL ENTITY.—The term ‘legal entity’ means—

“(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

“(B) an instrumentality of State or local government; or

“(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

“(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms ‘metropolitan city’, ‘urban county’, and ‘nonentitlement area’ have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

“(12) NEW.—The term ‘new’ means, with respect to housing, that no assistance has been provided under this title for the housing.

“(13) OPERATING COSTS.—The term ‘operating costs’ means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

“(A) the administration, maintenance, repair, and security of such housing;

“(B) utilities, fuel, furnishings, and equipment for such housing; or

“(C) coordination of services as needed to ensure long-term housing stability.

“(14) OUTPATIENT HEALTH SERVICES.—The term ‘outpatient health services’ means outpatient health care services, mental health services, and outpatient substance abuse services.

“(15) PERMANENT HOUSING.—The term ‘permanent housing’ means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

“(16) PERSONALLY IDENTIFYING INFORMATION.—The term ‘personally identifying information’ means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

“(A) a first and last name;

“(B) a home or other physical address;

“(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

“(D) a social security number; and

“(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

“(17) PRIVATE NONPROFIT ORGANIZATION.—The term ‘private nonprofit organization’ means an organization—

“(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

“(B) that has a voluntary board;

“(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

“(D) that practices nondiscrimination in the provision of assistance.

“(18) PROJECT.—The term ‘project’ means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

“(19) PROJECT-BASED.—The term ‘project-based’ means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

“(A) is between—

“(i) the recipient or a project sponsor; and

“(ii) an owner of a structure that exists as of the date the contract is entered into; and

“(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

“(20) PROJECT SPONSOR.—The term ‘project sponsor’ means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

“(21) RECIPIENT.—Except as used in subtitle B, the term ‘recipient’ means an eligible entity who—

“(A) submits an application for a grant under section 422 that is approved by the Secretary;

“(B) receives the grant directly from the Secretary to support approved projects described in the application; and

“(C) (i) serves as a project sponsor for the projects; or

“(ii) awards the funds to project sponsors to carry out the projects.

“(22) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(23) SERIOUS MENTAL ILLNESS.—The term ‘serious mental illness’ means a severe and persistent mental illness or emotional impairment that seriously limits a person’s ability to live independently.

“(24) SOLO APPLICANT.—The term ‘solo applicant’ means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

“(25) SPONSOR-BASED.—The term ‘sponsor-based’ means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

“(A) is between—

“(i) the recipient or a project sponsor; and

“(ii) an independent entity that—

“(I) is a private organization; and

“(II) owns or leases dwelling units; and

“(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

“(26) STATE.—Except as used in subtitle B, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

“(27) SUPPORTIVE SERVICES.—The term ‘supportive services’ means services that address the special needs of people served by a project, including—

“(A) the establishment and operation of a child care services program for families experiencing homelessness;

“(B) the establishment and operation of an employment assistance program, including providing job training;

“(C) the provision of outpatient health services, food, and case management;

“(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

“(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

“(F) the provision of mental health services, trauma counseling, and victim services;

“(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

“(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit



claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

“(I) the provision of—

“(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

“(ii) health care; and

“(J) other supportive services necessary to obtain and maintain housing.

“(28) TENANT-BASED.—The term ‘tenant-based’ means, with respect to rental assistance, assistance that—

“(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

“(i) in a particular structure or unit for not more than the first year of the participation;

“(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

“(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

“(29) TRANSITIONAL HOUSING.—The term ‘transitional housing’ means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

“(30) UNIFIED FUNDING AGENCY.—The term ‘unified funding agency’ means a collaborative applicant that performs the duties described in section 402(g).

“(31) UNDERSERVED POPULATIONS.—The term ‘underserved populations’ includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

“(32) VICTIM SERVICE PROVIDER.—The term ‘victim service provider’ means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

“(33) VICTIM SERVICES.—The term ‘victim services’ means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.”

#### SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after

section 401 (as added by section 1101(3) of this division) the following new section:

#### “SEC. 402. COLLABORATIVE APPLICANTS.

“(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

“(1) submit an application for amounts under this subtitle; and

“(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

“(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

“(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

“(e) APPOINTMENT OF AGENT.—

“(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

“(A) apply for a grant under section 422(c);

“(B) receive and distribute grant funds awarded under subtitle C; and

“(C) perform other administrative duties.

“(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

“(f) DUTIES.—A collaborative applicant shall—

“(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

“(A) to determine compliance with—

“(i) the program requirements under section 426; and

“(ii) the selection criteria described under section 427; and

“(B) to establish priorities for funding projects in the geographic area involved;

“(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

“(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as ‘HMIS’) that—

“(A) collects unduplicated counts of individuals and families experiencing homelessness;

“(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

“(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

“(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

“(i) encryption of data collected for purposes of HMIS;

“(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

“(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

“(iv) rights of persons receiving services under this title;

“(v) criminal and civil penalties for unlawful disclosure of data; and

“(vi) such other standards as may be determined necessary by the Secretary.

“(g) UNIFIED FUNDING.—

“(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

“(A) the collaborative applicant—

“(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

“(ii) is selected to perform such responsibilities by the Secretary; or

“(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

“(i) a finding by the Secretary that the applicant—

“(I) has the capacity to perform such responsibilities; and

“(II) would serve the purposes of this Act as they apply to the geographic area; and

“(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

“(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

“(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

“(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

“(h) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.”

#### SEC. 1103. GENERAL PROVISIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

#### “SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.

“(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

“(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project

sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

“(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

“(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

#### **“SEC. 405. TECHNICAL ASSISTANCE.**

“(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other non-governmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homelessness.

“(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).”.

#### **SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

“In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.”.

#### **SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 408. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title \$2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.”.

### **TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM**

#### **SEC. 1201. GRANT ASSISTANCE.**

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

#### **“Subtitle B—Emergency Solutions Grants Program”;**

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373–6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

#### **“SEC. 412. GRANT ASSISTANCE.**

“The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

#### **“SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.**

“(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

“(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.”; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking “amounts appropriated” and all that follows through “for any” and inserting “amounts appropriated under section 408 and made available to carry out this subtitle for any”.

#### **SEC. 1202. ELIGIBLE ACTIVITIES.**

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

#### **“SEC. 415. ELIGIBLE ACTIVITIES.**

“(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

“(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

“(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

“(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

“(B) the use of assistance under this subtitle would complement the provision of those essential services.

“(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

“(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individ-

uals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

“(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

“(A) stabilizing individuals and families in their current housing; or

“(B) quickly moving such individuals and families to other permanent housing.

“(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

“(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

“(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.”.

#### **SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.**

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

“(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.”.

#### **SEC. 1204. ADMINISTRATIVE PROVISION.**

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking “5 percent” and inserting “7.5 percent”.

#### **SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.**

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

### **TITLE III—CONTINUUM OF CARE PROGRAM**

#### **SEC. 1301. CONTINUUM OF CARE.**

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

#### **“Subtitle C—Continuum of Care Program”;** **and**

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

#### **“SEC. 421. PURPOSES.**

“The purposes of this subtitle are—

“(1) to promote community-wide commitment to the goal of ending homelessness;

“(2) to provide funding for efforts by non-profit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

“(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

“(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

**“SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.**

“(a) **PROJECTS.**—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

“(b) **NOTIFICATION OF FUNDING AVAILABILITY.**—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

“(c) **APPLICATIONS.**—

“(1) **SUBMISSION TO THE SECRETARY.**—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

“(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

“(B) to establish priorities for funding projects in the geographic area.

“(2) **ANNOUNCEMENT OF AWARDS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(B) **TRANSITION.**—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(d) **OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.**—

“(1) **REQUIREMENTS FOR OBLIGATION.**—

“(A) **IN GENERAL.**—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

“(B) **ACQUISITION, REHABILITATION, OR CONSTRUCTION.**—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet

all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

“(C) **EXTENSIONS.**—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

“(2) **OBLIGATION.**—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

“(3) **DISTRIBUTION.**—A recipient that receives funds through such a grant—

“(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

“(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

“(4) **EXPENDITURE OF FUNDS.**—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

“(e) **RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.**—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

“(f) **CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.**—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

“(g) **MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.**—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

“(h) **APPEALS.**—

“(1) **IN GENERAL.**—The Secretary shall establish a timely appeal procedure for grant

amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

“(2) **PROCESS.**—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

“(i) **SOLO APPLICANTS.**—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

“(j) **FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.**—

“(1) **IN GENERAL.**—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

“(2) **LIMITATIONS.**—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

“(3) **TREATMENT OF CERTAIN POPULATIONS.**—

“(A) **IN GENERAL.**—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

“(B) **AT RISK OF HOMELESSNESS.**—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.”

**SEC. 1302. ELIGIBLE ACTIVITIES.**

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

**“SEC. 423. ELIGIBLE ACTIVITIES.**

“(a) **IN GENERAL.**—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

“(1) Construction of new housing units to provide transitional or permanent housing.

“(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

“(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

“(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

“(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

“(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

“(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

“(A) are effective at moving homeless individuals and families immediately into housing; or

“(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

“(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

“(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

“(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

“(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

“(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

“(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

“(c) USE RESTRICTIONS.—

“(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

“(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

“(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

“(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

“(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

“(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

“(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

“(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

“(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

“(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

“(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

“(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

“(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

“(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

“(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

“(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.”

#### SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

#### “SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

“(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

“(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

“(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

“(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

“(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

“(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

“(b) APPLICATION.—

“(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

“(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

“(A) a report showing how any money received under this subtitle in the preceding year was expended; and

“(B) information that such applicant can meet the requirements described under subsection (d).

“(3) PUBLICATION OF APPLICATION.—The Secretary shall—

“(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

“(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

“(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

“(1) for any of the eligible activities described in section 423; or

“(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

“(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term ‘high-performing community’ means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

“(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

“(A) is less than 20 days; or

“(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

“(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

“(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

“(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

“(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

“(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

“(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

“(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

“(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants ex-

ercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

“(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.”.

#### SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

“(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

“(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

“(2) to monitor and report to the Secretary the progress of the project;

“(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

“(4) to require certification from all project sponsors that—

“(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

“(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

“(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

“(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with

Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act(42 U.S.C. 11431 et seq.); and

“(E) they will provide data and reports as required by the Secretary pursuant to the Act;

“(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

“(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

“(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

“(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.”;

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking “recipient” and inserting “recipient or project sponsor”;

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking “recipient” each place it appears and inserting “recipient or project sponsor”;

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

#### SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

#### “SEC. 427. SELECTION CRITERIA.

“(a) IN GENERAL.—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

“(b) REQUIRED CRITERIA.—

“(1) IN GENERAL.—The criteria established under subsection (a) shall include—

“(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers

faced by individual homeless people, and that shall include—

“(i) the length of time individuals and families remain homeless;

“(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

“(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

“(iv) overall reduction in the number of homeless individuals and families;

“(v) jobs and income growth for homeless individuals and families;

“(vi) success at reducing the number of individuals and families who become homeless;

“(vii) other accomplishments by the recipient related to reducing homelessness; and

“(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

“(B) the plan of the recipient, which shall describe—

“(i) how the number of individuals and families who become homeless will be reduced in the community;

“(ii) how the length of time that individuals and families remain homeless will be reduced;

“(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

“(iv) the extent to which the recipient will—

“(I) address the needs of all relevant subpopulations;

“(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

“(III) set quantifiable performance measures;

“(IV) set timelines for completion of specific tasks;

“(V) identify specific funding sources for planned activities; and

“(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

“(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

“(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

“(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

“(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

“(iii) is based on objective criteria that have been publicly announced by the recipient; and

“(iv) is open to proposals from entities that have not previously received funds under this subtitle;

“(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

“(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

“(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

“(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

“(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

“(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

“(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

“(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

“(B) AMOUNT.—

“(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

“(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

“(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

“(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct

an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

“(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

“(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

“(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

#### “SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

“(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

“(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

“(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

“(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

“(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

“(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

“(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

“(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

“(d) INCENTIVES FOR PROVEN STRATEGIES.—

“(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

“(A) permanent supportive housing for chronically homeless individuals and families;

“(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

“(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(3) BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

“(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

**“SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.**

“(a) IN GENERAL.—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

“(1) under the appropriations account for this title; or

“(2) the section 8 project-based rental assistance account.

“(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

“(1) there is a demonstrated need for the project; and

“(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

“(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

**“SEC. 430. MATCHING FUNDING.**

“(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

“(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

“(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

“(1) funding for any eligible activity described under section 423; and

“(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

**“SEC. 431. APPEAL PROCEDURE.**

“(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

“(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

“(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.”

**SEC. 1306. RESEARCH.**

There is authorized to be appropriated \$8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

**TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM**

**SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.**

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**“Subtitle G—Rural Housing Stability Assistance Program”; and**

(2) in section 491—

(A) by striking the section heading and inserting **“RURAL HOUSING STABILITY GRANT PROGRAM.”**;

(B) in subsection (a)—

(i) by striking “rural homelessness grant program” and inserting “rural housing stability grant program”;

(ii) by inserting “in lieu of grants under subtitle C” after “eligible organizations”;

and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

“(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

“(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

“(3) improving the ability of the lowest-income residents of the community to afford stable housing.”;

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

“(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

“(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

“(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

“(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

“(H) payment of operating costs for housing units assisted under this title;”;

(D) in subsection (b)(2), by striking “appropriated” and inserting “transferred”;

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking “appropriated” and inserting “transferred”; and

(ii) in paragraph (3), by striking “appropriated” and inserting “transferred”;

(F) in subsection (d)—

(i) in paragraph (5), by striking “; and” and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking “an agreement” and all that follows through “families” and inserting the following: “a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization”; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

“(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and



“(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.”;

(G) by striking subsections (f) and (g) and inserting the following:

“(f) MATCHING FUNDING.—

“(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

“(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

“(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

“(A) funding for any eligible activity described under subsection (b); and

“(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

“(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

“(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

“(2) the degree to which the project addresses the most harmful housing situations present in the community;

“(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

“(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

“(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

“(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

“(7) any other relevant criteria as determined by the Secretary.”;

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “The” and inserting “Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(ii) in paragraph (1)(A), by striking “providing housing and other assistance to homeless persons” and inserting “meeting the goals described in subsection (a)”;

(iii) in paragraph (1)(B), by striking “address homelessness in rural areas” and inserting “meet the goals described in subsection (a) in rural areas”; and

(iv) in paragraph (2)—

(I) by striking “The” and inserting “Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(II) by striking “, not later than 18 months after the date on which the Secretary first makes grants under the program,”; and

(III) by striking “prevent and respond to homelessness” and inserting “meet the goals described in subsection (a)”;

(I) in subsection (k)—

(i) in paragraph (1), by striking “rural homelessness grant program” and inserting “rural housing stability grant program”; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “; or” and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking “rural census tract.” and inserting “county where at least 75 percent of the population is rural; or”; and

(III) by adding at the end the following:

“(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.”;

(J) in subsection (1)—

(i) by striking the subsection heading and inserting “PROGRAM FUNDING.—”; and

(ii) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.”; and

(K) by adding at the end the following:

“(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.”.

#### SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural

communities who migrate annually to non-rural areas and non-rural communities for homeless assistance.

(4) A description of barriers that individuals and families in and from rural areas and rural communities encounter when seeking to access homeless assistance programs, and recommendations for removing such barriers.

(5) A comparison of the rate of homelessness among individuals and families in and from rural areas and rural communities compared to the rate of homelessness among individuals and families in and from non-rural areas and non-rural communities.

(6) A general description of homeless assistance for individuals and families in rural areas and rural communities of the United States.

(7) A description of barriers that homeless assistance providers serving rural areas and rural communities encounter when seeking to access Federal homeless assistance programs, and recommendations for removing such barriers.

(8) An assessment of the type and amount of Federal homeless assistance funds awarded to organizations serving rural areas and rural communities and a determination as to whether such amount is proportional to the distribution of homeless individuals and families in and from rural areas and rural communities compared to homeless individuals and families in non-rural areas and non-rural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Agriculture.

(2) The Secretary of Housing and Urban Development.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Secretary of Labor.

(6) The Secretary of Veterans Affairs.

(7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division

#### TITLE V—REPEALS AND CONFORMING AMENDMENTS

##### SEC. 1501. REPEALS.

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

**SEC. 1502. CONFORMING AMENDMENTS.**

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking “current housing affordability strategy” and inserting “consolidated plan”; and

(2) by inserting before the comma the following: “(referred to in such section as a ‘comprehensive housing affordability strategy’)”.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:

“(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.”.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

**SEC. 1503. EFFECTIVE DATE.**

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504,

whichever occurs first.

**SEC. 1504. REGULATIONS.**

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

**SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.**

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

“TITLE IV—HOUSING ASSISTANCE

“Subtitle A—General Provisions

“Sec. 401. Definitions.

“Sec. 402. Collaborative applicants.

“Sec. 403. Housing affordability strategy.

“Sec. 404. Preventing involuntary family separation

“Sec. 405. Technical assistance.

“Sec. 406. Discharge coordination policy.

“Sec. 407. Protection of personally identifying information by victim service providers.

“Sec. 408. Authorization of appropriations.

“Subtitle B—Emergency Solutions Grants Program

“Sec. 411. Definitions.

“Sec. 412. Grant assistance.

“Sec. 413. Amount and allocation of assistance.

“Sec. 414. Allocation and distribution of assistance.

“Sec. 415. Eligible activities.

“Sec. 416. Responsibilities of recipients.

“Sec. 417. Administrative provisions.

“Sec. 418. Administrative costs.

“Subtitle C—Continuum of Care Program

“Sec. 421. Purposes.

“Sec. 422. Continuum of care applications and grants.

“Sec. 423. Eligible activities.

“Sec. 424. Incentives for high-performing communities.

“Sec. 425. Supportive services.

“Sec. 426. Program requirements.

“Sec. 427. Selection criteria.

“Sec. 428. Allocation of amounts and incentives for specific eligible activities.

“Sec. 429. Renewal funding and terms of assistance for permanent housing.

“Sec. 430. Matching funding.

“Sec. 431. Appeal procedure.

“Sec. 432. Regulations.

“Sec. 433. Reports to Congress.

“Subtitle D—Rural Housing Stability Assistance Program

“Sec. 491. Rural housing stability assistance.

“Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. FRANK) and the gentlewoman from West Virginia (Mrs. CAPITO) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, this is our sending back to the Senate a version of a bill which we passed earlier this year. They then passed the bill in a form very close to ours, but in a couple of areas where we felt it important to insist on our original position and also to include some things that came up in the interim from the administration.

It has several purposes. One, it enhances the ability of the executive branch to reduce the number of foreclosures. Last year Congress passed the HOPE for Homeowners program, which we hoped was going to reduce foreclosures. We didn't get it right. We had a good general idea, but it was passed in a form that was not very usable.

We have learned from the experience, and we have a version here that we think is going to work much better. It includes, for instance, at the request of HUD, a provision that will allow them to deal with the problem of second mortgages, which has been an interference in our ability to get foreclosures. It also includes, as it did originally, a very good version of the safe harbor for services. That was a bipartisan idea of the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Delaware (Mr. CASTLE) to encourage those who are in charge of the mortgage process to act when it makes more sense to write down the mortgage and avoid foreclosure. It gives them the legal ability to do that and withstand frivolous lawsuits.

It also has some provisions in here that are very important to those smaller financial institutions that are the lifeblood of our communities and which have been unfairly tarnished in this most recent debate over financial institutions.

Community banks and the Independent Community Bankers of America have a letter here, which I will put into the RECORD, which supports this bill.

Community banks were facing a significant increase in the assessment they get for deposit insurance. That was true. And this bill will extend the deposit insurance, which was temporarily at \$250,000, and makes it permanent. That's very important for the smaller banks. It has to be paid for. But also there were problems with the larger banks who got in trouble.

Absent this bill, community banks would have been facing a very significant increase in their assessment. Because this bill gives the FDIC borrowing authority, standby authority in case it's needed, they will not have to raise the assessment. The FDIC has to be ready to act. And if there was not the borrowing authority, they would have to raise the assessment to have a pool of money available. They have been, under Sheila Bair's leadership, a very thoughtful and responsible organization. Borrowing authority we will do. It's in here.

Similarly, there was a problem that threatened a significant increase in the assessment that our local credit unions would have to pay because of the failure of some large credit unions. There's a pattern here of the larger institutions' failure imposing costs on the smaller. It's our job to prevent that from happening.

What we have here is a provision that the gentleman from Pennsylvania (Mr. KANJORSKI) has worked on. We worked with the National Credit Union Administration. It provides a mechanism by which the significant increased assessment on the credit union can be avoided. That's why the National Credit Union Association has sent in a letter in support of this.

We will, as I said, be reducing foreclosures and helping the mortgage market. So the National Association of REALTORS has sent in a letter in support of this. And because it is good for the banking industry in general, the American Bankers Association has supported this.

Our major financial institution representatives support this bill. As I said, it enhances our ability to reduce foreclosures. It averts significant increases in assessments that would go to the credit unions and the community banks. It also includes language which we have been working on and this House had passed, and it was bipartisan in our committee, improving the programs for the homeless.

We made several important compromises on that. The gentlewoman from West Virginia who is here as the ranking member of the Housing Subcommittee on our committee worked on this. We incorporated that in this bill. So it is widely supported by people who are in the field of the homeless. It is, in general, an important piece of legislation that responds as well as we can to this foreclosure crisis.

Myself and a majority of the House clearly would have preferred if it had included the authority of bankruptcy courts to reduce mortgages on primary residences. We passed that in the House. It failed in the Senate. Our colleague from California (Ms. LOFGREN) and the chairman of the Judiciary Committee, Mr. CONYERS, and others made a very valiant effort to resuscitate it. It was not possible. I regret that. I hope we won't give up on that. I think it's a glaringly illogical and unfair part of the law, but it would be a mistake, in my judgment, to allow that failure to get the votes that we tried to get in the Senate to stop the very many other important parts of the bill.

So, as I said, I move to suspend the rules. I hope we can send this soon to the President. If we pass this bill, it will go to the Senate; and I believe that the Senate will adopt it and send it on to the President.

INDEPENDENT COMMUNITY  
BANKERS OF AMERICA,  
May 18, 2009.

Hon. NANCY PELOSI,  
*Speaker of the House, House of Representatives,*  
Washington, DC.

Hon. JOHN A. BOEHNER,  
*Minority Leader, House of Representatives,*  
Washington, DC.

RE S. 896, the Helping Families Save their Homes Act of 2009

DEAR SPEAKER PELOSI AND MINORITY LEADER BOEHNER: The Independent Community Bankers of America (ICBA), on behalf of its 5,000 community bank members nationwide, are writing to express our strong support for S. 896, the Helping Families Save their Homes Act of 2009, which the House will consider on the suspension calendar tomorrow. Several provisions in S. 896 are important to community bankers: the deposit insurance provisions—including extending the increase in deposit insurance coverage to \$250,000, increasing the FDIC's borrowing authority, making the assessments for the Temporary Liquidity Guarantee Program more equitable—plus improvements to the Hope for Homeowners Program (H4H).

#### DEPOSIT INSURANCE

The Emergency Economic Stabilization Act temporarily increased deposit insurance coverage from \$100,000 to \$250,000. The additional coverage has enhanced community bank liquidity and stability at this critical time. We are pleased S. 896 would extend this increase. Community banks also support provisions increasing the FDIC's authority to borrow from the Treasury, if needed. The increased authority will allow the FDIC to reduce its planned second quarter special assessment on all banks, keeping vital capital within community banks to support lending, while still ensuring an adequately funded Deposit Insurance Fund. ICBA also supports a

provision to allow the FDIC to assess all financial institutions, including holding companies, benefiting from its Temporary Liquidity Guarantee Program, in the case of a deficit in the program. Current law only permits assessments against banks and thrifts.

#### HOPE FOR HOMEOWNERS AND SERVICER SAFE HARBOR PROVISION

Community banks support improvements to the Hope for Homeowners Program and the servicer safe harbor provisions found in S. 896. ICBA agrees minimizing foreclosures is essential to the effort to stabilize the U.S. economy. Foreclosure is often a very lengthy, costly and destructive process that puts downward pressure on the price of nearby homes and has a devastating impact on families and communities. The changes to the Hope for Homeowners Program and the servicer safe harbor provision will foster more voluntary loan modifications and are a positive step in bringing stability to the mortgage and housing markets.

We strongly urge a yes vote for S. 896. Thank you for considering our views.

Sincerely,

CAMDEN R. FINE,  
*President and CEO.*

AMERICAN BANKERS ASSOCIATION,  
Washington, DC, May 19, 2009.

Hon. NANCY PELOSI,  
*Speaker of the House, House of Representatives,*  
Washington, DC.

Hon. JOHN BOEHNER,  
*Republican Leader, House of Representatives,*  
Washington, DC.

DEAR SPEAKER PELOSI AND REPRESENTATIVE BOEHNER: I am writing on behalf of the members of the American Bankers Association in strong support of S. 896, the Helping Families Save Their Homes Act of 2009, which will be considered by the House today on the suspension calendar.

The legislation provides the Federal Deposit Insurance Corporation (FDIC) with a much needed increase in its borrowing authority, extends the period for the restoration of the FDIC's deposit insurance fund from five to eight years, and provides a temporary extension (through 2013) of the FDIC's \$250,000 deposit insurance limit.

The legislation also will make it easier for servicers to modify loan agreements. It improves the Hope for Homeowners Program to make it more accessible for lenders and better able to help homeowners avoid foreclosures.

ABA urges the House to pass this very important legislation. The increase in borrowing authority will enable the FDIC to reduce the proposed special assessment on all banks, thereby increasing funds available for lending in local communities.

We look forward to working with you to have S. 896 enacted into law as quickly as possible.

Sincerely,

FLOYD E. STONER.

CREDIT UNION NATIONAL ASSOCIATION,  
Washington, DC, May 19, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives, Washington,*  
DC.

Hon. JOHN BOEHNER,  
*Minority Leader, House of Representatives,*  
Washington, DC.

DEAR SPEAKER PELOSI AND RANKING MEMBER BOEHNER: On behalf of the Credit Union National Association (CUNA), I am writing in support of S. 896, the Helping Families Save Their Homes Act. CUNA is the largest credit union trade association, representing

nearly 90% of America's 8,000 state and federally chartered credit unions and their 92 million members.

CUNA strongly supports S. 896, a bill that includes a number of provisions aimed at helping credit unions continue to help their members weather the financial crisis and maintain member confidence in credit unions. Credit unions consider this a critical vote.

S. 896 would extend the increase in deposit insurance coverage (\$250,000) for the National Credit Union Share Insurance Fund (NCUSIF) that Congress enacted on as part of the Emergency Economic Stabilization Act of 2008, until December 31, 2013. This provision is an important step that will help maintain member confidence in credit unions.

S. 896 also includes a number of provisions aimed at helping credit unions manage the impact of the financial crisis on the credit union system. Even though credit unions use strong underwriting standards to make loans to their members and keep most of their mortgages in portfolio, no financial institution is immune from the current economic situation. Corporate credit unions, which provide payment, settlement, investment and other services for natural person credit unions, have been particularly hard hit by the economic maelstrom.

On March 20, the National Credit Union Administration (NCUA) placed two corporate credit unions—U.S. Central and Western Corporate Federal Credit Union (Wescorp)—into conservatorship. The losses at the two corporate credit unions were created by declines in the value of mortgage-backed securities in which they invested. Although these securities were originally AAA-rated and appeared prudent when the investments were made, market developments proved to the contrary. Despite these investment losses, the payment and settlement services provided by these corporate credit unions continue to be offered on a very sound basis.

The credit union system itself is covering the losses on these corporate credit union investments by way of a significant NCUSIF insurance assessment on all federally insured natural person credit unions. Under current law, credit unions must replenish their NCUSIF deposits equal to 1% of their insured shares on an annual basis and are also subject to premium charges when the fund drops below a 1.2% equity ratio. While credit unions expect to pay for the corporate credit union problem themselves, they would like to spread the losses over time, as banks are permitted to do for their insurance costs under current law.

S. 896 would increase NCUA's borrowing authority from Treasury from \$100 million to \$6 billion, with the ability to borrow as much as \$30 billion in exigent circumstances through December 2010. The amendment also establishes a Temporary Corporate Stabilization Fund that would also help NCUA to spread out credit unions' insurance costs over seven years. Spreading these costs over multiple years means that credit unions can use the funds that otherwise would have been used to pay the assessment immediately to make credit available to their members. CUNA strongly supports both the additional borrowing authority for NCUA as well as the establishment of the Temporary Corporate Stabilization fund.

Time is of the essence. We appreciate the timely consideration of the S. 896 and hope the legislation can be enacted expeditiously.

On behalf of America's credit unions, thank you very much for your consideration.

Please support the S. 896, the Helping Families Save Their Homes Act.

Sincerely,

DANIEL A. MICA,  
President & CEO.

NATIONAL ASSOCIATION OF  
FEDERAL CREDIT UNIONS,  
Arlington, Virginia, May 19, 2009.

Hon. NANCY PELOSI,  
Speaker of the House, House of Representatives,  
Washington, D.C.

Hon. JOHN BOEHNER,  
Minority Leader, House of Representatives,  
Washington, DC.

DEAR SPEAKER PELOSI AND MINORITY LEADER BOEHNER: On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the interests of our nation's federal credit unions, I am writing to express our support for S. 896, the "Helping Families Save Their Homes Act of 2009" and to urge the House to support this legislation when it is considered on the suspension calendar today.

S. 896 would adopt the corporate credit union stabilization fund proposal recently released by the National Credit Union Administration (NCUA). NCUA's decision to place two corporate credit unions into conservatorship earlier this year has led to losses of approximately \$5.9 billion to the National Credit Union Share Insurance Fund (NCUSIF). Under present regulations, natural-person credit unions will be assessed a heavy charge in 2009 to recapitalize the NCUSIF. Swift implementation of the NCUA proposal is necessary to prevent more than two-thirds of our nation's credit unions from having negative earnings for 2009, as well as to ensure that they are adequately capitalized. The creation of the temporary corporate credit union stabilization fund and the seven year timeframe for repayment of loans to the fund will provide immediate relief to large insurance fund premiums facing natural-person credit unions otherwise.

We also applaud the adoption of a longer time frame for the repayment of NCUSIF premiums contained in S. 896. By lengthening the repayment term to eight years, Congress ensures credit unions will be able to focus more of their resources on making loans that will strengthen the economy, rather than having to divert them to rebuild the NCUSIF.

Finally, as part of the Emergency Economic Stabilization Act of 2008, Congress increased the coverage on FDIC and NCUSIF insured accounts to \$250,000 through December 31, 2009. This change serves to maintain public confidence in insured depository institutions in the current economic environment. S. 896 would extend the higher insurance level for four more years, to 2013. This extension would ease confusion many credit unions and their members already have about the pending sunset on December 31st.

NAFCU thanks you for your time and consideration regarding these matters. We urge the House to vote "yes" and support S. 896 when it is considered on the suspension calendar today. Should you have any questions or require any additional information please do not hesitate to contact me or Brad Thaler, NAFCU's Director of Legislative Affairs, at 703-522-4775, ext 204.

Sincerely,

B. DAN BERGER,  
Senior Vice President of Government Affairs.

NATIONAL ASSOCIATION  
OF REALTORS®  
Washington, DC, May 19, 2009.

Hon. BARNEY FRANK,  
House of Representatives, Rayburn House Office  
Building, Washington, DC.

DEAR CHAIRMAN FRANK: The 1.2 million members of the National Association of REALTORS® urge support of S. 896, the "Helping Families Save Their Homes Act", which passed the Senate on May 6, 2009 by a vote of 91-5.

S. 896 includes a number of much-needed provisions to limit foreclosures and keep families in their homes. The bill will expand loan modifications by providing a safe harbor for mortgage servicers who conduct loan modifications in good faith. The bill reforms the Hope for Homeowners program, preserving benefits to homeowners while limiting risks to the FHA fund and the taxpayer. The bill also strengthens oversight of FHA-approved lenders to protect the FHA fund and taxpayers from fraud and abuse. Finally, the bill establishes a task-force to investigate mortgage foreclosure fraud.

NAR asks for your support of S. 896, which will allow more American families to avoid foreclosure and will help in our housing recovery.

Sincerely,

CHARLES McMILLAN, CIPS, GRI,  
2009 President, National Association of  
REALTORS®.

I reserve the balance of my time.

Mrs. CAPITO. Mr. Speaker, I rise today in support of S. 896, the Helping Families Save Their Homes Act of 2009. As the chairman mentioned, it has broad-based support from a lot of groups that have been working with this bill.

Before I begin to discuss the specific provisions contained in this bill, I would like to talk about one of the provisions that is not in this bill. Thanks in large part to unified Republican opposition in the House and Senate, the bill does not include bankruptcy cramdown provisions. I joined with many of my colleagues in speaking against this provision, which previously passed the House and, in my opinion, would have caused untold damage to the mortgage market and substantially increased costs for consumers.

Allowing bankruptcy judges to unilaterally rewrite mortgage contracts is not the solution to the problems in our housing markets. The other body should, therefore, be commended for rejecting attempts to add cramdown provisions to this legislation.

Unfortunately, not all of the problematic provisions have been removed from the bill. The majority continues to insist upon salvaging the failed HOPE for Homeowners program. Last year HOPE for Homeowners was promoted as a way to assist hundreds of thousands of homeowners to modify their mortgages. To date, the program has helped only a handful of distressed borrowers. S. 896 attempts to fix HOPE for Homeowners by increasing the taxpayer subsidy for lenders seeking to offload their worst mortgages on the government.

Because mortgages modified under HOPE for Homeowners received an FHA guarantee, the inevitable losses that will result from defaults on many of these mortgages will further undermine, I believe, the solvency of that critical program.

It is important to note that the FHA is already under stress and that the Department of Housing and Urban Development has made an unprecedented budget request of almost \$800 million to keep the FHA afloat. Perhaps a better approach than trying to improve the HOPE for Homeowners program would have been to end it altogether.

I've authored legislation that would provide the Department of Housing and Urban Development with the ability to set up a program to assist struggling borrowers that gives the department much-needed flexibility to adjust to market changes. Yet there are many useful reforms in this legislation that are worthy of Republican support.

First, the Senate included provisions based on legislation by Dr. PAUL of this House that will greatly increase the transparency and accountability of various Federal Reserve liquidity facilities and specific initiatives to rescue individual firms that the government has deemed too big to fail by giving the GAO the statutory authority to audit these programs.

Second, the bill includes provisions to ease the crippling deposit insurance premiums that community banks, banks and credit unions will otherwise face in the coming months.

And third, the Senate bill includes a comprehensive reauthorization of the McKinney-Vento homelessness program which, as the chairman noted, was passed in a strong bipartisan manner here in the last Congress.

We had significant contributions from many of my colleagues on both sides of the aisle. I'd like to thank Mrs. BIGGERT and Mr. GEOFF DAVIS of Kentucky from our side.

Mr. Chairman, S. 896 is far from a perfect bill, but S. 896 no longer contains what I believe were harmful bankruptcy provisions which could have further paralyzed the mortgage finance market. S. 896 will also make crucial changes in the deposit area which should help advance the economic recovery. For these reasons, I urge Members to support S. 896.

I would like to reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I did want to respond, and I appreciate the support from the gentlewoman for the bill.

With regard to the FHA, I just want to read from the National Association of REALTORS letter because they, as much as any entity in this country, have an interest in a strong FHA.

Contrary to the wishes expressed by the gentlewoman from West Virginia, the REALTORS approve of the fact

that we are improving the HOPE for Homeowners program. It says, "The bill reforms the HOPE for Homeowners program, preserving benefits to homeowners while limiting risks to the FHA fund and the taxpayer. The bill also strengthens oversight of FHA-approved lenders to protect the FHA Fund and taxpayers from fraud and abuse."

At the hearing that we had earlier this year—and that was when the Bush administration was still in power—career employees of the FHA noted that they do not have, and will not have until this bill becomes law, the power to prevent applicants for FHA funding who have a record of abuse from applying again.

So at the initiative of the Committee on Financial Services, the gentlewoman from California (Ms. SPEIER) and the gentlewoman from California (Ms. WATERS), we added that to this language.

So what this bill includes is a very important power for the FHA to debar, to use the appropriate legal term, people who have had a record of fraud. That's one of the reasons why we think that the FHA is strengthened by this bill.

I reserve the balance of my time.

Mrs. CAPITO. In response to the chairman, we argued this in committee over whether it was wise to throw a lifeline to HOPE for Homeowners or to re-create the program or a program, and that's why this legislation is important because it does improve that. It does improve HOPE for Homeowners. But I would just like to note, to this date from October 1, 2008, to May 16, 2009, we've only had 954 applications and only 55 closings. And this is for a program that was sold to us basically under the guise that it was going to help 25,000, at least, homeowners. So far we're looking at 55.

□ 1400

At this point I would like to yield 2 minutes to the gentlewoman from Kansas, a great member of our committee.

Ms. JENKINS. I rise today in support of one provision in particular of the underlying bill which allows for increased borrowing authority for the FDIC and the NCUA.

Community financial institutions in Kansas are facing a sizable special assessment due to the deposit insurance funds being drawn down with the failure of numerous institutions across the Nation. Just last week I had a great opportunity to visit with several bankers from across the State who were in town with the Independent Community Bankers Association.

Growing up in rural Kansas, I know full well the close-knit communities in which these and other financial institutions operate across eastern Kansas, faithfully investing the hard-earned dollars of their neighbors to the betterment of the community and the depositors.

These bankers impressed upon me the need for this borrowing authority. With the special assessment as it is today, banks and credit unions face further hardship meeting regulatory capital requirements and lending demands. However, the FDIC has indicated that passage of increased borrowing authority may result in a reduction of this special assessment by as much as half. This potential has my constituents asking this body and me to pass this provision.

It is clear that recent institutional failures have significantly increased losses of the insurance funds. However, by and large, the financial institutions in my district did not cause this economic trauma. We must be careful that these community institutions which serve so many folks are not unfairly saddled with higher premiums to compensate for the mistakes of others.

Mr. FRANK of Massachusetts. I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the chairwoman of the Housing Subcommittee which played a major role in our efforts to deal with this crisis.

Ms. WATERS. Thank you very much, Mr. Chairman.

Mr. Speaker and Members, I would first like to thank Chairman BARNEY FRANK for the leadership that he has provided on all of these issues related to this economic crisis that we have been confronted with. Some of these issues, not expected, were thrown into his lap in an unusual way. And he has been able to guide our caucus in our House in ways that help to bring us to the point of passing this kind of legislation, the Helping Families Save Their Homes Act of 2009.

So I rise in support of S. 896, the Helping Families Save Their Homes Act of 2009. As chairwoman of the Financial Services Subcommittee on Housing and Community Opportunity, I believe that the housing components of this bill will be essential in helping families and communities.

I am especially pleased that the bill includes a provision I authored to ensure that the FHA loan programs are out of bounds for the very worst subprime lenders who created this mortgage mess in the first place.

S. 896 also includes legislation drafted by my subcommittee to reauthorize and expand the McKinney-Vento Homelessness Assistance Program. Given the increase in homelessness due to the foreclosure crisis, inclusion of the McKinney-Vento legislation is both timely and appropriate. In addition the bill includes vital protections for renters facing evictions as a result of their landlord's foreclosure.

Finally, I am pleased that I was able to work with Senator LEAHY on making improvements to the Neighborhood Stabilization Program in order to allow States that receive the minimum allocation of funding to provide that

funding to areas with homes at risk or in foreclosure.

While I believe S. 896 is an important piece of legislation, I am disappointed that it does not include a House-passed provision to allow judges to modify mortgages through bankruptcy. I am concerned that without this provision, we may continue to see an increase in the number of foreclosures.

I support S. 896, the Helping Families Save Their Homes Act of 2009.

And I would urge my colleagues to vote "yes."

Mrs. CAPITO. At this point, I have no further speakers. I would just like to reiterate my support for the bill, and I yield back the balance of my time.

#### GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I would like to submit my entire statement for the RECORD. Mr. Speaker, I'm disappointed that, at the last minute, the Rules Committee cancelled its scheduled hearing on this bill, S. 896, preventing Members from filing amendments to improve it.

Let me start by saying that this bill has important provisions that I support. It significantly reforms homeless housing programs, increases funds for housing counseling and to warn consumers about foreclosure rescue scams, provides a safe harbor for servicers and enhances other programs to help qualified homeowners save their homes. The bill creates a database on the root causes of foreclosures and authorizes a mortgage fraud task force. Provisions to increase the FDIC and NCUA's borrowing authority and extend the time needed to restore their insurance funds, for financial institutions, aim to stabilize insurance fees and free up capital so they can lend to consumers and small businesses. In addition, the bill increases Federal Reserve transparency and TARP oversight—two very important items for taxpayers.

Despite these good provisions in the bill, it still falls short. To address these shortcomings, I intended to offer a few bi-partisan amendments but was denied the opportunity. Mr. Speaker, I would like to insert the text of these amendments for the RECORD and say a few words.

First, the bill is too light on housing counseling. Counselors are on the front lines of the foreclosure crisis and often the first place homeowners turn to for help. Three hundred Members voted for this language, as part of H.R. 1728, to bolster HUD's housing counseling programs, enhance program coordination, increase grants and streamline the process, as well as launch a national outreach campaign.

My second amendment, cosponsored by Mr. NEUGEBAUER, would have required HUD and

the Fed to coordinate efforts to produce compatible and improved residential mortgage disclosures. Consumers deserve nothing less. Again, earlier this month, 300 Members voted for H.R. 1728, which contained the exact language of this amendment.

Third, recent reports indicated that one in fifty U.S. children is homeless, and during the 2007–2008 school year, there was an 18 percent increase in the number of homeless students. Why? The rise in foreclosures and decline in jobs, but also—something fairly unknown—some agencies can help all homeless kids, but HUD cannot. Does that make sense?

To help address this mismatch in programs, Ms. MCCARTHY, Mr. DAVIS, and I have an amendment to allow HUD to provide homeless housing and services to all homeless children who are already served by programs run by the Departments of Education, Health and Human Services, and Justice. Homeless kids should be our top priority.

Thanks to concessions made by some of my colleagues here and in the Senate, the underlying bill, S. 896, moves an inch to help these kids, but it should move miles.

Speaking of miles, I would like to take a moment to recognize a courageous, young man who is fighting with us on this issue. On Sunday, USA Today reported that an 11-year old boy from Florida, Zach Bonner, is hiking from Florida to Washington, DC, and collecting letters from homeless kids on the way to deliver to President Obama. Thank you, Zach. Keep hiking. We're with you. I hope that other Members of Congress and this Administration can be so brave and fix the law to help homeless kids.

I hope my colleagues, in particular, Chairman FRANK, will commit our Committee to continue work on these very important matters.

AMENDMENT TO S. 896. OFFERED BY MRS. BIGGERT OF ILLINOIS

Page 86, after line 14, insert the following new title:

#### TITLE IX—OFFICE OF HOUSING COUNSELING

##### SEC. 901. EXPANSION AND PRESERVATION OF HOME OWNERSHIP THROUGH COUN- SELING.

Title IV of H.R. 1728, An Act to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for such consumer loans, and for other purposes, as passed the House of Representatives on May 7, 2009, is hereby enacted into law with the following amendments:

(1) In the paragraph added to section 106(a) of the Housing and Urban Development Act of 1968 by the amendment made by section 404 of such title, strike subparagraph (D).

(2) Strike section 409 of such title.

AMENDMENT TO S. 896. OFFERED BY MRS. BIGGERT OF ILLINOIS AND MR. NEUGEBAUER OF TEXAS

Page 18, after line 2, insert the following new section:

##### SEC. 106. RESPA AND TILA DISCLOSURE IMPROVEMENT.

(a) COMPATIBLE DISCLOSURES.—The Secretary of Housing and Urban Development and the Board of Governors of the Federal Reserve shall, not later than the expiration of the 6-month period beginning upon the

date of the enactment of this Act, jointly issue for public comment proposed regulations providing for compatible disclosures for borrowers to receive at the time of mortgage application and at the time of closing.

(b) REQUIREMENTS.—Such disclosures shall—

(1) provide clear and concise information to borrowers on the terms and costs of residential mortgage transactions and mortgage transactions covered by the Truth in Lending Act (12 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);

(2) satisfy the requirements of section 128 of the Truth in Lending Act (12 U.S.C. 1638) and section 4 and 5 of the Real Estate Settlement Procedures Act of 1974; and

(3) comprise early disclosures under the Truth in Lending Act and the good faith estimate disclosures under the Real Estate Settlement Procedures Act of 1974 and final Truth in Lending Act disclosures and the uniform settlement statement disclosures under Real Estate Settlement Procedures Act of 1974 and provide for standardization to the greatest extent possible among such disclosures from mortgage origination through the mortgage settlement.

(4) shall include, with respect to a residential home mortgage loan, a written statement of—

(A) the principal amount of the loan;

(B) the term of the loan;

(C) whether the loan has a fixed rate of interest or an adjustable rate of interest;

(D) the annual percentage rate of interest under the loan as of the time of the disclosure;

(E) if the rate of interest under the loan can adjust after the disclosure, for each such possible adjustment—

(i) when such adjustment will or may occur; and

(ii) the maximum annual percentage rate of interest to which it can be adjusted;

(F) the total monthly payment under the loan (including loan principal and interest, property taxes, and insurance) at the time of the disclosure;

(G) the maximum total estimated monthly maximum payment pursuant to each such possible adjustment;

(H) the total settlement charges in connection with the loan and the amount of any downpayment and cash required at settlement; and

(I) whether or not the loan has a prepayment penalty or balloon payment and the terms, timing, and amount of any such penalty or payment.

(c) SUSPENSION OF 2008 RESPA RULE.—

(1) REQUIREMENT.—The Secretary of Housing and Urban Development shall, during the period beginning on the date of the enactment of this Act and ending upon issuance of proposed regulations pursuant to subsection (a), suspend implementation of any provisions of the final rule referred to in paragraph (2) that would establish and implement a new standardized good faith estimate and a new standardized uniform settlement statement. Any such provisions shall be replaced by the regulations issued pursuant to subsections (a) and (b).

(2) 2008 rule.—The final rule referred to in this paragraph is the rule of the Department of Housing and Urban Development published on November 17, 2008, on pages 68204–68288 of Volume 73 of the Federal Register (Docket No. FR–5180–P–03; relating to ‘Real Estate Settlement Procedures Act (RESPA): Rule to Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs’).

(d) IMPLEMENTATION.—The regulations required under subsection (a) shall take effect, and shall provide an implementation date for the new disclosures required under such regulations, not later than the expiration of the 12-month period beginning upon the date of the enactment of this Act.

(e) FAILURE TO ISSUE COMPATIBLE DISCLOSURES.—If the Secretary of Housing and Urban Development and the Board of Governors of the Federal Reserve System cannot agree on compatible disclosures pursuant to subsections (a) and (b), the Secretary and the Board shall submit a report to the Congress, after the 6-month period referred to in subsection (a), explaining the reasons for such disagreement. After the 15-day period beginning upon submission of such report, the Secretary and the Board may separately issue for public comment regulations providing for disclosures under the Real Estate Settlement Procedures Act of 1974 and the Truth in Lending Act, respectively. Any final disclosures as a result of such regulations issued by the Secretary and the Board shall take effect on the same date, and not later than the expiration of the 12-month period beginning on the date of the enactment of this Act. If either the Secretary or the Board fails to act during such 12-month period, either such agency may act independently and implement final regulations.

(f) STANDARDIZED DISCLOSURE FORMS.—

(1) IN GENERAL.—Any regulations proposed or issued pursuant to the requirements of this section shall include model disclosure forms.

(2) OPTION FOR MANDATORY USE.—In issuing proposed regulations under subsection (a), the Secretary of Housing and Urban Development and the Board of Governors of the Federal Reserve System shall include regulations for the mandatory use of standardized disclosure forms if they jointly determine that it would substantially benefit the consumer.

AMENDMENT TO S. 896. OFFERED BY MRS. BIGGERT OF ILLINOIS, MRS. MCCARTHY OF NEW YORK, AND MR. DAVIS OF KENTUCKY

Page 91, line 3, strike “and”.

Page 91, line 19, strike the period and insert “; and”.

Page 91, after line 19, insert the following: “(7) a child or youth who has been verified as homeless—

“(A) as such term is defined in section 725(2)(B)(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)(B)(i)), by a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)), and the family of such child or youth;

“(B) by the director of a program funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.), or a designee of the director;

“(C) under section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) by the director or the designee of such program, and the family of such child; or

“(D) under section 637 of the Head Start Act (42 U.S.C. 9832) by the director or designee of such program, and the family of such child.”.

Mr. BLUMENAUER. Mr. Speaker, in communities across the Nation, the scourge of foreclosure is a deepening problem. In Oregon, 3,388 homes went into foreclosure in March, a 107% increase over the number of foreclosures in March 2008. Nationally, lenders filed foreclosure actions against more than



340,000 properties in March alone. These figures helped make the first quarter of 2009 the worst on record for foreclosure activity.

I support this bill because it will equip homeowners and lenders with new and improved tools to combat foreclosures. It will help banks to increase their lending to small businesses and American consumers. While this bill is not a cure-all for our Nation's economic troubles, it makes important contributions towards the protection of American homeownership.

In particular, I support the bill's modifications to the HOPE for Homeowners program, which will ease restrictions on eligibility and enable refinancing of underwater mortgages for a greater number of borrowers.

One major difference between this bill and the one that the House passed in early March is the judicial modification provision, missing from this bill. Allowing bankruptcy judges to modify principal balances of residential mortgage loans is an important policy, and one which I continue to support.

It is only fair that Congress offer average families the same alternative to foreclosure that has been available under the law for many years to owners of vacation homes, investment properties, private jets, and luxury yachts. Under such a provision, while some mortgage lenders would not get every penny owed to them, on balance they would get more than if these families had no better choice than to fall into foreclosure.

Mr. SKELTON. Mr. Speaker, throughout this tough recession, Congress has been working to reduce the length and severity of the economic downturn and its impact on the American people. While we have approved a number of important bills in this area, let me share my support today for S. 896, a bipartisan bill known as the Helping Families Save Their Homes Act.

S. 896 is a balanced bill that will provide tools and incentives to help reduce foreclosures, will strengthen Federal protections against predatory lending, will establish the right of homeowners to know who owns their mortgage, and will give the Federal Housing Administration and USDA's Rural Housing Service legal flexibility to undertake loan modifications. Reducing foreclosures and stabilizing the housing market are key to turning around America's economy, which is why I am pleased that S. 896 has been written with the support of both congressional Democrats and Republicans.

While S. 896 will help to mend the ailing housing market, the bill is also good for small town banks and for all Americans who keep their savings in a bank or credit union.

As some banks gambled and made risky loans to subprime borrowers, most small town financial institutions played by the rules and did not get caught up in the hazardous lending behavior that is at the heart of our recession. But, as larger banks have faltered, community banks have been replenishing the deposit insurance fund that protects investments throughout the financial system. To strengthen the financial stability of community banks and credit unions, S. 896 increases the borrowing authority for FDIC and for the federal credit union regulator. These increases will help level the playing field so community financial institutions are not stuck picking up the tab for their larger competitors.

And, to better protect deposits, S. 896 increases FDIC insurance protection for accounts holding up to \$250,000. This action is not only beneficial to depositors but also to small town financial institutions that derive their funding and lending ability from deposits.

I urge my colleagues to support S. 896 and hope the legislation, if passed, can be swiftly signed into law by the President.

Mr. AL GREEN of Texas. Mr. Speaker, I am proud to support S. 896, the Helping Families Save Their Homes Act of 2009. I supported H.R. 1106 when it left the House, and while lacking the provision to allow for judicial "cramdown," I am pleased with many of the improvements that S. 896 brings.

This bill reflects an affirmation of this legislative body's dedication to ensure that the American dream of homeownership is not lost for millions of American families. The foreclosure crisis has devastated our economy and this bill is another step towards stabilizing our housing market and restoring confidence in the American people.

S. 896 improves the HOPE for Homeowners program, making it a more viable option for helping families sustain homeownership; it provides a safe harbor for those who would engage in legitimate loan modifications or utilize the HOPE for Homeowners Program. The bill strengthens the FDIC and credit unions to ensure the availability of credit for consumers, which is crucial in this time of economic downturn.

S. 896 reauthorizes the McKinney-Vento Homelessness Assistance Grants for the first time in 20 years, and authorizes \$2.2 billion for the programs for FY 2010 and 2011. It also provides funding to HUD to increase public awareness regarding foreclosure scams.

Finally, the tenant protections included in the bill ensure that bona fide tenants are not unfairly removed from their residences when foreclosures occur that they could not control.

Overcoming the foreclosure crisis and the damage that it has wrought will take time and dedication. However, by passing the Helping Families Save Their Homes Act, we are taking a critical step forward in protecting the American homeowner.

Mr. VAN HOLLLEN. Mr. Speaker, today, I rise in support of the Helping Families Save Their Homes Act, a bipartisan bill that will help millions of American families avoid the nightmare of foreclosure. Foreclosures cost an American family its home every 13 seconds, and negatively impact entire neighborhoods. Each foreclosed home reduces nearby property values by as much as 9 percent, and the lack of property tax revenues can affect community services and the quality of our schools. We all stand to lose if we do not stop the steep decline in home prices, which is why Congress and President Obama are taking action.

This legislation builds on the President's comprehensive Homeowner Affordability and Stability Plan, and provides key tools and incentives for lenders, servicers and homeowners to modify loans and to avoid foreclosures. It bolsters important consumer rights to housing information and strengthens community banks, which are crucial to small businesses and families across this nation. It also makes important improvements to the Hope

for Homeowners program, which was created by Congress to help those at risk of default and foreclosure refinance into more affordable, sustainable loans.

Stabilizing the housing market is central to restoring the American economy. By passing the Helping Families Save Their Homes Act of 2009, we are not just helping millions of families keep their homes—we are getting the economy back on track and moving America in a new direction.

Mr. KUCINICH. Mr. Speaker, I rise today in reluctant support of S. 896, the Helping Families Save Their Homes Act. Although I supported H.R. 1106 earlier in this Congress, and I will vote for this bill, I remain concerned about many aspects that attempt to fix the problem without addressing the fundamental issues.

S. 896 makes additional changes to the HOPE for Homeowners program despite evidence that it is a seriously flawed model that has failed to effect the type of large-scale mortgage modification that our economy needs if it is going to recover. Despite the changes made, success of the HOPE for Homeowners program continues to be contingent on the active participation of the mortgage lender or mortgage servicer. Once again, we throw money at Wall Street—at the bankers and lenders—and leave individuals and families with nothing.

The bill also reauthorizes programs under the McKinney-Vento Homeless Assistance Act. I am grateful that the plight of the homeless and the growing homeless population has finally merited the attention of Congress; however I am dismayed by some of the provisions in the final bill as well as the process used to arrive at the terms of the relevant language. The problem of homelessness in this country deserves more attention in the House of Representatives than a mere fraction of debate time on a suspension bill. If we had more time and different circumstances, we might have had the opportunity to correct some of the privacy concerns as well as the provisions that limit eligible uses of funds.

Despite the shortcomings in this bill, it represents a small step in the right direction on the whole. I remain hopeful that Congress will continue to improve the HOPE for Homeowners programs as well as the plight of the growing numbers of homeless citizens. In the end, we must adopt a default posture that accommodates communities, families, and individuals, rather than a default posture that accommodates bankers and financial institutions. Only then will we be able to repair our economy and put our country back on a path of prosperity and growth.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of S. 896, "Helping Families Save Their Homes in Bankruptcy Act of 2009." I would like to thank Chairman CONYERS of the House Judiciary Committee and Chairman BARNEY FRANK of the Financial Services Committee for their leadership on this issue. I also would like to thank Arthur D. Sidney of my staff who serves as my able Legislative Director. This issue is now before this body again for consideration.

Mr. Speaker, I urge my colleagues to support this bill because it provides a viable medium for bankruptcy judges to modify the



terms of mortgages held by homeowners who have little recourse but to declare bankruptcy.

This bill could not have come at a more timely moment. This bill is on the floor of the House within weeks after the President's address before the Joint Session of Congress where President Obama outlined his economic plan for America and discussed the current economic situation that this country is facing.

To be sure, there are many economic woes that saddle this country. The statistics are staggering.

Home foreclosures are at an all-time high and they will increase as the recession continues. In 2006, there were 1.2 million foreclosures in the United States, representing an increase of 42 percent over the prior year. During 2007 through 2008, mortgage foreclosures were estimated to result in a whopping \$400 billion worth of defaults and \$100 billion in losses to investors in mortgage securities. This means that one per 62 American households is currently approaching levels not seen since the Depression.

The current economic crisis and the foreclosure blight has affected new home sales and depressed home value generally. New home sales have fallen by about 50 percent. One in six homeowners owes more on a mortgage than the home is worth which raises the possibility of default. Home values have fallen nationwide from an average of 19 percent from their peak in 2006, and this price plunge has wiped out trillions of dollars in home equity. The tide of foreclosure might become self-perpetuating. The nation could be facing a housing depression something far worse than a recession.

Obviously, there are substantial societal and economic costs of home foreclosures that adversely impact American families, their neighborhoods, communities and municipalities. A single foreclosure could impose direct costs on local government agencies totaling more than \$34,000.

I am glad that this legislation is finally on the floor of the United States House of Representatives. I have long championed in the first TARP bill that was introduced and signed late last Congress, that language be included to specifically address the issue of mortgage foreclosures. I had asked that \$100 billion be set aside to address that issue. Now, my idea has been vindicated as the TARP today has included language and we here today are continuing to engage in the dialogue to provide monies to those in mortgage foreclosure. I have also asked for modification of homeowners' existing loans to avoid mortgage foreclosure. I believe that the rules governing these loans should be relaxed. These are indeed tough economic times that require tough measures.

Because of the pervasive home foreclosures, federal legislation is necessary to curb the fall out from the subprime mortgage crisis. For consumers facing a foreclosure sale who want to retain their homes, Chapter 13 of the Bankruptcy Code provides some modicum of protection. The Supreme Court has held that the exception to a Chapter 13's ability to modify the rights of creditors applies even if the mortgage is under-secured. Thus, if a Chapter 13 debtor owes \$300,000 on a mortgage for a home that is worth less than

\$200,000, he or she must repay the entire amount in order to keep his or her home, even though the maximum that the mortgage would receive upon foreclosure is the home's value, i.e., \$200,000, less the costs of foreclosure.

Importantly, S. 896 provides for a relaxation of the bankruptcy provisions and waives the mandatory requirement that a debtor must receive credit counseling prior to the filing for bankruptcy relief, under certain circumstances. The waiver applies in a Chapter 13 case where the debtor submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding against such residence.

This bill also prohibits claims arising from violations of consumer protection laws. Specifically, this bill amends the Bankruptcy Code to disallow a claim that is subject to any remedy for damages or rescission as a result of the claimant's failure to comply with any applicable requirement under the Truth in Lending Act or other applicable state or federal consumer protection law in effect when the non-compliance took place, notwithstanding the prior entry of a foreclosure judgment.

S. 896 also amends the Bankruptcy Code to permit modification of certain mortgages that are secured by the debtor's principal residence in specified respects. Lastly, the bill provides that the debtor, the debtor's property, and property of the bankruptcy estate are not liable for a fee, cost, or charge incurred while the Chapter 13 case is pending and that arises from a debt secured by the debtor's principal residence, unless the holder of the claim complies with certain requirements.

I have long championed the rights of homeowners, especially those facing mortgage foreclosure. I have worked with the Chairman of the House Judiciary Committee to include language that would relax the bankruptcy provisions to allow those facing mortgage foreclosure to restructure their debt to avoid foreclosure.

Because I have long championed the rights of homeowners facing mortgage foreclosure in the recent TARP bill and before the Judiciary Committee, I have worked with Chairman CONYERS and his staff to add language that would make the bill stronger and that would help more Americans. I co-sponsored sections of the Manager's Amendment and I urge my colleagues to support the bill.

Specifically, I worked with Chairman CONYERS to ensure that in section 2 of the amendment, section 109(h) of the Bankruptcy Code would be amended to waive the mandatory requirement, under current law, that a debtor receive credit counseling prior to filing for bankruptcy relief. Under the amended language there is now a waiver that will apply where the debtor submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding against such residence.

This is important because it affords the debtor the maximum relief without having to undergo a slow credit counseling process. This will help prevent the debtors credit situation from worsening, potentially spiraling out of control, and result in the eventual loss of his or her home.

The bill relaxes certain Bankruptcy requirements under Chapter 13 so that the debtor can modify the terms of the mortgage secured by his or her primary residence. This is an idea that I have long championed in the TARP legislation—the ability of debtors to modify their existing primary mortgages. Section 4 allows for a modification of the mortgage for a period of up to 40 years. Such modification cannot occur if the debtor fails to certify that it contacted the creditor before filing for bankruptcy. In this way, the language in the Manager's Amendment allows for the creditor to demonstrate that it undertook its "last clear" chance to work out the restructuring of the debt with its creditor before filing bankruptcy.

Importantly, the bill amends the bankruptcy code to provide that a debtor, the debtor's property, and property of the bankruptcy estate are not liable for fees and costs incurred while the Chapter 13 case is pending and that arises from a claim for debt secured by the debtor's principal residence.

Lastly, I worked to get language in the bill that would allow the debtors and creditors to negotiate before a declaration of bankruptcy is made. I made sure that the bill addresses present situations at the time of enactment where homeowners are in the process of mortgage foreclosure.

Texas ranks 17th in foreclosures. Texas would have fared far worse but for the fact that homeowners enjoy strong constitutional protections under the state's home-equity lending law. These consumer protections include a 3 percent cap on lender's fees, 80 percent loan-to-value ratio (compared to many other states that allow borrowers to obtain 125 percent of their home's value), and mandatory judicial sign-off on any foreclosure proceeding involving a defaulted home-equity loan.

Still, in the last month, in Texas alone there have been 30,720 foreclosures and sadly 15,839 bankruptcies. Much of this has to do with a lack of understanding about finance—especially personal finance.

Last year, Americans' personal income decreased \$20.7 billion, or 0.2 percent, and disposable personal income (DPI) decreased \$11.8 billion, or 0.1 percent, in November, according to the Bureau of Economic Analysis. Personal consumption expenditures (PCE) decreased \$56.1 billion, or 0.6 percent. In India, household savings are about 23 percent of their GDP.

Even though the rate of increase has showed some slowing, uncertainties remain. Foreclosures and bankruptcies are high and could still beat last year's numbers.

Home foreclosures are at an all-time high and they will increase as the recession continues. In 2006, there were 1.2 million foreclosures in the United States, representing an increase of 42 percent over the prior year. During 2007 through 2008, mortgage foreclosures were estimated to result in a whopping \$400 billion worth of defaults and \$100 billion in losses to investors in mortgage securities. This means that one per 62 American households is currently approaching levels not seen since the Depression.

One in six homeowners owes more on a mortgage than the home is worth raising the possibility of default. Home values have fallen nationwide from an average of 19 percent

from their peak in 2006 and this price plunge has wiped out trillions of dollars in home equity. The tide of foreclosure might become self-perpetuating. The nation could be facing a housing depression—something far worse than a recession.

Obviously, there are substantial societal and economic costs of home foreclosures that adversely impact American families, their neighborhoods, communities and municipalities. A single foreclosure could impose direct costs on local government agencies totaling more than \$34,000.

Mr. HOLT. Mr. Speaker, I rise today in support of the Helping Families Save Their Homes Act of 2009 (S. 896), companion legislation to similar legislation we approved in the House in March to combat the foreclosure crisis. I commend Senator DODD and the Members of the Senate Committee on Financial Services for their leadership in crafting and fine-tuning this legislation, and I urge my colleagues to support it.

According to a leading foreclosure research organization, mortgage foreclosure activity increased by 24 percent during the first quarter of 2009, compared to the first quarter 2008. One in every 159 housing units in the United States received a foreclosure notice during the first quarter of this year. In addition, foreclosures in March increased by 17 percent from February, and by 46 percent compared to March 2008. We must act now, and we must act decisively and comprehensively, to stem this crisis. The Helping Families Save Their Homes Act attacks the foreclosure crisis aggressively and approaches the problem from several angles at the same time, but is measured in its application.

The bill amends the HOPE for Homeowners Program, to provide greater incentives for mortgage servicers to modify mortgages under the Program, to reduce administrative burdens to loan underwriters, and to permit payments to loan servicers and underwriters for each successful refinancing. It would also re-instate the authority of the Department of Housing and Urban Development (HUD) to conduct an auction to refinance loans on a wholesale or bulk basis. These modifications use funding already authorized under the Emergency Economic Stabilization Act enacted in October 2008.

The bill also contains provisions to ensure better that predatory lenders are not allowed to participate in the FHA home mortgage insurance program. At the same time, it protects helpful mortgage lenders and servicers, who might otherwise be subject to litigation for changing the terms of a mortgage after closing. The bill provides a safe harbor from liability to mortgage servicers issuers, trustees, loan sellers, depositors, and others who participate in loan modifications, to the extent they were required to assist and the modification complied with the Hope for Homeowners program or was otherwise consistent with the Administration's foreclosure mitigation programs.

Importantly, the bill will also extend through 2013 the temporary increase to \$250,000 in deposit insurance coverage for both the Federal Deposit Insurance Corporation (FDIC)-insured deposits and National Credit Union Administration (NCUA)-insured deposits, which is

currently scheduled to expire in December 2009. It also permanently increases the FDIC's borrowing authority to \$100 billion (with an increase until the end of 2010 to \$300 billion), and increases the NCUA's borrowing authority to \$6 billion (with a temporary increase to \$30 billion).

And the bill includes the first major reauthorization of funding under the McKinney-Vento Homeless Assistance Act. I was pleased to support \$100 million for McKinney-Vento under the American Recovery and Reinvestment Act enacted into law earlier this year. This important collaborative program between the public and private sectors has disbursed more than \$2 billion in funding to provide shelter, food and support services for homeless and hungry individuals nationwide in just over 20 years of existence, and this bill will authorize that amount for Fiscal Year 2010 alone. I will work with my colleagues to make sure we fully fund this authorized level of funding, to assisting America's neediest and most vulnerable citizens.

This bill takes many important and decisive steps to help mitigate the foreclosure crisis and ease the suffering of our Nation's homeless and hungry, and I urge my colleagues to support it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. FRANK) that the House suspend the rules and pass the Senate bill, S. 896, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CONGRATULATING ANTHONY KEVIN "TONY" DUNGY FOR HIS ACCOMPLISHMENTS AS A COACH, FATHER, AND EXEMPLARY MEMBER OF HIS COMMUNITY

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Committee on Oversight and Government Reform be discharged from further consideration of House Resolution 70 and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the resolution is as follows:

H. RES. 70

Whereas Tony Dungy attended the University of Minnesota and became the school's

leader in completions, touchdown passes and passing yards;

Whereas Tony Dungy received two "Most Valuable Player" awards from the University of Minnesota;

Whereas Tony Dungy continued his football career in the NFL and became a Super Bowl Champion with the Pittsburgh Steelers in 1978;

Whereas Tony Dungy, at the age of 25, became the youngest assistant coach, and at the age of 28, became the youngest defensive coordinator in NFL history;

Whereas Tony Dungy, in 1997, helped lead the Tampa Bay Buccaneers to their first winning season since 1982;

Whereas Tony Dungy was the first African-American head coach to win the Super Bowl by leading the Indianapolis Colts over the Chicago Bears in 2007;

Whereas Tony Dungy is the first NFL head coach to defeat all 32 NFL teams;

Whereas Tony Dungy has been a remarkable and upstanding member of the communities of which he has been a part;

Whereas Tony Dungy has been an advocate for the Christian faith and a mentor for American youth;

Whereas Tony Dungy has acted as a public speaker for the Fellowship of Christian Athletes and Athletes in Action;

Whereas Tony Dungy started Mentors for Life, a mentoring program for young people and provided participants with tickets to Buccaneers' games;

Whereas Tony Dungy has supported numerous charitable programs and community service organizations and remains actively involved in his communities in Tampa and Indianapolis;

Whereas Tony Dungy was appointed by President George W. Bush to the President's Council on Service and Civil Participation in August of 2007; and

Whereas Tony Dungy wrote a memoir which reached No. 1 on the hardcover nonfiction section of the New York Times Best Seller list on August 5, 2007, and again on September 9, 2007: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates Tony Dungy on his successful playing and coaching career and historic coaching accomplishments; and

(2) commends Tony Dungy for his compassion, integrity, and commitment to his faith, family, and community.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### HONORING KAREN BASS FOR BECOMING THE FIRST AFRICAN-AMERICAN WOMAN ELECTED SPEAKER OF THE CALIFORNIA STATE ASSEMBLY

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Committee on Oversight and Government Reform be discharged from further consideration of House Resolution 49 and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the resolution is as follows:

## H. RES. 49

Whereas Karen Bass made history as the first African-American woman to serve as Speaker in a State legislative body in the United States;

Whereas Karen Bass was sworn in as the 67th Speaker of the California State Assembly on May 13, 2008;

Whereas Karen Bass was elected in 2005 to represent California's 47th Assembly District;

Whereas Karen Bass represents Culver City, West Los Angeles, Westwood, Cheviot Hills, Ladera Heights, the Crenshaw District, Little Ethiopia, Baldwin Hills, and parts of Korea Town and South Los Angeles;

Whereas Karen Bass in her first term was appointed to Majority Whip;

Whereas Karen Bass in her second term was elevated to the post of Majority Floor Leader, making her the first woman to hold the post and the second African-American to serve in the position;

Whereas Karen Bass founded and operated Community Coalition before becoming an elected official, which is a community based social justice organization in South Los Angeles empowering people to make a difference in the community;

Whereas Karen Bass graduated from Hamilton High School, California State University at Dominguez Hills, and the University of Southern California's School Of Medicine; and

Whereas Karen Bass was raised in the Venice/Fairfax area of Los Angeles with her parents DeWitt and Wilhelmina Bass: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) honors Karen Bass for becoming the first African-American woman Speaker of the California State Assembly; and

(2) expresses support for the California State Assembly as it welcomes Karen Bass as its 67th Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H.R. 1089 by the yeas and nays;

S. 896 by the yeas and nays;

H. Res. 360 by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### VETERANS EMPLOYMENT RIGHTS REALIGNMENT ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass H.R. 1089, as amended, on which the yeas and nays are ordered.

The Clerk will report the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr.

FILNER) that the House suspend the rules and pass the bill, H.R. 1089, as amended.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 270]

YEAS—423

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggett  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boccheri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper

Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill

Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kirkpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCauley  
McClintock  
McCollum

McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts

Platts  
Poe (TX)  
Pollis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton

Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Townes  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

#### NOT VOTING—10

Barrett (SC)  
Brady (PA)  
Cardoza  
Delahunt  
Honda  
Meeks (NY)  
Sanchez, Linda  
T.

□ 1432

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes."

A motion to reconsider was laid on the table.

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the

Senate bill, S. 896, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. FRANK) that the House suspend the rules and pass the Senate bill, S. 896, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 367, nays 54, answered “present” 1, not voting 11, as follows:

[Roll No. 271]

YEAS—367

Abercrombie	Costa	Hinchey
Ackerman	Costello	Hinojosa
Aderholt	Courtney	Hirono
Adler (NJ)	Crenshaw	Hodes
Alexander	Crowley	Hoekstra
Altmire	Cuellar	Holden
Andrews	Cummings	Holt
Arcuri	Dahlkemper	Hoyer
Austria	Davis (AL)	Hunter
Baca	Davis (CA)	Inslee
Bachus	Davis (IL)	Israel
Baird	Davis (KY)	Jackson (IL)
Baldwin	Davis (TN)	Jackson-Lee
Barrow	DeFazio	(TX)
Bean	DeGette	Jenkins
Becerra	DeLauro	Johnson (GA)
Berkley	Dent	Johnson (IL)
Berman	Diaz-Balart, L.	Johnson, E. B.
Berry	Dicks	Jones
Biggert	Dingell	Kagen
Bilbray	Doggett	Kanjorski
Billirakis	Donnelly (IN)	Kennedy
Bishop (GA)	Doyle	Kildee
Bishop (NY)	Dreier	Kilpatrick (MI)
Bishop (UT)	Driehaus	Kilroy
Blumenauer	Edwards (MD)	Kind
Blunt	Edwards (TX)	King (NY)
Bocieri	Ehlers	Kirk
Boehner	Ellison	Kirkpatrick (AZ)
Bonner	Ellsworth	Kissell
Bono Mack	Emerson	Klein (FL)
Boozman	Engel	Kline (MN)
Boren	Eshoo	Kosmas
Boswell	Etheridge	Kratovil
Boucher	Fallin	Kucinich
Boustany	Farr	Lance
Boyd	Fattah	Langevin
Braley (IA)	Filner	Larsen (WA)
Bright	Fleming	Larson (CT)
Brown (SC)	Forbes	Latham
Brown, Corrine	Fortenberry	LaTourette
Brown-Waite,	Foster	Latta
Ginny	Frank (MA)	Lee (CA)
Buchanan	Frelinghuysen	Lee (NY)
Butterfield	Fudge	Levin
Calvert	Gallely	Lewis (CA)
Camp	Gerlach	Lewis (GA)
Cantor	Giffords	Lipinski
Cao	Gonzalez	LoBiondo
Capito	Goodlatte	Loebsack
Capps	Gordon (TN)	Lowey
Capuano	Granger	Lucas
Carnahan	Graves	Luetkemeyer
Carney	Grayson	Lujan
Carson (IN)	Green, Al	Lummis
Carter	Green, Gene	Lungren, Daniel
Cassidy	Griffith	E.
Castle	Grijalva	Lynch
Castor (FL)	Guthrie	Maffei
Chaffetz	Gutierrez	Maloney
Chandler	Hall (NY)	Manzullo
Childers	Halvorson	Markey (CO)
Clarke	Hare	Markey (MA)
Clay	Harman	Marshall
Cleaver	Hastings (FL)	Massa
Clyburn	Hastings (WA)	Matheson
Coble	Heinrich	Matsui
Coffman (CO)	Heller	McCarthy (CA)
Cohen	Herger	McCarthy (NY)
Cole	Herseht Sandlin	McCaul
Connolly (VA)	Higgins	McCollum
Conyers	Hill	McCotter
Cooper	Himes	McDermott

McGovern	Platts	Smith (NE)
McHugh	Polis (CO)	Smith (NJ)
McIntyre	Pomeroy	Smith (TX)
McKeon	Posey	Smith (WA)
McMahon	Price (NC)	Snyder
McMorris	Putnam	Souder
Rodgers	Quigley	Space
McNerney	Rahall	Spratt
Meek (FL)	Rangel	Stearns
Meeks (NY)	Rehberg	Sullivan
Melancon	Reichert	Sutton
Mica	Reyes	Tanner
Michaud	Richardson	Tauscher
Miller (MI)	Rodriguez	Teague
Miller (NC)	Roe (TN)	Terry
Miller, Gary	Rogers (AL)	Thompson (CA)
Miller, George	Rogers (KY)	Thompson (MS)
Minnick	Rogers (MI)	Thompson (PA)
Mitchell	Rooney	Tiahrt
Mollohan	Ros-Lehtinen	Tiberi
Moore (KS)	Roskam	Tierney
Moore (WI)	Ross	Titus
Moran (KS)	Rothman (NJ)	Tonko
Moran (VA)	Roybal-Allard	Towns
Murphy (CT)	Ruppersberger	Tsongas
Murphy (NY)	Rush	Turner
Murphy, Patrick	Ryan (OH)	Upton
Murphy, Tim	Salazar	Van Hollen
Murtha	Sanchez, Loretta	Velázquez
Myrick	Sarbanes	Visclosky
Nadler (NY)	Scalise	Walden
Napolitano	Schakowsky	Walz
Neal (MA)	Schauer	Wamp
Nunes	Schiff	Wasserman
Nye	Schmidt	Schultz
Oberstar	Schock	Waters
Obey	Schrader	Watson
Oliver	Schwartz	Watt
Ortiz	Scott (GA)	Waxman
Pallone	Scott (VA)	Weiner
Pascarell	Serrano	Welch
Pastor (AZ)	Sestak	Wexler
Paulsen	Shea-Porter	Wilson (OH)
Payne	Sherman	Wilson (SC)
Perlmutter	Shimkus	Wittman
Perriello	Shuler	Wolf
Peters	Shuster	Woolsey
Peterson	Simpson	Wu
Petri	Sires	Yarmuth
Pingree (ME)	Skelton	Young (AK)
Pitts	Slaughter	Young (FL)

NAYS—54

Akin	Gingrey (GA)	Miller (FL)
Bachmann	Gohmert	Neugebauer
Bartlett	Hall (TX)	Olson
Barton (TX)	Harper	Paul
Blackburn	Hensarling	Pence
Brady (TX)	Inglis	Poe (TX)
Broun (GA)	Issa	Price (GA)
Burgess	Johnson, Sam	Radanovich
Burton (IN)	Jordan (OH)	Rohrabacher
Campbell	King (IA)	Royce
Conaway	Kingston	Sensenbrenner
Culberson	Lamborn	Sessions
Deal (GA)	Linder	Shadegg
Duncan	Lofgren, Zoe	Stupak
Flake	Mack	Taylor
Foxx	Marchant	Thornberry
Franks (AZ)	McClintock	Westmoreland
Garrett (NJ)	McHenry	Whitfield

ANSWERED “PRESENT”—1

Kaptur

NOT VOTING—11

Barrett (SC)	Delahunt	Sánchez, Linda
Brady (PA)	Diaz-Balart, M.	T.
Buyer	Honda	Speier
Cardoza	Ryan (WI)	Stark

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1441

So (two-thirds being in the affirmative) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. RYAN of Wisconsin. Mr. Speaker, on rollcall No. 271 I was unavoidably detained. Had I been present, I would have voted “nay.”

# PERSONAL EXPLANATION

Mr. HONDA. Mr. Speaker, on rollcall Nos. 270 and 271, had I been present, I would have voted “yea.”

## URGING VISITS TO CEMETERIES ON MEMORIAL DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 360, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and agree to the resolution, H. Res. 360.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 272]

YEAS—422

Abercrombie	Brown-Waite,	Deal (GA)
Ackerman	Ginny	DeFazio
Aderholt	Buchanan	DeGette
Adler (NJ)	Burgess	DeLauro
Akin	Burton (IN)	Dent
Alexander	Butterfield	Diaz-Balart, L.
Altmire	Buyer	Diaz-Balart, M.
Andrews	Calvert	Dicks
Arcuri	Camp	Dingell
Austria	Campbell	Doggett
Baca	Cantor	Donnelly (IN)
Bachmann	Cao	Doyle
Bachus	Capito	Dreier
Baird	Capuano	Driehaus
Baldwin	Carnahan	Duncan
Barrow	Carney	Edwards (MD)
Bartlett	Carson (IN)	Edwards (TX)
Barton (TX)	Carter	Ehlers
Bean	Cassidy	Ellison
Becerra	Castle	Ellsworth
Berkley	Castor (FL)	Emerson
Berman	Chaffetz	Engel
Berry	Chandler	Eshoo
Biggert	Childers	Etheridge
Bilbray	Clarke	Fallin
Billirakis	Clay	Farr
Bishop (GA)	Cleaver	Fattah
Bishop (NY)	Clyburn	Filner
Bishop (UT)	Coble	Flake
Blackburn	Coffman (CO)	Fleming
Blumenauer	Cohen	Forbes
Blunt	Cole	Fortenberry
Bocieri	Conaway	Foster
Boehner	Connolly (VA)	Foxx
Bonner	Conyers	Frank (MA)
Bono Mack	Cooper	Franks (AZ)
Boozman	Costa	Frelinghuysen
Boren	Costello	Fudge
Boswell	Courtney	Gallely
Boucher	Crenshaw	Garrett (NJ)
Boustany	Crowley	Gerlach
Boyd	Cuellar	Giffords
Brady (TX)	Culberson	Gingrey (GA)
Braley (IA)	Cummings	Gohmert
Bright	Dahlkemper	Gonzalez
Broun (GA)	Davis (AL)	Goodlatte
Brown (SC)	Davis (CA)	Gordon (TN)
Brown, Corrine	Davis (IL)	Granger
	Davis (KY)	Graves

Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney

Manzullo  
Marchant  
Markay (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher

Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberti  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NOT VOTING—11

Barrett (SC)  
Brady (PA)  
Capps  
Cardoza  
Davis (TN)  
Delahunt  
Heller  
Sanchez, Linda  
T.  
Speier

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1449

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. CAPPS. Mr. Speaker, on rollcall No. 272, had I been present, I would have voted "yea."

## APPOINTMENT OF MEMBERS TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER pro tempore (Mr. CUELLAR). Pursuant to 22 U.S.C. 3003, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Commission on Security and Cooperation in Europe:

Mr. HASTINGS, Florida, co-chairman  
Mr. MARKEY, Massachusetts  
Ms. SLAUGHTER, New York  
Mr. MCINTYRE, North Carolina  
Mr. BUTTERFIELD, North Carolina  
Mr. SMITH, New Jersey  
Mr. ADERHOLT, Alabama  
Mr. PITTS, Pennsylvania  
Mr. ISSA, California

## ENHANCED OVERSIGHT OF STATE AND LOCAL ECONOMIC RECOVERY ACT

(Mr. CONNOLLY of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to thank my colleagues for favorable consideration of H.R. 2182, the Enhanced Oversight of State and Local Economic Recovery Act. I was pleased to cosponsor this legislation, which was introduced by the chairman of the Oversight and Government Reform Committee.

At a hearing of that committee, we learned that dedicated oversight funding for State and local governments could improve oversight of money appropriated through the American Recovery and Reinvestment Act. Subsequently, I introduced legislation, H.R. 1911, which would provide for that oversight funding within the Recovery Act.

H.R. 2182 incorporates the objectives of that bill and will provide additional certainty that money spent through the economic stimulus is spent wisely.

This local and State funding represents some of the most important stimulus funding, because it is protecting the jobs of teachers, firefighters, police officers, as well as essential human services, across the country.

I commend Chairman TOWNS for his leadership and commend my colleagues for the passage of H.R. 2182.

## DON'T SACRIFICE TWO GOOD-PAYING AMERICAN MANUFACTURING JOBS TO CREATE ONE "GREEN" JOB

(Mr. ROE of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE of Tennessee. Mr. Speaker, this week the House Democrats on the Energy and Commerce Committee are marking up a more aggressive cap-and-tax bill than what even the President had proposed. On the campaign trail last year, the President said his plan would cause electric rates to skyrocket, and the bill being considered this week will cause electric utilities even more disruption than what the President proposed.

Individuals and businesses everywhere need to start paying attention to the threat this bill poses. The non-partisan Congressional Budget Office estimated such a plan would increase the average household's electric bill by \$1,600 per year.

Since the bill requires no concessions from developing countries, businesses like Eastman in Kingsport, Tennessee, who are engaged in a tooth-and-nail competition with China, can't pass increased energy costs on to consumers and maintain their market share, which means that employees could lose their jobs if this bill passes.

I urge those on the other side of the aisle not to sacrifice two good-paying American manufacturing jobs to create one "green" job.

## PASSAGE OF HELPING FAMILIES SAVE THEIR HOMES ACT

(Ms. MOORE of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOORE of Wisconsin. Mr. Speaker, I am so pleased that Senate bill S. 896 included the first major reauthorization of the McKinney-Vento homelessness bill. I have worked diligently on this bill with Representative WATERS for over a year, particularly on provisions that would expand the definition of homelessness and give agencies more flexibility so that they could assist folks who are at risk of becoming homeless within 14 days.

I want to thank Congresswoman WATERS, Congressman FRANK for their leadership, also to thank Representative BIGGERT, Representative JEFF

DAVIS and Representative ANDRE CARSON.

Too many families in today's recession are just one paycheck away from making their rent, and we have seen hundreds of thousands of foreclosures, many more expected this year. These families are also at grave risk of becoming homeless.

This provision also will serve victims of domestic violence trying to flee their abusers. It will allow families to seek emergency shelter due to the imminent loss of their housing. It gives local homeless agencies greater resources and flexibility.

#### REMEMBERING THE LIFE OF COACH CHUCK DALY

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, today I honor a man who held his first position as a head coach at Punxsutawney High School in my district, coaching the Chucks. You will recognize the name of this coach, Chuck Daly, and realize some of his fame came much later when he led the Detroit Pistons to two National Basketball Association titles.

This is a man who was voted one of the 10 greatest coaches of the NBA's first half century in 1996, 2 years after being inducted into the Basketball Hall of Fame. He was the first basketball coach to win both NBA and Olympic titles, and he led the Dream Team to gold in the 1992 Olympics.

Daly, who died May 9 at the age of 78 in Jupiter, Florida, will be honored by basketball legends and eulogized by members of professional teams.

But in Pennsylvania, we remember that he was born in St. Mary's, Pennsylvania, attended Kane Area High School and Bloomsburg State. We remember that he led Pennsylvania University to a 125–38 record in six seasons.

In short, today we honor a hometown boy.

#### NEW MILEAGE STANDARDS

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIGLEY. Mr. Speaker, I wish to thank President Obama for announcing new mileage standards which will reduce carbon emissions 30 percent by 2016 and reduce our dependence on foreign oil.

Another great Chicagoan, Daniel Burnham, once said, "Make no little plans; they have no magic to stir men's blood."

Well, now is the time for us to make big plans on behalf of generations we will never live to see. Now is the time to broaden our attention span beyond

the next election cycle. Now is the time to think about those who can't vote yet but will have to breathe the air, drink the water, and pay the debts we leave behind. Now is the time to work together to make big plans on robust climate change based on verification, sustainability, and renewable energy.

As we think about what to do with our time here in Congress, let me leave you with an old Irish blessing: May there be a generation of children, on the children of your children.

#### GLOBAL WARMING JUST ISN'T PANNING OUT THE WAY THE LEFT THOUGHT IT WOULD BE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. The icon on the left, Al Gore, spent millions of dollars, of course of other people's money, talking to everybody about global warming. And it was embraced with great passion by the left, global warming, global warming, global warming. But then when their own scientists peeled off and said it doesn't look like it's going to quite trend the way we think it is, what did they do? They pivoted. Well, they just mean climate change in general. I say that as somebody who rode his bike to work today, 49 degrees in the middle of May. I guess the global warming just isn't panning out the way it should be.

But not to be bothered by it, the left is going to continue with their cap-and-tax proposal, reducing emissions to 80 percent of what they were in America in 1910, when we had 92 million Americans. And what's it going to cost you taxpayers? \$1,500 a household, because do you think your good old friendly utility and gas company is just going to absorb this new tax on them? Of course not.

Businesses aren't going to pay taxes over the long run. It's a function of cost, which is going to be passed on to the consumer; \$1,500 per household, and they're going to exclude nuclear energy which is good enough for four out of five houses in France but not here in the Obama administration and the America that they want it to be.

□ 1500

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### FOREIGN NATIONALS IN STATE PRISONS COST TOO MUCH

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, we have talked a lot about the different entities that don't pay their bills, but the U.S. Federal Government is also a culprit that does not pay its bills. Let me explain.

The 9/11 Families for a Secure America Organization say that 32 percent of all people incarcerated in the United States for crimes other than immigration violations are in the United States illegally! With Texas being a border State, we get a lot more of these criminals in our jails than the rest of the country.

The administration wants to eliminate a program that helps Texas pay for keeping these criminals in jail. It's called the SCAAP program. We have porous borders because the Federal Government does not secure those borders. When a criminal alien sneaks into the United States, commits a crime, the State government must be financially responsible for the capture and trial of that individual, not the Federal Government, even though border security is a Federal responsibility. That forces Texas to foot the bill for their medical care and feeding them and housing them in jail. Sometimes Texas taxpayers are on the hook for paying for their lawyer and other related costs.

The State Criminal Alien Assistance Program, the SCAAP Program, doesn't even come close to covering the cost of keeping these criminal aliens in Texas prisons, but it helps. However, the administration wants to take away what little the Federal Government does send to Texas and other border States, thus making the cost of border crime the responsibility of State governments rather than the Federal Government.

Texas Governor Rick Perry today sent a letter to the President asking him to reconsider cutting the SCAAP program. As a practical matter, I side with the notion the Federal budget should be cut. There's enough waste in the budget this year to keep the bureaucrats busy for years trying to weed it all out. But this is not an example of wasteful spending, far from it. This expense is because the Federal Government refuses to secure the borders and, thus, border States are stuck with the cost of crime created by foreign nationals and housing them after they are convicted.

The Texas Department of Criminal Justice reports it cost Texas taxpayers \$143 million to keep over 13,000 criminal aliens in Texas prisons just last year. These are major crimes. These are felonies. The SCAAP program the bureaucrats want to eliminate only paid \$18 million of these costs. These criminal aliens serving time in Texas are not there for an overnight stay. They are in prison for violent crimes

like rape, murder, kidnapping, and child abuse. Instead of eliminating the Federal program that helps pay for these costs, it ought to be expanded, or the Federal Government should take these prisoners.

Here's an idea. How about we send these criminal aliens to the Federal facility in Gitmo? I hear there may be some room in that facility soon. It's a nice place as far as Federal prisons go. I've been there and have seen it for myself. They play soccer. They have hot meals that are fit for a Sunday dinner table. There's plenty of sunshine and fresh air, quite a step up from the overcrowded prisons in Texas and other border States.

Or we should charge foreign countries the costs of housing their citizens that are illegally in the United States that have committed felonies. If they won't pay up, we can cut off their visas until they do pay up. Or, in most cases, we should just deduct the cost of housing these criminal foreign nationals from the foreign aid we send that country.

State citizens have paid enough to a system that houses foreign nationals in our prisons that have committed crimes in the United States. Foreign countries should pay for the crime of their nationals, or our Federal Government should pay. And since we're strapped right now because of the Federal tax and borrow and spend and spend program, we should even consider deducting our cost of the annual dues to the United Nations to pay for incarceration of foreign nationals that have committed crimes in the United States. Now, there's a plan that might work.

And that's just the way it is.

#### WALL STREET ROUND 2: HEARTLAND INDUSTRIALISTS VS. WALL STREET FINANCIERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, who thrust Chrysler into bankruptcy? A few Wall Street investors who wanted more return on their investment as opposed to taking the government's deal.

Who can't get loans to pay their employees or retool their businesses in this new economy? Heartland industrialists.

Throughout our country, and especially in regions where manufacturing built the middle class, the credit crisis has subjugated production to Wall Street financiers. The warning signs were present when the Big Three automakers were changed from production companies to cash cows and transformed into financing companies back in the 1990s.

In Toledo, Ohio, automobile production started 100 years ago when John

North Willys bought the Pope Motor Company factory and started turning out automobiles in our region.

When General George Marshall ordered production of a rough-and-ready vehicle for American troops to win World War II, Willys won the competition, and we made hundreds of thousands of Jeeps in Toledo, and we continue to do that today. Toledo workers make the best-known brand in the world.

Control of Chrysler, however, went to Daimler, and then to an uncaring hedge fund known as Cerberus.

Who is Cerberus? No one knows. Worse yet, Cerberus even has a seat on the trust created to handle the United Auto Workers' 55 percent investment in Chrysler. But the UAW doesn't even have a seat, and it's their money.

Wall Street, again, will call the shots, not the people whose money they hold.

By the late 1990s, the auto companies were profitable on paper, but only through their financing arms, because their Wall Street handlers had rigged the Tax Code, through this place, to benefit car leasing, fleet leasing, and financial activities. And you can trace the recent demise of GM and Chrysler, discounting the equally devastating trade and tax policies that bore down on them, to the year that they became financing companies, not production companies.

Wall Street started to accumulate and milk the wealth of these firms. When GMAC became a mortgage lender and sucked into Wall Street's subprime lending in the late 1990s, then acquired by Cerberus, their fate was sealed. Chrysler Financing is now subsumed under Cerberus, too, as has been GMAC for quite a while.

It is true that the public wanted more energy-efficient vehicles, and the Big Three failed to produce them. However, this goes back to management who were in cahoots with Wall Street and the role of Big Oil.

You can look at all of the green patents that these firms filed, evidence of the industrial people, men and women inside these companies trying to beat back the Wall Street house.

Why, in Europe, are the majority of cars diesel, but not here?

Why, in Brazil, are flex-fuel vehicles made by GM the norm but not here?

I will tell you why. Because lots of people made money off the "gas hog" cars of America. Global oil companies certainly did. And as oil companies merged and went global, many Arab sheiks got filthy rich by recirculating their petro dollars through, guess where, our own Wall Street houses. Their wealth grew so huge they constitute one-seventh of reinvested global capital that today props up our economy.

This goes way back to the time of Richard Nixon and Secretary of State

Henry Kissinger, whose secret U.S.-Saudi agreements were signed through the Treasury to denominate Middle East oil sales in dollars, thus assuring petro dollar reinvestment in this country's financial system and saddling the American people with gas hogs for years to come, because gas hogs meant more oil sales. The more oil sold, the more Wall Street got petro dollars to recirculate.

Gradually, we became more and more embroiled in the Middle East, where our troops stand today, over 150,000 of them. And more energy-efficient cars would mean less deployment of U.S. troops to places they shouldn't be in the first place. But Wall Street doesn't like that game. They'd lose too much money and their greed would not be fed.

Beyond diminishing our Nation's innovation, this dependence also wed our country to a diminishing resource found in these unstable, undemocratic nations. For too long, it is has compromised the integrity of the industrial might of regions like I represent in a critical sector of our economy, as well as our defense base.

What great industrial Nation does not have a thriving automotive and vehicular sector?

Wall Street continues to sell out our heartland. Let me repeat that. Wall Street continues to sell out our heartland, sell out our companies, sell out our workers. I hope the American people begin paying attention to whom really has the reins of power in this country, and it's time the American people reassumed that power to themselves.

#### PANAMA FREE TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I rise today to discuss the proposed United States-Panama Free Trade Agreement.

It is very disappointing to see that the President intends to follow the broken trade agreement of the previous administration by pushing Congress to approve the Panama Free Trade Agreement.

We've had 15 years of the "NAFTA-based" trade model on which the Panama agreement is based, and the results are in. We now have a \$127 billion annual trade deficit with Mexico and the other 15 nations with which we have free trade agreements. Since the passage of NAFTA, the United States has lost over 4.5 million manufacturing jobs, over 364,000 in my home State of North Carolina alone.

We're in the worst recession since the Great Depression. Unemployment is rising and may soon be over 10 percent. The last thing this country needs is another free trade agreement that will



cause more good-paying American jobs to be outsourced. But sadly, that's exactly what the Panama agreement will do.

Why is that the case? One of the primary reasons is because the deal fails to level the playing field for U.S. producers. Let me give you one product as an example: seafood.

One of the biggest industries in my district is commercial fishing. The sector has been hammered by a flood of imports from overseas, including Panama. Panama's number one export to the United States is fish and seafood. They export over \$100 million worth of fish and seafood to the United States each year. That's more than 50 times the amount that the United States exports to Panama. Their top exports include products that compete with seafood caught by North Carolina fishermen, including shrimp and yellow fin tuna.

With the Panamanians already having a huge advantage over United States fishermen in terms of balance of trade, one would think that the least that the United States negotiators could insist upon would be a level playing field so that our fishermen could have the same ability to access the Panamanian market as their fishermen have to our markets. Sadly, that is not the case.

According to the United States International Trade Administration, "while 100 percent of U.S. imports from Panama will receive duty-free treatment immediately upon implementation of the agreement, only 82 percent of U.S. exports to Panama will receive duty-free treatment immediately upon implementation." Duties on most of the remaining 18 percent of U.S. exports to Panama would not be eliminated for 10 years.

Now, how is that a level playing field? The simple answer is it is not a level playing field, and the unfortunate result of provisions like this would be the loss of even more United States jobs.

Mr. Speaker, poorly negotiated trade deals with Panama are one of the main reasons our country finds its production base shriveling, our unemployment rolls rising, and our economy in shambles.

Passing this agreement is bad for America, especially at this perilous economic time, and I would encourage this administration to rethink its position before it asks Congress to approve this Panamanian trade agreement.

Mr. Speaker, with that, before I close, I do want to ask God to continue to bless our men and women in uniform in Afghanistan and Iraq. I want to ask God to please bless the families who have given a child dying for freedom in Afghanistan and Iraq. And I close by asking God to give wisdom and strength to the President of the United States. And I ask God to continue to bless America.

□ 1515

#### CURRENT CONDITIONS OR JUST A BAD DREAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Could it all be a bad dream, or a nightmare? Is it my imagination, or have we lost our minds? It's surreal; it's just not believable. A grand absurdity; a great deception, a delusion of momentous proportions; based on preposterous notions; and on ideas whose time should never have come; simplicity grossly distorted and complicated; insanity passed off as logic; grandiose schemes built on falsehoods with the morality of Ponzi and Madoff; evil described as virtue; ignorance pawned off as wisdom; destruction and impoverishment in the name of humanitarianism; violence, the tool of change; preventive wars used as the road to peace; tolerance delivered by government guns; reactionary views in the guise of progress; an empire replacing the Republic; slavery sold as liberty; excellence and virtue traded for mediocracy; socialism to save capitalism; a government out of control, unrestrained by the Constitution, the rule of law, or morality; bickering over petty politics as we collapse into chaos; the philosophy that destroys us is not even defined.

We have broken from reality—a psychotic Nation. Ignorance with a pretense of knowledge replacing wisdom. Money does not grow on trees, nor does prosperity come from a government printing press or escalating deficits.

We're now in the midst of unlimited spending of the people's money, exorbitant taxation, deficits of trillions of dollars—spent on a failed welfare/warfare state; an epidemic of cronyism; unlimited supplies of paper money equated with wealth.

A central bank that deliberately destroys the value of the currency in secrecy, without restraint, without nary a whimper. Yet, cheered on by the pseudo-capitalists of Wall Street, the military industrial complex, and Detroit.

We police our world empire with troops on 700 bases and in 130 countries around the world. A dangerous war now spreads throughout the Middle East and Central Asia. Thousands of innocent people being killed, as we become known as the torturers of the 21st century.

We assume that by keeping the already-known torture pictures from the public's eye, we will be remembered only as a generous and good people. If our enemies want to attack us only because we are free and rich, proof of torture would be irrelevant.

The sad part of all this is that we have forgotten what made America great, good, and prosperous. We need to

quickly refresh our memories and once again reinvigorate our love, understanding, and confidence in liberty. The status quo cannot be maintained, considering the current conditions. Violence and lost liberty will result without some revolutionary thinking.

We must escape from the madness of crowds now gathering. The good news is the reversal is achievable through peaceful and intellectual means and, fortunately, the number of those who care are growing exponentially.

Of course, it could all be a bad dream, a nightmare, and that I'm seriously mistaken, overreacting, and that my worries are unfounded. I hope so. But just in case, we ought to prepare ourselves for revolutionary changes in the not-too-distant future.

#### SECRET BALLOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. The secret ballot is fundamental to free and fair elections—and they're the hallmark of the democratic process. Most every time Americans go to the polls to vote, they do so by the means of a secret ballot. Secret ballots protect the voter's privacy and allow the individual to vote his or her conscience without fear of reprisal from those who disagree with the voter's decision.

As a Nation, we celebrate when the citizens of other countries who were previously denied to vote in free and fair elections are finally able to do so. We watched with pride several years ago as Iraqis braved terrorist threats to cast their vote by secret ballot.

Mr. Speaker, if the secret ballot is used by Americans in local, State, and Federal elections, if the secret ballot is used by citizens of other nations for which American soldiers have sacrificed, don't American workers also deserve this fundamental right?

If you can ask Kansans, they will say, Yes, workers do deserve the right to a secret ballot election. A recent poll found that 65 percent of Kansans surveyed believe that the secret ballot should remain in use for union organizing.

Yet, despite the centrality of the secret ballot to our conception of fairness and public support for its use, many in Congress are pushing for the passage of legislation that would do away with this longstanding principle. In its place, the Employee Free Choice Act would allow unions to form if a majority of workers signed authorization cards—a process known as "card check."

Without giving workers the protection of a secret ballot, each person's choice would be known to others. It is not unreasonable to believe that those who choose not to sign authorization

cards would be subject to intimidation and coercion.

While this should be reason enough to defeat the Employee Free Choice Act, the legislation is further flawed. Provisions within the legislation require a mandatory arbitration process that would allow the Federal Government to dictate contract terms on businesses if a first contract is not agreed to within 120 days. The contract would be binding for 2 years and would cover decisions that are best left to company leaders that understand the specifics of that business and are most familiar with the competitive forces that the business faces.

In these difficult economic times, the government-imposed and -written contracts would have an especially devastating impact on businesses that would further delay our economic recovery. Allowing the government to impose contracts on private firms and their workers would effectively allow the government to pick winners and losers in the marketplace.

The Employee Free Choice Act is bad for workers and bad for the economy. Congress should reject this legislation and refocus its effort on initiatives that would protect the rights and privacy of American workers and strengthen the economy by creating conditions in which businesses can grow, prosper, and create jobs.

#### 60TH ANNIVERSARY OF THE BERLIN AIRLIFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. FORTENBERRY) is recognized for 5 minutes.

Mr. FORTENBERRY. Mr. Speaker, 60 years ago, the United States embarked on a crucial operation to sustain and defend a vulnerable entrapped people. The Berlin Airlift was a colossal strategic mission that encouraged strength and fortitude in those held captive in Berlin. Today, we honor those who designed and participated in this feat.

These brave veterans struck the first major blow in the new Cold War, forcing Stalin to lift the blockade that impoverished Germany's capitol, and thwarting the Iron Curtain's fall over the Western strongholds. The efforts of these airmen embody the highest virtues of American air defense, as they fused tactical brilliance, along with innovation and with goodness in heart, in what is seen as one of the greatest American humanitarian efforts of all time.

Our veterans provided food, coal, and medical supplies to the besieged citizens of West Berlin each day, living up to the spirit of the Greatest Generation. They led a seminal goodwill offensive that succeeded in alleviating the suffering inflicted by Stalin's regime that threatened the peace and prosperity of all those in Berlin, East

Germany, as well as throughout the world.

Some creative and generous pilots even found a heartwarming way to connect with the children of Berlin during those airlifts. As they carpeted the streets of Berlin with chocolates and candy, they drew the hearts and minds of many children to goodness and liberty rather than the pervasive Communist propaganda that sought to turn them against the West.

The goodwill of this so-called "Operation Little Vittles" has carried forward to the streets of Baghdad today, where many of our soldiers relish opportunities to brighten the lives of Iraqi children as well.

As we celebrate the 60th anniversary of the Berlin Airlift, let us remember the veterans who exemplified our highest ideals of brilliance and innovation in air defense, and whose integrity and dedication to liberty have inspired so many vulnerable people throughout the world. Their example renews our faith in the power of freedom and goodness to prevail over tyranny.

Mr. Speaker, as the memories of World War II and the Berlin blockade fade with the passing years, I believe it is even more important to commemorate the spirit of kindness that led our veterans to bring hope and to bring joy to the weary and beleaguered city of Berlin.

Mr. Speaker, a congressional resolution has been introduced to honor their legacy. I'm grateful for this opportunity to celebrate this noble endeavor, and I ask my colleagues to please join me in remembering and thanking those who served 60 years ago in the Berlin Airlift.

#### NATIONAL ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. As the summer months quickly approach and families start to plan vacations, our country continues to struggle with high energy costs. That is why the Democrats' cap-and-trade, or better known as cap-and-tax, energy plan is an irresponsible proposal that will do more harm than good. The simple truth behind the Democrats' energy plan is that it raises taxes, kills jobs, and will lead to more government intrusion in our lives.

The Democrats' energy plan is really a \$624 billion national energy tax that will hit nearly every American family. This new national energy tax will be paid by anyone who turns on a light switch or plugs in an appliance.

With Democrats still hiding many of the important details of their energy plan, a study that looked at a similar proposal estimated that the impact will be roughly \$3,100 every American household will have to pay to the Federal Government.

Also disappointing is the fact that the Democrats' national energy tax will hit the poor the hardest. Experts agree that lower-income individuals spend a greater share of their income on energy consumption. So while every American will be paying more for energy, low-income households already living on the edge of desperation will be hurt even more.

The truth is President Obama is aware of the impact his energy plan will have on American families. While still a candidate for President, then-Senator Obama said that under his cap-and-tax plan, utility rates would necessarily skyrocket and said that those costs would be passed along to consumers.

The impact of this national energy tax will not only be seen in home utility bills or at the pump, but various estimates suggest that anywhere from 1.8 million to 7 million Americans could lose their jobs as well.

Though the President is promoting green jobs that may be created by his cap-and-tax plan, any new jobs created will not come close to compensating for those lost to this reckless energy policy.

We have no greater example of the devastation the cap-and-tax system can have on an economy than Spain. After years of promoting green jobs, Spain has the highest unemployment rate in Europe, standing at a whopping 17.5 percent.

□ 1530

Cap-and-tax has sought to be an environmentally friendly plan. The truth is that it will relocate manufacturing plants overseas to countries with far less stringent environmental regulations, in turn trading pollution to another part of the world.

Republicans are for clean air, clean water and are committed to solving our energy crisis. Republicans believe there is a better way to achieve energy independence without destroying our economy and killing jobs.

#### THE IMPACT OF CAP-AND-TRADE ON MANUFACTURERS USING COAL-GENERATED ENERGY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. LATTA) is recognized for 60 minutes as the designee of the minority leader.

Mr. LATTA. Thank you, Mr. Speaker. I appreciate the opportunity to have this hour with my colleagues to talk about a very, very important issue facing this country.

The issue that's facing this Congress is cap-and-tax. Why is it important? Well, as you can see from this chart right here, Cap-and-Tax Vulnerability by State. I'm from Ohio. I represent the largest manufacturing district in

the State of Ohio as well as representing the largest agricultural district in the State of Ohio.

If you see from this map where it says, the vulnerability key from high, medium and low, you will see that Ohio, along with a good part of the Midwest, is all facing a very, very tough time under this proposal.

At the same time I know when I am back home, I talk to the folks; and they say, Well, who's proposing this? I say, If you look from California to Washington. You go from Washington, D.C., up the coast to Maine, that's where it is. You look at that—very low vulnerability. That concerns me. It concerns me because, as I said, manufacturing is the lifeblood in my district. I would like to talk about it for just a few minutes.

First, every week I go out in my district. I go out in that district, and I go into plants. We manufacture everything from car parts, to batteries, to windshields, to washing machines. You name it, we make it.

My district, when people say, What's your largest city? It's my hometown of about 30,000 people. So over 140 miles east to west we have a lot of small manufacturers out there. We have large manufacturers. We have a large General Motors power train plant. When you keep going across, you have a Chrysler plant. We have a furniture manufacturing plant. As I mentioned, we have a washing machine plant.

We go across it, and then we have a lot of smaller ones. We have plants that might employ 50, 100 people. But those are the folks that make this economy run because small business is the main economic engine for this country.

So when I see things like this where you look at the vulnerability, I see that right off the bat, we're in trouble. But we're also in trouble because Ohio, being a large manufacturing State in total, we have another situation out there. And that situation is this: When you look at the plants that we've had, we've had to grow, as our former Governor and now Senator GEORGE VOINOVICH used to always tell us when we were in the legislature together, that we had to work harder and smarter in the State of Ohio.

Well, a lot of factories are that way now. They don't employ as many people. But at the same time, we have watched a lot of these plants, because of the economic downturn, having to lay people off. Every week I go out into these plants. I remember one not too long ago I went into the plant, and they said, We'd like to take you in the back. They usually had around 180 employees. They said, We're down to about 70. They said, We make brass fittings; and with those brass fittings, they're in competition against the world. And of course that means the Chinese right now. They said, It costs

us X number of dollars to make this product, and at the same time the Chinese can make it for 45 cents.

They can't have any more impact on them, especially if we're going to raise the price of energy. We can't have a national energy tax because if we do that, these companies are going to shut down, and they're never going to open up again.

Back in 1982 we were coming out of that recession that started back in the Carter years when—you might all remember—we had 21.5 percent interest rates, double-digit inflation, double-digit unemployment rates. It was tough; but people still thought, When this thing's over, those factories are going to open up. I'm going to have my job back. Not so today. Not so today because when people start looking around—and we're in a global economy.

I was a county commissioner of Wood County for 6 years. We used to compete against some parts of Ohio and over in Indiana and Michigan, but now we're competing against people on the other side of the globe, and they're going to eat our lunch if we're not careful.

When we have these situations, like I said, that you go into these plants, and these folks are saying, We can't have one more increase or we're out of business, they mean it.

Then the question is going to be when they come to me and say, Well, where am I going to get a job? Or like last weekend I spoke to a commencement address. I asked them beforehand, I said, Just out of curiosity, what would you like me to talk about? They said, What we'd really like you to talk about is telling our graduates what you're working on, what you're helping to try to do to make sure that—where we are going to be when we come out of this tough economic situation that we're in. So you have to start these things off by saying, You know, I'm not going to paint you any kind of a rose-colored picture here.

If we work hard and we do the right things here in Congress, we're going to survive. But if we pass the wrong pieces of legislation, I can't go back to that same college in a couple of years and look at those next graduates coming up and say, You know what, you're going to have a job, because they might not. So what we have to do is think about these things.

Just to show you on another chart something that the Heritage Foundation put together, they took all 435 congressional districts. What they did was, they put together a manufacturing vulnerability index. They took what your State's percentage of energy usage from coal was, and then they took from each district the number of manufacturing jobs.

This is one of the times you don't want to be at the top of the list. My good friend from Indiana, who will be on in a couple minutes here, unfortu-

nately ranks number one in vulnerability in this country because of the number of manufacturing jobs and coal generation in the State of Indiana. I'm number three because I have 80,623 manufacturing jobs, and we get 87.2 percent of our energy from coal. You put those two things together, and my manufacturing vulnerability index percentile rank is at 99.5 percent, which puts you at three.

When I go across my district, I can't go out there and say, Things are just fantastic. I'm telling them, Right now I want to try to keep you in business, but I will tell you, if we start passing these bills in this Congress to put a national energy tax on you, you're in trouble. And not only are you in trouble, but every generation coming up in Ohio is in trouble because these jobs aren't going to come back. These jobs are not going to come back.

When you look, as I said, from 1982 when people thought, Well, we are going to come back. Why? Because the United States was at the top of the heap. Today the Chinese have become, in 2009, the number one manufacturing country in the world. We got knocked off after over 100 years being on top. Not anymore. That's why we have to start thinking about our future. When you talk about what the folks want to do here, they need to look around the world a little bit.

Not too long ago in the Washington Times there was an interesting article. The headline was Chinese Official Aims Emissions Cost At Consumers. The folks here in Congress are saying, Well, it's not fair if we do all these things. We need to have the rest of the world cooperate with us. Well, guess what. Let me just read you one quote. This is from their lead climate negotiator in China who said this:

"As one of the developing countries, we are at the low end of the production line for the global economy. We produce products, and these products are consumed by other countries. This share of emissions should be taken by the consumer, not the producer."

Interesting philosophy. They can produce it, but they're not going to pay anything for it. They want us, for consuming it, to pay that cost. But at the same time in this country what we're going to be doing is we're going to be paying on both ends because we're going to be paying to produce it. It's going to be very difficult for these manufacturing jobs in States like Ohio and Indiana to stay in one spot.

The one thing would be that they might say, We're going to leave and go to another State. But I've already had companies that are multinational say, You know what, we don't even have to be in Ohio. We don't have to be in the United States. We'll just produce it in another country. That's where we are. And I'll tell you what, the future is very bleak if we start looking at these things.

Last summer we talked about an all-of-the-above energy plan for this country, and the American people got it. Because first of all, the American people went to the gas station, and they saw, like in Bowling Green, Ohio, \$4.19 for a gallon of gasoline. People understood right off the bat what was happening. But sometimes when they hear about cap-and-tax, cap-and-trade they say, Well, we're not really sure what that is. But it will affect everybody immediately when this thing starts.

Let me give you a couple of statistics here from a Heritage Foundation report. This is about the negative impacts on consumers. This is from the Heritage Foundation. By 2035 this legislation would, one, reduce the aggregate gross domestic product by \$9.6 trillion, destroy 1.1 million jobs per year on average with the peak year seeing unemployment rise by over 2.5 million jobs, increase the average family cost of four by \$4,800 a year, raise electricity rates by 90 percent, raise residential natural gas prices by 55 percent, and increase inflation-adjusted Federal debt by 26 percent or an additional \$29,150 per person after adjusting for inflation. That's what this cap-and-tax, this national energy tax is going to get us. This is a massive tax. We can't afford it.

Going back to this chart, when you look at the States that are using a lot of coal and you have a lot of manufacturing in your district, well, we can't take it.

Now, let's go to the bottom of the chart. For those that are in favor of it, you look at their percentile rank. Zero. Well, that's out in California. Very little manufacturing. When you look at the number of manufacturing jobs in the bottom four of California, you've got 15,500 and 19,000 manufacturing jobs in a congressional district. Again, compare that with Indiana 3, which has almost 104,000 manufacturing jobs, you wonder why we're concerned about this in the Midwest. You wonder why we're concerned about this when we talk about making sure that our people have jobs in the future.

Let's think about the tax bases out there. We've got areas in the State of Ohio that are going to be devastated when you take these kinds of numbers, and we're not going to have these jobs anymore. What's going to happen to the local school districts? What's going to happen to the municipalities? What's going to happen to the fire departments? Everything? They're all going to be affected. So again, we can't afford this, and it's a tax on the American people. It is a loss of jobs that we can't afford in this country.

At this time I would like to recognize some of the other Members today that are here. My good friend, the gentlelady from Oklahoma, who I would like to recognize at this time.

Ms. FALLIN. Mr. Speaker, I want to thank Congressman LATTI for leading

this special hour tonight on a very important topic to our Nation.

When I go back to my home State of Oklahoma almost every weekend, I hear a couple of things from my constituents back home. First of all, they are very concerned about our economy. They want to know that they will be able to keep their jobs, be able to have a salary, make their house payment, pay their bills, take care of their families; and they want to know their taxes are going to be kept low. They want us here in Washington, D.C., to be a part of the solution, not a part of the problem.

The second thing I hear back home in Oklahoma is that people talk a lot about expenses and about the cost of living going up and how concerned they are with all the spending that is going on here in Washington, D.C., about the costs to their families and the costs to their businesses.

Many of them say to me, Please don't let our gas prices go up like they did last summer to \$4 a gallon. We can't afford that anymore for either our families or even our businesses. They say, Please don't let my utility costs go up. We're hearing with cap-and-trade, cap-and-tax, that our utility costs could go up by 30 percent and I'm on a fixed number or I'm a lower income person, and I can't take a 30 percent increase in my utility costs.

□ 1545

They say things like, please don't let my businesses have more operating costs. Or please don't raise my gasoline prices because I won't be able to take my kids to school as freely as I had been able to.

And so as we begin and have this debate about cap-and-trade, controlling carbon emissions and about what we call the "cap-and-tax," I feel that the Democrat national energy tax would harm all these things that people are concerned about. Experts estimate that cap-and-trade, cap-and-tax, as I said, would raise utilities costs and would raise costs on families to an estimated cost increase of around \$3,100 per family. A recent report by the U.S. Chamber of Commerce and the National Association of Manufacturers says the new energy tax would also cost the United States 3.2 million jobs at a time when we already have a high unemployment rate throughout our Nation. And this means that the future of manufacturing, the future of jobs in our Nation, would be at stake, and especially at a time when we cannot afford, as a Nation, to make the wrong policy decision that could further hurt our national economy.

A strong manufacturing base is very vital to our economy and our security as a Nation depends on our having a strong manufacturing base and a strong economy. Many of us believe that we have are losing ground to other

foreign countries when it comes to competing for products, production and also for market share.

I saw a recent report by the Industrial Energy Consumers of America, and they said that from 2000 to 2008, imports were up 29 percent, and manufacturing employment fell 22 percent, a loss of 3.8 million high-paying jobs. And they said of great concern is that manufacturing investment in the United States, as a percent of gross domestic product, has been on the decline since the late 1990s.

Two-thirds of our world's pollution comes from other countries who won't be under a cap-and-trade type piece of legislation, two-thirds of the pollution in our world. But yet here in the United States we are talking about a plan that would affect our business sector because of the climate control legislation. Now we all want to do all that we can to keep our air clean, our land clean and our water clean. That is a very important goal for all of us. But not at the cost of risking our national security or even our national economy.

We know that the Democrat solution is an energy tax. And we know it won't work. The United States might cap and tax its carbon emissions, but countries like China and India would never agree to restrictions that are so economically destructive. And the result would be, for the United States, more outsourcing of good jobs to other countries at the worst possible time when, as I said, unemployment is at 9 percent.

Cap-and-trade is nothing more than a national energy tax. And its effects would be far reaching to businesses, consumers and even more so to rural America. Rural areas will be hit hardest by energy taxes. Americans in rural areas must travel further for routine errands, in fact, about 25 percent more miles than urban households, according to a recent Federal highway data study.

Higher gasoline prices may not be the end of the world if you are taking a subway in a major metropolitan city like here in Washington, D.C., but higher gasoline prices are a big deal in small towns like I grew up in, like Tecumseh, Oklahoma, especially when you have to commute long distances to work. The numbers back that up. Rural households spend 58 percent more of fuel than urban residents as a percentage of their income.

And then you look at another important industry in rural America, and that is agriculture. And agriculture is a bull's eye industry for energy tax because it is energy intensive. Whether it is the fuel for a tractor or fertilizer for the crops or delivery of food to a local grocery store, agriculture uses a great deal of energy production. Small businesses and American jobs are also a target of the cap-and-trade, cap-and-tax system. A recent report from the

U.S. Chamber of Commerce and the National Association of Manufacturers and other business groups states that President Obama's budget proposal to reduce greenhouse gas emissions would result in a net loss of jobs in our economy of 3.2 million and would shrink our household purchasing power by \$2,100. And while protecting our environment is a worthwhile effort, and we are all for that, I cannot support legislation that does nothing but levy taxes on small business, on rural America, on families and on those who are on limited resources and raises just higher energy taxes.

If you want a real solution to climate change, then we should focus on incentives. We should focus on innovation, research and letting the free-market system work. And yes, Republicans do have a plan that would support energy production and also support clean energy, an all-of-the-above energy plan. We support production of clean natural gas, wind power, solar power, nuclear power as well as the traditional fossil fuels. We, as Republicans, have our eye on the future, and we know that the United States doesn't have an unlimited reserve of fossil fuels, and we understand we need to pursue other energy sources, energy diversity. But Republicans also understand that we can't get this overnight by pursuing a series of damaging tax increases.

And Congressman LATTA, I will yield back my time for further discussion on this issue.

Mr. LATTA. Thank you very much. I appreciate that. You have brought up some very good points, especially when you are talking about rural America. I know in my district when I go in the plants, one of the questions I always like to ask is how many folks have driven X number of miles? It is nothing for people in my district to drive 30 to 50 miles one way to go to manufacturing jobs. If those manufacturing jobs are not there or the cost of fuel is too high, they can't get there. That is an excellent point. I'm glad you brought that up.

Ms. FALLIN. Thank you.

Mr. LATTA. At this time, I would like to call on and yield to a good friend of mine from Ohio, the gentleman just to my south. Good afternoon.

Mr. AUSTRIA. I thank the gentleman for yielding. And I want to thank the gentlewoman from Oklahoma for putting things in perspective. I think you did a very good job of laying things out. It certainly applies to Ohio. And to the gentleman from Ohio (Mr. LATTA), thank you for your work in Ohio. I have had an opportunity to serve with you for 10 years in the State legislature. Together we worked on some good things to move our State forward, comprehensive tax reform that lowered income taxes for families and small businesses. We helped to

make Ohio more business friendly, especially in the manufacturing industry, by phasing out tangible personal property tax and corporate franchise tax.

When we look at the proposals before Congress today, this cap-and-trade proposal, on the surface, it sounds harmless. But it isn't. It is not, for the reasons that the gentlelady from Oklahoma just talked about. It hurts Ohioans as far as jobs, as far as businesses, and it is not a good thing. This proposal is going to increase the price of the cost of energy and the price for anyone who turns on a TV or fills up their gas tank or turns on the heat in the winter. Their cost of energy is going to go up.

The Congressional Budget Office, in the initial proposal that was brought forth by this administration, estimated that the cost of energy in the average household will go up approximately \$1,600 per year. We have seen figures as high as \$3,000 per year by MIT and other credible organizations that are following this very closely. So the cost of energy is going to go up on not just Ohioans, but all Americans.

And I think at a time when we are struggling economically, we are going through an economic crisis, it is not the time to be raising the cost of energy on families and small businesses like we are going to be doing with cap-and-trade if this moves forward.

Let me also point out the fact in our State, in Ohio, as in many other States, in Ohio, manufacturing and agriculture are the two top industries in our State and will get hit the hardest with cap-and-trade. As was just mentioned by the previous speaker, manufacturing jobs will be at stake. American companies will be less competitive internationally against other countries that will not be playing by the same rules, that will not have the same regulations on them like China and India, and will put them at a disadvantage from a competitive standpoint. That in turn is going to cost jobs.

Ohio, again, as in many of the other Midwest States across our country that are heavily into manufacturing, is going to get hit the hardest by this. And this is not a good thing for that industry, as well as the agriculture industry, as was just mentioned, which relies heavily on fuels for tractors, for transporting crops and going to the store and so forth. So it is going to increase the costs of energy as well as hurting those who are trying to do business in the State of Ohio as well as job loss.

I also want to point out one other factor for our State, which I know is very diversified from State to State, on the chart that you put up previously. In the State of Ohio, 87 percent of our fuel, of our energy comes from coal. And coal will be hit directly by the cap-and-trade. It is going to put man-

dates on undeveloped technologies for coal-fired plants. In some cases, coal-fired plants may not even be able to comply with this, and they may have to close down. And that too could cost jobs in the State of Ohio.

So when you look at the cap-and-trade and the way this is put together, it should be called a "cap-and-tax" as many of the other Members had mentioned because, Mr. Speaker, I think clearly this is a cost that is being passed on to every American.

And Republicans, as was mentioned, do have an alternative. I think we all want to see cleaner energy. We all want to see more efficient energy. But we do have an alternative plan that is out there that will have less reliance on foreign oil, that would look at the resources that we have available in this country, that would help us produce and make us more energy independent, give us more energy independence with increased exploration and development of new and renewable energy sources, to help promote alternative forms of energy like solar, like wind and other alternative sources of energy that are out there. So we do have an alternative way to get to where we want to go.

Again, I think the cap-and-trade doesn't make sense for Ohio, and it is going to cost jobs. It is going to put an increase in the cost of energy for all Americans. And I think we can do a better job and have a better alternative out there that we should be pursuing.

And I thank the gentleman from Ohio for yielding.

Mr. LATTA. I appreciate your being here. And you bring up an excellent point when you talk about jobs disappearing. Last summer, I was number 9 in the list the National Manufacturers Association puts out. I was number 9 in the United States in manufacturing jobs out of 435 districts. Earlier this year, I dropped to 13 already. And we are watching those jobs disappear from across Ohio and across this country. And you are absolutely right. We have a massive national energy tax. Those jobs aren't going to stay. They can't compete. And they are gone. So that is an excellent point. Thank you very much. I appreciate it.

At this time, I would also like to introduce my good friend from Illinois who also represents manufacturing and what it can do to his State and also across the Midwest.

Mr. MANZULLO. Mr. Chairman, the person who has been forgotten in all the debate that has been happening is the American worker. I can remember when I was a little kid, my dad used to pack his lunch box, a black tin box with a round top, with a salami sandwich, a piece of fruit and a thermos of coffee, as he would rise early in the morning, go off to work at the factory, and come back with a sense of satisfaction that he had made something with his hands.

And that perhaps is the emblem of the American worker, somebody who actually worked in a factory and then became a master meat cutter in his grocery store, master restaurateur, and at the same time was an expert carpenter and cabinetmaker. He was a person who could do marvelous things with the hands that God gave him.

That perhaps also is the picture of the American that we are not examining as we take a look at this entire cap-and-trade system. Because after all, it is the American worker who is going to be disadvantaged in many ways because of this theory that the majority wants to impose upon the American family, which according to the nonpartisan Congressional Budget Office, would spike the cost of energy for the average American family of somewhere between \$700 and \$2,200 a year. So we start with the fact that the American worker is going to be paying a lot more for his or her energy at home before he leaves and goes off to the factory.

Once he gets to the factory, exactly what is going to happen? Well, the factory is already under tremendous competition, competition domestically because of high productivity of the American manufacturers and competition because of offshore, because of countries that don't have OSHA standards, that have very few environmental standards, who care less about the safety of the worker and more about shipping that product to the United States.

□ 1600

So we start with the distinct disadvantage already in the manufacturing sector. How much more can the American worker take? How much more can the owner of that factory take?

I assembled this past week—in fact, yesterday—in the congressional district that I represent, a congressional district that has in its largest county an over 25 percent manufacturing base—55 or 60 small manufacturers. I laid out to them this cap-and-trade system and exactly what it would mean to them as manufacturers. The looks upon their faces were nothing less than startling because we start with the proposition that 535 people in Washington, D.C., suddenly wake up in the morning and decide, well, America should go into the green business, that America should get involved in the energy-saving business as if the American manufacturer and his worker have been on the sidelines, doing nothing.

You have great manufacturers out there, like the Perks family from Rockford, Illinois. The Perks family has been around for three generations now, involved in combustible burners. Their goal has always been to make the most efficient combustible burner possible, and they lead the world in that technology. They just didn't wake

up one morning and say, "We should start saving energy." That's what productivity is all about. That's what the American manufacturer is all about—to be giving him and the small inventor the opportunity to be able to go out and to make products—to make them run faster, quicker, and leaner.

The Federal Government didn't invent the term "lean manufacturing." The Federal Government didn't come up with ISO standards of excellence and productivity. The Federal Government does more to hinder the innovation ability and the productivity and the energy savings of the American manufacturer than it does to help them out. Take, for example, all of the American machinery in Harvard, Illinois. There is an extraordinary patent on being able to run hydraulics on an as per unit. It gives a shot of power to move that hydraulic pump, and then the unit shuts off, saving between 60 to 80 percent of the energy costs versus a machine that runs all the time.

No one in Washington called the people back home in Harvard, Illinois, and said, We have this great idea for you. The people in Washington are calling the people whom I represent and are saying, I've got news for you. I don't have new innovations for you. I don't have new technologies for you. I have a new task that's going to make you less competitive with the world, the so-called "cap-and-trade tax," because the people in this body and in the other body are going to say that we are manufacturers and that we know everything about manufacturing as we sit here in our pin-striped suits and don't even know what the sweet smell of machine oil is because most of them have never been in a factory in their lives. They're going to tell our American manufacturers how to run their factories.

As I talked to our American manufacturers yesterday, 55 or 60 of them, several have places where they're already manufacturing for domestic consumption in China and in Mexico. Their faces spoke the results. If it's going to become so much more expensive to manufacture in the United States, we'll just do more manufacturing in Mexico and in China. Do you know what, Mr. Speaker? The cost of shipping finished items from China to the United States will be less than the cost of the increase in power for people to make their products under the new cap-and-trade bill. This is absolute lunacy to be able to subject the American manufacturer and the worker to this, the worker who gets up at the crack of dawn every morning, who packs his lunch box and goes off to work and gets in his old car and puts in 8 or 10 or 12 hours a day, working to support his family, working to get the kids through college, working to pay the mortgage. All of a sudden, Congress says, You don't know what you're

doing. You don't know how to run your factory.

All we have to do is look at what happened in Europe. Look at the famous cap-and-trade system in Europe. Now, I don't usually look to the Europeans for examples except when they fail. In this case, the cap-and-trade system, Mr. Speaker, has been a complete and total failure. Why is that? Well, it's because you go across the Strait of Gibraltar, into Morocco and northern Africa, and you see countries that are not locked into the same type of system of control emissions. In fact, Kollo Holding in the Netherlands makes a silicon carbide. According to an article in *The Washington Post*, it's used as an industrial abrasive. It's the finest factory that you could find, the best in ecological construction, the finest in meeting the most stringent requirements to reduce the emissions of carbon. They're in big trouble, huge trouble, because right across in Morocco you will find a competitor—and in China—that can make it cheaper and that can ship it to Europe.

So what happens to the brave soul in Europe who complies with their ill-fated cap-and-trade system? He'll probably go out of business. That's exactly what happens. What's going to happen to the United States? There will be a southern movement to Mexico as American manufacturers will be making more of their products in Mexico and shipping it across the border because it will be a lot cheaper as they won't be sacked with a cap-and-trade system.

If you take a look at the Government Accountability Office report of December of 2008, this is their own organization that sets up standards by which to make measurements of efficiencies in different programs. The Government Accountability Office says there are better, less expensive and more direct methods to accomplish the goal of reducing emissions. Well, that's interesting. What are those? Well, perhaps someone ought to take a look at what the American manufacturer is already doing. You can go to a Danish manufacturer in Rockford, Illinois, called Danfoss. Danfoss makes these machines that hook onto another machine. The Danfoss machine, Mr. Speaker, measures the exact amount of energy necessary in order to run the machine right down to the lowest fraction of electrical unit required. It is highly efficient.

No one from Washington called the Danfoss engineers and said, We have an idea for you. We, in Congress, wear pin-striped suits, and we can tell you how to run your manufacturing facility. No one called the city of Rockford years ago and said, We've got a great plan for you where you could take the sewage that you have in the city, turn it into methane and run three turbines so you could help the electrical grid, and

there would be many fewer carbons going into the air.

Mr. Speaker, Washington has no news for the American manufacturer or for the American worker except bad news. That's why we have to defeat this. We already have a lot of plans in place. One is the Republican alternative, and that's the one that rewards ingenuity. It makes it a lot easier for people to change to the latest techniques, to scrub the air, to scrub the environment. It just amazes me. It totally amazes me.

We are in Rockford, Illinois, where there is close to 14 percent unemployment. It's the same in Belvidere, Illinois. Our Chrysler plant is closed for 60 days. Chrysler is in bankruptcy. We've gone from 16 million cars sold 2 years ago to 8 million cars sold this year. On top of all of the problems that manufacturing is having, now we need one more—one more regulation, one more requirement, one more chop on the block of the American manufacturer.

It's time to say "no" to this big government that thinks it knows best. It's time to say "no" to Washington that thinks it has all of the answers. It's time to say "yes" to the American worker, "yes" to the little inventor, "yes" to the American manufacturer—the people who made things with their hands, the people who created all the wealth in the world, the leaders in technology, the leaders in ingenuity—not with the help of government but with the help of their own minds and their own hands.

Mr. LATTA. Well, I thank the gentleman, and he is absolutely correct. When you look at these margins that these companies are working with today, they are slim.

It's the same thing in my district. You know, I get in those plants every week. When I go in those plants, they show me what one blip of an electrical costs. I have massive, heavy energy users in my district, especially on the electrical side. With one blip, they could say, You know what? We're done. We'll go overseas. We don't need this, and we don't need one more Federal regulation. We don't need one more government bureaucrat telling us how to run our business, and we're out of business in this country.

Then what do we tell our constituents? What do we tell the next generation of Americans out there? That you don't have a job. What do you have to look forward to in the future? It's not very bright when you look at this piece of legislation.

You know, the President said when he was running for office that, Under my plan of a cap-and-trade system, electricity rates will necessarily skyrocket.

That will cost money. They will pass that money on to the consumers. It goes from one to the next, and it's going to finally get down to those hon-

est people who are going to try to be in those factories, making a product, finding out first they don't have jobs and, at the same time, that their electricity rates at home are just going to skyrocket. How are they going to make a living? How are those kids going to go to college?

I thank the gentleman.

At this time, I'd like to yield to my friend from Louisiana. Thank you.

Mr. BOUSTANY. I thank my friend from Ohio for yielding time to me.

I want to go back for a moment, back to March, at a time when the Ways and Means Committee in the House convened to hear Secretary Geithner's testimony to us regarding President Obama's budget proposals and specifically regarding the issues related to cap-and-trade and some proposed tax increases on the oil and gas industry. In fact, in addition to cap-and-trade, the administration is proposing \$31.5 billion in increased taxes on the U.S. domestics—the small, independent companies that produce oil and gas and that power our country. So, at the time, I had a very simple, a very straightforward question for Secretary Geithner, who was testifying.

I said, Mr. Secretary, how many jobs will this kill, particularly on the gulf coast? The gulf coast is trying to recover from hurricanes, but yet, at the same time, it has done a magnificent job of getting the oil and gas industry back up in the Outer Continental Shelf and inland—our refineries—to provide energy for our country. So I asked him simply: How many jobs do you intend to kill with this budget? He could not answer the question. So I gave him a little time, and I followed up with a letter to Secretary Geithner.

Two or three weeks elapsed. I received a letter today, and I have yet to receive an answer on how many jobs this administration intends to kill with its energy policy of cap-and-trade and of increased taxes on the domestic oil and gas industry.

Now, I know for a fact that we have about 1.5 million people directly employed in the oil and gas industry and that there are about 6 million additional folks who have jobs related to this, whether in manufacturing or in support services. So, if we look back and if we look at a time when a previous administration, Mr. Carter's administration, raised a windfall profits tax on the oil and gas industry, it devastated our domestic industry. What happened? We became more dependent on foreign oil, and we saw price spikes in energy.

So what's going to happen with this massive tax increase that is compounded by cap-and-trade? Well, my prediction is we're going to see massive job loss.

I was down in Louisiana for 2 weeks back during the Easter recess. I toured and went along the coast, and I visited

a lot of these small companies, companies that employ pipefitters and welders, people who work on the boats, folks who do the electrical work on these rigs, people who do the fabrication work. These are good-paying jobs, high-paying jobs with benefits. These are manufacturing jobs, the same kind of manufacturing jobs my friend from Illinois just spoke about.

□ 1615

And our President says his goal is to save or create 3.5 million jobs before the end of 2010. I want to know a simple answer to the question I posed: How many jobs does this administration intend to kill with its energy tax proposals? It's a simple question.

And I think the American people deserve an answer. And certainly the good, hardworking folks down in Louisiana and Texas and Alabama and Mississippi who supply a large amount of the energy that this country uses deserve a simple, straightforward answer from Mr. Geithner and this administration.

Now, let me make one clear point here. I want to quote something first. Let me quote something from this letter that I received from Secretary Geithner. He says, "To the extent the credit," he's referring to the tax credits that the oil and gas industries had since 1913, "to the extent the credit encourages overproduction of oil, it is detrimental to long-term energy security." Overproduction of oil? Does any American believe that we have overproduction of oil? I would like to know what planet the Secretary is living on. What kind of information is he getting, for God's sake?

Now, I think it's also important to recognize that if we're going to have a reasonable and sensible energy policy that the American public can believe in, an energy policy that diversifies our sources of energy and utilizes oil and gas and clean coal technology and nuclear power as well as green technology and alternative fuels, that's the kind of energy policy that we're promoting. That's the energy policy that the American people want to hear about. That's the energy policy that will unleash individual American genius to solve our problems.

But if you're thinking about energy policy, our transition to that strategy involves natural gas as a diversified fuel as well as expanding nuclear power. But keep in mind that 30–35 percent of the natural gas that this country uses comes from rigs, oil and gas rigs that were drilled within the last 2 years. 35 percent.

Now, I have to tell you that the rig count in the United States since September is down by over 50 percent and dropping because of these tax proposals. It's dropping, and that means we're going to have a shortage down the line of natural gas and oil, and



we're going to become more dependent on oil from foreign sources, and we are going to become more dependent on liquefied natural gas being imported into this country.

All the while, we're kind of like—we're the Saudi Arabia of natural gas. We have a lot of natural gas reserves, but we're not utilizing them. And this energy policy that the President is proposing, these tax increases will devastate our industry, and we will become more dependent.

So, again, I asked President Obama and Secretary Geithner how many jobs do you intend to kill with this policy? And I think the American people, again, deserve a straight answer. Again, we're talking about good high-paying jobs across the board, manufacturing jobs, jobs that allow folks to buy homes, jobs that allow them to send their kids to college.

Finally, let me just say that I believe it is wrong for this administration to deliberately pick winners and losers. It's the height of arrogance. What we ought to be doing with an energy policy is unleashing American genius to solve these problems, the same kind of genius that have solved many problems before in this country.

One last thing I would like to mention is that back during the heyday of World War II when this country was in a fight against Nazi Germany and the Japanese and the concerns about energy were there and there was a fight for oil reserves and so forth, there was also a fight to see who was going to get nuclear power first. And it was because this country had a well-developed manufacturing and refining system with all of the chemical engineers, the petroleum engineers, that they were able to bring forth enough of the technical capability to win the race for atomic energy. And this is the same energy industry that this administration is currently trashing with this tax policy.

So, again, I want to know a simple answer to a simple question: How many jobs does the Obama administration intend to kill with cap and trade and with these targeted tax increases on the oil and gas industry?

With that, I will yield back to my friend.

Mr. LATTA. I thank the gentleman.

If I could just comment on a couple of things that he said.

I think you're absolutely right. I know when they shut the lights on us right here on this floor last year when we were down here talking about energy—and it wasn't hard to remember that we were talking about 65 or more percent of all of the energy that we were consuming in this country was being imported in this country. I remember those T. Boone Pickens commercials saying the largest transfer of wealth in history was occurring. I believe the number was like \$700 billion per year. And so when you see those

things happening, it's hard not to get up here and speak out on that.

I yield back to the gentleman.

Mr. BOUSTANY. This administration doesn't understand the difference between our large multinational energy companies like ExxonMobil, Chevron that do most of their work overseas, and independently owned, American-owned energy companies working in the Gulf of Mexico who provide most of the oil and gas that this country utilizes. These are small companies operating in the Gulf of Mexico, predominantly, some in California and other areas around the country, but predominantly in the Gulf of Mexico. And this industry will be devastated by these tax proposals, and it's going to hurt our energy production, and it's going to make the price of oil and gas and gasoline and electricity go up significantly. It's absolutely the wrong policy at this time. We need a diversified energy policy, and we shouldn't punish those who are producing energy that Americans need desperately today.

Mr. MANZULLO. Would the gentleman yield?

Mr. BOUSTANY. I would be happy to yield.

Mr. MANZULLO. I thank the gentleman.

Perhaps the answer to the number of jobs that would be lost may be found in the draft of the American Clean Energy and Security Act. This is the Cap-and-Trade Act under title IV, if I'm reading this correctly, because it talks about worker transition. Now, that normally means somebody who's lost his job as a result of a government regulation and has to transition to something else. So they already are figuring that some people are going to be losing their jobs.

My gosh, you take a look at the quote of the President. It's going to cost a tremendous amount of money, electricity rates will skyrocket in factories. When you look at the small margin of profit, for example, on castings—already under tremendous pressure from overseas—they won't be around.

But something happened interestingly yesterday at the conference we had in Rockford, Illinois. Dr. Redmond Clark is a Ph.D. in environmental sciences. He's also an inventor and runs a business, and he said this astonishing statement: If American manufacturers, if all of America went to zero carbon emissions, within 7-10 years, the Chinese would more than compensate and put into the air all of the carbon emissions that the Americans had saved. Now, that is how flawed this plan is.

Mr. BOUSTANY. I thank the gentleman.

I would just add that really a productive way to reduce emissions would be to work out a cooperative agreement with China—which also has large amounts of emissions into the atmos-

phere—and let's use the technology that we have today to work with the Chinese to reduce emissions. But instead, with these tax proposals, they intend to destroy this industry. And I will tell you from my experience in Louisiana in the 1980s, once these jobs are gone, folks leave. They go off and do other things. That expertise is gone. You can't develop it overnight. And this is at a time when our energy needs are critical.

So I have to say when the President talks about saving or creating 3.5 million jobs, this policy is not the way to do it. It will kill jobs, and it will kill many jobs.

Mr. LATTA. I would like to yield to the gentlelady from Oklahoma.

Ms. FALLIN. I appreciate your comments.

We're already seeing some of the effects in our oil and gas energy sector in the State of Oklahoma of job losses already just by talking about the cap-and-trade piece of legislation. And you were mentioning a few moments ago about the pollution of other countries and how if we have cap and trade here and we try to control our emissions—which we should, we should have reasonable policy on that—how China and India and some of those other growing economies will still keep polluting. In fact, a statistic that I saw said two-thirds of the world's population comes from countries other than the United States. So while we may put some heavy restrictions that could cost jobs and investment in the United States, these other countries will take those market shares from us and continue polluting.

I was interested in your comments by Secretary Geithner who said we have an overproduction of our oil, which that is an unusual comment when our Nation is so dependent upon foreign energy. I think many of us in this body believe that our country is at risk in our national security and economic security by buying almost 70 percent—65, 70 percent of our energy supplies from other foreign countries while spending around \$700 billion buying that foreign energy. Just think what that \$700 billion—if we produced our own energy—what that would do in our Nation as it relates to jobs and investment in our marketplace here in the United States.

But yet we continue to send that money to foreign countries buying their energy versus encouraging innovation, free enterprise here in United States of all kinds of energy sources.

And I just truly believe we have the knowledge, we have the capacity and the intellect in the United States to develop these alternative means of fuel and to reduce our carbon emissions. Look at natural gas. There is a proposal here in Congress to encourage more investment in C&G cars, more infrastructure investment in natural gas. And I hope that we continue to push

those kinds of policies rather than massive tax increases and standards that will actually hurt our national economy and hurt our jobs.

Mr. MANZULLO. Will the gentle lady yield?

Another shocker that we found out is built into this proposed bill, there is a threshold limit so that the smaller manufacturers—and you don't even have to have a smokestack to be covered by this because buildings naturally emit a carbon dioxide going out through the windows—but the smaller manufacturers would be exempt from cap-and-trade. However, the EPA has now empowered itself to control carbon for greenhouse emissions. So they will be coming in with another layer of regulations even for the smaller ones.

And—and this is almost certain—the EPA, in the past several months, had this proposed standard to tax cows. Any farmer that has a herd in excess of 25 cows—because cows are big methane emitters—\$125 per head per year. I don't make that much profit when I sell my beef cattle, even though we haven't done it in the past couple of years.

Washington, D.C. must be its own planet, how people can come up with these absurd ideas. And back home, we have two methane digesters. Some farmers got a little grant from the government to help out, and that's fine, and all of the waste from 300 dairy cattle near Pearl City, Illinois, go into this methane digester, and the methane is recaptured, goes back on the grid. It's enough to run a city of 500 homes. It's amazing.

How is it that people that know so little about manufacturing can, overnight, come up with the idea that they are the experts on green manufacturing as if American manufacturers were doing nothing to increase productivity?

Mr. BOUSTANY. If the gentleman would yield,

You know, U.S. companies in the oil and gas industry do the safest and most environmentally friendly work of any of the companies around the world. We've got Louisiana and Texas expertise disbursed all over the globe as a result of what happened back in the 1980s with the windfall profits tax. I run into workers all the time who are coming back to Louisiana to visit family. And they have been away, and they wish they could work in the Gulf of Mexico around this country doing work in this country to produce energy for our country. Yet, they were pushed out. We lost those jobs. And as the energy industry has started to come back, now we're seeing the specter of these increased taxes, which will be devastating.

And, in fact, I have a friend of mine—he and I finished college together—he's a petroleum engineer, and he's lived his entire professional life overseas because he went out into the work world

at the time that this tax took place and devastated the domestic energy.

With that, I yield back to my friend.

Mr. LATTA. I recognize the gentle lady from Oklahoma.

□ 1630

Ms. FALLIN. I thank the Congressman. I have one thing I just wanted to add. President Obama has talked about how the United States can achieve a new long-term subsidization of green jobs like similar to what Spain has done, and I have a report from the Institute For Energy Research, which talks about other countries.

And what has happened is they have spent billions of dollars of taxpayer resources to subsidize renewable energy programs and to add more greening within their societies. And as they passed some carbon tax-type legislation, it was showing that, according to their results, compared to what the United States could expect, that the U.S. can expect 2.2 jobs destroyed for every one renewable job that is financed by government-based bond, what has happened in Spain. Only one of 10 jobs actually creating a green investment would be permanent. They'd be temporary jobs.

Mr. LATTA. I thank the gentle lady.

#### IMPACT OF CAP-AND-TRADE ON MANUFACTURING

The SPEAKER pro tempore (Mr. CARSON of Indiana). Under a previous order of the House, the gentleman from Illinois (Mr. MANZULLO) is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, we've just concluded an hour of debate on manufacturing and the impact that this cap-and-trade system will have on manufacturing. I wanted to add a footnote from the congressional district that I represent. It's the top of the State of Illinois.

And near east of Dubuque, on the Mississippi River, is a company called Rentech that makes hydrous ammonia urea and products for agriculture. They were in the process of switching to what's called the Fischer-Tropsch process—it's an old German process—substituting natural gas and in its place putting coal, bringing coal up the Mississippi River.

And one of the byproducts of that coal would be diesel fuel, in addition to the hydrous ammonia, urea, et cetera, that could come from that facility.

Once the owners found out about a proposed cap-and-trade system, that stopped that half-billion-dollar investment in the congressional district that's smarting with unemployment, running as high as 14 and 15 percent. Just the talk, just the threat of a cap-and-trade has already stifled innovation.

And that's why it's extraordinarily important that we take a look at alter-

natives such as the ones suggested by GAO that can accomplish the same things without these onerous requirements and regulations on the backs of our American manufacturers.

And so those of us who were really concerned about the loss of manufacturing in this country, those of us who really want to see us become less dependent upon the Chinese and the Indians and the Mexicans and other countries around the world and to look to ourselves for self-sufficiency, to restore manufacturing in America, we cannot have this cap-and-trade system because that has already stifled a half-billion-dollar investment in the congressional district that I represent.

#### CHANGING OUR ENERGY POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Kentucky (Mr. YARMUTH) is recognized for 60 minutes as the designee of the majority leader.

Mr. YARMUTH. Mr. Speaker, it's been very interesting to have engaged in discussions over the last few months about changing our energy policy, and it's been particularly interesting listening to my colleagues on the other side talk about their vision of where this country goes or, rather, their lack of vision as to where this country will go in energy.

This debate began several years ago. It was very prominent during the Presidential campaign in 2008, and there began to emerge a very clear distinction about two very different visions about what we need to do in this country.

We heard last summer the mantra coming from the Republicans: "Drill, baby, drill! Drill, baby, drill!" That was, in essence, the sum and substance of the Republican Party's energy policy: continue to drill for oil, continue to emit carbon CO<sub>2</sub> into the atmosphere, continue to avoid the tough choices about changing our goals in energy policy in this country, trying to achieve energy independence and, again, relying on the same technologies that we've used in this country for 100 years.

Fortunately, we elected a President who has a very different vision of where we go in energy, a very progressive vision of where we go in energy, a policy that he has proposed, that this Congress is proposing to enact, that will end our dependence on oil and carbon-based fuels, will set a new course to where we are actually using the great gifts of the natural world, such as wind and solar energy, creating the kinds of incentives for businesses to create new jobs and new industries, so that we can create a future that is not only clean but prosperous.

Now, what's interesting in listening to my colleagues from the other side,

all very well-intentioned men and women, and I've listened to some over the last hour, is this constant emphasis on the cost of changing direction, the cost of cleaning the air, the cost of truly creating an alternative energy policy in this country. And I'm glad they do that because, as with any good thing, there is a cost to doing it, but what we would like to emphasize in pursuing a new direction is the cost of not acting and not pursuing that new direction.

What have we seen, for instance, in this country over the last decade? We've seen the average citizen's energy costs rise by well over \$1,000 a year, and last summer alone, we saw gas prices at \$4 a gallon, which certainly is an additional tax on every American citizen who drives a car or who powers anything.

As we project onward, we know that diminishing resources in carbon-based fuel, diminishing supplies of petroleum, the price of gas is going to continue to go up. The price of natural gas is going to rise. So the cost of pursuing the same old status quo is significant.

On the other hand, we can make an investment now. We can make an investment that will save us money, will continue to save us money toward infinity. We can actually harness the power of the sun, the power of the wind, hydroelectric power, geothermal power, all of the alternative sources which we know are available to us. If we can do that—and this bill that we are contemplating right now sets us in that direction, provides the type of incentives and stimulus that will get us to that era—then we will have an era in which we dramatically cut our energy costs. We will save trillions and trillions of dollars as we move forward.

I know just in my own district, I've gone to see some of the new techniques for building homes, for utilizing all of the LEED-certified processes that can cut a 3000-square-foot home's utility costs to under \$100 a month. These are the potentials that are out there for us, and these are the potentials that this proposal that we are dealing with now and considering in Congress can bring to reality.

So this is a debate that's important for this country. In a very real sense, it represents the future of this country, and there are very real differences between the Democratic Caucus and the administration and our colleagues on the other side who again prefer to pursue a 20th-century energy policy, rather than a 21st-century energy policy.

So I'm joined here by someone who has great interest in this subject and many others, who is part of that class of 2006 which changed control of the Congress and set us in a new direction. I'm proud to introduce my good friend and colleague, RON KLEIN from Florida.

Mr. KLEIN of Florida. I thank the gentleman and thank him for his leadership.

As a Member from the Commonwealth of Kentucky, obviously you have a great deal of understanding about energy needs. The cities in Kentucky, the rural areas of Kentucky, the great equestrian and horse industry in Kentucky, all of those require the types of energy that we know are future energy sources for America.

I think this is just such a moment in time that really allows for an excitement. Now, these are challenging times, make no mistake about it. In my lifetime—and I'm 51 years old. Mr. YARMUTH is probably somewhere in that range as well.

Mr. YARMUTH. I thank the gentleman for his flattery.

Mr. KLEIN of Florida. Well, as Americans we understand challenges. We understand crises. Our fathers, our grandparents, our great-grandparents were certainly the architects of us getting through world wars. They fought, they innovated, they came out of it even stronger. My mom was a public school teacher, taught second grade, taught me about how important education is to make a success of one's self.

My dad was a small businessman. I don't know if you remember five-and-ten-cent stores. We called them variety stores. We had them in Cleveland, Ohio, where I grew up, and I worked there since I was 8 years old. And my dad taught me what it was like to balance the books, not borrow unless you absolutely have to. I understood what it took to make payroll. We had eight employees and we took care of them. These were people that he was loyal to and they were loyal to him, and he taught me about work ethic.

But most importantly, he taught me about what it takes to be an American, and given those opportunities to succeed, you will succeed.

And that's why, to me, at this moment of great challenges in our economy, people's jobs may be being lost permanently, that this is the moment that we shouldn't just be incremental. We shouldn't be small thinking. We should be thinking big and look at this as an opportunity, an opportunity to truly change the direction of America.

And that direction takes in a lot of different pieces, but of course, it starts with a solid education. And I know that when my mom made it a necessity for me to go to school, college, I was able to borrow money through the student loan programs to get there. That was an opportunity and allowed me to be standing here today representing people in south Florida. But most importantly was that education that allowed me to see what our great universities can do in terms of innovation and science and business and to combine those great things together.

We know the story of John F. Kennedy, when that little Sputnik went up in space, and for those people who were living at that time, that little can that

went up in space was the Russian statement to the world that they were going to be dominant in space, and that scared Americans. Not because they knew that it was a direct threat, but they didn't know what it meant with this Cold War going at that time.

But what John F. Kennedy did by saying, I'm going to put a man on the moon at the end of the 1960s is, he said that we're going to put science first and innovation and challenge, and we built a NASA program, and we put a man on the moon not by 1970, but in 1969, in July. I remember that.

And to me, that is the kind of inspiration that I think our President today is presenting to us, President Barack Obama, about using science, using technology, using business innovation to earn our way and work our way out of this recession. It's not going to be something we're going to tax our way out of. We're going to grow our way out of this with jobs, with clean energy, with energy innovation, with energy products that not only are going to make us safer and more secure from a national security point of view—because we already know we import 60 percent of our oil from countries outside of the United States, and God only knows that is the wrong place for us to be at any moment in time.

We want to be self-reliant, and we have the capacity to do that with not only oil and gas but solar and wind and wave and nuclear and a whole lot of different things.

And it's about time that we sort of say this is our time, this is our moment to get it back on track. And I think that is what the President is saying to Americans. That's what the President is saying to American business.

I would share with the gentleman from Kentucky—he knows this because he helped write this bill. The big bill that we passed recently, the American Recovery and Reinvestment Act, the stimulus bill it's called, it has some incredibly positive things in it, not only to stimulate the economy but on energy. It has a smart grid, advanced battery technology effort, and it's millions and billions of dollars for our universities, for our businesses to come together, putting the smartest people at the table from a business point of view, how to take a product to market, as well as the science point of view, to get these batteries for all electric cars and for all sorts of innovation, to come together and say we're going to focus and we're going to do it. We're going to be more successful than any other country in the world.

□ 1645

And you know something, we're not only going to make it good for the United States; we're going to export those products and license that technology. And all the other countries of

the world, instead of, you know, exporting to us, we're going to start exporting to them. Great opportunity there.

There are also a whole lot of really good things about energy efficiency, energy savings at home, encouraging people to buy products and giving them tax incentives to buy products that save on energy. Green jobs, green buildings, all these kind of things just offer such great opportunities. So, you know, I look at this moment when we're discussing energy, and not just about a drill, drill, drill issue. That's not the issue. Of course oil's going to be part of our national energy policy and so will natural gas, and we have more natural gas, and that's good.

But I'm from Florida. Florida should be leading the world right now in solar power. We're the Sunshine State, and every State in the country has something to advertise. People come to Florida for our sun. Well, we should be leading in solar technology at our universities and for consumer purposes.

So I thank the gentleman for raising this today. We're going to be working on this issue. And again, this is not just about climate. This is about energy. This is about environment. This is about national security. Any one of those three, pick them, and I think that we could recognize this is the time for us to really put our foot down and make something happen.

Mr. YARMUTH. And I would also mention that this is about jobs. It's about jobs, jobs, jobs, because this is going to be one of the emerging industries of the 21st century. We know that. The American people know that. I mean, the polling on this topic is actually overwhelming. The high percentage, a majority of the American people understand that we need to go in a different direction in energy, that we need to make the investments, we need to stop global warming emissions. Seventy-seven percent of the voters, according to one recent poll, want us to act to reduce global warming emissions, CO<sub>2</sub>. They know that this is what we need to do.

And, you know, this relates to what my colleague has said so well. What we are proposing to do in this legislation, in health care legislation that we're also working on, in the Recovery Act legislation that we've enacted, we're making a bet on America. We're making a big bet on America.

And I know that sometimes we hear our colleagues on the other side say, Oh, gosh, nobody borrows money to make money. Well, no. That's exactly what you do. That's what virtually every corporation that's ever succeeded in this country has done. They've borrowed money and they've invested it in ways that enabled them to make enormous future profits. And that's what we're proposing to do here.

We're going to increase deficits in this country over the next few years in

order to enact those policies. But we're making a bet that American ingenuity, American brilliance, will develop the type of advances that will not only pay back that deficit, will not only create millions of new jobs, will not only create an exploding new industry, but will also lead this country into a great era of prosperity and will make life better for everyone, because if we can cut a person's utility bills from \$3,000 or \$4,000 a year to \$500 a year, that's essentially a tax cut, a substantial tax cut.

And I know they like to talk about raising taxes, raising taxes. But again, as I mentioned earlier, what is the cost of not doing something now? What is the cost of reverting to that 20th century economy when gas was \$4 a gallon last summer, and where, you know, we know gas in Europe is \$9 and \$10 in some places. What would that do to the American economy if gasoline were \$9 or \$10 a gallon? It would come to a screeching halt literally and figuratively. And that's why the types of things we're proposing in this energy legislation are so critical, because we're making the big bet, the big bet that American ingenuity will succeed and we'll once again dominate the world and we'll once again lead the world into a much better era, an era of cleaner skies, cleaner water, and also one of great prosperity.

I'm willing to make that bet on America because America's never failed. And I think that's what is so exciting and inspirational about the administration and the White House and the leadership in this Congress, that they're willing to make the big bet that America will succeed.

I yield again to the gentleman from Florida.

Mr. KLEIN of Florida. I thank the gentleman for yielding. When I think about, when people talk about the best investment you can make is in yourself, and I know that over the years I've known people that were very successful in their own business and then they sort of went outside, they had a little extra money and they went outside their comfort zone and invested in something they maybe didn't know enough about and sometimes they lost money in that way.

I am so strongly in belief, as you just said, that investing in American scientists, investing in American business entrepreneurs, investing in the confidence that American consumers have, that we cannot only emerge in a stronger position, but we will absolutely dominate this energy field. And I'll give you an example.

The light bulbs that we see up here. These are incandescent light bulbs that were designed by Thomas Edison. The technology, long, long ago, a hundred years ago. And over the years we've made certain improvements to them and things like that, but they're very

energy oriented. They really consume a lot of energy.

Well, you've now seen these new bulbs, that sort of circular, looks like a loop kind of thing, and those save a lot of energy. Now, they cost more at the store right now if you go to one of the stores because obviously there is a supply-and-demand issue.

But one of the things that we can do in government that doesn't cost the taxpayers a dime is we can create market, something Europe has been doing for a long time. And an example of this, and I know the gentleman from Kentucky is aware of this: Last year we passed a bill that will phase out the old-fashioned light bulbs over the next number of years, transition. And when we say "phase out," they're going to have to put in, you know, they'll basically be selling new light bulbs, new energy-efficient light bulbs.

Well, guess what that does. Without the government spending a dime, without anybody doing anything, it gives businesses and business entrepreneurs and scientists a signal, a market signal that says there are going to be 450 million light bulbs sold in 2012 of this type, a big, big market in the United States. That's not the real number, but some extraordinary number, and then around world.

That means that if you design and can build in a cost-effective way and manufacture a light bulb that meets these specifications, there is a big market out there. So it certainly gives you, as an entrepreneur, as a businessperson, the signal to say, I'm going to invest in something that I know there's going to be a big market. And over the next number of years that market will only grow and expand. It's the same thing that we've seen with appliances. It's the same thing with our heating and air-conditioning systems. The refrigerators that were built 20 years ago used, I think, something like 10 times as much energy as they used today, even though today's average refrigerator is larger, does more functions and everything else. And that's because over time, you know, people understood, they wanted it more efficient, they wanted to pay less. So they paid a little more for the refrigerator up front, absolutely recouped that over time.

So, to me, these are the exciting things when it comes to electric automobiles and hybrids and all sorts of new technology that will make our homes more efficient, our buildings more efficient where we work. And it's a moment where I think with a partnership of government sending the right signals and the right tax planning, and businesses and consumers wanting to make these changes, wanting to succeed and create these jobs and wanting to be successful, it's the perfect combination.

And I yield back.

Mr. YARMUTH. I'm glad the gentleman mentioned those types of innovations, because the Consumer Products Division of General Electric is based in my district, and I'm well aware of the incredible progress that's being made in energy-efficient appliances and in those light bulbs. And this isn't the General Electric Company, but another very large company in my district just went through their plant and replaced all of their bulbs with energy-saving bulbs. It cost them \$80,000 to do it. Now, \$80,000 is a pretty substantial sum to a business, but they made the calculation that \$80,000 would be paid back many, many times over in savings as they went forward.

And this is going to happen in business after business, in institution after institution, colleges, schools, you name it, across the country will be making these changes because they recognize the savings.

General Electric has, as do other manufacturers—I'm obviously going to plug General Electric—has new appliances which actually are regulated so that they will actually go on. They're timed so that they will be—let's say a dishwasher or a clothing washer or dryer will actually go on during periods of the day when peak utility usage, when it's not peak utility usage, when there's actually low demand on utilities. And they think by doing this, by creating these types of very smart appliances, they call them smart appliances, that they will actually be able to save energy costs systemwide because they won't be draining the utilities at the peak usage hours.

So there are all sorts of very, very smart things going on, and the legislation that we're proposing and the government initiatives that we're trying to initiate will go a great distance in seeing that through.

One of the things that intrigued me today, and I'm very proud of not just President Obama but also the automobile manufacturers and the various State governments that were involved in this discussion, to raise the mileage standards for automobiles to 35 miles a gallon by 2016, which is far faster than was provided for in legislation we passed in 2007.

But what's fascinating to me about this, and I think the gentleman would agree, that technology is going to outstrip even these standards that we're setting. I mean, there's a Ford Fusion right now, 41 miles a gallon in the city, a Ford Fusion hybrid. There are going to be electric cars that are coming out within the next year or two that will essentially get far more mileage than the prescription in this agreement that was reached.

So that's just a measure, one more measure of how successful, how innovative our economy can be when given a challenge. And all we're trying to do in this legislation that we're proposing

now is to kind of put the challenge out there with the right kind of incentives, with the right kind of government push and funding and let the American spirit and American ingenuity have its way. And I know that this is going to be—again, this is going to be a phenomenal job creator and an economic engine for America as we move forward.

And I'll yield to the gentleman again. Mr. KLEIN of Florida. Thank you. And I absolutely agree. And if you think about, you know, the automobile, I'm in full agreement. I think it's exciting, and I'm glad to see that our people at the automotive companies understand this challenge, are not standing in the way. They're embracing it, and that's pretty exciting. And I think they're embracing it because they know that their survival is dependent on selling a car that the American consumer will want to buy, will get efficiency in operation, will last, and the maintenance will be minimal. There's a strong warranty behind it, things that were the mainstay of the automobile industry in the United States for a long time and, you know, sort of tapered off over the last few years.

But there's absolutely no reason in my mind why an American automobile can't be as good or better than any automobile in the world and why our scientists and engineers can't create the best automobile.

There's a company in New Jersey that has been working on a different kind of concept which is very interesting. They're actually pushing—or not pushing. I think they've got the Government of Israel to support this, and I think Finland also, where in Israel they're going to be converting their entire—all their automobiles to electric automobiles over the next number of years.

And here's the simplicity of how this works, because I love when people say, Well, we can't do it, and the naysayers. And, oh, it's too expensive or too this. It just takes a little bit of thought to get it through.

Here's the simple idea. Right now, we have a tank of gas that may get you 200 miles, 300 miles, and then you run out of gas. Okay? So it's finite. It's not like your car runs indefinitely. You have to stop at a gas station. And, of course, in the United States, we have gas stations a lot of different places, but there aren't a lot of places you can get flex fuels and a lot of other, which has held up the alternative types of engine development in the United States.

This group has a car that has a battery, and the battery, I think right now the electric charge is maybe 100 miles, which, by the way, for most people, you don't go more than 100 miles in any city during the day. You may go 30, 40 miles, and then you can swap the battery out. You go to a gas station,

which is now a service station. You swap the battery out just like you did with your old—your telephone battery kind of thing, and then you pop it back in and you're ready for the next charge. Or you plug in at night at home.

Now, if you think about it, our utility plants right now operate at peak capacity during the day. In the middle of the night when factories aren't necessarily operating and the peak load for electricity is down, they're operating at 30 percent, 40 percent, 60 percent, whatever the number is. So if you were to plug all these cars in at night with a nominal amount of electricity, no big deal. It makes full use of the existing capacity. You don't need another megawatt of electricity to do this, and you've got a car that has no emissions whatsoever.

□ 1700

We also know that this 100-mile charge, in the next couple of years it's going to be 120 and then 150 and then 200, because the technicians and the science people are going to get these batteries up and running, just like they make cars more efficient over time.

I thank the Senate for passing the Credit Card bill. I think that's a very exciting bill that the House passed already—it's called the Credit Card Consumers Rights bill. I think in a bipartisan way many of us in the House were very excited about the opportunity to try to get some balance in the credit card world for consumers, particularly at a time like this. So I appreciate the work of the Senate. I know we're going to be working actively to get that bill resolved.

But just to finish the thought, if I can, the gentleman from Kentucky, is just to say that this electric car concept, it's exactly—whether that is the prototype for what is going to work in America, I can't tell you. But I love the idea that great thinkers are out there coming up with new ideas. The simplicity of being able to plug a car into a wall—there's a plug in the most rural areas or there's an electric outlet in the middle of the city.

So I think that's the kind of thinking that I would love to see as we move forward. I know that the tax incentives are in place for the development of our companies in the United States that develop these. I know the American people are ready for the jobs and our economy is ready for rebuilding. I think this is that moment in time as we pass this stimulus bill and we're now moving into the phase of letting the companies compete for these grants and letting our universities participate in the development with our greatest scientists and greatest engineers to take us to the next level so we will have energy security, national security, cleaner environment, and the kinds of economy that my kids, your

kids, maybe our grandkids in the future, will be able to enjoy and participate in.

Mr. YARMUTH. Exactly. And millions of new jobs and essentially a reduction in everyone's utility costs that will amount to a substantial tax cut. So, in my view, and I think the view of most Americans, this is a win-win-win-win-win.

Before we yield to another colleague, I'd just like to go through some of these other poll numbers to show where the American people are, because sometimes we sit in this Chamber—and we have equal time with the minority party so we have equal minutes. Sometimes you might get the impression that there's an equal number of people who agree with that position, an equal number of people who agree with our position.

But this is a poll actually done by a combination of Democratic and Republican pollsters and also by the Pew Research Group. Seventy-four percent of Republicans, 70 percent of Independents, and 74 percent of Democrats believe jobs that reduce our dependence on foreign oil are very important for helping the economy over the next 5 to 10 years.

Sixty-three percent of Republicans, 70 percent of Independents, and 37 percent of Democrats believe jobs that are improving energy efficiency are very important to helping the economy over the next 5 to 10 years.

Fifty-nine percent of voters believe efforts to tackle global warming will help create jobs. We heard from the other side earlier this afternoon that, Oh, gosh, efforts to reduce global warming emissions are going to kill jobs—millions and millions of jobs—and result in a huge tax increase. Most Americans don't agree with that. Most Americans agree this is going to be a benefit for the economy.

Seventy-seven percent of voters favor action to reduce global warming emissions. Fifty percent of voters say they would view their Member of Congress more favorably if they support a comprehensive plan to create clean energy jobs and fight global warming. Only 22 percent say they would view their Member of Congress less favorably.

So it's pretty clear from these numbers and it's pretty clear from the people I talk to that the American people are strongly in favor of our taking dramatic action to set our country on a new path where energy is concerned toward a cleaner energy future, a more affordable energy future, toward an independent energy future. And I think that the moves we are making in this Congress will take us in that direction. I'm very proud that we're doing that.

I yield to the gentleman from Florida.

Mr. KLEIN of Florida. I thank the gentleman. I think when we talk about polls, obviously it's interesting to hear

what the American people have to say because those are the people impacted by the decisions that are made here in Washington. And particularly at home right now, I know where I live in south Florida, people are hurting, they're suffering. They're looking for what is going on for the future of their jobs, their businesses. If they're senior citizens, they're concerned about what's going on in the economy.

But I think what is going on is there seems to be a little bit of a glimmer of some turn here. It's going to take time. What we all inherited—I'm talking about America, I'm not talking about this Congress—but all of us as Americans, we inherited, unfortunately, a pretty deep situation with the bank crisis and things like that.

We all go through recessions. Recessions cycle out. We do everything we can as a country, both public and private sector, to contract the amount of time it's going to take to allow a recession to go through.

But, again, I see this as a time also with the new President, President Obama, as really taking this moment to say we're going to have to fix some of the problems that have been festering a long time. We have an investment in roads and infrastructure and schools and bridges and things like that.

We have an investment in health care—to try to fix the health care system. We're debating a lot of new ideas right now. I know that every one of us has a family situation with a pre-existing condition. My sister had cancer diagnosed recently, and she's going to have problems with insurance. You know something? This is that moment when you need insurance—not a perfectly healthy person.

But whether it's energy or health care or education or the bridges and roads and universities, things like that, these are the things that I think are really beginning to come out. The polls can say something, as my friend from Kentucky said, but these are Americans talking. These aren't Democrats or Republicans or Independents. These are Americans from all walks of life, from all 50 States, rural areas and industrial areas, areas where there's been a great history of success and areas that are now having great difficulties.

I think that's why it is exciting to have the kind of energy and the kind of leadership that's coming out of the White House. We may not necessarily grant every single thing, but I think that what's going on right now in Washington, there's a great amount of trying that's going on, a great amount of effort going into passing things.

There's been a number of bills passed—everything from health care to the energy issues. We know that as we move forward there are going to be greater issues to tackle. And I know

that all of us feel very strongly this is a moment where we want to hear from our constituents, to talk to us, to let us know what is on their mind; not get caught up on the discussions on cable television. Obviously, everybody's got an opinion.

Literally, when we come home and we're talking every day at home with what Americans are talking about, what is important to them, this is that time to share with us. I know that many of you do. I just want to continue that conversation as we move forward.

I just wanted to thank the gentleman for bringing us here tonight to talk about energy because this is something that is going to have one of the biggest impacts on our future, both our foreign policy and our domestic policy. I look forward to working with you and all the Members of Congress on making sure we get it right.

Mr. YARMUTH. I thank the gentleman. He makes a very important point, and that is that you started in this way, that we are at a critical juncture in our Nation's history and the history of the world. We, for once, at least in my memory, are starting to look at the long-term needs of this country and this world.

We don't do that very well in this country. It's always we look to tomorrow, we look maybe to next year, but we don't look at the next generation and the generation past that. And in the debate we will have in coming weeks on energy and later in the year on health care, we will hear, again, this very distinct difference in opinion.

I heard Members this morning and I heard the minority leader on Sunday on television talking about health care, saying the cost of reforming health care is so great, it's going to cost billions and billions of dollars, which we know. We don't know exactly how much it's going to cost to do that, but we know pretty certainly what the cost of not acting is, because the projections just in Medicare alone are that we're facing something like a \$70 trillion projected deficit in additional deficit in Medicare over the next 50 years.

So we don't have the option of not acting. We don't have that option. Yes, we are going to spend some money in the next few years. But, again, if we don't, we face a certain dismal future. If we act now, we have a chance of turning this country in the right direction and creating a very prosperous and bright future for our country.

Now I'd like to yield to another member of the class of 2006, a good friend and colleague from Indiana, Mr. DONNELLY.

The SPEAKER pro tempore. Without objection, the gentleman from Indiana will control the remainder of the hour.

There was no objection.

COMMEMORATION OF THOSE WHO GAVE THEIR  
LIVES IN THE ARMED FORCES

Mr. DONNELLY. Thank you, Mr. Speaker. I'd like to thank my two colleagues, Mr. KLEIN from Florida and Mr. YARMUTH from Kentucky, for their insightful ideas and words.

Mr. Speaker, as we near Memorial Day, I rise today to offer some words in commemoration of those who gave their lives in the Armed Forces; in particular, three sons from our Second District of Indiana.

I know that words are only a poor and passing memorial, gone as soon as spoken. Flowers, plaques, and even stone—the other tokens we offer on Memorial Day to celebrate our fallen sons and daughters—all of these will decay and crumble. Nothing we give will endure as long as the gifts of these soldiers who, in their death, gave an example of fidelity that will never die.

Lance Corporal Cameron Babcock, was a native son of Plymouth, Indiana, and a proud member of the United States Marine Corps. Cameron lost his life at Twenty-Nine Palms Marine Base in California on January 20.

Cameron was a fine young man. He loved his family and he loved his country. Cameron was fun-loving and was known for his bear hug. He knew the value of the small things that made life a joy—being with friends, playing music, four-wheeling, and spending time with his beloved family. Cameron was successful in enjoying the many riches of life.

His talent with the trumpet led him to compete at the State Jazz Festival in 2005, and his musical talent also led to his participation in the Wind Ensemble, comprised of some of the top musicians at Plymouth High School. Cameron's warm personality attracted to him a wide circle of friends.

But Cameron also knew the value of matters larger than himself. His life-long dream was to join the proud ranks of the United States Marine Corps. Shortly after graduating from Plymouth High School in 2006, Cameron dove right into this dream and enlisted. His energy, enthusiasm, and many gifts made the Marine Corps, and this Nation, much better.

He became an infantry rifleman, excelling all through basic training. Before long, he proved his bravery by serving a tour of duty in Iraq, spending several months in Ramadi in the Sunni Triangle. In this dangerous setting, Cameron continually did his job faithfully, and he did it well.

He won a variety of honors for his service and, at the time of his death, was prepared to again answer the call of duty for his country and return to Iraq.

Mr. Speaker, I also want to recognize the life and service of Sergeant Joseph Ford, originally of Knox, Indiana, a proud member of the Indiana Army National Guard. He died on May 10, 2008,

when his vehicle rolled over during a training exercise near Al Asad, Iraq.

For most of his life, Sergeant Ford was simply known as Joey. Joey had a love of learning throughout his life; in particular, a passion for history that led him to attend the University of Southern Indiana to major in history.

Joey's passion for history reflected a passion for his country. This passion—this patriotism—kindled in him the desire to serve his country. The dedication to military service did not come without challenges for Joey. In order to meet the physical demands of the military, he embarked on an aggressive weight loss program, losing over 70 pounds in order to be able to join the Indiana National Guard.

This desire to serve his country did not stop at the water's edge. His commanding officer, Lieutenant Chastain, stated that Ford wanted to be the gunner on an armored vehicle rather than the driver. He said of Joey, "He exemplified what a dedicated soldier is."

□ 1715

This dedication was honored by his posthumous promotion from specialist to sergeant and the awarding of a Bronze Star.

Mr. Speaker, great as his love of country was, he also loved his family, in particular, his parents Dalarie and Sam and his wife Karen.

Joey had met the love of his life while he attended the University of Southern Indiana. His friend and fellow Guardsman, Keith Ausland, noted that his conversations with Joey during training and in Iraq generally ended not with concerns about the mission but concerns about his family. Ausland wrote in his tribute to Joey that, "Joe was a new husband, and he loved his wife dearly."

When his mom Dalarie was asked about the one thing she would want her son remembered for, she said, "He was so kind to everybody. At the memorial service it was amazing just to see all the unique people who loved Joey. He never wrote off anyone, and he was friends with everybody, all shapes, sizes, all walks of life. Joe was a gentle soul." So today we remember and honor Joe Ford, a patriot and a gentle soul, a proud dad, a proud husband and a wonderful son.

Mr. Speaker, for much of the history of war, the number of soldiers struck down on the battlefield has been dwarfed by those killed by illness and disease. Thankfully, modern medicine has made the scourge of disease far more remote for our soldiers today, which makes the death of Private Randy Stabnik, also of the Indiana Army National Guard, all the more painful.

On February 17, Private Stabnik died from pneumococcal meningitis, a rare and unexpected death. After Randy had joined the National Guard, his family

could see how much he was growing to love his service. His dad Jim, when asked about his son's service, said, "When he came home for Christmas, I could tell he missed it. He missed the lifestyle. He missed his friends there. He loved it, but missed his son. They were very, very close."

His son Nathan, only 8 years old, lost his 28-year-old dad. This is part of the tragedy of war. Soldiers fight and die to protect those they love, and we must never forget the burden of sacrifice borne by the loved ones who are left behind.

His son and his family should know that Randy cared deeply for them. His mom said shortly after his death, "Randy was Mom's baby, Mom's angel. He was my heart." And her angel, he remains. But he is also an angel for the entire Nation.

Mr. Speaker, ultimately the greatest memorial to these fallen patriots, to Cameron, to Joey and to Randy, will not be my words nor anything we can build or bestow. Our greatest honor for them will be to look not toward them but to look where they looked, to seek what they sought. If we work for that same good for which they gave their lives, if we create a nation at once more just, more secure, and more free, we will be a brighter beacon in a frequently dark world; and we will have given our fallen brothers and sisters a true memorial worthy of them.

Thank you, Mr. Speaker.

I yield back the balance of my time.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment a bill of the House of the following title:

H.R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

#### ADDRESSING THE HEALTH CARE CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Tennessee (Mr. ROE) is recognized for 60 minutes.

Mr. ROE of Tennessee. Thank you, Mr. Speaker. We're here this evening to begin and continue a very important debate in American society. I think it's probably one of the most important social debates we've had in the last 40 years in this Nation since the debate on Medicare in 1965.

We're here tonight as a Physicians Caucus to discuss health care reform. My background, I spent 31 years practicing medicine in Johnson City, Tennessee, in the First Congressional District. As I've watched our health care



system change over the past 30 years, it really spurred me to run for Congress, to come here and be part of this great debate that will affect every American citizen.

I recall when I made my decision to go to medical school, I wanted to be a family practitioner. Somewhere along the way, I discovered I had a great knack and a love of delivering babies. I have delivered almost 5,000 of them, many of whom are now grown. One of the great advantages you have as an obstetrician when you run for Congress is that you can deliver your own voters. There is some advantage to that.

We have a health care problem in America. Some call it a crisis. For some, it is. For others, it's cost. Certainly we know that there are great concerns about the cost of health care.

In the next hour we're going to discuss how we're going to address this health care crisis. We can ensure that every American can get the care they need, protect individuals from costs that can bankrupt them and make health insurance portable so that you don't lose your coverage just because you change jobs or move from one State to another.

We can also take the profits out of health care by reforming the health insurance industry to bring about a patient-centered approach to providing health care. Enacting a public plan will not bring about this type of change, and I'm going to go into that in some detail from the experiences we've had in the State of Tennessee with our Tennessee Medicaid system called TennCare.

If you think you won't be affected by a public plan, consider this: A recent analysis of this plan by the respected independent firm Lewin Group estimated that 70 percent of individuals who have health care coverage through their employer would lose those benefits in favor of a public plan. Now this plan could very easily become a Medicaid-type plan.

When supporters of a public plan say they want the public plan to compete with private plans, the facts show that what they're really saying is that they want Washington bureaucrats to take over the health care decision-making.

I want to talk for a while or speak to you a little while about the principles that House Republicans have put forward to start the debate over how to bring about patient-centered health care.

I want to mention a couple things before we start. Health care affects all of us, whether we're Democrats, Republicans, Independents, or whether we're totally apolitical. At some point in time in your life, you're going to have to make decisions about how I receive and get health care for myself or my family.

We're going to start this evening by giving another opinion or another view

of the health care plan and how it is to be administered and obtained. The principles that we're going to talk about for health care reform are, number one, make quality health care coverage affordable and accessible for every American regardless of pre-existing conditions. In a country that spends 16 percent of its GDP, over \$2 trillion a year, on health care, I think there's no question that we can provide a basic health care plan for each American.

Now what I mean by basic health care, it's not a plan where you can get hair transplants or face-lifts or all this. But if you are out there injured in an automobile wreck or have a heart attack or have a gallbladder that goes bad, you can get basic health coverage and care.

I think this is something that all Americans believe in. I think we now have crossed that bridge and believe we can do that. I think the differences we're going to have in this great debate that we're going to have are, how are we going to accomplish this very noble task? In a few minutes I will go through how we tried this in Tennessee, and how it was not successful. But I think it can be.

Most Americans also fear, I think rightly so, that a basic health problem—it may be leukemia or a cancer of some type—can bankrupt the family. Certainly we don't want a situation where a family, through no fault of their own, develops a disease process, and then you use up all the family resources you've saved in a lifetime to provide care for your family.

The second principle we'll talk about is not a government-run health care plan. This eliminates coverage for more than 100 million people who receive insurance from an employer, and it restricts patient choice of doctors and treatments and results in the Federal Government takeover of health care.

Let me sort of explain how this worked in Tennessee. In the early nineties and mid-nineties, the big debate in this country came along about controlling health care costs or managed care. We were going to control costs through deciding who and what care was appropriate and so on. Well, that didn't work. Health care costs have continued to escalate in spite of managed care, and managed care basically has moved the pay to providers over to the third-party payers.

In Tennessee we had a very noble plan. We wanted to cover everyone in our State, and we're not a wealthy State, so it was a noble goal. Right now in the State of Tennessee we have TennCare, which is our Medicaid plan. We have the uninsured, we have Medicare, and then we also have the private health insurance coverage. About 60-plus percent of Americans are covered by private health insurance coverage.

In Tennessee when we applied the TennCare solution, which was a managed care solution with multiple third-party payers at that time, the plan was not fully vetted and thought out well. One of the things I've said the entire time I've been here, Let's do this health care plan right. Let's not do it fast. I think one of the mistakes we made in Tennessee was going too rapidly with this plan.

So we instituted this plan, and what we found out was that 45 percent of the people who applied for TennCare and were granted it had private health insurance coverage. Well, I went to the providers recently, hospitals and other providers, and I said, What percent of your costs does Medicaid or TennCare pay in your particular facility? And the resounding answer was, about 60 percent. So you have a significant percentage of people now who have given up their private health insurance and have gotten on the public plan, which only pays about 60 percent of the provider costs. You also have the uninsured who pay some percentage of their own costs, and Medicare pays about 90 percent of the costs.

So as you shifted more people from the private plans to the TennCare plan, you forced the private health insurers to charge more for their plan. That's what happened. What I can see happening in the public plan is exactly this. It's going to be described, we're going to have a plan that's competitive. It will be very rich in benefits. And what happened was, in Tennessee the actual TennCare plan was richer in benefits than I could afford to provide my own office staff and myself because of the costs.

When you have politicians deciding what goes into a basic plan, it will become richer and richer and richer. What will happen in the public plan—and you'll hear the buzzwords. It will be competitive. If you like your own health insurance coverage, you can keep it. You don't have to give it up. Just keep what you have.

Well, what will happen is this: Businesses will make a perfectly logical decision. What they will do is—and this is small business because in businesses in this country with over 200 employees, 99 percent of those have health insurance coverage.

So this is what will happen. You have the public option plan, the government-run bureaucratic plan that will have a lot of benefits, except it won't pay the cost of care. And when that happens, the cost of private insurance once again will be forced up, causing more and more and more businesses to do away with their private health insurance plans and put it on the public plan. And really over time—and I think a very short period of time—you will see the public plan, along with Medicaid and Medicare, become the only options available.

Now why do we think that this is not a good idea? Well, we've looked at public plans, and I have studied these extensively in foreign countries. In England, Canada, Sweden, Norway, Germany, France, Italy, other major European industrialized nations.

□ 1730

And this is what you would find. The way costs are controlled are by rationing care. In other words, when you have used up all the public dollars that you have dedicated for health care, you have to create ways. An example is in Tennessee. What we did was we simply shrank the rolls. We realized if so many people got on the public plan, the TennCare plan, that the State no longer could afford to budget for it. Our health care costs were more than education in the State. So what the Governor did, along with the legislature, is just cut the number of people off the TennCare rolls.

Well, for instance, in Canada, if you have a heart attack, your average time to go to the operating room is 117 days. They simply ration their care in Canada. And they have great physicians there. As a matter of fact, in the last decade, 11 percent of the Canadian physicians have moved to the United States. I have several very close friends who are Canadian physicians and colleagues. And they do a wonderful job. The president of the Canadian Medical Association once stated that a dog in Canada could get a hip operation within 1 week, and a patient there, it took between 2 and 3 years, simply because of lack of government funds to provide all of the benefits that the government had promised.

So in this particular plan, the one thing that I want as a physician, that I have utilized for years, is that you want to maintain the patient-physician relationship. The one thing that is absolutely mandatory, in my mind, is that the decisionmaking between patient and physician is paramount. Doctors and patients should be making health care decisions. Some government bureaucrat should not be deciding whether you get your hip replaced or your aging parents get the care they need.

I'm going to stop at this point in the principles, and there are lots to talk about tonight. And I see my colleague, Dr. FLEMING from Louisiana, is here. And I would like to yield him as much time as he feels is necessary.

Mr. FLEMING. Well, thanks to my colleague and the gentleman from Tennessee, Dr. ROE. Dr. ROE certainly has a lot to bring to the table being a physician for many years and also having quite a political background being mayor of a city and actually having balanced a budget and even having a surplus, something we don't see very often these days. And so I thank the gentleman for that.

Yes, I wanted to make a few comments, as well, regarding this health care debate that is coming to a head here very soon. Patients are very simple in what they want from health care. Certainly they want choice. They want affordability. They want control. And they want good results. And I think that that is quite reasonable. And certainly on the other side of the aisle where there is a debate about a single-payer system, really a government-run system, I think that there is not any disagreement about the fact that we want everyone to have access to health care, and we want everyone to have access to good health care.

I think where the debate begins to fall down is that in our opinion on this side of the aisle, we feel that a government-run system is not a well run system. It is an inefficient system. It is a wasteful system. We have many, many examples of why that is true. We don't have to even turn to health care. We can look at any system that has been run by government, and not just the United States Government. Cities and States all reveal considerable waste because it is the nature of the system itself. On the other hand, in the private system, there is the administrative ability to remove fraud, waste and abuse.

I will give you an example. Today with Medicare and Medicaid, we recognize that there is fraud, waste and abuse. Everyone knows it. Many politicians get up and clamor that they will be able to remove it, but none has been able to do that. The reason is because of the nature of government itself. Government cannot remove fraud, waste and abuse. In order to attempt to do so, it has to build, first of all, a large bureaucracy. It has to catch the offenders. With that, there has to be prosecution of the offenders. And when you get down to it, you only find the very most egregious small percentage of those who are actually committing fraud, waste and abuse. So you get really a small tip of the iceberg. So much more is underneath that a government can never get to.

On the other hand, if you look at a private business, private business has all sorts of ways of finding fraud, waste and abuse and removing it administratively. For instance, a physician who is practicing inefficient medicine in an organization, in a private organization, he can be reeducated, or she can be reeducated, or just simply removed entirely from employment. But government is unable to micromanage individual behavior. And every time we attempt, we simply run cost up. And I will give you another good example of that. If you look at the post office and compare it to FedEx or UPS, you will see these private companies run so efficiently and so profitably. And yet, of course, the post office does not run efficiently. There are long lines. And that

is just one way to control cost, and then, of course, ultimately we have to pay higher rates.

So I think that we really have to look at the endemic problems within a private system versus a public system when we see that really there are only two ways to control cost in a public system. And we are attempting one of them and have been doing so for the last 20 or 30 years, and that is price controls, price controls on the providers, the hospitals and the doctors. And that would be a wonderful thing perhaps, at least for consumers, if it worked. But what goes up faster than health care every year? Nothing that I'm aware of. It is the one part of the economy where we have price controls, the only one, and yet it goes up faster than anything else.

Well, what is the only other way we can control costs? That is rationing. And you say, well, we are not rationing care today. Look at Medicare and Medicaid, still a reasonably smaller percentage of the total health care system here, and it is able to provide good service to recipients, even though they are government-run programs, only because you have a much larger private system that is able to keep it supported. Now if we expand that to a large, government-run health care system, it is going to make up 17 percent of our entire economy. Where are we going to get the money to prop that system up? Where is it going to come from? And so what we are going to end up with is the same place where Canada, the U.K. and all the other countries that have gone to a single-payer, government-takeover-run system, and that is that there is going to have to be cuts. When we get up to a point where budgets have to be evaluated, we are going to have to make cuts. And when you make cuts, that equals rationing.

Mr. ROE of Tennessee. Will the gentleman yield for a moment?

Mr. FLEMING. Yes.

Mr. ROE of Tennessee. Here just a minute ago, we heard a debate on the floor about how we are going to have to redo Medicaid and Medicare. And we have a system already that has promised up to as much as a \$70 trillion promise that we have unfunded, a government system that we don't have the money to pay for now, and we are thinking about starting another one, another government system. And you mentioned rationing of care. It brings to me the thought of breast cancer.

As a physician in our practice, we average seeing one newly diagnosed breast cancer per week. And when I began my practice over 30 years ago, half the women, approximately half the women, died in 5 years after being diagnosed with breast cancer. It was a terrible, and still is, a terrible diagnosis. And one of the great miracles of medicine is we haven't cured that disease, but we have improved the life expectancy for a woman diagnosed early to a

5-year survival rate of 98 percent. It is a wonderful story to tell. When a patient comes to my office, and she says, Dr. ROE, how am I going to do? I can say, look, you're going to have some tough times. It's going to be hard. This therapy is going to be difficult and tough. But you're going to make it. And you're going to live. And you're going to get through it. And I'm going to be through it with you.

What has happened in England is that the best results they had ever was a 78 percent 5-year survival rate. And they quit doing routine screening mammograms in England. And the reason they quit doing that is because there is a false positive rate. That means the test says you have something wrong, you go and have a more sophisticated biopsy. It is called a "wire-guided biopsy." It requires a radiologist. It is a fairly sophisticated, as you all know, procedure. But what happens is that that costs more than the screening mammogram. So now they just wait until you develop a lump that you can feel. And as most physicians know, that is about 2 centimeters or three-quarters of an inch.

I don't think the American people are going to tolerate that for their families. I know I won't tolerate that for my family. I don't want a government decision based on the amount of money whether my wife or my daughter can have a mammogram. I yield back.

Mr. FLEMING. I thank the gentleman from Tennessee, Dr. ROE, for his excellent comments.

What you're pointing out is that rationing is not just about inconvenience, although there is a lot of inconvenience where someone has to wait 6 months to get a surgery, elective surgery or something like that. But it also means accepted death rates and accepted morbidity rates so that people go unable to work because they need a hip replacement or someone dies waiting for needed surgery for a disease disorder. They go delayed diagnosis for a tumor which is going to end up in much more cost down the line because it wasn't prevented or diagnosed earlier. So rationed care I think is unacceptable to the American mind. And I would just say that if we go towards a government-run system, we have to be willing to accept the fact that we will have rationed care. I don't see any way around that.

I do want to just sum up before I yield, and that is that I think that in evaluating the American psyche today when it comes to health care, we find that 83 percent of Americans like the health care the way it is. They like their insurance coverage. They like the doctor that they see. They are happy. The problem that we are talking about today is the 47 million uninsured. And who are these people? Well, statistics tell us that probably 10 million or so of

those are illegal aliens. And, of course, that is a whole other debate. We need immigration reform. There is also probably half that number who are young adults who are healthy who elect not to get any health care insurance coverage. And so we have a real challenge before us to entice or to incentivize them to join, because if they join into the plan, we can work through preventive health care and early diagnostic care to prevent them from disease down the road, and also their dollars up front will help fund the last 10 million, which is the most critical 10 million, and that is older adults who are not Medicare age who do not have affordable accessibility to health care coverage, and therein lies a problem. They are not the poor. They are not the elderly. And they are not people that work for corporations. They are small business owners and their employees, a critical 10 million population that are finding their ways into the emergency rooms late in their illness with outcomes poor, far more cost required. And of course we physicians and hospitals have a mandate to provide care to them regardless of their ability to pay, which is a noble American concept. But the problem is, that cost has to be passed on to others, taxpayers, those who are paying their insurance subscription rates. And I'm sure we, as Americans, are willing to do that to an extent. But if you take those same dollars and you allow these people to get insurance and early preventive care, have a medical home, a family doctor, those costs will collapse. They don't have to be the high-price, low-yield kind of care that they get through the emergency room.

And lastly, I think it is important that we look at reforming health care laws where we can allow physicians and hospitals and other providers to come together to begin to work together and to compete to lower the overall cost of health care rather than having it being dictated from Washington, which as I pointed out, is really a very poor way to try to cut costs.

And then finally, that we do away, remove from the lexicon, the idea and even the verbiage that says "pre-existing illness." There should never be that term used ever again.

□ 1745

In conclusion, I just want to emphasize the need to remove the term "pre-existing illness" from the lexicon and that we make it easy and affordable for all Americans to access the health care system; but as I say, I think we all tonight would agree that that is done much better through a private plan rather than through a government plan. I know that we hear some rhetoric about, well, let's have both a private plan and a public plan—and I'm sure that my colleagues tonight will expand on this—but if you have one

plan that's controlled and subsidized by the government, whose responsibility it is to be sure that there's an even playing field in the competitive arena, we know that the public plan will always receive advantages and benefits, and the private plan will then atrophy. I think it's far better to work through the private arena and to let the government do what it does best, and that is to protect its citizens and to ensure an even playing field.

With that, I yield back to my friend from Tennessee.

Mr. ROE of Tennessee. Thank you, Dr. FLEMING, and thank you for those great comments.

For the public, we have had, for the last several weeks and months, a physician's caucus that has met now sometimes one and two times a week to discuss this ongoing health care debate. With us tonight here is one of the leaders in that caucus, Dr. PHIL GINGREY, who happens to just have the same specialty as I do, and he has been very heavily involved in the health care debate over the past several years, so I will yield now to Dr. PHIL GINGREY from Georgia.

Mr. GINGREY of Georgia. Mr. Speaker, I thank the gentleman for yielding. It's a pleasure to be on the floor with my colleagues, with my physician colleagues, who are part of the GOP Doctors Caucus. I think, among us, we have something like 335 years of clinical experience, so we do feel that we bring to the body, to this great House of Representatives, some useful information, some practical information, not highbrow, academic, research-based information. I think we're just talking about, for the most part, the meat and potatoes practice of medicine, different specialties.

We just heard from our colleague from Louisiana, Dr. FLEMING—a family practitioner for many years. Dr. ROE from Tennessee is a long-term practitioner of obstetrics and gynecology, as am I, and we have a number of orthopedists in our GOP Doctors Caucus. So we bring a broad spectrum of experience.

You know, as we look at this issue of health care reform, the main thing is the urgency that the Democrat majority has placed upon it to the extent that the Speaker, the majority leader, and the President want a health care reform bill by the time that we leave here for the traditional August recess. Here we are in mid-May, so we're talking about, maybe, 2½ months away. It's going to be awfully tough to do that. Although, Mr. Speaker and my colleagues, we have been doing a lot of work on both sides of the aisle. Unfortunately, it has not been done in a bipartisan way. Those of us in the minority, the Republican Party, have really not been privy to too many details about what is in the Democratic majority's plan for health care reform; but

we can read; we can watch television; we can listen, and we can pay attention. Indeed, there have been some trips over to the White House to commiserate with the new Commander in Chief, our President, about ideas.

The former majority leader of the Senate and the almost Secretary of Health and Human Services—and I'm talking about Senator Tom Daschle—wrote that book called "Critical" where he kind of outlines what he thinks the blueprint for health care reform should be. So we're getting little inklings.

I'll tell you, Mr. Speaker, the main thing that we're opposed to, and I think that I speak for all of my colleagues, I know, in the Republican GOP Doctors Caucus but probably for most of my colleagues on this side of the aisle no matter what their profession. We do not want to overreact to a problem, to a problem of too many people not being able to afford health insurance, to an overall problem of the cost of health care and to those insurance policies, 150 million of them probably provided by employers. Many of these employers are small, mom-and-pop companies, and they just can't afford it. They can't afford to continue to pay those premiums that are increasing by double-digit rates from year to year.

So that's the problem, and we all understand that people don't have access because they can't afford it. In some instances, they don't have access because they have preexisting conditions, but we don't have to overreact. I don't know why it is that, in Congress, everything has to be a knee-jerk response where you just absolutely have to throw the whole kitchen sink at every problem. It may be because the media, in some instances, ginned it up almost to the point of hysteria. Then there are a lot of public opinion polls taken and a lot of push, and the next thing you know, you've spent \$2 billion in preparing the country for swine flu and in producing a vaccine that probably will never be used, and if it is used, it will have the potential of doing a lot more harm than good.

I don't want to say that we overreacted to Katrina. I don't think we did, but—gosh—we did buy a whole lot of trailers, sitting somewhere down there in Louisiana, that are soaked with formaldehyde because the construction was rushed.

You know, in a lot of instances up here, we create, I think, more problems than we solve. There was an old adage, Mr. Speaker, in OB/GYN—and I think Dr. ROE has probably heard this one, too, because he's also an OB/GYN practitioner. Most people want to say, "Don't just sit there. Do something." How many times have we heard that expression up here? I mean, people will call and say, "For goodness sakes, why don't you all do something? Don't just sit there. Do something even if it's wrong."

For Dr. ROE and I, our motto was "Don't just do something. Sit there." I'm talking about late at night when you're waiting for a lady to have a baby, and if you just leave her alone, she'll have that baby, and all you'll have to do is catch it, and if you start meddling and trying to push things and rush things and overreact, you cause some problems, don't you, Dr. ROE?

I yield to the gentleman.

Mr. ROE of Tennessee. We used to say, "Smoke a long cigar."

Mr. GINGREY of Georgia. "Smoke a long cigar." That's right. A "covered wagon" I think they called those things back when I was a kid.

Mr. Speaker, that's what I want to bring to this discussion tonight. We need to be very careful not to overreact. We don't need a government-run program to solve this problem. We do have too many who are uninsured. There are various and sundry reasons why they don't have health insurance. Yes, some of them are not poor enough to be eligible for Medicaid, so they missed that safety net. They're not old enough to be eligible for Medicare, so they missed that safety net. They just have enough money, but they can't afford expensive health insurance. We can do things to help them without turning this great health care system that we have—lock, stock and barrel—over to the Federal Government.

Right now, part of the reason for lack of access and affordability is that the private market and the physicians who practice in that venue have a tendency to do too much. Maybe they order too many tests. Maybe they order duplicate tests because they don't know that the doctor down the street or in the next county had done the very same test a month ago. There are no electronic medical records for at least 300,000 doctors in this country, so we're a long way from having fully integrated electronic medical records where, every time that patient comes into your office or into the emergency room, you know exactly what they've had, what you should order and what you shouldn't order.

So that's all part of the problem, but we can deal with this without having a government default program, because what happens is, in that instance, you're going to say, well, I'm going to solve this problem because the doctors and the hospitals are doing too much and are running up the cost, and so you turn it over to the Federal Government. What do they do? They do too little. They do too little. They begin to ration just like they do in other countries, like in the U.K. and like our great friends to the north and like other countries that have experienced that for many years. The only way they can pay for those systems is by rationing and by long queues. What happens? If they can afford to, a lot of those people come to this country for

care. A lot of their doctors move to this country where they can practice medicine and can make a decent living.

So I just wanted to touch on that. I will yield back to Dr. ROE, who is controlling the time.

My friend from Georgia, Dr. PAUL BROWN, is on the floor. I know he'll want to talk and will want to bring some intelligence to this issue, but let's just say this as my closing remarks:

I don't want to just do something even if it's wrong. I'm willing to sit there, to think and to hear from a lot of different folks who are experts on how we can best solve this problem, on how we can deal with this, whether they're the hospital associations, whether they're the insurance companies, whether they're the pharmaceutical companies or whether they're the doctors who've practiced for many, many years. I think we can come up with the answer, and I think we can do it a whole lot better.

The final expression that I'll throw out there, Mr. Speaker, to you and my colleagues is the one that everybody has heard: "Don't throw the baby out with the bathwater." We are on the verge of doing that. That would be a horrible thing for this country to take a great health care delivery system that needs some tweaking and that we can do in a bipartisan way without turning it over—lock, stock and barrel—to the Federal Government. They do a lousy job at running a lot of programs, and I certainly don't want them deciding what needs to be ordered and to come between the doctor and the patient in the exam room.

With that, I'm going to yield back to Dr. ROE of Tennessee.

Mr. ROE of Tennessee. Thank you, Dr. GINGREY. Thank you for those comments.

I think one of the things that has concerned me the more I have watched this system and have watched this debate go on is, since I've been here, I've had one of the health care think tanks in my office about every week or so to discuss this issue, and it is incredibly complicated. That's why we cannot do it rapidly, because it is so complicated.

I'll now recognize my colleague from Georgia, Dr. PAUL BROWN.

Dr. BROWN.

Mr. BROWN of Georgia. I thank you, Dr. ROE, for yielding me some time.

I want to make sure that the American people know what we're talking about. We on the Republican side are offering alternatives for the health care financing problems we have in America, and they are huge. People cannot afford to buy insurance. There are a number of people who are struggling just to have halfway decent health care insurance coverage, and that is a huge problem that we need to fix, and we need to do it as quickly as we can.

I agree with Dr. GINGREY, my colleague from Georgia, that we can fix that system. We need to, and we need to do it as quickly as we possibly can. Yet what's being proposed from the other side of the aisle, from the Democrat side, is to set up a Washington-based health care system where health care decisions are going to be made by some bureaucrat here in Washington, D.C. That bureaucrat will tell your doctor how he can deliver your care—what care he can give you and when he can give it to you.

What that's going to do is take away your choice. You may not have a choice of your doctor. You may not have a choice of what hospital you go to. You may not have a choice of whether you can even get some kind of procedure or a test or not. What it's going to do is it's going to delay your being able to get those tests and those procedures even if the Federal bureaucrat says that you may have them.

We can't go down that road. It's going to destroy the quality of health care. It's going to destroy the health provisions that you're getting today as an American. I don't want that, and I'm sure you don't want that. I'm sure Dr. ROE doesn't want that. I'm sure no physician, at least on our side of the aisle, wants that kind of a health care system to deliver your health to you by some Washington bureaucrat. We've got to stop that, and it's up to the American people to do so.

We're offering alternatives, many alternatives. I know one of our colleagues I talked to today is introducing a bill tomorrow that is going to be a health care reform bill. Our health care working group is developing a plan. I'm developing one in my office also that's independent of everything else, but we need to develop a solution that is patient-centered, not Washington-centered. We need to develop a plan that gives the American people the choice—the choice of their doctor, the choice of their hospital, the choice of whether they get a procedure or not. It should not be made by some Washington bureaucracy or bureaucrat or Federal bureaucrat anywhere, whether it is in Atlanta—in my own State—or in Knoxville or anywhere else.

□ 1800

We've got to develop a health care system that is patient-centered to give patients the choices that they deserve and they desperately need. We, as Republicans, are going to give you that opportunity. The opportunity is not going to be available from the other side of the aisle. They're developing a socialized medicine program, a Washington-based health care system to give your health to you by some Washington bureaucrat, not by a doctor.

And the American people need to know that very clearly, Dr. ROE, because they have a choice. Is it a choice

between a Washington-based health care system, or is it a choice of a patient-centered health care system where those decisions are made in the doctor-patient relationship? And that is what we're offering.

And I'm just encouraging the American citizens all over this country to write their Congressmen, write their Senators and demand a patient-centered health care system. Demand that our alternatives are heard.

NANCY PELOSI has blocked—she has been an obstructionist for every single alternative that we've offered whether it's for energy, whether it's for environmental issues, whether it's spending, whether it's straightening out this economic situation, as well as the health care solution. She has been an obstructionist. She's blocked every attempt we've made to deliver to the American people alternatives that make sense from an economic perspective as well as a market-based perspective.

So we need to give our plans the light of day. And the American people are going to have to demand that, Dr. ROE. It's the only way it's going to happen. And I encourage people to contact their Members of Congress and demand that we slow this steamroll of socialism, as I'm calling it, this rolling over—the financial services industry is rolling over the car manufacturing; it's rolling over now the health delivery system. And we, as Americans, need to demand that all alternatives are heard, that we have the time to put something in place that makes sense to give patients the choice that they need.

So I congratulate you for doing this. It's absolutely critical for the future of health care. If we continue down this road that the Democrats have taken, it's going to destroy the quality of health that we deliver as physicians to our patients, that you did as a practitioner for so many years and I have, also, for so many years. So I thank you so much.

Mr. ROE of Tennessee. Dr. BROWN, thank you for your comments.

And just to summarize and sum up. I think our time is just about gone.

This is just the beginning of this debate. It is a very important debate for the American people. We just got through a few of the principles tonight. We will continue those at another time.

But I thank Dr. BROWN for being here, and I thank the Speaker.

I yield back the balance of my time.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate concurs in the House amendment to the bill (S. 896) "An Act to prevent mortgage foreclosures and enhance mortgage credit availability."

#### RECESS

The SPEAKER pro tempore (Mr. HEINRICH). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1828

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HEINRICH) at 6 o'clock and 28 minutes p.m.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 627, CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

Ms. PINGREE of Maine, from the Committee on Rules, submitted a privileged report (Rept. No. 111-120) on the resolution (H. Res. 456) providing for consideration of the Senate amendment to the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2352, JOB CREATION THROUGH ENTREPRENEURSHIP ACT OF 2009

Ms. PINGREE of Maine, from the Committee on Rules, submitted a privileged report (Rept. No. 111-121) on the resolution (H. Res. 457) providing for consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CONNOLLY of Virginia) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Ms. FOXX) to revise and extend their remarks and include extraneous material:)

Mr. FORTENBERRY, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. MANZULLO, for 5 minutes, today.

#### SENATE ENROLLED BILL SIGNED

The SPEAKER announced her signature to an enrolled bill of the Senate of the following title:

S. 386. An act to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

#### ADJOURNMENT

Ms. PINGREE of Maine. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 20, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1884. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Fair Credit Reporting Affiliate Marketing Regulations; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003 [Docket ID: OCC-2009-0001] (RIN: 1557-AD14) received May 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1885. A letter from the Secretary, Department of Transportation, transmitting the Department's fiscal year 2008 Annual Report as required by the Superfund Amendments and Reauthorization Act of 1986 (SARA); to the Committee on Energy and Commerce.

1886. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

1887. A letter from the Acting Assoc. Gen. Counsel for General Law, Department of Homeland Security, Federal Emergency Management Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1888. A letter from the Deputy General Counsel, Office of National Drug Control Policy, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1889. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Prevailing Rate Systems; Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas (RIN: 3206-AL77) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

1890. A letter from the Deputy Director, Office of Regulations, Social Security Adminis-

tration, transmitting the Administration's final rule — Testimony by Employees and the Production of Records and Information in Legal Proceedings, Claims Against the Government Under the Federal Tort Claims Act, and Claims Under the Military Personnel and Civilian Employees' Claim Act of 1964; Change of Address for Requests [Docket No.: SSA-2009-0015] (RIN: 0960-AG99) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

1891. A letter from the Acting Assoc. Gen. Counsel for General Law, U.S. Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1892. A letter from the Acting Assoc. Gen. Counsel for General Law, U.S. Department of Homeland Security, Federal Emergency Management Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1893. A letter from the Acting Assoc. Gen. Counsel for General Law, U.S. Department of Homeland Security, Office of the General Counsel, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1894. A letter from the Acting Assoc. Gen. Counsel for General Law, U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1895. A letter from the Acting Special Counsel, U.S. Office of Special Counsel, transmitting the Office's fiscal year 2008 annual report required by Section 203, Title II of the No FEAR Act, Pub. L. 107-174; to the Committee on Oversight and Government Reform.

1896. A letter from the Deputy Assistant Administrator For Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Secretarial Final Interim Action [Docket No.: 090224229-9245-01] (RIN: 0648-AX72) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

1897. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Red Bull Air Races; San Diego Bay, San Diego, CA [Docket No.: USCG-2009-0119] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1898. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Thomas Harbor, Charlotte Amalie, U.S.V.I. [Docket No.: USCG-2009-0179] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1899. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River, Pittsburgh, PA [Docket No.: USCG-2009-0149] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1900. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety

Zone; Allegheny River, Pittsburgh, PA [Docket No.: USCG-2009-0175] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1901. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa [Docket No.: USCG-2009-0159] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1902. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Crewmember Identification Documents [Docket No.: USCG-2007-28648] (RIN: 1625-AB19) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1903. A letter from the Attorney, Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mill Creek, Fort Monroe, VA, USNORTHCOM Civic Leader Tour and Aviation Demonstration [Docket No.: USCG-2009-0263] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1904. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Blue Water Resort and Casino APBA National Tour Rounds 1 & 2; Colorado River, Parker AZ [Docket No.: USCG-2008-1220] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1905. A letter from the Attorney — Advisor, Department of Homeland Security, transmitting the Department's final rule — Alternate Compliance Program: Vessel Inspection Alternatives [Docket No.: USCG-2004-19823] (RIN: 1625-AA92) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1906. A letter from the Federal Register Liaison Officer, Department of Veterans Affairs, transmitting the Department's final rule — Reimbursement for Internment Costs (RIN: 2900-AM98) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1907. A letter from the Chief, Border Security Regulations Branch, Department of Homeland Security, transmitting the Department's final rule — EXTENSION OF PORT LIMITS OF ST. LOUIS, MISSOURI [[USCBP-2005-0035] [CBP Dec. 09-16]] received May 14, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1908. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report on applications made by the Government during calendar year 2008 for authority to conduct electronic surveillance and physical search for foreign intelligence, pursuant to Sections 1807 and 1862 of the Foreign Intelligence Surveillance Act of 1978, as amended and Public Law 109-177, section 118; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

1909. A letter from the Inspector General, Railroad Retirement Board, transmitting the fiscal year 2010 Congressional Budget Justification for the Office of the Inspector General of the Railroad Retirement Board; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.



## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FILNER: Committee on Veterans' Affairs. H.R. 466. A bill to amend title 38, United States Code, to prohibit discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by service in the uniformed services; with amendments (Rept. 111-118). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 915. A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; with an amendment (Rept. 111-119 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Ms. PINGREE of Maine: Committee on Rules. House Resolution 456. Resolution providing for the consideration of the Senate amendment to the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes (Rept. 111-120). Referred to the House Calendar.

Mr. POLIS: Committee on Rules. House Resolution 457. Resolution providing for consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes (Rept. 111-121). Referred to the House Calendar.

Ms. ZOE LOFGREN of California: Committee on Standards of Official Conduct. Report of the Committee on Standards of Official Conduct (Rept. 111-122). Referred to the House Calendar.

Mr. THOMPSON of Mississippi: Committee on Homeland Security. H.R. 2200. A bill to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes; with an amendment (Rept. 111-123). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII, the Committee on Science and Technology discharged from further consideration. H.R. 915 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. COFFMAN of Colorado (for himself, Mr. ALEXANDER, Mr. BILBRAY, Mr. BURTON of Indiana, Mr. POE of Texas, and Mr. LAMBORN):

H.R. 2472. A bill to prevent the fraudulent use of Social Security account numbers by allowing the sharing of Social Security data among agencies of the United States for identity theft prevention and immigration enforcement purposes, and for other purposes; to the Committee on the Judiciary.

By Ms. TSONGAS:

H.R. 2473. A bill to improve Department of Defense policies relating to body armor; to the Committee on Armed Services.

By Mr. MCKEON (for himself, Mr. DREIER, Mr. HUNTER, Mr. MCCLINTOCK, Mr. LEWIS of California, Mr. GALLEGLY, Mr. HERGER, Mr. ROHRABACHER, Mr. CALVERT, Mr. ROYCE, Mr. RADANOVICH, Mr. DANIEL E. LUNGREN of California, Mrs. BONO MACK, Mr. GARY G. MILLER of California, Mr. BILBRAY, Mr. ISSA, Mr. NUNES, Mr. CAMPBELL, Mr. MCCARTHY of California, and Mr. THOMPSON of California):

H.R. 2474. A bill to amend title 38, United States Code, to provide that in the case of an individual entitled to educational assistance under the Post-9/11 Educational Assistance program who is enrolled at an institution of higher education in a State in which the public institutions charge only fees in lieu of tuition, the Secretary of Veterans Affairs shall allow the individual to use all or any portion of the amounts payable for the established charges for the program of education to pay any amount of the individual's tuition or fees for that program of education; to the Committee on Veterans' Affairs.

By Ms. ROS-LEHTINEN:

H.R. 2475. A bill to authorize appropriations for the Department of State for fiscal years 2010 and 2011, to modernize the Foreign Service, and for other purposes; to the Committee on Foreign Affairs.

By Ms. DEGETTE (for herself and Mrs. MORRIS RODGERS):

H.R. 2476. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DENT (for himself, Mr. DANIEL E. LUNGREN of California, and Mr. SOUDER):

H.R. 2477. A bill to provide for an extension of the authority of the Secretary of Homeland Security to regulate the security of chemical facilities; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself, Mr. ROYCE, and Mr. MILLER of North Carolina):

H.R. 2478. A bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes; to the Committee on Foreign Affairs.

By Ms. BERKLEY:

H.R. 2479. A bill to amend title XVIII of the Social Security Act to modify the designation of accreditation organizations for prosthetic devices and orthotics and prosthetics, to apply accreditation and licensure requirements to such devices and items for purposes of payment under the Medicare Program, and to modify the payment rules for such devices and items under such program to ac-

count for practitioner qualifications and complexity of care; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mrs. BONO MACK, Mr. MOORE of Kansas, Mr. BROWN of South Carolina, Ms. WOOLSEY, Mr. COHEN, Mr. GEORGE MILLER of California, Mr. BLUMENAUER, Mr. FARR, Mr. MCCOTTER, Mr. HINCHEY, Mr. KUCINICH, Mr. SHERMAN, Mr. KING of New York, and Mr. PLATTS):

H.R. 2480. A bill to improve the accuracy of fur product labeling, and for other purposes; to the Committee on Energy and Commerce.

By Ms. ROS-LEHTINEN (for herself, Mr. MCHUGH, Mr. HOEKSTRA, Mr. LEWIS of California, Mr. KING of New York, Mr. BOEHNER, Mr. CANTOR, and Mr. PENCE):

H.R. 2481. A bill to require the President to develop a comprehensive interagency strategy and implementation plan for long-term security and stability in Pakistan, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committees on Intelligence (Permanent Select), and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. MCHUGH, Mr. HOEKSTRA, Mr. LEWIS of California, Mr. KING of New York, Mr. BOEHNER, Mr. CANTOR, and Mr. PENCE):

H.R. 2482. A bill to require the President to develop a comprehensive interagency strategy and implementation plan for long-term security and stability in Afghanistan, and for other purpose; to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN (for himself, Mr. GARY G. MILLER of California, Mr. FRANK of Massachusetts, Mr. GRAYSON, Mrs. HALVORSON, Ms. HARMAN, Ms. SPEIER, Mrs. CAPPS, Mr. CULBERSON, Mr. ROHRABACHER, Mr. CUMMINGS, Mr. SCHIFF, Mr. MCNERNEY, Mr. ABERCROMBIE, Mr. GEORGE MILLER of California, Mr. CARDOZA, Mrs. TAUSCHER, Mr. FILNER, Mr. BILBRAY, Mr. HONDA, Mr. BERMAN, Mrs. BONO MACK, Mrs. MALONEY, Mr. CAMPBELL, Mr. ACKERMAN, Mr. GALLEGLY, Mr. DREIER, Mr. FARR, Mr. BISHOP of New York, Ms. WATERS, Ms. ESHOO, and Mr. HALL of New York):

H.R. 2483. A bill to permanently increase the conforming loan limits for the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association and the FHA maximum mortgage amount limitations; to the Committee on Financial Services.

By Mr. CAO (for himself, Mr. MELANCON, Mr. SCALISE, Mr. CASSIDY, Mr. FLEMING, Mr. BOUSTANY, and Mr. ALEXANDER):

H.R. 2484. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the



Committee on Transportation and Infrastructure.

By Mr. ELLISON (for himself, Mr. BISHOP of Georgia, Mr. CARSON of Indiana, Mr. PETERSON, Mr. WALZ, Mr. WELCH, Mr. TONKO, and Ms. CLARKE):

H.R. 2485. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to include nongovernmental and volunteer firefighters, ground and air ambulance crew members, and first responders for certain benefits; to the Committee on the Judiciary.

By Mr. GOHMERT:

H.R. 2486. A bill to amend title 10, United States Code, to provide for support of funeral ceremonies for veterans provided by details that consist solely of members of veterans organizations and other organizations, and for other purposes; to the Committee on Armed Services.

By Mr. GOHMERT:

H.R. 2487. A bill to direct the Secretary of Defense to conduct a study on the feasibility of using military identification numbers instead of social security numbers to identify members of the Armed Forces; to the Committee on Armed Services.

By Mr. HEINRICH:

H.R. 2488. A bill to require the Secretary of Defense to modify the Certificate of Release or Discharge from Active Duty (DD Form 214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to include an email address on the form; to the Committee on Armed Services.

By Ms. HERSETH SANDLIN (for herself and Mr. LATOURETTE):

H.R. 2489. A bill to authorize a comprehensive national cooperative geospatial imagery mapping program through the United States Geological Survey, to promote use of the program for education, workforce training and development, and applied research, and to support Federal, State, tribal, and local government programs; to the Committee on Natural Resources.

By Mr. KENNEDY (for himself, Mr. KAGEN, and Mr. PATRICK J. MURPHY of Pennsylvania):

H.R. 2490. A bill to amend the Internal Revenue Code of 1986 to allow certain small businesses to defer payment of tax; to the Committee on Ways and Means.

By Mr. KING of New York:

H.R. 2491. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income any enlistment, accession, reenlistment, retention, or incentive bonus paid to a member of the Armed Forces; to the Committee on Ways and Means.

By Mr. LEVIN (for himself, Mr. TIBERI, Mr. GEORGE MILLER of California, Mr. NEAL of Massachusetts, Mr. HINOJOSA, and Mr. DAVIS of Illinois):

H.R. 2492. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income discharges of student loans the repayment of which is income contingent or income based; to the Committee on Ways and Means.

By Mr. MASSA (for himself, Mr. TONKO, Mr. MCMAHON, Mr. WEXLER, Mr. BISHOP of New York, Mrs. MALONEY, and Mr. MAFFEI):

H.R. 2493. A bill to prevent wealthy and middle-income foreign states that do business, issue securities, or borrow money in the United States, and then fail to satisfy United States court judgments totaling \$100,000,000 or more based on such activities, from inflicting further economic injuries in the United States, from undermining the in-

tegrity of United States courts, and from discouraging responsible lending to poor and developing nations by undermining the secondary and primary markets for sovereign debt; to the Committee on Financial Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCHUGH:

H.R. 2494. A bill to designate 4 counties in the State of New York as high-intensity drug trafficking areas, and to authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

By Mr. MOORE of Kansas (for himself, Mr. DUNCAN, Mr. BOYD, and Mr. HILL):

H.R. 2495. A bill to amend title 40, United States Code, to enhance authorities with regard to real property that has yet to be reported excess, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. PATRICK J. MURPHY of Pennsylvania (for himself and Mr. TIM MURPHY of Pennsylvania):

H.R. 2496. A bill to amend title XXI of the Social Security Act to improve access to the Children's Health Insurance Program (CHIP) by providing exemptions to CHIP eligibility waiting period requirements; to the Committee on Energy and Commerce.

By Mr. NADLER of New York:

H.R. 2497. A bill to amend title 49, United States Code, to expand and improve transit training programs; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR:

H.R. 2498. A bill to designate the Federal building located at 844 North Rush Street in Chicago, Illinois, as the "William O. Lipinski Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. PIERLUISI (for himself, Mr. ABERCROMBIE, Mr. ARCURI, Mr. BAIRD, Ms. BERKLEY, Mr. BERMAN, Ms. BORDALLO, Mr. BOUSTANY, Ms. CORRINE BROWN of Florida, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Mr. BUTTERFIELD, Mr. CARDOZA, Mr. CASTLE, Ms. CLARKE, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. COSTA, Mr. CUELLAR, Mr. DELAHUNT, Mr. DENT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DOYLE, Mr. ENGEL, Mr. FALCOMA, Mr. FARR, Mr. FATTAH, Mr. FLAKE, Ms. FUDGE, Mr. GERLACH, Mr. GRAYSON, Mr. GENE GREEN of Texas, Mr. HARE, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHAY, Mr. HOYER, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KLEIN of Florida, Mr. KRATOVIL, Ms. LEE of California, Mr. LEWIS of Georgia, Mr. DANIEL E. LUNGREN of California, Mr. MACK, Mr. MAFFEI, Ms. MARKEY of Colorado, Mr. MASSA, Mr. MCGOVERN, Mr. MCCAUL, Mr. MICA, Mr. MOLLOHAN, Mr. MORAN of Virginia, Ms. NORTON, Mr. OLVER, Mr. ORTIZ, Mr. PENCE, Mr. POE of Texas, Mr. POLIS of Colorado, Mr. PUTNAM, Mr. RAHALL, Mr. REYES, Mr. RODRIGUEZ, Ms. ROS-LEHTINEN, Mr. SABLON, Mr. SALAZAR, Ms. LORETTA SANCHEZ of California, Mr. SHULER, Mr. SMITH of Washington, Mr. STARK, Mr. TAYLOR, Mr. THOMPSON of Mis-

issippi, Mr. TONKO, Mr. WALZ, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WATT, Mr. WAXMAN, Mr. WEST-MORELAND, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. WU, Mr. YARMUTH, and Mr. YOUNG of Alaska):

H.R. 2499. A bill to provide for a federally sanctioned self-determination process for the people of Puerto Rico; to the Committee on Natural Resources.

By Mr. PITTS (for himself, Mr. MICHAUD, and Mr. WITTMAN):

H.R. 2500. A bill to amend the Internal Revenue Code of 1986 to allow nontaxable employer matching contributions to section 529 college savings plans; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Mr. PAULSEN):

H.R. 2501. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under Medicare; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHRADER (for himself, Mr. MCMAHON, Mr. CONNOLLY of Virginia, Mr. KIND, Mrs. HALVORSON, Mr. CROWLEY, Ms. SCHWARTZ, Mr. HIMES, Mr. ALTMIRE, Ms. BEAN, Mrs. TAUSCHER, and Mrs. DAVIS of California):

H.R. 2502. A bill to amend title XI of the Social Security Act to provide for the conduct of comparative effectiveness research and to amend the Internal Revenue Code of 1986 to establish a Comparative Effectiveness Research Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOUDER (for himself, Mr. MCCAUL, Mr. ROGERS of Alabama, Mrs. MILLER of Michigan, Mr. BILIRAKIS, Mr. DENT, Mr. AUSTRIA, Mr. KING of New York, and Mr. DANIEL E. LUNGREN of California):

H.R. 2503. A bill to amend title 49, United States Code, to require inclusion on the no fly list certain detainees housed at the Naval Air Station, Guantanamo Bay, Cuba; to the Committee on Homeland Security.

By Mr. TEAGUE:

H.R. 2504. A bill to amend title 38, United States Code, to provide for an increase in the annual amount authorized to be appropriated to the Secretary of Veterans Affairs to carry out comprehensive service programs for homeless veterans; to the Committee on Veterans' Affairs.

By Mr. TEAGUE:

H.R. 2505. A bill to direct the Secretary of Veterans Affairs to carry out a pilot program to utilize tele-health platforms to assist in the treatment of veterans living in rural areas who suffer from post traumatic stress disorder or traumatic brain injury; to the Committee on Veterans' Affairs.

By Mr. TEAGUE:

H.R. 2506. A bill to direct the Secretary of Defense to ensure the members of the Armed Forces receive mandatory hearing screenings before and after deployments and to direct the Secretary of Veterans Affairs to mandate that tinnitus be listed as a mandatory condition for treatment by the Department of Veterans Affairs Auditory Centers of Excellence and that research on the preventing,

treating, and curing of tinnitus be conducted; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself and Mr. ABERCROMBIE):

H.R. 2507. A bill to direct the Secretary of Commerce to establish a demonstration program to adapt the lessons of providing foreign aid to underdeveloped economies to the provision of Federal economic development assistance to certain similarly situated individuals, and for other purposes; to the Committee on Natural Resources.

By Mr. FORTENBERRY (for himself and Mr. KAGEN):

H. Res. 458. A resolution expressing the sense of the House of Representatives that the Federal Government should encourage organic farming, gardening, local food production, and farmers' markets; to the Committee on Agriculture.

By Mr. ROSKAM (for himself and Mr. DAVIS of Illinois):

H. Res. 459. A resolution expressing support for designation of "National Safety Month"; to the Committee on Education and Labor.

## MEMORIALS

Under clause 4 of Rule XXII, memorials were presented and referred as follows:

51. The SPEAKER presented a memorial of the House of Representatives of Oregon, relative to House Joint Memorial 4: Urging the President of the United States and the Congress to take action to pass legislation and appropriate funds for an orderly 90- to 120-day transition for National Guard members and National Guard Reservists to civilian life following active service; to the Committee on Armed Services.

52. Also, a memorial of the House of Representatives of Maine, relative to H.P. 938, JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS FOR INCREASED OVERSIGHT AND ACCOUNTABILITY FOR RECIPIENTS OF FEDERAL BAILOUT FUNDS; to the Committee on Financial Services.

53. Also, a memorial of the General Court of Massachusetts, relative to a resolution MEMORIALIZING CONGRESS TO COMMIT TO THE GOAL OF RE-EMPOWERING AMERICA WITH 100 PER CENT CLEAN ELECTRICITY IN THE NEXT 10 YEARS; to the Committee on Energy and Commerce.

54. Also, a memorial of the 61st Legislative Assembly of North Dakota, relative to HOUSE CONCURRENT RESOLUTION NO. 3042 expressing support for the public awareness of multiple sclerosis and urging the Congress of the United States to join in the movement in creating a world free of multiple sclerosis; to the Committee on Energy and Commerce.

55. Also, a memorial of the House of Representatives of Maine, relative to H.P. 925, JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT THE REFORM OF THE SOCIAL SECURITY OFFSETS; to the Committee on Ways and Means.

56. Also, a memorial of the House of Representatives of Oregon, relative to House Joint Memorial 2 Urging the President of the

United States and the Congress to take action that: (a) Increases funding levels for the Local Veterans' Employment Representatives Program and the Disabled Veterans' Outreach Program; (b) Establishes a nationwide public works program in collaboration with state employment and military authorities that will provide jobs for veterans; and (c) Provides tax credits for employers that hire veterans and businesses that retrain veterans; jointly to the Committees on Veterans' Affairs and Ways and Means.

57. Also, a memorial of the House of Representatives of Maine, relative to H.P. 1004, JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND CONGRESS OF THE UNITED STATES TO SIGN LEGISLATION THAT ESTABLISHES A NATIONAL, UNIVERSAL, SINGLE-PAYOR NONPROFIT HEALTH CARE PLAN; jointly to the Committees on Energy and Commerce, Ways and Means, and Natural Resources.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FILNER introduced a bill (H.R. 2508) to extend patent numbered 5,180,715 for a period of 2 years; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. COBLE, Mr. PIERLUISI, Mr. LATOURETTE, and Mr. TANNER.

H.R. 49: Mr. BILIRAKIS.

H.R. 147: Mr. YOUNG of Alaska and Mr. TOWNS.

H.R. 211: Mr. GRAYSON and Mr. HOLT.

H.R. 235: Mr. BURGESS, Mr. CARSON of Indiana, and Mr. RUSH.

H.R. 240: Mr. NEUGEBAUER.

H.R. 393: Mr. CULBERSON.

H.R. 433: Mr. PUTNAM.

H.R. 444: Mr. MCINTYRE, Mr. TEAGUE, and Mr. HALL of New York.

H.R. 482: Mr. PUTNAM.

H.R. 503: Ms. FUDGE and Mr. PASCRELL.

H.R. 510: Mr. KRATOVIL and Mr. MARCHANT.

H.R. 564: Ms. MATSUI.

H.R. 574: Mr. SCHIFF.

H.R. 593: Mr. DELAHUNT.

H.R. 606: Mr. OLVER.

H.R. 621: Mr. SCHAUER, Ms. Titus, Ms. GIFFORDS, and Mrs. LUMMIS.

H.R. 702: Mr. COURTNEY.

H.R. 745: Mr. HARPER, Mr. RAHALL, and Mr. CASSIDY.

H.R. 808: Mr. TONKO.

H.R. 816: Mr. DELAHUNT, Mr. CHAFFETZ, Mr. CALVERT, and Mr. FRANKS of Arizona.

H.R. 916: Mr. PRICE of Georgia.

H.R. 930: Ms. DELAURO, Mr. PUTNAM and Mr. SCHIFF.

H.R. 950: Mr. MCGOVERN.

H.R. 952: Mr. HEINRICH, Mr. LANGEVIN, Ms. VELÁZQUEZ, Ms. EDWARDS of Maryland, Mr. HASTINGS of Florida, Ms. SLAUGHTER, Mr. ARCURI, Mr. CARNEY, Mr. SHULER, and Mr. RUPPERSBERGER.

H.R. 997: Mr. BARRETT of South Carolina.

H.R. 1021: Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 1032: Mr. LANCE, Mrs. KIRKPATRICK of Arizona, and Mr. BARTLETT.

H.R. 1053: Mr. GOODLATTE.

H.R. 1135: Mr. THOMPSON of Pennsylvania.

H.R. 1158: Mr. WILSON of South Carolina, Mr. RADANOVICH, and Mr. GOODLATTE.

H.R. 1179: Mr. FARR, Mr. BOYD, Mr. BISHOP of New York, and Mr. GONZALEZ.

H.R. 1255: Mr. SMITH of New Jersey and Mr. OLSON.

H.R. 1330: Mr. CARSON of Indiana and Mr. GENE GREEN of Texas.

H.R. 1346: Mr. NYE.

H.R. 1428: Ms. CORRINE BROWN of Florida, and Mr. KAGEN.

H.R. 1441: Mr. BUTTERFIELD.

H.R. 1458: Mr. HOEKSTRA.

H.R. 1474: Mr. BISHOP of New York, Mr. PIERLUISI, and Mr. AL GREEN of Texas.

H.R. 1479: Mr. DELAHUNT, Ms. SCHAKOWSKY, and Mr. PASTOR of Arizona.

H.R. 1505: Ms. FALLIN.

H.R. 1528: Ms. MCCOLLUM, Mr. FARR, Mr. OBERSTAR, and Mr. HINCHEY.

H.R. 1530: Ms. MCCOLLUM, Mr. FARR, Mr. OBERSTAR, and Mr. HINCHEY.

H.R. 1531: Ms. MCCOLLUM, Mr. FARR, Mr. OBERSTAR, and Mr. HINCHEY.

H.R. 1545: Mr. SHADEGG.

H.R. 1552: Mr. RODRIGUEZ, Ms. ZOE LOFGREN of California, Mr. HALL of New York, and Mr. CHILDERS.

H.R. 1587: Mr. DAVIS of Kentucky.

H.R. 1616: Mr. MURPHY of Connecticut, Mr. SMITH of Washington, Mr. HASTINGS of Florida, Mr. FATTAH, and Mr. JOHNSON of Georgia.

H.R. 1618: Mr. LEWIS of Georgia and Mr. SHERMAN.

H.R. 1660: Ms. MARKEY of Colorado.

H.R. 1684: Mr. WITTMAN, Mr. KING of Iowa, Mr. NUNES, Mr. MILLER of Florida, and Mrs. KIRKPATRICK of Arizona.

H.R. 1692: Mr. WITTMAN and Mr. WAMP.

H.R. 1700: Mr. SIRE.

H.R. 1708: Mrs. LOWEY and Mr. COHEN.

H.R. 1712: Mr. MANZULLO.

H.R. 1744: Mr. FLEMING and Mr. BOUSTANY.

H.R. 1751: Mr. TOWNS.

H.R. 1763: Mr. PAUL, Mrs. BACHMANN, and Mr. SOUDER.

H.R. 1826: Mr. ARCURI, Ms. SCHAKOWSKY, and Mr. MORAN of Virginia.

H.R. 1844: Mr. KENNEDY and Mrs. MALONEY.

H.R. 1912: Mr. WITTMAN and Mr. WEXLER.

H.R. 1934: Mr. CUMMINGS, Mr. WILSON of South Carolina, Mr. GERLACH, and Mr. LATOURETTE.

H.R. 1944: Mr. SAM JOHNSON of Texas.

H.R. 1964: Mr. HASTINGS of Florida and Mr. SERRANO.

H.R. 1993: Ms. SCHAKOWSKY.

H.R. 2000: Mr. SMITH of Washington.

H.R. 2006: Mr. ALTMIRE, Mr. BISHOP of New York and Mr. MCINTYRE.

H.R. 2014: Mr. TIAHRT, Mr. GRAVES, Mr. RUPPERSBERGER, Mrs. BACHMANN, Mr. SARBANES, Mr. LEWIS of Georgia, Ms. SPEIER, Mrs. MCCARTHY of New York, Mrs. MILLER of Michigan, Mrs. SCHMIDT, Mr. ELLSWORTH, Mr. PETRI, Mr. MILLER of Florida, Mr. WALZ, Mr. MCINTYRE, Mr. BERRY, Mr. JOHNSON of Illinois, Mr. NEUGEBAUER, Mr. WITTMAN, Mr. REHBERG, and Ms. WASSERMAN SCHULTZ.

H.R. 2017: Mrs. MALONEY.

H.R. 2022: Mr. ROONEY.

H.R. 2031: Mr. PUTNAM.

H.R. 2055: Mr. FARR, Mr. MINNICK, Mr. DEFazio, Mr. SCHRADER, and Mr. WU.

H.R. 2067: Mr. NADLER of New York and Mrs. MCCARTHY of New York.

H.R. 2071: Mr. RANGEL.

H.R. 2076: Mr. QUIGLEY.

H.R. 2083: Mr. WITTMAN.

H.R. 2118: Mr. POSEY.

H.R. 2119: Mr. POSEY and Mrs. BACHMANN.

H.R. 2134: Mr. RANGEL, Mr. PAYNE, and Mr. MORAN of Virginia.

H.R. 2143: Mr. BOOZMAN.  
H.R. 2169: Mrs. BACHMANN.  
H.R. 2181: Ms. BERKLEY and Mr. MCGOVERN.  
H.R. 2219: Mr. WITTMAN.  
H.R. 2243: Mr. HINCHEY, Mr. OBERSTAR, Mr. BRADY of Pennsylvania, Mr. EDWARDS of Texas, Mr. WELCH, Mr. BRADY of Texas, Mr. ALTMIRE, and Mr. COURTNEY.  
H.R. 2254: Mr. DELAHUNT.  
H.R. 2294: Mr. BUYER, Mrs. LUMMIS, Mr. WHITFIELD, Mr. HUNTER, Mr. FORTENBERRY, Mr. KIRK, Mr. SCHOCK, Mr. THOMPSON of Pennsylvania, Ms. GINNY BROWN-WAITE of Florida, Mr. ROE of Tennessee, Mr. GUTHRIE, Mr. LANCE, Mr. SMITH of Nebraska, Mrs. CAPITO, Mr. POSEY, Mr. HARPER, Mr. DAVIS of Kentucky, Mr. SMITH of New Jersey, Mr. KING of Iowa, and Mr. BOOZMAN.  
H.R. 2296: Mrs. BACHMANN, Mr. WITTMAN, Mr. CONAWAY, Mr. PAULSEN, and Mr. SESSIONS.  
H.R. 2298: Mr. LEWIS of Georgia, Ms. SHEAPORTER, and Ms. GINNY BROWN-WAITE of Florida.  
H.R. 2311: Mr. PAULSEN.  
H.R. 2312: Mr. PAULSEN.  
H.R. 2321: Mr. WITTMAN.  
H.R. 2325: Mr. BARTON of Texas and Mr. PAUL.  
H.R. 2328: Mr. LYNCH.  
H.R. 2329: Mrs. LUMMIS, Mr. ENGEL, Mr. OLSON, and Ms. ZOE LOFGREN of California.  
H.R. 2332: Mr. KISSELL.  
H.R. 2338: Mr. WAMP, Mrs. MYRICK, Mrs. BACHMANN, and Ms. FALLIN.  
H.R. 2355: Mr. HASTINGS of Florida, Ms. KILPATRICK of Michigan, and Ms. CORRINE BROWN of Florida.  
H.R. 2368: Mr. BERMAN.  
H.R. 2389: Mr. HALL of New York.  
H.R. 2393: Mr. OLSON, Mr. PAULSEN, Mr. THORNBERRY, and Mr. MCKEON.  
H.R. 2404: Mr. MASSA.  
H.R. 2408: Ms. ROYBAL-ALLARD and Mr. HOEKSTRA.  
H.R. 2414: Ms. MARKEY of Colorado.  
H.R. 2422: Mr. BARTON of Texas, Mr. CUELLAR, Mr. CULBERSON, Ms. JACKSON-LEE of Texas, Mr. PAUL, Mr. RODRIGUEZ, and Mr. HENSARLING.  
H.R. 2440: Mr. ROE of Tennessee.  
H.R. 2450: Mr. LOBIONDO.  
H.R. 2452: Mr. KIND, Mr. CROWLEY, and Ms. MARKEY of Colorado.  
H.R. 2458: Mr. PAUL.  
H.J. Res. 46: Mr. KAGEN and Mr. HOLT.  
H.J. Res. 47: Mr. SIMPSON, Mr. MICHAUD, Mrs. MILLER of Michigan, Mr. TIAHRT, Mr.

LATHAM, Mr. BOUSTANY, and Mr. YOUNG of Florida.  
H. Con. Res. 21: Mr. BERMAN, Mr. MOORE of Kansas, Mr. COURTNEY, Mr. CAO, and Mr. ALEXANDER.  
H. Con. Res. 49: Mr. SKELTON, Mr. PRICE of North Carolina, Mr. CUMMINGS, Mr. LEWIS of California, and Mr. HERGER.  
H. Con. Res. 109: Mr. BARROW, Mrs. CHRISTENSEN, Mr. NYE, Mr. BERMAN, Mr. MELANCON, Mr. BRALEY of Iowa, and Mr. HEINRICH.  
H. Con. Res. 120: Mr. SESTAK.  
H. Con. Res. 124: Mr. BOOZMAN.  
H. Res. 6: Mr. JORDAN of Ohio and Mr. JONES.  
H. Res. 22: Mr. YARMUTH.  
H. Res. 57: Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Mr. SCOTT of Georgia, Mr. MILLER of North Carolina, Mr. CONNOLLY of Virginia, Mr. LOEBSACK, Mr. BECERRA, and Mr. SALAZAR.  
H. Res. 156: Mr. DANIEL E. LUNGREN of California.  
H. Res. 169: Mr. DUNCAN, Mr. MILLER of North Carolina, Mr. COHEN, Mr. ETHERIDGE, Mr. KIRK, Mr. MARCHANT, Mrs. MILLER of Michigan, Mr. ROGERS of Kentucky, Mr. SKELTON, Mr. MCGOVERN, Mr. ABERCROMBIE, Mr. MILLER of Florida, and Mr. CAMPBELL.  
H. Res. 231: Mr. EHLERS, Mrs. MALONEY, Mr. BRALEY of Iowa, Mr. BURGESS, Mr. HOLT, and Mrs. BLACKBURN.  
H. Res. 232: Mr. SESSIONS.  
H. Res. 241: Mr. GARRETT of New Jersey.  
H. Res. 244: Mr. GOODLATTE.  
H. Res. 285: Mr. DELAHUNT, Mr. MCCOTTER, and Mr. PITTS.  
H. Res. 314: Mr. SIRES, Mr. RYAN of Ohio, Mr. GRAYSON, Mr. HARE, Mrs. HALVORSON, Ms. EDWARDS of Maryland, Mr. ADLER of New Jersey, Mr. WEINER, Mr. CARNEY, and Mr. ROONEY.  
H. Res. 323: Mr. ISSA.  
H. Res. 327: Mr. LIPINSKI.  
H. Res. 349: Mr. HASTINGS of Washington, Mr. SESTAK, Mr. ROSKAM, and Mr. CALVERT.  
H. Res. 355: Mr. BARTLETT.  
H. Res. 364: Mr. LOBIONDO.  
H. Res. 394: Mr. BURGESS.  
H. Res. 397: Mr. MILLER of Florida, Mr. BACHUS, Mr. YOUNG of Alaska, Mr. BLUNT, and Mr. GOHMERT.  
H. Res. 404: Mr. YOUNG of Alaska.  
H. Res. 411: Mr. CALVERT.  
H. Res. 418: Mr. CALVERT, Mr. WILSON of South Carolina, Mr. LATOURETTE, Mr. BART-

LETT, Mr. SHUSTER, Mr. CULBERSON, Mr. KINGSTON, Ms. FOXX, Mr. TAYLOR, Mr. PERLMUTTER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. SMITH of New Jersey, Mr. COBLE, Mr. MCCAUL, Mr. MANZULLO, Mr. BONNER, Mr. HALL of Texas, Mr. BARTON of Texas, Mr. HOEKSTRA, Mr. MORAN of Kansas, Ms. GINNY BROWN-WAITE of Florida, Mr. THORNBERRY, Mr. OLSON, Mr. TIBERI, Mr. LOBIONDO, Mr. NUNES, Mr. YOUNG of Florida, Mr. HASTINGS of Washington, Mr. LUCAS, Mr. COLE, Mr. PUTNAM, Mr. SIMPSON, Mr. CARTER, Mr. SENBRENNER, Mr. MCCOTTER, Mr. ROGERS of Michigan, Mr. FORTENBERRY, Mr. FRELINGHUYSEN, Mr. YOUNG of Alaska, and Mr. TIERNEY.

H. Res. 420: Ms. BORDALLO, Mr. RODRIGUEZ, Mr. BROWN of South Carolina, Mr. GUTHRIE, Mr. THOMPSON of Pennsylvania, Mr. POSEY, Mr. AUSTRIA, Mrs. BACHMANN, Mr. HELLER, Mr. DUNCAN, Ms. ROS-LEHTINEN, Mr. MILLER of Florida, Mr. MCHENRY, and Mr. ROE of Tennessee.

H. Res. 426: Mr. POE of Texas.

H. Res. 430: Mr. WILSON of South Carolina, Mr. ROTHMAN of New Jersey, Ms. ROS-LEHTINEN, Mr. MANZULLO, Mr. LINCOLN DIAZ-BALART of Florida, Mr. YOUNG of Florida, Mr. LATOURETTE, Ms. GINNY BROWN-WAITE of Florida, Mr. SIMPSON, Mr. CASTLE, Ms. FOXX, Mr. LOBIONDO, Mr. SCALISE, Mr. MICA, and Mr. FRELINGHUYSEN.

H. Res. 439: Mrs. MALONEY.

H. Res. 444: Ms. JACKSON-LEE of Texas, Ms. FUDGE, Ms. KAPTUR, Ms. SUTTON, and Mr. HARE.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative NYDIA VELÁZQUEZ or a designee to H.R. 2352 the Job Creation Through Entrepreneurship Act of 2009, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

**SENATE—Tuesday, May 19, 2009**

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:  
Let us pray.

Gracious Lord, King of our lives and Ruler of all, help us today to trust You with all our hearts and strive to stay within the circle of Your will. Turn the Members of this body back to the truth that those who would be great must be willing to serve humanity and that those who lose their lives for a worthy cause will find life everlasting. May such service and sacrifice bring deliverance to captives and balm to those who are bruised by life. Make our lawmakers, this day, receptive to Your wisdom, even amid the contention and collision of debate. Help them to shine with Your peace and good will. Lord, fill this Chamber with Your presence and each Senator with Your power for the work of this day.

We pray in Your strong Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 19, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**SIGNING AUTHORITY**

Mr. REID. Mr. President, I ask unanimous consent that today, Tuesday, May 19, I be authorized to sign any duly enrolled bills or joint resolutions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of H.R. 627, the credit card bill. A rollcall vote will occur sometime within the next half hour or so. It may not occur immediately. When cloture is invoked, we will dispose of the pending amendments and then vote on passage of the bill, as amended. Rollcall votes are possible later in the day. We do know there are some agreements on a nomination, the Gensler nomination. There will be a vote on that nomination after the caucus lunches today at about 2:15 p.m. Later this afternoon, we expect to begin consideration of the Iraq and Afghanistan supplemental appropriations bill.

**RECOGNITION OF THE MINORITY LEADER**

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

**SUPPLEMENTAL WAR SPENDING**

Mr. McCONNELL. Mr. President, today, the Senate takes up the supplemental war spending bill for the wars in Afghanistan and Iraq. The need to consider such wartime supplementals is familiar to the Senate, but their importance has not diminished over time. Our Armed Forces have fought valiantly against global terrorism for more than 7 years, and our intelligence community has made invaluable contributions to that effort. This week, the Senate will show, once again, that

we are grateful for the service and dependent on the heroism of every American fighting to help protect us at home and abroad.

Similar to any supplemental war spending bill, this week's bill must be viewed in the context of the broader fight against terrorism. This is a fight that began in earnest after the events of 9/11 but which found its justification in a long series of attacks that culminated on that terrible day. Eight years before 9/11, several Americans were killed in the first World Trade Center bombing. Two years later, five Americans were killed in an attack on a U.S. military site in Riyadh. In 1996, 19 U.S. servicemen lost their lives in the Khobar Towers bombing. In 1998, 12 Americans were killed in Embassy bombings in Nairobi and Dar es Salaam. In 2000, 17 American soldiers were killed in the attack on the USS Cole. Of course, on September 11, 2001, 19 hijackers killed 3,000 Americans in New York, Virginia, and Pennsylvania.

What is clear from all this is that terrorists were at war with us long before we were at war with them. But then, after 9/11, the Northern Alliance and U.S. forces, along with our allies, took the fight to al-Qaida and the Taliban in Afghanistan. Coalition forces later toppled Saddam Hussein and subsequently mounted a successful counterinsurgency against al-Qaida in Iraq that continues to this day. The supplemental we will consider this week funds all those efforts, and it provides vital assistance to Pakistan in its ongoing battle against insurgents.

One of the more contentious issues that has arisen in the course of this protracted fight is the fate of captured terrorists. Since 9/11, the United States has captured hundreds of terrorists who wish to harm Americans. Many of them have been brought to the secure detention facility at Guantanamo Bay. Current inmates include some of the key coconspirators in the Embassy bombings in Nairobi and Dar es Salaam, as well as Abd al-Rahim al-Nashiri, the mastermind of the attack on the USS Cole. Khalid Shaikh Mohammed, the mastermind of the 9/11 attacks, is also there, as are a number of his 9/11 coconspirators.

Guantanamo was established to house terrorists such as these—dangerous men who pose a serious threat to Americans. The fact that we have not been attacked at home since 9/11 confirms, in my view, the fact that this facility, when taken together with all our other efforts in the global fight against terrorism, has been a success.

There is no doubt that some of the men who are held at Guantanamo are

eager to launch new attacks against us. Of those who have been released from Guantanamo, about 12 percent have returned to the battlefield. One of these men is currently a top al-Qaida deputy in Yemen. Another is the Taliban's operations commander in southern Afghanistan. These are men who were thought to be safe for transfer.

More recently, the Defense Department has confirmed that 18 former detainees have returned to the battlefield and that at least 40 more are suspected of having done so. Earlier this year, the Saudi Government said that nearly a dozen Saudis who were released from Gitmo are believed to have returned to terrorism. This is a good reason to keep these men at Guantanamo until the administration can present us with a plan for keeping terrorists off the battlefield.

Some have argued that the existence of the Guantanamo prison serves as a recruiting tool for terrorists. But it is hard to imagine that moving this facility somewhere else and giving it a different name will somehow satisfy our critics in European capitals. Even less likely is the notion that by moving detainees from the coast of Cuba to Colorado, terrorists overseas will turn their swords into ploughshares.

The global terror network we are fighting targeted and killed Americans long before 9/11 and long before we opened the gates of Guantanamo. Shutting this facility now could only serve one end; that is, to make Americans less safe than Guantanamo.

The supplemental spending bill that the Senate votes on this week will fund an effort to combat terrorism that has been hard fought. We have seen victories and we have seen setbacks and keeping detainees off the battlefield is part of the battle. Al-Qaida's terrorist networks remain vital and lethal, and releasing detainees to return to terror in places such as Yemen would be at cross-purposes with the underlying bill itself. If we are committed to funding the global fight against terrorism, then we will come up with a good alternative to Guantanamo before we move to close it.

The administration has shown a willingness to change course on other matters of national security. It is my hope that it will show a similar willingness on Guantanamo. As the Senate considers this supplemental, we will have an opportunity to encourage such a shift in their thinking by expressing our opposition to closing Guantanamo until a good alternative emerges. This is the only way to ensure the same level of safety that Guantanamo has delivered and the supplemental itself is intended to promote.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. BURRIS. Mr. President, I would like to speak briefly on the credit card legislation which we are going to be taking up in a minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

#### CREDIT CARD REFORM

Mr. BURRIS. Mr. President, in these trying economic times, far too many Americans have had to watch their hard-earned financial security evaporate almost overnight.

Rising unemployment, rampant foreclosures, and shrinking market liquidity continue to run roughshod over American families. For some, credit cards have become a last line of defense.

Responsible spending on credit has helped millions of ordinary people pay bills and keep food on the table even as the economy continues to deteriorate.

I rise today in support of these hard-working Americans.

The need for credit card reform is crucial, and the time to act is now. We must pass the Credit CARD Act of 2009 without delay.

As credit availability tightens, the final wall of support is crumbling. At the slightest provocation, many credit card companies have chosen to take advantage of families in distress with unfair interest rates and drastic new fees.

Some people are suddenly confronted with a choice between large annual premiums or excessive rate hikes.

A Chicagoan, Mr. Weatherspoon bought a home several years ago and soon ran into some unexpected expenses. To consolidate his home repair bills that totaled over \$12,000, Mr. Weatherspoon applied for a credit card to take advantage of a low introductory offer of 4.5 percent.

Without notice, that low rate jumped to 28 percent. And he has been paying it off ever since. Over the last 8 years, Mr. Weatherspoon has paid the bank \$15,000, but has only reduced his principal balance by \$800.

These companies can change the terms of a contract at a moment's notice and without providing any reason at all.

This allows them to maximize their profits while keeping American families mired in more than \$950 billion worth of debt.

We cannot stand by as honest, responsible people fall victim to these predatory tactics.

We must not allow millions of Americans to be tricked and cheated as they

struggle to make ends meet. Consumers are demanding relief, and it is our duty to provide it.

There is no place for that kind of greed in this new economy. There is no place for rising interest rates and record profits at the expense of good working people.

Now, as never before, we must move with urgency to shield American wage earners against exploitation and ensure that everyone gets a fair deal. This is especially true of those in need, and it is on their behalf that I address this Chamber today.

That is why I support the Credit CARD Act of 2009. This bipartisan legislation will give us the tools to fix a system that allows corporate giants to abuse their customers.

It will bring accountability back to the market and strengthen oversight. It will end abusive practices like hidden fees and sudden rate hikes.

Young consumers will be shielded by a provision that requires an adult to share in every new credit card agreement.

Companies will be required to use plain language instead of manipulative fine print, ending the predatory bait-and-switch tactics that got us into this mess.

Quite simply, this bill will restore fairness, honesty and plain old common sense to the credit card industry.

It will stop companies from changing the rules in the middle of the game, but it will do nothing to reward irresponsible spenders or penalize companies that operate in good faith. This is essential legislation at a time when the stakes could not be any higher.

We must move quickly to halt unfair and abusive practices that threaten our financial security. America has had enough, and it is time that the members of this Senate stand with our fellow citizens to say that we, too, have had enough.

I urge my colleagues to join with me in passing the Credit CARD Act. We will be voting shortly. Let's pass this bill.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN. I ask unanimous consent to speak for no more than 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BROWN. Mr. President, 15 years ago I sat on the Energy and Commerce

Committee in the House of Representatives and listened to seven tobacco executives. It was a famous photograph of these seven tobacco executives who raised their right hands and swore to tell the whole truth and nothing but the truth. They were there to defend their practices and swear under oath that cigarettes and nicotine were not addictive. The president of Philip Morris said, "I believe nicotine is not addictive." The chairman and CEO of R.J. Reynolds Tobacco Company said, "Cigarettes and nicotine clearly do not meet the classic definition of addiction." The president of U.S. Tobacco, the chairman and CEO of Liggett Group, and the chairman and CEO of Brown & Williamson Tobacco Corporation all said, "I believe that nicotine is not addictive." I listened as the president and CEO of American Tobacco said, "I, too, believe nicotine is not addictive."

During that hearing, we heard repeatedly that 400,000 Americans die of tobacco-related illnesses; 400,000 Americans every year, more than a thousand people a day, die of tobacco-related illnesses. It occurred to me—as these CEOs raised their right hands, all seven of them in a row, and said tobacco is not addictive, cigarettes aren't addictive—it occurred to me why they were saying that. Simply, if 400,000 of their customers are dying every year, more than 1,000 a day, they need at least 400,000 new customers every year, at least 1,000 a day. So if they are going to get those 400,000 customers, my guess is they are not going to convince the Senator from Illinois—the junior Senator or the senior Senator from Illinois—they are not going to convince me, they are not going to convince most of us who are in our forties, fifties, and sixties to start smoking. They are more likely to aim at the pages who are sitting here who are 15, 16, 17 years old. They are more likely to go after children.

In fact, the Cancer Action Network, the American Cancer Society, did an ad today: 98,000 kids have smoked their first cigarette in the last month. That is why the cigarette companies, the tobacco companies have introduced products such as Camel Orbs, Sticks, and Strips that are aimed at children. That is why they did the Camel No. 9, a very attractive package, trying to get women to smoke; Joe Camel; billboards—until we outlawed them—right by high school campuses and high school buildings.

The fact is, 400,000 Americans die every year from tobacco-related illnesses. Tobacco companies need 400,000 new customers just to break even, just to stay in business. They aim at our children. They go after children who are 12, 13, 14, 15, 16, 17 years old. That is why, under Chairman KENNEDY's leadership with Chairman DODD, today the Health, Education, Labor, and Pen-

sions Committee will begin its deliberations on finally changing the way we regulate tobacco, giving the authority to the Food and Drug Administration. It is the right way to go. By this time on Thursday, I hope, certainly by Friday, we should have legislation voted out of that committee, ready to take action. It is about time this body stood up to the tobacco interests and did what is right for our children.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Thank you, Madam President.

#### SMALL BUSINESS WEEK

Ms. LANDRIEU. Madam President, I know we are trying to finalize the debate on the underlying credit card improvement bill and support for consumers with personal credit cards. But I thought I would take a moment to come to the floor to speak to the fact that this week is Small Business Week in America. All over our country we are celebrating the entrepreneurial spirit of the over 26 million small businesses in America that serve as a backbone of our economy.

Just yesterday, I was with Administrator Karen Mills of the Small Business Administration, as she opened Small Business Week at one of the local hotels here, where there are hundreds of small business owners receiving awards from all our States for the extraordinary work they have done in opening, starting, and building their businesses, at even these challenging times. In a few minutes, I will be joining her for lunch, as we hand out awards to some of the most innovative small businesses in the world today, not just in America but in the world. It is exciting that many of these small business owners are with us in Washington this week.

So I have come to the floor to speak about our business owners, some of the challenges they are facing, and to acknowledge there will be a resolution we are asking to be cleared this week in honor of these millions of firms.

I say to the Presiding Officer, as you know, Main Street firms pump almost \$1 trillion into our economy every year, creating two-thirds of all new jobs, and account for more than half

America's workforce. Sometimes when people see corporations and businesses and they read the headlines about General Motors, GE, or other large companies—Exxon, Shell come to mind—those are good examples of national and international companies, but they are not necessarily examples of where all the jobs are, contrary to common belief.

The jobs are hard to see sometimes because they are in small places; in neighborhoods and on main streets and farm roads and on farm-to-market roads throughout our country; they are with small entrepreneurs employing themselves and maybe two or three other people or themselves and maybe 10 or 15 other people. They are building the backbone of the American free enterprise system.

These are the family businesses throughout the country whose thread still weaves the American dream—the dream of working for yourself, being your own boss, setting your own hours, never working less than you would probably at a large company, always working more but being quite rewarding, with a business you can pass down to your children and grandchildren who earn their way in the business. This is what keeps the spirit of America going forward.

These are the businesses we honor this week. They are the technological startups that produce cutting-edge, clean energy sources, lifesaving medical advances, and provide safer equipment for our troops, protecting our way of life. They are the construction companies that build new schools and better homes and businesses that fix our roads and our bridges.

These are the small business entrepreneurs out there whom we honor this week.

As the Presiding Officer and our other colleagues know, small businesses are in a world of hurt. They are in trouble. They are in very troubled waters, in very difficult times.

As America's consumers pinch pennies to pay the bills, small business owners scramble to pay their own bills. Entrepreneurs are, unfortunately, being turned away from many traditional sources of capital financing. Many of these small businesses have never, in their history of business, missed a payment or been late on a payment. Yet we are hearing some very sad and troubling stories in the Small Business Committee, such as that of Robert Cockerham, whose wife, I believe, was with him, if my memory serves. He is a car dealer. He took his life savings and started Car World. Similar to many business owners, he put everything into this business. He became one of the highest selling dealerships in New Mexico. It was an exciting opportunity for him and his family. But yet, as this recession has unfolded, he was forced to close some of his dealerships and lay off workers. He thought

most of his tough decisions were behind him, only to find that a bank came in and constricted his line of credit. Again, he had never missed a payment or been late. Unfortunately, now his business is in a very dire situation.

That is why it is important for us to press forward on everything we can, through the Small Business Administration, through the stimulus package, trying to reach business owners such as this who have not done anything wrong. They have simply gotten caught up in one of the worst economic downturns in recent memory. We need to do more, and we will. That is what our efforts are here today, as in the previous weeks, and hopefully in the weeks to come.

I am proud to say we have taken some important steps. But we need to do so much more. The American Recovery and Reinvestment Act took bold steps to increase access to capital for our Nation's entrepreneurs. In the Small Business Committee, we worked to temporarily eliminate fees on SBA-backed loans. I am proud to report the week that new rule went into effect, we saw an immediate uptick of 25 percent in new loans being made through the SBA because of the temporary elimination of those fees.

The Recovery Act has helped to stimulate new lending and will, hopefully, continue to do so. We think, based on what is in the Recovery Act, it will pump about \$16 billion in new loans and venture capital into small businesses in America.

I continue to be concerned, however, about the road ahead for so many of our small businesses, not only in New York, the State the Presiding Officer represents, but in Louisiana as well, where our unemployment rate, thankfully, is lower than the average but, nonetheless, our businesses are struggling.

We must double our efforts. I wish to work with my colleagues in the House to reauthorize the Small Business Administration and its critical programs. These initiatives have assisted entrepreneurs in starting and growing their businesses and were responsible, according to our records, for 1.5 million jobs being created or sustained last year.

One of these small business owners is Bob Baker, the owner of Baker Sales, a pipe and fence distributor in Louisiana and the State's Small Business Owner of the Year.

I met Bob Baker yesterday. He encourages his employees to take advantage of the free classes the local Small Business Development Center offers. He has taken advantage of the center's counseling to cope with financial difficulties.

These days, Bob reports he is doing better than most small business owners. He has stabilized his line of credit

at a local Chase Bank, but he knows right now he cannot expand because of the current situation.

But let me say, if we are going to pull out of this recession—I believe we will—it is going to be because small business pulls us out, not the giant corporations, not the multinationals but the intrepid entrepreneurs who will put their face to the wind and move forward, even in difficult times.

The least we can do is reauthorize our Small Business Administration, make it as robust and effective and agile and muscular as possible, to give them the help they need.

To help Bob Baker, to help Robert Cockerham, and small business owners such as them who have testified before our committee, let us redouble our efforts to get our work done.

In conclusion, we must also make sure the billions of dollars in stimulus money are moving to small businesses, as required by law. I will be having a hearing this week in my committee, and I wish to thank so many of my members, particularly Senator SHAHEEN, Senator HAGAN, and Senator CARDIN, who have been particularly aggressive in this effort. I thank them very much.

Again, it is Small Business Week. Pat a small businessperson on the back. Thank him or her for doing his or her work because this will be the group who leads America back to strength.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, I ask unanimous consent to be able to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### USURY

Mr. SANDERS. Madam President, I am assuming today we are, in fact, going to vote on the credit card legislation, which is a very important step forward in beginning to address some of the outrages the large banks and credit card industry are perpetrating on the American people.

A few weeks ago, I asked folks on my mailing list to tell me what credit card companies are doing to them. Within 3 days, we had over 5,000 responses, and many of these responses were hair-raising. People have seen their interest rates on their credit cards double, triple. People are now paying 25 or 30 percent interest rates, which to my mind is unacceptable.

The issue we are dealing with on credit cards is something I have been involved in for many years. I was a member of the Financial Services Committee in the House of Representatives in 2003. We introduced legislation entitled the "Credit Bait and Switch Prevention Act," which deals with many

of the same issues that, in fact, we are going to be dealing with today. So it has taken us a little bit of time to get to where we are, but I think it is a step forward.

What I do wish to say is, while the legislation we are passing today is important—and it is a very good piece of legislation; I congratulate Chairman DODD for his work on it—it does not go far enough. One of the areas where it is not going anywhere near as far as it should be is finally addressing the issue of usury in the United States of America and making a moral determination whether it is acceptable, whether it is moral for banks to be charging Americans 25 or 30 percent interest rates and, in some cases, in terms of payday lending, significantly higher than that. Is that what we want to be doing as a nation? What I would like to do now is briefly read from what I thought was a very thoughtful article by Arianna Huffington in the Huffington Post, where she touches on the issue of usury, which is an issue we have to address.

This is what she says:

Throughout history, usury has been decried by writers, philosophers, and religious leaders.

Aristotle called usury the "sordid love of gain," and a "sordid trade."

Thomas Aquinas said it was "contrary to justice."

In The Divine Comedy Dante assigned usurers to the seventh circle of hell.

Deuteronomy 23:19 says, "thou shalt not lend upon usury to thy brother."

Ezekiel 18:10 compares a usurer to someone who "is a thief, a murderer . . . defiles the wife of his neighbor, oppresses the poor and needy, commits robbery, does not give back a pledge, raises his eyes to idols, does abominable things."

The Koran is equally unequivocal: "God condemns usury." And it goes on to say that "those who charge usury are in the same position as those controlled by the devil's influence."

In other words, throughout history, and in all the major religions, usury has been condemned. What civilization has said is that it is simply wrong and immoral for those people who have money to take advantage of those people who need that money by charging them outrageously high interest rates. In my view, interest rates of 25, 30, 35, 50 percent are outrageous and it is usury, and it is time the Senate address those issues.

Up until the late 1970s—

and I am quoting Arianna Huffington again—

America's laws followed suit, keeping interest rates in check.

Then, in 1979, a Supreme Court ruling allowed banks to charge the top interest rate allowed by the State where a bank is incorporated as opposed to the borrower's home State. Hoping to lure banks' business, States like South Dakota and Delaware repealed their usury laws—and off we went.

That same year, Congress passed the Depository Institutions Deregulation and Monetary Control Act which, among other



things, allowed federally chartered savings banks and loan companies to charge any interest rates they chose—putting us on the path that led us to today, where banks routinely gouge their most vulnerable customers.

So here is where we are today. The bottom line is we are going to pass a bill that is long overdue. It is a good bill. I commend Chairman DODD for his hard work. It is an important step forward in protecting consumers. But I am going to be back on this issue of usury. In the United States of America, we have to finally tell banks and credit card companies it is simply not acceptable to charge people 25, 30, 35 percent interest rates. We have to end that abominable practice, and I intend to be playing an active role in that.

I ask unanimous consent that the article to which I have been referring be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(From the Huffington Post, May 18, 2009)

OBAMA CALLS FOR AN EXTREME MAKEOVER OF OUR CULTURE: ARE THE CREDIT CARD COMPANIES LISTENING?

(By Arianna Huffington)

In his masterful commencement speech at Notre Dame this weekend, President Obama took his campaign theme of Change to a whole new level, telling the graduates—and the rest of us—that we find ourselves at “a rare inflection point in history where the size and scope of the challenges before us require that we remake our world to renew its promise.”

So, as we stand at this inflection point and gradually move from what Jonas Salk called Epoch A (our survival-focused past) to Epoch B (our meaning-focused future), we have to ask ourselves what this remade world will look like—and what steps we need to take to get there.

At Notre Dame, Obama offered a devastating teardown of Epoch A and its “economy that left millions behind even before this crisis hit—an economy where greed and short-term thinking were too often rewarded at the expense of fairness, and diligence, and an honest day’s work.”

The problem, according to the president: “Too many of us view life only through the lens of immediate self-interest and crass materialism; in which the world is necessarily a zero-sum game. The strong too often dominate the weak, and too many of those with wealth and power find all manner of justification for their own privilege in the face of poverty and injustice.”

The president should email his speech to Wall Street. And while he’s at it, he should also blast it out to the people running the giant pharmaceutical companies, the ones who knowingly allow deadly drugs to remain on the shelves; to the people running chemical plants releasing deadly toxins into the water and air; to the factory farmers filling our food with steroids and additives; to the dentists exposed for trading their Hippocratic oath for profit by performing unnecessary surgeries on children.

And he should definitely send it to the credit card companies, which, faced with customers choking on debt and forced to use their credit cards to pay for essentials like food and medical care, respond by jacking up interest rates and tacking on penalties and

fees. Even as credit card defaults reached record levels in April.

As we move to Epoch B, we need to ask ourselves: do we want to continue living in a world where banks can gouge their customers with sky-high interest rates?

The Senate seems to think so. Last week it voted down a measure introduced by Bernie Sanders that would cap interest rates at 15 percent. And it wasn’t even close. Sanders’ amendment only got 33 votes, with 22 Democrats joining those who voted against the interests of their constituents (a shout out to Sen. Grassley, the lone Republican to vote for the amendment).

“When banks are charging 30 percent interest rates, they are not making credit available,” said Senator Sanders. “They are engaged in loan sharking.” Also known as usury.

Throughout history, usury has been decried by writers, philosophers, and religious leaders.

Aristotle called usury the “sordid love of gain,” and a “sordid trade.”

Thomas Aquinas said it was “contrary to justice.”

In *The Divine Comedy* Dante assigned usurers to the seventh circle of hell.

Deuteronomy 23:19 says, “thou shalt not lend upon usury to thy brother.”

Ezekiel 18:10 compares a usurer to someone who “is a thief, a murderer . . . defiles the wife of his neighbor, oppresses the poor and needy, commits robbery, does not give back a pledge, raises his eyes to idols, does abominable things.”

The Koran is equally unequivocal: “God condemns usury.” And it goes on to say that “those who charge usury are in the same position as those controlled by the devil’s influence.”

Up until the late 1970s, America’s laws followed suit, keeping interest rates in check.

Then, in 1979, a Supreme Court ruling allowed banks to charge the top interest rate allowed by the state where a bank is incorporated as opposed to the borrower’s home state. Hoping to lure banks’ business, states like South Dakota and Delaware repealed their usury laws—and off we went.

That same year, Congress passed the Depository Institutions Deregulation and Monetary Control Act which, among other things, allowed federally chartered savings banks and loan companies to charge any interest rates they chose—putting us on the path that led us to today, where banks routinely gouge their most vulnerable customers.

According to Elizabeth Warren, credit card companies “have switched from the notion of ‘I’ll lend you money because I think you’ll be able to repay and we’ll find a reasonable rate for doing that’ over to a tricks and traps model . . . The job is to trick people and trap them and that’s how you boost profits.”

This profit-uber-alles mindset is why the banking industry, looking at the world through what Obama described as the “lens of immediate self-interest and crass materialism,” is fighting tooth and nail against the Senate’s new credit card reform bill that is set to come up for a vote this week (the industry already having spent \$42 million on lobbying this year alone). Although, to hear the bankers’ lobbyists tell it, all they really want is what is best for the consumer.

“It is vitally important for policymakers to get the right balance of better consumer protection while not jeopardizing access to credit and the credit markets,” said Ken Clayton of the American Bankers Association. “We are very worried that the Senate

bill fails to achieve this balance, to the detriment of American consumers.”

Yes, I’m sure they are losing a lot of sleep worrying about American consumers. But the problem for most consumers isn’t getting access to credit cards (see the endless credit card come-ons clogging our mailboxes). It’s being hammered with 36 per cent interest rates for missing a single payment or bombarded with a never-ending array of fees (lenders raked in over \$18 billion on penalties and fees alone in 2007).

In any case, the Senate bill, while definitely a step in the right direction (and even tougher than the measure the House passed in April), will, with a few worthy differences, impose the same limits on the credit card industry as the new rules passed by the Fed in December. And, like the new Fed regulations, the Senate legislation won’t take effect for close to a year.

Don’t get me wrong: having the president sign the bill into law will send the right message to the banking industry (important after the cramdown debacle) and offer added protection against a future Fed chairman arbitrarily rolling back the new rules.

But if the new rules are important enough to consumers for Congress to enshrine them into law, why not make them effective immediately? As Obama said at last week’s town hall meeting on credit cards, the predatory practices of the credit industry have “only grown worse in the middle of this recession, when people can afford them least.” Almost a year is too long to wait when people are struggling—and being bled dry.

“Both the politicians and the regulators are riding in like the cavalry, and the settlers are already dead,” David Robertson, publisher of the Nilson Report, a newsletter that monitors the credit card industry, told the Washington Post.

As HuffPost’s Ryan Grim reported, Obama has been much more involved with the credit card bill than he was with the anti-foreclosure legislation. But, given the impassioned case he made at Notre Dame and his call to “align our deepest values and commitments to the demands of a new age,” he should take it one step further and throw his weight behind Sanders’ effort to limit usurious interest rates.

Just because it didn’t pass doesn’t mean it’s dead. History is filled with causes that took many battles before they were victorious (women’s suffrage, the Voting Rights Act, the Clean Air Act, the American with Disabilities Act, etc., etc., etc.).

Our deepest values and commitments are certainly being put to the test. Questions we thought had been settled for hundreds of years are suddenly back on the table. Are we a country that tortures or not? Are we a country that financially tricks and traps millions of vulnerable working families, binding them to the whims of bankers who have lost all sight of fairness?

Appearing on Real Time with Bill Maher, Elizabeth Warren put the question this way:

“This is really about whether we have a government that just recedes and says, in effect, ‘Hey, the strong can take from everybody, they can write these [rules] however they want . . . we can have a totally broken market that makes a few people very rich and robs the rest of them. Or you can write a set of rules that says, ‘You know, it’s just gotta be kind of level out there.’ . . . Everything we have, your shoes, your clothes, the water you drink, the air you breathe, we have basic safety rules in the United States. . . . But we don’t have them for consumer credit products.”

Heading into Epoch B, and seeing the devastation all around us here at the tail end of Epoch A, can anyone—other than the banking lobby, that is—argue that we shouldn't? The moment to act is now. Inflection points in history don't come along very often.

Mr. SANDERS. I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 627, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Pending:

Dodd/Shelby amendment No. 1058, in the nature of a substitute.

Landrieu modified amendment No. 1079 (to amendment No. 1058), to end abuse, promote disclosure, and provide protections to small businesses that rely on credit cards.

Collins/Lieberman modified amendment No. 1107 (to amendment No. 1058), to address stored value devices and cards.

Lincoln amendment No. 1126 (to amendment No. 1107), to amend the Federal Deposit Insurance Act with respect to the extension of certain limitations.

AMENDMENT NO. 1130 TO AMENDMENT NO. 1058

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I ask unanimous consent that the managers' amendment, which is at the desk, be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 1130) was agreed to.

Mr. DODD. Madam President, I ask that the previous order regarding the cloture vote commence.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd-Shelby substitute amendment No. 1058 to H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

Harry Reid, Christopher J. Dodd, Bill Nelson, Richard Durbin, Debbie Stabenow, Patrick J. Leahy, Patty Murray, Amy Klobuchar, Russell D. Feingold, Mark R. Warner, Jon Tester, Mark Begich, Mark L. Pryor, Robert P. Casey, Jr., Benjamin L. Cardin, Jack Reed, Sherrod Brown.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1058, the Dodd-Shelby substitute to H.R. 627, the Credit Cardholders' Bill of Rights, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN), the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 193 Leg.]

#### YEAS—92

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Gillibrand	Murkowski
Bayh	Graham	Murray
Begich	Grassley	Nelson (NE)
Bennet	Gregg	Nelson (FL)
Bennett	Hagan	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Risch
Brownback	Inhofe	Roberts
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burris	Johanns	Sessions
Canwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Landrieu	Tester
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	

#### NAYS—2

Kyl Thune

#### NOT VOTING—5

Brown	Ensign	Rockefeller
Byrd	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Madam President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I ask unanimous consent that it be in order to make a point of order, en bloc, on the pending amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Madam President, I make a point of order, en bloc, that the pending amendments are not germane postcloture.

The PRESIDING OFFICER. The point of order is well taken, and the amendments fall.

#### DEFERRED INTEREST

Mr. SHELBY. Would the Senator from Connecticut yield to me for the purpose of engaging in a colloquy?

Mr. DODD. Yes, I would be happy to yield.

Mr. SHELBY. As the Senator knows, credit card issuers often offer so-called "deferred interest" programs for the benefit of cardholders. To my knowledge, the legislation would not affect the ability to offer these types of programs, is that the Senator's understanding?

Mr. DODD. That is my understanding.

Mr. SHELBY. I appreciate that. For purposes of clarifying the intent of this legislation, I would like to ask an additional question. The legislation includes provisions to prohibit a balance calculation method known as "two-cycle" billing. This provision would have the effect of prohibiting the card issuer from assessing interest on balances from the immediately preceding billing cycle as a result of a loss of a grace period. Is it the Senator's understanding that this provision would not affect a credit card issuer's ability to offer deferred interest programs?

Mr. DODD. That is my understanding. It is not the intent of this provision to eliminate deferred interest programs that help consumers. In fact, the payment allocation provisions in the legislation envision the continued availability of such programs.

Mr. SHELBY. I thank the Senator.

Mr. LEAHY. Madam President, it is a mark of the difference between the Senate's agenda last year and the new Senate's agenda this year that we finally are able to debate and move toward a vote on the Credit Card Accountability, Responsibility and Disclosure Act, which I strongly support.

I thank and commend both Senator DODD and Senator SHELBY for their hard work on this important legislation. The Banking Committee has faced a number of extraordinary challenges this year—stabilizing our financial institutions, rescuing our housing

market, rooting out bad actors in the financial system, and restoring consumer confidence in our economy—and I applaud Chairman DODD for the initiative he has taken in tackling these issues and helping ordinary Americans most affected by the current economic downturn.

Over the past 6 months, hundreds and hundreds of Vermonters have contacted my office voicing concerns about deceptive practices by the credit card industry. People have shared stories about credit card companies raising interest rates arbitrarily, charging usurious fees, and refusing to work cooperatively with their clients. Most troubling, the biggest offenders appear to be large, national banks that gladly accepted the mercy of taxpayer bailout money when they were in trouble yet show little compassion now when their customers are struggling.

In today's economy, Americans need credit that is accessible, affordable, and dependable. Unfortunately, our current credit card system disadvantages many Americans and makes it harder for them to pay off their debt. Credit card contracts have been growing increasingly complicated, deceptively worded, and unfairly stacked against consumers. The time is long overdue for more transparent and equitable credit card practices—which I why I was an early cosponsor of this bill and why I am very pleased that the Senate at last is able to move forward in considering and voting on it.

This bill puts fairness and common sense back into the credit card system by changing several unfair billing, marketing, and disclosure practices. Among its many important provisions, the bill prohibits interest charges on credit card debt that is paid on time; requires a 45-day notice of any fee or interest rate changes; prohibits interest charges on credit card transaction fees such as late fees; prohibits overlimit fees unless a consumer opts into the program; requires enhanced disclosure to consumers regarding the consequences of making only minimum payments; protects younger consumers from alluring and usurious credit card offers; and requires promotional rates to last at least 6 months.

I also am gratified that we now have a President who is taking consumers' needs to heart and who has supported our efforts to move this bill forward. These significant credit card reforms will protect consumers from excessive penalties, ever-changing interest rates, and complex contracts. So once again, I want to thank Chairman DODD and Ranking Member SHELBY for bringing forward this important, bipartisan legislation. I believe it will go a long way toward relieving Vermonters who, like Americans everywhere, have had to endure the dictates of credit card issuers when it comes to the onerous and unfair terms in these contracts.

Ms. MIKULSKI. Madam President, I strongly support the Credit Card Accountability, Responsibility, and Disclosure Act.

This legislation is about protecting American families. Credit card companies have been pushing schemes and scams for years. This legislation beefs up regulations and enforcement to help consumers avoid them. And it makes it easier for families to pay down their bills and get out of debt.

I support this legislation because heart and soul I am a regulator and a reformer. Over and over, I have voted for more teeth and better regulation because I believe government should be on the side of the people. I was one of nine Senators to vote against the deregulation that led to casino economics and caused the economic crisis we are fighting to get through today. From tainted dog food to toxic securities, we've seen the consequences of a lax regulatory culture and wimpy enforcement, which is why I have fought against it at every turn.

We need to get back to basics. For too long we have let credit card companies get away with schemes and scams. We relaxed the rules and allowed the whales and the sharks to grow bigger and fiercer. I am on the side of the minnows. We need to regulate the whales and the sharks. We need to stop the scamming and the scheming.

American families are worried about their jobs. They are worried about their health care. They are worried about their kids' school. They shouldn't have to worry about unfair credit card practices.

People who saved for their retirement, those who've been faithful in paying their mortgage, those who have worked hard to pay for college are wondering, "What is going on? The cost of groceries and health care and energy are going up and my pay check, if I'm lucky enough to still have one, is going down. Where's my bailout?"

No wonder my constituents are mad as hell. They have watched Wall Street executives pay themselves lavish salaries. They have watched them engage in irresponsible lending practices. They have watched them do casino economics, gambling on risky investment mechanisms. And now those same banks who are asking my constituents for a bailout with one hand are raising interest rates for no reason, and charging exorbitant fees with the other hand.

Well, my constituents are mad as hell and so am I. I want them to know that I am on their side. I am fighting to get government back on the side of the people who need it. We need to look out for the public good, not private profits.

The banks on Wall Street have been busy in the past 10 years. At the same time they were inventing new ways to make risky loans and engage in casino

economics, they were also figuring out how to get American consumers in debt traps, and keep them there by raising interest rates, charging fees, and marketing to consumers who didn't know any better.

They have been raising interest rates on consumers for no reason, and applying the higher interest rates retroactively.

They have been charging fees without any legitimate purpose—and then charging interest on top those unfair fees.

And they have been marketing their products to college students who they knew couldn't afford the credit they were providing.

This has led to a massive unsustainable debt increase for too many families. It has made it almost impossible for some to get out of debt even though they have acted responsibly, and it's led to too many students graduating college with thousands of dollars in credit card debt but no steady paycheck.

This legislation says no more.

No more raising interest rates for no reason and with no notification.

No more applying higher interest rates to balances that have already been paid off.

No more unfair sky-high fees with no recourse for the consumer.

And no more targeting college kids to weigh them down with debt before they even graduate.

These reforms will give families in debt the opportunity to get out, it will lower monthly credit card bills, and it will help consumers avoid the predatory debt traps that are the problem in the first place.

We need to fight for the middle class. We need to fight for the people who play by the rules.

And we need a major attitude adjustment.

Congress is trying to stand up for the middle class, for our constituents who are asking, "Where is my bailout?"

But the banks and financial industry continue to stand in the way. We have given them hundreds of billions in bailouts. But there is no sense of gratitude. There is no sense of gratitude that the waitress, that the single mother, that the farmer, that the firefighter is willing to do their part. And there is no willingness to help out those who have stepped up.

There is no gratitude, no remorse, no promise to sin no more, no "let's make amends." Instead, they pay themselves lavish salaries, bonuses and perks, like lavish spa retreats, and they fight tooth and nail against our efforts to help the very people who are now paying their salaries.

Wall Street is bankrupt—both on its balance sheets and in its attitude towards the American consumer. I am proud to stand with Chairman DODD and Senator SHELBY as we put government back on the side of the people

who need it. These reforms have been a long time coming; I am proud to stand in support of this bill today and urge my colleagues to vote in favor of it as well.

SENATOR LEVIN'S 11,000TH VOTE

Mr. REID. Madam President, in just a few minutes, one of our most distinguished colleagues has marked another milestone. The senior Senator from Michigan, CARL LEVIN, is going to shortly cast his 11,000th vote. How fitting that this landmark vote, like so many before it, will be cast in favor of protecting American families, hard-working American families.

We have all had the honor of serving with and getting to know CARL LEVIN. I personally have known him for a long time. I first met him in 1985. What stands out more than any other time in the dealings I have had with Senator LEVIN—and there have been lots of them—is the first time I met with him, in his office in the Russell Building. I was over there to talk about my running for the Senate. I had the good fortune of working for a number of years with his brother, Sandy, in the House. We came together to the House of Representatives.

At the beginning of the conversation, I said: CARL, I served with your brother, Sandy. We came together. He is a wonderful man.

CARL LEVIN, sitting at his desk, looked up at me and said: Yes, he is my brother, but he is also my best friend.

That is CARL LEVIN.

Before Senator LEVIN became one of our most brilliant legislators in the history of this country, he was a brilliant lawyer and a law professor. Senator LEVIN graduated from Detroit's public schools, Swarthmore College, and Harvard Law School before embarking on a remarkable career.

He has held many titles over the many years he has done public service, but each shares a common theme—serving his community and his country. He has been Michigan's assistant attorney general, the first general counsel for the Michigan Civil Rights Commission, a founder and leader in the Detroit Public Defender's Office, and president of the Detroit City Council.

His attention to detail is second to none, and we all know that. As I say, he is my Harvard nitpicker. He is such a great lawyer, has such a great legal mind. I can remember times when I have not been able to be here on the floor—Senator Daschle was the same way—and we had to call Senator LEVIN to make sure there was nothing we missed because anytime he puts his stamp of approval on something, it has been reviewed and reviewed in his great mind. His leadership is just as strong. He has been the top Democrat on the Senate Armed Services Committee since 1997. He has ably led that panel in both times of war and peace.

There are, of course, many important votes among those 11,000, but the one most recently in my mind is he voted aye for the Wounded Warrior Act, which he shepherded through the Senate in the face of veto threats, to make sure our troops and our veterans get the care they deserve on the battlefield and also when they come home. Off the Senate floor, CARL LEVIN led a groundbreaking investigation into the Enron collapse that opened America's eyes to the corporate abuses that hurt so many hard-working Americans.

More than many Americans, those across Michigan face significant struggles every day. If I lived in Detroit or Lansing or Grand Rapids, there is no one I would rather have looking out for me and helping me to get through this difficult time than CARL LEVIN. CARL LEVIN has served Michigan in the Senate longer than anyone in Michigan's history. Few would argue that anyone has done it with more passion and principle and precision than CARL LEVIN—as he approaches every issue.

I know Senator LEVIN's wife Barbara. She is a wonderful partner of Carl Levin. Also, for those Democrats, we know she can also sing.

Your wife Barbara is the best. We compliment you on raising such wonderful children—Kate, Laura, and Erica. They, your five grandchildren, and, of course, your best friend, Congressman SANDER LEVIN, join me in congratulating you on this latest accomplishment.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I join my friend, the majority leader, in recognizing our friend for his distinguished achievement. I would say to my friend from Michigan, only 20 Senators in history have cast more votes now than CARL LEVIN. But probably even fewer have been as unassuming as the senior Senator from Michigan.

Over the years, he has impressed all his colleagues by his dogged commitment to the people of Michigan, and in particular, to the manufacturers and laborers in his home State. For many of us, he has become the face of Michigan.

A product of the Detroit public school system, Senator LEVIN graduated from Central High School in Detroit, Swarthmore College, and Harvard Law School, before returning to Detroit to practice law.

He held a number of public offices in Detroit before becoming president of the Detroit City Council. In 1978, he was elected to the U.S. Senate in an upset victory over the incumbent Republican.

Four years later, Senator LEVIN was joined in Congress by his brother and his best friend, SANDER. Apparently, people still sometimes confuse the two of them . . . so it is probably a good thing they get along so well.

The people of Michigan have been happy with Senator LEVIN's work here in the Senate: they have sent him back five times, including this past November. His hometown paper calls him a principled leader and personally above reproach.

We have seen Senator LEVIN's commitment to his State in a vivid way over the past several months, as automakers have struggled to stay afloat. We have seen him work with Members on both sides to help automakers, and we've seen him outside the Capitol showing solidarity with workers. He is committed to his State, and he shows it.

Senator LEVIN has fought hard for environmental causes. In 1990, he authored the Great Lakes Critical Programs Act to create new standards of environmental protection for the Great Lakes. He also helped win passage of the Great Lakes Legacy Program to clean up contaminated sediments.

Outside Michigan, most people probably associate Senator LEVIN with his distinguished tenure on the Senate Armed Services Committee, where he has earned a reputation as a strong supporter of our Nation's service men and women. It was because of Senator LEVIN's work on this committee that he received the Navy's highest award for a civilian a few years ago for distinguished service to the Navy and Marine Corps.

(Applause.)

The PRESIDING OFFICER. The junior Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I also have to rise and thank my friend and partner and senior Senator from Michigan on behalf of everyone in Michigan. We could not be more proud of his work every day: keeping us safe, supporting the troops, fighting for veterans, the work he has done on the credit card bill that is in front of us. The fact that he has been the champion for the auto industry and autoworkers and workers across America as well as our State is something of which we are very proud.

There is no one better. With a wonderful family—Barbara and the girls and the grandkids. I am very proud to have the honor of partnering with Senator CARL LEVIN.

Congratulations.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, first let me thank my dear friend, the majority leader, for his extraordinarily generous, warmhearted comments, and including my family. As he indicated, it is so important to me.

I also thank Senator MCCONNELL. Thank you so much for your gracious comments, Senator MCCONNELL, and to my dear colleague from Michigan, Senator STABENOW.

The only thing more important to me than the 11,000 votes—which seem to be

just like 30 years ago when it began—is the friendships that have formed here, the hundreds of friendships that far surpassed the 11,000 votes. I thank all of my colleagues for their friendship.

I can't think of a better vote to cast for this 11,000th vote than a vote on the bill shepherded through by my friend CHRIS DODD. To me, this vote has tremendous meaning—not only for the work that has gone into it in our subcommittee over the years, but to be connected with a Dodd-Shelby vote, and Senator DODD's incredible effort to get this passed, makes this a special treat.

Thank you all very much.

(Applause, Senators rising.)

The PRESIDING OFFICER. Under the previous order, the substitute amendment, as amended, is agreed to.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DODD. Madam President, I will reserve my remarks until after the vote. I know my colleagues want to vote. I thank my colleagues—Senator SHELBY, the leadership—for bringing us to this moment. This is a very important bill. We would not have gotten here without a tremendous amount of cooperation. This is a good moment for all the people in our country and a good moment for consumers.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote “yea.”

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 5, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—90

Akaka	Brown	Chambliss
Barrasso	Brownback	Coburn
Baucus	Bunning	Cochran
Bayh	Burr	Collins
Begich	Burr	Conrad
Bennet	Cantwell	Corker
Bingaman	Cardin	Cornyn
Bond	Carper	Crapo
Boxer	Casey	DeMint

Dodd  
Dorgan  
Durbin  
Enzi  
Feingold  
Feinstein  
Gillibrand  
Graham  
Grassley  
Gregg  
Hagan  
Harkin  
Hatch  
Hutchison  
Inhofe  
Inouye  
Isakson  
Johanns  
Kaufman  
Kerry  
Klobuchar

Kohl  
Landrieu  
Lautenberg  
Leahy  
Levin  
Lieberman  
Lincoln  
Lugar  
Martinez  
McCain  
McCaskill  
McConnell  
Menendez  
Merkley  
Mikulski  
Murkowski  
Murray  
Nelson (NE)  
Nelson (FL)  
Pryor  
Reed

Reid  
Risch  
Roberts  
Sanders  
Schumer  
Sessions  
Shaheen  
Shelby  
Snowe  
Specter  
Stabenow  
Tester  
Udall (CO)  
Udall (NM)  
Vitter  
Voinovich  
Warner  
Webb  
Whitehouse  
Wicker  
Wyden

NAYS—5

Alexander  
Bennett

Johnson  
Kyl  
Thune

NOT VOTING—4

Byrd  
Ensign

Kennedy  
Rockefeller

The bill (H.R. 627), as amended, was passed, as follows:

H.R. 627

*Resolved*, That the bill from the House of Representatives (H.R. 627) entitled “An Act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.”, do pass with the following amendment:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the “Credit Card Accountability Responsibility and Disclosure Act of 2009” or the “Credit CARD Act of 2009”.

(b) *TABLE OF CONTENTS*.—

The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Regulatory authority.
- Sec. 3. Effective date.

#### TITLE I—CONSUMER PROTECTION

- Sec. 101. Protection of credit cardholders.
- Sec. 102. Limits on fees and interest charges.
- Sec. 103. Use of terms clarified.
- Sec. 104. Application of card payments.
- Sec. 105. Standards applicable to initial issuance of subprime or “fee harvester” cards.
- Sec. 106. Rules regarding periodic statements.
- Sec. 107. Enhanced penalties.
- Sec. 108. Clerical amendments.
- Sec. 109. Consideration of Ability to repay.

#### TITLE II—ENHANCED CONSUMER DISCLOSURES

- Sec. 201. Payoff timing disclosures.
- Sec. 202. Requirements relating to late payment deadlines and penalties.
- Sec. 203. Renewal disclosures.
- Sec. 204. Internet posting of credit card agreements.
- Sec. 205. Prevention of deceptive marketing of credit reports.

#### TITLE III—PROTECTION OF YOUNG CONSUMERS

- Sec. 301. Extensions of credit to underage consumers.
- Sec. 302. Protection of young consumers from prescreened credit offers.
- Sec. 303. Issuance of credit cards to certain college students.
- Sec. 304. Privacy Protections for college students.
- Sec. 305. College Credit Card Agreements.

#### TITLE IV—GIFT CARDS

- Sec. 401. General-use prepaid cards, gift certificates, and store gift cards.
- Sec. 402. Relation to State laws.
- Sec. 403. Effective date.

#### TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Study and report on interchange fees.
- Sec. 502. Board review of consumer credit plans and regulations.
- Sec. 503. Stored value.
- Sec. 504. Procedure for timely settlement of estates of decedent obligors.
- Sec. 505. Report to Congress on reductions of consumer credit card limits based on certain information as to experience or transactions of the consumer.
- Sec. 506. Board review of small business credit plans and recommendations.
- Sec. 507. Small business information security task force.
- Sec. 508. Study and report on emergency pin technology.
- Sec. 509. Study and report on the marketing of products with credit offers.
- Sec. 510. Financial and economic literacy.
- Sec. 511. Federal trade commission rulemaking on mortgage lending.
- Sec. 512. Protecting Americans from violent crime.
- Sec. 513. GAO study and report on fluency in the English language and financial literacy.

#### SEC. 2. REGULATORY AUTHORITY.

The Board of Governors of the Federal Reserve System (in this Act referred to as the “Board”) may issue such rules and publish such model forms as it considers necessary to carry out this Act and the amendments made by this Act.

#### SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 9 months after the date of enactment of this Act, except as otherwise specifically provided in this Act.

#### TITLE I—CONSUMER PROTECTION

##### SEC. 101. PROTECTION OF CREDIT CARD-HOLDERS.

(a) *ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED*.—

(1) *AMENDMENT TO TILA*.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(i) *ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED*.—

“(1) *ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED*.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of an increase in an annual percentage rate (except in the case of an increase described in paragraph (1), (2), or (3) of section 171(b)) not later than 45 days prior to the effective date of the increase.

“(2) *ADVANCE NOTICE OF OTHER SIGNIFICANT CHANGES REQUIRED*.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of any significant change, as determined by rule of the Board, in the terms (including an increase in any fee or finance charge, other than as provided in paragraph (1)) of the cardholder agreement between the creditor and the obligor, not later than 45 days prior to the effective date of the change.

“(3) *NOTICE OF RIGHT TO CANCEL*.—Each notice required by paragraph (1) or (2) shall be made in a clear and conspicuous manner, and shall contain a brief statement of the right of the obligor to cancel the account pursuant to rules established by the Board before the effective date of the subject rate increase or other change.

“(4) **RULE OF CONSTRUCTION.**—Closure or cancellation of an account by the obligor shall not constitute a default under an existing cardholder agreement, and shall not trigger an obligation to immediately repay the obligation in full or through a method that is less beneficial to the obligor than one of the methods described in section 171(c)(2), or the imposition of any other penalty or fee.”.

(2) **EFFECTIVE DATE.**—Notwithstanding section 3, section 127(i) of the Truth in Lending Act, as added by this subsection, shall become effective 90 days after the date of enactment of this Act.

(b) **RETROACTIVE INCREASE AND UNIVERSAL DEFAULT PROHIBITED.**—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended—

(1) by redesignating section 171 as section 173; and

(2) by inserting after section 170 the following: **“SEC. 171. LIMITS ON INTEREST RATE, FEE, AND FINANCE CHARGE INCREASES APPLICABLE TO OUTSTANDING BALANCES.**

“(a) **IN GENERAL.**—In the case of any credit card account under an open end consumer credit plan, no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under subsection (b).

“(b) **EXCEPTIONS.**—The prohibition under subsection (a) shall not apply to—

“(1) an increase in an annual percentage rate upon the expiration of a specified period of time, provided that—

“(A) prior to commencement of that period, the creditor disclosed to the consumer, in a clear and conspicuous manner, the length of the period and the annual percentage rate that would apply after expiration of the period;

“(B) the increased annual percentage rate does not exceed the rate disclosed pursuant to subparagraph (A); and

“(C) the increased annual percentage rate is not applied to transactions that occurred prior to commencement of the period;

“(2) an increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

“(3) an increase due to the completion of a workout or temporary hardship arrangement by the obligor or the failure of the obligor to comply with the terms of a workout or temporary hardship arrangement, provided that—

“(A) the annual percentage rate, fee, or finance charge applicable to a category of transactions following any such increase does not exceed the rate, fee, or finance charge that applied to that category of transactions prior to commencement of the arrangement; and

“(B) the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

“(4) an increase due solely to the fact that a minimum payment by the obligor has not been received by the creditor within 60 days after the due date for such payment, provided that the creditor shall—

“(A) include, together with the notice of such increase required under section 127(i), a clear and conspicuous written statement of the reason for the increase and that the increase will terminate not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time from the obligor during that period; and

“(B) terminate such increase not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time during that period.

“(c) **REPAYMENT OF OUTSTANDING BALANCE.**—

“(1) **IN GENERAL.**—The creditor shall not change the terms governing the repayment of any outstanding balance, except that the creditor may provide the obligor with one of the methods described in paragraph (2) of repaying any outstanding balance, or a method that is no less beneficial to the obligor than one of those methods.

“(2) **METHODS.**—The methods described in this paragraph are—

“(A) an amortization period of not less than 5 years, beginning on the effective date of the increase set forth in the notice required under section 127(i); or

“(B) a required minimum periodic payment that includes a percentage of the outstanding balance that is equal to not more than twice the percentage required before the effective date of the increase set forth in the notice required under section 127(i).

“(d) **OUTSTANDING BALANCE DEFINED.**—For purposes of this section, the term ‘outstanding balance’ means the amount owed on a credit card account under an open end consumer credit plan as of the end of the 14th day after the date on which the creditor provides notice of an increase in the annual percentage rate, fee, or finance charge in accordance with section 127(i).”.

(c) **INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end the following:

**“SEC. 148. INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.**

“(a) **IN GENERAL.**—If a creditor increases the annual percentage rate applicable to a credit card account under an open end consumer credit plan, based on factors including the credit risk of the obligor, market conditions, or other factors, the creditor shall consider changes in such factors in subsequently determining whether to reduce the annual percentage rate for such obligor.

“(b) **REQUIREMENTS.**—With respect to any credit card account under an open end consumer credit plan, the creditor shall—

“(1) maintain reasonable methodologies for assessing the factors described in subsection (a);

“(2) not less frequently than once every 6 months, review accounts as to which the annual percentage rate has been increased since January 1, 2009, to assess whether such factors have changed (including whether any risk has declined);

“(3) reduce the annual percentage rate previously increased when a reduction is indicated by the review; and

“(4) in the event of an increase in the annual percentage rate, provide in the written notice required under section 127(i) a statement of the reasons for the increase.

“(c) **RULE OF CONSTRUCTION.**—This section shall not be construed to require a reduction in any specific amount.

“(d) **RULEMAKING.**—The Board shall issue final rules not later than 9 months after the date of enactment of this section to implement the requirements of and evaluate compliance with this section, and subsections (a), (b), and (c) shall become effective 15 months after that date of enactment.”.

(d) **INTRODUCTORY AND PROMOTIONAL RATES.**—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended by inserting after section 171, as amended by this Act, the following:

**“SEC. 172. ADDITIONAL LIMITS ON INTEREST RATE INCREASES.**

“(a) **LIMITATION ON INCREASES WITHIN FIRST YEAR.**—Except in the case of an increase described in paragraph (1), (2), (3), or (4) of section 171(b), no increase in any annual percent-

age rate, fee, or finance charge on any credit card account under an open end consumer credit plan shall be effective before the end of the 1-year period beginning on the date on which the account is opened.

“(b) **PROMOTIONAL RATE MINIMUM TERM.**—No increase in any annual percentage rate applicable to a credit card account under an open end consumer credit plan that is a promotional rate (as that term is defined by the Board) shall be effective before the end of the 6-month period beginning on the date on which the promotional rate takes effect, subject to such reasonable exceptions as the Board may establish, by rule.”.

(e) **CLERICAL AMENDMENT.**—The table of sections for chapter 4 of the Truth in Lending Act is amended by striking the item relating to section 171 and inserting the following:

“171. Limits on interest rate, fee, and finance charge increases applicable to outstanding balances.

“172. Additional limits on interest rate increases.

“173. Applicability of State laws.”.

**SEC. 102. LIMITS ON FEES AND INTEREST CHARGES.**

(a) **IN GENERAL.**—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(j) **PROHIBITION ON PENALTIES FOR ON-TIME PAYMENTS.**—

“(1) **PROHIBITION ON DOUBLE-CYCLE BILLING AND PENALTIES FOR ON-TIME PAYMENTS.**—Except as provided in paragraph (2), a creditor may not impose any finance charge on a credit card account under an open end consumer credit plan as a result of the loss of any time period provided by the creditor within which the obligor may repay any portion of the credit extended without incurring a finance charge, with respect to—

“(A) any balances for days in billing cycles that precede the most recent billing cycle; or

“(B) any balances or portions thereof in the current billing cycle that were repaid within such time period.

“(2) **EXCEPTIONS.**—Paragraph (1) does not apply to—

“(A) any adjustment to a finance charge as a result of the resolution of a dispute; or

“(B) any adjustment to a finance charge as a result of the return of a payment for insufficient funds.

“(k) **OPT-IN REQUIRED FOR OVER-THE-LIMIT TRANSACTIONS IF FEES ARE IMPOSED.**—

“(1) **IN GENERAL.**—In the case of any credit card account under an open end consumer credit plan under which an over-the-limit fee may be imposed by the creditor for any extension of credit in excess of the amount of credit authorized to be extended under such account, no such fee shall be charged, unless the consumer has expressly elected to permit the creditor, with respect to such account, to complete transactions involving the extension of credit under such account in excess of the amount of credit authorized.

“(2) **DISCLOSURE BY CREDITOR.**—No election by a consumer under paragraph (1) shall take effect unless the consumer, before making such election, received a notice from the creditor of any over-the-limit fee in the form and manner, and at the time, determined by the Board. If the consumer makes the election referred to in paragraph (1), the creditor shall provide notice to the consumer of the right to revoke the election, in the form prescribed by the Board, in any periodic statement that includes notice of the imposition of an over-the-limit fee during the period covered by the statement.

“(3) **FORM OF ELECTION.**—A consumer may make or revoke the election referred to in paragraph (1) orally, electronically, or in writing, pursuant to regulations prescribed by the



Board. The Board shall prescribe regulations to ensure that the same options are available for both making and revoking such election.

“(4) **TIME OF ELECTION.**—A consumer may make the election referred to in paragraph (1) at any time, and such election shall be effective until the election is revoked in the manner prescribed under paragraph (3).

“(5) **REGULATIONS.**—The Board shall prescribe regulations—

“(A) governing disclosures under this subsection; and

“(B) that prevent unfair or deceptive acts or practices in connection with the manipulation of credit limits designed to increase over-the-limit fees or other penalty fees.

“(6) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit a creditor from completing an over-the-limit transaction, provided that a consumer who has not made a valid election under paragraph (1) is not charged an over-the-limit fee for such transaction.

“(7) **RESTRICTION ON FEES CHARGED FOR AN OVER-THE-LIMIT TRANSACTION.**—With respect to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

“(1) **LIMIT ON FEES RELATED TO METHOD OF PAYMENT.**—With respect to a credit card account under an open end consumer credit plan, the creditor may not impose a separate fee to allow the obligor to repay an extension of credit or finance charge, whether such repayment is made by mail, electronic transfer, telephone authorization, or other means, unless such payment involves an expedited service by a service representative of the creditor.”.

(b) **REASONABLE PENALTY FEES.**—

(1) **IN GENERAL.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.), as amended by this Act, is amended by adding at the end the following:

“**SEC. 149. REASONABLE PENALTY FEES ON OPEN END CONSUMER CREDIT PLANS.**

“(a) **IN GENERAL.**—The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

“(b) **RULEMAKING REQUIRED.**—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, shall issue final rules not later than 9 months after the date of enactment of this section, to establish standards for assessing whether the amount of any penalty fee or charge described under subsection (a) is reasonable and proportional to the omission or violation to which the fee or charge relates. Subsection (a) shall become effective 15 months after the date of enactment of this section.

(c) **CONSIDERATIONS.**—In issuing rules required by this section, the Board shall consider—

“(1) the cost incurred by the creditor from such omission or violation;

“(2) the deterrence of such omission or violation by the cardholder;

“(3) the conduct of the cardholder; and

“(4) such other factors as the Board may deem necessary or appropriate.

“(d) **DIFFERENTIATION PERMITTED.**—In issuing rules required by this subsection, the Board may establish different standards for different types of fees and charges, as appropriate.

“(e) **SAFE HARBOR RULE AUTHORIZED.**—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, may issue rules to provide an amount for any penalty fee or charge described under subsection (a) that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates.”.

(2) **CLERICAL AMENDMENTS.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended—

(A) in the chapter heading, by inserting “**AND LIMITS ON CREDIT CARD FEES**” after “**ADVERTISING**”; and

(B) in the table of sections for the chapter, by adding at the end the following:

“148. Interest rate reduction on open end consumer credit plans.

“149. Reasonable penalty fees on open end consumer credit plans.”.

#### **SEC. 103. USE OF TERMS CLARIFIED.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(m) **USE OF TERM ‘FIXED RATE’.**—With respect to the terms of any credit card account under an open end consumer credit plan, the term ‘fixed’, when appearing in conjunction with a reference to the annual percentage rate or interest rate applicable with respect to such account, may only be used to refer to an annual percentage rate or interest rate that will not change or vary for any reason over the period specified clearly and conspicuously in the terms of the account.”.

#### **SEC. 104. APPLICATION OF CARD PAYMENTS.**

Section 164 of the Truth in Lending Act (15 U.S.C. 1666c) is amended—

(1) by striking the section heading and all that follows through “Payments” and inserting the following:

“**§ 164. Prompt and fair crediting of payments**

“(a) **IN GENERAL.**—Payments”;

(2) by inserting “, by 5:00 p.m. on the date on which such payment is due,” after “in readily identifiable form”;

(3) by striking “manner, location, and time” and inserting “manner, and location”; and

(4) by adding at the end the following:

“(b) **APPLICATION OF PAYMENTS.**—

“(1) **IN GENERAL.**—Upon receipt of a payment from a cardholder, the card issuer shall apply amounts in excess of the minimum payment amount first to the card balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted.

“(2) **CLARIFICATION RELATING TO CERTAIN DEFERRED INTEREST ARRANGEMENTS.**—A creditor shall allocate the entire amount paid by the consumer in excess of the minimum payment amount to a balance on which interest is deferred during the last 2 billing cycles immediately preceding the expiration of the period during which interest is deferred.

“(c) **CHANGES BY CARD ISSUER.**—If a card issuer makes a material change in the mailing address, office, or procedures for handling cardholder payments, and such change causes a material delay in the crediting of a cardholder payment made during the 60-day period following the date on which such change took effect, the card issuer may not impose any late fee or fi-

nance charge for a late payment on the credit card account to which such payment was credited.”.

#### **SEC. 105. STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR ‘FEE HARVESTER’ CARDS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following new subsection:

“(n) **STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR ‘FEE HARVESTER’ CARDS.**—

“(1) **IN GENERAL.**—If the terms of a credit card account under an open end consumer credit plan require the payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) by the consumer in the first year during which the account is opened in an aggregate amount in excess of 25 percent of the total amount of credit authorized under the account when the account is opened, no payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) may be made from the credit made available under the terms of the account.

“(2) **RULE OF CONSTRUCTION.**—No provision of this subsection may be construed as authorizing any imposition or payment of advance fees otherwise prohibited by any provision of law.”.

#### **SEC. 106. RULES REGARDING PERIODIC STATEMENTS.**

(a) **IN GENERAL.**—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(o) **DUE DATES FOR CREDIT CARD ACCOUNTS.**—

“(1) **IN GENERAL.**—The payment due date for a credit card account under an open end consumer credit plan shall be the same day each month.

“(2) **WEEKEND OR HOLIDAY DUE DATES.**—If the payment due date for a credit card account under an open end consumer credit plan is a day on which the creditor does not receive or accept payments by mail (including weekends and holidays), the creditor may not treat a payment received on the next business day as late for any purpose.”.

(b) **LENGTH OF BILLING PERIOD.**—

(1) **IN GENERAL.**—Section 163 of the Truth in Lending Act (15 U.S.C. 1666b) is amended to read as follows:

“**SEC. 163. TIMING OF PAYMENTS.**

“(a) **TIME TO MAKE PAYMENTS.**—A creditor may not treat a payment on an open end consumer credit plan as late for any purpose, unless the creditor has adopted reasonable procedures designed to ensure that each periodic statement including the information required by section 127(b) is mailed or delivered to the consumer not later than 21 days before the payment due date.

“(b) **GRACE PERIOD.**—If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part, unless a statement which includes the amount upon which the finance charge for the period is based was mailed or delivered to the consumer not later than 21 days before the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.”.

(2) **EFFECTIVE DATE.**—Notwithstanding section 3, section 163 of the Truth in Lending Act, as amended by this subsection, shall become effective 90 days after the date of enactment of this Act.

(c) **CLERICAL AMENDMENTS.**—The table of sections for chapter 4 of the Truth in Lending Act is amended—



(1) by striking the item relating to section 163 and inserting the following:

“163. Timing of payments.”; and

(2) by striking the item relating to section 171 and inserting the following:

“171. Universal defaults prohibited.

“172. Unilateral changes in credit card agreement prohibited.

“173. Applicability of State laws.”.

#### SEC. 107. ENHANCED PENALTIES.

Section 130(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)(A)) is amended by striking “or (iii) in the” and inserting the following: “(iii) in the case of an individual action relating to an open end consumer credit plan that is not secured by real property or a dwelling, twice the amount of any finance charge in connection with the transaction, with a minimum of \$500 and a maximum of \$5,000, or such higher amount as may be appropriate in the case of an established pattern or practice of such failures; or (iv) in the”.

#### SEC. 108. CLERICAL AMENDMENTS.

Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended—

(1) by striking “term” and all that follows through “means” and inserting the following: “terms ‘open end credit plan’ and ‘open end consumer credit plan’ mean”; and

(2) in the second sentence, by inserting “or open end consumer credit plan” after “credit plan” each place that term appears.

#### SEC. 109. CONSIDERATION OF ABILITY TO REPAY.

(a) IN GENERAL.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1666 et seq.), as amended by this title, is amended by adding at the end the following:

#### “SEC. 150. CONSIDERATION OF ABILITY TO REPAY.

“A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account.”.

(b) CLERICAL AMENDMENT.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended in the table of sections for the chapter, by adding at the end the following:

“150. Consideration of ability to repay.”.

### TITLE II—ENHANCED CONSUMER DISCLOSURES

#### SEC. 201. PAYOFF TIMING DISCLOSURES.

(a) IN GENERAL.—Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)(11)) is amended to read as follows:

“(11)(A) A written statement in the following form: ‘Minimum Payment Warning: Making only the minimum payment will increase the amount of interest you pay and the time it takes to repay your balance.’, or such similar statement as is established by the Board pursuant to consumer testing.

“(B) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

“(i) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

“(ii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made;

“(iii) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal

payments, of paying that balance in full if the consumer pays the balance over 36 months; and

“(iv) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

“(C)(i) Subject to clause (ii), in making the disclosures under subparagraph (B), the creditor shall apply the interest rate or rates in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

“(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.

“(D) All of the information described in subparagraph (B) shall—

“(i) be disclosed in the form and manner which the Board shall prescribe, by regulation, and in a manner that avoids duplication; and

“(ii) be placed in a conspicuous and prominent location on the billing statement.

“(E) In the regulations prescribed under subparagraph (D), the Board shall require that the disclosure of such information shall be in the form of a table that—

“(i) contains clear and concise headings for each item of such information; and

“(ii) provides a clear and concise form stating each item of information required to be disclosed under each such heading.

“(F) In prescribing the form of the table under subparagraph (E), the Board shall require that—

“(i) all of the information in the table, and not just a reference to the table, be placed on the billing statement, as required by this paragraph; and

“(ii) the items required to be included in the table shall be listed in the order in which such items are set forth in subparagraph (B).

“(G) In prescribing the form of the table under subparagraph (D), the Board shall employ terminology which is different than the terminology which is employed in subparagraph (B), if such terminology is more easily understood and conveys substantially the same meaning.”.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or any of paragraphs (4) through (13) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or any of paragraphs (4) through (13) of section 127(b).”.

(c) GUIDELINES REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Board shall issue guidelines, by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under section 127(b)(11)(B)(iv) of the Truth in Lending Act, as added by this section.

(2) APPROVED AGENCIES.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number referred to in paragraph (1) include only those nonprofit budget and credit counseling agencies approved by a United States bankruptcy trustee pursuant to section 111(a) of title 11, United States Code.

#### SEC. 202. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.

Section 127(b)(12) of the Truth in Lending Act (15 U.S.C. 1637(b)(12)) is amended to read as follows:

“(12) REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.—

“(A) LATE PAYMENT DEADLINE REQUIRED TO BE DISCLOSED.—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection (b) with respect to the account shall include, in a conspicuous location on the billing statement, the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date.

“(B) DISCLOSURE OF INCREASE IN INTEREST RATES FOR LATE PAYMENTS.—If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate applicable to the account, the statement required under subsection (b) with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required under subparagraph (A) of the date on which payment is due under the terms of the account.

“(C) PAYMENTS AT LOCAL BRANCHES.—If the creditor, in the case of a credit card account referred to in subparagraph (A), is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obligor in person, the date on which the obligor makes a payment on the account at such branch or office shall be considered to be the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment.”.

#### SEC. 203. RENEWAL DISCLOSURES.

Section 127(d) of the Truth in Lending Act (15 U.S.C. 1637(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (1), by striking “Except as provided in paragraph (2), a card issuer” and inserting the following: “A card issuer that has changed or amended any term of the account since the last renewal that has not been previously disclosed or”.

#### SEC. 204. INTERNET POSTING OF CREDIT CARD AGREEMENTS.

(a) IN GENERAL.—Section 122 of the Truth and Lending Act (15 U.S.C. 1632) is amended by adding at the end the following new subsection:

“(d) ADDITIONAL ELECTRONIC DISCLOSURES.—

“(1) POSTING AGREEMENTS.—Each creditor shall establish and maintain an Internet site on which the creditor shall post the written agreement between the creditor and the consumer for each credit card account under an open-end consumer credit plan.

“(2) CREDITOR TO PROVIDE CONTRACTS TO THE BOARD.—Each creditor shall provide to the Board, in electronic format, the consumer credit card agreements that it publishes on its Internet site.

“(3) RECORD REPOSITORY.—The Board shall establish and maintain on its publicly available

Internet site a central repository of the consumer credit card agreements received from creditors pursuant to this subsection, and such agreements shall be easily accessible and retrievable by the public.

“(4) EXCEPTION.—This subsection shall not apply to individually negotiated changes to contractual terms, such as individually modified workouts or renegotiations of amounts owed by a consumer under an open end consumer credit plan.

“(5) REGULATIONS.—The Board, in consultation with the other Federal banking agencies (as that term is defined in section 603) and the Federal Trade Commission, may promulgate regulations to implement this subsection, including specifying the format for posting the agreements on the Internet sites of creditors and establishing exceptions to paragraphs (1) and (2), in any case in which the administrative burden outweighs the benefit of increased transparency, such as where a credit card plan has a de minimis number of consumer account holders.”.

#### **SEC. 205. PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.**

(a) PREVENTING DECEPTIVE MARKETING.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following:

“(g) PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.—

“(1) IN GENERAL.—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: ‘AnnualCreditReport.com’ (or such other source as may be authorized under Federal law).

“(2) TELEVISION AND RADIO ADVERTISEMENT.—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: ‘This is not the free credit report provided for by Federal law’.”.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall issue a final rule to carry out this section.

(2) CONTENT.—The rule required by this subsection—

(A) shall include specific wording to be used in advertisements in accordance with this section; and

(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

(3) INTERIM DISCLOSURES.—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act, as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: “Free credit reports are available under Federal law at: ‘AnnualCreditReport.com’.”.

### **TITLE III—PROTECTION OF YOUNG CONSUMERS**

#### **SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.**

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(8) APPLICATIONS FROM UNDERAGE CONSUMERS.—

“(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end consumer

credit plan established by or on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

“(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require—

“(i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

“(ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

“(C) SAFE HARBOR.—The Board shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).”.

#### **SEC. 302. PROTECTION OF YOUNG CONSUMERS FROM PRESCREENED CREDIT OFFERS.**

Section 604(c)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(c)(1)(B)) is amended—

(1) in clause (ii), by striking “and” at the end; and

(2) in clause (iii), by striking the period at the end and inserting the following: “; and

“(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.”.

#### **SEC. 303. ISSUANCE OF CREDIT CARDS TO CERTAIN COLLEGE STUDENTS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following new subsection:

“(p) PARENTAL APPROVAL REQUIRED TO INCREASE CREDIT LINES FOR ACCOUNTS FOR WHICH PARENT IS JOINTLY LIABLE.—No increase may be made in the amount of credit authorized to be extended under a credit card account for which a parent, legal guardian, or spouse of the consumer, or any other individual has assumed joint liability for debts incurred by the consumer in connection with the account before the consumer attains the age of 21, unless that parent, guardian, or spouse approves in writing, and assumes joint liability for, such increase.”.

#### **SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.**

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

“(f) CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.—

“(1) DISCLOSURE REQUIRED.—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

“(2) INDUCEMENTS PROHIBITED.—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

“(A) on the campus of an institution of higher education;

“(B) near the campus of an institution of higher education, as determined by rule of the Board; or

“(C) at an event sponsored by or related to an institution of higher education.

“(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

“(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

“(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

“(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.”.

#### **SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.**

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

“(r) COLLEGE CARD AGREEMENTS.—

“(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) COLLEGE AFFINITY CARD.—The term ‘college affinity card’ means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization, or foundation—

“(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

“(ii) the creditor has agreed to offer discounted terms to the consumer; or

“(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

“(B) COLLEGE STUDENT CREDIT CARD ACCOUNT.—The term ‘college student credit card account’ means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

“(C) COLLEGE STUDENT.—The term ‘college student’ means an individual who is a full-time or a part-time student attending an institution of higher education.

“(D) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

“(2) REPORTS BY CREDITORS.—

“(A) IN GENERAL.—Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

“(B) DETAILS OF REPORT.—The information required to be reported under subparagraph (A) includes—

“(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

“(ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

“(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

“(C) AGGREGATION BY INSTITUTION.—The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

“(D) INITIAL REPORT.—The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

“(3) REPORTS BY BOARD.—The Board shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.”

(b) STUDY AND REPORT BY THE COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT.—Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

#### TITLE IV—GIFT CARDS

##### SEC. 401. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 915 through 921 as sections 916 through 922, respectively; and

(2) by inserting after section 914 the following:

##### “SEC. 915. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) DORMANCY FEE; INACTIVITY CHARGE OR FEE.—The terms ‘dormancy fee’ and ‘inactivity charge or fee’ mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

“(2) GENERAL USE PREPAID CARD, GIFT CERTIFICATE, AND STORE GIFT CARD.—

“(A) GENERAL-USE PREPAID CARD.—The term ‘general-use prepaid card’ means a card or other payment code or device issued by any person that is—

“(i) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

“(ii) issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder;

“(iii) purchased or loaded on a prepaid basis; and

“(iv) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

“(B) GIFT CERTIFICATE.—The term ‘gift certificate’ means an electronic promise that is—

“(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

“(ii) issued in a specified amount that may not be increased or reloaded;

“(iii) purchased on a prepaid basis in exchange for payment; and

“(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

“(C) STORE GIFT CARD.—The term ‘store gift card’ means an electronic promise, plastic card, or other payment code or device that is—

“(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

“(ii) issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder;

“(iii) purchased on a prepaid basis in exchange for payment; and

“(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

“(D) EXCLUSIONS.—The terms ‘general-use prepaid card’, ‘gift certificate’, and ‘store gift card’ do not include an electronic promise, plastic card, or payment code or device that is—

“(i) used solely for telephone services;

“(ii) reloadable and not marketed or labeled as a gift card or gift certificate;

“(iii) a loyalty, award, or promotional gift card, as defined by the Board;

“(iv) not marketed to the general public;

“(v) issued in paper form only (including for tickets and events); or

“(vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—

“(I) at the event or venue after admission; or

“(II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

“(3) SERVICE FEE.—

“(A) IN GENERAL.—The term ‘service fee’ means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

“(B) EXCLUSION.—With respect to a general-use prepaid card, the term ‘service fee’ does not include a one-time initial issuance fee.

“(b) PROHIBITION ON IMPOSITION OF FEES OR CHARGES.—

“(1) IN GENERAL.—Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card.

“(2) EXCEPTIONS.—A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if—

“(A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;

“(B) the disclosure requirements of paragraph (3) have been met;

“(C) not more than one fee may be charged in any given month; and

“(D) any additional requirements that the Board may establish through rulemaking under subsection (d) have been met.

“(3) DISCLOSURE REQUIREMENTS.—The disclosure requirements of this paragraph are met if—

“(A) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states—

“(i) that a dormancy fee, inactivity charge or fee, or service fee may be charged;

“(ii) the amount of such fee or charge;

“(iii) how often such fee or charge may be assessed; and

“(iv) that such fee or charge may be assessed for inactivity; and

“(B) the issuer or vendor of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

“(4) EXCLUSION.—The prohibition under paragraph (1) shall not apply to any gift certificate—

“(A) that is distributed pursuant to an award, loyalty, or promotional program, as defined by the Board; and

“(B) with respect to which, there is no money or other value exchanged.

“(c) PROHIBITION ON SALE OF GIFT CARDS WITH EXPIRATION DATES.—

“(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

“(2) EXCEPTIONS.—A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if—

“(A) the expiration date is not earlier than 5 years after the date on which the gift certificate was issued, or the date on which card funds were last loaded to a store gift card or general-use prepaid card; and

“(B) the terms of expiration are clearly and conspicuously stated.

“(d) ADDITIONAL RULEMAKING.—

“(1) IN GENERAL.—The Board shall—

“(A) prescribe regulations to carry out this section, in addition to any other rules or regulations required by this title, including such additional requirements as appropriate relating to the amount of dormancy fees, inactivity charges or fees, or service fees that may be assessed and the amount of remaining value of a gift certificate, store gift card, or general-use prepaid card below which such charges or fees may be assessed; and

“(B) shall determine the extent to which the individual definitions and provisions of the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.

“(2) CONSULTATION.—In prescribing regulations under this subsection, the Board shall consult with the Federal Trade Commission.

“(3) TIMING; EFFECTIVE DATE.—The regulations required by this subsection shall be issued in final form not later than 9 months after the date of enactment of the Credit CARD Act of 2009.”

##### SEC. 402. RELATION TO STATE LAWS.

Section 920 of the Electronic Fund Transfer Act (as redesignated by this title) is amended by inserting “dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards,” after “electronic fund transfers.”

##### SEC. 403. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective 15 months after the date of enactment of this Act.

#### TITLE V—MISCELLANEOUS PROVISIONS

##### SEC. 501. STUDY AND REPORT ON INTERCHANGE FEES.

(a) STUDY REQUIRED.—The Comptroller General of the United States (in this section referred to as the “Comptroller”) shall conduct a study on use of credit by consumers, interchange fees, and their effects on consumers and merchants.

(b) SUBJECTS FOR REVIEW.—In conducting the study required by this section, the Comptroller shall review—

(1) the extent to which interchange fees are required to be disclosed to consumers and merchants, whether merchants are restricted from

disclosing interchange or merchant discount fees, and how such fees are overseen by the Federal banking agencies or other regulators;

(2) the ways in which the interchange system affects the ability of merchants of varying size to negotiate pricing with card associations and banks;

(3) the costs and factors incorporated into interchange fees, such as advertising, bonus miles, and rewards, how such costs and factors vary among cards;

(4) the consequences of the undisclosed nature of interchange fees on merchants and consumers with regard to prices charged for goods and services;

(5) how merchant discount fees compare to the credit losses and other costs that merchants incur to operate their own credit networks or store cards;

(6) the extent to which the rules of payment card networks and their policies regarding interchange fees are accessible to merchants;

(7) other jurisdictions where the central bank has regulated interchange fees and the impact on retail prices to consumers in such jurisdictions;

(8) whether and to what extent merchants are permitted to discount for cash; and

(9) the extent to which interchange fees allow smaller financial institutions and credit unions to offer payment cards and compete against larger financial institutions.

(c) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Comptroller shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study required by this section, together with such recommendations for legislative or administrative actions as may be appropriate.

#### **SEC. 502. BOARD REVIEW OF CONSUMER CREDIT PLANS AND REGULATIONS.**

(a) **REQUIRED REVIEW.**—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including—

(1) the terms of credit card agreements and the practices of credit card issuers;

(2) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and

(4) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected—

(A) cost and availability of credit, particularly with respect to non-prime borrowers;

(B) the safety and soundness of credit card issuers;

(C) the use of risk-based pricing; or

(D) credit card product innovation.

(b) **SOLICITATION OF PUBLIC COMMENT.**—In connection with conducting the review required by subsection (a), the Board shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

(c) **REGULATIONS.**—

(1) **NOTICE.**—Following the review required by subsection (a), the Board shall publish a notice in the Federal Register that—

(A) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the Board, such as through consumer testing or other research; and

(B) either—

(i) proposes new or revised regulations or interpretations to update or revise disclosures and

protections for consumer credit cards, as appropriate; or

(ii) states the reason for the determination of the Board that new or revised regulations are not necessary.

(2) **REVISION OF REVIEW PERIOD FOLLOWING MATERIAL REVISION OF REGULATIONS.**—In the event that the Board materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required by subsection (a).

(d) **BOARD REPORT TO THE CONGRESS.**—The Board shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

(e) **ADDITIONAL REPORTING.**—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission shall provide annually to the Board, and the Board shall include in its annual report to Congress under section 10 of the Federal Reserve Act, information about the supervisory and enforcement activities of the agencies with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations, including—

(1) this Act, the amendments made by this Act, and regulations prescribed under this Act and such amendments; and

(2) section 5 of the Federal Trade Commission Act, and regulations prescribed under the Federal Trade Commission Act, including part 227 of title 12 of the Code of Federal Regulations, as prescribed by the Board (referred to as “Regulation AA”).

#### **SEC. 503. STORED VALUE.**

(a) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) **CONSIDERATION OF INTERNATIONAL TRANSPORT.**—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) **EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.**—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

#### **SEC. 504. PROCEDURE FOR TIMELY SETTLEMENT OF ESTATES OF DECEDENT OBLIGORS.**

(a) **IN GENERAL.**—Chapter 2 of the Truth in Lending Act ( U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

##### **“§ 140A. Procedure for timely settlement of estates of decedent obligors**

“The Board, in consultation with the Federal Trade Commission and each other agency referred to in section 108(a), shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 140 the following new item:

“140A. Procedure for timely settlement of estates of decedent obligors.”.

#### **SEC. 505. REPORT TO CONGRESS ON REDUCTIONS OF CONSUMER CREDIT CARD LIMITS BASED ON CERTAIN INFORMATION AS TO EXPERIENCE OR TRANSACTIONS OF THE CONSUMER.**

(a) **REPORT ON CREDITOR PRACTICES REQUIRED.**—Before the end of the 1-year period beginning on the date of enactment of this Act, the Board, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission, shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on—

(1) the geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

(2) the credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

(3) the identity of the mortgage creditor which extended or holds the mortgage loan secured by the primary residence of the consumer.

(b) **OTHER INFORMATION.**—The report required under subsection (a) shall also include—

(1) the number of creditors that have engaged in the practices described in subsection (a);

(2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers;

(3) any other relevant information regarding such practices; and

(4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

#### **SEC. 506. BOARD REVIEW OF SMALL BUSINESS CREDIT PLANS AND RECOMMENDATIONS.**

(a) **REQUIRED REVIEW.**—Not later than 9 months after the date of enactment of this Act, the Board shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as “small businesses”) and the credit card market for small businesses, including—

(1) the terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

(2) the adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

(4) the cost and availability of credit for small businesses, particularly with respect to non-prime borrowers;

(5) the use of risk-based pricing for small businesses;

(6) credit card product innovation relating to small businesses; and

(7) the extent to which small business owners use personal credit cards to fund their business operations.

(b) **RECOMMENDATIONS.**—Following the review required by subsection (a), the Board shall, not later than 12 months after the date of enactment of this Act—

(1) provide a report to Congress that summarizes the review and other evidence gathered by the Board, such as through consumer testing or other research, and

(2) make recommendations for administrative or legislative initiatives to provide protections for credit card plans for small businesses, as appropriate.

**SEC. 507. SMALL BUSINESS INFORMATION SECURITY TASK FORCE.**

(a) **DEFINITIONS.**—In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “small business concern” has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term “task force” means the task force established under subsection (b).

(b) **ESTABLISHMENT.**—The Administrator shall, in conjunction with the Secretary of Homeland Security, establish a task force, to be known as the “Small Business Information Security Task Force”, to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) **DUTIES.**—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) **INTERNET WEBSITE RECOMMENDATIONS.**—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations, both public and private, to which the Internet website should link.

(e) **EDUCATION PROGRAMS.**—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) **EXISTING MATERIALS.**—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) **COORDINATION WITH PUBLIC AND PRIVATE SECTOR.**—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) **APPOINTMENT OF MEMBERS.**—

(1) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) **MEMBERS.**—

(A) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) **ADDITIONAL MEMBERS.**—

(i) **IN GENERAL.**—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) **NUMBER OF MEMBERS.**—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(1) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) **GROUPS REPRESENTED.**—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies within small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) **POLITICAL AFFILIATION.**—The appointments under this subsection shall be made without regard to political affiliation.

(i) **MEETINGS.**—

(1) **FREQUENCY.**—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) **QUORUM.**—A majority of the members of the task force shall constitute a quorum.

(3) **LOCATION.**—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) **MINUTES.**—

(A) **IN GENERAL.**—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to the Adminis-

trator any findings or recommendations approved at the meeting.

(B) **SUBMISSION TO CONGRESS.**—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) **FINDINGS.**—

(A) **IN GENERAL.**—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) **PERSONNEL MATTERS.**—

(1) **COMPENSATION OF MEMBERS.**—Each member of the task force shall serve without pay for their service on the task force.

(2) **TRAVEL EXPENSES.**—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) **DETAIL OF SBA EMPLOYEES.**—The Administrator may detail, without reimbursement, any of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) **SBA SUPPORT OF THE TASK FORCE.**—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) **NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) **STARTUP DEADLINES.**—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) **EXCEPTION.**—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$300,000 for each of fiscal years 2010 through 2013.

**SEC. 508. STUDY AND REPORT ON EMERGENCY PIN TECHNOLOGY.**

(a) **IN GENERAL.**—The Federal Trade Commission, in consultation with the Attorney General of the United States and the United States Secret Service, shall conduct a study on the cost-effectiveness of making available at automated teller machines technology that enables a consumer that is under duress to electronically alert

a local law enforcement agency that an incident is taking place at such automated teller machine, including—

(1) an emergency personal identification number that would summon a local law enforcement officer to an automated teller machine when entered into such automated teller machine; and

(2) a mechanism on the exterior of an automated teller machine that, when pressed, would summon a local law enforcement to such automated teller machine.

(b) **CONTENTS OF STUDY.**—The study required under subsection (a) shall include—

(1) an analysis of any technology described in subsection (a) that is currently available or under development;

(2) an estimate of the number and severity of any crimes that could be prevented by the availability of such technology;

(3) the estimated costs of implementing such technology; and

(4) a comparison of the costs and benefits of not fewer than 3 types of such technology.

(c) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the findings of the study required under this section that includes such recommendations for legislative action as the Commission determines appropriate.

**SEC. 509. STUDY AND REPORT ON THE MARKETING OF PRODUCTS WITH CREDIT OFFERS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers, including—

- (1) debt suspension agreements;
- (2) debt cancellation agreements; and
- (3) credit insurance products.

(b) **AREAS OF CONCERN.**—The study conducted under this section shall evaluate—

- (1) the suitability of the offer of products described in subsection (a) for target customers;
- (2) the predatory nature of such offers; and
- (3) specifically for debt cancellation or suspension agreements and credit insurance products, loss rates compared to more traditional insurance products.

(c) **REPORT TO CONGRESS.**—The Comptroller shall submit a report to Congress on the results of the study required by this section not later than December 31, 2010.

**SEC. 510. FINANCIAL AND ECONOMIC LITERACY.**

(a) **REPORT ON FEDERAL FINANCIAL AND ECONOMIC LITERACY EDUCATION PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy—

(A) to evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(B) to prepare and submit a report to Congress on the findings of the evaluations.

(2) **CONTENTS.**—The report required by this subsection shall address, at a minimum—

(A) the 2008 recommendations of the President's Advisory Council on Financial Literacy;

(B) existing Federal financial and economic literacy education programs for grades kindergarten through grade 12, and annual funding to support these programs;

(C) existing Federal postsecondary financial and economic literacy education programs and annual funding to support these programs;

(D) the current financial and economic literacy education needs of adults, and in particular, low- and moderate-income adults;

(E) ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and

(F) specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

(b) **STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy to develop a strategic plan to improve and expand financial and economic literacy education.

(2) **CONTENTS.**—The plan developed under this subsection shall—

(A) incorporate findings from the report and evaluations of existing Federal financial and economic literacy education programs under subsection (a); and

(B) include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

(3) **PRESENTATION TO CONGRESS.**—The plan developed under this subsection shall be presented to Congress not later than 6 months after the date on which the report under subsection (a) is submitted to Congress.

(c) **EFFECTIVE DATE.**—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

**SEC. 511. FEDERAL TRADE COMMISSION RULE-MAKING ON MORTGAGE LENDING.**

(a) **IN GENERAL.**—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended—

(1) in subsection (a)—

(A) by striking “Within” and inserting “(1) Within”;

(B) in paragraph (1), as designated by subparagraph (A), by inserting after the first sentence the following: “Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services.”; and

(C) by adding at the end the following:

“(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

“(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

“(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.”; and

(2) in subsection (b)—

(A) by striking so much as precedes paragraph (2) and inserting the following:

“(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(A) to enjoin that practice;

“(B) to enforce compliance with the rule;

“(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

“(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate.”; and

(B) in paragraphs (2), (3), and (6), by striking “Commission” each place it appears and inserting “primary Federal regulator”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on March 12, 2009.

**SEC. 512. PROTECTING AMERICANS FROM VIOLENT CRIME.**

(a) **CONGRESSIONAL FINDINGS.**—Congress finds the following:

(1) The Second Amendment to the Constitution provides that “the right of the people to keep and bear Arms, shall not be infringed”.

(2) Section 2.4(a)(1) of title 36, Code of Federal Regulations, provides that “except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon, trap or net (iii) Using a weapon, trap or net”.

(3) Section 27.42 of title 50, Code of Federal Regulations, provides that, except in special circumstances, citizens of the United States may not “possess, use, or transport firearms on national wildlife refuges” of the United States Fish and Wildlife Service.

(4) The regulations described in paragraphs (2) and (3) prevent individuals complying with Federal and State laws from exercising the second amendment rights of the individuals while at units of—

(A) the National Park System; and

(B) the National Wildlife Refuge System.

(5) The existence of different laws relating to the transportation and possession of firearms at different units of the National Park System and the National Wildlife Refuge System entrapped law-abiding gun owners while at units of the National Park System and the National Wildlife Refuge System.

(6) Although the Bush administration issued new regulations relating to the Second Amendment rights of law-abiding citizens in units of the National Park System and National Wildlife Refuge System that went into effect on January 9, 2009—

(A) on March 19, 2009, the United States District Court for the District of Columbia granted a preliminary injunction with respect to the implementation and enforcement of the new regulations; and

(B) the new regulations—

(i) are under review by the administration; and

(ii) may be altered.

(7) Congress needs to weigh in on the new regulations to ensure that unelected bureaucrats and judges cannot again override the Second Amendment rights of law-abiding citizens on 83,600,000 acres of National Park System land and 90,790,000 acres of land under the jurisdiction of the United States Fish and Wildlife Service.

(8) The Federal laws should make it clear that the second amendment rights of an individual at a unit of the National Park System or the National Wildlife Refuge System should not be infringed.

(b) **PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS IN UNITS OF THE NATIONAL PARK SYSTEM AND THE NATIONAL WILDLIFE REFUGE SYSTEM.**—The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in



any unit of the National Park System or the National Wildlife Refuge System if—

(1) the individual is not otherwise prohibited by law from possessing the firearm; and

(2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.

**SEC. 513. GAO STUDY AND REPORT ON FLUENCY IN THE ENGLISH LANGUAGE AND FINANCIAL LITERACY.**

(a) *STUDY.*—The Comptroller General of the United States shall conduct a study examining—

(1) the relationship between fluency in the English language and financial literacy; and

(2) the extent, if any, to which individuals whose native language is a language other than English are impeded in their conduct of their financial affairs.

(b) *REPORT.*—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that contains a detailed summary of the findings and conclusions of the study required under subsection (a).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LEVIN. Mr. President, I move to lay that motion upon the table.

The motion to lay on the table was agreed to.

**UNANIMOUS CONSENT AGREEMENT—S. 896**

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate receives a message from the House with respect to S. 896 the Senate concur in the amendment of the House, and the motion to reconsider be laid upon the table; that this order is only valid if the House amendment is identical to the text which is at the desk; that if the text is not identical, then this order is null and void.

The PRESIDING OFFICER. Without objection, it is so ordered.

**UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR**

Mr. DODD. As if in executive session, I ask unanimous consent that the order with respect to the Gensler nomination be modified to provide that the debate with respect to the nomination occur after the vote which is scheduled for 2:15 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I see my colleague from Washington is here. My intention is to come back at some point later this afternoon and talk about the credit card bill. We have talked about it a lot over the last number of weeks, but I know there are other matters other people want to bring up at this juncture. So I will reserve some time this afternoon to thank my colleagues from the Banking

Committee, and also my colleagues, such as Senator LEVIN, who has been a champion of this issue for as long as I have, and others who have worked tirelessly to make this happen. So I will reserve.

The PRESIDING OFFICER. The Senator from Washington.

**TO INCREASE FUNDING FOR THE SPECIAL RESERVE**

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 152, submitted earlier today; that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 152) was agreed to, as follows:

S. RES. 152

*Resolved,*

**SECTION 1. SPECIAL RESERVE FUNDING.**

(a) *IN GENERAL.*—Section 20(a) of S. Res. 73 (111th Congress) is amended by striking “\$4,375,000” and inserting “\$4,875,000”.

(b) *AGGREGATES.*—The additional funds provided by the amendment made by subsection (a) shall not be considered to be subject to the 89 percent limitation on Special Reserves found on page 2 of Committee Report 111–14, accompanying S. Res. 73.

**RECESS**

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, at 1:20 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

**EXECUTIVE SESSION**

**NOMINATION OF GARY GENSLER TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION**

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gary Gensler, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission.

The ACTING PRESIDENT pro tempore. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Gary Gensler, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission?

Mr. INOUE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Ohio (Mr. VOINOVICH).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 6, as follows:

[Rollcall Vote No. 195 Ex.]

**YEAS—88**

Akaka	Enzi	McCaskill
Alexander	Feingold	McConnell
Barrasso	Feinstein	Menendez
Baucus	Gillibrand	Mikulski
Bayh	Graham	Murkowski
Begich	Grassley	Nelson
Bennet	Gregg	Nelson (NE)
Bennett	Hagan	Nelson (FL)
Bingaman	Harkin	Pryor
Bond	Hatch	Reed
Boxer	Hutchison	Reid
Brown	Inhofe	Risch
Brownback	Inouye	Roberts
Bunning	Isakson	Schumer
Burr	Johanns	Sessions
Burr	Johnson	Shelby
Cardin	Kaufman	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Thune
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Leahy	Vitter
Corker	Levin	Warner
Cornyn	Lieberman	Webb
Crapo	Lincoln	Whitehouse
DeMint	Lugar	Wicker
Dodd	Martinez	Wyden
Durbin	McCain	

**NAYS—6**

Cantwell	Merkley	Sanders
Dorgan	Murray	Shaheen

**NOT VOTING—5**

Byrd	Kennedy	Voinovich
Ensign	Rockefeller	

The nomination was confirmed.

**NOMINATION OF GARY GENSLER TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION**

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the nomination of Gary Gensler, of Maryland, to be Chairman of the Commodity Futures Trading Commission.

The nomination is confirmed, and the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

Under the previous order, there will now be 60 minutes of debate equally divided and controlled between the Senator from Iowa, Mr. HARKIN, and the Senator from Georgia, Mr. CHAMBLISS, or their designees.

The Senator from Iowa is recognized.



Mr. HARKIN. Mr. President, again, to recap what was said, we have voted twice, once to approve Mr. Gensler as a Commissioner of the Commodity Futures Trading Commission and another vote to approve him as the Chairman of the Commodity Futures Trading Commission. I voted yes on both measures. Let me share my reasoning on the nomination of Mr. Gensler.

Honestly, I have had some reservations about this nominee, though certainly not about him as a person. Based upon my meetings with him and our committee hearing, I believe Mr. Gensler is a good and decent man with a strong personal story, and he has certainly shown his intellectual capability and his knowledge of the subject.

I simply had concerns with elements of his background and philosophy, concerning the regulation of over-the-counter derivatives transactions and other financial transactions, and his views on regulations in general.

Mr. President, I chaired a nomination hearing that lasted some time. It was a hearing of substance. Mr. Gensler answered some very tough questions straightforwardly.

It is not possible to know how Mr. Gensler will decide any given question, but he has expressed support for much stronger, more effective reform in the oversight and regulation of derivatives. Of all the things we are doing around here, in terms of banking and bailouts and pronouncements coming from the Secretary of the Treasury, perhaps the construction of the whole thing is centered around how are we finally going to regulate derivatives and swaps. These are over the counter, hidden from view and, quite frankly, they have led to the debacle we have now.

Let me read some excerpts from Mr. Gensler's testimony before the Senate Agriculture Committee, which gives me, again, some positive feelings toward his future chairmanship of the CFTC.

Here is what he said:

I firmly believe that strong, intelligent regulation with aggressive enforcement benefits our economy and the public.

We must urgently move to enact a broad regulatory regime that covers the entire over-the-counter derivatives markets.

Right on target, Mr. Gensler. He also said:

The CFTC should be provided with authority to set position limits on all over-the-counter derivatives to prevent manipulation and excessive speculation.

A transparent and consistent playing field for all physical commodity futures should be the foundation of our regulations.

I agree with that.

Lastly, Mr. Gensler said this:

I believe that the CFTC must work with Congress, with other regulators, and with our global financial partners to ensure that the failures of our regulatory and financial systems, failures which have already taken a toll on every American, never happen again.

Those are all excerpts from the extensive testimony and question-and-an-

swer period of Mr. Gensler before our committee. So now I am prepared to entrust momentous decisions to Mr. Gensler, and I am, of course, supporting the President's choice. Given the fragile state of the economy and financial markets, having a confirmed chairman at the CFTC is of critical importance.

As I said at Mr. Gensler's nomination hearing, these are challenging times, particularly for regulators like the CFTC. Since the Commodity Futures Trading Commission was established 35 years ago, it has never faced more daunting market challenges than those that exist now. The unprecedented price volatility of our markets for physical commodities, such as energy and grains, has hurt our economy. The lack of sufficient regulatory authority and oversight over the derivatives and financial markets has proven disastrous to the entire global economy.

Derivatives that were touted as managing or reducing risk turned out in practice to magnify risk—or certainly at least to allow banks, insurance companies, and investors to take on totally unsustainable and reckless levels of risk and leverage. If these financial markets and derivatives markets are not properly regulated, we won't have a strong economy. The CFTC plays a vital role in providing oversight in keeping these markets healthy and in keeping the players honest.

It is imperative that we pass strong financial regulatory reform in the Congress, and not just piecemeal, patchwork reform, but comprehensive and fundamental reform that brings full transparency and accountability back to the markets. Earlier this year, I introduced the Derivatives Trading Integrity Act. Our committee will be having a hearing on this early next month. That bill would require all derivatives and swaps to be traded on a regulated exchange. Exchange-traded contracts are subject to a level of transparency and oversight that is not possible in over-the-counter markets. For 60 years, futures contracts traded very efficiently on regulated exchanges.

I believe the burden of proof is on those who say there must be exceptions and loopholes to allow derivatives and futures trading off-exchange to continue. These are touted as customized swaps or customized derivatives. I have asked Mr. Gensler and others to please define for me what a custom swap is. No matter how you define it, it leaves a loophole big enough to drive a Mack truck through. Once there is a derivative that is off the trading boards, that no one knows about, that is shrouded in secrecy, what is to keep someone else from doing another custom derivative on that derivative, and then a derivative on that derivative? That is what got us into this mess in the first place—derivatives on derivatives on de-

rivatives on derivatives, ad infinitum, with nobody knowing what was going on, without anybody knowing the value of each of those.

To this day, Treasury has never been able to tell us how they came up with the value of those derivatives. It is a kind of voodoo. It is some kind of mathematical calculation that they put into a computer somehow. Well, I am sorry; I just don't buy that. I believe they all ought to be on a regulated exchange, open and above board, so anybody can look and see who is trading what. If it is a custom derivative, fine; put it on a trading exchange, a regulated exchange. Let the market decide whether it is customized or not, and then if somebody wants to sell a derivative on that, put it right back on the exchange. To me, that is the only way we will ever get around this.

I keep hearing noises out of Treasury that they want to keep this loophole for some kinds of customized swaps. I know the swaps and futures industry would like to have that. I understand that. But that is what got us into this trouble in the first place. As I said, the burden of proof is on them, I believe, to show why we need this loophole and to somehow define a custom swap, what it really is, and why we don't need to put it on a regulated exchange.

Some suggest that reforming regulations of these markets, like I am suggesting, will limit flexibility and inhibit the incentives of market participants to develop and introduce new financial products, and thus harm the market. Again, I reject that notion. To the extent that financial innovation can be shown to benefit all participants in the market by providing some new hedging opportunities or risk management capabilities, without putting other parties at undue risk, then that is all to the good. However, if these new products are used to obscure risk in the market, or elude or evade accounting rules placed on market participants, then they clearly don't serve the public good and should be prohibited.

That is why I say no more of this behind-the-scenes, over-the-counter trading of derivatives. Put them on a regulated exchange. If it is custom, so what; put it on the exchange. Then a regulated exchange can put margin requirements on the buyers, clearing the floor every day. Other investors can look and see what is going on. It provides for the best transparency possible.

Some are talking about having some kind of a clearinghouse. Again, I don't know about clearinghouses. There are some functions for clearinghouses, I am aware of that. But, again, they just don't function like a regulated exchange, on which we have set regulations, an exchange that can provide for margin calls, and which is open and above board to everyone. Again, these

financial innovations we hear about, like credit default swaps, collateralized mortgage obligations, collateralized debt obligations—I did a little history on this. None of those existed prior to 20 years ago. Most of them are within the last dozen years or so.

So I asked the question of a number of people at the Treasury Department, and others—I asked what was the demand for these financial instruments? They didn't exist before, especially credit default swaps. They literally didn't exist before about 10 years ago. What was the public demand or public need for these? There wasn't any. Someone described it to me. It is sort of like Honey Nut Cheerios. I have been eating Cheerios since I was a kid. Did I demand that they put a honey nut inside each of those Cheerios? General Mills had a new idea, and they came up with Honey Nut Cheerios and marketed them with good advertising, and they thought everybody would like Honey Nut Cheerios now.

Fine, but that is what they did with credit default swaps. Some brainiacs up there at MIT—the mathematicians who went to work for the investment houses—said we know how to slice and dice derivatives to the nth degree—these credit default swaps—and we can make a lot of money on that.

But there was no need for that. There was no outcry by banks or insurance companies saying they needed this kind of financial instrument. But they came up with it and marketed it and sold it as a way of better hedging risk when, in fact, it increased and magnified risk. Again, if someone comes up with a financial instrument—a new product, as they say—let's get it out there in the open. If you want it out there, put it in the open and get it on the regulated exchange and let everybody look at it and see what it is. That is why we need better regulation and openness and transparency.

I reject the idea that somehow this regulation of which I speak is somehow going to thwart financial instruments. If we thwart the development of other credit default swaps or collateralized mortgages or debt obligations, wonderful; we should. We should get back to sensible dealings in the marketplace.

Again, no more obscuring of the risk, eluding accounting rules—get them out in the public.

The free-wheeling derivatives markets contributed to a financial crisis from which our economy is only beginning to recover. We are at work in the Agriculture Committee on legislation that will ensure stronger regulation in order to bring transparency and integrity to the derivatives market.

I want to make it clear at the outset that I am not against all derivatives. Certain derivatives have a functional value in hedging and reducing risk. But, again, they should be in the open.

We are at work in the Agriculture Committee to do that—bring trans-

parency and integrity to the derivatives markets. In the meanwhile, the CFTC must be at full capacity to keep watch over the markets. We are counting on Mr. Gensler to be a strong voice at the helm of this important agency.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I will speak a minute on Mr. Gensler. Before I do, I thank the chairman for making sure we got this nomination to the floor for confirmation. We have wrestled with this nomination for several months now, and I will talk about that.

#### CDC'S NEW EXPANDED CAMPUS

I thank Senator HARKIN also for coming to Atlanta last Friday. We had a great tour of the new campus—the fully expanded campus at the Centers for Disease Control, where we had the opportunity to talk with folks firsthand who are dealing with the H1N1 virus. We both were reinforced about the fact that issue is in the hands of highly skilled professional people at the Centers for Disease Control. Senator HARKIN has been very much a supporter of the CDC for years in his position on the Appropriations Committee. I thank him for taking time to come down on a day that is very important to his family and to visit with us and to also hold the nutrition hearing on the CDC campus. We had an excellent hearing, and we are going to be working together to get our nutrition reauthorization bill to the floor in the very near future.

#### NOMINATION OF GARY GENSLER

Mr. President, I rise to support the nomination of Gary Gensler to be Chairman of the Commodity Futures Trading Commission. Mr. Gensler's nomination comes at a critical time. Our Nation is facing very challenging issues in trying to address this economic downturn. Many businesses, as well as the economy, depend upon the commodity markets—both physical and financial commodities—to help manage costs, to hedge against risk, to access liquidity, and to stay competitive. It is a time where we really need these markets to be performing at their best, to be functioning transparently and without manipulation.

The CFTC has been operating with an Acting Chairman for approximately 23 months now and a fully confirmed commission has not been in operation since 2006. This situation is largely due to the recurring politics surrounding the nomination process. While not all Senators will ever agree with everything that any nominee supports, I am very concerned with the need to have a fully seated Commodity Futures Trading Commission. The American people deserve no less, particularly in these difficult times.

As Congress seeks to deal with the current economic crisis and examines

our financial system, it is absolutely essential that the CFTC and the Senate Committee on Agriculture, Nutrition and Forestry are engaged in the debate. Given our responsibility to ensure that the commodity markets function properly, the CFTC must be engaged in discussions occurring both within the administration and within Congress relative to restructuring our financial system and products that operate within it. The need for properly functioning commodity markets is of utmost importance to those utilizing products based on interest rates, exchange rates, debt, and credit risks.

Last year, we witnessed a major market disturbance and a subsequent myriad of theories as to the cause of the meltdown. Economists will study for years to theorize just exactly what caused the economy to buckle when it did. In the meantime, we owe it to the American public to ensure that the regulators who oversee these industries are properly vetted and seated with the backing of the Senate.

Frankly, this vote has been too long in coming. One of President Obama's first nominations for his new administration was that of Gary Gensler to be Commissioner and Chairman of the CFTC. His nomination was announced on December 18, 2008, and we officially received this nomination on President Obama's first day in office—January 20, 2009.

For the last few years, I have witnessed the troubling trend of stalled CFTC nominations. The process starts with the President sending Congress the nomination, the Senate Agriculture Committee holds a confirmation hearing, and that is as far as it goes. In the case of Gensler, two of my Senate colleagues placed a hold on his confirmation, which, in terms of Senate procedure, effectively stalls the nomination in its tracks. This has happened with almost every nominee to the Commission in recent years.

With Senate approval of this nomination, our job is still far from complete in ensuring that the CFTC has a full slate of Commissioners. We currently have two Commissioners with expired terms. I would encourage the President to quickly send us the nominations of the two remaining Commissioners so that we can act quickly on both of them. It is my understanding that the President, if he hasn't already sent one of those nominations over, will be sending one over today. I urge him to send the second one so that we can deal with both of them at the same time and for the first time in several years have a fully confirmed and seated Commodity Futures Trading Commission.

With respect to Mr. Gensler, I have had the opportunity to visit with him, to go through his hearing with him, and to observe him. He is qualified, he is capable, he knows the issues, and he is prepared for the job. I urge all of my

Republican colleagues to vote in favor of this nomination because I think this is one time where we have the opportunity in a bipartisan way to say to the President: If you send us reasonable and qualified nominees, we are not going to stand in your way. We are not going to be obstructionists. We are going to help you put the right kinds of people in place.

I am very pleased to say—since we have had the vote today—that every single Republican who voted today voted to confirm Mr. Gensler.

Let me close by talking for 1 second about the comments my colleague from Iowa, Senator HARKIN, made with respect to the overall financial markets and our need to modify some of the regulatory process.

I agree with him that we need more transparency in the market. We don't know—and I don't know that we will ever know—what caused this meltdown last year, but the one thing I do know is that as policymakers we have an obligation to make sure that when someone buys a product on a commodities market, they should have the assurance that somebody from a regulatory standpoint is looking over the shoulder of the individuals who administer those markets, so that when they buy something, they know it is exactly what was sold to them. They should have the assurance that they are going to have the opportunity—with the risks they have taken—to see that product either rise in value or sometimes go lower in value but that it will be their decision that causes that and not some manipulation of the market that causes that. The chairman and I have some disagreements over the direction in which we go, but there is no disagreement with the fact that there needs to be more transparency in the market.

There are some customized products that are going to be very difficult to regulate, and we have to be careful that we don't stifle markets in this country. They have worked well for decades and decades, and they will continue to work well if we make sure that we have the right policies in place and that we don't let the Federal Government get too much engaged in the process, to the point where these individuals who make the decisions to trade on markets inside the United States get the feeling that the Government is becoming too engaged in the process and therefore they are going to take their business elsewhere, which they can do. Every product that is bought on the market in the United States can be bought in an overseas market. It can be bought from New York City or my hometown of Moultrie, GA, just as easily as it can be bought on the U.S. market. So we have to make sure we regulate those markets in the right way but that we don't overregulate them so that we drive those customers overseas to markets,

because we want to continue to encourage a strong and viable commodities market in this country.

As we move through the process of seeking to change our regulatory process, I look forward to working with the chairman, as well as any number of other Members of this body who have a lot of information about this issue. And believe you me, it is an extremely complex issue, but it is one we need to address, and we need to make sure at the end of the day that we have done our work in the right way and in a way that will be complementary of the markets and not in a way that is going to be conflicting toward the markets.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Vermont.

Mr. SANDERS. Mr. President, for the past 5 months, I blocked consideration of the nomination of Gary Gensler to head the Commodity Futures Trading Commission, the CFTC. As a strong supporter of President Obama, I took no particular pleasure in doing that. But given Mr. Gensler's history as a senior executive of Goldman Sachs for 18 years and the role Mr. Gensler played in deregulating the financial services industry as a senior Treasury Department official from 1991 to 2001, I did not believe Mr. Gensler was the right person at the right time to help lead this country out of the financial crisis we find ourselves in today. In my view, we need a new vision of what Wall Street should be—one that is not obsessed with quick profits, bubble economies, and huge compensation packages for top executives. We need financial institutions which will invest in a productive economy and which will help create millions of decent-paying jobs as we rebuild our Nation and rebuild the middle class.

I am happy to say that last week I had a productive meeting with Mr. Gensler, the second meeting I have had with him. While Mr. Gensler is clearly not the nominee I would have chosen for this position, nor were his answers all that I would have liked, there is no question in my mind that he is a stronger nominee today than he was 5 months ago when I first met him.

In preparation for the meeting last week, I outlined a number of issues I wanted Mr. Gensler to respond to, and let me highlight some of Mr. Gensler's written replies for my colleagues.

In terms of strongly regulating credit default swaps and other derivatives—something Mr. Gensler opposed in the Clinton administration—Mr. Gensler now says:

I believe we must urgently move to enact a broad regulatory regime that covers the entire over-the-counter derivatives marketplace. As a key component of this reform, we should subject all derivatives dealers to: Conservative capital requirements; business conduct standards; recordkeeping require-

ments, including an audit trail; reporting requirements; and conservative margin requirements. I believe that the CFTC should be provided with authority to set position limits on all OTC derivatives to prevent manipulation and excessive speculation. Such position limit authority should clearly empower the CFTC to establish aggregate position limits.

Mr. Gensler also wrote to me saying:

I will work closely with Congress to pass legislation that will mandate registration of hedge fund advisers. In addition, I will work with agency staff to review all previously granted exemptions from registration.

Finally, Mr. Gensler told me in writing that he supports:

... actions to close the "London loop-hole" and ensure that foreign futures exchanges with permanent trading terminals in the U.S. comply with position limitations and reporting and transparency requirements that are applied to trades made on U.S. exchanges.

Mr. President, I ask unanimous consent to have printed in the RECORD all of Mr. Gensler's written responses to me dated May 14, 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GARY GENSLER, NOMINEE FOR CFTC  
CHAIRMAN

(Response to Senator Sanders, May 14, 2009)

1. The CFTC should produce quarterly reports on its website describing the role derivatives trading activities have in influencing prices for each major energy commodity, including home heating oil and crude oil.

I believe that we must urgently move to enact a broad regulatory regime that covers the entire over-the-counter derivatives marketplace. This regime should consist of two main components. One component is the regulation of the derivatives dealers themselves. The other component is the regulation of the marketplace. I believe it is best that we implement both of these complementary components to bring the needed transparency, accountability and safety to the trading of OTC derivatives.

Market efficiency and price transparency for OTC derivatives should be significantly enhanced by:

requiring the clearing of standardized products through regulated central counterparty clearinghouses;

moving the standardized part of these markets onto regulated exchanges and regulated, transparent electronic trade, executions systems;

requiring development of a system for timely reporting of trades and prompt dissemination of prices and other trade information;

requiring that all OTC transactions, both standardized and customized, be reported to a regulated trade repository; and

requiring clearinghouses and trade repositories to, among other things, make aggregate data on open positions and trading volumes available to the public and to make data on any individual counterparty's trades and positions available on a confidential basis to the CFTC and other regulators.

I also believe the CFTC should promote greater transparency by providing more useful and comprehensive data to the public. In my opinion, the rapid growth in commodity index funds was a contributing factor to a

bubble in commodity prices—including home heating oil and crude oil—that peaked in mid-2008. The expanding number of hedge funds and other investors who increased asset allocations to commodities also put upward pressure on prices. Notably, though, no reliable data about the size or effect of these two influential groups has been readily accessible to market participants. I believe the CFTC should promote greater transparency and market integrity by regularly providing the public with better data regarding the role of non-commercial traders in energy and other markets.

If confirmed, I will work with the Congress to provide the CFTC with the additional authority it needs to improve the transparency of the OTC derivatives market. I will also work with the CFTC staff to use the tools at the agency's disposal to protect consumers, investors, and farmers by promoting transparency through more sophisticated data collection and dissemination.

2. Establish conflict of interest rules and firewalls limiting energy infrastructure affiliates from communicating with energy analysts and traders.

I believe we need to adopt a comprehensive plan for the regulation of over-the-counter derivatives markets. As a key component of this reform, we should subject all derivatives dealers to:

- conservative capital requirements;
- business conduct standards;
- record keeping requirements (including an audit trail);
- reporting requirements; and
- conservative margin requirements.

The CFTC should have the authority to protect against fraud, manipulation, excessive speculation, and other market abuses within the OTC derivatives markets, including all energy derivatives, and by the derivatives dealers.

Working with the Congress, such authorities to subject dealers to business conduct standards and to protect against market abuses could include the establishment of rules relating to conflicts of interest. If confirmed, I look forward to working with other Federal agencies and the Congress to achieve these objectives.

3. (a) Work with the Federal Reserve to prohibit bank holding companies from trading in energy commodity derivatives markets and owning energy infrastructure assets.

Given the recent changes in the structure and composition of the financial and energy industries this is an important issue. Generally, I believe the CFTC must be ever vigilant in its oversight to protect the public against fraud, manipulation, excessive speculation, and other market abuses in the energy, agricultural and financial commodity markets. As described in my answers above, we need to adopt a comprehensive plan for the regulation of over-the-counter derivatives—including those trading energy derivatives. This should subject all dealers, including those held by bank holding companies, to a robust regime of prudential supervision and regulation. More specifically, I believe that derivatives dealers, including those held by bank holding companies, should be subject to business conduct standards as described in Question 2, and speculative position limits as described below in Question 3(b).

If confirmed, I look forward to working with the Federal Reserve, other regulators, the Administration, and the Congress on this important issue.

(b) The CFTC should promulgate rules to make sure that all bank holding companies

that engage in derivatives trading are subject to speculation limits.

A transparent and consistent playing field for all physical commodity futures should be the foundation of the CFTC's regulations. Position limits must be applied consistently across all markets, across all trading platforms, and exemptions to them must be limited and well defined.

As part of the comprehensive plan described above, the CFTC should be provided with authority to set position limits on all OTC derivatives to prevent manipulation and excessive speculation. Such position limit authority should clearly empower the CFTC to establish aggregate position limits across markets in order to ensure that traders are not able to avoid position limits in a market by moving to a related exchange or market.

If confirmed by the Senate, I will ask the CFTC staff to undertake a review of all outstanding hedge exemptions, to consider the appropriateness of these exemptions, and to evaluate potential practices for instituting regular review and increased reporting by exemption-holders.

4. Mr. Gensler should work to promulgate regulations within 3 months to require hedge funds that are engaged in derivatives trading to register with the CFTC.

The Administration has proposed that all advisers to hedge funds (and other private pools of capital, including private equity funds and venture capital funds) whose assets under management exceed a certain threshold should be required to register. If confirmed, I will work closely with the Congress to pass legislation that will mandate registration of hedge fund advisers as part of a comprehensive package of regulatory reform. In addition, if confirmed, I will work with the agency staff to review all previously granted exemptions from registration as commodity pool operators.

Furthermore, as part of the comprehensive reform of the derivatives market, the CFTC should have the authority to police all activities in the OTC derivatives markets—including transactions entered into by hedge funds. If confirmed, I look forward to working with other Federal agencies and the Congress to achieve these objectives.

6. Mr. Gensler should support revoking all "no-action" letters for Foreign Boards of Trade that solicit or accept business from the U.S.

I support actions to close the "London Loophole" and ensure that foreign futures exchanges with permanent trading terminals in the U.S. comply with the position limitations and reporting and transparency requirements that are applied to trades made on U.S. exchanges. Furthermore, I believe any foreign futures exchanges that have terminals in the United States to which our investors have access and whose contracts are based on the same underlying commodities should have consistent regulation applied, including position limits.

If confirmed by the Senate, I look forward to working with the Congress to give the CFTC unambiguous authority to promulgate rules and standards to achieve these goals. Such rules and standards governing treatment of Foreign Boards of Trade should replace the issuance of "no-action" letters in this regard.

Mr. SANDERS. Mr. President, needless to say, I am encouraged by the commitments Mr. Gensler made to me to regulate hedge funds, to make sure banks are not allowed to manipulate the price of heating oil and crude oil,

and to prevent the enormous conflicts of interest that exist with respect to our energy markets, among many other things.

In addition, last week the Obama administration introduced a comprehensive plan to—for the very first time—significantly regulate credit default swaps and other over-the-counter derivatives. Exempting these investments from regulation was a huge mistake that led to the \$180 billion taxpayer bailout of AIG, the collapse of Lehman Brothers, and greatly contributed to the worst financial crisis since the Great Depression.

Last March, I and a number of other Senators asked the President to support strong regulations on these risky investment schemes. The President's proposal accomplishes many—not all but many—of the goals we have been advocating. While this plan is not as strong as I would have written and may have loopholes in it that need to be closed, I believe we are headed in the right direction to make sure a financial crisis of this magnitude never occurs again.

As a result of the greed, the recklessness, and the illegal behavior of Wall Street, our country has been thrown into a deep recession which has caused intense suffering for millions of our people. We need to end the current era of financial deregulation which largely caused this crisis and move to a new Wall Street which understands the need for long-term productive investment and job creation rather than short-term profits, outrageous salaries, and a bubble economy. We need to break up financial institutions that are too big to fail. If a company is too big to fail, that company is too big to exist. We should do the same thing to the banking industry that Teddy Roosevelt did to break up the oil companies. And we should stand up today, on behalf of the American people, to our modern-day robber barons. Most importantly, we need to end the era of deregulation that has led to the worst financial crisis since the Great Depression.

While I am still not convinced that Mr. Gensler is the independent leader we need at this time to head the CFTC, the strong commitments he has made recently in support of serious regulations of the financial industry lead me to believe he now understands the direction we as a nation have to go. Mr. Gensler certainly is a knowledgeable person and he has the ability to do a very fine job if he is willing, in fact, to stand up for the American people and assume the courage, the great deal of courage, he will need to stand up to the very powerful financial institutions which have so much control over what goes on here in Congress. In fact, this may be Mr. Gensler's "Nixon in China" moment.

I hope this turns out to be the case, and I look forward to working with Mr.

Gensler as he assumes the Chair of the CFTC.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise today to discuss the administration's truly historic announcement last week that in writing they supported bringing unregulated "dark" over-the-counter derivative markets under full regulation for the very first time.

For months I have been urging the Obama administration to move quickly and propose strong regulatory controls on these markets, to require transparency in derivatives trading, and to restrict market manipulation.

With the announcement last week by Secretary Geithner of these new regulations, the administration has come down decisively against dangerously unrestricted trading. They have come down on the side of imposing order on a marketplace whose collapse made the current recession much deeper and more painful for average Americans than it needed to be.

The administration's commitment to bringing a "dark" market into light is very important. Congress has received a written commitment from the administration that they will bring the unregulated over-the-counter derivatives market under full regulation for the very first time.

This means they have correctly identified three goals of regulatory reform of the over-the-counter derivatives markets. First, if Congress and the administration push through, we will finally gain transparency in the "dark" markets. All derivatives transactions and dealers will be brought under prudent regulation and supervision. That means even those that are customized derivatives, not just the OTC market; so prudent regulation and supervision, including capital adequacy requirements, antifraud and antimanipulation authority, very clear transparency and reporting requirements.

Second, standardized trading of physical commodities and derivatives will finally be required to trade on fully regulated exchanges.

Third, the administration is also committed to opposing position limits on regulated markets to prevent any market player from amassing large positions that can harm markets. I have received assurances from the White House that the administration believes these position limits should be applied in the aggregate across all markets.

I still remain concerned about Mr. Gensler's nomination to chair the Commodities Futures Trading Commission. Mr. Gensler was at the Department of the Treasury a decade ago and helped push through a bill, passed by Congress, that provided an ironclad protection against the regulation of financial products such as credit default swaps and derivatives at the heart of this fi-

nancial crisis. The unfettered speculation that resulted helped bring about not only the energy crisis in my region but decades of other problems that contributed to the demise of AIG, Lehman Brothers, and Bear Sterns.

I believe we need new blood at the CFTC and all regulatory agencies. We need people who will move us from a world of unregulated toxic assets to a world of transparency and aggressive oversight. For nearly three decades the financial industry has had its way in Washington, successfully pushing deregulation in the name of innovation. Time-tested regulatory policies that protected investors and consumers since the Depression were systematically eroded. Many factors led to the present economic meltdown, but we know that chief among them was the policy advocated by Mr. Gensler of not fully regulating the derivatives market.

A decade ago, at the end of the 106th Congress, in the dark of night, Congress passed a law known as the Commodities Futures Modernization Act. But instead of modernizing commodities trading, it took us back in time to the day when securities trading was subject to wild speculation. This law, backed by Mr. Gensler, provided ironclad protection against regulation and oversight of derivatives and has caused many problems. One courageous regulator at the time, then CFTC chairwoman Brooksley Born, warned Congress and the financial community that unregulated derivatives would expose the economy to serious dangers. But some in Washington blocked her efforts, including many on Wall Street. One high-ranking Treasury official charged with pushing these deregulation bills through Congress was Gary Gensler, a former high-ranking executive at Goldman Sachs. As Under Secretary of the Treasury, Mr. Gensler testified before Congress that he opposed regulating the derivatives market. Mr. Gensler, as we know, was wrong. Just yesterday Brooksley Born received recognition for her courage in standing up to the powerful financial interests in proposing tough rules. She was presented with the Profile in Courage award by the John F. Kennedy Foundation.

Remarkably, the Senate is now considering confirming Mr. Gensler to serve as chair of the CFTC, the same agency Brooksley Born chaired and the same agency Mr. Gensler worked so hard to defang in his previous tenure as Under Secretary of the Treasury. That is why I oppose his confirmation to run the CFTC at a critically important time when we need more financial regulation in these agencies. In the months ahead I will be looking forward to working with the CFTC and the President's working group on financial markets and the Department of the Treasury to actively engage Congress

on the reforms that need to be passed into law.

I will be looking to the CFTC to do its job, to prevent excessive speculation from stopping the Nation's economic recovery.

I will be looking to Mr. Gensler to earn the trust of Congress and provide oversight over the commodities and derivatives markets.

Mr. DURBIN. I rise to support the nomination of Gary Gensler for Chairman of the Commodity Futures Trading Commission.

I have a keen interest in the leadership of the CFTC, based on my chairmanship of the appropriations subcommittee that funds the agency and because the state of Illinois is home to some of the most important futures exchanges in the world. During this crisis of confidence in our economic system, the CFTC needs a Senate-confirmed chairman at the helm to oversee this complex and growing industry.

Mr. Gensler's experience includes stints on Wall Street, in the Clinton Treasury Department, and with the Senate Banking Committee. He knows how the world of futures trading works, and he understands how to get things done at both ends of Pennsylvania Avenue.

He is going to need that expertise. Last week, Treasury Secretary Geithner announced the administration's proposal for reregulating the over-the-counter derivatives markets. If confirmed, Mr. Gensler will be charged with implementing much of that vision. The proposal will require far more transparency and responsibility from derivatives traders that have long operated in the shadows. The massive derivatives exposures taken on by AIG and other largely unregulated financial firms can't continue. Mr. Gensler will be responsible for seeing to that.

Mr. Gensler will also be charged with eliminating the excessive speculation in the oil and agriculture markets that helped lead to \$140 barrels of oil last summer. I worked with many of my colleagues to attempt to address that issue last year, and many regulatory improvements were included in last year's farm bill. But the CFTC can do more.

I met with Mr. Gensler in my office several months ago after President Obama nominated him for this position. I asked him about his role during the Clinton administration in which he advocated weakening CFTC oversight over futures trading. Mr. Gensler admitted that those reforms had gone too far, that he had learned from those mistakes, and that more sensible regulation by the CFTC is needed. I expect him to stick to that sentiment and to aggressively monitor trading under the CFTC's jurisdiction.

I look forward to working with Mr. Gensler to ensure that the CFTC is

adequately funded and that the agency provides strong and sensible regulation under his leadership. The future stability of our economy depends on it.

Ms. MIKULSKI. Mr. President, I rise today in support of Gary Gensler's nomination to be Chairman of the Commodity Futures Trading Commission.

I have known Gary for many years—when he worked in the Senate during the Clinton administration, and as a community leader in Maryland. I know him to be a man of principle and great intelligence with a deep understanding of all areas of domestic finance and how to turn ideas into workable policy. During this time of great financial turmoil and uncertainty, we need someone with these skills to lead the Commodity Futures Trading Commission.

I enthusiastically support Gary Gensler's nomination for this important position on President Obama's economic team, and I applaud the administration for working to address my colleagues' concerns so Gary can finally be confirmed.

I have three criteria for considering nominees: competence, dedication to the mission of the department, and integrity. Gary Gensler clearly meets these criteria. His experience in all areas of domestic finance is stellar. He has worked in the executive branch, the Congress and on Wall Street. He was a top economic adviser to Senator Paul Sarbanes on the Senate Banking Committee. And he worked under Larry Summers during the Clinton administration as Under Secretary of Treasury.

The Commodity Futures Trading Commission is an essential part of the financial regulatory system. Its decisions affect everyone who purchases food or commodities including consumers and small businesses. I have always stood for strong regulation with teeth. I applaud President Obama for choosing an economic team that is committed to this kind of reform. And I am convinced Gary will be a great asset in carrying it out.

We faced similar challenges in 2003. Enron had just exposed giant cracks in our regulations, flushed the savings of hundreds of thousands of people, and put our broader economy at risk. Congress needed to act boldly to set up new regulations, just as we do now. Those new regulations were called Sarbanes-Oxley. They were championed by Senator Sarbanes and his top economic advisor at the time—Gary Gensler. They rewrote the rules of corporate America. They made business more accountable, shined light where others were afraid to look and stood up to big business.

Gary has integrity and a strong family. I have gotten to know Gary and his family as his wife Franchesca struggled and succumbed to breast cancer. I saw the strength of Gary and his three won-

derful daughters: Anna, Lee and Isabel. He has tried to help others whose loved ones have cancer, and he was honored for his work on behalf of the American Cancer Society.

President Obama has inherited a mess. Our economy is teetering and people have lost faith in the institutions that are supposed to protect them. We need a Chairman of the CFTC who will enforce our laws, reform our regulatory system and guard us against fraud and abuse. I have full confidence that Gary Gensler is up to this challenge. He will be a strong, effective and reform minded Chairman of the Commodity Futures Trading Commission. I urge my colleagues to support his nomination.

Mr. DODD. Mr. Chairman, I rise in support of the President's nomination of Gary Gensler to be the Chairman of the Commodity Futures Trading Commission. I have known Gary for some time and believe he is a dedicated and thoughtful public servant who has emerged over the years as a leader within his field and a person of real integrity.

Mr. Gensler's previous career with the investment banking firm of Goldman Sachs and in the Treasury Department, as well as his new work assisting this administration, along with his intelligence, experience and personal skills, will enable him to be an effective Chairman of the CFTC.

I am aware of his work in connection with the Commodity Futures Modernization Act of 2000, a bill that contributed to deregulation of derivatives markets. With the benefit of hindsight, we can see the harms that an absence of regulation over credit default swaps, for example, can cause and the need for regulation in the derivatives markets. I have talked with him about these regulatory issues, and I know he recognizes the importance of an energetic, assertive regulatory approach.

I fully expect Mr. Gensler to use his talents and skills to effectively regulate the markets, learn from the past and exercise his clear and independent judgment to protect and promote the integrity of the futures markets, and to protect taxpayers. I expect the Senate will continue to exercise oversight of decisions made by the CFTC that may impact the broader financial markets.

Mr. DORGAN. Mr. President, I wish to address today's vote to confirm Mr. Gary Gensler as a Commissioner and Chairman of the Commodities Futures Trading Commission, CFTC. I have serious reservations about this nomination and am voting against it. Let me explain why.

Mr. Gensler was a key proponent of deregulation in the late 1990s and he specifically advocated that swaps and other derivatives not be regulated. I had the opposite view. I argued at the time that such deregulation would re-

sult in banks making very risky bets which would ultimately lead to massive taxpayer bailouts to save the financial system.

I regret that I was right. We now know the disastrous consequences of the push to deregulate. We will long regret repealing the protections put in place after the Great Depression of the 1930s and the view that the market knows best and regulation was the enemy.

The costs for these views and actions have been monumental. Taxpayers and American families have paid the price. Our government has spent, lent or guaranteed more than \$13 trillion responding to the financial meltdown. In addition, U.S. household wealth has decreased by almost \$13 trillion as home values plummet and stock markets crash.

But, that is not all. As our gross domestic product goes down, our unemployment rate goes up, getting close to 10 percent, and, when combined with those working part time who want to work full time, is actually higher than 15 percent.

However, we must not forget that the real cost of these disastrous policies is much more than dollars and statistics. The real costs are lifetime savings vanished, jobs lost, careers shattered, homes foreclosed, neighborhoods destroyed, retirements deferred, colleges unaffordable and the American dream for too many of our neighbors devastated.

Now that all this wreckage has happened and now that he has been nominated for the CFTC, Mr. Gensler has stated that he has changed his views on the need for and importance of regulation. I welcome those new views and look forward to him putting his words into action. If he does, I will be one of the first to come to the floor to applaud him.

I met with him privately and Mr. Gensler was candid and forthright about changing his views. In our meeting and in his testimony before the Senate Agriculture Committee, Mr. Gensler made clear that he now understands how important the CFTC is as one of the key regulatory agencies charged with protecting the integrity of our markets.

I stressed to him that America can no longer afford a do-nothing CFTC. The CFTC has to be a cop on the beat. It has to vigilantly monitor the commodities markets and aggressively act to ensure that they are not being manipulated or distorted by speculators or anyone else. It has to act quickly in an unbiased and nonideological manner to protect those markets and consumers.

In my view, Mr. Gensler does not have to wait to put his words into action. Last year, the CFTC acted like the three monkeys: see nothing, hear nothing, and do nothing, as oil prices



skyrocketed from \$50 to almost \$150 and a gallon of gas approached \$5. Like a parrot, the CFTC said over and over this was caused by the fundamentals of supply and demand, ignoring all facts to the contrary, including massive speculation from Wall Street pouring investment cash into the commodities markets.

The CFTC must investigate whether or not speculators were able to manipulate and distort the commodities markets. I believe they did and they will do it again unless they are thoroughly investigated by an agency that takes its mission to protect markets and consumers seriously.

While I am prepared to be surprised by Mr. Gensler and I hope I am, I simply cannot vote for someone to lead such an important agency after he had such a critical role in ensuring that derivatives were not regulated, which caused so much devastation across our country. I look forward to Mr. Gensler proving my concerns unwarranted.

Mr. CARDIN. Mr. President, I have known Gary Gensler for many years in both a personal and professional capacity and I believe he is an ideal choice to chair the Commodity Futures Trading Commission, CFTC. He will draw on his many years of experience to help the President create a 21st century regulatory framework to ensure that an economic crisis like the one we are experiencing will not happen again. Today, we face a crucial time for the commodities markets, for our financial system, and for our entire Nation. The failure of the regulatory framework that governs our financial markets helped create the current economic crisis.

As we look forward to fixing the systemic problems in our Nation's economy, the CFTC Chairman will play a crucial role. We need someone with the tremendous depth and breadth of experience that Gary Gensler possesses. Gary served in the Department of Treasury from 1997 to 2001, first as Assistant Secretary for Financial Markets and later as Under Secretary for Domestic Finance. As Under Secretary of the Treasury, Gary was the senior adviser to Treasury Secretary Robert Rubin and later to Secretary Lawrence Summers on all aspects of domestic finance. The office was responsible for formulating policy and legislation in the areas of U.S. financial markets, public debt management, the banking system, financial services, fiscal affairs, Federal lending, and government-sponsored enterprises. In recognition for this service, Gary was awarded Treasury's highest honor, the Alexander Hamilton Award. He subsequently acted as a senior adviser to Senator Sarbanes, who chaired the Senate Banking Committee, on the Sarbanes-Oxley Act, which reformed corporate responsibility, accounting, and securities laws. More recently,

Gary led the Securities & Exchange Commission Agency Review Team for the Obama-Biden Presidential Transition Team.

Before Gary joined Treasury, he worked on Wall Street for 18 years at Goldman Sachs. He became a partner at the age of 30—at that time, one of the youngest partners in the firm's history. He joined the firm in the mergers and acquisitions department in 1979 and assumed responsibility for the firm's efforts in advising media companies in 1984. He subsequently joined the fixed income division in the mortgage department and then directed Goldman's fixed income and currency trading efforts in Tokyo during two record years. His last role was cohead of finance, responsible for worldwide controllers and treasury for Goldman Sachs.

Gary graduated summa cum laude from the University of Pennsylvania's Wharton School in 1978, with a bachelor of science in economics. He received a master's of business administration from the Wharton School's graduate division in 1979 and passed the Certified Public Accountancy exam. Gary is a member of the board of Enterprise Community Partners, the Park School, the RFK Memorial Foundation, and the Washington Hospital Center. He also serves as audit committee chair of Strayer Education, Inc., and WageWorks, Inc., and he serves on advisory boards for Johns Hopkins University Center for Talented Youth and New Mountain Capital. He previously was treasurer of the Baltimore Museum of Art and The Bryn Mawr School, as well as a board member of East Baltimore Development, Inc., and the University of Maryland Baltimore County.

We all know that we face a grave time for our economy. But we also face a time of tremendous opportunity to learn from past mistakes and make certain they are not repeated. I know that Gary Gensler will draw on his many years of experience in the public and private sectors to help the new administration guide our economy through these troubled times to a stronger future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate concurs in the amendment of the House to S. 896, and the motion to reconsider is considered made and laid upon the table.

#### SUPPLEMENTAL APPROPRIATIONS ACT, 2009

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 63, H.R. 2346, the Supplemental Appropriations Act, and that once the bill is reported, Senator INOUE be recognized to call up the substitute amendment which is at the desk and is the text of the Senate committee-reported bill, S. 1054; that the substitute amendment be considered and agreed to; the bill, as amended, be considered as original text for purpose of further amendments; and that no points of order be waived by virtue of this agreement.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. REID. Before Senator INOUE is recognized, let me say to the Senate, this is one of the most crucial pieces of legislation we will deal with this entire Congress. It involves funding of the troops in Iraq and Afghanistan. We wish to make sure everyone who has any concern about any provision of this bill has the opportunity to try to change it any way they want. We want to get this done as quickly as possible. We want to make sure everyone has the opportunity to do what they believe is appropriate. Finally, what I wish to say is, we are very fortunate, as a Senate and a country, to have the two managers of this bill. I have stated many times my affection and admiration for Senator INOUE. He is a person whom the history books have already written about. Not only is he a heroic person in the fields of war but also in the fields of legislation. His colleague, Senator COCHRAN, is a person who has wide respect on both sides of the aisle. He is someone I have traveled parts of the world with. I have been working with him for a quarter of a century. He has been here longer than I have, but that doesn't take away from the fact that I recognize what a good Senator he is and how fortunate are the people in Mississippi to have him working on this legislation and all other matters. He is someone I can go to and there is no flimflam with COCHRAN. He tells you: I can't help you, here is what I want you to do. I think we will be well served during this debate.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I say to my good friend the majority leader, I understand he has laid down an amendment to be offered by the



chairman of the Appropriations Committee, our good friend from Hawaii, and Senator INHOFE related to Guantanamo. I am pleased the majority has recognized that the President's policy of putting an arbitrary deadline on the closing of Guantanamo is a mistake. A first step toward moving us in the direction of getting a new policy is to prevent funding in this bill or any other bill from being used for the purpose of closing Guantanamo. What we need to remember is that Guantanamo is a \$200 million state-of-the-art facility. It has appropriate courtrooms for the military commissions we established a couple years ago at the direction of the Supreme Court. No one has ever escaped from Guantanamo.

We need to think, once again, about the rightness of the policy of closing this facility. It presents an immediate dilemma. Among the 250 or so people who are left there now are some of the most hardened terrorists in the world, people who planned the 9/11 attacks on this country. We know how the Senate feels about bringing them to the United States. We had that vote 2 years ago. It was 94 to 3 against bringing these terrorists to the United States. What we need is to rethink the policy of closing this facility. If our rationale for closing it is to be more popular with the Europeans, I must say we don't represent the Europeans. We represent the people of the United States. We have a pretty clear sense of how the people in this country feel about bringing these terrorists to the United States.

I congratulate our good friends in the majority. They are heading in the right direction. We know the President on national security issues has shown some flexibility in the past. For example, he changed his position on releasing photographs of things that occurred at Abu Ghraib. He changed his position on the using of military commissions and has now rethought that and opened the possibility that maybe military commissions established by the previous administration and this Congress are a good way to try these terrorists. He rethought his position on Iraq and moved away from an arbitrary timeline for withdrawal. We know he has now ordered a surge in Afghanistan led by the same people who orchestrated and led the surge in Iraq which was so successful. So the President has demonstrated his ability to rethink these national security issues.

I am confident and hopeful he will now, getting this clear message from both the House and the Senate on the appropriations bill, begin to rethink the appropriateness of an arbitrary timeline for the closing of Guantanamo.

I fully intend to support this amendment. I hope all Members of the Senate will. I thank Senator INOUE and Senator COCHRAN, who is here, for their

leadership on this bill. I particularly thank Senator INHOFE, who has been one of our leaders on this subject for a long time and reminded everyone today that he was down at Guantanamo not too long after 9/11 and has been there a number of times. I have been there myself. We all know it is a state-of-the-art facility in which the detainees are appropriately and humanely treated.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have never known JOHN MCCAIN or certainly President Bush to base their foreign policy on how the Europeans felt. Certainly, President Obama also bases his not strictly on how the Europeans feel about anything he does. I agree with President Bush and JOHN MCCAIN that Guantanamo should be closed. And we Democrats believe that President Obama is following the direction of others who have laid out the fact that it should be closed.

The decision to close Guantanamo was the right one. Guantanamo makes us less safe. However, this is neither the time nor the bill to deal with this. Both Democrats and Republicans agree. The Democrats, under no circumstances, will move forward without a comprehensive, responsible plan from the President. I believe that is bipartisan in nature. I think the Republicans agree with that. And we will never allow terrorists to be released into the United States. That is what this is all about.

I think this is the best way to approach this. I think the President will come up with a plan. Once that plan is given to us, then we will have the opportunity to debate his plan. Now is not the time to do it.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I will add that both President Bush and Senator MCCAIN indicated they would like to close Guantanamo but never suggested a specific time for doing it. The reason for that is they were confronted with the realities of this decision. If there were a specific timeline, it was difficult to figure out what to do with the detainees.

In addition to that, this administration—at least the Attorney General—has indicated there is a possibility they are going to allow some of the Chinese terrorists, the Uighars, to be released in the United States not in a prison. In other words, presumably they would be walking around in our country. So this issue is not totally behind us.

Again, I congratulate our friends on the other side for their movement on this issue. All these problems have not yet been solved. We all want to protect the homeland from future attacks. We know incarceration at Guantanamo has worked. No one has ever escaped from Guantanamo.

We know what happened when you had a terrorist trial in Alexandria, VA. Ask the mayor of Alexandria. The Moussaoui trial—it made their community a target for attacks. When they moved Moussaoui to and from the courtroom, they had to shut down large sections of the community.

It raises all kinds of problems if you bring a terrorist to U.S. soil, about whether they are going to be granted, in effect, more rights by having the Bill of Rights apply to them in a Federal court system than a U.S. soldier tried in a military court. There are lots of very complicated issues, which led both Senator MCCAIN, who is fully able to speak for himself on this issue, and President Bush to never put a specific timetable for closure. That is the difference between their position and the position of the President.

Having said that, the President has demonstrated, as I said earlier, a lot of flexibility on these national security issues. I am hopeful he will continue to work his way in the direction of a policy that will keep America safe.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2346, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I wish to thank both leaders of the Senate for their gracious remarks.

Today, the Senate will begin to consider the request for supplemental appropriations for fiscal year 2009. As we all know, the President has requested \$84.9 billion in new budget authority, first, to cover the costs of ongoing operations in Iraq and Afghanistan, and it includes funds for the supporting costs to those operations, and to prepare for natural disasters, including wildfires and the swine flu. In addition, last Tuesday, the administration requested proposals to increase the borrowing power of the International Monetary Fund. This proposal would cost \$5 billion under the scoring of the Congressional Budget Office.

After reviewing the President's request, the proposals made by the committee and included in the recommendation before you total \$91.3 billion, \$1.3 billion above the President's estimate. This amount is \$5.4 billion below the measure just passed by the House. I would point out that the House did not consider the \$5 billion request for the IMF by the administration.

The President requested funding in four basic areas: national defense, international affairs, protection against swine flu, and funding in response to natural disasters, all of which I will briefly discuss.

The President's request included \$73.7 billion for items under the jurisdiction of the Defense Subcommittee. The committee has provided \$73 billion for this purpose. The remaining \$700 million was requested for programs that more appropriately are funded by other subcommittees, such as Military Construction; Commerce, Justice, State; and Homeland Security. So in this mark, we recommend transferring these funds to the relevant subcommittees.

I would note there are several differences between the specific items requested and the amounts recommended by the committee. For example, the committee recommended \$1.9 billion to cover the costs of higher military personnel retention and other necessary personnel bills.

We provide an additional \$1.55 billion for the purchase of the all-terrain MRAP vehicle and \$500 million for equipment for our National Guard and Reserve forces. The committee also addressed the readiness needs of the Navy and provides for an increase in the enhancement of our intelligence surveillance and reconnaissance capabilities.

For the Department of State and other international affairs funding, including the IMF, the committee recommends \$11.9 billion, nearly the same as the amount requested. The committee recommendation is similar to that requested, but I would note that additional funding has been allocated for Jordan and for the Global AIDS Program within the overall total.

For military construction, the committee is recommending \$2.3 billion, about the same as that sought by the administration.

The committee has recommended \$1.5 billion, as requested, for the swine flu, and has worked with the administration to identify the best allocation of these resources among the relevant Federal agencies.

Funding of \$250 million is recommended for fighting wildfires, and \$700 million is provided for international food assistance under PL-480.

The committee has responded to damage caused by natural disasters by adding nearly \$900 million to the amount requested for damage from flooding in the Midwest and in response to Hurricane Katrina.

Each subcommittee was tasked with reviewing the President's request in their jurisdiction and recommending funding both for items in the request and other items necessary to meet legitimate emergency needs.

The vice chairman, Senator COCHRAN, and I also offered each subcommittee the opportunity to recommend earmarks or other nonemergency increases so long as the costs were offset within existing funding.

As the Senate considers this bill, I would point out that under the budget resolution, any item which seeks to

add funding to the bill will be subject to a Budget Act point of order unless it is offset.

This is an important bill which responds to the requirements of our men and women in uniform and to members of our population who have been ravaged by natural disasters. It also seeks to protect our people and our country with funding to deter wildfires and the swine flu, in addition to terrorists.

This is a good bill. It is necessary to deal with a myriad of problems. We should act expeditiously to pass it, get it to conference, and on to the President for his signature. Therefore, I join my leaders in urging my colleagues to help us attain quick passage of this very important measure.

Mr. President, I yield to the vice chairman of the committee.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished chairman of the Committee on Appropriations in presenting to the Senate the fiscal year 2009 supplemental appropriations bill. This bill includes funding to combat violent extremism in Iraq and Afghanistan, and supports other emergency requirements both at home and abroad.

This bill includes funding for the men and women in the Armed Forces and our diplomatic corps, and gives them the resources necessary to carry out the missions assigned to them by our Government.

I commend the distinguished chairman for moving this bill in a timely manner to ensure that our service men and women have the resources they need while still allowing time for the Senate to carefully consider the bill.

I hope this year we can complete action on the supplemental in time to avoid putting the Secretary of Defense in a position where he is compelled to postpone acquisitions or transfer funding between accounts, and take other inefficient steps to maintain the flow of resources to our troops in the field.

This bill contains several important initiatives that will strengthen our military's ability to prosecute its mission and improve the overall readiness of our forces. Several of these priorities were identified by the Department of Defense but were not included in the President's request. We were able to fund these additional needs while staying within the overall spending level requested by the President for Defense programs.

The bill contains more than \$18 billion for military pay and benefits, including \$1.9 billion to cover shortfalls not requested by the administration. The bill also includes funding for continued operations, equipment repair and replacement, and enhanced support to wounded warriors and military families.

The bill contains \$4.2 billion for mine resistant ambush protected vehicles.

This recommendation is \$1.5 billion more than the administration's request and will help speed the delivery of an "All Terrain" version of the vehicle to Afghanistan where harsh terrain challenges the mobility of our forces.

The committee also recommends \$332 million above the President's request to fund urgent requirements identified by the Secretary of Defense's Intelligence, Surveillance, and Reconnaissance Task Force. These funds will be used to procure additional sensors, platforms, and communication systems that are critical for finding and neutralizing al-Qaida and insurgent forces.

To maintain the readiness of our forces, the bill includes an additional \$246 million above the President's request for the Navy's P-3 surveillance aircraft. These planes are not only used for maritime patrol, but also to support Army and Marine ground forces in Iraq and Afghanistan. The funds will allow the Navy to procure wing kits needed to address structural fatigue issues that have led to the grounding of many of these aircraft.

The committee also recommends \$190 million above the President's request for ship depot maintenance to address damage done to three Navy vessels during recent mishaps. These repairs are truly unforeseen emergencies, and the funds in this bill will help ensure these ships return to the operational fleet as soon as possible.

Although the President's request did not include funding in the National Guard and Reserve equipment account, the committee recommends \$500 million. Currently there are over 140,000 National Guard and Reserve personnel activated. This funding will help ensure those personnel have the resources necessary to perform their duties. These funds will be used to procure equipment for National Guard and Reserve units to be used to support combat missions and taskings from State Governors.

The Defense title also contains \$400 million for the Pakistan Counterinsurgency Capability Fund. This new initiative proposed by the President is intended to bolster efforts to eliminate terrorist safe havens in the rugged border region of Pakistan and Afghanistan. I understand the legitimate concern raised by Senators who believe that such a program should be administered by the Department of State, but I believe the needs of the commanders on the ground warrant short-term funding for the Defense Department until this program can be effectively transferred to the State Department.

While this supplemental is predominantly focused on American efforts abroad, I am pleased that the bill also responds to emergencies here at home. The bill includes several provisions to aid in my State's ongoing recovery from Hurricane Katrina, including funding to restore the federally owned

barrier islands that serve as the first line of protection for the Mississippi coastline. These islands were significantly diminished by Katrina, and according to a Corps of Engineers' study their restoration will go a long way toward mitigating future damage.

I greatly appreciate the bipartisan manner in which the chairman worked with me and other members on our side in crafting this bill. He and his staff have been very open to requests, even while producing a bill that adds very little to the top-line amount requested by the President.

In this bill, Chairman INOUE made a sincere effort to respond to security concerns at Guantanamo Bay without denying outright the resources requested by the President to analyze and implement closure of the facility. I understand, however, that the funding and language relating to Guantanamo remain controversial. I anticipate these matters will be thoroughly discussed and that several Senators are likely to propose amendments.

Senators may also have amendments relating to the International Monetary Fund. The bill reported by the committee includes language sought by the President to expand the United States commitment to the IMF. This request was submitted only a week ago, and there was very little time prior to the committee markup in which to consult with the relevant authorizing committees and other experts. I am not aware that there have been Senate hearings on this request. I look forward to further discussion of this important subject, but wish to express my concern that the manner in which this request has been presented could endanger the timely enactment of this supplemental. I hope that is not the case.

I would like once again to thank the Senator from Hawaii for the manner in which he has put this bill together. I look forward to working with him to get the bill to the President in a timely fashion, and to beginning work in earnest on the regular fiscal year 2010 appropriations bills. We have a busy summer ahead of us.

I urge my colleagues on the Republican side who may have amendments to the supplemental to contact us so that we can make efficient use of the Senate's time.

Mr. President, I know the Senator from Oklahoma wants to make a comment. I will yield first, though, to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 1131

(Purpose: In the nature of a substitute)

Mr. INOUE. Mr. President, I send an amendment to the desk on behalf of Senator COCHRAN and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for himself and Mr. COCHRAN, proposes an amendment numbered 1131.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. Under the previous order, this amendment is adopted and is considered as original text, with no points of order being waived.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. INOUE. Mr. President, I am pleased to yield.

AMENDMENT NO. 1132

Mr. INHOFE. Mr. President, I am a little confused as to where we are. I have an amendment I do want filed. It is amendment No. 1132 at the desk right now. I say to the senior Senator from Hawaii that it is essentially the same thing as the wording of an amendment he will be bringing up.

My request of the Senator—and I cleared this with the Senator from Mississippi—is that I be the first cosponsor on his amendment so that it would be the Inouye-Inhofe amendment.

Mr. INOUE. No question about that. Is it the pending amendment at this moment, the Inouye-Inhofe amendment?

Mr. INHOFE. Mr. President, I can clarify this. I had sent my amendment to the desk, which we don't plan to take up, but I wanted it filed because we have a number of cosponsors who, I am sure, will want to join me in cosponsoring the Inouye amendment, since it is the same amendment.

AMENDMENT NO. 1133

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for himself and Mr. INHOFE, proposes an amendment numbered 1133.

The amendment is as follows:

(Purpose: To prohibit funding to transfer, release, or incarcerate detainees detained at Guantanamo Bay, Cuba, to or within the United States)

Strike section 202 and insert the following:

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term "United States" means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading "SALARIES AND EXPENSES" is hereby reduced by \$30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" under paragraph (3) is hereby reduced by \$50,000,000.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, this amendment has been discussed rather fully by our two leaders.

I now yield to Senator INHOFE.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator for yielding.

First of all, I heard the dialogue going back and forth on the amendment and the positions taken several times in statements made, and there are several people in this Chamber who want to close Guantanamo Bay.

Let me make it very clear: I have never had any intentions of wanting to close it. I keep asking: What would be the reason someone would want to close an asset that we have that can't be replaced anywhere else? My feeling was since there was no answer to that, and since this is one of the few good deals, I say to both the distinguished chairman and ranking member of the Appropriations Committee: Have you ever had a better deal than this?

It costs us \$4,000 a month, the same price it cost us back in 1903, and it is a great \$200 million facility. It has facilities to try these cases. They have the expeditionary legal complex there, which they don't have anywhere else. So if you close that down, you couldn't have the tribunals. Somehow they might end up being—I am talking about the terrorists—in our court system, in which case the rules of evidence are different.

So for any number of reasons, and because everyone who goes down there—and I am talking about even Al-Jazeera the media goes down and comes back and shakes their heads and wonders why we would want to close it.

So I want to go on record that I want to go further than just not funding Guantanamo, but also what we are going to be doing with some 245 detainees. Hopefully, we can end this discussion about closing an asset that has served us very well for a number of years.

So I wholeheartedly support the Inouye amendment, which is the same language I had in my amendment. I think that will pretty much accomplish what I wish to accomplish.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senator from Alabama, Mr. SHELBY, be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, let me do this, if it is all right with the Senator from Hawaii. There are apparently

several people wanting to come down and speak on this bill, and I think Senator DURBIN is going to be coming down. So while we are waiting, instead of sitting in a quorum call, let me mention that on my bill we had Senators BARRASSO, BROWNBACK, DEMINT, JOHANNIS, ROBERTS, THUNE, VITTER, SESSIONS, CORNYN, COBURN, HUTCHISON, and BENNETT, I believe, who all wanted to be or were cosponsors of my amendment.

Since this is the same amendment, they also requested that—some of them wanted to come down and speak on behalf of this amendment. So if it is acceptable, we could wait until they get down here. Until they do, I wish to perhaps elaborate a little bit more about what is existing there right now in terms of any problems.

A lot of times people are talking about maybe this is perceived by Europeans, or somebody else, to be an institution that sometimes is perhaps guilty of or accused of torturing detainees. Let me assure my colleagues that has never happened. There has never been a case of waterboarding.

Most of the people who have come back—including Eric Holder, the Attorney General—came back with a report that the conditions and the circumstances under which these detainees exist are probably better than any of our Federal courts. Right now, there is one doctor for every two detainees, and they are giving them treatments they never had before. I have been down there numerous times only to find out that their treatment—the food they are eating and all of that—is actually better than they had at any other time during their lifetimes.

So it is very difficult to look at a suggestion such as this. Seeing where this, to me, is the only place in the world where they actually are set up to handle these types of detainees, the suggestion was made that perhaps they wanted to—they were looking for 17 places in the continental United States to put these detainees. My view at that time was that we would end up having 17 targets for terrorism.

One of those places they suggested was in my State of Oklahoma at Fort Sill. So I went down to Fort Sill to look at the detainee facility there. Sergeant Major Carter, who is in charge of it, said to me: Senator, why in the world would they close down Guantanamo?

She said: I have been there on two different tours and there is no place that can handle detainees better. Besides that, there is a court system there where they can actually conduct tribunals, and there certainly is not in Fort Sill, OK.

So in support of what we are doing with this amendment, some 27 States now have expressed themselves that they don't want to have these detainees, any of them, in their States. We

are talking about State legislatures. So that is over half of the State legislatures that are saying they wouldn't want to do that.

So I think if we have an asset, if we have something that is working, we are in a position to keep detainees there. Some of them have to be there for a long period of time. The only choice would be to keep them there or to try them. If you try them and there is no way of disposing of them after the trial, they would have to go back.

Right now, of the 245 detainees, there are 170 of them whose countries would not take them back. So you have to ask the question: What would we do with them?

So the bottom line is this: It is a state-of-the-art prison. People are treated right. They have proper medical care. They have better food than most of them have ever had before. Besides that, some of these are the Khalid Sheikh Mohammed-type of individuals whom we want to be sure don't get in the wrong court system where something could happen to them.

So of the 240 detainees now, 27 are members of al-Qaida's leadership cadre, 95 lower level al-Qaida operatives, 9 members of Taliban's leadership cadre, 92 foreign fighters—that is 38 percent of all of them—and 12 Taliban fighters and operatives. These people are tough guys. We are going to have to do something with them. So I do support the Inouye-Inhofe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to speak to the pending amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I want to commend the chairman of the Appropriations Committee, Senator INOUE, for this amendment he has offered. President Obama is formulating a plan in terms of the future of the Guantanamo Bay detention facility and any appropriation at this moment would be premature. We should wait until the administration submits that plan and then try to work to implement that plan on a bipartisan basis.

What I find incredible are the Members of the Senate who are coming to the floor and basically suggesting that the Guantanamo detention facility should stay open indefinitely; that there is no reason to close Guantanamo. I don't understand that thinking. Wasn't it President Bush of the Republican Party who called for closing Guantanamo? I thought he did. In fact, he did. I don't recall the Republican Senators standing up at that point and objecting when President Bush said that was his goal, to close Guantanamo.

Mr. INHOFE. Will the Senator yield?

Mr. DURBIN. No, I will yield when I am finished.

When President Obama was elected, he made it clear that we were going to have a clean break from some of the policies of the past and we were going to try to reestablish America's position in the world—a position of leadership and respect. I think that is a goal Americans heartily endorse, both political parties and Independents as well. The results of the November 4 election last year indicate that.

When President Obama took office and said that the Guantanamo Bay detention facility would be phased out over a 1-year period of time, when he said we were going to do away with some of the interrogation techniques that had become so controversial, I felt it was a statement of principle and it was, practically speaking, important for our Nation to do.

Arthur Schlesinger, Jr., a historian who died a couple of years ago, wrote histories of the United States beginning with the age of Jackson through F.D.R. and John F. Kennedy. Before he died, he said:

No position taken has done more damage to the American reputation in the world—ever.

The tragic images that emerged from Abu Ghraib and the stories that came out afterwards, unfortunately, left an impression in the minds of people around the world that was mistaken—an impression that we were not a caring, principled people.

I think President Obama's decision to move forward toward the closing of the Guantanamo Bay detention facility was the right decision, but it wasn't just President Obama who came to that conclusion. Closing the Guantanamo Bay detention facility is an important national security priority for our Nation. Many national security and military leaders agree that closing Guantanamo will make us safer.

Let me give a few examples: General Colin L. Powell, the former Chairman of the Joint Chiefs of Staff and former Secretary of State under President Bush, Republican Senators JOHN MCCAIN and LINDSEY GRAHAM, and former Republican Secretaries of State James Baker, Henry Kissinger, and Condoleezza Rice.

The two most vocal supporters of keeping Guantanamo open are former Vice President Dick Cheney and talk show host Rush Limbaugh. With all due respect, when it comes to the national security of the United States of America, I will side with Colin Powell and JOHN MCCAIN over Vice President Cheney and Rush Limbaugh.

According to experts, Guantanamo Bay, unfortunately, has become a recruiting tool for al-Qaida that is hurting America's security.

Let me give one example. Retired Air Force MAJ Matthew Alexander led the interrogation team that tracked down Abu Musab al-Zarqawi, the leader of the al-Qaida operation in Iraq, and this is what he said:

I listened time and again to foreign fighters, and Sunni Iraqis, state that the number one reason they decided to pick up arms and join al-Qaida was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay. . . . It's no exaggeration to say that at least half of our losses and casualties in that country have come at the hands of foreigners who joined the fray because of our program of detainee abuse.

This is not a statement that comes out of some leftwing publication. It is a statement by a retired Air Force major, Matthew Alexander.

I visited Guantanamo Bay in 2006. I left proud of the good job our soldiers and sailors were doing there. They are being asked to carry a heavy burden of the previous administration's policies.

For many years, President Bush announced publicly that he wanted to close the Guantanamo detention facility, and there were no complaints from the Republican side of the aisle when President Bush made that suggestion. But President Bush didn't follow through.

Now President Obama has taken on the challenge of solving this problem that he inherited from the Bush administration.

I listened here as the previous speaker talked about the dangerous people at Guantanamo. There is no doubt that some of them are dangerous and have to be regarded as such, and releasing them would not be in the best interest of the security of the United States. But having said that, since Guantanamo was opened initially, the Bush administration released literally hundreds of detainees who were brought there, many of whom were later determined by the Bush administration not to be any threat or guilty of any wrongdoing. They were sent back to their countries of origin or to other countries that would receive them.

One particular case I am aware of involves a young man who was from Gaza. He was turned over as a suspected terrorist and sent to Guantanamo. He was sent there at the age of 19. He languished in Guantanamo for 6 years, never being charged with any wrongdoing. Just last year, his attorney was given a communication by our Government that said: We have found no evidence of wrongdoing by this man who is your client, and he is free to leave as soon as we can determine which country will accept him. A year and 3 months have passed since then. He still sits in Guantanamo. He came there at the age of 19; he is now 26. Is that justice in America? Is that an outcome we applaud? Do we want to keep Guantanamo open so he can continue sitting there year after year? Of course not. We want to detain those who are dangerous and bring to trial those who can be charged with criminal wrongdoing. We want to release those who are innocent and of no harm to the United States.

The President is taking the time to carefully plan for the closure of Guan-

tanamo in a way that will protect our national security. One thing is eminently clear, and it is almost painful for me to have to say the words on the Senate floor, and if anybody suggests otherwise, I cannot imagine they would do it in good faith, but I will say them anyway. This President of the United States will never allow terrorists to be released in America.

This President has set up three task forces to review interrogation and detention policies and conduct an individualized review of each detainee who is currently held at Guantanamo. These task forces are staffed by career professionals with extensive experience in intelligence and counterterrorism. They will make recommendations on how to close Guantanamo and what our interrogation and detention policies should be. We should give these national security experts the time to conduct a careful review and make their recommendations.

The Obama administration's approach is in stark contrast to the previous administration, where policies were made by political appointees with no background in counterterrorism. They ignored concerns expressed by FBI agents and military personnel with years of experience in dealing with al-Qaida.

When the President issued his Executive order, Republican Senators JOHN MCCAIN and LINDSEY GRAHAM said:

We support President Obama's decision to close the prison at Guantanamo, reaffirm America's adherence to the Geneva Conventions, and begin a process that will, we hope, lead to the resolution of all cases of Guantanamo detainees.

That is a responsible statement. I applaud my Republican colleagues for stepping up and acknowledging that this President is trying to do the right thing. It doesn't benefit the debate for people to come here and create a specter of fear, that somehow this President—or any President—would be party to releasing dangerous people into the United States.

Last week, Senator LINDSEY GRAHAM said:

I do believe we need to close Guantanamo Bay. I do believe we can handle 100 or 250 prisoners and protect our national security interests, because we had 450,000 German and Japanese prisoners in the United States. So this idea that they cannot be housed somewhere safely, I disagree.

But some Republicans have decided to turn Guantanamo into a political issue on the floor. Some have even gone so far as to claim the President wants to release terrorists into the United States. This is an absurd, offensive, and baseless claim.

Our colleagues on the other side of the aisle are criticizing the President, but the sad reality is that they have no plan to deal with the Guantanamo problem.

Richard Clarke, President George W. Bush's first counterterrorism chief, said the following last week:

Recent Republican attacks on Guantanamo are more desperate attempts from a demoralized party to politicize national security and the safety of the American people.

Let me address one specific claim—that transferring Guantanamo detainees to U.S. prisons will put Americans at risk.

Last week, Philip Zelikow, who was the Executive Director of the 9/11 Commission and counselor to Secretary of State Condoleezza Rice, testified before the Judiciary Committee. Mr. Zelikow told me that it would be safe to transfer Guantanamo detainees to U.S. facilities and that we are already holding some of the world's most dangerous terrorists in the United States.

Here are a few examples of those currently being held in American prisons: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; 9/11 conspirator Zacarias Moussaoui; Richard Reid, the so-called shoe bomber; and numerous al-Qaida terrorists responsible for bombing the U.S. Embassies in Kenya and Tanzania.

If we can safely hold these individuals, I believe we can also safely hold Guantanamo detainees. I don't know if this will be part of the President's recommendation or plan. We are still waiting for that.

I should make it clear in this debate that no prisoner has ever escaped from a U.S. Federal super-maximum security facility.

President Obama inherited this Guantanamo problem from the previous administration. Solving it will require leadership and difficult choices, and it will take some time.

I think the decision by Senator INOUE to remove this money from the supplemental is the right decision. The supplemental covers the next 4 months. During that period of time, the President will come out with his plan, and we can work forward from there.

The President is showing that he is willing to lead and make hard decisions. I urge my Republican colleagues to pay close attention to their colleagues, Senators MCCAIN and GRAHAM, who I think have been reasonable in discussing this issue. We should not play politics with national security.

Give the Obama administration a chance to present their plan for closing Guantanamo. As Colin Powell, JOHN MCCAIN, and many others have said, closing Guantanamo is an important step toward restoring American values and actually making America a safer country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNES. Mr. President, I rise today to commend President Obama on his recent decision to continue military commissions at Guantanamo Bay. I think the decision shows the President's realistic assessment of the value

of the commissions. Resuming them will also ensure that justice will be brought to the suspected terrorists currently awaiting the commission. The President has also shown an invigorating commitment to winning the war in Afghanistan, and he has resisted brash decisions to exit Iraq before the security situation has been fully stabilized.

However, today, I must temper my comments with an admonition. The President needs to reverse his order to close Guantanamo Bay. We are all familiar with the President's Executive order. It was signed in the first hours of his Presidency. It announced the closure of the prison within 1 year. To say the Executive order is short on detail is an understatement. We have learned that the Justice Department is reviewing the cases of the individual detainees and that the President would like to move the detainees somewhere else. That is really all the Executive order tells us.

About 240 detainees are now being held at Guantanamo Bay. The administration claims that not every detainee is a terrorist and that a few are kept at Guantanamo simply because other countries are very slow to accept them. Well, let me tell you, in my judgment, that speaks volumes about the character and the fitness for society of these detainees. Other countries are literally dragging their feet in accepting them. In April, the President of France famously agreed to accept one detainee. A number of countries, such as Germany and Lithuania, have only said they will consider accepting detainees, despite the Attorney General's round-the-world tour to ask our allies to accept more.

Let's assume the administration's projection that only half of the detainees there would be considered terrorists. Well, that is 120 terrorists who would be brought to facilities on our soil; 120 terrorists who would entice their brothers in arms worldwide to make every effort to break them out or at least wreak havoc on places where they are jailed; 120 terrorists whose trials and hearings will cause a community to virtually lock down every time they have to be transported from point A to point B.

Last Friday, I had the opportunity to actually go to Guantanamo and visit the prison. Having seen the facilities, I am more confident than ever that we should keep Guantanamo operating.

On my visit, I saw firsthand the treatment detainees receive there. The facilities there rival any Federal penitentiary. Detainees receive three meals per day that adhere to cultural dietary requirements.

They stay in climate-controlled housing with beds. It was a warm day when we were there. Their housing is air-conditioned. They have flushing toilets and had all of the hygiene items

we would use, such as toothbrushes, toothpaste, soap, and shampoo. They have the opportunity to worship uninterrupted. They are provided prayer beads, rugs, and copies of the Koran. The Muslim call to prayer is observed in the camps five times a day, followed by 20 minutes of uninterrupted time to practice their faith. In fact, we happened to be there during the call of the prayer, and the camp literally shuts down to allow them to have that time. They have access to satellite TV and a library with more than 12,000 items in 19 languages, including magazines, DVDs, and Arabic newspapers. I will bet their big-screen television—really state-of-the-art television—is bigger than most in the average home in America.

Most remarkable, though, is the medical care provided to detainees at Guantanamo. Most people don't realize this, but detainees receive the same quality of medical care as the U.S. servicemembers who guard them. They have access to medical care anytime they need it, and there is a two-to-one detainee-to-medical-staff ratio. They get preventive care, such as vaccinations and cancer screenings. In addition to routine medical care, detainees have been treated for preexisting medical conditions, even to the extent of receiving cancer treatment or prosthetic limbs. This is likely better treatment than they would receive in their home countries.

The courtroom constructed at Guantanamo was designed specifically to deal with military commissions. I am a lawyer myself, and I have to tell you that I have never seen anything like this. To say that it is state of the art is to understate the quality of that courtroom. I will tell you that I am convinced there is not another courtroom anywhere in the world with better equipment than what we have installed at Guantanamo.

To top it all off, earlier this year, the Vice Chief of Naval Operations reviewed conditions at Guantanamo and issued a report that the detainees' confinement conformed to the Geneva Conventions. Despite public perception, no detainee has ever been waterboarded at Guantanamo.

Why would we throw away a \$200 million, state-of-the-art facility just to meet an artificial deadline in 2010 that I think really originated from an uninformed campaign promise?

These are very dangerous people being held at Guantanamo. These are not a couple of teenagers who robbed a corner convenience store. There are 27 members of al-Qaida's leadership cadre currently housed at the prison, plus 95 lower level al-Qaida operatives, which combined is about half the prison population at Guantanamo. There are also scores of Taliban members and foreign fighters.

There was a survey that was done awhile back—it was released in April—

and it indicated that 75 percent of Americans oppose releasing Guantanamo detainees in the United States, while only 13 percent support that. I am willing to bet the numbers opposing the transfer of prisoners to the United States would skyrocket even higher, although that is hard to imagine, if you told people that the terrorist detainees would be held in a prison near their town. But if moved to the United States, they have to be near some town.

The President submitted an \$80 million funding request for the detainees to be transferred, despite having no plan outlining their destination. Fifty million dollars of the President's funding request would go to the Department of Defense to actually transfer the detainees from the prison. But we don't know where. This lack of a plan and lack of transparency deeply disturbs me.

Alarming, two of the sites on U.S. soil that some speculate would house transferred detainees are at Fort Leavenworth, KS, or the supermax facility in Colorado. Both facilities are within 250 miles of the Nebraska border. That alarms me and my constituents. That is why I sent a letter to Attorney General Holder on April 23 requesting a personal briefing before any decision is made to move current Guantanamo detainees within 400 miles of Nebraska's borders.

But simply being notified that detainees are about to be transferred won't suffice. That amounts to telling the passengers to hold on before the bus crashes. It is for these reasons that I believe we should deny funding to transfer detainees and in fact not close the prison at Guantanamo. It is for these reasons that I support S. 370, the Guantanamo Bay Detention Facility Safe Closure Act of 2009, introduced by the senior Senator from Oklahoma.

The bill prohibits Federal funds from being used to transfer any detainees out of Guantanamo to any facility in the United States or its territories. It also prohibits any Federal funds from being used for the construction or enhancement of any facility in the United States in order to house any detainee. Finally, it prohibits any Federal funds from being used to house or otherwise incarcerate any detainee in the United States or its territories. It will keep our communities safe by preventing terrorists from being thrust into our cities and towns.

I will close by reminding Senators that in 2007, the Senate voted 94 to 3 to express its opposition to moving Guantanamo detainees to U.S. soil or releasing them into American society. President Obama's Executive order to close the prison at Guantanamo demonstrates his intention to ignore the will of the Senate and the American people. Despite an overwhelming vote, the administration apparently still



plans to bring terrorist detainees from Guantanamo near our communities.

I hope we have the opportunity to once again address this issue. There is a pending amendment which I support. But I also urge the President to reconsider his decision to close the prison. I encourage my colleagues to support the amendment that is before this body to deny funding for closing the prison.

I look forward to a robust debate on this issue as we delve into this very important matter. Amendments will be offered. I think this is the most important issue we are going to face in a long time. Action to close the prison and move these people here is unacceptable. It is unthinkable to the American public. We must yield to their collective wisdom and hear their call. Anything else would be a grave mistake.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

#### AMENDMENT NO. 1136

Mr. MCCONNELL. Mr. President, I wish to say a few words about an amendment I am about to offer that relates to the President's Executive order of January 22 on the disposition of detainees at Guantanamo.

As part of that Executive order, a so-called detainee task force was created for the purpose of reviewing the records of detainees to determine whether they should be released. It is my view that any information obtained by this task force should be made readily available to the appropriate chairman and ranking members of the committees of jurisdiction. So the amendment I am about to send to the desk establishes a reporting requirement that would require the administration to provide a threat assessment of every detainee held at Guantanamo. This threat assessment, which could be shared with Congress in a classified report—remember, this would be in a classified report only—would indicate the likelihood of detainees returning to acts of terrorism. It would also report on and evaluate any threat that al-Qaida might be making to recruit detainees once they are released from U.S. custody.

Many of the remaining 240 detainees at Guantanamo are from Yemen, which has no rehabilitation program to speak of, and Saudi Arabia, which has a rehab program, but which, frankly, hasn't been very successful at keeping released detainees from rejoining the fight even after they go through this rehabilitation program. The recidivism among released detainees is of great concern to those of us who have oversight responsibilities here in Congress. So according to my amendment, the President would have to report to Congress before—I repeat, before—releasing any of the detainees at Guantanamo. More specifically, the administration would have to certify that any

detainee it wishes to release prior to submitting this report poses no risk—no risk—to American military personnel stationed around the world.

This is a simple amendment that reflects the concerns of Americans about the dangers of releasing terrorists either here or in their home countries where they could then return to the fight. Until now, the administration has offered vague assurances it will not do anything to make Americans less safe. This amendment says that Americans expect more than that. Americans want the assurance that the President's arbitrary deadline to close Guantanamo by next January will pose no risk to our military servicemembers overseas.

I know there is an amendment pending at the desk, so I ask unanimous consent that it be set aside and that my amendment be sent to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] proposes an amendment numbered 1136.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the release of detainees at Guantanamo Bay, Cuba, pending a report on the prisoner population at the detention facility at Guantanamo Bay)

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify

the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Guantanamo Bay.

(d) FORM.—The report required under subsection (a), or parts thereof, may be submitted in classified form.

(e) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

The PRESIDING OFFICER. The Senator from Hawaii.

#### AMENDMENT NO. 1137

Mr. INOUE. Mr. President, I ask unanimous consent that the pending amendment be set aside to allow me to call up a technical amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. Inouye] proposes an amendment numbered 1137.

The amendment is as follows:

(a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for "Operation and Maintenance, Air Force".

Mr. INOUE. Mr. President, this technical amendment clarifies the treatment of a rescission proposal included in the bill, and has been cleared by both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.



Mr. MARTINEZ. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

Mr. MARTINEZ. The issue before the Senate includes the question of Guantanamo, and I know there has been some recent activity on this legislation.

Addressing this issue, the Federal Government has no higher responsibility than ensuring the safety and security of every American. Since 9/11, our Nation has taken a number of steps to safeguard us from the threat of terrorism, including the development of a facility to detain enemy combatants at U.S. Naval Station Guantanamo Bay.

Over the course of our campaign against terrorism, that detention facility came under harsh scrutiny; doing great harm to our stature around the world.

In June of 2005, I told a group of newspaper editors that the detention facility at U.S. Naval Station Guantanamo Bay had become a lightning rod for global criticism, and at some point a country has to reexamine the cost-benefit ratio of operating a facility that has such a poor public face.

As a lawyer, I noted that it wasn't very American to be holding people indefinitely with no system in place to process and grant review of the detention and some form of due process.

Suspected enemy combatants had essentially become akin to POWs; but because of the unique nature of the ongoing war on terror, they could not be released.

What I knew then, and what I know now is that though many wanted to close Guantanamo—a view that would eventually be shared publicly by President Bush and both candidates for President Senators JOHN MCCAIN and Barack Obama—we did not have a good plan for how to legally advance beyond that wish.

So we had an idea—to close Guantanamo—but no good path to achieve that without endangering Americans.

The world has changed since 2005.

Since then, a military commission system was established, prisoners were processed; the trying of unlawful enemy combatants began; trials concluded; and in some cases former Guantanamo Bay detainees were convicted of their charges, while others were acquitted and released.

But now, we have gone from the rhetoric of the campaign to the very real pronouncement by the President that Guantanamo shall be closed down by January 2010.

I agree, we need to close Guantanamo, but not before we have a concrete plan in place that holds captured enemy combatants accountable for their actions, while also not endangering the American public.

President Obama's Director of National Intelligence, Admiral Dennis Blair clearly laid out that:

The guiding principles for closing the center should be protecting our national security, respecting the Geneva Conventions and the rule of law, and respecting the existing institutions of justice in this country.

I also believe we should revitalize efforts to transfer detainees to their countries of origin or other countries whenever that would be consistent with these principles.

Closing this center and satisfying these principles will take time, and is the work of many departments and agencies.

So again, we have the idea that we can all agree on, but in practice there is no plan; there is no clear path to achieving these goals.

When choosing a path, we need to act very carefully and consider this decision in the context of our ability to continue processing prisoners under the Military Commissions Act; we need to consider whether and how habeas corpus would apply to detainees transferred to U.S. facilities; and we need to know the implications of trying Gitmo detainees in Federal Court.

Today, some 240 individuals are held at Gitmo's detention center.

Of these, eighty detainees potentially face prosecution for war crimes before Military Commissions at Guantanamo and two individuals have already been convicted of war crimes before the Commissions.

These Commissions were created by Congress under the Detainee Treatment Act and the Military Commissions Act as a means for prosecuting the unique type of enemy we confront in this new type of warfare.

But then came the Supreme Court's opinion in *Boumediene v. Bush*.

In that opinion, authored by Justice Kennedy on behalf of the five-member majority, the Court did something that has never been done in the history of our Nation.

The Court extended the constitutional writ of habeas corpus to foreigners detained in foreign lands.

That means the Court extended to foreign terror suspects detained at Guantanamo Bay the same constitutional rights and privileges that U.S. citizens enjoy in U.S. courts.

Seizing on this unprecedented constitutional interpretation, the lawyers of several Gitmo detainees quickly filed motions in Federal district courts seeking to have their clients brought into the U.S., and in some cases, asked that their clients be released or "paroled" onto the streets of American cities and communities.

This is the world we live in given the Court's decision in *Boumediene*—a world in which foreigners, who have been trained at terrorist camps in Afghanistan, have been granted the right to be released onto the streets of American cities.

It was against this backdrop that President Obama decided on his first

day in office to halt further Military Commission trials and to mandate the closing of Gitmo by January of next year.

Let's be clear about what we are dealing with here.

These detainees are not accused of shoplifting; they are not accused of robbing a bank; they are not accused of organizing a single or double homicide.

They are accused of working as unlawful enemy combatants with the aim of killing as many Americans as they can kill, most of them completely committed to their goal, they are "irreconcilables."

We are still in the midst of a global war on terror against an enemy bent on attacking Americans wherever and whenever it can. There is no question that this war is unprecedented. There is no question we face unique and difficult choices. But one thing is very clear: We should never allow alleged enemy combatants to enter or be released in the United States. No court, civilian or military, should ever be asked to decide whether the foreign terrorist trainee before it is "safe enough" to be brought into the United States and released into our streets. The American people deserve greater protections from us than that would warrant them, and we must remember that their personal safety and our national security is our No. 1 priority.

Guantanamo is a world-class facility that is well-suited for the unique circumstances of the global war on terror. Even Attorney General Holder has declared the facility to be "well run" and noted that Gitmo personnel conduct themselves in an appropriate way. I myself have visited there, and I understand what he is saying, because it is a good example of a fine detention facility. It is good that the military commissions were working and were achieving fair results and may be coming back.

For example, Salim Hamdan, Osama bin Laden's personal driver and body man, was convicted of providing material support to al-Qaida and sentenced to a mere 5½ years by a jury of military officers. This result demonstrates the effectiveness and the type of justice provided by the military commissions. This is why they should resume immediately at the only venue in the world that has been built to facilitate them, and that is the facility at Gitmo.

One thing I do want to make clear as we continue to have debate over the facility's future, I remind my colleagues that when we talk about Gitmo's future, we are referencing the detention center, not the U.S. Naval Station at Guantanamo Bay. That naval base is the landlord to the detention center, but it also serves as a vital base for our Navy and is a key strategic place.

The overall facility is the U.S. Naval Station providing fleet support, ship replenishment, and refueling for the

U.S. Navy and also for the Coast Guard as well as allied and friendly nations. It is a key processing center for Haitians and Cubans seeking asylum. The U.S. Naval Station at Guantanamo Bay is home to more than 8,500 active-duty servicemembers and their families and civilian support contractors.

We cannot lose sight of the important role the base plays in our national security, and the continued need for infrastructure improvements and enhancements, all that have absolutely nothing to do with the detention facility. As we continue to debate the facility's future, I want to underscore the importance of making a thoughtful and careful decision rather than one that may be what is expedient, for the moment.

We need a plan on how to move forward given the considerations I have discussed today. So I hope as the discussion goes forward, we will put the interests and the safety of the American people first. I know the portion of this bill before us which dealt with the Guantanamo facility and the allocation of \$80 million to close down the facility may be removed from the bill or considered in a different form. I would be encouraged if we are not at the moment funding the closing of this facility until we have a game plan in mind of what we are going to do with the facility and the detainees who are there.

We still have not addressed what we are going to do between now and January of 2010. There still is no plan. There still is no future for what will happen to the 240 detainees who currently reside at the detention facility at the United States Naval Station in Guantanamo, Cuba.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH.) The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to support and thank the distinguished chairman of the Appropriations Committee, the Senator from Hawaii, for his amendment to strike the Guantanamo Bay funding in the supplemental bill before us.

Last week in the Appropriations Committee which he chairs, I raised this issue at the markup with the intent to strike the funding for the Department of Justice. At the behest of the chairman and ranking member, I did not offer the amendment which I intended to offer today.

This supplemental, as reported out of the Appropriations Committee, fulfilled the Department of Justice request originally for \$30 million to fund the President's reckless campaign promise to shut down the Guantanamo Bay detention facility and determine the fate of the 241 terrorists being held there.

I also believe that funding for the Department of Justice to carry out the President's Executive order is just the beginning of efforts to begin the inves-

tigations of U.S. officials who interrogated terrorists who killed or attempted to kill American citizens.

In a Department of Justice hearing before the Appropriations Subcommittee on May 7, I asked the Attorney General if he knew about or sanctioned any of the renditions that occurred when he served as the Deputy Attorney General during the Clinton administration. He said he did, but could not provide specifics and would get back to the committee with a response. We are still waiting for that response. Yesterday, in following up with that, I sent a letter to the Attorney General following up on many of the unanswered questions left after the hearing.

Mr. President, I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, May 18, 2009.

Hon. ERIC HOLDER,  
Attorney General, Department of Justice,  
Washington, DC.

DEAR ATTORNEY GENERAL HOLDER: I am writing to follow up on some of the issues raised during your hearing before the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies on May 7, 2009. Below are a number of questions posed during the hearing, as well as some additional questions I have relating to a potential criminal investigation of U.S. officials who drafted the legal opinions upon which the CIA based its interrogation program, and who actually participated in the interrogation of detainees. Also included are questions relating to the disposition of Guantanamo Bay detainees. Your immediate response would be greatly appreciated.

1. During your tenure as the Deputy Attorney General of the United States, 1997 to 2001, did you know that President Clinton approved of and actively engaged in the practice known as rendition? Did you or anyone in the Department of Justice express a legal opinion on, participate in, or approve any rendition? What actions did you take to ensure any such rendition complied with United States or international law? What actions did you take to ensure that any interrogations of any such individuals rendered by the United States were conducted by the receiving country in a manner consistent with United States or international law? Did you or anyone on your behalf ever determine whether any useful intelligence was obtained from any such individuals rendered by or on behalf of the United States? Did you or anyone on your behalf ever attempt to determine how that information was obtained and whether any such individuals rendered by or on behalf of the United States was subjected to any treatment that would violate United States or international laws?

2. In an exchange with Senator Alexander during the hearing you mentioned an Office of Professional Responsibility (OPR) inquiry into the work of the attorneys who prepared the Office of Legal Counsel (OLC) memoranda regarding interrogation. It has been reported that the OPR report criticizes the competence of the authors of the memoranda.

a. Has the OPR, prior to this review, ever reviewed legal opinions drafted by the OLC?

If so, please explain in detail, including whether any such review involved intelligence matters or the President's war powers?

b. Presuming the OPR reviewed the legal opinions of the OLC regarding the CIA's interrogation program, please describe, in detail, the standards of review applicable to any such OPR review. Also, provide a copy of any standards of conduct or any other Department of Justice policy guidance regarding the conduct of attorneys used by the OPR in its reviews. What conclusions did OPR reach in any such review?

c. How many attorneys currently work in the Office of Professional Responsibility? Do any of them have expertise in constitutional law, intelligence matters, treaty compliance, and/or separation of powers? If so, please provide detailed information regarding each attorney's individual expertise in these areas. Is the OPR seeking outside guidance in any of these areas? If so, please provide specific information on these individuals or sources.

d. Did any of the personnel in the OPR work on cases or policies arising from our government's response to the 9/11 attacks? If so, please provide the names of these individuals.

3. Attorney General Mukasey and Deputy Attorney General Filip were presented with a draft of an OPR report near the end of the Bush Administration. This was after more than four years of investigation and thousands of dollars in taxpayer funds being expended. Press reports have suggested that Mukasey and Filip rejected the idea that OLC attorneys should be subject to sanctions.

a. Please explain why you have decided to overrule Attorney General Mukasey's decision. Also, please provide the Committee with all instances, if any, where an incoming Attorney General has reversed the decision of his or her predecessor regarding a recommendation by the OPR.

b. News reports suggest that the OPR will criticize the Bybee memorandum that argues that the anti-torture statute cannot interfere with the President's constitutional authorities. Did the OPR ever investigate the opinions of the Clinton Justice Department to determine if it claimed that the President's constitutional authorities would allow him to act in violation of Acts of Congress? If not, why not? If so, please provide those opinions.

c. Does the OPR report address whether the interrogation methods used actually produced useful intelligence? If not, why not? If so, please list all U.S. Government personnel interviewed by the OPR to make such a determination.

4. The provision of accurate legal advice regarding the conduct of intelligence operations will necessarily entail the consideration of not only many types of activities, but also very difficult legal issues. On many occasions, reasonable attorneys may disagree on whether such activities are consistent with or violate United States or international law. The investigation, and possible sanctioning, of attorneys for the provision of legal advice in areas of law that are less than clear will absolutely have a chilling effect on their ability to provide accurate legal opinions. Faced with sanctions, attorneys will undoubtedly choose to stay well within the law. Intelligence operations will then be unnecessarily limited falling well short of what the Congress and the President may be prepared to sanction. With this in mind, won't risk aversion driven by chilled legal advice recreate the bureaucratic attitude that contributed to our inability to detect and stop the 9/11 attacks?

5. Do you believe the President has the legal authority to bring terrorists, former terrorists or anyone who has received terrorist training into the United States and release them into our communities? If so, please provide a copy of that authority?

6. In your testimony before the Committee you stated that with "regard to the release decisions that we will make, we will look at these cases on an individualized basis and make determinations as to where they can appropriately be placed." What are the criteria on which you will base a decision to place an individual currently being held in Guantanamo in the United States? Please be more specific than the general guidance given in the President's Executive Order.

Thank you for your immediate attention to these matters.

Sincerely,

RICHARD SHELBY.

Mr. SHELBY. Mr. President, renditions and interrogations were carried out on Attorney General Holder's watch, when he was the Deputy Attorney General. I have serious concerns that the Attorney General could eventually be leading investigations and prosecutions against U.S. officials who carried out the very same actions he approved during his time as Deputy Attorney General.

Yet the Executive orders failed to include any investigation of his role in approving renditions of detainees and terrorists that occurred during his previous tenure at the Justice Department.

To go back in time, the first terrorist attack on the World Trade Center occurred on February 26, 1993. We later saw the bombings of the USS Cole, the embassies in Africa, and Khobar Towers take place before the second attack on the World Trade Center.

Many of the terrorists who committed these acts were trained in the very same camps as the terrorists held at Guantanamo Bay. When I asked the Attorney General if the Government had the legal authority to admit someone who had received terrorist training into the United States, he would not answer the question directly. He indicated he would not release anyone who he thought was a terrorist in the United States—who he thought.

All of the detainees being held at Guantanamo Bay, I believe, are terrorists. Does anyone but the administration and the Attorney General believe anything to the contrary? I think it is misguided to close a facility housing terrorists when there is no plan. All of the prisoners housed at Guantanamo Bay are terrorists. Terrorists attacked our Nation and killed our citizens and pose a threat still today to our national security.

We should not, I believe, let this Attorney General or anyone else brand these terrorists as victims worthy of living in the United States of America, nor should we follow the plans of the Director of National Intelligence, Dennis Blair, who suggested that terrorists be provided with a taxpayer-funded

subsidy to establish a new life here in America.

Until we are clear about Attorney General Holder's role in renditions and interrogations prior to 9/11, and what this administration is proposing to do with these terrorists once Guantanamo is closed, I believe it is premature to provide this funding.

I again commend the chairman for his actions today and I believe the Senate is on the right track. I hope we stay there.

I yield the floor.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1139

Mr. CORNYN. Mr. President, I have conferred with the bill managers, the distinguished chairman of the Appropriations Committee and the distinguished ranking member. I have an amendment I would like to call up. I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. INOUE. I object momentarily.

The PRESIDING OFFICER. Objection is heard.

The Senator from Hawaii.

Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 1139.

Mr. CORNYN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the interrogators, attorneys, and law-makers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds the following:

(1) In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks on the United States was the most urgent responsibility of the United States Government.

(2) A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives concluded that the September 11, 2001 at-

tacks demonstrated that the intelligence community had not shown "sufficient initiative in coming to grips with the new transnational threats".

(3) By mid-2002, the Central Intelligence Agency had several top al Qaeda leaders in custody.

(4) The Central Intelligence Agency believed that some of these al Qaeda leaders knew the details of imminent plans for follow-on attacks against the United States.

(5) The Central Intelligence Agency believed that certain enhanced interrogation techniques might produce the intelligence necessary to prevent another terrorist attack against the United States.

(6) The Central Intelligence Agency sought legal guidance from the Office of Legal Counsel of the Department of Justice as to whether such enhanced interrogation techniques, including one that the United States military uses to train its own members in survival, evasion, resistance, and escape training, would comply with United States and international law if used against al Qaeda leaders reasonably believed to be planning imminent attacks against the United States.

(7) The Office of Legal Counsel is the proper authority within the executive branch for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out official duties.

(8) Before mid-2002, no court in the United States had interpreted the phrases "severe physical or mental pain or suffering" and "prolonged mental harm" as used in sections 2340 and 2340A of title 18, United States Code.

(9) The legal questions posed by the Central Intelligence Agency and other executive branch officials were a matter of first impression, and in the words of the Office of Legal Counsel, "substantial and difficult".

(10) The Office of Legal Counsel approved the use by the Central Intelligence Agency of certain enhanced interrogation techniques, with specific limitations, in seeking actionable intelligence from al Qaeda leaders.

(11) The legal advice of the Office of Legal Counsel regarding interrogation policy was reviewed by a host of executive branch officials, including the Attorney General, the Counsel to the President, the Deputy Counsel to the President, the General Counsel of the Central Intelligence Agency, the General Counsel of the National Security Council, the legal advisor of the Attorney General, the head of the Criminal Division of the Department of Justice, and the Counsel to the Vice President.

(12) The majority and minority leaders in both Houses of Congress, the Speaker of the House of Representatives, and the chairmen and vice chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on the legal analysis by the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency as early as September 4, 2002.

(13) Porter Goss, then-chairman of the Permanent Select Committee on Intelligence of the House of Representatives, recalls that he and then-ranking member Nancy Pelosi "understood what the CIA was doing", "gave the CIA our bipartisan support", "gave the CIA funding to carry out its activities", and "On a bipartisan basis . . . asked if the CIA needed more support from Congress to carry out its mission against al-Qaeda".

(14) No member of Congress briefed on the legal analysis of the Office of Legal Counsel and the proposed interrogation program of

the Central Intelligence Agency in 2002 objected to the legality of the enhanced interrogation techniques, including "waterboarding", approved in legal opinions of the Office of Legal Counsel.

(15) Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel provides national leaders a means to detect, deter, and defeat further terrorist acts against the United States.

(16) The enhanced interrogation techniques approved by the Office of Legal Counsel have, in fact, accomplished the goal of providing intelligence necessary to defeating additional terrorist attacks against the United States.

(17) Congress has previously established a defense for persons who engaged in operational practices in the war on terror in good faith reliance on advice of counsel that the practices were lawful.

(18) The Senate stands ready to work with the Obama Administration to ensure that leaders of the Armed Forces of the United States and the intelligence community continue to have the resources and tools required to prevent additional terrorist attacks on the United States.

(b) SENSE OF SENATE.—It is the sense of the Senate that no person who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied in good faith on those opinions, nor any member of Congress who was briefed on the enhanced interrogation program and did not object to the program going forward should be prosecuted or otherwise sanctioned.

Mr. CORNYN. May I inquire, my amendment is currently the pending amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CORNYN. I thank the Chair.

Mr. President, my amendment calls for an end to the poisonous environment of recriminations and second-guessing and even threats of prosecution that have overtaken the debate about detention and interrogation policy in the aftermath of September 11, 2001. This amendment expresses the sense of the Senate that neither the lawyers who offered good-faith legal advice regarding the legality of interrogation techniques, nor any person who relied in good faith on that legal advice, nor any Member of Congress who was briefed beforehand on these enhanced interrogation techniques and who did not object should be prosecuted or otherwise sanctioned. This is, obviously, a sense of the Senate, but I think it is important that the Senate's will be determined and recognized on such a sensitive and important topic.

I know it is hard for us to remember now what it was like in the days following 9/11. Believe it or not, there was a broad bipartisan consensus that America and all Americans, including Congress, should work aggressively within the law to detect, deter, and indeed to defeat further terrorist attacks. Responding to this consensus, patriotic Americans in our intelligence service; namely, the Central Intel-

ligence Agency, the administration, and Congress did everything within our legal power to protect the country from a follow-on terrorist attack.

We recall the horrible day when we saw two airplanes fly into the World Trade Center in New York. But it is not beyond the realm of concern that, indeed, the same terrorists who effected those horrible attacks, killing 3,000 Americans, roughly, on that day, would use some more effective weapon of perhaps a nuclear, biological, or chemical nature. So we know our intelligence officials and the administration and Congress were acutely aware of the environment in which they were acting.

Our intelligence officials believed they could produce actionable intelligence by using some enhanced interrogation techniques, including one that is performed as part of training on some of our own U.S. military personnel; that if the Office of Legal Counsel at the Department of Justice determined this was a legal way for them to gain actual intelligence, perhaps, just perhaps, it could generate intelligence which would allow the Central Intelligence Agency and our military forces to defeat any follow-on terrorist attacks.

It is worthwhile to remember, as my sense-of-the-Senate resolution does, that after the Central Intelligence Agency asked whether these enhanced interrogation techniques were, in fact, lawful, the Office of Legal Counsel, which is the authoritative branch that provides legal advice to the executive branch and the U.S. Government, was asked to render an opinion on whether use of these enhanced techniques, including waterboarding, was, in fact, legal. In fact, after much input and consultation within the executive branch and the lawyers for various parts of the executive branch discussed and interpreted what the constraints of the law were under both international as well as domestic laws, they concluded that under specific guidelines and limitations, it would be lawful for the Central Intelligence Agency, in questioning known al-Qaida leaders, to use this technique in order to gain intelligence that would perhaps save many more lives in the future.

We know how controversial this turned out to be, but it is important to remember that at the time, it did not prove to be so controversial. In fact, after the CIA asked for permission to use these enhanced techniques, we know the Office of Legal Counsel rendered legal opinions authorizing the use of these techniques under certain limitations. And then, in fact, leadership here in Congress was briefed on those techniques. Specifically, under these circumstances, as the sense-of-the-Senate resolution points out, not only would the Speaker of the House of Representatives be briefed but also the

majority and the minority leaders in both Houses of Congress, as well as the chairman and ranking member of both the House Intelligence Committee and the Senate Select Committee on Intelligence. That would have been back in 2002—of course, much closer in proximity to the horrible events of 2001—when, no doubt, Members of Congress and members of the executive branch were thinking: What can we do to prevent further terrorist attacks against the United States?

One of the things that we have heard in the days since these opinions out of the Office of Legal Counsel have been controversial is that some lawyers have different opinions from those rendered by the lawyers at the Office of Legal Counsel. I can tell my colleagues, as a lawyer myself for 30 years, what lawyers do best is disagree with one another. There is nothing unexpected about that. But we should not turn disagreements between lawyers into witch hunts and into pursuing good-faith rendition of legal opinions as well as intelligence officials relying on those opinions in order to try to protect our country.

One distinguished law professor testified to the Judiciary Committee last week:

To ratchet-up simple disagreement with the legal analysis of a prior administration into the claim that such analysis was beyond the pale of legitimate legal analysis, and therefore should be investigated and punished, is to be engaged in a mild form of legal neo-McCarthyism.

Mr. President, I was not in Washington, DC, on September 11, 2001. I was in my home in Austin, TX, when I saw these terrible images of these planes flying into the World Trade Center. But one of the images I remember in the aftermath of those attacks was of the Members of Congress, of both parties, joined together on the Capitol steps singing "God Bless America."

In the aftermath of that day, Americans, at least for a time, were united in our determination that it would not happen again. That is why it is particularly sad to see the bitter political divisions of the present being invoked to condemn the good-faith actions of the past and to hear calls to prosecute not only the intelligence officials in the CIA but also prior administration officials and, indeed, the Congress who answered the call when the American people demanded with one voice that we keep them safe.

If we want to be able to look back at our detention and interrogation policies, and learn what worked and what did not, we need to try to maintain our sense of perspective and objectivity and fairness and be respectful of both the circumstances under which these officials reached these opinions and the reliance the intelligence officials and other high Government officials had upon those legal opinions in deciding

what they could and could not do. Indeed, who would question their use of all legitimate means to gain actual intelligence that may indeed have saved American lives? We cannot learn together from our past successes or failures while recklessly accusing one another of crimes while criminalizing policy differences.

In the end, this sense-of-the-Senate resolution is an appeal to a sense of decency. We should be united in our commitment to liberty, justice, and security under the law.

The American people want unity and not partisan prosecutions or sanctions imposed against those officials who were simply trying, to the very best of their ability, to do their job and to keep the American people safe. This amendment says, in the end, that the Senate agrees with that proposition. I would ask for the support of all my colleagues.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, today, those of us who have strongly insisted that no terrorist currently in Guantanamo Bay should or will be transferred to the United States, I think, have won a big victory.

I am going to be very frank about it. Faced with an embarrassing defeat, and listening to the American people, the Democratic leadership has accepted an amendment offered by Senator JIM INHOFE of Oklahoma, myself, and many others that prohibits the use of Federal funds to transfer or locate any Gitmo terrorist to the United States.

This is an important, commonsense victory for the security of our country and more especially for Fort Leavenworth, KS. Following President Obama's decision to close Gitmo at the end of this year, there has been much speculation about moving terrorists to Leavenworth, especially in the press, and even on the Senate floor. I responded with remarks several weeks ago: "Not on my watch."

The problem is that while we have prohibited the use of funds to transfer terrorists to the United States, the Obama administration still has proposed no plan to meet their own January deadline. That does remain a challenge, and it means that while we won a victory today—no funds—it seems to me we must remain vigilant to make sure future plans do not include locations in the United States, including Leavenworth.

There are simply too many security risks and the possibility of negative

impacts on our Kansas citizens and the Intellectual Center of the Army at Fort Leavenworth to even consider moving terrorists to Kansas.

I hope President Obama and his team designated to come up with a plan can come to the realization that closing Gitmo actually poses new problems in terms of security and logistics and legal issues.

Now that we are all on the same page, let's find a better answer and one that does not endanger Leavenworth, KS, or any other community in the United States.

I also wish to associate myself with the remarks of the distinguished Senator from Nebraska, MIKE JOHANNIS, who I think summarized the whole situation very well. I wish to thank Senator INHOFE for persevering. I wish to thank my dear friend and colleague, the distinguished Senator from Hawaii, Mr. INOUE, for his leadership in this regard.

But during this debate, and for some time, it seems to me we have seen a change in how those who are incarcerated at Gitmo are now being defined and described in the media, in the administration and, as a consequence, by some Americans.

I understand there is a poor perception of Guantanamo Bay. I think that is a fact we all realize. We heard another Senator from the other side of the aisle describe that in detail—as a matter of fact, ascribed all the problems to the Bush administration. But I do not think that is relevant. To say there are no terrorists there, to say there are not even enemy combatants there, is doing a disservice to us all by trivializing the crimes committed by the men at Guantanamo Bay.

I ask you, when did we start making terror politically correct? This same question was asked by Daniel Pearl's father, Judea Pearl, in an article that ran in the Wall Street Journal this past February. It is called: "Daniel Pearl and the Normalization of Evil." I think every Senator and every American should read it, more especially in regard to this debate on where we locate these terrorists.

As you may know, and we should all remember, Daniel Pearl was the American journalist who was captured and beheaded—beheaded—on a video by the "nonterrorist, nonenemy combatant" Khalid Shaikh Mohammed in 2002—beheaded by Khalid Shaikh Mohammed, who is actually sitting at Guantanamo Bay right now.

Listen to what Judea Pearl, a respected professor at UCLA, has to say about that act of terror on his son:

Those around the world who mourned for Danny in 2002 genuinely hoped that Danny's murder would be a turning point in the history of man's inhumanity to man, and that the targeting of innocents to transmit political messages would quickly become, like slavery and human sacrifice, an embarrassing relic of a bygone era.

But somehow, barbarism, often cloaked in the language of resistance, has gained acceptance in the most elite circles of our society. The words "war on terror" cannot be uttered today without fear of offense. Civilized society, so it seems, is so numbed by violence that it has lost its gift to be disgusted by evil.

Well, this Senator remains disgusted by evil. I am disgusted by those who target innocent civilians as they spew their hatred. I refuse to adopt what Danny's father calls "the mentality of surrender." And that is weaved throughout this debate in regard to what happens to these terrorists.

It is not too late. We can all refuse to surrender to the idea that terrorism is somehow a tactic, to refuse to believe it is an acceptable tool of resistance.

There is still time for Americans to remember that there are men at Guantanamo who cannot be released and most certainly should not be on American soil.

Mr. President, I yield back.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Connecticut.

#### CREDIT CARD REFORM

Mr. DODD. Madam President, I wish to speak off the bill. I know my colleagues are talking about the supplemental appropriations bill. But I wish to take a few minutes, if I could, with the permission of the managers of the legislation, to talk about the credit card legislation that passed this morning. I did not have the opportunity, given the time constraints, to express some brief thoughts about the passage of that legislation.

So I rise to thank my colleagues. By an overwhelming vote of 90 to 5, this body voted earlier today to adopt the credit card reform legislation. I am very grateful to my colleagues. I am grateful to Senator SHELBY, my co-chair, if you will, the former chairman of the Banking Committee, for his work.

Obviously, this was a bipartisan effort, with a vote of 90 to 5. The final conclusion was one that was embraced by an overwhelming majority of our colleagues. I thank them for that.

Twenty years ago, many of my colleagues who are still in this Chamber will recall how we stood to try to get the credit card industry to respond to some of the activities that began then. In those days, they were not quite as pernicious as they have become. But, nonetheless, you could see the handwriting on the wall as to where these issuers were headed. We did not engage as effectively then as we probably should have. We said then that too many of these companies were starting to cross a line, starting to engage in abusive, deceptive, and misleading practices that were trapping their customers into far more debt than certainly they, the customers, ever agreed to.

But that was more than two decades ago, and since that time, we have all

seen what has happened across our Nation: penalty fees that are increasingly common, for infractions that are increasingly ridiculous—for paying by phone or by e-mail or by check, which are ways you get penalized today; anytime, any reason under contracts, where interest rates could be raised that can turn a few hundred dollars of obligation into a lifetime of debt; disclosures that you need a microscope to read and a lawyer's degree to understand.

For too long, credit card companies have resorted to tactics that drive families deeper and deeper and deeper into debt.

Well, today the Senate let them know that those days are coming to an end. I am grateful to my colleagues for their votes.

I wish to take a few minutes to thank fellow Senators and staff who have worked diligently to help me improve this legislation.

As I mentioned earlier, Senator SHELBY of Alabama played an important role, and I am grateful to him for agreeing to work on this bill. It came out of the committee on an 11-to-12 vote—the narrowest of margins. It was after that time that we worked to develop a bipartisan bill.

In all, I believe this was an inclusive process—striking a very good balance that ensures we provide tough protections for consumers while making sure to maintain the flow of credit into our economy that is so essential to our long-term economic recovery.

I wish to thank Senators CARL LEVIN of Michigan and CLAIRE MCCASKILL of Missouri, who led the charge to restrict overlimit fees and deceptive marketing of free credit reports.

Senator BOB MENENDEZ of New Jersey has been a champion from the very beginning on issues impacting young people—requiring credit card companies to consider consumers' ability to pay when issuing credit cards, increasing protections for students against aggressive credit card marketing, and more transparency in affinity arrangements between credit card companies and universities.

With respect to affinity cards and protection of students, I also wish to thank Senator CASEY of Pennsylvania, Senator FEINSTEIN of California, Senator CORKER of Tennessee, and Senator GRASSLEY of Iowa for their leadership as well.

Let me also thank several of our colleagues with whom we worked to include protections regarding small business—Senator BEN CARDIN of Maryland, Senator JOHANNIS of Nebraska, and Senator MARY LANDRIEU of Louisiana. They strove mightily to include a study and report on the use of credit cards by small businesses.

Senator OLYMPIA SNOWE of Maine worked with our Senate colleague from Louisiana to include the establishment

of a Small Business Information Security Task Force in this legislation.

Several additional measures were included at the behest of my colleagues that I think strengthen the legislation.

Senator CHARLES SCHUMER of New York authored the provision to scale back abuses on prepaid gift cards, and that provision is now included in the bill that passed. Senator DAN AKAKA of Hawaii wisely suggested we seek a clarification of the certification process for credit counselors—something I believe will prove extremely valuable given the clear need for greater financial literacy among consumers.

Senator SUSAN COLLINS of Maine, with my colleague, Senator LIEBERMAN of Connecticut, asked that we include provisions to prevent money laundering through the use of what they call stored value cards which are being increasingly used by drug cartels to smuggle money across our borders. I am happy we were able to include those provisions in the bill as well.

My colleagues from California and New Hampshire, Senator FEINSTEIN and Senator GREGG, worked with us to include a study and report on emergency PIN technology that would allow banking customers to signal for help when forced to withdraw cash from ATMs.

Another study and report on which we worked with Senator KOHL of Wisconsin to include is on the marketing of products such as debt cancellation agreements, which some have long argued are of questionable benefit to consumers.

Finally, I wish to thank the President of the United States, President Obama, for stepping up and stepping in, and for using the bully pulpit of his Presidency to help us gain public awareness of these issues as well.

As we cross the finish line today and the House considers what we have sent them, I believe the victory will not be, of course, for our President or for the Congress or for the authors of this legislation or even for the Members I have mentioned in these remarks. Truly the victory will be for people such as Don and Samantha Moore of Guilford, CT, and their three daughters; or Kristina Jorgenson of Southbury CT; and Phil Sherwood, a member of the city council, of New Britain, CT. All of these constituents of mine came to me with stories about how they had seen abuses by the credit card industry.

In the case of Don and Samantha Moore: 40 years of credit card allegiance, one 3-day-late payment resulted in an increase from 12 to 27 percent in interest rates and reducing their credit limit from \$32,000 to \$4,000. They run a small business. It probably put them out of business—just for being 3 days late for the first time in 40 years.

In the case of Kristina Jorgenson in Southbury: She watched her rates go from 5 percent to 24 percent for being 3

days late—the first time ever—in a credit card payment. One of those days was a Sunday, by the way. She had taken out the credit card debt to pay off her student loans. They charged her because of the retroactive fees, the 24 percent, making it almost impossible for her to ever meet those obligations. To meet that criteria, she dipped into her individual retirement account which she had saved. She was in retirement and she has now cut that retirement down to 45 percent of its value in order to pay off the credit card debt. Three days late, one time, 5 percent to 24 percent. Phil Sherwood didn't do anything at all. He paid his bills every month, never a day late, and watched his rates skyrocket, he and his wife.

These stories I tell could be repeated over and over all across the country. More than 70 million accounts in one 11-month period, affecting one out of four families, saw interest rates skyrocket. For the life of me, I don't quite understand what the industry was thinking of, having just overreached time and time again. But as a result of the bill we passed today by the vote I mentioned, we have made significant inroads into the kind of practices the people I mentioned here were afflicted with.

Unfortunately, it doesn't happen overnight. The bill has a period of time before the new restrictions go into effect. I would have liked to have had a much shorter period, but these bills require compromise, and they don't become the fulfillment of the wishes of any one Member of this body. It requires working with each other and, as a result of that effort, we ended up with a longer period of time than I liked but, nonetheless, less than the official period of the Federal Reserve Board's regulations, which would be a year and a half from now.

So American consumers have a responsibility. That needs to be said over and over. But they also have rights, and those rights ought to be that they can count on a contract they enter into. I know of no other contractual relationship, whether it is purchasing a home, buying an automobile or an appliance, where the one party can virtually unilaterally change the terms of the contract. Yet that goes on every day with credit card issuers.

Madam President, 20 to 25 percent of students now have over \$7,000 in credit card debt—25 percent of our student body at the university and collegiate level. The average college graduate owes over \$4,000, a major factor of some students dropping out of school.

The average family in our country, with credit cards, now has what they call revolving debt—the bulk of which is credit card debt—well in excess of \$10,000 per family. So, clearly, with those kinds of obligations and debts, something needed to be done. That is what we have done with this legislation.



So the industry has obligations. Consumers have the right not to be taken to the cleaners, and they have a right to expect that they will be treated fairly when they enter into a contractual agreement; that they won't be the only ones required to uphold their end of the bargain. Certainly, consumers have a right not to live in fear that a clause buried in the fine print of their credit card contracts might someday be their financial undoing, and they should have a right to trust that their child won't be saddled with debt before they have turned 21.

Standing up for those families and their children and forcing those rights is what this legislation was designed to do, and we accomplished that goal.

So I wish to thank my colleagues again for their efforts, their diligence, their commitment to ensuring that we pass a strong bill that will benefit consumers across the country.

I wish to thank majority leader HARRY REID, and I wish to thank the minority leader, the Republican leader. HARRY REID provided the time and space for the consideration of this bill which would not have happened if the leadership didn't decide to make that time available for something as complicated as this, with many different ideas that were brought to the table. I wish to thank the floor staff that is here for their work, both the majority and minority side as well. They were very patient. It has been over 2 weeks now.

We dealt with the housing bill last week, and now the credit card bill this week, and they had to put up with me for 2 straight weeks on the floor of this Chamber. I am very grateful to them. I wish to thank my staff as well.

LINSEY GRAHAM, who is on the Banking Committee staff, has done a magnificent job over the years and in working on this legislation. Amy Friend, Charles Yi, Colin McGinnis, along with other members of the staff, but they were the principal ones who spent long hours and nights over the weekends over the past several weeks to pull this legislation together.

Bill Duhnke and Mark Oesterle of Senator SHELBY's staff as well worked very hard, and I am very grateful to them.

I wish to thank the staff here as well. Certainly, the majority leader's staff, Gary Myrick and Randy Devalk, who did a great job, and I thank them. I can't say enough about Lula Davis and about Tim Mitchell. Trish Engle and Jacques Purvis did a wonderful job. I thank them. I thank David, as well, on the minority staff. They were just wonderful.

I tried their patience, I know, on more occasions than I care to remember, but without their involvement over these past several days we would not have been able to achieve this accomplishment today. That also in-

cludes Joe Lapia and Brandon Durlfinger, Meredith Melody and Esteban Galvan as well from the cloakroom staff who worked so hard.

I am sure I have left some people out, and I apologize if I have done so in thanking them for their work. But all of these people in their own way contribute to what happens here. They don't often get mentioned. Those of us who have the right to speak in this Chamber are the ones who are seen and heard, but I want my constituents and people in this country to know there are people every day whose names you will never know, whose faces you will never see, who contribute mightily to the products that get produced in this body. It takes cooperation on the part of all of us, regardless of where we come from, what party affiliation we are, what ideological leanings we may have. They are wonderful, remarkable people who give their time and their professional careers to this institution and who make these kinds of events and these kinds of results achievable.

So I thank them all, and I thank all of my colleagues again.

I look forward to a day in the hopefully not too distant future when President Obama will sign this legislation into law.

I yield the floor.

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1140

Mr. BROWNBACK. Madam President, I have an amendment that I wish to call up at the desk. I wish to note that the chairman of the committee has been very good to work with me on getting this called up.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 1140.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on consultation with State and local governments in the transfer to the United States of detainees at Naval Station Guantanamo Bay, Cuba)

At the end of title III, add the following:

SEC. 315. (a) FINDINGS.—The Senate makes the following findings:

(1) In response to written questions from the April 30, 2009, hearing of the Committee on Appropriations of the Senate, the Secretary of Defense stated that—

(A) in order to implement the Executive Order of the President to close the detention facility at Naval Station Guantanamo Bay, Cuba, "it is likely that we will need a facility or facilities in the United States in which to house" detainees; and

(B) "[p]ending the final decision on the disposition of those detainees, the Department has not contacted state and local officials about the possibility of transferring detainees to their locations".

(2) The Senate specifically recognized the concerns of local communities in a 2007 resolution, adopted by the Senate on a 94-3 vote, stating that "detainees housed at Guantanamo should not be released into American society, nor should they be transferred state-side into facilities in American communities and neighborhoods".

(3) To date, members of the congressional delegations of sixteen States have sponsored legislation seeking to prohibit the transfer to their respective States and congressional districts, or other locations in the United States, of detainees at Naval Station Guantanamo Bay

(4) Legislatures and local governments in several States have adopted measures announcing their opposition to housing detainees at Naval Station Guantanamo Bay in their respective States and localities.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

Mr. BROWNBACK. Madam President, I wish to thank my colleague, the chairman of the committee, for allowing this to be brought up. Obviously, people can object to different things, but he is allowing this to be brought up.

It is a very simple amendment. It is germane as far as the Guantanamo Bay issue. Basically, what it says is, the Department of Defense needs to consult with local communities and States before they locate these detainees in a State or locale in the United States. I think that is something all of us would basically agree to—that this is something that should be done. This is a very contentious issue. It is obviously a very contentious issue in my State, having been mentioned a number of times as a possible site for detainees.

People in the community of Leavenworth, KS, and people across the State of Kansas, including former Governor Sebelius, now Cabinet Secretary, sent a letter to the Department of Defense saying we can't handle the detainees at Leavenworth, the military disciplinary barracks that are there.

So what I hope is that at some point in time we could vote on this amendment and send that clear message to the administration and the Department of Defense that before any of these things are considered, State and local officials are consulted because, obviously, on security issues, we are



going to have to do a lot of cooperation. If these detainees are moved anywhere into the continental United States—anywhere into the United States—they are going to have to be dealt with.

Further, I wish to speak about the Inouye-Inhofe amendment. Last week, on Friday, I led a congressional delegation of four Members to view the facility at Guantanamo Bay. I would urge all of my colleagues to go and look at the facility. It is really an extraordinary piece of real estate which the Navy has used for many years, but it is also an extraordinary facility where we have invested several hundred million dollars into this mission. They built it up over a period of time. They have security that is being provided.

The conclusion I came away with is that Guantanamo Bay is a highly specialized detention system for hundreds of terrorists, and replicating it would be enormously difficult, expensive, and unnecessary. I think my view represents the views of the colleagues of mine who went on the trip with me. I would urge people to go.

Attorney General Holder has gone and said it is a well-run facility. I would urge President Obama to go and to look at the facility firsthand. What they have put in there is a very specialized facility to handle a very difficult situation.

I know it has an image issue around much of the world. But an image issue is one thing. The practicality of dealing with the prisoners we have there, the detainees, is another. This is a specialized facility for handling them. I found they were able to handle dangerous detainees. I found that how they were being handled was quite fair.

I think we should treat detainees fairly, humanely, according to the conventions, and they are being treated as such. But to transfer the detainees to the United States, we don't have a facility that could handle this. I question whether we could get a locale that wants to handle the detainees in the United States. It would also delay the justice of the military commissions operating. We have constructed a courtroom at Guantanamo, at the cost of several million dollars, which is completely secure, which is ready to start the military commission trials. It has a video streaming system in it that is completely secure, so that witnesses can be interviewed around the world into this courtroom setting. It is set up and ready to go.

Now that the President has gone forward with some adjustments in the military commission process, it would delay the process further if you required this military commission facility to be constructed somewhere else in the United States or around the world. It would delay it in the setup and in the movement of these detainees to other places around the world.

There is a second key point I want to make, which is that when you look at the situation at Guantanamo Bay and meet with the military personnel who are handling it—who I think are doing an excellent job—they point out clearly that the members of al-Qaida who are there continue the battlefield in the prison. They talk about various things that are being done, a number of which—I will not mention some here—are quite difficult to deal with among our military personnel. Our people look at the detainees as continuing the battlefield in the prison.

Do we want to bring that into the prison system in the United States—a continuation of the battlefield into the prison system here? I don't think so. We are not set up to handle that. We need to consider that issue. The practical issue here is what we do with the detainees, which is a difficult problem for us. They are not in the criminal system in the United States, nor should they be. They are not enemy combatants, as far as representing a foreign country.

We are going to have to figure out our way through it. I invite the administration to talk with Members in opposition to closing it. We shouldn't have an artificially specific date to close Guantanamo Bay, when we don't have an alternative set up. We don't have a system set up for how we are going to handle the detainees we are going to try. It makes better sense to not have this arbitrary timeline set and for us to work together on how we are going to work our way through this, and we should work together in a bipartisan fashion. I think we can do it. I support the Inouye-Inhofe amendment. It is appropriate and I think it represents where most U.S. citizens are.

I close by congratulating and thanking our military personnel who work at Guantanamo Bay. I think they are doing an outstanding job under very difficult circumstances. It is a tough setting they are working in. It is a tough issue we are dealing with. I think they are doing a good job. I think we are going to have to detain these people for some time because too many are answering the battlefield again. They even continue it in incarceration. There is no reason to think they wouldn't continue it if they are allowed to get back onto the battlefield. I look forward to votes on my amendment and others.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I will make a few remarks about what is perhaps the most contentious issue in this supplemental funding bill, and that is the issue we have been discussing throughout the day, and that is how to handle the United States detention facility at Guantanamo Bay, Cuba.

In the last few days, we have seen a flurry of amendments relating to this issue, some Republican and others from Democrats. Indeed, it seems that this issue has overshadowed the necessary focus on the ongoing wars in Iraq and Afghanistan and the way forward in each. I am afraid this bipartisan expression of concern and surge of legislative activity has a single cause: the decision by President Obama in one of his first acts after his inauguration to announce that he would close Guantanamo Bay 1 year after taking office, without presenting a plan for the disposition of the prisoners there. By announcing Guantanamo's closure without first conducting an in-depth review of the difficult issues posed by the Guantanamo detainees, we are left today arguing over the wisdom of shuttering the prison in the absence of any plan for what comes next.

With the administration unable to propose and seek support for a comprehensive plan that encompasses all aspects of detainee policy, the Congress has been understandably reluctant to fund the closure of Guantanamo as the President requested in this supplemental. In fact, the Democratic chairmen of the Appropriations Committee in both the House and Senate have now stripped funding for closing Guantanamo from their respective supplemental funding bills. The Senate majority leader now says his party will not proceed in the absence of a comprehensive plan for Guantanamo's closure.

It didn't have to be this way. During the past election, I too supported closing Guantanamo and pledged to do so. I continue to believe it is in the interest of the United States of America to close Guantanamo. But all policymakers must understand how essential it is to gain the trust of the American people on this sensitive national security issue. We cannot simply proceed without explaining to the American people what the plan is for how these prisoners will be handled in a way that is consistent with American values and protective of our national security. The American people deserve a detailed explanation of what will take place the day after Guantanamo is closed, and they must be certain their Government will execute its most fundamental duty, which is to keep America and its citizens safe.

When the President announced his decision last Friday to restart military commissions to try Guantanamo detainees for war crimes, I applauded that decision. I have long believed that military commissions should be the chief venue for trying alleged war crimes violations committed by Guantanamo detainees. There is no doubt that the coordination, complexity, and massive scale of the 9/11 attacks that left over 3,000 innocent people dead constitute war crimes. There is also no

doubt that al-Qaida and its supporters were then, and continue to be today, committed to the destruction of our values and our way of life and our values in a fashion that bears no resemblance to the acts of common criminals.

But while I applauded the President for restarting military commissions, I also pointed out that the President's overall decisionmaking on detainee policy has left more questions than it has provided answers. The numerous unresolved questions include: where the Guantanamo inmates will be held and tried; how we will handle those who cannot be tried but are too dangerous to release; how we will deal with the prisoners held at Bagram Air Base in Afghanistan, some of whom were captured off the Afghan battlefield.

I point out to my colleagues—and most of them know, and many Americans know—that we have already had the experience of around 10 percent of those detainees who were released return to the battlefield. One of them is a high-ranking al-Qaida operative in southern Afghanistan and another in Pakistan. So this is a real threat.

The lack of a comprehensive, well-thought-out plan led to a predictable political backlash to any movement on Guantanamo. Instead of unifying Americans behind a plan that keeps us safe and honors our values, the administration's course of action has unified the opposition to moving forward—and move forward we must. National security issues of this dimension require more than announcements and future promises. They require full detailed explanations of a proposed course in order to gain the support of the American people and their elected leadership in Congress. That is what will be required for success in closing the prison at Guantanamo Bay.

I know we will hear arguments during this debate that we should deny funding to close Guantanamo until we see a plan on what to do with the detainees, and we will also probably see amendments to deny detainees any sort of entry or asylum into the United States, whether it is for trial, post-trial incarceration, long-term preventive detention, or administrative detention pending deportation. We will do the best we can to deal with these issues, with the information from the administration that is available to us.

I look forward to working with my colleagues on both sides of the aisle on this issue. But most important, I again say to the President that I will work with him to forge a bipartisan solution to this very difficult problem that faces all of us. I urge again that we address all the detainee policy issues in a comprehensive fashion and lay out a plan that will keep us safe and honor our values. I strongly believe a comprehensive plan will lead to success,

while a piecemeal approach, without addressing the legitimate concerns of the American public and Congress, will continue to divide us.

I yield the floor.

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, I rise to thank the chairman of the full committee, along with the ranking member, for their wisdom with respect to the money allocated for Guantanamo Bay and the prison there. I want to make a few comments with respect to the prison at Guantanamo Bay.

I have visited the prison at Guantanamo Bay. I led a CODEL—for those watching on television, that means a congressional delegation—of myself, members of the House, and, on this occasion, I took some members of the European Parliament. That is interesting, because when we came back and held a press conference to report what we had found, members of the European Parliament on the CODEL said, "We cannot participate in this press conference." I said, "Why?" They said, "If we told the truth about what we saw at Guantanamo, we could not go home to Europe. The animosity toward Guantanamo in Europe is so strong that if we told the truth about how good things are down there, we would be attacked politically in Europe and we would lose our seat in the European Parliament."

I said: Well, I don't want you to lose your seats in the European Parliament. I won't ask you to participate. But we did hold a press conference, and one of those who did participate said: I wish the prisons in my district back home were as good as the prison in Guantanamo.

Let me describe what we found in Guantanamo, not with respect to how well the prison was designed or how well the prison was administered but who the prisoners are, or, as they are appropriately called, the detainees.

If you talk to the detainees, every one of them is a goat herder picked up by accident by the American troops when they were in Afghanistan or in Iraq or wherever it was. None of them had any connection with al-Qaida at all. This was all a huge mistake.

I have been in the storeroom where they keep all of the items that were taken from these detainees when they were picked up. The question arises: What is a goat herder doing with hundreds of dollars of American money in \$100 bills? What is a goat herder doing with sophisticated explosive equipment in his back sack? What is a goat herder

doing with forged passports and other information and documentation? Maybe these people are not all goat herders. Maybe these people really are connected with al-Qaida, just based on what they found.

I have watched an interrogation take place at Guantanamo by closed-circuit television. The interrogation room is one which has stuffed furniture, pleasant surroundings. The detainee, to be sure, has irons on his legs so that he cannot leave his chair where he is sitting. They are not tying him directly to the chair, but he couldn't get up and walk out. But he is sitting on the chair, and the interrogator is sitting across the room in another chair, and they are having a pleasant conversation.

You say: What kind of an interrogation is this? The interrogation is a conversation, and it goes on for an hour, an hour and a half. Then next week there is another conversation that goes on for an hour, an hour and a half, 2 hours, whatever it might be. Out of those conversations, little items begin to slip from the mouth of the detainee. The interrogator is able to take those items and piece them together, and pretty soon, after a few weeks or maybe a month or two, the interrogator knows that goat herder A has just identified goat herder B as an explosives expert high in the level of al-Qaida. Then, based on that information, when goat herder B is in for his interrogation, there is a conversation, and another thing starts to slip. Over a period of months, a pattern of information emerges that makes it possible to identify who is what and where in the whole al-Qaida operation.

Understand, the interrogation is not Soviet style to try to beat a confession out of anybody. It is to find out information that can be used in the war against terror. This information is painstakingly put together over a period of time. Pretty soon, the pattern emerges, and the interrogators begin to understand who these people are, what their relationship to each other may be, and what their role was out on the battlefield.

One of the things I had not realized until I got there was that as a result of this process, the determination has been made with respect to hundreds of these detainees that they are no longer dangerous, they no longer have any information we need, they are no longer in a position to be dangerous to the United States. When that determination is made, they are released.

Hundreds of the detainees at Guantanamo have been released. Many of them have showed up again on the battlefield. Indeed, some of them have been killed by American troops on the battlefield as they have been fighting back, which means the interrogators who decided they were no longer dangerous made a mistake. It turns out

they really were dangerous, they really were connected at a higher level than we were able to determine through the interrogator, and they had fooled the interrogator into believing they were innocent bystanders who somehow did not belong there, and they got released and found their way back to Afghanistan, back to the battlefield. Some of them whom we knew well enough from their time in Guantanamo identified on the battlefield were shot and killed by American forces in firefights where they were attacking Americans.

One of the things they do at Guantanamo—"they" being the detainees—is to make every effort to communicate with each other and create conspiracies within the prison. Conspiracies to do what? Conspiracies to create incidents that will create international outrage against the United States.

Two weeks before we arrived there, there was one such incident. I had not seen it in the American newspapers. I was told that it was reported in the American newspapers but only in passing. When we got the details from the guards and the administrators of the prison describing the specifics of what had happened, I realized that the story in the American newspapers was very sketchy.

Over a period of months, the detainees conspired together to create an incident in the area that was part of the exercise facility. They planned it very carefully. They worked together. They complied with all of the rules in the prison that would allow them greater freedom because as the commandant of the prison said to us: I don't have very many sticks; I only have carrots.

To get people to cooperate, if they abide by the rules they lay down, we give them greater freedom, we give them greater opportunities. So these people would comply in every way until they could get to a circumstance where they could talk to each other, be on the exercise field, and hatch their plan.

Finally, this is what they did. They put up some screens in the form of clothing or some kind of cover so that the guards, for a short period of time, could not see what they were doing in this room. In that period of time, they pulled down the fluorescent tubes from the light fixtures in the ceiling so that they could use them as weapons. At the same time, they covered the floor with a variety of liquids, their purpose was to make the floor as slippery as possible. Then when the guard came in to see what was going on because the screens had gone up, as he walked in, suddenly he was standing on liquids that were slippery so that he couldn't get his footing very well, and they were attacking him with the fluorescent tubes as weapons, trying to create a significant incident. Fortunately, he was able to keep his footing. He was able to pull out his weapon. He was

able to gain control of the situation, and the rest of the guards were alerted fast enough to come in before it turned into serious injury. But the American guard came very close to serious injury.

Their hope was, as nearly as the interrogators could figure out, to provoke the Americans into killing one of them. Their hope was to create a circumstance where there would be a death in Guantanamo that would create a worldwide outcry of outrage against the brutal Americans in this prison and thereby make their political point.

There were many other examples which were given to us of attacks on the guards by the prisoners in circumstances, again, that are not appropriate to discuss in this setting but that are thoroughly disgusting and outrageous in terms of the violation of the person of the guards involved.

On one occasion where it was particularly outrageous, it was a young woman who had joined the Navy and was in her first assignment doing her best to patrol up and down an aisle between the cells. In this case, the cells had screens on them through which items could be thrown. They were thrown at her and in her face.

Their commanding officer said to her: Go take a shower and take the afternoon off, to recover from this horrendous kind of experience for her.

She said: I will take the shower, I will get a clean uniform, but I will come back. I will not let them intimidate me to say I can no longer walk my patrol.

That is the kind of valor and integrity we have from the Americans who are there policing these people.

I could go on about other things we discovered. The primary health care problem the detainees have in Guantanamo is obesity. They are fed so well and they have no control on how much they eat; they can use whatever they want from the food as they come into the commissary. The doctors and the nurses who are there to take care of them say we have a problem of overweight with every one of them. They have never had this much food available to them in their lives.

They are all looked after. Many of them came with significant health care problems off the battlefield, and it is the American medical corps that has made them well and whole.

Why do I dwell on all of this about the nature of the prisoners? Because I am sympathetic with those Americans who say: We don't want these people in our prisons. And indeed we don't—not because of a "not in my backyard" syndrome, but guards who are trained to deal with the kinds of prisoners who show up in American prisons now are not prepared to deal with people who are potential suicides to make a point, people who will deliberately provoke

the guard in the hope that they will get killed or seriously injured in order to make an international incident. This is not your average automobile stealer. This is not even your average drug dealer. This is someone who has a political agenda and sees the prison in America as the stage on which that agenda can be acted out. To put that prisoner into an American prison where they are going to be rubbing shoulders with other convicts who have absolutely no idea what they are getting into and call upon guards to deal with them who have no idea what they are getting into is seriously not a good idea.

Where do you keep people like this? You keep them in a facility that is designed to deal with them. You keep them with guards who are trained to deal with them. And you use the facility to get the information they can give you to be helpful in the war on terror. That is what the prison at Guantanamo was built to become, and that is what it is.

If the President of the United States now decides that keeping Guantanamo open is a political embarrassment with other countries in the world and it becomes necessary for us in our diplomacy to close Guantanamo, I say that is his decision. The Constitution gives him the responsibility of foreign affairs, and I will respect that decision. But as a Member of the Congress, I don't want to fund that decision until I know what he has in mind as an alternative place to put them. The idea of breaking them up and scattering them around the United States and letting them go to ordinary prisons—be they Federal, State, or local—in the United States is to ignore who they are and ignore what they can do and ignore the challenge they represent to law enforcement and penitentiary personnel in America's existing prisons. So that is why I applaud the chairman in his decision to say we are going to put this off. We are going to delay the time when Guantanamo will be closed until we have a logical place to put them.

Because right now, if you want to describe the logical place to put these prisoners at this time, in this particular struggle with al-Qaida and the rest of the terrorists, the logical place is where they are right now. If it means keeping Guantanamo prison for an extra year or an extra 2 years or whatever it takes to get an intelligent alternative, I say, let's do that. Because the intelligent alternative does not exist at the moment.

I hear no plans being drawn to create it in the future. I think we owe it to those Americans who would otherwise have to deal with it if the U.S. Navy doesn't, to say we are not going to turn them over to you until you have a legitimate and well-thought-out plan as to the way to deal with it.

It is for that reason, again, that I congratulate the chairman and the

committee on the decision to withhold this funding until such a plan has been made available to us.

I yield the floor, and I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, I, again, rise to express my concerns regarding the closure of the Guantanamo Bay Detention Center. The closure of this Nation's only secure strategic interrogation center puts our Nation at risk.

I am uncompelled by the Obama administration's legal and policy reasons to justify closing Guantanamo within the next 8 months. Currently, there is no suitable replacement for Guantanamo. This \$200 million facility is secure and is a state-of-the-art facility. Moreover, it is located away from population centers and staffed by trained military personnel. Guantanamo has no equal within the continental United States.

On March 19, 2009, it was reported by the Wall Street Journal that Attorney General Eric Holder made reference to the idea that the Department of Justice would bring some of the detainees to this country and release them. The Attorney General's statement that he is open to a policy of outright release of terrorists brought to the United States is disturbing, coming as it does from the senior administration official charged with executing this plan. It also does not dispel my grave concerns about closing Guantanamo Bay.

Indeed, the manner in which this closure has been orchestrated has provided few details and little assurance about how this facility will be closed within the next 8 months and what will be the superior alternative to Guantanamo.

Of the approximately 240 detainees remaining at Guantanamo, 174 of them received or conducted training at al-Qaida camps and facilities in Afghanistan. There is direct evidence that 112 participated in armed hostilities against U.S. or coalition forces. Furthermore, 64 of these remaining detainees either worked for or had direct contact with Osama bin Laden, and 63 of the remaining detainees had traveled to Tora Bora.

In 2001, the Tora Bora cave complex became the fallback position for the Taliban and was believed to be the hideout for Osama bin Laden. Not just anyone could gain access to these caves. We have gone through these particular features. There were 174 who received training in al-Qaida camps in Afghanistan; 112 participated in armed hostility with the U.S. or coalition forces; 64 worked for or had contact

with Osama bin Laden; 63 traveled to Tora Bora.

The administration has stated that they will bring the Chinese Uighurs to the United States for the sole purpose of releasing them. All 17 Uighurs have demonstrable ties to the East Turkistan Islamic Movement, the ETIM, a designated terrorist organization since 2004. The ETIM made terrorist threats against the 2008 Beijing Olympics, and, regardless of previous terrorist activity, any member of this organization would be ineligible to enter the United States, pursuant to Federal immigration law, let alone be allowed to roam this country.

One of the trainers for these Chinese nationals was Hassan Mahsun, an associate of Osama bin Laden. The Uighurs traveled to Afghanistan by using al-Qaida resources. They were also lodged in al-Qaida safe houses and terrorist training facilities. This alone is indicative that these terrorists were vetted and respected enough to be allowed access to al-Qaida havens.

Title 8, section 1182 of the United States Code defines inadmissible aliens. Under this law, any alien who has engaged in terrorist activity or is a representative of a terrorist organization is ineligible to enter the United States. The "Guantanamo" Uighurs have certainly met this definition, but to completely address this argument, I want to take this analysis one step further. The law also states that "any alien who has received military-type training from or on behalf of any organization that, at the time the training was received, was a terrorist organization, is ineligible to enter the country."

That is what this says:

In general any alien who has received military training as identified in section 2339 D(c)(1) of title 18, from or on behalf of any organization that, at the time training was received, was a terrorist organization as defined in clause VI.

I also would like to point out that my esteemed colleague from the Judiciary Committee, Senator SESSIONS, has brought this statute to the attention of the Attorney General. My colleague has asked for the reasoning behind the Justice Department's assertion that the Uighurs could be foisted upon unsuspecting American communities as Chinese citizens in need of asylum. The Justice Department's opinion that terrorists can be brought to this country for the purposes of non-detention is preposterous. It is another example of this administration's propensity to leap before it looks—to rush headlong into making policy without carefully analyzing what the unwanted byproducts or consequences of that policy will be. I am interested in hearing the Justice Department's legal reasoning for justifying this transfer.

Three weeks ago, while in Germany, Attorney General Holder described the

closure of Guantanamo as "good for all nations." He argued that anger over the prison has become a "powerful global recruiting tool for terrorists." With all due respect to the Attorney General, neither he nor anyone else in this administration has yet demonstrated a strong analytic understanding of what is motivating terrorist recruitment. Furthermore, terrorist organizations did not appear to face a shortage of recruits for violent jihad prior to the media frenzy on the Guantanamo facility. Jihadists are ideologically motivated. In fact, corroborated evidence obtained from interviews and interrogations of detainees at Guantanamo has revealed that 118 of the remaining detainees in custody were recruited or inspired by a terrorist network. Therefore, closing Guantanamo in the next 8 months is simply not going to be a "silver bullet" and solve the problem of recruitment to violent jihad.

For this and other reasons, I am simply not willing to trade Guantanamo for the possibility of trying to appease and become more popular with our critics living in foreign countries. Popularity is an inappropriate and extremely mushy measure of policy soundness. Many of our foreign critics would like our nation to abandon its support for Israel. Of course we wouldn't. If our Nation's popularity abroad is our primary concern, wouldn't we have to consider that option? I know this Senator will never consider that, irrespective of what our foreign critics say or what the contemporary media or oversensitive diplomats suggest.

If the administration follows its timeline, as I have said before, Guantanamo will be closed in 8 months. Any detainees left in custody at the end of that time will be transported to the United States. I think it bears repeating that this transport will be from a secure, state-of-the-art facility—one that is already operational and fully staffed with trained military personnel. Relocation of these detainees to the United States would require agencies like the U.S. Marshal Service, FBI and the Bureau of Prisons—BOP—to divert assets and manpower from essential programs and facilities to secure these detainees.

It is worth noting that the Bureau of Prisons does not have enough space available to house these detainees in high-security facilities. BOP officials have previously stated that they consider these prisoners a "high security risk." As such, they would need to house them in a maximum-security facility. The BOP has 15 high-security facilities. These installations were originally built to hold 13,448 prisoners, yet they currently house more than 20,000 high-security inmates. So it doesn't take a rocket scientist to see that the BOP cannot receive these Guantanamo

detainees. The Bureau's high-security facilities are already woefully overcrowded by nearly 7,000 inmates.

Look at the current population, the yellow bar graph. The blue one is the total rated capacity. We have enough people in these high maximum security prisons that they are overfilled now. Yet they want to put these high-risk terrorists—somewhere. They certainly can't be in these high-risk facilities.

Moreover, it does not appear to be fiscally smart to shutter a functional \$200 million facility that has no equal domestically. Why would the Federal Government transfer detainees from a secure military facility located on an island that is isolated from populous areas to a domestic military installation? Why should we make the Marshal Service or the Bureau of Prisons jump through hoops to recreate or replicate the proven effective model of a detention facility that Guantanamo has become.

A few weeks ago President Obama asked his Cabinet to find ways to save \$100 million from the Federal budget. However, the President's Defense Supplemental contained \$80 million for the closure of Guantanamo. The administration had no plan on how to spend that \$80 million and had not identified a replacement that is superior to Guantanamo. Fortunately, the House of Representatives addressed this flawed plan or lack of a plan, and correctly stripped the \$80 million out of the Defense Supplemental. Since 1903, we have been paying rent to Cuba for the use of Guantanamo Bay. This amount is less than \$5,000 a month. Despite this, the administration insists on closing Guantanamo and spending millions of taxpayer dollars without a defined plan. That is ludicrous.

In February, a Department of Defense report determined that Guantanamo far exceeds any detention facility here in the United States. This report also found that the facility is in compliance with Common Article III of the Geneva Convention. I am sure I need not remind my colleagues, many of whom have visited Guantanamo as I have, that this facility has the capability to accommodate a trial, provide health care and securely house some of the most dangerous terrorists ever captured.

Sadly, the epitaph of the Guantanamo Bay Detention Facility was written the day the executive orders to close it were signed. Despite not having a process to close Guantanamo, the administration is determined to do it anyway. Therefore, Guantanamo will be closed in 8 months—not because its current conditions violate the Geneva Convention, but because of a slanderous campaign by the media to paint Guantanamo as a symbol of injustice. Unfortunately, some of my colleagues have drunk the Kool-Aid and bought into this canard. Let me remind my

colleagues that Common Article III of the Geneva Convention requires that prisoners of war not be held in civilian prisons and should not be tried in civilian courts.

Guantanamo is still an asset to this country. I don't see how anyone who is honest about the matter can characterize it any other way, especially when there is not a sufficient replacement located domestically to meet the Justice Department's needs. It is my fervent hope that the President and the Attorney General will reconsider their ill-considered plan to close Guantanamo and recognize the obvious—that a \$200 million dollar facility that is already operational and in compliance with international treaties should not be shuttered and closed.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1137

Mr. INOUE. Madam President, I ask unanimous consent that the pending amendment be set aside and that the Senate return to the consideration of amendment No. 1137. This technical amendment has been cleared by both sides.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1137) was agreed to.

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, tomorrow, May 20, after any statements of the leaders, the Senate resume consideration of H.R. 2346 and Inouye amendment No. 1133; that there be 2 hours of debate equally divided and controlled between the leaders on that amendment or their designees, with the time allocated as follows: The first 30 minutes under the control of the Republican leader, the second 30 minutes under the control of the majority leader, and the final 60 minutes divided equally, with 10-minute limitations, with the final 5 minutes of time under the control of Senator INOUE; that

upon the use of this time, the Senate proceed to vote on the Inouye amendment with no amendment in order to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 2346, the Supplemental Appropriations Act of 2009.

Harry Reid, Christopher J. Dodd, Charles E. Schumer, Mark Begich, Mark L. Pryor, Richard Durbin, Patty Murray, Tom Harkin, Edward E. Kaufman, Claire McCaskill, Michael F. Bennet, Mark Udall, Jeanne Shaheen, Carl Levin, Jack Reed, Sheldon Whitehouse, Daniel K. Inouye.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum also be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is \$90.745 billion, and for 2010, it is \$130 billion.

On May 14, 2009, the Senate Appropriations Committee reported S. 1054, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes. The reported bill will be offered as a complete substitute to H.R. 2346, a bill making supplemental appropriations

for the fiscal year ending September 30, 2009, and for other purposes.

I find that the amendment in the nature of a substitute to H.R. 2346 fulfills the conditions of section 401(c)(4). As a result, for fiscal years 2009 and 2010, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays. For 2009, the total amount of the adjustment is \$88.290 billion in discretionary budget authority and \$26.353 billion in outlays. For 2010, the total amount of the adjustment is \$5 billion in discretionary budget authority and \$34.753 billion in outlays. I am also adjusting the aggregates consistent with section 401(c)(4) of S. Con. Res. 13 to reconcile the Congressional Budget Office's score of S. 1054 with the amounts that were assumed in section 104(21) of S. Con. Res. 13 for the 2009 supplemental appropriation bill.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES**

(In billions of dollars)

Section 101			
(1)(A) Federal Revenues:			
FY 2009 .....	1,532.571		
FY 2010 .....	1,653.682		
FY 2011 .....	1,929.625		
FY 2012 .....	2,129.601		
FY 2013 .....	2,291.120		
FY 2014 .....	2,495.781		
(1)(B) Change in Federal Revenues:			
FY 2009 .....	0.000		
FY 2010 .....	-12.304		
FY 2011 .....	-159.006		
FY 2012 .....	-230.792		
FY 2013 .....	-224.217		
FY 2014 .....	-137.877		
(2) New Budget Authority:			
FY 2009 .....	3,673.472		
FY 2010 .....	2,888.696		
FY 2011 .....	2,844.910		
FY 2012 .....	2,848.117		
FY 2013 .....	3,012.193		
FY 2014 .....	3,188.847		
(3) Budget Outlays:			
FY 2009 .....	3,358.476		
FY 2010 .....	3,002.654		
FY 2011 .....	2,968.219		
FY 2012 .....	2,882.741		
FY 2013 .....	3,019.399		
FY 2014 .....	3,174.834		

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS**

(In millions of dollars)

	Initial allocation limit	Adjustment	Revised allocation limit
FY 2009 Discretionary Budget Authority .....	1,391,471	88,290	1,479,761

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS—Continued**

(In millions of dollars)

	Initial allocation limit	Adjustment	Revised allocation limit
FY 2009 Discretionary Outlays .....	1,220,843	26,353	1,247,196
FY 2010 Discretionary Budget Authority .....	1,082,250	5	1,082,255
FY 2010 Discretionary Outlays .....	1,269,471	34,753	1,304,224

**FURTHER CHANGES TO S. CON. RES. 13**

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is \$90.745 billion, and for 2010, it is \$130 billion.

I have already made an adjustment pursuant to section 401(c)(4) for the bill reported by the Senate Committee on Appropriations making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes. The reported legislation was offered as a complete substitute to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

I now file further changes to S. Con. Res. 13 pursuant to section 401(c)(4) for an amendment offered under the authority of the Senate Committee on Appropriations. I find this amendment satisfies the conditions of section 401(c)(4). As a result, for fiscal years 2009 and 2010, I am further revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays. For 2009, the total amount of the adjustment is \$925 million in discretionary budget authority and \$34 million in outlays. For 2010, the total amount of the adjustment is \$661 million in outlays. With the further adjustment in budget authority in 2009, the Senate will have used \$89.215 billion of the \$90.745 billion permitted in adjustments under section 401(c)(4). Finally, I am also further adjusting the aggregates consistent with section

401(c)(4) of S. Con. Res. 13 and to reflect the changes made by this amendment.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES**

(In billions of dollars)

Section 101	
(1)(A) Federal Revenues:	
FY 2009 .....	1,532.571
FY 2010 .....	1,653.682
FY 2011 .....	1,929.625
FY 2012 .....	2,129.601
FY 2013 .....	2,291.120
FY 2014 .....	2,495.781
(1)(B) Change in Federal Revenues:	
FY 2009 .....	0.000
FY 2010 .....	-12.304
FY 2011 .....	-159.006
FY 2012 .....	-230.792
FY 2013 .....	-224.217
FY 2014 .....	-137.877
(2) New Budget Authority:	
FY 2009 .....	3,674.397
FY 2010 .....	2,888.696
FY 2011 .....	2,844.910
FY 2012 .....	2,848.117
FY 2013 .....	3,012.193
FY 2014 .....	3,188.847
(3) Budget Outlays:	
FY 2009 .....	3,358.510
FY 2010 .....	3,003.315
FY 2011 .....	2,968.400
FY 2012 .....	2,882.775
FY 2013 .....	3,019.404
FY 2014 .....	3,174.836

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS**

(In millions of dollars)

	Initial allocation/limit	Adjustment	Revised allocation/limit
FY 2009 Discretionary Budget Authority .....	1,479,761	925	1,480,686
FY 2009 Discretionary Outlays .....	1,247,196	34	1,247,230
FY 2010 Discretionary Budget Authority .....	1,082,255	0	1,082,255
FY 2010 Discretionary Outlays .....	1,304,224	661	1,304,885

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

**CONFIRMATION OF MARGARET HAMBURG**

• Mr. KENNEDY. Mr. President, I commend my Senate colleagues for confirming the President's nominee for FDA Commissioner, Dr. Margaret Hamburg. Strong, new leadership is needed to improve the operations and morale of the agency and make the FDA again the world class agency that Americans trust to protect the health of their families.

Dr. Hamburg's expertise in community health, biodefense, and nuclear,

biological, and chemical preparedness is well-known and highly respected, and her experience makes her eminently well-qualified to lead the FDA at this difficult time.

As a student and researcher, Dr. Hamburg learned first hand about many of the issues which confront the FDA. Later, at the Office of Disease Prevention and Health Promotion, as assistant director of the National Institute of Allergy and Infectious Diseases at NIH, and as the commissioner of the New York City Department of Health and Mental Hygiene, she proved herself to be a brilliant scientist and leader. Her skills were particularly impressive on tuberculosis, which was the leading infectious killer of youths and adults in the city in the 1990s and had become resistant to standard drugs. Within 5 years, the TB rate in New York City fell by 46 percent overall, and 86 percent for the most drug-resistant strains.

Dr. Hamburg's impressive experience was further enhanced by her service as President Clinton's Assistant Secretary for Policy and Evaluation at HHS, as a member of the Institute of Medicine, and as vice president for Biological Programs at the Nuclear Threat Initiative.

Dr. Hamburg will face many challenges as FDA Commissioner but she is obviously well-prepared to deal with them. She has impressive experience in both clinical practice and research, and her background makes her ideal to lead the FDA as it combats food-borne illnesses, works with other agencies to combat disease outbreaks, and protects our food, drugs, and medical devices. Her confirmation marks the beginning of a welcome new era at FDA, and I look forward very much to working with her.●

Mr. ENZI. Mr. President, I rise today to congratulate Dr. Margaret Hamburg on her confirmation last night by the Senate to be commissioner of the Food and Drug Administration. I wish to also thank Dr. Hamburg for her previous public service and her willingness to once again go through the process of Senate confirmation. The vetting process for executive nominees is thorough and not without some degree of personal and professional sacrifice. I thank Dr. Hamburg for her willingness to serve.

Dr. Hamburg is an internationally recognized leader in public health and medicine, and an authority on global health, public health systems, infectious disease, bioterrorism and emergency preparedness. This background is especially important given that the swine flu—H1N1 influenza—has been on the front pages for several weeks and spread across the globe during that time. Dr. Hamburg has a tremendous amount of experience with emergency preparedness.

The FDA has a very broad and critical mission in protecting the public

health. Dr. Hamburg is in charge of an agency that regulates \$1 trillion worth of products a year. The FDA ensures the safety and effectiveness of all drugs, biological products such as vaccines, medical devices, and animal drugs and feed. It also oversees the safety of a vast variety of food products as well as medical and consumer products, including cosmetics.

As commissioner of the FDA, Dr. Hamburg is responsible for advancing the public health by helping to speed innovations in its mission areas, and by helping the public get accurate, science-based information on medicines and foods.

Another core mission of FDA is approving drugs and ensuring their safety. However, the FDA can not ensure the safety of deadly products such as tobacco—it kills people, not cures them. Yet this week the HELP Committee, of which I am the ranking member, is set to consider legislation that would require the FDA to regulate tobacco. At a time when federal dollars are stretched and resources are limited, I have serious concerns about adding more statutory responsibilities at FDA. In addition, given the recalls of spinach, peanuts, peppers, and tomatoes over the past two years, FDA's resources are already stretched too thin on the food safety front.

I represent a State that has substantial agricultural interests. Food safety and food labeling are critically important to me and my constituents. I am hopeful that Dr. Hamburg and I can work together on protecting the American food supply.

Additionally, I look forward to working with the new commissioner to restore the FDA's status as one of the strongest regulatory agencies in the world. I have no doubt that with the right leadership in place and with Congressional oversight, the FDA will again be the gold standard and our regulatory process the envy of the world.

Given Dr. Hamburg's expertise in emergency preparedness, pandemics and public health, I am pleased that the Senate acted quickly on this nomination. Again, I would like to congratulate Dr. Hamburg on her confirmation.

Mr. DURBIN. Mr. President, yesterday the Senate confirmed Dr. Margaret "Peggy" Hamburg as Commissioner of the Food and Drug Administration, FDA.

Dr. Hamburg comes to the job at a time when our Nation's food safety system is in crisis. In the last couple of years we have seen nationwide outbreaks associated with spinach, tomatoes and peppers, and peanuts and peanut butter. With peanuts, we also saw the biggest food recall in our nation's history as hundreds of companies recalled thousands of products from crackers to ice cream to even pet food. Our food safety problems don't just

start and stop at home: we have also seen chemically tainted pet food, milk products, and seafood from China.

It is no secret that our food safety system is in serious trouble. It is all over the headlines. It's also no secret that the FDA the agency responsible for protecting nearly 80 percent of our food hasn't kept up, with its outdated statutes, eroding budgets, and inadequate resources and authorities.

Congress hasn't passed a major food safety bill in decades, and we are seeing the results of that inaction. More than 76 million Americans become sick because of a food-borne illness each year, 325,000 are hospitalized, and 5,000 die. Companies lose the confidence of their customers and shareholders, and they lose profits. Some experts estimate that the peanut growers will lose \$1 billion as a result of the latest outbreak. Kellogg, just one company among hundreds, lost \$70 million.

The time for comprehensive food safety reform is long past due. In March, Senator GREGG and I introduced the FDA Food Safety Modernization Act, a bipartisan bill that gives the FDA the new authorities and resources it needs to protect our food supply. This bill improves the FDA's capacity to prevent, detect, and respond to food safety problems, whether it's salmonella-tainted peanut butter from Georgia or melamine-spiked baby formula from China.

For the first time in a long time, we are also seeing leadership on food safety from the other end of Pennsylvania Avenue. The Food Safety Working Group, led by Health and Human Services Secretary Kathleen Sebelius and Agriculture Secretary Tom Vilsack, is doing what hasn't been done in decades: taking a comprehensive, coordinated look at the outdated food safety laws on the books and making recommendations on reform.

Last week I had the opportunity to attend a first-ever listening session hosted by the White House focused on food safety reform. This was a chance for members of Congress, the administration, consumer groups, and industry to come together and talk about the challenges facing the safety of our food supply as well as the solutions.

Dr. Hamburg, with her public health expertise and impressive record of success as former health commissioner of New York City, is a welcome addition to the working group. I had a chance to meet with Dr. Hamburg before her confirmation. During our meeting, as well as in her confirmation hearing, she made clear her commitment to the long term goal of transforming food safety oversight at FDA to focus on the public health goal of prevention. I am confident that she is the right person to tackle this challenge and others facing the FDA, and to restore morale and public confidence in the agency. I look forward to working with her and the



other members of President Obama's food safety working group to enact FDA food safety legislation this year.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### GEORGE MITCHELL SCHOLARS

• Mr. KENNEDY. Mr. President, today, Taoiseach Brian Cowen met with the ninth class of George J. Mitchell Scholars. His decision to meet with this impressive group of students demonstrates the major contribution this program is making to strengthen the future of the United States-Ireland relationship.

The United States-Ireland Alliance was created in 1998 by my former foreign policy adviser, Trina Vargo. With limited resources and staff, the alliance has been at the forefront of recognizing, and then responding to, the fundamental changes in the United States-Ireland relationship.

The Mitchell Scholarship program is the keystone of the United States-Ireland Alliance. It has been led ably by Mary Lou Hartman, and has gone from strength to strength. In a few short years, the program has become as competitive and as sought after as other renowned scholarships such as the Rhodes, Marshall, and Fulbright Scholarships. This year, 300 people applied for the 12 annual Mitchell Scholarships. I have followed the causes of these former Mitchell Scholars and they are already making outstanding contributions and reflect the commitment to service exemplified by our former Senate colleague, George Mitchell.

One former Mitchell Scholar, Seena Perumal, lives in Cambridge, MA, where she serves as chief of staff for the Massachusetts Division of Health Care Finance and Policy. Seena graduated with a bachelor's degree in religion and a master's in public health from Case Western Reserve University. She founded and was president of Project Sunshine, which serves hospitalized children, and founded and was president of Alternative Break, an organization that helps organize community service trips during spring breaks from college. She also worked with Cleveland Jobs With Justice, a group that ensures workers' rights. As a Mitchell Scholar, she obtained a master's degree in international human rights at the National University of Ireland in Galway. She then served as the director of new initiatives for the New York City Department of Homeless Services, the agency that oversees policies and programs for the city's approximately 37,000 homeless persons.

The U.S. Government has provided \$500,000 each year for the Mitchell Scholarship Program. I commend Irish businessman Derek Quinlan for his commitment to raise 20 million euros

toward establishing a permanent endowment for this program. The Irish Government has agreed to match what is raised for this impressive program, and I am sure that United States-Ireland ties will continue to benefit significantly from these important scholarships in the years ahead.●

#### LETTER TO MEDTRONIC, INC.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that my letter dated May 18, 2009, to Medtronic, Inc. be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON FINANCE,  
Washington, DC, May 18, 2009.

BILL HAWKINS,  
President and Chief Executive Officer,  
Medtronic, Inc., Medtronic Parkway, Minneapolis, MN.

DEAR MR. HAWKINS: The United States Senate Committee on Finance (Committee) has jurisdiction over the Medicare and Medicaid programs. As a senior member of the United States Senate and as Ranking Member of the Committee, I have a special responsibility to protect the health of Medicare and Medicaid beneficiaries and safeguard taxpayer dollars authorized by Congress for these programs. This includes the responsibility to conduct oversight of the health care industry, including makers of medical devices, which receive hundreds of billions of taxpayer dollars every year for the care of Americans.

In carrying out this duty, I have been examining the substantial financial ties between the device industry and practicing physicians. I have also been examining the safety and cost of medical devices that are sold to the American public. As the largest medical device company in the United States, the practices of Medtronic, Inc. (Medtronic) have a profound impact on American healthcare.

Last October, I sent you a letter asking Medtronic to disclose payments to "all physicians with whom Medtronic has consulting agreements for Infuse." This request was spurred by an article in the Wall Street Journal (WSJ), which reported on allegations of financial incentives provided to doctors that included "entertainment at a Memphis strip club, trips to Alaska and patent royalties on inventions they played no part in."

With the exception of one individual who is now deceased, listed below is the financial information documenting all consultants who received compensation, which Medtronic provided to me [Attached].

I am concerned that Medtronic did not include Dr. Timothy Kuklo in response to my written request. It is clear that Dr. Kuklo had some sort of consulting agreement with Medtronic and was named as a Medtronic consultant for Infuse in an article that ran in the New York Times on May 13, 2009. There is of course the possibility that Dr. Kuklo had a more general type of consulting agreement with Medtronic that may have included Infuse, as well as other Medtronic products. In the future, I hope that instead of not providing me with the name of the physician involved in Infuse, or any other matter that I am looking into, that Medtronic contact me to avoid the situation in which we find ourselves.

In light of the issues set forth above, I would greatly appreciate Medtronic explaining why Dr. Timothy Kuklo was not listed in the information provided me earlier.

Thank you in advance for your continued cooperation in this matter and commitment to transparency. I look forward to hearing from you by no later than June 1, 2009. All documents responsive to this request should be sent electronically in PDF format to Brian.Downey@finance.rep.senate.gov. If you have any questions, please do not hesitate to contact Paul Thacker.

Sincerely,

CHARLES E. GRASSLEY,  
Ranking Member.

Attachment.

#### MEDTRONIC INC. REPORTING: PHYSICIANS WITH WHOM MEDTRONIC HAS CONSULTING AGREEMENTS FOR INFUSE

Name	Year	Total amount
Lisa Cannada .....	2005	\$2,000
	2006	20,700
	2007	14,000
	2008	7,700
Michael Carstens .....	2006	46,800
	2007	21,600
	2008	31,200
David Cochran .....	2006	35,200
	2007	18,000
	2008	14,000
Curtis Dickman .....	2003	12,900
	2004	100
Rajeev Garapati .....	2007	8,600
Judith Gogola .....	2006	500
David Hak .....	2008	10,500
James Hardacker .....	2006	2,100
	2007	9,200
	2008	7,100
B. Matthew Hicks .....	2004	6,600
	2005	24,000
	2006	23,000
	2007	5,100
	2008	11,600
Thomas Lyons .....	2006	41,300
	2007	43,200
	2008	12,200
Jay Malmquist .....	2007	23,100
	2008	24,100
Robert Marx .....	2006	57,500
	2007	24,100
	2008	28,200
Todd Melegari .....	2006	2,300
Peter Moy .....	2008	59,900
Myron Nevins .....	2007	35,600
John O'Donnell .....	2006	4,400
Chetan Patel .....	2006	1,100
	2007	4,200
	2008	15,800
Philip Pryor .....	2006	2,100
	2007	2,600
	2008	6,600
Kevin Pugh .....	2005	1,300
	2006	13,000
	2007	16,100
Daniel Spagnoli .....	2006	28,100
	2007	67,600
	2008	42,700
Gilbert Triplett .....	2005	6,400
	2007	29,000
	2008	16,000
John-Louis Ugbo .....	2005	2,000

#### ADDITIONAL STATEMENTS

#### 2009 NATIONAL SCIENCE BOWL CHAMPIONS

• Mrs. BOXER. Mr. President, I am pleased to recognize the 2009 U.S. Department of Energy National Science Bowl Champions Mira Loma High School in Sacramento, CA.

The National Science Bowl is a national high school competition that tests each team's knowledge in astronomy, biology, chemistry, earth science, general science, mathematics, and physics at a college freshman level. Mira Loma's National Science Bowl team consisted of senior team captain

Rishi Kulkarni; juniors Edward Lee and Heather Yee; sophomores Andrew Chen and Sriram Pendyala, and Coach James Hill.

The Mira Loma team qualified for the national competition by winning the Sacramento Regional Science Bowl in the spring. At the National Science Bowl, Mira Loma High School joined 67 high schools from 42 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands to compete for the national championship in Washington, DC. Mira Loma High School's victory at the National Science Bowl has earned the team a research trip to the prestigious International Science School in Sydney, Australia, to further pursue their studies in science.

In competing for the national championship, the Mira Loma High School team learned many valuable lessons, including tenacity, dedication to their schoolwork, and teamwork. It is with great pride that I congratulate them on this remarkable accomplishment and wish them continued success.

I invite my colleagues to join me, Mira Loma High School, and the Sacramento community in recognizing the Mira Loma High School Science Bowl Team on this wonderful achievement.●

#### TRIBUTE TO JOHNNY'S CAR WASH

● Mr. BUNNING. Mr. President, today I pay tribute to and congratulate Jeff Simpson, owner of Johnny's Car Wash in Erlanger, KY, on their 50th year in business.

In 1959, John Simpson, father of Jeff Simpson, converted the original Town Car Wash, an establishment in Covington, KY, where cars were washed by hand, to an automatic car wash he named Johnny's Car Wash. Mr. Simpson opened a second location in Erlanger, KY, that still thrives today. Nearly four decades later, in 1992, Mr. Simpson sold his original Johnny's Car Wash to his son Jeff, and this year they celebrate 50 years of hard work, ambition, and the long success of their business.

A hearty congratulations to the Simpson family and Johnny's Car Wash. They are an excellent example of a steady and thriving small business in the Commonwealth.●

#### CONGRATULATING JHPIEGO ON ITS 35TH ANNIVERSARY

● Mr. CARDIN. Mr. President, today I wish to commemorate the 35th anniversary of Jhpiego, an exceptional organization dedicated to helping the less fortunate in developing countries around the world.

Jhpiego is an international, non-profit health organization affiliated with Johns Hopkins University and is located in my hometown, the city of Baltimore. For 35 years, Jhpiego has empowered front line health care work-

ers by designing and implementing effective, low-cost, hands-on solutions to strengthen the delivery of health care services for women and their families.

From their origins as technical experts in reproductive, maternal and child health, Jhpiego has grown to embrace new challenges, including prevention and treatment of HIV/AIDS, malaria and cervical cancer. The staff of Jhpiego have worked in 150 countries around the globe and currently run 60 programs in over 40 countries.

Scientific innovations are the cornerstone of Jhpiego's approach to reducing the preventable deaths of women. I particularly want to highlight their work combating cervical cancer. In 1990, Jhpiego established its Cervical Cancer Prevention—CECAP—Program. Working with colleagues and stakeholders, the CECAP program pioneered a unique, medically safe, acceptable and cost-effective approach to cervical cancer prevention for low-resource settings called the "single visit approach." Hundreds of thousands of women have been spared the horrible death of cervical cancer as the result of this intervention.

Amid many areas of expertise and effort, Jhpiego has worked tirelessly in its efforts to call the world's attention to the second leading cause of death of pregnant women in developing countries, postpartum hemorrhaging. Today, through system wide changes from the home birth to the hospital, physicians, nurses, midwives and healthcare workers have training and strategies to address this preventable death. These interventions have saved countless lives around the world.

I commend the staff of Jhpiego for their dedication and commitment to improving the lives of women and their families around the world. They work some of our world's most remote, difficult and complicated regions. Day in and day out, they with nations to develop strategies that are sustainable, proven and effective to improve the lives of the most vulnerable sectors of society.

I ask my colleagues to join me today in congratulating Jhpiego on its 35th anniversary.●

#### 2008 SLOAN AWARDS

● Mr. CRAPO. Mr. President, today I join with my colleague, Senator LINCOLN, to congratulate the 2008 winners of the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility, which recognizes companies that have successfully used flexibility to meet both business and employee goals. Our offices coordinate and lead the Senate Staff Work Group on Workplace Flexibility, now in its 8th month. Since September 2008, our staff and that of at least 16 of our colleagues and as many as four different committees have gathered once a month to hear

from research experts and listen to first-hand employer and employee experience on this important issue facing our Nation's workforce and families today. It is our goal to better define the appropriate role of government in this equation, moving from there to achieve bipartisan policies that help and do not frustrate families or hinder businesses. The Sloan Awards are an important component in the national shift toward employment policies that work better for both employers and employees as this Nation faces the reality of dual income households struggling to balance the multiple time commitments of children, disabled or aging family members and their jobs. The Sloan Awards are presented by the When Work Works initiative, which is a project of the Families and Work Institute in partnership with the Institute for a Competitive Workforce, an affiliate of the U.S. Chamber of Commerce, and the Twiga Foundation Inc. The When Work Works initiative is sponsored by the Alfred P. Sloan Foundation.

The companies receiving Sloan Awards are to be commended for their excellence in providing workplace flexibility practices which benefit both employees and employers. Achieving greater flexibility in the workplace, the goal of which is to maximize productivity while attracting the highest quality employees, is a key challenge facing American companies in the 21st century.

Businesses in the following 30 cities were eligible for recognition in the 2008 Sloan Awards: Atlanta, GA; Aurora, CO; Birmingham, AL; Boise, ID; Brockton, MA; Chandler, AZ; Charleston, SC; Chicago, IL; Dallas, TX; Dayton, OH; Detroit, MI; Durham, NC; Houston, TX; Lexington, KY; Long Beach, CA; Long Island, NY; Louisville, KY; Melbourne-Palm Bay, FL; Milwaukee, WI; Morris County, NJ; Providence, RI; Richmond, VA; Rochester, MN; Salt Lake City, UT; San Francisco, CA; Savannah, GA; Seattle, WA; Spokane, WA; Washington, DC; and Winona, MN. The Chamber of Commerce in each city hosted an interactive business forum to share research on workplace flexibility as an important component of workplace effectiveness. In these same communities, businesses applied and winners were selected for the Sloan Awards through a process that included employees' views as well as employer practices.

Together, we congratulate the 2008 winners of the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility.

In Atlanta, GA, the winners are Alston + Bird LLP; BDO Seidman, LLP; Cobb County Convention and Visitors Bureau; Ernst & Young LLP; KPMG LLP; Merrick & Company; North Highland; and Sprint.

In Aurora, CO, the winners are Arapahoe/Douglas Works! Workforce

Center; Aurora Chamber of Commerce; Medical Center of Aurora and Centennial Medical Plaza; and Merrick & Company.

In Birmingham, AL, the winners are Allstates Technical Services; AQAF; Barfield, Murphy, Shank, & Smith PC; Concept, Inc.; Deloitte; Ernst & Young LLP; ITAC Solutions; Birmingham Metropolitan YMCA; One Stop Environmental, LLC; Resources Global Professionals; and Sellers, Richardson, Holman & West, LLP.

In Boise, ID, the winners are American Geotechnics; Business Psychology Associates; Children's Home Society of Idaho; Givens Pursley LLP; LeMaster Daniels PLLC; Merrick & Rowley Accounting, LLC; and Trey McIntyre Project.

In Brockton, MA, the winner is KGA, Inc.

In Chandler, AZ, the winners are A & S Realty Specialists; Arizona Interactive Media Group; Arizona Weddings Magazine & Website; BCD Low Voltage Systems; The Chandler Chamber of Commerce; Clifton Gunderson LLP; Dava & Associates, Inc.; Henry & Horne, LLP; IBM; Intel; Johnson Bank; Keats, Connelly & Associates Inc.; MDI; Microchip Technology Inc.; New Horizons Independent Living Center; Omega Legal Systems, Inc.; Point B; Prescott Transit Authority; RIESTER; Salt River Materials Group; Western International University; WhitneyBell Perry Inc.; Wist Office Products; and WorldatWork.

In Charleston, SC, the winners are Booz Allen Hamilton LLP; Community Management Group; KFR Services, Inc.; LS3P Associates LTD.; Noisette Company, LLC; and Scientific Research Corporation.

In Chicago, IL, the winners are AzulaySeiden Law Group; BDO Seidman, LLP; Deloitte; Ernst and Young LLP; Frost, Ruttenberg & Rothblatt, P.C.; IBM—Central Region; KPMG LLP; Microsoft Corporation—Midwest District; National Able Network; Perspectives, Ltd; Plante & Moran, PLLC; Sanchez Daniels & Hoffman LLP; Shakespeare Squared; Teen Living Programs; True Partners Consulting; Turner Construction Company—Chicago Business Unit; Type A Learning Agency; and Vox, Inc.

In Dallas, TX, the winners are Aguirre Roden, Inc.; Amerisure Mutual Insurance Company; BDO Seidman, LLP; The Beck Group; Community Council of Greater Dallas; Deloitte; Grant Thorton LLP; KPMG LLP; Lee Hecht Harrison; McQueary Henry Bowles Troy, L.L.P.; State Farm Insurance Companies; Symbio Solutions, Inc.; and Workforce Solutions Greater Dallas.

In Dayton, OH, the winners are Barco, Inc.; Deloitte; and LJB Inc.

In Detroit, MI, the winners are Albert Kahn Family of Companies; Amerisure Mutual Insurance Company,

The Children's Center of Wayne County; BDO Seidman, LLP; Detroit Regional Chamber; The Farbman Group; Image One; Lee Hecht Harrison; Menlo Innovations; Michigan Occupational Safety and Health Administration—MIOSHA; Mill Steel Company; and Peckham Inc.

In Durham, NC, the winners are The American Institute of Certified Public Accountants—AICPA; CrossComm, Inc.; Durham's Partnership for Children, a Smart Start Initiative; McKinney; North Carolina Mutual Life Insurance Company; The Shodor Education Foundation; Skanska USA Building Inc.; and U.S. Environmental Protection Agency.

In Houston, TX, the winners are Continental Airlines; Deloitte; El Paso Corporation; Fulbright & Jaworski LLP; Hall Barnum Lucchesi Architects; Klotz Associates, Inc.; KPMG LLP; Pannell Kerr Forster of Texas, P.C.—PKF Texas; Rice University; St. Luke's Episcopal Health System; The VIA Group LLC; University of Phoenix; and Vinson & Elkins L.L.P.

In Lexington, KY, the winners are Ashland Terrace Retirement Home; Benefit Insurance Marketing; JRA Architects; Lexmark International, Inc.; Potter & Company, LLP; Smiley Pete Publishing; United Way of the Bluegrass; and Woodward, Hobson & Fulton, LLP.

In Long Beach, CA, the winners are AES Alamitos, LLC; Healstone; HR Network, Inc.; KPMG LLP; Long Beach Rescue Mission; and PeacePartners.

In Long Island, NY, the winners are Albrecht, Viggiano, Zureck & Co., PC; The Alcott Group; Child Care Council of Nassau, Inc.; Deloitte; KPMG LLP; and YES Community Counseling Center.

In Louisville, KY, the winners are A Speaker For You; Delta Dental of Kentucky, Inc.; Deming Malone Livesay & Ostroff CPAs, Girl Scouts of Kentuckiana Inc.; KPMG LLP; McCauley, Nicholas & Company, LLC, CPAs; Metromojito.com; Prestige Healthcare; Pro-Liquitech International; Strothman & Company PSC; and Woodward, Hobson & Fulton, L.L.P.

In Melbourne-Palm Bay, FL, the winners are Brevard Workforce Development Board, Inc.; Craig Technologies; Hoyman Dobson; Kinberg & Associates, LLC; Mercedes Homes; and Space Coast Early Intervention Center.

In Milwaukee, WI, the winners are Clifton Gunderson LLP; Deloitte; Ernst & Young LLP; Kahler Slater; KPMG LLP; Laughlin/Constable; Metropolitan Milwaukee Association of Commerce; Robert W. Baird & Co; Tushaus Computer Services, Inc.; Urban Ecology Center; and West Bend.

In Morris County, NJ, the winners are Berkeley College; Fein, Such, Kahn & Shepard, P.C.; Girl Scouts of North-

ern New Jersey; KPMG LLP; Schenck, Price, Smith & King, LLP; Shade Tree Garage; and Solix Inc.

In Providence, RI, the winners are Embolden Design, Inc.; KPMG LLP; Lefkowitz, Garfinkel, Champi & De Rienzo PC; Narragansett Bay Commission; Quality Partners of Rhode Island; Rhode Island Legal Services, Inc.; and Sansiveri, Kimball & McNamee LLP.

In Richmond, VA, the winners are Bon Secours Richmond Health System; Capital One, Hilb Rogal & Hobbs—HRH; Lee Hecht Harrison; Rink Management Services Corporation; and Virginia Commonwealth Health Systems—VCUHS.

In Rochester, MN, the winners are Cardinal of Minnesota; Custom Alarm/Custom Communications, Inc.; First Alliance Credit Union; IBM; RSM McGladrey, Inc. and McGladrey & Pullen, LLP; Southeast Service Cooperative; Stanley Jones & Associates, Inc.; Venture Computer Systems; and Winona State University—Rochester.

In Salt Lake City, UT, the winners are 1-800 CONTACTS; AAA Fair Credit Foundation; Cactus & Tropicals; Café Rio Mexican Grill; Cooper Roberts Simonsen Associates, Inc.; Employer Solutions Group; Governor's Office of Economic Development; Intermountain Financial Group/Mass Mutual; Intermountain Healthcare; McKinnon-Mulherin, Inc.; Redmond, Incorporated; SelectHealth; and Stayner, Bates & Jensen.

In San Francisco, CA, the winners are Fenwick & West LLP; KPMG LLP; Lee Hecht Harrison; Mother Jones Magazine/Foundation for National Progress; Presynct Technologies, Inc.; Sirna Therapeutics, Inc.; and Woodruff-Sawyer & Company.

In Savannah, GA, the winner is Environmental Services, Inc.

In Seattle, WA, the winners are BabyLegs LLC; Bader Martin, P.S.; BECU; Blue Gecko, Inc.; Cascadia Consulting Group, Inc.; Deloitte; EarthCorps; MarketFitz, Inc.; National CASA Association; NRG; Seattle; The Puget Sound Center for Teaching, Learning and Technology; Seattle Hospitality Group; Washington Health Foundation; WithinReach; and Worktank.

In Spokane, WA, the winners are Career Path Services; Humanix Staffing and Recruiting; and Inland Northwest Health Services.

In Washington, DC, the winners are Booz Allen Hamilton; Capital One; Clovis; Craig Technologies; Discovery Communications, Inc.; KPMG LLP; List Innovative Solutions, Inc.; and Morgan Franklin Corporation.

In Winona, MN, the winners are Catholic Charities of the Diocese on Winona; Hiawatha Broadband Communications; Management Recruiters of Winona; Mediascope, Inc.; Sport & Spine Physical Therapy of Winona; Winona ORC Industries; and Winona Workforce Center.●

## REMEMBERING BRIAN O'NEILL

• Mrs. FEINSTEIN. Mr. President, it is with a very heavy heart that I rise today to inform the Senate of the recent passing of one of the most incredible civil servants it has been my honor to know. Sadly, Brian O'Neill, the National Park Service superintendent at the Golden Gate National Recreation Area in San Francisco, passed away last week following complications from heart surgery.

To know Brian was to have known an extraordinary human being; someone who was completely devoted to his profession, his family, his friends, and to the national parks he so dearly loved.

Since 1986, when he became the superintendent at Golden Gate, Brian has been the inspiration and the driving force behind the success of one of the largest urban parks in the world. What set him apart, though, was not just a talent for the day-to-day management of a national park, but his grasp of the principal that a park is far more than a circle drawn on a map. He knew early on that, for a park to flourish, particularly an urban park, it needed the support of the local community, and that the best way to build that support was through the building of partnerships—partnerships that were the product of personal relationships.

Brian understood that a single park employee could only produce a set amount of work. But if you could turn that employee into an ambassador for the park, then others could be brought in to lighten the load and advance the cause. That is why Brian often said that what he really did was run a “friend-raising” business. And with well over 20,000 volunteers, I would say Brian's instincts were pretty good.

Too often in what passes for political discourse today the term “bureaucrat” is used as a pejorative. Anyone who would suggest such a meaning obviously never met Brian O'Neill. He was, by any definition and in the finest tradition of the civil service, the consummate bureaucrat; a skilled manager whose talents, whose energy, and whose sheer larger-than-life personality will be missed. I am proud to have had the privilege of knowing Brian O'Neill.

Mr. President, I am sure I speak for all my Senate colleagues in expressing my sincere condolences to Brian's friends, his coworkers, and especially the O'Neill family. •

## TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

• Mr. LUGAR. Mr. President, I wish today to take the opportunity to express my congratulations to the winners of the 2008–2009 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay con-

test for 8th grade students in my home State. The purpose of this contest is to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently craft an essay responding to the assigned theme. The theme chosen for this year was “Working Our Way to Energy Independence.”

Along with my friends at the Indiana Farm Bureau and Farm Bureau Insurance Companies, I am pleased with the annual response to this contest and the quality of the essays received over the years. I applaud each of this year's participants on their thoughtful work and wish, especially, to highlight the submissions of the 2008–2009 contest winners—Lynnette Whitsitt of Huntingburg, IN, and Brandon Wells of Evansville, IN. I submit for the RECORD the complete text of Lynnette's and Brandon's respective essays. I am pleased, also, to include the names of the many district and county winners of the contest.

The winning essays are as follows:

## UNTITLED

(By Lynnette Whitsitt)

Could you imagine a world where you flip on a light switch or press power on the TV and nothing happens? This will be our planet in the foreseeable future if we don't do anything about it. Many people believe that the future isn't their problem and that it's scientists' dilemma to solve, but it's not. If we don't do something about this energy crisis now, Earth will pay for it dearly in the future. We Hoosiers should do what we can, and contribute our available resources to produce renewable sources of power for our country. Without it, a global disaster is imminent.

Many alternate fuel sources need crops to manufacture them—especially corn and soybeans. Corn produces ethanol, while Biodiesel is made from soybeans. Portions of farmers' crops are sold to manufacturers that produce these energy sources. Organic waste materials, known as biomass, can now be broken down to become biogas. The waste materials used vary from crop remains to animal manure. Biogas can be transformed into diverse forms of energy, but of the renewable energy sources that generate electricity, biomass is most abundant. The conversion of waste materials to biogas is a purely organic procedure in which microorganisms break wastes down into methane. Hoosier farmers could also utilize farmland for wind farms, which will not only provide the farms with energy but also income from spare energy sold to power companies. While wind turbines would occupy land, it could still be used for its main intention, agriculture.

Farmers have been hugely affected by the energy crisis and can be part of the solution. By helping to make biodiesel, ethanol, biogas, and wind power Indiana farmers will greatly affect the future of energy. This major energy change will revolutionize rural towns, Indiana, and our nation as a whole.

## INDEPENDENCE

(By Brandon Wells)

The issue of becoming independent from foreign energy is challenging, but vital. The fact remains: if we do not break away from foreign oil soon, we may fall into an eco-

nomie depression far greater than Americans have ever known. Gasoline prices are substantially inflated; many families are finding it difficult to budget for the commute to and from work. What can we, as American citizens, do to halt this crisis and put an end to insane oil prices?

One solution to the challenge of making our own less expensive fuel comes straight from Indiana farmers. Biodiesel fuel is a diesel fuel made from organic feedstock. It includes soybeans, animal renderings, and salvaged oil from restaurants. It is domestically produced. Therefore, every gallon of biodiesel fuel takes the place of imported fuels, thus ensuring American dollars remain in the American economy.

A considerable advantage of biodiesel fuel over gasoline and regular diesel fuels is that biodiesel emits far lower emissions, ensuring cleaner air for both present and future generations. Also, it has better lubricity characteristics, which means less wear on engine parts such as fuel injectors and fuel injection pumps. Biodiesel fuels are compatible with all modern diesel engines and fuel systems.

There is a clear and definite need to concentrate on breaking away from foreign oil consumption and imports. While the issue of fuel alternatives is great, Indiana farmers are growing answers for all of America right now. We cannot continue to depend on foreign lands to fuel our lives. America has historically fought for independence and once again, we find ourselves fighting. With the help of Indiana farmers, this battle can be won, and America will once again be independent . . . fuel independent.

## 2008–2009 DISTRICT ESSAY WINNERS

## DISTRICT 1

Katlynn Surfus, Zachary Glick.

## DISTRICT 2

Kristi Brennan, Gabe Curtis.

## DISTRICT 3

Jessie LeBeau, Jonah Pritchett.

## DISTRICT 4

McKinzie Horoho, Trevor Homan.

## DISTRICT 5

Miranda Gerrard, Cameron Guernsey.

## DISTRICT 6

Kristen McCarthy, Jack Garner.

## DISTRICT 7

Riki Crowe, Ethan Fetting.

## DISTRICT 8

Morgan Tomson, Aaron Kaiser.

## DISTRICT 9

Lynnette Whitsitt, Brandon Wells.

## DISTRICT 10

Amy Burbrink, Zach Carter.

## 2008–2009 COUNTY ESSAY WINNERS

## BOONE

Cameron Guernsey, Western Boone Junior High School.

## BROWN

Haley O'Neil, home schooled.

## CLARK

Geoff Rafail and Morgan Mast, Borden Junior High School.

## CLAY

Brandon Crowley and Saiti Booe, Clay City Junior High School.

## DECATUR

Morgan Tomson, South Decatur Junior High School.

## DUBOIS

Lynnette Whitsitt, Southridge Middle School.

## FLOYD

Weston Spalding and Erin Duncan, Our Lady of Perpetual Help School.

## FRANKLIN

Aaron Kaiser, Mount Carmel School; and Claire McKamey, St. Michael School.

## GREENE

Ethan Fettig, Linton-Stockton Junior High School; and Riki Crowe, White River Valley Junior High School.

## HAMILTON

Nicholas Jeffers and Kara Linton, St. Maria Goretti School.

## HANCOCK

Joshua Hanselman and McKenzie Qualkinbush, Doe Creek Middle School.

## HENDRICKS

Drake Whicker, Cascade Middle School; and Jaclin Byrne, Tri-West Middle School.

## HENRY

Jack Garner and Brooke Ballard, Tri Junior High School.

## HOWARD

Austin Dishon, Northwestern Middle School; and McKinzie Horoho, Eastern Junior High School.

## JACKSON

Zach Carter, Immanuel Lutheran School; and Avri Hackman, Lutheran Central School.

## JASPER

Hunter Hickman and Tori Bryja, Rensselaer Middle School.

## JAY

Trevor Homan and Miranda Reinhart, East Jay Middle School.

## JENNINGS

Tanner Steele and Amy Burbrink, St. Mary School.

## LAKE

Zachary Glick and Alejandra Almendarez, Our Lady of Grace School.

## MARION

James Wang, Sycamore School; and Kristen McCarthy, St. Jude School.

## MONROE

Logan Letner and Allie Jones, Batchelor Middle School.

## NOBLE

Gabe Curtis and Kristi Brennan, St. Mary of the Assumption School.

## PARKE

Will Harrison and Kendall Davies, Rockville Junior High School.

## PERRY

Hunter Sandage, Tell City Junior High School.

## POSEY

Brandon Wells and Stephanie Cook, North Posey Junior High School.

## SCOTT

Hunter Steinkamp and Raven Alcorn, Scottsburg Middle School.

## STARKE

Katlynn Surgus, Knox Middle School.

## SULLIVAN

Harley-Alden Robert Davis and Savana Strain, Rural Community Academy.

## SWITZERLAND

Devin Coy and Olivia Hewitt, Switzerland County Middle School.

## VERMILLION

Dillon Boling and Abigail Calvin, North Vermillion Junior High School.

## WABASH

Trae Cole and Alyssa Richter, Northfield Junior High School.

## WARREN

Miranda Gerrad, Seeger Junior High School.

## WAYNE

Henry Dickman and Katy Robinson, Seton Catholic Junior High School.

## WELLS

Anna Gerber, Kingdom Academy.

## WHITE

Jonah Pritchett and Jessie Lebeau, Tri County Junior High School. •

## MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S.386) entitled "An Act to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes."

## ENROLLED BILL SIGNED

At 2:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 386. An act to improve enforcement of mortgage fraud, securities, and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

At 3:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 896. An act to prevent mortgage foreclosures and enhance mortgage credit availability.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 19, 2009, she had presented to the President of the United States the following enrolled bill:

S. 386. An act to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 35. A bill to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records (Rept. No. 111-21).

By Mr. INOUE, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2009" (Rept. No. 111-22).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Maj. Gen. Charles B. Green, to be Lieutenant General.

Air Force nomination of Maj. Gen. Herbert J. Carlisle, to be Lieutenant General.

Air Force nomination of Gen. William M. Fraser III, to be General.

Air Force nomination of Lt. Gen. William L. Shelton, to be Lieutenant General.

Air Force nomination of Lt. Gen. Daniel J. Darnell, to be Lieutenant General.

Navy nomination of Vice Adm. Richard K. Gallagher, to be Vice Admiral.

Marine Corps nomination of Maj. Gen. Terry G. Robling, to be Lieutenant General.

Marine Corps nomination of Lt. Gen. Joseph F. Dunford, Jr., to be Lieutenant General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with William A. Bartoul and ending with George T. Youstra, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Air Force nominations beginning with Peter Brian Abercrombie II and ending with Eric J. Zuhlsdorf, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Navy nomination of Deandrea G. Fuller, to be Commander.

Navy nominations beginning with Daniel G. Christofferson and ending with Albert D. Perpuse, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

By Mr. KERRY for the Committee on Foreign Relations.

\*Jeffrey D. Feltman, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Near Eastern Affairs).

\*Philip J. Crowley, of Virginia, to be an Assistant Secretary of State (Public Affairs).

\*Daniel Benjamin, of the District of Columbia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

Nominee: Daniel Benjamin.

Post: Coordinator for Counterterrorism.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: \$750, 06/30/08, Obama for America; \$1000, 09/09/08, Obama for America; \$1000, 10/03/08, Obama Fund; \$300, 10/16/08, Obama Fund; \$262.50, 12/28/07, Sestak for Congress; \$2000, 10/26/04, Democratic Executive Committee of Florida; \$500, 07/21/04, Kerry for President; \$250, 03/28/06, Sestak, Joseph A. Jr.; \$350, 10/16/06, Sestak, Joseph A. Jr.; \$250, 10/20/06, Farrell, Diane Goss.

2. Spouse: Henrike Frowein: None.

3. Children and Spouses: Caleb Benjamin, Jonah Benjamin: None.

4. Parents: Burton & Susan Benjamin: \$50, 09/23/08, Himes, Jim; \$55, 09/23/08, Obama for America; \$55, 08/29/08, Obama for America; \$25, 07/02/08, DCC; \$25, 02/26/08, DNC; \$25, 11/15/07, DCC; \$50, 12/13/05, Diane Farrell for Congress; \$20, 11/09/05, 21st Century Democrats; \$55, 09/06/04, DNC; \$50, 06/19/04, Diane Farrell for Congress; \$150, 05/17/04, Kerry for President.

5. Grandparents: Daniel Benjamin—deceased; Betty Benjamin—deceased; William Dorfman—deceased; Rose Dorfman—deceased.

6. Brothers and Spouses: William Benjamin & Jill Kowal Benjamin—none.

7. Jonathan Benjamin & Tricia Kim: \$100, 10/21/08, Obama for America; \$100, 09/10/08, Obama for America; \$100, 04/30/08, Obama for America; \$100, 12/10/07, Obama for America.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

\*Priscilla E. Guthrie, of Virginia, to be Chief Information Officer, Office of the Director of National Intelligence.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD (for himself and Mr. BROWNBACK):

S. 1067. A bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWN:

S. 1068. A bill to amend the National Consumer Cooperative Bank Act to allow for the treatment of the nonprofit corporation affiliate of the Bank as a community development financial institution for purposes of the Community Development Banking and Financial Institutions Act of 1994; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 1069. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 1070. A bill to establish the Small Business Information Security Task Force to address information security concerns relating to credit card data and other proprietary information; to the Committee on Small Business and Entrepreneurship.

By Mr. CHAMBLISS (for himself, Mr. VITTER, Mr. ISAKSON, Mr. INHOFE, Mr. BURR, and Mr. ROBERTS):

S. 1071. A bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 1072. A bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. REED:

S. 1073. A bill to provide for credit rating reforms, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Ms. CANTWELL):

S. 1074. A bill to provide shareholders with enhanced authority over the nomination, election, and compensation of public company executives; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 1075. A bill to designate 4 counties in the State of New York as high-intensity drug trafficking areas, and to authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Ms. CANTWELL, Mr. LEVIN, and Mr. FEINGOLD):

S. 1076. A bill to improve the accuracy of fur product labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, and Mr. DURBIN):

S. 1077. A bill to regulate political robocalls; to the Committee on Rules and Administration.

By Mr. JOHNSON (for himself and Mr. VOINOVICH):

S. 1078. A bill to authorize a comprehensive national cooperative geospatial imagery mapping program through the United States Geological Survey, to promote use of the program for education, workforce training and development, and applied research, and to support Federal, State, tribal, and local government programs; to the Committee on Commerce, Science, and Transportation.

By Ms. KLOBUCHAR (for herself, Mr. VOINOVICH, Mr. INOUE, Mr. UDALL of Colorado, and Mr. BENNETT):

S. 1079. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under the Medicare program; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 1080. A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. BENNETT):

S. Res. 152. A resolution to amend S. Res. 73 to increase funding for the Special Reserve; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. CARDIN):

S. Res. 153. A resolution expressing the sense of the Senate on the restitution of or compensation for property seized during the Nazi and Communist eras; to the Committee on Foreign Relations.

By Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. CARDIN, Mr. KERRY, Mrs. SHAHEEN, Mr. WICKER, Ms. CANTWELL, and Mr. ISAKSON):

S. Res. 154. A resolution honoring the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009; considered and agreed to.

By Mr. CARDIN (for himself, Mr. LUGAR, and Mr. NELSON of Florida):

S. Con. Res. 23. A concurrent resolution supporting the goals and objectives of the Prague Conference on Holocaust Era Assets; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 370

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 370, a bill to prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes.

S. 384

At the request of Mr. LUGAR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 384, a bill to authorize appropriations for fiscal years 2010 through

2014 to provide assistance to foreign countries to promote food security, to stimulate rural economies, and to improve emergency response to food crises, to amend the Foreign Assistance Act of 1961, and for other purposes.

S. 408

At the request of Mr. INOUE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 408, a bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

S. 476

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 476, a bill to amend title 10, United States Code, to reduce the minimum distance of travel necessary for reimbursement of covered beneficiaries of the military health care system for travel for specialty health care.

S. 546

At the request of Mr. REID, the names of the Senator from Colorado (Mr. BENNET) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 558

At the request of Mr. CARPER, the names of the Senator from Nebraska (Mr. JOHANNIS) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 558, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to nutrition labeling of food offered for sale in food service establishments.

S. 565

At the request of Mr. DURBIN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 572, a bill to provide for the issuance of a "forever stamp" to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 597

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 608

At the request of Mr. TESTER, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 608, a bill to amend the Consumer Product Safety Improvement Act of 2008 to exclude secondary sales, repair services, and certain vehicles from the ban on lead in children's products, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 653

At the request of Mr. CARDIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 696

At the request of Mr. CARDIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 711

At the request of Mr. BAUCUS, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arkansas (Mrs. LINCOLN) were added as

cosponsors of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 793

At the request of Mr. BROWN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 793, a bill to direct the Secretary of Veterans Affairs to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 908

At the request of Mr. BAYH, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 924

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 924, a bill to ensure efficient performance of agency functions.

S. 942

At the request of Mr. GRASSLEY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 942, a bill to prevent the abuse of Government charge cards.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1010

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1010, a bill to establish a National Foreign Language Coordinator Council.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi



(Mr. WICKER) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 71

At the request of Mr. WYDEN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 141

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 141, a resolution recognizing June 2009 as the first National Hemorrhagic Telangiectasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

AMENDMENT NO. 1079

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 1079 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1129

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 1129 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. BROWNBACK):

S. 1067. A bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I am pleased to introduce the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009, and I am pleased to do so with a great champion on this issue: Senator SAM

BROWNBACK. For many years, we have both sought to bring attention to the terror orchestrated by the Lord's Resistance Army, the LRA, and the suffering of the people of northern Uganda. We have come a long way in just a few years, thanks especially to young Americans who have become increasingly aware of and outspoken about this horrific situation. As a result, the U.S. has made increased efforts to help end this horror. Those efforts have yielded some success, but if we are now to finally see this conflict to its end, we need to commit to a proactive strategy to help end the threat posed by the LRA and support reconstruction, justice, and reconciliation in northern Uganda. This bill seeks to do just that.

For over two decades, northern Uganda was caught in a war between the Ugandan military and rebels of the Lord's Resistance Army, leading at its height to the displacement of 1.8 million people, nearly 90 percent of the region's population. Just a few years ago, northern Uganda was called the world's worst neglected humanitarian crisis. In 2007, I visited displacement camps in northern Uganda and saw firsthand the terrible conditions and the desperation of people forced to endure such conditions year after year. Meanwhile, the LRA survived throughout this conflict by kidnapping an estimated 66,000 children, indoctrinating them, and forcing them to become child soldiers.

In recent years, the LRA have come under increasing pressure. In 2005 and 2006, they largely withdrew from northern Uganda and moved into the border region between northeastern Congo, southern Sudan and even the Central African Republic. Then for almost two years, there was a lull in the violence as representatives from the Ugandan government and LRA engaged in sporadic peace negotiations in southern Sudan. The parties brokered a comprehensive agreement, but then hopes were dashed as the LRA's megalomaniac leader Joseph Kony refused to sign the agreement and reports surfaced that the LRA had been conducting new abductions to replenish his rebel group.

In December 2008, the Ugandan, Congolese and South Sudanese militaries launched a joint offensive against the LRA's primary bases in northeastern Congo. The operation failed to apprehend Kony and over the following two months, his forces retaliated against civilians in the region, leaving over 900 people dead. It's tragically clear that insufficient attention and resources were devoted to ensuring the protection of civilians during the operation. Before launching any operation against the rebels, the regional militaries should have ensured that their plan had a high probability of success, anticipated contingencies, and made precautions to minimize dangers to civilians. It is widely known that when fac-

ing military offensive in the past, the LRA have quickly dispersed and committed retaliatory attacks against civilians.

However, this botched operation does not mean that we should just give up on the goal of ending the massacres and the threat to regional stability posed by this small rebel group. Moreover, given that the U.S. provided assistance and support for this operation at the request of the regional governments, we have a responsibility to help see this rebel war to its end. In order to do that, I strongly believe we need a regional strategy to guide U.S. support—which includes political economic, intelligence and military support—for a multilateral effort to protect civilians and permanently end the threat posed by the LRA. The Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 requires of the administration to develop such a strategy. It leaves it up to the discretion of the administration to determine the most effective way forward, but it ensures this issue will not get put on the back burner and that we will not continue to rely on a piecemeal approach.

In addition to removing the threat posed by the LRA, we cannot lose sight of the importance that the Ugandan government address the conditions out of which the LRA emerged and which could give rise to future conflict if unchanged. Rebuilding northern Uganda's institutions and addressing political and economic grievances is the surest safeguard against future violence and instability. The government of Uganda committed last year to move forward with that reconstruction and reconciliation process under the framework of its Peace, Recovery and Development, the PRDP plan. International donors, including the United States, have already put forth substantial funds for that process. However, thus far it has been hampered by a lack of strategic coordination, weak leadership and the government's limited capacity. In particular, there has been very little progress toward establishing the mechanisms envisaged by the peace agreement to address the original causes of the war and promote reconciliation and justice.

Our legislation recognizes the importance of helping the Ugandan government to reinvigorate the PRDP process. The second part of the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 encourages the U.S. to increase assistance in the upcoming fiscal years for recovery with the condition that the Ugandan government demonstrates a commitment to genuine, transparent and accountable reconstruction. We

should better leverage our contributions to ensure that U.S. taxpayer dollars are used wisely. Finally, this legislation authorizes a small amount of additional assistance to see that mechanisms are finally established to promote accountability and reconciliation in Uganda on both local and national levels. A failure to address the underlying political grievances in northern Uganda could lead to new conflicts in the future.

As my colleagues know, I make it a practice to pay for all bills that I introduce, and the authorization in this bill is offset by reducing funds appropriated for excess secondary inventory for the Department of the Air Force. A report by the Government Accountability Office in 2007 found that more than half of the Air Force's secondary inventory or spare parts, worth roughly \$31.4 billion, were not needed to support required on-hand and on-order inventory levels for fiscal years 2002 through 2005. The GAO report concluded that this is not only wasteful, but could also negatively impact readiness. The Air Force has acknowledged that it currently has over \$100 million of spare parts on order for which it has no need.

Some may disagree with me on the need for an offset, but last year's Office of Management and Budget's projections confirm that we have the biggest budget deficit in the history of our country. We cannot afford to be fiscally irresponsible so we must make choices to ensure that our children and grandchildren do not bear the burden of our reckless spending. I believe reducing the excess secondary inventory for the Department of the Air Force by \$40 million, a small amount, to pay for this bill is a responsible move that we can all support.

Americans from all states and all walks of life have been touched by the stories of children from northern Uganda abducted and forced to commit unspeakable acts. Congress, too, has a long history of being involved with efforts to help end this rebel war, dating back to the Northern Uganda Crisis Response Act that we passed in 2004, which committed the United States to work vigorously for a lasting resolution to the conflict. The Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 reaffirms and refocuses that commitment to help see this—one of Africa's longest running and most gruesome rebel wars—to its finish. I believe that, with the necessary leadership and strategic vision envisioned by this legislation, we can contribute to that end. I urge my colleagues to support this bill.

By Mr. REED:

S. 1073. A bill to provide for credit rating reforms, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I rise to introduce the Rating Accountability and

Transparency Enhancement, RATE, Act to strengthen the Securities and Exchange Commission's, SEC's, oversight of credit rating agencies and improve the accountability and accuracy of credit ratings.

Credit ratings have taken on systemic importance in our financial system, and have become critical to capital formation, investor confidence, and the efficient performance of the U.S. economy. However, in recent months we have witnessed a significant amount of market instability stemming in part from the failure of these agencies to accurately measure the risks associated with mortgage-backed securities and other more complex products.

As the Chairman of the Securities, Insurance, and Investment Subcommittee of the Senate Banking, Housing, and Urban Affairs Committee, I chaired a hearing in September of 2007 to examine the role of credit rating agencies in the mortgage crisis, and these issues were also addressed at a hearing by the full Committee last year. From these hearings, it is clear that problems at credit rating agencies contributed to the significant financial sector instability our country has been experiencing. In fact, an SEC investigation last summer found that credit rating agencies such as Moody's, Standard & Poor's, and Fitch Ratings conducted weak analyses and failed to maintain appropriate independence from the issuers whose securities they rated.

Credit rating agencies are in the business of providing investors with unbiased analysis, but the current incentive structure gives them too much leeway to hand out unjustifiably favorable ratings. Let us be clear: not every rating is suspect and these firms provide crucial information for investors and the marketplace, but credit rating agencies like any other industry should be held accountable if they knowingly or recklessly mislead investors.

According to a mortgage industry trade publication, the three major credit rating agencies have each downgraded more than half of the subprime mortgage-backed securities they originally rated between 2005 and 2007. Ratings agencies made these mistakes in part because of conflicts of interest and other problems with internal controls, underscoring the need for enhanced oversight of this industry.

The bill I introduce today gives the SEC strong new authority to oversee and hold rating agencies accountable for conflicts of interest and other internal control deficiencies that have weakened ratings in the past. The bill includes a carefully crafted liability provision that allows investors to take action when a rating agency knowingly or recklessly fails to review key information in developing the rating.

It also enhances disclosure requirements to allow investors and others to

learn about the methodologies, assumptions, fees, and amount of due diligence associated with ratings. It requires rating agencies to notify users and promptly update ratings when model or methodology changes occur. Finally, the bill requires ratings agencies to have independent compliance officers, and to take other actions, to prevent potential conflicts of interest.

I hope my colleagues will join me in helping improve the accountability and transparency of credit ratings that are so critical to the functioning of our financial markets.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1073

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Rating Accountability and Transparency Enhancement Act of 2009" or the "RATE Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) because of the systemic importance of credit ratings and the reliance placed on them by individual and institutional investors and financial regulators, the activities and performances of credit rating agencies, including nationally recognized statistical rating organizations, are the subject of national public interest, as they are central to capital formation, investor confidence, and the efficient performance of the United States economy;

(2) credit rating agencies, including nationally recognized statistical rating organizations, play a critical "gatekeeper" role that is functionally similar to that of securities analysts, who evaluate the quality of securities, and auditors, who review the financial statements of firms, and such role justifies a similar level of public oversight and accountability;

(3) because credit rating agencies perform evaluative and analytical services on behalf of clients, their activities are fundamentally commercial in character and should be subject to the same standards of liability and oversight as apply to auditors and securities analysts;

(4) in certain of their roles, particularly in advising arrangers of structured financial products on potential ratings of such products, credit rating agencies face conflicts of interest that need to be carefully monitored and that therefore should be addressed explicitly in legislation in order to give clear authority to the Securities and Exchange Commission;

(5) in the recent credit crisis, the ratings of structured financial products have proven to be inaccurate, and have contributed to the mismanagement of risks by financial institutions and investors, which impacts the health of the economy in the United States and around the world; and

(6) credit rating agencies should determine their ratings independently, without regulatory approval of methodologies, in order to avoid overreliance on ratings and to ensure that the rating agencies, rather than the Securities and Exchange Commission, are accountable for such methodologies, except

that regulators should have strong authority to ensure that all other aspects of rating agency activities are designed to ensure the highest quality ratings and accountability for those creating them.

**SEC. 3. ENHANCED REGULATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.**

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7) is amended—

(1) in subsection (c)—

(A) in the second sentence of paragraph (2), by inserting “including the requirements of this section,” after “Notwithstanding any other provision of law,”; and

(B) by adding at the end the following:

“(3) REVIEW OF INTERNAL CONTROLS FOR DETERMINING CREDIT RATINGS.—

“(A) IN GENERAL.—Credit ratings by, and the policies, procedures, and methodologies employed by, each nationally recognized statistical rating organization shall be reviewed by the Commission to ensure that—

“(i) the nationally recognized statistical rating organization has established and documented a system of internal controls for determining credit ratings, taking into consideration such factors as the Commission may prescribe by rule; and

“(ii) the nationally recognized statistical rating organization adheres to such system; and

“(iii) the public disclosures of the nationally recognized statistical rating organization required under this section about its ratings, methodologies, and procedures are consistent with such system.

“(B) SCOPE OF REVIEWS.—The Commission shall conduct the reviews required by this paragraph—

“(i) for all types of credit ratings; and

“(ii) for new credit ratings, in a timely manner.

“(C) MANNER AND FREQUENCY.—The Commission shall conduct reviews required by this paragraph in a manner and with a frequency to be determined by the Commission.

“(4) PROVISION OF INFORMATION TO THE COMMISSION.—Each nationally recognized statistical rating organization shall make available and maintain such records and information, for such a period of time, as the Commission may prescribe, by rule, as necessary for the Commission to conduct the reviews under this subsection;”;

(2) in subsection (d)—

(A) by inserting “fine,” after “censure,” each place that term appears;

(B) in the subsection heading, by inserting “FINE,” after “CENSURE,”;

(C) in paragraph (4), by striking “or” at the end;

(D) in paragraph (5), by striking the period at the end and inserting “; or”; and

(E) by adding at the end the following:

“(6) fails to conduct sufficient surveillance to ensure that credit ratings remain current, accurate, and reliable.”;

(3) by amending subsection (h) to read as follows:

“(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

“(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address, manage, and disclose any conflicts of interest that can arise from such business.

“(2) GOVERNANCE IMPROVEMENTS AT NRSRO.—Each nationally recognized statis-

tical rating organization shall establish governance procedures to manage conflicts of interest, consistent with the protection of users of credit ratings, in accordance with rules issued by the Commission pursuant to paragraph (3).

“(3) COMMISSION AUTHORITY.—The Commission shall issue final rules to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including—

“(A) conflicts of interest relating to the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

“(B) conflicts of interest relating to the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

“(C) disclosure of business relationships, ownership interests, affiliations of nationally recognized statistical rating organization board members with obligors, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

“(D) disclosure of any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites securities, entities, or other instruments that are the subject of a credit rating; and

“(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of users of credit ratings.

“(4) COMMISSION RULES.—The rules issued by the Commission under paragraph (3) shall include—

“(A) the establishment of a system of payment for each nationally recognized statistical rating organization that requires that payments are structured to ensure that the nationally recognized statistical rating organization conducts accurate and reliable surveillance of ratings over time, and that incentives for accurate ratings are in place;

“(B) a prohibition on providing credit ratings for structured products that it advised on, in the form of assistance, advice, consultation, or other aid that preceded its retention by any issuer, underwriter, or placement agent to provide a rating for the securities in question (or any assistance provided after such point for which additional compensation is paid directly or indirectly);

“(C) requirements that a nationally recognized statistical rating organization disclose any relationship or affiliation described in subparagraphs (C) and (D) of paragraph (3);

“(D) a requirement that, in each credit rating report issued to the public, a nationally recognized statistical rating organization disclose the type and number of ratings it has provided to the obligor or affiliates of the obligor, including the fees it has billed for the credit rating and aggregate amount of fees in the preceding 2 years that it has billed to the particular obligor or its affiliates; and

“(E) any other requirement as the Commission deems necessary or appropriate in the public interest, or for the protection of users of credit ratings.

“(5) LOOK-BACK REQUIREMENT.—

“(A) REVIEW BY NRSRO.—In any case in which an employee of an obligor or an issuer or underwriter of a security or money market instrument was employed by a nationally recognized statistical rating organization and participated in any capacity in determining credit ratings for the obligor or the securities or money market instruments of the issuer during the 1-year period preceding the date of the issuance of the credit rating, the nationally recognized statistical rating organization shall—

“(i) conduct a review to determine whether any conflicts of interest of such employee influenced the credit rating; and

“(ii) take action to revise the rating if appropriate, in accordance with such rules as the Commission shall prescribe.

“(B) REVIEW BY COMMISSION.—The Commission shall conduct periodic reviews of the look-back policies described in subparagraph (A) and the implementation of such policies at each nationally recognized statistical rating organization to ensure they are appropriately designed and implemented to most effectively eliminate conflicts of interest in this area.

“(6) PERIODIC REVIEWS.—

“(A) REVIEWS REQUIRED.—The Commission shall conduct periodic reviews of governance and conflict of interest procedures established under this subsection to determine the effectiveness of such procedures.

“(B) TIMING OF REVIEWS.—The Commission shall review and make available to the public the code of ethics and conflict of interest policy of each nationally recognized statistical rating organization—

“(i) not less frequently than once every 3 years; and

“(ii) whenever such policies are materially modified or amended.”;

(4) by amending subsection (j) to read as follows:

“(j) DESIGNATION OF COMPLIANCE OFFICER.—

“(1) IN GENERAL.—Each nationally recognized statistical rating organization shall designate an individual to serve as a compliance officer.

“(2) DUTIES.—The compliance officer shall—

“(A) report directly to the board of the nationally recognized statistical rating organization (or the equivalent thereof) or to the senior officer of the nationally recognized statistical rating organization; and

“(B) shall—

“(i) review compliance with policies and procedures to manage conflicts of interest and assess the risk that such compliance (or lack of such compliance) may compromise the integrity of the credit rating process;

“(ii) review compliance with internal controls with respect to the procedures and methodologies for determining credit ratings, including quantitative and qualitative models used in the rating process, and assess the risk that such compliance with the internal controls (or lack of such compliance) may compromise the integrity and quality of the credit rating process;

“(iii) in consultation with the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior officer of the nationally recognized statistical rating organization, resolve any conflicts of interest that may arise;

“(C) be responsible for administering the policies and procedures required to be established pursuant to this section; and

“(D) ensure compliance with securities laws and the rules and regulations issued

thereunder, including rules promulgated by the Commission pursuant to this section.

“(3) LIMITATIONS.—No compliance officer designated under paragraph (1), may, while serving in such capacity—

“(A) perform credit ratings;

“(B) participate in the development of rating methodologies or models;

“(C) perform marketing or sales functions; or

“(D) participate in establishing compensation levels, other than for employees working for such officer.

“(4) OTHER DUTIES.—The compliance officer shall establish procedures for the receipt, retention, and treatment of—

“(A) complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures required under this section; and

“(B) confidential, anonymous complaints by employees or users of credit ratings.

“(5) ANNUAL REPORTS REQUIRED.—The compliance officer shall annually prepare and sign a report on the compliance of the nationally recognized statistical rating organization with the securities laws and its policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. Such compliance report shall accompany the financial reports of the nationally recognized statistical rating organization that are required to be furnished to the Commission pursuant to this section.”;

(5) in subsection (k)—

(A) by striking “, on a confidential basis,”;

(B) by striking “Each nationally” and inserting the following:

“(1) IN GENERAL.—Each nationally”; and

(C) by adding at the end the following:

“(2) EXCEPTION.—The Commission may treat as confidential any item furnished to the Commission under paragraph (1), the publication of which the Commission determines may have a harmful effect on a nationally recognized statistical rating organization.”;

(6) by amending subsection (p) to read as follows:

“(p) NRSRO REGULATION.—

“(1) IN GENERAL.—The Commission shall establish an office that administers the rules of the Commission with respect to the practices of nationally recognized statistical rating organizations in determining ratings, for the protection of users of credit ratings and in the public interest, and to ensure that credit ratings issued by such registrants are accurate and not unduly influenced by conflicts of interest.

“(2) STAFFING.—The office of the Commission established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section.

“(3) RULEMAKING AUTHORITY.—The Commission shall—

“(A) establish by rule fines and other penalties for any nationally recognized statistical rating organization that violates the applicable requirements of this title; and

“(B) issue such rules as may be necessary to carry out this section with respect to nationally recognized statistical rating organizations.

“(q) TRANSPARENCY OF RATINGS PERFORMANCE.—

“(1) RULEMAKING REQUIRED.—The Commission shall, by rule, require that each nationally recognized statistical rating organization shall disclose publicly information on initial ratings and subsequent changes to such ratings for the purpose of providing a gauge of the accuracy of ratings and allow-

ing users of credit ratings to compare performance of ratings by different nationally recognized statistical rating organizations.

“(2) CONTENT.—The rules of the Commission under this subsection shall require, at a minimum, disclosures that—

“(A) are comparable among nationally recognized statistical rating organizations, so that users can compare rating performance across rating organizations;

“(B) are clear and informative for a wide range of investor sophistication;

“(C) include performance information over a range of years and for a variety of classes of credit ratings, as determined by the Commission; and

“(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website and in written form when requested by users.

“(r) CREDIT RATINGS METHODOLOGIES.—The Commission shall promulgate rules, for the protection of users of credit ratings and in the public interest, with respect to the procedures and methodologies, including qualitative and quantitative models, used by nationally recognized statistical rating organizations that require each nationally recognized statistical rating organization to—

“(1) ensure that credit ratings are determined using procedures and methodologies, including qualitative and quantitative models, that are approved by the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior officer of the nationally recognized statistical rating organization, and in accordance with the policies and procedures of the nationally recognized statistical rating organization for developing and modifying credit rating procedures and methodologies;

“(2) ensure that when major changes to credit rating procedures and methodologies, including to qualitative and quantitative models, are made, that the changes are applied consistently to all credit ratings to which such changed procedures and methodologies apply and, to the extent the changes are made to credit rating surveillance procedures and methodologies, they are applied to current credit ratings within a time period to be determined by the Commission by rule, and that the reason for the change is disclosed publicly;

“(3) notify users of credit ratings of the version of a procedure or methodology, including a qualitative or quantitative model, used with respect to a particular credit rating; and

“(4) notify users of credit ratings when a change is made to a procedure or methodology, including to a qualitative or quantitative model, or an error is identified in a procedure or methodology that may result in credit rating actions, and the likelihood of the change resulting in current credit ratings being subject to rating actions.

“(s) TRANSPARENCY OF CREDIT RATING METHODOLOGIES AND INFORMATION REVIEWED.—

“(1) IN GENERAL.—The Commission shall establish a form, to accompany each rating issued by a nationally recognized statistical rating organization—

“(A) to disclose information about assumptions underlying credit rating procedures and methodologies, the data that was relied on to determine the credit rating and, where applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and

“(B) that can be made public and used by investors and other users to better understand credit ratings issued in each class of credit rating issued by the nationally recognized statistical rating organization.

“(2) FORMAT.—The Commission shall ensure that the form established under paragraph (1)—

“(A) is designed in a user-friendly and helpful manner for users of credit ratings to understand the information contained in the report; and

“(B) requires the nationally recognized statistical rating organization to provide the appropriate content, as required by paragraph (3).

“(3) CONTENT.—Each nationally recognized statistical rating organization shall include on the form established under this subsection, along with its ratings—

“(A) the main assumptions included in constructing procedures and methodologies, including qualitative and quantitative models;

“(B) the potential shortcomings of the credit ratings, and the types of risks excluded from the credit ratings that the registrant is not commenting on (such as liquidity, market, and other risks);

“(C) information on the reliability, accuracy, and quality of the data relied on in determining the ultimate credit rating and a statement on the extent to which key data inputs for the credit rating were reliable or limited (including, any limits on the reach of historical data, limits in accessibility to certain documents or other forms of information that would have better informed the credit rating, and the completeness of certain information considered);

“(D) whether and to what extent third party due diligence services have been utilized, and a description of the information that such third party reviewed in conducting due diligence services;

“(E) a description of relevant data about any obligor, issuer, security, or money market instrument that was used and relied on for the purpose of determining the credit rating;

“(F) an explanation or measure of the potential volatility for the rating, including any factors that might lead to a change in the rating, and the extent of the change that might be anticipated under different conditions; and

“(G) additional information, including conflict of interest information, as may be required by the Commission.

“(4) DUE DILIGENCE SERVICES.—

“(A) CERTIFICATION REQUIRED.—In any case in which third party due diligence services are employed by a nationally recognized statistical rating organization or an issuer or underwriter, the firm providing the due diligence services shall provide to the nationally recognized statistical rating organization written certification of such due diligence, which shall be subject to review by the Commission.

“(B) FORMAT AND CONTENT.—The nationally recognized statistical rating organizations shall establish the appropriate format and content for written certifications required under subparagraph (A), to ensure that providers of due diligence services have conducted a thorough review of data, documentation, and other relevant information necessary for the nationally recognized statistical rating organization to provide an accurate rating.”; and

(7) by amending subsection (m) to read as follows:

“(m) ACCOUNTABILITY.—

“(1) IN GENERAL.—The enforcement and penalty provisions of this title shall apply to a nationally recognized statistical rating organization in the same manner and to the same extent as such provisions apply to a registered public accounting firm or a securities analyst under the Federal securities laws for statements made by them, and such statements shall not be deemed forward-looking statements for purposes of section 21E.

“(2) RULEMAKING.—The Commission shall issue such rules as may be necessary to carry out this subsection.”

#### SEC. 4. STATE OF MIND IN PRIVATE ACTIONS.

Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(2)) is amended by inserting before the period at the end the following: “, except that in the case of an action brought under this title for money damages against a nationally recognized statistical rating organization, it shall be sufficient, for purposes of pleading any required state of mind for purposes of such action, that the complaint shall state with particularity facts giving rise to a strong inference that the nationally recognized statistical rating organization knowingly or recklessly failed either to conduct a reasonable investigation of the rated security with respect to the factual elements relied upon by its own methodology for evaluating credit risk, or to obtain reasonable verification of such factual elements (which verification may be based on a sampling technique that does not amount to an audit) from other sources that it considered to be competent and that were independent of the issuer and underwriter”.

#### SEC. 5. REGULATIONS.

The Securities and Exchange Commission shall issue final rules and regulations, as required by the amendments made by this Act, not later than 365 days after the date of enactment of this Act.

#### SEC. 6. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall undertake a study of—

(1) the extent to which rulemaking the Securities and Exchange Commission has carried out the provisions of this Act;

(2) the appropriateness of relying on ratings for use in Federal, State, and local securities and banking regulations, including for determining capital requirements;

(3) the effect of liability in private actions arising under the Securities Exchange Act of 1934 and the exception added by section 4 of this Act; and

(4) alternative means for compensating credit rating agencies that would create incentives for accurate credit ratings and what, if any, statutory changes would be required to permit or facilitate the use of such alternative means of compensation.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Comptroller General shall submit to Congress and the Securities Exchange Commission, a report containing the findings under the study required by subsection (a).

By Mrs. FEINSTEIN (for herself,  
Ms. SNOWE, and Mr. DURBIN):

S. 1077. A bill to regulate political robocalls, to the Committee on Rules and Administration.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Robocall Privacy Act of 2009.

This is a bill that is cosponsored by Senator SNOWE and Senator DURBIN,

and that would protect American families from being inundated by automated political calls all through the day and night.

The bill would allow political outreach through these prerecorded “robocalls” to continue, but it would put some commonsense limits on them—to make sure that they are used in a way that informs voters, rather than harasses or misleads them.

In recent years, we have seen amazing development in technologies that help political candidates reach out to voters.

This is a good thing. Political speech is essential, and new technology that facilitates communication between candidates and voters serves to bolster the democratic process. When more information is available to voters, it promotes a more meaningful interchange of ideas.

The robocall is one of these recent developments. A robocall is a pre-recorded phone message that can be sent out to tens of thousands of voters at a low cost through computer automation.

With television and radio ads becoming so expensive, these robocalls can play a positive role in alerting voters to a candidate’s position and urging their support at the polls.

But it is also a technology that can be abused. We all have heard stories about people being called over and over and over again at all hours of the day and night.

I believe this is wrong. When these calls are used improperly, they interrupt American families during their private time at home and interfere with their privacy rights. They can also turn people away from the political process itself.

When people become frustrated or annoyed by calls that are commercial in nature, they have the option to request to be put on the Federal Trade Commission’s “Do Not Call” list. To date, millions of Americans have chosen to be part of that list.

But political calls are specifically exempted from this “Do Not Call” registry.

The First Amendment gives special protection to political speech, because the interchange of political ideas is essential to our democracy.

For that reason, the “Robocall Privacy Act” would not wholly ban political robocalls. It would, however, impose some carefully drawn restrictions that I think we can all agree are reasonable.

Let me tell you exactly what the bill would do.

It would apply during the 60 days leading up to a general election and the 30 days before a primary election.

It would ban robocalls between the hours of 9 p.m. and 8 a.m.—to try to prevent these calls from disturbing people when they are sleeping or trying to put their children to sleep.

It would stop any campaign or group from making more than two robocalls to the same telephone number in a single day.

It would prohibit groups making robocalls from locking the “caller identification” number that is supposed to show up on many phones; and it would require robocallers to include an announcement at the beginning of each call explaining who is responsible for the call and that it is a prerecorded message. This is to prevent people from using these calls in a way that is misleading.

The enforcement provisions of this bill are simple and intent on stopping the worst of these calls.

The bill creates a civil fine for violators of the law, with additional fines for callers who willfully violate the law.

The bill also allows voters to sue to stop those calls immediately, but to not receive money damages.

A judge can order violators of the law to stop these abusive calls.

Why are these provisions so important? Let me give you a few facts and stories from recent elections:

According to the Pew Foundation, the use of robocalls is on the rise. By April of 2008, 39 percent of voters overall had received pre-recorded political calls, and a full 81 percent of likely caucus-goers in Iowa had been contacted with robocalls.

As the 2008 campaign went forward, voters expressed disagreement both with the number of these calls, and with their content, saying that some calls were deliberately misleading.

In 2007, hundreds of voters in New York were woken up at 2 a.m. because of a software programming error with a robocall. The calls were supposed to occur at 2 p.m.

In 2006, there were complaints about robocalls across the country. In the Nebraska 3rd District Congressional Election, voters complained to candidate Scott Kleeb when they received dozens of calls, containing poor-quality versions of his voice. Kleeb’s supporters claim that his voice was recorded, and used in an abusive robocall against him.

In Illinois, voters received a recorded call about U.S. Representative MELISSA BEAN that did not clearly identify the caller. Voters called Representative BEAN’s office to complain without listening to the entire message, which eventually identified an opposing party committee as the sponsor—but only after the time that most voters had hung up. Representative Bean had to spend campaign funds informing voters she had not made that call.

In a Maryland race, voters in a conservative area received a middle-of-the-night robocall from the nonexistent “Gay and Lesbian Push,” urging them to support one of the candidates. That candidate lost the election, in part because of the false, late-night call.

Quantity is an added problem. Voters frequently receive multiple robocall calls a day from the same group or candidate in the days leading up to an election.

The National Do Not Call Network—a nonprofit focused on this issue—has indicated that 40 percent of its membership says they received between 5 and 9 calls a day during the election season. Some frustrated voters reported receiving as many as 37 calls in a day.

This is just counterproductive. The goal of political speech is to inform and engage voters, not to mislead them or turn them off of the democratic process.

I am a strong supporter of the First Amendment and its protection for political speech, but these robocalls have become a problem. Something must be done.

I believe this bill presents the right solution—it imposes clear time, place, and manner restrictions, but it also allows campaigns and groups to use robocalls to inform voters of issues and their positions.

I think it is time for us to find a reasonable solution to these calls that are intruding on the privacy of the American home and misleading voters.

I want to thank Senators SNOWE and DURBIN for co-sponsoring this legislation, and I urge my colleagues to join me in supporting the Robocall Privacy Act of 2009.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1077

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Robocall Privacy Act of 2009”.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Abusive political robocalls harass voters and discourage them from participating in the political process.

(2) Abusive political robocalls infringe on the privacy rights of individuals by disturbing them in their homes.

#### SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) **POLITICAL ROBOCALL.**—The term “political robocall” means any outbound telephone call—

(A) in which a person is not available to speak with the person answering the call, and the call instead plays a recorded message; and

(B) which promotes, supports, attacks, or opposes a candidate for Federal office.

(2) **IDENTITY.**—The term “identity” means, with respect to any individual making a political robocall or causing a political robocall to be made, the name of the sponsor or originator of the call.

(3) **SPECIFIED PERIOD.**—The term “specified period” means, with respect to any can-

didate for Federal office who is promoted, supported, attacked, or opposed in a political robocall—

(A) the 60-day period ending on the date of any general, special, or run-off election for the office sought by such candidate; and

(B) the 30-day period ending on the date of any primary or preference election, or any convention or caucus of a political party that has authority to nominate a candidate, for the office sought by such candidate.

(4) **OTHER DEFINITIONS.**—The terms “candidate” and “Federal office” have the respective meanings given such terms under section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

#### SEC. 4. REGULATION OF POLITICAL ROBOCALLS.

It shall be unlawful for any person during the specified period to make a political robocall or to cause a political robocall to be made—

(1) to any person during the period beginning at 9 p.m. and ending at 8 a.m. in the place which the call is directed;

(2) to the same telephone number more than twice on the same day;

(3) without disclosing, at the beginning of the call—

(A) that the call is a recorded message; and

(B) the identity of the person making the call or causing the call to be made; or

(4) without transmitting the telephone number and the name of the person making the political robocall or causing the political robocall to be made to the caller identification service of the recipient.

#### SEC. 5. ENFORCEMENT.

(a) **ENFORCEMENT BY FEDERAL ELECTION COMMISSION.**—

(1) **IN GENERAL.**—Any person aggrieved by a violation of section 4 may file a complaint with the Federal Election Commission under rules similar to the rules under section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)).

(2) **CIVIL PENALTY.**—

(A) **IN GENERAL.**—If the Federal Election Commission or any court determines that there has been a violation of section 4, there shall be imposed a civil penalty of not more than \$1,000 per violation.

(B) **WILLFUL VIOLATIONS.**—In the case the Federal Election Commission or any court determines that there has been a knowing or willful violation of section 4, the amount of any civil penalty under subparagraph (A) for such violation may be increased to not more than 300 percent of the amount under subparagraph (A).

(b) **PRIVATE RIGHT OF ACTION.**—Any person may bring in an appropriate district court of the United States an action based on a violation of section 4 to enjoin such violation without regard to whether such person has filed a complaint with the Federal Election Commission.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 1080. A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleague, Senator KYL, in introducing a bill that would clarify the jurisdiction of the Bureau of Reclamation over program activities associated with the C.C. Cragin Project in northern Arizona. A

companion measure was introduced last month by Congresswoman ANN KIRKPATRICK from Arizona.

Pursuant to the Arizona Water Settlements Act of 2004, AWSA, Congress authorized the Secretary of the Interior to accept from the Salt River Project, SRP, title of the C.C. Cragin Dam and Reservoir for the express use of the Salt River Federal Reclamation Project. While it's clear that Congress intended to transfer jurisdiction of the Cragin Project to the Department of Interior, and in particular, the Bureau of Reclamation, the lands underlying the Project are technically located within the Coconino National Forest and the Tonto National Forest. This has resulted in a disagreement between the Bureau of Reclamation and the National Forest Service concerning jurisdiction over the operation and management activities of the Cragin Project.

For more than two years, SRP and Reclamation have attempted to reach an agreement with the Forest Service that recognizes Reclamation's paramount jurisdiction over the Cragin Project. Unfortunately, the Forest Service maintains that this technical ambiguity under the AWSA implies they have a regulatory role in approving Cragin Project operations and maintenance.

Speedy resolution of this jurisdictional issue is urgently needed in order to address repairs and other operational needs of the Cragin Project, including planning for the future water needs of the City of Payson and other northern Arizona communities. This clarification would simply provide Reclamation with the oversight responsibility that Congress originally intended. I urge my colleagues to support this bill.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 152—TO AMEND S. RES. 73 TO INCREASE FUNDING FOR THE SPECIAL RESERVE

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 152

*Resolved,*

#### SECTION 1. SPECIAL RESERVE FUNDING.

(a) **IN GENERAL.**—Section 20(a) of S. Res. 73 (111th Congress) is amended by striking “\$4,375,000” and inserting “\$4,875,000”.

(b) **AGGREGATES.**—The additional funds provided by the amendment made by subsection (a) shall not be considered to be subject to the 89 percent limitation on Special Reserves found on page 2 of Committee Report 111-14, accompanying S. Res. 73.



SENATE RESOLUTION 153—EX-  
PRESSING THE SENSE OF THE  
SENATE ON THE RESTITUTION  
OF OR COMPENSATION FOR  
PROPERTY SEIZED DURING THE  
NAZI AND COMMUNIST ERAS

Mr. NELSON of Florida (for himself and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 153

Whereas many Eastern European countries were dominated for parts of the last century by Nazi or Communist regimes, without the consent of their people;

Whereas victims under the Nazi regime included individuals persecuted or targeted for persecution by the Nazi or Nazi-allied governments based on their religious, ethnic, or cultural identity, as well as their political beliefs, sexual orientation, or disability;

Whereas the Nazi regime and the authoritarian and totalitarian regimes that emerged in Eastern Europe after World War II perpetuated the wrongful and unjust confiscation of property belonging to the victims of Nazi persecution, including real property, personal property, and financial assets;

Whereas communal and religious property was an early target of the Nazi regime and, by expropriating churches, synagogues and other community-controlled property, the Nazis denied religious communities the temporal facilities that held those communities together;

Whereas after World War II, Communist regimes expanded the systematic expropriation of communal and religious property in an effort to eliminate the influence of religion;

Whereas many insurance companies that issued policies in pre-World War II Eastern Europe were nationalized or had their subsidiary assets nationalized by Communist regimes;

Whereas such nationalized companies and those with nationalized subsidiaries have generally not paid the proceeds or compensation due on pre-war policies, because control of those companies or their Eastern European subsidiaries had passed to their respective governments;

Whereas Eastern European countries involved in these nationalizations have not participated in a compensation process for Holocaust-era insurance policies for victims of Nazi persecution;

Whereas the protection of and respect for private property rights is a basic principle for all democratic governments that operate according to the rule of law;

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures, and such laws themselves must be consistent with international human rights standards;

Whereas in July 2001, the Paris Declaration of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly noted that the process of restitution, compensation, and material reparation of victims of Nazi persecution has not been pursued with the same degree of comprehensiveness by all of the OSCE participating states;

Whereas the OSCE participating states have agreed to achieve or maintain full recognition and protection of all types of property, including private property and the

right to prompt, just, and effective compensation for private property that is taken for public use;

Whereas the OSCE Parliamentary Assembly has called on the participating states to ensure that they implement appropriate legislation to secure the restitution of or compensation for property losses of victims of Nazi persecution, including communal organizations and institutions, irrespective of the current citizenship or place of residence of the victims, their heirs, or the relevant successors to communal property;

Whereas Congress passed resolutions in the 104th and 105th Congresses that emphasized the longstanding support of the United States for the restitution of or compensation for property wrongly confiscated during the Nazi and Communist eras;

Whereas certain post-Communist countries in Europe have taken steps toward compensating victims of Nazi persecution whose property was confiscated by the Nazis or their allies and collaborators during World War II or subsequently seized by Communist governments;

Whereas at the 1998 Washington Conference on Holocaust-Era Assets, 44 countries adopted the Principles on Nazi-Confiscated Art to guide the restitution of looted artwork and cultural property;

Whereas the Government of Lithuania has promised to adopt an effective legal framework to provide for the restitution of or compensation for wrongly confiscated communal property, but so far has not done so;

Whereas successive governments in Poland have promised to adopt an effective general property compensation law, but the current government has yet to adopt one;

Whereas the legislation providing for the restitution of or compensation for wrongly confiscated property in Europe has, in various instances, not always been implemented in an effective, transparent, and timely manner;

Whereas such legislation is of the utmost importance in returning or compensating property wrongfully seized by totalitarian or authoritarian governments to its rightful owners;

Whereas compensation and restitution programs can never bring back to Holocaust survivors what was taken from them, or in any way make up for their suffering; and

Whereas there are Holocaust survivors, now in the twilight of their lives, who are impoverished and in urgent need of assistance, lacking the resources to support basic needs, including adequate shelter, food, or medical care: Now, therefore, be it

*Resolved*, That the Senate—

(1) appreciates the efforts of those European countries that have enacted legislation for the restitution of or compensation for private, communal, and religious property wrongly confiscated during the Nazi or Communist eras, and urges each of those countries to ensure that the legislation is effectively and justly implemented;

(2) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of confiscated properties, and urges those countries to ensure that their restitution or compensation programs are implemented in a timely, non-discriminatory manner;

(3) urges the Government of Poland and the governments of other countries in Europe that have not already done so to immediately enact fair, comprehensive, non-discriminatory, and just legislation so that victims of Nazi persecution (or the heirs or successors of such persons) who had their pri-

vate property looted and wrongly confiscated by the Nazis during World War II and subsequently seized by a Communist government are able to obtain either restitution of their property or, where restitution is not possible, fair compensation;

(4) urges the Government of Lithuania and the governments of other countries in Europe that have not already done so to immediately enact fair, comprehensive, non-discriminatory, and just legislation so that communities that had communal and religious property looted and wrongly confiscated by the Nazis during World War II and subsequently seized by a Communist government (or the relevant successors to such property or the relevant foundations) are able to obtain either restitution of their property or, where restitution is not possible, fair compensation;

(5) urges the countries of Europe which have not already done so to ensure that all such restitution and compensation legislation is established in accordance with principles of justice and provides a simple, transparent, and prompt process, so that it results in a tangible benefit to those surviving victims of Nazi persecution who suffered from the unjust confiscation of their property, many of whom are well into their senior years;

(6) calls on the President and the Secretary of State to engage in an open dialogue with leaders of those countries that have not already enacted such legislation to support the adoption of legislation requiring the fair, comprehensive, and nondiscriminatory restitution of or compensation for private, communal, and religious property that was seized and confiscated during the Nazi and Communist eras; and

(7) welcomes the decision by the Government of the Czech Republic to host in June 2009 an international conference for governments and non-governmental organizations to continue the work done at the 1998 Washington Conference on Holocaust-Era Assets, which will—

(A) address the issues of restitution of or compensation for real property, personal property (including art and cultural property), and financial assets wrongfully confiscated by the Nazis or their allies and collaborators and subsequently wrongfully confiscated by Communist regimes;

(B) review issues related to the opening of archives and the work of historical commissions, review progress made, and focus on the next steps required on these issues; and

(C) examine social welfare issues related to the needs of Holocaust survivors, and identify methods and resources to meet to such needs.

Mr. NELSON of Florida. Mr. President, next month, to mark the conclusion of its term in the presidency of the European Union, the Czech Republic will host what will be an historic gathering in Prague: the International Conference on Holocaust Era Assets. The Prague Conference will build on the important work done more than 10 years ago at the Conference on Holocaust Era Assets held here in Washington. The Washington Conference laid the foundation for important agreements entered into by countries and private companies that resulted in



a number of restitution and compensation programs throughout Western Europe that have paid hundreds of millions of dollars to Holocaust victims and their heirs.

The Prague Conference hopefully will serve as a catalyst for the next, and probably final, phase of restitution and compensation programs for Holocaust survivors and their heirs. One of the Prague Conference's main focuses will be how to advance restitution for real and personal property, including art and cultural property. This is especially true in Eastern Europe, where there are numerous countries that have yet to enact meaningful restitution programs, including countries in Eastern Europe.

Two resolutions introduced today will address this topic. I have introduced a resolution, which Senator CARDIN has cosponsored, calling on Eastern European countries to implement restitution or compensation programs for those Holocaust victims and their heirs whose property and financial assets were confiscated by the Nazis, and in many cases seized by the communist governments that later came to power. Senator CARDIN has introduced a second resolution, which I have co-sponsored, supporting the goals of the Prague Conference.

I first introduced my resolution calling for restitution or compensation by Eastern European countries during the 110th Congress, following a hearing I chaired in the Senate Foreign Relations Committee to examine Holocaust-era insurance compensation issues. While this hearing was the first time a Senate committee had met specifically to consider this subject, I have been involved in the issue for more than a decade. As Florida's insurance commissioner in the late 1990s, I helped lead an international effort by regulators and Jewish groups that ultimately forced many European insurers to come to the table and for the first time begin paying restitution to survivors.

Florida is a State with a large population of Holocaust survivors—one of the largest concentrations of Holocaust survivors in the world. Most are in their 80s or 90s—the very youngest are in their 70s. They are valued constituents, and while I recognize that no amount of financial compensation or property restitution can ever make up from the indescribable wrong of the Holocaust, I have been and remain committed to doing what I can to assist survivors to obtain without delay meaningful compensation for assets that they lost during the war.

The primary purpose of that hearing was to examine what remains to be done to compensate Holocaust survivors and their heirs for the insurance policies, now that the decade-long compensation process undertaken by the International Commission on Holo-

caust Era Insurance Claim, ICHEIC, has ceased operations and paid out some \$306 million to 48,000 Holocaust victims and their heirs for Holocaust-era insurance policies that belonged to them and never were paid.

While Western European countries and insurance companies participated in and contributed to ICHEIC, there was undisputed testimony at the hearing that Eastern European countries and companies did not and should be called upon to compensate Holocaust survivors for the unpaid value of their insurance policies.

Millions of Jews lived in Eastern European countries before the war. While many of them lived in rural areas and were too poor to afford insurance, there were certainly Jews who purchased insurance policies from subsidiaries of Western European companies whose assets were taken by the communist governments that came into power, or by Eastern European companies that were nationalized. Unfortunately, the Eastern European countries neither participated in ICHEIC nor contributed to any of the insurance compensation efforts that have taken place. ICHEIC nonetheless paid claims on those Eastern European policies from out of the humanitarian funds that were contributed by the ICHEIC companies, ultimately distributing \$31 million on more than 2,800 such claims.

Unfortunately, Eastern European countries have not taken nearly enough action on restitution for insurance and other private and communal property taken from Jews and other victims of Nazi persecution, and then seized by the communist governments that ruled Eastern Europe after the war. Poland, for example, is the sole member of the Organization for Security and Cooperation in Europe not to have enacted property restitution legislation. And Lithuania has yet to enact promised legislation to compensate communities that had communal and religious property seized. This is unacceptable.

The resolution I am introducing today urges countries in Eastern Europe to enact fair and comprehensive private and communal property restitution legislation addressing the unjust taking of property by Nazi, communist, and socialist regimes, and to do so as quickly as possible. Given that the youngest Holocaust survivors are in their 70s, time is of the essence.

Our resolution calls for the Secretary of State to engage in dialogue to achieve the aims of the resolution as well as for the convening of an international intergovernmental conference to focus on the remaining steps necessary to secure restitution and compensation of Holocaust-era assets.

The resolution received overwhelming support from the survivor community when it was introduced last year. Following the hearing, Holo-

caust survivors were notified of our intent to file this resolution and asked to provide input via e-mail. Over the space of 6 weeks, we received more than 200 messages from Holocaust survivors and their children and relatives now living in nations around the world, supporting restitution. Many e-mails addressed specific claims to property in Eastern European countries including Croatia, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia, and Ukraine.

The following message of support from one Holocaust survivor exemplifies the many heart-rending and compelling e-mails I received, recounting what was lost by survivors who had lived in Eastern Europe and their inability thus far to obtain restitution or compensation:

I support your efforts to secure property restitution in Eastern Europe for Holocaust Survivors.

With my family, I was expelled from our apartment in Lodz, Poland on December 11, 1939. We were allowed to take with us only 3 rucksacks and all our material belongings had to be left behind. These included a newly built apartment block with 10 luxury flats, a textile factory employing over 100 people and magazines full of finished fabrics.

My mother and I survived the Warsaw ghetto, my father was killed by the Germans in December 1944 and we returned to Lodz after liberation by the Russians in early 1945. Our factory and our apartment belonged now to the Polish authorities. We left Poland soon afterwards.

After the collapse of the Iron Curtain and the communist regime, I tried [to] get our possessions back without success, my appeal having been dismissed by the Polish High Court. No compensation was offered.

We hope the resolution we are introducing today will spur our own government and governments in Eastern Europe into action and call attention to this important unfinished business. The Prague Conference offers what may be the last time that a foundation can be laid for significant progress. Justice and memory demand nothing less.

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SENATE RESOLUTION 154—HONORING THE ENTREPRENEURIAL SPIRIT OF SMALL BUSINESS CONCERNS IN THE UNITED STATES DURING NATIONAL SMALL BUSINESS WEEK, BEGINNING MAY 17, 2009

Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. CARDIN, Mr. KERRY, Mrs. SHAHEEN, Mr. WICKER, Ms. CANTWELL, and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 154

Whereas the approximately 27,200,000 small business concerns in the United States are the driving force behind the Nation's economy, creating more than 93 percent of all net new jobs and generating more than 50 percent of the Nation's non-farm gross domestic product;

Whereas small businesses play an integral role in rebuilding the Nation's economy;

Whereas Congress has emphasized the importance of small businesses by improving access to capital through the American Recovery and Reinvestment Act of 2009;

Whereas small business concerns are the Nation's innovators, serving to advance technology and productivity;

Whereas small business concerns represent 97 percent of all exporters and produce 29 percent of exported goods;

Whereas Congress established the Small Business Administration in 1953 to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free and competitive enterprise, to ensure that a fair proportion of the total purchases, contracts, and subcontracts for property and services for the Federal Government are placed with small business concerns, to make certain that a fair proportion of the total sales of Government property are made to such small business concerns, and to maintain and strengthen the overall economy of the Nation;

Whereas the Small Business Administration has helped small business concerns with access to critical lending opportunities, protected small business concerns from excessive Federal regulatory enforcement, played a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small business concerns compete;

Whereas for over 50 years, the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business concern and has played a key role in fostering economic growth; and

Whereas the President has designated the week beginning May 17, 2009, as "National Small Business Week": Now, therefore, be it

*Resolved, That the Senate—*

(1) honors the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009;

(2) applauds the efforts and achievements of the owners of small business concerns and their employees, whose hard work and commitment to excellence have made them a key part of the Nation's economic vitality;

(3) recognizes the work of the Small Business Administration and its resource partners in providing assistance to entrepreneurs and small business concerns; and

(4) strongly urges the President to take steps to ensure that—

(A) the applicable procurement goals for small business concerns, including the goals for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, HUBZone small business concerns, and socially and economically disadvantaged small business concerns, are reached by all Federal agencies;

(B) guaranteed loans, microloans, and venture capital, for start-up and growing small business concerns, are made available to all qualified small business concerns;

(C) the management assistance programs delivered by resource partners on behalf of the Small Business Administration, such as small business development centers, women's business centers, veterans business outreach centers, and the Service Corps of Retired Executives, are provided with the Federal resources necessary to do their jobs;

(D) reforms to the disaster loan program of the Small Business Administration are implemented as quickly as possible;

(E) tax policy spurs small business growth, creates jobs, and increases competitiveness;

(F) the Federal Government reduces the regulatory compliance burden on small businesses; and

(G) broader health reforms efforts address the specific needs of small businesses and the self-employed in providing quality and affordable health insurance coverage to their employees.

# SENATE CONCURRENT RESOLUTION 23—SUPPORTING THE GOALS AND OBJECTIVES OF THE PRAGUE CONFERENCE ON HOLOCAUST ERA ASSETS

Mr. CARDIN (for himself, Mr. LUGAR, and Mr. NELSON of Florida) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 23

Whereas the Government of the Czech Republic will host the Conference on Holocaust Era Assets in Prague from June 26, 2009, through June 30, 2009 (in this preamble referred to as the "Prague Conference");

Whereas the Prague Conference will facilitate a review of the progress made since the 1998 Washington Conference on Holocaust Era Assets, in which 44 countries, 13 non-governmental organizations, and numerous scholars and Holocaust survivors participated;

Whereas a high-level United States delegation participated in the Washington Conference, led by then-Under Secretary of State for Economic, Business and Agricultural Affairs Stuart Eizenstat, Nobel Peace Laureate Elie Wiesel, Federal Judge Abner Mikva, senior diplomats, and a bipartisan group of Members of Congress;

Whereas then-Secretary of State Madeleine Albright delivered the keynote address at the Washington Conference, articulating the commitment of the United States to Holocaust survivors and urging conference participants to "chart a course for finishing the job of returning or providing compensation for stolen Holocaust assets to survivors and the families of Holocaust victims";

Whereas the Prague Conference is expected to review the issues agreed on at the Washington Conference, including issues relating to financial assets, bank accounts, insurance, and other financial properties;

Whereas the Prague Conference is expected to include a special session on social programs for Holocaust survivors and other victims of Nazi atrocities;

Whereas at the Prague Conference, working groups are expected to convene to discuss Holocaust education, remembrance and research, looted art, Judaica and Jewish cultural property, and immovable property, including both private, religious, and communal property;

Whereas the participation and leadership of the United States at the highest level is critically important to ensure a successful outcome of the Prague Conference;

Whereas Congress supports further inclusion of Holocaust survivors and their advocates in the planning and proceedings of the Prague Conference;

Whereas the United States strongly supports the immediate return of, or just compensation for, property that was illegally confiscated by Nazi and Communist regimes;

Whereas many Holocaust survivors lack the means for even the most basic neces-

sities, including proper housing and health care;

Whereas the United States and the international community have a moral obligation to uphold and defend the dignity of Holocaust survivors and to ensure their well-being;

Whereas the Prague Conference is a critical forum for effectively addressing the increasing economic, social, housing, and health care needs of Holocaust survivors in their waning years;

Whereas then-Senator Barack Obama, during his visit in July 2008 to the Yad Vashem Holocaust Memorial in Israel, stated, "Let our children come here and know this history so they can add their voices to proclaim 'never again.' And may we remember those who perished, not only as victims but also as individuals who hoped and loved and dreamed like us and who have become symbols of the human spirit."; and

Whereas the Prague Conference may represent the last opportunity for the international community to address outstanding Holocaust-era issues: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) supports the goals and objectives of the 2009 Prague Conference on Holocaust Era Assets;

(2) applauds the Government of the Czech Republic for hosting the Prague Conference and for its unwavering commitment to addressing outstanding Holocaust-era issues;

(3) applauds the countries participating in the Prague Conference for the decision to seek justice for Holocaust survivors and to promote Holocaust remembrance and education;

(4) expresses strong support for the decision by those countries to make the economic, social, housing, and health care needs of Holocaust survivors a major focus of the Prague Conference, especially in light of the advanced age of the survivors, whose needs must be urgently addressed;

(5) urges countries in Central and Eastern Europe that have not already done so—

(A) to return to the rightful owner any property that was wrongfully confiscated or transferred to a non-Jewish individual; or

(B) if return of such property is no longer possible, to pay equitable compensation to the rightful owner in accordance with principles of justice and through an expeditious claims-driven administrative process that is just, transparent, and fair;

(6) urges all countries to make a priority of returning to Jewish communities any religious or communal property that was stolen as a result of the Holocaust;

(7) calls on all countries to facilitate the use of the Washington Conference Principles on Nazi-Confiscated Art, agreed to December 3, 1998, in settling all claims involving publicly and privately held objects;

(8) calls on the President to send a high-level official, such as the Secretary of State or an appropriate designee, to represent the United States at the Prague Conference; and

(9) urges other invited countries to participate at a similarly high level.

Mr. CARDIN. Mr. President, today I am introducing a resolution to support the goals and objectives of the Prague Conference on Holocaust Era Assets.

The Prague Conference, which will be held June 26 through June 30, will serve as a forum to review the achievements of the 1998 Washington Conference on Holocaust Era Assets. That meeting

brought together 44 nations, 13 non-governmental organizations, scholars, and Holocaust survivors, and helped channel the political will necessary to address looted art, insurance claims, communal property, and archival issues. The conference also examined the role of historical commissions and Holocaust education, remembrance, and research. While the Washington Conference was enormously useful, more can and should be done in all of these areas. Accordingly, the Prague Conference provides an important opportunity to identify specific additional steps that countries can still take.

I would like to highlight just a couple of examples that, in my view, underscore the need to get more done.

First I would like to mention the case of Martha Nierenberg's looted family artwork in Hungary. In a nutshell, Ms. Nierenberg's family had extensive property stolen by the Nazis, including some artwork. When the communists came along, they took additional Nierenberg family property, and the artwork found its way into the museums of the Hungarian communist regime.

Under the terms of a foreign claims settlement agreement between the United States and Hungary, the Nierenberg family received limited compensation for some, but not all, of the stolen property. That agreement provided that the Nierenberg family was free to seek compensation for or restitution of other stolen property.

In 1997, a Hungarian government committee affirmed that two Hungarian government museums possessed artwork belonging to the Nierenberg family. Unfortunately, to this day, it remains in these museums. As I have asked before, why would the Hungarian government insist on retaining custody of artwork stolen by the Nazis when it could return it to its rightful owner? It is entirely within the Hungarian government's capacity to make this gesture, and I still hope that they will do so—especially bearing in mind Hungary's own efforts to recover looted art from other countries.

Second, I deeply regret that the question of private property compensation in Poland is still a necessary topic of discussion. Poland is singular in that it is the only country in central Europe that has not adopted any general private property compensation or restitution law.

I know a draft private property compensation bill is currently being considered by the Polish Government. I also know that, in the 20 years since the fall of communism, Poland has tabled roughly half a dozen bills on this—all of which have failed. It would be great to see meaningful movement on this before the meeting in Prague, but this will not come about without meaningful leadership from both the government and the parliament.

Finally, when I was in the Czech Republic last year, I expressed my disappointment to Czech officials, including to Jan Kohout who was just appointed Foreign Minister on May, that the Czech framework for making a property restitution claim effectively excludes those who fled Czechoslovakia and received both refuge and citizenship in the U.S. The United Nations Human Rights Committee has repeatedly argued that this violates the non-discrimination provision of the International Covenant on Civil and Political Rights. This could be fixed, I believe, by re-opening the deadline for filing claims, as Czech parliamentarians Jiri Karas and Pavel Tollner recommended as long ago as 1999.

The Holocaust left a scar that will not be removed by the Prague conference. But this upcoming gathering provides an opportunity for governments to make tangible and meaningful progress in addressing this painful chapter of history. I commend the Czech Republic for taking on the leadership of organizing this meeting and urge President Obama to send a high-level U.S. official to represent the U.S. at the conference.

I am honored that the senior Senator from Indiana, who is the Ranking Member of the Senate Foreign Relations Committee, is cosponsoring this resolution, as is the senior Senator from Florida.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1130. Mr. DODD proposed an amendment to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

SA 1131. Mr. INOUE (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

SA 1132. Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. DEMINT, Mr. JOHANNIS, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. HUTCHISON, Mr. BENNETT, Mr. HATCH, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1133. Mr. INOUE (for himself, Mr. INHOFE, Mr. SHELBY, Mr. BROWNBACK, Mr. ENZI, and Mr. ROBERTS) proposed an amendment to the bill H.R. 2346, supra.

SA 1134. Mr. SHELBY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1135. Mr. SHELBY (for himself, Mr. ALEXANDER, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1136. Mr. MCCONNELL proposed an amendment to the bill H.R. 2346, supra.

SA 1137. Mr. INOUE proposed an amendment to the bill H.R. 2346, supra.

SA 1138. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1139. Mr. CORNYN proposed an amendment to the bill H.R. 2346, supra.

SA 1140. Mr. BROWNBACK proposed an amendment to the bill H.R. 2346, supra.

SA 1141. Ms. LANDRIEU (for herself, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1142. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1143. Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1144. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 1130. Mr. DODD proposed an amendment to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; as follows:

On page 3, beginning on line 17, strike "(other than)" and all that follows through "indexed)" on line 21 and insert the following: "(except in the case of an increase described in paragraph (1), (2), or (3) of section 171(b))".

On page 6, strike lines 9 through 12 and insert the following:

(2) an increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

On page 6, line 13, insert "the completion of a workout or temporary hardship arrangement by the obligor or" after "due to".

On page 6, line 15, strike "provided that the" and insert the following: "provided that—

"(A) the".

On page 6, line 20, strike "or" and insert the following: "and

(B) the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

On page 7, line 7, insert "on time" after "payments".

On page 7, line 12, insert "on time" after "payments".

On page 10, line 13, strike "or (2)" and insert "(", (2), (3), or (4)".

On page 12, line 15, strike "limit-fee" and insert "limit fee".

On page 14, between lines 12 and 13, insert the following:

(7) RESTRICTION ON FEES CHARGED FOR AN OVER-THE-LIMIT TRANSACTION.—With respect

to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

On page 15, line 10, strike "over the limit" and insert "over-the-limit".

On page 27, strike line 3 and all that follows through page 30, line 12 and insert the following:

(c) **GUIDELINES REQUIRED.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Board shall issue guidelines, by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under section 127(b)(11)(B)(iv) of the Truth in Lending Act, as added by this section.

(2) **APPROVED AGENCIES.**—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number referred to in paragraph (1) include only those nonprofit budget and credit counseling agencies approved by a United States bankruptcy trustee pursuant to section 111(a) of title 11, United States Code.

At the end of title I, add the following:

**SEC. 109. CONSIDERATION OF ABILITY TO REPAY.**

(a) **IN GENERAL.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1666 et seq.), as amended by this title, is amended by adding at the end the following:

**"SEC. 150. CONSIDERATION OF ABILITY TO REPAY.**

"A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account."

(b) **CLERICAL AMENDMENT.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended in the table of sections for the chapter, by adding at the end the following:

"150. Consideration of ability to repay."

At the end of title II, add the following:

**SEC. 205. PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.**

(a) **PREVENTING DECEPTIVE MARKETING.**—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following:

"(g) **PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.**—

"(1) **IN GENERAL.**—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: 'AnnualCreditReport.com' (or such other source as may be authorized under Federal law).

"(2) **TELEVISION AND RADIO ADVERTISEMENT.**—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement

broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: 'This is not the free credit report provided for by federal law.'"

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall issue a final rule to carry out this section.

(2) **CONTENT.**—The rule required by this subsection—

(A) shall include specific wording to be used in advertisements in accordance with this section; and

(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

(3) **INTERIM DISCLOSURES.**—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act, as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: "Free credit reports are available under Federal law at: 'AnnualCreditReport.com'."

At the end of title III, add the following:

**SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.**

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

"(f) **CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.**—

"(1) **DISCLOSURE REQUIRED.**—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

"(2) **INDUCEMENTS PROHIBITED.**—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

"(A) on the campus of an institution of higher education;

"(B) near the campus of an institution of higher education, as determined by rule of the Board; or

"(C) at an event sponsored by or related to an institution of higher education.

"(3) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

"(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

"(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

"(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution."

**SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.**

(a) **IN GENERAL.**—Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

"(r) **COLLEGE CARD AGREEMENTS.**—

"(1) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

"(A) **COLLEGE AFFINITY CARD.**—The term 'college affinity card' means a credit card

issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and—

"(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

"(ii) the creditor has agreed to offer discounted terms to the consumer; or

"(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

"(B) **COLLEGE STUDENT CREDIT CARD ACCOUNT.**—The term 'college student credit card account' means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

"(C) **COLLEGE STUDENT.**—The term 'college student' means an individual who is a full-time or a part-time student attending an institution of higher education.

"(D) **INSTITUTION OF HIGHER EDUCATION.**—The term 'institution of higher education' has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

"(2) **REPORTS BY CREDITORS.**—

"(A) **IN GENERAL.**—Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

"(B) **DETAILS OF REPORT.**—The information required to be reported under subparagraph (A) includes—

"(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

"(ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

"(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

"(C) **AGGREGATION BY INSTITUTION.**—The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

"(D) **INITIAL REPORT.**—The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

"(3) **REPORTS BY BOARD.**—The Board shall submit to the Congress, and make available

to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.”.

(b) STUDY AND REPORT BY THE COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT.—Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

On page 40, line 6, strike “or” at the end.

On page 40, line 8, strike the period and insert the following: “; or

(vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—

(I) at the event or venue after admission; or

(II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

On page 42, line 5, insert “or vendor” after “issuer”.

On page 43, strike lines 9 through 11 and insert the following:

(B) the terms of expiration are clearly and conspicuously stated.

On page 43, line 13, strike “shall prescribe” and insert the following: “shall—

“(A) prescribe”.

On page 43, line 19, strike “of gift” and insert “of a gift”.

On page 43, beginning on line 21, strike “assessed.” and insert the following: “assessed; and

“(B) shall determine the extent to which the individual definitions and provisions of the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.”.

On page 46, strike line 16 and all that follows through page 48, line 6, and insert the following:

#### SEC. 502. BOARD REVIEW OF CONSUMER CREDIT PLANS AND REGULATIONS.

(a) REQUIRED REVIEW.—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including—

(1) the terms of credit card agreements and the practices of credit card issuers;

(2) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and

(4) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected—

(A) cost and availability of credit, particularly with respect to non-prime borrowers;

(B) the safety and soundness of credit card issuers;

(C) the use of risk-based pricing; or

(D) credit card product innovation.

(b) SOLICITATION OF PUBLIC COMMENT.—In connection with conducting the review required by subsection (a), the Board shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

(c) REGULATIONS.—

(1) NOTICE.—Following the review required by subsection (a), the Board shall publish a notice in the Federal Register that—

(A) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the Board, such as through consumer testing or other research; and

(B) either—

(i) proposes new or revised regulations or interpretations to update or revise disclosures and protections for consumer credit cards, as appropriate; or

(ii) states the reason for the determination of the Board that new or revised regulations are not necessary.

(2) REVISION OF REVIEW PERIOD FOLLOWING MATERIAL REVISION OF REGULATIONS.—In the event that the Board materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required by subsection (a).

(d) BOARD REPORT TO THE CONGRESS.—The Board shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

(e) ADDITIONAL REPORTING.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission shall provide annually to the Board, and the Board shall include in its annual report to Congress under section 10 of the Federal Reserve Act, information about the supervisory and enforcement activities of the agencies with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations, including—

(1) this Act, the amendments made by this Act, and regulations prescribed under this Act and such amendments; and

(2) section 5 of the Federal Trade Commission Act, and regulations prescribed under the Federal Trade Commission Act, including part 227 of title 12 of the Code of Federal Regulations, as prescribed by the Board (referred to as “Regulation AA”).

At the end of title V, add the following:

#### SEC. 503. STORED VALUE.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

#### SEC. 504. PROCEDURE FOR TIMELY SETTLEMENT OF ESTATES OF DECEDENT OBLIGORS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act ( U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

##### “§ 140A Procedure for timely settlement of estates of decedent obligors

“The Board, in consultation with the Federal Trade Commission and each other agency referred to in section 108(a), shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 140 the following new item:

“140A. Procedure for timely settlement of estates of decedent obligors.”.

#### SEC. 505. REPORT TO CONGRESS ON REDUCTIONS OF CONSUMER CREDIT CARD LIMITS BASED ON CERTAIN INFORMATION AS TO EXPERIENCE OR TRANSACTIONS OF THE CONSUMER.

(a) REPORT ON CREDITOR PRACTICES REQUIRED.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Board, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission, shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on—

(1) the geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

(2) the credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

(3) the identity of the mortgage creditor which extended or holds the mortgage loan secured by the primary residence of the consumer.

(b) OTHER INFORMATION.—The report required under subsection (a) shall also include—

(1) the number of creditors that have engaged in the practices described in subsection (a);

(2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers;

(3) any other relevant information regarding such practices; and

(4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

#### SEC. 506. BOARD REVIEW OF SMALL BUSINESS CREDIT PLANS AND RECOMMENDATIONS.

(a) REQUIRED REVIEW.—Not later than 9 months after the date of enactment of this

Act, the Board shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as "small businesses") and the credit card market for small businesses, including—

(1) the terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

(2) the adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

(4) the cost and availability of credit for small businesses, particularly with respect to non-prime borrowers;

(5) the use of risk-based pricing for small businesses;

(6) credit card product innovation relating to small businesses; and

(7) the extent to which small business owners use personal credit cards to fund their business operations.

(b) **RECOMMENDATIONS.**—Following the review required by subsection (a), the Board shall, not later than 12 months after the date of enactment of this Act—

(1) provide a report to Congress that summarizes the review and other evidence gathered by the Board, such as through consumer testing or other research, and

(2) make recommendations for administrative or legislative initiatives to provide protections for credit card plans for small businesses, as appropriate.

#### **SEC. 507. SMALL BUSINESS INFORMATION SECURITY TASK FORCE.**

(a) **DEFINITIONS.**—In this section—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term "task force" means the task force established under subsection (b).

(b) **ESTABLISHMENT.**—The Administrator shall, in conjunction with the Secretary of Homeland Security, establish a task force, to be known as the "Small Business Information Security Task Force", to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) **DUTIES.**—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) **INTERNET WEBSITE RECOMMENDATIONS.**—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations, both public and private, to which the Internet website should link.

(e) **EDUCATION PROGRAMS.**—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) **EXISTING MATERIALS.**—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) **COORDINATION WITH PUBLIC AND PRIVATE SECTOR.**—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) **APPOINTMENT OF MEMBERS.**—

(1) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) **MEMBERS.**—

(A) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) **ADDITIONAL MEMBERS.**—

(i) **IN GENERAL.**—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) **NUMBER OF MEMBERS.**—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(I) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) **GROUPS REPRESENTED.**—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies with small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) **POLITICAL AFFILIATION.**—The appointments under this subsection shall be made without regard to political affiliation.

(i) **MEETINGS.**—

(1) **FREQUENCY.**—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) **QUORUM.**—A majority of the members of the task force shall constitute a quorum.

(3) **LOCATION.**—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) **MINUTES.**—

(A) **IN GENERAL.**—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to the Administrator any findings or recommendations approved at the meeting.

(B) **SUBMISSION TO CONGRESS.**—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) **FINDINGS.**—

(A) **IN GENERAL.**—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) **PERSONNEL MATTERS.**—

(1) **COMPENSATION OF MEMBERS.**—Each member of the task force shall serve without pay for their service on the task force.

(2) **TRAVEL EXPENSES.**—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) **DETAIL OF SBA EMPLOYEES.**—The Administrator may detail, without reimbursement,



any of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) **SBA SUPPORT OF THE TASK FORCE.**—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) **NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) **STARTUP DEADLINES.**—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) **EXCEPTION.**—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$300,000 for each of fiscal years 2010 through 2013.

#### **SEC. 508. STUDY AND REPORT ON EMERGENCY PIN TECHNOLOGY.**

(a) **IN GENERAL.**—The Federal Trade Commission, in consultation with the Attorney General of the United States and the United States Secret Service, shall conduct a study on the cost-effectiveness of making available at automated teller machines technology that enables a consumer that is under duress to electronically alert a local law enforcement agency that an incident is taking place at such automated teller machine, including—

(1) an emergency personal identification number that would summon a local law enforcement officer to an automated teller machine when entered into such automated teller machine; and

(2) a mechanism on the exterior of an automated teller machine that, when pressed, would summon a local law enforcement to such automated teller machine.

(b) **CONTENTS OF STUDY.**—The study required under subsection (a) shall include—

(1) an analysis of any technology described in subsection (a) that is currently available or under development;

(2) an estimate of the number and severity of any crimes that could be prevented by the availability of such technology;

(3) the estimated costs of implementing such technology; and

(4) a comparison of the costs and benefits of not fewer than 3 types of such technology.

(c) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the findings of the study required under this section that includes such recommendations for legislative action as the Commission determines appropriate.

#### **SEC. 509. STUDY AND REPORT ON THE MARKETING OF PRODUCTS WITH CREDIT OFFERS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on

the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers, including—

- (1) debt suspension agreements;
- (2) debt cancellation agreements; and
- (3) credit insurance products.

(b) **AREAS OF CONCERN.**—The study conducted under this section shall evaluate—

- (1) the suitability of the offer of products described in subsection (a) for target customers;
- (2) the predatory nature of such offers; and
- (3) specifically for debt cancellation or suspension agreements and credit insurance products, loss rates compared to more traditional insurance products.

(c) **REPORT TO CONGRESS.**—The Comptroller shall submit a report to Congress on the results of the study required by this section not later than December 31, 2010.

#### **SEC. 510. FINANCIAL AND ECONOMIC LITERACY.**

(a) **REPORT ON FEDERAL FINANCIAL AND ECONOMIC LITERACY EDUCATION PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy—

(A) to evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(B) to prepare and submit a report to Congress on the findings of the evaluations.

(2) **CONTENTS.**—The report required by this subsection shall address, at a minimum—

(A) the 2008 recommendations of the President's Advisory Council on Financial Literacy;

(B) existing Federal financial and economic literacy education programs for grades kindergarten through grade 12, and annual funding to support these programs;

(C) existing Federal postsecondary financial and economic literacy education programs and annual funding to support these programs;

(D) the current financial and economic literacy education needs of adults, and in particular, low- and moderate-income adults;

(E) ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and

(F) specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

(b) **STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy to develop a strategic plan to improve and expand financial and economic literacy education.

(2) **CONTENTS.**—The plan developed under this subsection shall—

(A) incorporate findings from the report and evaluations of existing Federal financial and economic literacy education programs under subsection (a); and

(B) include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

(3) **PRESENTATION TO CONGRESS.**—The plan developed under this subsection shall be presented to Congress not later than 6 months after the date on which the report under subsection (a) is submitted to Congress.

(c) **EFFECTIVE DATE.**—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

#### **SEC. 511. FEDERAL TRADE COMMISSION RULE-MAKING ON MORTGAGE LENDING.**

(a) **IN GENERAL.**—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8) is amended—

(1) in subsection (a)—

(A) by striking “Within” and inserting “(1) Within”;

(B) in paragraph (1), as designated by subparagraph (A), by inserting after the first sentence the following: “Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services.”; and

(C) by adding at the end the following:

“(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

“(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

“(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.”; and

(2) in subsection (b)—

(A) by striking so much as precedes paragraph (2) and inserting the following:

“(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(A) to enjoin that practice;

“(B) to enforce compliance with the rule;

“(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

“(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate.”; and

(B) in paragraphs (2), (3), and (6), by striking “Commission” each place it appears and inserting “primary Federal regulator”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on March 12, 2009.

**SA 1131.** Mr. INOUE (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending



September 30, 2009, and for other purposes, namely:

TITLE I  
DEPARTMENT OF AGRICULTURE  
FOREIGN AGRICULTURAL SERVICE  
PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, \$700,000,000, to remain available until expended: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISION—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, any amounts made available prior to the date of enactment of this Act to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202) that are unobligated as of the date of enactment of this Act shall be available to carry out any purpose under that program without fiscal year limitation: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(INCLUDING RESCISSION OF FUNDS)

SEC. 102. (a)(1) For an additional amount for gross obligations for the principal amount of direct farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: direct farm ownership loans, \$360,000,000; and direct operating loans, \$225,000,000.

(2) For an additional amount for the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, \$22,860,000; and direct operating loans, \$26,530,000.

(b) Of available unobligated discretionary balances from the Rural Development mission area carried forward from fiscal year 2008, \$49,390,000 are hereby rescinded: *Provided*, That none of the amounts may be rescinded other than those from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) That the amount under this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE II  
DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION  
ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for “Economic Development Assistance Programs”, \$40,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading shall be for the Trade Adjustment Assistance for Communities program as authorized by section 1872 of Public Law 111-5: *Provided further*, That the amount provided under this heading is designated as an emergency requirement and

necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF JUSTICE  
GENERAL ADMINISTRATION  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$30,000,000, to remain available until September 30, 2010: *Provided*, That funds provided in the previous proviso shall only be for carrying out Department of Justice responsibilities required by Executive Orders 13491, 13492, and 13493: *Provided further*, That the Attorney General shall submit to the Committees on Appropriations of the House and the Senate a detailed plan for expenditure of such funds no later than 30 days after enactment of this Act.

DETENTION TRUSTEE

For an additional amount for “Detention trustee”, \$60,000,000, to remain available until September 30, 2010.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and expenses, general legal activities”, \$1,648,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and expenses, United States attorneys”, \$5,000,000, to remain available until September 30, 2010.

For an additional amount for “Salaries and expenses, United States attorneys”, \$10,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

UNITED STATES MARSHALS SERVICES  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$10,000,000, to remain available until September 30, 2010.

NATIONAL SECURITY DIVISION  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$1,389,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATIONS  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$35,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$20,000,000, to remain available until September 30, 2010.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$14,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$5,038,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 201. Unless otherwise specified, each amount in this title is designated as being for overseas deployment and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 202. None of the funds provided in this title shall be used to transfer, relocate, or incarcerate Guantanamo Bay detainees to or within the United States.

TITLE III  
DEPARTMENT OF DEFENSE  
MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$11,455,777,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$1,565,227,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$1,464,353,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$1,469,173,000.

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$387,155,000.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$39,478,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine Corps”, \$29,179,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$14,943,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$1,542,333,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$46,860,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$13,933,801,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$2,337,360,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$1,037,842,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$5,992,125,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$5,065,783,000, of which:

(1) not to exceed \$12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed \$1,050,000,000, to remain available until expended, for payments to reimburse key cooperating nations, for logistical, military, and other support including access provided to United States

military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: *Provided*, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

(3) up to \$50,000,000 shall be available, 30 days after the Secretary of Defense submits an expenditure plan to the congressional defense committees detailing the specific planned use of these funds, only to support the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base to locations outside of the United States, relocate military and support forces associated with detainee operations, and facilitate the closure of detainee facilities: *Provided*, That the Secretary of Defense shall certify in writing to the congressional defense committees, prior to transferring prisoners to foreign nations, that he has been assured by the receiving nation that the individual or individuals to be transferred will be retained in that nation's custody as long as they remain a threat to the national security interest of the United States: *Provided further*, That the funds in this paragraph available to provide assistance to foreign nations to facilitate the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base are in addition to any other authority to provide assistance to foreign nations: *Provided further*, That these funds are available for transfer to any other appropriations accounts of the Department of Defense or, with the concurrence of the head of the relevant Federal department or agency, to any other Federal appropriations accounts to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

#### OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", \$110,017,000.

#### OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", \$25,569,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", \$30,775,000.

#### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", \$34,599,000.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", \$203,399,000.

#### AFGHANISTAN SECURITY FORCES FUND

For the "Afghanistan Security Forces Fund", \$3,606,939,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

#### IRAQ SECURITY FORCES FUND

For an additional amount for the "Iraq Security Forces Fund", \$1,000,000,000, to remain available until September 30, 2011: *Provided*, That, not later than July 31, 2010, any remaining unobligated funds in this account shall be transferred to the Department of State to be available for the same purposes as provided herein.

#### PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

##### (INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States the "Pakistan Counterinsurgency Capability Fund". For the "Pakistan Counterinsurgency Capability Fund", \$400,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Central Command, or the Secretary's designee, to provide assistance to Pakistan's security forces; including program management and the provision of equipment, supplies, services, training, and funds; and facility and infrastructure repair, renovation, and construction to build the counterinsurgency capability of Pakistan's military and Frontier Corps, and of which up to \$2,000,000 shall be available to assist the Government of Pakistan in creating a program to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist Pakistani people affected by military operations: *Provided further*, That the authority to provide assistance under this provision is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may

transfer such amounts as he may determine from the funds provided herein to appropriations for operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds: *Provided further*, That funds so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

#### PROCUREMENT

##### AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", \$315,684,000, to remain available until September 30, 2011.

##### MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", \$737,041,000, to remain available until September 30, 2011.

##### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", \$1,434,071,000, to remain available until September 30, 2011.

##### PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", \$230,075,000, to remain available until September 30, 2011.

##### OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", \$7,029,145,000, to remain available until September 30, 2011.

##### AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", \$754,299,000, to remain available until September 30, 2011.

##### WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", \$31,403,000, to remain available until September 30, 2011.

##### PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", \$348,919,000, to remain available until September 30, 2011.

##### OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", \$207,181,000, to remain available until September 30, 2011.

##### PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", \$1,658,347,000, to remain available until September 30, 2011.

##### AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", \$2,064,118,000, to remain available for obligation until September 30, 2011.

##### MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", \$49,716,000, to remain available until September 30, 2011.

##### PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", \$138,284,000, to remain available until September 30, 2011.

##### OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", \$1,910,343,000, to remain available until September 30, 2011.

## PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", \$237,868,000, to remain available until September 30, 2011.

## NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", \$500,000,000, to remain available until September 30, 2011.

## MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

## (INCLUDING TRANSFER OF FUNDS)

For the "Mine Resistant Ambush Protected Vehicle Fund", \$4,243,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: *Provided further*, That the Secretary shall transfer such funds only to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", \$71,935,000, to remain available until September 30, 2010.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount of "Research, Development, Test and Evaluation, Navy", \$141,681,000, to remain available until September 30, 2010.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount of "Research, Development, Test and Evaluation, Air Force", \$174,159,000, to remain available until September 30, 2010.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount of "Research, Development, Test and Evaluation, Defense-Wide", \$498,168,000, to remain available until September 30, 2010.

REVOLVING AND MANAGEMENT FUNDS  
DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", \$861,726,000, to remain available until expended.

## DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", \$909,297,000, of which \$845,508,000 for operation and maintenance; of which \$30,185,000, to remain available until September 30, 2011, for procurement; and of which \$33,604,000, to remain available until September 30, 2010, for research, development, test and evaluation.

## DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", \$123,398,000, to remain available until

September 30, 2010: *Provided*, That these funds may be used only for such activities related to Afghanistan, Pakistan, and Central Asia.

## JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for "Joint Improvised Explosive Device Defeat Fund", \$1,116,746,000, to remain available until September 30, 2011.

## OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", \$9,551,000.

## GENERAL PROVISIONS—THIS TITLE

SEC. 301. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2009.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 302. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2009, (Public Law 110-116) except for the fourth proviso.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 304. During fiscal year 2009 and from funds in the "Defense Cooperation Account", as established by 10 U.S.C. 2608, the Secretary of Defense may transfer not to exceed \$6,500,000 to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided*, That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 305. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or "Afghanistan Security Forces Fund" provided in this title, and executed in direct support of the overseas contingency operations in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 306. Funds made available in this title to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than \$250,000: *Provided*, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than

\$500,000: *Provided further*, That the Secretary shall report to the Congress all purchases made pursuant to this authority within 30 days of using the authority.

SEC. 307. From funds made available in this title, the Secretary of Defense may purchase motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan, up to a limit of \$75,000 per vehicle, notwithstanding other limitations applicable to passenger carrying motor vehicles.

SEC. 308. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: *Provided*, That none of the amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

"Procurement, Marine Corps, 2007/2009", \$54,400,000;

"Other Procurement, Army, 2008/2010", \$29,300,000;

"Procurement, Marine Corps, 2008/2010", \$10,300,000;

"Research, Development, Test and Evaluation, Navy, 2008/2009", \$5,000,000;

"Research, Development, Test and Evaluation, Air Force, 2008/2009", \$36,107,000;

"Research, Development, Test and Evaluation, Defense-Wide, 2008/2009", \$200,000,000;

"Operation and Maintenance, Army, 2009/2009", \$352,359,000;

"Operation and Maintenance, Navy, 2009/2009", \$881,481,000;

"Operation and Maintenance, Marine Corps, 2009/2009", \$54,466,000;

"Operation and Maintenance, Air Force, 2009/2009", \$925,203,000;

"Operation and Maintenance, Defense-Wide, 2009/2009", \$267,635,000;

"Operation and Maintenance, Army Reserve, 2009/2009", \$23,338,000;

"Operation and Maintenance, Navy Reserve, 2009/2009", \$62,910,000;

"Operation and Maintenance, Marine Corps Reserve, 2009/2009", \$1,250,000;

"Operation and Maintenance, Air Force Reserve, 2009/2009", \$163,786,000;

"Operation and Maintenance, Army National Guard, 2009/2009", \$57,819,000;

"Operation and Maintenance, Air National Guard, 2009/2009", \$250,645,000;

"Aircraft Procurement, Army, 2009/2011", \$11,500,000;

"Procurement of Ammunition, Army, 2009/2011", \$107,100,000;

"Other Procurement, Army, 2009/2011", \$195,000,000;

"Procurement, Marine Corps, 2009/2011", \$10,300,000;

"Procurement, Defense-Wide, 2009/2011", \$6,400,000;

"Research, Development, Test and Evaluation, Army, 2009/2010", \$202,710,000;

"Research, Development, Test and Evaluation, Navy, 2009/2010", \$270,260,000; and

"Research, Development, Test and Evaluation, Air Force, 2009/2010", \$392,567,000.

SEC. 309. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109-364).

SEC. 310. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2008 or 2009 appropriations to the Department of Defense or to initiate a procurement

or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 311. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for the purpose of establishing any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 312. (a) REPEAL OF SECRETARY OF DEFENSE REPORTS ON TRANSITION READINESS OF IRAQ AND AFGHAN SECURITY FORCES.—Subsection (a) of section 9205 of Public Law 110-252 (122 Stat. 2412) is repealed.

(b) MODIFICATION OF REPORTS ON USE OF CERTAIN SECURITY FORCES FUNDS.—

(1) PREPARATION IN CONSULTATION WITH COMMANDER OF CENTCOM.—Subsection (b)(1) of such section is amended by inserting “the Commander of the United States Central Command;” after “the Secretary of Defense;”.

(2) PERIOD OF REPORTS.—Such subsection is further amended by striking “not later than 120 days after the date of the enactment of this Act and every 90 days thereafter” and inserting “not later than 45 days after the end of each fiscal year quarter”.

(3) FUNDS COVERED BY REPORTS.—Such subsection is further amended by striking “and ‘Afghanistan Security Forces Fund’” and inserting “, ‘Afghanistan Security Forces Fund’, and ‘Pakistan Counterinsurgency Capability Fund’”.

(c) NOTICE NEW PROJECTS AND TRANSFERS OF FUNDS.—Subsection (c) of such section is amended by striking “the headings” and all that follows and inserting “the headings as follows:

“(1) ‘Iraq Security Forces Fund’.

“(2) ‘Afghanistan Security Forces Fund’.

“(3) ‘Pakistan Counterinsurgency Capability Fund’.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. (a) Section 1174(h)(1) of title 10, United States Code, is amended to read as follows:

“(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member’s dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.”.

(b) Section 1175(e)(3)(A) of title 10, United States Code, is amended to read as follows:

“(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member’s dependents, until the total amount deducted is equal to the total amount of separation pay, sever-

ance pay, and readjustment pay so paid. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment, including any ongoing repayment actions that were initiated prior to this amendment.

SEC. 314. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### TITLE IV

#### DEPARTMENT OF DEFENSE—CIVIL

#### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

#### OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” to dredge navigation channels and repair damage to Corps projects nationwide related to natural disasters, \$38,375,000, to remain available until expended: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of natural disasters as authorized by law, \$804,290,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use \$315,290,000 of the funds appropriated under this heading to support emergency operations, repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided further*, That the Secretary of the Army is directed to use \$489,000,000 of the amount provided under this heading for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### DEPARTMENT OF ENERGY

#### ENERGY PROGRAMS

#### STRATEGIC PETROLEUM RESERVE

#### (TRANSFER OF FUNDS)

For an additional amount for the “Strategic Petroleum Reserve” account, \$21,585,723, to remain available until expended, to be derived by transfer from the “SPR Petroleum Account” for site maintenance activities: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### NATIONAL NUCLEAR SECURITY

#### ADMINISTRATION

#### WEAPONS ACTIVITIES

#### (TRANSFER OF FUNDS)

For an additional amount for “Weapons Activities”, \$34,500,000, to remain available until expended, to be divided among the three national security laboratories of Livermore, Sandia and Los Alamos to fund a sustainable capability to analyze nuclear and biological weapons intelligence: *Provided*, That the Director of National Intelligence shall provide a written report to the Senate Appropriations Committee, the Senate Armed Services Committee and the Senate Select Committee on Intelligence within 90 days of enactment on how the National Nuclear Security Administration will invest these resources in technical and core analytical capabilities: *Provided further*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for “Defense Nuclear Nonproliferation” in the National Nuclear Security Administration, \$55,000,000, to remain available until expended, for the International Nuclear Materials Protection and Cooperation Program to counter emerging threats at nuclear facilities in Russia and other countries of concern through detecting and deterring insider threats through security upgrades: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

#### LIMITED TRANSFER AUTHORITY

SEC. 401. Section 403 of title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended by striking all of the text and inserting the following:

#### “SEC. 403. LIMITED TRANSFER AUTHORITY.

“The Secretary of Energy may transfer up to 0.5 percent from each amount appropriated to the Department of Energy in this title to any other appropriate account within the Department of Energy, to be used for management and oversight activities: *Provided*, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate 15 days prior to any transfer: *Provided further*, That any funds so transferred under this section shall remain available for obligation until September 30, 2012.”.

WAIVER OF FEDERAL EMPLOYMENT  
REQUIREMENTS

SEC. 402. Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking “September 30, 2008” and inserting “September 30, 2009”.

CORPS OF ENGINEERS TECHNICAL FIX

SEC. 403. (a) IN GENERAL.—Section 3181 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1158) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (4) through (11) as paragraphs (5), (6), (8), (9), (10), (11), (12), and (13), respectively;

(B) by inserting after paragraph (3) the following:

“(4) NORTHEAST HARBOR, MAINE.—The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12).”; and

(C) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:

“(7) TENANTS HARBOR, MAINE.—The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275).”; and

(2) in subsection (h)—

(A) by striking paragraphs (15) and (16); and

(B) by redesignating paragraphs (17) through (29) as paragraphs (15) through (27), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1041)

CORPS OF ENGINEERS REPROGRAMMING  
AUTHORITY

SEC. 404. Unlimited reprogramming authority is granted to the Secretary of the Army for funds provided in title IV—Energy and Water Development of Public Law 111-5 under the heading “Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil”.

BUREAU OF RECLAMATION REPROGRAMMING  
AUTHORITY

SEC. 405. Unlimited reprogramming authority is granted to the Secretary of the Interior for funds provided in title IV—Energy and Water Development of Public Law 111-5 under the heading “Bureau of Reclamation, Water and Related Resources”.

COST ANALYSIS OF TRITIUM PROGRAM CHANGES

SEC. 406. No funds in this Act, or other previous Acts, shall be provided to fund activities related to the mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities during the current fiscal year and until the Department can provide the Senate Appropriations Committee an independent technical mission review and cost analysis by the JASON's as proposed in the Complex Transformation Site-Wide Programmatic Environmental Impact Statement.

CORPS OF ENGINEERS PROJECT COST CEILING  
INCREASE

SEC. 407. The project for ecosystem restoration, Upper Newport Bay, California, authorized by section 101(b)(9) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of \$50,659,000, with an estimated Federal cost of \$32,928,000 and a non-Federal cost of \$17,731,000.

SEC. 408. None of the funds provided in the matter under the heading entitled “Depart-

ment of Defense—Civil” in this Act, or provided by previous appropriations Acts under the heading entitled “Department of Defense—Civil” may be used to deconstruct any work (including any partially completed work) completed under the Mississippi River and Tributaries Project authorized by the Act of May 15, 1928 (45 2 Stat. 534; 100 Stat. 4183), during fiscal year 2009, 2010, and 2011.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN  
GUARANTEE PROGRAM

SEC. 409. The matter under the heading “Title 17 Innovative Technology Loan Guarantee Program” of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 619) is amended in the ninth proviso—

(1) by striking “or (d)” and inserting “(d)”; and

(2) by striking “the guarantee” and inserting “the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009”.

TITLE V  
DEPARTMENT OF THE TREASURY  
DEPARTMENTAL OFFICES  
SALARIES AND EXPENSES  
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Departmental Offices, Salaries and Expenses”, \$4,000,000, to remain available until December 31, 2010: *Provided*, That, not later than 10 days following enactment of this Act, the Secretary of the Treasury shall transfer funds provided under this heading to an account to be designated for the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

EXECUTIVE OFFICE OF THE PRESIDENT  
AND FUNDS APPROPRIATED TO THE  
PRESIDENT

NATIONAL SECURITY COUNCIL  
SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$2,936,000, of which \$800,000 shall remain available until expended and \$2,136,000 shall remain available until September 30, 2010: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

PANDEMIC PREPAREDNESS AND RESPONSE  
(INCLUDING TRANSFERS OF FUNDS)

For an amount to be deposited into an account for “Pandemic Preparedness and Response” to be established within the Executive Office of the President for expenses to prepare for and respond to a potential pandemic disease outbreak and to assist inter-

national efforts to control the spread of such an outbreak, including for the 2009-H1N1 influenza outbreak, \$1,500,000,000, to remain available until September 30, 2010, and to be transferred by the Director of the Office of Management and Budget as follows: \$900,000,000 shall be transferred to and merged with funds made available under the heading “Department of Health and Human Services, Public Health and Social Services Emergency Fund” for allocation by the Secretary; \$190,000,000 shall be transferred to and merged with funds made available for the United States Department of Homeland Security under the heading “Departmental Management and Operations, Office of the Secretary and Executive Management” for allocation by the Secretary; \$100,000,000 shall be transferred to and merged with funds made available for the United States Department of Agriculture under the heading “Agricultural Programs, Production, Processing and Marketing, Office of the Secretary” for allocation by the Secretary; \$50,000,000 shall be transferred to and merged with funds made available under the heading “Department of Health and Human Services, Food and Drug Administration, Salaries and Expenses”; \$110,000,000 shall be transferred to and merged with funds made available under the heading “Department of Veterans Affairs, Veterans Health Administration, Medical Services”; and \$150,000,000 shall be transferred to and merged with funds made available under the heading “Bilateral Economic Assistance, Funds Appropriated to the President, Global Health and Child Survival”, to support programs of the United States Agency for International Development: *Provided*, That such transfers shall be made not more than 10 days after the date of enactment of this Act: *Provided further*, That none of the funds provided under this heading shall be available for obligation until 15 days following the submittal of a detailed spending plan by each Department receiving funds to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available in this or any other Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND  
OTHER JUDICIAL SERVICES  
SALARIES AND EXPENSES  
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Salaries and Expenses”, \$10,000,000, to remain available until September 30, 2010: *Provided*, That notwithstanding section 302 of division D of Public Law 111-8, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives on the Southwest border: *Provided further*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

INDEPENDENT AGENCIES

SECURITIES AND EXCHANGE COMMISSION  
SALARIES AND EXPENSES

For an additional amount for necessary expenses for the Securities and Exchange Commission, \$10,000,000, to remain available until

September 30, 2010, for investigation of securities fraud: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 501. (a) IN GENERAL.—Section 3(c)(2)(A) of Public Law 110–428 is amended—

(1) in the matter before clause (i), by striking “4-year” and inserting “5-year”; and

(2) in clause (i), by striking “1-year” and inserting “2-year”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 110–428.

SEC. 502. The fourth proviso under the heading “District of Columbia Funds” of title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 655) is amended by striking “and such title” and inserting “, as amended by laws enacted pursuant to section 442(c) of the Home Rule Act of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 798), and such title, as amended.”.

SEC. 503. Title V of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended under the heading “Federal Communications Commission” by striking the first proviso and inserting the following: “*Provided*, That of the funds provided, not less than \$3,000,000 shall be available for developing a national broadband plan pursuant to title VI of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and for carrying out any other responsibility pursuant to that title.”.

#### TITLE VI

##### DEPARTMENT OF HOMELAND SECURITY

###### U.S. CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$46,200,000, to remain available until September 30, 2010, of which \$6,200,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which \$40,000,000 shall be for response to border security issues on the Southwest border of the United States.

###### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for “Salaries and Expenses”, \$5,000,000, to remain available until September 30, 2010, for response to border security issues on the Southwest border of the United States.

###### U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

###### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$66,800,000, to remain available until September 30, 2010, of which \$11,800,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which \$55,000,000 shall be for response to border security issues on the Southwest border of the United States.

###### COAST GUARD

###### OPERATING EXPENSES

For an additional amount for “Operating Expenses”, \$139,503,000; of which \$129,503,000 shall be for Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom; and of which \$10,000,000 shall be available until September 30, 2010, for High Endurance Cutter maintenance, major repairs, and improvements.

##### FEDERAL EMERGENCY MANAGEMENT AGENCY STATE AND LOCAL PROGRAMS

For an additional amount for “State and Local Programs”, \$30,000,000 shall be for Operation Stonegarden.

#### GENERAL PROVISIONS—THIS TITLE (INCLUDING RESCISSION)

SEC. 601. (a) RESCISSION.—Of amounts previously made available from “Federal Emergency Management Agency, Disaster Relief” to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, an additional \$100,000,000 are rescinded.

(b) APPROPRIATION.—For “Federal Emergency Management Agency, State and Local Programs”, there is appropriated an additional \$100,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 602. The Department of Homeland Security Appropriations Act, 2009 (Public Law 110–329) is amended under the heading “Federal Emergency Management Agency, Management and Administration” after “the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)” by adding “Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583).”.

SEC. 603. Notwithstanding any provision under (a)(1)(A) of 15 U.S.C. 2229a specifying that grants must be used to increase the number of fire fighters in fire departments, the Secretary of Homeland Security may, in making grants described under 15 U.S.C. 2229a for fiscal year 2009 or 2010, grant waivers from the requirements of subsection (a)(1)(B), subsection (c)(1), subsection (c)(2), and subsection (c)(4)(A), and may award grants for the hiring, rehiring, or retention of firefighters.

SEC. 604. The Administrator of the Federal Emergency Management Agency shall extend through March 2010 reimbursement of case management activities conducted by the State of Mississippi under the Disaster Housing Assistance Program to individuals in the program on April 30, 2009.

SEC. 605. Section 552 of division E of the Consolidated Appropriations Act, 2008 (Public Law 110–161) is amended by striking “local educational agencies” and inserting “primary or secondary school sites” and by inserting “and section 406(c)(2)” after “section 406(c)(1)”.

SEC. 606. (a) IN GENERAL.—Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under section 601 of this title.

#### TITLE VII

##### DEPARTMENT OF THE INTERIOR

###### DEPARTMENT-WIDE PROGRAMS

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the

Department of the Interior, \$50,000,000, to remain available until expended: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: *Provided further*, That the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

##### DEPARTMENT OF AGRICULTURE

###### FOREST SERVICE

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Forest Service, \$200,000,000, to remain available until expended: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: *Provided further*, That the Secretary of Agriculture may transfer not more than \$50,000,000 of these funds to the Secretary of the Interior if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 701. Public Law 111–8, division E, title III, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, Toxic Substances and Environmental Public Health is amended by inserting “per eligible employee” after “\$1,000”.

SEC. 702. (a) Section 1606 of division A, title XVI of Public Law 111–5 shall not be applied to projects carried out by youth conservation organizations under agreement with the Department of the Interior or the Forest Service for which funds were provided in title VII.

(b) For purposes of this provision, the term “youth conservation organizations” means not-for-profit organizations that provide conservation service learning opportunities for youth 16 to 25 years of age.

#### TITLE VIII

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

###### ADMINISTRATION FOR CHILDREN AND FAMILIES REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for “Refugee and Entrant Assistance” for necessary expenses for unaccompanied alien children as authorized by section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, \$82,000,000, to remain available through September 30, 2011:



*Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE (TRANSFER OF FUNDS)

SEC. 801. Section 801(a) of division A of Public Law 111-5 is amended by inserting “, and may be transferred by the Department of Labor to any other account within the Department for such purposes” before the end period.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 802. (a) Notwithstanding any other provision of law, during the period from September 1 through September 30, 2009, the Secretary of Education shall transfer to the Career, Technical, and Adult Education account an amount not to exceed \$17,678,270 from amounts that would otherwise lapse at the end of fiscal year 2009 and that were originally made available under the Department of Education Appropriations Act, 2009 or any Department of Education Appropriations Act for a previous fiscal year.

(b) Funds transferred under this section to the Career, Technical, and Adult Education account shall be obligated by September 30, 2009.

(c) Any amounts transferred pursuant to this section shall be for carrying out Adult Education State Grants, and shall be allocated, notwithstanding any other provision of law, only to those States that received funds under that program for fiscal year 2009 that were at least 9.9 percent less than those States received under that program for fiscal year 2008.

(d) The Secretary shall use these additional funds to increase those States’ allocations under that program up to the amount they received under that program for fiscal year 2008.

(e) The Secretary shall notify the Committees on Appropriations of both Houses of Congress of any transfer pursuant to this section.

#### TITLE IX LEGISLATIVE BRANCH CAPITOL POLICE GENERAL EXPENSES

For an additional amount for “Capitol Police, General Expenses”, \$71,606,000, to purchase and install a new radio system for the U.S. Capitol Police, to remain available until September 30, 2012: *Provided*, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

#### CONGRESSIONAL BUDGET OFFICE SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$2,000,000, to remain available until September 30, 2010.

#### GENERAL PROVISION—THIS TITLE

SEC. 901. The amount available to the Committee on the Judiciary for expenses, including salaries, under section 13(b) of Senate Resolution 73, agreed to March 10, 2009, is increased by \$500,000.

#### TITLE X MILITARY CONSTRUCTION MILITARY CONSTRUCTION, ARMY (INCLUDING RESCISSION)

For an additional amount for “Military Construction, Army”, \$1,229,731,000, to re-

main available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

For an additional amount for “Military Construction, Army”, \$49,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the preceding amount in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: *Provided further*, That of the funds appropriated for “Military Construction, Army” under Public Law 110-252, \$49,000,000 are hereby rescinded.

#### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$243,083,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

#### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$265,470,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

#### MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for “Military Construction, Defense-Wide”, \$181,500,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That \$1,781,500,000 is hereby authorized for fiscal years 2009 through 2013 for the purposes of this appropriation.

#### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for “North Atlantic Treaty Organization Security Investment Program”, \$100,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such

funds are authorized for the North Atlantic Treaty Security Investment Program for purposes of section 2806 of title 10, United States Code, and section 2502 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417).

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$230,900,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out operation and maintenance, planning and design and military construction projects not otherwise authorized by law.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 1001. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center, and the Joint Pathology Center is demonstrably performing the minimum requirements set forth in section 722 of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 1002. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under the heading “Military Construction, Defense-Wide”.

#### TITLE XI DEPARTMENT OF STATE ADMINISTRATION OF FOREIGN AFFAIRS DIPLOMATIC AND CONSULAR PROGRAMS (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Diplomatic and Consular Programs”, \$645,444,000, to remain available until September 30, 2010, of which \$117,983,000 is for World Wide Security Protection and shall remain available until expended: *Provided*, That the Secretary of State may transfer up to \$135,629,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provisions of the Foreign Assistance Act of 1961: *Provided further*, That of the funds appropriated under this heading, not more than \$10,000,000 for public diplomacy activities may be transferred to, and merged with, funds made available under the heading “International Broadcasting Operations” for broadcasting activities to the Pakistan-Afghanistan border region: *Provided further*, That of the funds appropriated under this heading, \$57,000,000 shall be made available for aircraft acquisition, maintenance, operations and leases in Afghanistan for the Department of State and the United States Agency for International Development (USAID), and the uses and oversight of such aircraft shall be the responsibility of the United States Chief of Mission in Afghanistan: *Provided further*, That of the funds made available pursuant to the previous proviso, \$40,000,000 shall be transferred to, and



merged with, funds made available under the heading "United States Agency for International Development, Funds Appropriated to the President, Operating Expenses" for the purpose of USAID's air services: *Provided further*, That such aircraft utilized by USAID may be used to transport Federal and non-Federal personnel supporting USAID programs and activities: *Provided further*, That official travel of other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.

OFFICE OF INSPECTOR GENERAL  
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", \$22,200,000, to remain available until September 30, 2010, of which \$7,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and \$7,200,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight: *Provided*, That the Special Inspector General for Afghanistan Reconstruction may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section) for funds made available for fiscal years 2009 and 2010.

EMBASSY SECURITY, CONSTRUCTION, AND  
MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", \$820,500,000, to remain available until expended, for worldwide security upgrades, acquisition, and construction as authorized, and shall be made available for secure diplomatic facilities and housing for United States mission staff in Afghanistan and Pakistan, and for mobile mail screening units.

INTERNATIONAL ORGANIZATIONS  
CONTRIBUTIONS FOR INTERNATIONAL  
PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", \$721,000,000, to remain available until September 30, 2010.

UNITED STATES AGENCY FOR  
INTERNATIONAL DEVELOPMENT  
FUNDS APPROPRIATED TO THE PRESIDENT  
OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$112,600,000, to remain available until September 30, 2010.

CAPITAL INVESTMENT FUND

For an additional amount for "Capital Investment Fund", \$48,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$3,500,000, to remain available until September 30, 2010, for oversight of programs in Afghanistan and Pakistan.

BILATERAL ECONOMIC ASSISTANCE  
FUNDS APPROPRIATED TO THE PRESIDENT  
GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for "Global Health and Child Survival", \$50,000,000, to remain available until September 30, 2010, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108-25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

DEVELOPMENT ASSISTANCE

For an additional amount for "Development Assistance", \$38,000,000, to remain

available until September 30, 2010, for assistance for Kenya.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", \$245,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", \$2,828,000,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, not less than \$866,000,000 may be made available for assistance for Afghanistan, of which not less than \$100,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and for women-led nongovernmental organizations: *Provided further*, That of the funds appropriated under this heading, not less than \$115,000,000 shall be made available for the Afghan Reconstruction Trust Fund, of which not less than \$70,000,000 shall be made available for the National Solidarity Program: *Provided further*, That of the funds appropriated under this heading, not less than \$11,000,000 shall be made available for the Afghan Civilian Assistance Program: *Provided further*, That of the funds appropriated under this heading, not less than \$439,000,000 shall be made available for assistance for Pakistan, of which not more than \$215,000,000 shall be made available for economic growth programs, including basic education to counter the influence of madrassas; not less than \$50,000,000 shall be made available for assistance for internally displaced persons; and not less than \$10,000,000 shall be made available for democracy programs, including to strengthen democratic political parties: *Provided further*, That of the funds appropriated under this heading that are available for assistance for Afghanistan and Pakistan, not less than \$20,000,000 shall be made available for a cross border development program to be administered by the Special Representative for Afghanistan and Pakistan at the Department of State: *Provided further*, That of the funds appropriated under this heading, not less than \$439,000,000 shall be made available for assistance for Iraq, of which not less than \$50,000,000 shall be for the Community Action Program and not less than \$10,000,000 shall be for the Marla Ruzicka Iraqi War Victims Fund: *Provided further*, That of the funds appropriated under this heading, not less than \$150,000,000 shall be made available for assistance for Jordan to mitigate the impact of the global economic crisis, including for health, education, water and sanitation, and other assistance for Iraqi and other refugees in Jordan: *Provided further*, That of the funds appropriated under this heading, not less than \$15,000,000 shall be made available for assistance for Yemen; not less than \$10,000,000 shall be made available for assistance for Somalia; and not less than \$10,000,000 shall be made available for programs and activities to assist victims of gender-based violence in the Democratic Republic of the Congo: *Provided further*, That funds made available pursuant to the previous proviso shall be administered by the United States Agency for International Development: *Provided further*, That none of the funds appropriated in this title for democracy and civil society programs may be made available for the construction of facilities in the United States.

ASSISTANCE FOR EUROPE, EURASIA, AND  
CENTRAL ASIA

For an additional amount for "Assistance for Europe, Eurasia and Central Asia", \$230,000,000, to remain available until September 30, 2010, of which \$200,000,000 may be made available for assistance for Georgia and other Eurasian countries: *Provided*, That of the funds appropriated under this heading, \$30,000,000 may be made available for assistance for the Kyrgyz Republic to provide a long-range air traffic control and safety system to support air operations in the Kyrgyz Republic, including at Manas International Airport, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW  
ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", \$393,500,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, not more than \$109,000,000 may be made available for assistance for the West Bank and not more than \$66,000,000 may be made available for assistance for Mexico.

NONPROLIFERATION, ANTI-TERRORISM,  
DEMING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", \$102,000,000, to remain available until September 30, 2010: *Provided*, That of this amount, not more than \$77,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, of which not more than \$50,000,000 may be made available to enhance security along the Gaza border: *Provided further*, That the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings and shall submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and every 45 days thereafter until September 30, 2010, detailing progress in this effort.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", \$345,000,000, to remain available until expended.

INTERNATIONAL SECURITY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT  
PEACEKEEPING OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Peacekeeping Operations", \$172,900,000, to remain available until September 30, 2010, of which \$155,900,000 may be made available to support the African Union Mission to Somalia and which may be transferred to, and merged with, funds appropriated under the heading "Contributions for International Peacekeeping Activities" for peacekeeping in Somalia: *Provided*, That of the funds appropriated under this heading, \$15,000,000 shall be made available for assistance for the Democratic Republic of the Congo and \$2,000,000 shall be made available for the Multinational Force and Observer mission in the Sinai.

INTERNATIONAL MILITARY EDUCATION AND  
TRAINING

For an additional amount for "International Military Education and Training", \$2,000,000, to remain available until September 30, 2010, for assistance for Iraq.

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", \$98,000,000, to

remain available until September 30, 2009, for assistance for Lebanon.

#### GENERAL PROVISIONS—THIS TITLE

##### AFGHANISTAN

SEC. 1101. (a) IN GENERAL.—Funds appropriated under the heading “Economic Support Fund” that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, in a manner that utilizes Afghan entities and emphasizes the participation of Afghan women and directly improves the security, economic and social well-being, and political status, of Afghan women and girls.

(b) LIMITATION ON CONTRACTS AND GRANTS.—Funds appropriated under the heading “Economic Support Fund” that are available for assistance for Afghanistan shall not be used to initiate or make an amendment to any contract, grant or cooperative agreement in an amount exceeding \$10,000,000.

(c) ASSISTANCE FOR WOMEN AND GIRLS.—

(1) Of the funds appropriated under the heading “International Narcotics Control and Law Enforcement” that are available for assistance for Afghanistan, not less than \$10,000,000 shall be made available to train and support Afghan women investigators, police officers, prosecutors and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

(2) Of the funds appropriated under the heading “Economic Support Fund” that are available for assistance for Afghanistan, not less than \$5,000,000 shall be made available for capacity building for Afghan women-led nongovernmental organizations, and not less than \$25,000,000 shall be made available to support programs and activities of such organizations, including to provide legal assistance and training for Afghan women and girls about their rights, and to promote women’s health (including mental health), education, and leadership.

(d) ANTICORRUPTION.—Ten percent of the funds appropriated under the heading “International Narcotics Control and Law Enforcement” that are available for assistance for the Government of Afghanistan shall be withheld from obligation until the Secretary of State reports to the Committees on Appropriations that the Government of Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violations of human rights, or other major crimes.

(e) ACQUISITION OF PROPERTY.—Not more than \$10,000,000 of the funds appropriated in this title may be made available to pay for the acquisition of property for diplomatic facilities in Afghanistan.

(f) UNITED NATIONS DEVELOPMENT PROGRAM.—None of the funds appropriated in this title may be made available for programs and activities of the United Nations Development Program (UNDP) in Afghanistan unless the Secretary of State reports to the Committees on Appropriations that UNDP is fully cooperating with efforts of the United States Agency for International Development (USAID) to investigate expenditures by UNDP of USAID funds associated with the Quick Impact Program in Afghanistan, and has agreed to reimburse USAID, if appropriate.

##### ALLOCATIONS

SEC. 1102. (a) Funds appropriated in this title for the following accounts shall be made available for programs and countries in the amounts contained in the respective

tables included in the report accompanying this Act:

- (1) “Diplomatic and Consular Programs”.
- (2) “Embassy Security, Construction, and Maintenance”.
- (3) “Economic Support Fund”.
- (4) “International Narcotics Control and Law Enforcement”.

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referenced in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

##### BURMA

SEC. 1103. (a) Funds appropriated under the heading “Economic Support Fund” for humanitarian assistance for Burma may be made available notwithstanding any other provision of law.

(b) Not later than 30 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report that details the findings and recommendations of the Department of State’s review of United States policy toward Burma.

##### EXTENSION OF AUTHORITIES

SEC. 1104. Funds appropriated in this title may be obligated and expended notwithstanding section 10 of Public Law 91–672, section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

##### GLOBAL FINANCIAL CRISIS

SEC. 1105. (a) IN GENERAL.—Of the funds appropriated under the heading “Economic Support Fund”, not more than \$285,000,000 may be made available for assistance for vulnerable populations in developing countries severely affected by the global financial crisis: *Provided*, That funds made available pursuant to this section may be obligated only after the Administrator of the United States Agency for International Development (USAID) submits a report to the Committees on Appropriations detailing a spending plan for each such country including criteria for eligibility, proposed amounts and purposes of assistance, and mechanisms for monitoring the uses of such assistance, and indicating that USAID has reviewed its existing programs in such country to determine reprogramming opportunities to increase assistance for vulnerable populations: *Provided further*, That funds made available pursuant to this section shall be transferred to, and merged with, the following accounts:

(1) Not less than \$12,000,000 for the “Development Credit Authority”, for the cost of direct loans and loan guarantees notwithstanding the dollar limitations in such account on transfers to the account and the principal amount of loans made or guaranteed with respect to any single country or borrower: *Provided*, That such transferred funds may be made available to subsidize total loan principal, any portion of which is to be guaranteed, of up to \$3,300,000,000: *Provided further*, That the authority provided in this subsection is in addition to authority provided under the heading “Development Credit Authority” in Public Law 111–8: *Provided further*, That and up to \$1,500,000 may be made available for administrative ex-

penses to carry out credit programs administered by the United States Agency for International Development; and

(2) Not more than \$20,000,000 for the “Overseas Private Investment Corporation Program Account”, notwithstanding section 708(b) of Public Law 111–8: *Provided*, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law and in addition to funds otherwise available for such purposes, funds appropriated under the heading “Millennium Challenge Corporation” (MCC) in prior Acts making appropriations for the Department of State, foreign operations, export financing, and related programs may be transferred to, and merged with, funds appropriated under the heading “Economic Support Fund” that are made available pursuant to this section.

(1) The authority contained in subsection (b) may only be exercised for a country that has signed a compact with the MCC or has been designated by the MCC as a threshold country, and such a reprogramming of funds should be made, if practicable, prior to making available additional assistance for such purposes.

(2) The MCC shall consult with the Committees on Appropriations prior to exercising the authority of this subsection.

##### IRAQ

SEC. 1106. (a) IN GENERAL.—Funds appropriated in this title that are available for assistance for Iraq shall be made available, to the maximum extent practicable, in a manner that utilizes Iraqi entities.

(b) MATCHING REQUIREMENT.—Funds appropriated in this title for assistance for Iraq shall be made available in accordance with the Department of State’s April 9, 2009, “Guidelines for Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects”.

(c) OTHER ASSISTANCE.—Of the funds appropriated in this title under the heading “Economic Support Fund”, not less than \$20,000,000 shall be made available for targeted development programs and activities in areas of conflict in Iraq, and the responsibility for policy decisions and justifications for the use of such funds shall be the responsibility of the United States Chief of Mission in Iraq.

##### PROHIBITION ON ASSISTANCE FOR HAMAS

SEC. 1107. (a) None of the funds appropriated in this title may be made available for assistance to Hamas, or any entity effectively controlled by Hamas or any power-sharing government of which Hamas is a member.

(b) Notwithstanding the limitation of subsection (a), assistance may be provided to a power-sharing government only if the President certifies and reports to the Committees on Appropriations that such government, including all of its ministers or such equivalent, has publicly accepted and is complying with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961, as amended.

(c) The President may exercise the authority in section 620K(e) of the Foreign Assistance Act as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109–446) with respect to this subsection.

(d) Whenever the certification pursuant to subsection (b) is exercised, the Secretary of State shall submit a report to the Committees on Appropriations within 120 days of the

certification and every quarter thereafter on whether such government, including all of its ministers or such equivalent, are continuing to comply with the principles contained in section 620K(b)(1)(A) and (B). The report shall also detail the amount, purposes and delivery mechanisms for any assistance provided pursuant to the abovementioned certification and a full accounting of any direct support of such government.

#### MEXICO

SEC. 1108. (a) Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing actions taken by the Government of Mexico since June 30, 2008, to investigate and prosecute violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and to support a thorough, independent, and credible investigation of the murder of American citizen Bradley Roland Will.

(b) None of the funds appropriated in this title may be made available for the cost of fuel for helicopters provided to Mexico, or for logistical support, including operations and maintenance, of aircraft purchased by the Government of Mexico.

(c) In order to enhance border security and cooperation in law enforcement efforts between Mexico and the United States, funds appropriated in this title that are available for assistance for Mexico may be made available for the procurement of law enforcement communications equipment only if such equipment utilizes open standards and is compatible with, and capable of operating with, radio communications systems and related equipment utilized by Federal law enforcement agencies in the United States to enhance border security and cooperation in law enforcement efforts between Mexico and the United States.

#### MULTILATERAL DEVELOPMENT BANK REPLENISHMENTS

SEC. 1109. (a) INTERNATIONAL DEVELOPMENT ASSOCIATION.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following:

##### “SEC. 24. FIFTEENTH REPLENISHMENT.

“(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States \$3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$3,705,000,000 for payment by the Secretary of the Treasury.

##### “SEC. 25. MULTILATERAL DEBT RELIEF.

“(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more

than \$356,000,000 for payment by the Secretary of the Treasury.

“(c) In this section, the term ‘Multilateral Debt Relief Initiative’ means the proposal set out in the G8 Finance Ministers’ Communiqué entitled ‘Conclusions on Development,’ done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.”

(b) AFRICAN DEVELOPMENT FUND.—The African Development Fund Act (22 U.S.C. 290 et seq.) is amended by adding at the end thereof the following:

##### “SEC. 219. ELEVENTH REPLENISHMENT.

“(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$468,165,000 for payment by the Secretary of the Treasury.

##### “SEC. 220. MULTILATERAL DEBT RELIEF INITIATIVE.

“(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than \$26,000,000 for payment by the Secretary of the Treasury.”

#### PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

SEC. 1110. Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end thereof the following:

##### “SEC. 1626. REFORM OF THE ‘DOING BUSINESS’ REPORT OF THE WORLD BANK.

“(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

“(1) Suspension of the use of the ‘Employing Workers’ Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers’ rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

“(2) Elimination of the ‘Labor Tax and Social Contributions’ Subindicator from the annual Doing Business Report of the World Bank.

“(3) Removal of the ‘Employing Workers’ Indicator as a ‘guidepost’ for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

“(b) Within 60 days after the date of the enactment of this section, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

##### “SEC. 1627. ENHANCING THE TRANSPARENCY AND EFFECTIVENESS OF THE INSPECTION PANEL PROCESS OF THE WORLD BANK.

“(a) ENHANCING TRANSPARENCY IN IMPLEMENTATION OF MANAGEMENT ACTION PLANS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semiannual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

“(b) SAFEGUARDING THE INDEPENDENCE AND EFFECTIVENESS OF THE INSPECTION PANEL.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

“(c) EVALUATION OF COUNTRY SYSTEMS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

“(d) WORLD BANK DEFINED.—In this section, the term ‘World Bank’ means the International Bank for Reconstruction and Development and the International Development Association.”

#### CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING

SEC. 1111. Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end thereof the following:

##### “SEC. 1308. CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING.

“(a) USE OF GREENHOUSE GAS ACCOUNTING.—The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 1701(c)(4) of this Act) adopt and implement greenhouse

gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

“(b) EXPANSION OF CLIMATE CHANGE MITIGATION ACTIVITIES.—The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 1701(c)(4)) expand their activities supporting climate change mitigation by—

“(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

“(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

“(3) increasing the dialogue with the governments of developing countries regarding—

“(A) analysis and policy measures needed for low carbon emission economic development; and

“(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

“(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

“(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.”.

#### MULTILATERAL DEVELOPMENT BANK REFORM

SEC. 1112. (a) BUDGET DISCLOSURE.—The Secretary of the Treasury shall seek to ensure that the multilateral development banks make timely, public disclosure of their operating budgets including expenses for staff, consultants, travel and facilities.

(b) EVALUATION.—The Secretary of the Treasury shall seek to ensure that multilateral development banks rigorously evaluate the development impact of selected bank projects, programs, and financing operations, and emphasize use of random assignment in conducting such evaluations, where appropriate and to the extent feasible.

(c) EXTRACTIVE INDUSTRIES.—The Secretary of the Treasury shall direct the United States Executive Directors at the multilateral development banks to promote the endorsement of the Extractive Industry Transparency Initiative (EITI) by these institutions and the integration of the principles of the EITI into extractive industry-related projects that are funded by the multilateral development banks.

(d) REPORT.—Not later than September 30, 2009, the Secretary of the Treasury shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations and the Committee on Foreign Affairs of the House, detailing actions taken by the multilateral development banks to achieve the objectives of this section.

(e) COORDINATION OF DEVELOPMENT POLICY.—The Secretary of the Treasury shall coordinate the formulation and implementation of United States policy relating to the development activities of the World Bank Group with the Secretary of State, the Administrator of the United States Agency for International Development, and other Federal agencies, as appropriate.

#### OVERSEAS COMPARABILITY PAY ADJUSTMENT

SEC. 1113. (a) Subject to such regulations prescribed by the Secretary of State, including with respect to phase-in schedule and treatment as basic pay, and notwithstanding any other provision of law, funds appropriated for this fiscal year in this or any other Act may be used to pay an eligible member of the Foreign Service as defined in subsection (b) of this section a locality-based comparability payment (stated as a percentage) up to the amount of the locality-based comparability payment (stated as a percentage) that would be payable to such member under section 5304 of title 5, United States Code if such member's official duty station were in the District of Columbia.

(b) A member of the Service shall be eligible for a payment under this section only if the member is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) and the member's official duty station is not in the continental United States or in a non-foreign area, as defined in section 591.205 of title 5, Code of Federal Regulations.

(c) The amount of any locality-based comparability payment that is paid to a member of the Foreign Service under this section shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

#### ASSESSMENT ON AFGHANISTAN AND PAKISTAN

SEC. 1114. (a) FINDING.—The Congress supports economic and security assistance for Afghanistan and Pakistan, but long-term stability and security in those countries is tied more to the capacity and conduct of the Afghan and Pakistani governments and the resolve of both societies for peace and stability, to include combating extremist networks, than it is to the policies of the United States.

(b) REPORT.—The President shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 6 months thereafter until September 30, 2010, in classified form if necessary, assessing the extent to which the Afghan and Pakistani governments are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President's policy announced on March 27, 2009, to include:

(1) The level of political consensus and unity of purpose across ethnic, tribal, religious and political party affiliations to confront the political and security challenges facing the region;

(2) The level of official corruption that undermines such political consensus and unity of purpose, and actions taken to eliminate it;

(3) The actions taken by the respective security forces and appropriate government entities in developing a counterinsurgency capability, conducting counterinsurgency operations, and establishing security and governance on the ground;

(4) The actions taken by the respective intelligence agencies in cooperating with the United States on counterinsurgency and counterterrorism operations and in terminating policies and programs, and removing personnel, that provide material support to extremist networks that target United States troops or undermine United States objectives in the region;

(5) The ability of the Afghan and Pakistani governments to effectively control and govern the territory within their respective borders; and

(6) The ways in which United States Government assistance contributed, or failed to

contribute, to achieving the goals outlined above.

(c) POLICY ASSESSMENT.—The President, on the basis of information gathered and coordinated by the National Security Council, shall advise the Congress on how such assessment requires, or does not require, changes to such policy.

(d) DEFINITION.—For purposes of this section, “appropriate congressional committees” means the Committees on Appropriations, Foreign Relations and Armed Services of the Senate, and the Committees on Appropriations, Foreign Affairs and Armed Services of the House of Representatives.

#### ASSISTANCE FOR PAKISTAN

SEC. 1115. (a) FINDINGS.—

(1) The United States and the international community have welcomed and supported Pakistan's return to civilian rule since the democratic elections of February 18, 2008;

(2) Since 2001, the United States has provided more than \$12,000,000,000 in economic and security assistance to Pakistan;

(3) Afghanistan and Pakistan are facing grave threats to their internal security from a growing insurgency fueled by al Qaeda, the Taliban and other violent extremist groups operating in areas along the Afghanistan-Pakistan border; and

(4) The United States is committed to supporting vigorous efforts by the Government of Pakistan to secure Pakistan's western border and counter violent extremism, expand government services, support economic development, combat corruption and uphold the rule of law in such areas.

(b) REPORT.—Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report, in classified form if necessary, to the Committees on Appropriations detailing—

(1) a spending plan for the proposed uses of funds appropriated in this title under the headings “Economic Support Fund” and “International Narcotics Control and Law Enforcement” that are available for assistance for Pakistan including amounts, the purposes for which funds are to be made available, and intended results;

(2) the actions to be taken by the United States and the Government of Pakistan relating to such assistance;

(3) the metrics for measuring progress in achieving such results; and

(4) the mechanisms for monitoring such funds.

#### SPECIAL AUTHORITY

SEC. 1116. (a) Notwithstanding any other provision of law, funds appropriated under the headings “Global HIV/AIDS Initiative” or “Global Health and Child Survival” in prior Acts making appropriations for the Department of State, foreign operations, export financing and related programs for assistance for Kenya to carry out the President's Emergency Plan for AIDS Relief may be transferred to, and merged with, funds made available under the heading “Economic Support Fund” to respond to instability in Kenya arising from conflict or civil strife.

(b) The Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority of this section.

#### SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1117. (a) SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a report detailing planned expenditures for

funds appropriated in this title, except for funds appropriated under the headings "International Disaster Assistance" and "Migration and Refugee Assistance".

(b) NOTIFICATION.—Funds appropriated in this title, with the exception of funds appropriated under the headings "International Disaster Assistance" and "Migration and Refugee Assistance", shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### TECHNICAL PROVISIONS

SEC. 1118. (a) MODIFICATIONS.—The funding limitation in section 7046(a) of Public Law 111-8 shall not apply to funds made available for assistance for Colombia through the United States Agency for International Development's Office of Transition Initiatives: *Provided*, That title III of division H of Public Law 111-8 is amended under the heading "Economic Support Fund" in the second proviso by striking "up to \$20,000,000" and inserting "not less than \$20,000,000".

(b) NOTIFICATION REQUIREMENT.—Funds appropriated by this Act that are transferred to the Department of State or the United States Agency for International Development shall be subject to the regular notification procedures of the Committees on Appropriations, notwithstanding any other provision of law.

(c) AUTHORITY.—Funds appropriated in this title, and subsequent and prior acts appropriating funds for Department of State, Foreign Operations, and Related Programs and under the heading "Public Law 480 Title II Grants" in this, subsequent, and prior Acts appropriating funds for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, shall be made available notwithstanding the requirements of and amendments made by section 3511 of Public Law 110-417.

#### (d) REEMPLOYMENT OF ANNUITANTS.—

(1) Section 824 of the Foreign Service Act of 1980 (22 U.S.C. 4064) is amended in subsection (g)(1)(B) by inserting ", Pakistan," after "Iraq" each place it appears; by inserting "to positions in the Response Readiness Corps," before "or to posts vacated"; and, in subsection (g)(2) by striking "2009" and inserting instead "2012".

(2) Section 61 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733) is amended in subsection (a)(1) by adding ", Pakistan," after "Iraq" each place it appears; by inserting ", to positions in the Response Readiness Corps," before "or to posts vacated"; and, in subsection (a)(2) by striking "2008" and inserting instead "2012".

(3) Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended in subsection (j)(1)(A) by adding ", Pakistan," after "Iraq" each place it appears; by inserting ", to positions in the Response Readiness Corps," before "or to posts vacated"; and, in subsection (J)(1)(B) by striking "2008" and inserting instead "2012".

(e) INCENTIVES FOR CRITICAL POSTS.—Notwithstanding sections 5753(a)(2)(A) and 5754(a)(2)(A) of title 5, United States Code, appropriations made available by this or any other Act may be used to pay recruitment, relocation, and retention bonuses under chapter 57 of title 5, United States Code to members of the Foreign Service, other than chiefs of mission and ambassadors at large, who are on official duty in Iraq, Afghanistan, or Pakistan. This authority shall terminate on October 1, 2012.

(f) Of the funds appropriated under the heading "Foreign Military Financing Program" in Public Law 110-161 that are avail-

able for assistance for Colombia, \$500,000 may be transferred to, and merged with, funds appropriated under the heading "International Narcotics Control and Law Enforcement" to provide medical and rehabilitation assistance for members of Colombian security forces who have suffered severe injuries.

#### TERMS AND CONDITIONS

SEC. 1119. Unless otherwise provided for in this Act, funds appropriated or otherwise made available in this title shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111-8), except that sections 7042(a) and (c) and 7070(e)(2) of such Act shall not apply to such funds.

#### OVERSEAS DEPLOYMENTS

SEC. 1120. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### TITLE XII

##### DEPARTMENT OF TRANSPORTATION

##### OFFICE OF THE SECRETARY

##### PAYMENTS TO AIR CARRIERS

##### (AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available under Public Law 111-8 and funds authorized under subsection 41742(a)(1) of title 49, United States Code, to carry out the essential air service program, to be derived from the Airport and Airway Trust Fund, \$13,200,000, to remain available until expended.

##### FEDERAL AVIATION ADMINISTRATION

##### GRANTS-IN-AID FOR AIRPORTS

##### (AIRPORT AND AIRWAY TRUST FUND)

##### (RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, \$13,200,000 are permanently rescinded from amounts authorized for the fiscal year ending September 30, 2008.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 1201. Section 1937 of Public Law 109-59 (119 Stat. 1144, 1510) is amended—

(1) in paragraph (1) by striking "expenditures" each place that it appears and inserting "allocations"; and

(2) in paragraph (2) by striking "expenditure" and inserting "allocation".

SEC. 1202. A recipient and subrecipient of funds appropriated in Public Law 111-5 and apportioned pursuant to section 5311 and section 5336 (other than subsection (i)(1) and (j)) of title 49, United States Code, may use up to 10 percent of the amount apportioned for the operating costs of equipment and facilities for use in public transportation: *Provided*, That a grant obligating such funds prior to the date of the enactment of this Act may be amended to allow a recipient and subrecipient to use the funds made available for operating assistance: *Provided further*, That such funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1203. Public Law 110-329, under the heading "Project-Based Rental Assistance", is amended by striking "project-based vouchers" and all that follows up to the period and inserting "activities and assistance for the provision of tenant-based rental assistance, including related administrative expenses, as authorized under the United States Housing Act of 1937, as amended (42

U.S.C. 1437 et seq.), \$80,000,000, to remain available until expended: *Provided*, That such funds shall be made available within 60 days of the enactment of this Act: *Provided further*, That in carrying out the activities authorized under this heading, the Secretary shall waive section (o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B)): *Provided*, That such additional funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1204. Public Law 111-5 is amended by striking the second proviso under the heading "HOME Investment Partnerships Program" and inserting "*Provided further*, That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under sections 42(h) and 1400N of the Internal Revenue Code of 1986:".

#### TITLE XIII

##### OTHER MATTERS

##### INTERNATIONAL ASSISTANCE PROGRAMS

##### INTERNATIONAL MONETARY PROGRAMS

##### UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,973,100,000 Special Drawing Rights, to remain available until expended: *Provided*, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): *Provided further*, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: *Provided further*, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

##### LOANS TO INTERNATIONAL MONETARY FUND

For loans to the International Monetary Fund under section 17(a)(ii) and (b)(ii) of the Bretton Woods Agreements Act (Public Law 87-490, 22 U.S.C. 286e-2), as amended by this Act pursuant to the New Arrangements to Borrow, the dollar equivalent of up to 75,000,000,000 Special Drawing Rights, to remain available until expended, in addition to any amounts previously appropriated under section 17 of such Act: *Provided*, That if the United States agrees to an expansion of its credit arrangement in an amount less than the dollar equivalent of 75,000,000,000 Special Drawing Rights, any amount over the United States' agreement shall not be available until further appropriated: *Provided further*, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): *Provided further*, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: *Provided further*, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

##### GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1301. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e-2) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” before “In order to”; and

(B) by adding at the end the following:

“(2) In order to carry out the purposes of a decision of the Executive Directors of the International Monetary Fund to expand the resources of and make other amendments to the New Arrangements to Borrow, which was established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments, notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress as to whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund. Any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.”; and

(2) in subsection (b)—

(A) by inserting “(1)” before “For the purpose of”; and

(B) by inserting “subsection (a)(1) of” “after pursuant to”; and

(C) by adding at the end the following:

“(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress as to whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the International Monetary Fund. Any payments made to the United States by the International Monetary Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund.”

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**“SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63-2 and 63-3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

**“SEC. 65. QUOTA INCREASE.**

“(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

“(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such

amounts as are provided in advance in appropriations Acts.

**“SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.**

“The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment of the Fund's Articles of Agreement in April 1978, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market. In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the U.S. Governor is authorized to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries, only after the Secretary of the Treasury has consulted with the chairman and ranking minority member of the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and the appropriate subcommittees thereof, at least 60 days prior to any authorization by the United States Executive Director of distribution of gold sale proceeds.

**“SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54-4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997.”

SEC. 1303. (a) Not later than 30 days after enactment of this Act, the Secretary of the Treasury, in consultation with the Executive Director of the World Bank and the Executive Board of the International Monetary Fund (IMF), shall submit a report to the appropriate congressional committees detailing the steps taken to coordinate the activities of the World Bank and the IMF to avoid duplication of missions and programs, and steps taken by the Department of the Treasury and the IMF to increase the oversight and accountability of IMF activities.

(b) For the purposes of this section, the “appropriate congressional committees” means the Committees on Appropriations, Banking, Housing, and Urban Affairs, and Foreign Relations of the Senate, and the Committees on Appropriations, Foreign Affairs, and Ways and Means of the House of Representatives.

(c) In the next report to Congress on international economic and exchange rate policies, the Secretary of the Treasury shall: (1) report on ways in which the IMF's surveillance function under Article IV could be enhanced and made more effective in terms of avoiding currency manipulation; (2) report on the feasibility and usefulness of publishing the IMF's internal calculations of indicative exchange rates; and (3) provide recommendations on the steps that the IMF can take to promote global financial stability and conduct effective multilateral surveillance.

SEC. 1304. Each amount in this title is designated as being for overseas deployments

and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**GENERAL PROVISION—THIS ACT**

**AVAILABILITY OF FUNDS**

SEC. 1305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the “Supplemental Appropriations Act, 2009”.

**SA 1132.** Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. DEMINT, Mr. JOHANNES, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. HUTCHISON, Mr. BENNETT, Mr. HATCH, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for any of the following purposes:

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

**SA 1133.** Mr. INOUE (for himself, Mr. INHOFE, Mr. SHELBY, Mr. BROWNBACK, Mr. ENZI, and Mr. ROBERTS) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

Strike section 202 and insert the following:

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term “United States” means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading “SALARIES AND EXPENSES” is hereby reduced by \$30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading “OPERATION AND MAINTENANCE, DEFENSE-WIDE” under paragraph (3) is hereby reduced by \$50,000,000.

**SA 1134.** Mr. SHELBY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill H.R. 246, making supplemental appropriations for the fiscal



year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25 after the “.” insert the following: “SEC. 203 None of the funds appropriated in this or any other Act shall be used to carry out any of the Department of Justice responsibilities required by Executive Orders 13491, 13492 and 13493.”

**SA 1135.** Mr. SHELBY (for himself, Mr. ALEXANDER, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 strike all from line 19 through the “.” on page 5, line 5.

**SA 1136.** Mr. McCONNELL proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Guantanamo Bay.

(d) FORM.—The report required under subsection (a), or parts thereof, may be submitted in classified form.

(e) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

**SA 1137.** Mr. INOUE proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 30, line 24, strike all after “Sec. 314.” through page 31, line 3, and insert in lieu thereof:

(a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for “Operation and Maintenance, Air Force”.

**SA 1138.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 100, strike line 12 and all that follows through page 107, line 21.

**SA 1139.** Mr. CORNYN proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

#### SEC. . . SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds the following:

(1) In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks on the United States was the most urgent responsibility of the United States Government.

(2) A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives

concluded that the September 11, 2001 attacks demonstrated that the intelligence community had not shown “sufficient initiative in coming to grips with the new transnational threats”.

(3) By mid-2002, the Central Intelligence Agency had several top al Qaeda leaders in custody.

(4) The Central Intelligence Agency believed that some of these al Qaeda leaders knew the details of imminent plans for follow-on attacks against the United States.

(5) The Central Intelligence Agency believed that certain enhanced interrogation techniques might produce the intelligence necessary to prevent another terrorist attack against the United States.

(6) The Central Intelligence Agency sought legal guidance from the Office of Legal Counsel of the Department of Justice as to whether such enhanced interrogation techniques, including one that the United States military uses to train its own members in survival, evasion, resistance, and escape training, would comply with United States and international law if used against al Qaeda leaders reasonably believed to be planning imminent attacks against the United States.

(7) The Office of Legal Counsel is the proper authority within the executive branch for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out official duties.

(8) Before mid-2002, no court in the United States had interpreted the phrases “severe physical or mental pain or suffering” and “prolonged mental harm” as used in sections 2340 and 2340A of title 18, United States Code.

(9) The legal questions posed by the Central Intelligence Agency and other executive branch officials were a matter of first impression, and in the words of the Office of Legal Counsel, “substantial and difficult”.

(10) The Office of Legal Counsel approved the use by the Central Intelligence Agency of certain enhanced interrogation techniques, with specific limitations, in seeking actionable intelligence from al Qaeda leaders.

(11) The legal advice of the Office of Legal Counsel regarding interrogation policy was reviewed by a host of executive branch officials, including the Attorney General, the Counsel to the President, the Deputy Counsel to the President, the General Counsel of the Central Intelligence Agency, the General Counsel of the National Security Council, the legal advisor of the Attorney General, the head of the Criminal Division of the Department of Justice, and the Counsel to the Vice President.

(12) The majority and minority leaders in both Houses of Congress, the Speaker of the House of Representatives, and the chairmen and vice chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on the legal analysis by the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency as early as September 4, 2002.

(13) Porter Goss, then-chairman of the Permanent Select Committee on Intelligence of the House of Representatives, recalls that he and then-ranking member Nancy Pelosi “understood what the CIA was doing”, “gave the CIA our bipartisan support”, “gave the CIA funding to carry out its activities”, and “On a bipartisan basis . . . asked if the CIA needed more support from Congress to carry out its mission against al-Qaeda”.

(14) No member of Congress briefed on the legal analysis of the Office of Legal Counsel and the proposed interrogation program of



the Central Intelligence Agency in 2002 objected to the legality of the enhanced interrogation techniques, including "waterboarding", approved in legal opinions of the Office of Legal Counsel.

(15) Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel provides national leaders a means to detect, deter, and defeat further terrorist acts against the United States.

(16) The enhanced interrogation techniques approved by the Office of Legal Counsel have, in fact, accomplished the goal of providing intelligence necessary to defeating additional terrorist attacks against the United States.

(17) Congress has previously established a defense for persons who engaged in operational practices in the war on terror in good faith reliance on advice of counsel that the practices were lawful.

(18) The Senate stands ready to work with the Obama Administration to ensure that leaders of the Armed Forces of the United States and the intelligence community continue to have the resources and tools required to prevent additional terrorist attacks on the United States.

(b) SENSE OF SENATE.—It is the sense of the Senate that no person who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied in good faith on those opinions, nor any member of Congress who was briefed on the enhanced interrogation program and did not object to the program going forward should be prosecuted or otherwise sanctioned.

**SA 1140.** Mr. BROWNBACK proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title III, add the following:

SEC. 315. (a) FINDINGS.—The Senate makes the following findings:

(1) In response to written questions from the April 30, 2009, hearing of the Committee on Appropriations of the Senate, the Secretary of Defense stated that—

(A) in order to implement the Executive Order of the President to close the detention facility at Naval Station Guantanamo Bay, Cuba, "it is likely that we will need a facility or facilities in the United States in which to house" detainees; and

(B) "[p]ending the final decision on the disposition of those detainees, the Department has not contacted state and local officials about the possibility of transferring detainees to their locations".

(2) The Senate specifically recognized the concerns of local communities in a 2007 resolution, adopted by the Senate on a 94-3 vote, stating that "detainees housed at Guantanamo should not be released into American society, nor should they be transferred state-side into facilities in American communities and neighborhoods".

(3) To date, members of the congressional delegations of sixteen States have sponsored legislation seeking to prohibit the transfer to their respective States and congressional districts, or other locations in the United States, of detainees at Naval Station Guantanamo Bay

(4) Legislatures and local governments in several States have adopted measures announcing their opposition to housing detainees at Naval Station Guantanamo Bay in their respective States and localities.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

**SA 1141.** Ms. LANDRIEU (for herself, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

**SEC. 1205. REDEVELOPMENT OF HOMES.**

Section 2301(c)(3) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subparagraph (C), by adding a semicolon at the end;

(2) in subparagraph (D), by striking "and" at the end;

(3) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(F) redevelop properties damaged or destroyed during the period beginning on January 1, 2004, and ending on December 31, 2008, by a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122))."

**SA 1142.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**RELIEF FOR RURAL VETERANS IN CRISIS PROGRAM**

For an additional amount for making grants under section 1820(g)(6) of the Social Security Act (42 U.S.C. 1395i-4(g)(6)), \$20,000,000 to remain available until expended: *Provided*, That the amount of \$1,500,000,000 under the heading "Pandemic Preparedness and Response" under the heading "National Security Council" under the heading "EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT" under title V shall be reduced by \$20,000,000 and each of the amounts to be transferred under such heading "Pandemic Preparedness and Response" shall be reduced by its proportional share of the amount of such reduction.

**SA 1143.** Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate in title III, insert the following:

**NATIONAL GUARD AND RESERVE EQUIPMENT**

For an additional amount for "National Guard and Reserve Equipment", \$2,000,000,000, to remain available for obli-

tion until September 30, 2010: *Provided*, That the Chief of the National Guard Bureau and an appropriate official for each of other reserve components of the Armed Forces each shall, not later than 30 days after the date of the enactment of this Act, submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the modernization priority assessment for the National Guard and for the other reserve components of the Armed Forces, respectively: *Provided further*, That the amount under this heading is designated as an emergency requirement and as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**(RESCISSIONS)**

(a) IN GENERAL.—Of the discretionary amounts (other than the amounts described in subsection (b)) made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law 111-5) that are unobligated as the the date of enactment of this Act, \$2,000,000,000 is hereby rescinded.

(b) EXCEPTION.—The rescission in subsection (a) shall not apply to amounts made available by division A of the American Recovery and Reinvestment Act of 2009 as follows:

(1) Under title III, relating to the Department of Defense.

(2) Under title VI, relating to the Department of Homeland Security.

(3) Under title X, relating to Military Construction and Veterans and Related Agencies.

(c) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the rescission specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the rescission in subsection (a).

**SA 1144.** Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike the period at the end and insert "and, in order for the Department of Justice to carry out the responsibilities required by Executive Orders 13491, 13492, and 13493, it is necessary to enact the amendments made by section 203.

**SEC. 203. IMMIGRATION LIMITATIONS FOR GUANTANAMO BAY NAVAL BASE DETAINEES.**

(a) SHORT TITLE.—This section may be cited as the "Protecting America's Communities Act".

(b) INELIGIBILITY FOR ADMISSION OR PAROLE.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(3), by adding at the end the following:

"(G) GUANTANAMO BAY DETAINEES.—An alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, is inadmissible."; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting “or (5)(B)”; and

(B) in paragraph (5)(B), by adding at the end the following: “The Attorney General may not parole any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(c) DETENTION AUTHORITY.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(8) GUANTANAMO BAY DETAINEES.—

“(A) CERTIFICATION REQUIREMENT.—An alien ordered removed who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, shall be detained for an additional 6 months beyond the removal period (including any extension under paragraph (1)(C)) if the Secretary of Homeland Security certifies that—

“(i) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien; and

“(ii) the Secretary is making reasonable efforts to find alternative means for removing the alien.

“(B) RENEWAL AND DELEGATION OF CERTIFICATION.—

“(i) RENEWAL.—The Secretary may renew a certification under subparagraph (A) without limitation after providing the alien with an opportunity to—

“(I) request reconsideration of the certification; and

“(II) submit documents or other evidence in support of the reconsideration request.

“(ii) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification under this paragraph to an official below the level of the Assistant Secretary for Immigration and Customs Enforcement.

“(C) INELIGIBILITY FOR BOND OR PAROLE.—No immigration judge or official of United States Immigration and Customs Enforcement may release from detention on bond or parole any alien described in subparagraph (A).”.

(d) ASYLUM INELIGIBILITY.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(E) GUANTANAMO BAY DETAINEES.—Paragraph (1) shall not apply to any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(e) MANDATORY DETENTION OF ALIENS FROM GUANTANAMO BAY NAVAL BASE.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

(1) in each of subparagraphs (A) and (B), by striking the comma at the end and inserting a semicolon;

(2) in subparagraph (C), by striking “, or” and inserting a semicolon;

(3) in subparagraph (D), by striking the comma at the end and inserting “; or”; and

(4) by inserting after subparagraph (D) the following:

“(A) as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(f) STATEMENT OF AUTHORITY.—

(1) IN GENERAL.—Congress reaffirms that—

(A) the United States is in an armed conflict with al Qaeda, the Taliban, and associated forces; and

(B) the entities referred to in subparagraph (A) continue to pose a threat to the United States and its citizens, both domestically and abroad.

(2) AUTHORITY.—Congress reaffirms that the President is authorized to detain enemy combatants in connection with the continuing armed conflict with al Qaeda, the Taliban, and associated forces until the termination of such conflict, regardless of the place at which they are captured.

(3) RULE OF CONSTRUCTION.—The authority described in this subsection may not be construed to alter or limit the authority of the President under the Constitution of the United States to detain enemy combatants in the continuing armed conflict with al Qaeda, the Taliban, and associated forces, or in any other armed conflict.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 11 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Tuesday, May 19, 2009, at 2:15 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 10 a.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 2 p.m., to hold a hearing entitled “Pathways to a ‘Green’ Global Economic Recovery.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Tuesday, May 19, 2009 at 2:30 p.m. in room 430 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, be authorized to meet during the session of the Senate, to conduct a hearing entitled “The Discount Pricing Consumer Protection Act: Do We Need to Restore the Ban on Vertical Price Fixing?” on Tuesday, May 19, 2009, at 2:30 p.m., in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, be authorized to meet during the session of the Senate, to conduct a hearing entitled “Leveling the Playing Field and Protecting Americans: Holding Foreign Manufacturers Accountable” on Tuesday, May 19, 2009, at 10 a.m., in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs’ Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 2:30 p.m., to conduct a hearing entitled, “Public Health Challenges in Our Nation’s Capital.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. COCHRAN, Mr. President, I ask unanimous consent that Lauren Frese and Tom Osterhoudt, who are detailees assigned to the Committee on Appropriations, be granted floor privileges during consideration of the fiscal year 2009 supplemental appropriations bill.

The PRESIDING OFFICER. Without Objection, it is so ordered.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 94, 95, 98, and 152; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, no further motions be in order and that any statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF ENERGY

Kristina M. Johnson, of Maryland, to be Under Secretary of Energy.

Steven Elliot Koonin, of California, to be Under Secretary for Science, Department of Energy.

Scott Blake Harris, of Virginia, to be General Counsel of the Department of Energy.

#### DEPARTMENT OF THE INTERIOR

Larry J. Echo Hawk, of Utah, to be an Assistant Secretary of the Interior.

Mr. REID. Are we now in a period of morning business?

The PRESIDING OFFICER. The majority leader is correct.

#### RONALD REAGAN CENTENNIAL COMMISSION ACT

Mr. REID. I ask unanimous consent that the Senate proceed to H.R. 131.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 131) to establish the Ronald Reagan Centennial Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 131) was ordered to be read a third time, was read the third time, and passed.

#### EXPRESSING THE IMPORTANCE OF PUBLIC DIPLOMACY

Mr. REID. I ask unanimous consent that we now proceed to Calendar No. 56, S. Res. 49.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 49) to express the sense of the Senate regarding the importance of public diplomacy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 49

Whereas public diplomacy is the conduct of foreign relations directly with the average citizen of a country, rather than with officials of a country's foreign ministry;

Whereas public diplomacy is commonly conducted through people-to-people exchanges in which experts, authors, artists, educators, and students interact with their peers in other countries;

Whereas effective public diplomacy promotes free and unfiltered access to information about the United States through books, newspapers, periodicals, and the Internet;

Whereas public diplomacy requires a willingness to discuss all aspects of society, search for common values, foster a long-term bilateral relationship based on mutual respect, and recognize that certain areas of disagreement may remain unresolved on a short term basis;

Whereas a BBC World Service poll published in February 2009 that involved 13,000 respondents in 21 countries found that while 40 percent of the respondents had a positive view of the United States, 43 percent had a negative view of the United States;

Whereas Freedom House's 2008 Global Press Freedom report notes that 123 countries (66 percent of the world's countries and 80 percent of the world's population) have a press that is classified as "Not Free" or "Partly Free";

Whereas the Government of the United Kingdom, of France, and of Germany run stand-alone public diplomacy facilities throughout the world, which are known as the British Council, the Alliance Francaise, and the Goethe Institute, respectively;

Whereas these government-run facilities teach the national languages of their respective countries, offer libraries, newspapers, and periodicals, sponsor public lecture and film series that engage local audiences in

dialogues that foster better understandings between these countries and create an environment promoting greater trust and openness;

Whereas the United States has historically operated similar facilities, known as American Centers, which—

(1) offered classes in English, extensive libraries housing collections of American literature, history, economics, business, and social studies, and reading rooms offering the latest American newspapers, periodicals, and academic journals;

(2) hosted visiting American speakers and scholars on these topics; and

(3) ran United States film series on topics related to American values;

Whereas in societies in which freedom of speech, freedom of the press, or local investment in education were minimal, American Centers provided vital outposts of information for citizens throughout the world, giving many of them their only exposure to uncensored information about the United States;

Whereas this need for uncensored information about the United States has accelerated as more foreign governments have restricted Internet access or blocked Web sites viewed as hostile to their political regimes;

Whereas following the end of the Cold War and the attacks on United States embassies in Kenya and Tanzania, budgetary and security pressures resulted in the drastic downsizing or closure of most of the American Centers;

Whereas beginning in 1999, American Centers began to be renamed Information Resource Centers and relocated primarily inside United States embassy compounds;

Whereas of the 177 Information Resource Centers operating in February 2009, 87, or 49 percent, operate on a "By Appointment Only" basis and 18, or 11 percent, do not permit any public access;

Whereas Information Resource Centers located outside United States embassy compounds receive significantly more visitors than those inside such compounds, including twice the number of visitors in Africa, 6 times more visitors in the Middle East, and 22 times more visitors in Asia; and

Whereas Iran has increased the number of similar Iranian facilities, known as Iranian Cultural Centers, to about 60 throughout the world: Now, therefore, be it

*Resolved*, That—

(1) the Secretary of State should initiate a reexamination of the public diplomacy platform strategy of the United States with a goal of reestablishing publicly accessible American Centers;

(2) after taking into account relevant security considerations, the Secretary of State should consider placing United States public diplomacy facilities at locations conducive to maximizing their use, consistent with the authority given to the Secretary under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act.

#### 70TH ANNIVERSARY OF THE TRAGEDY OF THE M.S. "ST. LOUIS"

Mr. REID. I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. Res. 111 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 111) recognizing June 6, 2009, as the 70th anniversary of the tragic date when the M.S. *St. Louis*, a ship carrying Jewish refugees from Nazi Germany, returned to Europe after its passengers were refused admittance to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. KOHL. Mr. President, today the Senate remembers a moment in history when the United States failed to provide refuge to slightly more than 900 individuals fleeing religious and racial persecution in Nazi Germany. S. Res. 111 acknowledges the 70th anniversary of the date, June 6, 1939, when the M.S. *St. Louis*, a German ocean liner, started its return voyage to Europe with nearly all of its original passengers. Later, over 250 of those individuals would perish in the Holocaust.

The story starts on May 13, 1939, when the M.S. *St. Louis* sailed from Hamburg, Germany, to Havana, Cuba with 937 passengers, mostly Jewish refugees, searching for freedom and safety. State-supported anti-Semitism including violent pogroms, expulsion from public schools and services, and arrest and imprisonment solely because of Jewish heritage forced those passengers to leave their homes.

When the M.S. *St. Louis* arrived in Havana, the Cuban Government allowed only 28 passengers to disembark. Corruption and political maneuvering within the Cuban Government invalidated the transit visas of the other passengers. Before returning to Europe, the ship sailed toward Miami hoping for a solution. The ship sailed so close to Florida that the passengers could see the lights of Miami. One survivor remembers his father commenting that "Florida's golden shores, so near, might as well be 4,000 miles away for all the good it did them."

The U.S. Immigration and Nationality Act of 1924 strictly limited the number of immigrants admitted to the United States each year and in 1939 the waiting list for German-Austrian immigration was several years long. While the press and citizens were largely sympathetic to the passengers' plight, no extraordinary measures were taken to permit the refugees to enter the United States. The passengers were told that they must "await their turns on the waiting list and qualify for and obtain immigration visas."

On June 6, 1939, the M.S. *St. Louis* sailed back to Europe with nearly all of its original passengers. The passengers obtained refuge in Great Britain, the Netherlands, Belgium, and France. World War II started 3 months later and those countries, with the exception of Great Britain, fell to Nazi occupation. Two hundred and fifty-four of those passengers died during the Holo-

caust and many others suffered under Nazi persecution and in concentration camps.

S. Res. 111 acknowledges the 70th anniversary of the return voyage of the M.S. *St. Louis* and honors the memory of those passengers including the 254 who died during the Holocaust. The *St. Louis* is only one tragedy out of millions from that time, but seventy years later, it still haunts us as a nation and deserves recognition.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 111) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 111

Whereas on May 13, 1939, the ocean liner M.S. *St. Louis* departed from Hamburg, Germany for Havana, Cuba with 937 passengers, most of whom were Jewish refugees fleeing Nazi persecution;

Whereas the Nazi regime in Germany in the 1930s implemented a program of violent persecution of Jews;

Whereas the Kristallnacht, or Night of Broken Glass, pogrom of November 9 through 10, 1938, signaled an increase in violent anti-Semitism;

Whereas after the Cuban Government, on May 27, 1939, refused entry to all except 28 passengers on board the M.S. *St. Louis*, the M.S. *St. Louis* proceeded to the coast of south Florida in hopes that the United States would accept the refugees;

Whereas the United States refused to allow the M.S. *St. Louis* to dock and thereby provide a haven for the Jewish refugees;

Whereas the Immigration Act of 1924 placed strict limits on immigration;

Whereas a United States Coast Guard cutter patrolled near the M.S. *St. Louis* to prevent any passengers from jumping to freedom;

Whereas following denial of admittance of the passengers to Cuba, the United States, and Canada, the M.S. *St. Louis* set sail on June 6, 1939, for return to Antwerp, Belgium with the refugees; and

Whereas 254 former passengers of the M.S. *St. Louis* died under Nazi rule: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that June 6, 2009, marks the 70th anniversary of the tragic date when the M.S. *St. Louis* returned to Europe after its passengers were refused admittance to the United States and other countries in the Western Hemisphere;

(2) honors the memory of the 937 refugees aboard the M.S. *St. Louis*, most of whom were Jews fleeing Nazi oppression, and 254 of whom subsequently died during the Holocaust;

(3) acknowledges the suffering of those refugees caused by the refusal of the United States, Cuban, and Canadian governments to provide them political asylum; and

(4) recognizes the 70th anniversary of the M.S. *St. Louis* tragedy as an opportunity for public officials and educators to raise aware-

ness about an important historical event, the lessons of which are relevant to current and future generations.

#### HONORING THE ENTREPRENEURIAL SPIRIT OF SMALL BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of S. Res. 154.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 154) honoring the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 154) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 154

Whereas the approximately 27,200,000 small business concerns in the United States are the driving force behind the Nation's economy, creating more than 93 percent of all net new jobs and generating more than 50 percent of the Nation's non-farm gross domestic product;

Whereas small businesses play an integral role in rebuilding the Nation's economy;

Whereas Congress has emphasized the importance of small businesses by improving access to capital through the American Recovery and Reinvestment Act of 2009;

Whereas small business concerns are the Nation's innovators, serving to advance technology and productivity;

Whereas small business concerns represent 97 percent of all exporters and produce 29 percent of exported goods;

Whereas Congress established the Small Business Administration in 1953 to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free and competitive enterprise, to ensure that a fair proportion of the total purchases, contracts, and subcontracts for property and services for the Federal Government are placed with small business concerns, to make certain that a fair proportion of the total sales of Government property are made to such small business concerns, and to maintain and strengthen the overall economy of the Nation;

Whereas the Small Business Administration has helped small business concerns with access to critical lending opportunities, protected small business concerns from excessive Federal regulatory enforcement, played

a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small business concerns compete;

Whereas for over 50 years, the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business concern and has played a key role in fostering economic growth; and

Whereas the President has designated the week beginning May 17, 2009, as "National Small Business Week": Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009;

(2) applauds the efforts and achievements of the owners of small business concerns and their employees, whose hard work and commitment to excellence have made them a key part of the Nation's economic vitality;

(3) recognizes the work of the Small Business Administration and its resource partners in providing assistance to entrepreneurs and small business concerns; and

(4) strongly urges the President to take steps to ensure that—

(A) the applicable procurement goals for small business concerns, including the goals for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, HUBZone small business concerns, and socially and economically disadvantaged small business concerns, are reached by all Federal agencies;

(B) guaranteed loans, microloans, and venture capital, for start-up and growing small business concerns, are made available to all qualified small business concerns;

(C) the management assistance programs delivered by resource partners on behalf of the Small Business Administration, such as small business development centers, women's business centers, veterans business outreach centers, and the Service Corps of Retired Executives, are provided with the Federal resources necessary to do their jobs;

(D) reforms to the disaster loan program of the Small Business Administration are implemented as quickly as possible;

(E) tax policy spurs small business growth, creates jobs, and increases competitiveness;

(F) the Federal Government reduces the regulatory compliance burden on small businesses; and

(G) broader health reforms efforts address the specific needs of small businesses and the self-employed in providing quality and affordable health insurance coverage to their employees.

#### ORDERS FOR WEDNESDAY, MAY 20, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, May 20; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2346, the supplemental appropriations bill, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, under the previous order, there will be up to 2 hours for debate in relation to the Inouye amendment regarding funding with respect to detainees at the Naval Station in Guantanamo Bay, Cuba, prior to a vote in relation to the amendment. Senators should expect the first vote of the day to begin around 11:30 a.m. tomorrow. Under rule XXII, the filing deadline for first-degree amendments to H.R. 2346 is 1 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Wednesday, May 20, 2009, at 9:30 a.m.

#### NOMINATIONS

Executive nomination received by the Senate:

##### DEPARTMENT OF STATE

PHILIP L. VERVEER, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY IN THE BUREAU OF ECONOMIC, ENERGY, AND BUSINESS AFFAIRS AND U.S. COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, May 19, 2009:

##### COMMODITY FUTURES TRADING COMMISSION

GARY GENSLER, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2012.

GARY GENSLER, OF MARYLAND, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

##### DEPARTMENT OF ENERGY

KRISTINA M. JOHNSON, OF MARYLAND, TO BE UNDER SECRETARY OF ENERGY.

STEVEN ELLIOT KOONIN, OF CALIFORNIA, TO BE UNDER SECRETARY FOR SCIENCE, DEPARTMENT OF ENERGY.

SCOTT BLAKE HARRIS, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY.

##### DEPARTMENT OF THE INTERIOR

LARRY J. ECHO HAWK, OF UTAH, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## EXTENSIONS OF REMARKS

### RECOGNIZING THE MID AMERICA CROPLIFE ASSOCIATION 50TH ANNIVERSARY

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. ROSKAM. Madam Speaker, I rise today to honor the Mid America CropLife Association (MACA) on its recent 50th Anniversary. Founded in 1958 by Herbert Woodbury, Porter Williams, Robert Yapp, Harold Howard, Doug Nelson, Wally Smith, and G. E. Zackert, MACA has represented the agricultural chemical companies of the Midwest whose products help feed the world.

From humble beginnings MACA has led the industry for 5 decades in growing membership, developing industry safety guidelines, and educating our youth on the processes that feed the world.

Madam Speaker, since its creation, MACA has incorporated membership from basic manufacturers, distributors, formulators, and allied industry representatives. Having input from such a broad membership, MACA has been an industry leader in creating guidelines for agriculture safety and the crop protection industry. MACA's dedication is so apparent they have developed member guidelines and standards above and beyond those required by the Environmental Protection Agency and Department of Transportation.

In addition to their industry development, MACA has reached out to our local communities by speaking at local elementary schools to educate children on the process of agriculture from the farm to our table. In my community MACA participants reached out to the 4th and 5th grade classes at Central Elementary in Des Plaines. Since the inception of the MACA's CropLife Ambassador Network, over 25,000 students have been provided scientifically based information regarding the safety and value of American agricultural food production.

From its modest start to its present day roster of members on the Fortune 500, MACA has been a voice for agriculture and the agricultural chemical professionals who serve those who feed the world. I congratulate MACA on this achievement and wish them another successful fifty years.

CONGRATULATING HERMAN K. WILLIAMS

**HON. KENDRICK B. MEEK**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009.*

Mr. MEEK of Florida. Madam Speaker, I am pleased to recognize and extend my congratu-

lations to Mr. Herman K. Williams on the occasion of his retirement from The Family Christian Association of America, Inc (FCAA) as the Founder and President/CEO. Mr. Williams can look back on a proud career of service and distinction in community leadership.

A native of Arcadia, Florida, Mr. Williams moved to South Florida at an early age. He graduated from Miami Northwestern Senior High School in 1961. A talented athlete and scholar, Mr. Williams received scholarships in both athletics and academics. During his early college years, he was drafted by the Army, but opted for the United States Air Force, where he served a tour of duty in Europe. While in military service, he was involved in recreational and sporting activities, often spearheading leagues. Mr. Williams attended South Carolina State University and Florida Memorial College, where he obtained a Bachelor's Degree in physical education. He also attended Nova Southeastern University, where he studied public administration.

In 1970, Mr. Williams began working with the YMCA of Greater Miami as the Executive Director of the G.W. Carver Branch, and later became the Senior Vice President for Operations. Following his vision of helping youths and their families, he founded The Family Christian Association of America, Inc. (FCAA) in February 1984 where he served as the President/CEO. Under his leadership, FCAA provides a variety of services and programs that serve youth and families in Miami-Dade, Broward, Brevard, Alachua, and Highlands Counties. Some of the programs include Head Start and Early Head Start Child Development, after school care, youth development, sports, and the Black Achievers of Excellence program.

Mr. Williams founded the Florida Consortium of Black Faith Based Organizations, Inc. (FCOBFBO), which is a statewide organization that supports and enhances the efforts of its members to affect economic social and policy changes in their communities, in 1999. He served as the Chairman/CEO.

In an effort to complement his professional achievements, Mr. Williams is involved with various organizations such as past Board Chairman of the Florida Industries Credit Union, member of Zeta Royal Center Advisory Board, Society of Human Resource Management, National Society of Fundraising Executives, American Compensation Association, and Miami-Dade United Way Agency Resource Management Committee. This public servant is married to Mrs. Mary E. Williams.

Mr. Herman K. Williams is an outstanding American worthy of our collective honor and appreciation. It is with deep respect and admiration that I commend Mr. Williams for over 25 years of dedicated services to the community, and wish him and his family the very best in retirement. Now, in retirement, he embarks upon new challenges in life and I am certain his legacy of greatness will only grow and develop as he enters this new phase of life.

### RECOGNIZING THE INPATIENT REHABCARE TEAM AT THE VIRGINIA REGIONAL MEDICAL CENTER

**HON. JAMES L. OBERSTAR**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. OBERSTAR. Madam Speaker, I rise today to commend the Inpatient RehabCare team at the Virginia Regional Medical Center for their safety education and outreach to Minnesota's youth. In addition to their outstanding work at the Medical Center, the RehabCare team educates elementary school students throughout Virginia of the tremendous health risks associated with riding a bicycle without a helmet.

They recognize the importance of educating our youth during their formative years—at the age when they are most receptive—of the possible life-altering brain injuries that could result from not wearing a helmet while riding a bicycle.

In particular, Madam Speaker, I wish to laud the Inpatient RehabCare team in their most recent outreach to fourth grade students at Roosevelt Elementary School in Virginia.

Each fourth grade class participated in a safety awareness session where they learned about the lasting consequences of brain injuries and the importance of wearing bicycle helmets.

Students received real-life simulations of what their lives would be like with such brain injuries, demonstrating the difficulty of everyday tasks and making a lasting impression on the students on the importance of taking safety precautions when riding a bicycle.

Such hands-on scenarios—combined with the team's helmet safety information and their direct experience with assisting patients who have suffered brain trauma—provided these elementary students with invaluable life lessons in bicycle safety and the severity of brain injuries.

It is vital that we teach our children about the many benefits of active and healthy transportation and recreation through cycling; and safety education must go hand-in-hand with these lessons.

The RehabCare team's effective outreach to children is noteworthy and ought to be replicated throughout the nation. Their work—and the work of similar groups in the United States—is deserving of our recognition and continued support.

I thank the Virginia Medical Center's Inpatient RehabCare team for their inspiring leadership and dedicated work to instill in our children a lifetime of bicycle safety habits.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## HONORING DONALD GUIMOND

**HON. MICHAEL H. MICHAUD**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MICHAUD. Madam Speaker, I rise today to recognize the accomplishments of Donald Guimond, Town Manager of Fort Kent, Maine.

On May 1, 2008, the town of Fort Kent suffered from severe flooding that impacted businesses, apartments, homes and elderly housing. Mr. Guimond oversaw an orderly evacuation and quick response by emergency teams. Despite working without sleep for more than thirty six hours, Mr. Guimond always knew which residents and businesses had been impacted, where individuals sought shelter, and what further assistance was necessary. His well-coordinated reaction prevented serious injury and the loss of life.

Mr. Guimond continued to show his dedication to the residents of Fort Kent long after the flood waters receded. Through his efforts, the town provided the space necessary for disaster assistance teams from the Federal Emergency Management Agency, the Small Business Administration and other entities. He and his staff coordinated an effort to provide emergency heaters to residents whose furnaces were damaged by the disaster. He played an active role in the town's Long-term Recovery Committee, making sure that residents and business owners applied for the assistance that they needed and that the town is ready to respond to ongoing issues which have arisen from the flood. The Small Business Administration has recognized Mr. Guimond's significant contributions by presenting him the Phoenix Award for Disaster Recovery as a Public Official.

Madam Speaker, please join me in recognizing Mr. Guimond's dedication to the residents of Fort Kent, Maine.

## PERSONAL EXPLANATION

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. GRAVES. Madam Speaker, I would like to state for the record my position on the following votes I missed due to personal reasons.

On Monday May 19, 2009 I missed rollcall votes 267, 268, and 269. Had I been present, I would have voted "yea" on those rollcall votes.

128TH ANNIVERSARY OF THE BIRTH OF KEMAL ATATURK  
FOUNDER OF MODERN TURKEY**HON. VIRGINIA FOXX**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Ms. FOXX. Madam Speaker, I rise today, May 19, to commemorate the 128th anniversary

of the birth of Mustafa Kemal Ataturk, the founder of modern Turkey. Ataturk was a unique and inspirational figure who laid the foundation for the Republic of Turkey. He was a post World War I revolutionary leader who understood that Islam and modernity are not inconsistent—an important factor to reinforce today with democratic leaders throughout the Muslim world.

By any measure, Ataturk was an historic reformer. In the space of two decades, he built the nation of Turkey from the ashes of the Ottoman Empire—a nation that was based on secular principles and with a foundation that was fertile for democracy to take root and prosper. He held true to his fundamental vision for his overwhelmingly Muslim nation, namely that it be guided by two overarching concepts: secularism and progress. Just as is the case today, he understood that advances in science and technology would enhance the nation and the Turkish people.

To enable Turkey to reap the benefits of such advances, he set about enacting major reforms in all aspects of Turkish life—political, cultural, legal, educational, and economic all with an eye toward creating the architecture of the new Turkish nation that would raise it to the level of what Ataturk referred to as "contemporary civilization." These reforms touched on all aspects of Turkish society from abolishing the caliphate, recognizing equal rights for men and women, replacing the Arabic alphabet with Latin letters, and instituting secular law to reforming traditional styles of dress and mandating surnames.

Ataturk was an impatient reformer. His handling of the reform of the alphabet is one example of his impatience. The language commission he appointed to review the reform recommended that the alphabet reforms be phased in over a fifteen year period. Ataturk had a much different timeframe in mind. He set about traveling throughout the country, personally instructing crowds in the new alphabet, and within six months he had accomplished his goal. With the acceptance of the Latin alphabet, millions of Turks would be poised to turn westward for their second languages and the learning to which those languages are the key.

Ataturk championed women's rights, encouraging them to pursue careers as doctors, lawyers, scientists, writers and politicians. He did so because he wisely understood that by doing so he was unleashing the talents of all Turks and thereby making the nation stronger. Because of his vision and determination, Turkey is today a strong and vibrant democracy and a model for others in the Islamic world to emulate.

Madam Speaker, it is my hope that Muslim leaders throughout the region will reacquire themselves with Ataturk's revolutionary leadership and take inspiration in the courageous reforms he undertook more than seventy years ago so that they too can preside over nations that are secular, democratic and prosperous.

## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRET**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Monday, May 18, 2009.

Had I been present, I would have voted "aye" on Rollcall vote 267 (Motion to suspend the rules and Agree to H. Res. 300), "nay" on Rollcall vote 268 (Motion to Suspend the Rules and Agree to S. 386), "aye" on Rollcall vote 269 (Motion to Suspend the Rules and Agree to H. Res. 442).

## HONORING ANDREA MACKENZIE

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Ms. WOOLSEY. Madam Speaker, I, along with my colleague Congressman MIKE THOMPSON, rise today to honor a dedicated and beloved advocate for preserving both agriculture and the environment of Sonoma County, California. Andrea Mackenzie is leaving the Sonoma County Agricultural Preservation and Open Space District, and we celebrate her 12 productive years, especially the last eight years as General Manager.

Andrea was born in upstate New York and grew up in Los Angeles. She earned a Bachelor's Degree in Environmental Studies from the University of California at Santa Barbara and a Master's Degree in Urban Planning and Natural Resources from the University of California at Los Angeles.

With her love of both the coast and the rugged mountains of the High Sierra, it is no surprise that Andrea worked for over 25 years in land use and conservation-related positions, including the East Bay and San Francisco where she began to develop a focus on collaborative public/private projects and regional approaches. She also loves walkable communities, old barns, hiking and kayaking, country rock, and nature writers.

Andrea first served the Sonoma County Agricultural Preservation and Open Space District as project manager for the strategic conservation plan update, creating documents that have become models for other public land conservation agencies. In 2000, she was appointed General Manager by the Board of Supervisors.

The mission of the District is to "permanently protect the diverse agricultural, natural resource and scenic open space lands of Sonoma County for future generations." Funded by a quarter cent sales tax, it is the only such district in the state of California and is overwhelmingly supported by Sonoma County's residents.

Andrea helped direct the 2006 campaign to renew the sales tax, which passed overwhelmingly. Voters value the organization's mission and its programs including: matching grants to partner with local cities and agencies for land



acquisition, preservation and enhancement; stewardship in managing these lands and various easements to protect them, as well as to allow for public access; land leases to local growers; and public and educational outings, including a focus on underserved populations. Andrea has played a key role in developing these programs as well as increasing the amount of open space from 25,000 acres to 75,000 acres (including 33,000 acres of farmland).

In 2007, in testament to Andrea's management, the District was selected for the National Leadership in Conservation Award from the National Association of Counties (NACo) and the Trust for Public Land in Washington, D.C. She was also one of 36 Fellows selected to participate in the National Conservation Leadership Institute program, is a member of the Executive Committee and future President of the Bay Area Open Space Council and served on the both the Urban Rural Roundtable (formed by San Francisco Mayor Gavin Newsom to create a Bay Area Regional Food System) and on the Statewide Watershed Advisory Committee.

Madam Speaker, Andrea Mackenzie's combination of visionary and practical leadership has made the Sonoma County Agricultural Preservation and Open Space District a vital player in our community. Sonoma County could have gone the way of other growing counties in California with sprawl from end to end. Instead, it remains blessed with green open space, productive agriculture, and many unique and intact ecosystems. We thank her for her great contributions to our children's natural inheritance and wish her luck in her new position where she will be continuing her good work closer to her family.

#### "HOW TO AVOID A BAD DOUBLE DIP"

#### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. FRANK of Massachusetts. Madam Speaker, Alan Blinder is a man of great intelligence, excellent judgment, and considerable experience in both making and analyzing national economic policy. In this article from last Sunday's New York Times, he draws on all of these qualities to give us some excellent advice. I can think of no more relevant subject for my colleagues to contemplate as we deal with important economic choices.

[From the New York Times, May 17, 2009]

IT'S NO TIME TO STOP THIS TRAIN

(By Alan S. Blinder)

Contrary to what you may have heard from some doomsayers, 2009 is not 1930 redux. What we must guard against, instead, is 2010 or 2011 becoming another 1936.

Realistically, there is little danger that the economy is heading toward a repeat performance of the Great Depression—when real gross domestic product in the United States declined 27 percent and unemployment soared to 25 percent. What we have is bad enough: our worst recession since the 1930s. But unless our leaders behave unbelievably foolishly, we will not repeat the tragic slide

into the abyss of 1930 to 1933—for two main reasons.

First, our economy has many built-in safeguards that did not exist back then—like unemployment insurance, Social Security and federal deposit insurance, to name just three. These programs serve as safety nets that cushion the fall. And while they are certainly not strong enough to prevent recessions, they should be enough to prevent another depression.

The more important reason is that Barack Obama, Timothy F. Geithner and Ben S. Bernanke are not Herbert Hoover, Andrew Mellon and Eugene Meyer. (Who's that? Mr. Meyer was the Federal Reserve chairman from September 1930 to May 1933.) In stark contrast to the laissez-faire crowd that ruled the roost in 1930 and 1931, our current economic leaders are not waiting for the sagging economy to right itself. Rather, they have taken numerous extraordinary steps already—and stand ready to do more if necessary.

That's the good news. But even if another depression is next to impossible, there is still the danger that next year, or the year after, might turn into 1936. Let me explain.

From its bottom in 1933 to 1936, the G.D.P. climbed spectacularly (albeit from a very low base), averaging gains of almost 11 percent a year. But then, both the Fed and the administration of Franklin D. Roosevelt reversed course.

In the summer of 1936, the Fed looked at the large volume of excess reserves piled up in the banking system, concluded that this mountain of liquidity could be fodder for future inflation, and began to withdraw it. This tightening of monetary policy continued into 1937, in a weak economy that was ill-prepared for it.

About the same time, President Roosevelt looked at what seemed to be enormous federal budget deficits, concluded that it was time to put the nation's fiscal house in order and started raising taxes and reducing spending. This tightening of fiscal policy transformed the federal budget from a deficit of 3.8 percent of G.D.P. in 1936 to a surplus of 0.2 percent of G.D.P. in 1937—a swing of four percentage points in a single year. (Today, a swing that large would be almost \$600 billion.)

Thus, both monetary and fiscal policies did an abrupt about-face in 1936 and 1937, and the consequences were as predictable as they were tragic. The United States economy, which had been rapidly climbing out of the cellar from 1933 to 1936, was kicked rudely down the stairs again, and America experienced the so-called recession within the depression. Real G.D.P. contracted 3.4 percent from 1937 to 1938; the total G.D.P. decline during the recession, which lasted from mid-1937 to mid-1938, was even larger.

The moral of the story should be clear: Prematurely changing fiscal and monetary policies—from stepping hard on the accelerator to slamming on the brake—can be hazardous to the economy's health.

Wow, we've learned a lot since the '30s, right? Well, maybe not. For the echoes of 1936 are being heard right now, even before the current recession hits bottom.

If you've been paying attention, you know that a number of critics of the Fed are sounding alarms over the huge stockpile of excess reserves it has created—more than \$775 billion at last count. What these critics are fretting about now is exactly what goaded the Fed into action in 1936: that the vast pool of loose money will ultimately be inflationary. The clear inference is that

some of it should be withdrawn before it's too late.

On the fiscal side, many of President Obama's critics are complaining vociferously about the huge federal budget deficits. Try to ignore, if you can, the sheer hypocrisy of many Congressional Republicans who, having never uttered a peep about the huge deficits under George W. Bush, are suddenly models of budget probity. But whatever the motives, the worries of today's deficit hawks sound eerily reminiscent of Roosevelt in 1936 and 1937.

Fortunately, Mr. Bernanke is a keen student of the Great Depression who will not allow the Fed to repeat the errors of 1936-37. But his critics, both inside and outside the Fed, are already branding his policies as dangerously inflationary, and no Fed chairman wants to be called an inflationist.

Similarly, I hope and believe that President Obama will not transform himself from the spendthrift Roosevelt of 1933 to the deficit-hawk Roosevelt of 1936—at least not until the economy is back on solid ground. That said, a growing flock of budget hawks are already showing their talons. They will have their day—but please, not yet.

To avoid a replay of the policy disasters of 1936-37, both the Fed and our elected officials must stay the course. Mark Twain once explained that, while history does not repeat itself, it often rhymes. We don't want any rhymes just now.

#### TAIWAN PRESIDENT MA YING-JEU'S FIRST ANNIVERSARY OF HIS INAUGURATION

#### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. HASTINGS of Florida. Madam Speaker, Taiwan's President Ma Ying-jeou will mark his first year anniversary in office on May 20, 2009.

Under President Ma's leadership, Taiwan has become an observer at the World Health Assembly (WHA) in Geneva, Switzerland. By enabling Taiwan to participate in this part of the World Health Organization (WHO), the health of 23 million Taiwanese people can benefit from what will be learned at the WHA. Historically, China has blocked Taiwan's access to this very important forum, and through President Ma's effective diplomacy, Taiwan has ended a 38 year absence from the WHA.

Madam Speaker, President Ma has also taken great strides in improving Taiwan's relationship with China. Taiwan and China now have direct flights back and forth to each country. This was unheard of before President Ma took office and travelers were previously required to make an inconvenient stop at another airport and switch planes before these direct flights were available.

Furthermore, China has given Taiwan two of its prized Pandas. Pandas are extremely rare and very important to the Chinese culture, and the amicable trade between the two countries is a positive indication for building a cordial relationship between the two nations. These and other efforts by President Ma are helping the two neighbors enter a time of peace, security and stability.

Madam Speaker, the United States and Taiwan continue to share a strong bilateral relationship. As a member of the Congressional

Taiwan Caucus, I congratulate President Ma on a very successful first year in office and look forward to continuing to work in making sure that our relations are preserved and strengthened.

COMMENDING AMY ISAACS, NATIONAL DIRECTOR OF AMERICANS FOR DEMOCRATIC ACTION

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. McDERMOTT. Madam Speaker, I rise to commend Amy Isaacs, National Director of Americans for Democratic Action, on the occasion of her retirement.

For 20 years Amy has led ADA, the nation's most experienced organization dedicated to liberal policies, liberal politics and a liberal future. ADA was founded by Eleanor Roosevelt, John Kenneth Galbraith, Walter Reuther, Arthur Schlesinger, and Reinhold Niebuhr shortly after FDR died. Its goal then was to keep the New Deal dream—its vision and its values of an America that works fairly for all—alive for generations to come.

Under Amy's leadership, ADA has never forgotten its long history and never wavered from those core liberal values. She began her career at ADA as an intern in 1969 and has moved through the ranks serving as Director of Organization, Executive Assistant to the Director and Deputy National Director, before becoming National Director in 1989.

Amy brought to ADA a strong sense that protecting and enhancing the rights of working men and women was a critical ingredient in maintaining a healthy democratic society. Allying ADA with the labor movement's efforts to improve wages and working conditions for America's workers became a key part of ADA's mission under Amy's direction. She recognized that the efforts to increase the federal minimum wage needed non-labor allies. And she enthusiastically threw ADA into the forefront of that fight, by directing the formation of the Coalition for a Fair Minimum Wage which brought together progressive groups of all stripes: religious, economic, social, youth, labor, business and others. Amy's belief that a strong labor movement united with strong allied organizations not only led to an increase in the minimum wage in 2007 but to countless other victories for working men and women.

Amy's work did not stop with the fight to end income inequality. Her career is defined by her commitment to erase the evils of discrimination so that everyone can be truly free to pursue their dreams. Not only is she a trailblazer in her own right, but she worked tirelessly as an advocate for all women. From fair pay to reproductive choice, from education to the workplace, Amy never tolerated an injustice against women or any other group striving for equal treatment.

It is a rare thing to find someone willing to devote their life to advancing the causes in which they believe. I commend Amy for her dedication and service and wish her all the best as she starts the next chapter of her life.

Amy once said to me, "I've walked with giants" when I asked for her thoughts about the

extraordinary people associated with ADA's history. I say today, she is one of them.

### A TRIBUTE TO ALFREDA DUMOND

### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MICHAUD. Madam Speaker, it is my honor to congratulate Alfreda Dumond of Fort Kent, Maine, who has been named "Mother of the Year" by the Ladies of St. Anne. Mrs. Dumond is well known for her strong commitment and dedication to her church and to her family.

Alfreda Dumond's sole occupation is being a housewife and a mother. She was married for over 44 years, and raised five girls and two boys. A devoted mother who centered her life on her family, she raised her children with strong values and morals, and believed in being an example for them to follow.

Alfreda devoted her life to making her home a place where her children, grandchildren and great grandchildren love to visit. Her daughter, Linda, mentions that her house is her castle, so carefully maintained that guests would often remark that "the house is so clean that we can actually eat off the floor." And what a wonderful cook she is—known for her molasses cookies, her old fashioned spaghetti, her homemade rice soup, her boiled dinners and her ployes.

Alfreda has always been an active member of her church, and throughout her life volunteered her time in service to the local clergy. For over 20 years, she has served as a Eucharistic Minister who visits the homes of shut-ins to deliver communion. This devotion to her church and to its congregation has earned her this important recognition—a woman who is committed to strengthening the moral and spiritual foundations of her family, her home, and her community.

Women like Alfreda Dumond give strength and joy to all of our lives, and I ask my colleagues to join me in recognizing her for receiving this honor.

I wish Alfreda and her family all the best, and congratulate her on this well-deserved award.

### FRAUD ENFORCEMENT AND RECOVERY ACT

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. VAN HOLLEN. Madam Speaker, I rise to support the Fraud Enforcement and Recovery Act of 2009. This bill will allow us to better understand what caused the economic collapse and provide the resources necessary to help prevent future economic crises. I applaud Congressman JOHN LARSON'S hard work on this critical legislation.

This legislation cracks down on mortgage and corporate fraud, which have reached historic rates. FBI mortgage fraud investigations

have more than doubled in the last three years, and massive new corporate fraud schemes continue to be uncovered. Congress and the President are committed to protecting the American consumer and getting our economy back on track, and fighting these abuses is an integral part of this effort.

It will also establish the Financial Crisis Inquiry Commission, which will examine the causes and factors that led to the worst financial crisis since the Great Depression. The Commission's recommendations will help inform Congress as we move forward with common sense reforms to prevent these crises from happening in the future.

The Fraud Enforcement and Recovery Act of 2009 includes a clear commitment to fighting waste, fraud and abuse—a commitment that has become a hallmark of this Congress. We are working with the President every day to rebuild our economy in a way that is consistent with our values of hard work, responsibility and broadly shared prosperity. I urge my colleagues to join me to continue this work.

### TRIBUTE TO THE CALIFORNIA SCHOOL FOR THE DEAF

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. STARK. Madam Speaker, I rise today to pay tribute to the 150th anniversary of the California School for the Deaf (CSD), located in Fremont, CA. CSD was founded in 1860 and was the first special education program established in California. Started in San Francisco, the first class had only three students. In 1869, the school moved to a new campus in Berkeley, with approximately 50 students. A vocational component was added to the curriculum in 1871.

By 1915, the school's enrollment had grown to 215 students and the campus was enlarged for the second time. In 1930, a 32-year building program was initiated to restore and again expand the Berkeley campus. In 1934, a teacher-training program was established on the Berkeley campus in conjunction with San Francisco State College, as Superintendent Elwood Stevenson believed that only teachers with special training should be credentialed to teach deaf and hard of hearing children. Dr. Stevenson also emphasized that since language is the core of the deaf child's education, teaching of written language would begin in the child's first year of schooling.

In 1969, the Computer-Assisted Instruction program began as a result of an invitation by Stanford University to participate in a nationwide project. This same year, the first academic mainstreaming program began with five California School for the Deaf students taking world history and geometry at Albany High School.

In 1970, CSD officially adopted the philosophy of total communication and an Instructional Television class was taught for the first time. CSD was given accreditation for its secondary program by the Western Association of Secondary Schools and Colleges, and was granted accreditation for both the elementary

and secondary programs by the Convention of Educational Administrators Serving the Deaf (CEASD).

Dr. Henry Klopping was appointed Superintendent of CSD in 1975 and a Special Unit program was established that year for deaf multi-handicapped students. In 1976, Dr. Klopping formed the Student Advisory Council and later the Community Advisory Council in 1978. Enrollment at the school rose to 518 when the annual new student/parent orientation program was established.

On June 1, 1977 groundbreaking ceremonies launched the new 96-acre site for what would become the California School for the Deaf and the California School for the Blind in Fremont, CA. The school was officially opened on May 25, 1980. CSD's most recent history is filled with cultural and educational advances and student opportunities.

The current population at the California School for the Deaf numbers at 496, and a parent education program has been firmly established to provide support, information, and education for parents of deaf students. The Volunteer Program has grown to 175 individuals who contribute immeasurable time and valuable skills in all facets of CSD students' education and campus life.

I join the community in congratulating CSD for 150 years of exemplary service to deaf students and their families. The California School for the Deaf is a valuable resource beyond measure.

CELEBRATING ONE-YEAR ANNIVERSARY OF SWEARING IN OF PRESIDENT MA YING-JEU

**HON. MARIO DIAZ-BALART**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, this week, on May 20, 2009, the Republic of China on Taiwan will celebrate the one year anniversary of the swearing in of President Ma Ying-jeou. On a recent trip to Taipei, I had the privilege of meeting President Ma. His inauguration marked the second successful and peaceful transfer of power from one political party to another. This is an example of Taiwan's steadfast progress toward full democratization in just the last few decades.

After implementing democratic and economic reforms the Republic of China on Taiwan has become a true model of success throughout Asia. Through the hard work and entrepreneurship of the Taiwanese people, Taiwan has become one of the strongest economies in the Pacific Rim and a showcase democracy in the world.

I was proud to cosponsor H. Con. Res. 55, which recognizes the 30th anniversary of the Taiwan Relations Act, TRA—landmark legislation that forms the foundation of the relationship between the United States and the Republic of China on Taiwan. The House of Representatives' unanimous support for the resolution on March 24, 2009 reaffirms Congress' unwavering commitment of the TRA as the cornerstone of relations between the United States and Taiwan, reiterates its support for

Taiwan's democratic institutions and supports the continuation of the strong and deepening relationship between the United States and Taiwan.

I urge all my colleagues to join me in recognizing this important occasion. We are proud of its political and economic transformation, and wish Taiwan continued success and prosperity.

RECOGNIZING THE PENNDEL-MIDDLETOWN EMERGENCY SQUAD

**HON. PATRICK J. MURPHY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to honor the Pennel-Middletown Emergency Squad for 50 years of distinguished service to Middletown Township and its adjoining boroughs. Since their inception as a non-profit emergency ambulance service in 1959, they have selflessly served tens of thousands of residents in Bucks County, Pennsylvania.

Pennel-Middletown Emergency Squad has come quite a long way since its incorporation. Their first ambulance was a used 1947 Cadillac-Superior Coach, and now their purpose is to provide the best and most modern emergency care and transportation that can be made available. The Pennel-Middletown Emergency Squad also offers education and training to the community for first aid and emergency care.

Madam Speaker, I ask that you join me in recognizing the Pennel-Middletown Emergency Squad for their 50 years of service to Middletown Township and the neighboring boroughs of Hulmeville, Langhorne, Langhorne Manor and Pennel, an area of more than 25 square miles. I am honored to serve as their Congressman.

SALUTING HARLEM'S OWN CROWN JEWELS—LILLIAN "DIAMOND LIL" PIERCE

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. RANGEL. Madam Speaker, I rise today to salute and congratulate my dear friend, Lillian "Diamond Lil" Pierce as an ensemble of Harlem Legendary entertainers gathers to perform a special tribute at the famous Alhambra Ballroom on Adam Clayton Powell, Jr. Boulevard.

Affectionately known in Harlem as "Diamond Lil," she was born in Cameron, North Carolina, and graduated from Pinckney High School in Carthage, North Carolina. Lil came to New York in 1958 and enrolled at City College. She later worked at the New York State Department of Motor Vehicles followed by a brief stint at a bar on Broadway, which proved to be a solid stepping stone to her becoming a co-owner of Carl's Off the Corner in West Harlem. But it was "Diamond Lil's" 21-year

tenure at Showman's Café where she established her reputation and earned the appreciation of countless customers and musicians.

During her many years as a barmaid at Showman's, Lil heard and entertained a veritable Hall of Fame of Jazz and popular musicians, and Showman's Elite personalities. Showman's, originally located next to the World Famous Apollo Theatre over the years has been the home club of choice and hang-out for many of Harlem's renowned entrepreneurs and personalities. Since 1942, Showman's Jazz Cafe has showcased top musicians for Harlem and International audiences, as Mona, Co-owner and retired Son of Sam New York City Police Detective Al Howard, and our Crown Jewel "Diamond Lil" refers to as "family."

Madam Speaker, the Friends of Showman's roster include luminaries and entertainers like Count Basie, Billy Eckstine, Sammy Davis, Jr., Charles Honi Coles, Leroy Myers, Gregory Hines, Pop Brown, Nat Davis and Savion Glover. Personalities like Jesse Walker, Joe Yancy and Jimmy Booker. Performers like Bill Doggett, George Benson, Seleno Clarke, Irene Reid, Jimmy "Preacher" Robins, Gloria Lynne, Joey Morant, Akiko Tsuruga, Grady Tate, Frank Dell, Bill Saxton, Annette St. John, Wolf Johnson, Pat Tandy and the Prince of Harlem Lonnie Youngblood. Among the elected officials who graced her bar and thrilled to her service were Governor David Paterson, Assembly Members Denny Farrell and Keith Wright, State Senator Bill Perkins, Councilmember Inez Dickens, former Borough President C. Virginia Fields, my brother and former Mayor, David N. Dinkins, and me.

Yes, diamonds are forever and so is our extraordinarily precious Lillian "Diamond Lil" Pierce.

NATIONAL WOMEN'S HEALTH MONTH

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MORAN of Virginia. Madam Speaker, I rise today in recognition of May as National Women's Health Month. This designation encourages women to make their own health a top priority by obtaining regular medical check-ups and preventive screenings.

As we urge women to prioritize their own health care, we must also call attention to the disproportionate impact the health care crisis is having on women, particularly women of childbearing age.

In fact, earlier this month the Department of Health and Human Services released a new report, titled Roadblocks to Health Care: Why the Current Health Care System Does Not Work for Women which states that women, especially those of reproductive age, are more vulnerable to high health care costs because they require more regular contact with health care providers, including yearly Pap tests, mammograms, and obstetric and gynecological care.

While the study sheds much needed light on the impact of the nation's health care crisis on women, its findings are not surprising.

Last year, I had the opportunity to visit a women's health clinic run by Planned Parenthood and saw first hand patients seeking the affordable, accessible, high-quality preventive reproductive health care.

At Planned Parenthood clinics, health professionals provide over 950,000 cervical cancer screenings and breast exams to more than 850,000 women. Sexually transmitted disease testing and treatment are performed and made available to both women and men. In fact, 97 percent of the services provided at these clinics are preventative.

In Virginia alone these clinics provide basic health care, including lifesaving cancer screenings, to over 28,500 patients a year. But these clinics are only meeting a fraction of the need in my state. There are 846,100 women in need of contraceptive services and supplies. Of these, 371,640 women need publicly supported contraceptive services because they have incomes below 250 percent of the federal poverty level (251,710) or are sexually active teenagers (119,930). Eleven percent of women aged 15–44 have incomes below the federal poverty level, and 18 percent of all women in this age-group are uninsured (i.e., do not have private health insurance or Medicaid coverage).

Increasing health insurance coverage for women is essential. Approximately 17 million American women have no health insurance coverage. It's critical that health care reform requires coverage of comprehensive reproductive health services.

With the economic downturn, these health centers have seen a significant increase in utilization, just as their funding streams, both public and private, have become more precarious. Across the country, they are seeing an increase in patients—women who have lost their jobs and health insurance, or who no longer have money to pay for medical care. These women are literally choosing between a month of birth control and bus fare.

Planned Parenthood health centers are part of an important network of women's health care providers and serve as a critical entry point into the health care system for millions of women.

In fact, Guttmacher reports more than six in ten clients consider family planning centers their main source of health care. Oftentimes, it is their first interaction with the country's health care system.

This is why increasing health insurance coverage is not enough. Ensuring access to a strong network of health care providers is fundamental to improving health care coordination and quality outcomes.

A strong women's health care infrastructure must be developed as we proceed with health care reform. Women need preventative services for reproductive and general health. Planned Parenthood clinics are providing these services now and we should make sure they continue to do so.

**HONORING MR. GLENN COLEMAN  
FOR HIS 23 YEARS OF SERVICE  
AND DEDICATION TO THE USDA  
NATIONAL FOREST SERVICE**

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. ALEXANDER. Madam Speaker, I rise today to commend Mr. Glenn Coleman, upon the occasion of his retirement, effective June 13, 2009, for his 23 years of service and dedication to the USDA National Forest Service.

Mr. Coleman, who came to the City of Alexandria, LA in 1986, has dedicated 23 years of service as a landscape architect to the Kisatchie National Forest Service. His service includes management and volunteer work with projects and organizations such as the Alexandria Tree Board Committee, the Forest Service African American Strategy Group, "Smokey the Bear" and the Rapides Parish School Fire Prevention Program, annual outdoor recreation events, recreation facility design, and the Forest Service Human Resource Program.

Beyond his professional career, Mr. Coleman has been proudly married for 20 years to Patricia Ann Coleman and is a loving father to Angela, Alisha, Andre, Kimberly, and Gregory. Friends and family describe Mr. Coleman as an individual who has dedicated his life to Christ and is an active member of The Greater New Hope Baptist Church where he served on the Deacon Board for 18 years under the direction of Rev. Robert Butler.

Mr. Coleman is a friend to many, and is deemed a gracious and hardworking person to all who have had the privilege of making his acquaintance.

I ask my colleagues to join me in congratulating Mr. Glenn Coleman for his many years of service to the National Forest Service in Louisiana and for his dedication to our community.

**RECOGNIZING THE FIRST ANNI-  
VERSARY OF THE ELECTION OF  
THE REPUBLIC OF CHINA'S (TAI-  
WAN) PRESIDENT MA YING-JEOU**

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. ROSKAM. Madam Speaker, I rise today in honor of the first anniversary of the election of the Republic of China's (Taiwan) President Ma Ying-jeou. With close to 65,000 Taiwanese Americans in the Chicagoland area, I have closely observed President Ma's progress on the world stage during his first year in office.

In just one year, the Harvard educated President Ma has made accomplishments in leaps and bounds to improve Taiwan's international standing in no small part because of his work to normalize relations with mainland China.

Most recently, Taiwan has been accepted as an official observer at the World Health Assembly that will take place later this month in

Geneva. The World Health Assembly, which is part of the World Health Organization, will give Taiwan's 23 million citizens a voice at this very important international forum.

Also, in April, officials from China and Taiwan participated in the Chiang-Chen Talks. The talks resulted in the signing of the following agreements: (1) "Agreement on Joint Cross-Strait Crime-fighting and Mutual Judicial Assistance;" (2) the "Cross-Strait Financial Cooperation Agreement;" and, (3) the "Supplementary Agreement on Cross-Strait Air Transport". All of these agreements will result in improved coordination between the Taiwan Straits neighbors in the areas of law enforcement, financial exchanges and travel.

Finally, President Ma's administration has successfully removed Taiwan from the Special 301 Watch List which is maintained by The Office of the U.S. Trade Representative. The removal from this list shows Taiwan's commitment to preventing the importing and exporting of illegally pirated materials such as DVDs and CDs.

These are three of President Ma's many achievements during his first year in office. Please join me in congratulating, President Ma, on a very successful first year.

**THE INTRODUCTION OF THE  
TRUTH IN FUR LABELING ACT  
OF 2009**

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MORAN of Virginia. Madam Speaker, I rise today to introduce, along with Representative MARY BONO MACK, the Truth in Fur Labeling Act of 2009, which would require the labeling of all garments containing animal fur.

Current law contains a glaring loophole that allows garments containing less than \$150 dollars in fur to be sold in the U.S. without an identifying label. The result is that consumers lack the information they need to make informed choices and may inadvertently purchase garments that contain real fur, possibly from a dog or cat. The Humane Society of the United States (HSUS) strongly supports this bill as a way to guarantee consumers full and accurate information and to cut down on the amount of illegal dog and cat fur making its way into the U.S.

In recent years, HSUS investigators found a proliferation of falsely labeled and falsely advertised dog fur on fashion clothing sold by some of the largest names in U.S. retailing. Of the fur-trimmed jackets subjected to mass spectrometry testing by HSUS, 96 percent were found to be domestic dog, wolf or raccoon dog, and either mislabeled or not labeled at all.

Half of all fur garments entering the United States come from China, where large numbers of domestic dogs and cats as well as raccoon dogs are killed every year for their fur by brutal methods, sometimes skinned alive. The Dog and Cat Protection Act of 2000 banned the trade in dog and cat fur after an HSUS investigation revealed the death toll at 2 million animals a year and found domestic dog fur for sale in the United States.

While it is currently illegal to import, export, sell or advertise any domestic dog or cat fur in the United States and fur from other animals must be identified with a label, a loophole exists that allows a sizable portion of fur garments to avoid this labeling requirement. The Fur Products Labeling Act of 1951 exempts garments with a "relatively small quantity or value" of fur from requiring labels disclosing the name of the species, the manufacturer, the country of origin and other pertinent information for consumers. The Federal Trade Commission defines that value today as \$150—an amount that allows multiple animal pelts on a garment without a label.

Regardless of value, consumers have the right to know if a product they purchase contains real fur. Consumers who may have allergies to fur, ethical objections to fur, or concern about the use of certain species, cannot make informed purchasing choices. Furthermore, the ability for consumers to make well-informed decisions based on complete information is a cornerstone of a functioning market economy.

Importantly, labeling fur trim will not be economically burdensome for apparel manufacturers or retailers. According to the Federal Trade Commission, the total number of fur garments, fur-trimmed garments, and fur accessories sold in the United States is estimated at 3,500,000. Of that, approximately 3,000,000 items—or 86 percent—are already required to abide by labeling requirements. It will not present a difficulty to label the additional 14 percent of products using animal fur. In fact, this legislation may actually increase the efficiency of the manufacturing process because it removes the need to determine an item's value for labeling purposes.

Consumer protection officials and leaders in the retail and fashion industries support fur labeling. Legislation closing the loophole in the Fur Products Labeling Act has been endorsed by Tommy Hilfiger, Burlington Coat Factory, Loehmann's, Buffalo Exchange, House of Deréon, Jay McCarroll, Andrew Marc, and others. Leading designers and businesses understand the need for clear labeling laws to protect consumer confidence in their products. Additionally, the National Association of Consumer Agency Administrators (NACAA), an organization representing more than 160 government agencies and 50 corporate consumer offices, recently passed a resolution in support of truthful fur labeling and advertising, including the elimination of loopholes.

It is clear that current regulations undercut consumers' ability to make informed purchases and contributes to the continued presence of dog and cat fur in garments sold in the U.S. I look forward to working with my colleagues and the committee of jurisdiction to bring attention to this issue and enact the needed reforms included in the Truth in Fur Labeling Act of 2009.

#### PERSON EXPLANATION

#### HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. RYAN of Ohio. Madam Speaker, on Monday, May 18, 2009, I was unable to return

to Washington, DC in time to cast my vote for rollcall votes No. 267–269. Had I been present, I would have voted "aye" on rollcall votes No. 267, H. Res. 300; No. 268, S. 386; and No. 269, H. Res. 442.

#### RECOGNIZING ROBERTA RAKOVE, RECIPIENT OF THE PARTNER- SHIP FOR ACTION GRASSROOTS CHAMPION AWARD

#### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. DAVIS of Illinois. Madam Speaker, I rise to acknowledge Roberta Rakove, Senior Vice President, Government Affairs, of Sinai Health System for her outstanding leadership in creating grassroots and community activity in support of her hospital's mission. Roberta Rakove was first nominated by the Illinois Hospital Association (IHA), and later awarded by both the IHA and the American Hospital Association (AHA) the Partnership for Action Grassroots Champion Award on April 28, 2009.

The Partnership for Action Grassroots Champion Award was established to recognize hospital leaders who most efficiently inform elected officials of the affect major issues have on a hospital's fundamental role in the community; to recognize hospital leaders who have done an exemplary job in broadening the base of community support for the hospital; and to recognize hospital leaders who continue to advocate on behalf of the hospital and its patients.

Roberta Rakove's commitment to advocating for the hospital community extends to her 15 years of devotion on IHA's Advocacy Council, DSH Steering Committee, and other membership groups.

For 90 years the hospitals and caregivers of Sinai Health System have provided medical care and social services to communities in west and south Chicago. Sinai Community Institute provides social service outreach for the lifestyle issues that contribute to health while the Sinai Urban Health institute researches the prevalence of chronic disease in Chicago neighborhoods. Collectively, the Sinai Health System provides a full continuum of care for acute, primary, specialty and rehabilitation to meet the needs of the community.

#### MONGOLIA'S DEMOCRACY

#### HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. LUETKEMEYER. Madam Speaker, in a vast sweep of mountains, steppe, and desert in the heart of northern Asia, one of the most remarkable political transformations of the decade is unfolding. I rise today to commend democracy in Mongolia. The collapse of communism and totalitarianism has provided Mongolia with a historical opportunity of introducing simultaneous political and economic

changes by dismantling the communist regime and central planning economy to build democracy and market capitalism.

Mongolia's democratic transition explicitly indicates that Mongolia has reached remarkable achievements in building democracy and market capitalism.

Mongolia's parliamentary democracy has been playing a meaningful role in building democracy and market capitalism, and civil society has emerged and developed. Mongolia's democratic reforms have been radical and irreversible. Now, Mongolia is committed to successful completion of the final phase of its transition to market capitalism to deepen and strengthen democracy.

In closing, Madam Speaker, I ask all my colleagues to join me in supporting Mongolia's continued transition to democracy.

#### HONORING LIEUTENANT COLONEL RICHARD L. KIRCHNER FOR HIS SERVICE TO THE CIVIL AIR PA- TROL

#### HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor Lieutenant Colonel Richard L. Kirchner for his 29 years of service to the Civil Air Patrol. Col. Kirchner retired in February after developing the Anoka Composite Squadron and serving as its Commander three times.

After joining the Civil Air Patrol in 1980, Col. Kirchner started the Anoka Composite Squadron in 1982 with just one member. Today, it stands at nearly 100 members and has produced leaders in the Civil Air Patrol, the U.S. Air Force, in business and the public sector across the country. Col. Kirchner was involved with every aspect of the Civil Air Patrol including Emergency Services, Aerospace Education and the Cadet program to help develop anyone interested in civil service. I am confident that the Squadron will be led by other fine commanders and engage in new and challenging missions in years to come, standing on the firm foundation laid by Col. Kirchner.

It is my privilege to honor Lieutenant Colonel Richard L. Kirchner for his three decades of dedicated service to the Civil Air Patrol and I want to thank Col. Kirchner for the role he has played in so many Minnesota lives. His commitment to honor and duty, country and community and his nurturing relationship with the members of the Squadron are a model for all of us on how to lead and teach. We are all so grateful for his service.

#### TAIWAN

#### HON. ANH "JOSEPH" CAO

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. CAO. Madam Speaker, May 20, 2009 marks a significant milestone for Taiwan, the first year in office of President Ma Ying-jeou.

What began as a year of confrontation between the Peoples Republic of China and Taiwan, President Ma has become one of co-operation.

The conciliatory initiatives of President Ma has produced, for the first time in decades, face to face productive meetings that have brought about agreement between these former adversaries in a variety of areas; legal, transportation and financial.

Such great progress has not gone unnoticed and President Ma Ying-jeou should be recognized for his leadership.

IN HONOR OF MR. KIRK FARRA,  
IN-SYNCH SYSTEMS

**HON. JASON ALTMIRE**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. ALTMIRE. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop resources to help us meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn, and I remain confident that our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17–23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Mr. Kirk Farra for his tremendous accomplishments on behalf of small businesses. Mr. Farra is president of In-Synch Systems, LLC, a company that produces state-of-the-art records management software for local law enforcement agencies. In-Synch Systems has rapidly expanded since

its inception in 1999 and is currently serving clients across the country. The company's top product is a records management system that allows law enforcement officers to access and share critical intelligence when they are in the field. In-Synch Systems has provided its products to government agencies for use in federally funded law enforcement programs that supply police agencies with critical software.

Madam Speaker, Mr. Farra has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, he will testify before the House Small Business Committee to share his story. I ask that you and the entire U.S. House of Representatives join with me in honoring him for the extraordinary work he has done for the small business economy. His efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

IN RECOGNITION OF SPORTS-  
CASTER DON LADAS' RETIREMENT

**HON. DEBORAH L. HALVORSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday May 19, 2009*

Mrs. HALVORSON. Madam Speaker, today I rise to recognize Don Ladas for his service to Joliet, Illinois for over fifty years as an unparalleled sports voice on 1340 WJOL Radio and working for the Herald News, which has made him a sports icon in Will County. Ladas, WJOL's longest full-time employee in history, has recently announced his retirement. Out of all of WJOL's radio legends over the years, none have had the staying power and impact that Don Ladas has had.

For forty-seven years, Ladas has covered a wide variety of sports for WJOL including bowling, football, basketball, baseball, and softball, and has broadcasted thousands of local high school sporting events. He was the host of the oldest bowling show in the United States called, "Ten Pin Topics," which aired Monday through Saturday. In addition to his daily bowling show, Ladas also hosted a weekly sports program called, "Shooting the Breeze." For the past thirty years, Ladas also has been the editor and publisher of his own monthly magazine called "Will County Sportsman."

His professionalism and his dedication to sports have earned him a place of recognition in the following: the Illinois Sportscasters Hall of Fame, the Illinois Basketball Hall of Fame, the Illinois State Bowling Hall of Fame, the Joliet Junior College Hall of Fame, the Joliet and Will County Hall of Pride, the Will County Bowling Hall of Fame, and the Minor League and Pro Football National Hall of Fame in Canton, Ohio for his work in the media. Also, in July of 2008, author Gary Seymour published a book following Ladas' career entitled, *The Voice of Joliet: The Life and Times of Hall of Fame Radio Sportscaster Don Ladas*.

As one of the most revered figures in Joliet's sports scene history, sportscaster Don Ladas has left his mark on the world of radio

and sportscasting and will serve as an inspiration to all individuals just entering the mass media field of broadcasting. It is with great pride that I recognize all of his many accomplishments upon the event of his retirement.

PERSONAL EXPLANATION

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mrs. MALONEY. Madam Speaker, on May 18, 2009, I missed rollcall votes numbered 267, 268, and 269.

Had I been present, I would have voted "yea" on rollcall votes 267, a resolution congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary; 268, the Fraud Enforcement and Recovery Act; and, 269, a resolution recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low-income children and families.

RECOGNIZING COMMISSIONER  
DEBORAH TAYLOR TATE FOR  
RECEIVING THE ITU "WORLD  
TELECOMMUNICATION & INFORMATION SOCIETY AWARD"

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mrs. BLACKBURN. Madam Speaker, I rise to recognize Commissioner Deborah Taylor Tate, Federal Communications Commission member from 2005 to 2008, on the occasion of her receipt of the 2009 International Telecommunication Union (ITU) "Telecommunication & Information Society Award."

The World Telecommunication & Information Society Award is presented by the ITU in recognition of individuals or institutions that have made a significant contribution to promoting, building, or strengthening an individual-focused, development-oriented and knowledge-based information society. The 2009 award was presented to individuals dedicated to global Internet connectivity, promoting innovation, and protecting children online.

Commissioner Tate won international praise during her service at the FCC as a leading voice on issues affecting families and children, and helped craft communications policy to ensure that advances in communications technologies benefit all Americans in a safe, secure manner. As a result, she is known throughout the telecommunications industry as the "Children's Commissioner" for her dedication to online safety.

Receipt of ITU's Telecommunication & Information Society Award further cements Commissioner Tate's impact on the communications space during her service at the FCC, and follows a litany of awards following her departure from the Commission, including an Award for Outstanding Public Service from Common Sense Media, the Good Scout Award from the Boy Scouts of America, the

Carol Reilly Award from the New York State Broadcasters Association, the Touchstones of Leadership Award for Public Service from Women in Cable Television, the YW Award from the Academy for Women of Achievement, and the Jerry Duvall Public Service Award from the Phoenix Center for Advanced Public Policy Studies.

On behalf of constituents throughout Tennessee's 7th District, I applaud Commissioner Tate for her lifetime body of work, and congratulate her well-deserved receipt of the 2009 Telecommunication & Information Society Award.

#### COMMENDING CHANDRA BROWN

### HON. KURT SCHRADER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. SCHRADER. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn and our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17–23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Ms. Chandra Brown for her tremendous accomplishments on behalf of small businesses. Ms. Brown currently serves as president of Oregon Iron Works' subsidiary United Streetcar, the only modern streetcar manufacturer in the United States. With over 15 years of experience with Oregon Iron Works, she is responsible for overall busi-

ness development and marketing as the company's vice president.

Recognized by Oregon's economic community as one the state's top business leaders, Ms. Brown was named to the Oregon Innovation Council in 2005 by Governor Ted Kulongoski. She sits on numerous non-profit boards, including serving as Vice Chair of the Oregon Wave Energy Trust, which promotes job creation through the emerging wave energy industry. Ms. Brown has a bachelor's degree in marketing and an M.B.A. in international marketing from Miami University.

Madam Speaker, Ms. Brown has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, she will testify before the House Small Business Committee to share her story. I ask that you and the entire U.S. House of Representatives join with me in honoring her for the extraordinary work she has done for the small business economy. Her efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

#### JACK KEMP'S LIFE PROVIDES IDEAS

### HON. TOM MCCLINTOCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MCCLINTOCK. Madam Speaker, in memory of Jack Kemp, I would like the following article included in the CONGRESSIONAL RECORD.

#### REPUBLICANS LOOKING FOR A MODERN INSPIRATION? JACK KEMP'S LIFE PROVIDES IDEAS

(By Jack Cox)

There has been much press coverage these days about the problems of the Republican Party seeking a new identity that resonates with Americans. Too often, Republicans and conservatives are criticized for lacking compassion and concern for many social issues of interest to many Americans. In the 1960's, Conservatives had little involvement in the historic battle for civil rights. Most Republicans opposed the civil rights act in 1964, including Presidential candidate Barry Goldwater, and a great deal of resentment grew within the African American community over this apparent indifference.

It was, of course, Republicans with President Lincoln that led the battle to end slavery and liberate blacks from the intolerable practice. Thirty two years earlier, William Wilberforce, a noted Member of Parliament and British Christian leader had led the battle to end slavery in England. Unfortunately, during the last half of the 20th Century too many conservatives, Republicans specifically, were uninvolved in the battle. That disinterest was tied not to bigotry but rather other priorities including a major battle to oppose the spread of Communism from the Soviet Union and "Red China." Senator Goldwater, a charter member of the Phoenix NAACP, opposed it on states' rights grounds.

It was a warm summer day during the 1996 Presidential Campaign that the National Association of Black Journalists annual convention was held in Nashville. The organization, as most journalism groups, invites

Presidential candidates to address their members. On that humid Tennessee day Republican Presidential Candidate Robert Dole and Vice Presidential Candidate Jack Kemp were slated to speak to the several thousand African American journalists from around the nation. Most Republicans would have described this group as anything but a friendly organization to GOP candidates.

Senator Dole was introduced with polite applause. Then Jack Kemp was introduced and he received a standing ovation. I sat in awe as these black Americans applauded a white Republican leader. Jack stayed after his speech and shook the hand of every young journalist who wanted to meet him. There was no story about this incident and it has received no notice that I have ever seen. Why did Jack get this reception? It is easy to understand why — Jack Kemp cared and he demonstrated that care over a life time. He was committed to the wisdom of a free market but he also saw that sometimes people fell through the cracks and that government has the responsibility to help them.

However, Jack was committed to giving people opportunity, not hand outs. He had the strong respect of millions of Americans. In my many personal conversations with Jack and my work with him, that caring attitude came through like a laser beam! Jack, in the past decade, spoke strongly for a guest worker program for illegal immigrants and a method for these folks to become legal residents of the United States. Jack saw these people as hard workers who were trying to achieve the American dream, one sought by millions from throughout the world.

Jack observed one time "Republicans many times can't get the words 'equality of opportunity' out of their mouths. Their lips do not form that way." He also declared "There really has not been a strong Republican message to either the poor or the African American community at large."

He also noted "When people lack jobs, opportunity, and ownership of property they have little or no stake in their communities."

In 1964, Senator Barry Goldwater was defeated for the presidency. Look Magazine, shortly after the solid defeat, asked writer Richard Cornuelle to write a piece entitled a "Positive Agenda for the Republican Party." In 1965, Cornuelle published a new book "Reclaiming the American Dream." Cornuelle, like Jack Kemp, called on Republicans to have answers and a positive agenda instead of constant opposition to government. He coined the phrase "the independent section" which described the vital role that associations, churches, and individuals play in meeting the needs of society.

Unfortunately, Dick Cornuelle's ideas, like Jack Kemp's, were not seen as providing direction for the future of the Republican Party by some leaders. Jack Kemp was a dynamic individual who, like Ronald Reagan, always saw a glass half full rather than half empty. If the Republican Party is to begin carrying a positive banner of hope and leadership, it will need to be like Jack Kemp's. Perhaps with the loss of Jack Kemp, the time has come for the party and Conservatives in general to reexamine their priorities and reach out to all Americans.

Indeed it is a time for all Americans to rekindle their faith in an America of strong commitment to a free market system which strives to reach all Americans, not with a hand out but with a hand up. Kemp reminded us "There are no limits to our future if we don't put limits on our people."

At the same time, Jack never lost his commitment to the idea that a growing economy



is the only answer to enriching more Americans instead of fewer. He saw redistribution of wealth as a policy for failure. His vision for government was simple: "Every time in this century we've lowered the tax rates across the board, on employment, on saving, investment and risk-taking in this economy, revenues went up, not down." It was interesting that another dynamic leader in the Democratic Party held that same view, John F. Kennedy, another inspirational leader.

Finally, as the Republican Party thinks about its future and the Democrats, now in power, contemplate how they responsibly use their power, we should remember Jack Kemp's words "Democracy without morality is impossible." I, as so many others Americans of all colors and all parties, will miss Jack Kemp.

RECOGNIZING THE NAVY LEAGUE  
BREMERTON-OLYMPIC PENIN-  
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THE LONE SAILOR STATUE ME-  
MORIAL

**HON. NORMAN D. DICKS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. DICKS. Madam Speaker, I come to the floor of the House today to express my support and appreciation for the Navy League of the United States and congratulate the members of the Navy League Bremerton-Olympic Peninsula Council upon the dedication of the Lone Sailor Statue Memorial at Bremerton, Washington.

The Lone Sailor Statue is symbolic of the many sacrifices made by our mariners, their families and the communities that support them. On May 23, 2009, the Navy League Bremerton—Olympic Peninsula Council will dedicate a Lone Sailor Statue Memorial at Bremerton Harborside in Bremerton, Washington. This statue honors and embodies the longstanding bond the city and region share with our Navy and maritime past.

Since its founding, the United States has relied upon access to and unhindered use of the world's oceans in order to enhance its security and maintain its interests. The sea services of the United States; the Navy, Marine Corps, Coast Guard and U.S. Merchant Marine, were essential to our young Nation's security, growth and prosperity then, and they remain so today.

The Navy League of the United States was formed in 1902 to ensure continued support for the men and women of the sea services in their duties. It continues this vital mission today through the education of our citizenry and the Nation's political leaders on the important role of the sea services and the sacrifices made by our Sailors, Marines, Coast Guardsmen and Merchant Mariners around the world.

The dedication of the Lone Sailor Statue Memorial in Bremerton is a testament to the sustained effort of the entire Navy League Bremerton—Olympic Peninsula Council and many, many community contributors and volunteers. I want to extend my thanks and appreciation to all who contributed their time and effort to make this event possible.

JUAN AND LUIS YEPEZ, RECIPI-  
ENTS OF SBA'S PHOENIX AWARD

**HON. NIKI TSONGAS**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Ms. TSONGAS. Madam Speaker, I rise today to honor Juan and Luis Yepez, small business owners in Lawrence, MA, for receiving the Small Business Administration's 2009 Phoenix Award for Small Business Disaster Recovery. The SBA gives the Phoenix Award to individuals who display selflessness, ingenuity and tenacity in the aftermath of a disaster, while contributing to the rebuilding of their communities.

The entrepreneurial Yepez brothers are owners of Mainstream Global, a small computer product distribution company. The Yepez brothers chose to locate their business in the old industrial City of Lawrence and to become part of the surrounding community. Unfortunately, in May 2006 the company's facilities along the banks of the Merrimack River flooded, destroying hundreds of thousands of dollars of equipment and forcing a three-month shutdown of the business.

Despite this setback, Juan and Luis kept their twelve employees on payroll throughout the recovery process, and now, in the midst of a deep recession, they have expanded Mainstream Global to a staff of thirty-two. The Yepez brothers continue to be committed partners in the rebirth of Lawrence by investing in the renovation of other old, abandoned mill buildings in the downtown, converting these buildings into office space, educational facilities, and affordable housing.

I congratulate the Yepez brothers for their outstanding contribution to the City of Lawrence and its residents, and their dedication to the revitalization of our community.

PRAISING THE HOLLYWOOD, FLOR-  
IDA CITY COMMISSION FOR ITS  
SUPPORT IN THE REALIZATION  
OF THE DR. MARTIN LUTHER  
KING, JR. MULTICULTURAL ART  
PROJECT

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. HASTINGS of Florida. Madam Speaker, I rise to honor the City of Hollywood, Florida City Commission, and in particular, City Manager Cameron D. Benson and Grants Manager Renée Jean, for their instrumental support in the realization of the Dr. Martin Luther King, Jr. Multicultural Art Project. On May 21, 2009, the City of Hollywood, Florida City Commission will dedicate a bronze bust of Dr. King in ArtsPark at Young Circle in Historic Downtown Hollywood, FL, in honor of Dr. King's life and legacy.

This project would not have been possible without the hard work and dedication of City Manager Benson and Grants Manager Jean, who, faced with a challenging fiscal year and budget cuts, were committed to the Dr. Martin

Luther King, Jr. Multicultural Art Project from its inception to its completion. In 2008, Benson proposed the project in response to a community recommendation to the City Commission to create an initiative to honor Dr. Martin Luther King, Jr. Determined to find a way to finance the project without using General Fund monies, Jean successfully secured a \$50,000 grant from the W.K. Kellogg Foundation for the construction and implementation of the project. After issuing a national "Call to Artists" and evaluating proposals, the City Artist Selection Committee selected Steven Whyte of Steven Whyte Studios in California to create the original art piece.

Whyte's hand-sculpted bronze bust of Dr. King weighs approximately 200 pounds and sits upon a large base that will be inscribed with the immortal words of Dr. King's famous "I Have a Dream" speech. This lasting tribute to Dr. King's dream and courage will become a permanent fixture in regionally acclaimed ArtsPark at Young Circle, a public venue for arts, education, recreation and entertainment, and in the Hollywood community.

Madam Speaker, the realization and completion of the Dr. Martin Luther King, Jr. Multicultural Art Project is a celebration of diversity in the City of Hollywood and a reminder to all visitors to continue working to realize Dr. King's dream of equality for all. Once again, I would like to recognize and thank Mr. Benson, Ms. Jean, and the City of Hollywood, Florida City Commission for their support of this project and for their commitment to the community.

BARBARA McCLAIN OWNER AND  
PRESIDENT, McCLAIN CON-  
TRACTING COMPANY, INC. ANDA-  
LUSIA, AL

**HON. BOBBY BRIGHT**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. BRIGHT. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from

this downturn and our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17–23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Ms. Barbara McClain for her tremendous accomplishments on behalf of small businesses. Ms. McClain is owner and president of McClain Contracting Company, Inc., a firm that has provided a range of services to military bases and other federal installations. Ms. McClain began her career as a bookkeeper and payroll clerk in 1968, and worked for several firms before incorporating her own business in 1990 selling ATVs and watercraft. After limited success in this venture, McClain transformed the business and became a licensed construction company, receiving a SBA certification as a HubZone and 8(a) firm in September 2005.

With the program's assistance, McClain Contracting prospered by expanding its work to the federal level. The company has been awarded over \$13 million in contracts by Kessler Air Force Base and performed work for other military and veteran-service facilities in Mississippi. Having gained a reputation for quality work, McClain Contracting is currently seeking to expand its services throughout the Southeast region.

Madam Speaker, Ms. McClain has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, she will testify before the House Small Business Committee to share her story. I ask that you and the entire U.S. House of Representatives join with me in honoring her for the extraordinary work she has done for the small business economy. Her efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

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PRESIDENT MA OF TAIWAN

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. CONYERS. Madam Speaker, I rise today to offer my congratulations on the one year anniversary of President Ma of Taiwan. President Ma has accomplished much during his tenure to reduce the tensions in the Taiwan Strait.

I want to shed light on the third Chiang-Chen talks that occurred last month to highlight my point.

The third Chiang-Chen Talks, which took place in Nanjing, brought together top officials from both sides of the Taiwan straits to dis-

cuss issues that are of mutual benefit to Taiwan and China. Three important agreements were signed at these talks.

The "Agreement on Joint Cross-Strait Crime-fighting and Mutual Judicial Assistance" will improve cooperation between the two sides with respects to criminal investigations by sharing information and lending other law enforcement assistance as needed.

Secondly, the "Cross Strait Financial Cooperation Agreement" will help improve monetary exchanges and may lead to Taiwan opening financial institutions on the mainland.

Lastly, a "Supplementary Agreement on Cross-Strait Air Transport" was signed to increase the number of daily flights, both passenger and cargo, between Taiwan and China plus increase the number of airports by which these flights will depart.

In addition to these three agreements, China has agreed to encourage investments from the mainland into Taiwan ventures.

All of these important agreements would not have been possible without President Ma's leadership and courage. Again, congratulations to President Ma and both countries on each side of the Taiwan Strait.

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HONORING ANDREA MACKENZIE

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. THOMPSON of California. Madam Speaker, I, along with my colleague Congresswoman LYNN WOOLSEY, rise today to honor a dedicated and beloved advocate for preserving agriculture and the environment in Sonoma County, California. Andrea Mackenzie is leaving the Sonoma County Agricultural Preservation and Open Space District, and we celebrate her 12 productive years, especially the last eight years as General Manager.

Andrea was born in upstate New York and grew up in Los Angeles. She earned a Bachelor's Degree in Environmental Studies from the University of California at Santa Barbara and a Master's Degree in Urban Planning and Natural Resources from the University of California at Los Angeles.

With her love of both the coast and the rugged mountains of the High Sierra, it is no surprise that Andrea worked for over 25 years in land use and conservation-related positions, including the East Bay and San Francisco where she began to develop a focus on collaborative public/private projects and regional approaches. She also loves walkable communities, old barns, hiking and kayaking, country rock, and nature writers.

Andrea first served the Sonoma County Agricultural Preservation and Open Space District as project manager for the strategic conservation plan update, creating documents that have become models for other public land conservation agencies. In 2000, she was appointed General Manager by the Board of Supervisors.

The mission of the District is to "permanently protect the diverse agricultural, natural resource and scenic open space lands of Sonoma County for future generations." Fund-

ed by a quarter-cent sales tax, it is the only such district in the state of California and is overwhelmingly supported by Sonoma County's residents.

Andrea helped direct the 2006 campaign to renew the sales tax, which passed overwhelmingly. Voters value the organization's mission and its programs including: matching grants to partner with local cities and agencies for land acquisition, preservation and enhancement; stewardship in managing these lands and various easements to protect them, as well as to allow for public access; land leases to local growers; and public and educational outings, including a focus on underserved populations. Andrea has played a key role in developing these programs as well as increasing the amount of open space from 25,000 acres to 75,000 acres (including 33,000 acres of farmland).

In 2007, in testament to Andrea's management, the District was selected for the National Leadership in Conservation Award from the National Association of Counties (NACo) and the Trust for Public Land in Washington, D.C. She was also one of 36 Fellows selected to participate in the National Conservation Leadership Institute program, is a member of the Executive Committee and future President of the Bay Area Open Space Council and served on both the Urban Rural Roundtable (formed by San Francisco Mayor Gavin Newsom to create a Bay Area Regional Food System) and on the Statewide Watershed Advisory Committee.

Madam Speaker, Andrea Mackenzie's combination of visionary and practical leadership has made the Sonoma County Agricultural Preservation and Open Space District a vital player in our community. Sonoma County could have gone the way of other growing counties in California with sprawl from end to end. Instead, it remains blessed with green open space, productive agriculture, and many unique and intact ecosystems. We thank her for her great contributions to our children's natural inheritance and wish her luck in her new position where she will be continuing her good work closer to her family.

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HONORING MARK A. BANCROFT

**HON. MICHAEL H. MICHAUD**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. MICHAUD. Madam Speaker, I rise today to recognize the accomplishments of Mark A. Bancroft, President of Bancroft Contracting Corporation in South Paris, Maine.

Mr. Bancroft knows the meaning of dedication. He started working for his father's company, Bancroft Contracting Corporation, at the age of fourteen. He spent weekends, holidays, and school vacations learning the skills necessary to succeed in his trade. After successfully completing the Construction Management Technology program at the University of Maine, Mr. Bancroft returned to work for his father full time.

In the years following the completion of his degree, Mr. Bancroft worked as a project manager, human resources manager, operations

manager, Vice President of Operations, and President for Bancroft Contracting Company. In 2004, he became owner and CEO. Today, Mr. Bancroft's company employs one hundred-thirty workers during the winter and more than two hundred during the summer. The Small Business Administration has recognized Mr. Bancroft's business expertise and commitment by naming him the Maine Small Business Person of the Year for 2009.

Madam Speaker, please join me in congratulating Mr. Bancroft on a lifetime of hard work and devotion.

**HONORING RABBI HOWARD  
HERSCH**

**HON. PATRICK J. MURPHY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to honor Rabbi Howard Hersch, the spiritual leader of Congregation Brothers of Israel in Newtown, Bucks County, Pennsylvania. Rabbi Hersch will be retiring in July after 48 years of dedicated service to his community.

While serving at the Congregation Brothers of Israel, Rabbi Hersch has worked tirelessly to provide his congregants with leadership, kindness, and an open ear. His combination of wisdom, humor, and compassion has created an atmosphere of warmth in his synagogue that his congregants will truly miss.

Rabbi Hersch is not only a scholar, teacher, and respected associate of several Rabbinical Boards, but also a member of many humanitarian and civic organizations. He has dedicated his life to advancing the causes of the State of Israel, the Jewish people, and of all people in need.

Rabbi Hersch has contributed enormously to his community in Bucks County. His commitment to service through spiritual leadership and education is a characteristic to be emulated. Madam Speaker, I am proud to recognize Rabbi Hersch for his outstanding efforts, and am extremely honored to serve as his Congressman.

**REMEMBERING THE LIFE OF "MR.  
BRONX," DR. ELIAS KARMON**

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. RANGEL. Madam Speaker, I rise with great sadness as I remember the life of my dear friend Dr. Elias Karmon who recently passed away. As I speak with profound sorrow, I ascend to celebrate a life well lived and to remember with fondness the accomplishments of a remarkable man who, over his many years in our community, etched his name in history as a visionary who erected institutions and forever transformed the quality of life of his fellow Bronxites.

Mr. Bronx, as he was affectionately called, was born on March 4, 1910 and until his death

on October 21, 2008, he was doing what he loved the most—attending to the needs of The Bronx community. His death at the age of 98 years old does not signal an end to a dedicated career of serving his community, but the beginning for those whose lives were touched by Dr. Karmon to continue his work.

The Bronx is full of busy men, but most of us found the activities of Dr. Karmon astonishing. He took time to work with dozens of groups and organizations in keeping The Bronx a good place to work and live, and all of that on a "volunteer basis." This had been a "working together" story with people of all groups. Dr. Karmon was one of the most deeply involved residents of our borough. For all his work, Dr. Karmon was awarded an honorary Doctor of Humane Letters by Lehman College, the Presidential Medallion by Bronx Community College, and the first Hostos Community College Presidential Medal.

A graduate of New York University, Dr. Karmon worked as an accountant, a manufacturer of clothing and as a clothing retailer on Prospect Avenue. The business, Hollywood Clothes, was a Bronx Institution for over 30 years. He was also a builder of parking lots, developer of buildings for use by public and private agencies and was very active in many phases of real estate. Dr. Karmon served The Bronx for 68 years in many business, civic, health, service and humanitarian organizations. He served on the organizational committee that brought about the Einstein College of Medicine and he continued to work on behalf of the College until his death.

Dr. Karmon served as an officer or chairman in The Bronx Rotary Club, The Bronx Council of the Albert Einstein College of Medicine, American Jewish Congress, Bronx Division, Bronx Boy's and Girls Clubs', Visions and Community Services for the Blind and the Bronx YMCA. Dr. Karmon served as President of the Bronx Chamber of Commerce for four consecutive terms after serving on its Board since 1953. He played an instrumental role in organizing the South Bronx Board of Trade, which greatly aided minority businesses and was one of the founders of the Ponce de Leon Federal Bank in 1959.

For twenty-two years, Mr. Karmon served as a member of the Lay Advisory Board for Lincoln Hospital, nine of those years as its chairman, and he played a pivotal role in the establishment of the new Lincoln Hospital. Dr. Karmon was also credited with helping to create the first building of Hostos Community College.

Elias will be long remembered for his extraordinary commitment, energy, wisdom, discipline, principle, and clear purpose which won the admiration of all who were privileged to come to know and work with him during his distinguished career in and around music. I consider myself fortunate to have had the opportunity to observe and experience his example as a personal inspiration.

Madam Speaker, rather than mourn his passing, I hope that my colleagues will join me in celebrating the life of Dr. Elias Karmon by remembering that he exemplified greatness in every way.

**RECOGNIZING MR. SUTTON BACON**

**HON. HEATH SHULER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. SHULER. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn and our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17–23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keep our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Mr. Sutton Bacon for his tremendous accomplishments on behalf of small businesses. Mr. Bacon is President and CEO of Nantahala Outdoor Center (NOC), the largest outdoor recreation company in the United States. He is responsible for overall business strategy and operational performance of the employee-owned company, which draws over half a million visitors every year. Located near the Great Smoky Mountains National Park, NOC has been honored by several publications for its exemplary facilities and service excellence.

Mr. Bacon is an active conservationist, serving on the boards of multiple outdoor recreation and natural preservation organizations. He is an advocate of increased youth involvement with nature, and established the NOC Foundation to provide better access to outdoor experiences, equipment, and education for youth and underserved communities. A classically trained musician, Mr. Bacon has performed with the Atlanta Symphony Orchestra Chorus and has performed on GRAMMY Award-winning commercial records.

Madam Speaker, Mr. Bacon has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, he will testify before the House Small Business Committee to share his story. I ask that you and the entire U.S. House of Representatives join with me in honoring him for the extraordinary work he has done for the small business economy. His efforts demonstrate that if given access to the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

#### HONORING THE EMPLOYEES OF GENESYS REGIONAL MEDICAL CENTER

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to the employees of Genesys Regional Medical Center for their quick action during a fire at the hospital on March 22, 2009.

On that morning a fire started in a patient room at the Medical Center. A nurse sounded the alarm and escorted the patient from the room. The nursing staff mobilized and moved 36 patients from the area of the fire. The patients ranged from the wheelchair-bound to the non-ambulatory and many were on oxygen. Security staff, other employees and physicians moved in with fire extinguishers. The oxygen supply to the area was cut off, the sprinkler system activated and the fire was contained to one room.

The Grand Blanc Fire Department noted that not one patient or employee was injured during the entire incident. Due to the quick response by the Genesys staff, patient care was not compromised during the evacuation. Fire Chief James Harnes has complimented the Genesys team for their great work during the crisis.

Madam Speaker, the Genesys Regional Medical Center staff put the well-being of their patients first and they worked together to ensure each and every patient was moved to safety, the fire was extinguished expeditiously, and the security of the Medical Center was not compromised. I ask the House of Representatives to join me in commending the employees for their unwavering dedication and quick action.

#### INTRODUCTION OF THE AMERICANVIEW GEOSPATIAL IM- AGERY MAPPING PROGRAM ACT

**HON. STEPHANIE HERSETH SANDLIN**

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Ms. HERSETH SANDLIN. Madam Speaker, today I am pleased to introduce the AmericaView Geospatial Imagery Mapping Program Act.

AmericaView is a nationwide program that focuses on satellite remote sensing data and technologies in support of applied research, K-16 education, workforce development, and technology transfer. AmericaView is administered through a partnership between the U.S. Geological Survey and the AmericaView Consortium, which is comprised of over 30 "StateViews." The Consortium is the federal government's primary partner in achieving the program's vision and goals. Specifically, applied researchers at universities in each member state collaborate with each other and with government agencies to develop and share information and techniques for using remote sensing data.

The purpose of this bill is to authorize the AmericaView Geospatial Imagery Mapping Program. By authorizing this program, Congress recognizes the important work conducted by the AmericaView Consortium in collaboration with U.S.G.S. Since the 1970s, the federal government has invested in earth-observing satellites that provide remote sensing imagery. When federal geospatial imagery is available in a cost-effective and timely manner, state, local, and tribal governments as well as educational institutions are able to develop new scientific, educational, and practical applications for the data and to adopt new tools for applied research, education, and training.

The AmericaView program is uniquely positioned to help each state develop applications and skills necessary to effectively apply geospatial imagery for multiple state-focused mapping purposes, and to expand the use and benefits of geospatial imagery for research and operational purposes within each state.

Thank you, Madam Speaker. I look forward to working with all my colleagues to promptly pass the AmericaView Geospatial Imagery Mapping Program Act.

#### TRIBUTE TO CHRISTY KURIATNYK

**HON. LYNN A. WESTMORELAND**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. WESTMORELAND. Madam Speaker, I rise today to pay tribute to Christy Kuriatnyk, named the 2009 Navy Spouse of the Year by Military Spouse Magazine and USAA.

We often praise our men and women in uniform who put their lives on the line every day for our freedom and our security. We're aware of the debt we owe to them but perhaps neglect the unsung heroes they leave behind on the home front: the spouses and children of our troops.

From among these great Americans, Kuriatnyk has gained singular acclaim for her outstanding contributions to her community above and beyond her duties as a military spouse, mother of three and employee of the Columbus Health Department.

Kuriatnyk holds down the fort in Ellerslie, GA, while her husband, Lt. Cmdr. Alex Kuriatnyk, is stationed at the Gulfport, MS, Construction Battalion Center. He is the operations officer there.

Though married to a Navy man, Kuriatnyk often works on behalf of Army families sta-

tioned at nearby Fort Benning. She's an active volunteer for Operation Homefront and she's helped organize baby showers for Army spouses and "My Mommy/Daddy's Deployment Party" for the children of Fort Benning soldiers who have gone overseas. As the daughter of a Korean War vet, she has a special bond with these children and she knows the anxiety they feel when their parents are deployed.

Kuriatnyk's work on behalf of children has benefited all of Georgia, not just her fellow military families. She's created programs that have advanced the causes of booster seat use, lead-free toys and skateboard safety.

I'm proud to have this great patriot as a constituent in Georgia's 3rd Congressional District. I call on my colleagues in the House to join me in congratulating Christy Kuriatnyk on attaining this honor and in thanking her for all of the time and energy she devotes to our beloved military families. She'll represent military families with distinction as the 2009 Navy Spouse of the Year.

#### THE WOUNDED VETERAN JOB SECURITY ACT

**HON. JOHN T. SALAZAR**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. SALAZAR. Madam Speaker, I rise today in support of H.R. 466 the Wounded Veteran Job Security Act.

It is more important than ever that we support this bill because of the difficult economic times facing our nation.

American servicemen and women put their lives on the line every day to ensure our freedoms.

Across the globe, U.S. troops are engaging in combat and humanitarian missions that place them in harms way.

Regardless of the danger, generations of Americans continue to answer the call of duty.

My father was an Army Staff Sergeant during World War II.

My brother and I served in the Army during the Vietnam era.

Most recently, my son's Army National Guard unit was activated after the September 11th attacks.

As a former member of the House Committee on Veteran's Affairs, I worked with my colleagues to ensure that Veterans had opportunities to find a job once they returned home.

It is important that veterans not only find a job, but they are not penalized by their employer for injuries or illnesses they received in the service of their nation.

A stable career path is essential to ensuring a seamless transition into civilian life.

It is unacceptable to merely provide equipment to protect our troops in combat without also having policies in place to protect them once they return home.

I hope to work with my colleagues on both sides of the aisle to create policy that helps our veterans and their families prosper and enjoy the freedoms they helped to ensure.

ASIAN PACIFIC AMERICAN  
HERITAGE MONTH

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Ms. LEE of California. Madam Speaker, I rise today in celebration of Asian Pacific American Heritage Month.

Asian Pacific American Heritage Week was first established in 1978 through a joint congressional resolution. The first 10 days of May were chosen to coincide with two key anniversaries—the arrival in the U.S. of the first Japanese immigrants on May 7, 1843 and the completion of the transcontinental railroad on May 10, 1869. Fourteen years later, Congress expanded the week to a month-long celebration.

Today, I am proud to join with all Americans in celebrating the tremendous contributions of the Asian American and Pacific Islander, AAPI, community in to this country. The AAPI community is the fastest-growing minority group in the United States. The Census Bureau estimates that by 2050 more than 33.4 million Asian Americans will live in the United States.

I am extremely proud to represent several emerging AAPI neighborhoods in my District representing cultures from Vietnam, Korea and China just to name a few. In particular, the Chinatown neighborhood located in Oakland, California has grown and evolved into one of the most cohesive and vibrant business and arts communities in the Ninth Congressional District.

As we celebrate Asian Pacific American Heritage Month, I encourage the people of my district and this nation to learn about the rich and proud heritage of Asian Pacific Americans.

HONORING THE OAR OF FAIRFAX  
COUNTY'S 2009 VOLUNTEER AND  
COMMUNITY PARTNER AWARD-  
EES

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to pay tribute to Opportunities, Alternatives and Resources (OAR) of Fairfax County and its 2009 Volunteer and Community Partner Awardees.

OAR of Fairfax County is a community-based non-profit with 38 years of experience providing a continuum of pre-release and post-incarceration services for offenders and their families in Fairfax County. OAR's mission is to rebuild lives and break the cycle of crime with opportunities, alternatives and resources for offenders to create a safer community. To accomplish this, OAR's professional staff and its trained volunteers develop, promote, and operate cost-effective programs to restore criminal offenders to productive roles in the community. OAR also offers options to prosecution and/or incarceration and provides support services to families. In offering assistance to offenders, OAR promotes the principles of restorative justice, which holds offenders accountable for their crimes and requires that

they provide restitution for the harm caused to the entire community.

The effectiveness of OAR is evident. In 2006, OAR provided services to more than 3,000 clients. In addition, OAR of Fairfax has been recognized by the Catalogue for Philanthropy as one of the best small charities in Greater Washington.

OAR would not be able to achieve these stellar results without the selfless dedication of its volunteers. It is my honor to enter into the CONGRESSIONAL RECORD, the names of the OAR 2009 Volunteer and Community Partner Awardees:

Volunteers of the Year: Linda Grill of Clifton and Dana McMillen-Paz of Fairfax

William H. Sandweg Award for Advocacy and Financial Support: The Apex Foundation of Herndon

The Nancy Cornelius Memorial Award for Leadership and Support in the Criminal Justice Community: Col. David M. Rohrer, Chief, Fairfax County Police Department

Marjorie Ginsburg Award for Service to Families: St. Mary of Sorrows Catholic Church, Fairfax, Carol Mayfield, Social Ministry Director

Corporate Partner Award: Casual Male Big & Tall Outlet Store, Woodbridge

Executive Director's Award: Lonny Ford of Gainesville

Madam Speaker, I ask my colleagues to join me in expressing gratitude for the efforts of these volunteers and their colleagues at OAR of Fairfax County. The selfless commitment of these individuals provides enumerable benefits to Northern Virginia and life-changing services to the clients and families being served.

## SENATE—Wednesday, May 20, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, thank You for today—fresh with sparkling dew and bright with the splendor of the morning Sun. We accept this day as a gift from Your bounty and will use it for the glory of Your Name. As our Senators strive to do what is best for this great land, lead them with Your might. Guide them by Your higher wisdom and make them know the constancy of Your presence. Lord, give them the greatness of being on Your side and the delight of knowing they are doing Your will. Keep their hearts and minds riveted on You, as they seek to be responsive to Your leading. Make them stewards of the blessings You have given them.

We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL of New Mexico led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 20, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SIGNING AUTHORITY

Mr. REID. Mr. President, first, I ask unanimous consent that today, May 20, I be authorized to sign any duly enrolled bills or joint resolutions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the emergency supplemental appropriations bill. There will be up to 2 hours for debate in relation to the Inouye amendment. That is the Inouye-Inhofe amendment. The Republicans will control the first 30 minutes, the majority will control the next 30 minutes, and the final hour will be equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each. Senator INOUE will control the final 5 minutes prior to the vote. Upon the use or yielding back of time, the Senate will proceed to vote on the amendment. Senators should expect the first vote of the day to begin around 11:30 to a quarter of 12.

Yesterday, I filed cloture on this legislation. Under rule XXII, germane first-degree amendments must be filed by 1 p.m. today.

If we are able to reach an agreement, we will also consider the conference report to accompany S. 454, the procurement legislation, during the day.

### WORKING TOGETHER

Mr. REID. Mr. President, I made a decision at the beginning of this Congress to go back to the way the Senate used to be, or at least the way I saw the Senate. I believed if we moved away from the past practices of the last 15 years of limiting the offering of amendments, for example, having more debate, not less, that a new spirit would develop in this historic body we call the Senate.

I believe that spirit has come—come slowly—but with the trust of the Republicans growing with the majority, amendments have come with the idea of improving or changing legislation, not the “I gotcha” politics, tactics of the past used by both Democrats and Republicans. The result has been legislation being passed of which we can all take credit:

The lands bill; Ledbetter, equal pay for men and women; the Children's Health Insurance Program, 14 million kids with health insurance; the eco-

nomic recovery package, which is being felt now around the country; the omnibus spending bill, which was long overdue; national service legislation, allowing 750,000 men and women to become involved in public service, getting paid a little bit for that but help for their college education.

We did some things that needed to be done with the budget, reducing the deficit in 5 years by as much as two-thirds. We passed housing legislation, which will bolster the ability of regulators to do a good job of watching what goes on with housing, including strengthening the Federal Deposit Insurance Corporation; passing the financial fraud legislation to stop some of the tactics cheaters use to cause the problems that were caused leading to this economic crisis. Yesterday morning, we passed the credit card legislation.

We have a long ways to go. But I think we are beginning to trust each other that amendments are being offered to take provisions out of legislation or to add to legislation to improve it in the mind of the person offering the amendment.

As a result of this, we can all go back to our constituencies during this recess saying we are working together now, we are getting some things done. This does not help Democrats or Republicans; it helps us both, and it helps our country.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### WORKING TOGETHER

Mr. MCCONNELL. Mr. President, let me say to my good friend, the majority leader, I concur with his observations about how the Senate should appropriately work. I think we have had a process for handling legislation this year that both sides can be proud of, and I wish to say I concur entirely with his observations about the way the Senate is working.

Obviously, the minority does not agree with a lot of the things we are doing, but the opportunity to shape legislation and for each Senator to make a difference has been respected this year, and for that I commend the majority leader.

## GUANTANAMO

Mr. McCONNELL. Mr. President, there now appears to be a wide bipartisan agreement in the Senate that closing Guantanamo before the administration has a plan to deal with the detainees there was a bad idea. Senators will make it official today with their votes.

For months, we have been saying what Senate Democrats now acknowledge: that because the administration has no plan for what to do with the 240 detainees at Guantanamo, it would be irresponsible and dangerous for the Senate to appropriate the money to close it.

I commend Senate Democrats for fulfilling their oversight responsibilities by refusing to vote to provide any funding to close Guantanamo until the administration can prove to the American people that closing Guantanamo will not make us less safe than Guantanamo has. Those of us in Congress have a responsibility to American service men and women, risking their lives abroad, and to citizens here at home. Congress will demonstrate its seriousness about that responsibility when it votes against an open-ended plan to release or transfer detainees at Guantanamo.

The administration has shown a good deal of flexibility on matters of national security over the past few months: on Iraq, for example, in not insisting on an arbitrary deadline for withdrawal; on military commissions, by deciding to resume their use; on prisoner photos, by concluding that releasing them would jeopardize the safety of our service men and women; and on Afghanistan, by replicating the surge strategy that has worked so well in Iraq.

I hope the administration will show more of this flexibility by changing its position on an arbitrary deadline for closing Guantanamo. Americans do not want some of the most dangerous men alive coming here or released overseas, where they can return to the fight, as many other detainees who have been released from Guantanamo already have.

Some will argue that terrorists can be housed safely in the United States based on past experience. But we have already seen the disruption that just one terrorist caused in Alexandria, VA. The number of detainees the administration now wants to transfer stateside is an order of magnitude greater than anything we have considered before. It is one thing to transfer one or two terrorists—disruptive as that may be—it is quite another to transfer 50 to 100, or more, as Secretary Gates has said would be involved in any transfer from Guantanamo.

In my view, these men are exactly where they belong: locked up in a safe and secure prison and isolated many miles away from the American people.

Guantanamo is a secure, state-of-the-art facility, it has courtrooms for military commissions. Everyone who visits is impressed with it. Even the administration acknowledges that Guantanamo is humane and well run. Americans want these men kept out of their backyards and off the battlefield. Guantanamo guarantees it.

The administration has said the safety of the American people is its top priority. I have no doubt this is true, and that is precisely why the administration should rethink—should rethink—its plan to close Guantanamo by a date certain. It should have focused on a plan for these terrorists first. Once the administration has a plan, we will consider closing Guantanamo but not a second sooner.

## RONALD REAGAN CENTENNIAL COMMISSION

Mr. McCONNELL. Mr. President, last night, the Senate passed a bill to create a commission to commemorate the 100th birthday of our 40th President, Ronald Wilson Reagan. This bill passed in the House with wide bipartisan support and here by unanimous consent.

On June 3, we will host a celebration in the Capitol, with the State of California sending their statue of Ronald Wilson Reagan to join the collection of State statues from around the country. In February 2011, we will commemorate his 100th birthday.

To his beloved Nancy, his family, and all of us who believe that the best days are ahead in this shining city on a hill, I stand in humble gratitude for his service and great pride that Congress has finally agreed to enact legislation to commemorate one of the most important Americans of the 20th century.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## SUPPLEMENTAL APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2346, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Inouye-Inhofe amendment No. 1133, to prohibit funding to transfer, release or incarcerate detainees detained at Guantanamo Bay, Cuba, to or within the United States.

McConnell amendment No. 1136, to limit the release of detainees at Guantanamo Bay, Cuba, pending a report on the prisoner population at the detention facility at Guantanamo Bay.

Cornyn amendment No. 1139, to express the sense of the Senate that the interrogators, attorneys, and lawmakers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned.

Brownback amendment No. 1140, to express the sense of the Senate on consultation with State and local governments in the transfer to the United States of detainees at Naval Station Guantanamo Bay, Cuba.

## AMENDMENT NO. 1133

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate, equally divided and controlled between the leaders or their designees, with respect to amendment No. 1133, with the first 30 minutes under the control of the Republican leader, the second 30 minutes under the control of the majority leader, and the final 60 minutes divided equally, with Senators permitted to speak for up to 10 minutes, with the final 5 minutes under the control of the Senator from Hawaii, Mr. INOUE.

The Senator from South Carolina.

Mr. GRAHAM. Thank you, Mr. President.

No. 1, I would like to associate myself with the comments of the minority leader about Guantanamo Bay. It is a location that does protect our national interests in terms of a location. It is probably the best run military prison in the world. I have been there several times.

To the guard force and those who are serving at Guantanamo Bay, in many ways, you are the unsung heroes in this war because it is tough duty. You have to go through a lot to be a member of the Guantanamo Bay guard team.

They do a wonderful job. It is a very Geneva Conventions-compliant jail, and there are some pretty bad characters down there who make life miserable for our guard force. But those who serve at Guantanamo Bay do so with dignity and professionalism. Their motto, I believe, is "honor bound." That certainly reflects upon them well.

The idea of the Congress saying we want to plan before we appropriate money to close Guantanamo Bay makes a lot of sense to me. We see a bipartisan movement here to make sure we know what we are going to do with the detainees who are housed at Guantanamo Bay. The American people should be rightly concerned about how we dispose of these prisoners. Quite frankly, they are not common criminals accused of robbing a liquor store;



they are accused of being a member of al-Qaida or allied groups that have taken up arms against the United States. Their mission and their purpose is to destroy our way of life and to put our allies and friends in the Mideast into the dark ages. So if you do not want to go back to the dark ages in terms of humanity; if you want young girls to grow up without having acid thrown in their face; if you want a young woman to be able to have a say about the future of her children in the Mideast, then we need to come up with a rational policy regarding fighting al-Qaida and, once we catch them, how to dispose of their cases and make sure they are not only fairly treated but their mission and their goals are defeated and they do not return to the fight.

We have seen in Iraq that there are Muslim populations that do not want to be part of the al-Qaida agenda. Al-Qaida followed us to Iraq because they understood if we were successful there in creating a democracy in the heart of the Mideast, it would be a threat to their agenda. Iraq has a way to go, but I am very proud of the Iraqi people. They have come together. They are making political reconciliations. Their army and police forces are getting stronger. The story of the surge is that the Iraqi people joined with our forces and coalition forces and delivered a mighty blow against al-Qaida. Al-Qaida is, quite frankly, in the process of being defeated by the Iraqi people with our help. Now the fight goes to Pakistan and Afghanistan. I cannot think of a more noble cause than to take up arms and fight back against these terrorists who wish the world ill, who will do anything in the name of their religion to have their way, and who would make life miserable for parts of this world and eventually make life miserable for us.

Imagine a caliphate being established in Baghdad, which was their plan, to put the Mideast in constant turmoil. We would not be able to travel freely in this world. We could not interact or do business with the people in the Mideast. It is a very oil-rich region, so it is in our national security interests to stand with moderate people in the Mideast and other places where al-Qaida attempts to take over, and fight back. But when we fight back, we don't have to be like them. Quite frankly, if we are like them when we fight back, we will lose.

This is an ideological struggle. There is no capital to conquer. There is no navy to sink or air force to shoot down. We cannot kill enough of the terrorists to win the war. What we have to do is contain them, fight them, and empower those who live in the region who want to live in a different way, give them the capacity to defend themselves and bring about a stable life in their countries. That is what we are trying to do

in Iraq. If we win in Iraq, we will have a democracy in the heart of the Arab world that will be an ally to this country in perpetuity. We will have replaced a dictator named Saddam Hussein, and we will have a place where we can show the world that there are Muslims who do not want to be governed by the al-Qaida agenda, and to me that is a major win in the war on terror. Now we are in Afghanistan. We have lost ground, but we are about to recapture that ground from the Taliban, which are al-Qaida sympathizers and, quite frankly, allowed them to operate in Afghanistan late in the last century and early in this century to plan the attacks of 9/11.

So that is why we are fighting. That is why we are in this discussion. That is why we are concerned about releasing these prisoners within the United States, and that is why we are concerned about Guantanamo Bay. We have every right and reason to be concerned as to how we move forward.

I want to move forward. We need a plan to move forward. We should not close Guantanamo Bay until we have a comprehensive, detailed, legal strategy as to what we will do with these prisoners. Where we put them is only possible if people know what we will do with them. So we have to explain to the American people and our allies the disposition plan. What are we going to do with these detainees? Then where you put them becomes possible. Without what to do, we are never going to find where to put them.

I do believe the President and our military commanders are right when they say it is time to start over. It is a shame we are having to start over, because Guantanamo Bay is a well-run jail. But as I mentioned before, this ideological struggle we are engaged in, the enemy has seized upon the abuses at Abu Ghraib, the mistakes at Guantanamo Bay, and they use that to our detriment. They inflame populations in the Mideast based on our past mistakes. Our commanders have told me to a person that if we could start over with detention policy and show the world that we have a new way of doing business—a better way of doing business—it would improve the ability of our troops to operate in the regions in question where the conflict exists; it would undercut the enemy; it would help our allies be more helpful to us. Our British friends are the best friends we could hope to have, and they have had a hard time with our detainee policy. So we have every reason in the world to want to start over, but the Congress is right not to allow us to start over until we have a plan. The Congress, in a bipartisan fashion, is absolutely right to keep Guantanamo Bay open until we have a complete plan. I do believe this President understands how to move forward with Guantanamo Bay.

The best way to move forward, in my opinion, is to collaborate with the Congress, to look at the military commission system, which I think is the proper venue to dispose of any war crimes trials. Remember, these people we are talking about have been accused of taking up arms against the United States. They are noncitizen, enemy combatants who represent a military threat. Military commissions have been used to try people such as this for hundreds of years. We did trials with German saboteurs who landed on the east coast of the United States for the purpose of sabotaging our industries. They were captured and tried in military commissions. So there is nothing new about the idea of a military commission being used against an enemy force.

I do think the President is right to reform the current commission. I, along with Senator MCCAIN, Senator WARNER, and others—Senator LEVIN particularly—had a bill that set up a military commission process that received complete Democratic support on the Armed Services Committee, and four Republicans. I think that document is worth going back to. The ideas the President has put on the table about reforming the commission, quite frankly, make a lot of sense to me.

So we do need to move forward. We do need to start over. If we could start over with a new detention policy that is comprehensive, it would help our war effort, it would help operations in the countries in question and in the Mideast at large, and it would repair damage with our allies. Quite frankly, we have lost a lot of court decisions. It would give us a better chance to win in court.

What do I mean by starting over? Come up with a disposition plan that understands that the detainees at Guantanamo Bay represent a military threat and apply the law of armed conflict in their cases. That means we have to treat them humanely. The Geneva Conventions now apply to detainees under Common Article 3 held at Guantanamo Bay based on a 2006 Supreme Court decision. We are bound by that convention because we are the leader of the convention. We have signed up to the convention. As a military lawyer for 25 years, I hold the Geneva Conventions near and dear to my heart, as every military member does, because it will provide protections to our troops in future wars. Yes, I know al-Qaida will not abide by the conventions but, quite frankly, that is no excuse for us to abandon what we believe in. When you capture an enemy prisoner, it becomes about you, not them. They don't deserve much, but we have to be Americans to win this war. There are plenty people in this world who would cut your head off without a trial. I want to show the world a better way. How we dispose of these prisoners

can help us in the overall ideological struggle.

What I am proposing is that we come up with a comprehensive plan that will reform the military commissions and that the President come back to the Congress and we have another shot at the commissions to make them more due process friendly but we realize that the people we are trying are accused of war crimes and we apply the law of armed conflict.

I have been a military lawyer, as I said, for 25 years. The judges and the jurors and the lawyers who administer justice in a military commission setting are the same people who administer justice to our own troops. It is a great legal forum. You have rights in the military legal system. You get free legal counsel. Usually cost is not an object. The men and women who wear the uniform who serve as judge advocates take a lot of pride in their job. They are great Americans. They are great officers. They believe in justice. We have seen verdicts, and the few verdicts we have had at Guantanamo Bay indicate that our juries are rational. Our military jurors do hold the prosecution to the standards of proof and they balance the interests of all parties. As I say, I have never been more impressed with the legal system than within our military justice system. Military commissions need to be as much like a court-martial as possible, but practicality dictates some differences.

The one thing this body needs to understand is that it is illegal under the Geneva Conventions to try an enemy prisoner in civilian court. Why is that? You are afraid that civilian justice, jurors and judges, will have revenge on their mind. They are not covered by the Geneva Conventions. Participants in a military commission are covered by the convention—every lawyer, every judge, every juror. They have an obligation to hold to the tenets of the convention and any misconduct on their part in a trial could actually result in prosecution to them or disciplinary action, and that would not be true in the legal world. So having these trials in a military commission setting is the proper venue because they are accused of war crimes. Having the trials in military commissions is consistent with the Geneva Conventions. It is a world-class justice system. Quite frankly, it is the best place to balance our national security interests.

But to the hard part. We can do that. We can reform the commissions. Some of these detainees can be repatriated back to third countries in a way I think is rational and will not hurt our national security interests. But there is going to be a group of detainees—maybe half or more—where the evidence is sound and certain that they are a member of al-Qaida, but it is not of the type that you would want to go

to a criminal trial with. It may have third country intelligence service information where the third country would not participate in a criminal trial because it would compromise their operations. Some type of evidence would be such that you would not disclose it in a criminal trial because it would compromise national security. You have to remember, when you try someone criminally, you have to prove the case beyond a reasonable doubt. You have to share the evidence with the defendant. You have to go through the rigors of a criminal prosecution. Under a military commission people are presumed innocent, and that is the way it should be. But I want America to understand that we are not charging everyone as a war criminal; we are making the accusation that you are a member of al-Qaida. In military law what you have to do if you are accusing someone of being part of the enemy force is prove by a preponderance of the evidence that you are, in fact, a part of the enemy force.

So what I would propose is to set up a hybrid system. For every detainee once determined to be an enemy combatant by our military or CIA, there will be a process to do that, a combat status review tribunal, and we need to improve that process—but you run each detainee through that process and if the military labels them as an unlawful enemy combatant, a member of al-Qaida, then we will do something we have never done in any other war, and that is allow that detainee to go into Federal court.

Under article 5 of the Geneva Conventions, status decisions are made by the military, not by civilian judges. It is usually done by an independent member of the military in an administrative setting. These are administrative hearings. But this war is different. There will never be an end to this war. We will never have a signing on the Missouri as we did in World War II. I realize that. An enemy combatant determination could be a de facto life sentence. So I am willing to build in more due process to accommodate the nature of this war.

What I have proposed is that every detainee determined to be an enemy combatant by our military would go to a group of military judges with uniform standards where the Government would have to prove to an independent judiciary by a preponderance of the evidence that the person is, in fact, an enemy combatant, and if our civilian judges who are trained in reviewing evidence agree with the military, that person can be kept off the battlefield as long as there is a military threat. About 12 percent of the detainees released from Guantanamo Bay have gone back to the fight. The No. 2 al-Qaida operative in Somalia is a former Gitmo detainee. It is true we put people in Gitmo, in my opinion, where the

net was cast too large and they were not properly identified. You are going to make mistakes. What I want to do is have a process that our Nation can be proud of: transparent, robust due process, an independent judiciary checking and balancing the military, but never losing sight that the goal is to make sure that the determination of enemy combatant is well founded and, if it is, not to release people back to the fight knowing they are going to go back and kill Americans. That doesn't make us a better nation, to have a process where you have to let people go when the evidence is sound and clear they are going to go back to the fight. That does not make us a better people. You do not have to do that under the law of armed conflict. Let's come up with a new system that will give every detainee a full and fair hearing in Federal court. If they are tried for war crimes, put them in a new military commission, and every verdict would be appealed to civilian judges. Let the trials be transparent. Balance national security against due process. But never lose sight of the fact that we are dealing with people who have taken up arms against the United States. Some of them are so radical and their hearts have been hardened so much, they are so hate-filled, it would be a disaster to this country and the world at large to let them go in the condition that exists today.

Where to put them. Mr. President, 400,000 German and Japanese prisoners were housed in the United States during World War II, and 15 to 20 percent, according to the historical record, were hardened Nazis. A hardened Nazi is at the top of the pecking order when it comes to mass murder. The idea that we cannot find a place to securely house 250-plus detainees within the United States is not rational. We have done this before. They are not 10 feet tall.

It is my belief that you need a plan before you close Gitmo, and when you look at a new facility, it needs to be run by the military because under the Geneva Conventions you cannot house enemy prisoners in civilian jails.

I look forward to working with the President of the United States to start over, but we need a plan to start over—a plan to try these people, consistent with the law of armed conflict, in a military commission that is reformed, that will administer justice fairly and balanced and will realize that these people present a military threat. We need a system to allow for keeping the detainees off of the battlefield—who are committed jihadists—that will allow them to have their day in court with an independent judiciary but also will allow a process that will keep them off the battlefield as long as they are dangerous. If the judges agree with the military on the enemy combatant, you should have an annual review process to determine whether they present

a military threat. No one should be held without a pathway forward, but no one should be released because you think this is a crime we are dealing with.

If you criminalize this war and do not use the law of armed conflict, you are going to make a huge mistake. There are countries that have terror suspects in jail right now that are about to have to release them because under criminal law you cannot hold them indefinitely. Under military law, you can hold the enemy force off the battlefield if they are properly identified as part of that force, as part of the military threat. That has been the law for hundreds of years, and it ought to be the law we apply. Where we put them is important, but what we do with them is more important, how we try them and detain them.

We have a chance to show the world that there is a better way, a chance to showcase our values. Yes, give them lawyers and put the evidence against them under scrutiny. Put burdens on ourselves, make us prove the case—not just say it is so, prove it in a court that is appropriate for the venue we are talking about, appropriate for the decisions we are about to make. Put that burden on us, and treat them humanely because that is the way we are. That may not be the way they are, but that is the way we are. That makes us better than they. The fact that we will do all these things and they won't is a strength of this Nation, not a weakness. Some people in the past have lost sight of that. The fact that we give them lawyers and a trial based on the evidence, not prejudice and passion, makes us stronger.

We will find a better way to do what we have been doing in the past. We will find a way to close Gitmo, and we will come up with a new plan because we are Americans and we are committed to our value system and committed to beating this enemy.

I look forward to working with the Members of this body to come up with a comprehensive disposition plan that will find a new way to try these people, a new process to hold them off the battlefield, and always operating within our values, which will allow our commanders the chance to start over in the region. Every military commander I have talked to said it would be beneficial to this country to start over with detainee policy. They also understand that we are at war and we need to have a national security system.

As to where we put them, there were six prison camps in South Carolina during World War II. There is a brig near the city of Charleston, a naval brig. It is not the location, because it is near a population center. The place I have in mind is an isolated part of the United States—if necessary—that will be run by the military, with a secure perimeter, that will be operating with-

in the Geneva Conventions requirement, that will have a justice system attached to it, that will be transparent and open where we can administer justice and reattach our Nation to the values we hold so dear.

Part of war is capturing prisoners. That is part of war. We know what the other side does when they capture a prisoner. Let the world know that America has a better way, a way that will not only make us safe but help us win this war.

In conclusion, the goal of this effort to start over is to undermine the enemy's propaganda that has been used against us because of our past mistakes, allow our allies to come join us in a new way forward, and protect us against a vicious enemy that needs to be held off the battlefield, maybe forever. Some of these people are literally going to die in jail, and that is OK with me because I think the evidence suggests that if we ever let them out, they would go back to killing Americans, our friends, and our allies. I will not shed a tear. The way to avoid getting killed or going to jail forever is, not to join al-Qaida. If you have made that decision to do so, let it be said that this Nation is going to stand up to you and fight back, within our value system. Some of these people will never see the light of day, and that is the right decision. Some of them can be released.

Let's have a process that understands what we are trying to do as a nation. Make sure it is national security oriented, make sure it is within our value system but also that everything we do is as a result of a nation that has been attacked by these people. They have not robbed a liquor store; they have tried to destroy our way of life. The legal system I am proposing recognizes that distinction.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I rise to express my strong support for the Inouye-Inhofe amendment and suggest to my colleagues that this should not be a controversial amendment. In fact, I commend my colleagues on the Democratic side for recognizing the futility of trying to put funding in the bill that we are debating here without having a plan with which to close Guantanamo Bay.

It seems to me, at least, that a lot have gotten up and argued that having Guantanamo Bay open as a detention facility makes our country less safe. I argue the contrary. That didn't exist prior to 9/11, and we were attacked anyway. The people who want to attack us don't need an excuse; they are going to attack us anyway. They are going to attack us because they hate us and they hate our way of life and the things we stand for and because that is

what they do. They have hate in their hearts. I believe we need to have a place where we can detain people like that. It seems to me at least that the Guantanamo Bay facility fits perfectly within the definition of what makes sense. It is a state-of-the-art facility, a \$200 million facility. Nobody has ever escaped from it. It is a very secure facility. It is hundreds of miles away from American communities.

One thing I point out to my colleagues is that we have already expressed our view here in the Senate about whether these detainees ought to be transferred somewhere here into American society and into facilities in American communities and neighborhoods. In July of 2007, we took a vote in the Senate, and by a vote of 94 to 3, the Senators voted in favor of a resolution that would prevent these detainees from coming here—being released into American society or transferred into facilities in American communities and neighborhoods. Those in favor of that resolution at the time included both the current Vice President of the United States and the current Secretary of State.

My hope would be that this amendment offered by the Senator from Oklahoma and the Senator from Hawaii will receive that same measure of support that was accorded to the amendment adopted in the Senate in July of 2007 by a vote of 94 to 3. This amendment should receive that same measure of support.

As I noted last week in a speech on the floor, President Obama told us, when he issued his January 22 Executive order to close Guantanamo, that he would work with Congress on any legislation that might be appropriate. Instead of consulting Congress, the President asked for \$80 million to close Guantanamo, with no justification or indication of any plan.

I believe any plan to close Guantanamo that includes bringing these terrorists into the United States is a mistake. We don't want the killers who are held there to be brought here into our communities.

It is deeply troubling that not only does the Obama administration wish to hold open the possibility that some detainees might be transferred to facilities in American communities, it is even considering freeing some of them into American society. These are the 17 Chinese Uighers whose Combat Status Review Tribunal records were deemed insufficient to support the conclusion that they are enemy combatants but who cannot be returned to China because of fear that the Chinese Government will torture or kill them.

At a press conference on March 26, ADM Dennis Blair, the Director of National Intelligence, said this:

If we are to release them [the Uighers] in the United States, we need some sort of assistance for them to start a new life.

It is hard to believe that this administration is seriously considering freeing these men inside the United States and, most outrageous of all, paying them to live freely within American communities and neighborhoods. The American people don't want these men walking the streets of America's neighborhoods.

The American people don't want these detainees held in a military base or a Federal prison in their backyard either. These are not common criminals; these are hardened killers bent on the destruction of the United States. They are resourceful, these people are innovative, and they understand the strategic vulnerabilities of the United States and how to exploit those very vulnerabilities. Who would have predicted that this group of people would basically be able to steal a fleet of planes and cause death and destruction on the scale and magnitude of Pearl Harbor? It is hard to imagine a more dangerous set of circumstances to put upon an American community.

Since President Obama seems set on a course to bring terrorists into the United States, I strongly support the efforts of Senators INHOFE and INOUE to introduce this amendment. The amendment would prevent any funding in the bill from being used to transfer detainees held at Guantanamo Bay to any facility in the United States or to construct, improve, modify, or otherwise enhance any facility in the United States for the purpose of housing any Guantanamo detainees.

If we must close Guantanamo Bay, it should not result in Americans being less safe. Bringing these detainees to the United States would make Americans less safe, and we should not do it.

Transferring these detainees would also stress the civilian governments in the communities where the detainees would be placed. They would be faced with overwhelming demands, from roadblocks to identification checks, along with having the increased security personnel necessary to deal with what is an obvious threat. The value of homes and businesses would decline.

I can tell you that South Dakotans definitely don't want these detainees in their State. I hope my support of the Inouye-Inhofe amendment will help to ensure that they will not be transferred to South Dakota or to anywhere else in the United States.

My view is that no Guantanamo detainee should be brought to this country to be incarcerated and certainly should not be brought into the United States and freed. The Senate has clearly spoken on that front, as I said, by a vote of 94 to 3 on a resolution, in July 2007, that detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside into facilities in American communities and neighborhoods.

Guantanamo is secure. The facility is a \$200 million state-of-the-art prison.

No one has ever escaped, and the location makes it extremely difficult to attack. Best of all, it is located hundreds of miles from American communities. If the President wants to close Guantanamo, he must do so in a way that keeps America safe. In my view, America is less safe if Guantanamo detainees are brought into the United States.

I appreciate the hard work of Senator INHOFE and Senator INOUE on this issue. I hope when we have the vote today, my colleagues will adopt this amendment with the same level of support that we adopted the resolution back in July of 2007 by a vote of 94 to 3, stating very clearly that it is the view of the Senate that these detainees should not be brought into American communities, into American neighborhoods. I would argue they ought to be held right where they are, in a place that is safe, that is secure, that is state of the art, where they receive the very best of treatment, where no one has ever escaped, hundreds of miles away from American communities and neighborhoods.

I hope my colleagues will support this amendment.

I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the quorum call be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it is my understanding that we are on the supplemental appropriations bill at this point.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DURBIN. Mr. President, I want the record to show that I support President Obama's supplemental request for the remainder of fiscal year 2009. This supplemental provides critical funding for military and security efforts in Afghanistan, Pakistan, and Iraq. A small portion is for international programs, including assistance to Jordan, one of our important allies in the Middle East. Jordan is struggling with a huge influx of Iraqi refugees that strains its national services and particularly its water resources. Jordan has been a friend and ally, and it is right that in the supplemental bill we give them a helping hand because the war in Iraq has created a situation which we should address in Jordan.

It also provides additional support to the Global Fund which partners with other nations to tackle AIDS, tuberculosis, and malaria. I have worked with my colleagues for years to provide

adequate funding for the Global Fund. I am glad this supplemental request from the Obama administration continues critical food assistance to help meet urgent needs of the world's poorest, which is also included. Funding is provided to help stem the flow of drugs and violence across our border in Mexico.

At home, the supplemental includes money to prepare and to respond to a global disease pandemic, including the recent H1N1 virus. This \$1.5 billion went through my subcommittee and is money well spent so the President can have resources to respond quickly to any outbreak of disease or pandemic; that we would have adequate money for vaccinations, as well as providing medications, should people be stricken. We are looking ahead, planning ahead, thinking ahead, hoping the H1N1 will disappear from the world scene before the next flu season but being prepared if it does not or if something else threatens us.

This bill also provides funds critical to helping President Obama meet a key campaign promise—bringing an end to the war in Iraq. In late February, President Obama made an important announcement to thousands of marines at Camp Lejeune: bringing an end to the war in Iraq. After only 5 weeks into office, he delivered on his major campaign promise to end one of the longest wars in American history.

The President's plan is measured, thoughtful, and will bring an end to this costly and unnecessary war. The supplemental also wisely shifts resources to the real sources of the September 11 attacks on America—Afghanistan. For too long, this war in Afghanistan did not receive adequate civilian and military resources as they had been diverted to the war in Iraq. The supplemental corrects this mistake.

It also focuses resources on Pakistan, a nuclear-armed nation struggling with insurgents based in the border area with Afghanistan. It provides pay and allowances to our brave men and women in the U.S. military. These are some of the many important needs which deserve our support.

The President should be commended for recently presenting a budget for 2010 which moves away from repeated supplementals. This got to be a habit around here. We didn't go through an orderly debate on the budget about wars. Every time President Bush wanted money for a war, he said: I am declaring this an emergency. It will not be considered in the ordinary budget process. Here it is.

An emergency is defined as something unanticipated. After 5 or 6 years of emergencies, you begin to realize you can anticipate next year we are going to have another unanticipated emergency.

This President, President Obama, wants to change that so that we go to

an orderly budget process. This supplemental bill will be the last of the requests, and I think it is one we should honor as he tries to tackle some situations that were given to him when he took office just a few months ago. The President inherited many challenges at home and abroad, and I hope, on a bipartisan basis, we can help him address them.

This supplemental appropriations bill will provide critical funding for our troops in Afghanistan and Iraq, and I hope Congress passes it.

Unfortunately, my colleagues on the other side of the aisle have decided to use this legislation to open a debate about the future of Guantanamo. They have filed a number of amendments related to this issue. I am sure it is not their intention, but these amendments will have the effect of slowing down delivery of critical funding for our troops. Nevertheless, it is their right to offer these amendments, and though they are not germane to this legislation, they raise policy questions which we can debate.

Senator INOUE, the chairman of the Appropriations Committee, has offered an amendment, which has broad support on both sides of the aisle, that will eliminate any funding in this bill for closing Guantanamo and make clear that none of the funds in this bill can be used to transfer Guantanamo detainees to the United States.

Here is the bottom line: There will not be any Guantanamo funding in this bill. So for the Republicans to bring up a series of Guantanamo amendments tells me they are more intent on raising an issue than on responding to the critical need this supplemental addresses.

These amendments are also premature. President Obama has not yet presented his plan for closing Guantanamo to the Congress and the American people. When he does, we will have plenty of opportunity to debate it. This bill, which will provide critical funding for our troops, is not the right place for this debate. This is not the right time. In fact, some of the amendments would have the effect of tying President Obama's hands, preventing him from moving forward with the closure of Guantanamo before he has even had the chance to present his plan.

There is a great irony here. For 8 long years, Republicans opposed congressional oversight of the Bush administration's counterterrorism efforts. When Democrats in the minority during the Bush years would ask for oversight by congressional committees so that we could get more information about a variety of issues relative to terrorism, we were told: No, the President has an important job to do and don't bother him, Congress; leave him alone.

For 8 years, Republicans criticized Democrats who asked questions about

the misguided war in Iraq and controversial policies related to interrogation, detention, and warrantless surveillance.

For 8 years, they claimed congressional oversight was nothing more than micromanaging the important and critical work of the Commander in Chief.

Now, after 8 long years, the Republicans are unwilling to give President Obama a few short months to formulate and present a plan for closing Guantanamo.

Let's take one example. The distinguished minority leader, Senator MCCONNELL, has offered an amendment that would require the President to submit a detailed report to Congress on each detainee at Guantanamo Bay, including a summary of the evidence against each detainee.

For many years, the Bush administration refused to provide Congress with even a list of the names of the detainees at Guantanamo. They claimed that a disclosure of those names would threaten national security. I don't recall Senator MCCONNELL or anyone from his side of the aisle protesting this lack of disclosure by the previous administration.

Yesterday, Senator MCCONNELL said his amendment is designed to prevent released Guantanamo detainees from getting involved in terrorism. He said:

Recidivism is of great concern for those of us who have oversight responsibilities here in Congress.

I do not recall Senator MCCONNELL, or any other Republican, protesting when the Bush administration, over the course of many years, released hundreds of Guantanamo detainees, some of whom have actually been involved in acts of terrorism since they were released.

So during the Bush years, while Guantanamo was churning hundreds of detainees, some being released and returned to their countries, there was not a whimper or a peep from the Republican side of the aisle. Now that President Obama has said the days of Guantanamo are numbered, they are coming in asking for detailed accounting of every single detainee. It is clearly a double standard.

There is also concern that the McConnell amendment could taint prosecutions of Guantanamo detainees by requiring the Obama administration to turn over critical evidence to Congress. Imagine for a moment that we gathered evidence that can be used successfully to either detain or prosecute one of the detainees, and Senator MCCONNELL insists that it be shared with Members of Congress. Is that in the interest of national security? I don't think so.

For 7 years after the 9/11 attacks, the Bush administration failed to convict any of the terrorists who planned these attacks. At President Obama's direc-

tion, career prosecutors are now reviewing the files of each Guantanamo detainee and gathering evidence to determine if each detainee can be prosecuted. Isn't that what we want, an orderly process looking at each detainee to determine whether they are guilty of wrongdoing, deciding whether they can be prosecuted, whether they should be detained and doing this with the understanding that a lot of the information is classified and most of it should be carefully guarded so as not to jeopardize the prosecution?

The McConnell amendment would say: Let Congress take a look at each detainee and all the evidence. That does not make sense, and I hope Members of the Senate will reject it.

The last thing Congress should do is interfere with the efforts of the Obama administration to gather evidence against terrorists that could ultimately bring them to justice.

There is another amendment. Senator JOHN CORNYN of Texas has an amendment that has 18 detailed findings about the Bush administration's use of abusive interrogation techniques, such as waterboarding.

Among other things, the Cornyn amendment claims these techniques "accomplished the goal of providing intelligence necessary to defeat additional terrorist attacks against the United States." To say the least, we could debate that proposition for quite some time.

Former Vice President Cheney has been burning up the cable channel airwaves in recent weeks. He claims waterboarding produced valuable intelligence in the interrogation of al-Qaida leader Abu Zubaydah. But back in 2004, Vice President Cheney also told us the Bush administration had learned from interrogations at Guantanamo that the Iraqi Government had trained al-Qaida in the use of biological and chemical weapons. We now know there was no such link between al-Qaida and Iraq. This was part of the justification for the invasion of Iraq, and Vice President Cheney told us the interrogation at Guantanamo was producing the information to confirm a link that never existed.

What about Abu Zubaydah? Just last week in the Judiciary Committee we heard testimony from a former FBI agent who actually interrogated him. He testified under oath in our committee that he obtained valuable intelligence from Abu Zubaydah using traditional interrogation techniques and that abusive techniques, such as waterboarding, are "harmful, slow, ineffective, and unreliable."

Senator CORNYN does not serve on the Intelligence Committee. I don't know the basis for his claim that waterboarding produced intelligence that prevented terrorist attacks. I do know the Intelligence Committee, under Senator DIANNE FEINSTEIN'S

leadership, is now conducting a detailed, thoughtful, and thorough investigation into the Bush administration's detention and interrogation practices. I have said publicly—others have said it as well, including the majority leader, Senator REID—that before we talk about creating an outside commission, the Senate Intelligence Committee should be allowed to do its work so Members of Congress can at least learn, through open and classified information, what did happen. But Senator CORNYN can't wait. Senator CORNYN wants to pass out "get out of jail free" cards to the previous administration before we even have a thorough examination of what happened.

One of the things the Intelligence Committee is reviewing is the effectiveness of these techniques in obtaining useful intelligence. The Senate is certainly not in a position today to go on record with conclusions such as those in Senator CORNYN's amendment before the Intelligence Committee even completes its investigation. It is not only premature, it certainly is questionable as to whether we should be engaged in this debate until their work is done.

I might remind Senator CORNYN, and those following this debate, that the Intelligence Committee is a bipartisan committee. It works in a bipartisan fashion. Senator BOND and Senator FEINSTEIN and others can continue to work together to come to good conclusions, to provide the Senate with good evidence, before we jump at the Cornyn amendment, which reaches conclusions not based on fact.

Senator CORNYN's amendment would also express the sense of the Senate that no one involved in authorizing the use of abusive interrogation techniques, such as waterboarding, should be prosecuted or sanctioned. It is inappropriate for Congress to interfere in ongoing investigations by the Justice Department.

During the Bush administration, political interference significantly undermined the credibility and effectiveness of the Justice Department. Attorney General Holder has pledged to restore the integrity and the independence of that department.

There are two ongoing investigations into the Bush administration's interrogation practices. One investigation is looking into the CIA's destruction of evidence of interrogation videotapes. The other is an investigation of Justice Department attorneys who authorized abusive techniques such as waterboarding.

Here is the reality: Both of these investigations didn't begin under President Obama. They began under the Bush administration. Both are being conducted by Department of Justice attorneys. So the suggestion that this is some partisan witch hunt is obviously false.

You wonder, with these two Department of Justice investigations underway and with the Senate Intelligence Committee doing a thorough investigation of this subject, why does Senator CORNYN want to come to the floor and have the Senate go on record saying that nothing possibly could have been done that was illegal or wrong? That would be the height of irresponsibility, should we pass that amendment.

Decisions about whether crimes were committed should be made by career prosecutors based on the facts and the laws, not political considerations or statements made by Senators on the floor without evidence to back them up. I urge my colleague from Texas to withdraw his amendment and allow the Justice Department to do its work.

There is an organization which I like and respect very much called Amnesty International. When you take a look at JOHN CORNYN's amendment, he would qualify for some amnesty award because he wants the Senate to go on record offering amnesty when it comes to the interrogation of detainees by not only—and let me go through the list—any person who relied in good faith on those opinions at any level of our Government, but also it includes Members of Congress who were briefed on the interrogation program.

To offer this kind of a statement ahead of time, without any gathering of evidence or fact, is, in my mind, an indication of how nervous some people are on the other side of the aisle. We should let this run its course in a professional manner. We shouldn't make a political decision, and we should defeat the Cornyn amendment.

Several of my Republican colleagues came to the floor yesterday to criticize President Obama's intention to close Guantanamo and argue it should remain open. I listened carefully to their arguments, and, frankly, there were enough red herrings to feed all the detainees at Guantanamo.

One of my colleagues said President Obama wants to close Guantanamo "to be more popular with the Europeans."

Well, I know President Obama. I served with him. He was my colleague in the Senate. His first interest is the United States and its safety. But the safety of the United States also involves being honest about what has happened. What happened at Abu Ghraib and what happened at Guantanamo has sullied the reputation of the United States and has endangered alliances which we have counted on for decades. President Obama is trying to change that. By closing Guantanamo and responsibly allocating those detainees to safe and secure positions, he is going to send a message to the world that it is a new day in terms of America's foreign policy.

The American people want to see that. They want a safer world and believe that if the United States can

work closely with our allies around the world who are opposed to terrorism, we will be safer. That is what President Obama is setting out to do. Some of those allies may, in fact, be European. They may be African or Asian. They could be from all corners of the Earth. But if they share our values and want to work for common goals, President Obama wants to work with them.

GEN Colin Powell and many other military leaders have said for some time that closing Guantanamo will make America safer. Experts say Guantanamo is a recruitment tool for al-Qaida and hurts our national security. That is why President Obama, like President Bush, Senator JOHN MCCAIN, and many others, wants to close Guantanamo.

Some of my Republican colleagues argued that Guantanamo is the only appropriate place to hold the detainees because "we don't have a facility that could handle this in the United States" and American corrections officers would "have no idea what they are getting into." Well, I would say to my colleagues who made those statements that they ought to take a look at some of our secured facilities in the United States and they ought to have a little more respect for the men and women who are corrections officers, who put their lives on the line every single day to keep us safe and who make sure those who are dangerous are detained and incarcerated.

The reality is, we are holding some of the most dangerous terrorists in the world right now in our Federal prisons, including the mastermind of the 1993 World Trade Center bombing, the "shoe bomber," the "Unabomber," and many others.

Senator MCCONNELL said yesterday, "No one has ever escaped from Guantanamo." Well, that is true, to the best of my knowledge. But it is also true that no prisoner has ever escaped from a Federal supermaximum security facility in the United States.

In fact, the Bureau of Prisons is currently holding 347 convicted terrorists. Is Senator MCCONNELL going to come to the floor and say they should be moved from these Federal correctional facilities because they pose a threat to the United States being incarcerated in the continental United States? I haven't heard that. But in his efforts to keep Guantanamo open at any cost, he wouldn't even consider allowing a detainee to be brought to the United States for trial and being held, even temporarily, in any type of secure facility.

Republicans are criticizing the President, but the reality is, they do not have a plan themselves to deal with Guantanamo. I assume, from Senator MCCONNELL's statements, he would leave it open. He doesn't care about the impact this might have on the United States around the world. If he has a

plan to close it, I would like to hear it. I think he ought to come forward and join with President Bush, join with President Obama, join General Powell, join Senator McCain, Senator Graham, and others who have said Guantanamo should be closed. Otherwise, unfortunately, he is being critical of the President's intentions without producing his own approach.

The Bush administration had many years to deal with Guantanamo, but they didn't follow through. President Obama has taken on the challenge of solving one of the toughest problems his administration faces, beyond the state of our economy. The President is taking the time to carefully plan for the closing of Guantanamo, with the highest priority being the protection of America's national security.

I urge my Republican colleagues to withdraw these Guantanamo amendments. These amendments don't fit in the supplemental appropriations bill. They tie the President's hands and keep him from making the necessary decisions to keep us safe and to make sure terrorists do not, in any way, threaten the United States. They also slow down our efforts to provide critical funding for our troops in Afghanistan and Iraq.

I hope when this matter comes before the Senate in the hours ahead, my colleagues will read carefully and closely, particularly the amendments by Senator Cornyn and by Senator McConnell. The amendment by Senator Cornyn, which grants a sense-of-the-Senate amnesty to those who were involved in interrogation techniques, is not consistent with a nation that is guided by the rule of law. For that Senator to make conclusions in his amendment that have not been supported by evidence and fact should be grounds enough for us to reject his amendment.

I don't know where these investigations in the Department of Justice or the Intelligence Committee will lead, but if we are truly sworn to uphold the Constitution and the laws of our land, we should allow them to run their course with the facts and law being honestly considered by those different panels.

Senator McConnell's amendment, which asks for more detailed information about detainees at Guantanamo than any Republican ever dared ask under the Bush administration, could jeopardize the prosecution of terrorists. Is that a good idea? It is certainly not. I certainly hope my colleagues will join me in opposing the McConnell amendment as well.

I yield the floor.

The PRESIDING OFFICER (Mr. Begich). The Senator from Virginia.

Mr. Webb. Mr. President, I ask unanimous consent to speak with respect to an amendment I have filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Webb. Mr. President, I have filed an amendment to this supplemental appropriations bill which is designed to put more transparency and more measurable control factors into the way we are spending these appropriations with respect to the situation in Pakistan.

I would begin by saying I have a great deal of concern, as do many Members of this body, with respect to the achievability of some of the strategic objectives that have been laid out by the new administration. We are still looking for clear and measurable end points to the strategy itself. At the same time, I believe the new administration deserves an opportunity to attempt to bring a greater sense of stability into that region. It is a big gamble.

As I mentioned to General Petraeus when he was testifying, and as I mentioned to other witnesses before the Armed Services and the Foreign Relations Committee, the biggest gamble we face with respect to the policies that have been announced in Afghanistan and Pakistan are that we are basically allowing ourselves to be measured by unknowns, over which we have no real control. In Afghanistan, this is very clear, when we put as one of our objectives the creation of an Afghan national army. I asked General Petraeus if he could tell me at what point in the Afghan history has there ever been a viable national army, and the answer is, except for a period of about 30 years when the Afghans were sponsored by the Soviets, there was no viable national army. And even there it was not one you would measure in the same context of what we are saying we are going to attempt to achieve. So that puts our success in the hands of a rather speculative venture but one I hope we can achieve in some form.

I would also point out an article in the New York Times today, which points out there was a good bit of American weaponry ammunition found in the aftermath of battle between the Taliban and American forces, which shows there are munitions that were procured by the Pentagon that now seem to be in the hands of the troops who are fighting against Americans. I would point out that is not unusual for this region. When I was Secretary of the Navy more than 20 years ago, one thing we were seeing in the Persian Gulf, with the Iranian boghammers attempting to attack our vessels, was that some of the rocket-propelled grenades that were found in these boghammers actually could be traced back to weapons we had given the Afghani anti-Soviet fighters in Afghanistan. It is a common occurrence in this region.

The question is, How we can minimize those sorts of occurrences?

With respect to Pakistan, the situation is even more difficult.

We have very few control factors in Pakistan in terms of where our money goes when we send it in or what happens to our convoys that go through Pakistan on the way to Afghanistan. Eighty percent of the logistical supplies that go to Afghanistan go by ground through Pakistan. We cannot defend those convoys. We have had many occurrences since last summer where they have been interrupted, where they have been attacked, trucks have been destroyed, and other vehicles have been stolen, et cetera.

In Pakistan there are a number of reputable observers who point out that some elements in the Pakistani military, particularly in their intelligence services, actually have continued to assist the Taliban. Because of—No. 1, the vulnerability of our supply routes; No. 2, the instability of the Government itself, obviously which we are attempting to assist; and No. 3, the focus of Pakistan in terms of its principal national security objectives as being India rather than Afghanistan itself—that leads to a situation where we must have a measurable source of control and accountability over the money we are going to appropriate to assist the situation in Pakistan as it relates to international terrorism, the future stability of Pakistan, and attempting to defeat al-Qaida.

With all that in mind, I asked a series of questions last week in the Armed Services Committee to Admiral Mullen, the Chairman of the Joint Chiefs of Staff. This basically was the line of questioning. First, do we have evidence that Pakistan is increasing its nuclear program in terms of weapon systems, warheads, et cetera? Admiral Mullen gave me a one-word answer—yes. I declined to pursue that answer because I didn't believe that was the appropriate place to have a further discussion. But I did say, and I believe now, this should cause us enormous concern at a time when we are having so much discussion in this country about the potential that Iran would obtain nuclear weapons, where Pakistan, an unstable regime in a very volatile part of the region, not only possesses nuclear weapons but is increasing its nuclear weapons program.

I then asked Admiral Mullen: Can you tell me what percentage of the \$12 billion that has gone to Pakistan since 9/11 has gone toward its defense measures related to India or to other areas that are not designed to address directly the terrorist threat or the activities of the Taliban? The answer was we do not know. No. We cannot measure those with any degree of validity because of the opaqueness in the Pakistani Government.

I then asked him: Do we have appropriate control factors, in terms of where future American money will go? Secretary Gates indicated there were improved control factors, but we do not



have the control factors in Pakistan as now exist even in countries such as Afghanistan, with all the difficulties in that country.

With all of that in mind, I drafted a simple amendment. I hope this can go into the managers' package. I believe all of us who are going to step forward right now and attempt to assist the administration can agree that what we should have is a simple statement from the Congress, from the appropriators, that none of the funds we are appropriating could be used for either of these two purposes—No. 1, to support, expand, or in any way assist the development or deployment of the nuclear weapons program of the Government of Pakistan; or, No. 2, to support programs for which these funds in the appropriations act have not been identified.

It is a very simple amendment. It simply says no money will go directly or indirectly to assist Pakistan's nuclear weapons program; No. 2, no money will be spent in any way other than the way we have identified it in this program and that the President must certify this and must come back every 90 days and recertify whether any funds have been appropriated for those purposes.

I hope the managers of this bill can accept this amendment. If not, I will seek a vote on the floor.

I yield the floor.

AMENDMENT NO. 1144

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to speak about amendment No. 1144, the Protecting America's Communities Act, which I am offering to H.R. 2346, the supplemental appropriation bill.

Before I begin my comments, I ask unanimous consent to add Senator COBURN as an original cosponsor of S. 1071, which is a collateral stand-alone bill, as well as a cosponsor to amendment No. 1144.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, this amendment amends immigration law to prohibit any detainee held at Guantanamo Bay Naval Facility from being transferred or released into the United States. It is a little bit different from the vote we are going to be taking at 11:30.

There are over 240 terrorists in U.S. custody at the military detention facility in Guantanamo Bay, Cuba. Let me just describe some of the individuals who reside at Guantanamo. Khalid Sheikh Mohammed—or KSM—is the self-proclaimed, and quite unapologetic, mastermind of the 9/11 attacks. KSM admitted he was the planner of 9/11 and other planned, but foiled attacks against the U.S. In his combatant status review board, he admitted he swore allegiance to Osama bin Ladin, was a

member of al-Qaida, was the military operational commander for all foreign al-Qaida operations, and much more. KSM and four other detainees, who are charged with conspiring to commit the terrible 9/11 attacks, remain at Guantanamo.

In addition, Gitmo uses Abd al-Rahim al-Nashiri who was responsible for the October 2000 USS Cole bombing which murdered 17 U.S. sailors and injured 37 others. Also residing at Gitmo are Osama bin Ladin's personal bodyguards, al-Qaida terrorist camp trainers, al-Qaida bombmakers, and individuals picked up on the battlefield with weapons trying to kill American soldiers—our young men and women who patriotically serve their country. The detainees at Guantanamo are some of the most senior, hardened, and dangerous al-Qaida figures we have captured.

These are exactly the type of individuals we hope never get past our front lines and enter into the United States. However, as one of his very first acts in January, President Obama ordered the closure of Guantanamo, but 4 months later he still does not have a plan to accomplish this. Officials in his administration have stated publicly that some of these detainees could be brought to the U.S., and some could even be freed into the United States.

The disposition of the detainees at Gitmo is not a new issue. Over the past several years, the military has transferred the majority of detainees held at Gitmo to other countries. However, the success of these transfers is mixed at best. According to a Defense Intelligence Agency report from December 2008, 18 former detainees are confirmed and 43 are suspected of returning to the fight after being released from Guantanamo. This represents a recidivism rate of over 11 percent. Just two months later this rate rose to 12 percent. These individuals do not even represent the most serious and dangerous terrorists we have captured. The most dangerous detainees remain at Gitmo. This data has likely risen since December, but the Department of Defense refuses to release the information under instructions from the administration. If we start to release or transfer the most hardened terrorists left at Gitmo, these numbers will only increase further.

One thing that is clear: we know that these detainees have remained loyal to al-Qaida and Osama bin Ladin despite being captured and remain a danger to our national security. We have statements from detainees avowing it is their goal to kill Americans, claiming that they "pray every day against the United States." Al-Qaida searches every day for operatives who can evade our enhanced security mechanisms in its quest to commit another attack against our homeland. It is important to remember that most detainees held

at Guantanamo were captured on the battlefields in Afghanistan or Iraq and were determined to be a threat to our Nation's security. Whatever their ties to terrorists groups or activities, these individuals should never be given the privilege of crossing our borders, even if incarcerated. To do so would be nothing short of an invitation for al-Qaida to operate inside our homeland. KSM and other high value detainees at Gitmo are no different, and do not conceal their intent to harm Americans if given the chance.

My amendment would prevent those terrorists at Gitmo from having that chance. Article I, section 8 of the Constitution grants Congress the right to "establish a uniform rule of naturalization." The Supreme Court has determined that the power of Congress "to exclude aliens from the United States and to prescribe the terms and conditions on which they come in" is absolute. My legislation capitalizes on the clear and absolute authority of Congress to determine who enters our borders by first adding to the list of those inadmissible to the United States those detained at Gitmo as of January 1 of this year.

However, because Congress delegates to the executive branch parole authority, this administration could still bring those terrorists detained at Gitmo into the United States. Parole authority is granted to the Attorney General to allow aliens, who are otherwise not qualified for admission to the U.S., permission to enter our country on a case-by-case basis—essentially a waiver for those otherwise inadmissible. Although aliens paroled into the U.S. are not considered "admitted" for purposes of our immigration laws, they are within the borders of our country and therefore become eligible to apply for asylum or seek other legal protections.

To deal with this, my legislation also eliminates parole authority for the executive branch as it pertains to those individuals detained at Gitmo as of January 1, 2009. As such, there is no basis for President Obama to allow these detainees to be transferred to U.S. soil.

The Protecting America's Communities Act also provides protections for American citizens in the event President Obama decides to try to exercise some other authority to bring these Gitmo detainees to the U.S., such as the authority granted to him via Article II of our Constitution. Again, we know that if the detainees were transferred to the U.S., they would seek legal protection under the generous legal rights our Constitution grants our citizens. However, our courts and our legal system were not established to try individuals detained on the battlefield. Because of the nature of the global war on terror and evidence gathered against them from the battlefield

or through intelligence, the detainees are unlikely to be suitable for prosecution within the U.S. criminal courts. There is no "CSI Kandahar" in which evidence picked up off the battlefield is carefully marked and the chain of custody is observed.

There is too much at stake to grant the unprecedented benefit of our legal system's complex procedural safeguards to foreign nationals who were captured outside the United States during a time of war. Allowing these terrorists to escape conviction—or worse yet, to be freed into the U.S. by our courts—because of legal technicalities would tarnish the reputation of our legal system as one that is fair and just. Prohibiting the detainees from entering into the U.S., as the Protecting America's Communities Act does, is one small step in the right direction.

Further, if these individuals were to be brought to the U.S. by President Obama to be tried on our Article III courts and not convicted, the only mechanism available to our Government to continue to detain these individuals would be via immigration law. However, the current immigration laws on our books are insufficient to ensure that these detainees would be mandatorily detained and continued to be detained until they can successfully be removed from our borders.

Although I am adamantly opposed to bringing any of these detainees to the U.S., and I do not believe the President has independent authority to do so, I believe we need legislation to safeguard our citizens and our communities in the event they are brought here. To that end, my legislation makes mandatory the detention of any Gitmo detainees brought to the U.S.

It also strengthens and clarifies the authority of the Secretary of the Department of Homeland Security to detain any of the Gitmo detainees until they can be removed. This statutory fix is needed because in 2001, the Supreme Court decided the case of *Zadvydas v. Davis*, holding that unless there is a reasonable likelihood that an alien being held by the Government will actually be repatriated to their government within a given period of time, that alien must be released and cannot be detained by the U.S. Government for more than 6 months.

We all know a major issue facing our country in dealing with those folks detained at Gitmo is finding a country to take them. For example, there are 17 Chinese Uighurs being held at Gitmo who have been cleared for transfer to another country. However, the United States will not send them back to China for fear they might be treated unfairly by the Chinese Government. No other country to date is willing to take them. Therefore, my legislation provides authority to the Secretary of Homeland Security to continue to de-

tain these individuals and provides for a periodic review of their continued detention until they can safely be removed to a third country.

In addition, my legislation prohibits any of those individuals detained at Gitmo from applying for asylum in the event they are brought here. Now, there are a number of other proposals to prohibit funding from being used to transfer to or detain the Gitmo terrorists in the United States—I am going to support those provisions—but those are not permanent. Those will have to be renewed annually. Congress would have to maintain this prohibition in all future spending bills.

Although I do believe this is a good short-term solution, and I support those measures, I want to be confident that Congress does not drop the ball in the future. We need a more permanent solution to this problem, and the Protect America's Communities Act provides exactly that.

I urge the President to develop a policy that would allow closure for the families of the victims of 9/11 that will prevent terrorists from stepping foot on U.S. soil and will keep them off the battlefield where they will attempt to kill our men and women in future combats.

However, we cannot wait for the President to assure us that none of these detainees will be brought to America. The stakes are too high, and in order to maintain the highest degree of security and safety in our country, we need to adopt the Protect America's Communities Act to ensure that they never step foot inside of our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to give some views on Guantanamo. I have had the privilege of serving with the distinguished Senator who has just concluded his remarks on the Intelligence Committee of the Senate. But I strongly disagree with him. I would like to have the opportunity to make the case.

First of all, Guantanamo is not sovereign territory of the United States. Under a 1903 lease, however, the United States exercises complete jurisdiction and control over this naval base.

In December 2001, the administration decided to bring detainees captured overseas in connection with the war in Afghanistan and hold them there outside of our legal system. That was the point: To hold these detainees outside of the U.S. legal system.

This was revealed in a December 2001 Office of Legal Council memorandum by John Yoo of the Justice Department.

He wrote this:

Finally, the Executive Branch has repeatedly taken the position under various statutes that [Guantanamo] is neither part of the United States nor a possession or terri-

tory of the United States. For example, this Office [Justice] has opined that [Guantanamo] is not part of the "United States" for purposes of the Immigration and Naturalization Act . . . Similarly, in 1929, the Attorney General opined that [Guantanamo] was not a "possession" of the United States within the meaning of certain tariff acts.

The memo concludes with this statement:

For the foregoing reasons, we conclude that a district court cannot properly entertain an application for a writ of habeas corpus by an enemy alien detained at Guantanamo Bay Naval Base, Cuba. Because the issue has not yet definitively been resolved by the courts, however, we caution that there is some possibility that a district court would entertain such an application.

This set the predicate for Guantanamo: Keep these individuals outside of the reach of U.S. law, and set up a separate legal system to deal with them.

Now, was this right or wrong? It was definitively wrong, because since then the Supreme Court has rejected this position in four separate cases.

First, in *Rasul v. Bush* in 2004, the court ruled that American courts, in fact, do have jurisdiction to hear habeas and other claims from detainees held at Guantanamo.

Second, in *Hamdi v. Rumsfeld*, also in 2004, the Court upheld the President's authority to detain unlawful combatants, but stated that this authority was not "a blank check." In particular, the Court ruled that detainees who were U.S. citizens, such as Yasser Hamdi, had the rights that all Americans are guaranteed under the Constitution.

Third, in *Hamdan v. Rumsfeld* in 2006, the Court declared invalid the Pentagon's process for adjudicating detainees and extended to Guantanamo detainees the protection from cruel, inhuman, and degrading treatment found in Common Article Three of the Geneva Conventions.

The administration responded by pushing through Congress the Military Commissions Act. This legislation expressly eliminated habeas corpus rights and limited other appeals to procedure and constitutionality, leaving questions of fact or violations of law unresolvable by all Federal courts. This happens nowhere else in American law. But this Military Commissions Act was enacted in the fall of 2006.

That law was then challenged through the courts and overturned in the final Supreme Court decision in this area, *Boumediene v. Bush*, decided in 2008.

In *Boumediene*, the Supreme Court stated that the writ of habeas corpus applied to detainees even when Congress had sought to take away jurisdiction. It stated that detainees must be allowed access to Federal courts so that a judicial ruling on the lawfulness of their detention could be made.

Writing for the majority in the *Boumediene* decision, Justice Kennedy wrote the following:

The laws and the Constitution are designed to survive, and to remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law.

Several habeas petitions have been filed and reviewed in the DC Circuit since the Boumediene decision, and that process is ongoing today.

In sum, these four Supreme Court rulings make one thing exceedingly clear: The legal rights of these detainees are the same under the Constitution, whether they are kept on American soil or elsewhere.

Attempts to diminish or deny these legal rights have only served to delay the legal process at Guantanamo Bay.

In fact, only 3 of the roughly 750 detainees held at Guantanamo have been held to account for their actions.

One is David Hicks, an Australian. He pled guilty to charges and has since been released by the Australian Government.

Salim Hamdan, Bin Laden's driver, was found guilty of providing material support for terrorism by his military commission. He was sentenced to 5.5 years, but having already served 5 years in Guantanamo, he was released to Yemen in November of 2007.

Ali Hamza al Bahlul, a Yemeni who was al-Qaida's media chief, was found guilty of conspiracy and providing material support for terrorism in November of 2008. He refused to mount a defense on his own behalf and was given a life sentence.

Today, there are approximately 240 detainees incarcerated at Guantanamo.

In 2007, nearly 2 years ago, I introduced an amendment to the Defense authorization bill to close Guantanamo Bay within 1 year and transition all detainees out of that facility.

The amendment was cosponsored by 15 Senators. Unfortunately, it was not allowed to come up for debate.

Within 2 days of his inauguration, President Obama issued an Executive Order announcing the closure of Guantanamo within 1 year and ordering a review of each detainee.

Let me say this: I believe closing Guantanamo is in our Nation's national security interest. Guantanamo is used not only by al-Qaida but also by other nations, governments, and individuals, people good and bad, as a symbol of America's abuse of Muslims, and it is fanning the flames of anti-Americanism around the world.

As former Navy General Counsel Alberto Mora said in 2008:

Serving U.S. flag-rank officers . . . maintain that the first and second identifiable cause of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively the symbols of Abu Ghraib and Guantanamo.

I deeply believe closing Guantanamo is a very important part of the larger effort against terror and extremism. It is a part of the effort to show that

Americans are not hypocritical, that we do not pass laws and then say that there is a certain group of people who are exempt from these laws.

Detentions at Guantanamo have caused tension between the United States and our allies—the allies we try to get to contribute more forces and other support for the war in Afghanistan, and they are a rallying point for the recruitment of terrorists.

So, closing it is a critical step in restoring America's credibility abroad, as well as restoring the value of the American judicial system.

The executive branch task force responsible for ensuring that Guantanamo closes within the year is reviewing the evidence on each of the roughly 240 detainees to determine the following:

Who can be charged with a crime and be prosecuted; who can be transferred to the custody of another country, like the 500 or so detainees who have already left Guantanamo; who poses no threat to the United States but cannot be sent to another nation; and, finally, who cannot be released because they do pose a threat but cannot be prosecuted, perhaps because the evidence against them is the inadmissible product of coercive interrogations.

Let me be clear. No one is talking about releasing dangerous individuals into our communities or neighborhoods as some would have us believe.

The best option is to prosecute the terrorists who plotted, facilitated, and carried out attacks against the United States.

Let's look at the record for a moment.

The United States has prosecuted individuals in Federal court for the bombings of U.S. Embassies and the 1993 World Trade Center attack. It has prosecuted individuals plotting to bomb airplanes, for attending terrorist training camps, and for inciting violent acts against the United States.

According to a report, "In Pursuit of Justice: Prosecuting Terrorism Cases in the Federal Courts," issued in May of last year, more than 100 terrorism cases since the beginning of 2001 have resulted in convictions.

The individuals held at Guantanamo pose no greater threat to our security than these individuals convicted of these crimes, who are currently held in prison in the United States and are no danger to our neighbors, to our communities. The Bush administration had estimated that out of the 240 detainees at Guantanamo, 60 to 80 could be prosecuted for crimes against the United States or its allies. Current efforts to try these cases are ongoing.

In the event that detainees cannot be tried in Federal court or in standard courts martial, the Obama administration has recently proposed revisions to military commissions. This is an issue we are going to have to look at very closely in the coming weeks.

Our system of justice is more than capable of prosecuting terrorists and housing detainees before, during, and after trial. We have the facilities to keep convicted terrorists behind bars indefinitely and keep them away from American citizens.

The Obama administration will determine which civilian and military facilities are best to accomplish these goals. One example is the supermax facility in Florence, CO.

It is not in a neighborhood or community. It is an isolated supermax facility. It has 490 beds. They are reserved for the worst of the worst. This facility houses not only drug kingpins, serial murderers, and gang leaders, but also terrorists who have already been convicted of crimes in the United States.

There have been no escapes, and it is far, as I said, from America's communities and neighborhoods, as are just about all the maximum and supermax facilities.

This facility has housed terrorists such as Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, and at least six of his accomplices; Omar Abdel-Rahman, known as the "Blind Sheikh," who was behind a plot to blow up New York City landmarks, including the United Nations; Richard Reid, the al-Qaida "shoe bomber," who tried to blow up an airliner in flight; four individuals involved in the 1998 bombings of Embassies of the United States in Kenya and Tanzania; Ahmed Ressam, the "Millennium Bomber," who was detained at the Canadian border with explosives in his car as he was headed to the Los Angeles airport; Lyman Faris, the al-Qaida operative who plotted to blow up bridges in New York City; Jose Padilla, the U.S. citizen held for 3½ years as an enemy combatant based on allegations that he had wanted to detonate a dirty bomb inside the United States and was later convicted of material support to terrorism; 9/11 conspirator Zacarias Moussaoui; the "Unabomber," Theodore Kaczynski; and Oklahoma City bombers, one of whom is now deceased, Timothy McVeigh and Terry Nichols.

These 20 are just an example of terrorists who have been or are being held inside the United States.

So there is ample evidence that the United States can and, in fact, does hold dangerous convicts securely and without incident.

As I said earlier, I believe that not all detainees can be prosecuted.

The Bush administration had identified a second group of 60 to 80 who could be transferred out of Guantanamo, if another nation could be found that would accept them.

Again, the Obama administration is finding some success in moving these detainees abroad.

Since January of this year, there have been stories indicating that certain European nations may accept

some of the detainees. A few days ago, France accepted an Algerian detainee from Guantanamo. These countries recognize that closing Guantanamo is in the best interests of everyone, and are willing to be part of the solution. We sincerely thank them.

Finally, let me address the third category of detainees, which presents the thorniest problem.

The Executive Order Task Force will likely determine that there are some detainees who can neither be tried, nor transferred, nor released. Secretary Gates recently testified that there were 50 to 100 of these detainees.

The President has the authority to detain such people under the laws of armed conflict, and he very well may need to exercise that authority. I would support his doing so.

In my view, this authority should be constrained and in keeping with the Geneva Conventions. Detainees should only be held following a finding by the executive branch that this action is legal under international law.

These detainees should have the right to have a U.S. court review this determination, much as the Boumediene decision guaranteed that habeas petitions of detainees will, in fact, be heard. That judicial determination should be reviewed periodically to determine whether the detainee remains a threat to national security and should continue to be detained.

In this, there is a protocol that I believe will stand court scrutiny and enable the President to continue the detention of everyone who remains a national security threat to the United States.

Guantanamo, despite all the rhetoric on this floor, has been a symbol of abuse and disregard for the rule of law for too long. Four Supreme Court decisions should convince even the most recalcitrant of those among us; it is in our own national security interests that Guantanamo be closed as quickly and as carefully as possible.

The fact is, no Member of Congress wants to see, or advocates, the reckless release of terrorists, or anyone who is a threat to our national security, into our communities. It does not have to, and it will not be done that way.

Of the 240 detainees at Guantanamo right now, some can be tried. Some have been declared not to be enemy combatants. Others may need to be detained in the future, but only in a way that is consistent with our laws and our national security interests.

I believe we should close Guantanamo. I support the President in this regard. This is a very important decision we are going to make. I very much regret that this amount was in the supplemental bill without a plan, and I think that is the key. The plan was not there. How would the money be used? Nobody knew. So it fell smack-dab into the trap that some want to spring

throughout the United States: That this administration or this Senate would release detainees into the neighborhoods and communities of the United States.

As shown on this chart, this supermax facility is not in a neighborhood or a community. Yes, we have maximum security prisons in California eminently capable of holding these individuals as well, and from which people do not escape.

I believe this has been an exercise in fear-baiting. I hope it is not going to be successful because I believe American justice is what makes this country strong in the eyes of the world. American justice is what people believe separates the United States from other countries. American justice has to be applied to everyone because, if it is not, we then become hypocrites in the eyes of the world.

We should return to our values. One of the largest symbols of returning to these values is, in fact, the closure of the facility at Guantanamo Bay.

I thank the Chair and yield the floor. The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 15 minutes 56 seconds.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be notified after 10 minutes and that the approximately 6 minutes be reserved for Senator INHOFE.

Mr. INHOFE. Mr. President, reserving the right to object—and I do not think I will object—I did not hear the request the Senator made. Will the Senator repeat it, please.

Mrs. HUTCHISON. It is to reserve the 10 minutes I had scheduled and to reserve 6 minutes for you, I say to the Senator.

Mr. INHOFE. Mr. President, that 6 minutes would be immediately prior to Senator INOUE's closing; is that right?

I do not object. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise in support of the amendment to prohibit funds from the supplemental being used for relocation of Guantanamo Bay prisoners.

President Obama has asked for \$100 million in the regular 2010 Defense appropriations bill for his proposal to close Guantanamo Bay. As Congress considers that plan for 2010, it is reasonable for us to ask the President to come to Congress with his plan so we can consider the funding requirements as part of the normal oversight process. But right now, I think it is clear, from all the debate we have heard, the President does not have a plan. Instead, he is proceeding with a decision to close Guantanamo Bay, even though

there is no viable alternative for the detainment of terrorist combatants.

On September 11, 2001, we know the United States peered into the face of evil, when 19 foreign terrorists brought the violence of extremism to our soil, claiming the lives of nearly 3,000 Americans.

That day changed the course of American history. In the 8 years since, America has boldly waged the global war on terror in an effort to prevent terrorism from ever reaching American shores again.

This conflict has presented our Nation with operational challenges which we had not seen before. It is where to and how to detain captured terrorists who are enemy combatants but do not represent legal combatants of a country. They are not an organized military. They do not have the honor code that any military of a country has. No. They are terrorists. They do not have an honor code. Therefore, how and where we detain them has been a unique situation for our country.

Included in the detainees at Guantanamo Bay is the self-confessed mastermind of 9/11, Khalid Shaikh Mohamed. Since just after 9/11, these enemy combatants have been at a prison facility that is a U.S. Naval Base at Guantanamo Bay in Cuba. I have been there. Conditions are good. Medical service and food is good. Customs of the combatants are recognized and respected.

My colleagues are discussing Guantanamo, saying it is divisive. They are talking about the whole issue of what is torture. I think it is very important that we separate what is torture from detaining enemy combatants who must be detained because they have information and because they are either suspects or known terrorists or are self-confessed terrorists who want to harm and kill Americans and our allies.

So as we are discussing the issue of where they are detained, I think we should put aside the issue of what is torture, which is a legitimate issue for discussion but not in where these prisoners are housed. This issue should be: Is this a secure facility? Are conditions clean? Does it meet the standards of any American prison? Does it protect Americans by holding the detainees in a secure place from which it would be very difficult for them to escape?

One other point, because it has been brought out that we have secure prisons in America. Well, there is a difference here because we are putting these enemy combatants who do not have an honor code on American soil, if that is the choice that is made, and we are also allowing people from the outside to then start plotting for their escape into America's neighborhoods.

I believe the President's initiative saying we would close Guantanamo Bay within a year is premature, and I am extremely concerned that this deadline, when there is no alternative

and no plan for these dangerous terrorists, is taking precedence over the plan that must be put forward for the security of Americans.

There are five scenarios that have been outlined here on the floor about what we would do with these detainees: hand them over to their home countries for incarceration, transfer them to a neutral country, transfer them to prisons in America, send them to U.S. facilities abroad, or release them outright. Unfortunately, every one of these options heightens the threat to the lives of Americans.

Let's talk about putting them in America. That is the worst of these options. By taking this action, we allow people to plot the takeover of a prison or the escape of these detainees, put them in cell phone range where they could be talking to the outside. That would be the worst option.

In 2007, the Senate voted 94 to 3 expressing its firm opposition to any plans to release Guantanamo detainees into American society or to house them in American facilities. So what about other countries? What about putting them out into other countries? That, too, is very dangerous. In January, it was reported that former Guantanamo detainee Said Ali al-Shihri, who had been released into the custody of Saudi Arabia, has subsequently resurfaced as a terrorist operative. Today, he is one of the al-Qaida leaders in Yemen and is charged with planning and executing acts of violence against the United States and its allies. He is not the exception. According to the Pentagon, as many as 61 enemy combatants released from Guantanamo have since reconnected with terrorist networks and renewed their commitment to destroying America and our way of life. Even more frightening, these 61 former prisoners came from the group of 500 who were deemed "less dangerous" and thus were released. That means the approximately 270 detainees currently housed in Guantanamo represent the most nefarious of prisoners.

Clearly, a viable alternative to Guantanamo has not been identified. Expediting closure of this detention facility without absolutely assuring that American lives would be safe, not endangered by this act, would place misguided foreign policy goals above the protection of our homeland and our people. Moreover, it signals a dangerous return to the pre-9/11 mindset.

Before setting a deadline to close this facility at Guantanamo Bay—a U.S. naval base where they have been secured and from which there have been no escapes and no attempts to escape—before setting that deadline, the American people must be assured that the transfer or release of these detainees will not increase the risk to American citizens at home or abroad. As it stands, the administration cannot give

that assurance today. We must require a plan before this order is executed. Not doing so is a pre-9/11 mentality that we cannot afford to adopt.

We must remember what happened on 9/11. We were complacent. We were a people who never thought we would be attacked on our homeland by people even within this society who were helping to plot this destruction. We cannot go back to the mentality of "everything is going to be OK and we won't be attacked again." There are people in Guantanamo and all over the world today who are plotting to undo the freedom in America and the ability to live with diversity and in peace, and we must hold up that flag of America and what it represents for the world. That is what will make America good in the eyes of the world—not releasing terrorists to harm other people and our allies.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish to inquire how much time we have before the Senator from Hawaii wraps it up.

The PRESIDING OFFICER. The Senator from Oklahoma has 5 minutes.

Mr. INHOFE. Mr. President, first of all, let me just say that on February 2, I was in Guantanamo Bay. It was one of several trips I have made down there. I wish to suggest that one of the trips I made was right after 9/11. At that time, I did quite a bit of research to try to understand why people have this obsession about closing Guantanamo. I looked at the resources down there, and I couldn't figure it out. That was several years ago. Now, as recently as 2 months ago, I still have a hard time figuring that out.

I wish to suggest to my colleagues—and I have been listening to some of those who are objecting to the action we are about to take today—there cannot be a case at all that there are human rights abuses in Guantanamo Bay.

Eric Holder, the new Attorney General, went down there just a short while ago. He came back, and he witnessed the same thing I did—he was down there about the same time—that during the recent visit, the military detention facilities at Gitmo meet the highest international standards and are in conformity with article 3 of the Geneva Convention.

Then, on February 20, a short time after that, Vice Chief of Naval Operations Admiral Walsh went down and issued a detailed report following a 2-week review. I go down for 1 day at a time; he was down there for 2 whole weeks with a whole team. The team conducted multiple announced and unannounced inspections of all of the camps, in daylight and at nighttime,

keeping in mind that there are six different levels of security down there, which is a resource we can't find in any of our other installations to which we have access. Anyway, they talked to all of the detainees in the yards and everyone else, and they found that their conditions were in conformity with article 3 of the Geneva Convention.

So this shouldn't even be controversial. This is something on which we all agree.

I would suggest that we don't have any cases where people are being neglected. Right now, they have better health care than they have ever had before. There is a medical practitioner, a doctor, a nurse, for every two detainees there. There is even a lawyer for each detainee who is there. From their own statements to me, these individuals are eating better, living better than they have at any other time of their lives.

The big problem is, if we did close it, we would have to do something with these people. I heard one of the Senators who is on the opposite side of this issue say a few minutes ago: Well, that is fine because right now they are disposing of them.

They have only, in the last 3 months, found one place. It has dropped down from 241 to 240. If that is a success story, I am not sure I understand what success is.

The bottom line is, there are things down there that we can't replicate anywhere else, and they are being well cared for.

One thing that hasn't been talked about enough is the existence of the expeditionary legal complex that is in Gitmo. This took 12 months to build. It cost \$12 million. This is where they can have tribunals.

One of the things people say is: Well, they can be put into our justice system.

We can't do that because these are detainees, and tribunals have a different set of procedures they use and it has to be a special type of a court that is set up. We do have that provision down there. We do have that court that is set up. We are in the process of trying these people.

So if you don't do this, there are a couple of choices—only three choices—on getting rid of these people. One is, you either leave them there and try them and try to adjudicate them or you can send them out someplace. Well, we have already tried that. Countries won't receive these people, and I can't blame them. The third choice would be to somehow have them intermingled into our system here, set up in some 17, as they suggested, places for them. So none of the options are good, but this is one resource that has served America well. We have had it since 1903.

I would ask my good friend, the senior Senator from Hawaii, if he knows of any deal that America has that is better than this. It is \$4,000 a year. That is

all it costs. So it is a resource we need to keep, we have to keep.

The only argument I hear against it is: Oh, the Europeans don't want them. Where are the Europeans? I am getting a little bit tired of having them dictate what we do in the United States. What if they came forward and said: You have to close the Everglades tomorrow. Would we roll over and close the Everglades? No, we wouldn't. So I think there are a lot of options out there, and this is the best option.

Quite frankly, I go a lot further than this amendment. I think we need to keep this resource open. It has served us well in the past, and it should serve us well in the future. I urge my colleagues to support the Inouye-Inhofe amendment.

Mr. CARDIN. Mr. President, starting from his very first days in office, President Obama has taken bold action to demonstrate to the world that the United States will lead by example, particularly in the area of protecting and promoting human rights. I am especially proud that Congress is working with him to help restore faith in the United States as a friend, ally, and leader in the global community. I believe American leadership is still sorely needed in the world today. I am privileged to chair the Helsinki Commission, which is one of the key tools available to help this administration engage like-minded nations who have made a common commitment to promoting democracy, human rights, and the rule of law.

I want to make it clear that I fully support President Obama's decision to close the detention facility at Guantanamo Bay, Cuba. In recent years, no other issue has generated as much legitimate criticism of the United States as the status and treatment of detainees at Guantanamo Bay. Having said that, I think the amendment offered by the chairman of the Appropriations Committee and the senior Senator from Oklahoma to strip the Guantanamo funding from the underlying bill makes sense. We are not ready to move forward just yet. Reviewing the status of and transferring or releasing the detainees is an extremely complicated matter. It wouldn't be appropriate for any Congress to give any administration the funding to do this absent a detailed plan on how to proceed. President Obama is working on such a plan and I am confident he will provide it to Congress in a timely fashion, at which point I am optimistic Congress will indeed provide this administration with the funding it needs to close the detention facility at Guantanamo Bay and begin to address the abuses and excesses of the previous administration and repair our badly damaged reputation abroad, which is critical to enlisting other nations in the continuing struggle against global terrorism.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator's time has expired.

The Senator from Hawaii is recognized.

Mr. INOUE. Madam President, I rise today to discuss the Guantanamo amendment which I offered along with Senator INHOFE. As all of my colleagues know, the amendment would strip the funding from the supplemental that was requested to begin the process of closing Guantanamo.

Let me say at the outset that despite some of the rhetoric concerning this issue, this amendment is not a referendum on closing Guantanamo. Instead, it should serve as a reality check since, at this time, the administration has not yet forwarded a coherent plan for closing this prison.

In the committee markup, I included language which would have delayed the obligation of funding for Guantanamo until the administration forwarded such a plan. I also included provisions which would not have allowed prisoners to be relocated to the United States or released if they still pose a threat to our Nation. But after listening to the debate and reading media reports, it became clear that this message was not getting through. Rather than cooling the passions of those who are justifiably concerned with the ultimate disposition of the prisoners, the funding which remained in the bill became a lightning rod far overshadowing its impact and dwarfing the more important elements of this critically needed bill.

Instead of letting this bill get bogged down over this matter, as chairman of the committee, I determined that the best course was to eliminate the funds in question. The fact that the administration has not offered a workable plan at this point made that decision rather easy.

But let me be very clear: We need to close the Guantanamo prison. Yes, it is a fine facility, state of the art, and I too have visited the prison site. Yes, the detainees are being cared for, with good food, good service, and good medical care. Our service men and women are doing great work. But the fact is that Guantanamo is a symbol of the wrongdoings that have occurred, and we must eliminate that connection.

Guantanamo serves as a sign to many in the Arab and Muslim world of the insensitivities that some under our command demonstrated at the Abu Ghraib prison. It is a constant reminder that what we call "enhanced interrogation techniques" is referred to nearly universally elsewhere in the world as torture. Yes, we should not kid ourselves; the fact that Guantanamo remains open today serves as a powerful recruiting tool for al-Qaida.

We Americans have short memories, but that is not so in other cultures. For example, when the Japanese Prime

Minister visited Yasukuni shrine, which commemorates Japanese soldiers from World War II, the Chinese were outraged. This controversy was for events that are now more than 65 years old.

In Korea, the name of the dictator Toyotomi Hideyoshi is still remembered today for the thousands of ears and noses which were cut off Koreans and sent to him to prove to him how many Koreans his soldiers had killed. That atrocity is still remembered today by millions of Koreans, even though it occurred more than 400 years ago.

The dehumanizing photographs of detainees at Abu Ghraib are no longer fresh in our minds, but that is not true in the Middle East, where the populace remembers the degradation with disgust. When they think of Guantanamo, they remember those photos. Those images are still crystal clear to them. The wrongdoing has not been forgotten.

The closure of Guantanamo is a requirement for this country to help overcome some of the ill will still felt by Muslims around the world. To many, Guantanamo is considered an affront to the Muslim religion. Stories of improper respect for the Koran by prison officials, even though inaccurate, serve as a reminder to millions of Muslims that this prison must be closed.

Many of our colleagues are justifiably concerned about how the terrorists at Guantanamo will be handled. They deserve answers. But so too we must begin planning to close this prison. That work needs to begin soon for the good of our Nation and the men and women still serving in harm's way.

It is up to the administration to fashion a plan that can win the support of the American people and its congressional representatives. As we approach the fiscal year 2010 budget, this will be a key element of our continued review of this matter.

I support the amendment for the reasons I have stated and urge its adoption.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment No. 1131.

Mr. INOUE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 196 Leg.]

## YEAS—90

Akaka	Dorgan	McConnell
Alexander	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reid
Boxer	Hatch	Risch
Brown	Hutchison	Roberts
Brownback	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burr	Johanns	Shaheen
Cantwell	Johnson	Shelby
Cardin	Kaufman	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Thune
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCain	Wicker
Dodd	McCaskill	Wyden

## NAYS—6

Durbin	Leahy	Reed
Harkin	Levin	Whitehouse

## NOT VOTING—3

Byrd	Kennedy	Rockefeller
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The amendment (No. 1133) was agreed to.

Mr. INOUE. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Madam President, I voted in favor of the amendment offered by Senator INOUE, No. 1133, because I believe it makes sense for Congress to review the administration's plan to close Guantanamo before providing funding. I continue to believe that President Obama made the right decision to close Guantanamo, and I look forward to reviewing his plan to do so. While closing Guantanamo may not be easy, it is vital to our national security that we close this prison, which is a recruiting tool for our enemies.

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

## AMENDMENT NO. 1144

Mr. CHAMBLISS. Madam President, I ask unanimous consent to temporarily set aside the pending amendment and to call up my amendment, No. 1144, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. ISAKSON, Mr. BURR, and Mr. COBURN, proposes an amendment numbered 1144.

The amendment is as follows:

(Purpose: To protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base)

On page 7, line 25, strike the period at the end and insert “and, in order for the Department of Justice to carry out the responsibilities required by Executive Orders 13491, 13492, and 13493, it is necessary to enact the amendments made by section 203.”

**SEC. 203. IMMIGRATION LIMITATIONS FOR GUANTANAMO BAY NAVAL BASE DETAINEES.**

(a) **SHORT TITLE.**—This section may be cited as the “Protecting America’s Communities Act”.

(b) **INELIGIBILITY FOR ADMISSION OR PAROLE.**—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(3), by adding at the end the following:

“(G) **GUANTANAMO BAY DETAINEES.**—An alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, is inadmissible.”; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting “or (5)(B)”;

(B) in paragraph (5)(B), by adding at the end the following: “The Attorney General may not parole any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(c) **DETENTION AUTHORITY.**—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(8) **GUANTANAMO BAY DETAINEES.**—

“(A) **CERTIFICATION REQUIREMENT.**—An alien ordered removed who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, shall be detained for an additional 6 months beyond the removal period (including any extension under paragraph (1)(C)) if the Secretary of Homeland Security certifies that—

“(i) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien; and

“(ii) the Secretary is making reasonable efforts to find alternative means for removing the alien.

“(B) **RENEWAL AND DELEGATION OF CERTIFICATION.**—

“(i) **RENEWAL.**—The Secretary may renew a certification under subparagraph (A) without limitation after providing the alien with an opportunity to—

“(I) request reconsideration of the certification; and

“(II) submit documents or other evidence in support of the reconsideration request.

“(ii) **DELEGATION.**—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification under this paragraph to an official below the level of the Assistant Secretary for Immigration and Customs Enforcement.

“(C) **INELIGIBILITY FOR BOND OR PAROLE.**—No immigration judge or official of United States Immigration and Customs Enforcement may release from detention on bond or parole any alien described in subparagraph (A).”.

(d) **ASYLUM INELIGIBILITY.**—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(E) **GUANTANAMO BAY DETAINEES.**—Paragraph (1) shall not apply to any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(e) **MANDATORY DETENTION OF ALIENS FROM GUANTANAMO BAY NAVAL BASE.**—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

(1) in each of subparagraphs (A) and (B), by striking the comma at the end and inserting a semicolon;

(2) in subparagraph (C), by striking “, or” and inserting a semicolon;

(3) in subparagraph (D), by striking the comma at the end and inserting “; or”; and

(4) by inserting after subparagraph (D) the following:

“(A) as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

(f) **STATEMENT OF AUTHORITY.**—

(1) **IN GENERAL.**—Congress reaffirms that—

(A) the United States is in an armed conflict with al Qaeda, the Taliban, and associated forces; and

(B) the entities referred to in subparagraph (A) continue to pose a threat to the United States and its citizens, both domestically and abroad.

(2) **AUTHORITY.**—Congress reaffirms that the President is authorized to detain enemy combatants in connection with the continuing armed conflict with al Qaeda, the Taliban, and associated forces until the termination of such conflict, regardless of the place at which they are captured.

(3) **RULE OF CONSTRUCTION.**—The authority described in this subsection may not be construed to alter or limit the authority of the President under the Constitution of the United States to detain enemy combatants in the continuing armed conflict with al Qaeda, the Taliban, and associated forces, or in any other armed conflict.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, later today, or at some point in time, with respect to the supplemental, there will be an amendment that will seek to strike funds that have been put in this supplemental for the purpose of providing additional loan money to the IMF. I would like to talk about that for a moment because this is a proposal of the President which has the bipartisan support of members of the Foreign Relations Committee, and it has serious implications with respect to the health of the world's economy. It also has serious implications with respect to America's leadership.

Madam President, everybody understands that the United States of America is not alone in wrestling with an economic crisis that is global at this point. We all understand how it began. We understand the implications of our own irresponsibility with respect to the regulatory process and the greed



and other excesses that drove what happened on Wall Street and what has affected the lives of millions of Americans, but it has also affected the lives of people around the globe. The fact is, what started in the United States has now spread to countries around the world, and it continues to reverberate beyond our financial systems into all of our economies. The global economic crisis is in fact seriously affecting emerging markets and developing countries, and they are now experiencing severe economic declines and massive withdrawals of capital.

We don't know yet where this crisis will end, but we know we do have an ability to be able to address this crisis in various ways. One of the most powerful instruments, one of the most powerful tools available to the leaders of the governmental financial marketplace, is the IMF itself. President Obama understood early on that our actions on the global stage in response to this financial and economic crisis would be a very important test of America's leadership. That is why in his first major meeting abroad at the G-20 leader summit in London, the President called for an expansion of the IMF's new arrangements to borrow. It is often referred to just as the NAB—the new arrangements to borrow. The President proposed expanding that up to about \$500 billion in order to help the world's economies avoid collapse.

This crisis of the last months has offered us a vivid illustration of how the increasing interconnectedness of our global economic financial system actually comes with a greater susceptibility to systemic risk. The IMF contains risk, deals with risk, minimizes risk by serving as a bulwark against rolling financial failures, and it addresses volatility in the global financial system. The result of that is actually to help everybody. The NAB is a contingency fund to which many countries contribute, and today other countries are looking to the United States to deliver on our earlier commitment.

Japan has committed \$100 billion, the European Community members have already committed \$100 billion, and may well commit up to \$160 billion. In the last few weeks, countries such as Canada, Switzerland, China, South Korea, Norway, Australia, the Czech Republic, India, and others have all offered commitments in the billions of dollars in order to support the IMF. The President's promise helped to galvanize this global response, and it is critical that we, the United States, having galvanized this response, having helped to lead people to the watering hole, now fulfill our obligations ourselves. We need to do our part, and we need to approve the President's request for up to \$100 billion of authority. In fact, in terms of the budget authority here, this is scored at about \$5 billion. Why? Because this is a loan process,

and it is a loan process over which the United States continues to have input and the ability, in fact, to help make decisions.

The reasons to support the President's request frankly go far beyond the need of other countries at their moment of economic vulnerability. A fortified IMF is in our interest also. There are real national security concerns about the way this crisis could trigger a political crisis around the world. It is, in fact, a crisis which has already brought down the Governments of Iceland and several east European countries. It has helped to spark riots in Europe and Southeast Asia, and it will very likely be a driving political force for a long time to come.

For all the volatility that we have seen, Madam President, we value our investment in the IMF all the more for the things we have not seen. The fund has been able so far to act swiftly to stave off balance of payment crises in countries such as Pakistan. Obviously, whatever we can do to avoid economic crisis in Pakistan right now is critical to the survival of that democracy and to the ultimate success, we hope, against the insurgencies the Government of Pakistan and the people of Pakistan are fighting.

We are also seeing the steps taken by the IMF thus far are also lending strong support to key U.S. allies, including Mexico, Poland, and Colombia. These are vulnerable nations with very important American interests at play. Successes obviously don't make headlines the same way that failures do, but make no mistake; IMF financing has helped to stabilize several potentially volatile situations in this crisis already.

Madam President, I am not alone in warning of the security threat that is posed by this crisis. Back in March, the Director of National Intelligence, ADM Dennis Blair, testified before Congress about the risks in front of our Nation. This is what he said:

The primary near-term security concern of the United States is the global economic crisis and its geopolitical implications.

That is a remarkable statement coming from a person who is in the middle of struggling with potential dirty bombs and terrorism and counterterrorism and the threat of al-Qaida in various parts of the world. He nevertheless still emphasizes that the primary threat is a global economic crisis, and I believe we need to understand the full implications of it.

Madam President, I ask unanimous consent to have printed in the RECORD a letter signed by 14 former National Security Advisers and Secretaries of State, Defense, and Treasury, all urging us to move expeditiously to live up to the President's commitment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BRETTON WOODS COMMITTEE,

Washington, DC, May 14, 2009.

DEAR MADAM SPEAKER AND MAJORITY LEADER REID: We are writing to express support for the Administration's request for prompt enactment of additional funding for the International Monetary Fund.

As you well know, the global economic crisis has had a severe impact on emerging markets and developing countries. As conditions deteriorate in these countries, they endanger America's own growth along with U.S. jobs and exports. The IMF is the best instrument to provide these countries with the short term loans that will enable them to weather the crisis.

At the April G-20 Leaders Summit, the President urged other nations to provide additional resources for the IMF. The legislation increases the size and membership in the New Arrangements to Borrow—a contingency facility that will permit continued international lending when the IMF's existing resources are drawn down. The new agreement also opens the way for greater participation by major emerging market countries who will contribute for the first time to this facility.

It is important to note that other governments are providing more than 80% of the new funding required, and Japan, China and countries in Europe have already approved their new IMF contributions. As the global economic leader, it is now incumbent on the United States to promptly to meet its obligations.

A stronger and more responsive IMF is essential to the restoration of confidence in the global economy and financial system and thus to our own economic recovery. We urge Congress to move expeditiously on the President's request.

Respectfully yours,

James A. Baker, III; Nicholas F. Brady; Frank C. Carlucci; Henry Paulson; Lee H. Hamilton; Colin L. Powell; Henry Kissinger.

Condoleezza Rice; W. Anthony Lake; Robert Rubin; Robert McFarlane; Brent Scowcroft; Paul H. O'Neill; Paul A. Volcker.

Mr. KERRY. Madam President, I emphasize that the signatures on this letter come from both sides of the aisle, from respected public servants and admired strategists, such as GEN Brent Scowcroft, Henry Kissinger, Colin Powell, James Baker, Robert Rubin, Lee Hamilton, and Paul Volcker. All of them urge us to complete the task of providing the support funding for the IMF.

If there is one lesson we should take away from the worst impacts of this global crisis, it is that we should never underestimate the severity of these economic challenges or the urgency of tackling them head on rather than deferring the tough decisions. The IMF needs a robust contingency fund. Let me emphasize this is a contingency fund. This is a fund that doesn't represent money that is transferred to the IMF, and then they take on some spending spree, nor does it represent money that goes to the IMF and is used for IMF expenses. This is a direct loan program—loan only—and in the past the United States has actually made money when we have made these loans.

The fact is that this financial crisis is still brewing. For example, in central and Eastern Europe, in this part of the world where we saw the Berlin Wall and a repressive Communist regime of Eastern Europe crash down 20 years ago, we see the risk that if we don't act, it is possible that the economies of Eastern Europe will come crashing down too. Then we will replace an era of promise and progress in Eastern Europe with one of soaring unemployment, instability, and a retrenchment of the influence and ideals that we have been investing in and helping those countries to put more permanently in place.

The IMF is the best channel for providing balance of payment assistance to emerging and developing markets that are currently suffering as a consequence of their economies and banking systems are collapsing around them. The alternative to having a legitimate and robust IMF to deal with countries at risk is, frankly, not a pretty one. IMF loans come with strings attached, but they are mainly financial strings not strategic strings.

As we balance the domestic and global demands of this crisis, we need to be warned that in cutting corners for short-term savings, we risk creating far greater costs down the road. As it stands now, the large and urgent financing needs projected for emerging markets and developing countries cannot be met from existing IMF lending reserves. There is no cost-free, risk-free option, and lendings to the new arrangements for borrowing allows us to leverage our contribution toward a global capacity to manage economic risks. Managing those risks benefits all of us.

The reasons to act, in fact, go well beyond foreign policy interests. This is not a foreign policy issue. In fact, our domestic economic interests are also vulnerable if we fail to stem economic crises in other countries.

Why is that? Well, for a very simple reason. Expanding the IMF's NAB resources is actually essential to our overall strategy for restoring the health of the U.S. economy, for our exports, and it helps us to secure U.S. jobs.

Some in America might take the short-term view. We have heard that before. Some in America may try to appeal to the lowest common denominator and say to people: Well, why on Earth are we sending money to some fund that might, in fact, help a foreign country, when we ought to be just focused on the bailout at home? Well, the reality is that is a completely, totally false choice. The truth is, America's economic recovery depends not just on our own stimulus package and on spending here, and not just on fiscal and monetary policy and programs that sustain domestic demand, but we

also need to sustain demand abroad. We sell to those countries. We have millions of Americans making products that go to those countries and, in fact, those emerging markets in developing countries have been, up until now, some of the best growth opportunities for American investment and for American jobs to be able to supply goods.

Economic growth abroad helps us to kick economic growth into gear at home. That is why we need the IMF to help protect the markets we export to and from which they import American products.

Let me just be specific about that. Between 2003 and 2008, U.S. exports grew by 8 percent per year in real terms. Since 2000, our exports show a 95-percent correlation to foreign country growth rates. In large part, our economy was benefiting from the rapid growth of other economies in other parts of the world. During that period, the role of exports in driving American economic growth actually increased. The share of all U.S. growth attributable to export growth rose from 25 percent in 2003 to almost 50 percent in 2007, and then almost 70 percent in 2008.

Now, unfortunately, our exports peaked in July of last year, and they have been falling ever since then. Most of our partners are in recession. In the first quarter of 2009, our real exports were 23 percent lower than in the first quarter of 2008.

Our export decline is now contributing to the recession in the United States. With an export share in GDP of 12 percent, a 23-percent decline of that share of GDP, if you sustain that 23 percent over the course of the year it actually makes a negative contribution to the GDP of the United States of 2.5 percent. In other words, if our domestic demand were stagnant, our GDP would fall by nearly 3 percent. With that, we lose a lot of jobs and a lot of the struggle to get our economy back into gear just becomes that much more complicated and that much more delayed.

Congress passed, and the President signed, a stimulus plan that is designed to boost domestic demand. But if we fail to act, all the money we have spent to stimulate our own economy could actually be offset completely by the decline in exports.

We need to help these foreign countries lift themselves out of recession. Our recovery now depends on many of these countries that are now at risk. Some foreign countries can take care of themselves with a stimulus of their own and in cleaning up their own banking sectors. But many other countries, especially emerging market economies, have been so hard hit that they need a helping hand.

Some countries have been cut off abruptly from capital markets and shut out of the credit markets by the banking problems originating in the United States and Europe. Let me give

an example. We exported to a lot of countries our notions about how one ought to bank and how you, in fact, use banks to leverage and to go out and create jobs by investing in businesses. The fact is that many banks in Western Europe practiced that so effectively that they bought up banks in Eastern Europe, and so banks in parts of Eastern Europe, when they stopped lending, stopped lending because the banks in the western part of Europe are taking care of their immediate home-based problems and their capital problems, and the result is those eastern economies are particularly hard hit. This crisis actually started with us, and it is reverberating because of this and these systemic failures, and it will hurt more if it reverberates back to us because we failed to help some of those countries to hold up the export demand as well as to sustain their political systems which we have invested in very deeply since the end of the Cold War.

As countries recover, the United States is going to gain. We are going to be spared the risk of an even more precipitous decline in our exports, with greater job loss. In time, our export growth will resume and people in export industries across our country are going to be able to go back to work.

While we take part in a global effort to increase the NAB, we also have to shore up our influence inside the IMF and give greater voice to the emerging markets. The President is looking to increase by approximately \$8 billion America's quota subscription to the IMF. These quotas actually determine how the IMF assigns voting rights, and it decides on access to IMF funding. This increase in the U.S. quota is part of a larger practice to address long overdue governance reform and create greater legitimacy for the IMF.

It is also part of a two-way street. If we want major exporting companies to step up and contribute for the first time to, amongst other things, this expanded NAB facility, then we need to show that they can have a larger voice in the IMF itself. It also makes certain the United States can keep its current voting weight in order to maintain our leadership in the IMF so we have the ability to shape the future of the institution.

Before I finish, I would like to directly speak to two misconceptions that I think are involved in the amendment that will seek to strike this particular portion. The first is a very important point, and I wish to emphasize it. I spoke about it a moment ago, but I really wish to emphasize it.

The United States, in providing lending money to the New Arrangements to Borrow, to the IMF, is not giving away money. We are not spending money. This is a deposit fund. It goes into an account, and we get an IMF interest-bearing asset in exchange for those

funds. It actually can turn out to be a good investment because, while we participate in the IMF because of the enormous benefit it brings to the United States and to the world in terms of emerging countries and their markets, in fact, the United States has earned money historically on its participation in the IMF. According to the Treasury Department's most recent report to Congress, the fact is, we have been on the plus side. This is not a payout, therefore, of the IMF; it is an exchange of assets. We put assets in the fund, and we get an interest-bearing asset in exchange for those funds. This is a particular arrangement that has worked out very sufficiently for the U.S. Treasury in the past.

Second, let me be very clear on what is being asked here. The NAB, the New Arrangements to Borrow, is a contingency fund to be used only when other resources of the IMF are exhausted. The United States and other members of the NAB have control over these funds, and the IMF needs to get approval from the NAB providers in order to draw down on these funds. So we have to think of this as an insurance fund over which the United States continues to have control.

We have before us legislation to replenish the IMF's resources just in time for it to be able to stand up and help fight this crisis. With this money, the IMF will be able to help many countries revive their economies. With this money, the IMF will be ready in case the crisis deepens and creates more victims. With this money, America is able to lead at a moment of crisis and keep the promise of the President and help us to sustain the viability of emerging markets and countries, which is vital in the context of the struggle against extremism and religious fanaticism and terrorism, which we see has its prime targets in places that are failing. The ability to be able to prevent that failure is in the strategic as well as in the economic interests of our country. The world is looking to us to keep our word.

I urge support for the request of the President.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Georgia is recognized.

#### AMENDMENT NO. 1164

Mr. ISAKSON. Madam President, I ask unanimous consent that the pending amendment be set aside and amendment No. 1164, which is at the desk, be pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself, Mr. DODD, Mr. LIEBERMAN, and Mr. CHAMBLISS, proposes an amendment numbered 1164.

Mr. ISAKSON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to expand the application of the homebuyer credit, and for other purposes)

At the end of title V, insert the following:

#### SEC. 504. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ELIMINATION OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 of the Internal Revenue Code of 1986 is amended by striking “who is a first-time homebuyer of a principal residence” and inserting “who purchases a principal residence”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 36 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Section 36 of such Code is amended by striking “FIRST-TIME HOMEBUYER CREDIT” in the heading and inserting “HOME PURCHASE CREDIT”.

(C) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following new item:

“Sec. 36. Home purchase credit.”.

(D) Subparagraph (W) of section 26(b)(2) of such Code is amended by striking “homebuyer credit” and inserting “home purchase credit”.

(b) ELIMINATION OF RECAPTURE EXCEPT FOR HOMES SOLD WITHIN 3 YEARS.—Subsection (f) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

“(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

“(1) IN GENERAL.—In the event that a taxpayer—

“(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

“(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 36 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

“(2) EXCEPTIONS.—

“(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

“(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 36-month period described in such paragraph as if such new principal residence were the converted residence.

“(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

“(i) paragraph (1) shall not apply to such transfer, and

“(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply

to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

“(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

“(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

“(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.”.

(c) EXPANSION OF APPLICATION PERIOD.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking “December 1, 2009” and inserting “June 1, 2010”.

(d) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking “December 1, 2009” and inserting “June 1, 2010”.

(e) ELIMINATION OF INCOME LIMITATION.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) DOLLAR LIMITATION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the credit allowed under subsection (a) shall not exceed \$8,000.

“(2) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting “\$4,000” for “\$8,000”.

“(3) OTHER INDIVIDUALS.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed \$8,000.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after the date of the enactment of this Act.

Mr. ISAKSON. I know the Senator from Iowa wishes to speak, but first I ask unanimous consent that Senator DODD, Senator LIEBERMAN, and Senator CHAMBLISS be added to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Madam President, this amendment is very simple. You heard me many times come to the floor to talk about the housing tax credit. The tax credit we finally amended to repeal the payback provision of \$8,000 for first-time home buyers has brought an improvement in home sales of 40 percent at the entry level.

This amendment merely removes the means test of a maximum income of \$150,000 for a couple and \$75,000 for an individual, and it removes the means test that they have to be a first-time home buyer, which means any home buyer buying a home for their principal residence would receive an \$8,000 tax credit and there would be no limitation to their income to disqualify them.

I have always fought on this floor for a maximum tax credit of \$15,000, and I know how difficult that has been. But in the evidence of what has happened with the current \$8,000 with the means test, by removing it I am confident we will have a significant improvement in the housing market in America, which in turn will cause a significant improvement in the economy of the United States of America, as happened in 1968, 1974, 1981, 1982 and 1990 to 1991. Housing took America into a recession, and it was only when it recovered that America began to come out.

This improvement in that amendment, with this amendment, will be better for the people of the United States of America and better for our economy. I encourage my colleagues at an appropriate time to cast a favorable vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 1140, AS MODIFIED

Mr. COCHRAN. Madam President, I have a unanimous consent request that has been cleared. I ask unanimous consent that the pending Brownback amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title III, add the following:  
SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I wish to speak about the effort that seems to be underway here now—and I guess we will be having some more amendments this afternoon from the other side of the aisle—to prevent the President from addressing a serious national security problem: the continued operation of the detention center at Guantanamo Bay, Cuba.

It is long past time we close this facility. On May 23, 2007, almost exactly 2 years ago, I introduced legislation to close that detention center. Since that time, unfortunately, it has only become more imperative that we act. It remains the case that there is simply no compelling reason to keep the facility open and not to bring the detainees to maximum-security facilities here in the United States.

This Nation has long been a beacon of democracy, a champion of human rights throughout the world. Over the past 8 years, however, we have repeatedly betrayed our highest principles. Torture was authorized in direct viola-

tion of the law, and we intentionally put detainees beyond the most basic rules of law, including secret tribunals where detainees lacked opportunities to challenge their confinement and lacked sufficient due process.

These errors are manifest in the detention center at Guantanamo Bay, where the very purpose was to avoid providing legal safeguards that are enshrined in our Constitution and the Geneva Conventions to detainees and to prevent independent courts from reviewing the legality of the administration's actions. That was the purpose of Guantanamo as a detention center. Now that the Supreme Court has definitively ruled that constitutional protections apply at Guantanamo, it truly serves no purpose.

Closing the facility, however, does not just follow from a commitment to our most cherished values and constitutional principles; rather, closure is essential for our national security. As long as the detention center at Guantanamo Bay is open, it remains a recruiting tool for those who wish to do us harm and provides ammunition for our enemies.

This is not just my view but is the view of military and foreign policy officials. The Director of National Intelligence, Dennis Blair, has said:

The detention center has become a damaging symbol for the world . . . it is a rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security.

That is from Dennis Blair, our Director of National Intelligence.

Former Navy general counsel Alberto Mora has said:

There are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively, the symbols of Abu Ghraib and Guantanamo.

Retired Air Force MAJ Matthew Alexander, who led the interrogation team that tracked down Abu Mus'ab al-Zarqawi, the leader of al-Qaida in Iraq, said:

I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason they had decided to pick arms and join al-Qaida was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay.

Let me repeat that. Matthew Alexander, a retired Air Force major who led the interrogation team who tracked down the leader of al-Qaida in Iraq said this.

I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason that they had picked up arms and joined al-Qaida was the abuse at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay.

It cannot get much clearer than that. Colin Powell, Henry Kissinger, Madeline Albright, James Baker, Warren Christopher have all called for Guanta-

namo to be closed, as has Secretary of Defense Gates and Chairman of the Joint Chiefs Admiral Mullen.

As former Secretary of State Colin Powell said:

Guantanamo has become a major, major problem . . . if it were up to me, I would close Guantanamo not tomorrow but this afternoon.

That was Colin Powell.

Indeed, even President Bush repeated time and time again his desire to shut down Guantanamo, I am sure because of all the information that was given to him by his Joint Chiefs of Staff and by his intelligence services. So President Obama should be applauded for taking a step that military and foreign policy officials insist will directly and immediately improve our national security.

The President has set up a special task force to review the status of the detainees remaining at Guantanamo and to make recommendations on what to do with these individuals. The administration faces some difficult decisions it inherited from the previous administration.

Guantanamo was conceived—Guantanamo as a detention center, I should say, was conceived outside the law. And bringing detainees back into our legal system, as the Supreme Court has rightly found necessary, involves some very difficult policy issues.

I, myself, greatly look forward to the President's plan, and I will judge it carefully. Closing Guantanamo and simply replicating the same deficient legal process in the United States would be purely symbolic and meaningless.

As the administration undertakes its review of the detainees at Guantanamo and considers the most appropriate way to close the facility, the last thing Congress should do is handcuff the President.

What I am hearing are some arguments on the other side of the aisle basically saying, through these amendments they are offering, Guantanamo Bay should remain open. That is the thrust of the amendments: Guantanamo should remain open.

Make no mistake, if these amendments become law, the President's ability to take the step that military and foreign policy officials—Republicans and Democrats and Independents alike—have all said is needed will be very difficult. It will be difficult for the President to take the steps necessary to close Guantanamo Bay. Al-Qaida and those who wish to cause us harm will continue to have a major recruiting tool at their disposal.

I would not say this is the intention of the people offering those amendments, but listen to what our intelligence officers have said and what our military officers have said, that the biggest recruiting tool for those in Afghanistan and the Taliban and al-Qaida

is a continued detention center at Guantanamo Bay.

So while it may not be the intention of those people offering the amendments to have this as a recruiting tool for al-Qaida and the Taliban, those who have been in our intelligence service tell us that is, in fact, what is happening. It is the biggest recruiting tool for those who wish to do us harm. While it may not be the intention of those offering the amendments, that is what is going to be the practical effect, if those amendments are adopted.

One other thing. President Obama's decision to close Guantanamo Bay is already starting to pay some dividends. Countries such as Portugal and Ireland have made offers to join Albania in accepting detainees who cannot be returned to their home countries.

Just last week, France accepted Lakhdar Boumediene, an Algerian suspected in a bomb plot against the Embassy of the United States in Sarajevo. The assistance of our allies is critical. Yet to obtain that assistance will only be more difficult if we, ourselves, are unwilling to do what we ask our allies to do; that is, to accept detainees on our own soil in secure detention facilities.

We say: Oh, no, we cannot take them here but, France, you can take them and, Ireland, you can take them, and Portugal. They will say what kind of fairness is there in that?

Indeed, I feel the statements and the arguments of many on the other side of the aisle are simply to scare the American people, unduly scare the American people, and spread this kind of fear and misinformation by suggesting that closing the facility at Guantanamo Bay will somehow mean the terrorists will be walking Main Street or, as the junior Senator from Arizona claimed: Khalid Shaikh Mohammed and his partners will be our neighbors—will be our neighbors if they are in secure detention facilities.

This is the kind of language that rightfully gets Americans fearful that they are going to be our neighbors. Well, the fact is, those individuals who can be tried in Federal court can and will be vigorously prosecuted. Federal courts have successfully prosecuted terrorists in the past. In fact, between September 12, 2001, and the end of 2007, 145 terrorists were convicted in American courts. How many American people know that, that 145 were convicted in American courts.

Likewise, U.S. prisons are already holding some of the world's most dangerous terrorists in the United States. Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, is in jail in the United States.

Zacarias Moussaoui, the 9/11 coconspirator, is in jail in the United States; Richard Reid, the "shoe bomber," in jail in the United States. Several al-Qaida terrorists responsible for bomb-

ing Embassies in Kenya and Tanzania are in jail in the United States.

The men, women, and military officials who run these facilities have a proven track record. I ask those who are saying that Khalid Shaikh Mohammed and his partners will be our neighbors, I ask them: Can you point to any prisoner who has escaped from a Federal maximum security facility? Point to one. Just point to one.

Well, we have no greater duty than to protect the American people. That is the oath we all take. National security is our first job. In this regard, the President is undertaking a process that will result in the closing of a national stain on our character and a recruiting tool for those who wish to do us harm.

He is taking a step our military and foreign policy officials make clear will make us safer. The President should not be handcuffed and should not be prevented from improving our national security, as the other side in those amendments wish to do.

Finally, we must never forget that people around the world know we are right and the terrorists are wrong. Of the 5 or 6 billion people who live in the world, only a handful think the terrorists are right. All the rest are on our side. They know we are right and the terrorists are wrong.

If we wish to defeat the terrorists, therefore, we should remain faithful to our ideals and our values. We will not win this war with secret prisons, with torture chambers, with degrading treatment, with individuals denied basic human rights.

Rather, we will win this by upholding our values and insisting on legal safeguards that are the very basis of our system of Government and democracy. It is time to close Guantanamo Bay. There is no reason to keep it open and every reason, for our national security, to shut its doors.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 1173

Mr. CORKER. Madam President, I ask unanimous consent that the pending amendment be set aside and that we call up amendment No. 1173.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment. The bill clerk read as follows:

The Senator from Tennessee [Mr. CORKER], for himself, Mr. GRAHAM, and Mr. LIEBERMAN, proposes an amendment numbered 1173.

Mr. CORKER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the development of objectives for the United States with respect to Afghanistan and Pakistan)

On page 97, between lines 11 and 12, insert the following:

#### AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 30 days after the date of the enactment of this Act, the President, based on information gathered and coordinated by the National Security Council, shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 90 days thereafter, the President, on the basis of information gathered and coordinated by the National Security Council and in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. CORKER. Madam President, I ask unanimous consent that Senators LUGAR, ISAKSON, COLLINS, and BENNETT be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. Madam President, I am pleased to offer this amendment with my colleagues, Senator GRAHAM of South Carolina and Senator LIEBERMAN. This amendment would basically do two things.

Today, we have before us a supplemental appropriations bill. A large amount of the money in this bill is for our military operations and other operations in Afghanistan and Pakistan. This amendment is being offered without criticism. But, in fact, what we

have today is a major shift in our policies in Afghanistan and Pakistan. I doubt that there is a person in this body who can clearly articulate what our mission is in these two countries, to the standpoint of actually laying out objectives.

I think many Senators were part of a luncheon we had 2 weeks ago where, when the President of Afghanistan was asked what our mission was in Afghanistan, he could not articulate in any way that was comprehensible what our mission was in that country.

I do not offer those comments again in criticism. I realize there are a lot of changes underway. I realize there is going to be a new general on the ground; possibly it will take until August for that confirmation to take place.

I realize this administration is working with many agencies in trying to develop a plan that will be effective in this country. If one were to listen to the state of the mission, one would think our mission is very similar in Afghanistan to that of Iraq, minus actually having a democratically functioning government.

I know all of us have had some concerns about some of the issues within Government in both countries and where Government funding actually ends up. So this is an amendment, a bipartisan amendment, that is being put forth asking the administration to do two things: Asking that we, in essence, all understand this policy so that, in fact, we have a policy that is equal to the tremendous sacrifice our men and women in uniform are putting forth on our behalf and do so daily.

First of all, the amendment would require the President to submit to Congress a clear statement of objectives for Afghanistan and Pakistan and the benchmarks that will be used to quantify progress toward achieving those objectives.

Again, this is not tying their hands. There are no timetables that say certain things have to happen by a certain time. This is, in essence, asking the administration to lay out to us so we all know and can articulate those and, hopefully, even our men and women in the field can articulate these, to lay those out in a way by which we can understand the benchmarks.

Then, secondly, it asks that they come before us and actually give us quarterly updates, after a period of time, toward those objectives and how they are actually progressing. I would hope that actually, at some point, the managers of the bill might be able to even accept this by unanimous consent because I cannot imagine why anybody in this body would want to vote the billions and billions of dollars toward these efforts that we rightfully are supporting today—do not get me wrong, but I cannot imagine not wanting the administration to come back to us

with these benchmarks and these objectives so we all can measure our progress there.

We have been there 8 years. Our men and women in uniform have given and given and given; many have lost their lives, many have lost limbs. It would seem to me that everyone in this body, regardless of which side of the aisle they are on, would want to clearly understand what our mission is there and our way of evaluating that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1156

Mr. LIEBERMAN. Madam President, I call up amendment No. 1156.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, and Mr. BURRIS, proposes an amendment numbered 1156.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the authorized end strength for active duty personnel of the Army)

At the end of title III, add the following:

SEC. 315. (a) INCREASE IN FISCAL YEAR 2009 AUTHORIZED END STRENGTH FOR ARMY ACTIVE DUTY PERSONNEL.—Paragraph (1) of section 401 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4428) is amended to read as follows:

“(1) The Army, 547,400.”.

(b) INCREASE IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVEL FOR ARMY PERSONNEL.—Paragraph (1) of section 691 of title 10, United States Code, is amended to read as follows:

“(1) For the Army, 547,400.”.

(c) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading “MILITARY PERSONNEL, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading “OPERATION AND MAINTENANCE,

ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Mr. LIEBERMAN. Madam President, I am very pleased to rise now to offer this amendment on behalf of a bipartisan group: Senators THUNE, BEGICH, GRAHAM, and BURRIS, all of us members of the Armed Services Committee.

I take the floor today to speak on their behalf and mine for a constituency that every Member of the Senate represents; and that is, the men and women who serve in the U.S. Army.

On September 11, 2001, the Army's active-duty strength was just 480,000, after a decade in which we in Congress cut it nearly in half after the Cold War ended.

In the wake of the terrorist attacks of September 11, many Members of Congress urged a major expansion of the military and the Army for the years of war that were clearly ahead. But, unfortunately, that did not happen. We watched with growing concern as our soldiers—members of a force too small for the missions we had assigned to them—served through repeated deployments, heroically, but under increasing stress.

Finally, 3 years ago, the administration and Congress increased the size of the active-duty component of the U.S. Army from 480,000—the level on 9/11—to 547,400. That was to be realized over a period of years.

In February of this year, the Army reached that goal well ahead of the schedule that had been originally anticipated, fortunately, because every man and woman who joined the Army is necessary and has been critically necessary. So now we actually have 549,000 active-duty soldiers.

Recall that I said the statutory end strength of the Army is 547,400. So the Army now is literally at a strength greater than its current authorization. This achievement expresses the patriotic commitment of the American men and women who have answered the call of duty. In other words, recruitments and reenlistments have been so high that there are more people in the Army than the statutory end strength.

But there is still not enough. I will explain why.

Growing the force was clearly necessary to support our troops in the Army, our soldiers who are bearing the major responsibility for the wars we



have been fighting in Iraq and Afghanistan. But these increased numbers simply have not proved sufficient to relieve the continued strain on our soldiers. That is what this amendment intends to do during the remainder of this fiscal year, covered by this supplemental appropriations bill.

I want to talk about dwell time. It is a term the military uses. What is "dwell time"? It is down time but not R&R time. It is time that is spent back here at home in the bases, with the families, not just recovering from the last deployment, but also, obviously, preparing and training and upgrading for the next. And perhaps most significantly to the men and women of the Army, it is precious time for our soldiers to spend with their families.

Today, dwell time of members of the U.S. Army is about slightly more than 1 to 1. That means for every year of deployment, they are back home at the base, training, preparing, spending time with their family, for a year—1 to 1.

General Casey said—and everybody in our military says—that is simply inadequate; too much duty, too quickly, too much stress on our men and women in the U.S. Army, in the military.

General Casey said he has the goal to get the ratio to 1 to 2—2 years at home for every 1 year out at war—and to do so by 2011. In fact, he would like to take it higher than the 1 to 2—beyond that—hoping that our conflicts we are in in Iraq and Afghanistan do not require that many American military by that time.

Incidentally, the dwell-time ratio is particularly dire for a category in our Army called "enablers." They are involved as Army aviators, engineers, people involved in intelligence, surveillance, and reconnaissance work. They really are under dwell-time pressure.

As the Presiding Officer knows, the Obama administration is implementing what I consider to be a very responsible strategy, and a correct strategy, for drawing down our force in Iraq. But if you combine the Iraq and Afghanistan wars, and the planned increase in Army presence in Afghanistan, as we slowly decrease in Iraq, Army deployments will actually increase for the rest of this year.

This is what General Casey, the Army Chief of Staff, said to the Armed Services Committee the other day: It is a simple question of supply and demand. If the supply of the Army stays only constant or even goes down, and yet the demand—which is the increasing deployments for at least the remainder of this year, and probably well into next year—goes up, the dwell time—the time these soldiers of ours, heroes of ours, have to spend away from the war zone back at base—will not rise from the unacceptable level it is at now.

Our military leadership has made clear in public statements that things

are going to get worse before they get better.

Army Chief of Staff Casey recently warned that the number of deployed soldiers will actually, as I said, rise through the rest of the year. Admiral Mullen, Chairman of the Joint Chiefs of Staff, told the Senate Armed Services Committee last week that the Army faces a "very rough time" over at least the next 2 years before it reaches what Admiral Mullen called the "light at the end of the tunnel."

Keep in mind, these predictions do not reflect or absorb the possibility of a new crisis or new crises elsewhere in the world outside of Iraq and Afghanistan—what such a crisis would place in the way of additional demands on our soldiers—a possibility that recent experience warns us to at least keep in mind as a possibility.

So we are in a situation now where we have a constant level of soldiers on Active Duty, demand in the short term going up, and, therefore, dwell time—time away from the battlefield—not rising. This equation leads to strain and stress on our soldiers. Unfortunately, there are facts that show this strain and stress. The Army is on track this year to overtake the grim record of suicides of our Active-Duty Army personnel that we saw last year, in 2008. The murder a week or two ago of five soldiers by a fellow soldier in Baghdad was a devastating example. I fear, of the stress on our deployed force. We hear increasingly stories of the stress on the families back home. Any of us who have visited military bases, spoken to the families, hear this constantly as a growing appeal to do something to increase the dwell time. The fact is, we are not, and that really does hurt.

I think we can say—as was said the other day at an Armed Services Committee hearing by witnesses before us from the Defense Department who were talking about all we are doing to improve the quality of life of our men and women in uniform, including housing for their families, health care, childcare, et cetera, et cetera—benefits—all true. So we are improving the benefits to our men and women in the U.S. Army, but so long as there are not enough of them, which there are not today, the major factor of stress, which is how often, how many times are they going to be sent back to Iraq and Afghanistan, or how frequently, will not change. That is what this amendment aims to do something about.

I wish to make clear what is obvious to everyone: that our Army is not broken. This is the greatest—this is the next greatest generation of the American military, performing with unbelievable skill, heroism, resilience, agility, and personal compassion in Iraq and Afghanistan. Our Army is not broken, but it is, as General Casey said the other day, out of balance. Sec-

retary of the Army Geren said—summarizing this part of his testimony before the Armed Services Committee—the U.S. Army is "busy, stretched, and stressed." And he is right. We have to give those heroes in uniform some help, and the best help we can give them is more people in uniform fighting alongside them.

Here is a strange twist. In the face of the current crisis in manpower, the administration has been forced to effectively direct the Army to not only stop growing but to actually shrink by the end of the year as deployments overseas increase, dropping back from over 549,000 soldiers to the statutory limit of 547,400. In other words, this supplemental appropriations bill closes a gap that existed in the Army's ability to pay for the 547,400 they are entitled to, but they are still over by 1,600 soldiers. Therefore, there is a guidance out that directs the Army to take drastic measures to cut back; in fact, reducing their recruiting goals this year by 13,000 soldiers, which the Army knows it can meet, and cutting its retention goal by 10,000 troops, which the Army also knows it can meet. So here we have this ironic—really worse than that—moment where we need more troops and more soldiers and the Army is going to be forced to cut back.

I must tell my colleagues that I think it is going to be hard to shrink the Army in this way by the end of this year because so many of our troops are reenlisting, which is quite remarkable—so committed to the cause, proud of their service, want to keep fighting for the United States alongside the others in their unit. Obviously, some are affected by the economy and the instability and difficulty in finding job opportunities in the economy.

So I think it would be a terrible mistake to order the Army to cut its ranks at this time, which would mean less dwell time for our soldiers. That is why Senators GRAHAM, BEGICH, THUNE, BURRIS, and I introduced this bipartisan amendment which would enable the Army to maintain its current strength and continue to grow for the remainder of this fiscal year as the Secretary of Defense determines. No compulsion here.

Current law forces the Army to get smaller before the end of the year. This amendment would say it can grow beyond the 547,400 within the limit of the waiver that the Army has, and it provides the money to do that, which is an additional \$400 million for the remainder of this fiscal year—frankly, a small price. It is a significant amount of money, but when we think about the impact it will have on the lives of just about every man and woman wearing the proud uniform of the U.S. Army, it is more than worth it.

I wish to explain, while I have a moment and while I see no one else on the Senate floor, that the amendment literally will increase the minimum end



strength for the Active-Duty Army from the statutory level it is at now up to 547,400. When that point is reached, it gives the Secretary of the Army a 2-percent waiver, and that means that working with the Secretary of Defense, the Secretary of the Army could actually raise the Army as high as 558,000 by the end of the fiscal year. I don't expect that to be possible in the next few months, but it gives that latitude and the money to back it up.

The second part of the amendment provides additional funds to help the Army cover the immediate personnel shortfall it faces because of the toll the ongoing conflicts are taking on the force.

If I may add just this final argument of reality. The Vice Chief of Staff, Peter Chiarelli, told the Senate Armed Services Subcommittee on Readiness last month that the Army has about 30,000 soldiers among that current 549,000 who are, for one reason or another—three reasons, actually—not available to meet the requirements of the Army, not able to be directly involved.

For example, nearly 10,000 soldiers now either serve as Wounded Warriors or support their recovery, while thousands more are not deployable because of injuries they have suffered, often not in conflict, but that are, nonetheless, though less severe, disabling enough that they can't be deployed. So the truth is, there already is a 30,000-gap beneath the 549,000 that is on the books as actively deployed.

The best way to honor the sacrifice and service of these soldiers will be to ensure that their brothers and sisters in arms go to battle with reinforcements who can take their place; to guarantee that the Army can build those enabler units I talked about that the service needs most now on the front lines in Afghanistan and Iraq—and both battlefields are now beginning to compete for those uniquely trained enablers; and to provide the Army leadership with the flexibility it needs to have the manpower for the theater while giving our troops more time at home.

I wish to go to two final questions. Would growing the force today relieve the strain on the force when it matters most? And is this a proposal we can afford? In terms of the first, we know the greatest demand in the theater falls upon our most junior soldiers, such as the Army's privates and specialists who face the most difficult dwell time ratios in the force and keep going back and forth.

If we commit to growing the force now, these are the types of troops we can recruit, train, and deploy in this time of greatest need, and we can retain them. In short, if provided the additional personnel, the U.S. Army can definitely use them and use them well.

In terms of the second question, of course, I am concerned about the long-

term costs of increasing the size of the force. The price of military personnel has risen over the past decade because we better recognize the service of our soldiers, and we are taking better care of them. Nonetheless, I don't see how we can explain to our soldiers and their families that we in Congress decided that we could not afford reinforcements at a time when the force is so stressed under the strain of war and still performing so brilliantly.

The Army is not broken, I wish to stress. It is out of balance, and it needs our support to come into balance. This amendment would provide the funds to give the Secretary of the Army and the Secretary of Defense the option—not mandatory—to raise the number of Active-Duty military personnel, from now until the end of this fiscal year, to a level above—slightly above—the 547,400 now statutorily authorized.

I hope our colleagues on both sides of the aisle will join us in giving this amendment unanimous support. I honestly think it is just about the best thing we can do for the heroes of the U.S. Army who serve us every day to protect our security and our freedom.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I call up the Lieberman-Graham amendment No. 1157.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAHAM. Madam President, I will talk about the amendment, if I may.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. GRAHAM. Madam President, I wished to thank Senator LIEBERMAN for his leadership on this issue. We have been working together on what I think is a very big deal for the American people in the overall war effort. As many of you know, particularly our colleagues and the public at large, we have had a discussion in this Nation about whether we should release more photos showing detainee abuse in the past.

The President of the United States has decided to stand for the proposition that releasing these photos would jeopardize the safety of our men and women serving overseas and Americans abroad, as well as civilians serving in the war zones. He has indicated the photos don't add anything to the past debate about detainee abuse. They are

more of the same. No new person is implicated. These photos, again, were taken by our own folks, detailing abuse, and a lot of that has been dealt with already and prosecuted.

The President, I think rightfully, has determined, after consulting with his combat commanders, that if we release these photos, it would not help us understand any more about detainee problems in the past than we already know. But it would be a tremendous benefit to the enemy. The enemy used these photos in the past to generate resentment against our troops. It has been a propaganda tool. The President is rightfully concerned that to release more photos would add nothing to the overall knowledge base we have regarding detainee abuse, and it is simply going to put American lives in jeopardy. I applaud the President, who stood for our troops and men and women and the civil servants overseas.

There are a lot of mysteries in this world, but there is no mystery on what would happen if we release those photos. I can tell you, beyond a shadow of a doubt, that if these photos get into the public domain, they will inflame populations where our troops are serving overseas and increase violence against our troops.

What we have done—Senator LIEBERMAN and myself—is we came up with an amendment that addresses the lawsuit before our judicial system about the photos. This amendment says any detainee photos that are certified by the Secretary of Defense, in consultation with others, that would result in harm to our men and women serving overseas, jeopardize the war effort, and put our troops in harm's way, with Presidential approval, those photos cannot be released for a 5-year period of time. To me, that is a reasonable compromise. It doesn't change FOIA, in its basic construct, but it provides congressional support to the President's decision that we should not release these photos.

Senator LIEBERMAN and myself have been to the theater of operations many times. We have met with al-Qaida operatives who have switched sides, basically, and they have told us firsthand how at prison camps in Iraq, the Abu Ghraib photos were used in the past to recruit new members to al-Qaida and generate resentment against our troops.

I applaud the President. This legislation will help the administration in court. I thank Senator LIEBERMAN, who, above all else, puts his country and the security of our men and women ahead of any political calculation. For that, I very much appreciate his leadership and his friendship. I wish to recognize what he did.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I thank my friend from South Carolina

for his kind words, first, but also for working together on this in a bipartisan way. Senator GRAHAM serves in the Senate, but he also serves in the U.S. Air Force. When we travel with him, he usually remains behind to do some time and be of service in the battle zones. That is the kind of person he is. He is an extremely skilled lawyer.

We approached this trying to do what was right from a legal point of view but also understanding what the President, to his great credit, understood and expressed in the decision he has made on these photos. These are old photos. They portray, I fear, behavior that is unacceptable and, in fact, has been made illegal by the Detainee Treatment Act and the Military Commissions Act, which Senator GRAHAM played the leading part in drafting. This behavior portrayed in the pictures already has also been made illegal by Executive order of President Obama. So what purpose is served by putting these pictures out now? What good purpose? None. It is a kind of voyeurism, frankly, to see the pictures just for the sake of seeing the pictures. Maybe in a normal time that would be OK; it probably would be. Disclosure and transparency are values our country, our Government, holds high. But there is something different now, and this is what President Obama recognizes. We are at war. When you are at war, you have to ask the question the President asked General Petraeus, General Odierno, and others: Will the public release of these pictures endanger America, American military personnel, and American Government personnel serving overseas?

The answer came back loud and clear: Yes, it will. So the President, with strength and decisiveness, stepped onto what I am sure he knew was politically controversial ground. He did what he thought was right for the country as Commander in Chief. As Senator GRAHAM said, we applaud him greatly for that. We are at war, and you don't do the things when you are at war that you might do at other times.

This proposal basically codifies into law the process President Obama suggested in reaching the decision he made to fight the release of these pictures.

Last week, the President made exactly the right decision as Commander in Chief that will protect our troops in Iraq, Afghanistan and elsewhere and make it easier for them to carry out the missions that we have asked them to do.

After consulting with General Petraeus, General Odierno and others, the President decided to fight the release of photographs that depict the treatment of detainees in U.S. custody. Those photographs are the subject of a Freedom of Information Act lawsuit filed by the American Civil Liberties Union.

Last fall, the Second Circuit court of appeals ordered the release of those photographs. Instead of appealing that decision to the Supreme Court, government lawyers agreed to release the images as well as others that were part of internal Department of Defense investigations.

I strongly believe that the President's decision to fight the release of the photographs was the right one. Today, Senator GRAHAM and I introduced this amendment to H.R. 2346, the supplemental appropriations bill for Iraq and Afghanistan, that will codify the President's decision and establish a procedure to prevent the detainee photos from being released.

Before the President decided to fight the Second Circuit decision, Senator GRAHAM and I sent a letter to the President making the case that the release of the photographs serves no public good.

The behavior depicted in those photographs has been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by Executive orders issued by President Obama. Meanwhile, the Department of Defense has investigated the allegations of detainee abuse for the purpose of holding those responsible accountable.

We also know that the release of the photographs will make our service men and women deployed overseas less safe. There is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed in their mission there.

Now we learned valuable lessons from those pictures. And as I said, Congress and this President have taken steps to prevent that abuse from ever happening again.

But the same is not true about these pictures. These pictures depict past abuses that have already been addressed and we know that the release will only empower the propaganda operations of al-Qaida and other Islamist terrorist organizations.

Even before 9/11, terrorist groups like al-Qaida recognized the immense value of using propaganda to recruit and radicalize followers around the world. Since 9/11, the al-Qaida propaganda operation has only gotten more sophisticated. Should pictures like these be released, we know that they will be circulated immediately on al-Qaida connected Web sites and many other Web sites that readily post images just like this.

And to be clear, it is not al-Qaida leadership we are worried about—they are committed to destroying America regardless of what happens with these photos. Rather it is the thousands of young men—and some women—around the world who may not otherwise be inclined to sympathize with or support

al-Qaida but may change their minds after seeing these photos. Those recruits are the ones that keep al-Qaida and other Islamist terrorist groups vibrant and capable of planning and executing attacks against us.

By introducing this legislation today, we do not condone the behavior depicted in the photographs. We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations it has conducted.

This bill—the Detainee Photographic Records Protection Act—would establish a procedure just like the one that led to the President's decision not to release the photos.

This legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs like the ones at issue in the ACLU lawsuit would endanger the lives of our citizens or members of the Armed Forces or civilian employees of the U.S. Government deployed abroad.

The certification would last 5 years and could be renewed by the Secretary of Defense if the threat to American personnel continues. Also, the language in the bill is clear that it would apply to the current ACLU lawsuit that gave rise to the President's decision last week.

Let me state clearly that we cannot become complacent about the stark reality that we are still at war with enemies who continue to seek to attack America and kill Americans. In the heated partisan environment in Washington, we are unfortunately sometimes more engaged in finger pointing and recriminations than being focused on defeating the vicious determined enemy we face.

I applaud President Obama for the actions he has taken in the past week on the photos and the military commissions and I believe that this legislation will provide him with an important tool to assist him in leading the war on terror.

Bottom line: I hope, again, this can be a bipartisan amendment, which it is, but I hope it will be supported by Members across the aisles. When we do that, we are all going to be saying we know we are at war and that we have no higher responsibility than to protect the security of our country and our military personnel, which would be endangered if these pictures go out.

For a quick moment, I speak as chairman of the Homeland Security Committee, which I am privileged to lead. These pictures will be a recruiting device for al-Qaida and the rest of the terrorist ilk. These pictures will go up instantaneously on jihadist terrorist recruiting Web sites. Not just people elsewhere in the world but people in the United States will be drawn

to those Web sites and perhaps recruited through these pictures into a life of terrorism, where the essential target will be America and Americans. There is no reason to let that happen, and this amendment will make sure, in an orderly and fair way, that it doesn't happen while we are at war.

Again, I thank my friend from South Carolina. I gather we are waiting for word on whether we can introduce the amendment soon.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Madam President, here is a closing thought. The President understands very well, and I know Senator LIEBERMAN does, and I think we all understand we have some damage to repair. We have made mistakes in this war. Detainee operations are essential in every war. Part of war is to capture prisoners and how you dispose of them can help or hurt the war effort. There have been times in the past where detainee operations have hurt the war effort. We need to start over. That is why we need to look at a new system to replace the one we have regarding military commissions—but keep it in the military setting—and a way to start over with basic detainee operations in a comprehensive manner. But in repairing the damage of the past, you have to make sure you are not creating future damage. If you release these photos, you will not repair damage from the past, and you will not bring somebody to justice that is in these photos whom we already don't know about. There will not be a new person named. It is more of the same. So it doesn't contribute to repairing the damage of the past, but it sure does create damage for the future.

The one fact I am very aware of is that the young men and women serving overseas today—soldiers, military members, and civilians—have done nothing wrong. They should not pay a price for the people who did something wrong in the past whom we already know about.

If you release these photos, Americans are going to get killed for no good reason. That is why we need to pass this amendment—to help the President defeat this lawsuit that would lead to violence against Americans who are doing their job and have done nothing wrong. They should not be punished for something somebody has done in the past, which has already been addressed. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1157

Mr. GRAHAM. Madam President, it is my understanding that there is an

agreement we can bring up the amendment at this time. Therefore, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1157 on behalf of Senator LIEBERMAN, myself, and Senator MCCAIN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. LIEBERMAN, and Mr. MCCAIN, proposes an amendment numbered 1157.

Mr. GRAHAM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act))

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.**

(a) **SHORT TITLE.**—This section may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(b) **DEFINITIONS.**—In this section:

(1) **COVERED RECORD.**—The term “covered record” means any record—

(A) that is a photograph relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) **PHOTOGRAPH.**—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) **CERTIFICATION.**—

(1) **IN GENERAL.**—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall submit a certification, in classified form to the extent appropriate, to the President, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) **CERTIFICATION EXPIRATION.**—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (2) shall expire 5 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) **CERTIFICATION RENEWAL.**—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(d) **NONDISCLOSURE OF DETAINEE RECORDS.**—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) **EFFECTIVE DATE.**—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

Mr. GRAHAM. Madam President, Senator LIEBERMAN and I have already explained the need for this amendment. It will help the President win a lawsuit that is moving through our legal system regarding the release of photos of past detainee abuse. As I said, that will not help us to learn more, and it will only put American lives at risk, as the commanders have told the President. The Senate can avoid that by passing this targeted amendment.

I hope we can get a large vote for this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1147

Mr. KYL. Mr. President, I ask unanimous consent that the pending business be laid aside so that I may offer amendment No. 1147.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. LIEBERMAN, proposes an amendment numbered 1147.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit funds made available for the Strategic Petroleum Reserve to be made available to any person that has engaged in certain activities with respect to the Islamic Republic of Iran)

At the end of title IV, add the following:

**PROHIBITION ON USE OF FUNDS FOR THE STRATEGIC PETROLEUM RESERVE FOR PERSONS THAT HAVE ENGAGED IN CERTAIN ACTIVITIES WITH RESPECT TO THE ISLAMIC REPUBLIC OF IRAN**

SEC. 410. None of the funds made available by this title or any other appropriations Act for the Strategic Petroleum Reserve may be made available to any person that has, during the 3-year period ending on the date of the enactment of this Act—

(1) sold refined petroleum products valued at \$1,000,000 or more to the Islamic Republic of Iran;

(2) engaged in an activity valued at \$1,000,000 or more that could contribute to

enhancing the ability of Iran to import refined petroleum products, including—

(A) providing ships or shipping services to deliver refined petroleum products to the Islamic Republic of Iran;

(B) underwriting or otherwise providing insurance or reinsurance for such an activity; or

(C) financing or brokering such an activity; or

(3) sold, leased, or otherwise provided to the Islamic Republic of Iran any goods, services, or technology valued at \$1,000,000 or more that could contribute to the maintenance or expansion of the capacity of the Islamic Republic of Iran to produce refined petroleum products.

Mr. KYL. Mr. President, let me briefly describe what this amendment does. The administration, as well as Members of Congress, have all been recently saying some important things about our ability to influence the actions of the country of Iran relative to their acquisition of a nuclear capability. Let me quote a couple of these statements that I think make a lot of sense.

Secretary Gates said:

The regional and nuclear ambitions of Iran continue to pose enormous challenges to the U.S. Yet I believe there are nonmilitary ways to blunt Iran's power to threaten its neighbors and sow instability throughout the Middle East.

The Secretary said that at an Armed Services Committee hearing in January of this year.

In March of this year, after an important NATO meeting, Secretary Clinton said the following:

I know that there's an ongoing debate about what the status of Iran's nuclear weapons production capacity is, but I don't think there is a credible debate about their intention. Our task is to dissuade them, deter them, prevent them from acquiring a nuclear weapon.

I think we would all agree with these two sentiments. One way to "dissuade" Iran from pursuing this nuclear capability, as Secretary Clinton put it, is to focus on the vulnerabilities of Iran and its leaders to cause them to change their plans by putting significant pressure on Iran and its leadership.

Where might those pressure points be? One of them that President Obama talked about in his campaign was the fact that Iran imports about 40 percent of the refined gasoline and diesel that its citizens use. It does not have an indigenous capability. That represents a vulnerability since there are only a few companies, maybe five, that supply that refined petroleum product to Iran. So one of the things we can do is to ensure that those companies have to decide whether they want to do business with Iran's \$250 billion economy or our \$13 trillion economy. There is legislation pending that Senator BAYH, Senator LIEBERMAN, and I have introduced that would deal with that subject.

But there is another way that we can deal with it, and it is focused on this legislation in front of us. That is how we spend U.S. money and whether, in fact, we pay money to these companies.

It turns out that the answer is yes. For example, in January, the Department of Energy announced its award of a contract to purchase 10.7 million barrels of crude oil for the Strategic Petroleum Reserve to two companies, Vitol and Shell Trading. The total cost of these contracts is \$552 million. These two firms play a critical role in importing gasoline to the Islamic Republic of Iran.

Despite protests from the Congress, the Department of Energy actually completed those sales and the transfers of money in April of 2009. So that is not a contract we can affect. That is half a billion dollars of U.S. taxpayer money going to these two companies that do business directly with Iran. We should stop doing that. What this amendment says is that we are going to stop doing that with money that would be ordinarily spent on companies such as Vitol and Shell Trading.

The Department of Energy has outstanding contracts to add 6.2 million barrels of crude oil to the Strategic Petroleum Reserve with Shell Trading and a company called Glencore, which also sells gasoline to Iran. Last month, the Senate unanimously approved an amendment—it was amendment No. 980 to S. Con. Res. 13—to the budget to prevent Federal expenditures to companies doing business in the energy sector of the Islamic Republic of Iran on the matter I spoke to before. So this would be a complementary way for us to assure that Iran is not supported by these companies. This amendment would make clear our opposition to the use of taxpayer funds to pay to these companies that sell refined petroleum products to Iran. We wouldn't be able to use American taxpayer dollars, for example, to pay them to fill our Strategic Petroleum Reserve. There are plenty of other companies that can do that.

So if we are serious about confronting the Islamic Republic of Iran, we have to use all the economic and diplomatic tools at our disposal to focus pressure on that country and its leadership to cause them to stop pursuing their plans to become a nuclear power. I think most of us would agree that companies doing business with Iran should have to make a choice: Do they do business, as I said, with our \$13 trillion economy or do they do business with Iran's \$250 billion economy? This amendment doesn't get to that larger issue, but it does at least say that we are not going to spend taxpayer money with these five or so companies—some of which we are currently doing business with—by buying their oil for our Strategic Petroleum Reserve.

Mr. President, I am happy to answer any questions or have debate about this amendment. If my colleagues are willing to accept it without a vote, that is fine with me too. I think the important point is to get this propo-

sition established. I can't imagine there is a great deal of controversy about this here in the body, but if anyone would like to debate me about it, I would be happy to do that at this time or when they are here.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 1161

Mr. BROWN. I ask unanimous consent to set aside the pending amendments and call up amendment No. 1161.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN] proposes an amendment numbered 1161.

Mr. BROWN. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the United States Executive Director of the International Monetary Fund to oppose loans and other programs of the Fund that do not exempt certain spending by the governments of heavily indebted poor countries from certain budget caps and restraints)

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) EXEMPTION OF CERTAIN GOVERNMENT SPENDING FROM INTERNATIONAL MONETARY FUND RESTRICTIONS.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund that does not exempt spending on health care, education, food aid, and other critical safety net programs by the governments of heavily indebted poor countries from national budget caps or restraints, hiring or wage bill ceilings, or other limits on government spending sought by the Fund.

(b) CONFORMING REPEAL.—Section 7030 of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 874) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

Mr. BROWN. Mr. President, I begin by thanking the senior Senator from Mississippi for his good work and for his cooperation on bringing this amendment forward. I rise to offer amendment No. 1161, which is intended to ensure that the International Monetary Fund fulfills its mission in a manner consistent with American values and American objectives. This amendment would help ensure that the human cost of this economic crisis is

not exacerbated, is not made worse, by cuts to nutrition and to health and to education programs.

Without a doubt, we are facing the greatest economic crisis in decades, a crisis that has worldwide implications. Unemployment is up, not just in my home State of Ohio or in the State of the Presiding Officer, of New Mexico, but across this Nation and around the world. In low-income countries, workers are toiling away for increasingly lower wages and children are all too often going without health care, without enough food, and with little education.

The World Bank estimates the global economic crisis will push an additional 46 million people into poverty this year. If the crisis persists, an additional 2.8 million children under 5 may die from preventable and treatable diseases between now and 2015.

As governments across the globe find themselves in dire straits, the IMF has stepped in to provide badly needed loans to countries in trouble but often at the expense of social spending programs. In the past, the IMF has loaned money to nations, often with the requirement that these countries balance their budgets, cut spending and raise interest rates. Of course, there is nothing wrong with balanced budgets, but in an economic crisis such as the one we currently face, how can the IMF ask countries to cut spending on education, on health care, on nutrition, in order to undertake policies that might actually cause more harm than good? The upshot of these policies is the world's weakest and most vulnerable are the ones who suffer. The first items cut from budgets are social spending programs. In fact, the IMF has actually required that countries cap spending on health care and education and nutrition.

If these conditions continue to be placed on countries receiving IMF funds, our attempts to provide assistance to those in need will be undercut, all in the name of fiscal responsibility. Let me be clear: The purpose of this amendment is not to inhibit IMF lending. I recognize the importance of the IMF and I recognize the role it will play in stabilizing the global economy, but it is especially for this reason we must be able to hold it accountable.

The administration's inclusion of IMF money in the supplemental appropriation is an opportunity for us to make a statement to the International Monetary Fund, to make sure that the money we loan to the IMF is used for programs that do not adversely affect the most vulnerable in the world. We must ensure the IMF doesn't force countries to cut spending for health care or education or nutrition at the expense of balanced budgets or shoring up central banks.

We must ensure that social spending—education, health care, nutri-

tion—is protected not only for humanitarian and moral reasons but also for the long-term security and stability of those countries.

We must be able to hold the IMF accountable for its policies. We must use our voice and our vote to reflect our commitment to education, to the fight against global poverty, and to the welfare of workers everywhere. That is what this amendment will accomplish. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

#### AMENDMENT NO. 1188

Mr. MCCAIN. Mr. President, amendment No. 1188 is at the desk. I ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK, proposes an amendment numbered 1188.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make available from funds appropriated by title XI an additional \$42,500,000 for assistance for Georgia)

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading "Europe, Eurasia and Central Asia" is hereby increased by \$42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) SOURCE OF FUNDS.—

(1) IN GENERAL.—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading "Europe, Eurasia and Central Asia" and available for assistance for Georgia.

(2) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) administer the reduction required pursuant to paragraph (1); and

(B) submit to the Committee on Appropriations of the Senate and the Committee of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the reduction required pursuant to paragraph (1).

Mr. MCCAIN. Mr. President, I rise to offer an amendment that will restore assistance to the Republic of Georgia, thereby fulfilling the commitment the United States has made to that country.

Last year, following the Russian invasion of Georgia, and the widespread destruction that took place throughout the country, the United States pledged

\$1 billion in aid to Georgia. The move had wide bipartisan support.

Thus far approximately three-quarters of the assistance has been delivered to Tblisi. Now the administration has requested that final step in fulfilling the U.S. pledge be incorporated into the supplemental bill and requested the remaining \$242.5 million in assistance for Georgia.

The House measure includes this full funding. The Senate version, on the other hand, provides only \$200 million, which makes it available not just for Georgia but other central Asian countries as well.

The amendment I am offering would move \$42.5 million in existing funds under the international affairs title of the bill to fulfill the full amount of the American pledge. I would emphasize—I wanted to heavily emphasize—that in doing so, this amendment does not increase the top line of the State Department budget by one penny, nor does it mean one penny more in taxpayer expenditure. It is consistent with the administration's budget request and with the promise that our Nation made to the Republic of Georgia following last year's strife.

The Georgian Government has stated that it plans to devote the assistance to projects that will address urgent requirements identified by the World Bank's recent Joint Needs Assessment. These include resettling internally displaced persons, rebuilding vital infrastructure following last year's Russian invasion, strengthening democratic institutions and law enforcement capabilities, and enhancing border security.

In fulfilling our pledge, we have the opportunity not only to enhance the stability of the democratic progress of Georgia but also to send a clear message to the region that the United States will stand by its friends. Such a signal is one of the utmost importance.

It has been just 8 months since the world's attention was riveted by Russia's invasion. Following the violence, there was talk of sanctions against Moscow. The Bush administration withdrew its submission to Congress of a nuclear cooperation agreement with Russia, and NATO suspended meetings of the NATO-Russia Council. That outrage quickly subsided, however, and it seems that the events of last August have been all but forgotten in some quarters.

A casual observer might guess that things returned to normal in this part of the world and that war in Georgia was a brief and tragic circumstance that has since been reversed. But, in fact, this is not the case.

While the stories have faded from the headlines, Russia remains in violation of the terms of the ceasefire to which it agreed last year. Russian troops continue to be stationed on sovereign Georgian territory. Thousands of Russian troops remain in South Ossetia

and Abkhazia, greatly in excess of the preconflict levels.

Rather than abide by the ceasefire's requirement to engage in international talks on the future of the two provinces, Russia has recognized their independence, signed friendship agreements with them that effectively render them Russian dependencies, and have taken over their border controls.

All of this suggests tangible results to Russia's desire to maintain a sphere of influence in neighboring countries, dominate their politics, and circumscribe their freedom of action in international affairs.

Russian President Medvedev recently denounced NATO exercises in Georgia, describing them as "provocative." Yet these "provocative" exercises did not involve heavy equipment or arms and focused on disaster response, search and rescue, and the like. Russia was even invited to participate in the exercises, an invitation Moscow declined.

We must not revert to an era in which the countries on Russia's periphery were not permitted to make their own decisions, control their own political futures, and decide their own alliances. Whether in Kyrgyzstan, where Moscow seems to have exerted pressure for the eviction of U.S. forces from the Manas base, to Estonia, which suffered a serious cyber-attack some time ago, to Georgia and elsewhere Russia continues its attempts to reestablish a sphere of influence.

Yet such moves are in direct contravention to the free and open rules-based international system that the United States and its partners have spent so many decades to uphold.

So let's not forget what has happened in Georgia and the pledges we have made to support a friend. I urge my colleagues to support this amendment and stand by the Republic of Georgia in its continuing time of need.

I want to emphasize again, the amendment does not increase the top line of the State Department budget by one penny, nor does it mean one penny more in taxpayer expenditures, consistent with the administration's budget request, and with the promise that our Nation made to the Republic of Georgia following last year's strife.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 1181

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up my amendment No. 1181.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 1181.

The amendment is as follows:

(Purpose: To amend the Federal Deposit Insurance Act with respect to the extension of certain limitations)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking "evidence of debt by any insured" and inserting the following: "evidence of debt by—

"(A) any insured"; and

(3) by striking the period at the end and inserting the following: "; and

"(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

"(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

"(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

"(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

"(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

"(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

"(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

"(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

"(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2))."

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Mrs. LINCOLN. Mr. President, I will be very brief.

I, first of all, want to say a special thanks to Chairman INOUE and the ranking member, my neighbor from Mississippi, Senator COCHRAN, for their good work on this effort and really being thoughtful and timely on that we need in this bill we have before us.

The amendment I am offering today deals with an emergency challenge

that is faced in our State of Arkansas. It is a specific problem just to us, and we need the Senate's help to immediately address that issue.

Unfortunately, as a result of the economic challenges our Nation now faces, these challenges are magnified for us in our State, and immediate and emergency intervention is essential; otherwise, our State's recovery will lag behind due to a lack of capital in our State because of the circumstances we are experiencing, as I said, with an unusual cap that is tied to the Federal rate. So we are working hard to solve this problem in our State. We are asking our Senate colleagues to work with us.

Mr. President, I ask unanimous consent that Senator PRYOR be added as a cosponsor to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. LINCOLN. I thank the Acting President pro tempore.

Again, we look forward to being able to work with our colleagues to meet this challenge our State, and our State alone, faces. Again, I thank the chairman and the ranking member for being able to work with us on this issue.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. RISCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 1143

Mr. RISCH. Mr. President, I ask unanimous consent that the pending amendment be set aside to call up my amendment No. 1143.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. RISCH], for himself, Mr. CORNYN, and Mr. BOND, proposes an amendment numbered 1143.

Mr. RISCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate, with an offset, an additional \$2,000,000,000 for National Guard and Reserve Equipment)

At the appropriate in title III, insert the following:

#### NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", \$2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chief of the National Guard Bureau and



an appropriate official for each of other reserve components of the Armed Forces each shall, not later than 30 days after the date of the enactment of this Act, submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the modernization priority assessment for the National Guard and for the other reserve components of the Armed Forces, respectively: *Provided further*, That the amount under this heading is designated as an emergency requirement and as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

## (RESCISSIONS)

(a) IN GENERAL.—Of the discretionary amounts (other than the amounts described in subsection (b)) made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law 111–5) that are unobligated as the date of enactment of this Act, \$2,000,000,000 is hereby rescinded.

(b) EXCEPTION.—The rescission in subsection (a) shall not apply to amounts made available by division A of the American Recovery and Reinvestment Act of 2009 as follows:

(1) Under title III, relating to the Department of Defense.

(2) Under title VI, relating to the Department of Homeland Security.

(3) Under title X, relating to Military Construction and Veterans and Related Agencies.

(c) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the rescission specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the rescission in subsection (a).

Mr. RISCH. Mr. President and fellow Senators, I come to the floor to offer this important amendment. What this amendment does is simply appropriates \$2 billion to the National Guard and Reserve equipment account. Mechanically, it does this by permitting the OMB to rescind \$2 billion that has been previously appropriated in the stimulus package. It exempts from the rescission funds related to the Department of Defense, the Department of Homeland Security, and part of title X of that bill relating to military construction and veterans and related agencies. Otherwise, the OMB is directed to rescind \$2 billion, which is the amount authorized for the National Guard and Reserve equipment account.

The reason for the amendment is that as our Guard units and Reserve units have been asked to serve in Iraq and Afghanistan over recent years, their equipment has been badly depleted. I have personal experience with this, as our Guard unit from Idaho had been dispatched to Iraq and spent time there. When they came back, a lot of their equipment was necessarily left

behind for the use of the Iraqis and for the use of other American troops who were going to stay in Iraq. We have in Idaho over a period of time gone through a process by which some of this equipment has been replaced but not all. Obviously, this amendment does not apply just to Idaho; it applies to all States, all National Guard units, all Reserve units.

This is something that is badly needed. The National Guard certainly performs a valuable service to the Governors of each of the States, to the people of each of the States. This bill will help them get the equipment that badly needs replacing back in the queue where it belongs and back where it can be used by these Guard units and Reserve units.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I wish to compliment the distinguished Senator from Idaho. He puts his finger on a problem that affects not only Idaho but some other States as well, including my State of Mississippi, where we have had a large number of National Guard and Reserve officers, too—but his amendment goes directly to the National Guard—deployed to the theater, engaged in serious and dangerous operations in the theater, and we appreciate the fact that they are in need of having equipment and weapons that are suitable for the tasks and the challenges they face. It is a dangerous environment. This amendment will help deal with that serious problem. I thank the Senator for bringing it to the attention of the Senate.

Mr. RISCH. Mr. President, I thank the Senator. As has been pointed out, this is a situation that a number of States face. It will not cost any additional taxpayer dollars. It is a wise expenditure of taxpayer dollars.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT NO. 1179

Mr. KAUFMAN. Mr. President, I ask unanimous consent to set aside the pending amendment for purposes of calling up an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I call up amendment No. 1179.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. KAUFMAN], for himself, Mr. LUGAR, and Mr. REED, proposes an amendment numbered 1179.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations)

On page 71, between lines 13 and 14, insert the following:

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to modify the amendment, and I send the modification to the desk.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I am grateful to the chairman and ranking member for their work on this critical bill.

I am happy to be joined by Senators LUGAR and REED in introducing an amendment to ensure that civilians deployed to Afghanistan receive training that cultivates greater civilian-military unity of mission and emphasizes the importance of counterinsurgency and stability operations.

Last month, I had the distinct privilege of traveling with Senator REED to Afghanistan, Pakistan, and Iraq to visit our troops and assess regional developments and challenges.

During the trip, it was abundantly clear that we must build greater unity of mission between civilians and military in order to meet our growing needs in the region.

In Iraq and Afghanistan, we are engaged in a four-stage process of fighting insurgency by shaping the environment, clearing insurgents with military power, holding the area with effective security forces and police, and building through a combination of governance and economic development.



As we increase our military commitment and civilian capacity in Afghanistan, we must ensure that all U.S. personnel have the tools they need to succeed in this increasingly difficult mission.

In addition to sending 21,000 additional troops and trainers to Afghanistan, President Obama recently announced that we will send hundreds of civilians from the State Department, USAID, and other agencies to partner with the Afghan people and government in promoting economic development and governance.

These civilians will continue to work in tandem with the military in stabilizing Afghanistan and should therefore train in tandem to prepare for their deployment.

When surveyed, civilians serving in Afghanistan have confirmed that joint training with the military was the single most effective preparation. This sentiment underscores the urgency of this amendment, and highlights the critical need for increased joint training so we can meet current and future needs in Afghanistan.

Integrated training, specifically for military and nonmilitary personnel participating in provincial reconstruction teams, PRTs, is ongoing, and the next course will be held later this month at Camp Atterbury in Indiana.

Still, this training will include only about 25 nonmilitary personnel from State and USAID, and it is not scheduled to recommence for 9 months, after many of our brave men and women have already left for the region.

Especially given the increased need, this 9-month training cycle is woefully inadequate. We do not have 9 months to wait and we should not risk sending civilians to Afghanistan without the training they need to be safe, secure, and effective.

We must therefore increase the frequency of training programs, such as the one at Camp Atterbury and we also must ensure this training includes a greater focus on counterinsurgency and stability operations.

The military challenges we are facing today are unlike conventional wars of the past. I strongly agree with the assessment of leading defense experts that we must better prepare to win the wars we are in, as opposed to those we may wish to be in.

According to Secretary Gates, this will require "... a holistic assessment of capabilities, requirements, risks, and needs" which will entail, among other things, a rebalancing of our defense budget.

This also includes changing the way we prepare U.S. personnel for their mission, as reflected by the creation of the Counterinsurgency Academy in Kabul, where more civilians should train in greater numbers with the military once they are in Afghanistan.

An increased focus on counterinsurgency reflects the fact that we

must undergo a military rebalancing to be better prepared to face an asymmetric threat.

Thanks to the leadership, vision, and integrity of Secretary Gates, General Petraeus, and others, we have moved in that direction, and we must continue along this path.

That is why I strongly support this supplemental, which contains increased funding for mine resistant ambush protected vehicles, or MRAPs, and other equipment to counter unconventional threats like improvised explosive devices. Such equipment is critical to advancing our security goals in Afghanistan and Iraq.

But most importantly, it provides needed defenses for our troops, so that we can keep our brave men and women out of harm's way in Iraq and Afghanistan.

It is in this same vein that we must also take every opportunity to prepare our civilians better. Increased civilian-military training focused on counterinsurgency and stability operations is essential to meeting this goal, and that is why I urge my colleagues to join Senators LUGAR, REED, and me in supporting this amendment.

Mr. President I appreciate the chairman and ranking member's assistance on this amendment, as well as the guidance I have received from Senator LEAHY.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CUBAN INDEPENDENCE DAY

Mr. MARTINEZ. Mr. President, for Americans, Independence Day is the day we celebrate our freedom and the ideals on which our Nation was founded.

Today is a special day for Cubans who won their formal independence, with help from the United States, 107 years ago today. Today is independence day in Cuba, which serves as a reminder that there are those still struggling to exercise their fundamental rights, having spent the past 50 years under the repressive rule of a one-family regime.

Last month, 17 peaceful Cuban activists wrote to President Obama, noting that:

A great majority of Cubans . . . desire profound democratic change in Cuba. The shining example of the civil rights movement in

the United States is a beacon of hope so that full dignity for each Cuban can be restored. We want to determine our future through a democratic process.

His administration has taken actions with the well-being of Cubans in mind.

While I appreciate the President's willingness to address some of the challenges facing the Cuban people, I also ask that he consider implementing policies that will empower the Cuban people, not empower the regime.

Wholesale change in Cuba won't come from Washington. It can only come from Havana. The Cuban people will not truly be free until all prisoners of conscience are freed from prison.

Additionally, the regime must end the practice of harassing and detaining those who exercise their fundamental human rights.

The Cuban people are also entitled to freedom of the press, freedom to assemble, and freedom to worship. Finally, the Cuban people must be given the right to freely choose who governs them and how they will be governed.

On the day we recognize Cuba's independence from Spain 107 years ago, we should also recognize the Cuban people's right to independence from the repressive regime that currently denies them these fundamental freedoms.

Mr. President, 107 years ago, as the United States and those freedom fighters in Cuba who struggled mightily for more than a quarter of a century, by that time, to free themselves from the yoke of colonialism, the United States and Cuba, after freeing Cuba from Spain, sat together to form the new Cuban Republic. And 107 years ago on a day like today, the United States ceded to the Cuban people their right to be an independent nation.

It is amazing how nurtured and closely bound the history of our Nation is with the history of the nation that saw my birth. It is with that in mind that this unique role and the fact that only a very small body of water, called the Florida Straits, separates us, has created this entangled web of history between these two nations that have so much been a part of my life.

As we look to the future, it is right that we continue to be the greatest single beacon of hope, as these dissidents expressed to President Obama, for those in Cuba who look for freedom, who look for the opportunity to have a democratic government they can elect.

Today the Cuban people continue to be ruled by the tyrannical hand of two brothers who seized power in 1959 on January 1. That is a long time ago. Since that day until today, there has not been a legitimate election, there has never been the opportunity for the Cuban people to freely express themselves without the fear of repression or political prison.

Today there are dozens of Cuban people who are in prison merely for expressing the ideas that this country

has so nurtured over the time of its existence—freedom, democracy, and rule of law. It is with that hope that today I have come to the Senate floor to commemorate this very important date on the calendar in history that intertwines Cuba and the United States.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1155

Mr. NELSON of Florida. Mr. President, Senator LANDRIEU and I have filed an amendment that we hope the Appropriations Committee will accept for \$2 million to be appropriated, set aside for the Consumer Product Safety Commission.

You would wonder why a sum of money of that size compared to the scope of the appropriations bills out here would need to have direction to the Consumer Product Safety Commission. Of course, I wonder the same thing because they have a budget that is certainly much more robust than it has been in the past as a result of the Consumer Product Safety Commission authorization bill we passed last year. Nevertheless, we have an emergency that has arisen with regard to a consumer product for which the Safety Commission Acting Chairman has said they do not have enough money. So Senator LANDRIEU and I are offering this amendment.

Let me tell you what this consumer threat is. On or about the years 2004–2005, because of the high demand for construction in the aftermath of two very active hurricane seasons—2004 and 2005—as a matter of fact, we had four hurricanes just in my State of Florida within a 6-week period. Those four hurricanes covered up the entire State. Then, of course, you remember the active hurricane season of 2005, which ended in the debacle in New Orleans, with Hurricane Katrina and hitting the Mississippi coast. Then along came Hurricane Rita, which also hit the Texas coast as well as Louisiana.

In the aftermath of that, of course, there was a lot of construction. One of the essential items in construction, even in the State of the esteemed ranking member of the Appropriations Committee, is something known as drywall because you put up the studs in a unit—let's say a home—and you put drywall on it, and that makes the walls.

Drywall is usually made with gypsum, which is mined and produced in America. It is actually a byproduct of the mining of phosphate. On the out-

side of the gypsum they put something like a cardboard-thick paper, and that becomes a drywall sheet that actually is the facing of a wall. But because there was such a demand for this drywall in the aftermath of those hurricane years, they started importing from China something known as Chinese drywall.

Well, we think Chinese drywall is in as many as 100,000 homes in this country. Just in my State, the State of Florida, it may be in 36,000 to 50,000 homes.

Here is what is happening. People who live in homes with Chinese drywall are getting sick. First of all, if you enter the home—as I have, in several homes in Florida—there is a pungent kind of smell that is something like rotten eggs. For this Senator, whose respiratory system is very sensitive to any of these things, once I was in there for 5 or 10 minutes, suddenly I found my respiratory system choking up.

When you talk to these people whose homes have this Chinese drywall, sure enough, that is what is happening. But that is not what is only happening. Normally, copper tubing—whether it is part of the plumbing or whether it is part of an air conditioner—as it gets old, it gets green. The bright shiny copper turns green. Not so in a home with Chinese drywall. It starts turning black and crusty, and it starts deteriorating the coils on an air conditioner.

Mr. President, this is no kidding. Some of those houses I visited have had to replace the coils in the air conditioner three times.

Or what about the house outside of Bradenton, FL, that I went to, where just a month before the elderly couple had gone on a trip to Cozumel, Mexico, where they had bought for the wife a silver bracelet. They brought it back. It had been in the house a month, and it had turned completely black. So, obviously, you can see that something has happened.

What about going into the bathroom? You have a mirror in the bathroom and, suddenly, you start seeing the reflective part of the mirror start chunking off.

What about the kids who have respiratory problems and their pediatrician is telling the parents: Get that child out of the house. Well, where do they go?

I visited one single mother. She took her child and moved in with her mother. But she is still paying the mortgage payments. What about that other family down the street who did not have family close by? They had to move out and rent a place. But they are still, because their mortgage company will not work with them, having to pay the mortgage in order not to lose their house.

What about the poor homebuilder? The poor homebuilder is having trouble enough as it is in the economy we are

in with the sale of houses going down. The poor homeowner asks: Who is responsible for this? And maybe the homebuilder is not even around because they might have gone bust because of the economy. So who does the poor homeowner turn to?

Well, I can tell you, a lot of those homeowners are turning to their elected officials.

The sad thing is we have people in dire need, and all of the pleas to the Consumer Product Safety Commission—which, by the way, drug their feet 2 and 3 years ago on defective toys coming in from China—they say even though they have the legal authority—and they do—to impound this stuff, to freeze the assets of the distributing company of this stuff—they have the authority under existing law to stop the importation of this Chinese drywall—they have refused thus far to do anything about it.

Now, they did do this: They got with the EPA and the EPA did a test. The EPA is releasing that test result, I believe, today. That test result is showing that when they compared Chinese drywall to American drywall—in the first chemical composition test—the difference from American drywall is that the Chinese drywall contains sulfur; thus, the smell of rotten eggs; strontium, which is some derivative, possibly, of some kind of nuclear process; and elements found in acrylic paint. Those are the results thus far.

Thus, we come to the amendment of Senator LANDRIEU and myself for \$2 million to the Consumer Product Safety Commission to go to the next test—which will take most of that \$2 million—and that is, to subject the Chinese drywall to conditions one finds in a house—and now we are finding it in about 20 States, not just in the South—subjecting it to the conditions of humidity and the heat of the summer to see what gases are emitted so that doctors can analyze this stuff as to how it is affecting the health of our people.

If you are a homeowner with this Chinese drywall, this is no little emergency. The least we can do, even though the CPSC has drug its feet, is to give them the resources to go to that next step and make this additional test so we know what we are dealing with to protect the health of our people.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I rise to talk about an amendment I

have filed, amendment No. 1189. I am told the Democrats will object to my asking that it be pending, but I am going to talk about it. I hope very much I will have the opportunity to offer this amendment in regular order. As a right of a Senator, I hope that will be given. I don't know why it is being objected to, but I would very much like to speak on it. I hope I am not going to be prohibited from the opportunity to offer it, since I am on the floor in a timely manner trying to offer an amendment, as we have been asked to do.

The amendment I hope to call up is amendment No. 1189. It is an amendment to try to help those automobile dealers that have been notified, particularly by Chrysler, with a deadline of June 9, and told they are going to have to shut their doors of those dealerships by June 9. They were given 3 weeks' notice.

The President's task force on the auto industry has taken unprecedented steps to negotiate with each of the affected stakeholders to bring General Motors and Chrysler closer to sustainable viability. I know Members of this body sincerely appreciate the enormity of their task; however, there are many growing concerns with their actions. The group that has arguably taken the biggest hit by their negotiations is the auto dealers.

Auto dealers are some of the biggest and best employers in our Nation, in small towns across my State and every State. Many of them are the largest employers in their entire counties. Auto dealers run a tough business. They assume a lot of risk. They purchase the vehicles from the manufacturer. Each dealer is forced to move their product in order to make payroll, to cover overhead, to pay property taxes, or close their doors, all of which is no cost to the manufacturer. These are all dealer expenses.

While I understand that if an auto dealer is forced to close their doors because the dealer is unable to make the business profitable, of course, we can understand that would be the choice of the dealer and they would be closed. But I don't understand why General Motors or Chrysler would arbitrarily shut down thousands of operating and profitable dealers across our country.

The Treasury Department has backedpedaled from any involvement in the decision to shut down auto dealers across the Nation. A recent Treasury press release states:

As was the case with Chrysler's dealer consolidation plan, the task force was not involved in deciding which dealers or how many dealers were part of GM's announcement.

An earlier press release from the Treasury said:

The sacrifices by the dealer community alongside those of auto workers, suppliers, creditors, and other Chrysler stakeholders

are necessary for this company and the industry to succeed.

I don't think that is any kind of help for our dealers that are taking the risk and the responsibility for all the costs of their dealership.

Before the closing announcements were made, another Treasury press release regarding Chrysler Fiat, on April 30, says:

It is expected that the terminated dealers will wind down their operations over time and in an orderly manner.

However, Chrysler, in their notification to close 789 dealers on May 14—last Thursday—has given dealers until June 9 to wind down. That is just over 3 weeks—3 weeks. Chrysler determined that an orderly wind-down—an orderly manner—to sell all their inventory, sell all their parts, get rid of all their special equipment—3 weeks.

My amendment simply states that no funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory. Sixty days, that is what we are asking for.

We are not asking that any decisions be changed. It is not our place to do that. However, we are saying that with all the taxpayer dollars that are going into the automobile manufacturers, the road kill here is the auto dealer and they have done nothing that would be unbusinesslike. They have taken the risks. They employ people in the community. They pay the taxes in the community. Sometimes they are the largest employer in the community. Yet they are given 3 weeks to close down their operations. If we are going to help anyone in this country without one taxpayer dollar going into it, it should be these auto dealers, by giving them 60 days to have an orderly process to close down their operations.

I wish we could go further. I disagree with the decision to arbitrarily close down profitable auto dealers. I wish to give my colleagues an example. There is a town in my State called Mineral Wells. In that town of less than 20,000 people is Russell Whatley, a Chrysler dealer, whose family has owned his dealership for 90 years. It is the oldest dealership in Texas. Russell doesn't sell 1,000 cars a year, but he has been profitable. He actively supports his community. He has actively supported many employees. What is it going to save Chrysler to close Mr. Whatley's profitable dealership in Mineral Wells? I can't even imagine, but it isn't my decision to make. However, I am going to say that I do think Mr. Whatley deserves 60 days to have the orderly process that Treasury itself said they would expect from the auto manufacturers.

I am worried about Mineral Wells when Mr. Whatley's dealership is

closed, just as I am worried about communities all over this country with dealerships that are going to be arbitrarily closed. If they have 3 weeks to sell their inventory, what is that going to do to them and to the people who have to go out and find jobs? I don't think it is right. I think we should pass my amendment.

The reason I am offering it on this bill is because this is a bill that is going to go through quickly, and this is a deadline that is coming very fast. If we can let those dealers know they are going to have 60 days, at least, for the orderly processing of their closures, I am told by dealers this will help them immensely in that process, and it will not cost the taxpayers one dime—not one dime.

I hope we will pass this amendment. I hope the majority will allow this to be brought up in the regular order. I was told when I came to the floor that I would have the opportunity to offer this amendment and get into the line for a record vote. I hope that will be done, because we don't have much time to help these dealers. With all the money we are putting into the automobile manufacturers, and all of the help we are giving to others affected by that industry, the ones who have been left out are the auto dealers.

I hope that giving them 60 days—2 months—to shut down a business that may have been in place for 25, 30, or 90 years is the least we can do in these troubling times. We are taking some very different positions that we have never taken as a Senate because these are tough times, and sometimes that is necessary. But this is the least we can do in fairness to a business that has done nothing to produce cars that won't sell. It has done nothing that has caused any of the financial problems of General Motors, and I think they deserve a break that will not cost the taxpayers a penny.

I am going to be here, and I will ask the majority to allow amendment No. 1189 to become pending right after the votes that will occur very shortly.

Mr. President, I have another amendment, and it is an amendment that I hope will help all of the hospitals in this country that are giving medical care on an emergency basis to illegal immigrants in our country get some reimbursement from the Federal Government for those costs.

We have had in place funding—called section 1011 funding—for 5 years. I am only trying to extend this program so that all of the States that deal with the growing problem of taxpayer dollars—that the hospitals that have to absorb these costs will be able to recoup some of those costs from the Federal Government. The program provided \$200 million over 5 years to help hospitals and doctors recoup these costs. It was not 100 percent reimbursement, I assure you.

In my State of Texas, we had about \$600 million in uncompensated care in 1 year, and we were able to obtain \$50 million in reimbursement. That was a little bit of help that helped many of the hospitals make it. These are eligible for any hospital in America. I hope we will be able to pass an amendment on this bill to alleviate that situation.

I am told that the Finance Committee is objecting to this amendment because it is in their jurisdiction. You know, I think it is incumbent upon the Finance Committee to work with me on this very important issue for all the States in our country, because this is a Federal problem, and it should not be put on the local communities to foot the bill for emergency care that they are required by Federal law to give, but not get reimbursement from the Federal Government.

I hope the Finance Committee will agree to work with me on that. I urge the majority to allow amendment No. 1189, which is filed and has no objections, that I know of, to be in the next set of votes.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, would the regular order bring back amendment No. 1136?

The PRESIDING OFFICER. It would.

#### AMENDMENT NO. 1136, AS MODIFIED

Mr. McCONNELL. Mr. President, that is an amendment of mine, and I send a modification to the desk.

The PRESIDING OFFICER. The regular order has been called for.

The Senator has a right to modify the amendment at this time.

The amendment, as modified, is as follows:

At the end of title III, add the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) FORM.—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1136

Mr. DURBIN. Mr. President, one of the amendments which is being discussed and has been filed by the minority leader, Senator McCONNELL of Kentucky, relates to detainees at Guantanamo. I am hoping we will have an opportunity to debate this amendment because I think it is an important amendment, and I hope colleagues will pay close attention to it. It is not an amendment which is casual or inconsequential. It is an amendment which could have a very negative impact on our treatment of detainees who are guilty of crimes or involved in terrorist activities.

It is interesting that Senator McCONNELL has brought this amendment before the body to be considered. It appears that when President Bush—the previous President—announced that he was closing Guantanamo, we didn't have this rush to the microphones on the Republican side of the aisle and objecting. In fact, I don't recall any objection from their side of the aisle when President Bush made that recommendation.

It is also interesting that during the years the Guantanamo Detention Facility has been open the requests that are being made now of this President were not made of the previous President. All the suggestions that perhaps there would be release of detainees from Guantanamo who may cause harm in some part of the world, those suggestions weren't made under the previous President.

Literally hundreds of detainees at Guantanamo have been released by President Bush in the previous administration. It was found that many of them were either brought in with no charges that could be proved or once investigation of the evidence was commenced, they learned there was nothing that could be established. They were released and returned to countries of origin and other places around the world—hundreds of them in that case. I don't recall a single Republican Senator, or any Senator for that matter, coming to the floor and objecting to the release of those hundreds of detainees from Guantanamo by President Bush. It happened. They did not object.

But now there is a new President and a new approach by the Republican side

of the Senate. Senator MCCONNELL has come forward with a proposal that calls on the President—not the Attorney General but the President—to provide detailed information about every detainee at Guantanamo—information which has never been requested by previous Senators and the previous administration.

I will make an exception to what I just said. At one point, when the Bush administration was asked for the names of the detainees and their countries of origin, the Bush administration objected and said it could compromise national security to release their names. That was the only request made. It was denied.

Now come the Republicans, with the new Obama administration, with a brandnew outlook, and they want to know everything about the detainees. It is a long amendment. It goes on for five pages and a lot of detail here about the detainees at Guantanamo. Basic information—name and country of origin, and it goes on for quite a while. Most of it, I think, may be salutary and wouldn't have a negative impact, but there is one paragraph in particular which I think is dangerous. It is a request for information in the McConnell amendment of the President of the United States, and let me read what the request is. It is a request for "a current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay."

Paragraph (1) refers to all the detainees in custody at Guantanamo. So what Senator MCCONNELL is asking for is a summary of the evidence, intelligence, and information justifying detention. This could compromise a prosecution of a detainee. It could put us in a position where someone who truly is dangerous cannot be prosecuted because of this request for information by Senator MCCONNELL.

Senator MCCONNELL wants, I guess, 535 Members of Congress to have a chance to read through the evidence, intelligence, and information about each detainee. Well, some of that may be classified; some may not. Even the information that is classified may leak, with 535 Members of Congress and other staff people. Do we want to run the risk of jeopardizing the prosecution of someone who is a danger to the United States to satisfy the curiosity of a Senator? I don't think so.

Secondly, once this has been presented, if Senator MCCONNELL has his way, then there is a very real possibility that should someone—a known terrorist—be brought to the United States, or any other place for trial under the laws of the United States, they could, in fact, ask—as they do in ordinary criminal cases—for the presentation of all the evidence the State has against them, which would include

this document, which would include not only the evidence, intelligence, and information, but quite possibly the work product of the prosecutors who are holding this detainee.

We could not only compromise his prosecution, we could end up with a "not guilty" of someone who is dangerous to the United States simply to satisfy the curiosity of a Senator who files this amendment. I think that goes too far. I can't believe that it is in the best interests of the safety of this country for us to allow this McConnell amendment to pass and to require the President to provide to Senator MCCONNELL a current summary of the evidence, intelligence, and information used to justify the detention of each detainee.

Why? Why in the world would we want to compromise any attempt at prosecution? We don't want to do that. Men and women—career prosecutors—are currently reviewing each of these cases to determine whether we can go forward with prosecution. The record of the previous administration is not very good when it comes to prosecuting these detainees. President Obama has said he wants to put that behind us and to deal with these people on an honest basis.

I have listened to the statements that have been made on the floor by the Republican Senators who have come forward with amendments. Many of them clearly want to keep Guantanamo open forever. They talk about a \$200 million state-of-the-art facility in glowing terms. Well, I have been there, and I have seen it. I have seen the men and women in uniform who toil there each day under tough climate conditions. It gets pretty hot down there. I know they are working hard for their country. But I think they know, and we know, that continuing Guantanamo is going to continue to deteriorate the reputation of the United States around the world—not because of what our soldiers and sailors and military have done there, but simply because it has become a symbol that is being used by terrorists around the world to recruit enemies against the United States.

That is why President Bush called for the closure of Guantanamo, and that is why President Obama has done the same thing. Yet the Republican platform now seems to be "Guantanamo forever." They have built this platform on fear—fear that somehow this administration would be so negligent that it would release terrorists into the United States, into the communities and neighborhoods of this country. Nothing could be further from the truth. Not this President, or any President I can recall of either political party, would ever find themselves in a position to jeopardize the safety of this country by releasing detainees who would be dangerous to the United States.

But this fear mongering is what has been the basis for their position on the other side of the aisle when it comes to the security of the United States.

Those who are arguing that we cannot safely hold a terrorist in the prisons of America—that is the argument; don't let a detainee from Guantanamo ever be considered for a jail or prison of the United States—have overlooked the obvious. Currently, we have 208 inmates in the Bureau of Prison facilities of the United States who are sentenced to international terrorism—208 already there; 66 U.S. citizens, 142 non-U.S. citizens. In addition to that, 139 inmates in our U.S. Bureau of Prisons have been sentenced for domestic terrorism; 137 U.S. citizens and 2 non-U.S. citizens. Do the math. That is 347 people who have been convicted of terrorism, international and domestic, currently being held in the prisons of the United States.

Do I feel less safe in Illinois—in Springfield or Chicago—because of that? No, because I know they are being held by professionals in facilities that have a record of safely holding these individuals.

The other side suggests if we put one of these Guantanamo detainees in a U.S. prison, they will be on the street in a heartbeat. I can't imagine that. That is not going to happen. The President wouldn't let it happen. Our Bureau of Prisons wouldn't let that happen either.

Then there is this other aspect. If we decided at some point to prosecute a Guantanamo detainee in the courts of the United States for a crime, some of the language that has been brought to us by the Republicans would make that impossible. You know why. Well, one amendment by the Senator from Georgia, Mr. CHAMBLISS, would not allow the Attorney General to bring that person from Guantanamo Naval Station into the continental United States. The amendment prohibits that. We couldn't even bring them in to try them for a crime, couldn't even bring them in to hold them accountable in a court of law for terrorism.

Another amendment says we can't hold these prisoners in any U.S. prison facility. How do we try a person in the United States and not at least, when they are not in trial, hold them in some prison facility? That is just common sense. The person is dangerous. They are, of course, detained in a secure facility during the course of the trial. Some of the Republican amendments would make that impossible.

I don't understand what they are headed to. I think they want to keep this Guantanamo facility, as we have known it, open forever, without resolution of the people who are there. That is fundamentally unfair. I have said on the floor of the Senate before, and it is worth repeating, that there are people being held at Guantanamo for whom

there are no charges. I know one person in particular who is being represented by a pro bono lawyer in Chicago. This man has been held for 7 years at Guantanamo. Originally, he was from Gaza in the Middle East. There was a report that he was dangerous. With that report, he was arrested, taken to Guantanamo, and held. After 6 years, he was notified there were no charges against him; he would be free to go if he could figure out where to go. And that has been the problem. He has been waiting for a year for permission to return to Gaza. He is now 26 years old. From the age of 19 to 26 he has been sitting in Guantanamo. Guantanamo forever? For him, it must feel like forever.

It is about time that we mete out justice. For those being held unfairly, they should be released. For those where there are no charges, we should acknowledge that and return them as quickly and safely as possible. For those who are a danger to the United States, we should continue to detain them so they never pose a hazard to our country. For those who can be tried, let's try them before our courts of law.

President Obama is going through that arduous, specific process now on each one of these detainees. While his administration is working to clean up this mess that he inherited from the previous administration, the Republicans in the Senate are doing everything they can to block his way and make it impossible for him to resolve the situation at Guantanamo.

I would say the McConnell amendment, page 3, paragraph (2), is a dangerous amendment. It is an amendment that could compromise the ability of the United States of America to prosecute those who could be a danger to our country. Why would we possibly do that?

I urge my colleagues, if I am not given the authority under the rules of the Senate to strike that paragraph, to oppose this amendment.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. The McConnell amendment No. 1136.

AMENDMENT NO. 1199 TO AMENDMENT NO. 1136

Mr. DURBIN. I have sent an amendment to the desk. I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1199 to amendment No. 1136.

On page 3, strike lines 1-4 and insert the following:

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1199 WITHDRAWN

Mr. DURBIN. Mr. President, I would like to withdraw the pending amendment I just filed.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009—CONFERENCE REPORT

Mr. MCCAIN. Mr. President, the majority leader requested that I begin the discussion on the conference report for the Weapon Systems Acquisition Reform Act of 2009. We await the presence of the chairman of the Armed Services Committee. I begin by thanking him for his leadership, his really non-partisan addressing of this compelling issue.

The last time I was on the floor, I talked a lot about the terrible cost overruns that were associated recently with literally every new weapon system we have acquired. When I tell some of my constituents and friends, they are staggered by the numbers—a small littoral combat ship that is supposed to cost \$90 million ends up costing \$400 million and has to be scrapped; airplanes costing, depending on how you look at it, half a billion dollars each.

Working together on both sides of the aisle, and under the leadership of Chairman LEVIN, we have come up with legislation that has gone through the Congress rather rapidly.

I would also like to say that the President of the United States called us, Members of the House, leaders of the Armed Services Committees, to the White House, where we pledged our

support and our rapid addressing of this challenge.

The only thing more important than the substance of this conference report is the demonstration of bipartisanship that went into how the underlying bills were created and guided through the legislative process.

As I said, I know the chairman of the committee is going to be here shortly, and he will discuss many of the specific aspects of this bill. But it does emphasize starting major weapons systems off right by having those systems obtain reliable and independent cost estimates and subjecting them to rigorous developmental testing and systems engineering early in their acquisition cycle. It does a lot of things. As I say, Senator LEVIN will enumerate many of them.

What we are trying to do is address a process where there is a need for a weapon system which takes years to develop. Technical changes are incorporated time after time in a desire—and a laudable one—to reach 100 percent perfection. But then the cost overruns grow and grow.

The Future Combat Systems, an Army innovation to address conflicts of the future, was supposed to cost \$90 billion. It is up to \$120 billion. Even more, we still do not have operational vehicles. So, very appropriately, the Secretary of Defense announced that he would be eliminating much of this program to try to get the costs under control.

I would like to say a word about the Secretary of Defense, who has agreed to continue to serve this country under one of the most difficult and trying positions one can have in Government. The Secretary of Defense has announced, I think very appropriately, that we would be reducing and eliminating some programs that have maybe had a good reason for a beginning but certainly have had such incredible cost overruns that they no longer are a worthwhile expenditure of the taxpayers' dollars.

Early in the first couple of weeks of the new administration, a group of us attended a gathering. The President of the United States and I had an exchange about the Presidential helicopter. Some years ago, we decided the Presidential helicopter, which is 30 years old, needed replacement. We finally reached a point where we had not built one completely yet, and it was more than the cost of Air Force One—you cannot make that up; it is hard to believe—as one technological change after another was piled on, to the point where neither the President nor the Secretary of Defense felt it was worth the cost. The President does need a new helicopter. We need to embark on that effort. But what we just went through should be an object lesson, and we should learn from the lessons and cost overruns.



I note the presence of the distinguished chairman of the Armed Services Committee in the Chamber. I again thank him for his leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased to join with Senator MCCAIN in bringing to the floor the Weapon Systems Acquisition Reform Act. We introduced this bill. We did it on February 23, I believe, and we did it to address some of the problems in the performance of the Department of Defense major defense acquisition programs at a time when growth and cost overruns on these programs have simply reached levels which are unaffordable, unsustainable, and unconscionable, in some cases. Since that time, the bill has made rapid legislative progress.

I thank Senator MCCAIN for all he has done. This was a bipartisan effort. Our colleagues on the Armed Services Committee worked out the differences that existed, and we unanimously recommended it to the Senate. But the magnitude of this problem is such that we must move quickly on it. The President has asked us to get the bill to his desk by Memorial Day, and it is our hope we will be able to do that.

On May 7, the bill passed the Senate unanimously. A week later, a companion bill passed the House. We worked out the differences between the Senate and the House in record speed. The ability to do this was based on the working relationship which has been built up here. We work on a bipartisan basis in the Armed Services Committee. We work on a bicameral basis with the House and the Senate. When it comes to issues of national security, particularly, we are able to act so quickly.

I publicly thank not only Senator MCCAIN, as I have, and colleagues of ours on the Armed Services Committee, but also Chairman IKE SKELTON and JOHN MCHUGH of the House Armed Services Committee.

This is a tremendously important bill. It has major reforms. It is going to address some of the most persistent underlying problems we have had that led to the failure of defense acquisition programs. What are those problems? The Department relies too often on unreasonable cost and schedule estimates. Second, too often the Department insists on unrealistic performance expectations. Third, the Department too often uses immature technologies. Fourth, too often the Department adopts these very costly changes to program requirements, to production quantities, and to funding levels right in the middle of the ongoing program.

The conference report I hope we will be able to consider in the next few minutes is going to address these problems in the following ways:

First, we provide for a strong new Senate-confirmed Director of Cost Assessment and Program Evaluation. That person is going to report directly to the Secretary of Defense to ensure that defense acquisition programs are based on sound cost estimates. The independence of that office is new, and it is essential. That person goes directly to the Office of the Secretary of Defense, not as the situation is now where there is a level of bureaucracy between the cost estimator and assessor and the Secretary of Defense.

Second, we require the Department to rebuild systems engineering and developmental testing organizations and capabilities which have been almost dismantled or reduced significantly. We want to ensure that design problems are understood and addressed early in the process.

Third, we establish mechanisms to ensure early tradeoffs are made between cost, schedule, and performance objectives so that we do not overcommit to what the Secretary of Defense has called "exquisite" program requirements.

Fourth, we require the increased use of competitive prototyping so that we select the best systems and prove they can work before we start building them.

Fifth, we establish new requirements for continuing competition.

Sixth, we address the problem of organizational conflicts of interest to ensure we get the best possible results out of the defense industry.

Seventh, we require regular program reviews and root cause analyses to address developing programs in acquisition programs.

Finally, we establish tough new Nunn-McCurdy requirements, so-called. We put teeth in the Nunn-McCurdy approach. We establish a presumption of program termination and the requirement that continuing programs be justified from the ground up to ensure we do not throw good money after bad on failing programs. If a program is failing, now it is too easy to get by the Nunn-McCurdy test of continuing a program. It is going to be a lot harder to jump that hurdle should programs be failing in the middle or costing a lot more or taking a lot longer.

So we have a strong bill. It is going to help change the acquisition culture of the Department of Defense, and it is going to point our acquisition system in the direction it needs to go. We hope Members of the Senate will join us in supporting this effort and send the bill to the President for his signature.

Our staff has done extraordinary work, particularly Peter Levine and Creighton Greene on my staff, and Chris Paul and Pablo Corrillo on Senator MCCAIN's staff. And, again, I thank all Members and the leadership for bringing this bill, pushing it along,

and giving us the encouragement and support that is so essential to get a bill of this magnitude to the floor of the Senate in record time.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany S. 454 and vote immediately on adoption of the conference report; that upon adoption of the conference report, the Senate then resume consideration of H.R. 2346 and the McConnell amendment No. 1136, as modified by the Levin language to the McConnell amendment, with the time equally divided and controlled between Senators MCCONNELL and DURBIN or their designees; that upon disposition of the McConnell amendment, the Senate then proceed to vote in relation to the Brownback amendment No. 1140, as modified; that prior to the first and third vote, there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote in this sequence, the succeeding votes be 10 minutes in duration, with no amendments in order to the amendments in this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senate will proceed to the consideration of the conference report to accompany S. 454. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, May 20, 2009.)

Ms. COLLINS. Mr. President, the Weapon Systems Acquisition Reform Act of 2009 would strengthen and reform the Department of Defense acquisition processes by bringing increased accountability and transparency to major defense acquisition programs. Simply put, the bill would build discipline into the planning and requirements process, keep projects focused, help prevent cost overruns and schedule delays, and ultimately save taxpayer dollars.



I would like to thank Senators CARL LEVIN and JOHN MCCAIN, and Representatives IKE SKELTON and JOHN MCHUGH for their work on this important issue and their continued efforts to improve procurement at the Department of Defense. I was proud to join Senators LEVIN and MCCAIN in co-sponsoring this bill in the Senate.

This legislation would improve DOD's planning and program oversight in many ways. First, the bill would create a new Senate-confirmed Director of Independent Cost Assessment and Program Evaluation to be the "principal cost estimation official" at the Department.

The bill also mandates that the Department carefully balance cost, schedule, and performance as part of the requirements development process, building discipline into the procurement process long before a request for proposals is issued or a contract is awarded.

I applaud the "bright lines" this legislation would establish regarding organizational conflicts of interest by DOD contractors. These reforms would strengthen the wall between government employees and contractors, helping to ensure that ethical boundaries are respected. While contractors are important partners with military and civilian employees at DOD, their roles and responsibilities must be well defined and free of conflicts of interest as they undertake their critical work supporting our Nation's military.

I appreciate the conferees including an amendment that I offered on the floor with Senator CLAIRE MCCASKILL regarding earned value management, EVM. EVM provides important visibility into the scope, schedule, and cost of a program in a single integrated system, and when properly applied, EVM can provide an early warning of performance problems.

GAO has observed that contractor reporting on EVM often lacks consistency, leading to inaccurate data and faulty application of the EVM metric. In other words, garbage in, garbage out.

The conference report would require that the Department of Defense issue an implementation plan for applying EVM consistently and reliably to all projects that use this project management tool.

The implementation plan would also provide enforcement mechanisms to ensure that contractors establish and use approved EVM systems and require DOD to consider the quality of the contractor's EVM systems and reporting in the past performance evaluation for a contract. With improved EVM data quality, both the government and the contractor will be able to improve program oversight, leading to better acquisition outcomes.

The conference report would strengthen the Department's acquisi-

tion planning, increase and improve program oversight, and help prevent contracting waste, fraud, and mismanagement. Ultimately, it will help ensure that our military personnel have the equipment they need, when they need it, and that tax dollars are not wasted on programs that were doomed to fail.

Mr. DURBIN. Mr. President, the Weapons Systems Acquisition Reform Act of 2009 takes steps in the right direction to reform the way the Department of Defense buys major weapons systems.

When it comes to these multi-billion-dollar systems, the challenges of managing acquisitions are tremendous.

Officials at the Department of Defense manage 96 major defense acquisition programs—the Department's most expensive programs.

Each program costs hundreds of millions of dollars to research and develop and billions of dollars more to purchase. Together, these programs account for \$1.6 trillion in defense spending.

These major defense acquisition programs have seen a shocking growth in cost. Over the last 20 years, the costs of these programs have ballooned by \$296 billion.

Costs especially exploded during the previous administration. Since 2003, the cost of major defense acquisition programs rose by \$113 billion.

The Weapons Systems Acquisition Reform Act of 2009 takes important steps to bring this spending under control, without compromising on the quality of the systems purchased.

This is not the first time Congress has tried to reform the defense acquisition process. Nor will it likely be the last. But it is an important step at a critical time.

The legislation would create an independent director of cost assessment who would verify the estimated cost of a program before allowing it to go forward.

It builds in additional checkpoints to help make sure that programs are ready on time.

It enhances the R&D capabilities at the Department of Defense. Numerous studies have found that the R&D capabilities of the Army, Navy, and Air Force are in desperate need of strengthening.

It requires defense contractors to build a strong wall between their R&D and construction offices when both offices work on the same defense project.

Finally, it gives combatant commanders more authority to procure products that meet the immediate needs of troops in theater.

Secretary Gates has been rightly frustrated with the inability of the regular procurement process to field equipment, like MRAPs, that are needed immediately by troops on the ground. This legislation will help change that.

I commend Senators LEVIN and MCCAIN for their leadership in developing this thoughtful and needed legislation. I look forward to its being signed into law by President Obama.

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote on the adoption of the conference report.

Mr. LEVIN. Mr. President, both Senator MCCAIN and I spoke on this matter. I ask unanimous consent to yield back all remaining time. I think I can do this with the consent of Senator MCCAIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER), would vote "yea."

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 197 Leg.]

#### YEAS—95

Akaka	Ensign	Menendez
Alexander	Enzi	Merkley
Barrasso	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Hutchison	Risch
Brown	Inhofe	Roberts
Brownback	Inouye	Sanders
Bunning	Isakson	Schumer
Burr	Johanns	Sessions
Burris	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dodd	McCaIn	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	

NOT VOTING—

Byrd Kennedy  
Hatch Rockefeller

The conference report was agreed to. Mr. DURBIN. I move to reconsider the vote by which the conference report was adopted.

Mr. MENENDEZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### SUPPLEMENTAL APPROPRIATIONS ACT, 2009—Continued

AMENDMENT NO. 1136

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2346, and there will be 10 minutes of debate prior to a vote in relation to amendment No. 1136 offered by the Senator from Kentucky, Mr. McCONNELL.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I urge my colleagues to take a close look at Senator MITCH McCONNELL's amendment, which is next up to be considered. Particularly, I ask you to turn to page 3 of this amendment. You will find in the first paragraph on page 3 a troubling requirement which Senator McCONNELL will make of this administration.

What Senator McCONNELL is asking is that 60 days from the passage of this bill and every 90 days thereafter, the President of the United States provide to Members of the Senate and the House:

a current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

It is not enough for Senator McCONNELL to ask for the identity of these people, the countries they are from, the likelihood they will be transferred to some other place, the likelihood they might be engaged in terrorism, he is asking for the President to disclose the work product of the prosecutors who are holding these detainees and determining whether a criminal case can be brought against them. For what earthly purpose? Why would we possibly want to jeopardize the prosecution of someone who may be guilty of terrorism or a crime threatening the United States? To satisfy our curiosity? I think it is a mistake.

I will tell my colleagues, if it is sent to us even in classified form, it might be leaked. In addition, if a trial should follow, one of the first discovery motions from any defendant is this information: Judge, if the President can share this information with 535 Members of Congress, the defendant should be able to see the information as well. Why would we possibly want to jeopardize a prosecution to satisfy the curiosity of the Senator from Kentucky, or any Senator for that matter?

This paragraph should have been stricken. The rest of it you may find

good or bad, but this is a dangerous paragraph.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, it is my understanding that earlier in the day my good friend from Illinois was suggesting that I had been a Johnny-come-lately on the issue of Guantanamo. So I would like to remind my colleagues that I offered an amendment 2 years ago right here on the floor of the Senate that passed 94 to 3 opposing bringing people at Guantanamo to the United States, and I believe my good friend from Illinois was not among the 3.

I would also remind him that I differed with the opinion of the previous President that Guantanamo ought to be closed. I don't think it ought to be closed; I think it ought to be left open. I also have differed with other Republicans on our side who have believed that Guantanamo ought to be closed, but none of them have said: Until you have a game plan for what to do with them.

We had the vote earlier today, with only six Senators dissenting on this Guantanamo issue and about whether there would be money not only in this bill but in any other bill spent for the purpose of bringing these detainees to the United States.

Now let's talk about what this amendment does—the one the Senator from Illinois was just describing incorrectly, in my view. My amendment calls on the administration to share its findings with Congress in a classified report—a classified report—that would indicate the likelihood of detainees returning to terrorism—we know many of them have been doing that—the likelihood of their returning to terrorism. It would also report on any effort al-Qaida might be making to recruit detainees once they are released from U.S. custody. The last requirement is particularly important, given that many of the remaining 240 detainees at Guantanamo are from Yemen, which has no rehabilitation program to speak of, and from Saudi Arabia which has a rehab program but which hasn't been entirely successful at keeping detainees from rejoining the fight after rehabilitation.

This is a simple amendment that reflects the concerns that Americans have about the danger of releasing terrorists, either here or in their home countries, where they could then, of course, return to the fight. Until now, the administration has offered vague assurances—quite vague assurances—that it will not do anything to make Americans less safe. This amendment says Americans expect more than a vague assurance, and it would require it.

Some have argued such a reporting requirement would reveal classified in-

formation. We just heard the Senator from Illinois say that. Nothing could be further from the truth. It would simply require the administration to share this information with a very limited, specific group in Congress with relevant oversight responsibilities which already has access to the most classified information imaginable—the very same people who already have access to this information.

Some have said a reporting requirement isn't necessary. This is also false. First, because we know the recidivism rate of detainees who weren't even considered a serious threat—this is the people they let go because they didn't think they were a serious threat—12 percent of them have gone back to the fight. It is perfectly clear we need to know whether any of the current detainees who may be released in the future pose a similar or even greater threat of returning to the battle. Moreover, a reporting requirement has proven to be necessary by the simple fact that the administration has been so reluctant to share any details whatsoever about its plans for the inmates at Guantanamo.

Senator SESSIONS, the ranking member of the Judiciary Committee, has made at least two formal requests for information from the Attorney General: First, in a letter of April 2 and, second, in a letter of April 4. To this day, Senator SESSIONS has not received a reply to either one. If the administration isn't willing to share information on these terrorists voluntarily, except, of course, with those folks in Europe, then Congress will have to require it through the kind of legislation my amendment represents.

Some have argued this reporting requirement would also hinder prosecutions by making evidence public. We just heard that from my good friend from Illinois. This is also false for reasons I have already enumerated. It would only require a summary of the administration's findings, and the summary would only have to be shared with a small group—a very small group—of Members in a classified setting. This has never disrupted prosecutions in the past. It will not disrupt prosecutions in the future.

Some have further suggested that a reporting requirement would be onerous. This is false. The administration says it already has begun its review of detainees. My amendment simply asks that it share with us the details of that review. Subsequent reports would be made on a quarterly basis, which is hardly onerous, particularly given the gravity of the issue.

Americans would like to have assurance that the President's arbitrary deadline to close Guantanamo by next January will pose no threat to themselves or their families. In fact, just today—this very day—FBI Director Mueller testified before a House Judiciary Committee about his concerns that

detainees who are currently held at Guantanamo could present a serious risk not only upon transfer to their home countries but even upon transfer to maximum security prisons in the United States. He cited concerns for their ability to radicalize others and to conduct terrorist operations.

As to the latter, he cited gang leaders who have been able to run their gangs from prison as proof that terrorists could—I will continue on leader time, Mr. President.

The FBI Director just today cited the following: The possibility that gang leaders who have been able to run their gangs from prison as proof that terrorists could do the same. Imagine that. Terrorists in a prison in your home State organizing other prisoners.

The Director of the FBI has access to classified information. We recognize him as one of our Nation's top law enforcement officials. He is someone who should be taken seriously. That is what he said today.

Americans don't want terrorists plotting attacks against us anywhere. They certainly don't want them doing so in our backyards or down the road in the local prison. And Americans don't want terrorists whom we release attacking our service men and women overseas. That is why the administration should be required to let us know whether any terrorists released or transferred from Guantanamo pose a risk to our military servicemembers overseas. That is what my amendment would do.

With all due respect to my friend from Illinois, any other characterization of it, I must suggest, would be inaccurate.

I urge the approval of the amendment.

Mr. DURBIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. DURBIN. Mr. President, I won't dwell on the double standard. I won't dwell on the fact that when President Bush suggested Guantanamo be closed, I don't recall a single Republican Senator—certainly not Senator McConnell or those who have spoken recently—objecting. I won't dwell on the fact that when there were releases of hundreds of detainees from Guantanamo, there was no requirement of an accounting by the Republican side of the aisle about these people and where they were headed. I certainly won't argue the double standard that this President has stepped forward and said he will come forward with a plan in detail of how to do this in a responsible way.

Does anyone in this Chamber seriously believe President Obama would release a terrorist into their community, into their neighborhood? Can you really say that with a straight face? I don't think you can. The American

people know better. This President is responsible. Like every President, he wants to protect us, and to suggest otherwise is not responsible.

The Senator from Kentucky has discussed many things today. He has failed to note that we currently have in U.S. prisons 347 inmates being held for terrorism. Currently, in your Federal prison in your State in your backyard, in your neighborhood, according to the Senator from Kentucky, 347 convicted terrorists are in our prisons today—not at Guantanamo, in our prisons.

I will get back to the bottom line. Why in the world would we jeopardize the prosecution of any detainee at Guantanamo with the requirement of the McConnell amendment that the President disclose evidence, intelligence, and information to justify the detention of the detainee? It is far better for us not to request that information and successfully prosecute that person than to satisfy the curiosity of the Senator from Kentucky.

I yield the floor.

Mr. McCONNELL. Mr. President, I wish to retain some of my leader time for rebuttal.

Let me just use a moment of my leader time to reiterate the fundamental point. The Director of the FBI thinks this is a problem; he just said so today. I know the Senator from Illinois is a great lawyer and understands all of these matters fully. We think it is important for the relevant Members of Congress to be assured that these terrorists do not have the kind of profile that would warrant their release.

This is not an attack on the current administration. The previous administration mistakenly released a number of detainees who went back to the battlefield. Why should we not learn from the experience of the past and apply it to the future? I hope my amendment will be adopted.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 198 Leg.]

#### YEAS—92

Akaka	Enzi	Merkley
Alexander	Feingold	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johanns	Sessions
Burr	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCain	Whitehouse
Dodd	McCaskey	Wicker
Dorgan	McConnell	Wyden
Ensign	Menendez	

#### NAYS—3

Burr	Durbin	Leahy
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#### NOT VOTING—4

Byrd	Kennedy
Hatch	Rockefeller

The amendment (No. 1136), as modified, was agreed to.

#### AMENDMENT NO. 1140, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to the vote in relation to amendment No. 1140, as modified, offered by the Senator from Kansas, Mr. BROWNBACK.

The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, this is a very simple amendment. I hope we can get everybody's support. I wish to read it because it is so short, simple, and straightforward:

It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

We should all be for that. We put this as "should" instead of a requirement. In Leavenworth, KS, they are very concerned about this. They need to be consulted. In Alexandria, VA, the 20th hijacker, Moussaoui, was tried, and here is what the mayor of Alexandria said:

We would be absolutely opposed to relocating Guantanamo prisoners to Alexandria. We would do everything in our power to lobby the President, the Governor, Congress, and everybody else to stop it. We have had this experience and it was unpleasant. Let someone else have it.

I think we need to consult with the local communities and let them speak. That is why I urge a unanimous vote in

favor of this sense-of-the-Senate amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, I am for it.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BROWNBACK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Oklahoma (Mr. COBURN).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—94

Akaka	Enzi	Merkley
Alexander	Feingold	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown	Inouye	Sanders
Brownbach	Isakson	Schumer
Bunning	Johanns	Sessions
Burr	Johnson	Shaheen
Burris	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	
Ensign	Menendez	

NOT VOTING—5

Byrd	Hatch	Rockefeller
Coburn	Kennedy	

The amendment (No. 1140), as modified, was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I have conferred with the bill managers, and I am told this will be the last rollcall vote tonight. There is still opportunity for people to talk to the managers about amendments they wish to offer or try to work things out so they can accept them. Senator INOUE is willing to accept a number of amendments, but we need unanimous consent to do that.

We are going to have a cloture vote probably about 10 or 10:30 in the morning. We will decide what time we are going to come in tomorrow morning—9 or 9:30—and have a cloture vote 1 hour after that. The Parliamentarians will be working tonight to find out what amendments are germane postcloture.

AMENDMENT NO. 1191

Mr. LEAHY. Will the distinguished majority leader yield?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to call up an amendment and have it pending to H.R. 2346, an amendment numbered 1191.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Mr. President, I understand objection has been heard. Among the people on this amendment are Senator GREGG, Senator SHELBY, myself, and Senators KERRY and DODD, as well as Senator LUGAR.

Mrs. HUTCHISON. Mr. President, I withdraw my objection.

Mr. LEAHY. I thank the Senator for withdrawing her objection. Again, I ask unanimous consent to call up amendment No. 1191 to the bill.

The PRESIDING OFFICER. Is there any objection to setting aside the pending amendments?

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. KERRY, proposes an amendment numbered 1191.

Mr. LEAHY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for consultation and reports to Congress regarding the International Monetary Fund)

On page 102, line 9, strike "In" and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more

flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G-20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States."

and

(2) in subsection (b)

(A) by inserting "(1)" before "For the purpose of;

(B) by inserting "subsection (a)(1) of after "pursuant to"; and

(C) by adding at the end the following:

"(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund."

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

"SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

"The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63-2 and 63-3 of the Board of Governors of the

Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively."

**"SEC. 65. QUOTA INCREASE.**

"(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts."

**"SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.**

"(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than \$4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries."

**"SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.**

"The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54-4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Com-

mittee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights."

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I would like to call up amendment No. 1189, also for the purposes of having it pending, and then I would like to speak about what I am trying to do with the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1189.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to protect auto dealers)

At the appropriate place, insert the following new section:

No funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory.

Mrs. HUTCHISON. Mr. President, this amendment I have put on the table, and which is now pending, I think is so important because we must try to help the Chrysler dealers that have only gotten 3 weeks' notice to shut down. I am working with the Senators from Michigan who have concerns about whether this amendment would in any way delay the bankruptcy proceedings so that Chrysler can come out of that, and I do not want to disrupt that whole effort that is being made to help Chrysler. So we are working with the White House and with the Senators from Michigan and the people who are representing Chrysler to try to come up with language that will assure that nothing that we do would affect the timeliness of Chrysler being able to come out of bankruptcy and the courts.

What we are trying to do, however, should not cost Chrysler anything. We want to try to move forward, if we can, to get this agreement and the correct language so as not to affect the bankruptcy in any way but to give these dealers more than 3 weeks' notice for shutting down a dealership that has been in their family or one that they

own and in which they have made their investments. They are looking at bankruptcy too.

Many times these dealerships are the largest employer in a whole community, in a whole county, and we know hundreds of them—over 700 across this country, 789 on May 14—3 weeks' notice to shut down.

I know we can do better in this country, Mr. President, and I want to work with everyone who is affected. I have talked to the chairman of the Banking Committee who has agreed to clear this if it meets all the tests so it will not hurt the bankruptcy. But these dealers are forced into bankruptcy too, and I hope we can give them just 60 days instead of 3 weeks. It is only adding 3 weeks. They will then have much more capability to have an orderly process to shut down their businesses. We are not trying to affect the decision. We are not trying to reach into Chrysler's decisions that they have made that will shut down these dealerships. We are just asking for 3 more weeks to let them shut down in, hopefully, a little bit better situation. Let them get some help to know what they have to do and to sell all the parts, all the equipment, and try to get their financial arrangements in order.

This will also be good for the surviving dealerships because, hopefully, they are going to buy some of this equipment, and they will need financing to do that as well. Our taxpayers are funding a lot of auto manufacturers' operations. I think the least we can do for many of those people who are paying these taxes—and that is the dealers—is to give them a chance.

I have a list of the number of dealers in these States that are getting shut down, and I am just asking for some kind of equity for them. It is not equity when they are going to be shut down anyway, but 3 weeks is just not rational.

So I don't want to hurt the Chrysler situation. I don't want to delay their bankruptcy. I don't want to in any way obstruct what they are trying to do because I want Chrysler to succeed. I do. So I am going to work with the Senators from Michigan, and I am going to work with the White House to try to come up with language that would say this doesn't delay the bankruptcy, and try to go forward and give these dealers that 3 extra weeks—the 3 weeks that will help them have an orderly shutdown and, hopefully, keep their employees a little longer because this is a big hit to many people in this country—789 dealerships, 3 weeks' notice, Mr. President. I don't think that is the way our country should be operating in this crisis.

Ms. MIKULSKI. Mr. President, will the Senator yield for a question?

Mrs. HUTCHISON. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I will only take a moment because I know the Senator from Oregon is on a tight schedule and wants to call up his amendment. But is the Senator proposing legislation?

Mrs. HUTCHISON. I am proposing an amendment that would give just 3 more weeks to the Chrysler dealers that are going to be shut down—3 more weeks for that process.

Ms. MIKULSKI. I thank the Senator for answering the question. I, too, am deeply troubled by the plight of these dealers, and I ask unanimous consent to be listed as a cosponsor of the amendment.

Mrs. HUTCHISON. I thank the Senator, and I would be glad to list the Senator as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I also ask unanimous consent that Senators COCHRAN, BROWN, MCCASKILL, and BOND be listed as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

AMENDMENT NO. 1185

Mr. MERKLEY. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1185, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY] proposes an amendment numbered 1185.

Mr. MERKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on the use by the Department of Defense of funds in the Act for operations in Iraq in a manner consistent with the United States-Iraq Status of Forces Agreement)

At the appropriate place in title III, insert the following:

SENSE OF SENATE ON USE OF FUNDS FOR  
OPERATIONS IN IRAQ

SEC. 315. It is the sense of the Senate that funds appropriated or otherwise made available to the Department of Defense by this title for operations in Iraq should be utilized for those operations in a manner consistent with the United States-Iraq Status of Forces Agreement, including specifically that—

(1) the United States combat mission in Iraq will end by August 31, 2010;

(2) any transitional force of the United States remaining in Iraq after August 31, 2010, will have a mission consisting of—

(A) training, equipping, and advising Iraqi Security Forces as long as they remain non-sectarian;

(B) conducting targeted counter-terrorism missions; and

(C) protecting the ongoing civilian and military efforts of the United States within Iraq; and

(3) through continuing redeployments of the transitional force of the United States remaining in Iraq after August 31, 2010, all United States troops present in Iraq under the United States-Iraq Status of Forces Agreement will be redeployed from Iraq by December 31, 2011.

Mr. MERKLEY. Mr. President, I ask unanimous consent that Senator WHITEHOUSE be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, the amendment I offer this evening is very straightforward. Put simply, I offer this amendment to support and affirm President Obama's plan to end the war in Iraq. This amendment expresses the sense of the Senate that the funding provided in this bill will be used in accordance with the United States-Iraq Status of Forces Agreement signed this past fall. This agreement—SOFA as it is often referred to—makes it clear that our combat mission in Iraq will end next summer.

President Obama has been unwavering in his commitment to get our troops out of Iraq. He has repeatedly stated—and in very straightforward terms—that by August 31, 2010, our combat mission in Iraq will end. President Obama has gone further and declared that any troops remaining in Iraq after that date will be either training Iraqi forces, conducting targeted counterterrorism missions, or protecting U.S. personnel still in Iraq.

After 6 years of intense military operations in Iraq, the time has come to empower the Iraqis to provide their own national security. We must continue to provide training to protect U.S. personnel in the country and to conduct narrowly focused counterinsurgency missions when necessary. The United States should also provide funding for projects that rebuild Iraq's infrastructure, strengthen its economy, and improve the living conditions of its citizens.

Colleagues, next month, the 41st Brigade Combat Team of the Oregon National Guard will send 3,000 soldiers to Iraq. This is the largest deployment of the Oregon National Guard since World War II. I honor these men and women for their valiant and critical service, but I hope in the near future we will know that this is the last such deployment of our men and women we will send to Iraq.

I urge adoption of this amendment.

AMENDMENT NO. 1138

Mr. President, on behalf of Senator DEMINT, I would like to call up amendment No. 1138 and ask that it be reported by number.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for Mr. DEMINT, proposes an amendment numbered 1138.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the provisions relating to increased funding for the International Monetary Fund)

Beginning on page 100, strike line 12 and all that follows through page 107, line 21.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, if I could interrupt the Senator from Oregon just to add two more cosponsors to amendment No. 1189. I ask unanimous consent to add Senator LAUTENBERG and Senator MENENDEZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

AMENDMENT NO. 1179, AS MODIFIED

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Kaufman amendment, No. 1179, be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 71, between lines 13 and 14, insert the following:

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

Mr. MERKLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE AMERICAN RECOVERY AND  
REINVESTMENT ACT

Mr. BURRIS. Mr. President, as I address the Chamber this evening, our great country is in the grips of an unprecedented economic crisis. In our lifetime, it has never been harder for American men and women to find a job, to get a loan, or to make ends meet. This Congress has boldly taken action in the form of a landmark stimulus package, but millions of Americans are still waiting and wondering. It



is a question I hear each and every time I travel home to Illinois: Where is our stimulus relief? They are waiting for help, waiting for results, waiting to fulfill the promise of the American dream, which suddenly seems just out of reach. It is our duty to provide relief in a timely manner, Mr. President. But in the rush to allocate stimulus funds, we must not be too hasty. As we work to get this economy back on track, we need to make sure that every dollar—every dollar—is spent wisely.

I have vast experience in this area. During my three terms as Comptroller of the State of Illinois, I worked hard to maintain accountability as money was distributed, so I know how difficult it is.

I will also understand the importance of transparency and robust oversight. That is why I, along with my colleagues, Chairman LIEBERMAN, Ranking Member COLLINS, and Senator MCCASKILL, have introduced S. 104, the Enhanced Oversight of State and Local Economic Recovery Act to amend the American Recovery and Reinvestment Act. This measure would set aside up to one-half of 1 percent of all the stimulus funds and allow State and local governments to use this administrative expense reserve to distribute and track the stimulus money as it is received and spent.

These costs are currently unfunded, leaving taxpayers with no concrete assurance that their money is being efficiently delivered to where it is most needed. Our legislation would change that, mandating careful oversight and strict regulation as every dollar is spent. This measure represents common sense and simple good governance. I urge my colleagues to join me as we work to ensure transparency and accountability.

This bill would be an excellent start, but I think we should even go further. The American people demand not just basic reform but a sweeping expansion of oversight and accountability for their stimulus dollars. When this Congress passed the American Recovery and Reinvestment Act, and President Obama signed it into law, we took a bold step toward starting to rebuild our economy. But we must ensure that our efforts are not penny wise and pound foolish. Without transparency, without accountability, without oversight, we will not be effective. We cannot allow billions of dollars to disappear blindly into State treasuries. Perhaps these dollars would be spent wisely, perhaps not. Perhaps is not good enough for the American people and it is also not good enough for me. As a former comptroller, I know better than to simply trust that these funds will be put to good use. That is why I have introduced this bill, to make available the funds to track and regulate every dollar of taxpayers' money, to keep government officials honest

and accountable to the people they serve.

We owe it to the hard-working men and women of this country to send targeted relief on swift wings, and this legislation is an essential part of that.

I thank Chairman LIEBERMAN, Ranking Member COLLINS, and my friend from the great State of Missouri, Senator MCCASKILL, for joining me in this effort. I ask all my colleagues to support this essential legislation. We must act without delay.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNET. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1167

Mr. BENNET. Mr. President, I ask unanimous consent to set aside the pending amendments so that I may call up my amendment No. 1167.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET], for himself, and Mr. CASEY, proposes an amendment numbered 1167.

The amendment is as follows:

(Purpose: To require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children)

On page 4, between lines 2 and 3, insert the following:

#### SEC. 103. MILITARY FAMILY NUTRITION PROTECTION.

(a) CHILD NUTRITION PROGRAMS.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

“(14) COMBAT PAY.—

“(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term ‘combat pay’ means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.

“(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.”

(b) SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.”

Mr. BENNET. Mr. President, my amendment ensures that active-duty soldiers do not lose family benefits, nutrition benefits that they have come to count on. It is wrong that a combat family would actually lose WIC benefits and child nutrition benefits just because the military loved one gets called up.

I thank my colleagues Senators JOHANNIS and CASEY for their support of this amendment. I appreciate the great work of the chairman on this important piece of legislation.

I urge, at the appropriate time, adoption of the amendment.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1201 TO AMENDMENT NO. 1167

Mr. REID. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1201 to amendment No. 1167.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

This section shall become effective 3 days after enactment.

Mr. INOUE. Mr. President, I certify that the information required by Senate rule XLIV, related to congressionally directed spending has been available on a publicly accessible congressional Web site in a searchable format at least 48 hours before a vote on the pending bill.

#### MORNING BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent to proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.



The PRESIDING OFFICER. Without objection, it is so ordered.

#### SCHOOL SAFETY PATROL LIFESAVING AWARD RECIPIENTS

Mr. REID. Mr. President, I rise today to recognize the actions of the five young Americans who are this year's School Safety Patrol Lifesaving Award recipients as chosen by the American Automobile Association.

The American Automobile Association, AAA, began the School Safety Patrol Program in 1920 as a way to promote traffic safety amongst school children. Since 1949, the AAA School Safety Patrol Program has awarded its highest honor, the Lifesaving Award, to those patrollers who have acted to save the life of another. This year five heroic School Safety Patrollers are receiving this award, and it is my great honor to recognize their courageous actions.

In nearby Alexandria, VA, Norman Wallace was at his bus patrol post helping to safely direct fellow Hybla Valley Elementary School students exit the bus when he spotted a vehicle coming towards a 5-year-old girl who was crossing in front of the bus. Acting quickly, Norman pulled the young girl from harm's way. His courageous actions ensured that the girl went unharmed.

Lulu Beltran showed great foresight while performing her duty as an AAA school safety patroller at Dixie Downs Elementary School in St. George, UT. While a fellow student was crossing the street, Lulu noticed that an approaching vehicle was not slowing down. After assessing the situation, Lulu moved swiftly and pulled her fellow student out of harm's way.

Working with her patrol advisor at Minnehaha Elementary School in Vancouver, WA, Sierra Clark acted bravely to prevent a fifth-grade girl from being hit when a vehicle suddenly sped around a corner. As the vehicle approached the crossing, Sierra snapped into action and pushed the girl out of danger.

Hunter Turner was patrolling a busy intersection near his Strassburg School in Sauk Village, IL, when a student began to cross the street without checking for cars first. As a car turned the corner, Hunter pulled the student back onto the sidewalk. If not for Hunter's valiant action, the student would have been struck.

After only 2 weeks at his school safety patrol post at Waterville Primary School in Waterville, OH, Matthew Krause prevented a kindergartener from stepping off a sidewalk just as a truck passed. Matthew's awareness of his surroundings and attentiveness to his duties ensured that this 5-year-old remained unscathed.

The five patrollers whom I have spoken of exemplify values such as cour-

age, alertness, and a commitment to safety, all of which the AAA School Safety Patrol Program has promoted over the years. Patrollers throughout our Nation serve an important role in ensuring that our young people safely navigate traffic hazards to and from school, and I thank them for their work.

#### CUBAN INDEPENDENCE DAY

Mr. NELSON of Florida. Mr. President, today I rise on behalf of the people of Florida and all Americans, to recognize Cuban Independence Day. We stand in solidarity with the people of Cuba as they fight for democratic change and independence in their homeland, and struggle for a day when basic dignity and freedom of expression is possible without fear of persecution. Tyranny, dictatorships, and political repression have no place in this hemisphere. Now more than ever, the United States must continue to press the Cuban regime, beginning with freeing all political prisoners. We must never waiver in our support for the Cuban people, as they continue their fight for freedom and self-determination.

#### VOTE EXPLANATION

Mr. ENSIGN. Mr. President, I was unavoidably absent on the afternoon of May 19, 2009. Had I been present, I would have voted yes on rollcall vote 194, in favor of final passage of H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

#### CONFIRMATION OF LARRY ECHO HAWK

Mr. UDALL of New Mexico. I rise today to support the nomination of a man I am proud to call my friend—Larry Echo Hawk. He is President Obama's nominee to be Assistance Secretary of Indian Affairs. He was approved unanimously by this body last night. And he is a wonderful choice.

Before I talk about why Larry is so qualified for this position, I want to say a few quick words about how committed he is to this job.

Larry was a law professor. And as many of you know, that is a pretty nice job.

More importantly, as a former BYU quarterback, Larry was named to be the faculty member who oversees the BYU Athletics Department.

What I am saying is, rather than spending his days being worshipped by law students, publishing groundbreaking articles, and watching college football games from the 50-yard line, Larry has chosen to serve his country in the Interior Department. If that is not commitment, I don't know what is.

We are very lucky that Larry is so committed to this position because I

can think of nobody who is better suited for it.

Larry's resume speaks for itself. He has the kind of depth and breadth of experience that would make him equal to any job. Over the course of his career, he has been an advocate and an academic—an elected official, a private attorney and a marine. He has worked to put criminals behind bars and to keep children in school. He has fought drug use, domestic violence, and bigotry. And throughout this broad and varied career, he has retained a passionate commitment to his people—the first Americans. As he moved from job to job and even State to State, he never stopped working to improve the lives of our country's Native Americans.

Larry's work has won him awards and acclaim from around the country and across the political spectrum. Just recently, a respected law professor suggested that Larry replace Justice Souter on the Supreme Court. This is a man who really could do anything.

And Larry is more than a very accomplished lawyer and public servant. He is a deep and innovative thinker.

Larry grew up in Farmington, NM, but I first got to know him when we were both elected state attorneys general in 1990. At the time, Larry was the first Native American to be elected to a statewide constitutional office anywhere in the United States.

And Larry's path breaking did not stop there. Shortly after his election, he began to spread what, at the time, was a very new idea—conflicts with tribes should not be settled in court.

Back then, state AGs were in court with the tribes all the time. Nobody won those cases because the bad blood on both sides turned any outcome into a defeat.

Larry was the first to say, "We can do better." And he was right.

I followed Larry's advice, and as a result New Mexico's relationship with our tribes was more productive for everybody involved.

The author Dov Seidman has written that, "Laws tell you what you can do. Values inspire in you what you should do."

Larry knows the law well enough to understand what is possible. But, more importantly, he has the values to know when it is time to expand the realm of the possible—to break old habits and try new ideas. He is a leader who can bring change to a Bureau that desperately needs it.

At BIA, we need somebody who can work with tribal governments and tribal members with an attitude of respect. We need somebody who combines a deep knowledge of Indian issues with the compassion that comes from common experience and common culture. We need a great mind connected to a great heart.

In short, we need Larry Echo Hawk. I thank you all for supporting his nomination.

## ADDITIONAL STATEMENTS

CELEBRATING THE 100 YEAR  
BIRTHDAY OF POWELL, WYOMING

• Mr. BARRASSO. Mr. President, on May 25, 2009, we will celebrate the centennial of Powell, WY. Located in the valley of the Shoshone River, Powell is surrounded by the Absaroka and Big Horn mountain ranges, and is east of Yellowstone National Park.

One hundred years ago, the U.S. Reclamation Service offered for sale lots in a tract of land designated as the Powell Townsite. The sale began the last week in May 1909 and by June 30 of that year all lots in the square mile tract were purchased. The sale totaled \$16,750. While a thriving community was officially born May 25, 2009, the area had been occasionally populated for tens of thousands of years. Stone circles provide the archaeological and ethnohistorical evidence to show that the Shoshone and Crow had active family organizations, camp activities, and domestic life in the area.

Perhaps the first White man to view what would become Powell was Lewis and Clark's colleague, John Colter. During the winter of 1807, Colter made the solitary trek from Fort Manuel Lisa to inform the Native Americans living near the Clark Fork River that a new trading post had been established. On his way back, he viewed the sagebrush flats along the Stinking Water River. Just a century later, the town of Powell would be born—and the river renamed Shoshone.

In 1906, the U.S. Reclamation Service established an engineering camp on the sagebrush flats and called it Camp Colter. Yet when the townsite was offered for sale, a new name was necessary since another location in the Big Horn Basin was also named for the Lewis and Clark explorer. The town's forefathers chose to honor Major John Wesley Powell, an early explorer, conservationist and reclamationist—and the former head of the U.S. Reclamation Service Geodetic Survey.

Powell is a terrific community. On the town's centennial blog, Cathy Howard Miller writes, "Powell—a small town where everyone knows you and you know them, a place to raise children, where you can feel safe." Cathy's words sum up the reason why Powell was elected as one of 10 All-America Cities in 1994. With a population of 5,381, its economy is based upon oil, irrigated farming, ranching, tourism, and agricultural support services. Home of the Powell High School Panthers and the Northwest College Trappers, Powell is a great place to live, work, and raise a family.

Mr. President, I encourage my colleagues to join me in wishing Powell, WY, a happy birthday.●

## TRIBUTE TO DR. MYLES BRAND

• Mr. BAYH. Mr. President, today I recognize a constituent and a dear friend, Dr. Myles Brand, a man of uncommon integrity and vision whose leadership has restored an ethos of scholastic achievement to collegiate athletics in America.

Dr. Brand took over as the fourth chief executive officer of the National Collegiate Athletics Association, NCAA, in January 2003, and the intervening years have been marked by an unyielding focus on reorienting the NCAA's priorities in ways aimed to nurture and support the student athlete.

Dr. Brand delivered a watershed speech in 2001 at the National Press Club, in which he enunciated the mission statement that would come to define his tenure leading the NCAA: "Academics must come first."

Dr. Brand warned against the "bleeding of the entertainment industry with intercollegiate athletics" and cautioned that falling academic performance "risks undermine the integrity of a system of higher education that is without question right now leading the world."

"Athletic success," he said, "cannot substitute for academic success. Universities must be seen, and understood, and judged by their achievements as academic institutions, not sports franchises."

As NCAA president, Dr. Brand spearheaded the most comprehensive package of academic reforms governing college athletics in our lifetime. Under his leadership, the NCAA raised eligibility standards for freshmen and toughened requirements that its 400,000 scholarship athletes make annual progress toward a degree to maintain their eligibility. Dr. Brand's reforms subjected teams with poor overall academic performance to unprecedented penalties, including bans on bowl games and postseason play.

The result: Today, NCAA graduation rates exceed those of the general student population in every demographic category. Last year, the NCAA's overall graduation rate for its student athletes stood at 79 percent. The graduation rate of female student athletes outpaced nonathletes by 8 percent, while the graduation rate for African-American male student athletes was 10 percent higher than their nonathletic peers.

For redefining what is scholastically possible in such a short time span, Dr. Brand will forever be known as the NCAA's "Education President."

It should be noted that despite Dr. Brand's unrelenting focus on helping students make the grade, he has never lost sight of the joy of making the shot. "Anyone who thinks that college is only about the library, the lecture hall, and the laboratory really doesn't understand what happens in college," he once told a journalist.

I can personally attest that Myles Brand harbors an unsurpassed love for the game played on the field and a belief in the power of the NCAA to be a dreammaker for young people.

Yet he has remained true to his pledge that "academics must come first." In 2003, Dr. Brand became the first university president ever chosen to lead the NCAA. A philosopher by training and inclination, Dr. Brand has earned admiration as a level-headed leader interested in critical examination and reform. USA Today called him "the strongest, most vocal and influential leader college sports has had in . . . decades."

Prior to taking over the NCAA, the people of the great State of Indiana enjoyed a front-row seat to his many accomplishments in academia. From 1994 to 2002, he served as the 16th president of my alma mater, Indiana University. Dr. Brand led IU through a period of remarkable growth, attracting record enrollments, doubling research funding, and establishing the university as a national leader in the life sciences and information technology. He increased the school's endowment by a factor of four and tripled the number of endowed chairs. Under Dr. Brand's leadership, IU created a nationally renowned School of Informatics and developed the Central Indiana Life Sciences Initiatives. His trailblazing leadership was recognized in 2001 when Time Magazine named Indiana University its "College of the Year."

When Dr. Brand left IU to assume the NCAA presidency, he did not have to go far—traveling 40 miles up State Road 37 from Bloomington to Indianapolis, where the NCAA is headquartered.

The NCAA has been a model corporate constituent under Dr. Brand's management, employing more than 410 Hoosiers with well-paying jobs while maintaining a strong community presence. It has helped hundreds of charities, schools and local organizations throughout Indiana, such as United Way and the Susan G. Komen Breast Cancer Foundation. After Hurricane Katrina ravaged the Gulf Coast, the NCAA dispatched teams of student athletes and considerable financial resources to the region to rebuild family homes.

Dr. Myles Brand is a loving and devoted husband to his wife, Peg; a wonderful father and grandfather; and a special leader who I am proud to recognize today for his contributions to college sports, the State of Indiana, and the country as a whole.●

## REMEMBERING PEGGY BURGIN

• Mr. BEGICH. Mr. President, I wish to commemorate the life of a very special resident of my home State of Alaska, Peggy Burgin.

Mrs. Burgin was the embodiment of a true Alaskan. While living in Alaska,

she witnessed such historical events as the 1964 earthquake and the construction of the Trans-Alaska pipeline. Mrs. Burgin devoted much of her life to volunteering for many community groups. She leaves behind many friends who are grateful to have known this remarkable woman.

On behalf of her family and her many friends, I ask today we honor Peggy Burgin's memory. I ask that her obituary, published May 12, 2009, in the Anchorage Daily News, be printed in the RECORD.

The information follows:

[From the Anchorage Daily News, May 12, 2009]

Peggy Arlene Burgin, 89, died peacefully May 5, 2009, at Alaska Regional Hospital, where she received exceptional loving care from the entire staff. A celebration of life is being planned for June. Born Aug. 16, 1919, in Bellingham, Wash., to Michael and Minnie Burns, she worked from an early age to help her widowed mother and younger brother. She went to business college, was president of the Alpha Chapter of Beta Sigma Phi sorority and was a lifelong Democrat. She moved to Anchorage in July 1947 to marry Lee Morrow, a veteran Air Force pilot with postwar Alaska dreams. Ten months later the small plane he was co-piloting disappeared in the Susitna Valley and was never recovered. Shaken, she returned briefly to Washington, but her love for Alaska drew her right back. Working for an air cargo firm and later First National Bank of Anchorage, she made an impact as a single determined woman in a rough young town. She met and married another Alaska enthusiast, Fred Burgin, and together with their children, Salli, Jim and Judi, they experienced many adventures including the 1964 earthquake, pipeline construction and homesteading in Point MacKenzie. There she homeschooled the kids, shot a bear that tried to join them in the cabin and ran the homestead while Fred was away at construction jobs.

As a Teamster, Peggy was hired to start the Teamster Credit Union (now Denali Alaskan Federal Credit Union), where she achieved her goal of helping members start businesses and buy homes. Politically involved, both Peggy and Fred received their territorial voter registrations from Senator E.L. "Bob" Bartlett and often canceled each other's vote. Peggy was one of the founding members of the Bartlett Democratic Club, rarely missing the weekly meetings. She chaired and worked on many campaigns and was a delegate for Alaska at Clinton's presidential caucus.

Although busy with career and family, she was the ultimate volunteer and contributor with this partial list of organizations that benefited from her enthusiasm: Inlet View PTA, Alaska Regional Hospital Auxilliary, Alaska Native Hospital gift shop, Anchorage Senior Activity Center, Anchorage Unitarian Fellowship, Teamster 959 Retirees, Alaskan Commission on Aging, Pioneers of Alaska, STAR, Victims for Justice, Blood Bank of Alaska, women's equality groups and several credit unions. Peggy was a devoted friend to people of all ages and walks of life, always willing to give kids a hand up or a haven. She valued education, writing and courtesy and was described by one friend as one of the last true pioneer ladies—elegant, gracious, generous and as tough as nails. She loved traveling to Hawaii, Washington and New

York and even toured China. She enjoyed staying connected to her myriad friends, watching Alaska politics on cable and getting her hair "fluffed" (her word) at Trendsetters.

Peggy was predeceased by her daughter Judi, and her husbands, Lee and Fred. She is survived by her son and daughter-in-law, Jim Burgin and Janice Ray, daughter, Salli Burgin; grandchildren, Erin Malone (Jason Dallman), Devin Malone, Dante Modaffari, and Bryant Burgin; great-granddaughters, Ava and Lena Malone-Dallman, all of Alaska and Washington; and by her brother, Robert Burns and family of Idaho. The family wishes to thank Peggy's doctors, Kathleen Case and Vernon Cates, for her many years of energetic health. •

#### REMEMBERING NORVAL POHL

• Mr. CORNYN. Mr. President, I wish to pay tribute to Dr. Norval Pohl, former president of the University of North Texas, who passed away last week after a courageous battle against pancreatic cancer.

Dr. Pohl joined the UNT community in 1999 as the executive vice president and provost and became the university's 13th president in October 2000.

Under Dr. Pohl's leadership at UNT, enrollment grew from 27,000 to over 32,000 students. During the same period, the university's Latino enrollment increased by 48 percent and African-American enrollment increased by 43 percent. Financial aid awards increased from \$57.8 million to \$172.2 million, and annual giving to UNT increased from \$4.7 million to \$13.4 million. Dr. Pohl is also recognized for addressing title IX issues with the acquisition of the Liberty Christian School property, which increased both academic and athletic space for the university.

Among his other accomplishments, he worked to advance UNT as a public research institution. He fulfilled a long held desire at UNT for an engineering school by establishing the College of Engineering and creating a permanent home for engineering at the UNT Research Park.

After leaving UNT, he joined the faculty at Embry-Riddle Aeronautical University's Prescott campus and was named chief academic officer in January of this year.

Dr. Pohl spent the better part of his career in higher education serving as both an administrator and a professor at several universities across the southwest. Dr. Norval Pohl was a great asset to the academic communities he served and he will be missed at the universities he leaves behind. I would like to express my condolences to Dr. Pohl's family and friends and my admiration for his devotion to higher education. •

#### TRIBUTE TO ADMIRAL JOHN HENRY TOWERS

• Mr. ISAKSON. Mr. President, I wish to honor and commemorate in the

RECORD of the Senate ADM John Henry Towers, pioneer naval aviator, on the 90th anniversary of the first crossing of the Atlantic Ocean in an airplane on May 8, 2009.

Admiral Towers was born and raised in Rome, GA, and graduated from the U.S. Naval Academy with the class of 1906. As one of the earliest of all naval aviators, he participated in the development of new aviation technology and the application of air power as a part of the surface fleet. By the time World War II was over, Admiral Towers was the senior surviving aviator of the Navy.

In every chapter of the early development of naval aviation, John Towers made his mark. He organized the Navy's entry into aviation in 1911. Admiral Towers worked very closely with Glenn Curtiss in designing the first naval aircraft and due to his efforts became known to his peers as the "Crown Prince of Aviation."

Towers held aviation records for endurance, altitude, and speed. He survived a fall out of an airplane in 1913 by hanging onto the aircraft strut as it crashed into the Severn River from 1,300 feet. Unfortunately, his pilot-in-training, ENS, William Billingsly, was killed and became the first naval aviation fatality. As a result, Towers mandated seat belts and harnesses in all naval aircraft after the crash. He also took the Assistant Secretary of the Navy Franklin Delano Roosevelt, future President of the United States, for his first airplane ride, which secured a special friendship that lasted their whole careers.

Admiral Towers was the first to use naval aircraft in combat in the Mexican War in 1914. Then, in 1919, he conceived, organized, and commanded the first flight of three Navy NC-flying boats to fly across the Atlantic Ocean, fulfilling his early vision to be the first flight across the Atlantic Ocean. The flights began at Rockaway Beach, NY, on May 8, 1919, and one of the planes made it to Plymouth, England, on May 31, 1919. It was Towers' vision that inspired others and changed the world forever. The flight actually lasted 52 hours 31 minutes, for a distance of 3,936 nautical miles.

Towers and his group became international celebrities. During their Atlantic crossing, the Nation was on pins and needles reading about the happenings each day, particularly when they received the news that Towers' float boat NC-3 went down and was lost at sea for 5 days. After he sailed the seaplane 200 miles to the Azores, his became a household name around the world.

The significance of this epic flight affected the psyche of the American public because until that time, we were largely protected from invasion by having two oceans on either side of us. When the airplane made that first Atlantic crossing, Americans became

aware that we were not immune from future wars on our soil. In addition, Britain, France, and Germany were more advanced in aviation than the United States. When the United States beat them across the Atlantic, we were immediately thrust into a "super power" status. The U.S. Navy beat the world in crossing the Atlantic.

Admiral Towers' career was a stubborn, determined battle to gain acceptance for aviation from a Navy that was dominated by battleship admirals. He was the first to integrate women into the U.S. Navy and U.S. Marines by creating the W.A.V.E.S. in 1942. The W.A.V.E.S. eventually grew to 12,000 women officers and 75,000 enlisted women. He was also the first to obtain four stars in any branch of service in the State of Georgia and was awarded the Distinguished Service Medal.

*Apollo 17* honored the admiral and his contribution to aviation by naming a crater on the Moon in his name. In addition, he was honored by Time magazine and placed on the front cover for his efforts during World War II. Towers began in naval aviation at its inception in 1911 and remained dedicated to the field through his retirement in 1947. He is a member of five Aviation Halls of Fame.

It is a privilege to pay tribute to the remarkable life of ADM John Henry Towers.●

#### REMEMBERING CECIL E. HARRIS

● Mr. JOHNSON. Mr. President, today I recognize and congratulate the outstanding career of Cecil Harris, decorated Navy pilot. For his heroic actions in World War II, Cecil received the Navy Cross, Silver Star, Distinguished Flying Cross, and the Air Medal. His bravery is again being honored in with the dedication of the Cecil E. Harris Highway in northeast South Dakota.

This Cresbard native was enrolled in the Northern State Teachers College when he enlisted in the Navy in March 1941 and was sent to northern Africa. After the Japanese attack on Pearl Harbor nine months later, Cecil's remarkable flying abilities were noted and he was moved to the Pacific to combat the Kamikaze attacks. Cecil shot down 24 enemy warplanes in 81 days while never taking a single bullet on his own plane, making him the second-ranking World War II Naval Ace.

After the war, Cecil returned home to become a teacher and coach. In 1951, he was called to Tennessee to train pilots for the Korean war. He was then promoted to captain and sent to the Pentagon. He retired in June 1967 after serving 27 years in the Navy. He passed away in 1981 and is buried in Arlington Cemetery.

This stretch of Highway 20 will bear the name of a dedicated and decorated war hero. Cecil Harris exemplified South Dakota values in his unwavering

commitment to his country, and I commend the South Dakota Department of Transportation for honoring this outstanding individual.●

#### RECOGNIZING ROSEPINE CONCERT BAND

● Ms. LANDRIEU. Mr. President, today I wish to recognize 72 young musicians from Rosepine High School. On April 29, 2009, these students travelled from the heart of Vernon Parish in Louisiana to compete against 28 bands at the Music in the Parks Festival in Williamsburg, VA. Although Rosepine was the smallest school to compete in their class, hailing from a town of approximately 1,300 people, they received a superior rating and were ranked "Top of All Bands."

As a reward for this outstanding accomplishment, the entire band received an educational tour of both historic Williamsburg and Washington, DC. I trust that they were inspired and motivated by their trip to our Nation's Capital.

These bright young stars are proof that with hard work, determination, and the right amount of support and encouragement, anything is possible. I believe that constant support and supervision from families and instructors can guide students to a path of success and achievement. In addition, I would like to congratulate Rosepine's band director, Tra Lantham, and thank him for his dedication and commitment to the students as well as the school's music department.

I ask that these names be printed in the Record. I thank these young people and their parents for coming to our Nation's Capitol to learn about the workings of the U.S. Senate:

Mandi Alford, Samantha Allardyce, Jason Allardyce, Kelvin Ayala, Lindsey Aycock, Mark Bailes, Matt Blount, Brandon Boggs, Chloe Brausch, Haley Brown, Hannah Cardy, Zachary Cardy, Jeffery Cox, Ann Cox, Brittany Darrah, Jacob Dearmon, Taylor Deladurantaye, Nick Deladurantaye, Jamison Deladurantaye, Josh Ducote.

Victoria Evans, Chris Funderburk, Daygan Gardner, Chase Gill, Austin Granger, Ryan Hess, Chris Hughes, Jessica Islas, Elizabeth Kellner, Daniel Linn, Kaitlyn Lockhart, Wyatt Maricle, Blake Maricle, Kaymen Megl, Austin Merilos, Sydney Merilos, Joseph Myers, Katlyn Peavy, Bradley Richard, Josie Slaydon.

Courtney Smith, Eden Solinsky, Devin Stephens, Cory Stephens, Emilee Stewart, Teagan Suire, Dustin Thompson, Tito Torres, Jossie Willis.●

#### HONORING HOWE AND HOWE TECHNOLOGIES

● Ms. SNOWE. Mr. President, this week is National Small Business Week, a time when our country focuses on the immense efforts our 27 million small businesses make to the health and vitality of our Nation's economy. As we are presently engaged in two wars, in-

novative companies that produce cutting-edge defense products are critical to our Nation's military success. In that vein, I rise to recognize the colossal efforts of one such small business from my home State of Maine, Howe and Howe Technologies.

Located in the southern Maine town of Eliot, Howe and Howe Technologies focuses on the design and production of extreme vehicles, specifically tanks. And for brothers Mike and Geoffrey Howe, the company's owners, building tanks has been a passion for over a decade. After high school, they began work on the original Ripsaw 1, their first unmanned vehicle, in the garage of their childhood home. By 2004, they were entering their vehicle in an endurance test for unmanned vehicles that was sponsored by the military. While they did not win that trial, the brothers received a boost of confidence that their products could compete in the long run, leading to the establishment of Howe and Howe Technologies in 2006.

Each of the company's tanks is designed with a particular use in mind. For instance, the Subterranean Rover 1, or SR1, was commissioned by the Shoal Creek Mine in Alabama to specifically withstand the harsh conditions of coal mines. The PAV1, or Badger, was built for the California Protection Services for use by SWAT teams and other law enforcement agencies. And the Ripsaw MS1, which is currently being tested by the U.S. Army, is an unmanned ground vehicle, or UGV, designed especially for military use. Howe and Howe's vehicles are critical to our military's mission, as they are unmanned vehicles that can be placed in dangerous situations without harm to personnel. Additionally, the vehicles can operate for almost 300 miles until refueling, can be controlled remotely, and provide the military with a faster alternative to the unmanned vehicles they presently have.

The Howe brothers take pride in their work, and industry experts are certainly taking notice. The Ripsaw MS1, which is Howe and Howe's latest vehicle, was just selected by Popular Science magazine as "The Fastest Tank" in the listing of its 2009 Invention Awards. The magazine publishes these awards annually to highlight a diverse array of creative and innovative products America's businesses are manufacturing, from power shock absorbers to IV catheters. Additionally, Howe and Howe has recently learned that its PAV1 Badger will be acknowledged as the "World's Smallest Tank" in the "2010 Guinness Book of World Records."

Last Saturday was Armed Forces Day, a day to reflect on the significant sacrifices our men and women in uniform have made on behalf of our Nation's security. Let us also pay homage to those civilians who assist them by

creating state-of-the-art products that make their missions safer and stronger, and that ultimately save lives. I congratulate Mike and Geoffrey Howe and everyone at Howe and Howe Technologies for their exceptional work ethic and inventive products, and wish them continued success.●

#### REMEMBERING SERGEANT AUBIE L. ATKINS, JR.

● Mr. VITTER. Mr. President, I wish to honor and recognize SGT Aubie L. Atkins, Jr., for making the ultimate sacrifice in service to our country. Nearly 67 years after his death in WWII, he will be home for good and laid to rest next to his parents in their Claiborne Parish town of Athens. I would like to take a few moments to speak of his courage and heroism.

Atkins grew up in Athens, LA, and attended Louisiana Tech University for 1 year before enlisting in the Army in 1941. He was trained in communications and assigned to the crew of a B-25 Mitchell bomber in the 405th Bombardment Squadron in the southwestern Pacific. Atkins, along with seven other crew members, took off aboard a bomber nicknamed "The Happy Legend" from Port Moresby on a mission to bomb Buna on December 5, 1942. Unfortunately, their plane went down and disappeared near the Kokoda Pass, Papua New Guinea. Military authorities believed the plane was shot down by the Japanese during a bombing run. The crew was declared dead, and all were memorialized on the tablets of the missing at Manila American Cemetery, Philippines, by the American Battle Monuments Commission.

Members of the 1st Australian Corps found the crash in February 1943 along with the pilot's remains and Atkins' identification tags, but because enemy troops remained in the vicinity, the allied soldiers had to abandon the site. Several attempts were launched to retrieve wreckage and the airmen's remains, but the wreckage was in a water-filled crater making it too difficult and dangerous. But, in 2005 Atkins' remains were identified using DNA that was donated in 2007 by his last surviving sibling, just months before her own death.

There is no doubt that December 5, 1942, was a tragic day, not only for the families of the fallen crew members but also for the B-25 family, the community, and the Nation. On Saturday, May 16, Sergeant Atkins was properly buried with full military honors, including a jet flyover and a 21-gun salute. Although all of Atkins' seven siblings are deceased, three subsequent generations were present to honor and pay their respects.

Thus, today, I honor the memory of fellow Louisianan Aubrey Atkins, Jr., and thank him for his devotion and service to our country.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the presiding officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13303 OF MAY 22, 2003, WITH RESPECT TO THE STABILIZATION OF IRAQ—PM 20

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

#### *To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2009.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

BARACK OBAMA.

THE WHITE HOUSE, May 19, 2009.

#### MESSAGES FROM THE HOUSE

#### ENROLLED BILL SIGNED

At 10:49 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 896. An Act to prevent mortgage foreclosures and enhance mortgage credit availability.

The enrolled bill was subsequently signed by the Acting president pro tempore (Mr. REID).

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1088. An Act to amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute.

H.R. 1089. An Act to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

H.R. 1170. An Act to amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new assistive technologies for special adapted housing.

H.R. 2182. An Act to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted pursuant to such Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 120. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes.

The message further announced that pursuant to 22 U.S.C. 3003, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Commission on Security and Cooperation in Europe: Mr. HASTINGS of Florida, Co-Chairman, Mr. MARKEY of Massachusetts, Ms. SLAUGHTER of New York, Mr. MCINTYRE of North Carolina, Mr. BUTTERFIELD of North Carolina, Mr. SMITH of New Jersey, Mr. ADERHOLT of Alabama, Mr. PITTS of Pennsylvania, and Mr. ISSA of California.

At 2:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the

extension of credit under an open end consumer credit plan, and for other purposes.

### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1088. An act to amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute; to the Committee on Veterans' Affairs.

H.R. 1089. To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1170. An act to amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new assistive technologies for specially adapted housing; to the Committee on Veterans' Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 120. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 20, 2009, she had presented to the President of the United States the following enrolled bill:

S. 896. An Act to prevent mortgage foreclosures and enhance mortgage credit availability.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1669. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carbofuran; Final Tolerance Revocations" (FRL-8413-3) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1670. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Iodosulfuron-methyl-sodium; Pesticide Tolerances" (FRL-8412-6) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1671. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, the Department's annual report on Joint Officer Management; to the Committee on Armed Services.

EC-1672. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Clyde A. Vaughn, Army National Guard of the United States, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-1673. A communication from the General Counsel, Department of Defense, transmitting, the report of legislative proposals relative to the National Defense Authorization Bill for Fiscal Year 2010; to the Committee on Armed Services.

EC-1674. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-1675. A communication from the Principal Deputy, Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, a report entitled "Defense Production Act Annual Fund Report for Fiscal Year 2008"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1676. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fair Credit Reporting Affiliate Marketing Regulations; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003" (RIN1557-AD14) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1677. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans, Reasonably Available Control Technology, Reasonably Available Control Measures and Conformity Budgets" (FRL-8905-7) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC-1678. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, Hawaii, and Nevada" (FRL-8905-8) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC-1679. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation" (FRL-8904-5) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC-1680. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Product Rule" (FRL-8908-1) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC-1681. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Minnesota" (FRL-8907-3) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC-1682. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Louisiana: Final Authorization of State Hazardous Waste Management Program Revision" (FRL-8905-4) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC-1683. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule for Monitoring Data Used in Designations for the 2008 Ozone NAAQS" (FRL-8907-1) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC-1684. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Extension of Port Limits of St. Louis, Missouri" (CBP Dec. 09-16) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Finance.

EC-1685. A communication from the Broadcasting Board of Governors, transmitting, pursuant to law, the Board's Annual Report for 2008; to the Committee on Foreign Relations.

EC-1686. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Revision of the Requirements for Publication of License Revocation" (Docket No. FDA-2009-N-0100) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-1687. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Substances Prohibited From Use in Animal Food or Feed; Confirmation of Effective Date of Final Rule; Correction" (RIN0910-AF46) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-1688. A communication from the Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration, Department of Defense, and National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005-32, Technical Amendments" (FAC 2005-32) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1689. A communication from the Assistant Attorney General, Office of Legislative



Affairs, Department of Justice, transmitting, pursuant to law, an annual report on applications made by the Government for authority to conduct electronic surveillance and physical searches during calendar year 2008; to the Committee on the Judiciary.

EC-1690. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Smith Creek at Wilmington, NC" ((RIN1625-AA09)(Docket No. USCG-2008-0302)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1691. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Crewmember Identification Documents" ((RIN1625-AB19)(Docket No. USCG-2007-28648)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1692. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Blue Water Resort and Casino APBA National Tour Rounds 1 & 2; Colorado River, Parker AZ" ((RIN1625-AA00)(Docket No. USCG-2008-1220)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1693. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Mill Creek, Fort Monroe, VA, USNORTHCOM Civic Leader Tour and Aviation Demonstration" ((RIN1625-AA00)(Docket No. USCG-2009-0263)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1694. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Allegheny River, Pittsburgh, PA" ((RIN1625-AA00)(Docket No. USCG-2009-0175)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1695. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa" ((RIN1625-AA00)(Docket No. USCG-2009-0159)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1696. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; St. Thomas Harbor, Charlotte Amalie, U.S.V.I." ((RIN1625-AA00)(Docket No. USCG-2009-0179)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1697. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Allegheny River, Pittsburgh, PA" ((RIN1625-AA00)(Docket No. USCG-2009-

0149)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1698. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Red Bull Air Races; San Diego Bay, San Diego, CA" ((RIN1625-AA00)(Docket No. USCG-2009-0119)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1699. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Alternate Compliance Program: Vessel Inspection" ((RIN1625-AA92)(Docket No. USCG-2004-19823)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1700. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Corrections; Hatteras Boat Parade and Firework Display, Trent River, New Bern, NC" ((RIN1625-AA00)(Docket No. USCG-2008-0309 formerly USCG-2008-0046)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1701. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; IJSBA World Finals, Colorado River, Lake Havasu City, AZ" ((RIN1625-AA00)(Docket No. USCG-2008-0320)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1702. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 2 regulations); [USCG-2008-0245], [USCG-2008-0246]" ((RIN1625-AA00)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1703. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD" ((RIN1625-AA08)(Docket No. USCG-2008-0154)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1704. A communication from the Acting Chairman, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "STB Ex Parte No. 542 (Sub-No. 16) Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2009 Update" (Board Decision No. 39783) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1705. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations;

Derby, Kansas" (MB Docket No. 09-33) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1706. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Promoting Diversification of Ownership in the Broadcasting Services" (MB Docket No. 07-294) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Commerce, Science, and Transportation.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-20. A joint memorial adopted by the Legislature of the State of Washington relative to the United States Fish and Wildlife Service working cooperatively with the state's regulatory agencies and energy producers; to the Committee on Energy and Natural Resources.

### SENATE JOINT MEMORIAL 8001

Whereas, in 2006 the voters passed Initiative No. 937, targets for energy conservation and the use of eligible resources, including wind, by the state's large utilities; and

Whereas, in 2007 the Legislature adopted the goals of reducing greenhouse gas emissions to 1990 levels by 2020, reducing emissions to 25 percent below 1990 levels by 2035, and reducing emissions to 50 percent below 1990 levels by 2050; and

Whereas, during this time of economic uncertainty, the construction and operation of wind and other alternative energy sites presents an opportunity to bring new jobs and valuable economic opportunities to Washington communities; and

Whereas, the increased use of wind and other alternative energy resources produced in Washington will help move the state towards energy independence, and help to decrease the billions of dollars Washingtonians currently pay each year for imported fuel; and

Whereas, the federal endangered species act (16 U.S.C. Sec. 1531 et seq.) can pose significant challenges, including regulatory uncertainty, for those seeking to develop wind and other alternative energy projects in locations that could potentially impact any wildlife listed as threatened or endangered; and

Whereas, the United States Fish and Wildlife Service, housed within the United States Department of the Interior, is the agency with primary responsibility for implementing and enforcing the federal endangered species act;

Now, Therefore, Your Memorialists respectfully pray that the United States Fish and Wildlife Service work cooperatively with the state's regulatory agencies and energy producers to resolve these federal endangered species act issues in a manner that allows the continued development of Washington's wind and other alternative energy resources while at the same time protecting threatened and endangered wildlife.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the Secretary of the Department of the Interior, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.



POM-21. A joint memorial adopted by the Legislature of the State of Washington relative to urging the enactment of legislation to eliminate the 24 month Medicare waiting period for participants in Social Security Disability Insurance; to the Committee on Finance.

#### SENATE JOINT MEMORIAL 8013

Whereas, created in 1965, the federal Medicare program provides health insurance coverage for more than 40 million Americans; although most of those enrolled are senior citizens, approximately 6 million enrollees under the age of 65 have qualified because of permanent and severe disabilities, such as spinal cord injuries, multiple sclerosis, cardiovascular disease, cancer, or other illness or disorder; and

Whereas, despite the physical and financial hardships wrought by these conditions and the fact that Social Security Disability Insurance (SSDI) is designed for individuals with a work history who paid into the social security system before the onset of their disability, federal law mandates a 24 month waiting period from the time a disabled individual first receives SSDI benefits to the time Medicare coverage begins; a prerequisite to Medicare, the SSDI program itself delays benefits for 5 months while the person's disability is determined, effectively creating a 29 month waiting period for Medicare; and

Whereas, this restriction affects a significant number of Americans in need; as of January 2002, there were approximately 1.2 million disabled persons who qualified for SSDI and were awaiting Medicare coverage, many of whom were unemployed because of their disability; consequently, under these conditions, by the time Medicare began, an estimated 77 percent of those individuals would be poor or nearly poor, 45 percent would have incomes below the federal poverty line, and close to 40 percent would be enrolled in state Medicaid programs; and

Whereas, furthermore, it has been estimated that as many as one-third of the individuals currently awaiting coverage may be uninsured and likely to incur significant medical expenses during the 2 year waiting period, often with devastating consequences; studies indicate that the uninsured are likely to delay or forgo needed care, leading to worsening health and even premature death, and the American Medical Association has determined that death rates among SSDI recipients are the highest in the first 24 months of enrollment; and

Whereas, eliminating the 24 month waiting period not only would prevent worsening illness and disability for SSDI beneficiaries, thereby reducing more costly future medical needs and potential longterm reliance on public health care programs, but could also save the Medicaid program as much as 4.3 billion dollars at 2002 program levels, including nearly 1.8 billion dollars in savings to states and 2.5 billion dollars in federal savings that would help offset a substantial portion of the accompanying increase in Medicare expenditures; and

Whereas, recognizing the consequences of the waiting period to those suffering from amyotrophic lateral sclerosis (ALS), or Lou Gehrig's disease, the 106th Congress passed H.R. 5661 in 2000 and eliminated the requirement for enrollees diagnosed with the disease; in passing H.R. 5661, the congress acknowledged the enormous difficulties faced by those diagnosed with severe disabilities and established precedent for the exception to be extended to all the disabled on the Medicare waiting list;

Now, therefore, your Memorialists respectfully urge the United States Congress to enact legislation to eliminate the 24 month Medicare waiting period for participants in Social Security Disability Insurance.

Be it resolved, that copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-22. A joint memorial adopted by the Legislature of the State of Washington relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

#### SENATE JOINT MEMORIAL 8012

Whereas, the Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, became an international treaty on September 3, 1981, and by August 2006, one hundred eighty-five nations including all of the industrialized world, except the United States, have agreed to pursue the Convention's goals; and

Whereas, the United States supports and has a position of leadership in the United Nations, was an active participant in the drafting of the Convention and signed the Convention in 1980, but to date has not ratified it; and

Whereas, the spirit of the Convention is to affirm faith in fundamental human rights, in the dignity and worth of each person, and in the goal of equal rights, opportunities, and protections for women and girls; and

Whereas, the Convention provides a comprehensive framework for advancing the rights, opportunities, and protections for women and girls, half the world's population, which framework is implemented by individual countries in ways appropriate to their own countries; and

Whereas, much research has found that discrimination based on sex results in less education for girls and women, fewer job opportunities and lower pay for women, slower national economic productivity and growth, and retards the ability of developing countries to grow their economies and contribute to global economic recovery; and

Whereas, women in every country play fundamentally important economic roles in their economies and frequently constitute the major economic support for their families; and

Whereas, although women in many parts of the world have made major gains in struggles for equality in social, business, political, legal, education, and other fields, much more needs to be accomplished; and

Whereas, through its active support and moral leadership, the United States can help create a world where women and girls have equal legal protections, human rights, education and economic opportunities, personal safety, health care, and more;

Now, therefore, your Memorialists respectfully pray that President Obama and Secretary Clinton place the United Nations Convention on the Elimination of All Forms of Discrimination Against Women in the highest category of priority in order to accelerate the treaty's passage through the Senate Foreign Relations Committee and the full United States Senate with the goal of ratification by the United States; and that the Washington State Legislature urge the Senate Foreign Relations Committee to pass

this treaty favorably out of Committee and recommend it be approved by the full United States Senate: Be it

*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, Hillary Clinton, Secretary of State, Hilda Solis, Secretary of Labor, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-23. A joint memorial adopted by the Legislature of the State of Washington relative to electronic medical and health records; to the Committee on Health, Education, Labor, and Pensions.

#### SENATE JOINT MEMORIAL 8003

Whereas, expanded health information technology has the potential to revolutionize the delivery of health care in the United States by enabling continuity of care, improving cost efficiency, lowering rates of medical malpractice, decreasing duplicative care, providing better care management for patients, and producing better health outcomes; and

Whereas, major investments in the hardware and software infrastructure required to facilitate the expansion of health information technology are being made now by health care providers; and

Whereas, the health information systems currently being constructed are often incapable of communicating with each other; and

Whereas, the costs to providers of maintaining incompatible systems in the name of proprietary licensing will grow exponentially with every delay in reaching a universal standard of interoperability; and

Whereas, the benefit from health information technology is only derived from the ability of systems to communicate with each other on a fully compatible platform; and

Whereas, a national public-private partnership has recently commenced with leadership from the United States department of health and human services to define standards of interoperability with the goal of implementing electronic health records for all Americans by the year 2014;

Now, therefore, your Memorialists respectfully pray that Congress institute a date certain, no later than January 1, 2013, at which time all vendors, suppliers, and manufacturers of health information technology must comply with a uniform national standard of interoperability, such that all electronic medical and health records can be readily shared and accessed across all health care providers and institutions while at the same time preserving the proprietary nature of health information technology producers that will encourage future innovation and competition: Be it

*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the Secretary of the United States Department of Health and Human Services, the Governor of the State of Washington, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-24. A joint memorial adopted by the Legislature of the State of Washington relative to the issuance of a commemorative stamp by the United States Postal Service; to the Committee on Homeland Security and Governmental Affairs.

## HOUSE JOINT MEMORIAL 4005

Whereas, the Nisei veterans of the Second World War provided the avenue for Japanese-Americans to prove their loyalty to the United States by serving as the ultimate patriots in the Armed Forces; and

Whereas, these veterans served in the 442nd Regimental Combat Team, the 100th Infantry Battalion, and the Military Intelligence Service (MIS); and

Whereas, the 100th Infantry Battalion and 442nd Regimental Combat Team of the United States Army were comprised of Japanese-Americans who fought in Europe during the Second World War; and

Whereas, the 100th Infantry Battalion and 442nd Regimental Combat Team were members of the most highly decorated military unit of its size in the history of the United States Armed Forces, with twenty-one Medal of Honor recipients, numerous Purple Hearts, and many other awards; and

Whereas, tens of thousands of lives were saved because the MIS used their knowledge of Japanese language and culture to help the Allies end the Second World War quickly in the Pacific; and

Whereas, the Nisei veterans' proud American legacy continues, however many Nisei veterans have passed away and those still alive are now in their eighties and nineties; and

Whereas, these Nisei veterans should be publicly commemorated;

Now, therefore, your Memorialists respectfully pray that the United States Postal Service issue a postage stamp in commemoration of the Nisei veterans' service in the United States Armed Forces during the Second World War: Be it

*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each Member of Congress from the State of Washington.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 663. A bill to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building".

H.R. 918. A bill to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the "Stan Lundine Post Office Building".

H.R. 1284. A bill to designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the "Major Ed W. Freeman Post Office".

H.R. 1595. A bill to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the "Brian K. Schramm Post Office Building".

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

\*Lawrence E. Strickling, of Illinois, to be Assistant Secretary of Commerce for Communications and Information.

\*Rebecca M. Blank, of Maryland, to be Under Secretary of Commerce for Economic Affairs.

\*John D. Porcari, of Maryland, to be Deputy Secretary of Transportation.

\*J. Randolph Babbitt, of Virginia, to be Administrator of the Federal Aviation Administration for the term of five years.

\*Aneesh Chopra, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

\*National Oceanic and Atmospheric Administration nominations beginning with Mark H. Pickett and ending with Ryan A. Wartick, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2009.

\*National Oceanic and Atmospheric Administration nominations beginning with Heather L. Moe and ending with Marina O. Kosenko, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2009.

By Mr. KERRY for the Committee on Foreign Relations.

\*Judith A. McHale, of Maryland, to be Under Secretary of State for Public Diplomacy.

\*Robert Orris Blake, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for South Asian Affairs.

By Mr. DODD for Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

\*Seth David Harris, of New Jersey, to be Deputy Secretary of Labor.

\*Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2009.

\*John Q. Easton, of Illinois, to be Director of the Institute of Education Science, Department of Education for a term of six years.

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

\*Marisa J. Demeo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

\*Florence Y. Pan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

\*Cass R. Sunstein, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

\*David Heyman, of the District of Columbia, to be an Assistant Secretary of Homeland Security.

\*Robert M. Groves, of Michigan, to be Director of the Census.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and tes-

tify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. LIEBERMAN):

S. 1081. A bill to prohibit the release of enemy combatants into the United States; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mr. JOHNSON):

S. 1082. A bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 1083. A bill to require that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included so that respondents may indicate Caribbean extraction or descent; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. 1084. A bill to require that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included so that respondents may indicate Dominican extraction or descent; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, Mr. KENNEDY, and Mr. SCHUMER):

S. 1085. A bill to amend the Immigration and Nationality Act to promote family unity, and for other purposes; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1086. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY:

S. 1087. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

By Ms. LANDRIEU:

S. 1088. A bill to authorize certain construction in coastal high hazard areas using assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to

allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Ms. CANTWELL):

S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

By Mr. WYDEN:

S. 1091. A bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1092. A bill to establish a program to provide loans for use in carrying out residential, commercial, industrial, and transportation energy efficiency and renewable generation projects; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1093. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for increasing motor vehicle fuel efficiency, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1094. A bill to amend the Internal Revenue Code of 1986 to provide for an energy carrier production tax credit, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1095. A bill to amend the Clean Air Act to convert the renewable fuel standard into a low-carbon fuel standard, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WYDEN:

S. 1096. A bill to require the Secretary of Energy to establish an EnergyGrant Competitive Education Program to competitively award grants to consortia of institutions of higher education in regions to conduct research, extension, and education programs relating to the energy needs of the region; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1097. A bill to require the Secretary of Energy, in coordination with the Secretary of Labor, to establish a program to provide for workforce training and education, at community colleges, in sustainable energy; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1098. A bill to establish EnergySmart transport corridors to promote the planning and development of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. GRAHAM, and Mr. MCCAIN):

S. 1100. A bill to provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of

title 5, United States Code (commonly referred to as the Freedom of Information Act); to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1101. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a Food Protection Training Institute, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VITTER (for himself, Mr. MCCONNELL, Mr. ENSIGN, Mr. MCCAIN, Mr. COBURN, Mr. INHOFE, Mr. HATCH, Mr. DEMINT, Mr. SESSIONS, Mr. CHAMBLISS, Mr. RISC, Mr. ENZI, Mr. BOND, and Mr. BUNNING):

S. 1103. A bill to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration application forms and to require organizations to register with the State prior to the distribution of such forms; to the Committee on Rules and Administration.

By Mr. INOUE (for himself, Mr. ALEXANDER, Mr. AKAKA, and Mr. KAUFMAN):

S. 1104. A bill to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 1105. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

By Mrs. LINCOLN (for herself, Ms. LANDRIEU, and Mr. BURRIS):

S. 1106. A bill to amend title 10, United States Code, to require the provision of medical and dental readiness services to certain members of the Selected Reserve and Individual Ready Reserve based on medical need, and for other purposes; to the Committee on Armed Services.

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):

S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivors' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. DODD, and Mr. LIEBERMAN):

S. 1108. A bill to require application of budget neutrality on a national basis in the calculation of the Medicare hospital wage index floor for each all-urban and rural State; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 1109. A bill to provide veterans with individualized notice about available benefits, to streamline application processes or the benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by

renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1111. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

By Mr. DODD (for himself and Mr. REED):

S. 1112. A bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. NELSON of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and efficiency in providing medical assistance under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

#### ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 292

At the request of Mr. SPECTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 423

At the request of Mr. AKAKA, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 451

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl

Scouts of the United States of America.

S. 566

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 566, a bill to create a Financial Product Safety Commission, to provide consumers with stronger protections and better information in connection with consumer financial products, and to give providers of consumer financial products more regulatory certainty.

S. 581

At the request of Mr. BENNET, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 597

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 607

At the request of Mr. UDALL of Colorado, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. 607, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

S. 634

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 688

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. DODD) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 693

At the request of Mr. HARKIN, the name of the Senator from New Mexico

(Mr. UDALL) was added as a cosponsor of S. 693, a bill to amend the Public Health Service Act to provide grants for the training of graduate medical residents in preventive medicine.

S. 717

At the request of Mr. CARDIN, his name was added as a cosponsor of S. 717, a bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 717, *supra*.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 796, a bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

S. 801

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 801, a bill to amend title 38, United States Code, to waive charges for humanitarian care provided by the Department of Veterans Affairs to family members accompanying veterans severely injured after September 11, 2001, as they receive medical care from the Department and to provide assistance to family caregivers, and for other purposes.

S. 819

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Georgia (Mr. ISAKSON) and the Senator from Idaho (Mr. CRAPO) were added as co-

sponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 844

At the request of Mr. LAUTENBERG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 844, a bill to amend the Public Health Service Act to prevent and treat diabetes, to promote and improve the care of individuals with diabetes, and to reduce health disparities relating to diabetes within racial and ethnic minority groups, including African-American, Hispanic American, Asian American, Native Hawaiian and Other Pacific Islander, and American Indian and Alaskan Native communities.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 908

At the request of Mr. BAYH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 979

At the request of Mr. DURBIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 982

At the request of Mrs. MCCASKILL, her name was added as a cosponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 1012

At the request of Mr. ISAKSON, his name was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1012, *supra*.

S. 1023

At the request of Mr. DORGAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United

States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1071

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1071, a bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

S. RES. 151

At the request of Mr. BUNNING, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. UDALL), the Senator from Florida (Mr. NELSON) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 151, a resolution expressing support for a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. Res. 151, *supra*.

AMENDMENT NO. 1133

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 1133 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1138

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 1138 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1139

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1139 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1140

At the request of Mr. INHOFE, his name was added as a cosponsor of

amendment No. 1140 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1143

At the request of Mr. RISCH, the name of the Senator from Missouri (Mr. BOND) was withdrawn as a cosponsor of amendment No. 1143 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. RISCH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 1143 proposed to H.R. 2346, *supra*.

AMENDMENT NO. 1144

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 1144 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1086. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. President, I rise to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators DORGAN, GRASSLEY, and JOHNSON. The Packers and Stockyards Act of 1921 was enacted at a time when there was significant concentration in the livestock and poultry industry. That law has since provided livestock producers, the family farmers and ranchers of our country, with a remedy to protect themselves against manipulative and anti-competitive practices in the marketplace. However, since the early 1920s our domestic livestock industry has changed significantly and so too have the ways in which producers market their livestock. Gone are the days when a simple handshake between buyer and seller was all you needed. Changes in marketing have introduced new ways for bad actors to manipulate prices and this legislation is designed to strengthen the laws originally enacted in the Packers and Stockyards Act.

It is no secret that the packing industry in the U.S. has again become increasingly consolidated. In 1985, the four largest packers accounted for 39

percent of all cattle slaughtered in the U.S. Twenty years later, the top four firms controlled over 69 percent of the domestic cattle slaughter and this statistic does not even include the acquisitions that have taken place in the industry since 2007. Being big in agriculture is not bad, but it does present opportunities for a select few to manipulate the market for their own gain. The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate local market prices. First, the legislation requires that forward contracts contain a "firm base price" which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale beef market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock producers from coast to coast are finding that with consolidation there are fewer and fewer buyers for their animals and their options for marketing

too are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation also carefully targets the problem—large packers owning captive supplies—by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer's ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. Ranchers aren't asking for a handout. What I am asking for is a level-playing field and an equal opportunity for our ranchers to succeed. I am pleased to say that I am joined by my colleagues on both sides of the aisle in working to address this problem. I encourage my other colleagues to support the Livestock Marketing Fairness Act and to join me in giving ranchers an honest chance to make a living.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1087

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Livestock Marketing Fairness Act".

#### SEC. 2. PURPOSE.

The purpose of the amendments made by this Act is to prohibit the use of certain anti-competitive forward contracts—

- (1) to require a firm base price in forward contracts and marketing agreements; and
- (2) to require that forward contracts be traded in open, public markets.

#### SEC. 3. LIMITATION ON USE OF ANTI-COMPETITIVE FORWARD CONTRACTS.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by striking "Sec. 202. It shall be" and inserting the following:

##### "SEC. 202. UNLAWFUL PRACTICES.

- "(a) IN GENERAL.—It shall be";
- (2) by striking "to:" and inserting "to—";
- (3) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (7), and (8), respectively, and indenting appropriately;
- (4) in paragraph (7) (as redesignated by paragraph (3)), by designating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(5) in paragraph (8) (as redesignated by paragraph (3)), by striking "subdivision (a), (b), (c), (d), or (e)" and inserting "paragraph (1), (2), (3), (4), (5), or (6)";

(6) in each of paragraphs (1), (2), (3), (4), (5), (7), and (8) (as redesignated by paragraph (3)), by striking the first capital letter of the first word in the paragraph and inserting the same letter in the lower case;

(7) in each of paragraphs (1) through (5) (as redesignated by paragraph (3)), by striking "or" at the end;

(8) by inserting after paragraph (5) (as redesignated by paragraph (3)) the following:

"(6) except as provided in subsection (c), use, in effectuating any sale of livestock, a forward contract that—

"(A) does not contain a firm base price that may be equated to a fixed dollar amount on the day on which the forward contract is entered into;

"(B) is not offered for bid in an open, public manner under which—

"(i) buyers and sellers have the opportunity to participate in the bid; and

"(ii) buyers and sellers may witness bids that are made and accepted;

"(C) is based on a formula price; or

"(D) subject to subsection (b), provides for the sale of livestock in a quantity in excess of—

"(i) in the case of cattle, 40 cattle;

"(ii) in the case of swine, 30 swine; and

"(iii) in the case of other types of livestock, a comparable quantity of the type of livestock determined by the Secretary."; and

(9) by adding at the end the following:

"(b) ADJUSTMENTS.—The Secretary may adjust the maximum quantity of livestock described in subsection (a)(6)(D) to reflect advances in marketing and transportation capabilities if the adjusted quantity provides reasonable market access for all buyers and sellers.

"(c) EXEMPTION FOR COOPERATIVES.—Subsection (a)(6) shall not apply to—

"(1) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

"(A) own, feed, or control livestock; and

"(B) provide the livestock to the cooperative for slaughter;

"(2) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

"(3) a packer that owns 1 livestock processing plant.".

(b) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)) is amended by adding at the end the following:

"(15) FIRM BASE PRICE.—The term 'firm base price' means a transaction using a reference price from an external source.

"(16) FORMULA PRICE.—

"(A) IN GENERAL.—The term 'formula price' means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date after the day the forward price is established.

"(B) EXCLUSION.—The term 'formula price' does not include—

"(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or

"(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

"(17) FORWARD CONTRACT.—The term 'forward contract' means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for—

"(A) a specified lot of livestock; or

"(B) a specified number of livestock over a certain period of time.".

By Mr. KERRY:

S. 1087. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Energy Fairness for America Act which repeals tax incentives for the oil and gas industry. This is the third consecutive Congress in which I have introduced this legislation. Some of the provisions of prior versions of my legislations were enacted last year, but more can be done. At a time when we are trying to incentivize clean energy, we should not continue to provide unnecessary tax incentives to the oil and gas industry.

The Energy Fairness for America Act would repeal the section 199 manufacturing deduction for income attributable to domestic production of oil and gas. The domestic manufacturing deduction was designed to replace export-related tax benefits that were successfully challenged by the European Union. Producers of oil and gas did not benefit from this tax break. Initial legislation proposed to address the repeal of the export-related tax benefits and to replace them with a new domestic manufacturing deduction. That legislation only provided the deduction to industries that benefited from the export-related tax benefits. However, the final product extended the deduction to include the oil and gas industry as well.

The tax code provides numerous other preferences to the oil and gas industry. This legislation would repeal provisions that do not promote low-carbon energy sources and further our addiction to oil. The Energy Fairness for America Act would repeal the credit for the crude oil and natural gas produced from marginal wells, expensing of intangible drilling costs and 60-month amortization and capitalized intangible drilling costs, exception from the passive loss rules for working interests in oil and gas properties, and percentage depletion for oil and gas wells. In addition, it would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with oil and gas exploration in the U.S.

This legislation will help align our tax code with our broader energy goals. Our focus should be on lowering carbon emissions and encouraging renewable energy sources, not rewarding the oil and gas industry. I urge my colleagues



to join me in eliminating these unnecessary tax breaks.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this Nation and this body have debated divisive trade issues for more than a century. In the 1820s, the cotton, indigo, and rice exporting southern States quarreled with northern States intent on protecting nascent manufacturing. In the 1930s, President Hoover's appeals to save American jobs brought the Smoot-Hawley tariff.

Since the Second World War, America has moved to open the world's markets and our own. We are better for it. But divisive trade debates do and will continue. Few debates have been as long and contentious as those regarding our economic sanctions on Cuba.

I am introducing legislation today to bring this divisive debate to an end. I do so not as an ideologue or a partisan. I am neither the Cuban government's friend nor its staunchest enemy. I instead am a Montanan. Like most Montanans, I take no pleasure in disagreement. Like most Montanans, I try to make a deal when I can. Like most Montanans, I stick to the facts.

Here is how I see the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from \$1 million to as much as \$13 million. Lifting these restrictions could allow agricultural exporters in States like North Dakota and Arkansas to obtain nearly 70 percent of Cuba's wheat market, nearly 40 percent of its rice market, and more than 90 percent of its poultry market. Lifting these restrictions could allow America's farmers and ranchers to export as much as \$1.2 billion in total agricultural goods to Cuba.

The facts also show that European and other exporters already reap these benefits. Europe has scrapped its Cuba

sanctions. Just last week, EU officials were in Havana calling for full normalization of ties. Those officials made no secret of wanting to solidify ties with Cuba now to get the jump on the U.S.

Those are the facts as I see them. But that is not all I see. I am not blind to the Cuban people's suffering or the crimes of their government. I am not deaf to the calls for political and religious freedom just 90 miles off our shores. But I also see that increased trade ties historically have led to improved political ties, whether between Argentina and Brazil in this hemisphere or between former rival nations in Europe.

Am I certain that increased trade will improve our political ties with Cuba? I am not. But I am certain that we have had these sanctions in place for over 5 decades. I am certain that five decades of sanctions have made no Cuban freer, no nation more prosperous, and no government more democratic. I am certain that one side has gotten its chance and its way. I am certain that the status quo must now change.

Here is how I propose to change our status quo with Cuba. My bill, which 15 other Democratic and Republic Senators have joined, would help U.S. farmers and ranchers sell their products to Cuba by facilitating cash payment for agricultural goods, authorizing direct transfers between U.S. and Cuban banks, and creating a U.S. agricultural export promotion fund. This bill also eases restrictions on exports of medicines and medical devices. It allows all Americans to travel to Cuba—not just one particular group.

John Stuart Mill wrote that "Commerce first taught nations to see with goodwill the wealth and prosperity of one another. Before, the patriot . . . wished all countries weak, poor, and ill-governed but his own . . ." For too long, America has stood atop our barricade of sanctions and looked down upon a weak, poor, and ill-governed Cuba. Let us now open our commerce with Cuba. Let us wish them wealth, prosperity, and an abundance of all that we value and hold dear in America.

By Mr. WYDEN (for himself and Ms. CANTWELL):

S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise to discuss the subject of U.S. energy policy and to introduce a series of bills to address this issue, S. 1090–S. 1098.

Americans consume too much oil, and they pay too high a price for it. National security pays a price. The environment pays a price and the economy clearly pays a price. It's clear that Americans can no longer afford the energy policy of the status quo.

Last summer, when crude oil prices approached \$150 dollars a barrel, Americans were sending roughly \$1.7 billion dollars a day to foreign countries to pay to cover their addiction to oil. That's \$1.7 billion a day that was not invested here at home. Rather it went into the pockets of oil producers in foreign countries—and often to countries that oppose America's interests and undermine American security. A third of the oil Americans use comes from the OPEC oil cartel—a cartel that includes governments who are either openly hostile to the United States or who provide a haven and support to those who are. American dependence on their oil is a recipe for disaster.

Oil prices have retreated, but America's addiction to oil has not let up. The Nation's transportation system is almost entirely fueled by it. When the price of oil goes up, transportation costs go up, which means shipping costs and the cost of everything that has to be shipped goes up right along with it.

On top of all the other faults oil brings with it, burning fossil fuels is bad for our health and the health of our planet. Burning fossil fuels produces 86 percent of the man-made greenhouse gases released into the environment every year in the U.S. Motor fuels have become cleaner over the years, but they still heat up the environment with greenhouse gases, just like burning coal at electric generation plants. Continuing to rely on energy sources that do harm to the air, land and water is a failed policy and bad for America's future.

Spelling out the problem, however, is the easy part. There is no silver bullet when it comes to remaking the way the entire nation consumes energy and encouraging the development of viable alternatives. No one person, organization or piece of legislation can do it alone.

If America is going to get on the path to real energy independence, Americans not only have to build that path, every American is going to have to commit to changing course in the way they use energy. While I believe that Government cannot simply legislate such transformative change, it is my view that government can provide the incentives and framework needed to empower Americans to rise to the challenge.

While I cannot tell you where the next advancement in green energy will come from, I know that given the right tools and incentives there is no limit to what American ingenuity can achieve. This is why today I am offering a series of proposals to speed up our progress toward a cleaner energy future. My proposals address the spectrum of solutions needed to get there. They start with harnessing the intellectual power of our colleges and universities to invent new energy technologies. They create new incentives



for businesses to turn those technologies into new energy products. They give consumers incentives to buy and install those new energy technologies in their homes and businesses.

If America is going to cut back in its use of oil, then it needs to take a hard look at the single largest user of oil, the transportation sector. Today, I am proposing a three-pronged program to dramatically reduce the amount of oil Americans use every day to get to work, do their errands, and transport American products to market.

First, I propose to dramatically revise the Renewable Fuel Standard that now requires gasoline and diesel fuel providers to blend larger and larger amounts of ethanol and other biofuels into motor fuel. I strongly support the continued development of biofuels, especially those that do not require the use of food grains like corn and oils used to make them. But as we have seen in recent years, you cannot divert large amounts of food grains and oils without impacting the supply and price of those commodities. Last year, nearly a third of the U.S. corn crop was used for ethanol production, leading to more expensive food for families at a time when they can least afford it. That does not make sense to me.

The current standard also does not do enough to genuinely reduce the amount of oil being consumed. In part this is because fuels like ethanol simply do not contain as much energy per gallon as the gasoline it is intended to replace. The existing standard is aimed at replacing less than 15 percent of U.S. gasoline and diesel fuel with renewable fuels. I think we can do better, which is why my proposal aims to replace a third of those fuels with new low-carbon fuels. Right now a third of the United States gasoline is imported from OPEC countries. Let us aim to get this country off OPEC oil once and for all.

I want to make it clear that I am not proposing these changes because I am opposed to using renewable fuels. I have already introduced legislation—S. 536—to allow biomass from Federal lands to be used in the production of biofuels. Under the existing Renewable Fuel Standard, biomass from Federal lands is prohibited from being used as a renewable fuel. This makes no sense from either an energy perspective or an environmental perspective. Allowing for the use of fuel derived from biomass from Federal lands will reduce the threat of catastrophic wild fires, help make those forests healthier, and open up a variety of economic opportunities for hard hit rural communities. It is also a step towards a sound national energy policy.

However, if the U.S. is going to have a Renewable Fuel Standard for motor fuels, then it really ought to be a standard open to all renewable fuels, not just a chosen few. This is why my

legislation would allow a range of energy sources to qualify as motor “fuels” including electricity for plug-in cars, methane to fuel compressed natural gas vehicles, and hydrogen for fuel cells. Initially, these low-carbon fuels could come from conventional sources, such as electricity from the electric grid, but eventually they would need to come from renewable energy sources.

Singling out ethanol as the only additive approved for motor fuel only creates a market for ethanol, which in turn discourages research and investment in other promising fuels. Creating a technology neutral “low-carbon” standard to replace traditional fossil fuels with alternative lower-carbon domestic fuels opens the door for a whole host of advancements and innovations yet unknown.

In addition to supplying new, cleaner, renewable transportation fuels, I will also be introducing legislation to authorize the U.S. Department of Transportation to designate “Energy Smart Transportation Corridors” so that these fuels will be readily available for consumers. By working with trucking companies, fuel providers, and State and local officials, the Transportation Department would establish which alternative fuels would be available and where they could be purchased. They would standardize other features such as weight limit standards geared towards reducing fossil fuel use and the release of greenhouse gases. The corridors would also include designation of other methods of freight and passenger transportation, such as rail or mass transit—to help reduce transportation fuel use.

Beyond empowering Americans to make more energy efficient choices, my legislation would make sure that energy efficient choices are within the reach of more Americans. Because I believe that energy efficient vehicles should not just be a luxury item for affluent Americans, I will be reintroducing legislation to provide tax credits to Americans who purchase fuel efficient vehicles. Vehicles getting at least 10 percent more than national average fuel efficiency would get a \$900 tax credit. The credit would increase up to \$2,500 as vehicle fuel efficiency increased. The bill also provides a tax credit for heavy truck owners to install fuel saving equipment. And it would increase both the gas guzzler tax and the civil penalty for vehicle manufacturers who miss their legally-required Corporate Average Fuel Economy, CAFE, requirements. The technology-neutral tax credit is designed to get more fuel-efficient vehicles on the road by making fuel-efficient vehicles an affordable choice for more Americans.

But reducing oil use by the transportation sector alone is not enough. Some forty percent of energy use in the U.S. is consumed in buildings. So I am

introducing legislation to empower American families—as well as small and mid-sized businesses—to save energy and install clean energy equipment. The “Re-Energize America Loan Program” will create a \$10 billion revolving loan program to allow home and property owners and small and mid-sized businesses, schools, hospitals and others to make clean energy investments. This zero-interest loan program would be administered at the State level, not by bureaucrats in Washington, DC, so it will be tailored to regional needs. It would be financed through the transfer of Federal energy royalties paid on the production of coal, gas and oil, and renewable energy from Federal land. It would empower Americans and businesses to help themselves and help their country start laying the groundwork for an entirely different energy future.

States like Oregon have enormous potential for development of renewable energy—solar, wind, geothermal, biomass, wave and tidal. The challenge is to find new ways to harness these energies. Renewable energy is also not just about fuel that goes into cars or electricity for homes or buildings. Renewable energy can also be used to heat homes and buildings, and power factories and businesses. So I am introducing legislation to provide tax credits for the production of energy from renewable sources, such as steam from geothermal wells, or biogas from feedlots or dairy farms that is sold directly to commercial and industrial customers. A separate credit would be available if this renewable energy is used right on site to heat a building or provide energy for the dairy.

The goal of this bill is to foster the development of new renewable energy technologies while expanding the market for renewable energy beyond the wind farms and electric generation plants already in place. The amount of the tax credit will no longer be tied to the way energy is produced but rather the amount of energy produced. This will help new energy technologies get in the game, and reward solutions that create the most energy. I am also introducing legislation to end the current tax penalty on biomass, hydroelectric, wave and tidal energies and other forms of renewable energy that are only eligible for half of the available Federal production tax credit. America needs all of these resources if it is going to move into a new energy future. My goal is to create a level playing field and give all of these technologies the full tax benefit in order to stimulate investment and get more renewable energy projects built.

One big advantage of renewable energy is that some form of it can be found on every corner, and in every corner of the country. Whether it's a

solar panel on a home or store—or geothermal power plant—there is renewable energy potential virtually everywhere. One set of technologies that can make renewable energy even more available are energy storage technologies. These are solutions that can store solar energy during the day for use at night, or store wind energy when the wind blows, to be used when it does not.

Simply put, not enough attention has been paid to the use of energy storage technologies, which can also address daily and seasonal peaks in energy demand such as all of those air conditioners that Americans will soon be putting to good use during the summer's hottest days. Federal funding for energy storage technologies has been virtually nonexistent. So I am introducing legislation to create an investment tax credit that will help pay for the installation of energy storage equipment both by energy companies who connect it to the electric transmission and distribution system and for on-site use in buildings, homes, and factories. Any number of different types of storage technology can qualify—batteries, flywheels, pumped water storage, to name a few. The credit would be based on the energy stored, not on the technology used.

The goal throughout the bills I am introducing today is not to pick winners and losers. The goal is to encourage innovation and installation.

Last but not least, America not only needs new solutions to our energy problems. It needs a skilled workforce to make them a reality. So, I am also proposing an "Energy Grant" Higher Education program to provide \$300 million a year to America's colleges and universities to work on regional energy problems. This program is modeled on the highly successful SeaGrant research and education program that has been run by the U.S. Department of Commerce for more than 30 years and the SunGrant program established to research biofuels. The EnergyGrant program would fund groups of colleges and universities to do research and develop education programs aimed at unique opportunities and challenges in each region of the country. Why rely solely on the Federal Government research programs to come up with solutions for regional energy issues when labs and research departments at colleges and universities around the country can contribute to the effort?

The Senate Energy Committee has already adopted legislation I have proposed to create a \$100 million a year, community college-based training program for skilled technicians to build, install and maintain the new American energy infrastructure of wind turbines, geothermal energy plants, fuel cells, and other 21st Century technologies. Without these skilled workers, this future will not happen and without effec-

tive training programs there won't be skilled workers to fill the jobs. I am also introducing this proposal as a stand-alone bill to help ensure that job training gets the attention that it needs. What good will "green jobs" do for Americans if Americans don't have the skills that these jobs will demand?

My goal in formulating this agenda has been to mobilize Americans and American resources to achieve authentic energy independence and a new energy future. To really accomplish this goal, I believe we must employ every tool at our disposal. But in the end the success or failure of any effort to transform the way Americans use energy will ultimately rest with the American people. There is no question that this will not be easy, but I have faith that the energy challenges facing the nation today are no match for the collective ingenuity, talent and energy of the American people. Let us put those resources to work.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 1090

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Renewable Energy Parity and Investment Remedy Act" or "REPAIR Act".

#### SEC. 2. TAX CREDIT PARITY FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

Subparagraph (A) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended by inserting "and before 2010" after "any calendar year after 2003".

S. 1091

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Storage Technology of Renewable and Green Energy Act of 2009" or the "STORAGE Act of 2009".

#### SEC. 2. ENERGY INVESTMENT CREDIT FOR ENERGY STORAGE PROPERTY CONNECTED TO THE GRID.

(a) 20 PERCENT CREDIT ALLOWED.—Subparagraph (A) of section 48(a)(2) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subclause (IV) of clause (i),

(2) by striking "clause (i)" in clause (ii) and inserting "clause (i) or (ii)",

(3) by redesignating clause (ii) as clause (iii), and

(4) by inserting after clause (i) the following new clause:

"(ii) 20 percent in the case of qualified energy storage property, and".

(b) QUALIFIED ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) QUALIFIED ENERGY STORAGE PROPERTY.—

"(A) IN GENERAL.—The term 'qualified energy storage property' means property—

"(i) which is directly connected to the electrical grid, and

"(ii) which is designed to receive electrical energy, to store such energy, and to convert such energy to electricity and deliver such electricity for sale.

Such term may include hydroelectric pumped storage and compressed air energy storage, regenerative fuel cells, batteries, superconducting magnetic energy storage, flywheels, thermal, and hydrogen storage, or combination thereof.

"(B) MINIMUM CAPACITY.—The term 'qualified energy storage property' shall not include any property unless such property in aggregate—

"(i) has the ability to store at least 2 megawatt hours of energy, and

"(ii) has the ability to have an output of 500 kilowatts of electricity for a period of 4 hours.

"(C) ELECTRICAL GRID.—The term 'electrical grid' means the system of generators, transmission lines, and distribution facilities which—

"(i) are under the jurisdiction of the Federal Energy Regulatory Commission or State public utility commissions, or

"(ii) are owned by—

"(I) a State or any political subdivision of a State,

"(II) an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or

"(III) any agency, authority, or instrumentality of any one or more of the entities described in subclause (I) or (II), or any corporation which is wholly owned, directly or indirectly, by any one or more of such entities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE GRID ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 54C(d) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a facility which is—

"(A)(i) a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

"(ii) a qualified energy storage property (as defined in section 48(c)(5)), and

"(B) owned by a public power provider, a governmental body, or a cooperative electric company."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

#### SEC. 4. ENERGY INVESTMENT CREDIT FOR ON-SITE ENERGY STORAGE.

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "and" at the end of subclause (III),

(2) by inserting "and" at the end of subclause (IV), and

(3) by adding at the end the following new subclause:

“(V) qualified onsite energy storage property.”.

(b) **QUALIFIED ONSITE ENERGY STORAGE PROPERTY.**—Subsection (c) of section 48 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(6) **QUALIFIED ONSITE ENERGY STORAGE PROPERTY.**—

“(A) **IN GENERAL.**—The term ‘qualified onsite energy storage property’ means property which—

“(i) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

“(ii) is designed and used primarily to receive and store intermittent renewable energy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.

“(B) **MINIMUM CAPACITY.**—The term ‘qualified onsite energy storage property’ shall not include any property unless such property in aggregate—

“(i) has the ability to store the energy equivalent of at least 20 kilowatt hours of energy, and

“(ii) has the ability to have an output of the energy equivalent of 5 kilowatts of electricity for a period of 4 hours.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### **SEC. 5. CREDIT FOR RESIDENTIAL ENERGY STORAGE EQUIPMENT.**

(a) **CREDIT ALLOWED.**—Subsection (a) of section 25C of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) 30 percent of the amount paid or incurred by the taxpayer for qualified residential energy storage equipment installed during such taxable year, and”.

(b) **QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.**—

(1) **IN GENERAL.**—Section 25C of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively, and

(B) by inserting after subsection (d) the following new subsection:

“(d) **QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.**—For purposes of this section, the term ‘qualified residential energy storage equipment’ means property—

“(1) which is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121), or on property owned by the taxpayer on which such a dwelling unit is located, and

“(2) which—

“(A) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

“(B) is designed and used primarily to receive and store intermittent renewable en-

ergy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.”.

(2) **CONFORMING AMENDMENT.**—Section 1016(a)(33) of such Code is amended by striking “section 25C(f)” and inserting “section 25C(g)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

S. 1092

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Reenergize America Loan Program Act of 2009”.

#### **SEC. 2. REENERGIZE AMERICA LOAN PROGRAM.**

(a) **DEFINITIONS.**—In this section:

(1) **FUND.**—The term “Fund” means the Reenergize America Loan Program Fund established by subsection (g).

(2) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) **PROGRAM.**—The term “Program” means the Green America Loan Program established by subsection (b).

(4) **QUALIFIED PERSON.**—The term “qualified person” means an individual or entity that is determined to be capable of meeting all terms and conditions of a loan provided under this section based on the criteria and procedures approved by the Secretary in a plan submitted under subsection (d).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(6) **STATE.**—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) any other territory or possession of the United States; and
- (E) an Indian tribe.

(b) **ESTABLISHMENT.**—There is established within the Department of Energy a revolving loan program to be known as the “Reenergize America Loan Program”.

(c) **ALLOCATIONS TO STATES.**—

(1) **IN GENERAL.**—In carrying out the Program, the Secretary shall allocate funds to States for use in providing zero-interest loans to qualified persons to carry out residential, commercial, industrial, and transportation energy efficiency and renewable generation projects contained in State energy conservation plans submitted and approved under sections 362 and 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322, 6323), respectively.

(2) **ADMINISTRATIVE EXPENSES.**—A State that receives an allocation of funds under this subsection may impose on each qualified person that receives a loan from the allocated funds of the State administrative fees to cover the costs incurred by the State in administering the loan.

(3) **REPAYMENT AND RETURN OF PRINCIPAL.**—Return of principal from loans provided by a State may be retained by the State for the purpose of making additional loans pursuant to—

(A) a plan approved by the Secretary under subsection (d); and

(B) such terms and conditions as the Secretary considers appropriate to ensure the financial integrity of the Program.

(d) **APPLICATION.**—A State that seeks to receive an allocation under this section shall—

(1) submit to the Secretary for review and approval a 5-year plan for the administration and distribution by the State of funds from the allocation, including a description of criteria that the State will use to determine the qualifications of potential borrowers for loans made from the allocated funds;

(2) agree to submit to annual audits with respect to any allocated funds received and distributed by the State; and

(3) reapply for a subsequent allocation at the end of the 5-year period covered by the plan.

(e) **ALLOCATION.**—In approving plans submitted by the States under subsection (d) and allocating funds among States under this section, the Secretary shall consider—

(1) the likely energy savings and renewable energy potential of the plans; and

(2) regional energy needs; and

(3) the equitable distribution of funds among regions of the United States.

(f) **MAXIMUM AMOUNT; TERM.**—A loan provided by a State using funds allocated under this section shall be—

(1) in an amount not to exceed \$5,000,000; and

(2) for a term of not to exceed 4 years.

(g) **REENERGIZE AMERICA LOAN PROGRAM FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund, to be known as the “Reenergize America Loan Program Fund”, consisting of such amounts as are transferred to the Fund under paragraph (2).

(2) **TRANSFERS TO FUND.**—From any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil, gas, coal, or alternative energy leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Mineral Leasing Act (30 U.S.C. 181 et seq.) that are deposited in the Treasury, and after distribution of any funds described in paragraph (3), there shall be transferred to the Fund \$1,000,000,000 for each of fiscal years 2010 through 2020.

(3) **PRIOR DISTRIBUTIONS.**—The distributions referred to in paragraph (2) are those required by law—

(A) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(B) to other funds receiving amounts from Federal oil and gas leasing programs, including—

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

(iii) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(iv) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a).

(4) **EXPENDITURES FROM FUND.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines to be necessary to provide allocations to States under subsection (c).

(B) **ADMINISTRATIVE EXPENSES.**—An amount not exceeding 5 percent of the amounts in

the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

(5) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) FUNDING.—Notwithstanding any other provision of law, for each of fiscal years 2010 through 2020, the Secretary shall use to carry out the Program such amounts as are available in the Fund.

S. 1093

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the “Oil Independence, Limiting Subsidies, and Accelerating Vehicle Efficiency Act” or the “OILSAVE Act”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by inserting after section 30D the following new section:

**“SEC. 30E. FUEL-EFFICIENT MOTOR VEHICLE CREDIT.**

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount determined under paragraph (2) with respect to any new qualified fuel-efficient motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to—

“(A) in the case of any vehicle manufactured in model year 2011, the applicable amount determined in accordance with the table contained in paragraph (3), and

“(B) in the case of any passenger automobile or non-passenger automobile manufactured in a model year after 2011, the lesser of—

“(i) the sum of—

“(I) \$900, plus

“(II) \$100 for each whole mile per gallon in excess of 110 percent of the respective industry-wide average fuel economy standard for such model year for all passenger automobiles and all non-passenger automobiles, or

“(ii) \$2,500.

“(3) APPLICABLE AMOUNT.—For purposes of paragraph (2)(A), the applicable amount shall be determined as follows:

“(A) In the case of a passenger automobile which achieves:

“The fuel economy of:	The applicable amount is:
At least 33.2 but less than 34.2 ..	\$900.
At least 34.2 but less than 35.2 ..	\$1,000.
At least 35.2 but less than 36.2 ..	\$1,100.
At least 36.2 but less than 37.2 ..	\$1,200.
At least 37.2 but less than 38.2 ..	\$1,300.
At least 38.2 but less than 39.2 ..	\$1,400.
At least 39.2 but less than 40.2 ..	\$1,500.
At least 40.2 but less than 41.2 ..	\$1,600.
At least 41.2 but less than 42.2 ..	\$1,700.
At least 42.2 but less than 43.2 ..	\$1,800.
At least 43.2 but less than 44.2 ..	\$1,900.
At least 44.2 but less than 45.2 ..	\$2,000.
At least 45.2 but less than 46.2 ..	\$2,100.
At least 46.2 but less than 47.2 ..	\$2,200.
At least 47.2 but less than 48.2 ..	\$2,300.
At least 48.2 but less than 49.2 ..	\$2,400.
At least 49.2 .....	\$2,500.

“(B) In the case of a non-passenger automobile which achieves:

“The fuel economy of:	The applicable amount is:
At least 26.5 but less than 27.5 ..	\$900.
At least 27.5 but less than 28.5 ..	\$1,000.
At least 28.5 but less than 29.5 ..	\$1,100.
At least 29.5 but less than 30.5 ..	\$1,200.
At least 30.5 but less than 31.5 ..	\$1,300.
At least 31.5 but less than 32.5 ..	\$1,400.
At least 32.5 but less than 33.5 ..	\$1,500.
At least 33.5 but less than 34.5 ..	\$1,600.
At least 34.5 but less than 35.5 ..	\$1,700.
At least 35.5 but less than 36.5 ..	\$1,800.
At least 36.5 but less than 37.5 ..	\$1,900.
At least 37.5 but less than 38.5 ..	\$2,000.
At least 38.5 but less than 39.5 ..	\$2,100.
At least 39.5 but less than 40.5 ..	\$2,200.
At least 40.5 but less than 41.5 ..	\$2,300.
At least 41.5 but less than 42.5 ..	\$2,400.
At least 42.5 .....	\$2,500.

“(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.—For purposes of this section, the term ‘new qualified fuel-efficient motor vehicle’ means a passenger automobile or non-passenger automobile—

“(1) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

“(2) which—

“(A) in the case of a passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all passenger automobiles, and

“(B) in the case of a non-passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all non-passenger automobiles,

“(3) which has a gross vehicle weight rating of less than 14,000 pounds,

“(4) the original use of which commences with the taxpayer,

“(5) which is acquired for use or lease by the taxpayer and not for resale, and

“(6) which is made by a manufacturer during the period beginning with model year 2011 and ending with model year 2020.

“(c) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—

“(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

“(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, and 30D) and section 27 for the taxable year.

“(d) OTHER DEFINITIONS.—For purposes of this section—

“(1) MANUFACTURER.—The term ‘manufacturer’ has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(2) MODEL YEAR.—The term ‘model year’ has the meaning given such term under section 32901(a) of such title 49.

“(3) MOTOR VEHICLE.—The term ‘motor vehicle’ means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

“(4) FUEL ECONOMY; AVERAGE FUEL ECONOMY STANDARD.—The terms ‘fuel economy’ and ‘average fuel economy standard’ have the meanings given such terms under section 32901 of such title 49.

“(e) SPECIAL RULES.—

“(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

“(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified fuel-efficient motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle.

“(3) CREDIT MAY BE TRANSFERRED.—

“(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

“(i) the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)), and

“(ii) a notification that the taxpayer will not be eligible for any credit under section 30, 30B, or 30D with respect to such vehicle unless the taxpayer elects not to have this section apply with respect to such vehicle.

“(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

“(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

“(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable

under subsection (a) with respect to any property referred to in section 50(b)(1).

“(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

“(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

“(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

“(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

“(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

“(f) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.”

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

“(i) the credit determined under section 30E.”

(2) PERSONAL CREDIT.—

(A) Section 24(b)(3)(B) is amended by striking “and 30D” and inserting “30D, and 30E”.

(B) Section 25(e)(1)(C)(ii) is amended by inserting “30E,” after “30D.”

(C) Section 25B(g)(2) is amended by striking “and 30D” and inserting “30D, and 30E”.

(D) Section 26(a)(1) is amended by striking “and 30D” and inserting “30D, and 30E”.

(E) Section 904(i) is amended by striking “and 30D” and inserting “30D, and 30E”.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(a) is amended by striking “plus” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, plus”, and by adding at the end the following new paragraph:

“(36) the portion of the new qualified fuel-efficient motor vehicle credit to which section 30E(c)(1) applies.”

(2) Section 1016(a) is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph:

“(38) to the extent provided in section 30E(e)(1).”

(3) Section 6501(m) is amended by inserting “30E(e)(6),” after “30D(e)(4).”

(4) The table of section for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30D the following new item:

“Sec. 30E. Fuel-efficient motor vehicle credit.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

### SEC. 3. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

### “SEC. 45R. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

“(a) GENERAL RULE.—For purposes of section 38, the fuel savings tax credit determined under this section for the taxable year is an amount equal to the applicable percentage of the amount paid or incurred for 1 or more qualifying fuel savings components placed in service on a qualifying vehicle by the taxpayer during the taxable year.

“(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to the sum of—

“(1) 5 percent, plus

“(2) 5 percentage points (not to exceed 45 percentage points), for each percent in excess of 2 percent by which the fuel economy achieved by the qualifying vehicle with 1 or more qualifying fuel savings components exceeds such qualifying vehicle without such component or components.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFYING FUEL SAVINGS COMPONENT.—The term ‘qualifying fuel savings component’ means any device or system of devices that—

“(A) is installed on a qualifying vehicle,

“(B) is designed to increase the fuel economy of such vehicle by at least 2 percent, the amount of such increase to be verified by the Administrator of the Environmental Protection Agency under the SmartWay Transport Partnership,

“(C) the original use of which commences with the taxpayer,

“(D) is acquired for use by the taxpayer and not for resale, and

“(E) has not been taken into account for purposes of determining the credit under this section for any preceding taxable year with respect to such qualifying vehicle.

“(2) QUALIFYING VEHICLE.—The term ‘qualifying vehicle’ means any vehicle subject to transportation fuels regulations under the Clean Air Act.

“(3) FUEL ECONOMY.—The term ‘fuel economy’ has the meaning given such term under section 32901 of such title 49.

“(d) SPECIAL RULES.—

“(1) NO DOUBLE BENEFIT.—

“(A) REDUCTION IN BASIS.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (a), the basis of such property shall be reduced by the amount of the credit so determined.

“(B) OTHER DEDUCTIONS AND CREDITS.—The amount of any deduction or other credit allowable under this chapter for a qualifying vehicle shall be reduced by the amount of credit allowed under subsection (a) with respect to such vehicle.

“(2) CREDIT MAY BE TRANSFERRED.—

“(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a qualifying fuel savings component, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling such components, but only if such person clearly discloses to such taxpayer, through the use of a sticker attached to the qualifying fuel savings component, the amount of any credit allowable under subsection (a) with respect to such component.

“(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

“(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

“(3) ELECTION NOT TO CLAIM CREDIT.—No credit shall be allowed under subsection (a) for any component if the taxpayer elects to not have this section apply to such component.

“(e) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.”

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, plus”, and by adding at the end the following new paragraph:

“(37) the fuel savings tax credit determined under section 45R(a).”

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45Q the following new item:

“Sec. 45R. Credit for fuel savings components for certain vehicles and engines.”

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting “, and”, and by adding at the end the following:

“(39) in the case of a component with respect to which a credit was allowed under section 45R, to the extent provided in section 45R(d)(1)(A).”

(3) Section 6501(m), as amended by this Act, is amended by inserting “45R(d)(3)” after “45H(g)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years ending after such date.

### SEC. 4. INCREASE IN GAS GUZZLER TAX.

(a) IN GENERAL.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

“(a) IMPOSITION OF TAX.—

“(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each automobile a tax equal to—

“(A) in the case of any automobile manufactured in model year 2011, the applicable tax amount determined in accordance with the table contained in paragraph (2), and

“(B) in the case of any automobile manufactured in a model year after 2011, if the fuel economy of the model type in which such automobile falls is less than 80 percent of the industry-wide average fuel economy standard for such model year for all automobiles, an amount equal to the lesser of—

“(i) an amount based on each mile per gallon reduction below such 80 percent equal to

“(I) \$1,000 for the first mile per gallon reduction, or

“(II) an aggregate amount equal to 125 percent of the previous dollar amount for each additional mile per gallon reduction, or

“(ii) \$22,737.

For purposes of subparagraph (B), any fraction of a mile per gallon shall be rounded to the nearest mile per gallon and any fraction of a dollar shall be rounded to the nearest dollar.

“(2) APPLICABLE TAX AMOUNT.—For purposes of paragraph (1)(A), the applicable tax amount shall be determined as follows:

“If the fuel economy of the model type in which the automobile falls is:	The applicable tax amount is:
At least 24.2 .....	\$0.

"If the fuel economy of the model type in which the automobile falls is:	The applicable tax amount is:
At least 23.2 but less than 24.2 ..	\$1,000.
At least 22.2 but less than 23.2 ..	\$1,250.
At least 21.2 but less than 22.2 ..	\$1,563.
At least 20.2 but less than 21.2 ..	\$1,953.
At least 19.2 but less than 20.2 ..	\$2,441.
At least 18.2 but less than 19.2 ..	\$3,052.
At least 17.2 but less than 18.2 ..	\$3,815.
At least 16.2 but less than 17.2 ..	\$4,768.
At least 15.2 but less than 16.2 ..	\$5,960.
At least 14.2 but less than 15.2 ..	\$7,451.
At least 13.2 but less than 14.2 ..	\$9,313.
At least 12.2 but less than 13.2 ..	\$11,642.
At least 11.2 but less than 12.2 ..	\$14,552.
At least 10.2 but less than 11.2 ..	\$18,190.
Less than 10.2 .....	\$22,737."

(b) DEFINITION.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) AVERAGE FUEL ECONOMY STANDARD.—The term 'average fuel economy standard' has the meaning given such term under section 32901 of title 49, United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2009.

#### SEC. 5. INCREASE IN MANUFACTURER CAFE PENALTIES.

(a) IN GENERAL.—Section 32912 of title 49, United States Code, is amended—

(1) by striking "\$5" in subsection (b) and inserting "\$50", and

(2) by striking "\$10" in subsection (c)(1)(B) and inserting "\$100".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to model years beginning after the date of the enactment of this Act.

#### SEC. 6. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

Section 756 of the Energy Policy Act of 2005 (42 U.S.C. 16104) is amended—

(1) by striking the section heading and all that follows through the end of subsection (b) and inserting the following:

#### "SEC. 756. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'advanced truck stop electrification system' means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with, or for delivery, of those services.

"(3) AUXILIARY POWER UNIT.—The term 'auxiliary power unit' means an integrated system that—

"(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

"(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

"(4) HEAVY-DUTY VEHICLE.—The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds.

"(5) IDLE REDUCTION TECHNOLOGY.—The term 'idle reduction technology' means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

"(A) is used to reduce idling; and

"(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

"(6) LONG-DURATION IDLING.—

"(A) IN GENERAL.—The term 'long-duration idling' means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

"(B) EXCLUSIONS.—The term 'long-duration idling' does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

"(7) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY.—The term 'low-greenhouse gas and fuel-saving technology' means any device, system of devices, strategies, or equipment that—

"(A) reduces greenhouse gas emissions; or

"(B) improves fuel efficiency.

"(b) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY DEPLOYMENT PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of the OILSAVE Act, the Administrator, in consultation with the Secretary of Energy, shall implement, through the SmartWay Transport Partnership of the Environmental Protection Agency, a program to support deployment of low-greenhouse gas and fuel-saving technologies.

"(B) PRIORITY.—The Administrator shall give priority to the deployment of low-greenhouse gas and fuel-saving technologies that meet SmartWay performance thresholds developed under paragraph (2)(B).

"(2) TECHNOLOGY DESIGNATION AND DEPLOYMENT.—The Administrator shall—

"(A) develop measurement protocols to evaluate the fuel consumption and greenhouse gas performance of transportation technologies, including technologies for passenger transport and goods movement;

"(B) develop SmartWay performance thresholds that can be used to certify, verify, or designate low-greenhouse gas and fuel-saving technologies that provide superior environmental performance for each mode of passenger transportation and goods movement; and

"(C)(i) publish a list of low-greenhouse gas and fuel-saving technologies;

"(ii) identify the greenhouse gas and fuel efficiency performance of each technology; and

"(iii) identify those technologies that meet the SmartWay performance thresholds developed under subparagraph (B).

"(3) PROMOTION AND DEPLOYMENT OF TECHNOLOGIES.—The Administrator shall—

"(A) implement partnership and recognition programs to promote best practices and drive demand for fuel-efficient, low-greenhouse gas transportation performance;

"(B) promote the availability of and encourage the adoption of technologies that meet the SmartWay performance thresholds developed under paragraph (2)(B);

"(C) publicize the availability of financial incentives (such as Federal tax incentives, grants, and low-cost loans) for the deployment of low-greenhouse gas and fuel-saving technologies; and

"(D) deploy low-greenhouse gas and fuel-saving technologies through grant and loan programs.

"(4) STAKEHOLDER CONSULTATION.—

"(A) IN GENERAL.—The Administrator shall solicit the comments of interested parties prior to establishing a new or revising an existing SmartWay technology category, measurement protocol, or performance threshold.

"(B) NOTICE.—On adoption of a new or revised technology category, measurement protocol, or performance threshold, the Administrator shall publish a notice and explanation of any changes and, if appropriate, responses to comments submitted by interested parties.

"(5) FREIGHT PARTNERSHIP.—

"(A) IN GENERAL.—The Administrator shall implement, through the SmartWay Transport Partnership, a program with shippers and carriers of goods to promote fuel-efficient, low-greenhouse gas transportation.

"(B) ADMINISTRATION.—The Administrator shall—

"(i) verify the greenhouse gas performance and fuel efficiency of participating freight carriers, including carriers involved in rail, trucking, marine, and other goods movement operations;

"(ii) publish a comprehensive greenhouse gas and fuel efficiency performance index of freight modes (including rail, trucking, marine, and other modes of transporting goods) and individual freight companies so that shippers can choose to deliver the goods of the shippers most efficiently with minimum greenhouse gas emissions;

"(iii) develop tools for—

"(I) freight carriers to calculate and improve the fuel efficiency and greenhouse gas performance of the carriers; and

"(II) shippers—

"(aa) to calculate the fuel and greenhouse gas impacts of moving the products of the shippers; and

"(bb) to evaluate the relative impacts from transporting the goods of the shippers by different modes and carriers; and

"(iv) recognize participating shipper and carrier companies that demonstrate advanced practices and achieve superior levels of fuel efficiency and greenhouse gas performance.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection \$19,500,000 for each of fiscal years 2010 through 2020."; and

(2) by striking subsection (d) and inserting the following:

"(d) IMPROVING FREIGHT GREENHOUSE GAS PERFORMANCE DATABASES.—The Secretary of Commerce, in consultation with the Administrator, shall—

"(1)(A) define and collect data on the physical and operational characteristics of the truck fleet of the United States, with special emphasis on data relating to fuel efficiency and greenhouse gas performance to provide data for the performance index published under subsection (b)(5)(B)(ii); and

"(B) publish the data described in subparagraph (A) through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the economic census required under title 13, United States Code; and

"(2) define, collect, and publish data for other modes of goods transport (including rail and marine), as necessary.

"(e) REPORT.—Not later than 18 months after the date on which funds are initially awarded under this section and on a biennial basis thereafter, the Administrator shall submit to Congress a report containing a description of—

"(1) actions taken to implement the low-greenhouse gas and fuel-saving technology deployment program established under subsection (b), including—

"(A) the measurement protocols;

"(B) the SmartWay performance thresholds; and



“(C) a list of low-greenhouse gas and fuel-saving technologies; and

“(2) estimated greenhouse gas emissions and fuel savings from the program.”.

S. 1094

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Renewable Energy Alternative Production Act” or the “REAP Act”.

## **SEC. 2. CREDIT FOR PRODUCTION OF RENEWABLE ENERGY.**

(a) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) CREDIT ALLOWED FOR PRODUCTION OF NON-ELECTRIC ENERGY.—

“(1) IN GENERAL.—The credit allowed under subsection (a) shall be increased by an amount equal to the product of—

“(A) the dollar amount determined under paragraph (2), and

“(B) each million British thermal units (mmBtu) of qualified fuel which is—

“(i) produced by the taxpayer—

“(I) from qualified energy resources, and

“(II) at any facility during the 10-year period beginning on the date such facility was placed in service,

“(ii) not used for the production of electricity, and

“(iii) sold by the taxpayer to an unrelated person during the taxable year.

“(2) DOLLAR AMOUNT.—The dollar amount determined under this paragraph shall be the amount determined by the Secretary to be the equivalent, expressed in British thermal units, of the credit allowed under subsection (a) for 1 kilowatt hour of electricity.

“(3) REDUCTION FOR GRANTS, TAX EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—Rules similar to the rules of subsection (b)(3) shall apply for purposes of paragraph (1).

“(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) QUALIFIED FUEL.—The term ‘qualified fuel’ means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

“(B) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVES.—Rules similar to the rules of subsection (e)(11) shall apply for purposes of paragraph (1).”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 45 of the Internal Revenue Code of 1986 is amended by striking “ELECTRICITY” and inserting “ENERGY”.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking “Electricity” in the item relating to section 45 and inserting “Energy”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

## **SEC. 3. ENERGY CREDIT FOR ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES.**

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of subclause (III), and

(2) by adding at the end the following new subclause:

“(V) qualified onsite renewable non-electric energy production property.”.

(b) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified onsite renewable non-electric energy production property’ means property which produces qualified fuel—

“(i) from qualified energy resources,

“(ii) not used for the production of electricity, and

“(iii) used primarily on the same site where the production is located to replace an equivalent amount of non-renewable fuel (determined based on the number of British thermal units of non-renewable fuel consumed by the taxpayer in the prior taxable year) or to provide energy primarily on such site for a use that did not exist prior to the later of the date of the enactment of this paragraph or the date such property was placed in service.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) QUALIFIED FUEL.—The term ‘qualified fuel’ means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

“(ii) QUALIFIED ENERGY RESOURCES.—The term ‘qualified energy resources’ has the meaning given such term by paragraph (1) of section 45(c).

“(iii) TERMINATION.—The term ‘qualified onsite renewable non-electric energy production property’ shall not include any property for any period after the date which is 10 years after the date of the enactment of the Renewable Energy Alternative Production Act.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

## **SEC. 4. RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 54C(d) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term ‘qualified renewable energy facility’ means a facility which is—

“(A)(i) a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

“(ii) a facility which produces qualified fuel (as defined in section 45(f)(4)(A)) which is derived from qualified energy resources (within the meaning of section 45(f)(4)(B)) and not used for the production of electricity, and

“(B) owned by a public power provider, a governmental body, or a cooperative electric company.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

S. 1095

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **SECTION 1. SHORT TITLE.**

This Act may be cited as the “America’s Low-Carbon Fuel Standard Act of 2009”.

## **SEC. 2. LOW-CARBON FUEL PROGRAM.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by striking subsection (o) and inserting the following:

“(o) LOW-CARBON FUEL PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) BASELINE LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term ‘baseline lifecycle greenhouse gas emissions’ means the average lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, for transportation fuel sold or distributed as transportation fuel in 2005.

“(B) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term ‘lifecycle greenhouse gas emissions’ means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“(C) LOW-CARBON FUEL.—The term ‘low-carbon fuel’ means transportation fuel (including renewable fuel, electricity, hydrogen, and other forms of energy) that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that on annual average basis are equal to at least the following percentage less than baseline lifecycle greenhouse gas emissions determined in accordance with the following table:

“Calendar year:	Applicable percentage less than baseline lifecycle greenhouse gas emissions:
2015 .....	20.0
2016 .....	21.5
2017 .....	23.0
2018 .....	24.5
2019 .....	26.0
2020 .....	27.5
2021 .....	29.0
2022 .....	30.5
2023 .....	32.0
2024 .....	33.5
2025 .....	35.0
2026 .....	36.5
2027 .....	38.0
2028 .....	39.5
2029 .....	41.0
2030 .....	42.5
2031 and thereafter .....	Percentage determined under paragraph (2)(B)(ii).

“(D) RENEWABLE BIOMASS.—The term ‘renewable biomass’ means each of the following:



“(i) Planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to December 19, 2007, that is either actively managed or fallow, and nonforested.

“(ii) Planted trees, bioenergy crops, and tree residue from actively managed tree plantations on non-Federal land cleared at any time prior to December 19, 2007, including land belonging to an Indian tribe or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States.

“(iii) Slash, brush, and those trees that are byproducts of ecological restoration, disease or insect infestation control, or hazardous fuels reduction treatments and do not exceed the minimum size standards for sawtimber, harvested—

“(I) in ecologically sustainable quantities, as determined by the appropriate Federal land manager; and

“(II) from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), other than—

“(aa) components of the National Wilderness Preservation System;

“(bb) wilderness study areas;

“(cc) inventoried roadless areas;

“(dd) old growth or late successional forest stands unless biomass from the stand is harvested as a byproduct of an ecological restoration treatment that fully maintains, or contributes toward the restoration of, the structure and composition of an old growth forest stand taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining large trees contributing to old-growth structure;

“(ee) components of the National Landscape Conservation System; and

“(ff) National Monuments.

“(iv) Animal waste material and animal byproducts.

“(v) Slash and pre-commercial thinnings that are from non-Federal forestland, including forestland belonging to an Indian tribe or an Indian individual, that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestland that are ecological communities with a global or State ranking of critically imperiled, imperiled, or rare pursuant to a State Natural Heritage Program, old growth forest, or late successional forest.

“(vi) Biomass from land in any ownership obtained from the immediate vicinity of buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

“(vii) Algae.

“(viii) Municipal solid waste, including separated yard waste or food waste, including recycled cooking and trap grease.

“(E) RENEWABLE FUEL.—The term ‘renewable fuel’ means fuel that is—

“(i) produced from renewable biomass; and

“(ii) used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

“(F) TRANSPORTATION FUEL.—The term ‘transportation fuel’ means fuel for use in motor vehicles, motor vehicle engines, or nonroad vehicles (except for ocean-going vessels).

“(2) PROGRAM.—

“(A) REGULATIONS.—

“(i) IN GENERAL.—Not later than January 31, 2015, the Administrator shall promulgate regulations to ensure that the applicable percentage determined under subparagraph

(B) of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, is low-carbon fuel.

“(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

“(I) shall contain compliance provisions applicable to producers, refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict geographic areas in which low-carbon fuel may be used; or

“(bb) impose any per-gallon obligation for the use of low-carbon fuel.

“(B) APPLICABLE VOLUMES.—

“(i) CALENDAR YEARS 2015 THROUGH 2030.—For the purpose of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, that is low-carbon fuel for each of calendar years 2015 through 2030 shall be determined by the Administrator, in consultation with the Secretary of Energy, in accordance with the following table:

“Calendar year:

Applicable  
percentage of  
transportation fuel  
sold that is low-  
carbon fuel:

2015	10.0
2016	11.5
2017	13.0
2018	14.5
2019	16.0
2020	17.5
2021	19.0
2022	20.5
2023	22.0
2024	23.5
2025	25.0
2026	26.5
2027	28.0
2028	29.5
2029	31.0
2030	32.5

“(ii) SUBSEQUENT CALENDAR YEARS.—

“(I) IN GENERAL.—For the purposes of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, that is low-carbon fuel for calendar year 2031 and each subsequent calendar year shall be determined by the Administrator, in consultation with the Secretary of Energy, based on a review of the implementation of the program during calendar years specified in the tables established under this subsection, and an analysis of—

“(aa) the impact of the production and use of low-carbon fuel on the environment, including on air quality, climate change, conversion of wetland, ecosystems, wildlife habitat, water quality, and water supply;

“(bb) the impact of low-carbon fuel on the energy security of the United States;

“(cc) the expected annual rate of future commercial production of low-carbon fuel;

“(dd) the impact of low-carbon fuel on the infrastructure of the United States, including deliverability of materials, goods, and products other than low-carbon fuel, and the sufficiency of infrastructure to deliver and use low-carbon fuel;

“(ee) the impact of the use of low-carbon fuel on the cost to consumers of transportation fuel and on the cost to transport goods; and

“(ff) the impact of the use of low-carbon fuel on other factors, including job creation,

the price and supply of agricultural commodities, rural economic development, and food prices.

“(II) DEADLINE.—The Administrator shall promulgate rules establishing the applicable volumes under this clause not later than 14 months before the first year for which the applicable percentage will apply.

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2021, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of transportation fuel and low-carbon fuel projected to be sold or introduced into commerce in the United States.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2029, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the low-carbon fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The low-carbon fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refineries, blenders, and importers, as appropriate;

“(II) be expressed in terms of a volume percentage of transportation fuel sold or introduced into commerce in the United States; and

“(III) subject to subparagraph (C), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I).

“(4) MODIFICATION OF GREENHOUSE GAS REDUCTION PERCENTAGES.—

“(A) IN GENERAL.—In the regulations promulgated under paragraph (2)(A)(i), the Administrator may adjust the required percentage reductions in lifecycle greenhouse gas emissions for low-carbon fuel to a lower percentage if the Administrator determines that generally the reduction is not commercially feasible for low-carbon fuel made using a variety of feedstocks, technologies, and processes to meet the applicable reduction.

“(B) AMOUNT OF ADJUSTMENT.—In promulgating regulations under this paragraph, the specified percent reduction in greenhouse gas emissions from low-carbon fuel may not be reduced more than 10 percentage points below the percentage otherwise required under this subsection.

“(C) ADJUSTED REDUCTION LEVELS.—

“(i) IN GENERAL.—An adjustment in the percentage reduction in greenhouse gas levels shall be the minimum practicable adjustment for low-carbon fuel.

“(ii) MAXIMUM ACHIEVABLE LEVEL.—The adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

“(D) SUBSEQUENT ADJUSTMENTS.—

“(i) IN GENERAL.—After the Administrator has promulgated a final rule under paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, the Administrator may not adjust the percent greenhouse gas reduction levels unless the Administrator determines that there has been a significant change in the analytical basis used for determining the lifecycle greenhouse gas emissions.

“(ii) CRITERIA AND STANDARDS.—If the Administrator makes the determination that an adjustment is required, the Administrator may adjust the percent reduction levels through rulemaking using the criteria and standards established under this paragraph.

“(iii) 5-YEAR REVIEW.—If the Administrator makes any adjustment under this paragraph, not later than 5 years thereafter, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by the regulations.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes transportation fuel that contains a quantity of low-carbon fuel that is greater than the quantity required under paragraph (2).

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the 12 month-period beginning on the date of generation.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a low-carbon fuel deficit on condition that the person, in the calendar year following the year in which the low-carbon fuel deficit is created—

“(i) achieves compliance with the low-carbon fuel requirement under paragraph (2); and

“(ii) generates or purchases additional low-carbon fuel credits to offset the low-carbon fuel deficit of the previous year.

“(E) CREDITS FOR ADDITIONAL LOW-CARBON FUEL.—The Administrator may promulgate regulations providing—

“(i) for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes additional low-carbon fuel specified by the Administrator; and

“(ii) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(6) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of this subsection in whole or in part on petition by 1 or more States, by any person subject to the requirements of this subsection, or by the Administrator on the Administrator's own motion, by reducing the national percentage of low-carbon fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the

economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply of low-carbon fuel.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a petition for a waiver of the requirements of paragraph (2) not later than 90 days after the date on which the petition is received by the Administrator.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy and after public notice and opportunity for comment.

“(D) MODIFICATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—In the case of any table established under this subsection, if the Administrator waives at least 20 percent of the applicable percentage requirement specified in the table for 2 consecutive years, or at least 50 percent of the percentage requirement for a single year, the Administrator shall promulgate regulations (not later than 1 year after issuing the waiver) that modify the applicable volumes specified in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable percentages shall be made for any year before calendar year 2016.

“(ii) ADMINISTRATION.—In promulgating the regulations, the Administrator shall comply with the processes, criteria, and standards established under paragraph (2)(B)(ii).

“(7) LOW-CARBON MARKET CONCENTRATION ANALYSIS.—

“(A) ANALYSIS.—

“(i) IN GENERAL.—Not later than January 1, 2015, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the low-carbon fuel production, import, and distribution industries using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) REPORT.—Not later than December 1, 2015, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

“(8) PERIODIC REVIEWS.—To allow for the appropriate adjustment of the requirements described in paragraph (2)(B), the Administrator shall conduct periodic reviews of—

“(A) existing technologies;

“(B) the feasibility of achieving compliance with the requirements; and

“(C) the impacts of the requirements of this subsection on each individual and entity described in paragraph (2).

“(9) EFFECT ON OTHER PROVISIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), nothing in this subsection, or regulations promulgated under this subsection, affects the regulatory status of carbon dioxide or any other greenhouse gas, or expands or limits regulatory authority regarding carbon

dioxide or any other greenhouse gas, for purposes of other provisions (including section 165) of this Act.

“(B) ADMINISTRATION.—Subparagraph (A) shall not affect implementation and enforcement of this subsection.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2015.

### SEC. 3. TRANSITION PROVISIONS.

(a) DEFINITIONS.—Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) ADDITIONAL RENEWABLE FUEL.—

“(i) IN GENERAL.—The term ‘additional renewable fuel’ means fuel that—

“(I) is—

“(aa) produced from renewable biomass; or

“(bb) low-carbon fuel;

“(II) is used to replace or reduce the quantity of fossil fuel present in—

“(aa) transportation fuel;

“(bb) home heating oil; or

“(cc) aviation jet fuel; and

“(III) has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.”;

(2) by redesignating subparagraphs (I) through (L) as subparagraphs (J) through (M), respectively; and

(3) by inserting after subparagraph (H) the following:

“(I) LOW-CARBON FUEL.—The term ‘low-carbon fuel’ means renewable fuel that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.”.

(b) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—Section 211(o)(5) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by striking subparagraph (A) and inserting the following:

“(A) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the America's Low-Carbon Fuel Standard Act of 2009, the Administrator shall issue regulations providing—

“(I) for the generation of an appropriate quantity of credits by any person that produces, refines, blends, or imports additional renewable fuels or low-carbon fuels specified by the Administrator; and

“(II) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(ii) INCREASED CREDIT.—For each of calendar years 2012 through 2014, the Administrator shall increase the amount of the credit provided under clause (i) in proportion to the extent to which the lifecycle greenhouse gas emissions of the additional renewable fuel is less than baseline lifecycle greenhouse gas emissions.”.

S. 1096

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. ENERGYGRANT COMPETITIVE EDUCATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(2) SECRETARY.—The term “Secretary” means the Secretary of Energy, acting through the Director appointed under subsection (c).

(3) STATE.—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

(b) ESTABLISHMENT.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (d) to conduct research, extension, and education programs relating to the energy needs of the regions.

(c) DIRECTOR.—The Secretary shall appoint a Director to carry out the program established under this section.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under this section to award grants, on a competitive basis, to each consortium of institutions of higher education located in each of at least 6 regions established by the Secretary that, collectively, cover all States.

(2) MANNER OF DISTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in making grants for a fiscal year under this section, the Secretary shall award grants to each consortium of institutions of higher education in equal amounts for each region of not less than \$50,000,000 for each region.

(B) TERRITORIES AND POSSESSIONS.—The Secretary may adjust the amount of grants awarded to a consortium of institutions of higher education in a region under this section if the region contains territories or possessions of the United States.

(3) PLANS.—As a condition of an initial grant under this section, a consortium of institutions of higher education in a region shall submit to the Secretary for approval a plan that—

(A) addresses the energy needs for the region; and

(B) describes the manner in which the proposed activities of the consortium will address those needs.

(4) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (g) or on the basis of an audit of a consortium of institutions of higher education conducted by the Secretary that the consortium has not complied with the requirements of this section, the consortium shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(e) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A consortium of institutions of higher education in a region that is awarded a grant under this section shall use the grant to conduct research, extension, and education programs relating to the energy needs of the region, including—

(i) the promotion of low-carbon clean and green energy and related jobs that are applicable to the region;

(ii) the development of low-carbon green fuels to reduce dependency on oil;

(iii) the development of energy storage and energy management innovations for intermittent renewable technologies; and

(iv) the accelerated deployment of efficient-energy technologies in new and existing buildings and in manufacturing facilities.

(B) ADMINISTRATION.—

(i) IN GENERAL.—Subject to clauses (ii) through (vi), the Secretary shall make grants under this paragraph in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353).

(ii) PRIORITY.—A consortium of institutions of higher education in a region shall give a higher priority to programs that are consistent with the plan approved by the Secretary for the region under subsection (d)(3).

(iii) TERM.—A grant awarded to a consortium of institutions of higher education under this section shall have a term that does not exceed 5 years.

(iv) COST-SHARING REQUIREMENT.—As a condition of receiving a grant under this paragraph, the Secretary shall require the recipient of the grant to share costs relating to the program that is the subject of the grant in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(v) BUILDINGS AND FACILITIES.—Funds made available for grants under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A consortium of institutions of higher education may not recover the indirect costs of using grants under subparagraph (A) in excess of the limits established under paragraph (2).

(C) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.—

(i) IN GENERAL.—A federally funded research and development center may be a member of a consortium of institutions of higher education that receives a grant under this section.

(ii) SCOPE.—The Secretary shall ensure that the scope of work performed by a single federally funded research and development center in the consortium is not more significant than the scope of work performed by any of the other academic institutions of higher education in the consortium.

(2) ADMINISTRATIVE EXPENSES.—A consortium of institutions of higher education may use up to 15 percent of the funds described in subsection (d) to pay administrative and indirect expenses incurred in carrying out paragraph (1), unless otherwise approved by the Secretary.

(f) GRANT INFORMATION ANALYSIS CENTER.—A consortium of institutions of higher education in a region shall maintain an Energy Analysis Center at 1 or more of the institutions of higher education to provide the institutions of higher education in the region with analysis and data management support.

(g) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a consortium of institutions of higher education receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the consortium of institutions of higher education under this section during the fiscal year.

(h) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish such criteria and procedures as are necessary to carry out this section.

(i) COORDINATION.—The Secretary shall coordinate with the Secretary of Agriculture and the Secretary of Commerce each activity carried out under the program under this section—

- (1) to avoid duplication of efforts; and
- (2) to ensure that the program supplements and does not supplant—

(A) the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114); and

(B) the national Sea Grant college program carried out by the Administrator of the National Oceanic and Atmospheric Administration.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out—

(1) this section \$300,000,000 for each of fiscal years 2010 through 2014; and

(2) the activities of the Department of Energy (including biomass and bioenergy feedstock assessment research) under the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114) \$15,000,000 for each of fiscal years 2010 through 2014.

S. 1097

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Community College Energy Training Act of 2009”.

#### SEC. 2. SUSTAINABLE ENERGY TRAINING PROGRAM FOR COMMUNITY COLLEGES.

(a) DEFINITION OF COMMUNITY COLLEGE.—In this Act, the term “community college” means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that—

(1) provides a 2-year program of instruction for which the institution awards an associate degree; and

(2) primarily awards associate degrees.

(b) WORKFORCE TRAINING AND EDUCATION IN SUSTAINABLE ENERGY.—From funds made available under subsection (d), the Secretary of Energy, in coordination with the Secretary of Labor, shall carry out a joint sustainable energy workforce training and education program. In carrying out the program, the Secretary of Energy, in coordination with the Secretary of Labor, shall award grants to community colleges to provide workforce training and education in industries and practices such as—

(1) alternative energy, including wind and solar energy;

(2) energy efficient construction, retrofitting, and design;

(3) sustainable energy technologies, including chemical technology, nanotechnology, and electrical technology;

(4) water and energy conservation;

(5) recycling and waste reduction; and

(6) sustainable agriculture and farming.

(c) AWARD CONSIDERATIONS.—Of the funds made available under subsection (d) for a fiscal year, not less than one-half of such funds shall be awarded to community colleges with existing (as of the date of the award) sustainability programs that lead to certificates or degrees in 1 or more of the industries and practices described in paragraphs (1) through (6) of subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$100,000,000 for each of the fiscal years 2010 through 2015.

S. 1098

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “EnergySmart Transport Corridors Act of 2009”.

#### SEC. 2. ENERGYSMART TRANSPORT CORRIDORS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **INTERSTATE SYSTEM.**—The term “Interstate System” has the meaning given the term in section 101(a) of title 23, United States Code.

(3) **PROGRAM.**—The term “Program” means the EnergySmart Transport Corridor program established under subsection (b).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(b) **ESTABLISHMENT.**—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall establish an EnergySmart Transport Corridor program in accordance with this section.

(c) **REQUIREMENTS.**—In carrying out the Program, the Secretary shall coordinate the planning and deployment of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, including by—

(1) increasing the availability and standardization of anti-idling equipment;

(2) increasing the availability of alternative, low-carbon transportation fuels;

(3) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(4) coordinating and expanding intermodal shipment capabilities;

(5) coordinating and adjusting time of service restrictions; and

(6) planning and identifying future construction within the Interstate System.

(d) **DESIGNATION OF CORRIDORS.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Administrator and with the concurrence of the Governors of the States in which EnergySmart transport corridors are to be located, and in consultation with the appropriate advisory committees established under paragraph (3), shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c).

(2) **INTERMODAL FACILITIES AND OTHER SURFACE TRANSPORTATION MODES.**—In designating EnergySmart transport corridors, the Secretary may include—

(A) intermodal passenger and freight transfer facilities, particularly those that use measures to significantly increase the energy efficiency of the Interstate System and reduce greenhouse gas emissions and other environmental pollutants; and

(B) other surface transportation modes.

(3) **ADVISORY COMMITTEES.**—

(A) **IN GENERAL.**—The Secretary, in consultation with the Governors of the States in which EnergySmart transport corridors are to be located, may establish advisory committees to assist in the designation of individual EnergySmart transport corridors.

(B) **MEMBERSHIP.**—The advisory committees established under this paragraph shall include representatives of interests affected by the designation of EnergySmart transport corridors, including—

(i) freight and trucking companies;

(ii) vehicle and vehicle equipment manufacturers and retailers;

(iii) independent owners and operators;

(iv) conventional and alternative fuel providers; and

(v) local transportation, planning, and energy agencies.

(e) **PRIORITY.**—In allocating funds for Federal highway programs, the Secretary shall give special consideration and priority to projects and programs that enable deploy-

ment and operation of EnergySmart transport corridors.

(f) **GRANTS.**—In carrying out the Program, the Secretary may provide grants to States to assist in the planning, designation, development, and maintenance of EnergySmart transport corridors.

(g) **ANNUAL REPORT.**—Each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report describing activities carried out under the Program during the preceding fiscal year.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$25,000,000 for each of fiscal years 2010 through 2015.

### SEC. 3. REDUCTION OF ENGINE IDLING.

Section 756(b)(4)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16104(b)(4)(B)) is amended by striking “for fiscal year 2008” each place it appears in clauses (i) and (ii) and inserting “for each of fiscal years 2008 through 2015”.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

Mr. BURR. Mr. President, I rise today to speak on the pressing issue of health care in America. Millions of Americans go without health insurance each year. Especially during these tough economic times, many families are looking to Washington to fix the health care crisis in this country.

This year, Congress is poised to make significant changes to our health care system. Ultimately, the American people want solutions that work. In that vein I am pleased to join today with my colleague, Senator COBURN, to introduce, S. 1099, the Patients’ Choice Act. It will start to build a health care system that is responsive to patients’ needs and conscious of their budgets.

As we developed the framework of the Patients’ Choice Act, we had to think about what would truly transform the failing health care system in America right now. Typically, the problems with our health care system relate to cost, quality, and our inability to make important lifestyle interventions before treatable symptoms become chronic conditions. With that thought in mind, Senator COBURN and I set out to reform our health care system so it met the following requirements. We believe that any truly transformational health care plan must guarantee that every American can get affordable coverage.

It must demand more value for our health care dollar instead of imposing a new tax or passing on a new obligation to future generations.

It must transform the health care system so that we focus on keeping people healthy and well instead of only treating them when they are sick.

It must make health coverage affordable for those with pre-existing conditions.

It must end the current discrimination in the tax code that benefits the wealthy and corporations but fails the poor and those who can’t get coverage through their employer.

It must ensure that health care is accessible when people want it, where people want it.

It must be sustainable so that it will be there for future generations.

We believe the Patient’s Choice Act will meet all of these requirements. The bill focuses on 6 key areas: preventing disease and promoting healthier lifestyles; creating affordable and accessible health insurance options; equalizing the tax treatment of health care; establishing transparency in health care price and quality; and ensuring compensation for injured patients.

S. 1099 transforms health care in America by strengthening the relationship between the patient and the doctor and relying on choice and competition rather than rationing and restrictions. In doing so, we can ensure universal, affordable health care for all Americans.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to speak in favour of the Domestic Partner Benefits and Obligations Act, which I am introducing with my colleague and friend on the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLLINS.

Last year, the Homeland Security and Governmental Affairs Committee held a hearing on this legislation, but time ran out before we were able to move the measure to the Senate floor.

I also want to thank my former cosponsor, Senator Gordon Smith of Oregon, with whom I and more than 20 other Senators introduced identical legislation in the 110th Congress. We expect about 20 cosponsors again this year, and I want to express my appreciation to them for helping us get an early enough start in the 111th Congress so that we can pass the bill, hopefully, this year.

This legislation makes eminent sense for two reasons: It will help the Federal Government attract the best and the brightest and it is the fair and right thing to do from a human rights perspective.

Let me explain. The Domestic Partners Benefits and Obligations Act would provide the same employee benefit programs to same-sex domestic partners of Federal employees that are now provided to the opposite-sex spouses of Federal employees. In other words, same-sex domestic partners—living in a committed relationship and

unrelated by blood would be eligible to participate in health benefits, long-term care, Family and Medical Leave, federal retirement benefits, and all other benefits for which married employees and their spouses are eligible. Federal employees and their domestic partners would also be subject to the same responsibilities that apply to married employees and their spouses, such as anti-nepotism rules and financial disclosure requirements.

When the domestic partners of Federal employees are granted the same benefits and obligations as the spouses of federal employees, the Federal Government will be able to attract from a larger pool of applicants the best possible employees to carry out the Government's responsibilities to the American people. In the coming years, as a large percentage of federal employees become eligible for retirement, a new generation of employees will be hired, and the Federal Government will be competing with the private sector for the most qualified among them. This legislation will help put the Federal Government on equal footing to compete for those new recruits and then retain them.

From a human rights perspective, this legislation is one more step on the long road to bring the gay and lesbian community equality under the law.

We are not talking about an insignificant number of people. According to UCLA's Williams Institute, over 30,000 federal workers live in committed relationships with same-sex partners who are not Federal employees.

We often hear—and I have often said—that Government should be run more like a business. While the purpose of Government and business are different, I believe Government has a lot to learn from private sector business models including in the matter before us today. The fact is that a majority of U.S. corporations—including more than half of all Fortune 500 companies—already offer benefits to domestic partners.

General Electric, IBM, Eastman Kodak, Dow Chemical, the Chubb Corporation, Lockheed Martin, and Duke Energy are among the major employers that have recognized the economic reward of providing benefits to domestic partners. Overall, almost 10,000 private-sector companies of all sizes provide benefits to domestic partners. The governments of 13 States, including my home State of Connecticut, about 145 local jurisdictions across our country, and some 300 colleges and universities also provide these benefits.

Surveys show that many private sector employers offer these benefits because it is the right thing to do. You can bet each one knows that the policy makes good business sense; it is good management policy, it is good employee policy, and it is good recruitment and retention policy.

In fact, employers have told analysts that they extend benefits to domestic partners to boost recruitment and retain quality employees—as well as to be fair. If we want the Government to be able to compete for the most qualified employees, we are going to have to provide the same benefits that job seekers can find elsewhere.

The experts tell us that 19 percent of an employee's compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are, therefore, not being paid equally. Of course, the supporters of this legislation understand that covering domestic partners will add some increment to the total cost of providing federal employee benefits. And we understand that we have to be particularly careful about government spending right now and perform rigorous cost benefit analyses of all, not just new, federal expenditures.

Based on the experience of private companies and state and local governments, the Congressional Budget Office has estimated that benefits to same-sex domestic partners of federal employees would increase the cost of those programs by less than one-half of one percent. The Office of Personnel Management says the cost of health benefits for domestic partners over 10 years would be \$670 million. In the name of fairness and raising the appeal of federal employment, this is affordable legislation.

Among the many stories I have heard about the impact of this inequality on real people, I particularly remember the words of Michael Guest, who was ambassador to Romania in the Bush Administration and Dean of the Foreign Service Institute before he left public service. In his resignation letter, Mr. Guest made a moving and eloquent case for extending benefits to same sex partners. I believe Ambassador Guest was the first publicly gay man to be confirmed for an U.S. ambassadorship from the U.S. When he resigned the Foreign Service in 2007, he said, and I quote here from his farewell address to his colleagues “. . . I have felt compelled to choose between obligations to my partner—who is my family—and service to my country. That anyone should have to make that choice is a stain on the Secretary's leadership and a shame for this institution and our country.”

Those are convincing words from a talented and loyal former public servant—who once described the Foreign Service as the career he was “born for . . . what I was always meant to do.” It is a great loss to the nation that he felt compelled to leave the Foreign Service—particularly at a time when our nation so desperately needs talented diplomats to help meet the challenges we face abroad. He may have left public service for many reasons—but one of

them should not have been that his federal employee benefits did not allow him to care for the needs of his family in an adequate manner.

The Domestic Partners Benefits and Obligations Act makes good economic sense. It is sound policy. And it is the right thing to do. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill and a bill summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1102

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Domestic Partnership Benefits and Obligations Act of 2009”.

#### SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—An employee who has a domestic partner and the domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a married employee and the spouse of the employee.

(b) CERTIFICATION OF ELIGIBILITY.—In order to obtain benefits and assume obligations under this Act, an employee shall file an affidavit of eligibility for benefits and obligations with the Office of Personnel Management identifying the domestic partner of the employee and certifying that the employee and the domestic partner of the employee—

(1) are each other's sole domestic partner and intend to remain so indefinitely;

(2) have a common residence, and intend to continue the arrangement;

(3) are at least 18 years of age and mentally competent to consent to contract;

(4) share responsibility for a significant measure of each other's common welfare and financial obligations;

(5) are not married to or domestic partners with anyone else;

(6) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the State in which they reside; and

(7) understand that willful falsification of information within the affidavit may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation.

#### (c) DISSOLUTION OF PARTNERSHIP.—

(1) IN GENERAL.—An employee or domestic partner of an employee who obtains benefits under this Act shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(2) DEATH OF EMPLOYEE.—In a case in which an employee dies, the domestic partner of the employee at the time of death shall receive under this Act such benefits as would be received by the widow or widower of an employee.

#### (3) OTHER DISSOLUTION OF PARTNERSHIP.—

(A) IN GENERAL.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this Act shall terminate.

(B) EXCEPTION.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, the former domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a former spouse.

(d) STEPCHILDREN.—For purposes of affording benefits under this Act, any natural or adopted child of a domestic partner of an employee shall be deemed a stepchild of the employee.

(e) CONFIDENTIALITY.—Any information submitted to the Office of Personnel Management under subsection (b) shall be used solely for the purpose of certifying an individual's eligibility for benefits under subsection (a).

(f) REGULATIONS AND ORDERS.—

(1) OFFICE OF PERSONNEL MANAGEMENT.—Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall promulgate regulations to implement section 2 (b) and (c).

(2) OTHER EXECUTIVE BRANCH REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the President or designees of the President shall promulgate regulations to implement this Act with respect to benefits and obligations administered by agencies or other entities of the executive branch.

(3) OTHER REGULATIONS AND ORDERS.—Not later than 6 months after the date of enactment of this Act, each agency or other entity or official not within the executive branch that administers a program providing benefits or imposing obligations shall promulgate regulations or orders to implement this Act with respect to the program.

(4) PROCEDURE.—Regulations and orders required under this subsection shall be promulgated after notice to interested persons and an opportunity for comment.

(g) DEFINITIONS.—In this Act:

(1) BENEFITS.—The term “benefits” means—

(A) health insurance and enhanced dental and vision benefits, as provided under chapters 89, 89A, and 89B of title 5, United States Code;

(B) retirement and disability benefits and plans, as provided under—

(i) chapters 83 and 84 of title 5, United States Code;

(ii) chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.); and

(iii) the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. chapter 38);

(C) family, medical, and emergency leave, as provided under—

(i) subchapters III, IV, and V of chapter 63 of title 5, United States Code;

(ii) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), insofar as that Act applies to the Government Accountability Office and the Library of Congress;

(iii) section 202 of the Congressional Accountability Act of 1995 (2 U.S.C. 1312); and

(iv) section 412 of title 3, United States Code;

(D) Federal group life insurance, as provided under chapter 87 of title 5, United States Code;

(E) long-term care insurance, as provided under chapter 90 of title 5, United States Code;

(F) compensation for work injuries, as provided under chapter 81 of title 5, United States Code;

(G) benefits for disability, death, or captivity, as provided under—

(i) sections 5569 and 5570 of title 5, United States Code;

(ii) section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973); and

(iii) part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.), insofar as that part applies to any employee;

(H) travel, transportation, and related payments and benefits, as provided under—

(i) chapter 57 of title 5, United States Code;

(ii) chapter 9 of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.); and

(iii) section 1599b of title 10, United States Code; and

(I) any other benefit similar to a benefit described under subparagraphs (A) through (H) provided by or on behalf of the United States to any employee.

(2) DOMESTIC PARTNER.—The term “domestic partner” means an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship.

(3) EMPLOYEE.—The term “employee”—

(A) means an officer or employee of the United States or of any department, agency, or other entity of the United States, including the President of the United States, the Vice President of the United States, a Member of Congress, or a Federal judge; and

(B) shall not include a member of the uniformed services.

(4) OBLIGATIONS.—The term “obligations” means any duties or responsibilities with respect to Federal employment that would be incurred by a married employee or by the spouse of an employee.

(5) UNIFORMED SERVICES.—The term “uniformed services” has the meaning given under section 2101(3) of title 5, United States Code.

### SEC. 3. EFFECTIVE DATE.

This Act shall—

(1) with respect to the provision of benefits and obligations, take effect 6 months after the date of enactment of this Act; and

(2) apply to any individual who is employed as an employee on or after the date of enactment of this Act.

### DOMESTIC PARTNERSHIP BENEFITS AND OBLIGATIONS ACT OF 2009

#### SUMMARY

Under the Domestic Partnership Benefits and Obligations Act of 2009, federal employees who have same-sex domestic partners will be entitled to the same employment benefits that are available to married federal employees and their spouses. Federal employees and their domestic partners will also be subject to the same employment-related obligations that are imposed on married employees and their spouses.

In order to obtain benefits and assume obligations, an employee must file an affidavit of eligibility with the Office of Personnel Management (OPM). The employee must certify that the employee and the employee's same-sex domestic partner have a common residence, share responsibility for each other's welfare and financial responsibilities, are not related by blood, and are living together in a committed intimate relationship. They must also certify that, as each other's sole domestic partner, they intend to remain so indefinitely. If a domestic partnership dissolves, whether by death of the domestic partner or otherwise, the employee must file a statement of dissolution with OPM within 30 days.

Employees and their domestic partners will have the same benefits as married employees and their spouses under—

Employee health benefits.

Retirement and disability plans.

Family, medical, and emergency leave.

Group life insurance.

Long-term care insurance.

Compensation for work injuries.

Death, disability, and similar benefits.

Relocation, travel, and related expenses.

For purposes of these benefits, any natural or adopted child of the domestic partner will be treated as a stepchild of the employee.

The employee and the employee's domestic partner will also become subject to the same duties and responsibilities with respect to federal employment that apply to a married employee and the employee's spouse. These will include, for example, anti-nepotism rules and financial disclosure requirements.

The Act will apply with respect to those federal employees who are employed on the date of enactment or who become employed on or after that date.

By Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico):

S. 1105. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator UDALL and I are introducing a bill that will help end a contentious dispute over water rights claims in the Rio Pojoaque general stream adjudication in New Mexico. This is accomplished by authorizing an Indian water rights settlement of the claims being pursued by the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque basin north of Santa Fe.

This general stream adjudication is known as the Aamodt case, and I believe it is the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been actively litigated before the New Mexico District Court and the Tenth Circuit Court of Appeals. Forty years of litigation has resolved very little in the basin. Fortunately, the parties to the case took matters into their own hands. By engaging directly with each other they have resolved their differences, something the litigation could not accomplish. The Aamodt Litigation Settlement Act represents an agreement by the parties that will secure water to meet the present and future needs of the four Pueblos involved in the litigation; protect the interests and rights of longstanding water users, including century-old irrigation practices; and ensure that water is available for municipal and domestic needs for all residents in the Pojoaque basin. Negotiation of this agreement was a lengthy process. In the end, however, the parties' commitment to solving water supply issues in the basin prevailed.

Legislation to implement this settlement was introduced in the 110th Congress. Hearings were held in both the



House and Senate and based on the submitted testimony a number of changes were made to address concerns with the legislation. These changes help standardize the Pueblos' waivers of claims as part of the settlement; limit the settlement's impact on the Federal budget; and allows for flexibility in developing the size and scope of the regional water system in response to local concerns.

This settlement is widely supported in the region and it is time to move swiftly to enact this legislation. The State of New Mexico deserves recognition for actively pursuing a settlement of this matter and committing significant resources so that the Federal government does not bear the entire cost of the settlement. The bill is critical to New Mexico's future since it provides certainty in allocating water in a perennially water-short area of the state. It also helps address a long-neglected responsibility of the Federal Government to protect the rights and interests of these Pueblos. I look forward to working with my colleagues in the Senate as well as the House of Representatives to enact this legislation as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1105

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aamodt Litigation Settlement Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

Sec. 101. Authorization of Regional Water System.

Sec. 102. Operating Agreement.

Sec. 103. Acquisition of Pueblo water supply for the Regional Water System.

Sec. 104. Delivery and allocation of Regional Water System capacity and water.

Sec. 105. Aamodt Settlement Pueblos' Fund.

Sec. 106. Environmental compliance.

Sec. 107. Authorization of appropriations.

#### TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

Sec. 201. Settlement Agreement and contract approval.

Sec. 202. Environmental compliance.

Sec. 203. Conditions precedent and enforcement date.

Sec. 204. Waivers and releases.

Sec. 205. Effect.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) AAMODT CASE.—The term "Aamodt Case" means the civil action entitled *State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66 CV 6639 MV/LCS (D.N.M.).

(2) ACRE-FEET.—The term "acre-foot" means acres-foot of water per year.

(3) AUTHORITY.—The term "Authority" means the Pojoaque Basin Regional Water Authority described in section 9.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) CITY.—The term "City" means the city of Santa Fe, New Mexico.

(5) COST-SHARING AND SYSTEM INTEGRATION AGREEMENT.—The term "Cost-Sharing and System Integration Agreement" means the agreement to be executed by the United States, the State, the Pueblos, the County, and the City that—

(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and

(B) allocates the costs of the Regional Water System with respect to—

(i) the construction, operation, maintenance, and repair of the Regional Water System; and

(ii) rights-of-way for the Regional Water System; and

(iii) the acquisition of water rights.

(6) COUNTY.—The term "County" means Santa Fe County, New Mexico.

(7) COUNTY DISTRIBUTION SYSTEM.—The term "County Distribution System" means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(8) COUNTY WATER UTILITY.—The term "County Water Utility" means the water utility organized by the County to—

(A) receive water distributed by the Authority; and

(B) provide the water received under subparagraph (A) to customers on non-Pueblo land in the Pojoaque Basin.

(9) ENGINEERING REPORT.—The term "Engineering Report" means the report entitled "Pojoaque Regional Water System Engineering Report" dated September 2008 and any amendments thereto, including any modifications which may be required by section 101(d)(2).

(10) FUND.—The term "Fund" means the Aamodt Settlement Pueblos' Fund established by section 105(a).

(11) OPERATING AGREEMENT.—The term "Operating Agreement" means the agreement between the Pueblos and the County executed under section 102(a).

(12) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term "operations, maintenance, and replacement costs" means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.

(B) EXCLUSION.—The term "operations, maintenance, and replacement costs" does not include construction costs or costs related to construction design and planning.

(13) POJOAQUE BASIN.—

(A) IN GENERAL.—The term "Pojoaque Basin" means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) INCLUSION.—The term "Pojoaque Basin" includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87-231 (75 Stat. 505).

(14) PUEBLO.—The term "Pueblo" means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(15) PUEBLOS.—The term "Pueblos" means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(16) PUEBLO LAND.—The term "Pueblo land" means any real property that is—

(A) held by the United States in trust for a Pueblo within the Pojoaque Basin;

(B)(i) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or

(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—

(I) within the exterior boundaries of the Pueblo, as recognized and conformed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree;

(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2005.

(17) PUEBLO WATER FACILITY.—

(A) IN GENERAL.—The term "Pueblo Water Facility" means—

(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and

(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—

(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and

(II) described in the Operating Agreement.

(B) INCLUSIONS.—The term "Pueblo Water Facility" includes—

(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and

(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.

(18) REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The term "Regional Water System" means the Regional Water System described in section 101(a).

(B) EXCLUSIONS.—The term "Regional Water System" does not include the County or Pueblo water supply delivered through the Regional Water System.

(19) SAN JUAN-CHAMA PROJECT.—The term "San Juan-Chama Project" means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

(20) SAN JUAN-CHAMA PROJECT ACT.—The term "San Juan-Chama Project Act" means



sections 8 through 18 of the Act of June 13, 1962 (76 Stat. 96, 97).

(21) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the stipulated and binding agreement among the State, the Pueblos, the United States, the County, and the City dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States) on May 3, 2006, and as amended in conformity with this Act.

(23) STATE.—The term “State” means the State of New Mexico.

# **TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM**

## **SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement, to be known as the “Regional Water System”:

(1) to divert and distribute water to the Pueblos and to the County Water Utility, in accordance with the Engineering Report; and

(2) that consists of—

(A) surface water diversion facilities at San Ildefonso Pueblo on the Rio Grande; and

(B) any treatment, transmission, storage and distribution facilities and wellfields for the County Distribution System and Pueblo Water Facilities that are necessary to supply 4,000 acre-feet of water within the Pojoaque Basin, unless modified in accordance with subsection (d)(2).

(b) FINAL PROJECT DESIGN.—The Secretary shall issue a final project design within 90 days of completion of the environmental compliance described in section 106 for the Regional Water System that—

(1) is consistent with the Engineering Report; and

(2) includes a description of any Pueblo Water Facilities.

(c) ACQUISITION OF LAND; WATER RIGHTS.—

(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 107(c), the Pueblos shall consent to the grant of such easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State or County own easements or rights-of-way that may be used for construction of the Regional Water System, the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary. The Secretary shall acquire any other land or interest in land that is necessary for the construction of the Regional Water System.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(d) CONDITIONS FOR CONSTRUCTION.—

(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—

(A) the Secretary executes—

(i) the Settlement Agreement; and

(ii) the Cost-Sharing and System Integration Agreement; and

(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(2) MODIFICATIONS TO REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The State and the County, in agreement with the Pueblos, the City,

and other signatories to the Cost-Sharing and System Integration Agreement, may modify the extent, size, and capacity of the County Distribution System as set forth in the Cost-Sharing and System Integration Agreement.

(B) EFFECT.—A modification under subparagraph (A)—

(i) shall not affect implementation of the Settlement Agreement so long as the provisions in section 203 are satisfied; and

(ii) may result in an adjustment of the State and County cost-share allocation as set forth in the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—

(1) PUEBLO WATER FACILITIES.—The costs of constructing the Pueblo Water Facilities, as determined by the final project design and the Engineering Report—

(A) shall be at full Federal expense subject to the amount authorized in section 107(a)(1); and

(B) shall be nonreimbursable to the United States.

(2) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations for the Regional Water System described in the Cost-Sharing and System Integration Agreement shall be satisfied on the payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(h) CONVEYANCE OF REGIONAL WATER SYSTEM FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), on completion of the construction of the Regional Water System, the Secretary, in accordance with the Operating Agreement, shall convey to—

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land located within the boundaries of the Pueblo that is acquired by the United States for the construction of the Pueblo Water Facility;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the portions of the Regional Water System.

(2) CONDITIONS FOR CONVEYANCE.—The Secretary shall not convey any portion of the Regional Water System facilities under paragraph (1) until the date on which—

(A) construction of the Regional Water System is complete; and

(B) the Operating Agreement is executed in accordance with section 102.

(3) SUBSEQUENT CONVEYANCE.—On conveyance by the Secretary under paragraph (1), the Pueblos, the County, and the Authority shall not reconvey any portion of the Regional Water System conveyed to the Pueblos, the County, and the Authority, respectively, unless the reconveyance is authorized by an Act of Congress enacted after the date of enactment of this Act.

(4) INTEREST OF THE UNITED STATES.—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) ADDITIONAL CONSTRUCTION.—On conveyance of a portion of the Regional Water System under paragraph (1), the Pueblos, County, or the Authority, as applicable, may, at the expense of the Pueblos, County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) LIABILITY.—

(A) IN GENERAL.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed, other than damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

(7) EFFECT.—Nothing in any transfer of ownership provided or any conveyance thereto as provided in this section shall extinguish the right of any Pueblo, the County, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, repair, and replacement of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

## **SEC. 102. OPERATING AGREEMENT.**

(a) IN GENERAL.—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the date of issuance of a final project design for the Regional Water System under section 101(b).

(b) APPROVAL.—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) CONTENTS.—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions for—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities;

(B) the allocation of the Regional Water System capacity;

(C) the terms of use of unused water capacity in the Regional Water System;

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County from the Regional Water System, including provisions addressing when the construction of such additional infrastructure requires approval by the Authority;

(E) the allocation and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;

(F) the operation of wellfields located on Pueblo land;

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 103(a);

(H) the operation of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement so that, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and

(I) dispute resolution; and

(3) provisions for operating and maintaining the Regional Water System facilities before and after conveyance under section 101(h), including provisions to—

(A) ensure that—

(i) the operation of, and the diversion and conveyance of water by, the Regional Water System is in accordance with the Settlement Agreement;

(ii) the wells in the Regional Water System are used in conjunction with the surface water supply of the Regional Water System to ensure a reliable firm supply of water to all users of the Regional Water System, consistent with the intent of the Settlement Agreement that surface supplies will be used to the maximum extent feasible;

(iii) the respective obligations regarding delivery, payment, operation, and management are enforceable; and

(iv) the County has the right to serve any new water users located on non-Pueblo land in the Pojoaque Basin; and

(B) allow for any aquifer storage and recovery projects that are approved by the Office of the New Mexico State Engineer.

(d) EFFECT.—Nothing in this Act precludes the Operating Agreement from authorizing phased or interim operations if the Regional Water System is constructed in phases.

#### SEC. 103. ACQUISITION OF PUEBLO WATER SUPPLY FOR THE REGIONAL WATER SYSTEM.

(a) IN GENERAL.—For the purpose of providing a reliable firm supply of water from the Regional Water System for the Pueblos in accordance with the Settlement Agreement, the Secretary, on behalf of the Pueblos, shall—

(1) acquire water rights to—

(A) 302 acre-feet of Nambe reserved water described in section 2.6.2 of the Settlement Agreement pursuant to section 107(c)(1)(C); and

(B) 1141 acre-feet from water acquired by the County for water rights commonly referred to as "Top of the World" rights in the Aamodt Case;

(2) make available 1079 acre-feet to the Pueblos pursuant to a contract entered into among the Pueblos and the Secretary in accordance with section 11 of the San Juan-Chama Project Act, under water rights held by the Secretary; and

(3) by application to the State Engineer, obtain approval to divert the water acquired and made available under paragraphs (1) and (2) at the points of diversion for the Regional Water System, consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement.

(b) FORFEITURE.—The nonuse of the water supply secured by the Secretary for the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(c) TRUST.—The Pueblo water supply secured under subsection (a) shall be held by the United States in trust for the Pueblos.

(d) APPLICABLE LAW.—The water supply made available pursuant to subsection (a)(2) shall be subject to the San Juan-Chama Project Act, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(e) CONTRACT FOR SAN JUAN-CHAMA PROJECT WATER SUPPLY.—With respect to the contract for the water supply required by subsection (a)(2), such San Juan-Chama Project contract shall be pursuant to the following terms:

(1) WAIVERS.—Notwithstanding the provisions of the San Juan-Chama Project Act, or any other provision of law—

(A) the Secretary shall waive the entirety of the Pueblos' share of the construction costs for the San Juan-Chama Project, and pursuant to that waiver, the Pueblos' share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest, due from 1972 to the execution of the contract required by subsection (a)(2), shall be nonreimbursable;

(B) the Secretary's waiver of each Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and

(C) the costs associated with any water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Public Law No. 88-293, 78 Stat. 171 (March 26, 1964) shall remain nonreimbursable and nonreturnable.

(2) TERMINATION.—The contract shall provide that it shall terminate only upon the following conditions—

(A) failure of the United States District Court for the District of New Mexico to enter a final decree for the Aamodt Case by December 15, 2012, or within the time period of any extension of that deadline granted by the court; or

(B) entry of an order by the United States District Court for the District of New Mexico voiding the final decree and Settlement Agreement for the Aamodt Case pursuant to section 10.3 of the Settlement Agreement.

(f) LIMITATION.—The Secretary shall use the water supply secured under subsection (a) only for the purposes described in the Settlement Agreement.

(g) FULFILLMENT OF WATER SUPPLY ACQUISITION OBLIGATIONS.—Compliance with subsections (a) through (f) shall satisfy any and

all obligations of the Secretary to acquire or secure a water supply for the Pueblos pursuant to the Settlement Agreement.

(h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREEMENT UNAFFECTED.—Notwithstanding the provisions of subsections (a) through (g), the Pueblos, the County or the Regional Water Authority may acquire any additional water rights to ensure all parties to the Settlement Agreement receive the full allocation of water provided by the Settlement Agreement and nothing in this Act amends or modifies the quantities of water allocated to the Pueblos thereunder.

#### SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY AND WATER.

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—

(1) IN GENERAL.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—

(A) up to 4,000 acre-feet of consumptive use of water; and

(B) the requisite peaking capacity described in—

(i) the Engineering Report; and

(ii) the final project design.

(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—

(A) there shall be allocated to the Pueblos—

(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i); and

(B) there shall be allocated to the County Water Utility—

(i) sufficient capacity for the conveyance of up to 1,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i).

(3) APPLICABLE LAW.—Water shall be allocated to the Pueblos and the County Water Utility under this subsection in accordance with—

(A) this title;

(B) the Settlement Agreement; and

(C) the Operating Agreement.

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—

(1) to the Pueblos water in a quantity sufficient to allow full consumptive use of up to 2,500 acre-feet per year of water rights by the Pueblos in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title; and

(2) to the County water in a quantity sufficient to allow full consumptive use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title.

(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNUSED CAPACITY.—The Regional Water System may be used to—

(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the Settlement Agreement to each of the Pueblos and to the County; and

(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity by each other through the Regional Water System in accordance with an intergovernmental agreement between the Pueblos, or between a Pueblo and County Water Utility, as applicable, if—

(A) such intergovernmental agreements are consistent with the Operating Agreement, the Settlement Agreement, and this Act;

(B) capacity is available without reducing water delivery to any Pueblo or the County Water Utility in accordance with the Settlement Agreement, unless the County Water Utility or Pueblo contracts for a reduction in water delivery or Regional Water System capacity;

(C) the Pueblo or County Water Utility contracting for use of the unused capacity or water has the right to use the water under applicable law; and

(D) any agreement for the use of unused capacity or water provides for payment of the operation, maintenance, and replacement costs associated with the use of capacity or water.

#### SEC. 105. AAMODT SETTLEMENT PUEBLOS' FUND.

(a) ESTABLISHMENT OF THE AAMODT SETTLEMENT PUEBLOS' FUND.—There is established in the Treasury of the United States a fund, to be known as the "Aamodt Settlement Pueblos' Fund," consisting of—

(1) such amounts as are made available to the Fund under section 107(c) or other authorized sources; and

(2) any interest earned from investment of amounts in the Fund under subsection (b).

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make amounts available from the Fund for distribution to the Pueblos in accordance with—

(1) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(2) this Act.

(c) INVESTMENT OF THE FUND.—On the date set forth in section 203(a)(1), the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) TRIBAL MANAGEMENT PLAN.—

(1) IN GENERAL.—A Pueblo may withdraw all or part of the Pueblo's portion of the Fund on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that a Pueblo spend any amounts withdrawn from the Fund in accordance with the purposes described in section 107(c).

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Fund under an approved tribal management plan are used in accordance with this title.

(4) LIABILITY.—If a Pueblo or the Pueblos exercise the right to withdraw amounts from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts withdrawn.

(5) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblos shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Fund that the Pueblos do not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(D) ANNUAL REPORT.—The Pueblos shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(6) NO PER CAPITA PAYMENTS.—No part of the principal of the Fund, or the interest or income accruing on the principal shall be distributed to any member of a Pueblo on a per capita basis.

(7) AVAILABILITY OF AMOUNTS FROM THE FUND.—

(A) APPROVAL OF SETTLEMENT AGREEMENT.—Amounts made available under subparagraphs (A) and (C) of section 107(c)(1) or from other authorized sources shall be available for expenditure or withdrawal only after the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) COMPLETION OF CERTAIN PORTIONS OF REGIONAL WATER SYSTEM.—Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after those portions of the Regional Water System described in section 1.5.24 of the Settlement Agreement have been declared substantially complete by the Secretary.

(C) FAILURE TO FULFILL CONDITIONS PRECEDENT.—If the conditions precedent in section 203 have not been fulfilled by September 15, 2017, the United States shall be entitled to set off any funds expended or withdrawn from the amounts appropriated pursuant to section 107(c), together with any interest accrued, against any claims asserted by the Pueblos against the United States relating to the water rights in the Pojoaque Basin.

#### SEC. 106. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—In carrying out this title, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this Act affects the outcome of any analysis conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there is authorized to be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities under section 106 a total of \$106,400,000 between fiscal years 2010 and 2022.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) ADJUSTMENT.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) LIMITATIONS.—

(A) IN GENERAL.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) RECORD OF DECISION.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional Water System, as defined in the Engineering Report.

(b) ACQUISITION OF WATER RIGHTS.—There is authorized to be appropriated to the Secretary funds for the acquisition of the water rights under section 103(a)(1)(B)—

(1) in the amount of \$5,400,000.00 if such acquisition is completed by December 31, 2010; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2011.

(c) AAMODT SETTLEMENT PUEBLOS' FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2010 through 2022:

(A) \$15,000,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) \$37,500,000, which shall be allocated to an account, to be established not later than January 1, 2016, to assist the Pueblos in paying the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) \$5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambé for the acquisition of the Nambé reserved water rights in accordance with section 103(a)(1)(A). The amount authorized herein shall be adjusted according to the CPI Urban Index commencing January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambé only for the acquisition of land, other real property interests, or economic development.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—Prior to conveyance of the Regional Water System pursuant to section 101, the Secretary shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System up to an amount that does not exceed \$5,000,000, which is authorized to be appropriated to the Secretary.

(B) OBLIGATION OF THE FEDERAL GOVERNMENT AFTER COMPLETION.—Except as provided in section 103(a)(4)(B), after construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited

under this section the Federal Government shall have no obligation to pay for the operation, maintenance, and replacement costs of the Regional Water System.

## **TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT**

### **SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.**

(a) **APPROVAL.**—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are executed to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act) are authorized, ratified, and confirmed.

(b) **EXECUTION.**—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments that are necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act).

#### **(c) AUTHORITIES OF THE PUEBLOS.**

(1) **IN GENERAL.**—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or expanded water uses for water rights recognized in section 2.1 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of section 2.1.5 of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) **EXECUTION.**—The Secretary shall not execute the Settlement Agreement until such amendment is accomplished under paragraph (1).

(3) **APPROVAL BY SECRETARY.**—Consistent with the Settlement Agreement as amended under paragraph (1), the Secretary shall approve or disapprove a lease entered into under paragraph (1).

(4) **PROHIBITION ON PERMANENT ALIENATION.**—No lease or contract under paragraph (1) shall be for a term exceeding 99 years, nor shall any such lease or contract provide for permanent alienation of any portion of the water rights made available to the Pueblos under the Settlement Agreement.

(5) **APPLICABLE LAW.**—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) **LEASING OR MARKETING OF WATER SUPPLY.**—The water supply provided on behalf of the Pueblos pursuant to section 103(a)(1) may only be leased or marketed by any of the Pueblos pursuant to the intergovernmental agreements described in section 104(c)(2).

(d) **AMENDMENTS TO CONTRACTS.**—The Secretary shall amend the contracts relating to the Nambe Falls Dam and Reservoir that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

### **SEC. 202. ENVIRONMENTAL COMPLIANCE.**

(a) **EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.**—The execution of the Settlement Agreement under section 201(b) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) **COMPLIANCE WITH ENVIRONMENTAL LAWS.**—In carrying out this Act, the Secretary shall comply with each law of the

Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

### **SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.**

#### **(a) CONDITIONS PRECEDENT.**

(1) **IN GENERAL.**—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register by September 15, 2017 a statement of finding that the conditions have been fulfilled.

(2) **REQUIREMENTS.**—The conditions precedent referred to in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of that section, by December 15, 2016;

(D) the State has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement;

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico by June 15, 2017.

(b) **EXPIRATION DATE.**—If all the conditions precedent described in subsection (a)(2) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act including waivers described in those documents shall no longer be effective; and

(2) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) **ENFORCEMENT DATE.**—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative Order consistent with the Settlement Agreement.

(d) **EFFECTIVENESS OF WAIVERS.**—The waivers and releases executed pursuant to section 204 shall become effective as of the date that the Secretary publishes the notice required by subsection (a)(1).

(e) **REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE REGIONAL WATER SYSTEM.**

(1) **CRITERIA FOR SUBSTANTIAL COMPLETION OF REGIONAL WATER SYSTEM.**—Subject to the provisions in section 101(d) concerning the extent, size, and capacity of the County Distribution System, the Regional Water System shall be determined to be substantially completed if the infrastructure has been constructed capable of—

(A) diverting, treating, transmitting, and distributing a supply of 2,500 acre-feet of water to the Pueblos; and

(B) diverting, treating, and transmitting the quantity of water specified in the Engineering Report to the County Distribution System.

(2) **CONSULTATION.**—On or after June 30, 2021, at the request of 1 or more of the Pueblos, the Secretary shall consult with the Pueblos and confer with the County and the State on whether the criteria in paragraph (1) for substantial completion of the Regional Water System have been met or will be met by June 30, 2024.

(3) **RIGHT TO VOID FINAL DECREE.**—If the substantial completion criteria have not been met by June 15, 2021, after the consultation required by paragraph (2), the Pueblos or the United States as trustee for the Pueblos have until midnight June 30, 2024 to ask the Decree Court to void the Final Decree pursuant to section 10.3 of the Settlement Agreement.

(f) **VOIDING OF WAIVERS.**—If the Court determines the Final Decree is voided pursuant to Section 10.3 of the Settlement Agreement, the Settlement Agreement shall no longer be effective, the waivers and releases executed pursuant to section 204 shall no longer be effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

### **SEC. 204. WAIVERS AND RELEASES.**

(a) **CLAIMS BY THE PUEBLOS AND THE UNITED STATES.**—In return for recognition of the Pueblos' water rights and other benefits, including waivers and releases by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for water rights in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, asserted, or could have asserted, in any proceeding, including the Aamodt Case, up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights for lands in the Pojoaque Basin and for rights to use water in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, might be able to otherwise assert in any proceeding not initiated on or before the date of enactment of this title, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking) for land within the Pojoaque Basin that accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(4) their defenses in the Aamodt Case to the claims previously asserted therein by other parties to the Settlement Agreement;

(5) all pending and future inter se challenges to the quantification and priority of water rights of non-Pueblo wells in the

Pojoaque Basin, except as provided by section 2.8 of the Settlement Agreement;

(6) all pending and future inter se challenges against other parties to the Settlement Agreement;

(7) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to City of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin, provided that this waiver shall not be effective by the Pueblo of Tesuque unless there is a water resources agreement executed between the Pueblo of Tesuque and the City of Santa Fe;

(8) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to County of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin; and

(9) all claims for damages, losses, or injuries, or for injunctive or other relief, because of the condition of, or changes in, the concentration of naturally occurring constituents of ground and surface water in the Pojoaque Basin arising out of the diversion of water pursuant to water rights recognized by the final decree.

(b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, are authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees, relating to claims for water rights in or water of the Pojoaque Basin or for rights to use water in the Pojoaque Basin that the United States acting in its capacity as trustee for the Pueblos asserted, or could have asserted, in any proceeding, including the Aamodt Case;

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses or injuries to hunting, fishing, gathering or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) within the Pojoaque Basin that first accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by Acts, including the Act of December 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45 Stat. 1562), the Act of March 26, 1930 (46 Stat. 90), the Act of February 14, 1931 (46 Stat. 1115), the Act of March 4, 1931 (46 Stat. 1552), the Act of July 1, 1932 (47 Stat. 525), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291), as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636) and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108) and for breach of Trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblos' water rights in the Aamodt Case; and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Partial Final Decree, the Final Decree, or this Act.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding the waivers and releases authorized in this Act, the Pueblos on behalf of themselves and their members and the United States acting in its capacity as trustee for the Pueblos retain.—

(1) all claims for enforcement of the Settlement Agreement, the Cost-Sharing and System Integration Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblos and the United States or this Act;

(2) all rights to use and protect water rights acquired after the date of enactment of this Act;

(3) all rights to use and protect water rights acquired pursuant to state law to the extent not inconsistent with the Partial Final Decree, Final Decree, and the Settlement Agreement;

(4) all claims against persons other than Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water) within the Pojoaque Basin arising out of activities occurring outside the Pojoaque Basin;

(5) all claims relating to activities affecting the quality of water including any claims the Pueblos may have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

(6) all claims against the United States relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including hunting, fishing, gathering or cultural rights);

(7) all claims for water rights from water sources outside the Pojoaque Basin for land outside the Pojoaque Basin owned by a Pueblo or held by the United States for the benefit of any of the Pueblos; and

(8) all rights, remedies, privileges, immunities, powers and claims not specifically waived and released pursuant to this Act or the Settlement Agreement.

(d) EFFECT OF SECTION.—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing those laws;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian tribe or allottee; or

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the

duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action;

(e) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on June 30, 2021.

(2) EFFECT OF SUBPARAGRAPH.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

#### SEC. 205. EFFECT.

Nothing in this Act or the Settlement Agreement affects the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community other than the Pueblos.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to complete the Aamodt water settlement in northern New Mexico. Introduction of this bill represents a major milestone in the resolution of water rights claims for four tribes along the Rio Grande in northern New Mexico. Decades of work and negotiation have gone into the settlement, and I am pleased that the tribes, city, county, and community groups involved were able to come to an agreement that is mutually beneficial to all water users in the Pojoaque valley.

The Aamodt settlement resolves the water claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque, and addresses the needs of the surrounding communities in Santa Fe County for water and sanitation systems. The settlement is a result of long negotiations between the county and pueblos, and will result in the development of a mutually beneficial water infrastructure system. This system will ensure that the pueblos have access to clean running water into the future, and will allow the surrounding communities to work with the county and state to connect in to the water system. I applaud the efforts and success of these groups in coming to an agreement that both settles disputes and benefits each community.

New Mexico is a State rich with tradition and culture, where water resources are scarce and precious. Diverse communities have depended on the on ground and surface water along the Rio Grande for centuries. As our population grows and communities expand to welcome newcomers, the impact on water resources in New Mexico is vivid. With such stress on this vital but limited commodity, conflict easily develops between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, ay, despite the potential for disagreement over water tenure, New Mexicans

are united in a common respect for this resource. From the pueblos and tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Aamodt settlement is an example of communities and tribes coming together to foster compromise rather than conflict. The parties involved have worked tirelessly to ensure that everyone has access to this precious and respected resource.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise, one that will help us move into the future with well-established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator BINGAMAN today in introducing this legislation that will bring the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and the surrounding communities one step closer to establishing a secure water future.

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):

S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivors' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, today I am introducing a bill, together with my Republican colleague Senator ORRIN HATCH, that will help the financial security of Federal judges and their families. It will do so without costing the Federal Government a penny.

Our bill, the Judicial Survivors Protection Act of 2009, will create an open season for active and senior federal judges to enroll in the Judicial Survivors' Annuities System, JSAS, if they are not currently enrolled. JSAS provides an annuity for the surviving spouses and dependent children of a deceased federal judge. Depending on the judge's length of service, the annuity for a surviving spouse can be as high as 50 percent of the judge's average annual salary, and the annuity for surviving dependent children can be as high as 20 percent.

In addition, our bill would provide an important health insurance benefit for the surviving family members of deceased Federal judges. For a surviving spouse or dependent child to continue to receive health insurance coverage under the Federal Employees Health Benefit, FEHB, program after the judge's death, the judge must have been enrolled in JSAS. Otherwise, they can no longer participate in FEHB.

Federal judges have only 6 months from the date of their appointment to sign up for JSAS and, for a variety of reasons, many do not do so. For example, many individuals take substantial pay cuts when they leave a law firm to become a Federal judge, and they are unable to afford JSAS contributions, which amount to a 2.2 percent of a judge's annual salary. Nearly 900 federal judges, representing about 40 percent of the federal judiciary, currently do not participate in JSAS. However, if given the opportunity, the Administrative Office of the U.S. Courts estimates between 200 and 300 judges would sign up.

Take, for example, the case of Judge Michael Mihm, who is a federal judge in the Central District of Illinois, my home State. Judge Mihm wrote a letter and said:

In 1982, when I came on the bench, the survivor's pension (JSAS) was so bad that almost no incoming judge signed up for it. Plus, the percentage of salary involved was very high. So I didn't sign up for it then. In the early 90s I was a member of the Judicial Branch Committee, and at that time the Committee and the judiciary succeeded in getting a bill passed that improved the benefits (established a 25% floor) and the percentage of salary paid. There was an open season. That would have been the time to join. However, at that time I had four children attending private universities . . . I simply couldn't afford to bring home a smaller paycheck. I have for some time now been very interested in 'buying in' to the survivor's pension, that is, pay in everything I would have paid in if I had joined during the open season, plus a penalty amount for waiting until now to join.

I also received a letter from U.S. District Court Judge Robert Gettleman in the Northern District of Illinois, who said: "Especially given the circumstances of our current economic crisis, providing for my family in the event of a death is of urgent importance to me. I think I speak for many of those in my circumstance that I am happy to make a make-up payment and contribute a greater share of my income to participate in this program."

The bill that Senator HATCH and I are introducing would allow Judge Mihm, Judge Gettleman, and the hundreds of other nonparticipating federal judges around the country to pay a penalty and buy into the JSAS program. Such judges would be required to pay an enhanced contribution rate of 2.75 percent of their salary each year rather than the 2.2 percent rate they would pay if they had enrolled within 6 months of taking office.

As a result, the cost of our bill would be borne by these new enrollees and not by the Federal Government or by previously enrolled judges. The Congressional Budget Office has conducted an informal review of this bill and determined that the cost of this bill is insignificant. Therefore, the bill would require no Federal funds and have no PAYGO implications. The higher ongo-

ing contribution rates for new enrollees will offset the value of any potential future liabilities that would be incurred by the JSAS fund, which currently has assets of over \$500 million.

One of the highest priorities of the federal judiciary in recent years has been the pursuit of a pay raise. Federal judges have not received a pay raise from Congress since 1991, other than occasional cost-of living adjustments, and there is a concern that some of this Nation's best and brightest attorneys no longer seek Federal judgeships because of the financial sacrifice they and their families would have to make. The bill that Senator HATCH and I are introducing today would not raise the judicial pay of our federal judges, but it would at least provide a modest benefit that might make judicial service more tenable and more attractive. I hope Congress will take up and pass the Judicial Survivors Protection Act of 2009 as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1107

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Survivors Protection Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) The term "judicial official" refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(2) The term "Judicial Survivors' Annuities Fund" means the fund established under section 3 of the Judicial Survivors' Annuities Reform Act (28 U.S.C. 376 note; Public Law 94-554; 90 Stat. 2611).

(3) The term "Judicial Survivors' Annuities System" means the program established under section 376 of title 28, United States Code.

#### SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

(a) ELECTION OF JUDICIAL SURVIVORS' ANNUITIES SYSTEM COVERAGE.—An eligible judicial official may elect to participate in the Judicial Survivors' Annuities System during the open enrollment period specified in subsection (d).

(b) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the end of the open enrollment period.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period under this section is the 6-month period beginning 30 days after the date of enactment of this Act.

#### SEC. 4. JUDICIAL OFFICERS' CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.

(a) CONTRIBUTION RATE.—Every active judicial official who files a written notification



of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of that salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a justice or judge of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Federal Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) CONTRIBUTIONS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Contributions made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

#### SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

(a) LUMP SUM DEPOSIT.—Any judicial official who files a written notification of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent annual, compounded interest, for the last 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official's survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(b) DEPOSITS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Deposits made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

#### SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS' ANNUITY.

Section 376 of title 28, United States Code, is amended by adding at the end the following:

“(y) For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors' Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors' Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.”.

#### SEC. 7. EFFECTIVE DATE.

This Act, including the amendment made by section 6, shall take effect on the date of enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to join my colleague from Illinois and fellow Judiciary Committee member, Senator DURBIN, in introducing the Judicial Survivors' Protection Act of 2009. This legislation will provide more Federal judges with an opportunity financially to provide for their own families after their death.

Under this legislation, the cost of this opportunity will be borne by the judges themselves, not by the taxpayers, and I hope all my colleagues will support it.

Congress created the Judicial Survivors' Annuity System in 1956. It allow Federal judges to devote a portion of their salary toward an annuity for their spouses and dependent children upon the judges' death. Enrollment in JSAS is also necessary for a judge's family members to continue receiving health insurance coverage under the Federal Employees Health Benefits Program.

The catch is that judges must enroll within 6 months of taking judicial office or 6 months of marriage while in office. Approximately 40 percent of current Federal judges did not do so, some for financial reasons. Many judges who had been in private practice, for example, took a substantial pay cut to enter public service. The enrollment period for JSAS was the very time when they and their families were making that financial adjustment, when maximizing current income was the priority. This is just one of the scenarios which have led judges to decline enrollment in JSAS, and it will become more likely, more pronounced, as Congress refuses to give Federal judges a much needed pay raise.

Congress may authorize an open-season period for sitting judges to enroll but has not done so since 1992, the year after Congress last gave Federal judges a real salary increase. The legislation we introduce today would provide for such a one-time, 6 month period for sitting Federal judges to enroll in JSAS. Doing so would not cost the taxpayers anything because these judges would commit a higher percentage of their salary than those who enroll during the ordinary period.

Congress' refusal to provide appropriate judicial compensation limits judges' ability to provide for their families financial future. Providing this one-time opportunity for judges to enroll in JSAS, therefore, is almost the least we can do. It will also allow more judges to ensure that their family members will continue receiving health insurance coverage. And since it will not cost the taxpayers anything, I think it is a win-win which I trust will receive wide bipartisan support.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Medicare

Payment Advisory Commission MedPAC Reform Act, legislation to elevate MedPAC to an executive branch entity and give it the resources and authority to implement Medicare payment policies. It is a fact that the quality of U.S. health care is mediocre and its costs are unsustainable. Nonetheless, a modern health care delivery system is within our reach and something that we can start to achieve this year. Payment reforms, particularly in Medicare, are the cornerstone for driving quality improvement and improving the efficiency of our health care system. However, Congress must adopt a mechanism to implement and maintain Medicare reimbursement policies that are based on the best evidence and driven by the right incentives. This is simply not the case today.

Currently, Congress has the sole authority to change the cost curve for Medicare. Unfortunately, this process is riddled with political influence and is slowed by an inadequate structure to research, analyze, test, and implement successful delivery system reforms. Given the role of Medicare in determining market norms among all health care payers, both public and private, the federal government has an opportunity to realign our nation's health care system to drive quality improvement and greater efficiency.

The federal government already has a well-respected, independent entity—the Medicare Payment Advisory Commission, MedPAC—that currently advises Congress on Medicare payment policies. MedPAC, established by the Balanced Budget Act of 1997 (P.L. 105-33), employs a number of mechanisms to inform Congress on issues affecting the Medicare program. Specifically, MedPAC analyzes provider reimbursement, beneficiary access to care, and quality of care; delivers this information to Congress through regular reports and recommendations; engages in public meetings to discuss policy issues and formulate its recommendations to the Congress; and seeks input on Medicare issues in non-public forums through frequent meetings with a wide variety of parties.

Despite MedPAC's reputation for providing thoughtful, evidence-based recommendations to improve Medicare's payment policies, MedPAC has no power to implement its recommendations. That power rests solely with Congress. Unfortunately, Members of Congress face unyielding pressure from the health care industry to pick and choose which MedPAC recommendations they consider, despite the evidence. This routinely leads to the passage of laws that put the special interests of industry over the needs of patients.

MedPAC has proven, through its objectivity and its open and deliberative process, that they have the appropriate expertise to change the cost curve for



Medicare and strengthen it for the future. The Medicare Payment Advisory Commission Reform Act of 2009 helps to achieve this goal. Specifically, this legislation would restructure MedPAC as an independent executive branch entity, like the Federal Reserve Board. This would provide MedPAC the appropriate authority to implement its recommendations for Medicare provider reimbursement policies.

In addition to extending the terms and requirements of the Commissioners to be full-time employees of the Commission, this legislation also establishes three new advisory councils to assist them in their decision-making—a Council of Health and Economic Advisors, a Consumer Advisory Council, and a Federal Health Advisory Council with representatives from the health care industry.

Lastly, MedPAC's authority to analyze health services research is also enhanced in this legislation by providing them with additional resources and staff to bolster their current analytical role. Given the limitations of the current Medicare demonstration process, this legislation provides new authority and resources to MedPAC to design and evaluate new payment models through Medicare demonstrations.

I strongly feel that establishing MedPAC as an independent executive branch agency—which can only happen through an act of Congress—is the type of bold step forward that can truly transform our delivery system. Congress has proven itself to be inefficient and inconsistent in making decisions about provider reimbursement under Medicare. If we want serious improvements in our health care delivery system, then Congress should leave the reimbursement rules to the independent health care experts. I urge my colleagues to join me in support of a policy that truly improves Medicare today and in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1110

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009”.

#### SEC. 2. RENAMING AND REFORMING THE MEDICARE PAYMENT ADVISORY COMMISSION.

##### (a) AMENDMENT TO TITLE.—

(1) IN GENERAL.—Section 1805 of the Social Security Act (42 U.S.C. 1395b-6) is amended—

(A) in the heading, by striking “medicare payment advisory commission” and inserting “medicare payment and access commission”; and

(B) in subsection (a), by striking “Medicare Payment Advisory Commission” and inserting “Medicare Payment and Access Commission (or ‘MedPAC’)”.

(2) REFERENCES.—Any reference to the Medicare Payment Advisory Commission shall be deemed a reference to the Medicare Payment and Access Commission.

(b) ESTABLISHMENT AS EXECUTIVE AGENCY.—Section 1805 of the Social Security Act (42 U.S.C. 1395b-6) is amended—

(1) in the heading, by striking “ADVISORY”; and

(2) in subsection (a)—  
(A) by striking “Advisory”; and  
(B) by striking “agency of Congress” and inserting “independent establishment (as defined in section 104 of title 5, United States Code)”;

(3) in subsection (c)—  
(A) in paragraph (1)—

(i) by striking “APPOINTMENT.—The Commission” and inserting “APPOINTMENT.—

“(A) IN GENERAL.—The Commission”;

(ii) in subparagraph (A), as inserted by clause (i)—

(I) by striking “17” and inserting “11”; and

(II) by inserting “the Secretary and the Administrator of the Centers for Medicare & Medicaid Services, who shall each serve as non-voting members of the Commission, and” after “composed of”; and

(III) by striking “Comptroller General” and inserting “President, by and with the advice and consent of the Senate”; and

(iii) by adding at the end the following new subparagraphs:

“(B) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Commission for more than 2 consecutive terms.

“(C) MEMBERS CURRENTLY APPOINTED.—

“(i) IN GENERAL.—Any individual serving as a member of the Commission as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 may continue to serve as a member until the earlier of—

“(I) the remainder of the term for which the member was appointed; or

“(II) April 30, 2010.

“(ii) CLARIFICATION REGARDING VACANCIES.—Any vacancy in the Commission on or after such date of enactment shall be filled as provided in accordance with subparagraph (A).”; and

(B) in paragraph (2), by striking subparagraph (D) and inserting the following new subparagraph:

“(D) ADDITIONAL QUALIFICATIONS.—In addition to the qualifications described in the succeeding provisions of this paragraph, the President shall consider the political balance of the membership of the Commission and the needs of individuals entitled to (or enrolled for) benefits under part A or enrolled under part B who are entitled to medical assistance under a State plan under title XIX.”.

(C) in paragraph (3)—

(i) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—The terms of members of the Commission shall be for 6 years except that, of the members first appointed—

“(i) four shall be appointed for terms of 5 years;

“(ii) four shall be appointed for terms of 3 years; and

“(iii) three shall be appointed for terms of 1 year.”; and

(ii) in subparagraph (B), in the third sentence, by striking “A vacancy” and inserting “Except as provided in paragraph (1)(C), a vacancy”;

(D) by amending paragraph (4) to read as follows:

“(4) COMPENSATION.—Membership in the Commission shall be a full-time position. A

member of the Commission shall be entitled to compensation at the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.”.

(E) by amending paragraph (5) to read as follows:

“(5) CHAIRMAN; VICE CHAIRMAN.—The President shall designate a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Chairman and a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Vice Chairman, except that in the case where the Chairman or the Vice Chairman is not able to be present (including in the case of vacancy), a majority of the Commission may designate another member for the period of such absence.”;

(4) in subsection (d), in the matter preceding paragraph (1), by striking “Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission” and inserting “The Commission”;

(5) by amending subsection (f) to read as follows:

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriations shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.”; and

(6) by adding at the end the following new subsection:

“(g) REFERENCES.—Any reference to the Medicare Payment Advisory Commission or MedPAC shall be deemed a reference to the Medicare Payment and Access Commission.”.

(c) AUTHORITY TO DETERMINE PAYMENT RATES AND ROUTINE EVALUATION OF PAYMENT RATES UNDER THE MEDICARE PROGRAM.—

(1) IN GENERAL.—Section 1805(b) of the Social Security Act (42 U.S.C. 1395b-6(b)) is amended—

(A) in paragraph (1)(B), by inserting “and determine payment rates for items and services furnished under this title in accordance with paragraph (9)” before the semicolon at the end; and

(B) by adding at the end the following new paragraphs:

“(9) AUTHORITY TO DETERMINE PAYMENT RATES UNDER THIS TITLE.—

“(A) DETERMINATION OF PAYMENT RATES.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, the Commission shall determine payment rates for items and services furnished under this title. In determining such payment rates, the Commission shall do so in a manner that is consistent with the provisions of sections 1801 and 1802.

“(ii) TIMELINE FOR DETERMINATIONS WITH RESPECT TO PAYMENT POLICIES FOR PHYSICIANS AND HOSPITALS.—The Commission shall make a determination under this subparagraph with respect to payment policies—

“(I) for physicians (as defined in section 1861(r)(1)), not later than December 1 of each year (beginning with 2012); and

“(II) for hospitals, not later than March 1 of each year (beginning with 2013).

“(B) IMPLEMENTATION OF PAYMENT RATES.—

“(i) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations to implement any payment rates determined by the Commission under subparagraph (A).

“(ii) PAYMENT RATES AND REGULATIONS CURRENTLY IN EFFECT.—Any payment rate for

items and services furnished under this title as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 or regulation promulgated by the Secretary relating to such payments prior to such date of enactment shall remain in effect until the Secretary promulgates regulations under clause (ii) to implement a payment rate determined by the Commission with respect to the item or service.

“(C) LIMITATION ON JUDICIAL REVIEW.—Any determination of the Commission relating to payment rates for items and services furnished under this title shall be a final agency action of the Commission and shall not be subject to judicial review.

“(D) ANNUAL REPORT.—Not later than March 15 of each year (beginning with 2012), the Commission shall submit to Congress a report on any payment rates determined under subparagraph (A) during the preceding year, including the performance of the Secretary in implementing such payment rates by promulgating regulations under subparagraph (B).

“(10) ROUTINE EVALUATION OF PAYMENT RATES.—The Commission shall review the payment rate for each item and service furnished under this title not less frequently than every 5 years in order to determine whether the Commission should make a determination under paragraph (9) to update such payment rate.”.

(2) GAO STUDY AND ANNUAL REPORT ON DETERMINATION AND IMPLEMENTATION OF PAYMENT RATES.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on changes to payment policies under the Medicare program under title XVIII of the Social Security Act as a result of the amendments made by this subsection, including an analysis of—

(i) any determinations made by the Medicare Payment and Access Commission under subparagraph (A) of section 1805(b)(9) of such Act, as added by paragraph (1), during the preceding year;

(ii) any regulations promulgated by the Secretary of Health and Human Services under subparagraph (B) of such section during the preceding year;

(iii) the process for—

(I) making such determinations (including the evidence to support any such determination);

(II) promulgating such regulations (including the capacity of the Secretary of Health and Human Services to promulgate such regulations); and

(iv) the ability of the Centers for Medicare & Medicaid Services to fulfill its responsibilities in carrying out such regulations.

(B) REPORT.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(d) CONGRESSIONAL ACTION.—Section 1805 of the Social Security Act (42 U.S.C. 1395b-6), as amended by subsection (b), is amended—

(1) by redesignating subsections (f) and (g), respectively, as subsections (g) and (h); and

(2) by inserting after subsection (e) the following new subsection:

“(f) CONGRESSIONAL ACTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, it shall only be in order in the Senate or the House of Representatives to consider any measure that

would overrule a determination of the Commission with respect to payments for items and services furnished under this title if  $\frac{1}{2}$  of the Members, duly chosen and sworn, of the Senate or the House of Representatives agree to such consideration.

“(2) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

“(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a measure described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.”.

(e) RESEARCH, INFORMATION ACCESS, AND DEMONSTRATION PROJECTS.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b-6(e)) is amended by adding at the end the following new paragraphs:

“(5) AUTHORITY TO INFORM RESEARCH PRIORITIES FOR DATA COLLECTION.—The Commission may advise the Secretary (through the Director of the Agency for Healthcare Research and Quality and the Director of the National Institutes of Health) on priorities for health services research, particularly as such priorities pertain to necessary changes and issues regarding payment reforms under this title.

“(6) EXPANDED AUTHORITY TO ACCESS FEDERAL DATA AND REPORTS.—In addition to data obtained under paragraph (1), the Commission shall have priority access to all raw data and research conducted or funded by the Federal government, including data and research produced by the Centers for Medicare & Medicaid Services, the National Institutes of Health, and the Agency for Healthcare Research and Quality.

“(7) ELECTRONIC ACCESS.—The National Director for Health Information Technology, in coordination with the Secretary, the Administrator of the Centers for Medicare & Medicaid Services, and the Commission, shall establish a direct electronic link for raw data, including claims data under this title, to be accessed by the Commission for the purposes of evaluating and determining recommendations under this title, in accordance with applicable privacy laws and data use agreements.

“(8) ACCESS TO BIENNIAL REPORTS.—Not less frequently than on a biannual basis, the National Institutes of Health and the Agency for Healthcare Research and Quality shall submit to the Commission a report containing information on any research conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, respectively, which has relevance for the determinations and recommendations being considered by the Commission. Such information shall be provided to the Commission in electronic form.

“(9) REVISIONS TO PROCESS FOR CONDUCT OF DEMONSTRATION PROJECTS RELATING TO PAYMENTS UNDER THIS TITLE.—Effective beginning January 1, 2011, the Commission shall have sole authority to design and evaluate demonstration projects relating to payments under this title which are authorized by section 402 of the Social Security Amendments of 1967 or under a waiver under section 1115. The Secretary shall maintain all responsi-

bility for implementing such demonstration projects, including for implementing the process through which providers are reimbursed for items and services furnished under the demonstration projects. Nothing in this paragraph shall affect the authority of the Secretary with respect to demonstration projects under this title not relating to such payments.”.

(f) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—

(1) IN GENERAL.—Section 1805(d) of the Social Security Act (42 U.S.C. 1395b-6(d)) is amended—

(A) in paragraph (1), by inserting “(including an attorney)” after “such other personnel”; and

(B) in paragraph (5), by striking “and” at the end;

(C) in paragraph (6), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following new paragraph:

“(7) establish a public affairs office.”.

(2) OFFICE OF THE OMBUDSMAN.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b-6(e)), as amended by subsection (e), is amended by adding at the end the following new paragraph:

“(10) OFFICE OF THE OMBUDSMAN.—

“(A) IN GENERAL.—The Commission shall establish an office of the ombudsman to handle complaints regarding the implementation of regulations under subsection (a)(9)(B).

“(B) DUTIES.—The office of the ombudsman shall—

“(i) act as a liaison between the Commission and any entity or individual affected by the implementation of such a regulation; and

“(ii) ensure that the Commission has established safeguards—

“(I) to encourage such entities and individuals to submit complaints to the office of the ombudsman; and

“(II) to protect the confidentiality of any entity or individual who submits such a complaint.”.

(g) USE OF FUNDING.—Section 1805(g) of the Social Security Act (42 U.S.C. 1395b-6(g)), as amended by subsection (b) and redesignated by subsection (d), is amended by adding at the end the following new sentence: “Out of amounts appropriated under the preceding sentence, the Commission may use not more than \$500,000,000 each fiscal year to test new methods of reimbursement under this title.”.

(h) MACPAC TECHNICAL AMENDMENTS.—Section 1900(b) of the Social Security Act (42 U.S.C. 1396) is amended—

(1) in paragraph (1)(D), by striking “June 1” and inserting “June 15”; and

(2) by adding at the end the following:

“(10) CONSULTATION WITH MEDPAC.—MACPAC shall regularly consult with the Medicare Payment and Access Commission (in this paragraph referred to as ‘MedPAC’) established under section 1805 in carrying out its duties under this section.”.

(i) LOBBYING COOLING-OFF PERIOD FOR MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—Section 207(c) of title 18, United States Code, is amended by inserting at the end the following:

“(3) MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—

“(A) IN GENERAL.—Paragraph (1) shall apply to a member of the Medicare Payment Advisory Commission who was appointed to such Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

“(B) AGENCIES AND CONGRESS.—For purposes of paragraph (1), the agency in which

the individual described in subparagraph (A) served shall be considered to be the Medicare Payment and Access Commission established under section 1805 of the Social Security Act, the Department of Health and Human Services, and the relevant committees of jurisdiction of Congress.”.

**SEC. 3. ESTABLISHMENT OF COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.**

Section 1805(b) of the Social Security Act (42 U.S.C. 1395b-6(b)), as amended by section 2(c), is amended by adding at the end the following new paragraph:

“(11) COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.—

“(A) COUNCIL OF HEALTH AND ECONOMIC ADVISERS.—

“(i) IN GENERAL.—The Commission shall establish a council of health and economic advisers to advise the Commission on its development, analyses, and implementation of payment policies under this title.

“(ii) MEMBERSHIP.—

“(I) IN GENERAL.—The council of health and economic advisers shall be composed of acknowledged experts in health care and economics selected by the Commission.

“(II) INITIAL INCLUSION OF FORMER MEMBERS OF MEDICARE PAYMENT ADVISORY COMMISSION.—The members initially selected for the council of health and economic advisers under subclause (I) shall include those individuals who were members of the Medicare Payment Advisory Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

“(B) CONSUMER ADVISORY COUNCIL.—

“(i) IN GENERAL.—There is established a consumer advisory council to advise the Commission on the impact of payment policies under this title on consumers.

“(ii) MEMBERSHIP.—

“(I) NUMBER AND APPOINTMENT.—The consumer advisory council shall be composed of 10 consumer representatives appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

“(II) QUALIFICATIONS.—The membership of the council shall represent the interests of consumers and particular communities.

“(iii) DUTIES.—The consumer advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

“(iv) OPEN MEETINGS.—Meetings of the consumer advisory council shall be open to the public.

“(v) ELECTION OF OFFICERS.—Members of the consumer advisory council shall elect their own officers.

“(C) FEDERAL HEALTH ADVISORY COUNCIL.—

“(i) IN GENERAL.—There is established a Federal health advisory council to consult with and provide advice to the Commission on all matters within the jurisdiction of the Commission.

“(ii) MEMBERSHIP.—The Federal health advisory council shall be composed of 10 representatives from the health care industry appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

“(iii) TERMS.—

“(I) IN GENERAL.—The terms of members of the Federal health advisory council shall be for 1 year.

“(II) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Federal health advisory council for more than 3 terms.

“(iv) DUTIES.—The Federal health advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

“(v) OPEN MEETINGS.—Meetings of the Federal health advisory council shall be open to the public.

“(vi) ELECTION OF OFFICERS.—Members of the Federal health advisory council shall elect their own officers.

“(D) LIMITATION ON FUNDING.—Out of amounts appropriated under subsection (g), the Commission may use not more than \$300,000 each fiscal year to carry out this paragraph.”.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1111. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Special Disability Workload Liability Resolution Act, legislation that will resolve Medicare's longstanding liability to state Medicaid programs for individuals who were covered by Medicaid when they should have been covered by Medicare.

For the past several decades, hundreds of thousands of disabled people have had their health care paid for by Medicaid; however, their health care was actually the responsibility of Medicare. Therefore, states have been left financially responsible for individuals whose care should have been paid for entirely by the Federal Government. Both the Centers for Medicare and Medicaid Services, CMS, and the Social Security Administration, SSA, acknowledge Medicare's responsibility for these beneficiaries. The Social Security Administration is in the process of correcting the cash insurance payments that were due to disabled individuals. However, CMS has not acted to establish a means of satisfying Medicare's liability.

This is unacceptable. Nearly every state is struggling to balance its budget in the midst of this terrible economic crisis, and it is estimated that the Medicare program owes the states an estimated \$4 billion. This figure continues to grow as the SSA corrects additional cases. When it is determined that a state owes the Federal Government money for Medicaid expenses, states have only 60 days to pay this debt. Yet, now that the situation is reversed, the Federal Government has not even established a timeline with which to pay its debt to the States.

The legislation I am introducing today, the Special Disability Workload

Liability Resolution Act, would provide \$4 billion in Federal funding to settle this debt to the States. It requires the Social Security Administration and CMS to develop an accurate payment methodology to reimburse states within 6 months of the bill's enactment. Resolving this Federal debt would inject critical funds into State and local economies and help maintain state jobs.

This bill is based on language successfully included in the Senate-passed American Recovery and Reinvestment Act, but it was dropped in conference. It is my hope that my colleagues will once again support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1111

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Special Disability Workload Liability Resolution Act of 2009”.

**SEC. 2. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.**

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement, not later than 6 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—

(1) DEADLINE FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated \$4,000,000,000 for fiscal year 2010 for making payments to States under paragraph (1).

(3) LIMITATIONS.—In no case may the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed \$4,000,000,000.

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the States, determine appropriate.

(2) **CONDITIONS FOR PAYMENTS.**—A State shall not receive a payment under this section unless the State—

(A) waives the right to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project (other than reimbursements being made under agreements in effect on the date of enactment of this Act as a result of such project, including payments made pursuant to agreements entered into under section 1616 of the Social Security Act or section 211(1)(1)(A) of Public Law 93-66).

(3) **NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.**—No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

(4) **INELIGIBLE STATES.**—No State that is a party to a civil action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(d) **DEFINITIONS.**—In this section:

(1) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of Social Security.

(2) **MEDICAID PROGRAM.**—The term “Medicaid program” means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1396n) or otherwise.

(3) **MEDICARE PROGRAM.**—The term “Medicare program” means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(5) **SDW CASE.**—The term “SDW case” means a case in the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which such benefits were not provided to the individual and who was, during all or part of such period, enrolled in a State Medicaid program.

(6) **SPECIAL DISABILITY WORKLOAD PROJECT.**—The term “Special Disability Workload project” means the project described in the 2008 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

(7) **STATE.**—The term “State” means each of the 50 States and the District of Columbia.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. NELSON, of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PRYOR. Mr. President, I rise today to introduce legislation with Senators SNOWE, NELSON of Nebraska, and WICKER. The legislation that we are introducing today is aptly named The Safe Roads Act of 2009, as it will go a long way toward improving the safety of our Nation's roads by closing loopholes that have allowed commercial truck and bus drivers to use and abuse drugs and continue to drive without receiving required treatment necessary to return to duty. The bill is designed to save lives by preventing unnecessary deaths on our Nation's roads.

Nearly every day Americans can open their newspapers to learn about a death caused by drivers under the influence of drugs and alcohol. Sometimes, these drivers are behind the wheel of an 18-wheeler or a commercial bus, which due to their size and weight bring a destructive force on any road. On May 8th of this year, the Arkansas Democrat Gazette reported about a commercial bus driver involved in an accident on Interstate 40 near Forrest City, AR, in 2007 that resulted in four fatalities. The driver was reportedly under the influence of amphetamines, one of the substances tested for under Federal Motor Carrier Safety Administration, FMCSA, testing regulations. The driver of this commercial vehicle has been sentenced to jail and four lives were lost as a result of the accident.

Some other similar accidents involving truck drivers that have occurred in recent years include: in October 2008, Kane County, IL, a truck driver rear-ended a passenger vehicle killing a woman. The truck driver was indicted for reckless homicide and driving under the influence of narcotics.

In January 2008, in Franklin County, AL, a truck driver was arrested for being under the influence of drugs or alcohol after crossing the center line and killing a woman in a head-on accident.

In July 2007, in Little Rock, AR, a truck driver killed a family of five in a crash. The driver admitted smoking crack cocaine a few hours before the crash.

In May 2007, Centre County, PA, a truck driver ran over a car killing a woman. The driver faces charges including homicide by vehicle while driving under the influence of suspected methamphetamines.

While drug abuse among the at least 3.4 million truck drivers in the industry is estimated by FMCSA to only represent 2 to 5 percent of the entire truck driving workforce, that still represents roughly 68,000 truck drivers that have a drug or alcohol abuse problem. That is a high and unacceptable risk that needs to be addressed in a serious fashion. Our goal is to prevent accidents of this nature, and I would like to briefly explain how we intend to do so.

Our bill will establish within the FMCSA a national drug and alcohol database and clearinghouse listing positive alcohol and drug test results or test refusals by commercial truck and bus drivers. The bill will expand current drug and alcohol testing regulations to require Medical Review Officers, MROs, and other FMCSA-approved agents conducting already-required testing to report positive test results and test refusals to the FMCSA drug and alcohol clearinghouse. Employers seeking new employees would then be required to not only follow the laws already in place for testing prospective employees, but they would also be required to examine the prospective employees' record in the FMCSA clearinghouse to determine if the prospective employee has recently failed or refused to take a drug and alcohol test. If the prospective employee has a positive test result or test refusal in the clearinghouse, an employer would not be allowed to hire the prospective employee unless it can be proven that he or she has not violated the requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program.

There are major loopholes that exist today in the current drug and alcohol testing regime. Drivers have a tendency to “job-hop” after failing drug and alcohol tests, moving from one company to another without reporting past drug and alcohol test failures. Some States have since closed this loophole by establishing clearinghouses similar to our proposal, but not all States have these laws, and they do not do anything to prevent drivers with past drug and alcohol test failures from moving State-to-State to seek and gain employment. Our legislation would go to considerable lengths in closing both of these well-known and well-reported loopholes. Our bill would also provide extensive privacy protection for individuals whose data is collected at the clearinghouse or accessed from the clearinghouse. The bill would provide individuals with the means to challenge records in the clearinghouse and rights of actions against those who misuse information contained in the clearinghouse or accessed from the clearinghouse.

The Government Accountability Office, GAO, and the FMCSA have acknowledged these loopholes. Both have

published reports describing a national clearinghouse as a feasible, cost-effective measure to address this problem and improve highway safety. In addition, a clearinghouse is something that Congress has examined since implementing drug and alcohol testing requirements in 1995. In 1999, Congress required the FMCSA to evaluate the viability of a national clearinghouse database for positive test results and test refusals, and in 2004 the results of their study supported a need for such a system and revealed the safety benefits that would come from it. As recently as last year, the GAO released a report to Congress titled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road' that recommended the establishment of a national database and clearinghouse of drivers who have tested positive or refused to test. There is a clear need to close these well-known loopholes, and I believe our bill goes a long way in that direction.

It is my hope that Congress will support this legislation and move forward quickly to enact this legislation. I believe it is an imperative step to enhance drug and alcohol testing requirements and improve pre-employment background reviews to reduce the number of accidents and needless deaths resulting from drivers that are under the influence of these types of substances.

I want to thank Senators SNOWE, NELSON of Nebraska, and WICKER for their hard work, leadership and support on this very important safety issue, and I urge the rest of my colleagues to support its swift passage.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and efficiency in providing medical assistance under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise to introduce legislation with Senator BURR to help States improve quality and reduce the costs of health care for Medicaid and CHIP enrollees. The Medical Homes Act would create a pilot project in Medicaid and the State Children's Health Insurance Program to encourage hospitals and health clinics to create a medical home for the low-income people they serve.

Those of us who have a medical home take it for granted. We see the same doctor, in the same setting, for extended periods of time. Our medical history is in one place, and even if we are seeing specialists or different doctors in the same practice, there is continuity in decisions about our health care.

But many people do not have this luxury. Think about people who move from place to place whose home lives are less than stable, who do not have health insurance, whose medical care is sporadic. For these members of our community, each visit to a clinic or an emergency room means starting over again.

Everyone should have access to a medical home, but it requires some changes in behavior and expectations and, perhaps most importantly, it requires a commitment by local providers to work together. The medical home model makes sense for improving health care for everyone. And it is a model of care that makes sense for stretching our limited Federal health care dollars.

States like Illinois and North Carolina are already seeing progress with implementing the medical home model. Illinois Health Connect is a new program at the Illinois Department of Healthcare and Family Services that uses the medical home model to deliver primary and preventive care for children and adults covered through the All Kids program. This emphasis on coordinated and ongoing care is leading to better health outcomes, and it is saving money.

Community Care of North Carolina launched a medical home model in 1998, through nine physician-led networks. North Carolina started by creating medical homes for 250,000 Medicaid enrollees. Today, it is a state-wide program that has saved the State at least \$60 million in Medicaid costs in 2003 and \$120 million in 2004.

Cost savings is not the only benefit. Several studies show that the medical home approach improves quality of care. Early analyses are finding that having regular access to a particular physician through the medical home is associated with earlier and more accurate diagnoses, fewer emergency room visits, fewer hospitalizations, lower costs, better care, and increased patient satisfaction. Many studies conclude that having both health insurance and a medical home leads to improved overall health for the entire population, which brings down the cost of care and reduces health care disparities.

The bill that Senator BURR and I introduce today would make it easier for other States to implement a medical home model, much like Illinois and North Carolina have. Congress passed a medical home demonstration project for Medicare last year. The Medical Homes Act of 2009 would do this for Medicaid and SCHIP beneficiaries by making Federal funding available for a demonstration project in 8 States to provide care through patient-centered medical homes.

The approach we propose requires a per-member, per-month care management fee to help pay for participating

doctors and provides initial start-up funding for participating states. The start-up funds are used for the purchase of health information technology, primary care case managers, and other uses appropriate for the delivery of patient-centered care.

This is a critical time in our country. We have a President who wants health care reform. We have a Congress ready to act. We have an historic level of cooperation among stakeholders. Unlike the last time, there is substantial agreement this time among insurers, employers, consumers and lawmakers on the need for change and the broad outlines of reform. Change will only happen if everyone—doctors, patients, insurance companies, everyone—work with each other, not against each other. The specifics of the reform package still have to be worked out—and that will be difficult. But there is broad agreement that we must do a better job of delivering health care, not just treatment for illness.

If patients, provider, payers, and the government continue to work together to create a system that values the patient more than payments and the health outcome of the patient more than the number of patients seen, we can really change the way primary care is provided. I urge my colleagues to support the Medical Homes Act of 2009 and help stabilize health care delivery for low-income Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1114

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Homes Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Medical homes provide patient-centered care, leading to better health outcomes and greater patient satisfaction. A growing body of research supports the need to involve patients and their families in their own health care decisions, to better inform them of their treatment options, and to improve their access to information.

(2) Medical homes help patients better manage chronic diseases and maintain basic preventive care, resulting in better health outcomes than those who lack medical homes. An investigation of the Chronic Care Model discovered that the medical home reduced the risk of cardiovascular disease in diabetes patients, helped congestive heart failure patients become more knowledgeable and stay on recommended therapy, and increased the likelihood that asthma and diabetes patients would receive appropriate therapy.

(3) Medical homes also reduce disparities in access to care. A survey conducted by the Commonwealth Fund found that 74 percent of adults with a medical home have reliable access to the care they need, compared with

only 52 percent of adults with a regular provider that is not a medical home and 38 percent of adults without any regular source of care or provider.

(4) Medical homes reduce racial and ethnic differences in access to medical care. Three-fourths of Caucasians, African Americans, and Hispanics with medical homes report getting care when they need it.

(5) Medical homes reduce duplicative health services and inappropriate emergency room use. In 1998, North Carolina launched the Community Care of North Carolina (CCNC) program, which employs the medical home concept. Presently, CCNC has developed 14 regional networks that include all of the Federally qualified health centers in the State and cover 740,000 recipients. An analysis conducted by Mercer Human Resources Consulting Group found that CCNC resulted in \$244,000,000 in savings to the Medicaid program in 2004, with similar results in 2005 and 2006.

(6) Health information technology is a crucial foundation for medical homes. While many doctors' offices use electronic health records for billing or other administrative functions, few practices utilize health information technology systematically to measure and improve the quality of care they provide. For example, electronic health records can generate reports to ensure that all patients with chronic conditions receive recommended tests and are on target to meet their treatment goals. Computerized ordering systems, particularly with decision-support tools, can prevent medical and medication errors, while e-mail and interactive Internet websites can facilitate communication between patients and providers and improve patient education.

### SEC. 3. MEDICAID AND CHIP DEMONSTRATION PROJECT TO SUPPORT PATIENT-CENTERED PRIMARY CARE.

(a) DEFINITIONS.—In this section:

(1) CARE MANAGEMENT MODEL.—The term “care management model” means a model that—

(A) uses health information technology and other innovations such as the chronic care model, to improve the management and coordination of care provided to patients;

(B) is centered on the relationship between a patient and their personal primary care provider;

(C) seeks guidance from—

(i) a steering committee; and

(ii) a medical management committee; and

(D) has established, where practicable, effective referral relationships between the primary care provider and the major medical specialties and ancillary services in the region.

(2) HEALTH CENTER.—The term “health center” has the meaning given that term in section 330(a) of the Public Health Service Act (42 U.S.C. 254b(a)).

(3) MEDICAID.—The term “Medicaid” means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) MEDICAL MANAGEMENT COMMITTEE.—The term “medical management committee” means a group of practitioners that—

(A) means services in the community in which the practice or health center is located;

(B) reviews evidence-based practice guidelines;

(C) selects targeted disease and care processes that address health conditions in the community (as identified in the National or State health assessment or as outlined in “Healthy People 2010”, or any subsequent

similar report (as determined by the Secretary));

(D) defines programs to target disease and care processes;

(E) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(F) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account the considerations under subparagraph (B) of such paragraph.

(5) PATIENT-CENTERED MEDICAL HOME.—

(A) IN GENERAL.—The term “patient-centered medical home” means a physician-directed practice or a health center that—

(i) incorporates the attributes of the care management model described in paragraph (1);

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(iii) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(iv) meets the requirements imposed on a covered entity for purposes of applying part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(B) CONSIDERATIONS.—In making the determination under subparagraph (A)(iii), the medical management committee shall consider the following:

(i) ACCESS AND COMMUNICATION WITH PATIENTS.—Whether the practice or health center applies both standards for access to care for, and standards for communication with, targeted beneficiaries who receive care through the practice or health center.

(ii) MANAGING PATIENT INFORMATION AND USING INFORMATION MANAGEMENT TO SUPPORT PATIENT CARE.—Whether the practice or health center has readily accessible, clinically useful information on such beneficiaries that enables the practice or health center to provide comprehensive and systematic treatment.

(iii) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—Whether the practice or health center—

(I) maintains continuous relationships with such beneficiaries by implementing evidence-based guidelines and applying such guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries;

(II) assists in the early identification of health care needs;

(III) provides ongoing primary care;

(IV) coordinates with a broad range of other specialty, ancillary, and related services; and

(V) provides health care services and consultations in a culturally and linguistically appropriate manner, as well as at a time and location that is convenient to the patient.

(iv) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—Whether the practice or health center—

(I) collaborates with targeted beneficiaries who receive care through the practice or health center to pursue their goals for optimal achievable health;

(II) assesses patient-specific barriers; and

(III) conducts activities to support patient self-management.

(v) RESOURCES TO MANAGE CARE.—Whether the practice or health center has in place the resources and processes necessary to achieve improvements in the management and coordination of care for targeted beneficiaries who receive care through the practice or health center.

(vi) MONITORING PERFORMANCE.—Whether the practice or health center—

(I) monitors its clinical process and performance (including process and outcome measures) in meeting the applicable standards under paragraph (4)(E); and

(II) provides information in a form and manner specified by the steering committee and medical management committee with respect to such process and performance.

(6) PERSONAL PRIMARY CARE PROVIDER.—The term “personal primary care provider” means—

(A) a physician, nurse practitioner, or other qualified health care provider (as determined by the Secretary), who—

(i) practices in a patient-centered medical home; and

(ii) has been trained to provide first contact, continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as acute care, chronic care, and preventive services); or

(B) a health center that—

(i) is a patient-centered medical home; and

(ii) has providers on staff that have received the training described in subparagraph (A)(ii).

(7) PRIMARY CARE CASE MANAGEMENT SERVICES; PRIMARY CARE CASE MANAGER.—The terms “primary care case management services” and “primary care case manager” have the meaning given those terms in section 1905(t) of the Social Security Act (42 U.S.C. 1396d(t)).

(8) PROJECT.—The term “project” means the demonstration project established under this section.

(9) CHIP.—The term “CHIP” means the State Children’s Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1396aa et seq.).

(10) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(11) STEERING COMMITTEE.—The term “steering committee” means a local management group comprised of collaborating local health care practitioners or a local not-for-profit network of health care practitioners—

(A) that implements State-level initiatives;

(B) that develops local improvement initiatives;

(C) whose mission is to—

(i) investigate questions related to community-based practice; and

(ii) improve the quality of primary care; and

(D) whose membership—

(i) represents the health care delivery system of the community it serves; and

(ii) includes physicians (with an emphasis on primary care physicians) and at least 1 representative from each part of the collaborative or network (such as a representative from a health center, a representative from the health department, a representative from social services, and a representative from each public and private hospital in the collaborative or the network).



## (12) TARGETED BENEFICIARY.—

(A) IN GENERAL.—The term “targeted beneficiary” means an individual who is eligible for benefits under a State plan under Medicaid or a State child health plan under CHIP.

(B) PARTICIPATION IN PATIENT-CENTERED MEDICAL HOME.—Individuals who are eligible for benefits under Medicaid or CHIP in a State that has been selected to participate in the project shall receive care through a patient-centered medical home when available.

(C) ENSURING CHOICE.—In the case of such an individual who receives care through a patient-centered medical home, the individual shall receive guidance from their personal primary care provider on appropriate referrals to other health care professionals in the context of shared decision-making.

(b) ESTABLISHMENT.—The Secretary shall establish a demonstration project under Medicaid and CHIP for the implementation of a patient-centered medical home program that meets the requirements of subsection (d) to improve the effectiveness and efficiency in providing medical assistance under Medicaid and CHIP to an estimated 500,000 to 1,000,000 targeted beneficiaries.

## (c) PROJECT DESIGN.—

(1) DURATION.—The project shall be conducted for a 3-year period, beginning not later than [October 1, 2011].

## (2) SITES.—

(A) IN GENERAL.—The project shall be conducted in 8 States—

(i) four of which already provide medical assistance under Medicaid for primary care case management services as of the date of enactment of this Act; and

(ii) four of which do not provide such medical assistance.

(B) APPLICATION.—A State seeking to participate in the project shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) SELECTION.—In selecting States to participate in the project, the Secretary shall ensure that urban, rural, and underserved areas are served by the project.

## (3) GRANTS AND PAYMENTS.—

## (A) DEVELOPMENT GRANTS.—

(1) FIRST YEAR DEVELOPMENT GRANTS.—The Secretary shall award development grants to States participating in the project during the first year the project is conducted. Grants awarded under this clause shall be used by a participating State to—

(I) assist with the development of steering committees, medical management committees, and local networks of health care providers; and

(II) facilitate coordination with local communities to be better prepared and positioned to understand and meet the needs of the communities served by patient-centered medical homes.

(ii) SECOND YEAR FUNDING.—The Secretary shall award additional grant funds to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. Grant funds awarded under this clause shall be used by a participating State to assist in making the payments described in paragraph (B). To the extent a State uses such grant funds for such purpose, no matching payment may be made to the State for the payments made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(B) ADDITIONAL PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS AND STEERING COMMITTEES.—

(i) PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a personal primary care provider not less than \$2.50 per month per targeted beneficiary assigned to the personal primary care provider, regardless of whether the provider saw the targeted beneficiary that month.

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a personal primary care provider under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(III) PATIENT POPULATION.—In determining the amount of payment to a personal primary care provider per month with respect to targeted beneficiaries under this clause, a State participating in the project shall take into account the care needs of such targeted beneficiaries.

## (ii) PAYMENTS TO STEERING COMMITTEES.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a steering committee not less than \$2.50 per targeted beneficiary per month.

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a steering committee under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(III) USE OF FUNDS.—Amounts paid to a steering committee under subclause (I) shall be used (in accordance with any applicable Medicaid requirements) to purchase health information technology, pay primary care case managers, support network initiatives, and for such other uses as the steering committee determines appropriate.

(4) TECHNICAL ASSISTANCE.—The Secretary shall make available technical assistance to States, physician practices, and health centers participating in the project during the duration of the project.

(5) BEST PRACTICES INFORMATION.—The Secretary shall collect and make available to States participating in the project information on best practices for patient-centered medical homes.

## (d) PATIENT-CENTERED MEDICAL HOME PROGRAM.—

(1) IN GENERAL.—For purposes of this section, a patient-centered medical home program meets the requirements of this subsection if, under such program, targeted beneficiaries have access to a personal primary care provider in a patient-centered medical home as their source of first contact, comprehensive, and coordinated care for the whole person.

## (2) ELEMENTS.—

## (A) MANDATORY ELEMENTS.—

(i) IN GENERAL.—Such program shall include the following elements:

## (I) A steering committee.

## (II) A medical management committee.

(III) A network of physician practices and health centers that have volunteered to participate as patient-centered medical homes to provide high-quality care, focusing on preventive care, at the appropriate time and place and in a cost-effective manner.

(IV) Hospitals and local public health departments that will work in cooperation with the network of patient-centered med-

ical homes to coordinate and provide health care.

(V) Primary care case managers to assist with care coordination.

(VI) Health information technology to facilitate the provision and coordination of health care by network participants.

(ii) MULTIPLE LOCATIONS IN THE STATE.—In the case where a State operates a patient-centered medical home program in 2 or more areas in the State, the program in each of those areas shall include the elements described in clause (i).

(B) OPTIONAL ELEMENTS.—Such program may include a non-profit organization that—

(i) includes a steering committee and a medical management committee; and

(ii) manages the payments to steering committees described in subsection (c)(3)(B)(ii).

## (3) GOALS.—Such program shall be designed—

## (A) to increase—

(i) cost efficiencies of health care delivery;

(ii) access to appropriate health care services, especially wellness and prevention care, at times convenient for patients;

(iii) patient satisfaction;

(iv) communication among primary care providers, hospitals, and other health care providers;

(v) school attendance; and

(vi) the quality of health care services (as determined by the relevant steering committee and medical management committee, taking into account nationally developed standards and measures); and

## (B) to decrease—

(i) inappropriate emergency room utilization, which can be accomplished through initiatives, such as expanded hours of care throughout the program network;

(ii) avoidable hospitalizations; and

(iii) duplication of health care services provided.

(4) PAYMENT.—Under the program, payment shall be provided to personal primary care providers and steering committees (in accordance with subsection (c)(3)(B)).

(5) NOTIFICATION.—The State shall notify individuals enrolled in Medicaid or CHIP about—

(A) the patient-centered medical home program;

(B) the providers participating in such program; and

(C) the benefits of such program.

## (6) TREATMENT OF STATES WITH A MANAGED CARE CONTRACT.—

(A) IN GENERAL.—In the case where a State contracts with a private entity to manage parts of the State Medicaid program, the State shall—

(i) ensure that the private entity follows the care management model; and

(ii) establish a medical management committee and a steering committee in the community.

(B) ADJUSTMENT OF PAYMENT AMOUNTS.—The State may adjust the amount of payments made under (c)(3)(B), taking into consideration the management role carried out by the private entity described in subparagraph (A) and the cost effectiveness provided by such entity in certain areas, such as health information technology.

## (e) EVALUATION AND PROJECT REPORT.—

## (1) IN GENERAL.—

(A) EVALUATION.—The Secretary, in consultation with appropriate health care professional associations, shall evaluate the project in order to determine the effectiveness of patient-centered medical homes in terms of quality improvement, patient and provider satisfaction, and the improvement of health outcomes.



(B) PROJECT REPORT.—Not later than 12 months after completion of the project, the Secretary shall submit to Congress a report on the project containing the results of the evaluation conducted under subparagraph (A). Such report shall include—

(i) an assessment of the differences, if any, between the quality of the care provided through the patient-centered medical home program conducted under the project in the States that provided medical assistance for primary care case management services and those that did not;

(ii) an assessment of quality improvements and clinical outcomes as a result of such program;

(iii) estimates of cost savings resulting from such program; and

(iv) recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 1397aa et seq.) should be amended, based on the results of the evaluation and report under paragraph (1), to establish a patient-centered medical home program under such titles on a permanent basis.

(f) WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall waive compliance with such requirements of titles XI, XIX, and XXI of the Social Security Act (42 U.S.C. 1301 et seq.; 1396 et seq.; 1397aa et seq.) to the extent and for the period the Secretary finds necessary to conduct the project.

(2) LIMITATION.—In no case shall the Secretary waive compliance with the requirements of subsections (a)(10)(A), (a)(15), and (b) of section 1902 of the Social Security Act (42 U.S.C. 1396a) under paragraph (1), to the extent that such requirements require the provision of and reimbursement for services described in section 1905(a)(2)(C) of such Act (42 U.S.C. 1396d(a)(2)(C)).

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 1146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1147. Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1148. Mr. KYL (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1149. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1152. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her

to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1153. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1154. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1155. Mr. NELSON, of Florida (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1156. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1157. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1158. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1159. Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1160. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1161. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1162. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1163. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1164. Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1165. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1166. Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1167. Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNIS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1168. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1169. Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1170. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1171. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1172. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment in-

tended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1173. Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1175. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1176. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1177. Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1178. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1179. Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1181. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1182. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1183. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1184. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1185. Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1186. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1187. Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1188. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1189. Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1190. Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1191. Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended

to be proposed by him to the bill H.R. 2346, supra.

SA 1192. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1193. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1194. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1195. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1196. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1197. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1198. Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1199. Mr. DURBIN proposed an amendment to amendment SA 1136 proposed by Mr. MCCONNELL to the bill H.R. 2346, supra.

SA 1200. Mr. REID (for Mrs. HUTCHISON) proposed an amendment to the bill S. 614, to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

SA 1201. Mr. REID proposed an amendment to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNES) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

#### TEXT OF AMENDMENTS

**SA 1145.** Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 11 and 12, insert the following:

##### REPORT ON DAMAGE TO PROJECTS AND PROGRAMS IN GAZA CAUSED BY HAMAS

SEC. 1121. (a) Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committee detailing assessed damages to United States Government-funded projects and programs in Gaza caused when Hamas broke the ceasefire with Israel from December 2008 to January 2009.

(b) The report required under subsection (a) shall include—

(1) an estimate of the amounts expended on such programs and projects and the estimated costs for repair or rehabilitation;

(2) a description of the assessed damages to United Nations facilities in Gaza caused during such period and, to the extent known, the party responsible for such damage; and

(3) a determination whether such projects or programs were being used by Hamas for any activity by the organization, including launching rockets, sheltering Hamas terrorists, and storing ammunition and other materiel.

**SA 1146.** Mr. KYL submitted an amendment intended to be proposed by

him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) REPORT ON INTERNATIONAL FINANCIAL INSTITUTION LOANS TO THE ISLAMIC REPUBLIC OF IRAN.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury shall submit to the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives, and post on the website of the Department of the Treasury, a report—

(1) assessing the compliance of each United States Executive Director of an international financial institution with the requirement under section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p-4q(a)) that the Director oppose any loan or other use of funds by the institution for the Islamic Republic of Iran;

(2) assessing the progress made by each such Director in opposing such loans and other uses of funds;

(3) assessing the compliance of the United States Executive Directors of the International Development Association and the International Bank for Reconstruction and Development with the requirement under such section 1621(a) with respect to the development of a new World Bank country assistance strategy for the Islamic Republic of Iran; and

(4) describing the efforts of the Secretary to halt the disbursement of any such loan or other use of funds from such an institution for the Islamic Republic of Iran that has already been approved by the institution.

(b) SUNSET.—Subsection (a) shall terminate on the day on which the President certifies to Congress that the Islamic Republic of Iran has halted all uranium enrichment activities.

**SA 1147.** Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title IV, add the following:

PROHIBITION ON USE OF FUNDS FOR THE STRATEGIC PETROLEUM RESERVE FOR PERSONS THAT HAVE ENGAGED IN CERTAIN ACTIVITIES WITH RESPECT TO THE ISLAMIC REPUBLIC OF IRAN

SEC. 410. None of the funds made available by this title or any other appropriations Act for the Strategic Petroleum Reserve may be made available to any person that has, during the 3-year period ending on the date of the enactment of this Act—

(1) sold refined petroleum products valued at \$1,000,000 or more to the Islamic Republic of Iran;

(2) engaged in an activity valued at \$1,000,000 or more that could contribute to enhancing the ability of Iran to import refined petroleum products, including—

(A) providing ships or shipping services to deliver refined petroleum products to the Islamic Republic of Iran;

(B) underwriting or otherwise providing insurance or reinsurance for such an activity; or

(C) financing or brokering such an activity; or

(3) sold, leased, or otherwise provided to the Islamic Republic of Iran any goods, services, or technology valued at \$1,000,000 or more that could contribute to the maintenance or expansion of the capacity of the Islamic Republic of Iran to produce refined petroleum products.

**SA 1148.** Mr. KYL (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. Congress makes the following findings:

(1) Congress is grateful for the service and leadership of the members of the bipartisan Congressional Commission on the Strategic Posture of the United States, who, pursuant to section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 319), spent more than a year examining the Nation's strategic posture in all of its aspects: deterrence strategy, arms control initiatives, and nonproliferation strategies.

(2) The Commission, comprised of some of this country's most preeminent scholars and technical experts in the subject matter, found a bipartisan consensus on these issues in its Final Report made public on May 6, 2009.

(3) Congress appreciates the service of former Secretary of Defense William Perry, former Secretary of Defense and Secretary of Energy James Schlesinger, former Senator John Glenn, former Congressman Lee Hamilton, Ambassador James Woolsey, Doctors John Foster, Fred Ikle, Keith Payne, Morton Halperin, Ellen Williams, Bruce Tarter, and Harry Cartland, and the United States Institute of Peace.

(4) Congress values the work of the Commission and pledges to work with President Barack Obama to address the findings and implement the recommendations of the Commission.

**SA 1149.** Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. RELEASE OR TRANSFER OF COVERED INDIVIDUALS.

(a) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means any individual who—

(1) has ever been determined by a Combatant Status Review Tribunal to be an enemy combatant (pursuant to the definition employed by that tribunal) or is awaiting the determination of such a tribunal;

(2) is in the custody of the United States at Guantanamo Bay, Cuba on or after the date of enactment of this Act; and

(3) is not a citizen of the United States or an alien admitted for permanent residence in the United States.

(b) COVERED INDIVIDUALS ORDERED RELEASED.—

(1) IN GENERAL.—No court shall order the release of a covered individual into the United States.

(2) VISAS AND IMMIGRATION.—The Secretary of State may not issue any visa, and the Secretary of Homeland Security may not admit or provide any type of status, to a covered individual that permits the covered individual to enter into, or be admitted to, the United States.

(c) TRANSFER.—

(1) IN GENERAL.—If a covered individual is no longer held by the United States as an enemy combatant, the covered individual shall be released into the custody of the Secretary of Homeland Security, who shall transfer the individual to the covered individual's country of nationality or to another country.

(2) HOUSING.—An individual in the custody of the Secretary of Homeland Security pursuant to paragraph (1) shall be housed separately from aliens detained as enemy combatants by the Department of Defense in a manner consistent with the safety and security of United States personnel.

(3) TRANSFER.—Transfers made pursuant to paragraph (1) shall be carried out as expeditiously as possible and in a manner that is consistent with—

(A) the policy set out in section 2242 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (8 U.S.C. 1231 note); and

(B) the national security interests of the United States.

**SA 1150.** Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. 315. (a)(1) The amount appropriated or otherwise made available by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" is hereby increased by \$32,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", as increased by paragraph (1), \$32,000,000 shall be available for an MQ-9 with an integrated DB-110 podded reconnaissance system.

(b) The amount appropriated or otherwise made available by this title under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is hereby reduced by \$32,000,000.

**SA 1151.** Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) Of the amounts appropriated or otherwise made available by title III of the Department of Defense Appropriations Act, 2009 (division C of Public Law 110-329) under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" for the Landmine Warfare and Barrier (PE 0603619A) that remain available for obligation as of the date of the enactment of this Act, \$10,000,000 shall be transferred to "RESEARCH, DEVELOP-

MENT, TEST AND EVALUATION, DEFENSE-WIDE" and made available for Combating Terrorism Technical Support (PE 0603122D8Z).

(b) Amounts transferred to "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" under subsection (a) shall be merged with amounts under such heading, and shall be made available for the purposes set forth in such subsection, and subject to the same conditions and limitations, as amounts appropriated or otherwise made available under such heading for such purposes.

**SA 1152.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, after line 23, add the following:

AMENDMENT TO ENERGY POLICY ACT OF 1992

SEC. 410. Section 106(a)(2)(C) of the Energy Policy Act of 1992 (12 U.S.C. 1701z-16(a)(2)(C)) is amended—

(1) in clause (i), by striking "section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A))" and inserting "section 203(b)(2)(A)(i)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)(i))"; and

(2) in clause (ii), by striking "section 203(b)(2)(B))" and inserting "section 203(b)(2)(A)(ii))".

**SA 1153.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ VESSEL SIZE LIMITS FOR FISHERY ENDORSEMENTS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by adding "and" at the end;

(B) in clause (ii) by striking "and" at the end; and

(C) by striking clause (iii);

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) and is eligible for a fishery endorsement under this section.".

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Subsection (g) of section 208 of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) is amended to read as follows:

"(g) VESSEL REBUILDING AND REPLACEMENT.—

"(1) IN GENERAL.—

"(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this subsection and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other

than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

"(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

"(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

"(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

"(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

"(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

"(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

"(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

"(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

"(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

"(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

"(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

"(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

"(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel

that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this subsection.

“(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.”.

(2) EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is amended—

(A) by inserting “and” after “(United States official number 651041)”;

(B) by striking “, NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)”;

(C) by striking “, in the case of the NORTHERN” and all that follows through “PHOENIX.”.

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended—

(A) by moving the matter beginning with “the Secretary shall” in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

“(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

“(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this paragraph; and

“(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

“(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

“(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NOR-DIC EXPLORER (United States official num-

ber 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

“(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.”.

**SA 1154.** Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

#### LIMITATIONS ON PAKISTAN ASSISTANCE

SEC. 1121. (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide assistance to Pakistan unless the President first certifies to the appropriate congressional committees that all measures have been and will be taken to ensure that none of such obligated or expended funds are used—

(1) to support, expand, or in any way assist in the development or deployment of the nuclear weapons program of the Government of Pakistan; or

(2) to support programs or purposes for which such funds have not been specifically appropriated by this Act.

(b)(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the President shall submit to the appropriate congressional committees a report—

(A) certifying whether or not any funds appropriated or otherwise made available by this Act and obligated or expended during the reporting period to provide assistance to Pakistan were used for the purposes described in paragraphs (1) and (2) of subsection (a); and

(B) describing the measures taken during such reporting period to ensure that no obligated or expended funds were used for such purposes.

(2) Each report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) In this section, the term “appropriate congressional committees” means—

(1) the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

**SA 1155.** Mr. NELSON of Florida (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, between lines 14 and 15, insert the following:

#### CONSUMER PRODUCT SAFETY COMMISSION

For an additional amount for the Consumer Product Safety Commission,

\$2,000,000, to remain available until expended, to investigate the public health and environmental impacts of drywall products imported from the People's Republic of China: *Provided*, That of the funds provided under this heading, not less than \$1,500,000 shall be expended to analyze such drywall products: *Provided further*, That of the funds provided under this heading, not less than \$105,000 shall be expended to carry out a campaign to educate the general public about the public health and environmental impacts of defective drywall products: *Provided further*, That the Commission shall, not later than 60 days after the date of the enactment of this Act, submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the findings of the investigation required under this heading and outlining the progress made in that investigation: *Provided further*, That for purposes of Senate enforcement, the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1156.** Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title III, add the following:

SEC. 315. (a) INCREASE IN FISCAL YEAR 2009 AUTHORIZED END STRENGTH FOR ARMY ACTIVE DUTY PERSONNEL.—Paragraph (1) of section 401 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4428) is amended to read as follows:

“(1) The Army, 547,400.”.

(b) INCREASE IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVEL FOR ARMY PERSONNEL.—Paragraph (1) of section 691 of title 10, United States Code, is amended to read as follows:

“(1) For the Army, 547,400.”.

(c) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading “MILITARY PERSONNEL, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading “OPERATION AND MAINTENANCE, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1157.** Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.**

(a) **SHORT TITLE.**—This section may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(b) **DEFINITIONS.**—In this section:

(1) **COVERED RECORD.**—The term “covered record” means any record—

(A) that is a photograph relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) **PHOTOGRAPH.**—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) **CERTIFICATION.**—

(1) **IN GENERAL.**—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall submit a certification, in classified form to the extent appropriate, to the President, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) **CERTIFICATION EXPIRATION.**—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (2) shall expire 5 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) **CERTIFICATION RENEWAL.**—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(d) **NONDISCLOSURE OF DETAINEE RECORDS.**—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) **EFFECTIVE DATE.**—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

**SA 1158.** Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . EXTENSION OF FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.**

(a) **IN GENERAL.**—Section 1011(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note) is amended by striking “2008” and inserting “2009”.

(b) **EMERGENCY DESIGNATION.**—For purposes of Senate enforcement, the amount made available for fiscal year 2009 under section 1011(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note), as amended by this section, is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1159.** Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

**SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.**—The amount appropriated by this title under the heading “Europe, Eurasia and Central Asia” is hereby increased by \$42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) **SOURCE OF FUNDS.**—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading “Europe, Eurasia and Central Asia” and available for assistance for Georgia.

**SA 1160.** Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, between lines 14 and 15, insert the following:

**SEC. 1303. (a) EFFORTS TO REDUCE THE WORST FORMS OF CHILD LABOR.**—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to promote policies and practices to reduce the worst forms of child labor (as defined in section 507(6) of the Trade Act of 1974 (19 U.S.C. 2467(6))) through education and other means, such as promoting the need for members of the Fund to develop and implement national action plans to combat the worst forms of child labor.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives a report describing the efforts of the International Monetary Fund to reduce the worst forms of child labor.

**SA 1161.** Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making sup-

plemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 106, between lines 14 and 15, insert the following:

**SEC. 1303. (a) EXEMPTION OF CERTAIN GOVERNMENT SPENDING FROM INTERNATIONAL MONETARY FUND RESTRICTIONS.**—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund that does not exempt spending on health care, education, food aid, and other critical safety net programs by the governments of heavily indebted poor countries from national budget caps or restraints, hiring or wage bill ceilings, or other limits on government spending sought by the Fund.

(b) **CONFORMING REPEAL.**—Section 7030 of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 874) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

**SA 1162.** Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 1, strike “section” and insert “title”

On page 107, line 5, strike “Ways and Means” and insert “Financial Services”

**SA 1163.** Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, line 11, insert after the period:

**CONTINGENCIES**

**SEC. \_\_\_\_ .** During fiscal years 2009 and 2010, the President may use up to \$100,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a): Provided, That when relying on the authority of section 451 of the Foreign Assistance Act during such fiscal years, the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq) shall be deemed a provision of the Foreign Assistance Act of 1961 for the purpose of providing for unanticipated contingencies.

**SA 1164.** Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title V, insert the following:

**SEC. 504. CREDIT FOR CERTAIN HOME PURCHASES.**

(a) **ELIMINATION OF FIRST-TIME HOMEBUYER REQUIREMENT.**—

(1) **IN GENERAL.**—Subsection (a) of section 36 of the Internal Revenue Code of 1986 is amended by striking “who is a first-time homebuyer of a principal residence” and inserting “who purchases a principal residence”.

(2) **CONFORMING AMENDMENTS.**—

(A) Subsection (c) of section 36 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Section 36 of such Code is amended by striking “**FIRST-TIME HOMEBUYER CREDIT**” in the heading and inserting “**HOME PURCHASE CREDIT**”.

(C) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following new item:

“Sec. 36. Home purchase credit.”.

(D) Subparagraph (W) of section 26(b)(2) of such Code is amended by striking “home-buyer credit” and inserting “home purchase credit”.

(b) **ELIMINATION OF RECAPTURE EXCEPT FOR HOMES SOLD WITHIN 3 YEARS.**—Subsection (f) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

“(f) **RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.**—

“(1) **IN GENERAL.**—In the event that a taxpayer—

“(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

“(B) fails to occupy such residence as the taxpayer’s principal residence,

at any time within 36 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

“(2) **EXCEPTIONS.**—

“(A) **DEATH OF TAXPAYER.**—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer’s death.

“(B) **INVOLUNTARY CONVERSION.**—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 36-month period described in such paragraph as if such new principal residence were the converted residence.

“(C) **TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.**—In the case of a transfer of a residence to which section 1041(a) applies—

“(i) paragraph (1) shall not apply to such transfer, and

“(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

“(D) **RELOCATION OF MEMBERS OF THE ARMED FORCES.**—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

“(3) **JOINT RETURNS.**—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

“(4) **RETURN REQUIREMENT.**—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be

required to file a return with respect to the taxes imposed under this subtitle.”.

(c) **EXPANSION OF APPLICATION PERIOD.**—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking “December 1, 2009” and inserting “June 1, 2010”.

(d) **ELECTION TO TREAT PURCHASE IN PRIOR YEAR.**—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking “December 1, 2009” and inserting “June 1, 2010”.

(e) **ELIMINATION OF INCOME LIMITATION.**—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) **DOLLAR LIMITATION.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the credit allowed under subsection (a) shall not exceed \$8,000.

“(2) **MARRIED INDIVIDUALS FILING SEPARATELY.**—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting ‘\$4,000’ for ‘\$8,000’.

“(3) **OTHER INDIVIDUALS.**—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed \$8,000.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to residences purchased on or after the date of the enactment of this Act.

**SA 1165.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

#### CIVILIAN ASSISTANCE IN AFGHANISTAN

**SEC. 1121.** The Secretary of State and the Administrator of the United States Agency for International Development should enhance United States reconstruction efforts in Afghanistan by—

(1) identifying lessons learned from previous United States reconstruction efforts, including in democracy and governance, public administration, agriculture and rural development, energy, justice and law enforcement, health care, and basic, vocational and higher education, and developing new approaches in these areas which emphasize capacity building and support of Afghan entities and institutions at the provincial and sub-provincial levels;

(2) requiring civilian Provincial Reconstruction Team (PRT) leaders to have regular consultations with appropriate local counterparts in their respective provinces and ensuring that PRT reconstruction and development activities support local needs in a sustainable manner; and

(3) directing the PRTs, as appropriate and with due regard to the safety of United States personnel, to provide a mechanism for local people to lodge complaints regarding corruption or other misconduct by Afghan or foreign officials when such complaints cannot be safely and adequately lodged with local law enforcement officials.

**SA 1166.** Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making sup-

plemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. —. TECHNICAL CORRECTION TO STATE MARITIME ACADEMIES STUDENT INCENTIVE PROGRAM.**

Section 51509(b) of title 46, United States Code, is amended—

(1) by striking “and be paid before the start of each academic year, as prescribed by the Secretary.”; and

(2) by striking “academy.” and inserting “academy, as prescribed by the Secretary.”.

**SA 1167.** Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNIS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 4, between lines 2 and 3, insert the following:

#### **SEC. 103. MILITARY FAMILY NUTRITION PROTECTION.**

(a) **CHILD NUTRITION PROGRAMS.**—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

“(14) **COMBAT PAY.**—

“(A) **DEFINITION OF COMBAT PAY.**—In this paragraph, the term ‘combat pay’ means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.

“(B) **EXCLUSION.**—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.”.

(b) **SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.**—Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) **COMBAT PAY.**—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.”.

**SA 1168.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:



In section 1108(a), strike “and prosecute” and insert “, prosecute, and punish”.

**SA 1169.** Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title XI, add the following:

**SRI LANKA**

SEC. 1121. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2))) to vote against any loan, agreement, or other financial support for Sri Lanka, except for basic human needs, unless the Secretary of State certifies to the Committees on Appropriations that the Government of Sri Lanka is respecting the rights of internally displaced persons, accounting for persons detained in the conflict, providing access to affected areas and populations by humanitarian organizations and the media, and implementing policies to promote reconciliation and justice, including devolution of power to local bodies as provided for in the Constitution of Sri Lanka.

(b) The requirement under subsection (a) shall not apply to balance of payments support to the Central Bank of Sri Lanka if the Secretary of the Treasury certifies to the Committees on Appropriations that such payments are necessary to prevent significant and imminent hardship among the general population of Sri Lanka.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing incidents during the conflict in Sri Lanka that may constitute violations of international humanitarian law or crimes against humanity, and, to the extent practicable, identifying the parties responsible.

**SA 1170.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 102, line 9, strike “In” and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G-20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that

prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.” and

(2) in subsection (b)

(A) by inserting “(1)” before “For the purpose of;”

(B) by inserting “subsection (a)(1) of” after “pursuant to”; and

(C) by adding at the end the following:

“(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.”.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**“SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63-2 and 63-3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.”

**“SEC. 65. QUOTA INCREASE.**

“(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.”

**“SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.**

“(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than \$4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries.”

**“SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54-4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.”

**SA 1171.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, line 5, strike “section 17(a)(ii) and (b)(ii)” and insert “section 17(a)(2) and (b)(2)”.

On page 105, beginning on line 25, strike “the chairman” and all that follows through “thereof,” on page 106, line 5, and insert “the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives”.

**SA 1172.** Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

**SEC. 4. LAKE PONTCHARTRAIN, LOUISIANA.**

(a) **AUTHORITY OF SECRETARY OF THE ARMY.**—The project authorized by section 204 of Flood Control Act of 1965 (Public Law 89-298; 79 Stat. 1077) and modified by section 7012(a)(2) of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1279), is further modified to authorize the Secretary of the Army to construct a pumping station that shall be specifically designed to evacuate storm water from the area known as Hoey’s Basin, as—

(1) generally described in the report entitled “U.S. Army Corps of Engineers Individual Environmental Report #5; Permanent Protection System for the Outfall Canals Project on 17th Street, Orleans Avenue, and London Avenue Canals”; and

(2) more specifically described under the “Pump to the Mississippi River” option contained in the report described in paragraph (1).

(b) **AUTHORIZED COST.**—The total cost of the project authorized under subsection (a) shall be \$205,000,000.

(c) **FEDERAL SHARE.**—The Federal share of the cost of the project authorized under subsection (a) shall be 100 percent of the total cost of the project.

**SA 1173.** Mr. CORKER (for himself and Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 97, between lines 11 and 12, insert the following:

**AFGHANISTAN AND PAKISTAN POLICY**

**SEC. 1121.** (a) **OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.**—Not later than 30 days after the date of the enactment of this Act, the President, based on information gathered and coordinated by the National Security Council, shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) **REPORTS.**—

(1) **IN GENERAL.**—Not later than March 30, 2010 and every 90 days thereafter, the President, on the basis of information gathered and coordinated by the National Security Council and in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) **FORM.**—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

**SA 1174.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

**SEC. 607. REIMBURSEMENT FOR MAJOR DISASTER.**

For purposes of reimbursement relating to disaster declaration DR-1791 (issued September 13, 2008), the Statewide per capita qualifying threshold for calendar year 2008 of \$122.00 is deemed to have been met.

**SA 1175.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 23 and insert the following:

(Public Law 111-8; 123 Stat. 619) is amended—

(1) in the ninth proviso—

(A) by striking “or (d)” and inserting “(d)”; and

(B) by striking “the guarantee” and inserting “the guarantee; (e) contracts, leases or

other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009”; and

(2) in the tenth proviso, by striking “*Provided further,*” and inserting “*Provided further,* That the Secretary of Energy may use unobligated funds from undersubscribed technologies supported under the Title 17 Innovative Technology Loan Guarantee Program for oversubscribed technologies, as determined by the Secretary, in a manner that, to the maximum extent practicable, is technology-neutral: *Provided further,*”.

**SA 1176.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

**SEC. 607. DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT.**

Title VI of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 164) is amended under the heading “DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT” under the heading “FEDERAL EMERGENCY MANAGEMENT AGENCY”—

(1) by inserting “or can otherwise demonstrate” after “suffered”; and

(2) by inserting “in fiscal year 2008, 2009, or 2010” after “revenues”.

**SA 1177.** Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, insert the following:

**SEC. . INTENT OF CONGRESS.**

Title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 218) is amended under the heading “COMMUNITY DEVELOPMENT FUND” under the heading “COMMUNITY PLANNING AND DEVELOPMENT” under the heading “DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT” by inserting “*Provided further,* That, in addition to the eligible uses of funds under section 2301(c)(3)(E) of the Act, grants awarded using amounts made available under this paragraph may be used to redevelop housing properties damaged or destroyed during the period beginning on January 1, 2004, and ending on December 31, 2008, by a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122))” after “demolished or vacant properties as housing”.

**SA 1178.** Mr. CARDIN submitted an amendment intended to be proposed by

him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**PRESCRIPTION OF ANTIDEPRESSANTS FOR TROOPS SERVING IN IRAQ AND AFGHANISTAN**

SEC. \_\_\_\_\_. (a) Not later than December 31, 2009, the Secretary of Defense shall submit to Congress a report on the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan who have been prescribed antidepressants, including psychotropic drugs such as Selective Serotonin Reuptake Inhibitors (SSRIs).

(b)(1) The Institute of Medicine shall conduct a study on the potential relationship between the increased number of suicides and attempted suicides by members of the Armed Forces and the increased number of antidepressants, other psychotropics, and other behavior modifying prescription medications being prescribed, including any combination or interactions of such prescriptions. The Department of Defense shall immediately make available to the Institute of Medicine all data necessary to complete the study.

(2) Not later than one year after the date of the enactment of this Act, the Institute of Medicine shall submit to Congress a report on the findings of the study conducted pursuant to paragraph (1).

**SA 1179.** Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 71, between lines 13 and 14, insert the following:

(g) **TRAINING IN CIVILIAN-MILITARY COORDINATION.**—The Secretary of State, in consultation with the Secretary of Defense, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

**SA 1180.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

**SEC. 607. COASTAL HIGH HAZARD AREAS.**

(a) **DEFINITIONS.**—In this section—

(1) the term “coastal high hazard area” has the meaning given that term in section 9.4 of title 44, Code of Federal Regulations, or any successor thereto; and

(2) the term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(b) **AUTHORIZATION.**—For an activity in a coastal high hazard area that is otherwise an eligible use of assistance under section 404, section 406, or section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c, 5172, and 5174) as a result of damage caused by Hurricane Katrina, Rita, Gustav, or Ike, notwithstanding 9.11(d)(1) of title 44, Code of Federal Regulations, and subject to all other requirements under part 9 of title 44, Code of Federal Regulations—

(1) the activity shall be an eligible use of assistance under such section; and

(2) any new construction or substantial improvements to structures under such an activity involving critical actions shall not be required to elevate to the 500-year floodplain, if it would be impracticable.

(c) **ADMINISTRATIVE PROCEDURES.**—Notwithstanding chapter 5 of title 5, United States Code (commonly known as the “Administrative Procedure Act”), the Administrator of the Federal Emergency Management Agency shall not be required to promulgate, modify, or amend any regulation to carry out subsection (b).

(d) **APPLICABILITY.**—This section shall apply to any assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) relating to a major disaster—

(1) declared on or after August 28, 2005; and

(2) relating to Hurricane Katrina, Rita, Gustav, or Ike.

**SA 1181.** Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. EXTENSION OF LIMITATIONS.**

(a) **IN GENERAL.**—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking “evidence of debt by any insured” and inserting the following: “evidence of debt by—

“(A) any insured”; and

(3) by striking the period at the end and inserting the following: “; and

“(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State’s maximum lawful annual percentage rate or 17 percent—

“(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

“(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

“(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans’ mortgage bonds as set forth in section 143 of such Code;

“(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

“(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

“(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

“(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

“(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).”

(b) **EFFECTIVE PERIOD.**—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

**SA 1182.** Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

**ORGANIZATION OF AMERICAN STATES**

SEC. 1121. It is the sense of Congress that—

(1) the United States supports the Charter of the Organization of American States and the principles enshrined in the Inter-American Democratic Charter of the Organization of American States; and

(2) Congress continues to support the Organization of American States as it operates in a manner consistent with the Charter of the Organization of American States, and, in particular, consistent with Articles 1, 3, and 7 of the Inter-American Democratic Charter, as adopted by all the participating member countries of the Organization of American States, which state—

(A) in Article 1, that the peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it, and that democracy is essential for the social, political, and economic development of the peoples of the Americas;

(B) in Article 3, that essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government; and

(C) in Article 7, that democracy is indispensable for the effective exercise of fundamental freedoms and human rights in their universality, indivisibility, and interdependence, embodied in the respective constitutions of states and in inter-American and international human rights instruments.

**SA 1183.** Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

**SEC. 4 . LAKE PONTCHARTRAIN, LOUISIANA.**

(a) **DEFINITIONS.**—In this section:

(1) **PROJECT.**—The term “project” means the project for permanent pumps and canal modifications authorized by section 204 of Flood Control Act of 1965 (Public Law 89-298; 79 Stat. 1077) and modified by section 7012(a)(2) of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1279).

(2) **PROJECT REPORT.**—The term “project report” means the report—

(A) submitted by the Secretary to Congress;

(B) dated August 30, 2007; and

(C) provided in response to the requirements described in section 4303 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28; 121 Stat. 154) as the basis for complying with the requirements of—

(i) the project; and

(ii) modifications to the 17th Street, Orleans Avenue and London Avenue canals in and near the city of New Orleans carried out under the project.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Army.

(b) **DUTIES OF SECRETARY.**—

(1) **SUSPENSION OF ACTIVITY.**—Effective on the date of enactment of this Act, the Secretary shall cease the implementation of option 1, as described in the project report.

(2) **STUDY; REPORT.**—

(A) **STUDY.**—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study under which the Secretary shall carry out—

(i) an analysis of the residual risks associated with options 1, 2, and 2a, as described in the project report; and

(ii) an independent peer review of the effectiveness of concept designs and preliminary cost estimates associated with each option.

(B) **REPORTS.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that—

(i) contains the results of the study conducted under subparagraph (A); and

(ii) identifies the option contained in the project report that—

(I) is more technically advantageous;

(II) is more effective from an operational perspective in providing greater reliability and reducing the risk of flooding to the New Orleans area over the long-term; and

(III) if implemented, would—

(aa) increase the overall drainage capacity of the region;

(bb) reduce local flooding to the greatest extent practicable; and

(cc) provide the greatest system flexibility.

(3) **IMPLEMENTATION.**—Effective on the date on which the Secretary submits the report under paragraph (2)(B), the Secretary shall resume the implementation of the project in accordance with the option selected by the Secretary under the report.

**SA 1184.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) **INTERPRETATION OF AUTHORITY OF THE INTERNATIONAL MONETARY FUND**

TO PROVIDE CERTAIN ASSISTANCE TO LOW-INCOME COUNTRIES.—The Secretary of the Treasury shall instruct the United States Governor of the International Monetary Fund and the United States Executive Director of the Fund to obtain promptly an official interpretation by the Fund with respect to the authority of the Fund to provide support to low-income countries (as defined by the Fund) in the form of grants or other financial assistance that does not create debt for those countries.

(b) **AMENDMENT TO ARTICLES OF AGREEMENT TO AUTHORIZE CERTAIN ASSISTANCE TO LOW-INCOME COUNTRIES.**—If the International Monetary Fund concludes in the interpretation obtained pursuant to subsection (a) that the Fund does not have the authority to provide grants or other financial assistance described in that subsection, the United States Governor of the International Monetary Fund and the United States Executive Director of the Fund shall promptly propose and support an amendment to the Articles of Agreement of the Fund to explicitly authorize the Fund to provide such grants or other financial assistance.

(c) **AUTHORIZATION TO ACCEPT AMENDMENT.**—Notwithstanding any other provision of law, the President may agree to and accept on behalf of the United States an amendment proposed under subsection (b) to the Articles of Agreement of the International Monetary Fund to explicitly authorize the Fund to provide grants or other financial assistance to low-income countries that does not create debt for those countries.

**SA 1185.** Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place in title III, insert the following:

SENSE OF SENATE ON USE OF FUNDS FOR OPERATIONS IN IRAQ

SEC. 315. It is the sense of the Senate that funds appropriated or otherwise made available to the Department of Defense by this title for operations in Iraq should be utilized for those operations in a manner consistent with the United States–Iraq Status of Forces Agreement, including specifically that—

(1) the United States combat mission in Iraq will end by August 31, 2010;

(2) any transitional force of the United States remaining in Iraq after August 31, 2010, will have a mission consisting of—

(A) training, equipping, and advising Iraqi Security Forces as long as they remain non-sectarian;

(B) conducting targeted counter-terrorism missions; and

(C) protecting the ongoing civilian and military efforts of the United States within Iraq; and

(3) through continuing redeployments of the transitional force of the United States remaining in Iraq after August 31, 2010, all United States troops present in Iraq under the United States–Iraq Status of Forces Agreement will be redeployed from Iraq by December 31, 2011.

**SA 1186.** Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for

other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) **SPECIFICATION OF THE FIRST TEE PROGRAM AS SUPPORTABLE YOUTH ORGANIZATION.**—Section 1058(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3442; 5 U.S.C. 301 note) is amended—

(1) in paragraph (16), by striking “and” at the end;

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following new paragraph (17):

“(17) The First Tee program.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 2009, and shall apply with respect to fiscal years beginning on or after that date.

**SA 1187.** Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 315. (a) **BENEFITS UNDER POST-DEPLOYMENT/MOBILIZATION RESPITE ABSENCE PROGRAM FOR CERTAIN PERIODS BEFORE IMPLEMENTATION OF PROGRAM.**—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall provide any member or former member of the Armed Forces with the benefits specified in subsection (b) if the member or former member would, on any day during the period beginning on January 19, 2007, and ending on the date of the implementation of the Post-Deployment/Mobilization Respite Absence (PDMRA) program by the Secretary concerned, have qualified for a day of administrative absence under the Post-Deployment/Mobilization Respite Absence program had the program been in effect during such period.

(b) **BENEFITS.**—The benefits specified in this subsection are the following:

(1) In the case of an individual who is a former member of the Armed Forces at the time of the provision of benefits under this section, payment of an amount not to exceed \$200 for each day the individual would have qualified for a day of administrative absence as described in subsection (a) during the period specified in that subsection.

(2) In the case of an individual who is a member of the Armed Forces at the time of the provision of benefits under this section, either one day of administrative absence or payment of an amount not to exceed \$200, as selected by the Secretary concerned, for each day the individual would have qualified for a day of administrative absence as described in subsection (a) during the period specified in that subsection.

(c) **EXCLUSION OF CERTAIN FORMER MEMBERS.**—A former member of the Armed Forces is not eligible under this section for the benefits specified in subsection (b)(1) if the former member was discharged or released from the Armed Forces under other than honorable conditions.

(d) **MAXIMUM NUMBER OF DAYS OF BENEFITS PROVIDABLE.**—The number of days of benefits providable to a member or former member of the Armed Forces under this section may not exceed 40 days of benefits.

(e) **FORM OF PAYMENT.**—The paid benefits providable under subsection (b) may be paid in a lump sum or installments, at the election of the Secretary concerned.

(f) **CONSTRUCTION WITH OTHER PAY AND LEAVE.**—The benefits provided a member or former member of the Armed Forces under this section are in addition to any other pay, absence, or leave provided by law.

(g) **DEFINITIONS.**—In this section:

(1) The term “Post-Deployment/Mobilization Respite Absence program” means the program of a military department to provide days of administrative absence not chargeable against available leave to certain deployed or mobilized members of the Armed Forces in order to assist such members in reintegrating into civilian life after deployment or mobilization.

(2) The term “Secretary concerned” has the meaning given that term in section 101(5) of title 37, United States Code.

(h) **TERMINATION.**—

(1) **IN GENERAL.**—The authority to provide benefits under this section shall expire on the date that is one year after the date of the enactment of this Act.

(2) **CONSTRUCTION.**—Expiration under this subsection of the authority to provide benefits under this section shall not affect the utilization of any day of administrative absence provided a member of the Armed Forces under subsection (b)(2), or the payment of any payment authorized a member or former member of the Armed Forces under subsection (b), before the expiration of the authority in this section.

**SA 1188.** Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title XI, add the following:

**SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.**—The amount appropriated by this title under the heading “Europe, Eurasia and Central Asia” is hereby increased by \$42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) **SOURCE OF FUNDS.**—

(1) **IN GENERAL.**—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading “Europe, Eurasia and Central Asia” and available for assistance for Georgia.

(2) **ADMINISTRATION.**—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) administer the reduction required pursuant to paragraph (1); and

(B) submit to the Committee on Appropriations of the Senate and the Committee of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the reduction required pursuant to paragraph (1).

**SA 1189.** Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following new section

No funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory.

**SA 1190.** Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. Reid to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 11, insert “and for urgent and unmet resettlement needs of a refugee or individual provided status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 8 U.S.C. 1101 note), section 1244 of the Refugee Crisis in Iraq Act of 2007 (subtitle C of title XII of division A of Public Law 110-181; 122 Stat. 396), or section 602 of the Afghan Allies Protection Act of 2009 (title VI of division F of Public Law 111-8; 123 Stat. 807),” after “of 2008.”

**SA 1191.** Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 102, line 9, strike “In” and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G-20 Leaders’ Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: *Provided*, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, includ-

ing guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: *Provided further*, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.”

and

(2) in subsection (b)

(A) by inserting “(1)” before “For the purpose of”; and

(B) by inserting “subsection (a)(1) of” after “pursuant to”; and

(C) by adding at the end the following:

“(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.”

**SEC. 1302.** The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**“SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63-2 and 63-3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

**“SEC. 65. QUOTA INCREASE.**

“(a) **IN GENERAL.**—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

“(b) **SUBJECT TO APPROPRIATIONS.**—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.”

**“SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND’S GOLD.**

“(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund’s gold acquired since the second Amendment to the Fund’s Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: *Provided*, That at least 30 days prior to any such vote, the Secretary shall consult

with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: *Provided further*, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than \$4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries."

**"SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.**

"The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54-4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: *Provided*, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights."

**SA 1192.** Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1113.

**SA 1193.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, strike lines 6 through 16 and insert the following:

as authorized by law, \$315,290,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided further*, That this work shall be car-

**SA 1194.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In the matter under the heading "FLOOD CONTROL AND COASTAL EMERGENCIES" under the heading "CORPS OF ENGINEERS-CIVIL" under the heading "DEPARTMENT OF THE ARMY" under the heading "DEPARTMENT OF DEFENSE-CIVIL" of title IV, strike "*Provided further*, That this work shall be carried out at full Federal expense" and insert "*Provided further*, That the Federal share of the cost of the projects under this heading shall be not more than 65 percent".

**SA 1195.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . None of the funds provided in this act may be used by the Department of Justice to prosecute or otherwise sanction any individual who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied on good faith on those opinions, nor any member of Congress who was briefed on the enhanced interrogation program and did not object to the program going forward.

**SA 1196.** Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**DEPARTMENT OF LABOR**

**EMPLOYMENT AND TRAINING ADMINISTRATION  
TRAINING AND EMPLOYMENT SERVICES**

For an additional amount for "Training and Employment Services" for grants to States for dislocated worker employment and training activities under the Workforce Investment Act of 1998, \$210,833,000, which shall be available for the period of July 1, 2009 through June 30, 2010: *Provided*, That such funds shall be allotted only to those States that have received a total allotment amount, not including any allotment amount provided under the American Recovery and Reinvestment Act of 2009, for dislocated worker employment and training activities under the Workforce Investment Act of 1998 (referred to under this heading as the "total allotment amount") for program year

2009 that is less than the total allotment amount received by such States for program year 2008: *Provided further*, That the amount of the allotment of such funds to a State shall be equal to the amount of the difference between the total allotment amount for program year 2008 and the total allotment amount for program year 2009 for such State: *Provided further*, That for purposes of Senate enforcement, such funds are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1197.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—



(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Naval Station Guantanamo Bay.

(d) **ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.**—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) **FORM.**—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) **LIMITATION ON RELEASE OR TRANSFER.**—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

**SA 1198.** Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** (a) **DISCLOSURE OF INTERNATIONAL MONETARY FUND DOCUMENTS.**—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to promote standard public disclosure of documents of the Fund presented to the Executive Board of the Fund and summaries of the minutes of meetings of the Board, as recommended by the Independent Evaluation Office of the Fund, not later than 2 years after the date of the meeting at which the document was presented or the minutes were taken (as the case may be), unless the Executive Board—

(1) determines that it is appropriate to delay disclosure; and

(2) posts the reason for the delay on the website of the Fund.

(b) **TRANSPARENCY AND ACCOUNTABILITY OF LOANS, AGREEMENTS, AND OTHER PROGRAMS OF THE INTERNATIONAL MONETARY FUND.**—The Secretary of the Treasury shall instruct

the United States Executive Director of the International Monetary Fund to promote—

(1) transparency and accountability in the policymaking and budgetary procedures of governments of members of the Fund;

(2) the participation of citizens and non-governmental organizations in the economic policy choices of those governments; and

(3) the adoption by those governments of loans, agreements, or other programs of the Fund through a parliamentary process or another participatory and transparent process, as appropriate.

**SA 1199.** Mr. DURBIN proposed an amendment to amendment SA 1136 proposed by Mr. MCCONNELL to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 3, strike lines 1–4, and insert the following:

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

**SA 1200.** Mr. REID (for Mrs. HUTCHISON) proposed an amendment to the bill S. 614, to award a Congressional Gold Medal to the Women Airforce Service Pilots (“WASP”); as follows:

On page 3, line 11, strike “Army Air Force” and insert “Army Air Forces” On page 3, line 13, strike “Air Force” and insert “Air Forces” On page 3, line 17, strike “Army Air Force” and insert “Army Air Forces” On page 4, line 2, strike “Force” and insert “Forces”

**SA 1201.** Mr. REID proposed an amendment to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNIS) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of the amendment, add the following: This section shall become effective 3 days after enactment

## NOTICE OF HEARING

### COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 21, 2009 at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing to examine Executive Branch authority to acquire trust lands for Indian Tribes.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and

Urban Affairs be authorized to meet during the session of the Senate on May 20, 2009, at 9:30 a.m., to conduct a hearing entitled “Oversight of the Troubled Asset Relief Program.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, in Russell 253, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 10 a.m., in room 215 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 1:30 p.m., to hold a hearing entitled “Foreign Policy Priorities in the President’s FY10 International Affairs Budget.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2:30 p.m. in room 430 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to

meet during the session of the Senate on Wednesday, May 20, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. INOUE. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2:30 p.m. to conduct a hearing entitled, "The Role of the Community Development Block Grant Program in Disaster Recovery."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PERSONNEL SUBCOMMITTEE

Mr. INOUE. Mr. President, I ask unanimous consent that the Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON CRIME AND DRUGS

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate to conduct a hearing entitled "Criminal Prosecution as a Deterrent to Health Care Fraud" on Wednesday, May 20, 2009, at 2:30 p.m., in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON STRATEGIC FORCES

Mr. INOUE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. INOUE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, from 2 p.m.-4 p.m. in Russell 432 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Immigration, Refugees and Border Security, be authorized to meet during the session of the Senate, to conduct a hearing entitled "Securing the Borders and America's Points of Entry, What Remains to Be Done" on Wednesday, May 20, 2009, at 10 a.m., in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. INOUE. Mr. President, I ask unanimous consent that Mr. Robert Berschinski, a detailee with the Defense Appropriations Subcommittee, be granted floor privileges during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that MAJ Brian Forrest, who is with me from the Army for a year, be given floor privileges during the proceedings on the supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HELPING FAMILIES SAVE THEIR HOMES ACT

On Tuesday, May 19, 2009, the Senate passed S. 896, as amended, as follows:

S. 896

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### DIVISION A—PREVENTING MORTGAGE FORECLOSURES

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Helping Families Save Their Homes Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents of this division is the following:

Sec. 1. Short title; table of contents.

##### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

Sec. 101. Guaranteed rural housing loans.

Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.

Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.

Sec. 104. Mortgage modification data collecting and reporting.

Sec. 105. Neighborhood Stabilization Program Refinements.

##### TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

Sec. 201. Servicer safe harbor for mortgage loan modifications.

Sec. 202. Changes to HOPE for Homeowners Program.

Sec. 203. Requirements for FHA-approved mortgagees.

Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.

Sec. 206. Mortgages on certain homes on leased land.

Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

##### TITLE III—MORTGAGE FRAUD TASK FORCE

Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

##### TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

Sec. 401. Sense of the Congress on foreclosures.

Sec. 402. Public-Private Investment Program; Additional Appropriations for the Special Inspector General for the Troubled Asset Relief Program.

Sec. 403. Removal of requirement to liquidate warrants under the TARP.

Sec. 404. Notification of sale or transfer of mortgage loans.

##### TITLE V—FARM LOAN RESTRUCTURING

Sec. 501. Congressional Oversight Panel special report.

##### TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

Sec. 601. Enhanced oversight of the Troubled Asset Relief Program.

##### TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

Sec. 701. Short title.

Sec. 702. Effect of foreclosure on preexisting tenancy.

Sec. 703. Effect of foreclosure on section 8 tenancies.

Sec. 704. Sunset.

##### TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

Sec. 801. Comptroller General additional audit authorities.

##### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

##### SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

"(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

"(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

"(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

“(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) expenses related to a partial claim or modification are not to be charged to the borrower;

“(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

“(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

“(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

“(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

“(15) ASSIGNMENT.—

“(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

“(B) PROGRAM REQUIREMENTS.—

“(i) IN GENERAL.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

“(ii) ACCEPTANCE OF ASSIGNMENT.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

“(I) the mortgage is in default or facing imminent default;

“(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

“(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

“(C) PAYMENT OF GUARANTY.—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

“(D) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(E) LOAN SERVICING.—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”

(b) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking “(as defined in paragraph (13))” and inserting “(as defined in paragraph (17))”; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking “paragraphs (3), (6), (7)(A), (8), and (10)” and inserting “paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)”; and

(B) striking “paragraphs (2) through (13)” and inserting “paragraphs (2) through (15)”. (c) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting “at the time of origination” after “loan”.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

**SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.**

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.—In addition to any amounts that may

be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to \$5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.

**SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.**

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

- (A) An increase.
- (B) Remained the same.
- (C) Decreased less than 10 percent.
- (D) Decreased between 10 percent and 20 percent.
- (E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

- (A) higher monthly payments by the homeowner;
- (B) equivalent monthly payments by the homeowner;
- (C) lower monthly payments by the homeowner of up to 10 percent;
- (D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or
- (E) lower monthly payments by the homeowner of more than 20 percent.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

#### SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.

(a) IN GENERAL.—Section 2301(c) of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) EXCEPTION FOR CERTAIN STATES.—Each State that has received the minimum allocation of amounts pursuant to the requirement under section 2302 may, to the extent such State has fulfilled the requirements of paragraph (2), distribute any remaining amounts to areas with homeowners at risk of foreclosure or in foreclosure without regard to the percentage of home foreclosures in such areas.”

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110-289).

#### TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

#### SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values,

local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) SAFE HARBOR.—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

#### “SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.

“(a) IN GENERAL.—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

“(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

“(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

“(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

“(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

“(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

“(b) NO LIABILITY.—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

“(c) STANDARD INDUSTRY PRACTICE.—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

“(d) SCOPE OF SAFE HARBOR.—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

“(e) REPORTING.—Each servicer that engages in qualified loss mitigation plans

under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer's modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘qualified loss mitigation plan’ means—

“(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

“(B) a refinancing of a mortgage under the Hope for Homeowners program;

“(2) the term ‘servicer’ means the person responsible for the servicing for others of residential mortgage loans (including of a pool of residential mortgage loans); and

“(3) the term ‘securitization vehicle’ means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).

“(g) RULE OF CONSTRUCTION.—No provision of subsection (b) or (d) shall be construed as affecting the liability of any servicer or person as described in subsection (d) for actual fraud in the origination or servicing of a loan or in the implementation of a qualified loss mitigation plan, or for the violation of a State or Federal law, including laws regulating the origination of mortgage loans, commonly referred to as predatory lending laws.”

#### SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

(a) PROGRAM CHANGES.—Section 257 of the National Housing Act (12 U.S.C. 1715z-23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking “THE BOARD” and inserting “SECRETARY”;

(B) in paragraph (1), by striking “Board” inserting “Secretary, after consultation with the Board,”;

(C) in paragraph (1)(A), by inserting “consistent with section 203(b) to the maximum extent possible” before the semicolon; and

(D) by adding after paragraph (2) the following:

“(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.”;

(2) by striking “Board” each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting “Secretary”;

(3) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

“(1) BORROWER CERTIFICATION.—

“(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and

has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

“(B) **LIABILITY FOR REPAYMENT.**—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

“(C) **CURRENT BORROWER DEBT-TO-INCOME RATIO.**—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).”;

(B) in paragraph (4)—

(i) in subparagraph (A), by striking “, subject to standards established by the Board under subparagraph (B).”; and

(ii) in subparagraph (B)(i), by striking “shall” and inserting “may”; and

(C) in paragraph (7), by striking “; and provided that” and all that follows through “new second lien”;

(D) in paragraph (9)—

(i) by striking “by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)” and inserting “in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure”; and

(ii) by striking “and by any other method, in accordance with procedures and standards that the Board shall establish”;

(E) in paragraph (10)—

(i) by striking “The mortgagor shall not” and inserting the following:

“(A) **PROHIBITION.**—The mortgagor shall not”; and

(ii) by adding at the end the following:

“(B) **DUTY OF MORTGAGEE.**—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).”;

(F) in paragraph (11), by inserting before the period at the end the following: “, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property”; and

(G) by adding at the end:

“(12) **BAN ON MILLIONAIRES.**—The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.”;

(4) in subsection (h)(2), by striking “The Board shall prohibit the Secretary from paying” and inserting “The Secretary shall not pay”; and

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking “For each” and inserting the following:

“(1) **PREMIUMS.**—For each”;

(C) in subparagraph (A), as redesignated by this paragraph, by striking “equal to 3 percent” and inserting “not more than 3 percent”; and

(D) in subparagraph (B), as redesignated by this paragraph, by striking “equal to 1.5 percent” and inserting “not more than 1.5 percent”;

(E) by adding at the end the following:

“(2) **CONSIDERATIONS.**—In setting the premium under this subsection, the Secretary shall consider—

“(A) the financial integrity of the HOPE for Homeowners Program; and

“(B) the purposes of the HOPE for Homeowners Program described in subsection (b).”;

(6) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE”;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”; and

(C) in paragraph (2), by striking “and the mortgagor” and all that follows through the end and inserting “may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with or assign the rights of any amounts due to the Secretary to the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.”;

(7) in the heading for subsection (n), by striking “THE BOARD” and inserting “SECRETARY”;

(8) in subsection (p), by striking “Under the direction of the Board, the” and inserting “The”;

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking “Board of Directors of” and inserting “Advisory Board for”; and

(B) in paragraph (3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(10) in subsection (v), by inserting after the period at the end the following: “The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”; and

(11) by adding at the end the following new subsections:

“(x) **PAYMENTS TO SERVICERS AND ORIGINATORS.**—The Secretary may establish a payment to the—

“(1) servicer of the existing senior mortgage or existing subordinate mortgage for every loan insured under the HOPE for Homeowners Program; and

“(2) originator of each new loan insured under the HOPE for Homeowners Program.

“(y) **AUCTIONS.**—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.”.

(b) **REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.**—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$1,244,000,000,” after “\$700,000,000,000”.

(c) **TECHNICAL CORRECTION.**—The second section 257 of the National Housing Act (Public Law 110-289; 122 Stat. 2839; 12 U.S.C. 1715z-24) is amended by striking the section heading and inserting the following:

**“SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.”.**  
**SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.**

(a) **MORTGAGEE REVIEW BOARD.**—

(1) **IN GENERAL.**—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting “and” after the semicolon;

(B) in subparagraph (F), by striking “; and” and inserting “or their designees.”; and

(C) by striking subparagraph (G).

(2) **PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.**—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

“(9) **PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.**—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.”.

(b) **LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.**—Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

“(d) **LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.**—

“(1) **REQUIREMENT.**—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

“(2) **ELIGIBILITY FOR APPROVAL.**—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

“(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

“(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant’s integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

“(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

“(D) engaged in business practices that do not conform to generally accepted practices

of prudent mortgagees or that demonstrate irresponsibility;

“(E) convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry—

“(i) during the 7-year period preceding the date of the application for licensing and registration; or

“(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

“(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

“(G) in violation of any other requirement as established by the Secretary.

“(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.”; and

(3) by adding at the end the following new subsection:

“(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

“(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

“(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.”.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting “or faces imminent default, as defined by the Secretary” after “default”;

(2) by inserting “support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,” after “loan modification,”; and

(3) by striking “204(a)(1)(A)” and inserting “subsection (a)(1)(A) or section 230(c)”.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting “or imminent default, as defined by the Secretary” after “default”;

(B) by striking “loss” and inserting “loan”;

(C) by inserting “preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,” after “loan modification,”;

(D) by inserting “as required,” after “deeds in lieu of foreclosure,”; and

(E) by inserting “or section 230(c),” before “as provided”.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

“(b) PAYMENT OF PARTIAL CLAIM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to pay-

ment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

“(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

“(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

“(E) expenses related to the partial claim or modification may not be charged to the borrower;

“(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

“(G) the Secretary may permit incentive payments to the mortgagee, on the borrower's behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

“(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.”.

(3) ASSIGNMENT.—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting “(1)” after “(c)”;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(iii) in clause (i) (as so redesignated), by inserting “or facing imminent default, as defined by the Secretary” after “default”;

(D) in paragraph (1)(C) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(E) by adding at the end the following:

“(2) ASSIGNMENT AND LOAN MODIFICATION.—

“(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

“(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a

mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

“(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”.

(4) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) CHANGE OF STATUS.—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f-10) and inserting the following new section:

**“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

“(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

“(b) ACTIONS.—The actions described in this subsection are as follows:

“(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

“(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.”.

(f) CIVIL MONEY PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—



(i) in the matter preceding subparagraph (A), by inserting “or any of its owners, officers, or directors” after “mortgagee or lender”;

(ii) in subparagraph (H), by striking “title I” and all that follows through “under this Act,” and inserting “title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.”; and

(iii) by inserting after subparagraph (J) the following:

“(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

“(L) Use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.”;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following new subparagraph:

“(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.”; and

(C) by amending paragraph (3) to read as follows:

“(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.”; and

(2) in subsection (g), by striking “The term” and all that follows through the end of the sentence and inserting “For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.”.

(g) EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgages approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

#### SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.

(a) TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(b) EXTENSION OF RESTORATION PLAN PERIOD.—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.

(c) FDIC AND NCUA BORROWING AUTHORITY.—

(1) FDIC.—Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking “\$30,000,000,000” and inserting “\$100,000,000,000”;

(B) by striking “The Corporation is authorized” and inserting the following:

“(1) IN GENERAL.—The Corporation is authorized”;

(C) by striking “There are hereby” and inserting the following:

“(2) FUNDING.—There are hereby”; and

(D) by adding at the end the following:

“(3) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$500,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above \$100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

“(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.”.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

“(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate \$6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.”.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

“(4) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$30,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above \$6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.”.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

“(ii) REPAYMENT OF LOSS.—

“(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects

on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.”.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

“(D) FUND RESTORATION PLANS.—

“(i) IN GENERAL.—Whenever—

“(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

“(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made, the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

“(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

“(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section: “SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

“(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the ‘Temporary Corporate Credit Union Stabilization Fund.’ The Board will administer the Stabilization Fund as prescribed by section 209.

“(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

“(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

“(2) Prior to authorizing each payment the Board shall—

“(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

“(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

“(c) AUTHORITY TO BORROW.—

“(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

“(2) REPAYMENT OF ADVANCES.—

“(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

“(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

“(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

“(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union’s previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

“(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund’s equity ratio below the normal operating level and does not reduce the Insurance Fund’s available assets ratio below 1.0 percent.

“(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board’s judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities,

with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board’s discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

“(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board’s discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.”.

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting “, subject to the requirements of section 217(e),” after “The Board shall”.

#### SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

#### SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

“(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.”.

#### SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-

family housing issued through State housing finance agencies and through units of local government and agencies thereof.

### **TITLE III—MORTGAGE FRAUD TASK FORCE**

#### **SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.**

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the “Task Force”) to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) MANDATORY FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) OPTIONAL FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

### **TITLE IV—FORECLOSURE MORATORIUM PROVISIONS**

#### **SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.**

(a) IN GENERAL.—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President’s “Homeowner Affordability and Stability Plan” have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) SCOPE OF MORATORIUM.—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner’s principal dwelling.

(c) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

#### **SEC. 402. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) SHORT TITLE.—This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section re-

ferred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private fund to identify for the Secretary, on a periodic basis, each investor that, individually or together with affiliates, directly or indirectly, holds equity interests equal to at least 10 percent of the equity interest of the fund including if such interests are held in a vehicle formed for the purpose of directly or indirectly investing in the fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under any program that is funded in whole or in part by funds appropriated under the Emergency Economic Stabilization Act of 2008, to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) **RULE OF CONSTRUCTION.**—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) **DEFINITION.**—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) **OFFSET OF COSTS OF PROGRAM CHANGES.**—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$1,259,000,000,” after “\$700,000,000,000”.

(g) **REGULATIONS.**—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this section.

#### **SEC. 403. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.**

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking “shall liquidate warrants associated with such assistance at the current market price” and inserting “, at the market price, may liquidate warrants associated with such assistance”.

#### **SEC. 404. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.**

(a) **IN GENERAL.**—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

“(g) **NOTICE OF NEW CREDITOR.**—

“(1) **IN GENERAL.**—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

“(A) the identity, address, telephone number of the new creditor;

“(B) the date of transfer;

“(C) how to reach an agent or party having authority to act on behalf of the new creditor;

“(D) the location of the place where transfer of ownership of the debt is recorded; and

“(E) any other relevant information regarding the new creditor.

“(2) **DEFINITION.**—As used in this subsection, the term ‘mortgage loan’ means any consumer credit transaction that is secured by the principal dwelling of a consumer.”.

(b) **PRIVATE RIGHT OF ACTION.**—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting “subsection (f) or (g) of section 131,” after “section 125.”.

#### **TITLE V—FARM LOAN RESTRUCTURING**

##### **SEC. 501. CONGRESSIONAL OVERSIGHT PANEL SPECIAL REPORT.**

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

“(3) **SPECIAL REPORT ON FARM LOAN RESTRUCTURING.**—Not later than 60 days after

the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

“(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

“(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.”.

#### **TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM**

##### **SEC. 601. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.**

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.”; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (F); and

(B) by striking subparagraphs (A) and (B) and inserting the following:

“(A) **DEFINITION.**—In this paragraph, the term ‘governmental unit’ has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

“(B) **GAO PRESENCE.**—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

“(C) **ACCESS TO RECORDS.**—

“(i) **IN GENERAL.**—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

“(ii) **VERIFICATION.**—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

“(iii) **COPIES.**—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

“(D) **AGREEMENT BY ENTITIES.**—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

“(E) **RESTRICTION ON PUBLIC DISCLOSURE.**—

“(i) **IN GENERAL.**—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) **EXCEPTION FOR CONGRESSIONAL COMMITTEES.**—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

“(iii) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.”.

#### **TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT**

##### **SEC. 701. SHORT TITLE.**

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

##### **SEC. 702. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.**

(a) **IN GENERAL.**—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1), except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) **BONA FIDE LEASE OR TENANCY.**—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the

unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

(c) DEFINITION.—For purposes of this section, the term “federally-related mortgage loan” has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

#### SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence; and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

#### SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

### TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

#### SEC. 801. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’),”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Federal Reserve Board,” and inserting “Board”; and

(B) in paragraph (4), by striking “of Governors”.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any

committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(c) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence;

(2) in paragraph (2), by inserting “, copies of any record,” after “records”; and

(3) by adding at the end the following:

“(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

“(i) any entity established by any action taken by the Board described under subsection (e);

“(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

“(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

“(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

“(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.”.

(d) AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.”.

### DIVISION B—HOMELESSNESS REFORM

#### SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

#### DIVISION B—HOMELESSNESS REFORM

Sec. 1001. Short title; table of contents.

Sec. 1002. Findings and purposes.

Sec. 1003. Definition of homelessness.

Sec. 1004. United States Interagency Council on Homelessness.

### TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

Sec. 1101. Definitions.

Sec. 1102. Community homeless assistance planning boards.

Sec. 1103. General provisions.

Sec. 1104. Protection of personally identifying information by victim service providers.

Sec. 1105. Authorization of appropriations.

### TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM

Sec. 1201. Grant assistance.

Sec. 1202. Eligible activities.

Sec. 1203. Participation in Homeless Management Information System.

Sec. 1204. Administrative provision.

Sec. 1205. GAO study of administrative fees.

### TITLE III—CONTINUUM OF CARE PROGRAM

Sec. 1301. Continuum of care.

Sec. 1302. Eligible activities.

Sec. 1303. High performing communities.

Sec. 1304. Program requirements.

Sec. 1305. Selection criteria, allocation amounts, and funding.

Sec. 1306. Research.

### TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

Sec. 1401. Rural housing stability assistance.

Sec. 1402. GAO study of homelessness and homeless assistance in rural areas.

### TITLE V—REPEALS AND CONFORMING AMENDMENTS

Sec. 1501. Repeals.

Sec. 1502. Conforming amendments.

Sec. 1503. Effective date.

Sec. 1504. Regulations.

Sec. 1505. Amendment to table of contents.

### 4SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

(b) PURPOSES.—The purposes of this division are—

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

### SEC. 1003. DEFINITION OF HOMELESSNESS.

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—For purposes of this Act, the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’ means—

“(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

“(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

“(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

“(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

“(5) an individual or family who—

“(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

“(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

“(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

“(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

“(B) has no subsequent residence identified; and

“(C) lacks the resources or support networks needed to obtain other permanent housing; and

“(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

“(A) have experienced a long term period without living independently in permanent housing,

“(B) have experienced persistent instability as measured by frequent moves over such period, and

“(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

“(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.”.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of “homeless”, “homeless individual”, or “homeless person” for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

#### SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following “whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness”;

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

“(16) The Commissioner of Social Security, or the designee of the Commissioner.

“(17) The Attorney General of the United States, or the designee of the Attorney General.

“(18) The Director of the Office of Management and Budget, or the designee of the Director.

“(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.

“(20) The Director of USA Freedom Corps, or the designee of the Director.”;

(B) in subsection (c), by striking “annually” and inserting “four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year”; and

(C) by adding at the end the following:

“(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.”;

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

“(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually.”;

(C) in paragraph (5), as redesignated by subparagraph (A), by striking “at least 2, but in no case more than 5” and inserting “not less than 5, but in no case more than 10”;

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

“(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

“(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies’ identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled ‘Homelessness: Coordination and Evaluation of Programs Are Essential’, issued February 26, 1999, and ‘Homelessness: Barriers to Using Mainstream Programs’, issued July 6, 2000;

“(8) conduct research and evaluation related to its functions as defined in this section;

“(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency.”;

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking “and” at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

“(12) develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person’s property without due process, or are selectively enforced against homeless persons; and

“(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of ‘homeless’ under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento



Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.”.

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—  
(A) by striking “Federal” and inserting “national”;

(B) by striking “; and” and inserting “and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;”;

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking “property.” and inserting “property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.”; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

**“SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title \$3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

**TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS**

**SEC. 1101. DEFINITIONS.**

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**“Subtitle A—General Provisions”;**

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

**“SEC. 401. DEFINITIONS.**

“For purposes of this title:

“(1) **AT RISK OF HOMELESSNESS.**—The term ‘at risk of homelessness’ means, with respect to an individual or family, that the individual or family—

“(A) has income below 30 percent of median income for the geographic area;

“(B) has insufficient resources immediately available to attain housing stability; and

“(C)(i) has moved frequently because of economic reasons;

“(ii) is living in the home of another because of economic hardship;

“(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

“(iv) lives in a hotel or motel;

“(v) lives in severely overcrowded housing;

“(vi) is exiting an institution; or

“(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

“(2) **CHRONICALLY HOMELESS.**—

“(A) **IN GENERAL.**—The term ‘chronically homeless’ means, with respect to an individual or family, that the individual or family—

“(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

“(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

“(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

“(B) **RULE OF CONSTRUCTION.**—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

“(3) **COLLABORATIVE APPLICANT.**—The term ‘collaborative applicant’ means an entity that—

“(A) carries out the duties specified in section 402;

“(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

“(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

“(4) **COLLABORATIVE APPLICATION.**—The term ‘collaborative application’ means an application for a grant under subtitle C that—

“(A) satisfies section 422; and

“(B) is submitted to the Secretary by a collaborative applicant.

“(5) **CONSOLIDATED PLAN.**—The term ‘Consolidated Plan’ means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

“(6) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

“(7) **FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.**—The term ‘families with children and youth defined as homeless under other Federal statutes’ means any children or youth that are defined as ‘homeless’ under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent,

parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

“(8) **GEOGRAPHIC AREA.**—The term ‘geographic area’ means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

“(9) **HOMELESS INDIVIDUAL WITH A DISABILITY.**—

“(A) **IN GENERAL.**—The term ‘homeless individual with a disability’ means an individual who is homeless, as defined in section 103, and has a disability that—

“(i)(I) is expected to be long-continuing or of indefinite duration;

“(II) substantially impedes the individual’s ability to live independently;

“(III) could be improved by the provision of more suitable housing conditions; and

“(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

“(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

“(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

“(B) **RULE.**—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

“(10) **LEGAL ENTITY.**—The term ‘legal entity’ means—

“(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

“(B) an instrumentality of State or local government; or

“(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

“(11) **METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.**—The terms ‘metropolitan city’, ‘urban county’, and ‘nonentitlement area’ have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

“(12) **NEW.**—The term ‘new’ means, with respect to housing, that no assistance has been provided under this title for the housing.

“(13) **OPERATING COSTS.**—The term ‘operating costs’ means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

“(A) the administration, maintenance, repair, and security of such housing;

“(B) utilities, fuel, furnishings, and equipment for such housing; or

“(C) coordination of services as needed to ensure long-term housing stability.

“(14) **OUTPATIENT HEALTH SERVICES.**—The term ‘outpatient health services’ means outpatient health care services, mental health services, and outpatient substance abuse services.

“(15) **PERMANENT HOUSING.**—The term ‘permanent housing’ means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

“(16) **PERSONALLY IDENTIFYING INFORMATION.**—The term ‘personally identifying information’ means individually identifying

information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

- “(A) a first and last name;
- “(B) a home or other physical address;
- “(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);
- “(D) a social security number; and
- “(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

“(17) PRIVATE NONPROFIT ORGANIZATION.—The term ‘private nonprofit organization’ means an organization—

- “(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;
- “(B) that has a voluntary board;
- “(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and
- “(D) that practices nondiscrimination in the provision of assistance.

“(18) PROJECT.—The term ‘project’ means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

“(19) PROJECT-BASED.—The term ‘project-based’ means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

- “(A) is between—
  - “(i) the recipient or a project sponsor; and
  - “(ii) an owner of a structure that exists as of the date the contract is entered into; and
- “(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

“(20) PROJECT SPONSOR.—The term ‘project sponsor’ means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

“(21) RECIPIENT.—Except as used in subtitle B, the term ‘recipient’ means an eligible entity who—

- “(A) submits an application for a grant under section 422 that is approved by the Secretary;

“(B) receives the grant directly from the Secretary to support approved projects described in the application; and

“(C)(i) serves as a project sponsor for the projects; or

“(ii) awards the funds to project sponsors to carry out the projects.

“(22) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(23) SERIOUS MENTAL ILLNESS.—The term ‘serious mental illness’ means a severe and persistent mental illness or emotional impairment that seriously limits a person’s ability to live independently.

“(24) SOLO APPLICANT.—The term ‘solo applicant’ means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

“(25) SPONSOR-BASED.—The term ‘sponsor-based’ means, with respect to rental assist-

ance, that the assistance is provided pursuant to a contract that—

- “(A) is between—
  - “(i) the recipient or a project sponsor; and
  - “(ii) an independent entity that—
    - “(I) is a private organization; and
    - “(II) owns or leases dwelling units; and
- “(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

“(26) STATE.—Except as used in subtitle B, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

“(27) SUPPORTIVE SERVICES.—The term ‘supportive services’ means services that address the special needs of people served by a project, including—

“(A) the establishment and operation of a child care services program for families experiencing homelessness;

“(B) the establishment and operation of an employment assistance program, including providing job training;

“(C) the provision of outpatient health services, food, and case management;

“(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

“(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

“(F) the provision of mental health services, trauma counseling, and victim services;

“(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

“(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual’s ability to obtain and retain housing;

“(I) the provision of—

“(i) transportation services that facilitate an individual’s ability to obtain and maintain employment; and

“(ii) health care; and

“(J) other supportive services necessary to obtain and maintain housing.

“(28) TENANT-BASED.—The term ‘tenant-based’ means, with respect to rental assistance, assistance that—

“(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

“(i) in a particular structure or unit for not more than the first year of the participation;

“(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

“(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or

has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

“(29) TRANSITIONAL HOUSING.—The term ‘transitional housing’ means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

“(30) UNIFIED FUNDING AGENCY.—The term ‘unified funding agency’ means a collaborative applicant that performs the duties described in section 402(g).

“(31) UNDERSERVED POPULATIONS.—The term ‘underserved populations’ includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

“(32) VICTIM SERVICE PROVIDER.—The term ‘victim service provider’ means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs.

“(33) VICTIM SERVICES.—The term ‘victim services’ means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.”

#### SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 401 (as added by section 1101(3) of this division) the following new section:

##### “SEC. 402. COLLABORATIVE APPLICANTS.

“(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

“(1) submit an application for amounts under this subtitle; and

“(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

“(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

“(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

“(e) APPOINTMENT OF AGENT.—

“(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

“(A) apply for a grant under section 422(c);  
“(B) receive and distribute grant funds awarded under subtitle C; and

“(C) perform other administrative duties.

“(2) **RETENTION OF DUTIES.**—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

“(f) **DUTIES.**—A collaborative applicant shall—

“(i) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

“(A) to determine compliance with—

“(i) the program requirements under section 426; and

“(ii) the selection criteria described under section 427; and

“(B) to establish priorities for funding projects in the geographic area involved;

“(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

“(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as ‘HMIS’) that—

“(A) collects unduplicated counts of individuals and families experiencing homelessness;

“(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

“(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

“(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

“(i) encryption of data collected for purposes of HMIS;

“(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

“(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

“(iv) rights of persons receiving services under this title;

“(v) criminal and civil penalties for unlawful disclosure of data; and

“(vi) such other standards as may be determined necessary by the Secretary.

“(g) **UNIFIED FUNDING.**—

“(1) **IN GENERAL.**—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

“(A) the collaborative applicant—

“(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

“(ii) is selected to perform such responsibilities by the Secretary; or

“(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

“(i) a finding by the Secretary that the applicant—

“(I) has the capacity to perform such responsibilities; and

“(II) would serve the purposes of this Act as they apply to the geographic area; and

“(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities

as such assistance is agreed to by the collaborative applicant.

“(2) **REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.**—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

“(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

“(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

“(h) **CONFLICT OF INTEREST.**—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.”

#### **SEC. 1103. GENERAL PROVISIONS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

#### **“SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.**

“(a) **IN GENERAL.**—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

“(b) **EXCEPTION.**—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

“(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

“(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

#### **“SEC. 405. TECHNICAL ASSISTANCE.**

“(a) **IN GENERAL.**—The Secretary shall make available technical assistance to private nonprofit organizations and other non-governmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homelessness.

“(b) **RESERVATION.**—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).”

rying out subtitles B and C, to provide technical assistance under subsection (a).”

#### **SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

“In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.”

#### **SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 408. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title \$2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.”

### **TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM**

#### **SEC. 1201. GRANT ASSISTANCE.**

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

#### **“Subtitle B—Emergency Solutions Grants Program”;**

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373–6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

#### **“SEC. 412. GRANT ASSISTANCE.**

“The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

#### **“SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.**

“(a) **IN GENERAL.**—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

“(b) **ALLOCATION.**—An entity that receives a grant under section 412, and serves an area

that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.”; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking “amounts appropriated” and all that follows through “for any” and inserting “amounts appropriated under section 408 and made available to carry out this subtitle for any”.

#### SEC. 1202. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

##### “SEC. 415. ELIGIBLE ACTIVITIES.

“(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

“(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

“(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

“(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

“(B) the use of assistance under this subtitle would complement the provision of those essential services.

“(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

“(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

“(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

“(A) stabilizing individuals and families in their current housing; or

“(B) quickly moving such individuals and families to other permanent housing.

“(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

“(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

“(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.”.

#### SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

“(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.”.

#### SEC. 1204. ADMINISTRATIVE PROVISION.

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking “5 percent” and inserting “7.5 percent”.

#### SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

### TITLE III—CONTINUUM OF CARE PROGRAM

#### SEC. 1301. CONTINUUM OF CARE.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

##### “Subtitle C—Continuum of Care Program”; and

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

##### “SEC. 421. PURPOSES.

“The purposes of this subtitle are—

“(1) to promote community-wide commitment to the goal of ending homelessness;

“(2) to provide funding for efforts by non-profit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

“(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

“(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

##### “SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.

“(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

“(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

“(c) APPLICATIONS.—

“(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

“(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

“(B) to establish priorities for funding projects in the geographic area.

“(2) ANNOUNCEMENT OF AWARDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

“(1) REQUIREMENTS FOR OBLIGATION.—

“(A) IN GENERAL.—Not later than 8 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

“(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

“(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

“(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

“(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

“(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

“(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request

for such distribution from the project sponsor.

“(4) **EXPENDITURE OF FUNDS.**—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

“(e) **RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.**—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

“(f) **CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.**—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

“(g) **MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.**—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

“(h) **APPEALS.**—

“(1) **IN GENERAL.**—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

“(2) **PROCESS.**—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

“(i) **SOLO APPLICANTS.**—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

“(j) **FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.**—

“(1) **IN GENERAL.**—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve fami-

lies with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

“(2) **LIMITATIONS.**—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

“(3) **TREATMENT OF CERTAIN POPULATIONS.**—

“(A) **IN GENERAL.**—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

“(B) **AT RISK OF HOMELESSNESS.**—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.”

#### **SEC. 1302. ELIGIBLE ACTIVITIES.**

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

#### **“SEC. 423. ELIGIBLE ACTIVITIES.**

“(a) **IN GENERAL.**—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

“(1) Construction of new housing units to provide transitional or permanent housing.

“(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

“(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

“(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

“(5) Payment of operating costs for housing units assisted under this subtitle or for

the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

“(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

“(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

“(A) are effective at moving homeless individuals and families immediately into housing; or

“(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

“(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

“(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

“(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

“(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

“(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

“(b) **MINIMUM GRANT TERMS.**—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

“(c) **USE RESTRICTIONS.**—

“(1) **ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.**—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

“(2) **OTHER ACTIVITIES.**—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

“(3) **CONVERSION.**—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent

housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

“(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

“(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

“(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

“(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

“(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

“(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

“(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

“(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

“(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

“(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

“(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

“(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

“(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a

State, unit of general local government, or public housing agency.”.

#### SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

#### “SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

“(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

“(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

“(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

“(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

“(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

“(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

“(b) APPLICATION.—

“(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

“(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

“(A) a report showing how any money received under this subtitle in the preceding year was expended; and

“(B) information that such applicant can meet the requirements described under subsection (d).

“(3) PUBLICATION OF APPLICATION.—The Secretary shall—

“(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

“(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

“(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

“(1) for any of the eligible activities described in section 423; or

“(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

“(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term ‘high-performing community’ means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

“(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

“(A) is less than 20 days; or

“(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

“(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

“(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

“(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

“(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

“(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

“(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

“(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

“(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

“(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.”.

#### SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership



or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

“(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

“(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

“(2) to monitor and report to the Secretary the progress of the project;

“(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

“(4) to require certification from all project sponsors that—

“(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

“(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

“(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

“(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.); and

“(E) they will provide data and reports as required by the Secretary pursuant to the Act;

“(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

“(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

“(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

“(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.”;

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking “recipient” and inserting “recipient or project sponsor”;

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking “recipient” each place it appears and inserting “recipient or project sponsor”;

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

#### SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

#### “SEC. 427. SELECTION CRITERIA.

“(a) IN GENERAL.—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

“(b) REQUIRED CRITERIA.—

“(1) IN GENERAL.—The criteria established under subsection (a) shall include—

“(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

“(i) the length of time individuals and families remain homeless;

“(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

“(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

“(iv) overall reduction in the number of homeless individuals and families;

“(v) jobs and income growth for homeless individuals and families;

“(vi) success at reducing the number of individuals and families who become homeless;

“(vii) other accomplishments by the recipient related to reducing homelessness; and

“(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

“(B) the plan of the recipient, which shall describe—

“(i) how the number of individuals and families who become homeless will be reduced in the community;

“(ii) how the length of time that individuals and families remain homeless will be reduced;

“(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

“(iv) the extent to which the recipient will—

“(I) address the needs of all relevant subpopulations;

“(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

“(III) set quantifiable performance measures;

“(IV) set timelines for completion of specific tasks;

“(V) identify specific funding sources for planned activities; and

“(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

“(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

“(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

“(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

“(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

“(iii) is based on objective criteria that have been publicly announced by the recipient; and

“(iv) is open to proposals from entities that have not previously received funds under this subtitle;

“(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

“(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

“(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

“(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

“(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance

that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

“(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

“(2) **ADDITIONAL CRITERIA.**—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

“(A) **NOTICE.**—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

“(B) **AMOUNT.**—

“(i) **FORMULA.**—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

“(ii) **COMBINATIONS OR CONSORTIA.**—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

“(iii) **AUTHORITY OF SECRETARY.**—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

“(3) **HOMELESSNESS COUNTS.**—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

“(c) **ADJUSTMENTS.**—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

“(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

“(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

**“SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.**

“(a) **MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.**—

“(1) **IN GENERAL.**—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

“(2) **CALCULATION.**—In calculating the portion of the amount described in paragraph (1)

that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

“(3) **ADJUSTMENT.**—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

“(4) **SUSPENSION.**—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

“(5) **TERMINATION.**—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

“(b) **SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.**—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

“(c) **TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.**—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

“(d) **INCENTIVES FOR PROVEN STRATEGIES.**—

“(1) **IN GENERAL.**—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(2) **RULE OF CONSTRUCTION.**—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

“(A) permanent supportive housing for chronically homeless individuals and families;

“(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

“(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(3) **BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.**—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not im-

plement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

“(e) **INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.**—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

**“SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.**

“(a) **IN GENERAL.**—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

“(1) under the appropriations account for this title; or

“(2) the section 8 project-based rental assistance account.

“(b) **RENEWALS.**—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

“(1) there is a demonstrated need for the project; and

“(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

“(c) **CONSTRUCTION.**—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

**“SEC. 430. MATCHING FUNDING.**

“(a) **IN GENERAL.**—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

“(b) **LIMITATIONS ON IN-KIND MATCH.**—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection

(a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

“(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

“(1) funding for any eligible activity described under section 423; and

“(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

**“SEC. 431. APPEAL PROCEDURE.**

“(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

“(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

“(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.”.

**SEC. 1306. RESEARCH.**

There is authorized to be appropriated \$8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

**TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM**

**SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.**

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**“Subtitle G—Rural Housing Stability Assistance Program”;** and

(2) in section 491—

(A) by striking the section heading and inserting **“rural housing stability grant program.”**;

(B) in subsection (a)—

(i) by striking “rural homelessness grant program” and inserting “rural housing stability grant program”;

(ii) by inserting “in lieu of grants under subtitle C” after “eligible organizations”;

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

“(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

“(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

“(3) improving the ability of the lowest-income residents of the community to afford stable housing.”;

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

“(D) construction of new housing units to provide transitional or permanent housing to

homeless individuals and families and individuals and families at risk of homelessness;

“(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

“(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

“(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

“(H) payment of operating costs for housing units assisted under this title.”;

(D) in subsection (b)(2), by striking “appropriated” and inserting “transferred”;

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking “appropriated” and inserting “transferred”;

(ii) in paragraph (3), by striking “appropriated” and inserting “transferred”;

(F) in subsection (d)—

(i) in paragraph (5), by striking “; and” and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking “an agreement” and all that follows through “families” and inserting the following: “a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization”;

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

“(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

“(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.”;

(G) by striking subsections (f) and (g) and inserting the following:

“(f) MATCHING FUNDING.—

“(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

“(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

“(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

“(A) funding for any eligible activity described under subsection (b); and

“(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

“(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipi-

ents of grants under subsection (a), including—

“(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

“(2) the degree to which the project addresses the most harmful housing situations present in the community;

“(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

“(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

“(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

“(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

“(7) any other relevant criteria as determined by the Secretary.”;

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “The” and inserting “Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(ii) in paragraph (1)(A), by striking “providing housing and other assistance to homeless persons” and inserting “meeting the goals described in subsection (a)”;

(iii) in paragraph (1)(B), by striking “address homelessness in rural areas” and inserting “meet the goals described in subsection (a) in rural areas”;

(iv) in paragraph (2)—

(I) by striking “The” and inserting “Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(II) by striking “, not later than 18 months after the date on which the Secretary first makes grants under the program,”; and

(III) by striking “prevent and respond to homelessness” and inserting “meet the goals described in subsection (a)”;

(I) in subsection (k)—

(i) in paragraph (1), by striking “rural homelessness grant program” and inserting “rural housing stability grant program”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “; or” and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking “rural census tract.” and inserting “county where at least 75 percent of the population is rural; or”;

(III) by adding at the end the following:

“(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.”;

(J) in subsection (l)—

(i) by striking the subsection heading and inserting “PROGRAM FUNDING.—”;

(ii) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.”; and

(K) by adding at the end the following:

“(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.”.

**SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.**

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural communities who migrate annually to non-rural areas and non-rural communities for homeless assistance.

(4) A description of barriers that individuals and families in and from rural areas and rural communities encounter when seeking to access homeless assistance programs, and recommendations for removing such barriers.

(5) A comparison of the rate of homelessness among individuals and families in and from rural areas and rural communities compared to the rate of homelessness among individuals and families in and from non-rural areas and non-rural communities.

(6) A general description of homeless assistance for individuals and families in rural areas and rural communities of the United States.

(7) A description of barriers that homeless assistance providers serving rural areas and rural communities encounter when seeking to access Federal homeless assistance programs, and recommendations for removing such barriers.

(8) An assessment of the type and amount of Federal homeless assistance funds awarded to organizations serving rural areas and rural communities and a determination as to whether such amount is proportional to the distribution of homeless individuals and families in and from rural areas and rural communities compared to homeless individuals and families in non-rural areas and non-rural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

- (1) The Secretary of Agriculture.
- (2) The Secretary of Housing and Urban Development.
- (3) The Secretary of Health and Human Services.
- (4) The Secretary of Education.
- (5) The Secretary of Labor.
- (6) The Secretary of Veterans Affairs.
- (7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

**TITLE V—REPEALS AND CONFORMING AMENDMENTS**

**SEC. 1501. REPEALS.**

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

**SEC. 1502. CONFORMING AMENDMENTS.**

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking “current housing affordability strategy” and inserting “consolidated plan”; and

(2) by inserting before the comma the following: “(referred to in such section as a ‘comprehensive housing affordability strategy’)”.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:

“(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.”.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

**SEC. 1503. EFFECTIVE DATE.**

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504, whichever occurs first.

**SEC. 1504. REGULATIONS.**

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

**SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.**

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

“TITLE IV—HOUSING ASSISTANCE

“Subtitle A—General Provisions

- “Sec. 401. Definitions.
- “Sec. 402. Collaborative applicants.
- “Sec. 403. Housing affordability strategy.
- “Sec. 404. Preventing involuntary family separation.
- “Sec. 405. Technical assistance.
- “Sec. 406. Discharge coordination policy.
- “Sec. 407. Protection of personally identifying information by victim service providers.
- “Sec. 408. Authorization of appropriations.

“Subtitle B—Emergency Solutions Grants Program

- “Sec. 411. Definitions.
- “Sec. 412. Grant assistance.
- “Sec. 413. Amount and allocation of assistance.
- “Sec. 414. Allocation and distribution of assistance.
- “Sec. 415. Eligible activities.
- “Sec. 416. Responsibilities of recipients.
- “Sec. 417. Administrative provisions.
- “Sec. 418. Administrative costs.

“Subtitle C—Continuum of Care Program

- “Sec. 421. Purposes.
- “Sec. 422. Continuum of care applications and grants.
- “Sec. 423. Eligible activities.
- “Sec. 424. Incentives for high-performing communities.
- “Sec. 425. Supportive services.
- “Sec. 426. Program requirements.
- “Sec. 427. Selection criteria.
- “Sec. 428. Allocation of amounts and incentives for specific eligible activities.
- “Sec. 429. Renewal funding and terms of assistance for permanent housing.
- “Sec. 430. Matching funding.
- “Sec. 431. Appeal procedure.
- “Sec. 432. Regulations.
- “Sec. 433. Reports to Congress.

“Subtitle D—Rural Housing Stability Assistance Program

- “Sec. 491. Rural housing stability assistance.
- “Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.”.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 31 and 108; that the nominations be confirmed, en bloc; the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations be printed in the RECORD; that no further motions be in order; that upon confirmation, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed en bloc as follows:

## DEPARTMENT OF THE INTERIOR

David J. Hayes, of Virginia, to be Deputy Secretary of the Interior.

## DEPARTMENT OF ENERGY

Ines R. Triay, of New Mexico, to be an Assistant Secretary of Energy (Environmental Management).

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislation session.

# TO AWARD A CONGRESSIONAL GOLD MEDAL TO THE WOMEN AIRFORCE SERVICE PILOTS ("WASP")

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 614.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (S. 614) to award a Congressional Gold Medal to The Women Airforce Service Pilots ("WASP").

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the Hutchison technical amendment at the desk be agreed to; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1200) was agreed to, as follows:

On page 3, line 11, strike "Army Air Force" and insert "Army Air Forces"

On page 3, line 13, strike "Air Force" and insert "Air Forces"

On page 3, line 17, strike "Army Air Force" and insert "Army Air Forces"

On page 4, line 2, strike "Force" and insert "Forces"

The bill (S. 614), as amended, was ordered to be engrossed for a third read-

ing, was read the third time, and passed, as follows:

S. 614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. FINDINGS.

Congress finds that—

(1) the Women Airforce Service Pilots of WWII, known as the "WASP", were the first women in history to fly American military aircraft;

(2) more than 60 years ago, they flew fighter, bomber, transport, and training aircraft in defense of America's freedom;

(3) they faced overwhelming cultural and gender bias against women in nontraditional roles and overcame multiple injustices and inequities in order to serve their country;

(4) through their actions, the WASP eventually were the catalyst for revolutionary reform in the integration of women pilots into the Armed Services;

(5) during the early months of World War II, there was a severe shortage of combat pilots;

(6) Jacqueline Cochran, America's leading woman pilot of the time, convinced General Hap Arnold, Chief of the Army Air Forces, that women, if given the same training as men, would be equally capable of flying military aircraft and could then take over some of the stateside military flying jobs, thereby releasing hundreds of male pilots for combat duty;

(7) the severe loss of male combat pilots made the necessity of utilizing women pilots to help in the war effort clear to General Arnold, and a women's pilot training program was soon approved;

(8) it was not until August 1943, that the women aviators would receive their official name;

(9) General Arnold ordered that all women pilots flying military aircraft, including 28 civilian women ferry pilots, would be named "WASP", Women Airforce Service Pilots;

(10) more than 25,000 American women applied for training, but only 1,830 were accepted and took the oath;

(11) exactly 1,074 of those trainees successfully completed the 21 to 27 weeks of Army Air Forces flight training, graduated, and received their Army Air Forces orders to report to their assigned air base;

(12) on November 16, 1942, the first class of 29 women pilots reported to the Houston, Texas Municipal Airport and began the same military flight training as the male Army Air Forces cadets were taking;

(13) due to a lack of adequate facilities at the airport, 3 months later the training program was moved to Avenger Field in Sweetwater, Texas;

(14) WASP were eventually stationed at 120 Army air bases all across America;

(15) they flew more than 60,000,000 miles for their country in every type of aircraft and on every type of assignment flown by the male Army Air Forces pilots, except combat;

(16) WASP assignments included test piloting, instructor piloting, towing targets for air-to-air gunnery practice, ground-to-air anti-aircraft practice, ferrying, transporting personnel and cargo (including parts for the atomic bomb), simulated strafing, smoke laying, night tracking, and flying drones;

(17) in October 1943, male pilots were refusing to fly the B-26 Martin Marauder (known as the "Widowmaker") because of its fatality records, and General Arnold ordered WASP Director, Jacqueline Cochran, to select 25 WASP to be trained to fly the B-26 to prove to the male pilots that it was safe to fly;

(18) during the existence of the WASP—

(A) 38 women lost their lives while serving their country;

(B) their bodies were sent home in poorly crafted pine boxes;

(C) their burial was at the expense of their families or classmates;

(D) there were no gold stars allowed in their parents' windows; and

(E) because they were not considered military, no American flags were allowed on their coffins;

(19) in 1944, General Arnold made a personal request to Congress to militarize the WASP, and it was denied;

(20) on December 7, 1944, in a speech to the last graduating class of WASP, General Arnold said, "You and more than 900 of your sisters have shown you can fly wingtip to wingtip with your brothers. I salute you . . . We of the Army Air Force are proud of you. We will never forget our debt to you."

(21) with victory in WWII almost certain, on December 20, 1944, the WASP were quietly and unceremoniously disbanded;

(22) there were no honors, no benefits, and very few "thank you's";

(23) just as they had paid their own way to enter training, they had to pay their own way back home after their honorable service to the military;

(24) the WASP military records were immediately sealed, stamped "classified" or "secret", and filed away in Government archives, unavailable to the historians who wrote the history of WWII or the scholars who compiled the history text books used today, with many of the records not declassified until the 1980s;

(25) consequently, the WASP story is a missing chapter in the history of the Air Force, the history of aviation, and the history of the United States of America;

(26) in 1977, 33 years after the WASP were disbanded, the Congress finally voted to give the WASP the veteran status they had earned, but these heroic pilots were not invited to the signing ceremony at the White House, and it was not until 7 years later that their medals were delivered in the mail in plain brown envelopes;

(27) in the late 1970s, more than 30 years after the WASP flew in World War II, women were finally permitted to attend military pilot training in the United States Armed Forces;

(28) thousands of women aviators flying support aircraft have benefitted from the service of the WASP and followed in their footsteps;

(29) in 1993, the WASP were once again referenced during congressional hearings regarding the contributions that women could make to the military, which eventually led to women being able to fly military fighter, bomber, and attack aircraft in combat;

(30) hundreds of United States service-women combat pilots have seized the opportunity to fly fighter aircraft in recent conflicts, all thanks to the pioneering steps taken by the WASP;

(31) the WASP have maintained a tight-knit community, forged by the common experiences of serving their country during war;

(32) as part of their desire to educate America on the WASP history, WASP have assisted "Wings Across America", an organization dedicated to educating the American public, with much effort aimed at children, about the remarkable accomplishments of these WWII veterans; and

(33) the WASP have been honored with exhibits at numerous museums, to include—

(A) the Smithsonian Institution, Washington, DC;

(B) the Women in Military Service to America Memorial at Arlington National Cemetery, Arlington, Virginia;

(C) the National Museum of the United States Air Force, Wright Patterson Air Force Base, Ohio;

(D) the National WASP WWII Museum, Sweetwater, Texas;

(E) the 8th Air Force Museum, Savannah, Georgia;

(F) the Lone Star Flight Museum, Galveston, Texas;

(G) the American Airpower Museum, Farmingdale, New York;

(H) the Pima Air Museum, Tucson, Arizona;

(I) the Seattle Museum of Flight, Seattle, Washington;

(J) the March Air Museum, March Reserve Air Base, California; and

(K) the Texas State History Museum, Austin, Texas.

## SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) AWARD AUTHORIZED.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the award, on behalf of the Congress, of a single gold medal of appropriate design in honor of the Women Airforce Service Pilots (WASP) collectively, in recognition of their pioneering military service and exemplary record, which forged revolutionary reform in the Armed Forces of the United States of America.

(b) DESIGN AND STRIKING.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury shall strike the gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

### (c) SMITHSONIAN INSTITUTION.—

(1) IN GENERAL.—Following the award of the gold medal in honor of the Women Airforce Service Pilots, the gold medal shall be given to the Smithsonian Institution, where it will be displayed as appropriate and made available for research.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Smithsonian Institution shall make the gold medal received under this Act available for display elsewhere, particularly at other locations associated with the WASP.

## SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under this Act, at a price sufficient to cover the costs of the medals, including labor, materials, dyes, use of machinery, and overhead expenses.

## SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

## SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, an amount not to exceed \$30,000 to pay for the cost of the medal authorized under section 2.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

## DESIGNATING A NATIONAL DAY OF REMEMBRANCE ON OCTOBER 30, 2009, FOR NUCLEAR WEAPONS PROGRAM WORKERS

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 151.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 151) designating a National Day of Remembrance on October 30, 2009 for Nuclear Weapons Program Workers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 151

Whereas hundreds of thousands of men and women have served this Nation in building its nuclear defense since World War II;

Whereas these dedicated American workers paid a high price for their service and have developed disabling or fatal illnesses as a result of exposure to beryllium, ionizing radiation, toxic substances, and other hazards that are unique to the production and testing of nuclear weapons;

Whereas these workers were put at individual risk without their knowledge and consent in order to develop a nuclear weapons program for the benefit of all American citizens; and

Whereas these patriotic men and women deserve to be recognized for their contribution, service, and sacrifice towards the defense of our great Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates October 30, 2009, as a national day of remembrance for American nuclear weapons program workers and uranium miners, millers, and haulers; and

(2) encourages the people of the United States to support and participate in appropriate ceremonies, programs, and other activities to commemorate October 30, 2009, as a national day of remembrance for past and present workers in America's nuclear weapons program.

## ORDERS FOR THURSDAY, MAY 21, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning at 9 a.m., May 21; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2346, the emergency sup-

plemental appropriations bill, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees, and that be for debate only; that at 10 a.m., the Senate proceed to vote on the motion to invoke cloture on H.R. 2346.

Finally, I ask that the filing deadline for second-degree amendments be at 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:21 p.m., adjourned until Thursday, May 21, 2009, at 9 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### COMMODITY FUTURES TRADING COMMISSION

BARTHOLOMEW CHILTON, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2013. (REAPPOINTMENT)

### ENVIRONMENTAL PROTECTION AGENCY

COLIN SCOTT COLE FULTON, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROGER ROMULUS MARTELLA, JR.

### DEPARTMENT OF HOMELAND SECURITY

ALEJANDRO N. MAYORKAS, OF CALIFORNIA, TO BE DIRECTOR OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, VICE EMILIO T. GONZALEZ.

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 152 AND 601:

#### *To be admiral*

ADM. MICHAEL G. MULLEN

#### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. GILMARY M. HOSTAGE III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

LT. GEN. GLENN F. SPEARS

## CONFIRMATIONS

Executive nominations confirmed by the Senate, May 20, 2009:

### DEPARTMENT OF THE INTERIOR

DAVID J. HAYES, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE INTERIOR.

### DEPARTMENT OF ENERGY

INES R. TRIAY, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.



# HOUSE OF REPRESENTATIVES—Wednesday, May 20, 2009

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LARSEN of Washington).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 20, 2009

I hereby appoint the Honorable RICK LARSEN to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, shepherd Your people as never before. For the times are turbulent. Terrorism and violence in all its forms rips apart the very fabric of civilization ancient and new. Competition has broken partnership, friendship is rare, understanding between nations is threatened.

Who, but You will replace basic trust and faithful love once found in family life! As in the days of the prophet Zechariah, we call out to You, O Lord, to show forth Your power.

Take up Your two staves, one called "Favor," the other "Union." With the staff of "Favor," fashion us again as Your people. Renew Your covenant love within Your chosen ones. With the staff of "Union," bind us to one another both in need and in response as a people willing to be brother or sister once again.

Father, may You take delight in us as Your very own, both now and forever.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arizona (Mr. MITCHELL) come forward and lead the House in the Pledge of Allegiance.

Mr. MITCHELL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 131. An act to establish the Ronald Reagan Centennial Commission.

## CONFERENCE REPORT ON S. 454, WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

Mr. SKELTON submitted the following conference report and statement on the Senate bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes:

### CONFERENCE REPORT (H. REPT. 111-124)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 454), to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Weapon Systems Acquisition Reform Act of 2009".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—ACQUISITION ORGANIZATION

Sec. 101. Cost assessment and program evaluation.

Sec. 102. Directors of Developmental Test and Evaluation and Systems Engineering.

Sec. 103. Performance assessments and root cause analyses for major defense acquisition programs.

Sec. 104. Assessment of technological maturity of critical technologies of major defense acquisition programs by the Director of Defense Research and Engineering.

Sec. 105. Role of the commanders of the combatant commands in identifying joint military requirements.

### TITLE II—ACQUISITION POLICY

Sec. 201. Consideration of trade-offs among cost, schedule, and performance objectives in Department of Defense acquisition programs.

Sec. 202. Acquisition strategies to ensure competition throughout the lifecycle of major defense acquisition programs.

Sec. 203. Prototyping requirements for major defense acquisition programs.

Sec. 204. Actions to identify and address systemic problems in major defense acquisition programs prior to Milestone B approval.

Sec. 205. Additional requirements for certain major defense acquisition programs.

Sec. 206. Critical cost growth in major defense acquisition programs.

Sec. 207. Organizational conflicts of interest in major defense acquisition programs.

### TITLE III—ADDITIONAL ACQUISITION PROVISIONS

Sec. 301. Awards for Department of Defense personnel for excellence in the acquisition of products and services.

Sec. 302. Earned value management.

Sec. 303. Expansion of national security objectives of the national technology and industrial base.

Sec. 304. Comptroller General of the United States reports on costs and financial information regarding major defense acquisition programs.

### SEC. 2. DEFINITIONS.

In this Act:

(1) The term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) The term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

(3) The term "major weapon system" has the meaning given that term in section 2379(d) of title 10, United States Code.

### TITLE I—ACQUISITION ORGANIZATION

#### SEC. 101. COST ASSESSMENT AND PROGRAM EVALUATION.

(a) *DIRECTOR OF COST ASSESSMENT AND PROGRAM EVALUATION.*—

(1) *IN GENERAL.*—Chapter 4 of title 10, United States Code, is amended by inserting after section 139b the following new section:

#### "§ 139c. Director of Cost Assessment and Program Evaluation

"(a) *APPOINTMENT.*—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.

"(b) *INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.*—(1) The Director of Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

"(A) Matters assigned to the Director pursuant to this section and section 2334 of this title.

"(B) Matters assigned to the Director by the Secretary pursuant to section 113 of this title.

“(2) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

“(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:

“(1) The Deputy Director for Cost Assessment.  
“(2) The Deputy Director for Program Evaluation.

“(d) RESPONSIBILITIES.—The Director of Cost Assessment and Program Evaluation shall serve as the principal official within the senior management of the Department of Defense for the following:

“(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section 2334 of this title.

“(2) Analysis and advice on matters relating to the planning and programming phases of the Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

“(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

“(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense

“(5) Review, analysis, and evaluation of programs for executing approved strategies and policies, ensuring that information on programs is presented accurately and completely, and assessing the effect of spending by the Department of Defense on the United States economy.

“(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence and in accordance with applicable policies.

“(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

“(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title is amended by inserting after the item relating to section 139b the following new item:

“139c. Director of Cost Assessment and Program Evaluation.”

(3) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Director of Operational Test and Evaluation, Department of Defense the following new item:

“Director of Cost Assessment and Program Evaluation, Department of Defense.”

(b) INDEPENDENT COST ESTIMATION AND COST ANALYSIS.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

**“§2334. Independent cost estimation and cost analysis**

“(a) IN GENERAL.—The Director of Cost Assessment and Program Evaluation shall ensure

that the cost estimation and cost analysis processes of the Department of Defense provide accurate information and realistic estimates of cost for the acquisition programs of the Department of Defense. In carrying out that responsibility, the Director shall—

“(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of cost estimation and cost analysis for the acquisition programs of the Department of Defense;

“(2) provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), the Secretaries of the military departments, and the heads of the Defense Agencies with respect to cost estimation in the Department of Defense in general and with respect to specific cost estimates and cost analyses to be conducted in connection with a major defense acquisition program under chapter 144 of this title or a major automated information system program under chapter 144A of this title;

“(3) issue guidance relating to the proper selection of confidence levels in cost estimates generally, and specifically, for the proper selection of confidence levels in cost estimates for major defense acquisition programs and major automated information system programs;

“(4) issue guidance relating to full consideration of life-cycle management and sustainability costs in major defense acquisition programs and major automated information system programs;

“(5) review all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major automated information system programs;

“(6) conduct independent cost estimates and cost analyses for major defense acquisition programs and major automated information system programs for which the Under Secretary of Defense for Acquisition, Technology, and Logistics is the Milestone Decision Authority—

“(A) in advance of—

“(i) any certification under section 2366a or 2366b of this title;

“(ii) any decision to enter into low-rate initial production or full-rate production;

“(iii) any certification under section 2433a of this title; and

“(iv) any report under section 2445c(f) of this title; and

“(B) at any other time considered appropriate by the Director or upon the request of the Under Secretary of Defense for Acquisition, Technology, and Logistics; and

“(7) periodically assess and update the cost indexes used by the Department to ensure that such indexes have a sound basis and meet the Department's needs for realistic cost estimation.

“(b) REVIEW OF COST ESTIMATES, COST ANALYSES, AND RECORDS OF THE MILITARY DEPARTMENTS AND DEFENSE AGENCIES.—The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation—

“(1) promptly receives the results of all cost estimates and cost analyses conducted by the military departments and Defense Agencies, and all studies conducted by the military departments and Defense Agencies in connection with such cost estimates and cost analyses, for major defense acquisition programs and major automated information system programs of the military departments and Defense Agencies; and

“(2) has timely access to any records and data in the Department of Defense (including the records and data of each military department and Defense Agency and including classified and proprietary information) that the Director considers necessary to review in order to carry out any duties under this section.

“(c) PARTICIPATION, CONCURRENCE, AND APPROVAL IN COST ESTIMATION.—The Director of Cost Assessment and Program Evaluation may—

“(1) participate in the discussion of any discrepancies between an independent cost estimate and the cost estimate of a military department or Defense Agency for a major defense acquisition program or major automated information system program of the Department of Defense;

“(2) comment on deficiencies in the methodology or execution of any cost estimate or cost analysis developed by a military department or Defense Agency for a major defense acquisition program or major automated information system program;

“(3) concur in the choice of a cost estimate within the baseline description or any other cost estimate (including the confidence level for any such cost estimate) for use at any event specified in subsection (a)(6); and

“(4) participate in the consideration of any decision to request authorization of a multiyear procurement contract for a major defense acquisition program.

“(d) DISCLOSURE OF CONFIDENCE LEVELS FOR BASELINE ESTIMATES OF MAJOR DEFENSE ACQUISITION PROGRAMS.—The Director of Cost Assessment and Program Evaluation, and the Secretary of the military department concerned or the head of the Defense Agency concerned (as applicable), shall each—

“(1) disclose in accordance with paragraph (2) the confidence level used in establishing a cost estimate for a major defense acquisition program or major automated information system program, the rationale for selecting such confidence level, and, if such confidence level is less than 80 percent, the justification for selecting a confidence level of less than 80 percent; and

“(2) include the disclosure required by paragraph (1)—

“(A) in any decision documentation approving a cost estimate within the baseline description or any other cost estimate for use at any event specified in subsection (a)(6); and

“(B) in the next Selected Acquisition Report pursuant to section 2432 of this title in the case of a major defense acquisition program, or the next quarterly report pursuant to section 2445c of this title in the case of a major automated information system program.

“(e) ANNUAL REPORT ON COST ASSESSMENT ACTIVITIES.—(1) The Director of Cost Assessment and Program Evaluation shall prepare an annual report summarizing the cost estimation and cost analysis activities of the Department of Defense during the previous year and assessing the progress of the Department in improving the accuracy of its cost estimates and analyses. Each report shall include, for the year covered by such report, an assessment of—

“(A) the extent to which each of the military departments and Defense Agencies have complied with policies, procedures, and guidance issued by the Director with regard to the preparation of cost estimates for major defense acquisition programs and major automated information systems;

“(B) the overall quality of cost estimates prepared by each of the military departments and Defense Agencies for major defense acquisition programs and major automated information system programs; and

“(C) any consistent differences in methodology or approach among the cost estimates prepared by the military departments, the Defense Agencies, and the Director.

“(2) Each report under this subsection shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the congressional defense committees not later than 10 days after the transmittal to Congress of the budget of the President for the next fiscal year (as submitted pursuant to section 1105 of title 31).

“(3)(A) Each report submitted to the congressional defense committees under this subsection shall be submitted in unclassified form, but may include a classified annex.

“(B) The Director shall ensure that a report submitted under this subsection does not include any information, such as proprietary or source selection sensitive information, that could undermine the integrity of the acquisition process.

“(C) The unclassified version of each report submitted to the congressional defense committees under this subsection shall be posted on an Internet website of the Department of Defense that is available to the public.

“(4) The Secretary of Defense may comment on any report of the Director to the congressional defense committees under this subsection.

“(f) STAFF.—The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation has sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director under this section.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by adding at the end the following new item:

“2334. Independent cost estimation and cost analysis.”

(c) TRANSFER OF PERSONNEL AND FUNCTIONS.—

(1) TRANSFER OF FUNCTIONS.—The functions of the Office of Program Analysis and Evaluation of the Department of Defense, including the functions of the Cost Analysis Improvement Group, are hereby transferred to the Office of the Director of Cost Assessment and Program Evaluation.

(2) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR INDEPENDENT COST ASSESSMENT.—The personnel of the Cost Analysis Improvement Group are hereby transferred to the Deputy Director for Cost Assessment in the Office of the Director of Cost Assessment and Program Evaluation.

(3) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR PROGRAM ANALYSIS AND EVALUATION.—The personnel (other than the personnel transferred under paragraph (2)) of the Office of Program Analysis and Evaluation are hereby transferred to the Deputy Director for Program Evaluation in the Office of the Director of Cost Assessment and Program Evaluation.

(d) CONFORMING AMENDMENTS.—

(1) Section 181(d) of title 10, United States Code, is amended by striking “Director of the Office of Program Analysis and Evaluation” and inserting “Director of Cost Assessment and Program Evaluation”.

(2) Section 2306b(i)(1)(B) of such title is amended by striking “Cost Analysis Improvement Group of the Department of Defense” and inserting “Director of Cost Assessment and Program Analysis”.

(3) Section 2366a(a)(4) of such title is amended by inserting “, with the concurrence of the Director of Cost Assessment and Program Evaluation,” after “has been submitted”.

(4) Section 2366b(a)(1)(C) of such title is amended by inserting “, with the concurrence of the Director of Cost Assessment and Program Evaluation,” after “have been developed to execute”.

(5) Subparagraph (A) of section 2434(b)(1) of such title is amended to read as follows:

“(A) be prepared or approved by the Director of Cost Assessment and Program Evaluation; and”

(6) Section 2445c(f)(3) of such title is amended by striking “are reasonable” and inserting “have been determined, with the concurrence of the Director of Cost Assessment and Program Evaluation, to be reasonable”.

(e) REPORT ON MONITORING OF OPERATING AND SUPPORT COSTS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) REPORT TO SECRETARY OF DEFENSE.—Not later than one year after the date of the enactment of this Act, the Director of Cost Assessment and Program Evaluation under section 139c of title 10 United States Code (as added by subsection (a)), shall review existing systems and methods of the Department of Defense for tracking and assessing operating and support costs on major defense acquisition programs and submit to the Secretary of Defense a report on the finding and recommendations of the Director as a result of the review, including an assessment by the Director of the feasibility and advisability of establishing baselines for operating and support costs under section 2435 of title 10, United States Code.

(2) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report required by paragraph (1), the Secretary shall transmit the report to the congressional defense committees, together with any comments on the report the Secretary considers appropriate.

#### SEC. 102. DIRECTORS OF DEVELOPMENTAL TEST AND EVALUATION AND SYSTEMS ENGINEERING.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF POSITIONS.—Chapter 4 of title 10, United States Code, as amended by section 101(a) of this Act, is further amended by inserting after section 139c the following new section:

##### “§ 139d. Director of Developmental Test and Evaluation; Director of Systems Engineering; joint guidance

“(a) DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.—

“(1) APPOINTMENT.—There is a Director of Developmental Test and Evaluation, who shall be appointed by the Secretary of Defense from among individuals with an expertise in test and evaluation.

“(2) PRINCIPAL ADVISOR FOR DEVELOPMENTAL TEST AND EVALUATION.—The Director shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on developmental test and evaluation in the Department of Defense.

“(3) SUPERVISION.—The Director shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

“(4) COORDINATION WITH DIRECTOR OF SYSTEMS ENGINEERING.—The Director of Developmental Test and Evaluation shall closely coordinate with the Director of Systems Engineering to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.

“(5) DUTIES.—The Director shall—

“(A) develop policies and guidance for—  
“(i) the conduct of developmental test and evaluation in the Department of Defense (including integration and developmental testing of software);

“(ii) in coordination with the Director of Operational Test and Evaluation, the integration of developmental test and evaluation with operational test and evaluation;

“(iii) the conduct of developmental test and evaluation conducted jointly by more than one military department or Defense Agency;

“(B) review and approve the developmental test and evaluation plan within the test and evaluation master plan for each major defense acquisition program of the Department of Defense;

“(C) monitor and review the developmental test and evaluation activities of the major defense acquisition programs;

“(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for developmental test and evaluation;

“(E) periodically review the organizations and capabilities of the military departments with respect to developmental test and evaluation and identify needed changes or improvements to such organizations and capabilities, and provide input regarding needed changes or improvements for the test and evaluation strategic plan developed in accordance with section 196(d) of this title; and

“(F) perform such other activities relating to the developmental test and evaluation activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

“(6) ACCESS TO RECORDS.—The Secretary of Defense shall ensure that the Director has access to all records and data of the Department of Defense (including the records and data of each military department and including classified and propriety information, as appropriate) that the Director considers necessary in order to carry out the Director's duties under this subsection.

“(7) CONCURRENT SERVICE AS DIRECTOR OF DEPARTMENT OF DEFENSE TEST RESOURCES MANAGEMENT CENTER.—The individual serving as the Director of Developmental Test and Evaluation may also serve concurrently as the Director of the Department of Defense Test Resource Management Center under section 196 of this title.

“(b) DIRECTOR OF SYSTEMS ENGINEERING.—

“(1) APPOINTMENT.—There is a Director of Systems Engineering, who shall be appointed by the Secretary of Defense from among individuals with an expertise in systems engineering and development planning.

“(2) PRINCIPAL ADVISOR FOR SYSTEMS ENGINEERING AND DEVELOPMENT PLANNING.—The Director shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on systems engineering and development planning in the Department of Defense.

“(3) SUPERVISION.—The Director shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

“(4) COORDINATION WITH DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.—The Director of Systems Engineering shall closely coordinate with the Director of Developmental Test and Evaluation to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.

“(5) DUTIES.—The Director shall—

“(A) develop policies and guidance for—  
“(i) the use of systems engineering principles and best practices, generally;

“(ii) the use of systems engineering approaches to enhance reliability, availability, and maintainability on major defense acquisition programs;

“(iii) the development of systems engineering master plans for major defense acquisition programs including systems engineering considerations in support of lifecycle management and sustainability; and

“(iv) the inclusion of provisions relating to systems engineering and reliability growth in requests for proposals;

“(B) review and approve the systems engineering master plan for each major defense acquisition program;

“(C) monitor and review the systems engineering and development planning activities of the major defense acquisition programs;

“(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for systems engineering, development planning, and lifecycle management and sustainability functions;

“(E) provide input on the inclusion of systems engineering requirements in the process for consideration of joint military requirements by the

Joint Requirements Oversight Council pursuant to section 181 of this title, including specific input relating to each capabilities development document;

“(F) periodically review the organizations and capabilities of the military departments with respect to systems engineering, development planning, and lifecycle management and sustainability, and identify needed changes or improvements to such organizations and capabilities; and

“(G) perform such other activities relating to the systems engineering and development planning activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

“(6) ACCESS TO RECORDS.—The Director shall have access to any records or data of the Department of Defense (including the records and data of each military department and including classified and proprietary information as appropriate) that the Director considers necessary to review in order to carry out the Director’s duties under this subsection.

“(c) JOINT ANNUAL REPORT.—Not later than March 31 each year, beginning in 2010, the Director of Developmental Test and Evaluation and the Director of Systems Engineering shall jointly submit to the congressional defense committees a report on the activities undertaken pursuant to subsections (a) and (b) during the preceding year. Each report shall include a section on activities relating to the major defense acquisition programs which shall set forth, at a minimum, the following:

“(1) A discussion of the extent to which the major defense acquisition programs are fulfilling the objectives of their systems engineering master plans and developmental test and evaluation plans.

“(2) A discussion of the waivers of and deviations from requirements in test and evaluation master plans, systems engineering master plans, and other testing requirements that occurred during the preceding year with respect to such programs, any concerns raised by such waivers or deviations, and the actions that have been taken or are planned to be taken to address such concerns.

“(3) An assessment of the organization and capabilities of the Department of Defense for systems engineering, development planning, and developmental test and evaluation with respect to such programs.

“(4) Any comments on such report that the Secretary of Defense considers appropriate.

“(d) JOINT GUIDANCE.—The Director of Developmental Test and Evaluation and the Director of Systems Engineering shall jointly, in coordination with the official designated by the Secretary of Defense under section 103 of the Weapon Systems Acquisition Reform Act of 2009, issue guidance on the following:

“(1) The development and tracking of detailed measurable performance criteria as part of the systems engineering master plans and the developmental test and evaluation plans within the test and evaluation master plans of major defense acquisition programs.

“(2) The use of developmental test and evaluation to measure the achievement of specific performance objectives within a systems engineering master plan.

“(3) A system for storing and tracking information relating to the achievement of the performance criteria and objectives specified pursuant to this subsection.

“(e) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term ‘major defense acquisition program’ has the meaning given that term in section 2430 of this title.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title, as amended by section 101(a) of this Act, is fur-

ther amended by inserting after the item relating to section 139c the following new item:

“139d. Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance.”

(b) DEVELOPMENTAL TEST AND EVALUATION AND SYSTEMS ENGINEERING IN THE MILITARY DEPARTMENTS AND DEFENSE AGENCIES.—

(1) PLANS.—The service acquisition executive of each military department and each Defense Agency with responsibility for a major defense acquisition program shall develop and implement plans to ensure the military department or Defense Agency concerned has provided appropriate resources for each of the following:

(A) Developmental testing organizations with adequate numbers of trained personnel in order to—

(i) ensure that developmental testing requirements are appropriately addressed in the translation of operational requirements into contract specifications, in the source selection process, and in the preparation of requests for proposals on all major defense acquisition programs;

(ii) participate in the planning of developmental test and evaluation activities, including the preparation and approval of a developmental test and evaluation plan within the test and evaluation master plan for each major defense acquisition program; and

(iii) participate in and oversee the conduct of developmental testing, the analysis of data, and the preparation of evaluations and reports based on such testing.

(B) Development planning and systems engineering organizations with adequate numbers of trained personnel in order to—

(i) support key requirements, acquisition, and budget decisions made for each major defense acquisition program prior to Milestone A approval and Milestone B approval through a rigorous systems analysis and systems engineering process;

(ii) include a robust program for improving reliability, availability, maintainability, and sustainability as an integral part of design and development within the systems engineering master plan for each major defense acquisition program; and

(iii) identify systems engineering requirements, including reliability, availability, maintainability, and lifecycle management and sustainability requirements, during the Joint Capabilities Integration Development System process, and incorporate such systems engineering requirements into contract requirements for each major defense acquisition program.

(2) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department and each Defense Agency with responsibility for a major defense acquisition program shall submit to the Director of Developmental Test and Evaluation and the Director of Systems Engineering a report on the extent to which—

(A) such military department or Defense Agency has implemented, or is implementing, the plan required by paragraph (1); and

(B) additional authorities or resources are needed to attract, develop, retain, and reward developmental test and evaluation personnel and systems engineers with appropriate levels of hands-on experience and technical expertise to meet the needs of such military department or Defense Agency.

(3) ASSESSMENT OF REPORTS BY DIRECTORS OF DEVELOPMENTAL TEST AND EVALUATION AND SYSTEMS ENGINEERING.—The first annual report submitted to Congress by the Director of Developmental Test and Evaluation and the Director of Systems Engineering under section 139d(c) of title 10, United States Code (as added by subsection (a)), shall include an assessment by the

Directors of the reports submitted by the service acquisition executives to the Directors under paragraph (2).

#### SEC. 103. PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) DESIGNATION OF SENIOR OFFICIAL RESPONSIBILITY FOR PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES.—

(1) IN GENERAL.—The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense as the principal official of the Department of Defense responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(2) NO PROGRAM EXECUTION RESPONSIBILITY.—The Secretary shall ensure that the senior official designated under paragraph (1) is not responsible for program execution.

(3) STAFF AND RESOURCES.—The Secretary shall assign to the senior official designated under paragraph (1) appropriate staff and resources necessary to carry out official’s function under this section.

(b) RESPONSIBILITIES.—The senior official designated under subsection (a) shall be responsible for the following:

(1) Carrying out performance assessments of major defense acquisition programs in accordance with the requirements of subsection (c) periodically or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology and Logistics, the Secretary of a military department, or the head of a Defense Agency.

(2) Conducting root cause analyses for major defense acquisition programs in accordance with the requirements of subsection (d) when required by section 2433a(a)(1) of title 10, United States Code (as added by section 206(a) of this Act), or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology and Logistics, the Secretary of a military department, or the head of a Defense Agency.

(3) Issuing policies, procedures, and guidance governing the conduct of performance assessments and root cause analyses by the military departments and the Defense Agencies.

(4) Evaluating the utility of performance metrics used to measure the cost, schedule, and performance of major defense acquisition programs, and making such recommendations to the Secretary of Defense as the official considers appropriate to improve such metrics.

(5) Advising acquisition officials on performance issues regarding a major defense acquisition program that may arise—

(A) prior to certification under section 2433a of title 10, United States Code (as so added);

(B) prior to entry into full-rate production; or

(C) in the course of consideration of any decision to request authorization of a multiyear procurement contract for the program.

(c) PERFORMANCE ASSESSMENTS.—For purposes of this section, a performance assessment with respect to a major defense acquisition program is an evaluation of the following:

(1) The cost, schedule, and performance of the program, relative to current metrics, including performance requirements and baseline descriptions.

(2) The extent to which the level of program cost, schedule, and performance predicted relative to such metrics is likely to result in the timely delivery of a level of capability to the warfighter that is consistent with the level of resources to be expended and provides superior value to alternative approaches that may be available to meet the same military requirement.

(d) ROOT CAUSE ANALYSES.—For purposes of this section and section 2433a of title 10, United States Code (as so added), a root cause analysis

with respect to a major defense acquisition program is an assessment of the underlying cause or causes of shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

- (1) unrealistic performance expectations;
- (2) unrealistic baseline estimates for cost or schedule;
- (3) immature technologies or excessive manufacturing or integration risk;
- (4) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;
- (5) changes in procurement quantities;
- (6) inadequate program funding or funding instability;
- (7) poor performance by government or contractor personnel responsible for program management; or
- (8) any other matters.

(e) **SUPPORT OF APPLICABLE CAPABILITIES AND EXPERTISE.**—The Secretary of Defense shall ensure that the senior official designated under subsection (a) has the support of other Department of Defense officials with relevant capabilities and expertise needed to carry out the requirements of this section.

(f) **ANNUAL REPORT.**—Not later than March 1 each year, beginning in 2010, the official responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs shall submit to the congressional defense committees a report on the activities undertaken under this section during the preceding year.

**SEC. 104. ASSESSMENT OF TECHNOLOGICAL MATURITY OF CRITICAL TECHNOLOGIES OF MAJOR DEFENSE ACQUISITION PROGRAMS BY THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.**

(a) **ASSESSMENT BY DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.**—

(1) **IN GENERAL.**—Section 139a of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) The Director of Defense Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall periodically review and assess the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense and report on the findings of such reviews and assessments to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(2) The Director shall submit to the Secretary of Defense and to the congressional defense committees by March 1 of each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense.”

(2) **FIRST ANNUAL REPORT.**—The first annual report under subsection (c)(2) of section 139a of title 10, United States Code (as added by paragraph (1)), shall be submitted to the congressional defense committees not later than March 1, 2010, and shall address the results of reviews and assessments conducted by the Director of Defense Research and Engineering pursuant to subsection (c)(1) of such section (as so added) during the preceding calendar year.

(b) **REPORT ON RESOURCES FOR IMPLEMENTATION.**—Not later than 120 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report describing any additional resources that may be required by the Director, and by other research and engineering elements of the Department of Defense, to carry out the following:

(1) The requirements under the amendment made by subsection (a)(1).

(2) The technological maturity assessments required by section 2366b(a) of title 10, United States Code.

(3) The requirements of Department of Defense Instruction 5000, as revised.

(c) **TECHNOLOGICAL MATURITY STANDARDS.**—Not later than 180 days after the date of the enactment of this Act, the Director of Defense Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall develop knowledge-based standards against which to measure the technological maturity and integration risk of critical technologies at key stages in the acquisition process for purposes of conducting the reviews and assessments of major defense acquisition programs required by subsection (c) of section 139a of title 10, United States Code (as so added).

**SEC. 105. ROLE OF THE COMMANDERS OF THE COMBATANT COMMANDS IN IDENTIFYING JOINT MILITARY REQUIREMENTS.**

(a) **IN GENERAL.**—Section 181(d) of title 10, United States Code, as amended by section 101(d) of this Act, is further amended—

(1) by inserting “(1)” before “The Under Secretary”; and

(2) by adding at the end the following new paragraph:

“(2) The Council shall seek and consider input from the commanders of the combatant commands in carrying out its mission under paragraphs (1) and (2) of subsection (b) and in conducting periodic reviews in accordance with the requirements of subsection (e).”

(b) **INPUT FROM COMMANDERS OF COMBATANT COMMANDS.**—The Joint Requirements Oversight Council in the Department of Defense shall seek and consider input from the commanders of combatant commands, in accordance with section 181(d) of title 10, United States Code (as amended by subsection (a)). Such input may include, but is not limited to, an assessment of the following:

(1) Any current or projected missions or threats in the theater of operations of the commander of a combatant command that would inform the assessment of a new joint military requirement.

(2) The necessity and sufficiency of a proposed joint military requirement in terms of current and projected missions or threats.

(3) The relative priority of a proposed joint military requirement in comparison with other joint military requirements within the theater of operations of the commander of a combatant command.

(4) The ability of partner nations in the theater of operations of the commander of a combatant command to assist in meeting the joint military requirement or the benefit, if any, of a partner nation assisting in development or use of technologies developed to meet the joint military requirement.

(c) **COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF IMPLEMENTATION.**—

(1) **REQUIREMENT.**—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirements of—

(A) subsection (d)(2) of section 181 of title 10, United States Code (as amended by subsection (a)), for the Joint Requirements Oversight Council to solicit and consider input from the commanders of the combatant commands;

(B) the amendments to subsection (b) of section 181 of title 10, United States Code, made by section 942 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 287) and by section 201(b) of this Act; and

(C) the requirements of section 201(c) of this Act.

(2) **MATTERS COVERED.**—The report shall include, at a minimum, an assessment of—

(A) the extent to which the Council has effectively sought, and the commanders of the combatant commands have provided, meaningful input on proposed joint military requirements;

(B) the quality and effectiveness of efforts to estimate the level of resources needed to fulfill joint military requirements; and

(C) the extent to which the Council has considered trade-offs among cost, schedule, and performance objectives.

**TITLE II—ACQUISITION POLICY**

**SEC. 201. CONSIDERATION OF TRADE-OFFS AMONG COST, SCHEDULE, AND PERFORMANCE OBJECTIVES IN DEPARTMENT OF DEFENSE ACQUISITION PROGRAMS.**

(a) **CONSIDERATION OF TRADE-OFFS.**—

(1) **IN GENERAL.**—The Secretary of Defense shall ensure that mechanisms are developed and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for Department of Defense acquisition programs.

(2) **ELEMENTS.**—The mechanisms required under this subsection shall ensure, at a minimum, that—

(A) Department of Defense officials responsible for acquisition, budget, and cost estimating functions are provided an appropriate opportunity to develop estimates and raise cost and schedule matters before performance objectives are established for capabilities for which the Chairman of the Joint Requirements Oversight Council is the validation authority; and

(B) the process for developing requirements is structured to enable incremental, evolutionary, or spiral acquisition approaches, including the deferral of technologies that are not yet mature and capabilities that are likely to significantly increase costs or delay production until later increments or spirals.

(b) **DUTIES OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.**—Section 181(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (A);

(B) by inserting “and” at the end of subparagraph (B) after the semicolon; and

(C) by adding at the end the following new subparagraph:

“(C) in ensuring the consideration of trade-offs among cost, schedule, and performance objectives for joint military requirements in consultation with the advisors specified in subsection (d);”

(2) in paragraph (3)—

(A) by inserting “, in consultation with the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation,” after “assist the Chairman”; and

(B) by striking “and” after the semicolon at the end;

(3) in paragraph (4), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following new paragraph:

“(5) assist the Chairman, in consultation with the commanders of the combatant commands and the Under Secretary of Defense for Acquisition, Technology, and Logistics, in establishing an objective for the overall period of time within which an initial operational capability should be delivered to meet each joint military requirement.”

(c) **REVIEW OF JOINT MILITARY REQUIREMENTS.**—The Secretary of Defense shall ensure that each new joint military requirement recommended by the Joint Requirements Oversight Council is reviewed to ensure that the Joint Requirements Oversight Council has, in making such recommendation—

(1) taken appropriate action to seek and consider input from the commanders of the combatant commands, in accordance with the requirements of section 181(d) of title 10, United States Code (as amended by section 105(a) of this Act);

(2) engaged in consideration of trade-offs among cost, schedule, and performance objectives in accordance with the requirements of section 181(b)(1)(C) of title 10, United States Code (as added by subsection (b)); and

(3) engaged in consideration of issues of joint portfolio management, including alternative material and non-material solutions, as provided in Department of Defense instructions for the development of joint military requirements.

(d) **STUDY GUIDANCE FOR ANALYSES OF ALTERNATIVES.**—The Director of Cost Assessment and Program Evaluation shall take the lead in the development of study guidance for an analysis of alternatives for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council is the validation authority. In developing the guidance, the Director shall solicit the advice of appropriate officials within the Department of Defense and ensure that the guidance requires, at a minimum—

(1) full consideration of possible trade-offs among cost, schedule, and performance objectives for each alternative considered; and

(2) an assessment of whether or not the joint military requirement can be met in a manner that is consistent with the cost and schedule objectives recommended by the Joint Requirements Oversight Council.

(e) **ANALYSIS OF ALTERNATIVES IN CERTIFICATION FOR MILESTONE A.**—Section 2366a(a) of title 10, United States Code, as amended by section 101(d)(3) of this Act, is further amended—

(1) by striking “and” at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

“(4) that an analysis of alternatives has been performed consistent with study guidance developed by the Director of Cost Assessment and Program Evaluation; and”.

(f) **DUTIES OF MILESTONE DECISION AUTHORITY.**—Section 2366b(a)(1)(B) of such title is amended by inserting “appropriate trade-offs among cost, schedule, and performance objectives have been made to ensure that” before “the program is affordable”.

**SEC. 202. ACQUISITION STRATEGIES TO ENSURE COMPETITION THROUGHOUT THE LIFECYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) **ACQUISITION STRATEGIES TO ENSURE COMPETITION.**—The Secretary of Defense shall ensure that the acquisition strategy for each major defense acquisition program includes—

(1) measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level (at such tier or tiers as are appropriate) of such program throughout the life-cycle of such program as a means to improve contractor performance; and

(2) adequate documentation of the rationale for the selection of the subcontract tier or tiers under paragraph (1).

(b) **MEASURES TO ENSURE COMPETITION.**—The measures to ensure competition, or the option of competition, for purposes of subsection (a)(1) may include measures to achieve the following, in appropriate cases if such measures are cost-effective:

(1) Competitive prototyping.

(2) Dual-sourcing.

(3) Unbundling of contracts.

(4) Funding of next-generation prototype systems or subsystems.

(5) Use of modular, open architectures to enable competition for upgrades.

(6) Use of build-to-print approaches to enable production through multiple sources.

(7) Acquisition of complete technical data packages.

(8) Periodic competitions for subsystem upgrades.

(9) Licensing of additional suppliers.

(10) Periodic system or program reviews to address long-term competitive effects of program decisions.

(c) **ADDITIONAL MEASURES TO ENSURE COMPETITION AT SUBCONTRACT LEVEL.**—The Secretary shall take actions to ensure fair and objective “make-buy” decisions by prime contractors on major defense acquisition programs by—

(1) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems;

(2) providing for government surveillance of the process by which prime contractors consider such sources and determine whether to conduct such development or construction in-house or through a subcontract; and

(3) providing for the assessment of the extent to which a contractor has given full and fair consideration to qualified sources other than the contractor in sourcing decisions as a part of past performance evaluations.

(d) **CONSIDERATION OF COMPETITION THROUGHOUT OPERATION AND SUSTAINMENT OF MAJOR WEAPON SYSTEMS.**—Whenever a decision regarding source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system, the Secretary shall take actions to ensure that, to the maximum extent practicable and consistent with statutory requirements, contracts for such maintenance and sustainment are awarded on a competitive basis and give full consideration to all sources (including sources that partner or subcontract with public or private sector repair activities).

(e) **APPLICABILITY.**—

(1) **STRATEGY AND MEASURES TO ENSURE COMPETITION.**—The requirements of subsections (a) and (b) shall apply to any acquisition plan for a major defense acquisition program that is developed or revised on or after the date that is 60 days after the date of the enactment of this Act.

(2) **ADDITIONAL ACTIONS.**—The actions required by subsections (c) and (d) shall be taken within 180 days after the date of the enactment of this Act.

**SEC. 203. PROTOTYPING REQUIREMENTS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) **COMPETITIVE PROTOTYPING.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall modify the guidance of the Department of Defense relating to the operation of the acquisition system with respect to competitive prototyping for major defense acquisition programs to ensure the following:

(1) That the acquisition strategy for each major defense acquisition program provides for competitive prototypes before Milestone B approval (or Key Decision Point B approval in the case of a space program) unless the Milestone Decision Authority for such program waives the requirement pursuant to paragraph (2).

(2) That the Milestone Decision Authority may waive the requirement in paragraph (1) only—

(A) on the basis that the cost of producing competitive prototypes exceeds the expected life-cycle benefits (in constant dollars) of producing such prototypes, including the benefits of improved performance and increased technological and design maturity that may be achieved through competitive prototyping; or

(B) on the basis that, but for such waiver, the Department would be unable to meet critical national security objectives.

(3) That whenever a Milestone Decision Authority authorizes a waiver pursuant to paragraph (2), the Milestone Decision Authority—

(A) shall require that the program produce a prototype before Milestone B approval (or Key Decision Point B approval in the case of a space program) if the expected life-cycle benefits (in constant dollars) of producing such prototype exceed its cost and its production is consistent with achieving critical national security objectives; and

(B) shall notify the congressional defense committees in writing not later than 30 days after the waiver is authorized and include in such notification the rationale for the waiver and the plan, if any, for producing a prototype.

(4) That prototypes may be required under paragraph (1) or (3) for the system to be acquired or, if prototyping of the system is not feasible, for critical subsystems of the system.

(b) **COMPTROLLER GENERAL REVIEW OF CERTAIN WAIVERS.**—

(1) **NOTICE TO COMPTROLLER GENERAL.**—Whenever a Milestone Decision Authority authorizes a waiver of the requirement for prototypes pursuant to paragraph (2) of subsection (a) on the basis of excessive cost, the Milestone Decision Authority shall submit the notification of the waiver, together with the rationale, to the Comptroller General of the United States at the same time it is submitted to the congressional defense committees.

(2) **COMPTROLLER GENERAL REVIEW.**—Not later than 60 days after receipt of a notification of a waiver under paragraph (1), the Comptroller General shall—

(A) review the rationale for the waiver; and

(B) submit to the congressional defense committees a written assessment of the rationale for the waiver.

**SEC. 204. ACTIONS TO IDENTIFY AND ADDRESS SYSTEMIC PROBLEMS IN MAJOR DEFENSE ACQUISITION PROGRAMS PRIOR TO MILESTONE B APPROVAL.**

(a) **MODIFICATION TO CERTIFICATION REQUIREMENT.**—Subsection (a) of section 2366a of title 10, United States Code, is amended by striking “may not receive Milestone A approval, or Key Decision Point A approval in the case of a space program,” and inserting “may not receive Milestone A approval, or Key Decision Point A approval in the case of a space program, or otherwise be initiated prior to Milestone B approval, or Key Decision Point B approval in the case of a space program.”.

(b) **MODIFICATION TO NOTIFICATION REQUIREMENT.**—Subsection (b) of such section is amended—

(1) by inserting “(1)” before “With respect to”;

(2) in paragraph (1), as so designated, by striking “by at least 25 percent,” and inserting “by at least 25 percent, or the program manager determines that the period of time required for the delivery of an initial operational capability is likely to exceed the schedule objective established pursuant to section 181(b)(5) of this title by more than 25 percent.”; and

(3) by adding at the end the following new paragraph:

“(2) Not later than 30 days after a program manager submits a notification to the Milestone Decision Authority pursuant to paragraph (1) with respect to a major defense acquisition program, the Milestone Decision Authority shall submit to the congressional defense committees a report that—

“(A) identifies the root causes of the cost or schedule growth in accordance with applicable policies, procedures, and guidance;

“(B) identifies appropriate acquisition performance measures for the remainder of the development of the program; and

“(C) includes one of the following:

“(i) A written certification (with a supporting explanation) stating that—



“(I) the program is essential to national security;

“(II) there are no alternatives to the program that will provide acceptable military capability at less cost;

“(III) new estimates of the development cost or schedule, as appropriate, are reasonable; and

“(IV) the management structure for the program is adequate to manage and control program development cost and schedule.

“(ii) A plan for terminating the development of the program or withdrawal of Milestone A approval, or Key Decision Point A approval in the case of a space program, if the Milestone Decision Authority determines that such action is in the interest of national defense.”

(c) APPLICATION TO ONGOING PROGRAMS.—

(1) IN GENERAL.—Each major defense acquisition program described in paragraph (2) shall be certified in accordance with the requirements of section 2366a of title 10, United States Code (as amended by this section), within one year after the date of the enactment of this Act.

(2) COVERED PROGRAMS.—The requirement in paragraph (1) shall apply to any major defense acquisition program that—

(A) was initiated before the date of the enactment of this Act; and

(B) as of the date of certification under paragraph (1) has not otherwise been certified pursuant to either section 2366a (as so amended) or 2366b of title 10, United States Code.

**SEC. 205. ADDITIONAL REQUIREMENTS FOR CERTAIN MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) ADDITIONAL REQUIREMENTS RELATING TO MILESTONE B APPROVAL.—Section 2366b of title 10, United States Code, is amended—

(1) in subsection (d)—

(A) by inserting “(1)” before “The milestone decision authority may”; and

(B) by striking the second sentence and inserting the following:

“(2) Whenever the milestone decision authority makes such a determination and authorizes such a waiver—

“(A) the waiver, the determination, and the reasons for the determination shall be submitted in writing to the congressional defense committees within 30 days after the waiver is authorized; and

“(B) the milestone decision authority shall review the program not less often than annually to determine the extent to which such program currently satisfies the certification components specified in paragraphs (1) and (2) of subsection (a) until such time as the milestone decision authority determines that the program satisfies all such certification components.”;

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following new subsection (e):

“(e) DESIGNATION OF CERTIFICATION STATUS IN BUDGET DOCUMENTATION.—Any budget request, budget justification material, budget display, reprogramming request, Selected Acquisition Report, or other budget documentation or performance report submitted by the Secretary of Defense to the President regarding a major defense acquisition program receiving a waiver pursuant to subsection (d) shall prominently and clearly indicate that such program has not fully satisfied the certification requirements of this section until such time as the milestone decision authority makes the determination that such program has satisfied all such certification components.”; and

(3) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) has received a preliminary design review and conducted a formal post-preliminary design review assessment, and certifies on the basis of such assessment that the program demonstrates a high likelihood of accomplishing its intended mission; and”;

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) in subparagraph (D), by striking the semicolon and inserting “,” as determined by the Milestone Decision Authority on the basis of an independent review and assessment by the Director of Defense Research and Engineering; and”;

(ii) by striking subparagraph (E); and

(iii) by redesignating subparagraph (F) as subparagraph (E).

(b) CERTIFICATION AND REVIEW OF PROGRAMS ENTERING DEVELOPMENT PRIOR TO ENACTMENT OF SECTION 2366B OF TITLE 10.—

(1) DETERMINATION.—Not later than 270 days after the date of the enactment of this Act, for each major defense acquisition program that received Milestone B approval before January 6, 2006, and has not received Milestone C approval, and for each space program that received Key Decision Point B approval before January 6, 2006, and has not received Key Decision Point C approval, the Milestone Decision Authority shall determine whether or not such program satisfies all of the certification components specified in paragraphs (1) and (2) of subsection (a) of section 2366b of title 10, United States Code (as amended by subsection (a) of this section).

(2) ANNUAL REVIEW.—The Milestone Decision Authority shall review any program determined pursuant to paragraph (1) not to satisfy any of the certification components of subsection (a) of section 2366b of title 10, United States Code (as so amended), not less often than annually thereafter to determine the extent to which such program currently satisfies such certification components until such time as the Milestone Decision Authority determines that such program satisfies all such certification components.

(3) DESIGNATION OF CERTIFICATION STATUS IN BUDGET DOCUMENTATION.—Any budget request, budget justification material, budget display, reprogramming request, Selected Acquisition Report, or other budget documentation or performance report submitted by the Secretary of Defense to the President regarding a major defense acquisition program which the Milestone Decision Authority determines under paragraph (1) does not satisfy all of the certification components of subsection (a) of section 2366b of title 10, United States Code, (as so amended) shall prominently and clearly indicate that such program has not fully satisfied such certification components until such time as the Milestone Decision Authority makes the determination that such program has satisfied all such certification components.

(c) REVIEWS OF PROGRAMS RESTRUCTURED AFTER EXPERIENCING CRITICAL COST GROWTH.—The official designated to perform oversight of performance assessment pursuant to section 103 of this Act, shall assess the performance of each major defense acquisition program that has exceeded critical cost growth thresholds established pursuant to section 2433(e) of title 10, United States Code, but has not been terminated in accordance with section 2433a of such title (as added by section 206(a) of this Act) not less often than semi-annually until one year after the date on which such program receives a new milestone approval, in accordance with section 2433a(c)(3) of such title (as so added). The results of reviews performed under this subsection shall be reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics and summarized in the next annual report of such designated official.

**SEC. 206. CRITICAL COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) ACTIONS FOLLOWING CRITICAL COST GROWTH.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2433 the following new section:

**“§2433a. Critical cost growth in major defense acquisition programs**

“(a) REASSESSMENT OF PROGRAM.—If the program acquisition unit cost or procurement unit cost of a major defense acquisition program or designated subprogram (as determined by the Secretary under section 2433(d) of this title) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Secretary of Defense, after consultation with the Joint Requirements Oversight Council regarding program requirements, shall—

“(1) determine the root cause or causes of the critical cost growth in accordance with applicable statutory requirements and Department of Defense policies, procedures, and guidance; and

“(2) in consultation with the Director of Cost Assessment and Program Evaluation, carry out an assessment of—

“(A) the projected cost of completing the program if current requirements are not modified;

“(B) the projected cost of completing the program based on reasonable modification of such requirements;

“(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

“(D) the need to reduce funding for other programs due to the growth in cost of the program.

“(b) PRESUMPTION OF TERMINATION.—(1) After conducting the reassessment required by subsection (a) with respect to a major defense acquisition program, the Secretary shall terminate the program unless the Secretary submits to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in section 2433(g) of this title is required to be submitted under section 2432(f) of this title, a written certification in accordance with paragraph (2).

“(2) A certification described by this paragraph with respect to a major defense acquisition program is a written certification that—

“(A) the continuation of the program is essential to the national security;

“(B) there are no alternatives to the program which will provide acceptable capability to meet the joint military requirement (as defined in section 181(g)(1) of this title) at less cost;

“(C) the new estimates of the program acquisition unit cost or procurement unit cost have been determined by the Director of Cost Assessment and Program Evaluation to be reasonable;

“(D) the program is a higher priority than programs whose funding must be reduced to accommodate the growth in cost of the program; and

“(E) the management structure for the program is adequate to manage and control program acquisition unit cost or procurement unit cost.

“(3) A written certification under paragraph (2) shall be accompanied by a report presenting the root cause analysis and assessment carried out pursuant to subsection (a) and the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), together with supporting documentation.

“(c) ACTIONS IF PROGRAM NOT TERMINATED.—(1) If the Secretary elects not to terminate a major defense acquisition program pursuant to subsection (b), the Secretary shall—

“(A) restructure the program in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to

subsection (a), and ensures that the program has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);

“(B) rescind the most recent Milestone approval, or Key Decision Point approval in the case of a space program, for the program and withdraw any associated certification under section 2366a or 2366b of this title;

“(C) require a new Milestone approval, or Key Decision Point approval in the case of a space program, for the program before taking any contract action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the program, except to the extent determined necessary by the Milestone Decision Authority, on a non-delegable basis, to ensure that the program can be restructured as intended by the Secretary without unnecessarily wasting resources;

“(D) include in the report specified in paragraph (2) a description of all funding changes made as a result of the growth in cost of the program, including reductions made in funding for other programs to accommodate such cost growth; and

“(E) conduct regular reviews of the program in accordance with the requirements of section 205 of the Weapon Systems Acquisition Reform Act of 2009.

“(2) For purposes of paragraph (1)(D), the report specified in this paragraph is the first Selected Acquisition Report for the program submitted pursuant to section 2432 of this title after the President submits a budget pursuant to section 1105 of title 31, in the calendar year following the year in which the program was restructured.

“(d) ACTIONS IF PROGRAM TERMINATED.—If a major defense acquisition program is terminated pursuant to subsection (b), the Secretary shall submit to Congress a written report setting forth—

“(1) an explanation of the reasons for terminating the program;

“(2) the alternatives considered to address any problems in the program; and

“(3) the course the Department plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2433 the following new item:

“2433a. Critical cost growth in major defense acquisition programs.”.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 2433(e) of such title 10 is amended to read as follows:

“(2) If the program acquisition unit cost or procurement unit cost of a major defense acquisition program or designated major subprogram (as determined by the Secretary under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Secretary of Defense shall take actions consistent with the requirements of section 2433a of this title.”.

(b) TREATMENT AS MDAP.—Section 2430 of such title is amended—

(1) in subsection (a)(2), by inserting “, including all planned increments or spirals,” after “an eventual total expenditure for procurement”; and

(2) by adding at the end the following new subsection:

“(c) For purposes of subsection (a)(2), the Secretary shall consider, as applicable, the following:

“(1) The estimated level of resources required to fulfill the relevant joint military requirement,

as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

“(2) The cost estimate referred to in section 2366a(a)(4) of this title.

“(3) The cost estimate referred to in section 2366b(a)(1)(C) of this title.

“(4) The cost estimate within a baseline description as required by section 2435 of this title.”.

#### SEC. 207. ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REVISED REGULATIONS REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to provide uniform guidance and tighten existing requirements for organizational conflicts of interest by contractors in major defense acquisition programs.

(b) ELEMENTS.—The revised regulations required by subsection (a) shall, at a minimum—

(1) address organizational conflicts of interest that could arise as a result of—

(A) lead system integrator contracts on major defense acquisition programs and contracts that follow lead system integrator contracts on such programs, particularly contracts for production;

(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major defense acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

(C) the award of major subsystem contracts by a prime contractor for a major defense acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

(D) the performance by, or assistance of, contractors in technical evaluations on major defense acquisition programs;

(2) ensure that the Department of Defense receives advice on systems architecture and systems engineering matters with respect to major defense acquisition programs from federally funded research and development centers or other sources independent of the prime contractor;

(3) require that a contract for the performance of systems engineering and technical assistance functions for a major defense acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development or construction of a weapon system under the program; and

(4) establish such limited exceptions to the requirement in paragraphs (2) and (3) as may be necessary to ensure that the Department of Defense has continued access to advice on systems architecture and systems engineering matters from highly-qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.

(c) CONSULTATION IN REVISION OF REGULATIONS.—

(1) RECOMMENDATIONS OF PANEL ON CONTRACTING INTEGRITY.—Not later than 90 days after the date of the enactment of this Act, the Panel on Contracting Integrity established pursuant to section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2320) shall present recommendations to the Secretary of Defense on measures to eliminate or mitigate organizational conflicts of interest in major defense acquisition programs.

(2) CONSIDERATION OF RECOMMENDATIONS.—In developing the revised regulations required by subsection (a), the Secretary shall consider the following:

(A) The recommendations presented by the Panel on Contracting Integrity pursuant to paragraph (1).

(B) Any findings and recommendations of the Administrator for Federal Procurement Policy and the Director of the Office of Government Ethics pursuant to section 841(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4539).

(d) EXTENSION OF PANEL ON CONTRACTING INTEGRITY.—Subsection (e) of section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 is amended to read as follows:

“(e) TERMINATION.—

“(1) IN GENERAL.—Subject to paragraph (2), the panel shall continue to serve until the date that is 18 months after the date on which the Secretary of Defense notifies the congressional defense committees of an intention to terminate the panel based on a determination that the activities of the panel no longer justify its continuation and that concerns about contracting integrity have been mitigated.

“(2) MINIMUM CONTINUING SERVICE.—The panel shall continue to serve at least until December 31, 2011.”.

#### TITLE III—ADDITIONAL ACQUISITION PROVISIONS

##### SEC. 301. AWARDS FOR DEPARTMENT OF DEFENSE PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF PRODUCTS AND SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall commence carrying out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense in the acquisition of products and services for the Department of Defense.

(b) ELEMENTS.—The program required by subsection (a) shall include the following:

(1) Procedures for the nomination by the personnel of the military departments and the Defense Agencies of individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense for eligibility for recognition under the program.

(2) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise, and are appointed in such manner, as the Secretary shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Secretary may award to any individual recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law.

##### SEC. 302. EARNED VALUE MANAGEMENT.

(a) MODIFICATION OF ELEMENTS IN REPORT ON IMPLEMENTATION.—Subsection (a) of section 887 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4562) is amended by striking paragraph (7) and inserting the following new paragraphs:

“(7) A discussion of the methodology used to establish appropriate baselines for earned value management at the award of a contract or commencement of a program, whichever is earlier.

“(8) A discussion of the manner in which the Department ensures that personnel responsible for administering and overseeing earned value

management systems have the training and qualifications needed to perform that responsibility.

“(9) A discussion of mechanisms to ensure that contractors establish and use approved earned value management systems, including mechanisms such as the consideration of the quality of contractor earned value management performance in past performance evaluations.

“(10) Recommendations for improving earned value management and its implementation within the Department, including—

“(A) a discussion of the merits of possible alternatives; and

“(B) a plan for implementing any improvements the Secretary determines to be appropriate.”.

(b) MODIFICATION OF REPORT DATE.—Subsection (b) of such section is amended by striking “270 days after the date of the enactment of this Act” and inserting “October 14, 2009”.

**SEC. 303. EXPANSION OF NATIONAL SECURITY OBJECTIVES OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.**

(a) IN GENERAL.—Section 2501(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(6) Maintaining critical design skills to ensure that the armed forces are provided with systems capable of ensuring technological superiority over potential adversaries.”.

(b) ASSESSMENT OF EFFECT OF TERMINATION OF MAJOR DEFENSE ACQUISITION PROGRAMS ON TECHNOLOGY AND INDUSTRIAL CAPABILITIES.—Section 2505(b) of such title is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) consider the effects of the termination of major defense acquisition programs (as the term is defined in section 2430 of this title) in the previous fiscal year on the sectors and capabilities in the assessment.”.

**SEC. 304. COMPTROLLER GENERAL OF THE UNITED STATES REPORTS ON COSTS AND FINANCIAL INFORMATION REGARDING MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) REVIEW OF OPERATING AND SUPPORT COSTS OF MAJOR WEAPON SYSTEMS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on growth in operating and support costs for major weapon systems.

(2) ELEMENTS.—In preparing the report required by paragraph (1), the Comptroller General shall, at a minimum—

(A) identify the original estimates for operating and support costs for major weapon systems selected by the Comptroller General for purposes of the report;

(B) assess the actual operating and support costs for such major weapon systems;

(C) analyze the rate of growth for operating and support costs for such major weapon systems;

(D) for such major weapon systems that have experienced the highest rate of growth in operating and support costs, assess the factors contributing to such growth;

(E) assess measures taken by the Department of Defense to reduce operating and support costs for major weapon systems; and

(F) make such recommendations as the Comptroller General considers appropriate.

(b) REVIEW OF FINANCIAL INFORMATION RELATING TO MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) REVIEW.—The Comptroller General of the United States shall perform a review of weak-

nesses in operations affecting the reliability of financial information on the systems and assets to be acquired under major defense acquisition programs.

(2) ELEMENTS.—The review required under paragraph (1) shall—

(A) identify any weaknesses in operations under major defense acquisition programs that hinder the capacity to assemble reliable financial information on the systems and assets to be acquired under such programs in accordance with applicable accounting standards;

(B) identify any mechanisms developed by the Department of Defense to address weaknesses in operations under major defense acquisition programs identified pursuant to subparagraph (A); and

(C) assess the implementation of the mechanisms set forth pursuant to subparagraph (B), including—

(i) the actions taken, or planned to be taken, to implement such mechanisms;

(ii) the schedule for carrying out such mechanisms; and

(iii) the metrics, if any, instituted to assess progress in carrying out such mechanisms.

(3) CONSULTATION.—In performing the review required by paragraph (1), the Comptroller General shall seek and consider input from each of the following:

(A) The Chief Management Officer of the Department of Defense.

(B) The Chief Management Officer of the Department of the Army.

(C) The Chief Management Officer of the Department of the Navy.

(D) The Chief Management Officer of the Department of the Air Force.

(4) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the results of the review required by paragraph (1).

And the House agree to the same.

IKE SKELTON,  
JOHN M. SPRATT,  
SOLOMON P. ORTIZ,  
GENE TAYLOR,  
NEIL ABERCROMBIE,  
SILVESTRE REYES,  
VIC SNYDER,  
ADAM SMITH,  
LORETTA SANCHEZ,  
MIKE MCINTYRE,  
ELLEN O. TAUSCHER,  
ROBERT E. ANDREWS,  
SUSAN A. DAVIS,  
JAMES R. LANGEVIN,  
JIM COOPER,  
BRAD ELLSWORTH,  
JOE SESTAK,  
JOHN M. MCHUGH,  
ROSCOE G. BARTLETT,  
HOWARD “BUCK” MCKEON,  
MAC THORNBERRY,  
WALTER B. JONES,  
W. TODD AKIN,  
J. RANDY FORBES,  
JEFF MILLER,  
JOE WILSON,  
K. MICHAEL CONAWAY,  
DUNCAN HUNTER,  
MIKE COFFMAN,

*Managers on the Part of the House.*

CARL LEVIN,  
EDWARD M. KENNEDY,  
ROBERT C. BYRD,  
JOSEPH LIEBERMAN,  
JACK REED,  
DANIEL K. AKAKA,  
BILL NELSON,  
BEN NELSON,  
EVAN BAYH,  
JIM WEBB,

CLAIRE MCCASKILL,  
MARK UDALL,  
KAY R. HAGAN,  
MARK BEGICH,  
ROLAND W. BURRIS,  
JOHN MCCAIN,  
JAMES M. INHOFE,  
JEFF SESSIONS,  
SAXBY CHAMBLISS,  
LINDSEY GRAHAM,  
JOHN THUNE,  
MEL MARTINEZ,  
ROGER F. WICKER,  
RICHARD BURR,  
DAVID VITTER,  
SUSAN COLLINS,

*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE  
COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 454), to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

**TITLE I—ACQUISITION ORGANIZATION**

*Cost assessment and program evaluation (sec. 101)*

The Senate bill contained a provision (sec. 104) that would establish a Director of Independent Cost Assessment in the Department of Defense (DOD) to ensure that cost estimates for major defense acquisition programs and major automated information system programs are fair, reliable, and unbiased.

The House amendment contained a provision (sec. 102) that would require the Secretary of Defense to designate an official within the Office of the Secretary of Defense to perform this function.

The House recedes with an amendment that would establish a Director of Cost Assessment and Performance Evaluation, who would be responsible for ensuring that cost estimates are fair, reliable, and unbiased, and for performing program analysis and evaluation functions currently performed by the Director of Program Analysis and Evaluation. The provision would also codify the cost estimating requirements from the Senate bill and the House amendment in a new section 2334 of title 10, United States Code.

*Directors of Developmental Test and Evaluation and Systems Engineering (sec. 102)*

The Senate bill contained a provision (sec. 101) that would require certain reports on systems engineering capabilities of the Department of Defense. The Senate bill also contained a provision (sec. 102) that would establish the position of Director of Developmental Test and Evaluation.

The House amendment contained provisions (sec. 101 and 103) that would require the

Secretary of Defense to appoint senior officials to carry out acquisition oversight functions, including systems engineering and developmental testing.

The Senate recedes with an amendment that would establish the positions of Director of Developmental Test and Evaluation and Director of Systems Engineering and establish requirements on the issuance of guidance and reports on systems engineering and developmental testing. The amendment would further require the service acquisition executive of each military department and defense agency to implement and report on plans to ensure that the military departments and defense agencies have appropriate developmental test, systems engineering, and development planning resources.

The Defense Science Board Task Force on Developmental Test and Evaluation reported in May 2008 that the Army has essentially eliminated its developmental testing component, while the Navy and the Air Force have cut their testing workforce by up to 60 percent in some organizations. As a result, “(a) significant amount of developmental testing is currently performed without a needed degree of government involvement or oversight and in some cases, with limited government access to contractor data.”

Similarly, the Committee on Pre-Milestone A and Early-Phase Systems Engineering of Air Force Studies Board of the National Research Council reported that “in recent years the depth of systems engineering (SE) talent in the Air Force has declined owing to policies within the Department of Defense (DOD) that shifted the oversight of SE functions increasingly to outside contractors, as well as to the decline of in-house development planning capabilities in the Air Force. . . . The result is that there are no longer enough experienced systems engineers to fill the positions in programs that need them, particularly within the government.”

The conferees expect the Director of Developmental Test and Evaluation and the Director of Systems Engineering to work with the military departments and defense agencies to ensure that they rebuild these capabilities and perform the developmental testing and systems engineering functions necessary to ensure the successful execution of major defense acquisition programs. In particular, the conferees expect the military departments to conduct developmental testing early in the execution of a major defense acquisition program, to validate that a system's design is demonstrating appropriate progress toward technological maturity and toward meeting system performance requirements.

*Performance assessments and root cause analyses for major defense acquisition programs (sec. 103)*

The House amendment contained a provision (sec. 104) that would require the Secretary of Defense to designate a senior official in the Office of the Secretary of Defense as the principal Department of Defense official responsible for issuing policies, procedures, and guidance governing the conduct of performance assessments for major defense acquisition programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to designate a senior official responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

*Assessment of technological maturity of critical technologies of major defense acquisition programs by the Director of Defense Research and Engineering (sec. 104)*

The Senate bill contained a provision (sec. 103) that would require the Director of Defense Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, to periodically review and assess the technological maturity and integration risk of critical technologies on major defense acquisition programs.

The House amendment contained a similar provision (sec. 105).

The Senate recedes with an amendment that would combine the two provisions. The conferees note that the technological maturity standard for major defense acquisition programs at the time of Milestone B approval (or Key Decision Point B approval in the case of space programs) is established by statute in section 2366b of title 10, United States Code. The conferees expect the Director of Defense Research and Engineering to establish appropriate knowledge-based standards for technological maturity at other key points in the acquisition process, as well as appropriate standards for integration risk.

*Role of the commanders of the combatant commands in identifying joint military requirements (sec. 105)*

The Senate bill contained a provision (sec. 105) that would clarify the role of the commanders of the combatant commands in identifying joint military requirements.

The House amendment contained a similar provision (sec. 106).

The Senate recedes with an amendment to ensure that the Comptroller General review required by the provision would address the full range of issues raised by recent legislative changes to the process for the identification of joint military requirements.

LEGISLATIVE PROVISION NOT ADOPTED

*Clarification of submittal of certification of adequacy of budgets by the Director of the Department of Defense Test Resource Management Center*

The Senate bill contained a provision (sec. 106) that would clarify the impact of organizational changes made in the Senate bill on the requirement for the Director of the Department of Defense Test Resource Management Center to certify the adequacy of budgets to the Secretary of Defense.

The House amendment contained no similar provision.

The Senate recedes. The provision is unnecessary, because the organizational changes to the Defense Test Resource Management Center that required the clarification are not included in the conference report.

TITLE II—ACQUISITION POLICY

*Consideration of trade-offs among cost, schedule, and performance objectives in Department of Defense acquisition programs (sec. 201)*

The Senate bill contained a provision (sec. 201) that would require the Department of Defense to implement mechanisms to ensure that trade-offs among cost, schedule, and performance objectives are considered early in the process of developing requirements for major weapon systems.

The House amendment contained a provision (sec. 207) that would require the Comptroller General to review and report to Congress on mechanisms used by the Department to make such trade-offs.

The House recedes with an amendment clarifying the required mechanisms. The

conference amendment includes a requirement for the Secretary of Defense to review proposed joint military requirements to ensure that the Joint Requirements Oversight Council has given appropriate consideration to trade-offs between cost, schedule, and performance objectives. The Secretary would have flexibility to determine how best to conduct the required review.

*Acquisition strategies to ensure competition throughout the lifecycle of major defense acquisition programs (sec. 202)*

The Senate bill contained a provision (sec. 203) that would require the Secretary of Defense to ensure that the acquisition strategy for each major defense acquisition program includes measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level. The Senate provision would also establish certain requirements for the use of prototypes on major defense acquisition programs.

The House amendment contained a similar provision (sec. 201), but did not include requirements for the use of prototypes.

The House recedes with an amendment combining elements from the Senate bill and the House amendment. The Senate language on prototypes is addressed in a separate section.

*Prototyping requirements for major defense acquisition programs (sec. 203)*

The Senate bill contained a provision (sec. 203(c) and (d)) that would establish prototyping requirements for major defense acquisition programs.

The House amendment contained no similar provision.

The House recedes with an amendment that would simplify the requirement.

*Actions to identify and address systemic problems in major defense acquisition programs prior to Milestone B approval (sec. 204)*

The House amendment contained a provision (sec. 203) that would enhance requirements for the Department of Defense to identify and address systemic problems in major defense acquisition programs before Milestone B approval, while such programs are still in the technology development phase.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment. The conferees agree that greater investment of time and resources in the technology development phase is likely to result in better overall program performance and lower overall program costs. For this reason, increased time or expenditures for early testing and development should not alone be taken as an indication that a program is troubled and needs to be terminated or restructured.

*Additional requirements for certain major defense acquisition programs (sec. 205)*

The Senate bill contained a provision (sec. 202) that would establish certain requirements relating to preliminary design review and critical design review for major defense acquisition programs.

The House amendment contained a provision (sec. 202) that would establish new procedures for programs that fail to meet all of the requirements for Milestone B certification under section 2366b of title 10, United States Code, and would establish requirements relating to preliminary design review for major defense acquisition programs.

The Senate recedes with a clarifying amendment. The conference amendment

does not include the Senate provision regarding critical design review, because this requirement is already addressed in Department of Defense Instruction 5000.02 (December 2008 revision). The conferees view this requirement as a key step in a knowledge-based approach to acquisition, and expect to revisit this issue if the current requirement for critical design review is discontinued or is not enforced.

*Critical cost growth in major defense acquisition programs (sec. 206)*

The Senate bill contained a provision (sec. 204) that would strengthen the so-called "Nunn-McCurdy" requirements in section 2433(e)(2) of title 10, United States Code, for major defense acquisition programs that experience excessive cost growth.

The House amendment contained a similar provision (sec. 204).

The House recedes with an amendment combining elements from the Senate bill and the House amendment. The conference amendment would also recodify these requirements in a new section 2433a of title 10, United States Code.

*Organizational conflicts of interest in major defense acquisition programs (sec. 207)*

The Senate bill contained a provision (sec. 205) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics to issue regulations addressing organizational conflicts of interest by contractors in the acquisition of major weapon systems.

The House amendment contained a similar provision (sec. 205).

The House recedes with an amendment combining elements from the Senate bill and the House amendment. Existing Department of Defense regulations leave it up to individual elements of the Department to determine on a case-by-case basis whether or not organizational conflicts of interest can be mitigated, and if so, what mitigation measures are required. The conferees agree that additional guidance is required to tighten existing requirements, provide consistency throughout the Department, and ensure that advice provided by contractors is objective and unbiased. In developing the regulations required by this section for cases in which mitigation is determined to be appropriate, the conferees expect the Secretary to give consideration to strengthened measures of organizational separation of the type included in the Senate bill.

**TITLE III—ADDITIONAL ACQUISITION PROVISIONS**

*Awards for Department of Defense personnel for excellence in the acquisition of products and services (sec. 301)*

The Senate bill contained a provision (sec. 206) that would direct the Secretary of Defense to establish a program to recognize excellent performance by individuals and teams in the acquisition of products and services for the Department of Defense.

The House amendment contained an identical provision (sec. 206). The conference report includes this provision.

*Earned value management (sec. 302)*

The Senate bill contained a provision (sec. 207) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics to review and improve guidance governing the implementation of Earned Value Management (EVM) systems for Department of Defense (DOD) contracts.

The House amendment contained no similar provision.

The House recedes with an amendment that would incorporate the requirements of

the Senate provision into section 887 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417), which requires the Secretary of Defense to identify and address shortcomings in EVM systems for DOD contracts.

*Expansion of national security objectives of the national technology and industrial base (sec. 303)*

The Senate bill contained a provision (sec. 208) that would amend section 2501 of title 10, United States Code, to address critical design skills in the national technology and industrial base and require reports on the termination of major defense acquisition programs.

The House amendment contained no similar provision.

The House recedes with an amendment requiring that defense capability assessments performed pursuant to section 2505 of title 10, United States Code, consider the effects of the termination of major defense acquisition programs. The outcome of this assessment would be incorporated into the annual reports required by section 2504 of title 10, United States Code.

*Comptroller General of the United States reports on costs and financial information regarding major defense acquisition programs (sec. 304)*

The Senate bill contained two provisions (sec. 104(b) and sec. 209) that would require reports by the Government Accountability Office on: (1) operating and support costs of major weapon systems; and (2) financial information relating to major defense acquisition programs.

The House amendment contained no similar provision.

The House recedes with an amendment incorporating the two reporting requirements into a single provision.

**COMPLIANCE WITH SENATE AND HOUSE RULES**

*Compliance with rules of the Senate and the House of Representatives regarding earmarks and congressionally directed spending items*

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives and Rule XLIV(3) of the Standing Rules of the Senate, neither this conference report nor the accompanying joint statement of managers contains any congressional earmarks, congressionally directed spending items, limited tax benefits, or limited tariff benefits, as defined in such rules.

IKE SKELTON,  
JOHN M. SPRATT,  
SOLOMON P. ORTIZ,  
GENE TAYLOR,  
NEIL ABERCROMBIE,  
SILVESTRE REYES,  
VIC SNYDER,  
ADAM SMITH,  
LORETTA SANCHEZ,  
MIKE MCINTYRE,  
ELLEN O. TAUSCHER,  
ROBERT E. ANDREWS,  
SUSAN A. DAVIS,  
JAMES R. LANGEVIN,  
JIM COOPER,  
BRAD ELLSWORTH,  
JOE SESTAK,  
JOHN M. McHUGH,  
ROSCOE G. BARTLETT,  
HOWARD "BUCK" McKEON,  
MAC THORNBERRY,  
WALTER B. JONES,  
W. TODD AKIN,  
J. RANDY FORBES,

JEFF MILLER,  
JOE WILSON,  
K. MICHAEL CONAWAY,  
DUNCAN HUNTER,  
MIKE COFFMAN,

*Managers on the Part of the House.*

CARL LEVIN,  
EDWARD M. KENNEDY,  
ROBERT C. BYRD,  
JOSEPH LIEBERMAN,  
JACK REED,  
DANIEL K. AKAKA,  
BILL NELSON,  
BEN NELSON,  
EVAN BAYH,  
JIM WEBB,  
CLAIRE MCCASKILL,  
MARK UDALL,  
KAY R. HAGAN,  
MARK BEGICH,  
ROLAND W. BURRIS,  
JOHN MCCAIN,  
JAMES M. INHOFE,  
JEFF SESSIONS,  
SAXBY CHAMBLISS,  
LINDSEY GRAHAM,  
JOHN THUNE,  
MEL MARTINEZ,  
ROGER F. WICKER,  
RICHARD BURR,  
DAVID VITTER,  
SUSAN COLLINS,

*Managers on the Part of the Senate.*

**ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE**

The SPEAKER pro tempore. The Chair will now entertain up to 15 requests for 1-minute speeches on each side of the aisle.

**NATIONAL SMALL BUSINESS  
WEEK**

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Today, I rise to recognize May 17 through May 23 as National Small Business Week. Small businesses are a critical part of our economy. In fact, over 60 percent of all jobs are created by small businesses in our Nation. And, in addition, as a result of the current crisis, we have seen an increasing number of people wanting to start their own businesses or beginning to create their own business.

For example, a recent poll showed that 37 percent of Americans are either running their own business or they're about to create their own business. I believe that innovation and growth in the small business sector is one of the key parts of what they contribute to our economic recovery. To help encourage that recovery, I'm committed to making sure that the Federal Government offers assistance and support to small businesses throughout our Nation.

I'm pleased that today the House will consider H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009.

It will provide critical training services to entrepreneurs across our Nation.

#### THE ENERGY TAX WILL HURT REAL PEOPLE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. As this Congress debates cap-and-trade, we need to remember that coal is our Nation's most abundant resource, providing 50 percent of this Nation's electricity and 98 percent of the electricity generated in my State.

We all want a cleaner environment, but this cap-and-trade bill is not the answer. The majority's bill is a \$646 billion national energy tax that will hit States like West Virginia the hardest.

It will essentially make the coal-reliant heartland unfairly subsidize our friends on the west coast and in the Northeast. An average energy bill for an average family will go up by at least \$1,500, and those hardest hit will be those that can least afford it.

People in the lower-income bracket will be spending more and more of their income on energy than any other income brackets. By 2020, folks in the lower-income brackets in West Virginia could be spending between 24 percent and 27 percent of their entire income on energy. Manufacturing will also be hit with major cost increases making electricity far more expensive.

As we continue to debate this issue, Congress needs to remember that cap-and-trade has a real cost on real people.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS

(Mr. MITCHELL asked and was given permission to address the House for 1 minute.)

Mr. MITCHELL. Mr. Speaker, I rise today in support of H.R. 627, the Credit Cardholders' Bill of Rights. The Senate approved this yesterday by an overwhelmingly bipartisan vote. I urge my colleagues to give final approval to this bill today and send it to the President for signature.

Consumers shouldn't have to subject themselves to hidden costs and "gotcha" games in order to have access to credit cards. Today's legislation will put an end to some of the most offensive practices. The bill will stop retroactive rate hikes on existing balances. It will also require lenders to credit payments made on the day that they were due as on time.

You wouldn't think that you would have to pass a law to say that payments made on the day that they are due should be credited as on time. But, sadly, that is how bad things have gotten.

The fine print in today's credit card agreements has gotten so complicated and so full of traps, you almost need a lawyer to find all the fees.

This bill won't stop everything, but it is an important step forward. I therefore urge final passage today of the Credit Cardholders' Bill of Rights.

#### CAP-AND-TRADE BILL

(Mr. POSEY asked and was given permission to address the House for 1 minute.)

Mr. POSEY. Soon we will be asked to vote on a cap-and-trade bill. Here's what I know about it. In the President's budget, it showed new revenue of \$646 billion from cap-and-trade. The cap-and-trade plan has been estimated to cost American families as much as \$3,000 each per year. The price of everything will go up, from electric bills to gasoline—even food. The availability of jobs will go down, as energy costs force more jobs overseas. And, it won't reduce emissions one iota. It didn't in Europe, and it won't here.

It is simply a moneymaker. Another method of fleecing taxpayers. No less energy will be used. Everyone will just pay more for the energy they do use. It's like paying someone else to go on a diet for you.

I'm convinced when the citizens of this great country find out what has been done to them by cap-and-trade, they will be outraged. No one can say that Congress was never told.

#### INVITATION TO GEORGE WILL

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. George Will's recent rant attacking Secretary of the Transportation Ray LaHood and my hometown, Portland Oregon, tells more about him than Secretary LaHood.

As Will glides into his seventies, he has lost track of more than just the facts, although it's staggering that he was off by a factor of 400 times about where biking already is in America, and 8000 times where Portland is with the ratio of cycling.

But this is not about bikes and street cars, or even livability. A younger, principled George Will would have understood why young people, even without jobs, are moving to Portland. It's a rich community with more choices at lower costs. It's about choices that enhance the quality of life.

I invite Mr. Will to bring his bow tie to Portland and debate me on the ground. See why a younger George Will, who may have been put off by all the Democrats and moderate Republicans, could still have admired the freedom that a high quality of life provides.

#### THE HEALTH BENEFITS TAX

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, some taxacrats in D.C. are thinking about taxing health care benefits on people who try to take care of themselves. They want to figure out how to get benefits to people who don't have them. Their solution: Make people who have benefits pay income tax on the value of their health plan.

That tax money would come directly out of their pocket. But it will make health care insurance too expensive for a lot of folks, so they will cancel their insurance and then let the government take care of them on this new nationalized health care plan.

When you wish to solve a problem, it's probably a better idea to come up with something that doesn't make the problem worse. It reminds me of the statement, "If you think the problems government creates are bad, just wait until you see government solutions."

The notion to tax health care benefits punishes people who have planned their lives and their careers with the philosophy that they will be responsible for their own health care and not live off the government.

However, to fund the new French health care system, the administration is proposing to tax people who take care of themselves, so there is money for people who can't or won't take care of themselves. There's something wrong with this picture.

And that's just the way it is.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS

(Mr. SIRES asked and was given permission to address the House for 1 minute.)

Mr. SIRES. Mr. Speaker, now is the time to stand up for American consumers. Too many families and hard-working Americans are struggling through this difficult economic recession. Credit card companies that charge unwarranted and unanticipated fees have been hitting Americans hard during our economic hardship. Despite massive government intervention to encourage lending, many credit card companies are still cutting back on credit, imposing new fees and raising rates—even for those who pay on time and never go over the limit. This is unacceptable.

In passing the Credit Cardholders' Bill of Rights, we will even the playing field by providing critical protections against these unfair, yet all too common, credit card practices. This bill will also provide tough new regulations on credit and companies in order to protect consumers from excessive fees, enormous interest rates, and unfair agreements.

Ending abusive credit card practices that continue to drive America deeper



and deeper into debt is a critical element in our economic recovery.

#### RELEASE OF UYGHUR DETAINEES

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, this morning, the Financial Times reported that Attorney General Eric Holder's Guantanamo Bay task force has recommended that the President release at least two Uyghur detainees into the U.S.

This planned release comes in spite of ardent objection from the FBI and the Department of Homeland Security, who were overruled by Eric Holder and the White House.

These Uyghur detainees are members of the U.S. and the U.N.-listed terrorist group, the Eastern Turkistan Islamic Movement, whose leader, Abdul Haq, was listed as a terrorist by Obama's Treasury Department.

For Eric Holder to do this against the better judgment of the FBI and the Department of Homeland Security, and despite Senate Democratic Majority Leader HARRY REID's statement yesterday that this Congress won't tolerate their release, is unacceptable.

It flies in the face of the bipartisan congressional opposition to the release of trained terrorists into the United States, including Republican and Democratic leadership in the House and the Senate. To do so in spite of what is taking place, passing in the House, soon in the Senate, would be unacceptable.

□ 1015

#### RECONSIDERING TAXPAYER SUPPORT FOR THE AUTO COMPANIES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. The premise of taxpayer support for the auto companies was twofold—preserve our productive capacity and maximize job retention.

Well, the plan has kind of gone off track here. The resolution of Chrysler, losing tens of thousands of jobs through the unnecessary closure of dealerships, and now Chrysler is going to close their most productive, modern engine plant in the world and build one in Mexico? How is that in the taxpayers' interest?

The leadership of the financier from Wall Street, Mr. Rattner, needs to be brought under control here. GM's now on deck. The Obama administration has to reconsider their approach. Don't endorse the closure of thousands of dealerships. Don't support the export of our productive capacity.

It is rumored that GM wants to manufacture their cars in China. Pre-

serving a corporate shell while losing productive manufacturing capacity and tens of thousands of jobs is not in the taxpayer interest and should not receive the endorsement of the Obama administration nor this Congress.

#### RECOGNIZING WILLIAM COOKSEY

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, I rise today to recognize one of the special veterans in my district. William Cooksey is a World War II veteran who just celebrated his 100th birthday.

Later this month we will welcome Mr. Cooksey to Washington as part of an Honor Air Trip, which flies World War II veterans to our Nation's capital free of charge to visit the World War II Memorial and Arlington Cemetery.

Mr. Cooksey began his service to our country as a member of an infantry unit. He then moved to the Air Corps and served as a chaplain's assistant from October 1943 to December 1945. When he left the military, he did so having received four Bronze Stars, a Purple Heart, the World War I Victory Medal and a Good Conduct Medal. At 100 years old, Mr. Cooksey still serves as the senior choir director at his church.

On behalf of this Congress, I thank Mr. Cooksey for his dedicated service. May God continue to bless this special man and all of our veterans who so bravely and selflessly served our country.

#### INTRODUCTION OF RURAL CAREER AND TECHNICAL EDUCATION EXPANSION ACT

(Mr. WILSON of Ohio asked and was given permission to address the House for 1 minute.)

Mr. WILSON of Ohio. Mr. Speaker, last week I introduced the Rural Career and Technical Education Expansion Act, a bill that would provide student loan forgiveness to career and technical teachers at rural high schools.

Just last month I visited Jefferson County Vocational School where several teachers would be able to qualify for loan forgiveness. My hope is that more career and tech teachers will choose to stay in rural areas with the help of my legislation.

More and more students in regions like mine are pursuing a technical education. My legislation would help provide these students with the best and the brightest vocational educators. When the bill becomes law, eligible vocational teachers could receive up to \$17,500 in student loan forgiveness.

I urge all my colleagues to support the benefits these teachers deserve.

#### SMALL BUSINESSES ARE THE HEART AND SOUL OF OUR ECONOMY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, small businesses are the heart and soul of the American economy. When small businesses are in trouble, our economy is in trouble. When taxes are raised on small businesses and on American families, you reduce job creation, and you burden an already troubled economy.

So what is next on the Democrat agenda? A massive new national energy tax. This is not a recipe for economic growth. This will hurt small businesses and job creation. It raises the price of doing business. It raises the prices of consumer goods and home utility costs. It puts America and the small businesses that create the majority of our jobs at a disadvantage in the global economy.

As we recognize the 46th annual National Small Business Week, we should be spending our time developing policies that promote growth, not burden it. We should be fighting to give tax relief to the American people and these small businesses that employ them.

In conclusion, God bless our troops, and we will never forget September the 11th and the global war on terrorism.

#### REGARDING AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, this week the Committee on Energy and Commerce is poised to pass landmark energy and climate legislation. Over two Congresses, our committee has heard from over 300 expert witnesses who have made it clear that we need swift action to rebuild our economy and address climate change.

America is ready, and the world is watching. We must transition to a clean energy economy so that we can create jobs here in America, achieve energy independence, and protect our planet for future generations. We have before us a powerful, thorough and effective bill. It includes a nationwide renewable electricity standard to ensure consumers get more of their electricity from wind, solar and biomass energy. It contains critical investments in energy efficiency, and it requires immediate significant reductions in greenhouse gas emissions that are harming our planet.

We must enact comprehensive climate legislation, and we must enact it now. We can't sit idly by and allow other nations to lead the way to a

clean energy future. I think America can and must do better.

I hope others will join me in seizing this opportunity to pass the American Clean Energy and Security Act to transition our country to a clean energy economy, and protect our planet for our children and our grandchildren.

#### STAND WITH THE PEOPLE OF CUBA AND AGAINST THE CASTRO REGIME

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today is Cuba Solidarity Day, marking the anniversary of Cuba's independence from Spain. It has now become a day when people across the world stand with the people of Cuba who are waiting for their day of freedom from 50 years of brutal communist repression.

Last month President Obama reversed the course of American policy towards Cuba, one of only four state sponsors of terrorism. America is a beacon of hope, and we should resist funding Castro's regime or turning a blind eye to their atrocities against the Cuban people.

Those wanting to increase trade with Cuba should be reminded that all money flows through Cuba's state-owned monopoly, and they don't pay their bills. Cuba has defaulted on more than \$30 billion of its obligations.

Easing sanctions on Cuba does not make economic or humanitarian sense. It only lines the pockets of the Castro brothers who want to hold onto their power by suppressing their people.

Today I am introducing a resolution to restore the sanctions on Cuba. The Cuban people deserve our support and continued condemnation of the Castro regime.

I encourage all my colleagues to honor Cuba Solidarity Day and stand with the Cuban people by cosponsoring my resolution.

#### THE ACCELERATED PACE OF GLOBAL WARMING

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, the Flat Earth Party is, once again, in a state of denial.

Much of the leadership and membership of the Republican Party is denying even the existence of global warming as a tactic to defeat the desperately needed clean green jobs legislation that we are just about to bring to the House floor.

Imagine. Forget the fact that more than 2,500 of the most respected scientists from 130 countries have concluded unequivocally that global

warming does exist, that it is a very serious problem, and that it is undoubtedly a result of human activity.

The accelerated pace of global warming threatens hundreds of millions of people who live near the shoreline from flooding or from drought depending on your location on this planet. In fact, in Juneau, Alaska, they're building an 18-hole golf course on land that just a few years ago was submerged underwater. They're losing more than 30 feet a year from the shoreline.

One has to wonder how the party of "No" still really feels about the theory that the Earth may revolve around the sun.

#### INTRODUCTION OF HEARTH ACT

(Mr. HEINRICH asked and was given permission to address the House for 1 minute.)

Mr. HEINRICH. I rise today to introduce the Helping Expedite and Advance Responsible Tribal Homeownership Act, or the HEARTH Act.

Homeownership is a fundamental element to the American dream, yet Native American homeownership rates are half that of the general population, and too often the Federal Government has been the stumbling block.

Purchasing a home is no easy process for any of us; but for many Native American families trying to buy a house on tribal land, they must also get lease approval from the Bureau of Indian Affairs for the land that the house sits on.

This process can take between 6 months and 2 years, resulting in an intolerable delay for finalizing a home sale. This bill would eliminate this requirement and allow tribal governments to approve trust land leases directly, giving more Native American families the chance to own their own home.

I urge your support.

#### OUR NATION'S VETERANS

(Mr. TEAGUE asked and was given permission to address the House for 1 minute.)

Mr. TEAGUE. Mr. Speaker, I rise today to speak on an issue that is dear to my heart—our Nation's veterans. Yesterday I introduced several bills that I believe would improve the quality of life for our veterans and continue to honor our commitment to them.

My district is a highly rural district, and my veterans need access to qualified mental health professionals. I have submitted a bill that will establish a mental telehealth pilot project that will provide access to veterans that live in rural areas. This bill will make it possible for them to at least talk to a qualified specialist about the problems that they face as they re-adapt to home life.

Secondly, a report in the Journal of Military Medicine stated that blasts

from IEDs have caused a debilitating condition called tinnitus. I have introduced a bill that calls on the Department of Defense to screen for tinnitus and also calls on the VA to look for new ways of treating and curing tinnitus.

We should never forget that freedom is not free. These men and women laid their lives on the line to protect us, and we should always do all we can to serve them as well as they served us.

#### PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 627, CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT OF 2009

Ms. PINGREE of Maine. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 456

*Resolved*, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Financial Services or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The question of adoption of the motion shall be divided for a separate vote on concurring in section 512 of the Senate amendment.

SEC. 2. If either portion of the divided question fails of adoption, then the House shall be considered to have made no disposition of the Senate amendment.

SEC. 3. House Resolution 450 is laid on the table.

The SPEAKER pro tempore. The gentlewoman from Maine is recognized for 1 hour.

Ms. PINGREE of Maine. Thank you, Mr. Speaker.

For the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Ms. PINGREE of Maine. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 456.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Ms. PINGREE of Maine. Mr. Speaker, House Resolution 456 provides for consideration of the Senate amendment to H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009. The rule makes in order a motion by the chairman of the Committee on Financial Services to concur in the Senate amendment. The rule waives all points of order against consideration of the motion except clause 10 of rule XXI and provides that the Senate amendment and the motion shall be considered as read. The rule provides 1 hour of debate on the motion controlled by the Committee on Financial Services. The rule provides that the question of adoption of the motion shall be divided for a separate vote on concurring in section 512 of the Senate amendment.

Mr. Speaker, we have heard a lot about the deceptive practices of credit card companies over the last 2 weeks here in Washington. My friends here in the House of Representatives have highlighted the nearly \$1 trillion credit card debt in the United States.

President Obama has stressed the need for "credit card forms and statements that have plain language in plain sight." My colleagues in the Senate have equated the deceptive practices used by credit card companies to loan sharking. Small business groups have drawn attention to the one in three businesses where credit card debt accounts for at least 25 percent of the company's overall debt.

□ 1030

Family and consumer groups have highlighted the more than 91 million United States families who are subject to unfair interest rate hikes and being taken advantage of by hidden penalties and fees. These statistics are certainly shocking, and meaningful legislation is necessary. However, this is not a new issue to the American people. This is a problem that they understand all too well and deal with each and every day.

Credit cards have gone from being a luxury to being a convenience to being a necessity. Whether it is paying for your gas at the pump or placing an order online, our modern economy almost requires you to have a credit card. Unfortunately, the tough economic times we are in mean that more and more Americans are turning to credit cards to pay for basic necessities or to make ends meet when something unexpected comes along.

Last weekend in Maine, I was talking with one of my constituents who told me something I hear frequently, that a credit card is the only way she can pay her medical bills. And last winter, with skyrocketing heating oil prices, a credit card was the only way many people in my State were able to stay warm.

But while credit cards have gone from luxury to necessity, credit card companies have undergone a transition

too. There was a time when a credit card agreement was reasonably straightforward and fair. It was an agreement to provide a basic service for a reasonable fee. But all that has changed. Credit card agreements are a tangle of fine print with complicated provisions that almost seem designed to keep the cardholder in debt forever. Everywhere you turn, it seems the credit card companies have dreamed up a new fee or another clever scheme to raise your interest rate. Basic fairness has been replaced by deception and greed.

These days using a credit card is like going to a Las Vegas casino. No matter how clever or responsible you are, nine times out of ten, you are going to lose, and the company is going to win. Managing your finances shouldn't be a gamble. The deck shouldn't be stacked against you.

Americans have a lot to worry about these days: a weak economy, a broken health care system and rising energy prices. And that is on top of all the responsibilities we face on a daily basis like raising a family and going to work. The last thing people need to worry about is whether or not their credit card company is going to suddenly double their interest rate or surprise them with an unexpected fee they can't afford.

Mr. Speaker, this bill will bring back basic fairness to the credit card industry and level the playing field for Americans to take responsibility for their finances. Credit card companies have been getting away with too much for too long.

I urge my colleagues to join me today in passing this important bill and sending it directly to the President.

I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I want to thank the gentlewoman for yielding the appropriate time.

Mr. Speaker, I rise today in opposition to this rule and to the underlying legislation. This closed rule does not call for the open and honest debate that has been promised time and time again by my Democrat colleagues. Today's action by my friends on the other side of the aisle is yet another example of the Federal Government overstepping its boundaries into the private marketplace.

Mr. Speaker, today I will inform you of the parliamentary games that my Democratic colleagues are playing on this bill with a gun provision adopted by the Senate. We will discuss why Congress is pushing a bill that already exists in Federal statute, which not only limits credit and raises interest rates to responsible borrowers today. Small business will feel the impact also; and, finally, to review Congress' need to regulate every sector of the economy while they refuse to manage their own gross spending habits of the taxpayer dollar.

The Senate managed to add a provision in this legislation that would allow visitors of national parks and refuges to legally carry licensed firearms by a large bipartisan majority of 67-29. While this does not add power to the overregulated credit bill, it does provide an important legislative victory for Second Amendment rights. Yet my Democratic colleagues have separated the vote on this bill in two separate sections, one vote on the gun provision and one vote on the credit card bill.

Mr. Speaker, I would like to know why is this? Why is this that we take a piece of legislation from the Senate and because it is not liked by the Democratic leadership here, we separate that bill? Have my friends on the other side of the aisle split this vote to increase government regulation while voting against constitutional rights?

Not even 6 months ago, the Federal Reserve passed new credit card rules that would protect consumers and provide for more transparency and accountability in our credit market. These new regulations are set to take effect in July of 2010, an agreed-upon date to ensure the necessary time for banks and credit card companies to make the crucial adjustments to their business practices without adversely hurting consumers. With the growing Federal deficit, the current economic crisis and the growing number of unemployed, why is Congress now passing legislation that already exists in Federal statute?

This legislation allows for the Federal Government to micromanage the way the credit card and the banking industry does its business. If enacted into law, it is not credit card companies that will suffer. It will be everyone that has a credit card and, I might add, those who would like to have a credit card in the future. Every American will see an increase in their interest rates. And some of the current benefits that encourage responsible lending will most likely disappear, for example, cash advances and over-the-limit protection.

My friends on the other side of the aisle not only remove any incentive for using credit cards responsibly, but they punish those who manage their credit responsibly to subsidize the irresponsible.

Mr. Speaker, the Democrats also want to limit the amount of credit available to middle and low-income individuals, the very Americans who need to take most advantage of credit. A Politico article written last Friday discusses that the changes in this bill "will dramatically raise the costs of extending loans to cardholders and cause the riskiest cardholders to be dropped altogether." It goes on to mention how bad this bill is in regard to the current economic downturn and how restricted access to credit cards

will make it increasingly harder to purchase the essential family staples while dealing with job layoffs and temporary unemployment.

Additionally, the strain of this legislation could have a direct and adverse impact on small business. Small businesses are critical to this economy in making sure that we have economic and job growth in this country. For individuals starting a small business, this legislation will increase their interest rates, reduce benefits and shrink the availability of credit, potentially limiting their options even to succeed in the marketplace.

Meredith Whitney, a prominent banking analyst, predicts, in a Wall Street Journal article from March, a \$2.7 trillion decrease in credit will be available by the year 2010 out of the current \$5 trillion credit line available in this country. That means it will almost be cut well in half. Mr. Speaker, with the current state of the economy, we urgently need to increase liquidity and lower the cost of credit to stimulate even more lending, not raise rates and reduce the availability of credit. This is not a solution for the ailing economy.

This type of government control of private markets is all about what our Democratic colleagues and this administration have been exploring. Whether it is federalizing our banks, credit markets, health care or energy, the list goes on and on. That said, this administration has taken their power grab a step further. Now they are considering a take-over of the financial industry. Converting preferred shares into common equity signals a dramatic shift towards a government strategy of long-term ownership and involvement in some of the Nation's largest banks.

Millions of Americans are rightfully outraged at the mismanagement of TARP and the reckless use of their tax dollars. And I believe that taxpayers are increasingly uneasy with the Federal Government's growing involvement in the financial markets. Bloomberg.com had an article yesterday which highlighted that three of our large banks have applied to repay \$45 billion in TARP funds. That means they had to tell the government we would like to pay back the money, is that okay, largely due to these burdensome regulations that the Treasury Department continues to place on them. But just last week, Secretary Geithner announced that he is considering reusing bailout repayments for smaller banks. This is completely unacceptable, and why I have repeatedly called for a solid exit plan for American taxpayers to be repaid by these TARP dollars. TARP dollars were never set up to be used as a revolving fund for struggling banks.

To preempt de facto nationalization of our financial system, on February 3, 2009, the House Republican leadership,

including myself, sent a letter to Secretary Geithner regarding what was called the "range of options" this administration was considering in managing the \$700 billion of taxpayer monies.

Mr. Speaker, I will insert into the RECORD a letter that was sent to Secretary Geithner at that time.

CONGRESS OF THE UNITED STATES,

Washington, DC, February 3, 2009.

Hon. TIMOTHY F. GEITHNER,

Secretary, U.S. Department of the Treasury,  
Washington, DC.

DEAR SECRETARY GEITHNER: Recent reports indicate that the Administration is considering a "range of options" for spending the second tranche of the Troubled Asset Relief Program (TARP) released last week and that the Administration is considering whether to ask the Congress for new and additional TARP funds beyond the \$700 billion already provided. We are writing to raise serious questions about the efficacy of the options being considered and to ask whether the Administration is developing a strategy to exit the bailout business.

Because the Administration has committed itself to assisting the auto industry, satisfying commitments made by the previous Administration, and devoting up to \$100 billion to mitigate mortgage foreclosures, it has been reported that President Obama might need more than the \$700 billion authorized by the Emergency Economic Stabilization Act ("EESA") to fund a "bad bank" to absorb hard-to-value toxic assets. In light of these commitments—which come at a time when the Federal Reserve is flooding the financial system with trillions of dollars and the Congress is finalizing a fiscal stimulus that is expected to cost taxpayers more than \$1.1 trillion—it is not surprising that the American people are asking where it all ends, and whether anyone in Washington is looking out for their wallets.

Indeed, a bipartisan majority of the House—171 Republicans and 99 Democrats—recently expressed the same concerns, voting to disapprove releasing the final \$350 billion from the TARP. As we noted in our December 2, 2008 letter to then-Secretary Paulson and Chairman Bernanke, we realize that changing conditions require agility in developing responses. However, the seemingly ad hoc implementation of TARP has led many to wonder if uncertainty is being added to markets at precisely the time when they are desperately seeking a sense of direction. It has also intensified widespread skepticism about TARP among taxpayers, and prompted misgivings even among some who originally greeted the demands for the program's creation with an open mind. Accordingly, we request answers to the following questions:

1. How does the Administration plan to maximize taxpayer value and guarantee the most effective distribution of the remaining \$350 billion of TARP funds?

2. How is the Administration lending, assessing risk, selecting institutions for assessing, and determining expectations for repayment?

3. Will the Administration opt for a complex "bad bank" rescue plan? How can the "bad bank" efficiently price assets and minimize taxpayer risk? Will financial institutions be required to give substantial ownership stakes to the Federal government to participate in the program?

4. Is a "bad bank" plan an intermediate step that leads to nationalizing America's banks?

5. Can you elaborate on your plans for the use of an insurance program for toxic assets? Specifically, will you seek to price insurance programs to ensure that taxpayer interests are protected? If so, how will you do so?

6. What is the exit strategy for the government's sweeping involvement in the financial markets?

Thank you for your consideration of these important questions.

Sincerely,

John Boehner; Mike Pence; Cathy McMorris Rodgers; Roy Blunt; Eric Cantor; Thaddeus McCotter; Pete Sessions; David Dreier; Kevin McCarthy; Spencer Bachus.

This letter outlined a host of questions that deal with ensuring that the taxpayers would be paid back and also having an exit strategy for the government's sweeping involvement in the financial markets. Today is May 20, and over 3 months later, there has been no response by Secretary Geithner to the Republican leadership letter.

A couple of weeks ago, the Special Inspector General for the Troubled Asset Relief Program, TARP, published a report that reveals at least 20 criminal cases of fraud in the bailout program and determined that new action by President Obama's administration are "greatly increasing taxpayer exposure to losses with no corresponding increase in potential profits." This is why you see the Republican leadership asking questions. This administration has not responded to our letter.

This administration is not above oversight and accountability. The American people deserve answers for their use of tax dollars and an exit strategy from taxpayer-funded bailouts, including how their investment in TARP will be returned. That is why I sent another letter to Secretary Geithner on April 23 of this year expressing grave concern to the recent reports of the Treasury moving taxpayer dollars into riskier investments in banks' capital structures.

Mr. Speaker, I will insert into the CONGRESSIONAL RECORD a copy of this letter dated April 23 to Secretary Geithner.

HOUSE OF REPRESENTATIVES,

Washington, DC, April 23, 2009.

Hon. TIMOTHY GEITHNER,

Secretary, Department of the Treasury,  
Washington, DC.

DEAR SECRETARY GEITHNER: I am greatly concerned by recent news reports that the Administration is considering converting the government's preferred stock in some of our nation's largest banks—investments acquired through the TARP program—into common equity shares in these publicly-held companies.

As you are aware, these investments were originally made to their recipients at fixed rates for a fixed period of time—signaling that their intent was to provide these banks with short-term capital for the purpose of improving our financial system's overall position during a time of crisis. Converting these shares into common equity, however, signals a drastic shift away from the Administration's original purpose for these investments to a new strategy of long-term ownership of and involvement in these companies.

I am concerned that converting these preferred shares into common equity would have two serious and negative effects. First, it would bring the banks whose shares are converted closer to de facto nationalization by creating the potential for the government to play an increasingly activist role in their day-to-day operations and management.

Second, I am concerned that moving these investments further down the bank's capital structure into a riskier position puts American taxpayer dollars at increased risk of being lost in the event of a recipient's insolvency.

To date, no Administration official has provided the House Republican Leadership with any comprehensive answers to the serious questions raised in our February 2, 2009 letter to you about the Administration's exit strategy for the government's growing involvement in the financial markets.

In absence of the Administration's response to that letter, I would appreciate your prompt assurance that converting these preferred shares to common equity—thereby taking these companies closer to nationalization and putting taxpayers' money at increased risk—is not a part of the Administration's yet-to-be-articulated strategy on getting out of the bailout business.

Thank you in advance for your prompt attention to this issue of critical importance to me, the residents of Texas' 32nd District and the entire taxpaying American public. If you have any questions regarding this letter, please feel free to have your staff contact my Chief of Staff Josh Saltzman.

Sincerely,

PETE SESSIONS,  
Member of Congress.

As this Democrat Congress continues to tax, borrow, and spend American's hard-earned tax dollars, we move even closer to nationalizing our banks and credit systems, which will only deepen our current economic struggle. The Federal Government's interference in hindering our progress is apparent, while they should be there to help solidify making our system stronger and better. When Congress or the administration changes the rules, it should be in the best interest of the American public. But I can honestly say that this is not the case today.

Mr. Speaker, it is appropriate to consider new ways to protect consumer credit and consumers from unfair and deceptive practices and to ensure that Americans receive useful and complete disclosures about terms and conditions. But in doing so, we should make sure that we do nothing to make credit cards more expensive for those who need this credit or to cut off or hinder access to credit for small business with those less-than-perfect histories.

While reading the Wall Street Journal a few weeks ago, I came across an op-ed called "Political Credit Cards" discussing this very issue. It states: "Our politicians spend half their time berating banks for offering too much credit on too easy terms, and the other half berating banks for handing out too little credit at a high price. The bankers should tell the President that they'll start doing more lending when Washington stops changing the rules."

This speaks to exactly what happened with TARP, health care, welfare, taxes, and lots of other legislation, including that underlying legislation today.

Mr. Speaker, the American people deserve better from their elected officials. I encourage my colleagues to vote against this rule.

And I reserve the balance of my time.

□ 1045

Ms. PINGREE of Maine. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentlelady.

As I'm certain is true of all of my colleagues, my office has been inundated with calls and letters from constituents who are outraged by sudden and arbitrary increases in their credit card rates. Their hard-earned taxpayer dollars were used to shore up financial institutions to prevent economic collapse and, in return, some of the very same financial institutions turned around and doubled the interest rates they charge their customers. I'm pleased we're taking strong action today to combat these abuses—yes, abuses—and I urge my colleagues to support it.

However, I have serious concern about the amendment that would allow loaded firearms in our national parks. There is no reason for this provision in the bill. It is not germane. It is not relevant. It is poor public policy.

Wait a minute, you say, I thought you were talking about credit cards. To say that this amendment about guns in the parks is out of left field insults the many ball players who, over the years, have held that position—yes, even the bumbler. It insults them.

For the past 25 years, the regulations requiring guns in parks to be unloaded and stored has served the Park Service and the park public well. It helps keep our national parks the safest lands in the country. The probability of being a victim of a violent crime in a park is less than 1 in 700,000. These regulations also help prevent mischief and even poaching of endangered species that our parks help protect.

Our national parks are national treasures, and they should be granted special protections. It's completely appropriate to have special regulations that are special to the parks. We in Congress should do everything we can to ensure that these invaluable resources are protected for future generations, and I strongly urge my colleagues to vote against that amendment in this bill.

Mr. SESSIONS. Mr. Speaker, we spoke just a minute ago about how banks had accepted these TARP funds and accepted them because it was necessary at the time to ensure the financial success of the banking system. And yet now here we are a few months later and the banks have undergone

their stress tests. The banks understand more about the risk that is out there. And yet even as companies like JPMorgan Chase want to refund \$45 billion or give it back to the government, the government is balking at them doing that.

The reason why is, as this article in Bloomberg.com states, because the government has a methodology that they want to follow which would cause banks to be in a different position because—in other words, not run their business the way they want—because government wants to tell them what the rules and regulations would be. And it appears as though that that is what this Treasury Department wants to do, that they have delayed banks paying back the money so that they can then put rules and regulations industrywide on anyone that took this money.

Mr. Speaker, what should happen is we should have a Treasury Department that eagerly, gleefully wants to get back money that was given to them on behalf of the taxpayer. And instead what happens is we have a Treasury Department that is delaying this. It is making it, I believe, more difficult, all under the guise, then, of trying to make sure that they get what they want, and that is exacting more rules and regulations on these banks.

I think that the Treasury Department should respond back to our letter. They should tell us what the exit strategy is, how people should pay back the money, and let the free enterprise system go about its job of creating not only a better economy, but also creating an opportunity to raise stock prices and employment in this country by doing their job in the free enterprise system.

I will include this article from Bloomberg.com as part of our testimony today.

MORGAN STANLEY, JPMORGAN, GOLDMAN SAID  
TO APPLY TO REPAY TARP

(By Christine Harper and Elizabeth Hester)

MAY 19 (BLOOMBERG)—Goldman Sachs Group Inc., JPMorgan Chase & Co. and Morgan Stanley applied to refund a combined \$45 billion of government funds, people familiar with the matter said, a step that would mark the biggest reimbursement to taxpayers since the program began in October.

The three New York-based banks need approval from the Federal Reserve, their primary supervisor, to return the money, according to the people, who requested anonymity because the application process isn't public. Spokesmen for the three banks declined to comment, as did Calvin Mitchell, a spokesman for the Federal Reserve Bank of New York.

If approved, the refunds would be the most substantial since Congress established the \$700 billion Troubled Asset Relief Program last year to quell the turmoil that followed the bankruptcy of Lehman Brothers Holdings Inc. Banks want to return the money to escape restrictions on compensation and hiring that were imposed on TARP recipients in February.

"It really is a way for them to break from the herd," said Peter Sorrentino, a senior

portfolio manager at Huntington Asset Advisors in Cincinnati, which holds Goldman Sachs and JPMorgan shares among the \$13.8 billion it oversees. "It's a great way to attract customers, personnel, capital."

Treasury Secretary Timothy Geithner said on April 21 that he would welcome firms returning TARP funds as long as their regulators sign off. He added that regulators will consider whether banks have enough capital to keep lending and whether the financial system as a whole can supply the credit needed to ensure an economic recovery.

#### GEITHNER'S "BROAD CONSTRAINTS"

One of the people familiar with the efforts by the banks to repay TARP said he anticipates that the government would prefer to issue industrywide compensation guidelines before allowing any major banks to repay TARP money.

Geithner said yesterday that he would like to establish "some broad constraints" on compensation incentives in the financial industry instead of setting limits on pay. A law that went into effect in February sets a cap on the bonuses that can be paid to the highest-paid 25 employees at banks that have more than \$500 million of TARP funds. Banks are awaiting guidance from the Treasury on how to implement the rules, such as how to determine which people to count in the top 25.

JPMorgan, Goldman Sachs, and Morgan Stanley were among nine banks that were persuaded in mid-October by then-Treasury Secretary Henry Paulson to accept the first \$125 billion of capital injections from the TARP program to help restore stability to the financial markets.

#### STRESS-TEST RESULTS

The refunds would be the first by the biggest banks that participated in the program. As of May 15, 14 of the smaller banks that received capital under the program had already repaid it, according to data compiled by Bloomberg.

The 19 biggest banks were waiting for the conclusion earlier this month of so-called stress tests to determine whether they would require additional capital to withstand a further deterioration of the economy.

Goldman Sachs and JPMorgan, the fifth- and second-biggest U.S. banks by assets, were found not to need any more money. Morgan Stanley, the sixth-biggest bank, raised \$4.57 billion by selling stock this month, exceeding the \$1.8 billion in additional capital the regulators said the bank may require.

#### "WRONG TIME"

While executives at Goldman Sachs and JPMorgan have expressed a desire to repay their TARP money for months, Morgan Stanley Chairman and Chief Executive Officer John Mack told employees on March 30 that he thought it was "the wrong time" to repay the money.

Morgan Stanley, which reported a first-quarter loss, also slashed its quarterly dividend 81 percent to 5 cents. On May 8, when the company sold stock, it also sold \$4 billion of debt that didn't carry a government guarantee. Selling non-guaranteed debt is a prerequisite for repaying TARP money.

The banks will also have to decide whether to try to buy back the warrants that the government received as part of the TARP investments. The warrants, which could convert into stock if not repurchased, would add to the cost of repayment.

JPMorgan, which has \$25 billion of TARP money, would need to pay about \$1.13 billion to buy back the warrants, according to a

May 14 estimate by David Trone, an analyst at Fox-Pitt Kelton Cochran Caronia Waller. Morgan Stanley's warrants would cost \$770 million and Goldman Sachs's would cost \$685 million, Trone estimated, using the Black-Scholes option-pricing model.

#### BANK SHARES

Goldman Sachs and Morgan Stanley shares have climbed since Oct. 10, the last trading day before the banks were summoned to a meeting by Paulson and informed of the government's plans to purchase preferred stock in them. Goldman Sachs, whose stock closed today at \$143.15 in New York Stock Exchange composite trading, is up 61 percent. Morgan Stanley, which closed today at \$28.28, has almost tripled from \$9.68.

JPMorgan shares, by contrast, are 11 percent lower at today's \$37.26 closing price than they were on Oct. 10, when they closed at \$41.64.

Banks could open themselves up to lawsuits if they repay the money too quickly and end up needing to ask the government for help in the future, James D. Wareham, a partner in the litigation department at Paul Hastings Janofsky & Walker LLP said last week.

CNBC on-air editor Charlie Gasparino reported on May 15 that Goldman Sachs and JPMorgan believe they have been given permission to exit the TARP. He reported yesterday that Morgan Stanley is seeking preliminary assurances that it can exit the program.

Mr. SESSIONS. I reserve the balance of my time.

Ms. PINGREE of Maine.

Mr. GRIJALVA. Mr. Speaker, I rise in strong support of H.R. 627 and in strong opposition to the Coburn amendment. This vital legislation was hijacked in the Senate by a dangerous amendment that would ban virtually all regulations of guns in national park and wildlife refuges—an amendment that has absolutely no place in this bill.

The Coburn amendment overturns reasonable limits put in place by Ronald Reagan and goes far beyond the regulations proposed by George W. Bush. The House will vote on this extreme language separately, and I urge my colleagues to strip the Coburn amendment from the legislation.

We need to be very clear. The rights guaranteed under the Second Amendment are fully protected under the current policy. The current rule allows guns in parks and refuges as long as they are not loaded and properly stored. The National Rifle Association has spent years trumping up claims and distorting data in order to claim a symbolic victory by overturning these Federal limits on guns in national parks. Clearly the NRA is a special group with no interest at all in protecting and preserving our national parks and wildlife areas.

Claims that visitors will be safer with loaded guns goes contrary to the data and is not credible. The FBI states that there were less than two violent crimes for 100,000 national park visits in 2006. Nationally, the violent crime rate is 300 times that.

It is important that we realize that our parks are special places and that a tradition of 100 years, law that has been in place and regulations since the Ronald Reagan era have protected and enhanced those parks. The Coburn language will have devastating consequences—some intended, some not. It is far different from the rule proposed by the former Secretary Kempthorne and goes well beyond anything we have considered in this House under Democratic or Republican leadership.

Our parks and refuges are America's cathedrals. They are a sanctuary for wildlife and visitors. Loaded guns, which can be brandished at the drop of the hat, are wholly inconsistent with these values. I urge defeat of the amendment.

Mr. SESSIONS. Mr. Speaker, at this time I would like to reserve the balance of my time.

Ms. PINGREE of Maine. I am the last speaker for this side, so until the gentleman has closed for his side and yielded back his time, I will reserve my time.

Mr. SESSIONS. Mr. Speaker, I appreciate the gentlewoman letting me know that she has no further speakers.

Mr. Speaker, one of the things that we spoke about earlier was the letters that the Republican leadership has sent to Secretary Geithner asking questions about Treasury's plans now about not only the use of TARP funds, how they will be paid back, what that process is, and finally, the exit strategy from the TARP program.

The Republican leadership in this House sent a letter to Secretary Geithner months ago. We have not heard anything back, certainly not in writing. So we have looked across the news media for releases that came from the Secretary, and among other things, we have seen things that disturb us greatly. One of those is that the Secretary has openly talked about the wanting to have this Federal Government change the investment that was made in these banks from, in essence, one type of instrument to another. In this case, it was from preferred stock to common stock.

In other words, since they put the money in the system, in the banks, and they cut a deal about what they would do, they now want to change the rules of the game. I believe that is not only unhealthy, I think it would absolutely be against the spirit of the law that we passed about the intent.

What happens when you do this is now the Federal Government would then become a common shareholder, meaning that the government would be investing in the stock market. The government would become a partner in that effort, meaning that the government, as such a large player, could determine the stock price up and down. I think that is a bad deal. I think that's a bad deal not just for the free enterprise system, but I think that's a bad



deal for this government. It puts them into a position where the government helps control the stock market and the stock price.

We've asked Secretary Geithner what he thinks about that. Secretary Geithner has not responded except to say that that is reserved as an option. And now on May 13, we see that Secretary Geithner announces that the bailout repayments will be reused for smaller banks. That means that the money that was lent as part of the TARP program, when the money comes back in, Secretary Geithner is now going to reallocate that to smaller banks.

It should be noted that what happened is a number of these banks have already received the money. But the TARP program, by the way it was set up, it said that when the money comes back in, it will go back into general funds. In other words, it was taken out of general funds. It was expected that it would be paid back plus interest and would come back to us.

Despite what Secretary Geithner says, there are some Members of this body who are very clear about what they think about that. And as this ABC News, off their Web site, dated May 13 article said, Despite the warm welcome Geithner's announcement received from the assembled bankers, some Capitol Hill lawmakers are none too happy with the plan to repay taxpayer money back out to smaller banks.

And it talks about Representative BRAD SHERMAN, who is a Member of this body and a Democrat from California, "blasted Geithner on the House floor today, citing part of the original TARP bill—Section 106D—that he said meant that these plans were 'illegal.'"

"It is being widely accepted in the press and on Wall Street and in Washington that whatever the Secretary gets back from the banks will instead be part of some revolving fund from which the Secretary of the Treasury may make additional bailouts in addition to the first \$700 billion of expenditures."

It says, "Sherman went on, 'Well, the statute is very clear to the contrary, whatever is returned to the Treasury,' it is returned to the Treasury. It goes into the general fund."

Mr. Speaker, what we're talking about is the Secretary of the Treasury has the authority and the responsibility to manage these funds. I do recognize that as these funds were given, there was a change of administration. I believe, and I think this Congress believes, that Secretary Geithner was a part of that transition. But now that the Secretary has been in office and he has assembled his team, it's time that the Secretary be very plain and write back at least those people who are writing letters, including the Republican leadership, asking what the plan is.

Seeing press releases as they come out one at a time as the Secretary chooses to do this is not a plan. We're after a thoughtful idea and process now that we've been through the stress test about how the American taxpayer can be paid back. And I think the \$700 billion plus interest is what needs to come back to the Treasury and go into the general fund.

Mr. Speaker, at this time I would like to yield 4 minutes to the gentleman from Roswell, Georgia, Dr. PRICE.

Mr. PRICE of Georgia. Mr. Speaker, I want to thank my good friend from Texas for his leadership on this and so many issues, and he talks about economic responsibility, which is what this is all about.

The context of this legislation that we're considering, the Credit Cardholders' Bill of Rights Act—and I'm oftentimes struck in Washington that the title of the bill doesn't bear any resemblance to what is in the substance of the bill, and this is again true with this "Bill of Rights Act."

But the context in which we're talking about this legislation is an economic backdrop that this country has never experienced before. I hear from constituents every single day from my district who are unable to get loans or new lines of credit. I hear from banks in my district who are suffering under mark-to-market accounting rules and getting mixed messages from the regulators and still wanting to lend.

□ 1100

In that light, this legislation is simply the wrong thing at the wrong time. This bill, this "credit cardholders' bill of rights act," will decrease the availability of credit and increase the cost of credit.

Consumers should receive key information about credit card products in a more concise and simple manner. Yes, we agree with that. Information will empower consumers to determine which credit card product is right for them. But this bill will decrease the availability of credit and increase its cost. It will impose significant restrictions and price controls on creditors, and individuals will have fewer options, not more, Mr. Speaker, fewer options from which to choose.

This bill will, by law, prevent issuers from being able to price for risk. That means they can't look at an individual's credit history to determine what price that issuance of credit will cost. It will dictate how they must treat the payment of multiple balances. It will implement price controls. We'll only see restricted access to credit for those with less than perfect credit histories and, again, increase the cost of credit for everyone.

So I ask my colleagues to join me in protecting the American consumer by voting against this rule and by voting

against this legislation. Let's foster competition in the marketplace by providing consumers with timely, clear, and conspicuous information about credit cards. Let's ensure that the key terms of a credit card account are disclosed on a clear and timely basis when shopping for credit and throughout the account relationship.

Let's preserve the ability of card issuers to provide the benefits and the flexibility cardholders have come to expect from their credit card accounts. A recognition that cardholders have different needs and preferences and, therefore, a one-size-fits-all approach to card practices is not the preference of the American people. This bill will increase the cost of credit and decrease its availability.

I urge my colleagues to vote "no" on the rule and "no" on the underlying legislation.

Mr. SESSIONS. I thank the gentleman for his thoughtful comments.

Mr. Speaker, at this time, I'd like to yield 4 minutes to the gentleman from Lubbock, Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Well, I thank the gentleman, and we are here today debating a very familiar issue in terms of credit cards, but this time things are a little bit different.

I do not strongly support the underlying provisions of H.R. 627, but I strongly support the Second Amendment protections offered by our colleague across the Capitol, Senator COBURN, and approved by the Senate. Anytime that Congress can back Americans' Second Amendment rights, we should certainly do so.

We've heard from our constituents and people across the country that they are upset about some of the credit card policies that are coming in place. Some people are seeing their interest rates increased, and some are seeing their credit lines reduced. I understand their concerns, particularly those who have been playing by the rules, using their credit cards responsibly. They feel like now they are being penalized for doing the right thing, and I don't disagree with them.

One of the things that people think is that somehow this credit card bill is going to help the people that have been doing and playing by the rules. In fact, this bill I believe hurts people that have been playing by the rules. Those who have been using their credit cards responsibly now can expect some extra fees and maybe now annual fees, where previously they were paying no annual fees.

We've talked a lot about what the Federal Reserve has been trying to do, and they have already issued new rules on credit card activities, and in fact, we've not even given the time for these new rules to be implemented, and we're going to bring legislation.

Now, the problem that I have with that is that anytime you put a new policy in place, sometimes there are unintended consequences. One of the things

about making this law, as opposed to letting the Federal Reserve make that rule, is if the Federal Reserve were to discover that in some cases, some of these credit card rules were in fact being punitive to credit card users, they would have the ability to amend their rules.

If we put this into law, the problem is that if we find out there's some unintended consequences, then we have got to come back and go through a legislative process to undo that. Now, how many people believe that Congress has a history of undoing legislation that is found to be onerous? The record is not very good, and that's the reason many of us believe that we need to let these new Federal Reserve rules go into place, let the marketplace determine what are the best policies, and the best way to adjust to this.

If you look at the history of credit cards, what you learn is that many years ago credit cards were only available to the very best customers in the bank. Many people were not able to get credit cards. But as States changed their usury laws and more flexibility was given to these credit card companies on pricing of credit cards, they became available to many more Americans, and now almost every American probably has some form of credit card or the other.

What is going to happen now is that what these banks did, they were able to, if you were a little bit riskier customer, you paid a little bit higher rate. If you were a little less risky customer, you paid a lower rate. If you were paying your balances on time, you were being rewarded for that. If you were being late, you were being penalized for that. That makes sense. You know, good behavior, reward good behavior; bad behavior, punish bad behavior.

But what this bill wants to do is say, you know what, we're going to wrap everybody up into one little package and say everybody is the same. It doesn't matter whether you're chronically late on your credit card or if you're paying out the balance in full each month, we are going to restrict the ability to—

The SPEAKER pro tempore (Mr. SALAZAR). The time of the gentleman has expired.

Mr. SESSIONS. I yield the gentleman 2 additional minutes.

Mr. NEUGEBAUER. So why would Congress do that to credit cardholders that are actually being responsible about that. Well, they shouldn't do that, and that's the reason we should defeat this rule and defeat the underlying bill.

Now, interestingly enough, there was a New York Times article I believe yesterday—and not always do I agree with some of the things that are in the New York Times—but I thought it was interesting that this particular article basically said that same thing, that we're going to just allow banks to be

able to do risk-based pricing and, to quote, "Banks used to give credit cards only to the best consumers and charge them a flat interest rate of about 20 percent and an annual fee. But with the relaxing of usury laws," as I told you earlier, they are able to do risk-based pricing.

It goes on to say that there will be one-size-fits-all pricing. What does that mean for those of us that maybe haven't been paying an annual fee on our credit card? We're going to be paying an annual fee. Those of us that have been enjoying a grace period, that grace period probably is going to get shorter. Those of us that maybe have reward credit cards where we're getting airline miles and something like that, what does that mean? Those probably are going to be restricted or could go away.

That's what happens when we get the Federal Government trying to tell Americans what kind of credit card they ought to have, what kind of mortgage they ought to have, what kind of car they ought to drive, what products their banks should be able to provide for them. What made this country great is innovation, and when the Federal Government starts getting involved in these businesses we destroy innovation, we destroy American people's choices, and that's not what the American people I believe sent Members of Congress here to do, to take away their choices. I believe they sent Members of Congress here to enhance their choices and enhance their opportunities.

And so with that, Mr. Speaker, I encourage Members to vote against the rule and vote against the underlying legislation, and I appreciate the gentleman for yielding.

Mr. SESSIONS. I thank the gentleman for not only coming to the floor but for his thoughtful ideas.

Mr. Speaker, in closing, I'd like to stress that while my friends on the other side of the aisle claim to be protecting consumers with this legislation, in reality, they're going to limit credit, reduce benefits, and raise interest rates for every single consumer, whether they were a good consumer or a risky consumer.

I think the American taxpayer, really, the American public, including small businessmen and -women, really deserve the same accountability and transparency with their dollars to be used in a way that they see fit.

Mr. Speaker, we as a Nation have a real problem, and we need real solutions, and passing this legislation today when we already have a statute that will take place is simply a waste of time.

We need to protect jobs. We need to provide more jobs. We need to encourage economic growth. And we need to restore the American public's faith in their Members of Congress.

And I believe today you have heard very succinctly the Republican Party come down and talk about how this bill is a big overreach that will impact and cause problems to a system rather than making it better.

With that, I encourage a "no" vote on this closed rule.

I yield back the balance of my time.

Ms. PINGREE of Maine. Mr. Speaker, in spite of all the debate this morning on the TARP, on Secretary Geithner, on guns in the national parks, I just want to remind my colleagues that we're here today to talk about the rule on H.R. 627, the Credit Cardholders' Bill of Rights.

Mr. Speaker, this is an opportunity for us to prove to nearly 175 million Americans with credit cards that we understand their frustration and we recognize that they are the target of unfair, unreasonable, and deceptive practices. Late fees, over-the-limit fees, arbitrary increases in interest rates, the credit card companies have gotten away with far too much for far too long. It's time we level the playing field now for small businesses, for families and for individuals across this country.

I urge a "yes" vote on the previous question and on the rule.

Mr. VAN HOLLEN. Mr. Speaker, I rise in these unpredictable economic times, as American families struggle to pay their bills, the last thing they need is to find an unwelcome surprise on their monthly credit card statement. Since the start of the financial crisis, my office has been inundated with complaints about unexpected interest hikes, mysteriously shifting due dates and indecipherable new charges on their credit card bills. These tricks and traps are unfair and can lead to devastating financial consequences for families already teetering on the edge.

The Credit Card Holders Bill of Rights protects consumers from these abuses with strong, forward looking protections. The bill ends unfair, retroactive interest rate increases; prohibits excessive "over-the-limit" fees; protects cardholders who pay on time; forbids a card company from unfairly allocating consumer payments or using due date gimmicks; enhances restrictions on card issuance to young consumers; and prevents deceptive marketing practices.

Similar protections have been finalized in the rule making of the Federal Reserve and other agencies. But they do not take effect until July of 2010. By codifying many of those proposals into law now, the Credit Card Holders Bill of Rights helps to protect consumers more quickly and when they need it most.

President Obama asked Congress to deliver for his signature, in time for the Memorial Day Recess, a strong bill that protects consumers from abusive practices. This is that bill. I encourage my colleagues to join me in supporting it.

Mr. BLUMENAUER. Mr. Speaker, I strongly support the passage of the Credit Cardholders' Bill of Rights Act. This legislation will help to create a fairer consumer credit market by curbing some of the most egregious and

arbitrary credit card lending practices. Current industry practice can trap consumers in a vicious cycle of debt—this legislation will assist in breaking that cycle.

Americans now carry roughly \$850 billion in credit card debt, roughly \$17,000 for each household that does not pay their balance in full each month. A recent Sallie Mae survey indicated that 84% of undergraduates had at least one credit card and that, on average, students have 4.6 credit cards.

The legislation bars the practice of “universal default.” Credit card issuers will not be able to increase a cardholder’s interest rate on existing balances based on adverse information unrelated to card behavior.

The legislation also bars so-called “double-cycle billing” and similar practices, where credit card companies bill consumers for balances already paid by the borrower.

The legislation requires that consumer payments be directed at the highest interest portions of a credit card balance, allowing consumers to more quickly pay down their balances.

The legislation also requires that fees be reasonable and proportional to the consumer’s late or over-limit violation. Penalty clauses are generally unenforceable in the realm of contracts. Why should consumers be unfairly burdened? Congress should ensure that consumers will not be terrorized into performance.

Oregon students and families, like students and families across the country, are heavily burdened by credit card debt. I support this bill because it requires fair terms for this burden and it levels the playing field for consumers by increasing consumer protections.

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong opposition to the Coburn Amendment to the Credit Cardholders’ Bill of Rights that will allow for loaded, concealed weapons to be carried in National Parks, ending a long-standing prohibition against the practice. This amendment is not germane to the underlying bill, makes our parks and historic sites less safe, and increases the opportunity for illegal poaching of protected wildlife.

Last year, the Bush Administration tried to push through similar regulations as contained in this amendment, undoing Reagan-era restrictions on the possession of loaded, concealed weapons in National Parks. During the public comment period 140,000 people voiced their opinion, 73 percent of which opposed the new regulations. Despite this public rejection, the Bush administration finalized the regulations. Earlier this year, a U.S. District Court ruled against the implementation of the regulations because the process was “astoundingly flawed” and because officials ignored substantial evidence regarding the impact the new regulations would have on the environment.

Today, Congress is trying to surreptitiously enact ill-conceived and dangerous policy as an attachment to an entirely separate piece of legislation. Allowing loaded, concealed weapons in National Parks will endanger National Park Service employees, National Park visitors, and wildlife. While the NRA may support this wrong-headed policy change, the amendment is opposed by the Association of National Park Rangers, the U.S. Park Rangers Lodge—Fraternal Order of Police, the National Parks Conservation Association, and the Coa-

lition of Park Service Retirees. Quite simply, those who would be directly impacted by this action believe it is unwise and will endanger the lives of both humans and wildlife.

The need for this change, according to proponents, is to allow National Park visitors the ability to protect themselves from potential violence. But National Parks are exceedingly safe places, experiencing much lower rates of crime than in the general public. In fact, National Parks experience 1.6 violent crimes per 100,000 visitors, much lower than the over 170 violent crimes per 100,000 individuals recorded among the general public. The more likely result of this provision is an increase in gun accidents and poaching activity. This amendment will make National Park visitors less safe, not more.

Proponents also insist this amendment is about restoring Second Amendment rights to citizens. Yet, even in the Supreme Court’s *Heller v. D.C.* ruling, the Court was clear that the Second Amendment is not absolute and that certain restrictions could be established to protect public safety. I believe prohibiting concealed weapons in National Parks is one such allowable restriction.

National Parks are natural cathedrals. They are places where Americans can go to escape their everyday lives and experience the beauty of the natural world. Current regulations requiring weapons to be unloaded or disassembled, regulations first imposed by the Reagan Administration, have served the public interest for the past 25 years. The Coburn amendment is unnecessary, non-germane, and dangerous. I strongly urge my colleagues to vote against it.

Mr. DINGELL. Mr. Speaker, I rise today in strong support of H.R. 627, the “Credit Cardholders’ Bill of Rights Act of 2009,” a bill of which I am a proud co-sponsor. My friend and colleague, Representative CAROLYN MALONEY, who is the bill’s author, has been a tireless advocate for protecting consumers from the abuses of the credit card industry. This legislation will mandate meaningful reform for an industry that has been permitted to run wild for far too long.

We hear daily of countless Americans, who are struggling to pay their bills. My home state of Michigan has an unemployment rate of around 13 percent, the highest in the nation. Compounding this lamentable state of affairs is the fact that workers in this country have suffered a decline in real wages over the past decade. As a result of being stretched to their financial breaking point, many families have had to resort to using credit cards to pay for unforeseen costs, such as car repairs or emergency room bills. Far too often, these families are subjected to arbitrary interest rate increases and also forced to pay iniquitous late fees.

The Credit Cardholders’ Bill of Rights will help put an end to these shameful practices and require credit card companies to treat consumers fairly. Importantly, this legislation will restrict the practice known as “universal default,” whereby a credit card company uses information about a cardholder’s financial status, such a change in his or her credit rating, to raise the cardholder’s interest rate, even if the cardholder has not defaulted on payments or made them late. Moreover, H.R. 627 will

also ban what is known as “double cycle billing,” which is the collection of interest on amounts already paid by consumers to credit card companies.

In this time of severe recession, I feel it imperative that consumers be afforded fair protection from unfair credit card industry practices. I urge my colleagues to vote in favor of this common-sense legislation, which will help stem the tide of unscrupulous and predatory lending, interest rate increases, and other deceitful practices that have brought our nation to an economic precipice of gargantuan proportions.

Mr. HOYER. Mr. Speaker, first, I want to thank Representative MALONEY, who sponsored the House companion of this bill, and who has a tireless advocate of credit card reform.

If this recession has brought home to us one important truth, it is the danger of debt. Americans from homeowners to bankers took on risks and debts they could not afford, and the result was a crisis that touched every one of us. I don’t think the lesson is one we will soon forget. But nearly as harmful are those who take advantage of our debt—and in that category, unfortunately, go many of America’s credit card companies. No one doubts that credit cards have become an essential part of our consumer economy; no one doubts that millions of Americans use their credit cards responsibly every day, and pay their bills every month. But even for those responsible cardholders, credit card policies have often been incomprehensible and exploitative.

The Credit Card Accountability, Responsibility, and Disclosure Act takes important steps to bring those harmful policies under control, ensuring that responsible cardholders are treated fairly. Among its provisions, this bill prevents arbitrary and unfair rate increases, which, under current policies, can kick in even for cardholders who pay their balances in full. It bans exorbitant and unnecessary fees, including fees charged just for paying your bill. It prohibits card companies from charging interest on debt that is paid on time, a practice known as double-cycle billing. And it insists that card companies disclose their policies clearly and openly to cardholders, and notify them when those policies have changed.

This bill goes a long way toward removing a persistent source of unfairness in the lives of many Americans. Debt is a part of any economy—but it must be treated responsibly, and it must be guarded from exploitation. That is what this bill accomplishes, and I urge my colleagues to support it.

Ms. PINGREE of Maine. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION  
OF H.R. 2352, JOB CREATION  
THROUGH ENTREPRENEURSHIP  
ACT OF 2009

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 457

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to my good friend, the gentlewoman from North Carolina, Dr. Foy. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 457.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 457 provides for consideration of H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009, under a structured rule. The rule provides 1 hour of general debate controlled by the Committee on Small Business.

The rule makes in order nine amendments which are listed in the Rules Committee report accompanying the resolution. Each amendment is debatable for 10 minutes, except the manager's amendment which is debatable for 20 minutes.

The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, I rise in support of House Resolution 457 and the underlying bill, the Job Creation Through Entrepreneurship Act of 2009. I'd like to thank Chairwoman VELÁZQUEZ, as well as my friend from North Carolina (Mr. SHULER) and my colleagues on the Small Business Committee for their strong leadership in bringing this legislation to the floor.

Mr. Speaker, this bill represents a giant step forward in ensuring a bright future for all Americans who are struggling to establish or grow their own businesses. It will bring hope to our veterans as they return home and encouragement to billions of Americans who haven't always had equal access to the necessary tools to start a business.

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Fittingly, this legislation is on the floor of the House of Representatives during National Small Business Week. It capitalizes on untapped resources in the business community by expanding access to business counseling, training and networking to small business owners everywhere, including underserved populations such as women, veterans and Native Americans to help ensure all of our prosperity.

This legislation will help women gain access to jobs by requiring the women's business centers to describe their job placement strategies for the area in their annual plans. Too often women are denied access to jobs in high-paying, high-growth sectors. Promoting gender equity is critical for ensuring that all workers benefit from the job creation that our economic recovery plan spurs, as well as our other policies.

This bipartisan bill, which was voice voted out of the Small Business Committee, represents what we can accom-

plish when Republicans and Democrats work together. While there are many ideological and political differences on how to address the economic crisis, this bill is a product of consensus.

There's nothing more American than small business. This bill is a combination of seven bills approved in subcommittee, five of which were authored by my colleagues on the other side of the aisle, and I'm especially pleased to report that my friends on both sides of the aisle support this important effort.

According to the Small Business Administration, small firms represent 99.7 percent of all employer firms, employing half of all private sector employees. As the unemployment rate climbs, these small businesses have managed to create 60 to 80 percent of the new jobs that were created annually over the last decade. It's our responsibility to create an environment where small business can thrive and continue to produce half of our non-farm GDP.

This bill will spur job creation and economic growth by expanding resources and providing technical assistance to small businesses. Small business is the engine that drives our economy, especially during tough economic times.

Unemployment continues to rise, currently at 8.6 percent nationally and 7.9 percent in my home State of Colorado. People often turn to starting their own small businesses when they become unemployed. These businesses are frequently the sole source of income for many American families. This legislation will help these entrepreneurs gain the skill required to sustain and grow their businesses and succeed.

A recent report released by the Small Business Administration reveals that the economic recession continued to deepen in the first quarter of 2009. Real GDP fell by 6.1 percent. Small business owners, consumers and the public at large remain pessimistic. Poor sales and access to credit have crippled many American businesses. With this legislation we can help reverse this negative trend and give entrepreneurs the tools they need to succeed and embrace growth opportunity for all Americans in the future.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I thank my colleague for yielding time, and I will yield myself such time as I may consume.

Mr. Speaker, I have read this bill very, very carefully. It's a bipartisan bill supported by some of my colleagues on this side. I think that the intent of the bill is very positive. I know the folks who are interested in this bill and know that they have the best intentions.

But I want to say that I think that, as a former small business person, and someone who has administered programs such as these through my work

as a former community college president, a university administrator, and having been on a school board and dealt with agencies that operate these kinds of programs, I want to say that I have some concerns about this bill and about the rule.

I am concerned that because this was a bipartisan bill, that we have a closed rule on this. I think that it would have been a great opportunity for the majority to have given an opportunity for us to offer a lot of amendments to the bill, have a great deal of discussion on it. And I'm very concerned about the process, again, because we haven't gone through a process that I think would have been fair to our side of the aisle.

However, I also want to say that I think that, while this bill has a great title, and the intent is a good intent, that what small businesses, the engine of our economy, need are things that are different from this bill.

We're going to have many different programs in here. As I said, I went through the bill very, very carefully. I looked for ways that it's really going to create jobs, and I can't see the kind of accountability that I was hoping to see in the bill and as we talked about yesterday in the Rules Committee.

We're going to be creating, I think, a lot of jobs for bureaucrats; but it's very difficult, again, to see how we're going to create jobs in the small business arena. And I think that we come from two different world views in terms of how we approach this kind of an issue.

We know that people are hurting in this country. We know that many jobs have been lost, and we'd like to see those jobs recovered. And we know that at least half of the jobs in this country are in small businesses. And I talk to those people every day, and they tell me they're struggling, they're spending down their savings, the individuals are spending down their savings. They're doing everything they can to stay in business.

I talked to a gentleman this morning who had geared up in anticipation of receiving stimulus money to repair roads and bridges in North Carolina, and he doesn't understand why none of that money is coming down the pike.

So, again, people in small business are struggling, and they want to do something to keep their people employed. I just don't believe that this bill is going to do it.

I also don't understand, again, why this bill has been scheduled in a get-away week, when, again, with a process that is not as open as it could have been, in a noncontroversial bill, where we could have discussed it and perhaps amended it and come up with a way to really help small businesses.

So, Mr. Speaker, I'm going to urge my side of the aisle to vote "no" on the rule, and we'll discuss more reasons why as we go along during this debate.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I believe my good friend on the other side of the aisle said that this was a closed rule. This is actually a structured rule that allows for nine amendments that have been made in order. A number of others have been withdrawn and incorporated into the manager's amendment.

She also mentioned that she wished that there was more opportunity to amend this bill. I would just remind my colleagues that there were only three amendments that were offered from the other side of the aisle. Certainly, we would have encouraged and liked more. Of those three, two were nongermane and one, according to the Parliamentarian, of those was a violation of PAYGO. The other will, in fact, be ruled in order.

Certainly, we always appreciate suggestions from all perspectives about how to improve these bills, and hopefully we will have many more ideas that are offered on legislation going forward.

This bill expands support for veterans who are working to establish their own businesses, particularly at this time of war for our country and as we phase out of our involvement in Iraq and many men and women return home to an economy that is difficult to find a job in.

Our men and women in uniform who have made immeasurable sacrifices should have the opportunity and assistance they need to start a business. Our troops need to know that when they return from harm's way, there is a network of job support and business resources waiting for them when they come home.

By directing the administrator of the Small Business Administration to establish a Veterans Business Centers program, this bill will provide entrepreneurial training and counseling to veterans. This training will empower veterans who participate in the program to achieve access to capital and start their own businesses, helping to rebuild our economy.

The SBA will provide small business grants through these Veterans Business Centers which alleviates a major hurdle to many new businesses, access to capital. This bill puts specific emphasis on service-disabled veteran-owned small businesses. We owe a special duty to our wounded warriors, especially those whose reentry into the work force could otherwise be difficult.

This legislation presents an opportunity to fund efficient growth in a sector that reaches everyday Americans. Every dollar invested in these incentives and initiatives returns \$2.87 to the economy, and in 2008 alone, the SBA's entrepreneurial development program helped generate 73,000 new jobs and infused \$7.2 billion into the economy. Let me repeat that: 73,000 new jobs at a time when we're hemorrhaging 32,000 jobs a month and we

all dread the release of the next unemployment report.

Job creation is vital to our economic recovery. It's during these tough economic times that more and more Americans are starting small businesses. In fact, the majority of Americans' first job is at a small business. As our economy bounces back, Americans returning to work will find that it is a small business community in which they will find their next opportunities.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I thank my colleague for correcting my misstatement about the rule. And I'm curious about the number of new jobs that the Small Business Administration is said to have created in the past. I'm very curious to know how much each of those 73,000 new jobs cost us, because we know that in much of the legislation that has been passed this year, there has been a great cost to the jobs. And, yesterday, in the debate in the Rules Committee, everybody agreed that there has been very little accountability and evaluation on the part of the Small Business Administration in terms of the effect of the Small Business Administration in terms of pinning down numbers.

We know, by the Small Business Administration, that small businesses employ about half of U.S. workers. Of 116.3 million nonfarm private sectors in 2005, small firms with fewer than 500 workers employed 58.6 million, and large firms employed 57.7 million. Firms with fewer than 20 employees employed 21.3 million. And what we know, from talking to these people, is that what concerns them is not so much that we have the government out there saying, we're from Washington and we're here to help you, but there are very specific things that small businesses tell us that they would like.

Let me talk a minute about the death tax, for example. We all know that the voice of small business on Capitol Hill is NFIB, and NFIB has been talking for a long time about the permanent death tax repeal. They did a member ballot recently, and 89 percent of small business owners said they want full repeal of the death tax.

Opponents of permanently repealing the death tax claim eliminating this tax will do nothing to stimulate economic growth. But we know that the studies that have been done tell a very, very different story.

Yet, our colleagues across the aisle are adamantly opposed to eliminating the death tax. Yesterday, in the Rules Committee, my colleague, Mr. SESSIONS, talked about this, and he was corrected by our colleagues on the other side of the aisle, saying, no, this is not an important issue to small businesses; that it's not one of their top issues. But we know that it is. And there's a lot of research to show that.

I will talk some more again about the facts that we have about what

small businesses would like to see us do.

Before I do that, I'd like to yield as much time as he may consume to my distinguished colleague from Illinois, Mr. ROSKAM.

□ 1130

Mr. ROSKAM. Thank you. I thank the gentlewoman for yielding.

You know, I offered an amendment to the Job Creation Through Entrepreneurship Act, H.R. 2352, and it's one of those bill titles that is sort of inarguable. Who can simply be against job creation through entrepreneurship? Nobody. So I put forth an amendment to bring some predictability to this entire debate that we're having or, frankly, that we're not having about the death tax, because the death tax, as you know, is a crushing tax. It's a tax that is imposed on success that has been created many times through generations who have worked, who, ironically, have paid taxes on their businesses and who are looking for some sense of predictability into the future.

What is happening, coming from this Congress, is sort of an orthodoxy that has developed that says we're going to sort of make it up as we go along. Here we have the Energy and Commerce Committee that has been dealing with foisting another tax burden. The chairman of the Ways and Means Committee characterized this—and I'm paraphrasing—as a tax that is the cap-and-tax initiative. There is no other way to describe it. Yet here was this simple amendment that would have repealed the death tax and that would have brought some predictability into it. Just on a party vote, it was sort of swatted aside. I'm told by listening this morning that it was characterized as unimportant. Well, I'll tell you what. For companies in my district, for small businesses in the suburbs of Chicago, the death tax is not an unimportant issue. Let me just highlight a couple of the entities that are in favor of the death tax repeal:

The U.S. Chamber of Commerce; the National Federation of Independent Business, which the gentlelady referenced a minute ago; the National Association of Manufacturers; the National Small Business Association; the National Association of Realtors; the S Corporation Association of America; the Association of Equipment Manufacturers. We know dozens and dozens, if not hundreds and if not thousands, of small companies, entrepreneurs, and self-employed folks who understand fundamentally how important this issue is.

So it shouldn't be characterized in sort of the inner sanctum of the Rules Committee as unimportant when all of these entities have stepped forward and have said, No, no, no. This is vital. This is not unimportant. This is vital, and it ought not be swatted away. It

ought just not be said that we're not going to allow a roll call vote on this and that the only way you're going to be able to raise this issue is to sort of scrap along and bring it up in a rules debate. The House is going to be completely silent? Think about the signal that that sends to the small business person. Think about the signal that that sends to the entrepreneur. Think about the signal that this Congress is sending to the self-employed. It is sending a signal that says there is no predictability into the future based on what this Congress is going to do.

I would suggest that we are in an economic situation the likes of which none of us have ever seen before. We're in an economic situation the likes of which no generation has really ever seen before, and the pace of change is moving so quickly that it's very difficult for folks to get their arms and their heads around it. The Rules Committee had an opportunity to say, Look, once and for all, let's get this done. Once and for all, let's get this death tax repealed off the books. Take away the ambiguity so that people know what they're doing in the future.

It is said that up to \$25,000 a year is spent by small businesses, on average, just for attorneys and for consultant fees in order to figure out how it is that they need to arrange assets, to put it in different places and to title it in certain ways so that they can best get the advantage for their families. For a Congress that has come along and has sort of given lip service to small business and has given lip service to entrepreneurship—I mean think about it. This is the bill title that we're talking about right now: Job Creation Through Entrepreneurship Act. I mean, hey, fabulous little language, but you know what? If you want to create jobs, if you want to create opportunity, if you want to help entrepreneurs, the way to do that, in part, is to repeal the death tax.

So I am really disappointed that the majority on the Rules Committee was just entirely dismissive of it, was sort of plugging their procedural ears, and was unwilling to offer the opportunity to simply have a debate in the people's House about the death tax.

What is it that is so unpleasant. What is it that is so difficult? What is it politically that folks are gun shy to take this issue up? Do you know what it is? It is the clarity with which this issue speaks throughout the entire country, and I think that this Congress has missed a golden opportunity. It is with deep regret that I stand in opposition to this rule.

Mr. POLIS. You know, I feel that the five members from the other side of the aisle and the two from our side of the aisle whose bills went into the bill would not like their efforts characterized as merely "lip service to small business." This bill provides tangible

tools to the Small Business Administration in helping entrepreneurs start small businesses.

With regard to taxation issues, we have a Ways and Means Committee. We have a process for discussing those bills. It was the ruling of the Parliamentarian that it was not germane to this bill, in fact, quite to the contrary of what my friends on the other side of the aisle said. I recall a comment from a member on the Rules Committee that this was an important issue, one that was worthy of discussion, but of course, again, it was not germane to this particular bill that's before us today. I'm confident that this is a discussion we'll continue to have with regard to the inheritance tax and with taxation in general, but this is simply not germane to the matter of this bill.

Let me put a human face on what the Small Business Administration does and how they help people. I had the opportunity to speak yesterday to the head of the Boulder Small Business Development Center in my district of Colorado. She told me this story of a young woman who had just graduated from college. She had broken her arm, and she had a cast for her arm. She decorated her cast with cast tattoos, and her friends all commented, I want some of those. Those look terrific. The word spread about these cast tattoos.

This young woman approached the SBA and was given the know-how she needed to be able to start a business based on those cast tattoos. Well, she has created two jobs today directly, not to mention the indirect jobs she has created through the manufacturing process. She now sells those cast tattoos in several States and continues to grow her business amidst this time of general economic uncertainty.

H.R. 2352 is the opportunity to fund efficient growth in a sector that reaches every American on Main Street. It helps us reach entrepreneurs who previously didn't have access to capital, access to information, and it provides new multilingual, online distance training and access to specialists who can help with financial literacy. By combining some of the best ideas from both sides of the aisle, in a bipartisan way, we can help move American small business forward, which will help this country recover from the recession that we're in.

I reserve the balance of my time.

Ms. FOXX. Thank you, Mr. Speaker.

I appreciate very much the comments by my colleague, but I want to say again, going back to my comments that my colleague from Illinois made about the title of this bill, Job Creation Through Entrepreneurship Act, if what we really are about here is job creation, then we would be embracing Mr. ROSKAM's amendment because we know, from a study done by Dr. Douglas Holtz-Eakin and Cameron Smith, these numbers: Repealing the Federal



estate tax would increase small business capital by over \$1.6 trillion. We would increase the probability of hiring by 8.6 percent. We would increase payrolls by 2.6 percent. We would expand investments by 3 percent. We would create 1.5 million additional small business jobs. We would slash the current jobless rate by almost 1 percent—0.9 percent.

So, again, there is a different world view here. The world view of the majority is the government is going to do this. The world view of our side is allow the people to keep more of their money. They will create the jobs. It will be a minuscule number of people who would ever use the resources that are going to be created with this bill.

Again, the intent is good. Nobody is discounting the good intentions of the authors of this bill. However, we could do a lot more by not creating more bureaucracy, by not taking more money from the people of this country and then having the government deciding how to spend it.

With that, Mr. Speaker, I would like to yield such time as he may consume, again, to my colleague from Illinois, Mr. ROSKAM.

Mr. ROSKAM. Thank you. I thank the gentlewoman for yielding.

Briefly, in response to the gentleman from Colorado, he raised two interesting points. They were procedural points largely, and I would just like to speak to them. As I recall, one was germaneness and the other one was PAYGO.

I think it's disappointing that the Rules Committee majority decides to impose these standards on certain bills and then decides to ignore these standards on certain bills. To act as if the majority is as pure as the wind-driven snow on PAYGO is a mischaracterization of past conduct. This is a majority that has run roughshod over its own rules in the past. So, on the PAYGO side, people in my district would characterize that as "spare me."

Now, on the germaneness, here we look at the rule, and the rule in paragraph 5 waives all points of order against the amendment in the nature of a substitute, et cetera, et cetera, et cetera. In other words, the rule, by declaration, can take care of the germaneness issue. So let's not hide behind procedure here. Let's not hide behind a rule book that the majority has been very, very willing to cast aside in the past to advance its own agenda.

Instead, why don't we come together. Why don't we come together and say, You know what? Let's do something that we absolutely know is going to help small businesses. Let's do something that we absolutely know is going to help the self-employed, that we absolutely know is going to help the entrepreneur, because if you're interacting with those folks across the country who are really the ones who we

all give lip service to, who are really the ones to whom we all say, Well, this is the group that creates jobs, then why in the world are we putting this albatross around their necks? Why in the world are we allowing this ambiguity? They don't know if they're afoot or on horseback on this thing, and it's not fair.

You know what? This Congress can do something about it. This Congress can create predictability. If it chooses to, this Congress can say to that small business owner and to that family who has created through work and risk and toil, Look, we're not going to come through here with a confiscatory tax that takes from one generation to another. You know, we've seen enough generational theft, frankly, that has come through this Congress, where one generation has piled on debt, upon debt, upon debt, upon debt on our children. It is, frankly, irresponsible.

From George Washington to George W. Bush, we've seen how it took 43 American Presidents, Mr. Speaker, to create \$5.1 trillion in debt. Yet, with this majority and with this administration, doubling that amount in 5 years and tripling that amount of money in 10 years is simply staggering.

Here we have a simple amendment that the Rules Committee sort of looks at and says, Oh, no, no, no, no, no. We're not interested. It's not important.

Not important? Not important to the folks in my district? Not important to the businesses and to the entrepreneurs in suburban Chicago? Not important? It's vitally important. This Rules Committee needs to do better. This Rules Committee needs to be bringing things to the floor that create prosperity and that create opportunity.

With all due respect to this bill—and I'm sure it's a fine bill—you know what? It falls short of what the possibilities are, because when something is so important as the predictability of the repeal of the death tax and it is simply swatted away—just sort of all the Democrats "yes" or all the Democrats "no" and all the Republicans "yes" and that's the amount of discussion it gets—then, frankly, it's not good enough. It's not good enough for the constituents whom I represent, who are deeply disappointed by the way in which this rule has come about. The underlying bill could be fabulous, but you know what? This rule is deeply disappointing, and I urge opposition to it.

Mr. POLIS. Thank you, Mr. Speaker.

There are many things that this bill is not, and I fail to find those solid grounds for opposition. This bill is not a cure for cancer. This bill is not a cut in capital gains. This bill is not about abolishing the inheritance tax. There are many things that many of us would like to do that are not in this particular bill. Rather, let us discuss the

merits of this bill in helping our veterans, in helping the handicapped, and in helping the unemployed to create small businesses, to create value, and to create jobs in the economy.

I would like to yield such time as she may consume to the gentlewoman from Arizona (Ms. GIFFORDS).

Ms. GIFFORDS. Thank you, Mr. Speaker.

I'm glad that during this period of economic downturn we are ensuring that we are doing everything we can to support our small businesses. We need to protect those taxpayers. We need to make sure that the backbone of the country stays intact.

□ 1145

I think it's also pertinent that this week we're recognizing National Small Business Week and celebrating the great efforts of American small businesses and everything that they're doing right now to survive this economic downturn.

For a second, I'd like to mention a small business in my district, AGM in Tucson, which last week was named by the U.S. Chamber of Commerce the Small Business of the Year for 2009. This is a Tucson-based manufacturer that is a leader in demonstrating intelligent business judgment and showing a true commitment to its employees and to its customers.

Arizona is a unique State. We have a lot of entrepreneurs, minority-owned businesses, and women-owned businesses. Altogether, there are about 100,000 small businesses that represent over 95 percent of the States' employers who, like AGM, are making vital contributions to our local economy.

Before I got involved with politics, I was the President and CEO of my family's small tire and automotive company. I know exactly how hard it is to compete in this day and age.

Small businesses are looking for the tools and resources that they need to operate and grow during this tough economic climate. That is why I'm supporting H.R. 2352, the Job Creation Through Entrepreneurship Act. This bill will reauthorize and modernize the SBA's entrepreneurial development programs. It's going to foster veterans' business opportunities and spur job creation and economic growth.

I urge my colleagues on both sides of the aisle to support this legislation and help foster American competitiveness.

Ms. FOXX. I yield myself such time as I may consume. Again, I want to say that I know that the motivation behind this bill is good, but we know not how many jobs are going to be created. We know not how many people are going to be assisted by this bill, because there is nothing in the bill that directs that. It's only after 8 years that there will be any accountability for the money being spent in this bill.

I was encouraged yesterday when my colleagues acknowledged the fact that

we've had no accountability by the Small Business Administration for how they spend the money. And I thought, Well, we're going to have some great accountability in this bill. But when I read the bill very carefully, I saw that it's only after 8 years that performance standards are going to be established for the projects to get this money.

We have no idea how much money is going to be spent in administration. We don't know how many people are actually going to be served. But, as my colleague from Illinois, Mr. ROSKAM, said, we know how much would be accomplished by eliminating the estate tax. And let me talk a little bit more about that.

We know that if the owner of a small business with assets of \$3 million passed away this year, the heirs of the estate would have to pay Federal estate taxes of about \$460,000. Why? They've have already paid taxes on that money twice—and they're going to be paying again. Why? Just because the Federal Government says so.

Now the May, 2006, Joint Economic Committee Study has told us that a primary reason why small businesses fail to survive beyond one generation is the estate tax. Close to two-thirds of respondents—64 percent—in one survey reported that the estate tax makes survival of the business more difficult.

Eighty-seven percent of black-owned firms and 93 percent of manufacturing firms responded that the estate tax was an impediment to survival.

A survey of family business owners by Prince and Associates found that 98 percent of heirs cited a need to raise funds to pay estate taxes, when asked why family businesses fail.

If only a small percentage of the 550,000 small businesses that fail annually are attributable to the estate taxes, the cumulative number affected over time could be substantial.

In the context of the survey and tax data described here, it's easy to see how the estate tax has contributed to the failure of thousands of small and family-run businesses.

A 2004 survey of Hispanic business owners by the Impacto Group, 66 percent of respondents said the estate tax affects their ability to meet company goals by distracting their attention and wasting resources. Half of all respondents in that survey report knowing of a Hispanic small business that has experienced hardship because of the estate tax liability, including selling off equipment or the business. One-quarter of respondents said they themselves would sell part of the business to pay the tax, and 10 percent would delay expansion of the business.

So we know, again, that by getting rid of the estate tax, we would be saving thousands of small businesses, creating millions of jobs. And it is germane to this bill.

Another issue that is of great concern to small businesses—and I talked

to a lady this week about it. She had read about the required paid sick leave bill that is before the Congress right now. And she said, I'm struggling. She said, I have been paying my salaries of my employees out of my savings. If this bill goes through, we will have to shut down because we can't afford this—we already give some sick leave. And we're certainly very good to our employees. They can use their vacation for sick leave. But if we're mandated to do 7 days of paid sick leave, and we know that, in many cases, people will simply take those days whether they're sick or not, then we will shut down our business.

So this Congress is acting over and over and over again to kill small businesses, and they offer us a very small bill here, as my colleague again said, that sounds wonderful. However, what it's going to do is be out there as an idea that will help small businesses, but they're going to ignore all of the things that prove they will help small businesses.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. I yield myself such time as I may consume. Again, there are many things that our country can do for small business. When we talk about taxes, of course predictability in the inheritance tax rate would be a good thing, and I hope we work towards that end.

We talk about the corporate income tax rate. There's evidence that we might be higher than many other countries in the world and, for that reason, many companies may be locating offshore. Maybe we need to reduce that.

These are all very, very important discussions. We need to look at the revenue impact, we need to look at the benefit, we need to look at how it affects American business. Business needs to be a part of that.

That's wonderful that my good friend on the other side of the aisle cited the interest in the inheritance tax issue for many affiliations and small businesses. That's a very important discussion to have. But none of that should stand in the way of the important work of the Small Business Administration in giving entrepreneurs the tools that they need to succeed. They're in these very difficult economic times.

Yesterday, I had the chance to talk to Sharon King at the Boulder Small Business Development Center in my district. They offer a number of programs that would benefit tremendously from this legislation. They feel that the ability of the SBA to help small businesses has atrophied considerably under the Bush administration.

This bill will help restore their ability to help give Americans the tools they need to start their businesses at a time when demand is higher than ever.

Not only do existing small businesses need help in accessing credit, which is

becoming ever more difficult, but more and more Americans are unemployed, which gives them the opportunity to maybe start their own business, to start their own ability to earn money because they lack another job.

I'd like to reserve the balance of my time.

Ms. FOXX. I yield myself such time as I may consume. I want to just mention one more issue that comes to me all the time, and I know it has to be coming to other Members of Congress as they talk to small business owners and even large business owners, and that has to do with the issue of regulations.

There's a study entitled: "Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State," which is issued by the Competitive Enterprise Institute. And just a few statistics about it because, again, we could be dealing with some issues that would reduce the role of regulations in the lives of small business owners.

I want to bring that up because this is a third point I think that hurts our small businesses tremendously. Given that in 2007 government spending stood at \$2.73 trillion, the hidden tax of regulation now approaches half the level of Federal spending itself. Regulatory costs rival estimated 2007 individual income taxes of \$1.17 trillion.

Of the 3,882 regulations now in the works, 757 affect small businesses. Regulatory costs of \$1.16 trillion absorb 8.5 percent of U.S. gross domestic product.

Regulations dwarf the \$150 billion economic stimulus package passed in 2008, and rolling back these would constitute a deregulatory stimulus.

So I would like to urge my colleagues on the other side to let us look at this issue of regulatory costs and look at ways that we can do this.

I've introduced a bill that would require more transparency in the cost of regulations, both to government and to the private sector. If we really want to help small businesses, then I think that that's something that we should be doing. It's H.R. 2255, Unfunded Mandates Information and Transparency Act. I'd like to work with my colleagues on this and other issues where we really could help small businesses.

Again, I know the intent of the underlying bill to this rule today is well-intentioned, but I believe that we have many other ways that don't cost any money to help small businesses.

I reserve the balance of my time.

Mr. POLIS. I yield myself such time as I may consume. If we're talking about things we can do to help small businesses that are not in this bill, let me add a number of others that we have already accomplished.

I'd like to remind my colleagues on the other side of the aisle every single Republican Member voted against the American Recovery and Reinvestment Act, which included \$15 billion of tax

cuts for American small businesses, including increasing section 179 expensing limits to let small business owners fully depreciate capital purchases for items like trucks, computers, and other equipment in the same year it was purchased.

We also extended the carryback period for net operating losses, helping many small businesses in America use their losses from years past, from 2 years to 5 years. We also delayed the 3 percent withholding tax on payments to government contractors.

We also provided relief for the alternative minimum tax, which hit tens of thousands of American small business owners. We also established tax credits for small businesses that hired recently discharged veterans and out-of-work youth.

In addition to those tax cuts, the American Recovery and Reinvestment Act also generated \$21 billion in new lending and investment for small businesses; provided direct interest-free loans of \$35,000; and makes loans less expensive for small business borrowers by eliminating fees that were normally built into SBA-backed loans.

In the American Recovery and Reinvestment Act, we increased to 90 percent the amount of an SBA-backed loan that the government guarantees, making it easier for small businesses to get loans from local banks. We also unclogged the market for SBA-backed loans to help gain access to credit, to our markets.

In every area of our country, small businesses continue to encounter the same difficulties. They're having difficulty borrowing money and face significant difficulty raising capital from equity and other sources. Until these problems are addressed, our economic recovery will be slowed.

Fortunately, with this bill and the American Recovery and Reinvestment Act, the Congress and the President can continue to make important strides to remove these barriers to small business growth and help small business succeed in leading this recovery.

I reserve the balance of my time.

Ms. FOXX. I yield myself such time as I may consume. I appreciate my colleague for pointing out some of the good things that the majority has tried to do. But I have to tell you that not one single person has come to me to tell me that he or she has benefited from any of these things that have passed. To the contrary. They come to me and tell me how they try and try to get assistance—and can't get assistance.

Of course, I think these small amounts of tax credits are being offset by the tremendous burden that we are putting on the people of this country by increased taxes, not the least of which is the cap-and-tax bill that is passing, which is going to put a min-

imum of \$3,000 a year increased tax burden on every family in this country, as well as several other things that are coming down the pike.

Mr. Speaker, I will be asking Members to defeat not only the rule but also the previous question so that I might amend the rule to make in order the amendment offered by Representative TERRY of Nebraska, which would amend the Small Business Act's loan program to allow qualified struggling car dealers to apply for Small Business Administration loans.

□ 1200

Many American car dealers are small businessmen and women who have been left literally holding the bag by the corporate carmakers. If this bill is truly meant to assist small business owners, this amendment would prove extraordinarily timely. This amendment is about small business. This amendment is about jobs. So I will ask people to defeat the previous question.

I also ask unanimous consent to have the text of the amendment and extraneous materials printed in the CONGRESSIONAL RECORD just prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. PASITOR of Arizona). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Ms. FOXX. Thank you, Mr. Speaker.

The main point of the amendment is to give SBA loans to the dealers to help them buy their own inventory since they're on the hook for the cost of their inventory since the manufacturers are going under. It is short and sweet. It's a take it or leave it or build on it. It would waive PAYGO. They waived PAYGO to bail out the manufacturers, but they don't want to waive PAYGO to help out the dealers when the manufacturing plan fails.

With that, I yield back the balance of my time.

Mr. POLIS. In talking to the Boulder Small Business Development Center yesterday in my district in Colorado, they told me about the seminars that they have in gaining access to contract decision-makers, consulting, the seminars they do to help train minority-owned businesses. Our local center also offers scaling up, which teaches entrepreneurs how to gain access to capital and grants. Finally, they're working on a turnaround program for downtown Boulder businesses, helping retailers and restaurants. Like many communities across our country, our vacancy rate has increased, and many retail businesses are having trouble in this recessionary environment. Without the resources that are made available by this bill, the Boulder Small Business Development Center, along with many other centers around the country, will be forced to cut programs and training. The 21st century will demand innova-

tive small businesses stay up to date on groundbreaking technologies.

H.R. 2352 includes a green entrepreneurial development program to provide education classes and instruction in starting a business in the fields of energy efficiency and green or clean tech. This, at its core, is a training program that's important for the future of America. With the right training and access to the right resources, the sky is the limit for America's entrepreneurs.

So much of our work so far in this Congress has moved us in the direction of creating more jobs, passing the budget, work on health care, clean energy, education, the Recovery Act, the green schools bills, the Water Quality Investment Act. This important bill for the Small Business Administration is another step on the road to recovery.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Ms. FOXX is as follows:

AMENDMENT TO H. RES. 457 OFFERED BY MS. FOXX OF NORTH CAROLINA

After "except those printed in the report of the Committee on Rules accompanying this resolution" insert "or contained in section 3 of this resolution".

After "shall not be subject to a demand for division of the question in the House or in the Committee of the Whole" insert "except as provided in section 2".

At the end of the resolution, insert the following new sections:

SEC. 2. The amendment printed in section 3, if offered by Mr. Terry of Nebraska or his designee, shall be debatable for 10 minutes equally divided and controlled by the proponent and opponent. All points of order against such amendment are waived.

SEC. 3. The text of the amendment is as follows:

Page 50, after line 16, add the following new title:

#### **TITLE VIII—ASSISTANCE TO MOTOR VEHICLE DEALERS**

##### **SEC. 801. ASSISTANCE TO MOTOR VEHICLE DEALERS.**

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by redesignating the second paragraph (32), as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110-186; 122 Stat. 631), as paragraph (33); and

(2) by adding at the end the following:

"(34) MOTOR VEHICLE DEALERS.—

"(A) In general.—The Administration may provide loans under this subsection to motor vehicle dealers for the purchase of motor vehicle inventory.

"(B) AMOUNT.—Notwithstanding any other limitation on the amount of a loan under this subsection, the maximum amount of a loan under this paragraph shall be \$20,000,000 and the Administration may participate in a loan not exceeding such amount in the manner described in paragraph (2).

"(C) MOTOR VEHICLE.—For purposes of this paragraph, the term 'motor vehicle' includes passenger automobiles, tractor-trailers, motor homes, motorcycles, motorized heavy equipment, and motorized agricultural implements."

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the *Floor Procedures Manual* published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from *Congressional Quarterly's* "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

[From the Wall Street Journal, Mar. 31, 2009]

NIGHT OF THE LIVING DEATH TAX

Lawrence Summers, President Obama's chief economic adviser, declared recently that "Let's be very clear: There are no, no tax increases this year. There are no, no tax increases next year." Oh yes, yes, there are. The President's budget calls for the largest increase in the death tax in U.S. history in 2010.

The announcement of this tax increase is buried in footnote 1 on page 127 of the President's budget. That note reads: "The estate tax is maintained at its 2009 parameters." This means the death tax won't fall to zero next year as scheduled under current law, but estates will be taxed instead at up to 45%, with an exemption level of \$3.5 million (or \$7 million for a couple). Better not plan on dying next year after all.

This controversy dates back to George W. Bush's first tax cut in 2001 that phased down the estate tax from 55% to 45% this year and then to zero next year. Although that 10-year tax law was to expire in 2011, meaning that the death tax rate would go all the way back to 55%, the political expectation was that once the estate tax was gone for even one year, it would never return.

And that is no doubt why the Obama Administration wants to make sure it never hits zero. It doesn't seem to matter that the vast majority of the money in an estate was already taxed when the money was earned. Liberals counter that the estate tax is "fair" because it is only paid by the richest 2% of American families. This ignores that much of the long-term saving and small business investment in America is motivated by the ability to pass on wealth to the next generation.

The importance of intergenerational wealth transfers was first measured in a National Bureau of Economic Research study in 1980. That study looked at wealth and savings over the first three-quarters of the 20th century and found that "intergenerational transfers account for the vast majority of aggregate U.S. capital formation." The co-author of that study was . . . Lawrence Summers.

Many economists had previously believed in "the life-cycle theory" of savings, which postulates that workers are motivated to save with a goal of spending it down to zero in retirement. Mr. Summers and coauthor Laurence Kotlikoff showed that patterns of savings don't validate that model; they found that between 41% and 66% of capital stock was transferred either by bequests at death or through trusts and lifetime gifts. A major motivation for saving and building businesses is to pass assets on so children and grandchildren have a better life.

What all this means is that the higher the estate tax, the lower the incentive to reinvest in family businesses. Former Congressional Budget Office director Douglas Holtz-Eakin recently used the Summers study as a springboard to compare the economic cost of a 45% estate tax versus a zero rate. He finds that the long-term impact of eliminating the death tax would be to increase small business capital investment by \$1.6 trillion. This additional investment would create 1.5 million new jobs.

In other words, by raising the estate tax in the name of fairness, Mr. Obama won't merely bring back from the dead one of the most despised of all federal taxes, and not merely splinter many family-owned enterprises. He will also forfeit half the jobs he hopes to gain from his \$787 billion stimulus bill. Maybe that's why the news of this unwise tax increase was hidden in a footnote.

Mr. POLIS. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. FOXX. Mr. Speaker, on that I demand the yeas and the nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: on adopting House Resolution 456, by the yeas and nays; on ordering the previous question on House Resolution 457, by the yeas and nays; on adopting House Resolution 457, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 627, CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on adoption of House Resolution 456, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 247, nays 180, not voting 6, as follows:

[Roll No. 273]

YEAS—247

Abercrombie	Brown, Corrine	Cummings
Ackerman	Butterfield	Dahlkemper
Adler (NJ)	Capps	Davis (AL)
Andrews	Capuano	Davis (CA)
Arcuri	Cardoza	Davis (IL)
Baca	Carnahan	Davis (TN)
Baird	Carney	DeFazio
Baldwin	Carson (IN)	DeGette
Barrow	Castor (FL)	DeLauro
Bean	Chandler	Delahunt
Becerra	Childers	Dicks
Berkley	Clarke	Dingell
Berman	Clay	Doggett
Berry	Cleaver	Donnelly (IN)
Bishop (GA)	Clyburn	Doyle
Bishop (NY)	Cohen	Driehaus
Blumenauer	Connolly (VA)	Edwards (MD)
Bocchieri	Conyers	Edwards (TX)
Boren	Cooper	Ellison
Boswell	Costa	Ellsworth
Boucher	Costello	Engel
Boyd	Courtney	Eshoo
Brady (PA)	Crowley	Etheridge
Bright	Cuellar	Farr

Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseeth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larsen (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack

## NAYS—180

Aderholt  
Akin  
Alexander  
Altmire  
Austria  
Bachus  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito

Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Goodlatte

Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Spratt  
Stupak  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth  
Young (FL)

Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCotter  
McHenry  
McHugh  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Bachmann  
Barrett (SC)  
Braley (IA)

Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Shock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)

## NOT VOTING—6

Sánchez, Linda  
T.  
Speier

□ 1230

Messrs. AUSTRIA and TURNER changed their votes from “yea” to “nay.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# PROVIDING FOR CONSIDERATION OF H.R. 2352, JOB CREATION THROUGH ENTREPRENEURSHIP ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 457, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 175, answered “present” 1, not voting 13, as follows:

[Roll No. 274]

## YEAS—244

Abercrombie  
Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bean  
Beckerra  
Berry  
Bishop (GA)  
Bishop (NY)  
Clarke  
Blumenauer  
Boccieri  
Boren  
Boswell  
Boucher

Boyd  
Brady (PA)  
Bright  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Clarke  
Clever  
Ciburn  
Cohen  
Connolly (VA)

Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dingell  
Doggett

Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseeth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Kosmas  
Kratovil  
Kucinich

## NAYS—175

Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte

Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Spratt  
Stupak  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

Linder	Olson	Sessions	Farr	Loebsack	Richardson	Mack	Petri	Shuster
LoBiondo	Paul	Shadegg	Fattah	Lofgren, Zoe	Rodriguez	Manzullo	Pitts	Simpson
Lucas	Paulsen	Shimkus	Filner	Lowe	Ross	Marchant	Platts	Smith (NE)
Luetkemeyer	Pence	Shuster	Foster	Lujan	Rothman (NJ)	McCarthy (CA)	Poe (TX)	Smith (NJ)
Lummis	Peters	Simpson	Frank (MA)	Lynch	Roybal-Allard	McCaul	Posey	Smith (TX)
Lungren, Daniel	Petri	Smith (NE)	Fudge	Maffei	Ruppersberger	McClintock	Price (GA)	Souder
E.	Pitts	Smith (NJ)	Giffords	Maloney	Rush	McCotter	Putnam	Stearns
Mack	Platts	Smith (TX)	Gonzalez	Markey (CO)	Ryan (OH)	McHenry	Rehberg	Sullivan
Manzullo	Poe (TX)	Souder	Gordon (TN)	Markey (MA)	Salazar	McHugh	Reichert	Terry
Marchant	Posey	Stearns	Grayson	Marshall	Sanchez, Loretta	McKeon	Roe (TN)	Thompson (PA)
McCarthy (CA)	Price (GA)	Sullivan	Green, Al	Massa	Sarbanes	McMorris	Rogers (AL)	Thornberry
McCaul	Putnam	Terry	Green, Gene	Matheson	Schakowsky	Rodgers	Rogers (KY)	Tiahrt
McClintock	Radanovich	Thompson (PA)	Griffith	Matsui	Schauer	Mica	Rogers (MI)	Tiberi
McCotter	Rehberg	Thornberry	Grijalva	McCarthy (NY)	Schiff	Miller (FL)	Rohrabacher	Turner
McHenry	Reichert	Tiahrt	Gutierrez	McCollum	Schrader	Miller (MI)	Rooney	Upton
McHugh	Roe (TN)	Tiberi	Hall (NY)	McDermott	Schwartz	Miller, Gary	Ros-Lehtinen	Walden
McKeon	Rogers (AL)	Turner	Halvorson	McGovern	Scott (GA)	Minnick	Roskam	Wamp
McMorris	Rogers (KY)	Upton	Hare	McIntyre	Scott (VA)	Moran (KS)	Royce	Westmoreland
Rodgers	Rogers (MI)	Walden	Harman	McMahon	Serrano	Murphy, Tim	Ryan (WI)	Whitfield
Mica	Rohrabacher	Wamp	Hastings (FL)	McNerney	Sestak	Myrick	Scalise	Whitfield
Miller (FL)	Rooney	Westmoreland	Heinrich	Meek (FL)	Shea-Porter	Neugebauer	Schmidt	Wilson (SC)
Miller (MI)	Ros-Lehtinen	Whitfield	Herseht Sandlin	Meeks (NY)	Sherman	Nunes	Schock	Wittman
Miller, Gary	Roskam	Wilson (SC)	Higgins	Melancon	Shuler	Olson	Sensenbrenner	Wolf
Minnick	Royce	Wittman	Himes	Michaud	Sires	Paul	Sessions	Young (AK)
Moran (KS)	Ryan (WI)	Wolf	Hinchev	Miller (NC)	Skelton	Paulsen	Shadegg	Young (FL)
Murphy, Tim	Scalise	Young (AK)	Hinojosa	Miller, George	Slaughter	Pence	Shimkus	
Myrick	Schmidt		Hirono	Mitchell	Smith (WA)			
Neugebauer	Schock		Hodes	Mollohan	Snyder			
Nunes	Sensenbrenner		Holden	Moore (KS)	Space			

## ANSWERED "PRESENT"—1

Buchanan

## NOT VOTING—13

Bachmann	Berman	Sánchez, Linda
Bachus	Bishop (UT)	T.
Barrett (SC)	Braley (IA)	Speier
Barton (TX)	Klein (FL)	Stark
Berkley		Van Hollen

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remaining.

□ 1239

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Ms. FOXX. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 175, not voting 11, as follows:

[Roll No. 275]

## AYES—247

Abercrombie	Bright	Cuellar
Ackerman	Brown, Corrine	Cummings
Adler (NJ)	Butterfield	Dahlkemper
Altmire	Capps	Davis (AL)
Andrews	Capuano	Davis (CA)
Arcuri	Cardoza	Davis (IL)
Baca	Carnahan	Davis (TN)
Baird	Carney	DeFazio
Baldwin	Carson (IN)	DeGette
Barrow	Castor (FL)	Delahunt
Bean	Chandler	DeLauro
Becerra	Childers	Dicks
Berkley	Clarke	Dingell
Berman	Clay	Doggett
Berry	Cleaver	Donnelly (IN)
Bishop (GA)	Clyburn	Doyle
Bishop (NY)	Cohen	Driehaus
Blumenauer	Connolly (VA)	Edwards (MD)
Boccieri	Conyers	Edwards (TX)
Boren	Cooper	Ellison
Boswell	Costa	Ellsworth
Boucher	Costello	Engel
Boyd	Courtney	Eshoo
Brady (PA)	Crowley	Etheridge

Aderholt	Chaffetz	Harper
Akin	Coble	Hastings (WA)
Alexander	Coffman (CO)	Heller
Austria	Cole	Hensarling
Bachus	Conaway	Herger
Bartlett	Crenshaw	Hill
Biggert	Culberson	Hoekstra
Bilbray	Davis (KY)	Hunter
Bilirakis	Deal (GA)	Inglis
Blackburn	Dent	Issa
Blunt	Diaz-Balart, L.	Jenkins
Boehner	Diaz-Balart, M.	Johnson (IL)
Bonner	Dreier	Johnson, Sam
Bono Mack	Duncan	Jones
Boozman	Ehlers	Jordan (OH)
Boustany	Emerson	King (IA)
Brady (TX)	Fallin	King (NY)
Broun (GA)	Flake	Kingston
Brown (SC)	Fleming	Kirk
Brown-Waite,	Forbes	Kline (MN)
Ginny	Fortenberry	Lamborn
Buchanan	Fox	Lance
Burgess	Franks (AZ)	Latham
Burton (IN)	Frelinghuysen	LaTourette
Buyer	Gallegly	Latta
Calvert	Garrett (NJ)	Lee (NY)
Campbell	Gerlach	Lewis (CA)
Cantor	Gingrey (GA)	Linder
Cao	Gohmert	LoBiondo
Capito	Goodlatte	Lucas
Carter	Granger	Luetkemeyer
Cassidy	Graves	Lummis
Castle	Guthrie	Lungren, Daniel
	Hall (TX)	E.

## NOES—175

## NOT VOTING—11

Bachmann	Klein (FL)	Stark
Barrett (SC)	Radanovich	Waters
Barton (TX)	Sánchez, Linda	
Bishop (UT)	T.	
Braley (IA)	Speier	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remaining.

□ 1247

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. KLEIN of Florida. Mr. Speaker, I rise today to submit a record of how I would have voted on May 20, 2009 when I was unavoidably detained.

Had I voted, I would have voted "yea" on rollcall No. 274 and "aye" on rollcall No. 275.

## CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT OF 2009

Mr. FRANK of Massachusetts. Mr. Speaker, pursuant to House Resolution 456, I take from the Speaker's table the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Credit Card Accountability Responsibility and Disclosure Act of 2009" or the "Credit CARD Act of 2009".



## (b) TABLE OF CONTENTS.—

The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Regulatory authority.
- Sec. 3. Effective date.

## TITLE I—CONSUMER PROTECTION

- Sec. 101. Protection of credit cardholders.
- Sec. 102. Limits on fees and interest charges.
- Sec. 103. Use of terms clarified.
- Sec. 104. Application of card payments.
- Sec. 105. Standards applicable to initial issuance of subprime or “fee harvester” cards.
- Sec. 106. Rules regarding periodic statements.
- Sec. 107. Enhanced penalties.
- Sec. 108. Clerical amendments.
- Sec. 109. Consideration of Ability to repay.

## TITLE II—ENHANCED CONSUMER DISCLOSURES

- Sec. 201. Payoff timing disclosures.
- Sec. 202. Requirements relating to late payment deadlines and penalties.
- Sec. 203. Renewal disclosures.
- Sec. 204. Internet posting of credit card agreements.
- Sec. 205. Prevention of deceptive marketing of credit reports.

## TITLE III—PROTECTION OF YOUNG CONSUMERS

- Sec. 301. Extensions of credit to underage consumers.
- Sec. 302. Protection of young consumers from prescreened credit offers.
- Sec. 303. Issuance of credit cards to certain college students.
- Sec. 304. Privacy Protections for college students.
- Sec. 305. College Credit Card Agreements.

## TITLE IV—GIFT CARDS

- Sec. 401. General-use prepaid cards, gift certificates, and store gift cards.
- Sec. 402. Relation to State laws.
- Sec. 403. Effective date.

## TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Study and report on interchange fees.
- Sec. 502. Board review of consumer credit plans and regulations.
- Sec. 503. Stored value.
- Sec. 504. Procedure for timely settlement of estates of decedent obligors.
- Sec. 505. Report to Congress on reductions of consumer credit card limits based on certain information as to experience or transactions of the consumer.
- Sec. 506. Board review of small business credit plans and recommendations.
- Sec. 507. Small business information security task force.
- Sec. 508. Study and report on emergency pin technology.
- Sec. 509. Study and report on the marketing of products with credit offers.
- Sec. 510. Financial and economic literacy.
- Sec. 511. Federal trade commission rulemaking on mortgage lending.
- Sec. 512. Protecting Americans from violent crime.
- Sec. 513. GAO study and report on fluency in the English language and financial literacy.

## SEC. 2. REGULATORY AUTHORITY.

The Board of Governors of the Federal Reserve System (in this Act referred to as the “Board”) may issue such rules and publish such model forms as it considers necessary to carry out this Act and the amendments made by this Act.

## SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 9 months after the

date of enactment of this Act, except as otherwise specifically provided in this Act.

## TITLE I—CONSUMER PROTECTION

## SEC. 101. PROTECTION OF CREDIT CARD-HOLDERS.

(a) ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED.—

(1) AMENDMENT TO TILA.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(i) ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED.—

“(1) ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of an increase in an annual percentage rate (except in the case of an increase described in paragraph (1), (2), or (3) of section 171(b)) not later than 45 days prior to the effective date of the increase.

“(2) ADVANCE NOTICE OF OTHER SIGNIFICANT CHANGES REQUIRED.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of any significant change, as determined by rule of the Board, in the terms (including an increase in any fee or finance charge, other than as provided in paragraph (1)) of the cardholder agreement between the creditor and the obligor, not later than 45 days prior to the effective date of the change.

“(3) NOTICE OF RIGHT TO CANCEL.—Each notice required by paragraph (1) or (2) shall be made in a clear and conspicuous manner, and shall contain a brief statement of the right of the obligor to cancel the account pursuant to rules established by the Board before the effective date of the subject rate increase or other change.

“(4) RULE OF CONSTRUCTION.—Closure or cancellation of an account by the obligor shall not constitute a default under an existing cardholder agreement, and shall not trigger an obligation to immediately repay the obligation in full or through a method that is less beneficial to the obligor than one of the methods described in section 171(c)(2), or the imposition of any other penalty or fee.”.

(2) EFFECTIVE DATE.—Notwithstanding section 3, section 127(i) of the Truth in Lending Act, as added by this subsection, shall become effective 90 days after the date of enactment of this Act.

(b) RETROACTIVE INCREASE AND UNIVERSAL DEFAULT PROHIBITED.—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended—

(1) by redesignating section 171 as section 173; and

(2) by inserting after section 170 the following:

“SEC. 171. LIMITS ON INTEREST RATE, FEE, AND FINANCE CHARGE INCREASES APPLICABLE TO OUTSTANDING BALANCES.

“(a) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under subsection (b).

“(b) EXCEPTIONS.—The prohibition under subsection (a) shall not apply to—

“(1) an increase in an annual percentage rate upon the expiration of a specified period of time, provided that—

“(A) prior to commencement of that period, the creditor disclosed to the consumer, in a clear and conspicuous manner, the length of the period and the annual percentage rate that would apply after expiration of the period;

“(B) the increased annual percentage rate does not exceed the rate disclosed pursuant to subparagraph (A); and

“(C) the increased annual percentage rate is not applied to transactions that occurred prior to commencement of the period;

“(2) an increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

“(3) an increase due to the completion of a workout or temporary hardship arrangement by the obligor or the failure of the obligor to comply with the terms of a workout or temporary hardship arrangement, provided that—

“(A) the annual percentage rate, fee, or finance charge applicable to a category of transactions following any such increase does not exceed the rate, fee, or finance charge that applied to that category of transactions prior to commencement of the arrangement; and

“(B) the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

“(4) an increase due solely to the fact that a minimum payment by the obligor has not been received by the creditor within 60 days after the due date for such payment, provided that the creditor shall—

“(A) include, together with the notice of such increase required under section 127(i), a clear and conspicuous written statement of the reason for the increase and that the increase will terminate not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time from the obligor during that period; and

“(B) terminate such increase not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time during that period.

“(c) REPAYMENT OF OUTSTANDING BALANCE.—

“(1) IN GENERAL.—The creditor shall not change the terms governing the repayment of any outstanding balance, except that the creditor may provide the obligor with one of the methods described in paragraph (2) of repaying any outstanding balance, or a method that is no less beneficial to the obligor than one of those methods.

“(2) METHODS.—The methods described in this paragraph are—

“(A) an amortization period of not less than 5 years, beginning on the effective date of the increase set forth in the notice required under section 127(i); or

“(B) a required minimum periodic payment that includes a percentage of the outstanding balance that is equal to not more than twice the percentage required before the effective date of the increase set forth in the notice required under section 127(i).

“(d) OUTSTANDING BALANCE DEFINED.—For purposes of this section, the term ‘outstanding balance’ means the amount owed on a credit card account under an open end consumer credit plan as of the end of the 14th day after the date on which the creditor provides notice of an increase in the annual percentage rate, fee, or finance charge in accordance with section 127(i).”.

(c) INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end the following:

“SEC. 148. INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.

“(a) IN GENERAL.—If a creditor increases the annual percentage rate applicable to a credit card account under an open end consumer credit plan, based on factors including the credit risk of the obligor, market conditions, or other factors, the creditor shall consider changes in such factors in subsequently determining whether to reduce the annual percentage rate for such obligor.

“(b) **REQUIREMENTS.**—With respect to any credit card account under an open end consumer credit plan, the creditor shall—

“(1) maintain reasonable methodologies for assessing the factors described in subsection (a);

“(2) not less frequently than once every 6 months, review accounts as to which the annual percentage rate has been increased since January 1, 2009, to assess whether such factors have changed (including whether any risk has declined);

“(3) reduce the annual percentage rate previously increased when a reduction is indicated by the review; and

“(4) in the event of an increase in the annual percentage rate, provide in the written notice required under section 127(i) a statement of the reasons for the increase.

“(c) **RULE OF CONSTRUCTION.**—This section shall not be construed to require a reduction in any specific amount.

“(d) **RULEMAKING.**—The Board shall issue final rules not later than 9 months after the date of enactment of this section to implement the requirements of and evaluate compliance with this section, and subsections (a), (b), and (c) shall become effective 15 months after that date of enactment.”.

(d) **INTRODUCTORY AND PROMOTIONAL RATES.**—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended by inserting after section 171, as amended by this Act, the following:

**“SEC. 172. ADDITIONAL LIMITS ON INTEREST RATE INCREASES.**

“(a) **LIMITATION ON INCREASES WITHIN FIRST YEAR.**—Except in the case of an increase described in paragraph (1), (2), (3), or (4) of section 171(b), no increase in any annual percentage rate, fee, or finance charge on any credit card account under an open end consumer credit plan shall be effective before the end of the 1-year period beginning on the date on which the account is opened.

“(b) **PROMOTIONAL RATE MINIMUM TERM.**—No increase in any annual percentage rate applicable to a credit card account under an open end consumer credit plan that is a promotional rate (as that term is defined by the Board) shall be effective before the end of the 6-month period beginning on the date on which the promotional rate takes effect, subject to such reasonable exceptions as the Board may establish, by rule.”.

(e) **CLERICAL AMENDMENT.**—The table of sections for chapter 4 of the Truth in Lending Act is amended by striking the item relating to section 171 and inserting the following:

“171. Limits on interest rate, fee, and finance charge increases applicable to outstanding balances.

“172. Additional limits on interest rate increases.

“173. Applicability of State laws.”.

**SEC. 102. LIMITS ON FEES AND INTEREST CHARGES.**

(a) **IN GENERAL.**—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(j) **PROHIBITION ON PENALTIES FOR ON-TIME PAYMENTS.**—

“(1) **PROHIBITION ON DOUBLE-CYCLE BILLING AND PENALTIES FOR ON-TIME PAYMENTS.**—Except as provided in paragraph (2), a creditor may not impose any finance charge on a credit card account under an open end consumer credit plan as a result of the loss of any time period provided by the creditor within which the obligor may repay any portion of the credit extended without incurring a finance charge, with respect to—

“(A) any balances for days in billing cycles that precede the most recent billing cycle; or

“(B) any balances or portions thereof in the current billing cycle that were repaid within such time period.

“(2) **EXCEPTIONS.**—Paragraph (1) does not apply to—

“(A) any adjustment to a finance charge as a result of the resolution of a dispute; or

“(B) any adjustment to a finance charge as a result of the return of a payment for insufficient funds.

“(k) **OPT-IN REQUIRED FOR OVER-THE-LIMIT TRANSACTIONS IF FEES ARE IMPOSED.**—

“(1) **IN GENERAL.**—In the case of any credit card account under an open end consumer credit plan under which an over-the-limit fee may be imposed by the creditor for any extension of credit in excess of the amount of credit authorized to be extended under such account, no such fee shall be charged, unless the consumer has expressly elected to permit the creditor, with respect to such account, to complete transactions involving the extension of credit under such account in excess of the amount of credit authorized.

“(2) **DISCLOSURE BY CREDITOR.**—No election by a consumer under paragraph (1) shall take effect unless the consumer, before making such election, received a notice from the creditor of any over-the-limit fee in the form and manner, and at the time, determined by the Board. If the consumer makes the election referred to in paragraph (1), the creditor shall provide notice to the consumer of the right to revoke the election, in the form prescribed by the Board, in any periodic statement that includes notice of the imposition of an over-the-limit fee during the period covered by the statement.

“(3) **FORM OF ELECTION.**—A consumer may make or revoke the election referred to in paragraph (1) orally, electronically, or in writing, pursuant to regulations prescribed by the Board. The Board shall prescribe regulations to ensure that the same options are available for both making and revoking such election.

“(4) **TIME OF ELECTION.**—A consumer may make the election referred to in paragraph (1) at any time, and such election shall be effective until the election is revoked in the manner prescribed under paragraph (3).

“(5) **REGULATIONS.**—The Board shall prescribe regulations—

“(A) governing disclosures under this subsection; and

“(B) that prevent unfair or deceptive acts or practices in connection with the manipulation of credit limits designed to increase over-the-limit fees or other penalty fees.

“(6) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit a creditor from completing an over-the-limit transaction, provided that a consumer who has not made a valid election under paragraph (1) is not charged an over-the-limit fee for such transaction.

“(7) **RESTRICTION ON FEES CHARGED FOR AN OVER-THE-LIMIT TRANSACTION.**—With respect to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

“(l) **LIMIT ON FEES RELATED TO METHOD OF PAYMENT.**—With respect to a credit card account under an open end consumer credit plan, the creditor may not impose a separate fee to allow the obligor to repay an extension of credit or finance charge, whether such repayment is made by mail, electronic transfer, telephone authorization, or other means, unless such payment involves an expedited service by a service representative of the creditor.”.

(b) **REASONABLE PENALTY FEES.**—

(1) **IN GENERAL.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.), as amended by this Act, is amended by adding at the end the following:

**“SEC. 149. REASONABLE PENALTY FEES ON OPEN END CONSUMER CREDIT PLANS.**

“(a) **IN GENERAL.**—The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

“(b) **RULEMAKING REQUIRED.**—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, shall issue final rules not later than 9 months after the date of enactment of this section, to establish standards for assessing whether the amount of any penalty fee or charge described under subsection (a) is reasonable and proportional to the omission or violation to which the fee or charge relates. Subsection (a) shall become effective 15 months after the date of enactment of this section.

“(c) **CONSIDERATIONS.**—In issuing rules required by this section, the Board shall consider—

“(1) the cost incurred by the creditor from such omission or violation;

“(2) the deterrence of such omission or violation by the cardholder;

“(3) the conduct of the cardholder; and

“(4) such other factors as the Board may deem necessary or appropriate.

“(d) **DIFFERENTIATION PERMITTED.**—In issuing rules required by this subsection, the Board may establish different standards for different types of fees and charges, as appropriate.

“(e) **SAFE HARBOR RULE AUTHORIZED.**—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, may issue rules to provide an amount for any penalty fee or charge described under subsection (a) that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates.”.

(2) **CLERICAL AMENDMENTS.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended—

(A) in the chapter heading, by inserting **“AND LIMITS ON CREDIT CARD FEES”** after **“ADVERTISING”**; and

(B) in the table of sections for the chapter, by adding at the end the following:

“148. Interest rate reduction on open end consumer credit plans.

“149. Reasonable penalty fees on open end consumer credit plans.”.

**SEC. 103. USE OF TERMS CLARIFIED.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(m) **USE OF TERM ‘FIXED RATE’.**—With respect to the terms of any credit card account under an open end consumer credit plan, the term ‘fixed’, when appearing in conjunction with a reference to the annual percentage rate or interest rate applicable with respect to such account, may only be used to refer to an annual percentage rate or interest rate that will not change or vary for any reason over the period specified clearly and conspicuously in the terms of the account.”.

**SEC. 104. APPLICATION OF CARD PAYMENTS.**

Section 164 of the Truth in Lending Act (15 U.S.C. 1666c) is amended—

(1) by striking the section heading and all that follows through "Payments" and inserting the following:

**"§164. Prompt and fair crediting of payments**

"(a) IN GENERAL.—Payments";

(2) by inserting " , by 5:00 p.m. on the date on which such payment is due," after "in readily identifiable form";

(3) by striking "manner, location, and time" and inserting "manner, and location"; and

(4) by adding at the end the following:

"(b) APPLICATION OF PAYMENTS.—

"(1) IN GENERAL.—Upon receipt of a payment from a cardholder, the card issuer shall apply amounts in excess of the minimum payment amount first to the card balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted.

"(2) CLARIFICATION RELATING TO CERTAIN DEFERRED INTEREST ARRANGEMENTS.—A creditor shall allocate the entire amount paid by the consumer in excess of the minimum payment amount to a balance on which interest is deferred during the last 2 billing cycles immediately preceding the expiration of the period during which interest is deferred.

"(c) CHANGES BY CARD ISSUER.—If a card issuer makes a material change in the mailing address, office, or procedures for handling cardholder payments, and such change causes a material delay in the crediting of a cardholder payment made during the 60-day period following the date on which such change took effect, the card issuer may not impose any late fee or finance charge for a late payment on the credit card account to which such payment was credited."

**SEC. 105. STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR "FEE HARVESTER" CARDS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following new subsection:

"(n) STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR 'FEE HARVESTER' CARDS.—

"(1) IN GENERAL.—If the terms of a credit card account under an open end consumer credit plan require the payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) by the consumer in the first year during which the account is opened in an aggregate amount in excess of 25 percent of the total amount of credit authorized under the account when the account is opened, no payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) may be made from the credit made available under the terms of the account.

"(2) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as authorizing any imposition or payment of advance fees otherwise prohibited by any provision of law."

**SEC. 106. RULES REGARDING PERIODIC STATEMENTS.**

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(o) DUE DATES FOR CREDIT CARD ACCOUNTS.—

"(1) IN GENERAL.—The payment due date for a credit card account under an open end consumer credit plan shall be the same day each month.

"(2) WEEKEND OR HOLIDAY DUE DATES.—If the payment due date for a credit card account under an open end consumer credit plan is a day on which the creditor does not receive or accept payments by mail (including weekends and holidays), the creditor may not treat a payment received on the next business day as late for any purpose."

(b) LENGTH OF BILLING PERIOD.—

(1) IN GENERAL.—Section 163 of the Truth in Lending Act (15 U.S.C. 1666b) is amended to read as follows:

**"SEC. 163. TIMING OF PAYMENTS.**

"(a) TIME TO MAKE PAYMENTS.—A creditor may not treat a payment on an open end consumer credit plan as late for any purpose, unless the creditor has adopted reasonable procedures designed to ensure that each periodic statement including the information required by section 127(b) is mailed or delivered to the consumer not later than 21 days before the payment due date.

"(b) GRACE PERIOD.—If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part, unless a statement which includes the amount upon which the finance charge for the period is based was mailed or delivered to the consumer not later than 21 days before the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge."

(2) EFFECTIVE DATE.—Notwithstanding section 3, section 163 of the Truth in Lending Act, as amended by this subsection, shall become effective 90 days after the date of enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 4 of the Truth in Lending Act is amended—

(1) by striking the item relating to section 163 and inserting the following:

"163. Timing of payments."; and

(2) by striking the item relating to section 171 and inserting the following:

"171. Universal defaults prohibited.

"172. Unilateral changes in credit card agreement prohibited.

"173. Applicability of State laws."

**SEC. 107. ENHANCED PENALTIES.**

Section 130(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)(A)) is amended by striking "or (iii) in the" and inserting the following: "(iii) in the case of an individual action relating to an open end consumer credit plan that is not secured by real property or a dwelling, twice the amount of any finance charge in connection with the transaction, with a minimum of \$500 and a maximum of \$5,000, or such higher amount as may be appropriate in the case of an established pattern or practice of such failures; or (iv) in the".

**SEC. 108. CLERICAL AMENDMENTS.**

Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended—

(1) by striking "term" and all that follows through "means" and inserting the following: "terms 'open end credit plan' and 'open end consumer credit plan' mean"; and

(2) in the second sentence, by inserting "or open end consumer credit plan" after "credit plan" each place that term appears.

**SEC. 109. CONSIDERATION OF ABILITY TO REPAY.**

(a) IN GENERAL.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1666 et seq.), as amended by this title, is amended by adding at the end the following:

**"SEC. 150. CONSIDERATION OF ABILITY TO REPAY.**

"A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account."

(b) CLERICAL AMENDMENT.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is

amended in the table of sections for the chapter, by adding at the end the following:

"150. Consideration of ability to repay."

**TITLE II—ENHANCED CONSUMER DISCLOSURES**

**SEC. 201. PAYOFF TIMING DISCLOSURES.**

(a) IN GENERAL.—Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)(11)) is amended to read as follows:

"(11)(A) A written statement in the following form: 'Minimum Payment Warning: Making only the minimum payment will increase the amount of interest you pay and the time it takes to repay your balance.', or such similar statement as is established by the Board pursuant to consumer testing.

"(B) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

"(i) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

"(ii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made;

"(iii) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays the balance over 36 months; and

"(iv) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

"(C)(i) Subject to clause (ii), in making the disclosures under subparagraph (B), the creditor shall apply the interest rate or rates in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

"(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.

"(D) All of the information described in subparagraph (B) shall—

"(i) be disclosed in the form and manner which the Board shall prescribe, by regulation, and in a manner that avoids duplication; and

"(ii) be placed in a conspicuous and prominent location on the billing statement.

"(E) In the regulations prescribed under subparagraph (D), the Board shall require that the disclosure of such information shall be in the form of a table that—

"(i) contains clear and concise headings for each item of such information; and

"(ii) provides a clear and concise form stating each item of information required to be disclosed under each such heading.

"(F) In prescribing the form of the table under subparagraph (E), the Board shall require that—

"(i) all of the information in the table, and not just a reference to the table, be placed on the billing statement, as required by this paragraph; and

"(ii) the items required to be included in the table shall be listed in the order in which such items are set forth in subparagraph (B).

“(G) In prescribing the form of the table under subparagraph (D), the Board shall employ terminology which is different than the terminology which is employed in subparagraph (B), if such terminology is more easily understood and conveys substantially the same meaning.”.

(b) **CIVIL LIABILITY.**—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or any of paragraphs (4) through (13) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or any of paragraphs (4) through (13) of section 127(b).”.

(c) **GUIDELINES REQUIRED.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Board shall issue guidelines, by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under section 127(b)(11)(B)(iv) of the Truth in Lending Act, as added by this section.

(2) **APPROVED AGENCIES.**—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number referred to in paragraph (1) include only those nonprofit budget and credit counseling agencies approved by a United States bankruptcy trustee pursuant to section 111(a) of title 11, United States Code.

## **SEC. 202. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.**

Section 127(b)(12) of the Truth in Lending Act (15 U.S.C. 1637(b)(12)) is amended to read as follows:

“(12) **REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.**—

“(A) **LATE PAYMENT DEADLINE REQUIRED TO BE DISCLOSED.**—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection (b) with respect to the account shall include, in a conspicuous location on the billing statement, the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date.

“(B) **DISCLOSURE OF INCREASE IN INTEREST RATES FOR LATE PAYMENTS.**—If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate applicable to the account, the statement required under subsection (b) with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required under subparagraph (A) of the date on which payment is due under the terms of the account.

“(C) **PAYMENTS AT LOCAL BRANCHES.**—If the creditor, in the case of a credit card account referred to in subparagraph (A), is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obligor in person, the date on which the obligor makes a payment on the ac-

count at such branch or office shall be considered to be the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment.”.

## **SEC. 203. RENEWAL DISCLOSURES.**

Section 127(d) of the Truth in Lending Act (15 U.S.C. 1637(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (1), by striking “Except as provided in paragraph (2), a card issuer” and inserting the following: “A card issuer that has changed or amended any term of the account since the last renewal that has not been previously disclosed or”.

## **SEC. 204. INTERNET POSTING OF CREDIT CARD AGREEMENTS.**

(a) **IN GENERAL.**—Section 122 of the Truth and Lending Act (15 U.S.C. 1632) is amended by adding at the end the following new subsection:

“(d) **ADDITIONAL ELECTRONIC DISCLOSURES.**—

“(1) **POSTING AGREEMENTS.**—Each creditor shall establish and maintain an Internet site on which the creditor shall post the written agreement between the creditor and the consumer for each credit card account under an open-end consumer credit plan.

“(2) **CREDITOR TO PROVIDE CONTRACTS TO THE BOARD.**—Each creditor shall provide to the Board, in electronic format, the consumer credit card agreements that it publishes on its Internet site.

“(3) **RECORD REPOSITORY.**—The Board shall establish and maintain on its publicly available Internet site a central repository of the consumer credit card agreements received from creditors pursuant to this subsection, and such agreements shall be easily accessible and retrievable by the public.

“(4) **EXCEPTION.**—This subsection shall not apply to individually negotiated changes to contractual terms, such as individually modified workouts or renegotiations of amounts owed by a consumer under an open end consumer credit plan.

“(5) **REGULATIONS.**—The Board, in consultation with the other Federal banking agencies (as that term is defined in section 603) and the Federal Trade Commission, may promulgate regulations to implement this subsection, including specifying the format for posting the agreements on the Internet sites of creditors and establishing exceptions to paragraphs (1) and (2), in any case in which the administrative burden outweighs the benefit of increased transparency, such as where a credit card plan has a de minimis number of consumer account holders.”.

## **SEC. 205. PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.**

(a) **PREVENTING DECEPTIVE MARKETING.**—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following:

“(g) **PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.**—

“(1) **IN GENERAL.**—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: ‘AnnualCreditReport.com’ (or such other source as may be authorized under Federal law).

“(2) **TELEVISION AND RADIO ADVERTISEMENT.**—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: ‘This is

not the free credit report provided for by Federal law’.”.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall issue a final rule to carry out this section.

(2) **CONTENT.**—The rule required by this subsection—

(A) shall include specific wording to be used in advertisements in accordance with this section; and

(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

(3) **INTERIM DISCLOSURES.**—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act, as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: “Free credit reports are available under Federal law at: ‘AnnualCreditReport.com’.”.

## **TITLE III—PROTECTION OF YOUNG CONSUMERS**

### **SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.**

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(8) **APPLICATIONS FROM UNDERAGE CONSUMERS.**—

“(A) **PROHIBITION ON ISSUANCE.**—No credit card may be issued to, or open end consumer credit plan established by or on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

“(B) **APPLICATION REQUIREMENTS.**—An application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require—

“(i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

“(ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

“(C) **SAFE HARBOR.**—The Board shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).”.

### **SEC. 302. PROTECTION OF YOUNG CONSUMERS FROM PRESCREENED CREDIT OFFERS.**

Section 604(c)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(c)(1)(B)) is amended—

(1) in clause (ii), by striking “and” at the end; and

(2) in clause (iii), by striking the period at the end and inserting the following: “; and

“(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.”.

### **SEC. 303. ISSUANCE OF CREDIT CARDS TO CERTAIN COLLEGE STUDENTS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following new subsection:

“(p) PARENTAL APPROVAL REQUIRED TO INCREASE CREDIT LINES FOR ACCOUNTS FOR WHICH PARENT IS JOINTLY LIABLE.—No increase may be made in the amount of credit authorized to be extended under a credit card account for which a parent, legal guardian, or spouse of the consumer, or any other individual has assumed joint liability for debts incurred by the consumer in connection with the account before the consumer attains the age of 21, unless that parent, guardian, or spouse approves in writing, and assumes joint liability for, such increase.”

#### SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

“(f) CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.—

“(1) DISCLOSURE REQUIRED.—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

“(2) INDUCEMENTS PROHIBITED.—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

“(A) on the campus of an institution of higher education;

“(B) near the campus of an institution of higher education, as determined by rule of the Board; or

“(C) at an event sponsored by or related to an institution of higher education.

“(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

“(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

“(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

“(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.”

#### SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

“(r) COLLEGE CARD AGREEMENTS.—

“(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) COLLEGE AFFINITY CARD.—The term ‘college affinity card’ means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and—

“(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

“(ii) the creditor has agreed to offer discounted terms to the consumer; or

“(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

“(B) COLLEGE STUDENT CREDIT CARD ACCOUNT.—The term ‘college student credit card

account’ means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

“(C) COLLEGE STUDENT.—The term ‘college student’ means an individual who is a full-time or a part-time student attending an institution of higher education.

“(D) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

“(2) REPORTS BY CREDITORS.—

“(A) IN GENERAL.—Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

“(B) DETAILS OF REPORT.—The information required to be reported under subparagraph (A) includes—

“(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

“(ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

“(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

“(C) AGGREGATION BY INSTITUTION.—The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

“(D) INITIAL REPORT.—The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

“(3) REPORTS BY BOARD.—The Board shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.”

(b) STUDY AND REPORT BY THE COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT.—Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

#### TITLE IV—GIFT CARDS

##### SEC. 401. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 915 through 921 as sections 916 through 922, respectively; and

(2) by inserting after section 914 the following:

##### “SEC. 915. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) DORMANCY FEE; INACTIVITY CHARGE OR FEE.—The terms ‘dormancy fee’ and ‘inactivity charge or fee’ mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

“(2) GENERAL USE PREPAID CARD, GIFT CERTIFICATE, AND STORE GIFT CARD.—

“(A) GENERAL-USE PREPAID CARD.—The term ‘general-use prepaid card’ means a card or other payment code or device issued by any person that is—

“(i) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

“(ii) issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder;

“(iii) purchased or loaded on a prepaid basis; and

“(iv) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

“(B) GIFT CERTIFICATE.—The term ‘gift certificate’ means an electronic promise that is—

“(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

“(ii) issued in a specified amount that may not be increased or reloaded;

“(iii) purchased on a prepaid basis in exchange for payment; and

“(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

“(C) STORE GIFT CARD.—The term ‘store gift card’ means an electronic promise, plastic card, or other payment code or device that is—

“(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

“(ii) issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder;

“(iii) purchased on a prepaid basis in exchange for payment; and

“(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

“(D) EXCLUSIONS.—The terms ‘general-use prepaid card’, ‘gift certificate’, and ‘store gift card’ do not include an electronic promise, plastic card, or payment code or device that is—

“(i) used solely for telephone services;

“(ii) reloadable and not marketed or labeled as a gift card or gift certificate;

“(iii) a loyalty, award, or promotional gift card, as defined by the Board;

“(iv) not marketed to the general public;

“(v) issued in paper form only (including for tickets and events); or

“(vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—

“(I) at the event or venue after admission; or

“(II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

**“(3) SERVICE FEE.—**

“(A) **IN GENERAL.**—The term ‘service fee’ means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

“(B) **EXCLUSION.**—With respect to a general-use prepaid card, the term ‘service fee’ does not include a one-time initial issuance fee.

**“(b) PROHIBITION ON IMPOSITION OF FEES OR CHARGES.—**

“(1) **IN GENERAL.**—Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card.

“(2) **EXCEPTIONS.**—A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if—

“(A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;

“(B) the disclosure requirements of paragraph (3) have been met;

“(C) not more than one fee may be charged in any given month; and

“(D) any additional requirements that the Board may establish through rulemaking under subsection (d) have been met.

“(3) **DISCLOSURE REQUIREMENTS.**—The disclosure requirements of this paragraph are met if—

“(A) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states—

“(i) that a dormancy fee, inactivity charge or fee, or service fee may be charged;

“(ii) the amount of such fee or charge;

“(iii) how often such fee or charge may be assessed; and

“(iv) that such fee or charge may be assessed for inactivity; and

“(B) the issuer or vendor of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

“(4) **EXCLUSION.**—The prohibition under paragraph (1) shall not apply to any gift certificate—

“(A) that is distributed pursuant to an award, loyalty, or promotional program, as defined by the Board; and

“(B) with respect to which, there is no money or other value exchanged.

**“(c) PROHIBITION ON SALE OF GIFT CARDS WITH EXPIRATION DATES.—**

“(1) **IN GENERAL.**—Except as provided under paragraph (2), it shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

“(2) **EXCEPTIONS.**—A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if—

“(A) the expiration date is not earlier than 5 years after the date on which the gift certificate was issued, or the date on which card funds were last loaded to a store gift card or general-use prepaid card; and

“(B) the terms of expiration are clearly and conspicuously stated.

**“(d) ADDITIONAL RULEMAKING.—**

“(1) **IN GENERAL.**—The Board shall—

“(A) prescribe regulations to carry out this section, in addition to any other rules or regulations required by this title, including such additional requirements as appropriate relating to the amount of dormancy fees, inactivity charges or fees, or service fees that may be assessed and the amount of remaining value of a gift certificate, store gift card, or general-use prepaid card

below which such charges or fees may be assessed; and

“(B) shall determine the extent to which the individual definitions and provisions of the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.

“(2) **CONSULTATION.**—In prescribing regulations under this subsection, the Board shall consult with the Federal Trade Commission.

“(3) **TIMING; EFFECTIVE DATE.**—The regulations required by this subsection shall be issued in final form not later than 9 months after the date of enactment of the Credit CARD Act of 2009.”

**SEC. 402. RELATION TO STATE LAWS.**

Section 920 of the Electronic Fund Transfer Act (as redesignated by this title) is amended by inserting “dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards,” after “electronic fund transfers.”

**SEC. 403. EFFECTIVE DATE.**

This title and the amendments made by this title shall become effective 15 months after the date of enactment of this Act.

**TITLE V—MISCELLANEOUS PROVISIONS****SEC. 501. STUDY AND REPORT ON INTERCHANGE FEES.**

(a) **STUDY REQUIRED.**—The Comptroller General of the United States (in this section referred to as the “Comptroller”) shall conduct a study on use of credit by consumers, interchange fees, and their effects on consumers and merchants.

(b) **SUBJECTS FOR REVIEW.**—In conducting the study required by this section, the Comptroller shall review—

(1) the extent to which interchange fees are required to be disclosed to consumers and merchants, whether merchants are restricted from disclosing interchange or merchant discount fees, and how such fees are overseen by the Federal banking agencies or other regulators;

(2) the ways in which the interchange system affects the ability of merchants of varying size to negotiate pricing with card associations and banks;

(3) the costs and factors incorporated into interchange fees, such as advertising, bonus miles, and rewards, how such costs and factors vary among cards;

(4) the consequences of the undisclosed nature of interchange fees on merchants and consumers with regard to prices charged for goods and services;

(5) how merchant discount fees compare to the credit losses and other costs that merchants incur to operate their own credit networks or store cards;

(6) the extent to which the rules of payment card networks and their policies regarding interchange fees are accessible to merchants;

(7) other jurisdictions where the central bank has regulated interchange fees and the impact on retail prices to consumers in such jurisdictions;

(8) whether and to what extent merchants are permitted to discount for cash; and

(9) the extent to which interchange fees allow smaller financial institutions and credit unions to offer payment cards and compete against larger financial institutions.

(c) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Comptroller shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study required by this section, together with such recommendations for legislative or administrative actions as may be appropriate.

**SEC. 502. BOARD REVIEW OF CONSUMER CREDIT PLANS AND REGULATIONS.**

(a) **REQUIRED REVIEW.**—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including—

(1) the terms of credit card agreements and the practices of credit card issuers;

(2) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and

(4) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected—

(A) cost and availability of credit, particularly with respect to non-prime borrowers;

(B) the safety and soundness of credit card issuers;

(C) the use of risk-based pricing; or

(D) credit card product innovation.

(b) **SOLICITATION OF PUBLIC COMMENT.**—In connection with conducting the review required by subsection (a), the Board shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

(c) **REGULATIONS.**—

(1) **NOTICE.**—Following the review required by subsection (a), the Board shall publish a notice in the Federal Register that—

(A) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the Board, such as through consumer testing or other research; and

(B) either—

(i) proposes new or revised regulations or interpretations to update or revise disclosures and protections for consumer credit cards, as appropriate; or

(ii) states the reason for the determination of the Board that new or revised regulations are not necessary.

(2) **REVISION OF REVIEW PERIOD FOLLOWING MATERIAL REVISION OF REGULATIONS.**—In the event that the Board materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required by subsection (a).

(d) **BOARD REPORT TO THE CONGRESS.**—The Board shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

(e) **ADDITIONAL REPORTING.**—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission shall provide annually to the Board, and the Board shall include in its annual report to Congress under section 10 of the Federal Reserve Act, information about the supervisory and enforcement activities of the agencies with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations, including—

(1) this Act, the amendments made by this Act, and regulations prescribed under this Act and such amendments; and

(2) section 5 of the Federal Trade Commission Act, and regulations prescribed under the Federal Trade Commission Act, including part 227 of title 12 of the Code of Federal Regulations, as prescribed by the Board (referred to as “Regulation AA”).



**SEC. 503. STORED VALUE.**

(a) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) **CONSIDERATION OF INTERNATIONAL TRANSPORT.**—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) **EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.**—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

**SEC. 504. PROCEDURE FOR TIMELY SETTLEMENT OF ESTATES OF DECEDENT OBLIGORS.**

(a) **IN GENERAL.**—Chapter 2 of the Truth in Lending Act ( U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

**“§140A Procedure for timely settlement of estates of decedent obligors**

“The Board, in consultation with the Federal Trade Commission and each other agency referred to in section 108(a), shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 140 the following new item:

“140A. Procedure for timely settlement of estates of decedent obligors”.

**SEC. 505. REPORT TO CONGRESS ON REDUCTIONS OF CONSUMER CREDIT CARD LIMITS BASED ON CERTAIN INFORMATION AS TO EXPERIENCE OR TRANSACTIONS OF THE CONSUMER.**

(a) **REPORT ON CREDITOR PRACTICES REQUIRED.**—Before the end of the 1-year period beginning on the date of enactment of this Act, the Board, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission, shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on—

(1) the geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

(2) the credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

(3) the identity of the mortgage creditor which extended or holds the mortgage loan secured by the primary residence of the consumer.

(b) **OTHER INFORMATION.**—The report required under subsection (a) shall also include—

(1) the number of creditors that have engaged in the practices described in subsection (a);

(2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers;

(3) any other relevant information regarding such practices; and

(4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

**SEC. 506. BOARD REVIEW OF SMALL BUSINESS CREDIT PLANS AND RECOMMENDATIONS.**

(a) **REQUIRED REVIEW.**—Not later than 9 months after the date of enactment of this Act, the Board shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as “small businesses”) and the credit card market for small businesses, including—

(1) the terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

(2) the adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

(4) the cost and availability of credit for small businesses, particularly with respect to non-prime borrowers;

(5) the use of risk-based pricing for small businesses;

(6) credit card product innovation relating to small businesses; and

(7) the extent to which small business owners use personal credit cards to fund their business operations.

(b) **RECOMMENDATIONS.**—Following the review required by subsection (a), the Board shall, not later than 12 months after the date of enactment of this Act—

(1) provide a report to Congress that summarizes the review and other evidence gathered by the Board, such as through consumer testing or other research, and

(2) make recommendations for administrative or legislative initiatives to provide protections for credit card plans for small businesses, as appropriate.

**SEC. 507. SMALL BUSINESS INFORMATION SECURITY TASK FORCE.**

(a) **DEFINITIONS.**—In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “small business concern” has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term “task force” means the task force established under subsection (b).

(b) **ESTABLISHMENT.**—The Administrator shall, in conjunction with the Secretary of Homeland Security, establish a task force, to be known as the “Small Business Information Security Task Force”, to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) **DUTIES.**—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) **INTERNET WEBSITE RECOMMENDATIONS.**—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations, both public and private, to which the Internet website should link.

(e) **EDUCATION PROGRAMS.**—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) **EXISTING MATERIALS.**—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) **COORDINATION WITH PUBLIC AND PRIVATE SECTOR.**—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) **APPOINTMENT OF MEMBERS.**—

(1) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) **MEMBERS.**—

(A) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) **ADDITIONAL MEMBERS.**—

(i) **IN GENERAL.**—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) **NUMBER OF MEMBERS.**—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(1) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) **GROUPS REPRESENTED.**—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies within small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) **POLITICAL AFFILIATION.**—The appointments under this subsection shall be made without regard to political affiliation.

(i) **MEETINGS.**—

(1) **FREQUENCY.**—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) **QUORUM.**—A majority of the members of the task force shall constitute a quorum.

(3) **LOCATION.**—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) **MINUTES.**—

(A) **IN GENERAL.**—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to the Administrator any findings or recommendations approved at the meeting.

(B) **SUBMISSION TO CONGRESS.**—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) **FINDINGS.**—

(A) **IN GENERAL.**—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) **PERSONNEL MATTERS.**—

(1) **COMPENSATION OF MEMBERS.**—Each member of the task force shall serve without pay for their service on the task force.

(2) **TRAVEL EXPENSES.**—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) **DETAIL OF SBA EMPLOYEES.**—The Administrator may detail, without reimbursement, any

of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) **SBA SUPPORT OF THE TASK FORCE.**—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) **NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) **STARTUP DEADLINES.**—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) **EXCEPTION.**—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$300,000 for each of fiscal years 2010 through 2013.

#### **SEC. 508. STUDY AND REPORT ON EMERGENCY PIN TECHNOLOGY.**

(a) **IN GENERAL.**—The Federal Trade Commission, in consultation with the Attorney General of the United States and the United States Secret Service, shall conduct a study on the cost-effectiveness of making available at automated teller machines technology that enables a consumer that is under duress to electronically alert a local law enforcement agency that an incident is taking place at such automated teller machine, including—

(1) an emergency personal identification number that would summon a local law enforcement officer to an automated teller machine when entered into such automated teller machine; and

(2) a mechanism on the exterior of an automated teller machine that, when pressed, would summon a local law enforcement to such automated teller machine.

(b) **CONTENTS OF STUDY.**—The study required under subsection (a) shall include—

(1) an analysis of any technology described in subsection (a) that is currently available or under development;

(2) an estimate of the number and severity of any crimes that could be prevented by the availability of such technology;

(3) the estimated costs of implementing such technology; and

(4) a comparison of the costs and benefits of not fewer than 3 types of such technology.

(c) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the findings of the study required under this section that includes such recommendations for legislative action as the Commission determines appropriate.

#### **SEC. 509. STUDY AND REPORT ON THE MARKETING OF PRODUCTS WITH CREDIT OFFERS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers, including—

(1) debt suspension agreements; and  
(2) debt cancellation agreements; and

(3) credit insurance products.

(b) **AREAS OF CONCERN.**—The study conducted under this section shall evaluate—

(1) the suitability of the offer of products described in subsection (a) for target customers;

(2) the predatory nature of such offers; and

(3) specifically for debt cancellation or suspension agreements and credit insurance products, loss rates compared to more traditional insurance products.

(c) **REPORT TO CONGRESS.**—The Comptroller shall submit a report to Congress on the results of the study required by this section not later than December 31, 2010.

#### **SEC. 510. FINANCIAL AND ECONOMIC LITERACY.**

(a) **REPORT ON FEDERAL FINANCIAL AND ECONOMIC LITERACY EDUCATION PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy—  
(A) to evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(B) to prepare and submit a report to Congress on the findings of the evaluations.

(2) **CONTENTS.**—The report required by this subsection shall address, at a minimum—

(A) the 2008 recommendations of the President's Advisory Council on Financial Literacy;

(B) existing Federal financial and economic literacy education programs for grades kindergarten through grade 12, and annual funding to support these programs;

(C) existing Federal postsecondary financial and economic literacy education programs and annual funding to support these programs;

(D) the current financial and economic literacy education needs of adults, and in particular, low- and moderate-income adults;

(E) ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and

(F) specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

(b) **STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy to develop a strategic plan to improve and expand financial and economic literacy education.

(2) **CONTENTS.**—The plan developed under this subsection shall—

(A) incorporate findings from the report and evaluations of existing Federal financial and economic literacy education programs under subsection (a); and

(B) include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

(3) **PRESENTATION TO CONGRESS.**—The plan developed under this subsection shall be presented to Congress not later than 6 months after the date on which the report under subsection (a) is submitted to Congress.

(c) **EFFECTIVE DATE.**—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

#### **SEC. 511. FEDERAL TRADE COMMISSION RULE-MAKING ON MORTGAGE LENDING.**

(a) **IN GENERAL.**—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended—

(1) in subsection (a)—

(A) by striking “Within” and inserting “(1) Within”;

(B) in paragraph (1), as designated by subparagraph (A), by inserting after the first sentence the following: "Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services."; and

(C) by adding at the end the following:

"(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

"(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

"(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section."; and

(2) in subsection (b)—

(A) by striking so much as precedes paragraph (2) and inserting the following:

"(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

"(A) to enjoin that practice;

"(B) to enforce compliance with the rule;

"(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

"(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate."; and

(B) in paragraphs (2), (3), and (6), by striking "Commission" each place it appears and inserting "primary Federal regulator".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on March 12, 2009.

#### SEC. 512. PROTECTING AMERICANS FROM VIOLENT CRIME.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) The Second Amendment to the Constitution provides that "the right of the people to keep and bear Arms, shall not be infringed".

(2) Section 2.4(a)(1) of title 36, Code of Federal Regulations, provides that "except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon, trap or net (iii) Using a weapon, trap or net".

(3) Section 27.42 of title 50, Code of Federal Regulations, provides that, except in special circumstances, citizens of the United States may not "possess, use, or transport firearms on national wildlife refuges" of the United States Fish and Wildlife Service.

(4) The regulations described in paragraphs (2) and (3) prevent individuals complying with Federal and State laws from exercising the second amendment rights of the individuals while at units of—

(A) the National Park System; and

(B) the National Wildlife Refuge System.

(5) The existence of different laws relating to the transportation and possession of firearms at different units of the National Park System and the National Wildlife Refuge System entrapped law-abiding gun owners while at units of the National Park System and the National Wildlife Refuge System.

(6) Although the Bush administration issued new regulations relating to the Second Amendment rights of law-abiding citizens in units of the National Park System and National Wildlife Refuge System that went into effect on January 9, 2009—

(A) on March 19, 2009, the United States District Court for the District of Columbia granted a preliminary injunction with respect to the implementation and enforcement of the new regulations; and

(B) the new regulations—

(i) are under review by the administration; and

(ii) may be altered.

(7) Congress needs to weigh in on the new regulations to ensure that unelected bureaucrats and judges cannot again override the Second Amendment rights of law-abiding citizens on 83,600,000 acres of National Park System land and 90,790,000 acres of land under the jurisdiction of the United States Fish and Wildlife Service.

(8) The Federal laws should make it clear that the second amendment rights of an individual at a unit of the National Park System or the National Wildlife Refuge System should not be infringed.

(b) PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS IN UNITS OF THE NATIONAL PARK SYSTEM AND THE NATIONAL WILDLIFE REFUGE SYSTEM.—The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if—

(1) the individual is not otherwise prohibited by law from possessing the firearm; and

(2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.

#### SEC. 513. GAO STUDY AND REPORT ON FLUENCY IN THE ENGLISH LANGUAGE AND FINANCIAL LITERACY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study examining—

(1) the relationship between fluency in the English language and financial literacy; and

(2) the extent, if any, to which individuals whose native language is a language other than English are impeded in their conduct of their financial affairs.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that contains a detailed summary of the findings and conclusions of the study required under subsection (a).

MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the House concur in the Senate amendment to H.R. 627.

The SPEAKER pro tempore. Pursuant to House Resolution 456, the mo-

tion shall be debatable for 1 hour equally divided and controlled by the Chair and ranking minority member of the Committee on Financial Services.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Texas (Mr. HENSARLING) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, to begin the debate, I recognize the major author and chief advocate for the credit card bill, dating back several years, and it is her diligent effort that is paying off today for the American consumer, the gentleman from New York (Mrs. MALONEY) for 4 minutes.

Mrs. MALONEY. I thank the gentleman for yielding and for his leadership on this and so many other issues.

Mr. Speaker, Congress is on the verge of passing landmark credit card reform. This bill will make the lives of hardworking, responsible Americans better. It will make their economic futures more predictable and their families more secure. It will level the playing field and restore balance to credit card contracts. It will end what the Fed has characterized as anti-competitive, unfair and deceptive practices.

I am very proud of the work that went into this bill by so many people, especially Chairman FRANK and Chairman DODD. It will have a positive impact everywhere and on anyone in this country who uses a credit card.

Over the past 3 years as I have labored on this bill with my colleagues, the need to stop credit card industry abuses has become ever more apparent with every passing billing cycle. Today, our families are being hard-hit in this economy, and some credit card companies are hurting our families by arbitrarily raising interest rates and changing the rules to increase their profits. This bill will put an end to these practices.

Many small businesses rely on personal credit cards, but we are seeing increased numbers of small business owners hit with increased penalties and interest rates and canceled credit for absolutely no reason, which is killing small businesses and hurting our economy. NFIB has endorsed this bill.

With these reforms, consumers will have more money to invest in the economy instead of paying off debt. A study by the Joint Economic Committee found that these abusive practices are slowing our recovery by effectively raising prices for consumers.

This bill is a reaffirmation of the principle of "a deal is a deal" and is the result of years of advocacy for this change by many of my colleagues, national consumer groups, civil rights organizations, labor unions, and business organizations. Americans want this bill. More than 50 editorial boards across this country have endorsed it.

In this Congress, under the leadership of Speaker PELOSI, Majority Leader HOYER, Subcommittee Chair GUTIERREZ and Chairman FRANK, we passed it with an overwhelming bipartisan vote of 357-70. Just yesterday the Senate passed it with a vote of 90-5 and maintained the core principles of the bill with many important additions.

My only regret with the Senate's action is that they voted to include a completely unrelated provision allowing guns in our national parks, rolling back a rule that was put into place by President Reagan that has absolutely no purpose on this bill and should be removed in a separate vote. And while I will vote against this provision later today, I do not think we should stop these important consumer protections for credit cardholders.

The President has asked us to send him this bill by Memorial Day. We have our chance to do that today. This is one credit card bill that the American people cannot afford to become past due.

I urge a "yes" vote.

Mr. HENSARLING. Mr. Speaker, I yield myself 5 minutes.

First, I observe this may be the seventh or eighth time we've had an opportunity to essentially debate the same bill. So I first want to congratulate the chairman of the full committee for a very open and deliberative process.

I also want to congratulate the gentlelady from New York. Although I very much disagree with the ultimate consequences of the legislation, certainly she has brought passion and tenacity to an issue and has seen it through the process. And to the extent that I can count votes in the minority where you have the luxury of being right about 99 percent of the time when you count votes, I'm sure her side is on the verge of victory.

But, Mr. Speaker, I just would say before my friends on the other side of the aisle high-five each other, they may want to do a high one or high two, but I'm not sure it's a high five.

I agree with the gentlelady from New York that there have been deceptive trade practices and misleading advertising by a number of credit card companies. This has to stop. There are a number of disclosure provisions that the Federal Reserve has presented after 3 years of a very careful study, a number of those provisions are mirrored in this particular legislation. I think the whole House agrees with those. Clearly, there needs to be consequences for companies that engage in this kind of behavior.

And in addition, we need to ensure that the laws that we have on the books, Mr. Speaker, are enforced: the Deceptive Trade Practices Act, the Truth in Lending Act, and other laws that we have on the books.

But, Mr. Speaker, just like when you hear in a tax debate that Congress is

getting ready to tax the rich, somehow the middle income have to hold on to their wallet; when you hear there's a piece of legislation that is aimed at reining in the credit card companies, well, John Q. Citizen had better watch out as well.

I'm afraid my friends on the other side of the aisle have been very effective through bailout legislation, stimulus legislation, omnibus legislation, a budget that creates more debt in the next 10 years than in the previous 220, they've been very adept at taking the cash out of Americans' wallets, and now with this legislation, many will have their credit cards removed by the Congress as well.

People know that Congress excels at one thing, and that is unintended consequences, and I fear, Mr. Speaker, there will be a number of unintended consequences through this particular legislation.

This legislation ultimately restricts economic opportunities. It has a version of price controls for late fees. It restricts the ability of credit card companies to engage in facets of what is called risk-based pricing, and ultimately what that means is, this legislation, notwithstanding the good portions of the bill which will create better and effective disclosure for consumers, but what it will ultimately do is a couple of things.

Number one, Mr. Speaker, this will force the good customers to yet, again, bail out the not-so-good customers. And it's interesting, Mr. Speaker, having debated this a number of times, there was an article that came out I believe in yesterday's New York Times, and this is isn't National Review or The Weekly Standard or Rush Limbaugh. It's the New York Times. I'd like to quote from portions of that article.

"Credit cards have been a very good deal for people who pay their bills on time and in full. Now Congress is moving to limit the penalties on riskier borrowers who have become a prime source of billions of dollars in fee revenue for the industry, and to make up for the lost income, the card companies are going after those people with sterling credit."

Again, the observation of the New York Times.

Banks are expected to look at reviving annual fees, curtailing cash back and other rewards programs, and charging interest immediately on a purchase instead of allowing a grace period of weeks, according to bank officials and trade groups.

From the head of the American Bankers Association, those that manage their credit well will in some degree subsidize those that have credit problems.

Again, Mr. Speaker, I respectfully submit to you this is yet another piece of bailout legislation. Over 50 percent

of Americans who have credit cards pay their bills in full and on time. There's another huge percentage who at least make the minimum payment on time. Why, why are we going to punish those—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENSARLING. I yield myself 1 additional minute.

Why, Mr. Speaker, do we want to punish those people on behalf of those who don't do it right?

Now, some don't do it right because of circumstances beyond their control, but the way to address that is not to take away the rights and opportunities of others. That can be addressed through social safety net legislation. But others don't pay their bills simply because they're irresponsible. Why do the responsible have to bail out the irresponsible?

And we already see that we are in the midst of a huge credit contraction, Mr. Speaker. At a time when Americans are struggling to pay their mortgages, to pay for their groceries, to pay their health care costs, why, why would we want to make credit more expensive and less available? It is the completely wrong policy.

Now, again, I want to agree with the disclosure provisions. I also want to agree with the provisions in the bill that say that consumers ought to have a reasonable amount of time to close out their accounts under their old provisions and old interest rates, but otherwise, we need to reject this legislation.

I reserve my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

The gentleman referred to money added to the budget. He talked about the bailout, et cetera.

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I would remind Members that the \$700 billion was asked for by the Bush administration, and it passed with Democratic support and the support of a significant minority on the Republican side, including the Republican leadership and a very heavy majority of Republican Senators. So, yes, that \$700 billion was voted at the request of the Bush administration, with substantial bipartisan support.

There was, of course, also the matter of another \$700 billion-or-so in the war in Iraq which I voted against. So I do regret some of these extra expenditures, but the responsibility is hardly that of one party.

And now I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009, introduced in the House by Congresswoman CAROLYN MALONEY from New York.

H.R. 627 will help consumers, especially Latinos, by eliminating harmful

credit card industry policies and practices that have resulted in a dangerous accumulation in the Latino community of unsecured debt. It will empower Hispanics to reduce their reliance and dependence on credit cards, and help them build the assets and wealth they need for long-term economic stability, and to eventually attain the American Dream of homeownership.

As chairman of the Subcommittee on Higher Education, I strongly support the provisions in the bill that increase protections for students against aggressive credit card marketing and increased transparency of affinity arrangements between credit card companies and universities.

Mr. Speaker, this legislation is long overdue. It's imperative that we pass this bill and that the President sign it into law as soon as possible to begin the journey toward credit card reform.

Congresswoman MALONEY's legislation will help all individuals residing in the U.S. and will improve financial literacy of Americans across the board, which is the goal of the Financial and Economic Literacy Caucus I co-founded and currently co-chair with Congresswoman JUDY BIGGERT of Illinois.

I strongly encourage all my colleagues to support this very important and timely piece of legislation.

Mr. HENSARLING. Mr. Speaker, at this time I would like to yield 3 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, since January, House Republicans have simply asked the Democrat majority in the House for a chance to debate an amendment on Second Amendment rights and to have a vote to allow citizens to carry firearms in national parks and wildlife refuges in accordance with State law.

Unfortunately, Democrat leaders have spent the last 5 months using every legislative trick in the book to obstruct a fair and open process. However, after Senator COBURN managed to force consideration of his amendment in the other body, Democrat leaders have finally cried uncle and decided to hold a debate and a vote.

Mr. Speaker, I applaud their capitulation.

During today's debate, you'll hear gun control advocates falsely claim that this amendment will increase poaching because American gun owners won't be able to resist the temptation to shoot wildlife encountered in national parks.

Mr. Speaker, their liberal base might believe this, but I doubt if the American people will. In fact, the fact is that American gun owners are simply citizens who want to exercise their Second Amendment rights without running into confusing red tape.

Opponents of this amendment will also call it unprecedented, far reaching and radical. But the fact is, it merely

puts national parks and refuges in line with current regulations of national forest lands and Bureau of Land Management lands. Let me reiterate this. The Second Amendment rights are already in place in national forests and on Bureau of Land Management property.

The current policy is outdated, unnecessary, inconsistent and confusing to those who visit the checker board of public lands, and the policy needs to be changed, and this amendment does just that.

Finally, let me remind my colleagues that the current prohibition is only in place because of a lone activist Federal judge in Washington, D.C. who somehow rationalized that the Second Amendment should be subjected to environmental review and red tape bureaucracy—Second Amendment subjected to environmental review—and decided to singlehandedly throw out the previous policy. She did this, despite the fact that the previous administration had conducted months of review in a thorough public comment process.

Now, today, on this vote the House has the opportunity to right that wrong.

So, Mr. Speaker, I encourage my colleagues on both sides of the aisle to join me in restoring Americans' Second Amendment rights on Federal lands.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. I thank my chairman for allowing me to have these 2 minutes.

Mr. Speaker, I rise today to raise my voice in opposition to the Coburn amendment to H.R. 627, the Credit Cardholders' Bill of Rights.

Our economy is in trouble, and millions of consumers are hurting under the pressure of staggering credit card debt.

I am proud to support the hard work of my colleague, Congresswoman CAROLYN MALONEY, who has championed the Credit Cardholders' Bill of Rights, which will make the practice of credit card companies fairer, help dig consumers out of debt, and get our economy going.

But I am incredibly disappointed that this well-meaning bill has been hijacked and used as a political tool to ram a provision down the throats of Americans when they need our help to address more pressing issues.

Adding an amendment that will allow loaded guns into our national parks to a bill that is designed to help American families during an economic crisis shows an ignorance of the seriousness of our Nation's economic crisis and a disregard for the needs of its consumers. This amendment should not be part of this bill.

Our national parks are among our greatest treasures. We are blessed as a

Nation with some of the most pristine and beautiful landscapes and open spaces in the world, and every year millions and millions of families from all walks of life travel from far and near to enjoy these amazing resources. When families are out experiencing the wonders of our lands, the last thing they should have to worry about is a threat or the possible threat of gun violence.

With the Coburn amendment, we are putting families at risk, which is wrong. And the method being used to push the bill is equally troubling. Are we going to have all of our bills coming over from the Senate with gun legislation on them?

I urge my colleagues to vote against the Coburn amendment and vote for H.R. 627.

Mr. HENSARLING. Mr. Speaker, at this time I would like to yield 3 minutes to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Speaker, I am happy to be here to speak on this particular amendment.

There are, indeed, some in government who are very uncomfortable with the concept of an armed citizenry. That is nothing that is new.

Mr. Speaker, 234 years ago, on a spring day that's very similar to this one, a British commander in Boston sent out a detachment to Lexington and Concord for what he thought was a perfectly reasonable gun control measure. I mean, why would any rational person want to possess a gun on park-like greens and commons in those pleasant New England towns?

Unfortunately for General Howe, the patriots disagreed. And those same patriots were the ones who wrote our Constitution and gave the protection in the Second Amendment to gun rights.

The issue today is whether Congress will insist that the National Park Service live under the same rules that the national forests and the Bureau of Land Management areas have been under all the time.

There's nothing unique or new about this. It is simply a matter of conformity. The real winners in this amendment are law-abiding Americans who will no longer be treated as criminals, even though they're good people.

I give, for example, Damon Gettier, who was convicted of the heinous crime of driving through the Blue Ridge Parkway, which bisects his community towards his home one afternoon when he had a legally owned firearm in his car, which was legal in the State of Virginia, but not in the Park Service land a couple of blocks away.

Even the Federal judge admitted he, himself, had no idea it was unlawful to carry a firearm in a car in National Park Service land, though it was lawful in the State of Virginia. This man, nonetheless, was still penalized.

It is wrong. This rights that wrong. This brings continuity and it brings the National Park Service in line with every other public lands proposal that we have in this Nation. And I urge its adoption.

Ms. WATERS. Mr. Speaker, I yield myself 2 minutes.

It's unfortunate, Mr. Speaker and Members, that we have to deal with this misplaced Coburn amendment in what is a very good bill. The American taxpayers ought to be incensed.

We are trying to protect consumers against the practices of these credit card companies that have been ripping them off for so long, and here we have, placed in this bill, this irrelevant amendment that is dealing with guns and guns in parks.

It's a good bill. I support the bill. And I would like to thank Financial Institutions Chairman LUIS GUTIERREZ and Congresswoman MALONEY for their continued dedication and leadership on this issue. And I am a proud sponsor of H.R. 627.

I had no idea on the Senate side they would inject this amendment into the bill. It's about time that we reined in the abusive practices of credit card companies. For too long, credit card companies have squeezed consumers through every scheme imaginable, including double-cycle billing and universal default. This bill will finally give consumers the rights they deserve.

H.R. 627 bans double billing, double cycle billing. It bans universal default, and it flat out prohibits arbitrary interest rate increases. It even prohibits credit cards from raising rates during the first year that a credit card account is open, thereby eliminating the old bait-and-switch policies.

I am especially pleased that now credit card companies will have to allow consumers to opt in to overdraft plans, so that the \$3 cup of coffee does not turn into a \$35 overdraft charge.

Even with this bill, we know that credit card companies will still try to put the squeeze on the consumers. Already they are lowering the credit lines of borrowers in good standing, based on where the borrower shops. This is why this bill, H.R. 627, includes an amendment that I offered to require the Federal Reserve to report to Congress on the extent of these practices. With this study, we will have the information we need to further end these abusive practices.

I urge my colleagues to support H.R. 627, and I am hopeful that we can separate this bad Coburn amendment out of the bill.

Mr. HENSARLING. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think, for the moment, I do wish to return to the credit card debate.

Again, Mr. Speaker, I fear that the legislation before us is going to be riddled with unintended consequences.

Again, there are portions of the bill to which I think almost every Member of this body would agree. Consumers have been taken advantage of by misleading claims, by deceptive disclosures, and we must have effective disclosure written in legalese not voluminous disclosure. Rather, we need effective disclosure written in English, as opposed to voluminous disclosure written in legalese.

But we don't need to take away consumer's credit opportunities at a time when the market is already contracting from the economic recession. I mean, these credit cards are needed.

And again, Mr. Speaker, I fear that this legislation will take us back to a bygone era, an era that most of us, frankly, don't want to revisit.

Now, in my earlier remarks I alluded to this New York Times piece, again, not exactly known as a bastion of conservative thought, but it is certainly a third-party validation to what many of us have been saying in this debate. But I allude to this New York Times article of May 19. And it talks about this bygone era, and in part of this article it says: "Banks used to give credit cards only to the best customers and charge them a flat interest rate of about 20 percent, and an annual fee." Well, once certain usury laws have been relaxed, once there were technological innovations allowing this thing called risk-based pricing, something happened, Mr. Speaker, and that was, people who previously had no access to credit finally got access to credit.

□ 1315

Something else happened, Mr. Speaker. That is that those debtors who paid their bills on time, who were less risky, managed to pay a lower interest rate and managed to get rid of the dreaded annual fees. This is a piece of legislation that will take us back to a bygone era that most of us want to leave bygone. It is a step into the past.

The article in the New York Times goes on to say, "The industry says that the proposals will force banks to issue fewer credit cards at greater cost to the current cardholders."

Now, some may view that to be a good thing. Well, it's not necessarily the struggling families of the Fifth Congressional District of Texas. They want their credit cards. They want choices to be had. They want there to be honest disclosure that they understand, but they want choices in the marketplace.

Now, I may view this legislation differently, Mr. Speaker, if I thought there weren't competition in the marketplace, but we've heard testimony throughout this debate that there are over 10,000 different issuers of credit cards—10,000. We've seen contraction in the market due to the economic recession, and all this legislation is going to do is exacerbate that phenomenon.

So, again, this is a bailout bill. It's asking those who pay their bills on time and in full to bail out those who don't. So, again, we'll hear all of the rhetoric that we're slapping around the big credit card companies. Frankly, there are a number of their practices that deserve slapping around, but somebody else is going to get slapped around, and that is the borrower who pays his bill in full and on time. He is going to be punished. He is going to get slapped around by this legislation at a time when they can ill, ill afford it.

We've seen this before. We've heard testimony from, for example, community banks that tell us, if this legislation is passed—and I've heard this from banks in my own district—that ultimately the credit card portfolios of the smaller institutions are going to be ended or that they're going to be sold to the larger institutions. Less competition. Less opportunities.

We've heard from academics in this debate, like Professor Todd Zywicki from George Mason University. The increased use of credit cards has been a substitution for other types of consumer credit. If these individuals are unable to get access to credit cards, experience and empirical evidence indicates that they will turn elsewhere for credit.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENSARLING. Mr. Speaker, I yield myself an additional minute.

They will turn elsewhere for credit, such as to pawnshops, to payday lenders, to rent-to-own or even to loan sharks. In some respects, maybe we ought to call this the Payday Lenders and Pawnshop Relief Act, because that will be the consequence. Now, I'm not trying to cast aspersions on their business models. Many consumers turn to them. That's not the point.

The point is this legislation is going to constrict consumer choice. We've seen similar legislation in the United Kingdom. They passed a law that capped default fees. What happened? Well, two of the three largest issuers promptly imposed annual fees on their cardholders. Nineteen of the largest raised interest rates, and by one independent study, 60 percent of new applicants were rejected. That's what happened in the U.K.

These are the unintended consequences of this legislation, and that is why I believe this conference report should be rejected at this time. There is a better way of doing this, Mr. Speaker, and it is with disclosure and with effective enforcement of any fraud laws.

Mr. FRANK of Massachusetts. Mr. Speaker, I now yield 2 minutes to a member of the committee who is one of the coauthors of this important bill, the gentleman from New York (Mr. MAFFEI).

Mr. MAFFEI. Mr. Speaker, I rise in strong support of sending this critical



bill to the President for his signature. Enactment will stop deceptive and unfair practices by credit card issuers that have taken advantage of honest consumers.

I thank the chairman for his leadership, and I want to especially thank Congresswoman CAROLYN MALONEY.

When she started in this effort, the odds were dead set against her, and it was likely her efforts would run into stiff partisan opposition. Thanks to her leadership and hard work, this bill has very bipartisan support, passing this House this year by 357-70 and, yesterday, being approved by the Senate with an overwhelmingly bipartisan 90-5 vote.

Each time I am at home in my district, without fail, people share stories about their times with credit cards. One woman, Diana Lynn, from Baldwinsville, near Syracuse, recently noted that, in the fine print of her credit card, her interest rate had been raised from 14.25 to 21.5 percent for no reason, which was applied to her already existing balance. Diana runs an animal protection nonprofit and is taking care of her mother, who is in intensive care. Now, she is confident that she will eventually pay off this balance and will still maintain her good credit, but she is worried about those less well off, who are at the mercy of the credit card companies.

Hers is just one of the hundreds of stories that my office has heard. Today, we take action on their behalf. Under this legislation before us, Diana would have been protected. For too long, the credit card issuers have taken advantage of American families, of small businesses and even of churches that are too responsible to run away but are too poor to pay off their balances.

The Credit Cardholders' Bill of Rights means that credit card companies will no longer be allowed to act as loan sharks. The enactment of this bill is just the beginning. Just as the Bill of Rights in the Constitution provides a foundation for all of our laws that protect citizens' liberties, this bill will create a solid foundation for Congress to build upon in order to provide a needed floor for the industry to improve their practices and to highlight the need for consumer responsibility. This bipartisan coalition will continue to push for more transparency and fairness for consumers in upstate New York and throughout the country.

Mr. HENSARLING. Mr. Speaker, at this time, I would like to yield to the distinguished ranking member of the Financial Services Committee for as much time as he may consume, the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I think all of us in this body have had constituents call and complain that what they saw were unfair and deceptive

credit card practices, and in many cases, these practices were not fair.

As a result of that, the Financial Services Committee, working with the Federal Reserve, proposed—and the Federal Reserve has now adopted—changes. The things that have been talked about by Members of this body in the debate last week and in the debate today are taken care of in the Federal Reserve's requirements. In fact, they went through a long public process. They had over 60,000 public comments about the issues, and they issued, actually, 1,200 pages of changes in our credit card regulations. This included going up on balance fees. This included double-cycle billing. This included giving people a longer period of time from the time their statement was mailed to the time they had to get a payment in—all of the things, I think, that most of us have received calls on.

One matter that we raised when this bill was before us—and I want to commend the Senate, and I want to commend the Democratic majority in the House—was this idea in the original legislation that you could apply for a number of credit cards, but it would not go on your credit report until you activated that card. I think, as a result of the debate 2 weeks ago, we took a closer look at that, and we did pass an amendment by AARON SCHOCK, which, I think, will close the door to a lot of fraud in that regard. I appreciate the majority's support on that. I think the Senate further closed that loophole, and I think we've struck the right balance there.

As for the supporters of this bill, I don't question their sincerity, and I don't question their motivation. They and the American people want credit card reform. What we had said is there is tremendous reform in the Fed's proposals, in the Federal Reserve's proposals, and we felt like those ought to have a chance. We expressed why we were for those reforms which were going into effect next July and not for this bill.

One of our concerns—and I think that this bill will do this, and I hope I'm wrong—is that this legislation, I believe, will restrict credit for those who don't have the best credit reports. They're really the people who probably need credit the most. In fact, the subcommittee ranking member, Mr. HENSARLING, referred to a New York Times article. Now, that article and an article that appeared in today's Washington Post really express some of the same concerns that the gentleman from Texas and I expressed 2 weeks ago, which is that we are going to have several things happen as a result of this bill.

One is we're going to have a restriction of credit. The Washington Post article does quote from the Financial Services Roundtable, but they say that

they believe that credit could be reduced by as much as \$2 billion. That's not very good timing if that's done, ladies and gentlemen of the House.

As I have said and as I said yesterday in the Rules Committee, I fear that many Americans will not be able to renew their credit cards or I fear that their credit card lines will be reduced. Sometimes maybe this is good, but I think, in a time of economic crisis, it's going to be somewhat ill-timed.

The New York Times and The Washington Post both mention that they believe, as a result of this legislation, you are not going to see any offers to transfer balances at zero percent. They also say the most creditworthy customers, those who pay every month and who haven't had to pay interest, will probably have to as a result of these changes. They probably will be charged interest. There are predictions in here that there will be the return of higher fees. I hope these predictions don't pan out.

[From the New York Times, May 19, 2009]  
CREDIT CARD INDUSTRY AIMS TO PROFIT FROM  
STERLING PAYERS  
(By Andrew Martin)

Credit cards have long been a very good deal for people who pay their bills on time and in full. Even as card companies imposed punitive fees and penalties on those late with their payments, the best customers racked up cash-back rewards, frequent-flyer miles and other perks in recent years.

Now Congress is moving to limit the penalties on riskier borrowers, who have become a prime source of billions of dollars in fee revenue for the industry. And to make up for lost income, the card companies are going after those people with sterling credit.

Banks are expected to look at reviving annual fees, curtailing cash-back and other rewards programs and charging interest immediately on a purchase instead of allowing a grace period of weeks, according to bank officials and trade groups.

"It will be a different business," said Edward L. Yingling, the chief executive of the American Bankers Association, which has been lobbying Congress for more lenient legislation on behalf of the nation's biggest banks. "Those that manage their credit well will in some degree subsidize those that have credit problems."

As they thin their ranks of risky cardholders to deal with an economic downturn, major banks including American Express, Citigroup, Bank of America and a long list of others have already begun to raise interest rates, and some have set their sights on consumers who pay their bills on time. The legislation scheduled for a Senate vote on Tuesday does not cap interest rates, so banks can continue to lift them, albeit at a slower pace and with greater disclosure.

"There will be one-size-fits-all pricing, and as a result, you'll see the industry will be more egalitarian in terms of its revenue base," said David Robertson, publisher of the Nilson Report, which tracks the credit card business.

People who routinely pay off their credit card balances have been enjoying the equivalent of a free ride, he said, because many have not had to pay an annual fee even as they collect points for air travel and other perks.

"Despite all the terrible things that have been said, you're making out like a bandit," he said. "That's a third of credit card customers, 50 million people who have gotten a great deal."

Robert Hammer, an industry consultant, said the legislation might have the broad effect of encouraging card issuers to become ever more reliant on fees from marginal customers as well as creditworthy cardholders—"deadbeats" in industry parlance, because they generate scant fee revenue.

"They aren't charities. They have shareholders to report to," he said, referring to banks and credit card companies. "Whatever is left in the model to work from, they will start to maneuver."

Banks used to give credit cards only to the best consumers and charge them a flat interest rate of about 20 percent and an annual fee. But with the relaxing of usury laws in some states, and the ready availability of credit scores in the late 1980s, banks began offering cards with a variety of different interest rates and fees, tying the pricing to the credit risk of the cardholder.

That helped push interest rates down for many consumers, but they soared for riskier cardholders, who became a significant source of revenue for the industry. The recent economic downturn challenged that formula, and banks started dumping the riskiest customers and lowering their credit limits in earnest as the recession accelerated. Now, consumers who pay their bills off every month are issuing a rising chorus of complaints about shortened grace periods, new hidden fees and higher interest rates.

The industry says that the proposals will force banks to issue fewer credit cards at greater cost to the current cardholders.

Citigroup and Capital One referred comments to the A.B.A. Discover and American Express declined to comment. Bank of America intends to "provide credit to the largest number of creditworthy customers possible, while also remaining prudent in our lending practices," said Betty Riess, a spokeswoman. Together with JPMorgan Chase, which has said the changes will force it to limit credit availability and raise fees, these banks account for 80 percent of the credit card industry.

Banks are not required to publicly reveal how much money they make from penalty interest rates and fees, though government officials and industry consultants estimate they constitute a growing portion of revenue.

For instance, Mr. Hammer said the amount of money generated by penalty fees like late charges and exceeding credit limits had increased by about \$1 billion annually in recent years, and should top \$20 billion this year.

Regulations passed by the Federal Reserve in December to curb unexpected interest charges would cost issuers about \$12 billion a year in lost fees and income, according to industry calculations. The legislation before Congress would build on the Fed rules and would further squeeze banks' revenue when they are being hit with a high rate of credit card charge-offs. The government's stress tests showed that the nation's 19 biggest banks will take on \$82 billion in credit card losses in the next two years.

A 2005 report by the Government Accountability Office estimated that 70 percent of card issuers' revenue came from interest charges, and the portion from penalty rates appeared to be growing. The remainder came from fees on cardholders as well as retailers for processing transactions. Many retailers

are angry at the high fees and plan to pass them on to shoppers once the Congressional legislation takes effect.

Consumer advocates say they have little sympathy for credit card issuers, arguing that they have made billions in recent years with unfair and sometimes deceptive practices.

"The business model will change because the business model doesn't work for the public," said Gail Hillebrand, a senior lawyer at Consumers Union.

"In order to do business under the new rules, they'll actually have to tell you how much it's going to cost," she said.

With many consumers mired in debt and angry at what they consider gouging by credit card companies, the issue of credit card reform has broad populist appeal. Members of Congress and the Obama administration have seized on the discontent to push reforms that the industry succeeded in tamping down when the economy was flying high.

Austan Goolsbee, an economic adviser to President Obama, said that while the credit card industry had the right to make a reasonable profit as long as its contracts were in plain language and rule-breakers were held accountable, its current practices were akin to "a series of carjackings."

"The card industry is giving the argument that if you didn't want to be carjacked, why weren't you locking your doors or taking a different road?" Mr. Goolsbee said.

[From the Washington Post, May 20, 2009]

#### CREDIT CARD RESTRICTIONS CLOSE TO ENACTMENT

(By Nancy Trejos)

Landmark credit card legislation, poised to reach President Obama's desk by Memorial Day, will force the card industry to reinvent itself and consumers to rethink the way they use plastic.

The Senate cleared a hurdle yesterday, voting 90 to 5 to pass a bill that would sharply curtail credit card issuers' ability to raise interest rates and charge fees. Lawmakers will now turn to reconciling differences with a similar bill approved by the House last month. Swift passage was expected given that the Senate version received so much bipartisan support and that the White House has pressed for action.

When Obama signs the bill into law as expected, the \$960 billion credit card industry will go through a restructuring that could have broad implications for consumers.

The bill prohibits card companies from raising interest rates on existing balances unless a borrower is at least 60 days late. If the cardholder pays on time for the following six months, the company would have to restore the original rate. On cards with more than one interest rate, issuers will have to apply payments first to the debts with the highest rates, which would help borrowers pay off their cards more quickly.

Treasury Secretary Timothy F. Geithner said the bill "will help create a more fair, transparent and simple consumer credit market."

Card executives said the changes will force them to charge higher rates and annual fees to delinquent customers and those in good standing.

"This bill fundamentally changes the entire business model of credit cards by restricting the ability to price credit for risk," said Edward L. Yingling, the chief executive of the American Bankers Association. He said that lending would become more risky and that, "It is a fundamental rule of lending that an increase in risk means that less

credit will be available and that the credit that is available will often have a higher interest rate."

Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, an industry group, said available credit could be reduced by as much as \$2 billion.

When credit cards were introduced about 50 years ago, issuers practiced a one-size-fits-all approach of charging an annual fee and roughly the same interest rate of about 18 percent to everyone. As the industry became more deregulated in the 1980s, around the time that credit scores were introduced, issuers were able to separate the risky from the not-so-risky borrower and tailor the terms of card contracts.

The money they made from customers who did not pay their bills in full each month became an important revenue source. The industry makes \$15 billion annually from penalty fees, and one-fifth of consumers carrying credit card debt pay an interest rate above 20 percent, according to figures cited by the White House and compiled from the Government Accountability Office and the Federal Reserve.

To make up for the lost revenue, card issuers will turn to those customers who pay what they owe in full and on time every month, analysts said. Gone will be the days when creditworthy customers enjoyed the benefits of low interest rates and cards that offer rewards such as frequent flier miles and cash back, they said. Annual fees, which had been banished to cards with rewards programs, are likely to return. Offers for zero percent balance transfers are likely to become more rare.

"This industry will start looking more like a one-size-fits-all pricing approach which dominated in the '80s—18 percent interest and \$20 annual fees," said David Robertson, publisher of the Nilson Report, which covers the industry. Customers who pay in full each month will have "to start picking up the slack, to start pulling their weight."

Consumer advocates and legislators pointed out that the legislation still allows issuers to raise interest rates for future purchases as long as they give 45 days' notice. It also does not set any interest rate caps, allowing issuers to charge new customers any rate they want.

"This ominous we're-going-back-in-time threat doesn't make a whole lot of sense," said Travis B. Plunkett, legislative affairs director at the Consumer Federation of America.

Bruised by a rise in delinquencies and a record percentage of debts they have had to write off, some of the biggest players in the card industry, including Bank of America, Capital One and Chase, have already been increasing interest rates and cutting credit limits even on customers who pay on time.

Credit card issuers have come under fire for such any-time, for-any-reason interest rate increases at a time when consumers are buckling under the weight of debt. Outraged consumers have complained of mistreatment from the same companies that have been receiving federal bailout money.

The Senate bill, written by Banking Committee Chairman Christopher J. Dodd (D-Conn.), would also restrict the ability of college students to get credit cards and require card companies to make contracts easier to understand and available online.

The House bill, authored by Rep. Carolyn B. Maloney (D-N.Y.), largely mirrors regulations passed by the Federal Reserve in December that would ban many so-called unfair

and deceptive practices. Both the House and the Fed's efforts are considered weaker than the Senate bill. Analysts and industry insiders said the fact that the Senate bill received so many votes is a good indication that it will make it to Obama.

The Federal Reserve's new rules do not go into effect until July 2010. The House and Senate bills seek to accelerate that timeline. The Senate bill would be enacted nine months after signing and the House bill 12 months after.

I want to mention one final thing. The gentlelady from California said that Senator COBURN's amendment was misplaced. I want to say that it's well-placed, and when that comes up, I want to urge the Members to support it and to vote "yes." I applaud the action taken by Mr. COBURN in the Senate. I think it's important to law-abiding citizens who want to exercise their Second Amendment rights.

The gentleman from Washington (Mr. HASTINGS) pointed out that one Federal judge in one district in Washington arbitrarily, through a ruling, confused the law and changed the law—law by judge. I want to associate myself with the remarks of the gentleman from Washington. The Coburn amendment will provide uniformity on regulations governing the possession of firearms in national parks and refuges, which is of particular concern in carry and in right-to-carry States.

In my own Alabama, a citizen could be exercising his State-granted, concealed carry right and then enter into, for example, the Cahaba River National Wildlife Refuge, in my district, and be subject to a violation of Federal regulations, requiring weapons to be unloaded and to be kept out of reach.

I've cosponsored the National Parks Firearm Bill here in the House to address what is a patchwork of regulations. To me, it would be a violation of the Constitution and of our Forefathers' intent if someone exercising his Second Amendment right were to suddenly cross a line, go into a national park and find himself facing a Federal judge and a fine because of the uncertainty.

I urge my colleagues to vote "yes" on the Coburn amendment, which would eliminate the conflicting Federal regulations and would allow honest citizens to carry firearms in national parks and in wildlife refuges.

□ 1330

I urge each of my colleagues—and I know that credit card companies are not very popular—but I urge them to look at those Federal proposals that are going into effect with or without this bill and decide whether they want to roll the dice on legislation that could very well in the next few months result in greater costs and fees.

Yes, there are very many good things in this bill. I say that to the gentlelady from New York and the gentleman from Massachusetts, the chairman.

Very good things. But I think that 99 percent of them are contained in the proposals by the Federal Reserve that will be implemented and have been carefully thought out.

Mr. FRANK of Massachusetts. I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Thank you very much for yielding. I want to speak in favor of the bill and very adamantly opposed to the amendment. I think people are just misaddressing the whole issue. National parks have the significance of being national. And if you think that it's okay to carry guns in national parks, why not carry them into the National Cemetery, into the national White House, into the national Capitol, into the National Arboretum. The list goes on and on. This is a dumb amendment—and Congress should be embarrassed that we have to vote on it.

People go to the national parks for a specific purpose—to enjoy the serenity of wildlife. Now you're going to have some gun nut come in there and see something rustling at night and decide that maybe, Oh, I'm being attacked by a wild animal, or maybe something is going on out in the bushes.

There are going to be problems with this. It doesn't make any sense. This is a credit card bill. And there's no purpose in the credit card bill to have a gun bill.

We talk a lot about pork in this House. I think this is an act of chicken.

Anyway, this is a bad amendment, and I hope that you'll vote "yes" on the first vote and "no" on the second vote.

Mr. HENSARLING. Mr. Speaker, may I inquire how much time is remaining on both sides.

The SPEAKER pro tempore. The gentleman from Texas has 4½ minutes and the gentleman from Massachusetts has 16½ minutes.

Mr. HENSARLING. Mr. Speaker, I yield myself the balance of our time.

First, Mr. Speaker, I don't spend all of my time observing the processes and procedures and ways of the other body so I don't know how these two particular issues managed to get commingled. Having said that, I can't think of any bad time to stand up for the Second Amendment rights of our citizenry. Again, it appears to me that one lone, perhaps rogue Federal judge has tried to put a dent into the Second Amendment rights of our citizens.

I was happy in the last Congress to introduce H.R. 5434, the Protecting Americans from Violent Crime Act, that would have taken care of this issue. Again, this is a bedrock principle embedded in our Constitution. The citizens need to have their right to keep and bear arms protected, even on this Federal property, particularly when incidences of violence at Federal parks has shown increases, upticks. But regardless, we cannot allow the Constitu-

tion of the United States to be amended in such an unconstitutional fashion. So I'm happy to raise my voice in support of that.

Back to the credit card issue at hand—and I will try not to use the entire 4½ minutes. We have had testimony from the Congressional Research Service, we have had testimony from academics, we have had testimony from community bankers. We have seen the history. We have seen the history of what has happened in Great Britain.

There are huge unintended consequences associated with this legislation. The people who pay their credit card bills in full, on time, are about to be punished. They will be forced to bail out those who don't. They will end up paying annual fees. They will end up paying higher interest rates. They will see such things as member rewards programs contract.

I believe this to be patently unfair, Mr. Speaker, and it will be caused by this legislation. Again, I think the intentions are pure. I think the intentions are noble. But such will be the consequences of this legislation.

In the middle of a huge credit crisis we will take credit cards away from people who desperately need them. We will end up taking them away from families like the Blanks family of Fruitdale in the Fifth District of Texas, who wrote to me, "Congressman, my new business would not have been started if not for my credit and credit cards. My existing job will be gone, and it is forcing me to do what I really want to do anyway." He goes on to say, "I couldn't have achieved the American Dream without credit cards."

I fear under this legislation that families like the Blanks family of Fruitdale will lose their credit cards.

I heard from the Vehon family in Rowlett, also in the Fifth District of Texas. "In the fall of 2004, my wife and I were laid off from our jobs at the same time. Needless to say, the layoff was quite a shock, and without access to our credit cards at the time, frankly, I don't know what we would have done."

"Due to the flexibility that credit cards can supply to responsible people in challenging times like I have described, we were able to stay pretty current on our bills."

I heard from the Juarez family in Mesquite, Texas, that I have the honor of representing in Congress. "I oppose this legislation, as I have utilized my credit cards to pay for some costly oral surgeries. I do not want to get penalized by this legislation for making my payments on time."

Again, Mr. Speaker, this legislation is not fair to the Juarez family, it is not fair to the Vehon family, it is not fair to the Blanks family, it is not fair to millions of other families across our

land who desperately need their credit cards. And I urge that we reject this conference report.

I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume. Let me begin by responding to the gentleman from Texas' reference to small business. The National Federation of Independent Business supports this bill. So the suggestion that this will somehow have a negative effect on small business is repudiated by the active support for the bill of the organization that has generally been identified as the major spokes-organization for that, the National Federation of Independent Business.

Secondly, there was a premise here that I find very faulty. The gentleman from Texas quoted the New York Times and others, and they have said—Mr. Speaker, I'm going to interrupt myself at this point, if I may. The chairman of the Appropriations Subcommittee on the Interior has come in. I assume he wanted to speak.

I will now yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Thank you, Mr. Chairman. I rise in strong opposition to the Coburn amendment, which was adopted in the other body. It will make our parks less safe. According to the FBI, our national parks currently are among the safest place in the country. The current regulations were put in place by Ronald Reagan and James Watt, and what they want to do here is change that. I think it's a big mistake.

There were only 1.65 violent crimes per 100,000 visitors in 2006. Compare that to nearly 470 violent crimes per 100,000 for the nationwide average. Clearly, the argument that these guns are needed for visitors to be safe is simply not true.

The Coburn amendment would allow many everyday disturbances, especially if alcohol is involved, to spin out of control towards a possibly lethal end. The dedicated park rangers and wildlife refuge staff would be put at risk and their jobs would become even more difficult. Also, wildlife will be at risk with increased poaching if visitors are able to carry loaded weapons into the parks. In addition to more poaching, vandalism would increase, putting fragile natural resources at risk.

The former rangers, the former retirees from the Park Service have all stated unanimously that this thing is not needed. I think that it would be upsetting for many visitors to the parks to know that they run a risk of an encounter with someone who's carrying a loaded gun.

With the number of school groups who visit these places, it would be a real shame that their attendance drops due to the fear of loaded weapons.

So I strongly, as chairman of the Interior and Environment Appropriations Subcommittee, oppose this amendment

and urge it to be struck from this legislation, and I thank the chairman for yielding.

Mr. FRANK of Massachusetts. I yield myself such time as I may consume. I repeat, the National Federation of Independent Businesses says this is good for small businesses, this bill, because they have been victimized. It will in no way cause there to be a failure to offer a credit card to a business that can pay it back. Nothing in this bill remotely suggests that.

There was also, as I said, a somewhat implausible argument. The New York Times quoted people in the credit card industry saying, If you do this, we won't like it, and we may raise rates.

The notion that if we pass this bill rates will be raised on the great majority makes this mistake. The assumption is that there is money now laying on the table that the beneficent credit card companies voluntarily forgo. Under the principles of free enterprise, the business is legally entitled and motivated to charge as much as it can. That argument only makes sense if you think they are voluntarily reducing money that they could get from some of the customers. Of course, they're not. No one expects them to.

But the most important thing here is the conflict that I see in my friend on the other side. The gentleman from Alabama repeatedly said what we should do is stick with the Federal Reserve's rules. The gentleman from Texas, as I heard him, didn't say that.

There's a difference here. This is a case—and maybe they caught it, and maybe not. It may be one of those cases where the right hand doesn't know what the far-right hand is saying. Because to the extent that there is any restriction on rates, it is identical in the Federal Reserve's rules as in this bill.

So there is a fundamental difference between the approach taken by the gentleman from Alabama and the gentleman from Texas. The gentleman from Alabama says, Adopt what the Fed said. The gentleman from Texas specifically objected to that provision in our committee. And what the New York Times article is aimed at—the quotes from the credit card people—is that provision that's in the Federal Reserve.

By the way, it does nothing to cap interest rates going forward. That is a straw argument. The only restriction on rates here, on interest rates, is to say that you cannot raise them retroactively.

Now the Federal Reserve also says that. So the gentleman from Alabama agrees. The gentleman from Texas, who's an honest believer in no restrictions, says "no." In fact, in our committee debate he cited an example of when he thought a company would be justified in raising rates retroactively.

He said, Suppose someone owes a company interest on debt already in-

curred and has been meeting the regular scheduled payments, but either goes to prison or loses his or her job. The gentleman from Texas said, If you have been paying the credit card company on a regular basis, and you lose your job, they should be legally allowed to raise the rates on what you already owe them.

We disagree. So does the Federal Reserve. So, apparently, does the gentleman from Alabama, because he supports what the Federal Reserve says.

Mr. HENSARLING. Will the gentleman yield?

Mr. FRANK of Massachusetts. I will yield to my friend from Texas.

Mr. HENSARLING. Was that not already embedded in the legislation, in that one of the four opportunities for credit card companies to raise interest rates retroactively is when people don't meet their workout plans. Would that not be one of the reasons?

Mr. FRANK of Massachusetts. The gentleman is quite wrong. I said—and he didn't listen, as he may not have listened to the gentleman from Alabama, because he didn't express disagreement with him—I said, If people are meeting their obligation under the bill that we put forward and under the Federal Reserve's rules, if you're meeting your obligations, if you're making your payments on time, they cannot raise your rates retroactively.

I see members of the staff checking it out. They will find out what I'm saying is accurate.

If you are meeting your obligations, you cannot have the rate raised. What the gentleman from Texas said is, Suppose you lose your job. Well, losing your job, if you are otherwise meeting your obligations, should not mean that they can raise your rate retroactively. We are only talking about in this bill retroactive raises. There is no limitation going forward.

Now the gentleman from Alabama also said, Well, if the Federal Reserve is right—the gentleman from Texas doesn't like what the Federal Reserve did—the gentleman from Alabama said, If the Federal Reserve is right, why don't you stop there?

□ 1345

Because we do some things the Federal Reserve doesn't do, one. Two, because many of us believe—and I have to say, my conservative friends flip-flop on the Federal Reserve issue with a speed that dazzles me. Sometimes the Federal Reserve is this undemocratic institution which people worry about. Other times we should delegate significant legislative authority to them.

I'm glad they acted. By the way, the Federal Reserve only acted after party control of the Congress changed. In 2007 we began to move on this, and then they acted.

There's another side point. Let me say this. Several of my colleagues said,

Well, this has got good stuff in it. It's got disclosure. You know, if the Republicans, when they were in the majority, had broken out of this absolute slavish assumption that no regulation is ever any good, in effect—they don't say it quite like that, but that is the practical effect—if they had, when they were in power from 1995 to 2006, passed something that had the good parts of this bill, we might have not been here today on this bill because that might have chastened the companies. So they now find things in this bill that they like, but they refuse to do them. The gentleman from New York was pushing for some of this.

During their 12 years—and by the way, that's a pattern. During the 12 years of Republican rule, there were no financial regulations. There was some deregulation. There was nothing about the subprime or credit cards. We came to power and have begun to deal with it. We are dealing with the negative consequences of lack of regulation.

But to go back to the point, we go beyond the Federal Reserve. There is one area where, regrettably, we don't go beyond the Federal Reserve. The gentleman from Alabama correctly noted that our colleague from Illinois (Mr. SCHOCK) had a good amendment involving your credit rating. Unfortunately, while we accepted that amendment, it was left out of the final bill because of the objections of the ranking Senate Republican, the gentleman from Alabama, Mr. SHELBY.

I fought for the inclusion of the gentleman from Illinois' amendment. I spoke to him. I urged him to join in, but it was reported to me by the leadership of the committee that that amendment from the gentleman from Illinois was unfortunately rejected by the objections of Mr. SHELBY. So we didn't get that one.

We did get a very good amendment that the Federal Reserve didn't have, sponsored by the gentleman from North Carolina (Mr. JONES), to require that the estate of a decedent be correctly done. We also have some rules in here about not sending credit cards to people under 18.

By the way, the notion that this market works perfectly is somewhat rebutted by the fact that we're told that one of the crises now coming is credit card debt that's going to be a problem, securitized credit card debt because there were some imprudent things. So if this bill means that there will be some credit cards that won't be issued, good. Because they have been imprudent in doing that. But people who pay will not have a problem.

So just in summary, this bill does not restrict credit card interest going forward. Maybe that's what they did in the United Kingdom. It does not interfere with small business, in the opinion of the National Federation of Independent Business. It agrees with the

Federal Reserve that you should not raise rates retroactively. On that one, it's the gentleman from Alabama, the Federal Reserve, and myself; the gentleman from Texas and some others who are on the other side, a legitimate difference of opinion. But we also have some consumer protections not in what the Federal Reserve did.

I would also say, this notion that we should leave public policy to the unelected Federal Reserve and that Congress should not step in also and act I think is one that underestimates the role of elected officials and democracy in our country.

Now I disagreed with the gun amendment. I wish it hadn't been in there. I don't control the rules in the Senate. I intend to vote against it. In my judgment, the value of the credit card bill outweighs the harm that I think that would do. I would say, some Members on the other side may have a dilemma. Many of them strongly welcomed the amendment of the gentleman from Oklahoma. But understand that unless both pieces pass, nothing passes. So no matter how strongly you support the gentleman from Oklahoma's amendment, if Members succeed in defeating the credit card part of it, that fails.

I do have to caution them that the Federal Reserve cannot come to their rescue, as they are prone to have it do. They may want to delegate legislative powers to the Federal Reserve. I don't. But I do not think the Federal Reserve, in the most expansive reading of section 13(3), can mandate that you carry a gun in a national park.

So, Mr. Speaker, I hope that the credit card part passes, that the gun part does not; but in any case, I hope that this bill is sent to the President.

Ms. McCOLLUM. Mr. Speaker, I rise today in strong support of a "gun free" Credit Cardholders' Bill of Rights, a bill which is intended to protect American consumers and requires financial institutions to work responsibly with their customers. This legislation will eliminate the most egregious billing excesses imposed on customers and protect them from extreme fees and penalties. I commend Congresswoman MALONEY and Chairman FRANK for their leadership to pass this important legislation.

Unfortunately, Credit Cardholders' Bill of Rights was returned to the U.S. House tainted by an irresponsible amendment offered by Senator TOM COBURN and supported by sixty-six other U.S. Senators clearly more interested in their National Rifle Association rating than public safety. Senator COBURN's amendment to allow people to carry loaded, concealed firearms in America's National Park System is nothing short of insane and a political game played at the expense of millions of families who will visit our national parks seeking enjoyment, recreation, and peace. By permitting loaded guns in national parks, the Coburn amendment endangers the safety of park visitors, park rangers, and wildlife.

America's national parks are some of our country's most precious national treasures.

Our national parks are not only the millions of acres of wild lands but also include urban parks like New York's Statue of Liberty and the National Mall and Lincoln Memorial in Washington, DC—just footsteps from the U.S. Capitol. What rationale is there for the need to carry a concealed weapon on the steps of the Lincoln Memorial? The only rationale can be for politicians to score political points with the NRA.

Families and foreign visitors to our national parks should be worried, I am. Individuals carrying loaded, concealed weapons would be allowed to attend ranger-led hikes and campfire programs along with families. Park Rangers, who are already the most assaulted federal officers in the country according to the National Parks Conservation Association, would face even greater life threatening safety risks. And park visitors would no longer have the assurance that our national parks are safe, secure places for themselves and their families.

I am not alone in this position. Last year, in a letter to the Secretary of Interior, seven former directors of the National Park Service voiced strong concerns with allowing loaded guns in national parks, citing increased risk of poaching, vandalism of historic resources, and risk to visitors. The Association of National Park Rangers and U.S. Park Rangers Lodge, Fraternal Order of Police, have stated that allowing visitors to carry readily-accessible, loaded firearms would impede both their safety and the ability to keep our parks safe.

This is a shameful example of the failure of the legislative process and I would urge President Obama to veto the Credit Cardholders' Bill of Rights and send it back to Congress to take the guns out.

Mr. MICA. Mr. Speaker, though I found several provisions in this bill today to be good, I am afraid that in the long-run this legislation will hurt credit card consumers, so I reluctantly voted against it.

Some worthwhile provisions of note include consumer protections. Raising interest rates without fair and timely notice is wrong, as is applying a penalty interest rate to your existing debt. Another good provision provides for adequate time to receive and pay your bill on time using the mail. I particularly liked the section that protects young people from getting in over their heads before they even start adult life.

My concerns are that there will be fewer credit cards and less credit to individuals and businesses that need it. Fees will go up on those who tried to pay on time.

I am afraid this bill in the end will extend our recession, cost those who currently hold cards more and deny those seeking cards access to the credit they need very badly.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to show my support for the Credit Cardholder's Bill of Rights Act of 2009.

This bill is more important now than ever, because credit card practices have become a huge problem in our country.

Americans are saving less than they borrow on credit and the individual debt level is the highest it's been in decades.

Consumers should have as much information as possible when it comes to credit and finance policies and these policies should be easy to understand.

That is why I was an original cosponsor of the Credit Cardholders' Bill of Rights Act,

which among other things, includes provisions to protect consumers against: arbitrary interest rate increases, early pre-payment penalties, due date gimmicks, and excessive fees.

It also provides better general oversight of the credit card industry.

This bill passed out of the House of Representatives on April 30, 2009 with my support and I am pleased to see that the Senate sent this bill back with even stronger consumer protections and moved its implementation date up 3 months.

I look forward to voting in favor of this bill, and I encourage my colleagues to do the same.

This is a chance for us to protect American consumers and rein in abusive credit card practices.

Ms. WOOLSEY. Mr. Speaker, reasonable gun restrictions are the cornerstone of the Second Amendment. Unfortunately, opponents of sensible gun laws have taken advantage of every opportunity to undermine the common-sense regulations that keep our communities safe and uphold our Constitution.

Earlier this year, these opponents stalled historic efforts to provide District of Columbia residents with a voting representative in Congress by including unrelated amendments legalizing semiautomatic assault weapons in the District. Today, while the House considers H.R. 627, the Credit Cardholders Bill of Rights, which will grant stronger protections for consumers facing excessive credit card fees, arbitrary interest rate increases, and unfair agreements with credit card companies, we also are faced with an unrelated amendment allowing loaded firearms to be carried in parks. These gun provisions have no place in this bill and loaded firearms have no place in parks. I urge my colleagues to join me in opposing these harmful changes.

When the Bush Administration issued its regulations allowing national park visitors to carry loaded, concealed, and operable guns, it was clear these changes were not designed to protect Americans visiting parks. The Bush regulations aimed to overturn reasonable restrictions that had existed for nearly 30 years enabling park visitors with proper permits to carry firearms, as long as they were rendered inoperable with either a trigger lock or by disassembly. Fortunately, on March 19, 2009, U.S. District Judge Colleen Kollar-Kotelly halted the Bush Administration's regulations from going into effect.

Today, with this amendment, the gun industry seeks to go beyond the Bush Administration's suspended regulations and put into law extreme rules that allow park visitors to openly carry rifles, shotguns, and semi-automatic weapons in national parks. This reckless and irresponsible policy will dramatically increase the risk of shooting protected wildlife, vandalizing historic monuments, gun-related accidents for children and families visiting these parks. We cannot allow this dangerous policy to be passed into law.

Our national parks are America's sacred treasures and we must ensure their conservation and the safety of all who visit them. Madame Speaker, I fear that with this amendment, we are sacrificing our national parks and the safety of American families for the wishes of the gun industry and we will set a very dangerous precedent.

Ms. JACKSON-LEE of Texas. Mr. Speaker, Americans are taught to work hard and make money and to buy a house, but we are never taught about financial literacy. In these tough economic times, it is imperative that Americans know about financial literacy; it is crucial to our survival. Americans need to be prepared to make informed financial choices. Indeed, we must learn how to effectively handle money, credit, debt, and risk. We must become better stewards over the things that we are entrusted. By becoming better stewards, Americans will become responsible workers, heads of households, investors, entrepreneurs, business leaders and citizens.

I am reminded of how important this issue is to American society, as I was invited to attend a financial literacy roundtable panel at the New York Stock Exchange late last month. The panel was sponsored by the Hope Literacy Foundation. The panel was moderated by John Hope Bryant. I was surrounded by some of the great financial literacy experts in the nation. At the roundtable, I discussed the importance of financial literacy for college and university students. It is important that students be taught financial literacy. The facts about students and financial literacy are astounding.

In 2008, 84 percent of undergraduates had at least one credit card. This figure is staggering. Young people who themselves might not even have a job are able to get credit cards. This is astounding because it begins the cycle of indebtedness.

Recent studies have indicated that young people do not even know basic financial topics such as the impact of student loans on one's credit, how to balance a checkbook, and the impact of automobile loans on one's credit.

Because of my concern that young people are not sufficiently informed about financial literacy, I have offered this amendment: To require financial literacy counseling for borrowers, and for other purposes.

This amendment is important because approximately two-thirds of students borrow to pay for college according to the Center for Economic and Policy Research. Moreover, one in ten of student borrowers have loans more than \$35,000. Passing this legislation will ensure that our nation's college students will be more prepared when incurring student loan debt and help them to avoid default as student loans severely impact one's credit score. Currently there is about \$60 billion in defaulted student loan debt.

Many students do not understand the reality of repaying student debt while taking out these loans. While most Americans have debt of some kind, student loan repayment is especially scary, as one cannot just declare bankruptcy and have their loans discharged. Due to the lack of financial literacy counseling for borrowers, student loan payments are often higher than expected. Recent grads are unable to afford the monthly payments resulting in them living paycheck to paycheck, acquiring credit card debt and in extreme cases, grads leaving the country in order to avoid repayment and debt collectors.

Students and parents are not currently receiving the proper or any information of the burden that their student loans will have once they graduate. This is possibly a result of the

relationship between student loan companies and universities, as some lenders offer universities incentives to steer borrowers their way.

College campuses are one place that young Americans are introduced to credit and the possibility of living beyond their means. With proper loan and credit counseling the burden of debt incurred in college could be greatly reduced. Especially in this time of recession, financial literacy is one of the most important tools that we can give to our students in order to ensure their success in the future.

This amendment will provide financial literacy training to students and will require a minimum of 4 hours of counseling including entrance and exit counseling. Counseling will include the fundamentals of basic checking and savings accounts, budgeting, types of credit and their appropriate uses, the different forms of student financial aid, repayment options, credit scores and ratings, as well as investing.

I support the bill and urge my colleagues to do likewise.

H.R. 627 prevents card companies from unfairly increasing interest rates on existing card balances—retroactive increases are permitted only if a cardholder is more than 30 days late, if a promotional rate expires, if the rate adjusts as part of a variable rate, or if the cardholder fails to comply with a workout agreement.

The bill requires card companies to give 45 days notice of all interest rate increases or significant contract changes (e.g. fees).

Requires companies to let consumers set their own fixed credit limit that cannot be exceeded.

Prevents companies from charging "over-the-limit" fees when a cardholder has set a limit, or when a preauthorized credit "hold" pushes a consumer over their limit.

Limits (to 3) the number of over-the-limit fees companies can charge for the same transaction—some issuers now charge virtually unlimited fees for a single violation.

Ends unfair "double cycle" billing—card companies couldn't charge interest on debt consumers have already paid on time.

If a cardholder pays on time and in full, the bill prevents card companies from piling additional fees on balances consisting solely of left-over interest.

Prohibits card companies from charging a fee when customers pay their bill.

Many companies credit payments to a cardholder's lowest interest rate balances first, making it impossible for the consumer to pay off high-rate debt. The bill bans this practice, requiring payments made in excess of the minimum to be allocated proportionally or to the balance with the highest interest rate. Protects Cardholders from Due Date Gimmicks.

Requires card companies to mail billing statements 21 calendar days before the due date (up from the current 14 days), and to credit as "on time" payments made before 5 p.m. local time on the due date.

Extends the due date to next business day for mailed payments when the due date falls on a day a card company does not accept or receive mail (i.e. Sundays and holidays).

Establishes standard definitions of terms like "fixed rate" and "prime rate" so companies can't mislead or deceive consumers in marketing and advertising.



Gives consumers who are pre-approved for a card the right to reject that card prior to activation without negatively affecting their credit scores.

Prohibits issuers of subprime cards (where total yearly fixed fees exceed 25 percent of the credit limit) from charging those fees to the card itself. These cards are generally targeted to low-income consumers with weak credit histories.

Prohibits card companies from knowingly issuing cards to individuals under 18 who are not emancipated.

Requires reports to Congress by the Federal Reserve on credit card industry practices to enhance congressional oversight.

Requires card companies to send out 45-day notice of interest rate increases 90-days after the bill is signed into law; the remainder of the bill takes effect 12 months after enactment.

#### 82 PERCENT OF CREDIT CARDS ALLOWED UNLIMITED PENALTY RATE INCREASES

When credit card accounts become past due, companies frequently impose penalty interest rate increases on outstanding balances, on top of late fees averaging \$39. The penalty interest rate can lead to a significant increase in the cardholder's level of debt, and may continue to apply long after the cardholder has re-established a track record of responsible payment behavior.

The Pew Health Group studied all credit cards offered online by the largest 12 issuers, which control nearly 90 percent of outstanding credit card debt in America. The study included more than 400 credit card products. Based on a new analysis of this data, we found that 82 percent of credit cards allowed issuers to impose penalty interest rate hikes that could last indefinitely, giving responsible cardholders no right to return to the originally agreed interest rate.

#### "CURE PERIOD" PROVISION WOULD HELP CURB PENALTIES AVERAGING \$500 PER YEAR

The median allowable penalty interest rate was 28 percent per year, adding nearly 14 percentage points to the average non-penalty interest rate. This penalty would cost \$140 annually for every \$1,000 in credit card debt, or nearly \$500 per year for a typical repriced account. In most cases, these added costs can continue as long as the account is open, regardless of the cardholder's subsequent payment behavior.

The Federal Reserve has announced rules to help limit penalties it deems "unfair and deceptive." But even under those rules, Americans will be on track to pay credit card companies more than \$7 billion per year in penalty interest charges—unless congressional leaders adopt an important new Senate proposal.

The proposal, often called a "cure period" or "pathway back," enables consumers to reverse penalty interest rates by making on-time payments for six months. Cardholders who pay on-time during the cure period can reduce penalty interest charges by half or more.

Mr. Speaker, I support this legislation. I urge my colleagues to do the same.

Mr. FRANK of Massachusetts. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 456, the previous question is ordered.

The question of adoption of the motion is divided. The first portion of the divided question is: Will the House concur in all of the provisions of the Senate amendment other than section 512?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the first portion of the divided question, that is, concurring in all but section 512 of the Senate amendment will be followed by 5-minute votes on the second portion of the divided question, concurring in section 512 of the Senate amendment, if ordered; and suspending the rules and agreeing to House Resolution 297, if ordered.

The vote was taken by electronic device, and there were—ayes 361, noes 64, not voting 8, as follows:

[Roll No. 276]

AYES—361

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Blunt  
Bocchieri  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Bright  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)

Cassidy  
Castle  
Castor (FL)  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coffman (CO)  
Cohen  
Cole  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming

Forbes  
Fortenberry  
Foster  
Frank (MA)  
Frelinghuysen  
Fudge  
Gallegly  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Heinrich  
Higgins  
Hill  
Himes  
Hinchey  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee

Kilpatrick (MI)  
Kilroy  
Kind  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeback  
Lofgren, Zoe  
Lowey  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Maffei  
Maloney  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCaull  
McCollum  
McCotter  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)

Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paulsen  
Payne  
Perlmuter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz

Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stearns  
Stupak  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

#### NOES—64

Bachus  
Bishop (UT)  
Blackburn  
Boehner  
Bonner  
Brady (TX)  
Broun (GA)  
Burton (IN)  
Cantor  
Carter  
Chaffetz  
Coble  
Conaway  
Davis (KY)  
Deal (GA)  
Flake  
Flood  
Franks (AZ)  
Garrett (NJ)  
Goodlatte  
Hastings (WA)  
Heller

Hensarling  
Herger  
Herseth Sandlin  
Inglis  
Jenkins  
Johnson, Sam  
Jordan (OH)  
King (IA)  
Kline (MN)  
Lamborn  
Latta  
Linder  
Lucas  
Mack  
Marchant  
McCarthy (CA)  
McClintock  
McHenry  
McMorris  
Rodgers  
Mica  
Miller (FL)

Miller, Gary  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Pence  
Poe (TX)  
Price (GA)  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Sessions  
Shadegg  
Smith (NE)  
Sullivan  
Thompson (PA)  
Thornberry  
Tiahrt  
Westmoreland

#### NOT VOTING—8

Bachmann  
Barrett (SC)  
Braley (IA)  
Hinojosa

Polis (CO)  
Sánchez, Linda  
T.  
Speier

Stark

□ 1415

Messrs. NUNES and GARY G. MILLER of California changed their vote from “aye” to “no.”

Messrs. BILBRAY, MINNICK, RADANOVICH, AKIN and GINGREY of Georgia changed their vote from “no” to “aye.”

So the first portion of the divided question was adopted.

The result of the vote was announced as above recorded.

Stated for:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 276, had I been present, I would have voted “aye.”

The SPEAKER pro tempore (Mr. HOLDEN). The second portion of the divided question is: Will the House concur in section 512 of the Senate amendment?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 279, nays 147, not voting 7, as follows:

[Roll No. 277]

YEAS—279

Aderholt	Carney	Gingrey (GA)
Adler (NJ)	Carter	Gohmert
Akin	Cassidy	Goodlatte
Alexander	Chaffetz	Gordon (TN)
Altmire	Chandler	Granger
Arcuri	Childers	Graves
Austria	Coble	Grayson
Baca	Coffman (CO)	Green, Gene
Bachus	Cole	Griffith
Barrow	Conaway	Guthrie
Bartlett	Costa	Hall (TX)
Barton (TX)	Costello	Halvorson
Bean	Courtney	Harper
Berkley	Crenshaw	Hastings (WA)
Berry	Cuellar	Heinrich
Biggert	Culberson	Heller
Bilbray	Dahlkemper	Hensarling
Bilirakis	Davis (AL)	Herger
Bishop (GA)	Davis (KY)	Herseth Sandlin
Bishop (UT)	Davis (TN)	Higgins
Blackburn	Deal (GA)	Hill
Blunt	DeFazio	Hinche
Boccieri	DeGette	Hodes
Boehner	Dent	Hoekstra
Bonner	Diaz-Balart, L.	Holden
Bono Mack	Diaz-Balart, M.	Hunter
Boozman	Dingell	Inglis
Boren	Donnelly (IN)	Issa
Boswell	Dreier	Jenkins
Boucher	Driehaus	Johnson (GA)
Boustany	Duncan	Johnson (IL)
Boyd	Edwards (TX)	Johnson, Sam
Brady (TX)	Ehlers	Jones
Bright	Ellsworth	Jordan (OH)
Broun (GA)	Emerson	Kagen
Brown (SC)	Etheridge	Kanjorski
Brown-Waite,	Fallin	Kennedy
Ginny	Flake	Kind
Buchanan	Fleming	King (IA)
Burgess	Forbes	King (NY)
Burton (IN)	Fortenberry	Kingston
Buyer	Foster	Kirkpatrick (AZ)
Calvert	Fox	Kissell
Camp	Franks (AZ)	Kline (MN)
Campbell	Frelinghuysen	Kratovil
Cantor	Gallely	Lamborn
Cao	Garrett (NJ)	Lance
Capito	Gerlach	Latham
Cardoza	Giffords	LaTourette

Latta	Myrick	Schock	Waxman	Wexler	Wu
Lee (NY)	Neugebauer	Schrader	Weiner	Woolsey	Yarmuth
Lewis (CA)	Nunes	Sensenbrenner			
Linder	Nye	Sessions			
LoBiondo	Oberstar	Shadegg			
Lucas	Obey	Shimkus	Bachmann	Polis (CO)	Speier
Luetkemeyer	Olson	Shuler	Barrett (SC)	Sánchez, Linda	Stark
Lummis	Ortiz	Shuster	Braley (IA)	T.	
Lungren, Daniel	Pallone	Simpson			
E.	Paul	Sires			
Mack	Paulsen	Skellton			
Maffei	Pence	Smith (NE)			
Manzullo	Perlmutter	Smith (NJ)			
Marchant	Perrillo	Smith (TX)			
Markey (CO)	Peterson	Smith (WA)			
Marshall	Petri	Souder			
Massa	Pitts	Space			
Matheson	Platts	Spratt			
McCarthy (CA)	Poe (TX)	Stearns			
McCauley	Pomeroy	Stupak			
McClintock	Posey	Sullivan			
McCotter	Price (GA)	Tanner			
McHenry	Putnam	Taylor			
McHugh	Radanovich	Teague			
McIntyre	Rahall	Terry			
McKeon	Rehberg	Thompson (MS)			
McMorris	Reichert	Thompson (PA)			
Rodgers	Reyes	Thornberry			
McNerney	Rodriguez	Tiahrt			
Meek (FL)	Roe (TN)	Tiberi			
Meeks (NY)	Rogers (AL)	Titus			
Melancon	Rogers (KY)	Turner			
Mica	Rogers (MI)	Upton			
Michaud	Rohrabacher	Walden			
Miller (FL)	Rooney	Walz			
Miller (MI)	Ros-Lehtinen	Wamp			
Miller, Gary	Roskam	Welch			
Minnick	Ross	Westmoreland			
Mitchell	Royce	Whitfield			
Mollohan	Ryan (OH)	Wilson (OH)			
Moran (KS)	Ryan (WI)	Wilson (SC)			
Murphy (NY)	Salazar	Wittman			
Murphy, Patrick	Scalise	Wolf			
Murphy, Tim	Schauer	Young (AK)			
Murtha	Schmidt	Young (FL)			

NAYS—147

Abercrombie	Hall (NY)	Moran (VA)
Ackerman	Hare	Murphy (CT)
Andrews	Harman	Nadler (NY)
Baird	Hastings (FL)	Napolitano
Baldwin	Himes	Neal (MA)
Becerra	Hinojosa	Oliver
Berman	Hirono	Pascarell
Bishop (NY)	Holt	Pastor (AZ)
Blumenauer	Honda	Payne
Brady (PA)	Hoyer	Peters
Brown, Corrine	Inslee	Pingree (ME)
Butterfield	Israel	Price (NC)
Capps	Jackson (IL)	Quigley
Capuano	Jackson-Lee	Rangel
Carnahan	(TX)	Richardson
Carson (IN)	Johnson, E. B.	Rothman (NJ)
Castle	Kaptur	Roybal-Allard
Castor (FL)	Kildee	Ruppersberger
Clarke	Kilpatrick (MI)	Rush
Clay	Kilroy	Sanchez, Loretta
Cleaver	Kirk	Sarbanes
Clyburn	Klein (FL)	Schakowsky
Cohen	Kosmas	Schiff
Connolly (VA)	Kucinich	Schwartz
Conyers	Langevin	Scott (GA)
Cooper	Larsen (WA)	Scott (VA)
Crowley	Larson (CT)	Serrano
Cummings	Lee (CA)	Sestak
Davis (CA)	Levin	Shea-Porter
Davis (IL)	Lewis (GA)	Sherman
Delahunt	Lipinski	Slaughter
DeLauro	Loeb sack	Snyder
Dicks	Lofgren, Zoe	Sutton
Doggett	Lowe	Tauscher
Doyle	Lujan	Thompson (CA)
Edwards (MD)	Lynch	Tierney
Ellison	Maloney	Tonko
Engel	Markey (MA)	Towns
Eshoo	Matsui	Tsongas
Farr	McCarthy (NY)	Van Hollen
Fattah	McCollum	Velázquez
Finer	McDermott	Visclosky
Flake	McGovern	Wasserman
Fudge	McMahon	Schultz
Gonzalez	Miller (NC)	Waters
Green, Al	Miller, George	Watson
Grijalva	Moore (KS)	Watt
Gutierrez	Moore (WI)	

NOT VOTING—7

Bachmann	Polis (CO)	Speier
Barrett (SC)	Sánchez, Linda	Stark
Braley (IA)	T.	

□ 1424

Messrs. HINOJOSA and DAVIS of Illinois changed their vote from “yea” to “nay.”

So the second portion of the divided question was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. KENNEDY. Mr. Speaker, it was my intention to vote “nay” on question of passage of Senate Amendment 512 of H.R. 627 (roll-call vote 277). I cast a vote of “aye” in error. I strongly support regulations to restrict individuals from bringing concealed or loaded weapons into our country’s national parks.

#### RECOGNIZING NATIONAL MISSING CHILDREN’S DAY

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 297.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 297.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 423, noes 0, not voting 10, as follows:

[Roll No. 278]

AYES—423

Abercrombie	Bilbray	Brown, Corrine
Ackerman	Bilirakis	Brown-Waite,
Aderholt	Bishop (GA)	Ginny
Adler (NJ)	Bishop (NY)	Buchanan
Akin	Bishop (UT)	Burgess
Alexander	Blackburn	Burton (IN)
Altmire	Blumenauer	Butterfield
Andrews	Blunt	Buyer
Arcuri	Boccieri	Calvert
Austria	Boehner	Camp
Baca	Bonner	Campbell
Bachus	Bono Mack	Cantor
Baird	Boozman	Cao
Baldwin	Boren	Capito
Barrow	Boswell	Capps
Bartlett	Boucher	Capuano
Barton (TX)	Boustany	Cardoza
Bean	Boyd	Carnahan
Becerra	Brady (PA)	Carney
Berkley	Brady (TX)	Carson (IN)
Berman	Bright	Carter
Berry	Broun (GA)	Cassidy
Biggert	Brown (SC)	Castle

Castor (FL)  
 Chaffetz  
 Chandler  
 Childers  
 Clarke  
 Clay  
 Cleaver  
 Clyburn  
 Coble  
 Coffman (CO)  
 Cohen  
 Cole  
 Conaway  
 Connolly (VA)  
 Conyers  
 Cooper  
 Costa  
 Costello  
 Courtney  
 Crenshaw  
 Crowley  
 Cuellar  
 Culberson  
 Cummings  
 Dahlkemper  
 Davis (AL)  
 Davis (CA)  
 Davis (IL)  
 Davis (KY)  
 Davis (TN)  
 Deal (GA)  
 DeFazio  
 DeGette  
 Delahunt  
 DeLauro  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Dicks  
 Dingell  
 Doggett  
 Donnelly (IN)  
 Doyle  
 Dreier  
 Driehaus  
 Duncan  
 Edwards (MD)  
 Edwards (TX)  
 Ehlers  
 Ellison  
 Ellsworth  
 Emerson  
 Engel  
 Eshoo  
 Etheridge  
 Fallin  
 Farr  
 Fattah  
 Filner  
 Flake  
 Fleming  
 Forbes  
 Fortenberry  
 Foster  
 Foxx  
 Frank (MA)  
 Franks (AZ)  
 Fudge  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Giffords  
 Gingrey (GA)  
 Gohmert  
 Gonzalez  
 Goodlatte  
 Gordon (TN)  
 Granger  
 Graves  
 Grayson  
 Green, Al  
 Green, Gene  
 Griffith  
 Grijalva  
 Guthrie  
 Gutierrez  
 Hall (NY)  
 Hall (TX)  
 Halvorson  
 Hare  
 Harman  
 Harper  
 Hastings (FL)  
 Hastings (WA)  
 Heinrich  
 Heller

Hensarling  
 Herger  
 Herseth Sandlin  
 Higgins  
 Hill  
 Himes  
 Hinchey  
 Hinojosa  
 Hirono  
 Hodes  
 Hoekstra  
 Holden  
 Holt  
 Honda  
 Hoyer  
 Hunter  
 Inglis  
 Inslee  
 Israel  
 Issa  
 Jackson (IL)  
 Jackson-Lee  
 (TX)  
 Jenkins  
 Johnson (GA)  
 Johnson (IL)  
 Johnson, E. B.  
 Johnson, Sam  
 Jones  
 Jordan (OH)  
 Kagen  
 Kanjorski  
 Kaptur  
 Kennedy  
 Kildee  
 Kilpatrick (MI)  
 Kilroy  
 Kind  
 King (IA)  
 King (NY)  
 Kingston  
 Kirk  
 Kirkpatrick (AZ)  
 Kissell  
 Klein (FL)  
 Kline (MN)  
 Kosmas  
 Kratovil  
 Kucinich  
 Lamborn  
 Lance  
 Langevin  
 Larsen (WA)  
 Larson (CT)  
 Latham  
 LaTourette  
 Latta  
 Lee (CA)  
 Lee (NY)  
 Levin  
 Lewis (CA)  
 Lewis (GA)  
 Linder  
 Lipinski  
 LoBiondo  
 Loebach  
 Lofgren, Zoe  
 Lowey  
 Lucas  
 Luetkemeyer  
 Lujan  
 Lummis  
 Lungren, Daniel  
 E.  
 Lynch  
 Mack  
 Maffei  
 Maloney  
 Manzullo  
 Marchant  
 Markey (CO)  
 Markey (MA)  
 Marshall  
 Massa  
 Matheson  
 Matsui  
 McCarthy (CA)  
 McCarthy (NY)  
 McCaul  
 McClintock  
 McCollum  
 McCotter  
 McDermott  
 McGovern  
 McHenry  
 McHugh

McIntyre  
 McKeon  
 McMahon  
 McMorris  
 Rodgers  
 McNerney  
 Meek (FL)  
 Meeks (NY)  
 Melancon  
 Mica  
 Michaud  
 Miller (FL)  
 Miller (MI)  
 Miller (NC)  
 Miller, Gary  
 Miller, George  
 Minnick  
 Mitchell  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (KS)  
 Moran (VA)  
 Murphy (CT)  
 Murphy (NY)  
 Murphy, Patrick  
 Murphy, Tim  
 Myrick  
 Nadler (NY)  
 Napolitano  
 Neal (MA)  
 Neugebauer  
 Nunes  
 Nye  
 Oberstar  
 Obey  
 Olson  
 Oliver  
 Ortiz  
 Pallone  
 Pascrell  
 Pastor (AZ)  
 Paul  
 Paulsen  
 Payne  
 Pence  
 Perlmutter  
 Perriello  
 Peters  
 Peterson  
 Petri  
 Pingree (ME)  
 Pitts  
 Platts  
 Poe (TX)  
 Pomeroy  
 Posey  
 Price (GA)  
 Price (NC)  
 Putnam  
 Quigley  
 Radanovich  
 Rahall  
 Rangel  
 Rehberg  
 Reichert  
 Reyes  
 Richardson  
 Rodriguez  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Rumpert  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 Sanchez, Loretta  
 Sarbanes  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schock  
 Schrader  
 Schwartz  
 Scott (GA)

Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions  
 Sestak  
 Shadegg  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Skelton  
 Slaughter  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Souder  
 Space  
 Spratt  
 Stearns

Stupak  
 Sullivan  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velázquez  
 Visclosky

Walden  
 Walz  
 Wamp  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Wexler  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

## NOT VOTING—10

Bachmann  
 Barrett (SC)  
 Broyer (IA)  
 Frelinghuysen  
 Murtha  
 Polis (CO)  
 Rush  
 Sánchez, Linda  
 T.  
 Speier  
 Stark

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LUJÁN) (during the vote). There is 1 minute remaining.

□ 1433

Mr. JOHNSON of Georgia changed his vote from “no” to “aye.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 627 and include extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## PERSONAL EXPLANATION

Mr. MEEKS of New York. Mr. Speaker, on roll call No. 277, I inadvertently voted “aye.” I meant to vote “nay.” I want the RECORD to properly reflect that.

## GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## JOB CREATION THROUGH ENTREPRENEURSHIP ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 457 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2352.

□ 1435

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes, with Mr. HOLDEN in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Missouri (Mr. GRAVES) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in support of this measure which will update and improve the SBA's ED programs. This bill is a bipartisan product and will not only strengthen small firms but will help them create new jobs for American workers.

This week, we are honoring our Nation's job creators, the entrepreneurs who generate roughly 70 percent of all new positions. As we celebrate Small Business Week this year, we find ourselves in a different place than in celebrations past. The economic landscape has changed considerably, and in the face of an historic recession, small firms cannot always go it alone. After all, starting and running a small business is no easy lift, even when times are good. That is why the Job Creation Through Entrepreneurship Act is so important. It revs up the engine of our economy, the entrepreneurs who are creating jobs and changing the way our country does business.

This bill gives small firms the tools they need to flourish. By enhancing SBA's entrepreneurial development programs, it will help existing businesses grow and allow aspiring entrepreneurs to get off the ground. These resources are critical. In fact, small firms that use them are twice as likely to succeed than those that don't. But unfortunately, many of these initiatives are outdated and underfunded. Today, we will take important steps to ensure they are running at full capacity.

Despite declines in corporate America, the entrepreneurial spirit is alive and well. Every month, 400,000 new businesses start up across the country. Imagine if each of those firms had access to resources like business development training. Through H.R. 2352 they

will. This bill provides entrepreneurs with the tools they need to do everything from draft a business plan to secure equity capital. These services put small firms on a level playing field, allowing them to compete in virtually any sector, including the Federal marketplace.

Although most industries are struggling, the Federal marketplace is booming. With billions of stimulus dollars now in play, that sector presents enormous opportunity for entrepreneurs. But before they can crack the industry, small firms will need to know its ins and outs. H.R. 2352 provides the training they need to do so. It also offers the necessary technology.

In order to adapt to new markets, many entrepreneurs will need to retool their operations. Through cutting-edge technology programs, this bill allows entrepreneurs everywhere to access the information they need. In doing so, it encourages entrepreneurship in places where it might not otherwise grow. For struggling rural regions and inner cities, H.R. 2352 will be an economic catalyst. It will also reflect the changing face of American business. More and more, women, veterans, and Native Americans are starting their own firms. For these people, entrepreneurship is more than a means of employment; it is a path to economic independence.

From rejuvenating rural regions to promoting entrepreneurship in underrepresented communities, ED makes good economic sense. And in fact, every \$1 put into the program puts another \$2.87 into the Treasury. If you ask me, that's a pretty good return on investment. By modernizing and enhancing the program, the returns will only get better. Because at the end of the day, strengthening entrepreneurial development programs empowers small businesses, allowing them to grow and, perhaps most importantly, create new jobs for American workers.

I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009. This legislation reauthorizes some of the SBA's most critical programs, those that prepare America's entrepreneurs to start and maintain successful small businesses.

The Small Business Administration, or the SBA, accomplishes this important mission through its Office of Entrepreneurial Development and its use of programs such as Small Business Development Centers, or SBDCs; the Women's Business Centers, WBC; the Service Corps of Retired Executives, or SCORE; the Office of Veterans Business Development; the Office of Native American Affairs; and its distance learning program. These programs have not been reauthorized in a com-

prehensive way in nearly 10 years, and given the changes in the economy, it is long overdue.

Starting and maintaining a successful business has always been a daunting task, fraught with unforeseen and unavoidable problems and pitfalls for American entrepreneurs. In the past, a solid business plan, a loan from friends or a banker that you knew and good old-fashioned hard work was a recipe for success. The entrepreneurial development programs at the SBA were available to assist fledgling and seasoned small business owners in navigating the difficult entrepreneurial terrain of developing a business plan and growing their businesses.

However, times are more difficult now. Financing is harder to get. Competition does not just come from the business down the street but comes from businesses all around the world. In acknowledgment of these new challenges and their need for immediate attention, the Job Creation Through Entrepreneurship Act of 2009 addresses the changing climate for entrepreneurs and makes minor tweaks to programs that have a record of success.

These programs are even more critical today as the country's economy is more focused on small businesses. As more large corporations begin to close or downsize, many more Americans have chosen to go into business for themselves and are in need of the type of guidance the entrepreneurial development programs at the SBA provide.

But it is not just fledgling entrepreneurs and those downsized from large corporations who have the desire to run their own businesses. When the men and women who have chosen to serve their country honorably in the armed services leave, they are faced with beginning new careers. Often they choose to serve their country in another way. These Americans frequently choose to open up a small business and contribute to the growth of America's economy. For these great Americans, we must provide them with the very best training to make their transition to civilian life as equally secure.

This bill seeks to expand and improve the educational and training resources provided by the SBA to our veterans. Although the SBA currently runs a veterans outreach and education program, no such program is authorized under the Small Business Act. This legislation would correct that and expand the number of centers available to serve our veterans. It is a small price to pay for the sacrifice they have made for us.

Many aspiring entrepreneurs live in rural areas or work out of their homes. Neither may have access to physical locations at which the SBA and its partners offer education and training. Given today's technology, we can provide these entrepreneurs with appropriate education through quality dis-

tance learning programs. H.R. 2352 requires the SBA, working with private vendors, to develop online courses that will educate entrepreneurs about starting and expanding their businesses, including having the opportunity to obtain online counseling from other business owners.

Often forgotten are our Native Americans located in very remote areas of the country. They, too, can contribute to economic growth if they have access to education and training programs offered by the SBA. H.R. 2352 codifies the Office of Native American Affairs at the SBA and directs that office to expand its service to Native Americans through the use of Tribal Business Information Centers. These centers will provide entrepreneurial education programs that meet the unique needs of Native Americans.

The broadest effort at entrepreneurial development is the Small Business Development Center program, a joint program between the SBA and institutions of higher learning. Changes in the bill modernize the management and establish, without risk to core funding, competitive grant programs designed to provide businesses with the best practices for things such as raising capital in constricted lending markets.

Half of all small business owners are women. Many small business owners who are women have benefited from training they have received at Women's Business Centers over the years and, as a result, have made great contributions to their communities. This bill makes several changes to the Women's Business Centers to ensure that they are functioning at their optimum level and reaching as many women as possible. In addition, the bill also makes provisions to ensure that the centers are on a sound path to self-sufficiency.

□ 1445

This will free up funds to allow new centers to open and serve areas not currently served by the Women's Business Centers.

These entrepreneurial programs frequently rely on the dedication of volunteers. Advice from executives, whether active or retired, proves invaluable to small business owners.

The SCORE Program at the SBA oversees a core of 11,000 knowledgeable volunteers willing to offer guidance to small business owners. It is an effective program that should offer more services. H.R. 2352 does just that by expanding the ability of SCORE to offer greater outreach and improved counseling to small business owners.

It is obvious that the SBA operates a number of entrepreneurial development programs. Many provide an overlapping service. While it is important to ensure that small businesses are receiving the necessary training, it is

also important that these programs operate in the most efficient manner possible. And this bill before us requires the SBA to increase its oversight of these programs, improve coordination, eliminate waste and duplication.

Mr. Chairman, this legislation makes critical changes to vital programs at a critical time. And, in short, this bill sharpens already existing tools employed by the SBA to cultivate one of our Nation's greatest natural resources, its entrepreneurs. Mr. SHULER and my fellow Missourian, Mr. LUETKEMEYER, should be commended for their work on this bill. And I would like to thank the chairwoman very much for her bipartisan efforts in moving this key bill through the committee. I'd also like to thank Ms. FALLIN, Mr. BUCHANAN, Mr. SCHOCK and Mr. THOMPSON for their vital contributions to this legislation. And I'd encourage my colleagues to support this important legislation with me.

Mr. SHULER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I want to commend the chairwoman for her extraordinary leadership in the Small Business Committee, along with Ranking Member GRAVES, their hard work, their dedication and truly working in a bipartisan way. Far too often here in Washington, it's too much partisanship. But within this committee we're seeing the great leadership and the great work of Chairwoman VELÁZQUEZ.

Also I would like to congratulate the ranking member on the subcommittee, Mr. LUETKEMEYER, for his outstanding work and all the members and staff and their hard work and their dedication on this very important legislation that can help us get out of the recession through the work of our small businesses.

Mr. Chairman, as we observe Small Business Week, we have an opportunity to not only celebrate small businesses but to strengthen them.

Entrepreneurs are the beating heart of the American industry. They don't just create jobs, more jobs than big businesses, they unlock more new markets and create more products. Entrepreneurs generate 60 to 80 percent of all new positions and are the most effective drivers of the economic growth.

At a time when big companies are slashing their work force, we need to invest in businesses that are creating jobs, not cutting them. Entrepreneurial development programs or ED, do just that. And the benefits don't stop at small business community.

Every dollar spent on these initiatives drives another \$2.87 back into the economy. In 2008 alone, ED programs pumped \$7.2 billion into communities across the country. They also laid the groundwork for 73,000 new jobs.

Small businesses have a history of sparking recovery. The Job Creation

Through Entrepreneurship Act will give them the tools they need to succeed. As the name suggests, the Job Creation Through Entrepreneurship Act, or H.R. 2352, focuses on the job creators. It will give existing firms the tools necessary to succeed and allow new businesses to get off the ground.

That's important because small firms can pull us out of this recession. After all, they did it in the mid-1990s. At that time small firms created 3.8 million jobs, ushering in an era of prosperity.

Today, national unemployment is on the rise. By 2010, it is expected to reach 9.8 percent. In my home State of North Carolina, it's already 10.8 percent. That is why H.R. 2352 is so important. It incentivizes our job creators so they can put Americans back to work.

Small Business Administration ED programs are critical resources. Small firms that use these services are twice as likely to succeed. This legislation takes important steps in strengthening ED. ED helps entrepreneurs do everything from draft business plans to access capital. It also encourages entrepreneurship within underrepresented groups and underserved communities.

H.R. 2352 includes language to encourage veterans and Native American business ownership. It modernizes SCORE, makes improvements to the Women's Business Centers and establishes distance learning initiatives.

As we celebrate Small Business Week, I can't imagine a better time to invest in entrepreneurs. They are all a very vital and very important part of our economic recovery, not only in this year but in decades to come. Small businesses have sparked recoveries in the past, and with the proper tools, will do it again in the future.

I strongly urge and support H.R. 2352. I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I now yield such time as he may consume to the ranking member of the Finance and Tax Committee, Mr. BUCHANAN from Florida.

Mr. BUCHANAN. I want to thank the chairwoman and the ranking member for including my legislation, the bill to modernize SBA's SCORE Program, into the larger bill before us today.

For years, SCORE Program has been providing entrepreneurs with free, confidential and valuable small business advice. Nationwide, SCORE has 389 chapters throughout the United States, nearly 11,000 volunteers.

Locally, I know it has had a huge impact on our small business community. They do a lot to help them, especially with small business planning, which is critical to starting any kind of business today.

Small business creates 70 percent of all the new jobs, not only in our market, but throughout Florida. Their success is vital to our economy, and we need to do everything we can to ensure their success. And this bill helps that.

My legislation will help ensure that qualified SCORE volunteers are available to provide one-on-one advice and counsel to small business owners in Florida and across the country.

Again, I want to thank the chairwoman and the ranking member for giving me this opportunity today.

Mr. SHULER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Mrs. DAHLKEMPER).

Mrs. DAHLKEMPER. Mr. Chairman, I rise today as a cosponsor and strong supporter of the Job Creation Through Entrepreneurship Act of 2009. And I want to thank the chairwoman, the ranking member and the subcommittee chair and Republican ranking member on the subcommittee for this bipartisan effort.

A strong small business community is critical to rebuilding our economy, to create the good-paying jobs that stay here in the United States. However, as a small business owner myself, I know firsthand that America's entrepreneurs often need assistance, whether it be accessing capital, procuring contracts or marketing their firms.

Entrepreneurial development programs have a proven track record of successfully providing businesses with this type of assistance. However, they have not been modernized in over a decade to meet today's small business needs. This is especially important for groups that are underrepresented in the business world, such as women, minorities, and veterans.

For example, the Veterans Business Outreach Program is designed to provide entrepreneurial development services, such as business training, counseling, mentoring, and referrals for eligible veterans owning or considering starting a small business.

It was my amendment in the Small Business Committee that will allow members of the National Guard and Reserve to also access this important program. As we have seen from the wars in Iraq and Afghanistan, these brave men and women can be deployed for months and then struggle when they return home to their business or job.

The Job Creation Through Entrepreneurship Act improves current programs. In this case, it gives all those who have bravely served our country in uniform the tools to start and grow their own business.

Mr. Chairman, we are here today because we understand that small business is critical, not only to creating jobs, but to driving our Nation's economic recovery. Small business development and growth is crucial to aiding our economic recovery in this Nation.

For this reason, in the middle of National Small Business Week, I urge my colleagues to join me in supporting the Job Creation Through Entrepreneurship Act.

Mr. GRAVES. Mr. Chairman, I now yield such time as she may consume to

the gentlelady from Oklahoma (Ms. FALLIN).

Ms. FALLIN. Mr. Chairman, I too would like to offer my support for H.R. 2352, the Job Creation Through Entrepreneurship Act, and to thank Chairwoman VELÁZQUEZ and Ranking Member GRAVES for their work in crafting a bipartisan piece of legislation that incorporates several important pieces of small business legislation and work.

Especially at a time when our national economy is struggling, and the American people have asked us here in Congress to focus on economic recovery, this bill will provide important job creation opportunities for our Nation's entrepreneurs.

And I'd especially like to thank our chairwoman and our ranking member for allowing a piece of my legislation, H.R. 1838, the SBA Women's Business Centers Improvement Act, to be included in the Job Creation Through Entrepreneurship Act. This section of legislation adds accountability and transparency to the distribution of funding to Women's Business Centers to offer temporary assistance rather than permanent dependency on the Federal Government.

The Women's Business Centers are an important part of the grant programs that are funded by the Small Business Administration. Today, Women's Business Centers all across the country are providing women entrepreneurs with much-needed technical assistance in starting and operating their own small businesses.

In the mid-1990s, the Federal Government began awarding grants to Women's Business Centers that were operating as nonprofit organizations in conjunction with institutions of higher learning. Originally these grants were intended to be awarded to business centers in their first 5 years, with the understanding that after this 5-year period had ended, the center would be financially self-sustaining. Although many of the Women's Business Centers did meet this goal, some did not, and for a variety of reasons. And, as a result, a greater percentage of the funding for this program has been consumed by the operating costs of the potentially unviable centers, rather than the intended purpose of establishing new women's business centers. The result has been a drag upon the system, and viable business centers that are not truly serving an unmet need in their community were allowed to continue on. And this has jeopardized the effectiveness and the viability of this entire program.

The SBA Women's Business Programs Act restores its original priorities held by the Federal Government when this program was originally enacted. By offering a three-tiered system of funding and lowered caps on spending for older business centers, we can assure a balanced percentage of the

funding issues to support both new and existing business centers.

Modernizing the SBA entrepreneurial development programs will ensure small businesses have the opportunity to help lead our Nation out of this recession and into economic prosperity. The Job Creation Through Entrepreneurship Act is a huge step in the right direction and provides much-needed help to lend a helping hand to our Nation's small businesses.

And once again, in closing, I just would like to commend the chairwoman and the ranking member for working together in a bipartisan way to craft a piece of legislation that encompasses so many areas that will help our small businesses and our Nation, especially during the National Small Business Recognition Week.

Mr. SHULER. Mr. Chairman, I would like to inquire how much time is left on both sides.

The CHAIR. The gentleman from North Carolina has 19½ minutes remaining, and the gentleman from Missouri has 19 minutes remaining.

Mr. SHULER. I yield 3 minutes to the gentleman from Virginia (Mr. NYE).

Mr. NYE. Mr. Chairman, I rise today in support of H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009. And I want to thank our chairwoman and our ranking member. I appreciate all your efforts to move this comprehensive package of legislation forward and especially want to thank our chairwoman for working with me on title I of the bill, the Veterans Business Centers Act, which will help our Nation's veteran entrepreneurs.

□ 1500

In my district, we have the second largest concentration of veterans of any congressional district in the country. My district is home to Norfolk Naval Base, the largest naval base in the world. In our community, there are countless veteran-owned businesses that are vital to the local economy.

The measure that we are considering today will give veteran entrepreneurs everywhere the support they need to launch new enterprises and to grow existing businesses. The cornerstone of this effort will be a new nationwide network of services dedicated to veteran entrepreneurs, called Veterans Business Centers, the first nationwide business assistance program for veterans. Establishing this network will provide veterans with dedicated counseling and business training, with access to capital and to securing loans and credit and with help in navigating the procurement process.

We know already, when they have access to the right tools, veterans can succeed in business, and I believe that we can build on what works and that we can expand access to these critical services. I strongly urge the passage of this bill.

Mr. GRAVES. Mr. Chairman, I now yield such time as he may consume to the gentleman from Illinois (Mr. SCHOCK), who is also the ranking member on the Contracting and Technology Subcommittee.

Mr. SCHOCK. Mr. Chairman, I rise today in support of H.R. 2352, the Job Creation Through Entrepreneurship Act.

I, too, wish to extend my appreciation to Chairwoman VELÁZQUEZ, to Ranking Member GRAVES, and specifically to the bill's sponsor, Mr. SHULER, for including not only my language in H.R. 1845 but also the proposals of five other Republican members on our committee. This is truly a bipartisan bill, and I think you'll see that the votes reflect it.

I introduced H.R. 1845, which seeks to modernize the Small Business Development Centers. Small Business Development Centers are commonly referred to as SBDCs. They provide emerging entrepreneurs with the tools they need to successfully take their business concepts into reality and also to provide existing small business owners with important financial and budgeting consulting to assist in long-term growth and management. Investments in the SBDC network provide a truly cost-effective way to help stimulate our economy while also enhancing American companies and our competitiveness around the world.

With all of the talk today about how we should stimulate growth and create long-term economic growth here in our country, we shouldn't look any further than where half of all Americans get their paychecks—with small business.

The facts speak for themselves. A new business is opened by a Small Business Development Center client every 41 minutes. A new job is created in the United States by a Small Business Development Center client every 7 minutes. In the year 2007, SBDC clients created over 70,000 new full-time jobs. With the current economic condition, more and more small business owners are visiting their SBDCs, seeking the advice on how to best manage their resources during the economic downturn. The bill also works to make the money that we are appropriating to SBDCs more efficient, and it also rewards those who have better outcomes.

For these reasons and many more, I urge passage of this bill and the Small Business Development Center Modernization Act legislation that is included in it.

Mr. SHULER. I yield 3 minutes to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. Mr. Chairman, I rise today to encourage my colleagues to support the Job Creation Through Entrepreneurship Act. This important piece of legislation will modernize and expand key economic development programs within the Small Business Administration.



As just one example, section 1 of this legislation establishes the Veterans Business Center program. Now, as many of my colleagues know, this is a program that is near and dear to my heart. Last session, I introduced legislation that was signed into law to help expand business opportunities for veterans and Reservists. The bill we are debating today builds upon my legislation, and it provides a dedicated funding stream to help ensure that our veterans and Reservists are afforded every opportunity for economic success at home.

So it is for this and for many other reasons that I encourage my colleagues to support this bill.

Mr. SHULER. Mr. Chairman, I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I would yield such time as he may consume to the gentleman from Missouri (Mr. LUETKEMEYER). He is a subcommittee ranking member. Along with Mr. SHULER, they were the cosponsors of the bill.

Mr. LUETKEMEYER. Mr. Chairman, I would like to thank the gentleman from North Carolina (Mr. SHULER) for his hard work in crafting this much needed small business legislation, and I would like to thank Chairwoman VELÁZQUEZ and Ranking Member GRAVES for their hard work and for allowing this thing to expeditiously go through the full committee.

Small business accounts for 70 percent of our Nation's jobs, and it provides an invaluable source of innovation to our economy. As we try to revive the slumping economy and put people back to work, wouldn't it only make sense to provide relief to our Nation's most productive job creators?

As a small business man myself, I am pleased to sponsor a bill that will assist the many small owners and employees throughout my district and the country. Two out of every three jobs are created by a small business, and like every recession before, small business will lead the way out of this recession into economic growth again. Rather than relying so heavily on the government to spend our way out of this recession, we need to focus on ensuring that our small businesses are able to utilize all of the resources already available.

This bill beefs up support services in key entrepreneurial development programs, making these programs more effective and responsive to the needs of small businesses and ensuring that existing programs are being used effectively and that duplicative government programs are done away with.

To be sure, an investment in entrepreneurial development programs yields strong returns. In 2008, the SBA entrepreneurial development programs helped to generate 73,000 new jobs and to bring in \$7.2 billion to the economy. Some economists have estimated that

every dollar invested in these initiatives returns \$2.87 to our economy and helps these small businesses thrive.

Given that the biggest challenge facing small businesses right now is their ability to access credit, I am particularly pleased to support a bill that strengthens Small Business Development Centers, one-stop assistance centers for current and prospective small business owners, designed to assist small firms in securing capital and credit.

This bill moved promptly through the full committee and to the House floor. I am pleased with the bipartisan support this bill has received in the committee. I want to thank my colleagues for their careful and timely attention to the legislation that will give our small business owners the opportunity to grow and expand.

Mr. SHULER. Mr. Chairman, again, I would like to commend Mr. LUETKEMEYER, the ranking member, for his hard work, for his dedication, and for his true leadership in a bipartisan way on the subcommittee.

At this time, Mr. Chairman, we have no further speakers. I will reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, at this time, I would yield such time as he may consume to the gentleman from Pennsylvania (Mr. THOMPSON).

Mr. THOMPSON of Pennsylvania. Mr. Chairman, I rise today to lend my support for this measure, H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009, and to express my sincere appreciation and thanks to Subcommittee Chair SHULER, to Subcommittee Ranking Member LUETKEMEYER, to Committee Chairwoman VELÁZQUEZ, and to Ranking Member GRAVES for their leadership on this bill, for their ability to work through regular order, and for encouraging debate and input from the members of the Small Business Committee, particularly Subcommittee Chair SHULER and Ranking Member LUETKEMEYER.

Coming from a long line of small business owners myself, I can attest to the many challenges that these entrepreneurs face on a daily basis. Never mind the challenges a person faces to get a business off the ground, once that business is running, it is often an uphill battle day after day to keep the doors open and the employees paid. During this time of economic downturn, there are many entrepreneurs throughout America who are facing start-up challenges who do not have the resources or the networks to provide the advice or the assistance that is required for them to be successful.

H.R. 2352 will provide entrepreneurs from all walks of life and geographic locations the ability to harness tools that would otherwise not be available to them. This bill provides a Veterans Business Center program within the SBA to provide entrepreneurial train-

ing and counseling to veterans. It utilizes technology to provide distance learning and peer-to-peer networking for those in rural and underserved areas. It enhances entrepreneurial programs for Native American populations, and it broadens the scope of the SBA's Women's Business Center.

During this time of economic downturn, we have the power to arm America's entrepreneurs with the tools to provide real stimulus for our economy and to get the country back to work. I certainly encourage my fellow colleagues to support H.R. 2352, a real smart government solution.

Ms. VELÁZQUEZ. Mr. Chairman, I have no further speakers if the ranking member is prepared to close.

Mr. GRAVES. I have no further speakers. I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to take this opportunity to commend the work of Mr. SHULER and Mr. LUETKEMEYER in putting together this bill. I would also like to commend the other members of the committee—Mr. NYE, Mr. BUCHANAN, Mr. SCHOCK, Mr. THOMPSON, Mrs. KIRKPATRICK, Ms. FALLIN, and particularly the ranking member, Mr. GRAVES—for all of their efforts and contributions in putting together this bipartisan product.

Entrepreneurs have much talent for job creation. In the last few months, much has been made of that ability and with good reason. As employment continues to climb, we need to be investing in the businesses that can put Americans back to work. The Job Creation Through Entrepreneurship Act of 2009 will do just that. That is why this bill is supported by groups as diverse as the American Legion, the Association for Enterprise Opportunity, the International Franchise Association, the National Association for the Self-Employed, the National Black Chamber of Commerce, the National Center for American Indian Enterprise Development, the U.S. Hispanic Chamber of Commerce, the U.S. Women's Chamber of Commerce, and the Veterans of Foreign Wars.

Already, the SBA's entrepreneurial development programs help small firms do everything from draft business plans to accessing capital. These services have been an invaluable resource for countless entrepreneurs, and they have led to the creation of hundreds of thousands of jobs. In fact, entrepreneurial development helped generate 73,000 new positions in 2008 alone.

Despite the program's inherent value, it is in sore need of modernization. Today, we are going to begin the process of turning it around. In doing so, we will ensure that small firms have the tools they need to spark a sustained recovery. What better time to reinforce the backbone of our economy than during Small Business Week. We can do more than celebrate our entrepreneurs. We can empower them and

can help them play their unique role as an economic catalyst.

I will now yield to the gentlewoman from Illinois as much time as she may consume.

Mrs. HALVORSON. Mr. Chairman, thank you, and thank you, Mr. SHULER, for the opportunity to speak.

I rise today in support of H.R. 2352, the Job Creation Through Entrepreneurship Act.

Consideration of this legislation couldn't have come at a more critical time. During an economic downturn, many people start their own businesses because they are faced with few other options. They've lost their jobs; they can't find new employment, and they need to feed their families. Yet it is the start-up businesses that are most at risk for failure. The legislation we are considering today will give entrepreneurs and new business owners the tools that they will need to succeed.

As a member of both the Small Business and Veterans' Affairs Committees, I am especially pleased that this bill creates a new Veterans Business Center program under the SBA. I commend the gentleman from Virginia (Mr. NYE) for his hard work on this section of the bill.

The Veterans Business Centers will provide essential training and counseling to veteran business owners, including assistance in seeking Federal contracting opportunities. The bill includes an amendment I offered in committee to make surviving spouses of Armed Forces members and veterans eligible for assistance from the Veterans Business Centers.

As we celebrate Memorial Day next week, I can hardly think of a more fitting way to honor our men and women who have served in uniform and to honor their families. I especially thank Chairwoman VELÁZQUEZ and Ranking Member GRAVES and Mr. SHULER for their strong, bipartisan leadership on this legislation.

I ask all of my colleagues to join me in supporting the Job Creation Through Entrepreneurship Act.

Mr. LANGEVIN. Mr. Chair, I rise in strong support of H.R. 2352, the Job Creation Through Entrepreneurship Act, which overhauls the Small Business Administration's entrepreneurial development programs and creates new services geared toward veterans and Native Americans. This legislation builds on SBA changes made in the American Reinvestment and Recovery Act, and it provides relief for small businesses and consumers who have been greatly affected by the credit crunch.

Small businesses are the backbone of America, and they are especially important to Rhode Island's economy. Now more than ever, Congress must support the growth of America's small businesses and help stimulate the real engine of our Nation's economy. In Rhode Island, there are many businesses that are passed down from generation to generation, and it is so important that these success-

ful businesses have access to the tools they need to weather this economic downturn.

H.R. 2352 modernizes the Small Business Development Center Program by focusing on entrepreneurial development, broadens the Women's Business Centers Program by increasing counseling and training facilities, establishes the Veterans Business Center Program, formally establishes the Office of Native American Affairs, and improves the Service Corps of Retired Executives, a mentoring resource program.

This bill also creates a grant program specifically designed to assist small firms in securing capital such as the new small business lending generated under the American Reinvestment and Recovery Act. This measure also establishes a green entrepreneurial development program, which will provide classes and instruction on starting a business in the fields of energy efficiency or green technology. It will also create a procurement training program to help local small firms find suitable contracts and technical assistance on the federal procurement process.

American prosperity depends on the success of small businesses and the innovative spirit of the American people. I am committed to bringing relief to Main Street and to the small businesses that are struggling in our state, and urge my colleagues to support this bill.

Mr. ETHERIDGE. Mr. Chair, I rise in support of H.R. 2352, The Job Creation Through Entrepreneurship Act of 2009.

The American spirit of entrepreneurship is one of the key values that have made our nation great. As a former small business owner, I believe it is essential that we nurture these ventures and increase opportunities for more Americans to start their own business. Small businesses employ millions of Americans, and help form the backbone of our economy. These small businesses play an even more important role in today's struggling economy.

H.R. 2352 takes several steps to bolster and expand opportunities for entrepreneurs. This bill modernizes the Small Business Administration's (SBA's) entrepreneurial development programs so that these businesses can survive the downturn and help move our economy forward by creating jobs. H.R. 2352 provides small businesses with new tools to address their changing needs by bolstering Small Business Development Centers across the country. H.R. 2352 also expands opportunities to our nation's veterans by authorizing \$10 million in FY 2011 and \$12 million in 2012. These funds will be used to increase outreach facilities across the country and establish specialized assistance programs targeted to veterans. H.R. 2352 also includes increased counseling and training initiatives designed to increase business opportunities for women.

I support efforts to foster the American spirit of entrepreneurship and I support The Job Creation Through Entrepreneurship Act of 2009. I urge my colleagues to join me in voting for its passage.

Mr. KLEIN of Florida. Mr. Chair, I rise in strong support of H.R. 2352, the Job Creation through Entrepreneurship Act of 2009. This legislation comes at a critical time, as small businesses across the country are struggling to access credit and make payroll.

This legislation will create new small business development programs to increase access to credit, provide training on contract procurement and green entrepreneurship and offer additional guidance to veteran-owned small businesses veterans looking to start their own businesses upon returning home from service. This legislation will play a critical role in putting Americans back to work and helping established small businesses grow during these tough economic times.

I represent South Florida, which has 1.1 million small businesses—one of the highest concentrations of small businesses in the country. Unfortunately, in 2008, SBA loans in South Florida fell approximately 40 percent—10 percent higher the national average. I've met with countless small business owners in my district who, despite strong credit and responsible lending histories cannot access credit at a reasonable rate. These new and enhanced entrepreneurial development programs will serve as a lifeline for small business owners in my home state of Florida, and throughout the country. By providing one-on-one counseling, continued guidance and support for potential entrepreneurs and struggling small business owners, we can help our small business community weather these tough economic times, increase sales and get our economy back on track.

I urge my colleagues to support this important legislation.

Ms. JACKSON-LEE of Texas. Mr. Chair, I rise today in support of H.R. 2352 "Job Creation Through Entrepreneurship Act of 2009." I would also like to extend my thanks to Representative HEATH SHULER of North Carolina for introducing this important legislation. This will amend the Small Business Act in a number of ways that will help small businesses throughout the United States.

America is home to more than 26 million small businesses that represent more than 99.7 percent of all employers. Small businesses create half of our gross domestic product, and up to 80 percent of the new jobs nationwide. Recent studies have shown that supporting small businesses is good for the American economy. In fact, for every \$1 invested, small businesses will contribute \$7 to the economy. H.R. 2352 provides small businesses and entrepreneurs the tools and resources they need to succeed and thrive. Entrepreneurial development programs helped create 73,000 jobs last year alone.

The vibrancy of our economic prosperity depends on the ability of our nation's small business community to adapt to opportunities at home and abroad. The skill required to navigate the many regulations imposed by the Federal government is essential to maximize any business plan. Alliances made between the private sector and government allow small business owners to be empowered by the Federal regulatory process and not the victim of it.

#### WOMEN

H.R. 2352 will accomplish many different initiatives pertaining to helping small businesses. There are specific stipulations that will enable women-owned businesses. It will revise the Small Business Administration's women's business center program to publish grants and

establish a process for centers regarding administration matters. It will also authorize administrations to provide financial assistance to private nonprofit organizations to conduct projects for the benefits of small businesses owned and controlled by women as well as women's businesses centers performance measures to be established. H.R. 2352 will also require the National Women's Business Council studies to include the impact of the 2008–2009 financial markets crisis on women-owned businesses. H.R. 2352 will broaden the Women's Business Centers Program by improving and expanding business development resources for women entrepreneurs by increasing counseling and training facilities for this sector, particularly targeting underserved areas.

#### GENERAL

In addition to supporting women small business development the bill creates a grant program for SBDCs specifically designed to assist small firms in securing capital such as the new small business lending generated under the Recovery Act. The Recovery Act contains numerous provisions to generate new small business lending, such as increasing from 85% to 90% the amount of an SBA-backed loan that the government guarantees—with estimates that the Act will generate \$21 billion in new lending and investment for small businesses.

H.R. 2352 also creates new entrepreneurial development programs. It establishes, for the first time, a nationwide network of Veterans Business Centers to provide specialized entrepreneurial training and counseling to our nation's veterans. It also creates new support services for Native American-owned small businesses.

#### CONCLUSION

Small businesses are the lifeblood of our economy in Houston and across America. But for too long, small businesses have found it difficult or impossible to compete for federal contracts. I am proud to support legislation that fixes this problem and gives hard-working small businesses a fair shake. I urge my colleagues to support this bill as well.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

#### H.R. 2352

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Job Creation Through Entrepreneurship Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—ESTABLISHMENT OF VETERANS BUSINESS CENTER PROGRAM

Sec. 101. Veterans Business Center program.

Sec. 102. Reporting requirement for interagency task force.

#### TITLE II—EDUCATING AND NETWORKING ENTREPRENEURS THROUGH TODAY'S TECHNOLOGY

Sec. 201. Educating entrepreneurs through technology.

#### TITLE III—ENHANCING NATIVE AMERICAN ENTREPRENEURSHIP

Sec. 301. Office of Native American Affairs; Tribal Business Information Centers program.

Sec. 302. Small Business Development Center assistance to Indian tribe members, Alaska Natives, and Native Hawaiians.

#### TITLE IV—BROADENING THE WOMEN'S BUSINESS CENTER PROGRAM

Sec. 401. Notification of grants; publication of grant amounts.

Sec. 402. Communications.

Sec. 403. Funding.

Sec. 404. Performance and planning.

Sec. 405. National Women's Business Council.

#### TITLE V—SCORE PROGRAM IMPROVEMENTS

Sec. 501. Expansion of volunteer representation and benchmark reports.

Sec. 502. Mentoring and networking.

Sec. 503. Name of program changed to SCORE.

Sec. 504. Authorization of appropriations.

#### TITLE VI—EXPANDING ENTREPRENEURSHIP

Sec. 601. Expanding entrepreneurship.

#### TITLE VII—MODERNIZING THE SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

Sec. 701. Small business development centers operational changes.

Sec. 702. Access to credit and capital.

Sec. 703. Procurement training and assistance.

Sec. 704. Green entrepreneurs training program.

Sec. 705. Main street stabilization.

Sec. 706. Prohibition on program income being used as matching funds.

Sec. 707. Authorization of appropriations.

#### TITLE I—ESTABLISHMENT OF VETERANS BUSINESS CENTER PROGRAM

##### SEC. 101. VETERANS BUSINESS CENTER PROGRAM.

Section 32 of the Small Business Act (15 U.S.C. 657b) is amended—

(1) in subsection (f), by inserting “(other than subsections (g), (h), and (i))” after “this section”; and

(2) by adding at the end the following:

“(g) **VETERANS BUSINESS CENTER PROGRAM.**—

“(1) **IN GENERAL.**—The Administrator shall establish a Veterans Business Center program within the Administration to provide entrepreneurial training and counseling to veterans in accordance with this subsection.

“(2) **DIRECTOR.**—The Administrator shall appoint a Director of the Veterans Business Center program, who shall implement and oversee such program and who shall report directly to the Associate Administrator for Veterans Business Development.

“(3) **DESIGNATION OF VETERANS BUSINESS CENTERS.**—The Director shall establish by regulation an application, review, and notification process to designate entities as veterans business centers for purposes of this section. The Director shall make publicly known the designation of an entity as a veterans business center and the award of a grant to such center under this subsection.

“(4) **FUNDING FOR VETERANS BUSINESS CENTERS.**—

“(A) **INITIAL GRANTS.**—The Director is authorized to make a grant (hereinafter in this subsection referred to as an ‘initial grant’) to each veterans business center each year for not more than 5 years in the amount of \$150,000.

“(B) **GROWTH FUNDING GRANTS.**—After a veterans business center has received 5 years of initial grants under subparagraph (A), the Director is authorized to make a grant (hereinafter in this subsection referred to as a ‘growth funding grant’) to such center each year for not more than 3 years in the amount of \$100,000. After such center has received 3 years of growth funding grants, the Director shall require such center to meet performance benchmarks established by the Director to be eligible for growth funding grants in subsequent years.

“(5) **CENTER RESPONSIBILITIES.**—Each veterans business center receiving a grant under this subsection shall use the funds primarily on veteran entrepreneurial development, counseling of veteran-owned small businesses through one-on-one instruction and classes, and providing government procurement assistance to veterans.

“(6) **MATCHING FUNDS.**—Each veterans business center receiving a grant under this subsection shall be required to provide a non-Federal match of 50 percent of the Federal funds such center receives under this subsection. The Director may issue to a veterans business center, upon request, a waiver from all or a portion of such matching requirement upon a determination of hardship.

“(7) **TARGETED AREAS.**—The Director shall give priority to applications for designations and grants under this subsection that will establish a veterans business center in a geographic area, as determined by the Director, that is not currently served by a veterans business center and in which—

“(A) the population of veterans exceeds the national median of such measure; or

“(B) the population of veterans of Operation Iraqi Freedom or Operation Enduring Freedom exceeds the national median of such measure.

“(8) **TRAINING PROGRAM.**—The Director shall develop and implement, directly or by contract, an annual training program for the staff and personnel of designated veterans business centers to provide education, support, and information on best practices with respect to the establishment and operation of such centers. The Director shall develop such training program in consultation with veterans business centers, the interagency task force established under subsection (c), and veterans service organizations.

“(9) **INCLUSION OF OTHER ORGANIZATIONS IN PROGRAM.**—Upon the date of the enactment of this subsection, each Veterans Business Outreach Center established by the Administrator under the authority of section 8(b)(17) and each center that received funds during fiscal year 2006 from the National Veterans Business Development Corporation established under section 33 and that remains in operation shall be treated as designated as a veterans business center for purposes of this subsection and shall be eligible for grants under this subsection.

“(10) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$10,000,000 for fiscal year 2010 and \$12,000,000 for fiscal year 2011.

“(h) **ADDITIONAL GRANTS AVAILABLE TO VETERANS BUSINESS CENTERS.**—

“(1) **ACCESS TO CAPITAL GRANT PROGRAM.**—

“(A) **IN GENERAL.**—The Director of the Veterans Business Center program shall establish a grant program under which the Director is authorized to make, to veterans business centers designated under subsection (g), grants for the following:

“(i) Developing specialized programs to assist veteran-owned small businesses to secure capital and repair damaged credit.

“(ii) Providing informational seminars on securing loans to veteran-owned small businesses.

“(iii) Providing one-on-one counseling to veteran-owned small businesses to improve the financial presentations of such businesses to lenders.

“(iv) Facilitating the access of veteran-owned small businesses to both traditional and non-traditional financing sources.

“(B) AWARD SIZE.—The Director may not award a veterans business center more than \$75,000 in grants under this paragraph.

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$1,500,000 for each of fiscal years 2010 and 2011.

“(2) PROCUREMENT ASSISTANCE GRANT PROGRAM.—

“(A) IN GENERAL.—The Director shall establish a grant program under which the Director is authorized to make, to veterans business centers designated under subsection (g), grants for the following:

“(i) Assisting veteran-owned small businesses to identify contracts that are suitable to such businesses.

“(ii) Preparing veteran-owned small businesses to be ready as subcontractors and prime contractors for contracts made available through the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) through training and business advisement, particularly with respect to the construction trades.

“(iii) Providing veteran-owned small businesses technical assistance with respect to the Federal procurement process, including assisting such businesses to comply with Federal regulations and bonding requirements.

“(B) AWARD SIZE.—The Director may not award a veterans business center more than \$75,000 in grants under this paragraph.

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$1,500,000 for each of fiscal years 2010 and 2011.

“(3) SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS GRANT PROGRAM.—

“(A) IN GENERAL.—The Director shall establish a grant program under which the Director is authorized to make, to veterans business centers designated under subsection (g), grants for the following:

“(i) Developing outreach programs for service-disabled veterans with respect to the benefits of self-employment.

“(ii) Providing tailored training to service-disabled veterans with respect to business plan development, marketing, budgeting, accounting, and merchandising.

“(iii) Assisting service-disabled veteran-owned small businesses to locate and secure business opportunities.

“(B) AWARD SIZE.—The Director may not award a veterans business center more than \$75,000 in grants under this paragraph.

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$1,500,000 for each of fiscal years 2010 and 2011.

“(i) VETERANS ENTREPRENEURIAL DEVELOPMENT SUMMIT.—

“(1) IN GENERAL.—The Director of the Veterans Business Center program is authorized to carry out an event, once every two years, for the purpose of providing networking opportunities, outreach, education, training, and support to veterans business centers funded under this section, veteran-owned small businesses, veterans service organizations, and other entities as determined appropriate for inclusion by the Director.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$450,000 for fiscal years 2010 and 2011.

“(j) INCLUSION OF SURVIVING SPOUSES.—For purposes of subsections (g), (h), and (i) the following apply:

“(1) The term ‘veteran’ includes a surviving spouse of the following:

“(A) A member of the Armed Forces, including a reserve component thereof.

“(B) A veteran.

“(2) The term ‘veteran-owned small business’ includes a small business owned by a surviving spouse of the following:

“(A) A member of the Armed Forces, including a reserve component thereof.

“(B) A veteran.

“(k) INCLUSION OF RESERVE COMPONENTS.—For purposes of subsections (g), (h), and (i) the following apply:

“(1) The term ‘veteran’ includes a member of the reserve components of the armed forces as specified in section 10101 of title 10, United States Code.

“(2) The term ‘veteran-owned small business’ includes a small business owned by a member of the reserve components of the armed forces as specified in section 10101 of title 10, United States Code.”.

#### **SEC. 102. REPORTING REQUIREMENT FOR INTER-AGENCY TASK FORCE.**

Section 32(c) of the Small Business Act (15 U.S.C. 657b(c)) is amended by adding at the end the following:

“(4) REPORT.—The Administrator shall submit to Congress biannually a report on the appointments made to and activities of the task force.”.

### **TITLE II—EDUCATING AND NETWORKING ENTREPRENEURS THROUGH TODAY'S TECHNOLOGY**

#### **SEC. 201. EDUCATING ENTREPRENEURS THROUGH TECHNOLOGY.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 44 as section 46 and by inserting the following new section after section 43:

#### **“SEC. 44. EDUCATING AND NETWORKING ENTREPRENEURS THROUGH TECHNOLOGY.**

“(a) PURPOSE.—The purpose of this section is to provide high-quality distance learning and opportunities for the exchange of peer-to-peer technical assistance through online networking to potential and existing entrepreneurs through the use of technology.

“(b) DEFINITION.—As used in this section, the term ‘qualified third-party vendor’ means an entity with experience in distance learning content or communications technology, or both, with the ability to utilize on-line, satellite, video-on-demand, and connected community-based organizations to distribute and conduct distance learning and establish an online network for use by potential and existing entrepreneurs to facilitate the exchange of peer-to-peer technical assistance related to entrepreneurship, credit management, financial literacy, and Federal small business development programs.

“(c) AUTHORITY.—The Administrator shall contract with qualified third-party vendors for entrepreneurial training content, the development of communications technology that can distribute content under this section throughout the United States, and the establishment of a nationwide, online network for the exchange of peer-to-peer technical assistance. The Administrator shall contract with at least 2 qualified third-party vendors to develop content.

“(d) CONTENT.—The Administrator shall ensure that the content referred to in subsection (c) is timely and relevant to entrepreneurial development and can be successfully communicated remotely to an audience through the use of technology. The Administrator shall, to the maximum extent practicable, promote content that makes use of technologies that allow for remote interaction by the content provider with an audience. The Administrator shall ensure that the content is catalogued and accessible to small businesses on-line or through other remote technologies.

“(e) COMMUNICATIONS TECHNOLOGY.—The Administrator shall ensure that the communica-

tions technology referred to in subsection (c) is able to distribute content throughout all 50 States and the territories of the United States to small business concerns, home-based businesses, Small Business Development Centers, Women's Business Centers, Veterans Business Centers, and the Small Business Administration and network entrepreneurs throughout all 50 States and the territories of the United States to allow for peer-to-peer learning through the creation of a location online that allows entrepreneurs and small business owners the opportunity to exchange technical assistance through the sharing of information. To the extent possible, the qualified third-party vendor should deliver the content and facilitate the networking using broadband technology.

“(f) REPORTS TO CONGRESS.—The Administrator shall submit a report to Congress 6 months after the date of the enactment of this section containing an analysis of the Small Business Administration's progress in implementing this section. The Administrator shall submit a report to Congress one year after the date of the enactment of this section and annually thereafter containing the number of presentations made under this section, the number of small businesses served under this section, the extent to which this section resulted in the establishment of new businesses, and feedback on the usefulness of this medium in presenting entrepreneurial education and facilitating the exchange of peer-to-peer technical assistance throughout the United States.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$2,000,000 for each of the fiscal years 2010 and 2011.”.

### **TITLE III—ENHANCING NATIVE AMERICAN ENTREPRENEURSHIP**

#### **SEC. 301. OFFICE OF NATIVE AMERICAN AFFAIRS; TRIBAL BUSINESS INFORMATION CENTERS PROGRAM.**

(a) ASSOCIATE ADMINISTRATOR.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) by striking “five Associate Administrators” and inserting “six Associate Administrators”; and

(2) by inserting after “vested in the Administration.” the following: “One such Associate Administrator shall be the Associate Administrator for Native American Affairs, who shall administer the Office of Native American Affairs established under section 45.”.

(b) ESTABLISHMENT.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 44, as added by section 201 of this Act, the following:

#### **“SEC. 45. OFFICE OF NATIVE AMERICAN AFFAIRS AND TRIBAL BUSINESS INFORMATION CENTERS PROGRAM.**

“(a) OFFICE OF NATIVE AMERICAN AFFAIRS.—

“(1) ESTABLISHMENT.—There is established in the Administration an Office of Native American Affairs (hereinafter referred to in this subsection as the ‘Office’).

“(2) ASSOCIATE ADMINISTRATOR.—The Office shall be administered by an Associate Administrator appointed under section 4(b)(1).

“(3) RESPONSIBILITIES.—The Office shall have the following responsibilities:

“(A) Developing and implementing tools and strategies to increase Native American entrepreneurship.

“(B) Expanding the access of Native American entrepreneurs to business training, capital, and Federal small business contracts.

“(C) Expanding outreach to Native American communities and aggressively marketing entrepreneurial development services to such communities.

“(D) Representing the Administration with respect to Native American economic development matters.

“(4) COORDINATION AND OVERSIGHT FUNCTION.—The Office shall provide oversight with respect to and assist the implementation of all Administration initiatives relating to Native American entrepreneurial development.

“(5) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there is authorized to be appropriated to the Administrator \$2,000,000 for each of fiscal years 2010 and 2011.

“(b) TRIBAL BUSINESS INFORMATION CENTERS PROGRAM.—

“(1) ESTABLISHMENT.—The Administrator is authorized to operate, alone or in coordination with other Federal departments and agencies, a Tribal Business Information Centers program that provides Native American populations with business training and entrepreneurial development assistance.

“(2) DESIGNATION OF CENTERS.—The Administrator shall designate entities as centers under the Tribal Business Information Centers program.

“(3) ADMINISTRATION SUPPORT.—The Administrator may contribute agency personnel and resources to the centers designated under paragraph (2) to carry out this subsection.

“(4) GRANT PROGRAM.—The Administrator is authorized to make grants of not more than \$300,000 to centers designated under paragraph (2) for the purpose of providing Native Americans the following:

“(A) Business workshops.

“(B) Individualized business counseling.

“(C) Entrepreneurial development training.

“(D) Access to computer technology and other resources to start or expand a business.

“(5) REGULATIONS.—The Administrator shall by regulation establish a process for designating centers under paragraph (2) and making the grants authorized under paragraph (4).

“(6) DEFINITION OF ADMINISTRATOR.—In this subsection, the term ‘Administrator’ means the Administrator, acting through the Associate Administrator administering the Office of Native American Affairs.

“(7) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there is authorized to be appropriated to the Administrator \$15,000,000 for fiscal year 2010 and \$17,000,000 for fiscal year 2011.

“(c) DEFINITION OF NATIVE AMERICAN.—The term ‘Native American’ means an Indian tribe member, Alaska Native, or Native Hawaiian as such are defined in section 21(a)(8) of this Act.”

#### **SEC. 302. SMALL BUSINESS DEVELOPMENT CENTER ASSISTANCE TO INDIAN TRIBE MEMBERS, ALASKA NATIVES, AND NATIVE HAWAIIANS.**

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended by adding at the end the following:

“(8) ADDITIONAL GRANT TO ASSIST INDIAN TRIBE MEMBERS, ALASKA NATIVES, AND NATIVE HAWAIIANS.—

“(A) IN GENERAL.—Any applicant in an eligible State that is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to provide services described in subsection (c)(3) to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Alaska Natives, and Native Hawaiians.

“(B) ELIGIBLE STATES.—For purposes of subparagraph (A), an eligible State is a State that has a combined population of Indian tribe members, Alaska Natives, and Native Hawaiians that comprises at least 1 percent of the State’s total population, as shown by the latest available census.

“(C) GRANT APPLICATIONS.—An applicant for a grant under subparagraph (A) shall submit to the Administration an application that is in

such form as the Administration may require. The application shall include information regarding the applicant’s goals and objectives for the services to be provided using the grant, including—

“(i) the capability of the applicant to provide training and services to a representative number of Indian tribe members, Alaska Natives, and Native Hawaiians;

“(ii) the location of the Small Business Development Center site proposed by the applicant;

“(iii) the required amount of grant funding needed by the applicant to implement the program; and

“(iv) the extent to which the applicant has consulted with local tribal councils.

“(D) APPLICABILITY OF GRANT REQUIREMENTS.—An applicant for a grant under subparagraph (A) shall comply with all of the requirements of this section, except that the matching funds requirements under paragraph (4)(A) shall not apply.

“(E) MAXIMUM AMOUNT OF GRANTS.—No applicant may receive more than \$300,000 in grants under this paragraph for any fiscal year.

“(F) REGULATIONS.—After providing notice and an opportunity for comment and after consulting with the Association recognized by the Administration pursuant to paragraph (3)(A) (but not later than 180 days after the date of enactment of this paragraph), the Administration shall issue final regulations to carry out this paragraph, including regulations that establish—

“(i) standards relating to educational, technical, and support services to be provided by Small Business Development Centers receiving assistance under this paragraph; and

“(ii) standards relating to any work plan that the Administration may require a Small Business Development Center receiving assistance under this paragraph to develop.

“(G) ADVICE OF LOCAL TRIBAL ORGANIZATIONS.—A Small Business Development Center receiving a grant under this paragraph shall request the advice of a tribal organization on how best to provide assistance to Indian tribe members, Alaska Natives, and Native Hawaiians and where to locate satellite centers to provide such assistance.

“(H) DEFINITIONS.—In this paragraph, the following definitions apply:

“(i) INDIAN LANDS.—The term ‘Indian lands’ has the meaning given the term ‘Indian country’ in section 1151 of title 18, United States Code, the meaning given the term ‘Indian reservation’ in section 151.2 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), and the meaning given the term ‘reservation’ in section 4 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903).

“(ii) INDIAN TRIBE.—The term ‘Indian tribe’ means any band, nation, or organized group or community of Indians located in the contiguous United States, and the Metlakatla Indian Community, whose members are recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians.

“(iii) INDIAN TRIBE MEMBER.—The term ‘Indian tribe member’ means a member of an Indian tribe (other than an Alaska Native).

“(iv) ALASKA NATIVE.—The term ‘Alaska Native’ has the meaning given the term ‘Native’ in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

“(v) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is—

“(I) a citizen of the United States; and

“(II) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

“(vi) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the meaning given that term

in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

“(I) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$7,000,000 for each of fiscal years 2010 and 2011.

“(J) FUNDING LIMITATIONS.—

“(i) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Funding under this paragraph shall be in addition to the dollar program limitations specified in paragraph (4).

“(ii) LIMITATION ON USE OF FUNDS.—The Administration may carry out this paragraph only with amounts appropriated in advance specifically to carry out this paragraph.”

#### **TITLE IV—BROADENING THE WOMEN’S BUSINESS CENTER PROGRAM**

##### **SEC. 401. NOTIFICATION OF GRANTS; PUBLICATION OF GRANT AMOUNTS.**

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following new subsection:

“(o) NOTIFICATION OF GRANTS; PUBLICATION OF GRANT AMOUNTS.—The Administrator shall disburse funds to a women’s business center not later than one month after the center’s application is approved under this section. At the end of each fiscal year the Administrator (acting through the Office of Women’s Business ownership) shall publish on the Administration’s website a report setting forth the total amount of the grants made under this Act to each women’s business center in the fiscal year for which the report is issued, the total amount of such grants made in each prior fiscal year to each such center, and the total amount of private matching funds provided by each such center over the lifetime of the center.”

##### **SEC. 402. COMMUNICATIONS.**

Section 29 of the Small Business Act (15 U.S.C. 656), as amended, is further amended by adding at the end the following new subsection:

“(p) COMMUNICATIONS.—The Administrator shall establish, by rule, a standardized process to communicate with women’s business centers regarding program administration matters, including reimbursement, regulatory matters, and programmatic changes. The Administrator shall notify each women’s business center of the opportunity for notice and comment on the proposed rule.”

##### **SEC. 403. FUNDING.**

(a) FORMULA.—Section 29(b) of the Small Business Act (15 U.S.C. 656(b)) is amended to read as follows:

“(b) AUTHORITY.—

“(1) IN GENERAL.—The Administrator may provide financial assistance to private nonprofit organizations to conduct projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

“(A) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

“(B) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

“(C) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

“(2) TIERS.—The Administrator shall provide assistance under paragraph (1) in 3 tiers of assistance as follows:

“(A) The first tier shall be to conduct a 5-year project in a situation where a project has not previously been conducted. Such a project shall be in a total amount of not more than \$150,000 per year.

“(B) The second tier shall be to conduct a 3-year project in a situation where a first-tier project is being completed. Such a project shall be in a total amount of not more than \$100,000 per year.

“(C) The third tier shall be to conduct a 3-year project in a situation where a second-tier project is being completed. Such a project shall be in a total amount of not more than \$100,000 per year. Third-tier grants shall be renewable subject to established eligibility criteria as well as criteria in subsection (b)(4).

“(3) ALLOCATION OF FUNDS.—Of the amounts made available for assistance under this subsection, the Administrator shall allocate—

“(A) at least 40 percent for first-tier projects under paragraph (2)(A);

“(B) 20 percent for second-tier projects under paragraph (2)(B); and

“(C) the remainder for third-tier projects under paragraph (2)(C).

“(4) BENCHMARKS FOR THIRD-TIER PROJECTS.—In awarding third-tier projects under paragraph (2)(C), the Administrator shall use benchmarks based on socio-economic factors in the community and on the performance of the applicant. The benchmarks shall include—

“(A) the total number of women served by the project;

“(B) the proportion of low income women and socio-economic distribution of clients served by the project;

“(C) the proportion of individuals in the community that are socially or economically disadvantaged (based on median income);

“(D) the future fund-raising and service coordination plans;

“(E) the diversity of services provided; and

“(F) geographic distribution within and across the 10 regions of the Small Business Administration.”.

(b) MATCHING.—Subparagraphs (A) and (B) of section 29(c)(1) of the Small Business Act (15 U.S.C. 656(c)(1)) are amended to read as follows:

“(A) For the first and second years of the project, 1 non-Federal dollar for each 2 Federal dollars.

“(B) Each year after the second year of the project—

“(i) 1 non-Federal dollar for each Federal dollar; or

“(ii) if the center is in a community at least 50 percent of the population of which is below the median income for the State or United States territory in which the center is located, 1 non-Federal dollar for each 2 Federal dollars.”.

(c) AUTHORIZATION.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by inserting the following new subsection after subsection (e):

“(f) WOMEN’S BUSINESS CENTERS.—There is authorized to be appropriated for purposes of grants under section 29 to women’s business centers not more than \$20,000,000 in fiscal year 2010 and not more than \$22,000,000 in fiscal year 2011.”.

#### SEC. 404. PERFORMANCE AND PLANNING.

(a) IN GENERAL.—Section 29(h)(1) of the Small Business Act (15 U.S.C. 656(h)(1)) is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting the following new subparagraphs after subparagraph (A):

“(B) establish performance measures, taking into account the demographic differences of populations served by women’s business centers, which measures shall include—

“(i) outcome-based measures of the amount of job creation or economic activity generated in the local community as a result of efforts made and services provided by each women’s business center; and

“(ii) service-based measures of the amount of services provided to individuals and small business concerns served by each women’s business center;

“(C) require each women’s business center to submit an annual plan for the next year that includes the center’s funding sources and amounts, strategies for increasing outreach to women-owned businesses, strategies for increasing job growth in the community, and other content as determined by the Administrator; and”.

(b) CONFORMING AMENDMENT.—Section 29(h)(1) of the Small Business Act (15 U.S.C. 656(h)(1)), as amended, is further amended by adding the following at the end thereof:

“The Administrator’s evaluation of each women’s business center as required by this subsection shall be in part based on the performance measures under subparagraphs (B) and (C). These measures and the Administrator’s evaluations thereof shall be made publicly available.”.

#### SEC. 405. NATIONAL WOMEN’S BUSINESS COUNCIL.

The Women’s Business Ownership Act of 1988 is amended as follows:

(1) In section 409(a) (15 U.S.C. 7109(a)), by adding the following at the end thereof: “Such studies shall include a study on the impact of the 2008–2009 financial markets crisis on women-owned businesses, and a study of the use of the Small Business Administration’s programs by women-owned businesses.”.

(2) In section 410(a) (15 U.S.C. 7110(a)), by striking “2001 through 2003” and insert “2010 and 2011”.

### TITLE V—SCORE PROGRAM IMPROVEMENTS

#### SEC. 501. EXPANSION OF VOLUNTEER REPRESENTATION AND BENCHMARK REPORTS.

(a) EXPANSION OF VOLUNTEER REPRESENTATION.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended—

(1) by inserting “(i)” after “(B)”; and

(2) by adding at the end the following:

“(i) The Administrator shall ensure that SCORE, established under this subparagraph, carries out a plan to increase the proportion of mentors who are from socially or economically disadvantaged backgrounds and, on an annual basis, reports to the Administrator on the implementation of this subparagraph.”.

(b) BENCHMARK REPORTS.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)), as amended, is further amended by adding at the end the following:

“(iii) The Administrator shall ensure that SCORE, established under this subparagraph, establishes benchmarks for use in evaluating the performance of its activities and the performance of its volunteers. The benchmarks shall include benchmarks relating to the demographic characteristics and the geographic characteristics of persons assisted by SCORE, benchmarks relating to the hours spent mentoring by volunteers, and benchmarks relating to the performance of the persons assisted by SCORE. SCORE shall report, on an annual basis, to the Administrator the extent to which the benchmarks established under this clause are being attained.”.

#### SEC. 502. MENTORING AND NETWORKING.

Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)), as amended, is further amended by adding at the end the following:

“(iv) The Administrator shall ensure that SCORE, established under this subparagraph, establishes a mentoring program for small business concerns that provides one-on-one advice

to small business concerns from qualified counselors. For purposes of this clause, qualified counselors are counselors with at least 10 years experience in the industry sector or area of responsibility of the small business concern seeking advice.

“(v) The Administrator shall carry out a networking program through SCORE, established under this subparagraph, that provides small business concerns with the opportunity to make business contacts in their industry or geographic region.”.

#### SEC. 503. NAME OF PROGRAM CHANGED TO SCORE.

(a) NAME CHANGE.—The Small Business Act is amended as follows:

(1) In section 8(b)(1)(B) (15 U.S.C. 637(b)(1)(B)), by striking “Executives (SCORE)” and inserting “Executives (in this Act referred to as ‘SCORE’)”.

(2) In section 7(m)(3)(A)(i)(VIII) (15 U.S.C. 636(m)(3)(A)(i)(VIII)), by striking “the Service Corps of Retired Executives” and inserting “SCORE”.

(3) In section 20 (15 U.S.C. 631 note)—

(A) in subsection (d)(1)(E), by striking “the Service Corps of Retired Executives program” and inserting “SCORE”; and

(B) in subsection (e)(1)(E), by striking “the Service Corps of Retired Executives program” and inserting “SCORE”.

(4) In section 33(b)(2) (15 U.S.C. 657c(b)(2)), by striking “Service Corps of Retired Executives” and inserting “SCORE”.

(b) ELIMINATION OF ACE.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)), as amended, is further amended by striking “and an Active Corps of Executive (ACE)”.

#### SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note), as amended by section 403(c) of this Act, is further amended by inserting the following new subsection after subsection (f):

“(g) AUTHORIZATION OF APPROPRIATIONS FOR SCORE.—There is authorized to be appropriated \$7,000,000 for SCORE under section 8(b)(1) for each of the fiscal years 2010 and 2011.”.

### TITLE VI—EXPANDING ENTREPRENEURSHIP

#### SEC. 601. EXPANDING ENTREPRENEURSHIP.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following:

“(g) MANAGEMENT AND DIRECTION.—

“(1) PLAN FOR ENTREPRENEURIAL DEVELOPMENT AND JOB CREATION STRATEGY.—The Administrator shall develop and submit to Congress a plan, in consultation with a representative from each of the agency’s entrepreneurial development programs, for using the Small Business Administration’s entrepreneurial development programs as a catalyst for job creation for fiscal years 2009 and 2010. The plan shall include the Administration’s plan for drawing on existing programs, including Small Business Development Centers, Women’s Business Centers, SCORE, Veterans Business Centers, Native American Outreach, and other appropriate programs. The Administrator shall identify a strategy for each Administration region to create or retain jobs through Administration programs. The Administrator shall identify, in consultation with appropriate personnel from entrepreneurial development programs, performance measures and criteria, including job creation, job retention, and job retraining goals, to evaluate the success of the Administration’s actions regarding these efforts.

“(2) DATA COLLECTION PROCESS.—The Administrator shall, after notice and opportunity for comment, promulgate a rule to develop and implement a consistent data collection process to



cover all entrepreneurial development programs. Such data collection process shall include data relating to job creation, performance, and any other data determined appropriate by the Administrator with respect to the Administration's entrepreneurial development programs.

“(3) COORDINATION AND ALIGNMENT OF SBA ENTREPRENEURIAL DEVELOPMENT PROGRAMS.—The Administrator shall submit annually to Congress, in consultation with other Federal departments and agencies as appropriate, a report on opportunities to foster coordination, limit duplication, and improve program delivery for Federal entrepreneurial development programs.

“(4) DATABASE OF ENTREPRENEURIAL DEVELOPMENT SERVICE PROVIDERS.—The Administrator shall, after a period of 60 days for public comment, establish a database of providers of entrepreneurial development services and, make such database available through the Administration's Web site. The database shall be searchable by industry, geography, and service required.

“(5) COMMUNITY SPECIALIST.—The Administrator shall designate not less than one staff member in each Administration district office as a community specialist who has as their full-time responsibility working with local entrepreneurial development service providers to increase coordination with Federal resources. The Administrator shall develop benchmarks for measuring the performance of community specialists under this subsection.

“(6) ENTREPRENEURIAL DEVELOPMENT PORTAL.—The Administrator shall publish a design for a Web-based portal to provide comprehensive information on the Administration's entrepreneurial development programs. After a period of 60 days for public comment, the Administrator shall establish such portal and—

“(A) integrate under one Web portal, Small Business Development Centers, Women's Business Centers, SCORE, Veterans Business Centers, the Administration's distance learning program, and other programs as appropriate;

“(B) revise the Administration's primary Web site so that the Web portal described in subparagraph (A) is available as a link on the main Web page of the Web site;

“(C) increase consumer-oriented content on the Administration's Web site and focus on promoting access to business solutions, including marketing, financing, and human resources planning;

“(D) establish relevant Web content aggregated by industry segment, stage of business development, level of need, and include referral links to appropriate Administration services, including financing, training and counseling, and procurement assistance; and

“(E) provide style guidelines and links for visitors to the Administration's Web site to be able to comment on and evaluate the materials in terms of their usefulness.

“(7) PILOT PROGRAMS.—The Administrator may not conduct any pilot program for a period of greater than 3 years if the program conflicts with, or uses the resources of, any of the entrepreneurial development programs authorized under section 8(b)(1)(B), 21, 29, 32, or any other provision of this Act.”.

## **TITLE VII—MODERNIZING THE SMALL BUSINESS DEVELOPMENT CENTER PROGRAM**

### **SEC. 701. SMALL BUSINESS DEVELOPMENT CENTERS OPERATIONAL CHANGES.**

(a) ACCREDITATION REQUIREMENT.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)) is amended as follows:

(1) In the proviso, by inserting before “institution” the following: “accredited”.

(2) In the sentence beginning “The Administration shall”, by inserting before “institutions” the following: “accredited”.

(3) By adding at the end the following new sentence: “In this paragraph, the term ‘accredited institution of higher education’ means an institution that is accredited as described in section 101(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)(5)).”.

(b) PROGRAM NEGOTIATIONS.—Section 21(a)(3) of the Small Business Act (15 U.S.C. 648(a)(3)) is amended in the matter preceding subparagraph (A), by inserting before “agreed” the following: “mutually”.

(c) CONTRACT NEGOTIATIONS.—Section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)) is amended by inserting after “uniform negotiated” the following: “mutually agreed to”.

(d) SBDC HIRING.—Section 21(c)(2)(A) of the Small Business Act (15 U.S.C. 648(c)(2)(A)) is amended by inserting after “full-time staff” the following: “, the hiring of which shall be at the sole discretion of the center without the need for input or approval from any officer or employee of the Administration”.

(e) CONTENT OF CONSULTATIONS.—Section 21(a)(7)(A) of the Small Business Act (15 U.S.C. 648(a)(7)(A)) is amended in the matter preceding clause (i) by inserting after “under this section” the following: “, or the content of any consultation with such an individual or small business concern,”.

(f) AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 21(a)(4)(C)(v)(I) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(v)(I)) is amended to read as follows:

“(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section, not more than \$500,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section 20(a)(1).”.

(g) NON-MATCHING PORTABILITY GRANTS.—Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended by adding at the end the following: “In the event of a disaster, the dollar limitation in the preceding sentence shall not apply.”.

(h) DISTRIBUTION TO SBDCs.—Section 21(b) of the Small Business Act (15 U.S.C. 648(b)) is amended by adding at the end the following new paragraph:

“(4) LIMITATION ON DISTRIBUTION TO SMALL BUSINESS DEVELOPMENT CENTERS.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the Administration shall not distribute funds to a Small Business Development Center if the State in which the Small Business Development Center is located is served by more than one Small Business Development Center.

“(B) UNAVAILABILITY EXCEPTION.—The Administration may distribute funds to a maximum of 2 Small Business Development Centers in any State if no applicant has applied to serve the entire State.

“(C) GRANDFATHER CLAUSE.—The limitations in this paragraph shall not apply to any State in which more than one Small Business Development Center received funding prior to January 1, 2007.

“(D) DEFINITION.—For the purposes of this paragraph, the term ‘Small Business Development Center’ means the entity selected by the Administration to receive funds pursuant to the funding formula set forth in subsection (a)(4), without regard to the number of sites for service delivery such entity establishes or funds.”.

(i) WOMEN'S BUSINESS CENTERS.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)), as amended, is further amended—

(1) by striking “and women's business centers operating pursuant to section 29”; and

(2) by striking “or a women's business center operating pursuant to section 29”.

### **SEC. 702. ACCESS TO CREDIT AND CAPITAL.**

Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following new subsection:

“(o) ACCESS TO CREDIT AND CAPITAL PROGRAM.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) develop specialized programs to assist local small business concerns in securing capital and repairing damaged credit;

“(B) provide informational seminars on securing credit and loans;

“(C) provide one-on-one counseling with potential borrowers to improve financial presentations to lenders; and

“(D) facilitate borrowers' access to non-traditional financing sources, as well as traditional lending sources.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

### **SEC. 703. PROCUREMENT TRAINING AND ASSISTANCE.**

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(p) PROCUREMENT TRAINING AND ASSISTANCE.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) work with local agencies to identify contracts that are suitable for local small business concerns;

“(B) prepare small businesses to be ready as subcontractors and prime contractors for contracts made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) through training and business advisement, particularly in the construction trades; and

“(C) provide technical assistance regarding the Federal procurement process, including assisting small business concerns to comply with federal regulations and bonding requirements.

“(2) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”.

**SEC. 704. GREEN ENTREPRENEURS TRAINING PROGRAM.**

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(g) **GREEN ENTREPRENEURS TRAINING PROGRAM.**—

“(1) **IN GENERAL.**—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) provide education classes and one-on-one instruction in starting a business in the fields of energy efficiency, green technology, or clean technology;

“(B) coordinate such classes and instruction, to the extent practicable, with local community colleges and local professional trade associations; and

“(C) assist and provide technical counseling to individuals seeking to start a business in the fields of energy efficiency, green technology, or clean technology.

“(2) **AWARD SIZE LIMIT.**—The Administration may not award an entity more than \$300,000 in grant funds under this subsection.

“(3) **AUTHORITY.**—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”

**SEC. 705. MAIN STREET STABILIZATION.**

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding the following new subsection at the end thereof:

“(r) **MAIN STREET STABILIZATION.**—

“(1) **IN GENERAL.**—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) establish a statewide small business helpline within every State and United States territory to provide immediate expert information and assistance to small business concerns;

“(B) develop a portfolio of online survival and growth tools and resources that struggling small business concerns can utilize through the Internet;

“(C) develop business advisory capacity to provide expert consulting and education to assist small businesses at-risk of failure and to, in areas of high demand, shorten the response time of small business development centers, and, in rural areas, support added outreach in remote communities;

“(D) deploy additional resources to help specific industry sectors with a high presence of small business concerns, which shall be targeted toward clusters of small businesses with similar needs and build upon best practices from earlier assistance;

“(E) develop a formal listing of financing options for small business capital access; and

“(F) deliver services that help dislocated workers start new businesses.

“(2) **AWARD SIZE LIMIT.**—The Administration may not award an entity more than \$250,000 in grant funds under this subsection.

“(3) **AUTHORITY.**—Subject to amounts approved in advance in appropriations Acts and

separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(4) **AUTHORIZATION.**—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”

**SEC. 706. PROHIBITION ON PROGRAM INCOME BEING USED AS MATCHING FUNDS.**

Section 21(a)(4)(B) (15 U.S.C. 648(a)(4)(B)) is amended by inserting after “Federal program” the following: “and shall not include any funds obtained through the assessment of fees to small business clients”.

**SEC. 707. AUTHORIZATION OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631 note), as amended by sections 403(c) and 504 of this Act, is further amended by inserting after subsection (g) the following new subsection:

“(h) **SMALL BUSINESS DEVELOPMENT CENTERS.**—There is authorized to be appropriated to carry out the Small Business Development Center Program under section 21 \$150,000,000 for fiscal year 2010 and \$160,000,000 for fiscal year 2011.”

The CHAIR. No amendment to the committee amendment is in order except those printed in House Report 111-121. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1515

AMENDMENT NO. 1 OFFERED BY MS. VELÁZQUEZ

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111-121.

Ms. VELÁZQUEZ. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Ms. VELÁZQUEZ:

Page 9, beginning line 19, strike “with respect to the benefits of self-employment” and insert “to promote self-employment opportunities”.

Page 9, line 21, strike “tailored”.

Page 12, line 20, strike “high-quality”.

Page 14, line 9, insert after “Veterans Business Centers,” the following: “SCORE chapters,”.

Page 16, line 21, strike “capital” and insert “financing”.

Page 16, line 24, strike “aggressively”.

Page 33, line 9, strike “the performance”.

Page 33, line 13, strike “relating” and insert “related”.

Page 36, beginning line 13, strike “as a catalyst for job creation for” and insert “to create jobs during”.

Page 36, line 14, strike “2009 and 2010” and insert “2010 and 2011”.

Page 7, after line 22 insert the following:

“(v) Providing one-on-one or group counseling to owners of small business concerns who are members of the reserve components of the armed forces, as specified in section 10101 of title 10, United States Code, to assist

such owners to effectively prepare their small businesses for periods when such owners are deployed in support of a contingency operation.”.

Page 6, line 22, strike “(10)” and insert “(11)”.

Page 6, after line 21 insert the following:

“(10) **RURAL AREAS.**—The Director shall submit annually to the Administrator a report on whether a sufficient percentage, as determined by the Director, of veterans in rural areas have adequate access to a veterans business center. If the Director submits a report under this paragraph that does not demonstrate that a sufficient percentage of veterans in rural areas have adequate access to a veterans business center, the Director shall give priority during the one year period following the date of the submission of such report to applications for designations and grants under this subsection that will establish veterans business centers in rural areas.”.

Page 31, line 12, insert after “community” the following: “, strategies for increasing job placement of women in nontraditional occupations”.

Page 47, line 8, strike “and”.

Page 47, line 12, strike the period and insert “; and”.

Page 47, after line 12, insert the following new subparagraph:

“(D) provide services that assist low-income or dislocated workers to start businesses in the fields of energy efficiency, green technology, or clean technology.”.

Page 47, line 4, insert after “clean technology” the following: “and in adapting a business to include such fields”.

Page 47, line 12, insert after “clean technology” the following: “and to individuals seeking to adapt a business to include such fields”.

Page 27, line 18, insert after “per year.” the following: “Projects receiving assistance under this subparagraph that possess the capacity to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency shall receive the maximum award under this subparagraph.”.

Page 29, after line 5 insert the following:

“(E) the capacity of the project to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency;”.

Page 29, line 6, strike “(E)” and insert “(F)”.

Page 29, line 7, strike “(F)” and insert “(G)”.

Page 32, after line 12 insert the following:

**SEC. 406. APPLICANT EVALUATION CRITERIA.**

Section 29(f) of the Small Business Act (15 U.S.C. 656(f)) is amended—

(1) in paragraph (3) by striking “and” at the end;

(2) in paragraph (4) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(5) whether the applicant has the capacity to train existing or potential business owners in the fields of green technology, clean technology, or energy efficiency.”.

Page 5, line 13, after “hardship,” insert the following: “The Director may waive the matching funds requirement under this paragraph with respect to veterans business centers that serve communities with a per capita income less than 75 percent of the national per capita income and an unemployment rate at least 150 percent higher than the national average.”.

The CHAIR. Pursuant to House Resolution 457, the gentlewoman from New

York (Ms. VELÁZQUEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. I yield myself such time as I may consume.

The manager's amendment makes technical and conforming changes to the underlying legislation. It also incorporates several important amendments offered by Ms. MARKEY, Mr. CARNEY, Mr. POLIS, Ms. PINGREE, and Mr. CARDOZA.

Across all areas of the legislation, these amendments sharpen the provisions, making them more effective in assisting our entrepreneurs. In particular, these amendments strengthen provisions dealing with veterans, rural entrepreneurs, women entrepreneurs, and green technology.

I would like to thank my colleagues who contributed these changes and allowed them to be included in the manager's amendment. Ultimately, we have a manager's amendment that will improve this legislation and, more importantly, foster entrepreneurship and job growth.

Mr. Chairman, I strongly encourage my colleagues to support this amendment.

I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I rise to claim time on the gentlelady's amendment.

The CHAIR. Without objection, the gentleman from Missouri is recognized for 10 minutes.

There was no objection.

Mr. GRAVES. Mr. Chairman, Chairwoman VELÁZQUEZ's amendment makes very much needed technical changes to the bill. In addition, the amendments clarify and strengthen the ability of Reservists and veterans to access the full range of SBA training and education programs. I fully support those changes.

The amendments also provide for more detailed criteria in evaluating applications for the Women's Business Center. These additional criteria will help the SBA select the worthiest of the applicant pool.

I have to say, Mr. Chairman, I know there's a lot of thank-yous going around today, but I do sincerely want to thank the gentlelady, Chairwoman VELÁZQUEZ, because she spent a lot of time working on issues facing rural America, and it's kind of a hard area to understand in a lot of cases. And I appreciate that. I know a lot of people appreciate that. It doesn't go unnoticed at all.

I yield back the balance of my time.

Ms. VELÁZQUEZ. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

#### AMENDMENT NO. 2 OFFERED BY MS. MARKEY OF COLORADO

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-121.

Ms. MARKEY of Colorado. As the designee for Mr. POLIS, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. MARKEY of Colorado:

Page 1, line 1, insert after "concern" the following: "including implementing cost saving energy techniques".

The CHAIR. Pursuant to House Resolution 457, the gentlewoman from Colorado (Ms. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado.

Ms. MARKEY of Colorado. Mr. Chairman, I rise in support of my colleagues' amendment. I thank Representative SHULER, Representative VELÁZQUEZ, and members of the Small Business Committee and their staff for bringing forward this legislation that will promote entrepreneurship at a time when our Nation needs it most.

As a former small business owner, I know that starting a new business is an exciting experience. I know also that with the steep learning curve involved in managing and building a business, all too important details are left unattended. It is these details, however, that can determine whether a business will succeed or fail.

The educational and networking programs established by this bill will help small business owners attend to these details with the assistance of dedicated professionals.

Each community and each business presents a unique set of challenges and rewards. By creating specialized Small Business Development Centers, the modest funds we allocate in this bill will yield strong results through targeted counseling and training. This amendment simply adds training on reducing operating expenses through energy savings to the existing list of educational programs under this bill.

Entrepreneurs will greatly benefit from targeted training on energy use, a detail that represents 19 percent of the cost of running a small business. This high recurring cost can be inconsistent, unpredictable, and fluctuate seasonally.

High energy costs in periods of reduced revenue can be a frustrating challenge for a small business—but it's also avoidable.

Many communities and utilities offer programs to help businesses reduce energy consumption and many also offer tax breaks and incentives to reduce energy use. Some of the incentive programs available include assistance in acquiring efficient office hardware and

installing renewable energy projects, but they can also help business owners with simple solutions, such as installing fluorescent light bulbs, turning off unused equipment, and closing doors and windows.

However, as common sense as it may seem to turn off a light when not in use, during the intense activity of starting a new business, ordering inventory, and hiring new employees, the lack of attention paid to an open window can quickly morph from a harmless oversight to an expensive habit.

Mr. Chairman, I want to remind my colleagues that 19 percent paid for energy is 19 percent that is not being reinvested in the business. That is 19 percent less cushion a business owner has in the event of an economic downturn. Nineteen percent may seem small, but it could be smaller.

Energy, of course, is a necessary expense. Compared to good employees and quality projects, however, this expenditure yields marginal returns. There is a reason that our utility companies call us valued customers and don't call us wise investors. Imagine if that 19 percent could be 9 percent.

To put it a better way, what if we could offer entrepreneurs an additional 10 percent capital? That 10 percent of additional resources can be invested in aspects of the operation that generate revenue.

The accumulated cost savings from moving the thermostat just a few degrees and reinvesting those funds into the business over time can be the difference between new supplies, expanding, or hiring a new employee.

This amendment strengthens our investment in small businesses by helping them with low-cost ways to improve their operations and increase their profits. The most exciting aspect of small business is the spirit of entrepreneurship, but finding creative solutions to reduce costs and save energy are possible only when business owners are made aware of the opportunities available to them.

This amendment, by simply creating awareness of energy-saving techniques and programs, will help small businesses thrive. Reducing energy consumption is not only smart environmental policy, it is sound economic policy.

I ask my colleagues to support this amendment and this important bill. I once again thank Representative SHULER, Chairwoman VELÁZQUEZ, and members of the Small Business Committee.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, as our Nation transitions to a green economy, America's entrepreneurs are leading the way. Entrepreneurs make up 90 percent of the renewable energy sector that is harnessing wind and solar power, as well as producing biofuels. Small companies are also dominant in the field of energy efficiency, and they're finding better, cleaner ways to use existing fuel sources.

The renewable energy and efficiency sectors are leading a new way for growth. They are expected to account for one out of every four jobs by 2030. Small businesses are also instrumental in efforts promoting energy efficiency in both existing and new buildings.

The amendment offered by the gentlelady from Colorado will build on this role. It clarifies that Women's Business Centers may utilize their resources to promote cost-saving energy techniques. That is a valuable change to the legislation, and I urge my colleagues to support this amendment.

I now yield to the gentleman from Missouri for any comments that he might have.

Mr. GRAVES. Mr. Chairman, I support the amendment.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of my time.

Ms. MARKEY of Colorado. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Colorado (Ms. MARKEY).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. PAULSEN

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111-121.

Mr. PAULSEN. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. PAULSEN:

At the end of title I, insert the following new section:

**SEC. 103. COMPTROLLER GENERAL STUDY OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.**

The Comptroller General shall carry out a study on the effects of this Act and the amendments made by this Act on small business concerns owned and controlled by veterans and submit to Congress a report on the results of such study. Such report shall include the recommendations of the Comptroller General with respect to how this Act and the amendments made by this Act may be implemented to more effectively serve small business concerns owned and controlled by veterans.

The CHAIR. Pursuant to House Resolution 457, the gentleman from Minnesota (Mr. PAULSEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. PAULSEN. I yield myself such time as I may consume.

First of all, I'd like to thank the chair of the subcommittee. Mr. Chair-

man, growing small businesses must be a top priority in order to turn this economy around. Our military veterans that own businesses face their own unique challenges—and the government must ensure that the programs in place to assist these veterans are achieving their goals.

I recently took part in a Minnesota Defense Alliance event where I was briefed by several small-to-medium-sized businesses in Minnesota that do work related to defense issues. Many of these companies were veteran-owned.

One of the concerns that was raised by a few of the participants was that the programs currently available to veteran-owned businesses are not effective and do not meet their needs. Because of these concerns, I authored this amendment, which would require the GAO to study the effectiveness of the legislation in growing and assisting veteran-owned companies and businesses.

My amendment also requires the GAO to offer suggestions to Congress as to how we can better assist veteran-owned business.

The government needs to do a better job of spending our taxpayer money wisely. So one of the best things that we can do for any business right now is to increase the availability of capital for growth.

Small businesses have created two of every three net new jobs in the United States since the 1970s, and certainly all the members of the Small Business Committee know this. Small businesses are also responsible for roughly half of the privately generated GDP in the United States.

I support the underlying legislation, and I believe it will go a long way in assisting and growing small businesses at a time when our Nation's economy needs a boost. Specifically, I'm interested in the new grant program for Small Business Development Centers to develop programs which help local small firms in securing capital and repairing damaged credit.

I want to thank Mr. SHULER and the rest of the Small Business Committee for their work as well. I'm extremely pleased that this bill provides the assistance for veteran-owned business, and I urge my colleagues to vote "yes" for this amendment and "yes" on the underlying legislation.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. I thank the gentleman from Minnesota for offering this amendment. All of us on both sides of the aisle want to make sure that these programs meet the needs of our

entrepreneurs. I think we're doing good work with this legislation. But, as with many government programs, we must ensure there is sufficient oversight.

It is important that we carefully monitor how taxpayer dollars are spent and what effect they're having. Most of all, we must be sure that these programs accomplish what Congress intended.

The amendment in question will provide this oversight. It requires the Government Accountability Office to report on the effectiveness of ED programs for veterans.

I welcome this additional oversight. If Congress is going to ensure veterans are receiving the help they need from the SBA, we must make sure these new programs are functioning correctly. I will encourage my colleagues to vote for this amendment.

Now I yield to the gentleman from Missouri for any comments that he may have.

Mr. GRAVES. I appreciate the gentlelady from New York yielding me time. Mr. Chairman, I think this is a great amendment, and I support it.

□ 1530

Ms. VELÁZQUEZ. We are prepared to accept the amendment.

I yield back the balance of my time.

Mr. PAULSEN. We had one additional speaker, but I'm not sure if he's going to make it. So I just want to encourage support as well. I thank the gentlewoman for her support of the amendment and all the members of the Small Business Committee to truly help veteran-owned businesses grow and create jobs as well.

Mr. ROE of Tennessee. Mr. Chair, I rise in support of the amendment offered by my friend from Minnesota. As a veteran I support the underlying goal of this legislation to create opportunities for veteran-operated small businesses.

It is important in this global economy to train and provide guidance in business administration for our veterans. Veteran Business Centers and grant assistance should expand the economic playing field for these businesses.

However, if the Congress authorizes these programs it is our duty to the taxpayer to oversee their progress. This amendment calls for the Government Accountability Office to study and report on the effectiveness of these programs. We need to ask the question: "Is money spent on veteran owned small businesses helping these businesses?" "How can these programs be improved?"

I look forward to having those answers and thank the Gentleman from Minnesota for offering this amendment. I encourage my colleagues to support its adoption and yield back.

Mr. PAULSEN. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. PAULSEN).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. BOCCIERI

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 111-121.

Mr. BOCCIERI. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BOCCIERI: Page 7, insert after line 22 the following:

“(v) Developing specialized programs to assist unemployed veterans to become entrepreneurs.”.

Page 10, line 21, insert after “Director.” the following: “Such event shall include education and training with respect to improving outreach to veterans in areas of high unemployment.”.

The CHAIR. Pursuant to House Resolution 457, the gentleman from Ohio (Mr. BOCCIERI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. BOCCIERI. Thank you, Mr. Chair. I yield myself as much time as I may consume.

Mr. Chair, I rise today in support of my amendment to H.R. 2352, the Job Creation Through Entrepreneurship Act. I want to thank Chairwoman VELÁZQUEZ and Congressman SHULER for their vision in this landmark piece of legislation that will help restore our economy to what it has always been.

My amendment does two things, Mr. Chair. It allows veterans centers to receive grants to develop specialized programs that assist unemployed veterans, reservists and surviving spouses by becoming entrepreneurs. And it requires a Veterans Development Summit to provide training for veterans centers to improve their outreach to veterans in areas of high unemployment.

I strongly support the underlying bill and its creation of the Veterans Business Center program. By expanding assistance and training to veteran entrepreneurs, we can increase the number of successful small businesses and, thereby, create jobs, taking these highly skilled, highly trained individuals and helping them. Providing them with the opportunity to create jobs and create businesses is the right way to go.

The purpose of my amendment is to ensure that we are targeting outreach to unemployed veterans, reservists and surviving spouses.

Let's go over a few facts, Mr. Chair. While the economy continues to be tough for all Americans, it seems that young veterans are among the hardest hit. One out of nine Iraq and Afghanistan veterans are now out of work, and the total number of unemployed veterans of the two wars roughly averages about 170,000. It is about the same number as U.S. troops deployed to those wars, according to the Department of Labor. The 11.2 percent jobless rate for veterans who served in Iraq and Afghanistan rose 4 percentage points in the past year. That's significantly higher than the corresponding 8.8 percent for nonveterans in the same age

group. On the battlefield, we pledge to leave no soldier behind. As a Nation, it should be our pledge that when they return home, we leave no veteran behind, and that includes making sure that every veteran has a job when they return.

I reserve the balance of my time, Mr. Chairman.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. I thank the gentleman from Ohio for his amendment. The legislation on the floor today places a high priority on helping veterans who wish to transition from the military to entrepreneurship. As I have noted, this bill for the first time creates a nationwide network of Veterans Business Centers. As our servicemen and -women return home from Afghanistan and Iraq, many of them will look to launch their own businesses as the next step in their careers. This network of Veterans Business Centers will aid them as they make that move. For many veterans, entrepreneurship is a logical next step. Already today, veterans comprise 14 percent of self-employed people. Service-disabled veterans make up 7 percent of small businesses. The underlying legislation would help these veterans who own their own firms as well as assist veterans seeking to start their own enterprises. The amendment before us helps to refine and improve the veterans provisions contained in this bill.

Specifically, the amendment requires that the new veterans centers offer specialized services to help unemployed veterans. In addition, the amendment will help the SBA improve outreach and education to veterans in high unemployment areas, and it would mean that the SBA will dedicate resources to assist those veterans who need help the most. In short, this amendment will do right by those who have served our Nation.

I now yield to the ranking member, the gentleman from Missouri, for any comments that he may have.

Mr. GRAVES. Thank you, Madam Chair, for yielding me time.

Mr. Chairman, the area where you are seeing a lot of veterans right now come back and, obviously, set up a lot of small businesses is a rapidly growing area. This provision in the bill is well overdue, in my opinion. It just goes along with the whole nature of the bill, to modernize so many of the SBA programs. I support the amendment.

Ms. VELÁZQUEZ. Mr. Chairman, I reserve the balance of my time.

Mr. BOCCIERI. Mr. Chairman, I recognize the gentleman from Ohio (Mr. DRIEHAUS) for as much time as he may consume.

Mr. DRIEHAUS. I thank the gentleman for his amendment and the underlying bill. I rise to support the amendment and the underlying bill.

We heard just a little while ago the gentlewoman from Colorado talk about the pitfalls in creating small businesses and the challenges that entrepreneurs face. This is about identifying those challenges and helping veterans, as they return, think through the issues of creating a viable business plan, assistance with product development, providing assistance in marketing, learning how to access capital necessary to make their businesses successful. In sum, this is about leveraging the skills that so many of our men and women have learned, so many of our men and women have utilized overseas so that when they return home, they can put those skills to work in terms of small business development, in terms of coming together and driving this economy and creating new jobs. This is the direction we should be heading.

I support the amendment.

Mr. BOCCIERI. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. If the gentleman is prepared to yield back, we are prepared to accept the amendment.

Mr. BOCCIERI. I yield back the balance of my time.

Ms. VELÁZQUEZ. I urge adoption of the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. BOCCIERI).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY Mr. HIMES

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 111-121.

Mr. HIMES. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. HIMES:

Page 12, line 15, strike “section 46” and insert “section 47”.

Page 50, after line 16, add the following new title:

#### **TITLE VIII—MICROENTERPRISE TRAINING CENTER PROGRAM**

##### **SEC. 801. MICROENTERPRISE TRAINING CENTER PROGRAM.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 45, as added by section 301(b) of this Act, the following:

##### **“SEC. 46. MICROENTERPRISE TRAINING CENTER PROGRAM.**

“(a) ESTABLISHMENT.—The Administrator shall establish and carry out a microenterprise training center program for the purpose of providing low-income and unemployed individuals with training and counseling with respect to starting a microenterprise.

“(b) NUMBER AND LOCATION OF CENTERS.—In carrying out the program under subsection (a), the Administrator shall establish

10 microenterprise training centers, which, to the extent practicable, shall be located in a manner that promotes the geographic diversity of such centers. The Administrator shall give priority in locating such centers to areas with high proportions of low-income and unemployed individuals.

“(c) FUNCTION.—In carrying out the program under subsection (a), the Administrator shall ensure that microenterprise training centers provide training and resources to individuals seeking to start a new microenterprise, including through the provision of classes, one-on-one instruction, and other services the Administrator determines appropriate.

“(d) COORDINATION.—The Administrator shall coordinate the program established under subsection (a) with other programs of the Administration that may provide support to microenterprises.

“(e) DEFINITION OF MICROENTERPRISE.—In this section, the term ‘microenterprise’ means a business with not more than 6 employees and begun with an initial investment of not more than \$40,000.”.

The CHAIR. Pursuant to House Resolution 457, the gentleman from Connecticut (Mr. HIMES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Connecticut.

Mr. HIMES. Mr. Chair, I yield myself as much time as I may consume.

Entrepreneurship in low-income areas is hindered not just by a lack of capital but by a lack of skills and training. Business skills training in low-income communities works. A recent Center For Employment Training study of 5,000 workers showed an average income boost of \$7,500 to \$26,000 for individuals receiving 28 weeks of business training. My amendment directs the SBA to invest in 10 Microenterprise Training Centers to provide training and resources to individuals seeking to start new small businesses, including expert-led classes, group workshops and one-on-one instruction. It authorizes no specific amount of new funds. We will look to make a small addition to the SBA operating budget later in the appropriations process.

This amendment is about spurring job creation in low-income communities, those communities that need jobs, that need small businesses most. These are the communities that are hardest hit by economic downturns, the last to recover and, in many instances, the communities that, absent jobs, draw on the public purse for the kind of public support that they need. So in the spirit of this bill, and with the support of the Small Business Committee, I urge my colleagues' positive consideration of this amendment.

I reserve the balance of my time.

Mr. GRAVES. Mr. Chair, I rise to claim time in opposition to the gentleman's amendment.

The CHAIR. The gentleman from Missouri is recognized for 5 minutes.

Mr. GRAVES. Mr. Chairman, I certainly concur with the gentleman that it is important to make sure that individuals wishing to start a very small

business have access to appropriate training and technical assistance. However, where I part company with the gentleman is the need to create a program that duplicates services already available through the SBA. Microloan intermediaries are required by section 7(m) of the Small Business Act to provide counseling and training to individuals wanting to start microenterprises. In addition, such services also are available from Small Business Development Centers, Women's Business Centers, Tribal Business Centers and Veterans Business Centers. Nothing exists in the record before the committee that suggests individuals who are interested in starting microenterprises do not have access to necessary training and technical assistance. So creating another program that duplicates existing efforts through the SBA is not a sound use of scarce taxpayer dollars.

I yield back the balance of my time.

Mr. HIMES. I yield to the gentlelady from New York.

Ms. VELAZQUEZ. Mr. Chairman, let me thank the gentleman from Connecticut for this great amendment.

We often hear discussion of the concept of “welfare to work.” Well, the amendment before us will move many Americans from “welfare to entrepreneurship.” Studies consistently demonstrate that entrepreneurship provides a path out of poverty for many Americans. In particular, we have seen that for many impoverished women, launching their own small business can mean a chance at a bright future. This amendment will provide entrepreneurial development resources to those communities that have been hardest hit by this recession by creating Microenterprise Training Centers. These centers will let Americans interested in starting a very small business, such as a home-based business, access valuable classes, one-on-one instruction and other guidance. These resources will help launch the smallest small businesses, those with six or less employees and that start with \$40,000 or less in capital. Under the amendment, the SBA will establish these training centers. The administrator is instructed to place them in parts of the country that have a high proportion of low-income and unemployed individuals.

Mr. Chairman, when economic downturns like the current one hit, those communities that are already hurting often carry the brunt of the pain. Those areas already struggling with high unemployment suffer the most when jobs become even more scarce. The amendment before us will provide additional options for Americans living in these communities. It will mean that those living in poverty will have a better chance to secure their economic independence and build a better life for themselves. The Microloans Program is a program that lends to businesses and those who want to start up a business.

These are microenterprises that will provide technical assistance and guidance for those who want to start up a business. It's different.

I commend the gentleman for offering this amendment.

Mr. HIMES. I thank the gentlelady from New York for her statement and for her terrific leadership on this bill.

I would just note to my colleague from Missouri that he is absolutely right to be concerned about safeguarding taxpayer dollars and avoiding duplicative efforts. However, I would point out that this amendment creates a program targeted and tailored to low-income and unemployed individuals and, therefore, doesn't duplicate the SBA's currently existing programs, which are largely tied to the lending that is often not extended to lower income and unemployed individuals. In fact, there are very few Federal resources available for lower income individuals seeking to start a business. The Microloan Program that the gentleman refers to is built around loans and actually in previous budgets has been zeroed out. So I believe and feel this personally, having spent a year helping microbusinesses in the Bronx and seeing personally how very economically powerful small businesses can be in distressed communities, that we can find our way to support this amendment and make it part of a very good and useful bill.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Connecticut (Mr. HIMES).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. KRATOVIL

The CHAIR. It is now in order to consider amendment No. 6 printed in House Report 111-121.

Mr. KRATOVIL. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. KRATOVIL:  
Page 12, line 15, strike “section 46” and insert “section 47”.

Page 50, after line 16, add the following new title:

**TITLE VIII—RURAL ENTREPRENEURSHIP  
ADVISORY COUNCIL  
SEC. 801. RURAL ENTREPRENEURSHIP ADVISORY  
COUNCIL.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 45, as added by section 301(b) of this Act, the following:

**“SEC. 46. RURAL ENTREPRENEURSHIP ADVISORY  
COUNCIL.**

“(a) ESTABLISHMENT.—The Administrator shall establish a rural entrepreneurship advisory council (hereinafter referred to in this section as the ‘council’).

“(b) COMPOSITION.—The Administrator shall ensure that the council is composed of appropriate officials from the Administration, the rural development programs of the Department of Agriculture, and the Department of Commerce and of representatives,



who volunteer for the council, from the academic, small business, agriculture, and high-tech communities.

“(C) FUNCTIONS.—

“(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this section, the council shall submit to the Administrator and to Congress a report on the following:

“(A) Entrepreneurship in rural communities compared to urban communities.

“(B) Potential barriers to entrepreneurship for individuals in rural communities.

“(C) Effective Federal policies that are expanding entrepreneurship in rural communities.

“(D) Recommendations for Federal policies to foster entrepreneurship in rural communities and to ensure that rural entrepreneurs have equal access to technical assistance, entrepreneurial opportunities, and educational outreach.

“(2) ADVICE.—The council shall provide ongoing advice to the Administrator with respect to rural entrepreneurship and make recommendations to foster rural entrepreneurs, including through the effective use of broadband technology.”.

The CHAIR. Pursuant to House Resolution 457, the gentleman from Maryland (Mr. KRATOVIL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

□ 1545

Mr. KRATOVIL. Mr. Chairman, I yield myself such time as I may consume.

I would like to congratulate the Small Business Committee chairwoman, Ms. VELÁZQUEZ, and lead sponsor, Congressman HEATH SHULER, for bringing H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009, to the floor today. This legislation will arm small businesses and entrepreneurs, who are the lifeblood of our economy, to grow and prosper.

Investing in America's small businessmen and -women will help our economy recover. Small businesses create approximately four out of five new jobs. These small businesses are the backbone of the economy. They are the mom-and-pop stores on the Main Streets in small towns across America. But they are also individuals who are willing to take a risk and begin their own small high-tech companies.

I, like many Members of the House of Representatives, represent a largely rural district. A drive up and down Route 50 in my district reveals a landscape dotted with car dealerships that have closed their doors, restaurants that have gone out of business, empty hotel parking lots and store fronts with more vacancy than occupants. Although these images are not unique to rural areas, they deliver a much deeper blow to rural areas that rely on these small businesses for a greater percentage of local revenue and regional commerce than metropolitan and suburban areas.

For this reason, I have offered an amendment that would establish a

rural entrepreneurship advisory council within the Small Business Administration. The council will be comprised of appropriate officials from the SBA, the rural development programs of the Department of Agriculture and the Department of Commerce, as well as representatives from the academic, small business, agriculture and high-tech sectors. The council is tasked with providing a report to Congress on rural entrepreneurship, specifically a report on entrepreneurship in rural communities compared to urban communities, potential barriers for individuals in rural communities, effective Federal policies that are expanding entrepreneurship in rural communities, and recommendations for Federal policies to foster entrepreneurship in rural communities and to ensure that rural entrepreneurs have equal access to technical assistance, entrepreneurial opportunities and educational outreach.

The council will also provide ongoing advice to the SBA administrator on issues related to rural entrepreneurship and how to foster rural entrepreneurs, including the effective use of broadband technology. This is a simple, commonsense amendment that will ensure our Nation's rural entrepreneurs are not left behind.

I urge support of the amendment as well as the underlying bill.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, the amendment offered by the gentleman from Maryland will greatly expand the reach of entrepreneurial development programs. Too often small business owners or prospective entrepreneurs cannot access these programs because they live in a rural or remote area. For those small businesses in these parts of America, the nearest Small Business Development Center or Women's Business Center is often many miles away. This can prevent small businesses from accessing the services that we are improving and reauthorizing in the underlying bill.

The amendment offered by the gentleman from Maryland will further ensure that the SBA pays attention to the needs of rural America. Specifically, it creates a rural entrepreneurship advisory council at the Small Business Administration. Drawing from the expertise of the Department of Agriculture and the Department of Commerce, this panel will see to it that ED services provided by the SBA are effective for rural small businesses.

In many rural areas, many small businesses are particularly important. Often they are the community's largest

employer. This amendment will ensure that the SBA's entrepreneurial development programs are meeting the needs of rural America.

I urge the adoption of the amendment.

And I now yield to the gentleman from Missouri for any remarks that he might have.

Mr. GRAVES. Mr. Chairman, I support the amendment, and I have no opposition. I thank the gentlelady.

Ms. VELÁZQUEZ. If the gentleman is prepared to yield back, we are prepared to accept the amendment.

Mr. KRATOVIL. I yield back the balance of my time.

Ms. VELÁZQUEZ. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Maryland (Mr. KRATOVIL).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. KRATOVIL. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Maryland will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. MURPHY OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 7 printed in House Report 111-121.

Mr. MURPHY of New York. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MURPHY of New York:

Page 4, line 11, strike “\$150,000” and insert the following: “\$200,000”.

Page 4, line 18, strike “\$100,000” and insert the following: “\$150,000”.

Page 6, line 24, strike “\$10,000,000” and insert the following: “\$12,000,000”.

Page 6, line 25, strike “\$12,000,000” and insert the following: “\$14,000,000”.

The CHAIR. Pursuant to House Resolution 457, the gentleman from New York (Mr. MURPHY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Like so many other Members here today, I rise to speak in favor of this bill and in particular an amendment that I think will make it stronger. For many years, I have been a small business owner, a founder of small businesses, and for the last 8 years, I have been investing in small businesses all over New York. I have seen the challenges that small business people face, and I'm well aware of the needs that they have as they start these businesses. And in particular in this troubled economic time, what those of us

that work in the small business world know is that many more entrepreneurs will turn to their own efforts to start small businesses. We will see a lot more small businesses founded by entrepreneurs in these troubled economic times as people can't find jobs and they are getting laid off from bigger companies.

In particular, you have got that combined with the veterans that are coming back from our efforts overseas. And as we draw down in Iraq, a large number of veterans will be coming back and mustering out looking for job opportunities. What they are going to need is help because they are going to go and try to start small businesses. And it is a difficult task.

My amendment would increase the funding for the Veterans Business Centers that are already contemplated in this bill. Instead of \$150,000 for each of the first 5 years, they would be allocated up to \$200,000. And instead of \$100,000 thereafter for 3 additional years, they could go up to \$150,000. I think it is critical that we make sure that we have enough of these Veterans Business Centers, like the one that we already have in the Albany area near my district, to help as many veterans as we can when they come back.

There is a great need out there. I saw this myself. I started my first business when I was 24 years old. People ask me, What would you do differently if you did it again? And every time I say, The thing I would do differently is I would turn to get more advice from experienced people early on. That is exactly what these centers will provide for our veterans. And I ask that people support this amendment to make sure we have the funding for them.

And I reserve the remainder of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, I thank the gentleman from New York for offering this amendment, as I believe it will help to improve the bill. As we all know, and we have seen and we heard that veteran entrepreneurship is on the rise, meaning that these services are in greater and greater demand.

The existing Veterans Business Outreach Centers have seen a 61 percent increase in veterans' requests for their services. Women's Business Centers report a 103 percent increase in veterans' requests. Clearly there is a hunger out there for these type of initiatives. And as more of our men and women return from Iraq and Afghanistan, the need for veterans' entrepreneurial development programs can be expected to grow.

By increasing the resources that are available for our former servicemen and -women, this amendment will help many of them launch their own businesses.

I will now yield to the gentleman from Missouri (Mr. GRAVES) for any comments that he wishes to make.

Mr. GRAVES. Mr. Chairman, I have no opposition to the amendment and support it; and I thank the gentlelady for yielding time.

Ms. VELÁZQUEZ. Mr. Chairman, if the gentleman is prepared to yield back, we are prepared to accept this amendment.

Mr. MURPHY of New York. I yield back.

Ms. VELÁZQUEZ. Mr. Chairman, I urge the adoption of this amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. NYE

The CHAIR. It is now in order to consider amendment No. 8 printed in House Report 111-121.

Mr. NYE. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. NYE:

Page 12, line 15, strike "section 46" and insert "section 47".

Page 50, after line 16, add the following new title:

#### **TITLE VIII—MILITARY ENTREPRENEURS PROGRAM**

##### **SEC. 801. MILITARY ENTREPRENEURS PROGRAM.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 45, as added by section 301(b) of this Act, the following:

##### **"SEC. 46. MILITARY ENTREPRENEURS PROGRAM.**

"(a) ESTABLISHMENT.—The Administrator shall establish and carry out a program to provide business counseling and entrepreneurial development assistance to members of the Armed Forces to facilitate the development of small business concerns.

"(b) LIAISON.—In carrying out the program described in subsection (a), the Administrator shall establish a liaison to facilitate outreach to members of the Armed Forces with respect to business counseling and entrepreneurial development assistance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$1,000,000 for fiscal years 2010 and 2011."

The CHAIR. Pursuant to House Resolution 457, the gentleman from Virginia (Mr. NYE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. NYE. Mr. Chairman, I rise today in support of the Job Creation Through Entrepreneurship Act. In fact, I authored title I, the Veterans Business Centers provision, and I am in strong support of the title as it is. Today,

however, I would like to make a minor addition to that bill, the Military Entrepreneurs Program.

Mr. Chairman, it takes a special kind of person to be an entrepreneur. Small business ownership takes leadership. And in times like these, it takes resilience. So it is not surprising that, as they reenter civilian life, many of our returning servicemembers decide to launch their own enterprises. After all, these are the same attributes that they have exhibited while serving our Nation.

Our veterans leave the military with valuable skills and experience. But they often don't have the resources to apply those skills to the challenge of starting and running a small business. This bill will make sure our veterans have the support they need to launch successful small businesses. And by supporting our veterans and our small businesses, we will help create jobs and get our economy going again.

The cornerstone of this effort will be a new nationwide network of services dedicated to veteran entrepreneurs called Veteran Business Centers. Establishing this joint public-private network will provide veterans with the dedicated counseling and business training they need to launch new enterprises or grow existing businesses. By creating a new program to assist veterans in accessing capital and securing loans and credit, we will help them overcome some of the most significant hurdles blocking them from becoming successfully self-employed.

By creating a new program to help our veterans to navigate the procurement process, they will be able to compete more effectively in the Federal marketplace.

The Recovery Act is expected to create work in many sectors that are veteran dominated, like engineering, telecommunications, project management and construction. This bill will help veteran entrepreneurs take advantage of these opportunities.

In coordination with these new Veteran Business Centers, this amendment, the Military Entrepreneurs Program, will direct the SBA to provide servicemembers transitioning to civilian life entrepreneurial information, training and financial guidance, the things they need to start up a business.

This amendment specifically targets young entrepreneurs and proactively reaches out to them, letting them know the immense resources that are available to them. This ensures our returning warfighters have the know-how to land firmly on their feet after they have honorably served our country.

Our veterans made every sacrifice necessary to defend liberty, justice and American values; and they deserve every chance at a fair shot at the American Dream. For that reason, the Veteran Business Centers provision has the support of both the American Legion and the Veterans of Foreign Wars.

I strongly urge passage of this amendment and the bill.

And I reserve the balance of my time.  
Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, let me start by saying that the gentleman from Virginia has been enormously helpful in crafting this legislation. He authored the bill on which title I is based. That measure establishes a portfolio of entrepreneurial development services for our Nation's veterans.

The amendment that he is now offering will go even further. As we have already noted, members of our Armed Forces are natural candidates for entrepreneurship. They exhibit the dedication, resolve and leadership skills that it takes to launch a new enterprise. In many cases, they make excellent Federal contractors as they are familiar with the procurement process or are in fields in high demand by the government.

This amendment takes a very proactive approach by reaching out to members of the military before they are discharged easing their transition back into civilian life.

Today, too many Americans who have worn the uniform of our Nation find themselves unemployed after separating from the service. With this amendment, we create another option, another career path for members of our military.

I thank the gentleman from Virginia for offering this amendment and for all of his work on this bill.

And I now yield to the ranking member from Missouri for any comments that he might have.

Mr. GRAVES. Mr. Chairman, I have no opposition to the amendment. I support it. I thank the gentlelady for yielding.

Ms. VELÁZQUEZ. If the gentleman is prepared to yield back, we are prepared to accept the amendment.

Mr. NYE. I yield back.

Ms. VELÁZQUEZ. I urge the adoption of the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. NYE).

The amendment was agreed to.

□ 1600

AMENDMENT NO. 9 OFFERED BY MR. SCHAUER

The CHAIR. It is now in order to consider amendment No. 9 printed in House Report 111-121.

Mr. SCHAUER. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SCHAUER:  
Page 50, after line 16, add the following new section:

**SEC. 708. SMALL MANUFACTURERS TRANSITION ASSISTANCE PROGRAM.**

Section 21 of the Small Business Act (15 U.S.C. 648), as amended, is further amended by adding at the end the following new subsection:

“(s) SMALL MANUFACTURERS TRANSITION ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Administration shall establish a grant program for small business development centers in accordance with this subsection. To be eligible for the program, a small business development center must be in good standing and comply with the other requirements of this section. Funds made available through the program shall be used to—

“(A) provide technical assistance and expertise to small manufacturers with respect to changing operations to another industry sector or reorganizing operations to increase efficiency and profitability;

“(B) assist marketing of the capabilities of small manufacturers outside the principal area of operations of such manufacturers;

“(C) facilitate peer-to-peer and mentor-protégé relationships between small manufacturers and corporations and Federal agencies; and

“(D) conduct outreach activities to local small manufacturers with respect to the availability of the services described in subparagraphs (A), (B), and (C).

“(2) DEFINITION OF SMALL MANUFACTURER.—In this subsection, the term ‘small manufacturer’ means a small business concern engaged in an industry specified in sectors 31, 32, or 33 of the North American Industry Classification System in section 121.201 of title 13, Code of Federal Regulations.

“(3) AWARD SIZE LIMIT.—The Administration may not award an entity more than \$250,000 in grant funds under this subsection.

“(4) AUTHORITY.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out the program established in subsection (a)(1), the Administration may make grants or enter into cooperative agreements to carry out this subsection.

“(5) AUTHORIZATION.—There is authorized to be appropriated not more than \$2,500,000 for the purposes of carrying out this subsection for each of the fiscal years 2010 and 2011.”

The CHAIR. Pursuant to House Resolution 457, the gentleman from Michigan (Mr. SCHAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. SCHAUER. Thank you, Mr. Chair. I yield myself such time as I may consume.

Mr. Chair, I rise to offer an amendment to address a pressing need in my community and in many communities around the country. We need to help small businesses succeed in this difficult economy. It's not enough to simply survive this downturn; we need to expand and grow jobs, and small businesses are the best way to do that. I'm so pleased that this bill has been brought forward. I thank the chair for her leadership and the sponsor of this bill to address these pressing needs.

In Michigan, we've been fighting this economic fight for 9 years. One of the

bright spots in our fight has been the Small Business Development Center program. In my State, our SBDC has a great record of achievement. In 2007, more than 11,000 businesses were served by this program, and these companies created more than 3,000 jobs. In 2008, more than 12,000 businesses were assisted through SBDCs. These businesses included 515 veteran-owned businesses, 2,200 female-owned businesses, and 2,500 startups. Counseling provided by SBDCs helped create more than 3,400 new jobs in Michigan, despite the economic turmoil that my State has been facing.

Clearly, this program works, and my amendment grows this program to help small manufacturers that have been pummeled by this recession. Specifically, Mr. Chair, my amendment creates a \$2.5 million pool of funds to establish a grant program. It's a new section in the Small Business Act to create the Small Manufacturers Transition Assistance Program to provide technical assistance and expertise to small manufacturers that are seeking opportunities in different industrial sectors.

For example, if a small machine shop wants to shift from automotive contracting to aviation or aerospace contracting, my amendment provides funding for Small Business Development Centers to provide help with that transition.

And this isn't just a hypothetical situation. This is a very real one in my State where struggling manufacturers are looking to new opportunities to survive and grow.

The SBDCs have had real success in this area, but more resources are needed during these tough times for American manufacturing. That is why I offer this amendment to create the Small Manufacturers Transition Assistance Program. Mr. Chair, these are services that 11,000 to 12,000 businesses a year use in my State, and they're desperately needed at this time. I hope my colleagues will support this amendment.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I am not opposed to the amendment. I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. The amendment offered by the gentleman from Michigan is a well-thought-out proposal. In fact, earlier this month, the House Small Business Committee conducted a hearing regarding how small parts suppliers and manufacturers are coping given the current problems in the automobile industry. What we heard is troubling. Experts predict that half of the Nation's auto suppliers will be shut down by 2012. Many have already closed their doors.

These factories are vital not just to the automotive sector but to our overall economy. Parts suppliers alone employ 3.2 million workers. We know that the three big car manufacturers are suffering, but these are the smaller of the smaller, and they need our help. So it is very important what this amendment will do.

In the past, these manufacturers have supplied the American automobile industry, and I believe they can continue to have a bright future. By modernizing their facilities and entering new markets, they can keep offering good-paying jobs to millions of Americans while maintaining a strong manufacturing base in this country.

If we have learned any one thing from the current economic crisis, it is that economic stability starts from the bottom up, not the other way around. By stabilizing small manufacturers and part suppliers, we can help the larger firms in the automotive industry. In that process, we will protect millions of jobs. The amendment before us will further this goal.

I urge its adoption, and I yield to the gentleman from Missouri (Mr. GRAVES) for any comments he wishes to make.

Mr. GRAVES. Mr. Chairman, I have no opposition to the amendment. I associate myself with the remarks of the gentlelady from New York.

Ms. VELAZQUEZ. If the gentleman is prepared to yield back.

Mr. SCHAUER. I thank my colleagues for their support.

I yield back the balance of my time.

Ms. VELAZQUEZ. I urge adoption of the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. SCHAUER).

The amendment was agreed to.

Ms. VELAZQUEZ. Mr. Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURPHY of New York) having assumed the chair, Mr. HOLDEN, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2352) to amend the Small Business Act, and for other purposes, had come to no resolution thereon.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.—

□ 1717

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore (Mr. TONKO) at 5 o'clock and 17 minutes p.m.

## RECOGNIZING AMERICA'S TEACHERS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 374.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 374.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## JOB CREATION THROUGH ENTREPRENEURSHIP ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 457 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2352.

□ 1718

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes, with Mr. SALAZAR (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 9 printed in House Report 111-121 offered by the gentleman from Michigan (Mr. SCHAUER) had been disposed of.

AMENDMENT NO. 6 OFFERED BY MR. KRATOVIL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. KRATOVIL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 427, noes 0, not voting 12, as follows:

Abercrombie	Davis (AL)	Jackson (IL)
Ackerman	Davis (CA)	Jackson-Lee
Aderholt	Davis (IL)	(TX)
Adler (NJ)	Davis (KY)	Jenkins
Akin	Davis (TN)	Johnson (GA)
Alexander	Deal (GA)	Johnson (IL)
Altmire	DeFazio	Johnson, E. B.
Andrews	DeGette	Johnson, Sam
Arcuri	Delahunt	Jones
Austria	DeLauro	Jordan (OH)
Baca	Dent	Kagen
Bachus	Diaz-Balart, L.	Kanjorski
Baird	Diaz-Balart, M.	Kaptur
Baldwin	Dicks	Kennedy
Barrow	Dingell	Kildee
Bartlett	Doggett	Kilpatrick (MI)
Barton (TX)	Donnelly (IN)	Kilroy
Bean	Doyle	Kind
Berkley	Dreier	King (IA)
Berman	Driebeaus	King (NY)
Berry	Duncan	Kingston
Biggert	Edwards (MD)	Kirk
Bilbray	Edwards (TX)	Kirkpatrick (AZ)
Billirakis	Ehlers	Kissell
Bishop (GA)	Ellison	Klein (FL)
Bishop (NY)	Ellsworth	Kline (MN)
Blackburn	Emerson	Kosmas
Blumenauer	Engel	Kratovil
Blunt	Eshoo	Kucinich
Bocchieri	Etheridge	Lamborn
Boehner	Faleomavaega	Lance
Bonner	Fallin	Langevin
Bono Mack	Farr	Larsen (WA)
Boozman	Fattah	Larson (CT)
Bordallo	Filner	Latham
Boren	Flake	LaTourette
Boswell	Fleming	Latta
Boucher	Forbes	Lee (CA)
Boustany	Fortenberry	Lee (NY)
Boyd	Foster	Levin
Brady (PA)	Fox	Lewis (CA)
Brady (TX)	Frank (MA)	Lewis (GA)
Bright	Franks (AZ)	Lipinski
Brown (GA)	Frelinghuysen	LoBiondo
Brown (SC)	Fudge	Loeb
Brown, Corrine	Gallegly	Lofgren, Zoe
Brown-Waite,	Garrett (NJ)	Lowey
Ginny	Gerlach	Lucas
Buchanan	Giffords	Luetkemeyer
Burgess	Gingrey (GA)	Lujan
Burton (IN)	Gohmert	Lummis
Butterfield	Gonzalez	Lungren, Daniel
Buyer	Goodlatte	E.
Calvert	Gordon (TN)	Lynch
Camp	Granger	Mack
Campbell	Graves	Maffei
Cantor	Grayson	Maloney
Cao	Green, Al	Manzullo
Capito	Green, Gene	Marchant
Capps	Griffith	Markey (CO)
Capuano	Grijalva	Markey (MA)
Cardoza	Guthrie	Marshall
Carnahan	Gutierrez	Massa
Carney	Hall (NY)	Matheson
Carson (IN)	Hall (TX)	Matsui
Carter	Halvorson	McCarthy (CA)
Cassidy	Hare	McCarthy (NY)
Castle	Harman	McCaul
Chaffetz	Harper	McClintock
Chandler	Hastings (FL)	McColum
Childers	Hastings (WA)	McCotter
Christensen	Heinrich	McDermott
Clarke	Heller	McGovern
Clay	Hensarling	McHenry
Cleaver	Hergert	McHugh
Clyburn	Herseth Sandlin	McIntyre
Coble	Higgins	McKeon
Coffman (CO)	Hill	McMahon
Cohen	Himes	McMorris
Cole	Hinchey	Rodgers
Conaway	Hinojosa	McNerney
Connolly (VA)	Hirono	Meek (FL)
Conyers	Hodes	Meeks (NY)
Cooper	Hoekstra	Melancon
Costa	Holden	Mica
Costello	Holt	Michaud
Courtney	Honda	Miller (FL)
Crenshaw	Hoyer	Miller (MI)
Crowley	Hunter	Miller (NC)
Cuellar	Inglis	Miller, Gary
Culberson	Inslee	Miller, George
Cummings	Israel	Minnick
Dahlkemper	Issa	Mitchell

[Roll No. 279]

AYES—427

Mollohan	Reyes	Snyder
Moore (KS)	Richardson	Souder
Moore (WI)	Rodriguez	Space
Moran (KS)	Roe (TN)	Spratt
Moran (VA)	Rogers (AL)	Stearns
Murphy (CT)	Rogers (KY)	Stupak
Murphy (NY)	Rogers (MI)	Sullivan
Murphy, Patrick	Rohrabacher	Sutton
Murphy, Tim	Rooney	Tanner
Murtha	Ros-Lehtinen	Tauscher
Myrick	Roskam	Taylor
Nadler (NY)	Ross	Teague
Napolitano	Rothman (NJ)	Terry
Neal (MA)	Roybal-Allard	Thompson (CA)
Neugebauer	Royce	Thompson (MS)
Norton	Ruppersberger	Thornberry
Nunes	Rush	Tiahrt
Nye	Ryan (OH)	Tiberi
Oberstar	Ryan (WI)	Tierney
Obey	Sablan	Titus
Olson	Salazar	Tonko
Olver	Sanchez, Loretta	Towns
Ortiz	Sarbanes	Tsongas
Pallone	Scalise	Turner
Pascrell	Schakowsky	Upton
Pastor (AZ)	Schauer	Van Hollen
Paul	Schiff	Velázquez
Paulsen	Schmidt	Visclosky
Payne	Schock	Walden
Pence	Schrader	Walz
Perlmutter	Schwartz	Wamp
Perriello	Scott (GA)	Wasserman
Peters	Scott (VA)	Schultz
Peterson	Sensenbrenner	Waters
Petri	Serrano	Watson
Pingree (ME)	Sessions	Watt
Pitts	Sestak	Waxman
Platts	Shadegg	Weiner
Poe (TX)	Shea-Porter	Welch
Polis (CO)	Sherman	Westmoreland
Pomeroy	Shinkus	Wexler
Posey	Shuler	Whitfield
Price (GA)	Shuster	Wilson (OH)
Price (NC)	Simpson	Wilson (SC)
Putnam	Sires	Wittman
Quigley	Skelton	Wolf
Radanovich	Slaughter	Woolsey
Rahall	Smith (NE)	Wu
Rangel	Smith (NJ)	Yarmuth
Rehberg	Smith (TX)	Young (AK)
Reichert	Smith (WA)	Young (FL)

## NOT VOTING—12

Bachmann	Castor (FL)	Speier
Barrett (SC)	Linder	Stark
Becerra	Pierluisi	Thompson (PA)
Bishop (UT)	Sánchez, Linda	
Braley (IA)	T.	

□ 1744

Mr. BURGESS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1745

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. TAUSCHER) having assumed the chair, Mr. SALAZAR, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2352) to amend the Small Business Act, and for other purposes, pursuant to House Resolution 457, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mrs. CAPITO. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. CAPITO. In its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Capito moves to recommit the bill H.R. 2352 to the Committee on Small Business with instructions to report the same back to the House forthwith with the following amendment:

Add at the end the following new title:

**TITLE VIII—ASSISTANCE RELATED TO CARBON EMISSION TAX**

**SEC. 801. ASSISTANCE RELATED TO CARBON EMISSION TAX.**

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (S), by striking the final "and";

(2) in subparagraph (T), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

“(U) providing information and technical assistance to any small business owner that faces an increase in costs as a result of the enactment of any program to impose a tax on carbon emissions, either directly or through the operation of a cap and trade system on such emission limits.”.

Mrs. CAPITO (during the reading). Madam Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from West Virginia is recognized for 5 minutes.

Mrs. CAPITO. Madam Speaker, the intent of this motion to recommit is clear. My amendment amends the legislation to include important language that would ensure that small business owners are made aware of adverse effects that could be caused by future energy taxes.

The simple amendment will direct the Small Business Administration to make sure small businesses are provided with information and technical assistance if and when they face an increase in costs as a result of the enactment of any program to impose a tax on carbon emissions, either directly or

through the operation of a cap-and-trade system on such amendment emission limits.

Small business owners understand that cap-and-trade is essentially a national energy tax that will hit consumers and business owners alike. Manufacturers and small business owners in States like mine depend on the low cost of energy. These businesses compete in a global marketplace where energy costs are critical to economic success.

The cost increases from a national energy tax will prove to be severely damaging to the bottom lines of small businesses in my State and many others across this country. It is only appropriate to communicate those costs associated with such a policy. Small businesses operate on very clear margins, and it is the duty of this body to protect those job creators, not go after them with increased tax burdens.

I urge adoption of this amendment.

I yield back the balance of my time.

Ms. VELÁZQUEZ. Madam Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 5 minutes.

Ms. VELÁZQUEZ. Madam Speaker, I understand that the gentlelady is trying to make a point of climate change reform. What I would hope is that you will engage in a constructive dialogue on our long-term energy challenges. I understand the point that you're trying to make, and I will invite you to engage in a constructive dialogue when it comes to climate change reform.

The legislation that you're referring to will provide assistance to small businesses and also small manufacturers as we transition to a green economy, and in fact, the bill that we have before us today creates a green entrepreneurs training program in the sectors of energy efficiency, clean technology. Also, several amendments adopted today will help promote energy efficiency under the Polis amendment. The Women's Business Center program will provide such a system for women-owned firms. The manager's amendment includes several provisions that will assist firms to adopt processes and techniques that will reduce their use of energy.

And, finally, last Congress we passed an energy bill which includes a wide range of provisions that encourage small businesses to become more energy efficient. So we are calibrating the effect that any legislation regarding climate change will have on small businesses, and that is why we are addressing some of those issues in the bill that we have here today.

I applaud the gentlelady's intent to provide more assistance to small businesses, and I accept her motion to recommit.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mrs. CAPITO. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 385, noes 41, not voting 7, as follows:

[Roll No. 280]

#### AYES—385

Ackerman	Castor (FL)	Gordon (TN)
Aderholt	Chaffetz	Granger
Adler (NJ)	Chandler	Graves
Akin	Childers	Grayson
Alexander	Clyburn	Green, Al
Altmire	Coble	Green, Gene
Andrews	Coffman (CO)	Griffith
Arcuri	Cohen	Grijalva
Austria	Cole	Guthrie
Baca	Conaway	Hall (NY)
Bachus	Cooper	Hall (TX)
Baird	Costa	Halvorson
Barrow	Costello	Hare
Bartlett	Courtney	Harper
Barton (TX)	Crenshaw	Hastings (FL)
Bean	Cuellar	Hastings (WA)
Becerra	Culberson	Heinrich
Berkley	Cummings	Heller
Berman	Dahlkemper	Hensarling
Berry	Davis (AL)	Herger
Biggert	Davis (CA)	Herseth Sandlin
Bilbray	Davis (IL)	Higgins
Bilirakis	Davis (KY)	Hill
Bishop (NY)	Davis (TN)	Himes
Bishop (UT)	Deal (GA)	Hinchee
Blackburn	DeFazio	Hinojosa
Blumenauer	DeGette	Hodes
Blunt	Delahunt	Hoekstra
Bocieri	DeLauro	Holden
Boehner	Dent	Hoyer
Bonner	Diaz-Balart, L.	Hunter
Bono Mack	Diaz-Balart, M.	Inglis
Boozman	Dicks	Inslee
Boren	Doggett	Israel
Boswell	Donnelly (IN)	Issa
Boucher	Doyle	Jackson (IL)
Boustany	Dreier	Jackson-Lee
Boyd	Drieheaus	(TX)
Brady (PA)	Duncan	Jenkins
Brady (TX)	Edwards (TX)	Johnson (IL)
Bright	Ehlers	Johnson, Sam
Broun (GA)	Ellison	Jones
Brown (SC)	Ellsworth	Jordan (OH)
Brown, Corrine	Emerson	Kagen
Brown-Waite,	Engel	Kanjorski
Ginny	Etheridge	Kaptur
Buchanan	Fallin	Kennedy
Burgess	Fattah	Kildee
Burton (IN)	Filner	Kilpatrick (MI)
Butterfield	Flake	Kilroy
Buyer	Fleming	Kind
Calvert	Forbes	King (IA)
Camp	Fortenberry	King (NY)
Campbell	Foster	Kingston
Cantor	Fox	Kirk
Cao	Franks (AZ)	Kirkpatrick (AZ)
Capito	Frelinghuysen	Kissell
Capps	Galleghy	Klein (FL)
Cardoza	Garrett (NJ)	Kline (MN)
Carahan	Gerlach	Kosmas
Carney	Giffords	Kratovil
Carson (IN)	Gingrey (GA)	Kucinich
Carter	Gohmert	Lamborn
Cassidy	Gonzalez	Lance
Castle	Goodlatte	Langevin

Larsen (WA)	Neal (MA)	Scott (VA)
Larson (CT)	Neugebauer	Sensenbrenner
Latham	Nunes	Serrano
Latta	Nye	Sessions
Lee (NY)	Oberstar	Sestak
Levin	Obey	Shadegg
Lewis (CA)	Olson	Shea-Porter
Linder	Ortiz	Shimkus
Lipinski	Pallone	Shuler
LoBiondo	Pascarell	Shuster
Loeb sack	Pastor (AZ)	Simpson
Lowe y	Paul	Sires
Lucas	Paulsen	Skelton
Luetkemeyer	Payne	Slaughter
Lujan	Pence	Smith (NE)
Lummis	Perlmutter	Smith (NJ)
Lungren, Daniel	Perriello	Smith (TX)
E.	Peters	Smith (WA)
Lynch	Peterson	Snyder
Mack	Petri	Souder
Maffei	Pingree (ME)	Space
Maloney	Pitts	Spratt
Manzullo	Platts	Stearns
Marchant	Poe (TX)	Stupak
Markey (CO)	Pomeroy	Sullivan
Marshall	Posey	Sutton
Massa	Price (GA)	Tanner
Matheson	Price (NC)	Tauscher
McCarthy (CA)	Putnam	Taylor
McCarthy (NY)	Quigley	Teague
McCaul	Radanovich	Terry
McClintock	Rahall	Thompson (CA)
McCollum	Rangel	Thompson (MS)
McCotter	Rehberg	Thompson (PA)
McHenry	Reichert	Thornberry
McHugh	Reyes	Tiahrt
McIntyre	Richardson	Tiberi
McKeon	Rodriguez	Titus
McMahon	Roe (TN)	Tonko
McMorris	Rogers (AL)	Turner
Rodgers	Rogers (KY)	Upton
McNerney	Rogers (MI)	Van Hollen
Meek (FL)	Rohrabacher	Velázquez
Meeks (NY)	Rooney	Visclosky
Melancon	Ros-Lehtinen	Walden
Mica	Roskam	Walz
Michaud	Ross	Wamp
Miller (FL)	Rothman (NJ)	Wasserman
Miller (MI)	Roybal-Allard	Schultz
Miller (NC)	Royce	Watson
Miller, Gary	Ruppersberger	Watt
Miller, George	Rush	Waxman
Minnick	Ryan (WI)	Weiner
Mitchell	Salazar	Welch
Mollohan	Sanchez, Loretta	Westmoreland
Moore (KS)	Sarbanes	Wexler
Moran (KS)	Scalise	Whitfield
Moran (VA)	Schakowsky	Wilson (OH)
Murphy (CT)	Schauer	Wilson (SC)
Murphy (NY)	Schiff	Wittman
Murphy, Patrick	Schmidt	Wolf
Murphy, Tim	Schock	Wu
Murtha	Schrader	Yarmuth
Myrick	Schwartz	Young (AK)
Nadler (NY)	Scott (GA)	Young (FL)

#### NOES—41

Abercrombie	Frank (MA)	McDermott
Baldwin	Fudge	McGovern
Bishop (GA)	Gutierrez	Moore (WI)
Capuano	Harman	Napolitano
Clarke	Hirono	Olver
Clay	Holt	Polis (CO)
Cleaver	Honda	Ryan (OH)
Connolly (VA)	Johnson (GA)	Sherman
Conyers	Johnson, E. B.	Tierney
Crowley	Lee (CA)	Towns
Dingell	Lewis (GA)	Tsongas
Edwards (MD)	Lofgren, Zoe	Waters
Eshoo	Markey (MA)	Woolsey
Farr	Matsui	

#### NOT VOTING—7

Bachmann	LaTourette	Speier
Barrett (SC)	Sánchez, Linda	Stark
Braley (IA)	T.	

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1812

Ms. WOOLSEY changed her vote from “aye” to “no.”

Messrs. THOMPSON of California, GORDON of Tennessee, GONZALEZ, FATTAH, Ms. KILROY, Messrs. SPRATT, NADLER of New York, and Ms. PINGREE of Maine changed their vote from “no” to “aye.”

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Ms. VELÁZQUEZ. Madam Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 2352, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. VELÁZQUEZ:  
Add at the end the following new title:

#### TITLE VIII—ASSISTANCE RELATED TO CARBON EMISSION TAX

#### SEC. 801. ASSISTANCE RELATED TO CARBON EMISSION TAX.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (S), by striking the final “and”;

(2) in subparagraph (T), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(U) providing information and technical assistance to any small business owner that faces an increase in costs as a result of the enactment of any program to impose a tax on carbon emissions, either directly or through the operation of a cap and trade system on such emission limits.”.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. VELÁZQUEZ. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 15, not voting 12, as follows:

[Roll No. 281]

#### YEAS—406

Abercrombie	Bachus	Biggert
Ackerman	Baird	Bilbray
Aderholt	Baldwin	Bilirakis
Adler (NJ)	Barrow	Bishop (GA)
Akin	Bartlett	Bishop (NY)
Alexander	Barton (TX)	Bishop (UT)
Altmire	Bean	Blackburn
Andrews	Becerra	Blumenauer
Arcuri	Berkley	Blunt
Austria	Berman	Bocieri
Baca	Berry	Boehner



Bonner	Garrett (NJ)	Lynch	Ros-Lehtinen	Shuster	Tonko
Bono Mack	Gerlach	Mack	Roskam	Simpson	Towns
Boozman	Giffords	Maffei	Ross	Sires	Tsongas
Boren	Gingrey (GA)	Maloney	Rothman (NJ)	Skeltton	Turner
Boswell	Gohmert	Manzullo	Roybal-Allard	Slaughter	Upton
Boucher	Gonzalez	Marchant	Ruppersberger	Smith (NE)	Van Hollen
Boustany	Goodlatte	Markey (CO)	Rush	Smith (NJ)	Velázquez
Brady (PA)	Gordon (TN)	Markey (MA)	Ryan (OH)	Smith (TX)	Visclosky
Brady (TX)	Granger	Marshall	Ryan (WI)	Smith (WA)	Walden
Bright	Graves	Massa	Salazar	Snyder	Walz
Brown (SC)	Grayson	Matheson	Sanchez, Loretta	Souder	Wamp
Brown, Corrine	Green, Al	Matsui	Sarbanes	Space	Wasserman
Brown-Waite,	Green, Gene	McCarthy (CA)	Scalise	Spratt	Schultz
Ginny	Griffith	McCarthy (NY)	Schakowsky	Stearns	Waters
Buchanan	Grijalva	McCauley	Schauer	Stupak	Watson
Burgess	Guthrie	McClintock	Schiff	Sullivan	Watt
Burton (IN)	Gutierrez	McCollum	Schmidt	Sutton	Waxman
Butterfield	Hall (NY)	McCotter	Schock	Tanner	Weiner
Buyer	Hall (TX)	McDermott	Schrader	Tauscher	Welch
Calvert	Halvorson	McGovern	Schwartz	Taylor	Westmoreland
Camp	Hare	McHenry	Scott (GA)	Teague	Wexler
Cantor	Harman	McHugh	Scott (VA)	Terry	Whitfield
Cao	Hastings (FL)	McIntyre	Sensenbrenner	Thompson (CA)	Wilson (OH)
Capito	Hastings (WA)	McKeon	Serrano	Thompson (MS)	Wilson (SC)
Capps	Heinrich	McMahon	Sessions	Thompson (PA)	Wittman
Capuano	Heller	McMorris	Sestak	Thornberry	Wolf
Cardoza	Hergert	Rodgers	Shea-Porter	Tiahrt	Woolsey
Carnahan	Herseth Sandlin	McNerney	Sherman	Tiberi	Wu
Carney	Higgins	Meek (FL)	Shinkus	Tierney	Yarmuth
Carson (IN)	Hill	Meeks (NY)	Shuler	Titus	Young (FL)
Carter	Himes	Melancon			
Cassidy	Hinchey	Mica			
Castle	Hinojosa	Michaud	Broun (GA)	Flake	Moran (KS)
Castor (FL)	Hirono	Miller (MI)	Campbell	Fox	Paul
Chandler	Hodes	Miller (NC)	Chaffetz	Franks (AZ)	Royce
Childers	Hoekstra	Miller, Gary	Culberson	Hensarling	Shadegg
Clarke	Holden	Miller, George	Duncan	Miller (FL)	Young (AK)
Clay	Holt	Minnick			
Cleaver	Honda	Mitchell			
Clyburn	Hoyer	Mollohan	Bachmann	Harper	Sánchez, Linda
Coble	Hunter	Moore (KS)	Barrett (SC)	Johnson (GA)	T.
Coffman (CO)	Inglis	Moore (WI)	Boyd	King (IA)	Speier
Cohen	Inslee	Moran (VA)	Braley (IA)	Klein (FL)	Stark
Cole	Israel	Murphy (CT)	Conyers		
Conaway	Issa	Murphy (NY)			
Connolly (VA)	Jackson (IL)	Murphy, Patrick			
Cooper	Jackson-Lee	Murphy, Tim			
Costa	(TX)	Murtha			
Costello	Jenkins	Myrick			
Courtney	Johnson (IL)	Nadler (NY)			
Crenshaw	Johnson, E. B.	Napolitano			
Crowley	Johnson, Sam	Neal (MA)			
Cuellar	Jones	Neugebauer			
Cummings	Jordan (OH)	Nunes			
Dahlkemper	Kagen	Nye			
Davis (AL)	Kanjorski	Oberstar			
Davis (CA)	Kaptur	Obey			
Davis (IL)	Kennedy	Olson			
Davis (KY)	Kildee	Olver			
Davis (TN)	Kilpatrick (MI)	Ortiz			
Deal (GA)	Kilroy	Pallone			
DeFazio	Kind	Pascarell			
DeGette	King (NY)	Pastor (AZ)			
Delahunt	Kingston	Paulsen			
DeLauro	Kirk	Payne			
Dent	Kirkpatrick (AZ)	Pence			
Diaz-Balart, L.	Kissell	Perlmutter			
Diaz-Balart, M.	Kline (MN)	Perriello			
Dicks	Kosmas	Peters			
Dingell	Kratovil	Peterson			
Doggett	Kucinich	Petri			
Donnelly (IN)	Lamborn	Pingree (ME)			
Doyle	Lance	Pitts			
Dreier	Langevin	Platts			
Driehaus	Larsen (WA)	Poe (TX)			
Edwards (MD)	Larson (CT)	Polis (CO)			
Edwards (TX)	Latham	Pomeroy			
Ehlers	LaTourette	Posey			
Ellison	Latta	Price (GA)			
Ellsworth	Lee (CA)	Price (NC)			
Emerson	Lee (NY)	Putnam			
Engel	Levin	Quigley			
Eshoo	Lewis (CA)	Radanovich			
Etheridge	Lewis (GA)	Rahall			
Fallin	Linder	Rangel			
Farr	Lipinski	Rehberg			
Fattah	LoBiondo	Reichert			
Filner	Loebach	Reyes			
Fleming	Lofgren, Zoe	Richardson			
Forbes	Lowe	Rodriguez			
Fortenberry	Lucas	Roe (TN)			
Foster	Luetkemeyer	Rogers (AL)			
Frank (MA)	Lujan	Rogers (KY)			
Frelinghuysen	Lummis	Rogers (MI)			
Fudge	Lungren, Daniel	Rohrabacher			
Gallegly	E.	Rooney			

## NAYS—15

Flake	Moran (KS)
Fox	Paul
Franks (AZ)	Royce
Hensarling	Shadegg
Miller (FL)	Young (AK)

## NOT VOTING—12

Bachmann	Harper	Sánchez, Linda
Barrett (SC)	Johnson (GA)	T.
Boyd	King (IA)	Speier
Braley (IA)	Klein (FL)	Stark
Conyers		

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KISSELL) (during the vote). There is 1 minute remaining in this vote.

□ 1820

Messrs. POE of Texas and BURTON of Indiana changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Madam Speaker, I regret missing floor votes on Wednesday, May 20, 2009, as I was attending my son's high school graduation in Iowa. If I was present, I would have voted:

"Yea" on rollcall 273, agreeing to H. Res. 456, providing for consideration of the Senate amendment to the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under open end consumer credit plan, and for other purposes.

"Yea" on rollcall 274, On Ordering the Previous Question on H. Res. 457, Providing for consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes.

"Aye" on rollcall 275, agreeing to H. Res. 457, Providing for consideration of the bill (H.R. 2352) to amend the Small Business Act, and for other purposes.

"Aye" on rollcall 276, Concur In All But Sec. 512 of Senate Amdt. to H.R. 627, Credit Cardholders Bill of Rights Act of 2009.

"Nay" on rollcall 277, Concur In Sec. 512 of Senate Amdt. to H.R. 627, Credit Cardholders Bill of Rights Act of 2009.

"Aye" on rollcall 278, On Motion to suspend the Rules and Agree to H. Res. 297, Recognizing May 25, 2009, as National Missing Childrens Day.

"Aye" on rollcall 279, On Agreeing to the Kratovil of Maryland Amendment to H.R. 2352, Job Creation Through Entrepreneurship Act of 2009.

"Aye" on rollcall 280, On Motion to recommit H.R. 2352, Job Creation Through Entrepreneurship Act of 2009.

"Yea" on rollcall 281, On Passage of H.R. 2352, Job Creation Through Entrepreneurship Act of 2009.

# AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2352, JOB CREATION THROUGH ENTREPRENEURSHIP ACT OF 2009

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 2352.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

# REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. 454, WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

Mr. CARDOZA, from the Committee on Rules, submitted a privileged report (Rept. No. 111-125) on the resolution (H. Res. 463) providing for consideration of the conference report to accompany the Senate bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, which was referred to the House Calendar and ordered to be printed.

# REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 915, FAA REAUTHORIZATION ACT OF 2009

Mr. CARDOZA, from the Committee on Rules, submitted a privileged report (Rept. No. 111-126) on the resolution (H. Res. 464) providing for consideration of the bill (H.R. 915) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009

through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### ROSLYN LITTMANN SCHULTE

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Speaker, I rise today with a very sad duty of reporting the tragic passing of Roslyn Littmann Schulte, who was taken from us by a roadside bomb just north of Kabul earlier today while serving our country.

Roslyn Schulte was a first lieutenant in the United States Air Force, an intelligence officer, and the younger sister of my chief of staff, and a great friend of this body, Todd Schulte.

Roslyn Schulte was born March 18, 1984, in St. Louis, Missouri. She was a graduate of John Burroughs High School in St. Louis, and attended the United States Air Force Academy, where she graduated in 2006. She was deployed to Afghanistan on February 18 of this year.

Like so many patriotic Americans, Lieutenant Schulte was willing to give her life in service to all of us and to her country. The expression of our gratitude to her is beyond words.

Roslyn is survived by her parents, Bob and Susie Schulte, and her brother, Todd. The thoughts and prayers of a grateful Nation are with the Schulte family and with Roslyn's fellow troops and friends at this difficult time.

As we stand on this floor and debate the profound issues of our times, let us never forget the true cost of the freedoms that we so often take for granted.

#### NOMINATION OF DAWN JOHNSEN

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Mr. Speaker, I rise today with deep and growing concern over President Obama's nomination of Dawn Johnsen to head up the Justice Department's Office of Legal Counsel. My worry isn't merely her position on the question of life. It's that she routinely has taken hard-line stances and made extreme statements that cast doubt on her fitness to manage the power entrusted to her in a responsible way.

Ms. Johnsen has claimed that abortion restrictions "reduce pregnant women to no more than fetal container." Her arguments have compared pro-life advocates to the KKK and pregnancy to slavery.

The Office of Legal Counsel does not need an activist. It needs someone with

a temperament to accurately inform the administration on the legality of policies being contemplated.

I encourage Members of the Senate, including my Senator from Virginia, Senator WEBB, to vote against this nomination.

#### HONORING ROSLYN LITTMANN SCHULTE

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I too today rise with a heavy heart. We learned early this morning that America lost a great patriot, Roslyn Littmann Schulte, who was killed this morning just north of Kabul by a roadside bomb.

First Lieutenant Schulte, an intelligence officer in the United States Air Force, was serving in Afghanistan. She was only 25 years old.

A 2006 graduate of the United States Air Force Academy, Roslyn was born and raised in St. Louis, Missouri.

I am heartbroken for a good friend of many of us, Todd Schulte, chief of staff to Congressman SCOTT MURPHY, who is Roslyn's brother. It is on days like today that we must remind ourselves of the great sacrifices that members of the armed services and their families make in defense of freedom and the security of the United States.

My thoughts and prayers are with her parents, Bob and Susie, her brother Todd, her extended family and her unit at this grievous time.

#### NOMINATION OF DAWN JOHNSEN

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNBERRY. Mr. Speaker, one of the key lessons from the release of legal memos analyzing interrogation techniques is the importance of the Office of Legal Counsel in the Justice Department. One may agree or disagree with the analysis used in the past, but they were quite clear and quite specific on what was allowed and what was not, down to the number of seconds that each technique could be used.

The lawyer's opinions were binding. If they had prohibited a technique, for example, that lowered a terrorist suspect's self-esteem, then that opinion would be binding too.

The importance of this position in our government is highlighted by the controversial nomination that President Obama has made for this position. The opinions of Professor Dawn Johnsen that she has expressed in the past, and her reluctance to provide clear answers today, call into question her opinions and whether they could be the basis upon which our national security professionals could do their job.

Our colleagues in the other body should be very cautious when considering this nomination when so much is at stake.

#### ARMY RESERVISTS FROM THE NORTHERN MARIANA ISLANDS WHO ARE SERVING IN KUWAIT

(Mr. SABLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABLAN. Mr. Speaker, I rise today to recognize the remarkable men from the Northern Mariana Islands who are presently serving their country in Kuwait. These 78 heroic Army Reservists are members of Echo Company, 100th Battalion, 442nd Infantry Regiment. The 442nd is well known for bravery under tough conditions, and that attitude is embodied in its motto: "Go for broke."

Echo Company is operating under tough conditions. This is the second deployment for this detachment since the U.S. went to war in the Middle East. The company was first sent into combat from August 2004 to February 2006 for 19 months. The current deployment began last August and will end sometime in September after another 14 months.

These are tough conditions. These soldiers must leave families behind, and their spouses must do their best on their own while praying for the safe return of their loved ones. And some do not return home. The Northern Marianas has already lost 11 individuals in the combat zone just in this war alone.

I have a special connection to Echo Company. I was one of the first volunteers for the 442nd when it was first established in the early 1980s in the Northern Marianas. More so, I know most of these men on a personal basis as family, friend or neighbor.

I stand before this body today with the utmost respect and gratitude to individuals from the Northern Marianas and from everywhere in America who bravely serve our Nation and its people.

To Echo Company, I say Godspeed and Si Yu'us Ma'a'se.

□ 1830

#### NOMINATION OF DAWN JOHNSEN—LIFE ISSUES

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, the President has said we should find common ground on the issue of abortion, but his nomination of Dawn Johnsen to head up the Office of Legal Counsel is amongst the most controversial of his nominees.

Johnsen, who formerly worked for NARAL and the ACLU's Reproductive

Freedom Project has compared pregnancy to involuntary servitude. She has described pregnant women as “losers in the contraceptive lottery.” She criticized then Senator Clinton for claiming a need to keep abortions rare. Some of her positions encompass questionable legal arguments, including the assertion that abortion bans might undermine the 13th Amendment, which bans slavery.

I quote her here: “Statutes that curtail a woman’s abortion choice are disturbingly suggestive of involuntary servitude, prohibited by the 13th Amendment, in that forced pregnancy requires a woman to provide continuous physical service to the fetus in order to further the State’s asserted interest.”

A quote again: “Our position is that there is no ‘father’ and no ‘child’—just a fetus. Any move by the courts to force a woman to have a child amounts to involuntary servitude.”

I and millions of other women do not feel this way. We cherish the opportunity to have borne a child.

#### THE LOSS OF AMERICA’S MANUFACTURING SECTOR

(Mr. ROE of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. ROE of Tennessee. Mr. Speaker, Americans are tired of watching our manufacturing sector move overseas. We need to implement policies that encourage companies to invest here in America and that make the cost of doing business less expensive. Lowering corporate tax rates, creating tax incentives for purchasing new plant equipment and increasing depreciation allowances all would be helpful in expanding investment here.

Unfortunately, House Democrats are advancing cap-and-tax legislation that has many theoretical benefits but one absolute consequence—the loss of millions of American manufacturing jobs. The Democrats’ response to global warming is to tax coal, of which we have hundreds of years of reserves, and to tax oil so that Americans will start using other power sources. Employers who are in globally competitive industries and who can’t simply raise the cost of their goods will be forced to lay off even more people, as their factories close, to pay for a program that may or may not be necessary to reverse climate change.

I, for one, am not willing to sacrifice two American manufacturing jobs for every one green job. I hope all Americans will let their legislators know they don’t want to pay higher taxes on energy while watching their jobs disappear.

#### NATIONAL ENERGY TAX

(Mr. PENCE asked and was given permission to address the House for 1 minute.)

Mr. PENCE. As we stand in Congress this evening, legislation on climate change continues to move through this body. As more Americans are realizing every day, the cap-and-trade legislation is nothing more than a national energy tax that will raise the energy costs on every American household by thousands of dollars a year. It will hit the Midwest, low-income Americans and Americans on fixed incomes the hardest.

The President, himself, said more than a year ago that, if his cap-and-trade proposal became law, utility rates would, in his words now, “necessarily skyrocket.” Millions of Americans are catching on.

Next week, House Republicans will go from coast to coast in this country with energy summits, taking our case against this national energy tax to the four corners of this Nation. I look forward to engaging the American people. During these tough economic times, the last thing we should do is raise the burden and the cost of energy on every working family in this Nation.

Let’s say “no” to a national energy tax and say “no” to cap-and-trade.

#### CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE STABILIZATION OF IRAQ— MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-42)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

#### *To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2009.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an

unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

BARACK OBAMA.  
THE WHITE HOUSE, May 19, 2009.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### SAVING AN EMBLEM OF THE AMERICAN SPIRIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, President Obama has stated that America can not, must not and will not let our auto industry simply vanish. The industry is like no other, he said—“an emblem of the American spirit, a once and future symbol of America’s success.” I could not agree more with the President. We must do what we need to do to save this vital industry in the face of the Wall Street meltdown and virulent and often unfair foreign competition. No major industrial power has ever survived without a strong automobile industry.

First of all, auto production is essential for our domestic economic security. Automobiles built the middle class in America, and they made possible the greatest economic and continental expansion the world has ever seen.

Secondly, auto production is essential for our national defense. When President Obama talks about the future symbol of America’s success, he is talking about my district, including Toledo, as well as Sandusky and Lorain, but also Cleveland and Youngstown and, of course, Detroit. Why? Because we have been sowing the seeds for the rebirth of the American automobile industry in these communities and especially in my hometown of Toledo—that is, until Wall Street hit us with a blunt mallet.

Mr. Speaker, Toledo is looking forward to a visit tomorrow by Dr. Ed Montgomery, the President’s auto czar. He will visit Dayton as well as our hometown. In Toledo, we are going to tell him the story of automobiles and what they mean to America. We’ll tell him how Toledo has been making cars for over 100 years, starting with an entrepreneur named John North Willys, who founded an auto company in Toledo that became Willys-Overland, later owned by Kaiser, then by Chrysler.

Willys-Overland is a perfect example of the importance of automobiles in America. Willys was the second largest carmaker in America from 1912 to 1918—only Ford was larger—and then it took off when it won a spirited national competition, which we should repeat, to build the rough-and-ready vehicle that General George C. Marshall wanted for U.S. troops in the war. That vehicle was the Jeep.

When President Obama talks about an emblem of the American spirit, he could have been talking about the Jeep plant in Toledo, Ohio, because nowhere else did the American spirit manifest itself more magnificently. When World War II started, the United States was caught flatfooted. When Hitler invaded Poland, the United States had the 16th largest army in the world, just ahead of Bulgaria. If not for our domestic automobile platform, America could not have mobilized its industrial might to turn back Adolf Hitler and save the world.

Toledo workers, my friends and family and, indeed, their parents answered our Nation's call and turned out hundreds of thousands of Jeeps during World War II. Men and women alike, they helped win the war, and they were proud of their contribution and deserved to be.

The goodwill alone associated with the Jeep brand name is still magic today around the world.

We'll tell Dr. Montgomery how the Toledo factory is today the most modern and efficient, indeed, the most innovative in the Chrysler family, how it's a model for flexible manufacturing production and labor management relations across this continent. We'll tell Dr. Montgomery that Toledo, Ohio, will be what President Obama calls "the future system of America's success" as the home, not only of Chrysler innovation and efficiency, but of General Motors' new green, six-speed transmission plant that won the Harbour & Associates' top ranking for productivity for 5 straight years and that it is poised to lead the way in America for the fuel-efficient and low-polluting vehicles of the future.

We'll tell Dr. Montgomery how the University of Toledo, through its clean and alternative energy incubator, is leading the way in research and development and in the commercialization of green power, including for vehicles, and how the University of Toledo Transportation Center is focusing on economic development through transportation, research and education.

Detroit will always be Motown and the Motor City, but the rebirth of the American automobile industry will happen in places like Toledo, where our legacy leads us to innovate, to create, to collaborate, and to meet the challenges of a new century and to build a new symbol of America's success. Frankly, it's time for a new national

competition, for the rough-and-ready vehicles of the future. We know those will be built in Toledo, Ohio.

#### NATIONALIZED HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the talk around town is universal health care for all Americans. This is a noble ideal and a great goal, but the real question is: Do we want universal health care run by the government or universal health care run by the private sector? That is the question to be asked and answered.

Even though every Nation that has tried socialized public health care has proven it's unaffordable, doesn't work and provides inferior health care, those who want the United States Government to run every aspect of our lives still demand public health care. Let's look at a couple of examples of socialized, nationalized health care:

Katie Brickell is a young woman who lives in Great Britain where they have government-run health care. When Katie was 19, she tried to get a test for cervical cancer, which is a matter of routine here in the United States. Katie was told that she had to wait until she was 20. When she tried again at 20, she was told that the age was moved to 25 so the government could save some money. While waiting 5 more years because some bureaucrat told her that's what she had to do, Katie got sick and was diagnosed with cervical cancer.

Now some bureaucrat is telling this young lady, who is just starting out in her adult life, that her disease is not treatable, all because some bureaucrat said it cost too much. Neither Katie nor her doctor made a medical decision, but this no-named bureaucrat made all of these decisions. This is the British example of government-run, universal public health care.

Charlie Wadge lives in Canada where they have long waiting lines and rationed health care because they have a government-run system. Limping badly, Charlie was diagnosed with arthritis in his hip. When he needed his replacement surgery, the bureaucrats told him he'd have to be on a waiting list for between 18 months and 2 years before he could have that surgery. Charlie paid what we call a private medical broker, who negotiated a price for him to have surgery in the United States, in Oklahoma City.

□ 1845

He had to pay for the whole thing out of his pocket—and it's a good thing he had the money. At least he can walk. Left up to Canada's system of universal-run, government-rationed health care, he would have probably been permanently crippled by now.

Now if we want an example of what health care run by the American bureaucrats looks like, we should examine Medicare, Medicaid, or even the VA. These government programs are now a disaster. They waste so much money, and they will probably completely go bankrupt if they're not overhauled.

The Medicare program trustees just a week ago said the program has "unfunded liability" of nearly \$38 trillion. That's the amount of benefits promised to Americans but not paid by them through taxes. If we don't fix the waste and inefficiency in Medicare, Medicaid, and the VA, millions of people will not be treated properly. Taxes keep going up but these government-run health care services in the United States keep getting worse.

The kind of government-run health care that is being considered right now will have the same sort of underpayments to doctors and hospitals that we see in Medicare and Medicaid. Even with the massive taxes that would come up with this government health care program, if people think health care is expensive now, just wait until it's free.

The government underpaying for services will force the price of medical insurance so high to make up for the gap in what health care really costs that their employer will no longer be able to afford the health insurance.

Studies have shown the kind of government-run health care being worked on by Congress tonight, right now, will end up forcing 120 million Americans on the government plan for this very reason. 120 million Americans who get their health care from their jobs would have to go into the government system because their employer cannot afford to pay for the high cost of insurance. That's half of the Americans in this country today.

But the most frightening part of the government plans being considered is the rationing of health care for procedures based on cost, age, and survivability rate. Let me repeat: Health care will be rationed based on cost, age, and survivability rate.

Somebody needs to explain to me how it's an improvement in our health care system for somebody in Washington, D.C., to decide that someone can't have a cancer treatment because it's too expensive, like is happening in England right now. Or that people can't have a medical procedure because some bureaucrat thinks it's too expensive because they're too old. The patient and doctor will be completely cut out of the decisionmaking process. And that is wrong.

There's an alternative plan to put all Americans on universal coverage even without raising taxes. This idea would leave decisions about people's health care between their doctor and the patient, not the bureaucrats and the

taxacrats in D.C. It's a plan to put everyone on private insurance plans. This deserves a close examination by this Congress.

We'd better take a long look at the choices we have, Mr. Speaker. If we go down the road of government-run health care in America, we will destroy the best health care structure in the world.

Mr. Speaker, the new government, nationalized, impersonal health care system will have the compassion of the IRS, the competence of FEMA, and the efficiency of the post office.

And that's just the way it is.

#### INVISIBLE CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Imagine, if you can, living in a place so plagued by war and kidnapping that you have to walk up to 12 miles a day just to find a place to sleep at night that's safe. As Americans, I don't think we can fully grasp what that would be like. But, for thousands of children living in northern Uganda today, this is their daily commute. This is their life.

For fear of being abducted by rebel leader Joseph Kony and his Lord's Resistance Army, children living in rural homes and villages would walk to town centers to sleep where they could hope to be safe. The children were among the victims of a conflict that began in 1986, and that somehow still continues today in Uganda and neighboring countries.

Lacking support from the local population, Kony resorted to kidnapping children as young as 8 years old and conscripting them to his army. The children have been brutalized and forced to commit atrocities on fellow abductees and even siblings. The vicious initiations were meant to break the children's ties to their community and gain their loyalty to the LRA. More than 25,000 children have been abducted over the course of this 23-year conflict.

While many Americans first learned about this issue when they saw a film made by college-age students called *Invisible Children*, many more remain unaware of the violence and suffering happening half a world away. I was recently reminded of the severity of this situation when students in my hometown of Hays and the community of Sterling, Kansas, shared with me the latest news from this conflict.

In 2006, many were hopeful a peace agreement could be reached to allow a new generation of children to finally live a life free of fear. Although it appeared progress had been made, Kony refused to sign the final agreement in 2008, and instead escalated his attacks. Since then, the LRA has killed more

than 1,000, including more than 200 on Christmas Day. The LRA has also abducted more than 450 children during this time.

A few weeks ago, concerned citizens from around the world, in more than 100 cities, participated in an event called the Rescue to raise awareness about the conflict and call on their elected officials—people here in this House of Representatives—to take action. Two of these events were held in my home State—in Wichita and Kansas City.

I'm here today to join my voice with the voices of those that participated in the Rescue and to call on Congress to support efforts to end the violence and to rebuild shattered lives.

People look to the United States to defend those who cannot help themselves, to free the oppressed, and to champion the cause of freedom. This Congress can be the voice for those who have none.

As Brandon Nimz, a student at Fort Hayes State University, who is active in raising awareness about this issue, said in a recent letter to the editor, "In this time when the world does not look very kindly toward the United States, I believe we must show everyone that we're not driven solely by a need for power and influence—we do have a heart. Even though we will receive no political or economic gains by helping these defenseless villagers in the five affected African nations, it is the right thing to do."

Mr. Speaker and colleagues, tonight let us show that America does indeed have that heart. Please join me in doing the right thing by taking action to help this conflict and protect the helpless.

#### 107TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. I rise today because it is the 107th anniversary of the independence of the Republic of Cuba. May 20, 1902.

Most people, Mr. Speaker, think that independence of the Republic of Cuba was obtained from Spain. It was not. The fight was against Spain for almost 100 years. Hundreds of thousands of heroic Cubans lost their lives. Then, the United States intervened to help Cuba in 1898. And this Congress was instrumental in making certain that after there was pacification—and obviously Spanish colonialism had been expelled—that the Republic of Cuba would be possible.

The United States voluntarily left Cuba. Withdrew. Granted Cuba its independence by withdrawing. May 20, 1902.

So, today is an anniversary of a very important occasion. It's a sad anniversary, because 50 years ago the Cuban Republic fell in the hands of a demented serial killer, a demonic mass murderer, Fidel Castro. And he continues to rule. He has been ill for some years and so he has granted some titles of power to his brother. But he continues to be the absolute, personal, total dictator of the totalitarian circus that oppresses the Cuban people.

There are hundreds of recognized prisoners of conscience—journalists, librarians, teachers, lawyers, physicians; people who simply have expressed their point of view that they want to see Cuba free. They're in the dungeons. And there are thousands of others who are there as well because they violated so-called laws that would not and do not exist in democratic nations. They're imprisoned for things such as dangerousness. Untold thousands thus are political prisoners in Cuba, suffering in the gulag because they have bothered that demonic mass murderer in some way, because they seek freedom, those political prisoners.

Now the system, the totalitarian system that has lasted 50 years, is rotten to the core, Mr. Speaker. Not only does it have the abject opposition, rejection of the entire people, in consensus fashion, the entire nation, but it's putrefied. It's absolutely rotten. And that system is in effect a corpse that is unburied.

So, when the dictator does finally die, that circus, that system, totalitarian, oppressive system will die with them. We have seen, in recent examples in very personalized dictatorships, whether it's Franco in Spain or Trujillo in the Dominican Republic, it's a matter of months or years. Their systems die with them. That's what we're going to see in Cuba.

Now, Mr. Speaker, I will submit for the CONGRESSIONAL RECORD a very important letter and list of signatories received just a few days ago. It was sent to the Organization of American States because there's this pathetic, grotesque effort to readmit the Cuban military dictatorship that's lasted 50 years into the inter-American system, including the Organization of American States. And 300 dissidents have signed this letter.

These are the heroes of Cuba; mostly young people, many of them wearing bracelets like this, calling for change. They're the future of Cuba. And I recommend to my colleagues and the American people—and I will put it on my Web site—that they see the names of the future leaders of democratic Cuba.

TO THE ORGANIZATION OF AMERICAN STATES  
Republic of Cuba, May 15, 2009

We, members of the Cuban democratic opposition, along with our brothers in the Resistance who are exiled, consider it necessary to address you in the name of our people's sovereign democratic aspirations.

We contemplate how a call for the readmission of the longest-lived and most oppressive of Latin American dictatorships to has been raised in the Latin American region, which, as if were not enough, the Castro dictatorship itself has reviled. It is a painful contradiction for the complete normalization of all ties with this tyrannical regime and the diplomatic acceptance of despotic rule on our Island to be proposed precisely on the 50th anniversary of the advent of totalitarianism in Cuba.

Cuba has not been separated from the OAS. It is the tyrannical regime which violates the public liberties of Cubans that has been separated. It is the Cuban nation which has continued to belong to this organization in symbolic tribute to the thousands of Cubans who have paid harshly for their democratic resistance against this regime.

Nevertheless, what worries us most is not the affront which would be committed against our rights by accepting the dictatorship which oppresses us as an equal in terms of the fundamental values of its democratic neighbors, but rather the damage that would be inflicted on the hemisphere itself.

It has cost great pain and sacrifice to banish dictatorships from our Latin America. To ignore the Inter American Democratic Charter, and specifically articles 1, 2, and 3 which state:

Article 1—The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it.

Article 2—The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States.

Article 3—Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

To readmit the totalitarian Castro regime to the OAS would mean opening the door to every kind of future despotism for the region, and would portend grave and unpredictable consequences for the millions of human beings who are part of the Latin American community.

We ask you, in the name of the very values of civilization, not to take this step. To do so would be to lower our American democratic community to the level of totalitarian barbarism. The 1962 Resolution expresses a clear democratic principle: there can be no democratic tolerance for the institutionalized violation of human rights embodied totalitarian, Marxist-Leninist regimes.

The Inter-American Commission of Human Rights, an institution affiliated to the OAS, has been one of the most serious and consistent institutions to document the atrocities committed by the Castro dictatorship against its own people.

Furthermore, we consider that the free Cuban nation would leave through the same door that the Castro regime may potentially be admitted to the OAS.

Consideramos además que por la misma puerta que entraría la dictadura castrista al ser admitida potencialmente por la OEA, saldría la nación cubana libre.

Embrace the Cuban people. Condemn its dictatorship. Do not reinstate the Castro re-

gime in the Latin American democratic community; open the doors of the OAS to the Cuban civil society that non-violently struggles for democratic transformation.

#### SIGNATURES:

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129. Jorge González Vázquez, Movimiento Cristiano de Cuba, Holguín.
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150. Juan Miguel Martorell Leiva, Sindicato Obrero Independiente Victoria, Las Tunas.
151. Juan Oriol Verdecia Evora, Partido pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Holguín.
152. Juan Rafael Santiesteban Marrero, Liliانا Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Holguín.
153. Juan Ramón Rivero Despaigne, Movimiento Cubano de Jóvenes por la Democracia, Santiago de Cuba.
154. Juan Sacarias Verdecia, Alianza Democrática Oriental.
155. Julián Enrique Martínez Báez, Secretario General del Partido Pro Derechos Humanos de Cuba afiliado a la Fundación Andrei Sajarov, Provincia Habana.
156. Julio Arsemio Zaldivar de la Torre, Liliانا Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Holguín.
157. Julio Peña Martínez, Movimiento Cristiano de Cuba, Holguín.
158. Julio Romero Muñoz, Movimiento Solidario Expresión Libre, Unidad Camagüeyana de Derechos Humanos, Camagüey.
159. Julio Sarmiento Pineda, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
160. Karel Caballero Pimentel, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
161. Kenia Sánchez Ramayo, Colegio de Pedagogos Independientes de Cuba, Holguín.
162. Lázara Bárbara Cendiña Recarte, Consejo de Relatores de Derechos Humanos de Cuba, Ciudad de La Habana.
163. Leonardo Fernández Cutiño, Movimiento 10 de diciembre, Unidad Camagüeyana de Derechos Humanos, Camagüey.
164. Leonardo Morejón Sorra, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
165. Leticia Ramos Herrería, Consejo de Relatores de Derechos Humanos, Movimiento Femenino Martha Abreu, Matanzas.
166. Libertad Acosta Díaz, esposa del ex prisionero político y de conciencia Bernardo Arévalo Padrón, Cienfuegos.
167. Liliانا Bencomo Menéndez, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
168. Liliانا Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Holguín.
169. Liliانا Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Holguín.
170. Lisandra Domínguez Mora, Movimiento Cristiano de Cuba, Holguín.
171. Lisette Zamora Carrandi, periodista independiente, Coalición Central Opositora, Villa Clara.
172. Lizardo Vargas González, Movimiento Cristiano de Cuba, Holguín.
173. Loreto Hernández García, Presidio Político Pedro Luis Boitel, Coalición Central Opositora, Villa Clara.
174. Luciano Vera Leiva, Movimiento Cristiano de Cuba, Holguín.
175. Luis González Medina, Partido pro Derechos Humanos de Cuba afiliado a la Fundación Andrei Sajarov, Provincia Habana.
176. Luis Julián Báez Sierra, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
177. Luis Miguel González Leiva, Partido Liberal de Cuba, Coalición Central Opositora.
178. Luis Orlando Quintana Rodríguez, Movimiento Cristiano de Cuba, Holguín.
179. Luz María Barceló Padrón, Partido pro Derechos Humanos de Cuba afiliado a la Fundación Andrei Sajarov, Provincia Habana.
180. Magaly Norvis Otero Suárez, periodista independiente Agencia ALAS, Ciudad de La Habana.
181. Maikel Verdecia Torres, Fundación Cubana de Derechos Humanos, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
182. Maiky Martorell Mayans, Sindicato Obrero Independiente Victoria, Las Tunas.
183. Maillet Sierra Pupo, Colegio de Pedagogos Independientes de Cuba, Holguín.
184. Maite Verdecia Torres, Presidio Político Pedro Luis Boitel.
185. Manuel González Miranda, Movimiento de Resistencia Cívica Pedro Luis Boitel, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
186. Manuel González Rodríguez, Movimiento de Resistencia Cívica Pedro Luis Boitel, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
187. Manuel Martínez León, Círculos Democráticos Municipalistas, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
188. Marcelina Lara Morales, Consejo Nacional por los Derechos Civiles, Movimiento Feminista por los Derechos Civiles Rosa Parks, Coalición Central Opositora, Villa Clara.
189. Marcos Antonio Fuster Ciguenza, Movimiento Cubano de Jóvenes por la Democracia, Santiago de Cuba.
190. Marcos Pupo Ramírez, Movimiento Cristiano de Cuba, Holguín.
191. Margarito Broche Espinosa, Consejo de Relatores de Derechos Humanos de Cuba, Villa Clara.
192. María de la Caridad Noa González, Consejo de Relatores de Derechos Humanos de Cuba, Villa Clara.
193. María Esther Blanco Aguirre, Dama de Blanco, esposa del prisionero político Próspero Gainza Agüero, Holguín.
194. María López Báez, Fotoreportera del Centro de Información Hablemos Press, Ciudad de La Habana.
195. María Magdalena Moreno Cadenas, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
196. Mariano Hernández Creag, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
197. Mariano Vera Espinosa, Movimiento Cristiano de Cuba, Holguín.
198. Mario Camoira Aguilera, Partido Pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Alianza Democrática Oriental, Holguín.
199. Mario Hechavarria Driggs, periodista independiente, Ciudad de La Habana.
200. Maritza Ross Morrieta, Colegio de Pedagogos Independientes de Cuba, Holguín.
201. Marlene Bermúdez Sardiñas, Asamblea para Promover la Sociedad Civil en Cuba, Bibliotecas Independientes, Camagüey.
202. Marlon Guillermo Martorell Quiñonez, Colegio de Pedagogos Independientes de Cuba, Sindicato Obrero Independiente Victoria, Holguín.
203. Marta Díaz Rondón, Movimiento Feminista por los Derechos Civiles Rosa Parks, Alianza Democrática Oriental, Holguín.
204. Mayelín Méndez Rivas, Sindicato Obrero Independiente Victoria, Las Tunas.
205. Maylín Katusca Sánchez Ramayo, Liliانا Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Holguín.
206. Mayra Morejón, Partido por la Unidad Democrática Cristiana de Cuba, Consejo de Relatores de Derechos Humanos de Cuba, Ciudad de La Habana.
207. Melba Santana Ariz, Dama de Blanco, esposa del prisionero político Rodolfo Domínguez Batista, Las Tunas.
208. Mercedes Fresneda Castillo, Círculos Democráticos Municipalistas, Partido por la Unidad Democrática Cristiana de Cuba, Ciudad de La Habana.
209. Michel Oliva López, Plantados, Coalición Central Opositora.
210. Miguel Ángel López Herrera, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
211. Miguel Carmenate Batista, Partido Liberal de Cuba.
212. Miguel López Santos, Partido Democrático 30 de Noviembre Frank País, Ciudad de La Habana.
213. Miguel Martorell Quiñones, Sindicato Obrero Independiente Victoria, Las Tunas.
214. Milagros Rondón Leiva, Fraternidad de Ciegos Independientes de Cuba, Ciego de Avila.
215. Mildred Nohemí Sánchez Infante, Movimiento Cubano de Jóvenes por la Democracia, Holguín.
216. Milena Rodríguez Pelayo, Movimiento Feminista por los Derechos Civiles Rosa Parks, Alianza Democrática Oriental, Holguín.
217. Nelson Ramón Peña Camejo, Movimiento Cristiano de Cuba, Holguín.
218. Néstor Rodríguez Lobaina, Movimiento Cubano de Jóvenes por la Democracia, Alianza Democrática Oriental.
219. Néstor Rodríguez Lobaina, Movimiento Cubano de Jóvenes por la Democracia, Alianza Democrática Oriental, Guantánamo.
220. Niober García Fournier, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
221. Noelia Pedraza Jiménez, Consejo de Relatores de Derechos Humanos de Cuba, Dama de Blanco, Villa Clara.

222. Norberto Gómez Paz, Sindicato Obrero Independiente Victoria, Las Tunas.
223. Odalina Cruz Ricardo, Sindicato Obrero Independiente Victoria, Las Tunas.
224. Orestes Rodríguez Bustamante, Corriente Martiana, Provincia Habana.
225. Osmani Cobas Rodríguez, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
226. Osvaldo Rams de la Cruz, Movimiento Cubano de Jóvenes por la Democracia, Santiago de Cuba.
227. Pedro Enrique Martínez Machado, Consejo de Relatores de Derechos Humanos de Cuba, Santiago de Cuba.
228. Pedro González Rodríguez, Movimiento de Resistencia Cívica Pedro Luis Boitel, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
229. Pedro Luis Olivera Martínez, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
230. Pedro Maga Zaldívar, Colegio de Pedagogos Independientes de Cuba, Holguín.
231. Prudencio Nápoles Hidalgo, Fraternidad de Ciegos Independientes de Cuba, Ciego de Avila.
232. Quirenia Cossío Fonseca, Movimiento Cubano de Jóvenes por la Democracia, Santiago de Cuba.
233. Rafael Meneses Pupo, prisionero político, Presidio Político Pedro Luis Boitel.
234. Rafael Santiesteban Marrero, Partido Pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Alianza Democrática Oriental, Holguín.
235. Ramón Reyes Orama, Presidio Político Pedro Luis Boitel, Alianza Democrática Orienta, Holguín.
236. Ramón Sánchez Ramírez, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
237. Raúl Borges Alvares, Partido por la Unidad Democrática Cristiana de Cuba, Consejo de Relatores de Derechos Humanos de Cuba, Ciudad de La Habana.
238. Raúl Hipoli Leiva, Sindicato Obrero Independiente Victoria, Las Tunas.
239. Raúl Hipoli Miranda, Sindicato Obrero Independiente Victoria, Las Tunas.
240. Raúl Luis García Tirado, Partido Liberal de Cuba.
241. Raúl Luis Risco Pérez, ex prisionero político, Presidio Político Pedro Luis Boitel, Movimiento Solidario Expresión Libre, Pinar del Río.
242. Raúl Menéndez Martínez, ex prisionero político del Presidio Político Histórico, Villa Clara.
243. Raúl Parada Ramírez, Centro de Información Hablemos Press, Cienfuegos.
244. Reina Luisa Tamayo Dánger, Dama de Blanco, madre del prisionero político Orlando Zapata Tamayo, Holguín.
245. Reinaldo Cabalet Del Risco, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
246. Reinaldo Rivera Fasli, Liliana Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Huguín.
247. Reinaldo Villafaña Villavicencio, Movimiento 24 de febrero, Unidad Camagüeyana de Derechos Humanos, Camagüey.
248. Ricardo González Cendiña, Consejo de Relatores de Derechos Humanos de Cuba, Ciudad de La Habana.
249. Ricardo Pupo Sierra, Plantados, Coalición Central Opositora, Cienfuegos.
250. Roberto de Jesús Guerra Pérez, Centro de Información Hablemos Press, Ciudad de La Habana.
251. Roberto Escalona Blanco, Fundación Cubana de Derechos Humanos, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
252. Roberto Marrero La Rosa, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
253. Roberto Pupo Sierra, Partido Liberal de Cuba, Coalición Central Opositora.
254. Roberto Yoel Fonseca Rojo, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
255. Rodolfo Domínguez Batista, prisionero político y de conciencia, Las Tunas.
256. Rodolfo Ramírez Cardoso, Movimiento Línea Pacífica Democrática, Ciudad de La Habana.
257. Rogelio Tavio López, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
258. Rogelio Tavio Ramírez, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
259. Rolando Rodríguez Lobaina, Movimiento Cubano de Jóvenes por la Democracia, Alianza Democrática Oriental, Guantánamo.
260. Rosaida Ramírez Matos, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
261. Rosina González Cruz, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
262. Rubén Ignacio Núñez San Miguel, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
263. Ruperto Pérez Zayas, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
264. Sahilí Navarro Alvarez, Dama de Blanco, hija del prisionero político Félix Navarro Rodríguez, Matanzas.
265. Sandra Guerra Pérez, Centro de información Hablemos Press, Provincia Habana.
266. Sandra Rey Moreno, Movimiento Feminista por los Derechos Civiles Rosa Parks, Coalición Central Opositora, Villa Clara.
267. Santa Lilián Rodríguez Rodríguez, Movimiento de Resistencia Cívica Pedro Luis Boitel, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
268. Santos Alberto Escalona Blanco, Fundación Cubana de Derechos Humanos, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
269. Segundo Rey Cabrera González, Comité Cubano Pro Derechos Humanos, Consejo de Relatores de Derechos Humanos de Cuba, Sancti Spiritus.
270. Solicito Mena Contreras, Presidio Político Pedro Luis Boitel, Coalición Central Opositora, Villa Clara.
271. Sonia Alvarez Campillo, Dama de Blanco, esposa del prisionero político Félix Navarro Rodríguez, Matanzas.
272. Tamara Carmenate Betancourt, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
273. Tania Maseda Guerra, Consejo de Relatores de Derechos Humanos de Cuba, Ciudad de La Habana.
274. Tatiana Murillo Guerra, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
275. Tatiana Parra Pérez, Liliana Morfís Núñez, Colegio de Pedagogos Independientes de Cuba, Huguín.
276. Teófilo Alvarez Gil, Círculos Democráticos Municipalistas, Fundación Cubana de Derechos Humanos, Camagüey.
277. Víctor Kindelán Sánchez, Movimiento Cubano de Jóvenes por la Democracia, Holguín.
278. Virgilio Mantilla Arango, Fundación Cubana de Derechos Humanos, Unidad Camagüeyana de Derechos Humanos, Camagüey.
279. William Alexis Reyes Mir, prisionero político, Presidio Político Pedro Luis Boitel.
280. William Rodríguez Paredes, Movimiento 24 de febrero, Provincia Habana.
281. Wladimir Aguilera Portelles, Partido Pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Alianza Democrática Oriental, Holguín.
282. Wladimir Hall de la Torre, Partido Pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Alianza Democrática Oriental, Holguín.
283. Yaité Dianellis Cruz Sosa, Movimiento Feminista por los Derechos Civiles Rosa Parks.
284. Yamila Sofía Saumell Naranjo, Partido Democrático 30 de Noviembre Frank País, Manzanillo, Granma.
285. Yamilsleidy Portilla Olivera, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
286. Yanoski Echevarría Rodríguez, Partido Cubano Demócrata Cristiano, Unidad Camagüeyana de Derechos Humanos, Camagüey.
287. Yoan Alexis Mir Torres, Colegio de Pedagogos Independientes de Cuba, Holguín.
288. Yoan Alexis Mis Torres, Partido Pro Derechos Humanos Afiliado a la Fundación Andrei Sajarov, Alianza Democrática Oriental, Holguín.
289. Yoandri Naoski Ricardo Mir, Presidio Político Pedro Luis Boitel, Holguín.
290. Yoandris Beltrán Gamboa, Movimiento Cubano de Jóvenes por la Democracia, Guantánamo.
291. Yoandris Durán Sánchez, Movimiento Cubano de Jóvenes por la Democracia, Holguín.
292. Yordán Velázquez Rodríguez, Movimiento Cristiano de Cuba, Holguín.
293. Yorkis Rodríguez Domínguez, Movimiento Cristiano de Cuba, Holguín.
294. Yorledis Duvalón Guivert Ortiz, Movimiento Cubano de Jóvenes por la Democracia, Santiago de Cuba.
295. Yudalmis Fernández Martínez, Consejo de Relatores de Derechos Humanos de Cuba, Círculos Democráticos Municipalistas, Matanzas.
296. Yudelmis Fonseca Rondón, Movimiento Feminista por los Derechos Civiles Rosa Parks, Holguín.
297. Yudisleidis Saavedra Sánchez, Movimiento Cubano de Jóvenes por la Democracia, Holguín.
298. Yumisleidy Fonseca Rondón, Fundación Cubana de Derechos Humanos, Consejo de Relatores de Derechos Humanos de Cuba, Holguín.
299. Yunieski García López, Presidio Político Pedro Luis Boitel, Coalición Central Opositora, Villa Clara.
300. Yurisander Gómez Hernández, Movimiento Cristiano de Cuba, Holguín.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 454) "An Act to improve the organization and procedures of the Department of Defense for the acquisition of

major weapon systems, and for other purposes.”.

#### ISRAEL REMAINS A KEY U.S. ALLY IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. With Prime Minister Benjamin Netanyahu in Washington this week, it's important that we refocus on the unique relationship the U.S. shares with the Nation of Israel. This year is the 61st anniversary of the State of Israel. But 61 years of existence does not mean that Israel no longer faces profound threats to its very survival. Chief among those is the threat of a nuclear-armed Iran and Iran's continuing aggressive stance towards Israel in the region.

□ 1900

Making matters even more urgent, Iran announced today that it has successfully test-fired a missile that is capable of striking Israel in addition to U.S. military installations in the Middle East and parts of Southeastern Europe. With his typical rhetorical hammer and anvil, Iranian President Mahmoud Ahmadinejad said that with today's missile launch, Iran is sending a strong message on the nuclear front: “Today the Republic of Iran is running the show.”

While I doubt that this is the case, it is increasingly clear that Iran relishes its role as Middle East troublemaker and is nowhere near giving up its troubling belligerent stance toward our Israeli allies. Yet despite the threats and instability that proliferate in the Middle East, Israel has proven to be a steadfast ally to the U.S. and a model of a free and open democratic state in this troubled region. Since the time of its creation more than 60 years ago, Israel has served as an example of democracy and equal rights for her neighbors. Israel has also proved to be a steadfast ally to the United States in a variety of ways, particularly within our country's diplomatic efforts in the Middle East.

Since its founding in 1948, the State of Israel has served as a democratic anchor in the Middle East. Like the United States, the Israeli Declaration of Independence protects freedom of speech, freedom of religion, a free press, free elections and many other tenets of a free society. Israel established a democracy in the midst of a politically tumultuous region and by guaranteeing the basic rights of her citizens, sets herself apart from her authoritarian neighbors. Israel prides herself on women's rights and equal pay for women in the workforce. The first female Prime Minister, Golda Meir, was elected in 1969, just 21 years after the formation of modern Israel.

Women now serve as the Foreign Minister, Speaker of the Knesset and Chief Justice of the Israeli Supreme Court. Furthermore, Israel has recognized the necessity of providing equal rights regardless of gender or race and deserves to be commended.

Not only is Israel an example for her neighbor as a thriving democracy where citizens' rights are protected through the rule of law, she has also been an avid supporter in the global war on terror. The U.S. and Israel are continually working together to develop sophisticated military technology and improve Israel's defense systems and soldier protection. In the interest of global freedom, I hope and am confident that this friendship will continue in the future.

#### GREEN ENERGY AS A SOLUTION TO OUR MANY CRISES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from New York (Mr. TONKO) is recognized for 60 minutes as the designee of the majority leader.

#### GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. Thank you, Mr. Speaker.

The crises facing our government and our country are broad in range. We are faced with an energy crisis, an economic crisis, an environmental crisis and certainly an unemployment crisis. President Obama, in his boldness of vision throughout the campaign for President and certainly in the infancy stages of his presidency, has made it very clear that he wants to deliver to the American public this new vision of how to resolve many of these crises in one fell swoop. It is important to recognize that we, as an American economy, are heavily dependent upon fossil-based fuels. It is important for us to recognize that some 60 percent of the oil on which we depend is imported from some of the most troubled spots in the world. We move forward here as we try to resolve our crises in a way that's creative and innovative and inspiring. It will require consumer behavioral change, and it will require investments. It will require policy formats that will break from traditional dependency on fossil-based fuels and allow us to move forward in a way that addresses green jobs for a green economy, American-produced power to run our factories, our farms, our homes, the institutions that are important to us.

When we look at the opportunities, there are many. There are projections that some 5 million additional clean energy jobs could be created if just 25 percent of our electricity and our vehicle fuels are produced from renewable resources by the year 2025. That's a staggering statistic. Those are dollars that, when invested, will produce these 5 million jobs that will allow us to grow a cleaner environment, address favorably the carbon footprint and respond to the pressures of global warming. It allows us also to embrace the intellect of this Nation, that intellectual capacity represented through our many academic centers and our private sector R&D centers, which are tools that can really retrofit this economy, that can allow us to grow in ways that are measured in green terms for jobs and green opportunities for energy supplies.

Now we know that the unemployment rate, which was inherited by this administration, which has grown and is going to be resolved, we believe, with several reforms, is something that can be addressed through those sorts of jobs that are not yet on the radar screen. We need to also think of international competition. If I could, I would take this discussion back decades where many of us as youngsters, perhaps in an elementary classroom setting, heard about the race, the race for Sputnik. We were certain that math and science was important in that classroom and that this competitive race, this international race had to be won by the United States because it was going to set in the forefront, it was going to make the premier nation that nation that won that race.

Well, we know what history dictated via investments on the space race and putting a man on the Moon and creating technology that really inspired job growth and really pumped this economy to a high level. That same sort of situation decades later now is existing in terms of a competitive race to be the energy nation, the nation that will export the intellect and the ideas and the innovation in a way that will be a masterful response to the several crises that we try to resolve. We can do that by emerging the winner in this race.

When we look at the fact that China is now the number one producer of solar panels in the world, that should challenge our thinking and our response as a government. When we think of the fact that Germany's number two export, after automobiles, is that of wind turbines, that should challenge and inspire us. And when we think of the fact that only six of the top 30 solar wind and advanced battery manufacturers are American-owned, that should inspire us.

I will now yield to my good friend and colleague, the gentleman from New York, Representative MASSA, who is a

strong and outspoken voice on energy reform, on green jobs, on a green economy. He has a message that he'll share this evening.

Mr. MASSA. I thank my colleague from the State of New York, my neighbor just slightly to the east, and rise today to discuss from several new perspectives why it is, frankly, so critically important that we get energy legislation correct as we move boldly into the 21st century.

Just a short election season ago, this Nation was assaulted with a message from one side of the aisle that rang like a motto. It repeated itself over and over and over again on the floor of this House and, frankly, in the living room of every American family, often intrusively during dinner hour, where we heard, Drill here, drill now, pay less. How empty today those words ring. In fact, after the price of crude oil has tumbled from its height of almost \$140 a barrel, bottoming to somewhere near the low thirties without the new drilling of a single well, we ask ourselves the question, how empty that slogan was.

And so we rise as we build a new national energy policy, one based on thoughtfulness, one based on science, one based on economic reality and not on sloganeering. So while I ran to become a Member of this House, motivated by such things as health care and an economic recovery, I have now become a very, very aggressive individual on this issue, looking at the absolute need to get this right. The first step I took as I approached my job was to go to the only hydrogen fuel cell propulsion research and development system and center in the United States, located in Upstate New York in Honeoye Falls, where to my astonishment as an engineer lifelong and a graduate of an engineering school, I saw the application of science. They took us not into science fiction but into science reality there in Honeoye Falls, working tirelessly for the last several decades, having taken engineering work that had been done out west 25 years ago and propelled us from the NASA Apollo program into the reality of some 116 reality-based automobiles. I had the opportunity to drive one of them, actually two, from Honeoye Falls all the way here to report for my first day. This was like driving an Apollo spacecraft. My eyes were opened to the fact that we were on the verge of a great industrial revolution, and we are at this moment leading the world. But if we listen to sloganeering, if we listen to the naysayers, if we allow the argument to be shaped by narrow special interests, we will never, ever cross the threshold of economic and industrial greatness that these and other technologies put in front of us. It's not just the fact that we have to get it right because we need to rebuild an economy based on 21st century jobs, it's not just

the fact that we believe as a caucus and myself personally that our impact on this world, through the burning of fossil fuels, is actually changing our climate, but it is also coming from the fact that I am a 24-year military veteran who realizes the vast and dramatic expenses that we are committing in our military just to secure an ever-increasing and yet rarely obtainable source of overseas fossil fuel.

Imagine, if you will, if we were not held hostage to the noose of Middle East oil. Imagine the trillions of dollars of resources that we would not be expending in the protection of, the extraction of and the transportation of oil sources from the very nations who use the money that we pay to feed our enemies and their hostile intent against us. This must be broken, and nowhere is that future clearer than right in Upstate New York. I know that my colleague, with his career in innovative engineering where he took his leadership to the New York State Energy Development Agency that has pioneered so much of the technology we need to move forward, agrees and understands with what we can do together standing as a Nation instead of listening to well-crafted and, frankly, crafty sloganeering.

So I rise with my colleague today to put an exclamation point at the very end of the reality that we must move ahead to get this right. I agree with the President's vision for a future. I agree with our caucuses that we need to move boldly into the future with an economically viable, science-based, thoughtful energy plan that breaks this ridiculous stranglehold that foreign oil has on us. It's not just a matter of drill here, drill now, pay less. We have grown beyond that sloganeering.

Mr. TONKO. Thank you. I reclaim the time, Mr. Speaker.

I, with curiosity, listened to Representative MASSA from New York. As a fellow colleague from New York State, I think of the impacts we can make in just New York alone. And when we then extrapolate that over the map of the United States, what a powerful statement.

□ 1915

He's right, that with this grip on our economy that was allowed to grow just through the Presidential tenure of President Bush, \$1,100 more per year was demanded of our American families for that dependency on oil, gas and electricity. We can go forward and inspire this green innovation of an economy. The green thinking that we can embrace can allow dollar for dollar to be a much more lucrative outcome. Four times as many jobs, would be created.

Mr. MASSA. Would my colleague yield on that point?

Mr. TONKO. Sure. Sure.

Mr. MASSA. I would like to pick up a very critical point my colleague just

made about jobs. Around Lake Seneca, that great deep and beautiful Finger Lake in Upstate New York, every year we run something called the Green Grand Prix. I'm sure you would love to be a participant in it. It is a road race, or a road rally, where navigation is important. I must confess that more than once I made a wrong turn. But I made a wrong turn in a vehicle this year, as I did last year, powered not by imported, foreign, distilled gasoline but rather by alternative fuels. We had ethanol-powered vehicles. We had steam-powered vehicles. We had solar-powered vehicles, hydrogen-powered cars. And this year I drove a Ford F-150 modified at a dealership in Elmira, New York, once a bustling hub of heavy manufacturing, to accept a dealer-approved kit that allowed this heavy truck to be powered by propane with some 350 miles per filling at one-third of the cost of gasoline. This was a technology that was unbeknownst to me, one that Ford Motor Company, in engineering innovation, has now authorized several dealerships around the United States to install without even voiding their basic engine warranties.

We have an abundance of propane in rural New York. This is an alternative fuel that helps us break the cycle of dependence on foreign oil, and for pennies on the dollar, for a mere tax break, to those who invest in this technology, it becomes competitive and real. And not only do those automobiles, those trucks, then get sold, but the individuals who modify those trucks have jobs. The dealerships that sell these vehicles to the public have jobs. The individuals who use them have extra money in their back pocket because they are not paying these overseas foreign fuel providers.

It is not just hydrogen or propane. It is the entire menu of alternative fuels and alternative electrical capability that we need to put on the table. And I will tell you what, if we can spend \$700 billion, a move, by the way, I opposed, bailing out banks who don't put a penny of that back in the consumer's pocket through alternative credit sources, we can certainly fund the single most important national security requirement we have before this Nation today. And that is to get an energy policy that is science-based and thoughtful.

Mr. TONKO. I couldn't agree more. And all while we speak, we need to recognize that China is investing \$12.6 million in its economy for green energy technology every hour. Now, that is a challenge to us. We can stand still and watch the emerging powers of energy out there as a nation, be it China or Japan or India or you name the country, or we can make a plan and implement a plan and move forward accordingly.

The President understands this is so critical to resolving so many of the crises we mentioned earlier. Speaker

PELOSI and the leadership of this House, Energy and Commerce Chair WAXMAN, Ways and Means Chair CHARLIE RANGEL, and many, many other leaders who are making their voices heard and helping construct the right outcome here.

The jobs of which my colleague and friend, Representative MASSA, just made mention, offer four times greater job creation than an investment, dollar for dollar, in oil and gas. And we certainly in New York State, as colleagues from that New York delegation, can attest to the projections that are made for the New York economy, over 130,000, nearly 132,000 clean energy jobs at a time when our unemployment statistics are perhaps beyond 8 percent. We can see flowing into the New York State economy as much as \$20 billion. And our taxpayers in New York State pay some \$2.8 billion, it is calculated, to pay subsidies for big oil companies, and certainly those gasoline corporations out there that are draining our economy. We hear this discussion about, it is a tax, it is a tax that is coming, that is befalling. Well, \$400 billion is the savings, that is a tax, call it whatever you want, that we are paying now to Venezuela and Middle East countries for every annual installment that we make in foreign energy imports. That is a huge price tag that could be avoided.

When we look at the potential out there in R&D investment that could be part of this great energy resource, it is limitless in terms of our academic institutions and our private sector partnerships out there. We can make this happen. We need to be innovative. We need to think outside the barrel. And we need to move forward in a progressive fashion.

I yield to my colleague from New York, ERIC MASSA. I yield to you, sir, to continue the discussion.

Mr. MASSA. Thank you, Mr. TONKO. And I have to tell you, you used two turns of a phrase that I thought were particularly appropriate. You talked about energy flowing. We come from a part of the world that pioneered cheap electricity. And we did it through one of the largest and one of the first great hydropower facilities in the world, capturing the hydro energy of Niagara Falls. And western New York, the great industrial cities of Buffalo, Rochester and Syracuse benefited thereby. This was 100 years ago. Now we must look 100 years into the future. And you are right to say we need to think "outside the barrel" because unfortunately what we will hear in the coming debate is the demonization of the individuals making the argument and not the thoughtful discussion of the policy. I fear that we will become, once again, held hostage to the economic and energy sloganeering that will make it so difficult for the American people to understand that doing nothing is moving

backwards, that doing nothing is surrendering without a new idea to the forces of Big Oil who so clearly ripped off from the American public trillions of dollars just this time last year as gasoline shot up to over \$4 a gallon with no real economic excuse other than gross corporate profiteering.

We cannot continue to be held hostage by the annual cycle of unexplained gasoline price increases and gasoline price fluctuations. And the only way that we are going to reclaim our own energy future is by looking beyond the slogans of the other side in a thoughtful, science-based, economically proven capability to explore all the new sources of alternative energies, not just for automotive propulsion, but also for fundamental electrical generation.

So thank you to my colleague from New York for allowing me the opportunity tonight to raise some key issues that this issue is not only about energy. It is about national security. It is not only about energy. It is about job creation for the future. It is not only about energy. It is about using the resources that we have to ourselves in the great American innovative manner that has always persevered in the face of challenge instead of surrendering to the foreign economies who, like they have been doing so aggressively lately, are taking over economic sector after economic sector. This is a battle that we can win. This is one that we can put "Made in America" on for future generations. And we can start right here, right now, tonight, by committing ourselves to thoughtful debate that raises issues and not sloganeering.

I yield back and thank my colleague for the opportunity to join him in this great discussion.

Mr. TONKO. Thank you to the Representative from New York, Representative MASSA.

Let me reclaim my time, Mr. Speaker. We have heard all of this talk about innovation economy. We have heard about the gluttonous dependency we have as a Nation on energy, in this case, fossil-based fuels, 60 percent of that need being met by imports from some of the most troubled spots in the world. We cannot continue along this dangerous path. It is a rocky road that needs to be addressed.

The approach, I believe, comes from an investment in American jobs, a green jobs agenda, growing a green energy transition that allows us to inspire an innovation economy. We do that with investments in R&D. While I served as president and CEO at NYSEERDA, New York State Energy Research and Development Authority, I saw first hand up close and personal just how it happened. We invested in R&D. Not every one of those investments might be a success story, but the prototypes that are developed and funded then need to be addressed

through additional funding that deploys that investment, that magic in the research lab, into deployment into manufacturing and then into the commercial sector, utilizing these shelf-ready opportunities that are the emerging technologies to respond to the needs of retrofitting energy efficiency mechanisms into our businesses, our factories, our industries, our farms and our homes. That potential exists today. It is underutilized. We need to see energy efficiency as our fuel of choice. We need to address it just like we would any other source of fuel, to use it as we would mine coal or drill for oil, we need to mine and drill energy efficiency as that outcome that will address the demand side of the equation. Both supply and demand need to be addressed by this innovation economy.

I believe that through the leadership of the President and certainly Speaker PELOSI and others that I have made mention of, we can go forward with the soundness of an agenda that will really spark the kind of creative genius that speaks to the pioneer spirit that has always existed in this country. We need just to formulate the concepts that will take us there.

Just recently at GE's R&D center in Schenectady County, New York, GE announced its intentions to now move to an advanced battery technology that will create somewhere between 350 and 400 manufacturing jobs that will be the key that unlocks the doors to golden opportunity, or perhaps green opportunity. The battery situation, whether it is applied to transportation, transportation of light vehicles or heavy vehicles, energy, energy generation, energy storage for intermittent purposes or with transmission improvements that are being addressed by SuperPower in Schenectady County again, these are the formula outcomes that we need to promote and encourage.

We can do it. We have this skill set to do it as a Nation. We need to invest in green collar job opportunities. We need to invest in R&D making certain that research and development is part of that energy comeback. And we need to change our behavior in a way that will produce this new golden opportunity for New Yorkers, in my case, and for Americans across the board. We do have that potential, the immense potential.

I saw also what happened when we applied these retrofits for energy purposes, energy efficiency at dairy farms, first in a demonstration project and then across the board to some 70 farms where, as dairy farms, they are dealing with a perishable product. And where they are dealing with ebbs and flows of energy need, they cannot necessarily because of mother nature demands and dealing with off-peak situations. They can't cleverly quite construct that outcome. But what they can do is utilize



the resources of energy efficiency which was done through these demonstrations. And it was a success because a great deal of savings, 35 to 45 percent, was made available for these farms simply by addressing their demand through energy retrofits that were done in partnership with the local utility, with the staff from Cornell University, with the staff from NYSEERDA and certainly with groups working as ESCOs, the Energy Services Companies, that were helping in this effort to change things at these given dairy farms. The result was remarkably strong.

That is the sort of real-life experience that we ought to apply to our policy creation and innovation and to our resource dedication that comes through the budgets that we will deal with here in Washington. It is a great opportunity for us to respond in an innovative way, responding to challenges of several crises out there and allowing us to emerge very strong in that outcome.

So it is about green power. It is about green jobs. It is about Americans producing for their needs, and it is allowing our industries to be all the more prosperous and all the more productive simply because we have given them a break in the energy area.

So with all of that being said, I encourage us to look strongly at the opportunities that exist today in this given Chamber that will allow us to go forward in progressive fashion. And we will be able to look back and say that this was the generation that provided that response that ignited this new energy thinking that really turned around the American economy and has helped save the environment in a way that was immeasurably important to coming generations.

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize the good works of the faith community to protect the integrity of God's creation. As a seminarian, I appreciate the advocacy of people of faith for protecting this earth.

The Catholic Climate Covenant has contacted me about the St. Francis Pledge to Care for Creation and the Poor. Members of the Covenant include Catholic Relief Services, Catholic Charities USA, The Franciscan Action Network, and the Association of Catholic Colleges and Universities. Religious charities are on the front lines battling poverty around the world. Whether it is a church in Fairfax providing housing to the homeless to prevent hypothermia or an overseas mission to build housing, members of faith-based charities have direct knowledge of the realities of poverty around the world.

The faith community is telling us that climate change poses a dire threat to the world's poor, whether they are residents of New Orleans, Bangladesh, or coastal communities in the Mid Atlantic. Based on the best available scientific data, faith-based charities' concerns are well founded. Experts predict that rising sea levels and increased incidence of severe storms will

create 100 million climate refugees in the next hundred years. As former Virginia Senator John Warner noted in his testimony to the Energy and Commerce Committee, this volume of refugees will strain our capacity to respond to national security threats.

We can see these threats right here in the National Capital Region. Neighborhoods in Fairfax County like Huntington and Belleview have experienced unprecedented flooding within the last five years. With their proximity to tidal reaches of the Potomac River, they are threatened by rising sea levels. These older neighborhoods are important because they have maintained a stock of affordable housing that is increasingly scarce in this region. Whether it is in Bangladesh or Belleview, climate change poses a threat to the welfare of working families around the world.

I haven't heard any expression of concern from the minority party about the millions of families that are endangered by climate change. Maybe they assume that these folks are politically powerless, that their loss of homes, land, and livelihoods can be ignored with impunity. But even if one is comfortable with condemning millions of people to refugee status, I would dispute the assumption that such an approach has no financial impact on the rest of us. Here in Northern Virginia, the Army Corps of Engineers is planning multi-million dollar flood prevention systems for low-lying neighborhoods. The cost of these systems will only rise with the level of the sea. Senator Warner noted that we cannot ignore refugees overseas lest we create conditions in which political organizations such as the Taliban will thrive.

The Catholic Climate Covenant and other faith groups remind us that we have a moral responsibility to protect the world's poor. That moral imperative coincides with self interest: If we do not arrest the rising concentration of greenhouse gasses in the atmosphere then we will saddle the next generation with ever-rising costs of dealing with climate change and its human costs. Whether those costs come from floodwalls or humanitarian support for refugees, we will not be able to avoid paying the bill. We must act now to reduce greenhouse gas pollution—for the sake of millions whose lives are tied up in the stability of our climate and because inaction will create an insurmountable cost burden for the rest of us.

Mr. Speaker, every challenge presents an opportunity. Sometimes the opportunities are difficult to identify. As we attempt to reduce global warming pollution, we are fortunate to have many models from which we can learn. I would like to focus on the acid rain reduction program that we initiated under the Clean Air Act nearly 20 years ago.

During the 1960s and 1970s, sulphur dioxide pollution was poisoning rivers and streams across America while inflicting damage on infrastructure and some of our most famous public art. This pollution came from some of the same sources that are emitting global warming pollution, including coal-fired power plants. In 1980, polluters released over 17 million tons of sulphur dioxide in the atmosphere. Since implementation of a cap and trade program to reduce acid rain pollution, we have eliminated 8.9 million tons of sulphur dioxide pollution annually, a 50% cut.

When Congress was considering capping acid rain pollution in 1990, polluters claimed that such a cap would drive up electricity prices and cripple the economy. In fact, the acid rain cap and trade program has saved \$40 in costs for every dollar spent on pollution controls. This 40–1 cost to benefit ratio saves Americans \$119 billion every year. Each dollar that we don't have to spend on premature health problems or damaged infrastructure is another dollar saved or invested. Nor did the acid rain program hurt American energy production. Coal companies installed scrubbers that remove sulphur dioxide as well as other pollution like mercury. Installation of these scrubbers created high paying jobs right here in America, creating new sources of employment for electricians and other skilled tradesmen.

The non-partisan Congressional Research Service has conducted several reports on the efficacy of the acid rain cap and trade program. A recent CRS memo notes that the acid rain reduction program has nearly one hundred percent compliance in pollution reduction and has not experienced any problems with market manipulation.

Today, the minority party claims that we cannot afford to reduce greenhouse gas pollution because it will increase costs and hurt the economy. We've heard all these arguments before, during the acid rain debate in 1990, and they have all been proven false. We have saved money by cutting acid rain pollution, created clean energy jobs, improved public health, and achieved our goals of reducing pollution. Far from being a burden, reduction of acid rain pollution improved our quality of life.

Today we face a different threat: global warming pollution. Unlike in 1990, however, we have a very successful model that we can follow. The American Clean Energy and Security Act emulates many of the successful components of the acid rain reduction program, and offers Congress a proven model of cost-effective pollution reduction.

#### IRAN'S MISSILE TEST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Thank you, Mr. Speaker. It is a pleasure to be able to join you this evening and my colleagues on a couple of very interesting topics. I think the first thing that we will talk about is something that has been on the minds of people since this morning. That was when we got an announcement from Iran that they had just fired a missile some 1,200 miles. That is what they claimed.

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We don't know the details. We're waiting for a brief on the Armed Services Committee on exactly what it was that Iran did, the nature of the missile that they fired. But this is something that has captured the attention and

the concern of Americans because you have coming together here a combination of three things that we find to be of high level of concern.

The first is the ability to make these long-range missiles; particularly, we're talking about solid fuel missiles that have multiple stages. That allows a missile to go some considerable distance and therefore target larger areas of the Earth's surface.

The second thing is nuclear energy. That is a weaponized nuclear energy in the form of a warhead. So now you have a missile that can go some distance; it has a nuclear warhead on it. That becomes extremely dangerous.

And now when you add the third element, that is radical Islam, to that, people who think it is their destiny and their duty to destroy other people who don't think the way you do, you put those three together and you have something that has indeed captured the news for the day. So I thought that would be important today to look a little bit at what do you do when you have an adversary that has a missile, a nuclear warhead, and a will to use it against you.

That was the question that was faced historically some years ago by Ronald Reagan. Up to that time, there had been a whole series of treaties and different things had come along, and we had gotten to the point where we said, Well, they have got missiles; they can blow us up. We've got missiles; we could blow them up. And that would be so crazy, we will have a Mexican standoff. We will call it mutually assured destruction. But that really was a very, very foolish idea.

I'm joined tonight by one of the foremost authorities in the U.S. Congress on the subject of missile defense and strategic missile defense, my good friend, Congressman FRANKS. And it's a treat to have you here on the floor, and talk about a timely subject, Iran just having launched a missile.

And surprisingly, this has been a matter of a great deal of partisan division and a lot of debate on this subject, and if you could help us with a little bit about the logic and the history. I would like to do the background on missile defense so we can understand what is going on today in context.

I would yield.

Mr. FRANKS of Arizona. I thank the gentleman for yielding, and I appreciate what you're doing here tonight, Congressman AKIN.

Ever since mankind took up arms against his fellow human beings, there has always been an offensive capability that essentially, in time, has been met with the defensive capability. And first it was the sword or the spear and the shield, maybe, and then—

Mr. AKIN. Or a rock and somebody had a shield to stop the rock or something. So one offense, one defense.

I didn't mean to interrupt. Go ahead.

Mr. FRANKS of Arizona. When we came to having firearms and bullets, we came to find armor and came up with a tank, and it has been an ongoing back-and-forth for a long time. But now that we face the most dangerous weapons in the history of humanity—that being a nuclear warhead borne by an intercontinental ballistic missile which can reach thousands of miles with accuracy—all of a sudden there became a debate whether we needed a defense for something like that. Now, for a time, there wasn't really the technological ability to defend against something like that.

And as you said, when the Soviets had thousands of warheads and hundreds of missiles that were capable of destroying every city that we had that was of any size, we had to come up with this equation to where they knew that if they attacked our cities and they killed our women and children, that our missiles would leave almost shortly after theirs left the launching pad and they would suffer the same fate. And it was such an unthinkable scenario that there was this grim achievement that said we will have mutually assured destruction and, therefore, each will be afraid to launch against the other.

In a sense, as frightening as it was, it gave us a real tense time when we could have a chance to feel relatively safe because we placed our safety in their sanity, as they did with us.

Mr. AKIN. And just to reclaim my time.

I recall—and even that was a very troublesome kind of truce, because one thing we found was they cheated on every treaty that they signed, and we didn't cheat. And we had made an agreement that we were not going to develop a defense against nuclear missiles, and then that whole idea was challenged.

Now, why don't you run through—

Mr. FRANKS of Arizona. That was the ABM Treaty that you speak of. And fortunately Bush, this last George Bush, was wise enough in this day and age recognizing that the coincidence of jihadist terrorism and nuclear proliferation gave us a different equation than we had with the Soviets because all of a sudden deterrence wasn't enough. We were dealing with an enemy that was willing to see their own children die in order to attack our children.

And so he knew that we needed to discard this outdated ABM or antiballistic missile treaty, and he did that, and unfortunately, tremendous strides seemed to be made very quickly in the area of missile defense.

Mr. AKIN. Reclaiming my time.

I think the one thing that I really recall—and I think it's something we historically skip, and that is really the guy—we have an awful big “thank you” to say to Ronald Reagan. He had

the imagination to take a look at this mutually assured destruction and say, This is nuts. I mean, as you said, all through history of mankind, somebody picks up a rock and somebody picks up a garbage can lid, you know? I mean, there's always offense and defense. He said, If we're saying we're not going to defend ourselves, we're crazy.

So we start talking to scientists and came up with this idea that we could use different kinds of technology to stop those missiles so they wouldn't come and hit our children and families. And then he went a much more gracious step and said, What's more, we're going to share our defensive technology with our opponents so that mankind does not have to live under the threatening shadow of the nuclear mushroom cloud. And he sold that idea to the American public. And, of course, the liberals all made fun of him. They said, You can't do it. It won't work and it's too expensive, and all of those kinds of things. But he hung on and kept talking about it, but he actually didn't build it, did he?

Mr. FRANKS of Arizona. The truth is that Ronald Reagan was, indeed, the father of modern missile defense. And there is a great irony there because, while we owe him everything, in a sense, to where we are, he said, Isn't it better to protect our citizens rather than to avenge them? And I thought that was the quote that, in my mind, started it all out.

But the tragedy is that somehow now the modern-day liberals who disdain Ronald Reagan as much as they do, sometimes they are biased against missile defense simply because it was Ronald Reagan's idea. And we don't discuss it in the realm that it should be discussed, which is what is best for the country rather than we don't want to give Ronald Reagan too much credit. This is the ironic tragedy of it.

Mr. AKIN. You know, the funny thing was—I was elected in 2000, came here in 2001 and started right off in the Armed Services Committee. And we had these debates in the Armed Services Committee in those long hearings, and every year for about 4 years or 5 years when it came to funding missile defense, it was a party line vote. The Democrats never wanted to do anything with funding missile defense. And yet, because we had a majority, we voted for it.

And President Bush became very unpopular in Europe and with Russia. He went over and he gave them their 6 months' notice. I think the treaty required, give us 6 months' notice. So he went over and said, Okay, guys. The clock's running. We're going to start developing missile defense in 6 months. And the Russians just had kittens, Putin went nuts, and the Europeans were all upset about this. They thought he was some kind of cowboy from Texas. And yet at the end of that 6

months, we started funding it in the Armed Services Committee, totally party line vote, and we started on the path of actually building the dream that Ronald Reagan had passed down to us.

Mr. FRANKS of Arizona. Two things have happened since then.

First of all, Democrats in Congress have begun to see that missile defense does indeed have a very, very important role to play in this age of nuclear proliferation. That's a good thing. It's a good thing. The downside, of course, is that the Democrat President in the White House right now is incredibly, in my judgment, naive as to the danger that we face and to his approach with our allies.

He has now, under his budget, submitted numbers that would cut the European missile defense site by 89 percent, nearly 90 percent, which is effectively killing the program. And this was the system that we were putting in place under the Bush administration to protect the homeland of the United States, to protect Europe and our forward-deployed troops against an Iranian missile.

Mr. AKIN. Wait, wait, wait. Reclaiming my time.

What you just said is pretty important. When Bush left office, the setup was there was—we were going to build a couple of sites. One was a radar site and one was an actual place to launch these ground-based missiles. The radar site, was that in Romania?

Mr. FRANKS of Arizona. No. The radar site is in the Czech Republic. That was the X-10 radar there, and they went through tremendous political machinations to accomplish that overcoming a 2-1 dissent among their public. And yet they had the leadership to say, This is important to us, this is important to the world, and we're going to move forward. And they put tremendous capital in that, and now they're being betrayed by the country that asked them to do it.

Mr. AKIN. So the Czech leadership responded to our initiative, said, We'll put the radar site in the Czech Republic. The leadership of Czechoslovakia had a public that was not that enthused about that idea, but they sold it to them. We are going to move ahead. And so you had the Czech Republic was going to have the radar and the actual missiles were going to be loaded—was it in Poland?

Mr. FRANKS of Arizona. Yes. The interceptor field itself, with 10 interceptors, it would have been in Poland.

Mr. AKIN. This has been, with the new administration, President Obama has traded that away to the Russians, is that correct, or do we know what the deal was? Because he's cut all of the money out of it.

Mr. FRANKS of Arizona. The tragedy—and this goes back to the statement that I said about the naive way of

approaching this—because the Russians said that somehow they could exert influence over Iran or over other countries, that we would give up defending our homeland, our physical mechanism to defend our homeland in order to gain the influence of the Russians over Iran. Well, this is unbelievable.

Mr. AKIN. Reclaiming my time.

Now, wait a minute. This isn't supposed to be funny hour. We're here talking about missile defense because Iran just launched a missile. Is that the sort of influence that Russia has over Iran, that it's going to help them launch solid rocket loader multistage missiles that can go 1,200 miles? Is that what we traded away in order to give up missile defense for Europe? Wait a minute. I don't see—the logic of this is incredible.

Mr. FRANKS of Arizona. Unfortunately, the Russians have sold us their influence over Iran about a dozen times now and never have really given us anything of substance to be helpful. And I think this is incredibly dangerous.

Iran has continued to go forward and defy the world community. This solid fuel rocket that they have used today is something that you said was very, very important. And the ability to stage is incredibly significant because it ultimately means that if they have the guidance systems—and they've already proven that they do by launching the satellite—that they will have almost an indefinite range across the world, because once they learn to stage, they can do almost anything in terms of reach.

Mr. AKIN. Reclaiming my time.

These are some of the missiles. This picture was taken before the launch this morning. And then we have a picture, I believe—I believe this picture was one released of the actual launch this morning. So you can see this appears to be a multistage kind of a missile, but we don't know the details on it yet because we haven't had the brief on it.

Mr. FRANKS of Arizona. This is a Sager, a solid fuel rocket that is something that we've known about for some time, and we knew the Iranians had it and at some point they would test it. But the danger of—

Mr. AKIN. Just reclaiming my time.

Is this a multistage, do you believe?

Mr. FRANKS of Arizona. Yes. I'm convinced that it is.

The danger, of course, is that Iran is not only a dangerous enemy, to have these types of weapons, but they can sell and proliferate this type of weaponry. And when they prove that it works, it makes the price go up and it makes other countries who are trying to gain this technology much more interested in the technology. And I believe that it's important that we do whatever is necessary to prevent them

from having successful tests in the future, including—and this is a big statement—including shooting those missiles down with our own missile defense capability, our Aegis capability when they come over international waters.

Mr. AKIN. We have a few more minutes to talk about that. I think people might be interested in how did this—how does this technology that we have work, because for years, people are saying, You can't do it; it is impossible.

I'm an engineer by training, and what we have developed in America—basically on the dream of Ronald Reagan—is an incredibly elegant solution. And from a physics point of view, this is the kind of thing that should inspire kids in school to be studying up on physics. And I didn't know if other Members want to join us.

We have Congressman BISHOP here. We'll talk a little bit about the way the thing works, and then we'll jump in.

And what we have when you talk about missile defense is you've got—basically you've got the boost stage where the enemy's rocket here, if this is aimed at our country or one of our allies, this is taking off. It's called a boost stage. Then as the missile starts to go more horizontally, it goes into what's called midcourse. And eventually, when it comes down on the target, and that's where it's reentering—if it's a very long-range missile, reentering the atmosphere.

So we kind of break missile defense into these three areas, and we have different technologies to try to shoot the thing down before it hits us. And our thinking is, well, the more shots you can get, the better, because if you miss with the boost phase, you may get it in midcourse. And if you miss in midcourse, you may still stop it in reentry. So we have different kinds of technologies.

But the main one that's been developed that's just incredible, from a physics point of view, is a metal-on-metal kill. We don't use any explosive in it. We just send the missile up, and the guidance is so accurate, and the head-on collision that we energize generates so much energy that it just literally vaporizes the missiles. And I would encourage my friend from Arizona to just sort of flesh out how it's done.

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Mr. FRANKS of Arizona. If you will permit me, I can get through this just briefly.

You know, the age-old argument against Ronald Reagan's perspective is that this like hitting a bullet with a bullet. Well, as General Obering, the former Defense agency head said this, he said, We don't just hit a bullet with a bullet. We hit a dot on the side of a bullet with a bullet consistently.

And interestingly enough, in recent days, you know, now they say well,

there's so much fratricide, if there's some type of collision, that if there are multiple reentry vehicles or multiple vehicles, we wouldn't be able to hit all of them. But just recently we, in a test down in Hawaii, we shot a Scud missile off of a destroyer and it went 218 kilometers into the air and then, off of a THAD battery in one of the islands there, we shot two interceptor missiles 16 seconds apart to try to intercept this. The theory is if the first one hits, the second one will fly on by, and it's no big deal. If the first one misses, the second one will hit.

But here is the amazing thing that occurred. At 218 kilometers into the air, literally exo-atmospheric, into space, the first THAD interceptor hit the target dead center and blew it to smithereens. Fratricide was everywhere. And the second missile, they had it almost coordinated at that time to only 2 seconds apart, it picked the biggest piece, which was a little over a meter long, and hit it.

Now, let me suggest to you, if that doesn't light your fire, your wood is wet, because this was an incredible accomplishment by our missile defense agency, and it showed that our sensors have the capability of finding that most important target, even in an environment of that kind of fratricide, and it was an incredible accomplishment and you didn't hear it on the news.

Mr. AKIN. Reclaiming my time, it's interesting that you just explained something that really put a little spring in the step of a lot of Americans and should give an awful lot of our kids that are reading Popular Science and Popular Mechanics, that should fire them up, jazz them up a little bit, and there's not a word about this. All we hear is, oh, it won't work, it won't work, and the amazing thing is I've seen some of those pictures where here comes the enemy missile. These things are taken in fractions of a second, and you see basically the thing is creating through a sighting mechanism a target on the side of the enemy missile, and it is literally picking a spot, as you said. It's not hitting a bullet with a bullet. It's hitting that spot right on the missile where they want to hit it.

And to be able to do that—I've always been awfully skeptical as an engineer about when people say you can't do it. You know, when you tell Americans you can't do something, it's like, oh, yeah? Well, the fact of the matter is, we did, and as you said, not only did we hit the first missiles dead-on, we just picked off the biggest piece of scrap metal that was left after.

We've got our friend, Congressman BISHOP from Utah. If you would like to join us, we would love to have you in our discussion this evening.

Mr. BISHOP of Utah. I'd appreciate that because we have been talking about so many upbeat messages right

here on what we can do, that I want to be the downer of the group and present the fear that we have simply because the administration budget for missile defense has been submitted.

And I'm grateful my friend from Arizona is still here, because in our land-based—maybe you can add and flush this out—our land-based interceptors, we have 30, and as short as nine months ago, every expert was telling us we need to have at least 44, and a backup site from the Alaska site down in California to be expanded at the same time. And yet mysteriously in this particular budget, somehow we have now changed the expert opinion that we only need 30 of these instead of 44. Even though in Alaska, where the site is, they are ready to start in the short construction period to building the extra silos that they may need. In fact, one person said it might be cheaper just to build them and use them as storage bays until we're ready for something else.

But maybe the gentleman from Arizona can talk about how significant this issue in the budget is and what this does to our potential defense, not just from Iran but from especially North Korea at the same time.

Mr. FRANKS of Arizona. Well, the gentleman speaks of a system called GMD, or ground-based mid-course defense, and it is our only system capable of defending the homeland against an incoming intercontinental ballistic missile from either North Korea or, in some cases in the United States, from Iran.

And the significance, as he said, just a year ago, there was a conviction that we needed at least 44 interceptors, and as you go through the war colleges here in the area, nearly always when they go through their scenarios, they say we need even more than the 44. But now all of the sudden—and we only have 26 actually now. We're capped at a number of 30. Now all of a sudden we're going to cap it at 30, and I think that's very dangerous. Because keep in mind, this is not just one interceptor per incoming missile. We want to do everything that we can to have some redundancy where we sometimes shoot three and perhaps even four to one where if we have one missile coming in, we want to make sure we get as many shots off as possible to make sure one doesn't land. Because if a nuclear missile lands in one of your cities, it will ruin your whole day.

Mr. AKIN. No doubt about that. I yield.

Mr. BISHOP of Utah. If I can go back, though, I want to make this a little bit worse than it is, because not only is this program capped at 30 when we need at least 44, the KEI, kinetic energy interceptor, a program where the contracts were let only in 2003, they have gone through seven static tests. In fact, they are on the launch site and ready to do the first flight

tests, and the Secretary of Defense has decided to cancel that program, even though the admiral in charge of the Chiefs of Staff says we need more research and development.

This is a remarkable idea to try and catch these missiles coming at us at a different stage in the game, where with the technology that is being developed, it's working, it has been successful in the static tests. We should at least go forward and see how far this program can go. But this program has also been chopped, and at the same time, the old traditional defense of the Minuteman 3 has been stopped and capped. We will no longer refurbish or rebuild these particular rockets.

And indeed, what is scary to me is the Russians have already said they are going to rebuild and redo their ICBM projects so that by 2018, 80 percent of their ICBMs are going to be brand new with new capability, and we do not have the capability in our defense budget to actually meet any of that future need which may be there.

Mr. AKIN. I yield to the gentleman from Arizona.

Mr. FRANKS of Arizona. The gentleman is correct on a number of different points. Once we don't build those, not only are they not there for the defense capabilities, but we also eventually lose our industrial base to build them at all. We can't just go out in the street and find someone on the sidewalk and say come on, we would like to build a missile defense capability; we'd like to have you come in and be one of our rocket scientists. It takes a great deal of time and energy to have that industrial base which is in place now, and I think we make a terrible mistake.

Mr. AKIN. Reclaiming my time, let's take a look at what this budget is doing because the gentleman from Utah has brought up some good points.

What's happened is the Democrats are basically cutting component parts of missile defense. They know it works. They have seen the tests. They know the stuff works. They can't say it doesn't work, but they are not going to fund it. They're funding some of it, but they're not funding some of the key programs that are important.

The first thing they're cutting is the number of what's called ground-based missiles. Those are the ones, if you think about a missile and how far it can go, the missiles that go the farthest, we call them intercontinental ballistic missiles, and those missiles, the only way you stop them is with that ground-based defense. And so we're going to freeze the number of those ground-based defenses, but that's not all that we're cutting.

What we're also going to do is, we're going to stop the kinetic kill. Is that in the reentry aspect? Is that what that was for, or is that a different part?

Mr. FRANKS of Arizona. No, sir. The KEI is an extremely fast missile, and it

was made to intercept other missiles in the boost phase, and the airborne laser and KEI were our only boost phase systems, and both of those have been cut precipitously, and that's the most important place to try to interdict a missile because it's moving slower. There are no countermeasures. There are no decoys deployed, and of course, if you have an impact, then the fratricide falls back upon the offending Nation. So this is the most important phase that we could ever attack or intercept an enemy missile, and we're essentially doing away with both of those programs, leaving only the ABL in place as an experiment, as a research project.

Mr. AKIN. So what's happening, though, are they cutting the funding for the airborne laser, also?

Mr. FRANKS of Arizona. The airborne laser has been cut precipitously and is now essentially a research project, rather than a deployable future system.

Mr. AKIN. So, in other words, what we're doing is we've got the three stages where you can shoot at a missile: when the missile is being launched, which is in some ways the place where the missile is most vulnerable and where you turn it into junk, it falls on the country that launched it at you. Then you've got the mid-course and we're limiting that. And then you've got the reentry part of it. So what you're saying is we're doing some serious cuts in all of those areas.

And so here you have Iran just this morning launches this, and their technology is moving fast, moved to solid rocket, multiple stage. They're busy putting the centrifuges together to make the nuclear devices. Let's take a look at what a range of 1,200 miles would mean.

Here from Iran, as you come out in these circles, what you are saying is, first of all, you can hit all of Israel, and second of all, you can threaten sort of the southwest part of Europe with that range missile. Is that correct, gentleman from Arizona?

Mr. FRANKS of Arizona. That is correct, and of course, the other irony here is that there's really only one payload that makes any sense to put on a missile like that, and that's a nuclear warhead. The other applications don't make a lot of sense.

Mr. AKIN. And yet our President has negotiated away, from what we know, putting the radar that we need and the battery of missiles to protect Europe and eastern United States.

Mr. FRANKS of Arizona. Well, that's correct, and of course, to try to make the rhetoric they say, well, there are other mechanisms that we have potentially to defend Europe, which may be a land-based SM-3 system with the augment of Aegis, but there are two things wrong with that. Number one, it's more than twice as expensive to do that, and number two, those systems

do not protect the homeland of the United States against any ICBM from Iran.

Mr. AKIN. I'm going to reluctantly recognize the gentleman from Utah. He's been bringing a lot of bad news tonight, but still I guess we better know what the truth is.

Mr. BISHOP of Utah. I appreciate that, and I'm sorry to be the downer in this party night. This is one of the ironies. Not only did the Iranians launch something today, but when the administration announced their budget cuts for the missile defense program, on the very day, 7,000 miles away, North Korea's Kim Jong Il was shooting another missile. Now, admittedly this one landed in the Sea of Japan, but it threatens Japan and it was on a trajectory toward the United States. They are not backing down, and they're not backing off, and I want to put in perspective what we're talking about because all of the discussion we've heard so far is these are very expensive programs, we may not be able to afford them.

The entire savings for these programs in 2010 is \$1.7 billion, roughly. Now, that sounds like a whole lot of money, until you remember on our stimulus bill we spent \$800 billion, supposedly to create jobs we're now cutting here. And what's even worse in that bill is \$5 billion for government organizations like ACORN. Now, I'm sorry, that's not my priority list.

Mr. AKIN. Reclaiming my time, now you're stopping the preaching and getting on to meddling.

What you're saying is in the first five weeks that this Congress met, we passed this porkulous bill or stimulus bill or whatever you want to call it at \$800-something billion, and you're talking about cutting missile defense by less than \$2 billion. Did I understand the number correctly?

Mr. BISHOP of Utah. That's what I said.

Mr. FRANKS of Arizona. The total missile defense budget, in total, is less than \$9 billion, and the administration wants to cut it almost \$2 billion more.

Mr. AKIN. So we're talking about less than 1 percent, a minuscule part of our defense, to protect our cities from being turned into dust. I don't understand the logic of that.

Also, this is a North Korean ballistic missile threat. So it's not just Iran, and Iran threatening Europe. We're also talking about North Korea developing longer and longer-range missiles, and as they stack more—as you have said before, you take these solid rocket motors and you stack them up into multiple stages. You get the velocity to get the distance to start threatening the continental United States from North Korea. And he hasn't shown any signs of backing off. He's still busy making nuclear weapons and still busy working on his warheads. And even if he doesn't use them, he wants to sell

them to other people. So why would we want to be cutting our missile defense at this time? It just seems like about insanity.

I yield to the gentleman.

Mr. FRANKS of Arizona. The thing that's important to remember is that Iran gained most of its missile technology from North Korea, and Iran has actually outpaced North Korea now in their missile capability, but North Korea has nuclear warheads now, and if North Korea sold Iran missile technology, is it unthinkable to think they might sell them nuclear warheads at some point? It may not be even necessary for Iran to build their own warheads.

And here's the really astonishing tragedy about this. Rhetorically, some of the liberals say that the reason that we should cut our GMD system is because we need more testing. Well, under this system, where they're cutting down on the number of interceptors we have, we won't be able to test this system again until after 2014.

Mr. AKIN. So we're talking out of both sides of our mouth here again. What you are saying is, on the one hand, they're saying we need more testing, and second of all, they're cutting the budget so we can't test.

Mr. FRANKS of Arizona. That's exactly right.

Mr. AKIN. It just comes back out to the same thing. There's this hostility to developing the defense that we need to protect our homeland, and the excuses that it won't work have been proven—test after test, these things are working extremely well, and the fact is that if there's any function of this Congress that we should be paying attention to, it's protecting our own citizens. And so I just find it impossible to understand the decisions that are being made in cutting the missile defense.

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I don't think that's the right thing to do. I can certainly say that on the Armed Services Committee, I will not vote to cut missile defense.

And I would yield back to my friend from Utah, Congressman BISHOP.

Mr. BISHOP of Utah. I appreciate that commitment, and you have my commitment at the same time. This is a work that needs to go forward. We have money to do this.

One of the things we also—when Secretary Gates talked to us, he talked about a zero sum game, meaning that if we wanted to improve this missile defense budget we would have to take money from some other part of our military needs to put over here. And I'm sorry, I reject that.

One of the things we need to do is make sure that the military is properly funded. It's really the only constitutional role we really have to do, and make sure that it's not coming from

some other—we're not going to cannibalize another area of the military just to make sure that this done. That is simply flat out wrong, and I'm not going to do it.

I'd like to add one other negative since I'm on the role of whining here about things going on. This administration did something that was totally unique in its budget process called a "gag order" which simply meant that when the Kinetic Energy Interceptor Program was canceled, it was canceled during the time of the gag order. There is not a single person on Capitol Hill, in any branch of Congress, that knew what was taking place because no one in the Pentagon was allowed to talk about what the decision was. A stop work order had been administered by this administration before anyone knew what was taking place.

And, in fact, when the Secretary of Defense announced his overall view, not one word on this missile program was mentioned in that, even though, 2 days earlier, the decision had been made to cut it.

Mr. AKIN. Reclaiming my time, wait a minute now. I recall that the President stood on this floor, and one of the things that he made a big point about was transparency. I have a hard time understanding the transparency of the administration cutting a major part of missile defense that's very important, and we're on the Armed Services Committee and we didn't even have a clue that that was going on. Is that transparency?

I yield to my friend from Utah.

Mr. BISHOP of Utah. No, in my definition it's not transparency. Now, I know that some people have said the Pentagon leaks like a sieve. To be honest, that's what President Nixon said about the White House when he came in there, and I hope there's no plumbers left around to try and fix the Pentagon situation.

But it's one of those things that, in a republic, in a republic, we are not devoted by those types of secrets that should take place there. And the representatives of people who make these decisions should be made aware, you can do it in some kind of a system or order in which sensitive information is let out.

But this is not sensitive information. This is what the future direction of this country should be. And I'm sorry, before you put the stop work order, you at least should be able to tell Congress what you're about to do.

I hope we never, never engage in this kind of gag order in any branch of this administration again because, as the gentleman from Missouri accurately said, it is not transparency. It was not what was promised. And it is simply a wrong problem which allows a whole lot of issues to be pushed to the side, which could have been easily fixed, adjudicated, simplified had we simply had

some kind of communication as the process was being developed.

Congress is now behind the 8 ball on this. If we want to fix this problem, and I desperately think we should, our options are severely limited because of the way the administration handled this year's budget preparation.

I yield back.

Mr. AKIN. Well, that's quite an indictment. And you sure had a snoutful of bad news for us. I didn't even know about that last one. And it's enough to really make you irritated, isn't it?

You know, we hear about transparency, and yet there isn't transparency, and this isn't the way we should be running a country. It seems to me that somebody's trying to hide something. That's what it seems like, somebody is trying to cover something up.

Now we're about done with our first half hour so we're going to be finishing up on ballistic missile and strategic missile defense. I am going to let the last word go to my good friend from Arizona, Congressman FRANKS.

Mr. FRANKS of Arizona. Ostensibly, the whole purpose of cutting missile defense is so that we can use the money somewhere else. But sometimes we forget that when we suffer some type of weakness in our military system it invites or it provokes some type of attack from an enemy which nearly always costs us much more than any savings that we had. When airplanes hit our buildings and our Pentagon, they cost us in our total economy, around \$2 trillion. And so this is not only bad defense. It's bad economics.

And if some day, if we build a system and we don't need it, I will stand before the American public and say, you know, we used this system every day because it deterred an attack. But I'll still apologize to you for spending all the money.

But God save us all from the day when we have to stand before the American people and apologize to them because some type of an attack left hundreds of thousands of our people dead in a city or worse and we had the ability to defend them and we didn't out of political correctness.

And with that I yield back to the gentleman and thank him very much.

Mr. AKIN. I appreciate your passion on that subject. Gentlemen, there's one point that I always like to make on missile defense that it seems like many times people overlook it. And what I hear, just talking to people back in my district they say, well, couldn't these bad guys basically smuggle a missile into our city and just set it off? And they don't really need a missile to do that. And the answer is, they can try, but that's not as easy to do as it appears because the bombs and things do emit some radiation and there's some chance we could catch them.

But the other main point is that a bomb set off up in the air is far, far

more deadly, hundreds of times more deadly in terms of casualties than one set off on the ground. I think that's part of the reason why you see our opponents developing these ballistic and intercontinental ballistic missiles because of this high level of threat and a very rapid ability to deploy a weapon. And so that's part of the reason why this is a very key topic.

And I thank you so much. The gentleman from Arizona has taken a lot of time to understand this, knows it inside and out. He's just about like an expert. And Arizona has been doing the right thing sending you up here.

And I think we're going to move on to another topic which is particularly of importance to Americans today, and that's the subject of taxation and energy. Not so long ago, our President said, under my plan of a cap-and-trade system, or that is cap-and-tax system, electric rates would necessarily skyrocket. That will cost money. They will pass that money on to consumers. This is the President in a meeting in guilty January of 2008.

Well, he is now the President. And they're talking about this cap-and-tax system that's been the subject of debate now for hours and hours in the Energy and Commerce Committee. And from what we're seeing and taking a look at what's being proposed, the President was accurate in this statement. It is going to be extremely expensive, and electric rates are going to skyrocket indeed.

The interesting thing about this though was he stood here at the beginning of this year and said, I'm not going to tax anybody that's making less than \$250,000. And yet what's being proposed here is every time you turn a light switch on, you're going to get some more taxation.

How much taxation are we talking about? And what's the logic of this?

Well, the logic is supposed to be that the Earth is getting too hot, and that's really a serious problem for us. The Earth is getting too hot. And so I thought it was interesting to take a look back historically over the last hundred years, not at the temperature of the Earth, but at what the scientists have been saying down through the years.

In 1920, the newspapers were filled with scientific warnings of a fast approaching glacial age, 1920s.

1930s, scientists reversed themselves and they said there's going to be serious global warming in the 1930s.

In 1972, Time magazine, citing numerous scientific reports that imminent runaway glaciation is what the Time magazine called it. And by 1975, Newsweek, scientific evidence of an ice age. And so people were being called to stockpile food, and the question of whether we should use nuclear weapons or some method of melting the Arctic ice cap.



1976, U.S. government: "The Earth is heading into some sort of mini-ice age."

And now we've got global warming. And so over the period of the last hundred years, well-meaning scientists and, supposedly majorities of scientists, even, have changed their opinion about this global warming about three times or so.

Well, the complaint now is that we've got this CO<sub>2</sub> that's being generated which makes the Earth warmer and, therefore, we want to tax the CO<sub>2</sub>. When the government wants to tax something, usually you'd better hang on to your wallet. We're talking about a lot of tax.

And tonight we have probably one of the most foremost experts in the House on the whole subject of this what's called cap-and-tax. A man who's been in the middle of these hearings for hours and hours is joining us. It's a treat to have Congressman SHIMKUS from Illinois. I yield time, gentleman.

Mr. SHIMKUS. Thank you. I appreciate the time. As stated, we're in the, in essence, the markup of the bill right now. And so I thought I'd just take a few minutes to talk about what happened yesterday and what's happening today.

The basic premise that we're trying to just remind the public that because to address this global warming you have to monetize carbon, that is, in essence, adding a dollar amount to carbon, which that dollar amount would be passed on. Ratepayers will pay more. President Obama admits it. Really, the draft bill admits it because there's 55 pages of what to do with job losses in the bill.

Here's a couple of amendments that we debated last week—I mean yesterday. An amendment offered by LEE TERRY, Republican, of Nebraska, would require annual EPA certification of the average retail price of gasoline. If the price exceeds \$5 per gallon as a result of this act, this act would cease to be effective.

We're admitting that there will be an increase in cost. Voted down on a party-line vote.

Mr. AKIN. Reclaiming, you're just saying that what we said is, hey, gas is painful when it gets up there to \$3 or \$4 a gallon. But you're saying if gas gets to \$5, we put an amendment saying enough already; that's enough tax at \$5 a gallon. And that was a party-line vote. The Republicans voting, I assume, that they don't want to let it get over 5. The Democrats saying it's okay to tax more than that; is that correct?

Mr. SHIMKUS. That is correct. Another amendment offered by our colleague, MIKE ROGERS, Republican, from Michigan, that would require an annual certification by the administrator in consultation with the Department of State and the United States Trade Representative that China and India have

adopted a mandatory greenhouse gas reduction program at least as stringent as that would be imposed under this act. And what we're saying is this is all pain and no gain unless we have an international agreement that brings in China and India.

Well, my colleagues on the other side all voted "no" against requiring China and India to be under the same regime. Republicans all voted that we should be in the same regime.

Another amendment that said if unemployment gets to 15 percent, that we ought to change course, that this cap-and-trade scheme is not working. Another party-line vote, Republicans saying we ought to get out of this agreement if job loss gets to 15 percent. Democrats stayed on the party line saying, no, 15 percent job loss is acceptable under this bill.

Mr. AKIN. Just reclaiming my time for a minute. What—how much unemployment do we have now? We're not up to 10 percent yet, are we gentleman?

Mr. SHIMKUS. We are right around 10 percent.

Mr. AKIN. Right near 10. So you're saying if it gets to 15, enough already. We've got to ease back on this thing that's hurting us. Because the point of the matter is this tax is going to create unemployment. Right? And if they say, well, it's not going to create unemployment, then they don't have any problem with an amendment saying that at 15 percent unemployment we're going to stop it. Right?

But, no, so they're saying no we don't want that amendment, saying they think it will go over 15 percent.

Mr. SHIMKUS. And I am going to head back to the committee and I appreciate the time. Let me just say we also had an amendment: will global warming bills' costs be disclosed. We asked for full disclosure on electricity bills. Republicans said, yeah, that's a good idea. Democrats voted "no." Democrats declined to shield homeowners from electricity spike hikes.

So what we're trying to do is, understanding that this is going to cause an increased cost to the ratepayer, no one's speaking for the ratepayers. Well, the Republicans are speaking to the ratepayer. The Democrats in the committee markup are speaking to those special interest groups that cut this deal behind closed doors.

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You've got a lot of my colleagues here who all want to speak with you. I appreciate your yielding me some time. Keep up the great fight.

Mr. AKIN. Congressman SHIMKUS is just doing the yeoman's job on the committee. It's a tough thing. Those amendments seem to me so common-sense that I'm kind of amazed that anybody in the political business would dare to vote against something that's saying, hey, it's \$5 a gallon for gasoline

or unemployment is at 15 percent. Actually, that's not such an odd idea because Spain has put in this same thing that is being proposed here. Their unemployment now is 17.5 percent, and they're suffering. They're calling all the green jobs "subprime jobs."

Thank you very much, Congressman SHIMKUS.

We're joined by a very sober judge from the State of Texas, my good friend, Judge CARTER. Welcome to our discussion this evening. Let's talk a little bit about these taxes.

Mr. CARTER. Well, some of the things that our friend Congressman SHIMKUS said are pretty sobering.

Mr. AKIN. Yes, they're sobering. They even make a judge sober. I yield.

Mr. CARTER. We're saying \$5 a gallon for gasoline with that increase being caused by this tax-and-trade scheme that's being sold to the Congress as some kind of clean-up-the-world project. We think that at least ought to raise the issue and should slow down the process. Yet they say, No. Let's see what's going to happen when it gets to be \$5 a gallon.

Let's think in our recent past as to what happens when gasoline gets to \$5 a gallon. Well, of course it's going to be the evil oil companies' fault that secretly have made deals with each other to fix prices and to make them go up. That's why, when they said the electricity bills are going to go up, we just said that we wanted them to say on the electricity bill what caused this to go up. Well, it happens to be our cap-and-tax program that caused it to go up. That's fair. The American people ought to know what caused the doubling of their electricity bills. Guess what they're going to say? Oh, the evil power companies have jacked the prices up to bilk the poor consumers. Truth and sunshine is what this government needs. Put the truth in the bill.

Mr. AKIN. That's absolutely right. I appreciate the gentleman's perspective, and that's coming from a judge.

You want to know what has happened and exactly what's going on. Don't put this behind smoke and mirrors. We're talking here about comparing the cost of these taxes being proposed. This is the cost of World War II right here, this big blue circle. This cap-and-trade here at \$1.9 trillion is a tremendous, tremendous tax. The other wars—this thing here—would be the war in Afghanistan and the terrorist wars and all. All of these are small by comparison to what's being proposed.

So what does that mean for the average family? What are their costs going to be?

Well, you can see the energy here. The blue here is gasoline, and the gasoline is going to jump 16 percent. This is just by 2012. You're going to see a 16 percent increase in the cost of gasoline. The green is electricity. That's going

to jump 9 percent, and that's just the beginning. That's only by 2012. Then you've got natural gas, which is going to jump 14 percent. Now, when the economy is rough and people are having trouble with unemployment, this somehow or other seems like a pretty strange thing to be talking about, a massive tax increase like this.

We're joined by my good friend from Georgia, and I would yield time to the doctor.

Mr. BROWN of Georgia. I thank the gentleman for yielding.

I think the American people need to understand what this is going to mean to them directly. I think these charts are great. As Judge CARTER said, I think the facts that Mr. SHIMKUS gave us were absolutely sobering, but there are a number of people in this House of Representatives who have openly said that they would like to see gas go up to \$10 a gallon. They think that that will start people conserving gas in America. Well, most folks can't afford \$10 a gallon gas. There are people in this House who want to federalize—nationalize—the whole of the energy system, and there are many Members of the Democrat majority who are promoting that. I think this may very well be the opening for them to try to nationalize it, just like Hugo Chavez has done in Venezuela, and that's exactly the picture that we see here in America.

What NANCY PELOSI and company are doing here in this Congress is they're going down the same road, and they're trying to force America into the same policies and down the same road that Hugo Chavez in Venezuela has taken that country down. Yet what is it going to cost each individual family?

It is estimated that every family is going to pay over \$1,000 in increased electricity costs. It's estimated that the tax, itself—I've seen various estimates—will be anywhere from over \$3,000 per family in America to over \$4,000 per family in America per year in increased taxes. It's going to increase the cost of food and of medicines. Every single good and service in this country is going to go up because every bit of food and every medicine—every good and service in America—is dependent upon energy. If you flip on the light switch, your bill is going up. If you go to the gas pump, your bill is going up. If you ride public transportation, the bill is going up. The bill is going up. The bill is going up for everything in this country. The American people need to say “no” to this idiotic, what I call, “tax-and-cap.” The reason I call it “tax-and-cap” is because it is a huge tax. It's not about the environment.

The President, himself, said that this needs to pass so that he can fund his socialistic agenda. He didn't call it a “socialistic agenda,” but that's exactly what it is. It's a big government agenda for health care. For every single

thing that this country does, they want to do that.

Mr. AKIN. Dr. BROWN, I appreciate your firmness and your just basically calling this what it is.

An hour ago, we heard the Democrats talking about the fact that, oh, they're really into technology and innovation and all of this kind of stuff. This thing has nothing to do with technology or innovation. This is just a plain, old tax increase. It's a plain, old tax increase, but it's a big, whopping tax increase, is what we're dealing with here, and the justification is kind of amusing.

I'd like to take just a minute, and then I'm going to recognize my good friend, Congresswoman LUMMIS from Wyoming.

Having an engineering background, I kind of get interest out of it. How much human activity does it take to affect greenhouse gases? This block here of all of these boxes represents all of the greenhouse gases which comprise only 2 percent of the atmosphere. So these are all of the things that cause global warming. Most of this is water vapor. By the way, it's not CO<sub>2</sub>, okay? Now then, this yellow stuff over here is the part of the greenhouse gases that is CO<sub>2</sub>. Those are the yellow boxes. The little red box there is the CO<sub>2</sub> that is caused by human activity, and that little red box right there is the excuse for this whopping, big tax. Now, somehow or other, the logic of this just seems like a very, very thinly veiled excuse for a great big tax.

Mr. BROWN of Georgia. Will the gentleman yield?

Mr. AKIN. The thing that is the most amusing on this is that the one major source of energy that we have that makes no CO<sub>2</sub> is not being given any credit or is being pushed forward at all, which is nuclear power. We'll talk about that, but I want to yield to the gentlewoman from Wyoming, Congresswoman LUMMIS.

Thank you for joining us tonight. It's just a treat to have you here.

Mrs. LUMMIS. Thank you, Congressman AKIN. I appreciate being involved in this discussion.

This is a national energy tax. This will not solve our problems with pollution, but what will? Sometimes we Republicans are called the “party of no,” and it's because we need opportunities to express our better ideas. Indeed, I believe we do have better ideas, and some of them are being illustrated by the chart that Mr. AKIN has on the board right now.

We have opportunities to clean up the technologies and sources of energy that we have right now. We have the opportunity to increase the number of hybrid and zero-emission vehicles on the road. We have the opportunity to increase wind and solar and biofuels. We have the opportunity to add to the amount of natural gas that we use because it is, by far, the cleanest burning

hydrocarbon. We have opportunities to sequester the CO<sub>2</sub> that comes from coal, and as we know, coal is more than half of the electricity that is produced in this country. So, to abandon coal abruptly is just not possible. We should pursue ways to clean it up. That includes sequestering carbon.

My State of Wyoming has the most advanced carbon sequestration laws in the country, which say that the pores under the surface where carbon can be sequestered—or captured and secured—belong to the surface owner, and that liability for the escape of hydrocarbons that are introduced into those pores are on the companies that put that carbon in the ground. So that creates a mechanism that other States are looking at right now, including Montana and others that are following Wyoming's lead.

In addition, we need to produce from coal liquid products that burn less. In addition, we need more nuclear energy. As we know, nuclear energy is not a carbon emitter, and it is producing 20 percent of our electricity now. So we absolutely cannot take nuclear energy off the table. It's very important that we add more nuclear.

Mr. AKIN. Reclaiming my time, Congresswoman LUMMIS, what you're saying is really exciting. You're talking about what the Republicans have been pushing for now and since I've been here, which has been since 2001. It's an all-of-the-above strategy. It's saying let's let freedom work. Just get out of the way, and let's start developing hydrogen. If we've got places we ought to drill for oil, then do that. Fine. If we've got to do coal, let's figure out if you're going to sequester it or not. If we need nuclear and if you're really worried about that percentage of CO<sub>2</sub>—I mean if you're really serious about that, then why not embrace the number 1 technology that doesn't make any CO<sub>2</sub>, which is nuclear? We're saying do all of these things. Let the free marketplace work and let freedom basically run. Let American innovation—and let the resources that God gave us on this land—work, and we will have energy.

You know, there's an ironic thing that is just absolutely crazy about government. Do you know why the Department of Energy was created years and years ago? This is kind of a quiz question if any of my colleagues happen to know the answer. Why did we create the Department of Energy?

Dr. BROWN from Georgia, do you know why we created the Department of Energy?

Mr. BROWN of Georgia. Absolutely. It was created to make America energy independent.

Mr. AKIN. What has happened since we've created it, Congressman?

Mr. BROWN of Georgia. Well, it has not made America energy independent whatsoever.

Mr. AKIN. We are less that way.

Mr. BROUN of Georgia. We are less.

Mr. AKIN. What has happened to the number of employees in the Department of Energy?

Mr. BROUN of Georgia. It has skyrocketed. They're really not fulfilling the obligation that they have under the charter of developing the Department of Energy, so they've been an abject failure at what they were charged to do.

Mr. AKIN. In fact, you could almost say it's of inverse proportion. The more people they've hired and the bigger it has gotten, the more dependent we have become on foreign energy. That doesn't make a whole lot of sense.

I want to thank Congresswoman LUMMIS, and I also want to get back to Judge CARTER here.

I want to give you a chance to take a look at some of these things. We've got, I think, only just about another 5 minutes or so.

Mr. CARTER. First, if they're not doing their job, we ought to fire them. That's just really easy, okay?

Mr. AKIN. I think that was pretty straightforward. If they don't do the job, fire them.

Mr. CARTER. That's simple stuff. If they're not doing what we hired them to do, we've got to fire them.

Mr. AKIN. Now, Ronald Reagan wanted to close the department down.

Mr. CARTER. Yes.

Mr. AKIN. Is that what you're advocating?

Mr. CARTER. That's fine. I don't have a problem with that at all, but let's get back to what we're doing.

You know, there's an old saying: "I won't tax you and I won't tax me. I'll tax that fellow behind the tree," okay? That's kind of what we heard from the Obama administration when we started off: Don't worry. Ninety-five percent of the people in America are not going to be taxed by this administration. Yet, as my colleague from Georgia said, there's not anything you can think of that doesn't have an energy cost in it. Nothing. I mean it's in everything. So I don't care how rich you are or how poor you are. You're going to be taxed by this.

Now, don't give me the excuse of, well, we're just taxing the company, and they're taxing you. That doesn't work. Everybody knows where this tax is going. They know it in the administration, and we know it in Congress. It's going to us, to the individual Americans, and we're going to pay this tax. Look at that. Shoes. Plastic. Food. Electricity. Housing. All that.

Mr. AKIN. Reclaiming my time, these are all different places. If you're going to have to use it up, it's going to cost you \$1,900 per household just for the first year of this tax. This just tells you what you'd have to give up to save that money to pay that tax. This one here is all of the meat, poultry, fish, eggs, dairy products, fruits and vegetables that a family eats in 1 year.

□ 2030

That's what you've got to give up to compensate for this tax that's being proposed. Or, maybe you don't want to do that. You want to give up this—all furniture, appliances, carpet, and other furnishings. You can give that up for 1 year.

Mr. CARTER. If the gentleman would yield for just a minute. On that food thing, you have forgotten the next tax they're coming up with is the flatulence tax on cows.

Mr. AKIN. Are you going to collect that in bags, gentlemen?

Mr. CARTER. Ask our farmers if they like that idea.

Mr. AKIN. I think we're getting close on time, but the good news is my good friend, Congressman KING from Iowa, is here. I think he is going to continue talking on the same subject. I think he might be willing to recognize some of the other Congressmen that want to weigh in on this absolutely crazy sort of tax system that's being proposed.

The funny thing is that, just to conclude, this chart right here, this is something the Democrats have been unwilling to deal with or talk about. But, see this little card? There's a little plastic thing here and there's a thing inside there that's the size of two mechanical pencil erasers. There's enough nuclear energy in that little pill right there to equal 149 gallons of oil, 1 ton of coal, or 17,000 cubic feet of natural gas. That's how much energy is in that one little tablet. Maybe we ought to be thinking about real technology.

Thank you all for joining me this evening.

#### AMERICA'S ENERGY CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Thank you, Mr. Speaker. The gentleman from Iowa is pleased to be recognized to address you tonight in this 60-minute period of time.

Having recognized that the gentleman from Missouri was in the middle of a statement, and having recognized that there were gentlemen here on the floor, along with the gentleman from Wyoming, that are still full of information that America needs to hear, Mr. Speaker, I will just simply set the stage with a very short piece of this—and that is that I think we need to have the smoothest of transitions from Special Order to Special Order, and that would require that I yield so much time as he may consume to the gentleman from Missouri (Mr. AKIN) who was in the middle of a statement when his 60-minute clock ran out.

Mr. AKIN. I thank you very much, gentlemen. Congressman KING is known for the Opportunity Society

that he chairs. He brought in a speaker just a matter of a couple of weeks ago, an economist from Spain, talking about the exact same thing that's being proposed here in America. In fact, the President has referred to Spain as a great example of what we should do. And he informed us that it's a great example if you like 17½ percent unemployment.

What he described was—one of the things that was just amazing to me in terms of the contradiction that's involved was, they closed down nuclear power plants in Spain because they're worried about CO<sub>2</sub>. Yet, nuclear power plants don't make any CO<sub>2</sub> at all.

In fact, the chart next to my good friend from Iowa there, the chart is a blowup of that little tiny card in the top left corner that's clipped on there. That little tiny pellet that's the size of two pencil erasers, if you have a couple of those, it takes just—let's see, if you have two of those, it takes all of the energy you need to heat your house for 1 year. Two of those little tiny pellets. Yet, you're talking about two times 149 gallons of oil or 2 tons of coal or the equivalent of two times 17,000 cubic feet of natural gas.

And so if you're really serious about stopping CO<sub>2</sub>, aside from the flatulence of the sheep in Australia and all, look, nuclear is clearly the logical thing for us to do.

If you could pop the next chart up there, too. These are the sources of emission-free electricity. If you take a look at it, nuclear right now, that's making no CO<sub>2</sub> emissions, is 73 percent. Yet, there's no discussion at all about what is going to be done with nuclear. That just seems to be—I mean, what we are really talking about is just a good excuse to tax people. And I'm afraid.

I don't want to ramble on too far, but it seems so odd that Spain would basically shut down nuclear in the name of trying to protect against CO<sub>2</sub>. I mean the engineer in me just says these people have drunk some kind of Kool-Aid.

The thing that was frightening—and I will conclude with this—about the Spanish system, was that the country sold off licenses to people to make their clean energy that was solar and wind. And the government would guarantee you a really high rate of electricity if you bought solar panels if you bought one of these licenses.

So the people would give these licenses. You've got all these people with licenses. They're buying solar panels and windmills. As they do that, they feed that electricity into the grid, and they get paid a good chunk of change for it, which then of course is then passed on to the taxpayers.

They have had a 30 percent increase in electric rates in the last couple of years for the consumer. But for industry, in a year and a half, it's been a 100 percent increase. Here's the bad thing.

When the wind and the solar don't cooperate, they tell the aluminum manufacturer, they tell the steel manufacturer, Shut your plant down.

Guess what those aluminum and steel manufacturers are doing? They're moving out of Spain. That's why they have got a 17½ percent unemployment over there.

And so I don't think we really want to follow Spain's example. They create this system where now, politically, they can't put the genie back in the bottle because you have all these people on the take and you politically can't say we're going to take away your lucrative business of making all of this electricity because they bought windmills and solar panels which don't work when the sun isn't shining or the wind isn't blowing.

It's a really amazing thing. I sure hope America doesn't go down this big old tax thing. I yield back to my good friend from Iowa and your leadership.

Mr. KING of Iowa. Thanking the gentleman from Missouri, and reclaiming my time, I would add to the statement he's made—and I'm quite impressed with the attention the gentleman must have paid at that presentation that morning—but to look at the situation in Spain, the highest unemployment in the industrialized world; 17½ percent, as the gentleman from Missouri has said. Over 100 percent increase in industries' electricity costs, and the idea that 20 percent of the electricity in Spain is generated by wind, which pushes up against the threshold of anybody in the country, anybody in the world that lays out these standards.

If you could produce 20 percent of your electricity by wind, that's way up against the threshold because we know that wind doesn't blow all the time. It lays down often at night, it doesn't always blow when you need the electricity. You have to have backup systems, you have to have gas-fired generators that can be fired up to take care of that demand when the wind is not blowing.

But, additionally, another statement that the gentleman from Missouri didn't make is how the Sicilian Mafia stepped in and was engaged in the brokering of licenses that determined who would be building the wind generation plants in Spain and the companies that would be building them and the inefficiencies that came from that, let alone the corruption that came from it.

Whenever you have government involved in brokering out licenses that has to do with who's going to be providing something that's not demanded by the market, I think exposes a great flaw in this. And the government of Spain about 7 or 8 years ago decided they wanted to be the world's leader in renewable energy. They set about going down that path.

Following that path to become the world's leader in renewable energy,

they achieved it. But they also achieved the highest unemployment in the industrialized world—17½ half percent—a 100 percent increase in industries' electricity costs. They brought in the Mafia from Sicily, the Sicilian Mafia, that would be brokering the licensures along with some people in Spain, I'm convinced, and now they have a situation that so many people are bought into it that they can't step away and say that was a colossal mistake, and if we're going to save the economy of Spain, we have to pull the plug on this renewable energy idea.

This greenest of countries in the industrialized world, Spain, has the most stressed economy in the industrialized world and, in big part, because they have bought into this vast green concept of American energy.

So, as we flow with this, I see a posture of eagerness on the part of the gentlelady from Wyoming, Mrs. LUMMIS.

Mrs. LUMMIS. Thank you, Mr. KING. You do such a nice job of laying out these issues. I want to thank Mr. AKIN for including me in his last hour as well.

The chart that was just placed up on the board illustrates something that is a new phenomenon in terms of the debate about renewable energies that I had not heard before arriving here in Washington—and that is objection by the environmental community to something called industrial-scale wind farms and industrial-scale solar farms.

So even the advocates of renewable energy in terms of wind and solar are saying, Yes, we embrace wind energy and solar energy, but we do not want them done in industrial scale because it consumes so much land, it creates view sheds that have too many wind turbines on it, too many solar panels on it, and that we don't want them.

And we are seeing efforts by Members of Congress when, coupled with environmental groups, to prevent large-scale wind farms and large-scale solar facilities in deserts and in areas where one might think would be appropriate for wind and solar, such as places where the wind blows and the sun shines. But, nevertheless, the problem seems to be the industrial scale that is being proposed for these facilities.

Well, as you and I know, Mr. KING, unless you do these on industrial scales, you can't possibly promote them as a larger component of our industrial energy mix. In fact, if you blanketed the entire State of Ohio with wind turbines, it would produce annually the equivalent amount of energy as one square mile of Wyoming coal.

Now, Wyoming coal comes in square miles, which is very unusual for those of you from the East who are used to underground mines. We have something called surface mines, where you may have 30 to 100 feet of overburden, which is essentially the soil on top of

the coal. And then you will uncover 100-foot coal seams. They are 100 feet level of coal, with no striations of anything but coal in between.

So all you have to do is scrape off and save the overburden—the soil—pile it up, recover the coal, scoop it out, load it in trucks, load it in rail cars, and then put the top soil back in the same contours as it was before you began mining, reclaim the surface to a condition that is equivalent to or superior to the condition of the surface of the ground before you even began to recover the coal, and put it back to normal with ground for sage grouse, for rabbits, for snakes, and perfect, perfect ground cover.

Mr. KING of Iowa. Will the gentlelady yield?

Mrs. LUMMIS. So it is a wonderful resource.

Mr. KING of Iowa. For snakes?

Mrs. LUMMIS. Snakes and rabbits. They seem to go together. I was at a field hearing 2 weeks ago for the Natural Resources Committee. We toured solar facilities in California. We were in Representative MARY BONO MACK's district and Representative JERRY LEWIS' district. We were on a Marine base at Twenty-Nine Palms with my committee cochairman, JIM COSTA, who is from California as well.

We got to tour their solar facilities. And they are about to put at a Marine base at Twenty-Nine Palms 240 acres of an abandoned lake bed—it is dry, there's absolutely nothing on it—in solar panels. And they will be able to do that in a way that improves the makeup, the mix of renewable and unrennewable resources on that base that will make it the leading base in the whole Marine system for renewables, because they have wind, solar, and some geothermal.

But they probably could not pull that off if they were not on a nearly 600,000-acre military base, because if you try to move that same facility onto public lands in the desert, you encounter environmental group resistance to having large solar and wind projects, industrial scale.

□ 2045

So there's nowhere to go without offending someone in this country. Oil and gas development offshore on the Outer Continental Shelf would be a magnificent resource for us, but there are environmental groups that have testified against that. Industrial-scale wind and solar on deserts in California, groups are testifying against that. Nuclear, groups are testifying against that. Any hydrocarbon, groups are testifying against that. Coal, there are groups saying there's no such thing as clean coal.

We have to meet our energy needs as human beings, and there are ways to do it by using all of the resources we've discussed in moderation. That is the

Republican response to this issue. To do it cleaner, do it better, do it with all of the resources that we have at our disposal in America; disengage from our need for foreign oil, because that is a national security issue, and produce our own energy, our own security. Do it in a more environmentally sensitive manner, but don't diminish our standard of living at the time we do it because it falls more seriously on working-class Americans and poor Americans than it does on rich Americans when we do something like our national energy tax, which is proposed under the name of cap-and-tax.

Thank you very much for including me in your discussion this evening, and I yield back to the gentleman from Iowa.

Mr. KING of Iowa. I thank the gentlelady from Wyoming.

It occurs to me that if this Congress is to have a nuclear carbon footprint—I remember the Speaker when she was, let me say, sworn into the third-highest constitutional office in the United States of America, third in line for the presidency, she concluded that this Capitol Complex was going to be carbon neutral, which means greenhouse gas neutral, which means CO<sub>2</sub> gas neutral. And having a look at the generating equipment that produces the lights that illuminates us tonight, Mr. Speaker, it occurred to the gentlelady, the Speaker of the House of Representatives, that she would need to make a correction that would make it consistent with her left coast constituents. So it went on the Board of Trade and carbon credits were purchased at a cost to the American taxpayers of \$89,000 to buy these credits that were designed to pay people to change their behavior that was contributing to the greenhouse gas, CO<sub>2</sub>, and the atmosphere over all of God's creation. That \$89,000 was invested in two areas. I checked this out, and I went to visit some of the sites. One of them was no-till farmers in South Dakota. They were no-till farmers before they got the check. They were no-till farmers after they got the check. If they actually tilled the ground afterwards, the carbon escaped anyway. So if they sell the farm, somebody comes in, puts a disk or a plow to it, it will go back into the atmosphere. So the sequestration was nillo, shall we say. That was the no-till farmers in South Dakota. There was also a nice check that was written to an electrical generating plant in Chillicothe, Iowa, that was to pay them to burn switchgrass in place of coal in order to make the CO<sub>2</sub> emissions carbon neutral as opposed to contributing to the CO<sub>2</sub> in the atmosphere, which would come from the net consumption of coal. Well, I don't know. This is a pretty interesting thing. So I went to Chillicothe, Iowa, and I visited the generating plant. I went into these buildings that were full of the switchgrass

hay they had purchased several years earlier, at the cost to the Federal taxpayer and a government grant, the equipment to run these big round bails, 1,500-pound switchgrass bails, through a hammermill to chew them up into little itty-bitty pieces, to spit them into the incinerator and blend them with the coal dust that would come from the grinding of the coal that would allow it to combust at the most efficient rate. This switchgrass that was going to be carbon neutral had been burned to generate electricity a couple years earlier, but—here is something I know—when I'm looking at a shed full of switchgrass brown bails, and it's covered with coon manure—not cow flatulence but coon manure—they probably haven't burned much of that hay in a long time.

So the conclusion that one can draw was actually, 2 years earlier was when they shut down the switchgrass burning technique, but yet they were paid to burn the switchgrass and to do this carbon-neutral approach. So we have 89,000 taxpayer dollars invested in purchasing carbon credits to provide carbon-neutral emissions for the Capitol Complex, to buy these carbon credits on the Board of Trade in Chicago, to encourage people to do more things that are more conducive to the environment and produce less CO<sub>2</sub> than they would have otherwise. I couldn't verify that anybody changed their behavior whatsoever for \$89,000. I can tell you, if somebody wrote me a check for \$89,000, I would at least consume less energy, let alone produce that energy in a more environmentally friendly fashion.

So that's the result of cap-and-trade that is being proposed by the Energy and Commerce Committee today and probably tomorrow and hopefully the next day and the next day and the next day ad infinitum until they decide that the science doesn't support this and the economics doesn't support it. But that comes to mind for me. And, by the way, the electricity that we consume in Iowa, a lot of it comes out of the Powder River Basin in Wyoming. I have been up there to look at that, where you could put a school bus in the bucket of the drag line. I'm still a little confused about square miles versus cubic miles of coal, but I know they have a lot of it in the Powder River Basin. I'm glad to have the power, and I appreciate the rail lines that come down. I really don't want captive shipping going on, but I appreciate the connection we have along with the renewable energy that comes out of the Missouri River and the seven dams that are on the Missouri River and the hydroelectric power that comes, which is carbon neutral, Madam Speaker. Our hydroelectric is carbon neutral but it does not get credit for being renewable energy because Bobby Kennedy Jr. and others think that however the rivers

were is how they ought to be reverted back to and that we can't improve upon Mother Nature. I think God gave us these natural resources, and he's given us the ability to improve upon them. We've done so in many cases, and we should do so into the future.

I would be happy to yield to the gentleman from Texas, the Secretary of our conference, Judge CARTER, as much time as he may consume.

Mr. CARTER. I thank my friend from Iowa.

As I listened to that story about switchgrass and that we paid those people money, I don't have anything against them, but it sure sounds like the inmates are running the asylum around here. I mean, I think anybody that heard that story would think, Good Lord, those people are crazy. I really want to say again—and I've said this before—if you're trying to stop CO<sub>2</sub>, and I'm throwing off a bunch of CO<sub>2</sub> in my company, and I can go out and buy some carbon credits from you who happens to be running a real good clean company, I still keep putting the stuff in the atmosphere, right? I haven't cleaned up my act. I mean, they put a cap on me. I'm not meeting the cap, and I just bought an excuse. Kind of like Al Gore with his 100,000-foot house—or whatever it is he's got, or two or three houses—he said, Oh, that's all right. I buy carbon credits. He's still putting the stuff up there in the air.

Mr. KING of Iowa. Reclaiming my time for a moment, I would point out that the carbon credits are the modern-day equivalent of the reason that Martin Luther came forward and nailed his positions up on the Diet of Worms which is, the church was selling indulgences. Carbon credits are indulgences that allow a company to pay for the carbon emissions that they're emitting into the atmosphere. I think that's what the judge is talking about.

Mr. CARTER. I think indulgence is a perfect word because you are allowing the dirty people to indulge in staying dirty by paying for it.

Mr. KING of Iowa. For a price.

Mr. CARTER. Under this ingenious government program we have got now, all they're doing is just paying more taxes.

Mr. KING of Iowa. Sin tax.

Mr. CARTER. It is a sin tax. That's exactly right. It's a sin tax. It is ludicrous to think it's going to reduce any carbon, CO<sub>2</sub> that goes into the atmosphere. Because as long as a guy wants to pay the taxes, he's in business. Let's face it, if I'm the guy that's paying the sin credit, the indulgence, well, if I can pass it on down to the neighbors down the street in their bill, that's where it's going to go. So those poor slobes are paying the tax. Why should I worry about it? Why is that going to keep me from putting CO<sub>2</sub> into the atmosphere? This is insanity, but that's where we are.

Mr. KING of Iowa. Passing it on to the consumer is what this is about. We have seen the numbers that show that an MIT professor has done the calculation on the costs of the proposal on this cap-and-tax that's out before this Congress and put a macronumber on the cost to our economy. Then some ingenious people who just simply took the average number of persons in a household, which is calculated to be 2.54, and divided that into the overall cost to our economy, the increased cost of energy that has to do with cap-and-tax. They concluded that each household would see their energy costs go up annually by \$3,128 a year. Then the professor at MIT said, Oh, wait a minute. I'm real sorry I released the number because I don't like the result of the conclusion that came about because of the division of the numbers of persons in a household and the cost per household that would be the increase in the cost of all of our energy, electrical, our heat, our gas bill, our gasoline bill and our fuel oil and all of those things that are required to keep each household going. That's what's going on here. This is almost to the point where it's a religion that believes in something that isn't based upon a science. Now I'm great with faith, but I'm not so good with faith that's based upon pseudoscience.

I would ask the Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman has 35 minutes remaining.

Mr. KING of Iowa. I would be happy to yield as much time as he may consume to the gentleman from Georgia, Dr. PAUL BROWN, another one of my friends and colleagues.

Mr. BROWN of Georgia. I thank the gentleman for yielding.

Mr. Speaker, this whole cap-and-tax philosophy is a hoax. It's a hoax. It's a hoax on the American people, and it's a hoax because it's giving a promise that cannot be fulfilled. We are promised by the Democrats that this is going to create green jobs. Going back to what the gentleman from Spain said as Mr. AKIN and you, Mr. KING, were talking about, he said it cost jobs. Going back to the figure that you put out, Mr. KING, they had an unemployment rate of 17.5 percent because of their cap-and-tax, cap-and-trade policy that they put in place. The experts have looked at our economy, at our job market, and we're being promised green jobs. But the experts say that for every single green job that's produced, we're going to lose 2.2 other jobs, a net loss of 1.2 jobs for every job created in this false promise, this empty promise of creating jobs.

Now to buy off some certain groups, particularly the retirees and the poor people, they're going to give—who knows what, refundable tax credits—the President and Mr. WAXMAN and others are promising to give more

money to the poor people to take care of this higher tax, higher food cost, higher cost for all goods and services. Where's that going to come from? It's going to steal from my grandchildren. It's stealing from their future. Don't be fooled by this hoax, by all the smoke and mirrors, by all this promise because it's not going to do anything but cost jobs. It's going to create a higher cost of living for everybody, and it's going to put us in a deeper recession, maybe even a depression if we continue down this road. Republicans have offered amendment after amendment in the committee, but they've been defeated by the Democrats. Amendments to even just stop this from going into place if the gas taxes or gas costs go too high or if electric prices go too high or if other prices go too high for the American people. But the Democrats have voted uniformly not to accept those amendments over and over again.

Congresswoman LUMMIS from Wyoming talked very eloquently about some of the ideas that Republicans are producing. The American people are told that the Republican Party is the Party of No. Well, I agree with that. We are the Party of No, but the know is K-N-O-W. We know how to solve this economic downturn. We know how to solve some of the financing problems in health care. We know how to create an all-of-the-above solution to the energy problem to make America energy independent.

□ 2100

But the Speaker of the House has been an obstructionist. She has been an obstructionist and not allowed any idea that we have proposed for all these things to stimulate the economy, to solve the problem we had with the housing market and to solve the banking problem. We have not been allowed. All of our ideas have been blocked by the leadership of this House and the leadership of the Senate.

Mr. KING of Iowa. Will the gentleman yield?

Mr. BROWN of Georgia. Absolutely.

Mr. KING of Iowa. I would just ask: Have all of your ideas been blocked? How does this work? Can't you offer an amendment that would put up a recorded vote and tell America where you stand? What prevents you from at least telling America where you stand so that they can evaluate the votes of people on both sides of the aisle and make their decision in November of 2010? What is the obstruction there?

Mr. BROWN of Georgia. Absolutely. And I have offered an amendment to the non-stimulus bill. I offered an amendment that said, let's bail out the American people instead of bailing out all these favorable groups, the payback groups. In fact, the Democrats were bent on spending \$835 billion of our grandchildren's and children's future. I

said, if we are going to do that, let's really do something that stimulates the economy. Let's send that money to the legal resident taxpayers in this country. And I introduced an amendment that would have sent a check for almost \$9,000 per legal resident taxpayer. A couple would have gotten \$18,000. That would have stimulated the economy because they would have paid off credit card bills. They would have saved it. They would have bought education or food.

Mr. KING of Iowa. If the gentleman would yield, then why didn't I see that amendment on the floor of the House of Representatives and have an opportunity to send a message to my constituents about how I would like to see this economy managed? Is there a reason that blocked that from coming to the floor?

Mr. BROWN of Georgia. Absolutely. And I thank you for asking because that is exactly what I was referring to. Every single idea, my idea as well as many others, have been blocked. They have been obstructed. My amendment was considered not to be valid. And they just totally would not allow my amendment to even be considered on this floor.

Mr. KING of Iowa. Reclaiming my time, the Rules Committee, which is up there on the third floor, meets without the benefit of television cameras and often without the benefit of the news media even reporting it. They can decide whether your idea can be heard on the floor of the House of Representatives. And often the Rules Committee decides that your idea will not be heard and it will not see the light of day. Is that correct?

Mr. BROWN of Georgia. You are absolutely correct, Mr. KING. That is exactly what has happened. That is what has happened over and over again. And I want to remind the gentleman from Iowa, my dear friend, that over and over again, we see these bills come to the floor with what is called a closed rule. Now we know here in the House what that means. That means we cannot amend the bill. They will not accept our amendments. They have their bills shoved down the throats of the American people. That is the reason I'm calling what is going on here a steamroller of socialism. That is being shoved down the throats of the American people and strangling the American economy.

Mr. KING of Iowa. Am I hearing that the Speaker of the House of the Representatives, NANCY PELOSI, is the one who has the power and does decide what will be voted on on the floor of the House of Representatives, and the people of America have no access to being able to know what your position is or what the position is of Democrats and Republicans because it is being blocked by the Speaker and by the Rules Committee? That is how I understand that.



And I would yield to the gentleman from Texas to clarify that point.

Mr. CARTER. Let me make this very clear. The Rules Committee is the Speaker's committee. The Speaker decides who is on the Rules Committee. So this Rules Committee is an arm of the Speaker's committee. Like one of my Democratic colleagues who went before the Rules Committee said just the other day, he was sort of nervous until he went in and he counted one, two, three, four, five, six; one, two, three, four, oh, I think I'm going to win because there are six Democrats and four Republicans. But the Speaker chooses that committee. They answer to the Speaker. And the chairman is set by the Speaker.

Mr. KING of Iowa. Reclaiming my time, I would make also three additional points to this process.

Mr. Speaker, the American people don't care about process. But I'm about to address process again. It has been raised by the gentleman from Georgia and addressed by the gentleman from Texas. And I will say this, that not only do we have a Rules Committee that decides what the American people get to know about the opinions by recorded vote here on the floor of the House of Representatives, because no matter what kind of logical improvement that may come to perfect legislation from the minds and hearts of the American people, as brought through the minds and hearts of their elected representatives, if the Speaker's Rules Committee doesn't think it is a good idea for that debate to take place, let alone the vote to take place, it will not happen, Mr. Speaker. That is what happens here in the House of Representatives. It is a distorted process. And the rules regulate how much, what is going to be heard, what is going to be debated and what is going to be voted on here on the floor of the House of Representatives. And so I think that that is an educational process that needs to take place. And as I have gone before the Rules Committee, and I have found out that no matter how good my idea is, I actually have come down to the floor here and into the RECORD, it is a matter of record, I have said that we need to get television cameras up there so at least the American people can see the behavior of the Rules Committee carte blanche wiping out good idea after good idea.

Additionally, it isn't just the Rules Committee. It is the full committee process. And I can think of three occasions, Mr. Speaker, where the committee chair has either allowed his staff, or directed his staff, to change a bill after it passed out of committee to go to the floor. And I can think of the case of the stimulus package where there was a 12-hour markup in Energy and Commerce, the ranking member, former chairman, JOE BARTON, was livid that they spent 12 hours marking

up, writing, trying to amend and seeking to perfect legislation that was the stimulus package that was initiated at the request of the President, having seen that bill finally pass out of the Energy and Commerce Committee and come to the Rules Committee and come to this floor in a different form, the committee had no say in the end. It was a mock markup in Energy and Commerce.

Subsequent to that, the bankruptcy bill came out of the Judiciary Committee, where I sit and where Judge CARTER and I used to sit arm to arm. I offered an amendment that would set up special provisions for people who went bankrupt because of their house mortgages. I offered an amendment that would have exempted those who have fraudulently misrepresented their income, their assets or the appraisal of the property. It would have exempted them from relief under the bankruptcy bill. That amendment was passed in the Judiciary Committee by a vote of 21-3. After the bill passed out of the Judiciary Committee, the language was changed before it came to the floor.

Then just a little over 1 week ago, on the Financial Services Committee, there was an amendment offered by MICHELE BACHMANN of Minnesota. I think she is Minnesota Number 5. And that amendment would have exempted any proceeds of the bill from going to ACORN, an organization that had been indicted and was under investigation by the Federal Government for election fraud. And that amendment passed unanimously out of the Financial Services Committee. It should have come to the floor as part of the bill. It was totally changed, I believe, at the direction of the chairman of the Financial Services Committee to limit it to only those companies that had been actually convicted of fraud, not those that had admitted to fraudulently filing over 400,000 voter registration forms.

This process is corrupted, Mr. Speaker, and it is because the process doesn't work. If it can change after it comes out of the committee, if it can change out of the Energy and Commerce Committee, if it can change out of the Judiciary Committee, if it can be changed at the direction of the chairman out of the Financial Services Committee, and if the Rules Committee can decide and the Speaker can direct them to decide what comes to this floor, then the American people don't even have the benefit of the debate, let alone the opportunity to improve and perfect legislation, which is a provision by our Founding Fathers.

And I would yield to the gentleman from Georgia to reiterate my point.

Mr. BROWN of Georgia. Thank you, Mr. KING, for bringing this up. The American people need to understand this. And I think this is something that you made very clear. What they did is all of your hard work, and all of En-

ergy and Commerce's hard work, was just thrown in the trash can. And who was involved in doing that? It was the leadership of this House. It was thrown in the trash can. It didn't go through the normal process, normal "order" as we call it here. It was thrown in the trash can. And something else was produced by just a very small handful of people. And we had no way of changing that, no way of amending it and no way of doing anything with it. It was shoved down our throats.

That is an oligarchy type of rule. It is a dictatorial manner of running things. And the American people need to know that that's what is going on up here. And the Republicans are offering solution after solution to all these things. The American people need to start demanding something different. It is up to the American people. Because we are in a minority, we can be here talking tonight and every night, as we are, and Mr. AKIN has been here week after week, and you too have, Mr. KING. But the American people need to stand up and say "no" to the way this business is going on up here.

Let's go back to regular order. Let's go back to having debate and being able to bring forth ideas from both sides of the aisle. But we are not allowed to do that by the leadership of this House. It is wrong. It is immoral. It needs to stop. And the American people need to demand it to be stopped.

Mr. KING of Iowa. Reclaiming my time, the gentleman from Georgia, I thank you for your statement on this matter. And I would reiterate that each of us represents somewhere between 600 and 700,000 Americans. The franchise is this, Mr. Speaker, we owe all our constituents our best effort and our best judgment. And a lot of that best judgment comes from our constituents who are tuned into those issues who funnel those ideas to us. And we need to sort those ideas, and then we need to bring them back into the process in the hearing process in the subcommittee and in the full committee markup process and in the Rules Committee and in debate on the floor of the House of Representatives. And the vision of the Founding Fathers is this, that the best ideas of America get synthesized, they get compressed and encapsulated here through this process that I have described finally being debated and voted upon on the floor of the House of Representatives. And there the vigor of the American people can be presented to the United States Senate for them to cool the coffee in the saucer as opposed to the hotter cup that comes from the House. That is the vision of our Founding Fathers. That is the vision that is being usurped by the policies of our regal Speaker who has undermined our national security.

And I would yield to the gentleman from Texas.

Mr. CARTER. We should be very grateful that the Speaker promised us the most open, honest and ethical Congress in the history of the Republic because think how bad it would be if we didn't have that. We wouldn't even be here, would we? It is amazing what promises are made and what promises are broken in this House of Representatives. It is a shame. It is a shame that somebody besides us on the floor of the House, and hopefully some people are watching this, it is a shame, Mr. Speaker, that we are not getting that message out. This is wrong. It is not what the American people sent us here for.

Getting back to our hoax and our indulgences that we are talking about here, I want everybody to know that when Martin Luther hammered that up on the door of the church, he was informing the church that this was wrong to have these indulgences. We need to be pounding one on the front door of this Capitol Building. This is wrong to put this burden on the American people, some of whom really can't afford it, and many of whom are losing their jobs. And to give us a target of 17½ percent unemployment that we can see could come in a much less industrialized nation than we are and what happened there, think what can happen in this Nation.

Mr. KING of Iowa. The President of the United States has said, why can't you learn from Spain?

Mr. CARTER. What we learned from Spain is 17½ percent unemployment. My gosh, back during the Clinton administration they kept saying 6½ percent, 6 percent unemployment was full employment. Well, we have learned that is not true. But there is nobody going to argue 17½ percent unemployment is full employment. We are going to be hurting.

We just spent, as my colleague says, our children and grandchildren and great grandchildren and maybe even for generations never even thought of, we just spent their inheritance just in the first 100 days of the Obama administration. We spent more money than all the history of the Republic put together. And we are wanting to put in a program that can put almost 20 percent of the American workforce out of work? Isn't this the inmates running the asylum?

□ 2115

Mr. KING of Iowa. Reclaiming my time.

This sparks a little bit of a number of some data that I produced about not quite a week ago. I have been asking the question, How do you put this global warming in context, Mr. Speaker? And so I begin to ask these basic questions that any environmentalist that was creating the idea of limiting the amount of greenhouse gasses that could be emitted into the atmosphere,

when asked this broader question of, well, how big is this atmosphere—I mean, that is like question number one: How big is the atmosphere? And I don't think anybody here knows the answer to that question, Mr. Speaker. And I would ask you this question directly, but I don't want to put you on the spot. I just want you to listen carefully. That is that our atmosphere, the total weight—this is how we measure it in metric tons—the total weight of our atmosphere is 5.150 quadrillion metric tons. That's the pressure of all of this atmosphere that's pushing down on the Earth's gravity. If you could put a scale on all of the surface of the Earth, they would say, Oh, 5.150 quadrillion metric tons. That's all the atmosphere we have.

Now, that's the idea or the content of the volume of our atmosphere.

Then the next question you've got to ask is, well, if you're going to set the Earth's thermostat by controlling the emissions into the atmosphere from the industry of the United States of America, wouldn't you want to know what the net cumulative total of the U.S. industry since the dawn of industrial revolution would actually be?

Well, I asked the question of the energy information agency that we have—and it's their job—and of course they don't have the answer to that because they never asked the second most obvious question. The first one is how big is the atmosphere. The second one is what has the Earth done or what has America done to contribute to the greenhouse gasses, the CO<sub>2</sub> within the atmosphere? The cumulative total contributed by the U.S. industrial giant since 1800 works out to be this: 178,792,900 metric tons of CO<sub>2</sub>.

Now, what's that mean to anybody that's paying attention? I'm sure there is somebody out there that's run the calculator and already come to this conclusion. This would be .00347 percent of the overall atmosphere.

Now, what does that mean in terms we can understand? This way, Mr. Speaker. If you would draw a circle that represented the entire volume of the Earth's atmosphere and do it at a 48-inch radius, 8-foot circle—so two 4-by-8 sheets of drywall side to side, circle drawn, full amount, more than my full wingspan here, that's the circle that you envision, Mr. Speaker. Now, how much of this overall volume of the U.S. atmosphere is the cumulative total of CO<sub>2</sub> contributed by the U.S. industrial might since the dawn of the industrial revolution? That little circle in the middle of that 8-foot circle would be about like that, .56 inches. The diameter of about a buffalo bullet is about all it would be in the center of that 8-foot circle, and that's the cumulative total.

And we are going to reduce the overall U.S. emissions by 20 percent for a while and then 40 percent for a while

and 83 percent for a while. And sooner or later, the arrogance and the vanity of America is going to adjust the thermostat of God's green Earth with a ratio of less than half an inch on an 8-foot diameter circle. How could we possibly imagine that could work? Where is Al Gore when I need him to explain this to me?

I will say this. Al Gore, you were wrong on the science. And those of you who are busily marking up in Energy and Commerce a cap-and-tax bill today, tomorrow, the next day, and for eternity, are utterly wrong on the economics. You would handicap America's economy on some myopic idea, some vanity idea that we could control the Earth's temperature, set the thermostat of America by reducing the size of this .56 circle in the middle of the 8-foot diameter. That's what we are dealing with. That's Midwestern common sense. And we're dealing with the utter arrogance of people who believe this rather than the God that created this Earth.

Mr. CARTER. Well, you forgot that there is one other source of CO<sub>2</sub> that we haven't figured out how to tax on it, but I'm sure they're working on it. We've created some today as we've been in here.

I had a lady when I was doing a town-hall meeting. We were talking about energy, and she said, You know, I'm concerned about these emissions because I want my children to be able to breathe clean air. And I said, Do you ever lean over and kiss your kid goodnight? She said, Yeah, I do. I said, Do you realize when you breathe out you're breathing CO<sub>2</sub> into that child's face? She stopped. She said, You know? That is right. I said, You're going to have to stop breathing in the presence of your child.

This gas we're talking about we are all breathing out every breath and all animals are doing the same thing and all plants are loving it because they take it in. And guess what they give back? Oxygen for us. It's crazy. It's really crazy what we're talking about. But that number needs to be added in there. Maybe we should limit ourselves to 30 breaths a minute.

Mr. KING of Iowa. Or allow the miracle of photosynthesis to solve this problem of mothers kissing their children goodnight.

I will yield to the other judge from Texas, Mr. GOHMERT.

Mr. GOHMERT. I appreciate my friend from Iowa for yielding, and I appreciate being in the presence of my former judge, my friend Judge CARTER, and my doctor friend, Dr. BROWN.

Now, I was talking with a group from Baylor University working on their MBA here in Washington, and, of course, the rules are you don't acknowledge people in the gallery, so I won't do that.

But one thing they understand, as sophisticated as the Baylor MBA program is, they understand that if you find yourself in a hole, it's time to stop digging. And the economy is in a hole, and we've been digging. And we're spending so much, we're digging a bigger hole. And we've got manufacturers leaving the country because we're digging ourselves a bigger hole.

And when, as some of us have, you travel to China, Why did you move your industry here? they tell you—the number one answer I got was because the corporate tax is so—it's less than half of what it is in the U.S.—17 percent. And they will cut you a deal. If you bring them a big enough industry, they'll cut some off of that for years. We've got 35 percent, and I believe it's the most insidious tax that there is in this country because we tell the American people that you don't have to pay it. We'll tax these greedy, evil corporations, but you don't have to worry about it. And they don't realize, because the Congress misleads them, that they're the ones that pay it because if they don't, the corporation cannot stay in business.

So here we are with this insidious tax that hurts our corporations trying to compete worldwide, and we're losing jobs. The economy is in the crapper, and we are trying to bring it up. And we're bringing the economy back up, and what happens? Along comes this cap-and-trade idea that is going to further tax businesses that are producing the jobs in America that keep people working and keep people eating and living and surviving. And we're going to add another tax that those in China are not going to pay. And it is hurting the country.

Mr. KING of Iowa. Will the gentleman yield?

I would ask the gentleman from Texas, can you think of some program, a tax or any other program that would more effectively transfer jobs to China, India, and developing countries other than cap-and-tax here in the United States?

Mr. GOHMERT. I appreciate my friend yielding.

I can't think of one. This will drive so many jobs overseas. It's like somebody is sitting back thinking, How can we further hurt the economy? Let's do that. And some genius came up with cap-and-tax.

Mr. KING of Iowa. Reclaiming my time.

I want to pose this question, and this is the question I posed to the judge from Texas and I posed this to the other judge from Texas and the doctor from Georgia. I pose this to all of my Democrat friends over on this side of the aisle. Can you envision any program that would transfer more jobs from America to the developing countries than cap-and-tax? Is there anything out there that would be worse for

our economy? If you have an idea, stand. I will yield to you. I will be very happy to yield this microphone to anybody on this side of the aisle that believes that Judge GOHMERT would happen to be wrong or I happen to be wrong that there is any means that can more cripple America's industry or cost our economy more or transfer more jobs to foreign countries than cap-and-tax that's being debated right now in Energy and Commerce. I say none. You don't ask me to yield. That means you have no better idea.

I will yield to the gentleman from Georgia instead.

Mr. BROUN of Georgia. It's a great question.

In my district in Georgia, the 10th Congressional District in Georgia where many counties already have right now, today, right at a 14 percent unemployment rate, I've been told by a number of manufacturers that are still left here in this country that if this cap-and-tax bill goes through, they're shutting the doors. They're moving offshore. They cannot afford to continue to operate in this country. And they're going to do that. It's going to drive up the unemployment rate in my district that's already at 14 percent in many counties.

Mr. KING of Iowa. So the gentleman agrees with my conclusion.

Mr. BROUN of Georgia. Absolutely. Nothing could be worse except for maybe the budget that has been produced by this administration.

Mr. KING of Iowa. Let me pose a question. What would be, in the history of the United States of America, today, including potentially a cap-and-tax bill that's before the Energy and Commerce Committee today, what would be the most colossal mistake ever made in the history of the United States Congress? In your opinion. And then I want to hear the opinion from the gentleman from Texas as well.

Mr. CARTER. We know the corporate tax drives people offshore looking for a better tax structure. We know right now in just a competitive market we have the Chinese offer cheaper natural gas than the Americans. So if you're powering your plant by natural gas and you're paying that corporate tax structure, just in today's world, there is a lure to go overseas to China.

Now, you come in and you're going to add 30 percent to the cost of everything. Why in the world would you not think it's the absolutely worst thing that could happen? We're probably going to get trampled if we don't get out of the way as they head for the west coast to get on a boat to go to China.

Mr. KING of Iowa. Reclaiming my time.

Is there a bigger mistake that has been made in the history of the United States Congress other than handicapping the U.S. economy by applying

a cap-and-tax program? Can you think of anything, Judge CARTER, that has happened in the last 200-and-some years?

Mr. CARTER. One of the things that comes to mind is tariffs. Tariffs brought on the Great Depression. I don't know what you're fishing for.

Mr. KING of Iowa. Let me make this statement that Smoot-Hawley didn't put on our economy nearly as much burden as we would have with cap-and-tax. This taxation is the most inefficient taxation ever devised in the history of the United States of America. It applies about \$5 worth of tax for every dollar that ends up in the Federal coffers, and otherwise it has no impact whatsoever. It is a tax. It is an 80 percent overburden for a 20 percent revenue stream. That's how bad cap-and-tax is. And I believe it's the most colossal mistake—if it's done—in the history of the United States Congress.

I yield to the gentleman from Georgia.

Mr. BROUN of Georgia. I absolutely agree with you, Mr. KING. I don't believe there's been a bigger colossal failure to the American people than this proposed cap-and-tax—tax-and-cap, as I call it. It's going to be disastrous for our economy. It's going to be disastrous for everything that we believe in as a Nation.

Right now today, this government is spending too much money, it's taxing too much, as Judge CARTER was talking about. We have the highest corporate tax rate in the world, which is driving companies offshore and it's causing unemployment. We're borrowing too much. We're borrowing our children's and our grandchildren's future. They're going to live at a lower standard of living than we do today with the policies that we've seen just over the last about 120 days already today. And this cap-and-tax policy is going to make it magnified markedly.

We've got to stop the spending. We've got to stop the taxing. We've got to stop the borrowing, and we've got to put America back on track.

And what I want to say before I yield back is that the American people need to understand that the Republicans are the "party of know," k-n-o-w, because we know how to solve all these problems if we'll just be allowed to do so.

Mr. KING of Iowa. Reclaiming my time and presuming that we have a couple of minutes left.

The SPEAKER pro tempore. Two minutes.

Mr. KING of Iowa. I thank the Speaker for that acknowledgment.

We have watched this free enterprise system be subverted, and it's been subverted almost systematically and in a Machiavellian fashion and a fashion so much faster than I ever would have imagined it could have done. I've watched class envy be implemented as a political tool that pit Americans

against Americans and say to them, You don't have to worry about your car payment, your utility bill, or your rent or house payment because sooner or later, the Federal Government is going to cover that.

□ 2130

We're going to take from those who produce more, and we are going to give it to people who produce less. It's a matter of a political tool that says you are not really entitled to what you earn but you are entitled to what you claim you need.

And so this statement was made this morning by Star Parker, who is a wonderful, wonderful American citizen. She said the policy, as exists now in America, is that if somebody has something that you want, you go hire politicians to take it from them and give it to you. That's what's going on in America today, this America that was a meritocracy, an America that when my grandmother came here from Germany a little over 100 years ago, people stood on their own two feet, provided for themselves, and reached out and helped others. Where my father and his family were raised off of the coins in the cookie jar, today it's the coins of those who are working being passed over to those who don't, Mr. Speaker.

We cannot be the most successful Nation in the history of the world if we do not refurbish the pillars of American exceptionalism. If we don't reestablish the merits of our free enterprise capitalistic system, if we don't refurbish the property rights that are there, if we fail to refurbish the rights that come from God, that are conferred through our Declaration and reiterated by our Founding Fathers, that these rights come from God and that they're natural rights and it falls under natural law, if we fail to refurbish the pillars of American exceptionalism, we have seen the apex of our civilization.

The charge is on all of us. The charge is on Democrats to wake up to this fact, and the charge is on Republicans to wake America up to this fact. And I am committed to this cause, as are my colleagues here in the House of Representatives, including the judge from Texas and the doctor from Georgia.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BRALEY of Iowa (at the request of Mr. HOYER) for today on account of son's high school graduation.

Mrs. BACHMANN (at the request of Mr. BOEHNER) for today and the balance of the week on account of the passing of her father-in-law.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legis-

lative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. QUIGLEY, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. LINCOLN DIAZ-BALART of Florida, for 5 minutes, today and May 21.

Ms. FOXX, for 5 minutes, today and May 21.

Mr. WOLF, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today and May 21.

#### ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 131. An act to establish the Ronald Reagan Centennial Commission.

H.R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

#### SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 896.—An act to prevent mortgage foreclosures and enhance mortgage credit availability.

#### ADJOURNMENT

Mr. BROUN of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Thursday, May 21, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1910. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Carbofuran; Final Tolerance Revocations [EPA-HQ-OPP-2005-0162; FRL-8413-3] received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1911. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — New Drug Applications and Abbreviated New Drug Applications; Technical Amendment [Docket No.:

FDA-2009-N-0099] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1912. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — Astringent Drug Products That Produce Aluminum Acetate; Skin Protectant Drug Products for Over-the-Counter Human Use; Technical Amendment [Docket No.: FDA-1978N-0007] (Formerly Docket No.: 78N-021A) [RIN: 0910-AF42] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1913. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D2 [Docket No.: FDA-2007-F-0274] (formerly Docket No. 2007F-0355) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1914. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Silver Nitrate and Hydrogen Peroxide [Docket No.: FDA-2005-F-0505] (formerly Docket No.: 2005F-0138) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1915. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans, Reasonably Available Control Technology, Reasonably Available Control Measures and Conformity Budgets [EPA-R02-OAR-2008-0497, FRL-8905-7] received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1916. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, Hawaii, and Nevada [EPA-R09-OAR-2008-0860; FRL-8905-8] received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1917. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Bryan, Texas) [MB Docket No.: 09-34 RM-11522] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1918. A letter from the General Counsel, Fed. Energy Regulatory Comm., Federal Energy Regulatory Commission, transmitting the Commission's final rule — Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards [Docket Nos.: RM08-7-000 and RM08-7-001; Order No.: 713-A] received May 14, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1919. A letter from the Executive Vice President and Chief Financial Officer, Federal Home Loan Bank of Chicago, transmitting the 2008 management reports and statements on the system of internal controls of

the Federal Home Loan Bank of Chicago, pursuant to 31 U.S.C. 9106; to the Committee on Oversight and Government Reform.

1920. A letter from the Director, Department of Justice, National Drug Intelligence Center, transmitting the Department's report entitled, "National Gang Threat Assessment 2009 (NGTA 2009)"; to the Committee on the Judiciary.

1921. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Smith Creek at Wilmington, NC [USCG-2008-0302] (RIN: 1625-AA09) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1922. A letter from the Attorney, Coast Guard Office of Regulations and Administrative Law (CG-0943), Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD [Docket No.: USCG-2008-0154] (RIN: 1625-AA08) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1923. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Corrections; Hatteras Boat Parade and Firework Display, Trent River, New Bern, NC [Docket No.: USCG-2008-0309 (formerly USCG-2008-0046)], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1924. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; BWRC '300' Enduro; Lake Moolvalya, Parker, AZ [Docket No.: USCG-2008-0245] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1925. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; BWRC Annual Thanksgiving Regatta; Lake Moolvalya, Parker, AZ [Docket No.: USCG-2008-0246] (RIN: 1625-AA00) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1926. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Department's Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material from the Paleolithic Period through the Tang Dynasty and Monumental Sculpture and Wall Art at Least 250 Years Old, signed in Washington on January 14, 2009, pursuant to 19 U.S.C. 2602(g); to the Committee on Ways and Means.

1927. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting a report on action being taken to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Honduras Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Columbian Cultures of Honduras signed at Tegucigalpa on March 12, 2004, pursuant to 19 U.S.C. 2602(g); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SKELTON: Committee of Conference. Conference report on S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes (Rept. 111-124). Ordered to be printed.

Ms. PINGREE of Maine: Committee on Rules. House Resolution 463. Resolution providing for consideration of the conference report to accompany the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes (Rept. 111-125). Referred to the House Calendar.

Mr. ARCURI: Committee on Rules. House Resolution 464. Resolution providing for consideration of the bill (H.R. 915) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes (Rept. 111-126). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. KIRKPATRICK of Arizona (for herself and Mr. FLAKE):

H.R. 2509. A bill to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes; to the Committee on Natural Resources.

By Mrs. DAVIS of California (for herself and Mr. MCCARTHY of California):

H.R. 2510. A bill to amend the Help America Vote Act of 2002 to reimburse States for the costs incurred in establishing a program to track and confirm the receipt of voted absentee ballots in elections for Federal office and make information on the receipt of such ballots available by means of online access, and for other purposes; to the Committee on House Administration.

By Mr. EHLERS (for himself, Mr. HOLT, and Mr. HONDA):

H.R. 2511. A bill to amend the Elementary and Secondary Education Act of 1965 to require the use of science assessments in the calculation of adequate yearly progress, and for other purposes; to the Committee on Education and Labor.

By Mr. FLAKE (for himself, Mr. KIND, Mr. CAMPBELL, Mr. WALZ, Mr. HENSARLING, Mr. COOPER, Mr. KIRK, and Mr. SMITH of Washington):

H.R. 2512. A bill to amend the Congressional Budget Act of 1974 to prohibit the consideration in the House of Representatives or the Senate of measures that appropriate funds for earmarks to private, for-profit entities; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHAUER (for himself, Mr. UPTON, Mr. STUPAK, Ms. DEGETTE, Mr. BRALEY of Iowa, Ms. WASSERMAN SCHULTZ, Mr. MASSA, Mr. CLYBURN, Mr. CROWLEY, Mrs. LOWEY, and Mr. GORDON of Tennessee):

H.R. 2513. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a Food Protection Training Institute, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY of Massachusetts:

H.R. 2514. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WOOLSEY (for herself, Ms. ROYBAL-ALLARD, and Mrs. MALONEY):

H.R. 2515. A bill to amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence, sexual assault, or stalking and their effects, and to include domestic partners under the Act, and for other purposes; to the Committee on Education and Labor, and in addition to the Committees on Oversight and Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK (for himself, Mr. DENT, Mrs. BIGGERT, Mr. BOUSTANY, Mr. PLATTS, Mr. PAULSEN, Ms. GINNY BROWN-WAITE of Florida, Mr. SCHOCK, Mr. TIBERI, Mr. WILSON of South Carolina, Mr. LANCE, Ms. FOX, and Mr. REICHERT):

H.R. 2516. A bill to guarantee the rights of patients and doctors against Federal restrictions or delay in the provision of privately-funded health care; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Ms. ROSELEHTINEN, Mr. BERMAN, Mr. CAPUANO, Mr. ELLISON, Mr. ENGEL, Ms. HARMAN, Mr. HOLT, Mr. KENNEDY, Mr. LANGEVIN, Mrs. MALONEY, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCDERMOTT, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. NADLER of New York, Ms. NORTON, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHERMAN, Ms. SUTTON, Mr. TIERNEY, Ms. WASSERMAN SCHULTZ, Mr. WU, Mr. CUMMINGS, Mr. KUCINICH, Ms. VELÁZQUEZ, Mr. WAXMAN, Ms. BERKLEY, Mrs. CAPPS, Mrs. MOORE of Kansas, Mr. WEINER, Mr. CONNOLLY of Virginia, Mr. HASTINGS of Florida, Mr. PASTOR of Arizona, Mr. WELCH, Ms. WOOLSEY, Mr. MCGOVERN, Ms. ZOE LOFGREN of California, Mrs. DAVIS of California, Mr. GRIJALVA, Ms. KILPATRICK of Michigan, Mr. STARK, Mr. DINGELL, Mr. GEORGE MILLER of California, Mr. SARBANES, Mr. ROTHMAN of New Jersey, Mr. CROWLEY, Mr. WEXLER, Mr. FARR, Ms. LINDA T. SÁNCHEZ of California, Mr. CARSON of Indiana, Ms. DEGETTE, Mr. DELAHUNT, Mr. JACKSON of Illinois, Mr. MICHAUD, Mrs. LOWEY, Ms. ESHOO, Mr. GUTIERREZ, Mr. POLIS of Colorado, Mr. ACKERMAN, Mr. FILNER, Mr. CLYBURN, and Mr. QUIGLEY):

H.R. 2517. A bill to provide certain benefits to domestic partners of Federal employees;

to the Committee on Oversight and Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOREN (for himself, Mr. JORDAN of Ohio, Mr. LATHAM, Mr. DUNCAN, Mr. SOUDER, and Mr. BURTON of Indiana):

H.R. 2518. A bill to prevent undue disruption of interstate commerce by limiting civil actions brought against persons whose only role with regard to a product in the stream of commerce is as a lawful seller of the product; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Alabama (for himself and Mr. KING of New York):

H.R. 2519. A bill to amend the Internal Revenue Code of 1986 to allow the deduction of attorney-advanced expenses and court costs in contingency fee cases; to the Committee on Ways and Means.

By Mr. RYAN of Wisconsin (for himself and Mr. NUNES):

H.R. 2520. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. ELLISON, Mr. ISRAEL, Mr. WEINER, Ms. BORDALLO, Ms. HIRONO, Mr. DELAHUNT, Ms. SUTTON, Mr. RYAN of Ohio, Mr. WELCH, Ms. WOOLSEY, Mr. MCGOVERN, Ms. SCHAKOWSKY, Mr. DRIEHAUS, Mr. MCDERMOTT, Ms. BERKLEY, Mr. MASSA, Mr. COURTNEY, Mr. BLUMENAUER, Mr. FRANK of Massachusetts, Ms. MOORE of Wisconsin, Mr. VAN HOLLEN, Mr. ETHERIDGE, Mr. FATTAH, Mr. YARMUTH, Mr. LARSON of Connecticut, and Mr. FARR):

H.R. 2521. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Bank, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 2522. A bill to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District Recycling Project, and for other purposes; to the Committee on Natural Resources.

By Mr. HEINRICH:

H.R. 2523. A bill to amend the Act titled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior; to the Committee on Natural Resources.

By Mr. KING of New York (for himself, Mr. PAUL, and Mr. BURTON of Indiana):

H.R. 2524. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut (for himself, Mr. PASCRELL, Mr. ADLER of New Jersey, Mr. MURPHY of Connecticut, Mr. COURTNEY, Mr. SIREs, Mr. ROTHMAN of New Jersey, Mr. LOBIONDO, Mr. HIMES, Mr. LANCE, Mr. GARRETT of New Jersey, and Mr. FRELINGHUYSEN):

H.R. 2525. A bill to require application of budget neutrality on a national basis in the calculation of the Medicare hospital wage index floor for each all-urban and rural State; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut:

H.R. 2526. A bill to amend the Internal Revenue Code of 1986 to increase participation in medical flexible spending arrangements; to the Committee on Ways and Means.

By Ms. MARKEY of Colorado:

H.R. 2527. A bill to provide authority for certain debt refinancing with respect to financings approved under title V of the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business.

By Mr. MEEK of Florida:

H.R. 2528. A bill to amend the Internal Revenue Code of 1986 to extend the credit period for certain open-loop biomass facilities; to the Committee on Ways and Means.

By Mr. GARY G. MILLER of California (for himself and Mr. DONNELLY of Indiana):

H.R. 2529. A bill to amend the Federal Deposit Insurance Act to authorize depository institutions and depository institution holding companies to lease foreclosed property held by such institutions and companies for up to 5 years, and for other purposes; to the Committee on Financial Services.

By Mr. NADLER of New York:

H.R. 2530. A bill to authorize the Secretary of Transportation to make capital grants for certain freight rail economic development projects; to the Committee on Transportation and Infrastructure.

By Mrs. NAPOLITANO (for herself, Ms. DEGETTE, Mr. TIM MURPHY of Pennsylvania, Mr. FRANK of Massachusetts, Ms. BORDALLO, Ms. ROYBAL-ALLARD, Mr. COSTELLO, Mrs. BONO MACK, Mr. BISHOP of Georgia, Mr. KENNEDY, Mr. SERRANO, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BALDWIN, Mr. OLVER, Mr. BACA, Mr. MCGOVERN, Mrs. CHRISTENSEN, Mr. RODRIGUEZ, Mr. GENE GREEN of Texas, Mr. SESTAK, and Mrs. CAPPS):

H.R. 2531. A bill to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs; to the Committee on Energy and Commerce.

By Mr. PAUL:

H.R. 2532. A bill to amend the Housing and Community Development Act of 1974 to increase the limitation on the amount of community development block grant assistance that may be used to provide public services; to the Committee on Financial Services.

By Mr. PAUL (for himself and Mr. BARTLETT):

H.R. 2533. A bill to provide that human life shall be deemed to exist from conception, and for other purposes; to the Committee on the Judiciary.

By Mr. TANNER:

H.R. 2534. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELCH:

H.R. 2535. A bill to establish a Blueprint for Health in order to create a comprehensive system of care incorporating medical homes to improve the delivery and affordability of health care through disease prevention, health promotion, and education about and better management of chronic conditions; to the Committee on Energy and Commerce.

By Mr. WEXLER (for himself, Mr. SEN-SENRENNER, Mrs. LOWEY, Mr. BILBRAY, and Mr. COHEN):

H.R. 2536. A bill to provide relief for the shortage of nurses in the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAIRD (for himself and Mr. ROHRABACHER):

H.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States to temporarily fill mass vacancies in the House of Representatives and the Senate and to preserve the right of the people to elect their Representatives and Senators in Congress; to the Committee on the Judiciary.

By Mr. ROHRABACHER (for himself and Mr. BAIRD):

H.J. Res. 53. A joint resolution proposing an amendment to the Constitution of the United States relating to Congressional succession; to the Committee on the Judiciary.

By Mr. DICKS:

H. Con. Res. 129. Concurrent resolution congratulating the Sailors of the United States Submarine Force upon the completion of 1,000 Ohio-class ballistic missile submarine (SSBN) deterrent patrols; to the Committee on Armed Services.

By Mr. LANCE (for himself, Mr. CONNOLLY of Virginia, Mr. EHLERS, Mr. BURTON of Indiana, Mr. FLEMING, Ms. JENKINS, Mr. BOOZMAN, Mr. ROONEY, Mr. LAMBORN, Mrs. BIGGERT, Mr. SIMPSON, Mr. KING of New York, and Mrs. CAPITO):

H. Con. Res. 130. Concurrent resolution expressing support for the current standards of the Federal mortgage interest tax deduction; to the Committee on Ways and Means.

By Mr. DANIEL E. LUNGREN of California:

H. Con. Res. 131. Concurrent resolution directing the Architect of the Capitol to engrave the Pledge of Allegiance to the Flag and the National Motto of "In God We Trust" in the Capitol Visitor Center; to the Committee on House Administration.

By Mr. TIAHRT (for himself, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Ms. ROS-LEHTINEN, Mr. SIREs, Mr. BURTON of Indiana, Mr. MACK, Mr. SHULER, and Ms. WASSERMAN SCHULTZ):

H. Con. Res. 132. Concurrent resolution expressing the sense of Congress that with respect to the totalitarian government of



Cuba, the United States should pursue a policy that insists upon freedom, democracy, and human rights, including the release of all political prisoners, the legalization of political parties, free speech and a free press, and supervised elections, before increasing United States trade and tourism to Cuba; to the Committee on Foreign Affairs.

By Mr. BURTON of Indiana:

H. Res. 460. A resolution providing for consideration of the bill (H.R. 2194) to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran; to the Committee on Rules.

By Mr. MCNERNEY:

H. Res. 461. A resolution honoring Sentinels of Freedom and commending the dedication, commitment, and extraordinary work of the organization; to the Committee on Veterans' Affairs.

By Mr. LATOURETTE (for himself, Mr. McCOTTER, Mr. GOHMERT, Mr. TIBERI, Mr. BURTON of Indiana, Mr. THOMPSON of Pennsylvania, Mrs. LUMMIS, Mrs. CAPITO, and Mr. ROSKAM):

H. Res. 462. A resolution requesting that the President transmit to the House of Representatives all information in his possession relating to specific communications with Chrysler LLC ("Chrysler"); to the Committee on Energy and Commerce.

By Mr. BROWN of South Carolina:

H. Res. 465. A resolution recognizing the Atlantic Intracoastal Waterway Association on the occasion of its 10th anniversary, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HONDA (for himself, Mr. DENT, Mr. CAO, Mr. TOWNS, Mr. MCDERMOTT, Mr. MEEKS of New York, Ms. BORDALLO, Mr. FALOMAVAEGA, Mr. WU, Ms. SPEIER, Mr. AL GREEN of Texas, Mr. BROUN of Georgia, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. WEXLER, Mr. BACA, Mr. CASSIDY, Ms. LEE of California, Mr. CROWLEY, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, Mr. GERLACH, Mrs. MALONEY, Mr. MORAN of Virginia, Mr. KENNEDY, Mr. RANGEL, Mr. BISHOP of New York, Mr. BECERRA, Mr. SABLON, and Ms. RICHARDSON):

H. Res. 466. A resolution recognizing World Hepatitis Awareness Month and World Hepatitis Day May 19, 2009; to the Committee on Energy and Commerce, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATTA:

H. Res. 467. A resolution honoring and Commending Alissa Czisny for winning the 2009 United States Figure Skating Championship; to the Committee on Oversight and Government Reform.

By Mr. SIRE:

H. Res. 468. A resolution supporting the designation of National Tourette Syndrome Day; to the Committee on Energy and Commerce.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. PETRI, Mr. LUJÁN, Mr. CARTER, Mr. DEFAZIO, and Mr. LATTA.

H.R. 108: Mr. LATHAM.

H.R. 116: Mr. COHEN.

H.R. 179: Mr. KENNEDY.

H.R. 235: Mrs. CAPITO and Mr. SCHAUER.

H.R. 303: Mr. DAVIS of Tennessee and Ms. KOSMAS.

H.R. 333: Mr. CALVERT, Mr. ROGERS of Alabama, Mr. DELAHUNT, Mr. HEINRICH, and Ms. KOSMAS.

H.R. 389: Mr. AL GREEN of Texas.

H.R. 391: Mr. BARTON of Texas and Mr. FLEMING.

H.R. 394: Mr. BISHOP of Utah.

H.R. 463: Mr. LEWIS of Georgia and Mr. SMITH of Washington.

H.R. 504: Mr. CARNAHAN.

H.R. 510: Mr. GUTHRIE.

H.R. 560: Mr. KRATOVIL.

H.R. 574: Mr. DRIEHAUS.

H.R. 621: Mr. WALDEN, Mrs. CAPITO, Mr. NEAL of Massachusetts, Mr. ARCURI, Mr. SHULER, Mr. HINOJOSA, Mr. LIPINSKI, and Mr. KING of New York.

H.R. 655: Ms. BALDWIN.

H.R. 676: Ms. NORTON and Ms. ZOE LOFGREN of California.

H.R. 678: Mr. LIPINSKI.

H.R. 716: Mr. LATHAM and Mr. BRADY of Pennsylvania.

H.R. 745: Mr. GONZALEZ and Mr. ADLER of New Jersey.

H.R. 775: Mr. MARIO DIAZ-BALART of Florida, Mr. BILBRAY, Mr. CARSON of Indiana, Mr. PALLONE, Mr. SCHIFF, Mr. ROE of Tennessee, and Mr. TIERNNEY.

H.R. 782: Mr. NEUGEBAUER.

H.R. 804: Mr. POSEY.

H.R. 824: Ms. EDWARDS of Maryland.

H.R. 840: Ms. WOOLSEY, Mr. SCHIFF, and Mr. COHEN.

H.R. 847: Mr. GARRETT of New Jersey.

H.R. 873: Mrs. DAVIS of California and Mr. CARNEY.

H.R. 874: Mr. CLYBURN, Mr. LOEBSACK, and Mr. LEVIN.

H.R. 879: Mr. PLATTS.

H.R. 904: Ms. ESHOO.

H.R. 916: Mr. HEINRICH.

H.R. 958: Mr. HASTINGS of Florida, Mr. WESTMORELAND, Mr. RUSH, Mrs. EMERSON, Mr. ELLSWORTH, Mr. KILDEE, Mr. SHULER, Mr. DAVIS of Tennessee, Mr. HIGGINS, Mr. SCOTT of Georgia, Mr. SIRE, Mr. KAGEN, and Mr. ANDREWS.

H.R. 959: Mr. CONNOLLY of Virginia and Ms. TITUS.

H.R. 980: Mr. THOMPSON of California, Mr. NEAL of Massachusetts, Ms. HARMAN, Ms. LINDA T. SANCHEZ of California, Mr. KENNEDY, Mr. COHEN, Mr. GARRETT of New Jersey, and Ms. ROYBAL-ALLARD.

H.R. 1016: Mr. GALLEGLY and Mr. DELAHUNT.

H.R. 1020: Mr. FRANK of Massachusetts, Mr. THOMPSON of Mississippi, Mr. KUCINICH, Mr. HODES, Ms. SCHWARTZ, and Mr. HARE.

H.R. 1032: Mr. PATRICK J. MURPHY of Pennsylvania, Ms. JENKINS, Mr. CAO, Mr. MORAN of Virginia, and Mr. BOSWELL.

H.R. 1064: Mr. JONES.

H.R. 1074: Mr. MILLER of Florida, Mr. ROONEY, and Mr. CALVERT.

H.R. 1079: Mr. WELCH and Mr. PRICE of North Carolina.

H.R. 1085: Mr. TERRY.

H.R. 1126: Mr. SCHIFF.

H.R. 1142: Mr. WITTMAN.

H.R. 1189: Mr. MORAN of Kansas.

H.R. 1190: Mr. MCINTYRE.

H.R. 1193: Mr. PLATTS.

H.R. 1201: Mr. WELCH and Mr. FOSTER.

H.R. 1207: Mr. PASTOR of Arizona, Ms. GINNY BROWN-WAITE of Florida, Mr. ALTMIRE, Mr. LATTA, Mr. REICHERT, Mr. ROGERS of Michigan, Mr. BERRY, Mr. SCHAUER, Mr. SCALISE, and Mr. FORBES.

H.R. 1213: Mr. GUTHRIE.

H.R. 1316: Mr. NUNES.

H.R. 1321: Ms. ZOE LOFGREN of California.

H.R. 1335: Mr. SPACE, Mr. MCNERNEY, Mr. HALL of New York, Mr. COSTELLO, Mr. AL GREEN of Texas, and Mr. CARNAHAN.

H.R. 1362: Mr. KENNEDY and Mr. KLEIN of Florida.

H.R. 1410: Mr. LANCE, Mr. LATHAM, Ms. CORRINE BROWN of Florida, Mr. PLATTS, and Mr. DRIEHAUS.

H.R. 1427: Mr. LINDER.

H.R. 1454: Mr. MARIO DIAZ-BALART of Florida, Mrs. LUMMIS, Mr. FORBES, Mr. KLINE of Minnesota, Mr. COLE, Mr. BARTLETT, Mr. BROUN of Georgia, and Mr. THOMPSON of Pennsylvania.

H.R. 1470: Mr. MARSHALL.

H.R. 1509: Mr. SIMPSON.

H.R. 1521: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. ORTIZ.

H.R. 1523: Mr. ELLISON, Mr. DAVIS of Illinois, and Ms. DELAUNO.

H.R. 1526: Ms. GIFFORDS, Ms. LINDA T. SANCHEZ of California, and Mrs. CHRISTENSEN.

H.R. 1548: Mr. MURTHA, Mr. CAO, and Mr. KRATOVIL.

H.R. 1552: Mr. SIMPSON and Mr. KISSELL.

H.R. 1557: Mr. FOSTER.

H.R. 1615: Mr. LATHAM.

H.R. 1625: Mr. KIND and Mr. DEFAZIO.

H.R. 1646: Mr. KILDEE, Mr. ROTHMAN of New Jersey, Ms. NORTON, Mr. LEWIS of Georgia, and Mr. MARSHALL.

H.R. 1677: Mr. DICKS.

H.R. 1684: Mr. CALVERT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MACK, and Mr. GINGREY of Georgia.

H.R. 1708: Mr. KLEIN of Florida.

H.R. 1735: Mr. MCINTYRE.

H.R. 1740: Mr. INSLEE, Mr. CALVERT, and Mr. QUIGLEY.

H.R. 1741: Mr. POE of Texas.

H.R. 1751: Mr. MAFFEI, Mr. MEEKS of New York, Mr. ROTHMAN of New Jersey, and Mrs. LOWEY.

H.R. 1763: Mr. MANZULLO.

H.R. 1799: Mr. SMITH of Texas.

H.R. 1802: Mr. WILSON of South Carolina, Mr. CONAWAY, Mr. SCALISE, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1826: Mr. MCDERMOTT and Mr. DELAHUNT.

H.R. 1844: Mr. GORDON of Tennessee.

H.R. 1895: Mr. FILNER.

H.R. 1903: Mr. SIMPSON, Mrs. MYRICK, Mr. KLINE of Minnesota, Mr. BOOZMAN, Mrs. BACHMANN, Mr. SENSENBRENNER, Mr. CULBERSON, and Mr. TERRY.

H.R. 1904: Mr. ROYCE and Mr. KAGEN.

H.R. 1927: Mr. SMITH of New Jersey and Mr. PRICE of North Carolina.

H.R. 1932: Mr. MICHAUD.

H.R. 2002: Mr. KILDEE and Mr. LANGEVIN.

H.R. 2006: Mr. SARBANES and Ms. EDWARDS of Maryland.

H.R. 2009: Mr. MCKEON, Mr. FRANKS of Arizona, Mr. POSEY, Mr. BRADY of Texas, Mr. LUCAS, Mr. SHADEGG, and Mr. MARCHANT.

H.R. 2014: Mr. GENE GREEN of Texas, Mr. PASTOR of Arizona, Mr. AL GREEN of Texas, Mr. BAIRD, Mr. DELAHUNT, and Mr. RANGEL.

H.R. 2030: Mr. McCOTTER and Ms. SCHKOWSKY.

H.R. 2035: Mr. WAMP.

H.R. 2054: Mr. CARNAHAN, Mr. KRATOVIL, Mr. ROTHMAN of New Jersey, Ms. MCCOLLUM, Mr. FARR, Mrs. DAVIS of California, and Mr. HODES.

H.R. 2055: Ms. HIRONO and Mr. YOUNG of Alaska.

H.R. 2061: Mr. MILLER of Florida, Mr. BARTLETT, and Mr. SAM JOHNSON of Texas.

H.R. 2067: Mr. AL GREEN of Texas.  
 H.R. 2071: Mr. MEEKS of New York.  
 H.R. 2095: Mr. CLAY.  
 H.R. 2102: Mr. HARE.  
 H.R. 2103: Mr. PASTOR of Arizona.  
 H.R. 2106: Mr. BOOZMAN.  
 H.R. 2132: Mr. WEXLER.  
 H.R. 2152: Ms. BERKLEY.  
 H.R. 2161: Ms. DELAURO and Ms. SCHWARTZ.  
 H.R. 2189: Mr. ROHRABACHER, Mr. BOREN, Mr. BARTLETT, Mr. CRENSHAW, Ms. FOXX, Mr. HILL, Mrs. MYRICK, Mr. TAYLOR, Mr. BOOZMAN, Mr. BURTON of Indiana, Mr. HARPER, Mr. HOEKSTRA, and Mr. PAUL.  
 H.R. 2193: Mr. WITTMAN, Mr. HERGER, Mr. BARTLETT, Mr. AKIN, Mr. DANIEL E. LUNGREN of California, Mr. RYAN of Wisconsin, Mr. ISSA, Mr. LAMBORN, Mr. LUETKEMEYER, Mr. CANTOR, Mr. FORBES, Mr. OLSON, Mr. KLINE of Minnesota, Mr. GOHMERT, Mr. LEE of New York, and Mr. FLEMING.  
 H.R. 2194: Mr. ROE of Tennessee, Mr. MELANCON, Mr. MCHENRY, Mr. HEINRICH, Mr. OLSON, Mr. BOOZMAN, Mr. CANTOR, Mrs. KIRKPATRICK of Arizona, Mr. COHEN, Mr. VAN HOLLEN, Mr. SPACE, Mr. GUTHRIE, Mr. LUCAS, Mr. LIPINSKI, Mr. MICHAUD, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. ROGERS of Alabama, Mr. FLEMING, Mr. NEUGEBAUER, Mr. LEVIN, Mr. BOSWELL, and Mr. SAM JOHNSON of Texas.  
 H.R. 2248: Mr. CARNAHAN and Mr. GORDON of Tennessee.  
 H.R. 2251: Mr. PATRICK J. MURPHY of Pennsylvania, Mr. MARIO DIAZ-BALART of Florida, and Mrs. LOWEY.  
 H.R. 2254: Mr. MCHUGH, Mr. GORDON of Tennessee, Mr. BRIGHT, and Mr. BOSWELL.  
 H.R. 2272: Mr. LOEBSACK.  
 H.R. 2294: Mr. BARTON of Texas, Mr. FRELINGHUYSEN, Mr. LATOURETTE, Mr. GARRETT of New Jersey, Mr. CAMPBELL, Mr. STEARNS, Mr. SHIMKUS, Mr. CASSIDY, Mr. REICHERT, Mr. PRICE of Georgia, Mrs. MYRICK, Mrs. BLACKBURN, and Mr. WALDEN.  
 H.R. 2304: Mr. MCGOVERN, Mr. GINGREY of Georgia, and Mrs. CAPITO.

H.R. 2313: Mr. HONDA and Mr. PAULSEN.  
 H.R. 2319: Ms. BALDWIN.  
 H.R. 2329: Mr. HASTINGS of Florida, Mr. BUTTERFIELD, and Ms. HIRONO.  
 H.R. 2350: Mr. SESTAK, Mr. SPRATT, Mr. PAYNE, and Mr. BOUCHER.  
 H.R. 2360: Mr. SCHAUER, Mr. LIPINSKI, Mr. PAULSEN, Ms. SHEA-PORTER, and Mr. DAVIS of Alabama.  
 H.R. 2366: Mr. ISRAEL.  
 H.R. 2368: Mrs. CAPPS.  
 H.R. 2378: Mr. HUNTER, Mr. LIPINSKI, Mr. MCCOTTER, Mr. MCHENRY, Mr. BERRY, Mr. INGLIS, Mr. KISSELL, Mr. HOEKSTRA, Mr. BISHOP of Utah, and Mr. CARNEY.  
 H.R. 2415: Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 2416: Mr. RODRIGUEZ and Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 2422: Mr. GONZALEZ, Mr. GENE GREEN of Texas, Mr. AL GREEN of Texas, Mr. POE of Texas, Mr. HALL of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THORNBERRY, Mr. DOGGETT, and Mr. ORTIZ.  
 H.R. 2427: Ms. SLAUGHTER.  
 H.R. 2452: Ms. FUDGE and Mr. HERGER.  
 H.R. 2456: Mr. SCHIFF and Mr. GUTIERREZ.  
 H.R. 2458: Mr. CHAFFETZ and Mr. FORBES.  
 H.R. 2468: Mr. ROYCE.  
 H.R. 2474: Mrs. DAVIS of California, Mr. WAXMAN, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Mr. HONDA, Mr. SCHIFF, Mrs. CAPPS, Mr. FARR, Mrs. TAUSCHER, Mr. CARDOZA, Ms. ESHOO, Mr. FILNER, Mr. BERMAN, and Mr. SHERMAN.  
 H.R. 2499: Mr. CUMMINGS, Mr. MCCOTTER, and Mr. CONAWAY.  
 H.J. Res. 47: Mr. MCINTYRE and Mr. LOBONDO.  
 H. Con. Res. 59: Mr. WOLF and Mr. MCGOVERN.  
 H. Con. Res. 105: Mr. BOUSTANY.  
 H. Con. Res. 109: Mr. GENE GREEN of Texas, Mrs. MYRICK, Mr. GRAYSON, Ms. KOSMAS, Mr. KISSEL, Mr. PASCRELL, Mr. SPRATT, Mr. WOLF, Mr. VAN HOLLEN, Mr. MINNICK, Ms. BALDWIN, Mr. DRIEHAUS, and Mr. HILL.

H. Res. 16: Mr. MCCOTTER.  
 H. Res. 111: Mr. BARTLETT, Mr. RUSH, Ms. BALDWIN, Ms. SHEA-PORTER, Mrs. DAHLKEMPER, and Ms. EDWARDS of Maryland.  
 H. Res. 156: Mr. DUNCAN and Mrs. BLACKBURN.  
 H. Res. 209: Mr. HOLT, Mrs. MCCARTHY of New York, Mr. SCHIFF and Mr. VAN HOLLEN.  
 H. Res. 225: Mr. SAM JOHNSON of Texas, Mr. WILSON of South Carolina, Mr. HARPER, Mr. BOUSTANY, Mr. JONES, Mr. SENSENBRENNER, and Mr. ADERHOLT.  
 H. Res. 236: Mr. SCHIFF and Mr. VAN HOLLEN.  
 H. Res. 259: Mrs. DAHLKEMPER.  
 H. Res. 260: Mr. ALTMIRE, Mr. TEAGUE, Ms. BERKLEY, Ms. TITUS, Mr. JOHNSON of Georgia, Ms. MARKEY of Colorado, and Mr. COURTNEY.  
 H. Res. 291: Mr. PAYNE, Mr. SHERMAN, Mr. MEEKS of New York, Ms. WATSON, and Ms. JACKSON-LEE of Texas.  
 H. Res. 366: Mr. SMITH of Texas, Mr. GINGREY of Georgia, Ms. ROS-LEHTINEN, Mr. FILNER, Mr. BISHOP of Georgia, Ms. JACKSON-LEE of Texas, Mr. MELANCON, and Mr. OLVER.  
 H. Res. 373: Mr. GARRETT of New Jersey, and Mrs. MCMORRIS RODGERS.  
 H. Res. 389: Mr. SESTAK.  
 H. Res. 395: Mr. INSLEE.  
 H. Res. 397: Mr. LIPINSKI and Mr. BARTLETT.  
 H. Res. 408: Mr. ROONEY and Mr. SHUSTER.  
 H. Res. 412: Mr. GONZALEZ.  
 H. Res. 420: Mr. ROSKAM, Ms. FOXX, Ms. GRANGER, Mr. CONAWAY, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. PRICE of Georgia, Mr. COFFMAN of Colorado, Mr. JORDAN of Ohio, Mr. TEAGUE, and Mr. YOUNG of Florida.  
 H. Res. 429: Mr. FLEMING, Mr. ROSS, Mr. ALEXANDER, Ms. BALDWIN, Mr. BRIGHT, and Mr. DUNCAN.  
 H. Res. 430: Mr. WEINER.  
 H. Res. 437: Mr. GUTHRIE.  
 H. Res. 440: Mr. QUIGLEY.  
 H. Res. 443: Mr. CARNAHAN.

## EXTENSIONS OF REMARKS

HONORING GREG PRESTEMON,  
PRESIDENT AND CEO OF THE  
ECONOMIC DEVELOPMENT CEN-  
TER OF ST. CHARLES COUNTY,  
MISSOURI

### HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. AKIN. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn and our economy will emerge stronger than ever. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17–23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurial by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Mr. Greg Prestemon for his tremendous accomplishments on behalf of small businesses. Mr. Prestemon has led the St. Charles Economic Development Center (EDC) for 15 years, helping spur the county's rapid population and economic growth during his tenure. Since he assumed the top post at the EDC, St. Charles County has grown by almost 120,000 residents and total valuation assessment has risen from less than \$2 billion to \$7.2 billion in 2007. For his efforts, Mr. Prestemon was named as the 2008 Non-Profit

Executive of the Year by St. Charles Business Magazine.

This month, the SBA named the St. Charles EDC as its 504 Lender of the Year after the organization disbursed more than \$22.5 million to 37 businesses throughout the region in 2008, valuable assistance that helped create or retain over 1,000 jobs. He holds a bachelor's degree in political science from Iowa State University and a master's degree in economic development from the University of Iowa.

Madam Speaker, Mr. Prestemon has exemplified the remarkable accomplishments of which America's entrepreneurs are capable. This week, he will testify before the House Small Business Committee to share his story. I ask that you and the entire U.S. House of Representatives join with me in honoring him for the extraordinary work he has done for the small business economy. His efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economic from the current downturn and put us on the road to recovery.

### IN HONOR OF TED HENRY

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor of Ted Henry upon the occasion of his retirement from WEWS-TV. Ted is retiring after 38 years of service to the Greater Cleveland Community.

Ted Henry, a household name in the Greater Cleveland Area, began his successful career in broadcasting in 1964 at a local radio station in his hometown of Canton, Ohio. He then became a news reporter at WAKR-TV23 in Akron and later at WKBN-TV in Youngstown, Ohio. He joined WEWS-TV in 1972, where he began as a news producer and later as a weekend anchor. In 1975, Ted was named weekday anchor of the 6:00 pm and 11:00 pm news, a position he has held until his retirement on May 20, 2009. Since his first year as weekday anchor, he has covered nearly every political convention and has traveled all over the world to cover a multitude of historical events, including John Demjanjuk's war crimes trial in Israel, the fall of Berlin Wall and the death of Pope John Paul II in Rome. Additionally, his riveting news coverage on political turmoil in Peru was the first time a live international feed was broadcast in Cleveland.

Ted's ability to humanize the people he covered all over the world has earned him national recognition. He has won five local TV Emmy Awards during his tenure at WEWS and won numerous national awards for a documentary he produced and reported in, "Finding Aliza," a documentary about two holocaust

survivors from Auschwitz who were reunited by the International Red Cross. Ted's 38 year career as the weekday anchor for WEWS-TV was the fulfillment of his childhood dream and has undoubtedly inspired Cleveland's next great reporters.

Madam Speaker and colleagues, please join me in honor of Ted Henry as he retires from a 38 year career at WEWS-TV, and in recognition of his talent, innovation and tireless service to the Greater Cleveland Community.

TRIBUTE TO DR. ANGELIA MARIE  
ROBERTS-WATKINS, ED.D OF CHI-  
CAGO, ILLINOIS

### HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. RUSH. Madam Speaker, I rise today to pay tribute to and recognize Dr. Angelia Marie Roberts-Watkins on the occasion of being awarded the Doctorate in Education from the Chicago State University. This degree is particularly noteworthy in that the Educational Leadership Doctoral program at Chicago State is a newly created program and as such Dr. Roberts-Watkins holds the distinction of being the first recipient of a Doctoral degree in the 142-year-old history of this academic institution.

An authority in middle school philosophy, Dr. Roberts-Watkins' dissertation was entitled "Crossroads to the Middle School Movement: Are Teachers In Step with the Tenets and Practices of the National Middle School Association?" She is a former middle school teacher and served as Middle School Manager for the Chicago Public School system. Dr. Roberts-Watkins has also worked as a Teacher-In-Residence on an U.S. Department of Education Middle School Teacher Quality Enhancement (MSTQE) grant program and has presented at national conferences on middle level education.

A 1981 graduate of Mundelein College, Dr. Roberts-Watkins also holds an M.Ed in Educational Administration and a M.S. in Criminal Justice and Corrections from Chicago State University. She is a Visiting Lecturer at Northwestern Illinois University and an Administrator at Illinois State University.

Madam Speaker, I am grateful to have known this outstanding Educator for nearly two decades and I want to encourage Dr. Angelia Marie Roberts-Watkins to continue demonstrating the passion, perception and power necessary to allow this nation's citizens, both young and old, to meet the demanding needs of a global society.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING THE MEMORY OF  
CHARLES WILLIAM HARBEN

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BONNER. Madam Speaker, the city of Saraland, Alabama, and all of southwest Alabama recently lost a dear friend, and I rise today to honor Charles William Harben and pay tribute to his memory.

Known to his many friends as Charlie, he was a native of Leeds and was raised in Chickasaw, Alabama. He served the city of Saraland in public office for almost three decades, 12 years as mayor and 17 as city councilman. In 2008, he ran unopposed in the municipal election.

Mayor Harben was known as a fiscal conservative. Economic development was one of his top priorities, and he was instrumental in attracting business to Saraland, including the city's largest, Wal-Mart.

Mayor Harben also worked for the Illinois Central Gulf Railroad as a secretary, accountant, and an internal auditor, before retiring after 48 years of service.

Madam Speaker, I ask my colleagues to join me in remembering a beloved friend to many throughout southwest Alabama. Charles William Harben will be dearly missed by his family—his wife of 57 years, Pauline; their son, Charles William Jr.; their grandchildren, Christian, Candice, and Jon; his great-granddaughter, Hayzlynn; and his brother, Johnny—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all during this difficult time.

DAVIS FAMILY OF TELlico  
PLAINS, TENNESSEE

**HON. JOHN J. DUNCAN, JR.**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. DUNCAN. Madam Speaker, there is perhaps no greater sacrifice an American can make than serving their Country during a time of war, and no one can say the Davis family of Tellico Plains, Tennessee has not answered this call. It is a tradition which spans over ninety years.

Private Hedrick Davis enlisted in the Army's Black Cat Division during World War I. After returning home, he bought a farm, married, and had five sons, who would all go on to answer that same call to service.

Four of the Davis sons—Leonard, Dillard, Clarence, and Guy—joined the Armed Forces as soon as World War II began. All the brothers would fight for their Country and despite the tremendous loss of life in this great campaign, all would remarkably live to tell their tales.

Dillard's story is one that took over fifty years to confirm. While on board the Belgian Troop ship the Leopoldville crossing the English Channel on Christmas Eve, a German Submarine attacked, sinking the boat with a

torpedo. In a series of calamities following the strike and a botched rescue, 763 American soldiers died. Dillard managed to survive and tell the tale that the United States and Great Britain did not admit until the 1990s.

The fifth Davis brother—Rex—was only sixteen-years-old when World War II ended. But he would not be spared from his family's calling. When the Korean conflict escalated into a full-blown war, Rex Davis answered the call. His tale was one of Hollywood legend—literally.

While training at Fort Benning, GA, movie stars Dean Martin and Jerry Lewis filmed the movie "Jumping Jack" on base, using Rex and his fellow soldiers as extras. Later, while serving in Korea, another movie star—Patricia Neal—came to entertain the troops. She asked on stage if anyone was from Knoxville and Rex jumped right up, getting his photo taken on stage with Ms. Neal. It is a cherished photograph that in 2003 brought Ms. Neal to tears in Knoxville when she was unexpectedly reunited with Rex.

In his Knoxville home, Rex Davis has files of records documenting the service of his father and four brothers, who together fought and survived three wars. Rex went on to serve on the Knoxville City Council, and he is known to tell a great story. I hope this story is told many times.

Madam Speaker, in closing, I would like to call the remarkable service of Private Hedrick Davis, Master Sgt. Leonard Davis, Staff Sgt. Dillard Davis, Cpl. Clarence Davis, Pfc. Guy Davis, and Cpl. Rex Davis to the attention of my colleagues and other readers of the RECORD.

A TRIBUTE TO DR. JAMES R.  
RECKNER

**HON. RANDY NEUGEBAUER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. NEUGEBAUER. Madam Speaker, I would like to take this time to recognize Dr. James R. Reckner for his dedication to the Vietnam Center and Archive at Texas Tech University. Dr. Reckner retired from Texas Tech University at the end of 2008 after 20 years of service as a professor of history, founding director of the Vietnam Center and Archive, and Executive Director of Texas Tech's new Institute for Modern Conflict, Diplomacy and Reconciliation, which now oversees the Vietnam Center and Archive.

A retired Naval officer and a veteran of the Vietnam War, Dr. Reckner received his Ph.D. from the University of Auckland in New Zealand. He joined the faculty at Texas Tech in September of 1988 and shortly after founded the Vietnam Center and Archive. From 1991 to 1992, Dr. Reckner held the Secretary of the Navy's Research Chair in Naval History and has served as a member of the Secretary's Advisory Subcommittee on Naval History since 1998.

As founder and director of the Vietnam Center and Archive, Dr. Reckner oversaw 20 years of development and growth including the acquisition of many unique and historic collec-

tions that have helped us better understand the experience and course of the Vietnam War. As a result of his leadership, the Center has become the foremost Vietnam-related research, archival and reconciliation institution in the United States.

During his years in the United States Navy, Dr. Reckner received the Bronze Star Medal with Combat "V", the Navy Commendation Medal with Combat "V", the Meritorious Service Medal and the Vietnamese Cross of Gallantry.

For his work in academia, Dr. Reckner also received the Gold Key National Honor Society Teaching Award in 1991, the President's Outstanding Leadership Award in 1996 and the Faculty Distinguished Leadership Award in 2004, among others. Not only is he an inspiring educator and skilled researcher, but he is an accomplished author as well with several published writings on naval and military history. In 1989, he received the Theodore & Franklin D. Roosevelt Annual Naval History Award for his historical biography entitled Teddy Roosevelt's Great White Fleet.

I am enormously appreciative to Dr. Reckner for his contributions to the Texas Tech community, veterans of the Vietnam War and their families, and for his efforts to foster reconciliation between Vietnam and the United States. Those in District 19, including me, thank him for a job well-done and extend to him our best wishes for his future endeavors.

HONORING KAREN FONTENOT

**HON. CHARLES W. BOUSTANY, JR.**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BOUSTANY. Madam Speaker, I rise today to honor Karen Fontenot, of Duson, Louisiana, who has dedicated her life to helping veterans throughout Southwest Louisiana.

She answered her country's call during the Vietnam Conflict, serving as a nurse in the Philippines.

It was while trying to help move and carry male patients twice her size that Karen first injured her back. It was an injury which left her permanently disabled, unable to walk without the assistance of a cane, and in constant pain. Karen's caring and tender nature was injured, perhaps more severely than her physical being. She suffered with every young man she saw torn apart by the horrors of war.

Upon returning to her family and domestic life in Southwest Louisiana, Karen remained true to her fellow veterans. In an area which lacked Memorial Day and Veterans' Day ceremonies, Karen led a movement to establish those events. She was aided by some fellow veterans, but the brunt of the effort fell on her. For more than a decade, Karen has organized ceremonies to honor those she served alongside as well as those who came before and after her.

When the Iraq War led to the deaths of several local, young men, Karen added a special tribute to the Gold Star Mothers. These families led by the mothers who have lost their child gather with dozens of other veterans and their families to pay tribute to those who have died and those who live.

In addition to the beautiful ceremony, Karen invites all of those attending to a catered lunch at the local Armory. Each of the Gold Star Mothers receives special gifts, and those who have made special contributions are recognized and receive a tribute.

Karen Fontenot broke her back to care for young men injured and killed in the Vietnam conflict and returned home with the intent that all men and women who have sacrificed for their country will be remembered. If it is up to her, none of their sacrifices will be forgotten or overlooked. Karen Fontenot is a patron saint of veterans.

Madam Speaker, I ask that my colleagues join me in honoring Karen for her achievements and dedication to our nation's veterans.

#### INTRODUCTION OF THE ABSENTEE BALLOT TRACK, RECEIVE, AND CONFIRM (TRAC) ACT

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mrs. DAVIS of California. Madam Speaker, I rise today to introduce The Absentee Ballot Track, Receive and Confirm (TRAC) Act—a bill to assist states in establishing absentee ballot tracking systems.

Many voters worry that they cannot determine whether their absentee ballots were actually sent out, received and counted.

In most cases, the fears of one's mail-in ballot somehow being lost in the system are unfounded—but we all know the concern is still there. Our nation's voters deserve electoral procedures that are transparent and which strengthen their faith in democracy.

Sometimes there is reason for concern. I have heard from people who simply did not receive a ballot they requested. There are various reasons for this from clerical errors to confusion over addresses.

Other times, a problem occurs when an absentee ballot is rejected because a voter's signature has changed over time and the voter never knows the difference.

The good news is that it is possible and practical to track mail ballots.

Many elections offices are already tracking ballots with great success. In fact, in California it is law that all counties establish absentee ballot tracking systems and the systems are quite popular with voters and elections officials.

In my home of San Diego County, CA, our registrar's online voter registration/absentee look-up feature received 98,000 hits before the 2008 November election.

Quite simply, the technology exists to allow voters to easily find out whether an elections office has sent out a ballot, whether a completed ballot has arrived back at the registrar's office, whether the registrar has counted the ballot, and if not, why not.

Implementing ballot tracking systems will bring voters peace of mind and reduce the burden on elections offices which are often barraged with phone calls from voters trying to determine the status of their ballots.

Moreover, the ability to check absentee status round the clock is a convenient service for

voters, especially for military and overseas voters in various time zones.

Not only is mail ballot tracking feasible and helpful, but it is also affordable.

Setting up systems at an elections office can be as simple as redesigning a website and linking it to a back-up of a current database as San Mateo County, CA discovered when they created a tracking system for just \$2000.

Absentee tracking could even help elections offices save money in the long run as call volumes will likely go down and the strain on elections office staff declines.

Mail ballot tracking is a win-win for voters and elections officials.

We should follow the lead of the trailblazers who are already tracking mail ballots and encourage local jurisdictions to create tracking systems.

The TRAC Act would allow the federal government to reimburse states for establishing tracking systems. However, I want to be clear that it would not require any state to set up a tracking system.

I am proud to introduce this bill along with my fellow colleague from California, Mr. MCCARTHY and I ask my colleagues on both sides of the aisle to join us in supporting this effort to strengthen the democratic process and give American voters the electoral certainty they deserve.

#### HONORING THE MEMORY OF JAMES EDWARD ARRINGTON

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BONNER. Madam Speaker, the city of Jackson, Alabama, and all of southwest Alabama recently lost a dear friend, and I rise today to honor James Edward Arrington and pay tribute to his memory.

A native of Greensboro, Mayor Arrington was a veteran of the U.S. Army during the Korean Conflict. In 1962, he moved to Jackson to build and operate Arrington Nursing Home, which later became Jackson Health Care. He was former auxiliary police chief in Jackson, former owner of A & B Trucking Company, and co-owner of Anderson Brothers Chrysler-Plymouth dealership.

For all of his achievements, James Arrington will perhaps be most remembered for serving as the mayor of Jackson for over two decades. Among the many accomplishments during his five-term administration include: funding of the new city hall building, locating Allied Paper (now Boise) to Jackson, construction of the Vanity Fair building, and construction of the northern Industrial Road bypass.

Just this past February, the Jackson City Council voted to rename City Hall the James E. Arrington City Hall Complex. Mayor Arrington was also named Jackson's Man of the Year for 1973 by the Jackson Civitan Club.

Madam Speaker, I ask my colleagues to join me in remembering a beloved friend to many throughout southwest Alabama. James Ed-

ward Arrington will be dearly missed by his family—his wife, Betty; his two sons, Ed Arrington and Greg Cotton; his two daughters, Leah Trotter and Brenda Fondren; his brother, Johnnie Arrington; his sister, Maggie Nelson; his eight grandchildren; and great-grandchild—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all during this difficult time.

#### TRIBUTE TO THE PASSAIC COUNTY COUNCIL ON ALCOHOLISM AND DRUG ABUSE PREVENTION, INC.

### HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. PASCRELL. Madam Speaker, I would like to call to your attention the work of an outstanding organization, The Passaic County Council on Alcoholism and Drug Abuse Prevention, Inc., which will celebrate its 25th Anniversary on May 25, 2009. This milestone marks a quarter century of supporting those most in need of assistance to get their lives on track, and thereby become a productive part of the greater community.

It is only fitting that The Passaic County Council on Alcoholism and Drug Abuse Prevention, Inc. be honored in this, the permanent record of the greatest democracy ever known, for all the assistance it has provided to individuals and families in the Passaic County area.

Passaic County Council on Alcoholism and Drug Abuse Prevention, Inc. was incorporated as a nonprofit prevention agency on May 25, 1984. Founded by Father Alan Savitt, a Catholic priest from the Paterson Diocese who still serves as executive director, the Council began working from a 200 square foot trailer in Clifton. After renovating an historic building on the City Hall property, the Council was granted a no cost lease from the city of Clifton and moved into its permanent home.

This facility serves the citizens of Passaic County as a Prevention Resource Center, providing prevention educational outreach services and assistance programs to those in need. Programs range from those like BABES (Beginning Alcohol and Addiction Basic Education Studies) and Forest Friends, serving elementary school children, to high school peer counseling programs, and from drug free workplace and counseling to WISE (Wellness Initiative and Senior Educators).

In addition to providing educational services and referral programs, the council also provides a focus for those interested in advocacy, public policy and prevention legislation.

When the group first began, the county government provided funding for operating expenses, but as the years have gone by, sources of funding have begun to run dry. Through the hard work of the staff and friends of the Council, grants and partnerships have been secured to help make ends meet. Over the years, the Council has received governmental, charitable and foundation grants to help fund its innovative programs and partnership efforts with numerous worldwide, national, statewide and regional programs. Father Savitt

and long-term employee, Sister Pauline Kuntne, have shouldered the heavy burden of fundraising with enormous fortitude.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to learning about and recognizing the efforts of service-minded organizations like the Passaic County Council on Alcoholism and Drug Abuse Prevention, Inc.

Madam Speaker, I ask that you join our colleagues, Father Alan Savitt and the staff and volunteers of the Passaic County Council on Alcoholism and Drug Abuse Prevention, Inc., all those who have been touched by their caring professionalism, and me in recognizing the outstanding contributions of this group to the Passaic County community and beyond.

CELEBRATING THE LIFE OF  
BRUNO DEGOL

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. SHUSTER. Madam Speaker, I rise today to honor the memory and celebrate the life of Bruno DeGol of Gallitzin, Pennsylvania who passed away on May 14th surrounded by his family and friends at the age of 86.

It is not an easy task to summarize a life so rich in accomplishment as the one lived by Bruno DeGol. For many of my constituents in Pennsylvania Bruno DeGol was best known as an amazingly successful entrepreneur, a noted philanthropist and as someone who never forgot his roots in the community where he grew up and prospered. I agree with that sentiment and I can say without question Bruno will be missed by all who knew him and knew of him.

You don't get to be as successful in life as Bruno DeGol by backing down to a challenge and Bruno never did. In World War II he took part in the D-Day Invasion as a soldier with the Army's 102nd Infantry Division. Bruno left the Army at the end of the war with an honorable service record that included the Bronze Star and numerous medals and commendations for his service.

Like so many other returning veterans looking for a start in post-war America, Bruno took a chance and opened his first of many business ventures in 1950. By 1972, his business, a construction materials company, had grown and expanded to four locations in Blair and Cambria Counties in Pennsylvania. Today, through careful expansion by his sons, DeGol Brothers Lumber now serves consumers in Pennsylvania, Connecticut, and Florida.

Bruno was a consummate entrepreneur with razor sharp business acumen. However, he will be even more fondly remembered for the way he gave back to the people and the community he loved so much. Bruno's philanthropy is most evident in the good work that continues to be done by the Bruno & Lena DeGol Family Foundation as well as his long-standing support of St. Francis University.

Bruno built his version of the American Dream through hard work, determination and the support of his loving family. In fact, even though he was successful in so many things,

building his family with his wife Lena was Bruno's most significant achievement. His five children; Don, Dave, Gloria, Bruno Jr., and Dennis and his 18 grandchildren and 10 great-grandchildren have been left a tremendous legacy to build upon.

Bruno DeGol will be remembered as a visionary and a humanitarian in business and community service. He will be missed by his family, his friends and by the countless people he touched throughout his long and wonderful life. I send my thoughts and my prayers to the DeGol family in their time of loss and ask the House to join me in honoring Bruno DeGol and celebrating his life.

HONORING THE LIFE AND ACCOMPLISHMENTS OF JUDGE  
MARILYN MORGAN UPON HER  
RETIREMENT

**HON. ZOE LOFGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. ZOE LOFGREN of California. Madam Speaker, I rise today to honor the life and accomplishments of a distinguished member of my community, the Honorable Marilyn Morgan, upon her retirement from the United States Bankruptcy Court for the San Jose Division of the Northern District of California.

Judge Morgan has served on the federal bench with honor and integrity for 21 years. She has been an exceptional jurist, committed to fairness in the decisions impacting those who have appeared before her. Throughout her life and career, Judge Morgan has sought to ensure that all parties, including those with limited access to services and legal representation, have justice and equality. However, her extraordinary dedication to public service extends far beyond her courtroom.

Prior to her legal career, Ms. Morgan worked in the civil rights movement in the area of voter registration. After receiving her J.D. from Emory University, Ms. Morgan returned to her native San Jose to start her own practice in bankruptcy law, representing both debtors and creditors. She also served as a bankruptcy trustee. In that capacity, she quickly identified a need for a communications clearinghouse for trustees to connect and share ideas and educational resources. Ms. Morgan was co-founder of the National Association of Bankruptcy Trustees, an educational and advocacy organization for Chapter 7 Trustees that continues to thrive and boast a nationwide membership.

Among some important firsts, Ms. Morgan served as the first woman President of the Santa Clara County Bar Association in 1985-86 and as the first bankruptcy lawyer appointed as a Lawyer Representative to the Ninth Circuit Judicial Conference. She has also served as a member of the Bankruptcy Advisory Committee to the United States District Court and as a referee and probation monitor on the State Bar Court. Since her appointment to the bench in 1988, Judge Morgan has continued her extensive contributions to the legal community. She is one of the co-founders of the Congressman Don Edwards

American Inn of Court, a professional association dedicated to promoting civility and enhancing communications between the bench and the bankruptcy bar. She has also served on the Board of Directors of Lincoln Law School of San Jose, Consumer Credit Counselors of San Francisco and its subsidiary, BALANCE, and the Bay Area Bankruptcy Forum.

Judge Morgan has been a powerful advocate for the improvement of the legal system. In 2007, Judge Morgan testified about "Protecting Home Ownership" before the Subcommittee on Administrative and Commercial Law of the Judiciary Committee of the U.S. House of Representatives. In 1997, she also testified before the National Bankruptcy Review Commission regarding proposed amendments to the Bankruptcy Code. In 2007, the National Association of Consumer Bankruptcy Attorneys recognized Judge Morgan for her extraordinary service in the field of consumer bankruptcy law. In 1999, she received the Fresh Start Award from the local consumer bankruptcy community in recognition of her contributions to improving the consumer bankruptcy system.

Judge Morgan has also been an active and effective advocate for improving the quality of, and access to, legal services available to the public. She has served as President of the Santa Clara County Bar Association Law Foundation and a trustee of Santa Clara County Law Related Education. She is also a co-founder of the Pro Bono Project of Santa Clara County. Judge Morgan has been a frequent provider of continuing legal education through the Bay Area Bankruptcy Forum, the National Association of Consumer Bankruptcy Attorneys, the National Association of Bankruptcy Trustees, the Santa Clara County Bar Association, the California Bankruptcy Forum, the National Conference of Bankruptcy Judges, the American Law Institute—American Bar Association, and the Norton Institute.

In addition to her contributions to the legal community, Judge Morgan has given generously to her broader community. One of the first women admitted to membership in the Rotary Club of San Jose, she has truly fulfilled its mission of "service above self." She has served on the club's Board of Directors and has been intimately involved in developing Los Amigos de Washington School, a Rotary program that provides support to the students, families and teachers of Washington Elementary School through activities, events and mentoring. Judge Morgan has been a regular at the school, reading books to several classes and mentoring a group of fourth grade girls. She has also served on the Board of Directors of the American Red Cross; the San Jose Cathedral Foundation; The Women's Fund; the Santa Clara County Public Facilities Corporation; the Santa Clara County Building Authority; the Downtown YWCA; and the Santa Clara County Century Club.

For more than 30 years, Judge Morgan has been an outstanding pillar of our community in San Jose, a forceful advocate for the improvement of the legal system and the community at large, an inspiration and role model for her public service, a loyal friend to the many people with whom she has worked along the way, and a jurist whose common sense and legal



acumen has provided justice to those who have appeared before her.

She is married to the Hon. (Ret.) James R. Grube, and they have three children, Terry, Elyse, and Mark.

It is with great pleasure that I join Judge Morgan in celebrating her life and many accomplishments. I thank her for her contributions to our region in California and to our nation. On behalf of our community, I congratulate Judge Morgan and wish her and her family well in her retirement and her future plans to continue in service to her community.

CONGRATULATING JAMES "J.T."  
THOMAS JR. FOR WINNING CBS'S  
"SURVIVOR: TOCANTINS"

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BONNER. Madam Speaker, I rise today to congratulate Mobile's own, James "J.T." Thomas Jr. on winning the million-dollar prize on CBS's "Survivor: Tocantins—The Brazilian Highlands."

Before a national television audience, J.T. was announced the winner of the 18th edition of the game. Known as the show's "nice guy," J.T. won the unanimous votes of seven jury members, proving he had outwitted, outplayed, and outlasted the other 15 players. He became only the second person to win both the jury vote, worth \$1 million, as well as the viewers' vote, worth \$100,000.

The Samson, Alabama, native earned a business administration degree from Troy University. While living in Troy, he also owned his own fencing company. He moved to Mobile in 2007, where he manages the B.E. Cattle Co. farm, an operation with 112 head of registered Angus cows, along with 70 calves that are a year old and 60 calves that are just a few months old. He also manages 700 head of cattle in Lowndes County.

Madam Speaker, I ask my colleagues to join me in congratulating James "J.T." Thomas Jr. for winning CBS's "Survivor: Tocantins—The Brazilian Highlands." I know his friends, families, and members of the community join with me in praising his accomplishments.

RECOGNIZING ERWIN CHARLES  
"RED" BECKER ON HIS RETIREMENT  
AS MAYOR OF EVANSVILLE,  
ILLINOIS

**HON. JERRY F. COSTELLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in recognizing Erwin Charles "Red" Becker and wishing him well as he retires as Mayor of Evansville, Illinois.

Red Becker comes by public service naturally. His great uncle, Walter Becker served as Mayor of Evansville from 1923 until 1957 when he died in office. Before serving the Vil-

lage of Evansville, Red served his country with a tour in Vietnam.

In 1983, Red decided to become more actively involved in local government and ran for Village Trustee. This confirmed his commitment to his community and, two years later, he was elected Mayor of the Village of Hon. Evansville, a position he held through six terms and 24 years.

During Red Becker's tenure as Mayor, Evansville has seen many changes, including a four-phase road project, an upgraded and expanded boat dock, a new fire house, water tower and line replacements, and new water and sewer treatment facilities. These last items were made necessary due to damage from the "Great Flood of '93" which displaced the Mayor from his own residence. During this disastrous time for Evansville as well as many Midwestern communities, Red Becker proved his dedication to public service by working around the clock, meeting the needs of his community, even as many of his own belongings were lost to the flood.

After the devastation of the 1993 flood, Red oversaw a rebuilding of Evansville and has continued to work tirelessly for the benefit of the village and its residents.

Madam Speaker, I ask my colleagues to join me in an expression of recognition and appreciation for a true public servant, Erwin Charles "Red" Becker, and in wishing him all the best in the future.

RECOGNIZING ROBERTA RAKOVE,  
RECIPIENT OF THE PARTNER-  
SHIP FOR ACTION GRASSROOTS  
CHAMPION AWARD

**HON. DANNY K. DAVIS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. DAVIS of Illinois. Madam Speaker, I rise to acknowledge Roberta Rakove, Senior Vice President, Government Affairs, of Sinai Health System for her outstanding leadership in creating grassroots and community activity in support of her hospital's mission. Roberta Rakove was first nominated by the Illinois Hospital Association (IHA), and later awarded by both the IHA and the American Hospital Association (AHA) the Partnership for Action Grassroots Champion Award on April 28, 2009.

The Partnership for Action Grassroots Champion Award was established to recognize hospital leaders who most efficiently inform elected officials of the affect major issues have on a hospital's fundamental role in the community; to recognize hospital leaders who have done an exemplary job in broadening the base of community support for the hospital; and to recognize hospital leaders who continue to advocate on behalf of the hospital and its patients.

Roberta Rakove's commitment to advocating for the hospital community extends to her 15 years of devotion on IHA's Advocacy Council, DSH Steering Committee, and other membership groups.

For 90 years the hospitals and caregivers of Sinai Health System have provided medical

care and social services to Chicago's neediest communities in west and south Chicago. Sinai Community Institute provides social service outreach for the lifestyle issues that contribute to health while the Sinai Urban Health institute researches the prevalence of chronic disease in Chicago neighborhoods. Collectively, the Sinai Health System provides a full continuum of care for acute, primary, specialty and rehabilitation to meet the needs of the communities and patients it serves.

CUBAN INDEPENDENCE DAY

**HON. KENDRICK B. MEEK**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. MEEK of Florida. Madam Speaker, I would like to recognize that today, May 20, 2009, is Cuban Independence Day. On this day, many people in my home community of South Florida will mark the rich cultural heritage and deep-rooted traditions of Cuban Independence Day. What was once a day of festivity and joy has become a day of nostalgia for a Cuba that once was free, but also of hope that it will soon regain its freedom.

As we continue to see political prisoners jailed in Cuba for peacefully expressing their rights and freedoms, we must remember that May 20, 1902, stood as a day of freedom and liberty after years of struggle and hardship.

Political prisoners today such as Dr. Oscar Elias Biscet and dissidents like Jorge Luis Garcia Perez "Antunez" hold strong unto their forefathers' passion for liberty and desire to live in a free and transparent democracy. While Dr. Biscet currently serves a 25-year prison sentence in Cuba, even from behind bars, he continues to promote democracy, social justice and liberty for all Cuban people.

Close friends, neighbors and many others who I grew up with are Cuban-Americans who have come to this country with little else beyond the clothes on their back and are now living the American Dream. I stand alongside these patriotic individuals as they mark May 20th in our State. They are men and women who love their adopted homeland, but long for their native land to allow them the freedoms they enjoy here. I offer them my solidarity on this special day.

WALL STREET JOURNAL OP-ED  
PIECE ON TORTURE

**HON. DON YOUNG**

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. YOUNG of Alaska. Madam Speaker, I rise today to introduce the following Op-Ed piece from the May 16, 2009 edition of the Wall Street Journal. I believe this piece speaks to the reactive nature of Congress, and will help shed some light on this issue to those both inside and outside the Beltway.

[From the Wall Street Journal, May 16, 2009]  
CRITICS STILL HAVEN'T READ THE "TORTURE"  
MEMOS

(By Victoria Toensing)

Sen. Patrick Leahy wants an independent commission to investigate them. Rep. John Conyers wants the Obama Justice Department to prosecute them. Liberal lawyers want to disbar them, and the media maligns them.

What did the Justice Department attorneys at George W. Bush's Office of Legal Counsel (OLC)—John Yoo and Jay Bybee—do to garner such scorn? They analyzed a 1994 criminal statute prohibiting torture when the CIA asked for legal guidance on interrogation techniques for a high-level al Qaeda detainee (Abu Zubaydah).

In the mid-1980s, when I supervised the legality of apprehending terrorists to stand trial, I relied on a decades-old Supreme Court standard: Our capture and treatment could not "shock the conscience" of the court. The OLC lawyers, however, were not asked what treatment was legal to preserve a prosecution. They were asked what treatment was legal for a detainee who they were told had knowledge of future attacks on Americans.

The 1994 law was passed pursuant to an international treaty, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment. The law's definition of torture is circular. Torture under that law means "severe physical or mental pain or suffering," which in turn means "prolonged mental harm," which must be caused by one of four prohibited acts. The only relevant one to the CIA inquiry was threatening or inflicting "severe physical pain or suffering." What is "prolonged mental suffering"? The term appears nowhere else in the U.S. Code.

Congress required, in order for there to be a violation of the law, that an interrogator specifically intend that the detainee suffer prolonged physical or mental suffering as a result of the prohibited conduct. Just knowing a person could be injured from the interrogation method is not a violation under Supreme Court rulings interpreting "specific intent" in other criminal statutes.

In the summer of 2002, the CIA outlined 10 interrogation methods that would be used only on Abu Zubaydah, who it told the lawyers was "one of the highest ranking members of" al Qaeda, serving as "Usama Bin Laden's senior lieutenant." According to the CIA, Zubaydah had "been involved in every major" al Qaeda terrorist operation including 9/11, and was "planning future terrorist attacks" against U.S. interests.

Most importantly, the lawyers were told that Zubaydah—who was well-versed in American interrogation techniques, having written al Qaeda's manual on the subject—"displays no signs of willingness" to provide information and "has come to expect that no physical harm will be done to him." When the usual interrogation methods were used, he had maintained his "unabated desire to kill Americans and Jews."

The CIA and Department of Justice lawyers had two options: continue questioning Zubaydah by a process that had not worked or escalate the interrogation techniques in compliance with U.S. law. They chose the latter.

The Justice Department lawyers wrote two opinions totaling 54 pages. One went to White House Counsel Alberto Gonzales, the other to the CIA general counsel.

Both memos noted that the legislative history of the 1994 torture statute was "scant."

Neither house of Congress had hearings, debates or amendments, or provided clarification about terms such as "severe" or "prolonged mental harm." There is no record of Rep. Jerrold Nadler—who now calls for impeachment and a criminal investigation of the lawyers—trying to make any act (e.g., waterboarding) illegal, or attempting to lessen the specific intent standard.

The Gonzales memo analyzed "torture" under American and international law. It noted that our courts, under a civil statute, have interpreted "severe" physical or mental pain or suffering to require extreme acts: The person had to be shot, beaten or raped, threatened with death or removal of extremities, or denied medical care. One federal court distinguished between torture and acts that were "cruel, inhuman, or degrading treatment." So have international courts. The European Court of Human Rights in the case of Ireland v. United Kingdom (1978) specifically found that wall standing (to produce muscle fatigue), hooding, and sleep and food deprivation were not torture.

The U.N. treaty defined torture as "severe pain and suffering." The Justice Department witness for the Senate treaty hearings testified that "[t]orture is understood to be barbaric cruelty . . . the mere mention of which sends chills down one's spine." He gave examples of "the needle under the fingernail, the application of electrical shock to the genital area, the piercing of eyeballs. . . ." Mental torture was an act "designed to damage and destroy the human personality."

The treaty had a specific provision stating that nothing, not even war, justifies torture. Congress removed that provision when drafting the 1994 law against torture, thereby permitting someone accused of violating the statute to invoke the long-established defense of necessity.

The memo to the CIA discussed 10 requested interrogation techniques and how each should be limited so as not to violate the statute. The lawyers warned that no procedure could be used that "interferes with the proper healing of Zubaydah's wound," which he incurred during capture. They observed that all the techniques, including waterboarding, were used on our military trainees, and that the CIA had conducted an "extensive inquiry" with experts and psychologists.

But now, safe in ivory towers eight years removed from 9/11, critics demand criminalization of the techniques and the prosecution or disbarment of the lawyers who advised the CIA. Contrary to columnist Frank Rich's uninformed accusation in the New York Times that the lawyers "proposed using" the techniques, they did no such thing. They were asked to provide legal guidance on whether the CIA's proposed methods violated the law.

Then there is Washington Post columnist Eugene Robinson, who declared that "waterboarding will almost certainly be deemed illegal if put under judicial scrutiny," depending on which "of several possibly applicable legal standards" apply. Does he know the Senate rejected a bill in 2006 to make waterboarding illegal? That fact alone negates criminalization of the act. So quick to condemn, Mr. Robinson later replied to a TV interview question that he did not know how long sleep deprivation could go before it was "immoral." It is "a nuance," he said.

Yet the CIA asked those OLC lawyers to figure out exactly where that nuance stopped in the context of preventing another attack. There should be a rule that all persons proposing investigation, prosecution or disbarment must read the two memos and all un-

derlying documents and then draft a dissenting analysis.

## IN MEMORY OF EDWARD "SCOTT" HOOD

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 2009

Mr. BRADY of Pennsylvania. Madam Speaker, this week, we in the House lost one of our own. It is with great sadness and a heavy heart that I rise today to honor the memory of Edward "Scott" Hood and his years of exemplary service to the Members and staff of the House of Representatives.

Scott Hood lived in Point of Rocks, Maryland with his wife, Karen, and sons, Zachary and Luke. He served the House of Representatives with distinction and excellence for almost twenty-three years, beginning his Congressional career in the House Cabinet Shop. Scott worked in that shop for eleven years, where he learned and honed his skills in the woodworking trade. "Scotty" was a valued craftsman and a remarkable talent, with many of his pieces still in use throughout the Capitol complex. The highlight of Scott's portfolio was a sideboard which he made for then Speaker of the House, the Honorable Newt Gingrich, in August of 1996. It can still be viewed in room H-230 of the Capitol.

When the position of Office Coordinator was created in the Office of the Chief Administrative Officer (CAO) in 2002, Scott saw this as an opportunity to enhance his career path by applying his knowledge of cabinetry to advise his customers on furniture choices and selections. He continued to build and cultivate relationships with offices over the next few years, ultimately working his way up to Supervisor of the CAO Capitol Service Center in 2004. In addition to his supervisory duties, he was assigned to the responsibility of coordinating and responding to the furniture and equipment needs of the Leadership offices, as well as representing the CAO organization in the logistical coordination of high-profile events in the Capitol Building. In 2007, he was awarded the Darrell Norman Excellence Award—the highest recognition of service bestowed on an employee of the Chief Administrative Officer. The summation of his recognition then is a fitting testament to his entire career with the House. "Scott Hood inspires and motivates his staff to deliver quality services and solutions to the furniture and equipment problems of the offices located in the Capitol. Scott has also been a keen contributor to our efforts to enhance customer satisfaction and to work across the organization and with a variety of service partners to deliver solutions that exceed the expectations and needs of their customers. He has been particularly effective in bringing his change management and leadership skills to bear in developing an effective partnership with the Architect of the Capitol to deliver seamless solutions to House Leadership Offices."

Scott was able to use his inherent honesty and integrity to build trusting relationships and to be a valued advisor to both his offices and

staff at all levels. Scott not only embraced and lived the CAO mission, vision, values, and brand, but inspired and motivated his staff and other organizations to do the same. Admired by the people who knew him and appreciated by those he served, Scott was an exceptional role model. His colleagues tell us that they will miss his shy smile and the "will do" spirit and positive attitude that he brought to work each day. When asked to describe him, the most common phrase mentioned was, "He was 'The Rock' that we relied on."

Besides his loving wife and sons, Scott is survived by his parents, Darlene G. and Edward Hood, of Germantown, MD. He was the son-in law of Edith Jenkins, the loving grandson of Otis and Margaret Smith, and the brother of Kevin Hood and his wife Zaida, all of Germantown, MD.

It is a privilege to pay respects to a man who lived the spirit of unconditional and unwavering service to this great institution. On behalf of the entire House community, we extend our condolences to Scott's family, friends and colleagues in mourning the loss of this truly special public servant. I am honored to stand before the House and to commend him for his service to the Congress and our Nation.

#### HONORING FAMILIES OF FALLEN SOLDIERS

#### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor all the families who have lost a loved one in defense of our great Nation and in particular, those gathered at Calvary Baptist Church in Lakeland, Florida. For over 225 years, the United States has been a beacon of hope and freedom throughout the world. That freedom comes at a price, however. Whether it is the original fight for independence during the American Revolution, the drive to defeat communism during the cold war, or the current battle in the Middle East, soldiers throughout our history have fought and given their lives to keep us safe here at home. I salute their sacrifice, the sacrifice of their families, and dedication to their fellow man.

Our Nation has often had to defend itself from enemies, both foreign and domestic. Throughout these struggles, it has been our shared faith in our Lord that has given us the strength to soldier on during tough and trying times. America has seen both the good and the bad throughout our Nation's history, but in the end I firmly believe that each of us will heed the call to show our commitment to God when forced to make decisions that affect our fellow man.

To those who will gather at Calvary Baptist Church to honor our "True American Heroes," know this Congress thanks you and honors you. As Ronnie and Aileen Payne wrote to me, "Our sons and daughters were more than just a name and a casualty number. They were the best that America had to offer. They ran in when others ran out. They answered when America called."

America is the greatest Nation in the world. We have a proud history of service, faith and community ties that bind us to the common belief in the goodness of mankind. Our collective faith in God surpasses the fear and uncertainty we may feel from time to time. By working and praying together we can ensure that future generations of Americans will share the morals and values that brought us here today. Thank you and God bless the United States of America.

"HOPE BLOOMS" FOUNDERS  
WAYNE AND SHANNON MARKLOWITZ  
OF CLEAR LAKE, MN

#### HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BACHMANN. Madam Speaker, I rise today to honor two truly amazing individuals, Wayne and Shannon Marklowitz of Clear Lake, as they begin to create a foster care community, "Hope Blooms", in Becker, Minnesota. Wayne and Shannon are working hard to provide a safe, welcoming environment for some of the 650 Minnesota children between the ages of 0 and 18 who are waiting to be placed with a foster home. And, they also hope to provide a close support network for the families that want to provide the love and care these children so desperately need.

It is not often we see such dedication toward such a selfless goal, particularly amidst these troubling times when people honestly turn their focus inward. Wayne works as a fire fighter and Shannon is studying to become a counselor, so there are plenty of very legitimate excuses to hold off on this endeavor. But the inspiration of a similar program in Texas, the prayers of their family, the support of their community and their unconditional faith have moved this project closer to fruition with each day. In fact, Wayne and Shannon received their not-for-profit status from the federal government in just one month, even though they had been told the process takes a year. Even government appears to have been inspired by their dreams.

After fostering 23 children with my family, I know the personal joy a foster child can bring to a home. I am so grateful to for that gift that I received as a foster parent, and I am equally grateful to the Marklowitz' for helping other families experience that same joy. Shannon and Wayne are taking on this endeavor as a leap of faith, as they acknowledge, answering the call from Christ's apostle James, who asked true believers "to look after the orphans and widows in distress."

I rise to honor this amazing young couple for their faith and work to meet such important goals. The month of May has been designated as "National Foster Care Month" and I encourage all Americans to look into foster care options and to support the families that have foster children. The future of our country rests firmly on the shoulders of our children and the hundreds of thousands of children in foster care are an important part in carrying on the principles of freedom and community on which America was founded. I look forward to seeing

the success and joy Hope Blooms brings to foster families and children in and around Becker. May God continue to bless the homes that have opened their doors to the children in need.

#### TRIBUTE TO CENTENNIAL HIGH SCHOOL, CALIFORNIA FOOTBALL CHAMPIONS

#### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. CALVERT. Madam Speaker, I rise today to honor and pay tribute to a school in my congressional district that not only excels in academics but is also distinguished on the football field. On December 19, 2008, The Centennial High School football team won the 2008 California Interscholastic Federation (CIF) Division I Championship. In the championship game, Centennial defeated De La Salle, Concord 21 to 16.

The football team is an outstanding example of hard work, determination and perseverance. They were undefeated in the 2008 season and have earned the title "Champions." The members of the winning football team, according to their jersey number, include:

Dion Bass, Geshun Harris, Nick Beasley, Michael Aguon, Taylor Martinez, Michael Arredondo, Vontaze Burfict, Jason Manalili, Lenon Ford, Larry Scott, Trevor Romaine, Demeitri Beasley, Chris Simpson, Charles Oakley, Cody Baker, Barrington Collins, Michael Eubank, Ricky Marvray, Sam Kadar, Chris Gonzalez, Hayden Gavett, Anthony Goodman, Arthur Burns, KJ Vaifale, Kevin Angulo, Eddie Lopez, Denzel Hawkins, Duran Harris, Jacob Duro, Lee Adams, Anthony Whitlow, Khiry Shabazz, Norman Ford, Brandon Brown, Daniel Contreras, Marques Watson, Damion Smith, Izaac Colunga, Jimmy Munoz, JD Austin, Jaleel Johnson, Daniel Mireles, Frank Jimenez, James Lindsay, Markiece Miller, Casey Winans, Derek Aviles, Brandon Holder, Andrew Torres, Adam Hollick, Eric Rizzo, Steele Frey, David Leon, Jacob Appleton, Daniel Rojas, Cesar Olivares, Jake Amaya, Adam Davila, Adrian Contreras, Kendrick Allen, Luis Rodriguez, Marc Andres, Robbie Bishop, Chad Salcido, Jesus Cacho, Jacob Olsson, Gavin Pascarella, Joseph Lopez, Johnnyray Cabrera, Elijah Perricone, JT Felix, David Mireles, Deji Olijade, Jeremy Fennell, JT Powell, Ahkeel Chambers, Derrick Wilson, Romello Goodman, Isaiah Ashby, Bryan Murillo, Eric Finney, Milo Jordan, Iosefa Gasu, Derrick Ivy, William Sutton, Ben Letcher, Paul Verrette, Adam Uribe, Christian Gonzales, Thomas Amato.

The team is led by Head Coach Matt Logan; Assistant Coaches Ron Gueringer, Jeremy Goins, Brian Benz, Noel Hughes, Matt Lance, Mike Nicks, Bill Carter, Kunane Burns, James Hughes, Leo Perez, Dan Herring, Casey Richardson, Trevor Bermudez, Ika Tamelfuna, and Corey Kipp. The team is strongly supported by Principle Sam Buenrostro, Athletic Director Bill Gunn and the entire Centennial family.

It is an honor to represent such a fine group of young people with a strong dedication to

teamwork and academics. I know each one of them will treasure the memories of their championship season and I commend them, and the entire Centennial High School community, for this truly great achievement.

**RECOGNIZING THE SERVICE CORPS  
OF RETIRED EXECUTIVES  
(SCORE) FOR THEIR VALUABLE  
SERVICE TO THE SMALL BUSI-  
NESS COMMUNITY**

**HON. LAMAR SMITH**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. SMITH of Texas. Madam Speaker, I would like to submit the following for the CONGRESSIONAL RECORD:

Started in October 5, 1964, Service Corps of Retired Executives (SCORE), known presently as "SCORE Counselors to America's Small Business," is made up of more than 11,200 counselors in nearly 400 offices who provide time and expertise to assist fledgling business owners and prospective entrepreneurs. Today, the organization fulfills the vital role of helping small business owners survive economic challenges, stay in business, and keep Americans working. According to the Small Business Administration (SBA), each year SCORE assistance helps start approximately 20,000 new businesses and creates approximately 25,000 jobs.

In 2008, SCORE reached the impressive milestone of providing eight million clients with mentoring and training since its founding. That year, SCORE's nearly 7,000 business workshops drew in excess of 133,000 attendees and the online workshops attracted 51,000 more. Counselors can provide assistance via e-mail and numerous courses may be taken on line, free of charge.

America's small businesses play a significant role in our economy, accounting for 99.7% of all employer firms and generating more than half of the non-farm private gross domestic product (GDP). SCORE continues to be a well-positioned and valuable resource for these small businesses as they grow and develop.

I commend SCORE's numerous volunteers who share their time and valuable expertise to equip future entrepreneurs with the skills to own and operate successful small businesses. Volunteers from SCORE have demonstrated their commitment to enhancing quality of life, building strong communities, and promoting economic growth. Our communities can take pride in SCORE's good work.

**HONORING BOB WILLIAMS FOR HIS  
EFFORTS SENDING CARE PACK-  
AGES TO OUR SOLDIERS OVER-  
SEAS**

**HON. GUS M. BILIRAKIS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BILIRAKIS. Madam Speaker, I rise today to honor American patriot and founder of the "Support Our Troops" organization, Bob Williams.

A veteran of the Vietnam War, Bob Williams understands how valuable it is to receive a

care package from home. For 27 years, Bob has sent care packages to members of the Armed Forces serving overseas, often using his own funds to cover both the cost of supplies and postage. His organization, Support Our Troops, is the largest of its kind in Florida to send care packages to troops. His group operates out of its own warehouse in Wesley Chapel, Florida, sending out over 250 packages a week. While Mr. Williams accepts donations, the cost of postage can often exceed \$8,000 a week.

In order to alleviate some of the difficulties incurred by these costs, Representative KATHY CASTOR and I have introduced H.R. 707, which would allow for a monthly voucher providing free postage for small parcels and other correspondence to be distributed to soldiers serving in combat zones overseas to transfer at their own discretion. We have introduced this legislation to recognize not only the sacrifices made by the brave men and women who serve overseas in our Armed Forces, but the sacrifices borne by their loved ones back home. Our hope is that, once passed into law, this bill will also assist generous souls like Bob Williams in his organization's efforts to send our troops a piece of home.

Madam Speaker, please join me in honoring Bob Williams for the many contributions he has made to honor the bravery and selfless sacrifice of our Nation's servicemembers. May God bless our troops and may God continue to bless the United States of America.

**THANKING LAKE ALICE SCHOOL**

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. SMITH of Nebraska. Madam Speaker, I rise today to celebrate a gem of western Nebraska, Lake Alice School. The school, which first opened its doors in 1915, will bid its final farewell on Monday.

A Farewell to Lake Alice School will be held with an open house at the school, allowing anyone who is or has been associated with the school to reminisce on its impact to our community and what it has meant to so many people through the years.

Nearly 7,000 students from Scottsbluff and the surrounding area have passed through the school during its 93 years. I'm proud to have known Lake Alice students, teachers, graduates, and faculty throughout my life. The school provided a quality education and served as a point of pride for the community.

Lake Alice will hold a special place in our hearts. I hate to see the doors close, but I know the memories will last forever.

**HONORING THE MEMORY OF HUEY  
ALFRED MACK SR.**

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BONNER. Madam Speaker, the city of Robertsedale, Alabama, and all of southwest

Alabama recently lost a dear friend, and I rise today to honor Huey Alfred Mack Sr. and pay tribute to his memory.

Mr. Mack was born in rural Escambia County and studied pre-med at the University of Alabama. In 1958, he received a degree in mortuary science at Gupton Jones Institute in Dallas, Texas, and just seven years later, he and his family moved from Atmore to Robertsedale and opened Mack Funeral Home.

In 1978, he was appointed by then-Governor George C. Wallace as Baldwin County's coroner. He went on to win seven consecutive elections and remained in the post until his retirement in 2006. In addition to serving as county coroner and owning the funeral home, he ran a commercial real estate business and a small cattle operation.

Former Baldwin County District Attorney David Whetstone said "[Mr. Mack] was probably one of the best coroners in the history of Alabama . . . And he is one of the best friends you could have." Jim Small, who was elected county coroner following Mr. Mack's retirement said, "He was a person who worked hard and diligently."

Mr. Mack was a founding member of the Central Baldwin County Chamber of Commerce and had served as its president. He was also past president of the Alabama Funeral Director's Association, the Robertsedale Rotary Club, and past board member of the Selected Independent Funeral Homes. He was a devout member of Robertsedale United Methodist Church.

Madam Speaker, I ask my colleagues to join me in remembering a beloved friend to many throughout southwest Alabama. Huey Alfred Mack Sr. will be dearly missed by his family—his wife, Jean Marie Mack; his daughter, Linda Lou Mack, his son, Huey A. "Hoss" Mack Jr.; his sister, Judy; his brother, Arnold; his five grandchildren; and his great grandchild—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all during this difficult time.

**HONORING MRS. PATRICIA HECK**

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to recognize Patricia Heck, an exemplary public servant who is retiring as a teacher at Red Mountain High School in Mesa.

In 1988, Pat launched a program at Red Mountain through Reading Is Fundamental that promotes a love of reading for all ability groups through fun and entertaining activities. Pat's commitment and deep passion for literacy encourages students of all reading levels to unlock the mystery that each book holds.

Fueled by Pat's drive and determination, the program flourished. The club currently consists of 1,800 teen members; representing more than half the student body. Members organize an annual carnival, and produce year-round reading displays, assemblies, and read-a-thons. Every year, they collect over 2,500 books to distribute to their own high school

and in other areas of need. Since the school opened in 1988, the club has given away \$3 million in donated books. At the core of Club RIF are the one-on-one reading buddies that work directly with 150 second graders at the Salk Elementary School and the tutors who read to 1,375 children each week.

Pat's dedication has been recognized numerous times over the years including national recognition in 1991 as President Bush Sr.'s 432nd Point of Light and in 2000 as the recipients of President Clinton's Student Service Award.

After more than 20 years of service to Club RIF and 30 years in education, Pat is retiring. Through her leadership, vision and passion, she excelled as a charismatic advocate for literacy and provided a shining example of how students can positively influence children in their communities through education and reading. Her energy and enthusiasm for Club RIF and its mission will continue to inspire students to get excited about reading.

I take particular pride in Pat's contributions and accomplishments because she was one of my first students when I began my own 28-year teaching career.

Madam Speaker, please join me in congratulating Patricia Heck on her energetic contributions to Club RIF, her upcoming retirement, and the lasting legacy she will leave with the community.

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#### RECOGNIZING BETTE MIDLER AND THE NEW YORK RESTORATION PROJECT

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. RANGEL. Madam Speaker, today I rise to recognize Bette Midler and the New York Restoration Project who for the last 14 years has been revitalizing underserved parkland and community gardens in my Congressional District and throughout the City of New York. Restoration of our beloved parks and gardens has promoted in my community a sense of ownership and civic pride leading residents to preserve their beloved recreational areas.

Bette Midler first got the attention of this Congress when she took to national syndicated television in 1994 and confessed that if she had not gone into entertainment she probably would have pursued a career as an urban planner, and she certainly has moved to the forefront in promoting livability with her personal advocacy and investment.

This was most apparent when she spearheaded the rescue of 112 parks and community gardens in New York City when then Mayor Rudolph Giuliani threatened to auction these small gardens to the highest bidder for redevelopment. Had Bette not stepped in, along with the Trust for Public Land and the New York Restoration Project (NYRP), a great number of New Yorkers would have lost their sprawling parks and adored gardens.

New York Restoration Project was founded by Bette Midler in 1995 as the "conservancy of forgotten places." NYRP reclaims, restores and revitalizes neglected parks, community

gardens and waterfronts throughout New York City—focusing especially on underserved neighborhoods. NYRP is also the lead non-profit partner of Mayor Bloomberg's PlaNYC MillionTreesNYC, the most ambitious public-private initiative in the country, dedicated to planting one million new trees in New York City by 2017.

For 14 years, NYRP has recognized that the challenges facing New York City's natural environment are significant. Dramatic increases in population, shortage of green spaces, insufficient tree canopy, and unsatisfactory environmental education are some of the compelling obstacles facing our great city, especially in low-income neighborhoods. As a result of these pressing issues, the City is facing dangerously high rates of obesity and diabetes; dramatic climate changes with rising temperatures and sea levels; devastatingly poor air quality and growing asthma rates; and lack of knowledge of, and respect for, the natural environment among younger generations. NYRP is able to combat the negative effects of these concerns through five core initiatives: Park Reclamation and Beautification, Community Garden Design Excellence Program, Community Outreach, Environmental Education Programming, and MillionTreesNYC Tree Planting and Stewardship.

As a permanent operational partner with local communities and city agencies, NYRP supplies labor, materials, project design and management, and environmental educational programs throughout the city's green spaces. NYRP has removed more than 1,900 tons of garbage and debris from New York City parks and public spaces; created Swindler Cove Park on the Harlem River, on the site of what was once an illegal dumping ground; planted more than 200,000 trees as part of MillionTreesNYC, a public-private partnership between the New York City Department of Parks and Recreation and NYRP; undertaken the care of Fort Washington Park, Fort Tryon Park, Highbridge Park, Bridge Park, and Roberto Clemente State Park; saved 114 community gardens from commercial development; and served thousands of youth and families with after-school and school-day outdoor learning and public programs.

So Madam Speaker, I ask that you and my distinguished colleagues join me in recognizing my good friend Bette Midler for all her contributions to our parks and such a remarkable and impressive organization like the New York Restoration Project who, under the leadership of Executive Director Drew Becher, has transformed and beautified the parks and community gardens of my district and the city of New York.

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#### PRESIDENT MA OF TAIWAN

**HON. JOHN J. DUNCAN, JR.**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. DUNCAN. Madam Speaker, President Ma of Taiwan will celebrate the one-year anniversary of his taking office on May 20th, 2009. In just one year, the Harvard-educated President has accomplished so much to improve Taiwan's standing on the world stage.

The latest of these accomplishments is Taiwan's acceptance as an official observer at the World Health Assembly that will take place later this month in Geneva. The World Health Assembly, which is part of the World Health Organization, will finally give Taiwan's 23 million citizens a voice at this forum. This is possible because of President Ma's blossoming relationship with mainland China.

In April, officials from China and Taiwan participated in the Chiang-Chen Talks. The talks resulted in the signing of the following agreements: (1) "Agreement on Joint Cross-Strait Crime-fighting and Mutual Judicial Assistance" (2) the "Cross-Strait Financial Cooperation Agreement" and (3) the "Supplementary Agreement on Cross-Strait Air Transport." All of these agreements will result in improved coordination between the Taiwan Straits neighbors in the areas of law enforcement, financial exchanges and travel.

Among other successes, President Ma's administration was able to have Taiwan removed from the Special 301 Watch List which is maintained by the U.S. Trade Representative (USTR). The removal shows Taiwan's commitment to preventing the importing and exporting of illegally pirated materials such as DVD's and CD's.

Madam Speaker, I would like to call these accomplishments and the successful first year of President Ma's administration to my colleagues and other readers of the RECORD.

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#### TRIBUTE TO THE 203RD MILITARY POLICE BATTALION

**HON. PARKER GRIFFITH**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. GRIFFITH. Madam Speaker, I rise today to recognize the 203rd Military Police Battalion of Athens, Alabama. On June 21st, the 203rd Battalion will depart for Fort Bliss to train before leaving for Iraq.

The 203rd Military Police Battalion has provided community service support to the Athens Retired Seniors Volunteer Program (RSVP) for more than a decade, specifically with the annual RSVP Picnic in the Park. Without their assistance, this special event for RSVP volunteers would not be possible. The Picnic in the Park will be especially meaningful this year as the 203rd prepares to deploy.

We enjoy our way of life and the freedoms we have because of groups like the 203rd Military Police Battalion. Their years of sacrifice on both local and national levels serve as an extraordinary example of leadership for us all.

Madam Speaker, I wish to express my extreme gratitude for the 203rd Military Police Battalion's service to my district and to honor them as they leave home in defense of our Nation.

## TRIBUTE TO JOSEPH INTILE

**HON. BILL PASCRELL JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. PASCRELL. Madam Speaker, I would like to call to your attention the work of an outstanding individual, Chief Joseph Intile, who is being recognized May 20, 2009 on the occasion of his retirement as Chief of the Bloomfield, NJ Fire Department, after thirty years of dedicated service.

It is only fitting that he be honored in this, the permanent record of the greatest democracy ever known, because he is the embodiment of the patriotism and community spirit that make our nation so great.

Chief Intile joined the Bloomfield Fire Department on March 27, 1979 and since then has brought much distinction to the department and to his position. Most notably, he guided the Bloomfield Fire Department in becoming the first Fire Department in the northeastern United States to achieve international accreditation from the Center for Public Safety Excellence, Commission of Fire Accreditation.

Chief Intile is one of the most decorated and honored Fire Chiefs in the State of New Jersey. He holds a Masters of Administrative Science from Fairleigh Dickinson University and is a graduate of the National Fire Academy in Emmitsburg, Maryland.

He is a member of several highly respected professional organizations, such as the National Fire Protection Association,

International Association of Fire Chiefs, National Society of Executive Fire Officers, National Fire Academy Alumni Association, New Jersey Career Fire Chiefs Association, and the New Jersey State Fire Chiefs Association as well as many others including my own Congressional Public Safety Advisory Committee.

During his tenure in the Bloomfield Fire Department, Chief Intile achieved Executive Fire Officer status from the National Fire Academy and Chief Fire Officer Designation from the Commission on Fire Officer Designation. He has attained Fire Official, Fire Inspector, and Incident Management Level 3 ranks from the New Jersey Division of Criminal Justice. He has received five Live Saving Awards from the Township of Bloomfield, three Public Safety Awards from the John I. Crecco Foundation, as well as recognition from the New Jersey General Assembly, the Essex County Board of Freeholders, and the New Jersey State Senate.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to being able to acknowledge great Americans like Chief Joseph Intile.

Madam Speaker, I ask that you join our colleagues, Joseph's family and friends, the members of the Bloomfield Fire Department, all those who have been touched by him, and me in recognizing the outstanding contributions of Chief Joseph Intile to his profession and his community.

## HONORING DOS PUEBLOS HIGH SCHOOL ENGINEERING ACADEMY AND THEIR ROBOTICS TEAM, THE D'PENGUINEERS

**HON. LOIS CAPPS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mrs. CAPPS. Madam Speaker, it is with great pride that I rise today to commend my constituents at the Dos Pueblos High School Engineering Academy in Goleta, CA.

After rigorous study of engineering, science, math and other subjects, thirty-two high school seniors in this program came together to form a Robotics team called the D'Penguiniers.

This group of talented students won two regional competitions and competed last month in the International For Inspiration and Recognition of Science and Technology (FIRST) Robotics Challenge in Atlanta, Georgia and won the coveted Motorola Quality Award which is given to the best-designed robot in the competition.

In only six weeks, these impressive high school students built a robot with the ability to remove 40-inch diameter balls from a 6½-foot tall overpass, drive along a prescribed path, and maneuver the balls into position with each pass under or over the underpass on each lap.

Madam Speaker, the Dos Pueblos Engineering Academy and the success of the D'Penguiniers exemplifies what motivated students can do with support from their families, teachers and community.

To build on the success of these students, we must continue to prioritize science education and funding, not only throughout the South and Central Coasts but across the country as well.

With research performed by these students and others equally committed to the scientific community, our country will lead the world with new solutions for clean energy and more efficient technology.

I am proud to represent these gifted high school seniors, their dedicated instructors, and the entire Dos Pueblos High School community in Congress.

I am sure this esteemed achievement is indicative of many further successes for these intelligent young people.

## PERSONAL EXPLANATION

**HON. BETTY MCCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. MCCOLLUM. Madam Speaker, on Monday, May 18, 2009, I was excused from a series of three rollcall votes. Had I been present, I would have voted "yea" on all three measures.

These measures were: H. Res. 300, a resolution congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary, introduced by Mr. McHUGH of New York; S. 386, the Fraud Enforcement and Recovery Act of 2009, as amended, intro-

duced by Senator LEAHY of Vermont; and H. Res. 442, a resolution recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low income children and families, introduced by Mr. GEORGE MILLER of California.

## INTRODUCING THE NATIONAL AMUSEMENT PARK RIDE SAFETY ACT OF 2009

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. MARKEY of Massachusetts. Madam Speaker, Memorial Day is the beginning of the season when many American families take their children to our amusement parks for a day of fun and sun. Most Americans, when they enter an amusement park, believe that the rides at these parks are subject to oversight by the nation's top consumer safety watchdog—the Consumer Product Safety Commission, CPSC. However, this is, unbelievably, not the case. Since 1981, a "Roller Coaster Loophole" has been carved out of the Consumer Product Safety Act.

This loophole is a dangerous gap in child safety and injury prevention, and it is having serious consequences. Between 1987 and 2004, the CPSC reports that there were 3,400 amusement park ride-related accidents and deaths. This estimate is likely lower than the actual number of injuries, due to the CPSC's lack of authority over fixed-site rides.

It is time to act on the words of President Obama when he called for us to, "do more to protect the American public—especially our nation's children—from being harmed by unsafe products."

It is time to put the safety of our children first—it is time to close the Roller Coaster Loophole.

Today, I am re-introducing the National Amusement Park Safety Act, to restore safety oversight to a largely unregulated industry and protect our nation's children.

## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Tuesday, May 19, 2009. Had I been present, I would have voted "yea" on rollcall vote No. 270 (Motion to Suspend the rules and Agree to H.R. 1089), "nay" on rollcall vote No. 271 (Motion to Suspend the Rules and Agree to S. 896), "yea" on rollcall vote No. 272 (Motion to Suspend the Rules and Agree to H. Res. 360).



## SMALL BUSINESS AID BILL

**HON. BETSY MARKEY**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. MARKEY of Colorado. Madam Speaker, I rise today to urge my colleagues to support the Small Business Assistance in Debt Bill (Small Business AID Bill). The Small Business AID Bill will expand the U.S. Small Business Administration (SBA) 504 loan program to be used to refinance conventional, non-SBA loans. This bill will permit small business owners to access capital and tap into equity that is locked in their commercial real estate due to the financial and banking crisis. Market conditions have changed and are making it harder for small businesses to gain access to capital to continue investing in and expanding their businesses. My bill reduces risk to banks from conventional, non-SBA loans on their balance sheets while simultaneously infusing cash into the banking system. This change will not require additional taxpayer support or an additional Congressional allocation, since this program is self-supporting.

Many small businesses have been hamstrung by today's economic conditions. Due to changes in the banking industry's ability and willingness to lend, small businesses are being squeezed out of capital markets. Banks, like most Americans, have been forced to tighten their belts; and banks have had to limit access to capital. With a lack of available capital, small businesses, the economic engine of America, are in crisis. Within the next year, approximately \$2.5 billion in commercial loans will come due. Many banks will not be willing or able to renew these loans for small businesses, many whom will be unable to raise the necessary financing to survive. Other small businesses are being forced to stay in loans that are higher than today's current interest rates. Small businesses need another means to refinance their loans to weather this financial storm and potentially expand through new capital. By allowing SBA-backed lenders to extend financing small businesses will be able to: acquire land, construct buildings, or purchase equipment and collateralize fixed assets, avoid prepayment penalties, financing fees, and other costs. Small businesses will receive these benefits while obtaining better loan terms and lower interest rates for existing debt.

A good way to illustrate how my bill works may be helpful to my colleagues: Acme Company owns a building that an appraiser values at \$100,000. Acme owes \$70,000 on the building to their local bank. Due to the economic and financial crises bank regulators require the bank to downgrade their loans with Acme. The bank severely restricts or eliminates Acme's line of credit. The absence of the line of credit causes a very real hardship, impacting Acme's cash flow. With the inability to manage cash, Acme is severely impacted and encounters problems with operating day-to-day. While Acme has equity in their building, their bank cannot and would not allow them to access this equity due to the downgraded borrower status. With my bill, the SBA would be able to offer a new 504 loan to

Acme for up to \$40,000 (since the bill limits lending up to 40% of the value of the property). With this new loan, Acme would be able to unlock up to \$20,000 worth of equity which they could use to maintain the business, retain jobs, or purchase new equipment to help the business grow again.

There was very little immediate impact for small businesses from the American Recovery and Reinvestment Act. Banks' inability and sometimes unwillingness to assist small businesses will continue for some time and we must act now to help small businesses stay afloat. My bill assists small businesses by providing SBA guarantees for a portion of certain loans coordinated through Certified Development Companies (CDCs). These non-profit organizations work with local lenders to provide secure SBA-backed loans to small businesses. The SBA then guarantees a portion of the loan, reducing the risk to lenders and dramatically increasing small businesses' access to capital. Until this bill, CDC loans were only available for new businesses or business expansion; but with this bill these loans would be available to refinance existing debt. By refinancing small businesses will continue to be current on their existing loans with SBA lenders. The lack of access to working capital depresses small businesses, resulting in a corresponding increase in unemployment rates.

In today's economy, small businesses are struggling. My bill assists small businesses to pull themselves up without any government handout or bailout. They will be able to refinance their current debt so that they can invest in new facilities, equipment, or hire additional workers. I urge all members to support the Small Business AID Bill.

CONGRATULATING DR. STUART COHEN ON HIS PRESIDENTIAL TERM OF THE SAN DIEGO COUNTY MEDICAL SOCIETY

**HON. BRIAN P. BILBRAY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. BILBRAY. Madam Speaker, today I rise to congratulate Dr. Stuart Cohen on his term as the 138th President of the San Diego County Medical Society (SDCMS). As America faces the difficult challenges of addressing health care reform, it is reassuring that there are leaders like Dr. Cohen in positions of influence to help our nation craft policies that will bring quality and accessible health care to all Americans.

The San Diego County Medical Society, representing over 8,000 physicians in San Diego County, is a non-profit organization founded in 1870. SDCMS is chartered by the California Medical Association and affiliated with the American Medical Association (AMA). The mission of SDCMS is to promote the science and art of medicine, the quality care and wellbeing of patients, the protection of the public health, the betterment of the medical profession, and the adjudication of ethical relations to its members, as well as the provision of education to its members in scientific, social, legal, and medico-economic aspects of medical practice.

Dr. Cohen received his medical degree in 1981 from the University of Manitoba and served his internship and residency at the Health Sciences Center at Children's Hospital in Winnipeg, Canada. Dr. Cohen is board certified in pediatrics and has been a member of Children's Primary Care Medical Group since 1996.

Dr. Cohen has been an active member of the San Diego County Medical Society and the California Medical Association since 1988 and the American Medical Association since 1994. He has served on numerous committees as a CMA delegate, an AMA delegate, as well as the SDCMS Board of Directors, Executive and Finance Committees and the San Diego Physician magazine Editorial Board. Dr. Cohen is also a member of numerous medical societies including the American Academy of Pediatrics—San Diego Chapter and the American Academy of Pediatrics.

Dr. Cohen is well respected by his peers as evidenced by the fact he was selected as a San Diego "Top Doctor" for the last four years. On a personal note, I have benefited immensely from Dr. Cohen's wise counsel on how to craft effective health care policy for all San Diegans.

Let history show that this year will be the year Congress makes progress on health reform. Americans are demanding we put partisan differences aside and devise a health care system that covers all Americans, puts patients first and ensures the highest quality.

With influential leaders such as Dr. Stuart Cohen leading the fight, I feel confident Congress will craft sensible health care policy.

AMERICAN ASSOCIATION OF  
STATE HIGHWAY TRANSPORTATION OFFICIALS

**HON. ROBERT WEXLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. WEXLER. Madam Speaker, as cochair of the Congressional Caucus on Global Road Safety, I would like to extend my appreciation and sincerest thanks to the Board of Directors of the American Association of State Highway Transportation Officials (AASHTO), who recently passed a policy resolution in support of House Concurrent Resolution 74, a resolution introduced by myself and my fellow Caucus cochairs, Congressman CHRIS VAN HOLLEN and Congressman DAN BURTON, supporting the goals and ideals of a decade of action for road safety with a global target to reduce by 50 percent the predicted increase in global road deaths between 2010 and 2020 and urging the Obama administration to take a leadership role at the First Ministerial Conference on Road Safety in Moscow later this year.

My fellow cochairs and I believe it is critical that the United States work with nations around the world to achieve the goals and ideals of a decade of action for road safety and to reduce the impact of this health epidemic on the global community, and I sincerely appreciate AASHTO's support for this resolution and for their efforts to work with the Global Road Safety Caucus to educate Members of Congress on the issue of road safety.

To that end, I encourage all of my colleagues to review the text of AASHTO's resolution, which I am including in the CONGRESSIONAL RECORD.

**POLICY RESOLUTION PR-2-09 SUPPORTING  
HOUSE CONCURRENT RESOLUTION 74**

Whereas, AASHTO and its members departments remain fully committed to reducing the number of deaths on our Nation's roads as evidenced by current AASHTO policy positions and efforts to implement AASHTO's Strategic Highway Safety Plan, including the adoption by the Board of Directors in December, 1997 and revised and updated in December, 2004, a goal to reduce fatalities by half in 20 years;

Whereas, According to the 2004 World Report on Road Traffic Injury Prevention, 40,000 people on the United States and 1,300,000 people globally die in road crashes each year;

Whereas, Another 20,000,000 to 50,000,000 people globally are injured each year as a result of speeding motor vehicles and the increased use of motor vehicles;

Whereas, Road crashes are the leading cause of death globally for young people between the ages of 10 and 24 years;

Whereas, The current estimated monetary cost of motor vehicles crashes worldwide is greater than \$500,000,000,000 annually, representing between 3 and 5 percent of the gross domestic product of each nation;

Whereas, According to the World Health Organization, over 90 percent of motorist-related deaths occur in low- and middle-income countries;

Whereas, According to the World Health Organization, motorist related deaths and cost continue to rise in these countries due to a lack of appropriate road engineering and injury prevention programs in public health sectors;

Whereas, The United States, United Nations, and international community should promote the improvement of data collection and comparability, including adopting the standard definition of a road death as "any person killed immediately or dying within 30 days as a result of a road traffic crash" and the facilitation of international cooperation to develop reliable data systems and analytical capability;

Whereas, It is critical that the international community support collaborative action to enhance global road safety and reduce the risk of road crash death and injury around the world by fostering partnerships and cooperation between governments, private and public sectors, professional associations, and within civil society, as well as relationships among the Federal Highway Administration, the National Highway Traffic Safety Administration and other national and international road safety authorities;

Whereas, The United Nations General Assembly adopted a resolution in 2005 designating the third Sunday of November as a day of remembrance for road crash victims and their families and calling on nations globally to improve road safety;

Whereas, The United States Congress passed H. Con. Res. 87, as well as S. Con. Res. 39 in the 110th Congress supporting the goals and ideals of a world day of remembrance for road crash victims;

Whereas, The United Nations General Assembly adopted a resolution in 2008 highlighting the impact global road safety issues, encouraging nations to take action to reduce road crash risks across the world and creating the first global high-level conference on road safety in Moscow in November 2009;

Whereas, The Ministerial Consultative Committee of the First Global Ministerial Conference on Road Safety on Moscow has drafted a declaration to designate 2010-2020 as the "Decade of Action for Global Road Safety"; now, therefore be it

Resolved, By the American Association of State Highway and Transportation Officials that AASHTO supports the goals and ideals of a decade of action for global road safety with a global target to reduce by 50 percent the predicted increase in global road deaths between 2010 and 2020; be it further

Resolved, AASHTO encourages international harmonization of road safety regulations and good practices through accession to and implementation of related United Nations legal instruments, resolutions, and manuals issued by the United Nations Road Safety Collaboration; and finally be it

Resolved, AASHTO encourages the United States to take a leadership role at the First Ministerial Conference on Road Safety and for the United States to work with nations around the world to achieve the goals and ideals of a decade of action for road safety and to reduce the impact of this health epidemic on the global community.

**PRESIDENT MA OF TAIWAN**

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. RANGEL. Madam Speaker, I rise today to comment on the remarkable achievements of the government of Taiwan in moving forward a new era of peace in the Pacific.

One year ago, the new President of Taiwan took office amid increasing tensions between China and Taiwan. Today, because of the initiatives of President Ma ying jo, Cross Straits relations have improved to such an extent that they have now produced a series of agreements to enhance mutual cooperation between Taiwan and China.

For too long Taiwan, opposed by China, has been excluded from the World Health Organization. As a result of the conciliatory efforts of President Ma and the recognition by authorities in China of the need to have Taiwan represented, Taiwan now has achieved status by the World Health Assembly. Good work President Ma. With the new health crisis the world faces with Swine Flu, politics must not impede mutual cooperation in combating this dreadful problem.

Increased communications, charter flights and postal agreements negotiated through the initiatives promoted by President Ma in his first year in office have lessened tensions to the extent that day to day contacts have replaced confrontation.

It is in the interest of the United States that this progress, which we understand is the hallmark of President Ma, continue. Peace in the Pacific is an essential ingredient of world progress.

Good luck Mr. President. May the successes of your first year in office be the fore-runner of many years to come.

**INTRODUCING THE SANCTITY OF  
LIFE ACT**

**HON. RON PAUL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. PAUL. Madam Speaker, I rise today to support the Sanctity of Life Act. This legislation provides that the federal courts of the United States, up to and including the Supreme Court, do not have jurisdiction to hear abortion-related cases. Since the Supreme Court invented a "right" to abortion in Roe v. Wade, federal judges have repeatedly thwarted efforts by democratically elected officials at the state and local level to protect the unborn.

However, the federal courts have no legitimate authority to tell states and local communities what restrictions can and cannot be placed on abortion. Even some intellectually honest supporters of legalized abortion acknowledge that Roe v. Wade was incorrectly decided. Congress must use the authority granted to it in Article 3, Section 1 of the Constitution to rein in rogue federal judges from interfering with a state's ability to protect unborn life.

Madam Speaker, it is my hope that my colleagues will join me in support of using the power granted to the Congress by the Constitution to protect the ability of individual states and the people to restore respect for the sanctity of human life.

**FAA REAUTHORIZATION**

**HON. BETSY MARKEY**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. MARKEY of Colorado. Madam Speaker, I would like to state for the record that had I been present for the vote on H.R. 915, I would have voted in favor of the FAA reauthorization. As my daughter and son are graduating from college and high school, respectively, I am unable to be present for the vote. As a member of the Transportation and Infrastructure Committee, I was proud to approve the FAA Reauthorization Act of 2009 in our committee.

Being from Colorado, I fly in and out of Denver International Airport. Denver has struggled recently with a dearth of properly trained air traffic controllers. Denver TRACON is struggling with staffing problems because of: retirements, resignations, trainee failures and an inability to recruit and retain both the experienced veteran workforce and high quality trainees that have the ability to succeed in the training program. Air traffic controllers are required to retire by age 56, and of late, 98 percent of controllers have retired before that age because their salaries are not competitive. I am pleased that H.R. 915 addresses the mediation issues between the National Air Traffic Controllers Association and the FAA.

Additionally, the inclusion of funding to accelerate the implementation of the NextGen system is critical. It is important that we seize any opportunity that we have to make our airways not only safer but also more efficient.

I am also pleased to see that the bill increases funding for Essential Air Service. Coming from a rural district, I understand how critical EAS is to economic development. Rural communities across America count on EAS to preserve affordable, reliable air service. The EAS program is a major piece of our rural transportation infrastructure and greatly enhances the ability of these communities to attract and retain new business investment. I support continued efforts to maintain this vital program and urge my colleagues to support this legislation.

A PROCLAMATION HONORING RON VANVOORHIS, TEACHER AT EAST MUSKINGUM MIDDLE SCHOOL, FOR GIVING STUDENTS THE OPPORTUNITY TO EXPERIENCE WASHINGTON, DC FOR 30 YEARS

### HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. SPACE. Madam Speaker:

Whereas, Ron VanVoorhis, initiated East Muskingum Middle School's annual trips to Washington, D.C.; and

Whereas, Mr. VanVoorhis has been responsible for close to 4,000 students being able to see and experience Washington, D.C.; and

Whereas, Mr. VanVoorhis has consistently attended each trip, missing only one year for the birth of his daughter; and

Whereas, Mr. VanVoorhis has provided this service without stipend and consistently at very low cost, saving each student an average of \$100 per trip; now, therefore, be it

Resolved, that along with his friends, family, and the residents of the 18th Congressional District, I commend Mr. Ron VanVoorhis on his service to the East Muskingum Middle School, and congratulate him on his 30 years of service in bringing the students of EMMS to Washington, D.C. to give them a better idea of what it means to be an American citizen.

IN HONOR OF THE 15TH ANNIVERSARY OF THE NOVA-ANNANDALE SYMPHONY ORCHESTRA AND IN RECOGNITION OF THE 2009 AWARDS RECIPIENTS

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 19, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to congratulate the NOVA-Annandale Symphony Orchestra on the occasion of their 15th Anniversary and to pay tribute to their 2009 Award Recipients.

In 1994, Dr. Claiborne Richardson of The Reunion Music Society and Dr. Gladys Watkins of the Northern Virginia Community College formed a partnership between the two organizations to create the NOVA-Annandale Symphony Orchestra. This orchestra combines the talents of local professional and amateur musicians and college students to de-

velop their skills and to perform the music of different cultures and heritages. On April 17, 2009 during the NOVA-Annandale Symphony Orchestra's 15th Anniversary celebration, The Reunion Music Society announced the award recipients in two special categories: The Richardson-Watkins Founders Awards, which recognize persons or businesses from the community that have made significant contributions to the success of the Reunion Music Society's programs, and The Orchestra/Players Awards, which are given to musicians who have made significant contributions to the success and development of the Symphony over several years and are selected by their peers in the orchestra.

The recipients of The Richardson-Watkins Founders Awards are:

Annandale Florist, Inc. and Mr. Gary Sherfey for many years of providing complimentary flower arrangements displayed on the theater stage at the Symphony Orchestra concerts and for helping to promote concerts through displays at the florist shop.

Mr. Norman Johnston, a long-time volunteer and one of the founding members of the RMS, who served on the Board of Directors for many years. He continues to support the Symphony Orchestra by serving as the organization's graphic artist as well as providing significant financial support both personally and through the solicitation of paid advertising.

Dr. Bruce Mann, Dean of Liberal Arts at Northern Virginia Community College's Annandale campus, who serves as the college's liaison to the RMS. He oversees the music courses that involve college students and members of the Symphony Orchestra and coordinates the scheduling of concerts and rehearsals. In addition, he successfully solicits and obtains financial resources for concerts. Dr. Mann is presently serving his fourth year on RMS' Board of Directors.

The recipients of The Orchestra/Players Awards are:

Mr. Claiborne T. Richardson II: For the last 15 years "Clai" has generously contributed his time and talent to the Symphony Orchestra helping it to grow and thrive. As the orchestra's percussion and timpani section leader he leads and teaches his section, which is composed of many budding musicians, while encouraging and promoting the works of new young composers. Clai is a mainstay musician with the other RMS programs—the Annandale Brass, Reunion Music Society Jazz Orchestra, and the Chris Johnston Trio.

Ms. Jody Smalley: Jody has been playing the violin with the Symphony Orchestra since it was formed 15 years ago. As vice president of the Orchestra's Board of Directors, Jody arranges for guest musicians to rehearse and perform with the Orchestra. Her production of CD's of music to assist other musicians with their individual practices and the Power Point presentation she prepares to accompany the annual "Winter Wonderland" program helps to ensure the high quality of the performances.

Madam Speaker, I ask my colleagues to join me in congratulating the NOVA-Annandale Symphony Orchestra on their 15th Anniversary and paying tribute to the recipients of The Richardson-Watkins Founder's Awards and of the Orchestra/Player Awards.

TRIBUTE TO RODGER MCFARLANE, PIONEER IN THE LGBT CIVIL RIGHTS AND HIV/AIDS MOVEMENTS

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Ms. DeGETTE. Madam Speaker, I rise to honor the extraordinary life and accomplishments of Rodger McFarlane. A pioneer and legend in the lesbian, gay, bisexual and transgender (LGBT) civil rights and HIV/AIDS movements, this remarkable man merits our recognition and our esteem for his unprecedented contributions to our nation and to the world.

Sadly, Rodger was taken from us far too young, at age 54. Larry Kramer, Rodger's longtime partner and collaborator, has said that Rodger "did more for the gay world than any person has ever done." Rodger was at the forefront of responding to the AIDS epidemic as it began to ravage our country in the early 1980's. Before HIV even had a name, in 1981, Rodger set up the first HIV/AIDS hotline anywhere; in fact, he used his home phone. Rodger, one of the original volunteers at Gay Men's Health Crisis, the nation's first and largest provider of AIDS client services and public education programs, became its first paid executive director. Until his death, Rodger was the president emeritus of Bailey House, the nation's first and largest provider of supportive housing for homeless people with HIV. Rodger was also a founding member of ACT UP—NY, the pioneering protest group responsible for sweeping changes to public policy as well as drug treatment and delivery processes.

In 1989, Rodger became executive director of Broadway Cares/Equity Fights AIDS, merging two small industry-based fundraising groups into one of America's most successful and influential AIDS fundraising and grant-making organizations. From 2004 to 2008, Rodger served as the executive director of the Denver-based Gill Foundation, one of the nation's largest funders of programs advocating for LGBT equality. Rodger was instrumental in the creation of the Gill Foundation's sister organization, Gill Action.

Rodger took three organizations in their infancy and grew each into a powerhouse to tackle the international tragedy of HIV/AIDS. At Gay Men's Health Crisis, Rodger increased fundraising from a few thousand dollars to the \$25 million agency it is today. During his tenure at Broadway Cares/Equity Fights AIDS, he increased the organization's annual revenue from less than \$1 million to more than \$5 million, while also leveraging an additional \$40 million annually through strategic alliances with other funders and corporate partnerships. He transformed the Gill Foundation by sharpening its strategic purpose, focusing its philanthropy in the states, aligning its investment with political imperatives, and forging alliances that furthered both the LGBT movement and the progressive movement as a whole.

The breadth of Rodger's accomplishments is astounding. A proud U.S. Navy veteran, Rodger was a licensed nuclear engineer who

conducted strategic missions in the North Atlantic and far Arctic regions aboard a fast attack submarine. A gifted athlete, he was a veteran of seven over-ice expeditions to the North Pole. He also competed internationally for many years as an elite tri-athlete.

Although Rodger never completed college, he was an accomplished and best-selling author and producer of works for the stage. Rodger co-wrote several books, including *The Complete Bedside Companion: No Nonsense Advice on Caring for the Seriously Ill* (Simon & Schuster, 1998), and most recently, *Larry Kramer's The Tragedy of Today's Gays* (Penguin, 2005). In 1993, he co-produced the Pulitzer Prize-nominated production of *Larry Kramer's The Destiny of Me*, the sequel to *The Normal Heart*.

Rodger's many achievements led to well-deserved awards; he was recognized with honors such as the New York City Distinguished Service Award, the Presidential Voluntary Action Award, the Eleanor Roosevelt Award, the Emery Award from the Hetrick Martin Institute, and Tony and Drama Desk honors. Most recently, he received the Patient Advocacy Award from the American Psychiatric Association.

Beyond his professional contributions, friends knew Rodger as a devoted caregiver who nursed countless friends and family members battling cancer and AIDS. He was the most compassionate and giving of friends, especially to those in physical or emotional distress. A hallmark of his personality, his humor made him stand out from the rest.

Please join me in paying tribute to the life of Rodger McFarlane, a constituent of mine, who was a tireless activist, a brilliant strategist, a remarkable leader, and a treasured friend. A man who achieved so much in such a short time, Rodger will be missed by many. Denver is better for the time he spent there. Our world is better for the time he spent here.

#### 125TH ANNIVERSARY OF OAKWOOD CEMETERY IN MT. VERNON, ILLINOIS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. SHIMKUS. Madam Speaker, I rise today to note the 125th anniversary of Oakwood Cemetery in Mt. Vernon, Illinois.

Since Oakwood's formal recognition in 1883, concerned local citizens have worked tirelessly to ensure that those in the community who have left this life have a peaceful and dignified final resting place. This Memorial Day, the hard-working staff, which does so much to maintain Oakwood, will welcome area residents to the annual Memorial Day Weekend Drive-Thru. Local citizens can visit the resting places of such prominent citizens as the city's first mayor, James Pace, Civil War Generals C.W. Pavey and W.B. Anderson, and Illinois Governor L.L. Emmerson.

Over the decades, local residents have put great efforts in creating a beautiful and serene final resting place. According to its official history, the cemetery has over 9,000 markers

spread along five miles of roads. The groundskeepers mow an average of 35 times per year, totaling 1,600 acres.

I want to salute the board members and staff members, past and present, of the Oakwood Cemetery in Mt. Vernon, Illinois, for the important work that they have done for 125 years.

#### THE MEDICAL RIGHTS ACT OF 2009, H.R. 2516

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mr. KIRK. Madam Speaker, I am pleased to stand here today to introduce the Medical Rights Act of 2009 that will protect the doctor-patient relationship, the integrity of the medical profession and the right of Americans to choose the care they deem appropriate without federal delay or restriction.

The President outlined three principles for health care reform—lower costs, choice and access. I support these goals. To back them, the President should endorse the Medical Rights Act. Our legislation is founded on this: Congress should make no law to block the decisions that American patients make with their doctor. If patients are our prime focus, their rights should be protected in law.

We can look to Great Britain and Canada to show us how government takeover of health care puts Congress, then the government in charge of your health care decisions, allowing them to decide what treatments you should or should not have. While over 60 percent of Americans are actually satisfied with their health care plan, only 55 percent of Canadian seniors are satisfied. The starkest difference in care appears when you are sickest. In Britain, government hospitals maintain nine intensive care unit beds per 100,000 people. In America, we have three times that number at 31 per 100,000. In sum, Britain has less than two doctors per 1,000 people, ranking it next to Mexico and Turkey.

If we do not enact the Medical Rights Act, patients will be at risk when government denies care, as they routinely do in Canada and Great Britain. Once denied government care, many Canadians find doctors in the U.S. If Congress orders the government to take over America's health care, where can we drive once care is denied by a new government health care system? To prevent this nightmare, Congress should pass the Medical Rights Act.

We need to promote patient-centered health care reform, where every American has access to the care they need, when they need it. It is not the role of the federal government to decide the type of care a patient should have but the role of doctors and medical professionals. I urge my colleagues to support the Medical Rights Act to stop the federal government from taking control over decisions made by you and your doctor.

#### IN RECOGNITION OF THE PRINCETON PUBLIC LIBRARY

### HON. DEBORAH L. HALVORSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 20, 2009*

Mrs. HALVORSON. Madam Speaker, today I rise to recognize the Princeton Public Library in Bureau County, Illinois. The Princeton Public Library was recently the host of "Between Fences," an exhibition from Museum on Main Street, a partnership of the Smithsonian Institution Traveling Exhibition Service and the Federation of State Humanities Councils. The Princeton Public Library is only one of two Illinois libraries that have been granted the opportunity to host this exhibit.

The exhibit embraces the use and existence of fences as an important facet of United States history. Fences are indicative of the owners lives, their property, and their relationship with their neighbors. For this reason, the Smithsonian Institution and State Humanities Councils chose to highlight fences as an integral part of the fabric of communities through history.

The mission of the Museum on Main Street project is to respond creatively to the challenge faced by rural museums to enhance their own cultural legacies. Princeton, a community of just under 8,000 residents, is thrilled to feature "Between Fences" and I am honored to represent them.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 21, 2009 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

JUNE 2

10 a.m.

Environment and Public Works

To hold hearings to examine the nomination of Victor M. Mendez, of Arizona, to be Administrator of the Federal Highway Administration.

SD-406

JUNE 4	JUNE 10	JUNE 24
9:30 a.m. Armed Services To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for the Department of the Navy; to be possibly followed by a closed session in SVC-217.  SH-216	9:30 a.m. Veterans' Affairs To hold an oversight hearing to examine the Department of Veterans Affairs' construction process.  SR-418	9:30 a.m. Veterans' Affairs To hold an oversight hearing to examine the Department of Veterans Affairs quality management activities.  SR-418

## HOUSE OF REPRESENTATIVES—*Thursday, May 21, 2009*

The House met at 10 a.m.

Rev. Troy Ehlke, Christ Lutheran Church, Charlotte, North Carolina, offered the following prayer:

God of wisdom and truth, we are a Nation standing at the crossroads. It is a place of possibilities; one where pathways beckon us to traverse, yet the unforeseen tenders our steps. Enable us to boldly confront this critical juncture through the hope that rests securely in Your love.

Unite us as one so that care of community precedes self-interest; love of neighbor breeds compassionate action; the common good is a prize to behold rather than a tool to exploit.

Empower the representatives of this great land to respond to today's issues from a posture of hope because blessings abound even under the most arduous of circumstances. We may be facing the crossroads, but we are not alone, for we have You and we have one another. Nothing more do we require. Truly, You are generous, O Lord.

Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nebraska (Mr. SMITH) come forward and lead the House in the Pledge of Allegiance.

Mr. SMITH of Nebraska led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 614. An act to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

### WELCOMING REV. TROY EHLKE

The SPEAKER. Without objection, the gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 minute.

There was no objection.

Mrs. MYRICK. I'm honored to introduce Rev. Troy Ehlke, who gave today's opening prayer. He serves as the Pastor of Care and Counseling at Christ Lutheran Church in Charlotte, North Carolina, where he lives with his wife, Cynthia, and son Julian. It is here that he administers pastoral care to a congregation of nearly 3,000 through direct visitation and facilitation of a large lay ministry group. He is also the director of Adult Education and oversees the Sunday school and the Wednesday evening curriculums.

He received his master's degrees in the fields of theology and divinity from Harvard Divinity School, Pacific Lutheran Theological Seminary, and Princeton Theological Seminary. His professional interests center predominantly on the administration of pastoral care and counseling and biblical studies in relationship to community ethics. He has also written two books, and currently is working on his third.

He is a devoted and inspired leader in our community and to those he serves at Christ Lutheran Church. It's a privilege to have him here with us today, and an honor to serve him, his family, and his congregation in the Ninth District of North Carolina.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 10 further requests for 1-minute speeches on each side of the aisle.

### EMBARK IN A NEW DIRECTION

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Madam Speaker, it was a little over 8 years ago that this country had just had four consecutive budget surpluses. But now, as we find ourselves in the midst of our eighth consecutive budget deficit, Congress and the President are finally making the difficult decisions necessary to right the ship and begin digging our way out of the enormous hole the policies of the past have created.

While we can't change the misguided decisions that doubled the national debt over the past 8 years, we can change course and adopt a more fiscally responsible policy.

Our budget cuts the deficit by two-thirds over the next 4 years. And by reforming our health care system, reducing our dependence on foreign oil, and

improving our education system, we are addressing the issues that are driving our long-term deficit.

Madam Speaker, finally we have a Congress and an administration that are willing to put behind us the failed economic policies of the past and embark in a new direction.

### CAP-AND-TAX ENERGY PLAN

(Mr. TIM MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. TIM MURPHY of Pennsylvania. A cap-and-tax energy bill is working its way through the House. Democrats and Republicans alike want to make sure that we put caps on emissions to reduce pollution in our country, but we need to make sure we find a way of doing this without increasing family electric bills, losing manufacturing jobs, or losing steel jobs.

They say we should trust China that they won't cheat and somehow send cheaper goods over here. But this is the same country that sends us fungus in their diapers, leaded toys, toxic baby bottles, poison dog food, harmful building materials; they dump steel on our shores, hack into our computers, and spy on us. Hardly a country I would trust.

They say that we're going to get 200 tons of steel to build a windmill, and that's true, but it takes 90 tons of steel to build a clean coal power plant. What we ought to be doing is spending our money tearing down our old dirty coal plants, building new ones, and using our massive resources.

Let's use the oil off our shores to fund clean coal technology, build nuclear power plants, get a million more jobs in America, and clean the air in our country. Put a cap on emissions, okay. But let's put a cap on job losses. That's how we help our country.

### MEMORIAL DAY AND COMPREHENSIVE IMMIGRATION REFORM

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. As America celebrates Memorial Day next week, let us not forget what this day represents. This is a day of reflection to remember those who gave the ultimate sacrifice for this country—the men and women who served our country. This includes thousands of immigrants who, although not officially citizens, died defending America's values we all share.



In fact, one of the first U.S. servicemen killed in combat in Iraq was an immigrant, Marine Lance Corporal Jose Gutierrez, only 22 years old.

On Memorial Day, immigrant families will also share America's reflection of those who gave their lives. But America must not accept immigrants one moment and reject them the next.

Congress must look past tough political decisions and work on real comprehensive reform for the sake of those immigrants and their families that already gave so much to this country. I urge my colleagues and President Obama to work with the CHC to pass comprehensive immigration reform.

#### WISE WORDS FROM AMERICAN HISTORY

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, "In the situation of this assembly, groping as it were in the dark to find political truth . . . , how has it happened, sir, that we have not once thought of humbly applying to the Father of lights to illuminate our understanding?"

"The longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, how it is probable that an empire can rise without His aid?"

"I therefore beg—that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberation, be held in this assembly every morning before we proceed to business."

Mr. Speaker, with this advice by Benjamin Franklin in 1787, our ancestors knelt in prayer each day before designing and drafting the powerful U.S. Constitution. We continue that wise tradition. Each morning we pray to the Almighty. Then we pledge to the Flag. Then we get on with the people's business.

We would do well to remember the words of the Old Book, "Unless the Lord builds the house, the builders labor in vain." "Unless the Lord watches over the city, the watchmen stand guard in vain."

And that's just the way it is.

#### VERMONT DAIRY FARMERS

(Mr. WELCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH. I rise today to bring to the attention of my colleagues the ever-worsening plight of dairy farmers in Vermont. Frankly, dairy farmers around the country.

The life of a dairy farmer is hard all ways. Never easy. Long hours, uncertainty in the markets, competition

from factory and farms make it tough for family farmers in Vermont and elsewhere to survive and thrive. It's even tougher these days.

With the cost of production of milk at about \$18 per hundredweight, it's well below the \$11 per hundredweight that farmers are being paid. It's no wonder that so many farmers are having to sell their herds and walk off the land they love.

But dairy is so important to Vermont—economically, culturally, environmentally, and historically. We need to do all we can to help this sector and to help our farmers.

That's why I and 23 of our colleagues are calling on Secretary Vilsack to consider the cost of production when setting milk prices. We need to act now to resolve this crisis. Even more importantly, we need to find a long-term solution that will help create stable and sustainable dairy in this country.

#### LAKE ALICE SCHOOL

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. I rise today to celebrate a gem of western Nebraska, Lake Alice School. The school first opened its doors in 1915, and it will bid its farewell on Monday. A farewell will actually be held with an open house at the school, allowing anyone who is or has been associated with the school to reflect on its impact to our community and what it has meant to so many people through the years.

Nearly 7,000 students from Scottsbluff and the surrounding area have passed through the school during its 93 years. I'm proud to have known Lake Alice students, teachers, graduates, and faculty throughout my life. The school provided a quality education and serves as a point of pride for the community.

It will hold a special place in our hearts. I hate to see the doors close, but I know the memories will last forever.

#### CONGRESSIONAL GOLD MEDAL FOR SOLDIERS INVOLVED IN BATAAN, CORREGIDOR AND LUZON

(Mr. HEINRICH asked and was given permission to address the House for 1 minute.)

Mr. HEINRICH. Mr. Speaker, I rise today to introduce a bill bestowing a collective Congressional Gold Medal to our soldiers involved in the World War II battles of Bataan, Corregidor, and Luzon.

This bill is particularly important to my State because nearly 2,000 New Mexican soldiers were captured as prisoners of war and subjected to the Bataan Death March of 1942. More New Mexico families per capita were di-

rectly affected by this than any other State.

American POWs were forced to endure a tortuous 65-mile, 5-day march in tropical heat, without food or water, followed by 3 years of brutal imprisonment. In the end, one-third of Bataan's 12,000 defenders never returned home.

We must never forget the courage that these veterans demonstrated before any more of our heroes of Bataan, Corregidor, or Luzon pass on. I urge my colleagues to honor them with the Congressional Gold Medal that they have more than earned.

#### GUANTANAMO BAY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. On his second day in office, the President announced his plans to close Guantanamo Bay in an effort to improve America's image around the world. But Republicans went to the floor of this House and we went to the airwaves. We even went to the Internet at GOP.gov to inform the American people that Guantanamo Bay holds some of the most dangerous terrorists on the planet; men like Khalid Sheikh Mohammed, the mastermind behind the September 11th attacks, and Abu Zubaydah, a key facilitator of the 9/11 attacks.

Because of the strong Republican leadership in the House and the Senate—even our Democratic colleagues in the last week joined us—denying any and all funding for closing Guantanamo Bay in the war supplemental bill.

But now we read that the President is renewing his effort to close Guantanamo Bay, despite a recent Pentagon report that nearly one out of every seven terrorist detainees previously released from Guantanamo Bay may have returned to their terrorist activity. Yesterday, the director of the FBI raised concerns about transferring these men to our local communities.

Despite these warnings, the President continues to bow to world opinion. Let me say emphatically: Mr. President, public safety comes before public relations. The American people don't want to know how closing Guantanamo Bay will make us more popular; they want to know how closing Guantanamo Bay will make us safer.

□ 1015

#### TAX SIMPLIFICATION FOR SMALL BUSINESSES

(Mr. SCHRADER asked and was given permission to address the House for 1 minute.)

Mr. SCHRADER. In my home State of Oregon, 98 percent of our businesses are small businesses. In fact, small businesses employ 57 percent of Oregon's workforce. During Small Business Appreciation Week, I want to

commend all of the small business owners in my home State and across the country who drive the economy and keep the dream of American entrepreneurship alive.

It is with that in mind that I speak about an issue that all small business owners face: the complexity of our Tax Code. Whether we're talking about dollars spent or time lost, tax complexity is an enormous drain for small businesses. With 3.7 million words, 70,000 pages, individuals and companies spend close to \$265 billion just to fill out their taxes. Sadly, our small business entrepreneurs pay the majority of that.

That's why I introduced H.R. 1509, the Home Office Deduction Simplification Act that would provide small businesses with a simple \$1,500 home office deduction to claim a credit that very few use today.

During Small Business Appreciation Week, I encourage all Members to consider ways to aid small businesses.

#### HEALTH CARE REFORM

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, health care reform is one of the most important issues Congress will tackle. Health care costs are too high, and we need real reform that ensures every American has access to affordable quality care. The single most important tenet of high-quality care is the doctor-patient relationship. It used to be that doctors visited the patient's house. Today patients visit the doctor's office, but the principle remains the same: doctors and patients are in charge of individual health care decisions. Our top priority must be preserving and protecting that relationship.

To that end, I am proud to be sponsoring and supporting the Medical Rights Act, which will guarantee the rights of patients to control their own health care by banning government interference in those decisions. As Congress moves forward on health care reform, we need to ensure that patients and their doctors, not government bureaucrats, remain in charge of health care decisions.

#### CELEBRATING MEMORIAL DAY

(Ms. GIFFORDS asked and was given permission to address the House for 1 minute.)

Ms. GIFFORDS. Mr. Speaker, it is with great respect that I rise today to honor and recognize our Nation's military and their families. As Memorial Day approaches, we remember the sacrifices of daily military life, but we also remember the legacy of service that blazed the trails of the American West and the avenues of freedom around the world.

Last weekend we laid to rest the bodies of 57 Tucson-area Civil War soldiers who were stationed in the Arizona Territory in the 1800s. They served in the Cavalry and the infantry as cooks and as scouts on the frontlines of American expansion. As we led the motorcycle escort to their final resting place near Fort Huachuca and Sierra Vista, hundreds of our Nation's veterans and supporters showed through their outpouring of patriotism that the underpinnings of Memorial Day are important every single day.

I ask my colleagues to join me in remembering all of the servicemembers and their families who have sacrificed for our great Nation both abroad and here at home.

#### INTRODUCTION OF SOCIAL SECURITY NUMBER FRAUD AND IDENTITY THEFT PREVENTION ACT

(Mr. COFFMAN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COFFMAN of Colorado. Mr. Speaker, millions of Americans are hurt by identity theft every year. My legislation, the Social Security Number Fraud and Identity Theft Prevention Act of 2009, H.R. 2472, will enable the Social Security Administration to work with the Department of Homeland Security in searching for records to identify individuals and employers who are using false names, false Social Security numbers, multiple individuals using the same Social Security number, the fraudulent use of Social Security numbers taken from dead people, and individuals who had applied and received a Social Security number but who are not legally entitled to work in the United States.

According to the most recent national survey by the Federal Trade Commission, 8.3 million adults in the United States were victims of identity theft and 1.8 million adults in the U.S. reported their personal information fraudulently used by somebody else. This legislation, H.R. 2472, will end a bureaucratic loophole that keeps Federal agencies from cooperating in the fight against identity theft. I strongly urge its passage.

#### RESTORING FISCAL ACCOUNTABILITY

(Mr. ARCURI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCURI. Mr. Speaker, President Obama and this Congress inherited a fiscal and economic downturn the likes of which we have not seen in this country in generations, including a record deficit and soaring unemployment. Democrats have been committed to fiscal responsibility since taking control

of the House in 2007. The first thing the Democratic-led Congress did in 2007 was re-impose PAYGO budget rules in the House. As a member of the Blue Dog Coalition, I applauded that and supported that strongly and continue to. We are working hard to reform our Nation's health care system, which will reduce the deficit, save money for consumers and improve efficiency in the health care system. I applaud President Obama and the Democratic Congress for taking these critical steps, and we will continue working with him to reduce our Nation's deficit and debt.

#### THE TAX KNOWN AS CAP-AND-TRADE

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Mr. Speaker, in order to seem like they are keeping the promise of no new taxes, some Democrats have simply stopped calling their tax policies taxes. For example, this week they're calling a \$645 billion tax increase cap-and-trade. But the Democratic chairman emeritus of the House Energy Committee, Congressman DINGELL, warned that most Americans didn't know that cap-and-trade was—quote—"a tax, and a great big one." Cap-and-tax supporters suggest this money is pulled out of thin air. The truth is that each year under cap-and-tax, every American household will have to come up with an additional \$3,100 just to heat the house, run the washing machine or use energy. Most families don't have an extra \$3,100 just sitting around. Americans are struggling to make ends meet. I ask my colleagues not to raise taxes on those who can least afford it.

#### ENERGY BILL IS A WIN-WIN FOR AMERICANS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the energy bill that the House Energy and Commerce Committee is about to finish marking up today is a win-win situation for Americans. First of all, it achieves energy independence, which is so important for our national security. At the same time, it basically helps in a significant way to reduce pollution. We know about global climate change. We know we must address it in a significant way.

But even more important, I want to stress the job creation. The fact of the matter is, it will create a lot of jobs by investing in new renewable technologies, such as solar power, wind power, geothermal. Imagine this: In one piece of legislation, which will come to the House when we come back after Memorial Day, we will be able to

make headway towards energy independence, not rely on foreign oil, create jobs in new industries and new technologies, and also address the problem of global climate change.

The fact of the matter is, it's a win-win situation for the American people. It is something that most of my constituents have been clamoring for for a long time. Once again, this new Congress and this President will achieve a major victory for the American people.

#### CAP-AND-TAX WILL CAP OUR GROWTH AND TRADE OUR JOBS

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, the crazy cap-and-tax idea advanced by my liberal colleagues would create \$640 billion in new taxes on American businesses and raise electrical bills by \$3,100 per household per year. This cap-and-tax proposal creates an artificial market to find revenue to pay for various social programs that this administration plans to enact, such as government takeover of our health care. This boondoggle will cap our growth and trade our jobs. Companies looking to invest in our economy will simply move overseas to escape this enormous tax increase.

You don't believe me? Look in the crystal ball at Spain, which has been on this plan for 10 years. After losing a number of companies, seeing utility prices skyrocket and suffering a 17.5 percent unemployment rate, we can see our future clearly. Even worse, experts tell us that cap-and-tax will do nothing to cap greenhouse gases, but it will put the United States at a global economic disadvantage because China and India will ignore this scheme. In fact, it will also serve as an economic stimulus for all developing countries which will be happy to accept our jobs.

Why not use common sense for a change and develop true renewable resources as well as nuclear power, which has a zero carbon footprint?

#### AMERICAN ENERGY INDEPENDENCE

(Mrs. McMORRIS RODGERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. McMORRIS RODGERS. Mr. Speaker, I am proud to represent one of the greenest districts in America, thanks to our hydroelectric dams that produce 70 percent of our electricity in Washington State. When you combine that with nuclear and wind and solar and biomass, we have one of the smallest carbon footprints in the country. Yet cap-and-trade would penalize Washington State, too, forcing us to pay higher costs for our energy. A Federal judge in Portland is proposing, or

wants us to consider at least, removing the four lower Snake River dams that provide 5 percent of our electricity.

Mr. Speaker, we need to stop saying no to American energy and start saying yes to American energy. We need to unleash American energy producers and not implement policies that are actually going to hurt our economy, trade our jobs and cause them to go overseas make us more dependent on foreign sources of energy.

Let's say yes to American energy. Let's say yes to American energy independence.

#### INVESTING IN ALTERNATIVE ENERGY

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, last summer's run-up in gasoline prices highlighted for all of us the challenges that face our Nation because we have not embraced a wide range of our own energy resources. With that premise in mind, I've joined with my Republican and Democrat colleagues to craft an energy bill that will invest in alternative energy, promote new technology and encourage conservation—all without raising taxes on consumers.

Instead of penalizing domestic energy production with a national energy tax like the one moving through our Energy and Commerce Committee, we need to use our royalties from offshore energy exploration to fund investments in new cleaner energy technologies. That means renewable, nuclear, environmental restoration and clean water efforts.

In addition, this bill reflects the fact that coal is one of our most abundant resources. Based on current energy prices, we could see up to \$220 billion to invest in clean coal reserves from royalty revenue from this bill.

Simply put, this bill helps us cleanly take advantage of our immense domestic resources and provides incentives for lower emissions without imposing a burdensome national energy tax on everyday consumers. Remember, energy policy has real costs for real people.

□ 1030

#### PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. 454, WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

Ms. PINGREE of Maine. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

*Resolved*, That upon adoption of this resolution it shall be in order to consider the

conference report to accompany the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

SEC. 2. The Chair may postpone further consideration of the conference report to such time as may be designated by the Speaker.

The SPEAKER pro tempore (Mr. GUTIERREZ). The gentlewoman from Maine is recognized for 1 hour.

Ms. PINGREE of Maine. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only.

I yield myself such time as I may consume.

#### GENERAL LEAVE

Ms. PINGREE of Maine. I also ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Ms. PINGREE of Maine. Mr. Speaker, House Resolution 463 provides for consideration of the conference report to accompany S. 454, the WASTE TKO Act of 2009.

Mr. Speaker, today the House will consider the conference report to accompany S. 454, the Weapon System Acquisition Reform Act of 2009. Last week, the House took an important step toward sending this legislation to the President when it passed H.R. 2101, the WASTE TKO Act of 2009, as amended, by a vote of 428-0. I would like to thank my colleagues on the House Armed Services Committee, Chairman SKELTON, Ranking Member McHUGH, Representative ANDREWS, and Representative CONAWAY, for their tireless work on this bill.

The conference report before us today includes three key provisions from H.R. 2101. First, it requires the Secretary of Defense to designate one official as the principal expert on performance assessment in acquisition.

Second, the agreement mandates that weapons systems which are not meeting the standards set in statute or which have incurred critical Nunn-McCurdy breaches will receive additional reviews, along with increased oversight from Congress and the necessary corrective measures to ensure that these programs succeed.

Lastly, the agreement requires the Department of Defense to develop a system for tracking cost growth and schedule changes before a weapons systems moves into the systems development phase.

With these key provisions, the conference agreement includes the

strengths, ideas, hard work, and spirit of both H.R. 2101 and S. 454. It is the culmination of the thoughtful and thorough efforts of the House and Senate Armed Services Committees, and it is a noteworthy example of what the Congress can accomplish with a focused bipartisan and bicameral effort.

However, while I am proud of my colleagues, I am truly excited about what this legislation will accomplish on behalf of the American people. According to the GAO, the Department of Defense is the largest buying enterprise in the world. What this means is that the American taxpayer is truly invested, in every sense of the word, in the capability, efficiency, and accountability of the Department of Defense.

In March 2009, the GAO identified \$296 billion in cumulative cost growth on 96 major defense acquisition programs. Mr. Speaker, let me put this in perspective. We are spending more on cost overruns than the amount that we spend on salaries and health care for the entire American military for 2 full years.

The GAO also found that these major weapons programs were behind schedule, on average, by 22 months.

This is shocking and unacceptable to the American public, especially in such challenging economic times. We can do better than this. We can do better than \$300 billion over budget and nearly 2 years behind schedule at a time when our Nation's resources are limited, our men and women in uniform are in harm's way, and our family budgets are being cut back to provide only the bare necessities.

In my home State, Mainers have always lived with an ethic of hard work, a spirit of responsibility, and a determination to provide the best they can with what they have.

This legislation was crafted in that very same spirit. By ensuring accurate assessments in the performance of a weapons systems and accurate assessments in its cost, a taxpayer can be certain that they are getting the best bang for their buck by providing "intensive care" for sick programs, and our soldiers can be assured that they receive the necessary capabilities and appropriate technology to defend our country and themselves. In short, this legislation keeps the taxpayer in mind and the men and women of the Armed Forces at heart.

I look forward to completing the work on this bill.

And I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, let me begin by expressing my appreciation to my very good friend and new colleague from Maine for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, let me begin by apologizing for being tardy as I came to the floor here. I was downstairs meeting with the very distinguished Chief Jus-

tice of the California Supreme Court, Ronald George's colleague, Justice Ming Chin, and several other staff members about very important foster care programs, and so I appreciate the understanding of the House as I was making my way through the corridors and up here to the House floor.

This is very important legislation that we are addressing today, Mr. Speaker. As was said in the testimony delivered by both the chairman of the Armed Services Committee, our friend from Lexington, Missouri, Mr. SKELTON, and the very distinguished ranking member, Mr. McHUGH, this really is Congress at its best. We share a strong commitment to our Nation's national security. I know that the President of the United States is delivering a speech at the Archives about the very great importance of national security and its relationship to the very important civil rights that the American people cherish and revere.

I know that it is an ongoing challenge, but as we deal with the issue of national security and our Nation's Armed Services, it is important for us to do everything that we can to ensure that we have a cost-effective national defense. When we are debating defense issues, Mr. Speaker, I regularly like to say the five most important words in the middle of the Preamble of the U.S. Constitution are "provide for the common defense." And I point to those because when one thinks about virtually everything that the Federal Government does, most all of it could be handled either by family members and local communities, at the city level, at the county level, and at the State level. But there is one thing that cannot be handled by families, communities, cities, counties, or States, and that is the national security of the United States of America. That is solely a Federal responsibility. And that is why I believe when we look at what we as a Congress are doing, as the Federal legislature is doing, it seems to me that our responsibility is to do everything that we can to provide for the common defense as directed in the Preamble of the Constitution.

As we do that, we have to recognize that there is a great deal of attention focused, Mr. Speaker, on the challenging economic times that we face. In fact, many people today are arguing, and we might have a tendency to say, that our number one priority is dealing with getting our economy back on track. And it is clearly what we are spending most of our time and effort discussing and debating as to which path we take to get our economy back on track. But we cannot forget that as important as it is for us to get our economy back on track, it comes in second to our national security. Some argue that if we spend too much money on national defense what is it that we would lose? We lose some money. If we

spend too little on our national security, what is it that we lose? We lose this very precious experiment known as the United States of America.

Today, as we look at the challenges that exist around the world, the fact is that unlike wars in the past—and I did a telephone town hall meeting last night and was discussing this with a number of my constituents, who pointed to the fact that we don't have adversaries who are wearing uniforms or represent a nation. As we continue to try to work in a bipartisan way to prosecute this war against radical extremism, we have conflicts today that are much different than those that we as a Nation had faced in the past. But we also, as I said, are facing extraordinarily difficult economic times.

And that gets to the very point of this legislation. While we say we want a strong national defense, I always like to have that little caveat, "cost effective." We want to make sure that we have a cost-effective national defense. I'm looking at my colleague from New Jersey, my new colleague from Maine, and I don't know if they were here, I know my colleague from Maine wasn't here, I don't know if my colleague from New Jersey was here, but we had raging debates that took place in this institution over \$600 hammers and items that people could clearly look at as being horrible examples of wasteful spending. And they were tangible items that they could see. I mean, \$600 for a hammer, whatever it was, \$800 for a toilet seat, those kind of things that came out in the news back then, they led to understandable outrage on the part of the American people, and it was reflected in this Congress. And so we tried to turn the corner, making sure that we had a more cost-effective national defense when it came to those issues.

Again, I always say when you talk about smaller levels of spending, people can relate to them more. What we are here dealing with today are ways in which we can bring about reductions in spending for massive large weapons systems. That is what this is all about, putting into place a structure that will allow that to happen.

That is why I am so pleased that Mr. McHUGH was able to join with Mr. SKELTON and our colleagues in the Senate as well, Senators LEVIN and MCCAIN, and work very hard on this. They came together with a bipartisan recommendation. It was reported out of this House by a vote of 428-0. And I don't recall for sure, I think it must have been unanimous in the Senate as well. I don't know if they had a recorded vote over there. But I do remember the vote that we had here.

So here we are today dealing with an area of complete agreement. I will say procedurally this conference report could have been passed without either of us taking the time of the Rules Committee or standing here. All I would

have done, all my friend from Maine would do, as Rules Committee members, we wouldn't have done it, we would just have Mr. SKELTON and Mr. MCHUGH stand up, and Mr. SKELTON could propound a unanimous consent request that this conference report be adopted, and it would be adopted unanimously.

So I will say procedurally, it is great to have a chance to stand here and talk to my colleagues, Mr. Speaker. I enjoy it probably more than they. But the fact is we don't need to be here doing this because there is agreement. But it is, I believe, important to focus on the fact that we have been able to work in a bipartisan way to do everything possible to bring about a more cost-effective national defense.

And when you think about cost effectiveness, it means that resources will be able to be utilized for something that we all hold near and dear, and that is the men and women in uniform that are out there. I remember in debate we had last week one of the amendments that unfortunately was not made in order was an amendment by my colleague from Illinois, Mrs. BIGGERT, who wanted to have an increase in compensation for our men and women in uniform. I strongly supported her right to offer that amendment, and I would have supported that amendment. I suspect my colleagues would have as well if we had had that amendment made in order.

The fact that we are going to be able to save, and I asked Mr. SKELTON and Mr. MCHUGH last night what they believe we would be able to save quantifiably with this, and numbers in excess of hundreds of billions of dollars were the kinds of numbers thrown out. And so I hope very much that we are able to do that and that those resources will be able to be used for a much greater purpose, and that is for our men and women in uniform who need the kind of continued support that we can give in this institution.

So Mr. Speaker, I am strongly supportive of this legislation. I congratulate my Democratic and Republican colleagues for working together on this, and by virtue of that, I will be supportive of the standard conference report rule that we have here which will allow for 1 hour of debate for the managers of the legislation, and then we will be able to proceed with something that is, I suspect, more controversial as we come back after the break.

□ 1045

I reserve the balance of my time.

Ms. PINGREE of Maine. Mr. Speaker, I first want to say to my good friend and colleague from California, I, too, agree that it is nice to be on the floor talking about a wonderful bipartisan effort and having such agreement on an issue that is very important to the people of this country.

Mr. Speaker, at this moment, I'd like to yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the Armed Services Committee who did considerable work on the issue we're talking about today and made it possible for us to bring it to the floor.

Mr. ANDREWS. Mr. Speaker, I thank the gentlelady for yielding. I thank my friend from California and all the members of the Rules Committee for their cooperation in bringing this conference report to the floor.

We will later speak about the merits substantively on this legislation, but I do think my friend from California's remarks merit a comment because I think this is a victory for the institution as well. This is an institutional process that benefits us as an institution.

There was a panel created by Chairman SKELTON and Mr. MCHUGH that Mr. CONAWAY and I were fortunate enough to lead that helped generate this legislation. We had open hearings. It was followed by two full committee hearings that touched on the subject, followed by an open, full committee markup in the Armed Services Committee, followed by an opportunity on the floor under the suspension rules because it was not controversial for us to go forward, followed by very diligent work in the conference committee, for which we'd like to thank from the other body Chairman LEVIN and Senator MCCAIN and their colleagues, followed by this floor debate.

The media dwell on our situations where we disagree with each other, and disagreement is healthy in democracy. It's very important for us to highlight times when we agree with each other, when the process works as it should. This is one of those times, and I would like to thank and congratulate all Members of both bodies, particularly the Rules Committee, for facilitating this success here today.

Thank you.

Mr. DREIER. Mr. Speaker, I don't have any other requests for time. As I said, there's no controversy on this rule. It's something that could have been done. So I'll reserve the balance of my time and see if my colleague has any speakers.

Ms. PINGREE of Maine. I will reserve my time until the gentleman has closed. I have no other speakers.

Mr. DREIER. Mr. Speaker, as I have said, I believe that this is the institution at its best. My friend from New Jersey has pointed out the work that he and Mr. CONAWAY did. I congratulate them for their tireless efforts in dealing with this, and I hope that we are able to save hundreds and hundreds and hundreds of billions of dollars that can go for a much better purpose than the kind of waste that obviously has come forward in the past; but at the same time, it is of the utmost importance

that we make sure that in so doing that we don't in any way take a retrograde step on the national security capabilities of the United States of America.

And I believe passionately that as we look at these challenges that exist around the world, it is a very, very dangerous place, this planet, and we are the world's only complete superpower: militarily, economically, and geopolitically. And we are going through trying times here in the United States and around the world economically, and I know that the weakened economy could enhance the likelihood of greater military challenges ahead.

And so as the work proceeds of these two entities that are being put into place at the Pentagon, I know that they will not in any way take steps that diminish our capability to defend the United States of America or our interests around the world.

With that, Mr. Speaker, I yield back the balance of my time.

Ms. PINGREE of Maine. Mr. Speaker, as my good friend from California has mentioned, we have some essential responsibilities as Members of Congress. Our constituents have charged us with several responsibilities. It would be impossible to list them all today, but I think it is essential to highlight three of those charges.

Our constituents have charged Congress with keeping our country safe and secure, from both the threats of today and the threats of tomorrow. Our constituents have asked to stand up for and defend our men and women in uniform, just as our men and women in uniform have defended us. And our constituents have asked us to spend their tax dollars in a way that is prudent, productive, and responsible.

Today, we take a step forward in living up to these responsibilities as the House considers the conference report for S. 454, the Weapon System Acquisition Reform Act of 2009. I urge a "yes" vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### PROVIDING FOR CONSIDERATION OF H.R. 915, FAA REAUTHORIZATION ACT OF 2009

Mr. ARCURI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 464 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 464

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 915) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and the amendment considered as adopted by this resolution and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution, modified by the amendment printed in part B of such report, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in part C of the report of the Committee on Rules. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 2. The chair of the Committee on Transportation and Infrastructure is authorized, on behalf of the committee, to file a supplemental report to accompany H.R. 915.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 hour.

Mr. ARCURI. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Mr. ARCURI. I ask unanimous consent that all Members be given 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ARCURI. Mr. Speaker, I yield such time as I may consume.

Mr. Speaker, H. Res. 464 provides for a structured rule for consideration of H.R. 915, the FAA Reauthorization Act of 2009.

I would like to acknowledge Chairman OBERSTAR and Ranking Member MICA of the full Committee on Transportation and Infrastructure and Chairman COSTELLO and Ranking Member PETRI of the Aviation Subcommittee and thank them for their bipartisan work on H.R. 915. As a member of the full committee, I take great pride in being a part of the cooperative atmosphere, and I believe that it yields positive results, both for Congress and the American people.

Mr. Speaker, we are here today to consider H.R. 915, the FAA Reauthorization Act of 2009. In many ways, it is unfortunate that we must consider this bill because the reauthorization of the FAA and its programs expired over 3 years ago. The House passed a reauthorization bill in September of 2007 that was very similar to the measure we will consider today. Unfortunately, the Senate was unable to move the FAA reauthorization last Congress, and so we are forced to take the lead once more, affording the Senate even more time to act than we did in the previous Congress.

The American public cannot afford to wait any longer for this legislation. The bill makes essential increases in aviation funding and safety improvements that are long overdue. In the past few months, we have seen, in New York State alone, my home, two crashes involving regional jets, and the investigations into those crashes have revealed that greater safety oversight is needed.

H.R. 915 includes a number of provisions that will make air travel safer for the American public, such as a requirement that the FAA increase the number of aviation safety inspectors and increase funding for programs that reduce runway incursions. The bill requires the FAA to inspect foreign repair stations at least twice a year and perform drug and alcohol testing on those individuals working on U.S. aircraft, to ensure that aircraft maintenance is performed in a safe and responsible manner. The bill also directs the FAA to begin an administrative rulemaking process to revise existing aircraft rescue and fire fighting standards that have not been updated in 21 years.

Many of those safety improvements come with increased costs. I have personally heard from a number of smaller airports in my district that are concerned that the cost of complying with the new fire fighting standards will

pose a severe economic hardship on them, possibly causing a reduction in air service. I would like to thank Chairman OBERSTAR and Chairman COSTELLO for addressing my concerns on this matter during yesterday's Rules Committee hearing.

The provisions related to the aircraft rescue and fire fighting rulemaking specifically require that the Secretary of Transportation conduct an assessment of potential impacts associated with the revisions; that is to say, that they will review the rulemaking and make a determination on how smaller airports, if there is a question with their ability to comply, how they can comply and continue the service to the region that they represent. In addition, the rulemaking process will involve a public comment period for impacted airports to weigh in on the proposed changes.

The bill also includes increased funding that will help airports comply with these new safety measures. The bill includes \$16.2 billion over the life of the bill for the Airport Improvement Program, also known as AIP. Airports can use AIP funding to make safety improvements or purchase emergency equipment.

In addition, the bill includes an increase on the maximum passenger facility charge that airports can assess on travelers. Airports can use PFC revenue to preserve or enhance the safety, security, or capacity of the national air transportation system; to reduce or mitigate noise impacts resulting from an airport; or to provide opportunities for enhanced competition among or between carriers. In order to take advantage of this increase, major airports will have to forego a portion of their AIP funds which will be designated for projects at smaller airports.

The FAA Reauthorization Act also includes \$70 billion for the FAA's capital programs between fiscal year 2009 and fiscal year 2012 so the FAA can make needed repairs and replace some existing facilities and equipment. This will improve airline capacity and efficiency and, at the same time, improve safety, reduce environmental impacts, and increase user access.

Mr. Speaker, this legislation is long overdue. The President has urged us to pass it. And it is especially timely that we approve a reauthorization of the FAA now, before the summer flight congestion and weather-related delays create even more havoc for the traveling public.

I urge my colleagues to vote "yes" on the rule and to support the underlying legislation.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I'd like to thank my friend the gentleman from New York (Mr. ARCURI) for the time, and I yield myself such time as I may consume.

Mr. Speaker, south Florida has a rich and proud flying history. Aviation's



entry into south Florida came in 1911 when the Wright brothers delivered a biplane for Miami's 15th anniversary celebration.

□ 1100

After World War I, the city rapidly developed as an aviation center. By 1928, Pan American Airways had moved its headquarters to Miami, followed soon by Eastern Airlines and National Airlines.

In 1937, Amelia Earhart took off from Miami Airport in Hialeah on her final fateful around-the-world flight.

During World War II, Miami transformed into a training base and departure point for the theaters of war. Following the victory, commercial aviation experienced an explosion in growth and development, and Miami International Airport rose to prominence. Today, that airport continues to be one of the busiest in the Nation and a major gateway to the Americas.

In 2008, almost 34 million passenger passed through Miami International Airport. Almost half of them were international passengers.

MIA is not only a hub for international travel, it also plays an integral role in global trade. The airport is among the Nation's top air cargo handlers, with almost 2 million tons handled last year, and a record 2.1 million tons processed in 2006. Also, MIA handled nearly 80 percent of all air cargo imports and exports between the United States and Latin America.

Because it is both an international hub for passengers and cargo, the airport provides the south Florida community with an economic contribution of over \$26 billion annually, generating almost 300,000 jobs, almost \$700 million in Federal aviation tax revenue, and almost \$1 billion dollars in State, county and municipal tax revenue.

However, if MIA is going to continue to play such an important role as a trade gateway, it obviously must continue to grow. The airport is currently in the midst of a \$6.2 billion capital improvement program that has made progress. It's had some problems, but it's made progress, despite costly delays and large cost increases.

This capital program, when completed in 2011, will expand the terminal and concourses by over 3.9 million square feet, for a total of 7.4 million square feet, with added cargo facilities increasing from 2.7 million square feet of space and 17 buildings to nearly 3.5 million square feet and 20 cargo processing buildings.

If U.S. air travel is to continue its fundamental role in our economy, we have to make certain that we have the safest, most modern and efficient transportation system in the world. By reauthorizing the Federal Aviation Administration funding and safety oversight programs, the underlying legislation that is being brought to the floor

takes an important step toward that goal.

H.R. 915 helps airports meet the challenges of congestion and delays by, among other things, authorizing over \$16 billion for the Airport Improvement Program. That program provides grants to airports to help them with capacity and infrastructure problems.

The bill also provides over \$13 billion for facilities and equipment programs to expedite the deployment of the Next Generation Air Transportation System, and to assist airports in repairing, replacing and upgrading existing equipment and facilities.

Currently, there is a contract dispute between the air traffic controllers and the Federal Aviation Administration. Now, I admire air traffic controllers. They are highly trained, hardworking professionals. I'm honored to know those who are in south Florida, the air traffic controllers, and I'm very proud of them. I'm very proud of them for their extraordinary work and their dedication. Under great pressure, with no room for error, they manage our skies and keep the traveling public safe. I'm pleased that the distinguished chairman has acknowledged the dispute and taken steps to resolve the issue.

Although I support the underlying legislation, Mr. Speaker, very important underlying legislation, I must oppose the rule that is bringing it to the floor because it blocks, that rule blocks a complete and fair debate unnecessarily, once again and unfortunately, once again.

The rule brought forth by the majority today forbids the House from considering amendments from Members on both sides of the aisle. Yes, it allows four out of six Republican amendments that were introduced in the Rules Committee, but it blocks, it prohibits, a total of 21 amendments. Some of those amendments are bipartisan amendments, and most are amendments from the majority party. I may not have voted for all those amendments that were blocked by the majority on the Rules Committee, but I certainly believe that this House should have had the opportunity to debate them, to consider them, and to vote on all the amendments.

I don't know why, Mr. Speaker. I'm not sure why the majority, each time a bill comes up for consideration under a rule, it consistently, the majority consistently blocks amendments from debate. Why? Why is the majority blocking amendments? Is it that they're afraid of debate? Are they afraid of losing the vote on some amendments? Are they protecting their Members from what they consider to be tough, difficult votes? Are they afraid of the democratic process? Or is it all of the above?

I reserve.

Mr. ARCURI. Mr. Speaker, I thank my friend from Florida for his com-

ments, and my colleague from the Rules Committee, and thank you for the history of the Miami Airport. I was not familiar with the importance that it played in the history of the aviation of our country, but I thank you for that.

I just want to point out that, with respect to your comment about amendments, that there were, in all, eight Republican amendments submitted to the committee, of which five were made in order. Yet the Democrats submitted 22 amendments, and only seven of those were made in order. So I would say that the percentage was more than fair on both sides of the aisle.

With that, Mr. Speaker, I yield 4 minutes to the gentleman from Florida, my colleague from the Rules Committee, Mr. HASTINGS.

Mr. HASTINGS of Florida. I thank my colleague from the Rules Committee for yielding me the time. And I also would like to refer to my friend, and he is my good friend from Florida, who asks the question, why would the majority, quoting him, "block legislation."

My friend, when he was in the majority, knows that I served on the committee with him for a number of years, and I suffered the frustration of being in the minority, and perhaps that is what you suffer.

But beyond that, I have the distinct recollection of even being on the Rules Committee and not even having my amendments made in order; so it is not only the general body, even the members of the Rules Committee, it is the function and the way that the House works, and that is that the majority rules.

Mr. Speaker, H.R. 915, the FAA authorization action of 2009, has been delayed for almost 3 years. This, in my opinion, is far too long for such a critical issue. Essential increases in aviation funding and safety improvement have been allowed to languish.

Under the Bush Administration there was another attempt made to approve this legislation, but it was delayed yet again by the Senate.

I believe the time has come for action. For years I have fought, along with colleagues, for a new tower at Palm Beach International Airport. And yet, with all their infinite wisdom, the Federal Aviation Administration approved plans for a new tower that is under construction that is in abatement at this moment, but intends to strip the state-of-the-art TRACON radar out of Palm Beach International and move it to Miami.

By placing all of south Florida's major radar functions under one roof in Miami, the FAA is creating an extremely dangerous scenario, especially in light of the fact that Florida is vulnerable to hurricanes and has been designated as a high-risk urban area.

If a hurricane were to barrel through Miami-Dade County and damage MIA's

control tower and subsequent radar system, as Hurricane Andrew did, then it's highly possible, indeed likely, that emergency efforts in Palm Beach and south Florida could be dramatically hindered.

The FAA's contingency plan would require that controllers in Jacksonville, an airport more than 350 miles away, direct approaching aircraft, not only in their assigned region, but throughout all of south Florida and virtually the entire State, without additional staff and technology.

For my constituents, H.R. 915 contains a provision that I consider very important, and worked hard to make sure that it was included. I thank Chairman OBERSTAR and Subcommittee Chair COSTELLO and especially their staffs for the extraordinary work that they have done on this overall bill, and I'm deeply appreciative that they included this language, and I hope the FAA gets it.

The administrator of the Federal Aviation Administration shall take such actions as may be necessary to ensure that any air traffic control tower or facility placed into operation at Palm Beach International Airport after September 30, 2009, to replace an air traffic control tower or facility placed into operation before September 30, 2009, includes an operating Terminal Radar Approach Control. It creates a process to ensure that these realignment efforts are properly reviewed and evaluated, and that stakeholders are involved throughout the entire process. This will help ensure that realignment decisions are not arbitrary nor are they made with only financial considerations taken into account.

The SPEAKER pro tempore (Mr. CLAY). The time of the gentleman has expired.

Mr. ARCURI. I yield the gentleman an additional 2 minutes.

Mr. HASTINGS of Florida. Throughout my career, rarely have I seen a Federal agency as dysfunctional, unorganized, or downright incompetent, certainly totally irresponsible as it pertains to this issue, and unresponsive to my and the efforts of others to see to it that this matter is concluded in a positive manner.

□ 1115

The way that they functioned under the Bush administration certainly is not to be admired. For years, I've been fighting the FAA to stop the consolidation and the realignment of south Florida air traffic control facilities, and the same holds for other areas of the country where appropriate studies are needed before such decisions are taken.

As my constituents know, I take this very personally. Simply put, the lives of millions of people all across this country are in the hands of air traffic controllers every single day. I'm sorry, but we can't play politics with one's personal safety.

My good friend from Florida referenced the air traffic controllers. On Monday, I received, as before did Mr. OBERSTAR and Mr. COSTELLO, the Sentinel of Safety Award. I thank my friends that are National Air Traffic Controllers Association members, particularly those who have worked with me on this project—Mitch and Shane and others in the area—and my former staff person, David Goldenberg. I would like to shout out to him and thank him and Alex Johnson on my staff for the extraordinary work that they have done.

I urge the adoption of this rule and the passage of this underlying legislation.

I would ask my friend from Florida, since he, like me, is a fan of the National Air Traffic Controllers Association, if he supports their quality of life issues and their increase in appropriate pay.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I appreciate my dear friend and colleague and the fact that he shares also my admiration for the air traffic controllers and my support for the measures to increase their quality of life and to recognize the extraordinary work that they do each day and the importance of the extraordinary work that they do each day.

With regard to the fact that when he was in the minority he experienced some of his amendments being denied, I've also had that experience. Obviously, it's a lot more challenging to be in the minority than it is to be in the majority. Of course, I'm always hopeful because, in the next bill that's going to be considered by the Rules Committee, I'm going to introduce another amendment. So there's hope. There's hope. I never lose hope that there will be additional fairness in the next rule.

I say to my good friend Mr. ARCURI—and he is my friend, as Mr. HASTINGS is—that, yes, I recognize, on this particular rule a significant number of Republican amendments were made in order. What I fail to understand is the logic in opening up the process on legislation, especially on legislation that obviously enjoys almost consensus support. I recognize the obligations of the majority to frame debate here and to organize the floor. I recognize that. I had the privilege for many years of being on the Rules Committee in the majority. We've had closed rule after closed rule after closed rule, not in this case, as this is a structured rule where there have been more amendments authorized, but the amount of very strictly organized rules and especially the amount of closed rules has been really extraordinary and, I think, unnecessary. That's the point that I've been making.

I would inquire of Mr. ARCURI if he has any additional speakers.

Mr. ARCURI. No, we have no further speakers, and I would be ready to close.

Mr. LINCOLN DIAZ-BALART of Florida. We thought we did, but we don't. So at this point we will be urging a "no" vote on the previous question and a "no" vote on the adoption of the rule.

Again, Mr. Speaker, the underlying legislation is important, and it's going to enjoy great bipartisan support, but we think that the process of debate should have been fully open, so that's why we'll be asking for a "no" vote on the previous question as well as on the rule.

At this point, I yield back the balance of my time.

Mr. ARCURI. I thank the gentleman from Florida, my good friend and colleague from the Rules Committee, for his very capable handling of this rule.

Mr. Speaker, in closing, I would like to say that the need to pass this legislation could not be clearer. We're about to enter the summer travel season, and as we saw last summer, the typical increase in passenger travel, coupled with summer thunderstorms, can wreak havoc on our air traffic system and on passengers' travel plans.

H.R. 915 will address the congestion and capacity issues by providing funding to accelerate the implementation of the Next Generation Air Transportation System, commonly known as NextGen, which will replace outdated technology with emerging technologies and automated flight capabilities.

The FAA Reauthorization Act also contains important consumer protection measures that will provide relief to passengers who find themselves helplessly caught in the air traffic system. The bill requires airlines and airports to have emergency contingency plans approved by the U.S. Department of Transportation detailing how airlines and airports will deplane passengers following excessive delays.

The Department of Transportation will have the authority to assess civil penalties against an airline or an airport that fails to adhere to an approved contingency plan. Airlines will also be required to include on their Web sites and on electronic boarding passes the U.S. DOT Consumer Complaint Hotline number and the contact information for both the U.S. DOT's Consumer Protection Division and airline. The bill also requires the U.S. DOT Inspector General to review airlines' flight delays, cancellations, and their associated causes and report back to Congress.

These are important protections that the American public desperately deserves against the often indifferent giant airlines. Let's work together today to see that they are implemented in a timely manner. I urge a "yes" vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. ARCURI. Mr. Speaker, I send to the desk a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 133

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on any legislative day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 2, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 1, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of House Concurrent Resolution 133 will be followed by 5-minute votes on ordering the previous question on House Resolution 464; and adoption of House Resolution 464, if ordered.

The vote was taken by electronic device, and there were—yeas 237, nays 184, not voting 12, as follows:

[Roll No. 282]

#### YEAS—237

Abercrombie	Hall (NY)	Obey
Ackerman	Halvorson	Oliver
Andrews	Hare	Ortiz
Baca	Harman	Pallone
Baird	Hastings (FL)	Pascarell
Baldwin	Heinrich	Pastor (AZ)
Barrow	Herseth Sandlin	Paul
Becerra	Higgins	Payne
Berkley	Hill	Perlmutter
Berman	Himes	Peters
Berry	Hinchee	Peterson
Bishop (GA)	Hirono	Pingree (ME)
Bishop (NY)	Hodes	Polis (CO)
Blumenauer	Holden	Pomeroy
Boccieri	Holt	Price (NC)
Boren	Honda	Quigley
Boswell	Hoyer	Rahall
Boucher	Inslee	Rangel
Boyd	Israel	Reyes
Brady (PA)	Jackson (IL)	Richardson
Braley (IA)	Jackson-Lee	Rodriguez
Bright	(TX)	Ross
Brown, Corrine	Johnson (GA)	Rothman (NJ)
Butterfield	Johnson (IL)	Roybal-Allard
Capps	Johnson, E. B.	Ruppersberger
Capuano	Kagen	Rush
Cardoza	Kanjorski	Ryan (OH)
Carnahan	Kennedy	Salazar
Carson (IN)	Kildee	Sanchez, Loretta
Castor (FL)	Kilpatrick (MI)	Sarbanes
Chaffetz	Kilroy	Schakowsky
Chandler	Kind	Schauer
Clarke	Kirkpatrick (AZ)	Schiff
Clay	Kissell	Schrader
Cleaver	Klein (FL)	Schwartz
Clyburn	Kosmas	Scott (GA)
Cohen	Langevin	Scott (VA)
Connolly (VA)	Larsen (WA)	Serrano
Conyers	Larson (CT)	Sestak
Cooper	Lee (CA)	Shea-Porter
Costa	Levin	Sherman
Costello	Lewis (GA)	Shuler
Courtney	Lipinski	Sires
Crowley	Loeb sack	Skelton
Cuellar	Lofgren, Zoe	Slaughter
Cummings	Lujan	Smith (WA)
Davis (AL)	Lummis	Snyder
Davis (CA)	Lynch	Space
Davis (IL)	Maloney	Spratt
Davis (TN)	Markey (MA)	Stupak
DeFazio	Marshall	Sutton
DeGette	Massa	Tanner
DeLauro	Matheson	Tauscher
Dicks	Matsui	Taylor
Dingell	McCarthy (NY)	Teague
Doggett	McCollum	Thompson (CA)
Doyle	McDermott	Thompson (MS)
Drie haus	McGovern	Tierney
Edwards (MD)	McIntyre	Titus
Edwards (TX)	McMahon	Tonko
Ehlers	McNerney	Towns
Ellison	Meek (FL)	Tsongas
Eshoo	Meeke (NY)	Van Hollen
Etheridge	Melancon	Velázquez
Farr	Michaud	Visclosky
Fattah	Miller (NC)	Walz
Filner	Miller, George	Wasserman
Foster	Mollohan	Schultz
Frank (MA)	Moore (KS)	Waters
Fudge	Moore (WI)	Watson
Giffords	Moran (VA)	Watt
Gonzalez	Murphy (CT)	Waxman
Gordon (TN)	Murphy, Patrick	Weiner
Grayson	Murtha	Welch
Green, Al	Nadler (NY)	Wexler
Green, Gene	Napolitano	Wilson (OH)
Griffith	Neal (MA)	Woolsey
Grijalva	Nye	Wu
Gutierrez	Oberstar	Yarmuth

#### NAYS—184

Aderholt	Biggart	Boustany
Adler (NJ)	Billbray	Brady (TX)
Akin	Billirakis	Broun (GA)
Alexander	Bishop (UT)	Brown (SC)
Altman	Blackburn	Brown-Waite,
Arcuri	Blunt	Ginny
Austria	Boehner	Buchanan
Bachus	Bonner	Burgess
Bartlett	Bono Mack	Burton (IN)
Barton (TX)	Boozman	Buyer

Calvert	Jenkins	Petri
Camp	Johnson, Sam	Pitts
Campbell	Jones	Platts
Cantor	Jordan (OH)	Poe (TX)
Cao	King (IA)	Posey
Capito	King (NY)	Price (GA)
Carney	Kingston	Putnam
Carter	Kirk	Radanovich
Cassidy	Kline (MN)	Rehberg
Castle	Kratovil	Reichert
Childers	Kucinich	Roe (TN)
Coble	Lamborn	Rogers (AL)
Coffman (CO)	Lance	Rogers (KY)
Cole	Latham	Rogers (MI)
Conaway	LaTourette	Rohrabacher
Crenshaw	Latta	Rooney
Culberson	Lee (NY)	Ros-Lehtinen
Dahlkemper	Lewis (CA)	Roskam
Davis (KY)	Linder	Royce
Deal (GA)	LoBiondo	Ryan (WI)
Dent	Lucas	Scalise
Diaz-Balart, L.	Luetkemeyer	Schmidt
Diaz-Balart, M.	Lungren, Daniel	Schock
Donnelly (IN)	E.	Sensenbrenner
Dreier	Mack	Sessions
Duncan	Maffei	Shadegg
Ellsworth	Manzullo	Shimkus
Emerson	Marchant	Shuster
Fallin	McCarthy (CA)	Simpson
Fleming	McCaul	Smith (NE)
Forbes	McClintock	Smith (NJ)
Fortenberry	McCotter	Smith (TX)
Fox	McHenry	Souder
Franks (AZ)	McHugh	Stearns
Frelinghuysen	McKeon	Sullivan
Gallegly	McMorris	Terry
Garrett (NJ)	Rodgers	Thompson (PA)
Gerlach	Mica	Thornberry
Gingrey (GA)	Miller (FL)	Tiahrt
Goodlatte	Miller (MI)	Tiberi
Granger	Miller, Gary	Turner
Graves	Minnick	Upton
Guthrie	Mitchell	Walden
Hall (TX)	Moran (KS)	Wamp
Harper	Murphy (NY)	Westmoreland
Hastings (WA)	Murphy, Tim	Whitfield
Heller	Myrick	Wilson (SC)
Hensarling	Neugebauer	Wittman
Herger	Nunes	Wolf
Hoekstra	Olson	Young (AK)
Hunter	Paulsen	Young (FL)
Inglis	Pence	
Issa	Perriello	

#### NOT VOTING—12

Bachmann	Gohmert	Sánchez, Linda
Barrett (SC)	Hinojosa	T.
Bean	Kaptur	Speier
Engel	Markey (CO)	Stark
Flake		

□ 1152

Messrs. SMITH of New Jersey, CARNEY, BARTLETT, KUCINICH, RADANOVICH, ADLER of New Jersey, and Mrs. DAHLKEMPER changed their vote from "yea" to "nay."

Mrs. LUMMIS changed her vote from "nay" to yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 282, had I been present, I would have voted "yea."

#### RAISING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. BISHOP of Utah. Pursuant to clause 2(a)1 of rule IX, I hereby notify the House of my intention to offer a resolution as a question of privilege of the House.

The form of the resolution is at the desk and is as follows:

H. RES. —

Whereas the Honorable Nancy Pelosi, a Representative from California, served from 1997 to 2002 as Ranking Democratic Member of the House Permanent Select Committee on Intelligence;

Whereas Representative Pelosi currently serves as Speaker of the House, a position of considerable power and influence within the Congress;

Whereas title 3 of the United States Code designates the Speaker of the House as third in line of succession to the Presidency;

Whereas Speaker Pelosi has publicly challenged the truthfulness of what she and other congressional leaders were told by Central Intelligence Agency officials about the agency's use of enhanced interrogation techniques on suspected terrorists;

Whereas in an MSNBC interview on February 25, 2009, Speaker Pelosi stated, "I can say flat-out, they never told us that these enhanced interrogation techniques were being used";

Whereas, Speaker Pelosi's public statements allege a sustained pattern of deception by government intelligence officers charged by law with informing Congress about the agency's activities;

Whereas when asked at a press conference on May 15, 2009 widely reported by the news media, "Madame Speaker, just to be clear, you're accusing the CIA of lying to you in September?" Speaker Pelosi stated, "Yes";

Whereas during the same press conference the Speaker subsequently stated, "So yes, I'm saying they are misleading, the CIA was misleading the Congress" and further, "they mislead us all the time" and "they misrepresented every step of the way";

Whereas in a memorandum to CIA employees released publicly on May 15, 2009, Leon Panetta, the CIA Director, stated, "It is not our policy or practice to mislead Congress. That is against our laws and our values. As the Agency indicated previously in response to Congressional inquiries, our contemporaneous records from September 2002 indicate that CIA officers briefed truthfully on the interrogation of Abu Zubaydah, describing the enhanced interrogation techniques that had been employed";

Whereas national and international media reports on this controversy have damaged the reputation of the House by raising questions about whether the effectiveness of congressional oversight may have been undermined through false or misleading statements by intelligence officials;

Whereas in order to safeguard the reputation of the House it is imperative to reconcile as soon as possible the aforementioned contradictory statements by Speaker Pelosi and CIA Director Panetta: Now, therefore, be it

*Resolved, That—*

(1) a Select Subcommittee of the Permanent Select Committee on Intelligence shall be established to review and verify the accuracy of the Speaker's aforementioned public statements;

(2) the Select Subcommittee shall be comprised of four members of the full committee, two appointed by the chairman of the committee and two by its ranking minority member;

(3) The subcommittee shall have the same powers to obtain testimony and documents pursuant to subpoena authorized under clause 2(m) of Rule XI of the Rules of the House; and,

(4) the Select Subcommittee report its findings and recommendations to the House

not later than sixty calendar days after adoption of this resolution:

Mr. BISHOP of Utah. Mr. Speaker, I rise to a question of the privileges of the House and offer the resolution previously noticed.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. —

Whereas the Honorable Nancy Pelosi, a Representative from California, served from 1997 to 2002 as Ranking Democratic Member of the House Permanent Select Committee on Intelligence;

Whereas Representative Pelosi currently serves as Speaker of the House, a position of considerable power and influence within the Congress;

Whereas title 3 of the United States Code designates the Speaker of the House as third in line of succession to the Presidency;

Whereas Speaker Pelosi has publicly challenged the truthfulness of what she and other congressional leaders were told by Central Intelligence Agency officials about the agency's use of enhanced interrogation techniques on suspected terrorists;

Whereas in an MSNBC interview on February 25, 2009, Speaker Pelosi stated, "I can say flat-out, they never told us that these enhanced interrogation techniques were being used";

Whereas Speaker Pelosi's public statements allege a sustained pattern of deception by government intelligence officers charged by law with informing Congress about the agency's activities;

Whereas when asked at a press conference on May 15, 2009 widely reported by the news media, "Madam Speaker, just to be clear, you're accusing the CIA of lying to you in September?" Speaker Pelosi stated, "Yes";

Whereas during the same press conference the Speaker subsequently stated, "So yes, I'm saying they are misleading, the CIA was misleading the Congress" and further, "they mislead us all the time" and "they misrepresented every step of the way";

Whereas in a memorandum to CIA employees released publicly on May 15, 2009, Leon Panetta, the CIA Director, stated, "It is not our policy or practice to mislead Congress. That is against our laws and our values. As the Agency indicated previously in response to Congressional inquiries, our contemporaneous records from September 2002 indicate that CIA officers briefed truthfully on the interrogation of Abu Zubaydah, describing the enhanced interrogation techniques that had been employed";

Whereas national and international media reports on this controversy have damaged the reputation of the House by raising questions about whether the effectiveness of congressional oversight may have been undermined through false or misleading statements by intelligence officials;

Whereas in order to safeguard the reputation of the House it is imperative to reconcile as soon as possible the aforementioned contradictory statements by Speaker Pelosi and CIA Director Panetta: Now, therefore, be it

*Resolved, That—*

(1) a Select Subcommittee of the Permanent Select Committee on Intelligence shall be established to review and verify the accuracy of the Speaker's aforementioned public statements;

(2) the Select Subcommittee shall be comprised of four members of the full committee, two appointed by the chairman of

the committee and two by its ranking minority member;

(3) the subcommittee shall have the same powers to obtain testimony and documents pursuant to subpoena authorized under clause 2(m) of Rule XI of the Rules of the House; and,

(4) the Select Subcommittee report its findings and recommendations to the House not later than sixty calendar days after adoption of this resolution.

□ 1200

The SPEAKER pro tempore. The Chair is prepared to rule on the privilege or not of the resolution.

Would the gentleman from Utah like to offer any argument on that question?

Mr. BISHOP of Utah. I appreciate that opportunity, sir.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Utah.

Mr. BISHOP of Utah. It is simply an issue that if, indeed, there has been a pattern of misconceptions, misinformation that has been given to the House of Representatives by an agency of government, that is an untenable and improper situation to have; and it is imperative that we try to find the truth of that matter, to make sure that if it has happened, it never happens again.

It seems obvious that a bipartisan committee, two Republicans and two Democrats, who are there to ascertain the veracity of those particular claims, that we have been systematically denied the truth or systematically been told inaccuracies, should be identified. That's the point of this particular resolution. It has nothing else to do except to establish a process whereby the veracity of this particular issue can be identified, and the House can know if, indeed, agencies have specifically had a pattern of misleading this House in information that is required.

The SPEAKER pro tempore. The Chair is prepared to rule.

The resolution proposes to direct a select subcommittee of the Permanent Select Committee on Intelligence "to review and verify the accuracy of" certain public statements of the Speaker concerning communications to the Congress from an element of the executive branch.

Such a review necessarily would include an evaluation not only of the statements of the Speaker but also of the executive communications to which those statements related. Thus, the review necessarily would involve an evaluation of the oversight regime that formed the context for those communications as well.

On these premises the Chair finds that the resolution is not confined to questions of the privileges of the House. The Chair therefore holds that the resolution is not privileged under rule IX but, rather, may be submitted through the hopper.

Mr. BISHOP of Utah. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

## MOTION TO TABLE

Mr. HOYER. Mr. Speaker, I move that the appeal be laid on the table.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BISHOP of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to table will be followed by 5-minute votes on ordering the previous question on H. Res. 464 and the adoption of H. Res. 464, if ordered.

The vote was taken by electronic device, and there were—yeas 252, nays 172, not voting 9, as follows:

[Roll No. 283]

## YEAS—252

Abercrombie	Dicks	Kind
Ackerman	Dingell	Kirkpatrick (AZ)
Adler (NJ)	Doggett	Kissell
Altmire	Donnelly (IN)	Klein (FL)
Andrews	Doyle	Kosmas
Arcuri	Driebehaus	Kratovil
Baca	Edwards (MD)	Kucinich
Baird	Edwards (TX)	Langevin
Baldwin	Ellison	Larsen (WA)
Barrow	Ellsworth	Larson (CT)
Bean	Engel	Lee (CA)
Becerra	Eshoo	Levin
Berkley	Etheridge	Lewis (GA)
Berman	Farr	Lipinski
Berry	Fattah	Loeb sack
Bishop (GA)	Filner	Lofgren, Zoe
Bishop (NY)	Foster	Lowey
Blumenauer	Frank (MA)	Lujan
Bocieri	Fudge	Lynch
Boren	Giffords	Maffei
Boswell	Gonzalez	Maloney
Boucher	Gordon (TN)	Markey (MA)
Boyd	Grayson	Marshall
Brady (PA)	Green, Al	Marshall
Braley (IA)	Green, Gene	Matheson
Bright	Griffith	Matsui
Brown, Corrine	Grijalva	McCarthy (NY)
Butterfield	Gutierrez	McCollum
Capps	Hall (NY)	McDermott
Capuano	Halvorson	McGovern
Cardoza	Hare	McIntyre
Carnahan	Harman	McMahon
Carney	Hastings (FL)	McNerney
Carson (IN)	Heinrich	Meek (FL)
Castor (FL)	Herse th Sandlin	Meeks (NY)
Chandler	Higgins	Melancon
Childers	Hill	Michaud
Clarke	Himes	Miller (NC)
Clay	Hinchey	Miller, George
Cleaver	Hinojosa	Minnick
Clyburn	Hirono	Mitchell
Cohen	Hodes	Mollohan
Connolly (VA)	Holden	Moore (KS)
Conyers	Holt	Moore (WI)
Cooper	Honda	Moran (VA)
Costa	Hoyer	Murphy (CT)
Costello	Insee	Murphy (NY)
Courtney	Israel	Murphy, Patrick
Crowley	Jackson (IL)	Murtha
Cuellar	Jackson-Lee	Nadler (NY)
Cummings	(TX)	Napolitano
Dahlkemper	Johnson (GA)	Neal (MA)
Davis (AL)	Johnson, E. B.	Nye
Davis (CA)	Jones	Oberstar
Davis (IL)	Kagen	Obey
Davis (TN)	Kanjorski	Oliver
DeFazio	Kennedy	Ortiz
DeGette	Kildee	Pallone
Delahunt	Kilpatrick (MI)	Pascarell
DeLauro	Kilroy	Pastor (AZ)

Paul	Schakowsky
Payne	Schauer
Perlmutter	Schiff
Perriello	Schrader
Peters	Schwartz
Peterson	Scott (GA)
Pingree (ME)	Scott (VA)
Polis (CO)	Serrano
Pomeroy	Sestak
Price (NC)	Shea-Porter
Quigley	Sherman
Rahall	Shuler
Rangel	Sires
Reyes	Skeltton
Richardson	Slaughter
Rodriguez	Smith (WA)
Ross	Snyder
Rothman (NJ)	Space
Roybal-Allard	Spratt
Ruppersberger	Stupak
Rush	Sutton
Ryan (OH)	Tanner
Salazar	Tauscher
Sanchez, Loretta	Taylor
Sarbanes	Teague

## NAYS—172

Aderholt	Gallegly	Myrick
Akin	Garrett (NJ)	Neugebauer
Alexander	Gerlach	Nunes
Austria	Gingrey (GA)	Olson
Bachus	Gohmert	Paulsen
Bartlett	Goodlatte	Pence
Barton (TX)	Granger	Petri
Biggart	Guthrie	Pitts
Bilbray	Hall (TX)	Platts
Bilirakis	Harper	Poe (TX)
Bishop (UT)	Hastings (WA)	Posey
Blackburn	Heller	Price (GA)
Blunt	Hensarling	Putnam
Boehner	Herger	Radanovich
Bonner	Hoekstra	Rehberg
Bono Mack	Hunter	Reichert
Boozman	Inglis	Roe (TN)
Boustany	Issa	Rogers (AL)
Brady (TX)	Jenkins	Rogers (KY)
Broun (GA)	Johnson (IL)	Rogers (MI)
Brown (SC)	Johnson, Sam	Rohrabacher
Brown-Waite,	Jordan (OH)	Rooney
Ginny	King (IA)	Ros-Lehtinen
Buchanan	King (NY)	Roskam
Burgess	Kingston	Royce
Burton (IN)	Kirk	Ryan (WI)
Buyer	Kline (MN)	Scalise
Calvert	Lamborn	Schmidt
Camp	Lance	Schock
Campbell	Latham	Sensenbrenner
Cantor	LaTourette	Sessions
Cao	Latta	Shadegg
Capito	Lee (NY)	Shimkus
Carter	Lewis (CA)	Shuster
Cassidy	Linder	Simpson
Castle	LoBiondo	Smith (NE)
Chaffetz	Lucas	Smith (NJ)
Coble	Luetkemeyer	Smith (TX)
Coffman (CO)	Lummis	Souder
Cole	Lungren, Daniel	Stearns
Conaway	E.	Sullivan
Crenshaw	Mack	Terry
Culberson	Manzullo	Thompson (PA)
Davis (KY)	Marchant	Thornberry
Deal (GA)	McCarthy (CA)	Tiahrt
Dent	McCauley	Tiberi
Diaz-Balart, L.	McClintock	Turner
Diaz-Balart, M.	McCotter	Upton
Dreier	McHenry	Walden
Duncan	McHugh	Wamp
Ehlers	McKeon	Westmoreland
Emerson	McMorris	Whitfield
Fallin	Rodgers	Wilson (SC)
Fleming	Mica	Wittman
Forbes	Miller (FL)	Wolf
Fortenberry	Miller (MI)	Young (AK)
Fox	Miller, Gary	Young (FL)
Franks (AZ)	Moran (KS)	
Frelinghuysen		

## NOT VOTING—9

Bachmann	Markey (CO)	Speier
Barrett (SC)	Murphy, Tim	Stark
Flake	Sanchez, Linda	
Kaptur	T.	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1223

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 915, FAA REAUTHORIZATION ACT OF 2009

The SPEAKER pro tempore (Mr. SALAZAR). The unfinished business is the vote on ordering the previous question on House Resolution 464, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 246, nays 175, not voting 12, as follows:

[Roll No. 284]

## YEAS—246

Abercrombie	Davis (IL)	Jackson-Lee
Ackerman	Davis (TN)	(TX)
Adler (NJ)	DeFazio	Johnson (GA)
Altmire	DeGette	Johnson, E. B.
Andrews	Delahunt	Kagen
Arcuri	DeLauro	Kanjorski
Baca	Dicks	Kennedy
Baird	Dingell	Kildee
Baldwin	Doggett	Kilpatrick (MI)
Barrow	Donnelly (IN)	Kilroy
Bean	Driebehaus	Kind
Becerra	Edwards (MD)	Kirkpatrick (AZ)
Berkley	Edwards (TX)	Kissell
Berman	Ellison	Klein (FL)
Berry	Ellsworth	Kosmas
Bishop (GA)	Engel	Kratovil
Bishop (NY)	Eshoo	Kucinich
Blumenauer	Etheridge	Langevin
Bocieri	Farr	Larsen (WA)
Boren	Fattah	Larson (CT)
Boswell	Filner	Lee (CA)
Boucher	Foster	Levin
Boyd	Frank (MA)	Lewis (GA)
Brady (PA)	Fudge	Lipinski
Braley (IA)	Giffords	Loeb sack
Bright	Gonzalez	Lofgren, Zoe
Brown, Corrine	Gordon (TN)	Lowey
Butterfield	Grayson	Lujan
Capps	Green, Al	Lynch
Capuano	Green, Gene	Maffei
Cardoza	Griffith	Maloney
Carnahan	Grijalva	Markey (MA)
Carney	Gutierrez	Marshall
Carson (IN)	Hall (NY)	Massa
Castor (FL)	Halvorson	Matheson
Chandler	Hare	Matsui
Childers	Harman	McCarthy (NY)
Clarke	Hastings (FL)	McCollum
Clay	Heinrich	McDermott
Cleaver	Herse th Sandlin	McGovern
Clyburn	Higgins	McIntyre
Cohen	Himes	McMahon
Connolly (VA)	Hinchey	McNerney
Conyers	Hinojosa	Meek (FL)
Cooper	Hirono	Meeks (NY)
Costa	Hodes	Melancon
Costello	Holden	Michaud
Courtney	Holt	Miller (NC)
Crowley	Honda	Miller, George
Cuellar	Hoyer	Mitchell
Cummings	Insee	Mollohan
Dahlkemper	Israel	Moore (KS)
Davis (AL)	Jackson (IL)	Moore (WI)
Davis (CA)		Moran (VA)

Murphy (CT) Rodriguez  
 Murphy (NY) Ross  
 Murphy, Patrick Rothman (NJ)  
 Murtha Roybal-Allard  
 Nadler (NY) Ruppertsberger  
 Napolitano Rush  
 Neal (MA) Ryan (OH)  
 Nye Salazar  
 Oberstar Sanchez, Loretta  
 Obey Sarbanes  
 Olver Schakowsky  
 Ortiz Schauer  
 Pallone Schiff  
 Pascrell Schrader  
 Pastor (AZ) Schwartz  
 Payne Scott (GA)  
 Perlmutter Scott (VA)  
 Perriello Serrano  
 Peters Shea-Porter  
 Peterson Sherman  
 Pingree (ME) Shuler  
 Polis (CO) Sires  
 Pomeroy Skelton  
 Price (NC) Slaughter  
 Quigley Smith (WA)  
 Rahall Snyder  
 Rangel Space  
 Reyes Spratt  
 Richardson Stupak

## NAYS—175

Aderholt Garrett (NJ)  
 Akin Gerlach  
 Alexander Gingrey (GA)  
 Austria Gohmert  
 Bachus Goodlatte  
 Bartlett Granger  
 Barton (TX) Graves  
 Biggert Guthrie  
 Bilbray Hall (TX)  
 Bilirakis Harper  
 Bishop (UT) Hastings (WA)  
 Blackburn Heller  
 Blunt Hensarling  
 Boehner Herger  
 Bonner Hill  
 Bono Mack Hoekstra  
 Boozman Hunter  
 Boustany Inglis  
 Brady (TX) Issa  
 Broun (GA) Jenkins  
 Brown (SC) Johnson (IL)  
 Brown-Waite, Johnson, Sam  
 Ginny Jones  
 Buchanan Jordan (OH)  
 Burgess King (IA)  
 Burton (IN) King (NY)  
 Buyer Kingston  
 Calvert Kirk  
 Camp Kline (MN)  
 Campbell Lamborn  
 Cantor Lance  
 Cao Latham  
 Capito LaTourette  
 Carter Latta  
 Cassidy Lee (NY)  
 Castle Lewis (CA)  
 Chaffetz Linder  
 Coble LoBiondo  
 Coffman (CO) Lucas  
 Cole Luetkemeyer  
 Conaway Lummis  
 Crenshaw Lungren, Daniel  
 Culberson E.  
 Davis (KY) Mack  
 Deal (GA) Manzullo  
 Dent Marchant  
 Diaz-Balart, L. McCarthy (CA)  
 Diaz-Balart, M. McCaul  
 Dreier McClintock  
 Duncan McCotter  
 Ehlers McHenry  
 Emerson McHugh  
 Fallin McKeon  
 Fleming McMorris  
 Forbes Rodgers  
 Fortenberry Mica  
 Foxx Miller (FL)  
 Franks (AZ) Miller (MI)  
 Frelinghuysen Miller, Gary  
 Gallegly Minnick

## NOT VOTING—12

Bachmann Doyle  
 Barrett (SC) Flake

Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walz  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Wexler  
 Wilson (OH)  
 Woolsey  
 Wu  
 Yarmuth

Murphy, Tim Sánchez, Linda  
 Rooney T.  
 Scalise

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (Mr. SALAZAR) (during the vote). There are 2 minutes remaining in this vote.

□ 1234

So the previous question was ordered.  
 The result of the vote was announced as above recorded.

Stated against:  
 Mr. SCALISE. Mr. Speaker, on rollcall No. 284 I regret that I was unavoidably detained and missed rollcall vote 284 on ordering the Previous Question on the Rule to provide consideration for H.R. 915—FAA Reauthorization Act of 2009. Had I been present, I would have voted “nay.”

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.  
 The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 234, nays 178, not voting 21, as follows:

[Roll No. 285]

## YEAS—234

Abercrombie Davis (AL)  
 Ackerman Davis (CA)  
 Adler (NJ) Davis (TN)  
 Altmire DeFazio  
 Andrews DeGette  
 Arcuri Delahunt  
 Baca DeLauro  
 Baird Dicks  
 Baldwin Dingell  
 Barrow Doggett  
 Bean Donnelly (IN)  
 Becerra Driehaus  
 Berkley Edwards (MD)  
 Berman Edwards (TX)  
 Berry Ellison  
 Bishop (GA) Ellsworth  
 Bishop (NY) Engel  
 Blumenauer Eshoo  
 Boccieri Etheridge  
 Boren Farr  
 Boswell Fattah  
 Boucher Filner  
 Boyd Foster  
 Brady (PA) Frank (MA)  
 Braley (IA) Fudge  
 Brown, Corrine Giffords  
 Butterfield Gonzalez  
 Capps Gordon (TN)  
 Capuano Grayson  
 Cardoza Green, Al  
 Carnahan Green, Gene  
 Carney Griffith  
 Carson (IN) Grijalva  
 Castor (FL) Gutierrez  
 Chandler Hall (NY)  
 Clarke Halvorson  
 Clay Hare  
 Clyburn Harman  
 Cohen Hastings (FL)  
 Connolly (VA) Heinrich  
 Conyers Herseht Sandlin  
 Cooper Higgins  
 Costa Himes  
 Costello Hinchey  
 Courtney Hinojosa  
 Crowley Hirono  
 Cuellar Hodes  
 Cummings Holden  
 Dahlkemper Holt

Michaud  
 Miller (NC)  
 Miller, George  
 Molloyhan  
 Moore (KS)  
 Moore (WI)  
 Moran (VA)  
 Murphy (CT)  
 Murphy (NY)  
 Murphy, Patrick  
 Murtha  
 Nadler (NY)  
 Neal (MA)  
 Nye  
 Oberstar  
 Obey  
 Olver  
 Ortiz  
 Pallone  
 Pascrell  
 Pastor (AZ)  
 Payne  
 Perlmutter  
 Perriello  
 Peters  
 Peterson  
 Pingree (ME)  
 Polis (CO)  
 Pomeroy  
 Price (NC)  
 Quigley  
 Rahall  
 Rangel  
 Reyes  
 Richardson  
 Rodriguez  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Ruppertsberger  
 Rush  
 Ryan (OH)  
 Salazar  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schauer  
 Schiff  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Shea-Porter  
 Sherman  
 Sires  
 Skelton  
 Slaughter  
 Snyder  
 Space  
 Spratt  
 Stupak  
 Stupak  
 Tauscher  
 Taylor  
 Teague  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walz  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Wexler  
 Wilson (OH)  
 Woolsey  
 Wu  
 Yarmuth

## NAYS—178

Aderholt Garrett (NJ)  
 Akin Gerlach  
 Alexander Gingrey (GA)  
 Austria Gohmert  
 Bachus Goodlatte  
 Bartlett Granger  
 Barton (TX) Graves  
 Biggert Guthrie  
 Bilbray Hall (TX)  
 Bilirakis Harper  
 Bishop (UT) Hastings (WA)  
 Blackburn Heller  
 Blunt Hensarling  
 Boehner Herger  
 Bonner Hill  
 Bono Mack Hoekstra  
 Boozman Hunter  
 Boustany Inglis  
 Brady (TX) Issa  
 Bright Jenkins  
 Broun (GA) Johnson (IL)  
 Brown (SC) Johnson, Sam  
 Brown-Waite, Jones  
 Ginny Jordan (OH)  
 Buchanan King (IA)  
 Burgess King (NY)  
 Burton (IN) Kingston  
 Buyer Kirk  
 Calvert Kirkpatrick (AZ)  
 Camp Kline (MN)  
 Campbell Lamborn  
 Cantor Lance  
 Cao Latham  
 Capito Latta  
 Carter Lee (NY)  
 Castle Lewis (CA)  
 Chaffetz Linder  
 Childers LoBiondo  
 Coble Lucas  
 Coffman (CO) Luetkemeyer  
 Cole Lummis  
 Conaway Lungren, Daniel  
 Crenshaw E.  
 Culberson Mack  
 Davis (KY) Manzullo  
 Deal (GA) Marchant  
 Dent McCarthy (CA)  
 Diaz-Balart, L. McCaul  
 Diaz-Balart, M. McCotter  
 Dreier McHenry  
 Duncan McHugh  
 Ehlers McKeon  
 Emerson McMorris  
 Fallin Rodgers  
 Fleming Mica  
 Forbes Miller (FL)  
 Fortenberry Miller (MI)  
 Foxx Miller, Gary  
 Franks (AZ) Minnick  
 Frelinghuysen Mitchell  
 Gallegly  
 Moran (KS)  
 Myrick  
 Neugebauer  
 Nunes  
 Olson  
 Paul  
 Paulsen  
 Pence  
 Petri  
 Pitts  
 Platts  
 Poe (TX)  
 Posey  
 Price (GA)  
 Putnam  
 Radanovich  
 Rehberg  
 Inglis  
 Reichert  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Royce  
 Ryan (WI)  
 Scalise  
 Schmidt  
 Sensenbrenner  
 Sessions  
 Sestak  
 Shadegg  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Souder  
 Sullivan  
 Terry  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walden  
 Wamp  
 Westmoreland  
 Whitfield  
 Wilson (SC)  
 Wittman  
 Wolf  
 Young (AK)  
 Young (FL)



## NOT VOTING—21

Bachmann	LaTourette	Schock
Barrett (SC)	Markey (CO)	Smith (WA)
Cassidy	Marshall	Speier
Cleaver	Murphy, Tim	Stark
Davis (IL)	Napolitano	Stearns
Doyle	Rooney	Sutton
Flake	Sánchez, Linda	
Kaptur	T.	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1241

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. STEARNS. Mr. Speaker, on rollcall No. 285 I was unavoidably detained. Had I been present, I would have voted "nay."

# CONFERENCE REPORT ON S. 454, WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

Mr. SKELTON. Mr. Speaker, pursuant to House Resolution 463, I call up the conference report on the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 463, the conference report is considered read.

(For conference report and statement, see proceedings of the House of Wednesday, May 20, 2009, at page 13047.)

The SPEAKER pro tempore. The gentleman from Missouri (Mr. SKELTON) and the gentleman from New York (Mr. MCHUGH) each will control 30 minutes.

The Chair recognizes the gentleman from Missouri.

## GENERAL LEAVE

Mr. SKELTON. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I'm pleased to bring before the House the conference report on S. 454, the Weapon System Acquisition Reform Act of 2009.

Last week, the House overwhelmingly approved H.R. 2101, the House Armed Services Committee's version of the bill, in a vote of 428-0 and sent us to conference with the Senate. Our conference concluded on Tuesday, and I can report that we reached agreement on strong legislation that will reflect well on the Congress as a whole.

Every Member attending the conference committee, House and Senate, on a bipartisan basis signed the conference report, and it passed the Senate last evening on a vote of 95-0.

It's tempting to conclude that a bill so unanimously supported must not do anything. How often are we able to agree unanimously on issues of real substance? However, in this instance, Congress will speak with a single voice and will, at the same time, adopt tough medicine for the acquisitions system.

This bill is landmark legislation, the strongest effort to reform the acquisition of weapons systems since the days of Les Aspin. In fact, I strongly believe this bill will be much more successful than earlier reform efforts. The consensus on this legislation is simply the result of a problem that has become so obvious and so urgent that every Member has concluded that strong action is required.

Too often in our current acquisition system, we end up with too few weapons that cost us too much and arrive too late. GAO tells us that DOD will exceed its original cost estimates on 96 major weapons systems by \$296 billion. That's more than 2 years of pay and health care for all our troops. We can no longer tolerate this state of affairs.

To those who oppose change, the vote yesterday in the Senate and the vote today in the House will send the message that the Congress means business, for maintaining the status quo of indiscipline and inefficiency in acquisition is no longer an option.

Let me briefly summarize the bill's provisions.

It establishes a new director of cost assessment and program evaluation who will ensure that in the future DOD uses realistic cost estimates as the basis for its decisions. The bill re-establishes a director of developmental test and evaluation who will coordinate closely with the director of systems engineering to ensure that we rebuild the technical expertise to oversee complex weapons programs.

To ensure that the Department follows through on these measures, the bill requires DOD to make an official response for performance assessment. It also assigns additional responsibility to the director of defense research and engineering for assessing technological maturity and to unified combat commanders, those leading the fight, for helping to set requirements.

□ 1245

In the area of policy, we required DOD to balance its desire for cutting-edge capabilities with the limits of its resources in setting military requirements. We require competitive acquisition strategies. We require DOD to get programs right in the early stages, when problems can be solved at a low cost. We also require DOD to put intense management focus on problem

programs until they are either healed or terminated. We strengthen the Nunn-McCurdy process, and we ask DOD to eliminate or mitigate organizational conflicts of interests among its contractors.

Now, I know that many Members of the House have a deep interest in acquisition reform. Let me assure you that with the passage of this bill, the House Armed Services Committee has no intention of resting on its laurels. S. 454 deals almost exclusively with major weapons system acquisition, which is only 20 percent of the total that DOD spends on acquisition on an annual basis. There are also serious problems with the other 80 percent of the acquisition system and, as a result, the House Armed Services Committee established the Panel on Defense Acquisition Reform led by ROB ANDREWS and MIKE CONAWAY to investigate further improvements to the acquisition systems.

Mr. Speaker, I ask that the Members of this body vote for the conference report on S. 454, move this legislation to the President's desk for his signature this week, and continue to work with us on acquisition reform in this Congress.

With that, I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have some speakers on our side who have some time constraints, and I don't want to utilize a lot of time on my statement right now, so I just want to make a few opening comments, if I may.

First of all, it seems like only days ago that we were here doing the House version of this bill, and the reason for that is we were here only days ago doing the House version of this bill. The speed with which this legislation has passed through both bodies, while not suggesting that it was done in haste, this is a well-crafted proposal, but rather suggests the importance of this acquisition reform initiative, recognizes, as well, the unanimity of feeling amongst all the Members of both the House and the Senate as to the task before us. And I think it's a tribute as well to the President, who called some of us down to the White House and told us that he fully supported this initiative and urged us to work as expeditiously as we could. Today's bill is a result of that effort, and I certainly want to start by thanking my dear friend, my partner, and my chairman, IKE SKELTON, the gentleman from Missouri, for providing his leadership that brought the House and, particularly, the House Armed Services Committee, into this very, very important discussion that has developed this very, very important piece of legislation.

As my distinguished chair said, we owe our thanks to many, and I want to give a special tip of the hat to as well,

my friend, the gentleman from New Jersey (Mr. ANDREWS), my partner, our representative on the special panel, MIKE CONAWAY, the gentleman from Texas, and all of the special panel's members who really did an outstanding job in meeting with the department representatives and discussing the initiatives with representatives of industry and Members of both Houses of the legislature, and brought this important bill before us. It is a critical measure and it really is a best-of-all-worlds proposal. It portends the opportunity to save literally hundreds and hundreds of millions of taxpayer dollars, dollars that now probably go to expenses and to costs that should and could be avoided and, as well, ensures that every tax dollar we do spend goes appropriately to providing the best weapons systems we can to keep those brave men and women in uniform safe, who do such an amazing job with us.

I join my chairman, Mr. SKELTON, in urging all Members to soundly and enthusiastically, and with great pride, support this conference report. And we look forward to its carrying to the White House and its signature in the very near future.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, may I mention first that we did not rush to judgment on this issue. The gentleman from New York, my friend, the ranking member, JOHN MCHUGH, and I thought it best to establish a panel on military acquisition, which we did. And as a result of briefings and hearings headed by ROB ANDREWS, MIKE CONAWAY, the faith that Mr. MCHUGH and I had in the panel has been justified with the first work product of their efforts. That work product, of course, is the bill that stands before us today. And it has been a great bipartisan effort. It is also a monument to the outstanding staff work that we have across the board in the Armed Services Committee. We could not be more blessed.

With that, I yield 10 minutes to my friend and colleague, the chairman of the Armed Service Committee Special Oversight Panel on Defense Acquisition Reform, the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, it's my honor to rise in support of this legislation, and to thank the many people who made this possible, beginning, Mr. Speaker, with the chairman's friendship and mentorship and leadership. Mr. SKELTON is a gifted consensus builder and a great role model for many Members of this House, myself included. I thank him from the bottom of my heart for this opportunity.

To my very dear friend, Mr. MCHUGH, whose expertise is matched by his good spiritedness and a sense of inclusiveness. The way that these two gentlemen work together, Mr. Speaker, is a model for how we ought to serve the

public's problems, and I'm very grateful to serve with each of them.

I want to thank my friend, MIKE CONAWAY, from Texas, who is the ranking member of the special panel, who gave this effort a great deal of attention and diligence. And he and I, Mr. Speaker, know that our job is only about one-fifth done, and we look forward to proceeding in the weeks and months ahead.

We want to extend our appreciation to each of the members of the special panel, Republican and Democrat, who came to the meetings, expressed their views. Each of them had a hand in shaping this legislation. Many of them offered amendments at the full committee markup that found its way into the legislation.

As the chairman said, those of us who are elected have the privilege of standing out front in these efforts, but the truth of the matter is that the most diligent and skillful work is done by the staffs that serve us with such distinction. And I do want to join the chairman's comments and specifically thank Erin Conaton, who's the leader of the staff on the majority side. She has built a tremendous team and is a great resource to Members of this House.

Paul Oostburg, who is an able counsel in every respect, guides us through the legal thicket. Andrew Hunter did a tremendous job on this. He was always available, always a great resource, a person of just great, great diligence.

His counterpart on the minority side, Jenness Simler, we thank her for her equally effective and cheerful and resourceful efforts.

And I especially want to thank from my office staff, Nat Bell, who gave this around-the-clock attention, mastered the details in a very short period of time, and did just a terrific job.

Mr. Speaker, when the American people hear that nearly \$300 billion has been run up in cost overruns on major weapons systems, they're justifiably outraged. When we're paying \$300 billion more than we should be for major weapons systems, they understand that we're not doing right by the people who wear the uniform, and we're not doing right by them.

As the chairman said, to understand the magnitude of this problem, if we had not squandered that \$300 billion in cost overruns we would have had enough to pay the salaries of the troops, the health benefits of the troops and their families, for more than 2 years. That's how much money that is, and it was squandered.

So, as a result of this effort, with the able leadership of Senators LEVIN and MCCAIN on the other side, we are going to present to the President today, by this vote, a solution to that problem. And here is the essence of that solution. When the public asks how do we really know how much these programs

are going to cost, how effective they are, and when they're going to be done, for the first time, those questions will be answered by independent, qualified, accountable officials in the Department of Defense. Independent and accountable to the President, to the Congress and to the general public.

When people ask, you know, we've got a weapons system that doesn't appear to be working out very well in the early going. Its promise exceeded the early signs of its performance. For the first time, in that early stage, the weapons system will have to meet a rigid and severe burden before it can go on. And if the best judgment of the independent experts is it shouldn't go on, it won't, and we will not throw good money after bad.

When people ask the question, a weapons system has far exceeded its projected cost and it's taking far longer than it should, why should it continue to go on, for the first time, this legislation will say, well, it shouldn't. And if there's a different decision made, if there's an exception given to this weapons system so it can go on, the weapons system will be watched like a hawk, every day, every dollar, every step of the way, to make sure that if a weapons system is not terminated after poor performance, that it gets right, gets right in a hurry and stays right.

And finally, when people ask the question, whose interests are really being served in this process, are the decisionmakers really looking out for those who serve in the military of this country and use the systems? Are the interests of the taxpayers being looked after, or are there other interests at work? This legislation institutionalizes the rule that I think most of our decisionmakers in the Department of Defense have lived by as a matter of personal ethics; but it spreads that personal ethic into the law, and says, when you make decisions about protecting those who wear our uniform and spending our taxpayers money, you may serve only one master. Conflicts of interest will be rigidly monitored and prohibited as a result of this legislation.

Our work is just beginning. By passing this legislation, we are putting in place a series of safeguards and checks so we can understand if it looks like a system has been overpromised and underperforming. It is our responsibility, once this system is in place, to learn from its lessons so that we can give those who wear the uniform of this country the best that they deserve, and pay for it with the price that the taxpayers deserve, with not a penny wasted.

It has been an honor to serve with my friends and colleagues in this process. We are eager to see this bill become law. We would urge a "yes" vote from both Republicans and Democrats.

Mr. McHUGH. Mr. Speaker, I would note the one Member that had a time constraint, Mr. COFFMAN from Colorado, not just a great and able member of our special panel, but also a veteran of both the United States Army and the United States Marine Corps, did have another appointment that he had to make and, therefore, was not able to stay with us to make his statement personally.

Mr. Speaker, I would like to now yield as much time as he may consume to one of the senior members of the House Armed Services Committee, and a gentleman who also wore the uniform of this Nation, United States Marine Corps, my friend, the gentleman from Minnesota (Mr. KLINE).

□ 1300

Mr. KLINE of Minnesota. Thank you, Mr. Speaker. I thank the gentleman from New York for yielding the time.

It seems sometimes like only yesterday when I was wearing that uniform and was serving in the Pentagon and in the Office of Secretary of Defense and dealing with the acquisition morass, and that's, in fact, what it was.

When you look at the history of how the Pentagon has gone about making these purchases, you see President after President, Secretary of Defense after Secretary of Defense, senior officials, Republicans or Democrats, recognizing that the system was broken. We were wasting money. Cost overruns were the norm. Yet, even recognizing that there was a problem and vowing to fix it, they couldn't do it. Try as they might, panel after panel, effort after effort, hiring different people, firing people, it continued year after year after year, cost overruns, stealing money away from the American people and delaying the delivery of weapons systems that our troops need now in a system that's just not functioning.

I know that I sensed the frustration personally as I was sitting there with them as they struggled with how to fix this. They couldn't do it.

So when I came to Congress, now going on 7 years ago, and I was fortunate and honored to join the House Armed Services Committee, I started raising that question and pointing out to witness after witness that we couldn't seem to fix this system. So I was delighted, absolutely delighted, when the chairman of the committee and the ranking member, Mr. McHUGH, as has been discussed, said, You know what we're going to do? We're going to work on this from Congress, and we're going to do it the right way. We're going to take a blank piece of paper and put it down in front of a bipartisan panel, led by my able friend from New Jersey, Mr. ANDREWS, by my friend from Texas, Mr. CONAWAY, by a wonderful panel of people, and by great staff, as has already been mentioned and commended by a number of speakers.

They said, Go and see what you can do to fix this problem. Focus in on major acquisitions programs, and go fix it. A blank piece of paper. A bipartisan effort.

As a result of that, we have legislation that is going to be passed—I trust overwhelmingly—because I don't know of anyone, frankly, in this body or in the other who doesn't think this is a great idea and that it needs to be done. We're going to pass this legislation and get it to the President, and we're going to change the law and provide some help to the very able people in the Pentagon who have been wringing their hands and who have been struggling on how to fix this for literally decades.

So this piece of legislation went through rapidly, as has been pointed out, but not in haste. It was put together the right way. The problem was recognized across the board. We had a hearing, which I thought was a tremendous hearing, with a panel of real experts. They agreed that this was the right way to go. I remember asking a question because I thought it was an important one as we look at legislation like this.

I said, Does this do any harm? Absolutely not, was the answer.

This is what we ought to be doing. I'm very proud to support it. I hope all of my colleagues will support it. As has been suggested, I hope this is the model for how this House will work in the future—with a blank piece of paper and with a bipartisan effort to draft legislation that comes out to be good legislation that is good for America.

So, again, I want to thank those who did the work. I want to encourage all of my colleagues to support this legislation.

Mr. SKELTON. At this time, I yield 3 minutes to my friend, my colleague, the distinguished member of the Armed Services Committee, the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. I thank the gentleman for yielding.

I want to begin by commending and recognizing the hard work done by IKE SKELTON as well as my colleague and friend from New Jersey, Mr. ANDREWS, as well as my colleagues on the other side of the aisle, Mr. McHUGH, Mr. CONAWAY, and others.

Mr. Speaker, I rise today to urge passage of the Weapons Acquisition Systems Reform Through Enhancing Technical Knowledge and Oversight Act of 2009, or the WASTE TKO Act.

Again, I want to thank the chairman of the Armed Services Committee, IKE SKELTON, for his outstanding leadership in addressing this critical issue and for bringing this bill to the floor so quickly and with such strong support. I was honored to be a part of the conference committee, and I am happy to see such a strong bipartisan bill come back to the House for final passage.

In today's world, we face a difficult balance between keeping our Nation

safe and operating within the fiscal constraints of our current economic climate. The taxpayers truly are demanding that we always be good stewards with their dollars. We can all understand the outrage of the American people when they hear about billions and billions of dollars in cost overruns in weapons acquisitions programs, and we can understand their demand for change, and that's what this bill truly brings, accountability and change to our weapons acquisitions process.

The WASTE TKO Act is part of a broader effort by the administration to tackle cost growth through ensuring accurate performance assessments, providing intensive care to "sick" programs and fighting cost growth in the early stages of development. Along with our efforts in the Congress, the Defense Department plans to add 20,000 personnel over the next 5 years to help implement reforms in government contracting. This dual effort is a positive sign of change that will ultimately help keep our Nation safer and more agile in its warfighting efforts.

Specifically, this bill will bring oversight to the muddled process of performance assessments by requiring the Secretary of Defense to designate a principal official to provide unbiased evaluations on the success of our acquisitions programs. The bill will also mandate additional reviews for programs that fail to meet development requirements or that have extreme cost growth problems.

Now, when cost overruns and schedule delays continue to haunt a program, it threatens the ability to provide our men and women in uniform with the best equipment possible to protect our Nation. This bill goes a long way towards increasing effective congressional oversight, and it will help us to continue to be responsible stewards of U.S. taxpayer dollars.

I urge my colleagues to join me in supporting this legislation. A lot of hard work went into crafting this strong bipartisan measure.

Again, I want to thank Chairman SKELTON, Ranking Member McHUGH, Mr. ANDREWS, Mr. CONAWAY, and all of the members of the team who were part of this effort. I'm proud to support this important piece of legislation.

Mr. McHUGH. Mr. Speaker, when we try to find the right people for the right job, be it in the private sector—and it works this way in Congress as well—sometimes they're unavailable. The best people are always the busiest people.

I think one of the critical challenges and primary challenges that both the chairman and I had was in making sure that the heads of the special panel were two individuals who had the power, the intellect, the understanding from the real world of life experiences, and a recognition as to the importance of the challenge.

We are very blessed, certainly, with the agreement of Mr. ANDREWS to head and chair the subcommittee panel. As well on our side, the first person I thought of was MIKE CONAWAY. MIKE does have those qualifications of intellect, of the ability to relate to concepts and to real applications. As well, he has brought to this effort his service as an NCO in the United States Army.

It is my privilege and my honor and with a great deal of thanks to yield as much time as he may consume to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Speaker, I want to thank Ranking Member McHUGH for those very kind words. It kind of caught me off guard. Thank you. I appreciate that.

I rise today to urge the swift passage of the conference report on S. 454, the Weapon System Acquisition Reform Act of 2009. This conference report represents thoughtful compromises that will enable the Department of Defense to better plan for the future and to acquire the combat systems that it needs to make our military as effective as it needs to be at a cost that we can afford.

As always, I would like to thank the leadership of the Armed Services Committee for their commitment to the men and women of our Armed Forces. Chairman SKELTON and Ranking Member McHUGH lead our committee with purpose and with poise, and they never forget that our first responsibility is to protect our soldiers, sailors, marines, and airmen who are serving our Nation around the globe.

I also want to thank the chairman on the House Defense Acquisition Reform Panel, Chairman ROB ANDREWS from New Jersey. It has been my privilege to partner with him as we work to bring these needed reforms to the Defense Department in how it spends our limited resources.

While all the thanking of the members is certainly appropriate, I don't think you can overstate the work that our staffs do on behalf of the acquisitions panel. I want to thank Andrew Hunter on the majority's staff and Jenness Simler on our side for the great work that they've done. I also want to thank, on my personal staff, Tony Ciancielo, who is an Air National Guard fellow in my office for a year, and he is doing outstanding work on behalf of this country.

As a member of the acquisitions panel, I've spent the last few months immersed in the details of the weapons system and in the weapons acquisition system. It is nothing if it is not spectacularly complicated. It is clear to me that the oversight of this process must be a never-ending commitment on the part of Congress. Yet, as the changes we are implementing here today mature, I urge that we remain vigilant but also patient. The number of the cost overruns that has been touted dur-

ing the discussion of this panel is real, but I worry, as all of us have, that that number is artificially high because of underestimates on the front end of weapons systems decisions.

This legislation, I think, goes a long way toward helping us cure a natural tendency to under-represent costs on the front end in order to get a program or a weapons system started. Then we are saddled with that decision when we come on to the real costs and to the realization that the real expense of a particular system turns out to be greater than what we estimated on the front end because of a tendency to be optimistic as to time frames as well as to expenditures on those front ends. So this legislation goes a long way toward fixing that.

I also want to add a word of caution, and that is that we allow these changes to mature somewhat before we begin to tinker with them again. We've got great acquisition people staffing the system from top to bottom. As Mr. LANGEVIN mentioned, there is going to be a 20,000 increase in those competent professionals as we go forward. We need to let them work with the system long enough so that we can, in effect, evaluate whether or not these new changes work and if they do the things we want them to do. So it will be an ever-changing system, but we in Congress here look for the results. So be a little bit patient as we change the systems acquisition process again.

That leaves us then with the bulk of the spending that's done, which is on services. My colleague and chairman of our acquisitions panel will continue to push forward on the review for how the DOD acquires services. It is a very mundane, everyday deal, but as to the scope and the reach of DOD, just think about how they all have cell phones and the decisions that are made across the thousands and thousands and thousands of installations across this world that need cell phone coverage. Somebody somewhere has got to decide on that contract. That's our next work, and it's going to be as difficult and daunting, I think, to understand that system and to see where it's working correctly, to see where we can help change it for the better and to see those places where it isn't working correctly.

I've got great confidence in my chairman on the subcommittee, on the panel. Collectively, we're working in a bipartisan approach as we've done so far. I agree with the other speakers that this is a great example of how this House, this body, can in fact work on issues that don't require us to wear a jersey that has got a particular color on it when we go about the decisions of trying to defend this country and put weapons in the hands of young men and women who lay their lives on the line to protect this country. So I'm proud to be a part of this process.

S. 454 will begin the process of fundamentally altering how the Defense Department procures major weapons systems desperately needed by our warfighters. It's important legislation that I am pleased to support today. I urge my colleagues to vote in favor of this conference report.

Mr. McHUGH. Mr. Speaker, we have no further speakers. So with the majority's permission, I'll just say a few words in closing.

I would be remiss if I did not send my best wishes, appreciation and expression of admiration to our Senate colleagues, particularly Senators LEVIN and MCCAIN, who led the fight on acquisition reform.

As I noted to them in a meeting we had with the President at the White House, they really did help us hear the call to arms on this initiative. As we went forward, they were true and very active and very productive partners in making sure we could reach a conference report that truly does, as the bill before us speaks very clearly toward, embody the best provisions of the House bill and the Senate bill.

□ 1315

Lastly, I want to add my words of deep appreciation to those who, day in and day out, make our committee, and ultimately make every committee, in the House of Representatives work, and that is our invaluable staff people as all of the other speakers have mentioned. I've said in the past, they labor quietly in the shadows and we are able to step out in the sunlight that they provide through their hard work and bask in their glory. And their hand prints and their diligence and terrific effort is in every line of this bill.

So in closing, I would simply say again, congratulations to my friend, the distinguished chair, Mr. SKELTON, and strongly urge all of our Members to step forward and to proudly support this bill. And we can do something important for the war fighters and the taxpayers of this great country.

And I would yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, first, I must thank my friend, my colleague, the gentleman from New York, for his outstanding leadership, cooperation, intelligence and integrity. This bill is a great reflection of bipartisan hard work in our committee. And I thank, in particular, the gentleman from New York (Mr. McHUGH).

Mr. Speaker, as we are on the brink of passing legislation that will completely reform the acquisition system of involving major weapon systems in the Department of Defense, I think back to the moment we were preparing to pass a bill known as the Goldwater-Nichols bill which dealt with jointness within the military. We knew what it said. We wrote it. But we had no idea that it would actually have a tremendous impact creating the culture of

jointness within the various stovepiped services that existed prior to that day in 1986.

This reform act will do the same. It is not only landmark legislation, it is not only reform legislation, it is legislation that will change the culture of acquisition for major weapon systems. It's good. It's thorough. It's well thought out.

And I cannot close without saying a special word about our staff. It's very difficult, Mr. Speaker, to single out people who work so hard because you're bound to leave some out. But we must mention Erin Conaton, Bob Simmons, Andrew Hunter, Jenness Simler, Cathy Garman, Joe Hicken, and all of the efforts that they put forth, the tireless nights in drafting and redrafting the legislation before us today. So a special tribute goes to them.

So with that—and thanks to our colleagues on both sides of the aisle, Bob Andrews, Mike Conaway, and all of those who work so hard for this—let's get it passed, let's get it to the President for his signature, and let reform take place and change the acquisition culture that is so sorely needed.

Mr. COFFMAN of Colorado. Mr. Speaker, I stand before you today to express my strong support for this important piece of legislation. As a member of the House Armed Services Committee, and a member of the Acquisition Reform Panel, I was honored to be appointed to this Conference Committee.

As an active participant on the panel, I appreciate this opportunity to help “fix” an obviously flawed defense acquisition system. My emphasis on the Panel has been how to achieve the best use of taxpayer dollars to provide the right equipment, at the right time for our marines, soldiers, sailors, and airmen.

Maintaining a strong national defense, while maximizing taxpayer dollars, and reining in out of control cost growth in the development of major weapons systems. As a combat veteran, I realize from personal experience just how critical a well-functioning acquisition system is to our nation's servicemembers—especially our warfighters in the field.

We must always fully take the “end user” into account whenever we address the acquisition process and to this end, I was pleased my amendment giving the Combatant Commanders a more defined role and input into the process was included. This legislation institutes a much-needed level of focus and precision regarding the input sought from Combatant Commanders to best inform the Joint Requirements Oversight Council as to whether a new program is truly needed and what its benefit to the warfighter will be. Such precise input aims to prevent the DOD from going down the road of spending billions of dollars on unnecessary programs of no real value to those in the field.

S. 454 addresses acquisition organization, oversight of cost estimation, performance assessment, and weapons acquisition oversight, and fully takes into account the current problems within the Department of Defense Acquisition process.

I urge my colleagues to vote in favor of this well-crafted and critical piece of legislation.

Mr. LARSEN of Washington. Mr. Speaker, I rise today to express my support for the Conference Report on the Weapons Acquisition System Reform Through Enhancing Technical Knowledge and Oversight Act (WASTE TKO Act). This legislation will reform how the Department of Defense purchases weapons and help ensure the strong oversight of our defense budget that taxpayers deserve.

In recent years, the Defense Department's spending plans have been unrealistic and unsustainable. Much of the growth in our defense budget has been driven by weapons programs that cost too much and take too long to develop. According to a Government Accountability Office study released this year, cost overruns from ninety-six Department of Defense weapons programs have totaled \$296 billion. These same programs were, on average, 21 months behind schedule. President Obama has said that procurement reform could save taxpayers as much as \$40 billion each year.

Our current approach asks, “how much money can we get for the weapon?” But we ought to ask, “how much weapon can we get for the money?” Every dollar that we spend on an over-budget weapons system is a dollar that cannot be used to support the urgent needs of our servicemembers and their families. Cost overruns alone would pay the salaries for our active-duty military and health care for them and their families for two and a half years.

The WASTE TKO Act will address deep-seated and systemic problems in how we procure weapons. This bill will require the Department of Defense to provide more realistic estimates of how much weapons will cost and punish those programs which are failing to meet schedule and cost goals. This legislation will demand additional focus during the early stages of weapons development, when small program changes can have major long-term consequences. When it comes to defense procurement, an ounce of oversight is worth a pound of cure.

I applaud Chairman IKE SKELTON, Ranking Member JOHN MCHUGH, and the Members of the Armed Services Committee's Defense Acquisition Reform Panel for their work to develop this legislation.

As a member of the House Budget Committee and the Armed Services Committee, I am committed to providing for a strong national defense that gives our women and men in uniform the tools they need to do their jobs, while delivering strong oversight of the defense budget that reins in out-of-control spending on major weapons systems. I urge my colleagues to join with me in supporting a strong national defense and accountability of taxpayer dollars by voting yes on the WASTE TKO Act.

Mr. SKELTON. With that, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKELTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the conference report will be followed by a 5-minute vote on the motion to suspend the rules on H.R. 1676.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22, as follows:

[Roll No. 286]

YEAS—411

Abercrombie	Coffman (CO)	Harman
Ackerman	Cohen	Harper
Adler (NJ)	Cole	Hastings (FL)
Akin	Conaway	Hastings (WA)
Alexander	Connolly (VA)	Heinrich
Altmire	Conyers	Heller
Andrews	Cooper	Hensarling
Arcuri	Costa	Hereth Sandlin
Austria	Costello	Higgins
Baca	Courtney	Hill
Bachus	Crenshaw	Himes
Baird	Crowley	Hinchee
Baldwin	Cuellar	Hinojosa
Barrow	Culberson	Hirono
Bartlett	Cummings	Hodes
Barton (TX)	Dahlkemper	Hoekstra
Bean	Davis (AL)	Holden
Becerra	Davis (CA)	Holt
Berkley	Davis (IL)	Honda
Berman	Davis (KY)	Hoyer
Berry	Davis (TN)	Hunter
Biggert	DeFazio	Inglis
Blibray	DeGette	Inslee
Bilirakis	Delahunt	Israel
Bishop (GA)	DeLauro	Issa
Bishop (NY)	Dent	Jackson (IL)
Blackburn	Diaz-Balart, L.	Jackson-Lee
Blumenauer	Diaz-Balart, M.	(TX)
Blunt	Dicks	Jenkins
Bocchieri	Dingell	Johnson (GA)
Boehner	Doggett	Johnson (IL)
Bonner	Donnelly (IN)	Johnson, E. B.
Bono Mack	Dreier	Johnson, Sam
Boozman	Duncan	Jones
Boren	Edwards (MD)	Jordan (OH)
Boswell	Edwards (TX)	Kagen
Boucher	Ehlers	Kanjorski
Boustany	Ellison	Kennedy
Boyd	Ellsworth	Kildee
Brady (PA)	Emerson	Kilpatrick (MI)
Brady (TX)	Engel	Kilroy
Braley (IA)	Eshoo	Kind
Bright	Etheridge	King (IA)
Broun (GA)	Fallin	King (NY)
Brown (SC)	Farr	Kingston
Brown, Corrine	Fattah	Kirk
Brown-Waite,	Filner	Kirkpatrick (AZ)
Ginny	Fleming	Kissell
Buchanan	Forbes	Klein (FL)
Burgess	Fortenberry	Kline (MN)
Burton (IN)	Foster	Kosmas
Butterfield	Fox	Kratovil
Buyer	Frank (MA)	Kucinich
Calvert	Franks (AZ)	Lamborn
Camp	Frelinghuysen	Lance
Campbell	Fudge	Langevin
Cantor	Gallely	Larsen (WA)
Cao	Garrett (NJ)	Larson (CT)
Capito	Gerlach	Latham
Capps	Giffords	LaTourette
Capuano	Gingrey (GA)	Latta
Cardoza	Gohmert	Lee (CA)
Carnahan	Gonzalez	Lee (NY)
Carney	Goodlatte	Levin
Carson (IN)	Gordon (TN)	Lewis (CA)
Carter	Granger	Lewis (GA)
Cassidy	Graves	Linder
Castle	Grayson	Lipinski
Castor (FL)	Green, Al	LoBiondo
Chaffetz	Green, Gene	Loebsock
Chandler	Griffith	Lofgren, Zoe
Childers	Guthrie	Lowe
Clarke	Gutierrez	Lucas
Clay	Hall (NY)	Luetkemeyer
Cleaver	Hall (TX)	Lujan
Clyburn	Halvorson	Lungren, Daniel
Coble	Hare	E.

Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarell

Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polls (CO)  
Pomeroy  
Posey  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter

Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Posey  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blumenauer  
Blunt  
Bocieri  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clarke

## NOT VOTING—22

Aderholt  
Bachmann  
Barrett (SC)  
Bishop (UT)  
Deal (GA)  
Doyle  
Driehaus  
Flake

Grijalva  
Herger  
Kaptur  
Lummis  
Markey (CO)  
Murphy, Tim  
Price (GA)  
Rooney

Sánchez, Linda  
T.  
Speier  
Stark  
Thompson (PA)  
Wilson (OH)  
Young (AK)

□ 1345

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MARKEY of Colorado. Mr. Speaker, had I been present for the vote on S. 454, I would have voted in favor of the bill. As my daughter and son are graduating from college and high school respectively, I am unable to be present for the vote.

Mr. PRICE of Georgia. Mr. Speaker, on roll-call No. 286 I was unavoidably detained. Had I been present, I would have voted "yea."

## PACT ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1676, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. WEINER) that the House suspend the rules and pass the bill, H.R. 1676, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 11, not voting 25, as follows:

[Roll No. 287]

YEAS—397

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blumenauer  
Blunt  
Bocieri  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clarke

Clay  
Cleave  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Dreier  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves

Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Hall (NY)  
Hall (TX)  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Herger  
Herseth Sandlin  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin

Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)

Neugebauer  
Nunes  
Nye  
Oberstar  
Olson  
Olver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polls (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner

Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Wilson (SC)  
Wittman  
Wolf  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NAYS—11

Blackburn  
Broun (GA)  
Campbell  
Ellsworth

Halvorson  
Kingston  
Marchant  
McClintock

Paul  
Rohrabacher  
Westmoreland

## NOT VOTING—25

Bachmann  
Barrett (SC)  
Boehner  
Bright  
Deal (GA)  
Doyle  
Driehaus  
Flake  
Gutierrez

Hare  
Hensarling  
Hill  
Kaptur  
Markey (CO)  
Murphy, Tim  
Obey  
Rodriguez  
Rooney

Sánchez, Linda  
T.  
Speier  
Stark  
Thompson (PA)  
Whitfield  
Wilson (OH)  
Woolsey

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes left in this vote.

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.



Stated for:

Mr. BRIGHT. Mr. Speaker, on rollcall No. 287, had I been present, I would have voted "yea."

#### PERSONAL EXPLANATION

Mr. ROONEY. Mr. Speaker, had I been present I would have voted on rollcall No. 284—"nay"; 285—"nay"; 286—"yea"; 287—"yea."

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1346

Mr. GERLACH. Mr. Speaker, I ask unanimous consent to be removed as a cosponsor of H.R. 1346. My name was added in error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

#### GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 915 and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

#### FAA REAUTHORIZATION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 464 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 915.

□ 1354

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 915) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, with Mr. CARDOZA in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself as much time as I may consume.

We bring to the House, once again, to the Committee of the Whole, the au-

thorization for FAA for the next 4 years. We're getting very good at this. We did it 2 years ago. It passed the House overwhelmingly. Unfortunately, the other body did not act on it. So we held further hearings and reshaped the bill. Essentially we have 95 percent of what we had in 2007 in this bill. It was worked out then in cooperation with the Republican members of the committee and with the ranking Republican, Mr. MICA, and again this year with Mr. MICA, Mr. PETRI and the Aviation Subcommittee under the extraordinarily gifted leadership of Mr. COSTELLO, who held numerous hearings to air the various aspects of this bill and other aviation issues.

So that we bring a bill for which there is broad bipartisan support except perhaps for four areas in which there are differences and on which my good friend, Mr. MICA, will elaborate in his own good time. We bring a bill of \$70 billion investment in aviation over the next 4 years; \$16.2 billion for the Airport Improvement Program to build runways, taxiways, air traffic on the aviation hard side, as I call it, of airports; \$13.4 billion for facilities and equipment account over 4 years. That's for the continuing modernization of the air traffic control system. Air traffic control is not a snapshot in time. It's a continuously evolving technology that keeps pace with the growth of aviation and with the need for greater safety at altitude, on approach, on departure, on the ground, in the airport runway safety areas. We provide substantial funding not only for the present but for the future investment and modernization of the air traffic control system going on to the next-generation technology that will be satellite-based. Higher reliability, greater accuracy, shorten the flight time, shorten fuel burned in the air and vastly improve safety.

On the capacity side, we provide authority for airport authorities, at their choice, at their decision, to increase the passenger facility charge that was initiated in 1990, at the time when I chaired the Aviation Subcommittee and the first Bush administration, with then-Secretary Sam Skinner advocating for this increase and this authority for airports, to increase this charge on the grounds that they are accountable directly to the people who use their airports. It is a local decision, and we're allowing them to do it. It's not required. Airport authorities can impose or not impose a passenger facility charge. But it's used for all the authority airports are granted under the Airport Improvement Program, to expand capacity, improve the terminals, improve movement of passengers on the airport grounds to and from their parking area, from the drop-off area onto the aircraft itself.

□ 1400

It has been a very well-used and useful tool.

As part of the increase or the authority to use passenger facility charges in 1990 and with concurrence of the administration, we require that every airport that imposes a PFC will lose 50 cents on each dollar of their AIP entitlement account, and that goes into a special account in the Aviation Trust Fund for the use of small airports that don't have the capacity to level a passenger facility charge. That has resulted in some \$800 million a year available for general aviation airports, regional airports, and smaller nonhub airports, and has enabled them to participate in the Nation's aviation system.

There is a provision in this bill that we had in the 2007 bill that requires the Federal Aviation Administration to negotiate a new contract with its air traffic controllers. And if they do not reach an agreement 45 days after enactment, the issue will be sent to binding arbitration. The Republican administration objected to that provision. The ranking Republican on our committee, Mr. MICA, stoutly defended his administration's position, and his own view, that we should not have binding arbitration apply to this circumstance. I think it is fair to say he would accept that going forward.

Well, the bill never made its way through the Senate of 2007 or 2008. And we are an equal opportunity committee. So what we didn't trust the previous administration to do, we don't trust this administration to do. And we are keeping that language in this bill to keep the heat on them to negotiate this contract, renegotiate in due fairness to the air traffic controllers.

Then there is the matter of the foreign repair stations. There are 145 foreign repair stations certificated by the U.S. FAA in other countries where U.S. aircraft are maintained, supposedly to U.S. standards, to the standards of the airline as approved by FAA and to standards that we set for certification of aircraft maintenance personnel and certification of the facility in which the maintenance work is performed.

Over time, questions have arisen about the adequacy of standards in other countries. This legislation takes those concerns and wraps them into this language we have in the bill, saying they must meet our standards for criminal background checks, for drug and alcohol testing, for certification of the facility, and certification of the aircraft maintenance specialists. That is in the interests of every American who flies on an aircraft in our country or outside of our country that is maintained in a non-U.S. maintenance facility. And in the time since we passed that bill in 2007, the U.S. and the EU have negotiated an aviation agreement that moves toward harmonization of

the aviation maintenance standards of our two countries.

That agreement provides, in Article 15, "nothing in this agreement shall be construed to limit the authority of a party to (A) determine through its legislative, regulatory and administrative procedures the level of protection it considers appropriate for civil aviation safety and environmental testing and approvals, and (B) take all appropriate and immediate measures necessary to eliminate or minimize any derogation of safety." That is what we are doing, simply put, in this legislation using our legislative authority, require twice-a-year onsite inspections of facilities in which U.S. aircraft are maintained in facilities overseas.

If the Europeans want reciprocity under this agreement, they have that authority. They can inspect U.S. maintenance facilities which are doing work on foreign aircraft, European aircraft, in the United States. Basically, that is what it is. It is comity, fairness, equity, and safety in the best interests of our citizens.

There may be other issues. But I will reserve my time. And Mr. COSTELLO will address more details of this legislation subsequently.

Mr. Chairman, I submit for the RECORD an exchange of letters on this particular piece of legislation.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, May 7, 2009.

Hon. BART GORDON,  
Chairman, Committee on Science and Technology, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GORDON: I write to you regarding H.R. 915, the "FAA Reauthorization Act of 2009".

I appreciate your willingness to waive rights to further consideration of H.R. 915, notwithstanding the jurisdictional interest of the Committee on Science and Technology. Of course, this waiver does not prejudice any further jurisdictional claims by your Committee over this or similar legislation. Further, I will support your request to be represented in a House-Senate conference on those provisions over which the Committee on Science and Technology has jurisdiction in H.R. 915.

This exchange of letters will be placed in the Committee Report on H.R. 915 and inserted in the Congressional Record as part of the consideration of this legislation in the House. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
Chairman

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY,

Washington, DC, May 7, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OBERSTAR: I write to you regarding H.R. 915, the FAA Reauthorization Act of 2009. This legislation was initially referred to both the Committee on Transportation and Infrastructure and the Committee on Science and Technology.

H.R. 915 was marked up by the Committee on Transportation and Infrastructure on March 5, 2009. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner, and, accordingly, I will waive further consideration of this bill in Committee. However, agreeing to waive consideration of this bill should not be construed as the Committee on Science and Technology waiving its jurisdiction over H.R. 915.

Further, I request your support for the appointment of Science and Technology Committee conferees during any House-Senate conference convened on this legislation. I also ask that a copy of this letter and your response be placed in the legislative report on H.R. 915 and the Congressional Record during consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BART GORDON,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, May 15, 2009.

Hon. JOHN CONYERS, JR.,  
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CONYERS: I write to you regarding H.R. 915, the "FAA Reauthorization Act of 2009".

I agree that provisions in H.R. 915 are of jurisdictional interest to the Committee on the Judiciary. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on the Judiciary has jurisdiction in H.R. 915.

This exchange of letters will be placed in the Committee Report on H.R. 915 and inserted in the Congressional Record as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON THE JUDICIARY,  
Washington, DC, May 14, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR CHAIRMAN OBERSTAR: As you know, the Judiciary Committee requested referral of H.R. 915, the FAA Authorization Act of 2009, due in part to the addition in markup of the text of H.R. 831, which directs a study on the use of a provision in current law to con-

fer antitrust immunity on international airline alliances, and sunsets all such antitrust immunity in three years—on which the Judiciary Committee had received a referral as falling within our Rule X jurisdiction.

We understand that, although the report, for H.R. 915 has not yet been filed, there is a desire to bring this bill to the floor for consideration next week. While we have concerns about how the antitrust provision is written, from the standpoint of sound antitrust policy, and we would prefer to take referral to give appropriate consideration to that provision and other matters within our jurisdiction, we are willing to waive referral in order that the bill may proceed to the House floor.

The Judiciary Committee takes this action with our mutual understanding that by forgoing further consideration of H.R. 915 at this time, we do not waive any jurisdiction over any subject matter contained in this or similar legislation. We appreciate your continued willingness to consult with us on these provisions, and on any refinements or clarifications to them, as the legislation moves forward. Finally, we reserve the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation, and request your support if such a request is made.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor. Thank you for your attention to this request, and for the cooperative relationship between our two committees.

Sincerely,

JOHN CONYERS, JR.,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, May 18, 2009.

Hon. BENNIE G. THOMPSON,  
Chairman, Committee on Homeland Security, Ford House Office Building, Washington, DC.

DEAR CHAIRMAN THOMPSON: I write to you regarding H.R. 915, the "FAA Reauthorization Act of 2009".

I agree that provisions in H.R. 915 are of jurisdictional interest to the Committee on Homeland Security. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Homeland Security has jurisdiction in H.R. 915.

This exchange of letters will be inserted in the Committee Report on H.R. 915 and in the Congressional Record as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 19, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and Infrastructure, Rayburn Bldg., House of Representatives, Washington, DC.

DEAR CHAIRMAN OBERSTAR: I write to you regarding H.R. 915, the "FAA Reauthorization Act of 2009".

H.R. 915 contains provisions that fall within the jurisdiction of the Committee on

Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Homeland Security conferees during any House-Senate conference convened on this or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 915 and in the Congressional Record during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BENNIE G. THOMPSON,

*Chairman.*

Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Thank you again for the opportunity to rise today and speak about a very important piece of legislation, and that is reauthorization of our Federal Aviation Administration operations.

Americans take for granted sometimes the ability to have the best, the largest, and the most accessible air transportation system in the world. But it is our job in Congress to make certain that that system is safe and that we also pass laws from time to time authorizing the policy, the projects, the funding, and other safety measures that are important for that system.

I want to speak in favor of enacting good reauthorization. At the end of the day, I will not vote in support of this particular measure because I do have some concerns that I will briefly outline.

First, let me say that I have enjoyed my working relationship with Mr. OBERSTAR. He chairs the committee, and I try to work with him in a bipartisan manner to make certain that our key responsibilities, like this important safety air industry legislation, passes Congress, and I will continue to do that.

I do have some concerns about some specifics. The bill does have some very good provisions. And Mr. OBERSTAR, Mr. COSTELLO, and Mr. PETRI, our ranking member, have all worked hard to do the best they can in looking out for our current system, making certain that it is sound, making certain that there is funding in place and making certain that we have what we call "NextGen," next generational air traffic control, in the system for the future, and that bill does take us a long way towards those positive efforts.

Unfortunately, there are a couple of provisions that we haven't reached agreement on. And I have been married 37 years. Almost every other day my wife and I have a disagreement on

something. So it is not a big deal to have disagreement. Hopefully we can work some of these problems out.

What concerns me are, first of all, the labor provisions that were included in this bill. Now, as we know, we had a difficult situation with the air traffic controllers' contract. It expired. It was being negotiated. They couldn't reach an agreement some years ago. They sent it to Congress. We don't want it in Congress. It caused a great deal of conflict and problems. We shouldn't be the arbiters of these labor negotiations. And I will say that President Obama has stepped forward. He has set in motion a mechanism to resolve this pending impasse. I support his efforts.

By I believe June 5, if we don't reach negotiations, this issue will go to binding arbitration. I support binding arbitration. I support taking this out of the realm of Congress. But I think it was wrong to include that provision here when we are in the middle of negotiations that our new President is trying to get going and get this issue behind us and resolve. So this sets a horrible precedent for Congress to be dictating here, at this point, with this new President, these terms which do have a \$1 billion-plus price tag and do set a standard of unfairness. Not only are there 15,000 air traffic controllers who should be treated fairly, but then we have 20,000 other FAA employees who should be treated fairly and hundreds of thousands of hard-working Federal employees who should be treated fairly, not Congress dictating a special level of compensation or some deal for a smaller group. So this does have consequences. And I'm disappointed that that remains. I'm supportive of taking this away from Congress in the future and sending it to compulsory arbitration.

Unfortunately, there are two job killers in this bill. At a time when there isn't a Member of Congress that isn't getting a heartfelt request that someone is losing their job, they are losing their home, or they are not able to live the American Dream, unfortunately, this bill has two job-killer provisions.

First is a very controversial, and I know that Mr. OBERSTAR tried to explain this in his particular provision that he has put in here, requirement that the FAA make biennial inspections of all foreign repair stations. It sounds good. The only problem is that we already have existing agreements in place that that provision would supersede. We are negotiating now a treaty which also, the provisions the way they are written, would impose sanctions on us and cost us jobs.

Now, that is not what JOHN MICA is saying. The U.S. Chamber of Commerce says that, as written, the bill jeopardizes 129,000 jobs. And we will put that in the RECORD a little bit later.

The National Association of Manufacturers, not JOHN MICA, says retaliation threat from the EU is real and we must work together to maintain our working partnerships and preserve jobs. Again, they say it is a job killer.

Then I have a whole list of companies. They are in everybody's district, I could go on and on, Rockwell Collins, Boeing, Gulfstream, GE. Here is just one. GE sent a letter to Mr. OBERSTAR and me regarding how much this will cost in each of these stations. Now I don't mind spending money for safety. I don't mind imposing regulations or laws for safety. But this is a step backward, and it is a step away from what we should be doing, rather than saying on every Tuesday in the sixth month that we should be in Amsterdam inspecting, or we should be in London inspecting, or we should be in Ireland inspecting, or in Berlin inspecting, as this bill requires, twice-year annual inspections even to countries that we have already got agreements that we would have the same high standards and some of the countries have even higher standards imposed, their own higher than the U.S.

So we take our limited resources and we do these mandated inspections whether or not we need them. And our whole system in this country we changed some years ago for our large aircraft was to get away from that. We are risk based, and that is why we are the safest aviation industry in the United States. Yes, we have problems with commuters. And we should be using some of our resources to enhance the training, the requirements, and the inspections of the commuters where we are having crashes. We can't let up in any area. But we are diverting resources by this and going back to a system that did not work.

So not only does this I think impair safety, it also is a job killer. The second and last thing that I am concerned about is 95 percent of this bill, we said in the Rules Committee, is pretty much the same bill we had last time. Added to this bill, and again I don't know why, is a provision that would sunset airline antitrust immunity. Unfortunately, this bill, and it is not what MICA says again, here is the Air Transport Association. This bill could cost as many as 15,000 airline jobs. Again, this is what is said by those who are in the industry. And this is a second job killer provision. This was not in the original bill. It has been added here.

And more troubling is that this provision would also automatically invalidate all antitrust immunity grants to airline alliances 3 years after the enactment of this bill. It is not necessary. It shouldn't have been added in this bill.

There are several other provisions that are controversial. We can work through this, and we need to work through this. This is the longest period that I can remember in the history of

my service, and maybe Congress, that we have not had an FAA reauthorization. Hopefully we will also have in the next few days the President's designee for FAA Administrator. We haven't had one there. The other side of the Congress has not acted the way it should in promptly confirming an FAA Administrator. We all know how difficult it is when we have an Administrator in an agency to deal with him, and when you have no one in place for a long time we see some of the unfortunate results.

□ 1415

Those are some of my concerns and, again, I pledge to work with Mr. OBERSTAR, Mr. COSTELLO and others, and Mr. PETRI, our ranking member. We're all committed to work. They all do a great job. We all have the interests and safety of the American public at heart.

I reserve the balance of my time.

Mr. OBERSTAR. I yield myself 1 minute.

I thank the gentleman for his comments and, again, it's been a great pleasure working through this legislation over the past 2 years, trying to bring a bill through the House and to conference and to conclusion, and I want to commend Mr. MICA, our ranking member, for participating in various discussions that we had and negotiations with the Secretary of Transportation, the representative from the Office of Management and Budget, the air traffic controllers, and members of our committee, Mr. COSTELLO in particular, several such negotiations with the previous administration that unfortunately resulted in no agreement. And the gentleman really made a serious effort, and I greatly respect and appreciate his participation, but I just want to point out, Mr. Chairman, to the gentleman that the language we have on the arbitration is not unique.

The CHAIR. The time of the gentleman has expired.

Mr. OBERSTAR. I yield myself another 1 minute. Several times, over many years, this committee and its predecessor committee with authority over railroad issues has approved and the House has voted on Presidential Emergency Board to settle railroad labor disputes.

And in 1989, we moved legislation to establish an arbitration process to resolve the management labor dispute involving Eastern Airlines. Mr. Gingrich was the ranking member on the Aviation Subcommittee, and he voted in favor of it. Unfortunately, even though it passed the Senate, President Bush, the First, vetoed it. We are simply acting on precedent that has been the case in the House to attempt to resolve matters of this kind.

I yield such time as he may consume to the distinguished chair of the subcommittee, Mr. COSTELLO.

Mr. COSTELLO. Mr. Chairman, I thank Chairman OBERSTAR for recog-

nizing me and thank you for all of your leadership and your support. No one knows more about aviation or transportation issues in this country than Chairman OBERSTAR, and I think everyone acknowledges that and respects not only his valuable input but the work that he does for this committee and on behalf of the American people.

To Mr. MICA and Mr. PETRI, as Mr. MICA has indicated, we have worked closely together on this legislation. As Chairman OBERSTAR stated, about 95 percent of what is in this bill was contained in the bill when the House passed it in September of 2007 by a vote of 267 Members passing the legislation. It truly was a bipartisan piece of legislation.

The bill provides increased funding levels, as Chairman OBERSTAR indicated, for the Airport Improvement Program, for the facilities and equipment program, and for the FAA operations. The funds will help improve our airports, upgrade our facilities, and modernize our air traffic control system.

In addition, we provide a consumer protection provision in this bill that forces airports and airlines to come up with an emergency contingency plan, and we install a consumer hotline for consumers to call the FAA for any complaints that they may have and any violations of the emergency contingency plans filed by the airports and airlines. For any violations, there are civil penalties.

It does establish a process to settle a labor dispute between the FAA and the controllers, and it takes steps to move us forward in upgrading our ground-based radar system to the next generation ATC.

The United States, I think we have to continue to point out, has the safest aviation system in the world; but in order to maintain that system and improve it, we need to pass this reauthorization bill. Let me make just a few comments regarding a few items that Mr. MICA mentioned.

Number one, the NATCA issue with the air traffic controllers. There is a process that is moving forward now with this administration. We hope that negotiations are successful, and we hope that there is a voluntary agreement. However, this bill does not contain provisions dealing with compensation. Congress is not dictating to either the administration or to anyone what wages should be, nor do we address that in our bill at all. It has everything to do with the process, and nothing to do with salaries and benefits.

Number two, it deals with in fact two fundamental principles: the rights of workers and the right to collectively bargain. So if, in fact, you believe in collective bargaining, you will support the provisions in this bill, as we did through committee and we did in 2007.

Secondly, as far as two issues concerning the foreign repair stations, I think Chairman OBERSTAR addressed that issue, but let me just comment that I probably have more workers in my district that work in repair stations, domestic repair stations, than any other district in the country. If I thought for a moment that this was a job killer, the fact that we insist that we have two inspections per year, on ground, in person, inspections on foreign repair stations, if I thought that would jeopardize the jobs that I have in my district or any place in this country, I certainly would not be supporting the provision in the bill. It is not a job killer. We have the right in the Congress and this legislative body under the agreements that we have with the European Union and others to move forward and insist that we have inspections of these foreign repair stations so that we can protect the American people. It is a safety issue.

And with that, let me just conclude by saying this is a good bill. We are 2 years behind in passing this legislation. We appreciate the support and the bipartisan relationship in working together on this bill. We look forward to passing this bill today and then working with our colleagues in the other body to get an agreement so we can get a bill on the President's desk.

Mr. Chair, today is an important day for the future of our aviation system. We are considering H.R. 915, the "FAA Reauthorization Act of 2009". This comprehensive bill would provide approximately \$70 billion to modernize our air traffic control system, fund airport development, research programs, small community service and Federal Aviation Administration, FAA, operating expenses. H.R. 915 was produced after many hearings, in-depth analysis, and a continued dialogue with the FAA, our colleagues, and stakeholders.

Mr. Chair, this legislation is now almost two years behind schedule. In September 2007, the House approved a similar bill with a few additions, H.R. 2881, by a vote of 267 to 151. However, the reauthorization process has been bogged down because of inaction by the other body. Since that time we have been acting under short-term funding extensions and continuing resolutions that are delaying key Next Generation Air Transportation System, NextGen, and airport capital development projects.

Although there are a few contentious issues that have marked this reauthorization process, virtually the entire aviation community—airlines, airports, general aviation, state aviation officials—have communicated to us in a unified voice the need to get a multi-year reauthorization bill done as soon as possible.

The FAA forecasts that the airlines are expected to carry more than 1 billion passengers in 2021, up from almost 760 million in 2008. To deal with this growth, strengthen our economy, and create jobs, the FAA Reauthorization Act of 2009 provides historic funding levels for FAA's capital programs. This includes \$16.2 billion for the Airport Improvement Program, nearly \$13.4 billion for FAA Facilities &

Equipment, and \$1 billion for Research, Engineering, and Development. The bill also provides \$39.3 billion for FAA Operations over the next four years.

These funding levels will accelerate the implementation of NextGen, enable the FAA to replace and repair existing facilities and equipment, improve airport development, and provide for the implementation of high-priority safety-related systems.

H.R. 915 also changes the organizational structure of the FAA's Joint Planning and Development Office, JPDO, the body charged with planning NextGen. To increase the authority and visibility of the JPDO, H.R. 915 elevates the Director of the JPDO to the status of Associate Administrator for NextGen within the FAA, to be appointed by, and reporting directly to, the FAA Administrator. To increase accountability and coordination of NextGen planning and implementation, H.R. 915 requires the JPDO to develop a work plan that details, on a year-by-year basis, specific NextGen-related deliverables and milestones required by the FAA and its partner agencies.

Like the 2007 bill, we increase the passenger facility charge cap from \$4.50 to \$7.00 to help airports that choose to participate in the PFC program meet their capital needs. According to the FAA, if every airport currently collecting a \$4.00 or \$4.50 PFC raised its PFC to \$7.00, it would generate approximately \$1.3 billion in additional revenue for airport development each year which strengthens our economy and creates additional jobs at a time when both are critically needed. H.R. 915 provides significant increases in AIP funding for smaller airports that rely on AIP for capital financing. The ability to raise the PFC and the increase in AIP funding provides financing for airport capital development that will help reduce delays.

The bill also dramatically increases funding for and improves the Essential Air Service program and reauthorizes the Small Community Air Service Development program through 2012.

To prevent another "meltdown" of the aviation system like what we saw during the summer of 2007, when the system was fraught with congestion, delays and poor customer service, H.R. 915 mandates that air carriers and airports create emergency contingency plans that are approved and enforced by the Department of Transportation, DOT. This legislation also requires the DOT to publicize and maintain a hotline for consumer complaints; expand consumer complaints investigated; require air carriers to report diverted and canceled flight information monthly; and create an Aviation Consumer Protection Advisory Committee. H.R. 915 also requires DOT to conduct schedule reduction meetings if aircraft operations exceed hourly capacity and are adversely affecting national or regional airspace. Finally, H.R. 915 also provides civil penalties for violations.

Here at home and across the globe, more is being done to reduce energy consumption and emissions. The aviation community continues to be a leader in greening its operations. We further those efforts by establishing the CLEEN Engine and Airframe Technology Partnership and the Green Towers Program, which was modeled after what is currently being done at O'Hare International Airport.

The United States has the safest air transportation system in the world; however, we must not become complacent about our past success. To keep proper oversight on safety at FAA, H.R. 915 directs the FAA to increase the number of aviation safety inspectors, initiates studies on fatigue, and requires the FAA to inspect part 145 certified foreign repair stations at least twice a year. We also provide \$46 million over four years for runway incursion reduction programs; \$325 million over four years for runway status lights; and require the FAA to submit a strategic runway safety plan to Congress.

Combined with the tax title from Ways & Means, H.R. 915 does not impose new fees on airspace users. This concept has generated tremendous controversy and, frankly, has helped to seriously delay the reauthorization process. Instead, H.R. 915 would adjust the general aviation, GA, jet fuel tax rate from 21.8 cents per gallon to 35.9 cents per gallon, and the aviation gasoline tax rate from 19.3 cents per gallon to 24.1 cents per gallon.

We believe that Airport and Airway Trust Fund revenues, coupled with additional revenue from the recommended GA fuel tax rate increases, and a reasonable General Fund contribution, will be sufficient to provide for the historic capital funding levels required to modernize the air traffic control system.

There are two provisions in the H.R. 915 that I believe are necessary for improving morale at the FAA; providing fair bargaining rights to employees of the FAA and at all express carriers; and helping to maintain safety in our aviation system.

The first provision requires that if the FAA and one of its bargaining units do not reach agreement during contract negotiations, the Federal Mediation and Conciliation Services are used or another agreed to alternative dispute resolution process; this process applies to the ongoing dispute between the National Air Traffic Controllers Association, NATCA, and the FAA. This legislation sends the FAA and NATCA back to the bargaining table where the FAA declared an impasse. It calls for \$20 million in backpay and calls for binding arbitration if the FAA and NATCA cannot reach an agreement. These are the same provisions that were in H.R. 2881 that passed the House during the 110th Congress.

I have spent many hours trying to bring both sides together to work out their differences. Chairman OBERSTAR and I have convened countless meetings between the FAA and NATCA in hopes of reaching a voluntary agreement. I know Mr. MICA and Mr. PETRI have also spent time on this issue.

Unfortunately, an agreement could not be reached and that left us with only one clear course of action—binding arbitration.

I strongly believe in collective bargaining and bargaining in good faith with a fair dispute resolution process for both sides. Unfortunately, that did not happen in 2006 and we corrected that wrong in the T&I Committee by adopting the Costello amendment with a strong bipartisan vote of 53–16. This amendment is included in H.R. 915 and will ensure fair treatment of FAA employees.

I am pleased Transportation Secretary Ray LaHood has appointed former Federal Aviation Administrator Jane Garvey to oversee a team

of mediators to immediately address the contract dispute between the Federal Aviation Administration and National Air Traffic Controllers Association. President Obama has shown great leadership that will guide a positive way forward in which aviation safety professionals will be included as valued stakeholders.

The second provision provides consistency in collective bargaining rights throughout the express carrier industry by allowing ground handling and trucking workers to organize under the National Labor Relations Act, which allows for organization at the local level. Those workers who are directly involved with the aircraft operation portion of those companies, like pilots and mechanics, would continue to be under the jurisdiction of the Railway Labor Act. This is consistent with how UPS is structured today and is identical to the provision in H.R. 2881.

With that Mr. Chair, I again want to thank you for working with me on this legislation. The bottom line is we need to get the FAA reauthorized and we need to do it now.

I urge my colleagues to support the bill.

Mr. MICA. Mr. Chairman, I yield myself 1 minute, and then I yield 5 minutes to our ranking member, Mr. PETRI.

Just for the record, I want to call to the attention of Members—and we will try to get this distributed today—this bill, the way it is written, voids the 2006 contract with the FAA and air traffic controllers, and it reinstates the generous terms and pay raises of the 1998 contract which had about a 70 percent pay increase. Today, at noon the Government Accountability Office released this report on the effects of pay and compensation, particularly for air traffic controllers and FAA employees, and this substantiates what I've said and also substantiates the very generous compensation that was provided under the terms of the 1998 contract. This bill interferes, again, with pending negotiations that the President has started, and we're hoping to resolve this matter.

I yield 5 minutes to the gentleman from Wisconsin (Mr. PETRI), our distinguished ranking member.

Mr. PETRI. I thank my colleague from Florida, the senior member of the Transportation and Infrastructure Committee, for yielding me this time.

In September of 2007, we passed a bill very similar to the one that we are considering today. Unfortunately, the Senate never acted so we find ourselves once again trying to enact a much-needed authorization bill. In the meantime, the program continues to operate under a series of extensions, the most recent one expiring September 30 this year.

While the current economic downturn has alleviated some of the delays in congestion and complaints of the flying public, we know that once the economy recovers the system will again feel overwhelming strain. So the urgency for this legislation remains.

The American Society of Civil Engineers issues an infrastructure report

every so often, and the most recent 2009 report card gives aviation a grade of only a D. This is actually a lower grade than the D-plus earned in the 2005 report card. So the condition of our aviation infrastructure is getting worse here in the United States, not better.

The bill before us increases Federal investment in aviation infrastructure, with funding for the Airport Improvement Program, which provides grants from the Aviation Trust Fund for airport improvements, increased to a total of \$16.2 billion over 4 years. The Facilities and Equipment Program is increased to \$13.4 billion.

It also increases the cap on the level of passenger facility charges that an airport can impose for capacity and safety projects. The cap was last raised 9 years ago, and the \$4.50 maximum charge is now worth far less due to high construction costs and inflation.

One of the most important initiatives under way at the FAA is something known as NextGen to modernize the air traffic control system. We need to move away from a 50-year-old ground-based system to one that is modern, satellite-based, and which will increase the capacity of the system, lower costs, and increase safety. The bill before us will move that modernization process forward.

Mr. Chairman, there are a variety of other provisions, too numerous to enumerate, in this bill that will improve the aviation system in this country and which I strongly support.

However, as occurred last Congress, I am in the rather odd position of voting "no" on final passage for my subcommittee's bill. Back in the last Congress, the committee leadership worked together on a bipartisan basis to craft and introduce a good bill. But since that time, and continuing in this new bill, various provisions have been added which make it impossible for me at this time to support the bill.

One provision is regarding air traffic controllers. Part of the provision putting changes in future impasse procedures I do not object to, but it also reopens the currently imposed contract and includes back pay under terms of the 1998 contract, which was estimated to cost the taxpayers some \$1 billion over the life of the bill.

The second provision provides that we would move express carriers from being covered by the Railway Labor Act of the National Labor Relations Act, which is really directed at just one company, and that is Federal Express; and, really, I don't think that should be included in this legislation. I think we'll hear more about that from other Members.

Other provisions raise concerns, such as the foreign repair station language which could have unintended consequences as far as trade relations with Europe are concerned, and another

that would automatically sunset airline alliance antitrust immunity agreements 3 years after the enactment of this legislation, which again could set in train consequences we cannot understand at this time.

In conclusion, I'd like to thank Chairman OBERSTAR; my chairman, JERRY COSTELLO; Ranking Member MICA, and certainly the staff on the committee for their dedicated work on this bill. And in conclusion, while I support the general goal and the overwhelming majority of this bill, I do not support it at this particular time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 15 seconds to thank the distinguished gentleman from Wisconsin for his comments, for his contribution and for his ever-present Norwegian wisdom that he has brought to the shaping of this legislation. He's been a splendid partner.

□ 1430

Now I yield 3 minutes to the distinguished chair of the Committee on Rules, the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. I want to talk a moment about the safety of our skies and the frightening gap in training and oversight surrounding the commuter airline business.

One of the worst plane accidents in recent history occurred earlier this year on the night of February 12, just outside of Buffalo, New York. We lost 49 lives that snowy and icy night, and my thoughts are with the families and the victims.

Last week the National Transportation Safety Board conducted hearings, and we were shocked and saddened by the testimony and the revelations. I'm not here to revisit the sad last moments of the crew or the 45 passengers who were lost that day. We still have many questions that must be answered and a lot of work to be done to ensure it never happens again. That is our responsibility and our mission.

I want to address the shocking conditions that many of these pilots are facing each and every day because of the lack of rigor and training and certification programs of commercial airline pilots. I hope we can shine a light on the appalling job that the FAA has done in recent years in regulating that industry. That's why I've joined with my friends from New York, Mr. LEE and Mr. HIGGINS, to introduce an amendment mandating a detailed investigation by the General Accounting Office into this gap in training.

We need to look at the number of training hours required for new pilots, how the carriers update and train the pilots, and what kind of remedial action is taken when pilots rate unsatisfactorily, among other things.

It is my belief that a thorough, top-to-bottom review of this issue is absolutely essential if we are to understand

the troubled reality of today's regional airline industry.

Most importantly, if we don't get all the facts out and into the open, we are unlikely to be able to take meaningful steps toward reform. My intention is to work with colleagues on this issue and explore legislative remedies that we can take.

As I look around the Chamber, I'm reminded that many Members of Congress also take flights to get home to their districts that are the regional airlines. And I take two of them every week. And in the gallery I'm sure there are visitors who have flown to Washington from their hometowns. Every day people from coast to coast in small cities and major hubs catch a plane from work to see a loved one, or simply to get away. All deserve the confidence that the pilots in the front of the plane are trained and ready for work when that aircraft pushes back from the tarmac.

It's my understanding that the salary of one of the pilots on that plane was \$16,000 a year. I can only imagine how little the attendants were paid. These young pilots earn far less than pilots at major carriers and struggle to make ends meet. My guess is it would surprise many of the passengers on a typical commuter flight to know the captain was paid less than a bus driver.

Worse still, we learned during the hearing that many of the pilots fly when they are sick and when they have not been able to have food. Imagine that. A pilot responsible for a plane full of men, women and children, who is sick but can't take the day off; hungry and can't stop and get lunch.

We have discovered the training is stunningly inadequate.

We have also discovered that the training for some of these pilots is stunningly inadequate.

For example, the pilot in the Buffalo crash had apparently failed a hands-on proficiency exam not once but three times. He covered that up on his job application and the fact was not discovered until after the accident, according to the testimony we heard last week.

And even after that pilot was hired by Colgan, he actually failed two additional check rides but still was certified to fly. That's five failed tests—five too many if you ask me.

Passengers on a typical flight would be horrified to learn that the pilot flying their plane was a repeat failure on such a basic skill test.

And finally the way that these pilots are assigned routes—which in many cases are hundreds if not thousands of miles from their homes—appears to me to be a recipe for disaster. In the case of the Buffalo crash, both pilots had flown from across the country just to arrive at their route—one from Florida and one from Seattle. Both had apparently slept in a lounge—if they slept at all. Trying to rest in a lounge or an airplane is not safe and we should not tolerate pilots being treated that way.

We need to reform this system so airlines and pilots can escape from this insane business of criss-crossing the country to work in



different time zones for meager pay and the hope that one day they'll work for a major airline.

It's my intention to buckle down on this issue so we can put the focus less on the glamorous lifestyle of pilots and more on the quality of their training and certification and safety.

I encourage all of my colleagues to support this common-sense amendment and get some answers on the regional airline industry.

Mr. OBERSTAR. May I inquire of the Chair how much time remains on both sides.

The CHAIR. The gentleman from Minnesota has 10¼ minutes and the gentleman from Florida has 14.

Mr. MICA. Mr. Chairman, I yield myself 15 seconds, and then I would like to yield 1 minute to the gentleman from Texas (Mr. BRADY).

Just 15 seconds to add in the RECORD that the repair station provision I will cite for different Members, in Mr. COSTELLO's district, according to Midcoast Aviation, will cost us and kill 1,339 jobs.

GE,

Washington, DC, March 3, 2009.

Hon. JAMES L. OBERSTAR,  
Chairman, House Transportation and Infrastructure Committee

Hon. JOHN MICA,  
Ranking Member, House Transportation and Infrastructure Committee

CHAIRMAN OBERSTAR AND REPRESENTATIVE MICA: This is to express great concern over the foreign repair station language contained in Sections 303 and 310 of H.R. 915 the FM Reauthorization Act of 2009. On behalf of GE Aviation, a world-leading producer of commercial and military jet engines and components as well as integrated digital, electric power, and mechanical systems for aircraft, we are very concerned that these provisions will significantly compromise the U.S. competition in position. GE Aviation also has a global service network to support these offerings, including 29 repair stations in the United States and 20 in foreign countries. Our U.S. repair stations employ over 3280 high-wage, highly skilled employees. If enacted as written, these sections could lead to retaliatory actions by the European Community, raise repair station initial certification and renewal costs twenty-fold, place U.S. repair stations at a competitive disadvantage in a very difficult economy, and put many thousands of American jobs at risk.

In recent conversations with the FAA, European officials have made it clear that, should these provisions be enacted, the European Aviation Safety Agency (EASA) would reciprocate and require the same twice-annual inspections of its U.S.-based certificated facilities. Based on EASA's own estimates, certification costs for repair stations would rise from an average of \$960 to \$32,100 per station, if they conducted only one annual inspection per facility. Such a drastic increase in certification costs would pose significant hardships on repair facilities throughout the U.S.

There are approximately 2,000 FAA-certificated repair stations worldwide—over 1200 of them are in the U.S. On the other side of the globe, the aerospace industry has experienced substantial growth in the emerging Asian and Pacific Rim markets. While reciprocal agreements are not yet in place to the

same degree as with the EU, this legislation as currently proposed will negatively impact any attempt at amicable agreements there in the future. We believe that the proposed language would do irreparable harm to the hundreds of small businesses that make up the U.S. aviation maintenance industry and the thousands of Americans they employ. In addition to the cost of certification, a greater concern is the fact that EASA does not have sufficient staff to conduct twice annual inspections of its 1,237 certificated U.S.-based repair facilities (as compared to only 425 FAA certificated repair locations in Europe). Stations unable to be reviewed by EASA personnel at such a rate would no longer be able to work on European-registered aircraft and components, thus damaging stations whose customers require both U.S. and EASA certification, and place tens of thousands of U.S. jobs at risk.

Finally, if enacted as written, Section 310 would prevent a manufacturer from either rebuilding a part under its current authority or repairing a part it manufactured as a subcontractor to a repair station or air carrier. To remedy this unintended consequence, we recommend adding employees of manufacturers to the list of persons authorized to perform work for part 121 air carriers, either directly or as a subcontractor to a repair station.

Gentlemen, in order to protect the tens of thousands of U.S.-based aviation maintenance professionals, we respectfully request that you amend Sections 303 and 310 to ensure it will be applied in a manner consistent with United States obligations under international agreements. As always, GE stands committed to working with Congress to stimulate the economy while protecting U.S. manufacturing jobs.

Sincerely,

SEAN O'KEEFE,  
Vice President.

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
Washington, DC, May 20, 2009.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports the intent of H.R. 915, "The Federal Aviation Research and Development Reauthorization Act of 2009," which would accelerate implementation of the Next Generation Air Transportation System (NextGen) initiative, support vital investments in aviation infrastructure, and provide for day-to-day operations, maintenance and research. However, the Chamber has significant concerns with three provisions in H.R. 915 relating to foreign repair stations, antitrust immunity, and roll-back of the contract between the National Air Traffic Controllers Association (NATCA) and the FAA. The Chamber urges Congress to address these concerns as the legislative process continues.

Improving and modernizing the air traffic control system, which is at the heart of America's aviation woes, must be a national priority. Congress must act to transform the U.S. aviation system to meet the expected 36 percent increase in fliers by 2015 by expediting air traffic control modernization and providing the necessary investment to increase national aviation system capacity. The FAA needs to move forward with the NextGen initiative by deploying available state-of-the-art ground, air, and satellite-based technologies as soon as possible. The

Chamber believes that H.R. 915 would support this priority.

The Chamber supports the robust General Fund contribution to aviation programs contained in H.R. 915. Historically, General Fund revenues have been used to pay for a significant portion of the FAA's costs and reflect the public's interest in a safe and efficient air transportation system. Throughout the FAA reauthorization discussions and development of the bill, the Chamber has consistently stated that a robust General Fund contribution is key. Specifically, this contribution meets several vital national interests including: national defense; emergency preparedness; postal delivery; medical emergencies; and full implementation of a national air transportation system. According to the Congressional Budget Office estimates, the average General Fund contribution to aviation programs from 2009-2012 will be 32%. With this General Fund commitment, the FAA will be in a position to work with industry to meet the public interest and manage the impending increase in passengers and the systems developed to provide for them.

However, the Chamber is concerned with three provisions in this legislation.

The Chamber opposes Section 303 of the legislation unless amended to address serious international trade concerns. As written, the bill jeopardizes many of the 129,000 jobs at more than 1,200 European Aviation Safety Agency (EASA)-certified aviation repair stations in 46 states. Section 303 calls for biannual FAA inspections of its certificated repair stations overseas.

This provision violates the 2008 bilateral aviation safety agreement with the European Union (EU), which calls for reciprocity of both aircraft certification and inspection of repair stations. If this inspection requirement is applied to Europe, the E.U. would be forced to impose reciprocal requirements for European aviation personnel to inspect U.S.-based, E.U.-certified aviation repair facilities. This requirement would result in a major increase in the associated fees charged to those U.S. facilities and could threaten thousands of American jobs by making international aircraft repairs in the U.S. more costly and less competitive. Preventing these job losses and protecting American businesses is simple and straightforward: Section 303 should be amended to be consistent with U.S. international obligations like the U.S.-E.U. bilateral aviation safety agreement.

The Chamber also opposes Section 424, which would automatically sunset existing grants of antitrust immunity and prohibit renewal unless the Secretary of Transportation determines whether to adopt new standards for authorizing international airline alliances and granting antitrust immunity. Alliances provide a way for U.S. airlines to serve their customers globally, strengthen air carriers' financial performance and competitive position, and serve passengers through more frequent and convenient services and connecting options. Based on data from the Air Transport Association's member airlines, this bill could cost as many as 15,000 U.S. airline jobs alone, not to mention the indirect effect on employment at other U.S. and international companies.

Finally, the Chamber strongly opposes Section 601 of the legislation, which would require application of a new dispute resolution process to the ongoing dispute between the NATCA and the FAA. Although the Chamber strongly supports and appreciates



the work the air traffic controllers undertake every day to make the America's airways safe, rolling back a lawfully implemented contract and requiring binding arbitration to resolve contract disputes would not serve the best interests of the system, its users, or the taxpayers. Overturning this contract could cause controller hiring to be significantly reduced or even terminated, and technician hiring to be slowed or eliminated. Undoing the current contract would be costly—CBO estimates the cost at \$1 billion—and would divert more of the FAA's budget away from modernizing the U.S. air traffic control system. Such efforts would ultimately undermine the FAA's ability to modernize the air traffic control system.

Maintaining, modernizing and expanding the infrastructure and capacity of the U.S. aviation system are, and will continue to be, top priorities for the business community. The Chamber looks forward to working with Congress to improve this legislation as the legislative process continues.

Sincerely,

R. BRUCE JOSTEN,  
*Executive Vice President,  
Government Affairs.*

NATIONAL ASSOCIATION  
OF MANUFACTURERS,  
*Washington, DC, April 20, 2009.*

Hon. NANCY PELOSI,  
*The Speaker of the House of Representatives,  
Washington, DC.*

DEAR MADAM SPEAKER: The six month Federal Aviation Administration (FAA) authorization extension recently signed by President Obama provides additional time to resolve outstanding issues as Congress, the Administration and stakeholders work to achieve a consensus to reauthorize the FAA and its critical programs. We believe that a robust FAA reauthorization is critical to rebuilding and supporting a modern transportation infrastructure that meets today's demands for moving people and goods. However, the National Association of Manufacturers (NAM) would like to note two issues of national competitiveness that Congress must appropriately address as H.R. 915, the FAA Reauthorization Act, is further contemplated.

While we enjoy the safest aviation system in the world and continue to maintain our high levels of safety, the United States must seize the opportunity to transition from an antiquated air traffic system designed in the 1950s to a fully modern, digitally integrated 21st century Next Generation Air Transportation System (NextGen). The NAM fully supports the goals of NextGen contained in H.R. 915 and appreciates the designation of NextGen as a national infrastructure priority. However, the legislation must also call for an accelerated deployment effort that is focused on achieving critical outcomes over the next two to five years. The President's identification and \$800 million commitment to NextGen in the FY2010 budget request is a commendable first step but that funding level will not adequately accelerate NextGen efforts. Providing reasonable incentives for airlines and operators to invest in the necessary technology must be a priority. NextGen is not a typical federal procurement and a program of this magnitude and complexity requires a steady, reliable, and robust funding stream in order to be successful.

The benefits of NextGen are real and the opportunity to reduce greenhouse gas emissions, reduce travel times, and provide greater system-wide throughput will reap rewards

for years to come and help keep the United States on competitive footing as the nation emerges from an unprecedented economic recession. As the Europeans introduce their version of NextGen, other nations with growing air traffic, like China and India, will look to the U.S. and European Union to guide the evolution of their air transportation systems. If the U.S. is not perceived as the leader in deploying this technology, then opportunities for U.S. manufacturers and workers will be lost forever.

In addition to the acceleration of NextGen, I would like to bring to your attention an issue of great concern to our members who manufacture for the aviation sector and operate aircraft repair stations both here in the United States and overseas. The bilateral air safety agreement between the U.S. and E.U. signed in June 2008 will be compromised if language contained in Section 303 of H.R. 915 is enacted as written. The legislation calls for semi-annual FAA inspections of its certified repair stations overseas. Such FAA inspections in Europe will directly violate this agreement which calls for reciprocity of both aircraft certification and inspections of repair stations.

If H.R. 915 becomes law, the E.U. has stated that it will retaliate by imposing a requirement for European aviation personnel to inspect U.S.-based E.U.-certified aircraft repair facilities twice a year—entailing a dramatic increase in associated fees charged to those U.S. facilities. Such a development would threaten businesses and thousands of American jobs by making international aircraft repairs in the United States costly and uncompetitive. Preventing job losses and maintaining a manufacturing and a skilled labor workforce in the current economic climate must be paramount. Additionally, if the current agreement breaks down to a point where it is unworkable between the U.S. and E.U., then American access to European markets will be further challenged by the re-introduction of a redundant and inconsistent regulatory structure that will jeopardize exports of American aircraft, engines; and other components. The retaliation threat from the E.U. is real and we must work together to maintain the integrity of our existing agreements with our key trading partners.

The United States remains the leader in international aviation in terms of safety and competitiveness, but our rivals in Europe and Asia are not far behind and seek opportunities to get ahead of the iconic American aviation industry. The NAM is concerned that H.R. 915 unwittingly provides the opportunity for our competitors to gain an advantage that will translate to fewer high-skill and high-wage jobs in the U.S., less exports, and a further weakened aviation industry that is already challenged by the current economic environment.

Sincerely,

JOHN ENGLER,  
*President and CEO.*

I yield now to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, Ranking Member MICA, Chairman OBERSTAR, today I rise reluctantly in opposition to the FAA Reauthorization Act of 2009.

I have several concerns about the bill that I believe undermine the international competitiveness of the American airline industry.

Section 425(e) of this bill would sunset in 3 years the antitrust immunity

for U.S. air carriers that participate in international alliances. This provision could threaten the viability of our U.S. airline industry and hurt customers.

At a time when the economy is struggling and people are traveling less, it's not wise to further impair American carriers' ability to deliver the best possible service. Unfortunately, that's exactly what this provision does, and I hope it is removed before the bill is presented to the President.

Alliances help better serve Americans traveling both at home and abroad, and allow airlines to pool resources to better deliver customer service. When airlines partner together, consumers have improved booking and connecting options, industry competition is increased, and lower fares are more accessible.

The CHAIR. The time of the gentleman has expired.

Mr. MICA. I yield the gentleman another 30 seconds.

Mr. BRADY of Texas. If U.S. carriers lose these benefits because of a short-sighted sunset of immunity, American jobs will be at stake. The Air Transport Association estimates that we may lose as many as 15,000 U.S. airline jobs if this sunset occurs. With the economy as it is today, we cannot afford losing these good American jobs.

Mr. OBERSTAR. I yield 1 minute to the distinguished gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. MICA, let me just say that when you state that Midcoast Aviation will lose 1,300-and-something jobs, you're supposing a lot of things will happen here. There is no evidence at all that any repair station in this country will lose one job. You suppose that there will be retaliation. You suppose that it will break an agreement that we have with the European Union, and, in fact, it does not, and I think Chairman OBERSTAR made that clear.

So I think we could stand here tonight or today and say that if this airline went bankrupt or if this business went bankrupt, so many jobs would be lost, or certain action was taken toward a company, that these jobs would be lost. But there's a lot of things that have to happen before one job is lost.

And as I said earlier, and I will repeat again, if I thought for a minute that either the repair station in my district, and there is more than one, or the repair stations in any district in the country would suffer as a result of this, I would not be supporting the provision.

Mr. MICA. Mr. Chairman, I would like to yield myself 15 seconds.

So for 15 seconds, I see Ms. Johnson in the Chamber, and her district, I have the list of aviation centers in her district that will lose a total, or could lose a total of 1,735 job. Again, job-killer provisions in this legislation.

I yield 3 minutes to the gentleman from Illinois (Mr. SCHOCK) a member of our committee.

Mr. SCHOCK. I, too, rise with concerns about section 303. As the author of an amendment that would have worked to rectify this job-killing portion of the bill, I went before the Rules Committee yesterday and heard from our distinguished chairman, Mr. OBERSTAR, our ranking member, Mr. MICA, Mr. COSTELLO and Mr. PETRI, all who spoke to the issues of these FAA inspections.

I find yet today on the House floor much of the time today is being spent talking about this very issue. And I first might say that perhaps the other 430 Members of this body too deserve the opportunity to weigh in on whether or not this provision is good or bad for America, and specifically, good or bad for their district.

I'm not going to suggest to another Member that it's going to be bad for their district. I can only speak for myself, and I will tell you, it will be. One company in my district, it may be small, Standard Aero in Springfield, Illinois, does \$5 million of business, even given the economic downturn, working on aircraft from other countries. This provision that will require FAA inspections of foreign service stations, there's no question what the result will be. The European Union, with whom we have an agreement now, will reciprocate, will retaliate. It's not a question; they've been very clear. They've said it in public. They've gone so far as to write a letter to this administration and this body stating that.

When that happens, they've also been very clear what will happen. They don't have the inspectors to come over here to service our stations, to inspect our service stations. And as a result, our service stations who currently work on foreign aircraft will no longer be able to. There are over 1,200 of these stations, one of them in my town of Springfield, Illinois. So this question about what will happen is bogus. It's been very clear.

The argument of safety has yet to be justified. The idea that additional inspections and duplicative inspections somehow makes us safer has been yet to be justified. And since this agreement between the European Union and our country, which has made our inspections process more efficient, has been in effect for a number of years now, there's been little evidence to suggest that we're any less safe.

And at a time when we have a crisis on our hands with commuter aircraft and an inability within the FAA to provide adequate inspections and safety for the American citizens who travel on that aircraft, I would suggest that is where our money, our attention and the FAA's time and talent ought to be focused.

I, too, agree there's much good in this bill. But I'm, unfortunately, going to have to oppose it because of these provisions which will cost jobs in my district.

Mr. OBERSTAR. I yield 2 minutes to the distinguished chair of our Water Resources Subcommittee, Ms. JOHNSON of Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. I rise to have a colloquy with the chairman.

The Dallas Area Rapid Transit, DART, has been a leader in promoting intermodalism throughout the North Texas area region. And the City of Dallas plans to construct an intermodal connector that will provide passengers with an easy connection with the Dallas Love Field Airport. And I respectfully ask the distinguished chairman to work with me to ensure that Dallas Love Field Airport receives priority consideration for the program outlined in section 114 of this bill.

I want to thank you, Aviation Subcommittee Chairman COSTELLO and Ranking Member PETRI for your work on this bill, particularly in the area of intermodalism as outlined in Section 114 of the bill.

Expansion of passenger facility charge (PFC) eligibility to include Intermodal Ground Access Projects at Airports is of utmost importance to my congressional district.

This Committee cares deeply about intermodalism and I care deeply about intermodalism.

Mr. OBERSTAR. If the gentlewoman will yield.

Ms. EDDIE BERNICE JOHNSON of Texas. I will yield.

Mr. OBERSTAR. The provision in section 114 establishes a pilot program envisioning four to five pilot projects to be determined by the Secretary of Transportation. I will gradually join with the gentlewoman and appeal to the Secretary on behalf of the Dallas project. I think it makes good sense. I think it would be a splendid candidate and would be happy to support her in advocating for selection of the Dallas Love Field project.

Mr. MICA. Mr. Chairman, I yield myself 15 seconds.

I see in the Chamber, Mr. Chairman, Congressman COHEN. And while he has some provisions in this that will do much damage to his district, the repair station job-killer provision will kill, could kill 218, I have a list of the companies, high-paying jobs.

I yield 2 minutes to the gentlelady from Wyoming (Mrs. LUMMIS).

Mrs. LUMMIS. Mr. Chairman, I rise today to engage in a colloquy with the chairman of the Committee on Transportation and Infrastructure, Mr. OBERSTAR.

Mr. Chairman, section 311 of the bill directs the FAA to complete its analysis and recommendations for updating the aircraft, rescue and firefighting standards at our Nation's airports. I agree that the FAA should complete an update on firefighting standards, and commend the chairman for his dedication to improved safety at our airports. However, I am concerned that the prescriptive language in section 311 would

unnecessarily create a significant financial burden on small rural airports least capable of absorbing cost increases.

Will the chairman confirm that it is not the intent of H.R. 915 to saddle small airports and rural communities with unnecessary unfunded mandates?

Further, can the chairman assure me that he will work with me and other Members from rural districts to ensure that there is adequate flexibility in aircraft rescue and firefighting standards to account for the unique needs of small rural airports?

I yield to the chairman.

□ 1445

Mr. OBERSTAR. I thank the gentlewoman for raising this issue and for yielding.

I, too, represent a district with a large rural area and many small airports. The standards for firefighting on board aircraft have not been updated for years, and it is time to do that. It is not our intent that this updating should impose exceptional, unusual, or heavy burdens on small airports. In fact, the language in section 311(d) states that, during the rulemaking proceeding, the FAA shall assess the potential impact of any revisions to the firefighting standards on airports and on air transportation service.

We are going to be very clear that they take into account the unique circumstances. Many small communities can share firefighting services with local firefighting organizations.

The CHAIR. The time of the gentlewoman has expired.

Mr. OBERSTAR. I yield the distinguished gentlewoman another 30 seconds.

There are airports where that doesn't exist, where that capability does not exist. So we will be watching the rule-making process very carefully. I will be glad to work with the gentlewoman to ensure that in the process small airports are heard and that in the end their concerns are reflected.

Mrs. LUMMIS. I thank the chairman for his willingness to work together. I would also like to thank the gentleman from Nebraska, Mr. ADRIAN SMITH, for his valuable assurance on this important issue.

Mr. OBERSTAR. I now yield 1½ minutes to the distinguished gentleman from Georgia (Mr. JOHNSON), the chair of a subcommittee of the Judiciary Committee.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise today in support of the FAA Authorization Act of 2009, which deals with international airline alliances, which under current law, are eligible for antitrust immunity.

I want to focus on section 425 in my limited time. It directs a study on the procedure by which these airline alliances are approved and given antitrust immunity. It would also sunset all

such antitrust immunity in 3 years. After that time, the airlines would have to reapply under whatever new standards the Secretary of Transportation adopts as a result of the study.

Mr. Chairman, sound antitrust policy is a critical part of ensuring that customers receive the full benefits of a competitive marketplace. As chairman of the Judiciary Committee's Courts and Competition Policy Subcommittee, I'm committed to ensuring that international air transportation policy is properly reconciled with sound antitrust policy.

I appreciate the Transportation Committee's commitment to this, and I also appreciate the Judiciary Committee for allowing us to share in this. I thank you very much.

Mr. MICA. I would like to yield myself 30 seconds to respond. Then I would like to yield 2 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. Chairman, I had my staff compile the number of jobs that would be killed in the Transportation and Infrastructure Committee members' districts. The previous speaker from Georgia represents probably one of the busiest airports and activities in the United States, and he has expressed concerns. I don't know how many jobs will be killed in his district. In Ms. RICHARDSON's district in California, which is suffering from a downturn in the economy, they could lose 1,015 jobs.

I will yield now 2 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I want to thank Mr. MICA for yielding to me.

I want to commend the chairman of the full committee, Mr. OBERSTAR; the chairman of the subcommittee, Mr. COSTELLO; the ranking member of the full committee, Mr. MICA; and the subcommittee ranking member, Mr. PETRI, for bringing us, again, this well-crafted bill. It looks a lot like the bill that was successfully passed by a big margin here in the House during the last Congress. Sadly, the Senate couldn't see its way clear to pass it.

I want to speak specifically on one issue. My time on the Transportation and Infrastructure Committee has come to an end, sadly, but I'd like to consider myself an ex officio member as we talk about this one issue. That is the issue of the air traffic controllers. I'm a Republican, and I'm proud to be a Republican but I have to tell you that one of my great disappointments during the last administration is that I do believe President Bush was ill-served by his advisers who told him to declare an impasse in the negotiations between the administration and the air traffic controllers and to basically impose a contract on them.

I think everybody on this floor now engaged in the debate has been inside an air traffic control center and has seen these dedicated men and women who are peering in the dark at screens,

controlling 10, 12, 15 jetliners filled with 138 or 150 Americans and travelers to our country, making sure that they get there safely.

Now, it's not my belief that everybody who works in this country is entitled to have a contract that they're happy with. It is my belief, however, that everybody who works under a contract, a labor-negotiated contract, has the right to be happy about the process in which it was reached. This contract imposed by the last administration was not fair. I give credit to the Obama administration for appointing Jane Garvey to move that process forward.

These people do an important job. Some people say they make too much money, but I'll tell you what, that's what you work out in negotiations. So they're entitled to have a contract where their representatives sit down and, eyeball to eyeball, talk to folks in the administration and get this done.

Mr. OBERSTAR. I yield 1½ minutes to the distinguished gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Chairman, I rise today to engage in a colloquy with the chairman, Mr. OBERSTAR. First, I want to thank you for recognizing the importance of the St. George Airport to my constituents in Utah.

As you know, on October 17, 2008, the City of St. George, Utah and the Federal Aviation Administration broke ground on the construction of a new replacement airport that will provide air service to the over 300,000 residents of southern Utah. This is one of the few new airports being built in the country. The total project will cost \$168 million, and airport operations are scheduled to begin on January 1, 2011.

The project is being funded largely through Federal grants, covered by a letter of intent from the FAA, in the amount of \$119 million. Unfortunately, St. George still needs funding for navigation aids, including an instrument landing system. These are critical of the safety of operations at the airport.

I appreciate the committee's recognition of Secretary LaHood's commitment to fully fund the navigation aids component of the airport. I remain committed, as I hope the committee will, to ensuring that the FAA funds these important safety enhancements by 2010.

With that, I would yield to the chairman.

Mr. OBERSTAR. I want to compliment the gentleman for his vigorous and persistent advocacy for the St. George Airport. I'm delighted that Secretary LaHood has committed to fund the navigation aids for the St. George Airport. We encourage him to stay on track, and we'll continue to work with the gentleman in pursuit of that objective. Congratulations on your advocacy.

Mr. MATHESON. Well, I thank the chairman always for his support.

Mr. MICA. Mr. Chairman, I yield myself 30 seconds.

Again, the figures that I'm using about the job-killing provisions, particularly on the repair station provision, are not my guesstimates. These are provided by industry.

I don't see Ms. BROWN on the floor, but my colleague Ms. BROWN and I share a district in Florida, its boundaries, and it's estimated that 935 jobs could be lost. This is when our area is suffering from 10 to 15 percent unemployment, and these are high-paying jobs.

Mr. OBERSTAR. I yield now 2 minutes to the distinguished gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Chairman, today I rise to enter into a colloquy with the distinguished chairman of the Transportation Committee.

First of all, Mr. Chairman, I would like to thank you and Mr. COSTELLO for your strong leadership and for improving the safety of air ambulance operations. I want to thank you for working with us on this issue over the last couple of years. I've had an opportunity to discuss my legislation with you.

Mr. Chairman, I rise today to support your amendment, which includes a section that will enhance the safety of helicopters to the air medical safety community. As you know, there have been far too many fatal accidents over the years, and I thank the chairman for working on this issue over the past 4 years.

We have seen three fatal air ambulance crashes in my district. A flight crew from Steamboat Springs crashed on January 11, 2005. A few months later, on June 30, 2005, an EMS helicopter crashed in Mancos, Colorado. On October 4, 2007, we lost three lives near Pagosa Springs. Two of those involved fixed-wing aircraft, and that is why it's so critical to improve the safety standards on all aircraft that provide air ambulance services.

Mr. LUNGREN and I introduced legislation to increase the safety of all aircraft, not only of helicopters, and of pilots providing air ambulance services. Our legislation includes both helicopters and fixed wings.

I would like to ask if you would be willing to work with us to include all aircraft that provide air medical services in the future.

I yield to the chairman.

Mr. OBERSTAR. Mr. Chairman, the distinguished gentleman from Colorado has been most persistent and vigilant on this issue of aviation safety. As the gentleman rightly noted, there have been a number of air ambulance crashes in his district, two of which were fixed-wing aircraft.

The CHAIR. The time of the gentleman has expired.

Mr. OBERSTAR. I yield the gentleman an additional 30 seconds.

We intend to concentrate the attention of the FAA on helicopters because the preponderance of the problem has been helicopter services, but the FAA can and should take action also on fixed-wing aero medical service safety. Mr. COSTELLO and I will work with the gentleman not only to ensure that helicopter ambulance service is held to the highest standard but also that of fixed-wing aircraft.

I appreciate the gentleman's persistence on this subject and his knowledge on the issue.

Mr. SALAZAR. I appreciate the chairman's commitment, and I look forward to continuing to work together.

Mr. MICA. Mr. Chairman, I would like to yield myself 30 seconds.

Well again, I've talked about the job-killing provisions of the repair station mandate in this bill. On our small Aviation Subcommittee, it has the potential for killing 7,100 high-paying jobs in Democrat districts. This is an equal opportunity job killer because in Mr. PETRI's district, a gentleman who is here in a Republican district, it could do away with 850 jobs. I also know Wisconsin needs those high-paying aviation industry jobs.

Mr. OBERSTAR. I yield 1 minute to the distinguished gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. I would ask you, Mr. MICA: In the figures that you were using from Midcoast Aviation and all of the other figures you just said, 7,000 and something jobs in Democrat districts on the Aviation Subcommittee, are you assuming that all of those facilities will close, that they will completely shut down and that every job will be lost?

I yield to the gentleman.

Mr. MICA. Well, first of all, we got the information both from the FAA and from industry.

Mr. COSTELLO. I understand.

Mr. MICA. We may lose that many jobs if there is retaliation.

Mr. COSTELLO. Reclaiming my time.

Meaning, for every single person employed at Midcoast Aviation and for every facility on the list, if our European friends retaliate, all of those facilities are going to shut down, and everybody is going to lose their jobs? Is that what you're saying?

Mr. MICA. Well, we're not certain, but again I'm telling you what the industry says. We have countless groups that have said that this is a job killer to the industry.

Mr. COSTELLO. You're listing the number of people who work at those facilities?

Mr. MICA. I don't know how many jobs will be lost.

□ 1500

I would like to yield 1 minute, if I may to Mr. COHEN.

Mr. COHEN. This is an excellent bill, and Mr. OBERSTAR and Mr. COSTELLO have done a great job. But there is a provision which affects the number one industry in my district, Federal Express, in a way that could be very adverse to my community and to that corporation. It lifts them out of the Railway Labor Act where they've been in their entire history and changes 80 years of case and court law. The Railway Labor Act was created to keep our labor moving and have labor and management in express carrier airline and railroad services work in a very special way to protect interstate commerce and keep it flowing. This could jeopardize that particular situation.

If we want to repeal the Railway Labor Act, that's one thing, but to lift a company out of it specifically is not fair when there has not been a hearing. My airport authority, my Chamber of Commerce, and most of the business leaders in my community are against the bill for this reason, and for that reason, I will have to vote "no." But there is so much good in it, it's a regrettable vote.

Mr. OBERSTAR. We reserve the balance of our time.

Mr. MICA. Can I inquire as to the balance of time on both sides, please.

The CHAIR. The gentleman from Florida has 2½ minutes. The gentleman from Minnesota has 1½ minutes.

Mr. MICA. Mr. Chairman, I will conclude and yield myself the balance of my time.

Again, we've worked hard. We have a common goal here. Mr. OBERSTAR cares deeply about the safety and viability of our American aviation industry.

Mr. COSTELLO shares that concern, our chair of the Aviation Subcommittee. Mr. PETRI, our ranking Republican. We have the leaders of aviation. When I came to Congress, Mr. OBERSTAR was the chairman at the Aviation Subcommittee. I had the opportunity for 6 years during a very difficult time in the history of the country from 2001 for 6 years to lead that committee.

Our interest is safety. Now, there are very good provisions in this bill, and we've worked together to put them there. There are some hiccups here and some things we wish were not in the bill. I have great concern about this repair station provision and the jobs that it may kill. I don't know how many. All I have is the information. We took the information from the districts of just the members on the subcommittee, and it's 11,000. This is a bipartisan job-killing provision—11,442 just on our small subcommittee in Congress. We can't take that chance now.

Now, you heard Mr. JOHNSON, I believe, from Georgia talk about the antitrust provisions. And we're told by the Air Transport Association the job-killing potential of that antitrust pro-

vision that was not in the bill that was voted on by Congress last time, it's a new provision and a job-killing provision.

Our interest here is putting people to work and making this system safe, not doing away with jobs. So we've got to ensure that the provisions of this are sound for safety, sound for the current operations of our Federal Aviation Administration system, and sound, also, for the future.

With that, I pledge to work with my colleagues because this bill will probably pass today. I wouldn't want to go back during Memorial Day and say I voted, however, for a measure—and we just heard Mr. COHEN from Tennessee make a plea because this has job-killing provisions for him—and say this may kill high-paying jobs in your district.

I yield back the balance of my time.

Mr. OBERSTAR. I yield myself the minute and a half remaining.

I would not want to come back on this floor at some future date and have to respond to an air tragedy because an aircraft wasn't properly inspected in a foreign repair station that was not properly crewed or supervised by U.S. personnel. We have the personnel in Europe to do the inspections. If the European community says—and they're crying wolf, they're screaming inanities here that they don't have the personnel to inspect mutually in the U.S., then that's their problem. It's not ours.

But I want to say that the Congressional Antitrust Modernization Commission recently made this recommendation: "Statutory immunities from the antitrust laws should be disfavored. They should be granted rarely and only where, and for so long as, a clear case has been made that the conduct in question would subject the actors to antitrust liability and is necessary to satisfy a specific societal goal that trumps the benefit of the free market to consumers and to the U.S. economy in general."

We are not terminating alliances. The language in this bill says that the antitrust authority shall expire at the end of 3 years. The alliance can continue. There is nothing wrong with alliances, but no one in this society deserves permanent immunity from the antitrust laws of this country, and that is what Bob Crandall, one of the greatest innovators in aviation history said that the antitrust immunity should not be allowed.

Mr. COHEN. Mr. Chair, I rise to express my concern with the FAA reauthorization bill in its current form.

The FAA Reauthorization bill contains many good improvements that will benefit aviation and the nation as a whole. However, the bill includes a provision that is completely unrelated to the FAA and could have the most damaging effect on the constituents in my district of Memphis.

I am very concerned about the inclusion of language that seeks to change the laws with

respect to only one company, FedEx Express, which is the largest employer in my district. The Federal Express Corporation, which includes FedEx Express, employs approximately 30,000 hard working Memphians.

The FAA reauthorization bill, as currently drafted, includes a provision that would shift the employees of one company, FedEx, from coverage under the Railway Labor Act (RLA) to governance under the National Labor Relations Act (NLRA).

FedEx Express and FedEx Corporation have been governed under the Railway Labor Act (RLA) since their inception. Some have said this change will put FedEx Express on an even playing field with competitor United Parcel Service (UPS). However, this is not accurate. Unlike UPS, which started as a walking/bike messenger system, FedEx Express has always been an air cargo carrier. I can understand why UPS would want their top competitor to be under the same labor laws. However, the two companies have different origin-ation histories.

There are over two decades of findings by the Federal courts, the National Labor Relations Board and the National Mediation Board that reaffirm Federal Express is an "express carrier" under the Railway Labor Act. The Ninth Circuit United States District Court in California has also reemphasized this and it is the law of the land.

If it is the intent of Congress to do away with the Railway Labor Act that is one thing, but it's another to simply pick out one term because of one company. There is a long history with respect to our nation's labor laws, and the inclusion of three types of entities under the Railway Labor Act: railroads, airlines and express carriers.

This is a very complex issue that could have drastic consequences, which could negatively impact our interstate commerce. A hearing should have been held in order to have an adequate public exploration of the policy surrounding the issue or the effect on private industry and the nation, or in this case, one company.

Mr. Chair, through my long legislative career, I have always been a strong supporter of collective bargaining and I have been a long-time friend to labor. I have stood with them on important issues, like minimum wage, Davis Bacon, and trade agreements to protect American jobs and support American standards.

However, this is not about denying workers an opportunity for collective bargaining, this provision is about switching the jurisdiction of a technical term in our labor laws in order to affect one company. Because this provision was included in the FAA reauthorization bill, I was asked by the Memphis Chamber of Commerce and the Memphis Airport Authority to oppose it.

The question is one of fairness. Laws should not single out a person or a company, particularly when the law does not properly fit the circumstances. In this instance, making this so-called technical change will have a devastating effect upon the biggest employer in my District. In this already tough economic climate, the effects will be felt beyond Tennessee's Ninth Congressional District because FedEx is a great economic presence in our country and our world. Now more than ever,

we need a steady stream of interstate commerce, which could very well be disrupted by this legislation. Such a disruption could cripple our economy.

Mr. KLEIN of Florida. Mr. Chair, I rise today in strong support of H.R. 915, the FAA Reauthorization Act of 2009, and to commend Chairman OBERSTAR and Aviation Subcommittee Chairman COSTELLO for their leadership in bringing this bill to the floor today. This ambitious legislation will address the complex challenges facing our nation's aviation system, from the way we track our planes to the way we treat our passengers.

I was proud to author a provision in this legislation that would add an important layer of protection for consumers who endure unacceptable travel conditions. It came as a response to the alarming rate of complaints our constituents had over the past few years.

Clearly, there are problems with our airline system. An aging infrastructure, outdated technology, unrealistic flight schedules, an overstretched workforce, and poor weather have all been cited as problems.

It's true that despite these challenges, lots of passengers reach their destination without difficulty, and it's a great compliment to the men and women who work at the airlines to keep the system moving as scheduled. But one can't deny that many Americans are frustrated. One of my constituents sat on the tarmac for three hours before her flight was canceled and couldn't board another flight until the next day.

Mr. Chair, the American people deserve better. They've paid their hard-earned money to fly on a plane, so they should get to their destination without serious problems.

My provision in H.R. 915 will add an important layer of protection by requiring the Department of Transportation to investigate consumer complaints for a broad range of issues, including flight cancellations, overbooking, lost baggage, ticket refund problems, and incorrect or incomplete fare information.

My provision won't try to reinvent the wheel. The Department of Transportation already operates a division that handles airline consumer complaints with authority to issue warnings and fines.

What I am proposing is a simple expansion of the division so that they have the authority and resources to investigate a wide range of legitimate consumer grievances. I think that's a fair and reasonable response to the overwhelming problems the American people have endured.

As we move forward to conference with the Senate, I also want to emphasize the important safety measures in this legislation.

Proper safety begins with having enough inspectors on the ground. This is a continuing concern at a general aviation airport in my district, where inspectors are not based at the airport, and random and scheduled inspections don't seem to meet the airport's needs.

Fortunately, H.R. 915 will provide a much needed boost in the number of safety inspectors to ensure that every plane in the sky has been thoroughly cleared for takeoff.

This legislation will also hold the FAA accountable to the highest safety standards possible. Over the last several years, the FAA unfortunately had wavered from their core mis-

sion by treating the airlines, and not the American public, as its customers. The results were serious safety lapses. In the worst case, Southwest was allowed to fly 117 of its planes in violation of mandatory safety checks.

H.R. 915 will create an independent whistleblower investigation office to help serve as a watchdog, and it will close the revolving door between FAA officials and the airline industry. Make no mistake: the buddy system between FAA and the airlines must end.

Finally, I am pleased that both Congress and the Obama Administration are reaffirming our commitment to the dedicated men and women who operate our air traffic control towers. Staffing shortages at many towers are at a critical mass, forcing controllers to work longer hours and potentially exposing them to dangerous levels of fatigue.

We must turn the page on the old way of treating our air traffic controllers and end the standoff between them and the FAA. Central to this will be a collective bargaining agreement that's fair and worthy of the men and women who keep our skies safe.

I am hopeful that the current negotiations ordered by Secretary LaHood will be fruitful. But if not, the binding arbitration process set up in this bill will be important. I participated in numerous arbitration hearings as an attorney, and I believe this strategy will be a smart way forward to a new collective bargaining agreement.

For these reasons, I urge my colleagues to support H.R. 915.

Mrs. BLACKBURN. Mr. Chairman, I rise in opposition to H.R. 915. The legislation before the House today detrimentally impacts American job creation, and will further exacerbate the federal deficit during an economic downturn. Both effects of the legislation are inexcusable while Americans strive to cope with difficult economic times, and I urge my colleagues to defeat the bill when it is considered later this afternoon.

The legislation includes two provisions that if adopted, will almost certainly lead to job loss and the prevention of economic expansion for successful American corporations. Primarily, H.R. 915 rewrites modern aviation labor law by requiring FedEx Express employees to organize under the National Labor Relations Act (NLRA) rather than the Railway Labor Act (RLA). Organization under the RLA allows for a symbiotic and prosperous relationship between FedEx Express management and its employees, and has been a successful organizing tool for both since 1971.

Amending current law to force FedEx Express employees under the auspices of the RLA will almost certainly disrupt the company's plans for economic expansion. According to FedEx, the change in law would threaten "FedEx's ability to provide competitively priced shipping options and ready access to global markets." Both of these elements are critical to the company's growth over the past 38 years, and would be detrimentally altered by the legislation before the House today.

Furthermore, H.R. 915 would terminate airline code-share alliance agreements between airlines and the U.S. Government after three years. In so doing the legislation will disrupt antitrust protection that is considered critical by the airline industry, and threaten at least 15,000 domestic airline jobs.

Finally, the legislation authorizes an \$84 billion outlay from a federal budget already stretched thin by trillions of dollars in deficit spending. This massive spending increase impacts both mandatory and discretionary spending, and will only add to the credit card tab mounting at an astonishing pace in only five months of unified Democrat leadership.

I urge my colleagues to oppose H.R. 915.

Ms. JACKSON-LEE of Texas, Mr. Chair, I rise today in support of H.R. 915, the Federal Aviation Administration (FAA) Reauthorization Act of 2009. I also want to thank Chairman OBERSTAR and the Committee on Transportation and Infrastructure as they continue to mire in the details of our national transportation projects. They face not only the reauthorization of the FAA but also reauthorization of SAFETEA-LU and other major legislation in the areas of transportation—I look forward to working with them on the many projects going on in Texas and my district of Houston.

Mr. Chairman, as the Subcommittee chair for Transportation Security and Infrastructure protection, with jurisdiction over TSA; I am pleased to see that this Act authorizes \$70 Action for the FAA through FY 2012.

#### FUNDING 'GUARANTEES'

Mr. Chair, this legislation amends current law that "guarantees" the availability of funding in the Airport and Airway Trust Fund by requiring that the total budget resources available from the trust fund are equal to the level of estimated receipts, plus interest. The uncommitted cash balance in the trust fund has declined substantially in recent years due to over-optimistic revenue projections. This allows not only the committee but the Agency to ensure committed projects get the funding they need. This legislation also:

Provides for the robust capital funding required to modernize the Air Traffic Control system, as well as to stabilize and strengthen the Airport and Airway Trust Fund. It includes \$16.2 Action for the Airport Improvement Program, and \$39.3 Action for FAA Operations. It also provides significant increases in funding for smaller airports.

Provides \$13.4 Action for air traffic control including for accelerating the implementation of the Next Generation Air Transportation System, enabling FAA to repair and replace existing facilities and equipment, and implementing high-priority safety-related systems.

Includes a fiscally responsible increase in the general aviation jet fuel tax rate in order to modernize air traffic control.

Increases the maximum Passenger Facility Charge to \$7.00 from \$4.50 to combat inflation and to help airports meet increased capital needs. Based on the needs of the airport, local governments and airport authorities decide on these fees, which could raise an additional \$1.1 Action for airport modernization to help fill the gap left by the federal program.

Creates an independent Aviation Safety Whistleblower Investigation Office within the FAA; also mandates a two-year "post-service" cooling off period after FAA inspectors leave FAA, during which they cannot go work for the airline that they were previously responsible for overseeing.

Requires the FAA to submit a strategic runway safety plan to Congress.

Requires the FAA to contract with the National Academy of Sciences to conduct a

study on pilot fatigue, and update, where appropriate, its regulations regarding flight and duty time requirements for pilots.

Requires airlines and airports to have emergency contingency plans to take care of passengers who are involved in long onboard tarmac delays, including plans on deplaning after a lengthy delay. These plans must account for the provision of food, water, clean restrooms and medical care for passengers. DOT can fine those who fail to develop or comply with these plans.

This bill will not impede ongoing alliances such as United Airlines and Continental Airlines by any Antitrust provisions in the bill. This is an important alliance to keep U.S. Airlines competitive.

Directs the FAA to meet with air carriers, if flights exceed FAA's maximum arrival/departure rates and are adversely impacting the airspace, to ensure flight schedule reductions.

In 2005 the FAA, Texas Airports Development Office selected the Houston Airport System (HAS) as Airport of the Year. The Texas Airports Development Office makes a selection of the outstanding primary-commercial service airport each year. There are twenty-six primary-commercial service airports in the state of Texas—each enplaning in excess of 10,000 passengers annually. I believe the Houston Airport System can achieve this again next year.

As Members of Congress, we are continually flying back and forth from our District offices to Washington, DC. As a subcommittee Chair responsible for TSA and Transportation Security I pay particular attention to the safety of the employees and the public in our airports. I believe this Act will improve both of these issues. Mr. Chair, I proudly support this reauthorization Act for what it does to support transportation and aviation safety goals for our nation.

Mr. GORDON of Tennessee. Mr. Chair, I rise today in support of the "FAA Reauthorization Act of 2009". The bill that is before us represents Congress working together on a bipartisan basis across committee boundaries to meet the needs of the American people. I am pleased that the base text of H.R. 915 includes the updated set of provisions of H.R. 2698, the "Federal Aviation Research and Development Reauthorization Act of 2007", which was passed unanimously by the Science and Technology Committee in the 110th Congress.

I appreciate the leadership of Transportation and Infrastructure Committee Chairman JIM OBERSTAR and Aviation Subcommittee Chairman JERRY COSTELLO and their willingness to work with my committee to ensure that our provisions were included so that we can present this House with a comprehensive piece of legislation. I also want to express my appreciation to Transportation and Infrastructure Committee Ranking Member JOHN MICA and Aviation Subcommittee Ranking Member TOM PETRI. In addition, none of this would have been possible without the support and cooperation of Ranking Member RALPH HALL. I feel that our work together across party lines and across committee jurisdictions is in many ways a model of how committees should cooperate to move important legislation.

Mr. Chair, in view of the limited time, I will not dwell on the many good provisions in-

cluded in this bill. I would simply assure my colleagues that this legislation authorizes funding in sections 102 and 104 for a number of important R&D programs related to improving safety, reducing noise and other environmental impacts, and increasing the efficiency of the air transportation system. In addition, the bill establishes important new research initiatives on the impact of aviation on the climate, research on runway materials and engineered materials restraining systems, and aviation gas, as well as calling for independent assessments of FAA's safety R&D programs and its energy and environmental R&D programs.

This legislation also incorporates provisions intended to ensure that the Next Generation Air Transportation System [NextGen] initiative succeeds. Everyone recognizes that changes are needed to our air transportation system. Thus this bill includes measures to address the needs of the NextGen system, including strengthening both the authority and the accountability of the NextGen Joint Planning and Development Office—JPDO—because the success or failure of NextGen is going to determine in large measure whether or not the nation will have a safe and efficient air traffic management system in the future.

However, it is clear that FAA cannot ensure the successful development of the nation's future air transportation system on its own. As the establishment of the interagency JPDO by Congress in the Vision 100 Act indicates, it is going to take the combined efforts of multiple federal agencies, working in partnership with industry and the academic community, to make the NextGen initiative a success. NASA, in particular, has an important R&D role to play, and that is something that the Science and Technology Committee will devote attention to as we work on reauthorizing NASA in this Congress.

For now, however, our focus is on the FAA, and I think that H.R. 915 is a good bill that will help ensure that America's aviation system remains safe and preeminent in the world. I support the bill, as well as the manager's amendment that will be offered by Chairman OBERSTAR that contains several provisions in the jurisdiction of the Science and Technology Committee.

I urge my colleagues to support H.R. 915.

Mr. TIBERI. Mr. Chair, I rise today to express my support for the provisions in this bill that would establish a fair process for addressing contract disputes between the FAA and our country's air traffic controllers.

Air traffic controllers ensure the safety of air passengers every day. I thank the air traffic controllers in my Central Ohio district, across Ohio and across the country for their hard work and dedication to keeping our skies safe.

In 2006, I cosponsored legislation that would have required the contract dispute between the FAA and the Air Traffic Controllers Association to be submitted to binding arbitration if the two parties did not reach an agreement. Unfortunately, this did not happen.

The provisions in H.R. 915 are a good start and I rise in support of them today.

Ms. HARMAN. Mr. Chair, I rise in support of Chairman OBERSTAR and this important legislation—and to address provisions that relate to staffing air traffic control towers.



Safety is the most crucial and fundamental feature of America's aviation system. Experience is a huge component of safety. This was demonstrated by the heroic landing by Captain Sullenberger on the Hudson River this past January. It was also demonstrated by air traffic controllers on 9/11, when the national aviation system was shut down and they landed all planes across the country safely.

In this decade, we have seen a significant increase in the number of air traffic controllers retiring. As a result, there has been a need to hire and train new air traffic controllers. Our aviation system has been forced to hire a very large number of new controllers very quickly—no small feat, given the high level of skill and training necessary to do the job. But we can't cut corners with filling crucial positions. I have concerns because the FAA counts controllers who are still training and not fully certified as staff when determining if an air traffic facility is fully staffed.

According to the FAA's "A Plan for the Future 10-year Strategy for the Air Traffic Control Workforce 2009–2018," Appendix A states "These (staffing) ranges include the number of controllers needed to perform the work. While most of the work is accomplished by CPCs, work is also being performed in facilities by CPC-ITs and position-qualified developments who are proficient, or "checked out", in specific sectors or positions and handles workload independently." For the clarification, CPCs are certified professional controllers and CPC-ITs are certified professional controllers in training, those that transferred from other facilities, and developmentals are new hires.

Trainees are used in the airport in my district, Los Angeles International Airport (LAX)—the fourth busiest airport tower in the United States. According to an April 2009 Department of Transportation Inspector General report: "As of December 2008 . . . 20 percent of LAX's controller workforce was in training." Trainees lack the same amount of experience as certified controllers, and these skills should not be learned on the job. We need to ensure that safety is not compromised at LAX and at other towers across the country.

That is why I support sections, 607, "FAA Air Traffic Controller Staffing" and 608, "Assessment of Training Programs for Air Traffic Controllers."

Section 607 authorizes a National Academy of Sciences study on FAA's assumptions and methods to determine staffing needs for air traffic controllers. Section 608 authorizes a study by the FAA to assess the adequacy of training programs for air traffic controllers.

These studies will provide us with information to determine if we have enough experienced air controllers staffing our aviation system. If we don't, we must ensure that only those with the training and experience necessary keep the flying public safe and fill these positions. I want to thank Chairman OBERSTAR for his leadership on this legislation and for including these important provisions in the bill.

Mr. ORTIZ. Mr. Chair, I rise to support my colleague from Texas.

With the continuing emphasis on renewable energy programs as part of our national energy policy, it is unavoidable that we will have situations where FAA radars and renewable

energy facilities, especially wind turbines, will compete for prime locations.

This amendment gives the FAA the executive direction necessary to address these situations.

Under our amendment, the FAA is directed to study their radar facilities and review conflicts with renewable energy facilities. To mitigate these situations, the Administrator is directed to develop an administrative process for relocating radar facilities when it is appropriate and necessary.

I ask my colleagues to support this amendment.

Mr. LIPINSKI. Mr. Chair, I rise in strong support of H.R. 915, the FAA Reauthorization Act of 2009. I would like to commend Chairman OBERSTAR and Chairman COSTELLO for their excellent leadership on this bill and for their continued dedicated service on transportation issues.

H.R. 915 contains a number of critical provisions that will not only upgrade and modernize our nation's air transportation system, but will significantly enhance and expand protections for consumers and the environment.

As a member of the Transportation Subcommittee on Aviation, I was especially pleased to work with the Chairmen and others to write a number of these pro-consumer/pro-environment provisions, which include: holding airlines more accountable for delayed passenger bags, requiring airports to consider implementing recycling programs, establishing a federal research center to develop alternative jet fuels, funding research to eliminate the use of lead in aviation gas, and requiring an open, competitive process for airport projects with the use of QBS.

Additionally, I am pleased the bill will take a close look at the impact of airline antitrust immunity on competition and then require DOT to adjust its existing policies accordingly.

Mr. Chair, this long overdue bill will ensure that America's air transportation system remains the finest and safest in the world. And I am proud to have been able to work on and include provisions that will protect passengers, taxpayers, and the environment.

I would again like to thank Chairman OBERSTAR and Chairman COSTELLO for their hard work on this legislation and urge my colleagues to join me in voting for its passage.

Mr. CARNAHAN. Mr. Chair, as a Congressman from St. Louis a major aviation hub and a member of the Aviation Subcommittee, I rise today in strong support of the FAA Reauthorization.

Thanks to Chairmen OBERSTAR and COSTELLO for their leadership and dedication to bring this bill to the floor again.

A long term reauthorization of the FAA is long overdue. We need a four year reauthorization to provide stability to airport development projects and modernizing the aging air traffic control system.

This legislation authorizes nearly \$70 billion in needed investments in FAA programs over the next four years to help meet the growing demand on our system. The Federal Aviation Administration estimates over the next seven to twelve years our airlines will carry more than one billion passengers. Without expanded capacity airports will not be able to serve the increases in passengers.

Airport capital investment is critical to accommodate growth and improve service. As you all know passenger facility charges are critical to funding these projects. Additionally, this legislation will increase the cap on passenger facility charges from \$4.50 to \$7.00. This increase would generate \$1.1 billion in additional revenue for airport development annually.

I am pleased to see a significant increase in the Airport Improvement Program. Over the four year life of the bill's authorization this amounts to an additional \$1 billion in authorized funds for AIP. This increase in funding will be especially helpful to airports, like Lambert St. Louis International Airport, that are especially reliant on AIP funding. Also, critical to handling the expected increases in the number of passengers is modernizing our air transportation system.

The FAA Reauthorization includes \$13.4 billion for FAA Facilities and Equipment to accelerate the implementation of Next Generation Air Transportation System to modernize our air transportation system.

Again, thank you for the time and I urge my colleagues to support this transformational FAA Reauthorization.

Mr. GARRETT of New Jersey. Mr. Chair, I rise today to express my disappointment with this legislation, the FAA Reauthorization Act of 2009. For many years now, I have fought the FAA on their so-called New York/New Jersey/Philadelphia airspace redesign plan. This plan would redirect thousands of flights per year over the houses of many of my constituents. This increased aircraft noise affects people's daily lives in many ways. It is more than a nuisance. Aircraft noise can adversely affect children in schools; the elderly in nursing facilities; and families in their homes. Additionally, these homes may decrease in value as a result of this aircraft noise.

Proponents of the airspace redesign have long maintained that it is necessary to redesign the airspace because a significant portion of the delays in our national airspace derive from the tri-state area. We have long maintained that redesigning the airspace would have very little effect on delays but would adversely affect the lives of thousands of people.

Yesterday, I, along with Congressmen JIM HIMES and RODNEY FRELINGHUYSEN submitted an amendment to the Rules Committee. This amendment would have prohibited the FAA from continuing with its implementation of the airspace redesign until it conducted a study on alternatives to reduce delays at the four airports considered in the redesign; including studying whether reducing overscheduling and the use of smaller aircraft by air carriers would have a greater effect on reducing delays than the redesign. In 2007, the Port Authority of New York and New Jersey, who operate 3 of the major airports included in the redesign submitted a proposal to the FAA with many of these suggestions, but the FAA largely ignored it. This was a sensible amendment, but unfortunately it will not be considered today. Furthermore, an amendment offered by Congressman JOE SESTAK, which would have stopped the redesign's implementation until the FAA conducted a cost-benefit analysis—something recommended by the GAO, mind you—will also not be considered today.



Mr. Chair, it is imperative that the FAA take seriously the concerns of those people on the ground who are affected by their actions. I urge a "no" vote.

Mr. BOCCIERI. Mr. Chair, I rise today in support of this bill, HR 915. I specifically support provisions in the bill which will require FAA inspectors to monitor overseas stations that repair U.S. aircraft.

Over the years, U.S. airlines have steadily increased outsourcing of maintenance work performed at facilities here and abroad. According to the Department of Transportation IG, major air carriers outsourced an average of 64 percent of their maintenance expenses in 2007 compared to 37 percent in 1996.

In order to uphold the highest safety standards at all FAA-certified facilities, FAA inspectors must be permitted to physically inspect foreign repair stations every two years. The FAA must hold foreign repair stations and their workers to the same safety standards as those imposed on domestic repair stations. There is simply no substitute for direct FAA oversight of work performed on U.S. aircraft. Our government should not be outsourcing safety inspections to foreign governments.

Opponents of Section 303 also claim that requiring two FAA inspections per year will cause the EU to retaliate by conducting reciprocal twice-a-year inspections of EASA-certified U.S. stations. But this is a matter of public safety.

The U.S. has an obligation to ensure that FAA-certified repair stations meet U.S. standards, and we cannot abrogate this responsibility based on threats of retaliation from foreign governments looking to protect their own economic interests.

Mr. MACK. Mr. Chair, I rise today to speak about the FAA Reauthorization bill. First, I want to thank Chairman OBERSTAR and Ranking Member MICA for their leadership and continued work on this legislation. While we need to pass a long-term FAA reauthorization bill, I am opposed to this bill in its current form.

I have significant concerns with the tax hikes, new government regulations, and massive giveaways to Big Labor included in the bill. This legislation will significantly raise the cost of air travel, through a proposed Passenger Facility Charge or "PFC" tax increase. The increase, from \$4.50 to \$7 per passenger, is a 56 percent tax hike and will result in all of our constituents paying an additional two billion dollars annually. In addition to the PFC tax hike, this legislation would also raise taxes on general aviation gasoline and jet fuel. Mr. Chair, I can't reiterate it enough: we cannot keep raising taxes on the American people!

In addition to raising taxes and fees, this bill overturns the Air Traffic Control Agreement, which will cost tax payers more than a billion dollars and forces the FAA into a more expensive union contract.

Mr. Chair, we are at a critical juncture in re-vamping our air traffic control system. This bill does not go far enough to expedite investment in NextGen technology. We must create an environment that modernizes and updates our air traffic control system, increases efficiencies, and ensures safety in our nation's skies. But hiking taxes on hard working Americans and more union giveaways does nothing to promote these goals. Mr. Chair, I urge my colleagues to vote against this legislation.

Mr. SALAZAR. Mr. Chair, I thank the Gentleman from New York for yielding and I would like to recognize Chairman OBERSTAR and Chairman COSTELLO for their exceptional leadership on this very important bill.

Mr. Chair, I rise today in strong support of H.R. 915, the FAA Reauthorization Act of 2009, and urge its passage.

There are many good and important issues addressed in this bill: safety, nextgen, consumer protections, and increased funding to the Airport Improvement Program.

But I'd like to especially thank the leadership on the committee for working with me on several issues that are particularly important to my constituents back home.

H.R. 915 provides increased funding to local governments throughout the country to maintain and develop their airports, which serve as cornerstones for economic growth.

As many of us come from and represent small, rural communities, we appreciate the need to preserve and improve rural aviation programs, such as Essential Air Service.

EAS serves rural communities across the country that otherwise would not receive any scheduled air service.

There are more than 140 rural communities nationwide, including Cortez, Alamosa and Pueblo in my state of Colorado, that rely on this program and will benefit from this legislation.

And I again want to thank the Chairman for working with me to ensure our EMS flights meet the highest safety standards.

Overall, I'm pleased to see the improvements made in this bill and I hope the Senate will follow our lead and move this important piece of legislation.

I believe H.R. 915 ensures that we remain the world's safest aviation system, and I urge my colleagues to support this bill.

Mr. WAXMAN. Mr. Chair, I would like to thank the Chairman for accepting an amendment I have offered regarding the need for the FAA to take meaningful action to address safety concerns at Santa Monica Airport. I appreciate the Committee's ongoing interest in addressing this serious issue.

Santa Monica Airport is a unique General Aviation facility located in my congressional district. Built in 1922, the airport has no runway safety areas, which are now required by the FAA to reduce damage and loss of life in the event that an aircraft overshoots the runway or fails to lift off. The airport's single runway is bordered by steep hills, public streets, and densely populated neighborhoods, with homes as close as 250 feet from the runway. As flight traffic at the airport has increased, particularly among larger jets, so have concerns that any plane overshooting the runway would be at great risk of landing in the neighborhood.

For nearly a decade, I have joined the community, the City of Santa Monica and the Airport Administration to push the FAA to address this serious safety gap. While the FAA has had discussions with the City, its response has at times been marked by delay and unfortunate acts of bad faith. Its proposals have simply fallen short of addressing the safety needs of the airport. Some proposed changes could seriously undermine emergency response capability at the airport, while

others would be insufficient to stop a larger jet from an overrun into the surrounding streets and homes.

My constituents and the crews and passengers that use Santa Monica Airport deserve to have the confidence that airport operations meet FAA safety guidelines and go beyond the barest minimum enhancements previously offered by the FAA. The amendment expresses the sense of Congress that the incoming Administrator of the FAA should take a fresh look at this issue. I urge the new Administrator, once confirmed, to swiftly enter into good faith discussions with the City of Santa Monica to achieve runway safety area solutions consistent with FAA design guidelines to address the safety concerns at Santa Monica Airport. When safety is at stake, time is always of the essence.

Mr. LARSEN of Washington. Mr. Chair, I rise today to speak in support of H.R. 915, the Federal Aviation Administration Reauthorization Act. This bill provides historic levels of funding for FAA's critical work to improve safety, invest in our nation's airports, and modernize our air transportation system.

H.R. 915 will help accelerate the implementation of FAA's Air Traffic Control Modernization and Next Generation Air Transportation System. NextGen will increase the capacity and efficiency of our national air transportation system, which will help accommodate expected increases in air traffic. H.R. 915 also increases oversight of NextGen and mandates that FAA develop a detailed plan for how they will deliver results for the airline industry and the flying public.

This legislation invests in our nation's airports by providing \$16.2 billion for the Airport Improvement Program. This historic funding level also includes a significant increase in AIP funding for smaller airports, like many in my district. H.R. 915 also makes critical improvements in aviation safety, including strong air carrier safety oversight provisions and an increase in the number of aviation safety inspectors.

I commend Chairmen OBERSTAR and COSTELLO for addressing the ongoing dispute between the National Air Traffic Controllers Association and the FAA over failed contract negotiations by establishing a binding dispute resolution process and requiring the parties to go back to the negotiating table.

The bill also fixes a long-standing disparity in the way employees of express delivery companies are treated under our nation's labor laws. This provision will help restore collective bargaining rights to this critical workforce.

This legislation is not perfect, but it makes critical improvements to our nation's air transportation system to create jobs and strengthen our economy. I urge my colleagues to support this bill.

Mr. TANNER. Mr. Chair, I rise today to thank Chairman OBERSTAR and Ranking Member MICA for bringing the FAA Reauthorization bill to the floor today. For the most part I am supportive of their efforts; however, I must express concern with a provision in this bill that would change the labor status of the employees of FedEx, a company based in Memphis, Tennessee, and important to our regional economy.

FedEx has been covered by provisions of the Railroad Labor Act for decades. I am disappointed that this legislation attempts to overturn these years of legislative and legal precedent by now putting FedEx under the National Labor Relations Act. FedEx was founded in 1973, and every court and agency to address the issue since then has found FedEx to be subject to the RLA, because national labor and transportation policy mandates that integrated, multi-modal transportation networks be subject to the processes of the RLA.

I do hope the Committee will consider my views and the views of those I represent in Tennessee, who depend on FedEx staying competitive. Because of the adverse effects this provision would have, I urge House conferees to eliminate this provision during its conference with the Senate. These provisions, which I oppose, should stand alone in separate legislation so all parties can come to the table and offer their ideas and concerns.

Mr. Chair, the complexity of this issue requires further debate from all parties affected.

Mr. DUNCAN. Mr. Chair. We have one of the most efficient aviation systems in the world.

However, we still need a great deal of improvement to this system.

We need to modernize our air traffic control facilities to help make travel even more efficient and reduce unnecessary delays which cost our economy millions of dollars every year.

Our last FAA reauthorization bill expired in 2007. Since that time we have been operating on temporary extensions.

I am glad to see that the legislation before us today will continue these vital programs that are needed in our aviation system.

I believe that there is more good than bad in this bill, but I do have some concerns with some of the labor provisions contained in it.

In the 1996 FAA reauthorization bill, we made a technical correction that allowed Federal Express to operate under the Rail Labor Act, as it always has.

I think to change this provision now, without knowing the consequences in this economic climate, could end up hurting our economy.

I hope that we can revisit this matter in the future before this bill is in its final form.

I would also like to state that I am pleased that this bill includes provisions from legislation that I cosponsored which would restrict the use of cell phones on flights.

I believe every passenger should be able to enjoy a flight without having to listen to someone else's conversation.

Most people do not realize that they speak louder on a cell phone than they do during a normal conversation.

Cell phone conversations are often very loud, insensitive to other passengers, and disruptive to others in nearby seats.

This bill is far from a perfect one. In fact, there are other concerns that I have about some of the other sections, including the inspections of foreign repair stations.

This could cause the European Union to retaliate against repair stations located here and potentially cost us some good paying jobs.

However, I feel overall that we should move this legislation forward, and I hope we can address these other concerns as the process goes forward.

Mr. TIBERI. Mr. Chair, I am submitting the exchange of letters between Ways and Means Committee Chairman CHARLES B. RANGEL, Representative JOHN B. LARSON and myself regarding the tax treatment of fractionally-owned aircraft."

HOUSE OF REPRESENTATIVES,  
Washington, DC, May 21, 2009.

Hon. CHARLES B. RANGEL,  
Chairman, Committee on Ways & Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: We write to you regarding the tax treatment of fractionally-owned aircraft and ask that you carefully consider this issue as you continue work on H.R. 915, the FAA Reauthorization Act of 2009.

Under current law, fractional aviation is treated as commercial aviation for taxation purposes. However, the Federal Aviation Administration treats fractional aviation as non-commercial, general aviation operations for regulatory purposes. We believe that the current Federal tax law should be modified so that, going forward, it properly reflects this regulatory treatment. In addition, we recommend that an appropriate adjustment in the aviation fuel excise taxes be placed on the fractional aviation community. It is important to note that both of these recommendations are fully supported by the fractional aviation community and are consistent with the agreement reached on this issue last year by the Senate Finance and Commerce Committees.

We had originally hoped to raise this issue during the Committee's mark-up on the aviation tax provisions of the FAA Reauthorization Act of 2009. In the absence of this opportunity, we ask for your commitment to continue to work with us on this issue as this legislation moves forward.

Sincerely,  
PATRICK J. TIBERI.  
JOHN B. LARSON.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
Washington, DC, May 21, 2009.

Hon. JOHN B. LARSON,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN LARSON: Thank you for writing me to express your interest in the tax treatment of fractionally-owned aircraft operations. My office has been contacted on this issue as well. In the last Congress, Ms. Tubbs Jones supported changing the tax treatment of these operations from commercial to non-commercial aviation before she passed away and I appreciate your efforts to take up this issue in her place. Last year, the Senate Finance and Commerce Committees reached an agreement on this matter when the Senate considered the FAA reauthorization bill. The Senate never completed action on that bill so we were unable to consider it in conference before the end of the Congress.

This year, we had a very brief window between the Committee's hearing on aviation taxes and floor action. To accommodate that schedule, we chose to bring the bill to the floor without a mark-up of the revenue title. In those circumstances, I felt that it was not fair to Committee members for the title to include new material and thus, after consulting with our Ways and Means colleagues, we opted to move a revenue title whose substance is identical to that passed by the House in the last Congress.

I want to thank you for cooperating in that effort. Unfortunately, that process

made it impossible for us to give the tax treatment of fractionally-owned aircraft the attention and consideration it deserves. Accordingly, I would like to indicate that our failure to address the matter in the FAA bill is not the last word on the matter. If the Senate acts on the bill, we will have a conference committee. And there is a strong possibility that the Senate may include provisions related to fractional operations in its bill. At this point, I am not aware of any opposition to the proposal but believe we need to take a closer look to verify that there are no objections to or problems with changing the tax treatment of fractionally-owned aircraft operations. I have asked my staff to take a closer look at the issue and promise to keep working with you as this legislation moves forward.

Sincerely,  
CHARLES B. RANGEL,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
Washington, DC, May 21, 2009.

Hon. PATRICK J. TIBERI,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN TIBERI: Thank you for writing me to express your interest in the tax treatment of fractionally-owned aircraft operations. My office has been contacted on this issue as well. In the last Congress, Ms. Tubbs Jones supported changing the tax treatment of these operations from commercial to non-commercial aviation before she passed away and I appreciate your efforts to take up this issue in her place. Last year, the Senate Finance and Commerce Committees reached an agreement on this matter when the Senate considered the FAA reauthorization bill. The Senate never completed action on that bill so we were unable to consider it in conference before the end of the Congress.

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Sincerely,  
CHARLES B. RANGEL,  
Chairman.

Mr. MATHESON. Mr. Chairman, I rise today to speak in support of Navigational Aids funding for the new St. George airport in Utah.

I would like to thank Chairman OBERSTAR and the T&I committee staff for working on this important piece of legislation.

Last October, the City of St. George broke ground on the construction of a new replacement airport—this is the only airport in the country currently being built. While the FAA has committed to funding a large portion of the project, they did not provide enough funding for critical navigational equipment.

Given the difficult mountainous terrain and the need to avoid flying over two National Parks—Zion and the Grand Canyon—navigational equipment for the new airport is essential for public safety.

In April, Transportation Secretary Ray LaHood committed to the City that FAA would fully fund the navigational aids component of the airport.

I would like to thank the Secretary for undertaking this commitment. I stand ready to work with the FAA, DOT, and the T&I committee to make sure funding is provided in order to open the new airport on time.

The CHAIR. All time for general debate has expired.

In lieu of the amendment recommended by the Committee on Transportation and Infrastructure, printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 111–126, modified by the amendment printed in part B of that report, shall be considered as adopted and shall be considered as an original bill for purpose of further amendment under the 5-minute rule and shall be considered as read.

The text of the bill, as amended, is as follows:

Strike all after the enacting clause and insert the following:

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “FAA Reauthorization Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Effective date.

#### **TITLE I—AUTHORIZATIONS**

##### **Subtitle A—Funding of FAA Programs**

- Sec. 101. Airport planning and development and noise compatibility planning and programs.
- Sec. 102. Air navigation facilities and equipment.
- Sec. 103. FAA operations.
- Sec. 104. Research, engineering, and development.
- Sec. 105. Funding for aviation programs.

##### **Subtitle B—Passenger Facility Charges**

- Sec. 111. PFC authority.
- Sec. 112. PFC eligibility for bicycle storage.
- Sec. 113. Award of architectural and engineering contracts for airside projects.
- Sec. 114. Intermodal ground access project pilot program.
- Sec. 115. Impacts on airports of accommodating connecting passengers.

##### **Subtitle C—Fees for FAA Services**

- Sec. 121. Update on overflights.
- Sec. 122. Registration fees.

##### **Subtitle D—AIP Modifications**

- Sec. 131. Amendments to AIP definitions.

- Sec. 132. Solid waste recycling plans.
- Sec. 133. Amendments to grant assurances.
- Sec. 134. Government share of project costs.
- Sec. 135. Amendments to allowable costs.
- Sec. 136. Uniform certification training for airport concessions under disadvantaged business enterprise program.

- Sec. 137. Preference for small business concerns owned and controlled by disabled veterans.

- Sec. 138. Minority and disadvantaged business participation.

- Sec. 139. Calculation of State apportionment fund.

- Sec. 140. Reducing apportionments.

- Sec. 141. Minimum amount for discretionary fund.

- Sec. 142. Marshall Islands, Micronesia, and Palau.

- Sec. 143. Use of apportioned amounts.

- Sec. 144. Sale of private airport to public sponsor.

- Sec. 145. Airport privatization pilot program.

- Sec. 146. Airport security program.

- Sec. 147. Sunset of pilot program for purchase of airport development rights.

- Sec. 148. Extension of grant authority for compatible land use planning and projects by State and local governments.

- Sec. 149. Repeal of limitations on Metropolitan Washington Airports Authority.

- Sec. 150. Midway Island Airport.

- Sec. 151. Puerto Rico minimum guarantee.

- Sec. 152. Miscellaneous amendments.

- Sec. 153. Airport Master Plans.

#### **TITLE II—NEXT GENERATION AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION**

- Sec. 201. Mission statement; sense of Congress.

- Sec. 202. Next Generation Air Transportation System Joint Planning and Development Office.

- Sec. 203. Next Generation Air Transportation Senior Policy Committee.

- Sec. 204. Automatic dependent surveillance-broadcast services.

- Sec. 205. Inclusion of stakeholders in air traffic control modernization projects.

- Sec. 206. GAO review of challenges associated with transforming to the Next Generation Air Transportation System.

- Sec. 207. GAO review of Next Generation Air Transportation System acquisition and procedures development.

- Sec. 208. DOT inspector general review of operational and approach procedures by a third party.

- Sec. 209. Expert review of enterprise architecture for Next Generation Air Transportation System.

- Sec. 210. NextGen technology testbed.

- Sec. 211. Clarification of authority to enter into reimbursable agreements.

- Sec. 212. Definition of air navigation facility.

- Sec. 213. Improved management of property inventory.

- Sec. 214. Clarification to acquisition reform authority.

- Sec. 215. Assistance to foreign aviation authorities.

- Sec. 216. Front line manager staffing.

- Sec. 217. Flight service stations.

- Sec. 218. NextGen Research and Development Center of Excellence.

- Sec. 219. Airspace redesign.

#### **TITLE III—SAFETY**

##### **Subtitle A—General Provisions**

- Sec. 301. Judicial review of denial of airman certificates.

- Sec. 302. Release of data relating to abandoned type certificates and supplemental type certificates.

- Sec. 303. Inspection of foreign repair stations.

- Sec. 304. Runway safety.

- Sec. 305. Improved pilot licenses.

- Sec. 306. Flight crew fatigue.

- Sec. 307. Occupational safety and health standards for flight attendants on board aircraft.

- Sec. 308. Aircraft surveillance in mountainous areas.

- Sec. 309. Off-airport, low-altitude aircraft weather observation technology.

- Sec. 310. Noncertificated maintenance providers.

- Sec. 311. Aircraft rescue and firefighting standards.

##### **Subtitle B—Unmanned Aircraft Systems**

- Sec. 321. Commercial unmanned aircraft systems integration plan.

- Sec. 322. Special rules for certain unmanned aircraft systems.

- Sec. 323. Public unmanned aircraft systems.

- Sec. 324. Definitions.

##### **Subtitle C—Safety and Protections**

- Sec. 331. Aviation safety whistleblower investigation office.

- Sec. 332. Modification of customer service initiative.

- Sec. 333. Post-employment restrictions for flight standards inspectors.

- Sec. 334. Assignment of principal supervisory inspectors.

- Sec. 335. Headquarters review of air transportation oversight system database.

- Sec. 336. Improved voluntary disclosure reporting system.

#### **TITLE IV—AIR SERVICE IMPROVEMENTS**

- Sec. 401. Monthly air carrier reports.

- Sec. 402. Flight operations at Reagan National Airport.

- Sec. 403. EAS contract guidelines.

- Sec. 404. Essential air service reform.

- Sec. 405. Small community air service.

- Sec. 406. Air passenger service improvements.

- Sec. 407. Contents of competition plans.

- Sec. 408. Extension of competitive access reports.

- Sec. 409. Contract tower program.

- Sec. 410. Airfares for members of the Armed Forces.

- Sec. 411. Repeal of essential air service local participation program.

- Sec. 412. Adjustment to subsidy cap to reflect increased fuel costs.

- Sec. 413. Notice to communities prior to termination of eligibility for subsidized essential air service.

- Sec. 414. Restoration of eligibility to a place determined by the Secretary to be ineligible for subsidized essential air service.

- Sec. 415. Office of Rural Aviation.

- Sec. 416. Adjustments to compensation for significantly increased costs.

- Sec. 417. Review of air carrier flight delays, cancellations, and associated causes.

- Sec. 418. European Union rules for passenger rights.

- Sec. 419. Establishment of advisory committee for aviation consumer protection.

- Sec. 420. Denied boarding compensation.
- Sec. 421. Compensation for delayed baggage.
- Sec. 422. Schedule reduction.
- Sec. 423. Expansion of DOT airline consumer complaint investigations.
- Sec. 424. Prohibitions against voice communications using mobile communications devices on scheduled flights.

Sec. 425. Antitrust exemptions.

#### TITLE V—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

- Sec. 501. Amendments to air tour management program.
- Sec. 502. State block grant program.
- Sec. 503. Airport funding of special studies or reviews.
- Sec. 504. Grant eligibility for assessment of flight procedures.
- Sec. 505. CLEEN research, development, and implementation partnership.
- Sec. 506. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.
- Sec. 507. Environmental mitigation pilot program.
- Sec. 508. Aircraft departure queue management pilot program.
- Sec. 509. High performance and sustainable air traffic control facilities.
- Sec. 510. Regulatory responsibility for aircraft engine noise and emissions standards.
- Sec. 511. Continuation of air quality sampling.
- Sec. 512. Sense of Congress.
- Sec. 513. Airport noise compatibility planning study, Port Authority of New York and New Jersey.
- Sec. 514. GAO study on compliance with FAA record of decision.

#### TITLE VI—FAA EMPLOYEES AND ORGANIZATION

- Sec. 601. Federal Aviation Administration personnel management system.
- Sec. 602. Applicability of back pay requirements.
- Sec. 603. MSPB remedial authority for FAA employees.
- Sec. 604. FAA technical training and staffing.
- Sec. 605. Designee program.
- Sec. 606. Staffing model for aviation safety inspectors.
- Sec. 607. Safety critical staffing.
- Sec. 608. FAA air traffic controller staffing.
- Sec. 609. Assessment of training programs for air traffic controllers.
- Sec. 610. Collegiate training initiative study.
- Sec. 611. FAA Task Force on Air Traffic Control Facility Conditions.

#### TITLE VII—AVIATION INSURANCE

- Sec. 701. General authority.
- Sec. 702. Extension of authority to limit third party liability of air carriers arising out of acts of terrorism.
- Sec. 703. Clarification of reinsurance authority.
- Sec. 704. Use of independent claims adjusters.
- Sec. 705. Extension of program authority.

#### TITLE VIII—MISCELLANEOUS

- Sec. 801. Air carrier citizenship.
- Sec. 802. Disclosure of data to Federal agencies in interest of national security.
- Sec. 803. FAA access to criminal history records and database systems.
- Sec. 804. Clarification of air carrier fee disputes.

Sec. 805. Study on national plan of integrated airport systems.

Sec. 806. Express carrier employee protection.

Sec. 807. Consolidation and realignment of FAA facilities.

Sec. 808. Accidental death and dismemberment insurance for National Transportation Safety Board employees.

Sec. 809. GAO study on cooperation of airline industry in international child abduction cases.

Sec. 810. Lost Nation Airport, Ohio.

Sec. 811. Pollock Municipal Airport, Louisiana.

Sec. 812. Human intervention and motivation study program.

Sec. 813. Washington, DC, Air Defense Identification Zone.

Sec. 814. Merrill Field Airport, Anchorage, Alaska.

Sec. 815. 1940 Air Terminal Museum at William P. Hobby Airport, Houston, Texas.

Sec. 816. Duty periods and flight time limitations applicable to flight crewmembers.

Sec. 817. Pilot program for redevelopment of airport properties.

Sec. 818. Helicopter operations over Long Island and Staten Island, New York.

Sec. 819. Cabin temperature standards study.

Sec. 820. Civil penalties technical amendments.

Sec. 821. Study and report on alleviating congestion.

Sec. 822. Airline personnel training enhancement.

Sec. 823. Study on Feasibility of Development of a Public Internet Web-based Search Engine on Wind Turbine Installation Obstruction.

Sec. 824. Wind turbine lighting.

Sec. 825. Limiting access to flight decks of all-cargo aircraft.

#### TITLE IX—FEDERAL AVIATION RESEARCH AND DEVELOPMENT

Sec. 901. Short title.

Sec. 902. Definitions.

Sec. 903. Interagency research initiative on the impact of aviation on the climate.

Sec. 904. Research program on runways.

Sec. 905. Research on design for certification.

Sec. 906. Centers of excellence.

Sec. 907. Airport cooperative research program.

Sec. 908. Unmanned aircraft systems.

Sec. 909. Research grants program involving undergraduate students.

Sec. 910. Aviation gas research and development program.

Sec. 911. Review of FAA's Energy- and Environment-Related Research Programs.

Sec. 912. Review of FAA's aviation safety-related research programs.

Sec. 913. Research program on alternative jet fuel technology for civil aircraft.

Sec. 914. Center for excellence in aviation employment.

#### SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be

made to a section or other provision of title 49, United States Code.

#### SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2008.

#### TITLE I—AUTHORIZATIONS

##### Subtitle A—Funding of FAA Programs

#### SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking “September 30, 2003” and inserting “September 30, 2008”; and

(2) by striking paragraphs (1) through (6) and inserting the following:

“(1) \$3,900,000,000 for fiscal year 2009;

“(2) \$4,000,000,000 for fiscal year 2010;

“(3) \$4,100,000,000 for fiscal year 2011; and

“(4) \$4,200,000,000 for fiscal year 2012.”.

(b) ALLOCATIONS OF FUNDS.—Section 48103 is amended—

(1) by striking “The total amounts” and inserting “(a) AVAILABILITY OF AMOUNTS.—The total amounts”; and

(2) by adding at the end the following:

“(b) AIRPORT COOPERATIVE RESEARCH PROGRAM.—Of the amounts made available under subsection (a), \$15,000,000 for each of fiscal years 2009 through 2012 may be used for carrying out the Airport Cooperative Research Program.

“(c) AIRPORTS TECHNOLOGY RESEARCH.—Of the amounts made available under subsection (a), \$19,348,000 for each of fiscal years 2009 through 2012 may be used for carrying out airports technology research.”.

(c) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking “March 31, 2009” and inserting “September 30, 2012”.

#### SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48101(a) is amended by striking paragraphs (1) through (5) and inserting the following:

“(1) \$3,246,000,000 for fiscal year 2009.

“(2) \$3,259,000,000 for fiscal year 2010.

“(3) \$3,353,000,000 for fiscal year 2011.

“(4) \$3,506,000,000 for fiscal year 2012.”.

(b) USE OF FUNDS.—Section 48101 is amended by striking subsections (c) through (i) and inserting the following:

“(c) WAKE VORTEX MITIGATION.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2009 through 2012 may be used for the development and analysis of wake vortex mitigation, including advisory systems.

“(d) WEATHER HAZARDS.—

“(1) IN GENERAL.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2009 through 2012 may be used for the development of in-flight and ground-based weather threat mitigation systems, including ground de-icing and anti-icing systems and other systems for predicting, detecting, and mitigating the effects of certain weather conditions on both airframes and engines.

“(2) SPECIFIC HAZARDS.—Weather conditions referred to in paragraph (1) include—

“(A) ground-based icing threats such as ice pellets and freezing drizzle;

“(B) oceanic weather, including convective weather, and other hazards associated with oceanic operations (where commercial traffic is high and only rudimentary satellite sensing is available) to reduce the hazards presented to commercial aviation, including convective weather ice crystal ingestion threats; and

“(C) en route turbulence prediction.

“(e) SAFETY MANAGEMENT SYSTEMS.—Of amounts appropriated under subsection (a) and section 106(k)(1), such sums as may be necessary for each of fiscal years 2009 through 2012 may be used to advance the development and implementation of safety management systems.

“(f) RUNWAY INCURSION REDUCTION PROGRAMS.—Of amounts appropriated under subsection (a), \$10,000,000 for fiscal year 2009, \$12,000,000 for fiscal year 2010, \$12,000,000 for fiscal year 2011, and \$12,000,000 for fiscal year 2012 may be used for the development and implementation of runway incursion reduction programs.

“(g) RUNWAY STATUS LIGHTS.—Of amounts appropriated under subsection (a), \$50,000,000 for fiscal year 2009, \$125,000,000 for fiscal year 2010, \$100,000,000 for 2011, and \$50,000,000 for fiscal year 2012 may be used for the acquisition and installation of runway status lights.

“(h) NEXTGEN SYSTEMS DEVELOPMENT PROGRAMS.—Of amounts appropriated under subsection (a), \$41,400,000 for fiscal year 2009, \$102,900,000 for fiscal year 2010, \$104,000,000 for fiscal year 2011, and \$105,300,000 for fiscal year 2012 may be used for systems development activities associated with NextGen.

“(i) NEXTGEN DEMONSTRATION PROGRAMS.—Of amounts appropriated under subsection (a), \$28,000,000 for fiscal year 2009, \$30,000,000 for fiscal year 2010, \$30,000,000 for fiscal year 2011, and \$30,000,000 for fiscal year 2012 may be used for demonstration activities associated with NextGen.

“(j) CENTER FOR ADVANCED AVIATION SYSTEM DEVELOPMENT.—Of amounts appropriated under subsection (a), \$76,000,000 for fiscal year 2009, \$79,000,000 for fiscal year 2010, \$79,000,000 for fiscal year 2011, and \$80,800,000 for fiscal year 2012 may be used for the Center for Advanced Aviation System Development.

“(k) ADDITIONAL PROGRAMS.—Of amounts appropriated under subsection (a), \$21,900,000 for fiscal year 2009, \$22,500,000 for fiscal year 2010, \$22,500,000 for fiscal year 2011, and \$22,500,000 for fiscal year 2012 may be used for—

“(1) system capacity, planning, and improvement;

“(2) operations concept validation;

“(3) NAS weather requirements; and

“(4) Airspace Management Lab.”.

#### SEC. 103. FAA OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended by striking subparagraphs (A) through (E) and inserting the following:

“(A) \$8,998,462,000 for fiscal year 2009;

“(B) \$9,531,272,000 for fiscal year 2010;

“(C) \$9,936,259,000 for fiscal year 2011; and

“(D) \$10,350,155,000 for fiscal year 2012.”.

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) Such sums as may be necessary for fiscal years 2009 through 2012 to support development and maintenance of helicopter approach procedures, including certification and recertification of instrument flight rule, global positioning system, and point-in-space approaches to heliports necessary to support all weather, emergency services.”;

(2) by striking subparagraphs (B), (C), and (D);

(3) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (B), (C), and (D), respectively; and

(4) in subparagraphs (B), (C), and (D) (as so redesignated) by striking “2004 through 2007” and inserting “2009 through 2012”.

(c) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Sec-

retary of Transportation out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to fund airline data collection and analysis by the Bureau of Transportation Statistics in the Research and Innovative Technology Administration of the Department of Transportation \$6,000,000 for each of fiscal years 2009, 2010, 2011, and 2012.

#### SEC. 104. RESEARCH, ENGINEERING, AND DEVELOPMENT.

Section 48102(a) is amended—

(1) in paragraph (11)—

(A) in subparagraph (K) by inserting “and” at the end; and

(B) in subparagraph (L) by striking “and” at the end;

(2) in paragraph (12)(L) by striking “and” at the end; and

(3) by striking paragraph (13) and inserting the following:

“(13) for fiscal year 2009, \$212,929,000, including—

“(A) \$8,457,000 for fire research and safety;

“(B) \$4,050,000 for propulsion and fuel systems;

“(C) \$2,920,000 for advanced materials and structural safety;

“(D) \$4,838,000 for atmospheric hazards and digital system safety;

“(E) \$14,683,000 for aging aircraft;

“(F) \$2,158,000 for aircraft catastrophic failure prevention research;

“(G) \$11,000,000 for flightdeck maintenance, system integration, and human factors;

“(H) \$12,488,000 for aviation safety risk analysis;

“(I) \$15,323,000 for air traffic control, technical operations, and human factors;

“(J) \$8,395,000 for aeromedical research;

“(K) \$22,336,000 for weather program;

“(L) \$6,738,000 for unmanned aircraft systems research;

“(M) \$18,100,000 for the Next Generation Air Transportation System Joint Planning and Development Office;

“(N) \$10,560,000 for wake turbulence;

“(O) \$10,425,000 for NextGen—Air ground integration;

“(P) \$8,025,000 for NextGen—Self separation;

“(Q) \$8,049,000 for NextGen—Weather technology in the cockpit;

“(R) \$22,939,000 for environment and energy;

“(S) \$16,050,000 for NextGen—Environmental research—Aircraft technologies, fuels, and metrics;

“(T) \$1,847,000 for system planning and resource management; and

“(U) \$3,548,000 for the William J. Hughes Technical Center Laboratory Facility;

“(14) for fiscal year 2010, \$214,587,000, including—

“(A) \$8,546,000 for fire research and safety;

“(B) \$4,075,000 for propulsion and fuel systems;

“(C) \$2,965,000 for advanced materials and structural safety;

“(D) \$4,921,000 for atmospheric hazards and digital system safety;

“(E) \$14,688,000 for aging aircraft;

“(F) \$2,153,000 for aircraft catastrophic failure prevention research;

“(G) \$11,000,000 for flightdeck maintenance, system integration, and human factors;

“(H) \$12,589,000 for aviation safety risk analysis;

“(I) \$15,471,000 for air traffic control, technical operations, and human factors;

“(J) \$8,699,000 for aeromedical research;

“(K) \$23,286,000 for weather program;

“(L) \$6,236,000 for unmanned aircraft systems research;

“(M) \$18,100,000 for the Next Generation Air Transportation System Joint Planning and Development Office;

“(N) \$10,412,000 for wake turbulence;

“(O) \$10,400,000 for NextGen—Air ground integration;

“(P) \$8,000,000 for NextGen—Self separation;

“(Q) \$7,567,000 for NextGen—Weather technology in the cockpit;

“(R) \$20,278,000 for environment and energy;

“(S) \$19,700,000 for NextGen—Environmental research—Aircraft technologies, fuels, and metrics;

“(T) \$1,827,000 for system planning and resource management; and

“(U) \$3,674,000 for the William J. Hughes Technical Center Laboratory Facility;

“(15) for fiscal year 2011, \$225,993,000, including—

“(A) \$8,815,000 for fire research and safety;

“(B) \$4,150,000 for propulsion and fuel systems;

“(C) \$2,975,000 for advanced materials and structural safety;

“(D) \$4,949,000 for atmospheric hazards and digital system safety;

“(E) \$14,903,000 for aging aircraft;

“(F) \$2,181,000 for aircraft catastrophic failure prevention research;

“(G) \$12,000,000 for flightdeck maintenance, system integration, and human factors;

“(H) \$12,497,000 for aviation safety risk analysis;

“(I) \$15,715,000 for air traffic control, technical operations, and human factors;

“(J) \$8,976,000 for aeromedical research;

“(K) \$23,638,000 for weather program;

“(L) \$6,295,000 for unmanned aircraft systems research;

“(M) \$18,100,000 for the Next Generation Air Transportation System Joint Planning and Development Office;

“(N) \$10,471,000 for wake turbulence;

“(O) \$10,600,000 for NextGen—Air ground integration;

“(P) \$8,300,000 for NextGen—Self separation;

“(Q) \$8,345,000 for NextGen—Weather technology in the cockpit;

“(R) \$27,075,000 for environment and energy;

“(S) \$20,368,000 for NextGen—Environmental research—Aircraft technologies, fuels, and metrics;

“(T) \$1,836,000 for system planning and resource management; and

“(U) \$3,804,000 for the William J. Hughes Technical Center Laboratory Facility; and

“(16) for fiscal year 2012, \$244,860,000, including—

“(A) \$8,957,000 for fire research and safety;

“(B) \$4,201,000 for propulsion and fuel systems;

“(C) \$2,986,000 for advanced materials and structural safety;

“(D) \$4,979,000 for atmospheric hazards and digital system safety;

“(E) \$15,013,000 for aging aircraft;

“(F) \$2,192,000 for aircraft catastrophic failure prevention research;

“(G) \$12,000,000 for flightdeck maintenance, system integration, and human factors;

“(H) \$12,401,000 for aviation safety risk analysis;

“(I) \$16,000,000 for air traffic control, technical operations, and human factors;

“(J) \$9,267,000 for aeromedical research;

“(K) \$23,800,000 for weather program;

“(L) \$6,400,000 for unmanned aircraft systems research;

“(M) \$18,100,000 for the Next Generation Air Transportation System Joint Planning and Development Office;

“(N) \$10,471,000 for wake turbulence;  
 “(O) \$10,800,000 for NextGen—Air ground integration;  
 “(P) \$8,500,000 for NextGen—Self separation;  
 “(Q) \$8,569,000 for NextGen—Weather technology in the cockpit;  
 “(R) \$44,409,000 for environment and energy;  
 “(S) \$20,034,000 for NextGen—Environmental research—Aircraft technologies, fuels, and metrics;  
 “(T) \$1,840,000 for system planning and resource management; and  
 “(U) \$3,941,000 for the William J. Hughes Technical Center Laboratory Facility.”

#### SEC. 105. FUNDING FOR AVIATION PROGRAMS.

(a) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—Section 48114(a)(1)(A) is amended to read as follows:

“(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2012 pursuant to sections 48101, 48102, 48103, and 106(k) shall—

“(i) in each of fiscal years 2009 and 2010, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

“(ii) in each of fiscal years 2011 and 2012, be equal to the sum of—

“(I) 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

“(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

Such amounts may be used only for aviation investment programs listed in subsection (b).”

(b) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—Section 48114(a)(2) is amended by striking “2007” and inserting “2012”.

(c) ESTIMATED LEVEL OF RECEIPTS PLUS INTEREST DEFINED.—Section 48114(b)(2) is amended—

(1) in the paragraph heading by striking “LEVEL” and inserting “ESTIMATED LEVEL”; and

(2) by striking “level of receipts plus interest” and inserting “estimated level of receipts plus interest”.

(d) ENFORCEMENT OF GUARANTEES.—Section 48114(c)(2) is amended by striking “2007” and inserting “2012”.

#### Subtitle B—Passenger Facility Charges

#### SEC. 111. PFC AUTHORITY.

(a) PFC DEFINED.—Section 40117(a)(5) is amended to read as follows:

“(5) PASSENGER FACILITY CHARGE.—The term ‘passenger facility charge’ means a charge or fee imposed under this section.”

(b) INCREASE IN PFC MAXIMUM LEVEL.—Section 40117(b)(4) is amended by striking “\$4.00 or \$4.50” and inserting “\$4.00, \$4.50, \$5.00, \$6.00, or \$7.00”.

(c) PILOT PROGRAM FOR PFC AT NONHUB AIRPORTS.—Section 40117(1) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(d) CORRECTION OF REFERENCES.—

(1) SECTION 40117.—Section 40117 is amended—

(A) in the section heading by striking “FEES” and inserting “CHARGES”; and

(B) in the heading for subsection (e) by striking “FEES” and inserting “CHARGES”;

(C) in the heading for subsection (l) by striking “FEE” and inserting “CHARGE”; and

(D) in the heading for paragraph (5) of subsection (l) by striking “FEE” and inserting “CHARGE”;

(E) in the heading for subsection (m) by striking “FEES” and inserting “CHARGES”; and

(F) in the heading for paragraph (1) of subsection (m) by striking “FEES” and inserting “CHARGES”;

(G) by striking “fee” each place it appears (other than the second sentence of subsection (g)(4)) and inserting “charge”; and

(H) by striking “fees” each place it appears and inserting “charges”.

(2) OTHER REFERENCES.—Subtitle VII is amended by striking “fee” and inserting “charge” each place it appears in each of the following sections:

(A) Section 47106(f)(1).

(B) Section 47110(e)(5).

(C) Section 47114(f).

(D) Section 47134(g)(1).

(E) Section 47139(b).

(F) Section 47524(e).

(G) Section 47526(2).

#### SEC. 112. PFC ELIGIBILITY FOR BICYCLE STORAGE.

(a) IN GENERAL.—Section 40117(a)(3) is amended by adding at the end the following:

“(H) A project to construct secure bicycle storage facilities that are to be used by passengers at the airport and that are in compliance with applicable security standards.”

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the progress being made by airports to install bicycle parking for airport customers and airport employees.

#### SEC. 113. AWARD OF ARCHITECTURAL AND ENGINEERING CONTRACTS FOR AIRSIDE PROJECTS.

(a) IN GENERAL.—Section 40117(d) is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by adding at the end the following:

“(5) in the case of an application to finance a project to meet the airside needs of the airport, the application includes written assurances, satisfactory to the Secretary, that each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the eligible agency.”

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an application submitted to the Secretary of Transportation by an eligible agency under section 40117 of title 49, United States Code, after the date of enactment of this Act.

#### SEC. 114. INTERMODAL GROUND ACCESS PROJECT PILOT PROGRAM.

Section 40117 is amended by adding at the end the following:

“(n) PILOT PROGRAM FOR PFC ELIGIBILITY FOR INTERMODAL GROUND ACCESS PROJECTS.—

“(1) PFC ELIGIBILITY.—Subject to the requirements of this subsection, the Secretary shall establish a pilot program under which the Secretary may authorize, at no more than 5 airports, a passenger facility charge imposed under subsection (b)(1) or (b)(4) to

be used to finance the eligible cost of an intermodal ground access project.

“(2) INTERMODAL GROUND ACCESS PROJECT DEFINED.—In this section, the term ‘intermodal ground access project’ means a project for constructing a local facility owned or operated by an eligible agency that is directly and substantially related to the movement of passengers or property traveling in air transportation.

“(3) ELIGIBLE COSTS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the eligible cost of an intermodal ground access project shall be the total cost of the project multiplied by the ratio that—

“(i) the number of individuals projected to use the project to gain access to or depart from the airport; bears to

“(ii) the total number of the individuals projected to use the facility.

“(B) DETERMINATIONS REGARDING PROJECTED PROJECT USE.—

“(i) IN GENERAL.—Except as provided by clause (ii), the Secretary shall determine the projected use of a project for purposes of subparagraph (A) at the time the project is approved under this subsection.

“(ii) PUBLIC TRANSPORTATION PROJECTS.—In the case of a project approved under this section to be financed in part using funds administered by the Federal Transit Administration, the Secretary shall use the travel forecasting model for the project at the time such project is approved by the Federal Transit Administration to enter preliminary engineering to determine the projected use of the project for purposes of subparagraph (A).”

#### SEC. 115. IMPACTS ON AIRPORTS OF ACCOMMODATING CONNECTING PASSENGERS.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to evaluate—

(1) the impacts on airports of accommodating connecting passengers; and

(2) the treatment of airports at which the majority of passengers are connecting passengers under the passenger facility charge program authorized by section 40117 of title 49, United States Code.

(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall review, at a minimum, the following:

(1) the differences in facility needs, and the costs for constructing, maintaining, and operating those facilities, for airports at which the majority of passengers are connecting passengers as compared to airports at which the majority of passengers are originating and destination passengers;

(2) whether the costs to an airport of accommodating additional connecting passengers differs from the cost of accommodating additional originating and destination passengers;

(3) for each airport charging a passenger facility charge, the percentage of passenger facility charge revenue attributable to connecting passengers and the percentage of such revenue attributable to originating and destination passengers;

(4) the potential effects on airport revenues of requiring airports to charge different levels of passenger facility charges on connecting passengers and originating and destination passengers; and

(5) the added costs to air carriers of collecting passenger facility charges under a system in which different levels of passenger facility charges are imposed on connecting passengers and originating and destination passengers.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than one year after the date of initiation of the study, the Secretary shall submit to Congress a report on the results of the study.

(2) CONTENTS.—The report shall include—

(A) the findings of the Secretary on each of the subjects listed in subsection (b); and

(B) recommendations, if any, of the Secretary based on the results of the study for any changes to the passenger facility charge program, including recommendations as to whether different levels of passenger facility charges should be imposed on connecting passengers and originating and destination passengers.

#### Subtitle C—Fees for FAA Services

##### SEC. 121. UPDATE ON OVERFLIGHTS.

(a) ESTABLISHMENT AND ADJUSTMENT OF FEES.—Section 45301(b) is amended to read as follows:

“(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

“(1) IN GENERAL.—In establishing and adjusting fees under subsection (a), the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States. The determination of such costs by the Administrator, and the allocation of such costs by the Administrator to services provided, are not subject to judicial review.

“(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by May 1, 2010. In developing the adjusted overflight fees, the Administrator may seek and consider the recommendations offered by an aviation rulemaking committee for overflight fees that are provided to the Administrator by May 1, 2009, and are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights.

“(3) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

“(4) COSTS DEFINED.—In this subsection, the term ‘costs’ includes those costs associated with the operation, maintenance, leasing costs, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

“(5) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.”.

(b) ADJUSTMENTS.—Section 45301 is amended by adding at the end the following:

“(e) ADJUSTMENTS.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.”.

##### SEC. 122. REGISTRATION FEES.

(a) IN GENERAL.—Chapter 453 is amended by adding at the end the following:

##### “§ 45305. Registration, certification, and related fees

“(a) GENERAL AUTHORITY AND FEES.—Subject to subsection (b), the Administrator of the Federal Aviation Administration shall establish the following fees for services and activities of the Administration:

“(1) \$130 for registering an aircraft.

“(2) \$45 for replacing an aircraft registration.

“(3) \$130 for issuing an original dealer's aircraft certificate.

“(4) \$105 for issuing an aircraft certificate (other than an original dealer's aircraft certificate).

“(5) \$80 for issuing a special registration number.

“(6) \$50 for issuing a renewal of a special registration number.

“(7) \$130 for recording a security interest in an aircraft or aircraft part.

“(8) \$50 for issuing an airman certificate.

“(9) \$25 for issuing a replacement airman certificate.

“(10) \$42 for issuing an airman medical certificate.

“(11) \$100 for providing a legal opinion pertaining to aircraft registration or recordation.

“(b) LIMITATION ON COLLECTION.—No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

“(c) FEES CREDITED AS OFFSETTING COLLECTIONS.—

“(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—

“(A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

“(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

“(C) remain available until expended.

“(2) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

“(3) ADJUSTMENTS.—The Administrator shall periodically adjust the fees established by subsection (a) when cost data from the cost accounting system developed pursuant to section 45303(e) reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 453 is amended by adding at the end the following:

“45305. Registration, certification, and related fees.”.

(c) FEES INVOLVING AIRCRAFT NOT PROVIDING AIR TRANSPORTATION.—Section 45302(e) is amended—

(1) by striking “A fee” and inserting the following:

“(1) IN GENERAL.—A fee”; and

(2) by adding at the end the following:

“(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.”.

#### Subtitle D—AIP Modifications

##### SEC. 131. AMENDMENTS TO AIP DEFINITIONS.

(a) AIRPORT DEVELOPMENT.—Section 47102(3) is amended—

(1) in subparagraph (B)(iv) by striking “20” and inserting “9”; and

(2) by adding at the end the following:

“(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

“(N) terminal development under section 47119(a).

“(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, non-exclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.”.

(b) AIRPORT PLANNING.—Section 47102(5) is amended by inserting before the period at the end the following: “, developing an environmental management system”.

(c) GENERAL AVIATION AIRPORT.—Section 47102 is amended—

(1) by redesignating paragraphs (23) through (25) as paragraphs (25) through (27), respectively;

(2) by redesignating paragraphs (8) through (22) as paragraphs (9) through (23), respectively; and

(3) by inserting after paragraph (7) the following:

“(8) ‘general aviation airport’ means a public airport that is located in a State and that, as determined by the Secretary—

“(A) does not have scheduled service; or

“(B) has scheduled service with less than 2,500 passenger boardings each year.”.

(d) REVENUE PRODUCING AERONAUTICAL SUPPORT FACILITIES.—Section 47102 is amended by inserting after paragraph (23) (as redesignated by subsection (c)(2) of this section) the following:

“(24) ‘revenue producing aeronautical support facilities’ means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.”.

(e) TERMINAL DEVELOPMENT.—Section 47102 is further amended by adding at the end the following:

“(28) ‘terminal development’ means—

“(A) development of—

“(i) an airport passenger terminal building, including terminal gates;

“(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

“(iii) walkways that lead directly to or from an airport passenger terminal building; and

“(B) the cost of a vehicle described in section 47119(a)(1)(B).”.

##### SEC. 132. SOLID WASTE RECYCLING PLANS.

(a) AIRPORT PLANNING.—Section 47102(5) (as amended by section 131(b) of this Act) is amended by inserting before the period at the end the following: “, and planning to minimize the generation of, and to recycle, airport solid waste in a manner that is consistent with applicable State and local recycling laws”.

(b) MASTER PLAN.—Section 47106(a) is amended—

(1) by striking “and” at the end of paragraph (4);



(2) by striking the period at the end of paragraph (5) and inserting “; and”; and

(3) by adding at the end the following:

“(6) in any case in which the project is for an airport that has an airport master plan, the master plan addresses the feasibility of solid waste recycling at the airport and minimizing the generation of solid waste at the airport.”.

#### SEC. 133. AMENDMENTS TO GRANT ASSURANCES.

(a) GENERAL WRITTEN ASSURANCES.—Section 47107(a)(16)(D)(ii) is amended by inserting before the semicolon at the end the following: “, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)”.

(b) WRITTEN ASSURANCES ON ACQUIRING LAND.—

(1) USE OF PROCEEDS.—Section 47107(c)(2)(A)(iii) is amended by striking “paid to the Secretary” and all that follows before the semicolon and inserting “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)”.

(2) ELIGIBLE PROJECTS.—Section 47107(c) is amended by adding at the end the following:

“(4) PRIORITIES FOR REINVESTMENT.—In approving the reinvestment or transfer of proceeds under subsection (c)(2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

“(A) Reinvestment in an approved noise compatibility project.

“(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

“(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

“(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport.

“(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund.”.

(c) CLERICAL AMENDMENT.—Section 47107(c)(2)(B)(iii) is amended by striking “the Fund” and inserting “the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)”.

#### SEC. 134. GOVERNMENT SHARE OF PROJECT COSTS.

Section 47109 is amended—

(1) in subsection (a) by striking “provided in subsection (b) or subsection (c) of this section” and inserting “otherwise specifically provided in this section”; and

(2) by adding at the end the following:

“(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government’s share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years following such change in hub status.

“(f) SPECIAL RULE FOR ECONOMICALLY DEPRESSED COMMUNITIES.—The Government’s share of allowable project costs shall be 95 percent for a project at an airport that—

“(1) is receiving subsidized air service under subchapter II of chapter 417; and

“(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.”.

#### SEC. 135. AMENDMENTS TO ALLOWABLE COSTS.

(a) ALLOWABLE PROJECT COSTS.—Section 47110(b)(2)(D) is amended to read as follows:

“(D) if the cost is for airport development and is incurred before execution of the grant

agreement, but in the same fiscal year as execution of the grant agreement, and if—

“(i) the cost was incurred before execution of the grant agreement due to the short construction season in the vicinity of the airport;

“(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement;

“(iii) the sponsor notifies the Secretary before authorizing work to commence on the project; and

“(iv) the sponsor’s decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds.”.

(b) RELOCATION OF AIRPORT-OWNED FACILITIES.—Section 47110(d) is amended to read as follows:

“(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

“(1) the Government’s share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

“(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary’s design standards; and

“(3) the Secretary determines that the change is beyond the control of the airport sponsor.”.

(c) NONPRIMARY AIRPORTS.—Section 47110(h) is amended—

(1) by inserting “construction of” before “revenue producing”; and

(2) by striking “, including fuel farms and hangars.”.

#### SEC. 136. UNIFORM CERTIFICATION TRAINING FOR AIRPORT CONCESSIONS UNDER DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) IN GENERAL.—Section 47107(e) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

“(8) MANDATORY TRAINING PROGRAM FOR AIRPORT CONCESSIONS.—

“(A) IN GENERAL.—Not later than one year after the date of enactment of the FAA Reauthorization Act of 2009, the Secretary shall establish a mandatory training program for persons described in subparagraph (C) on the certification of whether a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

“(B) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

“(C) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport owner or operator who is required to provide a written assurance under paragraph (1) that the airport owner or operator will meet the percentage goal of paragraph (1) or who is responsible for determining whether or not a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

“(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.”.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and other appropriate committees of Congress a report on the results of the training program conducted under the amendment made by subsection (a).

#### SEC. 137. PREFERENCE FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY DISABLED VETERANS.

Section 47112(c) is amended by adding at the end the following:

“(3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 1632)) owned and controlled by disabled veterans.”.

#### SEC. 138. MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.

Section 47113 is amended by adding at the end the following:

“(e) PERSONAL NET WORTH CAP.—

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall issue final regulations to adjust the personal net worth cap used in determining whether an individual is economically disadvantaged for purposes of qualifying under the definition contained in subsection (a)(2). The regulations shall correct for the impact of inflation since the Small Business Administration established the personal net worth cap at \$750,000 in 1989.

“(2) ANNUAL ADJUSTMENT.—Following the initial adjustment under paragraph (1), the Secretary shall adjust, on June 30 of each year thereafter, the personal net worth cap to account for changes, occurring in the preceding 12-month period, in the Consumer Price Index of All Urban Consumers (United States city average, all items) published by the Secretary of Labor.”.

#### SEC. 139. CALCULATION OF STATE APPORTIONMENT FUND.

Section 47114(d) is amended—

(1) in paragraph (2)—

(A) by striking “Except as provided in paragraph (3), the Secretary” and inserting “The Secretary”; and

(B) by striking “18.5 percent” and inserting “10 percent”; and

(2) by striking paragraph (3) and inserting the following:

“(3) ADDITIONAL AMOUNT.—

“(A) IN GENERAL.—In addition to amounts apportioned under paragraph (2), and subject to subparagraph (B), the Secretary shall apportion to each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

“(i) \$150,000; or

“(ii) ⅓ of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

“(B) REDUCTION.—In any fiscal year in which the total amount made available for apportionment under paragraph (2) is less than \$300,000,000, the Secretary shall reduce, on a prorated basis, the amount to be apportioned under subparagraph (A) and make

such reduction available to be apportioned under paragraph (2), so as to apportion under paragraph (2) a minimum of \$300,000,000.”.

#### SEC. 140. REDUCING APPORTIONMENTS.

Section 47114(f)(1) is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting “except as provided by subparagraph (C),” before “in the case”; and

(B) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) in the case of a charge of more than \$4.50 imposed by the sponsor of an airport explaining at least one percent of the total number of boardings each year in the United States, 100 percent of the projected revenues from the charge in the fiscal year but not more than 100 percent of the amount that otherwise would be apportioned under this section.”.

#### SEC. 141. MINIMUM AMOUNT FOR DISCRETIONARY FUND.

Section 47115(g)(1) is amended by striking “sum of—” and all that follows through the period at the end of subparagraph (B) and inserting “sum of \$520,000,000.”.

#### SEC. 142. MARSHALL ISLANDS, MICRONESIA, AND PALAU.

Section 47115(j) is amended by striking “fiscal years 2004 through 2008, and for the portion of fiscal year 2009 ending before April 1, 2009,” and inserting, “fiscal years 2008 through 2012.”.

#### SEC. 143. USE OF APPORTIONED AMOUNTS.

Section 47117(e)(1)(A) is amended—

(1) in the first sentence—

(A) by striking “35 percent” and inserting “\$300,000,000”; and

(B) by striking “and” after “47141.”; and

(C) by inserting before the period at the end the following: “, and for water quality mitigation projects to comply with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as approved in an environmental record of decision for an airport development project under this title”; and

(2) in the second sentence by striking “such 35 percent requirement is” and inserting “the requirements of the preceding sentence are”.

#### SEC. 144. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.

(a) IN GENERAL.—Section 47133(b) is amended—

(1) by striking “Subsection (a) shall not apply if” and inserting the following:

“(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if”; and

(2) by adding at the end the following:

“(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

“(A) the sale is approved by the Secretary;

“(B) funding is provided under this subtitle for any portion of the public sponsor’s acquisition of airport land; and

“(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

“(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.”.

(b) APPLICABILITY TO GRANTS.—The amendments made by subsection (a) shall apply to grants issued on or after October 1, 1996.

#### SEC. 145. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) APPROVAL REQUIREMENTS.—Section 47134 is amended in subsections (b)(1)(A)(i), (b)(1)(A)(ii), (c)(4)(A), and (c)(4)(B) by striking “65 percent” each place it appears and inserting “75 percent”.

(b) PROHIBITION ON RECEIPT OF FUNDS.—

(1) SECTION 47134.—Section 47134 is amended by adding at the end the following:

“(n) PROHIBITION ON RECEIPT OF CERTAIN FUNDS.—An airport receiving an exemption under subsection (b) shall be prohibited from receiving apportionments under section 47114 or discretionary funds under section 47115.”.

(2) CONFORMING AMENDMENTS.—Section 47134(g) is amended—

(A) in the subsection heading by striking “APPORTIONMENTS.”;

(B) in paragraph (1) by striking the semicolon at the end and inserting “; or”;

(C) by striking paragraph (2); and

(D) by redesignating paragraph (3) as paragraph (2).

(c) FEDERAL SHARE OF PROJECT COSTS.—Section 47109(a) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting “; and”; and

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

#### SEC. 146. AIRPORT SECURITY PROGRAM.

(a) GENERAL AUTHORITY.—Section 47137(a) is amended by inserting “, in consultation with the Secretary of Homeland Security,” after “Transportation”.

(b) IMPLEMENTATION.—Section 47137(b) is amended to read as follows:

“(b) IMPLEMENTATION.—

“(1) IN GENERAL.—In carrying out this section, the Secretary of Transportation shall provide funding through a grant, contract, or another agreement described in section 106(l)(6) to a nonprofit consortium that—

“(A) is composed of public and private persons, including an airport sponsor; and

“(B) has at least 10 years of demonstrated experience in testing and evaluating anti-terrorist technologies at airports.

“(2) PROJECT SELECTION.—The Secretary shall select projects under this subsection that—

“(A) evaluate and test the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

“(B) provide testing and evaluation of airport security systems and technology in an operational, testbed environment.”.

(c) MATCHING SHARE.—Section 47137(c) is amended by inserting after “section 47109” the following: “or any other provision of law”.

(d) ADMINISTRATION.—Section 47137(e) is amended by adding at the end the following: “The Secretary may enter into an agreement in accordance with section 106(m) to provide for the administration of any project under the program.”.

(e) ELIGIBLE SPONSOR.—Section 47137 is amended by striking subsection (f) and redesignating subsection (g) as subsection (f).

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 47137(f) (as so redesignated) is amended by striking “\$5,000,000” and inserting “\$8,500,000”.

#### SEC. 147. SUNSET OF PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

Section 47138 is amended by adding at the end the following:

“(f) SUNSET.—This section shall not be in effect after September 30, 2008.”.

#### SEC. 148. EXTENSION OF GRANT AUTHORITY FOR COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

Section 47141(f) is amended by striking “March 31, 2009” and inserting “September 30, 2012”.

#### SEC. 149. REPEAL OF LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

Section 49108, and the item relating to such section in the analysis for chapter 491, are repealed.

#### SEC. 150. MIDWAY ISLAND AIRPORT.

Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking “for fiscal years ending before October 1, 2008, and for the portion of fiscal year 2009 ending before April 1, 2009,” and inserting “October 1, 2012.”.

#### SEC. 151. PUERTO RICO MINIMUM GUARANTEE.

Section 47114(e) is amended—

(1) in the subsection heading by inserting “AND PUERTO RICO” after “ALASKA”; and

(2) by adding at the end the following:

“(5) PUERTO RICO MINIMUM GUARANTEE.—In any fiscal year in which the total amount apportioned to airports in Puerto Rico under subsections (c) and (d) is less than 1.5 percent of the total amount apportioned to all airports under subsections (c) and (d), the Secretary shall apportion to the Puerto Rico Ports Authority for airport development projects in such fiscal year an amount equal to the difference between 1.5 percent of the total amounts apportioned under subsections (c) and (d) in such fiscal year and the amount otherwise apportioned under subsections (c) and (d) to airports in Puerto Rico in such fiscal year.”.

#### SEC. 152. MISCELLANEOUS AMENDMENTS.

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) in subsection (a)—

(A) by striking “each airport to—” and inserting “the airport system to—”; and

(B) in paragraph (1) by striking “system in the particular area;” and inserting “system, including connection to the surface transportation network; and”;

(C) in paragraph (2) by striking “; and” and inserting a period; and

(D) by striking paragraph (3);

(2) in subsection (b)—

(A) in paragraph (1) by striking the semicolon and inserting “; and”;

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated) by striking “, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations;” and

(3) in subsection (d) by striking “status of the”.

(b) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B) by striking “separated from” and inserting “discharged or released from active duty in”; and

(B) by adding at the end the following:

“(C) ‘Afghanistan-Iraq war veteran’ means an individual who served on active duty (as defined by section 101 of title 38) in the Armed Forces for a period of more than 180 consecutive days, any part of which occurred

during the period beginning on September 11, 2001, and ending on the date prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom, and who was separated from the Armed Forces under honorable conditions.”; and

(2) in paragraph (2) by striking “veterans and” and inserting “veterans, Afghanistan-Iraq war veterans, and”.

(c) CONSOLIDATION OF TERMINAL DEVELOPMENT PROVISIONS.—Section 47119 is amended—

(1) by redesignating subsections (a), (b), (c), and (d) as subsections (b), (c), (d), and (e), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following:

“(a) TERMINAL DEVELOPMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

“(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

“(i) all the safety equipment required for certification of the airport under section 44706;

“(ii) all the security equipment required by regulation; and

“(iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

“(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

“(C) under terms necessary to protect the interests of the Government.

“(2) PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

“(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

“(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary’s approval.”;

(3) in paragraphs (3) and (4)(A) of subsection (b) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d)” and inserting “subsection (a)”;

(4) in paragraph (5) of subsection (b) (as redesignated by paragraph (1) of this subsection) by striking “subsection (b)(1) and (2)” and inserting “subsections (c)(1) and (c)(2)”;

(5) in paragraphs (2)(A), (3), and (4) of subsection (c) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d) of this title” and inserting “subsection (a)”;

(6) in paragraph (2)(B) of subsection (c) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d)” and inserting “subsection (a)”;

(7) in subsection (c)(5) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d)” and inserting “subsection (a)”;

(8) by adding at the end the following:

“(f) LIMITATION ON DISCRETIONARY FUNDS.—The Secretary may distribute not more than

\$20,000,000 from the discretionary fund established under section 47115 for terminal development projects at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).”.

(d) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking “April 1” and inserting “June 1”; and

(2) by striking paragraphs (1), (2), (3), and (4) and inserting the following:

“(1) a summary of airport development and planning completed;

“(2) a summary of individual grants issued;

“(3) an accounting of discretionary and apportioned funds allocated;

“(4) the allocation of appropriations; and”.

(e) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) in subsection (a) by striking “47102(3)(F).”; and

(2) in subsection (b)—

(A) by striking “47102(3)(F).”; and

(B) by striking “47103(3)(F).”.

(f) CONFORMING AMENDMENT TO CIVIL PENALTY ASSESSMENT AUTHORITY.—Section 46301(d)(2) is amended by inserting “46319,” after “46318.”.

(g) OTHER CONFORMING AMENDMENTS.—

(1) Sections 40117(a)(3)(B) is amended by striking “section 47110(d)” and inserting “section 47119(a)”.

(2) Section 47108(e)(3) is amended—

(A) by striking “section 47110(d)(2)” and inserting “section 47119(a)”;

(B) by striking “section 47110(d)” and inserting “section 47119(a)”.

(h) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking “(other than real property” and all that follows through “(10 U.S.C. 2687 note))”.

(i) AIRPORT CAPACITY BENCHMARK REPORTS.—Section 47175(2) is amended by striking “Airport Capacity Benchmark Report 2001” and inserting “2001 and 2004 Airport Capacity Benchmark Reports or table 1 of the Federal Aviation Administration’s most recent airport capacity benchmark report”.

#### SEC. 153. AIRPORT MASTER PLANS.

Section 47101 is amended by adding at the end the following:

“(i) ADDITIONAL GOALS FOR AIRPORT MASTER PLANS.—In addition to the goals set forth in subsection (g)(2), the Secretary shall encourage airport sponsors and State and local officials, through Federal Aviation Administration advisory circulars, to consider customer convenience, airport ground access, and access to airport facilities in airport master plans.”.

#### TITLE II—NEXT GENERATION AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

##### SEC. 201. MISSION STATEMENT; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) The United States faces a great national challenge as the Nation’s aviation infrastructure is at a crossroads.

(2) The demand for aviation services, a critical element of the United States economy, vital in supporting the quality of life of the people of the United States, and critical in support of the Nation’s defense and national security, is growing at an ever increasing rate. At the same time, the ability of the United States air transportation system to expand and change to meet this increasing demand is limited.

(3) The aviation industry accounts for more than 11,000,000 jobs in the United States and contributes approximately

\$741,000,000,000 annually to the United States gross domestic product.

(4) The United States air transportation system continues to drive economic growth in the United States and will continue to be a major economic driver as air traffic triples over the next 20 years.

(5) The Next Generation Air Transportation System (in this section referred to as the “NextGen System”) is the system for achieving long-term transformation of the United States air transportation system that focuses on developing and implementing new technologies and that will set the stage for the long-term development of a scalable and more flexible air transportation system without compromising the unprecedented safety record of United States aviation.

(6) The benefits of the NextGen System, in terms of promoting economic growth and development, are enormous.

(7) The NextGen System will guide the path of the United States air transportation system in the challenging years ahead.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) modernizing the air transportation system is a national priority and the United States must make a commitment to revitalizing this essential component of the Nation’s transportation infrastructure;

(2) one fundamental requirement for the success of the NextGen System is strong leadership and sufficient resources;

(3) the Joint Planning and Development Office of the Federal Aviation Administration and the Next Generation Air Transportation System Senior Policy Committee, each established by Congress in 2003, will lead and facilitate this important national mission to ensure that the programs and capabilities of the NextGen System are carefully integrated and aligned;

(4) Government agencies and industry must work together, carefully integrating and aligning their work to meet the needs of the NextGen System in the development of budgets, programs, planning, and research;

(5) the Department of Transportation, the Federal Aviation Administration, the Department of Defense, the Department of Homeland Security, the Department of Commerce, and the National Aeronautics and Space Administration must work in cooperation and make transformational improvements to the United States air transportation infrastructure a priority; and

(6) due to the critical importance of the NextGen System to the economic and national security of the United States, partner departments and agencies must be provided with the resources required to complete the implementation of the NextGen System.

##### SEC. 202. NEXT GENERATION AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—

(1) ASSOCIATE ADMINISTRATOR FOR THE NEXT GENERATION AIR TRANSPORTATION SYSTEM.—Section 709(a) of Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2582) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following:

“(2) The director of the Office shall be the Associate Administrator for the Next Generation Air Transportation System, who shall be appointed by the Administrator of the Federal Aviation Administration. The Associate Administrator shall report to the Administrator.”.

(2) RESPONSIBILITIES.—Section 709(a)(3) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) in subparagraph (G) by striking “; and” and inserting a semicolon;

(B) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System implementation activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the greatest extent practicable in establishing the environmental goals;

“(J) working to ensure global interoperability of the Next Generation Air Transportation System;

“(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

“(L) overseeing, with the Administrator of the Federal Aviation Administration, the selection of products or outcomes of research and development activities that would be moved to the next stage of a demonstration project; and

“(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation enterprise architecture requirements.”

(3) COOPERATION WITH OTHER FEDERAL AGENCIES.—Section 709(a)(4) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking “(4)” and inserting “(4)(A)”; and

(B) by adding at the end the following:

“(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a senior official in the agency to be responsible for—

“(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

“(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

“(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on behalf of the agency relating to the Next Generation Air Transportation System.

“(C) The head of a Federal agency referred to in subparagraph (B) shall ensure that—

“(i) the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B); and

“(ii) the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official’s annual performance evaluations and compensation.

“(D) The head of a Federal agency referred to in subparagraph (B) shall—

“(i) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

“(ii) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency’s Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

“(E) Not later than 6 months after the date of enactment of this subparagraph, the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.”

(4) COORDINATION WITH OMB.—Section 709(a) of such Act (117 Stat. 2582) is further amended by adding at the end the following:

“(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

“(B) The Director, to the maximum extent practicable, shall—

“(i) ensure that—

“(I) each Federal agency covered by the plan has sufficient funds requested in the President’s budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

“(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

“(ii) include, in the President’s budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System initiative; and

“(iii) identify and justify as part of the President’s budget submission any inconsistencies between the plan and amounts requested in the budget.

“(7) The Associate Administrator of the Next Generation Air Transportation System shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.”

(b) INTEGRATED PLAN.—Section 709(b) of such Act (117 Stat. 2583) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “meets air” and inserting “meets anticipated future air”; and

(B) by striking “beyond those currently included in the Federal Aviation Administration’s operational evolution plan”; and

(2) by striking “and” at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting “; and”; and

(4) by adding at the end the following:

“(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

“(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

“(B) details on a year-by-year basis of specific accomplishments, activities, research

requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

“(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System’s end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

“(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity’s responsibility for costs and available resources, for each stage of development from the basic research stage through the demonstration and implementation phase;

“(E) a clear explanation of how each step in the development of the Next Generation Air Transportation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

“(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

“(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

“(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.”

(c) NEXTGEN IMPLEMENTATION PLAN.—Section 709(d) of such Act (117 Stat. 2584) is amended to read as follows:

“(d) NEXTGEN IMPLEMENTATION PLAN.—The Administrator of the Federal Aviation Administration shall develop and publish annually the document known as the ‘NextGen Implementation Plan’, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.”

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 709(e) of such Act (117 Stat. 2584) is amended by striking “2010” and inserting “2012”.

(e) CONTINGENCY PLANNING.—The Associate Administrator for the Next Generation Air Transportation System shall, as part of the design of the System, develop contingency plans for dealing with the degradation of the System in the event of a natural disaster, major equipment failure, or act of terrorism.

## SEC. 203. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) MEETINGS.—Section 710(a) of Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2584) is amended by inserting before the period at the end the following “and shall meet at least twice each year”.

(b) ANNUAL REPORT.—Section 710 of such Act (117 Stat. 2584) is amended by adding at the end the following:

“(e) ANNUAL REPORT.—

“(1) SUBMISSION TO CONGRESS.—Not later than one year after the date of enactment of this subsection, and annually thereafter on the date of submission of the President’s budget request to Congress under section 1105(a) of title 31, United States Code, the

Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the progress made in carrying out the integrated work plan required by section 709(b)(5) and any changes in that plan.

“(2) CONTENTS.—The report shall include—  
“(A) a copy of the updated integrated work plan;

“(B) a description of the progress made in carrying out the integrated work plan and any changes in that plan, including any changes based on funding shortfalls and limitations set by the Office of Management and Budget;

“(C) a detailed description of—

“(i) the success or failure of each item of the integrated work plan for the previous year and relevant information as to why any milestone was not met; and

“(ii) the impact of not meeting the milestone and what actions will be taken in the future to account for the failure to complete the milestone;

“(D) an explanation of any change to future years in the integrated work plan and the reasons for such change; and

“(E) an identification of the levels of funding for each agency participating in the integrated work plan devoted to programs and activities under the plan for the previous fiscal year and in the President’s budget request.”.

#### SEC. 204. AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST SERVICES.

(a) REPORT ON FAA PROGRAM AND SCHEDULE.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prepare a report detailing the program and schedule for integrating automatic dependent surveillance-broadcast (in this section referred to as “ADS-B”) technology into the national airspace system.

(2) CONTENTS.—The report shall include—

(A) a description of segment 1 and segment 2 activity to acquire ADS-B services;

(B) a description of plans for implementation of advanced operational procedures and ADS-B air-to-air applications; and

(C) a detailed description of the protections that the Administration will require as part of any contract or program in the event of a contractor’s default, bankruptcy, acquisition by another entity, or any other event jeopardizing the uninterrupted provision of ADS-B services.

(3) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the report prepared under paragraph (1).

(b) REQUIREMENTS OF FAA CONTRACTS FOR ADS-B SERVICES.—Any contract entered into by the Administrator with an entity to acquire ADS-B services shall contain terms and conditions that—

(1) require approval by the Administrator before the contract may be assigned to or assumed by another entity, including any successor entity, subsidiary of the contractor, or other corporate entity;

(2) provide that the assets, equipment, hardware, and software used in the performance of the contract be designated as critical national infrastructure for national security and related purposes;

(3) require the contractor to provide continued broadcast services for a reasonable

period, as determined by the Administrator, until the provision of such services can be transferred to another vendor or to the Government in the event of a termination of the contract;

(4) require the contractor to provide continued broadcast services for a reasonable period, as determined by the Administrator, until the provision of such services can be transferred to another vendor or to the Government in the event of material non-performance, as determined by the Administrator; and

(5) permit the Government to acquire or utilize for a reasonable period, as determined by the Administrator, the assets, equipment, hardware, and software necessary to ensure the continued and uninterrupted provision of ADS-B services and to have ready access to such assets, equipment, hardware, and software through its own personnel, agents, or others, if the Administrator provides reasonable compensation for such acquisition or utilization.

(c) REVIEW BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a review concerning the Federal Aviation Administration’s award and oversight of any contract entered into by the Administration to provide ADS-B services for the national airspace system.

(2) CONTENTS.—The review shall include, at a minimum—

(A) an examination of how program risks are being managed;

(B) an assessment of expected benefits attributable to the deployment of ADS-B services, including the implementation of advanced operational procedures and air-to-air applications as well as to the extent to which ground radar will be retained;

(C) a determination of whether the Administration has established sufficient mechanisms to ensure that all design, acquisition, operation, and maintenance requirements have been met by the contractor;

(D) an assessment of whether the Administration and any contractors are meeting cost, schedule, and performance milestones, as measured against the original baseline of the Administration’s program for providing ADS-B services;

(E) an assessment of whether security issues are being adequately addressed in the overall design and implementation of the ADS-B system; and

(F) any other matters or aspects relating to contract implementation and oversight that the Inspector General determines merit attention.

(3) REPORTS TO CONGRESS.—The Inspector General shall periodically, on at least an annual basis, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this subsection.

#### SEC. 205. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall establish a process for including in the planning, development, and deployment of air traffic control modernization projects (including the Next Generation Air Transportation System) and collaborating with qualified employees selected by each exclusive collective bargaining representative of employees of the Administration who are likely to be impacted by such planning, development, and deployment.

(b) PARTICIPATION.—

(1) BARGAINING OBLIGATIONS AND RIGHTS.—Participation in the process described in subsection (a) shall not be construed as a waiver of any bargaining obligations or rights under section 40122(a)(1) or 40122(g)(2)(C) of title 49, United States Code.

(2) CAPACITY AND COMPENSATION.—Exclusive collective bargaining representatives and selected employees participating in the process described in subsection (a) shall—

(A) serve in a collaborative and advisory capacity; and

(B) receive appropriate travel and per diem expenses in accordance with the travel policies of the Administration in addition to any regular compensation and benefits.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the implementation of this section.

#### SEC. 206. GAO REVIEW OF CHALLENGES ASSOCIATED WITH TRANSFORMING TO THE NEXT GENERATION AIR TRANSPORTATION SYSTEM.

(a) IN GENERAL.—The Comptroller General shall conduct a review of the progress and challenges associated with transforming the Nation’s air traffic control system into the Next Generation Air Transportation System (in this section referred to as the “NextGen System”).

(b) REVIEW.—The review shall include the following:

(1) An evaluation of the continued implementation and institutionalization of the processes that are key to the ability of the Air Traffic Organization to effectively maintain management structures and systems acquisitions procedures utilized under the current air traffic control modernization program as a basis for the NextGen System.

(2) An assessment of the progress and challenges associated with collaboration and contributions of the partner agencies working with the Joint Planning and Development Office of the Federal Aviation Administration (in this section referred to as the “JPDO”) in planning and implementing the NextGen System.

(3) The progress and challenges associated with coordinating government and industry stakeholders in activities relating to the NextGen System, including an assessment of the contributions of the NextGen Institute.

(4) An assessment of planning and implementation of the NextGen System against established schedules, milestones, and budgets.

(5) An evaluation of the recently modified organizational structure of the JPDO.

(6) An examination of transition planning by the Air Traffic Organization and the JPDO.

(7) Any other matters or aspects of planning and coordination of the NextGen System by the Federal Aviation Administration and the JPDO that the Comptroller General determines appropriate.

(c) REPORTS.—

(1) REPORT TO CONGRESS ON PRIORITIES.—Not later than one year after the date of enactment of this Act, the Comptroller General shall determine the priority of topics to be reviewed under this section and report such priorities to the Committee on Transportation and Infrastructure and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) PERIODIC REPORTS TO CONGRESS ON RESULTS OF THE REVIEW.—The Comptroller General shall periodically submit to the committees referred to in paragraph (1) a report on the results of the review conducted under this section.

**SEC. 207. GAO REVIEW OF NEXT GENERATION AIR TRANSPORTATION SYSTEM ACQUISITION AND PROCEDURES DEVELOPMENT.**

(a) STUDY.—The Comptroller General shall conduct a review of the progress made and challenges related to the acquisition of designated technologies and the development of procedures for the Next Generation Air Transportation System (in this section referred to as the “NextGen System”).

(b) SPECIFIC SYSTEMS REVIEW.—The review shall include, at a minimum, an examination of the acquisition costs, schedule, and other relevant considerations for the following systems:

(1) En Route Automation Modernization (ERAM).

(2) Standard Terminal Automation Replacement System/Common Automated Radar Terminal System (STARS/CARTS).

(3) Automatic Dependent Surveillance-Broadcast (ADS-B).

(4) System Wide Information Management (SWIM).

(5) Traffic Flow Management Modernization (TFM-M).

(c) REVIEW.—The review shall include, at a minimum, an assessment of the progress and challenges related to the development of standards, regulations, and procedures that will be necessary to implement the NextGen System, including required navigation performance, area navigation, the airspace management program, and other programs and procedures that the Comptroller General identifies as relevant to the transformation of the air traffic system.

(d) PERIODIC REPORTS TO CONGRESS ON RESULTS OF THE REVIEW.—The Comptroller General shall periodically submit to the Committee on Transportation and Infrastructure and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section.

**SEC. 208. DOT INSPECTOR GENERAL REVIEW OF OPERATIONAL AND APPROACH PROCEDURES BY A THIRD PARTY.**

(a) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding the effectiveness of the oversight activities conducted by the Federal Aviation Administration in connection with any agreement with or delegation of authority to a third party for the development of flight procedures, including public use procedures, for the national airspace system.

(b) ASSESSMENTS.—The Inspector General shall include, at a minimum, in the review—

(1) an assessment of the extent to which the Federal Aviation Administration is relying or intends to rely on a third party for the development of new procedures and a determination of whether the Administration has established sufficient mechanisms and staffing to provide safety oversight functions, which may include quality assurance processes, flight checks, integration of procedures into the National Aviation System, and operational assessments of procedures developed by third parties; and

(2) an assessment regarding whether the Administration has sufficient existing personnel and technical resources or mechanisms to develop such flight procedures in a safe and efficient manner to meet the de-

mands of the national airspace system without the use of third party resources.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section, including the assessments described in subsection (b).

**SEC. 209. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXT GENERATION AIR TRANSPORTATION SYSTEM.**

(a) REVIEW.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council to review the enterprise architecture for the Next Generation Air Transportation System.

(b) CONTENTS.—At a minimum, the review to be conducted under subsection (a) shall—

(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the Administration;

(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

(3) include judgments on how risks with automation efforts for the Next Generation Air Transportation System can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the review conducted pursuant to subsection (a).

**SEC. 210. NEXTGEN TECHNOLOGY TESTBED.**

Of amounts appropriated under section 48101(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall use such sums as may be necessary for each of the fiscal years 2009 through 2012 to contribute to the establishment by a public-private partnership (including a university component with significant aviation expertise in air traffic management, simulation, meteorology, and engineering and aviation business) an airport-based testing site for existing Next Generation Air Transport System technologies. The Administrator shall ensure that next generation air traffic control integrated systems developed by private industries are installed at the site for demonstration, operational research, and evaluation by the Administration. The testing site shall serve a mix of general aviation and commercial traffic.

**SEC. 211. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.**

Section 106(m) is amended in the last sentence by inserting “with or” before “without reimbursement”.

**SEC. 212. DEFINITION OF AIR NAVIGATION FACILITY.**

Section 40102(a)(4) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by striking subparagraphs (B) and (C) and inserting the following:

“(B) runway lighting and airport surface visual and other navigation aids;

“(C) aeronautical and meteorological information to air traffic control facilities or aircraft;

“(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;”;

(3) in subparagraph (E) (as redesignated by paragraph (1) of this section)—

(A) by striking “another structure” and inserting “any structure, equipment,”; and

(B) by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

“(F) buildings, equipment, and systems dedicated to the national airspace system.”.

**SEC. 213. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.**

Section 40110(a)(2) is amended by striking “compensation” and inserting “compensation, and the amount received shall be credited as an offsetting collection to the account from which the amount was expended and shall remain available until expended”.

**SEC. 214. CLARIFICATION TO ACQUISITION REFORMATION AUTHORITY.**

Section 40110(c) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting “; and”;

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

**SEC. 215. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.**

Section 40113(e) is amended—

(1) in paragraph (1)—

(A) by inserting “public and private” before “foreign aviation authorities”; and

(B) by striking the period at the end of the first sentence and inserting “or efficiency. The Administrator may participate in, and submit offers in response to, competitions to provide such services and may contract with foreign aviation authorities to provide such services consistent with section 106(l)(6). Notwithstanding any other provision of law or policy, the Administrator may accept payments received under this subsection in arrears.”; and

(2) in paragraph (3) by striking “credited” and all that follows through the period at the end and inserting “credited as an offsetting collection to the account from which the expenses were incurred in providing such services and shall remain available until expended.”.

**SEC. 216. FRONT LINE MANAGER STAFFING.**

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study on front line manager staffing requirements in air traffic control facilities.

(b) CONSIDERATIONS.—In conducting the study, the Administrator shall take into consideration—

(1) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(2) coverage requirements in relation to traffic demand;

(3) facility type;

(4) complexity of traffic and managerial responsibilities;

(5) proficiency and training requirements; and

(6) such other factors as the Administrator considers appropriate.

(c) DETERMINATIONS.—The Administrator shall transmit any determinations made as a result of the study to the Chief Operating Officer for the air traffic control system.



(d) **REPORT.**—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (c).

#### **SEC. 217. FLIGHT SERVICE STATIONS.**

(a) **ESTABLISHMENT OF MONITORING SYSTEM.**—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and implement a monitoring system for flight service specialist staffing and training under service contracts for flight service stations.

(b) **COMPONENTS.**—At a minimum, the monitoring system shall include mechanisms to monitor—

(1) flight specialist staffing plans for individual facilities;

(2) actual staffing levels for individual facilities;

(3) the initial and recurrent certification and training of flight service specialists on the safety, operational, and technological aspects of flight services, including any certification and training necessary to meet user demand; and

(4) system outages, excessive hold times, dropped calls, poor quality briefings, and any other safety or customer service issues under a contract for flight service station services.

(c) **REPORT TO CONGRESS.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) a description of monitoring system;

(2) if the Administrator determines that contractual changes or corrective actions are required for the Administration to ensure that the vendor under a contract for flight service station services provides safe and high quality service to consumers, a description of the changes or actions required; and

(3) a description of the contingency plans of the Administrator and the protections that the Administrator will have in place to provide uninterrupted flight service station services in the event of—

(A) material non-performance of the contract;

(B) a vendor's default, bankruptcy, or acquisition by another entity; or

(C) any other event that could jeopardize the uninterrupted provision of flight service station services.

#### **SEC. 218. NEXTGEN RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.**

(a) **ESTABLISHMENT.**—Of the amount appropriated under section 48101(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall use such sums as may be necessary for each of fiscal years 2009 through 2012 to contribute to the establishment of a center of excellence for the research and development of Next Generation Air Transportation System technologies.

(b) **FUNCTIONS.**—The center established under subsection (a) shall—

(1) leverage the centers of excellence program of the Federal Aviation Administration, as well as other resources and partnerships, to enhance the development of Next Generation Air Transportation System technologies within academia and industry; and

(2) provide educational, technical, and analytical assistance to the Federal Aviation Administration and other Federal agencies with responsibilities to research and develop Next Generation Air Transportation System technologies.

#### **SEC. 219. AIRSPACE REDESIGN.**

(a) **FINDINGS.**—Congress finds the following:

(1) The airspace redesign efforts of the Federal Aviation Administration will play a critical near-term role in enhancing capacity, reducing delays, transitioning to more flexible routing, and ultimately saving money in fuel costs for airlines and airspace users.

(2) The critical importance of airspace redesign efforts is underscored by the fact that they are highlighted in strategic plans of the Administration, including Flight Plan 2009–2013 and the document known as the “NextGen Implementation Plan”.

(3) Funding cuts have led to delays and deferrals of critical capacity enhancing airspace redesign efforts.

(4) Several new runways planned for the period of fiscal years 2009 to 2012 will not provide estimated capacity benefits without additional funds.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized by section 106(k) of title 49, United States Code, there are authorized to be appropriated to the Administrator of the Federal Aviation Administration \$14,500,000 for fiscal year 2009 and \$20,000,000 for each of fiscal years 2010, 2011, and 2012 to carry out such airspace redesign initiatives as the Administrator determines appropriate.

(c) **ADDITIONAL AMOUNTS.**—Of the amounts appropriated under section 48101(a) of such title, the Administrator may use \$5,000,000 for each of fiscal years 2009, 2010, 2011, and 2012 to carry out such airspace redesign initiatives as the Administrator determines appropriate.

### **TITLE III—SAFETY**

#### **Subtitle A—General Provisions**

#### **SEC. 301. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.**

(a) **JUDICIAL REVIEW OF NTSB DECISIONS.**—Section 44703(d) is amended by adding at the end the following:

“(3) **JUDICIAL REVIEW.**—A person who is substantially affected by an order of the Board under this subsection, or the Administrator if the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this subtitle, may seek judicial review of the order under section 46110. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.”.

(b) **CONFORMING AMENDMENT.**—Section 1153(c) is amended by striking “section 44709 or” and inserting “section 44703(d), 44709, or”.

#### **SEC. 302. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.**

(a) **RELEASE OF DATA.**—Section 44704(a) is amended by adding at the end the following:

“(5) **RELEASE OF DATA.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Administrator may make available upon request to a person seeking to maintain the airworthiness of an aircraft, engine, propeller, or appliance, engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate for such air-

craft, engine, propeller, or appliance, without the consent of the owner of record, if the Administrator determines that—

“(i) the certificate containing the requested data has been inactive for 3 or more years;

“(ii) after using due diligence, the Administrator is unable to find the owner of record, or the owner of record's heir, of the type certificate or supplemental certificate; and

“(iii) making such data available will enhance aviation safety.

“(B) **ENGINEERING DATA DEFINED.**—In this section, the term ‘engineering data’ as used with respect to an aircraft, engine, propeller, or appliance means type design drawing and specifications for the entire aircraft, engine, propeller, or appliance or change to the aircraft, engine, propeller, or appliance, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular certificate for the aircraft engine, propeller, or appliance.”.

(b) **DESIGN ORGANIZATION CERTIFICATES.**—Section 44704(e)(1) is amended by striking “Beginning 7 years after the date of enactment of this subsection,” and inserting “Beginning January 1, 2014.”.

#### **SEC. 303. INSPECTION OF FOREIGN REPAIR STATIONS.**

(a) **IN GENERAL.**—Chapter 447 is amended by adding at the end the following:

##### **“§ 44730. Inspection of foreign repair stations**

“Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator of the Federal Aviation Administration shall—

“(1) submit to Congress a certification that each foreign repair station that is certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and performs work on air carrier aircraft or components has been inspected by safety inspectors of the Administration not fewer than 2 times in the preceding calendar year; and

“(2) modify the certification requirements under such part to include testing for the use of alcohol or a controlled substance in accordance with section 45102 of any individual performing a safety-sensitive function at a foreign aircraft repair station, including an individual working at a station of a third-party with whom an air carrier contracts to perform work on air carrier aircraft or components.”.

(b) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended by adding at the end the following:

“44730. Inspection of foreign repair stations.”.

#### **SEC. 304. RUNWAY SAFETY.**

(a) **STRATEGIC RUNWAY SAFETY PLAN.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and submit to Congress a report containing a strategic runway safety plan.

(2) **CONTENTS OF PLAN.**—The strategic runway safety plan—

(A) shall include, at a minimum—

(i) goals to improve runway safety;

(ii) near- and longer-term actions designed to reduce the severity, number, and rate of runway incursions;

(iii) timeframes and resources needed for the actions described in clause (ii); and

(iv) a continuous evaluative process to track performance toward the goals referred to in clause (i); and

(B) shall address the increased runway safety risk associated with the expected increased volume of air traffic.



(b) PLAN FOR INSTALLATION AND DEPLOYMENT OF SYSTEMS TO PROVIDE ALERTS OF POTENTIAL RUNWAY INCURSIONS.—Not later than December 31, 2009, the Administrator of the Federal Aviation Administration shall submit to Congress a report containing a plan for the installation and deployment of systems the Administration is installing to alert controllers or flight crews, or both, of potential runway incursions. The plan shall be integrated into the annual NextGen Implementation Plan document of the Administration or any successor document.

#### SEC. 305. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

(b) REQUIREMENTS.—Improved pilots licenses issued under subsection (a) shall—

(1) be resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) be capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered, altered, or counterfeited.

(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.

(e) REPORT.—Not later than 9 months after the date of enactment of this Act and every 6 months thereafter until September 30, 2012, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the issuance of improved pilot licenses under this section.

#### SEC. 306. FLIGHT CREW FATIGUE.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conclude arrangements with the National Academy of Sciences for a study of pilot fatigue.

(b) STUDY.—The study shall include consideration of—

(1) research on pilot fatigue, sleep, and circadian rhythms;

(2) sleep and rest requirements of pilots recommended by the National Aeronautics and Space Administration and the National Transportation Safety Board; and

(3) Federal Aviation Administration and international standards regarding flight limitations and rest for pilots.

(c) REPORT.—Not later than 18 months after initiating the study, the National Academy of Sciences shall submit to the Administrator a report containing its findings and recommendations regarding the study under subsections (a) and (b), including recommendations with respect to Federal Aviation Administration regulations governing flight time limitations and rest requirements for pilots.

(d) RULEMAKING.—After the Administrator receives the report of the National Academy of Sciences, the Administrator shall consider the findings in the report and update as appropriate based on scientific data Federal

Aviation Administration regulations governing flight time limitations and rest requirements for pilots.

(e) FLIGHT ATTENDANT FATIGUE.—

(1) STUDY.—The Administrator, acting through the Civil Aerospace Medical Institute, shall conduct a study on the issue of flight attendant fatigue.

(2) CONTENTS.—The study shall include the following:

(A) A survey of field operations of flight attendants.

(B) A study of incident reports regarding flight attendant fatigue.

(C) Field research on the effects of such fatigue.

(D) A validation of models for assessing flight attendant fatigue.

(E) A review of international policies and practices regarding flight limitations and rest of flight attendants.

(F) An analysis of potential benefits of training flight attendants regarding fatigue.

(3) REPORT.—Not later than June 30, 2010, the Administrator shall submit to Congress a report on the results of the study.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### SEC. 307. OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR FLIGHT ATTENDANTS ON BOARD AIRCRAFT.

(a) IN GENERAL.—Chapter 447 (as amended by section 303 of this Act) is further amended by adding at the end the following:

##### “§ 44731. Occupational safety and health standards for flight attendants on board aircraft

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prescribe and enforce standards and regulations to ensure the occupational safety and health of individuals serving as flight attendants in the cabin of an aircraft of an air carrier.

“(b) STANDARDS AND REGULATIONS.—Standards and regulations issued under this section shall require each air carrier operating an aircraft in air transportation—

“(1) to provide for an environment in the cabin of the aircraft that is free from hazards that could cause physical harm to a flight attendant working in the cabin; and

“(2) to meet minimum standards for the occupational safety and health of flight attendants who work in the cabin of the aircraft.

“(c) RULEMAKING.—In carrying out this section, the Administrator shall conduct a rulemaking proceeding to address, at a minimum, the following areas:

“(1) Record keeping.

“(2) Blood borne pathogens.

“(3) Noise.

“(4) Sanitation.

“(5) Hazard communication.

“(6) Anti-discrimination.

“(7) Access to employee exposure and medical records.

“(8) Temperature standards for the aircraft cabin.

“(d) REGULATIONS.—

“(1) DEADLINE.—Not later than 3 years after the date of enactment of this section, the Administrator shall issue final regulations to carry out this section.

“(2) CONTENTS.—Regulations issued under this subsection shall address each of the issues identified in subsection (c) and others aspects of the environment of an aircraft cabin that may cause illness or injury to a flight attendant working in the cabin.

“(3) EMPLOYER ACTIONS TO ADDRESS OCCUPATIONAL SAFETY AND HEALTH HAZARDS.—Regu-

lations issued under this subsection shall set forth clearly the circumstances under which an air carrier is required to take action to address occupational safety and health hazards.

“(e) ADDITIONAL RULEMAKING PROCEEDINGS.—After issuing regulations under subsection (c), the Administrator may conduct additional rulemaking proceedings as the Administrator determines appropriate to carry out this section.

“(f) OVERSIGHT.—

“(1) CABIN OCCUPATIONAL SAFETY AND HEALTH INSPECTORS.—The Administrator shall establish the position of Cabin Occupational Safety and Health Inspector within the Federal Aviation Administration and shall employ individuals with appropriate qualifications and expertise to serve in the position.

“(2) RESPONSIBILITIES.—Inspectors employed under this subsection shall be solely responsible for conducting proper oversight of air carrier programs implemented under this section.

“(g) CONSULTATION.—In developing regulations under this section, the Administrator shall consult with the Administrator of the Occupational Safety and Health Administration, labor organizations representing flight attendants, air carriers, and other interested persons.

“(h) SAFETY PRIORITY.—In developing and implementing regulations under this section, the Administrator shall give priority to the safe operation and maintenance of an aircraft.

“(i) FLIGHT ATTENDANT DEFINED.—In this section, the term ‘flight attendant’ has the meaning given that term by section 44728.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

“44731. Occupational safety and health standards for flight attendants on board aircraft.”

#### SEC. 308. AIRCRAFT SURVEILLANCE IN MOUNTAINOUS AREAS.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration may establish a pilot program to improve safety and efficiency by providing surveillance for aircraft flying outside of radar coverage in mountainous areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

#### SEC. 309. OFF-AIRPORT, LOW-ALTITUDE AIRCRAFT WEATHER OBSERVATION TECHNOLOGY.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a review of off-airport, low-altitude aircraft weather observation technologies.

(b) SPECIFIC REVIEW.—The review shall include, at a minimum, an examination of off-airport, low-altitude weather reporting needs, an assessment of technical alternatives (including automated weather observation stations), an investment analysis, and recommendations for improving weather reporting.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the review.

**SEC. 310. NONCERTIFICATED MAINTENANCE PROVIDERS.**

(a) **ISSUANCE OF REGULATIONS.**—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations requiring that all covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by individuals in accordance with subsection (b).

(b) **PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.**—Covered maintenance work for a part 121 air carrier shall only be performed by—

(1) an individual employed by the air carrier;

(2) an individual employed by another part 121 air carrier;

(3) an individual employed by a part 145 repair station; or

(4) an individual employed by a company that provides contract maintenance workers to a part 145 repair station or part 121 air carrier, if the individual—

(A) meets the requirements of the part 145 repair station or the part 121 air carrier;

(B) works under the direct supervision and control of the part 145 repair station or part 121 air carrier; and

(C) carries out the work in accordance with the part 121 air carrier's maintenance manual and, if applicable, the part 145 certificate holder's repair station and quality control manuals.

(c) **PLAN.**—

(1) **DEVELOPMENT.**—The Administrator shall develop a plan to—

(A) require air carriers to identify and provide to the Administrator a complete listing of all noncertificated maintenance providers that perform, before the effective date of the regulations to be issued under subsection (a), covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations;

(B) validate the lists that air carriers provide under subparagraph (A) by sampling air carrier records, such as maintenance activity reports and general vendor listings; and

(C) include surveillance and oversight by field inspectors of the Federal Aviation Administration for all noncertificated maintenance providers that perform covered maintenance work on aircraft used to provide air transportation in accordance with such part 121.

(2) **REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing the plan developed under paragraph (1).

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **COVERED MAINTENANCE WORK.**—The term “covered maintenance work” means maintenance work that is essential, regularly scheduled, or a required inspection item, as determined by the Administrator.

(2) **PART 121 AIR CARRIER.**—The term “part 121 air carrier” means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

(3) **PART 145 REPAIR STATION.**—The term “part 145 repair station” means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

(4) **NONCERTIFICATED MAINTENANCE PROVIDER.**—The term “noncertificated maintenance provider” means a maintenance provider that does not hold a certificate issued under part 121 or part 145 of title 14 Code of Federal Regulations.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary for the Administrator to hire additional field safety inspectors to ensure adequate and timely inspection of maintenance providers that perform covered maintenance work.

**SEC. 311. AIRCRAFT RESCUE AND FIREFIGHTING STANDARDS.**

(a) **RULEMAKING PROCEEDING.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding for the purpose of issuing a proposed and final rule that revises the aircraft rescue and firefighting standards (“ARFF”) under part 139 of title 14, Code of Federal Regulations, to improve the protection of the traveling public, other persons, aircraft, buildings, and the environment from fires and hazardous materials incidents.

(b) **CONTENTS OF PROPOSED AND FINAL RULE.**—The proposed and final rule to be issued under subsection (a) shall address the following:

(1) The mission of aircraft rescue and firefighting personnel, including responsibilities for passenger egress in the context of other Administration requirements.

(2) The proper level of staffing.

(3) The timeliness of a response.

(4) The handling of hazardous materials incidents at airports.

(5) Proper vehicle deployment.

(6) The need for equipment modernization.

(c) **CONSISTENCY WITH VOLUNTARY CONSENSUS STANDARDS.**—The proposed and final rule issued under subsection (a) shall be, to the extent practical, consistent with national voluntary consensus standards for aircraft rescue and firefighting services at airports.

(d) **ASSESSMENTS OF POTENTIAL IMPACTS.**—In the rulemaking proceeding initiated under subsection (a), the Administrator shall assess the potential impact of any revisions to the firefighting standards on airports and air transportation service.

(e) **INCONSISTENCY WITH STANDARDS.**—If the proposed or final rule issued under subsection (a) is not consistent with national voluntary consensus standards for aircraft rescue and firefighting services at airports, the Administrator shall submit to the Office of Management and Budget an explanation of the reasons for such inconsistency in accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

(f) **FINAL RULE.**—Not later than 24 months after the date of enactment of this Act, the Administrator shall issue the final rule required by subsection (a).

**Subtitle B—Unmanned Aircraft Systems****SEC. 321. COMMERCIAL UNMANNED AIRCRAFT SYSTEMS INTEGRATION PLAN.**

(a) **INTEGRATION PLAN.**—

(1) **COMPREHENSIVE PLAN.**—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with representatives of the aviation industry, shall develop a comprehensive plan to safely integrate commercial unmanned aircraft systems into the national airspace system.

(2) **MINIMUM REQUIREMENTS.**—In developing the plan under paragraph (1), the Secretary shall, at a minimum—

(A) review technologies and research that will assist in facilitating the safe integration of commercial unmanned aircraft systems into the national airspace system;

(B) provide recommendations or projections for the rulemaking to be conducted under subsection (b) to—

(i) define the acceptable standards for operations and certification of commercial unmanned aircraft systems;

(ii) ensure that any commercial unmanned aircraft system includes a detect, sense, and avoid capability; and

(iii) develop standards and requirements for the operator, pilot, and programmer of a commercial unmanned aircraft system, including standards and requirements for registration and licensing;

(C) recommend how best to enhance the technologies and subsystems necessary to effect the safe and routine operations of commercial unmanned aircraft systems in the national airspace system; and

(D) recommend how a phased-in approach to the integration of commercial unmanned aircraft systems into the national airspace system can best be achieved and a timeline upon which such a phase-in shall occur.

(3) **DEADLINE.**—The plan to be developed under paragraph (1) shall provide for the safe integration of commercial unmanned aircraft systems into the national airspace system as soon as possible, but not later than September 30, 2013.

(4) **REPORT TO CONGRESS.**—Not later than one year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the plan developed under paragraph (1).

(b) **RULEMAKING.**—Not later than 18 months after the date on which the integration plan is submitted to Congress under subsection (a)(4), the Administrator of the Federal Aviation Administration shall publish in the Federal Register a notice of proposed rulemaking to implement the recommendations of the integration plan.

(c) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 322. SPECIAL RULES FOR CERTAIN UNMANNED AIRCRAFT SYSTEMS.**

(a) **IN GENERAL.**—Notwithstanding the requirements of sections 321 and 323, and not later than 6 months after the date of enactment of this Act, the Secretary shall determine if certain unmanned aircraft systems may operate safely in the national airspace system before completion of the plan and rulemaking required by section 321 or the guidance required by section 323.

(b) **ASSESSMENT OF UNMANNED AIRCRAFT SYSTEMS.**—In making the determination under subsection (a), the Secretary shall determine, at a minimum—

(1) which types of unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and population areas, and operation within visual line-of-sight do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and

(2) whether a certificate of authorization or an airworthiness certification under section 44704 of title 49, United States Code, is required for the operation of unmanned aircraft systems identified under paragraph (1).

(c) **REQUIREMENTS FOR SAFE OPERATION.**—If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system.

**SEC. 323. PUBLIC UNMANNED AIRCRAFT SYSTEMS.**

Not later than 9 months after the date of enactment of this Act, the Secretary shall issue guidance regarding the operation of public unmanned aircraft systems to—

(1) expedite the issuance of a certificate of authorization process;

(2) provide for a collaborative process with public agencies to allow for an incremental expansion of access to the national airspace system as technology matures and the necessary safety analysis and data become available and until standards are completed and technology issues are resolved; and

(3) facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate unmanned aircraft systems.

#### SEC. 324. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) **CERTIFICATE OF AUTHORIZATION.**—The term “certificate of authorization” means a Federal Aviation Administration grant of approval for a specific flight operation.

(2) **DETECT, SENSE, AND AVOID CAPABILITY.**—The term “detect, sense, and avoid capability” means the technical capability to perform separation assurance and collision avoidance, as defined by the Federal Aviation Administration.

(3) **PUBLIC UNMANNED AIRCRAFT SYSTEM.**—The term “public unmanned aircraft system” means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft, as defined by section 40102 of title 49, United States Code.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(5) **TEST RANGE.**—The term “test range” means a defined geographic area where research and development are conducted.

(6) **UNMANNED AIRCRAFT.**—The term “unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(7) **UNMANNED AIRCRAFT SYSTEM.**—The term “unmanned aircraft system” means an unmanned aircraft and associated elements (such as communication links and a ground control station) that are required to operate safely and efficiently in the national airspace system.

#### Subtitle C—Safety and Protections

#### SEC. 331. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 of title 49, United States Code, is amended by adding at the end the following:

“(s) **AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.**—

“(1) **ESTABLISHMENT.**—There is established in the Federal Aviation Administration (in this section referred to as the ‘Agency’) an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the ‘Office’).

“(2) **DIRECTOR.**—

“(A) **APPOINTMENT.**—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

“(B) **QUALIFICATIONS.**—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

“(C) **TERM.**—The Director shall be appointed for a term of 5 years.

“(D) **VACANCY.**—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual’s predecessor was appointed shall be appointed for the remainder of that term.

“(3) **COMPLAINTS AND INVESTIGATIONS.**—

“(A) **AUTHORITY OF DIRECTOR.**—The Director shall—

“(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety;

“(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred; and

“(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

“(B) **DISCLOSURE OF IDENTITIES.**—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

“(i) the individual consents to the disclosure in writing; or

“(ii) the Director determines, in the course of an investigation, that the disclosure is unavoidable.

“(C) **INDEPENDENCE OF DIRECTOR.**—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted subparagraph (A)(i) or from reporting to Congress on any such assessment.

“(D) **ACCESS TO INFORMATION.**—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred.

“(4) **RESPONSES TO RECOMMENDATIONS.**—The Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

“(5) **INCIDENT REPORTS.**—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

“(6) **REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.**—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

“(7) **ANNUAL REPORTS TO CONGRESS.**—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

“(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

“(B) summaries of those submissions;

“(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

“(D) summaries of the responses of the Administrator to such recommendations.”.

#### SEC. 332. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.

(a) **FINDINGS.**—Congress finds the following:

(1) Subsections (a) and (d) of section 40101 of title 49, United States Code, directs the Federal Aviation Administration (in this section referred to as the “Agency”) to make safety its highest priority.

(2) In 1996, to ensure that there would be no appearance of a conflict of interest for the Agency in carrying out its safety responsibilities, Congress amended section 40101(d) of such title to remove the responsibilities of the Agency to promote airlines.

(3) Despite these directives from Congress regarding the priority of safety, the Agency issued a vision statement in which it stated that it has a “vision” of “being responsive to our customers and accountable to the public” and, in 2003, issued a customer service initiative that required aviation inspectors to treat air carriers and other aviation certificate holders as “customers” rather than regulated entities.

(4) The initiatives described in paragraph (3) appear to have given regulated entities and Agency inspectors the impression that the management of the Agency gives an unduly high priority to the satisfaction of regulated entities regarding its inspection and certification decisions and other lawful actions of its safety inspectors.

(5) As a result of the emphasis on customer satisfaction, some managers of the Agency have discouraged vigorous enforcement and replaced inspectors whose lawful actions adversely affected an air carrier.

(b) **MODIFICATION OF INITIATIVE.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the customer service initiative, mission and vision statements, and other statements of policy of the Agency—

(1) to remove any reference to air carriers or other entities regulated by the Agency as “customers”;

(2) to clarify that in regulating safety the only customers of the Agency are individuals traveling on aircraft; and

(3) to clarify that air carriers and other entities regulated by the Agency do not have the right to select the employees of the Agency who will inspect their operations.

(c) **SAFETY PRIORITY.**—In carrying out the Administrator’s responsibilities, the Administrator shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the Agency with an employee of the Agency.

#### SEC. 333. POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.

(a) **IN GENERAL.**—Section 44711 of title 49, United States Code, is amended by adding at the end the following:

“(d) **POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.**—

“(1) **PROHIBITION.**—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement which permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) if the individual, in the preceding 2-year period—

“(A) served as, or was responsible for oversight of, a flight standards inspector of the Agency; and

“(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

“(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Agency if the individual makes any written or oral communication on behalf of the certificate holder to the Agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Agency.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

#### SEC. 334. ASSIGNMENT OF PRINCIPAL SUPERVISORY INSPECTORS.

(a) IN GENERAL.—An individual serving as a principal supervisory inspector of the Federal Aviation Administration (in this section referred to as the “Agency”) may not be responsible for overseeing the operations of a single air carrier for a continuous period of more than 5 years.

(b) TRANSITIONAL PROVISION.—An individual serving as a principal supervisory inspector of the Agency with respect to an air carrier as of the date of enactment of this Act may be responsible for overseeing the operations of the carrier until the last day of the 5-year period specified in subsection (a) or last day of the 2-year period beginning on such date of enactment, whichever is later.

(c) ISSUANCE OF ORDER.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an order to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this section.

#### SEC. 335. HEADQUARTERS REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.

(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Federal Aviation Administration (in this section referred to as the “Agency”) is reviewed by a team of employees of the Agency on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Agency regulations, advisory directives, policies, and procedures.

(b) MONTHLY TEAM REPORTS.—

(1) IN GENERAL.—The team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards a report on the results of the review.

(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) QUARTERLY REPORTS TO CONGRESS.—The Administrator, on a quarterly basis, shall submit to the Committee on Transportation

and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b).

#### SEC. 336. IMPROVED VOLUNTARY DISCLOSURE REPORTING SYSTEM.

(a) VOLUNTARY DISCLOSURE REPORTING PROGRAM DEFINED.—In this section, the term “Voluntary Disclosure Reporting Program” means the program established by the Federal Aviation Administration through Advisory Circular 00-58A, dated September 8, 2006, including any subsequent revisions thereto.

(b) VERIFICATION.—The Administrator of the Federal Aviation Administration shall modify the Voluntary Disclosure Reporting Program to require inspectors to—

(1) verify that air carriers implement comprehensive solutions to correct the underlying causes of the violations voluntarily disclosed by such air carriers; and

(2) confirm, before approving a final report of a violation, that the violation, or another violation occurring under the same circumstances, has not been previously discovered by an inspector or self-disclosed by the air carrier.

(c) SUPERVISORY REVIEW OF VOLUNTARY SELF DISCLOSURES.—The Administrator shall establish a process by which voluntary self-disclosures received from air carriers are reviewed and approved by a supervisor after the initial review by an inspector.

(d) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the Voluntary Disclosure Reporting Program.

(2) REVIEW.—In conducting the study, the Comptroller General shall examine, at a minimum, whether—

(A) there is evidence that voluntary disclosure is resulting in regulated entities discovering and correcting violations to a greater extent than would otherwise occur if there was no program for immunity from enforcement action;

(B) the voluntary disclosure program makes the Federal Aviation Administration (FAA) aware of violations that the FAA would not have discovered if there was not a program, and if a violation is disclosed voluntarily, whether the FAA insists on stronger corrective actions than would have occurred if the regulated entity knew of a violation, but FAA did not;

(C) the information the FAA gets under the program leads to fewer violations by other entities, either because the information leads other entities to look for similar violations or because the information leads FAA investigators to look for similar violations at other entities; and

(D) there is any evidence that voluntary disclosure has improved compliance with regulations, either for the entities making disclosures or for the industry generally.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

#### TITLE IV—AIR SERVICE IMPROVEMENTS

##### SEC. 401. MONTHLY AIR CARRIER REPORTS.

(a) IN GENERAL.—Section 41708 is amended by adding at the end the following:

“(c) DIVERTED AND CANCELLED FLIGHTS.—

“(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

“(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report under subsection (b) shall be subject to the requirement of paragraph (1).

“(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

“(A) For a diverted flight—

“(i) the flight number of the diverted flight;

“(ii) the scheduled destination of the flight;

“(iii) the date and time of the flight;

“(iv) the airport to which the flight was diverted;

“(v) wheels-on time at the diverted airport;

“(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and

“(vii) if the flight arrives at the scheduled destination airport—

“(I) the gate-departure time at the diverted airport;

“(II) the wheels-off time at the diverted airport;

“(III) the wheels-on time at the scheduled arrival airport; and

“(IV) the gate arrival time at the scheduled arrival airport.

“(B) For flights cancelled after gate departure—

“(i) the flight number of the cancelled flight;

“(ii) the scheduled origin and destination airports of the cancelled flight;

“(iii) the date and time of the cancelled flight;

“(iv) the gate-departure time of the cancelled flight; and

“(v) the time the aircraft returned to the gate.

“(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the website of the Department of Transportation.”.

(b) EFFECTIVE DATE.—The Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a) beginning not later than 90 days after the date of enactment of this Act.

#### SEC. 402. FLIGHT OPERATIONS AT REAGAN NATIONAL AIRPORT.

(a) BEYOND PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking “24” and inserting “34”.

(b) LIMITATIONS.—Section 41718(c)(2) is amended by striking “3 operations” and inserting “5 operations”.

(c) ALLOCATION OF BEYOND-PERIMETER EXEMPTIONS.—Section 41718(c) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) SLOTS.—The Administrator of the Federal Aviation Administration shall reduce the hourly air carrier slot quota for Ronald Reagan Washington National Airport in section 93.123(a) of title 14, Code of Federal Regulations, by a total of 10 slots that are available for allocation. Such reductions shall be taken in the 6:00 a.m., 10:00 p.m., or 11:00 p.m.

hours, as determined by the Administrator, in order to grant exemptions under subsection (a).”.

(d) **SCHEDULING PRIORITY.**—Section 41718 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

“(e) **SCHEDULING PRIORITY.**—Operations conducted by new entrant air carriers and limited incumbent air carriers shall be afforded a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to this section, with the highest scheduling priority to be afforded to beyond-perimeter operations conducted by new entrant air carriers and limited incumbent air carriers.”.

#### **SEC. 403. EAS CONTRACT GUIDELINES.**

(a) **COMPENSATION GUIDELINES.**—Section 41737(a)(1) is amended—

(1) by striking “and” at the end of subparagraph (B);

(2) in subparagraph (C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing reasonable fares (including joint fares beyond the hub airport), establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

“(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.”.

(b) **DEADLINE FOR ISSUANCE OF REVISED GUIDANCE.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 of title 49, United States Code, that incorporate the amendments made by subsection (a).

(c) **REPORT.**—Not later than 2 years after the date of issuance of revised guidelines pursuant to subsection (b), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the extent to which the revised guidelines have been implemented and the impact, if any, such implementation has had on air carrier performance and community satisfaction with air service for which compensation is being paid under subchapter II of chapter 417 of title 49, United States Code.

#### **SEC. 404. ESSENTIAL AIR SERVICE REFORM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 41742(a)(2) of title 49, United States Code, is amended by striking “there is authorized to be appropriated \$77,000,000” and inserting “there is authorized to be appropriated out of the Airport and Airway Trust Fund \$150,000,000”.

(b) **DISTRIBUTION OF EXCESS FUNDS.**—

(1) **IN GENERAL.**—Section 41742(a) is amended by adding at the end the following:

“(4) **DISTRIBUTION OF EXCESS FUNDS.**—Of the funds, if any, credited to the account estab-

lished under section 45303 in a fiscal year that exceed the \$50,000,000 made available for such fiscal year under paragraph (1)—

“(A) one-half shall be made available immediately for obligation and expenditure to carry out section 41743; and

“(B) one-half shall be made available immediately for obligation and expenditure to carry out subsection (b).”.

(2) **CONFORMING AMENDMENT.**—Section 41742(b) is amended—

(A) in the first sentence by striking “monies credited” and all that follows before “shall be used” and inserting “amounts made available under subsection (a)(4)(B)”; and

(B) in the second sentence by striking “any amounts from those fees” and inserting “any of such amounts”.

#### **SEC. 405. SMALL COMMUNITY AIR SERVICE.**

(a) **PRIORITIES.**—Section 41743(c)(5) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) in subparagraph (E) by striking “fashion,” and inserting “fashion; and”; and

(3) by adding at the end the following:

“(F) multiple communities cooperate to submit a regional or multistate application to improve air service.”.

(b) **EXTENSION OF AUTHORIZATION.**—Section 41743(e)(2) is amended by striking “2009” and inserting “2012”.

#### **SEC. 406. AIR PASSENGER SERVICE IMPROVEMENTS.**

(a) **IN GENERAL.**—Subtitle VII is amended by inserting after chapter 421 the following:

#### **“CHAPTER 423—AIR PASSENGER SERVICE IMPROVEMENTS**

“Sec.

“42301. Emergency contingency plans.

“42302. Consumer complaints.

“42303. Use of insecticides in passenger aircraft.

#### **“§ 42301. Emergency contingency plans**

“(a) **SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.**—Not later than 90 days after the date of enactment of this section, each air carrier providing covered air transportation at a large hub airport or medium hub airport and each operator of a large hub airport or medium hub airport shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section.

“(b) **COVERED AIR TRANSPORTATION DEFINED.**—In this section, the term ‘covered air transportation’ means scheduled passenger air transportation provided by an air carrier using aircraft with more than 30 seats.

“(c) **AIR CARRIER PLANS.**—

“(1) **PLANS FOR INDIVIDUAL AIRPORTS.**—An air carrier shall submit an emergency contingency plan under subsection (a) for—

“(A) each large hub airport and medium hub airport at which the carrier provides covered air transportation; and

“(B) each large hub airport and medium hub airport at which the carrier has flights for which it has primary responsibility for inventory control.

“(2) **CONTENTS.**—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the air carrier will—

“(A) provide food, water that meets the standards of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), restroom facilities, cabin ventilation, and access to medical treatment for passengers onboard an aircraft at the airport that is on the ground for an extended period of time without access to the terminal;

“(B) allow passengers to deplane following excessive delays; and

“(C) share facilities and make gates available at the airport in an emergency.

“(d) **AIRPORT PLANS.**—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain—

“(1) a description of how the airport operator, to the maximum extent practicable, will provide for the deplanement of passengers following excessive delays and will provide for the sharing of facilities and make gates available at the airport in an emergency; and

“(2) in the case of an airport that is used by an air carrier or foreign air carrier for flights in foreign air transportation, a description of how the airport operator will provide for use of the airport’s terminal, to the maximum extent practicable, for the processing of passengers arriving at the airport on such a flight in the case of an excessive tarmac delay.

“(e) **UPDATES.**—

“(1) **AIR CARRIERS.**—An air carrier shall update the emergency contingency plan submitted by the air carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

“(2) **AIRPORTS.**—An airport operator shall update the emergency contingency plan submitted by the airport operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

“(f) **APPROVAL.**—

“(1) **IN GENERAL.**—Not later than 9 months after the date of enactment of this section, the Secretary shall review and approve or require modifications to emergency contingency plans submitted under subsection (a) and updates submitted under subsection (e) to ensure that the plans and updates will effectively address emergencies and provide for the health and safety of passengers.

“(2) **CIVIL PENALTIES.**—The Secretary may assess a civil penalty under section 46301 against an air carrier or airport that does not adhere to an emergency contingency plan approved under this subsection.

“(g) **MINIMUM STANDARDS.**—The Secretary may establish, as necessary or desirable, minimum standards for elements in an emergency contingency plan required to be submitted under this section.

“(h) **PUBLIC ACCESS.**—An air carrier or airport required to submit emergency contingency plans under this section shall ensure public access to such plan after its approval under this section on the Internet website of the carrier or airport or by such other means as determined by the Secretary.

#### **“§ 42302. Consumer complaints**

“(a) **CONSUMER COMPLAINTS HOTLINE TELEPHONE NUMBER.**—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of passengers in air transportation.

“(b) **PUBLIC NOTICE.**—The Secretary shall notify the public of the telephone number established under subsection (a).

“(c) **NOTICE TO PASSENGERS OF AIR CARRIERS.**—An air carrier providing scheduled air transportation using aircraft with 30 or more seats shall include on the Internet Web site of the carrier and on any ticket confirmation and boarding pass issued by the air carrier—

“(1) the hotline telephone number established under subsection (a);

“(2) the email address, telephone number, and mailing address of the air carrier; and

“(3) the email address, telephone number, and mailing address of the Aviation Consumer Protection Division of the Department of Transportation for the submission of reports by passengers about air travel service problems.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

**“§ 42303. Use of insecticides in passenger aircraft**

“(a) INFORMATION TO BE PROVIDED ON THE INTERNET.—The Secretary shall establish, and make available to the general public, an Internet Web site that contains a listing of countries that may require an air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to a flight in foreign air transportation to that country or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers.

“(b) REQUIRED DISCLOSURES.—An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the Internet Web site established under subsection (a) shall—

“(1) disclose, on its own Internet Web site or through other means, that the destination country may require the air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to the flight or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers; and

“(2) refer the purchaser of the ticket to the Internet Web site established under subsection (a) for additional information.”.

(b) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 421 the following:

“423. Air Passenger Service Improvements ..... 42301”.

(c) PENALTIES.—Section 46301 is amended in subsections (a)(1)(A) and (c)(1)(A) by inserting “chapter 423,” after “chapter 421.”.

(d) APPLICABILITY OF REQUIREMENTS.—Except as otherwise specifically provided, the requirements of chapter 423 of title 49, United States Code, as added by this section, shall begin to apply 60 days after the date of enactment of this Act.

**SEC. 407. CONTENTS OF COMPETITION PLANS.**

Section 47106(f)(2) is amended—

(1) by striking “patterns of air service.”;

(2) by inserting “and” before “whether”; and

(3) by striking “, and airfare levels” and all that follows before the period.

**SEC. 408. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

Section 47107(s)(3) is amended by striking “April 1, 2009” and inserting “September 30, 2012”.

**SEC. 409. CONTRACT TOWER PROGRAM.**

(a) COST-BENEFIT REQUIREMENT.—Section 47124(b) is amended—

(1) by striking “(1) The Secretary” and inserting the following:

“(1) CONTRACT TOWER PROGRAM.—

“(A) CONTINUATION AND EXTENSION.—The Secretary”;

(2) by adding at the end of paragraph (1) the following:

“(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the program continued under this paragraph has a benefit to cost ratio of less than 1.0, the airport sponsor or State or local govern-

ment having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

“(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program established under paragraph (3).”; and

(3) by striking “(2) The Secretary” and inserting the following:

“(2) GENERAL AUTHORITY.—The Secretary”.

(b) CONTRACT AIR TRAFFIC CONTROL TOWER COST-SHARING PROGRAM.—

(1) FUNDING.—Section 47124(b)(3)(E) is amended—

(A) by striking “and”; and

(B) by inserting “, \$8,500,000 for fiscal year 2008, \$9,000,000 for fiscal year 2009, \$9,500,000 for fiscal year 2010, \$10,000,000 for fiscal year 2011, and \$10,000,000 for fiscal year 2012” after “2007”.

(2) USE OF EXCESS FUNDS.—Section 47124(b)(3) is amended—

(A) by redesignating subparagraph (E) (as amended by paragraph (1) of this subsection) as subparagraph (F); and

(B) by inserting after subparagraph (D) the following:

“(E) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this subparagraph is not required during a fiscal year to carry out this paragraph, the Secretary may use, during such fiscal year, the amount not so required to carry out the program continued under paragraph (1).”.

(c) FEDERAL SHARE.—Section 47124(b)(4)(C) is amended by striking “\$1,500,000” and inserting “\$2,000,000”.

(d) SAFETY AUDITS.—Section 47124 is amended by adding at the end the following:

“(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for safety assessments of air traffic control towers that receive funding under this section.”.

**SEC. 410. AIRFARES FOR MEMBERS OF THE ARMED FORCES.**

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home and require members of the Armed Forces to travel with heavy bags; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that

are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties and waive baggage fees for a minimum of 3 bags.

**SEC. 411. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PARTICIPATION PROGRAM.**

(a) REPEAL.—Section 41747 of title 49, United States Code, and the item relating to such section in the analysis for chapter 417 of such title, are repealed.

(b) APPLICABILITY.—Title 49, United States Code, shall be applied as if section 41747 of such title had not been enacted.

**SEC. 412. ADJUSTMENT TO SUBSIDY CAP TO REFLECT INCREASED FUEL COSTS.**

(a) IN GENERAL.—The \$200 per passenger subsidy cap initially established by Public Law 103-122 (107 Stat. 1198; 1201) and made permanent by section 332 of Public Law 106-69 (113 Stat. 1022) shall be increased by an amount necessary to account for the increase, if any, in the cost of aviation fuel in the 24 months preceding the date of enactment of this Act, as determined by the Secretary.

(b) ADJUSTMENT OF CAP.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register the increased subsidy cap as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

(c) LIMITATION ON ELIGIBILITY.—A community that has been determined, pursuant to a final order issued by the Department of Transportation before the date of enactment of this Act, to be ineligible for subsidized air service under subchapter II of chapter 417 of title 49, United States Code, shall not be eligible for the increased subsidy cap established pursuant to this section.

**SEC. 413. NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE.**

Section 41733 of title 49, United States Code, is amended by adding at the end the following:

“(f) NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY.—

“(1) IN GENERAL.—The Secretary shall notify each community receiving basic essential air service for which compensation is being paid under this subchapter on or before the 45th day before issuing any final decision to end the payment of such compensation due to a determination by the Secretary that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap.

“(2) PROCEDURES TO AVOID TERMINATION.—The Secretary shall establish, by order, procedures by which each community notified of an impending loss of subsidy under paragraph (1) may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary to provide essential air service to such community for an amount of compensation that would not exceed the subsidy cap.

“(3) ASSISTANCE PROVIDED.—The Secretary shall provide, by order, to each community notified under paragraph (1) information regarding—

“(A) the procedures established pursuant to paragraph (2); and

“(B) the maximum amount of compensation that could be provided under this subchapter to an air carrier serving such community that would comply with the subsidy cap.

“(4) **SUBSIDY CAP DEFINED.**—In this subsection, the term ‘subsidy cap’ means the subsidy cap established by section 332 of Public Law 106-69, including any increase to that subsidy cap established by the Secretary pursuant to the FAA Reauthorization Act of 2009.”.

**SEC. 414. RESTORATION OF ELIGIBILITY TO A PLACE DETERMINED BY THE SECRETARY TO BE INELIGIBLE FOR SUBSIDIZED ESSENTIAL AIR SERVICE.**

Section 41733 (as amended by section 413 of this Act) is further amended by adding at the end the following:

“(g) **PROPOSALS OF STATE AND LOCAL GOVERNMENTS TO RESTORE ELIGIBILITY.**—

“(1) **IN GENERAL.**—If the Secretary, after the date of enactment of this subsection, ends payment of compensation to an air carrier for providing basic essential air service to an eligible place because the Secretary has determined that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap (as defined in subsection (f)), a State or local government may submit to the Secretary a proposal for restoring compensation for such service. Such proposal shall be a joint proposal of the State or local government and an air carrier.

“(2) **DETERMINATION BY SECRETARY.**—If a State or local government submits to the Secretary a proposal under paragraph (1) with respect to an eligible place, and the Secretary determines that—

“(A) the rate of subsidy per passenger under the proposal does not exceed the subsidy cap (as defined in subsection (f)); and

“(B) the proposal is consistent with the legal and regulatory requirements of the essential air service program,

the Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c).”.

**SEC. 415. OFFICE OF RURAL AVIATION.**

(a) **IN GENERAL.**—Subchapter II of chapter 417 is amended by adding at the end the following:

**“§ 41749. Office of Rural Aviation**

“(a) **ESTABLISHMENT.**—The Secretary of Transportation shall establish within the Department of Transportation an office to be known as the ‘Office of Rural Aviation’ (in this section referred to as the ‘Office’).

“(b) **FUNCTIONS.**—The Office shall—

“(1) monitor the status of air service to small communities;

“(2) develop proposals to improve air service to small communities; and

“(3) carry out such other functions as the Secretary considers appropriate.”.

(b) **CLERICAL AMENDMENT.**—The analysis for subchapter II of chapter 417 is amended by adding at the end the following:

“41749. Office of Rural Aviation.”.

**SEC. 416. ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS.**

(a) **EMERGENCY ACROSS-THE-BOARD ADJUSTMENT.**—Subject to the availability of funds, the Secretary may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs, without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title.

(b) **EXPEDITED PROCESS FOR ADJUSTMENTS TO INDIVIDUAL CONTRACTS.**—

(1) **IN GENERAL.**—Section 41734(d) of title 49, United States Code, is amended by striking

“continue to pay” and all that follows through “compensation sufficient—” and inserting “provide the carrier with compensation sufficient—”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to compensation to air carriers for air service provided after the 30th day following the date of enactment of this Act.

**SEC. 417. REVIEW OF AIR CARRIER FLIGHT DELAYS, CANCELLATIONS, AND ASSOCIATED CAUSES.**

(a) **REVIEW.**—The Inspector General of the Department of Transportation shall conduct a review regarding air carrier flight delays, cancellations, and associated causes to update its 2000 report numbered CR-2000-112 and entitled “Audit of Air Carrier Flight Delays and Cancellations”.

(b) **ASSESSMENTS.**—In conducting the review under subsection (a), the Inspector General shall assess—

(1) the need for an update on delay and cancellation statistics, such as number of chronically delayed flights and taxi-in and taxi-out times;

(2) air carriers’ scheduling practices;

(3) the need for a re-examination of capacity benchmarks at the Nation’s busiest airports; and

(4) the impact of flight delays and cancellations on air travelers, including recommendations for programs that could be implemented to address the impact of flight delays on air travelers.

(c) **REPORT.**—Not later than one year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section, including the assessments described in subsection (b).

**SEC. 418. EUROPEAN UNION RULES FOR PASSENGER RIGHTS.**

(a) **IN GENERAL.**—The Comptroller General shall conduct a study to evaluate and compare the regulations of the European Union and the United States on compensation and other consideration offered to passengers who are denied boarding or whose flights are cancelled or delayed.

(b) **SPECIFIC STUDY REQUIREMENTS.**—The study shall include an evaluation and comparison of the regulations based on costs to the air carriers, preferences of passengers for compensation or other consideration, and forms of compensation. In conducting the study, the Comptroller General shall also take into account the differences in structure and size of the aviation systems of the European Union and the United States.

(c) **REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

**SEC. 419. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.**

(a) **IN GENERAL.**—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection (in this section referred to as the “advisory committee”) to advise the Secretary in carrying out air passenger service improvements, including those required by chapter 423 of title 49, United States Code.

(b) **MEMBERSHIP.**—The Secretary shall appoint 8 members to the advisory committee as follows:

(1) Two representatives of air carriers required to submit emergency contingency

plans pursuant to section 42301 of title 49, United States Code.

(2) Two representatives of the airport operators required to submit emergency contingency plans pursuant to section 42301 of such title.

(3) Two representatives of State and local governments who have expertise in aviation consumer protection matters.

(4) Two representatives of nonprofit public interest groups who have expertise in aviation consumer protection matters.

(c) **VACANCIES.**—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) **TRAVEL EXPENSES.**—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) **CHAIRPERSON.**—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) **DUTIES.**—The duties of the advisory committee shall include the following:

(1) Evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed.

(2) Providing recommendations to establish additional aviation consumer protection programs, if needed.

(g) **REPORT.**—Not later than February 1 of each year beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) each recommendation made by the advisory committee during the preceding calendar year; and

(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary’s reason for not implementing the recommendation.

**SEC. 420. DENIED BOARDING COMPENSATION.**

Not later than May 19, 2010, and every 2 years thereafter, the Secretary shall evaluate the amount provided for denied boarding compensation and issue a regulation to adjust such compensation as necessary.

**SEC. 421. COMPENSATION FOR DELAYED BAGGAGE.**

(a) **STUDY.**—The Comptroller General shall conduct a study to—

(1) examine delays in the delivery of checked baggage to passengers of air carriers; and

(2) make recommendations for establishing minimum standards to compensate a passenger in the case of an unreasonable delay in the delivery of checked baggage.

(b) **CONSIDERATION.**—In conducting the study, the Comptroller General shall take into account the additional fees for checked baggage that are imposed by many air carriers and how the additional fees should improve an air carrier’s baggage performance.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study.

**SEC. 422. SCHEDULE REDUCTION.**

(a) **IN GENERAL.**—If the Administrator of the Federal Aviation Administration determines that: (1) the aircraft operations of air carriers during any hour at an airport exceeds the hourly maximum departure and arrival rate established by the Administrator for such operations; and (2) the operations in excess of the maximum departure and arrival rate for such hour at such airport are likely



to have a significant adverse effect on the national or regional airspace system, the Administrator shall convene a conference of such carriers to reduce pursuant to section 41722, on a voluntary basis, the number of such operations to less than such maximum departure and arrival rate.

(b) **NO AGREEMENT.**—If the air carriers participating in a conference with respect to an airport under subsection (a) are not able to agree to a reduction in the number of flights to and from the airport to less than the maximum departure and arrival rate, the Administrator shall take such action as is necessary to ensure such reduction is implemented.

(c) **QUARTERLY REPORTS.**—Beginning 3 months after the date of enactment of this Act and every 3 months thereafter, the Administrator shall submit to Congress a report regarding scheduling at the 35 airports that have the greatest number of passenger enplanements, including each occurrence in which hourly scheduled aircraft operations of air carriers at such an airport exceed the hourly maximum departure and arrival rate at any such airport.

#### **SEC. 423. EXPANSION OF DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.**

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary of Transportation shall investigate consumer complaints regarding—

- (1) flight cancellations;
- (2) compliance with Federal regulations concerning overbooking seats on flights;
- (3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;
- (4) problems in obtaining refunds for unused or lost tickets or fare adjustments;
- (5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;
- (6) the rights of passengers who hold frequent flier miles or equivalent redeemable awards earned through customer-loyalty programs; and
- (7) deceptive or misleading advertising.

(b) **BUDGET NEEDS REPORT.**—The Secretary shall provide, as an annex to its annual budget request, an estimate of resources which would have been sufficient to investigate all such claims the Department of Transportation received in the previous fiscal year. The annex shall be transmitted to Congress when the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code.

#### **SEC. 424. PROHIBITIONS AGAINST VOICE COMMUNICATIONS USING MOBILE COMMUNICATIONS DEVICES ON SCHEDULED FLIGHTS.**

(a) **IN GENERAL.**—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

##### **“§ 41724. Prohibitions against voice communications using mobile communications devices on scheduled flights**

“(a) **INTERSTATE AND INTRASTATE AIR TRANSPORTATION.**—

“(1) **IN GENERAL.**—An individual may not engage in voice communications using a mobile communications device in an aircraft during a flight in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

“(2) **EXCEPTIONS.**—The prohibition described in paragraph (1) shall not apply to—

- “(A) a member of the flight crew or flight attendants on an aircraft; or
- “(B) a Federal law enforcement officer acting in an official capacity.

“(b) **FOREIGN AIR TRANSPORTATION.**—

“(1) **IN GENERAL.**—The Secretary of Transportation shall require all air carriers and foreign air carriers to adopt the prohibition described in subsection (a) with respect to the operation of an aircraft in scheduled passenger foreign air transportation.

“(2) **ALTERNATE PROHIBITION.**—If a foreign government objects to the application of paragraph (1) on the basis that paragraph (1) provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of paragraph (1) to a foreign air carrier licensed by that foreign government until such time as an alternative prohibition on voice communications using a mobile communications device during flight is negotiated by the Secretary with such foreign government through bilateral negotiations.

“(c) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **FLIGHT.**—The term ‘flight’ means the period beginning when an aircraft takes off and ending when an aircraft lands.

“(2) **VOICE COMMUNICATIONS USING A MOBILE COMMUNICATIONS DEVICE.**—

“(A) **INCLUSIONS.**—The term ‘voice communications using a mobile communications device’ includes voice communications using—

- “(i) a commercial mobile radio service or other wireless communications device;
- “(ii) a broadband wireless device or other wireless device that transmits data packets using the Internet Protocol or comparable technical standard; or
- “(iii) a device having voice override capability.

“(B) **EXCLUSION.**—Such term does not include voice communications using a phone installed on an aircraft.

“(d) **SAFETY REGULATIONS.**—This section shall not be construed to affect the authority of the Secretary to impose limitations on voice communications using a mobile communications device for safety reasons.

“(e) **REGULATIONS.**—The Secretary shall prescribe such regulations as are necessary to carry out this section.”.

(b) **CLERICAL AMENDMENT.**—The analysis for such subchapter is amended by adding at the end the following:

“41724. Prohibitions against voice communications using mobile communications devices on scheduled flights.”.

#### **SEC. 425. ANTITRUST EXEMPTIONS.**

(a) **STUDY.**—The Comptroller General shall conduct a study of the legal requirements and policies followed by the Department in deciding whether to approve international alliances under section 41309 of title 49, United States Code, and grant exemptions from the antitrust laws under section 41308 of such title in connection with such international alliances.

(b) **ISSUES TO BE CONSIDERED.**—In conducting the study under subsection (a), the Comptroller General, at a minimum, shall examine the following:

(1) Whether granting exemptions from the antitrust laws in connection with international alliances has resulted in public benefits, including an analysis of whether such benefits could have been achieved by international alliances not receiving exemptions from the antitrust laws.

(2) Whether granting exemptions from the antitrust laws in connection with international alliances has resulted in reduced competition, increased prices in markets, or other adverse effects.

(3) Whether international alliances that have been granted exemptions from the anti-

trust laws have implemented pricing or other practices with respect to the hub airports at which the alliances operate that have resulted in increased costs for consumers or foreclosed competition by rival (nonalliance) air carriers at such airports.

(4) Whether increased network size resulting from additional international alliance members will adversely affect competition between international alliances.

(5) The areas in which immunized international alliances compete and whether there is sufficient competition among immunized international alliances to ensure that consumers will receive benefits of at least the same magnitude as those that consumers would receive if there were no immunized international alliances.

(6) The minimum number of international alliances that is necessary to ensure robust competition and benefits to consumers on major international routes.

(7) Whether the different regulatory and antitrust responsibilities of the Secretary and the Attorney General with respect to international alliances have created any significant conflicting agency recommendations, such as the conditions imposed in granting exemptions from the antitrust laws.

(8) Whether, from an antitrust standpoint, requests for exemptions from the antitrust laws in connection with international alliances should be treated as mergers, and therefore be exclusively subject to a traditional merger analysis by the Attorney General and be subject to advance notification requirements and a confidential review process similar to those required under section 7A of the Clayton Act (15 U.S.C. 18a).

(9) Whether the Secretary should amend, modify, or revoke any exemption from the antitrust laws granted by the Secretary in connection with an international alliance.

(10) The effect of international alliances on the number and quality of jobs for United States air carrier flight crew employees, including the share of alliance flying done by those employees.

(c) **REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study under subsection (a), including any recommendations of the Comptroller General as to whether there should be changes in the authority of the Secretary under title 49, United States Code, or policy changes that the Secretary can implement administratively, with respect to approving international alliances and granting exemptions from the antitrust laws in connection with such international alliances.

(d) **ADOPTION OF RECOMMENDED POLICY CHANGES.**—Not later than one year after the date of receipt of the report under subsection (c), and after providing notice and an opportunity for public comment, the Secretary shall issue a written determination as to whether the Secretary will adopt the policy changes, if any, recommended by the Comptroller General in the report or make any other policy changes with respect to approving international alliances and granting exemptions from the antitrust laws in connection with such international alliances.

(e) **SUNSET PROVISION.**—

(1) **IN GENERAL.**—An exemption from the antitrust laws granted by the Secretary on or before the last day of the 3-year period beginning on the date of enactment of this Act

in connection with an international alliance, including an exemption granted before the date of enactment of this Act, shall cease to be effective after such last day unless the exemption is renewed by the Secretary.

(2) **TIMING FOR RENEWALS.**—The Secretary may not renew an exemption under paragraph (1) before the date on which the Secretary issues a written determination under subsection (d).

(3) **STANDARDS FOR RENEWALS.**—The Secretary shall make a decision on whether to renew an exemption under paragraph (1) based on the policies of the Department in effect after the Secretary issues a written determination under subsection (d).

(f) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **EXEMPTION FROM THE ANTITRUST LAWS.**—The term “exemption from the antitrust laws” means an exemption from the antitrust laws granted by the Secretary under section 41308 of title 49, United States Code.

(2) **IMMUNIZED INTERNATIONAL ALLIANCE.**—The term “immunized international alliance” means an international alliance for which the Secretary has granted an exemption from the antitrust laws.

(3) **INTERNATIONAL ALLIANCE.**—The term “international alliance” means a cooperative agreement between an air carrier and a foreign air carrier to provide foreign air transportation subject to approval or disapproval by the Secretary under section 41309 of title 49, United States Code.

(4) **DEPARTMENT.**—The term “Department” means the Department of Transportation.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

## **TITLE V—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING**

### **SEC. 501. AMENDMENTS TO AIR TOUR MANAGEMENT PROGRAM.**

Section 40128 is amended—

(1) in subsection (a)(1)(C) by inserting “or voluntary agreement under subsection (b)(7)” before “for the park”;

(2) in subsection (a) by adding at the end the following:

“(5) **EXEMPTION.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour flights a year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

“(B) **WITHDRAWAL OF EXEMPTION.**—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

“(C) **LIST OF PARKS.**—The Director shall inform the Administrator, in writing, of each determination under subparagraph (B). The Director and Administrator shall publish an annual list of national parks that are covered by the exemption provided by this paragraph.

“(D) **ANNUAL REPORT.**—A commercial air tour operator conducting commercial air tours in a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director an annual report regarding the number of commercial air tour flights it conducts each year in such park.”;

(3) in subsection (b) by adding at the end the following:

“(7) **VOLUNTARY AGREEMENTS.**—

“(A) **IN GENERAL.**—As an alternative to an air tour management plan, the Director and the Administrator may enter into a vol-

untary agreement with a commercial air tour operator (including a new entrant applicant and an operator that has interim operating authority) that has applied to conduct air tour operations over a national park to manage commercial air tour operations over such national park.

“(B) **PARK PROTECTION.**—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

“(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

“(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

“(iii) provide for fees for such operations.

“(C) **PUBLIC.**—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

“(D) **TERMINATION.**—A voluntary agreement under this paragraph may be terminated at any time at the discretion of the Director or the Administrator if the Director determines that the agreement is not adequately protecting park resources or visitor experiences or the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system. If a voluntary agreement for a national park is terminated, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.”;

(4) in subsection (c) by striking paragraph (2)(I) and inserting the following:

“(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this section if—

“(i) adequate information regarding the operator’s existing and proposed operations under the interim operating authority is provided to the Administrator and the Director;

“(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

“(iii) the Director agrees with the modification, based on the Director’s professional expertise regarding the protection of the park resources and values and visitor use and enjoyment.”;

(5) in subsection (c)(3)(A) by striking “if the Administrator determines” and all that follows through the period at the end and inserting “without further environmental process beyond that described in this paragraph if—

“(i) adequate information on the operator’s proposed operations is provided to the Administrator and the Director by the operator making the request;

“(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

“(iii) the Director agrees, based on the Director’s professional expertise regarding the

protection of park resources and values and visitor use and enjoyment.”;

(6) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(7) by inserting after subsection (c) the following:

“(d) **COMMERCIAL AIR TOUR OPERATOR REPORTS.**—

“(1) **REPORT.**—Each commercial air tour operator providing a commercial air tour over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan under subsection (b) shall submit a report to the Administrator and Director regarding the number of its commercial air tour operations over each national park and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

“(2) **REPORT SUBMISSION.**—Not later than 3 months after the date of enactment of the FAA Reauthorization Act of 2009, the Administrator and Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and Director on a frequency and in a format prescribed by the Administrator and Director.”.

### **SEC. 502. STATE BLOCK GRANT PROGRAM.**

(a) **GENERAL REQUIREMENTS.**—Section 47128(a) is amended—

(1) in the first sentence by striking “prescribe regulations” and inserting “issue guidance”; and

(2) in the second sentence by striking “regulations” and inserting “guidance”.

(b) **APPLICATIONS AND SELECTION.**—Section 47128(b)(4) is amended by inserting before the semicolon the following: “, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements”.

(c) **ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.**—Section 47128 is amended by adding at the end the following:

“(d) **ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.**—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

“(1) coordinate and consult with the State;

“(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

“(3) supplement such analysis, as necessary, to meet applicable Federal requirements.”.

### **SEC. 503. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.**

Section 47173(a) is amended by striking “services of consultants in order to” and all that follows through the period at the end and inserting “services of consultants—

“(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

“(2) to conduct special environmental studies related to an airport project funded with Federal funds;

“(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations; or

“(4) to conduct special studies or reviews to support environmental mitigation in a

record of decision or finding of no significant impact by the Federal Aviation Administration.”.

**SEC. 504. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.**

Section 47504 is amended by adding at the end the following:

“(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

“(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

“(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

“(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

“(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(C) shall remain available until expended.”.

**SEC. 505. CLEEN RESEARCH, DEVELOPMENT, AND IMPLEMENTATION PARTNERSHIP.**

(a) COOPERATIVE AGREEMENT.—Subchapter I of chapter 475 is amended by adding at the end the following:

**“§ 47511. CLEEN research, development, and implementation partnership**

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in coordination with the Administrator of the National Aeronautics and Space Administration, shall enter into a cooperative agreement, using a competitive process, with an institution, entity, or consortium to carry out a program for the development, maturing, and certification of CLEEN engine and airframe technology for aircraft over the next 10 years.

“(b) CLEEN ENGINE AND AIRFRAME TECHNOLOGY DEFINED.—In this section, the term ‘CLEEN engine and airframe technology’ means continuous lower energy, emissions, and noise engine and airframe technology.

“(c) PERFORMANCE OBJECTIVE.—The Administrator of the Federal Aviation Administration, in coordination with the Administrator of the National Aeronautics and Space Administration, shall establish the following performance objectives for the program, to be achieved by September 30, 2016:

“(1) Development of certifiable aircraft technology that reduces fuel burn by 33 percent compared to current technology, reducing energy consumption and greenhouse gas emissions.

“(2) Development of certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 60 percent, at a pressure ratio of 30, over the International Civil Aviation Organization standard adopted at the 6th Meeting of the Committee on Aviation Environmental Protec-

tion, with commensurate reductions over the full pressure ratio range, while limiting or reducing other gaseous or particle emissions.

“(3) Development of certifiable aircraft technology that reduces noise levels by 32 Effective Perceived Noise Level in Decibels cumulative, relative to Stage 4 standards.

“(4) Determination of the feasibility of the use of alternative fuels in aircraft systems, including successful demonstration and quantification of the benefits of such fuels.

“(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft to increase the integration of retrofitted and re-engined aircraft into the commercial fleet.

“(d) FUNDING.—Of amounts appropriated under section 48102(a), not more than the following amounts may be used to carry out this section:

“(1) \$20,000,000 for fiscal year 2009.

“(2) \$25,000,000 for fiscal year 2010.

“(3) \$33,000,000 for fiscal year 2011.

“(4) \$50,000,000 for fiscal year 2012.

“(e) REPORT.—Beginning in fiscal year 2010, the Administrator of the Federal Aviation Administration shall publish an annual report on the program established under this section until completion of the program.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“47511. CLEEN research, development, and implementation partnership.”.

**SEC. 506. PROHIBITION ON OPERATING CERTAIN AIRCRAFT WEIGHING 75,000 POUNDS OR LESS NOT COMPLYING WITH STAGE 3 NOISE LEVELS.**

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

**“§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels**

“(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), after December 31, 2013, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

“(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

“(c) EXCEPTIONS.—The Secretary may allow temporary operation of an airplane otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

“(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

“(2) To scrap the aircraft.

“(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

“(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

“(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

“(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

“(7) To provide transport of persons and goods in the relief of emergency situations.

“(8) To divert the aircraft to an alternative air port in the 48 contiguous States on ac-

count of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

“(d) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended—

(A) in the section heading by striking “for violating sections 47528–47530”; and

(B) by striking “47529, or 47530” and inserting “47529, 47530, or 47534”.

(2) Section 47532 is amended by inserting “or 47534” after “47528–47531”.

(3) The analysis for chapter 475 is amended—

(A) by striking the item relating to section 47531 and inserting the following:

“47531. Penalties.”;

and

(B) by inserting after the item relating to section 47533 the following:

“47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.”.

**SEC. 507. ENVIRONMENTAL MITIGATION PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a pilot program to carry out not more than 6 environmental mitigation demonstration projects at public-use airports.

(b) GRANTS.—In implementing the program, the Secretary may make a grant to the sponsor of a public-use airport from funds apportioned under section 47117(e)(1)(A) of title 49, United States Code, to carry out an environmental mitigation demonstration project to measurably reduce or mitigate aviation impacts on noise, air quality, or water quality in the vicinity of the airport.

(c) ELIGIBILITY FOR PASSENGER FACILITY FEES.—An environmental mitigation demonstration project that receives funds made available under this section may be considered an eligible airport-related project for purposes of section 40117 of such title.

(d) SELECTION CRITERIA.—In selecting among applicants for participation in the program, the Secretary shall give priority consideration to applicants proposing to carry out environmental mitigation demonstration projects that will—

(1) achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis or on a per dollar of funds expended basis; and

(2) be implemented by an eligible consortium.

(e) FEDERAL SHARE.—Notwithstanding any provision of subchapter I of chapter 471 of such title, the United States Government share of allowable project costs of an environmental mitigation demonstration project carried out under this section shall be 50 percent.

(f) MAXIMUM AMOUNT.—The Secretary may not make grants for a single environmental mitigation demonstration project under this section in a total amount that exceeds \$2,500,000.

(g) PUBLICATION OF INFORMATION.—The Secretary may develop and publish information

on the results of environmental mitigation demonstration projects carried out under this section, including information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports.

(h) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ELIGIBLE CONSORTIUM.**—The term “eligible consortium” means a consortium of 2 or more of the following entities:

(A) A business incorporated in the United States.

(B) A public or private educational or research organization located in the United States.

(C) An entity of a State or local government.

(D) A Federal laboratory.

(2) **ENVIRONMENTAL MITIGATION DEMONSTRATION PROJECT.**—The term “environmental mitigation demonstration project” means a project that—

(A) demonstrates at a public-use airport environmental mitigation techniques or technologies with associated benefits, which have already been proven in laboratory demonstrations;

(B) utilizes methods for efficient adaptation or integration of innovative concepts to airport operations; and

(C) demonstrates whether a technique or technology for environmental mitigation identified in research is—

(i) practical to implement at or near multiple public-use airports; and

(ii) capable of reducing noise, airport emissions, greenhouse gas emissions, or water quality impacts in measurably significant amounts.

#### **SEC. 508. AIRCRAFT DEPARTURE QUEUE MANAGEMENT PILOT PROGRAM.**

(a) **IN GENERAL.**—The Secretary of Transportation shall carry out a pilot program at not more than 5 public-use airports under which the Federal Aviation Administration shall use funds made available under section 48101(a) to test air traffic flow management tools, methodologies, and procedures that will allow air traffic controllers of the Administration to better manage the flow of aircraft on the ground and reduce the length of ground holds and idling time for aircraft.

(b) **SELECTION CRITERIA.**—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

(c) **MAXIMUM AMOUNT.**—Not more than a total of \$5,000,000 may be expended under the pilot program at any single public-use airport.

(d) **REPORT TO CONGRESS.**—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of the effectiveness of the pilot program, including an assessment of the tools, methodologies, and procedures that provided the greatest fuel savings and air quality and other environmental benefits, and any impacts on safety, capacity, or efficiency of the air traffic control system or

the airports at which affected aircraft were operating;

(2) an identification of anticipated benefits from implementation of the tools, methodologies, and procedures developed under the pilot program at other airports;

(3) a plan for implementing the tools, methodologies, and procedures developed under the pilot program at other airports or the Secretary's reasons for not implementing such measures at other airports; and

(4) such other information as the Secretary considers appropriate.

#### **SEC. 509. HIGH PERFORMANCE AND SUSTAINABLE AIR TRAFFIC CONTROL FACILITIES.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall implement, to the maximum extent practicable, sustainable practices for the incorporation of energy-efficient design, equipment, systems, and other measures in the construction and major renovation of air traffic control facilities of the Administration in order to reduce energy consumption and improve the environmental performance of such facilities.

(b) **AUTHORIZATION.**—Of amounts appropriated under section 48101(a) of title 49, United States Code, such sums as may be necessary may be used to carry out this section.

#### **SEC. 510. REGULATORY RESPONSIBILITY FOR AIRCRAFT ENGINE NOISE AND EMISSIONS STANDARDS.**

(a) **INDEPENDENT REVIEW.**—The Administrator of the FAA shall make appropriate arrangements for the National Academy of Public Administration or another qualified independent entity to review, in consultation with the FAA and the EPA, whether it is desirable to locate the regulatory responsibility for the establishment of engine noise and emissions standards for civil aircraft within one of the agencies.

(b) **CONSIDERATIONS.**—The review shall be conducted so as to take into account—

(1) the interrelationships between aircraft engine noise and emissions;

(2) the need for aircraft engine noise and emissions to be evaluated and addressed in an integrated and comprehensive manner;

(3) the scientific expertise of the FAA and the EPA to evaluate aircraft engine emissions and noise impacts on the environment;

(4) expertise to interface environmental performance with ensuring the highest safe and reliable engine performance of aircraft in flight;

(5) consistency of the regulatory responsibility with other missions of the FAA and the EPA;

(6) past effectiveness of the FAA and the EPA in carrying out the aviation environmental responsibilities assigned to the agency; and

(7) the international responsibility to represent the United States with respect to both engine noise and emissions standards for civil aircraft.

(c) **REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the FAA shall submit to Congress a report on the results of the review. The report shall include any recommendations developed as a result of the review and, if a transfer of responsibilities is recommended, a description of the steps and timeline for implementation of the transfer.

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **EPA.**—The term “EPA” means the Environmental Protection Agency.

(2) **FAA.**—The term “FAA” means the Federal Aviation Administration.

#### **SEC. 511. CONTINUATION OF AIR QUALITY SAMPLING.**

The Administrator of the Federal Aviation Administration shall complete the air quality studies and analysis started pursuant to section 815 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2592), including the collection of samples of the air onboard passenger aircraft by flight attendants and the testing and analysis of such samples for contaminants.

#### **SEC. 512. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the proposed European Union directive extending the European Union's emissions trading proposal to international civil aviation without working through the International Civil Aviation Organization (in this section referred to as the “ICAO”) in a consensus-based fashion is inconsistent with the Convention on International Civil Aviation, done at Chicago on December 7, 1944 (TIAS 1591; commonly known as “Chicago Convention”), and other relevant air services agreements and antithetical to building international cooperation to address effectively the problem of greenhouse gas emissions by aircraft engaged in international civil aviation; and

(2) the European Union and its member states should instead work with other contracting states of the ICAO to develop a consensual approach to addressing aircraft greenhouse gas emissions through the ICAO.

#### **SEC. 513. AIRPORT NOISE COMPATIBILITY PLANNING STUDY, PORT AUTHORITY OF NEW YORK AND NEW JERSEY.**

It is the sense of the House of Representatives that the Port Authority of New York and New Jersey should undertake an airport noise compatibility planning study under part 150 of title 14, Code of Federal Regulations, for the airports that the Port Authority operates as of November 2, 2009. In undertaking the study, the Port Authority should pay particular attention to the impact of noise on affected neighborhoods, including homes, businesses, and places of worship surrounding LaGuardia Airport, Newark Liberty Airport, and JFK Airport.

#### **SEC. 514. GAO STUDY ON COMPLIANCE WITH FAA RECORD OF DECISION.**

(a) **STUDY.**—The Comptroller General shall conduct a study to determine whether the Federal Aviation Administration and the Massachusetts Port Authority are complying with the requirements of the Federal Aviation Administration's record of decision dated August 2, 2002.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

#### **TITLE VI—FAA EMPLOYEES AND ORGANIZATION**

#### **SEC. 601. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

(a) **DISPUTE RESOLUTION.**—Section 40122(a) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by striking paragraph (2) and inserting the following:

“(2) **DISPUTE RESOLUTION.**—

“(A) **MEDIATION.**—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

“(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Reauthorization Act of 2009); or

“(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

“(B) BINDING ARBITRATION.—

“(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to an agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the ‘parties’) shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

“(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Within 10 days of receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list within 7 days. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person within 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

“(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

“(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

“(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

“(vi) COSTS.—The parties shall share costs of the arbitration equally.

“(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(B), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

“(4) ENFORCEMENT.—

“(A) ENFORCEMENT ACTIONS IN UNITED STATES COURTS.—Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of enforcement actions brought under this section. Such an action may be brought in any judicial district in the State in which the violation of this section is alleged to have been com-

mitted, the judicial district in which the Federal Aviation Administration has its principal office, or the District of Columbia.

“(B) ATTORNEY FEES.—The court may assess against the Federal Aviation Administration reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.”.

(b) APPLICATION.—On and after the date of enactment of this Act, any changes implemented by the Administrator of the Federal Aviation Administration on and after July 10, 2005, under section 40122(a) of title 49, United States Code (as in effect on the day before such date of enactment), without the agreement of the exclusive bargaining representative of the employees of the Administration certified under section 7111 of title 5, United States Code, shall be null and void and the parties shall be governed by their last mutual agreement before the implementation of such changes. The Administrator and the bargaining representative shall resume negotiations promptly, and, subject to subsection (c), their last mutual agreement shall be in effect until a new contract is adopted by the Administrator and the bargaining representative. If an agreement is not reached within 45 days after the date on which negotiations resume, the Administrator and the bargaining representative shall submit their issues in controversy to the Federal Service Impasses Panel in accordance with section 7119 of title 5, United States Code, for binding arbitration in accordance with paragraphs (2)(B), (3), and (4) of section 40122(a) of title 49, United States Code (as amended by subsection (a) of this section).

(c) SAVINGS CLAUSE.—All cost of living adjustments and other pay increases, lump sum payments to employees, and leave and other benefit accruals implemented as part of the changes referred to in subsection (b) may not be reversed unless such reversal is part of the calculation of back pay under subsection (d). The Administrator shall waive any overpayment paid to, and not collect any funds for such overpayment, from former employees of the Administration who received lump sum payments prior to their separation from the Administration.

(d) BACK PAY.—

(1) IN GENERAL.—Employees subject to changes referred to in subsection (b) that are determined to be null and void under subsection (b) shall be eligible for pay that the employees would have received under the last mutual agreement between the Administrator and the exclusive bargaining representative of such employees before the date of enactment of this Act and any changes were implemented without agreement of the bargaining representative. The Administrator shall pay the employees such pay subject to the availability of amounts appropriated to carry out this subsection. If the appropriated funds do not cover all claims of the employees for such pay, the Administrator and the bargaining representative, pursuant to negotiations conducted in accordance with section 40122(a) of title 49, United States Code (as amended by subsection (a) of this section), shall determine the allocation of the appropriated funds among the employees on a pro rata basis.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$20,000,000 to carry out this subsection.

(e) INTERIM AGREEMENT.—If the Administrator and the exclusive bargaining representative of the employees subject to the changes referred to in subsection (b) reach a

final and binding agreement with respect to such changes before the date of enactment of this Act, such agreement shall supersede any changes implemented by the Administrator under section 40122(a) of title 49, United States Code (as in effect on the day before such date of enactment), without the agreement of the bargaining representative, and subsections (b) and (c) shall not take effect.

#### SEC. 602. APPLICABILITY OF BACK PAY REQUIREMENTS.

(a) APPLICABILITY OF BACK PAY REQUIREMENTS.—Section 40122(g)(2) is amended—

(1) by striking “and” at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting “; and”; and

(3) by adding at the end the following:

“(I) section 5596, relating to back pay.”.

(b) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to—

(A) all proceedings pending on, or commenced after, the date of enactment of this Act in which an employee of the Federal Aviation Administration is seeking relief under section 5596 of title 5, United States Code, that was available as of March 31, 1996; and

(B) subject to paragraph (2), personnel actions of the Federal Aviation Administration under section 5596 of such title occurring before the date of enactment of this Act.

(2) SPECIAL RULE.—The authority of the Merit Systems Protection Board to provide a remedy under section 5596 of such title, with respect to a personnel action of the Federal Aviation Administration occurring before the date of enactment of this Act, shall be limited to cases in which—

(A) the Board, before such date of enactment, found that the Federal Aviation Administration committed an unjustified or unwarranted personnel action but ruled that the Board did not have the authority to provide a remedy for the personnel action under section 5596 of such title; and

(B) a petition for review is filed with the clerk of the Board not later than 6 months after such date of enactment.

#### SEC. 603. MSPB REMEDIAL AUTHORITY FOR FAA EMPLOYEES.

Section 40122(g)(3) of title 49, United States Code, is amended by adding at the end the following: “Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.”.

#### SEC. 604. FAA TECHNICAL TRAINING AND STAFFING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study on the training of the airway transportation systems specialists of the Federal Aviation Administration (in this section referred to as “FAA systems specialists”).

(2) CONTENTS.—The study shall—

(A) include an analysis of the type of training provided to FAA systems specialists;

(B) include an analysis of the type of training that FAA systems specialists need to be proficient on the maintenance of latest technologies;

(C) include a description of actions that the Administration has undertaken to ensure that FAA systems specialists receive up-to-date training on the latest technologies;

(D) identify the amount and cost of FAA systems specialists training provided by vendors;

(E) identify the amount and cost of FAA systems specialists training provided by the

Administration after developing courses for the training of such specialists;

(F) identify the amount and cost of travel that is required of FAA systems specialists in receiving training; and

(G) include a recommendation regarding the most cost-effective approach to providing FAA systems specialists training.

(3) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) **WORKLOAD OF SYSTEMS SPECIALISTS.**—

(1) **STUDY BY NATIONAL ACADEMY OF SCIENCES.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for FAA systems specialists to ensure proper maintenance and certification of the national airspace system.

(2) **CONTENTS.**—The study shall be conducted so as to provide the following:

(A) A suggested method of modifying FAA systems specialists staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) **CONSULTATION.**—In conducting the study, the National Academy of Sciences shall consult with the exclusive bargaining representative of employees of the Federal Aviation Administration certified under section 7111 of title 5, United States Code, and the Administrator of the Federal Aviation Administration.

(4) **REPORT.**—Not later than one year after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall submit to Congress a report on the results of the study.

#### **SEC. 605. DESIGNEE PROGRAM.**

(a) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of recommendations made by the Government Accountability Office in its October 2004 report, "Aviation Safety: FAA Needs to Strengthen Management of Its Designee Programs" (GAO-05-40).

(b) **CONTENTS.**—The report shall include—

(1) an assessment of the extent to which the Federal Aviation Administration has responded to recommendations of the Government Accountability Office referred to in subsection (a);

(2) an identification of improvements, if any, that have been made to the designee programs referred to in the report of the Office as a result of such recommendations;

(3) an identification of further action that is needed to implement such recommendations, improve the Administration's management control of the designee programs, and increase assurance that designees meet the Administration's performance standards; and

(4) an assessment of the Administration's organizational delegation and designee programs and a determination as to whether the Administration has sufficient monitoring and surveillance programs in place to properly oversee these programs.

#### **SEC. 606. STAFFING MODEL FOR AVIATION SAFETY INSPECTORS.**

(a) **IN GENERAL.**—Not later than October 31, 2009, the Administrator of the Federal Aviation Administration shall develop a staffing model for aviation safety inspectors. In developing the model, the Administrator shall follow the recommendations outlined in the 2007 study released by the National Academy of Sciences entitled "Staffing Standards for Aviation Safety Inspectors" and consult with interested persons, including the exclusive collective bargaining representative of the aviation safety inspectors.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **SEC. 607. SAFETY CRITICAL STAFFING.**

(a) **SAFETY INSPECTORS.**—The Administrator of the Federal Aviation Administration shall increase the number of safety critical positions in the Flight Standards Service and Aircraft Certification Service for a fiscal year commensurate with the funding levels provided in subsection (b) for the fiscal year. Such increases shall be measured relative to the number of persons serving in safety critical positions as of September 30, 2008.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized by section 106(k) of title 49, United States Code, there is authorized to be appropriated to carry out subsection (a)—

- (1) \$45,000,000 for fiscal year 2010;
- (2) \$138,000,000 for fiscal year 2011; and
- (3) \$235,000,000 for fiscal year 2012.

Such sums shall remain available until expended.

(c) **IMPLEMENTATION OF STAFFING STANDARDS.**—Notwithstanding any other provision of this section, upon completion of the flight standards service staffing model under section 605 of this Act, and validation of the model by the Administrator, there are authorized to be appropriated such sums as may be necessary to support the number of aviation safety inspectors, safety technical specialists, and operation support positions that such model determines are required to meet the responsibilities of the Flight Standards Service.

(d) **SAFETY CRITICAL POSITIONS DEFINED.**—In this section, the term "safety critical positions" means—

(1) aviation safety inspectors, safety technical specialists, and operations support positions in the Flight Standards Service (as such terms are used in the Administration's fiscal year 2009 congressional budget justification); and

(2) manufacturing safety inspectors, pilots, engineers, Chief Scientist Technical Advisors, safety technical specialists, and operational support positions in the Aircraft Certification Service (as such terms are used in the Administration's fiscal year 2009 congressional budget justification).

#### **SEC. 608. FAA AIR TRAFFIC CONTROLLER STAFFING.**

(a) **STUDY BY NATIONAL ACADEMY OF SCIENCES.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration (in this section referred to as the "FAA") to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system.

(b) **CONSULTATION.**—In conducting the study, the National Academy of Sciences shall consult with the exclusive bargaining representative of employees of the FAA certified under section 7111 of title 5, United States Code, the Administrator of the Federal Aviation Administration, and representatives of the Civil Aeronautical Medical Institute.

(c) **CONTENTS.**—The study shall include an examination of representative information on human factors, traffic activity, and the technology and equipment used in air traffic control.

(d) **RECOMMENDATIONS AND ESTIMATES.**—In conducting the study, the National Academy of Sciences shall develop—

(1) recommendations for the development by the FAA of objective staffing standards to maintain the safety and efficiency of the national airspace system with current and future projected air traffic levels; and

(2) estimates of cost and schedule for the development of such standards by the FAA or its contractors.

(e) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

#### **SEC. 609. ASSESSMENT OF TRAINING PROGRAMS FOR AIR TRAFFIC CONTROLLERS.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of training programs for air traffic controllers.

(b) **CONTENTS.**—The study shall include—

(1) a review of the current training system for air traffic controllers;

(2) an analysis of the competencies required of air traffic controllers for successful performance in the current air traffic control environment;

(3) an analysis of competencies required of air traffic controllers as the Federal Aviation Administration transitions to the Next Generation Air Transportation System; and

(4) an analysis of various training approaches available to satisfy the controller competencies identified under paragraphs (2) and (3).

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

#### **SEC. 610. COLLEGIATE TRAINING INITIATIVE STUDY.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study on training options for graduates of the Collegiate Training Initiative program conducted under section 44506(c) of title 49 United States Code. The study shall analyze the impact of providing as an alternative to the current training provided at the Mike Monroney Aeronautical Center of the Administration a new controller orientation session for graduates of such programs at the Mike Monroney Aeronautical Center followed by on-the-job training for newly hired air traffic controllers who are graduates of such program and shall include—

(1) the cost effectiveness of such an alternative training approach; and

(2) the effect that such an alternative training approach would have on the overall quality of training received by graduates of such programs.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 611. FAA TASK FORCE ON AIR TRAFFIC CONTROL FACILITY CONDITIONS.**

(a) **ESTABLISHMENT.**—The Administrator of the Federal Aviation Administration shall establish a special task force to be known as the “FAA Task Force on Air Traffic Control Facility Conditions” (in this section referred to as the “Task Force”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Task Force shall be composed of 12 members of whom—

(A) 8 members shall be appointed by the Administrator; and

(B) 4 members shall be appointed by labor unions representing employees who work at field facilities of the Administration.

(2) **QUALIFICATIONS.**—Of the members appointed by the Administrator under paragraph (1)(A)—

(A) 4 members shall be specialists on toxic mold abatement, “sick building syndrome,” and other hazardous building conditions that can lead to employee health concerns and shall be appointed by the Administrator in consultation with the Director of the National Institute for Occupational Safety and Health; and

(B) 2 members shall be specialists on the rehabilitation of aging buildings.

(3) **TERMS.**—Members shall be appointed for the life of the Task Force.

(4) **VACANCIES.**—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(5) **TRAVEL EXPENSES.**—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) **CHAIRPERSON.**—The Administrator shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Task Force.

(d) **TASK FORCE PERSONNEL MATTERS.**—

(1) **STAFF.**—The Task Force may appoint and fix the pay of such personnel as it considers appropriate.

(2) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson of the Task Force, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Task Force to assist it in carrying out its duties under this section.

(3) **OTHER STAFF AND SUPPORT.**—Upon request of the Task Force or a panel of the Task Force, the Administrator shall provide the Task Force or panel with professional and administrative staff and other support, on a reimbursable basis, to the Task Force to assist it in carrying out its duties under this section.

(e) **OBTAINING OFFICIAL DATA.**—The Task Force may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Task Force to carry out its duties under this section. Upon request of the chairperson of the Task Force, the head of that department or agency shall furnish such information to the Task Force.

(f) **DUTIES.**—

(1) **STUDY.**—The Task Force shall undertake a study of—

(A) the conditions of all air traffic control facilities across the Nation, including towers, centers, and terminal radar air control;

(B) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation and facility-related hazards in facilities of the Administration;

(C) conditions of such facilities that could interfere with such employees’ ability to effectively and safely perform their duties;

(D) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(E) whether employees of the Administration who report facility-related illnesses are treated fairly;

(F) utilization of scientifically approved remediation techniques in a timely fashion once hazardous conditions are identified in a facility of the Administration; and

(G) resources allocated to facility maintenance and renovation by the Administration.

(2) **FACILITY CONDITION INDICIES (FCI).**—The Task Force shall review the facility condition indices of the Administration (in this section referred to as the “FCI”) for inclusion in the recommendations under subsection (g).

(g) **RECOMMENDATIONS.**—Based on the results of the study and review of the FCI under subsection (f), the Task Force shall make recommendations as it considers necessary to—

(1) prioritize those facilities needing the most immediate attention in order of the greatest risk to employee health and safety;

(2) ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) assist the Administration in making programmatic changes so that aging air traffic control facilities do not deteriorate to unsafe levels.

(h) **REPORT.**—Not later than 6 months after the date on which initial appointments of members to the Task Force are completed, the Task Force shall submit to the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the activities of the Task Force, including the recommendations of the Task Force under subsection (g).

(i) **IMPLEMENTATION.**—Within 30 days of the receipt of the Task Force report under subsection (h), the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes a plan and timeline to implement the recommendations of the Task Force and to align future budgets and priorities of the Administration accordingly.

(j) **TERMINATION.**—The Task Force shall terminate on the last day of the 30-day period beginning on the date on which the report under subsection (h) was submitted.

(k) **APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$250,000 to carry out this section.

**TITLE VII—AVIATION INSURANCE**

**SEC. 701. GENERAL AUTHORITY.**

(a) **EXTENSION OF POLICIES.**—Section 44302(f)(1) is amended—

(1) by striking “March 31, 2009” and inserting “September 30, 2012”; and

(2) by striking “May 31, 2009” and inserting “December 31, 2019”.

(b) **SUCCESSOR PROGRAM.**—Section 44302(f) is amended by adding at the end the following:

“(3) **SUCCESSOR PROGRAM.**—

“(A) **IN GENERAL.**—After December 31, 2019, coverage for the risks specified in a policy that has been extended under paragraph (1) shall be provided in an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

“(B) **TRANSFER OF PREMIUMS.**—

“(i) **IN GENERAL.**—On December 31, 2019, and except as provided in clause (ii), premiums that are collected by the Secretary from the airline industry after September 22, 2001, for any policy under this subsection, and interest earned thereon, as determined by the Secretary, shall be transferred to an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

“(ii) **DETERMINATION OF AMOUNT TRANSFERRED.**—The amount transferred pursuant to clause (i) shall be less—

“(I) the amount of any claims paid out on such policies from September 22, 2001, through December 31, 2019;

“(II) the amount of any claims pending under such policies as of December 31, 2019; and

“(III) the cost, as determined by the Secretary, of administering the provision of insurance policies under this chapter from September 22, 2001, through December 31, 2019.”.

**SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD PARTY LIABILITY OF AIR CARRIERS ARISING OUT OF ACTS OF TERRORISM.**

Section 44303(b) is amended by striking “May 31, 2009” and inserting “December 31, 2012”.

**SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.**

Section 44304 is amended in the second sentence by striking “the carrier” and inserting “any insurance carrier”.

**SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.**

Section 44308(c)(1) is amended in the second sentence by striking “agent” and inserting “agent, or a claims adjuster who is independent of the underwriting agent.”.

**SEC. 705. EXTENSION OF PROGRAM AUTHORITY.**

Section 44310 is amended by striking “December 31, 2013” and inserting “December 31, 2019”.

**TITLE VIII—MISCELLANEOUS**

**SEC. 801. AIR CARRIER CITIZENSHIP.**

Section 40102(a)(15) is amended by adding at the end the following:

“For purposes of subparagraph (C), an air carrier shall not be deemed to be under the actual control of citizens of the United States unless citizens of the United States control all matters pertaining to the business and structure of the air carrier, including operational matters such as marketing, branding, fleet composition, route selection, pricing, and labor relations.”.

**SEC. 802. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN INTEREST OF NATIONAL SECURITY.**

Section 40119(b) is amended by adding at the end the following:

“(3) **LIMITATION ON APPLICABILITY OF FREEDOM OF INFORMATION ACT.**—Section 552a of title 5, United States Code, shall not apply to disclosures that the Administrator of the



Federal Aviation Administration may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.”.

**SEC. 803. FAA ACCESS TO CRIMINAL HISTORY RECORDS AND DATABASE SYSTEMS.**

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

**“§ 40130. FAA access to criminal history records or databases systems**

“(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—

“(1) ACCESS TO INFORMATION.—Notwithstanding section 534 of title 28, and regulations issued to implement such section, the Administrator of the Federal Aviation Administration may access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out civil and administrative responsibilities of the Administration to protect the safety and security of the national airspace system or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies.

“(2) RELEASE OF INFORMATION.—In accessing a system referred to in paragraph (1), the Administrator shall be subject to the same conditions and procedures established by the Department of Justice or the State for other governmental agencies with access to the system.

“(3) LIMITATION.—The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

“(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who shall carry out the authority described in subsection (a). The designated employees may—

“(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or any jurisdiction of a State, in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

“(2) use any radio, data link, or warning system of the Federal Government, and of any jurisdiction in a State, that provides information about wanted persons, be-on-the-lookout notices, warrant status, or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has access and in the same manner as such police officer; or

“(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

“(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term ‘system of documented criminal justice information’ means any law enforcement database, system, or communication containing information concerning identification, criminal history, arrests, convictions, arrest warrants, wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

“40130. FAA access to criminal history records or databases systems.”.

**SEC. 804. CLARIFICATION OF AIR CARRIER FEE DISPUTES.**

(a) IN GENERAL.—Section 47129 is amended—

(1) in the section heading by striking “air carrier” and inserting “carrier”;

(2) in subsection (a) by striking “(as defined in section 40102 of this title)” and inserting “(as such terms are defined in section 40102)”;

(3) in the heading for subsection (d) by striking “AIR CARRIER” and inserting “AIR CARRIER AND FOREIGN AIR CARRIER”;

(4) in the heading for paragraph (2) of subsection (d) by striking “AIR CARRIER” and inserting “AIR CARRIER AND FOREIGN AIR CARRIER”;

(5) by striking “air carriers” each place it appears and inserting “air carriers or foreign air carriers”;

(6) by striking “air carrier” each place it appears and inserting “air carrier or foreign air carrier”;

(7) by striking “air carrier’s” each place it appears and inserting “air carrier’s or foreign air carrier’s”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

“47129. Resolution of airport-carrier disputes concerning airport fees.”.

**SEC. 805. STUDY ON NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to evaluate the formulation of the National Plan of Integrated Airport Systems (in this section referred to as the “plan”) under section 47103 of title 49, United States Code.

(b) CONTENTS OF STUDY.—The study shall include a review of the following:

(1) The criteria used for including airports in the plan and the application of such criteria in the most recently published version of the plan.

(2) The changes in airport capital needs between fiscal years 2003 and 2008, as reported in the plan, as compared with the amounts apportioned or otherwise made available to individual airports over the same period of time.

(3) A comparison of the amounts received by airports under the airport improvement program in airport apportionments, State apportionments, and discretionary grants during such fiscal years with capital needs as reported in the plan.

(4) The effect of transfers of airport apportionments under title 49, United States Code.

(5) Any other matters pertaining to the plan that the Secretary determines appropriate.

(c) REPORT TO CONGRESS.—

(1) SUBMISSION.—Not later than 36 months after the date of initiation of the study, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(2) CONTENTS.—The report shall include—

(A) the findings of the Secretary on each of the subjects listed in subsection (b);

(B) recommendations for any changes to policies and procedures for formulating the plan; and

(C) recommendations for any changes to the methods of determining the amounts to be apportioned or otherwise made available to individual airports.

**SEC. 806. EXPRESS CARRIER EMPLOYEE PROTECTION.**

(a) IN GENERAL.—Section 201 of the Railway Labor Act (45 U.S.C. 181) is amended—

(1) by striking “All” and inserting “(a) IN GENERAL.—All”;

(2) by inserting “and every express carrier” after “common carrier by air”; and

(3) by adding at the end the following:

“(b) SPECIAL RULES FOR EXPRESS CARRIERS.—

“(1) IN GENERAL.—An employee of an express carrier shall be covered by this Act only if that employee is in a position that is eligible for certification under part 61, 63, or 65 of title 14, Code of Federal Regulations, and only if that employee performs duties for the express carrier that are eligible for such certification. All other employees of an express carrier shall be covered by the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

“(2) AIR CARRIER STATUS.—Any person that is an express carrier shall be governed by paragraph (1) notwithstanding any finding that the person is also a common carrier by air.

“(3) EXPRESS CARRIER DEFINED.—In this section, the term ‘express carrier’ means any person (or persons affiliated through common control or ownership) whose primary business is the express shipment of freight or packages through an integrated network of air and surface transportation.”.

(b) CONFORMING AMENDMENT.—Section 1 of such Act (45 U.S.C. 151) is amended in the first paragraph by striking “any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995.”.

**SEC. 807. CONSOLIDATION AND REALIGNMENT OF FAA FACILITIES.**

(a) ESTABLISHMENT OF WORKING GROUP.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall establish within the Federal Aviation Administration (in this section referred to as the “FAA”) a working group to develop criteria and make recommendations for the realignment of services and facilities (including regional offices) of the FAA to assist in the transition to next generation facilities and to help reduce capital, operating, maintenance, and administrative costs in instances in which cost reductions can be implemented without adversely affecting safety.

(b) MEMBERSHIP.—The working group shall be composed of—

(1) the Administrator of the FAA;

(2) 2 representatives of air carriers;

(3) 2 representatives of the general aviation community;

(4) 2 representatives of labor unions representing employees who work at regional or field facilities of the FAA; and

(5) 2 representatives of the airport community.

(c) REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF THE WORKING GROUP.—

(1) SUBMISSION.—Not later than 6 months after convening the working group, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the criteria and recommendations developed by the working group under this section.

(2) CONTENTS.—The report shall include a justification for each recommendation to

consolidate or realign a service or facility (including a regional office) and a description of the costs and savings associated with the consolidation or realignment.

(d) **PUBLIC NOTICE AND COMMENT.**—The Administrator shall publish the report submitted under subsection (c) in the Federal Register and allow 45 days for the submission of public comments. In addition, the Administrator upon request shall hold a public hearing in a community that would be affected by a recommendation in the report.

(e) **OBJECTIONS.**—Any interested person may file with the Administrator a written objection to a recommendation of the working group.

(f) **REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF THE ADMINISTRATOR.**—Not later than 60 days after the last day of the period for public comment under subsection (d), the Administrator shall submit to the committees referred to in subsection (c)(1) a report containing the recommendations of the Administrator on realignment of services and facilities (including regional offices) of the FAA and copies of any public comments and objections received by the Administrator under this section.

(g) **LIMITATION ON IMPLEMENTATION OF REALIGNMENTS AND CONSOLIDATIONS.**—The Administrator may not realign or consolidate any services or facilities (including regional offices) of the FAA before the Administrator has submitted the report under subsection (f).

(h) **FAA DEFINED.**—In this section, the term “FAA” means the Federal Aviation Administration.

**SEC. 808. ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE FOR NATIONAL TRANSPORTATION SAFETY BOARD EMPLOYEES.**

Section 1113 is amended by adding at the end the following:

“(i) **ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE.**—

“(1) **AUTHORITY TO PROVIDE INSURANCE.**—The Board may procure accidental death and dismemberment insurance for an employee of the Board who travels for an accident investigation or other activity of the Board outside the United States or inside the United States under hazardous circumstances, as defined by the Board.

“(2) **CREDITING OF INSURANCE BENEFITS TO OFFSET UNITED STATES TORT LIABILITY.**—Any amounts paid to a person under insurance coverage procured under this subsection shall be credited as offsetting any liability of the United States to pay damages to that person under section 1346(b) of title 28, chapter 171 of title 28, chapter 163 of title 10, or any other provision of law authorizing recovery based upon tort liability of the United States in connection with the injury or death resulting in the insurance payment.

“(3) **TREATMENT OF INSURANCE BENEFITS.**—Any amounts paid under insurance coverage procured under this subsection shall not—

“(A) be considered additional pay or allowances for purposes of section 5536 of title 5; or

“(B) offset any benefits an employee may have as a result of government service, including compensation under chapter 81 of title 5.

“(4) **ENTITLEMENT TO OTHER INSURANCE.**—Nothing in this subsection shall be construed as affecting the entitlement of an employee to insurance under section 8704(b) of title 5.”.

**SEC. 809. GAO STUDY ON COOPERATION OF AIRLINE INDUSTRY IN INTERNATIONAL CHILD ABDUCTION CASES.**

(a) **STUDY.**—The Comptroller General shall conduct a study to help determine how the

Federal Aviation Administration (in this section referred to as the “FAA”) could better ensure the collaboration and cooperation of air carriers and foreign air carriers providing air transportation and relevant Federal agencies to develop and enforce child safety control for adults traveling internationally with children.

(b) **CONTENTS.**—In conducting the study, the Comptroller General shall examine—

(1) the nature and scope of exit policies and procedures of the FAA, air carriers, and foreign air carriers and how the enforcement of such policies and procedures is monitored, including ticketing and boarding procedures;

(2) the extent to which air carriers and foreign air carriers cooperate in the investigations of international child abduction cases, including cooperation with the National Center for Missing and Exploited Children and relevant Federal, State, and local agencies;

(3) any effective practices, procedures, or lessons learned from the assessment of current practices and procedures of air carriers, foreign air carriers, and operators of other transportation modes that could improve the ability of the aviation community to ensure the safety of children traveling internationally with adults and, as appropriate, enhance the capability of air carriers and foreign air carriers to cooperate in the investigations of international child abduction cases; and

(4) any liability issues associated with providing assistance in such investigations.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

**SEC. 810. LOST NATION AIRPORT, OHIO.**

(a) **APPROVAL OF SALE.**—The Secretary of Transportation may approve the sale of Lost Nation Airport from the city of Willoughby, Ohio, to Lake County, Ohio, if—

(1) Lake County meets all applicable requirements for sponsorship of the airport; and

(2) Lake County agrees to assume the obligations and assurances of the grant agreements relating to the airport executed by the city of Willoughby under chapter 471 of title 49, United States Code, and to operate and maintain the airport in accordance with such obligations and assurances.

(b) **GRANTS.**—

(1) **IN GENERAL.**—The Secretary may make a grant, from funds made available under section 48103 of title 49, United States Code, to Lake County to assist in Lake County's purchase of the Lost Nation Airport under subsection (a).

(2) **FEDERAL SHARE.**—The Federal share of the grant under this subsection shall be for 90 percent of the cost of Lake County's purchase of the Lost Nation Airport, but in no event may the Federal share of the grant exceed \$1,220,000.

(3) **APPROVAL.**—The Secretary may make a grant under this subsection only if the Secretary receives such written assurances as the Secretary may require under section 47107 of title 49, United States Code, with respect to the grant and Lost Nation Airport.

(c) **TREATMENT OF PROCEEDS FROM SALE.**—The Secretary may grant to the city of Willoughby an exemption from the provisions of sections 47107 and 47133 of such title, any grant obligations of the city of Willoughby, and regulations and policies of the Federal Aviation Administration to the extent necessary to allow the city of Willoughby to use the proceeds from the sale approved under subsection (a) for any purpose authorized by the city of Willoughby.

**SEC. 811. POLLOCK MUNICIPAL AIRPORT, LOUISIANA.**

(a) **FINDINGS.**—Congress finds that—

(1) Pollock Municipal Airport located in Pollock, Louisiana (in this section referred to as the “airport”), has never been included in the National Plan of Integrated Airport Systems pursuant to section 47103 of title 49, United States Code, and is therefore not considered necessary to meet the current or future needs of the national aviation system; and

(2) closing the airport will not adversely affect aviation safety, aviation capacity, or air commerce.

(b) **REQUEST FOR CLOSURE.**—

(1) **APPROVAL.**—Notwithstanding any other provision of law, requirement, or agreement and subject to the requirements of this section, the Administrator of the Federal Aviation Administration shall—

(A) approve a request from the town of Pollock, Louisiana, to close the airport as a public airport; and

(B) release the town from any term, condition, reservation, or restriction contained in a surplus property conveyance or transfer document, and from any order or finding by the Department of Transportation on the use and repayment of airport revenue applicable to the airport, that would otherwise prevent the closure of the airport and redevelopment of the facilities to nonaeronautical uses.

(2) **CONTINUED AIRPORT OPERATION PRIOR TO APPROVAL.**—The town of Pollock shall continue to operate and maintain the airport until the Administrator grants the town's request for closure of the airport.

(3) **USE OF PROCEEDS FROM SALE OF AIRPORT.**—Upon the approval of the request to close the airport, the town of Pollock shall obtain fair market value for the sale of the airport property and shall immediately upon receipt transfer all such proceeds from the sale of the airport property to the sponsor of a public airport designated by the Administrator to be used for the development or improvement of such airport.

(4) **RELOCATION OF AIRCRAFT.**—Before closure of the airport, the town of Pollock shall provide adequate time for any airport-based aircraft to relocate.

**SEC. 812. HUMAN INTERVENTION AND MOTIVATION STUDY PROGRAM.**

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a human intervention and motivation study program for flight crewmembers involved in air carrier operations in the United States under part 121 of title 14, Code of Federal Regulations.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2009 through 2012. Such sums shall remain available until expended.

**SEC. 813. WASHINGTON, DC, AIR DEFENSE IDENTIFICATION ZONE.**

(a) **SUBMISSION OF PLAN TO CONGRESS.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with Secretary of Homeland Security and Secretary of Defense, shall submit to the Committee on Transportation and Infrastructure and Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the Washington, DC, Air Defense Identification Zone.

(b) **CONTENTS OF PLAN.**—The plan shall outline specific changes to the Washington, DC,

Air Defense Identification Zone that will decrease operational impacts and improve general aviation access to airports in the National Capital Region that are currently impacted by the zone.

**SEC. 814. MERRILL FIELD AIRPORT, ANCHORAGE, ALASKA.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, including the Federal Airport Act (as in effect on August 8, 1958), the United States releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in the municipality of Anchorage, Alaska, more particularly described as Tracts 22 and 24 of the Fourth Addition to the Town Site of Anchorage, Alaska, as shown on the plat of U.S. Survey No. 1456, accepted June 13, 1923, on file in the Bureau of Land Management, Department of Interior.

(b) **GRANTS.**—Notwithstanding any other provision of law, the municipality of Anchorage shall be released from the repayment of any outstanding grant obligations owed by the municipality to the Federal Aviation Administration with respect to any land described in subsection (a) that is subsequently conveyed to or used by the Department of Transportation and Public Facilities of the State of Alaska for the construction or reconstruction of a federally subsidized highway project.

**SEC. 815. 1940 AIR TERMINAL MUSEUM AT WILLIAM P. HOBBY AIRPORT, HOUSTON, TEXAS.**

It is the sense of Congress that the Nation—

(1) supports the goals and ideals of the 1940 Air Terminal Museum located at William P. Hobby Airport in the city of Houston, Texas;

(2) congratulates the city of Houston and the 1940 Air Terminal Museum on the 80-year history of William P. Hobby Airport and the vital role of the airport in Houston's and the Nation's transportation infrastructure; and

(3) recognizes the 1940 Air Terminal Museum for its importance to the Nation in the preservation and presentation of civil aviation heritage and recognizes the importance of civil aviation to the Nation's history and economy.

**SEC. 816. DUTY PERIODS AND FLIGHT TIME LIMITATIONS APPLICABLE TO FLIGHT CREWMEMBERS.**

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding for the following purposes:

(1) To require a flight crewmember who is employed by an air carrier conducting operations under part 121 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or from any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment (regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 121 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 121 of such title.

(2) To require a flight crewmember who is employed by an air carrier conducting operations under part 135 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or any other air carrier conducting operations under part

121 or 135 of such title, to apply the period of the additional assignment (regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 135 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 135 of such title.

**SEC. 817. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.**

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program at up to 4 public-use airports (as defined in section 47102 of title 49, United States Code) that have a noise compatibility program approved by the Administrator under section 47504 of such title.

(b) **GRANTS.**—Under the pilot program, the Administrator may make a grant in a fiscal year, from funds made available under section 47117(e)(1)(A) of such title, to the operator of an airport participating in the pilot program—

(1) to support joint planning (including planning described in section 47504(a)(2)(F) of such title), engineering design, and environmental permitting for the assembly and redevelopment of real property purchased with noise mitigation funds made available under section 48103 or passenger facility revenues collected for the airport under section 40117 of such title; and

(2) to encourage compatible land uses with the airport and generate economic benefits to the airport operator and an affected local jurisdiction.

(c) **GRANT REQUIREMENTS.**—The Administrator may not make a grant under this section unless the grant is made—

(1) to enable the airport operator and an affected local jurisdiction to expedite their noise mitigation redevelopment efforts with respect to real property described in subsection (b)(1);

(2) subject to a requirement that the affected local jurisdiction has adopted zoning regulations that permit compatible redevelopment of real property described in subsection (b)(1); and

(3) subject to a requirement that funds made available under section 47117(e)(1)(A) with respect to real property assembled and redeveloped under subsection (b)(1) plus the amount of any grants made for acquisition of such property under section 47504 of such title are repaid to the Administrator upon the sale of such property.

(d) **COOPERATION WITH LOCAL AFFECTED JURISDICTION.**—An airport operator may use funds granted under this section for a purpose described in subsection (b) only in cooperation with an affected local jurisdiction.

(e) **UNITED STATES GOVERNMENT SHARE.**—

(1) **IN GENERAL.**—The United States Government share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(2) **DETERMINATION.**—In determining the allowable project costs of a project carried out under the pilot program for purposes of this subsection, the Administrator shall deduct from the total costs of the project that portion of the total costs of the project that are incurred with respect to real property that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program for the airport or that is not owned by an affected local jurisdiction or other public entity.

(3) **MAXIMUM AMOUNT.**—Not more than \$5,000,000 in funds made available under section 47117(e) of title 49, United States Code,

may be expended under this pilot program at any single public-use airport.

(f) **SPECIAL RULES FOR REPAID FUNDS.**—The amounts repaid to the Administrator with respect to an airport under subsection (c)(3)—

(1) shall be available to the Administrator for the following actions giving preference to such actions in descending order:

(A) reinvestment in an approved noise compatibility project at the airport;

(B) reinvestment in another project at the airport that is available for funding under section 47117(e) of title 49, United States Code;

(C) reinvestment in an approved airport development project at the airport that is eligible for funding under section 47114, 47115, or 47117 of such title;

(D) reinvestment in approved noise compatibility project at any other public airport; and

(E) deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502);

(2) shall be in addition to amounts authorized under section 48103 of title 49, United States Code; and

(3) shall remain available until expended.

(g) **USE OF PASSENGER FACILITY REVENUE.**—An operator of an airport participating in the pilot program may use passenger facility revenue collected for the airport under section 40117 of title 49, United States Code, to pay the portion of the total cost of a project carried out by the operator under the pilot program that are not allowable under subsection (e)(2).

(h) **SUNSET.**—The Administrator may not make a grant under the pilot program after September 30, 2012.

(i) **REPORT TO CONGRESS.**—Not later than the last day of the 30th month following the date on which the first grant is made under this section, the Administrator shall report to Congress on the effectiveness of the pilot program on returning real property purchased with noise mitigation funds made available under section 47117(e)(1)(A) or 47505 or passenger facility revenues to productive use.

(j) **NOISE COMPATIBILITY MEASURES.**—Section 47504(a)(2) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by adding at the end the following:

“(F) joint comprehensive land use planning, including master plans, traffic studies, environmental evaluation and economic and feasibility studies, with neighboring local jurisdictions undertaking community redevelopment in the area where any land or other property interest acquired by the airport operator under this subsection is located, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential.”.

**SEC. 818. HELICOPTER OPERATIONS OVER LONG ISLAND AND STATEN ISLAND, NEW YORK.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study on helicopter operations over Long Island and Staten Island, New York.

(b) **CONTENTS.**—In conducting the study, the Administrator shall examine, at a minimum, the following:

(1) The effect of helicopter operations on residential areas, including—

(A) safety issues relating to helicopter operations;

(B) noise levels relating to helicopter operations and ways to abate the noise levels; and

(C) any other issue relating to helicopter operations on residential areas.

(2) The feasibility of diverting helicopters from residential areas.

(3) The feasibility of creating specific air lanes for helicopter operations.

(4) The feasibility of establishing altitude limits for helicopter operations.

(c) EXCEPTIONS.—Any determination under this section on the feasibility of establishing limitations or restrictions for helicopter operations over Long Island and Staten Island, New York, shall not apply to helicopters performing operations for news organizations, the military, law enforcement, or providers of emergency services.

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to interfere with the Federal Aviation Administration's authority to ensure the safe and efficient use of the national airspace system.

(e) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of the study, including information and recommendations concerning the issues examined under subsection (b).

#### SEC. 819. CABIN TEMPERATURE STANDARDS STUDY.

(a) STUDY.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a study to determine whether onboard temperature standards are necessary to protect cabin and cockpit crew members and passengers on an aircraft of an air carrier used to provide air transportation from excessive heat onboard such aircraft during standard operations or during an excessive flight delay.

(b) TEMPERATURE REVIEW.—In conducting the study under subsection (a), the Administrator shall—

(1) survey onboard cabin and cockpit temperatures of a representative sampling of different aircraft types and operations;

(2) address the appropriate placement of temperature monitoring devices onboard the aircraft to determine the most accurate measurement of onboard temperature and develop a system for the reporting of excessive temperature onboard passenger aircraft by cockpit and cabin crew members; and

(3) review the impact of implementing such onboard temperature standards on the environment, fuel economy, and avionics and determine the costs associated with such implementation and the feasibility of using ground equipment or other mitigation measures to offset any such costs.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report on the findings of the study.

#### SEC. 820. CIVIL PENALTIES TECHNICAL AMENDMENTS.

Section 46301 is amended—

(1) in subsection (a)(1)(A) by inserting “chapter 451,” before “section 47107(b)”;

(2) in subsection (a)(5)(A)(i)—

(A) by striking “or chapter 449” and inserting “chapter 449”; and

(B) by inserting after “44909)” the following: “, or chapter 451”; and

(3) in subsection (d)(2)—

(A) by inserting after “44723)” the following: “, chapter 451 (except section 45107)”;

(B) by inserting after “44909),” the following: “section 45107 or”.

#### SEC. 821. STUDY AND REPORT ON ALLEVIATING CONGESTION.

Not later than 18 months after the date of enactment of this Act, the Comptroller General shall conduct a study and submit a report to Congress regarding effective strategies to alleviate congestion in the national airspace at airports during peak travel times, by evaluating the effectiveness of reducing flight schedules and staggering flights, developing incentives for airlines to reduce the number of flights offered, and instituting slots and quotas at airports. In addition, the Comptroller General shall compare the efficiency of implementing the strategies in the preceding sentence with redesigning airspace and evaluate any legal obstacles to implementing such strategies.

#### SEC. 822. AIRLINE PERSONNEL TRAINING ENHANCEMENT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations under chapter 447 of title 49, United States Code, that require air carriers to provide initial and annual recurring training for flight attendants and gate attendants regarding serving alcohol, dealing with disruptive passengers, and recognizing intoxicated persons. The training shall include situational training on methods of handling an intoxicated person who is belligerent.

#### SEC. 823. STUDY ON FEASIBILITY OF DEVELOPMENT OF A PUBLIC INTERNET WEB-BASED SEARCH ENGINE ON WIND TURBINE INSTALLATION OBSTRUCTION.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of developing a publicly searchable, Internet Web-based resource that provides information regarding the acceptable height and distance that wind turbines may be installed in relation to aviation sites and the level of obstruction such turbines may present to such sites.

(b) CONSIDERATIONS.—In conducting the study, the Administrator shall consult, if appropriate, with the Secretaries of the Army, Navy and Air Force, Homeland Security, Agriculture, and Energy to coordinate the requirements of each agency for future air space needs, determine what the acceptable risks are to existing infrastructure of each agency, and define the different levels of risk for such infrastructure.

(c) IMPACT OF WIND TURBINES ON RADAR SIGNALS.—In conducting the study, the Administrator shall consider the impact of the operation of wind turbines, individually and in collections, on radar signals and evaluate the feasibility of providing quantifiable measures of numbers of turbines and distance from radars that are acceptable.

(d) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Transportation and Infrastructure, Committee on Homeland Security, Committee on Armed Services, Committee on Agriculture, and Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation, Committee on Homeland Security and Governmental Affairs, Committee on Agriculture, Nutrition, and Forestry, and Committee on Armed Services of the Senate.

#### SEC. 824. WIND TURBINE LIGHTING.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on wind turbine lighting systems.

(b) CONTENTS.—In conducting the study, the Administrator shall examine the following:

(1) The effect of wind turbine lighting on residential areas.

(2) The safety issues associated with alternative lighting strategies, technologies, and regulations.

(3) Potential energy savings associated with alternative lighting strategies, technologies, and regulations.

(4) The feasibility of implementing alternative lighting strategies or technologies.

(5) Any other issue relating to wind turbine lighting.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study, including information and recommendations concerning the issues examined under subsection (b).

#### SEC. 825. LIMITING ACCESS TO FLIGHT DECKS OF ALL-CARGO AIRCRAFT.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with appropriate air carriers, aircraft manufacturers, and air carrier labor representatives, shall conduct a study to identify a physical means, or a combination of physical and procedural means, of limiting access to the flight decks of all-cargo aircraft to authorized flight crew members.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study.

### TITLE IX—FEDERAL AVIATION RESEARCH AND DEVELOPMENT

#### SEC. 901. SHORT TITLE.

This title may be cited as the “Federal Aviation Research and Development Reauthorization Act of 2009”.

#### SEC. 902. DEFINITIONS.

As used in this title, the following definition apply:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) FAA.—The term “FAA” means the Federal Aviation Administration.

(3) NASA.—The term “NASA” means the National Aeronautics and Space Administration.

(4) NATIONAL RESEARCH COUNCIL.—The term “National Research Council” means the National Research Council of the National Academies of Science and Engineering.

(5) NOAA.—The term “NOAA” means the National Oceanic and Atmospheric Administration.

(6) NSF.—The term “NSF” means the National Science Foundation.

(7) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

#### SEC. 903. INTERAGENCY RESEARCH INITIATIVE ON THE IMPACT OF AVIATION ON THE CLIMATE.

(a) IN GENERAL.—The Administrator, in coordination with NASA and the United States Climate Change Science Program, shall carry out a research initiative to assess the impact of aviation on the climate and, if warranted, to evaluate approaches to mitigate that impact.

(b) RESEARCH PLAN.—Not later than one year after the date of enactment of this Act, the participating Federal entities shall jointly develop a plan for the research program that contains the objectives, proposed tasks, milestones, and 5-year budgetary profile.

**SEC. 904. RESEARCH PROGRAM ON RUNWAYS.**

(a) **RESEARCH PROGRAM.**—The Administrator shall maintain a program of research grants to universities and nonprofit research foundations for research and technology demonstrations related to—

- (1) improved runway surfaces; and
- (2) engineered material restraining systems for runways at both general aviation airports and airports with commercial air carrier operations.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2012 to carry out this section.

**SEC. 905. RESEARCH ON DESIGN FOR CERTIFICATION.**

(a) **ESTABLISHMENT OF PROGRAM.**—Not later than 6 months after the date of enactment of this Act, the FAA, in consultation with other agencies as appropriate, shall establish a research program on methods to improve both confidence in and the timeliness of certification of new technologies for their introduction into the national airspace system.

(b) **RESEARCH PLAN.**—Not later than 1 year after the date of enactment of this Act, as part of the activity described in subsection (a), the FAA shall develop a plan for the research program that contains the objectives, proposed tasks, milestones, and five-year budgetary profile.

(c) **REVIEW.**—The Administrator shall have the National Research Council conduct an independent review of the research program plan and provide the results of that review to the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of this Act.

**SEC. 906. CENTERS OF EXCELLENCE.**

(a) **GOVERNMENT'S SHARE OF COSTS.**—Section 44513(f) is amended to read as follows:

“(f) **GOVERNMENT'S SHARE OF COSTS.**—The United States Government's share of establishing and operating the center and all related research activities that grant recipients carry out shall not exceed 75 percent of the costs. The United States Government's share of an individual grant under this section shall not exceed 90 percent of the costs.”

(b) **ANNUAL REPORT.**—The Administrator shall transmit annually to the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at the time of the President's budget request a report that lists—

- (1) the research projects that have been initiated by each Center of Excellence in the preceding year;
- (2) the amount of funding for each research project and the funding source;
- (3) the institutions participating in each project and their shares of the overall funding for each research project; and
- (4) the level of cost-sharing for each research project.

**SEC. 907. AIRPORT COOPERATIVE RESEARCH PROGRAM.**

Section 44511(f) is amended—

(1) in paragraph (1) by striking “establish a 4-year pilot” and inserting “maintain an”; and

(2) in paragraph (4)—

(A) by striking “expiration of the program” and inserting “expiration of the pilot program”; and

(B) by striking “program, including recommendations as to the need for establishing a permanent airport cooperative research program” and inserting “program”.

**SEC. 908. UNMANNED AIRCRAFT SYSTEMS.**

(a) **RESEARCH INITIATIVE.**—Section 44504(b) is amended—

- (1) in paragraph (6) by striking “and” after the semicolon;
- (2) in paragraph (7) by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(8) in conjunction with other Federal agencies, as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes, for use in all classes of unmanned aircraft systems that could result in a catastrophic failure of the unmanned aircraft that would endanger other aircraft in the national airspace system.”

(b) **SYSTEMS, PROCEDURES, FACILITIES, AND DEVICES.**—Section 44505(b) is amended—

- (1) in paragraph (4) by striking “and” after the semicolon;
- (2) in paragraph (5)(C) by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following:

“(6) to develop a better understanding of the relationship between human factors and unmanned aircraft systems safety; and

“(7) to develop dynamic simulation models for integrating all classes of unmanned aircraft systems into the national airspace system without any degradation of existing levels of safety for all national airspace system users.”

**SEC. 909. RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.**

(a) **IN GENERAL.**—The Administrator shall establish a program to utilize colleges and universities, including Historically Black Colleges and Universities, Hispanic serving institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian serving institutions in conducting research by undergraduate students on subjects of relevance to the FAA. Grants may be awarded under this section for—

- (1) research projects to be carried out primarily by undergraduate students;
- (2) research projects that combine undergraduate research with other research supported by the FAA;
- (3) research on future training requirements related to projected changes in regulatory requirements for aircraft maintenance and power plant licensees; and
- (4) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, and on training requirements for pilots and air traffic controllers.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$5,000,000 for each of the fiscal years 2009 through 2012, for research grants under this section.

**SEC. 910. AVIATION GAS RESEARCH AND DEVELOPMENT PROGRAM.**

(a) **CONTINUATION OF PROGRAM.**—The Administrator, in coordination with the NASA Administrator, shall continue research and development activities into technologies for modification of existing general aviation piston engines to enable their safe operation using unleaded aviation fuel.

(b) **ROADMAP.**—Not later than 120 days after the date of enactment of this Act, the Administrator shall develop a research and development roadmap for the program con-

tinued in subsection (a), containing the specific research and development objectives and the anticipated timetable for achieving the objectives.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide the roadmap specified in subsection (b) to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$750,000 for each of the fiscal years 2009 through 2012 to carry out this section.

**SEC. 911. REVIEW OF FAA'S ENERGY- AND ENVIRONMENT-RELATED RESEARCH PROGRAMS.**

(a) **STUDY.**—The Administrator shall enter into an arrangement with the National Research Council for a review of the FAA's energy- and environment-related research programs. The review shall assess whether—

- (1) the programs have well-defined, prioritized, and appropriate research objectives;
- (2) the programs are properly coordinated with the energy- and environment-related research programs of NASA, NOAA, and other relevant agencies;
- (3) the programs have allocated appropriate resources to each of the research objectives; and

(4) there exist suitable mechanisms for transitioning the research results into the FAA's operational technologies and procedures and certification activities.

(b) **REPORT.**—A report containing the results of the review shall be provided to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 18 months of the enactment of this Act.

**SEC. 912. REVIEW OF FAA'S AVIATION SAFETY-RELATED RESEARCH PROGRAMS.**

(a) **REVIEW.**—The Administrator shall enter into an arrangement with the National Research Council for an independent review of the FAA's aviation safety-related research programs. The review shall assess whether—

- (1) the programs have well-defined, prioritized, and appropriate research objectives;
- (2) the programs are properly coordinated with the safety research programs of NASA and other relevant Federal agencies;
- (3) the programs have allocated appropriate resources to each of the research objectives; and

(4) there exist suitable mechanisms for transitioning the research results from the programs into the FAA's operational technologies and procedures and certification activities in a timely manner.

(b) **AVIATION SAFETY-RELATED RESEARCH PROGRAMS TO BE ASSESSED.**—The FAA aviation safety-related research programs to be assessed under the review shall include, at a minimum, the following:

- (1) Air traffic control/technical operations human factors.
- (2) Runway incursion reduction.
- (3) Flightdeck/maintenance system integration human factors.
- (4) Airports technology research—safety.
- (5) Airport cooperative research program—safety.
- (6) Weather program.
- (7) Atmospheric hazards/digital system safety.
- (8) Fire research and safety.
- (9) Propulsion and fuel systems.

- (10) Advanced materials/structural safety.
- (11) Aging aircraft.
- (12) Aircraft catastrophic failure prevention research.
- (13) Aeromedical research.
- (14) Aviation safety risk analysis.
- (15) Unmanned aircraft systems research.

(c) **REPORT.**—Not later than 14 months after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the review.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated by the amendments made by this Act, there is authorized to be appropriated \$700,000 for fiscal year 2009 to carry out this section.

**SEC. 913. RESEARCH PROGRAM ON ALTERNATIVE JET FUEL TECHNOLOGY FOR CIVIL AIRCRAFT.**

(a) **ESTABLISHMENT OF RESEARCH PROGRAM.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall conduct a research program related to developing jet fuel from alternative sources (such as coal, natural gas, biomass, ethanol, butanol, and hydrogen) through grants or other measures authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) **PARTICIPATION BY EDUCATIONAL AND RESEARCH INSTITUTIONS.**—In conducting the program, the Secretary shall provide for participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology for alternative jet fuels.

(c) **DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Alternative Jet Fuel Research.

**SEC. 914. CENTER FOR EXCELLENCE IN AVIATION EMPLOYMENT.**

(a) **ESTABLISHMENT.**—The Administrator shall establish a Center for Excellence in Aviation Employment (in this section referred to as the “Center”).

(b) **APPLIED RESEARCH AND TRAINING.**—The Center shall conduct applied research and training on—

- (1) human performance in the air transportation environment;
- (2) air transportation personnel, including air traffic controllers, pilots, and technicians; and
- (3) any other aviation human resource issues pertinent to developing and maintaining a safe and efficient air transportation system.

(c) **DUTIES.**—The Center shall—

(1) in conjunction with the Collegiate Training Initiative and other air traffic controller training programs, develop, implement, and evaluate a comprehensive, best-practices based training program for air traffic controllers;

(2) work with the Office of Human Resource Management of the FAA as that office develops and implements a strategic recruitment and marketing program to help the FAA compete for the best qualified employees and incorporate an employee value proposition process that results in attracting a broad-based and diverse aviation workforce in mission critical positions, including air traffic controller, aviation safety inspector, airway transportation safety specialist, and engineer;

(3) through industry surveys and other research methodologies and in partnership

with the “Taskforce on the Future of the Aerospace Workforce” and the Secretary of Labor, establish a baseline of general aviation employment statistics for purposes of projecting and anticipating future workforce needs and demonstrating the economic impact of general aviation employment;

(4) conduct a comprehensive analysis of the airframe and powerplant technician certification process and employment trends for maintenance repair organization facilities, certificated repair stations, and general aviation maintenance organizations;

(5) establish a best practices model in aviation maintenance technician school environments; and

(6) establish a workforce retraining program to allow for transition of recently unemployed and highly skilled mechanics into aviation employment.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

**TITLE X—AIRPORT AND AIRWAY TRUST FUND FINANCING**

**SEC. 1001. SHORT TITLE.**

This title may be cited as the “Airport and Airway Trust Fund Financing Act of 2009”.

**SEC. 1002. EXTENSION AND MODIFICATION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) **RATE OF TAX ON AVIATION-GRADE KEROSENE AND AVIATION GASOLINE.**—

(1) **AVIATION-GRADE KEROSENE.**—Subparagraph (A) of section 4081(a)(2) of the Internal Revenue Code of 1986 (relating to rates of tax) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.”.

(2) **AVIATION GASOLINE.**—Clause (ii) of section 4081(a)(2)(A) of such Code is amended by striking “19.3 cents” and inserting “24.1 cents”.

(3) **FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.**—Subparagraph (C) of section 4081(a)(2) of such Code is amended to read as follows: “(C) **TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.**—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(4) **CONFORMING AMENDMENTS.**—

(A) Clause (iii) of section 4081(a)(2)(A) of such Code is amended by inserting “other than aviation-grade kerosene” after “kerosene”.

(B) The following provisions of such Code are each amended by striking “kerosene” and inserting “aviation-grade kerosene”:

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Section 4081(a)(3)(D) of such Code is amended—

(i) by striking “paragraph (2)(C)(i)” in clause (i) and inserting “paragraph (2)(C)”, and

(ii) by striking “paragraph (2)(C)(ii)” in clause (ii) and inserting “paragraph (2)(A)(iv)”.

(D) Section 4081(a)(4) of such Code is amended—

(i) by striking “paragraph (2)(C)(i)” and inserting “paragraph (2)(C)”, and

(ii) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”.

(E) Section 4081(d)(2) of such Code is amended by inserting “, (a)(2)(A)(iv),” after “subsections (a)(2)(A)(ii)”.

(b) **EXTENSION.**—

(1) **FUELS TAXES.**—Paragraph (2) of section 4081(d) of such Code is amended by striking “gallon—” and all that follows and inserting “gallon after September 30, 2012”.

(2) **TAXES ON TRANSPORTATION OF PERSONS AND PROPERTY.**—

(A) **PERSONS.**—Clause (ii) of section 4261(j)(1)(A) of such Code is amended by striking “September 30, 2009” and inserting “September 30, 2012”.

(B) **PROPERTY.**—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking “September 30, 2009” and inserting “September 30, 2012”.

(c) **EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.**—Subsection (e) of section 4082 of such Code is amended—

(1) by striking “kerosene” and inserting “aviation-grade kerosene”;

(2) by striking “section 4081(a)(2)(A)(iii)” and inserting “section 4081(a)(2)(A)(iv)”, and

(3) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”.

(d) **RETAIL TAX ON AVIATION FUEL.**—

(1) **EXEMPTION FOR PREVIOUSLY TAXED FUEL.**—Paragraph (2) of section 4041(c) of such Code is amended by inserting “at the rate specified in subsection (a)(2)(A)(iv) thereof” after “section 4081”.

(2) **RATE OF TAX.**—Paragraph (3) of section 4041(c) of such Code is amended to read as follows:

“(3) **RATE OF TAX.**—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).”.

(e) **REFUNDS RELATING TO AVIATION-GRADE KEROSENE.**—

(1) **KEROSENE USED IN COMMERCIAL AVIATION.**—Clause (ii) of section 6427(l)(4)(A) of such Code is amended by striking “specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,” and inserting “so imposed”.

(2) **KEROSENE USED IN AVIATION.**—Paragraph (4) of section 6427(l) of such Code is amended—

(A) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B), and

(B) by amending subparagraph (B), as redesignated by subparagraph (A), to read as follows:

“(B) **PAYMENTS TO ULTIMATE, REGISTERED VENDOR.**—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) **AVIATION-GRADE KEROSENE NOT USED IN AVIATION.**—Subsection (1) of section 6427 of such Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) **REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.**—If tax has been



imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.”.

(4) CONFORMING AMENDMENTS.—

(A) Section 6427(i)(4) of such Code is amended—

(i) by striking “paragraph (4)(C) or (5)” both places it appears and inserting “paragraph (4)(B) or (6)”, and

(ii) by striking “, (1)(4)(C)(ii), and (1)(5)” and inserting “and (1)(6)”.

(B) Section 6427(l)(1) of such Code is amended by striking “paragraph (4)(C)(i)” and inserting “paragraph (4)(B)(i)”.

(C) Section 4082(d)(2)(B) of such Code is amended by striking “6427(l)(5)(B)” and inserting “6427(l)(6)(B)”.

(f) AIRPORT AND AIRWAY TRUST FUND.—

(1) EXTENSION OF TRUST FUND AUTHORITIES.—

(A) EXPENDITURES FROM TRUST FUND.—Paragraph (1) of section 9502(d) of such Code is amended—

(i) by striking “October 1, 2009” in the matter preceding subparagraph (A) and inserting “October 1, 2012”, and

(ii) by inserting “or the FAA Reauthorization Act of 2009” before the semicolon at the end of subparagraph (A).

(B) LIMITATION ON TRANSFERS TO TRUST FUND.—Paragraph (2) of section 9502(e) of such Code is amended by striking “October 1, 2009” and inserting “October 1, 2012”.

(2) TRANSFERS TO TRUST FUND.—Subparagraph (C) of section 9502(b)(1) of such Code is amended to read as follows:

“(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(3) TRANSFERS ON ACCOUNT OF CERTAIN REVENUES.—

(A) IN GENERAL.—Subsection (d) of section 9502 of such Code is amended—

(i) by striking “(other than subsection (1)(4) thereof)” in paragraph (2), and

(ii) by striking “(other than payments made by reason of paragraph (4) of section 6427(1))” in paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Section 9503(b)(4) of such Code is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following:

“(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

“(F) section 4041(c).”.

(ii) Section 9503(c) of such Code is amended by striking the last paragraph (relating to transfers from the Trust Fund for certain aviation fuel taxes).

(iii) Section 9502(a) of such Code is amended by striking “, section 9503(c)(7).”.

(4) TRANSFERS ON ACCOUNT OF AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Section 9502(d) of such Code is amended by adding at the end the following new paragraph:

“(7) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the Highway Trust Fund amounts as determined by the Secretary of the Treasury equivalent to amounts transferred to the Airport and Airway Trust Fund with respect to aviation-grade kerosene not used in aviation.”.

(5) EXPENDITURES FOR AIR TRAFFIC CONTROL MODERNIZATION.—Section 9502(d) of such Code, as amended by this title, is amended by adding at the end the following new paragraph:

“(8) EXPENDITURES FOR AIR TRAFFIC CONTROL MODERNIZATION.—The following amounts may be used only for making expenditures to carry out air traffic control modernization:

“(A) So much of the amounts appropriated under subsection (b)(1)(C) as the Secretary estimates are attributable to—

“(i) 14.1 cents per gallon of the tax imposed at the rate specified in section 4081(a)(2)(A)(iv) in the case of aviation-grade kerosene used other than in commercial aviation (as defined in section 4083(b)), and

“(ii) 4.8 cents per gallon of the tax imposed at the rate specified in section 4081(a)(2)(A)(ii) in the case of aviation gasoline used other than in commercial aviation (as so defined).

“(B) Any amounts credited to the Airport and Airway Trust Fund under section 9602(b) with respect to amounts described in this paragraph.”.

(g) EFFECTIVE DATE.—

(1) MODIFICATIONS.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels removed, entered, or sold after December 31, 2009.

(2) EXTENSIONS.—The amendments made by subsections (b) and (f)(1) shall take effect on the date of the enactment of this Act.

(h) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel which is held on January 1, 2010, by any person, there is hereby imposed a floor stocks tax on aviation fuel equal to—

(A) the tax which would have been imposed before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the sum of—

(i) the tax imposed before such date on such fuel under section 4081 of the Internal Revenue Code of 1986, as in effect on such date, and

(ii) in the case of kerosene held exclusively for such person's own use, the amount which such person would (but for this clause) reasonably expect (as of such date) to be paid as a refund under section 6427(1) of such Code with respect to such kerosene.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on January 1, 2010, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid on April 30, 2010, and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by the provision of section 4081 of the Internal Revenue Code of 1986 which applies with respect to the aviation fuel involved.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION FUEL.—The term “aviation fuel” means aviation-grade kerosene and aviation gasoline, as such terms are used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation fuel shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary's delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation fuel held on January 1, 2010, by any person if the aggregate amount of such aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account any aviation fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (6).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code on the aviation fuel involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

The CHAIR. No further amendment to the bill, as amended, is in order except those printed in part C of the report. Each further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The Acting CHAIR (Mr. JACKSON of Illinois). It is now in order to consider amendment No. 1 printed in part C of House Report 111-126.

Mr. OBERSTAR. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OBERSTAR:



Page 6, strike line 18.  
 Page 6, line 19, strike “(2)” and insert “(1)”.  
 Page 6, line 20, strike “(3)” and insert “(2)”.  
 Page 6, line 21, strike “(4)” and insert “(3)”.  
 Page 7, line 7, strike “2009” and insert “2010”.  
 Page 7, line 12, strike “2009” and insert “2010”.  
 Page 7, line 16, strike “March 31” and insert “September 30”.  
 Page 7, after line 17, insert the following:  
 (d) RESCISSION OF UNOBLIGATED BALANCES.—Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, for fiscal year 2009, \$305,500,000 are hereby rescinded. Of the unobligated balances from funds available under such sections for fiscal years prior to fiscal year 2009, \$102,000,000 are hereby rescinded.  
 Page 7, strike line 22.  
 Page 7, line 23, strike “(2)” and insert “(1)”.  
 Page 7, line 24, strike “(3)” and insert “(2)”.  
 Page 7, line 25, strike “(4)” and insert “(3)”.  
 Page 8, line 6, strike “2009” and insert “2010”.  
 Page 8, line 12, strike “2009” and insert “2010”.  
 Page 9, line 9, strike “2009” and insert “2010”.  
 Page 9, line 13, strike “\$10,000,000 for fiscal year 2009.”.  
 Page 9, lines 19 and 20, strike “\$50,000,000 for fiscal year 2009.”.  
 Page 10, line 1, strike “\$41,400,000 for fiscal year 2009.”.  
 Page 10, lines 6 and 7, strike “\$28,000,000 for fiscal year 2009.”.  
 Page 10, line 13, strike “\$76,000,000 for fiscal year 2009.”.  
 Page 10, lines 18 and 19, strike “\$21,900,000 for fiscal year 2009.”.  
 Page 11, strike line 6.  
 Page 11, line 7, strike “(B)” and insert “(A)”.  
 Page 11, line 8, strike “(C)” and insert “(B)”.  
 Page 11, line 10, strike “(D)” and insert “(C)”.  
 Page 11, line 17, strike “2009” and insert “2010”.  
 Page 12, line 6, strike “2009” and insert “2010”.  
 Page 12, line 15, strike “2009.”.  
 Page 13, strike line 3 and all that follows through line 19 on page 14.  
 Page 14, line 20, strike “(14)” and insert “(13)”.  
 Page 16, line 12, strike “(15)” and insert “(14)”.  
 Page 18, line 6, strike “(16)” and insert “(15)”.  
 Page 20, lines 10 and 11, strike “in each of fiscal years 2009 and 2010,” and insert “in fiscal year 2010.”.  
 Page 27, after line 4, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:  
**SEC. 115. PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISES IN CONTRACTS, SUBCONTRACTS, AND BUSINESS OPPORTUNITIES FUNDED USING PASSENGER FACILITY REVENUES AND IN AIRPORT CONCESSIONS.**  
 Section 40117 (as amended by this Act) is further amended by adding at the end the following:

“(o) PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES.—

“(1) APPLICABILITY OF REQUIREMENTS.—Except to the extent otherwise provided by the Secretary, requirements relating to disadvantaged business enterprises, as set forth in parts 23 and 26 of title 49, Code of Federal Regulations (or a successor regulation), shall apply to an airport collecting passenger facility revenue.

“(2) REGULATIONS.—The Secretary shall issue any regulations necessary to implement this subsection, including—

“(A) goal setting requirements for an eligible agency to ensure that contracts, subcontracts, and business opportunities funded using passenger facility revenues, and airport concessions, are awarded consistent with the levels of participation of disadvantaged business enterprises and airport concessions disadvantaged business enterprises that would be expected in the absence of discrimination;

“(B) provision for an assurance that requires that an eligible agency will not discriminate on the basis of race, color, national origin, or sex in the award and performance of any contract funded using passenger facility revenues; and

“(C) a requirement that an eligible agency will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts funded using passenger facility revenues.

“(3) EFFECTIVE DATE.—Paragraph (1) shall take effect on the day following the date on which the Secretary issues final regulations under paragraph (2).

“(4) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE.—The term ‘airport concessions disadvantaged business enterprise’ has the meaning given that term in part 23 of title 49, Code of Federal Regulations (or a successor regulation).

“(B) DISADVANTAGED BUSINESS ENTERPRISE.—The term ‘disadvantaged business enterprise’ has the meaning given that term in part 26 of title 49, Code of Federal Regulations (or a successor regulation).”.

Page 30, line 13, strike “May 1, 2009” and insert “September 1, 2009”.

Page 42, strike line 9 and all that follows through line 5 on page 44 (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

Page 44, line 15, strike “1632” and insert “632”.

Page 44, strike line 17 and all that follows through line 14 on page 45 and insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 138. AIRPORT DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.**

(a) PURPOSE.—It is the purpose of the airport disadvantaged business program to ensure that minority- and women-owned businesses have a full and fair opportunity to compete in federally assisted airport contracts and concessions and to ensure that the Federal Government does not subsidize discrimination in private or locally funded airport-related industries.

(b) FINDINGS.—Congress finds the following:

(1) While significant progress has occurred due to the enactment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination con-

tinues to be a significant barrier for minority- and women-owned businesses seeking to do business in airport-related markets. This continuing discrimination merits the continuation of the airport disadvantaged business enterprise program.

(2) Discrimination poses serious barriers to the full participation in airport-related businesses of women business owners and minority business owners, including African Americans, Hispanic Americans, Asian Americans, and Native Americans.

(3) Discrimination impacts minority and women business owners in every geographic region of the United States and in every airport-related industry.

(4) Discrimination has impacted many aspects of airport-related business, including—

(A) the availability of venture capital and credit;

(B) the availability of bonding and insurance;

(C) the ability to obtain licensing and certification;

(D) public and private bidding and quoting procedures;

(E) the pricing of supplies and services;

(F) business training, education, and apprenticeship programs; and

(G) professional support organizations and informal networks through which business opportunities are often established.

(5) Congress has received voluminous evidence of discrimination against minority and women business owners in airport-related industries, including—

(A) statistical analyses demonstrating significant disparities in the utilization of minority- and women-owned businesses in federally and locally funded airport related contracting;

(B) statistical analyses of private sector disparities in business success by minority- and women-owned businesses in airport related industries;

(C) research compiling anecdotal reports of discrimination by individual minority and women business owners;

(D) individual reports of discrimination by minority and women business owners and the organizations and individuals who represent minority and women business owners;

(E) analyses demonstrating significant reductions in the participation of minority and women businesses in jurisdictions that have reduced or eliminated their minority- and women-owned business programs;

(F) statistical analyses showing significant disparities in the credit available to minority- and women-owned businesses;

(G) research and statistical analyses demonstrating how discrimination negatively impacts firm formation, growth, and success;

(H) experience of airports and other localities demonstrating that race- and gender-neutral efforts alone are insufficient to remedy discrimination; and

(I) other qualitative and quantitative evidence of discrimination against minority- and women-owned businesses in airport-related industries.

(6) All of this evidence provides a strong basis for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program.

(7) Congress has received and reviewed recent comprehensive and compelling evidence of discrimination from many different sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits.

(c) DISADVANTAGED BUSINESS ENTERPRISE PERSONAL NET WORTH CAP; BONDING REQUIREMENTS.—Section 47113 is amended by adding at the end the following:

“(e) PERSONAL NET WORTH CAP.—

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall issue final regulations to adjust the personal net worth cap used in determining whether an individual is economically disadvantaged for purposes of qualifying under the definition contained in subsection (a)(2) and under section 47107(e). The regulations shall correct for the impact of inflation since the Small Business Administration established the personal net worth cap at \$750,000 in 1989.

“(2) ANNUAL ADJUSTMENT.—Following the initial adjustment under paragraph (1), the Secretary shall adjust, on June 30 of each year thereafter, the personal net worth cap to account for changes, occurring in the preceding 12-month period, in the Consumer Price Index of All Urban Consumers (United States city average, all items) published by the Secretary of Labor.

“(f) EXCLUSION OF RETIREMENT BENEFITS.—

“(1) IN GENERAL.—In calculating a business owner's personal net worth, any funds held in a qualified retirement account owned by the business owner shall be excluded, subject to regulations to be issued by the Secretary.

“(2) REGULATIONS.—Not later than one year after the date of enactment of this subsection, the Secretary shall issue final regulations to implement paragraph (1), including consideration of appropriate safeguards, such as a limit on the amount of such accounts, to prevent circumvention of personal net worth requirements.

“(g) PROHIBITION ON EXCESSIVE OR DISCRIMINATORY BONDING REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall establish a program to eliminate barriers to small business participation in airport-related contracts and concessions by prohibiting excessive, unreasonable, or discriminatory bonding requirements for any project funded under this chapter or using passenger facility revenues under section 40117.

“(2) REGULATIONS.—Not later than one year after the date of enactment of this subsection, the Secretary shall issue a final rule to establish the program under paragraph (1).”

Page 45, after line 14, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 139. TRAINING PROGRAM FOR CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISES.**

(a) MANDATORY TRAINING PROGRAM.—Section 47113 (as amended by this Act) is further amended—

(1) in subsection (b) by striking “Secretary” and inserting “Secretary of Transportation”; and

(2) by adding at the end the following:

“(h) MANDATORY TRAINING PROGRAM.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

“(2) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

“(3) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

“(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) or section 47107(e)(1); or

“(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section or section 47107(e).

“(4) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts appropriated under section 106(k), not less than \$2,000,000 for each of fiscal years 2010, 2011, and 2012 shall be used to carry out this subsection and to support other programs and activities of the Secretary related to the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals in airport related contracts or concessions.”

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and other appropriate committees of Congress a report on the results of the training program conducted under the amendment made by subsection (b).

Page 47, line 23 through page 48, line 1, strike “fiscal years 2004 through 2008, and for the portion of fiscal year 2009 ending before April 1, 2009,” and insert “fiscal years 2004 through 2009.”

Page 48, line 1, strike “inserting,” and insert “inserting”.

Page 48, line 2, strike “2008” and insert “2010”.

Page 53, line 6, strike “March 31” and insert “September 30”.

Page 53, lines 15 through 17, strike “for fiscal years ending before October 1, 2008, and for the portion of fiscal year 2009 ending before April 1, 2009,” and insert “October 1, 2009.”

Page 76, line 12, strike “and” at the end.

Page 76, after line 12, insert the following:

(C) a description of possible options for expanding surveillance coverage beyond the ground stations currently under contract, including enhanced ground signal coverage at airports; and

Page 76, line 13, strike “(C)” and insert “(D)”.

Page 88, line 11, strike “2009” and insert “2010”.

Page 94, line 22, strike “2009” and insert “2010”.

Page 96, line 7, strike “2009” and insert “2010”.

Page 96, line 13, strike “\$14,500,000 for fiscal year 2009 and”.

Page 96, line 19, strike “2009.”

Page 99, line 16, insert “(a) IN GENERAL.—” before “Not later than”.

Page 99, line 25, strike “and” at the end.

Page 100, line 9, strike the first period and all that follows through the final period and insert “; and”.

Page 100, after line 9, insert the following:

“(3) continue to hold discussions with countries that have foreign repair stations that perform work on air carrier aircraft and components to ensure harmonization of the safety standards of such countries with those of the United States, including standards governing maintenance requirements, education and licensing of maintenance per-

sonnel, training, oversight, and mutual inspection of work sites.

“(b) REGULATORY AUTHORITY WITH RESPECT TO CERTAIN FOREIGN REPAIR STATIONS.—With respect to repair stations that are located in countries that are party to the agreement entitled “Agreement between the United States of America and the European Community on Cooperation in the Regulation of Civil Aviation Safety”, dated June 30, 2008, the requirements of subsection (a) are an exercise of the rights of the United States under paragraph A of Article 15 of the Agreement, which provides that nothing in the Agreement shall be construed to limit the authority of a party to determine through its legislative, regulatory, and administrative measures, the level of protection it considers appropriate for civil aviation safety.”

Page 115, after line 7, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 312. SAFETY OF HELICOPTER AIR AMBULANCE OPERATIONS.**

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

**“§ 44732. Helicopter air ambulance operations**

“(a) RULEMAKING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to improve the safety of flight crewmembers, medical personnel, and passengers onboard helicopters providing helicopter air ambulance services under part 135 of title 14, Code of Federal Regulations.

“(b) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall address the following:

“(1) Flight request and dispatch procedures, including performance-based flight dispatch procedures.

“(2) Pilot training standards, including—

“(A) mandatory training requirements, including a minimum time for completing the training requirements;

“(B) training subject areas, such as communications procedures and appropriate technology use;

“(C) establishment of training standards in—

“(i) crew resource management;

“(ii) flight risk evaluation;

“(iii) preventing controlled flight into terrain;

“(iv) recovery from inadvertent flight into instrument meteorological conditions;

“(v) operational control of the pilot in command; and

“(vi) use of flight simulation training devices and line oriented flight training.

“(3) Safety-enhancing technology and equipment, including—

“(A) helicopter terrain awareness and warning systems;

“(B) radar altimeters;

“(C) devices that perform the function of flight data recorders and cockpit voice recorders, to the extent feasible; and

“(D) safety equipment that should be worn or used by flight crewmembers and medical personnel on a flight, including the possible use of shoulder harnesses, helmets, seatbelts, and fire resistant clothing to enhance crash survivability.

“(4) Such other matters as the Administrator considers appropriate.

“(c) MINIMUM REQUIREMENTS.—In issuing a final rule under subsection (a), the Administrator, at a minimum, shall provide for the following:

“(1) FLIGHT RISK EVALUATION PROGRAM.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services—

“(A) establishes a flight risk evaluation program, based on FAA Notice 8000.301 issued by the Administration on August 1, 2005, including any updates thereto;

“(B) as part of the flight risk evaluation program, develops a checklist for use by pilots in determining whether a flight request should be accepted; and

“(C) requires the pilots of the certificate holder to use the checklist.

“(2) OPERATIONAL CONTROL CENTER.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services using 10 or more helicopters has an operational control center that meets such requirements as the Administrator may prescribe.

“(3) COMPLIANCE.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services complies with applicable regulations under part 135 of title 14, Code of Federal Regulations, including regulations on weather minima and flight and duty time whenever medical personnel are onboard the aircraft.

“(d) DEADLINES.—The Administrator shall—

“(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking under subsection (a); and

“(2) not later than 16 months after the close of the comment period on the proposed rule, issue a final rule.

“(e) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term ‘part 135 certificate holder’ means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.

**“§ 44733. Collection of data on helicopter air ambulance operations**

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, not later than one year after the date of enactment of this section, and annually thereafter, a report containing, at a minimum, the following data:

“(1) The number of helicopters that the certificate holder uses to provide helicopter air ambulance services and the base locations of the helicopters.

“(2) The number of flights and hours flown, by registration number, during which helicopters operated by the certificate holder were providing helicopter air ambulance services.

“(3) The number of flight requests for a helicopter providing helicopter air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, inter-facility transport, organ transport, or ferry or repositioning flight).

“(4) The number of accidents involving helicopters operated by the certificate holder while providing helicopter air ambulance services and a description of the accidents.

“(5) The number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing helicopter air ambulance services.

“(6) The time of day of each flight flown by helicopters operated by the certificate holder while providing helicopter air ambulance services.

“(b) REPORTING PERIOD.—Data contained in a report submitted by a part 135 certificate

holder under subsection (a) shall relate to such reporting period as the Administrator determines appropriate.

“(c) DATABASE.—Not later than 6 months after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section.

“(d) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this section, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a).

“(e) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term ‘part 135 certificate holder’ means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

“Sec. 44732. Helicopter air ambulance operations.

“Sec. 44733. Collection of data on helicopter air ambulance operations.”.

**SEC. 313. FEASIBILITY OF REQUIRING HELICOPTER PILOTS TO USE NIGHT VISION GOGGLES.**

(a) STUDY.—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of requiring pilots of helicopters providing helicopter air ambulance services under part 135 of title 14, Code of Federal Regulations, to use night vision goggles during nighttime operations.

(b) CONSIDERATIONS.—In conducting the study, the Administrator shall consult with owners and operators of helicopters providing helicopter air ambulance services under such part 135 and aviation safety professionals to determine the benefits, financial considerations, and risks associated with requiring the use of night vision goggles.

(c) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 314. STUDY OF HELICOPTER AND FIXED WING AIR AMBULANCE SERVICES.**

(a) IN GENERAL.—The Comptroller General shall conduct a study of the helicopter and fixed-wing air ambulance industry. The study shall include information, analysis, and recommendations pertinent to ensuring a safe air ambulance industry.

(b) REQUIRED INFORMATION.—In conducting the study, the Comptroller General shall obtain detailed information on the following aspects of the air ambulance industry:

(1) A review of the industry, for part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) a listing of the number, size, and location of helicopter and fixed-wing aircraft and their flight bases;

(B) affiliations of certificate holders and indirect carriers with hospitals, governments, and other entities;

(C) coordination of air ambulance services, with each other, State and local emergency

medical services systems, referring entities, and receiving hospitals;

(D) nature of services contracts, sources of payment, financial relationships between certificate holders and indirect carriers providing air ambulance services and referring entities, and costs of operations; and

(E) a survey of business models for air ambulance operations, including expenses, structure, and sources of income.

(2) Air ambulance request and dispatch practices, including the various types of protocols, models, training, certifications, and air medical communications centers relating to part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) the practices that emergency and medical officials use to request an air ambulance;

(B) information on whether economic or other nonmedical factors lead to air ambulance transport when it is not medically needed, appropriate, or safe; and

(C) the cause, occurrence, and extent of delays in air ambulance transport.

(3) Economic and medical issues relating to the air ambulance industry, including—

(A) licensing;

(B) certificates of need;

(C) public convenience and necessity requirements;

(D) assignment of geographic coverage areas;

(E) accreditation requirements;

(F) compliance with dispatch procedures; and

(G) requirements for medical equipment and personnel onboard the aircraft.

(4) Such other matters as the Comptroller General considers relevant to the purpose of the study.

(c) ANALYSIS AND RECOMMENDATIONS.—Based on information obtained under subsection (b) and other information the Comptroller General considers appropriate, the report shall also include an analysis and specific recommendations, as appropriate, related to—

(1) the relationship between State regulation and Federal preemption of rates, routes, and services of air ambulances;

(2) the extent to which Federal law may impact existing State regulation of air ambulances and the potential effect of greater State regulation—

(A) in the air ambulance industry, on the economic viability of air ambulance services, the availability and coordination of service, and costs of operations both in rural and highly populated areas;

(B) on the quality of patient care and outcomes; and

(C) on competition and safety; and

(3) whether systemic or other problems exist on a statewide, regional, or national basis with the current system governing air ambulances.

(d) REPORT.—Not later than June 1, 2010, the Comptroller General shall submit to the Secretary of Transportation and the appropriate committees of Congress a report containing its findings and recommendations regarding the study under this section.

(e) ADOPTION OF RECOMMENDED POLICY CHANGES.—Not later than 60 days after the date of receipt of the report under subsection (d), the Secretary shall issue a report to the appropriate committees of Congress, that—

(1) specifies which, if any, policy changes recommended by the Comptroller General and any other policy changes with respect to air ambulances the Secretary will adopt and implement; and

(2) includes recommendations for legislative change, if appropriate.

(f) **PART 135 CERTIFICATE HOLDER DEFINED.**—In this section, the term “part 135 certificate holder” means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.

Page 121, strike line 2 and all that follows through line 15 on page 125 and insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 331. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.**

Section 106 is amended by adding at the end the following:

“(s) **AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.**—

“(1) **ESTABLISHMENT.**—There is established in the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the ‘Office’).

“(2) **DIRECTOR.**—

“(A) **APPOINTMENT.**—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

“(B) **REPORTS AND RECOMMENDATIONS TO SECRETARY.**—The Director shall provide regular reports to the Secretary of Transportation. The Director may recommend that the Secretary take any action necessary for the Office to carry out its functions, including protection of complainants and witnesses.

“(C) **QUALIFICATIONS.**—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

“(D) **TERM.**—The Director shall be appointed for a term of 5 years.

“(E) **VACANCY.**—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual’s predecessor was appointed shall be appointed for the remainder of that term.

“(3) **COMPLAINTS AND INVESTIGATIONS.**—

“(A) **AUTHORITY OF DIRECTOR.**—The Director shall—

“(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety;

“(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred; and

“(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Secretary and Administrator in writing for—

“(I) further investigation by the Office, the Inspector General of the Department of Transportation, or other appropriate investigative body; or

“(II) corrective actions.

“(B) **DISCLOSURE OF IDENTITIES.**—The Director shall not disclose the identity or identifying information of an individual who submits a complaint or information under subparagraph (A)(i) unless—

“(i) the individual consents to the disclosure in writing; or

“(ii) the Director determines, in the course of an investigation, that the disclosure is unavoidable, in which case the Director shall provide the individual with reasonable advance notice.

“(C) **INDEPENDENCE OF DIRECTOR.**—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted under subparagraph (A)(i) or from reporting to Congress on any such assessment.

“(D) **ACCESS TO INFORMATION.**—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to, and can order the retention of, all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred. The Director may order sworn testimony from appropriate witnesses during the course of an investigation.

“(E) **PROCEDURE.**—The Office shall establish procedures equivalent to sections 1213(d) and 1213(e) of title 5 for investigation, report, employee comment, and evaluation by the Secretary for any investigation conducted pursuant to paragraph (3)(A).

“(4) **RESPONSES TO RECOMMENDATIONS.**—The Administrator shall—

“(A) respond within 60 days to a recommendation made by the Director under paragraph (3)(A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation, in accordance with established record retention requirements; and

“(B) ensure that the findings of all referrals for further investigation or corrective actions taken are reported to the Director.

“(5) **INCIDENT REPORTS.**—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Secretary, the Administrator, and the Inspector General of the Department of Transportation.

“(6) **REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.**—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

“(7) **RETALIATION AGAINST AGENCY EMPLOYEES.**—Any retaliatory action taken or threatened against an employee of the Agency for good faith participation in activities under this subsection is prohibited. The Director shall make all policy recommendations and specific requests to the Secretary for relief necessary to protect employees of the Agency who initiate or participate in investigations under this subsection. The Secretary shall respond in a timely manner and shall share the responses with the appropriate committees of Congress.

“(8) **DISCIPLINARY ACTIONS.**—The Secretary shall exercise the Secretary’s authority under section 2302 of title 5 for the prevention of prohibited personnel actions in any case in which the prohibited personnel action is taken against an employee of the Agency who, in good faith, has reported the possible existence of an activity relating to

a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety. In exercising such authority, the Secretary may subject an employee of the Agency who has taken or failed to take, or threatened to take or fail to take, a personnel action in violation of such section to a disciplinary action up to and including termination.

“(9) **ANNUAL REPORTS TO CONGRESS.**—Not later than October 1 of each year, the Director shall submit to Congress a public report containing—

“(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

“(B) summaries of those submissions;

“(C) summaries of further investigations, corrective actions recommended, and referrals in response to the submissions; and

“(D) summaries of the responses of the Administrator to such recommendations; and

“(E) an evaluation of personnel and resources necessary to effectively support the mandate of the Office.”

Page 130, line 17, after “Agency” insert “, including at least one employee selected by the exclusive bargaining representative for aviation safety inspectors.”

Page 132, line 21, strike “GAO” and insert “INSPECTOR GENERAL”.

Page 132, line 22, strike “Comptroller General” and insert “Inspector General of the Department of Transportation”.

Page 133, line 2, strike “Comptroller General” and insert “Inspector General”.

Page 134, lines 6 and 7, strike “Comptroller General” and insert “Inspector General”.

Page 134, after line 13, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 401. SMOKING PROHIBITION.**

(a) **IN GENERAL.**—Section 41706 is amended—

(1) in the section heading by striking “**SCHEDULED**” and inserting “**PASSENGER**”; and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) **SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE TRANSPORTATION BY AIRCRAFT.**—An individual may not smoke in an aircraft—

“(1) in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation; and

“(2) in nonscheduled intrastate or interstate transportation of passengers by aircraft for compensation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

“(b) **SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.**—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in an aircraft—

“(1) in scheduled passenger foreign air transportation; and

“(2) in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).”

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 417 is amended by striking the item relating to section 41706 and inserting the following:

“41706. Prohibitions against smoking on flights.”

Page 147, line 3, strike “Secretary” and insert “Secretary of Transportation”.

Page 148, lines 19 and 20, strike “April 1, 2009” and insert “October 1, 2009”.

Page 150, strike lines 1 through 10 and insert the following:

(1) Section 47124(b)(3)(E) is amended to read as follows:

“(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not more than \$9,500,000 for fiscal year 2010, \$10,000,000 for fiscal year 2011, and \$10,000,000 for fiscal year 2012 may be used to carry out this paragraph.”.

Page 174, after line 4, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 426. MUSICAL INSTRUMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 (as amended by this Act) is further amended by adding at the end the following:

##### “§ 41725. Musical instruments

“(a) IN GENERAL.—

“(1) INSTRUMENTS IN THE PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument in the aircraft passenger compartment in a closet, baggage, or cargo stowage compartment approved by the Administrator without charge if—

“(A) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator of the Federal Aviation Administration; and

“(B) there is space for such stowage on the aircraft.

“(2) LARGE INSTRUMENTS IN THE PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument in the aircraft passenger compartment that is too large to be secured in a closet, baggage, or cargo stowage compartment approved by the Administrator, if—

“(A) the instrument can be stowed in a seat, in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator for such stowage; and

“(B) the passenger wishing to carry the instrument in the aircraft cabin has purchased a seat to accommodate the instrument.

“(3) INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier shall transport as baggage a musical instrument that is the property of a passenger on a flight and that may not be carried in the aircraft passenger compartment if—

“(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches and the size restrictions for that aircraft; and

“(B) the weight of the instrument does not exceed 165 pounds and the weight restrictions for that aircraft; and

“(C) the instrument can be stowed in accordance with the requirements for carriage of baggage or cargo set forth by the Administrator for such stowage.

“(4) AIR CARRIER TERMS.—Nothing in this section shall be construed as prohibiting an air carrier from limiting its liability for carrying a musical instrument or requiring a passenger to purchase insurance to cover the value of a musical instrument transported by the air carrier.

“(b) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to implement subsection (a).”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“41725. Musical instruments.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

Page 183, after line 21, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 505. SOUNDPROOFING OF RESIDENCES.

(a) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—Section 47504(c)(2)(D) is amended to read as follows:

“(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) to soundproof—

“(i) a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise; and

“(ii) residential buildings located on residential properties in the noise impact area surrounding the airport that the Secretary decides is adversely affected by airport noise, if—

“(I) the residential properties are within airport noise contours prepared by the airport owner or operator using the Secretary’s methodology and guidance, and the noise contours have been found acceptable by the Secretary;

“(II) the residential properties cannot be removed from airport noise contours for at least a 5-year period by changes in airport configuration or flight procedures;

“(III) the land use jurisdiction has taken, or will take, appropriate action, including the adoption of zoning laws, to the extent reasonable to restrict the use of land to uses that are compatible with normal airport operations; and

“(IV) the Secretary determines that the project is compatible with the purposes of this chapter; and”

(b) REQUIREMENTS APPLICABLE TO CERTAIN GRANTS.—Section 44705 (as amended by this Act) is further amended by adding at the end the following:

“(f) REQUIREMENTS APPLICABLE TO CERTAIN GRANTS.—

“(1) ESTABLISHMENT OF CRITERIA.—Before awarding a grant under subsection (c)(2)(D), the Secretary shall establish criteria to determine which residences in the 65 DNL area suffer the greatest noise impact.

“(2) ANALYSIS FROM COMPTROLLER GENERAL.—Prior to making a final decision on the criteria required by paragraph (1), the Secretary shall develop proposed criteria and obtain an analysis from the Comptroller General as to the reasonableness and validity of the criteria.

“(3) PRIORITY.—If the Secretary determines that the grants likely to be awarded under subsection (c)(2)(D) in fiscal years 2010 through 2012 will not be sufficient to soundproof all residences in the 65 DNL area, the Secretary shall first award grants to soundproof those residences suffering the greatest noise impact under the criteria established under paragraph (1).”.

Page 186, strike line 6.

Page 186, line 7, strike “(2)” and insert “(1)”.

Page 186, line 8, strike “(3)” and insert “(2)”.

Page 186, line 9, strike “(4)” and insert “(3)”.

Page 196, strike line 23 and all that follows through line 6 on page 197 and insert the following (with the correct sequential provision designations [replacing the numbers cur-

rently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 511. CABIN AIR QUALITY TECHNOLOGY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate research and development work on effective air cleaning and sensor technology for the engine and auxiliary power unit for bleed air supplied to the passenger cabin and flight deck of a pressurized aircraft.

(b) TECHNOLOGY REQUIREMENTS.—The technology should, at a minimum, be capable of—

(1) removing oil-based contaminants from the bleed air supplied to the passenger cabin and flight deck; and

(2) detecting and recording oil-based contaminants in the bleed air fraction of the total air supplied to the passenger cabin and flight deck.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the research and development work carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

Page 197, line 9, strike “proposed”.

Page 198, after line 25, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 515. AVIATION NOISE COMPLAINTS.

(a) TELEPHONE NUMBER POSTING.—Not later than 3 months after the date of enactment of this Act, each owner or operator of a large hub airport (as defined in section 40102(a) of title 49, United States Code) shall publish on an Internet Web site of the airport a telephone number to receive aviation noise complaints related to the airport.

(b) SUMMARIES AND REPORTS.—Not later than one year after the last day of the 3-month period referred to in subsection (a), and annually thereafter, an owner or operator that receives one or more noise complaints under subsection (a) shall submit to the Administrator of the Federal Aviation Administration a report regarding the number of complaints received and a summary regarding the nature of such complaints. The Administrator shall make such information available to the public by print and electronic means.

Page 206, after line 6, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 602. MERIT SYSTEM PRINCIPLES AND PROHIBITED PERSONNEL PRACTICES.

Section 40122(g)(2)(A) is amended to read as follows:

“(A) sections 2301 and 2302, relating to merit system principles and prohibited personnel practices, including the provisions for investigation and enforcement as provided in chapter 12 of title 5;”.

Page 207, strike line 21 and all that follows through line 3 on page 208 (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

Page 223, line 24, strike “March 31” and insert “September 30”.

Page 224, line 1, strike “May 31” and insert “December 31”.

Page 225, line 16, strike “May 31” and insert “December 31”.

Page 236, strike lines 19 and 20 and insert the following:

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) FAA.—The term “FAA” means the Federal Aviation Administration.

(2) REALIGNMENT; CONSOLIDATION.—

(A) IN GENERAL.—The terms “realignment” and “consolidation” include any action that—

(i) relocates functions, services, or personnel positions;

(ii) severs existing facility functions or services; or

(iii) any combination thereof.

(B) EXCLUSION.—The term does not include a reduction in personnel resulting from workload adjustments.

Page 243, lines 15 and 16, strike “flight crew members” and insert “pilots and flight attendants”.

Page 243, line 22, strike “2009” and insert “2010”.

Page 254, line 1, strike “temperature” and insert “temperature and humidity” (and conform the table of contents accordingly).

Page 254, line 8, insert “and humidity” before “onboard”.

Page 254, lines 13 and 14, strike “temperatures” and insert “temperature and humidity”.

Page 254, line 19, strike “temperature” and insert “temperature and humidity”.

Page 254, line 20, strike “temperature” and insert “temperature and humidity”.

Page 254, line 23, strike “temperature” and insert “temperature and humidity”.

Page 259, after line 22, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 826. ST. GEORGE, UTAH.

(a) IN GENERAL.—Notwithstanding section 16 of the Federal Airport Act (as in effect on August 28, 1973) or sections 47125 and 47153 of title 49, United States Code, the Secretary of Transportation is authorized, subject to subsection (b), to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated August 28, 1973, under which the United States conveyed certain property to the city of St. George, Utah, for airport purposes.

(b) CONDITION.—Any release granted by the Secretary under the subsection (a) shall be subject to the following conditions:

(1) The city of St. George shall agree that in conveying any interest in the property that the United States conveyed to the city by deed dated August 28, 1973, the city will receive an amount for such interest that is equal to the fair market value.

(2) Any such amount so received by the city of St. George shall be used by the city for the development, improvement, operation, or maintenance of a replacement public airport.

#### SEC. 827. REPLACEMENT OF TERMINAL RADAR APPROACH CONTROL AT PALM BEACH INTERNATIONAL AIRPORT.

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to ensure that any air traffic control tower or facility placed into operation at Palm Beach International Airport after September 30, 2009, to replace an air traffic control tower or facility placed into operation before September 30, 2009, includes an operating terminal radar approach control.

#### SEC. 828. SANTA MONICA AIRPORT, CALIFORNIA.

It is the sense of Congress that the Administrator of the Federal Aviation Administra-

tion should enter into good faith discussions with the city of Santa Monica, California, to achieve runway safety area solutions consistent with Federal Aviation Administration design guidelines to address safety concerns at Santa Monica Airport.

Page 261, line 24, strike “2009” and insert “2010”.

Page 266, line 19, strike “2009” and insert “2010”.

Page 267, line 18, strike “2009” and insert “2010”.

Page 270, line 14, strike “2009” and insert “2010”.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Thank you, Mr. Chairman.

Because the fiscal year 2009 Omnibus Appropriations Act was already enacted in March, P.L. 111–8, this amendment strikes the 2009 funding authorization in the base bill. Therefore, with adoption of the manager’s amendment, total funding provided for Federal Aviation Administration programs in H.R. 915 is approximately \$53.5 billion, including \$12.3 billion for the airport improvement program, \$10.1 billion for facilities and equipment, \$794 million for research and development, and \$30.3 billion for operations.

The manager’s amendment also addresses safety, the Airport Disadvantaged Business Enterprise System, and noise.

On the safety provision, it includes a requirement that FAA initiate a rulemaking to improve the safety of flight crew members, of medical personnel, passengers, and helicopters providing air ambulance services. The FAA must issue a final rule on these issues within 16 months after date of enactment of the act.

The manager’s amendment requires the Comptroller General to study helicopter and fixed-wing air ambulance service, including the state of the industry to request and dispatch practices and economic and medical issues and report back to the Committee on Transportation and Infrastructure within 1 year.

DOT is required to review the study, to issue a report to the committee indicating policy changes it intends to make as a result of the study. It strengthens the aviation safety whistleblower protection office.

The manager’s amendment includes very specific language with reference to the foreign repair station issue citing the agreement, the bilateral aviation agreement, which I’ve already cited. I don’t need to cite it again. The amendment makes clear that the language in this bill is in keeping not only with the language of, but the spirit of, the U.S./EU aviation agreement.

The amendment applies the Dis-

advantaged Business Enterprise program and the Airport Concessions Disadvantaged Business Enterprise program to airports collecting passenger facility revenue. It provides more protection from noise for airport neighbors. Under existing law, the FAA is not permitted to fund soundproofing of residences to reduce airport noise unless the airport undertakes an extensive analysis, a Part 150 Study. The amendment allows grants for soundproofing without a Part 150 Study if the airport takes certain actions, such as preparing noise contours and implementing land-use zoning restrictions.

I reserve the balance of my time.

Mr. PETRI. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota.

The Acting CHAIR. The gentleman from Wisconsin is recognized for 10 minutes.

Mr. PETRI. Thank you.

While there are clearly many useful provisions in the manager’s amendment which we do support, there are, unfortunately, several which we do not. And the most important, or one of the important areas has been mentioned on a number of occasions already on this floor as we’ve gone forward, and that’s the foreign repair station inspection language.

The manager’s amendment continues to require twice annual inspections of repair stations in Europe. What does this mean? It means that the European Union will and does oppose this provision and has suggested that the provision will nullify the need for the bilateral aviation safety agreement. It certainly violates the spirit of the United States-European Union Bilateral Aviation Safety Agreement.

Under that agreement in section 15, countries are always allowed to inspect the other country’s territory based on safety concerns. So there is flexibility and this is within the letter of the law of the treaty, as the chairman has pointed out. But it’s certainly not within the spirit of the treaty. Our government is never going to concede jurisdiction over safety of American equipment and people and planes. And if there is a legitimate reason to inspect, we reserve the right to do it under that treaty. But not just automatic inspections whether there is any reason or not, which is what the amendment provides for.

This section 15 provides for inspection, but it does not envisage twice-annual inspections absent a legitimate risk-based safety concern. And that’s the logic of the language of the treaty. If we don’t abide by the spirit of the treaty, the EU has—and I believe will—walk away from the bilateral agreement and we will have to renegotiate another agreement which may end up giving us less, rather than more, flexibility to inspect when we determine based on information or concerns that

have come forward that a particular inspection of a particular facility is warranted, which we have the right to do at any time under this treaty.

The Europeans do not have the personnel to conduct—well, I don't think our government has the personnel currently to inspect all of the stations that would be required to be inspected. And so we would revoke the certificates for repair stations that are not inspected and the Europeans would not be able to do that in our country. The result would be that a lot of work—all around, both parties to the agreement—would be moved around, at least; and the net loss, so far as between the United States and Europe is concerned would, it's my understanding, fall on American stations because currently a lot of European equipment is in fact maintained here in the United States. That's where the threat to the jobs comes from.

□ 1515

The provisions in the amendment having to do with inspection of stations is opposed by the airline industry; the aviation associations that have looked at it; the United States Chamber of Commerce; airline manufacturers; as I mentioned, the European Union; and some 50 of our colleagues, who signed a letter in opposition, I think probably inspired by concern about the jobs in their district at repair stations and dislocation of work at these stations, particularly the smaller ones, that was circulated by our colleague Mr. BARROW.

There are a number of other concerns about the amendment, particularly some concerns about the clarity of the whistleblower amendments and how those would actually be put into effect. Also, a concern about realignment and consolidation language which ties the FAA's hands.

The major concern we have, as I said, is especially in these tense times, where a small match could ignite a big fire in terms of trade relations. We are really playing with fire in the language that's contained in the manager's amendment having to do with inspection on a mandatory basis twice a year of all of these repair stations.

I reserve the balance of my time.

Mr. OBERSTAR. I yield such time as he may consume to the distinguished Chair of the Aviation Subcommittee, the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Thank you, Chairman OBERSTAR. I rise in support of the manager's amendment. Let me address a couple of issues that my friend, Mr. PETRI, and Mr. MICA spoke about as far as the agreement that we have and the foreign repair stations—the mandate that we inspect those repair stations at least twice a year.

Number one, the FAA not only has a right, but they have a responsibility to

the flying public in the United States not only to inspect those repair stations when there is a problem or a complaint or an issue that is brought up, but they have a responsibility to inspect those repair stations and make sure that all of the repair stations both here in the United States and abroad are meeting the FAA regulations.

I wonder if the groups and organizations who wrote letters in opposition to this read the Department of Transportation Inspector General's report where, and I quote, "The DOT inspector general stated that foreign inspectors oftentimes do not provide the FAA with sufficient information to determine the items inspected, problems discovered, and corrective actions taken."

The report goes on to say, "In the files that the Department of Transportation inspector general reviewed, the inspection documents provided to the FAA were incomplete or incomprehensible 88 percent of the time, hampering the FAA's ability to verify the inspections conducted on its behalf adhered to FAA safety standards."

So let me just say that for those who are concerned about this requirement of having two physical inspections of foreign repair stations, this is the same language that was in the bill that was passed by this House by a vote of 267 Members in favor of the legislation. It is the exact same language—to have two inspections per year of foreign repair stations.

The final point that I would make is we, again, in this legislation provide additional funding to the FAA to hire additional inspectors to carry out these inspections.

Mr. PETRI. I would like to speak for a brief moment on a comment my colleague just made, and that is there is a bit of an impression being left that if we don't have these two inspections a year of these foreign European repair stations, they won't be inspected.

They are inspected. In fact, in a number of jurisdictions, the standards that are imposed on these facilities by the European Union and the governments and jurisdictions in which they exist are stricter than our own standards are.

So we do reserve the right now to inspect those stations if there is a problem. But to go ahead and require two inspections a year of stations that are already inspected by standards that we have concluded after experts have looked at it are perfectly adequate is really setting up a dynamic which will end up being disruptive to the industry and to good cooperative relations with our European allies.

I reserve the balance of my time.

Mr. OBERSTAR. I reserve the right to close.

The Acting CHAIR. The gentleman from Wisconsin has the right to close. Mr. OBERSTAR. It's my amendment.

The Acting CHAIR. The gentleman from Wisconsin has the right to close.

PARLIAMENTARY INQUIRY

Mr. OBERSTAR. Parliamentary inquiry. Is the right to close reserved to the opposition to the amendment?

The Acting CHAIR. A manager in opposition to the amendment has the right to close. Mr. PETRI is a manager in opposition.

Mr. OBERSTAR. I yield 1 minute to the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. I thank Chairman OBERSTAR again. Mr. PETRI, I would just finally say again that we have the Department of Transportation inspector general report. We understand that there are a number of inspections that take place by other agencies outside of the FAA.

But let me again read to you from the Department of Transportation inspector general. "In the files that the DOT IG reviewed, the inspection documentation provided to the FAA was incomplete or incomprehensible 88 percent of the time, hampering the FAA's ability to verify that inspections conducted on its behalf adhered to FAA safety standards."

What we are simply saying is that we want the FAA to go to foreign repair stations and physically inspect them twice a year. And we are saying to our friends in Europe if they want to inspect repair stations that they are using here in the United States twice a year, or more than twice a year, they are more than welcome to do that.

We believe that we have the right—not only the right, but an obligation to the flying public to require these inspections.

I would also finally note we're talking about agreements that were negotiated by the past administration with our friends in Europe, and the past administration did not consult the Aviation Subcommittee or the Transportation Committee or the Congress when they negotiated these agreements.

So we believe this is a reasonable thing to do. It was in the last bill that passed the Congress in September, 2007; 267 Members voted in favor of that bill with this provision in it. And we believe that it is the right thing to do and a reasonable thing to do, and it's an obligation we have to ensure the safety of the flying public.

Mr. PETRI. I understand that since the gentleman from Minnesota is amending the bill and I'm a member of the committee, I have the right to close.

The Acting CHAIR. The gentleman does have the right to close.

The gentleman from Minnesota has approximately 2 minutes remaining.

Mr. OBERSTAR. I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. I rise to highlight my provision in the manager's amendment



of the FAA authorization which directs the GAO to conduct a nationwide study of helicopter medical services.

On April 22, the Aviation Subcommittee held a hearing on oversight of medical helicopters, which confirmed my concerns about this industry. A recent and disturbing increase in safety-related incidents involving helicopter medical services impacts real patients who have been harmed or put at risk in areas where there is fierce and unregulated competition among medical helicopters.

The language that I provided Chairman OBERSTAR provides for a study to illuminate the troubles in the helicopter medical services industry and prevent unnecessary deaths and injuries among our country's most vulnerable medical patients.

I look forward to working with the Department of Transportation following this study to fully implement these issues literally of life and death.

Mr. OBERSTAR. Mr. Chairman, I will close to say that although we have beaten this repair station horse to death with 30-second cameo commentaries about threats of job losses, the point is safety. We must never negotiate away the right of the United States FAA, the gold standard for safety in the world, to assure that aircraft on which our fellow citizens travel are maintained properly and in accord with FAA standards and with certificated facilities and properly certificated maintenance personnel. And our right to inspect them should not be inhibited.

The previous administration should never have negotiated away any such right or presumed to limit our ability.

We are acting in this language in this bill under the authority of the U.S.-EU Aviation Agreement. It specifically says so. And for us to come in and inspect only when there is a problem is the graveyard mentality that got the FAA out of problems and fatalities in the eighties. We're not going to repeat that in the future.

Mr. PETRI. The concern about this amendment is that we do have the ability to inspect if there's a reason now to inspect. It's very unlikely if this were to become law we would immediately have in place the inspectors necessary to inspect all of these European stations twice a year. As a result, the certification of many of them would be pulled. It would force retaliation by the Europeans on our own stations.

If it was a sincere amendment, it would provide that it not go into effect until the government had an opportunity to inspect all of these stations twice. And it does not do that. We know how effective government is. It will take them years to man up and find all of these European stations. And so we oppose the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gen-

tleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. LEE OF NEW YORK

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part C of House Report 111-126.

Mr. LEE of New York. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. LEE of New York:

Page 259, after line 22, insert the following (with the correct sequential designations and conform the table of contents of the bill accordingly):

**SEC. 826. PILOT TRAINING AND CERTIFICATION.**

(a) INITIATION OF STUDY.—Not later than 3 months after the date of enactment of this Act, the Comptroller General shall initiate a study on commercial airline pilot training and certification programs. The study shall include the data collected under subsection (b).

(b) DATA COLLECTED.—In conducting the study, the Comptroller General shall collect data on—

(1) commercial pilot training and certification programs at United States air carriers, including regional and commuter air carriers;

(2) the number of training hours required for pilots operating new aircraft types before assuming pilot in command duties;

(3) how United States air carriers update and train pilots on new technologies in aircraft types in which they hold certifications;

(4) what remedial actions are taken in cases of repeated unsatisfactory check-rides by commercial airline pilots;

(5) what stall warning systems are included in flight simulator training compared to classroom instruction; and

(6) the information required to be provided by pilots on their job applications and the ability of United States air carriers to verify the information provided.

(c) CONTENTS OF STUDY.—The study shall include, at a minimum—

(1) a review of Federal Aviation Administration and international standards regarding commercial airline pilot training and certification programs;

(2) the results of interviews that the Comptroller General shall conduct with United States air carriers, pilot organizations, the National Transportation Safety Board, the Federal Aviation Administration, and such other parties as the Comptroller General determines appropriate; and

(3) such other matters as the Comptroller General determines are appropriate.

(d) REPORT.—Not later than 12 months after the date of initiation of the study, the Comptroller General shall submit to the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, together with the findings and recommendations of the Comptroller General regarding the study.

□ 1530

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman

from New York (Mr. LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. LEE of New York. Thank you.

I want to start by thanking my colleagues from western New York, Ms. SLAUGHTER and Mr. HIGGINS, for signing on to this amendment and the support they have given to the families of the victims of flight 3407. The need for this amendment arose due to the revelations that came out of the NTSB hearings held last week and the causes of the crash. As I'm sure many Members of this distinguished body know by now, the crew of flight 3407 was not adequately trained to execute maneuvers that may have prevented this tragedy. All 49 people onboard lost their lives in addition to one person on the ground. Here we had a case of a regional carrier, Colgan Air, operating under the banner of a major commercial airline. So the passengers were flying on a Colgan plane but were holding Continental Airline tickets. This is not unusual. In fact, regional carriers now make up almost half of the Nation's daily flights. These revelations, combined with the fact that all of the multiple fatality commercial plane crashes that have occurred in this country since 2002 have been on regional carriers, have left the families and the public with more questions than answers.

This amendment would instruct the GAO to conduct a thorough investigation of all commercial airline pilots' training and certification programs, including the standards the FAA uses for such programs, how quickly air carriers update and train pilots on new technologies, and what warning technologies are in place to signal impending danger. This top-to-bottom review will provide the American people with an independent look at the disparity in training between the regional carriers and major commercial airlines and, more importantly, what impact it has on passenger safety.

I want to submit a message from Kevin Kuwik, whose girlfriend lost her life in the crash. Kevin has been speaking on behalf of the families.

"In the past 3 months, our group of families has struggled to come to terms with the fact that this tragic accident was, seemingly, very preventable. This action represents an important step in ensuring that all pilots are trained at the highest level possible, especially in the critical areas of stall recovery and cold weather operations, to prevent other families from having to suffer through what we have."

I want to echo the forward-looking aspect of Kevin's statement. This is not about assigning blame to any one individual or entity. While it is horrifying to think that this tragedy may have been avoided, this comprehensive

review would expose information that would help the aviation industry reform its training practices to ensure passenger safety and confidence.

I want to close by again thanking my colleagues from western New York, Ms. SLAUGHTER and Mr. HIGGINS, for agreeing that there is a need for this action and, more importantly, for the support they have given to our community in the months since the tragedy occurred. I urge the adoption of this amendment.

I reserve the balance of my time.

Mr. HIGGINS. I rise to claim the time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. HIGGINS. I yield myself as much time as I may consume.

Mr. Chairman, I am pleased to join my western New York colleagues, Congressman CHRIS LEE and Congresswoman LOUISE SLAUGHTER, in offering this amendment to require a Government Accountability Office study of commercial airline pilot training and certification programs.

On February 12, 2009, 50 lives were lost when Continental Connection flight 3407 crashed into a house in Clarence, New York, 5 miles from the Buffalo Niagara International Airport. What was to be a joyous reuniting of family and friends became a time of unspeakable grief and sorrow. It is a tragedy our community continues to grapple with today.

Last week, the National Transportation Safety Board held public hearings on the crash. The investigation raised the issue that the crew's level of hands-on training and experience with the plane's safety system may have contributed to the crash. Given these findings, we must conduct a comprehensive review of the procedures governing the certification and training of pilots. This review will determine whether our pilots are receiving the training and experience they need to operate their aircraft under times of extreme difficulty and stress. We have an obligation to ensure that they are properly prepared to prevent, respond to and recover from the emergencies and circumstances they may encounter in flight.

This amendment will provide Congress with the information and analysis we need to determine whether pilot training and certification regulations are sufficient, or whether and how they should be strengthened. The devastation felt in the aftermath of this tragedy can never be undone. But we owe it to the families of the victims and to all air passengers to learn from this experience and to gather information that we can use to change the system and improve flight safety.

I thank Congressman CHRIS LEE for his leadership and for bringing this

amendment to the floor. This is a good, commonsense amendment. I urge its adoption.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from New York (Mr. LEE) has 2 minutes remaining.

Mr. LEE of New York. I would like to yield 1 minute to the distinguished gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. I thank my colleague CHRIS LEE from New York for yielding and rise in support of his amendment. It's an important step to prevent similar accidents in the future. It is something that we need to do, and I very much appreciate his offering the amendment at this time.

Mr. BOCCIERI. Mr. Chair, the resolution seeks a GAO study on all commercial airline pilot training and certification programs in the wake of new revelations surrounding the events that led up to the Continental Connection Flight 13407 tragedy.

FAA minimum pilot standards are long overdue for an overhaul.

It is my hope Congress will take a comprehensive look at these standards and make necessary changes. This study will help us determine what shortcomings currently exist.

The Colgan Air crash in Buffalo underscored the danger of not having fully trained pilots in the cockpit.

The flying public has a reasonable expectations that pilots will have all the critical training necessary to protect their lives in the air and make in-flight adjustments based on conditions; while investigations are ongoing—it is becoming clear Colgan did not meet those expectations in the Buffalo crash.

(1) Commercial pilot training and certification programs at United States air carriers, including regional and commuter air carriers;

(2) The number of training hours required for pilots operating new aircraft types before assuming pilot in command duties;

(3) How United States air carriers update and train pilots on new technologies in aircraft types in which they hold certifications;

(4) What remedial actions are taken in cases of repeated unsatisfactory check-rides by commercial airline pilots;

(5) What stall warning systems are included in-flight simulator training compared to classroom instruction;

(6) The information required to be provided by pilots on their job applications and the ability of United States air carriers to verify the information provided.

Mr. HIGGINS. Mr. Chairman, I yield back the balance of my time.

Mr. LEE of New York. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. LEE).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MS. RICHARDSON

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part C of House Report 111-126.

Ms. RICHARDSON. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. RICHARDSON:

Page 142, at the end of the matter following line 5, insert the following:

42304. Notification of flight status by text message or email.

Page 147, line 25, strike the closing quotation marks and the final period and insert the following:

“§ 42304. Notification of flight status by text message or email

“Not later than 180 days after the date of enactment of this section, the Secretary of Transportation shall issue regulations to require that each air carrier that has at least 1 percent of total domestic scheduled-service passenger revenue provide each passenger of the carrier—

“(1) an option to receive a text message or email or any other comparable electronic service, subject to any fees applicable under the contract of the passenger for the electronic service, from the air carrier a notification of any change in the status of the flight of the passenger whenever the flight status is changed before the boarding process for the flight commences; and

“(2) the notification if the passenger requests the notification.”.

The Acting CHAIR. Pursuant to House Resolution 464, the gentlewoman from California (Ms. RICHARDSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. RICHARDSON. Mr. Chairman, I have offered an amendment today which would give the FAA administrator 180 days to issue regulations to mandate giving consumers an option for text message and/or e-mail notification from carriers in the event of a delay or canceled flight. The amendment would, consistent with the existing regulations, apply to 18 major carriers who earn at least 1 percent of the domestic passenger service revenue and in that way those carriers could, in fact, provide a commonsense option for all passengers.

The reason for the amendment is that a limited number of carriers offer this service, and those who do often only provide the service to those who are willing to participate in membership clubs or incentives to join. With well-known horror stories of delayed and canceled flights, combined with the widespread capabilities for the use of cell phones and BlackBerrys nationwide, it's time to provide a 21st century solution to the American flying public. Americans and worldwide travelers are calling for solutions that would enable critical information people need to ensure proper planning in the case of a delay or cancellation.

There is overwhelming evidence that delays and cancellations continue to be a common nuisance.

About 24 percent of all flights, that is almost 1 out of 4, were delayed or cancelled in 2008.

In a 2006 example that garnered media attention, thunderstorms shut down American Airlines' operations in Dallas-Fort Worth and passengers were stranded for nine hours or more.

Major chokepoints for travelers have been large, hub airports. Even when Chicago, New York, Atlanta or San Francisco is not your final destination, thousands of passengers are routed through those hubs for a connection.

Although, with a decline in air traffic due to our economic condition, progress is still slow in many of our major airports such as JFK or LaGuardia in New York, or Chicago's O'Hare. Even worse, San Francisco International actually saw an increase in delay times by 6 percent from 2007 to 2008.

There are many reasons that a delay could occur and unfortunately most passengers are not aware, for example, of poor weather conditions in other cities that indirectly affect their flight. In one example, a direct flight last year from Denver to Alabama was delayed 8 hours because the airline did not have a plane available. The plane was grounded in Aspen, Colorado due to snow and could not make the trip to Denver.

This is a common example of an airline having prior notice of an upcoming delay. The airline could have sent each passenger who requested it an email or text message, and those passengers could have more time to plan a different route or contact their family with the news.

This past March, snow slammed the East Coast unexpectedly. In the New York region alone, the storm caused 350 cancelled flights at Newark Airport, 115 at JFK, and 450 at LaGuardia.

One woman, Ms. Marreta Rashad, did not find out her flight home to Houston was cancelled until she had already made the long trek to LaGuardia. "I'm not unhappy about the snow," she said. "I'm unhappy about the fact they don't notify you."

Customer service matters. Why? It is in the economic interests of this nation for the continuation of a stable aviation industry while protecting their customers and providing them with the tools to make informed traveling decisions. The summer travel season is coming and it is important for every American business, large and small, that folks travel around the country to keep our tourism sector strong.

It is important to note that this amendment does not call for the aviation carriers to provide the service at no cost; similar to if someone makes a 4-1-1 information call on their cell phone, passengers will pay whatever their telecommunications or electronic plan requires. But, passengers should have the piece of mind to know that if they choose, they will be armed with the latest information.

I want to thank Chairman OBERSTAR and Chairman COSTELLO for their feedback on this amendment. I urge all my colleagues to support this commonsense amendment.

Mr. COSTELLO. Will the gentleman yield?

Ms. RICHARDSON. I yield to the gentleman from Illinois.

Mr. COSTELLO. Let me say that you have made a very strong case, and we accept your amendment.

Ms. RICHARDSON. I reserve the balance of my time.

Mr. PETRI. Mr. Chairman, I rise with concerns about the amendment.

The Acting CHAIR. The gentleman from Wisconsin is recognized for 5 minutes in opposition.

Mr. PETRI. I think we can all agree that notifying passengers of their flight's status is quite important. But I would like to express a number of concerns about the amendment. It's an important area, and we would like to work on it, but we want it to be an effective amendment that would not have unintended consequences. So it is in that spirit that I express concerns about the amendment.

We worry that the amendment will have negative, as I said, unintended consequences on some air carriers. Although it only applies to carriers that earn at least 1 percent of domestic passenger service revenue, this amendment will still affect many regional carriers that do not have the capability of carrying out the mandates of the amendment. The vast majority of regional carriers do not issue tickets. This is done by their mainline air partner. Thus, these regional carriers do not even have their passengers' contact information, making the requirement impossible to adhere to by them. They would have to be relying on their mainline partner.

The Regional Airline Association believes that this amendment, as currently written, would require a fundamental restructuring of the contracts and partnership language between the regionals and the mainline carriers that could affect the relationships in a number of ways.

I hope that my colleagues will join me in working as we go forward to refine this amendment so that it achieves its intended notification to passengers without economically damaging consequences on the balance of power between the small regionals and the mainline partners that they have.

Mr. OBERSTAR. Will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Could the gentleman explain whether his position is just raising questions or is he in opposition to the amendment?

Mr. PETRI. We're just raising questions. We agree the amendment is an important one, and it addresses a real need. We just want it not to have the unintended consequence of benefiting the mainline ticket processing operations at the expense of the small regional carriers which, if it was a mandate, it might have the effect of doing. It is not the intention of it, but it would be an unintended consequence because these people would need to get the information to comply from someone else, and that person, foreseeably, could affect the contract relationship.

Mr. OBERSTAR. If the gentleman would further yield, it's a legitimate

concern, and we will address that concern—I assure the gentleman—as we move forward to hopefully conference with the Senate. I would like the distinguished ranking member to give us some further elaboration of these issues. We will address those.

Mr. PETRI. With the assurance of the chairman, at this time we would be happy to see the amendment move forward, knowing that it will be refined as we go forward.

I yield back the balance of my time.

Ms. RICHARDSON. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Ms. RICHARDSON).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. BURGESS

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part C of House Report 111-126.

Mr. BURGESS. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BURGESS:

Page 259, after line 22, insert the following (with the correct sequential designations and conform to the table of contents of the bill accordingly):

#### SEC. 826. WHISTLEBLOWERS AT FAA.

It is the sense of Congress that whistleblowers at the Federal Aviation Administration be granted the full protection of the law.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Texas (Mr. BURGESS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BURGESS. Thank you.

Today Congress will vote on H.R. 915, which will reauthorize the funding and Safety Oversight Program of the Federal Aviation Administration for 4 years. This will cost the American taxpayers \$70 billion. Yet again, another omnibus bill for yet another historic amount of money, and this time spent for the FAA. Where will this money come from? The money will not come from large commercial airlines. These fees will not be generated alone by labor and the efforts of big businesses. These fees will come from the average American already struggling to make ends meet. For instance, this bill will increase the Passenger Facility Charge on airline flights from \$4.50 to \$7. So every American flying will now have to pay \$2.50 more for each trip. In these tough and trying economic times, every dollar counts. So how can we justify making our constituents and airline consumers pay more money to fly and visit their relatives?

This bill will also create new fees for registering an aircraft. A new fee for

the issuance of aircraft certificates, a new fee for the issuance of special registrations, a new fee for recording security interests, and a new fee for legal opinions for aircraft registration or recordation. There is even a new fee for replacing or issuing airman certificates. It begs the question, what won't we be imposing a new fee upon?

At least with this bill, a vote for it will affect everyone. Everyday travelers, tourists, small businesses and large businesses alike will have their pocketbooks affected. I refer specifically to the language in this bill regarding the antitrust immunity sunset, which would terminate airline code-sharing alliance agreements between airlines and the United States Government. Most major U.S. airlines are members of one of three partnerships. They entered into these alliance agreements in the late eighties and the early nineties under both Republican and Democratic Presidential leadership, with full review of the U.S. Department of Transportation as well as the Antitrust Division of the U.S. Department of Justice.

Now it has been estimated that these airlines will lose almost \$5 billion in 2009 alone due to the precipitous drop in passengers.

Mr. OBERSTAR. Will the gentleman yield?

Mr. BURGESS. No. Let me continue because my time is short.

We are punishing the American consumer by increasing the Passenger Facility Charge, and now we're punishing the American consumer by inconveniencing their ability to book travel. I can only begin to imagine the increase in costs when we eradicate these alliances. However, there is one issue in the bill which is clearly bipartisan and which none of us would ever stand in disagreement upon, and that is the issue of safety.

□ 1545

Every citizen should be safe when they fly, and those who act to ensure our continued safety must be recognized and protected. If any element of safety is compromised, then we deserve to know.

The amendment I offer today does not give whistleblowers any new laws to pursue legal action. The amendment only proposes to preserve the laws that they already have and certainly not give them any less. They should not be faced with retaliatory firings. They should not have retribution taken in their private, non-work lives.

Individuals in the world of the Federal Aviation Administration should be able to speak up and speak out when safety is being compromised. Whether it is the Federal Government, a private company, or their fellow colleagues who compromise safety, these brave people are entitled to the full protection of the law when they inform the

public as to how our safety is compromised.

In my district we have had several instances of constituents who have acted as whistleblowers. Some have had their claims fully investigated and overseen by the FAA. Some have not. Some have been punished for speaking out. Some have not. We must make certain that every whistleblower is treated fairly and equally. Each and every claim reported to the FAA should be properly reviewed. I asked in November of 2008 to conduct an oversight and investigations hearing focusing on whistleblowers.

I would like for this letter that I sent to my Subcommittee of Oversight and Investigations to be included in the RECORD.

NOVEMBER 18, 2008.

HON. BART STUPAK,  
*Chairman, Oversight and Investigations,*  
*Washington, DC.*

DEAR CHAIRMAN STUPAK, When we spoke a few weeks ago, I mentioned a situation relating to the Dallas-Fort Worth's Terminal Radar Approach Control (DFW TRACON) that could place the safety of the flying public at risk. I believe that this issue should be of interest to you as Chairman of the Energy and Commerce Committee's Oversight and Investigation Subcommittee as an example of how certain whistleblowers courageously reported abuses of the public trust in an attempt to change FAA's safety and management culture. If you are contemplating a hearing during the 111th Congress focusing on federal whistleblowers, I believe the addition of any one of the brave Americans involved in this particular situation would provide a valuable perspective.

This dangerous situation came to light when one of my constituents, Anne Whiteman, raised concerns about the Federal Aviation Administration management at DFW TRACON. Her concerns were that senior managers and air-traffic controllers intentionally misclassified near-miss events as pilot error when in fact they were due to controller error in order to avoid investigation of these incidents and potential disciplinary action. The Office of the Inspector General at the Department of Transportation, at the direction of the Office of Special Council, initiated an investigation and in April 2008 they concluded that Anne Whiteman's concerns were well-founded. Their report confirmed that senior management officials at the FAA jeopardized the safety of our citizens by misclassifying air traffic events merely so they could falsely improve their quality ranking.

As per DOT procedure, this report by the DOT's OIG was referred to the Office of Special Counsel, and on November 14, 2008, they issued their report also finding Anne Whiteman's facts to be reasonable. OSC found that the DFW TRACON acted to systematically mischaracterize operational errors as pilot errors. The OSC found this systematic behavior directly resulted from a general lack of oversight at the FAA and also made recommendations to mitigate and avoid this type of situation in the future. I have included a copy of the OSC final report and the OIG April 2008 Memorandum for your review.

Thank you for your consideration of this request. As always, it is a pleasure working with you. Even though we do not always see eye-to-eye on every issue, I know both you and I share a desire to ensure that those en-

trusted with the public's safety are held accountable.

Sincerely,

MICHAEL C BURGESS,  
*Member of Congress.*

I wanted this Congress to look into how certain courageous whistleblowers report abuses of the public trust and how the FAA's safety and management culture responds.

Now, I am well aware that we have stopgap funding for the FAA. Perhaps as a result of this, the FAA has not had the time, the energy, or the resources to do proper oversight and investigations. Perhaps they have not had a chance to look into each and every whistleblower action. If this is the case, then the solution is not to create new laws, thus new actions for the FAA to undergo. The solution is not to give them unheard of amounts of money by taxing consumers.

Instead, let us give the FAA the resources they need to do the proper oversight and investigations and ensure that the safety of our citizens is our first and foremost concern. My amendment will recognize the role whistleblowers play in creating a safe flying environment, and I hope Members will join me in supporting their important role.

Mr. PETRI. Will the gentleman yield?

Mr. BURGESS. I yield to the gentleman from Wisconsin.

Mr. PETRI. The amendment affirms the sense of Congress that whistleblowers at the FAA should be fully protected by law, and we support the amendment.

The Acting CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. OBERSTAR. I ask unanimous consent to claim time in opposition to the amendment, although I do not intend to oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. It was unclear to me what the gentleman was proposing. His amendment deals with whistleblowers, but his conversation rambled all over the lot on other provisions of the bill, and I was simply going to ask the gentleman if he was ever going to get to his amendment. And eventually he did.

We accept the whistleblower amendment. However, the gentleman is misguided about the passenger facility charge. We do not require airports to impose passenger facility charges, Mr. Chairman. It is a local option. They either do or they do not as airport needs require. If they want to expand airport runway capacity, taxiway capacity, parking apron capacity on the air side of airports and need, in addition to the airport improvement funds, additional revenues to do that, they will have to justify to their board, to their community, to those who use that airport,

they have to justify their proposal to increase the passenger facility charge, show how it is going to be used, show how the revenues will contribute to improvement of aviation service and do it all in a public process.

I'm puzzled as to the gentleman's concerns about that provision and many others.

I yield to the gentleman from Illinois, the Chair of the subcommittee.

Mr. COSTELLO. I thank you for yielding, Mr. Chairman.

The point that I would make about the passenger facility charges is exactly the point that Chairman OBERSTAR just made. It is permissive. It is up to the local airport authority. And if, in fact, there is a passenger facility charge collected, it stays there at the local airport.

Mr. PAYNE: Mr. Chair, I rise in strong support of the Burgess amendment to ensure whistleblower protection for FAA employees, and I commend Dr. BURGESS for offering this amendment. I have been deeply disturbed at the situation at Newark Liberty International Airport in my congressional district of Newark, New Jersey. The safety concerns raised by a number of our air traffic controllers, the professionals we rely on to get us safely to and from our destinations, have been virtually ignored.

We have a situation where wrong turns caused by pilots' confusion over the FAA's new procedure have resulted in near-collisions. Yet, when the air traffic controllers have expressed alarm, the response of FAA management has been to retaliate against the employees who are trying to guard the safety of the flying public. Let me also add that I am disappointed that New Jersey communities, especially those in Essex and Union counties in my congressional district, are being forced to bear an unfair share of the noise burden under the airspace redesign plan. I hope that the new FAA administrator will address both the whistleblower protection issue and the need to reexamine the airspace redesign plan.

Mr. OBERSTAR. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. BURGESS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. CUELLAR,  
AS MODIFIED

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part C of House Report 111-126.

Mr. CUELLAR. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. CUELLAR:

Page 258, after line 11, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 824. FAA RADAR SIGNAL LOCATIONS.**

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on the locations of Federal Aviation Administration radar signals (in this section referred to as "FAA radars") in the United States, including the impact of such locations on—

(1) the development and installation of renewable energy technologies, including wind turbines; and

(2) the ability of State and local authorities to identify and plan for the location of such renewable energy technologies.

(b) CONSULTATION.—In conducting the study, the Administrator may consult with the heads of appropriate agencies as needed.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

(d) ADMINISTRATIVE PROCESS.—The Administrator shall develop an effective administrative process for relocation of FAA radars, as necessary, and testing and deployment of alternate solutions, as necessary.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CUELLAR. Mr. Chairman, I ask for unanimous consent to modify the amendment with the modification at the desk.

The Acting CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 5 Offered by Mr. CUELLAR, as modified:

Page 258, after line 11, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 824. FAA RADAR SIGNAL LOCATIONS.**

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on the locations of Federal Aviation Administration radar signals (in this section referred to as "FAA radars") in the United States, including the impact of such locations on—

(1) the development and installation of renewable energy technologies, including wind turbines; and

(2) the ability of State and local authorities to identify and plan for the location of such renewable energy technologies.

(b) CONSULTATION.—In conducting the study, the Administrator may consult with the heads of appropriate agencies as needed.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

(d) ADMINISTRATIVE PROCESS.—The Administrator shall develop an effective administrative process for relocation of FAA radars, when appropriate, and testing and deployment of alternate solutions, as necessary.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator to issue hazard determinations.

Mr. CUELLAR (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of the modification.

The Acting CHAIR. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Acting CHAIR. Without objection, the amendment is modified.

There was no objection.

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank first, of course, our chairman, Mr. OBERSTAR, for his leadership on this bill.

My amendment will assess the effect of the FAA's radars and alternative technology development especially on wind farm development and when appropriate direct the administrator to develop a process for the relocation of those radars if a suitable alternative site is identified. This bipartisan amendment was bourn out of conversation with the FAA and the Transportation and Infrastructure's Aviation Subcommittee. I certainly want to thank the chairman also.

Mr. Chairman, I want to be clear that nothing in this amendment shall be construed to constrain the issuing of a determination of no hazard to air navigation for wind construction projects while the study is underway. I have included clarifying language in my modified amendment, and I intend to work with Chairman OBERSTAR and the Senate in the conference to ensure that the legislative intent of this amendment stays there so we don't halt the issuance of permits for wind technology.

Mr. COSTELLO. I ask the gentleman to yield.

Mr. CUELLAR. Yes, sir.

Mr. COSTELLO. The gentleman has made a strong case. We accept the amendment, and we will submit a statement in the RECORD.

Mr. CUELLAR. I would like to yield 1 minute to Mr. MCCAUL.

The Acting CHAIR. The gentleman from Texas is recognized for 1 minute.

Mr. MCCAUL. I thank the gentleman from Texas, my good friend, Mr. CUELLAR.

Mr. Chairman, I rise in support of this amendment that I'm proud to co-sponsor. I urge its adoption. As we all know, the development of alternative energy is of supreme importance to this country both as an economic and a national security issue. I believe in the all-of-the-above energy policy that includes more energy domestically.

Unfortunately, in our home State of Texas, the construction of wind farms has been delayed because such farms interfere with radars used by the FAA. The amendment is simple. It requires the FAA to study and report to the Congress on the impact radar replacement can have on the development of renewable energy facilities. If they can

still achieve their national security and public safety goals from an alternative location while still accommodating the development of renewable energy, then Congress should know this so we can then take appropriate action.

Mr. CUELLAR. I just want to thank Mr. OBERSTAR and Mr. COSTELLO for their time and Mr. MCCAUL, Mr. ORTIZ, and Mr. RODRIGUEZ, who also cosponsored this amendment.

I yield back the balance of my time.

The Acting CHAIR. Does any Member seek time in opposition?

If not, the question is on the amendment, as modified, offered by the gentleman from Texas (Mr. CUELLAR).

The amendment, as modified, was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. MCCAUL

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part C of House Report 111-126.

Mr. MCCAUL. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. MCCAUL: Page 259, after line 9, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 826. PROHIBITION ON USE OF CERTAIN FUNDS.**

The Secretary may not use any funds authorized in this Act to name, rename, designate, or redesignate any project or program under this act for an individual then serving as a Member, Delegate, Resident Commissioner, or Senator of the United States Congress.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Texas (Mr. MCCAUL) and a Member opposed each will control 5 minutes. The Chair recognizes the gentleman from Texas.

Mr. MCCAUL. Mr. Chairman, I rise today to offer this amendment that would prohibit naming airports, Federal programs, and other projects under the FAA's jurisdiction after sitting Members of Congress. Although such instances are rare, this practice further erodes the public trust in this institution and its Members.

Recent press reports from the John Murtha Johnstown-Cambria County Airport highlight this problem. The airport received \$800,000 from the stimulus package to upgrade its alternative runway. Whether or not that is a wise use of money is not the question this amendment is intended to address. Rather, the problem is that the perception of the American people is that this little airport is getting special treatment because it is named after Congressman MURTHA.

This perception feeds the belief that Members of Congress are arrogant and out of touch with the American people

that we represent. This is a problem that exists in other areas of the Federal Government as well. There are courthouses, such as the ones named after Senator THAD COCHRAN of Mississippi, and then there is the Charlie Rangel Center for Public Service. There are also various roads and bridges across the country named after Members of Congress and everything from schools to clinics to prisons in West Virginia named for Senator BYRD.

Unlike the bill I have introduced to end this practice, this amendment is limited only to the scope of projects authorized by the underlying bill. But with this first step, we can start to correct this and hopefully begin anew to restore some of the standing that this great institution has lost with the people that it serves.

I ask my colleagues to support this amendment, and I reserve the balance of my time.

I yield to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. The amendment that the gentleman offered would help restore confidence in the public's mind that the projects and programs included in the authorization bill are for the public benefit.

I would like to thank you for offering the amendment.

I urge my colleagues to support the amendment.

The Acting CHAIR. The gentleman from Texas reserves the balance of his time.

Mr. OBERSTAR. I ask unanimous consent to claim time in opposition to the amendment, although I think I do not intend to oppose it.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I just want to make it clear that the language of the amendment is general in nature. And Mr. Chairman, I ask of the offeror of the amendment, although he referenced sitting Members of the House and Senate, he does not intend this language to apply to any specific Member, is that correct?

Mr. MCCAUL. Will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman.

Mr. MCCAUL. This amendment is not intended to be applied retroactively. It would only apply to then Members—

Mr. OBERSTAR. The language is not intended to apply, my question is, to any specific Member?

Mr. MCCAUL. That's correct.

Mr. OBERSTAR. It was a few years ago, quite a few years ago, 1996 to be exact, that the Republican majority foisted upon the Washington Airport Authority a requirement to designate, redesignate the name of the airport serving the Nation's capital. They started out this amendment by the

gentleman from Georgia, Mr. Barr, to name it "Reagan National Airport." We pointed out that is renaming the airport. It is named for the first President of the United States.

That language was changed to call it the "Washington-Reagan National Airport." Not only did the amendment require the Washington National Airport Authority to change the name of the airport, but it was made very clear to me that if they did not do that, and if they did not change the signs at their expense, that funds would be withheld from Washington National Airport. That was mean. That was vicious. It was done because there was the power to do it. And it was the wrong thing to do.

Now we should not be naming facilities for sitting Members of the House or of the other body. The plain language of the amendment is right, and that is the practice that we have followed. And I accept that. But I would just point out, as I did in that debate in 1996, that when the question of naming the new airport in Loudoun County came up, Senator Dole offered the amendment to give the Washington National Airport Authority the authority to designate a name for that airport. He did not say what name it should be. The airport authority named it.

I was of a mind to include such language in this bill, but I withheld doing it, to reestablish the power of the Washington National Airport Authority to rename that airport, should they choose to do so. It is their authority. It is not ours. And the then-majority ran roughshod. And I said to the gentleman from Georgia, you would scream to high heaven if the Congress tried to do this to an airport in your community, in your district. You would scream to high heaven if we told you what name to give it and to change the signs around the airport at your expense. But you are doing it out of harshness to the Nation's capital.

□ 1600

That's the wrong attitude, and the gentleman's amendment is in the right spirit.

But I just want to say for some of the interventions that I've heard on this floor that I've had it a little bit with posturing. This is not posturing. This is right. This is fair. We ought to do it, and we accept the amendment, but just know that there is a painful history and a wrong history about naming facilities.

I yield back the balance of my time.

Mr. MCCAUL. Mr. Chairman, I share in the same spirit with Chairman OBERSTAR. I think it's the height of arrogance for us to name, at taxpayer expense, buildings after sitting Members of Congress, people in the Congress, currently serving, and that's what the American people resent about this institution. And I appreciate the bipartisanship you bring to this.



I would also say that President Reagan was not in office at the time of the naming, and I thought it was very fitting to have named it after President Reagan, as it would be if a Member of Congress retires from this institution and the Congress decides to name a building after a retired Member of Congress.

But it is entirely inappropriate for a Member of Congress to use taxpayer dollars to name a building after himself or herself to glorify themselves.

So, with that, I thank the chairman for his bipartisanship on this issue.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. MCCAUL).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. MCCAUL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

#### AMENDMENT NO. 7 OFFERED BY MR. MURPHY OF CONNECTICUT

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part C of House Report 111-126.

Mr. MURPHY of Connecticut. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MURPHY of Connecticut:

Page 183, after line 21, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 505. DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.

Section 47504 (as amended by this Act) is further amended by adding at the end the following:

“(g) DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.—In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.”.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Connecticut (Mr. MURPHY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Connecticut.

Mr. MURPHY of Connecticut. I yield myself such time as I may consume.

I'd like to thank Chairman OBERSTAR and Chairman COSTELLO and the mi-

nority members on the committee for allowing this amendment to come before us today.

Every year, the FAA works with local communities and local airports to address and try to remediate noise and safety issues. In my district, that's happening with respect to the Waterbury-Oxford Airport, which has changed over time: a lot more jet traffic, a lot more noise and increased safety concerns for, in particular, a neighborhood, the Triangle Hills neighborhood, which sits in the town of Middlebury.

We are undergoing a process right now to potentially purchase and relocate some of the people who live in that neighborhood. A problem, though, potentially arises in that during the process of notifying the neighborhood and the community about a relocation effort, the value of those homes is going to normally drop. It is standard practice in the FAA to make sure that in assessing the value of those homes that you do not allow for the decrease in value due to the notice regarding a potential relocation. This amendment simply seeks to take that standard practice issued in guidelines to local Departments of Transportation and put it into statute.

This is going to make sure that these processes of relocation ensure that people in the Triangle Hills neighborhood and like neighborhoods around the country get the fair market value for their homes, but also, I think it will allow this program to work more efficiently as it goes forward. I think residents will be much more willing to enter into these type of noise remediation and safety remediation plans if they have some assurance that they are going to get a fair price for their homes.

So I thank again the chairman and the ranking member for working with us on this amendment; and on behalf of the dozens of residents of the Triangle Hills neighborhood, we thank you for allowing us to bring this amendment before us.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent to claim time in opposition, though I do not intend to oppose.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. We accept the gentleman's amendment, if the gentleman is prepared to yield his time.

Mr. MURPHY of Connecticut. I yield back the balance of my time.

Mr. OBERSTAR. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Connecticut (Mr. MURPHY).

The amendment was agreed to.

#### AMENDMENT NO. 8 OFFERED BY MR. CASSIDY

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part C of House Report 111-126.

Mr. CASSIDY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. CASSIDY: Page 159, line 8, strike “and”.

Page 159, line 12, strike the period at the end and insert “; and”.

Page 159, after line 12, insert the following:

(5) the effect that limited air carrier service options on routes have on the frequency of delays and cancellations on such routes.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from Louisiana (Mr. CASSIDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. CASSIDY. Mr. Chairman, like many Members of the House, I represent a city with a small hub airport. While multiple airlines provide service at small hub airports, most flight routes have only one airline option. Many of my constituents perceive that this lack of competition creates a higher rate of delayed flights. I share their concern and offer this amendment to require the Department of Transportation to study the issue.

Specifically, the Department would analyze whether the lack of competitive flight options on some routes affects the frequency of delays and cancellations. The Department is already required to report on flight delays and cancellations, and my amendment would strengthen this report.

Mr. Chairman, the availability of competitive options on flight routes is affected by a number of factors which may include industry consolidation and lack of competition on certain routes, as well as the size of the community served.

This amendment would give us greater understanding about the cause of flight delays at small and medium hub airports so that we may continue to improve air service for those communities. I urge adoption of the amendment.

Mr. PETRI. Would the gentleman yield?

Mr. CASSIDY. I would yield to the gentleman from Wisconsin.

Mr. PETRI. I thank my colleague for yielding to me.

The amendment he has offered supplements a Department of Transportation Inspector General study on flight delays and cancellations in the base bill by adding to the Inspector General's review a requirement to assess the effect limited air carrier service options has on the frequency of delays and cancellations on such routes.

This is a useful amendment and important to many service airports in our



country, and I support the amendment and urge its adoption.

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to claim time in opposition, though I do not intend to oppose.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. We accept the amendment. If the gentleman is prepared to conclude his remarks and yield back, we can proceed. I yield back.

Mr. CASSIDY. I yield back.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. CASSIDY).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MS. KILROY

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part C of House Report 111-126.

Ms. KILROY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. KILROY:

Page 115, after line 7, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 312. COCKPIT SMOKE.**

(a) STUDY.—The Comptroller General shall conduct a study on the effectiveness of oversight activities of the Federal Aviation Administration relating to preventing or mitigating the effects of dense continuous smoke in the cockpit of a commercial aircraft.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

The Acting CHAIR. Pursuant to House Resolution 464, the gentlewoman from Ohio (Ms. KILROY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio.

Ms. KILROY. Mr. Chairman, I yield myself 2 minutes.

I rise today in support of my amendment to raise the profile of dangerous incidents involving smoke in the cockpits of aircraft. Smoke in cockpits is a factor in an unscheduled emergency or emergency landing every single day in North America. This dangerous in-flight occurrence has already claimed over 1,230 lives.

In 2007, a top NASCAR official and his pilot were killed after their plane crashed within minutes of radioing an emergency because of smoke cascading into the cockpit. The crash also killed a mother, her 6-month-old infant and a 4-year-old next-door neighbor when the plane struck into the heart of their Florida neighborhood.

The National Transportation Safety Board has addressed the issue and considers smoke inside the cockpit and

cabins to be a “serious issue.” The NTSB has made recommendations to the Federal Aviation Administration for decades on this very issue. The FAA does not consider smoke interfering with the pilot’s vision as a “unsafe condition,” despite more than 70 major events in the last 4 decades and NTSB recommendations.

This amendment would gather the data that could prove the need for better equipment and save thousands of lives in the future.

Today, I look forward to voting for this important reauthorization of the FAA. I want to thank Chairman OBERSTAR and Chairman COSTELLO for their excellent work on this bill, including protections and rights guaranteed to the 2 million airline passengers that fly in this country every day. The Committee on Transportation and Infrastructure and the Aviation Subcommittee have taken historic steps to improve flying experiences for passengers, as well as invest in modernizing critical safety systems like air traffic control.

Once a plane has taken off and is in control of the pilot, smoke in the cockpit can be deadly. There will be nothing our safety systems on the ground or air traffic controllers in the tower could do to help.

Mr. Chairman, I reserve the balance of my time.

Mr. COSTELLO. I claim time in opposition, although I do not intend to oppose the gentlelady’s amendment.

The Acting CHAIR. For what purpose does the gentleman from Wisconsin rise?

Mr. PETRI. Well, I was going to rise in opposition, even though I don’t oppose the amendment either. We would support the amendment and urge its speedy passage.

This amendment seeks to improve aviation safety by requiring the Government Accountability Office (GAO) to conduct a study on FAA oversight of programs intended to prevent or mitigate the dangerous effects of smoke in airline cockpits.

Cockpit smoke can occur due to a variety of reasons, some which are not always imminent threats.

While the FAA has approved several technologies to deal with cockpit smoke, such as specially designed pilot goggles, not every technology is appropriate for all types of aircraft or pilot skill levels. The study proposed by Ms. KILROY’s amendment will assist FAA in determining the most smoke mitigation technology for various operators and aircrafts.

I thank my colleague for her efforts to improve aviation safety and ask all Members to support this amendment.

The Acting CHAIR. Without objection, the gentleman from Illinois (Mr. COSTELLO) is recognized for 5 minutes.

There was no objection.

Mr. COSTELLO. Mr. Chairman, we commend the gentlewoman on her amendment. We accept it and yield back the balance of our time.

Ms. HIRONO. Mr. Chair, I rise today in support of the Kilroy amendment to H.R. 916, the FAA Reauthorization Act, which directs the GAO to study, within one year of enactment, the effectiveness of FAA oversight activities related to preventing or mitigating the effects of dense continuous smoke in the cockpit of commercial aircraft.

There are several incidents every week where an aircraft must land due to the presence of smoke in the cockpit. In the great majority of these cases, pilots are able to land the aircraft or disperse the smoke before a catastrophic accident results. There have, however, been several accidents over the years caused by the inability of pilots to see due to the presence of unstoppable, dense, continuous smoke.

Interestingly, the aircraft of the Secretary of Transportation, the Secretary of Homeland Security, senior military leaders, and the Federal Aviation Administration have technology aboard that ensures that, even in cases of dense unstoppable blinding smoke, pilots can see.

I was surprised to learn, however, that there is no FAA requirement that passenger airliners or military aircraft have an equivalent system to ensure that pilots can see under these conditions. The technology in question costs approximately \$25,000 to \$30,000 per aircraft—which equates to a penny or so per ticket over the life of the system.

As I understand it, the FAA’s minimum safety standard is that any failure of systems or components that result in catastrophic consequences must be “extremely improbable,” and that “extremely improbable” is defined by the FAA as not one catastrophic event in one billion flight hours.

According to Boeing data, American certified planes have not flown one billion flight hours worldwide in the last 50 years. There have, however, been numerous catastrophic fatal airliner accidents in which smoke in the cockpit has been a cause or a factor during that period.

Like with U.S. Airways Flight 1549, seconds count. Fortunately, in that case the pilot could see to land, even if under very difficult conditions. If the emergency had been continuous, unstoppable smoke in the cockpit and the pilot had been unable to see, it is unlikely we would have had such a happy outcome.

I raised this issue during a Transportation and Infrastructure Committee hearing on the bill in February. The FAA contends that existing systems and procedures are adequate. I am not convinced, and I welcome an investigation of this issue by the GAO.

Ms. KILROY. Mr. Chairman, I appreciate the support, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KILROY).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. FRELINGHUYSEN

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part C of House Report 111-126.

Mr. FRELINGHUYSEN. Mr. Chairman, I have an amendment at the desk that I intend to withdraw at the appropriate time.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. FRELINGHUYSEN:

Page 259, after line 22, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 826. NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AIRSPACE.**

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a study on the proposed New York/New Jersey/Philadelphia Class B modification designation change.

(b) CONTENTS.—In conducting the study, the Administrator shall determine the effect of such proposed change on the environment, and, in particular, with regard to airplane noise, and shall state whether this proposed change was considered in conjunction with the on-going New York/New Jersey/Philadelphia Metropolitan Airspace Redesign.

(c) REPORT.—The Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study under subsection (a) not later than 30 days after the date of enactment of this Act.

The Acting CHAIR. Pursuant to House Resolution 464, the gentleman from New Jersey (Mr. FRELINGHUYSEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to engage in a colloquy with the chairman of the Committee on Transportation and Infrastructure, Mr. OBERSTAR.

Mr. Chairman, as you know, I have long been concerned about aircraft noise over northern New Jersey. However, time and time again the Federal Aviation Administration has turned a deaf ear to the tremendous impact air noise has made on our quality of life.

Lately, there has been considerable discussion about increasing transparency in our government. However, it has been extremely difficult to obtain information from the FAA about proposals that will have significant negative impacts on my constituents.

I offer this amendment because there have been conflicting reports about the proposed changes by the FAA to the Class B airspace in the New York and New Jersey metropolitan area.

Following several inquiries to the FAA, including a letter from the gentleman from New Jersey (Mr. GARRETT) and me to FAA Acting Administrator Lynne Osmus, the FAA has not been forthcoming with its plans about this proposed airspace change.

Together, with many of my colleagues in the region, I feel very strongly that the FAA must make its plans public and be held accountable for the effects. As the FAA continues to redesign the airspace in our region,

it cannot push forward another proposal that may lead to even more noise for my constituents on the ground. They have a right to know what changes are being considered and certainly what changes are being implemented, as these changes will affect their lives and livelihoods.

I look forward to working with the chairman and the ranking member in the future to get information on these proposals and to ensure that all of our constituents are fully informed about the FAA's future plans.

I yield to the chairman.

Mr. OBERSTAR. I thank the gentleman for yielding, Mr. Chairman, and want to commend him for pursuing so vigorously this issue, and I deplore the lack of response from the FAA, as we heard earlier in the day on the rule from the gentleman from Florida, who appealed many times to the FAA, and got no response to his concerns.

This process of redesign of the east coast airspace has been going on for 9 years, this particular plan. There are other plans that have been going on for 20 years. They should have been adequately discussed in the public domain. The Members of Congress should have been engaged in the process, and we're going to change that. We're going to make this happen.

And I want to assure the gentleman that we will work hand-in-glove with the gentleman, the chairman of the Aviation Subcommittee, the distinguished ranking member of the subcommittee, the ranking member of the full committee.

I would just like to inquire of the gentleman about Atlantic City airport. Is that in the gentleman's district?

□ 1615

Mr. FRELINGHUYSEN. That's a little farther south from where I live.

Mr. OBERSTAR. If service were routed to Atlantic City, would that divert noise from the gentleman's constituents?

Mr. FRELINGHUYSEN. We've always believed in an ocean route. Whether the people in the Atlantic would want to have what we've been having to bear, I would doubt it.

Mr. OBERSTAR. Well, I think there is additional capacity. This is the world's busiest airspace. The New York TRACON handles more aircraft movement than all of Europe combined. Finding places for those aircraft to approach and depart is extremely difficult. But there is capacity at Stuart Air Force Base, which is a joint use facility, and there is capacity at Atlantic City. All it needs is a surface rail line. And that would allow ocean approaches that would take noise away from the gentleman's constituencies, and from those in New York and from elsewhere. I'm going on way too long because we want to conclude this debate and get to the final votes.

But I know that the gentleman's colleague, Mr. LOBIONDO, is very strong in support of service from Atlantic City. It would relieve noise from the gentleman's airport to move aircraft in that facility. It has a 10,000 foot runway. It has a taxiway. It has unused capacity. And it could relieve the New York airport situation, relieve the noise from the gentleman's constituency.

So let's work together. Let's have the FAA in for some discussions and pursue this matter further.

I thank the gentleman for yielding.

Mr. FRELINGHUYSEN. I thank the chairman very much for his time, as well as Mr. COSTELLO's interest. I was involved in helping fund through the appropriations process this air design. So when we're shut out of the process when they're making plans, I think we have a right to be concerned.

If I may, I would like to yield to the gentleman from Wisconsin, the ranking member.

The Acting CHAIR. The gentleman has 5 seconds.

Mr. PETRI. I would like to give my hardworking and conscientious colleague from New Jersey every assurance that I will work with him.

Mr. FRELINGHUYSEN. I ask unanimous consent to withdraw my amendment.

The Acting CHAIR. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Acting CHAIR. The amendment is withdrawn.

AMENDMENT NO. 11 OFFERED BY MRS. LOWEY

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part C of House Report 111-126.

Mrs. LOWEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mrs. LOWEY:

Page 198, after line 25, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 515. WESTCHESTER COUNTY AIRPORT, NEW YORK.**

(a) RULEMAKING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to determine whether Westchester County Airport should be authorized to limit aircraft operations between the hours of 12 a.m. and 6:30 a.m.

(b) DEADLINES.—The Administrator shall—  
(1) not later than 180 days after the date of enactment of this Act, issue a notice of proposed rulemaking under subsection (a); and  
(2) not later than 16 months after the close of the comment period on the proposed rule, issue a final rule.

The Acting CHAIR. Pursuant to House Resolution 464, the gentlewoman from New York (Mrs. LOWEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, this amendment would initiate a rule-making process by the FAA to determine whether Westchester County Airport may reinstate its overnight aircraft restrictions.

Owned and operated by Westchester County, the airport has had voluntary restrictions between midnight and 6:30 a.m. since its mandatory curfew was removed in the early 1980's. For nearly twenty years, all of the operators at the airport were abiding by the voluntary curfew. However, business at the airport has expanded tremendously, with more and more flights disregarding the curfew, which disrupts communities throughout the overnight hours and makes the County's environmental upkeep in the area more demanding.

Just miles from New York City, this airport is an important gateway for commercial and business aircraft in the area. However, it was never designed to accommodate so many aircraft. Bound by the borders of New York and Connecticut, the airport's physical infrastructure cannot expand further.

Westchester County, in conjunction with its commercial carriers, has imposed limits on terminal capacity. Yet, with business and corporate jets comprising fifty percent of the estimated 167,000 take offs and landings at the airport this year, the agreed upon guidelines and voluntary restrictions have not been fully honored.

This amendment directs FAA to evaluate Westchester County's request to reinstate its overnight curfew, potentially easing congestion in the heavily-trafficked New York airspace and providing the residents in both New York and Connecticut with needed relief from overnight operations. I urge my colleagues to support it.

Mr. OBERSTAR. Will the gentlewoman yield?

Mrs. LOWEY. I would be delighted to yield.

Mr. OBERSTAR. We are prepared to accept the gentlewoman's amendment. It's a reasonable and thoughtful approach, and it will work. And we will support the gentlewoman.

Mrs. LOWEY. Thank you so much, Mr. Chairman. I have always been impressed with your wisdom and your thoughtfulness, and I thank you very much for accepting this amendment.

I reserve the balance of my time.

Mr. PETRI. Mr. Chairman, I rise in opposition to the amendment offered by my esteemed colleague from New York (Mrs. LOWEY).

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. PETRI. In 1981, Westchester County enacted a curfew that banned all aircraft from operating between the hours of midnight and 7 a.m. This curfew was made against the advice of the FAA, and was immediately struck down by a Federal court. The Court also issued a permanent injunction in part because Westchester was unable to

justify the curfew with any evidence of a noise problem. Furthermore, the Court found that the curfew was in violation of the commerce clause because it imposed an undue burden on New York metropolitan air transportation.

Simply put, this amendment would remove the permanent injunction on this unjustified curfew and arbitrarily restrict airspace access without requiring Westchester County to make its case. This matter has been dealt with in the appropriate place, the Federal courts. The airport has a process available to make its case for such a restriction, but has chosen not to comply.

The amendment sidesteps a process that applies to every other airport and would disrupt air travel in the New York area airspace. On those grounds, I urge my colleagues to join me in opposing the amendment.

The Acting CHAIRMAN. The gentlewoman from New York has 4½ minutes remaining.

Mrs. LOWEY. I'd like to thank the chairman for accepting this amendment. I would be delighted to work with Mr. PETRI and Mr. MICA, who also said that although he had concerns, he wouldn't object to the amendment.

All this amendment does is direct it to be studied. It directs it to be studied. It's not implementing the changes. I reserve the balance of my time.

Mr. PETRI. I yield to my colleague from Florida.

Mr. MICA. Mr. Chairman, and gentlelady from New York, I just want to express, through the Chair, that we do have concerns. We've expressed concerns. We are willing to work with the gentlelady and accept her amendment at this time. But our reservations have been noted for the record.

Mr. PETRI. I yield back the balance of my time.

Mrs. LOWEY. I thank the chairman for accepting the amendment.

Mr. ENGEL. Mr. Chair, for over 25 years the overnight flight restrictions at Westchester County Airport have been voluntary. Unfortunately some airlines have disregarded the voluntary restrictions and have scheduled flights between midnight and 6:30 a.m.

It is because of these few airlines disrespecting the residents of Westchester County and disrespecting the airlines who do comply with the voluntary curfew that this amendment is needed.

It would direct the FAA to follow the proper processes to determine if the Westchester County Airport should receive the authority to make the overnight flight curfew mandatory.

While I recognize that the Westchester County Airport is vital to the economy of the region, I don't believe that the residents should have to endure the noise of planes taking off and landing at 3 a.m.

Additionally, allowing more planes to take off and land at all hours of the night will increase not just noise pollution, but air and water too.

On another matter: the FAA concocted the New York, New Jersey, Philadelphia airspace

redesign with zero input from the residents it harms the most, especially because it would put an additional 200–400 flights a day over my constituents in Rockland County. This New York, New Jersey, Philadelphia airspace redesign should be scrapped.

The hundreds of additional planes flying over Rockland will contribute to the already increasing pollution levels in the area. The noise level will also be substantially increased, yet the FAA has been unable to give me or the affected residents the information on how loud each plan will be, just 24-hour averages.

It is likely that first responders would have to be trained for the event of an airplane crash, causing added costs to local police, fire, and EMT departments that are already stretched thin. In addition, we have not gotten a clear signal whether the flight plans will route commercial aircraft over Indian Point, an extremely dangerous scenario. This airspace redesign proposal for New York, New Jersey, and Philadelphia should not be implemented.

Mrs. LOWEY. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Mrs. LOWEY).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. ACKERMAN

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part C of House Report 111–126.

Mr. ACKERMAN. I rise in support of the amendment which I have at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. ACKERMAN:

Page 259, after line 22, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 826. COLLEGE POINT MARINE TRANSFER STATION, NEW YORK.**

(a) FINDING.—Congress finds that the Federal Aviation Administration, in determining whether the proposed College Point Marine Transfer Station in New York City, New York, if constructed, would constitute a hazard to air navigation, has not followed published policy statements of the Federal Aviation Administration, including—

(1) Advisory Circular Number 150/5200-33B 2, entitled "Hazardous Wildlife Attractants on or Near Airports";

(2) Advisory Circular Number 150/5300-13, entitled "Airport Design"; and

(3) the publication entitled "Policies and Procedures Memorandum—Airports Division", Number 5300.1B, dated Feb. 5, 1999.

(b) DESIGNATION OF TRANSFER STATION AS HAZARD TO AIR NAVIGATION.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to designate the proposed College Point Marine Transfer Station in New York City, New York, as a hazard to air navigation.

The Acting CHAIRMAN. Pursuant to House Resolution 464, the gentleman from New York (Mr. ACKERMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I offer this simple amendment on behalf of myself and the gentleman from New York (Mr. CROWLEY). This has to do with safety trumping garbage. It has to do with common sense.

The City of New York Department of Sanitation has proposed a marine transfer station. These are generally built on the shoreline because trash is compacted there and put on barges and then carted away on the Long Island Sound or the East River or the Hudson River.

Of all the shoreline places to build this, would you suspect the one place that would be picked by the Department of Sanitation would be directly opposite one of the biggest active runways, one of the most active runways in the whole United States of America, where planes take off and land approximately every 20 seconds. I'm talking about LaGuardia Airport, the airport with the largest number of flights in New York City.

This is an aerial view of the airport. This is LaGuardia Airport's runway. LaGuardia Airport, most people don't know, has only two runways for all of these great number of flights.

The garbage plant is planned right over here, opposite the runway, 2,000 feet away. The rules and regulations of the FAA, which is what we're asking for in this amendment to be implemented and utilized, say that you should not put a garbage treatment plant anywhere near the runway protection zone which is currently 2,000 feet away. This is 2,000 feet—less than that—according to this map which we downloaded from Google.

There will be a new flight slope plan implemented that the FAA has approved which says it can't be within 2,500 feet. Why would you put a garbage facility, an attractant to birds, less than 2,000 feet away from one of the most active runways?

The gentleman from New York (Mr. HALL) requested of the FAA, they declined, and Secretary of Transportation LaHood overruled them and released the number of bird strikes at airports around the country. Last year there were 87 bird strikes at LaGuardia Airport alone.

Now, our pilots are good. You might have seen a little news report that said they can even land on water. And indeed, that's what happened when one of our jets was struck by birds.

Garbage is an attractant to birds. The FAA rules and recommendations say don't put these things in the runway protection zone. Our amendment simply says to the FAA, you have to follow your own guidelines.

Put it anywhere else. There's a political concern here, and the political concern is not a NIMBY concern. This will most likely be in mine or Mr.

CROWLEY's district. It borders both of our districts right now.

This site is the least politically damaging to us because it's in a commercial area. Any other place that they will move it will cause us some political concerns. But those political concerns that we will have to suffer if they move this anywhere up and down the coast in either of our districts is not as important to the safety of the flying public.

I reserve the balance of my time.

Mr. MICA. I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Florida is recognized for 5 minutes.

Mr. MICA. This amendment, unfortunately, is a local issue that we're putting into a Federal piece of legislation that is very important for safety; and the gentleman, who I greatly respect, Mr. ACKERMAN, is trying to do the best he can to make arguments that this dump poses safety concerns and hazards to aviation. I don't have the capability of making that determination, nor does Congress. We rely on the FAA. They have looked at this. They say that it does not pose a hazard to air navigation.

That being said, I like Mr. ACKERMAN, and sometimes I find myself in the situation like Mr. ACKERMAN, and you try to use any means you can to satisfy concerns about a project, whether it be local, State or Federal to the best benefit of your constituents.

So therefore, I am not going to call for a vote. I'm not going to actively oppose. I probably will quietly say no to this and let it pass.

I reserve the balance of my time.

Mr. ACKERMAN. I yield briefly to the Congressman from New York (Mr. CROWLEY).

Mr. CROWLEY. I thank the gentleman for yielding. I listened very carefully to the objections. And let me just say that if LaGuardia Airport is forced to close for 10 minutes, it sets off an explosion that affects the entire flight paths of the Eastern seacoast. So whatever does happen, we were very fortunate that we had Captain Sullenberger, who was able to land Flight 1549 safely.

This is not just a local concern. This is a concern, I think nationally as well. The number of geese or fowl that disrupt air travel happens more often than the public was led to believe.

I think that building a facility for waste transfer within 2,000 feet of the runway is simply ludicrous. We shouldn't be doing that. I think that the City of New York and the Department of Sanitation needs to rethink this one and send it back to the drawing board.

GARY ACKERMAN and myself are calling foul right now. This should not happen. We're sending that message home to our folks back in New York.

Mr. MICA. I reserve the balance of my time to close.

Mr. ACKERMAN. I would yield back the balance of my time.

Mr. MICA. Mr. Chairman, might I inquire as to the time remaining?

The Acting CHAIRMAN. The gentleman from Florida has 3½ minutes remaining.

Mr. MICA. I yield myself the balance of my time.

□ 1630

Well, this is the conclusion, really, on the debate of the FAA authorization. It ends with a question of whether we should close the dump or keep the dump open.

As I said, I have the greatest respect for Mr. ACKERMAN and also for Mr. CROWLEY, and I know what they're trying to do for their constituents. So I rise in very quiet opposition, but I do have to state the facts, that this is not a matter that really should be in the bill, but we'll try to assist our colleagues as they're trying to do the best they can for their constituents.

On the larger question of the bill, Mr. Chairman and my colleagues, I also rise in opposition to the bill, somewhat quietly. Every Member can vote the way they'd like. I'm not telling or asking Republican Members to vote one way or another, but you do have to be the judge of what we're doing here today. It is important that we do reauthorize the Federal Aviation Administration. We've had a 2-year delay, not of any fault of my colleagues under the great leadership of Mr. OBERSTAR, Mr. COSTELLO, and Mr. PETRI, our ranking member. We've done our level best to make certain that we have the policy, the projects, and the funding to have the safest aviation system in the world. They can be very proud of their work.

Now, we do have some differences of opinion on some particular provisions. This was voted on before, and some circumstances have changed. We have a new President. He is trying to resolve a very contentious labor issue. I don't like putting that issue in now. That's different than when we voted on it before. We did have a different President and a different situation. So here I am, a Republican, saying we need to support our President, but we need to do that and to not set a bad precedence for all labor issues to be drug before Congress in this manner.

Then, on the question of job creation and job killing, I don't know how many jobs are in the provisions for insisting on this mandated inspection of foreign repair stations. That sounds good, but it reverts us back to a time when we used to do that in the United States. Twice a year, we would inspect every one of these stations whether we needed to or not, and that was a diversion of our resources. We changed that to a risk-based system, and that's what we

need to maintain both domestically and internationally.

Finally, 95 percent of this bill was debated before. There is an antitrust immunity provision that does repeal some provisions we've given to airline alliances. It's a job killer. It's estimated to be over 100,000 jobs. I don't know how many. At a time when people will come to us as we return to our districts over Memorial Day weekend, we can't leave here and say that we've eliminated more jobs. Many of these jobs, whether they're repair stations or the airline industry, are good-paying jobs that people need so desperately today.

So the question before us is how we vote on this particular legislation at this time and place and with these particular provisions. Some are good. Some are bad. I choose to vote "no" today. I'm sorry.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. ACKERMAN).

The amendment was agreed to.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part C of House Report 111-126 on which further proceedings were postponed, in the following order:

Amendment No. 4 by Mr. BURGESS of Texas.

Amendment No. 6 by Mr. MCCAUL of Texas.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 4 OFFERED BY MR. BURGESS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BURGESS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 0, not voting 19, as follows:

[Roll No. 288]

AYES—420

Abercrombie	Barrow	Blackburn
Ackerman	Bartlett	Blumenauer
Aderholt	Barton (TX)	Blunt
Adler (NJ)	Bean	Bocieri
Akin	Becerra	Boehner
Alexander	Berman	Bonner
Altmire	Berry	Bono Mack
Arcuri	Biggert	Boozman
Austria	Bilbray	Bordallo
Baca	Bilirakis	Boren
Bachus	Bishop (GA)	Boswell
Baird	Bishop (NY)	Boucher
Baldwin	Bishop (UT)	Boustany

Brady (PA)	Fudge	Lummis
Brady (TX)	Gallegly	Lungrun, Daniel
Braley (IA)	Garrett (NJ)	E.
Bright	Gerlach	Lynch
Broun (GA)	Giffords	Mack
Brown (SC)	Gingrey (GA)	Maffei
Brown, Corrine	Gohmert	Maloney
Brown-Waite,	Gonzalez	Manzullo
Ginny	Goodlatte	Marchant
Buchanan	Gordon (TN)	Markey (MA)
Burgess	Granger	Marshall
Burton (IN)	Graves	Massa
Butterfield	Grayson	Matheson
Buyer	Green, Al	Matsui
Calvert	Green, Gene	McCarthy (CA)
Camp	Griffith	McCarthy (NY)
Campbell	Grijalva	McCaul
Cantor	Guthrie	McClintock
Cao	Gutierrez	McCollum
Capito	Hall (NY)	McCotter
Capps	Hall (TX)	McDermott
Capuano	Halvorson	McGovern
Cardoza	Hare	McHenry
Carnahan	Harman	McIntyre
Carney	Harper	McKeon
Carson (IN)	Hastings (FL)	McMahon
Carter	Hastings (WA)	McMorris
Cassidy	Heinrich	Rodgers
Castle	Heller	McNerney
Chaffetz	Hensarling	Meek (FL)
Chandler	Herger	Meeks (NY)
Childers	Herseth Sandlin	Melancon
Christensen	Higgins	Mica
Clarke	Hill	Michaud
Clay	Himes	Miller (FL)
Cleaver	Hinchey	Miller (MI)
Clyburn	Hinojosa	Miller (NC)
Coble	Hirono	Miller, Gary
Coffman (CO)	Hodes	Miller, George
Cohen	Hoekstra	Minnick
Cole	Holden	Mitchell
Conaway	Holt	Mollohan
Connolly (VA)	Honda	Moore (KS)
Conyers	Hoyer	Moore (WI)
Cooper	Hunter	Moran (KS)
Costa	Inglis	Moran (VA)
Costello	Inslie	Murphy (CT)
Courtney	Israel	Murphy (NY)
Crenshaw	Issa	Murphy, Patrick
Crowley	Jackson (IL)	Murphy, Tim
Cuellar	Jackson-Lee	Murtha
Culberson	(TX)	Myrick
Cummings	Jenkins	Nadler (NY)
Dahlkemper	Johnson (IL)	Napolitano
Davis (AL)	Johnson, E. B.	Neal (MA)
Davis (CA)	Johnson, Sam	Neugebauer
Davis (IL)	Jones	Norton
Davis (KY)	Jordan (OH)	Nunes
Davis (TN)	Kagen	Nye
DeFazio	Kanjorski	Oberstar
DeGette	Kennedy	Obey
DeLauro	Kildee	Olson
Dent	Kilpatrick (MI)	Oliver
Diaz-Balart, L.	Kilroy	Ortiz
Diaz-Balart, M.	Kind	Pallone
Dicks	King (IA)	Pascarell
Dingell	King (NY)	Pastor (AZ)
Doggett	Kirk	Paul
Donnelly (IN)	Kirkpatrick (AZ)	Paulsen
Doyle	Kissell	Payne
Dreier	Klein (FL)	Pence
Duncan	Kline (MN)	Perriello
Edwards (MD)	Kosmas	Peters
Edwards (TX)	Kratovil	Peterson
Ehlers	Kucinich	Petri
Ellison	Lamborn	Pierluisi
Ellsworth	Lance	Pingree (ME)
Emerson	Langevin	Pitts
Engel	Larsen (WA)	Platts
Eshoo	Larson (CT)	Poe (TX)
Etheridge	Latham	Polis (CO)
Faleomavaega	LaTourette	Pomeroy
Fallin	Latta	Posey
Farr	Lee (CA)	Price (GA)
Fattah	Lee (NY)	Price (NC)
Filner	Levin	Putnam
Fleming	Lewis (CA)	Quigley
Forbes	Lewis (GA)	Radanovich
Fortenberry	Linder	Rahall
Foster	Lipinski	Rangel
Fox	LoBiondo	Rehberg
Frank (MA)	Loeb	Reichert
Franks (AZ)	Lowey	Reyes
Frelinghuysen	Lucas	Richardson
	Luetkemeyer	Rodriguez
	Lujan	Roe (TN)

Rogers (AL)	Shea-Porter	Titus
Rogers (KY)	Sherman	Tonko
Rogers (MI)	Shinkus	Towns
Rohrabacher	Shuler	Tsongas
Rooney	Shuster	Turner
Ros-Lehtinen	Simpson	Upton
Roskam	Sires	Van Hollen
Ross	Skelton	Velázquez
Rothman (NJ)	Slaughter	Visclosky
Roybal-Allard	Smith (NE)	Walden
Royce	Smith (NJ)	Walz
Ruppersberger	Smith (TX)	Wamp
Rush	Smith (WA)	Wasserman
Ryan (OH)	Snyder	Schultz
Ryan (WI)	Souder	Waters
Salazar	Space	Watson
Sanchez, Loretta	Spratt	Watt
Sarbanes	Stearns	Waxman
Scalise	Stupak	Weiner
Schakowsky	Sullivan	Welch
Schauer	Sutton	Westmoreland
Schiff	Tanner	Wexler
Schmidt	Tauscher	Whitfield
Schock	Taylor	Wilson (OH)
Schrader	Teague	Wilson (SC)
Schwartz	Terry	Wittman
Scott (GA)	Thompson (CA)	Wolf
Scott (VA)	Thompson (MS)	Woolsey
Sensenbrenner	Thompson (PA)	Wu
Serrano	Thornberry	Yarmuth
Sessions	Tiahrt	Young (AK)
Sestak	Tiberi	Young (FL)
Shadegg	Tierney	

#### NOT VOTING—19

Andrews	Flake	Perlmutter
Bachmann	Johnson (GA)	Sablan
Barrett (SC)	Kaptur	Sánchez, Linda
Berkley	Kingston	T.
Boyd	Lofgren, Zoe	Speier
Deal (GA)	Markey (CO)	Stark
Driehaus	McHugh	

The Acting CHAIR. There are 2 minutes remaining in this vote.

□ 1659

Messrs. ALTMIRE, BUTTERFIELD, and MINNICK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

#### AMENDMENT NO. 6 OFFERED BY MR. MCCAUL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on amendment No. 6 printed in part C of House Report 111-126 by the gentleman from Texas (Mr. MCCAUL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 417, noes 2, not voting 20, as follows:

[Roll No. 289]

AYES—417

Abercrombie	Bachus	Bilbray
Ackerman	Baird	Bilirakis
Aderholt	Baldwin	Bishop (GA)
Adler (NJ)	Barrow	Bishop (NY)
Akin	Bartlett	Bishop (UT)
Alexander	Barton (TX)	Blackburn
Altmire	Bean	Blumenauer
Andrews	Becerra	Blunt
Arcuri	Berman	Bocieri
Austria	Berry	Boehner
Baca	Biggert	Bonner

Bono Mack Fortenberry  
 Boozman Foster  
 Bordallo Fox  
 Boren Frank (MA)  
 Boswell Franks (AZ)  
 Boucher Frelinghuysen  
 Boustany Fudge  
 Brady (PA) Gallegly  
 Brady (TX) Garrett (NJ)  
 Braley (IA) Gerlach  
 Bright Giffords  
 Broun (GA) Gingrey (GA)  
 Brown (SC) Gohmert  
 Brown, Corrine Gonzalez  
 Brown-Waite, Goodlatte  
  Ginny Gordon (TN)  
 Buchanan Granger  
 Burgess Graves  
 Burton (IN) Grayson  
 Butterfield Green, Al  
 Buyer Green, Gene  
 Calvert Griffith  
 Camp Grijalva  
 Campbell Guthrie  
 Cantor Gutierrez  
 Cao Hall (NY)  
 Capito Hall (TX)  
 Capps Halvorson  
 Capuano Hare  
 Cardoza Harman  
 Carnahan Harper  
 Carney Hastings (FL)  
 Carson (IN) Hastings (WA)  
 Carter Heinrich  
 Cassidy Heller  
 Castle Hensarling  
 Castor (FL) Herger  
 Chaffetz Herseth Sandlin  
 Chandler Hill  
 Childers Himes  
 Christensen Hinchey  
 Clarke Hinojosa  
 Cleaver Hirono  
 Clyburn Hodes  
 Coble Hoekstra  
 Coffman (CO) Holden  
 Cohen Holt  
 Cole Honda  
 Conaway Hoyer  
 Connolly (VA) Hunter  
 Conyers Ingalls  
 Cooper Inslee  
 Costa Israel  
 Costello Issa  
 Courtney Jackson (IL)  
 Crenshaw Jackson-Lee  
 Crowley (TX)  
 Cuellar Jenkins  
 Culberson Johnson (GA)  
 Cummings Johnson (IL)  
 Dahlkemper Johnson, E. B.  
 Davis (AL) Johnson, Sam  
 Davis (CA) Jones  
 Davis (IL) Jordan (OH)  
 Davis (KY) Kagen  
 Davis (TN) Kanjorski  
 DeFazio Kennedy  
 DeGette Kildee  
 Delahunt Kilpatrick (MI)  
 DeLauro Kilroy  
 Dent Kind  
 Diaz-Balart, L. King (IA)  
 Diaz-Balart, M. King (NY)  
 Dicks Kirk  
 Dingell Kirkpatrick (AZ)  
 Doggett Kissell  
 Donnelly (IN) Klein (FL)  
 Doyle Kline (MN)  
 Dreier Kosmas  
 Duncan Kratovil  
 Edwards (MD) Kucinich  
 Edwards (TX) Lamborn  
 Ehlers Lance  
 Ellison Langevin  
 Ellsworth Larsen (WA)  
 Emerson Larson (CT)  
 Engel Latham  
 Eshoo LaTourette  
 Etheridge Latta  
 Faleomavaega Lee (CA)  
 Fallin Lee (NY)  
 Farr Levin  
 Fattah Lewis (CA)  
 Filner Lewis (GA)  
 Fleming Linder  
 Forbes Lipinski

LoBiondo  
 Loeb sack  
 Lowey  
 Lucas  
 Luetkemeyer  
 Lujan  
 Lummis  
 Lungren, Daniel E.  
 Lynch  
 Mack  
 Maffei  
 Maloney  
 Manzullo  
 Marchant  
 Markey (MA)  
 Marshall  
 Massa  
 Matheson  
 Matsui  
 McCarthy (CA)  
 McCarthy (NY)  
 McCaul  
 McClintock  
 McCollum  
 McCotter  
 McDermott  
 McGovern  
 McHenry  
 McIntyre  
 McKeon  
 McMahon  
 McMorris  
 Rodgers  
 McNeerney  
 Meek (FL)  
 Meeks (NY)  
 Melancon  
 Mica  
 Michaud  
 Miller (FL)  
 Miller (MI)  
 Miller (NC)  
 Miller, Gary  
 Miller, George  
 Minnick  
 Mitchell  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (KS)  
 Murphy (CT)  
 Murphy (NY)  
 Murphy, Patrick  
 Murphy, Tim  
 Murtha  
 Myrick  
 Nadler (NY)  
 Napolitano  
 Neal (MA)  
 Neugebauer  
 Norton  
 Nye  
 Oberstar  
 Obey  
 Olson  
 Oliver  
 Ortiz  
 Pallone  
 Pascarell  
 Pastor (AZ)  
 Paul  
 Paulsen  
 Payne  
 Pence  
 Perriello  
 Peters  
 Peterson  
 Petri  
 Pierluisi  
 Pingree (ME)  
 Pitts  
 Platts  
 Poe (TX)  
 Polis (CO)  
 Pomeroy  
 Posey  
 Price (GA)  
 Price (NC)  
 Putnam  
 Quigley  
 Radanovich  
 Rangel  
 Rehberg  
 Reichert  
 Reyes

Richardson  
 Rodriguez  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 Sanchez, Loretta  
 Sarbanes  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schock  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions

Sestak  
 Shadegg  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Skelton  
 Slaughter  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Souder  
 Space  
 Spratt  
 Stearns  
 Stupak  
 Sullivan  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi

Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walden  
 Walz  
 Wamp  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Wexler  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

## NOES—2

Moran (VA)

Rahall

## NOT VOTING—20

Bachmann  
 Barrett (SC)  
 Berkley  
 Boyd  
 Clay  
 Deal (GA)  
 Driehaus

Flake  
 Higgins  
 Kaptur  
 Kingston  
 Lofgren, Zoe  
 Markey (CO)  
 McHugh

Nunes  
 Perlmutter  
 Sablan  
 Sánchez, Linda T.  
 Speier  
 Stark

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
 There are 2 minutes remaining in this vote.

□ 1707

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WEINER) having assumed the chair, Mr. JACKSON of Illinois, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 915) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, pursuant to House Resolution 464, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mr. CAMPBELL. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CAMPBELL. I am, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Campbell moves to recommit the bill H.R. 915 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with the following amendment:

At the end of title IV of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 426. PROHIBITION OF FUNDING FOR OTHERWISE ELIGIBLE PLACE.**

(a) FINDINGS.—Congress finds the following:

(1) When the Airline Deregulation Act of 1978 (Public Law 95-504) was enacted, 746 communities in the United States and its territories were listed on air carrier certificates issued under the Federal Aviation Act of 1958 (Public Law 85-726).

(2) In order to address concern that communities with lower traffic levels would lose service entirely, Congress created a program where, as needed, the Department of Transportation pays a subsidy to an air carrier to ensure that the specified level of service is provided.

(5) Most of the small communities eligible for the program do not require subsidized service.

(6) As of April 1, 2009, the Department of Transportation was subsidizing service at 108 communities in the contiguous 48 States, Hawaii, and Puerto Rico and 45 communities in Alaska.

(7) Air service to Johnstown, Pennsylvania, is subsidized by the United States taxpayer. Each week, 6 commercial flights take off from or land at the John Murtha Johnstown-Cambria County Airport to or from Washington Dulles International Airport.

(8) Service to John Murtha Johnstown-Cambria County Airport is subsidized at a rate of \$1,394,000 a year through June 30, 2010.

(9) Since 1990, the John Murtha Johnstown-Cambria County Airport has undergone \$160,000,000 in improvements that include airport improvement program, military, commercial, and infrastructure projects.

(10) The total Federal investment in airport projects at John Murtha Johnstown-Cambria County Airport has been approximately \$150,000,000.

(11) Over the last 10 years, the John Murtha Johnstown-Cambria County Airport has received Federal funding, including—

(A) \$800,000 for a grant under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) to rehabilitate a runway;

(B) \$20,000,000 for a runway extension project;

(C) \$750,000 for a 99-year lease of adjoining airport land;

(D) \$6,000,000 for a state-of-the-art digital radar surveillance system;



(E) \$5,000,000 for a new air traffic control tower;

(F) \$14,000,000 for Marine Corps helicopter hangar and reserve training center;

(G) \$1,200,000 in 2007 for airport improvement projects;

(H) \$2,760,000 in 2006 for airport improvement projects;

(I) \$1,000,000 in 2005 for airport improvement projects;

(J) \$1,600,000 in 2004 for airport improvement projects; and

(K) \$739,452 in 2003 for airport improvement projects.

(12) It is both wasteful and irresponsible to use United States taxpayer dollars to continue to subsidize air service to an airport that has received approximately \$150,000,000 in Federal funding, but has achieved no improvement in commercial service provided to the airport without subsidization.

(b) PROHIBITION OF FUNDING FOR OTHERWISE ELIGIBLE PLACE.—Section 41742(a) is amended by adding at the end the following:

“(4) PROHIBITION ON FUNDING FOR OTHERWISE ELIGIBLE PLACE.—Notwithstanding any other provision in law, no amounts authorized under paragraphs (1) and (2) shall be used for the provision of subsidized air service to an otherwise eligible place if the eligible place has a public airport located 3 miles northeast of Johnstown, Pennsylvania, that offers scheduled commercial air carrier service and general aviation service and has a joint military control tower.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California is recognized for 5 minutes in support of his motion.

□ 1715

Mr. CAMPBELL. Mr. Speaker, as of April 1, 2009, the Department of Transportation subsidized air service to 108 communities in 48 the continental United States, Hawaii and Puerto Rico and 45 communities in Alaska. One of those subsidized airports is the John Murtha Johnstown-Cambria County Airport in Johnstown, Pennsylvania.

This airport handles six commercial flights a week—six a week—to one place, Washington, D.C., a location all of 3 hours' drive from Johnstown, Pennsylvania. But for those six commercial flights a week, less than one a day to a place only 3 hours' drive away, the Federal taxpayer has spent \$150 million in improvements since 1990. Included in that \$150 million is \$20 million for a runway extension, making the runway large enough to accommodate any aircraft in North America, \$800,000 in the most recent stimulus package for runway rehabilitation, \$6 million for a radar surveillance system, \$5 million for a new air traffic control tower, and over \$1 million every year for improvements since 2004. And that's just for the capital improvements.

In addition, the Federal taxpayer spends \$1,394,000 every year in subsidies to the single air carrier making, remember, less than one flight a day out of this airport. That, by the way, computes to nearly \$5,000 in subsidy per flight, which takes less than 45 minutes since it's only 3 hours' drive away.

The defenders of this airport say that it has military use in addition; and in fact, it does. The defenders of this airport point out that there were 28 military deployments out of this airport over the last decade. That would be three deployments per year. So six flights a day, three deployments per year. We all know about the bridge to nowhere. Mr. Speaker, there was a bridge to nowhere, and this is surely the airport for no one.

To say that this is wasteful understates how bad it is. I wish we could get all our money back, but we can't. But what we can do is pass this motion to recommit, which simply says that no money in this bill is going to be used to further subsidize or improve the John Murtha Johnstown-Cambria County Airport.

Mr. Speaker, we have debts and deficits as far as the eye can see. If we can't stop wasting the taxpayers' money on boondoggles as obvious as this one, why should the public trust us at all with any of their money?

Please support this motion to recommit.

I yield back the balance of my time.

Mr. OBERSTAR. I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized for 5 minutes.

Mr. OBERSTAR. This is a surprising amendment. This is the first negative earmarking that I have witnessed in Congress. It is no less than an assault upon essential air service to rural America. To those on the other side, Mr. Speaker, who are laughing now, I wonder what their reaction will be when another amendment comes to deny funding for essential air service to an airport in their communities. They won't be laughing.

This is essentially a harsh amendment. It's aimed at an airport named for a sitting Member of Congress. The airport was not named by action of the Congress. It was named by a Federal agency. It was named by the county commissioners of Cambria County. This airport serves 1,000 military personnel. It serves the Pennsylvania National Guard. It serves the U.S. Marine Corps Reserve and the U.S. Army Reserve, and these units have been deployed 28 times in the last 10 years in service of the United States abroad.

The amendment provides that no amount authorized under paragraphs 1 and 2, meaning paragraphs 1 and 2 of the essential air service act now in law, may be used. That's funding for airports in small communities and their residents who had commercial air service prior to deregulation in 1978—I'm the author of that provision in the Airline Deregulation Act of 1978—to ensure that small towns in rural areas would not be cut out of America's national system of airports and airport service and airline service. It has

worked effectively. Congress has trimmed it back where it's been necessary.

These contracts are awarded by the Department of Transportation for 2 years at a time, revocable, subject to termination at the end of the 2-year period, and reviewed again by the Department of Transportation. If the airport, the airline, the community are not using the funds effectively, DOT can and has terminated EAS service where that service does not meet the standards of their contract.

By act of Congress to say we're going to terminate essential air service funding to a rural community in this America, 150 of us are at risk. If by legislative fiat you can say no to funding this community, no to the people in rural America who want access to greater America, then we're all at risk. This is wrong. This is mean-spirited. Vote it down.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. CAMPBELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 154, noes 263, not voting 16, as follows:

[Roll No. 290]

AYES—154

Akin	Coffman (CO)	Hunter
Austria	Cole	Inglis
Bachus	Conaway	Issa
Barton (TX)	Cooper	Jenkins
Biggert	Culberson	Johnson (IL)
Billray	Davis (KY)	Johnson, Sam
Bilirakis	Diaz-Balart, L.	Jordan (OH)
Bishop (UT)	Diaz-Balart, M.	Kilroy
Blackburn	Dreier	King (IA)
Blunt	Duncan	King (NY)
Boehner	Ehlers	Kirk
Bono Mack	Fallin	Kirkpatrick (AZ)
Boozman	Fleming	Kissell
Boustany	Forbes	Kline (MN)
Brady (TX)	Fortenberry	Kosmas
Bright	Fox	Lamborn
Broun (GA)	Franks (AZ)	Lance
Brown-Waite,	Gallegly	Latham
Ginny	Garrett (NJ)	Latta
Buchanan	Gerlach	Lee (NY)
Burgess	Gingrey (GA)	Linder
Burton (IN)	Gohmert	Lucas
Buyer	Goodlatte	Luetkemeyer
Calvert	Granger	Lummis
Camp	Graves	Lungren, Daniel
Campbell	Guthrie	E.
Cantor	Halvorson	Mack
Capito	Harper	Manzullo
Carter	Hastings (WA)	Marchant
Cassidy	Heller	McCarthy (CA)
Castle	Hensarling	McCauley
Chaffetz	Herger	McClintock
Coble	Hoekstra	McCotter

McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Myrick  
Neugebauer  
Olson  
Paulsen  
Pence  
Perriello  
Petri  
Pitts  
Poe (TX)

Posey  
Price (GA)  
Putnam  
Radanovich  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg

Shimkus  
Smith (NE)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Terry  
Thornberry  
Tiberi  
Titus  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Wilson (SC)  
Wittman  
Wolf

Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NJ)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stupak  
Sutton  
Tanner  
Tauscher

Taylor  
Teague  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Tiahrt  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz

Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Whitfield  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NOT VOTING—16

Bachmann  
Barrett (SC)  
Berkley  
Boyd  
Deal (GA)  
Driehaus  
Flake  
Kaptur  
Kingston  
Lofgren, Zoe  
Markey (CO)  
McHugh  
Nunes  
Perlmutter  
Sánchez, Linda  
T.  
Stark

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are less than 2 minutes to vote.

## □ 1741

Messrs. WHITFIELD and TEAGUE changed their vote from “aye” to “no.” Messrs. BUYER and BACHUS changed their vote from “no” to “aye.” So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. HOYER was allowed to speak out of order.)

## LEGISLATIVE PROGRAM

Mr. HOYER. Mr. Speaker, ladies and gentlemen of the House, we will not have a closing colloquy, obviously, because we are going on a break. We end what was, from the perspective of many, agree or disagree, a very productive period. As we face now this Memorial Day break, I want to thank all the Members.

I think we have done a lot of work over the last 5 months. I think it has been a very humane schedule. I hope all of you believe that, as well, that we have pretty much done it in a time frame. That is the good news.

The bad news is we are going to be moving into June and July. I want to put all of you on notice, as I have told many Members, that I expect June and July to be very busy months with much work and authorization bills coming out of committees, and I also expect for us to do the appropriation bills during the months of June and July.

The reason I rise is to say, as you know, that most Fridays in June and July, with the Fourth of July break, of course, being the exception, most Fridays will be days that my expectation is we will be doing work. This Friday was a day that we were going to work, but we won't be doing work. The supplemental is not able to be considered at this point in time.

The other thing that I wanted to rise and tell all Members is that we have gotten into a syndrome. Many of you on both sides of the aisle have talked

to me about this. And I agree with you. I count myself in this, so I'm not pointing fingers at anybody exclusively. But frankly, all of us have gotten into a syndrome that when the bells ring, we watch how many have voted rather than how much time is left. That obviously is not thoughtful to those who do come here to vote within the time frame available. And very importantly, to the extent that the votes drag out, we have our committees in session with hearings that have taken a break. Chairman FRANK and a number of other Members have talked to me about it. We leave secretaries of departments and other very busy and important witnesses, and all of our witnesses are treated without courtesy. That is not a good thing for any of us to do.

## □ 1745

So I say when we come back—and we've tried this before and it's very difficult, but Members obviously don't get there on time, and some of you are going to be angry with me on both sides of the aisle, but I'm going to try to work with our presiding officers so that we keep to a much shorter period of time. We have been averaging 25, 26 minutes; and I would hope that all of us would cooperate with one another as a courtesy to each of us, our witnesses, and the work of this House.

I hope you have a wonderful Memorial Day break. Come back ready to report on time. Thank you very much.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will resume.

There was no objection.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. PETRI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote exactly.

The vote was taken by electronic device, and there were—ayes 277, noes 136, not voting 20, as follows:

[Roll No. 291]

## AYES—277

Abercrombie	Bono Mack	Chandler
Ackerman	Boren	Childers
Adler (NJ)	Boswell	Clarke
Altmire	Boucher	Clay
Andrews	Brady (PA)	Cleaver
Arcuri	Braley (IA)	Clyburn
Baca	Brown, Corrine	Connolly (VA)
Baird	Butterfield	Conyers
Baldwin	Buyer	Cooper
Barrow	Cao	Costa
Bean	Capito	Costello
Becerra	Capps	Courtney
Berman	Capuano	Crowley
Berry	Cardoza	Cuellar
Biggert	Carnahan	Cummings
Bishop (GA)	Carney	Dahlkemper
Bishop (NY)	Carson (IN)	Davis (AL)
Blumenauer	Castle	Davis (CA)
Bocieri	Castor (FL)	Davis (IL)

## NOES—263

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Alexander  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bartlett  
Bean  
Becerra  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bocieri  
Bonner  
Boren  
Boswell  
Boucher  
Brady (PA)  
Braley (IA)  
Brown (SC)  
Brown, Corrine  
Butterfield  
Cao  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Edwards (MD)  
Edwards (TX)  
Ellison  
Ellsworth

Emerson  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Frelinghuysen  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutiérrez  
Hall (NY)  
Hall (TX)  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kagen  
Kanjorski  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kind  
Klein (FL)  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
LaTourrette  
Lee (CA)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loebach  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (MA)  
Marshall

Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascarell  
Pastor (AZ)  
Paul  
Payne  
Peters  
Peterson  
Pingree (ME)  
Platts  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Rehberg  
Reyes  
Richardson  
Rodriguez  
Rogers (KY)  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman

Davis (KY) Kirkpatrick (AZ)  
 Davis (TN) Kissell  
 DeFazio Klein (FL)  
 DeGette Kosmas  
 Delahunt Kratovil  
 DeLauro Kucinich  
 Dent Lance  
 Diaz-Balart, L. Langevin  
 Diaz-Balart, M. Larsen (WA)  
 Dicks Larson (CT)  
 Dingell LaTourette  
 Doggett Lee (CA)  
 Donnelly (IN) Lee (NY)  
 Doyle Levin  
 Duncan Lewis (CA)  
 Edwards (MD) Lewis (GA)  
 Edwards (TX) Lipinski  
 Ellison LoBiondo  
 Ellsworth Loebach  
 Engel Lowey  
 Eshoo Lujan  
 Etheridge Lynch  
 Farr Maffei  
 Fattah Maloney  
 Filner Markey (MA)  
 Foster Marshall  
 Frank (MA) Massa  
 Fudge Matheson  
 Gerlach Matsui  
 Giffords McCarthy (NY)  
 Gonzalez McCollum  
 Gordon (TN) McCotter  
 Grayson McDermott  
 Green, Al McGovern  
 Green, Gene McIntyre  
 Griffith McMahon  
 Grijalva McNerney  
 Gutierrez Meek (FL)  
 Hall (NY) Meeks (NY)  
 Halvorson Melancon  
 Hare Michaud  
 Harman Miller (MI)  
 Hastings (FL) Miller (NC)  
 Heinrich Miller, George  
 Hereth Sandlin Mitchell  
 Higgins Mollohan  
 Hill Moore (KS)  
 Himes Moore (WI)  
 Hinchey Moran (KS)  
 Hinojosa Moran (VA)  
 Hirono Murphy (CT)  
 Hodes Murphy (NY)  
 Holden Murphy, Patrick  
 Holt Murphy, Tim  
 Honda Murtha  
 Hoyer Nadler (NY)  
 Inslee Napolitano  
 Israel Neal (MA)  
 Jackson (IL) Nye  
 Jackson-Lee Oberstar  
 (TX) Obey  
 Jenkins Oliver  
 Johnson (GA) Ortiz  
 Johnson (IL) Pallone  
 Johnson, E. B. Pascarelli  
 Kagen Pastor (AZ)  
 Kanjorski Payne  
 Kennedy Perriello  
 Kildee Peters  
 Kilpatrick (MI) Peterson  
 Kilroy Pingree (ME)  
 Kind Platts  
 King (NY) Polis (CO)  
 Kirk Price (NC)

## NOES—136

Aderholt Brown (SC)  
 Akin Brown-Waite,  
 Alexander Ginny  
 Austria Buchanan  
 Bachus Burgess  
 Bartlett Burton (IN)  
 Barton (TX) Calvert  
 Bilbray Camp  
 Bilirakis Campbell  
 Bishop (UT) Cantor  
 Blackburn Carter  
 Blunt Cassidy  
 Boehner Chaffetz  
 Bonner Coble  
 Boozman Coffman (CO)  
 Boustany Cohen  
 Brady (TX) Cole  
 Bright Conaway  
 Broun (GA) Crenshaw

Quigley  
 Radanovich  
 Rahall  
 Rangel  
 Reichert  
 Reyes  
 Richardson  
 Rodriguez  
 Rogers (KY)  
 Ros-Lehtinen  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Salazar  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Sires  
 Skelton  
 Slaughter  
 Smith (NJ)  
 Smith (WA)  
 Snyder  
 Space  
 Speier  
 Spratt  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Tiahrt  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walz  
 Wasserman  
 Schultz  
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 Watson  
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 Weiner  
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 Wilson (OH)  
 Wittman  
 Wolf  
 Woolsey  
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 Yarmuth  
 Young (AK)

Hall (TX)  
 Harper  
 Hastings (WA)  
 Heller  
 Hensarling  
 Herger  
 Hoekstra  
 Hunter  
 Inglis  
 Issa  
 Johnson, Sam  
 Jones  
 Jordan (OH)  
 King (IA)  
 Kline (MN)  
 Lamborn  
 Latham  
 Latta  
 Linder  
 Lucas  
 Luetkemeyer  
 Lummis  
 Lungren, Daniel  
 E.  
 Mack  
 Manzullo  
 Marchant  
 McCarthy (CA)  
 McCaul  
 McClintock  
 McHenry  
 McKeon  
 McMorris  
 Rodgers  
 Mica  
 Miller (FL)  
 Miller, Gary  
 Minnick  
 Myrick  
 Neugebauer  
 Olson  
 Paul  
 Paulsen  
 Pence  
 Petri  
 Pitts  
 Poe (TX)  
 Posey  
 Price (GA)  
 Putnam  
 Rehberg  
 Roe (TN)  
 Rogers (AL)  
 Rogers (MI)  
 Rohrabacher  
 Rooney  
 Roskam  
 Royce  
 Ryan (WI)  
 Scalise  
 Schmidt  
 Sensenbrenner  
 Sessions  
 Sestak  
 Shadegg  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (TX)  
 Souder  
 Stearns  
 Sullivan  
 Terry  
 Thornberry  
 Tiberi  
 Turner  
 Upton  
 Wamp  
 Westmoreland  
 Whitfield  
 Wilson (SC)  
 Young (FL)

## NOT VOTING—20

Bachmann  
 Barrett (SC)  
 Berkley  
 Boyd  
 Deal (GA)  
 Driehaus  
 Flake  
 Kaptur  
 Kingston  
 Lofgren, Zoe  
 Markey (CO)  
 McHugh  
 Nunes  
 Perlmutter  
 Pomeroy  
 Sánchez, Linda  
 T.  
 Schauer  
 Schock  
 Stark  
 Walden

□ 1753

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2010 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes."

A motion to reconsider was laid on the table.

Stated for:

Mr. BOYD. Mr. Speaker, due to personal reasons, I was unable to attend to a vote. Had I been present, my vote would have been "aye" on H.R. 915, FAA Reauthorization Act of 2009.

## PERSONAL EXPLANATION

Mr. DRIEHAUS. Mr. Speaker, I regret that I was unable to cast a series of votes today on the floor of the House of Representatives.

Had I been present to vote on rollcall No. 286, Final Passage of the Conference Report on S. 454, I would have voted "aye" on the question.

Had I been present to vote on rollcall No. 287, a Motion to Suspend the Rules and Pass, as Amended, H.R. 1676, I would have voted "aye" on the question.

Had I been present to vote on rollcall No. 288, a Burgess (TX) Amendment to H.R. 915, I would have voted "aye" on the question.

Had I been present to vote on rollcall No. 289, a McCaul (TX) Amendment to H.R. 915, I would have voted "aye" on the question.

Had I been present to vote on rollcall No. 290, a Motion to Recommit H.R. 915, I would have voted "no" on the question.

Had I been present to vote on rollcall No. 291, Final Passage of H.R. 915, I would have voted "aye" on the question.

# AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 915, FAA REAUTHORIZATION ACT OF 2009

Mr. OBERSTAR. Madam Speaker, I ask unanimous consent that in the engrossment of H.R. 915, the Clerk be authorized to correct section numbers, punctuation, cross-references, and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

The SPEAKER pro tempore (Ms. FUDGE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

# REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2200, TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION ACT

Ms. PINGREE of Maine, from the Committee on Rules, submitted a privileged report (Rept. No. 111-127) on the resolution (H. Res. 474) providing for consideration of the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

# IRAN'S LAUNCH OF A LONG-RANGE MISSILE

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIGLEY. Madam Speaker, earlier this week, Iran tested a new long-range missile. This missile has a range of up to 1,200 miles and can reach our troops in the region, as well as many of our allies, including Israel.

This was not done in the name of peace. Rather, this launch was a grab at power, an attempt to threaten Israel and our other allies in the region. Now, more than ever, we must stand by our friends.

Iran, on the other hand, can only rejoin the society of nations with an olive branch, not a ballistic missile. We must not allow our allies in Israel and across the Middle East to fall under the threat of a nuclear Iran, nor can we allow Iran to achieve a dominant position in the region through intimidation.

The safety and security of millions of people depend on a strong and determined stance by the American people and all of the community of nations.

### CONGRATULATING THE PENN STATE LADIES RUGBY TEAM

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, I rise today to congratulate the Penn State Ladies Rugby Team on winning the Division I National Championship. They tromped the defending champions, Stanford, with a score of 46-7 in the game that took place at the beginning of May.

While the Stanford team had home field advantage and a national title to defend, Penn State coach Pete Steinberg said, "The key to our success this year has definitely been our defense."

Two of the Nittany Lions players were given Most Valuable Player honors for their aggressive play: Kate Daley and Sadie Anderson, a freshman.

Penn State marked its second win against the Stanford Cardinals in the two teams' past five meetings for the championship finals. It was the largest margin of victory since Stanford's win over Penn State in 2005, which was 53-6.

It is clear a healthy rivalry exists between these two powerhouse rugby teams, and I commend the Penn State for its perseverance and its victory this year.

□ 1800

### WELCOME NEWS FOR THE CON- STITUENTS OF NEW YORK'S 11TH CONGRESSIONAL DISTRICT

(Ms. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CLARKE. Madam Speaker, the passage of the H.R. 915 is welcome news for the constituents of New York's 11th Congressional District, whom I have the honor of representing here in Congress. My district includes Park Slope, Carroll Garden and Windsor Terrace neighborhoods of Brooklyn, which are directly affected by noise produced from airplanes approaching and leaving LaGuardia International Airport.

H.R. 915 specifies that it is the "sense of the House that the Port Authority of New York and New Jersey undertake an airport noise compatibility planning study" that pays particular attention to "the impact of noise on affected neighborhoods." This provides much-needed relief and protection to the residents that have been disproportionately affected by noise pollution, and I stand with my constituents in applauding its passage.

This bill prohibits the use of certain aircraft that do not comply with Stage 3 levels, and provides a discretionary \$300 million annually for the AIP noise program in conjunction with other noise pollution and environmental impact provisions.

### CAP-AND-TRADE

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Madam Speaker, as the House moves closer to taking up legislation to tax carbon emissions of American businesses, we must consider the real costs versus the theoretical benefits.

Recent CBO analysis indicates the potential loss of jobs in my home State of Texas, by the year 2020, due to the cap-and-tax bill that is before the House now to be between 53,000 and 300,000 jobs, resulting in a loss of personal income between \$3.9 billion to \$22.8 billion. CBO also estimates that a 15 percent mandatory reduction in carbon dioxide emissions could cost the average household \$1,600 in higher energy prices, with a disproportionate burden placed on low-income families.

Energy costs are already high, and we're experiencing one of the worst economic periods in history. Economic impacts aside, we must also look at whether this costly program will achieve its intended goals. The answer, based on the evidence before us, is clearly no. A global problem requires a global solution. Unilateral U.S. action will only hurt our country's ability to compete in a global marketplace.

Texas and America simply cannot afford to further cripple our already fragile economy with a risky, costly Federal mandate that does little or nothing to impact the global climate.

### CONDITIONAL ADJOURNMENT TO MONDAY, MAY 25, 2009

Mr. FILNER. Madam Speaker, I ask unanimous consent that when the House adjourns today on a motion offered pursuant to this order, it adjourn to meet at 3 p.m. on Monday, May 25, 2009, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 133, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore (Ms. LEE of California). Is there objection to the request of the gentleman from California?

There was no objection.

### FAA REAUTHORIZATION ACT OF 2009

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Madam Speaker, because of competing responsibilities, chairing a committee dealing with the question of our automobile bankruptcy issues and the impact on automobile dealers and service providers, I missed the opportunity to join

with my colleagues in supporting the FAA Authorization Act of 2009, H.R. 915. So I rise today to emphasize the importance of this legislation very quickly to the 18th Congressional District in Houston, and to applaud the fact of a flight crew fatigue provision that will allow a study on the fatigue of pilots in order to avoid the tragedies that have occurred in recent weeks and days.

Let me also applaud the FAA personnel management system. Having met with air traffic controllers, it is important for the FAA to come to agreement with the workers and the hard workers of the air traffic controllers. It is time to have a labor agreement, and this bill allows it.

And finally, for my constituents to have a telephone number—listen out, my constituents at IAH—to call if you hear that there is noise in the area, the airport will be required to do so.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are advised to address their remarks to the Chair.

### IRAN'S TICKING TIME BOMB

(Mr. MCHENRY asked and was given permission to address the House for 1 minute.)

Mr. MCHENRY. Madam Speaker, I rise today to call attention to the ticking time bomb in Tehran. The IAEA reports that Iran has enriched enough uranium to make a nuclear bomb. Once weaponized, Iran's nuclear capabilities threaten the existence of Israel and our allies throughout the region.

President Obama's open hand of soft diplomacy has been met with firmly clenched fists by Iran's Supreme Leader, Ayatollah Khamenei. With the clock ticking, the President must heed the advice of Defense Secretary Gates and proceed with stricter economic sanctions on Iran.

The administration has threatened to drag its feet on Iran until Israel accepts its terms for a two-state solution. While peace between the Israelis and the Palestinians should be a priority, I urge the President to reconsider using this as a precondition for stopping the Iranian nuclear threat and nuclear weapon.

### INVESTIGATION INTO ALLEGATION ABOUT THE CIA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Madam Speaker, the CIA and our other intelligence agencies have protected this country from every attempt at a terrorist attack since 9/11.

And yet the Speaker of this House recently said that the CIA had been lying to her and to Congress. According to title 18 of U.S. Code, that is a felony. And if the CIA lies to the Congress, there should be a penalty. They should go to jail.

But the Speaker will not allow, and the Democrats will not allow, there to be an investigation as to whether or not the Speaker's allegations are accurate. And it's very sad because she is impeding and impairing the CIA from doing its job.

We haven't had a terrorist attack in 7½ years because of their intelligence capability, and because they've done their job. And they have been hurt, severely, by the accusations leveled by the Speaker of the House, and she is not willing to prove that.

Today we introduced a resolution to investigate this, and every Democrat in the House voted against it. I think it's tragic.

This country is at war with the terrorists. We need to do everything we can to protect our intelligence agencies. And if she said they lied, then she has to prove it.

#### COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 21, 2009.

Hon. NANCY PELOSI,  
Speaker, U.S. Capitol,  
Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to section 703(c) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note), I am pleased to reappoint Admiral William O. Studeman of Great Falls, Virginia to the Public Interest Declassification Board.

Our previous appointee, the Honorable David Skaggs, intends to resign effective June 5, 2009. His initial appointment was made because of the change in Congress and the presumed statutory intent of the Board with the understanding that he would resign at the end of his term.

Admiral Studeman has expressed interest in reappointment and as such, I am pleased to do so.

Sincerely,

JOHN A. BOEHNER,  
Republican Leader.

#### AGREEMENT WITH UNITED ARAB EMIRATES CONCERNING PEACE- FUL USES OF NUCLEAR EN- ERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-43)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

#### To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the United Arab Emirates Concerning Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The Agreement provides a comprehensive framework for peaceful nuclear cooperation with the United Arab Emirates (UAE) based on a mutual commitment to nuclear nonproliferation. The United States and the UAE are entering into it in the context of a stated intention by the UAE to rely on existing international markets for nuclear fuel services as an alternative to the pursuit of enrichment and reprocessing. Article 7 will transform this UAE policy into a legally binding obligation from the UAE to the United States upon entry into force of the Agreement. Article 13 provides, inter alia, that if the UAE at any time following entry into force of the Agreement materially violates Article 7, the United States will have a right to cease further cooperation under the Agreement, require the return of items subject to the Agreement, and terminate the Agreement by giving 90 days written notice. In view of these and other nonproliferation features, the Agreement has the potential to serve as a model for other countries in the region that wish to pursue responsible nuclear energy development.

The Agreement has a term of 30 years and permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production.

It does not permit transfers of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities, or major critical components of such facilities. In the event of termination of the Agreement, key nonproliferation conditions and controls continue with respect to material, equipment, and components subject to the Agreement.

In addition to the UAE's obligation to forgo enrichment and reprocessing—the first instance of such an obligation on the part of a U.S. cooperating partner in an agreement of this type—the Agreement contains certain additional nonproliferation features not typically found in such agreements. These are modeled on similar provisions in the 1981 U.S.-Egypt Agreement for Peaceful Nuclear Cooperation and include (a) a right of the United States to require the removal of special fissionable material subject to the Agreement from the UAE either to the United States or to a third country if exceptional circumstances of concern from a nonproliferation standpoint so require, and (b) confirmation by the United States that the fields of cooperation, terms, and conditions accorded by the United States to the UAE shall be no less favorable in scope and effect than those that the United States may accord to any other non-nuclear-weapon State in the Middle East in a peaceful nuclear cooperation agreement. The Agreement also provides, for the first time in a U.S. agreement for peaceful nuclear cooperation, that prior to U.S. licensing of exports of nuclear material, equipment, components, or technology pursuant to the Agreement, the UAE shall bring into force the Additional Protocol to its safeguards agreement.

The UAE is a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The United States is a nuclear-weapon State party to the NPT. Article 12 of the proposed Agreement provides that the Agreement shall not be interpreted as affecting the inalienable rights of the United States and the UAE under the NPT. A more detailed discussion of the UAE's intended civil nuclear program and its nonproliferation policies and practices is provided in the NPAS and in a classified Annex to the NPAS to be submitted to the Congress separately.

The Agreed Minute to the Agreement provides U.S. prior approval for retransfers by the UAE of irradiated nuclear material subject to the Agreement to France and the United Kingdom, if consistent with their respective policies, laws, and regulations, for storage or reprocessing subject to specified conditions, including that prior agreement between the United States and the UAE is required for the transfer of any special fissionable material recovered from any such reprocessing to the UAE. The transferred material would

also have to be held within the European Atomic Energy Community subject to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM).

In view of the fact that this consent would constitute a subsequent arrangement under the Act if agreed separately from the proposed Agreement, the Secretary of State and the Secretary of Energy have ensured that the advance approval provisions meet the applicable requirements of section 131 of the Act. Specifically, they have concluded that the U.S. advance approval for retransfer of nuclear material for reprocessing or storage contained in the Agreed Minute to the proposed Agreement is not inimical to the common defense and security. An analysis of the advance approval given in the Agreed Minute is contained in the NPAS.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and the House Foreign Affairs Committee as provided in section 123 b. Upon completion of the period of 30 days of continuous session provided for in section 123 b., the period of 60 days of continuous session provided for in section 123 d. shall commence.

BARACK OBAMA.  
THE WHITE HOUSE, May 21, 2009.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### THE LONG LAMENTABLE DARKNESS OF WAR AND THE PATRIOTS WHO BRING THE MORNING LIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, it's been solemnly said that "the story of America's quest for freedom is inscribed on her history in the blood of her patriots." Those comments were made by Randy Vader.

America was born of war and has always had to fight to keep liberty's light shining very bright.

Monday is Memorial Day. We honor those of the military family who went somewhere in the world, fighting for America's ideals and protecting the rest of us, but did not return home. Their blood has stained and sanctified the lands of Europe, the Middle East, Asia, the Pacific Islands, the soil of

America and places known only by God.

One of those warriors was Frank Luke. Madam Speaker, you may have never heard of him, but he is just one of the 4.4 million doughboys that went over there in World War I. He's an example of the young, tenacious American warrior.

This is a photograph of him taken shortly before his death in 1918. In World War I, in September of 1918, in just 9 days of combat flying, 10 missions, and only 30 hours of flight time, Second Lieutenant Frank Luke shot down 18 enemy aircraft. Let me repeat. Eighteen enemy aircraft.

On his last patrol, though pursued by eight German planes, without hesitation he attacked and shot down in flames three German aircraft, being himself under heavy fire from ground batteries and hostile planes. Severely wounded, he descended within 50 meters of the ground and, flying at this low altitude in France, opened fire on enemy troops, killing six and wounding many more. Forced to make a landing, and surrounded on all sides by the enemy, he drew his automatic pistol, defended himself gallantly until he fell dead with a wound in the chest.

Frank Luke was 20 years of age. He had been in Europe less than 30 days. He won the Congressional Medal of Honor, and he was the first aviator in United States history to win the Congressional Medal of Honor. He was one of the 116,000 doughboys who died in the War to End All Wars that did not return home.

Author Blaine Pardoe referred to him as the "terror of the autumn skies."

That was 90 years ago. It has always been the young that give their youth so we can have a future. And we should always remember every one of them, every one that died in all of America's wars.

Now we are engaged in a war in the valley of the sun and the deserts of the gun, in Iraq, and the rugged, cruel, rough mountains of Afghanistan.

My congressional district area of southeast Texas has lost 26 warriors since I have been in Congress. Here they are, Madam Speaker. You notice they represent a cross section of the United States. They are all races. They're of both sexes. They are of all ages, and they're from all branches of the service. They're from big cities like Houston, Texas, and small towns like Hull, Sabine Pass, Beach City, Humble, Groves; yet, they're all American warriors who gave their lives in combat for the United States.

I will place the names and backgrounds of these 26 from the Second Congressional District of Texas who have been killed in Iraq into the CONGRESSIONAL RECORD.

#### ROLLCALL OF THE DEAD

Russell Slay, a Staff Sergeant in the U.S. Marine Corps, from Humble, TX. Russell

played the guitar and he and his buddies started a band while in Iraq called the Texas Trio.

Wesley J. Canning, a Lance Corporal in the U.S. Marine Corps, from Friendswood, TX. Wesley had a quick smile, a captivating personality, and loved wearing his Marine Corps T-shirt to class his senior year of high school.

Fred Lee Maciel, a Lance Corporal in the U.S. Marine Corps, from Spring, TX. He is remembered as an athlete, a leader in the school's Naval Junior ROTC, and a role model for other students.

Wesley R. Riggs, a PFC in the U.S. Army, from Beach City, TX. Wesley liked four-wheeling and camping. He was also a member of the Houston Olympic weight lifting team.

William B. Meeuwssen, a Sergeant in the U.S. Army, from Kingwood, TX. Bill strongly believed that we all share a responsibility to serve on behalf of God and country, to protect freedoms we all cherish so deeply.

Robert A. Martinez, a Lance Corporal in the U.S. Marine Corps, from Cleveland, TX. Robert was a baseball pitcher at Cleveland High and dreamed of getting his degree in education and becoming a baseball coach.

Jerry Michael Durbin, a Staff Sergeant in the U.S. Army, from Spring, TX. He was a gifted artist with a special talent for original cartoon characters and superheroes. He actually designed his platoon's boot camp T-shirt when he entered the Army.

Walter M. Moss Jr., a Tech. Sergeant in the U.S. Air Force, from Houston, TX. After 16 years of military service, Walter had a reputation for excellence. Even though he was in the Air Force, the Navy and Marines honored him with the Navy and Marine Corps Achievement Medal, and he was also awarded the Bronze Star with Valor and the Purple Heart.

Kristian Menchaca, a PFC in the U.S. Army, from Houston, TX. Kristian joined the United States Army with the goal of using his military experience to become a Border Patrol agent.

Benjamin D. Williams, a Staff Sergeant in the U.S. Marine Corps, from Orange, TX. Benjamin played football in high school and as soon as he graduated, he joined the United States Marine Corps.

Ryan A. Miller, a Lance Corporal in the U.S. Marine Corps, from Pearland, TX. Ryan was so committed to a future defending others, he graduated from high school early just so he could enlist into the United States Marine Corps and follow in the footsteps of Dad and Granddad.

Edward Reynolds, Jr., a Staff Sergeant in the U.S. Army, from Groves, TX. Friends knew Edward as the man that kept them out of trouble, pushing them to succeed in life.

West Point Graduate Michael Fraser, a Captain in the U.S. Army, from Houston, TX. Twice, Michael led his high school cross-country team to qualify for the Texas State cross-country meet.

Luke Yepsen, a Lance Corporal in the U.S. Marine Corps, from Kingwood, TX. He was a graduate of Kingwood High School, and he was known for his big heart and ability to live life to its fullest.

Dustin R. Donica, a Specialist in the U.S. Army, from Spring, TX. Dustin loved to joke around with his family and his friends, and he was known by many for his unique sense of humor.

Ryan R. Berg, a Specialist in the U.S. Army, from Sabine Pass, TX. Ryan knew his calling after high school was to join the United States Army. He wanted to protect



his country, like he had protected those he knew and loved all his life.

Terrance D. Dunn, a Staff Sergeant in the U.S. Army, from Houston, TX. Terrance was known as "Dunnaman" to his fellow soldiers. If something needed to be done, Dunnaman did it, and it was given to him to do because they could always count on him to get the job done.

Anthony Aguirre, a Lance Corporal in the U.S. Marine Corps, from Houston, TX. During Anthony's senior year in high school, he achieved the rank of cadet captain. Even after graduation, Anthony stopped by the high school often to proudly talk with the Junior ROTC cadets about the Marines.

Brandon Bobb, a PFC in the U.S. Army, from Port Arthur, TX. Brandon thought that being a military police officer in the Army was the best job in the world.

Zachary Endsley, a PFC in the U.S. Army, from Spring, TX. Zachary enjoyed drawing and playing his guitar. He was so good at drawing he won several competitions while in high school.

Kamisha Block, a Specialist in the U.S. Army, from Vidor, TX. Friends say that Kamisha always knew where she was headed in life, that she had a big heart and genuinely wanted to help make other people's lives better.

Donald E. Valentine III, a Corporal in the U.S. Army, born in Houston, TX. Valentine joined the United States Army because of the 9/11 attack on this country proudly following in the footsteps of his father.

Jeremy W. Burris, a Lance Corporal in the U.S. Marine Corps, from Liberty, TX. Jeremy survived the initial blast of an IED explosive and heroically helped save the lives of two other wounded Marines before a second bomb was detonated—taking his life.

Eric Duckworth, a Staff Sergeant in the U.S. Army, from Plano, TX. Eric's only two wishes growing up were that he serve in the military and serve in law enforcement. He was blessed to be able to fulfill both of his dreams.

Scott A. McIntosh, a Corporal in the U.S. Army, from Humble, TX. Friends say that Scott always had a positive outlook, his mission in life was to meet and make friends with every person he came in contact with—and he did.

Shawn Tousha, a Sergeant in the U.S. Army, from Hull, TX. During Shawn's first tour of duty in Iraq he decided to re-enlist in the Army and make the military his career. He ended up serving three tours of duty in Iraq.

It has been said that "wars may be fought by weapons, but they are won by warriors. It is the spirit of the men who follow and the man who leads that gains the victory." That was said by General George S. Patton, Jr. near the end of World War II.

These noble 26 are just some of the 4,962 that have been killed in the line of duty taking care of America in America's current wars in the Middle East.

Madam Speaker, this is a photograph of the cliffs of Normandy. This is in Normandy, France, where 9,347 Americans are buried, most of them young kids. They liberated and saved France and the rest of Europe in the great World War II. They never came home. The guns have long since been silent on Normandy's shores, but the sands are still stained with the blood of the fallen soldiers.

On the 40th anniversary of D-day, on June 6, 1984, President Ronald Reagan stood at this cemetery and said "We will always remember. We will always be proud. We will always be prepared so we may always be free."

So, Madam Speaker, when the sun comes up Monday morning, we should fly the Flag, stand outside, look to the heavens and thank those who took care of America in the long, lamentable dark night of the hour of war.

And that's just the way it is.

□ 1815

#### A PEACE PLAN FOR MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, next Monday is Memorial Day, when we honor the sacrifices of the men and women who have died in our Nation's wars. The American people will remember our fallen heroes in many, many ways. We will pay tribute in our houses, in our houses of worship, in our community centers, in our veterans' buildings, and in our cemeteries. There will be family gatherings. There will be parades. Veterans will hold memorials across this Nation, and countless Americans will simply bow their heads and say a silent prayer of thanks.

Sadly, there are more fallen heroes to remember this year. Since Memorial Day last year, 394 of our brave troops have died in Iraq and Afghanistan, and by this time next year, I fear there will be more brave dead to remember and more military families who will be grieving; but Memorial Day should be more than a time to remember the bitter harvest of war. It should be a time for our Nation to seek peaceful alternatives to war so that no more of our brave troops will die. That's the best way to honor those who have given their lives for their country.

To accomplish this, however, we must make the military option the very last option that we would choose when we develop our national security policies. We've tried the military option. Where has it gotten us? We're still bogged down in Iraq and Afghanistan. Our foreign adventures have cost us over \$1 trillion so far, and they have contributed to the economic meltdown that we're experiencing now. In Afghanistan, anti-American feeling is spreading, and it has become a major recruiting tool for those who would harm our country.

I know that these problems were dumped into President Obama's lap when he came into office, and I know that he is a peacemaker. On Monday, in his meeting with Prime Minister Netanyahu of Israel, he called for talks with Iran, and he called for a two-state

solution to the conflict between the Israelis and the Palestinians. I applaud him for both of those positions, but I voted against the supplemental funding bill for Iraq and Afghanistan because it will only continue the policies of occupation, the policies of war that have failed us.

Instead, I urge my colleagues to support a different approach, an approach that will give us a real chance to succeed. I call this approach "Smart Security Platform for the 21st Century."

The Smart Security Platform would help to eliminate the root causes of violence in the world by increasing economic development aid and debt relief to the poorest countries. It would further address the root causes of violence by supporting conflict resolution, human rights, and democracy-building.

It calls for the United States to work with the international community to promote diplomacy and to strengthen international law.

It calls for reducing weapons of mass destruction, and it calls for reducing conventional weapons by supporting the Comprehensive Test Ban Treaty, the Nuclear Nonproliferation Treaty, and the Biological and Chemical Weapons Conventions. It calls for adequately funding the Cooperative Threat Reduction Program to secure nuclear materials in Russia and in other countries and to reduce nuclear stockpiles.

It would invest in renewable energy to end our addiction to oil and to stop the flow of hundreds of billions of dollars to irresponsible regimes.

It includes strategies to strengthen international intelligence and law enforcement to capture individuals involved in violence, while respecting at the same time their human and civil rights.

Madam Speaker, Smart Security will show the world that America stands for peace once again. It will help protect the lives of our brave troops, and it will keep our country safe and free. That is the best way to honor the memory of our fallen heroes on Memorial Day.

#### U.S. STRATEGY IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Madam Speaker, last week, Congressman JIM McGOVERN introduced H.R. 2404, legislation to require the Secretary of Defense to submit a report to Congress, outlining the exit strategy for our United States military forces in Afghanistan.

I am an original cosponsor of this bill, which now has 78 cosponsors. I became a cosponsor of this bill because it has been nearly 8 years since the United States began its military operation in Afghanistan, and I am concerned that there is no clear strategy

for victory or end point to our efforts in that country. Without focused and targeted objectives, adding more manpower to an effort in Afghanistan could cause the United States to go the way of many great armies and leave our troops in a never-ending, no-win situation.

I have heard from many Vietnam veterans who are concerned that Afghanistan could become the next Vietnam. For example, Andrew Bacevich is a West Point graduate, a retired colonel, a Vietnam and Gulf War veteran, and a professor of military history. He is also the father of a son who died in Iraq in 2007.

In an article published on May 18, 2009, in the *American Conservative*, entitled "To Die for a Mystique: The Lessons our leaders didn't Learn from the Vietnam War," he wrote, "In one of the most thoughtful Vietnam-era accounts written by a senior military officer, General Bruce Palmer once observed, 'With respect to Vietnam, our leaders should have known that the American people would not stand still for a protracted war of an indeterminate nature with no foreseeable end to the United States commitment.'"

He further wrote, "General Palmer thereby distilled into a single sentence the central lesson of Vietnam: To embark upon an open-ended war lacking clearly defined and achievable objectives was to forfeit public support, thereby courting disaster. The implications were clear: never again."

He further wrote, "Today, in contrast, the civilian contemporaries of those fighting in Iraq and Afghanistan have largely tuned out the Long War. The predominant mood of the country is not one of anger or anxiety but of dull acceptance."

"To cite General Palmer's formulation, the citizens of this country at present do appear willing to 'stand still' when considering the prospect of war that goes on and on. While there are many explanations for why Americans have disengaged from the Long War, the most important, in my view, is that so few of us have any immediate personal stake in that conflict."

Madam Speaker, while America's military personnel faithfully conduct their missions abroad, elected officials here in Washington should take seriously their responsibility to develop a viable, long-term strategy for these operations. I have spoken to many in the Army and in the Marine Corps who say that our Nation needs an end point to its war strategy. Many of these servicemembers have gone to Iraq and Afghanistan more than once, and their desire to serve this Nation is greater than ever, but the stress placed on our all-volunteer force and on their families cannot continue forever.

While the United States continues to devote its blood and treasure in Afghanistan, the Afghan Government has

yet to purge itself of many who are funneling support to the Taliban.

Our men and women in uniform deserve to have the President work with his military commanders and with the United States Congress to develop the best strategy for achieving our goals and for wrapping up our military commitment in Afghanistan. I hope that many of my colleagues in both parties will join me in cosponsoring Congressman MCGOVERN's legislation, H.R. 2404.

Madam Speaker, before I close, as I do every night on this floor, I ask God to please bless our men and women in uniform. I ask God to bless the families of our men and women in uniform. I ask God, in his loving arms, to hold the families who have given a child, dying for freedom in Afghanistan and Iraq.

I close by asking God to continue to bless America.

#### HUNTINGTON'S DISEASE PARITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Madam Speaker, May is Huntington's Disease Awareness Month. I rise today with my colleague from San Diego, Congressman BILBRAY, in support of the 250,000 Americans affected by or who are at risk for developing Huntington's disease.

This disease is a degenerative brain disorder for which there is no effective treatment or cure. HD slowly diminishes the affected individual's ability to walk, think, talk, and to reason. Eventually, a person with HD becomes totally dependent upon others for care. Because it is a genetic disorder, Huntington's disease profoundly affects the lives of entire families—emotionally, socially and financially.

Over the last few months, several families in our San Diego area affected by HD have contacted us about the constant struggles they face. For example, Misty Oto lost her mother several years ago to HD. Her 40-year-old brother is now showing signs of the disease. Misty is also at risk for developing the condition as are her children.

If that weren't bad enough, Misty and her family and countless others affected by HD are unable to receive the medical treatment and care they need. People with Huntington's disease are continually denied disability Social Security benefits because of outdated medical guidelines. Once people with HD begin to receive disability benefits, they still must wait 2 years before they qualify for Medicare. As a result, thousands of families affected by HD are unable to receive the treatment and care they desperately need. Many wind up losing everything they own in simply trying to survive.

That is why Congressman BILBRAY and I have introduced H.R. 678, the

Huntington's Disease Parity Act of 2009. The bill directs the Social Security Administration to revise its criteria for determining disability, thereby making it easier for people with Huntington's disease to collect disability benefits.

Mr. BILBRAY, I appreciate our joined support. I would yield to the gentleman.

Mr. BILBRAY. Madam Speaker, it is an honor to join with my San Diegoan colleague, Mr. FILNER, in supporting H.R. 678. This is really one of those regulatory guidelines that doesn't work and that doesn't address the issue at hand. HD is one of those situations where the regulation is absolutely absurd and inhumane. The fact is that for most people 2 years of waiting may not now be very much, but for those with HD it could be a death sentence.

I am honored to join with my colleague in the movement to address this inequity and deficiency in our regulation. I am happy to see that there are going to be Members joining us in correcting this situation. I thank you, Congressman, for taking the lead on this.

Again, I guess it's really important to show that community and citizen involvement does matter. I would like to point out, as my colleague did, that Alan Rappaport and Misty Oto have worked tirelessly at trying to address this issue. I urge my colleagues to join with me and with, most importantly, my chairman, BOB FILNER, in sponsoring this bill. Hopefully, we'll be able to bring up H.R. 678 as soon as possible.

Mr. FILNER. Reclaiming my time, I thank the gentleman from San Diego. When we were both in local government, we worked together on numerous issues in San Diego, and I'm so glad we are working together here in the Congress.

As we said, there are two major parts of H.R. 678. Number one, the Social Security Administration must revise its criteria for determining disability to make it easier for people with Huntington's disease to collect their benefits. It also removes the 2-year waiting period between receiving Social Security disability payments and their Medicare benefits. This will allow HD patients to get the treatment they need at the onset of the disease, when it's most important.

This is not without precedence, Madam Speaker. In 2000, the Centers for Medicaid and Medicare Services waived this waiting period for those suffering from ALS, amyotrophic lateral sclerosis, or Lou Gehrig's disease. Huntington's disease is tragic, but our bill, H.R. 678, will help those who suffer from this disease.

We urge the support of our colleagues for this bill.

## THE WAR AGAINST TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, President Lincoln said, "Let the people know the facts, and the country will be saved."

Today, I listened to former Vice President Cheney give the facts to the American people about the war against terror. I think my colleagues who didn't get to hear it today really ought to hear some of the things that he has said that were very, very important and relevant to the war against terror.

□ 1830

So I would like to read a few excerpts from his speech tonight so I hope my colleagues will take these to heart and hopefully put them on their Internet sites.

First of all, he said, "I was and remain a strong proponent of our enhanced interrogation program. The interrogations were used on hardened terrorists after other efforts failed. They were legal, essential, justified, successful and the right thing to do. The intelligence officers who questioned the terrorists can be proud of their work and proud of the results, because they prevented the violent death of thousands, if not hundreds of thousands, of innocent people."

"Attorney General Holder and others have admitted that the United States will be compelled to accept a number of the terrorists here, in the homeland," in America, "and it has even been suggested U.S. taxpayer dollars will be used to support . . . the terrorists here in America."

"The administration has found that it's easy to receive applause in Europe for closing Guantanamo. But it's tricky to come up with an alternative that will serve the interests of justice and America's national security."

"Now the President says some of these terrorists should be brought to American soil for trial in our court system. Others," he says, "will be shipped to third countries. But so far, the United States has had little luck getting any other countries to take hardened terrorists."

I think only one of them has been given to another country.

He says, "The administration seems to pride itself"—the Obama administration "seems to pride itself on searching for some kind of middle ground in policies addressing terrorism. They may take comfort in hearing disagreement from opposite ends of the spectrum. If liberals are unhappy about some decisions, and conservatives are unhappy about other decisions, then it may seem to them that the President is on the path of sensible compromise. But in the fight against terrorism, there is no middle ground,

and half-measures keep you half exposed. You cannot keep just some nuclear-armed terrorists out of the United States, you must keep every nuclear-armed terrorist out of the United States. Triangulation is a political strategy, not a national security strategy. When just a single clue that goes unlearned, one lead that goes unpursued can bring on catastrophe—it's no time for splitting differences. There is never a good time to compromise when the lives and safety of the American people are in the balance."

He went on to say, "It is much closer to the truth that terrorists hate this country precisely because of the values we profess and seek to live by, not by some alleged failure to do so. Nor are terrorists or those who see them as victims exactly the best judges of America's moral standards, one way or the other. Critics of our policies are given to lecturing on the theme of being consistent with American values."

"But no moral value held dear by the American people obliges public servants to sacrifice innocent lives to spare a captured terrorist from unpleasant things. And when an entire population is targeted by a terror network, nothing is more consistent with American values than to stop them."

"Somehow, when the soul-searching was done and the veil was lifted on the policies of the Bush administration, the public was given less than half the truth. The released memos were carefully redacted." They crossed things out "to leave out references to what our government learned through the methods in question. Other memos, laying out specific terrorist plots that were averted, apparently were not even considered for release. For reasons they believe the public has a right to know the method of the questions, but not the content of the answers."

And the bottom line, Madam Speaker, is our intelligence agencies have done a great job in protecting this country for the past 8 years ever since 9/11. We should not be hamstringing those, and today I think former Vice President Cheney really told the story the way it ought to be told, and I hope all of my colleagues and every American is paying attention.

THE DEATH OF SPECIALIST  
MICHAEL YATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. KRATOVIL) is recognized for 5 minutes.

Mr. KRATOVIL. Madam Speaker, today a native of Maryland's Eastern Shore, Specialist Michael Yates, was laid to rest. Specialist Yates, of Federalsburg, was killed in a senseless act of violence that should serve to shine a brighter light on the mental

health of those serving our Nation. Specialist Yates, along with four colleagues, reportedly was shot and killed by a fellow serviceman on duty in support of Operation Iraqi Freedom at Camp Liberty in Baghdad.

Growing up on the Eastern Shore, Specialist Yates was an avid hunter and fisherman and like many of my constituents held a deep love for his country and a desire to serve in defense of freedom. At the young age of 17, Specialist Yates joined the Army where he was sent to Ft. Knox, Germany, and then to Iraq, where he served as a cavalry scout.

Specialist Yates had recently returned to Federalsburg where he was able to visit with family and friends one last time before returning to Iraq and ultimately to a counseling center at Camp Liberty. It was here that a fellow soldier whom he had reportedly described to his step-father as "a fairly decent guy who had some major issues," shot and killed Specialist Yates.

The death of Specialist Yates and his fellow soldiers must serve as a warning sign that the time is now, especially with an influx of returning veterans to make soldiers' and veterans' mental health a priority and heed Secretary Gates' recommendation to support funding for traumatic brain injury and psychological health exams for our servicemen and -women. Honoring our commitment to those who serve our Nation means offering them not only top-notch medical care for physical injuries, but also first-rate mental health services to help fight the alarming rising trend of suicide and mental illness among veterans.

Honoring our commitment means more than waving our banners and flags at parades. It means putting our money where our collective mouth is. We owe this to Specialist Yates, as well as the friends and families of those involved in this tragic event.

I have introduced a resolution along with fellow colleagues from both sides of the aisle who lost constituents in this incident honoring their service and calling for a greater focus on mental health issues among servicemen and veterans. I urge my colleagues to sign on and support this resolution when it reaches the floor.

REMEMBERING RICHARD WARREN  
OF PAT'S COFFEE SHOP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

Mr. MCHENRY. Madam Speaker, there is a coffee shop in my district and Richard Warren owned that coffee shop, and to every veteran that walked in the door, he said, Welcome home. And today, tonight, on Memorial Day, I rise to honor the life and legacy of

Richard Warren of Mooresville, North Carolina.

He was the owner and operator of Pat's Coffee Shop and a Vietnam veteran. Richard Warren served in the 68th Attack Helicopter Company of the United States Army, and for the last 14 years, Richard ran Pat's Coffee Shop in Mooresville. Now, this is not your ordinary coffee shop. Pat's became known as the most patriotic coffee shop in America. In no time, that little coffee shop became exactly what Richard had envisioned: a gathering place for local veterans. Veterans from all across Iredell County and around the region, even, would come together every day to share their tales and stories—boy, were there some stories—over coffee and a bite to eat.

Before long, veterans started bringing mementos from their time in the service. Richard hung those pictures and memorabilia on the wall and acknowledged every veteran—as I said every veteran who walked in that door got a very honest “welcome home” from Richard Warren. Pat's Coffee Shop became a living shrine to the men and women, the veterans, who risked their lives to defend America.

On one special occasion, former Senator Bob Dole of Kansas stopped in and spent several hours talking to veterans, exchanging stories and tales and reminiscing with his fellow brothers-in-arms. Pat's Coffee Shop has had a number of visitors. I've visited a number of times.

But Richard didn't stop there. Richard founded also the Welcome Home Veterans, a local nonprofit group. He would actively help veterans find jobs in the community and could have been considered an unofficial veterans caseworker for my office and for Senators' offices as well. Richard frequently contacted my office on behalf of veterans who had challenges, who had problems, but there wasn't anything Richard would do or wouldn't do to help a fellow veteran.

So it's a little wonder that those who knew Richard Warren best called him a true patriot. In fact, I've got a picture of a young Richard Warren, he couldn't have been more than 3 years old, sitting in front of a stoop in front of his boyhood home with a big backdrop of an American flag. It's a black and white photo that I've got hanging in my office to this day, and I will continue to have hanging on my wall. It's a true young patriot there, and it's really wonderful American history. And I honor Richard by keeping that on my bookshelf and in my office.

Now, I was proud to visit Pat's Coffee Shop on a number of occasions and to call Richard Warren a friend. I look forward to returning to Pat's Coffee Shop not only to honor the veterans but to honor Richard Warren. Our Nation has lost a hero, a man who served his country and more and then made

his life's work that of service to his fellow man.

Richard Warren will be missed by many. He will be missed by the young and old alike, veterans and those who didn't have the honor of serving will miss him as well.

On this Memorial Day, we honor our veterans, the fallen, and I honor of Richard Warren. And I know when he was greeted at the Pearly Gates, he got a solemn and heartfelt “welcome home.”

#### BAILOUT FEVER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. LATOURETTE) is recognized for 60 minutes as the designee of the minority leader.

Mr. LATOURETTE. Madam Speaker, I thank you for the recognition, and I want to thank Leader BOEHNER for granting me the leadership hour on our side to share some thoughts this evening with you, Madam Speaker.

As the Speaker's well aware, our economy is in pretty tough shape, and people all over the country are suffering. But despite the fact that people continue to suffer, there is sort of this bailout fever here on Capitol Hill, and it's not uncommon for me to go home to Ohio and have somebody come up to me on the street and say, Hey, where is my bailout like the guys on Wall Street and like many others? Literally billions and billions of dollars. Taxpayer dollars. People get up, work hard, pay their taxes just trying to raise their kids and keep a roof over their head. Billions and billions of dollars have been sent out in these bailouts.

And we have come to the floor on a pretty regular basis to talk about AIG, the insurance giant on Wall Street, that, to date, has received about a \$185 billion of taxpayers' money in the form of a bailout. We were told that they are too big to fail, and quite frankly, even though I happen to be a Republican, this started on the former President's watch when his Secretary of the Treasury, came to us and said, If you don't give us \$700 billion, here's a three-page bill, if you don't give us \$700 by the end of the week, we're going to have a collapse. And sadly, in my opinion, some Members of this body abdicated their responsibility of oversight and bum rushed \$700 billion to Wall Street.

But a funny thing happened in that bill that has caused some in this House some chagrin and has led us to come to the floor on a regular basis and talk about a game that's pretty well known by most people in America. It's a game I loved playing as a kid. It's a game I continue to love playing with my kids called Clue made by Hasbro.

And the reason we bring Clue to the floor and have is that in the con-

ference, first of all, is this \$700 billion—have to fast forward to the President's stimulus request earlier this year. As this bill was being crafted, there was an amendment placed into the stimulus package that said that you know what, we've given billions and billions and billions of dollars to these Wall Street firms, but perhaps we should put some conditions, or strings, on the multimillion-dollar bonuses that are being paid out to these folks.

□ 1845

And the amendment was put in over in the other body, in the United States Senate, by a Democratic Senator, Senator WYDEN from Oregon, and a Republican Senator, Senator SNOWE from Maine. And that was in the bill. It wasn't in the House bill; it was in the Senate bill.

So you get together in a conference report. Madam Speaker, you know, but some folks don't necessarily know, that when the House and Senate pass a separate version of a bill, we have to have a conference committee. And the conference committee works out the details and then that conference report is brought back to both Chambers for a vote on the conference report.

Well, in the conference committee somehow the Snowe-Wyden language that indicated that we were going to put some restrictions on these million-dollar bonuses—multimillion-dollar bonuses to AIG and other executives, that language was taken out and, over on the second easel, this language, subparagraph (iii), was inserted.

And this language, Madam Speaker, not only removed the Snowe-Wyden language, it put in these about 40 words that specifically protected the bonuses paid to AIG executives and other executives on Wall Street who had received, again, billions of dollars of money through the TARP program. And so the stimulus bill came to the floor with this language protecting the bonuses.

It was a partisan vote on the stimulus bill, pretty much. And all of the Democratic Members of the House, save 11, I think, voted for the President's stimulus initiative. And by casting that vote, they were approving, among other things, a piece of legislation that specifically protected the \$173 million in bonuses that were then paid to AIG.

Well, shortly after it was brought to light, because this was a big bill—and I should tell you that I don't think that a lot of my colleagues on the Democratic side of the aisle did this intentionally, because this was a bill of over a thousand pages. And the Tuesday that the stimulus bill was being considered on the floor, there was a motion made that Members of the House should have 48 hours to read whatever the final bill was, a thousand pages, and that, here's a novel idea: It should

be put on the Internet and anybody in America that was interested in what was in these thousand pages would have the opportunity over 2 days to reflect on it and, if necessary, if they felt the need, to correspond with their Member of Congress or their United States Senator.

Well, a funny thing happened to that. Even though every Member in this body that was present that day voted to give every Member in this body 48 hours to read the bill and the American public 48 hours to read the bill, we came up and the bill wasn't ready until Thursday night at midnight that same week. Somehow, the commitment to give everybody 48 hours was forgotten and this thousand-page page bill was filed at midnight on Thursday.

It was voted on the next day, Friday. And Members who arrived to work that Friday morning basically had 90 minutes to read a thousand pages.

So I don't think, Madam Speaker, that everybody read that bill prior to casting their vote. I think some people were embarrassed when they found out they voted to give out \$173 million in bonuses to AIG executives. I know that the President of the United States, President Obama, didn't like it, because he came on television and he said, I'm shocked. I can't believe that this has happened. Why is AIG giving out the bonuses?

Well, he may have been shocked because he hadn't been informed either. I don't know. But there are some people that should not be shocked. They are the people who form the conference committee, where somebody took out the Snowe-Wyden language that would have put some restrictions on these bonuses and inserted this paragraph that protected those bonuses.

And so the conference committee is a small group of representatives and senators and, using the Clue set of observations, we know that somebody that put this language in—the weapon, if you remember the Clue game—was a pen. That they used a pen to put in the language that's under discussion.

Here, we have the Clue board slightly modified to reflect the United States Capitol. I think over the course of days we have—the times we have discussed this—we have been able to eliminate some people and we have been able to eliminate some rooms.

And the people that we have been able to eliminate are down here. CHARLIE RANGEL, who is the distinguished Chair of the Ways and Means Committee. He has been quoted in the press as saying when he came out of this conference committee, It's pretty tough to work with a government that's run by only three people. And so I don't think he had anything to do with it. But we're left with this sort of list of suspects.

Suspect number one that the press is blaming is Senator CHRIS DODD of the

State of Connecticut. He is the chairman of the Senate Banking Committee. There was some discussion that he and/or his staff inserted that language.

We know also that the Speaker of the House, Mrs. PELOSI, was present during that discussion. Senator REID, as the leader of the Senate, was involved in those discussions. And over here we have Rahm Emanuel, who is the President's chief of staff, and the Secretary of the Treasury as well, Mr. Geithner.

Well, somebody put this language in. All we are trying to find out is who put the language in, why they put it in, and why people were shocked and amazed that these bonuses went out when the legislation specifically permitted it.

Now we have made great progress. And I have to give great credit to the chairman of the Financial Services Committee, BARNEY FRANK of Massachusetts. We filed what is known as a Resolution of Inquiry because nobody would sort of own up to this. We filed a piece of legislation here that said, Hey, Treasury, how about handing over the documents and communications so we can get to the bottom of this, so we can figure out that it was one of these people with the pen in the Speaker's office or in the conference room.

Chairman FRANK moved it through his committee. Everybody that was present that day voted for it. But now, sadly, it's languishing at the desk and the majority leader of the House, Mr. HOYER, has chosen not to call it up. But, again, to Chairman FRANK's credit, he has indicated to the Treasury that he wants this thing resolved.

There was a meeting this week with members of my staff and members of the Treasury, and they have promised to produce some documents that, maybe the next time, Madam Speaker, that we are able to talk about this, we can identify who it was that inserted the language, on who's instruction, and why. And I think, Madam Speaker, the American people are entitled to know.

Now, as the Speaker knows, aside from the financial services bailout, the bailout of Wall Street, there's a lot going on with the American automotive industry as well. Chrysler was given 30 days to reach an agreement with the Italian automaker Fiat. And has recently gone into bankruptcy.

Unfortunately, we have another clue—this time, Clue, The Travel Edition, because some of the facts that have been sort of laid out there are not, as we dig further, as they appear.

And so to set the stage, Madam Speaker, as you know, the Union, the United Auto Workers of America, were asked to make significant concessions in order to keep Chrysler alive. As a matter of fact, on the 28th and 29th of April, every union hall, every UAW union hall that was involved in Chrysler operations, had an election. And the

election was whether or not to ratify this new contract with the concessions.

As a matter of fact, in my area in Ohio, we have a Chrysler stamping plant in a great city by the name of Twinsburg, Ohio. In Twinsburg, Ohio, the UAW local, Local 122, had done an outstanding job of negotiating language in this concession package that indicated that additional work was going to come to Twinsburg. I will show you that language in just a minute, Madam Speaker.

So people voted. All the union members voted on the 28th and 29th. The contract with concessions was approved. As a matter of fact, in Twinsburg Local 122, 88 percent of the union members who cast ballots voted in favor of the new contract because they thought by making these sacrifices, it would make a stronger Chrysler and they would get to keep their jobs and they would get to continue making automobiles.

Fast forward to the next day, April 30. The President of the United States, President Obama, announced this deal that Chrysler was going to go into bankruptcy and the contract had been approved and good things were going to happen. And on that date at his press conference this quote on the far board, Madam Speaker, the President of the United States said, "No one should be confused about what a bankruptcy process means. It will not disrupt the lives of the people who work at Chrysler or live in communities that depend on it," meaning Chrysler.

Now I have got to tell you, back in Cleveland there was news coverage of this series of events. And after the President made this announcement on April 30th, the champagne corks were popping. People were happy. They had approved a contract. They had taken a hit in their wages and their benefits. But they knew that no one should be confused that this decision wasn't going to disrupt the lives of the people who work at Chrysler or live in the communities that depend on them.

As promised, Madam Speaker, the chart now on the easel, this paragraph is the specific language that was negotiated by the UAW in Twinsburg, Ohio, that indicates when they went to vote to approve this contract on April 28 and 29, they believed they were agreeing to a provision that was separately negotiated for their plant that said during these discussions, the company, Chrysler, agreed to—and basically find ways to bring more work to the stamping plant in Twinsburg, Ohio.

Well, after the President made his announcement at noon, there was a conference call between the former CEO of Chrysler, Robert Nardelli, and interested parties—Members of Congress, governors, people who were interested. And the first question that was asked on that conference call—and I should say I have asked for the transcript of that conference call from

Chrysler, and they are refusing to give it to me. We will try another way. There's always a couple different ways to skin a cat.

But the first question came from Governor Granholm from the State of Michigan, and she said, basically, Congratulations. This is great news. As a matter of fact, Governor Granholm had a press conference and she said, Not only does this agreement preserve jobs, the opportunity for expanding growth in jobs in Michigan is very well. At the end of this path—which is the temporary idling while the company is in bankruptcy—we can see that the jobs are going to be there. It's a defining moment for Michigan, and certainly a defining moment for Chrysler.

Well, her question to Mr. Nardelli was, We just heard the President's announcement. Great work. But he said that by this agreement, 30,000 jobs at Chrysler had been saved. We know that there are 39,000 people who work for Chrysler in the United States. So was the President speaking in some kind of code that we saved 30,000, but we couldn't save all 39,000?

The answer back from the officials at Chrysler who were on the telephone call: Absolutely not. Absolutely not. The President just had the number wrong. And there's going to be no plant closings. Nobody is going to lose their job.

Well, during that same phone call, Representative GWEN MOORE, who's a Democratic Member of Congress, does a great job on behalf of her constituents in Milwaukee, asked Mr. Nardelli directly about the future of the Kenosha, Wisconsin, engine plant, which employs 800 people. And he specifically indicated that they loved the Kenosha plant; it had a long history; it was productive; it made money; and the 800 people up there in Kenosha, Wisconsin, didn't have to worry about anything.

Sadly, what happened after that conference call, after the President's announcement—I think we've all seen the pictures—this picture of the sort of nerdy-looking guy with all those bankers boxes taking the bankruptcy filings to the court in New York.

They were filed that afternoon—the same afternoon; April 30. Buried in those documents was the fact that eight Chrysler facilities in the United States of America were going to be closed as a result of the bankruptcy and, among them, Kenosha, Wisconsin, and Twinsburg, Ohio.

So, again, you had Mr. Nardelli saying Kenosha is great and you had the UAW in Twinsburg negotiating an agreement where they think work is going to come to them, but the news was, when the bankruptcy filings were read, that they're going to be closed and they're going to be out of jobs beginning next year.

□ 1900

Now, to be fair, Mr. Nardelli—you know, obviously there were some ques-

tions asked about it. So they asked, What happened? He said Kenosha was okay. He wrote to Representative Gwen Moore of Milwaukee that he mistakenly conveyed the status of the Phoenix investment.

He confused Kenosha, Wisconsin, with a plant in Trenton, Michigan. So not only isn't it the same State, Wisconsin. You have sound-alikes. We have a lot of Madison, Ohio, and all this other business. He apologized to Representative MOORE because he said that he confused Trenton, Michigan, with Kenosha, Wisconsin and that Trenton, Michigan, is going to be okay. Don't worry about it.

The mayor of Twinsburg also was obviously confused because people were celebrating. If you think about it, Madam Speaker, 88 percent of the union in Twinsburg voted to approve this contract. Well, you'd have to be pretty dumb to vote for a contract that was going to end your job. In conversations with the union leaders and membership, they didn't know. They didn't know that by the company going into bankruptcy, that they were going to be out of a job. Clearly I don't think 88 percent of them would have voted in favor of a contract that meant that they had no job. They were heartened by the President's comments the day before that no one should be confused about what a bankruptcy means. It will not disrupt the lives of the people who work for Chrysler or live in communities that depend on it. Now maybe this is like a Major League Baseball statistic. He needed to have an asterisk next to it and in small print say, oh, except for those eight plants, those eight cities and those 9,000 people that work there. But that isn't what the President said, and I think the President meant this. Again, it's my view that the President may have been ill-served by those who report to him about what was going on at this moment in time.

Also, the mayor of Twinsburg, Katherine Procop, who is a great mayor, expressed some concern. She wrote a note to Ron Bloom, who was part of the President's automobile task force about, Hey, wait a minute. We were watching TV. They said no plants were going to be closed. Nobody was going to lose their job. Now in Twinsburg, it's 1,200 jobs. We find out our plant's closing. It's 13 percent of our tax base, and 1,200 people are going to be out of work. What's the deal?

So Mr. Bloom wrote back to Mayor Procop on May 6; and he indicated the pertinent paragraph, While the original February 17 plan submitted by Chrysler was not deemed viable by the task force, the more recently proposed Fiat/Chrysler alliance plan has been approved, which is true. This plan included the same plant closure schedule as the one originally proposed by Chrysler, and the President's com-

ments were meant to convey the message that the bankruptcy of Chrysler had in no way changed these plans. Now that's a fine observation, except that nobody ever identified any plant closings in the February 17 filing or in the subsequent filing because they said they couldn't. I think what Mr. Bloom's letter is saying, that no lives are going to be interrupted, and no communities are going to suffer, except for those eight plants, 9,000 people, and eight communities that nobody knew about, which is a stretch. I mean, I have to tell you, it's a stretch, and people have questions.

So the question now is—and we have, again, filed a resolution of inquiry asking the administration to have the automobile task force get with us and talk about how this happened. This time we have the Clue travel edition. We have the Clue travel edition. This time it's not a pen, but we know that the weapon was an ax. Nine thousand people with an ax are going to lose their job. Their jobs have been axed in eight communities across America at Chrysler.

So this time on the board we have the President of the United States. I do not think President Obama knew all of the details when he made this announcement. I have sent him a letter saying that I give him great credit for the leadership he has shown. But again, my observation is that he has not been well served. On that conference call and part of the team, Larry Summers who is an economic adviser to the President; Robert Nardelli, who I have talked about, the former chief executive officer of Chrysler; Mr. Bloom; Mr. Geithner, the Treasury Secretary; and former President George W. Bush. The last time we talked about this, somebody said, Why do you have President Bush up there? This all happened this year. But I just wanted to be fair because I know that there are some people in this country that blame President Bush for anything that happens that is bad. So I wanted to have his picture up there as well.

So somebody in this group—and I think I can safely exclude the two, the former President of the United States and the current President of the United States from this list—but when the President went to the microphone on April 30, 2009, and said no communities were going to suffer, somebody in this Clue game knew that when the bankruptcy—think about these banker boxes. If you've seen that picture with the guy with the cart and the bankers boxes. He filed them at like 3 o'clock in the afternoon the same day. I know that the lawyers are quick, and we've got all kinds of computers and stuff. But those documents didn't get written between noon and 3 o'clock in the afternoon. Somebody on the President's task force or somebody at Chrysler or somebody someplace knew



that when those documents, those bankers boxes were opened, we were going to find eight plant closings and 9,000 people losing their jobs. I think the thing that bothers me more than anything, even though people being thrown out of work is horrible enough, it is that these 9,000 workers at these eight plants went to vote on a contract where they were giving up big time wages and benefits; and they voted, not knowing that by casting that vote, they were going to lose their job. Again, I don't think any reasonable person would make that vote in the days before the President's announcement, knowing that it meant that their job was gone.

So we are going to attempt to determine now, and we've asked the President if he would direct his automobile task force to share with us who knew prior to April 30, who knew at the time the President was saying that nobody was going to suffer that, in fact, 9,000 people were going to suffer. Because I have to tell you that again, I think the President's achievement here is significant. It would have been real easy for his advisers to say, You know what, we saved 30,000 jobs, we couldn't save them all, and so there's going to be some suffering in eight cities and in 9,000 homes; but overall, we saved three-quarters of the jobs at Chrysler.

Nobody said that. What they said was, nobody was going to be without a job, and nobody was going to suffer.

So, Madam Speaker, we're going to work diligently over the next little while and see if we can identify who in this particular game of Clue took the job, took the ax and basically axed 9,000 people out of a job. In addition, the news this week in the bankruptcy court and something that we need to find out about is who's responsible. It's not just 9,000 jobs anymore. It's not just eight Chrysler plants. The news today, or this week, was that they are directing 789 Chrysler dealerships to close, that they're going to take their franchises away. According to the National Automobile Dealers Association, about 60 people on average work at each Chrysler dealership in the United States of America. So these 789 dealerships times 60, another 47,340 people across America, in Ohio, everywhere else, are soon to lose their jobs. That is going to be on the back of this next week, it's anticipated that General Motors, which is also having difficulty, that they are going to attempt to get rid of 2,600 franchise dealers. Again, using the math of an average of 60 people at each dealership, that's another 156,000 people that will lose their jobs at General Motors dealerships.

So altogether, you now have, in addition to the 9,000 people at Chrysler, 203,340 additional people that are going to be out of work as a result of these bankruptcies. Again, I don't think that the President of the United States has

been well served by his advisers or else I don't think he would have uttered the statement that no one should be confused about what a bankruptcy means, that it will not disrupt the lives of the people who work at Chrysler or live in the communities that depend on them.

We're now up to, Madam Speaker, over 210,000 people that are going to be out of work as a result of this decision. And because I know that the President of the United States is a man of character, I know that the President of the United States didn't have in his mind when he made that observation that 210,000 people would be out of work because clearly that number, by any calculus, means that a lot of communities are going to suffer, and a lot of families are going to suffer, and a lot of people across this country are going to suffer.

Some of us can't figure out how the car company, Chrysler or GM, saves money by closing car dealerships. I mean, they don't cost the car companies any money. It's kind of a strange marketing proposal that you can sell more stuff by having less stores. So let's have less stores, maybe we'll sell more cars. That logic is lost on me. But maybe somebody on the Clue travel edition can explain it to me.

Also, in the April 17 edition of Time magazine, there is something here that in response to pressure from the Obama administration, Chrysler has proposed more plant shutdowns. Again, that is April 17, almost 2 weeks before the President says that nobody's going to suffer, no plants are going to be closed, and we're not going to have a problem.

On top of that—and this one kind of puzzles me too. The first thing that puzzles me is how you sell more cars with less stores. The second one is—and this is from the Detroit newspaper on May 11 that says that Chrysler wanted to spend \$134 million in advertising over the 9 weeks that it is expected to be in bankruptcy; but the auto industry task force originally told them, we don't want you spending any money on advertising and then begrudgingly said, Okay, you can spend half of it. That comes as a result of Robert Manzo, who is the executive director of Capstone Advisory Group, who is a consultant to Chrysler. He testified in bankruptcy court that the task force—again, the administration's auto task force—believed that it was not feasible to spend anything on marketing and advertising over this period of time.

So just as it confuses some of us that you can sell more cars with less stores, stores that don't cost the car companies any money, how you don't damage your sales by not having any advertising. But that is where we find ourselves.

So, Madam Speaker, we're going to do Clue the travel edition. And I hope, unlike the AIG Clue edition, we have people that are willing to come forward

and say, Yeah, I didn't think Chrysler needed to advertise, or, Yeah, I knew that those eight plants and those 9,000 people were going to be out of a job, but here's why we kept it from them when they were asked to approve the contract with concessions.

Now, Madam Speaker, we hear a lot that we don't have the time here in the United States Congress to deal with some of these issues. I just want to do a quick review of the last couple of years when that argument has been made and share with you the things that the United States Congress has been dealing with, rather than dealing with a variety of subjects, such as gasoline prices last year when gasoline went to over \$4 a gallon and now these many, many people who work at Chrysler who are losing their jobs.

Madam Speaker, I apologize for taking a long time. I don't have assistance. You will be pleased to know I have also dog-eared the corners because the last time I did this, my fingernails couldn't reach under the sticky notes and take them off in a timely fashion.

Last year gasoline prices went through the roof, and there were a lot of reasons for that. There was a feeling when Congress went on its district work period a year ago August that perhaps we should have a debate on a national energy policy. I can remember calls of "drill, baby, drill." There are people who want nuclear power. There are people that want green renewable energy, hydropower, geothermal power, solar, wind.

□ 1915

The request was made that we should really have a discussion, and let's talk about all the alternatives, and again, the ideas that get the most votes from the most Members will succeed. But we have to do something about gasoline prices in this country because our constituents are suffering.

Well, January 29 was when the Republicans did such a bang-up job of being in charge of the Congress that the voters threw us out in 2006 and replaced us with a Democratic majority, and that Democratic majority started on January 2007. At the time, gasoline was \$2.22 a gallon. And people said, okay, that is getting up there, but it is not horrible. And so on that day, January 29, the most important thing that the leadership of the House could decide to put on the floor was a resolution congratulating the University of California Santa Barbara soccer team. Now, I assume that every member of that team, their families and their fans are proud of their accomplishment. They certainly deserve to be complimented. But I don't know, when people at home are suffering with increasingly high gas prices, if that is the most important thing we can do.

Well, it creeps up. We get out here to September 5 of the same year. Gas has

now moved up. The national average is \$2.84 a gallon. And on that day, the most important thing we could do here on the House of Representatives was recognize National Passport Month. And I guess September is National Passport Month. You might want to go home and jot it down on the calendar, Madam Speaker, because I actually forgot that was right.

Gas continues to go up. Here we are out here, February 6 of the next year, gas \$3.03 a gallon, and the most important thing that we can do on the House floor on that day is commend the Houston Dynamo soccer team. When you are in elected office, you know this, Madam Speaker, we are told that if we want to be elected, we have to go out and get the soccer moms. And so by having two of the most important things, while gas is going up to over \$3 a gallon, commending soccer teams, I think we have the soccer mom vote taken care of, and maybe we could have gone on to talk about energy.

Well, we get into May of 2008. Gas is \$3.77 a gallon. You would think we would be talking about a national energy policy. But on that day, the most important thing we could come up with was to celebrate National Train Day. And I used to be the chairman of the Railroad Subcommittee. I like trains. But for crying out loud, my constituents were paying \$3.77, and they were calling the office in droves saying, when are you going to do something about gasoline prices?

Well, we get out here, it continues to go up to \$3.84 on May 20, and the most important thing we can do, rather than talking about gasoline prices, is to pass a resolution honoring or protecting great cats and rare canids. And I can tell you, Madam Speaker, I voted for that legislation because I know what great cats are, lions and tigers and things like that. I didn't know what a canid was. I had to go back to my office and look it up. It is a dog. So on the day that gas was \$3.84 a gallon, we were celebrating and recognizing lions, tigers, and dogs here on the House floor.

We are up to June of that year. Gas goes up to \$4.09. I'm sure we are going to talk about energy because people can't even afford to fill up their car and go to work. But on that day, June 10, rather than talking about gasoline prices, the most important thing we could do here in the United States Congress was to recognize 2008 as the International Year of Sanitation. And a lot of people back home in Ohio, when they were filling up their cars, didn't know that 2008 was the International Year of Sanitation. And I don't know that their lives were greatly improved because of that.

Then it finally peaked out on June 17, 2008, when gasoline hits \$4.17 a gallon. Gasoline was over \$4 for the first time in my lifetime, and I'm 54. And

I'm sure that we were talking about energy on this occasion in June. But we weren't. The most important thing we could do was pass the Monkey Safety Act. And I don't know any Member of the House, Republican or Democrat, that wants unsafe monkeys. But clearly, when gas prices were going through the roof, the most important thing that the greatest legislative body in the world could be working on, I would hope, wouldn't be the Monkey Safety Act.

So they said, okay, we get it. Now we are going to be serious. We start this new Congress. And in the new Congress, we have this horrible problem at Chrysler, which is the subject of the Clue travel edition. And it began in January when 4,000 people at Chrysler lost their jobs. And rather than talking about that, we honored the life of Claiborne Pell, a former United States Senator. And he certainly was deserving of recognition. But 4,000 people are out of work.

We get over here to right before March, and now we are up to 9,500 Chrysler people are out of work, and we passed a resolution supporting the goals and ideals of National Teen Dating. Now, as a father, I want teens to be safe, and I want them to be dating. But again, 9,500 people are out of work, and we are recognizing the goals and ideals of National Teen Dating.

Still before we get to the middle of March, before we get to a little bigger jump up to almost 11,000 people out of work, the most important thing we could do, and here is a repeat, Madam Speaker, apparently, we don't have time to talk about gas prices. We don't have time to deal with people being thrown out of work. But apparently the United States Senate didn't act last year on the Monkey Safety Act, so we debated the Monkey Safety Act again and passed the Monkey Safety Act.

Now you get out here to mid-April, and you are now up to 13,000 people at Chrysler who are out of work. And you would think maybe we are going to be talking about that. But instead, son of a gun, I guess the Senate didn't honor cats and dogs last year either, and so we had to bring back on the floor the Great Cats and Rare Canids Act.

You get out to May, and now there are 16,000, a little over 16,000 people at Chrysler out of work. And the most important thing we can do on that day is to award a Gold Medal to Arnold Palmer for his sportsmanship in golf. Now I happen to be an admirer of Arnold Palmer of Latrobe, Pennsylvania. I think he is deserving of whatever recognition comes his way. But when 16,000 people have lost their jobs and we have these issues with how we are going to help the car companies, how we are going to help the people that work there, I think even Arnold Palmer would have said, honor me next week.

And now we get out to last week we are now up to 18,365 people out of work at Chrysler, only Chrysler, and again, we are about to have another 200,000 at automobile dealerships all across the country. I'm sure that obviously we should have been talking about Chrysler and the auto industry on that day, but, son of a gun, they say that history repeats itself. We again had to recognize National Train Day here in the United States Congress.

So I would suggest, a little bit more than tongue in cheek, that we had time. We had time to deal with this, Madam Speaker. And for whatever reason, those who are charged with scheduling legislation in this floor felt that our time was most well spent honoring soccer teams, recognizing cats and dogs, making sure that monkeys are safe in the United States, not once but twice, and some of the other things.

But that isn't all, Madam Speaker. You're aware that on the day we come back, we do suspensions. Suspensions are bills that are brought to the floor. They are debated for 40 minutes. Republicans get 20 minutes. The Democrats get 20 minutes. And then we have a 15-minute vote. So if we put the vote together with the suspension, it is 55 minutes. Just since the beginning of this year, this list of bills here on the left and their dates of passage, we had time to name—these are post offices. This list of legislation are post offices. So everybody across America should be happy that when they go into a post office it probably has a name on it. And these are the post offices that we have taken 1 hour a piece to name since the beginning of the year. And 1, 2, 4, 6, 8, 10, 12, 14, 14 hours of putting a name on a post office when we could have been talking about gas prices. We could have been talking about Chrysler. We could have been talking about the billions of dollars that we are bleeding on these bailouts for everybody. But again, when you walk in, if anybody, Madam Speaker, lives in any of these communities, they can rest assured that in Rye, New York, for instance, if you go to buy stamps in Rye, New York, your post office now has a name, named after somebody, thanks to the United States Congress.

Now the difficulty with that is that the people at Chrysler, the 18,000 people at Chrysler who have lost their jobs, and the 203,000 people who are about to lose their jobs at the car dealerships across this country, they can afford to go in and buy the 44-cent stamps in the post office. But clearly, they have names.

Madam Speaker, this is problematic. And I think that the people who work at Chrysler, the 9,000 people in those eight communities and the citizens of those eight communities who popped champagne corks when they heard the President of the United States, and reaffirmed by Mr. Nardelli, the CEO of

Chrysler, indicate that their jobs were going to be okay and their plants were going to be open, and that they cast ballots in large numbers signifying that they were willing to give up how much they made an hour, how much they had to contribute in health care, what their pension looked like, because they believed that they were going to be able to keep their job.

And that wasn't true.

So again, Madam Speaker, we will come back again until somebody, somebody helps us solve the game of Clue. Who took an ax in the Senate leader's office, the Speaker's office, the conference room, who took the ax to 9,000 hard-working Americans in this country, their plants and the communities that depend upon those tax revenues for police protection, fire protection, and schools? Who took the ax and ended those jobs?

And again, President Bush was meant in jest. I don't think President Obama did this. But others on this board, I would posit, had to know, had to know prior to the President's announcement that this was going to happen. And I just don't think that that is right in the United States of America.

Likewise, the 203,000 people that are about to be out of work at the dealerships across this country, again, some of these dealers, these automobile dealers, some of them paid upwards of \$2 million to have a Chrysler franchise or a General Motors franchise. And it really boggles my mind that in the United States of America if you are a car company you can come in and say, I don't want to honor these franchise agreements.

And the news just last week was the lawyers for Chrysler are arguing that this Federal bankruptcy should supersede State franchise law. And even though State franchise law says, if you sold this guy a franchise for \$2 million, he is entitled to keep it, they want to terminate him and just say, you got no business.

Again, Madam Speaker, I don't know how it goes in your hometown, but in my hometown, the car dealers have been there, in some instances, for generations. They support the little league teams, the bowling teams, and the Chamber of Commerce. A lot of the lifeblood of our community is supported by auto dealers. So I know that the President didn't mean that this set of conditions, this set of circumstances, wasn't going to disrupt people's lives and wasn't going to impact negatively on communities all across this country. And I am baffled that in the United States of America, if you, Madam Speaker, took \$2 million, and I wish I had \$2 million, but if you took \$2 million and bought something, that the government could come in and just say, guess what? You don't own it anymore. And do you know those 60

people that work for you, who in some instances have worked for you 20, 30 years? They are out of work. They are out of work.

So Madam Speaker, we will attempt to unravel this mystery. I appreciate very much the time. And I look forward to working with my colleagues on both sides of the aisle to determine how this could happen in the United States of America.

I thank you, Madam Speaker.

□ 1930

#### COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, April 28, 2009.

Hon. NANCY PELOSI,  
Speaker, U.S. Capitol,  
Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b) note), I am pleased to re-appoint the Honorable Pat Tiberi of Ohio to the National Council on the Arts.

Mr. Tiberi has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,  
Republican Leader.

#### APPOINTMENT OF MEMBERS TO HOUSE COMMISSION ON CON- GRESSIONAL MAILING STAND- ARDS

The SPEAKER pro tempore. Pursuant to 2 U.S.C. 501(b), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the House Commission on Congressional Mailing Standards:

Mrs. DAVIS, California, Chairman  
Mr. SHERMAN, California  
Ms. EDWARDS, Maryland

#### APPOINTMENT OF MEMBERS TO MEXICO-UNITED STATES INTER- PARLIAMENTARY GROUP.

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276h, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Inter-parliamentary Group:

Mr. McCAUL, Texas  
Mr. DREIER, California  
Mr. MACK, Florida  
Mr. BILBRAY, California  
Mr. NUNES, California

#### PROGRESSIVE CAUCUS MESSAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Madam Speaker, let me just signal that again tonight we come before this body as the Congressional Progressive Caucus with the Progressive Message.

The Progressive Message, this idea of coming before the American people, projecting a progressive message, so that the people of the United States can say, you know what, there are people in Congress today who are willing to stand up and say that ideas about generosity, of justice, of peace, of inclusion, of universal health care, of providing access for everyone, these are principles, there are people who are in that Congress who will stand up for these ideas, and that is the Congressional Progressive Caucus.

And we come and we talk about the Progressive Message where we talk about the importance of this message of saying we will remember great advances of our country of the past, like the civil rights movement, the women rights movement, the idea of coming together for Social Security, standing up for peace, getting us out of Vietnam, standing up against the rush to war in Iraq and Afghanistan. And today, that charge has not failed. That charge has not gone unnoticed, and we're here today to keep the call going.

And tonight for the Progressive Message, I'm really pleased to have join me a leader who never fails to stand up for the people, never shrinks from the call of the people, a progressive, dynamic leader who hails from the great city of Houston, the great State of Texas, none other than SHEILA JACKSON-LEE. I thank Congresswoman JACKSON-LEE for joining me tonight for the Progressive Message. Do you want to get us started a little bit as tonight we talk about health care?

Ms. JACKSON-LEE of Texas. Let me first of all thank the distinguished gentleman, Congressman ELLISON, for his leadership and to applaud the effort of, if you will, recording, reporting, enforcing, and educating individuals on the importance of a holistic approach to health care reform.

Certainly, I want to congratulate the Progressive Caucus, of which I'm a member and my distinguished colleague is, because we have been spending time, Madam Speaker, on working on these issues, constantly seeking to find common ground around a very important issue, and that is, of course, the public option.

Some of us are concerned and interested in single payer, and in our meetings that we have had, which is a number of legislative initiatives, one happens to be H.R. 676. But what we are speaking about is to keep all doors open, all voices open, because as you can see, the idea of coming together

around fixing the health care system is going to ensure that we have the kind of baseline of service that will help all Americans.

And let me just make a point to my distinguished colleague. We were just in a hearing on the collapse or the bankruptcy of Chrysler and General Motors, and I call it a collapse, and I call it a crisis. And why? Because we're putting people out of work. Even with the bankruptcy structure they're closing dealerships. They are closing minority dealerships. They're laying people off work.

Well, it was projected in a hearing by some of our colleagues on the other side of the aisle that it was this labor union health care cost that brought the industry to its knees. I refuted that by saying it was the lack of health care in America, and thank goodness for labor unions who are willing to protect their retirees and the workers and give them health care.

And so just take the example of having this access to health care, this public option, this new reform that would help ensure the 47 million uninsured or give companies an option. That would have helped General Motors and Chrysler, not putting the burden on labor unions.

And let me digress for just one moment, and I appreciate the gentleman yielding to me, and I just have to do this because it has to do with focus. It has to do about what is important for this Congress to go forward on.

And today, as you well know, there was an individual that stood up to offer a privileged resolution regarding our Speaker, and I just for a moment have to champion her cause and say that these are the kinds of distractions that take us away from focusing on the needs of the everyday men and women of America. There's some representation about comments regarding the briefing that our Speaker received as it relates to torture. I was there during that period of time, and I am well aware of the atmosphere.

First of all, we should note the Speaker has indicated to have all files released, one point. The second point is in the 1990s, or let's say after 9/11, we had the presentation being given by the Bush administration at the United Nations, and the backbone of that presentation happened to be the Agency. Of course, we seem to be living in an atmosphere of being misled.

So, to my friends on the other side of the aisle who don't look at the real facts of this case, I ask them to do so, but then I ask them to wake up and ask the question of themselves: What do Americans want us to do? They want us to address the question of recession. They want us to address the question of mortgage foreclosure. And they want us to address the question of health care.

And so, for that reason, let me thank you for allowing me to be here. We will

be having town hall meetings in my congressional district. I look forward to travelling to other districts, joining my colleagues to talk about the public option, the value of the single payer.

And the message that I leave here is I don't believe any aspect of health care reform should be left out. I frankly believe that under the public option designation, which means that there is something similar to Medicaid and Medicare in a more efficient manner, you could in essence put a single payer choice under that particular structure so that just as people are arguing for individuals to keep their own doctors, you could in fact say, well, you want choice in this way, I want a choice in public option, and we can come to the table and meet ourselves head-on and find the kind of relief that the American people need.

So I'm delighted to be here with my good friend and colleague, Congresswoman WATSON, and you have my confidence and support on how we move forward in the evidence of your great works in bringing to the American people what we need to do for good health care reform.

Mr. ELLISON. Let me thank the gentlelady. We hope that she can stick with us because we'll be here for a little while, but I want to turn right now to another champion of the progressive values around health care, around diplomacy, around so many critical issues. Congresswoman DIANE WATSON's been a stalwart champion, and so I want to invite the gentlelady right now to just give some opening comments and reflections on this critical health care debate that's going on right now in our Nation's Capital and across America.

Ms. WATSON. Thank you so much for yielding, and Madam Speaker, thank you for presiding this evening.

I wanted to join my colleagues because it's important that we speak on such a critical issue as health care, and as we all know the United States is the only industrialized Nation to not offer universal health care to its citizens. Currently, there are only 47 million people without health insurance, and as a Nation we're facing a real health care crisis.

Did you know that blacks are far more likely than whites to die from strokes, diabetes and other diseases? Six million African American adults are uninsured or experiencing gaps in their coverage, and one-third of all adult African Americans are without health care. Sixty-one percent of African American adults who are uninsured during the year reported medical bills or debt problems, compared to 56 percent uninsured white adults and 35 percent uninsured Hispanic adults.

About one-third of African American adults visited an emergency room for a condition that could have been treated by a regular doctor if one had been

available, compared to 19 percent of Hispanics and 19 percent of whites. Hispanics and African American working age adults in the United States are at greater risk of experiencing gaps in insurance coverage, lacking access to health care and facing medical debt than white working age adults, and usually when African Americans come in to a health facility, they come in more acutely ill. They go into emergency and end up in the surgical suite at a great cost.

Uninsured rates for working age African American adults are also high, with one-third, or 33 percent, more than 6 million adults uninsured who are experiencing a gap in coverage during the year. Sixty-two percent of Hispanic adults, age 19 to 64, an estimated 15 million adults were uninsured at some point during the year, a rate more than three times as high as that for white working age adults.

Minorities are less likely to be given appropriate cardiac medicine or to undergo bypass surgery. Studies show significant racial differences in who receives appropriate cancer diagnostic tests and treatments.

Mr. ELLISON. To the gentlelady from California, the statistics you've laid out are excellent, and I'm sure we all need to hear more of that. But I just want to ask you for a moment, if I may, in all the statistics that you have read—and they're startling—as you walk around your district in California and you talk to people, just regular folks like at the grocery store, do they tell you stories about their lives, which really are reflective in some of the statistics that you have been sharing with us? I yield.

Ms. WATSON. Absolutely, and I just want to mention the demographics of my district. I have a third African American, a third other people of color, and a third majority, and I have some very wealthy real estate and some very poor real estate in my district. And what I do to accommodate their concerns is send out a questionnaire, and I have five regional advisory groups that come maybe every quarter to my office in the conference room, and I list their concerns. And then we go over each one of the concerns, and what comes at the top is education.

But health care depends on the area that you're in. The very wealthy people can pay for their 50-minute hour with their psychiatrist. So health might come in the middle or down in the lower area of their responses. But in the lower socioeconomic areas, you can always find it near the top. Education is at the top but health care would follow.

Mr. ELLISON. So as you walk your district and you talk to folks, just regular folks, whether they be from the rich district you're talking about or the not-so-rich district, you're saying that people are concerned about this issue of health care?

Ms. WATSON. Yes, they are, and particularly in this era when we have a critical economic crisis they are really concerned about health care. They're out of a job. They don't have any insurance. They don't even get their retirement. Some of them worked for, I would say one of those discount master store. I won't call any names.

□ 1945

And they work part-time and there are no benefits. And these are the people that fall at the end of that spectrum.

Mr. ELLISON. Well, I thank the gentlelady for yielding back. We're going to be right back with the gentlelady in a moment.

But at this time I'd like to get into the conversation one of the very fine physician who happens to be a Member of this esteemed body, and we're so happy that he is a member of the Progressive Caucus too, and that is JIM McDERMOTT, a physician, Member of Congress, a long-term practitioner of medicine, who is going to give us a thought on his reflections on where we are in health care, and as a member of the Progressive Caucus.

And I yield to the gentleman from Washington.

Mr. McDERMOTT. Thank you very much, Congressman ELLISON.

I think that one of the interesting things about the debate that's going on in Congress right now is that the debate seems to be that we can't have a single-payer system in this country. The people aren't ready for it, or it won't work, or whatever, there's all kinds of myths around that.

And one of the fascinating things about it is that now, as we come to the President's proposal, he's proposing that we have a public option among those choices that people will have when the national health plan is put in place.

Now, everybody immediately says, oh, we don't want a public option. We don't need that. The private industry has—they'll come up with enough options and people will have choices. The problem is people won't have money to pay the premiums.

Well, the fact is that the American health insurance industry has had full chance to do it since 1933, when Franklin Delano Roosevelt took this off the agenda. They've had more than 60, more than 70 years, almost 75 years to come up with a plan to cover all Americans, and they have not done it.

Now, there has to be a public option, and it has to be a good option. There is an interesting book, if people are interested in reading about this whole thing, it's called *Do Not Resuscitate*, meaning do not resuscitate the health insurance industry that's dying. But that means we've got to have a good public option out there for people to choose.

Now, people say, why do we need a public option?

You need the competition of the public option to drive the health insurance industry prices down.

What's happening today—in fact, when Mrs. Clinton tried this effort 15 years ago, in 1993, we had almost 1,800 insurance companies in this country. That industry is rapidly contracting to the point where today we have around 800. And in many States, particularly rural States in this country, they have one choice of an insurance company, not two. So you've got an insurance company, or maybe they'll have two. But there's no competition in that kind of situation. And you need the government plan.

Now, the reason? Why is that? Well, very simply, Medicare has administrative costs of about 3 percent. That means you give a dollar to Medicare, 97 cents goes out in health care benefits to older people in this country. If you give money to a private insurance company, 82 cents, on average, goes out to people. In many companies it's 70 cents is all that gets out to people who are sick.

So we need a Medicare-like, a government option to compete with private industry to drive down those costs, because costs are what are killing our health care system today. Costs are going up much faster than inflation. People are finding their deductible higher. They are finding their co-pays higher. They're spending more money out of their pocket, even though they have health insurance. They think, well, I'm covered. I've got this illness, but I don't have to worry. I'm just going to go and have it taken care of. And suddenly they find out they've got huge bills left after, and that's because the plans are simply not taking care of people's needs. And we need a government option.

Now, there are several things about a government option. First of all, it has to be one in which it takes anybody. You can't give the insurance companies or anybody else the ability to say, I'd like to take that person, but I don't want to take that person. That person's old or that person looks sick, so I don't want to take care of them. I just want to take premiums from people who are healthy.

And the government option has to be one that takes everybody, and so do all the private insurance industry. If we have a health care bill that goes out of this House that does not have insurance changes in it that requires everybody to be taken, then we haven't done what we need.

You heard the disparities in minority communities in this country, and it's also, it's just poor people. It's really not minorities as much as it's poor people who don't have the same kind of health care that people do who have a lot of money. I mean, that's the way it

is. And we ought to be honest about this and say if we're going to do a national plan, it takes everybody.

Now, it also has to give the same set of benefits. Whether it's a private plan or a public plan, it ought to have the same benefits.

Now, if the private industry can compete with a government plan, that's fine. But if they can't, they're going to have to find ways to bring their prices down. They're going to either have to squeeze their profits or do something to change the way that goes.

Pre-existing conditions. I had a patient or a woman in my district who was an opera singer. She went to Germany, had a contract in Munich. The minute you go into Germany you're in the German system. You're taken care of.

Her daughter got leukemia. They spent thousands and thousands of dollars treating the child. She came back. The child had remission, and so they came back to the United States. The woman couldn't find an insurance company in the United States that would give her insurance, except at exorbitant rates, \$2,000 a month.

Now, why is it that the Germans can figure a way to do that, and we can't in this country?

And my view is that you have to have no pre-existing conditions, you've got to let everybody in, and you've got to give the same set of benefits. And I think that the public option is essential for any bill that goes out of here.

Mr. ELLISON. Will the gentleman yield?

Mr. McDERMOTT. Yes.

Mr. ELLISON. I'd just like to pose a question to the gentleman. There is a Web site called feedback progressive Congress. This is a Web site. It's called feedback.progressivecongress; 250 people went to that Web site and asked the question, how will you stop denial of pre-existing conditions?

And I yield back to the gentleman. For those 250 folks who got on the Web site and want to know, what do you think?

Mr. McDERMOTT. You essentially make a decision at the Federal level that we are going to require all insurance companies to take everybody. They cannot use pre-existing conditions.

One of the things that happened back in the Forties was a bill was passed in this House called the McCarran-Ferguson Act, and that said that all insurance decisions should be made at the local level. So we gave it to the States. So you've got 50 different insurance commissioners doing 50 different things all over this country.

When we come to a national health plan that Barack Obama's going to sign, it has to have a national standard that every insurance company has to cover everybody. And you can't say, well, you know, they are this ethnic

group or they're a little bit overweight or they smoke. The only thing you can make changes is on age. Obviously, as you get older, there is more likelihood that you're going to have problems. But that's the only kind of rating that there can be in a system that's going to be fair to everyone in this country.

And the insurance companies, they obviously didn't want to take care of this woman's kid because they knew that the chance was she might have a recurrence of her leukemia, and they could see her sitting right there and know she had had the disease, so they said, that's a pre-existing condition. We don't want that family.

You can't let that happen when we write this national plan. It has to be written right here on the floor. They can't trust it to 50 States because some States will have a good insurance commissioner and some will have people who are not quite so publicly spirited.

And my view is that we have to make that decision, and I think the President will support us in that.

Mr. ELLISON. If the gentleman would yield again.

Mr. McDERMOTT. Sure.

Mr. ELLISON. Forgive me for these questions, but at this same Web site, which is [feedback.progressivecongress.com](http://feedback.progressivecongress.com), the question was posed, Will you, meaning the Congress, vote against a reform plan without a public option?

And then it goes on to say, a couple of months ago, Progressive Caucus made a promise to vote against any health care reform bill that does not include a strong public option. Health reform without a public option is no health reform at all. Will you continue to stand by your pledge to the American people to insist on a public option for health care by voting against any bill that does not include it?

And this question was asked by 1,434 people. And the first person to ask the question was Mike.

Mr. McDERMOTT. Well, in my view, if we have a plan brought out on this floor without a public option in it, it is not universal coverage, because that means the insurance companies have won the whole game. And if they believe in the free enterprise system, then they believe in competition, and they ought to be able to compete with a government plan that's well done, and not given any special advantages, just the fact that it's going to be done without profit, so you're not going to be worrying about—insurance companies worry about profits for stockholders. The government doesn't worry about profits for stockholders. It worries about giving services to human beings. That's why the administrative costs in Medicare are so much less than those of an insurance company.

So I can't imagine myself voting for a plan that does not have a public option in it.

And I'll tell you one of the little tricks that people have to be watching for. In the part D in Medicare, which was the drug benefit, they said, well, if there aren't two plans in an area from the private sector, then they would go to a public option. Guess what? The industry went out there and got involved everywhere, mostly because we gave them such heavy subsidies that they could make a lot of money. So they said, yeah, we'll go in and treat, we'll deliver drugs to people in this country. And it was a false public option. It says public option in the bill, but they knew it would never happen because they subsidized the pharmaceutical industry to such an extent that it just never—they were making money so they stayed and did it, and we didn't need a public option.

Mr. ELLISON. Well, if the gentleman would yield, I want to get Congresswoman LEE involved in the conversation. We'll be right back with the gentleman in a moment because I know the gentleman has plenty more to go, the good doctor from Washington State.

But we do have with us Congresswoman BARBARA LEE, who is wearing a fabulous blue suit tonight, but more importantly than that, has been a fighter for people for so many years on so many issues; currently, the chairperson of the Congressional Black Caucus.

Congresswoman, give us your thoughts on the progressive vision for health care in America, the debate going on right now and all across America.

I'll yield to the gentlelady.

Ms. LEE of California. Thank you very much. I want to thank the gentleman for yielding, for his generous comments, and for your leadership.

And a couple of things I'd just like to say as I was listening to the discussion tonight.

First of all, and Doctor, Congressman McDERMOTT, I'm very pleased and delighted that you laid out why a public option is necessary to reduce health care costs. That fact, I think, is often missed in this health care reform debate.

I personally think that single-payer—and I have to applaud Congressman CONYERS and all of those who are supporting H.R. 676.

Mr. McDERMOTT. Me too.

Ms. LEE of California. That's where we should start. That's where we should start. And whether one agrees or disagrees with single-payer, that option has to be on the table for us to even move toward universal affordable health care for all. But I hope that we end up with single-payer.

And when you look at Medicare and when you look at single-payer, it works. It has worked for many of our veterans in terms of cost containment of medical costs. The VA is allowed to

purchase pharmaceuticals and drugs at a price that is lower than on the open market, and so it just makes a lot of sense. So a public option is absolutely necessary, and I'm very proud of the fact that the Congressional Black Caucus has gone on record calling for a public option.

Also, let me just mention the importance of closing health care disparities. I was listening to Congresswoman WATSON earlier talking about that. When you look at the disproportionate rates, for example, of HIV and AIDS or of diabetes or of other diseases in communities of color and, of course, on top of that, we have the poor, and rural communities.

□ 2000

So, if we don't look at closing health care disparities and look at a strategy for that and at health care reform, we're going to end up with another two-tiered system. We will have health care reform for those who can afford it, but we'll have the millions of people who have historically had these disparities, because of the economics of their lives and because of the circumstances of their lives, who won't be included at all in any new health care reform effort.

I, personally, don't believe health care should be an industry. I mean profits should not be made off of sicknesses and illnesses. We should begin to understand that, as we keep health care as a profit motive only, we'll never have the type of system that's affordable and accessible for all.

Prevention: What is it? An ounce of prevention is worth a pound of cure. We have to focus on prevention in any health care reform. Many of us have ended up in emergency rooms with our families, and we see what happens in emergency rooms. Many people, especially in communities of color, end up going to emergency rooms for primary care or they go to emergency rooms when it's really too late and when they could have had some form of preventative treatment. So we have to look at prevention as key in this reform debate.

Also, community clinics: Community clinics provide access to the poor and to rural communities as well as to urban communities and to communities of color. So I hope, in any debate and in any health care reform we have, that community clinics become central in that effort.

Mental health care: Congressman McDERMOTT, you are a psychiatrist by trade, by profession. I'm a clinical social worker. We've fought for years for mental health parity. Now mental health parity, thanks to Congressman PATRICK KENNEDY and to Senator KENNEDY, it's the law of the land. In any health care reform efforts, we have to include mental health as being as important as one's physical health.



So, Congressman ELLISON, I'm really pleased that you're continuing to beat the drum for the Progressive Caucus on the issue of health care reform. You are putting forth our vision of health care reform, which is really a vision that addresses the majority of Americans in our country. It actually affects all Americans and it impacts all Americans. So the progressive promise, which the Progressive Caucus laid out several years ago, is a promise for the entire country.

Tonight, once again, we're talking about that promise. Hopefully, that promise and that dream will be realized as we move forward and provide health care for all.

Mr. ELLISON. Will the gentlelady yield for a question?

Ms. LEE of California. Yes, I will yield.

Mr. ELLISON. The Progressive Congress.org asked for questions for the Progressive Caucus and for other progressive legislators on the issue of health care. Fifty-nine people want to know: What about the chronically ill?

There is a lot of talk about subsidizing "those who can't afford it." What about subsidizing the chronically ill, who have to pay outrageous fees for minimal access? What will you do for them? Is it the sick who need health care subsidies, those who truly cannot afford it at any income level?

You mentioned HIV/AIDS. You mentioned other chronic illnesses. I wonder if the gentlelady has any views on that topic.

Ms. LEE of California. Sure. The chronically ill should be a priority in our health care reform effort. Unless one has health care insurance—which, of course, in any health care reform plan, one can maintain one's health insurance. So, if one has the insurance to cover chronic illness, that's great and that's fine. That coverage will be maintained. For the chronically ill who have run out of funds and who don't have any money and who don't know what to do next, we have to include the chronically ill in our health care reform package. We have to include long-term care and other types of provisions and policy initiatives for our senior citizens, for example, or for the disabled, who deserve long-term care. This has got to be covered. This is a must.

I believe the Progressive Caucus gets it, and I think the rest of the country gets it. So we have to make sure that this is part of our effort and of our legislation.

Mr. ELLISON. I thank the gentlelady for yielding back. I hope the gentlelady can hang on with us for a little while longer.

Mr. McDERMOTT. Could I just say one thing?

Mr. ELLISON. Yes, the gentleman from Washington.

Mr. McDERMOTT. Representative LEE raised the question of profits for insurance companies.

Between 2000 and 2007, the insurance companies profits in this country went from \$2.4 billion to \$12.9 billion.

Mr. ELLISON. If the gentleman would yield, would you repeat that?

Mr. McDERMOTT. \$2.4 billion to \$12.9 billion. That's an increase of 428 percent.

Mr. ELLISON. Wow.

Mr. McDERMOTT. Now, you're going to see ads on television saying, oh, this government option is the worst thing that has ever happened to this country and that we need to save the poor, struggling insurance companies. Just remember those figures.

The average collective salary of the executives, the CEOs, is \$118 million. That's an average of \$11.9 million a piece. If you're running an insurance company and you're making \$11.9 million, what do you think your real interest is in taking care of people? Your interest is in getting as much money as you can. Give it to the stockholders and keep it for yourself. That's why we have to have a public option where the public good is the driver in what we try to do.

Mr. ELLISON. Will the gentleman yield for a moment?

Mr. McDERMOTT. Yes.

Mr. ELLISON. In Minnesota, we have a health care company where a particular executive, who is no longer there, made \$100 million every year. If he made \$90 million one year, he'd have to chalk that up as a bad year for him. Here is my question:

If this hypothetical but real gentleman only made, say, \$10 million a year—just \$10 million a year—wouldn't there be at least another \$80 million to \$90 million a year just out of his salary alone to extend coverage to more people?

Mr. McDERMOTT. Of course.

Mr. ELLISON. Would the gentleman or the gentlelady like to address this issue?

Mr. McDERMOTT. I mean the answer is so obvious that I know you're not asking me a question, because it's clear that the money that people are paying in premiums is not going to pay for health care. It's going to pay for a whole lot of other things. That's why we want a strong public option that takes the money that people pay and has it pay for health care.

Mr. ELLISON. Would the gentlelady like to weigh in?

Ms. LEE of California. Health care is big business. It's profit-driven. It's big business such as any corporate entity in our country. In any health care reform package, we have to make sure that it is not the profit motive that's driving health care reform. All of us have instances where we know of either constituents or of family members who have to wait on an account executive to make a medical decision for them, and that account executive has to go back to the corporate officials to deter-

mine whether or not this individual will be allowed a certain medical treatment. That is wrong. It's really unethical. It's hard to believe that that is still happening in our own country.

Let me just say that I lived in England for 2 years, and I'm not saying there is any system that we need to look to as a model, but I have to just tell you that I lived in Great Britain. My first son was born in Great Britain. I've lived under a different health care system, and I know what that system provided, not only to British citizens but to me, and I was a U.S. citizen who was living there for 2 years. It was a system that was much further advanced than, I think, we have ever had in our own country.

I say that because there are other ways to do this, and we need to look to see what the best ways are in terms of health care systems throughout the world. It's being done differently, and people are benefiting in other countries, and we just need to know that there are other options.

Mr. ELLISON. Will the gentlelady yield just for a moment? I just want to ask you a question. I pose this question to both the Members of Congress who are with us tonight.

Aren't you talking about socialized medicine? Aren't we supposed to be scared of this?

I yield to the gentlelady.

Ms. LEE of California. Well, let me just say that, by any stretch of the imagination, I don't believe that England is a socialist country, and I'm not talking about socialized medicine. I know what "socialized medicine" is.

What I'm talking about is making sure of our values as American people, as people who care, the least of these being "I am my brother's keeper;" "I am my sister's keeper." I'm talking about the most powerful, the most wealthy industrialized country in the world having 47 million people uninsured, and it's growing. There are 10 million more now as a result of this economic downturn that has resulted from these last 8 years of Bush's economic policy.

So come on. We have to begin to look at how we begin to reflect our values as Americans in this great democracy, and we have to begin to say that we're going to be concerned about everyone who deserves health care but who does not have health care. So, no, that's not socialized medicine. Trust me. I know what socialized medicine is, and I don't think anybody on this House floor would want to see our country enact a socialized medical system.

What we want is a universal, accessible, affordable health care system for all regardless of one's ability to pay, regardless of one's disability, regardless of preconditions, regardless of one's ethnicity, regardless of one's economic status. As long as people don't have the money to purchase a large

health care policy, then they should at least be provided with a public option so they can live. This is about, you know, life. This is not about counting beans. This is about life and death issues.

Thank you.

Mr. ELLISON. If the gentlelady would yield back, I just want to pose a question to the gentleman from Washington, Congressman McDERMOTT.

Before you make your point, could you just address this issue? I think, as we go through this debate, there will be people who will say that a public option is nothing but socialized medicine. In fact, I've heard this word "socialist" thrown around already in this Congress. What do you say to this?

I yield to the gentleman.

Mr. McDERMOTT. Well, first of all, the American people would be offered a plan from the United States Congress. Yet, as the President has said, if you have insurance, you can stay right where you are. If you're satisfied with it, stay right there. Don't worry. You're not going to be made to do anything, but we are going to offer you a choice of a public option. Now, if you don't like what you're in now and you want to move over to the government program, you can do it.

That is not socialism. That is not forcing everybody to do the same thing. That's saying, if you want to stay where you are, fine, that's all right, but if we put together a good public option and it looks better to you, it's your free choice.

Mr. ELLISON. If the gentleman would yield for a moment, should Americans not be afraid of some of these terms that are tossed around? Is there nothing to fear? Is that what you're saying?

I yield to the gentleman.

Mr. McDERMOTT. I'm saying that you're going to see a big campaign of fear mongering, of trying to make people afraid by using all kinds of words. The fact is that they are simply deceptive in the worst sort of way when people are vulnerable and when they're sick. Then somebody tells them, "Oh, you don't want that because—"

In 1993, there were some ads on there called "Harry and Louise." They're sitting at the kitchen table, and Harry says to Louise, Do you know that the plan that Mrs. Clinton is putting together is going to take away your health care?

Well, that was simply to scare people, and people, since they weren't sure, decided they didn't like her plan, but we could have had this 15 years ago. We could have had a change in this country 15 years ago. Now we get a second chance. This time, the people are in much worse shape than they were then. Business wants it. Labor unions want it. Even doctors today who were sort of against Mrs. Clinton's plan now are saying, you know, you can't

deal with insurance companies. So you've got a whole bunch of different people this time who are saying we need a public option that can make the system fairer and that can work for everybody in the country.

The people can choose. The American people are not stupid. They're not going to fall for this kind of advertising that they used the last time.

Mr. ELLISON. I thank the gentleman for yielding back. I'll yield to the gentlelady from California.

Ms. LEE of California. Yes. I would just like to say that the question has to be asked of the public:

Why would companies with big bucks run these advertising campaigns? It's to try to scare people. This money that's going to be put out there is very, very—I would say—wrong. Again, Congressman McDERMOTT said that it's almost preying on the most vulnerable when they need help, when they need something. So it's sinister to mount that type of a campaign and to believe that any of us would want socialized medicine. It's a scare tactic. I think we all have seen this before.

I thank you, Mr. ELLISON, for having these Special Orders, because we've got to sound the alarm and beat the drum and let people know that no one is talking about socialized medicine.

□ 2015

I hope the country hears us loud and clear. No one is talking about socialized medicine. We're talking about affordable, accessible health care for all with choice as being central to that policy.

Mr. ELLISON. I thank the gentlelady.

Let me point out as we walk into this new round of debate in health care, there is a pretty well-accomplished Republican adviser and consultant who has come out to be heard on this issue. And the gentleman, Frank Luntz: "Warns GOP Health Reform is Popular." This has been published. This is a headline. Mr. Luntz is telling his constituency that health reform is popular, and he's warning the GOP what they should do if they ever want to come out of the cold.

Dr. Frank Luntz, a top Republican consultant on the language of politics is warning the GOP that the American people want health care reform and that lawmakers need to avoid directly opposing President Barack Obama. "You simply must be vocally and passionately on the side of reform," Luntz advises in a confidential 26-page report—I guess it's not so confidential now—obtained from Capitol Hill Republicans. "The status quo is no longer acceptable if the dynamic becomes President Obama is on the side of reform and Republicans are against it. Then the battle is lost and every word in this document is useless."

I think it's important to bring this out because we, of course, care about

our Republican colleagues. We're all in the same body. And I think the advice to them is to avoid the fear stuff, because as Frank Luntz, a man who knows this stuff, has said, health reform is popular.

I wonder—I mean, do either one of the esteemed Members have any views? Is this health reform that is talked about all over the Nation, is it popular? Do people really want it, and does a politician who stands against reform run the risk of paying the price at the polls?

I offer the question to either Member.

Mr. McDERMOTT. Well, you know, the Republicans didn't do anything in 8 years on this issue. Nothing. Not one more person was covered than was before. In fact, the number of uninsured went from 35 million to almost 50 million during the period that George Bush and his cohorts were running this place.

The American people in November of 2008 made a decision: we want change. We want something different. And President Barack Obama has offered the leadership and has said this is the way we ought to go and has laid it out and the Congress is working on it. Anybody who opposes this in the long run is going to be taking a real risk in the next election saying, Oh, I was against that because—because why? Because you wanted to give the insurance companies everything? Is that what it was you were after? Or is it because you don't think that we can make any changes in the system; the system is perfect?

One of the things I was going to quote for you, there is a man named Zeke Emanuel. He's the brother of our President's administrative assistant. He's the head of the department of clinical bioethics at the National Institutes of Health, and he says this: the U.S. health care system is considered a dysfunctional mess. Conventional wisdom has been turned on its head. If a politician declares that the United States has the best health care system in the world today, he or she looks clueless rather than patriotic or authoritative and they run the risk of opposing—if they oppose this, they are going to look like they are out to lunch.

And I think that's not a good situation to be in when you're running for re-election.

Ms. LEE of California. You can't tell me that the 47 million uninsured in our country are all in Democrats' districts. You can't tell me that it's only Democratic Members' constituents who are uninsured. The lack of health insurance is an equal opportunity destroyer. So just as with the economic recovery package, I said over and over again, people have lost their jobs not only in Democrats' districts but in Republican districts. And so the public wants

health care reform. I don't care what party they're registered with and who represents them.

We have to also remember that given this economic downturn, the first reason for bankruptcies, the top of the list, health care. Health care. That's the reason people are filing bankruptcy. The first reason, the cost of health care.

Mr. ELLISON. Well, you've opened up an issue that I would like to explore for a moment, and that's an issue of cost and expense, how much is it costing. I think the gentleman from Washington already talked about the exorbitant expenditure. And this chart I have to the right—projected spending on health care as a percentage of gross domestic product—what this chart shows is that we are nearly approaching 50 percent of gross domestic product when you add up all of health care. This big shaded area, the light blue-gray area here is all other health care. This little thin slice is Medicaid, and this low slice down here is Medicare, which we all know is one of the most efficiently run health care systems that we have—by the way, a single-payer system.

And we've seen, as the percentage of GDP that if we add it all up, it's getting up to 50 percent. And my question is—and by 2082, it will be 50 percent. Here we are back here. It's been crouching up. And now we're in the realm of approaching 15, 14 percent. But if it keeps on growing, we will be paying 50 percent of our gross domestic product in health care by 2082, which, quite frankly, is not that long from now.

These numbers are going in the wrong direction.

I also want to bring up another chart very briefly. And this chart talks about net insurance program administrative costs as a percent of total spending. The fact is, if you look at Medicare, administrative costs are pretty low, about 5 percent or less. Medicaid, a little higher, 8 percent. Top five private companies, 17 percent. Small group, 29 percent. Individuals, 41 percent. Average private insurance, 14 percent.

My question is, can we continue to see administrative costs be so high? When we talk about having an insurance program, what are the implications for the average citizen trying to get health care?

I yield to the gentleman.

Mr. McDERMOTT. Let me give you just one figure out of that.

When we looked at that in 1993, the administrative costs were—we could save \$140 billion by going to a single-payer system. The administrative costs in that system are totally out of control.

I'll give you another way to look at it, to really think about it. France has been judged to have the best health care system in the world by the World Health Organization. They spend one-

half as much per person as we spend in the United States, and they have one doctor for every 430 people. And in the United States, we have one doctor for every 1,230 people.

Now, you can't tell me that the French are that much smarter than us, that they could figure out how to get the best health care system—we're rated 37 when you look at infant mortality and maternal mortality and longevity and morbidity for hypertension and for diabetes and all of these other things. We are not in the best health care system in the world despite of what we're spending.

Mr. ELLISON. But are we number one in any particular aspect?

Mr. McDERMOTT. We're number one in how much money we spend.

And my view is there's plenty of money in this system if we were more efficient and had more primary care physicians. I put in a bill that would make medical school in public medical schools free. In exchange for that, a medical student coming out would serve 4 years in primary care in underserved areas or inner-city areas—areas where people are underserved, whether it's the urban or the rural area. And we would take the debt load off our students. That would cut down the costs of medical care in this country.

We can do some things that would be real game changers if we were to change. Right now, most medical students go through and go into a specialty because they have to pay off their debts. And we can stop that. There are a lot of ways we can cut costs if we start thinking about those issues.

Mr. ELLISON. I thank you.

If I could yield to the gentlelady from California

Ms. LEE of California. It doesn't take a rocket scientist to understand that the billions of dollars going for administrative cost that drive up the cost of health care is what I'm talking about when we're talking about the profit motive and the fact that there are big bucks being made in the health care industry. And that is what is driving up the cost of health care in many respects.

So we have to get to a system that allows for, yes, profits for those who want to make profits, for those who have those types of health care, you know, who can afford those types of health care premiums. But also we've got to have some fairness and some justice in this health care system for those who can't afford those kinds of plans.

And, in fact, single-payer, as Congressman McDERMOTT said earlier, it's been shown that you drive down the cost of health care if you have single-payer. And I think the American people need to believe this and understand this, and if they just look at what you just showed us earlier in terms of the

cost of health care and if you have a system that is fairer, then you will drive down those costs and then everyone will be able to afford health care. And that has nothing to do with running any company out of business. I support companies, the business sector, making money, making profits. I was a business owner for 11 years. So I get it. But I don't get how in the world can you do that at the disadvantage of 47 million-plus who are desperate for some kind of health care coverage.

So we have to deal with this quickly.

Mr. ELLISON. If I could ask the gentlelady a question. You just noted that you were a business owner for 11 years. How does a public option, single-payer impact small business people? Is this going to put them out of business as we've heard, the scare tactics and so forth? Or would this, perhaps, help them out?

Ms. LEE of California. I will tell you as a former small business owner, had we had single-payer, my business would have thrived a little more. Small businesses need help. Small businesses want to insure their employees because they know that a happy workforce, a workforce that has good benefits, good wages, decent wages, living wages, that's how productivity is ensured. When you have businesses that are struggling to survive because they can't afford the cost of health care, they need some help.

A single-payer system would help small businesses with their health care costs. And I have talked to many, many, many small businesses about health care reform, and many of them agree they need some help because they know that health care reform could drive their costs up and they don't want that, they don't need that. And we have to make sure that our small businesses are treated fairly and that the employees have health care coverage. And the single-payer system would certainly help small businesses move forward and insure their employees.

Mr. ELLISON. I thank the gentlelady for making that clear about small business because it is important that for people to know that we have this burgeoning coalition of people who want to see single-payer, at least want to see a public option. Clearly, we know that the forces of labor would like to see this public option and many of them call for single-payer. We know that the Chamber of Commerce has said we need health care reform. They may not be calling for single-payer, but some are. We know doctors are. But also as you pointed out, it's critical to know small business people would benefit from single-payer or at least a public option, which is critical.

And I just want to say, as we begin to wrap up the night, that the need for health care reform in a public plan is essential. Reform will alleviate the

burden on families by lowering costs, ensuring timely access to affordable health care, making sure that everybody has access to preventative care to help keep people healthy so those people that you were referring to don't have to worry about their employees being sick and not coming to work. They got a plan so they're coming back to work every day.

And allowing workers to change jobs without worrying about losing health care. In this age of increasing unemployment, should a person lose their job and lose their health care? It's a scary prospect, and I suppose I pose that question to the gentlelady as well.

As you talk to your constituents and you walk around the City of Oakland and you're in the grocery store, and you're in the park and in the community meetings, what are you hearing about people's fears as it relates to how they might lose their job—I mean, lose their health care if they should happen to become unemployed?

□ 2030

Ms. LEE of California. You know, right now people are worried. First of all, in a country as great as ours; in a country that spends over \$600 billion for defense, and more; in a country that spent close to a trillion dollars on wars that should not have been fought, it is a shame and disgrace that a person has to fear and worry about losing a job and health care. I can't understand this. I can't believe that our values are there.

I think that this is a debate that has ethical and moral dimensions for us as a people. And I can't imagine any Member on this House floor wanting to see a person lose a job, and then health care, and not want to do something about it immediately.

So I want to thank you for your leadership. I want to thank the Progressive Caucus for their leadership. And we're going to stick with this public option. We want disparities closed. We want community clinics, we want prevention. There's big, big pieces of this health care reform bill that we're insisting on.

Thank you, Mr. ELLISON.

Mr. ELLISON. Let me thank the gentlelady for yielding. That will close us out for the night.

#### HEALTH CARE IN AMERICA

The SPEAKER pro tempore (Mr. PETERS). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. I appreciate being recognized and having the opportunity to address you here this evening from the floor of the House of Representatives.

As usual, if I sit here and listen carefully to those who have addressed you

just previous, I get a different viewpoint on life than the one that I happen to hold.

This is what this House is about. It's about open debate, it's about the contest of ideas and, at least in theory, and I'll say historically in fact, good ideas that have come out into this arena of this debate here on the floor of this House have been challenged. Sometimes there are clashes out of that. The things that are facts should emerge and the good judgment should prevail over bad judgment.

That is, I will say, a broad generalization that I give. But as I listen to the discussions on health care and the posters that go up again night after night, the blue posters that say, Progressive Caucus, check in here. We'll tell you where America needs to go, and I'm listening to this discussion about health care and the argument. Here's one that I wrote down: If you have insurance you can stay right there. Don't worry. This is not socialism. The gentleman from the State of Washington made that statement.

This proposal—President Obama's proposal and the one perhaps mirrored by the Progressive Caucus, which was represented tonight, they say, This is not socialism. Don't worry. If you have insurance, you can stay right there and keep your own insurance policy.

Now let's examine those two statements within the context of what we're talking about here. If you have a health insurance that's privately held—maybe it's provided out of your wages, which would be allocated from your employer. If your employer is purchasing the health care policy for you, or if you're purchasing it out of your own pocket, however you might have that health care policy, that health insurance policy, we call that a private policy.

Of all of the Americans that are insured in that fashion, this proposal would offer another alternative, and that alternative would be, Well, you really don't have to keep this private health insurance policy. You can be insured off the government policy instead.

Now we wonder why we have private-sector employers that believe in free enterprise and should understand the dynamics that come from capitalism that would be supporting such an idea that there would be a government-run health care program for everybody that is apparently not covered already within SCHIP and Medicare and Medicaid.

Sixty-five percent of the health care dollar that is already paid by taxpayer dollars, those 35 percent that remain, why would an employer want to support a policy that would replace the policy that he is providing for his employees with a government program?

Of course, if we think about that for a minute, we know the answer. An employer might support that because they

see that they can get some other taxpayers to pay a bigger share of the burden of providing that health insurance. And so some employers will opt to support the proposal of the President or the Progressive Caucus because it will lower their overhead costs and, at least in theory, up their margins will come.

So when you hear the gentleman say, If you have insurance, stay right there. Don't worry. There is going to be fearmongering. You are going to see a campaign of fearmongering, to quote the gentleman from Washington precisely.

It's not fearmongering to realize that we would be losing the private sector-provided health care in America. Because employer after employer, when they had to pay the health insurance premiums for their employees, would look and decide, Well, I think I'm going to have to go into the government program because, after all, I can't compete with my competition that is using a government-run health insurance program.

By the way, what does the government do? They take the taxpayer from the workers. All of us pay taxes. By the way, corporations do not pay taxes. Corporations collect taxes from persons, from individuals, from end users.

They're an aggregator of those tax dollars. They bring them together, then they write the check and send it off to the Federal Government. But they don't pay taxes. They build that into the price of the goods and services that they are selling. That is a very simple concept that seems to not be very well understood by a lot of Americans, Mr. Speaker, and I'm not convinced that it's understood at the White House itself.

So the statement, If you have insurance, you can stay right there, only means a little while, because over time the private sector has to compete with the government sector. Government can always defeat the private sector simply by shifting costs off on to some other faction or write the rules in such a way that it's to their advantage.

Now here's another example. The argument that under the prescription drugs under Medicare, that negotiating for the price of those drugs should be done by the Federal Government. The leverage already that drives down those costs pushes the costs up higher in the other sectors.

We have a lot of health care overhead. And when we think about what happens within this, if someone goes into the hospital, and let's just say they get a hip replacement. That hip replacement will come for a fixed price, if it's Medicare. If it's a large insurance company that has negotiated a price that lots of times tracks the Medicare reimbursement rates down below the cost of providing the service, they will also only cut a check for that negotiated amount.

Sometimes it's actually less than Medicare with large insurance companies. Most of the time it's slightly more. But they track with each other. And the smaller the insurance company, the less leverage they have and the more likely it's going to cost that insurance company more for the same procedure. That's called cost shifting.

Cost shifting takes place because government has already driven the reimbursement rates down so that the health care providers can't keep their doors open unless they shift costs. That is an unjust tragedy that is taking place in America because government has interfered in the pricing process.

Another unjust inequity that is taking place is that back during World War II there were wage and price freezes. And when the wage and price freezes were established in order to keep our economy from having the costs skyrocket during World War II—and, by the way, I disagree with that policy—the price freezes and wage freezes kept employers from giving wages to their employees in order to compete on the labor market, which was very tight. In fact, at the end of World War II, we had the lowest unemployment rate in the history of America—1.2 percent.

So employers, to be able to get around the wage and price freeze, gave health insurance benefits to their employees and paid the premium. They were able to deduct that premium as a business expense. But the employee couldn't deduct that premium themselves.

So it set up an incentive, and some would say a perverse incentive, for employers to provide health insurance for their employees because they could deduct it, the employees couldn't. They needed to compete for wages and benefits, and that's how the package came together.

Two large inequities, two fundamental flaws in the health care industry. One of them was: Whatever health insurance or health care costs that would be deductible for any entity in America should be deductible for every entity in America whatsoever. For the individual that is self-insured, that wants to write the check for their hip replacement, for the individual that wants to pay a low insurance premium in order to establish a high deductible and a high percentage of a copayment in order to get a low insurance premium, that person should be able to deduct their costs the same as the one who has a full, full coverage policy at a relatively high premium per month, whether that's the employer that writes the check for the insurance and the health care itself, whether that's the individual, or whether it's the government.

All of these entities should pay the same price. And any private sector

should be able to deduct the cost the same. No corporate executive or no corporation should have a comparative advantage against an individual when it comes to health care services.

Those two inequities are what is wrong with this health care industry that we have in America. It's not that we don't have enough government health care, it's that we have too much government-run health care. We need more private sector. And the way we do that is provide the incentives so that business and private-sector people can make those decisions to manage it for themselves.

We have a health savings account program that allows over \$5,000 to be deposited in the HSA on an annual basis by a couple. It started out \$5,150. Now it has gone up with inflation every year, indexed, which is a very smart thing.

A young couple that would invest those dollars at age 20 and max that out every year and still take out the current value equivalent of \$2,000 a year would see about \$950,000 accrue in their health savings account by the time they retired 45 years later. That's a pretty good nest egg to have.

And Uncle Sam's interest in it is: Tax it. Tax it as an inheritance tax, tax it as real income. But, whatever, don't let the individual that has responsibly managed their health care for their life be able to take that money and invest it or spend it.

I suggest that we should allow—I would double the health savings account maximum amount and I would encourage young people, especially, to invest in the health savings account and see them arrive at retirement with not \$950,000, but maybe \$1.9 million in that account. And they could then easily purchase a paid-up health insurance policy that would replace Medicare. And if they do that, then we ought to then let them keep the change, the balance, and be able to invest that or spend that or hand it off to their children, without tax.

That's the best way to go at this health care—make it fully deductible; address the issue of cost shifting so they actually reflect the real costs in all of the billing; expand health savings accounts so that they can actually be retirement savings accounts with well-managed health care; encourage the insurance companies to provide premium benefits for those who have healthy lifestyles—those that don't smoke, those that maintain their weight, those that get a regular physical, those that can document that they are managing their health care in a fashion that is a responsible way of taking care of their bodies and the checkbook at the same time. All of that makes sense.

But what I'm hearing over here is, We want to do socialized medicine, but don't call us socialists and don't call it socialism. It is really ironic to me to

see three members of the Progressive Caucus on the floor of the House of Representatives with a big blue poster on their easel that says: Progressive Caucus. Check out our Web site. Google Progressive Caucus.

Mr. Speaker, I suggest that people do that. Google Progressive Caucus. Read every word that's in there. And think about what people are saying from here, members of the Progressive Caucus.

The gentleman from Washington said, This is not socialism. Well, I would ask: Do you know who was managing the Web site of the Progressive Caucus up until 1999; who hosted the Web site, who maintained it, who took care of it? Do you know? I think you know.

I know. It was the socialists that managed your Web site. The Democratic Socialists of America took care of the Progressive Caucus' Web site until 1999, then they disconnected that, and the Progressive Caucus, you took care of your own Web site after that because there was a little political heat that was linking you too close to socialism.

So the gentleman who is a member of the Progressive Caucus tells us that his health care proposal is not socialism, but the Progressive Caucus in the Web site that was owned, operated, managed—perhaps not owned, but operated and managed by the socialist, the Democratic Socialists of America, whose Web site is DSAUSA.org. Anybody that goes to that and Googles DSAUSA, the first hit that comes up will be the socialist Web site. And on there it will say, We're not Communists.

So it's interesting to hear that Progressive Caucus members claim they are not socialists, but they're linked to the socialist Web site. The socialist Web site says, We're not Communists.

Now, I don't know the distinctions between communism, socialism, and progressivism. I would think we'll get all kinds of definitions and the nuances will emerge if we can have an intense debate about this. But there are a lot of similar philosophies within those ideologies. And the distinction between the Democratic Socialists of America and the Progressive Caucus, I think, are awfully hard to identify from reading both Web sites. And I have read them both.

□ 2045

So I would encourage people, Mr. Speaker, go to the Web site of the Progressive Caucus, Google it, read it. Go to the socialist Web site, dsausa.org, read it. Read the definition they have of communist, which they say they're not, and what their plan is. They say the distinction is that communists want to nationalize everything. They just want to nationalize the large corporations. They think that some of the

small businesses could be run by, let's say, the barbers and the shopkeepers, they are actually run better by ma and pa. I agree with that. They are. But so are the big businesses better off run by the shareholders than they are the unions. But the socialist Web site calls for the nationalization of large corporations in America. They say, We don't have it do it all at once. They can do it over time. These Representatives here, the Progressive Caucus, claim that taking over the health care industry in America is not socialism because for a while, they're going to let you have your own insurance policy, the one you own today. You get to stay there. But did you hear anybody say, We're going to provide the framework so that there can be new insurance companies that spring up and new competition brought into the marketplace? Did anybody say that they expected to see the growth of new private sector companies? Of course not. Because those proposing socialized medicine are proposing socialism. They're proposing the eventual nationalization of the large corporations in America. Even if it comes out of a cassette in the head of the people talking the way they used to say it several months ago or several years ago, the real reality of today's economy is far different. We have the nationalization of large investment banking companies in the United States today. We have the nationalization of AIG Insurance Company today. We have the de facto and probably the ultimate nationalization of two of the three large automakers in America today. We have the advocacy for a national health care plan which will replace any health care plan eventually because the competition from the private sector will be dried up by the pressure from the government. When that happens, then what you'll see is what we've seen in every nation in the world that has socialized medicine. That is, lower-quality care and rationed services.

I ran into a gentleman in a Menards store in Iowa some months ago who happened to be an immigrant from Germany. He told me about his hip replacement. He had waited in line for 6 to 7 months to get a hip replacement. Finally he got scheduled to get his hip replaced not in Germany but in Italy because the line was shorter. So people around the EU, they get themselves in the queue and try to get through to get this important surgery. We have people that have heart disease that need to have maybe a valve replacement or other types of surgery who lay in bed for a year in the United Kingdom because they haven't come up in the queue yet. There's only so much that can be handled. We have this large inner city government-run health care program now. We have socialized medicine in our inner cities. Now I'm thinking of some of the people I know that

are involved in that who are good providers, and they're sincere about what they do. But is anybody seeking to replicate the services that we see there? Do they say so? Will they admit it? Because the policies you are advocating seek to replicate this socialized medicine that we see across the world, which rations services, lowers the quality of care, suspends the innovation, and discourages people from coming into the industry. It takes me back to those articles from the Collier's magazines that were published in 1948 and 1949. I had a World War II veteran who served out of Great Britain; and if I remember right, he flew on B-17s out of England over Europe. He brought me the originals of the Collier's magazines from 1948 and 1949, and I was able to read through them. Each magazine had stories in it about shaping the socialized medicine in the United Kingdom, which took place in 1948. Almost the immediate result, month by month you read that through until 1949 where there were pictures of people standing in long lines outside of the health care clinics and doctors that were tired and dejected because they could only spend just minutes with a patient. They had to run from patient to patient to see enough patients so they could feed their own kids because they got paid so much for a visit and the government set the price. It rationed the health care, and it narrowed the quality of the care. Today we see the same thing, only it's more stark because we are more sophisticated with the modernization of our health care.

There is nothing there that I want to adopt from these foreign countries. The things that they tell us are, Well, we learned from their mistakes, and we'd never set up America to make the mistakes that were made in the foreign countries. Well, if you know the answers, gentlemen, why don't you clue them in in places like Canada, the United Kingdom, all across the European Union. Clue them in. Tell them what it is, your secret on how this is going to work, what you've learned from their mistakes.

But the statement from the gentleman from California: No one's talking about socialized medicine, close quote. Really? I think we need to define what socialized medicine is. That's when the government takes over the system and runs it. Just because you leave some insurance companies in place so you can say you have a choice until you starve them out, until they atrophy on the vine and everything becomes socialized medicine doesn't mean you're not talking about socialized medicine. You clearly are.

Then also the gentleman from the State of Washington said that between 35 million to almost 50 million uninsured in America. So from 35 million and now it's gone to 50 million uninsured. The highest number I can find

out there is 47 million. But there's another number out there that tells me something else. That is, of the uninsured, at least one in five are illegal immigrants that don't belong in the United States, that if we're going to provide them socialized medicine, can we at least send the Department of Homeland Security there to deliver them their little voucher or their debit card for their health insurance? Let's send ICE to deliver it to these 12 million illegals, and we can cut this number then down to 35 million just by simply letting those folks go on back to where they are legal to live, rather than the United States.

The gentleman isn't very concerned about how it is that we would tax the producers in America to provide nationalized socialized medicine for people who aren't even legal here in the United States. I'm convinced that these are the gentlemen who would support such a policy to provide that health care, and they would also probably hand them citizenship papers into the bargain. Not I, Mr. Speaker. I oppose such ideas. I believe that we have to sustain ourselves as a country; and in order to do that, we have to maintain the principles that made this country great. Among them are free enterprise capitalism. That is a good word, not a bad word. They seem to know that socialism is a bad word, but they don't think progressivism is a bad word. Well, I will tell you that they are linking it together; and the link that they have severed now, that link between the Democratic Socialists of America, dsausa.org's Web site that posted for and provided and maintained the Progressive Caucus Web site, that little link isn't there anymore because they don't want to admit that it's hard to figure out the difference. But on the socialist Web site, it says, We are a political party, but we don't run candidates under our banner of socialism because—I think because the progressives know it has a bad name, so do the socialists know that socialism has a bad name still in America. They say that their legislative arm is the Progressive Caucus. You can go to dsausa.org, do a search for the Progressive Caucus, and you will come up with that link. At last count, I saw 75 names on that list that are active members of the Progressive Caucus that are alleged by the Socialist Web site of being a legislative arm of the socialists here. One over in the Senate, BERNIE SANDERS, self-alleged socialist, who is someplace to the right, according to his contemporary voting record in the Senate, of the President of the United States himself.

And we wonder why America is taking this hard lurch to the left? Why we're looking at socialized medicine? Why we're seeing the automakers nationalized? How it is that the President of the United States can dictate down



through our private sector, and we can see this sweeping expansive government into the private sector? Unimagined and unimaginable just a few months ago; but a reality today, Mr. Speaker. And it's a reality that is coming at the American people so fast that they can't sort out the targets to be able to demonstrate where it is that they want to make changes. If they want to object to the nationalization of AIG, well, too late because there were deals made with folks in the room that rolled billions, hundreds of billions in the end into those industries.

So AIG is nationalized, and Citigroup is effectively nationalized, and the large investment institutions that took the TARP money are controlled by the Federal Government. And when they want to buy their way out and they offer a check to the White House so they can give the money back for TARP, the White House says, No, we won't take the check, and you can't buy your way out of this thing. We own you now. We're going to influence you, and we can't let you pay that money back.

Why would they say that unless they wanted these businesses to be nationalized, unless they wanted to control the decisions that were made? It's obvious they have. The TARP money that went to the investment bankers that was invested and some of their holdings, significant holdings, billions of dollars of the holdings, were in the shares of our large automakers, Chrysler and General Motors, for example. So when the secured creditors for the large automakers, Chrysler and General Motors, held out and said, We can make a better deal for our shareholders if you just let this go into bankruptcy, and we'll let them sell off this material or sell the company off, and we'll get cash at, let's just say, 32 cents on the dollar—that's an estimate. I don't know if it's based on anything other than a small news story—32 cents on the dollar as compared to the 10 cents on the dollar that they might have gotten dealing with the White House.

I'm advised—and I believe it to be true—that the car czar, appointed by the President, and the car czar's team in the White House set a limit, which is that secured creditors and the automakers are not going to get more than 10 cents on the dollar at the same time. That appears to be what happened. As the secured creditors were giving up their negotiating position one after another as the White House leveraged them and accused them of being—I have forgotten the exact language, but let's just say greedy capitalists—that wasn't the word, but it was the tone—and sought to intimidate them, as all of this was unfolding, the secured creditors were stepping back one after another after another. Finally it got down to only 5 percent of those holdings were secured creditors. They

didn't have any allies anymore. They had to capitulate. They had to take those few pennies on the dollar. Meanwhile, the United Auto Workers, the union, was handed controlling interest. What is this about? Why would anyone think that that is a good idea? Could you cook this up in the board room? Let's just say, could you learn this studying Econ 101 as a freshman in any college? I could have never devised this plan. But this plan unfolds in this fashion and hands over the controlling interest of Chrysler Motors, 55 percent of it, to the United Auto Workers, the union, the workers. What is it that their investment was that they're compensated for by active shares within a company? Well, that would be the health care benefits, the future benefits. It would be the benefits that are—I would call those contingent liabilities downstream. As the United Auto Workers would get older and retire and they would put pressure on the health care system as those claims came, they thought there was as much as \$10 billion in potential claims that could unfold in future years. So they gave that a present value and compensated the union for the present value of future health care liabilities by handing them a controlling interest of Chrysler Motor Company. Then while that is going on, what happens if we pass this socialized medicine that's advocated by the two gentlemen and the gentlelady tonight under the banner of the Progressive Caucus? Wouldn't that lift the burden of the health care costs, the contingent liability off of the hands of the union pension fund? Wouldn't that put that into the hands of taxpayers?

So the shares of controlling interest to be handed over to the union should be at least, in an idea, compensation for future liabilities that would be removed by this socialized medicine policy that's being advocated by the people who say that they're not socialists or socialistic and their program is not socialism. But you go to the Web site, and it says, Progressive Caucus is our legislative arm. What they advocate is what we are for. They spell it out. And they say, they want to nationalize the businesses. They want to do it incrementally. This was written before President Obama figured out how to do this all in a few great big giant moves.

This is a breathtaking change in the United States. The American people did not vote for these things. They did not know. They did not see it coming, and I think that we will see a reaction to this in a different fashion.

Mr. Speaker, as we lay out the backdrop for the economics and health insurance and the automakers—and, by the way, one more thing about the automakers and, that is, the dealerships that have been closed with a stroke of the pen by order of the President's car czar and his car team, his White House pit crew—we can't find a

single individual on that team that has ever spent 1 day in the auto dealer's business. I can't find and it was reported to me—and this one I'm not certain of—that there is anybody on there that has been in the automaker's business.

□ 2100

So they haven't made cars or sold cars. But they are calling the shots on all these cars.

By the way, part of the deal is that the President is directing that Chrysler Motors make a nice high-mileage vehicle that suits his direction. I would submit that, other than at press conference time, the President will never ride in one of those. The Speaker of the House will never ride in one of those little electric cars. They are going to ride around in great big, bullet-proof limousines and Suburbans. And they will likely do that the rest of their lives. They won't be driving a tiny little car with a battery in it that goes slow uphill and fast downhill. That reminds me of a train car graffiti I happened to see waiting in a crossing a while back. Someone had written on the train car "uphill slow, downhill fast, tonnage first, safety last." I thought that was quite an interesting little comment, by the way.

So we are here with a Speaker who directs some of these things that she is not going to live under and a President that directs decisions of automakers that he is not going to live under. But they think they know what is best for the rest of us. And they have no faith in the marketplace. They apparently don't have faith in national security either, Mr. Speaker. And this is an issue of grave concern to me and grave concern to everyone who cares about the security of the United States of America.

This country was severely attacked September 11, 2001. And the attacks that took place were against the Pentagon and against the Twin Towers of New York. The plane that crashed in Pennsylvania, there are conflicting opinions on whether it was headed to the United States Capitol or whether it was headed to the White House itself. I don't know that we will ever know which way that it was directed. But we do know that people on the plane took that plane over. And they gave their lives. But they saved a lot of lives while they did that. And they are to be honored and respected.

The intelligence that we have received since that time turned up the effort from the CIA and all 15 members of the intelligence community that have succeeded in foiling a good number of plots since September 11, 2001. And there has not been an attack on the American people, on our soil, that has been effective since that day. I don't think anyone on September 11, 2001, would have expected that we could go

this long without an attack inside America. A lot of the credit goes to the intelligence agencies, including the Central Intelligence Agency, including the CIA. The CIA does a job and puts their lives at risk every day around the globe. And yes, they have informants. And sometimes they are working in the seedier side of life. It is the nature of their business. They have foiled plots. They have saved American lives. After the fact when there have been attacks that took place on American embassies, for example, in other places in the world, they have gone in and they have identified the culprits. And we have been able to pick up some of these culprits that have plotted against or attacked Americans to the credit of the CIA and the balance of the intelligence community. That is to their credit.

But, Mr. Speaker, the Speaker of the House accused the CIA of lying to her and other highly placed people within this Congress up in the secured room of this Capitol, not very far from where I stand. And that would have taken place allegedly on the 4th of September, 2002, roughly 1 month after Zubaydah had been waterboarded. The allegation made by the Speaker was that the CIA lied to the United States Congress, misinformed the Congress of the United States of America, to be specific. And Mr. Speaker, this is untenable. This position is utterly untenable, to make such an allegation.

I have with me the draft of the legislation, the draft of Federal law that prohibits lying to Congress. And I would read this, in part, into the RECORD so that the legal language flows with the clarity and the intent. And it is this:

This is title 18, chapter 47, subchapter 1001, 18 U.S.C. 1001. And it says, in part: "Whoever in any manner knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device, a material fact, whoever makes any materially false, fictitious or fraudulent statement or representation shall be, if the offense involves international or domestic terrorism, imprisoned not more than 8 years."

Eight years in a Federal penitentiary for lying to Congress specifically about international or domestic terrorism. This statute is in the Code to address specifically the act and the acts that were alleged by the Speaker of the House. And so one can only draw one of two conclusions. And that is either the CIA willfully lied and misrepresented to the United States Congress, to the highest-ranking person in the United States Congress, the Speaker of the House of Representatives. Of course, at the time, she was not Speaker. If the CIA lied, though, to the Speaker, this statute covers such an act. And they would be looking at 8 years in a Federal penitentiary. If the CIA did not lie to the Speaker, and she alleges that they did, then we have an untenable

situation, an irreconcilable situation. It is a situation with no middle ground, Mr. Speaker, because it was a public statement. And it was a statement that was made not off the cuff. It wasn't flippant. It was something that had been prepared before it was delivered. And it appeared to be from notes that were in front of the Speaker apparently in a calculated statement that said, and when asked and clarified by the press, "Are you telling us that the CIA lied to Congress?" And the answer was, "Yes, misled the Congress of the United States of America."

Now such an allegation is a very, very serious charge. It is a charge of a felonious criminal act, misinforming the Congress of the United States. Now, if the allegation is true, an investigation needs to ensue.

I have, along with the gentleman from California, asked for an FBI investigation into this matter. If the allegation is false, then the Speaker has torn asunder the relationship of trust and integrity that has to exist between the intelligence community and the United States Congress. I cannot imagine how anyone from the CIA would be willing to go into the fourth floor of the United States Capitol, into that secure room where everybody drops off their cell phones and their BlackBerrys and gives up their ability to take notes out of the room, and goes into that room to listen, to maintain that confidentiality that is necessary for the safety of all the American people. I cannot imagine the CIA, or any other member of the intelligence community, being willing to brief the Speaker of the House of Representatives until this matter is resolved.

So if the Speaker didn't accurately remember what she was briefed on September 4, 2002, the easy thing to do—and it would be a very human thing to do, and all of us have sat in on briefings and hearings and we can't remember every detail, especially that many years back. The thing to do is to say, I don't remember clearly. If I have notes that are on file in the secure room, I will go back and revisit them and tell you what I can confirm that would be triggered by my memory and by my notes. One could go through and review the documents that were utilized at the time to verify what was briefed.

But a statement that the CIA lied to the United States Congress, misled the Congress of the United States of America, to say it precisely, to make that statement, one has to have a definitive proof that it happened. It is part of Western Civilization that we presume the other individual is telling the truth and we can't make an allegation that they are not unless we have the evidence to the contrary. But this statement was not qualified. The question was, "Are you saying that the CIA lied to the United States Congress?" Answer, "yes" by the Speaker. Then, yes,

pause, stutter, misled the Congress of the United States of America. A very serious charge addressed specifically under 18 U.S.C. 47 1001, that I have read into the RECORD, Mr. Speaker.

This situation must be resolved. It is untenable. And it can't be reconciled with some compromise in the middle. I want a Speaker of the House that can be trusted with our national security, someone who is supportive of our national defense, our Department of Defense and our military. And during a time of war, our intelligence-gathering community has to have that level of confidence and that level of trust or the American people are at risk. The destiny of America will be changed.

So, Mr. Speaker, with that in mind, I have drafted a resolution. Things being as they are today with some time to allow the Speaker to have an opportunity to address and clear up this matter, the resolution that I have I will read it into the RECORD at this moment. And I will tell you, Mr. Speaker, that it is my intent to formally introduce it as a privileged resolution when we return in the early part of June from the Memorial break.

This resolution reads:

Whereas, as required by article VI of the Constitution, Members take an oath to "support and defend the Constitution of the United States against all enemies, foreign and domestic;

Whereas, in order to carry out his or her oath, a Member of Congress must have access to various kinds of sensitive and classified information regarding the national security interests of the United States; and

Whereas, it is imperative that Members of Congress develop and maintain a close working relationship with the leadership and members of the United States' intelligence community to ensure that they, as the American people's elected representatives in Congress, have ready access to the kinds of sensitive and classified information often needed by legislators to make decisions about the safety and security of the American people;

Whereas, the free and unimpeded flow of sensitive and classified information between our Nation's intelligence officials and Members of Congress is essential to ensure the dignity and integrity of the work and proceedings of the House of Representatives;

Whereas, it is also important for all Members of Congress to support the work done by the members of our Nation's intelligence community to keep our Nation safe in order to engender the trust and respect of the American people for the work done by these individuals and their respective organizations to protect our Nation from the attacks of our enemies;

Whereas, since its creation in the National Security Act of 1947, the Central Intelligence Agency has been charged with coordinating the Nation's intelligence activities and correlating and

evaluating and disseminating intelligence affecting national security;

Whereas, since the inception of the CIA, Members of Congress have relied upon the dedicated Americans that have filled its ranks to provide timely and accurate information about threats to America's safety and the steps being taken to address those threats;

Whereas, in recent weeks, many public officials, including Members of Congress, and members of the public have called for investigations into the use of enhanced interrogation techniques, namely waterboarding, that have been used by the CIA since the attacks of September 11, 2001, to obtain information from detained terrorists for the purpose of thwarting future terrorist attacks against Americans;

Whereas, on April 23, 2009, Speaker NANCY PELOSI stated that she and other key Members of Congress were not told that waterboarding was used as an enhanced interrogation technique after it was first used in the interrogation of terrorist detainee Abu Zubaydah, a high-ranking al Qaeda operative, in August of 2002;

Whereas, contrary to her claims, a report that was prepared by the Office of the Director of National Intelligence and released to Congress on Wednesday, May 6, 2009, indicated that during a September 4, 2002, meeting with intelligence officials, Speaker PELOSI, former Congressman and future CIA director, Porter Goss, and two aids were briefed on "the particular enhanced interrogation techniques that had been employed" by intelligence officials during the interrogation of Abu Zubaydah;

Whereas, Abu Zubaydah was waterboarded on August of 2002, the month before Speaker PELOSI received a briefing from intelligence officials on the "particular enhanced interrogation techniques that had been employed" during his interrogation;

□ 2115

Whereas, in response to questions about the May 6, 2009, report's indication that Speaker PELOSI was told by intelligence officials about the use of waterboarding as an enhanced interrogation technique during the briefing on September 4, 2002, the Speaker maintained that she had never been told that waterboarding was being used by officials. The briefers, her spokesman stated, only "described these techniques, said they were legal, but said that waterboarding had not yet been used";

Whereas, on May 14, 2009, in an attempt to further clarify what she was and was not told during the September 4, 2002, briefing about the waterboarding and other enhanced interrogation techniques used by intelligence officials in their interrogation of Abu Zubaydah in August 2002,

Speaker PELOSI stated "those briefing me in September 2002 gave me inaccurate and incomplete information";

Whereas, on May 14, 2009, when it was noted by a reporter that she was "accusing the CIA of lying to you in September of 2002," Speaker PELOSI replied, "Yes. Misleading the Congress of the United States";

Whereas, on May 15, 2009, in response to Speaker PELOSI's allegation about the CIA lying to her and "the Congress of the United States," CIA director Leon Panetta sent a memo to the employees of the CIA stating, "It is not our policy or practice to mislead Congress. That is against our laws and our values. As the Agency indicated previously in response to congressional inquiries, our contemporaneous records from September 2002 indicate that CIA officers briefed truthfully on the interrogation of Abu Zubaydah, describing 'the enhanced techniques that had been employed'";

Whereas, title 18, part I, chapter 47, section 1001 of the United States Code provides that, with respect to "any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate," whoever in any matter within the jurisdiction of the executive, legislative, or judicial branch of the government of the United States, whoever knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; if the offense involves international or domestic terrorism, imprisoned not more than 8 years.

Whereas, the relationship between Members of Congress and the intelligence community cannot be jeopardized by a distrust between Congress and the intelligence community resulting from intelligence officials lying to Congress or from Members of Congress leveling charges and allegations against intelligence officials;

Whereas, the Speaker must either produce evidence providing that she was lied to in order to ensure that the ranks of our Nation's intelligence community are purged of those responsible for misleading Congress, or she must apologize to the men and women of the CIA, to the American people, and to the Members of this revered body to lift the cloud of uncertainty that has descended upon the Agency and the intelligence community since these allegations were leveled and allow the dedicated men and women who serve in its ranks to refocus their efforts and energies on keeping America safe;

Whereas, if the Speaker is unable or unwilling to provide evidence to support her allegation that she and Congress have been lied to by the CIA, the American people will be left with no

choice but to conclude that this allegation has no basis in fact;

Whereas, if it is determined that the Speaker has indeed leveled baseless allegations against intelligence officials, she will have effectively undermined America's national security and severely damaged the integrity of this House, and she should therefore be held to account for these actions through, among other things, the withholding from her of sensitive or classified information pertaining to the national security interests of the United States;

Therefore be it resolved, that the chairman and ranking member of the House Permanent Select Committee on Intelligence are directed to withhold any and all classified material from the Speaker of the House and her staff unless:

Within 14 days after the date of passage of this resolution she produces evidence of the lies that she alleges were told to her by intelligence officials in September 2002, and

The chairman and ranking member of the House Permanent Select Committee on Intelligence are directed to choose a suitable replacement from within the leadership ranks of the House Democrat Caucus to receive any necessary classified material and briefings in the place of the Speaker if classified material is withheld from her in accordance with this resolution.

Mr. Speaker, this is a very serious, serious situation. It puts our intelligence community in a position where they have to be extraordinarily reluctant to brief the Speaker of the House, with the constitutional office of Speaker of the House, elected by the full body, not a partisan office, a non-partisan office that's defined in our Constitution, third in line for the Presidency—only Vice President JOE BIDEN is ahead of the Speaker of the House in the line of ascendancy to the Presidency, and our national security is at risk in a lot of ways.

One of them can be because at this point, we are having difficulty, and I will make this statement. It's got to be hard to recruit for the CIA or any members of the intelligence community today because they're being charged with lying to Congress. It's got to be hard to get anybody to come to this Congress to brief anyone when we have an administration and a Speaker and a network here on this Hill that's trying to find somebody in the former Bush administration that they can indict and prosecute and punish as a way of, I don't know, getting even with the previous administration, I suppose.

I don't understand how this majority and this Congress can't simply just move on and provide national security. I don't understand how the Speaker of the House cannot be alarmed by being briefed about waterboarding in September of 2002, but after the information comes out to the press, then is, let

me say, ex post facto alarmed, alarmed after the fact, perhaps because the political pressure comes from the left has been turned up significantly.

Whatever those reasons are, the Speaker of the House cannot be leveling charges unless they are founded, and a statement should never be made by the Speaker of the House that would challenge the integrity of the CIA or any other member of our intelligence gathering community unless the evidence can be laid down on the table at the same time the statement is made. You simply do not call someone a liar in this country unless you have the evidence available to back it up.

And what this resolution does, it says Madam Speaker, back it up or back up, one or the other. We cannot have this situation. I don't know anybody in this Congress that will receive a briefing that fill us in on the real facts. The CIA has got to be reluctant, and they will tell us the truth, but we're going to have ask a whole lot of the right questions to get this out at this point.

This Congress has to make appropriations to the entire intelligence community and to our Department of Defense. If a hostile attitude toward them exists, there exists also the incentive for other Members of the Congress and staff members of the committee and staff members of other Members of Congress, as well as the Speaker's staff themselves, to devise ways or summarize reduce the resources going to our intelligence community or establish policy changes that make their jobs more difficult. The statement itself calls into question all activities of this Congress that would affect the activities of our entire defense network in America, Department of Defense as well as our intelligence communities.

This is a very serious situation. It must be resolved. It cannot go on without having it answered. This resolution simply says that there will not be security clearance for the Speaker of the House as long as she holds the position that the CIA can't be trusted. She would have no reason to sit down and listen to them if she believes they are

liars. If she thinks they are, she needs to produce the evidence.

I think they are not. I think they have told the truth in these briefings, and the other people in the briefings say so, and yes, they deal in misinformation all the time. That is the nature of the CIA. But once it's down in the fourth floor, in that secured room, we've got to be able to look them in the eye and trust they are delivering to us the unvarnished information that's necessary for us to provide the resources so that they can do their job to protect all Americans, Mr. Speaker.

And so as this Memorial Day break will ensue at the conclusion of my remarks this evening, as I understand it, I want to remind you and the people that are listening that we have this period of time now for the balance of the month of May, and we come back in after the Memorial Day weekend. When we do that, it is my intention to introduce this resolution that I have read into the RECORD and ask this Congress to withhold the security clearance of the Speaker of the House until she clears up this mess that is created by her allegations and to produce the base for the charges or withdraw them and apologize to the CIA, to this Congress, and to the American people and to admit what's really going on here.

That is the core of my reason for being here tonight, Mr. Speaker. I will be back on this floor early in June to address this subject matter again.

I ask you, Mr. Speaker, to keep an eye on this situation. I ask the American people to keep an eye on it, and I will also be doing the same thing, looking for resolution to this matter the sooner the better. The American people will be safer if it's sooner rather than later.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. KLEIN of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. QUIGLEY, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. BILBRAY, for 5 minutes, today.

Mr. PAULSEN, for 5 minutes, today.

Mr. MCHENRY, for 5 minutes, today.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 614. An act to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP"), to the Committee on Financial Services; in addition to the Committee on House Administration for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

#### SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

#### ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, pursuant to the order of the House of today, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until Monday, May 25, 2009, at 3 p.m., unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 133, in which case the House shall stand adjourned pursuant to that concurrent resolution.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter and second quarter of 2009 pursuant to Public Law 95-384 are as follows:

##### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, KAY KING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 3 AND APR. 11, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Kay King .....	4/3	4/5	Egypt .....		634		( <sup>3</sup> )				634
	4/5	4/8	Ethiopia .....		2,233		( <sup>3</sup> )				2,233
	4/8	4/11	Cyprus .....		818		( <sup>3</sup> )				818
Total .....											3,685.00

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

<sup>3</sup> Military air transportation.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CATLIN O'NEILL, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 6 AND APR. 11, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Catlin O'Neill .....	4/6	4/8	Israel .....		791.00		( <sup>3</sup> )				791.00
	4/8	4/10	Egypt .....		534.00		( <sup>3</sup> )				534.00
	4/10	4/11	Scotland .....		279.00		( <sup>3</sup> )				279.00
Committee total .....											1,604.00

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

CATLIN O'NEILL, May 8, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, AUDREY NICOLEAU, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 13 AND APR. 19, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Audrey Nicoleau .....	4/13	4/17	Belgium .....		1,836.00		7,438.47				9,274.47
	4/17	4/19	France .....		846.83		151.80				998.63
Committee total .....											10,273.10

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

AUDREY NICOLEAU, Apr. 30, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO STRASBOURG, FRANCE, VILNIUS, LITHUANIA, KIEV, UKRAINE, TBILISI, GEORGIA, AND BRUSSELS, BELGIUM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 9, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. John Tanner, Chairman .....	4-3	4-4	France .....		539.00		7,147.11				10,020.28
	4-4	4-6	Lithuania .....		693.81						
	4-6	4-7	Ukraine .....		494.03						
	4-7	4-8	Georgia .....		652.00						
	4-8	4-9	Belgium .....		494.33						
Hon. Jo Ann Emerson .....	4-3	4-4	France .....		539.00		7,147.11				10,020.28
	4-4	4-6	Lithuania .....		693.81						
	4-6	4-7	Ukraine .....		494.03						
	4-7	4-8	Georgia .....		652.00						
	4-8	4-9	Belgium .....		494.33						
Melissa Adamson .....	4-3	4-4	France .....		539.00		7,147.11				10,020.28
	4-4	4-6	Lithuania .....		693.81						
	4-6	4-7	Ukraine .....		494.03						
	4-7	4-8	Georgia .....		652.00						
	4-8	4-9	Belgium .....		494.33						
Committee total .....					8,619.51		21,441.33				30,060.84

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. JOHN TANNER, Chairman, May 11, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>

## HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☐<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. CHARLES B. RANGEL, Chairman, May 14, 2009.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1928. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Iodosulfuron-methyl-sodium; Pesticide Tolerances [EPA-HQ-OPP-2009-0275; FRL-8412-6] received May 15, 2009,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1929. A letter from the Chair, Congressional Oversight Panel, transmitting the Panel's report on the Secretary of the Treasury's use of TARP funds and the impact of these purchases on financial markets and financial institutions to have effects on credit access for small businesses and families, pursuant to Public Law 110-343, section 125(b)(1); to the Committee on Financial Services.

1930. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agen-

cy's final rule — Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Products Rule [EPA-R05-OAR-2007-1134; FRL-8908-1] received May 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1931. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Minnesota; [EPA-R05-OAR-2008-0786; FRL-8907-3] received May 15, 2009, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

1932. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Louisiana: Final Authorization of State Hazardous Waste Management Program Revision [EPA-R06-RCRA-2008-0755; FRL-8905-4] (RIN: 2060-AP56) received May 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1933. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule for Monitoring Data Used in Designations for the 2008 Ozone NAAQS [EPA-HQ-OAR-2005-0159; FRL-8907-1] received May 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1934. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Implementation of the DTV Delay Act [MB Docket No.: 09-17] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1935. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the matter of Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Oolitic and Worthington, Indiana [MB Docket No.: 07-125 RM-11375 RM-11410] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1936. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Kihei, Hawaii) [MB Docket No.: 08-217 RM-11434] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1937. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the matter of Amendment of Section 73.202(b) FM Table of Allotments, FM Broadcast Stations. (Cuba, Illinois) [MB Docket No.: 07-175 RM-11380] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1938. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Marquez, Texas) [MB Docket No.: 08-196 RM-11487] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1939. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Cadillac, Michigan) [MB Docket No.: 08-252 RM-11509] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1940. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting certification of a proposed technical assistance agreement to include

the export of technical data, defense services, and defense articles to the United Kingdom (Transmittal No. DDTC 001-09), pursuant to 22 U.S.C. 39, 36(c); to the Committee on Foreign Affairs.

1941. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting notification of an unauthorized retransfer of defense articles provided by the United States, pursuant to 22 U.S.C. 39, 36(c); to the Committee on Foreign Affairs.

1942. A letter from the Acting Assistant Secretary Bureau of Political-Military Affairs, Department of State, transmitting an addendum to a certification, Transmittal Number: DDTC 019-09, pursuant to Public Law 110-429, section 201; to the Committee on Foreign Affairs.

1943. A letter from the Secretary, Department of the Treasury, transmitting as required by Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the stabilization of Iraq that was declared in Executive Order 13303 of May 22, 2003, pursuant to 50 U.S.C. 1641(c); to the Committee on Foreign Affairs.

1944. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting notification that effective April 26, 2009, 15% Danger Pay Allowance for FBI personnel serving in Mexico has been established, pursuant to 5 U.S.C. 5928; to the Committee on Foreign Affairs.

1945. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Secretary's determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Eritrea, Iran, North Korea, Syria, and Venezuela, pursuant to 22 U.S.C. 2781, section 40A; to the Committee on Foreign Affairs.

1946. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Department's 10th annual report on all programs or projects of the International Atomic Energy Agency (IAEA) in each country described in Section 307(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1947. A letter from the Inspector General, Office of the Inspector General for the U.S. House of Representatives, transmitting the Office's final report on the Web Mail Business Continuity / Disaster Recovery project; to the Committee on House Administration.

1948. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report on activities regarding civil rights era homicides, as required by the Emmett Till Unsolved Civil Rights Crimes Act of 2007; to the Committee on the Judiciary.

1949. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill entitled the "Federal Courts Jurisdiction and Venue Clarification Act of 2009"; to the Committee on the Judiciary.

1950. A letter from the Board Members, Railroad Retirement Board, transmitting Congressional Justification of Budget Estimates for Fiscal Year 2010, including the Performance Budget; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

1951. A letter from the Chairman and Vice Chairman, U.S.-China Economic & Security Review Commission, transmitting the Commission's report on the public hearing of March 4, 2009 entitled, "China's Military and Security Activities Abroad", pursuant to Public Law 109-108, section 635(a); jointly to the Committees on Ways and Means, Armed Services, and Foreign Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OBERSTAR: Committee on Transportation and Infrastructure. Supplemental report on H.R. 915. A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2009 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes (Rept. 111-119 Pt. 2). Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. PERLMUTTER: Committee on Rules. House Resolution 474. Resolution providing for consideration of the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes. (Rept. 111-127). Referred to the House Calendar.

Mr. GORDON of Tennessee: Committee on Science and Technology. H.R. 1736. A bill to provide for the establishment of a committee to identify and coordinate international science and technology cooperation that can strengthen the domestic science and technology enterprise and support United States foreign policy goals; with an amendment (Rept. 111-128). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. WILSON of South Carolina (for himself, Mr. PAUL, Mr. SESSIONS, Mr. HARPER, Mrs. BLACKBURN, Mr. LAMBORN, and Mr. SAM JOHNSON of Texas):

H.R. 2537. A bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes; to the Committee on the Judiciary.

By Mr. CARTER (for himself and Mr. BURGESS):

H.R. 2538. A bill to amend the Public Health Service Act to provide for the establishment and maintenance of an undiagnosed diseases registry; to the Committee on Energy and Commerce.

By Mr. THORNBERRY:

H.R. 2539. A bill to secure unrestricted reliable energy for American consumption and transmission; to the Committee on Natural Resources, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMBORN (for himself, Mr. HASTINGS of Washington, Mr. BISHOP of Utah, Mr. CHAFFETZ, Mrs. LUMMIS, and Mr. COFFMAN of Colorado):

H.R. 2540. A bill to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes; to the Committee on Natural Resources.

By Mr. DENT (for himself, Mr. BILBRAY, and Mr. GERLACH):

H.R. 2541. A bill to provide funding for multi-jurisdictional anti-gang task forces; to the Committee on the Judiciary.

By Mr. McDERMOTT (for himself and Mr. TIBERI):

H.R. 2542. A bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States; to the Committee on Ways and Means.

By Mr. McDERMOTT (for himself, Mr. BRADY of Texas, Mr. BLUMENAUER, Mr. REICHERT, Mr. DICKS, Mr. JONES, Mr. WU, Mr. HERGER, and Mr. SMITH of Washington):

H.R. 2543. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Ways and Means.

By Ms. SCHAKOWSKY:

H.R. 2544. A bill to require the intelligence community to use only methods of interrogation authorized by the United States Army Field Manual on Human Intelligence Collector Operations; to the Committee on Intelligence (Permanent Select).

By Mr. ISSA (for himself, Mr. SMITH of Texas, Mr. KING of Iowa, Mr. CAMPBELL, and Mr. GOHMERT):

H.R. 2545. A bill to provide a civil penalty for certain misrepresentations made to Congress, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. BOCCIERI:

H.R. 2546. A bill to ensure that the right of an individual to display the Service flag on residential property not be abridged; to the Committee on Financial Services.

By Mr. MORAN of Kansas (for himself and Mr. RODRIGUEZ):

H.R. 2547. A bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes; to the Committee on Veterans' Affairs.

By Ms. PINGREE of Maine (for herself, Ms. BORDALLO, Mrs. CAPPS, Mr. DELAHUNT, Mr. FARR, Mr. FRANK of Massachusetts, Mr. KENNEDY, Mr. KLEIN of Florida, Mr. LANGEVIN, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MICHAUD, Mr. MORAN of Virginia, Mr. THOMPSON of California, and Mr. WITTMAN):

H.R. 2548. A bill to amend the Coastal Zone Management Act of 1972 to require establishment of a Working Waterfront Grant Program, and for other purposes; to the Committee on Natural Resources.

By Mr. CAPUANO (for himself, Mr. MAFFEI, Mr. KANJORSKI, Mr. FRANK of Massachusetts, Mr. CLEAVER, Mr. BACA, Mr. MORAN of Virginia, Mr. ANDREWS, and Mr. CONNOLLY of Virginia):

H.R. 2549. A bill to ensure uniform and accurate credit rating of municipal bonds and provide for a review of the municipal bond insurance industry; to the Committee on Financial Services.

By Mr. DRIEHAUS (for himself, Mr. AL GREEN of Texas, Mr. FRANK of Massachusetts, Mr. BACA, Mr. CLEAVER, Mr. MORAN of Virginia, Mr. ANDREWS, and Mr. CONNOLLY of Virginia):

H.R. 2550. A bill to amend the Securities Exchange Act of 1934 to require the registration of municipal financial advisers; to the Committee on Financial Services.

By Mr. FOSTER (for himself, Mr. KANJORSKI, Ms. WATERS, Mr. FRANK of Massachusetts, Mr. CLEAVER, Mr.

BACA, Mr. MORAN of Virginia, Mr. ANDREWS, and Mr. CONNOLLY of Virginia):

H.R. 2551. A bill to amend the Federal Reserve Act to provide for lending authority for certain securities purchases, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 2552. A bill to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of medical waste; to the Committee on Energy and Commerce.

By Mr. TIAHRT (for himself, Mr. MOORE of Kansas, Ms. BERKLEY, Mr. GINGREY of Georgia, Mr. MORAN of Kansas, Ms. BORDALLO, and Mr. LOEBACK):

H.R. 2553. A bill to authorize the award of a military service medal to members of the Armed Forces who were exposed to ionizing radiation as a result of participation in the testing of nuclear weapons or under other circumstances; to the Committee on Armed Services.

By Mr. SCOTT of Georgia (for himself, Mr. NEUGEBAUER, Mr. AKIN, Mr. MEEKS of New York, Mr. WILSON of Ohio, Mr. DAVIS of Kentucky, Mr. KIND, Ms. MOORE of Wisconsin, Mrs. MYRICK, Mr. HOLDEN, Mr. JONES, Ms. FOX, Mr. DONNELLY of Indiana, Mr. POMEROY, Ms. ROS-LEHTINEN, Ms. GINNY BROWN-WAITE of Florida, Mr. BARRETT of South Carolina, Mr. ROSS, Mr. CLAY, Mr. CHILDERS, Ms. KOSMAS, Mr. MILLER of North Carolina, Mr. MORAN of Kansas, Mr. MCHENRY, Mr. LEE of New York, Mr. MOORE of Kansas, Mr. PUTNAM, Mr. MELANCON, Ms. JENKINS, Mr. GERLACH, Mr. KANJORSKI, Mr. CAPUANO, Mr. ADLER of New Jersey, Mr. GARRETT of New Jersey, and Mr. BACHUS):

H.R. 2554. A bill to reform the National Association of Registered Agents and Brokers, and for other purposes; to the Committee on Financial Services.

By Mr. KLEIN of Florida (for himself, Mr. FRANK of Massachusetts, Mr. GRAYSON, Ms. KOSMAS, Mr. LARSON of Connecticut, Mr. CLYBURN, Mr. CROWLEY, Mrs. TAUSCHER, Mr. HARE, Mr. MEEK of Florida, Mr. WELCH, Ms. CASTOR of Florida, Mr. WEXLER, Mr. DELAHUNT, Mr. KENNEDY, Ms. GINNY BROWN-WAITE of Florida, Mr. ABERCROMBIE, Mr. POSEY, Ms. ROS-LEHTINEN, Mr. BUCHANAN, Mr. GRIFFITH, Mr. MELANCON, Mr. SCHIFF, Mr. WALZ, Ms. BERKLEY, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. BRALBY of Iowa, Mr. BOYD, Mr. RYAN of Ohio, Ms. WASSERMAN SCHULTZ, Mr. BERMAN, Mr. CRENSHAW, Mr. INSLEE, Mr. KAGEN, Mr. MCNERNEY, Mr. PERLMUTTER, Ms. CORRINE BROWN of Florida, Ms. HARMAN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ACKERMAN, Mr. YARMUTH, Mr. ROONEY, and Mr. DONNELLY of Indiana):

H.R. 2555. A bill to ensure the availability and affordability of homeowners' insurance coverage for catastrophic events; to the Committee on Financial Services.

By Mr. BOEHNER (for himself, Mr. ISSA, and Mr. MCKEON):

H.R. 2556. A bill to provide low-income parents residing in the District of Columbia with expanded opportunities for enrolling their children in high quality schools in the District of Columbia; to the Committee on Oversight and Government Reform.

By Mr. WU (for himself, Mr. BLUMENAUER, Mr. DEFAZIO, Mr. SCHRAEDER, and Mr. WALDEN):

H.R. 2557. A bill to name the Department of Veterans Affairs medical center in Portland, Oregon, as the "Barry L. Bell Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. FATTAH (for himself and Mr. CAMP):

H.R. 2558. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Ways and Means.

By Mr. HARE (for himself, Ms. BERKLEY, Mr. FILNER, Mr. HALL of New York, Mrs. HALVORSON, Mr. NYE, Mr. TEAGUE, and Mr. ROONEY):

H.R. 2559. A bill to direct the Secretary of Veterans Affairs to carry out a national media campaign directed at homeless veterans and veterans at risk for becoming homeless; to the Committee on Veterans' Affairs.

By Mr. MARKEY of Massachusetts (for himself and Mr. SMITH of New Jersey):

H.R. 2560. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mrs. BIGGERT, Mr. ALTMIRE, and Mr. HUNTER):

H.R. 2561. A bill to amend section 484B of the Higher Education Act of 1965 to forgive certain loans for servicemembers who withdraw from an institution of higher education as a result of service in the uniformed services, and for other purposes; to the Committee on Education and Labor.

By Mr. KIND (for himself, Mr. KAGEN, Mr. SAM JOHNSON of Texas, and Mr. BOUSTANY):

H.R. 2562. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer credit for one year for members of the Armed Services of the United States serving outside the United States in 2009; to the Committee on Ways and Means.

By Mr. SHULER (for himself, Mr. MINNICK, Mr. HELLER, and Mr. MCHENRY):

H.R. 2563. A bill to amend the Truth in Lending Act to establish additional protections for consumers with regard to payday loans, and for other purposes; to the Committee on Financial Services.

By Mr. GRAYSON (for himself, Mr. LEWIS of Georgia, and Mr. HINCHEY):

H.R. 2564. A bill to amend the Fair Labor Standards Act to require that employers provide a minimum of 1 week of paid annual leave to employees; to the Committee on Education and Labor.

By Mr. KIND:

H.R. 2565. A bill to conserve fish and aquatic communities in the United States through



partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes; to the Committee on Natural Resources.

By Mr. LIPINSKI (for himself and Mr. INGLIS):

H.R. 2566. A bill to amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center services and drugs; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself, Mr. PLATTS, Ms. MCCOLLUM, Mr. LEWIS of Georgia, Mr. CONYERS, Mr. GUTIERREZ, Mr. GRIJALVA, Mr. McDERMOTT, Mr. BISHOP of New York, Mr. BRALEY of Iowa, Mr. TONKO, Mr. WU, Mr. YARMUTH, Mr. CLAY, Ms. LEE of California, Mr. HINCHEY, Mr. FATTAH, Mr. WAXMAN, Mr. ELLSWORTH, Mr. WELCH, Mr. CAPUANO, Mr. FARR, Mr. SERRANO, Mr. BRADY of Pennsylvania, Ms. BALDWIN, Ms. MOORE of Wisconsin, Mr. MARKEY of Massachusetts, Mrs. MALONEY, Mr. HOLT, Ms. DELAURO, Mr. HODES, Mr. CUMMINGS, Mr. HIGGINS, Mr. KIND, Mr. KUCINICH, Mr. PRICE of North Carolina, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mr. ROTHMAN of New Jersey, Mr. CARSON of Indiana, Mr. LYNCH, Mr. DRIEHAUS, and Mr. FRANK of Massachusetts):

H.R. 2567. A bill to suspend the authority for the Western Hemisphere Institute for Security Cooperation (the successor institution to the United States Army School of the Americas) in the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. JOHNSON of Georgia (for himself, Mr. DOGGETT, Mr. GENE GREEN of Texas, Ms. CORRINE BROWN of Florida, Mr. CARDOZA, Ms. BORDALLO, Mr. FILNER, and Ms. ROS-LEHTINEN):

H.R. 2568. A bill to amend the Small Business Act to ensure fairness and transparency in contracting with small business concerns; to the Committee on Small Business, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU (for himself, Mr. GORDON of Tennessee, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, and Mr. CARNAHAN):

H.R. 2569. A bill to reauthorize surface transportation research, development, and technology transfer activities, and for other purposes; to the Committee on Science and Technology.

By Ms. EDWARDS of Maryland (for herself, Mr. GRIJALVA, Mr. LEWIS of Georgia, Ms. PINGREE of Maine, Mr. CARSON of Indiana, Ms. WATERS, Mr. HARE, Ms. CLARKE, Ms. SUTTON, Mr. BUTTERFIELD, Mr. JOHNSON of Georgia, Mr. MCGOVERN, Ms. WOOLSEY, Ms. LEE of California, Ms. WATSON, Ms. MCCOLLUM, Ms. DELAURO, Mr. CONNOLLY of Virginia, Mr. MORAN of Virginia, Mr. ELLISON, and Mr. WELCH):

H.R. 2570. A bill to amend the Fair Labor Standards Act of 1938 to establish a base minimum wage for tipped employees; to the Committee on Education and Labor.

By Mr. MOORE of Kansas (for himself, Mr. GARRETT of New Jersey, Mr. KANJORSKI, Ms. GINNY BROWN-WAITE of

Florida, Mr. FRANK of Massachusetts, Mr. BACHUS, Mr. McMAHON, Mr. NEUGEBAUER, Ms. BEAN, Mr. GARY G. MILLER of California, Mr. CROWLEY, Mr. KING of New York, Mr. HINOJOSA, Mrs. CAPITO, Mrs. MALONEY, Mrs. BACHMANN, Mr. ISRAEL, Mr. YOUNG of Florida, Mr. SHERMAN, Mr. McHENRY, Mr. PUTNAM, and Mr. CAMPBELL):

H.R. 2571. A bill to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas (for herself and Mr. MORAN of Virginia):

H.R. 2572. A bill to strengthen the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE:

H.R. 2573. A bill to amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ADLER of New Jersey (for himself and Mr. PASCRELL):

H.R. 2574. A bill to amend title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself, Mr. GEORGE MILLER of California, Mr. LINCOLN DIAZ-BALART of Florida, Mr. PLATTS, Mr. SESTAK, and Mr. AL GREEN of Texas):

H.R. 2575. A bill to provide parity under group health plans and group health insurance coverage in the provision of benefits for prosthetic devices and orthotics devices, components and benefits for other medical and surgical services; to the Committee on Education and Labor.

By Mr. BAIRD:

H.R. 2576. A bill to restore Federal recognition to the Chinook Nation, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BERKLEY:

H.R. 2577. A bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Ms. BERKLEY (for herself, Mr. HELLER, Ms. KILPATRICK of Michigan, Mr. FORBES, Mr. HASTINGS of Florida, Mr. RUSH, and Mr. MEEK of Florida):

H.R. 2578. A bill to amend title XVIII of the Social Security Act to provide an increased payment for chest radiography (x-ray) services that use Computer Aided Detection technology for the purpose of early detection of lung cancer; to the Committee on Energy and Commerce, and in addition to the Com-

mittee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BISHOP of New York (for himself and Mr. EHLERS):

H.R. 2579. A bill to authorize the Secretary of Education to award grants to local educational agencies to improve college access; to the Committee on Education and Labor.

By Mr. BLUMENAUER:

H.R. 2580. A bill to amend title XVIII of the Social Security Act to provide for the establishment of shared decision making standards and requirements and to establish a pilot program for the implementation of shared decision making under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BORDALLO (for herself, Mr. HONDA, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Ms. HIRONO, Mr. AL GREEN of Texas, and Mr. SABLAN):

H.R. 2581. A bill to amend the Public Health Service Act to provide for a health survey regarding Native Hawaiians and other Pacific Islanders; to the Committee on Energy and Commerce.

By Ms. BORDALLO (for herself, Mr. SERRANO, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, Mr. PIERLUISI, and Mr. SABLAN):

H.R. 2582. A bill to extend the supplemental security income program to Puerto Rico, the United States Virgin Islands, Guam, and American Samoa, and for other purposes; to the Committee on Ways and Means.

By Mr. BOSWELL (for himself, Mr. LATHAM, Mr. BRALEY of Iowa, Mrs. CAPPs, and Mr. LOEBSSACK):

H.R. 2583. A bill to direct the Secretary of Veterans Affairs to improve health care for women veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOUCHER (for himself, Mr. GOODLATTE, Mr. JONES, Mr. SPRATT, and Mr. SHERMAN):

H.R. 2584. A bill to amend title 35, United States Code, to limit the patentability of tax planning methods; to the Committee on the Judiciary.

By Mr. BROWN of Georgia (for himself and Mr. FILNER):

H.R. 2585. A bill to delay any presumption of death in connection with the kidnapping in Iraq or Afghanistan of a retired member of the Armed Forces to ensure the continued payment of the member's retired pay; to the Committee on Armed Services.

By Mr. BROWN of Georgia (for himself, Mr. PETERSON, Mr. WALZ, Mr. CANTOR, Mr. BLUNT, Mr. BOREN, Mr. CARTER, Mr. CARNEY, Mr. PRICE of Georgia, Mr. MEEK of Florida, Mr. GINGREY of Georgia, Mr. DAVIS of Tennessee, Mr. AKIN, Ms. FALLIN, Mr. KLINE of Minnesota, Mr. POE of Texas, Mr. BRADY of Texas, Mr. GARRETT of New Jersey, Mr. ISSA, Mr. KING of Iowa, Mr. LUETKEMEYER, Mr. POSEY, Mrs. LUMMIS, Mr. FORBES, Mr. OLSON, Mr. McHENRY, Mr. GOHMERT, Mr. WILSON of South Carolina, Mr. WESTMORELAND, Mr. JORDAN of Ohio, Mr. DEAL of Georgia, Mr. WITTMAN, Mr. YOUNG of Alaska, Mr. KINGSTON, Mr. MILLER of Florida, Mr. MARCHANT, Mr. HELLER, Mr. ROSKAM, Mr.

LINDER, Mr. McCOTTER, Mr. TIBERI, Mr. NUNES, Mr. HUNTER, Mr. SHAD-EGG, and Mr. SAM JOHNSON of Texas):

H.R. 2586. A bill to prohibit the Secretary of Veterans Affairs from authorizing honor guards to participate in funerals of veterans interred in national cemeteries unless the honor guards may offer veterans' families the option of having the honor guard perform a 13-fold flag recitation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. CAPITO (for herself and Mr. LEE of New York):

H.R. 2587. A bill to limit the reinvestment by States and localities of profits under the Neighborhood Stabilization Program of the Department of Housing and Urban Development; to the Committee on Financial Services.

By Mr. CARDOZA (for himself and Mr. COSTA):

H.R. 2588. A bill to prevent foreclosure of home mortgages and increase the availability of affordable new mortgages and affordable refinancing of mortgages held by Fannie Mae and Freddie Mac; to the Committee on Financial Services.

By Mr. CLEAVER (for himself, Mr. HIMES, Mr. FRANK of Massachusetts, Mr. BACA, Mr. MORAN of Virginia, Mr. ANDREWS, and Mr. CONNOLLY of Virginia):

H.R. 2589. A bill to establish the Office of Public Finance in the Department of the Treasury to make available Federal reinsurance for insurers of tax-exempt municipal bonds; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE (for herself, Mr. CASTLE, Mr. BECERRA, and Mr. KIRK):

H.R. 2590. A bill to amend title XVIII of the Social Security Act to reduce the occurrence of diabetes in Medicare beneficiaries by extending coverage under Medicare for medical nutrition therapy services to such beneficiaries with pre-diabetes or with risk factors for developing type 2 diabetes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARIO DIAZ-BALART of Florida (for himself, Ms. NORTON, Mr. GRAVES, Mr. CAO, and Mr. GUTHRIE):

H.R. 2591. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the Administrator of the Federal Emergency Management Agency to modernize the integrated public alert and warning system of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MARIO DIAZ-BALART of Florida (for himself, Mr. ARCURI, Mr. BROWN of South Carolina, Mr. FILLNER, Mr. ROONEY, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. CRENSHAW):

H.R. 2592. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to enhance existing programs providing mitigation assistance by encouraging States to adopt and actively enforce State building codes, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. EDWARDS of Texas (for himself, Mr. MCINTYRE, and Mr. TERRY):

H.R. 2593. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a discretionary grant program for school construction for local educational agencies affected by base closures and realignments, and for other purposes; to the Committee on Education and Labor, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARRETT of New Jersey (for himself, Mr. PASCRELL, Mr. GOHMERT, Mr. BARTLETT, Mr. ANDREWS, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. PAYNE, Mr. MARCHANT, Mr. YOUNG of Alaska, Mr. PERLMUTTER, Mr. ISSA, Mr. RYAN of Wisconsin, Mr. POSEY, Mrs. LUMMIS, Mr. OLSON, Mr. FRANKS of Arizona, Mr. KLINE of Minnesota, Mr. COLE, Mr. FLEMING, Mr. CHAFFETZ, Mr. BROWN of Georgia, Mr. THOMPSON of Pennsylvania, Mr. LOBIONDO, Mrs. MCMORRIS RODGERS, Mrs. CHRISTENSEN, Mr. COURTNEY, Ms. FALLIN, Mr. WOLF, Mr. SCALISE, Mr. BILBRAY, Mr. WILSON of South Carolina, Mr. SMITH of New Jersey, Mr. LANCE, Ms. BORDALLO, Mr. HODES, Mr. ROONEY, Mr. FRELINGHUYSEN, Mr. SOUDER, and Mr. MANZULLO):

H.R. 2594. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide a plot allowance for spouses and children of certain veterans who are buried in State cemeteries; to the Committee on Veterans' Affairs.

By Mr. GENE GREEN of Texas (for himself, Mr. THOMPSON of California, Mrs. BONO MACK, Ms. JACKSON-LEE of Texas, and Ms. ESHOO):

H.R. 2595. A bill to restrict certain exports of electronic waste; to the Committee on Energy and Commerce.

By Mr. GENE GREEN of Texas (for himself and Mr. TIM MURPHY of Pennsylvania):

H.R. 2596. A bill to authorize the Secretary of Health and Human Services to carry out a demonstration program to test the feasibility of using the Nation's elementary and secondary schools as influenza vaccination centers; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HARE (for himself, Ms. SHEA-PORTER, Mr. LOEBSACK, Mr. COURTNEY, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, and Mr. CUMMINGS):

H.R. 2597. A bill to amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of school-wide positive behavior supports; to the Committee on Education and Labor.

By Mr. HEINRICH (for himself, Mr. SESTAK, Mr. BRADY of Pennsylvania, Mr. RODRIGUEZ, Mr. MASSA, Mr. ALTMIRE, Mr. BISHOP of Georgia, Mr. MCGOVERN, Mr. SPRATT, Mr. AL GREEN of Texas, Mr. CONNOLLY of Virginia, Mr. REYES, Mr. HINCHEY, Ms. BORDALLO, Mr. LUJAN, Mr. TEAGUE, Ms. KOSMAS, Mr. HARE, Mr. ORTIZ, Mr. HONDA, Mr. CONAWAY, and Mr. FRANKS of Arizona):

H.R. 2598. A bill to grant a Congressional Gold Medal to American military personnel who fought in defense of Bataan/Corregidor/Luzon between December 7, 1941 and May 6, 1942; to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH SANDLIN (for herself, Mr. WALDEN, and Mr. POMEROY):

H.R. 2599. A bill to provide for the establishment of the Rural Health Quality Advisory Commission, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HIMES (for himself, Mr. WOLF, Mr. NYE, Mr. CONNOLLY of Virginia, Mr. MCGOVERN, Mr. SARBANES, Mr. JOHNSON of Georgia, Ms. DELAURO, Mr. LANCE, and Ms. BEAN):

H.R. 2600. A bill to amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters; to the Committee on the Judiciary.

By Mr. HINCHEY (for himself, Mr. ADLER of New Jersey, Mr. ALTMIRE, Mr. ANDREWS, Mr. BISHOP of New York, Mr. GALLEGLY, Mr. KILDEE, Mrs. LOWEY, Mr. MASSA, Mr. MCGOVERN, Mr. NYE, Mr. RODRIGUEZ, and Ms. SHEA-PORTER):

H.R. 2601. A bill to amend the Internal Revenue Code of 1986 to allow a \$1,000 refundable credit for individuals who are bona fide volunteer members of volunteer firefighting and emergency medical service organizations; to the Committee on Ways and Means.

By Ms. HIRONO (for herself and Mr. ABERCROMBIE):

H.R. 2602. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the Ka'u Coast on the island of Hawaii as a unit of the National Park System; to the Committee on Natural Resources.

By Ms. HIRONO (for herself and Mr. ABERCROMBIE):

H.R. 2603. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating certain lands along the northern coast of Maui, Hawaii, as a unit of the National Park System; to the Committee on Natural Resources.

By Mr. HODES (for himself and Mrs. LUMMIS):

H.R. 2604. A bill to amend the Internal Revenue Code of 1986 to make permanent the additional standard deduction for real property taxes for nonitemizers; to the Committee on Ways and Means.

By Mr. HOEKSTRA (for himself and Mr. LAMBORN):

H.R. 2605. A bill to amend the Internal Revenue Code of 1986 to allow individuals with children attending an elementary or secondary school a deduction for each child attending a public school equal to 25 percent of the State's average per pupil public education spending and, for each child attending a private or home school, a deduction equal to 100 percent of such average; to the Committee on Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 2606. A bill to amend the Internal Revenue Code of 1986 to expand and extend the first-time homebuyer credit; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. BOEHNER, Mr. MCKEON, Mr. GRAVES, Mr. SESSIONS, Mr.

MCCAUL, Mr. KLINE of Minnesota, Mr. FRANKS of Arizona, Mr. PAUL, Mr. PLATTS, Mr. LAMBORN, Mr. HELLER, Mr. CULBERSON, Mrs. BIGGERT, Mr. SIMPSON, Mrs. BACHMANN, and Mr. MARCHANT):

H.R. 2607. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Education and Labor.

By Mr. JORDAN of Ohio (for himself, Mr. BOREN, Mr. BARTLETT, Mr. ALEXANDER, Mr. BROUN of Georgia, Mr. CANTOR, Mr. CHAFFETZ, Mr. COLE, Mr. CONAWAY, Ms. FALLIN, Mr. FLEMING, Mr. FORBES, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GOHMERT, Mr. HERGER, Mr. JONES, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. LATTI, Mr. LUTKEMEYER, Mr. MARCHANT, Mr. MCHENRY, Mr. MCINTYRE, Mr. NEUGEBAUER, Mr. ROGERS of Kentucky, Mr. SCALISE, Mr. SMITH of Texas, Mr. TIAHRT, Mr. WILSON of South Carolina, Mr. PRICE of Georgia, Mr. BOOZMAN, and Mr. PENCE):

H.R. 2608. A bill to define marriage for all legal purposes in the District of Columbia to consist of the union of one man and one woman; to the Committee on Oversight and Government Reform.

By Mr. KANJORSKI (for himself, Mrs. BIGGERT, Mr. MOORE of Kansas, Mr. CAPUANO, Ms. BEAN, Mr. ROYCE, and Mr. SCOTT of Georgia):

H.R. 2609. A bill to establish an Office of Insurance Information in the Department of the Treasury; to the Committee on Financial Services.

By Mr. KANJORSKI:

H.R. 2610. A bill to amend section 1886 of the Social Security Act to continue sole community hospital treatment for certain hospitals; to the Committee on Ways and Means.

By Mr. KING of New York (for himself, Mrs. LOWEY, and Mr. ISRAEL):

H.R. 2611. A bill to amend the Homeland Security Act of 2002 to authorize the Securing the Cities Initiative of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. KING of New York (for himself and Mr. BISHOP of New York):

H.R. 2612. A bill to direct the Attorney General to provide grants and access to information and resources for the implementation of the Sex Offender Registration Tips and Crime Victims Center Programs; to the Committee on the Judiciary.

By Mr. KING of New York (for himself, Mr. ACKERMAN, Mrs. BIGGERT, Mr. BISHOP of New York, Mr. CASTLE, Mr. MCHUGH, Mr. LOBIONDO, Mr. LATOURETTE, and Mr. WOLF):

H.R. 2613. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes; to the Committee on Oversight and Government Reform.

By Mrs. KIRKPATRICK of Arizona (for herself, Mr. FILNER, Mr. BOOZMAN, Mr. TEAGUE, and Mr. PERRIELLO):

H.R. 2614. A bill to amend title 38, United States Code, to reauthorize the Veterans' Advisory Committee on Education; to the Committee on Veterans' Affairs.

By Mr. LARSON of Connecticut (for himself and Mr. HELLER):

H.R. 2615. A bill to amend the Internal Revenue Code of 1986 to provide incentives for energy efficient commercial building roofs; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. FILNER, Ms. LEE of California, Mr. STARK, Mr. GUTIERREZ, Mr. GRIMALVA, Mr. MEEKS of New York, Ms. WOOLSEY, Mr. WEXLER, Mrs. LOWEY, and Mr. MCDERMOTT):

H.R. 2616. A bill to authorize the Attorney General to award grants to eligible entities to prevent or alleviate community violence by providing education, mentoring, and counseling services to children, adolescents, teachers, families, and community leaders on the principles and practice of non-violence; to the Committee on Education and Labor.

By Mrs. MALONEY (for herself, Mr. SMITH of New Jersey, Mr. KENNEDY, Mr. BURTON of Indiana, and Mr. ACKERMAN):

H.R. 2617. A bill to amend the Federal Food, Drug, and Cosmetic Act to reduce human exposure to mercury through vaccines; to the Committee on Energy and Commerce.

By Mrs. MALONEY (for herself and Mr. SMITH of New Jersey):

H.R. 2618. A bill to improve vaccine safety research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARCHANT:

H.R. 2619. A bill to amend the Internal Revenue Code of 1986 to temporarily expand the credit for first-time homebuyers to all homebuyers and to allow individuals a temporary refundable credit against income tax for the costs of refinancing acquisition indebtedness secured by their principal residence; to the Committee on Ways and Means.

By Ms. MATSUI:

H.R. 2620. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers; to the Committee on Energy and Commerce.

By Mr. MCCARTHY of California (for himself and Mr. MCKEON):

H.R. 2621. A bill to amend title 10, United States Code, to use a time requirement for determining eligibility for the reimbursement of certain travel expenses; to the Committee on Armed Services.

By Mr. MCCARTHY of California:

H.R. 2622. A bill to amend the Securities Exchange Act of 1934 to establish rules and procedures for the delegation of compliance and inspections authority to the operating divisions of the Securities and Exchange Commission, and for other purposes; to the Committee on Financial Services.

By Mr. MCCARTHY of California:

H.R. 2623. A bill to amend the Federal securities laws to clarify and expand the definition of certain persons under those laws; to the Committee on Financial Services.

By Mrs. MCCARTHY of New York (for herself and Mr. TERRY):

H.R. 2624. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Education and Labor.

By Mr. MCDERMOTT (for himself and Ms. ROS-LEHTINEN):

H.R. 2625. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and

dependent children to coverage provided to other eligible designated beneficiaries of employees; to the Committee on Ways and Means.

By Mr. MEEK of Florida (for himself and Mr. HERGER):

H.R. 2626. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Ways and Means.

By Mr. MOORE of Kansas (for himself, Mr. MARIO DIAZ-BALART of Florida, Mr. HASTINGS of Florida, Ms. ROS-LEHTINEN, Ms. WASSERMAN SCHULTZ, and Mr. LINCOLN DIAZ-BALART of Florida):

H.R. 2627. A bill to reauthorize the National Windstorm Impact Reduction Program, and for other purposes; to the Committee on Science and Technology, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEAL of Massachusetts (for himself and Mr. TIBERI):

H.R. 2628. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 2629. A bill to protect the American people's ability to make their own health care decisions by ensuring the Federal Government shall not force any American to purchase health insurance; to the Committee on Energy and Commerce.

By Mr. PAUL:

H.R. 2630. A bill to protect the privacy of patients and physicians; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 2631. A bill to reduce the price of gasoline by allowing for offshore drilling, eliminating Federal obstacles to constructing refineries and providing incentives for investment in refineries, suspending Federal fuel taxes when gasoline prices reach a benchmark amount, and promoting free trade; to the Committee on Ways and Means, and in addition to the Committees on Natural Resources, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Ms. ROS-LEHTINEN, Mr. SAM JOHNSON of Texas, Mr. CONYERS, Ms. WATSON, and Mr. KING of New York):

H.R. 2632. A bill to amend title 4, United States Code, to encourage the display of the flag of the United States on National Korean War Veterans Armistice Day; to the Committee on the Judiciary.

By Mr. ROGERS of Michigan (for himself, Mrs. MILLER of Michigan, and Mr. HOEKSTRA):

H.R. 2633. A bill to amend the Emergency Economic Stabilization Act of 2008 to prohibit automobile manufacturers receiving assistance under the Troubled Asset Relief Program from opening a new foreign subsidiary or expanding their current foreign subsidiaries; to the Committee on Financial Services.

By Mr. ROGERS of Michigan (for himself, Mrs. MILLER of Michigan, Mr. HOEKSTRA, and Mr. MCCOTTER):

H.R. 2634. A bill to amend the Emergency Economic Stabilization Act of 2008 to prohibit automobile manufacturers receiving assistance under the Troubled Asset Relief Program from opening a new foreign subsidiary or expanding their current foreign subsidiaries; to the Committee on Financial Services.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Ms. GINNY BROWN-WAITE of Florida, Mr. NEAL of Massachusetts, Ms. SCHWARTZ, Mrs. CAPPS, and Mrs. DAHLKEMPER):

H.R. 2635. A bill to amend title XXVII of the Public Health Service Act to prohibit gender rating in the group and individual markets for health insurance coverage, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LORETTA SANCHEZ of California (for herself and Ms. TSONGAS):

H.R. 2636. A bill to amend title 10, United States Code, to authorize the establishment of a nonprofit corporation to support the athletic program of the Air Force Academy; to the Committee on Armed Services.

By Mr. SENSENBRENNER:

H.R. 2637. A bill to amend the Internal Revenue Code of 1986 to increase the age at which distributions from qualified retirement plans are required to begin and to extend the waiver of required minimum distribution rules for certain retirement plans and accounts through 2010; to the Committee on Ways and Means.

By Mr. SHULER:

H.R. 2638. A bill to provide for the issuance of a veterans health care stamp; to the Committee on Oversight and Government Reform, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Washington:

H.R. 2639. A bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the United Nations Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than \$1 per day; to the Committee on Foreign Affairs.

By Ms. SUTTON (for herself, Mr. DINGELL, Mr. MARKEY of Massachusetts, Mr. BARTON of Texas, Mr. UPTON, Mr. INSLEE, Mr. STUPAK, Mr. BRALEY of Iowa, Mrs. MILLER of Michigan, Mrs. CAPPS, Mr. BLUNT, Mr. DOYLE, Mr. TERRY, Mr. WELCH, Mr. WHITFIELD, Mrs. CHRISTENSEN, Mr. ROGERS of Michigan, Mr. DONNELLY of Indiana, Mrs. EMERSON, Mr. ARCURI, Mrs. BIGGERT, Mr. WILSON of Ohio, Mr. CASTLE, Mr. SARBANES, Mr. CAMP, Ms. BALDWIN, Mr. MCCOTTER, Mr. CARNAHAN, Mr. YARMUTH, Mr. COURTNEY, Mr. BLUMENAUER, Mr. HALL of New York, Mr. MANZULLO, Ms. KILPATRICK of Michigan, Mr. SCHAUER, Ms. FUDGE, Mr. HARE, Mr. SHULER, Mr. CONNOLLY of Virginia, Mr. MAF-

FEI, Ms. MOORE of Wisconsin, Mr. LEVIN, Mr. CONYERS, Mr. HASTINGS of Florida, Mr. LOEBBACH, Ms. KOSMAS, Mr. WALDEN, Mr. HILL, Mr. RYAN of Ohio, Mr. PETERS, Mr. KILDEE, Mr. LATOURETTE, Ms. DEGETTE, Mr. BOCIERI, and Ms. KAPTUR):

H.R. 2640. A bill to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANNER (for himself, Mr. CHILDERS, Mr. BRADY of Pennsylvania, and Mr. MATHESON):

H.R. 2641. A bill to amend section 1862 of the Social Security Act with respect to the application of Medicare secondary payer rules to workers' compensation settlement agreements and Medicare set-asides under such agreements; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIBERI:

H.R. 2642. A bill to direct the Secretary of Veterans Affairs to assist in the identification of unclaimed and abandoned human remains to determine if any such remains are eligible for burial in a national cemetery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WELCH (for himself and Mr. HODES):

H.R. 2643. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Natural Resources.

By Mr. BROUN of Georgia:

H.J. Res. 54. A joint resolution disapproving the action of the District of Columbia Council in approving the Jury and Marriage Amendment Act of 2009; to the Committee on Oversight and Government Reform.

By Mr. MARKEY of Massachusetts:

H.J. Res. 55. A joint resolution expressing the disfavor of the Congress regarding the proposed agreement for cooperation; to the Committee on Foreign Affairs.

By Mr. ARCURI:

H. Con. Res. 133. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. DAVIS of Illinois:

H. Con. Res. 134. Concurrent resolution expressing the sense of Congress regarding the need for further study of the neurological disorder dystonia; to the Committee on Energy and Commerce.

By Mr. LEWIS of Georgia (for himself, Mr. BRADY of Pennsylvania, Mr. DANIEL E. LUNGREN of California, Ms. ZOE LOFGREN of California, Mrs. DAVIS of California, Mr. CAPUANO, Mr. GONZALEZ, Mr. AL GREEN of Texas, Mr. SCOTT of Georgia, Mr. MEEK of Florida, Ms. MOORE of Wisconsin, Mr. TOWNS, Mr. BISHOP of Georgia, Mr. DAVIS of Illinois, Mr. SCOTT of Virginia, Mr. CLYBURN, Mr. HASTINGS of

Florida, Mr. CLEAVER, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Mrs. CHRISTENSEN, Mr. MEEKS of New York, and Mr. RANGEL):

H. Con. Res. 135. Concurrent resolution directing the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes; to the Committee on House Administration.

By Ms. WATSON (for herself, Mr. BURTON of Indiana, Mrs. MYRICK, Mr. ROHRBACHER, Mr. ISSA, Mr. MCCLINTOCK, Mr. CANTOR, Mr. ROYCE, Ms. JACKSON-LEE of Texas, Mr. BILIRAKIS, Ms. ZOE LOFGREN of California, Mr. KIRK, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. MCGOVERN, Ms. RICHARDSON, Mr. DREIER, Mr. JOHNSON of Georgia, Mr. HONDA, Ms. HIRONO, Mr. POMEROY, and Ms. VELÁZQUEZ):

H. Con. Res. 136. Concurrent resolution authorizing the use of the Capitol Grounds for a celebration of Citizenship Day; to the Committee on Transportation and Infrastructure.

By Mr. COLE (for himself, Mr. SULLIVAN, Mr. BOREN, Mr. LUCAS, and Ms. FALLIN):

H. Res. 469. A resolution honoring the life of Wayman Lawrence Tisdale and expressing the condolences of the House of Representatives on his passing; to the Committee on Oversight and Government Reform.

By Mr. BISHOP of Utah:

H. Res. 470. A resolution raising a question of the privileges of the House; to the Committee on Rules.

By Mr. KRATOVL (for himself, Mr. BRADY of Pennsylvania, Mrs. EMERSON, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HALL of New York, Mr. MCINTYRE, Mr. MCMAHON, Mr. PASCRELL, Mr. PIERLUISI, Mr. ROONEY, Mr. SCHIFF, Ms. SHEA-PORTER, Mrs. TAUSCHER, Mr. THORNBERRY, Mr. JONES, Mr. DONNELLY of Indiana, Mr. HILL, Mr. CHILDERS, Mr. BOREN, Ms. BORDALLO, Mr. MASSA, Mr. MICHAUD, Mr. ELLSWORTH, Mr. LANGEVIN, Mr. MINNICK, Ms. GIFFORDS, Ms. LORETTA SANCHEZ of California, Mr. SKELTON, Mr. MCHUGH, Ms. FALLIN, Mr. MCGOVERN, Mr. FILNER, Mr. FORTENBERRY, Mr. WITTMAN, Mr. MITCHELL, Mr. BARTLETT, Mr. COFFMAN of Colorado, Mr. LANCE, Mr. GRIFFITH, Mr. POSEY, Mr. KILDEE, Mr. ADLER of New Jersey, Mr. TAYLOR, Mr. SHULER, Mr. WALZ, Mr. POE of Texas, Mr. LEE of New York, and Mr. SARBANES):

H. Res. 471. A resolution expressing sympathy to the victims, families, and friends of the tragic act of violence at the combat stress clinic at Camp Liberty, Iraq, on May 11, 2009; to the Committee on Armed Services.

By Mr. DENT (for himself, Mr. CARNEY, Mr. GERLACH, Mr. PLATTS, Mr. EHLERS, Mr. LOBIONDO, Mr. GRAVES, Mr. PETERSON, Mr. BROWN of South Carolina, Mr. YOUNG of Alaska, Mr. WESTMORELAND, Mr. SALAZAR, Mr. PETRI, Mr. COBLE, Mr. MACK, Ms. BERKLEY, and Mrs. CAPITO):

H. Res. 472. A resolution congratulating and saluting the seventieth anniversary of the Aircraft Owners and Pilots Association (AOPA) and their dedication to general aviation, safety and the important contribution general aviation provides to the United

States; to the Committee on Transportation and Infrastructure.

By Mr. GOODLATTE (for himself, Mr. SMITH of Texas, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. BLUNT, Mrs. BLACKBURN, Mr. LAMBORN, Mr. CANTOR, Mr. POE of Texas, Mr. BISHOP of Utah, Mr. SENSENBRENNER, Mr. MACK, Mr. JONES, Mr. CULBERSON, Mr. SIMPSON, Mr. PITTS, Mr. POSEY, Mr. WOLF, Mr. FORBES, and Mr. WITTMAN):

H. Res. 473. A resolution expressing the sense of the House of Representatives that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the Constitution of the United States; to the Committee on the Judiciary.

By Mr. BLUMENAUER (for himself, Mrs. BONO MACK, Mr. KIND, Mr. CONNOLLY of Virginia, Mr. WEXLER, Mrs. CHRISTENSEN, Mrs. LUMMIS, Mr. MICHAUD, Ms. BORDALLO, Mr. THOMPSON of California, Mr. SALAZAR, Mr. POLIS of Colorado, Mr. CLEAVER, Ms. MCCOLLUM, Mr. CAPUANO, Ms. LEE of California, and Ms. MATSUI):

H. Res. 475. A resolution supporting the goals and ideals of National Trails Day; to the Committee on Natural Resources.

By Mr. COHEN (for himself, Ms. BERKLEY, Ms. CLARKE, Mr. CLEAVER, Mr. CLYBURN, Mr. CONYERS, Mr. COURTNEY, Ms. FOXX, Mr. JOHNSON of Georgia, Ms. KILPATRICK of Michigan, Ms. JACKSON-LEE of Texas, Ms. LEE of California, Mr. LEWIS of Georgia, Ms. MARKEY of Colorado, Mr. PAYNE, Ms. TITUS, Mr. THOMPSON of Mississippi, Ms. WATSON, Ms. EDWARDS of Maryland, and Mr. DONNELLY of Indiana):

H. Res. 476. A resolution celebrating the 30th anniversary of June as "Black Music Month"; to the Committee on Oversight and Government Reform.

By Mr. FORBES (for himself, Mr. WITTMAN, Mr. BARTLETT, Mr. MILLER of Florida, Mr. AKIN, Mr. KLINE of Minnesota, Mr. FRANKS of Arizona, Mr. BISHOP of Utah, and Mr. LAMBORN):

H. Res. 477. A resolution directing the Secretary of Defense to transmit to the House of Representatives the fiscal year 2010 30-year shipbuilding plan relating to the long-term shipbuilding strategy of the Department of Defense, as required by section 231 of title 10, United States Code; to the Committee on Armed Services.

By Mr. FORBES (for himself, Mr. WITTMAN, Mr. BARTLETT, Mr. MILLER of Florida, Mr. AKIN, Mr. KLINE of Minnesota, Mr. FRANKS of Arizona, Mr. BISHOP of Utah, and Mr. LAMBORN):

H. Res. 478. A resolution directing the Secretary of Defense to transmit to the House of Representatives the fiscal year 2010 30-year aviation plan relating to the long-term aviation plans of the Department of Defense, as required by section 231a of title 10, United States Code; to the Committee on Armed Services.

By Ms. HIRONO (for herself, Mr. ABERCROMBIE, and Mr. FALEOMAVAEGA):

H. Res. 479. A resolution honoring the contributions of Takamiyama Daigoro to Sumo and to United States-Japan relations; to the Committee on Foreign Affairs.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H. Res. 480. A resolution recognizing and honoring the historic election of women to

the Kuwait parliament and its implications for gender equality in the region; to the Committee on Foreign Affairs.

By Mr. KAGEN (for himself, Mr. RYAN of Wisconsin, Mr. SENSENBRENNER, Ms. BALDWIN, Mr. PETRI, Mr. OBEY, Mr. KIND, and Ms. MOORE of Wisconsin):

H. Res. 481. A resolution honoring the life and public service of Reverend Robert Cornell, distinguished former Congressman, academic, and clergyman from the State of Wisconsin; to the Committee on House Administration.

By Mr. KISSELL:

H. Res. 482. A resolution congratulating Miss Kristen Dalton for being crowned Miss USA 2009; to the Committee on Oversight and Government Reform.

By Mr. KLINE of Minnesota (for himself, Mr. LOBIONDO, Mr. MASSA, Mr. THORNBERRY, Mr. BRADY of Pennsylvania, Mr. CAO, Mr. SESSIONS, Mr. TEAGUE, Mr. TIAHRT, Mr. DOYLE, Mr. TERRY, Mr. SHUSTER, Mr. WILSON of South Carolina, Mr. CHAFFETZ, Mr. SIMPSON, Mrs. BONO MACK, Mr. HINOJOSA, Mrs. BACHMANN, Mr. JONES, Mr. ALTMIRE, Mr. COSTELLO, Ms. GINNY BROWN-WAITE of Florida, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. ADLER of New Jersey, Mr. DAVIS of Alabama, Mr. WITTMAN, Mr. LIPINSKI, Mr. BISHOP of New York, Mr. OLSON, Mr. MICHAUD, Mr. WOLF, Mr. ISSA, Mr. GOHMERT, Mr. COLE, Mr. FLEMING, Mr. LEE of New York, Mr. PAULSEN, Mr. CONAWAY, Mr. HERGER, Mr. BARTLETT, Mr. BROUN of Georgia, Mr. MCHENRY, Mr. BOOZMAN, Mr. AKIN, Mr. POE of Texas, Mr. JORDAN of Ohio, Mr. MANZULLO, Mrs. MILLER of Michigan, and Mr. GALLEGLY):

H. Res. 483. A resolution supporting the goals and ideals of Veterans of Foreign Wars Day; to the Committee on Oversight and Government Reform.

By Mr. LARSEN of Washington (for himself, Mr. INSLEE, Mr. BAIRD, Mr. PASCRELL, Mr. SMITH of Washington, and Mr. GERLACH):

H. Res. 484. A resolution expressing support for designation of June 10th as "National Pipeline Safety Day"; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY:

H. Res. 485. A resolution expressing support for designation of the third week of April 2009 as "National Shaken Baby Syndrome Awareness Week"; to the Committee on Energy and Commerce.

By Mrs. MALONEY (for herself, Mr. BILIRAKIS, Ms. BERKLEY, Mr. SPACE, Ms. ROS-LEHTINEN, Ms. TSONGAS, Mr. BROWN of South Carolina, Mr. SARBANES, Mr. KENNEDY, Mr. VAN HOLLEN, Mr. CARNAHAN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. PALONE, Ms. LEE of California, Mr. SIRE, Ms. TITUS, Mr. POE of Texas, Mr. MCMAHON, and Mr. JACKSON of Illinois):

H. Res. 486. A resolution expressing the sense of the House of Representatives that the former Yugoslav Republic of Macedonia should work within the framework of the United Nations process with Greece to achieve longstanding United States and

United Nations policy goals of finding a mutually-acceptable composite name, with a geographical qualifier and for all international uses for the former Yugoslav Republic of Macedonia; to the Committee on Foreign Affairs.

By Mr. ROGERS of Michigan:

H. Res. 487. A resolution recognizing the 100th anniversary of the State News at Michigan State University; to the Committee on Education and Labor.

By Mr. WITTMAN:

H. Res. 488. A resolution commending and congratulating Commander David W. Alldridge and the crew of the USS Newport News (SSN 750) on the occasion of the 20th anniversary of the ship's commissioning; to the Committee on Armed Services.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BOYD:

H.R. 2644. A bill to waive the 35-mile rule to permit recognition of Gadsden Community Hospital as a critical access hospital under the Medicare Program; to the Committee on Ways and Means.

By Mr. RUSH:

H.R. 2645. A bill for the relief of Elvira Arellano, Juan Carlos Arreguin, Maria I. Benitez, Francisco J. Castro, Jaime Cruz, Martha Davalos, Maria A. Martin, Juan Jose Mesa, Domenico Papaiani, Juan Manuel Castellanos, Juan Jose Rangel Sr, Dayron S. Rios Arenas, Araceli Contreras-Del Toro, Doris Oneida Ulloa, Bladimir I. Caballero, Arnulfo Alfaro, Consuelo Castellanos, Eliseo Pulido, Gilberto Romero, Maria Liliana Rua-Saenz, Aurelia Martinez-Garcia, Tomas F. Martinez-Garcia, Flor Crisostomo, Gloria M. Alcantara, Roberto Barrera - lopez, Toribio Barrera-Vieyra, Carolina Carrillo de Uribe, Adan Rosales Del Valle, Marie Teresa Herandez, Consuelo Constella, Lucia Larios Arreola, Maria Guadalupe Lopez, Jose Martinez de la Cerde, Ruben Mendoza Lagunas, Jesus de Parafox, German Ramirez, Josefina Santoyo, Noelia Corona, Teresa Figueroa-Villasenoe, and Fatima Karuma; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. HODES, Mr. KLEIN of Florida, Mr. NADLER of New York, Ms. WASSERMAN SCHULTZ, Mr. McGOVERN, and Mr. ROTHMAN of New Jersey.

H.R. 22: Mr. JACKSON of Illinois, Mr. McDERMOTT, and Ms. CASTOR of Florida.

H.R. 24: Mr. BISHOP of New York, Mr. BOSWELL, Mr. GUTHRIE, Mr. COURTNEY, Mr. PRICE of Georgia, Mrs. BLACKBURN, Mr. SESSIONS, Mr. GRIJALVA, Mr. MINNICK, Ms. KILPATRICK of Michigan, Mr. BOYD, Mr. ALTMIRE, Mr. DENT, Ms. CASTOR of Florida, Mr. MELANCON, Mr. PETERSON, Mr. DAVIS of Alabama, Mr. SCHAUER, Ms. CORRINE BROWN of Florida, Ms. MCCOLLUM, Mr. ELLISON, Mr. DAVIS of Tennessee, Mr. THOMPSON of Mississippi, Mr. SERRANO, Mrs. LOWEY, and Mr. WALDEN.

H.R. 25: Mr. BILIRAKIS.

H.R. 28: Mr. HUNTER.

H.R. 42: Mr. STARK, Ms. HIRONO, and Mr. GUTIERREZ.

- H.R. 87: Mr. ISSA.  
H.R. 205: Mr. BARRETT of South Carolina.  
H.R. 208: Mr. KAGEN, Mrs. LUMMIS, Mr. MCINTYRE, Mr. McKEON, Mr. CALVERT, Mr. SMITH of New Jersey, Ms. FALLIN, Mr. TIAHRT, Mr. ETHERIDGE, and Mr. BISHOP of Utah.  
H.R. 213: Mr. CASSIDY, Mr. NEUGEBAUER, and Mr. GUTHRIE.  
H.R. 235: Mr. CUMMINGS.  
H.R. 268: Mr. GARRETT of New Jersey.  
H.R. 272: Mr. BOOZMAN.  
H.R. 275: Mr. KAGEN, Mr. SENSENBRENNER, Mr. HOEKSTRA, Mr. MCCAUL, Mr. CASSIDY, Mr. KIRK, Mr. MITCHELL, Mr. CUMMINGS, Mr. LINCOLN DIAZ-BALART of Florida, Ms. GRANGER, Mr. LIPINSKI, Mr. MARIO DIAZ-BALART of Florida, and Mr. SESSIONS.  
H.R. 293: Mr. CASSIDY.  
H.R. 294: Mr. CASSIDY.  
H.R. 295: Mr. CASSIDY.  
H.R. 329: Ms. SCHAKOWSKY.  
H.R. 403: Mr. CONNOLLY of Virginia, Mr. CARSON of Indiana, Mr. HALL of New York, Mr. MCGOVERN, Mr. COSTA, Mr. GENE GREEN of Texas, and Mrs. MALONEY.  
H.R. 413: Mr. MICHAUD, Ms. PINGREE of Maine, Mr. PETERS, Mr. ELLSWORTH, Ms. SCHAKOWSKY, Mr. GERLACH, and Mr. PAYNE.  
H.R. 422: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SAM JOHNSON of Texas, Mr. COURTNEY, and Mr. KENNEDY.  
H.R. 426: Mr. HIMES.  
H.R. 442: Mrs. KIRKPATRICK of Arizona, Mr. ROONEY, Mr. LINCOLN DIAZ-BALART of Florida, Mr. COBLE, and Mr. SAM JOHNSON of Texas.  
H.R. 444: Mr. SKELTON, Mr. CARNAHAN, and Mr. CULBERSON.  
H.R. 450: Mr. FORBES and Mr. CULBERSON.  
H.R. 463: Ms. CASTOR of Florida.  
H.R. 503: Ms. ROYBAL-ALLARD and Ms. CLARKE.  
H.R. 510: Mr. BERRY.  
H.R. 517: Mr. KLEIN of Florida.  
H.R. 537: Mr. RYAN of Ohio and Mr. PUTNAM.  
H.R. 556: Mr. GRIJALVA, Ms. ROYBAL-ALLARD, and Mr. VAN HOLLEN.  
H.R. 557: Mr. RYAN of Wisconsin and Mr. BURGESS.  
H.R. 574: Mr. HIMES.  
H.R. 616: Mr. EDWARDS of Texas, Mr. LUCAS, Mr. LAMBORN, Mr. FLEMING, Mr. WESTMORELAND, Mr. BOUSTANY, and Mr. WOLF.  
H.R. 621: Mr. BOUSTANY, Mr. WELCH, and Mr. RADANOVICH.  
H.R. 622: Mr. CHILDERS and Mr. BRADY of Pennsylvania.  
H.R. 634: Mr. DANIEL E. LUNGREN of California.  
H.R. 716: Mr. PASTOR of Arizona.  
H.R. 734: Mr. WEXLER, Mr. LIPINSKI, and Mr. BERRY.  
H.R. 795: Mr. RYAN of Ohio.  
H.R. 836: Ms. LORETTA SANCHEZ of California, Ms. DEGETTE, Mr. KANJORSKI, Mr. TIAHRT, and Mr. ISSA.  
H.R. 848: Mr. GORDON of Tennessee and Ms. ESHOO.  
H.R. 868: Mr. RAHALL.  
H.R. 874: Mr. STUPAK and Mr. DICKS.  
H.R. 886: Ms. SCHAKOWSKY and Mr. LIPINSKI.  
H.R. 889: Mr. OLVER, Mrs. CAPPS, Mr. HODES, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, Mr. WELCH, Mr. VAN HOLLEN, Mr. GRIJALVA, and Mr. MORAN of Virginia.  
H.R. 890: Mrs. HALVORSON and Mr. MORAN of Virginia.  
H.R. 904: Mr. MEEK of Florida.  
H.R. 914: Mr. COBLE.  
H.R. 930: Mr. HIMES.  
H.R. 932: Mr. PERRIELLO.  
H.R. 958: Mr. JOHNSON of Georgia, Mr. HINOJOSA, Mr. GENE GREEN of Texas, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. CUMMINGS.  
H.R. 984: Mr. CAPUANO.  
H.R. 988: Mr. DEFAZIO, Mr. WILSON of South Carolina, Mr. COHEN, Mr. BARTLETT, Mr. HINOJOSA, Ms. BERKLEY, and Mr. LINCOLN DIAZ-BALART of Florida.  
H.R. 1015: Mr. MCINTYRE and Mr. BOUCHER.  
H.R. 1020: Mr. PIERLUISI.  
H.R. 1024: Mr. TONKO, Mr. TOWNS, and Ms. EDWARDS of Maryland.  
H.R. 1032: Mr. PAULSEN.  
H.R. 1042: Mr. MARCHANT.  
H.R. 1064: Ms. DELAURO, Mr. PERRIELLO, Mr. NYE, and Mr. SOUDER.  
H.R. 1066: Mr. GERLACH, Mr. KENNEDY, and Mr. CONYERS.  
H.R. 1074: Mr. MURTHA and Mr. COBLE.  
H.R. 1077: Mr. CARNAHAN.  
H.R. 1083: Mr. ROONEY.  
H.R. 1093: Mr. SKELTON, Mr. MCINTYRE, Mr. WEXLER, Mr. GRIJALVA, and Mr. JOHNSON of Georgia.  
H.R. 1094: Mr. PLATTS.  
H.R. 1111: Mr. SIMPSON, Mrs. LUMMIS, and Mr. FLEMING.  
H.R. 1115: Mrs. LUMMIS.  
H.R. 1129: Mr. LIPINSKI.  
H.R. 1132: Mr. COSTA, Mr. CARNAHAN, Mr. SHIMKUS, and Mr. TAYLOR.  
H.R. 1142: Mr. LATHAM.  
H.R. 1159: Mr. ROTHMAN of New Jersey.  
H.R. 1177: Mr. BISHOP of Utah and Mr. KILDEE.  
H.R. 1179: Mr. OLVER, Mr. MICHAUD, Mr. KIRK, and Mr. RUPPERSBERGER.  
H.R. 1188: Mr. CONAWAY, Mr. NYE, Mr. GONZALEZ, Mr. CARNAHAN, Mr. LAMBORN, and Ms. BERKLEY.  
H.R. 1189: Mr. MCCAUL.  
H.R. 1193: Mr. CONYERS.  
H.R. 1203: Mr. BILIRAKIS, Mr. COBLE, Mr. STARK, Ms. KOSMAS, Mr. SCHAUER, Mr. DELAHUNT, and Mr. GONZALEZ.  
H.R. 1205: Mr. CHILDERS, Mr. BOCCIERI, Mr. HINCHEY, and Mr. MCCOTTER.  
H.R. 1207: Mr. ROSS, Ms. BERKLEY, Mr. WELCH, and Mr. THORNBERRY.  
H.R. 1210: Mr. HONDA.  
H.R. 1220: Mr. HENSARLING.  
H.R. 1229: Mr. BONNER.  
H.R. 1230: Mr. BURGESS, Mr. GONZALEZ, and Mr. BISHOP of New York.  
H.R. 1240: Mr. OBERSTAR.  
H.R. 1242: Mr. WELCH.  
H.R. 1289: Ms. SUTTON and Mr. FOSTER.  
H.R. 1308: Mr. GRIFFITH, Mrs. DAHLKEMPER, Mr. BISHOP of New York, Mr. HILL, Mr. DOYLE, and Mr. KRATOVL.  
H.R. 1317: Mr. HOLDEN.  
H.R. 1322: Mr. BRALEY of Iowa and Mr. RYAN of Ohio.  
H.R. 1324: Mr. CUELLAR, Mr. HIMES, and Ms. SPEIER.  
H.R. 1346: Mr. KENNEDY, Mr. HOLDEN, Ms. LORETTA SANCHEZ of California, Mr. MASSA, and Mr. DAVIS of Illinois.  
H.R. 1350: Mr. TIAHRT.  
H.R. 1354: Mrs. LUMMIS.  
H.R. 1361: Mr. CARSON of Indiana.  
H.R. 1378: Mr. MURPHY of Connecticut, Ms. CASTOR of Florida, and Ms. HARMAN.  
H.R. 1392: Mr. ISRAEL, Mr. MEEKS of New York, and Mr. PLATTS.  
H.R. 1398: Mr. DELAHUNT, Mr. POSEY, Mr. LATHAM, Mr. WITTMAN, Ms. CASTOR of Florida, Mr. BOYD, and Mr. PUTNAM.  
H.R. 1410: Ms. TITUS and Mr. FRANK of Massachusetts.  
H.R. 1412: Mr. SERRANO, Mr. ISRAEL, and Mr. DELAHUNT.  
H.R. 1441: Mr. BERRY.  
H.R. 1443: Mr. HOLDEN.  
H.R. 1466: Ms. SCHAKOWSKY.  
H.R. 1470: Mr. KLEIN of Florida.  
H.R. 1485: Ms. EDDIE BERNICE JOHNSON of Texas.  
H.R. 1492: Mr. FOSTER.  
H.R. 1505: Ms. NORTON and Mrs. MILLER of Michigan.  
H.R. 1521: Mrs. MCCARTHY of New York.  
H.R. 1523: Mr. MASSA, Mr. GONZALEZ, and Mr. HARE.  
H.R. 1528: Mr. PETERSON and Mr. CLAY.  
H.R. 1530: Mr. PETERSON and Mr. CLAY.  
H.R. 1531: Mr. PETERSON and Mr. CLAY.  
H.R. 1545: Mr. PERRIELLO, Mr. LIPINSKI, and Mr. MAFFEI.  
H.R. 1547: Mr. LOEBSACK.  
H.R. 1551: Mr. ROTHMAN of New Jersey.  
H.R. 1552: Mr. GALLEGLY.  
H.R. 1558: Mr. DEFAZIO.  
H.R. 1587: Mr. FOSTER and Mr. SMITH of Washington.  
H.R. 1588: Mr. BARRETT of South Carolina.  
H.R. 1604: Mrs. MCCARTHY of New York, Mr. HARE, and Mr. GRAYSON.  
H.R. 1612: Mr. ROTHMAN of New Jersey.  
H.R. 1615: Mr. OLVER.  
H.R. 1616: Mr. GUTIERREZ.  
H.R. 1618: Ms. LORETTA SANCHEZ of California, Mr. BERMAN, Ms. SPEIER, Ms. ROYBAL-ALLARD, Mr. HONDA, Mr. PAYNE, Mr. ANDREWS, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. WEINER, and Mr. FATTAH.  
H.R. 1619: Mr. MAFFEI.  
H.R. 1621: Mr. LATTA.  
H.R. 1632: Mr. PAUL.  
H.R. 1633: Mr. MELANCON and Mr. MCGOVERN.  
H.R. 1643: Mr. CARNAHAN and Mr. NUNES.  
H.R. 1670: Mr. GONZALEZ.  
H.R. 1684: Mr. ORTIZ, Mr. COBLE, and Mr. SAM JOHNSON of Texas.  
H.R. 1685: Mrs. LOWEY.  
H.R. 1691: Mr. BAIRD.  
H.R. 1695: Mr. ROSS, Mr. SMITH of New Jersey, Mr. LOEBSACK, Mr. PLATTS, and Mr. PAYNE.  
H.R. 1699: Ms. ROYBAL-ALLARD.  
H.R. 1708: Mr. BRADY of Pennsylvania, Ms. GIFFORDS, Mr. HONDA, and Ms. ESHOO.  
H.R. 1709: Mr. MILLER of North Carolina and Mr. MCINTYRE.  
H.R. 1718: Mr. COHEN.  
H.R. 1721: Ms. SCHAKOWSKY.  
H.R. 1723: Mr. HASTINGS of Florida.  
H.R. 1727: Mr. CAMPBELL.  
H.R. 1736: Mr. MILLER of North Carolina.  
H.R. 1743: Mr. NUNES.  
H.R. 1766: Mr. HASTINGS of Florida.  
H.R. 1775: Mr. CARNAHAN.  
H.R. 1799: Mr. CUELLAR and Mr. BOSWELL.  
H.R. 1806: Mr. CAPUANO.  
H.R. 1829: Ms. BERKLEY, Mr. HINOJOSA, Mr. BARTLETT, Mr. SOUDER, and Ms. NORTON.  
H.R. 1831: Mr. HARPER, Mr. LATTA, Mr. PLATTS, Mr. BOREN, Mr. POMEROY, Mr. ROONEY, Mr. CROWLEY, Mr. MCCAUL, Mr. WALZ, Mr. FLEMING, and Mr. ROTHMAN of New Jersey.  
H.R. 1835: Mr. BURTON of Indiana, Ms. GRANGER, Mrs. BONO MACK, Mr. BILBRAY, Mrs. BLACKBURN, Mr. DELAHUNT, Mr. PLATTS, Mr. CASSIDY, Mr. GENE GREEN of Texas, and Mr. GERLACH.  
H.R. 1855: Ms. FUDGE.  
H.R. 1864: Mr. CALVERT, Mr. SCHOCK, and Mr. BOOZMAN.  
H.R. 1870: Mr. LATHAM.  
H.R. 1880: Mr. HIMES.  
H.R. 1881: Mr. CAPUANO, Mr. SARBANES, Mr. ARCURI, Mr. HONDA, Mr. WEINER, and Mr. WALZ.  
H.R. 1884: Mrs. KIRKPATRICK of Arizona, Mr. SOUDER, Mr. HELLER, Mr. BERRY, Mr. SCHRAEDER, and Ms. BERKLEY.

- H.R. 1886: Mr. VAN HOLLEN.  
H.R. 1894: Mr. BISHOP of New York.  
H.R. 1917: Ms. SCHWARTZ, Mr. GERLACH, and Mr. BRADY of Pennsylvania.  
H.R. 1927: Ms. SCHWARTZ and Mr. DOYLE.  
H.R. 1956: Mr. DELAHUNT, Mr. DEFazio, and Mr. OBERSTAR.  
H.R. 1970: Mr. ALEXANDER, Mr. WELCH, Mr. BOOZMAN, and Mr. GORDON of Tennessee.  
H.R. 1974: Mr. HODES and Mr. COSTA.  
H.R. 1977: Mr. KLEIN of Florida.  
H.R. 1980: Ms. FOX and Mr. FLEMING.  
H.R. 1981: Mr. SAM JOHNSON of Texas and Mr. CARTER.  
H.R. 2002: Mr. TERRY and Mr. GERLACH.  
H.R. 2006: Ms. GIFFORDS and Mrs. MILLER of Michigan.  
H.R. 2014: Mr. FRELINGHUYSEN, Ms. GIFFORDS, Mr. DAVIS of Illinois, Mr. OLSON, Mr. ROHRBACHER, Ms. WATSON, Mr. DEFazio, Mr. ACKERMAN, Mr. McCOTTER, Mr. TEAGUE, Mr. BRADY of Pennsylvania, Mr. KUCINICH, Mr. LANGEVIN, Mr. DANIEL E. LUNGREN of California, Mr. STUPAK, Mr. PLATTS, Ms. CLARKE, Mr. WAXMAN, Mr. KIRK, Mr. SIRES, Mr. ROGERS of Kentucky, Mr. BISHOP of Utah, Mr. ENGEL, Mr. HERGER, Mr. ISSA, Mr. KINGSTON, Mr. BLUNT, Ms. NORTON, Mr. MAFFEI, Mr. THOMPSON of California, Mr. POE of Texas, Mr. HUNTER, Mr. MILLER of North Carolina, Mr. KAGEN, Mr. FLEMING, Ms. WATERS, Mr. KING of New York, Ms. BALDWIN, Mr. PENCE, Mr. PITTS, Mr. TIBERI, Mr. COLE, Mr. WESTMORELAND, Mr. GARRETT of New Jersey, Mr. NADLER of New York, Mr. GINGREY of Georgia, Mr. LATHAM, Mr. PRICE of Georgia, Mr. KILDEE, Mr. BACHUS, Mr. WHITFIELD, Mr. CANTOR, Mr. MARKEY of Massachusetts, Mr. GEORGE MILLER of California, Mr. BUYER, Mr. CROWLEY, Mr. GOODLATTE, Mr. FRANK of Massachusetts, Mr. TONKO, Mr. SHADEGG, and Mr. PALONE.  
H.R. 2016: Mr. PASCRELL.  
H.R. 2017: Mr. COBLE, Ms. GINNY BROWN-WAITE of Florida, Mr. WOLF, Mr. CARNAHAN, Mrs. MILLER of Michigan, and Mr. LOEBSACK.  
H.R. 2024: Mr. UPTON, Mr. DINGELL, and Mr. SPRATT.  
H.R. 2038: Mr. FLAKE.  
H.R. 2057: Mr. MCGOVERN, Mr. DEFazio, Mr. PLATTS, and Mr. ALTMIRE.  
H.R. 2058: Mr. PETERSON.  
H.R. 2061: Mr. TIAHRT.  
H.R. 2068: Mr. YOUNG of Alaska, Mr. BOUCHER, Mr. LOEBSACK, and Mrs. MILLER of Michigan.  
H.R. 2079: Ms. ZOE LOFGREN of California.  
H.R. 2103: Mr. LATHAM.  
H.R. 2123: Mr. GERLACH.  
H.R. 2124: Mr. RYAN of Wisconsin.  
H.R. 2134: Ms. EDDIE BERNICE JOHNSON of Texas and Ms. BERKLEY.  
H.R. 2137: Mr. TOWNS, Mr. WATT, Mr. SERRANO, Ms. EDWARDS of Maryland, Mr. AL GREEN of Texas, Mr. HOLT, Mr. CUMMINGS, Mr. RANGEL, Mr. CLEAVER, Mr. NADLER of New York, Mr. CARNAHAN, and Ms. ROSELEHTINEN.  
H.R. 2139: Mr. HODES, Mr. CROWLEY, Mr. ELLISON, Mr. McDERMOTT, Mr. BLUMENAUER, Mr. SMITH of Washington, Ms. SCHAKOWSKY, and Mr. WU.  
H.R. 2143: Mr. CAMPBELL.  
H.R. 2159: Mr. TOWNS.  
H.R. 2163: Mr. GRIJALVA.  
H.R. 2164: Mr. GRIJALVA.  
H.R. 2178: Mr. JOHNSON of Georgia.  
H.R. 2190: Mr. SMITH of Washington.  
H.R. 2194: Mr. HILL, Mr. TIAHRT, Mrs. McMORRIS RODGERS, Mr. CARDOZA, Mr. COSTA, Ms. ESHOO, Mr. CARNEY, Mr. PERLMUTTER, Mr. WILSON of South Carolina, and Mr. REHBERG.  
H.R. 2199: Mrs. MCCARTHY of New York.  
H.R. 2205: Mr. PETRI.  
H.R. 2206: Mr. SPACE, Mr. MASSA, Mr. CONWAY, Mr. PRICE of North Carolina, Mr. MILLER of North Carolina, Mr. BERRY, Mr. FLEMING, Mr. CARNAHAN, Mr. SESTAK, and Mr. MINNICK.  
H.R. 2220: Mr. PLATTS, Mr. MICHAUD, Mr. RAHALL, Mr. ROTHMAN of New Jersey, Mr. KIND, Ms. VELÁZQUEZ, Mr. COURTNEY, Mr. HOLDEN, Mr. RUPPERSBERGER, and Ms. ROYBAL-ALLARD.  
H.R. 2222: Mr. BLUMENAUER.  
H.R. 2227: Mr. BOREN, Mr. DANIEL E. LUNGREN of California, Mr. PAULSEN, Mr. BARTLETT, Mr. REHBERG, Mr. SHUSTER, and Mr. CASSIDY.  
H.R. 2245: Mr. CAO, Ms. BORDALLO, Mr. WILSON of Ohio, Mr. WAXMAN, and Mr. GRIFFITH.  
H.R. 2246: Mr. OBERSTAR.  
H.R. 2259: Ms. SHEA-PORTER and Mr. TEAGUE.  
H.R. 2261: Mr. ROTHMAN of New Jersey.  
H.R. 2262: Mr. HONDA, Mr. McDERMOTT, and Mr. HASTINGS of Florida.  
H.R. 2266: Mr. CROWLEY, Mr. McMAHON, Mr. ROTHMAN of New Jersey, and Mr. FILNER.  
H.R. 2267: Mr. CROWLEY, Mr. McMAHON, Mr. ROTHMAN of New Jersey, and Mr. FILNER.  
H.R. 2269: Mr. HONDA and Ms. MCCOLLUM.  
H.R. 2273: Mr. MEEKS of New York.  
H.R. 2277: Mr. GONZALEZ.  
H.R. 2279: Ms. EDWARDS of Maryland.  
H.R. 2283: Mr. KING of Iowa and Mr. TIAHRT.  
H.R. 2287: Mr. COFFMAN of Colorado, Mr. SHUSTER, Mr. BOOZMAN, Mr. MANZULLO, Mr. CALVERT, Mr. FORBES, Mr. LATTA, Mr. HUNTER, and Mrs. MILLER of Michigan.  
H.R. 2288: Mr. BISHOP of Utah.  
H.R. 2294: Mr. SHADEGG, Mr. UPTON, Mr. WESTMORELAND, Mr. SOUDER, Mr. GARY G. MILLER of California, Mrs. BONO MACK, Mr. DANIEL E. LUNGREN of California, Mr. BILBRAY, Mr. BARRETT of South Carolina, Mr. BARTLETT, Mr. DUNCAN, Mr. CASTLE, Mrs. BIGGERT, Mrs. MILLER of Michigan, and Mr. INGLIS.  
H.R. 2295: Mr. MICHAUD.  
H.R. 2296: Mr. BROWN of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. POSEY, Mr. SCALISE, Mr. LINCOLN DIAZ-BALART of Florida, Mr. YOUNG of Alaska, Mr. GALLEGLEY, Mr. COBLE, and Mr. SAM JOHNSON of Texas.  
H.R. 2300: Mr. McCOTTER, Mr. CULBERSON, Mr. GALLEGLEY, Mrs. BACHMANN, Mr. COFFMAN of Colorado, Mr. CARTER, Mr. THOMPSON of Pennsylvania, Mr. SAM JOHNSON of Texas, Mr. HOEKSTRA, Mr. BRADY of Texas, Mr. HENSARLING, and Mr. HUNTER.  
H.R. 2304: Mr. CARNEY.  
H.R. 2305: Mr. LINDER, Mr. SMITH of Nebraska, Mr. CHAFFETZ, and Mr. WITTMAN.  
H.R. 2308: Mr. GEORGE MILLER of California.  
H.R. 2329: Mr. SCHIFF and Mr. THOMPSON of Mississippi.  
H.R. 2338: Mr. COBLE.  
H.R. 2345: Mr. PAUL, Mr. AKIN, and Mr. MICHAUD.  
H.R. 2350: Mr. JOHNSON of Georgia.  
H.R. 2353: Mr. WAMP, Mr. PRICE of Georgia, and Mr. MANZULLO.  
H.R. 2358: Mr. MASSA.  
H.R. 2360: Mr. WOLF, Mr. KLEIN of Florida, and Mr. MANZULLO.  
H.R. 2365: Ms. GINNY BROWN-WAITE of Florida and Mr. BOUCHER.  
H.R. 2373: Mrs. EMERSON, Mr. BROWN of South Carolina, Mr. HALL of Texas, Mr. GOMMERT, Mr. TEAGUE, Mr. BLUNT, and Mr. WITTMAN.  
H.R. 2378: Mr. PITTS, Mr. THOMPSON of Pennsylvania, and Ms. SLAUGHTER.  
H.R. 2382: Mr. ADLER of New Jersey and Mr. JONES.  
H.R. 2387: Mr. McCOTTER and Mr. BOOZMAN.  
H.R. 2393: Mr. ROGERS of Alabama, Mr. BARTLETT, Mr. FRANKS of Arizona, Mr. CALVERT, Mr. COLE, Mr. YOUNG of Alaska, Mr. BROWN of South Carolina, Mr. SENSENBRENNER, Mr. McCLINTOCK, Mrs. McMORRIS RODGERS, Mrs. BONO MACK, Mrs. BACHMANN, Mr. LATTA, Mr. GALLEGLEY, and Mr. WHITFIELD.  
H.R. 2404: Mr. MICHAUD, Mrs. CAPPS, Mr. LUJÁN, and Mr. WAXMAN.  
H.R. 2406: Mr. GARY G. MILLER of California, Mr. BACHUS, Mrs. MYRICK, Mr. MCINTYRE, Mr. DUNCAN, Mr. BOOZMAN, Mr. BLUNT, Mr. LINDER, and Mr. WHITFIELD.  
H.R. 2409: Mr. SKELTON and Mrs. LUMMIS.  
H.R. 2412: Mr. GRIJALVA and Mr. MURTHA.  
H.R. 2421: Mr. BACA, Mr. BROWN of South Carolina, Mr. COLE, Mr. DENT, Mr. GARRETT of New Jersey, Mr. JONES, Mr. KINGSTON, Mr. LANCE, Mr. TIAHRT, Mr. WITTMAN, Mr. CAMP, and Mr. ALTMIRE.  
H.R. 2427: Ms. WATSON, Ms. LORETTA SANCHEZ of California, Mr. COSTA, Ms. ROYBAL-ALLARD, Mr. BACA, and Ms. HARMAN.  
H.R. 2440: Mr. LATTA.  
H.R. 2447: Mr. HERGER and Mr. KIND.  
H.R. 2452: Mr. BUCHANAN and Mr. TANNER.  
H.R. 2456: Mr. LOEBSACK.  
H.R. 2469: Mr. LAMBORN.  
H.R. 2474: Ms. LORETTA SANCHEZ of California, Mr. COSTA, and Ms. ROYBAL-ALLARD.  
H.R. 2479: Mr. THOMPSON of Pennsylvania.  
H.R. 2480: Mr. CASTLE, Mrs. TAUSCHER, Mr. GALLEGLEY, Mr. REICHERT, and Mr. MITCHELL.  
H.R. 2497: Ms. NORTON and Mr. SIRES.  
H.R. 2499: Mr. CARTER.  
H.R. 2501: Mr. SALAZAR and Mr. ABERCROMBIE.  
H.R. 2518: Mr. KLINE of Minnesota, Mrs. MYRICK, and Ms. JENKINS.  
H.R. 2525: Ms. DELAURO.  
H.R. 2531: Mr. SIRES, Mr. FILNER, and Mr. HONDA.  
H.R. 2534: Mr. DAVIS of Kentucky.  
H.J. Res. 42: Mr. ROYCE, Mr. HASTINGS of Washington, Mr. SCALISE, Mr. BARTON of Texas, Mr. MCCARTHY of California, and Mr. GRAVES.  
H.J. Res. 46: Mr. CALVERT.  
H.J. Res. 47: Mr. TEAGUE, Mr. McHUGH, and Mr. KING of New York.  
H.J. Res. 50: Mr. SAM JOHNSON of Texas, Mr. FORBES, and Mr. BARTON of Texas.  
H. Con. Res. 16: Mr. LANCE and Mr. ROONEY.  
H. Con. Res. 29: Mr. MORAN of Kansas.  
H. Con. Res. 48: Mr. KENNEDY.  
H. Con. Res. 49: Mr. BUCHANAN, Mr. SARBANES, Mr. BILBRAY, Mr. SMITH of New Jersey, and Mrs. SCHMIDT.  
H. Con. Res. 87: Mr. BOOZMAN, Ms. GRANGER, and Ms. EDDIE BERNICE JOHNSON of Texas.  
H. Con. Res. 109: Mr. ABERCROMBIE, Mr. BUTTERFIELD, Mr. INSLEE, Mr. WEINER, Mr. KILDEE, Mr. SCOTT of Virginia, Mrs. KIRKPATRICK of Arizona, Mr. MAFFEI, Mr. SCHRAMMER, Mr. LYNCH, Mr. WELCH, Mr. ENGEL, Mr. MILLER of North Carolina, Mr. COSTA, Ms. BEAN, Mr. DUNCAN, Mr. MITCHELL, Mr. ELLSWORTH, Mrs. DAVIS of California, Ms. WOOLSEY, Mr. SARBANES, Mr. BRIGHT, Mr. MURPHY of New York, Mr. COURTNEY, Ms. ESHOO, Mr. STUPAK, Mr. GONZALEZ, Ms. SUTTON, Mr. SESTAK, Mr. BOUCHER, Mr. YARMUTH, Ms. SCHAKOWSKY, Ms. KILROY, Mr. GRIFFITH, Mrs. CAPITO, Mr. TIM MURPHY of Pennsylvania, Mr. POLIS, Mr. BOCCIERI, Mr. ADLER of New Jersey, Mr. HIMES, Mrs. LUMMIS, Ms. HARMAN, Ms. CASTOR of Florida, Mr. DOYLE, Mr. SALAZAR, Ms. PINGREE of Maine, Mr. MARIO DIAZ-BALART of Florida, Mr. PETERS, Mr. CARNAHAN, Mr. HIRONO, Mr. SHULER, Mr. RUSH, Mr.



CAMP, Mr. BLUNT, Ms. FOXX, Mr. LEE of New York, Mr. MURPHY of Connecticut, Mr. BROUN of Georgia, Mr. WILSON of Ohio, and Mr. ROSS.

H. Con. Res. 110: Ms. BALDWIN.

H. Con. Res. 112: Mr. RADANOVICH.

H. Con. Res. 127: Mr. BISHOP of Georgia, Mr. BUTTERFIELD, Mr. CLYBURN, Mr. FATTAH, Mr. GRIJALVA, Mr. JOHNSON of Georgia, Ms. MOORE of Wisconsin, and Mr. WEXLER.

H. Con. Res. 130: Mr. YOUNG of Florida and Mr. ARCURI.

H. Con. Res. 131: Mr. HARPER, Mr. MCCARTHY of California, Mr. FORBES, and Mr. AKIN.

H. Con. Res. 132: Mr. SMITH of New Jersey, Mr. CONAWAY, Mr. KING of New York, and Mr. MCCOTTER.

H. Res. 36: Mr. KUCINICH.

H. Res. 55: Mrs. McMORRIS RODGERS.

H. Res. 81: Ms. FOXX, Mr. COBLE, and Mr. LATTA.

H. Res. 111: Mr. SIREs, Mr. HODES, and Mr. LOEBSACK.

H. Res. 156: Mr. TIAHRT.

H. Res. 159: Ms. SUTTON, Mr. KENNEDY, Mr. ISRAEL, and Mr. MICHAUD.

H. Res. 185: Mr. BOCCIERI.

H. Res. 196: Mr. MCINTYRE and Mr. LAMBORN.

H. Res. 209: Mrs. LOWEY and Mr. MARIO DIAZ-BALART of Florida.

H. Res. 225: Mrs. BACHMANN and Mr. KINGSTON.

H. Res. 227: Mr. VAN HOLLEN.

H. Res. 236: Mr. ROTHMAN of New Jersey and Mrs. LOWEY.

H. Res. 274: Mr. PASTOR of Arizona, Mr. STUPAK, and Mr. SMITH of Washington.

H. Res. 278: Mr. ELLISON.

H. Res. 314: Mr. LOEBSACK, Mr. PUTNAM, Ms. TITUS, Mr. TIERNEY, Mr. MATHESON, Mr. KLEIN of Florida, Mr. HODES, Mr. ARCURI, Mr. HALL of New York, Ms. HIRONO, Ms. SHEAPORTER, Mr. TONKO, Mr. DONNELLY of Indiana, Ms. DEGETTE, Mr. BOCCIERI, Mr. ELLISON, Mr. KENNEDY, Mr. MCNERNEY, and Mr. MURPHY of Connecticut.

H. Res. 355: Mr. DAVIS of Illinois.

H. Res. 364: Mr. ROSS, Mr. POLIS of Colorado, Ms. FUDGE, Mr. MACK, and Mr. SMITH of New Jersey.

H. Res. 366: Mr. FOSTER, Mr. BILBRAY, Ms. CASTOR of Florida, and Mr. BURGESS.

H. Res. 373: Mr. SMITH of New Jersey.

H. Res. 394: Mr. TIAHRT.

H. Res. 397: Mr. KING of Iowa, Mr. BROUN of Georgia, Mr. HERGER, Mr. CHAFFETZ, Mr. FLEMING, Mr. COLE, Mrs. LUMMIS, Mr. POSEY, Mr. LUETKEMEYER, Mr. ISSA, Mr. MORAN of Kansas, and Mr. ROGERS of Alabama.

H. Res. 407: Mr. DOYLE, Mr. GRIFFITH, Mr. GONZALEZ, Mr. HONDA, Mr. FALOMAVAEGA, Mr. FILNER, Mr. HASTINGS of Florida, Ms. CORRINE BROWN of Florida, Mr. HOLDEN, Mr. MCGOVERN, Mr. SHERMAN, Mr. BOSWELL, and Mr. CONYERS.

H. Res. 409: Mr. PETRI, Mr. Schauer, Mr. STUPAK, Mrs. MILLER of Michigan, Mr. SENSENBRENNER, Mr. CONYERS, Ms. KILPATRICK of Michigan, Mr. LEVIN, Mr. MCCOTTER, Mr. ROGERS of Michigan, Mr. CAMPBELL, and Mr. MANZULLO.

H. Res. 419: Mr. CONYERS and Ms. CASTOR of Florida.

H. Res. 420: Mr. MCCARTHY of California, Mr. MARCHANT, Mr. MCCAUL, Mr. ROGERS of Kentucky, Mr. COBLE, Mr. TURNER, Mr. MCCOTTER, Mr. DENT, Mr. SIMPSON, Mr. TIBERI, Mr. LATOURETTE, Mr. SHUSTER, Mr. SULLIVAN, Mr. SMITH of Nebraska, Mr. CAO, Mr. WHITFIELD, Mr. MCCLINTOCK, Mr. EHLERS, Mr. CASTLE, Mr. LANCE, Mr. ADERHOLT, Mr. CHAFFETZ, Mr. MCINTYRE, Mr. SHULER, Mr. CALVERT, Mr. ROHRABACHER, Mr. GARRETT of New Jersey, Mr. BRADY of Pennsylvania, Mr. BOUSTANY, Mr. DRIEHAUS, Mr. KING of New York, Mr. BURTON of Indiana, and Mr. CARTER.

H. Res. 428: Mr. DAVIS of Tennessee and Mr. LATTA.

H. Res. 433: Ms. LEE of California, Mr. QUIGLEY, Ms. LINDA T. SANCHEZ of California, Mr. ELLISON, Mr. FATTAH, Mrs. DAVIS of California, Mr. DELAHUNT, Ms. BERKLEY, and Ms. SCHAKOWSKY.

H. Res. 435: Mr. WU.

H. Res. 439: Ms. RICHARDSON.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Mr. THOMPSON of Mississippi, or a designee, to

H.R. 2200, the Transportation Security Administration Authorization Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1346: Mr. GERLACH.

#### DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 2 by Mr. CARTER on H.R. 735; Rodney Alexander and Michael C. Burgess.

Petition 3, by Mr. LATOURETTE on House Resolution 359: Jason Chaffetz, Leonard Lance, Ileana Ros-Lehtinen, Bill Posey, Kevin McCarthy, John A. Boehner, Mike Coffman, Thomas J. Rooney, Steve Austria, Erik Paulsen, Lee Terry, Christopher John Lee, Tom Price, Cynthia M. Lummis, Jerry Moran, Bill Shuster, Dave Camp, Bill Cassidy, Jeb Hensarling, Ander Crenshaw, Eric Cantor, David Dreier, Peter J. Roskam, Kevin Brady, Tom Cole, Bob Goodlatte, Lynn A. Westmoreland, Howard P. "Buck" McKeon, Duncan Hunter, Darrell E. Issa, Spencer Bachus, Jo Bonner, Michael R. Turner, Frank D. Lucas, Gary G. Miller, Aaron Schock, John R. Carter, Tom McClintock, Jack Kingston, Paul C. Broun, Adrian Smith, Louie Gohmert, Phil Gingrey, Dean Heller, Zach Wamp, Mary Bono Mack, Sam Graves, Rob Bishop, Mike Rogers (AL), Steve King, Cliff Stearns, John B. Shadegg, Donald A. Manzullo, Geoff Davis, Ted Poe, Mike Pence, John Shimkus, Gus M. Bilirakis, Pete Sessions, Trent Franks, Ralph M. Hall, Jo Ann Emerson, Michael C. Burgess, and Bob Inglis.

## SENATE—Thursday, May 21, 2009

The Senate met at 9 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Bill Shuler from Capital Life Church in Arlington, VA.

The guest Chaplain offered the following prayer:

Let us pray.

Heavenly Father, as we bow our heads and pray, we acknowledge that we are one nation under God. Grant these Members of the Senate wisdom. Let their leadership be marked by faith, courage, health, and compassion.

God, we pray that You will refresh these Senators. Help them envision a world that is not yet but ought to be. Make their goals clear, their hearts brave, and their actions resolute. Grant them integrity and purpose in their generation. Let their daily duties translate into better lives for those they serve. God, reward their hard work. Bless their families and bless their staffs.

We pray these things in the Name of the One who binds up the broken-hearted and proclaims liberty to the captives. In Jesus' Name, amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 21, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of H.R. 2346, the emergency supplemental appropriations bill, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees. At 10 a.m., the Senate will proceed to vote on the motion to invoke cloture on H.R. 2346. The filing deadline for second-degree amendments is 9:30 a.m. today.

We are confident cloture will be invoked on this most important piece of legislation. I think we have had a very good debate on a number of issues. We will finish this bill before we leave this week. We hope we can do it today. There is no reason we should not be able to do it today, but if not, we will have to let the 30 hours run out sometime tomorrow evening.

We have had a tremendously productive work period. We have all worked extremely hard, and as I have said before, it is nice to be able to be home during the week rather than just on weekends. So we look forward to having a productive work period during the next week in our home States and look forward to having a productive day today and sending this bill on to the House and have the conference completed. There are very few things that need to be worked out in conference, but that should be done in a few days, and we will complete this when we get back. We have checked with the Pentagon, and they are satisfied that if we finish this when we get back, there will be adequate time to fund everything our troops need.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### GUANTANAMO

Mr. MCCONNELL. Madam President, a little later this morning, the President will discuss his decision to close Guantanamo by an arbitrary deadline that is now only 8 months away. It is clear to both Republicans and Democrats in Congress that the administra-

tion does not currently have a plan for closing Guantanamo and that closing it without a plan is simply unacceptable. So I hope the President uses his remarks this morning to present a concrete plan that demonstrates how closing Guantanamo will keep Americans as safe as Guantanamo has.

We know the FBI has serious concerns about any plans to release or transfer other detainees into the United States. Just yesterday, FBI Director Mueller said detainees who are sent to U.S. soil, even if they are only sent to secure detention facilities, might still be able to conduct terrorist activities, much like gang leaders who have been able to run their gangs from prison. Director Mueller also stated that detainees released or transferred into the United States could endanger the American people by radicalizing others or providing financial support for terrorism. Director Mueller's testimony appears to undermine the claim that sending detainees to the United States is a safe alternative to Guantanamo.

Yesterday, the Senate spoke with near unanimity, by a vote of 90 to 6, against sending terrorist detainees to U.S. soil—a vote that mirrored a vote 2 years ago on the same question. The Senate also expressed its view yesterday that Congress expects its relevant committees to be briefed on the threat posed by the terrorists at Guantanamo. So it is clear that Senate Democrats do not believe circumstances have changed over the last 2 years in such a way that would warrant releasing or transferring terrorists into America.

If the President believes circumstances have changed, then he has an opportunity to explain those changes this morning. The American people are asking the administration to guarantee that any terrorist it releases or transfers will not return to the battlefield. This is particularly urgent in light of a New York Times report this morning that says one in seven detainees already released has returned to terrorism. The President has an opportunity to reassure the American people that future releases will not lead to the same result. If he is not able to provide specifics about his plan for terrorist detainees at Guantanamo, he could still provide this assurance by simply revising his policy. The President has already shown adaptability on military commissions, on prisoner photos, on Iraq, on Afghanistan, and on Pakistan. Here is an opportunity to show more of that flexibility on Guantanamo.

## ENERGY

Mr. McCONNELL. Madam President, Americans have noticed a steady uptick in the price of gasoline over the past few weeks, and it is only going to get worse during the summer driving season. The economic downturn may have caused gas prices to fall from last summer's record highs, but as the economy recovers, \$4 gasoline could well return and Americans will want answers.

Fortunately, many of us have been busy putting together a balanced, sensible solution that gets at the root of our energy crisis and addresses the concerns of everyone involved in this debate, including some who traditionally have been at odds. We believe it is possible to build a bridge to the clean energy future all of us want without introducing crippling taxes on consumers or on industry. So this morning, with Memorial Day fast approaching, I would like to briefly outline this balanced approach.

The first step is to admit we have a serious problem. Something must be done to reduce America's dependence on foreign oil. America uses more than a fifth of the world's supply of oil, much of it from countries that do not like us. If we start by using less, we will need a lot less from other countries. So conservation and increased efficiency are certainly necessary. It is something on which everyone can agree. We need to use less.

But conservation is only half the equation. Even as we use less energy, we need to produce more of our own. America sits on an ocean—a literal ocean—of untapped oil and natural gas and vast stores of coal and oil shale. Our geography also makes us rich in renewable energy sources such as wind, solar, and geothermal. Taken together, these resources are the perfect complement as we move toward the day when cars and factories can run on cleaner, more efficient fuels. But we have to be realistic about how far off that day is. We have to admit there is a gap between the clean renewable fuel we want and the reliable energy we need. So as we invest in technologies that will bring us cleaner, more efficient energy, the only way we can expect to truly reduce our dependence on foreign sources of oil is to produce more American energy and use less. This may sound like a simple proposal. The best solutions usually are. Unfortunately, the idea of finding more energy at home and using less is needlessly controversial because some are unwilling to admit that a gap exists between the energy we need now and the energy we want, and still others do not like a number of our proposals for finding more domestic energy.

Here is what we have proposed. We propose building 100 new clean nuclear energy plants as soon as possible. We propose offshore exploration for nat-

ural gas and oil. We propose making plug-in electric cars and trucks half of all new vehicles sold in 20 years. And we propose doubling research and development on energy to make all of this possible. These and other proposals, including the development of clean coal and coal-to-liquids technologies, constitute a balanced, comprehensive approach that would do all the things we need to reduce our dependence on foreign oil, help reduce our consumption, and build the bridge to a cleaner, more efficient energy future.

This approach would strengthen our economy by preserving jobs in existing industries even as we create new jobs by investing in new technologies. It would enhance our security by reducing our dependence on foreign suppliers. And it would help the environment by embracing the cleaner, more efficient energy sources of the future.

All of us recognize we should reduce the amount of energy we use. We also recognize the energy we use should be as clean as possible, as reliable as possible, and as inexpensive as possible. Our balanced approach of finding more American energy and using less would bring about all these things without hurting the economy or disrupting our lives or hindering security.

So as the summer driving season continues, Americans will be reminded, once again, that our Nation's energy crisis has not gone away. But the approach I have outlined addresses that crisis head-on. Republicans will continue to speak out about the produce-more, use-less model. We hope our friends on the other side recognize it is the only sensible approach to a crisis that must be addressed.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SIGNING AUTHORITY

Mr. PRYOR. Madam President, I ask unanimous consent that the majority leader be permitted to sign any duly enrolled bills and joint resolutions during today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## DEALERSHIP CLOSINGS

Mrs. HUTCHISON. Madam President, I wish to give sort of a progress report on the amendment I introduced yesterday and is pending still, but after cloture it will be in a different category, of course. I wish to say I have had a very productive opportunity to talk to the president of Chrysler and the people at Chrysler to try to make headway for the Chrysler dealers, the 789 that have gotten the notice they will be shut down as of June 9. I think there is a way forward here. It is not set in concrete, but I think there is going to be a result that I believe will make it a much better situation. That is what I am working for because these dealers right now are facing bankruptcy themselves—every one of them. We are talking about 40,000 employees in these dealerships. So as the Government is certainly backing the automobile companies and they are trying to have as soft a landing as possible for all those involved in this very serious situation we are in, I want the dealers to be part of the soft landing.

I don't think it is Government's position to go in and change the decisions that have been made by Chrysler, but I do think it is our responsibility to assure that those dealers have the ability to have some accommodation for all the inventory they have—the cars, the special equipment, the parts—that after June 9, they will not be able to use. They will not be able to sell a Chrysler car or use the Chrysler logo. Although General Motors has given notice to its dealers, they have given them until the end of 2010 to work things through. But Chrysler I think is trying to stay as strong as they can going into the merger that has been approved, so they want a quick ending, which we all understand and support. I do. I want Chrysler to emerge in a stronger situation. I think we all do. But I also want the dealers that are suffering all over this country right now, having had 3 weeks' notice to shut down, sometimes a dealership that has been in business for 90 years or 50 years or 25 years—we can't walk away from that. Chrysler can't walk away from that. I believe, from talking to the president today, they agree with that.

We are trying to get something definitive. I will report, again, on this. I am going to support cloture because we must provide the supplemental funds for our troops who are in harm's way. That is the premier purpose of this supplemental appropriation. I am very pleased this Senate has acted decisively to stop the funding for moving prisoners from Guantanamo Bay into our country or letting them go into other countries, where we fear we

might see them again on the other side of an IED or some other disruption. I am very pleased with the action the Senate took yesterday on that. We must fund our troops who are in harm's way and their families and their quality of life, giving them the equipment and the training and the support they need to do their jobs.

At the same time, the reason I brought this amendment forward is because it, too, is an emergency. While it is not a taxpayer expense, it is a situation that I think is untenable and that is the people who are under the gun until June 9. My message is that I believe the Chrysler people are going to try to do the right thing. I believe the White House can help us make that happen. We are going to work with the White House and the task force. The Senators from Michigan, I think, are also being very proactive here. I wish to say I appreciate the cosponsors of my amendment. Senator MIKULSKI, on the floor last night, was added as a cosponsor, along with Senator MENENDEZ and Senator BROWN.

I ask unanimous consent, at this time, that Senator CASEY and Senator LAUTENBERG be added as cosponsors of amendment No. 1189.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. We were adding sponsors just about every few minutes as people began to see the plight of these dealers and hear from them.

My message is we need to vote for cloture. We need to go forward with this supplemental appropriation for our troops, but we must—we must—take care of these dealers in the best possible way and not leave them stranded in a situation which was not their doing. Yet they are paying the highest of all prices.

I thank the Chair, and I yield the floor.

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. CHAMBLISS. Madam President, I ask unanimous consent that Senate amendment No. 1144 be considered in order postcloture in addition to the requirements under rule XVI, rule XXII, and the adoption of the Inouye amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Reserving the right to object, this amendment from my

friend, Senator CHAMBLISS, would preclude the U.S. Attorney General from allowing detainees at Guantanamo to even be tried for crimes in the United States. I think it goes too far, and I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CHAMBLISS. Madam President, the assistant majority leader is exactly right. My amendment is going to prohibit any Guantanamo detainee from being brought to the United States. The assistant majority leader made a comment yesterday that he thought it was somewhat foolish on the part of the minority to think this President would even allow terrorists to be brought into the United States. The fact is, this administration is already proposing that some of the terrorists who are held at Guantanamo be brought into the United States and be freed because the court has determined that 17 Uyghurs ought to be free. The administration is talking about freeing those Uyghurs inside the United States.

The press reported this morning that President Obama intends to bring a Gitmo detainee, Ahmed Ghailani, to New York to be tried in our criminal courts. I fear this is the start of a long process of transferring detainees to the United States where, I believe, legal technicalities will ultimately allow some of them to be freed into the United States.

The Senate voted yesterday to prevent any detainees from being brought here and has been very outspoken on this issue this week. Despite this, the President has chosen to ignore the will of Congress and bring Ghailani to the United States. Instead, he is acting quickly to bring him here before he signs the supplemental bill into law.

I don't know how the President thinks he can try this detainee in our courts. Ghailani is not just any terrorist. He was a high-value detainee in the CIA's detention. Bringing him into a U.S. courtroom will open a floodgate to challenges on his detention, his treatment, and any evidence obtained from him.

Additionally, if we were able to obtain any evidence on Ghailani from any other terrorists, that information would likely not be admitted in U.S. courts because it would be considered hearsay. If not, the prosecution would be required to bring additional terrorists to New York just to testify in Ghailani's trial. This alone will make a conviction much more difficult.

There is too much at stake to grant the unprecedented benefit of our legal system's complex procedural safeguards to foreign nationals who were captured outside the United States during a time of war. Allowing these terrorists to escape conviction or, worse yet, to be freed into the United States by our courts because of legal

technicalities would tarnish the reputation of our legal system as one that is fair and just.

Prohibiting the detainees from entering the United States, as my amendment does—the assistant majority leader is exactly right—is one small step in the right direction.

Further, if these individuals, such as Ghailani, were to be brought to the United States by President Obama to be tried in our article III courts and not convicted, the only mechanism available to our Government to continue to detain these individuals would be via immigration law. However, current immigration laws on our books are insufficient to ensure these detainees would be mandatorily detained and continue to be detained until they can successfully be removed from our borders.

Although I am adamantly opposed to bringing any of these detainees to the United States, and I do not believe the President has independent authority to do so, I do believe we need legislation to safeguard our citizens and our communities in the event they are brought here. To that end, my amendment makes mandatory the detention of any Gitmo detainees brought to the United States.

It is imperative the Senate consider my amendment before the final adoption of this supplemental bill.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Madam President, in response to my friend, the Senator from Georgia, he has obviously forgotten the name Zacarias Moussaoui. He was accused of being the 19th or 20th hijacker on 9/11. He was successfully prosecuted in the courts of the United States. He has been convicted, is serving time in a prison of the United States, and we are not less safe because of it. Our system of justice worked.

The Senator from Georgia and many on his side of the aisle have no confidence in our system of justice. They do not want to even consider the possibility that people could be charged with a crime and successfully prosecuted here. We have proven otherwise.

There are 347 convicted terrorists now serving time in U.S. prisons. I have not heard a hue and cry from anyone saying let's get them all out of the country, because we know they are being safely and securely held.

America is not at risk. For the Senator to argue that once they are tried they have to be released as American citizens or in the general population defies logic. If these people are brought in for the purpose of trial and found not guilty, they are certainly not going to be allowed to stay in the United States. There is no requirement for that. There is no way they could ask for citizenship, having just been found not guilty, being a resident of another country. That is not even in the realm of possibility.

What the Senator is arguing is about a possibility that I think is farfetched, and he ignores the obvious. Madam President, 347 terrorists convicted in American courts are currently serving time in American prisons right now.

I might also add that at the end of the day, it will be the President of the United States who will propose what we do, and the President will make his recommendations soon. I am anxious to hear them. But for us to foreclose the possibility of bringing a detainee to justice for crimes committed, for acts of terrorism, by saying we would not consider ever trying them in the United States, what would we do with them? Hold them indefinitely without charges? Export them to some other country?

If they can be charged and prosecuted successfully in our courts, they should be. They should be held securely until they are resolved in court, and if they are resolved in a guilty fashion, they could be incarcerated as the other 347 terrorists in our prisons. If found not guilty, they can leave the country, as they should not be welcomed as citizens.

The President will be making an announcement today. I am anxious to hear it. For us to anticipate what that is and foreclose possibilities I don't think is a wise policy for keeping this country safe.

The bottom line is this President—no President—is going to release terrorists into Georgia, Mississippi, Illinois, or New York. It is not going to happen. Presidents accept their responsibility to keep our country safe, and to suggest otherwise I don't think is consistent with our experience.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Madam President, what the Senator from Illinois, who is a lawyer, neglects to mention is the fact that all 347 of the current incarcerated people who have been tried for terrorist acts were arrested under U.S. law. They were investigated by the FBI. They were prosecuted because they were arrested and investigated with that end in mind. Not one single one of those 347 individuals was arrested on the battlefield.

What the Senator is now proposing is that we take all 240 of the confined detainees at Gitmo and give them all of the rights that are guaranteed to every criminal who is investigated and arrested inside the United States as opposed to being arrested on the battlefield. That has never happened before in the history of the United States, and we have had an awful lot of captives on the battlefield.

For there to be any correlation between the 240 detainees at Guantanamo who are the meanest, nastiest killers in the world, getting up every day thinking of ways to kill and harm Americans, and to compare them to

the 347 who are now confined after being arrested inside the United States is somewhat ludicrous.

Again, I regret the Senator is objecting to my amendment which would keep those 240 individuals at Guantanamo outside the United States and would ensure that forever and ever they could never be released into the United States. I simply regret he sees fit to object to it.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Madam President, I am not suggesting that the detainees at Guantanamo all be tried. I know of one, for example, who has been held for 7 years and was notified a year ago there are no charges against him. The question is where he will be sent. He still languishes in prison because of that. It would be unjust for us to continue to keep him in Guantanamo without any charges against him beyond 7 years. I don't think he needs to be tried. We need to find a safe place to put him once we are certain he is not going to engage in acts of terrorism.

This morning, President Obama is going to make a statement on this issue. The statement by the White House in advance of his speech at the National Archives—I think part of this press announcement bears repeating into the RECORD. It says:

The President also ordered a review of all pending cases at Guantanamo. In dealing with the situation, we do not have the luxury of starting from scratch. We are cleaning up something that is—quite frankly—a mess that has left in its wake a flood of legal challenges that we are forced to deal with on a constant basis and that consumes the time of government officials whose time would be better spent protecting the country. To take care of the remaining cases at Guantanamo Bay, the President will, when feasible, try those who have violated American criminal laws in Federal courts; when necessary, try those who violate the rules of war through military commissions; when possible, transfer to third countries those detainees who can be safely transferred.

President Obama is calling for an orderly, sensible review of cases at Guantanamo. For us to continue to keep voting on ways to foreclose the possibilities of bringing Guantanamo to a close in a responsible fashion I don't think is responsible conduct. I hope we will stop this and allow the President to show his leadership. He inherited this mess at Guantanamo. He is doing his best to find solutions in keeping with our values and keeping in mind his primary responsibility to keep us safe.

I yield the floor.

Mr. CHAMBLISS. Madam President, I simply close by saying the Senator is exactly right. There are military tribunals set up in Guantanamo today. In fact, those military tribunals had convicted three separate detainees, and the current administration, when they came into office, dropped the pending charges of twenty-some others await-

ing trial, thus suspending the military commissions. These individuals can be tried by military tribunals at Guantanamo. They are in place and ready to go. I would simply urge that is the way these individuals need to be prosecuted and not to be brought to the United States and tried here.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### SUPPLEMENTAL APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2346, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Cornyn amendment No. 1139, to express the sense of the Senate that the interrogators, attorneys, and lawmakers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned.

Chambliss amendment No. 1144, to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

Isakson amendment No. 1164, to amend the Internal Revenue Code of 1986 to expand the application of the homebuyer credit.

Corker amendment No. 1173, to provide for the development of objectives for the United States with respect to Afghanistan and Pakistan.

Lieberman amendment No. 1156, to increase the authorized end strength for active-duty personnel of the Army.

Graham (for Lieberman) amendment No. 1157, to provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

Kyl/Lieberman amendment No. 1147, to prohibit funds made available for the Strategic Petroleum Reserve to be made available to any person that has engaged in certain activities with respect to the Islamic Republic of Iran.

Brown amendment No. 1161, to require the United States Executive Director of the International Monetary Fund to oppose loans and other programs of the Fund that do not exempt certain spending by the governments of heavily indebted poor countries from certain budget caps and restraints.

McCain amendment No. 1188, to make available from funds appropriated by title XI an additional \$42,500,000 for assistance for Georgia.

Lincoln amendment No. 1181, to amend the Federal Deposit Insurance Act with respect to the extension of certain limitations.

Risch amendment No. 1143, to appropriate, with an offset, an additional \$2,000,000,000 for National Guard and Reserve Equipment.

Kaufman modified amendment No. 1179, to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations.

Leahy/Kerry amendment No. 1191, to provide for consultation and reports to Congress regarding the International Monetary Fund.

Hutchison amendment No. 1189, to protect auto dealers.

Merkley/Whitehouse amendment No. 1185, to express the sense of the Senate on the use by the Department of Defense of funds in the Act for operations in Iraq in a manner consistent with the United States-Iraq Status of Forces Agreement.

Merkley (for DeMint) amendment No. 1138, to strike the provisions relating to increased funding for the International Monetary Fund.

Bennet/Casey amendment No. 1167, to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

Reid amendment No. 1201 (to amendment No. 1167), to change the enactment date.

The ACTING PRESIDENT pro tempore. All time for debate has expired.

The Senator from Hawaii.

Mr. INOUE. Madam President, I ask unanimous consent that the pending amendment be set aside, and to call up amendment No. 1162.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUE. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INOUE. Madam President, I withdraw my earlier request.

The ACTING PRESIDENT pro tempore. The request is withdrawn.

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 2346, the Supplemental Appropriations Act of 2009.

Harry Reid, Christopher J. Dodd, Charles E. Schumer, Mark Begich, Mark L. Pryor, Richard Durbin, Patty Murray, Tom Harkin, Edward E. Kaufman, Claire McCaskill, Michael F. Bennet, Mark Udall, Jeanne Shaheen, Carl

Levin, Jack Reed, Sheldon Whitehouse, Daniel K. Inouye.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2346, the Supplemental Appropriations Act of 2009, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?:

The yeas and nays resulted--yeas 94, nays 1, as follows:

[Rollcall Vote No. 200 Leg.]

#### YEAS—94

Akaka	Ensign	Merkley
Alexander	Enzi	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johanns	Sessions
Burr	Johnson	Shaheen
Burriss	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Thune
Coburn	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	Levin	Vitter
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Crapo	Martinez	Whitehouse
DeMint	McCain	Wicker
Dodd	McCaskill	Wyden
Dorgan	McConnell	
Durbin	Menendez	

#### NAYS—1

Feingold

#### NOT VOTING—4

Byrd Kennedy  
Hatch Rockefeller

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 94, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. INOUE. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that Senators BENNETT, BINGAMAN, and KERRY be added as cosponsors of amendment No. 1189.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I ask unanimous consent to add Senator KLOBUCHAR as a cosponsor of amendment No. 1189.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I rise today to express my support for the 2009 Supplemental Appropriations Act. My vote today does not indicate a blank check for the administration. But it is indicative of a strong desire on my part to begin to change to a new approach in Iraq and Afghanistan.

We all know about the challenges President Obama inherited from 8 long years of the Bush administration. He was left with an economy and recession, wars in Iraq and Afghanistan, diminished U.S. standing around the globe, a country more dependent on foreign oil, and a resurgent al-Qaida.

Today, we have a new administration with clear priorities and realistic foreign policy objectives. We must give President Obama and his administration the resources and flexibility they need to move U.S. foreign policy in a new direction. If we were to walk away from this change in policy that is reflected in this supplemental, I think the message we are sending is for the status quo. The status quo does not deserve a vote.

Again, I repeat, my vote is not a blank check. I am voting for this bill not because I want the United States

to remain bogged down in two wars, but because I want to give this administration—the Obama administration—the resources it needs to successfully end these wars, starting with the war in Iraq. Furthermore, I don't support an open-ended commitment of American troops to Afghanistan; and if we do not see measurable progress, we must reconsider our engagement and strategy there.

In particular, we must do more to sharply reduce the numbers of heart-breaking civilian casualties. As ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, recently said:

We cannot succeed in Afghanistan, or anywhere else . . . by killing Afghan civilians. . . .

In a reference to a U.S. airstrike in the Farah Province, Admiral Mullen said:

We can't keep going through incidents like this and expect the strategy to work.

I could not agree more. President Obama promised the American people a new way forward in Iraq and a new way forward in Afghanistan. The passage of this bill will allow him to put the pieces in place to keep his promises by finishing the mission in Afghanistan, which was shortchanged because of the Iraq war. I want to talk about that for a minute.

I voted, after 9/11, to go after al-Qaida, to go after the Taliban, to go after Osama bin Laden. The administration, instead of doing that, turned around and went into Iraq under the false premise that Iraq had something to do with 9/11. We still have former Vice President Cheney out there trying to convince the people that was the right thing to do. That was the wrong thing to do. There have been so many needless deaths in Iraq. We left Afghanistan, and the Taliban returned in force; and the people there are under the yoke of the Taliban in many parts of that country. What a tragedy, because of a mistaken policy. What a terrible legacy, because of a mistaken policy. Yet the debate rages on. So I am going to engage in that debate.

I believe we need to tackle this mission in Afghanistan, which was shortchanged. I believe we must increase the role of the State Department and our civilian agencies in working toward peace. I know my colleague in the chair, Senator KAUFMAN, has been very eloquent on this point—a new way to allow the Afghan people to, in essence, take back their country. We need to train Afghan security forces so we can ultimately change the nature of our mission there and bring our troops home. That is the goal.

I have heard my Republican friends say they don't know what the goal is in Afghanistan. That is OK. I don't think there is any problem explaining what it is. We want to go after al-Qaida. We want to decrease the influence of the Taliban and defeat them, if we have to.

Hopefully, we can, in fact, work with some of them. I am not convinced of that, but it may be possible. We need to give the Afghan security forces the ability to defend their own people.

There is a lot more we have to do over there to protect the most vulnerable Afghans, and that means the women and the children of Afghanistan. I will talk more about that because this supplemental takes a huge step forward in protecting the women and children there.

It seems to me we have to give President Obama an opportunity to bring about the change he promised. If I see that change is not coming, I am not going to be there. But today, I believe we should give him that chance.

To think that we actually had Osama bin Laden cornered at one time, but the obsession with Saddam Hussein drove us away in those Bush years from that mission and brought us into a situation where we have lost so many of our young men and women, many of them—30,000—were injured, some with horrific injuries, and many more are suffering from post-traumatic stress and brain injury.

President Bush took his eye off Afghanistan, and so did Vice President Cheney. Frankly, sadly, we come to this day. I understand why some colleagues might just say: I don't want to hear about it. I don't want to spend any more money on it. Just forget it.

I don't think that is the way to go. I think President Obama said very clearly that he is going to bring change. I think this is the day. We either stand for change or for the status quo. That is my belief.

In the Bush years we never really had enough resources to fight al-Qaida in Afghanistan because we were waging an open-ended war in Iraq. Remember, there were no benchmarks for progress. It was day after day, death after death after death. Frankly, because the Iraq war fueled recruitment by al-Qaida, our Nation's security has been compromised. Our standing in the world has suffered. Again, most heart-breaking, American servicemembers and their families have paid the price.

In my view, there are four provisions in the supplemental that will help to correct our course.

First, the bill provides funding to get our troops home from Iraq. These provisions are essential for President Obama to meet his date of August 31, 2010, to remove combat brigades from Iraq and remove all of our troops by the end of 2011.

For those of us who want to bring the troops home, the funding to do that is in this supplemental. So, clearly, when we vote for this, we vote to begin that process. The responsibility for security must be turned over to the Iraqis—and quickly. U.S. forces cannot continue to shoulder the burden there anymore. The people there have to decide if they

want to live together or die together. They have to look at these ethnic divisions and make their own decisions. We will help. We will always help. But it is their decision.

So the first part of the bill is funding to begin bringing the troops home from Iraq.

Second, this bill seeks to turn things around in Afghanistan by providing a significant investment in diplomacy and development, including, very importantly to me and to a lot of my colleagues, for the Afghan women. A military solution alone will not solve the problems in Afghanistan. We need a strategy that helps the Government provide for its people and invest in the civil society and those programs that are crucial to the long-term security and prosperity of that country.

Development is very important to the people of Afghanistan. I am very proud that this bill takes critical steps to support Afghan women and girls. Today, more than 7 years after the international community helped free Afghan women from the prison of life under the Taliban, the situation for women in Afghanistan remains dire.

I want to say to Senator LEAHY and his staff: Thank you. Thank you for listening. Thank you for working with us. Thank you for working with the women-led nongovernmental organizations.

Without Senator LEAHY and his staff, we would not have this language in the bill. I wanted to make that point.

More than 80 percent of the women in Afghanistan are illiterate. More than one in six die in childbirth. These are the voices that have been forgotten. We cannot return to the days when Afghan women had to be draped in burqas against their will. If you have never tried on a burqa—and I am sure most people haven't—let me tell you what it feels like, because I did. You disappear. You become nothing. Remember when women were murdered in cold blood by the Taliban in soccer stadiums? Those days must be over.

It seems to me that walking away from this supplemental at this time says we are walking away from those women. We need to help them. We need to do everything we can to give them a chance because to not do so would be tragic.

This bill specifically appropriates \$100 million for programs that directly address the needs of Afghan women and girls. In addition to Senator LEAHY and his staff, I thank Congresswoman NITA LOWEY and her staff. In the House bill, they also put in quite a few resources for the women-led NGOs. In our bill, we do even more to directly address the needs of women and girls, including funding for the Afghan Human Rights Commission and Afghan Ministry of Women's Affairs.

I wrote a bill called the Afghan Women Empowerment Act. Specifically, the supplemental appropriates



\$30 million for Afghan women-led non-governmental organizations, which is a key component of that bill. The international community cannot stay in Afghanistan indefinitely. We know that. So this funding will help empower those organizations that will provide for the needs of the Afghan community long after the international community has left.

The supplemental includes \$10 million to train and support Afghan women investigators, police officers, prosecutors, and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

This is particularly important in a country where women have been so marginalized. No female victim of violence will ever come forward if she believes there is no system in place or resources to help her. What happens if she comes forward is that she becomes a target. I don't know how you feel about it—I think I can guess—when any of us sees little girls being attacked with acid when they are going to school. There is something deeply wrong if America turns away from that. We cannot, it seems to me, in good conscience not give this one more chance, which is what this supplemental is doing because it is taking a major step to give the Afghan people the chance to stand up for their women, children, and families.

Third, this bill recognizes the importance of Pakistan, a dysfunctional, nuclear-armed nation that has some of the most notorious al-Qaida terrorists within its borders. Pakistan is one of the greatest threats to international security that we face today. This danger is such a concern that Bruce Riedel, a Brookings Institution scholar who served as the coauthor of the President's review of our Afghanistan-Pakistan strategy, said that the country—this is Pakistan—"has more terrorists per square mile than any other place on Earth, and it has a nuclear weapons program that has grown faster than anywhere else on Earth." It seems to me to walk away from that threat is the wrong course. This bill provides funds for nonmilitary aid and counter-insurgency training to enable the Pakistani Government to defeat the growing extremist threat within its borders.

Fourth, this bill provides funding to help our servicemembers and their families deal with the wounds of war and to improve their quality of life. It provides funding to increase the number of soldiers and marines to help ease some of the burdens on servicemembers and families who have served three, four, and five deployments to combat zones. How can we walk away from giving those soldiers relief at this point when they have served three, four, and five times? We see some of the fallout on the mental health of our soldiers. We have seen some tragic things hap-

pen, including a soldier who actually turned on his own colleagues and killed them. We cannot have servicemembers under this amount of stress from three, four, five, or six deployments. Some of them can handle it. Not all of them can handle it. This bill will increase the number of soldiers and marines, so we can help ease the burden of those who have given and given.

This bill includes funding to keep our servicemembers safer, including funding for mine-resistant vehicles in Afghanistan to combat the dangers of roadside bombs. It helps ease the childcare needs of our military families by funding the construction of 25 child development centers to serve 5,000 children. It provides \$230 million to complete construction of the Walter Reed National Military Medical Center, and it provides funds for the construction of nine warrior support facilities across the United States. Our soldiers need help. They cannot be expected to travel across the country to get medical care, either for physical wounds or mental wounds. We need to make sure we do this.

Finally, this bill provides funding for domestic programs that will safeguard our security. It includes \$1.5 billion to prepare and respond to a global disease pandemic, such as the H1N1 influenza virus we are combating today. A lot of people say: Maybe you are overreacting. We just don't know because in other flu epidemics, we think we have conquered it, and then it comes back in a more virulent form. We need to vaccinate our citizenry. This is expensive and a must-do. I am very pleased it is in this bill. Just this week, two lives were lost in New York City to the virus. One victim was only an infant, and the other was an assistant principal of a school. Yes, we lose people to the flu every year. We know that. But we want to make sure we are not facing something for which we are unprepared. Better to be prepared, and this bill gives us the funds to prepare.

There is significant investment in shoring up our southwest border and also combating drug traffickers who operate there. We keep seeing horrific violence along the border. It is deplorable. The drug cartels must be stopped and the perpetrators brought to justice. That is also in this bill. This is an emergency spending bill.

It also includes \$250 million for emergency firefighting activities. California has suffered devastating wildfires over the last few fire seasons. I know all of you have watched in horror at the recent wildfire in Santa Barbara. We know we are facing terrible challenges. We are facing warmer temperatures. We are facing more drought conditions. The funding will help ensure resources are on hand when they are needed.

I have to say that this bill should be a must-pass. I have to also reiterate that my vote indicates my support for

a change in our foreign policy, a change in Iraq to bring this war to an end, a change to finally do what we have to do in Afghanistan so we do not walk out and walk away as we did before. The Taliban allowed al-Qaida to thrive, and we have to work in Afghanistan so that the people turn away from the Taliban toward something else that is positive. And we can provide that.

Strong diplomacy is in this bill. A change in policy is in this bill. It is our best opportunity to achieve these objectives. If it does not work, I will be the first one to stand up here and say so because, frankly, I believe too many of our brave soldiers have been put in harm's way.

I think this is the last use of a supplemental appropriation, according to the administration, to fund military operations in Iraq and Afghanistan. I welcome that. It says that our President is going to hold true to his commitment to an open and transparent government that is held accountable to the people. We are going to have these policies funded through the regular budget process. I understand why we need this now. To bring about the change in Iraq and Afghanistan, we cannot do it on the cheap. We have to do it right. I think President Obama's quote—and I am not quoting him exactly—was that we have to get out of there very carefully even though we did not get in there very carefully. That is what we are doing. We are getting out of Iraq carefully. We are doing it right. We are funding the way to do it right. We are helping our soldiers. And we are changing course in Afghanistan, first of all, by paying attention to it, going after al-Qaida, trying to make sure the Taliban is not an option people choose there, and being very strong in our help toward the women of Afghanistan.

I will be voting yes for all those reasons and watching closely.

Mr. President, I ask unanimous consent that for the next hour, this bill be open to debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN.) Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent that upon the completion of my statement, Senator ISAKSON be recognized for 5 minutes, and then that Senator BROWN be recognized for 10 minutes. That will allow all of

our statements to be completed prior to a unanimous consent agreement which will shortly be entered into.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask unanimous consent that no Budget Act points of order be in order to H.R. 2346, as amended; that at 1 p.m., Senator CORNYN be recognized for debate only for up to 40 minutes; that at the conclusion of Senator CORNYN's remarks, the time until 2 p.m. be equally divided and controlled between the leaders or their designees; that at 2 p.m. today, there be 40 minutes of debate with respect to the DeMint amendment No. 1138, with the time controlled as follows: 20 minutes under the control of Senator DEMINT, 10 minutes under the control of Senators GREGG and INOUE or their designees; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the amendment; that no intervening amendment be in order to the language proposed to be stricken by the DeMint amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, President Obama said in his campaign and has repeated it since the first days of his Presidency that we must keep our Nation safe and secure, but we have to do it in ways consistent with our values. That is a sentiment I share, and one that I have voiced in hearings and statements for years as well.

To President Obama's credit, to the benefit of the Nation, he has worked since his first day in office to turn these words into action to make our national security policy and our detainee policy consistent with American laws and American values. That, in turn, makes us more secure. I have supported President Obama in these steps, and I will continue to do so. That is why I have voted against amendments to withhold funding to close the Guantanamo detention facility, and to prohibit any Guantanamo detainees from being brought to the United States. These amendments undermine the good work the President is doing, and they make us less safe, not safer.

I believe strongly, as all Americans do, we have to take every step we can to prevent terrorism. Then we have to ensure severe punishment for those who do us harm. As a former prosecutor, I have never shied away from harsh sentences for those who commit atrocious acts. I point to the times I have requested and gotten for people I have prosecuted life sentences, life sentences that they served without the possibility of parole.

I also believe strongly we can ensure our safety and security and bring terrorists to justice in ways that are consistent with our laws and values. When we have strayed from that approach—when we have tortured people in our

custody, or sent people to other countries to be tortured, or held people for years without even giving them a chance to go to court, to argue we were holding the wrong person, they are being held in error—we have hurt our national security immeasurably.

Our allies have been less willing to help our counterterrorism efforts, and that has made our military men and women more vulnerable and our country less safe. Terrorists have used our actions as a tool to recruit new members, which means then we have to fend off more enemies.

Worse still, we have lost our ability to respond with moral authority if other countries should mistreat American soldiers or civilians.

Guantanamo has become the symbol of the severe missteps our country took in recent years. Changing our interrogation policies to ban torture was an essential first step. But only by shutting the Guantanamo facility and restoring tough but fair procedures can we repair our image in the world. We have to do that if we hope to have a truly strong national security policy.

To close Guantanamo, we need our national security and our legal experts working hard to come up with a comprehensive plan for its closure. We should be funding those efforts. By cutting off that funding, we have hamstrung the President's initiative, and no matter what we intended to do, I believe we have made our Nation less safe.

Much debate has focused on keeping Guantanamo detainees out of the United States. In this debate, political rhetoric has entirely drowned out reason and reality. Our criminal justice system handles extremely dangerous criminals, and it has handled more than a few terrorists, and has done so safely and effectively. We try very dangerous people in our courts and we hold very dangerous people in our jails in Vermont and throughout the country. We have the best justice system in the world.

We have spent billions of dollars on our detention facilities, on our law enforcement, and our justice system. Are we going to say to the world, oh, my goodness gracious, we are not good enough to be able to handle criminal cases of this nature? I do not believe so.

We try those dangerous people and we hold those dangerous people in jails in Vermont and throughout our country. We are showing the world that we can do it. I know; I have put some of them there. We do it every day in ways that keep the American people safe and secure. I have absolute confidence we can continue to do it.

The Judiciary Committee has held several hearings on the issue of how to best handle detainees. Experts and judges from across the political spectrum have agreed that our courts and

our justice system can handle this challenge. Indeed, it has handled it many times already.

What I am saying is, after all of those billions of dollars, after all of the superb men and women we have working in our justice system, after all that we spend on maximum security facilities, are we going to say to the world, America is not strong enough to try even the worst of criminals?

When we were hit with one of the worst terrorist attacks ever in this country, Oklahoma City, did we say we cannot try the people we have now captured? We cannot have them in a courtroom where it is secure, we will not be able to punish them? Of course not. We went ahead, and we also established for the rest of the world that we follow a system of justice in America. And having been horribly damaged in Oklahoma City, we followed our system of justice. The rest of the world looked at it, and they learned from us.

Let's not step back from that. Republican luminaries such as GEN Colin Powell have agreed with this idea. One Republican member of the Judiciary Committee, Senator GRAHAM, said, "The idea that we cannot find a place to securely house 250-plus detainees within the United States is not rational."

So let's let reality come in and overwhelm rhetoric. It is time to act on our principles and our constitutional system. Those whom we believe to be guilty of heinous crimes should be tried. They should be penalized severely, and our courts and our prisons are more than up to the task. Our courts and our prisons are more up to this task than those in any other country in the world. But we also could have people who are innocent or where we captured the wrong person. If so, they should be released.

There are going to be tough cases. Instead of cutting out the money the administration needs to dispose of those cases responsibly, knowing how tough they will be, we ought to be doing just the opposite and give them the resources they need.

Let's put aside heated, distorted rhetoric. Support the President in his efforts to truly make our country a safe and strong Republic worthy of the history and values that have always made America great.

I believed that when I was a young lawyer in private practice. I believed that when I was a prosecutor. I believe that even more today as a Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

TRIBUTE TO BILL SHIPP

Mr. ISAKSON. Madam President, I know most Members on the floor remember a song of about 25 years ago called: "The Night the Lights Went Out in Georgia."

Well, on Tuesday of this week, a beacon of light in journalism did go out in

Georgia, when Bill Shipp, a gifted political writer, announced his retirement after 50 years of reporting in the South.

Bill Shipp is a remarkable character. It is said that all of us are replaceable. I am not sure Bill Shipp is replaceable. He began his writing in Georgia as a political columnist for the Atlanta Constitution.

Starting in the late 50s, he covered the late Ivan Allen and the late Dr. Martin Luther King and the Governors and the politicians of that era from George Wallace to Lester Maddox, to Jimmy Carter, to Carl Sanders.

He wrote about the transition of the old South to the new South. And in Washington, he covered the Civil Rights Act in the middle and late seventies. He was a writer whose perception was keen, whose wit was sharp, and whose pen was even sharper.

For 32 of his 50 years I was in elected office in Georgia. I can make a true confession: When he wrote a column, you went to the paper and you read Bill Shipp first. There was a reason for that. If you were going to be the victim of the day, you might as well go out and find out what he was going to say about you. But if you were not the victim of the day, you could relish in seeing some other politician being skewered by that pen.

Bill Shipp had a profound effect on journalism in our State. For years he reported for the Atlanta Journal and Constitution, but after a number of years he started his only publication whose title was: "Bill Shipp's Georgia." Never has there been a more appropriate name for a newsletter, because, in many ways, Georgia's politics was Bill Shipp's possession.

Bill Shipp wrote about politics in such a way that he changed politics in the South. While I would never accuse Bill of having editorialized in a news article, the tone and tenor of the direction of Bill Shipp's perception of what was right and wrong could help to lead debates to a positive conclusion in an otherwise period of discourse and trouble.

I love Bill Shipp for many reasons—one, because he and I have had the pleasure of living in the same county for the last 40 years. The other is, I have learned a lot from him. I always appreciated him. In politics, Bill Shipp is the equivalent of Helen Thomas at a Presidential press conference. When a Georgia politician has a press conference, Bill Shipp is there. When it is time for questions, he always has one. And when it comes time to roll the grenade in the middle of the room, Bill Shipp will do it. He did it to me and to others.

Bill Shipp is a gifted friend, a man for whom I wish the best in his retirement. I think, finally, of those days on Ivy Grove and Cherokee Road in Marietta where he and Tom Watson Brown

and George Berry would sit at 5 in the afternoon, have a libation, and discuss the next day's column that Bill would write. Bill Shipp is a treasured asset of our State, a man who has contributed greatly to the growth of the new South and the new Georgia, a man whose contributions to journalism are pre-eminent in our State, and a friend to whom I wish the very best in his retirement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

(The remarks of Mr. BROWN pertaining to the submission of S. Res. 156 are located in today's RECORD under "Submitted Resolutions.")

The Senator from Mississippi.

Mr. WICKER. I ask unanimous consent to speak as in morning business for up to 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAMUEL L. GRAVELY, JR., FIRST AFRICAN-AMERICAN U.S. NAVY FLAG OFFICER

Mr. WICKER. Madam President, this past weekend, at the Northrop-Grumman shipbuilding facility in Pascagoula, MS, the USS *Gravely*, the 57th *Arleigh Burke* class Aegis Guided Missile Destroyer, was christened in honor of the late VADM Samuel L. Gravely, Jr.

Vice Admiral Gravely was born in 1922, in Richmond, VA. In 1942, Gravely interrupted his education at Virginia Union University and enlisted in the U.S. Naval Reserve. He attended officer training camp at the University of California in Los Angeles after boot camp at the Great Lakes Naval Training Station in Illinois, and then midshipman school at Columbia University. When he boarded his first ship in May of 1945, he became its first African-American officer.

Gravely was the first African-American to command a fighting ship, the USS *Falgout*, and to command a major warship, the USS *Jouett*. As a full commander, he made naval history in 1966 as the first African-American commander to lead a ship, the USS *Tauessig*, into direct offensive action. He was the first African-American to achieve flag rank and eventually vice admiral. In 1976, Gravely became the commander of the entire Third Fleet, commanding over 100 ships, 60,000 sailors, and overseeing more than 50 million square miles of ocean.

Gravely's tenure in the naval service was challenged with the difficulties of racial discrimination. As a new recruit, he was trained in a segregated unit; as an officer, he was barred from living in the bachelor's officers' quarters. In 1945, when his first ship reached its berth in Key West, FL, he was specifically forbidden entry into the officers club on the base. Gravely survived the indignities of racial prejudice and displayed unquestionable competence as a naval officer.

Gravely exemplified the highest standards and demanded very high standards from his crew. Throughout his career, he stressed the rudiments of professionalism—intelligence, appearance, seamanship and, most importantly, pride.

Vice Admiral Gravely was a trailblazer for African-Americans in the military arena. He fought for equal rights quietly but effectively, letting his actions and his military record speak for him. Gravely died on October 22, 2004, at the naval hospital in Bethesda, MD. In a fitting tribute, the obituary on the U.S. Department of Defense Web site quoted Gravely's formula for success: "My formula is simply education plus motivation plus perseverance."

Samuel L. Gravely, Jr.'s performance and leadership as an African-American naval officer demonstrated to America the value and strength of diversity. He was a true professional with superb skills as a seaman and admirable leadership attributes.

The USS *Gravely*, christened in Pascagoula, will reflect his character, his forthrightness, and his steadfastness and will stand for and deliver his legacy wherever it serves. His spirit aboard the USS *Gravely* will be an inspiration to its crew, the U.S. Navy, and Americans for generations to come.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I understand there is a previous—let me ask unanimous consent that I be allowed to speak for up to 40 minutes.

The PRESIDING OFFICER. That is the standing order.

Mr. CORNYN. I appreciate it. Thank you very much, Mr. President.

AMENDMENT NO. 1139

Mr. President, I want to address the Senate on two subjects this afternoon—first of all, on the subject of various memos and interrogation techniques, notably enhanced interrogation techniques, that were carried out in response to Office of Legal Counsel memos that were written by lawyers there, designed to provide guidance to our CIA interrogators after 9/11 to help them protect the country against future terrorist attacks.

I have an amendment that, because of technical reasons, we will not be able to vote on this week. But I want to assure my colleagues this issue is not going away, and we will be back to talk about it more later. But I think it is of sufficient gravity and importance

that I want to highlight it here for the next few minutes.

First of all, this amendment I am referring to is a sense-of-the-Senate amendment. Let me summarize what it does because I think it is important to put it in context.

The sense-of-the-Senate amendment reads as follows. It says:

In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks [against] the United States was the most urgent responsibility of the United States Government.

A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives concluded that the September 11, 2001 attacks demonstrated that the intelligence community had not shown "sufficient initiative in coming to grips with the new transnational threats".

By mid-2002, the Central Intelligence Agency had several top al Qaeda leaders in custody.

The Central Intelligence Agency believed that some of these al Qaeda leaders knew the details of imminent plans for follow-on attacks against the United States.

The Central Intelligence Agency believed that certain enhanced interrogation techniques might produce the intelligence necessary to prevent another terrorist attack against the United States.

The Central Intelligence Agency sought legal guidance from the Office of Legal Counsel of the Department of Justice as to whether such enhanced interrogation techniques, including one that the United States military uses to train its own members in survival, evasion, resistance, and escape training, would comply with United States and international law if used against al Qaeda leaders reasonably believed to be planning imminent attacks against the United States.

This amendment further notes that:

The Office of Legal Counsel is the proper authority within the executive branch [of the Federal Government] for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out [its] official duties.

It further notes that:

Before mid-2002, no court in the United States had [ever] interpreted the phrases "severe physical or mental pain or suffering" and "prolonged mental harm" as used in sections 2340 and 2340A of title 18, the United States Code.

The legal questions posed by the Central Intelligence Agency and other executive branch officials were—

This amendment notes—

a matter of first impression, and in the words of the Office of Legal Counsel, "substantial and difficult".

The Office of Legal Counsel approved the use by the Central Intelligence Agency of certain enhanced interrogation techniques, with specific limitations, in seeking actionable intelligence from al Qaeda leaders.

The amendment further notes that:

The legal advice of the Office of Legal Counsel regarding interrogation policy was reviewed by a host of executive branch officials, including the Attorney General, the Counsel to the President, the Deputy Counsel to the President, the General Counsel of the Central Intelligence Agency, the General

Counsel of the National Security Council, the legal advisor of the Attorney General, the head of the Criminal Division of the Department of Justice, and the Counsel to the Vice President [of the United States].

Further, the amendment notes that:

The majority and minority leaders in both Houses of Congress,—

Both in the Senate and in the House, as well as—

the Speaker of the House of Representatives, and the chairmen and [ranking members] of [both] the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on [both the proposed techniques and the Office of Legal Counsel advice] as early as September 4, 2002.

The amendment further notes that:

Porter Goss, then-chairman of the Permanent Select Committee on Intelligence of the House of Representatives, recalls that he and then-ranking member Nancy Pelosi "understood what the CIA was doing" [and] "gave the CIA our bipartisan support" [and] "gave the CIA funding to carry out its activities", and "On a bipartisan basis . . . asked if the CIA needed more support from Congress to carry out its mission against al Qaeda".

The amendment further notes that:

No member of Congress briefed on the legal analysis of the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency in 2002 objected to the legality of the enhanced interrogation techniques, including "waterboarding", approved in legal opinions of the Office of Legal Counsel.

The amendment further notes that:

Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel [of the Department of Justice] provides national leaders a means to detect, deter, and defeat further terrorist [attacks] against the United States [of America].

The amendment further notes that:

The enhanced interrogation techniques approved by the Office of Legal Counsel have, in fact, accomplished the goal of providing intelligence necessary to defeating additional terrorist attacks against the United States.

It further notes that:

Congress has previously established a defense for persons who engaged in operational practices in the war on terror in good faith reliance on advice of counsel that [such] practices were lawful.

This amendment further notes that:

The Senate stands ready to work [on a bipartisan basis] with the Obama Administration to ensure that leaders of the Armed Forces of the United States and the intelligence community continue to have the resources and tools required to prevent additional terrorist attacks on the United States.

This amendment concludes with this finding or sense of the Senate:

It is the sense of the Senate that no person who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied in good faith on [that legal advice], nor any member of Congress who was briefed on the enhanced interrogation

program and did not object to the program going forward should be prosecuted or otherwise sanctioned.

This is the amendment I sought to offer that for technical reasons is not going to be voted on now. But, I assure my colleagues, we will revisit this at a later date.

I want to take issue with some of the comments by my distinguished colleague from Illinois, the majority whip, who I believe—it was yesterday, or maybe the day before—said there was no basis for my assertion that there was actionable intelligence gained from the so-called enhanced interrogation techniques, and questioned what my source was.

I would remind the distinguished Senator from Illinois that the source is President Obama's Director of National Intelligence, Dennis Blair, who wrote, on April 16, 2009, that "high-value information came from interrogations in which these methods were used, and provided a deeper understanding of the al Qaeda organization that was attacking this country."

Mr. President, I ask unanimous consent that the letter in which the Director of National Intelligence made those statements be printed in the RECORD following my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. Nor was this special information available to only a few. The New York Times reported it on April 21, under the headline "Banned Techniques Yielded 'High-Value information', Memo Says." That is a story in the New York Times which basically recounts what the Director of National Intelligence said.

I would remind my distinguished colleague from Illinois that it is, in fact, the Director of National Intelligence for President Obama who has affirmed not just the need but the usefulness of the information and intelligence derived from these enhanced interrogation techniques that were approved by the legal authority for the executive branch of the Federal Government, the Office of Legal Counsel.

My colleague from Illinois, Senator DURBIN, argues that we need to allow prosecutors to follow the facts and the law wherever they may lead—certainly, a relatively harmless assertion; one I would generally agree with. But here, we know enough about the facts and the law to know there is no evidence that anyone acted with the intent required to prosecute under the law. I won't bore the Senate with an analysis of what the criminal law requires in this context, but I would say that the facts, as we know them, are to give our public servants the benefit of the doubt. As detailed in the Office of Legal Counsel memoranda, significant efforts were made to minimize significant harm that could arise from these

techniques. Who could question the desire of both the intelligence community as well as the Department of Justice and the leaders responsible for protecting our national security—who could question the good-faith need to get information that would actually help prevent follow-on terrorist attacks?

We know al-Qaida, on September 11, 2001, used crude weapons to attack our country. Yet they were able to kill 3,000 Americans, roughly. Our intelligence community and our national leadership knew al-Qaida was not satisfied with such primitive weapons but, indeed, was seeking biological, chemical or nuclear weapons. We know how important it was for our intelligence officials to get the information they needed. We know the lawyers at the Office of Legal Counsel who rendered this legal advice were doing what they thought was their responsibility in good faith. Indeed, the Members of Congress who had the responsibility to perform congressional oversight on these activities, I believe, demonstrated their good-faith desire to do what was necessary to protect our country. I believe we know enough to say these people—all of them—acted in good faith.

It has been suggested the standard we apply is whether the advice fell within the range of legitimate analysis and within the range of reasonable disagreement common to legal analysis of important statutory and constitutional questions. I believe that has been demonstrated, and but for this technical objection to the amendment, I am confident we would receive an overwhelming bipartisan vote of support for this sense-of-the-Senate resolution.

The distinguished Senator from Illinois, Senator DURBIN, says we should allow prosecutors and the Department of Justice to decide whether to bring a case against these officials: The intelligence community, the lawyers who drafted the legal advice, and perhaps even the Members of Congress who acquiesced and facilitated these enhanced interrogation techniques following a classified briefing. But I would suggest there is no case to be brought against these individuals. Any prosecution that arises out of this interrogation program would clearly be based upon politics and not on the law.

I would submit the amendment I have offered—and that I described and which I will reoffer again at an appropriate time—is a call for reasonableness and national unity. The calls for prosecution of good-faith patriots has simply gone too far. When bloggers and others—not to single out bloggers but even Members of this body—have suggested that we somehow need a truth commission and have suggested that prosecutions might be the appropriate outcome, when they are suggesting that prosecutions under these cir-

cumstances occur, then I think our political environment has changed in a dangerous way and one which will certainly chill our intelligence officials in gathering actual intelligence necessary to keep us safe and certainly discourage patriots who want to serve and who are willing to serve in Government. When policy differences become criminalized in ways that some have suggested, it is not helpful to our country. Indeed, I think it is dangerous to our national security.

We know there is an unfortunate history of hysterias, panics, and mob rule from time to time that occurs, whether it is from Salem through the McCarthy era. When justice is steered by passion and politics rather than by reason and the rule of law, it is not worthy of the name “justice.” Once you stir up an angry mob, we know it is unpredictable where that mob might lead or who might get caught up in the mob’s action. But we know already too many patriotic Americans have been targeted by the present hysteria. This amendment calls for an end to the hysteria and a return to reason, civility, national unity, and the rule of law.

#### EXHIBIT 1

DIRECTOR OF  
NATIONAL INTELLIGENCE,  
Washington, DC, April 16, 2009.

DEAR COLLEAGUES: Today is a difficult one for those of us who serve the country in its intelligence services. An article on the front page of The New York Times claims that the National Security Agency has been collecting information that violates the privacy and civil liberties of American citizens. The release of documents from the Department of Justice’s Office of Legal Counsel (OLC) spells out in detail harsh interrogation techniques used by CIA officers on suspected al Qa’ida terrorists.

As the leader of the Intelligence Community, I am trying to put these issues into perspective. We cannot undo the events of the past; we must understand them and turn this understanding to advantage as we move into the future.

It is important to remember the context of these past events. All of us remember the horror of 9/11. For months afterwards we did not have a clear understanding of the enemy we were dealing with, and our every effort was focused on preventing further attacks that would kill more Americans. It was during these months that the CIA was struggling to obtain critical information from captured al Qa’ida leaders, and requested permission to use harsher interrogation methods. The OLC memos make clear that senior legal officials judged the harsher methods to be legal, and that senior policymakers authorized their use. High value information came from interrogations in which those methods were used and provided a deeper understanding of the al Qa’ida organization that was attacking this country. As the OLC memos demonstrate, from 2002 through 2006 when the use of these techniques ended, the leadership of the CIA repeatedly reported their activities both to Executive Branch policymakers and to members of Congress, and received permission to continue to use the techniques.

Those methods, read on a bright, sunny, safe day in April 2009, appear graphic and

disturbing. As the President has made clear, and as both CIA Director Panetta and I have stated, we will not use those techniques in the future. I like to think I would not have approved those methods in the past, but I do not fault those who made the decisions at that time, and I will absolutely defend those who carried out the interrogations within the orders they were given.

Even in 2009 there are organizations plotting to kill Americans using terror tactics, and although the memories of 9/11 are becoming more distant, we in the intelligence services must stop them. One of our most effective tools in discovering groups planning to attack us are their communications, and it is the job of the NSA to intercept them. The NSA does this vital work under legislation that was passed by the Congress. The NSA actions are subject to oversight by my office and by the Justice Department under court-approved safeguards; when the intercepts are conducted against Americans, it is with individual court orders. Under these authorities the officers of the National Security Agency collect large amounts of international telecommunications, and under strict rules review and analyze some of them. These intercepts have played a vital role in many successes we have had in thwarting terrorist attacks since 9/11.

On occasion, NSA has made mistakes and intercepted the wrong communications. The numbers of these mistakes are very small in terms of our overall collection efforts, but each one is investigated, Congress and the courts are notified, corrective measures are taken, and improvements are put in place to prevent reoccurrences.

As a young Navy officer during the Vietnam years, I experienced public scorn for those of us who served in the Armed Forces during an unpopular war. Challenging and debating the wisdom and policies linked to wars and warfighting is important and legitimate; however, disrespect for those who serve honorably within legal guidelines is not. I remember well the pain of those of us who served our country even when the policies we were carrying out were unpopular or could be second-guessed.

We in the Intelligence Community should not be subjected to similar pain. Let the debate focus on the law and our national security. Let us be thankful that we have public servants who seek to do the difficult work of protecting our country under the explicit assurance that their actions are both necessary and legal.

There will almost certainly be more media articles about the actions of intelligence agencies in the past, and as we do our vital work of protecting the country we will make mistakes that will also be reported. What we must do is make it absolutely clear to the American people that our ethos is to act legally, in as transparent a manner as we can, and in a way that they would be proud of if we could tell them the full story.

It is my job, and the job of our national leaders, to ensure that the work done by the Intelligence Community is appreciated and supported. You can be assured the President knows this and is supporting us. It is your responsibility to continue the difficult, often dangerous and vital work you are doing every day.

Sincerely,

DENNIS C. BLAIR.

Mr. CORNYN. Mr. President, I am going to turn to another subject, but may I inquire how much time is remaining under the unanimous consent agreement?

The PRESIDING OFFICER. The Senator has 27 minutes remaining.

Mr. CORNYN. I assure the Chair I will not use all that time.

#### HEALTH CARE REFORM

Mr. President, I wish to discuss another very serious challenge in our country and that is how to reform our broken health care system to serve the needs of the American people and to help bring down the costs of health care, which now prices many people out of the market and contributes to the too large number of Americans who don't have health insurance.

I am a relatively new member of the Senate Finance Committee, and under the leadership of Senator BAUCUS and Senator GRASSLEY, we have been discussing our various policy options for some time. There has been some discussion on the floor about the subject. Indeed, my colleagues from Oklahoma and North Carolina, Senator BURR and Dr. COBURN, have introduced a bill which they believe addresses the need for health care reform in a significant way.

On Monday, I am going to return to my State of Texas and travel around the State to basically talk about commonsense solutions to this health care crisis. Last Monday, I spent some time in Houston, TX, with the Houston Wellness Association and others concerned about how we can spend more of our energy and effort on keeping people healthy and preventing disease which will, of course, avoid unnecessary human suffering but also help us contain the too high price of health care.

We know what is at stake in the health care reform debate. I believe my constituents in Texas—and I believe the American people, generally—don't want to be served up a fait accompli in Washington. They don't want to wake in July or August and find that Congress has taken a blank sheet of paper and basically deprived them of the opportunity to keep the health care they presently have and instead present them with something else which they don't want and which does not promise to make health care more accessible but, rather, will make it more expensive and less accessible. I know my constituents in Texas don't want elites in Washington to make decisions for them. They want to be informed about the debate, and they want to then discuss with me and their other elected representatives what they want—not what is dictated to them from Washington inside the beltway.

Whether you are putting together a family budget or a business plan, we all see the same problem, and that is the rising cost of health care. We know health care costs have risen faster than inflation in both good times and bad times. Health care costs, we know, force many self-employed workers and small businesses into the ranks of the uninsured. We also know that health

care costs in America are twice as much per capita than they are in most of the developed world. In fact, we spend roughly 17 percent of our gross domestic product on health care. I believe the next highest country to us is Japan, an industrialized country, which spends roughly 9 percent of GDP.

But we also know there are a lot of hidden costs—there are not just the obvious costs—on families and businesses. These hidden costs show up in smaller paychecks for working men and women all across this country. All things being equal, one would think that rising productivity of the American worker would lead to higher wages, but instead, for many workers, more compensation takes the form of higher health care premiums, when they could be receiving greater compensation in terms of wages that they could then spend on other purposes. But because of rising deductibles, copays, and the rising costs, we see rising health care costs actually squeeze worker pay in America such that, in many instances, that pay is stagnant, if not declining.

Hidden costs also show up in the \$36 trillion of unfunded liabilities in the Medicare Program, as well as other entitlements. Our people are concerned about the hidden costs of all the borrowing we are doing in Washington and the unprecedented spending. Nearly 50 cents on every dollar spent in Washington is borrowed, leaving the fiscal responsibility for our children and grandchildren and not taking it upon ourselves.

In fact, as we know, the Federal deficit in 2009 will be nearly as large as the entire Federal budget was in 2001. Let me say that again. This is staggering. The Federal deficit in 2009 will be nearly as large as the entire Federal budget in 2001. As the distinguished occupant of the chair, who is the former chief executive of his State, the Commonwealth of Virginia, knows, that kind of growth cannot be sustained indefinitely. Indeed, we are cruising for a disaster when it comes to unrestrained health care costs, both for individuals and for small businesses but also for the Government when it comes to entitlement spending.

I agree with what President Obama said last week. He said our current deficit spending is unsustainable. I agree with that. He said we are mortgaging our children's future with more and more debt. I think all Americans agree with what President Obama said, but we have yet to see the hard decisions that would lead us back to a path of fiscal discipline. It is the contrary: more spending, more borrowing, with no fiscal discipline. As we look at health care reform, our people want solutions that will lower the costs of health care, without increasing the debt, without raising taxes, and without reducing quality or access to care.

I have heard a lot of discussions in the context of the Finance Committee, talking about what options are available to the Congress in dealing with this health care crisis and, honestly, most of them deal with how we can empower the Government to make more and more decisions on behalf of patients. I think that is the opposite direction from which we ought to go to approach this problem. We ought to look at what puts patients back in charge; what gives individuals the power to consult with their own private physician and make a decision; what is in the best interests of themselves and their family when it comes to health care. Let's not put barriers in the way of that sacred relationship between a patient and a doctor, and for sure let's not use rationing—denying and delaying access to care—as government-run programs abroad use in order to control costs.

Let's put patients back in charge. That ought to be our battle cry as we approach this current crisis.

Patients should have more control, not less control, over their own health care. One way we can do that is giving them more and better information on cost and quality of their care. How in the world can we have an effective market for health care, which will provide lower costs, if, in fact, patients are denied access to information about cost and outcomes? They not only want to know how much it is going to cost them; they want to make sure it is a good, quality service, and we ought to be in the business of providing them that information. We ought to be insisting, as their elected representatives, that we have access to that information in deciding how to spend their money in entitlement programs such as Medicare and Medicaid. Patients should also, I believe, have a choice of providers who compete for their business. We know that competition produces higher quality, better service, and a lower price. We can see that across the board. When the market helps discipline spending, it improves quality and lowers price. We can do that in health care by empowering individuals and giving them more access to information, greater transparency, quality, and price, making them better informed consumers.

We also know our tax and our legal system need reform so all Americans are treated fairly. We have to end the cost shifting that now goes with too low reimbursement rates for Medicare and Medicaid, which means it is harder and harder for an individual to find a doctor who will actually accept those submarket rates to care for them.

I was in Dallas a couple years ago. I was in an emergency room at a hospital, while touring the hospital, and there was this wonderful woman who came into the emergency room and someone asked her what she wanted.



She said: I need my prescriptions refilled—in the emergency room at a hospital in Dallas. She couldn't find a doctor who would accept her as a new Medicare patient, so the only place she knew where to go was to the emergency room to get a prescription, to refill her medications. That is incredibly inefficient and an incredibly costly way to deliver health care. We have to find a way to do it better.

Right now we know that for private health insurance, the costs are shifted in order for health care providers to provide care to everybody. That cost shifting results in higher premiums, smaller paychecks, tax increases, and more public debt, and we ought to attack it head-on.

We also know from experience that putting patients in charge can lower health care costs. At the Federal level, believe it or not, we actually have a Federal program that, contrary to intuition and some people's skepticism, actually demonstrates this.

This is a success of Medicare Part D, the prescription drug program. Medicare Part D gives seniors choices among entirely private plans, with no government-run plan at all, no "public option" at all. As a result of the successes of Medicare Part D, seniors have seen program costs that are 37 percent less than anticipated, and more than 80 percent of seniors are satisfied with the program.

I think this example proves the point I was making earlier—that greater access to information about quality and cost gives people more choices, creates competition in a market that disciplines cost, and ultimately brings down those costs and increases satisfaction.

At the State level, good ideas for Medicaid reform have come from Florida, South Carolina, Indiana, and other States. These programs have given some of the lowest income Americans more choices and more control over the dollars spent on their behalf. Again, costs are lower and participants are generally satisfied with these programs.

The private sector has some very good ideas as well. Steve Burd, of Safeway, has talked to many of us on both sides of the aisle about their successful experimenting with health care costs at their company by providing financial incentives to quit smoking, lose weight, exercise, control blood pressure and cholesterol, and get the appropriate diagnostic tests at a reasonable price.

There is also another successful program, and I am going to meet with executives and employees at Whole Foods, which is located in Austin, TX, where I live. Whole Foods has conducted a successful experiment with high-deductible insurance plans with personal wellness accounts that each employee controls. Whole Foods has

seen fewer medical claims, lower prescription drug claims, and fewer hospital admissions through this program.

So why in the world would we want to dictate a single-payer system out of Washington for 300 million people when we have seen successful experiments and innovation across the country that we can learn from and adopt to empower patients and consumers, not Washington bureaucrats? Some, though, in Washington have simply given up on the private sector when it comes to delivering health care needs. They want to shift more power and control to the Federal Government. I think that is a terrible mistake.

We have heard ideas about how to increase spending to pay for more Government control, at a time when we already spend 17 percent of the GDP on health care—again, nearly twice as much as our next closest competitor in an industrialized nation, Japan—17 percent in the United States compared to 9 percent in Japan, and other countries are far lower.

Raising taxes is simply a terrible idea, especially during a recession. Raising taxes would also break the President's pledge he made in the campaign last year when he assured Americans that no family making less than \$250,000 a year will see any form of tax increase—not your income tax, not your payroll tax, not your capital gains taxes, not any of your taxes. But we can help the President keep his pledge—not help him break it—by empowering patients and consumers, ordinary Americans, to make their decisions and not empower bigger and bigger government to take those decisions away from them and dictate them.

In the Finance Committee, we have heard a number of proposals that may improve care but are not going to contain costs—at least according to the CBO. These proposals include what I would consider to be commonsense approaches that I think are good, such as more health care technology and prevention initiatives. We have even seen a number of interest groups, provider groups, appear with the President last week, pledging they would cut the growth of health care costs, over the next 10 years, \$2 trillion. That all sounds good until you start looking at it and realize there is actually no enforcement mechanism at all. It is a meaningless pledge, and there is going to continue to be upward pressure on health care costs across the board unless we do something about it.

Only in Washington, DC, would people embrace the notion that to save money, you have to spend more money. It is not just counterintuitive, it is unproven. I don't think there is any justification for that suspicion. If there is, I would just love to see it. I don't think we ought to take as a matter of blind faith that by spending over a trillion dollars more of tax money on top

of the 17 percent of GDP we are already spending now, that somehow miraculously, with the wave of a wand, by suspending our powers of disbelief, we are going to bend the curve on the growth of health care costs, which are bankrupting the country when it comes to Medicare and putting health insurance and health care out of the reach of many hard-working Americans.

We have heard about some interesting ideas, such as comparative effectiveness research, which sounds good at first blush. In the stimulus plan, the Federal Government spent, or pledged, more than a million dollars on that. It sounds pretty good. Let's find out what works. Well, I am concerned that the Government will use this research to delay treatment and deny care. The way the Government contains health care costs is by rationing, pure and simple. That is what happens in Medicare. I mentioned the woman in Dallas who couldn't find a doctor to accept her as a new Medicare patient. It is because the Government reimburses at such a low rate. So we have a promise of coverage, which everybody applauds, but it denies people access because the Government denies and delays care by using rationing as a way to control costs. We don't need that. Certainly, we don't need that, based on the "cookbook" medicine prescribed by Government bureaucrats, who will say: We will pay for this procedure but not that other procedure because it is not in our "cookbook." Last week, Medicare refused to pay for less-invasive colonoscopy procedures. I don't think the American people are crying out for more Government control of their health care decisions based on cost-based decisions. That is what they would get if the proponents of the so-called public plan get their way.

Again, I don't know who it is in Washington, DC—there must be a little group, a cabal of individuals sitting behind closed doors, that tries to think up innocuous names, such as "public plan," for some really scary stuff. A "public plan" is simply a Washington takeover of health care; it is plain and simple. It is not an option. In the end, it will be the only place you can go under a single-payer system.

We should take this pledge, too, Mr. President. We should guarantee that Americans who currently have health insurance that they like ought to be able to keep it—that is about 85 percent—as we look for ways to increase access for people who don't have health insurance. One think tank that looked at this so-called public plan—or Washington takeover of health care, which would drive all private competitors out of the market by undercutting them—estimated that 119 million Americans will lose their private health insurance if this Washington takeover, under the title of "public plan," is embraced.

We know the Federal Government is not a fair competitor. While it serves



also as a regulator and a funder, the Federal Government says: Take it or leave it. It is price fixing. Nobody else can compete with the Federal Government. The public plan, so-called, would simply shift cost to taxpayers and subsidize inefficiency, as Medicare and Medicaid do today. They are broken systems that we don't need to emulate by making Medicare for all. Why would we emulate Medicare when it is broken and on an unsustainable financial path? We need new ideas and innovations that put the people in charge and will help bring down costs. Greater transparency, more choices, and market forces will increase satisfaction while bringing down costs.

There is another scary concept out there that is called a "pay or play" mandate for employers. When I talk to small businesses in Texas, they tell me one of their most difficult decisions is how do they provide health care for their employees in small businesses? It is hard to get affordable health insurance. Some in Washington are proposing taking this to what I would call a "mandate on steroids." Basically, it would say that if a small business doesn't provide health insurance coverage for its employees, it is going to have to pay a punitive tax. That is why they call it "pay or play." New mandates on job creators would do nothing but head us in the wrong direction during a recession, where we are fighting the best we can in the private sector to create new jobs and retain the ones we have. We know the costs of this "pay or play" mandate are going to ultimately be passed down to the workers in the form of lower wages, just as they are today under a broken system.

I have heard good ideas about health care reform. I hope we will have a robust debate about the options available to the American people to fix this broken system. I have to tell you that many proposals out there that seem to be gathering momentum are deeply troubling. As I have said, I believe the best way to approach health care reform—indeed, governance generally—is from the bottom up, not the top down.

We need to take our time and get this right and not, in our haste, produce a bad bill that will even deny people the choices and coverage they have now. We need to listen to the people who are running small businesses and raising families across this country. That is what I plan to do in Texas next week. I hope my colleagues will take advantage of the next week's recess to do likewise.

This is too important to get done wrong. Let's take our time and listen to the stakeholders and people who will suffer the negative consequences if we get it wrong, and let's work together with President Obama and the administration to try to get it right.

I thank the Chair. I suggest the absence of a quorum and ask unanimous

consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I now have 20 cosponsors of amendment No. 1189. I ask unanimous consent to add Senator KLOBUCHAR, Senator CARDIN, Senator BEN NELSON, Senator BROWNBACK, Senator ROBERTS, Senator GRASSLEY, Senator BURR, Senator JOHANNES, and Senator SCHUMER as cosponsors of amendment No. 1189.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I add these cosponsors because more and more of our Senators are learning what has happened to these dealerships that have been notified by Chrysler that they have 3 weeks to completely dissolve a business that has been part of a community for 20 years, 30 years, up to 90 years. The oldest car dealership in Texas is 90 years old—a grandfather, father, and now a son running that car dealership. They were notified 3 weeks from May 14 that dealership will be closed.

Just to give a view of what the dealers received on May 14 and why these 789 who received this notice are so concerned is because the letter they were sent says:

As a result of its recent bankruptcy filing, Chrysler is unable to repurchase your new vehicle inventory. As a result of the recent bankruptcy filing, Chrysler is unable to purchase your Mopar parts inventory. And furthermore, as a result of the bankruptcy filing, Chrysler is unable to purchase your essential special tools.

After 90 years of operating a Chrysler dealership, a company is now told they will have no ability after 3 weeks to sell a Chrysler automobile, nor will there be a guarantee for repurchase.

What my amendment does, which now has 20 very bipartisan cosponsors, is to say: Give these dealers 3 more weeks. Give them 3 more weeks to have an orderly transition out of a company. There are estimated to be 40,000 employees of these Chrysler dealerships who received 3 weeks' notice—40,000. We are dealing with so many issues in these auto manufacturer closings, the bankruptcies. We all want the auto manufacturers to stay in business. We do. The Government is making a huge investment in that hope. But the group that is getting nothing right now is the dealers.

The dealers also are the group that has done nothing that caused this problem in the first place. They did not de-

sign the cars, they did not manufacture the cars, but they did buy them. There is no cost to the company that manufactures because these dealerships have purchased these cars. They have purchased the parts. They have purchased the special tools to do the repairs. Yet now they are being told they cannot sell, they cannot repair and, oh, by the way: We are not going to guarantee you will have your parts and inventory bought. This is just not right. That is why there are 20 cosponsors to this amendment, and it is growing by the hour.

I submit for the RECORD a letter that Senator ROCKEFELLER wrote to the chief executive officer, Robert Nardelli, in which he, too, is protesting the egregious timeframe and terms of these franchise terminations which he said "seem unprecedented to me."

As you know, most auto dealers have a few months of inventory of new vehicles on their lots, though some may have up to 6-months' worth. This means if the dealers stopped adding cars to their inventories last week when GM and Chrysler announced their decisions, they would still be able to sell cars for 6 months before they run out.

But Chrysler is saying they will not buy back this inventory or even parts and instead has arranged for the remaining dealers to buy the unsold cars from dealers set to lose their franchises. But there is no guarantee of that. Right now it is just a hope.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

Washington, DC, May 20, 2009.

ROBERT NARDELLI,  
*Chief Executive Officer, Chrysler LLC, Auburn Hills, MI.*

FRITZ HENDERSON,  
*Chief Executive Officer, General Motors Corporation, Detroit, MI.*

DEAR MR. NARDELLI AND MR. HENDERSON: I am writing to express my deep concern with Chrysler's and General Motors' (GM) recent announcements to terminate franchise agreements with 789 and roughly 1,100, respectively, automobile dealerships across this country and to urge both of you to reconsider these decisions. It is my belief that we must work to keep as many of these businesses open as possible, and at the very least assist these dealerships, the employees, and their loyal customers transition as we move forward in this process.

Between Chrysler and GM, it appears that approximately 100,000 jobs nationally are at risk as a result of the dealership closings. In West Virginia, 17 of 24 Chrysler dealerships have been told their franchises will end on June 9, 2009, while a publicly undisclosed number of GM franchises were notified that their agreements will stop in October 2010. This puts hundreds, if not thousands, of employees' jobs at risk and will have a crippling impact on local communities across the State as less tax revenue will likely translate into cuts in important and much needed government services, especially during these challenging economic times.

The egregious timeframe and terms of these franchise terminations seem unprecedented to me. As you both know, most auto dealers have a few months of inventory of new vehicles on their lots, though some may have up to six-months worth. This means if the dealers stopped adding cars to their inventories last week when GM and Chrysler announced their decisions, they would still be able to sell cars for six months before they run out. From what I have been told, Chrysler will not buy back this inventory of vehicles or even parts and instead has arranged for the remaining dealers to buy the unsold cars from dealers set to lose their franchises. So come June 10th, terminated dealers will only be able to sell that inventory to remaining dealers, likely at substantial losses since they may well have backlogs of inventory themselves. While GM has at this point agreed to allow its terminated dealers to continue to sell vehicles until October 2010, I am concerned that this deadline will be moved up if GM enters bankruptcy as many expect.

Such franchises face a similar situation when it comes to large inventories of parts and manufacturer-related tools. From discussions with these dealership owners, it appears that some of this inventory may have been accepted as a result of manufacturer pressure to purchase additional, unneeded stock, possibly in order to help the companies avoid bankruptcy. Now these dealerships will likely have no other alternative but to sell their stock of parts and tools to surviving dealers for pennies on what they paid.

I am also worried about the negative impacts of your companies' decisions on consumers who have warranties and service contracts, especially in rural areas like West Virginia. Many families have consistently bought cars from the same dealership in their local community and have built long-term relationships with the dealership's owner. Now these West Virginians will be forced to travel unreasonable distances due to the local dealership having their franchise agreement terminated. In some cases, customers will be in the untenable position of having to drive over an hour to simply have their cars serviced and their warranties honored.

While I understand that as part of GM's and Chrysler's restructurings you may need to examine your dealership contracts, I urge you to reconsider your decisions to terminate these franchise agreements. As two companies that have received billions of dollars in Troubled Assets Relief Program (TARP) funding, I would hope at the very least that Chrysler will establish a more reasonable transition period that will allow its terminated franchises to stay open beyond June 9th. I would also hope that regardless of whether it enters bankruptcy, GM will honor its commitment to allow terminated dealers to remain open until October 2010. Both of these actions would permit dealerships to sell most of the inventory of their vehicles, parts, and tools; maintain their used vehicle businesses and service and repair centers; allow consumers to continue to have access to quality service and the honoring of warranties and service contracts; and keep job losses to an absolute minimum.

Thank you for your urgent attention to these important matters. I look forward to receiving prompt responses from you both.

Sincerely,

JOHN D. ROCKEFELLER IV.

Mrs. HUTCHISON. Senator ROCKEFELLER is concerned, as many of us are,

that the dealers are the roadkill in this, and they are also the people who have run successful businesses. They have sold the cars. They have employees. They have investments in the community. In many instances, these are the largest employers in the community. They support the high school football program. They support the community charitable events. We are not only knocking out 40,000 employees, we are not only knocking out the people who have given their faith and loyalty to this brand, but we are knocking out a huge chunk of community activism and volunteer service to the many communities affected by these closings.

I talked with the president of Chrysler this morning, and I believe he sincerely is trying to save the company, and we want him to do that. But it has been half a day, and I have not seen a progress report that we will be able to come back to the floor and say these dealers are going to get some help from Chrysler.

The President says he wants to help. But I think it is time now that we get some sense of what help is. If it is purchasing the inventory, getting the financing for the new and ongoing dealerships that will stay in business, we need to know that. These dealers need to know it so they can plan. My goodness, it is now probably 2 weeks or so, until June 9, and these people are having to plan for the orderly transition of their companies, hopefully not into bankruptcy, but many of them are going into bankruptcy.

I have been told some of these are Chrysler dealers, but they have other dealerships as well. The Chrysler dealership could bring down the ongoing one. I think it is time for the Government that is trying to help the manufacturers to say we need to help the dealers too. We do not need to have a bailout for the dealers, but we do need to give them time to have their orderly transition or give them credit possibilities with the dealerships that are going to stay in business and have them take the inventory. That would be the logical thing to do. But we need a commitment.

The 20 cosponsors of this amendment, when they hear from their dealers and they hear what is happening, want answers and they want answers before this bill leaves the floor. I hope I can give a better result than I have gotten so far today from the White House and from Chrysler that something is coming together. I think everyone has the right goal. We need to work together to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR MILITARY

Mrs. LINCOLN. Mr. President, I think a lot of folks are looking toward the weekend. It is a holiday weekend. I know I am reflecting on that holiday weekend. I hope others are as well because on this Memorial Day, families in communities throughout Arkansas, our great State, and across our great Nation will gather to recognize the service of our men and women in uniform and to honor those who have paid the ultimate sacrifice in the name of freedom.

My father and both of my grandfathers were infantrymen who proudly and honorably served our Nation. They taught me from a very early age about the sacrifices of our troops, their experiences, the sacrifices of our troops and their families and what they have done to keep our Nation free.

Throughout my Senate career, I have consistently fought for initiatives that provide our military servicemembers, our veterans, and their families the benefits they have earned and deserve. That is why in advance of Memorial Day, which is right before us, I have authored a series of bills to honor our troops and their families.

My first legislative proposal calls for educational benefits that better reflect the service and commitment of our guardsmen and reservists. This legislation is endorsed by the Military Coalition, a group of about 34 military veterans and uniformed service organizations, with over 5.5 million members. I am pleased that my friend and colleague, Senator CRAPO of Idaho, with whom I routinely join in a bipartisan way on a whole host of issues—came to the House together, and we came to the Senate together. He is a good friend and good working partner on behalf of substantive issues. He has joined me in cosponsoring this bill.

Unfortunately, educational benefits for the members of our Selected Reserve have simply not kept pace with their increased service or the rising cost of higher education. These men and women serve a critical role on our behalf, and we must make an appropriate investment in them.

In Arkansas and across the country, Americans are well aware of the reality that our military simply could not function without the thousands of men and women at armories and bases in our communities who continually train and prepare for future mobilizations and who work to ensure other members of their units are qualified and ready to deploy when called upon.

My legislation would tie educational benefit rates for guardsmen and reservists to the national average cost of tuition standard that is already applied to Active-Duty educational benefit rates. This builds upon my total force GI bill, first introduced in 2006, which was designed to better reflect a comprehensive total force concept that ensures

members of the Selected Reserve receive the educational benefits that are more commensurate with their increased service.

The final provisions of this legislation became law last year with the signing of the 21st-century GI bill. In addition, the National Guard and Reserve have been and will continue to be an operational force serving overseas, and as such they require greater access to health care so that members can achieve a readiness standard demanded by current deployment cycles.

Far too many men and women are declared nondeployable because they have not received the medical and dental care they need to maintain their readiness before they are called up. This can cause disruption in their unit by requiring last-minute replacements from other units or requiring treatment during periods that are set aside for much needed training and experience they need to gain before they are deployed.

Compounding the challenge is the fact that short-notice deployments occur regularly within the National Guard. The Department of Defense can and should do more to bring our Selected Reserve members into a constant state of medical readiness for the benefit of the entire force.

My bill, the Selected Reserve Continuum of Care Act, would better ensure that health assessments for guardsmen and reservists are followed by Government treatment to correct any medical or dental readiness deficiencies discovered at their health screenings.

This legislation is endorsed by the National Guard Association of the United States, the Association of the United States Army, the Association of the United States Navy, the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the Retired Enlisted Association, the U.S. Army Warrant Officers Association, and the Veterans of Foreign Wars of the United States.

I also thank Senators LANDRIEU and BURRIS for their support in cosponsoring this bill as well.

Lastly, a bill I have introduced today, the Veterans Survivors Fairness Act, would enhance dependency and indemnity compensation benefits of survivors of severely disabled veterans and increase access to benefits for more families. In doing so, it would address inequities in the VA's DIC program by doing three things. First, it would increase the basic DIC rate so it is equivalent to the rate paid to survivors of Federal civilian employees. It also would provide a graduated scale of benefits so many survivors are no longer denied benefits because of an arbitrary eligibility restriction. Lastly, it would allow surviving spouses who remarry after the age of 55 to retain their DIC benefits.

This legislation, cosponsored by my good friend, Senator HERB KOHL of Wisconsin, is endorsed by the Disabled American Veterans, the Association of the United States Navy, the Military Officers Association of America, the National Guard Association of the United States, the National Military Family Association, and the Reserve Officers Association. It is not coincidental that these two measures are supported so heavily by our military associations. It is because they are much needed and it is because they are so deserved. Beyond these three bills, veterans health care continues to be on the top of my priority list. I have worked with my colleagues to make substantial investments to increase patient travel reimbursement, improve services for mental health care, and reduce the backlog of benefit claims.

Access to the Veterans' Administration health system is absolutely critical, but too often it is quite challenging, particularly for our veterans who live in the rural areas of our Nation. For these veterans, among the other initiatives I have championed, I have championed legislation with my friend and colleague, Senator JON TESTER of Montana, that will increase the mileage reimbursement rate for veterans when they go to see a doctor at a VA medical facility and will authorize transportation grants for Veterans Service Organizations to provide better transportation service in rural areas.

I have been to areas in southern Arkansas, very far from Little Rock—3, 3½ hours' travel—visiting with veterans down there who are in dire need of access to that VA medical care. Yet their ability to get there was hampered by the fact that they were only reimbursed one way; not to mention the fact that their reimbursement was so low—so far below what a Federal employee gets reimbursed—it was uneconomical and almost prohibitive in getting them there.

As Memorial Day approaches, I hope all my colleagues will remember, and I would like to encourage them and all Arkansans, to take the time to honor our servicemembers, veterans, and their families. Never miss an opportunity to thank someone in uniform. Our troops are worthy of our appreciation, and we should come together as a nation to show them with our words and our deeds that we stand with them as they serve our interests at home and abroad. As we all gather in preparation of a recess break, I hope we will all remember the reason we have this break, the reason we celebrate this holiday.

Those of us who have military in our family, those of us who do not, it doesn't matter, we all enjoy the freedoms of this great country, and it is critically important that we show that not only on Memorial Day but each day of the year. The opportunity we

have as legislators to honor our men and women in uniform, to support them with legislation that is meaningful to their lives, to their service, and to their families is absolutely essential. I encourage all my colleagues to look at the legislation I have offered, along with several of our colleagues, and encourage them to join me as we begin this Memorial Day break coming up next week and to remember why we celebrate, why we celebrate this Nation and these freedoms. It is because of the men and women in uniform who have served so bravely, and for those who have made the ultimate sacrifice, that we enjoy this great land and these freedoms and rights that we do enjoy in this great country.

Before concluding, I would like to add a couple other notes. I couldn't help but hear the comments of my colleague from Texas, and I wish to join her in her frustration for so many of our small and family-owned businesses across our State—our automobile dealers—that, for generations and generations, have passed down in their families a small business that they have worked very hard to keep afloat, to keep busy, to keep healthy, and to keep alive for future generations. My hope is that we will have the assistance and the working relationship with both the Treasury and the Chrysler Corporation and GM and others to better understand how we make that transition as reliable and certainly as palatable to those individuals and their families and small businesses as we possibly can. I look forward to working with the Senator from Texas and with other Senators as well as we move forward in that effort.

Last, but not least, I would like to also mention and extend my congratulations to our newest "American Idol," Arkansas' own Kris Allen, who represented our State so well over the past few months in the "American Idol" television show, which has been so popular among so many people in this country.

Kris is a talented young man with a bright future ahead of him, and I look forward to watching him build a very successful career. I join all Arkansans when I say how proud we are of Kris, not only as a talented performer but as a humble young man who embodies our Arkansas values of hard work, integrity, and conviction. We wish him all the best as we begin this new phase of his life and career.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1138

Mr. DEMINT. Mr. President, do we need to set aside a pending amendment?

The PRESIDING OFFICER. Under the previous order, the Senator is recognized.

Mr. DEMINT. It is my understanding, Mr. President, that I have 20 minutes to speak.

The PRESIDING OFFICER. That is correct.

Mr. DEMINT. I would like to say a few words now and then reserve the remaining time.

Mr. President, I am going to speak on my amendment to S. 1054, and it addresses a large amount of money that has been added to the war supplemental bill. In these times, it is, first of all, somewhat surprising that we would take \$108 billion and add it, unrelated to war supplemental, to this spending bill. My amendment would strike \$108 billion from the current spending bill, and I would like to take a few minutes to explain exactly what my amendment does and what we are striking.

The Chair and all my colleagues know these are very challenging times. We often refer to it as one of the worst economic crises we have had. I think we and many Americans are concerned about how much we are spending, how much we are borrowing, and what that might mean in the not-too-distant future as it relates to inflation and interest rates and higher taxes. I am hearing very often when I go back home: Enough is enough.

We have to remember, as we look at this amount of money that has been requested, what happened to what we called the TARP funds. The last administration asked us to come up with \$700 billion to be used for a financial bailout because we were in a crisis, and the money was going to be used—and this was very clear—to buy toxic assets, nonperforming loans, here and around the world. It had to be done immediately or the world financial system would collapse. Under that duress, Congress approved \$700 billion—really, a trillion with interest, over time—but none of the money was ever used as it was supposed to be used. We never bought any toxic assets. In fact, the money was used in different ways: to inject money into banks—even some banks that didn't want it; it has been used to make loans to General Motors and to Chrysler; and now we are talking about converting those loans to common shares so that the Government is owner of General Motors and Chrysler, as well as the AIG insurance company and possibly part owners of many banks.

But the interesting part of this that relates to my amendment is that this week I asked Secretary Geithner: What is going to happen when this money is repaid? Well, if it is repaid, he said, it

will go into the general fund, but the Treasury will maintain an authorization to take up to \$700 billion from the general fund anytime from now on. It becomes a permanent slush fund for Treasury. So what we have done is made the Treasury Department appropriators. Anytime they want, they can appropriate up to \$700 billion.

That is, in effect, what we are doing with the International Monetary Fund. Let me explain to my colleagues a lot of things I didn't know until I looked into this. The International Monetary Fund was set up to make loans to nations; to help nations that might need money to get through a financial crisis. Many nations are involved, but we give them \$10 billion as a kind of deposit to the fund. Currently, the IMF has the authority to use that money continuously. But we also give them the right to draw another \$55 billion from our Treasury at any time. In effect, the International Monetary Fund can appropriate \$55 billion from the U.S. Treasury anytime it wants. They now have over \$60 billion of our money that they can use all over the world.

We can debate whether that is a good thing, but what the President has asked for, and this bill provides, is an additional \$100 billion credit line, in effect, to the International Monetary Fund, and it ups our deposit another \$8 billion. We are going to take another \$8 billion and put it in the International Monetary Fund to be used. But then we make appropriators out of the International Monetary Fund. We give them a permanent credit line of an additional \$100 billion that they can appropriate anytime they want around the world.

There are a lot of good things we would like to do as a country, as a Congress. We would love to improve our education system. There are a lot of challenges in health care. We have talked about our roads and bridges decaying. There are so many good things we would like to do that we don't have the money for. How can we possibly tell an International Monetary Fund that they can take \$100 billion anytime they want from the U.S. Treasury if there is an emergency somewhere in the world?

There will be emergencies in these times. The interesting issue we are not thinking about is we are going to have more and more crises here at home. We know California is heavily in debt—over \$20 billion. They are talking about a financial collapse, as is New York and other States. But the size of California's debt is only one-fifth of what we are giving the International Monetary Fund.

I don't think we have added up all of this. I am very concerned we are not considering how much money we are talking about. Let's put \$108 billion in context. I know some will come and say we are not spending that amount of

money, we are just authorizing it, which means it can be appropriated anytime, but we are not spending it. In fact, they took the effort to get CBO to change the way it normally scores so this is not spending. They are saying the risk is only like \$5 billion. But the International Monetary Fund can take \$100 billion out of our Treasury anytime it wants.

With the world situation the way it is, I think we are being very naive to think it will not come out. We were told most of the TARP funds would not be used. We used most of the TARP funds.

But let's think about this \$100 billion. That is more than we spend as a Federal government on transportation all year. The 2010 budget for transportation is \$5 billion. It is more than we spend on education for a whole year—\$94 billion in our country. It is more than we spend on veterans' benefits. It is a lot of money. But very often we are talking about our own services to our own people in this country for which we do not have enough money. We need to remember the International Monetary Fund, while it may serve in theory a good purpose, people on the board who decide how this money is used include countries that we say are terrorists, such as Iran. Do we think Iran is going to help the United States when we are in trouble?

Let's look at our current situation. Our current national debt as a country is \$11.2 trillion—more than any other country in the world. We are the most indebted country in the whole world. Our per capita debt is \$37,000. Every man, woman and child in this country owes \$37,000, based on what we have already borrowed. But if you include Social Security and Medicare liabilities, our current expenditures will exceed tax revenues by \$40 trillion over the next 75 years. Our debt is now 80 percent of our gross domestic product—80 percent of our total economy, which is the highest level since 1951.

The President's budget estimates that total debt relative to our total economy will rise 97 percent by 2010 and 100 percent thereafter. We are going to have debt that is larger than our total economy in the next year or two.

We currently owe \$740 billion to the People's Republic of China and we owe \$635 billion to Japan and \$186 billion to the oil exporters. Keep in mind, if the IMF does access this \$108 billion, we will have to borrow it in order for them to get it, and we will have to pay interest on that money. We will be told we will earn interest on any money that is borrowed, but we will likely pay even a higher interest rate in order to make that money available. When we do, we increase our debt even further.

Mr. KERRY. Will the Senator yield for a question?

Mr. DEMINT. Yes.

Mr. KERRY. I appreciate that. Let me ask the Senator, I think the Senator said this is a permanent fund, that we would be permanently reduced from this amount of money. Is the Senator aware this expires and is renewable every 5 years? That there is no permanency at all?

Mr. DEMINT. Does the Senator have that? I have the bill with me. It would be a great help to point this out. Of course, 5 years, the drawing of \$100 billion anytime in the next 5 years is something we should not even consider.

Mr. KERRY. Will the Senator yield further?

Mr. DEMINT. Yes.

Mr. KERRY. Is the Senator also aware it is not \$100 billion, that CBO scored it at \$5 billion and, in fact, the experience of our country is we earn interest, we make money, and this is a winning proposition for the country?

Mr. DEMINT. That is a little smoke and mirrors. If the Senator will allow me to read from page 104 of the bill, on line 4 it says:

Any payments made to the United States by the International Monetary Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund.

You may have a date somewhere on this, but that is pretty clear, that it will continue to be a draw.

Mr. KERRY. Mr. President, if I could proceed further? In point of fact, it is limited, and it has to be repaid at the end of 5 years if it is not renewed.

Mr. DEMINT. Do you have the cite?

Mr. KERRY. I will further get that for the Senator.

Mr. DEMINT. I will answer the Senator on how much this costs. I think the Senator is aware, as I said, our normal way of measuring costs was changed for this bill. We are saying that, OK, if the International Monetary Fund accesses this money, it is just a loan so it is not a cost. But we have no guarantees it will get back. We say the International Monetary Fund has never lost money, but we have never been in these economic times before. We have never been in as much debt as a country. Can we afford, even if it is for the next 5 years, to have an international group that can draw \$100 billion from our Treasury at any point they want? Do we want to be in that position? We have already given the Treasury Department a lot of credit to the general fund for \$700 billion—which the Secretary has basically said is going to continue—and now we are going to give another line of credit to an international group in case there is a crisis around the world when we are facing crises here at home?

Mr. KERRY. Will the Senator further yield? I appreciate it.

Mr. DEMINT. Mr. President, we need to equally apply the time now against both sides.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from South Carolina has the floor.

Mr. DEMINT. I will yield the time in a minute and reserve the remainder of my time. I appreciate the comment of the Senator. I think we should have open debate about this. I would like to talk a little bit more about this idea that a line of credit is not spending. We use that a lot around here. We say we have authorized it but have not appropriated it yet. But what the language of this bill does is it not only authorizes \$108 billion of new money for the International Monetary Fund, it gives them the power to appropriate it at any time. We may not call that spending around here, but that is just political talk. If that money is taken from our Treasury, we have to borrow money to give it to them, and they may or may not pay it back. We may say the International Monetary Fund has been stable for years, but part of the bill that is going through here today—the other side will say we have collateral, they have gold—but part of the bill here, and what my amendment strikes is, giving the International Monetary Fund the ability to sell over \$12 billion worth of their gold, which is collateral supposedly for our money, in order to create more cash for them to lend around the world.

I am not saying the International Monetary Fund does not have a function. But we have already put at risk over \$60 billion at a time when our country is struggling, at a time when it looks like we are going to triple the national debt over the next years, at a time when many of our States are near bankruptcy, and at a time when we do not have the money to fund the priorities such as health care and transportation, energy research, health research that we are always talking about. We need more money to do those things that are essential here in America. How can we possibly, on a war supplemental bill, add \$108 billion that is unrelated, basically extort the votes out of the Members by forcing us to either vote against our troops or vote against this reckless risk we are talking about taking?

It makes absolutely no sense in this crisis that we have talked about in this country to put ourselves at risk for another \$108 billion, when we don't even know how we are going to pay the interest on the money we have already borrowed.

Mr. KERRY. Will the Senator yield for a question on equal time?

Mr. DEMINT. Mr. President, I yield and reserve the remainder of my time.

Mr. KERRY. Mr. President, I will speak off the leader's time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I heard the Senator suggest that this is a reckless effort to put American money at

risk somewhere else. I would like to share with colleagues a letter written to the Speaker of the House and to the majority leader, saying:

We are writing to express support for the Administration's request for prompt enactment of additional funding for the International Monetary Fund.

This very fund. Let me tell you who the signatories are: former Secretary of State, Republican, Jim Baker; former Secretary of the Treasury, Republican, Nicholas Brady; former Secretary of Defense Frank Carlucci; former Republican Secretary of the Treasury Henry Paulson; former Secretary of State Colin Powell; former chair of the Foreign Relations Committee in the House and now at the Woodrow Wilson Institute, Lee Hamilton; former Secretary of State, Republican, Henry Kissinger; former National Security Adviser Robert McFarlane; former Treasury Secretary, Republican, Paul O'Neill; General Brent Scowcroft, security adviser to two Presidents. I mean, are these people reckless? Are they suggesting we do that because this is a reckless expenditure? Let's not be ridiculous.

The fact is, the Chamber of Commerce—I have a letter here and will I ask unanimous consent the letter be printed in the RECORD.

To the Members of the United States Senate.

The U.S. Chamber of Commerce, the world's largest business federation representing more than 3 million businesses and organizations of every size, sector and region, supports legislation to strengthen the International Monetary Fund included in . . . the supplemental appropriations bill currently being considered by the full Senate. . . .

The worldwide economy is experiencing its worst downturn in more than half a century. While American workers and companies have been hit hard, the U.S. economic recovery may be undermined by even more severe difficulties in some emerging markets. It is squarely in the U.S. national interest to support efforts to help these countries as they confront the financial crisis.

They go on to say:

These U.S. commitments could leverage as much as \$400 billion from other countries and thus ensure the IMF has adequate resources to mitigate ongoing financial crisis.

Mr. President, I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
Washington, DC, May 20, 2009.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports legislation to strengthen the International Monetary Fund (IMF) included in H.R. 2346, the FY 2009 supplemental appropriations bill currently being considered by the full Senate, and urges Congress

to reject amendments that would strike the provisions from the bill.

The worldwide economy is experiencing its worst downturn in more than half a century. While American workers and companies have been hit hard, the U.S. economic recovery may be undermined by even more severe difficulties in some emerging markets. It is squarely in the U.S. national interest to support efforts to help these countries as they confront the financial crisis.

With leadership from the United States, the G20 committed to increase the IMF New Arrangements to Borrow (NAB) by up to \$500 billion. The Administration is seeking Congressional approval to (1) increase U.S. participation in the NAB by up to \$100 billion and (2) raise the U.S. quota in the IMF by \$8 billion.

These U.S. commitments could leverage as much as \$400 billion from other countries and thus ensure the IMF has adequate resources to mitigate ongoing international financial crises. Pre-crisis IMF lending resources (\$250 billion, more than half of which has been committed) are clearly insufficient. Without adequate IMF support, currency crises in especially troubled economies could trigger broader economic and financial problems. Not only is the IMF the appropriate multilateral institution to take preventive action against such crises, its labors help the U.S. and other national governments avoid costlier, ad hoc responses after crises have escalated.

In addition, these measures will signal to the world that the United States is prepared to lead efforts to help emerging market economies overcome the financial crisis. Without adequate IMF support, financial crises in foreign markets may negatively impact U.S. jobs and exports and undermine the U.S. economic recovery. The Chamber encourages you to support the provisions relating to the IMF included in H.R. 2346, the FY 2009 supplemental appropriations bill.

Sincerely,

R. BRUCE JOSTEN,  
*Executive Vice President,  
Government Affairs.*

Mr. KERRY. Mr. President, the fact is, this is a loan over which the United States keeps control. We are part of the decision-making of any lending that might take place under this. It is renewable under the New Arrangements for Borrowing Agreement, renewable every 5 years. If we do not renew it, it comes back. Moreover, it is only used in emergency if the other funds of the IMF run down.

This is for American workers. We have a lot of people in America whose jobs depend on their ability to export goods. The fact is, if those emerging markets start to fade, not only do we lose the economic upside of those markets but we also run the risk that governments fail. We have already had four governments that failed because of the economic crisis. The fact is, if they continue to in other places that are more fragile, then you wind up picking up the costs in the long run in potential military conflict, failed states, increased capacity for people to appeal to terrorism and the volatility of the politics of those regions. This is not something we are doing without American interests being squarely on the table—

economic interests and national security interests.

I repeat, it has broad-based bipartisan support. I hope colleagues will take due note of that.

With respect to the economics of this, let me share one other quote, which is a pretty important one. Dennis Blair, Admiral Blair, the Director of National Intelligence, was recently quoted as saying, about the first crisis the United States faces today, the most significant crisis we face today, “the primary, near-term security concern of the United States is the global economic crisis and its geopolitical implications.”

This is not just an economic vote, this is a national security vote. When you have a group from Jim Baker to General Scowcroft, to Henry Kissinger, and others all suggesting this is in our long-term and important interest, I think we ought to listen pretty carefully.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I have listened to some of the comments by the junior Senator from South Carolina about the President's request to participate in the expansion of the new arrangements to borrow and increase the U.S. quota at the International Monetary Fund.

This authority, incidentally, is requested in order to implement decisions that were made by President Bush.

It is easy to confuse people about this issue, as the Wall Street Journal editorial page confused itself and probably most of its readers earlier this week.

If you are opposed to giving the Treasury Department this authority, the best way to scare people into voting against it is to say that it is a giveaway of \$100 billion in U.S. taxpayer funds to foreign countries. That would scare anyone. If it were true I would vote against it myself.

But it is not true. Our contribution is backed up by huge IMF gold reserves, so the cost to the taxpayers is \$5 billion over 5 years, not \$100 billion. OMB and CBO agree on that, and so does the Senate Budget Committee. And besides being false, it detracts from the legitimate question of why should we do this?

The simple answer is because our economy, and millions of American jobs, depends on it.

Between 2003 and 2008, U.S. exports grew by 8 percent per year in real terms. A key reason for that was the rapid growth of foreign markets. Our exports show a 95-percent correlation to foreign country growth rates since 2000.

During that period, the role of exports in driving growth in the U.S. economy steadily increased. The share of all U.S. growth attributable to exports rose from 25 percent in 2003 to almost 70 percent in 2008.

Because of the global financial crisis our exports peaked in July of last year and have been falling since then. In the first quarter of 2009, our real exports were 23 percent lower than in the first quarter of 2008.

Our export decline is now contributing to recession in the United States.

With an export share in GDP of 12 percent, a 23-percent decline, if sustained over the course of a year, would make a negative contribution to GDP of almost 3 percent.

The stimulus plan we passed is boosting domestic demand. But the benefits of the stimulus are at risk of being wiped out by the decline in exports.

We need to help foreign countries lift themselves out of recession. It will benefit them, but it will also restore our exports as their economies recover and they begin to buy more of our goods and services.

Some foreign countries can take care of themselves with stimulus of their own, and by cleaning up their own banking sectors.

But many others, especially emerging market economies, have been hard hit. Some countries have been cut off abruptly from capital markets and shut out of credit markets by the banking problems originating in the United States and Europe.

Those countries need to fix their own problems and get temporary finance to avoid a prolonged period of economic decline.

Providing temporary finance and policy fixes is the job of the IMF.

But as the world economy grew in the last decade, the financial resources available to the IMF did not keep up. It has been caught short by the suddenness, severity, and scope of this global crisis.

The request for a quota increase, and the authority to participate in the new arrangements to borrow, will replenish the IMF's resources so it can fight this crisis.

With this money, the IMF will be able to help many foreign economies revive. With this money, the IMF will be ready in case the crisis deepens and takes more victims.

As foreign economies recover, so will ours. We will be spared an even worse decline in our exports, with greater job loss. As our exports resume, people in export industries in every State will be able to go back to work.

This may seem like an arcane issue, but it is of vital importance to the jobs of millions of Americans across this country. I, Senator KERRY, Senator DODD, Senator SHELBY, Senator LUGAR, and others have agreed on substitute language which provides for prior consultation and reports to Congress, as well as greater transparency and accountability at the IMF. It also provides guidelines for the use of the proceeds of sales of IMF gold.

The real choice here is not whether or not we should provide Treasury with



the authority that both former President Bush and President Obama have called for.

Rather, it is how we should do it. After we vote on the DeMint amendment, and assuming it is defeated, I will seek consent for the adoption of substitute language that is supported by the chairman and ranking member of the Foreign Relations Committee and the chairman and ranking member of the Banking Committee.

It also has the support of the chairman and ranking member of the State and Foreign Operations Subcommittee of the Appropriations Committee.

The true cost of the authority requested by the President is not the \$100 billion the Senator from South Carolina wants you to believe. That is a scare tactic. It is \$5 billion over 5 years, and that is a drop in the ocean compared to cost to our economy, and to American jobs, by not acting.

Mr. KERRY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 4 minutes, the Senator from Massachusetts has 4 minutes, the Senator from New Hampshire has 10 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this is one of those issues which looks easy on its face because it is politically simple to synthesize and state, but it is not easy; it is a complex issue.

Obviously, anything that has an initial around here in a foreign organization can be easily attacked. The idea of American dollars going to support organizations which have initials, and they are foreign organizations, often gets attacked. But in this instance our national interest is of our concern, our primary concern, and is benefitted by the decision made to carry out our responsibilities relative to the IMF.

How does this work? The International Monetary Fund is essentially an organization set up by the United States during the Bretton Woods Conference in the post-World War II period, the purpose of which was, and is, to have a backstop for countries that get into very deep fiscal problems and to have a place where the rest of the world can go together in the industrialized world and basically meet and support individual countries which have problems. It is actually an opportunity for us as a nation to share the burden which, in the post-World War II period, has fallen primarily to us, to try to stabilize the world economy.

That obviously benefits us a lot. We are the biggest trader in the world. We

export massive amounts of goods. Dramatic proportions of American jobs are tied to our capacity to export, and having a stable world economy is critical to our capacity to keep our economy going. That is why we set this up. It was pure, simple self-interest, to set up an international organization to help us stabilize other Nations that run into trouble.

We are now in the midst of, obviously, a worldwide recession that is deep, it is severe, and we felt the brunt of it in the United States, and other nations across the world are feeling it also. Some are in much more dire shape than we are.

The issue is, how can we try to avoid an international meltdown, countries failing and bringing down other countries with them, and how can we benefit ourselves by maintaining stable economies around the world?

Well, one way to do that is to have an international organization such as the IMF which steps up and essentially tries to catch the dominoes before they fall.

There are countries in this world that are going through deep economic problems, even more severe than ours, which is hard to believe because ours is so severe. If those countries fail to be able to maintain their debt, their sovereign debt, and the leveraged debt of their banking systems, and if they fail as nations, then other nations that have lent to those nations will follow them into failure.

A lot of these nations are in Eastern Europe, a few of them are in the Western Hemisphere. We have already seen two instances of this in Iceland and Ireland, and we know the situation is tentative.

In fact, just today it was reported that even the British debt, the United Kingdom debt, may be downgraded. So the IMF is sort of our primary backstop in the international community to try to avoid that type of event occurring, where one Nation fails on its sovereign debt, or its major banking debt, and it brings down a series of other nations that have lent to it.

The IMF has said, and it was agreed to by all of the countries participating in the IMF, that it needed more resources to be able to be sure—although nobody can ever be sure in this economy—in order to be reasonably sure that if a fairly significant nation has very serious problems, it can step in and try to help stabilize that country's situation, so that country does not take a lot of other countries with it as it defaults on its debt. This agreement was reached in concert, not by us alone but by a whole group of nations. So rather than the United States, for example, having to step in and unilaterally take action in, say, one of our neighboring countries, as we did in the late 1990s, this allows us as a nation to join with other nations and pool, basi-

cally pool a large amount of resources, to have them available here, for the opportunity to avoid such a meltdown.

We put in about 20 percent, other nations—Japan, Germany, England, other industrialized countries—put in the balance. The IMF is calling for \$500 billion essentially. Actually, it works out to \$750 billion when you put in the special drawing rights, \$750 billion of capacity to be able to have that type of resources available to stabilize various nations around this world should they get into serious, severe trouble.

You can follow the proposal of this amendment as essentially saying, the United States does not want to be part of this effort. We are going to back out of this responsibility or this—you do not even have to claim it as a responsibility, this action, because we basically are going to retrench from here within the United States and not participate in this sort of international effort to try to stabilize other economies because we need our money. We need it here, now, and we cannot afford to do that.

That, in my opinion, is extraordinarily shortsighted. That is like cutting off your nose to spite your face because let's face it, if an East European economy goes down and it takes with it two or three other East European countries, and that leads to even some major Western European economies going down, who is the loser? Well, those economies obviously. But I can tell you a lot of American jobs are going to be the losers.

That type of economic disruption, that type of economic Armageddon as it was described by one of my colleagues who actually supports the DeMint amendment, would come back to affect us dramatically.

So what is the price of avoiding that, or hopefully avoiding it? What is the price of at least having in place an insurance policy to try to avoid that? Well, the price is, for us to put up no money, we are not putting up any money. We are putting up what amounts to a letter of credit to the IMF that says: All right, you now have a letter of credit from the United States for \$100 billion. You have a letter of credit from a variety of other nations around the world for another \$400 billion. You have \$500 billion of letters of credit, so if you have to go into a nation, because their banking system is on the verge of failure, and because they do not have the ability to monetize their debt the way we do—in other words, they do not have a central bank that can print money because they do not have a world currency—you are going to have this type of support to try to stabilize that country so it does not become a domino affect on all of those other nations that may have lent to it, including us.

That is an insurance policy. Does it mean even if the IMF had to take that



step and go into that country and invest that we would lose those dollars? No, we would not. In fact, we will not lose those dollars. We have never lost a dollar through the IMF. We have always been repaid everything.

Not only will we not lose them because the country they are lending to is a nation, and probably a fairly sophisticated nation because they do not do too many nations that are not sophisticated, we will not lose it because the IMF has a massive gold reserve that essentially backs up all of the dollars, all of the money that is there. So it is not a risky exercise.

That is why this effort does not score as \$108 billion. There is no game being played about the \$108 billion number. The simple fact is, the \$108 billion number does not score because there has never been an outlay to the IMF.

You can make an argument that even the \$5 billion—that is what CBO came up with as a number, and I think that was based on the assumption that there might be some interest costs, but even the \$5 billion is wrong. Zero is the right number. Certainly a representation that \$108 billion is what it is going to cost the American taxpayers is totally inaccurate. It is playing with facts fast and loose because we never had lost any money.

All the lending of IMF is basically securitized, either by the debt of the nation they are lending it to or by their own gold, the gold of which they have a huge accumulation.

So this is not a cost of any significance to the American taxpayer. What it is, however, is an extraordinarily cheap way for us as a nation to lay off the burden to other nations, other industrialized nations; lay off the burden of making sure that countries which would represent a very serious problem to us and to the world community should they fail financially, a very cheap way of trying to have in place a system to avoid that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. So, from my opinion, this is an amendment which is not constructive either for our economy or for the international situation. I would hope it would be defeated.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be equally charged to both sides.

The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I objected to that. I was allowed 4 minutes. The other side is not showing up. I do not think that is right to take my 4 minutes. If the other side would like to yield back, I will be glad to close with my 4 minutes.

I suggest the absence of a quorum, and I reserve my 4 minutes.

The PRESIDING OFFICER. If the Senator puts us in a quorum call, the

time will be charged to him, absent consent.

Mr. DEMINT. Let me simplify this. I will go ahead and speak.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I appreciate the comments that we have heard today. I want to make it clear we are not trying to minimize or change our commitment to the IMF at all. We are already committed for about \$65 billion. We are the largest contributor to the IMF, and that will continue.

What I am opposing is a massive increase in our commitment of \$108 billion at a time this country cannot afford it. We have also heard this is not really any spending, that no money will really come out of our Treasury. If that were true, we would not need to ask for it; it would not need to be in the bill. If that were true, it could be \$200 or \$300 billion, and it still would not cost us anything.

This is just political speak here in Washington. We are giving a credit line to an international agency where we do not control the vote, where they can take \$108 billion more than they already have, 108 in addition to the \$65 billion we have committed to this agency, to use in a way that they would like. I object to this because I have businesses in South Carolina that can't get a loan, a small loan from a bank that has taken Federal money. They can't continue their business because the bank says these are difficult economic times and that is a high risk. So we are going to take \$100 billion and give it to countries that are high risk because supposedly that helps our economy. Enough is enough. We have spent more than we can pay back already. It is wrong to attach this type of spending to a bill that supports our troops. This should be taken out of the bill right now. That is what my amendment does. It strikes a section that would give an additional \$108 billion of appropriation authority to the IMF.

It also strikes a section that allows them to begin to sell off the gold reserves that we just heard are a so-called security for this loan. This makes no sense.

I urge colleagues to say enough is enough. There are many good things we can do, but we, frankly, don't have the money anymore. This is more than we spend on education every year, more than we spend on veterans benefits, more than we spend on transportation. It is real money, because it will be drawn upon, because there are countries all over the world in difficulty. We will set a precedent. Notice that in the criticism of the bill, they are not using this to criticize it, because not only does this create a permanent amount of authority to withdraw money, it gives the Secretary of the Treasury the ability to make amendments to the law. We are giving the au-

thority of this Congress over to the Secretary of the Treasury and the International Monetary Fund. None of this makes any sense. Enough is enough. No more spending. No more borrowing. It is time to let it go.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this makes all the sense in the world. In fact, Senator GREGG, former chairman, now ranking member of the Budget Committee, gave an excellent summary of exactly what this is. It is not an expenditure. It is a letter of credit. It stabilizes countries. It is an insurance policy. It has always been repaid. As Senator GREGG said, even the \$5 billion which the CBO scores this at is not accurate because the money is never laid out. This is not a risky exercise because we make money through the interest. This is an asset that we create that is traded against the letter of credit.

Let me answer my colleague. He asked the question about the 5 years. Paragraph 17 of the IMF Articles of the New Arrangements to Borrow has a provision for withdrawal from membership. A participating member can withdraw. At that time, the money comes back to you. You cease to have your commitment on the line. Paragraph 19 of the IMF Articles of the New Arrangements to Borrow states:

This decision shall continue in existence for five years from its effective date. When considering a renewal of this decision for the period following the five-year period referred to in this paragraph 19 . . . the Fund and the participants shall review the functioning of this decision.

Mr. DEMINT. Will the Senator yield?

Mr. KERRY. I will yield on his time.

Mr. DEMINT. Are you reading from—

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KERRY. I am reading from the current Articles of the IMF's New Arrangements to Borrow. This is the operative agreement for the NAB, on which this lending takes place. Let me make it clear, why this is furthering our interests. The fact is, in South Carolina, they have a lot of businesses that export. From the beginning of this year exports in the U.S. were down 23 percent. They were down 23 percent because countries' economies around the world are hurting. As Secretary Kissinger, General Scowcroft, and the Chamber of Commerce all agree, this is important for American business. The fact is, between 2003 and 2008, exports grew by 8 percent per year in real terms. We have a correlation in our exports to the growth of other countries. There has been a 95-percent correlation in that growth.

The fact is, the share of all U.S. growth attributable to export growth went from 25 percent in 2003, to 50 percent in 2007, to 70 percent in 2008. We

benefit. That rise of exports from 25 percent to 70 percent is to the benefit of American business. Unfortunately, those exports peaked in July of last year. Most of our partners are now in recession. Real exports are now 23 percent lower. You are looking at a reduction in American GDP, if you don't provide this line of credit.

President Obama went to London. He led the world in getting a \$500 billion agreement to help support these countries to revive their economies. When you consider the money we have spent in the Cold War to break the Eastern Bloc away from the Soviet Union and, ultimately, they have adopted our economic system, they are working as partners now, many of them members of NATO. Their economies are hurting. We benefit if those States don't go into an economic implosion.

This is a national security issue for the United States. It is a plain and simple, self-interest economic issue for the United States. Most importantly, we don't spend money. This is a deposit fund in an account which is interest bearing to the United States. It is a good investment. Historically, we have not lost money. I know Senator LUGAR will vote against this amendment. Senator GREGG and others. I hope colleagues will resoundingly reject this ill-advised amendment.

Mr. DEMINT. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 39 seconds.

Mr. DEMINT. I wish to make sure the Senator understands that the bill we vote on today amends what he just read about our ability to get out of this in 5 years. Sometimes it is hard to get the straight scoop here.

It is real money or we wouldn't be asking for it. This is not a time in our country's history that we can afford to put another \$108 billion on the line, when we can't get our own businesses enough money. We have to stop this reckless spending. I encourage colleagues to support my amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 1138.

Mr. DEMINT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea."

The PRESIDING OFFICER (Mr. UDALL of Colorado). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—30

Barrasso	DeMint	Kyl
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Brownback	Feingold	Risch
Bunning	Graham	Roberts
Burr	Grassley	Sanders
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cornyn	Isakson	Thune
Crapo	Johanns	Vitter

NAYS—64

Akaka	Gillibrand	Murkowski
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Bond	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown	Klobuchar	Snowe
Burr	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Voinovich
Collins	Lincoln	Warner
Conrad	Lugar	Webb
Corker	Martinez	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—5

Byrd	Kennedy	Rockefeller
Hatch	Murray	

The amendment (No. 1138) was rejected.

Mr. KERRY. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add the following cosponsors to amendment No. 1189: Senator LANDRIEU, Senator SHAHEEN, Senator CRAPO, Senator RISCH, Senator BILL NELSON, and Senator SNOWE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I would point out that there are now 26 cosponsors of the amendment that would have tried to give the Chrysler car dealers extra time to get their affairs in order rather than a June 9 deadline. It would just give them 3 more weeks. I am still hoping the

White House and the Chrysler company will come forward with something that will give some help to these dealers. I think the Senate is beginning to speak by the number of cosponsorships for this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the next hour be for debate only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add Senator INOUE as a cosponsor of amendment No. 1189.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, we are still working on language that I very much hope we can get agreement on before the end of the day. I think everyone is working in good faith. That is my hope, and I will remain optimistic that we can have something definitive for the dealers in this country who are facing bankruptcy or dissolution in 2 weeks.

As of now, 28 Senators have signed on to agree that we need to be helpful to them. I think we have a way forward, but we have to get everyone signed off on it. I hope all of the parties will do that, so there can be a definitive announcement, because these dealers need to be able to plan going forward. They need to know what the rules of the game are. I think it is the least we can do for them.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add Senators FEINGOLD and HARKIN to amendment No. 1189.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. That takes us up to 29 cosponsors of this amendment. We are almost up to a third of the Senate saying we need to help these Chrysler dealers. I just hope we can produce something for these dealers by the end of business today that will help them begin to get their affairs in order after the blow they received on May 14.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I asked the managers of the bill if I could have some time to discuss this bill for a moment. I offer a lot of amendments around here and, quite frankly, there are several amendments I should have offered, or should call up, but I am not going to call up because, quite frankly, I am not prepared to do it.

I wanted to talk about this bill because it has been described in a lot of ways as funding for our troops, as things that we have to do. I want to put a few holes in that for a minute.

There is funding for our troops in this bill, there is no question. We need to do that. One of the promises of the President—and I hope it comes about this next year—is we will never see another one of these to fight the wars. It will be incorporated, as it should have been in the past.

I am on record of voting against three of these requests from the Bush administration for the fact that it should be incorporated into the regular budget. We know we have these expenses. When we do a supplemental or an emergency—that is what we are calling this—there is something that happens most people do not realize. Mr. President, 100 percent of this bill will be borrowed by the Treasury when we start spending the money. This is not money we have. It is money we are going to borrow from the next two generations because the Congress refuses to make priorities of what we need to do, and we continue to spend money on things that we should not be or do not have to do, which are not a priority, and the money we are going to spend is borrowed money.

We have not heard much of that in the entire debate on this bill. Every dollar will be stolen from the future of the next two generations to come, and most of the people who are hearing my voice today will not pay the cost of this significantly large bill.

It was not all that long ago that the entire Federal budget wasn't the size of this, less than 45 years ago. Yet we are

going to pass, in very short order, with very few amendments, a bill that does a lot of things besides fund our troops.

Of course, there is another thing most Americans don't know. It is that all the things that are in this bill that go to other executive branch agencies will be utilized to raise the baseline next year for the starting point of the budget process. In other words, we are raising the baseline. So when we look at it, when it comes through the budget next year, and the appropriations cycle, it will not be what we actually appropriated under the budget. It will be under the budget plus what we spent on the supplemental. We do not go back to where we should be. We go back to an elevated area because we had an emergency spending bill.

There is money in here for the United Nations Development Program, Peacekeeping Operations, \$721 million. Here is a fact that most Americans don't know. Forty percent of every dollar spent by the United Nations on peacekeeping operations is absolutely defrauded or wasted. So in this case, \$300 million of the \$720 million that we are going to appropriate, some shyster connected with the United Nations, either in New York or in some foreign country, is going to steal that money. It is not going to go to help anybody keep the peace. It is not going to go to clothe and feed someone. It is not going to go to protect the rights of those who are discriminated against, those who are living not under the rule of law; that, in fact, \$300 million out of the \$720 million isn't going to do anything except line the pockets of crooks.

Yet we have that report, which we had to get from the U.N. because we don't have transparency on where our money is going. That is the U.N.'s own report. Yet there is nothing in this bill that requires them to give us an audit of how they are spending it. There is no metrics on how it is going to be spent, and there is nothing in this bill that says they are going to have to tell us and show us that they didn't let it get defrauded or get stolen. We are not paying attention. We are running like there isn't an economic crisis.

There is another area in this bill that is extremely disturbing to me, which is that we are going to give a \$1.3 billion pay raise to all the Foreign Service officers in this country.

They hire 500 to 600 new ones each year. They have 25,000 applications for these jobs without this pay raise. This is called a locality pay differential, and it started because it is so expensive to live in Washington that we give a 21-percent increase to all Foreign Service officers who get stationed in the United States, but we are now going to give it to them no matter where they live.

So what we are talking about is a \$15,000-a-year pay raise on the basis of nothing, to people who, on average,

make more than \$75,000 a year. Ask yourself a question: When we send a colonel to South Korea, do we give him a locality pay increase? No. When we send a sergeant to take care of the troops who are stationed around the world, do we give him a pay increase or her a pay increase? No. And they just happen to make a third of what our Foreign Service officers make. Yet with one broad stroke we are going to add \$1.5 billion over the next 4 years, and then at least \$400 million a year to everyone who works for the State Department.

Why are we doing that? Why are we saying Foreign Service officers are more important than our men and women in uniform? Why are we creating a differential when, in fact, there is no hardship, and we are having no trouble getting employees. By the first data I put out there, we are not. There are no statistics to suggest they have a greater loss than they are capable to reproduce. Yet in this bill, \$400 million a year, just as a gift—just as a gift.

Think how demoralizing that is to the men and women who wear the uniform of the United States. We have decided that technocrats are more important than the people on the front lines. We have decided that, not based on merit, not based on performance, we are just going to give them a raise.

I don't have any objections due to the cost of living in DC that we might have a differential pay for that. But why would we say no matter where you live—if you live in Muskogee, OK, where I am from—and you happen to work for the State Department; that because you work for the State Department and not because you produce more or do a better job, you are going to get a 21-percent pay increase that is never going to get rescinded.

What are we doing? And why are we doing it?

Also in here is \$.5 billion for the start of—and they have a legitimate claim, the State of Mississippi—a hurricane prevention program. We asked the Corps to do a study. We are putting money in. It is unauthorized money. It has never been through the committee, and I am not saying that we may or may not want to do this. But the Corps hasn't even finalized their evaluation of the study on whether it is viable. Yet this is the first \$.5 billion in a \$2 billion to \$7 billion project that I am not sure right now, without authorization of the appropriate committee, we are going to jump in line ahead of every other priority program that the Corps of Engineers has just because we can do it. And the Corps hasn't even accepted the premise of the study on which the money is going to be spent.

America, wake up to what we are doing. This ship has a lot of holes in it, and we are taking on water faster than those with common sense can bail it out. These are just three prime examples of things in this bill that ought

not be handled the way they are handled in the bill.

The No. 1 thing we are not doing is we are not being honest with ourselves about where this money is coming from and how much more it is going to cost the people in this country who are struggling every day just to pay their mortgage, just to put groceries on the table, and to pay their utility bills.

We are going to give \$108 billion to the IMF. We had an amendment that got defeated. The fact is—and pay attention to this—it may not help. The assumption is we will get paid back because they have never not paid us back in the past. Well, this is a different day, and there is a high likelihood that, even though we only charge \$5 billion for the cost of this \$108 billion loan, we will never see a penny of it come back—a very high likelihood—especially if you look at the total debt and money assets of all the European countries compared to their GDP ratio.

We wring our hands and say: Well, we have to do this. We have to do this. What we have to do is preserve America first. What we have to do is defend America first. What we have to do is restore confidence in America. The way we are doing it with this bill does just the opposite.

I am sorry I haven't had time to go after the issues in this bill. There are tons of things we ought to be doing differently, and if we are not going to do them differently, we ought to hold the Members accountable on a vote to say why we are not doing them differently. Borrowing this money against our children's future and not making hard choices on some of the \$350 billion worth of fraud and waste that we know the Federal Government has, not even looking at it, not making an attempt to pay for any of it, to me, is a tragedy.

It is not just a tragedy of the moment because what it clearly spells out is that there has been no change. There is no change in behavior. There is no recognition of the difficulty we are in. There is no set of priorities that says we do what is most important for the country first, and if it is not really that important, we don't do it at all now so that we can protect the way of life we have come to know. I am disappointed in us because we have failed to grasp the seriousness of where we are today in this country. And where we are is not far from losing the essence of what America stands for.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). Will the Senator withhold his request?

Mr. COBURN. I will. I withdraw my request.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to speak about the supplemental that is before the Senate in terms of

the appropriations. Much of this bill is about supporting the men and women wearing the uniform of the United States who are serving this country around the world and acting as sentinels for America's freedom around the world.

The question is, Will we appropriate the resources necessary to match the challenge we have given them and the call to service we have asked of them? That is what this appropriations supplemental bill is largely all about.

In that context, there is one particular area of funding that doesn't go to where we have troops but where we, in fact, care about what is happening in part of the world, and that is Pakistan. We care about it because it is along the Afghanistan-Pakistan border; the area where, in fact, Osama bin Laden likely exists; the area al-Qaida is operating in, crossing back and forth along that border in order to attack our troops in Afghanistan; and also because of the Taliban. So we have clear national security interests as it relates to that part of the world.

We all agree the situation in Pakistan is probably at the top of the list of our most serious national security challenges because this is where al-Qaida has reconstituted itself, and this was the entity, along with bin Laden, that struck us on that fateful day of September 11.

Late last month, the Secretary of State warned us that Pakistan's government is facing an "existential threat" from Islamist militants who have established operations dangerously close to the capital city of Islamabad. These are militants who wish to do us harm, plot new terrorist attacks or, God forbid, seize control of that country's nuclear arsenal. There are plenty of reasons for the United States to be engaged. Since 2001, Pakistan has received more than \$12 billion in assistance from the U.S. Government. The idea behind the assistance has been to support democratic institutions, human rights, economic development, along with counterterrorism operations to fight the Taliban and al-Qaida and create the conditions for stability in the country.

Unfortunately, under the lax oversight of the Bush administration, that assistance had very few strings attached to it, and under that administration it is hard to see what kind of results we actually achieved for the money we spent. Democracy and institutions of civil society are as fragile as ever, the Taliban is expanding its reach, and we have heard reports about the Pakistani Government expanding its nuclear arsenal. So \$12 billion later, the way we sent assistance may or may not have worked for Pakistan, but it certainly didn't work for us.

So, Madam President, we have to constantly ask ourselves: How are we using our money in pursuit of our na-

tional interests and our national security interest, and what type of benchmarks and progress are we making so that we can, in fact, respond both as fiduciaries to the taxpayers of the country and, at the same time, in measuring benchmarks toward our national security goals?

It is our responsibility to see that there is transparency and accountability in whatever assistance we are providing, and as the administration makes the case to reverse what it acknowledges are "rapidly deteriorating security and economic conditions" there, we have to make sure the funding we are sending over is actually doing its part to make the situation better.

We have to ask those questions about the Pakistan funding in this current supplemental bill as well. For starters, in this supplemental, I think when we look at it, it is pretty significant. There is over \$1.6 billion in the supplemental for Pakistan, including \$400 million for the Pakistan Counterinsurgency Capability Fund, \$439 million in economic support funds, and \$700 million in coalition support funds.

I am concerned about the funding, but I want to specifically talk about the \$700 million in coalition support funds. Those funds are used to reimburse the Pakistani Government for the logistical and military expenses of fighting Islamist militants.

As the Pakistani military increases these activities—and we have seen those military activities finally take place in a way that we think is moving in the right direction—those coalition support funds are expected to increase substantially as well. So if we are going to have a shot at the militants, we are going to need to provide support. And we are agreed on that, I think. But that does not mean we should be sending out blank checks.

Along with my distinguished colleague from Iowa, Senator HARKIN, and several colleagues in the House, we suggested the Government Accountability Office look into the assistance we provided to Pakistan, including the \$6.9 billion in coalition support funds it received. In a June 2008 report, the GAO found that the Pentagon did not consistently verify Pakistani claims for reimbursement, and additional oversight controls were needed.

Here is an example from that report. The United States was reimbursing the Pakistani Government \$19,000 per month for each of about 20 passenger vehicles, about \$9 million in total, even though we later found out that we were paying for the same 20 vehicles over and over.

A February 2009 report that we also asked for echoed and confirmed those findings and said that the Pentagon needed to improve oversight of coalition support funds reimbursements.

Earlier today at a Foreign Relations hearing I asked Admiral Mullen, and he

acknowledged we have not had good controls in the past on coalition support funds, but he assured the committee the controls have improved and additional steps are being taken to make sure the funds are being used wisely.

The Deputy Secretary of Defense outlined these steps in a letter to Chairman KERRY last month, including new guidelines, additional face-to-face meetings with Pakistani counterparts, and additional visits by the Department of Defense to Pakistan to refine the coalition support fund claim processing and validate procedures.

Personally, I have met with Ambassador Holbrooke, our special envoy to this region, as well as questioned Secretary Clinton yesterday before the Foreign Relations Committee, and they both assured me this administration is developing metrics to measure success and change the way we engage in Pakistan so we can defeat the militants and bring stability to the country and the region. I am pleased to see these steps being taken and I look forward to closely monitoring them as we move forward.

Let me conclude by saying we all realize that conditions on the ground make detailed reporting and accountability a major challenge. We cannot expect to be getting daily comprehensive spreadsheets e-mailed from every remote mountain region. But as best as we can, it is the responsibility of this Congress to ensure that all of our funds are being used in a manner that is advancing our national interests and our national security interests.

With these changes that have taken place, I think—partly because we have asked for these reports, partly because of the questioning at these hearings, partly because of the new leadership of the administration—I plan to vote for the supplemental. In doing so, however, I want to send a very clear message that it is not and should not be construed as a blank check. I have concerns with the coalition support fund program and concern about Pakistan's nuclear program. Money is fungible, and I am concerned as we send money to Pakistan for one purpose that frees up their money to be buying nuclear weapons, something that is not in our interest or in the interest of that part of the world. I am glad the Obama administration is taking steps to ensure accountability and in the future we need to do even more. We need to be sure we do not wind up right back here a year from now, having to say the same things. We cannot afford to yet again take one step forward and two steps back, and above all we cannot afford to be sending such resources without achieving the national goals of security and the interests we have. That is the best way to make sure we do not lose sight of our goal here and that is also the best way we keep America safe.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURRIS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHRISTENING OF THE USS "GRAVELY"

Mr. BURRIS. Madam President, as we prepare to return home to our constituents and to celebrate the Memorial Day weekend, remembering all those who have served and sacrificed in the name of the United States, I would like to single out one veteran in particular.

It is with deep and abiding pride that I rise to salute the late VADM Samuel Gravelly, and to mark the christening of a new and remarkable U.S. Navy destroyer, the USS *Gravelly*.

At a ceremony last weekend, the *Gravelly* became the first Navy ship in U.S. history to bear the name of an African American officer.

When she receives her commission, the vessel will be the most technologically advanced warship on the planet.

It is a fitting honor for the destroyer's namesake, the late VADM Samuel L. Gravelly, Jr., who was the first African American to become a Navy officer.

Beginning his career as a seaman apprentice in 1942, amid the chaos of the Second World War, Admiral Gravelly first knew a segregated U.S. Navy in which people of color served mainly as cooks and waiters.

Only one ship had a black crew.

That vessel was the USS *Mason*, whose 160 men served under the command of white officers. In 1944, the brave crew of the *Mason* escorted support ships to England during a vicious storm.

They completed this daring mission with valor, even when cracks in the hull threatened to tear their ship apart.

Because of the racial politics of the age, and despite the recommendation of their commander, it took more than 50 years for these brave sailors to receive official commendation.

It was in this climate that Samuel Gravelly began his naval career. He retired from a very different U.S. military 38 years later.

Admiral Gravelly's years of service included many notable firsts.

He was the first African American to command a combatant ship, the first to command a major warship, the first to achieve flag rank, and the first to command a numbered fleet.

These are remarkable accomplishments by any account, but they are made all the more impressive when they are considered in the context of the U.S. Navy at the time.

This exemplary sailor achieved greatness in a time when the policies of our Armed Forces too often limited the opportunities available to people of color.

He understood the obstacles he was facing, but he was determined not to bow to the limits imposed by others. He did not let those difficulties stand in his way.

Instead, he turned each challenge into an opportunity to excel.

We should all learn from the example set by this great American hero, who started as an enlisted sailor and overcame extraordinary odds to finish his career as a three-star admiral.

His accomplishments should resonate with all Americans.

Admiral Gravelly proved that respect will come to those who work hard to earn it.

His legacy serves as an example for countless young men and women serving bravely in the Armed Forces. Soon, the destroyer USS *Gravelly* will stand guard on the high seas, a striking symbol to the world of the remarkable and enduring truth of the American dream.

Generations of sailors will serve on her decks, and as they stand aboard the *Gravelly*, they also stand on the shoulders of the man for whom it was named.

Thankfully, the divided society of years past has given way to a new America built on equality, a Nation more free, more fair and more equal, a Nation that cherishes the contributions of all men and women regardless of race, creed or color.

A Nation built through the hard work and bravery of real life trailblazers like Admiral Gravelly.

I am extremely proud of Admiral Gravelly's achievements, and I am deeply moved by the Navy's tribute to his service.

Like many, I share in the joy that Mrs. Gravelly must have felt as this state-of-the-art destroyer was christened with her husband's name.

When this warship is commissioned, it will be more than a fighting tribute to its accomplished namesake.

It will ensure that the outstanding legacy of Samuel L. Gravelly, Jr., lives on in the service of the U.S. Navy for years to come.

I can think of no better way to memorialize a true American hero.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I wish to speak for a few moments regarding the President's remarks on national security today and about some national security issues in general.

At the outset, let me note that there are some points in the President's message I do not agree with and some points of plain fact he made that should help us clarify some of the issues that have been raised in recent debates over national security. President Obama endorsed the continued use of military commissions with some minor changes. These commissions are historic and certainly appropriate and have been used by nations all over the world. I will reserve judgment on those changes until I see the details, but the President is right when he states that military commissions are "an appropriate venue for trying detainees for violations of the laws of war," though some have not agreed with that.

The President correctly noted: "Military commissions have a history in the United States dating back to George Washington and the Revolutionary War."

As the President also noted, military commissions "allow for the protection of sensitive sources and methods of intelligence gathering." That is absolutely true, and it is an important principle in defending America. He also noted that the commissions allow "the presentation of evidence gathered from the battlefield that cannot be effectively presented in a Federal court."

In other words, we have strict rules of evidence in Federal courts. Our soldiers are in a life-and-death struggle on the battlefield. They are not police investigators. They are not homicide investigators. They can not be expected to be able to comply with every rule regarding the collection of evidence. Military commissions account for that difference.

It is also reassuring to see that President Obama has stated he will exercise his power as Commander in Chief to detain as war prisoners those al-Qaida members who continue to pose a danger to the United States, but who cannot be tried by a military commission. Some detainees may not be able to be tried by military commissions for legal reasons. For years, we have heard criticism from some of the fringe groups on the left—criticisms that have been echoed occasionally in this Chamber—that we must either try every enemy war prisoner or release them. That has never been the practice in the history of war, and that is not what our law says. This is a notion that cannot be sustained and one that would pose a threat to us if it were ever adopted as policy.

I am glad to see President Obama rejected that notion. As he noted in his remarks today:

There may be a number of people who cannot be prosecuted for past crimes, but who nonetheless pose a danger to the security of the United States. Examples of that threat include people who have received extensive explosives training at al-Qaida training camps, commanded Taliban troops in battle, expressed their allegiance to Osama bin

Laden, or otherwise made it clear they want to kill Americans. These are people who, in effect, remain at war with the United States.

As I said, I am not going to release individuals who endanger the American people. Al-Qaida terrorists and their affiliates are at war with the United States and those we capture—like other prisoners of war—must be prevented from attacking us again.

That is fundamentally true, but some people have a confused notion about that.

Under the Geneva Conventions, even lawful combatants can be detained throughout the duration of a war. When illegal combatants conduct a war outside the laws of the Geneva Conventions and other treaties and laws that deal with the conduct of civilized warfare by deliberately and intentionally bombing innocent men, women and children who are noncombatants, those people are not entitled to be released.

President Obama also stated this morning that:

We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.

Well, that is hard to know for certain. Attorney General Holder has talked about releasing the Uighurs, a terrorist group focused primarily on China. I don't believe the administration has the legal authority to release these detainees. Recently, according to the Los Angeles Times, some of the Uighurs were watching a soccer game—they allow them to watch television at the Guantanamo Bay facility—and a lady came on with short sleeves. This offended one of the Islamic Uighurs and they jumped up and grabbed the television and threw it on the floor. I point that out simply to say it is difficult to know for certain who is a threat. Many may well harbor a secret determination to attack America as soon as they are released.

I think the President has made clear that he does not have the full and free discretion to simply release al-Qaida members and their fellow travelers into the United States. Federal law expressly bars admission to the United States of anyone who is a member of a foreign terrorist organization. A Federal law we passed some years ago bars admission of any person who is a member of a foreign terrorist organization—pretty common sense, right? If you are going to have lawful immigration policy, you don't want terrorists to be able to immigrating into the country. The law bars admission of anyone who has provided material support to a foreign terrorist organization, and it also bars from this country anyone who has received military-style training at a camp operated by one of these terrorist organizations. The United States Congress decided that these individuals, ones who have ties to or have assisted or who have been trained by groups such as al-Qaida pose a danger to the American people and should not be ad-

mitted into this country. That congressional enactment is now the law. It is binding upon the President and the Attorney General, who is charged by the Constitution with enforcing the law.

So when the President states he will not release detainees within the United States, I can only state that I would expect no less. The law requires the President to bar admission to al-Qaida members or material supporters or those who trained in a terrorist camp, and I think he will follow that.

I note his speech also is rather selective, however, in how it cites to: "The court order to release 17 Uighur detainees that took place last fall."

The President referred to a court order to release these Uighurs, but he inexplicably failed to acknowledge what happened to that case on appeal. A lower district court judge ordered that they must be released, but the Federal appellate court reversed that order which would have allowed these terrorist to be released into the United States. This February, a couple of months ago in *Kiyemba v. Obama*, the United States Court of Appeals for the District of Columbia held that the district court did not have legal authority to order the release of the Uighur detainees into this country. These are individuals who have trained in a terrorist camp, a terrorist group that is connected to al-Qaida. A month ago, the U.S. Department of Treasury reaffirmed the determination that they are a terrorist organization. The appeals court could not have been more clear when it wrote:

Never in the history of habeas corpus has any court thought it had the power to order an alien held overseas brought into the sovereign territory of a Nation and then released into the general population. As we have also said, in the United States, who can come in and on what terms is the exclusive province of the executive branches.

There are other things the President said today that I disagree with. First, President Obama committed himself to banning the enhanced interrogation of al-Qaida detainees. I certainly oppose torture of any detainees. But he went on to state: "Some have argued" that these techniques "were necessary to keep us safe," and he said he "could not disagree more."

Well, that is not exactly accurate, I have to tell my colleagues.

On September 6, 2006, when President Bush announced the transfer of 14 high-value al-Qaida detainees to Guantanamo, he also described information that the United States had obtained from these detainees as a result of these enhanced interrogation programs. Most people agree many of these enhanced techniques clearly are not torture. Some argue that a few of the techniques may amount to torture; but many say they are not torture. We have a statute that prohibits torture and it defines it pretty clearly.

President Bush noted then that Abu Zubaydah was captured by U.S. forces



several months after the September 11 attack. Several months later he was captured. Under interrogation he revealed that Khalid Shaikh Mohammed was a principal organizer of the September 11 attacks. Zubaydah also described a terrorist attack that al-Qaida operatives were planning to launch inside this country—an attack of which the United States had no previous knowledge. Zubaydah described the operatives involved in this attack and where they were located. This information allowed the United States to capture these terrorists, one while he was traveling in the United States. Under enhanced interrogation, Zubaydah also revealed the identity of another September 11 plotter, Ramzi bin al Shibh, and provided information that led to his capture. U.S. forces then interrogated him. Information that both he and Zubaydah provided helped lead to the capture of Khalid Shaikh Mohammed, the person who orchestrated the 9/11 attacks.

Khalid Shaikh Mohammed also provided information to help stop another planned attack on the United States when he was interrogated. KMS provided information that led to the capture of a terrorist named Zubair, and KMS's interrogation also led to the identification and capture of an entire 17-member Jemaah Islamiya terrorist cell in Southeast Asia.

According to President Bush, information obtained as a result of enhanced interrogation techniques also helped stop a planned truck bomb attack on U.S. troops in Djibouti. Interrogation also helped stop a planned car bomb attack on the U.S. Embassy in Pakistan, and it helped stop a plot to hijack passenger planes and crash them into Heathrow Airport in London. On September 6, President Bush said:

Information from terrorists in CIA custody has played a role in the capture or questioning of nearly every single al-Qaida member or associate detained by the United States and its allies.

He concluded by noting that al-Qaida members subjected to interrogation by U.S. forces have painted a picture of al-Qaida's structure and financing, communications and logistics. They identified al-Qaida's travel routes and safe havens and explained how al-Qaida's senior leadership communicates with its operatives in places such as Iraq. They provided information that has allowed us to make sense of documents and computer records that have been seized in terrorist raids. They have identified voices in recordings of intercepted calls and helped us understand the meaning of potentially critical terrorist communications. Were it not for the information obtained, our intelligence community believes that al-Qaida and its allies would have succeeded in launching another attack against the American homeland. By giving us information about terrorist

plans we would not get anywhere else, this program has saved innocent lives.

Well, this was information obtained in the last administration as a result of the enhanced interrogation techniques of al-Qaida detainees. It allowed us to stop terrorist attacks. It allowed us to learn about al-Qaida communications, how it responded and operated. It even allowed us to capture Khalid Shaikh Mohammed, the organizer of 9/11. I don't think anybody here can reliably contend that this information was not valuable. It was valuable.

We have to be careful how we conduct interrogations. I believe the debate over this has helped us clarify the responsibility we have to not participate in torture. But it does not mean that we cannot use enhanced techniques to move a person to the point they are providing information that can help protect this country. We have to be careful that we don't go too far. We have a history of going too far in reaction to matters like this.

One of the things we did is we put a wall between the CIA and the FBI. We said the CIA should not deal with dangerous thugs around the world to get information. After 9/11 it was clearly determined that both of those were bad ideas, and we reversed them immediately.

Nobody in this Congress should suggest that we are incapable of making a mistake. But we have gone 8 years without an attack. That is something of significance. We should be proud of that. We have men and women in the CIA, in the FBI, and in the U.S. military, who are putting their lives on the line right now. I remember being, several years ago, in a foreign country with a history of some violence and terrorism. A man from the CIA met with us. He worked 7 days a week. He had dinner with us at 8 o'clock. He said that was the earliest he had been off duty since he had been there.

They are putting their lives at risk for us, and we need to back them up when we can. If they make a mistake, they need to be held to account for it.

Madam President, I see my colleague from Texas. I assume she would like to make some remarks. I am not sure what the expectation is, but I will just wrap up and say a few more things. This is an important issue. I just don't believe this issue has only one side. I have to tell you, I believed that the President's remarks today reflected a view that only he had the correct view of how these matters should be conducted, and that everybody else who disagreed had less decency than he. I don't think there is any doubt that the work this Nation did after 9/11 stopped further attacks and saved the lives of Americans. It can and should be done, consistent with the laws of this country. But that doesn't mean that unlawful terrorists—not legitimate prisoners of war—cannot be subjected to interro-

gation. They can be and they have been. I trust that they will be in the future.

The President argued today that releasing the Office of Legal Counsel memos from the Department of Justice and exposing the details of the interrogation and actually tricks that CIA has used will not harm national security because this President has decided not to use those techniques. I simply point out that the war with al-Qaida will not end with this administration, and future administrations—and even this administration—may need to have access to reasonable interrogation techniques, and providing this information is not the right thing.

It is odd that of all the material released, we have not had further information released from the intelligence agencies that would provide evidence of interrogations that have enabled us to stop other attacks on our country. I don't know why they would not want to release that; they want to release the techniques and a lot of other things.

When the President released the legal counsel's interrogation memos, he excised certain information from the memos and left out other memos entirely. These other memos describe in detail the information that was obtained as a result of the enhanced interrogation of al-Qaida detainees.

If the President really believes these interrogations don't work, I urge him to release these other memos, the ones Vice President Cheney called on to be released. If he believes in full transparency, why don't we see that? We know some of it because it was in President Bush's September 2006 remarks.

Madam President, to sum up, we are in a great national effort. We are now sending 17,000 more troops to Afghanistan. I think President Obama studied that carefully. I know he, like myself and most of us, doesn't look forward to having to send more troops there. He decided it was important for America and our allies and stability in the region and the world that they be sent there. This Congress supported that. So we continue the struggle. It is going to be a long time.

Intelligence is a critical component of our success against the war against the terrorists. That is what the 9/11 Commission told us. That is what the American people understood with clarity. Good intelligence prevents attacks and saves lives. Good intelligence is so valuable, it is almost invaluable. We have to be careful when we set about passing more and more rules that chill the willingness of our investigators and military people to do their job. As we have found from previous spasms, harm to our intelligence community can be the result of irrational, reactionary decisions. We didn't wisely consider this when we put a wall between the FBI



and we limited the CIA in these dangerous areas of the world in getting information. I share a deep concern about that.

There is one more thing I will conclude with. The President talked repeatedly in his speech, in a most disparaging manner, about Guantanamo. I think inadvertently, and I am sure unintentionally, I believe he has cast a shadow over the fabulous men and women who serve us there, who participate in running a very fine facility. I would have appreciated it if he had taken the opportunity to clear the air about Guantanamo, our military prison.

Do you know that not one single person was subjected to waterboarding at Guantanamo? Actually, there were only three instances of it, all done by our intelligence agency in a different place. None of that occurred there. I wish he had said that. I wish he had quoted from one of the investigative reports of what happened at Guantanamo.

This is what the finder found: They found one incident in which a series of techniques were used during interrogation, not one of which would have amounted to torturing that person, but all together they concluded it put too much stress on that individual and that it violated the law against torture. Well, that should not have been done.

But to hear the talk about Guantanamo, you would think we are waterboarding people and torturing people constantly. That is just not what happened there. I have been there twice. These are great men and women down there trying to serve our country. They are absolutely committed to trying to extract as much good information as they could to protect America. They are not abusing detainees nor are they violating the law. If they cross that line, they should be disciplined for it. But it is not the kind of thing that is or was systematically occurring.

I wish the President had taken the opportunity—as Commander in Chief of our men and women who sends them into harm's way—to defend and explain that a lot of the allegations about Guantanamo were exaggerated and false.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I ask unanimous consent to add more cosponsors to amendment No. 1189. They are Senators COLLINS, SPECTER, KOHL, DORGAN, WEBB, WICKER, and CORNYN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, we are up to 35 Members, over one-third of the Senate, who are saying we need to help the Chrysler dealers who got the blow on May 14 saying they had

3 weeks to basically shut down an entire dealership.

I have been talking to so many of my colleagues on the floor since I offered this amendment who have had stories of friends and people they know, people who sometimes own the largest employer in a city or a county, and the hardship these people are facing. They are facing the likelihood—unless we can get some closure—that they are going to lose, perhaps, their dealerships, and many are going into bankruptcy. They all have big real estate investments, we know that. A car dealership has large amounts of real estate. Usually, it is very expensive real estate. They still owe money, and they are in dire straits right now.

What the negotiation is right now is this: I talked to the president of Chrysler this morning at 8:30. I have talked to the people at the White House who are the task force, the people overseeing the Chrysler and General Motors project, and to Senator STABENOW from Michigan, who has been so helpful in trying to put this together and work with me in a bipartisan way because while she has a Chrysler manufacturing plant, she also has dealers in Michigan, as does Senator LEVIN. So the 35 cosponsors of the amendment are completely bipartisan because we all have these stories, and we know these dealers are not getting a fair chance.

I talked to the President of Chrysler, and he said there would be a letter forthcoming where he would lay out how Chrysler is going to help take the inventory off the books of these dealers that are being shut down—789 across the country. We are talking about 40,000 people working in these dealerships.

We are talking about a lot of lives that are being affected. He said they would put out a letter today—he didn't say close of business, but we agree we both want something out today—that would give these dealers a definitive plan so they would know what they could count on. Not having to worry about inventory was No. 1 on the list. These dealers buy these cars and trucks. They buy them. It is their expense. They buy the parts. They buy the equipment that is unique for the repair of these cars. So they have the risk. Yet they could be stuck with 30 cars or 100 cars. This is sinking them.

I said: I hope you are going to give us something definitive. He said and I believe he is trying to do just that without in any way delaying or disrupting the exit out of bankruptcy, which is in everyone's interest because the taxpayers are paying for the exit out of bankruptcy, and the quicker the better, that is for sure. But these dealers are about to go bankrupt too. We are talking about 40,000 employees of these dealers. I think it is important that we look at them as effective people.

It is now a quarter of six. I just talked again with the president of Chrysler. He says we will have a letter within minutes. Actually, it was 15 minutes ago that I talked with him. He said it would be just a few minutes and they would get something to me.

I am going to tell you right now, Madam President, and I am going to tell all of my colleagues, we are not passing this bill. We are not going to shorten the time. We are not going to have a unanimous consent agreement until I have a letter that will assure these dealers of what they can expect from Chrysler that will, hopefully, give them the clarity they need to be able to say: OK, I don't have to worry about cars and trucks and parts and specialized equipment. I can now worry about making the payments on my real estate. I can worry about my employees whom we are having to let go and worry about the effect on the community. I can worry about all those things, but the big things that can be handled by Chrysler and the task force will be handled. That is what I am looking for.

I am putting everyone on notice that this bill is not going to have any shortened time period under a UC until I can see that letter. Senator STABENOW stands with me to try to make sure we are doing something that will be adequate.

I will say, Senator ROCKEFELLER, too, is very concerned. He and Senator BYRD sent a letter to the CEO of Chrysler and General Motors to object strongly to the handling, the treatment of the dealers. Senator ROCKEFELLER as the chairman and I as the ranking member of the Commerce Committee are now talking about having a hearing with those CEOs and representatives of the dealership group as soon as we get back. That will be the week after next.

I am waiting, hoping, with all of the good-faith efforts that have been made today by the White House, by the president of Chrysler and his team, and all of the Senators who have signed on as cosponsors of this amendment.

I ask unanimous consent that Senator LINCOLN be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I think the Senator from Arkansas, who is working very hard on trying to get an amendment into this bill as well. She is in the Chamber. I appreciate her also coming in and saying: We are a bipartisan team, and we want results for these dealers who have been so badly treated up to this point. I am hoping that will change in the next few minutes and we will see a light at the end of the tunnel for these dealers.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I state for the record that the Commerce Committee hearing on the auto dealerships has been set for June 2 at 2:30 p.m. This is a very important hearing where we are going to have representation from the automobile manufacturers, as well as the automobile dealers. I hope that will shed some light on what we can do to help these dealers.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, we have an emergency situation all over, in about 20 or 25 States, that I explained to the Senate yesterday, involving imported Chinese drywall which, when exposed to heat and humidity, is emitting gases that are making people sick in their homes, that is in fact corroding all of the metal, that is going after the copper tubing in the plumbing and the air conditioners—so much so that they are having to replace the air conditioners—in some homes, over the course of the last 3 or 4 years, having to replace the air conditioner three times.

We had, in front of Senator INOUE's former committee, the Commerce Committee, of which he obviously is still a member but he is now the chairman of the Appropriations Committee—we had in front of the committee a panel of the people from the various agencies, and the representatives from the Consumer Product Safety Commission as well as the EPA wanted to do the next test. They did the first test and they compared Chinese drywall to American drywall and they found out that what was different is that the Chinese drywall had sulfur, it had strontium, and it had elements found in acrylic paint. But they drew no conclusions, so they want to do the next test.

The next test would be under controlled conditions, to put it in a situation where they simulate heat of the United States summer, and humidity, and then see the gases that are emitted from it and determine to what degree, then, are they harmful to people who are having all these effects of respiratory problems, they can't breathe—it is exacerbating their allergies, it is exacerbating things such as asthma—

and in some cases their pediatricians have said to the mom and the daddy: Get these children out of the house. Yet they still have a mortgage payment and where are they going to go? If they don't have other family to move in with, they have to rent, yet still pay on the mortgage. And oh, by the way, the bank is not working with them to give them some relief on their mortgage. So we have homeowners who, as we say in the South, are in a fix; they do not know what to do.

We need to go to the second test. That second test is estimated to be \$1.5 million.

Senator LANDRIEU, Senator VITTER, and a whole bunch of us had offered an amendment that was going to say it had to come out of the CPSC's funds, no new appropriation, but we can't get this passed here since we are in gridlock over this supplemental appropriations bill and we are down to the wire.

What I would like to do—and only by the gracious generosity of the chairman of the Appropriations Committee—he has offered to indicate his interest and willingness to make sure that the EPA and the CPSC are being directed by the Congress to do this test so we can get it to the next step without wasting any more time.

The CPSC told us today, in the Commerce Committee, they have plenty of money to do it. The EPA said they have funds to do it. And they are both willing to do it. The problem is we don't know, since they are midlevel managers, if the head of the CPSC is going to be willing to do this, since the head is a short term and she has not been that cooperative in the past.

So I invite the very distinguished Senator from Hawaii, the chairman of the Appropriations Committee, to state if he, as he indicated so graciously, would be willing to pour the full weight of the Appropriations Committee behind this effort not to waste any time and to have the EPA and CPSC do this test for the sake of the health of our people.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. I shall be honored and privileged to join the Senator in his mission. It is a valid one and I hope one this full Senate can approve at some later date. I will be most pleased to join him in any sort of letter he will be writing to the authorities. I can assure my colleague that the full impact of my office will be at his disposal.

Mr. NELSON of Florida. The Senator is so gracious, and he always has been, I say to my colleague, Senator INOUE.

Mr. DURBIN. Will the Senator from Florida yield?

Mr. NELSON of Florida. Yes, absolutely, to the distinguished Senator from Illinois.

Mr. DURBIN. I happen to chair the subcommittee responsible for the Consumer Product Safety Commission and

I have listened to the Senator's presentation. The Senator told me last night that some of this suspect Chinese drywall may be in my home State so I want to get ahead of the curve and join him in this effort. Let's get this analyzed as quickly as possible, and if it poses any danger we ought to know it. I put the Consumer Product Safety Commission on notice, with Senator INOUE and yourself and many others, that we expect them to take this very seriously on a timely basis.

Mr. NELSON of Florida. With those very generous assurances by these esteemed Senators, I am grateful, Mr. President, and I yield the floor.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HUMAN RIGHTS

Mr. DURBIN. Mr. President, for the past year, I have been working to bring attention to the human rights abuses occurring around the world, including little-known political prisoners who are languishing in prisons in farflung reaches.

Too many jails still overflow with prisoners of conscience whose only crime is to expect basic freedom, human rights, and due process. I undertook this effort with the understanding that it would not be easy. I have dealt with these governments in the past, and many times they are unresponsive. Few repressive regimes want to address human rights records, and in some of the smaller countries where these human right abuses are taking place, it takes quite an effort to get their attention.

Through our annual human rights reporting at the State Department, our diplomacy and steady public pressure on basic human rights, the United States has traditionally been a champion and source of hope around the world for those suffering human rights violations.

I might add, parenthetically, that I wish to thank Senator PATRICK LEAHY for, again, this morning reauthorizing my Subcommittee on Human Rights and the Law, a subcommittee which I chaired over the last 2 years.

I worried that in recent years America has not raised its voice enough in these kinds of cases, and we should not forget that for some people whose lives seem so desperate, a little effort on our part can make a dramatic difference.

Take, for example, the appeal made by Burmese Nobel Prize winner Aung San Suu Kyi, who has remained under house arrest in Burma for most of the last 19 years. She is in deteriorating health and was apparently moved to a notorious prison this week.

I think this is clearly a situation where we know she needs our attention and help. Most people have read the account in the newspapers about her problems and understand she was victimized by an American who somehow managed to get into her home, and in entering her home and staying overnight, violated the law, or apparently violated the law.

I certainly hope, at the end of the day, that her house arrest will come to an end and this poor woman will be given a chance to have freedom which she richly deserves. I am not going to read this entire statement, as it contains many names of foreign origin that may be difficult for me to pronounce and for our reporter to keep up with.

Today, I am pleased to report the release of one of the first of the political prisoners my efforts have focused on, specifically a case in Turkmenistan.

Earlier this year I raised my concerns with the Government of Turkmenistan about four Turkmen political prisoners. These prisoners have languished in jail for years after being convicted of spurious charges at trials that failed to meet minimum international standards. Some have families with children; some are of advanced years and reportedly in poor health.

I had hoped that the new government in Turkmenistan would take important and forward-thinking steps toward releasing political prisoners from an earlier era.

Earlier this month, one such political prisoner in fact, the longest serving political prisoner in Turkmenistan Mukhametkuli Aymuradov, was unconditionally released after 14 long years of confinement.

I want commend this decision and strongly encourage the Government of Turkmenistan to take similar actions for all other remaining political prisoners, including: Gulgeldy Annaniyazov, a long-time political dissident who was arrested, apparently on charges that he did not possess valid travel documents, and sentenced to 11 years imprisonment; and Annakurban Amanklychev and Sapardurdy Khadzhiyev, members of the human-rights organization Turkmenistan Helsinki Foundation, who were sentenced to 6-to-7 years in jail for reportedly "gathering slanderous information to spread public discontent."

The freeing of Mr. Aymuradov is an important first step, but more are needed.

I want to conclude by returning to the still unresolved case with which I started this effort, that of journalist

Chief Ebrima Manneh from the small west African Nation of The Gambia.

Mr. Manneh was a reporter for the Gambian newspaper, the Daily Observer. He was allegedly detained in July 2006 by plainclothes National Intelligence Agency officials after he tried to republish a BBC report mildly critical of President Yahya Jammeh.

He has been held incommunicado, without charge or trial, for 3 years. Amnesty International considers him a prisoner of conscience and has called for his immediate release.

Three years without the government even acknowledging it took one of its own citizens, without telling his family where he is being held, this is reprehensible. It is outrageous.

The Media Foundation for West Africa, a regional independent nongovernmental organization based in Ghana, filed suit on Mr. Manneh's behalf in the Community Court of Justice of the Economic Community of West Africa States in Nigeria. This court has jurisdiction to determine cases of human rights violations that occur in any member state, including The Gambia.

In June 2008 the Court declared the arrest and detention of Mr. Manneh illegal and ordered his immediate release. A petition has also been filed on his behalf with the United Nations Human Rights Council's Working Group on Arbitrary Detention, and a decision from this body is expected soon.

Yet despite the judgment of the court, as well as repeated requests by Mr. Manneh's father, fellow journalists, and me, the Gambian Government continues to deny any involvement in his arrest or knowledge of his whereabouts.

Mr. President, America has been wrongly defined by our critics since 9/11. We need to define our values as a caring Nation, dedicated to helping improve the lives of others overseas, including those living under repressive governments. Doing so is an important statement of who we are as a Nation.

Five other Senators, including Senators FEINGOLD, CASEY, MURRAY, LIEBERMAN, and KENNEDY, joined me in a letter last month to Gambian President Jammeh about the detention of a Mr. Manneh. Our request was simple, and I hope the Gambian leadership will respond to it.

We are in contact with them in an effort to try to come to some reasonable conclusion to this situation. Doing so is so important for the people whose lives are at risk and for our reputation in the world.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRADE POLICIES

Mr. BROWN. Mr. President, our economy, as we know so well, struggles with massive job losses, a shrinking middle class, and an economic crisis that undermines the pursuit for far too many Americans and the American dream.

In 2006, voters in my State of Ohio, from Marietta to Cleveland, from Van Wert to Youngstown, spoke out with one voice demanding a change in our Nation's trade policy. In 2008, they reaffirmed that call with good reason, as Senator Obama, again, pointed out the problems with Bush trade policy that our trade deficit was literally \$2 billion a day during the last 2 years in the Bush administration.

Ohio has suffered more than 200,000 manufacturing job losses since 2001. The first President Bush pointed out that a billion dollars in trade deficit translates into 13,000 lost jobs. Do the math. For too long we have been without a coherent trade strategy with no real manufacturing policy.

Most of our trade deficit is due to a manufacturing deficit. Current policies have failed to deliver on good jobs and on stability.

Today, in committee, the Senate Finance Committee held a hearing on the Panama Free Trade Agreement. I do not think the American people are demanding a trade agreement with Panama. What I hear people in Ohio demanding is a new direction. I hear people demanding change on trade, change on our economic policy, change on our Nation's economic strategy. I hear people asking lots of questions about the economic course we are on.

I hear people worried about our manufacturing base. I hear Ohioans say that for every day not spent enforcing trade law and not reforming our trade policy, there are manufacturers eliminating jobs.

Since 2000, the United States has lost 4 million manufacturing jobs, not all because of trade but for a lot of reasons—but much because of trade. In the last decade, some 40,000 factories have closed nationwide, 40,000 factories have shut down.

A continuing loss of U.S. manufacturing means more unsafe imports, a greater dependence on foreign factories to produce both our everyday consumer goods and for our national security and military hardware.

A 2008 EPI study found the United States has lost more than 2.3 million jobs since 2001 just as a result of our trade deficit with China. Again, our trade deficit with China is over \$200 billion. The first President Bush said that

a billion-dollar trade deficit was 13,000 lost jobs.

China uses illegal trade practices, such as dumping, such as subsidies, such as currency manipulation, to undercut U.S. manufacturers.

When Congress approved China's PNTR, Permanent Normal Trade Relations—when Congress approved the legislation to start the ball rolling on China's inclusion into the World Trade Organization, then it made commitments, China made commitments to gain greater access to U.S. markets. They got the access to the U.S. markets, but, unfortunately, China has not been held to those commitments.

Think about toxic toys, think about the toys with lead-based paint on them that came into the United States, think about the ingredients made in China put in Heparin, the blood thinner that killed several people in Toledo, OH, and others around the Nation.

These are the trade issues people want action on, on jobs, on safety, on consumer protection. These are the trade issues I hope the Obama administration is focused on, not the trade agreement with Panama.

Let's talk for a moment about the Panama agreement. It is, of course, an agreement negotiated under the Bush administration's fast-track negotiating. This is not an Obama trade agreement, this is a Bush trade agreement. As we remember, Senator Obama in his campaign was very critical of the Bush administration's trade policy.

The Presiding Officer was in the House of Representatives in those days, as I was, in 2002, when fast track—the negotiating authority extended to President Bush to give him more power to negotiate trade agreements—passed the House by three votes in the middle of the night, and the rollcall was kept open for over 2 hours in the last week before the August recess.

The Panama agreement was one of the last deals negotiated and signed by President Bush. Under the fast-track authority given to him that night in 2007, there were important improvements to the labor and the environment chapters of the Panama agreement. This reflected the work of many in Congress, including the Finance Committee in the Senate, the Ways and Means Committee in the House.

Yet there remains serious concerns about this agreement. Many in Congress have expressed concerns about the safe haven Panama affords to companies looking to skip out on their taxes. What does that mean? It means there is a way to evade taxes by moving business activity offshore.

Yesterday, Congressman SANDER LEVIN and Congressman LLOYD DOGETT wrote the Panama's serious tax evasion issues require a serious remedy before Congress can even consider the Panama trade agreement.

The issues about tax evasion are even more serious when the Panama Free

Trade Agreement includes rules on corporate investor protections. These are rules that shift more power to corporations and away from the democratic process. In other words, these trade agreements have loaded up in them all kinds of protection for the drug companies, the insurance companies, the energy companies, not so many protections for workers, for the environment, for consumer protection, for food safety.

It is part of the old model that gives protections to the large companies, protections to large corporations, protections to Wall Street, while not ensuring protections for workers and food and product safety.

Panama and the free-trade agreement, as it is written, means more of the same failed trade policies rejected by working families across the Nation. For too long we have seen the pattern: the North American Free Trade Agreement, NAFTA; the Central American Free Trade Agreement, CAFTA; China PNTR, the Panama Free Trade Agreement.

We need to stop the pattern where the only protectionism in free-trade agreements are protecting the drug companies, protecting the oil industry, protecting the financial services companies, many that have created the economic turmoil we now face.

Let me explain it another way. This is not actually the Panama Free Trade Agreement, but it is about this length. It looks about that much. If we were concerned with tariffs, which is what they always say when they talk about the Panama trade agreement, this trade agreement, to eliminate tariffs on American products in Panama, this trade agreement would only need to be about three or four pages.

But it is much longer. You know why? You have to have this section for protection for oil companies. You have to have this section for the protections for the insurance companies. You have to have this section for the protection for the banks. You have to have this section for the protection for the drug companies.

But there is nothing left protecting consumers, protecting food safety, protecting workers, protecting the environment. These are protectionist trade agreements, all right, but they are protecting again the drug companies, the insurance companies and other financial institutions and others.

If this trade agreement were solely about trade and tariffs, literally, it would be only this long. It would simply be a schedule of how you eliminate these tariffs, just repeal the tariffs that apply to American goods that are sold in Panama.

When people say Panama has access to the U.S. market, all we are asking is to eliminate the tariffs so we have access to the Panama market. People who tell you that are the same lobby-

ists around here who represent the drug companies and the insurance companies and the banks and the oil companies. Remember that.

For too long we have seen the status quo in trade policy that gives protections to big oil and big business. That is not acceptable.

A status quo trade policy that suppresses the standards of living for American workers, and I would also say suppresses the standard of living of what we should do in the developing nations for workers, that is not acceptable. A status quo trade policy that fails to effect real change on how we do business in China is not acceptable.

For 8 years, the Bush trade policies were, in fact, protectionist—protecting the oil industry, protecting the insurance companies and the banks and the drug companies. They were protectionist and they were wrong-headed.

We should not continue these Bush trade policies. That is what is disturbing about this body. Even considering the Panama Free Trade Agreement, we know the Bush economic policies did not work and look at the damage to our economy. Look at our trade deficit. Look at our budget deficit. Why would we adopt a Bush trade agreement when we know its trade policies failed us abysmally?

In November 2008, voters from Toledo to Athens, from Lorain all the way down south to Ironton demanded real change, not symbolic change. We need agreements to be reshaped by the Obama administration, not just tinkered with around the edges and then stamped "approved." Make no mistake, as Senator DORGAN from North Dakota says, we want trade, and we want plenty of it. But we don't want trade under rules that protect insurance companies, drug companies, financial institutions, and the oil industry. We want agreements that work for workers and consumers, for children, with safer toys. It is not a question of if we trade but how we trade and who benefits from trade. We must create a trade policy that helps workers and businesses thrive, especially small businesses and manufacturing, that will raise standards abroad, increase exports, and rebuild middle-class families in Ohio communities.

Our new trade policy must provide critical solutions to the Nation's economic recovery strategy. Reforming trade policy starts with a comprehensive review of the overall trade framework. We need a review of trade negotiating objectives. That is what I am bringing to the floor in legislation. We need a review of the programs responsible for enforcing trade rules and promoting exports. I am asking the GAO to look at many of these questions as we prepare for the trade act and other legislation we will consider. It is only one step.

We have a responsibility to deliver on the demand to change trade strategy.

Recycling of Bush-negotiated trade agreements such as that with Panama is not a first step. It is the wrong step. The Obama administration, I hope, will join with Congress in review and reform of our trade strategy. The days of turning away from our responsibility are over.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, the Senator from Michigan, Ms. STABENOW, and I have been working all day with the Chrysler president and his team and with the White House and their team and the task force and their team to try to give the assurances to the 789 dealers who are going to be put out of business across our country by Chrysler—with the 3-week notification—that they will be able to recoup the cost of the inventory that has been left on their property and in their dealerships.

I said I was going to hold up any shortening of time period for this bill to be considered until I got a letter of assurance. The original amendment, for which we have 37 cosponsors, was to extend the time by 3 weeks to allow the dealers to be able to sell more inventory, have a more orderly transition.

In fact, what we have done, in consultation with the dealers, I think is going to be much better. It is not everything they had hoped for, but if there is good faith in this effort, it is going to be good for the dealers. But it will take good faith.

Here is the letter the president of Chrysler, James Press, has sent to me. And Senator STABENOW as well has been one of the people who has been talking about this and negotiating.

The letter says:

Dear Senator Hutchison:

I assure you that our process for redistributing the product from OldCo dealers—

Who are the old company dealers who are going to be put out of business—to NewCo dealers—

Who are the dealers who will survive—

is designed to assure that products flow quickly and efficiently from every OldCo dealer. As part of this process, we will ensure that the OldCo dealers receive a fair and equitable value for virtually all of their outstanding vehicle and parts inventory. We have more than 200 representatives in the field that are working to ensure that we make good on this commitment as quickly as is practical. We have a very robust system in place to manage the sales to NewCo dealers as well as the inspection and shipment to the new dealer.

Thanks to your input today we have added a new set of assurances and information for the OldCo dealers, with the intention of removing some of the uncertainty that naturally surrounds this process. Each OldCo dealer will receive a daily report which specifically outlines each unit of inventory and its place in the transition process.

We share the objective of selling these vehicles as quickly as possible to protect residual values. We are committed to sell every unit possible by June 9, prior to resumption of production [of the company].

Thank you for your time and interest today. Our goal is to ensure that every dealer realizes a soft landing and is able to transition smoothly.

Senator STABENOW and I called Mr. Press for a clarification of some of the parts of this letter. The biggest concern, of course, that the dealers have is getting the inventory they have paid for off their books. That is their biggest concern.

We were assured that the 200 representatives who are going out to help this orderly and quick transition will make every effort to expedite the transition to the surviving dealerships as quickly as possible. This will include specialized tools, as well as parts, inventory, and outstanding vehicles.

I said: What happens after June 9? Because the June 9 deadline is good when you are trying to expedite, but then you are not saying that you will not keep helping after June 9. They said: Absolutely not. Mr. Press said they will certainly continue to help until every part of this transition of this inventory is disposed of. And the help will be there after June 9. That was the assurance that was given.

The major thing that has happened that has been helpful is that GMAC has received—as we all know because it is public—in the range of \$7.5 billion for financing, which will be available to the new surviving dealerships—Chrysler, and I am sure General Motors as well—and so the new dealers will have the ability to finance the taking of the inventory off of the dealers who are going to be put out of business.

So that is probably one of the most important components here because there had to be a lending source for the new dealers to absorb the new inventory.

I think the biggest concern left for the dealers is the floor plan loans they have for the inventory that is there and how that would change after June 9. I asked that question. And basically the answer is: We are going to try to do everything possible to get these transitions out before June 9 so you will not have, hopefully, the problem of loans being modified.

So that is the essence of the conversation and questions I asked for clarification. I ended by saying that I think we are much further ahead now than we were when the letter arrived on May 14 to the dealers saying: We are not going to buy inventory, we are not going to buy parts, and we are not

going to buy the specialized tools, and you have 3 weeks to deal with this. We have come a long way from there.

I said to Mr. Press, and to his team, that I did appreciate this effort and the better clarification, but we will know in 2 weeks if the good faith that is represented in this letter is, in fact, implemented. And they agreed with that.

I think we have made a step in the right direction—when my dealers call and say: Under the circumstances, it is not what we had wanted, but we have been treated as fairly as possible and have certainly gotten the relief from the burden of inventory so we can deal with the employees who will not be with us anymore, and the land and the real estate and the other costs of closing an ongoing business.

So I will say to my colleague from Michigan, I do not think any of this would have happened without her stepping in. And hands-on efforts were made to bring the White House in, Chrysler in, my staff, her staff. So it was certainly a team effort.

I want to thank the 37 cosponsors of my amendment because I think that was a clear indication that over one-third of this Senate was not going to let this go the way it had been left at the time. So if there is good will in this whole effort for the next 2 weeks, then I am optimistic it will have a good result.

Mr. President, I ask unanimous consent that the letter written to me by James Press today be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRYSLER,  
MAY 21, 2009.

Hon. KAY BAILEY HUTCHISON,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HUTCHISON: I assure you that our process for redistributing the product from OldCo dealers to NewCo dealers is designed to assure that products flow quickly and efficiently from every OldCo dealer. As part of this process, we will ensure that the OldCo dealers receive a fair and equitable value for virtually all of their outstanding vehicle and parts inventory. We have more than 200 representatives in the field that are working to ensure that we make good on this commitment as quickly as is practical. We have a very robust system in place to manage the sales to NewCo dealers as well as the inspection and shipment to the new dealer.

Thanks to your input today we have added a new set of assurances and information for the OldCo dealers, with the intention of removing some of the uncertainty that naturally surrounds this process. Each OldCo dealer will receive a daily report which specifically outlines each unit of inventory and its place in the transition process.

We share the objective of selling these vehicles as quickly as possible to protect residual values. We are committed to sell every unit possible by June 9, prior to resumption of production.

Thank you for your time and interest today. Our goal is to ensure that every dealer realizes a soft landing and is able to transition smoothly.

Please feel free to contact me anytime.

Sincerely,

JAMES E. PRESS,  
Vice Chairman & President.

Mrs. HUTCHISON. I yield for Senator STABENOW.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Thank you, Mr. President.

Of course I want to thank Senator HUTCHISON. Without her leadership, without her effort and her amendment, we would not have what I believe and am very hopeful will be an important, positive solution to help our dealers rather than leaving them on their own in the middle of what has been a very horrible time as it relates to Chrysler and General Motors and actually the auto industry around the world in terms of what has been happening.

I thank Senator HUTCHISON because she has been very tenacious and very effective, and it has been my pleasure to partner with my friend from Texas to achieve something that I believe is positive.

Before we started this process, the dealers were on their own. That was wrong. As a result of working together, and I should say working with Chrysler—and I appreciate all of their efforts in, obviously, an extremely difficult time for them. I appreciate their working with us. I appreciate President Obama and the auto task force for being the linchpin in terms of giving us a solution in terms of what they were able to do around financing. And I thank all of our colleagues who have been involved.

But we basically have two things. We have the dealers being able to get floor plan financing, which we have been working on for a long time—to be able to get that so, as Senator HUTCHISON said, the 75 percent of the dealers who will remain in business will have the opportunity to finance the purchase of the acquisition of inventory from the dealers who are going to be going out of business.

The second thing is there is now a plan and a commitment to work through this process in terms of inventory and being able to support the dealers in a very difficult time.

I feel very close to this issue, not just because I represent Michigan, an automobile State, but my father and grandfather were car dealers in a small town in northern Michigan. I grew up on a car lot. My first job was washing the automobiles on the dealership lot. I know what this is about: small businesses all across Michigan, all across this country, folks who do sponsor the Little League teams. Senator HUTCHISON and I were talking about the ads in the paper, and the supporting the community, and all that goes on. I lived it. I saw it. It is absolutely critical we do everything we can in this incredibly difficult time to support them.

So I am very pleased we have been able to come together with this. I do wish to put in one little plug for when we come back from this next week. Senator BROWNBACK and I are offering a bipartisan effort in the form of an amendment to incentivize purchasing vehicles which, I believe, is really the second stage to helping these dealers. It has been dubbed the “cash for clunkers” or fleet modernization. The bottom line is we want to be able to incentivize getting people back into those dealerships to be able to buy automobiles. I am going to put a big sign out saying “Buy American” because that is what we want everybody to do.

So I am hopeful phase 2 will come after the break. This is very important. I would again say it would not have happened without Senator HUTCHISON and all of her leadership. It has been my great pleasure to work with her in crafting this solution.

Mrs. HUTCHISON. Mr. President, I wish to thank again the Senator from Michigan. It was certainly a difficult position for her to, of course, have the manufacturers—GM and Chrysler—but also to have the dealers that are all over Michigan. I think the tireless efforts we had all day today will hopefully end in the next 2 weeks with the implementation of as fair as possible dealings with the dealers that we could possibly have.

Mr. President, I wish to add Senator THUNE as a cosponsor of amendment No. 1189.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I appreciate my colleague, and I so appreciate the 39 cosponsors of this amendment who stepped up to the plate and said this has to be fixed. In the end, that made a big difference. I wish to thank my colleagues who have been very bipartisan.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

The majority leader is recognized.

Mr. REID. Mr. President, I ask it be in order to make a point of order en bloc against the pending amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Therefore, Mr. President, I make a point of order en bloc that all pending amendments are not in order postcloture except the following: Leahy, No. 1191; Brown, No. 1161; Corker, No. 1173; Kaufman, No. 1179, as

modified; McCain, No. 1188; and Lieberman-Graham, No. 1157; further, that amendments No. 1161, No. 1173, No. 1188, and No. 1157 be modified with changes at the desk, and once those are modified, the above six amendments, as modified if modified, be agreed to en bloc; that the motions to reconsider be laid on the table en bloc; and the following amendments be considered and agreed to in the order listed: Lincoln, No. 1181 and Hutchison amendment No. 1176, as modified; and that the motion to reconsider be laid on the table; further, that the bill, as amended, be read a third time and the Senate proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees, with the Senate Appropriations Committee appointed as conferees.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, regretfully I have to reserve the right to object. I have to check on one thing. Shall we enter a quorum call?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

Mr. REID. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendments Nos. 1167, 1189, 1143, 1147, 1156, 1164, 1144, and 1139 are non-germane, and they fall for that reason.

Amendment No. 1185 is “sense of the Senate” language and is therefore dilatory under cloture. It falls for that reason.

AMENDMENTS NOS. 1191; 1161, AS MODIFIED; 1173, AS MODIFIED; 1179, AS MODIFIED; 1188, AS MODIFIED; AND 1157, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. Under the previous order, amendments Nos. 1191; 1161, as modified; 1173, as modified; 1179, as modified; 1188, as modified; and 1157, as modified, are agreed to en bloc, and the motions to reconsider are considered made and laid upon the table.

The amendment (No. 1191) was agreed to.

The amendments as modified, were agreed to as follows:

AMENDMENT NO. 1161, AS MODIFIED

On page 107, line 16, insert the following:

(d) The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund to a Heavily Indebted Poor



Country that imposes budget caps or restraints that do not allow the maintenance of or an increase in government spending on health care or education; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the Fund's activities with respect to Heavily Indebted Poor Countries.

AMENDMENT NO. 1173, AS MODIFIED

On page 97, between lines 11 and 12, insert the following:

AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 60 days after the date of the enactment of this Act, the President shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 120 days thereafter until September 30, 2011, the President, in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

AMENDMENT NO. 1188, AS MODIFIED

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading “Assistance for Europe, Eurasia and Central Asia” may be increased by up to \$42,500,000, with the amount of the increase to be available for assistance for Georgia.

AMENDMENT NO. 1157, AS MODIFIED

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.

(a) SHORT TITLE.—This section may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term “covered record” means any record—

(A) that is a photograph that was taken between September 11, 2001 and January 22, 2009 relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (3) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(4) A timely notice of the Secretary's certification shall be provided to Congress.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) Nothing on this section shall be construed to preclude the voluntary disclosure of a covered record.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

SEC. \_\_\_\_\_. SHORT TITLE.

This section may be cited as the “OPEN FOIA Act of 2009”.

SEC. \_\_\_\_\_. SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.

Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

“(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

“(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

“(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.”.

AMENDMENTS NOS. 1181 AND 1176, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. Under the previous order, amendments Nos. 1181 and 1176, as modified, are agreed to, and the motions to reconsider are considered made and laid upon the table.

The amendment (No. 1181) was agreed to.

The amendment (No. 1176), as modified, was agreed to, as follows:

AMENDMENT NO. 1176, AS MODIFIED

At the appropriate place in the bill, insert the following:

SEC. \_\_\_\_\_. For purposes of qualification for loans made under the Disaster Assistance Direct Loan Program as allowed under Public Law 111-5 relating to disaster declaration DR-1791 (issued September 13, 2008) the base period for tax determining loss of revenue may be fiscal year 2009 or 2010.

AMENDMENT NO. 1139

Mr. LEAHY. Mr. President, this week, Senator CORNYN insisted on offering an amendment to the emergency supplemental appropriations bill that is most unfortunate. It is an amendment that is so broad in scope and, I believe, wrongheaded, that I felt I should note my disagreement. As a former prosecutor, I am troubled that the Senate is being called upon to prejudge matters that have yet to be fully investigated. This amendment is a classic example of putting the cart before the horse.

I have proposed a Commission of Inquiry in order to move these debates outside of partisan politics. An independent and nonpartisan panel taking a comprehensive approach is better positioned to determine what happened. Before the Senate starts pontificating about who should and should not be investigated, sanctioned, ethically disciplined or prosecuted, would it not be a good idea to know what took place?

I was encouraged to hear Senator CORNYN call for “an end to the poisonous environment that has overtaken the debate about detention and interrogation policy in the aftermath of September 11th, 2001.” I agree and that is why I proposed taking the matter out of partisanship and away from political institutions. That is not what the amendment does, however. First, Senator CORNYN styled this as a sense of the Senate making overly broad findings, now he has stripped those findings from this amendment, and is doing something even more nonsensical, trying to prohibit the use of funds for something that funds are not even provided for in the emergency supplemental.

An amendment politicizing decisions about investigations and prosecutions is not the right approach. We should have closed the book on efforts to have partisan interests infect Federal law enforcement decisions when we lifted the veil on the Bush White House's manipulation of U.S. attorney firings. Some of us have worked very hard to



restore the U.S. Department of Justice to be an institution worthy of its name and to again command the respect of the American people.

Senator CORNYN spoke on the floor this week about learning together from our past mistakes. I, again, invite all Senators from all parts of the political spectrum to join my call for a non-partisan investigation to do just that.

The Justice Department has yet to finish a 5-year inquiry regarding whether some of the lawyers responsible for the Office of Legal Counsel opinions that justified brutality acted in ways that failed to meet professional and ethical standards. It was a Republican ranking member on the Judiciary Committee who earlier this year said that if the news reports of how those memoranda came to be generated are true, there may have been criminal conduct involved. President Obama and the Attorney General have been very forthright in saying that those who relied on and followed the legal advice in interrogating prisoners would not be prosecuted.

What needs to be determined, and has not, is how we came to a place where the United States of America tortured people in its custody in violation of our laws. Those legal opinions have been withdrawn. One of the earliest was withdrawn by the Bush administration in advance of the confirmation hearing on Alberto Gonzales to be Attorney General, and others were limited in the final days of the Bush administration. What we do not know and what this amendment is geared toward covering for, is the role of the former Vice President and his staff, the role of the Bush White House in generating those opinions legalizing brutal interrogations.

Last week, the Judiciary Committee held our most recent hearing into these matters. I thank Senator WHITEHOUSE for chairing the hearing before the Subcommittee on Administrative Oversight and the Courts. Philip Zelikow testified about how dissent over the legal justifications and implementation of these practices was stifled and overridden. Ali Soufan, the FBI interrogator of Abu Zubaydah, testified about his success using traditional interrogation techniques, and about how ineffective and counterproductive the use of extreme practices was in that case. And Professor David Luban critiqued the released memoranda as legally and ethically dishonest.

Last week also evidenced, yet again, why the approach of an independent, nonpartisan review is the right one. Partisans defending the Bush-Cheney administration's actions chose not to look for the truth, but to mount partisan attacks. They have succeeded in fulfilling the prophecy they created—that any effort to consider these matters would break down into partisan re-creations—by themselves doing just that. They elevated the minor role of a

former minority member of the House Committee on Intelligence into their principle concern, thereby ignoring the driving force of the former Vice President, other officials in the Bush-Cheney administration, and the complicity of the Republican congressional officials who were in control of both the House and the Senate. They raised straw men, went on witch hunts, and sought to distract from the fundamental underlying facts. All they really succeeded in demonstrating is that they will continue to view these matters through a partisan lens, and that they have yet to show any willingness to join in a fair, nonpartisan inquiry. Their recent actions reinforce why we need the independent, nonpartisan inquiry for which I have been calling over the last several months.

For those who have reflexively opposed my proposal for a comprehensive, nonpartisan, independent inquiry, I ask these questions: If we never find the truth and understand the mistakes we have made, what incentive is there to avoid them in the future? What guarantee is there that the Government will not repeat the same mistakes? What incentive will future administrations have to respect the very rule of law that distinguishes us as a nation? The risk that the past will again be prologue is too great to take simply because it is not easy to face the truth.

I continue to believe that we must know what happened, and why, to ensure that America does not go down this dark road, again. Before we turn the page, we need to read the page. We should proceed without partisanship, not as Republican or Democratic politicians, but as Americans who recognize, as Philip Zelikow testified last week, that torture was “a collective failure and it was a mistake.”

During the last several weeks, we have seen the release of the Senate Armed Services report documenting the complicity of top Bush-Cheney administration officials. News reports have indicated that in April 2003, after the invasion of Iraq, the U.S. arrested a top officer in Saddam Hussein's security force, and that some acting on behalf of then Vice President Cheney urged the use of waterboarding in an effort to coerce a “confession” supporting the link between al-Qaida and Iraq. That link, of course, has proven to be an illusory justification for the war, as were the nonexistent stockpiles of nuclear weapons and others weapons of mass destruction. Likewise, COL Larry Wilkerson, former chief of staff to President Bush's first Secretary of State, has written that these brutal interrogations, conducted in the spring of 2002 before the legal authorizations of the OLC memoranda were crafted, were aimed at the “discovery of a smoking gun linking Iraq and al Qaida.” Perhaps these reports help explain why former Vice President Che-

ney continues to adamantly support these discredited practices. Perhaps they explain why the proposed amendment's language is so vague with regard to those who, in its words, “provided input into the legal opinions.”

There are strong passions on all sides. It is not only former Vice President Cheney and his apologists who feel strongly. There are those who will not be satisfied by anything less than prosecutions for war crimes. I have always believed that there is a fundamental middle ground, one that focuses on the most important issue at stake—finding out what happened and why.

I appreciate the support of so many who have rallied to this idea of a nonpartisan commission and a comprehensive review of what took place. Ambassador Thomas Pickering and Philip Zelikow, the executive director of the 9/11 Commission and a former State Department counselor, have both testified in favor of this idea. Former Bush administration official Alberto Mora, and the former FBI Director under President Reagan, Judge William Sessions, have both recognized the need for accountability. Distinguished former military officers, who are familiar with commissions of inquiry, have been supportive. These officers include ADM Lee Gun and MG Antonio Taguba, as well as the National Institute of Military Justice. Senators FEINGOLD and WHITEHOUSE, both members of the Senate Judiciary and Intelligence Committees, have strongly endorsed the idea, as has Senator ROBERT BYRD. The Speaker of the House has spoken favorably about getting to the bottom of these matters, and she has shown her willingness to cooperate with such an inquiry.

Human rights leaders and organizations have endorsed the approach, including Amnesty International, the Constitution Project, the International Center for Transitional Justice, Human Rights Watch, Physicians for Human Rights, the Open Society Institute, the Brennan Center, Human Rights First, and others. Prominent religious leaders such as those represented by the National Religious Campaign Against Torture, which is composed of a broad spectrum of religious denominations, support this idea.

Thoughtful commentators like Jon Meacham, Nicolas Kristof, Tom Ricks, Frank Rich, and Maureen Dowd have come to endorse a nonpartisan commission. Editorials in support of a nonpartisan commission have appeared over the last several weeks in *The New York Times*, *The Washington Post*, the *Los Angeles Times*, *Newsweek*, and in Vermont's *Rutland Herald*.

Last week, the Attorney General of the United States testified that the Justice Department would, of course, cooperate with such a commission were Congress to establish one. The President of the United States has said that

he, too, feels that such a pursuit would be better conducted "outside of the typical hearing process" by a bipartisan body of "independent participants who are above reproach and have credibility."

I urge those Republicans who truly believe, as Senator CORNYN said, that in looking at these matters we must "maintain our sense of perspective and objectivity and fairness" to join in a bipartisan effort to provide for a non-partisan review by way of a commission of inquiry. Such a commission would allow us to put aside partisan bickering, learn from our mistakes and move forward.

Just as partisan Republicans were wrong to try to hold up the confirmation of Attorney General Holder to extort a pledge from him that he would not exercise independent prosecutorial judgment, it is wrong to shoe horn this amendment onto this emergency spending bill. I opposed the effort by some Republican Senators who wanted the Nation's chief prosecutor to agree in advance that he would turn a blind eye to possible lawbreaking before investigating whether it occurred. Republican Senators asked for such a pledge, a commitment that no prosecutor should give. To his credit, Eric Holder did not.

Similarly, passing a broad and unrelated amendment on an emergency appropriations bill that seeks to instruct the Attorney General how to fulfill his constitutional responsibilities is not the path forward. Before we even know how these legal opinions were generated and who was responsible for what, this amendment calls for the Senate to usurp the Justice Department's role in determining whether and, if so, who to investigate or prosecute. Any former prosecutor, any lawyer and any citizen should know that it is not the decision of or an appropriate role for the U.S. Senate.

AMENDMENT NO. 1156

Mr. MCCAIN. Mr. President, I support Senator LIEBERMAN's amendment relating to Army end strength. By clarifying existing law contained in the National Defense Authorization Act for fiscal year 2008 and providing \$400 million for personnel and O&M costs, it ensures soldiers already on Active Duty or who are about to be enlisted are able to serve. It does not create new authority for more Active-Duty soldiers, rather it corrects an erroneous legal interpretation about which end strength number should be used to calculate percentages for additional troops. I applaud Senator LIEBERMAN's commitment to this goal.

STATUS OF FORCES AGREEMENTS

Mr. MERKLEY. Mr. President, I commend the chairman of the Appropriations Committee for all of the great work he has done to put this supplemental together.

It is my understanding that the House version of the bill includes a

study aimed at examining how the terms of the Status of Forces Agreement will be met, specifically as the agreement relates to withdrawal timelines.

As the conferees work to resolve the differences of the two bills, I look forward to working with the gentleman to ensure this report remains in the final bill language.

Mr. INOUE. I thank the gentleman from Oregon for his request. I appreciate his concerns and look forward to working with him on this matter.

MRAP-ALL TERRAIN VEHICLE

Mr. LEAHY. Mr. Chairman, I was very pleased to see that the committee provided more than \$3 billion for smaller, more agile, but still highly protective vehicles know as the MRAP-all-terrain-vehicle. That is \$1.55 billion above what the administration requested in the fiscal year 2009 supplemental. We received a lot of testimony on this armored vehicle program from witnesses before our subcommittee, including the Chief of Staff of the Army, and I had a personal conversation with Secretary of Defense Gates. Everyone said that the MRAP-ATV, as it is known in short, is absolutely critical to achieving our goals in Afghanistan.

Mr. INOUE. I appreciate that comment from my good friend and colleague, the senior Senator from Vermont. The MRAP-all-terrain-vehicle is very important to protecting our forces in Afghanistan. Since 2005, the Defense Appropriations Subcommittee has allocated well over \$25 billion to purchase MRAP vehicles, which have a V-shaped bottom and several unique features that deflect energy from roadside bomb blasts, prevent fragments from penetrating, and, in turn, save people from attack.

The original versions of the MRAP have saved thousands of lives in Iraq; however, they are very large, and this array of vehicles does not fully suit the more rugged environment our deployed forces faces in Afghanistan. There, we see very few paved roads. Many are simple dirt roads, slit through the sides of mountains at higher altitudes. Our forces need a vehicle that possesses a lower center of gravity and that can go off-road, but possesses the same level of protection as the original version of the MRAP.

Mr. LEAHY. The Senator is so right, and I appreciated the way the subcommittee thoroughly looked at the administration's budget request, scrubbed the numbers, and listened to what our senior defense leaders had to say. The 86th Infantry Brigade Combat Team of the Vermont National Guard—the only Army brigade in the Army with a "Mountain" fighting designation, comprised of upwards of 1,800 proud citizen-soldiers from Vermont—will begin a yearlong deployment to Afghanistan next year. They will help train the Afghan National Army, which

is critical to our success there. We want all our deployed forces—from Vermont, Hawaii, and every State, and every armed service—to have the best protection from roadside bomb attacks. That need is reflected in the urgent request from Central Command, in the so-called Joint Urgent Operational Needs Statement.

Mr. INOUE. We have seen a rise in roadside bomb attacks in Afghanistan this year, and it was very clear that, as we went through the request, we had to accelerate this critical force protection program. The administration's request in the fiscal year 2009 supplemental includes \$1.5 billion for approximately 1000 vehicles. The fiscal year 2010 overseas contingency operations budget request included roughly \$1.5 billion for about the same number of vehicles. The Defense Subcommittee added \$1.55 billion for the MRAP ATV to accelerate the procurement of these critical vehicles.

Mr. LEAHY. I think it is tremendous that the subcommittee has shown such leadership on working to secure funds that we all know is essential to protecting our brave men and women deployed abroad. I look forward to continuing to work with my good friend and colleague from Hawaii to hold this funding in our conference negotiations with the House of Representatives.

I thank the esteemed chairman.

Mr. FEINGOLD. Mr. President, I intend to vote against the current emergency supplemental spending bill—the second one of this fiscal year—and I would like to briefly list my concerns before explaining them in more detail. For years I have been fighting to bring an end to our involvement in the misguided war in Iraq. While I am pleased that President Obama has provided a timeline for redeployment of our troops, I am concerned that he intends to leave up to 50,000 of the United States troops in Iraq. I am also concerned that this supplemental may pad the defense budget with items not needed for the war. We should be paying for such items through the regular budget, not running up the deficit to purchase them. Finally, while the President clearly understands that the greatest international security threat to our Nation resides in Pakistan, I remain concerned that his strategy regarding Afghanistan and Pakistan does not adequately address, and may even exacerbate the problems we face in Pakistan, problems made even more clear by the current rising tide of displaced civilians.

I do want to make clear, however, that there are a number of provisions in the bill I support, including funding for humanitarian and peacekeeping missions. In addition, I am pleased that the bill addresses the increased demand for direct farm loans through the USDA's Farm Service Agency, FSA. As of May 7, the FSA reports backlogs of

nearly 3,000 loans, including \$250 million in ownership loans and over \$100 million for operating loans. With many States having already completely utilized their initial fiscal year 2009 allocations of direct loan funds, the emergency addition of \$360 million for direct farm ownership loans and \$225 million for direct operating loans in the supplemental will help ensure that credit is available to farmers and ranchers. I was also encouraged that an additional \$49.4 million was included for the costs associated with modifying existing FSA farm loans, which will help ensure that FSA is able to work with farmers who are viable to avoid foreclosure.

Let me start by focusing on Iraq. President Obama has taken a necessary and overdue step by outlining a schedule to safely redeploy our troops from Iraq. This will help us focus on al-Qaida and its affiliates elsewhere, which continue to be the main threat to U.S. national security. I was disappointed, however, that the President decided to draw out the redeployment over 3 years. Furthermore, recent press reports indicate that in order to meet the June 30 deadline for U.S. combat troops to be out of Iraqi cities, certain military officials may redraw city borders instead of relocating nearly 3,000 Americans, as required under the Status of Forces Agreement. This kind of fluidity is troubling as it would further delay an already too long schedule for redeployment. While we have an obligation to help stabilize the region over the long term, we must not lose sight of the fact that our very presence has a destabilizing impact and the vast majority of Iraqis support a prompt withdrawal of U.S. troops. I am concerned that if the United States does not appear to be moving to redeploy consistent with the bilateral agreement negotiated with Iraq, there could be a surge in violence against the troops of the United States.

Finally, I note that the Bush administration chose to negotiate that deal as an executive agreement when its scope clearly exceeds that of any previous Executive agreement and extends far beyond the kinds of issues addressed in a mere status-of-forces agreement. It should have been submitted to the Congress as a treaty and been subjected to the requirement of approval by two-thirds of the Senate. The Congress always retains the ultimate authority to determine whether to continue to fund military operations abroad so it is in the interest of the President to seek Senate approval. Our national security is best served when the two branches work together to determine our policy on matters of such profound importance to the United States. The Congress should make clear that, in the future, any such agreements must be submitted for ratification.

President Obama's strategy review for Afghanistan and Pakistan finally

focuses the Government's attention and resources where they are most needed. After years of our country being bogged down in Iraq, President Obama has brought to the White House an understanding that the key to our national security is defeating al-Qaida, and that to do so we must refocus on this critical region.

But while the President clearly understands that the greatest threat to our Nation resides in Pakistan, I am concerned that his announced strategy has the potential to escalate rather than diminish this threat without making things better in Afghanistan. According to credible polls, the majority of Afghans do not support a surge in U.S. forces and a majority in the south even oppose the presence of U.S. troops. For years, the Bush administration shortchanged the mission in Afghanistan, with disastrous results. But we cannot simply turn back the clock. Sending significantly more troops to Afghanistan now could end up doing more harm than good—further inflaming civilian resentment without significantly contributing to stability in that country.

Furthermore, sending 21,000 additional troops to Afghanistan before fully confronting the terrorist safe havens and instability in Pakistan could very well make those problems even worse. And don't just take my word for it. When I raised this point with Ambassador Holbrooke during a recent hearing, he replied:

[Y]ou're absolutely correct that . . . an additional [number] of American troops, and particularly if they're successful in Helmand and Kandahar could end up creating a pressure in Pakistan which would add to the instability.

By providing additional funds for our troops in Afghanistan, this supplemental may actually undermine our national security as increasing numbers of the Taliban could seek refuge in Pakistan's border region. Already, the Taliban's leadership has safe haven in Quetta, while the Pakistani military fights militants in the north. Without a concurrent plan for Pakistan, the movement of Taliban across the border could further weaken local governance and stability, while a flood of refugees from Afghanistan would compound Pakistan's already dire IDP problem. And let's not forget, we are talking about instability in a country with a nuclear arsenal that according to the Chairman of the Joint Chiefs of Staff is being expanded.

The emergence of a new civilian-led government offers the United States an opportunity to develop a balanced and sustained relationship with Pakistan that includes a long-term counterterrorism partnership. I am pleased that this administration, unlike the last, has extended its engagement to a broad range of political parties and encouraged the development of democracy. I

am also pleased that there are efforts to significantly increase nonmilitary aid and to impose greater accountability on security assistance. After years of a policy that neglected Pakistan's civilian institutions and focused on short-sighted tactics that were dangerous and self-defeating, this is a refreshing step in the right direction. Make no mistake about it, the threat of militant extremism has been and continues to be very real in Pakistan, but by embracing and relying on a single, unpopular, antidemocratic leader we failed to develop a comprehensive counterterrorism sustained strategy that transcended individuals. As a result, we must now recover from a policy that led Pakistanis to be skeptical about American intentions and principles.

While I support efforts to build a sustained relationship with Pakistan, I remain concerned that, even as we continue to provide support to the Pakistani military, elements of the Pakistani security forces remain unhelpful in our efforts to cut off support for the Taliban. During a recent hearing before the Senate Armed Services Committee, Senator MCCAIN asked Admiral Mullen if he still worries about the ISI cooperating with the Taliban. Admiral Mullen responded that that he did. This bill contains over \$1 billion for the Pakistani military, and while we must not over generalize or take an all or nothing approach, it would be unwise and very dangerous to convey to the Pakistani military that it has our unconditional support.

That would be especially dangerous now as recent fighting between militants and Pakistani forces has reportedly displaced nearly 1½ million people—the greatest displacement there since 1947. This is very troubling, and has potentially grave strategic implications for U.S. national security. As General Petraeus has said, "We cannot kill our way to victory." As we continue to provide assistance to Pakistan's military, we must ensure they—and we—have the support of the Pakistani people. No amount of civilian aid after the fact can make up for military operations that are not tailored to protect the civilian population in the first place.

We must also recognize that, while the Pakistani security forces are undertaking operations in the Swat Valley, there are individuals in Baluchistan who also present a significant threat to our troops in Afghanistan. When I asked Ambassador Holbrooke if he knew whether the Pakistani Government was doing everything it could to capture Taliban leaders in Baluchistan, he replied that he did not know and that while they have "captured . . . killed and eliminated over the years a good number of the leaders of the Taliban and al-Qaida [while] others have been under less pressure." I

encourage the Obama administration to engage in tough negotiations with the Pakistani Government on this issue and to prepare contingency plans in the event that we continue to see members of the security services supporting militants.

We must continue to ensure al-Qaida and the Taliban are the key targets in Pakistan, but strategic success will also depend in part on the ability of the Pakistani military to demonstrate they are pursuing a targeted approach that seeks to protect the civilian population. For example, we should work to ensure that the Pakistani Government has taken steps to detain known militant leaders and is providing assistance to those who have been displaced by the ongoing violence. On the civilian side, working to help reform and strengthen vital institutions, including the judiciary and education and health care systems, is essential. We must also work to reform the police, whose permanent presence in the community is less likely to engender hostility than the military's. In short, we must focus on helping to build the civilian institutions that are part of a responsive, accountable government needed to ensure al-Qaida and militant extremists do not find support among the Pakistani people.

Lastly, I would like to address an issue that has received much attention. A number of my colleagues have spoken on the floor in opposition to the President's commitment to close the detention facility in Guantanamo bay. I believe it is time for Guantanamo to be closed. Senator McCain, Senator Graham, Colin Powell and James Baker share this view. The facility has become a rallying cry and recruiting tool for al-Qaida. It contributes to extremism, anti-American sentiment and undermines our ability to build the international support we need to defeat al-Qaida.

Secretary Gates has testified that "the announcement of the decision to close Guantanamo has been an important strategic communications victory for the United States." The Director of National Intelligence, Admiral Blair, has stated that:

The detention center at Guantanamo has become a damaging symbol to the world and that it must be closed. It is a rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security.

And, former Navy General Counsel Alberto Mora testified to the Senate Armed Services Committee in June 2008 that

There are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively the symbols of Abu Ghraib and Guantanamo.

There are many unresolved questions about the process we will use to pro-

ecute these detainees. We need to resolve those tough questions, but we should not use them as an excuse to avoid taking a step that is so important to our national security.

Mr. SCHUMER. Mr. President, I wanted to make a brief statement today on the Homeland Security and Governmental Affairs Committee's consideration of S. 692, a bill to ensure that a valuable collection of historical papers pertaining to President Franklin Roosevelt, known as the Grace Tully Archive, can be transferred to the Roosevelt Presidential Library in Hyde Park, NY.

The Grace Tully Archive is considered the most important collection of documents and memorabilia related to President Franklin Delano Roosevelt currently in private hands. The collection was directly given to and/or gathered by FDR's personal secretary for decades, covering both his private and public career as Governor of New York and President. The donation of the collection to the Roosevelt Presidential Library has been supported by the National Archives—NARA—and described as a matter of "overwhelming public interest."

The acting Archivist of the United States, Adrienne Thomas, wrote to Chairman LIEBERMAN and Ranking Member COLLINS about this bill earlier this month, and I will ask that a copy of that letter be printed into the RECORD at the conclusion of my remarks.

After Grace Tully died in 1981, her collection was sold into private hands, and it has since changed hands several times. The current private owner obtained the collection in 2001 from a well-known New York rare book dealer in a widely publicized sale.

Although no previous claims had been made after other sales, the Archives stepped forward in 2004 to make a claim of ownership to certain specific documents contained in the larger Tully collection. They claimed that certain documents were "Presidential papers" and should have originally been given to the Archives, not Grace Tully yet the laws governing such documents and the establishment of Presidential libraries was not passed until after the death of President Roosevelt. So there are some legal ambiguities. But for several years, this dispute over the ownership of a small portion of the collection has prevented the donation of the entire collection.

Both sides wish to avoid litigation, since the collection is being donated to the FDR Library anyway indeed, the collection is already at the Roosevelt Library in sealed boxes waiting for the matter to be resolved. Both sides prefer that the matter be solved via Federal legislation that will clarify the ownership issue and ensure that the Archives and the American people receive this important historical collection.

Since the papers are already at the FDR library, my bill seeks only to clarify the ownership issue in order to facilitate the completion of the donation of a collection of immense value to historians. The current owner of the collection will have to abide by current tax rules governing such donations, including obtaining appropriate appraisals. All my bill seeks to accomplish is to allow the donation to move forward without the time and expense of litigation.

Last year, the Homeland Security and Governmental Affairs Committee also reported out this bill, but it was stalled by year-end disputes over unrelated unanimous consent requests. Since there is no objection to this bill, I am hopeful that the Senate can take it up and pass it unanimously very soon, so the gift of the papers can be completed this year.

Mr. President, I ask unanimous consent to have the letter to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ARCHIVES AND  
RECORDS ADMINISTRATION,

*College Park, Maryland, May 18, 2009.*

Hon. JOSEPH I. LIEBERMAN,  
Chairman,

Hon. SUSAN M. COLLINS,

Ranking Member, United States Senate, Committee on Homeland Security and Governmental Affairs, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS:

Last September, former Archivist of the United States Allen Weinstein wrote to Senator Schumer to express NARA's strong support for his effort to facilitate the donation of the "Tully Archive" to the Franklin D. Roosevelt Presidential Library (located in Hyde Park, NY), a part of the National Archives and Records Administration, through legislation that was pending in the last Congress. I write now to express NARA's continuing support of this effort in the current Congress, as encompassed in S. 692 (introduced by Senator Schumer).

As we have explained, the Tully Archive is a significant collection of original FDR-related papers and memorabilia that had been in the possession of President Roosevelt's last personal secretary, Miss Grace Tully. Due to the efforts of your committee to move the issue along, we are now very close to resolving this matter after several years of uncertainty.

Successful resolution of this case through a donation to the National Archives, as facilitated by this legislation, would culminate several years of serious discussion between the Government and the private parties involved. It will also result in substantial savings to the government, by obviating the need for a lawsuit to claim and assert government ownership over a small portion of the collection—an action that would take years, require substantial resources, and result in our obtaining only a limited portion of the Tully Archive. I recognize that there are complex issues involved in this case and consider the Committee's approach to be the best available under the circumstances.

The entire Tully Archive includes some 5,000 documents, including over 100 FDR letters with handwritten notations; dozens of

speech drafts and carbons; hundreds of notes (or "chits") in FDR's handwriting; letters from cabinet officials and dignitaries, including a letter from Benito Mussolini congratulating FDR on his 1933 inaugural; Eleanor Roosevelt family letters; and photographs, books, framed items, etchings, and other memorabilia.

Although Miss Tully died in 1984, the extent of the collection only came to the attention of the National Archives in 2004 when a team from the Roosevelt Library and NARA's Office of General Counsel had the opportunity to examine the materials. Although there has been a minor dispute over ownership of a small portion of the collection, this is very close to being resolved. The entire collection is currently in sealed boxes at the Roosevelt Library waiting for the gift to be completed. I believe that the National Archives and the American people are best served by receipt of the entire collection.

It is very important to NARA, and for future historians that might want to study these papers, for the Tully Archive to be kept intact and made fully accessible to the American people in a public government archives. This result will increase the ability of scholars to learn about our 32nd president and his extraordinary life and times.

There is an overwhelming public interest in making this collection available to the public. I personally thank you for your efforts to ensure that the issue is finally resolved in the 111th Congress.

Sincerely yours,

ADRIENNE THOMAS,  
*Acting Archivist of the United States.*

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER), the Senator from North Carolina (Mrs. HAGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New Hampshire (Mrs. SHAHEEN), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote "aye."

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—86

Akaka	Ensign	McConnell
Alexander	Enzi	Menendez
Barrasso	Feinstein	Merkley
Baucus	Gillibrand	Mikulski
Bayh	Graham	Murkowski
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bingaman	Harkin	Pryor
Bond	Hutchison	Reed
Boxer	Inhofe	Reid
Brown	Inouye	Risch
Brownback	Isakson	Roberts
Bunning	Johanns	Schumer
Burr	Johnson	Sessions
Burris	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (NM)
Conrad	Leahy	Vitter
Corker	Levin	Voinovich
Cornyn	Lieberman	Warner
Crapo	Lincoln	Webb
DeMint	Lugar	Whitehouse
Dodd	Martinez	Wicker
Dorgan	McCain	Wyden
Durbin	McCaskill	

NAYS—3

Coburn	Feingold	Sanders
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NOT VOTING—10

Begich	Hatch	Shaheen
Byrd	Kennedy	Udall (CO)
Carper	Murray	
Hagan	Rockefeller	

The bill (H.R. 2346), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints Mr. INOUE, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. TESTER, Mr. SPECTER, Mr. COCHRAN, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. ALEXANDER, Ms. COLLINS, Mr. VOINOVICH, and Ms. MURKOWSKI conferees on the part of the Senate.

Mr. RISCH. Mr. President, I come to the Senate floor today to speak about the National Guard and the need for this Federal Government to better equip our Guard and Reserve units. Senate amendment No. 1143, which I offered to the supplemental appropriations bill, would have done just that. Although the Senate did not adopt this sensible measure, I will continue to seek creative ways to support the National Guard and pursue this responsible and reasonable expenditure.

Simply put, my amendment would have appropriated \$2 billion to the National Guard and Reserve equipment

account. This money would have come from unobligated funds made available by the American Recovery and Reinvestment Act of 2009. The rescissions would not have applied to amounts relating to the Department of Defense, the Department of Homeland Security, Military Construction, or the Veterans Administration.

In recent years, our National Guard and Reserve forces have faced substantial shortfalls in equipment, and the military budget requests have been insufficient to remedy the problem. Even prior to 9/11, our National Guard and Reserve forces had equipment deficiencies. Since 9/11, due to an especially high operational tempo in the Iraqi and Afghan Theaters of Operations, our National Guard and Reserve equipment is being worn out and exhausted more quickly than anticipated. Combat losses are also contributing to shortfalls. Compounding the problem, in order to provide deployable units, the Army National Guard and the Army Reserve have had to transfer large quantities of their equipment to deploying units, exacerbating shortages in nondeploying units. Also, some National Guard and Reserve units, at the end of their deployments, have had to leave significant quantities of equipment overseas. If these equipment shortfalls are not remedied, our National Guard and Reserve forces run the risk of further deterioration of readiness levels and capability.

In my estimation, it seemed reasonable to move \$2 billion in unobligated stimulus spending to fund necessary procurement of new National Guard and Reserve equipment, which was tragically overlooked during the stimulus debate. The National Guard and Reserve equipment account is a critical resource for funding procurement of new equipment for our National Guard and Reserve forces. This \$2 billion increase in equipment funding would have provided much-needed modern equipment for our National Guard and Reserve forces, better enabling them to meet mission and readiness requirements. In addition, this funding, which would have to have been spent by the end of fiscal year 2010, would have provided a stimulative effect to the U.S. economy.

New equipment would also directly benefit our Nation's homeland security missions and disaster response efforts, both of which are frequently assigned to National Guard forces. The Guard's ability to carry out these responsibilities depends on the availability of necessary equipment. Much of the equipment that would otherwise be used in these missions remains deployed overseas and is therefore unavailable.

In closing I want to reiterate my commitment to the National Guard and Reserve. Going forward, I will continue to fight to ensure that our Guard and Reserve units have the resources

and equipment necessary to complete their missions. They make every American proud, and I am committed to maintaining a healthy and well-equipped National Guard and Reserve for years to come.

Mr. WHITEHOUSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DARFUR

Mr. REID. Mr. President, I met briefly this week with the actress and activist Mia Farrow, who has dedicated so much time lately—and even put her own health at risk—to raise awareness of the atrocities in Darfur.

Like Ms. Farrow, my good friend Pam Omidyar—the founder and chair of the Board of Humanity United—has also fasted for more than a month in solidarity with the Darfurian refugees.

Mia Farrow and Pam Omidyar enjoy liberty and wealth. They do not need to do this. But through their actions, they both so generously speak for those the world ignores.

The terrible situation in Darfur deteriorates with each passing day. But we don't hear much about it. It has long since faded from the front pages in the face of everything else going on in our economy and the two wars we wage in the Middle East.

We cannot ignore this crisis. The United States has officially and appropriately recognized that what is happening in Darfur is genocide. For the more than 2.4 million people who have been displaced against their will, we cannot look the other way and cannot stand idly by.

Most of the people of Darfur depend on international aid to survive day-to-day. The United Nations has agreed to send 26,000 peacekeepers to Darfur, but they face an uphill fight—they have struggled to get the resources they need to ensure the safety of those who live in Darfur and to end this crisis.

Making matters worse, when the International Criminal Court recently issued a warrant to arrest the President of Sudan—President Bashir—for war crimes and crimes against humanity, he responded by expelling 13 non-

governmental organizations that had been distributing food and medicine to the people in Darfur.

Because of its economic investments, China has unique leverage with Sudan. It is important that China uses that influence to help the people of Darfur.

I appreciate the work of Major General Jonathan Scott Gration—the President's special envoy to Sudan—but we must do more to put Darfur at the forefront of our foreign-policy agenda. And we must be clear about our objectives.

The Sudanese government has repeatedly proven untrustworthy at the negotiating table. As the administration and our special envoy develop a new policy, we must consider how we can get Khartoum to change its behavior.

There have been too many people in too many camps for too many years—and the world has been silent for far too long.

We have no excuse to do anything short of all we can do to ensure aid groups are on the ground in Darfur, and that they can do their jobs—to ensure a political process is in place, and that it can work—and to help save the lives of millions.

#### TRIBUTE TO HONOR FLIGHT

Mr. MCCONNELL. Mr. President, I would like to take a moment to recognize the first Honor Flight from Kentucky for the 2009 operational season. Many members of this body have had the chance to see their constituents at the World War II Memorial because of the noble work Honor Flight does in transporting surviving World War II veterans from around the country to see their memorial free of charge. I am honored to have been invited to participate in previous flights from the Commonwealth, and I regret that my schedule prevented me from attending the one that took place this past weekend. I hope to have the chance once again to visit with Kentucky Honor Flight participants.

On Saturday, May 16, Honor Flight's Bluegrass Chapter arrived in our Nation's Capital with 79 World War II veterans from my home State of Kentucky to see the memorial which they inspired. It is my hope that these veterans felt a sense of pride in seeing their memorial after all, pride is the very same feeling these men and women inspire in their fellow Americans.

In my previous experiences in meeting with the participants of Honor Flight trips, people of all ages have been humbled by the presence of these veterans at the memorial. School children have shook hands with the men and women who served in World War II and thanked them for their service. Others have asked for the privilege of taking a photo with a real-life Amer-

ican hero. Still more, including myself, have shared stories that have been passed down through generations about how World War II affected their family. In watching these interactions, one thing is clear: the sacrifices that these men and women made will never be forgotten.

I wish to express my sincere gratitude to the Kentucky veterans who were here over the weekend for having served to protect our great nation's principles from the enemies of freedom. I ask unanimous consent that the names of the 79 World War II veterans from the Commonwealth be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### WORLD WAR II VETERANS

Allen Courts, Robert Adams, Charles Alessandro, Donald Cobb, Kenneth Gillespie, Guthrie Catlin, Joe Terrell, Donivan Mahuron, George Spaulding, George Schembri, Dale Tinkle, Jack Distler, Walter Pearce, Joseph Crouse, Kathleen Drummond, Clarence Lange, Leroy Lange, Marcus Shearer, Garland Lewis, Gordon Lewis.

Herbert Lewis, William Morris, Dewey Smith, Roy Ricketts, Frank Mellon, Jr., Hugo Becker, Robert Byrum, Carl Kiesler, Nelson Moody, Murrell Ramsey, George Pearl, Chesterfield Pulliam, John Canary, William Grantz, Jack McQuair, William Miller, John Noonan, Irvine Stevens, Joseph Blincoe, Richard Burnett.

Charles Branson, Francis Kindred, Gustave LaFontaine, Carolee MacDonald, Carroll Hackett, Ira Johnston, Billy Turner, William Fender, John Hinkebein, Richard Yann, Edwin Casada, Fitzhugh Roy, Henry Anderson, Marvin Lawson, George Greathouse, Paul Berrier, Sr., Thomas Napier, Thomas Roberts, Ralph Stengel, Chester Sublett.

Frederick Kleinschmidt, James Williams, Elmer Givan, Leslie Powers, Marion Crockett, Edward Goldner, Loren Charley, Edgar Hodges, Joseph Johnson, Alvin Lawyer, Orin Bond, Antonio Martinez, John Eckert, Lee Bumpus, Donald King, Marcus Combs, Norman Miller, Allen Jones, Roy Vance.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

Mr. KYL. Mr. President, I opposed this legislation because it will likely have the unintended consequence of restricting credit to those who need it most. The major economic issue at play is the ability of financial institutions to utilize risk-based pricing to determine how much to charge an individual for credit. Risk-based pricing essentially permits a lender to charge a higher price to individuals who are at a great risk for nonpayment. More sophisticated pricing has also expanded credit to those who otherwise would not be eligible for a credit card.

Financial institutions that offer credit cards face four major risks. One, the lending they provide is not secured by collateral. Two, a creditor has no way of knowing when a cardholder loses his job and the income he would need to repay his debt. Three, a borrower can max out the full amount of



his limit without advance notice. And four, unlike other forms of lending, credit cards are relatively more susceptible to fraud.

Since it is impossible for a lender to know when a borrower will default, credit card companies carefully monitor their cardholders' activity. A delinquent payment, exceeding one's credit limit or bouncing a check acts as an early warning sign that help firms identify higher risk cardholders. In order to manage these risks, credit card companies use certain practices to protect themselves from the possibility of default.

Any legislation or regulation that restricts the ability of credit card issuers to adequately price risk could have several unintended consequences. Investors who in the past may have been attracted to the relatively higher returns afforded securitized credit card assets may shift their funds into alternative sources of lending. As a result, credit card companies may increase interest rates on all card holders, increase monthly minimum payments, reduce credit limits or simply issue fewer cards.

#### HEALTH CARE REFORM

Mr. LEAHY. Mr. President, very few people in America today would argue that our health care system is not in need of reform. It is a travesty that in the richest, most powerful country in the world, there are more than 47 million people without health insurance. That is an absolutely shocking number. It represents roughly one in six people who are going without regular trips to the doctor, forgoing needed medications and resorting to emergency rooms for care because they have nowhere else to turn. These are our friends, our neighbors, and millions of our children.

An estimated 87 million people—one in every three Americans under the age of 65—were uninsured at some point in 2007 and 2008. While my home State of Vermont has made significant strides in creating a plan for comprehensive coverage, there are still far too many Vermonters without health insurance. While we beat the national average, roughly 10 percent, or 66,000 Vermonters remain uninsured.

Those Americans who are fortunate enough to have health coverage often cannot afford to access care. Every day, Americans across this country are struggling to afford premiums for health insurance, which have nearly tripled since 2000. In fact, new estimates show that the cost for health care for the average American family is more than \$16,000 per year—an increase of over \$1,100 from the previous year. Health care reform has been put on hold for far too long and cannot be delayed any further.

It is encouraging that this Congress has already taken a few constructive

steps toward insuring more Americans and making our health care system more effective. One of the first bills that President Obama signed into law was the reauthorization and expansion of the Children's Health Insurance Program. This bill has extended and renewed health care coverage for over 10 million children and provided 4 million more with new coverage. As part of the American Recovery and Reinvestment Act, Congress extended health benefits for Americans who lost their jobs as part of the economic downturn and invested over a billion dollars to help States implement electronic health records to help make care more efficient with strong personal privacy protections, which I was proud to coauthor with others. While these bills have moved our country in the right direction, it would be a mistake to stop short of larger scale changes to our health system. The need for comprehensive reform has never been more urgent.

Health care reform legislation must create a system where all Americans have the opportunity to access health insurance that is affordable and provides adequate coverage. For far too long, an unregulated health insurance market has cherry-picked healthy Americans to provide coverage to, while offering unaffordable coverage to individuals with "pre-existing conditions." Many others who have insurance do not have adequate coverage and are insured only for certain conditions. Others have high premiums or unaffordable deductibles so accessing care is unrealistic.

Competition among private insurers has not driven down costs to consumers and the current private insurance market has a clear incentive to offer coverage only to the healthiest Americans. Comprehensive health care reform can change this calculus and that is why I support the creation of a federally backed, public health insurance option. For those who are satisfied with their current insurance there is no need to change. A public option would only give consumers more choices to purchase an affordable and quality health insurance plan and will help drive down overall health care costs by introducing real competition into the health care market. I was proud to join Senator BROWN and over twenty other Senators to introduce a resolution stating our support of a public option as part of comprehensive health care reform legislation.

I appreciated the recent news that leaders of the health care industry are working with the Obama administration and have unveiled a plan to voluntarily trim roughly \$200 billion in health care costs per year. While this is a movement in the right direction, this should not distract from the fact that coverage must be affordable for Americans or the larger goal of reducing

overall costs will not be realized. A public option should recognize an individual's ability to pay and offer subsidies for those who are still unable to afford care. Leaving individuals without insurance drives up health care costs for us all, and we must work toward a goal of insuring all Americans.

Insuring more Americans is of no use unless we work toward incentivizing people to become nurses, doctors, and health care professionals. My wife Marcelle is a nurse, and I understand the threat that nursing shortages pose to health care access and safety. Additionally, with the costs of a medical education rising, many aspiring physicians are choosing to specialize instead of pursuing a career in primary care. Especially in a rural State like Vermont, we are struggling to maintain primary and preventative care services throughout the State. I have heard from far too many Vermonters who use the emergency room for everyday health care needs because there are not enough primary care physicians to handle the demand for services. I support efforts to establish programs to help students repay their loans should they choose to practice in underserved fields or areas high in need of physicians and nurses across the country.

Strengthening our primary care workforce will also help Americans access preventative services to help maintain good health and reduce the incidence of debilitating chronic conditions. Chronic diseases are often preventable or manageable with treatment, yet currently account for 75 percent of our health care spending. Already we have seen a movement to target preventable diseases by focusing on ways to promote healthy lifestyles and choices. As part of its Blueprint for Health, Vermont has begun a series of pilots across the State to enhance health care coordination and patient outcomes through patient centered medical homes. Vermont is seeing good results and is finding that a coordinated approach to health care prevents repeated hospital visits and the emergence of chronic conditions. Prevention must be seen as a cornerstone to both reducing costs and keeping Americans healthy.

Some argue that in our current economic climate it would be irresponsible to reform health care because we simply cannot afford it. What we cannot afford is to stick with the status quo, which is crippling our economy and neglecting millions of Americans who want coverage but cannot afford it. Health care costs currently consume 16 percent of the United States's gross domestic product, which is expected to double in the next decade if nothing is done to slow the trend.

Strengthening our enforcement efforts to crack down on rampant fraud, waste, and abuse in the health care system is vital to lowering costs associated with health care. The scale of



health care fraud in America today is staggering. According to conservative estimates, about 3 percent of the funds spent on health care are lost to fraud—that totals more than \$60 billion a year. For the Medicare Program alone, the Government Accountability Office estimates that more than \$10 billion was lost to fraud just last year. Unfortunately, this problem appears to be getting worse, not better.

The answer to this problem is to make our enforcement stronger and more effective. We need to deter fraud with swift and certain prosecution, as well as prevent fraud by using real-time internal controls that stop fraud even before it occurs. We need to make sure our enforcement efforts are fully coordinated, not only between the Justice Department and other agencies, but also between federal, state, and private health care fraud investigators. Much has been done to improve enforcement since the late 1990s, but we can and must do more.

Health spending cannot be controlled without a comprehensive approach that focuses on all aspects of our health system. We cannot afford to stop the growth in health spending without ensuring that Americans have access to primary care to prevent and treat chronic conditions before they begin. We must target inefficiencies and fraud within the system and incentivize quality of care not necessarily quantity of care.

We have the opportunity to create a system that maintains patient choice, gives all Americans access to quality care and reduces overall health spending. We cannot afford to neglect true reform to our health system any longer.

I look forward to working with the Finance and HELP Committees and all Senators to pass a comprehensive health care reform bill this year.

#### NATIONAL SMALL BUSINESS WEEK

Ms. SNOWE. Mr. President, this week we celebrate National Small Business Week, a time that affords us the opportunity to reflect not only on the countless contributions that small businesses have made, and continue to make, to the economic strength of our great country—but also on how the Federal Government is assisting these companies to be successful in their own right. As such, I rise today as ranking member of the Senate Committee on Small Business and Entrepreneurship to discuss the status of our Nation's 27 million small businesses, and to elaborate on the role the Federal Government is playing, can play—and must play—in providing these critical firms with the resources and tools they require to lead us out of our deep economic morass.

The facts and figures are enlightening. Small businesses represent 99.7

percent of all employer firms nationwide. They generate two-thirds of net new jobs annually. And they create over half of our Nation's nonfarm private gross domestic product—GDP. So there can be no question that small businesses are critical to our nation's economic vitality and success.

Yet we face an economic landscape that is unlike any other we have seen in decades. The unemployment rate stands at 8.9 percent—the highest level in over 25 years. More than 13.7 million Americans are without jobs, 5.7 million of which have been lost since the beginning of this recession in December 2007. We are in an economy that contracted 6.1 percent in the first quarter of 2009—after having contracted 6.3 percent in the fourth quarter of 2008. During what is the deepest and longest recession since the Great Depression, small businesses struggle in accessing capital to purchase equipment and expand their operations; providing affordable and quality health insurance to their employees; and complying with complex tax laws and regulations.

Without healthy small businesses, our economy cannot—and will not—recover. We must design comprehensive and thoughtful initiatives to aid small businesses during these difficult times. President Obama and this Congress have already taken several steps, but these cannot represent the totality of our efforts.

The central focus and priority of our efforts must be thawing frozen credit markets and increasing lending volume. The flow of credit is critical to the well-being of small businesses because when companies cannot access credit, jobs are lost and businesses suffer. What last year was a “credit crunch” for small businesses has all too rapidly ballooned into a full-blown crisis. This calamity threatens to continue shuttering storefronts all across Main Street America—the very last thing we need at this critical juncture. At a time when small businesses should be turning to the safety of government-backed lending, Small Business Administration—SBA—loan volume is showing mixed results.

Recently, Congress and the White House have taken a number of steps to address this crisis. Specifically, in the American Recovery and Reinvestment Act, Small Business Committee Chair LANDRIEU and I worked together to eliminate fees and increase guarantee rates to a maximum of 90 percent for the SBA's flagship 7(a) and 504 loan programs. The Obama Administration quickly implemented these vital provisions. As a result, average weekly SBA loan volume has increased 25 percent since their implementation.

This is significant progress. Nonetheless, as I continue to hear from entrepreneurs, including during four small business roundtables I recently held in Maine, credit remains constrained. Ac-

cordingly, I am calling on the Obama administration to immediately implement the remaining small business provisions from the Recovery Act, something our committee members urged of SBA Administrator Mills just last week.

And it appears that the administration is listening. On Monday, Administrator Mills announced the official roll-out of the new Business Stabilization Loan Program, otherwise known as the America's Recovery Capital, or ARC, loan program, to provide interest-free loans, up to a maximum of \$35,000, to firms having difficulties making loan payments. These stabilization loans include deferred repayment schedules, to help small businesses weather this recession. A critical provision that Chair LANDRIEU and I worked together to include in the Recovery Act, the ARC loan program will act as a bridge for hundreds of small business owners that just need a small infusion of capital to stay afloat.

Chair LANDRIEU and I also worked together to increase funds for micro-lending within the SBA, and ease refinancing restrictions for 504 loans, allowing more small businesses to access credit and other resources through the SBA. These are crucial measures that, if implemented soon, could have a dramatic effect on the flow of credit.

I am pleased that President Obama recognizes the credit crisis and held a White House Summit that I participated in last March to address the concerns of the small business community. In a step for which I advocated in conversations with the administration, he used the occasion to announce that Treasury will directly purchase, through the Troubled Asset Relief Program, TARP, \$15 billion in securitized SBA 7(a) and 504 loans. A witness before our Committee recently testified that this essential step is a “great launch pad” for promoting liquidity in the secondary markets to spur new financing dollars, and I agree. I encourage the administration to roll out this program as quickly as possible.

The provisions in the stimulus and the President's announcement are positive steps addressing different facets of the problem we are addressing here today, but more must be done.

During a private meeting I had with President Obama in the Oval Office recently, I implored the President to create a competitive lending platform at the SBA. Too often, potential SBA borrowers are stymied by the limited number of SBA lending options in their community. In the traditional lending sphere, this problem has been addressed by the emergence of private for-profit Web sites that aggregate lending offers for potential borrowers, giving banks the opportunity to compete for lending business. A lending platform that allows SBA lenders nationwide to “bid” on potential borrowers would increase potential SBA

borrowers' access to SBA lenders and would increase the pool of applicants for banks. This platform would create more competition and availability for borrowers, and in turn lead to a likely reduction in interest rates for SBA-backed loans.

At a Small Business Committee hearing in March, we heard testimony about the difficulty small business owners face in maintaining existing lines of credit during these uncertain economic times. Small businesses are reporting that banks are "calling" back loans, by requiring outstanding loans to be repaid within compressed and expedited timeframes. Unfortunately, with banks demanding payment and little access to other credit, the survival of numerous small businesses is being threatened.

As such, another solution to the credit crisis worth considering is using TARP funds to guarantee lines of credit for small businesses. The Treasury Department could use funds from TARP to support guarantees on credit lines and in return, the bank receiving this guarantee would agree to help craft a payment schedule that would help the affected small business. This program would be completely voluntary but would benefit both the borrower, who would continue to receive credit, and the lender who would receive a guarantee on an outstanding loan. Chair Landrieu and I sent a letter to Treasury Secretary Geithner in March, and he has been extremely helpful in working to assess the viability of this proposal.

Among the many issues we have been discussing here in the Senate is the onerous burden of taxes—a topic that arises every time I speak with small business owners. Frankly, small businesses suffer under the weight of our Nation's tax burden. The undeniable and regrettable fact is, tax compliance costs are 67 percent higher for small business than for larger firms. A horrendously complicated Tax Code fosters evasion that then builds skepticism among Americans about the validity of the whole system. Much of our Tax Code is also due to expire in less than 2 years. And as a senior member of the Senate Finance Committee, I am ready to work on a bipartisan basis to forge a new tax code that is progrowth with the fewest number of economic distortions and that raises sufficient revenue to finance our Nation's spending priorities.

I must say that I am particularly concerned about raising taxes on small business owners when the tax cuts expire at the end of 2010. Raising personal tax rates from 33 to 36 percent and from 35 to 39.6 percent results in a 9 percent tax increase on small business because 93 percent of small businesses are organized as flow-through entities such as partnerships and Subchapter S corporations. Taking another 9 percent

out of small business leaves fewer resources available to small business owners to reinvest in America's greatest job generators.

There are lots of conflicting studies, but Treasury data indicates that almost 70 percent of flow-through income is earned by 9 percent of small business owners, and these are the owners who are generating jobs. Furthermore, according to data Senator GRASSLEY received from the Joint Committee on Taxation, small business owners would pay more than half the taxes from higher marginal rates. That data indicates that \$187 billion of the \$339 billion raised from increasing the top two tax rates would come from small business. Notably, I offered an amendment during the budget debate that would have prevented tax increases on small business owners if more than 50 percent of their income came from a small business. The amendment, which would have allowed this proposal to go forward if offset, passed by voice vote but was inexplicably dropped in conference. Nonetheless, it is imperative that we work together to preserve the tax cuts for all small businesses, and I hope that we can.

I would also like to add that although the Recovery Act made some vital changes to the Tax Code to help small businesses—such as extending bonus depreciation and expensing—it fell short in its treatment of net operating losses. The Recovery Act allows small businesses to carryback 5 years losses they incurred in 2008, a provision for which I successfully fought. This indispensable cash flow tool allows businesses that have been profitable—but are currently facing losses—to file for a refund of taxes paid in the last 5 years. Yet, this relief remains incomplete as it was limited to businesses with gross revenues less than \$15 million. So I commend the President for proposing to allow all businesses to carryback their 2008 and 2009 losses for 5 years. That is also why I introduced a bill to address this situation, and I thank Senators BAUCUS, HATCH, STABENOW, ENSIGN, LINCOLN, CANTWELL, and BILL NELSON, for cosponsoring this significant legislation.

The bottom line is that at the end of the day, if small businesses cannot gain greater access to capital, our economic recovery will be slowed, stagnated, or worse. I have made several suggestions today that, when coupled with the small business provisions passed in the Recovery Act, can hasten a revitalization of our Nation's economy. I sincerely hope that we take to heart the critical role small businesses play in the creation of a healthy and stable economy, and work in a bipartisan fashion to seek new ways of ensuring that we in Congress are providing them with the right kind of assistance.

#### ROTARY KEYNOTE ADDRESS

Mr. BAYH. Mr. President, I wish to call the attention of my colleagues to a most thoughtful address delivered in my State of Indiana recently by a fellow Hoosier, one who served as a Member of Congress from Indiana for 22 years, 1959 until 1981. I refer to Dr. John Brademas, who represented the district centered in South Bend.

A Democrat, John Brademas served throughout those years on the Committee on Education and Labor of the House of Representatives where he took part in writing most of the measures then enacted to support schools, colleges, and universities; the arts and the humanities; libraries and museums; Head Start; and education of children with disabilities as well as others.

In his last 4 years, John Brademas was majority whip of the House of Representatives, third-ranking member of the Leadership.

Seeking election in 1980 to a 12th term, John Brademas lost that race. He was shortly thereafter invited to become president of New York University, the Nation's largest private, or independent, university.

He served as president until 1992 when he became president emeritus, his present position. I believe it is recognized by those in the higher education world in the United States that John Brademas led the transformation of NYU, as it is known, to one of the most successful institutions of higher learning in our country.

A graduate of Harvard University where, as a Veterans National Scholar, he earned his B.A., magna cum laude, in 1949, he went on to Oxford University, England, where as a Rhodes Scholar, he earned a Ph.D. with a dissertation on the anarchist movement in Spain.

John Brademas is married to Dr. Mary Ellen Brademas, a physician in private practice, a dermatologist, affiliated with the NYU Medical Center.

On May 2, 2009, John Brademas delivered the keynote address, "Rotary: Pathfinder to Peace," for a statewide conference in Indianapolis of members of Rotary Clubs from throughout Indiana.

I believe my colleagues will read with interest John Brademas' address on this occasion, and I ask unanimous consent to have the text of his remarks printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### ROTARY: PATHBUILDER TO PEACE

KEYNOTE ADDRESS OF DR. JOHN BRADEMAS, PRESIDENT EMERITUS, NEW YORK UNIVERSITY AND FORMER MEMBER (1959-1981), U.S. HOUSE OF REPRESENTATIVES (DEM.-IND.)

ROTARY INTERNATIONAL DISTRICT 6506  
CONFERENCE

(Indianapolis, Indiana, May 2, 2009)

Rotary District Governor, Judge Tom Fisher; Rotarians all, I am greatly honored

to have been invited to open your conference in Indianapolis today.

In the first place, I am a fellow Hoosier. My mother was born in Grant County, Indiana, and my two brothers, sister and I, while students in school in South Bend, would spend summers in the small Grant County town of Swayzee at the home of my mother's parents, Mr. and Mrs. William Chester Goble.

As my grandfather had been a school principal and college history professor, he had a library in their home of some 6,000 books. My brothers, sister and I practically lived in that library during those summers—an invaluable experience.

My mother was a schoolteacher and my father ran a restaurant. My dad, Stephen J. Brademas, was born in Greece, and although we four children grew up with a strong sense of pride in our Hellenic ancestry, we were all members of the Methodist Church.

I must add that I am the first person of Greek origin elected to the Congress of the United States, and only last month I was at the White House for a reception hosted by President Obama to mark Greek Independence Day, while some days after that, I attended a similar reception at Gracie Mansion, the home of Mayor Bloomberg of New York City.

You may also be interested to know that when I was a senior at South Bend Central High School, P. D. Pointer, our school principal, invited me to join him at the regular luncheons of the Rotary Club of South Bend.

#### ROTARY CLUB OF SOUTH BEND

Indeed, on inquiry of the Rotary Club of South Bend about those luncheons, I learned that 65 years ago, the students who attended them were not called "Junior Rotarians" but "High School Boys" even as I was reminded that in January 1945, 65 years ago, I gave the farewell for the "High School Boys" who graduated from Rotary luncheons that week.

So it's obvious that my link with Rotary goes back a long way!

After high school, with World War II still on, I enlisted in the Navy and was sent to an officers' training program at the University of Mississippi, in Oxford, Mississippi.

Following my freshman year at "Ole Miss", with the war over, and discharged, I went to Cambridge, Massachusetts and Harvard where I completed college, graduating in 1949. And I'll be back at Harvard next month for the 60th reunion of my graduating class.

While at Harvard, I spent a summer working with Aztec Indians in rural Mexico, wrote my college honors thesis on the Sinarquista movement there and four years later, at the other Oxford, in England, as a Rhodes Scholar, wrote my Ph.D. dissertation on the anarchist movement in Spain, which was centered in Catalonia.

My study of the anarchists was published thirty-five years ago, in Spanish, in Barcelona, and, in fact, only last December, I was awarded an honorary degree by the University of Barcelona.

I like to say that although I studied anarchism, I did not practice it! For only months after returning to South Bend, I was running for Congress.

Just old enough under the Constitution to be a candidate, I lost my first race, in 1954, by half a percent. Not surprisingly, I decided to run again two years later and lost a second time, in 1956.

My political godfather, you may be interested to know, was a Hoosier who became Chairman of the Democratic National Committee, the late Paul M. Butler of South Bend.

Indeed, as I've said, one reason I was so pleased to accept the invitation to address you today is that it's good to be back home in Indiana—and surrounded by fellow Hoosiers!

After a brief stint serving in Chicago on the presidential campaign staff of Adlai Stevenson, I again ran for Congress and, as I told you, I lost a second time—as did he—in 1956. But I still thought I could win, and on my third try, in 1958, was first elected, then ten times reelected, and so was a Member of Congress for twenty-two years.

I am delighted in this respect to see here today a distinguished member of the Supreme Court of the State of Indiana, Justice Frank Sullivan, and his wife, Cheryl. Justice Sullivan was at one point my top assistant when I was a Member of Congress and, indeed, his wife, Cheryl, was also a member of my staff. She now serves on the staff of Senator Evan Bayh as Policy Director.

I served on Capitol Hill during the Administrations of six Presidents: three Republicans—Eisenhower, Nixon and Ford; and three Democrats—Kennedy, Johnson and Carter.

#### MAJORITY WHIP, HOUSE OF REPRESENTATIVES

During my last four years, I was the Majority Whip of the House of Representatives, third-ranking position in the House Democratic Leadership.

Every other week, as Whip, I would join Speaker "Tip" O'Neill of Massachusetts, House Majority Leader Jim Wright of Texas, Senate Majority Leader Bob Byrd of West Virginia and Senate Majority Whip Alan Cranston of California for breakfast at the White House with President Carter and Vice President Mondale. All Democrats, we talked politics and policy. It was a fascinating experience and I've just written to President Obama to urge, respectfully, that he follow the same practice.

Indeed, because, as you may know, President Obama will, in two weeks, give the commencement address at the University of Notre Dame, in my old Congressional District, I hope, as I plan to be there, to review my suggestion with him then.

Beyond serving as Whip, I found my principal responsibility in Congress was on the Committee on Education and Labor of the House of Representatives. There, for more than two decades, I helped write all the Federal laws then enacted to support schools, colleges and universities; libraries and museums; education for handicapped children; the National Endowments for the Arts and the Humanities; Head Start; the War on Poverty; the Drug and Alcohol Abuse Education Act; the Environmental Education Act; and the Pell Grants for aid to college students.

#### INTERNATIONAL EDUCATION ACT

But of particular interest, I trust, to Rotarians is that I was also chief author of the International Education Act of 1965, a measure that authorized Federal grants to colleges and universities to offer courses about other countries.

This legislation is, in my view, directly in harmony with the central mission of Rotary International.

For, as you Rotarians know better than I, the fundamental mission of Rotary, as it describes itself, is "to build world peace and understanding through its network of over 1.2 million members in over 32,000 clubs in 200 countries and geographical areas."

The description continues: Rotary club members, coming from all political, social and religious backgrounds, are united in their mission to promote international un-

derstanding through humanitarian and educational programs. Rotary clubs initiate projects both locally and internationally, to address the underlying causes of conflict including illiteracy, disease, hunger, poverty, lack of clean water and environmental concerns.

#### PRESIDENT, NEW YORK UNIVERSITY

I leap ahead. Following my defeat in my campaign for reelection in 1980, I was invited to become President of New York University, the largest private, or independent, university in the United States.

Located in Manhattan, headquartered on Washington Square Park, NYU, as it is familiarly known, I found an exciting place to be, and to lead it, an exciting challenge.

You will not be surprised, in view of what I've told you, that I gave particular attention to NYU's programs for the study of other countries and cultures.

I found on arrival in 1981 that New York University was already strong in French and German Studies.

Two years later, in 1983, I awarded an honorary degree to King Juan Carlos I of Spain, announced a professorship in his name and in 1997, in the presence of Their Majesties, the King and his Greek Queen, Queen Sofia, and of the then First Lady of the United States, now Secretary of State, Hillary Rodham Clinton, I dedicated the King Juan Carlos I of Spain Center at NYU for the study of the economics, history and politics of modern Spain.

All this was the result of my having, as a schoolboy in South Bend, read a book about the Maya! So I know what early exposure to another culture, another country, another language has meant in my own life.

And I believe that among the reasons—I do not say the only one—the United States suffered such loss of life and treasure in Vietnam and does now in Iraq is ignorance—ignorance of the cultures, histories and languages of those societies.

I add that the tragedies of 9/11, Madrid, London, Bali and Baghdad must bring home to us as Americans the imperative, as a matter of our national security, of learning more about the world of Islam.

But it is not only for reasons of national security that we must learn more about countries and cultures other than our own. Such knowledge is indispensable, too, to America's economic strength and competitive position in the world.

The marketplace has now become global. Modern technology—the Internet, for example—has made communication and travel possible on a worldwide basis. In the last few years, I myself have visited Spain, England, Greece, Jordan, Morocco, Cuba, Kazakhstan, Japan, Turkey and Vietnam.

#### INTERNATIONAL STUDIES AT NYU

Reflecting on my commitment to international education, I can say that during my presidency of NYU, my colleagues and I established a Center for Japan-U.S. Business & Economic Studies, a Casa Italiana Zerilli-Marimò, Onassis Center for Hellenic Studies, a Remarque Institute for the Study of Europe, a Center for Dialogue with the Islamic World. And with a gift from a foundation established by the late Jack Skirball, an Evansville, Indiana rabbi, who went into the motion picture business and became very successful, the Skirball Department of Hebrew and Judaic Studies.

NYU has also opened several campuses abroad—in Madrid, Florence, Prague, London, Paris and most recently, Dubai, Ghana and Shanghai. We have established an NYU

base in Buenos Aires and will shortly do so as well in Tel Aviv.

Moreover, when I last looked, New York University is among the top half-dozen universities in the United States in hosting students from other countries.

Now if as a Member of Congress and as president of New York University, I pressed for more study of other countries, cultures and languages, I continued—and continue—to do so wearing other hats.

Appointed, by President Clinton, chairman of the President's Committee on the Arts and the Humanities, which in 1997 produced a report, *Creative America*, with recommendations for generating more support for these two fields in American life, I was naturally pleased that our committee recommended that our "schools and colleges . . . place greater emphasis on international studies and the history, languages and cultures of other nations."

As for seven years chairman of the National Endowment for Democracy, the Federally financed agency that makes grants to private groups struggling to build democracy in countries where it does not exist, I had another exposure to the imperative of knowing more about other countries and cultures.

I continued that interest through service on the World Conference of Religions for Peace; on the advisory council of Transparency International, the organization that combats corruption in international business transactions; and by chairing the American Ditchley Foundation, which helps plan discussions of policy issues at Ditchley Park, a conference center outside Oxford, England.

SENATORS RICHARD LUGAR AND EVAN BAYH

Here I must note that citizens of Indiana can take pride in the leadership in the shaping of our national foreign policy offered by three distinguished legislators in Washington. Senator Richard Lugar is former chairman of, and now ranking Republican on, the Senate Foreign Relations Committee, while Lee Hamilton was for a number of years chairman of the House Committee on Foreign Affairs and is now director of the Woodrow Wilson International Center in Washington, D.C.

Moreover, Indiana's junior Senator, Evan Bayh, has important assignments in foreign affairs through membership on four committees—Armed Services, Intelligence, Banking, and Energy and Natural Resources.

Preparing for my visit with you today, I had a good conversation with Harriet Mayor Fulbright, the widow of another distinguished Congressional leader in foreign affairs, the late Senator J. William Fulbright. Harriet told me about a forthcoming—November 1 to 3—Global Symposium of Peaceful Nations.

The purpose of the Symposium, to be held in Washington, D.C., will be "to call attention to the value of peace and the strategies available to achieve a more peaceful world." The Symposium, to be sponsored by the Alliance for Peacebuilding and the J. William & Harriet Fulbright Center, will focus on measuring, defining and quantifying "peace", in order, Mrs. Fulbright added, that countries can understand "the elements of peacefulness". When I told her I would be speaking to you today, Mrs. Fulbright strongly affirmed the role that Rotarians can play in this effort to recognize and press for the achievement of these elements for global peace. We can, she said, learn how countries are organized to find peace and we can stimulate the leadership to promote peace.

Clearly, business and the professions have a deep moral interest as well as business and

professional interests in building a world of peace.

I hope that Rotarians will pay attention to the forthcoming Global Symposium because its mission is so much in harmony with the stated goals of Rotary. For I remind you that among the objectives of Rotary is "the advancement of international understanding, goodwill and peace through a world fellowship of business and professional persons united in the ideal of service."

Here are some specific suggestions for what Rotary Clubs and individual Rotarians can do to achieve those objectives. Certainly, Rotary should continue to support current programs such as Polio Plus, Rotary Youth Exchange, for students in secondary education, and the Rotary Foundation's Ambassadorial Scholarships as well as Rotary Fellowships, which support graduate fellowships in other countries.

#### ROTARY WORLD PEACE FELLOWS

I draw particular attention to a relatively new initiative, the "Rotary Peace and Conflict Resolution Program", which provides funds for graduate study in several universities around the world. I note that Rotary World Peace Scholars are to complete two-year studies, at the Master's level, in conflict resolution, peace studies and international relations, and that only five years ago, the Rotary World Peace Fellows Association was established to encourage interaction among scholars, Rotarians and the public on issues related to peace studies.

ROTARY GRADUATE FELLOW, JOAN BRETON CONNELLY

Here let me cite an example with which I am familiar of the impact of a Rotary Fellowship.

In 1979, the Rotary Club of Toledo, Ohio awarded Joan Breton Connelly a Rotary International Graduate Fellowship enabling her to spend a year of study in Athens, Greece. The fellowship supported her participation in the American School of Classical Studies distinguished program in Classical Archaeology. The generous terms of her fellowship allowed her to go to Athens three months early for intensive language training in modern Greek, an utterly transformative experience for Connelly.

She has returned to Greece every one of the 30 years that have followed, participating in and now, leading, archeological expeditions. A Professor of Classics and Art History at New York University, Connelly has taken hundreds of her own students to Cyprus where she has directed the Yeronisos Island Excavation Field School for nineteen summers.

Rotary International's investment in the young Joan Connelly has certainly paid off. In 1996, she was awarded a MacArthur Foundation "Genius" Award for pushing the boundaries of our understanding of Greek art and myth, reinterpreting the Parthenon frieze. She has become a leader in the preservation of global cultural heritage, having served on the President's Cultural Property Advisory Committee, U.S. Department of State, since 2003.

In 2002, the Republic of Cyprus awarded Dr. Connelly a special citation for her leadership in the exploration and preservation of Cypriot cultural heritage.

In 2000, she was granted honorary citizenship by Municipality of Peyia, Republic of Cyprus, singling her out as the only American citizen to enjoy this status. Professor Connelly attributes all these successes to that first break, the Rotary International Graduate Fellowship that so generously

opened for her a new world and gave her, through rigorous language training, the all-important gift of communication.

So I think that Rotary International, Rotary Clubs and Rotarians are on the right track!

Here I remind you that there are 33,000 Rotary Clubs in over 200 countries and geographical areas with over 1.2 million business, professional and community leaders as members.

I must also tell you that a few years ago (2006), I co-chaired the Subcommittee of the Committee for Economic Development (CED) which produced a report entitled, *Education for Global Leadership: The Importance of International Studies and Foreign Language Education for U.S. Economic and National Security*, and that our report made these recommendations:

1. That international content be taught across the curriculum and at all levels of learning, to expand American students' knowledge of other countries and cultures.

2. That we expand the training pipeline at every level of education to address the paucity of Americans fluent in foreign languages, especially critical and less commonly taught ones such as Arabic, Chinese, Japanese, Korean, Persian/Farsi, Russian and Turkish.

3. That national leaders—political, as well as business, philanthropic and media—educate the public about the importance of improving education in foreign languages and international studies.

You will not be surprised, in view of what I have already said, that to these recommendations I say anew, "Amen!"

Indeed, only a few days ago, former Congressman Lee Hamilton, with whom I spoke about my visit with you today, observed that one aspect of the foreign policy of the United States that pays the highest dividend is our support for international exchanges.

CONGRESSMAN LEE HAMILTON

Lee Hamilton, as you know, one of the most highly respected Members of Congress of our era, told me, "A foreigner who has studied in the United States will become an ally." Lee said that Rotary Clubs were one of the key groups with whom he met in Indiana and added, "Rotary Clubs in Indiana are movers and shakers, civic-minded leaders in their communities."

Now you all know that I am a Democrat but speaking to you today, I am pleased to recall the budget recommendation of President Bush for Fiscal 2007 for programs to strengthen international and foreign language study and to remind you that just four years ago, President Bush told a group of university presidents in the United States how important it was to strengthen the study of foreign languages, particularly Arabic and other critical languages.

Here I echo the final sentence of the CED Report of which I earlier spoke, "Our national security and our economic prosperity ultimately depend on how well we educate today's students to become tomorrow's global leaders."

To that again I say, "Amen!"

CSIS COMMISSION ON SMART POWER

As I reflected further on my remarks today, I recalled a most thoughtful report, issued a couple of years ago by the Center for Strategic and International Studies (CSIS), entitled the CSIS Commission on Smart Power. The report, produced by an impressive group of American leaders, co-chaired by Richard L. Armitage, former Deputy Secretary of State and Assistant Secretary of

Defense for International Security Affairs, and Joseph S. Nye, Jr., distinguished service professor at Harvard, former dean of the Kennedy School of Government there, and also former Assistant Secretary of Defense for International Security Affairs and the chairman of the National Intelligence Council, and including such other figures as former Supreme Court Justice Sandra Day O'Connor, Senators Jack Reed and Chuck Hagel and several prominent leaders of business and industry, asserted:

The United States must become a smarter power by once again investing in the global good—providing things people and governments in all quarters of the world want but cannot attain in the absence of American leadership. By complementing U.S. military and economic might with greater investments in soft power, America can build the framework it needs to tackle tough global challenges.

You will not be surprised that among the recommendations of the CSIS Commission on Smart Power is greater investment in education at every level.

The authors of the report assert: "Countries with a higher proportion of 15-to-29 year-olds relative to the adult population are more likely to descend into armed conflict. Education is the best hope of turning young people away from violence and extremism. But hundreds of millions of children in the developing world are not in school or else attend schools with inadequate teachers or facilities. . . . An annual meeting could help increase the saliency of U.S. bilateral and multilateral efforts to increase education levels worldwide. . . ."

The report goes on to observe:

" . . . [T]he number of U.S. college students studying abroad as part of their college experience has doubled over the last decade to more than 200,000, though this still represents slightly more than 1 percent of all American undergraduates enrolled in public, private and community institutions. One way to encourage U.S. citizen diplomacy is to strengthen America's study abroad programs at both the university and high school levels. . . ."

In addition to increasing the number of American students going abroad, the next administration should make it a priority to increase the number of international students coming to the United States for study and research and to better integrate them into campus life.

America remains the world's leading education destination, with more than a half-million international students in the country annually.

We urge the next president of the United States to make educational and institutional exchanges a higher priority. . . .

The American private sector also has a responsibility to educate the next generation of workers. The next president should challenge the corporate sector to develop its own training and internship programs that could help teach the skills that American workers will need in the decades to come. The next administration should consider a tax credit for companies to make their in-house training available to public schools and community colleges.

The concluding paragraph of the report of the CSIS Commission on Smart Power is also worth quoting here: "America has all the capacity to be a smart power. It has a social culture of tolerance. It has wonderful universities and colleges. It has an open and free political climate. It has a booming economy. And it has a legacy of idealism

that channeled our enormous hard power in ways that the world accepted and wanted. We can become a smart power again. It is the most important mandate for our next president."

I think you can see from what I have told you of the recommendations in this report how closely they harmonize with the goals and mission of Rotary.

#### ROTARY CLUBS, ROTARIANS: PATHBUILDERS TO PEACE

So I hope that individual Rotarians and Rotary Clubs will, wherever they are, among their other commitments, lend support to efforts, both private and public, to encouraging education about other countries and cultures and in this way, in the language of Rotary International, "provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world."

In this way, Rotary Clubs and Rotarians can be pathbuilders to peace.

Now both because of the pressures of the economic recession and the commitment of Rotary International and, indeed, of our conference in Indianapolis to "World Peace and Understanding", I want to call to your attention a development only several days ago that I believe directly relevant to our discussions.

I could, of course, speak of President Obama's stimulus plan with its several features designed to put more cash into the pockets of taxpayers, laid-off workers, and first-time homebuyers as well as college students. But I want rather to take note of the action only last month of Congress in voting, by overwhelming bipartisan majorities, approval of the Serve America Act of 2009. This legislation, co-sponsored by Senators Edward M. Kennedy, Democrat of Massachusetts, and Orrin Hatch, Republican of Utah, would by 2017 triple the number of participants in AmeriCorps, our major national service program, and create a number of new volunteer programs. AmeriCorps members work for ten months to one year for a modest stipend, and when they finish, get a grant for education.

#### JOHN BRADEMAS CENTER FOR THE STUDY OF CONGRESS

Finally, I shall take advantage of this forum to say just a word about what is now my own major initiative in my capacity as president emeritus of New York University. It is the John Brademas Center for the Study of Congress, located in NYU's Robert F. Wagner Graduate School of Public Service.

For I think it is not as widely understood as it should be that in our American separation-of-powers constitutional system, Congress—the Senate and House of Representatives—the legislative branch of our national government, can be a source of national policy as well as are the President of the United States and members of the executive branch.

I've earlier given you one example directly related to the commitment of Rotary, the International Education Act. This measure did not originate in the White House but on Capitol Hill.

It is, however, not easy for even informed Americans to understand the operation of Congress. After all, there are 100 Senators and 435 Representatives and we do not, customarily, have the strict party discipline commonly found in parliamentary democracies.

So how does Congress make policy?

Our Center sponsors lectures, symposia and research on the ways in which the Congress of the United States initiates and shapes national policy.

A modest example: While in Congress I was chief author in the House of Representatives of the Arts and Artifacts Indemnity Act of 1975. This law enables museums, galleries, and universities to borrow art from abroad as well as lend parts of their collections to museums in other countries without paying the prohibitive cost of private insurance. The Federal Government, under this legislation, indemnifies the works on loan.

So, last January, we convened, at NYU, under the auspices of the Brademas Center, a colloquium, which examined the impact of this legislation and ways to expand it. The session was led by former National Endowment for the Arts Chairman Bill Ivey and brought together leaders from the museum, foundation and performing arts worlds as well as scholars of arts and public policy and public officials. Based on our discussions, we are preparing a report to the President and Congress with recommendations for expanding international arts and cultural exchanges as part of a renewed strategy for U.S. public diplomacy.

To reiterate, in view of the commitment of Rotary "to encourage and foster the ideal of humanitarian service" and "to help build goodwill and civil peace in the world", I believe it wholly fitting that Rotarians as individuals and Rotary Clubs as community organizations, wherever located, encourage and support education about other countries and cultures.

To conclude, as I reflected on what I might say to you today, I realized that such is the role of the United States in the world today that challenges never cease.

For example, in light of President Obama's recent encounter with President Hugo Chávez of Venezuela, we must ask where is United States policy toward Cuba going?

Given the recent attacks on American vessels by Somali pirates operating off the coast of Somalia, what is our appropriate response?

Then comes the controversy over the correct action—if any—to take with respect to Central Intelligence Agency interrogators who apparently tortured detainees during the presidency of George W. Bush.

And beyond these challenges in foreign policy is, of course, the economic challenge here at home—the recession. That is the subject for another speech and one I shall certainly not inflict on you today.

Clearly, as we look at the challenges our country faces both at home and abroad, we can all agree that dealing with them requires the most knowledgeable and intelligent responses our country can make. And that's why I believe that the commitment of Rotarians "to bring together business and professional leaders to provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world" is still as valid, indeed, essential today as when I was one of the "High School Boys" attending luncheons at the South Bend Rotary Club.

Again, I count it an honor to have been invited to address you and I wish you, my fellow Hoosiers, all the best in the years ahead!

#### ALASKA DECORATION OF HONOR CEREMONY

Mr. BEGICH. Mr. President, it is my pleasure to rise today in honor of the military men and women serving our country across the country and overseas. As Memorial Day approaches, I want to personally recognize the sacrifice these service men and women

and their families are making for our Nation.

In 233 years of American history, the struggle for freedom has remained ever present. During this time, our Nation has surrendered its bravest men and women to liberate the oppressed and to ensure freedom for future generations. In doing so, battle lines were drawn and blood was spilled on both U.S. and foreign soil.

I am certain the dedicated service and sacrifice of our men and women who met the challenges defined by those battle lines safeguarded the freedom and democracy we all cherish. In recognition of that fact, we pause each year on Memorial Day to recognize and honor those who have given their all on the field of battle.

There is simply no greater service and no braver act than a warrior willing to stand in the face of evil and selflessly make the ultimate sacrifice.

We must never forget these brave Americans and their actions which have earned them a place in our hearts and their names on the role of honor for this State and this Nation.

This year we also pause to specifically honor those Alaskans who have given the last full measure of devotion on the battlefield in defense of freedom and democracy. We recognize them with the Alaska Decoration of Honor.

Alaska celebrates the 50th anniversary of its statehood this year. There will be hundreds of events and celebrations to mark this anniversary, but one of the most important ones is this weekend in Anchorage when every Alaska soldier killed in action is presented with the Alaska Decoration of Honor.

I thank the families of these soldiers for traveling to Alaska to be part of the ceremony, and again honor our current service men and women on this Memorial Day.

#### 2008 ALASKA DECORATION OF HONOR MEDAL RECIPIENTS

Shawn G. Adams, Jesse Bryon Albrecht, Christopher M. Alcozer, Eugene Henry Eli Alex, Charles D. Allen, Carl Anderson Jr., Thomas Edward Andron, Kurtis Dean Kama-O-Apelila Arcala, Brian D. Ardron, Michael Dean Banta, Edward Nasuesak Barr, Thomas M. Barr, Daniel D. Bartels, Richard Gene Bauer, Ryan J. Baum, Shane R. Becker, Larry LeRoy Betts, Jeffrey Dean Bisson, Alan R. Blohm, Jeremiah J. Boehmer.

Matthew Charles Bohling, Matthew T. Bolar, John G. Borbonus, Christopher Robert Brevard, James L. Bridges, David Dee Brown Jr., Charles Edward Brown, William F. Brown, Gary Edwin Bullock, Jaime L. Campbell, William Steven Childers, Johnathan Bryan Chism, Donald Georg Chmiel, Donald V. Clark, Brad A. Clemmons, Adare William Cleveland, Ryan D. Collins, Clinton Arthur Cook, Jason Jarrard Corbett, Daniel Franklin Cox.

Shawn R. Creighton, Eric B. Das, George W. Dauma Jr., Carletta S. Davis, David J. Davis, Michael W. Davis, Wilbert Davis, Dustin R. Donica, William Bradley Duncan, Scott Douglas Dykman, William Albert Eaton, Michael Ignatius Edwards, Cody J.

Eggleston, David Henry Elisovsky, Robert Thomas Elliott III, Shawn Patrick Falter, Sean Patrick Fennerty, David Lynn Ferry, Sean P. Fisher, Nick Ulysses Fleener.

Victor M. Fontanilla, Phillip Cody Ford, Kraig D. Foyteck, Lucas Frantz, Grant B. Fraser, Jacob Noal Fritz, Charles F. Gamble Jr., Brennan Chriss Gibson, Micah S. Gifford, Dale Anthony Griffin, Howard Wayne Gulliksen, Daniel Lee Harmon, Dustin J. Harris, Raymond L. Henry, Irving Hernandez Jr., Adam Herold, Patrick W. Herried, Kenneth Hess, William Earl Hibbsman, Michael Thomas Hoke.

Jaron D. Holliday, Jerry Verne Horn, Michael R. Hullender, Christian P. Humphreys, Kurt Int-Hout, Sam Ivey, Steven R. Jewell, Christopher C. Johnson, Jeremiah Jewel Johnson, Wayne Elmer Jones, Alexander Jordon, Jason A. Karella, Adam P. Kennedy, Gilbert Ketzler Jr., George Gregory Kilbuck, Jeremiah C. Kinchen, Donald Harry Kito, Howard Mark Koslosky, Russell A. Kurtz, Kermit Harold La Belle Jr.

Jason K. LaFleur, Mickey Daniel Lang, Jason Lantieri, David Alen Lape, Michael H. Lasky, Aaron Latimer, Robert Edward Lee, Henry W. Linck, James T. Lindsey, Norman Lewis Lingley, Joseph I. Love-Fowler, Jeremy M. Loveless, Bryan C. Luckey, Bradley W. Marshall, Thomas M. Martin, Brian McElroy, Jackie L. McFarlane Jr., Patrick M. McInerney, Jacob Gerald McMillan, Philip David McNeill.

Benjamin E. Mejia, Jacob Eugene Melson, Kenneth Bruce Millhouse, Johnathon Miles Millican, Robert J. Montgomery, Trista L. Moretti, Christopher R. Morningstar, Shawn Matthew Murphy, Jason L. Norton, Toby Richard Olsen, Warren Paulsen, Joshua M. Pearce, Coty J. Phelps, William Francis Piaskowski, Heath K. Pickard, Larry Joe Plett, David Shelton Prentice, Cody A. Putman, Lloyd Steven Rainey, Daniel F. Reyes.

Stanley B. Reynolds, Andrew William Rice Jr., Floyd Whitley Richardson, Norman Franklin Ridley, Michelle R. Ring, Timothy J. Roark, Donald Robert Robison, Jessy S. Rogers, Jonathan Rojas, Donald Ray Sanders, Daniel R. Sexton, Frederick M. Simeonoff, Nicholas R. Sowinski, Donald Walter Sperl, Clifford A. Spohn III, Lance Craig Springer II, Derek T. Stenroos, Joseph A. Strong, Stephen Sutherland, William Arthur Thompson.

Douglas L. Tinsley, Chester William Troxel, Colby J. Umbrell, Joe Wayne Vanderpool, John S. Vaughan, Dustin S. Wakeman, Mark A. Wall, William Francis Walters, Shannon Weaver, Mason Douglas Whetstone, Arthur Joseph Whitney Jr., Jamie Duggan Wilson, Daniel Eugene Woodcock, Shane William Woods, James R. Worster, David Reese Young Jr.

#### POST-DEPLOYMENT HEALTH ASSESSMENT ACT OF 2009

Mr. JOHANNES. Mr. President, I rise today to offer my support for the Post-Deployment Health Assessment Act of 2009. I am pleased to join my colleague, the senior Senator from Montana, in cosponsoring this important legislation.

The Post Deployment Health Assessment Act requires the Defense Department to increase mandatory mental health screenings for military personnel who deploy to combat. This legislation is important and necessary be-

cause of the alarming increase in combat-related psychological injuries suffered by our soldiers overseas.

A RAND study in 2008 concludes that nearly 20 percent of Iraq and Afghanistan veterans suffer from Post Traumatic Stress Disorder or depression. That is nearly 300,000 returning American servicemembers. It also finds that rates of marital stress, substance abuse, and suicide are all increasing.

According to a report released earlier this year, the Army's suicide rate hit a record high last year, putting the suicide-per-capita rate higher than the national population. In the first three months of this year, there have already been 56 reported suicides in the Army. If that rate is maintained for the rest of this year, we will have another unfortunate, record-breaking year for military suicides.

Soldiers returning from deployment are already required to receive an in-person mental health assessment when they return home. The Post Deployment Health Assessment Act requires that soldiers receive an assessment from personnel trained to conduct such screenings before they deploy. That way, the screening personnel has a reference point and can monitor the soldier's progress and any serious changes that may have occurred during the soldier's deployment. The Post Deployment Health Assessment Act also requires soldiers to receive mental health assessments every six months for two years after they return from combat. The periodic assessments allow health personnel to monitor a soldier's adjustment from the combat zone back into normal society. By providing the mental health screening program called for in the Post Deployment Health Assessment Act, we will give the Defense Department an effective system for diagnosing the unseen scars that are so prevalent amongst our combat veterans.

The program proposed by this bill is based on a pilot program developed by the Montana National Guard. When I heard about it, the program made a great deal of sense to me. That unit has improved the mental health care its servicemembers receive, and it seems natural to implement such a program to benefit all of our warriors and veterans.

Since the beginning of the wars in Iraq and Afghanistan, Congress has acted to protect the physical health of the soldiers on the front lines. Congress responded to the needs of our fighting men and women by funding more body armor and reinforced vehicles. Now, we must do more to protect the mental health of our war fighters by giving them the access to mental health screenings that can help them get ahead of debilitating depression and other disorders that result from intense combat experiences.



Finally, I point out that my colleagues need look no further for support than to the veterans whom this bill will help. It has been endorsed by groups representing our brave warriors such as the Iraq and Afghanistan Veterans of America, the Veterans of Foreign Wars, the National Guard Association, and the Enlisted Association of the National Guard.

I urge my colleagues to support the Post-Deployment Health Assessment Act of 2009, and I look forward to its swift passage so that our soldiers and veterans can get the treatment and protection they need.

#### TRIBUTE TO LTC JOHN H. BURSON III, MD

Mr. CHAMBLISS. Mr. President, I rise today to recognize the selfless commitment to the U.S. Army Reserve and to this Nation, of a true American patriot, LTC John H. Burson III, MD.

Lieutenant Colonel Burson is a citizen of Carrollton, GA, and earned his bachelor's, medical, doctor of philosophy and doctor of medicine degrees from the Georgia Institute of Technology and Emory University.

During his medical career, Dr. Burson pioneered a new health care facility with outpatient surgery in Villa Rica, GA, that served as the forerunner for a new Villa Rica hospital with multiclinic services.

Later, he led and personally funded college students to visit various World War II historical sites including an extended tour of Normandy and related battlefields in order to educate America's youth about American history, especially the military. I would like to yield to my friend, Senator ISAKSON for further remarks.

Mr. ISAKSON. Mr. President, I thank the Senator for yielding and also rise in recognition of Lieutenant Colonel Burson and his incredible life story. Lieutenant Colonel Burson volunteered for reserve duty in Operation Iraqi Freedom and Operation Enduring Freedom at the age of 70 in order to relieve active-duty doctors so they could carry out other duties. To this end, he searched nationwide for military units in need of a medical doctor and even delayed the celebration of his 50th wedding anniversary for his upcoming deployment with the medical unit of the Indiana National Guard.

Lieutenant Colonel Burson was assigned as medical officer for the U.S. Embassy in Iraq from November 2005 to March 2006 and served as one of the doctors overseeing treatment of former Iraqi President Saddam Hussein. During this time, he was part of the team that successfully convinced Hussein to end his hunger strike. He did this while also performing surgery and treating patients at a nearby trauma/emergency care unit. Lieutenant Colonel Burson was 71 by the time he completed this deployment.

At such a point in life, many men and women are well into their retirements. However, after his first deployment to Iraq, Lieutenant Colonel Burson instead renewed his search for a combat arms unit in need of a doctor during the 2007 troop surge in Iraq. He served an additional deployment with an Army Reserve military police battalion from Raleigh, NC, from August 2007 to November 2007 at age 73.

Today, as we stand before you on this floor, this extraordinary American will have just returned home after his third combat deployment. At 75 years of age, he has just completed another full tour, this time in Afghanistan.

MR. CHAMBLISS. Mr. President, I thank the Senator for his kind observations regarding Dr. Burson's service. Lieutenant Colonel Burson illustrates the selflessness, commitment to excellence, and courage that exemplifies American character. We applaud the altruistic manner with which he has undertaken and completed each mission. Three combat tours can wear on the best of men, but Lieutenant Colonel Burson has met these challenges head on and succeeded. As long as this great Nation has men like Colonel Burson, who hold true to the values that reveal the best in us, we will remain a world leader.

#### ADDITIONAL STATEMENTS

##### REMEMBERING DAVID D. RASLEY

• Mr. BEGICH. Mr. President, I pay tribute to a Mr. David D. Rasley, Sr., who passed away on May 8, 2009. Mr. Rasley was a 50-year resident of Alaska. Working in the construction field, he was highly regarded in the Fairbanks labor community. He also gave tirelessly to community causes before and after his retirement. Dave was very proud of his Army service.

I have included his obituary below and ask that it be printed in the RECORD. Interior Alaskans mourn the loss of Dave Rasley and join in offering condolences to his wife of nearly 58 years, Luella, sons David, Ron and Brian and his grandchildren, Michael and Carolyn.

The information follows:

David Dale Rasley Sr. died May 8, 2009, after a long battle with cancer.

He was born on December 2, 1928, in Deer River, MN. Dave lived in Fairbanks for more than 50 years and came to Alaska for good in 1959 shortly after statehood.

Dave had come first to Alaska in 1948 with some family and friends to work on post-World War II projects in Anchorage, Kodiak and Fairbanks. He returned to Minnesota and was drafted into the Army in 1950.

Dave married his wife, Luella, June 7, 1951, in Port Townsend, WA, while he was in the Army. He loved Luella very much, and they were married for almost 58 years. He was proud of his military service and was stationed at Camp Desert Rock, NV, and participated in at least three atomic bomb tests

during the early 1950s. His unit helped build some of the test facilities and participated in what are now known to be dangerous post blast tests.

Shortly after moving to Alaska in 1959, he worked on the Cold War DEW line installations at Barter Island and Clear Air Force Station. In 1961 he was diagnosed with myasthenia gravis, a rare neuromuscular disease and was told he might not survive long, or would be wheelchair-bound. He underwent experimental surgery at the University of Washington and with medication was able to function normally.

He began classes at the University of Alaska Fairbanks and graduated with a bachelor of science degree in business in 1966. He worked in the construction industry for two years, then took a job with the Operating Engineers Union Local 302 as a field agent. He eventually became the head agent for the northern region of the state and was involved in the trans-Alaska oil pipeline and related work contract agreements for IUOE Local 302 until his retirement in 1989.

Dave was also proud of his 32 years of work as a board member of the Fairbanks Memorial Hospital and a past president of the board. He was involved in FMH projects such as the Denali Center, Imaging Center, Cancer Treatment Center and several general hospital expansions.

Dave and Luella were big sports fans supporting UAF hockey, men and women's basketball, volleyball, and other UAF activities. They were fixtures and season ticket holders for Gold Kings, Ice Dogs, UAF hockey teams and Fairbanks Goldpanners baseball team. Dave was a Goldpanner board member for many years and was not afraid to get involved when a volunteer was needed.

David is survived by his wife, Luella; sons, David Jr. (Beverly), Ron (Stephanie), Brian; and by his grandchildren, Michael and Carolyn. David was a true Alaskan and will be missed.♦

##### REMEMBERING L. WILLIAM SEIDMAN

• Mr. BOND. Mr. President, today I pay tribute to the life of Bill Seidman who passed away last week.

Bill was a man whose love for his country was matched only by his love for his family. Bill's life is heavily marked with numerous accomplishments in both his personal and professional lives that had a profound impact on many individuals and families who knew him and on those who never knew him.

To many of my Senate colleagues, Bill will be most remembered as the man who rescued our economy during the Savings and Loan Crisis in the late 1980's. As the Chairman of the Federal Deposit Insurance Corporation, FDIC, and head of the Resolution Trust Corporation, RTC, he faced down a national economic crisis, the likes of which had not been seen since the Great Depression, and fundamentally changed the way the government dealt with failing banks.

In that time of fear and deep economic uncertainty, Bill stood out as the leader who stood on principle, talked straight, and told it like it was. It did not always make him popular



and angered those who wanted him to "toe the line." However, it earned him the trust, respect, and credibility of policymakers, government officials, financial industry officials, and millions of citizens all across America.

But there was more to Bill than his public service achievements. His accomplishments were so numerous—and his humility so great—that many of them went unnoticed. He served his country during World War II and received the Bronze Star for his service as a communications officer on a destroyer while serving in the invasion of the Philippines, Iwo Jima, and Okinawa. He spoke very little about his service during the war, like many of his great generation.

Bill earned degrees from some of the finest institutions in the Nation—his undergraduate degree from Dartmouth, a law degree from Harvard, and an MBA from the University of Michigan.

Bill was born in Grand Rapids, MI, where he maintained strong roots throughout his life. He began his career there at his family's accounting firm, Seidman and Seidman, and became a respected member of the local business community. But his greatest contribution to Grand Rapids was his role as a principal founder of Grand Valley State University in 1960. He was named the first honorary life member of Grand Valley's board, and the university's Seidman College of Business is named after his father.

In 1962, Bill ran unsuccessfully to be Michigan's State auditor general—his only attempt at elected office. He went on to become an economic adviser to Michigan Governor George Romney, and later joined President Gerald Ford's Administration as the Assistant to the President for Economic Affairs.

In the early 1980s, he returned to academia as dean of Arizona State University's College of Business.

These are just a few of the many things Americans may not know about Bill Seidman—and he accomplished all of this before becoming Chairman of the FDIC, establishing the RTC, and brilliantly guiding America out of the economic wilderness—the role which brought him fame.

But with all he had accomplished, Bill never stopped to rest. He went on to author two books, "Productivity—The American Advantage," with Steven Shancke, and "Full Faith and Credit," a memoir of his time at the FDIC and his role in establishing and running the RTC. President Gerald Ford hailed "Full Faith and Credit" as "a fascinating story by a straight talker. The author dramatically tells how the Federal agencies sought to confront the challenge of the banking and S&L crisis."

In recent years, already well into his eighties, Bill stayed as active as ever, working as CNBC's chief commentator, regularly contributing opinion pieces

to major newspapers, serving on numerous boards, and advising top officials—and me—on the current economic crisis.

In his most recent piece, published by the Wall Street Journal on May 8, he addressed the staffing and management challenges now confronting the FDIC. In it, he drew parallels between the hurdles that current Chairman Sheila Bair faces and the obstacles he faced in getting the FDIC and the new RTC properly "staffed up" to deal with the S&L crisis nearly two decades ago.

Bill wrote "The Resolution Trust Corporation had to handle the assets from failed institutions when I ran it in the aftermath of the savings and loan crisis of 1985–1992. The RTC experience provides a useful guide for what the FDIC has to do now." Amen.

With the country again facing the same fear and uncertainty that Bill saw during his tenure at the FDIC, he provided what few others could: a brilliant and straightforward voice with years of experience, wisdom, and unquestionable integrity. The loss of his voice simply cannot be replaced.

But perhaps what was most remarkable about Bill is that for all of his brilliance, myriad accomplishments and worldwide recognition, there was a deep humility and kindness about Bill that was evident the moment you met him. Although he had the ears of presidents and the respect of the elite, he famously rode his bike to work. When asked about his accomplishments at the FDIC in a 1991 interview, he dismissed them as "primarily luck." But everyone knew better.

The passing of Bill Seidman is a loss for all of America. He dedicated his life to his country and his family, and we are eternally grateful. I will especially miss Bill as he and I met in my office just 2 months ago to talk about the RTC and how we could apply those lessons to our current financial and economic crisis. I appreciated his wisdom, guidance, generosity, and the kindness and respect he paid to me.

It is my deepest hope that we can all learn from Bill, in not just his expertise on addressing the current financial crisis, but also in the way he treated others with kindness, humility, honesty, and passion.

Our hearts and prayers go out to his wife Sally, his six children, his many grandchildren and great grandchildren, and to all of his family. I will truly miss him.

It has been my honor today to offer this commemoration on the incredible life of Bill Seidman, and to salute this great American.●

#### REMEMBERING BRIAN O'NEILL

● Mrs. BOXER.: Mr. President, it is with a very heavy heart that I ask my colleagues to join me today in honoring the memory of an extraordinary

National Park Service, NPS, leader, Brian O'Neill. Brian was a legendary conservationist and community builder whose legacy will serve as a source of inspiration for decades to come. Brian passed away on May 13, 2009. He was 67 years old.

Brian was born in Washington, DC, in 1942, where he lived for the first 27 years of his life. During his early years, Brian's family often took camping and road trips to many of our National Parks. It was on these trips that Brian first began to bond with the Great West that would eventually become his home. The deep love and respect for nature that Brian fostered in his youth continued to motivate his professional life and nurture his personal life for the remainder of his years.

Brian never kept his love of the outdoors to himself. From the beginning, he recognized the importance of sharing his enthusiasm for all things wild with his family, friends, and especially with young people. As a freshman at the University of Maryland, Brian and his twin brother Alan worked with their mother Mimi to establish a nonprofit organization that provided urban children with opportunities to visit national parks.

Brian began his career in Government service in 1965, when he was hired by what was then the Bureau of Outdoor Recreation, BOR. As Deputy Director of BOR's Office of Urban Park Studies, Brian was a crucial part of the team that persuaded President Nixon to support legislation establishing two major urban parks: Golden Gate in San Francisco and Gateway in New York City. Brian was also instrumental in the inclusion of 2,000 miles of rivers on California's north coast in the national scenic rivers system during the final days of President Carter's administration.

For the past 25 years, Brian O'Neill served as the superintendent of the Golden Gate National Recreation Area, GGNRA. Comprised of over 76,000 acres in Marin, San Mateo, and San Francisco counties, GGNRA is one of the largest urban parks in the country. GGNRA hosts over 16 million visitors annually and is home to 1,250 historic buildings, or 7 percent of all designated historic structures in the country. With ever-growing expertise, Brian led GGNRA's 347 NPS employees and 8,000 volunteers.

Brian had a special skill for connecting people with parks. He understood that in order to garner lasting support for parks, community members must be personally invested and involved every step of the way. Brian's can-do attitude enabled him to create fruitful partnerships with business leaders, philanthropists, and community leaders. He consistently proved skeptics wrong, as he raised more and more money to create additional parklands. NPS recognized Brian's natural

aptitude for building partnerships—when NPS created a new assistant director position focused on creating relationships with outside entities, Brian was asked to serve in this role for the first year of its existence.

I had the great pleasure of knowing Brian for many years, and will always remember his bright smile and cheerful optimism. Brian's warmth drew people to him—he was always surrounded by a rich circle of friends and colleagues of all ages. Though he will be deeply missed, Brian has left us with the priceless and timeless gifts of the parks he helped to build. Thanks in great part to Brian, GGNRA provides its visitors with endless opportunities for exploration, education, and getting in touch with life's deepest purpose and most rewarding opportunities.

Brian has no doubt left an indelible mark on our hearts, minds, and the bay area's natural treasures. He was an inspiring and wonderful man. For those of us who were fortunate to know him, we take comfort in knowing that hundreds of thousands of park visitors will continue to benefit from Brian's vision and determination for generations to come.

Brian is survived by his mother Mimi, twin brother Alan, wife Marti, daughter Kim, son Brent, daughter-in-law Anne, and three grandchildren—Justin, Kieran and Sean.●

#### JESUSITA WILDFIRE FIREFIGHTERS

● Mrs. BOXER. Mr. President, today I ask my colleagues to join me in honoring the brave men and women firefighters who worked tirelessly to protect the residents of Santa Barbara County from the recent Jesusita wildfire.

The Jesusita wildfire has burned nearly 10,000 acres, destroyed and damaged dozens of homes, and at one point forced the evacuation of more than 30,000 local residents.

Firefighters are often called upon to protect our communities while putting themselves in grave danger. This is certainly the case when reflecting on the efforts of Firefighter Robert Lopez, Captain Ron Topolinski, and Captain Brian Bulger from the Ventura County Fire Department. Firefighter Lopez and Captain Topolinski were assigned to structure protection when their position was overrun by a fast-moving wall of fire. Firefighter Lopez and Captain Topolinski utilized their combined 40-years of firefighting experience to survive the initial fire blast and call for help. Captain Brian Bulger responded to the emergency call and risked his own life to ensure the safety of his fellow firefighters. Although all three firefighters suffered injuries due to fire and toxic smoke exposure, all three survived and are now on their way toward recovery. An additional 27

firefighters were injured during this event.

I want to give special thanks to the more than 4,000 Federal, State, local, fire protection district, and volunteer firefighters who have put their lives on the line to fight this fire. Their courage and swift action during this recent wildfire has been truly heroic. They have risked their health and well-being for the benefit of our communities, and we are grateful.

I invite all of my colleagues to join me in commending all men and women firefighters who risk their lives to protect our own.●

#### TRIBUTE TO JANE HAGEDORN

● Mrs. BOXER. Mr. President, I am pleased to recognize the career and contributions of Breathe California of Sacramento-Emigrant Trails, Inc., chief executive officer, Jane Hagedorn, for her 36 years of service to promoting clean air and preventing lung and air pollution-related diseases.

Jane Hagedorn began her affiliation with The American Lung Association of Sacramento-Emigrant Trails—later becoming Breathe California of Sacramento-Emigrant Trails—as a volunteer in 1973. During her 3 years as a volunteer, she served as president of the board and then became executive director in 1976.

Under Jane Hagedorn's leadership, Breathe California of Sacramento-Emigrant Trails, Inc. lead the fight to substantially reduce smoking and developed "Thumbs Up! Thumbs Down!" a nationally recognized tobacco research program developed to reduce the negative influence of tobacco use in film. Ms. Hagedorn also led Breathe California's collaboration with the Sacramento Metropolitan Chamber of Commerce to create the Cleaner Air Partnership, which brings elected officials, business leaders and nonprofit organizations together to collaborate on clean air initiatives for the Capital Region. She was also a leader in bringing light rail transit service to Sacramento to provide an environmentally friendly public transportation alternative to the region.

Ms. Hagedorn's dedication to her community and California has also been demonstrated by her participation on the boards of many government and nonprofit organizations in the region such as, the Tahoe Regional Planning Agency, the Arden Park and Recreation District, Friends of Light Rail, and the Planning and Conservation League.

As her family, friends and the community gather to celebrate her retirement, I congratulate and thank Jane Hagedorn for her work to maintain clean air for our future generations.●

#### REMEMBERING HARRY KALAS AND CONSTANTINE PAPADAKIS

● Mr. CASEY. Mr. President, the city of Philadelphia lost two of its favorite sons recently. We are all saddened by the passing of longtime Philadelphia Phillies broadcaster Harry Kalas and the loss of Drexel University president Constantine Papadakis. It has been a sad time in Philadelphia with the loss of these two great pillars of the community, and I wish today to honor their memory.

Harry Kalas was the voice of the Philadelphia Phillies for four decades. His signature calls of "Outta Here" following a Phillies' home run and "Struck hiimm out" following a strikeout became fixtures on Phillies' broadcasts. Born in Chicago, Harry grew up the son of a minister in Naperville, IL. He began his broadcasting career in Hawaii and eventually moved to Houston, where he broadcasted Astros games from 1965 to 1970. The Phillies were the Astros' opponent in his first game as a Major League broadcaster.

Harry signed up as the Phillies play-by-play announcer in 1971. He quickly became a popular figure in Philadelphia. Together with Richie Ashburn, the Phillies' Hall of Fame outfielder, whom Harry worked with from 1971 until Ashburn's passing in 1997, the pair formed a memorable team built upon what the Philadelphia Inquirer recently described as "a special rapport in the broadcast booth that won over the fans' hearts."

Fans, players, and sports writers have recounted over the past week just how deeply Harry was loved. One of the most poignant examples of just how beloved Harry was came after the 1980 World Series between the Phillies and the Kansas City Royals. Not a lot of people know that Harry was not permitted to call the Phillies' World Series victory over the Royals due to a Major League Baseball rule in place at the time that prevented local broadcasts of World Series games. The outcry from fans of baseball everywhere, particularly in Philadelphia, was so vociferous that Major League Baseball changed its rules. As a result, fans were treated to Harry's call of the Phillies' appearances in the 1983 and 1993 World Series games and the Phillies' victory in the 2008 World Series. Harry's now famous call of the final out of the 2008 series will forever ring in the minds of fans and players alike.

The Phillies have taken appropriate steps to honor Harry's memory for the rest of the season. Most notably, Harry's signature "Outta Here" will be played over the PA system each time a Phillies' player hits a home run. Thousands of fans paid their respects to Harry during a moving ceremony at Citizens Bank Park last Saturday. The tributes across Major League Baseball are fitting for a man of Harry's stature.

Harry was not only a great broadcaster, he was a great man. I personally will always remember Harry's faithful attendance and participation in the annual Veterans Day parade and ceremony in Media, PA. He loved the city of Philadelphia, and it loved him back.

No matter the score, Harry's passion for the game and unique voice kept the fans captivated for all nine innings. He made the tough seasons easier and the good years even better. To say he will be missed is an understatement. His is the voice that Phillies fans will forever associate with baseball. My deepest condolences go out to Harry's family and the Philadelphia Phillies.

I also wish to honor the life of Constantine Papadakis—known as "Taki"—the longtime president of Drexel University in Philadelphia, PA, who passed away recently after a long and brave battle with lung cancer.

Taki was a creative and dynamic leader at Drexel University for 14 years. He was described by one of his colleagues as identifying himself completely with the university—"there was no Taki that wasn't connected to Drexel." His devotion to Drexel meant that for him, it was not enough to simply preside over the institution. Instead, he threw himself into building, expanding, and extending Drexel's reach, both its academic prowess and its role in the community of Philadelphia. Enrollment grew by more than 130 percent. Freshman applications increased by nearly 700 percent. Research funding went from \$15 million to more than \$100 million in each of the last three years. The size of the faculty doubled and the university is now the seventh largest private employer in the city of Philadelphia. During Taki's tenure, Drexel added both a law school and a medical school. Most recently, he spearheaded the effort to acquire a campus in Sacramento, CA.

Through the sheer force of his personality and his vision, Taki also brought renewed hope and optimism to Philadelphia's leaders and citizens. He established a leading role for Drexel in regional economic development, reaching out to business, academic, and community leaders to show what could be done by investing in growth. He knew that a university is not an isolated institution but a member of a larger community with the potential to transform a city and a region. He constantly pushed forward, never content, as one colleague said, to rest on the laurels of Drexel's gains, "however meteoric." Government officials, business and community leaders, and ordinary citizens should be inspired by Taki's relentless drive toward improving our communities by strengthening our civic institutions and engaging in public life.

Taki's last year was emblematic of how he lived the rest of his life. His en-

ergy and charisma never waned, as he conducted business from his hospital bed, his office, and in board meetings. He had so much to work to finish, which is remarkable for an individual who had already achieved so much. He has been described as "larger than life and taken from us too young," which is undoubtedly true. I extend my deepest condolences to his wife of 39 years, Eliana, and his daughter Maria and hope they will take some comfort in the fact that Taki not only built a well-respected academic institution but also made a city believe in what could be accomplished through hard work, devotion, and passion.●

#### TRIBUTE TO CHUCK MACK

● Mrs. FEINSTEIN. Mr. President, today I commend Chuck Mack for his contributions to the labor movement in California and his remarkable 47 years as a Teamster.

Chuck began his career as a Teamster in 1962 and has spent every year since working on behalf of his fellow union members, organizing and ensuring fair treatment and benefits for all.

First elected to a representative position in 1966, he worked as a business agent until 1971 when he briefly moved to Sacramento to lobby the legislature as part of the Teamsters Public Affairs Council.

Returning to the East Bay in 1971, Chuck successfully ran for the position of secretary-treasurer of Local 70, a position he has maintained ever since, which represents 5,000 members in Alameda County.

He was elected to the joint council in 1972, and became president of the council, which represents 55,000 members in San Francisco, in 1982. In 1996, Chuck was elected western region vice president. And, in 2003, he was appointed director of the Teamsters Port Division.

Chuck's responsibilities and leadership roles have steadily increased over the last four decades.

I know him to be a passionate, thoughtful, and committed advocate for all workers.

Whether through his efforts to protect the environment in port communities or preserve wages and benefits for truck drivers, Chuck Mack has always put the needs of his fellow Teamsters first.

Chuck will be stepping down from his Teamsters positions at Local 70, Joint Council 7, and the International Union at the end of this month.

Chuck is now moving on to another significant challenge as he becomes co-chair of the Western Conference of Teamsters Pension Trust.

I wish him the very best in this new endeavor and offer my heartfelt and sincere congratulations for a job well done representing Teamsters in the bay area and across northern California for the last four decades.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT RELATIVE TO A PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—PM 21

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the United Arab Emirates Concerning Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States.

The Agreement provides a comprehensive framework for peaceful nuclear cooperation with the United Arab Emirates (UAE) based on a mutual commitment to nuclear nonproliferation. The United States and the UAE are entering into it in the context of a stated intention by the UAE to rely on existing international markets for nuclear fuel services as an alternative to the pursuit of enrichment and reprocessing. Article 7 will transform this UAE policy into a legally binding obligation from the UAE to the United States upon entry into force of the Agreement. Article 13 provides, *inter alia*, that if the UAE at any time following entry into force of the Agreement materially violates Article 7, the United States will have a right to cease further cooperation under the Agreement, require the return of items subject to the Agreement, and terminate the Agreement by giving 90 days written notice. In view of these and other nonproliferation features, the Agreement has the potential to serve as a model for other countries in the region that wish to pursue responsible nuclear energy development.

The Agreement has a term of 30 years and permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities, or major critical components of such facilities. In the event of termination of the Agreement, key nonproliferation conditions and controls continue with respect to material, equipment, and components subject to the Agreement.

In addition to the UAE's obligation to forgo enrichment and reprocessing—the first instance of such an obligation on the part of a U.S. cooperating partner in an agreement of this type—the Agreement contains certain additional nonproliferation features not typically found in such agreements. These are modeled on similar provisions in the 1981 United States-Egypt Agreement for Peaceful Nuclear Cooperation and include (a) a right of the United States to require the removal of special fissionable material subject to the Agreement from the UAE either to the United States or to a third country if exceptional circumstances of concern from a nonproliferation standpoint so require, and (b) confirmation by the United States that the fields of cooperation, terms, and conditions accorded by the United States to the UAE shall be no less favorable in scope and effect than those that the United States may accord to any other non-nuclear-weapon State in the Middle East in a peaceful nuclear cooperation agreement. The Agreement also provides, for the first time in a U.S. agreement for peaceful nuclear cooperation, that prior to U.S. licensing of exports

of nuclear material, equipment, components, or technology pursuant to the Agreement, the UAE shall bring into force the Additional Protocol to its safeguards agreement.

The UAE is a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The United States is a nuclear-weapon State party to the NPT. Article 12 of the proposed Agreement provides that the Agreement shall not be interpreted as affecting the inalienable rights of the United States and the UAE under the NPT. A more detailed discussion of the UAE's intended civil nuclear program and its nonproliferation policies and practices is provided in the NPAS and in a classified Annex to the NPAS to be submitted to the Congress separately.

The Agreed Minute to the Agreement provides U.S. prior approval for retransfers by the UAE of irradiated nuclear material subject to the Agreement to France and the United Kingdom, if consistent with their respective policies, laws, and regulations, for storage or reprocessing subject to specified conditions, including that prior agreement between the United States and the UAE is required for the transfer of any special fissionable material recovered from any such reprocessing to the UAE. The transferred material would also have to be held within the European Atomic Energy Community subject to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM).

In view of the fact that this consent would constitute a subsequent arrangement under the Act if agreed separately from the proposed Agreement, the Secretary of State and the Secretary of Energy have ensured that the advance approval provisions meet the applicable requirements of section 131 of the Act. Specifically, they have concluded that the U.S. advance approval for retransfer of nuclear material for reprocessing or storage contained in the Agreed Minute to the proposed Agreement is not inimical to the common defense and security. An analysis of the advance approval given in the Agreed Minute is contained in the NPAS.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and the House Foreign Affairs Committee as provided in section 123 b. Upon completion of the period of 30 days of continuous session provided for in section 123 b., the period of 60 days of continuous session provided for in section 123 d. shall commence.

BARACK OBAMA.  
THE WHITE HOUSE, May 21, 2009.

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 9:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 131. An act to establish the Ronald Reagan Centennial Commission.

H.R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Under the authority of the order of today, May 21, 2009, the enrolled bills were subsequently signed by the Majority Leader (Mr. REID).

At 1:21 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2352. An act to amend the Small Business Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 133. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 2:21 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

### ENROLLED BILL SIGNED

At 5:19 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

Under the authority of the order of today, May 21, 2009, the enrolled bill was subsequently signed by the Majority Leader (Mr. REID).

### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2352. An act to amend the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 103. Concurrent resolution supporting the goals and ideals of Malaria Awareness Day; to the Committee on Foreign Relations.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 21, 2009, she had presented to the President of the United States the following enrolled bill:

S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1707. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mushroom Promotion, Research, and Consumer Information Order; Correction to Referendum Procedures" ((Docket No. AMS-FV-09-0019)(FV-09-703)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1708. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Honey Research, Promotion, and Consumer Information Order; Termination" ((Docket No. AMS-FV-09-0006)(FV-09-701)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1709. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Onions Grown in South Texas; Change in Regulatory Period" ((Docket No. AMS-FV-09-0012)(FV-09-959-1 IFR)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1710. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Walnuts Grown in California; Order Amending Marketing Order No. 984; Correction" ((Docket No. AMS-FV-07-0004)(FV-06-984-1 C)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1711. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2009-2010 Marketing Year" ((Docket No. AMS-FV-08-0104)(FV-09-985-1 FR)) received in the Office of the President

of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1712. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the Department's activities during Calendar Year 2008 relative to the Equal Credit Opportunity Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-1713. A communication from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC-1714. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to License Requirements and License Exception Eligibility for Certain Thermal Imaging Cameras and Foreign Made Military Commodities Incorporating Such Cameras" (RIN0694-AD71) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1715. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Darfur Sanctions Regulations" (31 CFR Parts 546) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1716. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Democratic Republic of the Congo Sanctions Regulations" (31 CFR Parts 547) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1717. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Biennial Report On the 2008 Regulatory Status of National Transportation Safety Board Open Safety Recommendations Concerning 15-Passenger Van Safety, Railroad Grade Crossing Safety, and Medical Certifications for a Commercial Driver's License; to the Committee on Commerce, Science, and Transportation.

EC-1718. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Replacement Digital Television Translator Service" (MB Docket No. 08-253) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1719. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Saving Accounts Inflation Adjustments for 2010" (Rev. Proc. 2009-29) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC-1720. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Self-determination of Deficiency Dividend under 860(e)(4)" (Rev.

Proc. 2009-28) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC-1721. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Formless Conversion of Partnership to S Corporation" (Rev. Rul. 2009-15) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC-1722. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Industry Director's Directive #2 on Enhanced Oil Recovery Credit" (LMSB-4-0409-014) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC-1723. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Security Clause" (RIN1991-AB71) received on May 19, 2009; to the Committee on Energy and Natural Resources.

EC-1724. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to a proposed sale or export of defense articles and/or defense services to a Middle East country; to the Committee on Foreign Relations.

EC-1725. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to providing information on U.S. military personnel and U.S. civilian contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC-1726. A communication from the Chairman, Committee on Public Safety and the Judiciary, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Bill 18-10, "Disclosure to the United States District Court Amendment Act of 2009" received in the Office of the President of the Senate on May 20, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1727. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems: Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas" (RIN3206-AL77) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1728. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Office of Justice Programs (OJP) Annual Report to Congress for Fiscal Year 2008; to the Committee on the Judiciary.

EC-1729. A communication from the Chief, Office of Congressional Relations, Citizenship and Immigration Services, Department of Homeland Security, transmitting, the U.S. Citizenship and Immigration Services Annual Report for Fiscal Year 2008; to the Committee on the Judiciary.

EC-1730. A communication from the Federal Register Liaison Officer, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Reimbursement for

Interment Costs" (RIN2900-AM98) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Veterans' Affairs.

EC-1731. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, a report relative to the Department of the Navy converting to contract the information assurance functions currently being performed by eight (8) military personnel of the Fleet Area Control and Surveillance Facility, located in Virginia Beach, Virginia; to the Committee on Armed Services.

EC-1732. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acibenzolar-S-methyl; Pesticide Tolerances" (FRL-8413-7) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1733. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cry1A.105 protein; Time Limited Exemption from the Requirement of a Tolerance" (FRL-8417-3) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1734. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Longan From Taiwan" (Docket No. APHIS-2007-0161) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1735. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; California; Determination of Attainment of the 1-Hour Ozone Standard for the Ventura County Area" (FRL-8909-6) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Environment and Public Works.

EC-1736. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Volatile Organic Compounds: Correction" (FRL-8909-5) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Environment and Public Works.

EC-1737. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Imported Directly Requirement Under the United States-Bahrain Free Trade Agreement" (RIN1505-AC13) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Finance.

EC-1738. A communication from the Program Manager, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "State Parent Locator Service; Safeguarding Child Support Information: Delay of Effective

Date" (RIN0970-AC01) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Finance.

EC-1739. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the establishment of a Danger Pay Allowance for FBI personnel serving in Mexico; to the Committee on Foreign Relations.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-25. A petition from a citizen of California relative to amending the Constitution; to the Committee on the Judiciary.

POM-26. A joint memorial adopted by the Legislature of the State of Washington relative to passing H.R. 5698, the Restoring Partnership for County Health Care Costs Act of 2008; to the Committee on Finance.

#### HOUSE JOINT MEMORIAL NO. 4000

Whereas, our system of justice presumes that a person accused of committing a crime is innocent until proven guilty; and

Whereas, under current federal law, persons awaiting trial or other disposition of their cases in county jails or juvenile detention facilities are ineligible to receive medicare, medicaid, supplementary security income, or state children's health insurance program benefits, even though their culpability in a criminal case has not been proven; and

Whereas, counties must bear the financial burden of providing medical care to persons who are held in county jails; and

Whereas, Many persons in custody who are affected by mental illness suffer further and are at higher risk of reoffending after they are released because of a delay in the reinstatement of their federal benefits; Now, therefore, Your Memorialists respectfully pray that the United States Congress pass HR 5698, the Restoring Partnership for County Health Care Costs Act of 2008.

*Be it Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

Francisco J. Sanchez, of Florida, to be Under Secretary of Commerce for International Trade.

\*Sandra Brooks Henriquez, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

\*Peter M. Rogoff, of Virginia, to be Federal Transit Administrator.

\*Michael S. Barr, of Michigan, to be an Assistant Secretary of the Treasury.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1115. A bill to amend title 23, United States Code, to prohibit the imposition of new tolls on the Federal-aid system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. VITTER:

S. 1116. A bill to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself, Mr. SANDERS, Mrs. SHAHEEN, and Mr. GREGG):

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Mr. KOHL, and Mr. BROWN):

S. 1118. A bill to amend title 38, United States Code, to provide for an increase in the amount of monthly dependency and indemnity compensation payable to surviving spouses by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN:

S. 1119. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer notification of suspected identity theft; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1120. A bill to amend the Internal Revenue Code of 1986 to conform the definitions of qualifying expenses for purposes of education tax benefits; to the Committee on Finance.

By Mr. HARKIN:

S. 1121. A bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BARRASSO (for himself, Mr. JOHNSON, Mr. UDALL of Colorado, Mr. BENNET, Mr. RISCH, and Mr. BENNETT):

S. 1122. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself, Mrs. LINCOLN, and Mr. BOND):

S. 1123. A bill to provide for a five-year payment increase under the Medicare program for home health services furnished in a rural area; to the Committee on Finance.

By Mrs. MURRAY:

S. 1124. A bill to amend title 46, United States Code, to modify the vessels eligible



for a fishery endorsement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN:

S. 1125. A bill to amend the National Voter Registration Act of 1993 to provide for the treatment of institutions of higher education as voter registration agencies; to the Committee on Rules and Administration.

By Mr. REID:

S. 1126. A bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America and for other purposes; to the Select Committee on Intelligence.

By Mr. MARTINEZ:

S. 1127. A bill to require that, in the questionnaires used in the taking of any decennial census of population or American Community Survey, standard functional ability questions be included to provide a reliable indicator of need for long-term care; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 1128. A bill to authorize the award of a military service medal to members of the Armed Forces who were exposed to ionizing radiation as a result of participation in the testing of nuclear weapons or under other circumstances; to the Committee on Armed Services.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1129. A bill to authorize the Secretary of Education to award grants to local educational agencies to improve college enrollment; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. CONRAD, Mr. WYDEN, and Ms. COLLINS):

S. 1130. A bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. BURR, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 1131. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals; to the Committee on Finance.

By Mr. LEAHY:

S. 1132. A bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. GREGG):

S. 1133. A bill to amend title XVIII of the Social Security Act to provide for the establishment of shared decision making standards and requirements and to establish a pilot program for the implementation of shared decision making under the Medicare program; to the Committee on Finance.

By Mr. CASEY:

S. 1134. A bill to ensure the energy independence and economic viability of the United States by promoting the responsible use of coal through accelerated carbon capture and storage and through advanced clean coal technology research, development, demonstration, and deployment programs, and

for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. BROWNBACK, Mr. DURBIN, Mr. VOINOVICH, Mr. LEVIN, Mr. BROWN, Ms. MIKULSKI, and Mr. LIEBERMAN):

S. 1135. A bill to establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1136. A bill to establish a chronic care improvement demonstration program for Medicaid beneficiaries with severe mental illnesses; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Ms. SNOWE, Mrs. LINCOLN, Mr. SANDERS, and Mr. DODD):

S. 1137. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1138. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1139. A bill to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1140. A bill to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mr. BOND):

S. 1141. A bill to extend certain trade preferences to certain least-developed countries, and for other purposes; to the Committee on Finance.

By Mr. REED (for himself and Ms. MIKULSKI):

S. 1142. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to inclusion of effectiveness information in drug and device labeling and advertising; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 1143. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself, Mr. TESTER, and Mr. CRAPO):

S. 1144. A bill to improve transit services, including in rural States; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. BROWNBACK):

S. 1145. A bill to amend section 114 of title 17, United States Code, to provide for agreements for the reproduction and performance of sound recordings by webcasters; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 1146. A bill to direct the Attorney General to provide grants and access to informa-

tion and resources for the implementation of the Sex Offender Registration Tips and Crime Victims Center Programs; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 1147. A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mrs. MCCASKILL, Mr. BOND, and Mr. THUNE):

S. 1148. A bill to amend the Clean Air Act to modify a provision relating to the renewable fuel program; to the Committee on Environment and Public Works.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1149. A bill to eliminate annual and lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. KOHL, Mr. WYDEN, and Mr. CARPER)):

S. 1150. A bill to improve end-of-life care; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Ms. SNOWE)):

S. 1151. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. INOUE, Mr. LEVIN, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. DURBIN, Mr. JOHNSON, Mr. SCHUMER, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. BURRIS, and Mrs. GILLIBRAND)):

S. 1152. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Ms. CANTWELL, Mr. MENENDEZ, Mr. DODD, Mr. KERRY, and Mr. AKAKA):

S. 1153. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself and Mr. ENZI):

S. 1154. A bill to amend the Public Health Service Act to facilitate emergency medical services personnel training and certification curriculums for military veterans; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. INOUE):

S. 1155. A bill to amend title 38, United States Code, to establish the position of Director of Physician Assistant Services within the office of the Under Secretary of Veterans Affairs for health; to the Committee on Veterans' Affairs.

By Mr. HARKIN (for himself, Mr. BURR, Mr. SANDERS, Mr. MERKLEY, and Ms. COLLINS):

S. 1156. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program; to the Committee on Environment and Public Works.



By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, and Mr. BARASSO):

S. 1157. A bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. ISAKSON, and Mr. WHITEHOUSE):

S. 1158. A bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 1159. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself and Mr. INHOFE):

S. Res. 155. A resolution expressing the sense of the Senate that the Government of the People's Republic of China should immediately cease engaging in acts of cultural, linguistic, and religious suppression directed against the Uyghur people; to the Committee on Foreign Relations.

By Mr. BROWN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DODD, Mr. SCHUMER, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. HARKIN, Mrs. BOXER, Mr. REED, Mr. LEVIN, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Ms. STABENOW, Mr. CASEY, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of New Mexico, Mr. INOUE, Mr. SANDERS, Mr. KAUFMAN, Mr. BURRIS, Mr. LAUTENBERG, Mrs. McCASKILL, Mrs. SHAHEEN, Mr. CARDIN, and Mr. AKAKA):

S. Res. 156. A resolution expressing the sense of the Senate that reform of our Nation's health care system should include the establishment of a federally-backed insurance pool; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mrs. LINCOLN, Mr. DURBIN, Mr. KOHL, Mr. BROWN, Ms. SNOWE, Mr. CASEY, Mr. KERRY, and Mr. MENENDEZ):

S. Res. 157. A resolution recognizing Bread for the World, on the 35th anniversary of its founding, for its faithful advocacy on behalf of poor and hungry people in our country and around the world; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. Res. 158. A resolution to commend the American Sail Training Association for advancing international goodwill and character building under sail; to the Committee on the Judiciary.

By Mr. BURRIS:

S. Res. 159. A resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of the Senate that history should be regarded as a means for understanding the past and solving the challenges of the future; to the Committee on the Judiciary.

By Mr. GREGG (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr.

DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Ms. COLLINS, Mr. LUGAR, Mr. BROWNBACK, Mr. BENNETT, Mr. BOND, and Mr. KERRY):

S. Res. 160. A resolution condemning the actions of the Burmese State Peace and Development council against Daw Aung San Suu Kyi and calling for the immediate and unconditional release of Daw Aung San Suu Kyi; considered and agreed to.

By Mr. JOHNSON:

S. Res. 161. A resolution recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiectasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. CARDIN, Mr. UDALL of Colorado, and Mr. BURRIS):

S. Res. 162. A resolution recommending the Langston Golf Course, located in northeast Washington, DC and owned by the National Park Service, be recognized for its important legacy and contributions to African-American golf history, and for other purposes; considered and agreed to.

By Mr. CASEY (for himself and Mr. CHAMBLISS):

S. Res. 163. A resolution expressing the sense of the Senate with respect to childhood stroke and designating an appropriate date as "National Childhood Stroke Awareness Day"; considered and agreed to.

By Mrs. LINCOLN (for herself, Mr. SCHUMER, and Mr. CHAMBLISS):

S. Con. Res. 24. A concurrent resolution to direct the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes; to the Committee on Rules and Administration.

#### ADDITIONAL COSPONSORS

S. 167

At the request of Mr. KOHL, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 167, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 255

At the request of Mr. WHITEHOUSE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 255, a bill to amend the Truth in Lending Act to empower the States to set the maximum annual percentage rates applicable to consumer credit transactions, and for other purposes.

S. 423

At the request of Mr. JOHANNIS, his name was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 428

At the request of Mr. DORGAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from

Maine (Ms. COLLINS) were added as cosponsors of S. 428, a bill to allow travel between the United States and Cuba.

S. 451

At the request of Ms. COLLINS, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 527

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 527, a bill to amend the Clean Air act to prohibit the issuance of permits under title V of that Act for certain emissions from agricultural production.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 634

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 653

At the request of Mr. CARDIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 660

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 660, a bill to amend the Public Health Service Act with respect to pain care.

S. 765

At the request of Mr. NELSON of Nebraska, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to not impose a penalty for failure to disclose

reportable transactions when there is reasonable cause for such failure, to modify such penalty, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 772

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 772, a bill to enhance benefits for survivors of certain former members of the Armed Forces with a history of post-traumatic stress disorder or traumatic brain injury, to enhance availability and access to mental health counseling for members of the Armed Forces and veterans, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 843

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 843, a bill to establish background check procedures for gun shows.

S. 846

At the request of Mr. DURBIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. NELSON) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 850

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr.

MERKLEY) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 908

At the request of Mr. BAYH, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 935

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 943

At the request of Mr. THUNE, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 943, a bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes.

S. 950

At the request of Mrs. LINCOLN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 950, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 956

At the request of Mr. TESTER, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Tennessee (Mr. CORKER) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 956, a bill to amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

S. 962

At the request of Mr. KERRY, the names of the Senator from Delaware (Mr. CARPER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 962, a bill to authorize appropriations for fiscal

years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 979

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 994

At the request of Ms. KLOBUCHAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 994, a bill to amend the Public Health Service Act to increase awareness of the risks of breast cancer in young women and provide support for young women diagnosed with breast cancer.

S. 1003

At the request of Mr. REED, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1003, a bill to increase immunization rates.

S. 1019

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1038

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1038, a bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes.

S. 1050

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1050, a bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual

health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes.

S. 1057

At the request of Mr. TESTER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1102

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. CARDIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. GILLIBRAND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. SANDERS), the Senator from New York (Mr. SCHUMER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1102, a bill to provide benefits to domestic partners of Federal employees.

S. 1108

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1108, a bill to require application of budget neutrality on a national basis in the calculation of the Medicare hospital wage index floor for each all-urban and rural State.

S. 1112

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1112, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. RES. 97

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. Res. 97, a resolution designating June 1, 2009, as "Collector Car Appreciation Day" and recognizing that the collection and restoration of historic and

classic cars is an important part of preserving the technological achievements and cultural heritage of the United States.

S. RES. 139

At the request of Ms. MIKULSKI, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 139, a resolution commemorating the 20th anniversary of the end of communist rule in Poland.

S. RES. 151

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of S. Res. 151, a resolution designates a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

AMENDMENT NO. 1155

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 1155 intended to be proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1161

At the request of Mr. BROWN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1161 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1164

At the request of Mr. ISAKSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 1164 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1179

At the request of Mr. KAUFMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 1179 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1189

At the request of Mrs. HUTCHISON, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Maryland (Mr. CARDIN), the Senator from Nebraska (Mr. NELSON), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kansas (Mr. ROBERTS), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Carolina (Mr. BURR), the Senator from Nebraska (Mr. JOHANNES), the Senator from New York (Mr. SCHUMER), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator

from New Hampshire (Mrs. SHAHEEN), the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. RISCH), the Senator from Florida (Mr. NELSON), the Senator from Maine (Ms. SNOWE), the Senator from Hawaii (Mr. INOUE), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Maine (Ms. COLLINS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KOHL), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. WEBB), the Senator from Mississippi (Mr. WICKER), the Senator from Texas (Mr. CORNYN), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of amendment No. 1189 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1191

At the request of Mr. LEAHY, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of amendment No. 1191 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1198

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 1198 intended to be proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. SANDERS, Mrs. SHAHEEN, and Mr. GREGG):

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I am pleased to introduce today the Upper Connecticut River Partnership Act. This legislation will help bring recognition to New England's largest river ecosystem and one of our Nation's 14 American Heritage Rivers.

The purpose of this legislation is to help the communities along the river protect and enhance their rich cultural history, economic vitality, and the environmental integrity of the river.

From its origin in the mountains of northern New Hampshire, the Connecticut River runs over 400 miles and eventually empties into Long Island Sound. The river forms a natural

boundary between my home state of Vermont and New Hampshire, and travels through the States of Massachusetts and Connecticut. The river and surrounding valley have long shaped and influenced development in the New England region. This river is one of America's earliest developed rivers, with European settlements going back over 350 years. The industrial revolution blossomed in the Connecticut River Valley, supported by new technologies such as canals and mills run by hydropower.

I am pleased that the entire Senate delegations from Vermont and New Hampshire have cosponsored this bill. For years our States have worked together, to help communities on both sides of the river develop local partnerships to protect the Connecticut River valley of Vermont and New Hampshire. While great improvements have been made to the river, its overall health remains threatened by water and air pollution, habitat loss, hydroelectric dams, and invasive species.

Historically, the people throughout the Upper Connecticut River Valley have functioned cooperatively and the river serves to unite Vermont and New Hampshire communities economically, culturally, and environmentally.

Citizens on both sides of the river know just how special this region is and have worked side by side for years to protect it. Efforts have been underway for some time to restore the Atlantic salmon fishery, protect threatened and endangered species, and support urban riverfront revitalization.

In 1989, Vermont and New Hampshire came together to create the Connecticut River Joint Commissions—a unique partnership between the states, local businesses, all levels of Government within the 2 States and citizens from all walks of life. This partnership helps coordinate the efforts of towns, watershed managers and other local groups to implement the Connecticut River Corridor Management Plan. This Plan has become the blueprint for how communities along the river can work with one another with Vermont and New Hampshire and with the federal government to protect the river's resources.

The Upper Connecticut River Partnership Act would help carry out the recommendations of the Connecticut River Corridor Management Plan, which was developed under New Hampshire law with the active participation of Vermont citizens and communities.

This act would also provide the Secretary of the Interior with the much needed ability to assist the States of New Hampshire and Vermont with technical and financial aid for the Upper Connecticut River Valley through the Connecticut River Joint Commissions. The act would also assist local communities with cultural heritage outreach and education programs

while enriching the recreational activities already active in the Connecticut River Watershed of Vermont and New Hampshire.

Lastly, the bill will require that the Secretary of the Interior establish a Connecticut River Grants and Technical Assistance Program to help local community groups develop new projects as well as build on existing ones to enhance the river basin.

In the future, I hope this bill will help bring renewed recognition and increased efforts to conserve the Connecticut River as one of our Nation's great natural and economic resources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1117

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Connecticut River Partnership Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102-212);

(4) the demonstrated commitment to stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bi-State Connecticut River Scenic Byway, which was declared a National Scenic Byway by the Department of Transportation in 2005 to foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the "Connecticut River Joint Commissions"—

(A) have worked together since 1989; and

(B) serve as the focal point and catalyst for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bi-State local river subcommittees appointed to represent riverfront towns, produced the 6 volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) in 2009, after 3 years of broad consultation, the Connecticut River Joint Commissions have substantially expanded and published updates via the Connecticut River

Recreation Management Plan and the Water Resources Management Plan to guide public and private activities in the watershed;

(9) through a joint legislative resolution, the legislatures of the States of Vermont and New Hampshire have requested that Congress provide for continuation of cooperative partnerships and that Federal agencies support the Connecticut River Joint Commissions in carrying out the recommendations of the Connecticut River Corridor Management Plan;

(10) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and the United States Fish and Wildlife Service; and

(11) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

#### SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the upper Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of an in-kind contribution of services or materials.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$1,000,000 for each fiscal year.

By Mr. HARKIN:

S. 1121. A bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise today to introduce the School Building

Fairness Act of 2009. I offer this legislation to meet the urgent need for Federal support to repair crumbling schools in disadvantaged and rural school districts.

This bill would authorize up to \$6 billion annually to fund a new program of Federal grants to States for the repair, renovation, and construction of public schools. States would award the grants competitively, with priority given to high-poverty and rural school districts, as well as school districts that plan to make their facilities more energy efficient and environmentally friendly. Districts receiving this federal funding would then be required to provide a local match.

I know this approach to school construction and repair can work because this bill is modeled on the success of the Iowa Demonstration and Construction Grant Program in my home State. Over the last decade, I have secured \$121 million in Federal funds that more than 300 school districts across Iowa have used for school construction and repair. This modest Federal investment has leveraged more than \$600 million in additional local funding.

In addition to improving the learning environment for students, the School Building Fairness Act will provide a stimulus to the economy by creating jobs in thousands of communities all across the country for workers in the construction industry, as well as architects and engineers.

It will also spur school districts to make their facilities more environmentally friendly and energy-efficient. According to the 2006 report "Greening America's Schools: Costs and Benefits," green schools use an average of 33 percent less energy than conventionally built schools, and generate financial savings of about \$70 per square foot.

Safe, modern, healthy school buildings are essential to creating an environment where students can reach their academic potential. Yet too many students in the U.S., particularly those most at risk of being left behind, attend school in facilities that are old, overcrowded and run-down.

We all agree that school infrastructure requires constant maintenance. Unfortunately, far too many schools have been forced to neglect ongoing issues, most likely due to lack of funds, which can lead to health and safety problems for students, educators and staff. The most recent Infrastructure Report Card issued by the American Society of Civil Engineers gives public schools a D grade. Now, I do not know many parents who would find D grades acceptable for their children. So why on Earth would we stand by while the state of the buildings in which our children learn are assigned such a grade?

Despite the declining condition of many public schools, federal grant funding is generally not available to le-

verage local spending. In fiscal year 2001, in the Senate Labor, Health and Human Services, and Education Appropriations Subcommittee, which I then chaired, I was able to secure \$1.2 billion for school repair and renovation. I continue to hear nothing but positive feedback from educators across the country about that funding.

But that one-time investment amounted to nothing more than a drop in the bucket compared to the estimated national need. At the beginning of this decade, the National Center for Education Statistics estimated that the nation's K-12 public schools needed \$127 billion in repairs and upgrades. A 2008 analysis by the American Federation of Teachers found that the Nation's school infrastructure needs total an estimated \$254.6 billion.

This bill is called the School Building Fairness Act because, as I said, States will give preference in awarding grants to high-poverty and rural districts. Currently, spending on school facilities is almost twice as high in affluent districts as in disadvantaged districts. This is one of those "savage inequalities" that Jonathan Kozol writes about—inequalities that largely explain the learning gap between affluent and poor children.

Something is seriously wrong when children go to modern, gleaming shopping malls and sports arenas, but attend public schools with crumbling walls and leaking roofs. This sends exactly the wrong message to children about our priorities as adults.

With the School Building Fairness Act, we have a chance to get our priorities right, and to provide a desperately needed boost to school districts all across America.

I hope that my colleagues will join me to help create safe, modern, and healthy school environments so all of our children can grow to be the leaders of tomorrow.

By Mr. BARRASSO (for himself, Mr. JOHNSON, Mr. UDALL of Colorado, Mr. BENNET, Mr. RISCH, and Mr. BENNETT:

S. 1122. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BARRASSO. Mr. President, I am proud to introduce the Good Neighbor Forestry Act today along with my Senators JOHNSON, UDALL of Colorado, BENNET of Colorado, RISCH, and BENNETT of Utah. This legislation authorizes cooperative action between western states and the U.S. Forest Service or Bureau of Land Management to complete forest and rangeland health projects on private, State and Federal lands.

Almost half of the land in Wyoming is managed by Federal agencies. Our State has a long history of forestry, grazing and multiple use of public lands. Recreation and tourism on our public lands is a pillar of our economy. The people of Wyoming are proud stewards of our public lands and our state depends on the public lands for our future.

It is my goal to enact common-sense policies to address the management needs of our Federal lands. Wyoming forests, like those of all states across the West, are facing management challenges. We have an opportunity to meet those challenges with policies that encourage forest and rangeland health. Preventing forest fires, removing invasive species, addressing watershed health and conserving wildlife habitat require "big picture" thinking. We have to address these threats at the landscape level.

Resource challenges do not stop at fencelines, and neither should our policy.

The Good Neighbor Forestry Act would set in place a cooperative management policy. This act would allow the State of Wyoming to go forward with forest and rangeland health projects as agreed to by the U.S. Forest Service or Bureau of Land Management. With this authority, the agencies can cooperatively pursue projects that address landscape-level needs. This authority would provide on-the-ground management that our private, State, and Federal lands desperately need.

I am pleased to introduce this legislation today. It is of great importance to the people of Wyoming, and public land communities across the West. I hope the U.S. Senate will proceed quickly with its passage to enhance western states' response to growing management challenges.

The people of Wyoming demand on-the-ground results. This legislation can deliver those results. I hope we can pass it expeditiously.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1122

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Good Neighbor Forestry Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE STATE.—The term "eligible State" means a State that contains National Forest System land or Bureau of Land Management land located west of the 100th meridian.

(2) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture, with respect to National Forest System land; or

(B) the Secretary of the Interior, with respect to Bureau of Land Management land.

(3) **STATE FORESTER.**—The term “State forester” means the head of a State agency with jurisdiction over State forestry programs in an eligible State.

### SEC. 3. COOPERATIVE AGREEMENTS AND CONTRACTS.

(a) **IN GENERAL.**—The Secretary may enter into a cooperative agreement or contract (including a sole source contract) with a State forester to authorize the State forester to provide the forest, rangeland, and watershed restoration and protection services described in subsection (b) on National Forest System land or Bureau of Land Management land, as applicable, in the eligible State.

(b) **AUTHORIZED SERVICES.**—The forest, rangeland, and watershed restoration and protection services referred to in subsection (a) include the conduct of—

- (1) activities to treat insect infected trees;
- (2) activities to reduce hazardous fuels; and
- (3) any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat.

(c) **STATE AS AGENT.**—Except as provided in subsection (f), a cooperative agreement or contract entered into under subsection (a) may authorize the State forester to serve as the agent for the Secretary in providing the restoration and protection services authorized under subsection (a).

(d) **SUBCONTRACTS.**—In accordance with applicable contract procedures for the eligible State, a State forester may enter into subcontracts to provide the restoration and protection services authorized under a cooperative agreement or contract entered into under subsection (a).

(e) **TIMBER SALES.**—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to services performed under a cooperative agreement or contract entered into under subsection (a).

(f) **RETENTION OF NEPA RESPONSIBILITIES.**—Any decision required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any restoration and protection services to be provided under this Act by a State forester on National Forest System land or Bureau of Land Management land, as applicable, shall not be delegated to a State forester or any other officer or employee of the eligible State.

(g) **APPLICABLE LAW.**—The restoration and protection services to be provided under this Act shall be carried out on a project-to-project basis under existing authorities of the Forest Service or Bureau of Land Management, as applicable.

### SEC. 4. TERMINATION OF EFFECTIVENESS.

(a) **IN GENERAL.**—The authority of the Secretary to enter into cooperative agreements and contracts under this Act terminates on September 30, 2018.

(b) **CONTRACT DATE.**—The termination date of a cooperative agreement or contract entered into under this Act shall not extend beyond September 30, 2019.

By Ms. COLLINS (for herself, Mrs. LINCOLN, and Mr. BOND):

S. 1123. A bill to provide for a five-year payment increase under the Medicare program for home health services furnished in a rural area; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today with my colleagues from Arkansas and Missouri to introduce the Medi-

care Rural Home Health Payment Fairness Act to reinstate the 5 percent add-on payment for home health services in rural areas that expired on January 1, 2007.

Home health has become an increasingly important part of our health care system. The kinds of highly skilled—and often technically complex—services that our Nation’s home health caregivers provide have enabled millions of our most frail and vulnerable older and disabled citizens to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes. I have accompanied several of Maine’s caring home health nurses on their visits to some of their patients. I have seen first hand the difference that they are making for Maine’s elderly.

Surveys have shown that the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required to cover long distances between patients, higher transportation expenses, and other factors. Because of the longer travel times, rural caregivers are unable to make as many visits in a day as their urban counterparts. The executive director of the Visiting Nurses of Aroostook in Northern Maine, where I am from, tells me her agency covers 6,600 square miles with a total population of only 73,000. This agency’s costs are understandably much higher than other agencies due to the long distances the staff must drive to see clients. Moreover, the staff is not able to see as many patients due to time on the road.

Agencies in rural areas are also frequently smaller than their urban counterparts, which means that their relative costs are higher. Smaller agencies with fewer patients and fewer visits mean that fixed costs, particularly those associated with meeting regulatory requirements, are spread over a much smaller number of patients and visits, increasing overall per-patient and per-visit costs.

Moreover, in many rural areas, home health agencies are the primary caregivers for homebound beneficiaries with limited access to transportation. These rural patients often require more time and care than their urban counterparts, and are understandably more expensive for agencies to serve. If the extra rural payment is not extended, agencies may be forced to make decisions not to accept rural patients with greater care needs. That could translate into less access to health care for ill, homebound seniors. The result would likely be that these seniors would be hospitalized more frequently and would have to seek care in nursing homes, adding considerable cost to the system.

Failure to extend the rural add-on payment will only put more pressure on rural home health agencies that are

already operating on very narrow margins and could force some of the agencies to close their doors altogether. Many home health agencies operating in rural areas are the only home health providers in large geographic areas. If any of these agencies were forced to close, the Medicare patients in that region could lose all of their access to home care.

The legislation we are introducing today will extend the rural add-on for 5 years and help to ensure that Medicare patients in rural areas continue to have access to the home health services they need. I urge all of our colleagues to join us as cosponsors.

By Mr. DURBIN:

S. 1125. A bill to amend the National Voter Registration Act of 1993 to provide for the treatment of institutions of higher education as voter registration agencies; to the Committee on Rules and Administration.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1125

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Student Voter Opportunity To Encourage Registration Act of 2009” or the “Student VOTER Act of 2009”.

### SEC. 2. TREATMENT OF UNIVERSITIES AS VOTER REGISTRATION AGENCIES.

(a) **IN GENERAL.**—Section 7(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–5(a)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) each institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) in the State that receives Federal funds.”; and

(2) in paragraph (6)(A), by inserting “or, in the case of an institution of higher education, with each registration of a student for enrollment in a course of study” after “assistance.”

(b) **AMENDMENT TO HIGHER EDUCATION ACT OF 1965.**—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by striking paragraph (23).

By Mr. REID:

S. 1126. A bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America and for other purposes; to the Select Committee on Intelligence.

Mr. REID. Mr. President, it has been said that “The nation which forgets its defenders will itself be forgotten.” I believe it. This is why I rise today to again introduce legislation to help correct an injustice for those who have served our country in times of crisis.



Many people have never heard of Air America. This top-secret passenger and cargo airline was a Government corporation owned and operated by the Central Intelligence Agency during the Cold War.

Forty-eight years ago, the first Air America pilots were killed in covert military action in Laos. On May 30th, 1961, Charles Mateer and Walter Wizbowski crashed their helicopter in rugged terrain and unpredictable weather while trying to land in order to resupply besieged Hmong during the Cold War.

Air America employed several hundred U.S. citizens like Mr. Mateer and Wizbowski to conduct covert missions throughout the Cold War. During the Vietnam War, they carried nearly 12,000 government-sponsored passengers each month including troops and refugees. During the final days of the Vietnam war, Air America helicopters evacuated some 41,000 Americans, diplomats and friendly Vietnamese. Throughout the Cold War, numerous Air Force and Navy pilots were saved by heroic Air America helicopter rescue missions after being shot down behind enemy lines.

Air America personnel paid a costly burden to run these dangerous missions. Sadly, at least 86 American pilots were killed in action while operating aircraft for our Government. In all, Air America had 240 pilots and crewmembers killed in action.

In order to be able to conduct these high-risk missions, Air America operations were conducted by the CIA with strict secrecy. The Government ownership of the company was never acknowledged at the time and was not known to the public. Only a small number of officials were aware that, as employees of the CIA, Air America personnel were entitled to standard benefits provided to Federal employees.

Despite their heroic service to our nation, Air America employees are now being neglected by our Government.

Frustrated by Federal intransience and bureaucracy, former Air America employees from Nevada came to me and requested congressional assistance to help them obtain Federal civil service retirement benefits.

Today, the legislation I am introducing helps move us closer to correcting this injustice.

Mr. President, the "Air America Veteran's Act" recognizes these employees by requiring the Director of National Intelligence to submit a report to Congress about the number of Air America beneficiaries and the benefits owed to them. This report is critical because it will provide the justification Congress needs to ensure that these veterans are treated equitably and fairly by their Government.

I encourage all of my colleagues to join me in cosponsoring this important legislation to correct this injustice.

These great Americans have earned these benefits and the gratitude of a thankful Nation. Now is our chance to honor their service and begin recognizing their sacrifices.

Mr. President, I ask unanimous consent that the text of the bill be printed in RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1126

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Air America Veterans Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) AIR AMERICA.—The term "Air America" means Air America, Incorporated.

(2) ASSOCIATED COMPANY.—The term "associated company" means any entity associated with, predecessor to, or subsidiary to Air America, including Air Asia Company Limited, CAT Incorporated, Civil Air Transport Company Limited, and the Pacific Division of Southern Air Transport during the period when such an entity was owned and controlled by the United States Government.

#### SEC. 3. REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such citizens prior to 1977 as employees of Air America or an associated company during a period when Air America or the associated company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) The history of Air America and the associated companies prior to 1977, including a description of—

(A) the relationship between Air America and the associated companies and the Central Intelligence Agency or any other element of the United States Government;

(B) the workforce of Air America and the associated companies;

(C) the missions performed by Air America, the associated companies, and their employees for the United States; and

(D) the casualties suffered by employees of Air America and the associated companies in the course of their employment.

(2) A description of—

(A) the retirement benefits contracted for or promised to the employees of Air America and the associated companies prior to 1977;

(B) the contributions made by such employees for such benefits;

(C) the retirement benefits actually paid such employees;

(D) the entitlement of such employees to the payment of future retirement benefits; and

(E) the likelihood that such employees will receive any future retirement benefits.

(3) An assessment of the difference between—

(A) the retirement benefits that former employees of Air America and the associated

companies have received or will receive by virtue of their employment with Air America and the associated companies; and

(B) the retirement benefits that such employees would have received or be eligible to receive if such employment was deemed to be employment by the United States Government and their service during such employment was credited as Federal service for the purpose of Federal retirement benefits.

(4)(A) Any recommendations regarding the advisability of legislative action to treat such employment as Federal service for the purpose of Federal retirement benefits in light of the relationship between Air America and the associated companies and the United States Government and the services and sacrifices of such employees to and for the United States.

(B) If legislative action is considered advisable under subparagraph (A), a proposal for such action and an assessment of its costs.

(5) The opinions of the Director of the Central Intelligence Agency, if any, on any matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(c) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

(d) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1129. A bill to authorize the Secretary of Education to award grants to local educational agencies to improve college enrollment; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, an educated workforce is crucial to the success of the American economy. A recent report from the consulting firm McKinsey, "The Economic Impact of the Achievement Gap in America's Schools," concludes that if America had raised the educational attainment of our students to those of high-performing nations like Finland and South Korea between 1983 and 1998, U.S. G.D.P. in 2008 would have been between \$1.3 trillion and \$2.3 trillion higher than it is today. If the gap between low-income American students and American students of higher means had been narrowed, G.D.P. in 2008 would have been \$400 billion to \$670 billion higher.

If we want to be economically competitive and avoid future recessions, we need to close the achievement gap in education for all Americans. In his first speech to Congress, President Obama set a goal of having the highest college graduation rate in the world by 2020. Too many students are not receiving a college education, and we will have to do far better to reach the President's goal.

Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students will earn a college degree by 2012, compared to 68 percent of

the highest income group. Every student who wants to go to college should have that opportunity, and we should provide them with the tools they need.

Today, I am introducing the Pathways to College Act with Senator BURR, which creates grants for school districts to help them increase the number of low-income students who are entering and succeeding in college.

Lack of guidance and information about college has a real effect on students in poor schools. The Consortium on Chicago School Research released a report last year, "Potholes on the Road to College," that looks at the difficulties Chicago Public School students face during the college application process. The Consortium discovered that only 41 percent of Chicago Public School students who wanted to go to college took the steps necessary to apply to and enroll in a 4-year college. Only one-third of students enrolled in a college that matched their qualifications. Of the students who had the grades and test scores to attend a selective college, 29 percent went to a community college or skipped college entirely.

The Pathways to College Act would create a grant program for school districts serving low-income students to increase their college-enrollment rates. The Consortium's "Potholes" report found that the most important factor in whether students enroll in a four-year college is if they attended a school where teachers create a strong college-going culture and help students with the process of applying. The Pathways to College Act would provide the funding to help school districts improve the college-going culture in schools and guide students through the college admissions process.

The Pathways to College Act provides flexibility to school districts to achieve higher college enrollment rates, but requires that each school accurately track their results so we can learn from what works. Chicago Public Schools is doing a great job—both in tackling the problem and in documenting progress. Under the leadership of Arne Duncan, Chicago Public Schools responded aggressively to the "Potholes" report.

A team of postsecondary coaches were deployed in high schools to work with students and counselors. To ensure that financial aid is not a roadblock, FAFSA completion rates are tracked so that counselors can follow-up with students. A spring-break college tour took 500 students to see colleges across the country. Because Chicago Public Schools tracks its college enrollment rates, we know that their efforts are working.

Half of the 2007 graduating class enrolled in college, an increase of 6.5 percent in 4 years. The national increase was less than 1 percent in the same time-frame. Nationally, the number of

African-American graduates going to college has decreased by 6 percent over the last 4 years while the Chicago rate has increased by almost 8 percent.

Applying to college is not easy. Low-income students often need the most help to achieve their college dreams. When schools focus on college and provide the tools to get there, students make the connection between the work they are doing now and their future goals in college and life. Students in those schools are more likely enroll in college and are also more likely to work hard in high school to be prepared for college when they arrive. The bill we are introducing today tries to ensure that lack of information never prevents a student from achieving his or her college dream.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Pathways to College Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) An educated workforce is crucial to the success of the United States economy. Access to higher education for all students is critical to maintaining an educated workforce. More than 80 percent of the 23,000,000 jobs that will be created in the next 10 years will require postsecondary education. Only 36 percent of all 18- to 24-year olds are currently enrolled in postsecondary education.

(2) Workers with bachelor's degrees earn on average \$17,000 more annually than workers with only high school diplomas. Workers who earn bachelor's degrees can be expected to earn \$1,000,000 more over a lifetime than those who only finished high school.

(3) In order to prepare students for college, all schools should—

(A) provide student guidance to engage students in college and career awareness; and

(B) ensure that students enroll in a rigorous curriculum to prepare for postsecondary education.

(4) The Department of Education reports that the average student-to-counselor ratio in high schools is 315:1. This is far higher than the ratio recommended by the American School Counselor Association, which is 250:1. While school counselors at private schools spend an average of 58 percent of their time on postsecondary education counseling, school counselors in public schools spend an average of 25 percent of their time on postsecondary education counseling.

(5) While just 57 percent of students from the lowest income quartile enroll in college, 87 percent of students from the top income quartile enroll. Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students are projected to attain a bachelor's degree by 2012, compared to 68 percent of the highest income group, according to the Advisory Committee on Student Financial Assistance in 2006.

(6) A recent report by the Consortium on Chicago School Research found that only 41

percent of Chicago public school students who aspire to go to college took the steps necessary to apply to and enroll in a 4-year institution of higher education. The report also reveals that only 1/3 of Chicago students who want to attend a 4-year institution of higher education enroll in a school that matches their qualifications. Even among students qualified to attend a selective college, 29 percent enrolled in a community college or did not enroll at all.

(7) The Consortium found that many Chicago public school students do not complete the Free Application for Federal Student Aid, even though students who apply for Federal financial aid are 50 percent more likely to enroll in college. Sixty-five percent of public secondary school counselors at low-income schools believe that students and parents are discouraged from considering college as an option due to lack of knowledge about financial aid.

(8) Low-income and first-generation families often overestimate the cost of tuition and underestimate available aid; students from these backgrounds have access to fewer college application resources and financial aid resources than other groups, and are less likely to fulfill their postsecondary plans as a result.

(9) College preparation intervention programs can double the college-going rates for at-risk youth, can expand students' educational aspirations, and can boost college enrollment and graduation rates.

#### SEC. 3. GRANT PROGRAM.

(a) DEFINITIONS.—In this Act:

(1) COLLEGE-GOING RATE.—The term "college-going rate" means the percentage of high school graduates who enroll at an institution of higher education in the school year immediately following graduation from high school.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "eligible local educational agency" means a local educational agency in which a majority of the high schools served by the agency are high-need high schools.

(3) HIGH-NEED HIGH SCHOOL.—The term "high-need high school" means a high school in which not less than 50 percent of the students enrolled in the school are—

(A) eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

(C) in families eligible for assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(4) HIGH SCHOOL.—The term "high school" means a nonprofit institutional day or residential school, including a public charter high school, that provides high school education, as determined under State law.

(5) HIGH SCHOOL GRADUATION RATE.—The term "high school graduation rate"—

(A) means the percentage of students who graduate from high school with a regular diploma in the standard number of years; and

(B) is clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(7) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning

given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) PARENT.—The term “parent” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECRETARY.—The term “Secretary” means the Secretary of Education.

(b) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The Secretary is authorized to award grants, on a competitive basis, to eligible local educational agencies to carry out the activities described in this section.

(c) DURATION.—Grants awarded under this section shall be 5 years in duration.

(d) DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure that the grants are distributed among the different geographic regions of the United States, and among eligible local educational agencies serving urban and rural areas.

(e) APPLICATIONS.—

(1) IN GENERAL.—Each eligible local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of the program to be carried out with grant funds and—

(A) a detailed description of the high school population to be targeted by the program, the particular college-access needs of such population, and the resources available for meeting such needs;

(B) measurable objectives of the program, including goals for increasing the number of college applications submitted by each student and the number of students submitting applications, increasing Free Application for Federal Student Aid completion rates, and increasing school-wide college-going rates across the local educational agency;

(C) a description of the local educational agency's plan to work cooperatively, where applicable, with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), including the extent to which the agency commits to sharing facilities, providing access to students, and developing compatible record-keeping systems;

(D) a description of the activities, services, and training to be provided by the program, including a plan to provide structure and support for all students in the college search, planning, and application process;

(E) a description of the methods to be used to evaluate the outcomes and effectiveness of the program;

(F) an assurance that grant funds will be used to supplement, and not supplant, any other Federal, State, or local funds available to carry out activities of the type carried out under the grant;

(G) an explanation of the method used for calculating college enrollment rates for each high school served by the eligible local educational agency that is based on externally verified data, and, when possible, aligned with existing State or local methods;

(H) a plan to make the program sustainable over time, including the use of matching funds from non-Federal sources; and

(I) a description of the local educational agency's plan to work cooperatively, where applicable, with the program funded under part H of title VIII of the Higher Education

Act of 1965 (20 U.S.C. 1161h et seq.), including the extent to which the agency commits to using and leveraging—

(i) the needs assessment and recommendations;

(ii) the model for measuring college enrollment; and

(iii) comprehensive services.

(3) METHOD OF CALCULATING ENROLLMENT RATES.—

(A) IN GENERAL.—A method included in an application under paragraph (2)(G)—

(i) shall, at a minimum, track students' first-time enrollment in institutions of higher education; and

(ii) may track progress toward completion of a postsecondary degree.

(B) DEVELOPMENT IN CONJUNCTION.—An eligible local educational agency may develop a method pursuant to paragraph (2)(G) in conjunction with an existing public or private entity that currently maintains such a method.

(f) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications from eligible local educational agencies serving schools with the highest percentages of poverty.

(g) USE OF FUNDS.—

(1) IN GENERAL.—An eligible local educational agency that receives a grant under this section shall develop and implement, or expand, a program to increase the number of low-income students who enroll in postsecondary educational institutions, including institutions with competitive admissions criteria.

(2) REQUIRED USE OF FUNDS.—Each program funded under this section shall—

(A) provide professional development to high school teachers and school counselors in postsecondary education advising;

(B) implement a comprehensive college guidance program for all students in a high school served by an eligible local educational agency under this section that—

(i) ensures that all students and their parents, are regularly notified throughout the students' time in high school, beginning in the first year of high school, of—

(I) high school graduation requirements;

(II) college entrance requirements;

(III) the economic and social benefits of higher education;

(IV) college expenses, including information about expenses by institutional type, differences between sticker price and net price, and expenses beyond tuition; and

(V) the resources for paying for college, including the availability, eligibility, and variety of financial aid;

(ii) provides assistance to students in registering for and preparing for college entrance tests;

(iii) provides one-on-one guidance and assistance to students in applying to an institution of higher education and in applying for Federal financial aid assistance and other State, local, and private financial aid assistance and scholarships;

(iv) provides opportunities for students to explore postsecondary opportunities outside of the school setting, such as college fairs, career fairs, college tours, workplace visits, or other similar activities; and

(v) provides not less than 1 meeting for each student, not later than the first semester of the first year of high school, with a school counselor, college access personnel (including personnel involved in programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and

1070a–21 et seq.)), trained teacher, or other professional or organization, such as a community-based organization, approved by the school, to discuss postsecondary options, outline postsecondary goals, and create a plan to achieve those goals, and provides not less than 2 meetings in each year to discuss progress on the plan;

(C) ensure that each high school served by the eligible local educational agency develops a comprehensive, school-wide plan of action to strengthen the college-going culture within the high school; and

(D) create or maintain a postsecondary access center in the school setting that provides information on colleges and universities, career opportunities, and financial aid options and provide a setting in which professionals working in college access programs, such as those funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), can meet with students.

(3) ALLOWABLE USE OF FUNDS.—Each program funded under this section may—

(A) establish mandatory postsecondary planning classes for high school students to assist in the college preparation and application process;

(B) hire and train postsecondary coaches with expertise in the college-going process to supplement existing school counselors;

(C) increase the number of school counselors who specialize in the college-going process serving students;

(D) train student leaders to assist in the creation of a college-going culture in their schools;

(E) establish partnerships with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), and with community and nonprofit organizations to increase college-going rates at high schools served by the eligible local educational agency;

(F) provide long-term postsecondary follow up with graduates of the high schools served by the eligible local educational agencies, including increasing alumni involvement in mentoring and advising roles within the high school; and

(G) deliver college and career planning curriculum as a stand-alone course, or embedded in other classes, or delivered through the guidance curriculum by the school counselor for all students in high school.

(h) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to carry out the activities described in this section.

(i) TECHNICAL ASSISTANCE.—The Secretary, directly or through contracting through a full and open process with 1 or more organizations that have demonstrated experience providing technical assistance to raise school-wide college-going rates in local educational agencies in not less than 3 States, shall provide technical assistance to grantees in carrying out this section. The technical assistance shall—

(1) provide assistance in the calculation and analysis of college-going rates for all grant recipients;

(2) provide semi-annual analysis to each grant recipient recommending best practices based on a comparison of the recipient's data with that of high schools with similar demographics; and

(3) provide annual best practices conferences for all grant recipients.

(j) **REPORTING REQUIREMENTS.**—Each eligible local educational agency receiving a grant under this section shall collect and report annually to the Secretary such information for the local educational agency and for each high school assisted under this section on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

(1) the number and percentage of students who enroll in an institution of higher education in the school year immediately following the students' high school graduation as measured by externally verified school-wide college enrollment data;

(2) the number and percentage of students who graduate from high school on time with a regular high school diploma;

(3) the number and percentage of students, at each grade level, who are on track to graduate from high school on time and with a regular high school diploma;

(4) the number and percentage of senior high school students who apply to an institution of higher education and the average number of applications completed and submitted by students;

(5) the number and percentage of senior high school students who file the Free Application for Federal Student Aid forms;

(6) the number and percentage of students, in grade 10, who take early admissions assessments, such as the PSAT;

(7) the number and percentage of students, in grades 11 and 12, who take the SAT or ACT, and the students' mean scores on such assessments;

(8) where data are available, the number and percentage of students enrolled in remedial mathematics or English courses during their freshman year at an institution of higher education;

(9) the number and percentage of students, in grades 11 and 12, enrolled in not less than 2 of the following:

(A) a dual credit course; or

(B) an Advanced Placement or International Baccalaureate course; and

(10) the number and percentage of students who meet or exceed State reading or language arts, mathematics, or science standards, as measured by State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(k) **REPORTING OF DATA.**—Each eligible local educational agency receiving a grant under this section shall report to the Secretary, where possible, the information required under subsection (j) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(l) **EVALUATIONS BY GRANTEES.**—Each eligible local educational agency that receives a grant under this section shall—

(1) conduct periodic evaluations of the effectiveness of the activities carried out under the grant toward increasing school-wide college-going rates;

(2) use such evaluations to refine and improve activities conducted with the grant and the performance measures for such activities; and

(3) make the results of such evaluations publicly available, including by providing public notice of such availability.

(m) **REPORT.**—From the amount appropriated for any fiscal year, the Secretary shall reserve such sums as may be necessary—

(1) to conduct an independent evaluation, by grant or by contract, of the programs car-

ried out under this section, which shall include an assessment of the impact of the program on high school graduation rates and college-going rates; and

(2) to prepare and submit a report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

(n) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2010 and each of the 5 succeeding fiscal years.

By Ms. SNOWE (for herself, Mr. CONRAD, Mr. WYDEN, and Ms. COLLINS):

S. 1130. A bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases; to the Committee on Finance.

Ms. SNOWE. Mr. President, today, I rise to introduce the Medicaid Emergency Psychiatric Care Demonstration Project Act. I am pleased to be joined by Senators CONRAD, WYDEN and COLLINS in this effort. We are introducing this legislation to address an unfair conflict in two Federal laws—the Institution for Mental Diseases, IMD, Exclusion and The Emergency Medical and Labor Treatment Act, EMTALA.

EMTALA requires all hospitals, including freestanding psychiatric hospitals, to stabilize patients who come in with an emergency medical condition. At the same time, under an outdated Medicaid provision called the IMD exclusion, adult Medicaid patients, 21–64, are not covered for inpatient psychiatric care in a freestanding psychiatric hospital, but are covered in a general hospital psychiatric unit. Yet both types of hospitals are required to stabilize any patient—which may require hospitalization—who comes to them for emergency care regardless of ability to pay.

In order to correct this inequity, we have introduced the Medicaid Emergency Psychiatric Care Demonstration Project Act. This legislation would establish a 3-year, demonstration program capped at \$75 million, which would allow states to apply for federal Medicaid matching funds to demonstrate that covering Medicaid patients in freestanding, non-governmental psychiatric hospitals will improve timely access to emergency psychiatric care, reduce the burden on overcrowded emergency rooms, and improve the efficiency and cost-effectiveness of inpatient psychiatric care. Our legislation helps alleviate a problem where patients with significant mental health needs are often forced to endure prolonged stays in emergency rooms and hospitals without the psychiatric attention they require.

The measure is supported by 27 national healthcare organizations, in-

cluding the National Alliance for the Mentally Ill—the country's largest advocacy organization for the mentally ill, the National Association of Psychiatric Health Systems, the American Hospital Association, the Federation of American Hospitals, the American Psychiatric Association, the National Association of County Behavioral Healthcare Directors, the American College of Emergency Physicians, and the Emergency Nurses Association.

By Mr. WYDEN (for himself, Mr. BURR, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 1131. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am reintroducing the Independence at Home Act together with colleagues in the Senate and the House. Mr. BURR, Mr. WHITEHOUSE, Mr. CARDIN and I are proud to join forces with our House colleagues, Mr. MARKEY, and his cosponsor, Mr. SMITH, to move forward with this important legislation to provide a coordinated team-based approach to primary care for chronically ill Medicare beneficiaries in their own homes. Returning to basics like paying doctors for home visits to vulnerable patients, and following them through the course of their illness while saving taxpayers money, is the kind of legislation I am proud to introduce.

The Independence at Home, or IAH, Act comes at the perfect time. The American people and the federal government need to save money on health care, while having more choices and getting better results. This delivery model has a proven track record of doing just this. Similar "house calls" programs, currently operating across the country, are reducing costs, improving care quality, and helping people remain independent as long as possible. This delivery model is also providing much needed relief to caregivers who are often juggling a full-time job while caring for their very ill family member. This is medical care Americans want and deserve.

It is not too often that health policy has good outcome results before the pilot program phase begins, but that is exactly the case with the IAH Act. Similar home health delivery models, such as the Veterans Administration's Home-Based Primary Care, Boston, Massachusetts' Urban Medical's House Calls Program, and Portland, Oregon's Housecall Providers have been so successful in improving quality and reducing costs, that our bill guarantees 5 percent savings to Medicare.

These successful home health programs have demonstrated that the optimal way to address the challenges of caring for persons with chronic conditions is to better integrate their care and to work with their caregivers. Medical problems are best managed and coordinated by health care professionals who know their patients, their problems, their medications, and their other health care providers. Using this approach, the Independence at Home Act provides a better, more cost-effective way for Medicare patients with chronic conditions to get the care they need. It further advances Medicare reform by creating incentives for providers to develop better and lower cost health care for the highest cost beneficiaries.

This bipartisan, bicameral bill would create a pilot program to improve in-home care availability for beneficiaries with multiple chronic conditions. This is a win-win for all involved. It will help people remain in their homes for longer periods of time, it will improve the quality of care, and physicians will receive a bundled payment for coordinating this care with a team of healthcare providers.

More specifically, the Independence at Home Act establishes a two-phase three-year Medicare pilot project that uses a patient-centered health care delivery model to ensure that Medicare beneficiaries with multiple chronic conditions can remain independent for as long as possible in a comfortable environment. By incorporating lessons from past Medicare demonstration projects and from current home health models, this bill provides for programs that hold providers accountable for quality, mandatory annual minimum savings, and patient satisfaction. Savings are generated by providing better care to Medicare beneficiaries with multiple chronic conditions and reducing duplicative and unnecessary services, hospitalization, and other health care costs.

Persons eligible for the program include Medicare beneficiaries with functional impairments, two or more chronic health problems, and recent use of other health services. Each IAH patient will receive a comprehensive assessment at least annually. The assessment will inform a plan for care that is directed by an IAH physician, nurse-practitioner, or physician's assistant. The plan is developed by an IAH plan coordinator in collaboration with the patient and caregiver. Medication management is provided by pharmacists due to their expertise in pharmacology, and electronic medical records and health information technology will be employed to improve patient care and reduce costs.

The two-phase pilot program will take place in the thirteen highest-cost states plus thirteen additional states. After review of Phase I and the evalua-

tion report, the Secretary may elect to expand the program nationwide so it could then become an ongoing benefit for Medicare beneficiaries.

A shared-savings agreement incentive program allows this innovative delivery model to attract and maintain providers. The IAH organization will be required to demonstrate savings of at least 5 percent annually compared with the costs of serving non-participating Medicare chronically ill beneficiaries. The IAH organization may keep 80 percent of savings beyond the required 5 percent savings as an incentive to maximize the financial benefits of being an IAH organization. Any savings beyond 25 percent would be split, with 50 percent directed to the IAH organization and 50 percent to Medicare. In Phase II, the Secretary may modify the payment incentive structure to increase savings to the Medicare Trust Fund only if it will not impede access to IAH services to eligible beneficiaries.

I would like to thank my fellow Senate cosponsors, RICHARD BURR, SHELTON WHITEHOUSE, and BENJAMIN CARDIN, and my cosponsor in the House, Representative ED MARKEY, and his cosponsor, CHRIS SMITH, for their support. I also thank Rahm Emanuel for his support of IAH in the last Congress. I would also like to thank all our staff who worked so hard on this legislation, particularly Gregory Hinrichsen in my office. Finally, I would like to thank the following groups for voicing their support for this legislation: The American Academy of Home Care Physicians; The American Academy of Neurology; The AARP; The Alzheimer's Association; The Alzheimer's Foundation of America; The American Academy of Nurse Practitioners; The American College of Nurse Practitioners; American Academy of Physician Assistants; The American Society of Consultant Pharmacists; The National Family Caregivers Association; The Family Caregiver Alliance/National Center on Caregiving; The American Association of Homes and Services for the Aging; The Housecalls Doctors of Texas; The Maryland-National Capital Home Care Association; The Visiting Nurse Associations of America; Housecall Providers, Inc. of Portland, OR; Intel Corp.; The National Council on Aging; U.S. PIRG; Massachusetts Neurologic Society; Naples Health Care Associates; Urban Medical House Calls of Boston, MA; MD2U Doctors Who Make Housecalls (Louisville, KY); Wyeth Pharmaceuticals.

I urge all of my colleagues to support this important legislation to help Medicare patients get better care at lower cost.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows;

S. 1131

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Independence at Home Act of 2009".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the November 2007 Congressional Budget Office Long Term Outlook for Health Care Spending, unless changes are made to the way health care is delivered, growing demand for resources caused by rising health care costs and to a lesser extent the nation's expanding elderly population will confront Americans with increasingly difficult choices between health care and other priorities. However, opportunities exist to constrain health care costs without adverse health care consequences.

(2) Medicare beneficiaries with multiple chronic conditions account for a disproportionate share of Medicare spending compared to their representation in the overall Medicare population, and evidence suggests that such patients often receive poorly coordinated care, including conflicting information from health providers and different diagnoses of the same symptoms.

(3) People with chronic conditions account for 76 percent of all hospital admissions, 88 percent of all prescriptions filled, and 72 percent of physician visits.

(4) Studies show that hospital utilization and emergency room visits for patients with multiple chronic conditions can be reduced and significant savings can be achieved through the use of interdisciplinary teams of health care professionals caring for patients in their places of residence.

(5) The Independence at Home Act creates a chronic care coordination pilot project to bring primary care medical services to the highest cost Medicare beneficiaries with multiple chronic conditions in their home or place of residence so that they may be as independent as possible for as long as possible in a comfortable setting.

(6) The Independence at Home Act generates savings by providing better, more coordinated care across all treatment settings to the highest cost Medicare beneficiaries with multiple chronic conditions, reducing duplicative and unnecessary services, and avoiding unnecessary hospitalizations, nursing home admissions, and emergency room visits.

(7) The Independence at Home Act holds providers accountable for improving beneficiary outcomes, ensuring patient and caregiver satisfaction, and achieving cost savings to Medicare on an annual basis.

(8) The Independence at Home Act creates incentives for practitioners and providers to develop methods and technologies for providing better and lower cost health care to the highest cost Medicare beneficiaries with the greatest incentives provided in the case of highest cost beneficiaries.

(9) The Independence at Home Act contains the central elements of proven home-based primary care delivery models that have been utilized for years by the Department of Veterans Affairs and "house calls" programs across the country to deliver coordinated care for chronic conditions in the comfort of a patient's home or place of residence.

**SEC. 3. ESTABLISHMENT OF VOLUNTARY INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM.**

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (c) of section 1807 (42 U.S.C. 1395b-8) to read as follows:

“(c) INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT.—A pilot project for Independence at Home chronic care coordination programs for high cost Medicare beneficiaries with multiple chronic conditions is set forth in section 1807A.”; and

(2) by inserting after section 1807 the following new section:

“INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT

“SEC. 1807A. (a) IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary shall provide for the phased in development, implementation, and evaluation of Independence at Home programs described in this section to meet the following objectives:

“(A) To improve patient outcomes, compared to comparable beneficiaries who do not participate in such a program, through reduced hospitalizations, nursing home admissions, or emergency room visits, increased symptom self-management, and similar results.

“(B) To improve satisfaction of patients and caregivers, as demonstrated through a quantitative pre-test and post-test survey developed by the Secretary that measures patient and caregiver satisfaction of care coordination, educational information, timeliness of response, and similar care features.

“(C) To achieve a minimum of 5 percent cost savings in the care of beneficiaries under this title suffering from multiple high cost chronic diseases.

“(2) INITIAL IMPLEMENTATION (PHASE I).—

“(A) IN GENERAL.—In carrying out this section and to the extent possible, the Secretary shall enter into agreements with at least two unaffiliated Independence at Home organizations in each of the 13 highest cost States (based on average per capita expenditures per State under this title), in the District of Columbia, and in 13 additional States that are representative of other regions of the United States and include medically underserved rural and urban areas, to provide chronic care coordination services for a period of three years or until those agreements are terminated by the Secretary. Such agreements under this paragraph shall continue in effect until the Secretary makes the determination described in paragraph (3) or until those agreements are supplanted by new agreements under such paragraph. The phase of implementation under this paragraph is referred to in this section as the ‘initial implementation’ phase or ‘phase I’.

“(B) PREFERENCE.—In selecting Independence at Home organizations under this paragraph, the Secretary shall give a preference, to the extent practicable, to organizations that—

“(i) have documented experience in furnishing the types of services covered by this section to eligible beneficiaries in the home or place of residence using qualified teams of health care professionals that are directed by individuals who have the qualifications of Independence at Home physicians, or in cases when such direction is provided by an Independence at Home physician to a physician assistant who has at least one year of experience providing gerontological medical and related services for chronically ill individuals in their homes, or other similar qual-

ification as determined by the Secretary to be appropriate for the Independence at Home program, by the physician assistant acting under the supervision of an Independence at Home physician and as permitted under State law, or Independence at Home nurse practitioners;

“(ii) have the capacity to provide services covered by this section to at least 150 eligible beneficiaries; and

“(iii) use electronic medical records, health information technology, and individualized plans of care.

“(3) EXPANDED IMPLEMENTATION PHASE (PHASE II).—

“(A) IN GENERAL.—For periods beginning after the end of the 3-year initial implementation period under paragraph (2), subject to subparagraph (B), the Secretary shall renew agreements described in paragraph (2) with Independence at Home organization that have met all 3 objectives specified in paragraph (1) and enter into agreements described in paragraph (2) with any other organization that is located in any State or the District of Columbia, that was not an Independence at Home organization during the initial implementation period, and that meets the qualifications of an Independence at Home organization under this section. The Secretary may terminate and not renew such an agreement with an organization that has not met such objectives during the initial implementation period. The phase of implementation under this paragraph is referred to in this section as the ‘expanded implementation’ phase or ‘phase II’.

“(B) CONTINGENCY.—The expanded implementation under subparagraph (A) shall not occur if the Secretary finds, not later than 60 days after the date of issuance of the independent evaluation under paragraph (5), that continuation of the Independence at Home project is not in the best interest of beneficiaries under this title or in the best interest of Federal health care programs.

“(4) ELIGIBILITY.—No organization shall be prohibited from participating under this section during expanded implementation phase under paragraph (3) (and, to the extent practicable, during initial implementation phase under paragraph (2)) because of its small size as long as it meets the eligibility requirements of this section.

“(5) INDEPENDENT EVALUATIONS.—

“(A) IN GENERAL.—The Secretary shall contract for an independent evaluation of the initial implementation phase under paragraph (2) with an interim report to Congress to be provided on such evaluation as soon as practicable after the first year of such phase and a final report to be provided to Congress as soon as practicable following the conclusion of the initial implementation phase, but not later than 6 months following the end of such phase. Such an evaluation shall be conducted by individuals with knowledge of chronic care coordination programs for the targeted patient population and demonstrated experience in the evaluation of such programs.

“(B) INFORMATION TO BE INCLUDED.—Each such report shall include an assessment of the following factors and shall identify the characteristics of individual Independence at Home programs that are the most effective in producing improvements in—

“(i) beneficiary, caregiver, and provider satisfaction;

“(ii) health outcomes appropriate for patients with multiple chronic diseases; and

“(iii) cost savings to the program under this title, such as in reducing—

“(I) hospital and skilled nursing facility admission rates and lengths of stay;

“(II) hospital readmission rates; and

“(III) emergency department visits

“(C) BREAKDOWN BY CONDITION.—Each such report shall include data on performance of Independence at Home organizations in responding to the needs of eligible beneficiaries with specific chronic conditions and combinations of conditions, as well as the overall eligible beneficiary population.

“(6) AGREEMENTS.—

“(A) IN GENERAL.—The Secretary shall enter into agreements, beginning not later than one year after the date of the enactment of this section, with Independence at Home organizations that meet the participation requirements of this section, including minimum performance standards developed under subsection (e)(3), in order to provide access by eligible beneficiaries to Independence at Home programs under this section.

“(B) AUTHORITY.—If the Secretary deems it necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs, the Secretary may—

“(i) require screening of all potential Independence at Home organizations, including owners, (such as through fingerprinting, licensure checks, site-visits, and other database checks) before entering into an agreement;

“(ii) require a provisional period during which a new Independence at Home organization would be subject to enhanced oversight (such as prepayment review, unannounced site visits, and payment caps); and

“(iii) require applicants to disclose previous affiliation with entities that have uncollected Medicare or Medicaid debt, and authorize the denial of enrollment if the Secretary determines that these affiliations pose undue risk to the program.

“(7) REGULATIONS.—At least three months before entering into the first agreement under this section, the Secretary shall publish in the Federal Register the specifications for implementing this section. Such specifications shall describe the implementation process from initial to final implementation phases, including how the Secretary will identify and notify potential enrollees and how and when beneficiaries may enroll and disenroll from Independence at Home programs and change the programs in which they are enrolled.

“(8) PERIODIC PROGRESS REPORTS.—Semi-annually during the first year in which this section is implemented and annually thereafter during the period of implementation of this section, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that describes the progress of implementation of this section and explaining any variation from the Independence at Home program as described in this section.

“(9) ANNUAL BEST PRACTICES CONFERENCE.—During the initial implementation phase and to the extent practicable at intervals thereafter, the Secretary shall provide for an annual Independence at Home teleconference for Independence at Home organizations to share best practices and review treatment interventions and protocols that were successful in meeting all 3 objectives specified in paragraph (1).

“(b) DEFINITIONS.—For purposes of this section:

“(1) ACTIVITIES OF DAILY LIVING.—The term ‘activities of daily living’ means bathing, dressing, grooming, transferring, feeding, or toileting.



“(2) CAREGIVER.—The term ‘caregiver’ means, with respect to an individual with a qualifying functional impairment, a family member, friend, or neighbor who provides assistance to the individual.

“(3) ELIGIBLE BENEFICIARY.—

“(A) IN GENERAL.—The term ‘eligible beneficiary’ means, with respect to an Independence at Home program, an individual who—

“(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

“(ii) has a qualifying functional impairment and has been diagnosed with two or more of the chronic conditions described in subparagraph (C); and

“(iii) within the 12 months prior to the individual first enrolling with an Independence at Home program under this section, has received benefits under part A for the following services:

“(I) Non-elective inpatient hospital services.

“(II) Services in the emergency department of a hospital.

“(III) Any one of the following:

“(aa) Skilled nursing or sub-acute rehabilitation services in a Medicare-certified nursing facility.

“(bb) Comprehensive acute rehabilitation facility or Comprehensive outpatient rehabilitation facility services.

“(cc) Skilled nursing or rehabilitation services through a Medicare-certified home health agency.

“(B) DISQUALIFICATIONS.—Such term does not include an individual—

“(i) who is receiving benefits under section 1881;

“(ii) who is enrolled in a PACE program under section 1894;

“(iii) who is enrolled in (and is not disenrolled from) a chronic care improvement program under section 1807;

“(iv) who within a 12-month period has been a resident for more than 90 days in a skilled nursing facility, a nursing facility (as defined in section 1919), or any other facility identified by the Secretary;

“(v) who resides in a setting that presents a danger to the safety of in-home health care providers and primary caregivers; or

“(vi) whose enrollment in an Independence at Home program the Secretary determines would be inappropriate.

“(C) CHRONIC CONDITIONS DESCRIBED.—The chronic conditions described in this subparagraph are the following:

“(i) Congestive heart failure.

“(ii) Diabetes.

“(iii) Chronic obstructive pulmonary disease.

“(iv) Ischemic heart disease.

“(v) Peripheral arterial disease.

“(vi) Stroke.

“(vii) Alzheimer’s Disease and other dementias designated by the Secretary.

“(viii) Pressure ulcers.

“(ix) Hypertension.

“(x) Neurodegenerative diseases designated by the Secretary which result in high costs under this title, including amyotrophic lateral sclerosis (ALS), multiple sclerosis, and Parkinson’s disease.

“(xi) Any other chronic condition that the Secretary identifies as likely to result in high costs to the program under this title when such condition is present in combination with one or more of the chronic conditions specified in the preceding clauses.

“(4) INDEPENDENCE AT HOME ASSESSMENT.—The term ‘Independence at Home assessment’ means a determination of eligibility of an individual for an Independence at Home

program as an eligible beneficiary (as defined in paragraph (3)), a comprehensive medical history, physical examination, and assessment of the beneficiary’s clinical and functional status that—

“(A) is conducted in person by an individual—

“(i) who—

“(I) is an Independence at Home physician or an Independence at Home nurse practitioner; or

“(II) a physician assistant, nurse practitioner, or clinical nurse specialist, as defined in section 1861(aa)(5), who is employed by an Independence at Home organization and is supervised by an Independence at Home physician or Independence at Home nurse practitioner; and

“(ii) does not have an ownership interest in the Independence at Home organization unless the Secretary determines that it is impracticable to preclude such individual’s involvement; and

“(B) includes an assessment of—

“(i) activities of daily living and other comorbidities;

“(ii) medications and medication adherence;

“(iii) affect, cognition, executive function, and presence of mental disorders;

“(iv) functional status, including mobility, balance, gait, risk of falling, and sensory function;

“(v) social functioning and social integration;

“(vi) environmental needs and a safety assessment;

“(vii) the ability of the beneficiary’s primary caregiver to assist with the beneficiary’s care as well as the caregiver’s own physical and emotional capacity, education, and training;

“(viii) whether, in the professional judgment of the individual conducting the assessment, the beneficiary is likely to benefit from an Independence at Home program;

“(ix) whether the conditions in the beneficiary’s home or place of residence would permit the safe provision of services in the home or residence, respectively, under an Independence at Home program;

“(x) whether the beneficiary has a designated primary care physician whom the beneficiary has seen in an office-based setting within the previous 12 months; and

“(xi) other factors determined appropriate by the Secretary.

“(5) INDEPENDENCE AT HOME CARE TEAM.—The term ‘Independence at Home care team’—

“(A) means, with respect to a participant, a team of qualified individuals that provides services to the participant as part of an Independence at Home program; and

“(B) includes an Independence at Home physician or an Independence at Home nurse practitioner and an Independence at Home coordinator (who may also be an Independence at Home physician or an Independence at Home nurse practitioner).

“(6) INDEPENDENCE AT HOME COORDINATOR.—The term ‘Independence at Home coordinator’ means, with respect to a participant, an individual who—

“(A) is employed by an Independence at Home organization and is responsible for coordinating all of the services of the participant’s Independence at Home plan;

“(B) is a licensed health professional, such as a physician, registered nurse, nurse practitioner, clinical nurse specialist, physician assistant, or other health care professional as the Secretary determines appropriate, who has at least one year of experience pro-

viding and coordinating medical and related services for individuals in their homes; and

“(C) serves as the primary point of contact responsible for communications with the participant and for facilitating communications with other health care providers under the plan.

“(7) INDEPENDENCE AT HOME ORGANIZATION.—The term ‘Independence at Home organization’ means a provider of services, a physician or physician group practice, a nurse practitioner or nurse practitioner group practice which receives payment for services furnished under this title (other than only under this section) and which—

“(A) has entered into an agreement under subsection (a)(2) to provide an Independence at Home program under this section;

“(B)(i) provides all of the services of the Independence at Home plan in a participant’s home or place of residence, or

“(ii) if the organization is not able to provide all such services in such home or residence, has adequate mechanisms for ensuring the provision of such services by one or more qualified entities;

“(C) has Independence at Home physicians, clinical nurse specialists, nurse practitioners, or physician assistants available to respond to patient emergencies 24 hours a day, seven days a week;

“(D) accepts all eligible beneficiaries from the organization’s service area, as determined under the agreement with the Secretary under this section, except to the extent that qualified staff are not available; and

“(E) meets other requirements for such an organization under this section.

“(8) INDEPENDENCE AT HOME PHYSICIAN.—The term ‘Independence at Home physician’ means a physician who—

“(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the physician to make in-home visits and to be responsible for the plans of care for the physician’s patients;

“(B) is certified—

“(i) by the American Board of Family Physicians, the American Board of Internal Medicine, the American Osteopathic Board of Family Physicians, the American Osteopathic Board of Internal Medicine, the American Board of Emergency Medicine, or the American Board of Physical Medicine and Rehabilitation; or

“(ii) by a Board recognized by the American Board of Medical Specialties and determined by the Secretary to be appropriate for the Independence at Home program;

“(C) has—

“(i) a certification in geriatric medicine as provided by American Board of Medical Specialties; or

“(ii) passed the clinical competency examination of the American Academy of Home Care Physicians and has substantial experience in the delivery of medical care in the home, including at least two years of experience in the management of Medicare patients and one year of experience in home-based medical care including at least 200 house calls; and

“(D) has furnished services during the previous 12 months for which payment is made under this title.

“(9) INDEPENDENCE AT HOME NURSE PRACTITIONER.—The term ‘Independence at Home nurse practitioner’ means a nurse practitioner who—

“(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the nurse practitioner to make in-home visits and to be responsible for the plans of care for the nurse practitioner's patients;

“(B) practices in accordance with State law regarding scope of practice for nurse practitioners;

“(C) is certified—

“(i) as a Gerontologic Nurse Practitioner by the American Academy of Nurse Practitioners Certification Program or the American Nurses Credentialing Center; or

“(ii) as a family nurse practitioner or adult nurse practitioner by the American Academy of Nurse Practitioners Certification Board or the American Nurses Credentialing Center and holds a certificate of Added Qualification in gerontology, elder care or care of the older adult provided by the American Academy of Nurse Practitioners, the American Nurses Credentialing Center or a national nurse practitioner certification board deemed by the Secretary to be appropriate for an Independence at Home program; and

“(D) has furnished services during the previous 12 months for which payment is made under this title.

“(10) INDEPENDENCE AT HOME PLAN.—The term ‘Independence at Home plan’ means a plan established under subsection (d)(2) for a specific participant in an Independence at Home program.

“(11) INDEPENDENCE AT HOME PROGRAM.—The term ‘Independence at Home program’ means a program described in subsection (d) that is operated by an Independence at Home organization.

“(12) PARTICIPANT.—The term ‘participant’ means an eligible beneficiary who has voluntarily enrolled in an Independence at Home program.

“(13) QUALIFIED ENTITY.—The term ‘qualified entity’ means a person or organization that is licensed or otherwise legally permitted to provide the specific service (or services) provided under an Independence at Home plan that the entity has agreed to provide.

“(14) QUALIFYING FUNCTIONAL IMPAIRMENT.—The term ‘qualifying functional impairment’ means an inability to perform, without the assistance of another person, two or more activities of daily living.

“(15) QUALIFIED INDIVIDUAL.—The term ‘qualified individual’ means an individual that is licensed or otherwise legally permitted to provide the specific service (or services) under an Independence at Home plan that the individual has agreed to provide.

“(C) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

“(1) NOTICE TO ELIGIBLE INDEPENDENCE AT HOME BENEFICIARIES.—The Secretary shall develop a model notice to be made available to Medicare beneficiaries (and to their caregivers) who are potentially eligible for an Independence at Home program by participating providers and by Independence at Home programs. Such notice shall include the following information:

“(A) A description of the potential advantages to the beneficiary participating in an Independence at Home program.

“(B) A description of the eligibility requirements to participate.

“(C) Notice that participation is voluntary.

“(D) A statement that all other Medicare benefits remain available to beneficiaries who enroll in an Independence at Home program.

“(E) Notice that those who enroll in an Independence at Home program will be responsible for copayments for house calls made by Independence at Home physicians, physician assistants, or by Independence at Home nurse practitioners, except that such copayments may be reduced or eliminated at the discretion of the Independence at Home physician, physician assistant, or Independence at Home nurse practitioner involved in accordance with subsection (f).

“(F) A description of the services that could be provided.

“(G) A description of the method for participating, or withdrawing from participation, in an Independence at Home program or becoming no longer eligible to so participate.

“(2) VOLUNTARY PARTICIPATION AND CHOICE.—An eligible beneficiary may participate in an Independence at Home program through enrollment in such program on a voluntary basis and may terminate such participation at any time. Such a beneficiary may also receive Independence at Home services from the Independence at Home organization of the beneficiary's choice but may not receive Independence at Home services from more than one Independence at Home organization at a time.

“(d) INDEPENDENCE AT HOME PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—Each Independence at Home program shall, for each participant enrolled in the program—

“(A) designate—

“(i) an Independence at Home physician or an Independence at Home nurse practitioner; and

“(ii) an Independence at Home coordinator;

“(B) have a process to ensure that the participant received an Independence at Home assessment before enrollment in the program;

“(C) with the participation of the participant (or the participant's representative or caregiver), an Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under State law, or an Independence at Home nurse practitioner, and the Independence at Home coordinator, develop an Independence at Home plan for the participant in accordance with paragraph (2);

“(D) ensure that the participant receives an Independence at Home assessment at least every 6 months after the original assessment to ensure that the Independence at Home plan for the participant remains current and appropriate;

“(E) implement all of the services under the participant's Independence at Home plan and in instances in which the Independence at Home organization does not provide specific services within the Independence at Home plan, ensure that qualified entities successfully provide those specific services; and

“(F) provide for an electronic medical record and electronic health information technology to coordinate the participant's care and to exchange information with the Medicare program and electronic monitoring and communication technologies and mobile diagnostic and therapeutic technologies as appropriate and accepted by the participant.

“(2) INDEPENDENCE AT HOME PLAN.—

“(A) IN GENERAL.—An Independence at Home plan for a participant shall be developed with the participant, an Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under

State law, an Independence at Home nurse practitioner, or an Independence at Home coordinator, and, if appropriate, one or more of the participant's caregivers and shall—

“(i) document the chronic conditions, comorbidities, and other health needs identified in the participant's Independence at Home assessment;

“(ii) determine which services under an Independence at Home plan described in subparagraph (C) are appropriate for the participant; and

“(iii) identify the qualified entity responsible for providing each service under such plan.

“(B) COMMUNICATION OF INDIVIDUALIZED INDEPENDENCE AT HOME PLAN TO THE INDEPENDENCE AT HOME COORDINATOR.—If the individual responsible for conducting the participant's Independence at Home assessment and developing the Independence at Home plan is not the participant's Independence at Home coordinator, the Independence at Home physician or Independence at Home nurse practitioner is responsible for ensuring that the participant's Independence at Home coordinator has such plan and is familiar with the requirements of the plan and has the appropriate contact information for all of the members of the Independence at Home care team.

“(C) SERVICES PROVIDED UNDER AN INDEPENDENCE AT HOME PLAN.—An Independence at Home organization shall coordinate and make available through referral to a qualified entity the services described in the following clauses (i) through (iii) to the extent they are needed and covered by under this title and shall provide the care coordination services described in the following clause (iv) to the extent they are appropriate and accepted by a participant:

“(i) Primary care services, such as physician visits, diagnosis, treatment, and preventive services.

“(ii) Home health services, such as skilled nursing care and physical and occupational therapy.

“(iii) Phlebotomy and ancillary laboratory and imaging services, including point of care laboratory and imaging diagnostics.

“(iv) Care coordination services, consisting of—

“(I) Monitoring and management of medications by a pharmacist who is certified in geriatric pharmacy by the Commission for Certification in Geriatric Pharmacy or possesses other comparable certification demonstrating knowledge and expertise in geriatric pharmacotherapy, as well as assistance to participants and their caregivers with respect to selection of a prescription drug plan under part D that best meets the needs of the participant's chronic conditions.

“(II) Coordination of all medical treatment furnished to the participant, regardless of whether such treatment is covered and available to the participant under this title.

“(III) Self-care education and preventive care consistent with the participant's condition.

“(IV) Education for primary caregivers and family members.

“(V) Caregiver counseling services and information about, and referral to, other caregiver support and health care services in the community.

“(VI) Referral to social services, such as personal care, meals, volunteers, and individual and family therapy.

“(VII) Information about, and access to, hospice care.

“(VIII) Pain and palliative care and end-of-life care, including information about developing advanced directives and physicians orders for life sustaining treatment.

“(3) PRIMARY TREATMENT ROLE WITHIN AN INDEPENDENCE AT HOME CARE TEAM.—An Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under State law, or an Independence at Home nurse practitioner may assume the primary treatment role as permitted under State law.

“(4) ADDITIONAL RESPONSIBILITIES.—

“(A) OUTCOMES REPORT.—Each Independence at Home organization offering an Independence at Home program shall monitor and report to the Secretary, in a manner specified by the Secretary, on—

“(i) patient outcomes;

“(ii) beneficiary, caregiver, and provider satisfaction with respect to coordination of the participant's care; and

“(iii) the achievement of mandatory minimum savings described in subsection (e)(6).

“(B) ADDITIONAL REQUIREMENTS.—Each such organization and program shall provide the Secretary with listings of individuals employed by the organization, including contract employees, and individuals with an ownership interest in the organization and comply with such additional requirements as the Secretary may specify.

“(e) TERMS AND CONDITIONS.—

“(1) IN GENERAL.—An agreement under this section with an Independence at Home organization shall contain such terms and conditions as the Secretary may specify consistent with this section.

“(2) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may not enter into an agreement with such an organization under this section for the operation of an Independence at Home program unless—

“(A) the program and organization meet the requirements of subsection (d), minimum quality and performance standards developed under paragraph (3), and such clinical, quality improvement, financial, program integrity, and other requirements as the Secretary deems to be appropriate for participants to be served; and

“(B) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement with respect to payments made to the organization under such agreement through available reserves, reinsurance, or withholding of funding provided under this title, or such other means as the Secretary determines appropriate.

“(3) MINIMUM QUALITY AND PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—The Secretary shall develop mandatory minimum quality and performance standards for Independence at Home organizations and programs.

“(B) STANDARDS TO BE INCLUDED.—Such standards shall include measures of—

“(i) improvement in participant outcomes;

“(ii) improvement in satisfaction of the beneficiary, caregiver, and provider involved; and

“(iii) cost savings consistent with paragraph (6).

“(C) MINIMUM PARTICIPATION STANDARD.—Such standards shall include a requirement that, for any year after the first year and except as the Secretary may provide for a program serving a rural area, an Independence at Home program had an average number of participants during the previous year of at least 100 participants.

“(4) TERM OF AGREEMENT AND MODIFICATION.—The agreement under this subsection shall be, subject to paragraphs (3)(C) and (5), for a period of three years, and the terms and conditions may be modified during the contract period by the Secretary as necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs or upon the request of the Independence at Home organization.

“(5) TERMINATION AND NON-RENEWAL OF AGREEMENT.—

“(A) IN GENERAL.—If the Secretary determines that an Independence at Home organization has failed to meet the minimum performance standards under paragraph (3) or other requirements under this section, or if the Secretary deems it necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs, the Secretary may terminate the agreement of the organization at the end of the contract year.

“(B) REQUIRED TERMINATION WHERE RISK TO HEALTH OR SAFETY OF A PARTICIPANT.—The Secretary shall terminate an agreement with an Independence at Home organization at any time the Secretary determines that the care being provided by such organization poses a threat to the health and safety of a participant.

“(C) TERMINATION BY INDEPENDENCE AT HOME ORGANIZATIONS.—Notwithstanding any other provision of this subsection, an Independence at Home organization may terminate an agreement with the Secretary under this section to provide an Independence at Home program at the end of a contract year if the organization provides to the Secretary and to the beneficiaries participating in the program notification of such termination more than 90 days before the end of such year. Paragraphs (6), (8), and (9)(B) shall apply to the organization until the date of termination.

“(D) NOTICE OF INVOLUNTARY TERMINATION.—The Secretary shall notify the participants in an Independence at Home program as soon as practicable if a determination is made to terminate an agreement with the Independence at Home organization involuntarily as provided in subparagraphs (A) and (B). Such notice shall inform the beneficiary of any other Independence at Home organizations that might be available to the beneficiary.

“(6) MANDATORY MINIMUM SAVINGS.—

“(A) REQUIRED.—

“(i) IN GENERAL.—Under an agreement under this subsection, each Independence at Home organization shall ensure that during any year of the agreement for its Independence at Home program, there is an aggregate savings in the cost to the program under this title for participating beneficiaries, as calculated under subparagraph (B), that is not less than 5 percent of the product described in clause (ii) for such participating beneficiaries and year.

“(ii) PRODUCT DESCRIBED.—The product described in this clause for participating beneficiaries in an Independence at Home program for a year is the product of—

“(I) the estimated average monthly costs that would have been incurred under parts A and B (and, to the extent cost information is available, part D) if those beneficiaries had not participated in the Independence at Home program; and

“(II) the number of participant-months for that year.

“(B) COMPUTATION OF AGGREGATE SAVINGS.—

“(i) MODEL FOR CALCULATING SAVINGS.—The Secretary shall contract with a nongovernmental organization or academic institution to independently develop an analytical model for determining whether an Independence at Home program achieves at least savings required under subparagraph (A) relative to costs that would have been incurred by Medicare in the absence of Independence at Home programs. The analytical model developed by the independent research organization for making these determinations shall utilize state-of-the-art econometric techniques, such as Heckman's selection correction methodologies, to account for sample selection bias, omitted variable bias, or problems with endogeneity.

“(ii) APPLICATION OF THE MODEL.—Using the model developed under clause (i), the Secretary shall compare the actual costs to Medicare of beneficiaries participating in an Independence at Home program to the predicted costs to Medicare of such beneficiaries to determine whether an Independence at Home program achieves the savings required under subparagraph (A).

“(iii) REVISIONS OF THE MODEL.—The Secretary shall require that the model developed under clause (i) for determining savings shall be designed according to instructions that will control, or adjust for, inflation as well as risk factors including, age, race, gender, disability status, socioeconomic status, region of country (such as State, county, metropolitan statistical area, or zip code), and such other factors as the Secretary determines to be appropriate, including adjustment for prior health care utilization. The Secretary may add to, modify, or substitute for such adjustment factors if such changes will improve the sensitivity or specificity of the calculation of costs savings.

“(iv) PARTICIPANT-MONTH.—In making the calculation described in subparagraph (A), each month or part of a month in a program year that a beneficiary participates in an Independence at Home program shall be counted as a ‘participant-month’.

“(C) NOTICE OF SAVINGS CALCULATION.—No later than 30 days before the beginning of the first year of the pilot project under this section and 120 days before the beginning of any Independence at Home program year after the first such year, the Secretary shall publish in the Federal Register a description of the model developed under subparagraph (B)(i) and information for calculating savings required under subparagraph (A), including any revisions, sufficient to permit Independence at Home organizations to determine the savings they will be required to achieve during the program year to meet the savings requirement under subparagraph (A). In order to facilitate this notice, the Secretary may designate a single annual date for the beginning of all Independence at Home program years that shall not be later than one year from the date of enactment of this section.

“(7) MANNER OF PAYMENT.—Subject to paragraph (8), payments shall be made by the Secretary to an Independence at Home organization at a rate negotiated between the Secretary and the organization under the agreement for—

“(A) Independence at Home assessments; and

“(B) on a per-participant, per-month basis for the items and services required to be provided or made available under subsection (d)(2)(C)(iv).

“(8) ENSURING MANDATORY MINIMUM SAVINGS.—The Secretary shall require any Independence at Home organization that fails in

any year to achieve the mandatory minimum savings described in paragraph (6) to provide those savings by refunding payments made to the organization under paragraph (7) during such year.

“(9) BUDGET NEUTRAL PAYMENT CONDITION.—

“(A) IN GENERAL.—Under this section, the Secretary shall ensure that the cumulative, aggregate sum of Medicare program benefit expenditures under parts A, B, and D for participants in Independence at Home programs and funds paid to Independence at Home organizations under this section, shall not exceed the Medicare program benefit expenditures under such parts that the Secretary estimates would have been made for such participants in the absence of such programs.

“(B) TREATMENT OF SAVINGS.—

“(i) INITIAL IMPLEMENTATION PHASE.—If an Independence at Home organization achieves aggregate savings in a year in the initial implementation phase in excess of the mandatory minimum savings described in paragraph (6)(A)(ii), 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title during the initial implementation phase.

“(ii) EXPANDED IMPLEMENTATION PHASE.—If an Independence at Home organization achieves aggregate savings in a year in the expanded implementation phase in excess of 5 percent of the product described in paragraph (6)(A)(ii)—

“(I) insofar as such savings do not exceed 25 percent of such product, 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title; and

“(II) insofar as such savings exceed 25 percent of such product, in the Secretary's discretion, 50 percent of such excess aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title.

“(f) WAIVER OF COINSURANCE FOR HOUSE CALLS.—A physician, physician assistant, or nurse practitioner furnishing services related to the Independence at Home program in the home or residence of a participant in an Independence at Home program may waive collection of any coinsurance that might otherwise be payable under section 1833(a) with respect to such services but only if the conditions described in section 1128A(i)(6)(A) are met.

“(g) REPORT.—Not later than three months after the date of receipt of the independent evaluation provided under subsection (a)(5) and each year thereafter during which this section is being implemented, the Secretary shall submit to the Committees of jurisdiction in Congress a report that shall include—

“(1) whether the Independence at Home programs under this section are meeting the minimum quality and performance standards in (e)(3);

“(2) a comparative evaluation of Independence at Home organizations in order to identify those programs, and characteristics of those programs, were the most effective in producing the best participant outcomes, patient and caregiver satisfaction, and cost savings; and

“(3) an evaluation of whether the participant eligibility criteria identified beneficiaries who were in the top ten percent of the highest cost Medicare beneficiaries.”.

(b) CONFORMING AMENDMENT.—Section 1833(a) of such Act (42 U.S.C. 1395i(a)) is amended, in the matter before paragraph (1), by inserting “and section 1807A(f)” after “section 1876”.

By Mr. LEAHY:

S. 1132. A bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in 2003, Senator Ben Nighthorse Campbell and I, along with 68 other Senators, introduced a bill to allow qualified retired or current law enforcement officers to carry a concealed firearm across State lines. The Senate passed our bill by unanimous consent, and it was signed into law in July 2004. Passage of the Law Enforcement Officers Safety Act indicated strong confidence in the men and women who serve to protect their communities and their Nation as the first line of defense in any emergency.

Introduction of this legislation to benefit active and retired law enforcement officers across the country is especially timely as the Congress and the country have just recognized National Peace Officers Memorial Day. I am proud to introduce this legislation today and thank Senator KYL for joining me as a cosponsor.

This year, the Senate Judiciary Committee has turned its attention to State and local law enforcement. It has held hearings about the importance of Federal funding at the local level, and how strong community policing and positive community relationships are fundamental to a prosperous economy. I agree, and appreciated having the perspective at recent Judiciary Committee hearings of the State and local officials like Chief Michael Schirling and Lieutenant Kris Carlson from the Burlington, Vermont, Police Department. I hope the Senate will continue its strong support of our law enforcement officers with support for this legislation.

In 2007, the Senate Judiciary Committee twice reported the legislation I introduce today—once as a stand-alone bill and again as part of the School Safety and Law Enforcement Improvements Act. I hope the Senate will act in the interest of so many law enforcement officers across the United States by improving and building upon the current law.

Since enactment of the Law Enforcement Officers Safety Act, I have heard feedback from many in law enforcement that qualified retired officers have been subject to varying certification procedures from State to State. In many cases, differing interpretations have complicated the implementation of the law, and retired officers have experienced significant frustration in getting certified to lawfully carry a firearm under the law.

With the input of the law enforcement community, this bill proposes modest amendments to the current law, and will give retired officers more flexibility in obtaining certification. It

also provides room for the variability in certification standards among the several States. For example, where a State has not set active duty standards, the retired officer can be certified pursuant to the standards set by a law enforcement agency in the State.

In addition to these changes, the bill makes clear that Amtrak officers, along with law enforcement officers of the Executive branch of the Federal Government, are covered by the law. The bill also reduces the years of service required for a retired officer to qualify under the law from 15 to 10. The bill now contains clearer standards to address mental health issues related to eligibility for officers who separate from service or retire. These are positive changes to the current law, and the requirements for eligibility would continue to require a significant term of service for a retired officer to qualify, a demonstrated commitment to law enforcement, and retirement in good standing.

The dedicated public servants who are trained to uphold the law and keep the peace deserve our support not just in their professional lives, but also when they are off-duty or retire. As a former prosecutor, I have great confidence in those who serve in law enforcement and their ability to exercise their privileges under this legislation safely and responsibly. The responsibilities they shoulder day to day on the job deserve our recognition and respect.

I hope all Senators will join us in support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1132

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Law Enforcement Officers Safety Act Improvements Act of 2009”.

**SEC. 2.**

(a) IN GENERAL.—Section 926B of title 18, United States Code, is amended by adding at the end the following:

“(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.”.

(b) ACTIVE LAW ENFORCEMENT OFFICERS.—Section 926B of title 18, United States Code is amended by striking subsection (e) and inserting the following:

“(e) As used in this section, the term ‘firearm’—

“(1) except as provided in this subsection, has the same meaning as in section 921 of this title;

"(2) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

"(3) does not include—

"(A) any machinegun (as defined in section 5845 of the National Firearms Act);

"(B) any firearm silencer (as defined in section 921 of this title); and

"(C) any destructive device (as defined in section 921 of this title)."

(c) RETIRED LAW ENFORCEMENT OFFICERS.—Section 926C of title 18, United States Code is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "retired" and inserting "separated from service"; and

(ii) by striking "other than for reasons of mental instability";

(B) in paragraph (2), by striking "retirement" and inserting "separation";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more" and inserting "separation, served as a law enforcement officer for an aggregate of 10 years or more"; and

(ii) in subparagraph (B), by striking "retired" and inserting "separated";

(D) by striking paragraph (4) and inserting the following:

"(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, a law enforcement agency within the State in which the individual resides;"; and

(E) by striking paragraph (5) and replacing it with the following:

"(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

"(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);";

(2) in subsection (d)—

(A) paragraph (1)—

(i) by striking "retired" and inserting "separated"; and

(ii) by striking "to meet the standards" and all that follows through "concealed firearm" and inserting "to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm";

(B) paragraph (2)—

(i) in subparagraph (A), by striking "retired" and inserting "separated"; and

(ii) in subparagraph (B), by striking "that indicates" and all that follows through the period and inserting "or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a fire-

arms qualification test for active duty officers within that State to have met—

"(I) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

"(II) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm."; and

(3) by striking subsection (e) and inserting the following:

"(e) As used in this section—

"(1) the term 'firearm'—

"(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

"(B) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

"(C) does not include—

"(i) any machinegun (as defined in section 5845 of the National Firearms Act);

"(ii) any firearm silencer (as defined in section 921 of this title); and

"(iii) any destructive device (as defined in section 921 of this title); and

"(2) the term 'service with a public agency as a law enforcement officer' includes service as a law enforcement officer of the Amtrak Police Department, or as a law enforcement or police officer of the executive branch of the Federal Government.".

By Mr. WYDEN (for himself and Mr. GREGG):

S. 1133. A bill to amend title XVIII of the Social Security Act to provide for the establishment of shared decision making standards and requirements and to establish a pilot program for the implementation of shared decision making under the Medicare program; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased to be joined by my colleague, the distinguished Senator from New Hampshire, JUDD GREGG, to introduce an important bill that will put patients in the driver's seat of their medical care. Today, my fellow Oregonian Representative EARL BLUMENAUER is introducing the same bill in the House of Representatives.

On the Senate floor and in the Finance Committee and Health Education Labor and Pensions Committee, senators have been wrestling with health reform. The challenge before the Congress is to both expand quality, affordable coverage to all Americans while containing costs.

Cost containment requires a lot of tough choices because it will require changing how care is delivered. The time of paying for volume and low quality is past. Chairman BAUCUS rightly recognized the challenges in cost containment and took up this issue as the first area he wanted to address in the series of public roundtables held in the Finance Committee.

I believe the key to transforming the health care system and cost containment is to give patients more choices. Patients should have more choices of health insurance plans. Patients should have a choice of doctor. Patients

should also have choices in their medical care.

The research by Dr. Jim Weinstein and Dr. John Wennberg with the Dartmouth Atlas Project has documented regional variations in medical care. They have found both underuse, or the failure to deliver needed evidence-based care, and overuse, or the delivery of unnecessary supply-sensitive care. Regional variations are driven by local medical opinion, rather than sound science or the preferences of well-informed patients. Just because doctors are licensed to have a hammer, doesn't make every patient a nail.

Using their research, Office of Management and Budget Director Peter Orszag and other experts have estimated that as much as 30 percent of medical spending today goes to care that is unnecessary. That is 30 percent of \$2.5 trillion is \$750 billion going to care that does not make patients healthier and may even harm them.

The current standard of medical care in the U.S. fails to adequately ensure that patients are informed about all their treatment options and the risks and benefits of those options. This leads to patients getting medical treatments they may not have wanted had they been fully informed of their treatment options and integrated into the decision making process. In order to deliver the right care at the right time, informed patient choice should be the goal of medical care.

Shared decision making is a collaborative process between the doctor and patient when they discuss the trade-offs among treatment options and discuss the patient's preferences and values. Shared decision making uses patient decision aids, an educational tool like a video or pamphlet that helps patients understand, communicate their beliefs and preferences related to their treatment options, and decide what medical treatments are best for them with their provider based on their medical treatment options, scientific evidence, circumstances, beliefs and preferences.

Informed patients choice depends on clinical comparative effectiveness research that compares the effectiveness of health care treatments. Shared decision making and patient decision aids use clinical comparative effectiveness research so that doctors and patients together make the right medical treatment choice for each individual patient.

This bill creates a three stage phase in of patient decision aids and shared decision making into the Medicare program. Phase I of the pilot is a 3-year period allowing 'early adopting' providers—those who already have experience using patient decision aids and incorporating them into their clinical practices—to participate in the pilot providing data for the Secretary and also serve as Shared Decision Making

Resource Centers. During this period, an independent entity will develop consensus based standards for patient decision aids and a certification process to ensure decision aids are effective and provide unbiased information. An expert panel then recommends to the Secretary which patient decision aids may be used in this program.

Phase II is a 3-year period during which providers will be eligible to receive reimbursement for the use of certified patient decision aids. New providers may be added on an annual basis allowing for the gradual and voluntary expansion of shared decision making and patient decision aids to a large portion of the country.

The final stage requires all Medicare providers to ensure that Medicare beneficiaries receive shared decision making and patient decision aids prior to receiving treatment for a preference sensitive condition. If a provider does not ensure that a patient receives a patient decision aid then the provider's reimbursement may be reduced by no more than 20 percent.

This legislation is built on a shared savings model distributing 50 percent of the savings to participating providers based on their participation and performance on quality measures. Twenty-five percent of the savings are used to expand provider participation providing financial support to the Shared Decision Making Centers and providers. The final 25 percent savings are returned to the Medicare program. As shared decision making becomes the standard of practice, the shared savings percentages phases out.

I believe that this simple approach to informed patient choice is critically important to giving patients real choices by engaging them in their health care. As we look to expand access to health coverage, this bill provides a bipartisan, sensible path to putting patients in the driver's seat.

I hope my colleagues will join me in supporting this bill, and I look forward to working with Chairman BAUCUS and Ranking Member GRASSLEY and other members of the Finance Committee to secure passage of this important bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1133

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Empowering Medicare Patient Choices Act".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Dartmouth Atlas Project's work documenting regional variations in medical care has found both underuse, or the failure to deliver needed evidence-based care, and overuse, or the delivery of unnecessary supply-sensitive care.

(2) The Dartmouth Atlas Project has also found that many clinical decisions physicians make for elective medical treatments are driven by local medical opinion, rather than sound science or the preferences of well-informed patients. For example, the Dartmouth Atlas Project found that, among the 306 Hospital Referral Regions in the United States during the period of 2002 through 2003, the incidence of surgery for back pain-related conditions and joint replacement for chronic arthritis of the hip and knee varied 5.9-, 5.6-, and 4.8-fold, respectively, from the lowest to the highest region.

(3) Discretionary surgery for the following common conditions accounts for 40 percent of Medicare spending for inpatient surgery: early stage cancer of the prostate; early stage cancer of the breast; osteoarthritis of the knee; osteoarthritis of the hip; osteoarthritis of the spine; chest pain due to coronary artery disease; stroke threat from carotid artery disease, ischemia due to peripheral artery disease; gall stones; and enlarged prostate.

(4) Decisions that involve values trade-offs between the benefits and harms of 2 or more clinically appropriate alternatives should depend on the individual patient's informed choice. In everyday practice, however, patients typically delegate decision making to their physicians who may not have good information on the patient's true preferences.

(5) The current standard of medical care in the United States fails to adequately ensure that patients are informed about their treatment options and the risks and benefits of those options. This leads to patients getting medical treatments they may not have wanted had they been fully informed of their treatment options and integrated into the decision making process.

(6) Patient decision aids are tools designed to help people participate in decision making about health care options. Patient decision aids provide information on treatment options and help patients clarify and communicate the personal value they associate with different features of treatment options. Patient decision aids do not advise people to choose one treatment option over another, nor are they meant to replace practitioner consultation. Instead, they prepare patients to make informed, value-based decisions with their physician.

(7) The Lewin Group estimated that the change in spending resulting from the use of patient decision aids for each of 11 conditions using per-procedure costs estimated for the Medicare population studied, assuming full implementation of such patient decision aids in 2010, would save as much as \$4,000,000,000.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROVIDER.—

(A) IN GENERAL.—The term "eligible provider" means the following:

(i) A primary care practice.

(ii) A specialty practice.

(iii) A multispecialty group practice.

(iv) A hospital.

(v) A rural health clinic.

(vi) A Federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4))).

(vii) An integrated delivery system.

(viii) A State cooperative.

(B) INCLUSION OF MEDICARE ADVANTAGE PLANS.—Such term includes a Medicare Advantage plan offered by a Medicare Advantage organization under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w-21 et seq.).

(2) PATIENT DECISION AID.—The term "patient decision aid" means an educational tool (such as the Internet, a video, or a pamphlet) that helps patients (or, if appropriate, the family caregiver of the patient) understand and communicate their beliefs and preferences related to their treatment options, and to decide with their health care provider what treatments are best for them based on their treatment options, scientific evidence, circumstances, beliefs, and preferences.

(3) PREFERENCE SENSITIVE CARE.—The term "preference sensitive care" means medical care for which the clinical evidence does not clearly support one treatment option such that the appropriate course of treatment depends on the values of the patient or the preferences of the patient regarding the benefits, harms, and scientific evidence for each treatment option. The use of such care should depend on informed patient choice among clinically appropriate treatment options. Such term includes medical care for the conditions identified in section 5(g).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) SHARED DECISION MAKING.—The term "shared decision making" means a collaborative process between patient and clinician that engages the patient in decision making, provides patients with information about trade-offs among treatment options, and facilitates the incorporation of patient preferences and values into the medical plan.

(6) STATE COOPERATIVE.—The term "State cooperative" means an entity that includes the State government and at least one other health care provider which is set up for the purpose of testing shared decision making and patient decision aids.

#### SEC. 4. ESTABLISHMENT OF INDEPENDENT STANDARDS FOR PATIENT DECISION AIDS.

(a) CONTRACT WITH ENTITY TO ESTABLISH STANDARDS AND CERTIFY PATIENT DECISION AIDS.—

(1) CONTRACT.—

(A) IN GENERAL.—For purposes of supporting consensus-based standards for patient decision aids and a certification process for patient decision aids for use in the Medicare program and by other interested parties, the Secretary shall identify and have in effect a contract with an entity that meets the requirements described in paragraph (4). Such contract shall provide that the entity perform the duties described in paragraph (2).

(B) TIMING FOR FIRST CONTRACT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall enter into the first contract under subparagraph (A).

(C) PERIOD OF CONTRACT.—A contract under subparagraph (A) shall be for a period of 18 months (except such contract may be renewed after a subsequent bidding process).

(D) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

(2) DUTIES.—The following duties are described in this paragraph:

(A) OPERATE AN OPEN AND TRANSPARENT PROCESS.—The entity shall conduct its business in an open and transparent manner and provide the opportunity for public comment on the activities described in subparagraphs (B) and (C).

(B) ESTABLISH STANDARDS FOR PATIENT DECISION AIDS.—



(i) IN GENERAL.—The entity shall synthesize evidence and convene a broad range of experts and key stakeholders to establish consensus-based standards, such as those developed by the International Patient Decision Aid Standard Collaboration, to determine which patient decision aids are high quality patient decision aids.

(ii) DRAFT OF PROPOSED STANDARDS.—The entity shall make a draft of proposed standards available to the public.

(iii) 60-DAY COMMENT PERIOD.—Beginning on the date the entity makes a draft of the proposed standards available under clause (ii), the entity shall provide a 60-day period for public comment on such draft.

(iv) FINAL STANDARDS.—

(I) IN GENERAL.—The standards established by the entity under this subparagraph shall be adopted by the board of the entity.

(II) PUBLIC AVAILABILITY.—The entity shall make such standards available to the public.

(C) CERTIFY PATIENT DECISION AIDS.—The entity shall review patient decision aids and certify whether patient decision aids meet the standards established under subparagraph (B) and offer a balanced presentation of treatment options from both the clinical and patient experience perspectives. In conducting such review and certification, the entity shall give priority to the review and certification of patient decision aids for conditions identified in section 5(g).

(3) REPORT TO THE EXPERT PANEL.—The entity shall submit to the expert panel established under subsection (b) a report on the standards established for patient decision aids under paragraph (2)(B) and patient decision aids that are certified as meeting such standards under paragraph (2)(C).

(4) REQUIREMENTS DESCRIBED.—The following requirements are described in this paragraph:

(A) PRIVATE NONPROFIT.—The entity is a private nonprofit organization governed by a board.

(B) EXPERIENCE.—The entity shall be able to demonstrate experience with—

- (i) consumer engagement;
- (ii) standard setting;
- (iii) health literacy;
- (iv) health care quality and safety issues;
- (v) certification processes;
- (vi) measure development; and
- (vii) evaluating health care quality.

(C) MEMBERSHIP FEES.—If the entity requires a membership fee for participation in the functions of the entity, such fees shall be reasonable and adjusted based on the capacity of the potential member to pay the fee. In no case shall membership fees pose a barrier to the participation of individuals or groups with low or nominal resources to participate in the functions of the entity.

(b) EXPERT PANEL.—

(1) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an expert panel to make recommendations to the Secretary regarding which patient decision aids should be implemented, appropriate training for health care providers on patient decision aids and shared decision making, and appropriate quality measures for use in the pilot program under section 5 and under section 1899 of the Social Security Act, as added by section 6.

(2) DUTIES.—The expert panel shall carry out the following duties:

(A) Approve patient decision aids, from among those patient decision aids certified under paragraph (2)(C) of subsection (a) by the entity with a contract under such subsection, for use in the pilot program under

section 5 (including to the extent practicable, patient decision aids for the medical care of the conditions described in section 5(g) and under section 1899 of the Social Security Act, as added by section 6.

(B) Review current training curricula for health care providers on patient decision aids and shared decision making and recommend a training process for eligible providers participating in the pilot program under section 5 on the use of such approved patient decision aids and shared decision making.

(C) Review existing quality measures regarding patient knowledge, value concordance, and health outcomes that have been endorsed through a consensus-based process and recommend appropriate quality measures for selection under section 5(h)(1).

(3) APPOINTMENT.—The expert panel shall be composed of 13 members appointed by the Secretary from among leading experts in shared decision making of whom—

- (A) 2 shall be researchers;
- (B) 2 shall be primary care physicians;
- (C) 2 shall be from surgical specialties;
- (D) 2 shall be patient or consumer community advocates;
- (E) 2 shall be nonphysician health care providers (such as nurses, nurse practitioners, and physician assistants);
- (F) 1 shall be from an integrated multispecialty group practice;
- (G) 1 shall be from the National Cancer Institute; and
- (H) 1 shall be from the Centers for Disease Control and Prevention.

(4) REPORT.—Not later than 2 years after such date of enactment and each year thereafter until the date of the termination of the expert panel under paragraph (5), the expert panel shall submit to the Secretary a report on the patient decision aids approved under paragraph (2)(A), the training process recommended under paragraph (2)(B), the quality measures recommended under paragraph (2)(C), and recommendations on other conditions or medical care the Secretary may want to include in the pilot program under section 5.

(5) TERMINATION.—The expert panel shall terminate on such date as the Secretary determines appropriate.

(c) QUALITY MEASURE DEVELOPMENT.—

(1) IN GENERAL.—Section 1890(b)(1)(A) of the Social Security Act (42 U.S.C. 1395aaa(b)(1)(A)) is amended—

(A) in clause (ii), by striking “and” at the end; and

(B) by adding at the end the following new clause:

“(iv) that address conditions described in section 5(g) of the Empowering Medicare Patient Choices Act and regional practice variations under this title; and”.

(2) CONFORMING AMENDMENT.—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended—

(A) by inserting “(other than subsection (b)(1)(A)(iv))” after “this section”; and

(B) by adding at the end the following new sentence: “For provisions relating to funding for the duties described in subsection (b)(1)(A)(iv), see section 5(l) of the Empowering Medicare Patient Choices Act.”.

#### SEC. 5. ESTABLISHMENT OF SHARED DECISION MAKING PILOT PROGRAM UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary shall establish a pilot program to provide for the phased-in development, implementation, and evaluation of shared decision making under the Medicare program

using patient decision aids to meet the objective of improving the understanding by Medicare beneficiaries of their medical treatment options, as compared to comparable Medicare beneficiaries who do not participate in a shared decision making process using patient decision aids.

(b) INITIAL IMPLEMENTATION (PHASE I).—

(1) IN GENERAL.—During the initial implementation of the pilot program under this section (referred to in this section as “Phase I” of the pilot program), the Secretary shall enroll in the pilot program not more than 15 eligible providers who have experience in implementing, and have invested in the necessary infrastructure to implement, shared decision making using patient decision aids for a period of 3 years.

(2) APPLICATION.—An eligible provider seeking to participate in the pilot program during phase I shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) PREFERENCE.—In enrolling eligible providers in the pilot program during phase I, the Secretary shall give preference to eligible providers that—

(A) have documented experience in using patient decision aids for the conditions identified in subsection (g) and in using shared decision making;

(B) have the necessary information technology infrastructure to collect the information required by the Secretary for reporting purposes;

(C) are trained in how to use patient decision aids and shared decision making; and

(D) would be eligible to receive financial assistance as a Shared Decision Making Resource Center under subsection (c).

(c) SHARED DECISION MAKING RESOURCE CENTERS.—

(1) IN GENERAL.—The Secretary shall provide financial assistance for the establishment and support of Shared Decision Making Resource Centers (referred to in this section as “centers”) to provide technical assistance to eligible providers and to develop and disseminate best practices and other information to support and accelerate adoption, implementation, and effective use of patient decision aids and shared decision making by eligible providers under the Medicare program.

(2) AFFILIATION.—Centers shall be affiliated with a United States-based organization or group that applies for and is awarded financial assistance under this subsection. The Secretary shall provide financial assistance to centers under this subsection on the basis of merit.

(3) OBJECTIVES.—The objective of a center is to enhance and promote the adoption of patient decision aids and shared decision making through—

(A) providing assistance to eligible providers with the implementation and effective use of, and training on, patient decision aids;

(B) the dissemination of best practices and research on the implementation and effective use of patient decision aids; and

(C) providing assistance to eligible providers applying to participate or participating in phase II of the pilot program under this section or under section 1899 of the Social Security Act, as added by section 6.

(4) REGIONAL ASSISTANCE.—Each center shall aim to provide assistance and education to all eligible providers in a region, including direct assistance to the following eligible providers:

(A) Public or not-for-profit hospitals or critical access hospitals (as defined in section 1861 (mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1))).

(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4))).

(C) Entities that are located in a rural area or in area that serves uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

(5) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide financial assistance for a period of 8 years to any regional center established or supported under this subsection.

(B) COST-SHARING REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall not provide as financial assistance under this subsection more than 50 percent of the capital and annual operating and maintenance funds required to establish and support such a center.

(ii) WAIVER OF COST-SHARING REQUIREMENT.—The Secretary may waive the limitation under clause (i) if the Secretary determines that, as a result of national economic conditions, such limitation would be detrimental to the pilot program under this section. If the Secretary waives such limitation under the preceding sentence, the Secretary shall submit to Congress a report containing the Secretary's justification for such waiver.

(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 12 months after the date of the enactment of this Act, a draft description of a program for establishing and supporting regional centers under this subsection. Such draft description shall include the following:

(A) A detailed explanation of the program and the program goals.

(B) Procedures to be followed by applicants for financial assistance.

(C) Criteria for determining which applicants are qualified to receive financial assistance.

(D) Maximum support levels expected to be available to centers under the program.

(7) APPLICATION REVIEW.—The Secretary shall review each application for financial assistance under this subsection based on merit. In making a decision whether to approve such application and provide financial assistance, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

(A) the ability of the applicant to provide assistance to particular categories of eligible providers with respect to the implementation and effective use of, and training on, patient decision aids;

(B) the geographical diversity and extent of the service area of the applicant; and

(C) the percentage of funding for the center that would be provided as financial assistance under this subsection and the amount of any funding or in-kind commitment from sources of funding in addition to the financial assistance provided under this subsection.

(8) BIENNIAL EVALUATION.—Each center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom

shall be connected with the center involved, and officials of the Federal Government. Each evaluation panel shall measure the performance of the center involved against the objectives specified in paragraph (3). The Secretary shall not continue to provide financial assistance to a center under this subsection unless the most recent evaluation under this paragraph with respect to the center is overall positive.

(d) EXPANDED IMPLEMENTATION (PHASE II).—

(1) IN GENERAL.—Subject to paragraph (2), during the 3-year period beginning after the completion of phase I of the pilot program (referred to in this section as “phase II” of the pilot program), the Secretary shall enroll additional eligible providers to implement shared decision making using patient decision aids under the pilot program under this section. The Secretary may allow eligible providers to enroll in the pilot program on a regular basis during phase II.

(2) CONTINGENCY.—The Secretary shall not implement phase II of the pilot program if the Secretary finds, not later than 90 days after the date of submittal of the interim report under subsection (i)(2)(A), that the continued implementation of shared decision making is not in the best interest of Medicare beneficiaries.

(3) PREFERENCE.—In enrolling eligible providers in the pilot program during phase II, the Secretary shall include, to the extent practicable, eligible providers that—

(A) have or can acquire the infrastructure necessary to implement shared decision making supported by patient decision aids approved by the expert panel established under section 4(b) in a timely manner;

(B) have training in the use of patient decision aids or will participate in training for health care professionals who will be involved in such use (as specified by the Secretary); or

(C) represent high cost areas or high practice variation States under the Medicare program, and the District of Columbia.

(e) GUIDANCE.—The Secretary may, in consultation with the expert panel established under section 4(b), issue guidance to eligible providers participating in the pilot program under this section on the use of patient decision aids approved by the expert panel.

(f) REQUIREMENTS.—

(1) IMPLEMENTATION OF APPROVED PATIENT DECISION AIDS.—

(A) IN GENERAL.—During phase II of the pilot program under this section, an eligible provider participating in the pilot program shall incorporate 1 or more patient decision aids approved by the expert panel established under section 4(b) in furnishing items and services to Medicare beneficiaries with respect to 1 or more of the conditions identified in subsection (g), together with ongoing support involved in furnishing such items and services.

(B) DEFINED CLINICAL PROCESS.—During each phase of the pilot program under this section, the eligible provider shall establish and implement a defined clinical process under which, in the case of a Medicare beneficiary with 1 or more of such conditions, the eligible provider offers the Medicare beneficiary shared decision making (supported by such a patient decision aid) and collects information on the quality of patient decision making with respect to the Medicare beneficiary.

(2) FOLLOW-UP COUNSELING VISIT.—

(A) IN GENERAL.—During each phase of the pilot program under this section, an eligible provider participating in the pilot program

under this section shall routinely schedule Medicare beneficiaries for a counseling visit after the viewing of such a patient decision aid to answer any questions the beneficiary may have with respect to the medical care of the condition involved and to assist the beneficiary in thinking through how their preferences and concerns relate to their medical care.

(B) PAYMENT FOR FOLLOW-UP COUNSELING VISIT.—The Secretary shall establish procedures for making payments for such counseling visits provided to Medicare beneficiaries during each phase of the pilot program under this section. Such procedures shall provide for the establishment—

(i) of a code (or codes) to represent such services; and

(ii) of a single payment amount for such service that includes the professional time of the health care provider and a portion of the reasonable costs of the infrastructure of the eligible provider.

(C) LIMITATION.—In the case of an eligible provider that is a Medicare Advantage plan, such eligible provider may not receive payment for such services.

(3) WAIVER OF COINSURANCE.—The Secretary shall establish procedures under which an eligible provider participating in the pilot program under this section may, in the case of a low-income Medicare beneficiary (as determined by the Secretary), waive any coinsurance or copayment that would otherwise apply for the follow-up counseling visit provided to such Medicare beneficiary under paragraph (2).

(4) COSTS OF IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), during each phase of the pilot program, an eligible provider participating in the pilot program shall be responsible for the costs of selecting, purchasing, and incorporating such patient decision aids into the group practice, reporting data on quality measures selected under subsection (h)(1), and recording outcomes under the pilot program.

(B) FINANCIAL SUPPORT.—During each such phase, the Secretary may, in addition to payments for counseling visits under paragraph (2), provide financial support to an eligible provider participating in the pilot program to acquire the infrastructure necessary to participate in the pilot program, including the development of clinical pathways to assure that Medicare beneficiaries have access to high-quality shared decision making, the reporting of data on quality measures selected under subsection (h)(1), and the recording of outcomes under the pilot program after phase I of the pilot program (as determined appropriate by the Secretary).

(g) PREFERENCE SENSITIVE CARE DESCRIBED.—The patient decision aids approved under section 4(b)(2)(A) shall, to the extent practicable, include patient decision aids for medical care of the following conditions:

- (1) Arthritis of the hip and knee.
- (2) Chronic back pain.
- (3) Chest pain (stable angina).
- (4) Enlarged prostate (benign prostatic hypertrophy, or BPH).
- (5) Early-stage prostate cancer.
- (6) Early-stage breast cancer.
- (7) End-of-life care.
- (8) Peripheral vascular disease.
- (9) Gall stones.
- (10) Threat of stroke from carotid artery disease.
- (11) Any other condition the Secretary identifies as appropriate.

(h) QUALITY MEASURES.—

(1) SELECTION.—

(A) IN GENERAL.—During each phase of the pilot program, the Secretary shall measure

the quality and implementation of shared decision making. For purposes of making such measurements, the Secretary shall select, from among those quality measures recommended by the expert panel under section 4(b)(2)(C), consensus-based quality measures that assess Medicare beneficiaries' knowledge of the options for medical treatment relevant to their medical condition, as well as the benefits and drawbacks of those medical treatment options, and the Medicare beneficiaries' goals and concerns regarding their medical care.

(B) **RISK ADJUSTMENT.**—In order to ensure accurate measurement across quality measures and eligible providers, the Secretary may risk adjust the quality measures selected under this paragraph to control for external factors, such as cognitive impairment, dementia, and literacy.

(2) **REPORTING DATA ON MEASURES.**—During each such phase, an eligible provider participating in the pilot program shall report to the Secretary data on quality measures selected under paragraph (1) in accordance with procedures established by the Secretary.

(3) **FEEDBACK ON MEASURES.**—During each such phase, the Secretary shall provide confidential reports to eligible providers participating in the pilot program on the performance of the eligible provider on quality measures selected by the Secretary under paragraph (1), the aggregate performance of all eligible providers participating in the pilot program, and any improvements in such performance.

(1) **EVALUATIONS AND REPORTS.**—

(I) **INDEPENDENT EVALUATION.**—The Secretary shall enter into a contract with an entity that has knowledge of shared decision making programs and demonstrated experience in the evaluation of such programs for the conduct of an independent evaluation of each phase of the pilot program under this section.

(2) **REPORTS BY ENTITY CONDUCTING INDEPENDENT EVALUATION.**—

(A) **INTERIM REPORT.**—Not later than 2 years after the implementation of phase I of the pilot program, the entity with a contract under paragraph (1) shall submit to the Secretary a report on the initial results of the independent evaluation conducted under such paragraph.

(B) **FINAL REPORT.**—Not later than 4 years after the implementation of phase II of the pilot program, such entity shall submit to the Secretary a report on the final results of such independent evaluation.

(C) **CONTENTS OF REPORT.**—Each report submitted under this paragraph shall—

(i) include an assessment of—

(I) quality measures selected under subsection (h)(1);

(II) Medicare beneficiary and health care provider satisfaction under the applicable phase of the pilot program;

(III) utilization of medical services for Medicare beneficiaries with 1 or more of the conditions described in subsection (g) and other Medicare beneficiaries as determined appropriate by the Secretary;

(IV) appropriate utilization of shared decision making by eligible providers under the applicable phase of the pilot program;

(V) savings to the Medicare program under title XVIII of the Social Security Act; and

(VI) the costs to eligible providers participating in the pilot program of selecting, purchasing, and incorporating approved patient decision aids and meeting reporting requirements under the applicable phase of the pilot program; and

(ii) identify the characteristics of individual eligible providers that are most effective in implementing shared decision making under the applicable phase of the pilot program.

(3) **REPORT BY THE SECRETARY.**—Not later than 12 months after the completion of phase II of the pilot program, the Secretary shall submit to Congress a report on the pilot program that includes—

(A) the results of the independent evaluation conducted under paragraph (2);

(B) an evaluation of the impact of the pilot program under this section, including the impact—

(i) of the use of patient decision aids approved by the expert panel established under section 4(b) for the medical care of the conditions described in subsection (g);

(ii) on expenditures for such conditions under the Medicare program, including a comparison of such expenditures for such conditions where such patient decision aids were used to such expenditures for such conditions where such patient decision aids were not used; and

(iii) on Medicare beneficiaries, including the understanding by beneficiaries of the options for medical care presented, concordance between beneficiary values and the medical care received, the mode of approved patient decision aid used (such as Internet, videos, and pamphlets), the timing of the delivery of such approved patient decision aid (such as the date of the initial diagnosis), and beneficiary and health care provider satisfaction with the shared decision making process;

(C) an evaluation of which eligible providers are most effective at implementing patient decision aids and assisting Medicare beneficiaries in making informed decisions on medical care; and

(D) recommendations for such legislation and administrative action as the Secretary determines appropriate.

(j) **SAVINGS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 2 years after the implementation of phase I of the pilot program, and annually thereafter for the duration of phase I and the first 2 years of phase II, the Secretary shall determine if there were any savings to the Medicare program as a result of such implementation during the preceding year (or years, if applicable). In the case where the Secretary determines there were such savings, the Secretary shall use such savings as follows:

(A) Fifty percent of such savings shall be used to provide bonus payments to eligible providers participating in the pilot program who achieve high quality shared decision making (as measured by the level of participation of Medicare beneficiaries in the shared decision making process and high scores by the eligible provider on quality measures selected under subsection (h)(1)).

(B) Twenty-five percent of such savings shall be placed in a Shared Decision Making Trust Fund established by the Secretary, which shall be used to expand participation in the pilot program to providers of services and suppliers in additional settings (as determined appropriate by the Secretary) by—

(i) providing financial assistance under subsection (c); and

(ii) providing for the development of quality measures not already selected under subsection (h)(1) to assess the impact of shared decision making on the quality of patient care or the improvement of such quality measures already selected.

(C) Twenty-five percent of such savings shall be retained by the Medicare program.

(2) **RETENTION OF SAVINGS BY THE MEDICARE PROGRAM.**—In the case where the Secretary determines there are savings to the Medicare program as a result of the implementation of the pilot program during a year (beginning with the third year of phase II), 100 percent of such savings shall be retained by the Medicare program.

(k) **WAIVER.**—The Secretary may waive such provisions of titles XI and XVIII of the Social Security Act as may be necessary to carry out the pilot program under this section.

(l) **FUNDING.**—For purposes of carrying out section 4(a), implementing the pilot program under this section (including costs incurred in conducting the evaluation under subsection (i)), and carrying out section 1890(b)(1)(A)(iv) of the Social Security Act, as added by section 4(c), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) to the Centers for Medicare & Medicaid Services Program Management Account of \$300,000,000 for the period of fiscal years 2010 through 2017.

#### **SEC. 6. ESTABLISHMENT OF SHARED DECISION MAKING STANDARDS AND REQUIREMENTS IN MEDICARE.**

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

##### **“ESTABLISHMENT OF SHARED DECISION MAKING STANDARDS AND REQUIREMENTS**

“SEC. 1899. (a) **IN GENERAL.**—Based on the findings of phases I and II of the pilot program under section 5 of the Empowering Medicare Patient Choices Act the Secretary shall promulgate regulations that—

“(1) specify for which preference sensitive conditions beneficiaries should, subject to the succeeding provisions of this section, participate in shared decision making;

“(2) require providers of services and suppliers to make sure that beneficiaries receive patient decision aids as appropriate; and

“(3) specify a process for beneficiaries to elect not to use such patient decision aids.

“(b) **PENALTY FOR NOT USING SHARED DECISION MAKING.**—Notwithstanding any other provision of this title, the Secretary shall promulgate such regulations and issue such guidance as may be necessary to reduce by 20 percent the amount of payment under this title that would otherwise apply to an item or service specified by the Secretary if the patient does not receive a patient decision aid prior to such item or service being furnished (except in the case where the beneficiary has elected not to use such patient decision aid under the process specified under subsection (a)(3)).

“(c) **SECRETARIAL AUTHORITY TO WAIVE APPLICATION OF THIS SECTION.**—The Secretary may waive the application of this section to an item or service under this title if the Secretary determines either of the following:

“(1) Medical societies and others have established evidence-based transparent standards incorporating patient decision aids and shared decision making into the standard of patient care for preference sensitive conditions.

“(2) Shared decision making is not in the best interest of beneficiaries.”.

By Mr. CASEY:

SA 1134. A bill to ensure the energy independence and economic viability of the United States by promoting the responsible use of coal through accelerated carbon capture and storage and

through advanced clean coal technology research, development, demonstration, and deployment programs, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce the Responsible Use of Coal Act of 2009. This bill provides the Department of Energy with the funding needed to continue to accelerate both the research and development and the demonstration, and ultimately, the deployment of carbon capture and storage, CCS, technology. Further, this bill would position the U.S. as the world leader in CCS technology development and export, creating the potential for thousands of new clean energy jobs.

Climate change is one of the most complex and challenging imperatives that our Nation, and, the world, has ever faced. We need to move forward in crafting a national program that will reduce our greenhouse gas emissions, encourage the use of renewable power, and create clean energy jobs. As we move forward, we must do so in a manner that will ensure our energy security, protect our industries from "carbon leakage," help get our economy back on track, and enable us to continue to benefit from our most abundant, affordable energy resource—coal.

Today coal provides over half of the Nation's electricity. While coal use for energy generation has more than tripled since 1970, emissions of sulfur dioxide, nitrogen oxide, and particulate matter from power plants have been dramatically reduced as the power industry deploys technologies for capturing these pollutants. Now, responding to health concerns about mercury, power plants are implementing technology to capture this toxic element. This illustrates how the development and deployment of advanced technology has allowed coal to continue to play such an important role in our energy strategy in the face of strict environmental requirements.

Coal helps keep American homes, businesses, factories, airports, schools and hospitals humming. Coal creates millions of good-paying jobs across all sectors of the economy—from direct and indirect mining and electric utility jobs to all those businesses and industries, large and small, which depend on affordable electricity to compete in the global marketplace. Coal-based electricity keeps people warm on freezing nights and comfortable during the hottest of summer days. Coal provides the reliable, secure electricity needed for the myriad of medical procedures to detect and treat cancer, heart disease and other health threats, saving innumerable lives every year. Electricity from coal is there when you need it.

Much of the world depends on coal, and developing economies like China and India are increasingly relying on

coal to power them into the 21st Century. Coal supplies more than 40 percent of worldwide electricity demand. For China, the amount of electricity from coal is astonishing. Eighty percent of China's electricity comes from coal. Prior to the current global recession, China built one to two new coal plants every week.

But the continued use of coal in the U.S. and abroad has a significant challenge ahead of it—climate change. While we have made progress in the U.S. in dealing with climate change, we are still at the beginning of the process of piecing together a domestic program that will work for all of the different regions of this country and that will reduce our greenhouse gas emissions so that we meet our global commitment.

One of the key pieces that must be included in our domestic program to help meet the challenge of climate change is carbon capture and storage. I am sponsoring the Responsible Use of Coal Act of 2009 to supplement funding under the American Recovery and Reinvestment Act by further accelerating the Department of Energy's CCS research, development, demonstration, and deployment programs. Specifically the bill will promote the rapid commercial demonstration and early deployment of carbon capture and storage systems that will allow the Nation to continue to use its abundant, secure, and low-cost coal resources while moving forward with a national program to reduce the impact of man-made emissions on our environment.

The bill will promote the continued research and development of advanced CCS and other coal power generation technologies in order to drive down costs, increase performance, and foster innovation. It is crucial that, in parallel to the commercial demonstration of current CCS technology, we continue to develop and advance new CCS ideas and concepts through a robust research and development program in order to continue to lower the cost of complying with CO<sub>2</sub> regulations.

The bill will promote the export of U.S. CCS technologies to those countries, such as China and India, which also rely on coal as their dominant energy source—ensuring that the U.S. is the leader in developing and exporting clean coal technologies and taking advantage of the thousands of new clean energy jobs such an industry would create.

I am fully committed to work with my colleagues in the Senate in addressing climate change. At the same time, I believe that the Nation needs to recognize the critical role coal plays in driving our economic engine and to aggressively move forward in the research, development, demonstration, and deployment of CCS technology.

I urge all of my colleagues to join me in ensuring that the United States continues to enjoy the economic and en-

ergy security advantages that our domestic coal resources afford us while we move forward in crafting legislation that will reduce our emissions of greenhouse gases.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1134

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Responsible Use of Coal Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) CARBON CAPTURE AND STORAGE TECHNOLOGY.—The term "carbon capture and storage technology" means an advanced technology or concept that the Secretary determines to have the potential—

- (A) to capture or remove—
  - (i) carbon dioxide that is emitted from a coal-fired power plant; and
  - (ii) other industrial sources;
- (B) to store carbon dioxide in geological formations; and
- (C) to use carbon dioxide for—
  - (i) enhanced oil and natural gas recovery; or
  - (ii) other large-volume, beneficial uses.

(2) CARBON CAPTURE TECHNOLOGY.—

(A) IN GENERAL.—The term "carbon capture technology" means any precombustion technology, post-combustion technology, or oxy-combustion technology or process.

(B) INCLUSION.—The term "carbon capture technology" includes carbon dioxide compression technology.

(3) ENHANCED OIL AND NATURAL GAS RECOVERY.—The term "enhanced oil and natural gas recovery" means the use of carbon dioxide to improve or enhance the recovery of oil or natural gas from a depleted oil or natural gas field.

(4) PRECOMBUSTION TECHNOLOGY.—The term "precombustion technology" means a coal or coal-biomass gasification or integrated gasification combined-cycle process coupled with carbon dioxide storage or reuse.

(5) SECRETARY.—The term "Secretary" means the Secretary of Energy.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote the continued responsible use of the abundant, secure, and low-cost coal resources of the United States through the research, development, demonstration, and deployment of—

(A) carbon capture and storage technologies; and

(B) advanced coal power generation technologies;

(2) to promote the exportation of the carbon capture and storage technologies and advanced coal power generation technologies developed by the United States to countries that rely on coal as the dominant energy source of the countries (including China and India); and

(3) to support the deployment of carbon capture and storage technologies by—

(A) quantifying the risks of the technologies; and

(B) helping to establish the most appropriate framework for managing liabilities associated with all phases of carbon capture and storage technology projects, including—

(i) the capture and transportation of carbon dioxide; and

(ii) the siting, design, operation, closure, and long-term stewardship of carbon dioxide storage facilities.

#### SEC. 4. PROGRAMS.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, in accordance with paragraph (2) and subsection (b), the Secretary, acting through the Director of the National Energy Technology Laboratory, shall carry out a research, development, and demonstration program through the National Energy Technology Laboratory to further advance carbon capture and storage and coal power generation technologies.

(2) REQUIRED PROGRAMS.—The program described in paragraph (1) shall include each program described in paragraphs (3) through (6).

(3) COMMERCIAL DEMONSTRATION PROGRAM.—As soon as practicable after the date of enactment of this Act, the Secretary, acting through the Director of the National Energy Technology Laboratory, shall carry out a large-scale commercial demonstration program to evaluate the most promising carbon capture and storage technologies.

(4) RESEARCH AND DEVELOPMENT PROGRAM REGARDING CARBON CAPTURE TECHNOLOGIES.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate carbon capture technologies to decrease the cost, and increase the performance, of carbon capture technologies.

(5) RESEARCH AND DEVELOPMENT PROGRAM REGARDING CARBON DIOXIDE STORAGE.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate options for carbon dioxide storage in geological formations—

(A) for enhanced oil and natural gas recovery; and

(B) to decrease the cost, and increase the performance, of carbon capture and storage technologies in existence as of the date of enactment of this Act.

(6) RESEARCH AND DEVELOPMENT PROGRAM REGARDING ADVANCED CLEAN COAL POWER GENERATION TECHNOLOGIES.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate advanced clean coal power generation technologies to make practicable—

(A) the capture and storage of carbon dioxide; and

(B) highly efficient power generation (including advanced turbines, fuel cells, hydrogen production, and advanced gasification).

(b) COST-SHARING REQUIREMENTS.—

(1) COMMERCIAL DEMONSTRATION PROGRAM.—The Federal share of the cost of any competitively procured project carried out using funds provided under the commercial demonstration program described in subsection (a)(3) shall be not more than 50 percent.

(2) OTHER PROGRAMS.—The Federal share of the cost of any competitively procured project carried out using funds provided under a program described in paragraph (4), (5), or (6) of subsection (a) shall be not more than 80 percent.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out the commercial demonstration program under section 4(a)(3)—

(A) \$300,000,000 for fiscal year 2010;

(B) \$350,000,000 for fiscal year 2011;

(C) \$400,000,000 for fiscal year 2012; and

(D) \$400,000,000 for fiscal year 2013;

(2) to carry out the research and development program under section 4(a)(4)—

(A) \$80,000,000 for fiscal year 2010;

(B) \$100,000,000 for fiscal year 2011;

(C) \$120,000,000 for fiscal year 2012; and

(D) \$120,000,000 for fiscal year 2013;

(3) to carry out the research and development program under section 4(a)(5)—

(A) \$170,000,000 for fiscal year 2010;

(B) \$200,000,000 for fiscal year 2011;

(C) \$225,000,000 for fiscal year 2012; and

(D) \$225,000,000 for fiscal year 2013; and

(4) to carry out the research and development program under section 4(a)(6)—

(A) \$250,000,000 for fiscal year 2010;

(B) \$270,000,000 for fiscal year 2011;

(C) \$300,000,000 for fiscal year 2012; and

(D) \$300,000,000 for fiscal year 2013.

By Ms. STABENOW (for herself,  
Mr. BROWNBACK, Mr. DURBIN,  
Mr. VOINOVICH, Mr. LEVIN,  
Mr. BROWN, Ms. MIKULSKI, and Mr.  
LIEBERMAN):

S. 1135. A bill to establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. STABENOW. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1135

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Drive America Forward Act of 2009”.

#### SEC. 2. DRIVE AMERICA FORWARD PROGRAM.

(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the “Drive America Forward Program” through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) certify dealers for participation in the Program—

(A) to accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by such deal-

ers, in accordance with the regulations issued under subsection (d);

(4) in consultation with the Secretary of the Treasury, provide for the payment of rebates to persons who qualify for a rebate under subsection (c)(3); and

(5) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the Program.

(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

(1) \$3,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$3,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

(2) \$4,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$4,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only for the purchase or qualifying lease of new fuel efficient automobiles that occur between—

(i) March 30, 2009; and

(ii) the day that is 1 year after the date on which the regulations promulgated under subsection (d) are implemented.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

(D) CAP ON FUNDS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(F) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

(A) IN GENERAL.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

(ii) will transfer the vehicle (including the engine and drive train), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who dismantles or disposes of the vehicle from—

(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless the engine or drive train has been crushed or shredded); or

(ii) retaining the proceeds from such sale.

(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

(3) ELIGIBLE PURCHASES OR LEASES PRIOR TO DATE OF ENACTMENT.—A person who purchased or leased a new fuel efficient vehicle

after March 30, 2009, and before the date of the enactment of this Act is eligible for a cash rebate equivalent to the amount described in subsection (b)(1) if the person provides proof satisfactory to the Secretary that—

(A)(i) the person was the registered owner of an eligible trade-in vehicle; or

(ii) if the person leased the vehicle, the lease was a qualifying lease; and

(B) the vehicle has been disposed of in accordance with clauses (i) and (ii) of paragraph (2)(A).

(d) REGULATIONS.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) provide for a means of certifying dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for both the amount of the vouchers and any reasonable administrative costs incurred by the dealer as soon as practicable but no longer than 10 days after the submission of a voucher for the new fuel efficient automobile to the Secretary;

(3) allow the dealer to use the voucher in addition to any other rebate or discount offered by the dealer or the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of such vehicle and to permit the dealer to retain \$50 of any amounts paid to the dealer for scrappage of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

(5) establish a process by which persons who qualify for a rebate under subsection (c)(3) may apply for such rebate;

(6) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

(A) requirements for the removal and appropriate disposition of refrigerants, anti-freeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher; and

(C) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal;

(7) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that

such vehicles are disposed of in accordance with such requirements and procedures; and

(8) provide for the enforcement of the penalties described in subsection (e).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly violate any provision under this section or any regulations issued pursuant to subsection (d).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than \$15,000 for each violation.

(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

(1) how to determine if a vehicle is an eligible trade-in vehicle;

(2) how to participate in the Program, including how to determine participating dealers; and

(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

(2) REPORT.—Not later than 60 days after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

(iii) the location of sale or lease;

(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

(C) an estimate of the overall economic and employment effects of the Program.

(h) EXCLUSION OF VOUCHERS AND REBATES FROM INCOME.—

(1) FOR PURPOSES OF ALL FEDERAL PROGRAMS.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program.



(2) FOR PURPOSES OF TAXATION.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term “passenger automobile” means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

(2) the term “category 1 truck” means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

(3) the term “category 2 truck” means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that is a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled “Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008”;

(4) the term “category 3 truck” means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

(5) the term “combined fuel economy value” means—

(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words “Combined Fuel Economy” on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words “Estimated New EPA MPG” and above the word “Combined” for vehicles of model year 1984 through 2007, or posted under the words “New EPA MPG” and above the word “Combined” for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1984, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle;

(6) the term “dealer” means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

(7) the term “eligible trade-in vehicle” means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

(A) is in drivable condition;

(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

(C) was manufactured less than 25 years before the date of the trade-in; and

(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

(8) the term “new fuel efficient automobile” means an automobile described in paragraph (1), (2), (3), or (4)—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer’s suggested retail price of \$45,000 or less;

(C) that—

(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under section 86.1811–04 of title 40, Code of Federal Regulations; or

(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816–08, 86.007–11, or 86.008–10 of title 40, Code of Federal Regulations; and

(D) that has the combined fuel economy value of—

(i) 22 miles per gallon for a passenger automobile;

(ii) 18 miles per gallon for a category 1 truck; or

(iii) 15 miles per gallon for a category 2 truck;

(9) the term “Program” means the Drive America Forward Program established by this section;

(10) the term “qualifying lease” means a lease of an automobile for a period of not less than 5 years;

(11) the term “scrapage value” means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying the vehicle;

(12) the term “Secretary” means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

(13) the term “ultimate purchaser” means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale; and

(14) the term “vehicle identification number” means the 17-character number used by the automobile industry to identify individual automobiles.

### SEC. 3. REALLOCATION OF APPROPRIATIONS.

From the amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), the Director of the Office of Management and Budget may allocate such sums as the Director determines to be necessary to carry out the Drive America Forward Program established under this Act.

By Mr. FEINGOLD (for himself,  
Ms. SNOWE, Mrs. LINCOLN, Mr.  
SANDERS, and Mr. DODD):

S. 1137. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I am today introducing the Teachers at the Table Act of 2009. This bill is the Senate companion to legislation introduced in the House of Representatives by Representative Carolyn McCarthy of New York and Representative LEE Terry of Nebraska and would create a Volunteer Teacher Advisory Committee to advise Congress and the Department of Education on the impact of the Elementary and Secondary Education Act, ESEA, also known as No Child Left Behind, NCLB, on students, their families, and the classroom learn-

ing environment. The teachers serving on this committee would be chosen from past or present State or national Teachers of the Year and would be competitively selected by the Secretary of Education and the majority and minority leaders of both the Senate and the House of Representatives.

Every year I travel to each of Wisconsin’s 72 counties to hold a listening session to listen to Wisconsinites’ concerns and answer their questions. Since NCLB was enacted in early 2002, education has rated as one of the top issues brought up at these listening sessions. I have received feedback from constituents about the noble intentions of NCLB, but I have also heard about the multitude of implementation problems with the law’s provisions. The feedback from teachers, parents, school administrators, and school board members has been invaluable over the past 7 years and has guided many of my education policymaking decisions.

As Congress seeks to undertake the reauthorization of ESEA this year, it is my hope that this legislation can be part of the reauthorization. Feedback from good teachers is absolutely vital to understanding how federal education policy is impacting classroom instruction around the country. This legislation seeks to help ensure that continuous feedback is provided to Congress about how the reauthorized ESEA is impacting student achievement and closing the persistent achievement gap that exists in our Nation.

The Teachers at the Table bill I am introducing today seeks to help ensure that Congress and the Department of Education receive high-quality yearly feedback on how ESEA/NCLB is impacting classroom learning around the country. The teachers who will serve on this committee represent some of the best that teaching has to offer. The bill would create a committee of 20 teachers, with 4 selected by the Secretary of Education and 4 selected by each of the majority and minority leaders in the Senate and House of Representatives. These teachers would serve 2-year terms on the advisory committee and would work to prepare annual reports to Congress as well as quarterly updates on the law’s implementation.

Every State and every school district is different and this legislation ensures that the teacher advisory committee will represent a wide range of viewpoints. The bill specifies that the volunteer teacher advisory committee should include teachers from diverse geographic areas, teachers who teach different grade levels, and teachers from a variety of specialty areas. Creating a diverse committee will help ensure that the committee presents a broad range of viewpoints on ESEA/NCLB to Congress and the Department of Education.

Much work needs to be done this year to reform many of the mandates of ESEA/NCLB and I look forward to working with my colleagues during the reauthorization to make those necessary changes. One thing is certain whatever form the reauthorized ESEA takes, there will be a need for consistent feedback from a diverse range of viewpoints.

We need to ensure that the voices of students, educators, parents, and administrators, who are on the frontlines of education reform in our country, are heard during the reauthorization of ESEA and going forward during the reauthorized law's implementation in years to come. This bill seeks to help address that need by enlisting the service of some of America's best teachers in providing information to Federal education policymakers. The advisory committee created by this legislation will provide nationwide feedback and will allow Congress to hear about ESEA/NCLB directly from those who deal with the law and its consequences on a daily basis.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1138. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator BOXER to introduce the Bay Area Regional Water Recycling Program Expansion Act of 2009, which will reduce demand for limited fresh water supplies by providing recycled water to 6 communities across the Bay Area.

It will make 6 additional Bay Area recycled water projects eligible for a 25 percent Federal cost-share, and expand the authorizations for two more, totaling \$38,075,000. The activities authorized by the new legislation include installing new piping, storage tanks, and pump stations to convey the recycled water to a number of cities across the Bay Area.

These projects collectively will save 2.6 billion gallons per year of regional water supply by providing a new water supply of clean treated wastewater for irrigation and industrial use. It will free up the amount needed to supply 24,225 households in the growing Bay Area region. And to the regional agencies, over 3,500 local green jobs will be supported by this legislation.

The adoption of water recycling technology is an invaluable conservation method which will result in 8,000 acre-feet of new and reliable water which will reduce demand on fresh water from the Delta.

California is facing phenomenal water supply challenges that are affecting our economy, our communities and our environment.

California's water infrastructure is woefully out of date. Drought, population growth, climate variability, ecosystem needs and a broken Delta are making it even more difficult to manage our water system and deliver reliable supplies.

And unless we take action to address climate change, we could lose a significant portion of the Sierra snowpack, which stores water for 2/3 of California, by 2100.

Increasing the capability for and use of recycled water will help address California's cycles of drought and reduce dependence on water from the troubled Bay-Delta ecosystem.

Water recycling projects are already under way in several local Bay Area communities, and have qualified for Federal funding under the Bay Area Regional Water Recycling Program. This program allows local water managers to treat wastewater and use the clean, recycled water for landscape irrigation and other uses, including at golf courses, schools, city parks and other municipal facilities. Under the new legislation, the six additional Bay Area communities would be allowed to work with the Federal Bureau of Reclamation to use water supplies more efficiently.

With the increasing strain on Bay-Delta and other natural resources, it is vital that we look to adopt innovative water recycling technologies which sustain permanent clean water supplies and support existing water resources and local economies.

Nine Bay Area congressional representatives in the House put this regional approach together, and I'd like to recognize and thank them for their leadership: GEORGE MILLER, D-Martinez, Pete Stark, D-Fremont, ELLEN TAUSCHER, D-Concord, ANNA ESHOO, D-Palo Alto, MIKE HONDA, D-San Jose, LYNN WOOLSEY, D-Petaluma, JERRY MCNERNEY, D-Pleasanton, ZOE LOFGREN, D-San Jose and JACKIE SPEIER, D-San Mateo, worked together to address the Bay Area's water needs.

This bill reflects a federal-local partnership and will provide communities in the San Francisco Bay Area with reliable and sustainable water supplies, and be a benchmark for other major American cities.

Declining water supplies affects people from all across the United States. Now is the time to invest in new water technologies, such as water recycling, to meet increasing needs. Wastewater recycling is an important part of a multifaceted water supply strategy that also includes surface and groundwater storage, improved conveyance, conservation, and desalination.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1138

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Bay Area Regional Water Recycling Program Expansion Act of 2009".

#### SEC. 2. PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by adding at the end the following:

##### "SEC. 1649. CCCSD-CONCORD RECYCLED WATER PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Central Contra Costa Sanitary District, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,800,000.

##### "SEC. 1650. CENTRAL DUBLIN RECYCLED WATER DISTRIBUTION AND RETROFIT PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Dublin San Ramon Services District, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,150,000.

##### "SEC. 1651. PETALUMA RECYCLED WATER PROJECT, PHASES 2A, 2B, AND 3.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Petaluma, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$6,000,000.

##### "SEC. 1652. CENTRAL REDWOOD CITY RECYCLED WATER PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$8,000,000.

**“SEC. 1653. PALO ALTO RECYCLED WATER PIPE-LINE PROJECT.**

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$8,250,000.

**“SEC. 1654. IRONHOUSE SANITARY DISTRICT (ISD) ANTIOCH RECYCLED WATER PROJECT.**

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Ironhouse Sanitary District (ISD), California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$7,000,000.”

(b) PROJECT IMPLEMENTATION.—In carrying out sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act, and sections 1649 through 1654 of such Act, as added by subsection (a), the Secretary shall enter into individual agreements with the San Francisco Bay Area Regional Water Recycling implementing agencies to fund the projects through the Bay Area Clean Water Agencies (BACWA) or its successor, and shall include in such agreements a provision for the reimbursement of construction costs, including those construction costs incurred prior to the enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of contents of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by inserting after the item relating to section 1648 the following new items:

“Sec. 1649. CCCSD-Concord recycled water project.

“Sec. 1650. Central Dublin recycled water distribution and retrofit project.

“Sec. 1651. Petaluma recycled water project, phases 2a, 2b, and 3.

“Sec. 1652. Central Redwood City recycled water project.

“Sec. 1653. Palo Alto recycled water pipeline project.

“Sec. 1654. Ironhouse Sanitary District (ISD) Antioch recycled water project.”

**SEC. 3. MODIFICATION TO AUTHORIZED PROJECTS.**

(a) ANTIOCH RECYCLED WATER PROJECT.—Section 1644(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-27) (as amended by sec-

tion 512(a) of the Consolidated Natural Resources Act of 2008) is amended by striking “\$2,250,000” and inserting “\$3,125,000”.

(b) SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.—Section 1648(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-31) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by striking “\$8,250,000” and inserting “\$13,250,000”.

By Mr. WYDEN:

S. 1139. A bill to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am pleased to introduce two bills that will provide two important communities in rural Oregon with the means to promote their cultural history and their economic development opportunities, S. 1139 and S. 1140.

Like anywhere in America, the leaders in rural communities in my state are working every day to build the best place they can. And in many rural communities in my state, that means not much happens without the Federal Government involved. Like many places in the Western United States, the Federal Government owns much of the land surrounding these small communities. To be sure, many of these lands are treasures; they are the source of a vibrant tourism economy; an attraction for individuals and businesses to move to the region; and the daily outlet for the people lucky enough to live there.

By the same token, this high percentage of Federal land ownership sometimes limits the ability of local governments and civic leaders to solve problems and serve the public. The Federal Government can and should be an active partner in advancing communities and improving a region's quality of life.

So today I am introducing legislation that demonstrates the possibilities that can come from a quality Federal Government partnership with a proactive, innovative community that faces challenging economic conditions and a dominant pattern of Federal land ownership.

My first bill, the La Pine Land Conveyance Act, would convey two parcels of property to Deschutes County, Oregon. The bill directs the transfer of Bureau of Land Management BLM lands to Deschutes County, that will enable the small town of La Pine to develop rodeo and equestrian facilities, public parks, and other recreation facilities.

La Pine has a set of unique challenges well known to the people of Deschutes County. The town recently incorporated, and with incorporation has come a feeling in the community that good things can happen if they work together to make their town as good as it can possibly be.

My bill proposes the transfer of 320 acres of BLM land contiguous to the La Pine city limit, on its western boundary. Ownership of this location will enable construction of public equestrian and rodeo facilities that have become increasingly important in La Pine. The property is within reasonable walking distance of downtown, creating an ideal parade route for the annual 4th of July Frontier Days parade. In addition, the land will provide a location for development of ball fields, parks, and recreation facilities, which can be developed as the town grows and budgets allow.

The La Pine Rodeo and Frontier Days events are currently facing the last year they can hold their events on the currently utilized location because that private property is being developed for other uses. So looking towards the Federal Government, who controls the vast majority of land in the La Pine area, to find a solution provides the right kind of partnership between the federal and local government.

My bill also directs the transfer of approximately 750 acres of BLM lands to Deschutes County for the purpose of expanding the town's wastewater treatment operation.

More than two years ago my office participated in discussions between the La Pine community leaders and the BLM concerning the La Pine community's need for land to serve public purposes. Due to staffing limitations, BLM asked the City to choose one top priority for a land transfer under the Recreation and Public Purposes Act. The La Pine City Council responded immediately that its top priority was the acquisition of land to enable expansion of their sewer district.

To date, the land has not been transferred, which make this small community unable to be competitive for state and federal economic stimulus funds.

This project is too important to let languish. Perhaps the most important issue affecting water quality in Deschutes County involves the threat to groundwater and the Deschutes River from household septic systems in southern Deschutes County, the region around La Pine. This project directly reduces nitrate loading into south county groundwater in two ways. First, by enabling expansion of the District service boundary to residential areas where septic systems are generating elevated groundwater nitrate levels; and second, by closing the current location for spreading treated effluent, over a relatively high groundwater area, to this new location which is judged not to threaten groundwater. That is why I am introducing legislation today to make sure this transfer moves forward.

My second bill, the Wallowa Forest Service Compound Conveyance Act would convey an old Forest Service Ranger Station compound to the City

of Wallowa, Oregon. In Wallowa County, this Forest Service compound was built by the Civilian Conservation Corps in the 1930's. For many years it was the center of town and this site continues to represent the natural and cultural history of one of eastern Oregon's most beautiful communities. The City of Wallowa, along with County Commissioners, the local arts organizations, and a broad group of community leaders intend to restore this important example of Pacific Northwest rustic architecture and tribute to bygone times, making a valuable community interpretive center at this site. The conveyance of this property will allow the community to move forward with this project. The community is currently working to list the Ranger Station on the National Register of Historic Places, and ownership by the City will allow this coalition to restore the buildings and again develop a vibrant community center. Oregon Public Broadcasting aired a segment depicting an early 20th century railroad logging community—a significant part of the rich and diverse history and traditions that will be preserved and celebrated as this Forest Service Compound is developed as an interpretive center.

I want to express my thanks to all the citizens and community leaders that have worked to build their communities and develop these projects. They represent the pioneering spirit and vision that defines my State.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1139

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Wallowa Forest Service Compound Conveyance Act".

#### SEC. 2. CONVEYANCE TO CITY OF WALLOWA, OREGON.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term "City" means the city of Wallowa, Oregon.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(3) WALLOWA FOREST SERVICE COMPOUND.—The term "Wallowa Forest Service Compound" means the Wallowa Ranger Station that is—

(A) located at 602 West First Street, Wallowa, Oregon; and

(B) under the jurisdiction of the Secretary.

(b) DUTY OF SECRETARY.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, the Secretary shall convey to the City, without consideration and by quitclaim deed, all right, title, and interest of the United States, except as provided in subsections (c) and (d), in and to the Wallowa Forest Service Compound.

(c) USE OF WALLOWA FOREST SERVICE COMPOUND.—As a condition of the conveyance under subsection (b), the City shall—

(1) use the Wallowa Forest Service Compound as an interpretive center;

(2) ensure that the Wallowa Forest Service Compound is managed by a nonprofit entity; and

(3) agree to manage the Wallowa Forest Service Compound—

(A) with due consideration and protection for the historic values of the Wallowa Forest Service Compound; and

(B) in accordance with such terms and conditions as are agreed to by the Secretary and the City.

(d) REVERSION.—In the quitclaim deed to the City, the Secretary shall provide that the Wallowa Forest Service Compound shall revert to the Secretary, at the election of the Secretary, if the Wallowa Forest Service Compound is—

(1) used for a purpose other than the purposes described in subsection (c)(1); or

(2) managed by the City in a manner that is inconsistent with subsection (c)(3).

By Mr. WYDEN:

S. 1140. A bill to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1140

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "La Pine Land Conveyance Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term "County" means the County of Deschutes, Oregon.

(2) MAP.—The term "map" means the map entitled "La Pine Proposed Land Transfer Proposal" and dated May [ ], 2009.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

#### SEC. 3. CONVEYANCE OF LAND TO THE COUNTY OF DESCHUTES, OREGON.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of—

(1) approximately 320 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as "parcel A"; and

(2) approximately 750 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as "parcel B".

(c) MAP ON FILE.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LAND.—

(1) IN GENERAL.—The land conveyed under subsection (a) shall be used as a rodeo ground, public sewer system, or other public purpose consistent with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(2) LIMITATIONS.—The land conveyed under subsection (a)—

(A) shall not be used for residential or commercial purposes; and

(B) shall be used consistent with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance as the Secretary determines to be appropriate to protect the interests of the United States.

(e) ADMINISTRATIVE COSTS.—The Secretary shall require the County to pay all survey costs and other administrative costs necessary for the preparation and completion of any patents for, and transfers of title to, the land under subsection (a).

(f) REVERSION.—

(1) IN GENERAL.—If the land conveyed under subsection (a) ceases to be used for the public purpose for which the land was conveyed, the land shall, at the discretion of the Secretary, revert to the United States.

(2) RESPONSIBILITY OF DISTRICT.—If the Secretary determines under paragraph (1) that the land should revert to the United States and that the land is contaminated with hazardous waste, the County shall be responsible for remediation of the contamination.

By Mrs. FEINSTEIN (for herself and Mr. BOND):

S. 1141. A bill to extend certain trade preferences to certain least-developed countries, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator BOND to introduce the Tariff Relief Assistance for Developing Economies Act of 2009 to help some of the world's poorest countries sustain vital export industries and promote economic growth and political stability.

I worked with former senator Gordon Smith on this bill in the past and I am proud to move it forward in the 111th Congress.

This legislation will provide duty free and quota free benefits for garments and other products similar to those afforded to beneficiary countries under the Africa Growth and Opportunity Act, AGOA.

The countries covered by this legislation are the 14 Least Developed Countries, LDCs, as defined by the United Nations and the U.S. State Department, which are not covered by any current U.S. trade preference program: Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Laos, Maldives, Nepal, Samoa, Solomon Islands, East Timor, Tuvalu, Vanuatu, and Yemen.

The bill also includes Sri Lanka as an eligible country.

To be eligible for the benefits provided under our bill, a country must demonstrate that it is making continual progress toward establishing rule of law, political pluralism, the

right to due process, and a market-based economy that protects private property rights. Our legislation would help promote democracy while sustaining vital export industries and creating employment opportunities.

The beneficiary countries of this legislation are among the poorest countries in the world.

Nepal has per capita income of \$240. Unemployment in Bangladesh stands at 40 percent. Approximately 36 percent of Cambodia's population lives below the poverty line.

Each country faces critical challenges in the years ahead including poor health care, insufficient educational opportunities, high HIV/AIDS rates, and the effects of war and civil strife.

The U.S. must take a leadership role in providing much needed assistance to the people of these countries.

Yet humanitarian and development assistance should not be the sum total of our efforts to put these countries on the road to economic prosperity and political stability.

Indeed, the key for sustained growth and rising standards of living will be the ability of each of these countries to create vital export industries to compete in a free and open global marketplace.

We should help these countries help themselves by opening the U.S. market to their exports.

Success in that endeavor will ultimately allow these countries to become less dependent on foreign aid and allow the U.S. to provide assistance to countries in greater need.

The garment industry is a key part of the manufacturing sector in some of these countries.

In Nepal, the garment industry is entirely export oriented and accounts for 40 percent of foreign exchange earnings. It employs over 100,000 workers—half of them women—and sustains the livelihood of over 350,000 people.

The United States is the largest market for Nepalese garments and accounts for 80–90 percent of Nepal's total exports every year.

In Cambodia, approximately 250,000 Cambodians work in the garment industry supporting approximately one million dependents. The garment industry accounts for more than 90 percent of Cambodia's export earnings.

In Bangladesh, the garment industry accounts for 75 percent of export earnings. The industry employs 1.8 million people, 90 percent of whom are women, and sustains the livelihoods of 10 to 15 million people.

Despite the poverty seen in these countries and the importance of the garment industry and the U.S. market, they face some of the highest U.S. tariffs in the world, averaging over 15 percent. In contrast, countries like Japan and our European partners face tariffs that are nearly zero.

Surely we can do better. This legislation will help these countries compete in the U.S. market and let their citizens know that Americans are committed to helping them realize a better future for themselves and their families.

Doing so is consistent with U.S. goals to combat poverty, instability, and terrorism in a critical part of the world. We should not forget that of the approximately 265 million people that live in the TRADE Act countries, almost 200 million are Muslim.

The impact on U.S. jobs will be minimal. Currently, the beneficiary countries under this legislation account for only 4 percent of U.S. textile and apparel imports, compared to 24 percent for China, and 72 percent for the rest of the world.

These countries will continue to be small players in the U.S. market, but the benefits of this legislation will have a major impact on their export economies.

At a time when we are trying to rebuild the image of the U.S. around the world, we need legislation such as this to show the best of America and American values. It will provide a vital component to our development strategy and add another tool to the war on terror. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1141

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Tariff Relief Assistance for Developing Economies Act of 2009” or the “TRADE Act of 2009”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) It is in the mutual interest of the United States and least-developed countries to promote stable and sustainable economic growth and development.

(2) Trade and investment are powerful economic tools and can be used to reduce poverty and raise the standard of living in a country.

(3) A country that is open to trade may increase its economic growth.

(4) Trade and investment often lead to employment opportunities and often help alleviate poverty.

(5) Least-developed countries have a particular challenge in meeting the economic requirements and competitiveness of globalization and international markets.

(6) The United States has recognized the benefits that international trade provides to least-developed countries by enacting the Generalized System of Preferences and trade benefits for developing countries in the Caribbean, Andean, and sub-Saharan African regions of the world.

(7) Enhanced trade with least-developed Muslim countries, including Yemen, Afghanistan, and Bangladesh, is consistent with

other United States objectives of encouraging a strong private sector and individual economic empowerment in those countries.

(8) Offering least-developed countries enhanced trade preferences will encourage both higher levels of trade and direct investment in support of positive economic and political developments throughout the world.

(9) Encouraging the reciprocal reduction of trade and investment barriers will enhance the benefits of trade and investment as well as enhance commercial and political ties between the United States and the countries designated for benefits under this Act.

(10) Economic opportunity and engagement in the global trading system together with support for democratic institutions and a respect for human rights are mutually reinforcing objectives and key elements of a policy to confront and defeat global terrorism.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **BENEFICIARY TRADE ACT OF 2009 COUNTRY.**—The term “beneficiary TRADE Act of 2009 country” means a TRADE Act of 2009 country that the President has determined is eligible for preferential treatment under section 5.

(2) **FORMER TRADE ACT OF 2009 BENEFICIARY COUNTRY.**—The term “former TRADE Act of 2009 beneficiary country” means a country that, after being designated as a beneficiary TRADE Act of 2009 country under this Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

(3) **TRADE ACT OF 2009 COUNTRY.**—The term “TRADE Act of 2009 country” means a country listed in subsection (b) or (c) of section 4.

#### SEC. 4. AUTHORITY TO DESIGNATE; ELIGIBILITY REQUIREMENTS.

(a) **AUTHORITY TO DESIGNATE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the President is authorized to designate a TRADE Act of 2009 country as a beneficiary TRADE Act of 2009 country eligible for benefits described in section 5—

(A) if the President determines that the country meets the requirements set forth in section 104 of the African Growth and Opportunity Act (19 U.S.C. 3703); and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462 (a), (d), and (e)), if the country otherwise meets the eligibility criteria set forth in such section 502.

(2) **APPLICATION OF SECTION 104.**—Section 104 of the African Growth and Opportunity Act shall be applied for purposes of paragraph (1) by substituting “TRADE Act of 2009 country” for “sub-Saharan African country” each place it appears.

(b) **COUNTRIES ELIGIBLE FOR DESIGNATION.**—For purposes of this Act, the term “TRADE Act of 2009 country” refers to the following or their successor political entities:

- (1) Afghanistan.
- (2) Bangladesh.
- (3) Bhutan.
- (4) Cambodia.
- (5) Kiribati.
- (6) Lao People's Democratic Republic.
- (7) Maldives.
- (8) Nepal.
- (9) Samoa.
- (10) Solomon Islands.
- (11) Timor-Leste (East Timor).
- (12) Tuvalu.
- (13) Vanuatu.
- (14) Yemen.

(c) SRI LANKA ECONOMIC EMERGENCY SUPPORT.—For purposes of this Act, the President may also designate Sri Lanka as beneficiary TRADE Act of 2009 country eligible for benefits described in section 5.

#### SEC. 5. TRADE ENHANCEMENT.

The preferential treatment described in this section includes the following:

(1) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(A) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) of the Trade Act of 1974 (19 U.S.C. 2463(b)(1) (B) through (G)) that is the growth, product, or manufacture of a beneficiary TRADE Act of 2009 country, if, after receiving the advice of the International Trade Commission in accordance with section 503(e) of the Trade Act of 1974 (19 U.S.C. 2463(e)), the President determines that such article is not import-sensitive in the context of imports from beneficiary TRADE Act of 2009 countries.

(B) RULES OF ORIGIN.—The duty-free treatment provided under subparagraph (A) shall apply to any article described in that subparagraph that meets the requirements of section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)), except that—

(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)); and

(ii) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries shall be applied in determining such percentage.

(2) TEXTILE AND APPAREL ARTICLES.—

(A) IN GENERAL.—The preferential treatment relating to textile and apparel articles described in section 112 (a) and (b) (1) and (2) of the African Growth and Opportunity Act (19 U.S.C. 3721 (a) and (b) (1) and (2)) shall apply to textile and apparel articles imported directly into the customs territory of the United States from a beneficiary TRADE Act of 2009 country and such section shall be applied for purposes of this subparagraph by substituting “beneficiary TRADE Act of 2009 country” and “beneficiary TRADE Act of 2009 countries” for “beneficiary sub-Saharan African country” and “beneficiary sub-Saharan African countries”, respectively, each place such terms appear.

(B) APPAREL ARTICLES ASSEMBLED FROM REGIONAL AND OTHER FABRIC.—In applying such section 112, apparel articles wholly assembled in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, from fabric wholly formed in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, from yarn originating either in the United States or one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States, in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or any combination

thereof), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in section 112(b) (1) or (2) of the African Growth and Opportunity Act (19 U.S.C. 3721(b) (1) and (2)) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in such section 112(b) (1) or (2)) subject to the following:

(1) LIMITATIONS ON BENEFITS.—

(I) IN GENERAL.—Preferential treatment under this subparagraph shall be extended in the 1-year period beginning January 1, 2009, and in each of the succeeding 10 1-year periods, to imports of apparel articles described in this subparagraph in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available.

(II) APPLICABLE PERCENTAGE.—For purposes of this clause, the term “applicable percentage” means 11 percent for the 1-year period beginning January 1, 2009, increased in each of the 10 succeeding 1-year period by equal increments, so that for the period beginning January 1, 2019, the applicable percentage does not exceed 14 percent.

(ii) SPECIAL RULE.—

(I) IN GENERAL.—Subject to clause (i), preferential treatment described in this subparagraph shall be extended through December 31, 2016, for apparel articles wholly assembled in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, regardless of the country of origin of the yarn or fabric used to make such articles.

(II) COUNTRY LIMITATIONS.—

(aa) SMALL SUPPLIERS.—If, during the preceding 1-year period beginning on January 1 for which data are available, imports from a beneficiary TRADE Act of 2009 country are less than 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period, such imports may increase to an amount that is equal to not more than 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period.

(bb) OTHER SUPPLIERS.—If during the preceding 1-year period beginning on January 1 for which data are available, imports from a beneficiary TRADE Act of 2009 country are at least 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period, such imports may increase, during each subsequent 12-month period, by an amount that is equal to not more than one-third of 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States.

(cc) AGGREGATE COUNTRY LIMIT.—In no case may the aggregate quantity of textile and apparel articles imported into the United States under this subparagraph exceed the applicable percentage set forth in clause (i).

(C) TECHNICAL AMENDMENT.—Section 6002(a)(2)(B) of the Africa Investment Incentive Act of 2006 (Public Law 109-432) is amended by inserting before “by striking” the following: “in paragraph (3),”.

(D) OTHER RESTRICTIONS.—The provisions of section 112 (b) (3)(B), (4), (5), (6), (7), and (8), and (e), and section 113 of the African Growth and Opportunity Act (19 U.S.C. 3721 (b) (3)(B), (4), (5), (6), (7), and (8), and (e), and 3722) shall apply with respect to the preferential treatment extended under this Act to a beneficiary TRADE Act of 2009 country

by substituting “beneficiary TRADE Act of 2009 country” for “beneficiary sub-Saharan African country” and “beneficiary TRADE Act of 2009 countries” and “former beneficiary TRADE Act of 2009 countries” for “beneficiary sub-Saharan African countries” and “former sub-Saharan African countries”, respectively, wherever appropriate.

#### SEC. 6. REPORTING REQUIREMENT.

The President shall monitor, review, and report to Congress, not later than 1 year after the date of the enactment of this Act, and annually thereafter, on the implementation of this Act and on the trade and investment policy of the United States with respect to the TRADE Act of 2009 countries.

#### SEC. 7. TERMINATION OF PREFERENTIAL TREATMENT.

No duty-free treatment or other preferential treatment extended to a beneficiary TRADE Act of 2009 country under this Act shall remain in effect after December 31, 2019.

#### SEC. 8. EFFECTIVE DATE.

The provisions of this Act shall take effect on January 1, 2009.

By Mr. REED (for himself and Ms. MIKULSKI):

S. 1142. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to inclusion of effectiveness information in drug and device labeling and advertising; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce the Informed Health Care Decision Making Act of 2009. I am introducing this legislation along with my colleague Senator MIKULSKI because every American deserves to have the full information regarding drugs and devices prescribed by their provider.

Even though the amount of money spent to reach the public about drugs and devices is greater than five billion dollars annually, the most fundamental information—information about how well the drug or device actually works—is generally absent. In 2007, the Institute of Medicine conducted a workshop regarding the public's understanding of drugs and confirmed the importance for patients and physicians of having standardized and quantitative information about the product before making health care decisions.

Researchers at Dartmouth University have documented that replacing the current narrative information contained in drug advertisements with simplified, factual information, will enable patients to play an active role in health care decision making. In fact, similar to the nutrition facts boxes that are required on our Nation's packaged food supply, this research demonstrated that a drug facts box will actually help physicians make better health care choices.

If the research is not enough proof that this type of streamlined information will be beneficial, the Food and Drug Administration's, FDA, Risk Communications Advisory Committee, a committee specifically designed to



counsel the agency on how to strengthen the communication of risks and benefits of FDA-regulated products to the public, unanimously recommended that the FDA adopt standardized, quantitative summaries of risks and benefits in a drug facts box format.

As such, the Informed Health Care Decision Making Act of 2009 would require the FDA to determine if the information provided in a drug facts box, or a similar format, would improve health care decision making by clinicians and patients, and report to Congress on that determination. If the report determines that a specific standardized, quantitative format would be beneficial, the FDA must issue regulations to implement the format.

Regardless of the FDA's determination, it is important for clinicians and patients to be able to compare the similarities, differences, benefits, and risks of drugs and devices. As such, the legislation would require the Agency for Healthcare Research and Quality to establish a multi-stakeholder process for developing and periodically updating methodological standards and criteria for comparative clinical effectiveness research. This would include standards and criteria for the sources of evidence and the adequacy of evidence that are appropriate for the inclusion of comparative clinical effectiveness information in labeling and print advertisements.

Upon completion of these standards, the legislation requires drug labels and print advertisements to include information on the clinical effectiveness of a product—compared to other products approved for the same health condition for the same patient demographic subpopulation—or a disclosure that there is no such information, if another product has not been approved for the same use. The potential of such a disclosure should be a powerful incentive for manufacturers to fund comparative effectiveness research.

It is my hope that as we embark upon meaningful health care reform, my colleagues will join me in supporting this bill and other initiatives to improve the health care decision making of both patients and clinicians.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1142

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Informed Health Care Decision Making Act”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) National randomized controlled trials have found that replacing the brief summary of drug advertisements with a drug facts box improved consumer knowledge and judgments.

In such trials, consumers who were presented with a drug facts box more accurately perceived the side effects and benefits of a drug, and were more than twice as likely to choose the superior drug.

(2)(A) In 2007, the Institute of Medicine conducted a workshop that highlighted that the public has a limited understanding of the benefits and risks of drugs. The workshop also highlighted that it is important to—

(i) provide patients and physicians with the best possible information for making informed decisions about the use of pharmaceuticals;

(ii) employ quantitative and standardized approaches when trying to evaluate pharmaceutical benefit-risk; and

(iii) develop and validate improved tools for communicating pharmaceutical benefit-risk information to patients and physicians.

(B) The general agreement of the workshop was that the Food and Drug Administration should pilot test a drug facts box.

(3) On February 27, 2009, the Food and Drug Administration's Risk Communication Advisory Committee made the following unanimous recommendations:

(A) The Food and Drug Administration should adopt a single standard document for communicating essential information about pharmaceuticals.

(B) That standard document should include quantitative summaries of risks and benefits, along with use and precaution information.

(C) The Food and Drug Administration should adopt the drug facts box format as its standard.

#### SEC. 3. PRESENTATION OF DRUG BENEFIT AND RISK INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the “Secretary”), acting through the Commissioner of Food and Drugs, shall determine whether standardized, quantitative summaries of the benefits and risks of drugs in a tabular or drug facts box format, or any alternative format, in the labeling and print advertising of such drugs would improve health care decision making by clinicians and patients and consumers.

(b) REVIEW AND CONSULTATION.—In making the determination under subsection (a), the Secretary shall review all available scientific evidence and consult with drug manufacturers, clinicians, patients and consumers, experts in health literacy, and representatives of racial and ethnic minorities.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report that provides—

(1) the determination by the Secretary under subsection (a); and

(2) the reasoning and analysis underlying that determination.

(d) AUTHORITY.—

(1) IN GENERAL.—If the Secretary determines under subsection (a) that standardized, quantitative summaries of the benefits and risks of drugs in a tabular or drug facts box format, or any alternative format, in the labeling and print advertising of such drugs would improve health care decision making by clinicians and patients and consumers, then the Secretary, not later than 1 year after the date of submission of the report under subsection (c), shall promulgate regulations as necessary to implement such format.

(2) OBJECTIVE AND UP-TO-DATE INFORMATION.—In carrying out paragraph (1), the Secretary shall ensure that the information presented in a summary described under such

paragraph is objective and up-to-date, and is the result of a review process that considers the totality of published and unpublished data.

(3) POSTING OF INFORMATION.—In carrying out paragraph (1), the Secretary shall post the information presented in a summary described under such paragraph on the Internet Web site of the Food and Drug Administration.

#### SEC. 4. STANDARDS FOR COMPARATIVE CLINICAL EFFECTIVENESS INFORMATION.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall establish and periodically update methodological standards and criteria for the sources of evidence and the adequacy and degree of evidence that are appropriate for inclusion of comparative clinical effectiveness information in labeling and advertisements under subsections (f), (n)(3), and (r) of section 502 of the Federal Food, Drug, and Cosmetic Act (as amended by section 5).

(b) REQUIREMENTS.—The standards and criteria established under subsection (a) shall ensure that comparative clinical effectiveness information provides reliable and useful information that improves health care decision making, adheres to rigorous scientific standards, and is produced through a transparent process that includes consultation with stakeholders.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with manufacturers of drugs and devices, clinicians, patients and consumers, experts in health literacy, and representatives of racial and ethnic minorities.

(d) DEFINITION.—For purposes of this section, the term “comparative clinical effectiveness” means the clinical outcomes, effectiveness, safety, and clinical appropriateness of a drug or device in comparison to 1 or more drugs or devices, respectively, approved to prevent, diagnose, or treat the same health condition for the same patient demographic subpopulation.

#### SEC. 5. DISCLOSURE OF COMPARATIVE CLINICAL EFFECTIVENESS INFORMATION.

(a) COMPARATIVE CLINICAL EFFECTIVENESS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(rr) The term ‘comparative clinical effectiveness’ means the clinical outcomes, effectiveness, safety, and clinical appropriateness of a drug or device in comparison to 1 or more drugs or devices, respectively, approved to prevent, diagnose, or treat the same health condition for the same patient demographic subpopulation, on the basis of research that meets standards adopted by the Secretary under section 4 of the Informed Health Care Decision Making Act.”.

(b) LABELING AND ADVERTISING INFORMATION.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended—

(1) in subsection (f), by striking “for use; and (2)” and inserting “for use; (2) such information in brief summary relating to comparative clinical effectiveness as shall be required in regulations which shall be issued by the Secretary in accordance with the procedure specified in section 701(a); and (3)”;

(2) in subsection (n)(3), by striking “and effectiveness” and inserting “effectiveness, and comparative clinical effectiveness (or a disclosure that there is no such information relating to comparative clinical effectiveness if another drug has been approved for the same use);”;

(3) in subsection (r)—

(A) by striking “In the case of any” and inserting “(1) In the case of any”;

(B) by striking “(1) a true” and inserting “(A) a true”;

(C) by striking “(2) a brief” and inserting “(B) a brief”; and

(D) by striking “and contraindications” and inserting “contraindications, and, if appropriate after taking into consideration the type of device, effectiveness and comparative clinical effectiveness (or a disclosure that there is no such information relating to comparative clinical effectiveness if another device has been approved for the same use)”.

By Mr. DURBIN:

S. 1143. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, the people who work in public health are responsible for some of the most important jobs that protect the lives and health of ordinary Americans. The scope of public health includes preventing the spread of communicable diseases and pandemics, managing the health system's response to biological and chemical attacks, fighting food-borne illnesses, assisting communities in preparing for disasters, and promoting best health practices.

The recent outbreak of Influenza A H1N1 virus reminds us how much we depend on the people who work in public health. This virus has infected thousands of people and caused nearly a hundred deaths worldwide. The American people have looked to the Centers for Disease Control and Prevention and their State and local health departments to collect data, monitor the threat, provide accurate information, and prepare to respond if the situation worsens. But even when a pandemic or other widespread threat is not imminent, the public health workforce remains on the front lines in promoting healthy lifestyles and preventing chronic disease.

Our ability to prevent, respond to, and recover from a pandemic or other health challenges depends largely on a strong pipeline of public health professionals. Unfortunately, a critical—and growing—shortage of public health workers is putting our nation at risk.

The Association of Schools of Public Health recently reported that there were 50,000 fewer public health workers in 2000 than there were in 1980. In my home State of Illinois, the average Illinois Department of Public Health worker is 48 years old, and 39 percent of the staff will be eligible to retire within 5 years. Compounding this problem is the fact that 13 percent of agency positions are vacant, and when a new hire is found, the average age is 41. The “graying” workforce and weak pipeline

of new public health graduates are problems across all levels of government. Nearly half of the federal employees in occupations critical to U.S. biodefense will be eligible to retire by 2012.

We cannot stay on the same trajectory in the future. We are not educating enough people in public health to replace retiring public health workers, and the salaries for those who do work in public health disciplines are not competitive with comparable employment in the private sector. The Association of State and Territorial Health Officials reports that in 2004, most of the approximately 6,400 graduates from accredited schools of public health took jobs in the private sector.

I am pleased to introduce the Public Health Workforce Development Act of 2009 today to help address this challenge. This legislation provides several common-sense solutions to develop a strong pipeline of public health professionals. This bill would provide scholarships to students going into public health and provide loan repayment for current public health workers in exchange for a commitment to additional years of service in public health.

The legislation also encourages states to set up their own public health training programs and creates a scholarship program for mid-career professionals to maintain or upgrade their training. Finally, it creates an online clearinghouse of public health jobs available in the Federal Government. Together, these programs will help attract young people to a career in public health and give current public health professionals incentives to remain in the field in the long-term.

Our health care system today focuses too much on treating sickness, at the expense of preserving wellness. As the process of health reform moves forward, two key concerns are improving health care quality, while holding health care costs down. To do this, we need to focus on wellness, preventive care, and effective management of chronic conditions, all of which are hallmarks of the public health system. This bill will help maintain a strong and effective public health system by alleviating the dangerous shortage of public health workers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1143

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Health Workforce Development Act of 2009”.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The ability of the public health system to prevent, respond to, and recover from bio-

terrorism, acute outbreaks of infectious diseases, or other health threats and emergencies, and to prevent and reduce chronic disease, depends upon the existence of adequate numbers of well-trained public health professionals in Federal, State, local, and tribal public health departments and health centers.

(2) The public health system has an aging staff nearing retirement with no clear pipeline of highly-skilled and capable employees to fill the void, with the average age of the State public health workforce at 47 years.

(3) Retirement rates in some State public health agencies were as high as 20 percent as of June 2007, and projected to be as high as 45 percent in 2009.

(4) The ratio of public health workers to the population has dropped from 219 per 100,000 in 1980 to 158 per 100,000 in 2000, while responsibilities of such workers have continued to expand.

(5) Public health nurses comprise the largest segment of the public health workforce. A study by the Institute of Medicine in 2003 identified nursing as facing one of the most severe shortages of public health workers. The average age of public health nurses is nearly 50 years, with the leaders of State public health nursing averaging more than 30 years of service. In one State nearly 40 percent of the public health nursing workforce was eligible for retirement as of June 2007.

(6) According to the Association of State and Territorial Health Officials, most of the approximately 6,400 graduates from accredited schools of public health took jobs in the private sector in 2004. The Bureau of Labor Statistics projects that there will be an increase in private sector demand for highly-educated graduates in scientific fields during the 10-year period ending in 2017. Public health agencies will have difficulty competing for those highly-skilled scientists.

(7) As of June 2007, approximately 42 percent of the epidemiology workforce in State and territorial health departments lacked formal academic training in epidemiology. States have reported that approximately 47 percent more epidemiologists are needed to adequately prevent and control avian influenza and other emerging diseases.

(8) The Partnership for Public Service reports that in the field of microbiology, there are more than 4 times as many full-time permanent employees over age 40 as under age 40 at the Centers for Disease Control and Prevention. Among full-time permanent employees with medical backgrounds at the Centers for Disease Control and Prevention and the Food and Drug Administration, there are 3 times as many employees over 40 years of age as under 40.

(9) More than 50 percent of States cite the lack of qualified individuals or individuals willing to relocate as being a major barrier to preparedness. A study conducted by the Health Resources and Services Association reported difficulty with recruiting more educated, skilled public health providers to work in traditionally medically underserved areas, such as rural populations. Public health agencies continue to face an unmet need for public health workers who are bilingual and culturally competent.

(10) Lack of access to advanced education, including baccalaureate nursing and graduate studies, is a significant barrier to upgrading the existing public health workforce, particularly in rural areas.

#### SEC. 3. PUBLIC HEALTH WORKFORCE RECRUITMENT AND RETENTION PROGRAMS.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

**“Subpart 3—Public Health Workforce Recruitment and Retention Programs**

**“SEC. 780. PUBLIC HEALTH WORKFORCE SCHOLARSHIP PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary shall establish the Public Health Workforce Scholarship Program (referred to in this section as the ‘Program’) to assure an adequate supply of public health professionals to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers.

“(b) **ELIGIBILITY.**—To be eligible to participate in the Program, an individual shall—

“(1) be accepted for enrollment, or be enrolled, as a full-time student—

“(A) in an accredited (as determined by the Secretary) educational institution in a State or territory; and

“(B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a health professions degree (graduate, undergraduate, or associate) or certificate, which may include public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration;

“(2) be a United States citizen;

“(3) submit an application to the Secretary to participate in the Program; and

“(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (d)) to serve, upon the completion of the course of study or program involved, for the applicable period of obligated service in the full-time employment of a Federal, State, local, or tribal public health agency or a health center.

“(c) **DISSEMINATION OF INFORMATION.**—

“(1) **APPLICATION AND CONTRACT FORMS.**—The Secretary shall disseminate application forms and contract forms to individuals desiring to participate in the Program. The Secretary shall include with such forms—

“(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled in the case of the individual’s breach of the contract; and

“(B) information relating to the service obligation and such other information as may be necessary for the individual to understand the individual’s prospective participation in the Program.

“(2) **INFORMATION FOR SCHOOLS.**—The Secretary shall distribute to health professions schools and other appropriate accredited academic institutions and relevant Federal, State, local, and tribal public health agencies, materials providing information on the Program and shall encourage such schools, institutions, and agencies to disseminate such materials to potentially eligible students.

“(3) **UNDERSTANDABILITY AND TIMING.**—The application form, contract form, and all other information furnished by the Secretary under this section shall—

“(A) be written in a manner calculated to be understood by the average individual applying to participate in the Program; and

“(B) be made available by the Secretary on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

“(d) **CONTRACT.**—The written contract between the Secretary and an individual shall contain—

“(1) an agreement on the part of the Secretary that the Secretary will provide the individual with a scholarship for a period of years (not to exceed 4 academic years) during which the individual shall pursue an approved course of study or program to prepare the individual to serve in the public health workforce;

“(2) an agreement on the part of the individual that the individual will—

“(A) maintain full-time enrollment in the approved course of study or program described in subsection (b)(1) until the individual completes that course of study or program;

“(B) while enrolled in the course of study or program, maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or program); and

“(C) immediately upon graduation, serve in the full-time employment of a Federal, State, local, or tribal public health agency or a health center in a position related to the course of study or program for which the contract was awarded for a period of time (referred to in this section as the ‘period of obligated service’) equal to the greater of—

“(i) 1 year for each academic year for which the individual was provided a scholarship under the Program; or

“(ii) 2 years;

“(3) an agreement by both parties as to the nature and extent of the scholarship assistance, which may include—

“(A) payment of the tuition expenses of the individual;

“(B) payment of all other reasonable educational expenses of the individual including fees, books, equipment, and laboratory expenses; and

“(C) payment of a stipend of not more than \$1,200 per month for each month of the academic year involved (indexed to account for increases in the Consumer Price Index);

“(4) a provision that any financial obligation of the United States arising out of a contract entered into under this subsection and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this section;

“(5) a statement of the damages to which the United States is entitled for the individual’s breach of the contract; and

“(6) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this section.

“(e) **POSTPONING OBLIGATED SERVICE.**—With respect to an individual receiving a degree or certificate from a school of medicine, public health, nursing, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, psychology, or social work under a scholarship under the Program, the date of the initiation of the period of obligated service may be postponed, upon the submission by the individual of a petition for such postponement and approval by the Secretary, to the date on which the individual completes an approved internship, residency, or other relevant public health advanced training program.

“(f) **ADMINISTRATIVE PROVISIONS.**—

“(1) **CONTRACTS WITH INSTITUTIONS.**—The Secretary may contract with an educational institution in which a participant in the Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (d)(3).

“(2) **EMPLOYMENT CEILINGS.**—Notwithstanding any other provision of law, individ-

uals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department or any other Federal agency.

“(g) **BREACH OF CONTRACT.**—An individual who fails to comply with the contract entered into under subsection (d) shall be subject to the same financial penalties as provided for under section 338E for breaches of scholarship contracts under sections 338A.

“(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$35,000,000 for each of the fiscal years 2010 through 2015.

“(i) **DEFINITION.**—For purposes of this subpart, the term ‘health center’ has the meaning given such term in section 330(a).

**“SEC. 781. PUBLIC HEALTH WORKFORCE LOAN REPAYMENT PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary shall establish the Public Health Workforce Loan Repayment Program (referred to in this section as the ‘Program’) to assure an adequate supply of public health professionals to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and in health centers.

“(b) **ELIGIBILITY.**—To be eligible to participate in the Program, an individual shall—

“(1)(A) be accepted for enrollment, or be enrolled, as a full-time or part-time student in an accredited academic educational institution in a State or territory in the final year of a course of study or program offered by that institution leading to a health professions degree or certificate, which may include a degree (graduate, undergraduate, or associate) or certificate relating to public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration; or

“(B) have graduated, within 10 years, from an accredited educational institution in a State or territory and received a health professions degree (graduate, undergraduate, or associate) or certificate, which may include a degree (graduate, undergraduate, or associate) or certificate relating to public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration;

“(2)(A) in the case of an individual described in paragraph (1)(A), have accepted employment with a Federal, State, local, or tribal public health agency or a health center, as recognized by the Secretary, to commence upon graduation; or

“(B) in the case of an individual described in paragraph (1)(B), be employed by, or have accepted employment with, a Federal, State, local, or tribal public health agency or a health center, as recognized by the Secretary;

“(3) be a United States citizen;

“(4) submit an application to the Secretary to participate in the Program; and

“(5) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (d)) to serve for the applicable period of obligated service in the full-time employment of a Federal, State, local, or tribal public health agency or a health center.

“(c) **DISSEMINATION OF INFORMATION.**—

“(1) **APPLICATION AND CONTRACT FORMS.**—The Secretary shall disseminate application forms and contract forms to individuals desiring to participate in the Program. The Secretary shall include with such forms—

“(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled to recover in the case of the individual's breach of the contract; and

“(B) information relating to the service obligation and such other information as may be necessary for the individual to understand the individual's prospective participation in the Program.

“(2) INFORMATION FOR SCHOOLS.—The Secretary shall distribute to health professions schools and other appropriate accredited academic institutions and relevant Federal, State, local, and tribal public health agencies and health centers, materials providing information on the Program and shall encourage such schools, institutions, and agencies to disseminate such materials to potentially eligible students.

“(3) UNDERSTANDABILITY AND TIMING.—The application form, contract form, and all other information furnished by the Secretary under this section shall—

“(A) be written in a manner calculated to be understood by the average individual applying to participate in the Program; and

“(B) be made available by the Secretary on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

“(d) CONTRACT.—The written contract (referred to in this section) between the Secretary and an individual shall contain—

“(1) an agreement on the part of the Secretary that the Secretary will repay on behalf of the individual loans incurred by the individual in the pursuit of the relevant public health workforce educational degree or certificate in accordance with the terms of the contract;

“(2) an agreement on the part of the individual that the individual will serve, immediately upon graduation in the case of an individual described in subsection (b)(1)(A) service, or in the case of an individual described in subsection (b)(1)(B) continue to serve, in the full-time employment of a Federal, State, local, or tribal public health agency or health center in a position related to the course of study or program for which the contract was awarded for a period of time (referred to in this section as the ‘period of obligated service’) equal to the greater of—

“(A) 3 years; or

“(B) such longer period of time as determined appropriate by the Secretary and the individual;

“(3) an agreement, as appropriate, on the part of the individual to relocate for the entire period of obligated service to a political jurisdiction designated by the Secretary to be a priority service area in exchange for an additional loan repayment incentive amount that does not exceed 20 percent of the individual's eligible loan repayment award per academic year such that the total of the loan repayment and the incentive amount shall not exceed  $\frac{1}{3}$  of the eligible loan balance per year;

“(4) in the case of an individual described in subsection (b)(1)(A) who is in the final year of study and who has accepted employment with a Federal, State, local, or tribal public health agency or a health center upon graduation, an agreement on the part of the individual to complete the education or training, maintain an acceptable level of academic standing (as determined by the

education institution offering the course of study or training), and agree to the period of obligated service;

“(5) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual that is conditioned thereon, is contingent on funds being appropriated for loan repayments under this section;

“(6) a statement of the damages to which the United States is entitled, under this section for the individual's breach of the contract; and

“(7) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

“(e) PAYMENTS.—

“(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

“(A) tuition expenses; or

“(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual.

“(2) PAYMENTS FOR YEARS SERVED.—

“(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (d) the Secretary may pay up to \$35,000 on behalf of the individual for loans described in paragraph (1). With respect to participants under the Program whose total eligible loans are less than \$105,000, the Secretary shall pay an amount that does not exceed  $\frac{1}{3}$  of the eligible loan balance for each year of obligated service of the individual.

“(B) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

“(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

“(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount not to exceed 39 percent of the total amount of loan repayments made for the taxable year involved; and

“(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

“(4) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Program to establish a schedule for the making of such payments.

“(f) POSTPONING OBLIGATED SERVICE.—With respect to an individual receiving a degree or certificate from a school of medicine, public health, nursing, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, psychology, or social work, the date of the initiation of the period of obligated service may be postponed, upon the submission by the individual of a petition for such postponement and approval by the Secretary, to the date on which the individual completes an approved internship, residency, or other relevant public health advanced training program.

“(g) ADMINISTRATIVE PROVISIONS.—

“(1) HIRING PRIORITY.—Notwithstanding any other provision of law, Federal, State, local, and tribal public health agencies and health centers may give hiring priority to any individual who has qualified for and is willing to execute a contract to participate in the Program.

“(2) EMPLOYMENT CEILINGS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, who are serving as full-time employees of a State, local, or tribal public health agency or a health center, or who are in the last year of public health workforce academic preparation, shall not be counted against any employment ceiling affecting the Department or any other Federal agency.

“(h) BREACH OF CONTRACT.—An individual who fails to comply with the contract entered into under subsection (d) shall be subject to the same financial penalties as provided for under section 338E for breaches of loan repayment contracts under section 338B.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$195,000,000 for each of the fiscal years 2010 through 2015.

#### “SEC. 782. GRANTS FOR STATE AND LOCAL PROGRAMS.

“(a) IN GENERAL.—For the purpose of operating State, local, tribal, and health center public health workforce loan repayment programs under this subpart, the Secretary shall award a grant to any public health agency that receives public health preparedness cooperative agreements, or other successor cooperative agreements, from the Department of Health and Human Services.

“(b) REQUIREMENTS.—A State or local loan repayment program operated with a grant under subsection (a) shall incorporate all provisions of the Public Health Workforce Loan Repayment Program under section 781, including the ability to designate priority service areas within the relevant political jurisdiction.

“(c) ADMINISTRATION.—The head of the State or local office that receives a grant under subsection (a) shall be responsible for contracting and operating the loan repayment program under the grant.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to obligate or limit any State, local, or tribal government entity from implementing independent or supplemental public health workforce development programs within their borders.

#### “SEC. 783. TRAINING FOR MID-CAREER PUBLIC HEALTH PROFESSIONALS.

“(a) IN GENERAL.—The Secretary may make grants to, or enter into contracts with, any eligible entity to award scholarships to eligible individuals to enroll in degree or professional training programs for the purpose of enabling mid-career professionals in the public health workforce to receive additional training in the field of public health.

“(b) ELIGIBILITY.—

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ indicates an accredited educational institution that offers a course of study, certificate program, or professional training program in infectious disease science, medicine, public health, veterinary medicine, or other discipline impacting or influenced by bioterrorism or emerging infectious diseases.

“(2) ELIGIBLE INDIVIDUALS.—The term ‘eligible individuals’ includes those individuals employed in public health positions at the Federal, State, tribal, or local level or a health center who are interested in retaining or upgrading their education.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$30,000,000 for each of the fiscal years 2010 through 2015.

**“SEC. 784. CATALOGUE OF FEDERAL PUBLIC HEALTH WORKFORCE EMPLOYMENT OPPORTUNITIES.**

“(a) IN GENERAL.—The Director of the Office of Personnel Management, in cooperation with the Secretary, shall ensure that, included in the Internet website of the Office of Personnel Management, there is an online catalogue, or link to an online catalogue, of public health workforce employment opportunities in the Federal Government.

“(b) REQUIREMENTS.—To the extent practicable, the catalogue described in subsection (a) shall include—

“(1) existing and projected job openings in the Federal public health workforce; and

“(2) a general discussion of the occupations that comprise the Federal public health workforce.

“(c) INFORMATION.—The Secretary shall include a copy of the catalogue described in subsection (a), or a prominent reference to the catalogue, in—

“(1) the application forms provided under section 780(c)(1); and

“(2) the information for schools provided under section 780(c)(2).”.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 1147. A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with Senator LEAHY to introduce the Prevent All Cigarette Trafficking, PACT, Act of 2009. As the problem of cigarette trafficking continues to worsen, we must provide law enforcement officials with the tools they need to crack down on cigarette trafficking. The PACT Act closes loopholes in current tobacco trafficking laws, enhances penalties for violations, and provides law enforcement with new tools to combat the innovative new methods being used by cigarette traffickers to distribute their products. Each day we delay passage of this important legislation, terrorists and criminals raise more money, States lose significant amounts of tax revenue, and kids have easy access to tobacco products over the internet.

The cost to Americans is not merely financial. Tobacco smuggling also poses a significant threat to innocent people around the world. It has developed into a popular, and highly profitable, means of generating revenue for criminal and terrorist organizations. Hezbollah, for example, earned \$1.5 million between 1996 and 2000 by engaging in tobacco trafficking in the U.S. Al Qaeda and Hamas have also generated significant revenue from the sale of counterfeit cigarettes. That money is often raised right here in the U.S. and it is then funneled back to these international terrorist groups. Cutting off financial support to terrorist groups is an integral part of the protecting this country against future attacks. We can

no longer continue to let terrorist organizations exploit weaknesses in our tobacco laws to generate significant amounts of money. The cost of doing nothing is too great.

This is not a minor problem. Cigarette smuggling is a multibillion dollar a year phenomenon, and it is getting worse. In 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) had six active tobacco smuggling investigations. In 2005, that number swelled to 452. Today there are more than 400 open cases.

The number of cases alone, however, does not sufficiently put this problem into perspective. The amount of money involved is truly astonishing. Cigarette trafficking, including the illegal sale of tobacco products over the internet, costs States billions of dollars in lost tax revenue each year. It is estimated that we lose \$5 billion in state revenues due to illegal tobacco sales. As lost tobacco tax revenue lines the pockets of criminals and terrorist groups, states are being forced to college tuition and restrict access to other public programs. Tobacco smuggling may provide some with cheap access to cigarettes, but those cheap cigarettes are coming at a significant cost to the rest of us.

According to the Government Accountability Office, each year, cigarette trafficking investigations are growing more and more complex, and take longer to resolve. More people are selling cigarettes illegally, and they are getting better at it. As these cases get tougher to solve, we owe it to law enforcement officials to do our part to lend a helping hand. The PACT Act enhances BATFE's authority to enter premises to investigate and enforce cigarette trafficking laws, and increasing penalties for violations. Unless these existing laws are strengthened, traffickers will continue to operate with near impunity.

Just as important, though, we must provide law enforcement with new enforcement tools—tools that enable them to combat the cigarette smugglers of the 21st century. The internet represents one of those new obstacles to enforcement. Illegal tobacco vendors around the world evade detection by conducting transactions over the internet, and then employing the services of common carriers and the U.S. Postal Service to deliver their illegal products around the country. Just a few years ago, there were less than 100 vendors selling cigarettes online. Today, we estimate that approximately 500 vendors sell illegal tobacco products over the internet.

Without new and innovative enforcement methods, law enforcement will not be able to effectively address the growing challenges facing them today. The PACT Act sets out to do just that by cutting off the delivery. A significant part of this problem involves the shipment of contraband cigarettes

through the U.S. Postal Service, USPS. This bill would cut off access to the USPS by making tobacco products non-mailable. We would treat cigarettes just like we treat alcohol, making it illegal to ship them through the U.S. mails and cutting off a large portion of the delivery system.

It also employs a novel approach, one being used in some of our States today, to combat illegal sales of tobacco over the internet. Specifically, it will allow the Attorney General, in collaboration with State and local law enforcement, to create a list of companies that are illegally selling tobacco products. That list will then be distributed to legitimate businesses whose services are indispensable to illegal internet vendors—common carriers. Once a common carrier knows which customers are breaking the law, this bill will ensure that they take appropriate action to prevent their companies from being exploited by terrorists and other criminals.

It is important to point out that this bill has been carefully negotiated with the common carriers, including UPS, to ensure that it does not place any unreasonable burdens on these businesses. In recognition of UPS and other common carriers' agreements to not deliver cigarettes to individual consumers on a nationwide basis, pursuant to agreements with the State of New York, we have exempted them from the bill provided this agreement remains in effect.

In addition to these important law enforcement needs, it is important to mention another aspect of this legislation that is equally important. One of the primary ways children get access to cigarettes today is on the internet and through the mails. The PACT Act now contains a strong age verification section that will ensure that online vendors are not selling cigarettes to our children. This provision would prohibit the sale of tobacco products to children, and it would also require sellers to use a method of shipment that requires a signature and photo ID check upon delivery. Most States already have similar laws on the books, and this would simply make sure that we have a national standard to ensure that the internet is not being used to evade similar ID checks we require at our grocery and convenience stores.

The recognition that this is a significant problem, along with the common-sense approach taken in the PACT Act to combat it, has brought together a coalition of strange bedfellows. The legislation has not just garnered the support of the law enforcement community, including the National Association of Attorneys General, and public health advocates, such as the Campaign for Tobacco Free Kids. It also has the strong support of tobacco companies like Altria. These groups, who sometimes find themselves on opposite

sides of these issues, all agree that this is an issue begging to be addressed. They all recognize the urgent need to provide our law enforcement officials with the tools they need to combat a very serious threat to our security and protect public health.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1147

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) **SHORT TITLE.**—This Act may be cited as the “Prevent All Cigarette Trafficking Act of 2009” or “PACT Act”.

(b) **FINDINGS.**—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children, without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) **PURPOSES.**—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

#### SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) **DEFINITIONS.**—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the “Jenkins Act”) (referred to in this Act as the “Jenkins Act”), is amended by striking the first section and inserting the following:

##### “SECTION 1. DEFINITIONS.

“As used in this Act, the following definitions apply:

“(1) **ATTORNEY GENERAL.**—The term ‘attorney general’, with respect to a State, means the attorney general or other chief law enforcement officer of the State.

“(2) **CIGARETTE.**—

“(A) **IN GENERAL.**—The term ‘cigarette’—

“(i) has the meaning given that term in section 2341 of title 18, United States Code; and

“(ii) includes roll-your-own tobacco (as defined in section 5702 of the Internal Revenue Code of 1986).

“(B) **EXCEPTION.**—The term ‘cigarette’ does not include a cigar (as defined in section 5702 of the Internal Revenue Code of 1986).

“(3) **COMMON CARRIER.**—The term ‘common carrier’ means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

“(4) **CONSUMER.**—The term ‘consumer’—

“(A) means any person that purchases cigarettes or smokeless tobacco; and

“(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

“(5) **DELIVERY SALE.**—The term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco to a consumer if—

“(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

“(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

“(6) **DELIVERY SELLER.**—The term ‘delivery seller’ means a person who makes a delivery sale.

“(7) **INDIAN COUNTRY.**—The term ‘Indian country’—

“(A) has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

“(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

“(8) **INDIAN TRIBE.**—The term ‘Indian tribe’, ‘tribe’, or ‘tribal’ refers to an Indian tribe as

defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

“(9) **INTERSTATE COMMERCE.**—The term ‘interstate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

“(10) **PERSON.**—The term ‘person’ means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

“(11) **STATE.**—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

“(12) **SMOKELESS TOBACCO.**—The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

“(13) **TOBACCO TAX ADMINISTRATOR.**—The term ‘tobacco tax administrator’ means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

“(14) **USE.**—The term ‘use’ includes the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.”

(b) **REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.**—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking “cigarettes” each place it appears and inserting “cigarettes or smokeless tobacco”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “CONTENTS.” after “(a)”;

(ii) by striking “or transfers” and inserting “; transfers, or ships”;

(iii) by inserting “, locality, or Indian country of an Indian tribe” after “a State”;

(iv) by striking “to other than a distributor licensed by or located in such State,”; and

(v) by striking “or transfer and shipment” and inserting “, transfer, or shipment”;

(B) in paragraph (1)—

(i) by striking “with the tobacco tax administrator of the State” and inserting “with the Attorney General of the United States and with the tobacco tax administrators of the State and place”; and

(ii) by striking “; and” and inserting the following: “, as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person;”;

(C) in paragraph (2), by striking “and the quantity thereof,” and inserting “the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and”; and

(D) by adding at the end the following:

“(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of the memorandum or invoice with the tobacco tax administrators



and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.”;

(3) in subsection (b)—

(A) by inserting “PRESUMPTIVE EVIDENCE.—” after “(b)”;

(B) by striking “(1) that” and inserting “that”; and

(C) by striking “, and (2)” and all that follow and inserting a period; and

(4) by adding at the end the following:

“(c) USE OF INFORMATION.—A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice under paragraph (2) or (3) of subsection (a) shall use the memorandum or invoice solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in the memorandum or invoice except as required for such purposes.”.

(c) REQUIREMENTS FOR DELIVERY SALES.—The Jenkins Act is amended by inserting after section 2 the following:

**“SEC. 2A. DELIVERY SALES.**

“(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

“(1) the shipping requirements set forth in subsection (b);

“(2) the recordkeeping requirements set forth in subsection (c);

“(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the specific State and place, including laws imposing—

“(A) excise taxes;

“(B) licensing and tax-stamping requirements;

“(C) restrictions on sales to minors; and

“(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

“(4) the tax collection requirements set forth in subsection (d).

“(b) SHIPPING AND PACKAGING.—

“(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: ‘CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS’.

“(2) FAILURE TO LABEL.—Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nondeliverable matter by a common carrier or other delivery service, if the common carrier or other delivery service knows or should know the package contains cigarettes or smokeless tobacco. If a common carrier or other delivery service believes a package is being submitted for delivery in violation of paragraph (1), it may require the person submitting the package for delivery to establish that it is not being sent in violation of paragraph (1) before accepting the package for delivery. Nothing in this paragraph shall require the common carrier or other delivery service to open any package to determine its contents.

“(3) WEIGHT RESTRICTION.—A delivery seller shall not sell, offer for sale, deliver, or cause

to be delivered in any single sale or single delivery any cigarettes or smokeless tobacco weighing more than 10 pounds.

“(4) AGE VERIFICATION.—

“(A) IN GENERAL.—A delivery seller who mails or ships tobacco products—

“(i) shall not sell, deliver, or cause to be delivered any tobacco products to a person under the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery;

“(ii) shall use a method of mailing or shipping that requires—

“(I) the purchaser placing the delivery sale order, or an adult who is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery, to sign to accept delivery of the shipping container at the delivery address; and

“(II) the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

“(iii) shall not accept a delivery sale order from a person without—

“(I) obtaining the full name, birth date, and residential address of that person; and

“(II) verifying the information provided in subclause (I), through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery.

“(B) LIMITATION.—No database being used for age and identity verification under subparagraph (A)(iii) shall be in the possession or under the control of the delivery seller, or be subject to any changes or supplementation by the delivery seller.

“(c) RECORDS.—

“(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within the State, by the city or town and by zip code, into which the delivery sale is so made.

“(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) until the end of the 4th full calendar year that begins after the date of the delivery sale.

“(3) ACCESS FOR OFFICIALS.—Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that apply local or tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of the local governments and Indian tribes, and to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

“(d) DELIVERY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver to any consumer, or tender to any common carrier or other delivery service, any cigarettes or smokeless tobacco pursuant to a delivery sale unless, in advance of the sale, delivery, or tender—

“(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

“(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

“(C) any required stamps or other indicia that the excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

“(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

“(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS.—

“(1) IN GENERAL.—

“(A) INITIAL LIST.—Not later than 90 days after this subsection goes into effect under the Prevent All Cigarette Trafficking Act of 2009, the Attorney General of the United States shall compile a list of delivery sellers of cigarettes or smokeless tobacco that have not registered with the Attorney General of the United States pursuant to section 2(a), or that are otherwise not in compliance with this Act, and—

“(i) distribute the list to—

“(I) the attorney general and tax administrator of every State;

“(II) common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

“(III) any other person that the Attorney General of the United States determines can promote the effective enforcement of this Act; and

“(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

“(B) LIST CONTENTS.—To the extent known, the Attorney General of the United States shall include, for each delivery seller on the list described in subparagraph (A)—

“(i) all names the delivery seller uses or has used in the transaction of its business or on packages delivered to customers;

“(ii) all addresses from which the delivery seller does or has done business, or ships or has shipped cigarettes or smokeless tobacco;

“(iii) the website addresses, primary e-mail address, and phone number of the delivery seller; and

“(iv) any other information that the Attorney General of the United States determines would facilitate compliance with this subsection by recipients of the list.

“(C) UPDATING.—The Attorney General of the United States shall update and distribute the list described in subparagraph (A) at least once every 4 months, and may distribute the list and any updates by regular mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General of the United States regularly updates.

“(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list described in subparagraph (A) any noncomplying delivery sellers

identified by any State, local, or tribal government under paragraph (6), and shall distribute the list to the attorney general or chief law enforcement official and the tax administrator of any government submitting any such information, and to any common carriers or other persons who deliver small packages to consumers identified by any government pursuant to paragraph (6).

“(E) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

“(i) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on for the purpose of determining that a delivery seller is not in compliance with this Act;

“(ii) not later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the list, which shall cite the relevant provisions of this Act and the specific reasons for which the delivery seller is being placed on the list;

“(iii) provide an opportunity to the delivery seller to challenge placement on the list;

“(iv) investigate each challenge described in clause (iii) by contacting the relevant Federal, State, tribal, and local law enforcement officials, and provide the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

“(v) if the Attorney General of the United States determines that the basis for including a delivery seller on the list is inaccurate, based on incomplete information, or cannot be verified, promptly remove the delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of the determination.

“(F) CONFIDENTIALITY.—The list described in subparagraph (A) shall be confidential, and any person receiving the list shall maintain the confidentiality of the list and may deliver the list, for enforcement purposes, to any government official or to any common carrier or other person that delivers tobacco products or small packages to consumers. Nothing in this section shall prohibit a common carrier, the United States Postal Service, or any other person receiving the list from discussing with a listed delivery seller the inclusion of the delivery seller on the list and the resulting effects on any services requested by the listed delivery seller.

“(2) PROHIBITION ON DELIVERY.—

“(A) IN GENERAL.—Commencing on the date that is 60 days after the date of the initial distribution or availability of the list described in paragraph (1)(A), no person who receives the list under paragraph (1), and no person who delivers cigarettes or smokeless tobacco to consumers, shall knowingly complete, cause to be completed, or complete its portion of a delivery of any package for any person whose name and address are on the list, unless—

“(i) the person making the delivery knows or believes in good faith that the item does not include cigarettes or smokeless tobacco;

“(ii) the delivery is made to a person lawfully engaged in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) the package being delivered weighs more than 100 pounds and the person making the delivery does not know or have reasonable cause to believe that the package contains cigarettes or smokeless tobacco.

“(B) IMPLEMENTATION OF UPDATES.—Commencing on the date that is 30 days after the date of the distribution or availability of any updates or corrections to the list described in paragraph (1)(A), all recipients and all common carriers or other persons that deliver cigarettes or smokeless tobacco to consumers shall be subject to subparagraph (A) in regard to the corrections or updates.

“(3) EXEMPTIONS.—

“(A) IN GENERAL.—Subsection (b)(2) and any requirements or restrictions placed directly on common carriers under this subsection, including subparagraphs (A) and (B) of paragraph (2), shall not apply to a common carrier that—

“(i) is subject to a settlement agreement described in subparagraph (B); or

“(ii) if a settlement agreement described in subparagraph (B) to which the common carrier is a party is terminated or otherwise becomes inactive, is administering and enforcing policies and practices throughout the United States that are at least as stringent as the agreement.

“(B) SETTLEMENT AGREEMENT.—A settlement agreement described in this subparagraph—

“(i) is a settlement agreement relating to tobacco product deliveries to consumers; and

“(ii) includes—

“(I) the Assurance of Discontinuance entered into by the Attorney General of New York and DHL Holdings USA, Inc. and DHL Express (USA), Inc. on or about July 1, 2005, the Assurance of Discontinuance entered into by the Attorney General of New York and United Parcel Service, Inc. on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and Federal Express Corporation and FedEx Ground Package Systems, Inc. on or about February 3, 2006, if each of those agreements is honored throughout the United States to block illegal deliveries of cigarettes or smokeless tobacco to consumers; and

“(II) any other active agreement between a common carrier and a State that operates throughout the United States to ensure that no deliveries of cigarettes or smokeless tobacco shall be made to consumers or illegally operating Internet or mail-order sellers and that any such deliveries to consumers shall not be made to minors or without payment to the States and localities where the consumers are located of all taxes on the tobacco products.

“(4) SHIPMENTS FROM PERSONS ON LIST.—

“(A) IN GENERAL.—If a common carrier or other delivery service delays or interrupts the delivery of a package in the possession of the common carrier or delivery service because the common carrier or delivery service determines or has reason to believe that the person ordering the delivery is on a list described in paragraph (1)(A) and that the package contains cigarettes or smokeless tobacco—

“(i) the person ordering the delivery shall be obligated to pay—

“(I) the common carrier or other delivery service as if the delivery of the package had been timely completed; and

“(II) if the package is not deliverable, any reasonable additional fee or charge levied by the common carrier or other delivery service to cover any extra costs and inconvenience and to serve as a disincentive against such noncomplying delivery orders; and

“(ii) if the package is determined not to be deliverable, the common carrier or other delivery service shall offer to provide the package and its contents to a Federal, State, or local law enforcement agency.

“(B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

“(C) CONFIDENTIALITY.—Any person receiving records under subparagraph (B) shall—

“(i) use the records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco; and

“(ii) keep confidential any personal information in the records not otherwise required for such purposes.

“(5) PREEMPTION.—

“(A) IN GENERAL.—No State, local, or tribal government, nor any political authority of 2 or more State, local, or tribal governments, may enact or enforce any law or regulation relating to delivery sales that restricts deliveries of cigarettes or smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

“(i) requiring that the common carrier or other delivery service verify the age or identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

“(ii) requiring that the common carrier or other delivery service obtain a signature from the consumer accepting the delivery;

“(iii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

“(iv) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

“(v) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or is not identified on any list of delivery sellers maintained and distributed by any entity other than the Federal Government.

“(B) RELATIONSHIP TO OTHER LAWS.—Except as provided in subparagraph (C), nothing in this paragraph shall be construed to nullify, expand, restrict, or otherwise amend or modify—

“(i) section 14501(c)(1) or 41713(b)(4) of title 49, United States Code;

“(ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

“(iii) any provision of State, local, or tribal law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4)(B) of title 49 of the United States Code.

“(C) STATE LAWS PROHIBITING DELIVERY SALES.—

“(i) IN GENERAL.—Except as provided in clause (ii), nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to a delivery sale, of cigarettes or other tobacco products to individual consumers or personal residences.

“(ii) EXEMPTIONS.—No State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residences without proof that the common carrier is not exempt under paragraph (3) of this subsection.

“(6) STATE, LOCAL, AND TRIBAL ADDITIONS.—“(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General of the United States with—

“(i) all known names, addresses, website addresses, and other primary contact information of any delivery seller that—

“(I) offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land; and

“(II) has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

“(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

“(B) UPDATES.—Any government providing a list to the Attorney General of the United States under subparagraph (A) shall also provide updates and corrections every 4 months until such time as the government notifies the Attorney General of the United States in writing that the government no longer desires to submit information to supplement the list described in paragraph (1)(A).

“(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list described in paragraph (1)(A) any persons that are on the list solely because of the prior submissions of the government of the list of the government of noncomplying delivery sellers of cigarettes or smokeless tobacco or a subsequent update or correction by the government.

“(7) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall—

“(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (6) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General of the United States; and

“(B) distribute any list or update described in subparagraph (A) to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (6).

“(8) NOTICE TO DELIVERY SELLERS.—Not later than 14 days before including any delivery seller on the initial list described in paragraph (1)(A), or on an update to the list for the first time, the Attorney General of the United States shall make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the list or update, with that notice citing the relevant provisions of this Act.

“(9) LIMITATIONS.—

“(A) IN GENERAL.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to—

“(i) determine whether any list distributed or made available under paragraph (1) is complete, accurate, or up-to-date;

“(ii) determine whether a person ordering a delivery is in compliance with this Act; or

“(iii) open or inspect, pursuant to this Act, any package being delivered to determine its contents.

“(B) ALTERNATE NAMES.—Any common carrier or other person making a delivery subject to this subsection—

“(i) shall not be required to make any inquiries or otherwise determine whether a person ordering a delivery is a delivery seller on the list described in paragraph (1)(A) who is using a different name or address in order to evade the related delivery restrictions; and

“(ii) shall not knowingly deliver any packages to consumers for any delivery seller on the list described in paragraph (1)(A) who the common carrier or other delivery service knows is a delivery seller who is on the list and is using a different name or address to evade the delivery restrictions of paragraph (2).

“(C) PENALTIES.—Any common carrier or person in the business of delivering packages on behalf of other persons shall not be subject to any penalty under section 14101(a) of title 49, United States Code, or any other provision of law for—

“(i) not making any specific delivery, or any deliveries at all, on behalf of any person on the list described in paragraph (1)(A);

“(ii) refusing, as a matter of regular practice and procedure, to make any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person or for any person not in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

“(D) OTHER LIMITS.—Section 2 and subsections (a), (b), (c), and (d) of this section shall not be interpreted to impose any responsibilities, requirements, or liability on common carriers.

“(f) PRESUMPTION.—For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.”

(d) PENALTIES.—The Jenkins Act is amended by striking section 3 and inserting the following:

#### “SEC. 3. PENALTIES.

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), whoever knowingly violates this Act shall be imprisoned for not more than 3 years, fined under title 18, United States Code, or both.

“(2) EXCEPTIONS.—

“(A) GOVERNMENTS.—Paragraph (1) shall not apply to a State, local, or tribal government.

“(B) DELIVERY VIOLATIONS.—A common carrier or independent delivery service, or employee of a common carrier or independent delivery service, shall be subject to criminal penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed knowingly—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (3), whoever violates this Act shall be subject to a civil penalty in an amount not to exceed—

“(A) in the case of a delivery seller, the greater of—

“(i) \$5,000 in the case of the first violation, or \$10,000 for any other violation; or

“(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of the delivery seller during the 1-year period ending on the date of the violation.

“(B) in the case of a common carrier or other delivery service, \$2,500 in the case of a first violation, or \$5,000 for any violation within 1 year of a prior violation.

“(2) RELATION TO OTHER PENALTIES.—A civil penalty imposed under paragraph (1) for a violation of this Act shall be imposed in addition to any criminal penalty under subsection (a) and any other damages, equitable relief, or injunctive relief awarded by the court, including the payment of any unpaid taxes to the appropriate Federal, State, local, or tribal governments.

“(3) EXCEPTIONS.—

“(A) DELIVERY VIOLATIONS.—An employee of a common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(B) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

“(i) the common carrier or independent delivery service has implemented and enforces effective policies and practices for complying with that section; or

“(ii) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes packages, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).”

(e) ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

#### “SEC. 4. ENFORCEMENT.

“(a) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(b) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

“(c) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(1) IN GENERAL.—

“(A) STANDING.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may bring an action in a United States district court to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

“(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under

this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(2) **PROVISION OF INFORMATION.**—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United States attorney, who shall take appropriate actions to enforce this Act.

“(3) **USE OF PENALTIES COLLECTED.**—

“(A) **IN GENERAL.**—There is established a separate account in the Treasury known as the ‘PACT Anti-Trafficking Fund’. Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the Federal Government in enforcing this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing this Act and other laws relating to contraband tobacco products.

“(B) **ALLOCATION OF FUNDS.**—Of the amount available to the Attorney General of the United States under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

“(4) **NONEXCLUSIVITY OF REMEDY.**—

“(A) **IN GENERAL.**—The remedies available under this section and section 3 are in addition to any other remedies available under Federal, State, local, tribal, or other law.

“(B) **STATE COURT PROCEEDINGS.**—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

“(C) **TRIBAL COURT PROCEEDINGS.**—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

“(D) **LOCAL GOVERNMENT ENFORCEMENT.**—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

“(d) **PERSONS DEALING IN TOBACCO PRODUCTS.**—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in an appropriate United States district court to prevent and restrain violations of this Act by any person other than a State, local, or tribal government.

“(e) **NOTICE.**—

“(1) **PERSONS DEALING IN TOBACCO PRODUCTS.**—Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

“(2) **STATE, LOCAL, AND TRIBAL ACTIONS.**—It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that

commences a civil action under this section should inform the Attorney General of the United States of the action.

“(f) **PUBLIC NOTICE.**—

“(1) **IN GENERAL.**—The Attorney General of the United States shall make available to the public, by posting information on the Internet and by other appropriate means, information regarding all enforcement actions brought by the United States, or reported to the Attorney General of the United States, under this section, including information regarding the resolution of the enforcement actions and how the Attorney General of the United States has responded to referrals of evidence of violations pursuant to subsection (c)(2).

“(2) **REPORTS TO CONGRESS.**—Not later than 1 year after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, and every year thereafter until the date that is 5 years after such date of enactment, the Attorney General of the United States shall submit to Congress a report containing the information described in paragraph (1).”

### **SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.**

(a) **IN GENERAL.**—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716D the following:

#### **“§ 1716E. Tobacco products as nonmailable**

“(a) **PROHIBITION.**—

“(1) **IN GENERAL.**—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this paragraph.

“(2) **REASONABLE CAUSE.**—For the purposes of this subsection reasonable cause includes—

“(A) a statement on a publicly available website, or an advertisement, by any person that the person will mail matter which is nonmailable under this section in return for payment; or

“(B) the fact that the person is on the list created under section 2A(e) of the Jenkins Act.

“(b) **EXCEPTIONS.**—

“(1) **CIGARS.**—Subsection (a) shall not apply to cigars (as defined in section 5702(a) of the Internal Revenue Code of 1986).

“(2) **GEOGRAPHIC EXCEPTION.**—Subsection (a) shall not apply to mailings within the State of Alaska or within the State of Hawaii.

“(3) **BUSINESS PURPOSES.**—

“(A) **IN GENERAL.**—Subsection (a) shall not apply to tobacco products mailed only—

“(i) for business purposes between legally operating businesses that have all applicable State and Federal Government licenses or permits and are engaged in tobacco product manufacturing, distribution, wholesale, export, import, testing, investigation, or research; or

“(ii) for regulatory purposes between any business described in clause (i) and an agency of the Federal Government or a State government.

“(B) **RULES.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and re-

quirements that apply to all mailings described in subparagraph (A).

“(ii) **CONTENTS.**—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is a business or government agency permitted to make a mailing under this paragraph;

“(II) the United States Postal Service to ensure that any recipient of an otherwise nonmailable tobacco product sent through the mails under this paragraph is a business or government agency that may lawfully receive the product;

“(III) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(IV) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package;

“(V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make the information available to the Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009;

“(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to a permitted government agency or business and may not be delivered to any residence or individual person; and

“(VII) that any mailing described in subparagraph (A) be delivered only to a verified employee of the recipient business or government agency, who is not a minor and who shall be required to sign for the mailing.

“(C) **DEFINITION.**—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(4) **CERTAIN INDIVIDUALS.**—

“(A) **IN GENERAL.**—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

“(B) **RULES.**—

“(i) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) **CONTENTS.**—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package and is not a minor;

“(II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as

authorized by this paragraph to affirm that the recipient is not a minor;

“(III) that any package mailed under this paragraph shall weigh not more than 10 ounces;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) that a mailing described in subparagraph (A) shall not be delivered or placed in the possession of any individual who has not been verified as not being a minor;

“(VI) for a mailing described in subparagraph (A) to an individual, that the United States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

“(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during any 30-day period.

“(C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer or a legally authorized agent of a legally operating cigarette manufacturer from using the United States Postal Service to mail cigarettes to verified adult smoker solely for consumer testing purposes, if—

“(i) the cigarette manufacturer has a permit, in good standing, issued under section 5713 of the Internal Revenue Code of 1986;

“(ii) the package of cigarettes mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes);

“(iii) the recipient does not receive more than 1 package of cigarettes from any 1 cigarette manufacturer under this paragraph during any 30-day period;

“(iv) all taxes on the cigarettes mailed under this paragraph levied by the State and locality of delivery are paid to the State and locality before delivery, and tax stamps or other tax-payment indicia are affixed to the cigarettes as required by law; and

“(v) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

“(II) the recipient is paid a fee by the manufacturer or agent of the manufacturer for participation in consumer product tests; and

“(III) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent.

“(B) LIMITATIONS.—Subparagraph (A) shall not—

“(i) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

“(ii) permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette sales of the manufacturer in the United States during the calendar year before the date of the mailing.

“(C) RULES.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the

Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) CONTENTS.—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer permitted to make a mailing under this paragraph, or an agent legally authorized by the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

“(II) the legally operating cigarette manufacturer submitting the cigarettes into the mails under this paragraph to affirm that—

“(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

“(bb) the recipient has not made any payment for the cigarettes;

“(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

“(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) not less frequently than once in every 3-month period;

“(III) the legally operating cigarette manufacturer or the legally authorized agent of the manufacturer submitting the cigarettes into the mails under this paragraph to affirm that any package mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all related State tax stamps or other tax-payment indicia have been applied;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) the United States Postal Service to maintain records relating to a mailing described in subparagraph (A) during the 3-year period beginning on the date of the mailing and make the information available to persons enforcing this section;

“(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult; and

“(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

“(D) DEFINITIONS.—In this paragraph—

“(i) the term ‘adult’ means an individual who is not less than 21 years of age; and

“(ii) the term ‘consumer testing’ means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

“(6) FEDERAL GOVERNMENT AGENCIES.—An agency of the Federal Government involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, re-

strictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay the recipients for participating in the consumer testing.

“(c) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco products seized and forfeited under this subsection shall be destroyed or retained by the Federal Government for the detection or prosecution of crimes or related investigations and then destroyed.

“(d) ADDITIONAL PENALTIES.—In addition to any other fines and penalties under this title for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

“(e) CRIMINAL PENALTY.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that is nonmailable matter under this section shall be fined under this title, imprisoned not more than 1 year, or both.

“(f) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal fines, civil penalties, or other monetary penalties collected by the Federal Government in enforcing this section shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

“(g) COORDINATION OF EFFORTS.—The Postmaster General shall cooperate and coordinate efforts to enforce this section with related enforcement activities of any other Federal agency or agency of any State, local, or tribal government, whenever appropriate.

“(h) ACTIONS BY STATE, LOCAL, OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.—

“(1) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

“(2) SOVEREIGN IMMUNITY.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(3) ATTORNEY GENERAL REFERRAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government

enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

“(4) **NONEXCLUSIVITY OF REMEDIES.**—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

“(5) **OTHER ENFORCEMENT ACTIONS.**—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

“(i) **DEFINITION.**—In this section, the term ‘State’ has the meaning given that term in section 1716(k).”

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 83 of title 18 is amended by inserting after the item relating to section 1716D the following:

“1716E. Tobacco products as nonmailable.”

#### **SEC. 4. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.**

(a) **IN GENERAL.**—A Tobacco Product Manufacturer or importer may not sell in, deliver to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in a State that is a party to the Master Settlement Agreement, any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by the State requiring funds to be placed into a qualified escrow account under specified conditions, and with any regulations promulgated pursuant to the statute.

(b) **JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.**—

(1) **IN GENERAL.**—The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) **INITIATION OF ACTION.**—A State, through its attorney general, may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(3) **ATTORNEY FEES.**—In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have knowingly violated subsection (a).

(4) **NONEXCLUSIVITY OF REMEDIES.**—The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law. No provision of this Act or any other Federal law shall be held or construed to prohibit or preempt the Master Settlement Agreement, the Model Statute (as defined in the Master Settlement Agreement), any legislation amending or complementary to the Model Statute in effect as of June 1, 2006, or any legislation substantially similar to such existing, amending, or complementary legislation enacted after the date of enactment of this Act.

(5) **OTHER ENFORCEMENT ACTIONS.**—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) **AUTHORITY OF THE ATTORNEY GENERAL.**—The Attorney General of the United States

may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(c) **DEFINITIONS.**—In this section the following definitions apply:

(1) **DELIVERY SALE.**—The term “delivery sale” means any sale of cigarettes or smokeless tobacco to a consumer if—

(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

(2) **IMPORTER.**—The term “importer” means each of the following:

(A) **SHIPPING OR CONSIGNING.**—Any person in the United States to whom nontaxpaid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) **MANUFACTURING WAREHOUSES.**—Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs-bonded manufacturing warehouse.

(C) **UNLAWFUL IMPORTING.**—Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

(3) **MASTER SETTLEMENT AGREEMENT.**—The term “Master Settlement Agreement” means the agreement executed November 23, 1998, between the attorneys general of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and 4 territories of the United States and certain tobacco manufacturers.

(4) **MODEL STATUTE; QUALIFYING STATUTE.**—The terms “Model Statute” and “Qualifying Statute” means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(5) **TOBACCO PRODUCT MANUFACTURER.**—The term “Tobacco Product Manufacturer” has the meaning given that term in section II(uu) of the Master Settlement Agreement.

#### **SEC. 5. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS; CIVIL PENALTY.**

Section 2343(c) of title 18, United States Code, is amended to read as follows:

“(c)(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

“(A) any records or information required to be maintained by the person under this chapter; or

“(B) any cigarettes or smokeless tobacco kept or stored by the person at the premises.

“(2) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by paragraph (1).

“(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed \$10,000.”

#### **SEC. 6. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.**

(a) **IN GENERAL.**—Nothing in this Act or the amendments made by this Act shall be construed to amend, modify, or otherwise affect—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian country;

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under Federal or State law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes, tribal members, tribal enterprises, or in Indian country;

(4) any Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, tribal enterprises, tribal reservations, or other lands held by the United States in trust for one or more Indian tribes; or

(5) any State or local government authority to bring enforcement actions against persons located in Indian country.

(b) **COORDINATION OF LAW ENFORCEMENT.**—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) **TREATMENT OF STATE AND LOCAL GOVERNMENTS.**—Nothing in this Act or the amendments made by this Act shall be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) **ENFORCEMENT WITHIN INDIAN COUNTRY.**—Nothing in this Act or the amendments made by this Act shall prohibit, limit, or restrict enforcement by the Attorney General of the United States of this Act or an amendment made by this Act within Indian country.

(e) **AMBIGUITY.**—Any ambiguity between the language of this section or its application and any other provision of this Act shall be resolved in favor of this section.

(f) **DEFINITIONS.**—In this section—

(1) the term “Indian country” has the meaning given that term in section 1 of the Jenkins Act, as amended by this Act; and

(2) the term “tribal enterprise” means any business enterprise, regardless of whether incorporated or unincorporated under Federal or tribal law, of an Indian tribe or group of Indian tribes.



**SEC. 7. ENHANCED CONTRABAND TOBACCO ENFORCEMENT.**

(a) **REQUIREMENTS.**—The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall—

(1) not later than the end of the 3-year period beginning on the effective date of this Act, create a regional contraband tobacco trafficking team in each of New York, New York, the District of Columbia, Detroit, Michigan, Los Angeles, California, Seattle, Washington, and Miami, Florida;

(2) create a Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as the coordinator for all ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world;

(3) establish a covert national warehouse for undercover operations; and

(4) create a computer database that will track and analyze information from retail sellers of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out subsection (a) \$8,500,000 for each of fiscal years 2010 through 2014.

**SEC. 8. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) **BATFE AUTHORITY.**—The amendments made by section 5 shall take effect on the date of enactment of this Act.

**SEC. 9. SEVERABILITY.**

If any provision of this Act, or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of the Act to any other person or circumstance shall not be affected thereby.

**SEC. 10. SENSE OF CONGRESS CONCERNING THE PRECEDENTIAL EFFECT OF THIS ACT.**

It is the sense of Congress that unique harms are associated with online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of certain tobacco products. This Act was enacted recognizing the longstanding interest of Congress in urging compliance with States' laws regulating remote sales of certain tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which established reporting requirements for out-of-State companies that sell certain tobacco products to citizens of the taxing States, and which gave authority to the Department of Justice and the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the Jenkins Act. In light of the unique harms and circumstances surrounding the online sale of certain tobacco products, this Act is intended to help collect cigarette excise taxes, to stop tobacco sales to underage youth, and to help the States enforce their laws that target the online sales of certain tobacco products only. This Act is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validity of efforts to impose other types of taxes on, out-of-State entities that do not have a physical presence within the taxing State.

By Mr. GRASSLEY (for himself, Mrs. McCASKILL, Mr. BOND, and Mr. THUNE):

S. 1148. A bill to amend the Clean Air Act to modify a provision relating to the renewable fuel program; to the Committee on Environment and Public Works.

Mr. GRASSLEY. Mr. President, I am pleased to be joined today in introducing commonsense legislation with Senators McCASKILL and BOND. The Renewable Fuel Standard Improvement Act, seeks to improve a number of provisions included in the expanded Renewable Fuels Standard that was enacted in the Energy Independence and Security Act of 2007, EISA.

Just a week ago, the Chairman of the House Agriculture Committee, Representative COLLIN PETERSON, introduced this legislation in the House of Representatives. It now has more than 44 bipartisan cosponsors. Because Chairman PETERSON crafted such thoughtful modifications to the Renewable Fuel Standard, I want to give my Senate colleagues an opportunity to consider the bill. So, today I am introducing companion legislation in the Senate.

A component of the new Renewable Fuels Standard was a requirement that various biofuels meet specified life-cycle greenhouse gas emission reduction targets. The law specified that lifecycle greenhouse gas emissions are to include direct emissions and significant indirect emissions from indirect land use changes. In the Notice of Proposed Rulemaking released by the Environmental Protection Agency earlier this month, the EPA relies on incomplete science and inaccurate assumptions to penalize U.S. biofuels for so-called "indirect land use changes." So, this bill ensures that the greenhouse gas calculations are based on proven science by removing the requirement to include indirect land use changes.

The bill also includes a number of other commonsense fixes to the expanded Renewable Fuels Standard. Under EISA, the life-cycle greenhouse gas reduction requirements do not apply to corn ethanol plants that were in operation or under construction prior to the date of enactment. This grandfather provision does not apply to biodiesel facilities, however. The legislation I am introducing today would extend the same grandfathered treatment to biodiesel facilities.

Finally, the bill includes a more inclusive definition of renewable biomass, and it expands the role of the U.S. Departments of Agriculture and Energy in administering the program.

This bill goes a long way to rectifying a few provisions that are undermining and harming our efforts toward energy independence. I do not think it makes sense to impose hurdles on our domestic renewable fuels industry, particularly if it prolongs our dependence

on dirtier fossil fuels, or increases our dependence on energy from countries like Iran and Venezuela.

I would like to thank the cosponsors for their support. I look forward to Senate consideration of this important legislation.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1149. A bill to eliminate annual and lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Annual and Lifetime Health Care Limit Elimination Act of 2009, legislation that would prohibit insurance companies from imposing any annual or lifetime limit on any individual or group health insurance policy, thus providing continuity and affordability of health care coverage for those with serious chronic conditions.

Each year, thousands of insured Americans face daunting medical expenses and challenges when they reach the annual or lifetime limit on their individual or employer-sponsored health insurance plan. Once a beneficiary's medical costs have exceeded the annual or lifetime limit of their plan, the insurance company no longer pays for the medical costs incurred by that individual.

In April, I held a roundtable discussion on health care in Raleigh County. There, I met a woman who had myelodysplastic syndrome, which is a non-curable pre-leukemia type disease. Unfortunately, her husband's insurance policy had a lifetime limit of \$300,000, which she had reached. Another young West Virginian, born with serious congenital heart defects, reached the \$1 million limit on his mother's insurance policy within the first nine months of his life. The limits on their health insurance plans have left these families struggling to find a way to pay for the expensive and life-sustaining treatments their loved ones desperately need.

Unfortunately, these two West Virginia families are not alone. In 2007, it was estimated that 55 percent of all people who obtain health benefits from their employer have some type of lifetime limit on their plan, an increase of approximately 4 percent since 2004. More than 23 percent of people have health insurance plans that impose limits of \$2 million or less. Also, some health insurance policies renew less frequently than annually and contain annual limits to reduce the medical expenses paid by insurance companies. It is estimated that approximately 20,000 to 25,000 people no longer have health care benefits through their employers because of lifetime limits on their employer-sponsored health care plans.

When individuals with serious chronic conditions—such as transplant recipients, patients living with hemophilia, and newborns with life-threatening illnesses—hit the annual or lifetime limits on their policies, they are often left with very few options to meet their health care needs. Individuals and families that can afford it can try to pay for their health care costs completely out-of-pocket. However, this is rarely financially feasible; therefore, many people are forced to leave good, stable jobs and seek different employment in an effort to obtain new employer-sponsored coverage. Unfortunately, new enrollees are often subject to a waiting period for coverage if there was any break in their previous health care coverage.

Should an individual try to find health insurance in the individual market, coverage is likely to be prohibitively expensive. More often than not, these individuals are denied coverage altogether because of the insurer's pre-existing condition exclusion. Annual or lifetime limits can force people to turn to public programs such as Medicaid, or spend down their savings to meet the financial restrictions of the program. Others are forced to forgo treatment altogether, which can lead to serious complications and greater long-term health care costs.

It is time to stop health insurance companies from imposing annual or lifetime limits on health insurance policies. The beneficiaries affected by these limits have paid their premiums, deductibles, and copays faithfully, only to lose access to life-saving treatment when they need care the most. This is unacceptable and I encourage my colleagues to join me in supporting the Annual and Lifetime Health Care Limit Elimination Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1149

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Annual and Lifetime Health Care Limit Elimination Act of 2009".

#### SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

##### "SEC. 715. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

"(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar annual or lifetime limit with respect to benefits payable under the plan or coverage.

"(b) DEFINITION.—In this section, the term 'aggregate dollar annual or lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit on an annual or lifetime basis."

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, is amended by inserting after the item relating to section 714 the following new item:

"Sec. 715. Elimination of annual or lifetime aggregate limits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after the date that is 1 year after the date of enactment of this Act.

#### SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

##### "SEC. 2708. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

"(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar annual or lifetime limit with respect to benefits payable under the plan or coverage.

"(b) DEFINITION.—In this section, the term 'aggregate dollar annual or lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit on an annual or lifetime basis."

(b) INDIVIDUAL MARKET.—Subpart 2 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended by adding at the end the following:

##### "SEC. 2754. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

"The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after the date that is 1 year after the date of enactment of this Act.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. KOHL, Mr. WYDEN, and Mr. CARPER)):

S. 1150. A bill to improve end-of-life care; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my friends and colleagues—Senators COLLINS, KOHL, WYDEN and CARPER—to introduce the Advance Planning and Compassionate Care Act of 2009, comprehensive legislation that recognizes the critical importance of advance care planning and quality end-of-life care. Senator COL-

LINS and I have worked on this legislation for over a decade—with the ultimate goal of one day passing comprehensive end-of-life care legislation. We are encouraged by the prospect of comprehensive health reform this year and believe that it is absolutely critical that end-of-life care provisions be included.

In preparation for the impending health reform debate, Senator COLLINS and I decided last year that it was time to update our Advance Planning and Compassionate Care Act to incorporate all of the best ideas out there on improving end-of-life care—including new and innovative approaches being implemented in the states, approaches suggested by scholars in this field, and recommendations based on our own experiences with loved ones facing the end of life. This new and improved bill is truly a labor of love and we are certainly hopeful that we can finally get something comprehensive and meaningful done for the millions of individuals and families faced with the agonizing issues surrounding the end of life.

A modern health care delivery system is well within our reach and something that we can start to achieve this year. A critical component of a modernized health system is the ability to address the health care needs of patients across the life-span—especially at the end of life. Death is a serious, personal, and complicated part of the life cycle. Yet, care at the end of life is eventually relevant to everyone. Americans deserve end-of-life care that is effective in providing information about diagnosis and prognosis, integrating appropriate support services, fulfilling individual wishes, and avoiding unnecessary disputes.

The bitter dispute that played out publicly for Terri Schiavo and her family is an agonizing experience that countless other families quietly face over the care of a loved one because clear advance directives are not in place. End-of-life care is a very delicate, yet important, issue and we must act to ensure that all Americans have the dignity and comfort they deserve at the end of life. Services should be available to help patients and their families with the medical, psychological, spiritual, and practical issues surrounding death.

Most people want to discuss advance directives when they are healthy and they want their families involved in the process. Yet, the vast majority of Americans have not completed an advance directive expressing their final wishes. In 2007, RAND conducted a comprehensive review of academic literature relating to end-of-life decision-making. This review found that only 18 to 30 percent of Americans have completed some type of advance directive expressing their end-of-life wishes. RAND also found that acutely ill individuals, for whom these decisions are

particularly relevant, complete advance directives at only slightly higher rates—35 percent of dialysis patients and 32 percent of Chronic Obstructive Pulmonary Disease, COPD, patients. Perhaps most alarmingly, between 65 and 76 percent of physicians whose patients had an advance directive were unaware of its existence.

In its present form, end-of-life planning and care for most Americans is perplexing, disjointed, and lacking an active dialogue. In its 1997 report entitled *Approaching Death: Improving Care at the End of Life*, the Institute of Medicine found several barriers to effective advance planning and end-of-life care that still persist today.

In addition to the substantial burden of suffering experienced by many at the end of life, there are also significant financial consequences for family members and society as a whole that stem from ineffective end-of-life care. According to one Federal evaluation, 80 percent of all deaths occur in hospitals—the most costly setting to deliver care—even though most people would prefer to die at home. Current studies indicate that around 25 percent of all Medicare spending occurs in the last year of life. Largely because of their poorer health status, dually eligible beneficiaries have Medicare costs that are about 1.5 times that of other Medicare beneficiaries. Research also shows significant variation in expenditures at the end-of-life by geography and hospital, without evidence that greater expenditures are associated with better outcomes or satisfaction.

We must find ways to improve the quality of end-of-life care. Quality measures provide not only information for oversight, but data with which to improve care practices and models. No core sets of end-of-life quality measures are required across provider settings. Even for certified hospices, reporting of quality measures has only recently been required, with each hospice deciding its own indicators. Hospice surveys are behind schedule and not conducted frequently enough.

Facilitating greater advance planning and improving care at the end of life also requires an adequate workforce. Unfortunately, there is a substantial shortage of health professionals who specialize in palliative care. There is a severe shortage of physicians and advance practice nurses trained in palliative medicine. Contributing to these shortages is a shortage of medical and nursing school faculty in palliative medicine and care. There is also a lack of content about end-of-life care in medical school curricula. Medical students in general receive very little formal end-of-life education. Almost half of medical residents in a survey felt unprepared to address patients' fears of dying. For Americans to have a full range of choices in end-of-life care, we must strengthen our

health care workforce, including palliative care education of physicians and other health professionals.

Care at the end-of-life can, and should, be better and more consistent with what Americans want. The Advance Planning and Compassionate Care Act takes enormous steps forward to fully inform consumers of their treatment options at the end of life and to actually address patient end-of-life care needs when the time comes. To promote advance care planning, this legislation provides both patients and their physicians with the information and tools to help them in this most personal and often difficult discussion.

Last year's Medicare Improvements for Patients and Providers Act, PL 110-275, took a significant step forward toward improving advance care planning. MIPPA included a provision that I authored, requiring physicians to provide an advance care planning consultation as part of the Welcome to Medicare physical exam. Unfortunately, less than 10 percent of new enrollees use the Welcome to Medicare visit. The MIPPA provision also does not address the advance care planning needs of existing Medicare enrollees.

The legislation we are introducing today establishes physician payment under Medicare, Medicaid, and CHIP for vital patient advance care planning conversations. It provides help in documenting decisions from these conversations in the form of advance directives and in the form of actionable orders for life sustaining treatment. It also takes steps to address the problem of accessing advance directives when needed, including state grants for electronic registries.

This legislation establishes a National Geriatric and Palliative Care Service Corps, modeled after the National Health Service Corps, to increase the woefully inadequate supply of geriatric and palliative specialists and to even out their geographic distribution. It adopts MedPAC's 2009 hospice payment reforms aimed at aligning payment with the actual trajectory of resources expended over hospice episodes of care, while remaining within the constraints of current reimbursement. Demonstration projects are funded to explore ways to better meet the needs of patients over longer time periods than the 6-month prognoses inherent in the hospice benefit.

Certification standards and processes are developed for hospital-based palliative care teams. Such teams are critical to providing consultation and care to dying patients. Quality measurement and oversight are strengthened, with development of end-of-life measures across care settings and greater data reporting requirements of hospices—so that we can make sure the hospice benefit is keeping pace with the changing diagnostic mix of patients that hospice serves.

Finally, this bill takes the important step of establishing a National Center on Palliative and End-of-Life Care within the NIH. This is a vital step toward prioritizing biomedical research in the areas of palliative and end-of-life care. It will also serve as a symbol to remind us that, as in other phases of life, we need care at the end of life that addresses our individual needs and circumstances.

Death is a serious, personal, and complicated issue that is eventually relevant to each and every one of us. Americans deserve end-of-life care that is effective in fulfilling individual wishes, avoiding unnecessary disputes, and, most importantly, providing quality end-of-life care. Therefore, I urge my colleagues to join us in improving end-of-life care and reducing the amount of grief that inevitably comes with losing those who we hold dear.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1150

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Advance Planning and Compassionate Care Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### **TITLE I—ADVANCE CARE PLANNING**

##### **Subtitle A—Consumer and Provider Education**

##### **PART I—CONSUMER EDUCATION**

##### **SUBPART A—NATIONAL INITIATIVES**

Sec. 101. Advance care planning telephone hotline.

Sec. 102. Advance care planning information clearinghouses.

Sec. 103. Advance care planning toolkit.

Sec. 104. National public education campaign.

Sec. 105. Update of Medicare and Social Security handbooks.

Sec. 106. Authorization of appropriations.

##### **SUBPART B—STATE AND LOCAL INITIATIVES**

Sec. 111. Financial assistance for advance care planning.

Sec. 112. Grants for programs for orders regarding life sustaining treatment.

##### **PART II—PROVIDER EDUCATION**

Sec. 121. Public provider advance care planning website.

Sec. 122. Continuing education for physicians and nurses.

##### **Subtitle B—Portability of Advance**

**Directives; Health Information Technology**

Sec. 131. Portability of advance directives.

Sec. 132. State advance directive registries; driver's license advance directive notation.

Sec. 133. GAO study and report on establishment of national advance directive registry.

Subtitle C—National Uniform Policy on Advance Care Planning

Sec. 141. Study and report by the Secretary regarding the establishment and implementation of a national uniform policy on advance directives.

**TITLE II—COMPASSIONATE CARE**

Subtitle A—Workforce Development

**PART I—EDUCATION AND TRAINING**

Sec. 201. National Geriatric and Palliative Care Services Corps.

Sec. 202. Exemption of palliative medicine fellowship training from Medicare graduate medical education caps.

Sec. 203. Medical school curricula.

Subtitle B—Coverage Under Medicare, Medicaid, and CHIP

**PART I—COVERAGE OF ADVANCE CARE PLANNING**

Sec. 211. Medicare, Medicaid, and CHIP coverage.

**PART II—HOSPICE**

Sec. 221. Adoption of MedPAC hospice payment methodology recommendations.

Sec. 222. Removing hospice inpatient days in setting per diem rates for critical access hospitals.

Sec. 223. Hospice payments for dual eligible individuals residing in long-term care facilities.

Sec. 224. Delineation of respective care responsibilities of hospice programs and long-term care facilities.

Sec. 225. Adoption of MedPAC hospice program eligibility certification and recertification recommendations.

Sec. 226. Concurrent care for children.

Sec. 227. Making hospice a required benefit under Medicaid and CHIP.

Sec. 228. Medicare Hospice payment model demonstration projects.

Sec. 229. MedPAC studies and reports.

Sec. 230. HHS Evaluations.

Subtitle C—Quality Improvement

Sec. 241. Patient satisfaction surveys.

Sec. 242. Development of core end-of-life care quality measures across each relevant provider setting.

Sec. 243. Accreditation of hospital-based palliative care programs.

Sec. 244. Survey and data requirements for all Medicare participating hospice programs.

Subtitle D—Additional Reports, Research, and Evaluations

Sec. 251. National Center On Palliative and End-Of-Life Care.

Sec. 252. National Mortality Followback Survey.

Sec. 253. Demonstration projects for use of telemedicine services in advance care planning.

Sec. 254. Inspector General investigation of fraud and abuse.

Sec. 255. GAO study and report on provider adherence to advance directives.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **ADVANCE CARE PLANNING.**—The term “advance care planning” means the process of—

(A) determining an individual’s priorities, values and goals for care in the future when the individual is no longer able to express his or her wishes;

(B) engaging family members, health care proxies, and health care providers in an ongoing dialogue about—

(i) the individual’s wishes for care;

(ii) what the future may hold for people with serious illnesses or injuries;

(iii) how individuals, their health care proxies, and family members want their beliefs and preferences to guide care decisions; and

(iv) the steps that individuals and family members can take regarding, and the resources available to help with, finances, family matters, spiritual questions, and other issues that impact seriously ill or dying patients and their families; and

(C) executing and updating advance directives and appointing a health care proxy.

(2) **ADVANCE DIRECTIVE.**—The term “advance directive” means a living will, medical directive, health care power of attorney, durable power of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual’s wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.

(3) **CHIP.**—The term “CHIP” means the program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(4) **END-OF-LIFE-CARE.**—The term “end-of-life care” means all aspects of care of a patient with a potentially fatal condition, and includes care that is focused on specific preparations for an impending death.

(5) **HEALTH CARE POWER OF ATTORNEY.**—The term “health care power of attorney” means a legal document that identifies a health care proxy or decisionmaker for a patient who has the authority to act on the patient’s behalf when the patient is unable to communicate his or her wishes for medical care on matters that the patient specifies when he or she is competent. Such term includes a durable power of attorney that relates to medical care.

(6) **LIVING WILL.**—The term “living will” means a legal document—

(A) used to specify the type of medical care (including any type of medical treatment, including life-sustaining procedures if that person becomes permanently unconscious or is otherwise dying) that an individual wants provided or withheld in the event the individual cannot speak for himself or herself and cannot express his or her wishes; and

(B) that requires a physician to honor the provisions of upon receipt or to transfer the care of the individual covered by the document to another physician that will honor such provisions.

(7) **MEDICAID.**—The term “Medicaid” means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) **MEDICARE.**—The term “Medicare” means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(9) **ORDERS FOR LIFE-SUSTAINING TREATMENT.**—The term “orders for life-sustaining treatment” means a process for focusing a patients’ values, goals, and preferences on current medical circumstances and to translate such into visible and portable medical orders applicable across care settings, including home, long-term care, emergency medical services, and hospitals.

(10) **PALLIATIVE CARE.**—The term “palliative care” means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom man-

agement and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual’s family.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

**TITLE I—ADVANCE CARE PLANNING**

Subtitle A—Consumer and Provider Education

**PART I—CONSUMER EDUCATION**

**Subpart A—National Initiatives**

**SEC. 101. ADVANCE CARE PLANNING TELEPHONE HOTLINE.**

(a) **IN GENERAL.**—Not later than January 1, 2011, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and operate directly, or by grant, contract, or interagency agreement, a 24-hour toll-free telephone hotline to provide consumer information regarding advance care planning, including—

(1) an explanation of advanced care planning and its importance;

(2) issues to be considered when developing an individual’s advance care plan;

(3) how to establish an advance directive;

(4) procedures to help ensure that an individual’s directives for end-of-life care are followed;

(5) Federal and State-specific resources for assistance with advance care planning; and

(6) hospice and palliative care (including their respective purposes and services).

(b) **ESTABLISHMENT.**—In carrying out the requirements under subsection (a), the Director of the Centers for Disease Control and Prevention may designate an existing 24-hour toll-free telephone hotline or, if no such service is available or appropriate, establish a new 24-hour toll-free telephone hotline.

**SEC. 102. ADVANCE CARE PLANNING INFORMATION CLEARINGHOUSES.**

(a) **EXPANSION OF NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION.**—

(1) **DEVELOPMENT.**—Not later than January 1, 2010, the Secretary shall develop an online clearinghouse to provide comprehensive information regarding advance care planning.

(2) **MAINTENANCE.**—The advance care planning clearinghouse, which shall be clearly identifiable and available on the homepage of the Department of Health and Human Service’s National Clearinghouse for Long-Term Care Information website, shall be maintained and publicized by the Secretary on an ongoing basis.

(3) **CONTENT.**—The advance care planning clearinghouse shall include—

(A) any relevant content contained in the national public education campaign required under section 104;

(B) content addressing—

(i) an explanation of advanced care planning and its importance;

(ii) issues to be considered when developing an individual’s advance care plan;

(iii) how to establish an advance directive;

(iv) procedures to help ensure that an individual’s directives for end-of-life care are followed; and

(v) hospice and palliative care (including their respective purposes and services); and

(C) available Federal and State-specific resources for assistance with advance care planning, including—

(i) contact information for any State public health departments that are responsible for issues regarding end-of-life care;

(ii) contact information for relevant legal service organizations, including those funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(iii) advance directive forms for each State; and

(D) any additional information, as determined by the Secretary.

(b) ESTABLISHMENT OF PEDIATRIC ADVANCE CARE PLANNING CLEARINGHOUSE.—

(1) DEVELOPMENT.—Not later than January 1, 2011, the Secretary, in consultation with the Assistant Secretary for Children and Families of the Department of Health and Human Services, shall develop an online clearinghouse to provide comprehensive information regarding pediatric advance care planning.

(2) MAINTENANCE.—The pediatric advance care planning clearinghouse, which shall be clearly identifiable on the homepage of the Administration for Children and Families website, shall be maintained and publicized by the Secretary on an ongoing basis.

(3) CONTENT.—The pediatric advance care planning clearinghouse shall provide advance care planning information specific to children with life-threatening illnesses or injuries and their families.

#### SEC. 103. ADVANCE CARE PLANNING TOOLKIT.

(a) DEVELOPMENT.—Not later than July 1, 2010, the Secretary, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop an online advance care planning toolkit.

(b) MAINTENANCE.—The advance care planning toolkit, which shall be available in English, Spanish, and any other languages that the Secretary deems appropriate, shall be maintained and publicized by the Secretary on an ongoing basis and made available on the following websites:

(1) The Centers for Disease Control and Prevention.

(2) The Department of Health and Human Service's National Clearinghouse for Long-Term Care Information.

(3) The Administration for Children and Families.

(c) CONTENT.—The advance care planning toolkit shall include content addressing—

(1) common issues and questions regarding advance care planning, including individuals and resources to contact for further inquiries;

(2) advance directives and their uses, including living wills and durable powers of attorney;

(3) the roles and responsibilities of a health care proxy;

(4) Federal and State-specific resources to assist individuals and their families with advance care planning, including—

(A) the advance care planning toll-free telephone hotline established under section 101;

(B) the advance care planning clearinghouses established under section 102;

(C) the advance care planning toolkit established under this section;

(D) available State legal service organizations to assist individuals with advance care planning, including those organizations that receive funding pursuant to the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(E) website links or addresses for State-specific advance directive forms; and

(5) any additional information, as determined by the Secretary.

#### SEC. 104. NATIONAL PUBLIC EDUCATION CAMPAIGN.

(a) NATIONAL PUBLIC EDUCATION CAMPAIGN.—

(1) IN GENERAL.—Not later than January 1, 2011, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants, contracts, or interagency agree-

ments, develop and implement a national campaign to inform the public of the importance of advance care planning and of an individual's right to direct and participate in their health care decisions.

(2) CONTENT OF EDUCATIONAL CAMPAIGN.—The national public education campaign established under paragraph (1) shall—

(A) employ the use of various media, including regularly televised public service announcements;

(B) provide culturally and linguistically appropriate information;

(C) be conducted continuously over a period of not less than 5 years;

(D) identify and promote the advance care planning information available on the Department of Health and Human Service's National Clearinghouse for Long-Term Care Information website and Administration for Children and Families website, as well as any other relevant Federal or State-specific advance care planning resources;

(E) raise public awareness of the consequences that may result if an individual is no longer able to express or communicate their health care decisions;

(F) address the importance of individuals speaking to family members, health care proxies, and health care providers as part of an ongoing dialogue regarding their health care choices;

(G) address the need for individuals to obtain readily available legal documents that express their health care decisions through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care);

(H) raise public awareness regarding the availability of hospice and palliative care; and

(I) encourage individuals to speak with their physicians about their options and intentions for end-of-life care.

(3) EVALUATION.—

(A) IN GENERAL.—Not later than July 1, 2013, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct a nationwide survey to evaluate whether the national campaign conducted under this subsection has achieved its goal of changing public awareness, attitudes, and behaviors regarding advance care planning.

(B) BASELINE SURVEY.—In order to evaluate the effectiveness of the national campaign, the Secretary shall conduct a baseline survey prior to implementation of the campaign.

(C) REPORTING REQUIREMENT.—Not later than December 31, 2013, the Secretary shall report the findings of such survey, as well as any recommendations that the Secretary determines appropriate regarding the need for continuation or legislative or administrative changes to facilitate changing public awareness, attitudes, and behaviors regarding advance care planning, to the appropriate committees of the Congress.

(b) REPEAL.—Section 4751(d) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note; Public Law 101-508) is repealed.

#### SEC. 105. UPDATE OF MEDICARE AND SOCIAL SECURITY HANDBOOKS.

(a) MEDICARE & YOU HANDBOOK.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall update the online version of the "Planning Ahead" section of the Medicare & You Handbook to include—

(A) an explanation of advance care planning and advance directives, including—

(i) living wills;

(ii) health care proxies; and

(iii) after-death directives;

(B) Federal and State-specific resources to assist individuals and their families with advance care planning, including—

(i) the advance care planning toll-free telephone hotline established under section 101;

(ii) the advance care planning clearinghouses established under section 102;

(iii) the advance care planning toolkit established under section 103;

(iv) available State legal service organizations to assist individuals with advance care planning, including those organizations that receive funding pursuant to the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(v) website links or addresses for State-specific advance directive forms; and

(C) any additional information, as determined by the Secretary.

(2) UPDATE OF PAPER AND SUBSEQUENT VERSIONS.—The Secretary shall include the information described in paragraph (1) in all paper and electronic versions of the Medicare & You Handbook that are published on or after the date that is 60 days after the date of enactment of this Act.

(b) SOCIAL SECURITY HANDBOOK.—The Commissioner of Social Security shall—

(1) not later than 60 days after the date of enactment of this Act, update the online version of the Social Security Handbook for beneficiaries to include the information described in subsection (a)(1); and

(2) include such information in all paper and online versions of such handbook that are published on or after the date that is 60 days after the date of enactment of this Act.

#### SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the period of fiscal years 2010 through 2014—

(1) \$195,000,000 to the Secretary to carry out sections 101, 102, 103, 104 and 105(a); and

(2) \$5,000,000 to the Commissioner of Social Security to carry out section 105(b).

#### Subpart B—State and Local Initiatives

#### SEC. 111. FINANCIAL ASSISTANCE FOR ADVANCE CARE PLANNING.

(a) LEGAL ASSISTANCE FOR ADVANCE CARE PLANNING.—

(1) DEFINITION OF RECIPIENT.—Section 1002(6) of the Legal Services Corporation Act (42 U.S.C. 2996a(6)) is amended by striking "clause (A) of" and inserting "subparagraph (A) or (B) of".

(2) ADVANCE CARE PLANNING.—Section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) is amended—

(A) in subsection (a)(1)—

(i) by striking "title, and (B) to make" and inserting the following: "title;

"(C) to make"; and

(ii) by inserting after subparagraph (A) the following:

"(B) to provide financial assistance, and make grants and contracts, as described in subparagraph (A), on a competitive basis for the purpose of providing legal assistance in the form of advance care planning (as defined in section 3 of the Advance Planning and Compassionate Care Act of 2009, and including providing information about State-specific advance directives, as defined in that section) for eligible clients under this title, including providing such planning to the family members of eligible clients and persons with power of attorney to make health care decisions for the clients; and"; and

(B) in subsection (b), by adding at the end the following:

"(2) Advance care planning provided in accordance with subsection (a)(1)(B) shall not be construed to violate the Assisted Suicide

Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).”

(3) **REPORTS.**—Section 1008(a) of the Legal Services Corporation Act (42 U.S.C. 2996g(a)) is amended by adding at the end the following: “The Corporation shall require such a report, on an annual basis, from each grantee, contractor, or other recipient of financial assistance under section 1006(a)(1)(B).”

(4) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1010 of the Legal Services Corporation Act (42 U.S.C. 2996i) is amended—

(A) in subsection (a)—

(i) by striking “(a)” and inserting “(a)(1)”;

(ii) in the last sentence, by striking “Appropriations for that purpose” and inserting the following:

“(3) Appropriations for a purpose described in paragraph (1) or (2);” and

(iii) by inserting before paragraph (3) (as designated by clause (ii)) the following:

“(2) There are authorized to be appropriated to carry out section 1006(a)(1)(B), \$10,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014.”; and

(B) in subsection (d), by striking “subsection (a)” and inserting “subsection (a)(1)”.

(5) **EFFECTIVE DATE.**—This subsection and the amendments made by this subsection take effect July 1, 2010.

(b) **STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary shall use amounts made available under paragraph (3) to award grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990 to provide advance care planning services to Medicare beneficiaries, personal representatives of such beneficiaries, and the families of such beneficiaries. Such services shall include information regarding State-specific advance directives and ways to discuss individual care wishes with health care providers.

(2) **REQUIREMENTS.**—

(A) **AWARD OF GRANTS.**—In making grants under this subsection for a fiscal year, the Secretary shall satisfy the following requirements:

(i) Two-thirds of the total amount of funds available under paragraph (3) for a fiscal year shall be allocated among those States approved for a grant under this section that have adopted the Uniform Health-Care Decisions Act drafted by the National Conference of Commissioners on Uniform State Laws and approved and recommended for enactment by all States at the annual conference of such commissioners in 1993.

(ii) One-third of the total amount of funds available under paragraph (3) for a fiscal year shall be allocated among those States approved for a grant under this section that have adopted a uniform form for orders regarding life sustaining treatment as defined in section 1861(hhh)(5) of the Social Security Act (as amended by section 211 of this Act) or a comparable approach to advance care planning.

(B) **WORK PLAN; REPORT.**—As a condition of being awarded a grant under this subsection, a State shall submit the following to the Secretary:

(i) An approved plan for expending grant funds.

(ii) For each fiscal year for which the State is paid grant funds under this subsection, an annual report regarding the use of the funds, including the number of Medicare beneficiaries served and their satisfaction with the services provided.

(C) **LIMITATION.**—No State shall be paid funds from a grant made under this subsection prior to July 1, 2010.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to the Centers for Medicare & Medicaid Services Program Management Account, \$12,000,000 for each of fiscal years 2010 through 2014 for purposes of awarding grants to States under paragraph (1).

(c) **MEDICAID TRANSFORMATION GRANTS FOR ADVANCE CARE PLANNING.**—Section 1903(z) of the Social Security Act (42 U.S.C. 1396b(z)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

“(G) Methods for improving the effectiveness and efficiency of medical assistance provided under this title by making available to individuals enrolled in the State plan or under a waiver of such plan information regarding advance care planning (as defined in section 3 of the Advance Planning and Compassionate Care Act of 2009), including at time of enrollment or renewal of enrollment in the plan or waiver, through providers, and through such other innovative means as the State determines appropriate.”;

(2) in paragraph (3), by adding at the end the following new subparagraph:

“(D) **WORK PLAN REQUIRED FOR AWARD OF ADVANCE CARE PLANNING GRANTS.**—Payment to a State under this subsection to adopt the innovative methods described in paragraph (2)(G) is conditioned on the State submitting to the Secretary an approved plan for expending the funds awarded to the State under this subsection.”; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i), by striking “and” at the end;

(ii) in clause (ii), by striking the period at the end and inserting “; and”; and

(iii) by inserting after clause (ii), the following new clause:

“(iii) \$20,000,000 for each of fiscal years 2010 through 2014.”; and

(B) by striking subparagraph (B), and inserting the following:

“(B) **ALLOCATION OF FUNDS.**—The Secretary shall specify a method for allocating the funds made available under this subsection among States awarded a grant for fiscal year 2010, 2011, 2012, 2013, or 2014. Such method shall provide that—

“(i) 100 percent of such funds for each of fiscal years 2010 through 2014 shall be awarded to States that design programs to adopt the innovative methods described in paragraph (2)(G); and

“(ii) in no event shall a payment to a State awarded a grant under this subsection for fiscal year 2010 be made prior to July 1, 2010.”

(d) **ADVANCE CARE PLANNING COMMUNITY TRAINING GRANTS.**—

(1) **IN GENERAL.**—The Secretary shall use amounts made available under paragraph (3) to award grants to area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)).

(2) **REQUIREMENTS.**—

(A) **USE OF FUNDS.**—Funds awarded to an area agency on aging under this subsection shall be used to provide advance care planning education and training opportunities for local aging service providers and organizations.

(B) **WORK PLAN; REPORT.**—As a condition of being awarded a grant under this subsection, an area agency on aging shall submit the following to the Secretary:

(i) An approved plan for expending grant funds.

(ii) For each fiscal year for which the agency is paid grant funds under this subsection, an annual report regarding the use of the funds, including the number of Medicare beneficiaries served and their satisfaction with the services provided.

(C) **LIMITATION.**—No area agency on aging shall be paid funds from a grant made under this subsection prior to July 1, 2010.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to the Centers for Medicare & Medicaid Services Program Management Account, \$12,000,000 for each of fiscal years 2010 through 2014 for purposes of awarding grants to area agencies on aging under paragraph (1).

(e) **NONDUPLICATION OF ACTIVITIES.**—The Secretary shall establish procedures to ensure that funds made available under grants awarded under this section or pursuant to amendments made by this section supplement, not supplant, existing Federal funding, and that such funds are not used to duplicate activities carried out under such grants or under other Federally funded programs.

#### **SEC. 112. GRANTS FOR PROGRAMS FOR ORDERS REGARDING LIFE SUSTAINING TREATMENT.**

(a) **IN GENERAL.**—The Secretary shall make grants to eligible entities for the purpose of—

(1) establishing new programs for orders regarding life sustaining treatment in States or localities;

(2) expanding or enhancing an existing program for orders regarding life sustaining treatment in States or localities; or

(3) providing a clearinghouse of information on programs for orders for life sustaining treatment and consultative services for the development or enhancement of such programs.

(b) **AUTHORIZED ACTIVITIES.**—Activities funded through a grant under this section for an area may include—

(1) developing such a program for the area that includes home care, hospice, long-term care, community and assisted living residences, skilled nursing facilities, inpatient rehabilitation facilities, hospitals, and emergency medical services within the area;

(2) securing consultative services and advice from institutions with experience in developing and managing such programs; and

(3) expanding an existing program for orders regarding life sustaining treatment to serve more patients or enhance the quality of services, including educational services for patients and patients’ families or training of health care professionals.

(c) **DISTRIBUTION OF FUNDS.**—In funding grants under this section, the Secretary shall ensure that, of the funds appropriated to carry out this section for each fiscal year—

(1) at least two-thirds are used for establishing or developing new programs for orders regarding life sustaining treatment; and

(2) one-third is used for expanding or enhancing existing programs for orders regarding life sustaining treatment.

(d) **DEFINITIONS.**—In this section:

(1) The term “eligible entity” includes—

(A) an academic medical center, a medical school, a State health department, a State medical association, a multi-State taskforce, a hospital, or a health system capable of administering a program for orders regarding life sustaining treatment for a State or locality; or

(B) any other health care agency or entity as the Secretary determines appropriate.



(2) The term “order regarding life sustaining treatment” has the meaning given such term in section 1861(hhh)(5) of the Social Security Act, as added by section 211.

(3) The term “program for orders regarding life sustaining treatment” means, with respect to an area, a program that supports the active use of orders regarding life sustaining treatment in the area.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2014.

## PART II—PROVIDER EDUCATION

### SEC. 121. PUBLIC PROVIDER ADVANCE CARE PLANNING WEBSITE.

(a) **DEVELOPMENT.**—Not later than January 1, 2010, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Agency for Healthcare Research and Quality, shall establish a website for providers under Medicare, Medicaid, the Children's Health Insurance Program, the Indian Health Service (include contract providers) and other public health providers on each individual's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(b) **MAINTENANCE.**—The website, shall be maintained and publicized by the Secretary on an ongoing basis.

(c) **CONTENT.**—The website shall include content, tools, and resources necessary to do the following:

(1) Inform providers about the advance directive requirements under the health care programs described in subsection (a) and other State and Federal laws and regulations related to advance care planning.

(2) Educate providers about advance care planning quality improvement activities.

(3) Provide assistance to providers to—

(A) integrate advance directives into electronic health records, including oral directives; and

(B) develop and disseminate advance care planning informational materials for their patients.

(4) Inform providers about advance care planning continuing education requirements and opportunities.

(5) Encourage providers to discuss advance care planning with their patients of all ages.

(6) Assist providers' understanding of the continuum of end-of-life care services and supports available to patients, including palliative care and hospice.

(7) Inform providers of best practices for discussing end-of-life care with dying patients and their loved ones.

### SEC. 122. CONTINUING EDUCATION FOR PHYSICIANS AND NURSES.

(a) **IN GENERAL.**—Not later than January 1, 2012, the Secretary, acting through the Director of Health Resources and Services Administration, shall develop, in consultation with health care providers and State boards of medicine and nursing, a curriculum for continuing education that States may adopt for physicians and nurses on advance care planning and end-of-life care.

(b) **CONTENT.**—

(1) **IN GENERAL.**—The continuing education curriculum developed under subsection (a) for physicians and nurses shall, at a minimum, include—

(A) a description of the meaning and importance of advance care planning;

(B) a description of advance directives, including living wills and durable powers of attorney, and the use of such directives;

(C) palliative care principles and approaches to care; and

(D) the continuum of end-of-life services and supports, including palliative care and hospice.

(2) **ADDITIONAL CONTENT FOR PHYSICIANS.**—The continuing education curriculum for physicians developed under subsection (a) shall include instruction on how to conduct advance care planning with patients and their loved ones.

### Subtitle B—Portability of Advance Directives; Health Information Technology

#### SEC. 131. PORTABILITY OF ADVANCE DIRECTIVES.

(a) **MEDICARE.**—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting “and if presented by the individual, to include the content of such advance directive in a prominent part of such record” before the semicolon at the end;

(B) in subparagraph (D), by striking “and” after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (3), by striking “a written” and inserting “an”; and

(3) by adding at the end the following new paragraph:

“(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services, a Medicare Advantage organization, or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

“(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

“(ii) For purposes of clause (i), the term ‘actual knowledge’ means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

“(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.”.

(b) **MEDICAID.**—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking “in the individual's medical record” and inserting “in a prominent part of the individual's current medical record”; and

(ii) by inserting “and if presented by the individual, to include the content of such ad-

vance directive in a prominent part of such record” before the semicolon at the end;

(B) in subparagraph (D), by striking “and” after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (4), by striking “a written” and inserting “an”; and

(3) by adding at the end the following paragraph:

“(6)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

“(B)(i) The definition of an advance directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

“(ii) For purposes of clause (i), the term ‘actual knowledge’ means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

“(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.”.

(c) **CHIP.**—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (E) through (L) as subparagraphs (D) through (M), respectively; and

(2) by inserting after subparagraph (D) the following:

“(E) Section 1902(w) (relating to advance directives).”.

(d) **STUDY AND REPORT REGARDING IMPLEMENTATION.**—

(1) **STUDY.**—The Secretary shall conduct a study regarding the implementation of the amendments made by subsections (a) and (b).

(2) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.) and State child health plans under title XXI of such Act (42 U.S.C. 1397aa et seq.), on or after such date as the Secretary specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under title XIX of the Social Security Act or a State child health plan under title XXI of such Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsections (b) and (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 132. STATE ADVANCE DIRECTIVE REGISTRIES; DRIVER'S LICENSE ADVANCE DIRECTIVE NOTATION.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g) is amended—

(1) by redesignating section 399R (as inserted by section 2 of Public Law 110-373) as section 399S;

(2) by redesignating section 399R (as inserted by section 3 of Public Law 110-374) as section 399T; and

(3) by adding at the end the following:

**“SEC. 399U. STATE ADVANCE DIRECTIVE REGISTRIES.**

“(a) **STATE ADVANCE DIRECTIVE REGISTRY.**—In this section, the term ‘State advance directive registry’ means a secure, electronic database that—

“(1) is available free of charge to residents of a State; and

“(2) stores advance directive documents and makes such documents accessible to medical service providers in accordance with Federal and State privacy laws.

“(b) **GRANT PROGRAM.**—Beginning on July 1, 2010, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants on a competitive basis to eligible entities to establish and operate, directly or indirectly (by competitive grant or competitive contract), State advance directive registries.

“(c) **ELIGIBLE ENTITIES.**—

“(1) **IN GENERAL.**—To be eligible to receive a grant under this section, an entity shall—

“(A) be a State department of health; and

“(B) submit to the Director an application at such time, in such manner, and containing—

“(i) a plan for the establishment and operation of a State advance directive registry; and

“(ii) such other information as the Director may require.

“(2) **NO REQUIREMENT OF NOTATION MECHANISM.**—The Secretary shall not require that an entity establish and operate a driver's license advance directive notation mechanism for State residents under section 399V to be eligible to receive a grant under this section.

“(d) **ANNUAL REPORT.**—For each year for which an entity receives an award under this section, such entity shall submit an annual report to the Director on the use of the funds received pursuant to such award, including the number of State residents served through the registry.

“(e) **AUTHORIZATION.**—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2010 and each fiscal year thereafter.

**“SEC. 399V. DRIVER'S LICENSE ADVANCE DIRECTIVE NOTATION.**

“(a) **IN GENERAL.**—Beginning July 1, 2010, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants on a competitive basis to States to establish and operate a mechanism for a State resident with a driver's license to include a notice of the existence of an advance directive for such resident on such license.

“(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a State shall—

“(1) establish and operate a State advance directive registry under section 399U; and

“(2) submit to the Director an application at such time, in such manner, and containing—

“(A) a plan that includes a description of how the State will—

“(i) disseminate information about advance directives at the time of driver's license application or renewal;

“(ii) enable each State resident with a driver's license to include a notice of the existence of an advance directive for such resident on such license in a manner consistent with the notice on such a license indicating a driver's intent to be an organ donor; and

“(iii) coordinate with the State department of health to ensure that, if a State resident has an advance directive notice on his or her driver's license, the existence of such advance directive is included in the State registry established under section 399U; and

“(B) any other information as the Director may require.

“(c) **ANNUAL REPORT.**—For each year for which a State receives an award under this section, such State shall submit an annual report to the Director on the use of the funds received pursuant to such award, including the number of State residents served through the mechanism.

“(d) **AUTHORIZATION.**—There is authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 2010 and each fiscal year thereafter.”.

**SEC. 133. GAO STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

**Subtitle C—National Uniform Policy on Advance Care Planning**

**SEC. 141. STUDY AND REPORT BY THE SECRETARY REGARDING THE ESTABLISHMENT AND IMPLEMENTATION OF A NATIONAL UNIFORM POLICY ON ADVANCE DIRECTIVES.**

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary, acting through the Office of the Assistant Secretary for Planning and Evaluation, shall conduct a thorough study of all matters relating to the establishment and implementation of a national uniform policy on advance directives for individuals receiving items and services under titles XVIII, XIX, or XXI of the Social

Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.; 1397aa et seq.).

(2) **MATTERS STUDIED.**—The matters studied by the Secretary under paragraph (1) shall include issues concerning—

(A) family satisfaction that a patient's wishes, as stated in the patient's advance directive, were carried out;

(B) the portability of advance directives, including cases involving the transfer of an individual from 1 health care setting to another;

(C) immunity from civil liability and criminal responsibility for health care providers that follow the instructions in an individual's advance directive that was validly executed in, and consistent with the laws of, the State in which it was executed;

(D) conditions under which an advance directive is operative;

(E) revocation of an advance directive by an individual;

(F) the criteria used by States for determining that an individual has a terminal condition;

(G) surrogate decisionmaking regarding end-of-life care;

(H) the provision of adequate palliative care (as defined in paragraph (3)), including pain management;

(I) adequate and timely referrals to hospice care programs; and

(J) the end-of-life care needs of children and their families.

(3) **PALLIATIVE CARE.**—For purposes of paragraph (2)(H), the term “palliative care” means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom management and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual's family.

(b) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) **CONSULTATION.**—In conducting the study and developing the report under this section, the Secretary shall consult with the Uniform Law Commissioners, and other interested parties.

**TITLE II—COMPASSIONATE CARE**

**Subtitle A—Workforce Development**

**PART I—EDUCATION AND TRAINING**

**SEC. 201. NATIONAL GERIATRIC AND PALLIATIVE CARE SERVICES CORPS.**

Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i), the following:

“(j) **NATIONAL GERIATRIC AND PALLIATIVE CARE SERVICES CORPS.**—

“(1) **ESTABLISHMENT.**—Not later than January 1, 2012, the Secretary shall establish within the National Health Service Corps a National Geriatric and Palliative Care Services Corps (referred to in this subsection as the ‘Corps’) which shall consist of—

“(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate;

“(B) such civilian employees of the United States as the Secretary may appoint; and

“(C) such other individuals who are not employees of the United States.

“(2) DUTIES.—The Corps shall be utilized by the Secretary to provide geriatric and palliative care services within health professional shortage areas.

“(3) APPLICATION OF PROVISIONS.—The loan-forgiveness, scholarship, and direct financial incentives programs provided for under this section shall apply to physicians, nurses, and other health professionals (as identified by the Secretary) with respect to the training necessary to enable such individuals to become geriatric or palliative care specialists and provide geriatric and palliative care services in health professional shortage areas.

“(4) REPORT.—Not later than 6 months prior to the date on which the Secretary establishes the Corps under paragraph (1), the Secretary shall submit to Congress a report concerning the organization of the Corps, the application process for membership in the Corps, and the funding necessary for the Corps (targeted by profession and by specialization).”

**SEC. 202. EXEMPTION OF PALLIATIVE MEDICINE FELLOWSHIP TRAINING FROM MEDICARE GRADUATE MEDICAL EDUCATION CAPS.**

(a) DIRECT GRADUATE MEDICAL EDUCATION.—Section 1866(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended—

(1) in clause (i), by inserting “clause (iii) and” after “subject to”; and

(2) by adding at the end the following new clause:

“(iii) INCREASE ALLOWED FOR PALLIATIVE MEDICINE FELLOWSHIP TRAINING.—For cost reporting periods beginning on or after January 1, 2011, in applying clause (i), there shall not be taken into account full-time equivalent residents in the field of allopathic or osteopathic medicine who are in palliative medicine fellowship training that is approved by the Accreditation Council for Graduate Medical Education.”

(b) INDIRECT MEDICAL EDUCATION.—Section 1866(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clause:

“(x) Clause (iii) of subsection (h)(4)(F) shall apply to clause (v) in the same manner and for the same period as such clause (iii) applies to clause (i) of such subsection.”

**SEC. 203. MEDICAL SCHOOL CURRICULA.**

(a) IN GENERAL.—The Secretary, in consultation with the Association of American Medical Colleges, shall establish guidelines for the imposition by medical schools of a minimum amount of end-of-life training as a requirement for obtaining a Doctor of Medicine degree in the field of allopathic or osteopathic medicine.

(b) TRAINING.—Under the guidelines established under subsection (a), minimum training shall include—

(1) training in how to discuss and help patients and their loved ones with advance care planning;

(2) with respect to students and trainees who will work with children, specialized pediatric training;

(3) training in the continuum of end-of-life services and supports, including palliative care and hospice;

(4) training in how to discuss end-of-life care with dying patients and their loved ones; and

(5) medical and legal issues training.

(c) DISTRIBUTION.—Not later than January 1, 2011, the Secretary shall disseminate the guidelines established under subsection (a) to medical schools.

(d) COMPLIANCE.—Effective beginning not later than July 1, 2012, a medical school that

is receiving Federal assistance shall be required to implement the guidelines established under subsection (a). A medical school that the Secretary determines is not implementing such guidelines shall not be eligible for Federal assistance.

**Subtitle B—Coverage Under Medicare, Medicaid, and CHIP**

**PART I—COVERAGE OF ADVANCE CARE PLANNING**

**SEC. 211. MEDICARE, MEDICAID, AND CHIP COVERAGE.**

(a) MEDICARE.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking “and” at the end of subparagraph (DD);

(ii) by adding “and” at the end of subparagraph (EE); and

(iii) by adding at the end the following new subparagraph:

“(FF) advance care planning consultation (as defined in subsection (hhh)(1));” and

(B) by adding at the end the following new subsection:

**“Advance Care Planning Consultation**

“(hhh)(1) Subject to paragraphs (3) and (4), the term ‘advance care planning consultation’ means a consultation between the individual and a practitioner described in paragraph (2) regarding advance care planning, if, subject to subparagraphs (A) and (B) of paragraph (3), the individual involved has not had such a consultation within the last 5 years. Such consultation shall include the following:

“(A) An explanation by the practitioner of advance care planning, including key questions and considerations, important steps, and suggested people to talk to.

“(B) An explanation by the practitioner of advance directives, including living wills and durable powers of attorney, and their uses.

“(C) An explanation by the practitioner of the role and responsibilities of a health care proxy.

“(D) The provision by the practitioner of a list of national and State-specific resources to assist consumers and their families with advance care planning, including the national toll-free hotline, the advance care planning clearinghouses, and State legal service organizations (including those funded through the Older Americans Act).

“(E) An explanation by the practitioner of the continuum of end-of-life services and supports available, including palliative care and hospice, and benefits for such services and supports that are available under this title.

“(F)(i) Subject to clause (ii), an explanation of orders regarding life sustaining treatment or similar orders, which shall include—

“(I) the reasons why the development of such an order is beneficial to the individual and the individual’s family and the reasons why such an order should be updated periodically as the health of the individual changes;

“(II) the information needed for an individual or legal surrogate to make informed decisions regarding the completion of such an order; and

“(III) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decisionmaker (also known as a health care proxy).

“(ii) The Secretary may limit the requirement for explanations under clause (i) to consultations furnished in States, localities, or other geographic areas in which orders described in such clause have been widely adopted.

“(2) A practitioner described in this paragraph is—

“(A) a physician (as defined in subsection (r)(1)); and

“(B) a nurse practitioner or physician’s assistant who has the authority under State law to sign orders for life sustaining treatments.

“(3)(A) An initial preventive physical examination under subsection (ww), including any related discussion during such examination, shall not be considered an advance care planning consultation for purposes of applying the 5-year limitation under paragraph (1).

“(B) An advance care planning consultation with respect to an individual shall be conducted more frequently than provided under paragraph (1) if there is a significant change in the health condition of the individual, including diagnosis of a chronic, progressive, life-limiting disease, a life-threatening or terminal diagnosis or life-threatening injury, or upon admission to a skilled nursing facility, a long-term care facility (as defined by the Secretary), or a hospice program.

“(4) A consultation under this subsection may include the formulation of an order regarding life sustaining treatment or a similar order.

“(5)(A) For purposes of this section, the term ‘order regarding life sustaining treatment’ means, with respect to an individual, an actionable medical order relating to the treatment of that individual that—

“(i) is signed and dated by a physician (as defined in subsection (r)(1)) or another health care professional (as specified by the Secretary and who is acting within the scope of the professional’s authority under State law in signing such an order) and is in a form that permits it to stay with the patient and be followed by health care professionals and providers across the continuum of care, including home care, hospice, long-term care, community and assisted living residences, skilled nursing facilities, inpatient rehabilitation facilities, hospitals, and emergency medical services;

“(ii) effectively communicates the individual’s preferences regarding life sustaining treatment, including an indication of the treatment and care desired by the individual;

“(iii) is uniquely identifiable and standardized within a given locality, region, or State (as identified by the Secretary);

“(iv) is portable across care settings; and

“(v) may incorporate any advance directive (as defined in section 1866(f)(3)) if executed by the individual.

“(B) The level of treatment indicated under subparagraph (A)(ii) may range from an indication for full treatment to an indication to limit some or all or specified interventions. Such indicated levels of treatment may include indications respecting, among other items—

“(i) the intensity of medical intervention if the patient is pulseless, apneic, or has serious cardiac or pulmonary problems;

“(ii) the individual’s desire regarding transfer to a hospital or remaining at the current care setting;

“(iii) the use of antibiotics; and

“(iv) the use of artificially administered nutrition and hydration.”

(2) PAYMENT.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is

amended by inserting “(2)(FF),” after “(2)(EE).”.

(3) FREQUENCY LIMITATION.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (N), by striking “and” at the end;

(ii) in subparagraph (O) by striking the semicolon at the end and inserting “, and”; and

(iii) by adding at the end the following new subparagraph:

“(P) in the case of advance care planning consultations (as defined in section 1861(hhh)(1)), which are performed more frequently than is covered under such section;”;

and

(B) in paragraph (7), by striking “or (K)” and inserting “(K), or (P)”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to consultations furnished on or after January 1, 2011.

(b) MEDICAID.—

(1) MANDATORY BENEFIT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended in the matter preceding clause (i) by striking “and (21)” and inserting “, (21), and (28)”.

(2) MEDICAL ASSISTANCE.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) in paragraph (27), by striking “and” at the end;

(ii) by redesignating paragraph (28) as paragraph (29); and

(iii) by inserting after paragraph (27) the following new paragraph:

“(28) advance care planning consultations (as defined in subsection (y));”;

(B) by adding at the end the following:

“(y)(1) For purposes of subsection (a)(28), the term ‘advance care planning consultation’ means a consultation between the individual and a practitioner described in paragraph (2) regarding advance care planning, if, subject to paragraph (3), the individual involved has not had such a consultation within the last 5 years. Such consultation shall include the following:

“(A) An explanation by the practitioner of advance care planning, including key questions and considerations, important steps, and suggested people to talk to.

“(B) An explanation by the practitioner of advance directives, including living wills and durable powers of attorney, and their uses.

“(C) An explanation by the practitioner of the role and responsibilities of a health care proxy.

“(D) The provision by the practitioner of a list of national and State-specific resources to assist consumers and their families with advance care planning, including the national toll-free hotline, the advance care planning clearinghouses, and State legal service organizations (including those funded through the Older Americans Act).

“(E) An explanation by the practitioner of the continuum of end-of-life services and supports available, including palliative care and hospice, and benefits for such services and supports that are available under this title.

“(F)(i) Subject to clause (ii), an explanation of orders for life sustaining treatments or similar orders, which shall include—

“(I) the reasons why the development of such an order is beneficial to the individual and the individual’s family and the reasons why such an order should be updated periodically as the health of the individual changes;

“(II) the information needed for an individual or legal surrogate to make informed decisions regarding the completion of such an order; and

“(III) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decisionmaker (also known as a health care proxy).

“(ii) The Secretary may limit the requirement for explanations under clause (i) to consultations furnished in States, localities, or other geographic areas in which orders described in such clause have been widely adopted.

“(2) A practitioner described in this paragraph is—

“(A) a physician (as defined in section 1861(r)(1)); and

“(B) a nurse practitioner or physician’s assistant who has the authority under State law to sign orders for life sustaining treatments.

“(3) An advance care planning consultation with respect to an individual shall be conducted more frequently than provided under paragraph (1) if there is a significant change in the health condition of the individual including diagnosis of a chronic, progressive, life-limiting disease, a life-threatening or terminal diagnosis or life-threatening injury, or upon admission to a nursing facility, a long-term care facility (as defined by the Secretary), or a hospice program.

“(4) A consultation under this subsection may include the formulation of an order regarding life sustaining treatment or a similar order.

“(5) For purposes of this subsection, the term ‘orders regarding life sustaining treatment’ has the meaning given that term in section 1861(hhh)(5).”.

(c) CHIP.—

(1) CHILD HEALTH ASSISTANCE.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj) is amended—

(A) by redesignating paragraph (28) as paragraph (29); and

(B) by inserting after paragraph (27), the following:

“(28) Advance care planning consultations (as defined in section 1905(y)).”.

(2) MANDATORY COVERAGE.—

(A) IN GENERAL.—Section 2103 of such Act (42 U.S.C. 1397cc), is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by striking “and (7)” and inserting “(7), and (9)”; and

(ii) in subsection (c), by adding at the end the following:

“(9) END-OF-LIFE CARE.—The child health assistance provided to a targeted low-income child shall include coverage of advance care planning consultations (as defined in section 1905(y) and at the same payment rate as the rate that would apply to such a consultation under the State plan under title XIX).”.

(B) CONFORMING AMENDMENT.—Section 2102(a)(7)(B) of such Act (42 U.S.C. 1397bb(a)(7)(B)) is amended by striking “section 2103(c)(5)” and inserting “paragraphs (5) and (9) of section 2103(c)”.

(d) DEFINITION OF ADVANCE DIRECTIVE UNDER MEDICARE, MEDICAID, AND CHIP.—

(1) MEDICARE.—Section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)) is amended by striking “means” and all that follows through the period and inserting “means a living will, medical directive, health care power of attorney, durable power

of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual’s wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.”.

(2) MEDICAID AND CHIP.—Section 1902(w)(4) of such Act (42 U.S.C. 1396a(w)(4)) is amended by striking “means” and all that follows through the period and inserting “means a living will, medical directive, health care power of attorney, durable power of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual’s wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.”.

(e) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 2010.

## PART II—HOSPICE

### SEC. 221. ADOPTION OF MEDPAC HOSPICE PAYMENT METHODOLOGY RECOMMENDATIONS.

Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

“(6)(A) The Secretary shall conduct an evaluation of the recommendations of the Medicare Payment Commission for reforming the hospice care benefit under this title that are contained in chapter 6 of the Commission’s report entitled ‘Report to Congress: Medicare Payment Policy (March 2009)’, including the impact that such recommendations if implemented would have on access to care and the quality of care. In conducting such evaluation, the Secretary shall take into account data collected in accordance with section 263(b) of the Advance Planning and Compassionate Care Act of 2009.

“(B) Based on the results of the examination conducted under subparagraph (A), the Secretary shall make appropriate refinements to the recommendations described in subparagraph (A). Such refinements shall take into account—

“(i) the impact on patient populations with longer than average lengths of stay;

“(ii) the impact on populations with shorter than average lengths of stay; and

“(iii) the utilization patterns of hospice providers in underserved areas, including rural hospices.

“(C) Not later than January 1, 2013, the Secretary shall submit to Congress a report that contains a detailed description of—

“(i) the refinements determined appropriate by the Secretary under subparagraph (B);

“(ii) the revisions that the Secretary will implement through regulation under this title pursuant to subparagraph (D); and

“(iii) the revisions that the Secretary determines require additional legislative action by Congress.

“(D)(i) The Secretary shall implement the recommendations described in subparagraph (A), as refined under subparagraph (B).

“(ii) Subject to clause (iii), the implementation of such recommendations shall apply to hospice care furnished on or after January 1, 2014.

“(iii) The Secretary shall establish an appropriate transition to the implementation of such recommendations.

“(E) For purposes of carrying out the provisions of this paragraph, the Secretary shall

provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817, of such sums as may be necessary to the Centers for Medicare & Medicaid Services Program Management Account.”.

**SEC. 222. REMOVING HOSPICE INPATIENT DAYS IN SETTING PER DIEM RATES FOR CRITICAL ACCESS HOSPITALS.**

Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(1)), as amended by section 4102(b)(2) of the HITECH Act (Public Law 111-5), is amended by adding at the end the following new paragraph:

“(6) For cost reporting periods beginning on or after January 1, 2011, the Secretary shall remove Medicare-certified hospice inpatient days from the calculation of per diem rates for inpatient critical access hospital services.”.

**SEC. 223. HOSPICE PAYMENTS FOR DUAL ELIGIBLE INDIVIDUALS RESIDING IN LONG-TERM CARE FACILITIES.**

(a) IN GENERAL.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

“(f) PAYMENTS FOR DUAL ELIGIBLE INDIVIDUALS RESIDING IN LONG-TERM CARE FACILITIES.—For cost reporting periods beginning on or after January 1, 2011, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall establish procedures under which payments for room and board under the State Medicaid plan with respect to an applicable individual are made directly to the long-term care facility (as defined by the Secretary for purposes of title XIX) the individual is a resident of. For purposes of the preceding sentence, the term ‘applicable individual’ means an individual who is entitled to or enrolled for benefits under part A or enrolled for benefits under part B and is eligible for medical assistance for hospice care under a State plan under title XIX.”.

**(b) STATE PLAN REQUIREMENT.—**

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (72), by striking “and” at the end;

(B) in paragraph (73), by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (73) the following new paragraph:

“(74) provide that the State will make payments for room and board with respect to applicable individuals in accordance with section 1888(f).”.

**(2) EFFECTIVE DATE.—**

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) take effect on January 1, 2011.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 224. DELINEATION OF RESPECTIVE CARE RESPONSIBILITIES OF HOSPICE PROGRAMS AND LONG-TERM CARE FACILITIES.**

Section 1888 of the Social Security Act (42 U.S.C. 1395yy), as amended by section 223(a), is amended by adding at the end the following new subsection:

“(g) DELINEATION OF RESPECTIVE CARE RESPONSIBILITIES OF HOSPICE PROGRAMS AND LONG-TERM CARE FACILITIES.—Not later than July 1, 2011, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall delineate and enforce the respective care responsibilities of hospice programs and long-term care facilities (as defined by the Secretary for purposes of title XIX) with respect to individuals residing in such facilities who are furnished hospice care.”.

**SEC. 225. ADOPTION OF MEDPAC HOSPICE PROGRAM ELIGIBILITY CERTIFICATION AND RECERTIFICATION RECOMMENDATIONS.**

In accordance with the recommendations of the Medicare Payment Advisory Commission contained in the March 2009 report entitled “Report to Congress: Medicare Payment Policy”, section 1814(a)(7) of the Social Security Act (42 U.S.C. 1395f(a)(7)) is amended—

(1) in subparagraph (B), by striking “and” at the end; and

(2) by adding at the end the following new subparagraph:

“(D) on or after January 1, 2011—

“(i) a hospice physician or advance practice nurse visits the individual to determine continued eligibility of the individual for hospice care prior to the 180th-day recertification and each subsequent recertification under subparagraph (A)(ii) and attests that such visit took place (in accordance with procedures established by the Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services); and

“(ii) any certification or recertification under subparagraph (A) includes a brief narrative describing the clinical basis for the individual’s prognosis (in accordance with procedures established by the Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services); and”.

**SEC. 226. CONCURRENT CARE FOR CHILDREN.**

(a) PERMITTING MEDICARE HOSPICE BENEFICIARIES 18 YEARS OF AGE OR YOUNGER TO RECEIVE CURATIVE CARE.—

(1) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(A) in subsection (a)(4), by inserting “(subject to the second sentence of subsection (d)(2)(A))” after “in lieu of certain other benefits”; and

(B) in subsection (d)—

(i) in paragraph (1), by inserting “, subject to the second sentence of paragraph (2)(A),” after “instead”; and

(ii) in paragraph (2)(A), by adding at the end the following new sentence: “Clause (ii)(I) shall not apply to an individual who is 18 years of age or younger.”

(2) CONFORMING AMENDMENT.—Section 1862(a)(1)(C) of the Social Security Act (42 U.S.C. 1395y(a)(1)(C)) is amended inserting “subject to the second sentence of section 1812(d)(2)(A),” after “hospice care.”.

(b) APPLICATION TO MEDICAID AND CHIP.—

(1) MEDICAID.—Section 1905(o)(1)(A) of the Social Security Act (42 U.S.C. 1395d(o)(1)(A)) is amended by inserting “(subject, in the case of an individual who is a child, to the second sentence of such section)” after “section 1812(d)(2)(A)”.

(2) CHIP.—Section 2110(a)(23) of the Social Security Act (42 U.S.C. 1397jj(a)(23)) is

amended by inserting “(concurrent, in the case of an individual who is a child, with care related to the treatment of the individual’s condition with respect to which a diagnosis of terminal illness has been made)” after “hospice care”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.

**SEC. 227. MAKING HOSPICE A REQUIRED BENEFIT UNDER MEDICAID AND CHIP.**

(a) MANDATORY BENEFIT.—

(1) MEDICAID.—

(A) IN GENERAL.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)), as amended by section 211(b)(1), is amended in the matter preceding clause (i) by inserting “(18),” after “(17),”.

(B) CONFORMING AMENDMENT.—Section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) is amended—

(i) in clause (iii)—

(I) in subclause (I), by inserting “and hospice care” after “ambulatory services”; and

(II) in subclause (II), by inserting “and hospice care” after “delivery services”; and

(ii) in clause (iv), by inserting “and (18)” after “(17)”.

(2) CHIP.—Section 2103(c)(9) of such Act (42 U.S.C. 1397cc(c)(9)), as added by section 211(c)(2)(A), is amended by inserting “and hospice care” before the period.

(b) EFFECTIVE DATE.—The amendments made subsection (a) take effect on January 1, 2011.

**SEC. 228. MEDICARE HOSPICE PAYMENT MODEL DEMONSTRATION PROJECTS.**

(a) ESTABLISHMENT.—Not later than July 1, 2012, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Agency for Healthcare Research and Quality, shall conduct demonstration projects to examine ways to improve how the Medicare hospice care benefit predicts disease trajectory. Projects shall include the following models:

(1) Models that better and more appropriately care for, and transition as needed, patients in their last years of life who need palliative care, but do not qualify for hospice care under the Medicare hospice eligibility criteria.

(2) Models that better and more appropriately care for long-term patients who are not recertified in hospice but still need palliative care.

(3) Any other models determined appropriate by the Secretary.

(b) WAIVER AUTHORITY.—The Secretary may waive compliance of such requirements of titles XI and XVIII of the Social Security Act as the Secretary determines necessary to conduct the demonstration projects under this section.

(c) REPORTS.—The Secretary shall submit to Congress periodic reports on the demonstration projects conducted under this section.

**SEC. 229. MEDPAC STUDIES AND REPORTS.**

(a) STUDY AND REPORT REGARDING AN ALTERNATIVE PAYMENT METHODOLOGY FOR HOSPICE CARE UNDER THE MEDICARE PROGRAM.—

(1) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the “Commission”) shall conduct a study on the establishment of a reimbursement system for hospice care furnished under the Medicare program that is based on diagnoses. In conducting such study, the Commission shall use data collected under new provider data requirements. Such study shall include an analysis of the following:

(A) Whether such a reimbursement system better meets patient needs and better corresponds with provider resource expenditures than the current system.

(B) Whether such a reimbursement system improves quality, including facilitating standardization of care toward best practices and diagnoses-specific clinical pathways in hospice.

(C) Whether such a reimbursement system could address concerns about the blanket 6-month terminal prognosis requirement in hospice.

(D) Whether such a reimbursement system is more cost effective than the current system.

(E) Any other areas determined appropriate by the Commission.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(b) STUDY AND REPORT REGARDING RURAL HOSPICE TRANSPORTATION COSTS UNDER THE MEDICARE PROGRAM.—

(1) STUDY.—The Commission shall conduct a study on rural Medicare hospice transportation mileage to determine potential Medicare reimbursement changes to account for potential higher costs.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(c) EVALUATION OF REIMBURSEMENT DISINCENTIVES TO ELECT MEDICARE HOSPICE WITHIN THE MEDICARE SKILLED NURSING FACILITY BENEFIT.—

(1) STUDY.—The Commission shall conduct a study to determine potential Medicare reimbursement changes to remove Medicare reimbursement disincentives for patients in a skilled nursing facility who want to elect hospice.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

#### SEC. 230. HHS EVALUATIONS.

(a) EVALUATION OF ACCESS TO HOSPICE AND HOSPITAL-BASED PALLIATIVE CARE.—

(1) EVALUATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall conduct an evaluation of geographic areas and populations underserved by hospice and hospital-based palliative care to identify potential barriers to access.

(2) REPORT.—Not later than December 31, 2012, the Secretary shall report to Congress, on the evaluation conducted under subsection (a) together with recommendations for such legislation and administrative action as the Secretary determines appropriate to address barriers to access to hospice and hospital-based palliative care.

(b) EVALUATION OF AWARENESS AND USE OF HOSPICE RESPITE CARE UNDER MEDICARE, MEDICAID, AND CHIP.—

(1) EVALUATION.—The Secretary, acting through the Director of the Centers for Medicare and Medicaid Services, shall evaluate the awareness and use of hospice respite care by informal caregivers of beneficiaries under Medicare, Medicaid, and CHIP.

(2) REPORT.—Not later than December 31, 2010, the Secretary shall report to Congress, on the evaluation conducted under subsection (a) together with recommendations for such legislation and administrative action as the Secretary determines appropriate to increase awareness or use of hospice respite care under Medicare, Medicaid, and CHIP.

#### Subtitle C—Quality Improvement

##### SEC. 241. PATIENT SATISFACTION SURVEYS.

Not later than January 1, 2012, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall establish a mechanism for—

(1) collecting information from patients (or their health care proxies or families members in the event patients are unable to speak for themselves) in relevant provider settings regarding their care at the end of life; and

(2) incorporating such information in a timely manner into mechanisms used by the Administrator to provide quality of care information to consumers, including the Hospital Compare and Nursing Home Compare websites maintained by the Administrator.

##### SEC. 242. DEVELOPMENT OF CORE END-OF-LIFE CARE QUALITY MEASURES ACROSS EACH RELEVANT PROVIDER SETTING.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Healthcare Research and Quality (in this section referred to as the “Administrator”) and in consultation with the Director of the National Institutes of Health, shall require specific end-of-life quality measures for each relevant provider setting, as identified by the Administrator, in accordance with the requirements of subsection (b).

(b) REQUIREMENTS.—For purposes of subsection (a), the requirements specified in this subsection are the following:

(1) Selection of the specific measure or measures for an identified provider setting shall be—

(A) based on an assessment of what is likely to have the greatest positive impact on quality of end-of-life care in that setting; and

(B) made in consultation with affected providers and public and private organizations, that have developed such measures.

(2) The measures may be structure-oriented, process-oriented, or outcome-oriented, as determined appropriate by the Administrator.

(3) The Administrator shall ensure that reporting requirements related to such measures are imposed consistent with other applicable laws and regulations, and in a manner that takes into account existing measures, the needs of patient populations, and the specific services provided.

(4) Not later than—

(A) April 1, 2011, the Secretary shall disseminate the reporting requirements to all affected providers; and

(B) April 1, 2012, initial reporting relating to the measures shall begin.

##### SEC. 243. ACCREDITATION OF HOSPITAL-BASED PALLIATIVE CARE PROGRAMS.

(a) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall designate a public or private agency, entity, or organization to develop requirements, standards, and procedures for accreditation of hospital-based palliative care programs.

(b) REPORTING.—Not later than January 1, 2012, the Secretary shall prepare and submit a report to Congress on the proposed accreditation process for hospital-based palliative care programs.

(c) ACCREDITATION.—Not later than July 1, 2012, the Secretary shall—

(1) establish and promulgate standards and procedures for accreditation of hospital-based palliative care programs; and

(2) designate an agency, entity, or organization that shall be responsible for certifying such programs in accordance with the standards established under paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term “hospital-based palliative care program” means a hospital-based program that is comprised of an interdisciplinary team that specializes in providing palliative care services and consultations in a variety of health care settings, including hospitals, nursing homes, and home and community-based services.

(2) The term “interdisciplinary team” means a group of health care professionals (consisting of, at a minimum, a doctor, a nurse, and a social worker) that have received specialized training in palliative care.

##### SEC. 244. SURVEY AND DATA REQUIREMENTS FOR ALL MEDICARE PARTICIPATING HOSPICE PROGRAMS.

(a) HOSPICE SURVEYS.—Section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)) is amended by adding at the end the following new paragraph:

“(6) In accordance with the recommendations of the Medicare Payment Advisory Commission contained in the March 2009 report entitled ‘Report to Congress: Medicare Payment Policy’, the Secretary shall establish, effective July 1, 2010, the following survey requirements for hospice programs:

“(A) Any hospice program seeking initial certification under this title on or after that date shall be subject to an initial survey by an appropriate State or local agency, or an approved accreditation agency, not later than 6 months after the program first seeks such certification.

“(B) All hospice programs certified for participation under this title shall be subject to a standard survey by an appropriate State or local agency, or an approved accreditation agency, at least every 3 years after initially being so certified.”

(b) REQUIRED HOSPICE RESOURCE INPUTS DATA.—Section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)), as amended by subsection (a), is amended—

(1) in paragraph (3)—

(A) in subparagraph (F), by striking “and” at the end;

(B) by redesignating subparagraph (G) as subparagraph (H); and

(C) by inserting after subparagraph (F) the following new subparagraph:

“(G) to comply with the reporting requirements under paragraph (7); and”; and

(2) by adding at the end the following new paragraph:

“(7)(A) In accordance with the recommendations of the Medicare Payment Advisory Commission for additional data (as contained in the March 2009 report entitled ‘Report to Congress: Medicare Payment Policy’), beginning January 1, 2011, a hospice program shall report to the Secretary, in such form and manner, and at such intervals, as the Secretary shall require, the following data with respect to each patient visit:

“(i) Visit type (such as admission, routine, emergency, education for family, other).

“(ii) Visit length.

“(iii) Professional or paraprofessional disciplines involved in the visit, including nurse, social worker, home health aide, physician, nurse practitioner, chaplain or spiritual counselor, counselor, dietician, physical therapist, occupational therapist, speech



language pathologist, music or art therapist, and including bereavement and support services provided to a family after a patient's death.

“(iv) Drugs and other therapeutic interventions provided.

“(v) Home medical equipment and other medical supplies provided.

“(B) In collecting the data required under subparagraph (A), the Secretary shall ensure that the data are reported in a manner that allows for summarized cross-tabulations of the data by patients' terminal diagnoses, lengths of stay, age, sex, and race.”.

**Subtitle D—Additional Reports, Research, and Evaluations**

**SEC. 251. NATIONAL CENTER ON PALLIATIVE AND END-OF-LIFE CARE.**

Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

**“Subpart 7—National Center on Palliative and End-of-Life Care**

**“SEC. 485J. NATIONAL CENTER ON PALLIATIVE AND END-OF-LIFE CARE.**

“(a) ESTABLISHMENT.—Not later than July 1, 2011, there shall be established within the National Institutes of Health, a National Center on Palliative and End-of-Life Care (referred to in this section as the ‘Center’).

“(b) PURPOSE.—The general purpose of the Center is to conduct and support research relating to palliative and end-of-life care interventions and approaches.

“(c) ACTIVITIES.—The Center shall—

“(1) develop and continuously update a research agenda with the goal of—

“(A) providing a better biomedical understanding of the end of life; and

“(B) improving the quality of care and life at the end of life; and

“(2) provide funding for peer-review-selected extra- and intra-mural research that includes the evaluation of existing, and the development of new, palliative and end-of-life care interventions and approaches.”.

**SEC. 252. NATIONAL MORTALITY FOLLOWBACK SURVEY.**

(a) IN GENERAL.—Not later than December 31, 2010, and annually thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall renew and conduct the National Mortality Followback Survey (referred to in this section as the “Survey”) to collect data on end-of-life care.

(b) PURPOSE.—The purpose of the Survey shall be to gain a better understanding of current end-of-life care in the United States.

(c) QUESTIONS.—

(1) IN GENERAL.—In conducting the Survey, the Director of the Centers for Disease Control and Prevention shall, at a minimum, include the following questions with respect to the loved one of a respondent:

(A) Did he or she have an advance directive, and if so, when it was completed.

(B) Did he or she have an order for life-sustaining treatment, and if so, when was it completed.

(C) Did he or she have a durable power of attorney, and if so, when it was completed.

(D) Had he or she discussed his or her wishes with loved ones, and if so, when.

(E) Had he or she discussed his or her wishes with his or her physician, and if so, when.

(F) In the opinion of the respondent, was he or she satisfied with the care he or she received in the last year of life and in the last week of life.

(G) Was he or she cared for by hospice, and if so, when.

(H) Was he or she cared for by palliative care specialists, and if so, when.

(I) Did he or she receive effective pain management (if needed).

(J) What was the experience of the main caregiver (including if such caregiver was the respondent), and whether he or she received sufficient support in this role.

(2) ADDITIONAL QUESTIONS.—Additional questions to be asked during the Survey shall be determined by the Director of the Centers for Disease Control and Prevention on an ongoing basis with input from relevant research entities.

**SEC. 253. DEMONSTRATION PROJECTS FOR USE OF TELEMEDICINE SERVICES IN ADVANCE CARE PLANNING.**

(a) IN GENERAL.—Not later than July 1, 2013, the Secretary shall establish a demonstration program to reimburse eligible entities for costs associated with the use of telemedicine services (including equipment and connection costs) to provide advance care planning consultations with geographically distant physicians and their patients.

(b) DURATION.—The demonstration project under this section shall be conducted for at least a 3-year period.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “eligible entity” means a physician or an advance practice nurse who provides services pursuant to a hospital-based palliative care program (as defined in section 262(d)(1)).

(2) The term “geographically distant” has the meaning given that term by the Secretary for purposes of conducting the demonstration program established under this section.

(3) The term “telemedicine services” means a service or consultation provided via telecommunication equipment that allows an eligible entity to exchange or discuss medical information with a patient or a health care professional at a separate location through real-time videoconferencing, or a similar format, for the purpose of providing health care diagnosis and treatment.

(d) FUNDING.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

**SEC. 254. INSPECTOR GENERAL INVESTIGATION OF FRAUD AND ABUSE.**

In accordance with the recommendations of the Medicare Payment Advisory Commission for additional data (as contained in the March 2009 report entitled “Report to Congress: Medicare Payment Policy”), the Secretary shall direct the Office of the Inspector General of the Department of Health and Human Services to investigate, not later than January 1, 2012, the following with respect to hospice benefit under Medicare, Medicaid, and CHIP:

(1) The prevalence of financial relationships between hospices and long-term care facilities, such as nursing facilities and assisted living facilities, that may represent a conflict of interest and influence admissions to hospice.

(2) Differences in patterns of nursing home referrals to hospice.

(3) The appropriateness of enrollment practices for hospices with unusual utilization patterns (such as high frequency of very long stays, very short stays, or enrollment of patients discharged from other hospices).

(4) The appropriateness of hospice marketing materials and other admissions practices and potential correlations between length of stay and deficiencies in marketing or admissions practices.

**SEC. 255. GAO STUDY AND REPORT ON PROVIDER ADHERENCE TO ADVANCE DIRECTIVES.**

Not later than January 1, 2012, the Comptroller General of the United States shall

conduct a study of the extent to which providers comply with advance directives under the Medicare and Medicaid programs and shall submit a report to Congress on the results of such study, together with such recommendations for administrative or legislative changes as the Comptroller General determines appropriate.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Ms. SNOWE)):

S. 1151. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am pleased to introduce with my distinguished colleague Senator OLYMPIA SNOWE, bipartisan legislation known as the State Child Well-Being Research Act of 2009. Companion legislation has already been introduced in the House by Congressmen FATTAH and CAMP. This bill is designed to enhance child well-being by requiring the Secretary of Health and Human Services to facilitate the collection of state-specific data based on a defined set of indicators. The well-being of children is important to both national and State governments. Therefore, data collection is a priority that cannot be ignored if we hope to make informed decisions on public policy.

In 1996, Congress passed bold legislation, which I supported to dramatically change our welfare system. The driving force behind this reform was to promote the work and self-sufficiency of families and to provide the flexibility to States necessary to achieve these goals. States, which is where most child and family legislation takes place, have used this flexibility to design different programs that work better for the families who rely on them. The design and benefits available under other programs that serve children, ranging from the Children Health Insurance Program, CHIP, to child welfare services, can vary widely among States.

It is obvious that in order for policy makers to evaluate child well-being, we need state-specific data on child well-being to measure the results. Current surveys provide minimal data on some important indicators of child well-being, but insufficient data is available on low-income families, geographic variation, and young children. Additionally, the information is not provided in a timely manner, which impedes legislators' ability to effectively measure child well-being and design effective programs to support our children.

The State Child Well-Being Research Act of 2009 is intended to fill this information gap by collecting up-to-date, State-specific data that can be used by policymakers, researchers, and child advocates to assess the well-being of

children. As we strive to promote quality programs, we need basic benchmarks to measure outcomes. Our bill would require that a survey examine the physical and emotional health of children, adequately represent the experiences of families in individual states, be consistent across states, be collected annually, articulate results in easy to understand terms, and focus on low-income children and families. This legislation also establishes an advisory committee, consisting of a panel of experts who specialize in survey methodology and indicators of child well-being, and the application of this data to ensure that the purpose is being achieved.

Further, this bill avoids some of the problems in the current system by making data files easier to use and more readily available to the public. As a result, the information will be more useful for policy-makers managing welfare reform and programs for children and families. Finally, this legislation also offers the potential for the Health and Human Service Department to partner with private charitable foundations, like the Annie E. Casey Foundations, which has already expressed an interest in forming a partnership to provide outreach, support and a guarantee that the data collected would be broadly disseminated. This type of public-private partnership helps to leverage additional resources for children and families and increases the study's impact. Given the tight budget we face, partnerships make sense to meet this essential need.

I hope my colleagues review this legislation carefully and choose to support it so that Federal and state policy makers and advocates have the information necessary to make good decisions for children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1151

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "State Child Well-Being Research Act of 2009".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The well-being of children is a paramount concern for our Nation and for every State, and most programs for children and families are managed at the State or local level.

(2) Child well-being varies over time and across social, economic, and geographic groups, and can be affected by changes in the circumstances of families, by the economy, by the social and cultural environment, and by public policies and programs at the Federal, State, and local level.

(3) States, including small States, need information about child well-being that is specific to their State and that is up-to-date,

cost-effective, and consistent across States and over time.

(4) Regular collection of child well-being information at the State level is essential so that Federal and State officials can track child well-being over time.

(5) Information on child well-being is necessary for all States, particularly small States that do not have State-level data in other federally supported databases. Information is needed on the well-being of all children, not just children participating in Federal programs.

(6) Telephone surveys of parents represent a relatively cost-effective strategy for obtaining information on child well-being at the State level for all States, including small States, and can be conducted alone or in mixed mode strategy with other survey techniques.

(7) Data from telephone surveys of the population are currently used to monitor progress toward many important national goals, including immunization of preschool children with the National Immunization Survey, and the identification of health care issues of children with special needs with the National Survey of Children with Special Health Care Needs.

(8) A State-level telephone survey, alone or in combination with other techniques, can provide information on a range of topics, including children's social and emotional development, education, health, safety, family income, family employment, and child care. Information addressing marriage and family structure can also be obtained for families with children. Information obtained from such a survey would not be available solely for children or families participating in programs but would be representative of the entire State population and consequently, would inform welfare policymaking on a range of important issues, such as income support, child care, child abuse and neglect, child health, family formation, and education.

#### SEC. 3. RESEARCH ON INDICATORS OF CHILD WELL-BEING.

Section 413 of the Social Security Act (42 U.S.C. 613) is amended by adding at the end the following:

"(k) INDICATORS OF CHILD WELL-BEING.—

"(1) RENAMING OF SURVEY.—On and after the date of the enactment of this subsection, the National Survey of Children's Health conducted by the Director of the Maternal and Child Health Bureau of the Health Resources and Services Administration shall be known as the 'Survey of Children's Health and Well-Being'.

"(2) MODIFICATION OF SURVEY TO INCLUDE MATTERS RELATING TO CHILD WELL-BEING.—The Secretary shall modify the survey so that it may be used to better assess child well-being, as follows:

"(A) NEW INDICATORS INCLUDED.—The indicators with respect to which the survey collects information shall include measures of child-well-being related to the following:

"(i) Education.

"(ii) Social and emotional development.

"(iii) Physical and mental health and safety.

"(iv) Family well-being, such as family structure, income, employment, child care arrangements, and family relationships.

"(B) COLLECTION REQUIREMENTS.—The data collected with respect to the indicators developed under subparagraph (A) shall be—

"(i) statistically representative at the State and national level;

"(ii) consistent across States, except that data shall be collected in States other than

the 50 States and the District of Columbia only if technically feasible;

"(iii) collected on an annual or ongoing basis;

"(iv) measured with reliability;

"(v) current;

"(vi) over-sampled (if feasible), with respect to low-income children and families, so that subgroup estimates can be produced by a variety of income categories (such as for 50, 100, and 200 percent of the poverty level, and for children of varied ages, such as 0-5, 6-11, 12-17, and (if feasible) 18-21 years of age); and

"(vii) made publicly available.

"(C) OTHER REQUIREMENTS.—

"(i) PUBLICATION.—The data collected with respect to the indicators developed under subparagraph (A) shall be published as absolute numbers and expressed in terms of rates or percentages.

"(ii) AVAILABILITY OF DATA.—A data file shall be made available to the public, subject to confidentiality requirements, that includes the indicators, demographic information, and ratios of income to poverty.

"(iii) SAMPLE SIZES.—Sample sizes used for the collected data shall be adequate for microdata on the categories included in subparagraph (B)(vi) to be made publicly available, subject to confidentiality requirements.

"(D) CONSULTATION.—

"(i) IN GENERAL.—In developing the indicators under subparagraph (A) and the means to collect the data required with respect to the indicators, the Secretary shall consult and collaborate with a subcommittee of the Federal Interagency Forum on Child and Family Statistics, which shall include representatives with expertise on all the domains of child well-being described in subparagraph (A). The subcommittee shall have appropriate staff assigned to work with the Maternal and Child Health Bureau during the design phase of the survey.

"(ii) DUTIES.—The Secretary shall consult with the subcommittee referred to in clause (i) with respect to the design, content, and methodology for the development of the indicators under subparagraph (A) and the collection of data regarding the indicators, and the availability or lack thereof of similar data through other Federal data collection efforts.

"(iii) COSTS.—Costs incurred by the subcommittee with respect to the development of the indicators and the collection of data related to the indicators shall be treated as costs of the survey.

"(3) ADVISORY PANEL.—

"(A) ESTABLISHMENT.—The Secretary, in consultation with the Federal Interagency Forum on Child and Family Statistics, shall establish an advisory panel of experts to make recommendations regarding—

"(i) the additional matters to be addressed by the survey by reason of this subsection; and

"(ii) the methods, dissemination strategies, and statistical tools necessary to conduct the survey as a whole.

"(B) MEMBERSHIP.—

"(i) IN GENERAL.—The advisory panel established under subparagraph (A) of this paragraph shall include experts on each of the domains of child well-being described in paragraph (2)(A), experts on child indicators, experts from State agencies and from non-profit organizations that use child indicator data at the State level, and experts on survey methodology.

"(ii) DEADLINE.—The members of the advisory panel shall be appointed not later than

2 months after the date of the enactment of this subsection.

“(C) MEETINGS.—The advisory panel established under subparagraph (A) shall meet—

“(i) at least 3 times during the first year after the date of enactment of this subsection; and

“(ii) annually thereafter for the 4 succeeding years.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2014, \$20,000,000 for the purpose of carrying out this subsection.”.

**SEC. 4. GAO REPORT ON COLLECTION AND REPORTING OF DATA ON DEATHS OF CHILDREN IN FOSTER CARE.**

(a) IN GENERAL.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to determine, and submit to the Congress a written report on the adequacy of, the methods of collecting and reporting data on deaths of children in the child welfare system.

(b) MATTERS TO BE CONSIDERED.—In the study, the Comptroller General shall, for each year for which data are available, determine—

(1) the number of children eligible for services or benefits under part B or E of title IV of the Social Security Act who States reported as having died due to abuse or neglect;

(2) the number of children so eligible who died due to abuse or neglect but were not accounted for in State reports; and

(3) the number of children in State child welfare systems who died due to abuse or neglect and whose deaths are not included in the data described in paragraph (1) or (2).

(c) RECOMMENDATIONS.—In the report, the Comptroller General shall include recommendations on how surveys of children by the Federal Government and by State governments can be improved to better capture all data on the death of children in the child welfare system, so that the Congress can work with the States to develop better policies to improve the well-being of children and reduce child deaths.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. INOUE, Mr. LEVIN, Mr. KERRY, Mr. AKAKA, Mrs. BOXER!, Mr. FEINGOLD, Mr. DURBIN, Mr. JOHNSON, Mr. SCHUMER, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. BURR, and Mrs. GILLIBRAND)):

S. 1152. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, in this turbulent economy, working families are facing enormous challenges. Too many families are living paycheck to paycheck, just one layoff or health crisis away from disaster. Now more than ever, workers are struggling to balance the demands of their jobs and their families. When a sickness or health problem arises, these challenges can easily become insurmountable.

Unfortunately, almost half of all private sector workers—including 79 percent of low-wage workers—have no paid sick days they can use to care for themselves or a sick family member. For these workers, taking a day off to care for their own health or a sick child means losing a much-needed paycheck, or even putting their jobs in danger. In a recent survey, 1 in 6 workers reported that they or a family member have been fired, punished or threatened with termination for taking time off because of their own illness or to care for a sick relative.

Workers can't afford to take that kind of risk now. Losing even one paycheck can mean falling behind on bills, foregoing needed medicines, or skipping meals. As a result, many employees continue to go to work when they are ill, and send their children to school or day care sick, because it's the only way to make ends meet.

The lack of paid sick day is not just a crisis for individual families—it is a public health crisis as well. The current flu outbreak provides a compelling illustration. To prevent the spread of the virus, the World Health Organization, the Center for Disease Control, and numerous state and local public health officials urged people to stay home from work or school if they flu-like symptoms. Strong scientific evidence proves that this is one of the best ways to prevent the spread of disease and protect the public health.

But without paid sick days, following this sound advice is often impossible—millions of employees want to do the right thing and stay home, but our current laws just do not protect them. The Family and Medical Leave Act enables workers to take time off for serious health conditions, but only about half of today's workers are covered by the act, and millions more can not take advantage of it because this leave is unpaid.

Hardworking Americans should not have to make these impossible choices. That's why Senator DODD, Representative ROSA DELAURO and I are introducing the Healthy Families Act, which will enable workers to take up to 56 hours, or about 7 days, of paid sick leave each year. Employees can use this time to stay home and get well when they are ill, to care for a sick family member, to obtain preventive or diagnostic treatment, or to seek help if they are victims of domestic violence.

This important legislation will provide needed security for working families struggling to balance the jobs they need and the families they love. It will improve public health and reduce health costs by preventing the spread of disease and giving employees the access they need to obtain preventive care. It will also help victims of domestic violence to protect their families and their futures.

In addition, the legislation will benefit businesses by decreasing employee

turnover, and improving productivity. “Presenteeism”—sick workers coming to work and infecting their colleagues instead of staying at home—costs our economy \$180 billion annually in lost productivity. For employers, the cost averages \$255 per employee per year, and exceeds the cost of absenteeism and medical and disability benefits. The lack of paid sick days also leads to higher employee turnover, especially for low-wage workers. When the benefits of the Healthy Families Act are weighed against its costs, providing paid sick days will actually save American businesses up to \$9 billion a year by eliminating these productivity losses and reducing turnover.

Above all, enabling workers to earn paid sick time to care for themselves and their families is a matter of fundamental fairness. Every worker has had to miss days of work because of illness. Every child gets sick and needs a parent at home to take care of them. And all hardworking Americans deserve the chance to take care of their families without putting their jobs or their health on the line.

It is long past time for our laws to deal with these difficult choices that working men and women face every day. As President Obama has said, “Nobody in America should have to choose between keeping their jobs and caring for a sick child.” I urge all of my colleagues to join in supporting the Healthy Families Act.

**SUBMITTED RESOLUTIONS**

SENATE RESOLUTION 155—EXPRESSING THE SENSE OF THE SENATE THAT THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD IMMEDIATELY CEASE ENGAGING IN ACTS OF CULTURAL, LINGUISTIC, AND RELIGIOUS SUPPRESSION DIRECTED AGAINST THE UYGHUR PEOPLE

Mr. BROWN (for himself and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

**S. RES. 155**

Whereas protecting the human rights of minority groups is consistent with the actions of a responsible member of the international community;

Whereas recent actions taken against the Uyghur minority by authorities in the People's Republic of China and, specifically, by local officials in the Xinjiang Uyghur Autonomous Region, have included major violations of human rights and acts of cultural suppression;

Whereas the authorities of the People's Republic of China have manipulated the strategic objectives of the international war on terrorism to increase their cultural and religious oppression of the Muslim population residing in the Xinjiang Uyghur Autonomous Region;

Whereas an official campaign to encourage the migration of Han Chinese people into the Xinjiang Uyghur Autonomous Region has resulted in the Uyghur population becoming a minority in the Uyghur traditional homeland and has placed immense pressure on people and organizations that are seeking to preserve the linguistic, cultural, and religious traditions of the Uyghur people;

Whereas, pursuant to a new policy of the Government of the People's Republic of China, young Uyghur women are recruited and forcibly relocated to work in factories in urban areas in far-off eastern provinces, resulting in tens of thousands of Uyghur women being separated from their families and placed into substandard working conditions thousands of miles from their homes;

Whereas the legal system of the People's Republic of China is used as a tool of repression, including to arbitrarily detain and torture Uyghurs who have only voiced discontent with the Government of the People's Republic of China;

Whereas the Government of the People's Republic of China continues to charge innocent Uyghurs with political crimes and to impose the death penalty on those Uyghurs and other political dissidents, contrary to international humanitarian standards;

Whereas the People's Republic of China is implementing a monolingual Chinese language education system that undermines the linguistic basis of Uyghur culture by transitioning minority students from education in their mother tongue to education in Chinese, shifting dramatically away from past policies that provided choice for the Uyghur people; and

Whereas there have been recent armed crackdowns throughout the Xinjiang Uyghur Autonomous Region against the entire Uyghur population: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Government of the People's Republic of China should—

(1) recognize, and seek to ensure, the linguistic, cultural, and religious rights of the Uyghur people of the Xinjiang Uyghur Autonomous Region;

(2) immediately release all Uyghur political and religious prisoners that are being held without good cause or evidence, whether those prisoners are held in prisons or are under house arrest;

(3) cease harassment and intimidation of family members and innocent associates of peaceful Uyghur political activists; and

(4) immediately cease all Government-sponsored violence and crackdowns against people in the Xinjiang Uyghur Autonomous Region, including against people involved in peaceful protests or religious or political expression.

#### SENATE RESOLUTION 156—EXPRESSING THE SENSE OF THE SENATE THAT REFORM OF OUR NATION'S HEALTH CARE SYSTEM SHOULD INCLUDE THE ESTABLISHMENT OF A FEDERALLY-BACKED INSURANCE POOL

Mr. BROWN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DODD, Mr. SCHUMER, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. HARKIN, Mrs. BOXER, Mr. REED, Mr. LEVIN, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Ms. STABENOW, Mr. CASEY, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of New Mexico, Mr. INOUE, Mr. SANDERS, Mr.

KAUFMAN, Mr. BURRIS, Mr. LAUTENBERG, Mrs. MCCASKILL, Mrs. SHAHEEN, Mr. CARDIN, and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 156

Whereas in the presence of a federally-backed insurance pool, those Americans who have become unemployed, live in rural and other traditionally underserved areas, or have been unable to attain affordable health insurance would benefit from consumer choice: Now, therefore, be it

*Resolved*, That the Senate recognizes that any efforts to reform our Nation's health care system should include as an option the establishment of a federally-backed insurance pool to create options for American consumers.

Mr. BROWN. Mr. President, in my approaching 2½ years in the Senate, I have held some 140 roundtables across my State—from Bryan, to Saint Clairsville, to Ashtabula, to Cincinnati—where I have had the opportunity to listen to health care professionals and advocates and their families speak about their circumstances and struggles. Through these discussions, one thing has become painfully obvious: Health care reform must include insurance reform, and health insurance reform must include the option of a federally backed health insurance plan. That is why I am here today to introduce a resolution, along with 26 of my Senate colleagues, to express the importance of including a federally backed health insurance plan in health care reform.

As we work to reform our health care system, we must protect what works and fix what is broken. It is important that we preserve access to employer-sponsored coverage for those who want to keep their current plan. That is what President Obama is insisting on. If you are satisfied, you keep what coverage you have. But with more and more Americans losing jobs and seeing their health insurance scaled back, it is important that people have access to something else. Americans deserve the chance to go with a private or a federally backed health insurance plan. It is their choice, and this choice is good policy. This choice is good common sense.

Americans are tired of trying to get health insurance coverage and being turned down because they have a pre-existing condition. They are tired of premiums and deductibles and copays that they simply can no longer afford. They are tired of having to fight for every penny when they have paid their insurance premium month after month. They are tired of having to fight for every penny that the insurer owes them when they try to use their insurance and waiting all too often for months to get their claims paid. They are tired of wondering whether their insurance will pay for them at all to see the specialist they need, to get the

medicine they need, or to have the operation they need. That is not what insurance should be.

They are tired mostly of the uncertainty surrounding health insurance. If they lose their job, they lose insurance. If they get sick, they can't get insurance. If they submit a claim, it may be paid in 2 or 6 months, or sometimes, even though they are fighting their insurance company and asking and pleading and begging, they may not get the claim paid at all.

To be meaningful, health care reform must be responsive to all of these shortcomings in our current system. To be responsive, health care reform must address insurance affordability, reliability, and insurance continuity. To achieve these goals, health care reform must provide Ohioans and every American with more options. People should be able to choose whether to keep the coverage they have or to purchase coverage backed by the Federal Government.

A federally backed plan would provide continuity. It would be available in every part of the country, no matter how rural, in western North Carolina or in southeast Ohio. Its benefits would be guaranteed, and its cost sharing would be affordable because of the problems of cost shifting—no ifs, no ands, and no buts. A federally backed plan would be an option but certainly not the only option. Americans who have employer-sponsored coverage would still have that coverage. Americans who have individual coverage through a private insurer would still have that coverage. A federally backed plan would be an option, not a mandate. Some will choose it; others will not. That is the kind of choice we ask for.

One reason such an option is important is because hundreds of thousands of Americans are losing their jobs and have no affordable coverage option. This would give them one. If you have ever tried to purchase affordable coverage in the individual insurance market—and I have—you understand why a federally backed insurance program is so important. If you live in a rural area where quality, affordable coverage is unavailable, you know why a federally backed insurance option is so important. There needs to be an option for people who can't find what they need in the private insurance market, just as Medicare is there for seniors. The federally backed option will give those under 65, if not yet eligible for Medicare, a place to turn.

The resolution I am introducing today, with half of the Democrats in the Senate already signed on as cosponsors—there will be more later—demonstrates broad support for a federally backed insurance option and health care reform. I encourage all colleagues to support this resolution.

The majority of the HELP Committee are cosponsors of this bill. That

is the committee that will help to write the health insurance bill with the Finance Committee. If consumers have more options, including the option to purchase federally backed coverage designed to provide the three things that matter most—affordability, reliability, and continuity, the three things that too often are absent from private insurance plans—we will have gone a long way toward making the U.S. health care system work for every American. That is why this resolution matters. That is why the option of a federally backed insurance plan makes so much sense.

**SENATE RESOLUTION 157—RECOGNIZING BREAD FOR THE WORLD, ON THE 35TH ANNIVERSARY OF ITS FOUNDING, FOR ITS FAITHFUL ADVOCACY ON BEHALF OF POOR AND HUNGRY PEOPLE IN OUR COUNTRY AND AROUND THE WORLD**

Mr. LUGAR (for himself, Mrs. LINCOLN, Mr. DURBIN, Mr. KOHL, Mr. BROWN, Ms. SNOWE, Mr. CASEY, Mr. KERRY, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 157

Whereas Bread for the World, now under the leadership of the Reverend David Beckmann, has grown in size and influence, and is now the largest grassroots advocacy network on hunger issues in the United States and on behalf of impoverished people overseas;

Whereas members of Bread for the World believe that by addressing policies, programs, and conditions that allow hunger and poverty to persist, they are providing help and opportunity far beyond the communities in which they live;

Whereas Bread for the World has inspired the engagement of hundreds of thousands of individuals, more than 8,000 congregations, and more than 50 denominations across the religious spectrum to seek justice for hungry and poor people by making our Nation's laws more fair and compassionate to people in need;

Whereas members of Bread for the World use hand-written letters and other personalized forms of communication to convey to their legislators their moral concern for the needs of mothers, children, small farmers, and other hungry and poor people; and

Whereas Bread for the World has a strong record of success in working with Congress to—

- (1) strengthen our national nutrition programs;
- (2) establish and fund the Child Survival account that has helped reduce child mortality rates worldwide;
- (3) increase and improve the Nation's poverty-focused development assistance to help developing countries in Africa and other underprivileged parts of the world;
- (4) pass the Africa: Seeds of Hope Act of 1998 that redirected United States resources toward small-scale farmers and struggling rural communities in Africa;
- (5) lead an effort to provide debt relief to the world's poorest countries and tie debt relief to poverty reduction; and

(6) establish an emergency grain reserve to improve the Nation's response to humanitarian crises: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes and commends Bread for the World, on the 35th anniversary of its founding, for its encouragement of citizen engagement, its advocacy for poor and hungry people, and its successes as a collective voice; and

(2) challenges Bread for the World to continue its work to address world hunger.

**SENATE RESOLUTION 158—TO COMMEND THE AMERICAN SAIL TRAINING ASSOCIATION FOR ADVANCING INTERNATIONAL GOODWILL AND CHARACTER BUILDING UNDER SAIL**

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas the American Sail Training Association (ASTA) is an educational nonprofit corporation whose declared mission is "to encourage character building through sail training, promote sail training to the North American public and support education under sail";

Whereas, since its founding in 1973, ASTA has supported character-building experiences aboard traditionally-rigged sail training vessels and has established a program of scholarship funds to support such experiences;

Whereas ASTA has a long history of tall ship races, rallies, and maritime festivals, dating back as far as 1976;

Whereas, each year since 2001, ASTA has held the "Tall Ships Challenge", a series of races and maritime festivals that involve sail training vessels, trainees, and crews from all the coasts of the United States and around the world;

Whereas the Tall Ships Challenge series has reached an audience of approximately 8,000,000 spectators and brought more than \$400,000,000 to more than 30 host communities;

Whereas ASTA supports a membership of more than 200 sail training vessels, including barks, barques, barkentines, brigantines, brigs, schooners, sloops, and full-rigged ships, which carry the flags of the United States, Canada, and many other nations and have brought life-changing adventures to thousands of young trainees;

Whereas ASTA has held a series of more than 30 annual sail training conferences in cities throughout the United States and Canada, including the Safety Under Sail Forum and the Education Under Sail Forum;

Whereas ASTA has collaborated extensively with the Coast Guard and with the premier sail training vessel of the United States, the square-rigged barque *USCGC Eagle*;

Whereas ASTA publishes "Sail Tall Ships", a periodic directory of sail training opportunities;

Whereas, in 1982, ASTA supported the enactment of the Sailing School Vessel Act of 1982, title II of Public Law 97-322 (96 Stat. 1588);

Whereas ASTA has ably represented the United States as a founding member of the national sail training organization in Sail Training International, the recognized international body for the promotion of sail training, which has hosted a series of inter-

national races of square-rigged and other traditionally-rigged vessels since the 1950s; and

Whereas ASTA and Sail Training International are collaborating with port partners around the Atlantic Ocean to produce the "Tall Ships Atlantic Challenge 2009", in which an international fleet of sail training vessels will sail from Europe to North America and return to Europe: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the American Sail Training Association for advancing character building experiences for youth at sea in traditionally-rigged sailing vessels and the finest traditions of the sea;

(2) commends the American Sail Training Association for acting as the national sail training association of the United States and representing the sail training community of the United States in the international forum; and

(3) encourages all people of the United States and the world to join in the celebration of the "Tall Ships Atlantic Challenge 2009" and in the character-building and educational experience that it represents for the youth of all nations.

**SENATE RESOLUTION 159—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF JUNETEENTH INDEPENDENCE DAY AND EXPRESSING THE SENSE OF THE SENATE THAT HISTORY SHOULD BE REGARDED AS A MEANS FOR UNDERSTANDING THE PAST AND SOLVING THE CHALLENGES OF THE FUTURE**

Mr. BURRIS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 159

Whereas news of the end of slavery did not reach frontier areas of the United States, and in particular the southwestern States, for more than 2 years after President Lincoln's Emancipation Proclamation of January 1, 1863, and months after the conclusion of the Civil War;

Whereas on June 19, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas with news that the Civil War had ended and that the enslaved were free;

Whereas African Americans who had been slaves in the Southwest celebrated June 19, commonly known as "Juneteenth Independence Day", as the anniversary of their emancipation;

Whereas African Americans from the Southwest continue the tradition of celebrating Juneteenth Independence Day as inspiration and encouragement for future generations;

Whereas for more than 140 years, Juneteenth Independence Day celebrations have been held to honor African-American freedom while encouraging self-development and respect for all cultures;

Whereas although Juneteenth Independence Day is beginning to be recognized as a national, and even global, event, the history behind the celebration should not be forgotten; and

Whereas the faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

*Resolved, That—*

(1) the Senate—

(A) recognizes the historical significance of Juneteenth Independence Day to the Nation;

(B) supports the continued celebration of Juneteenth Independence Day to provide an opportunity for the people of the United States to learn more about the past and to understand better the experiences that have shaped the Nation; and

(C) encourages the people of the United States to observe Juneteenth Independence Day with appropriate ceremonies, activities, and programs; and

(2) it is the sense of the Senate that—

(A) history should be regarded as a means for understanding the past and solving the challenges of the future; and

(B) the celebration of the end of slavery is an important and enriching part of the history and heritage of the United States.

**SENATE RESOLUTION 160—CONDEMNING THE ACTIONS OF THE BURMESE STATE PEACE AND DEVELOPMENT COUNCIL AGAINST DAW AUNG SAN SUU KYI AND CALLING FOR THE IMMEDIATE AND UNCONDITIONAL RELEASE OF DAW AUNG SAN SUU KYI**

Mr. GREGG (for himself, Mr. McCONNELL, Mrs. FEINSTEIN, Mr. DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Ms. COLLINS, Mr. LUGAR, Mr. BROWNBACK, Mr. BENNETT, Mr. BOND, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 160

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council (SPDC), has carried out a longstanding and brutal campaign of persecution against Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, ethnic minorities, and ordinary citizens of Burma who publicly and courageously speak out against the regime's many injustices, abuses, and atrocities;

Whereas the military regime in Burma is solely responsible for failing to provide for the basic needs of the people of Burma and has restricted the activities and movement of United Nations agencies and humanitarian nongovernmental organizations operating in Burma today;

Whereas Burmese democracy leader Daw Aung San Suu Kyi has been imprisoned in Burma for 13 of the last 19 years, and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas Burmese democracy leader Daw Aung San Suu Kyi currently faces criminal charges by the military regime for breaking the terms of her house arrest, which arose from the uninvited visit of an American citizen; and

Whereas these criminal charges are consistent with other past actions by the military regime to harass and persecute Daw Aung San Suu Kyi and the National League for Democracy: Now, therefore, be it

*Resolved, That the Senate—*

(1) condemns and deplores the show trial of Burmese democracy leader Daw Aung San Suu Kyi;

(2) condemns and deplores the criminal actions by the State Peace and Development

Council against Daw Aung San Suu Kyi and members of the National League for Democracy;

(3) recognizes that currently conditions do not exist in Burma for the conduct of credible and participatory elections;

(4) calls for the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma;

(5) calls upon the Secretary of State to reinvigorate efforts with regional governments and multilateral organizations (including the People's Republic of China, India, and Japan as well as the Association of Southeast Asian Nations and the United Nations Security Council) to secure the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma; and

(6) calls upon the State Peace and Development Council to establish, with the full and unfettered participation of the National League for Democracy and ethnic minorities, a genuine roadmap for the peaceful transition to civilian, democratic rule.

**SENATE RESOLUTION 161—RECOGNIZING JUNE 2009 AS THE FIRST NATIONAL HEREDITARY HEMORRHAGIC TELANGIECTASIA (HHT) MONTH, ESTABLISHED TO INCREASE AWARENESS OF HHT, WHICH IS A COMPLEX GENETIC BLOOD VESSEL DISORDER THAT AFFECTS APPROXIMATELY 70,000 PEOPLE IN THE UNITED STATES**

Mr. JOHNSON submitted the following resolution; which was considered and agreed to:

S. RES. 161

Whereas according to the HHT Foundation International, Hereditary Hemorrhagic Telangiectasia (HHT), also referred to as Osler-Weber-Rendu Syndrome, is a long-neglected national health problem that affects approximately 70,000 (1 in 5,000) people in the United States and 1,200,000 worldwide;

Whereas HHT is an autosomal dominant, uncommon complex genetic blood vessel disorder, characterized by telangiectases and artery-vein malformations that occurs in major organs including the lungs, brain, and liver, as well as the nasal mucosa, mouth, gastrointestinal tract, and skin of the face and hands;

Whereas left untreated, HHT can result in considerable morbidity and mortality and lead to acute and chronic health problems or sudden death;

Whereas according to the HHT Foundation International, 20 percent of those with HHT, regardless of age, suffer death and disability;

Whereas according to the HHT Foundation International, due to widespread lack of knowledge of the disorder among medical professionals, approximately 90 percent of the HHT population has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

Whereas the HHT Foundation International estimates that 20 to 40 percent of complications and sudden death due to these "vascular time bombs" are preventable;

Whereas patients with HHT frequently receive fragmented care from practitioners who focus on 1 organ of the body, having little knowledge about involvement in other organs or the interrelation of the syndrome systemically;

Whereas HHT is associated with serious consequences if not treated early, yet the condition is amenable to early identification and diagnosis with suitable tests, and there are acceptable treatments available in already-established facilities such as the 8 HHT Treatment Centers of Excellence in the United States; and

Whereas adequate Federal funding is needed for education, outreach, and research to prevent death and disability, improve outcomes, reduce costs, and increase the quality of life for people living with HHT: Now, therefore, be it

*Resolved, That the Senate—*

(1) recognizes the need to pursue research to find better treatments, and eventually, a cure for HHT;

(2) recognizes and supports the HHT Foundation International as the only advocacy organization in the United States working to find a cure for HHT while saving the lives and improving the well-being of individuals and families affected by HHT through research, outreach, education, and support;

(3) supports the designation of June 2009 as National Hereditary Hemorrhagic Telangiectasia (HHT) month, to increase awareness of HHT;

(4) acknowledges the need to identify the approximately 90 percent of the HHT population that has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

(5) recognizes the importance of comprehensive care centers in providing complete care and treatment for each patient with HHT;

(6) recognizes that stroke, lung, and brain hemorrhages can be prevented through early diagnosis, screening, and treatment of HHT;

(7) recognizes severe hemorrhages in the nose and gastrointestinal tract can be controlled through intervention, and that heart failure can be managed through proper diagnosis of HHT and treatments;

(8) recognizes that a leading medical and academic institution estimated that \$6,600,000,000 of 1-time health care costs can be saved through aggressive management of HHT in the at-risk population; and

(9) encourages the people of the United States and interested groups to observe and support the month through appropriate programs and activities that promote public awareness of HHT and potential treatments for it.

**SENATE RESOLUTION 162—RECOMMENDING THE LANGSTON GOLF COURSE, LOCATED IN NORTHEAST WASHINGTON, DC AND OWNED BY THE NATIONAL PARK SERVICE, BE RECOGNIZED FOR ITS IMPORTANT LEGACY AND CONTRIBUTIONS TO AFRICAN-AMERICAN GOLF HISTORY, AND FOR OTHER PURPOSES**

Mr. FEINGOLD (for himself, Mr. CARDIN, Mr. UDALL of Colorado, and Mr. BURRIS) submitted the following resolution; which was considered and agreed to:

S. RES. 162

Whereas the Langston Golf Course was designated for construction by the Department of the Interior in the 1930s as a safe and expanded recreational facility for the local and national African-American communities;



Whereas Langston Golf Course was named for John Mercer Langston, the first African-American Representative elected to Congress from the Commonwealth of Virginia, and who also was a founder of the Howard University School of Law;

Whereas the Langston Golf Course is believed to be the first regulation course in the United States to be built almost entirely on a refuse landfill;

Whereas Langston Golf Course has been placed on the National Register of Historic Places, and the Capital City Open golf tournament has made Langston Golf Course its home for the past 40 years;

Whereas the first American-born golf professional of African-American ancestry was John Shippen, who was born circa 1878 in the Anacostia area of Washington, DC, placed fifth in the second United States Open golf tournament in 1896 when he was 16 years old, and helped found the Capitol City Golf Club in 1925;

Whereas the Capitol City Golf Club, eventually renamed the Royal Golf Club and Wake Robin Women's Club, historically has promoted a safe golf facility for African Americans in Washington, DC, especially during an era when few facilities were available, and these 2 clubs remain the oldest African-American golf clubs in the United States;

Whereas the Langston facility continues to provide important recreational outlets, instructional forums, and a "safe haven center" for the enhancement of the lives of Washington, DC's inner-city youth;

Whereas the Langston Golf Course and related recreational facilities provide a home for the Nation's important minority youth "First Tee" golf instruction and recreational program in Washington, DC;

Whereas Langston Golf Course's operations and its related facilities seek to increase course-based educational opportunities under the auspices of the National Park Service for persons under 18 years of age, particularly those from populations of the inner-city and historically underrepresented among visitors to units of the National Park System;

Whereas the preservation and ecologically-balanced enhancements via future public and private funding for the lands making up the 212 acres of the Langston Golf Course will benefit the National Park System's Environmental Leadership projects program, the Anacostia River Watershed, the city of Washington, and the entire Washington, DC metropolitan area;

Whereas Federal funds for enhancements to the Langston Golf Course have perennially been promised but rarely provided, even after the designation of Langston Golf Course as a "Legacy Project for the 21st Century", and after significant private funding and contributions were committed and provided; and

Whereas the Langston Golf Course and related recreational facilities traditionally have provided additional quality of life value to all residents of Washington, DC, and will do more so once upgraded to meet its obvious athletic and historical promise: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Langston Golf Course, its general management, and the Royal Golf and Wake Robin Golf Clubs are to be commended for their historical and ongoing contributions to the local Washington, DC community and the Nation;

(2) the Director of the National Park Service and the Secretary of the Interior should

give appropriate consideration to the future budget needs of this important park in the National Park System that is a historical site, recreational facility, and educational center; and

(3) the Secretary of the Senate should transmit an enrolled copy of this resolution to the general manager of the Langston Golf Course.

# SENATE RESOLUTION 163—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO CHILDHOOD STROKE AND DESIGNATING AN APPROPRIATE DATE AS "NATIONAL CHILDHOOD STROKE AWARENESS DAY"

Mr. CASEY (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

## S. RES. 163

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 26 out of every 100,000 newborns and almost 3 out of every 100,000 children have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas stroke is among the top 10 causes of death for children in the United States;

Whereas 9 percent of all children who experience a stroke die as a result;

Whereas stroke recurs in 20 percent of children who have experienced a stroke;

Whereas the death rate for children who experience a stroke before the age of 1 year is the highest out of all age groups;

Whereas the average time from onset of symptoms to diagnosis of stroke is 24 hours, putting many affected children outside the window of 3 hours for the most successful treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including—

- (1) hemiplegia, which is paralysis of 1 side of the body;
- (2) seizures;
- (3) speech and vision problems; and
- (4) learning difficulties;

Whereas such disabilities may require ongoing physical therapy and surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the citizens of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas The Children's Hospital of Philadelphia should be commended for its initiative in creating the Nation's first program dedicated to pediatric stroke patients: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the designation of an appropriate date as "National Childhood Stroke Awareness Day"; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

# SENATE CONCURRENT RESOLUTION 24—TO DIRECT THE ARCHITECT OF THE CAPITOL TO PLACE A MARKER IN EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER WHICH ACKNOWLEDGES THE ROLE THAT SLAVE LABOR PLAYED IN THE CONSTRUCTION OF THE UNITED STATES CAPITOL, AND FOR OTHER PURPOSES

Mrs. LINCOLN (for herself, Mr. SCHUMER, and Mr. CHAMBLISS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

## S. CON. RES. 24

*Resolved by the Senate (the House of Representatives concurring),*

## SECTION 1. FINDINGS.

Congress finds the following:

(1) Enslaved African Americans provided labor essential to the construction of the United States Capitol.

(2) The report of the Architect of the Capitol entitled "History of Slave Laborers in the Construction of the United States Capitol" documents the role of slave labor in the construction of the Capitol.

(3) Enslaved African Americans performed the backbreaking work of quarrying the stone which comprised many of the floors, walls, and columns of the Capitol.

(4) Enslaved African Americans also participated in other facets of construction of the Capitol, including carpentry, masonry, carting, rafting, roofing, plastering, glazing, painting, and sawing.

(5) The marble columns in the Old Senate Chamber and the sandstone walls of the East Front corridor remain as the lasting legacies of the enslaved African Americans who worked the quarries.

(6) Slave-quarried stones from the remnants of the original Capitol walls can be found in Rock Creek Park in the District of Columbia.

(7) The Statue of Freedom now atop the Capitol dome could not have been cast without the pivotal intervention of Philip Reid, an enslaved African-American foundry worker who deciphered the puzzle of how to separate the 5-piece plaster model for casting, when all others failed.

(8) The great hall of the Capitol Visitor Center was named Emancipation Hall to help acknowledge the work of the slave laborers who built the Capitol.

(9) No narrative on the construction of the Capitol that does not include the contribution of enslaved African Americans can fully and accurately reflect its history.

(10) Recognition of the contributions of enslaved African Americans brings to all Americans an understanding of the continuing evolution of our representative democracy.

(11) A marker dedicated to the enslaved African Americans who helped to build the Capitol will reflect the charge of the Capitol Visitor Center to teach visitors about Congress and its development.

**SEC. 2. PLACEMENT OF MARKER IN CAPITOL VISITOR CENTER TO ACKNOWLEDGE ROLE OF SLAVE LABOR IN CONSTRUCTION OF CAPITOL.**

(a) **PROCUREMENT AND PLACEMENT OF MARKER.**—The Architect of the Capitol, subject to the approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, shall design, procure, and place in a prominent location in Emancipation Hall in the Capitol Visitor Center a marker which acknowledges the role that slave labor played in the construction of the United States Capitol.

(b) **CRITERIA FOR DESIGN OF MARKER.**—In developing the design for the marker required under subsection (a), the Architect of the Capitol shall—

(1) take into consideration the recommendations developed by the Slave Labor Task Force Working Group;

(2) to the greatest extent practicable, ensure that the marker includes stone which was quarried by slaves in the construction of the Capitol; and

(3) ensure that the marker includes a plaque or inscription which describes the purpose of the marker.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 1202. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 1203. Mr. REID submitted an amendment intended to be proposed to amendment SA 1173 submitted by Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1204. Mr. REID submitted an amendment intended to be proposed to amendment SA 1164 submitted by Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1205. Mr. REID submitted an amendment intended to be proposed to amendment SA 1144 proposed by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1206. Mr. REID submitted an amendment intended to be proposed to amendment SA 1159 submitted by Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) and intended to be proposed to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1207. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1208. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1209. Mr. REID submitted an amendment intended to be proposed to amendment

SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNIS) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1210. Mr. REID submitted an amendment intended to be proposed to amendment SA 1138 proposed by Mr. DEMINT to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1211. Mr. REID submitted an amendment intended to be proposed to amendment SA 1185 submitted by Mr. MERKLEY (for himself and Mr. WHITEHOUSE) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1212. Mr. REID submitted an amendment intended to be proposed to amendment SA 1189 submitted by Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1213. Mr. REID submitted an amendment intended to be proposed to amendment SA 1191 submitted by Mr. LEAHY (for himself and Mr. KERRY) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1214. Mr. REID submitted an amendment intended to be proposed to amendment SA 1179 submitted by Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REID) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1215. Mr. REID submitted an amendment intended to be proposed to amendment SA 1143 proposed by Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1216. Mr. REID submitted an amendment intended to be proposed to amendment SA 1181 submitted by Mrs. LINCOLN (for herself and Mr. PRYOR) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1217. Mr. REID submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1218. Mr. REID submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1219. Mr. REID submitted an amendment intended to be proposed to amendment SA 1147 submitted by Mr. KYL (for himself and Mr. LIEBERMAN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1220. Mr. REID submitted an amendment intended to be proposed to amendment SA 1157 submitted by Mr. LIEBERMAN (for himself and Mr. GRAHAM) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1221. Mr. REID submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1222. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1223. Mrs. MURRAY (for herself, Mr. BOND, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1224. Mr. REID (for Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 19, expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

**TEXT OF AMENDMENTS**

**SA 1202.** Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide assistance to Pakistan unless the President first certifies to the appropriate congressional committees that appropriate measures have been and will be taken to ensure that none of such obligated or expended funds are used—

(1) to support, expand, or in any way assist in the development or deployment of the nuclear weapons program of the Government of Pakistan; or

(2) to support programs or purposes for which such funds have not been specifically appropriated by this Act or reprogrammed through appropriate committee notification procedures.

(b)(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the President shall submit to the appropriate congressional committees a report—

(A) certifying whether any funds appropriated or otherwise made available by this Act and obligated or expended during the reporting period to provide assistance to Pakistan were or may have been used for the purposes described in paragraphs (1) and (2) of subsection (a); and

(B) describing the measures taken during such reporting period to ensure that no obligated or expended funds were used for such purposes.

(2) Each report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) Nothing in this section shall be construed to prohibit the expenditure of funds for nonproliferation and disarmament activities in Pakistan.

(d) In this section, the term “appropriate congressional committees” means—

(1) the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

**SA 1203.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1173 submitted by Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 4 days.

**SA 1204.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1164 submitted by Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 3 days.

**SA 1205.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1144 submitted by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 2 days.

**SA 1206.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1159 submitted by Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) and intended to be proposed to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 1 day.

**SA 1207.** Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following

(a) FINDINGS.—

(1) Section 403(a) of H.R. 4986, the National Defense Authorization Act for 2008 allows the Secretary of Defense to establish the active-duty end strength for the Army at 547,400.

(2) As provided in sections 115(f) and (g) of Title 10, United States Code, the Secretary of Defense and Secretary of the Army may apply variances for active-duty end strength against this established end strength of 547,400.

(b) FUNDING.—

(1) **MILITARY PERSONNEL, ARMY.**—The amount appropriated by this title under the heading “MILITARY PERSONNEL, ARMY” is hereby increased by \$200,000,000, with the

amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) **OPERATION AND MAINTENANCE, ARMY.**—The amount appropriated by this title under the heading “OPERATION AND MAINTENANCE, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) **LIMITATION ON AVAILABILITY.**—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) **EMERGENCY REQUIREMENT.**—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1208.** Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

(a) FINDINGS.—

(1) Section 403(a) of H.R. 4986, the National Defense Authorization Act for 2008 allows the Secretary of Defense to establish the active-duty end strength for the Army at 547,400.

(2) As provided by sections 115(f) and (g) of Title 10, United States Code, the Secretary of Defense and Secretary of the Army may apply variances for active-duty end strength against this established end strength of 547,400.

(b) FUNDING.—

(1) **MILITARY PERSONNEL, ARMY.**—The amount appropriated by this title under the heading “MILITARY PERSONNEL, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) **OPERATION AND MAINTENANCE, ARMY.**—The amount appropriated by this title under the heading “OPERATION AND MAINTENANCE, ARMY” is hereby increased by \$200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) **LIMITATION ON AVAILABILITY.**—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) **EMERGENCY REQUIREMENT.**—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1209.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1167 submitted by Mr. BENNETT (for himself, Mr. CASEY, and Mr. JOHANNES) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 17 days.

**SA 1210.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1138 proposed by Mr. DEMINT to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 16 days.

**SA 1211.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1185 submitted by Mr. MERKLEY (for himself and Mr. WHITEHOUSE) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 15 days.

**SA 1212.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1189 submitted by Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 14 days.

**SA 1213.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1191 submitted by Mr. LEAHY (for himself and Mr. KERRY) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 13 days.

**SA 1214.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1179 submitted by Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) to the bill H.R. 2346, making supplemental appropriations for the

fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 12 days.

**SA 1215.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1143 submitted by Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 11 days.

**SA 1216.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1181 submitted by Mrs. LINCOLN (for herself and Mr. PRYOR) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 10 days.

**SA 1217.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 8 days.

**SA 1218.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 9 days.

**SA 1219.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1147 submitted by Mr. KYL (for himself and Mr. LIEBERMAN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 7 days.

**SA 1220.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1157 submitted by Mr. LIEBERMAN (for himself and Mr. GRAHAM) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 6 days.

**SA 1221.** Mr. REID submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table, as follows:

At the end of the amendment add the following:

This section shall become effective in 5 days.

**SA 1222.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

(c) The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, or other program of the International Monetary Fund that does not maintain or increase government spending on health care or education in Heavily Indebted Poor Countries or that does not exempt such spending from hiring or wage bill ceilings or other limits to be imposed by the International Monetary Fund in those countries; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the IMF's activities with respect to Heavily Indebted Poor Countries.

**SA 1223.** Mrs. MURRAY (for herself, Mr. BOND, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, line 14, insert “, notwithstanding section 204 of Title II of Division K of Public Law 110-161,” after “Provided, That”.

**SA 1224.** Mr. REID (for Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 19, expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed; as follows:

Strike the 11th whereas clause.

## NOTICE OF HEARING

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 2, 2009, at 2:15 p.m., in room SD-366 of the Dirksen Senate office building. The Chairman intends to conclude the hearing by 3:00 p.m.

The purpose of the hearing is to consider the nomination of Catherine Radford Zoi, to be an Assistant Secretary of Energy (Energy, Efficiency, and Renewable Energy), the nomination of William F. Brinkman, to be Director of the Office of Science, Department of Energy, and the nomination of Anne Castle, to be an Assistant Secretary of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510-6150, or by e-mail to [Amanda.kelly@energy.senate.gov](mailto:Amanda.kelly@energy.senate.gov).

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, May 21, 2009 at 10:30 a.m., in room SD-366 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 10 a.m., in room 406 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FINANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 10 a.m., in room 215 of the Dirksen Senate office building, to conduct a hearing entitled "The U.S.-Panama Trade Promotion Agreement."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 10 a.m. to hold a hearing entitled "A New Strategy for Afghanistan and Pakistan."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2 p.m. to conduct a hearing entitled "Where Were the Watchdogs? Financial Regulatory Lessons from Abroad."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON INDIAN AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2:15 p.m. in room 628 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON THE JUDICIARY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate to conduct an executive business meeting on Thursday, May 21, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet dur-

ing the session of the Senate on Thursday, May 21, 2009, at 10 a.m. to conduct a hearing entitled, "The Role of Small Business in Recovery Act Contracting."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON VETERANS' AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 9:30 a.m. to conduct a markup on pending legislation. The Committee will meet in room 418 of the Russell Senate office building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 21, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 10:30 a.m., in room 253 of the Russell Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2:30 p.m., in room 253 of the Russell Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 67, 144, 153, to and including 160, 162, 163, 164, 166, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, and all nominations on the Secretary's desk in the Air Force, NOAA, and Navy; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order, and any statements relating thereto be printed in the RECORD; the President be immediately notified of the Senate's

action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

## DEPARTMENT OF COMMERCE

Cameron F. Kerry, of Massachusetts, to be General Counsel of the Department of Commerce.

## DEPARTMENT OF THE INTERIOR

Michael L. Connor, of Maryland, to be Commissioner of Reclamation.

## IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8036 and 601:

*To be lieutenant general*

Maj. Gen. Charles B. Green

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Herbert J. Carlisle

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Gen. William M. Fraser, III

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. William L. Shelton

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Daniel J. Darnell

## IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Vice Adm. Richard K. Gallagher

## IN THE MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Terry G. Robling

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Joseph F. Dunford, Jr.

## DEPARTMENT OF STATE

Philip J. Crowley, of Virginia, to be an Assistant Secretary of State (Public Affairs).

Daniel Benjamin, of the District of Columbia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Priscilla E. Guthrie, of Virginia, to be Chief Information Officer, Office of the Director of National Intelligence.

THE JUDICIARY

Florence Y. Pan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF COMMERCE

Rebecca M. Blank, of Maryland, to be Under Secretary of Commerce for Economic Affairs.

DEPARTMENT OF TRANSPORTATION

John D. Porcari, of Maryland, to be Deputy Secretary of Transportation.

J. Randolph Babbitt, of Virginia, to be Administrator of the Federal Aviation Administration for the term of five years.

EXECUTIVE OFFICE OF THE PRESIDENT

Aneesh Chopra, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF STATE

Judith A. McHale, of Maryland, to be Under Secretary of State for Public Diplomacy.

Robert Orris Blake, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for South Asian Affairs.

DEPARTMENT OF LABOR

Seth David Harris, of New Jersey, to be Deputy Secretary of Labor.

NATIONAL MEDIATION BOARD

Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2009.

Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2012.

DEPARTMENT OF EDUCATION

John Q. Easton, of Illinois, to be Director of the Institute of Education Science, Department of Education for a term of six years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sandra Brooks Henriquez, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF TRANSPORTATION

Peter M. Rogoff, of Virginia, to be Federal Transit Administrator.

DEPARTMENT OF THE TREASURY

Michael S. Barr, of Michigan, to be an Assistant Secretary of the Treasury.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN239 AIR FORCE nominations (12) beginning WILLIAM A. BARTOUL, and ending GEORGE T. YOSTRA, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2009.

PN240 AIR FORCE nominations (2394) beginning PETER BRIAN ABERCROMBIE II, and ending ERIC J. ZUHLSDOFF, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN428 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations

(46) beginning MARK H. PICKETT, and ending RYAN A. WARTICK, which nominations were received by the Senate and appeared in the Congressional Record of May 14, 2009.

PN429 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (11) beginning HEATHER L. MOE, and ending MARINA O. KOSENKO, which nominations were received by the Senate and appeared in the Congressional Record of May 14, 2009.

IN THE NAVY

PN52 NAVY nomination of Deandrea G. Fuller, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN57 NAVY nominations (6) beginning DANIEL G. CHRISTOFFERSON, and ending ALBERT D. PERPUSE, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

SHI'ITE PERSONAL STATUS LAW IN AFGHANISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 61, S. Con. Res. 19.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 19) expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause and insert the part printed in italic and to strike out the preamble and insert the part printed in italic.

*Whereas in March 2009, the Shi'ite Personal Status Law was approved by the parliament of Afghanistan and signed by President Hamid Karzai;*

*Whereas according to the United Nations, the law legalizes marital rape by mandating that a wife cannot refuse sex to her husband unless she is ill;*

*Whereas the law also weakens mothers' rights in the event of a divorce and prohibits a woman from leaving her home unless her husband determines it is for a "legitimate purpose";*

*Whereas President Barack Obama has called the law "abhorrent" and stated that "there are certain basic principles that all nations should uphold, and respect for women and respect for their freedom and integrity is an important principle";*

*Whereas the United Nations High Commissioner for Human Rights has said that the law represents a "huge step in the wrong direction" and is "extraordinary, reprehensible and reminiscent of the decrees made by the Taliban regime in Afghanistan in the 1990s";*

*Whereas the Secretary-General of the North Atlantic Treaty Organization (NATO) has as-*

*serted that passage of the law could discourage countries in Europe from contributing additional troops to help combat terrorism in the region;*

*Whereas President Karzai has instructed the Government of Afghanistan and members of the clergy to review the law and change any articles that are not in keeping with Afghanistan's Constitution and Islamic Sharia;*

*Whereas the law includes provisions that are fundamentally incompatible with the obligations of the Government of Afghanistan under various international instruments to which it is a party;*

*Whereas Afghanistan is a signatory of the Universal Declaration of Human Rights (UDHR), which establishes the principle of non-discrimination, including on the basis of sex, and states that men and women are entitled to equal rights to marriage, during marriage, and at its dissolution;*

*Whereas Afghanistan became a party to the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976 (ICESCR), which emphasizes the principle of self-determination, in that men and women may freely determine their political status as well as their economic, social, and cultural development;*

*Whereas Afghanistan acceded to the Convention on the Elimination of All Forms of Discrimination Against Women, done at New York December 18, 1979, and entered into force September 3, 1981 (CEDAW), which condemns discrimination against women in all its forms and reaffirms the equal rights and responsibilities of men and women during marriage and at its dissolution;*

*Whereas article 22 of the Constitution of Afghanistan (2003) prohibits any kind of discrimination between and privilege among the citizens of Afghanistan and establishes the equal rights of all citizens before the law;*

*Whereas the international community and the United States have a long-standing commitment to and interest in working with the people and Government of Afghanistan to re-establish respect for fundamental human rights and protect women's rights in Afghanistan; and*

*Whereas the provisions in the Shi'ite Personal Status Law that restrict women's rights are inconsistent with those goals: Now, therefore, be it*

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

*(1) urges the Government of Afghanistan to revise the Shi'ite Personal Status Law, including its provisions on marital rape and women's freedom of movement, to ensure its consistency with internationally recognized rights of women, including those contained in treaties to which Afghanistan is a party;*

*(2) supports the decision by President Karzai to analyze the draft law and strongly urges him not to publish it until it has been revised to be consistent with internationally recognized rights of women;*

*(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for Global Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and*

*(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect*



and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.

Mr. REID. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the resolution, as amended, be agreed to, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1224) was agreed to, as follows:

Strike the 11th whereas clause.

The committee-reported amendment to the resolution was agreed to.

The committee-reported amendment, as amended, to the preamble was agreed to.

The concurrent resolution (S. Con. Res. 19), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

#### S. CON. RES. 19

Whereas in March 2009, the Shi'ite Personal Status Law was approved by the parliament of Afghanistan and signed by President Hamid Karzai;

Whereas according to the United Nations, the law legalizes marital rape by mandating that a wife cannot refuse sex to her husband unless she is ill;

Whereas the law also weakens mothers' rights in the event of a divorce and prohibits a woman from leaving her home unless her husband determines it is for a "legitimate purpose";

Whereas President Barack Obama has called the law "abhorrent" and stated that "there are certain basic principles that all nations should uphold, and respect for women and respect for their freedom and integrity is an important principle";

Whereas the United Nations High Commissioner for Human Rights has said that the law represents a "huge step in the wrong direction" and is "extraordinary, reprehensible and reminiscent of the decrees made by the Taliban regime in Afghanistan in the 1990s";

Whereas the Secretary-General of the North Atlantic Treaty Organization (NATO) has asserted that passage of the law could discourage countries in Europe from contributing additional troops to help combat terrorism in the region;

Whereas President Karzai has instructed the Government of Afghanistan and members of the clergy to review the law and change any articles that are not in keeping with Afghanistan's Constitution and Islamic Sharia;

Whereas the law includes provisions that are fundamentally incompatible with the obligations of the Government of Afghanistan under various international instruments to which it is a party;

Whereas Afghanistan is a signatory of the Universal Declaration of Human Rights (UDHR), which establishes the principle of

nondiscrimination, including on the basis of sex, and states that men and women are entitled to equal rights to marriage, during marriage, and at its dissolution;

Whereas Afghanistan became a party to the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976 (ICESCR), which emphasizes the principle of self-determination, in that men and women may freely determine their political status as well as their economic, social, and cultural development;

Whereas article 22 of the Constitution of Afghanistan (2003) prohibits any kind of discrimination between and privilege among the citizens of Afghanistan and establishes the equal rights of all citizens before the law;

Whereas the international community and the United States have a long-standing commitment to and interest in working with the people and Government of Afghanistan to re-establish respect for fundamental human rights and protect women's rights in Afghanistan; and

Whereas the provisions in the Shi'ite Personal Status Law that restrict women's rights are inconsistent with those goals: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) urges the Government of Afghanistan to revise the Shi'ite Personal Status Law, including its provisions on marital rape and women's freedom of movement, to ensure its consistency with internationally recognized rights of women, including those contained in treaties to which Afghanistan is a party;

(2) supports the decision by President Karzai to analyze the draft law and strongly urges him not to publish it until it has been revised to be consistent with internationally recognized rights of women;

(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for Global Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and

(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.

#### THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the following items, en bloc: Calendar No. 65, H.R. 663; Calendar No. 66, H.R. 918, Calendar No. 67, H.R. 1284; and Calendar No. 68, H.R. 1595.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table, there be no intervening action or

debate, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### YVONNE INGRAM-EPHRAIM POST OFFICE BUILDING

The bill (H.R. 663) to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building", was ordered to a third reading, was read the third time, and passed.

#### STAN LUNDINE POST OFFICE BUILDING

The bill (H.R. 918) to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the "Stan Lundine Post Office Building", was ordered to a third reading, was read the third time, and passed.

#### MAJOR ED W. FREEMAN POST OFFICE

The bill (H.R. 1284) to designate the facility of the United States Postal Service located at 103 West Main street in McLain, Mississippi, as the "Major Ed W. Freeman Post Office", was ordered to a third reading, was read the third time, and passed.

#### BRIAN K. SCHRAMM POST OFFICE BUILDING

The bill (H.R. 1595) to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the "Brian K. Schramm Post Office Building", was ordered to a third reading, was read the third time, and passed.

#### CONDEMNING THE ACTIONS OF THE BURMESE STATE PEACE AND DEVELOPMENT COUNCIL

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 160.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 160) condemning the actions of the Burmese State Peace and Development Council against Daw Aung San Suu Kyi and calling for the immediate and unconditional release of Daw Aung San Suu Kyi.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I rise to note passage of a Senate resolution on Burma. This resolution reflects the U.S. Senate's unequivocal condemnation of the show trial currently

being conducted by Burmese officials against Nobel Peace Prize Laureate Aung San Suu Kyi. It is bad enough that Suu Kyi has been imprisoned for 13 of the past 19 years. Now the Burmese regime, the State Peace and Development Council, has come up with the flimsiest of pretexts to try to detain her further. It appears the regime will do anything to consolidate its grip on power. One suspects that the regime wants Suu Kyi behind bars at least until elections under its sham constitution are held in 2010.

I am gratified that this resolution reflects the strong, bipartisan view of the Senate on this matter. This resolution, which was authored by Senator GREGG, is cosponsored by Senators FEINSTEIN, DURBIN, MCCAIN, BROWNBACK, LIEBERMAN, COLLINS, BENNETT, BOND and me. It is also cosponsored by the chairman and ranking member of the Senate Foreign Relations Committee, Senators KERRY and LUGAR. A clearer signal from this chamber about Suu Kyi could hardly be sent.

As I noted earlier in the week, the members of the Senate have been and will continue to monitor the trial of Suu Kyi with deep concern.

Mr. GREGG. Mr. President, this morning Secretary of State Hillary Clinton appeared before the State Department, Foreign Operations, and Related Programs Appropriations Subcommittee to discuss the fiscal year 2010 budget request for America's international affairs programs and operations. We had a productive discussion on the numerous and extraordinary challenges that our Nation faces in the world today.

During the hearing, I brought up the plight of Burmese democracy leader Daw Aung San Suu Kyi, who faces criminal charges stemming for an uninvited visit by an American citizen to her compound in Rangoon, a compound on which she has spent 13 of the last 19 years under house arrest. These charges are absurd and have been roundly, and appropriately, condemned by the international community.

Unfortunately, this is not an isolated incident but merely the latest attempt by General Than Shwe and the State Peace and Development Council to persecute Suu Kyi and her National League for Democracy party.

I regret that General Than Shwe has made clear his complete and total disinterest in improving Burma's relationship with the United States. It is apparent that any open hand will be met with a clenched fist.

The resolution my colleagues and I offer today recognizes the continued injustices in Burma, and it states unequivocally that we deplore and condemn the show trial of Suu Kyi. The resolution sends a clear message to Suu Kyi and her supporters that the Senate remains squarely on the side of freedom and justice in Burma.

I agree with Secretary Clinton that more can and should be done on a bilateral and multilateral basis to secure the release of Suu Kyi and all prisoners of conscience in Burma today. The resolution calls for the Secretary to reinvigorate such efforts, and I intend to continue to work with her in support of human rights in Burma.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 160) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 160

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council (SPDC), has carried out a longstanding and brutal campaign of persecution against Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, ethnic minorities, and ordinary citizens of Burma who publicly and courageously speak out against the regime's many injustices, abuses, and atrocities;

Whereas the military regime in Burma is solely responsible for failing to provide for the basic needs of the people of Burma and has restricted the activities and movement of United Nations agencies and humanitarian nongovernmental organizations operating in Burma today;

Whereas Burmese democracy leader Daw Aung San Suu Kyi has been imprisoned in Burma for 13 of the last 19 years, and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas Burmese democracy leader Daw Aung San Suu Kyi currently faces criminal charges by the military regime for breaking the terms of her house arrest, which arose from the uninvited visit of an American citizen; and

Whereas these criminal charges are consistent with other past actions by the military regime to harass and persecute Daw Aung San Suu Kyi and the National League for Democracy: Now, therefore, be it

*Resolved*, That the Senate—

(1) condemns and deplores the show trial of Burmese democracy leader Daw Aung San Suu Kyi;

(2) condemns and deplores the criminal actions by the State Peace and Development Council against Daw Aung San Suu Kyi and members of the National League for Democracy;

(3) recognizes that currently conditions do not exist in Burma for the conduct of credible and participatory elections;

(4) calls for the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma;

(5) calls upon the Secretary of State to reinvigorate efforts with regional governments and multilateral organizations (including the People's Republic of China, India, and Japan as well as the Association of Southeast Asian Nations and the United Nations Security Council) to secure the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma; and

(6) calls upon the State Peace and Development Council to establish, with the full and unfettered participation of the National League for Democracy and ethnic minorities, a genuine roadmap for the peaceful transition to civilian, democratic rule.

#### RECOGNIZING JUNE 2009 AS THE FIRST HHT MONTH

Mr. REID. Mr. President, I ask unanimous consent to proceed to S. Res. 161.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 161) recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiectasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 161

Whereas according to the HHT Foundation International, Hereditary Hemorrhagic Telangiectasia (HHT), also referred to as Osler-Weber-Rendu Syndrome, is a long-neglected national health problem that affects approximately 70,000 (1 in 5,000) people in the United States and 1,200,000 worldwide;

Whereas HHT is an autosomal dominant, uncommon complex genetic blood vessel disorder, characterized by telangiectases and artery-vein malformations that occurs in major organs including the lungs, brain, and liver, as well as the nasal mucosa, mouth, gastrointestinal tract, and skin of the face and hands;

Whereas left untreated, HHT can result in considerable morbidity and mortality and lead to acute and chronic health problems or sudden death;

Whereas according to the HHT Foundation International, 20 percent of those with HHT, regardless of age, suffer death and disability;

Whereas according to the HHT Foundation International, due to widespread lack of knowledge of the disorder among medical professionals, approximately 90 percent of the HHT population has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

Whereas the HHT Foundation International estimates that 20 to 40 percent of complications and sudden death due to these "vascular time bombs" are preventable;

Whereas patients with HHT frequently receive fragmented care from practitioners who focus on 1 organ of the body, having little knowledge about involvement in other organs or the interrelation of the syndrome systemically;

Whereas HHT is associated with serious consequences if not treated early, yet the

condition is amenable to early identification and diagnosis with suitable tests, and there are acceptable treatments available in already-established facilities such as the 8 HHT Treatment Centers of Excellence in the United States; and

Whereas adequate Federal funding is needed for education, outreach, and research to prevent death and disability, improve outcomes, reduce costs, and increase the quality of life for people living with HHT: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the need to pursue research to find better treatments, and eventually, a cure for HHT;

(2) recognizes and supports the HHT Foundation International as the only advocacy organization in the United States working to find a cure for HHT while saving the lives and improving the well-being of individuals and families affected by HHT through research, outreach, education, and support;

(3) supports the designation of June 2009 as National Hereditary Hemorrhagic Telangiectasia (HHT) month, to increase awareness of HHT;

(4) acknowledges the need to identify the approximately 90 percent of the HHT population that has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

(5) recognizes the importance of comprehensive care centers in providing complete care and treatment for each patient with HHT;

(6) recognizes that stroke, lung, and brain hemorrhages can be prevented through early diagnosis, screening, and treatment of HHT;

(7) recognizes severe hemorrhages in the nose and gastrointestinal tract can be controlled through intervention, and that heart failure can be managed through proper diagnosis of HHT and treatments;

(8) recognizes that a leading medical and academic institution estimated that \$6,600,000,000 of 1-time health care costs can be saved through aggressive management of HHT in the at-risk population; and

(9) encourages the people of the United States and interested groups to observe and support the month through appropriate programs and activities that promote public awareness of HHT and potential treatments for it.

#### RECOGNIZING LANGSTON GOLF COURSE

Mr. REID. Mr. President, I ask unanimous consent to proceed to S. Res. 162.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 162) recommending that the Langston Golf Course, located in northeast Washington, DC and owned by the National Park Service, be recognized for its important legacy and contributions to African-American golf history, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, that there be no intervening

action or debate, and that any statements relating to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 162) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 162

Whereas the Langston Golf Course was designated for construction by the Department of the Interior in the 1930s as a safe and expanded recreational facility for the local and national African-American communities;

Whereas Langston Golf Course was named for John Mercer Langston, the first African-American Representative elected to Congress from the Commonwealth of Virginia, and who also was a founder of the Howard University School of Law;

Whereas the Langston Golf Course is believed to be the first regulation course in the United States to be built almost entirely on a refuse landfill;

Whereas Langston Golf Course has been placed on the National Register of Historic Places, and the Capital City Open golf tournament has made Langston Golf Course its home for the past 40 years;

Whereas the first American-born golf professional of African-American ancestry was John Shippen, who was born circa 1878 in the Anacostia area of Washington, DC, placed fifth in the second United States Open golf tournament in 1896 when he was 16 years old, and helped found the Capitol City Golf Club in 1925;

Whereas the Capitol City Golf Club, eventually renamed the Royal Golf Club and Wake Robin Women's Club, historically has promoted a safe golf facility for African Americans in Washington, DC, especially during an era when few facilities were available, and these 2 clubs remain the oldest African-American golf clubs in the United States;

Whereas the Langston facility continues to provide important recreational outlets, instructional forums, and a "safe haven center" for the enhancement of the lives of Washington, DC's inner-city youth;

Whereas the Langston Golf Course and related recreational facilities provide a home for the Nation's important minority youth "First Tee" golf instruction and recreational program in Washington, DC;

Whereas Langston Golf Course's operations and its related facilities seek to increase course-based educational opportunities under the auspices of the National Park Service for persons under 18 years of age, particularly those from populations of the inner-city and historically underrepresented among visitors to units of the National Park System;

Whereas the preservation and ecologically-balanced enhancements via future public and private funding for the lands making up the 212 acres of the Langston Golf Course will benefit the National Park System's Environmental Leadership projects program, the Anacostia River Watershed, the city of Washington, and the entire Washington, DC metropolitan area;

Whereas Federal funds for enhancements to the Langston Golf Course have perennially been promised but rarely provided, even after the designation of Langston Golf Course as a "Legacy Project for the 21st Century", and after significant private funding

and contributions were committed and provided; and

Whereas the Langston Golf Course and related recreational facilities traditionally have provided additional quality of life value to all residents of Washington, DC, and will do more so once upgraded to meet its obvious athletic and historical promise: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Langston Golf Course, its general management, and the Royal Golf and Wake Robin Golf Clubs are to be commended for their historical and ongoing contributions to the local Washington, DC community and the Nation;

(2) the Director of the National Park Service and the Secretary of the Interior should give appropriate consideration to the future budget needs of this important park in the National Park System that is a historical site, recreational facility, and educational center; and

(3) the Secretary of the Senate should transmit an enrolled copy of this resolution to the general manager of the Langston Golf Course.

#### DESIGNATING "NATIONAL CHILDHOOD STROKE AWARENESS DAY"

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 163.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 163) expressing the sense of the Senate with respect to childhood stroke and designating an appropriate date as "National Childhood Stroke Awareness Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table; that there be no intervening action or debate; that any statements related to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 163) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 163

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 26 out of every 100,000 newborns and almost 3 out of every 100,000 children have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas stroke is among the top 10 causes of death for children in the United States;

Whereas 9 percent of all children who experience a stroke die as a result;

Whereas stroke recurs in 20 percent of children who have experienced a stroke;

Whereas the death rate for children who experience a stroke before the age of 1 year is the highest out of all age groups;

Whereas the average time from onset of symptoms to diagnosis of stroke is 24 hours, putting many affected children outside the window of 3 hours for the most successful treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including—

(1) hemiplegia, which is paralysis of 1 side of the body;

(2) seizures;

(3) speech and vision problems; and

(4) learning difficulties;

Whereas such disabilities may require ongoing physical therapy and surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the citizens of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas The Children's Hospital of Philadelphia should be commended for its initiative in creating the Nation's first program dedicated to pediatric stroke patients: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the designation of an appropriate date as "National Childhood Stroke Awareness Day"; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

#### PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 133.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 133) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 133) was agreed to, as follows:

H. CON. RES. 133

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on any legislative day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 2, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 1, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

#### AUTHORITY TO MAKE APPOINTMENTS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTHORITY TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the Senate's recess, committees be authorized to report legislative and executive matters on Friday, May 29, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. REID. Mr. President, I ask unanimous consent that during the adjournment of the Senate, Mr. REED of Rhode Island be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAREWELL TO JOE LAPIA

Mr. REID. Mr. President, while we are waiting tonight for the staff to get the necessary closing papers ready so we can go out for the recess, I wish to say a couple of things about someone I have gotten to know over the past decade—Joe Lapia. I am going to miss tremendously, when we come back next work period, Joe not being in the cloakroom. He has been there for 10 years. He is a fixture in the cloakroom.

He is someone who is dependable, a great sport, and he is somebody who is so much fun to deal with. I love to talk sports with him. He is from Pittsburgh. I had to tell him—and I spread it on the record here—that the Pittsburgh teams have never been one of my favorites, but they are his. He went to Penn State. They have also not been one of my favorite teams, but they are his. And the records of the Steelers and Penn State speak for themselves—the great Joe Paterno and the wonderful records the Steelers have made. And Joe went to the White House today to see the world champion Super Bowl winners—the Pittsburgh Steelers.

Another thing I am going to miss is every time he went home—which was quite often, frankly—his mom would cook stuff. And maybe she thinks he ate it all, but he didn't. He brought stuff back, and we shared treats Mrs. Lapia fixed. Brownies were my favorite, but there were other things she cooked.

I think I can speak for the entire Senate family, the people who are here who make this place work, when I say we will all miss Joe. He is going to go off into the private sector now, which disappoints me because it is always hard getting used to new things. No matter who replaces Joe, there is only one Joe Lapia. He is someone I will always remember and I will always consider my friend.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RAILROAD ANTITRUST ENFORCEMENT ACT OF 2009—MOTION TO PROCEED

## CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 33, S. 146, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 33, S. 146, the Railroad Antitrust Enforcement Act of 2009.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Robert Menendez, Robert P. Casey, Jr., Charles E. Schumer, Kay R. Hagan, Max Baucus, Kirsten E. Gillibrand, Richard Durbin.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

## FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

## CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 47, H.R. 1256, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Michael F. Bennet, Mark Udall, Patty Murray, Claire McCaskill, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Jeff Merkley, Robert Menendez, Charles E. Schumer, Max Baucus.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, the motion to proceed is withdrawn.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I now, as in executive session, ask unanimous consent that on Tuesday, June 2, after a period of morning business, the Senate proceed to executive session to consider Calendar No. 63, the nomination

of Regina McCarthy to be an Assistant Administrator of EPA; that immediately after the nomination is reported the Senate proceed to vote on the confirmation of the nomination; upon confirmation, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and no further motions be in order and any statements relating to the nomination be printed in the RECORD; that the Senate then resume legislative session; that upon resuming legislative session, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 146.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THANKING SENATORS AND STAFF

Mr. REID. Mr. President, I want the record to reflect the cooperation of Dr. Barrasso, Senator BARRASSO. He had some concerns about this. We did our best to answer them. He has been very positive in his approach. He had some questions that needed to be answered. I think they have been answered, and I appreciate very much his being as courteous as he was through this whole process. He has been a real gentleman, and I appreciate it a lot.

Mr. President, let me express my appreciation to the Presiding Officer. All Senators are very busy, but you have been presiding for hours. That is a real burden. We all appreciate it, especially other Senators appreciate it. We have to have someone presiding.

I am so impressed with the skills that the Senator from Colorado has brought to us. I didn't know you before you were appointed by the Governor to come, but the people of Colorado should understand, using an overworked term, you hit the ground running. You have done so well. You adjusted so well to Senate life.

I say it twice tonight, I am very impressed, and I hope the people of Colorado understand what a good choice Governor Ritter made, choosing you to fill the seat of a terrific person, Ken Salazar.

Mr. President, I want all the staff to know of my appreciation. I speak for all of us. Every Senator would come and say the same thing, but I am the one here to express our appreciation for helping this process go forward. It is not easy.

As much time as I have spent over the years on this floor—and it amounts to, all added up—it has probably been years. As familiar as I am with everything, I couldn't do it without the help of the staff.

It is not only Lula Davis—she has been such a wonderful asset to the Democratic caucus—but also the help that I get from the Republican side, the staff. I think we were always very worried after Marty decided to go

downtown. We wanted to make sure the same goodwill prevailed between David Schiappa and Lula Davis as we had before.

It is as good if not better. I am very happy with the cooperation we get. I wish I could express this personally to Senator MCCONNELL, but I think he will get the word.

## ORDERS FOR MONDAY, JUNE 1, 2009

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of H. Con. Res. 133 until 2 p.m., Monday, June 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each; I also ask that following morning business, the Senate resume consideration of the motion to proceed to Calendar No. 33, S. 146, the railroad antitrust legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. There will be no rollcall votes on Monday, June 1. The next vote will be around 11 o'clock on Tuesday, June 2. The vote will be on the nomination of Virginia McCarthy to be Administrator of the Environmental Protection Agency.

## ADJOURNMENT UNTIL MONDAY, JUNE 1, 2009, AT 2 P.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 9:51 p.m., adjourned until Monday, June 1, 2009, at 2 p.m.

## NOMINATIONS

Executive nominations received by the Senate:

## ENVIRONMENTAL PROTECTION AGENCY

PAUL T. ANASTAS, OF CONNECTICUT, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE GEORGE M. GRAY, RESIGNED.

## DEPARTMENT OF STATE

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE, VICE HARRY K. THOMAS, JR., RESIGNED.

## DEPARTMENT OF JUSTICE

CRANSTON J. MITCHELL, OF VIRGINIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS. (REAPPOINTMENT)

## IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be major*

JOSHUA D. ROSEN

## IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

STUART W. SMYTHE, JR.

## IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

SCOTT K. RINEER

*To be commander*

CYNTHIA S. SIKORSKI

*To be lieutenant commander*

MARY P. COLVIN

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, May 21, 2009:

## DEPARTMENT OF COMMERCE

CAMERON F. KERRY, OF MASSACHUSETTS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE.

## DEPARTMENT OF THE INTERIOR

MICHAEL L. CONNOR, OF MARYLAND, TO BE COMMISSIONER OF RECLAMATION.

## DEPARTMENT OF STATE

PHILIP J. CROWLEY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (PUBLIC AFFAIRS).

DANIEL BENJAMIN, OF THE DISTRICT OF COLUMBIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

PRISCILLA E. GUTHRIE, OF VIRGINIA, TO BE CHIEF INFORMATION OFFICER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

## THE JUDICIARY

FLORENCE Y. PAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

## DEPARTMENT OF COMMERCE

REBECCA M. BLANK, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

## DEPARTMENT OF TRANSPORTATION

JOHN D. PORCARI, OF MARYLAND, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

J. RANDOLPH BABBITT, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION FOR THE TERM OF FIVE YEARS.

## EXECUTIVE OFFICE OF THE PRESIDENT

ANEESH CHOPRA, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

## DEPARTMENT OF STATE

JUDITH A. MCHALE, OF MARYLAND, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

ROBERT ORRIS BLAKE, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.

## DEPARTMENT OF LABOR

SETH DAVID HARRIS, OF NEW JERSEY, TO BE DEPUTY SECRETARY OF LABOR.

## NATIONAL MEDIATION BOARD

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2009.

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2012.

## DEPARTMENT OF EDUCATION

JOHN Q. EASTON, OF ILLINOIS, TO BE DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCE, DEPARTMENT OF EDUCATION FOR A TERM OF SIX YEARS.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SANDRA BROOKS HENRIQUEZ, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

## DEPARTMENT OF TRANSPORTATION

PETER M. ROGOFF, OF VIRGINIA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

## DEPARTMENT OF THE TREASURY

MICHAEL S. BARR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8036 AND 601:

*To be lieutenant general*

MAJ. GEN. CHARLES B. GREEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. HERBERT J. CARLISLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. WILLIAM L. SHELTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. DANIEL J. DARNELL

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. RICHARD K. GALLAGHER

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. TERRY G. ROBLING

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOSEPH F. DUNFORD, JR.

## IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH WILLIAM A. BARTOUL AND ENDING WITH GEORGE T. YOSTRA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH PETER BRIAN ABERCROMBIE II AND ENDING WITH ERIC J. ZUHLSDORF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2009.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH MARK H. PICKETT AND ENDING WITH RYAN A. WARTICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 14, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH HEATHER L. MOE AND ENDING WITH MARINA O. KOSENKO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 14, 2009.

## IN THE NAVY

NAVY NOMINATION OF DEANDREA G. FULLER, TO BE COMMANDER.

NAVY NOMINATIONS BEGINNING WITH DANIEL G. CHRISTOFFERSON AND ENDING WITH ALBERT D. PERPUSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.



## EXTENSIONS OF REMARKS

IN MEMORY OF BRIAN O'NEILL

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. PELOSI. Madam Speaker, I rise today to pay tribute to the life of one of the grand pioneers of the National Park Service, Brian O'Neill.

Brian was a passionate and dedicated advocate for our National Parks. He served as a magnificent steward of our beloved treasure, the Golden Gate National Recreation Area.

The Golden Gate National Recreation Area (GGNRA) encompasses 76,000 acres of land and 50 miles of shoreline within Marin, San Francisco and San Mateo Counties, and includes world-famous sites such as Alcatraz Island, Muir Woods and the Presidio of San Francisco. It is the most visited unit of our National Park System, receiving more than 20 million visitors annually, and is one of the largest urban National Parks in the world.

Brian O'Neill's leadership in our National Parks spanned more than 28 years. As General Superintendent of the GGNRA, Brian met the challenge of leadership in every measure. His enthusiasm soared to the heights of the giant redwoods of Muir Woods, his spirit of partnership spanned the Golden Gateway from Fort Point to Fort Baker, and his vision saw to the Farallone Islands and beyond.

On a daily basis, Brian inspired a staff of 425 employees, a volunteer force of over 20,000 and more than 30 major facility and program partners. Under his leadership, GGNRA has developed park operational partnerships that have served as national and international models.

Brian was a prominent figure in the transitioning of the Presidio of San Francisco from a military installation to a National Park. For more than two centuries, the Presidio stood as the Sentinel of the Golden Gate. Today, thanks to a strong public-private partnership, the Presidio has been transformed into a National Park like no other, and as a place of peaceful reflection and recreation for all people. The transformation of the Presidio from Post to Park has been exciting in its innovation, and is due in large part to Brian's leadership.

For more than a century, Fort Baker played a key role in the defense of San Francisco Bay. Today, thanks to the leadership and commitment of Brian, Congresswoman LYNN WOOLSEY and many others, Fort Baker offers a world-class retreat and conference center, a hands-on children's museum and learning center, and the Institute at the Golden Gate dedicated to dialog and action on global environmental issues. Ft. Baker's post-to-park transition was truly a collaborative effort that brought together the entire community—a hallmark of Brian O'Neill's leadership. Moving for-

ward, Ft. Baker will play a key role in advancing the cause of both local and global environmental stewardship and preserving our planet for our children and the future.

Another highlight of Brian's lifetime of accomplishment was returning Crissy Field from the barren, broken asphalt of a former World War II airstrip to the historic wetlands and verdant marsh along the Presidio's window to the Bay. Crissy Field was one of the first attempts to restore historic wetlands along San Francisco Bay, and the first effort ever in San Francisco. Brian worked with Toby Rosenblatt, the Haas family and many others to bring the resources, talent and energy together in a great success that provides public recreation and environmental restoration. Today, Crissy Field serves as an example of the important alliance that can be developed between local and federal partners for the benefit of the community and for the entire National Parks system.

Brian provided leadership for the Bay Area Ridge Trail Council, the Bay Area Open Space Council, the Association for the Central California Biosphere Reserve, the San Francisco Planning and Urban Research Association, the Headlands Institute, the Rails-to-Trails Conservancy's California Advisory Council, the Gulf of the Farallones National Marine Sanctuary Advisory Council and the Save-the-Bay Association Advisory Council. He was a key advisor to the Department of the Interior on partnership matters.

As Phillip Burton, a goliath of our National Parks, stated when he created the law preserving GGNRA and the Presidio, "Even in a remote setting, the features of this park would be outstanding." In furtherance of Phillip Burton's vision, Brian O'Neill's enduring legacy is an outstanding National Park that is sustainable, and accessible for all to enjoy, and is a great source of pride to all of us.

My colleagues in Congress and I are deeply saddened by his passing, and are grateful for the legacy of natural beauty and cultural heritage he has left for future generations to enjoy. We will miss his enthusiasm, his spirit and his vision. I hope it is of comfort to his wife Marti, and his children Kim and Brent, that so many of us share in their loss.

### TRIBUTE TO SAINT JOHN'S BAPTIST CHURCH ON ITS 100TH ANNIVERSARY

**HON. DONALD M. PAYNE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. PAYNE. Madam Speaker, I ask my colleagues here in the House of Representatives to join me as I rise to acknowledge the St. John's Baptist Church of Scotch Plains, New Jersey on the celebration of its centennial an-

niversary. Established in 1909, St. John's has continuously served the needs of its congregation and the community.

Throughout the illustrious history of St. John's Baptist Church, effective leadership has been at the core of all the accomplishments the church has had. Beginning with Pastor Parson and continuing with Pastors Gatewell, Hamlett, Sweeney, Glover and the current pastor, Rev. Dr. Kelmo Curtis Porter, Jr. St. John's has made many physical enhancements over the years. In addition to its leadership, the success of all of St. John's initiatives can be attributed to the faith, hope, commitment and prayers of the loving membership that fill the pews of this landmark facility. In fact, many of St. John's congregants have been members of the church all of their lives and some are second or third generation members. Clearly, this degree of devotion is representative of the marvelous ministries taking place within the church.

A Gala being held on May 17, 2009 at Pines Manor in Edison, New Jersey in honor of this important milestone will feature a variety of distinguished supporters, ministers and friends. The theme of the centennial, "100 Years Working for the Lord" celebrates the story of a church deeply rooted in faith and Christian values. Those values include integrity, caring and preaching the word of God. St. John's is blessed to have a membership that is proud of its roots, passionate about its present and hopeful for its future.

Madam Speaker, I know my colleagues agree that St. John's Baptist Church and the surrounding community have every right to be pleased with the lasting contributions the church has made to the residents of Scotch Plains. I am pleased to congratulate St. John's on its first 100 years.

HONORING TRUSTEE JOSEPH  
DEVLIN

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. ROSKAM. Madam Speaker, I rise today to honor Joseph Devlin for his forty years of devoted service to the Village of Roselle. After his long service to the Village, he has announced that he plans to retire.

Joe's first experience in elected office was in 1969, when he was elected Village Trustee. He served as Mayor from 1973-1981, and then returned to his post as Trustee from 1981 to 2009.

Through the years, Joe has been an insightful observer, keen in his understanding of the long-term challenges facing the Village. Throughout his career, he has tackled challenges with deft skill, deep understanding, and strong personal integrity.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

While Roselle has gone through many changes over the years, one thing has remained the same. Trustee Devlin has kept a steady hand to the wheel, working tirelessly for the benefit of his community.

Joseph Devlin has been an advocate for the people of Roselle since his very first days in office. He has affected countless lives, and left an indelible impression on Roselle and its residents.

Madam Speaker and Distinguished Colleagues, Joseph Devlin is a remarkable man who has dedicated his life to serving the people of Roselle. Please join me in honoring him for his extraordinary career.

IN RECOGNITION OF THE HONOREES OF THE LEXINGTON DEMOCRATIC CLUB

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. MALONEY. Madam Speaker, I rise to pay tribute to the honorees of the Lexington Democratic Club's Annual Dinner and its 60th Anniversary celebration. At its 60th Anniversary celebration at the Yale Club in Manhattan, the Lexington Democratic Club is honoring its living former Presidents, State Committee Members, and District Leaders.

As the first political club dedicated to reform in New York City, the Lexington Democratic Club has sought to increase inclusive civic participation, promote transparent, open government, and support the merit-based selection of judges. Its leaders reflect the best ideals of the Club and have devoted their volunteer efforts to supporting the Club's proud mantle of reform.

Among those being honored are Ann Pinciss Berman, Joanne Bing, Jonathan L. Bing, John Bradley, William Bryk, Reita Cash, David L. Cohen, Pat Falk, Conrad Foa, Neil V. Getnick, Brenda Goodman, Zachary R. Greenhill, Roger Grimbale, Paul Hellegers, Russell Hemenway, Nikki Henkin, Bernard E. Jacob, Barbara Klobardanz, Richard Lane, Heather K. Leifer, Robert J. Levinsohn, Andrew Lowenthal, Robin Marsico, Trudy L. Mason, Gail Melhado, John K. Mills, Jane Lowe Parshall, Peter Philip, Robert Plautz, Warrie Price, Joanne Pugh, Lawrence M. Rosenstock, Marjorie Sachs, H. Richard Schumacher, Felice Shea, Diane Staab, Michael Stolzer, Alexander M. Tisch, David Tyson and Roger Waldman. Many of these individuals went on to win political office, to be elected as judges or to take on other roles in public service. All of them care deeply about the community and have worked to make New York City a better place to live.

Throughout its storied, sixty-year existence, the Lexington Democratic Club of New York City has proudly carried the banner of reform and good government. It is fitting that, as the Club celebrates the conclusion of its sixth decade, its members honor those civic and political leaders who were inspired by its noble ideals and who worked with such dedication and energy to effect them.

Madam Speaker, I ask that my distinguished colleagues join me recognizing the significant

contributions to our civic and political life made by the 2009 honorees of the Lexington Democratic Club of New York City.

PERSONAL EXPLANATION

**HON. XAVIER BECERRA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BECERRA. Madam Speaker, I was unavoidably detained yesterday and missed roll-call vote 279. If present, I would have voted "yea."

IN HONOR OF STUDENTS OF HARVARD ELLIS TECHNICAL HIGH SCHOOL

**HON. JOE COURTNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. COURTNEY. Madam Speaker, I rise today to recognize the gifted students of my district from the Harvard Ellis Technical High School of Danielson, Connecticut. On May 15, 2009, the students won awards at the 6th Annual Plastics Expo held at Quinebaug Valley Community College, QVCC, in Danielson, Connecticut. The expo paired teams of students from six area high schools with representatives from local plastics companies. This is the second time that Ellis THS has entered the competition. Over six months, they worked with their company team of WEB Industries Hartford, Inc., manufacturer of film products, to design, create, test, and market a product using the company's technology.

They won for their product, the "Eagle Air," a filter screen that uses three layers of plastic screening to filter out the smallest particles of pollen in the air. The device is translucent and can be adjusted to fit any window. Their presentation included a PowerPoint, prototype models, a video commercial, and a detailed book describing their process.

The students won both the "People's Choice Award" and the "Judges' Award." The People's Choice Award was determined by the vote of the audience and the Judges' Award was determined by a team of three judges chosen for their expertise in engineering, design, and marketing. Team members included Andrew Conkey, Abigail Corcoran, Victoria LaMonda, Sara Rondeau, Cameron Fisher, Elana Shong, Holley DeParasis, Nicole Carlson, and Justin Fortier. The group leaders were Kathy Burr and Laura Burke. The team MVP was Nicole Carlson. The Department of Commerce, Quinebaug Valley Plastics Institute, and the QVCC College Career Pathways Program supported the event to promote workforce development.

Madam Speaker, I am proud and pleased to honor these nine students and their team leaders for their innovative creation, sound business practices, and teamwork. These students have a bright future and signal that eastern Connecticut is a place for research, technology, and product development. I also

commend the efforts of the sponsors of the Annual Plastics Expo in building partnerships between students and local businesses, and in promoting excellence in trade and technology. I ask my colleagues to join with me and my constituents in recognizing these contributions.

HONORING COACH EDWARD STANLEY TEMPLE

**HON. JIM COOPER**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. COOPER. Madam Speaker, I rise today to pay tribute to Edward Stanley Temple, a man whose dedication to coaching track and field has earned him recognition as Tennessee's most honored and accomplished track and field coach.

Born September 20, 1927 in Harrisburg, Pennsylvania, Coach Temple was himself an all-state athlete in track, football and basketball. Temple graduated from Tennessee State University (TSU) in Nashville, Tennessee, earning both Bachelor of Science and Master of Science degrees. For forty-four years, he served as the head women's track coach at TSU and taught sociology.

During the 1950s and 1960s, Coach Temple's "Tigerbelles" dominated the sport of track and field, earning a total of 23 Olympic medals, 13 of them gold. Coach Temple's Tigerbelles won their first medal in the 1952 Olympic Games when fifteen-year-old Barbara Jones Slater became the youngest woman to win an Olympic gold medal in track and field. One of the most notable Tigerbelles, Wilma Rudolph, became the first female athlete to win three gold medals during the 1960 Olympic Games in Rome, Italy.

Coach Temple was the head women's track coach for two consecutive U. S. Olympic teams, in 1960 and 1964, as well as an assistant coach for the 1980 games. In addition to his coaching ability, Coach Temple was also a strong proponent of education and to his credit, thirty-nine of the Tigerbelle Olympians graduated from college with one or more degrees.

Coach Temple continues to contribute to the greater Nashville community as an active member of the YMCA, Omega Psi Phi Fraternity, Inc., Nashville Sports Authority, New Hope Academy and Clark Memorial United Methodist Church.

On Tuesday, May 26, 2009, Coach Temple will be honored for his lifetime of achievements at an event in Nashville, Tennessee named "The Man, The Memory, The Mission."

Today, I join the citizens of my district in honoring Coach Edward Temple and his inspiring legacy that lives on in Nashville and throughout the world.

IN TRIBUTE TO EDWARD J. MALLOY

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. MALONEY. Madam Speaker, I rise to pay tribute to Ed Malloy, an extraordinary man

who has served with distinction as President of the New York State and New York City Building & Construction Trades Councils, representing more than 200,000 working men and women across the great Empire State. Mr. Malloy has also served as Vice President of the New York State AFL-CIO, as an Executive Board Member of the New York City Central Labor Council, and as a member of the Board of Directors of the New York Building Congress.

Prior to his leadership of the Building and Construction Trades in New York, Mr. Malloy served as the chief executive officer of the Enterprise Association of Steamfitters Local Union 638. A proud veteran of the United States Army, he graduated with a Bachelor of Science degree from the State University of New York—Empire State College, and earned a certificate in Labor Studies from Cornell University's New York School of Industrial Relations.

As President of the Building and Construction Trades since 1992, Mr. Malloy dedicated himself to fighting for union members across New York State. Working with private sector leaders and government officials alike, Mr. Malloy justly developed a reputation for being a fierce advocate for working men and women who always kept labor movement's critical mission at the forefront, but also never hesitated to reach out to management in a spirit of mutual respect and cooperation. Under his tenure, important new infrastructure and real estate projects were launched and completed and countless new jobs were created, all within a framework of fairness and justice for the laborers he represented. Particularly noteworthy have been Ed Malloy's successes in negotiating agreements between unions and their employers that have saved millions in taxpayer dollars.

Ed Malloy has played a pivotal role in transforming the composition of New York's unionized construction workforce and helping previously under-represented minorities in achieving equal opportunities. Today, more than half of all apprentices in the construction trades are members of minority groups in no small part thanks to his leadership. Ed Malloy also helped launch "Helmets to Hardhats," a national program that fast-tracks veterans of the armed forces into promising careers in the industry.

Mr. Malloy's leadership was an integral element in forging the historic Project Pathways agreement, which directs talented high school students toward vocational careers through a symbiotic partnership of New York City public education and the apprenticeship system of the Building and Construction Trades. This innovative collaboration brings essential opportunities to new generations of American workers. Through Ed Malloy's leadership, participating unions have thus far invested \$4 million of post-secondary scholarship funds to the Project Pathways program. In today's era of global competition and financial uncertainty, Mr. Malloy has remained devoted to providing young people with the skills they need to flourish in meaningful jobs at good wages.

Mr. Malloy has devoted himself in service to the community and to his beloved family. A past recipient of the Ellis Island Medal and Grand Marshal of the New York City St. Pat-

rick's Day Parade, he has also served as a Member of the Board of Directors of the Lower Manhattan Development Corporation, New York State Blue Cross/Blue Shield, the Police Athletic League, and as Chairman of the National Museum of Catholic Art and History, among many other well-known and well-respected institutions. He has been a family man throughout his life, devoted to his wife, Marilyn, his two daughters, Theresa and Anne, and his seven grandchildren.

Madam Speaker, I ask that my colleagues join me in honoring Ed Malloy, a great American whose life's work has improved the lives and working conditions of countless individuals.

#### IN HONOR OF MIKE CURRAN

#### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Ms. ZOE LOFGREN of California. Madam Speaker, I rise today in honor of a talented and dedicated public servant, Mike Curran. For the past twenty-three years Mike has been the director of the NOVA workforce board. NOVA is a nonprofit, federally funded employment and training agency that provides customer-focused workforce development services in cooperation with the local community of business owners and educators in Silicon Valley. NOVA was founded twenty-five years ago and Mike has been the director for all but two of those years. Under his leadership, NOVA has received international recognition for its ability to design, develop, and deploy cutting edge operations that meet the unique talent development needs of Silicon Valley. It goes without saying that it is Mike's leadership and vision that has made this possible. He has been described as "a premier example of the Silicon Valley work ethic—tireless, unstoppable, someone with his finger on the pulse of how employment affects our daily lives" and I cannot agree more. Mike has dedicated his life to community organizing, development, and service. His commitment to Silicon Valley is lifelong—Mike was born and raised in Silicon Valley and has chosen to make his home there with his wife Elaine and their two children, Brendan and Megan. As we celebrate Mike Curran's retirement from NOVA workforce board, I cannot help but be saddened by it. However, I am certain that this is not the end of Mike's service to Silicon Valley or his commitment to making a difference in the day-to-day lives of the people in our community.

A PROCLAMATION HONORING SPC LESTER M. DANLEY FOR RECEIVING THE BRONZE STAR MEDAL WITH "V" DEVICE CITATION FOR HEROISM

#### HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. SPACE. Madam Speaker:

Whereas, SPC Danley was assigned as a machine gunner with Company D, 1st Battalion (Mechanized), 50th Infantry; and

Whereas, SPC Danley was involved in a combat mission near Bong Song, Vietnam on December 10, 1967; and

Whereas, SPC Danley repeatedly exposed himself to enemy fire in order to give his fellow soldiers time to evacuate their wounded comrades; and

Whereas, SPC Danley went so far as to move his vehicle directly into the line of enemy fire in order to protect another disabled armored personnel carrier; and

Whereas, SPC Danley was able to inflict numerous enemy casualties during the facilitation of his comrades' evacuation with no regard to his own personal safety; now, therefore, be it

Resolved, that along with his friends, family, and the residents of the 18th Congressional District, I congratulate SPC Lester M. Danley on winning the Bronze Star with "V" Device for heroism and gallant action. We recognize the incredible determination, loyalty, courage, and valor he displayed for his comrades on that day in December 1967, and all the days of his service to the United States Army.

#### A TRIBUTE TO J. PAUL RUSSELL

#### HON. LARRY KISSELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. KISSELL. Madam Speaker there was a time in our communities across the Eighth District that in addition to our own family and our church family, many of us were also part of the same work family. We marked time by the whistle blowing to change shifts and met our friends at the gate as we were coming and going. Even if you worked for a different mill than others we all shared a common experience. After 27 years in the textile industry, I have a very large work family and a man I considered the father of that family passed away April 19.

J. Paul Russell was a visionary, not only in the textile industry but as a community leader as well. With Mr. Russell's passing, Montgomery County has lost a true legend and one of its most impassioned leaders.

Mr. Russell had a personal interest in all his employees. He treated all people with respect. He knew the names of their children and grandchildren. I worked closely with his son Charles during my time at the mill, and Charles treated people the same way. It is why people chose to work at the Mills for 20 or 30 years.

It was this type of determination and commitment that helped our communities prosper, and that we miss so much now that so much of the textile industry is gone.

Mr. Russell was part of the "Greatest Generation" and he had that entrepreneurial spirit. The textile industry was just one of his many contributions to our community. He was instrumental in bringing the county airport to Star and the hospital to Troy.

During those years, so many of us here in Montgomery County relied on the Russell family for our livelihood. For a period of many

years, the Mill employed 800 people from our community. But it wasn't just jobs that the Russell family provided, it was community leadership. They didn't just live in our communities—they were our county commissioners, Boy Scout leaders, served on town board—much of which Mr. Russell did himself.

There were and are Mr. Russell's in every community across our District. We all know how our communities have been affected by the loss of the textile industry. It was not only the loss of jobs which we still struggle to replace, but it was the loss of leadership as well. These families provided so much leadership in our community, and it was all gone so quickly.

One of the things I will always remember about J. Paul Russell was his spirit. He was an amazing person, one that attacked life with gusto, not just in his work but when he was having fun as well. He lived his life to the fullest.

This is a chance for me to honor, not only Mr. Russell and his family for their contributions, but to all of those people who make a difference in our community.

Those special people are scattered throughout our District. They spend their time doing things they know will better their community and make a difference in the lives of the people around them. It is the best legacy we can hope to leave. It is the legacy that J. Paul Russell has left. Mr. Russell will dearly be missed by his family, friends, and community, and his contributions made to our community.

PROFESSOR CHARLES E. DIRKS

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BERMAN. Madam Speaker, I am honored to pay tribute to my good friend Professor Charles Dirks, on the occasion of his retirement from Los Angeles Mission College. I have had the pleasure of working with him on important issues in our community for more than two decades and know firsthand of his many accomplishments.

Professor Dirks comes from a long line lineage of community activists, a lineage that has helped fuel his tireless fight for Southwest College, Mission College and the entire Los Angeles school system.

Upon graduating from Occidental College, Professor Dirks got an invitation from R. Sargent Shriver, the Director of the Peace Corps to join "Ghana One" and teach in the very first Peace Corps group. During this time, he built two schools in Ghana and helped build the first public library in Liberia. He also set up community development training programs for the Peace Corps in Puerto Rico and helped build flood control dams in Kenya. This experience led to his lifelong mission of rebuilding and working in the Los Angeles education community's areas of need.

By joining the community college district, and becoming the Faculty Guild President, Professor Dirks helped erect permanent buildings in the north-east San Fernando Valley, where a college was most needed. A long time volunteer in politics, he used his experi-

ence as a co-campaign coordinator for Bobby Kennedy to lobby then-city councilman Tom Bradley on getting permanent structures on the Southwest College campus.

Professor Dirks knows that "it takes a village" and over the years he has received numerous accolades and great support from his community. He is deserving of commendation for his tireless campaign to secure adequate higher education in the northeast San Fernando Valley. With a combination of union backing and political tenacity, Professor Dirks was able to secure a budget for Mission College from then Governor Deukmajian. As one of the founding faculty members of Mission College, he was instrumental in organizing the faculty into a union and putting together support for a permanent site and buildings. The Chancellor and both the California State Senate and Assembly have named Professor Dirks "The Faculty Father of Mission College."

Madam Speaker and distinguished colleagues, I ask you to join me in saluting Professor Dirks for his impressive career and dedication to the people of the San Fernando Valley, and to congratulate him on the occasion of his retirement.

#### RECOGNIZING NATIONAL FOSTER CARE MONTH

**HON. JOHN LEWIS**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. LEWIS of Georgia. Madam Speaker, I rise today in proud support of H. Res. 931, a resolution recognizing National Foster Care Month. I thank my friend and colleague on the Ways and Means Committee, Chairman McDermott, for sponsoring this important resolution.

During National Foster Care Month, we pay tribute to the half million children presently in the child welfare system and the many others in the network—mentors, volunteers, friends, extended families, and organizations who fill in the gaps in Federal and State coverage to help these young people find their way.

In Georgia, there are thousands of children living in foster care. These young people—of all race, ages, and backgrounds—were victims of neglect and abuse. Madam Speaker, as parents we know that children require stability and permanency to thrive. Love and security help the development of healthy and confident young adults. Sadly, due to circumstances beyond their control, foster children are uprooted from their homes and represent the one of largest constituencies of displaced people in the United States. In fact, numerous studies show the increased difficulties foster children must overcome, especially the lack of support for foster care youth as they transition to adulthood and independence.

Child welfare services have a shared goal to find safe, stable, and loving homes for these young people. Unfortunately, this dream is not always realized. Last year, Congress passed and the President signed the Fostering Connections to Success Act. This legislation was an important step in improving the nation's child welfare system, but more can be done.

I look forward to continuing to work with my friends and colleagues on the Ways and Means Committee Subcommittee on Income Security and Family Support to improve the experiences of those young people living in and preparing to exit foster care.

Madam Speaker, each and every young person has a right to a childhood. During National Foster Care Month, I hope that communities around the country really come together and think of ways to improve the lives of young people in the child welfare system.

#### A PROCLAMATION HONORING STAFF SERGEANT JOSEPH SOLVEY FOR RECEIVING THE SILVER STAR MEDAL CITATION FOR GALLANTRY IN ACTION

**HON. ZACHARY T. SPACE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. SPACE. Madam Speaker:

Whereas, Staff Sergeant Solvey was assigned as a Private First Class to Infantry Company E, 104th Infantry Regiment, US Army; and

Whereas, Staff Sergeant Solvey was involved in a morning attack near Bettborn, Luxembourg on December 22, 1944; and

Whereas, Staff Sergeant Solvey refused an evacuation order and, though injured, put himself at substantial personal risk to eliminate a German tank threatening to break the American position; and

Whereas, Staff Sergeant Solvey enabled his company to accomplish its objective by moving in the face of fire and showing great personal courage and valor; now, therefore, be it

Resolved, that along with his friends, family, and the residents of the 18th Congressional District, I congratulate Staff Sergeant Solvey on winning the Silver Star for gallantry in action. We recognize the tremendous sacrifice, determination, and courage that he displayed that day in December 1944, and all the days of his service to the United States Army.

#### HONORING COLONEL SCOTT VANDER HAMM

**HON. STEPHANIE HERSETH SANDLIN**

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. HERSETH SANDLIN. Madam Speaker, I rise today to honor Colonel Scott Vander Hamm, commander of the 28th Bomb Wing at Ellsworth Air Force Base in South Dakota, for his commendable record of service to our country. Colonel Vander Hamm is leaving Ellsworth for a new assignment, but his efforts have left a lasting impact on Ellsworth, my state of South Dakota, and the security of our country.

Over the course of a career that has seen him earn the Distinguished Flying Cross and the Bronze Star, Colonel Vander Hamm has logged more than 4,200 hours as a pilot, which adds up to 167 days in the air. He has

the flown the B-52, the B-2 and now the B-1. He flew a combat mission the first night of Operation Iraqi Freedom, a mission Col. Vander Hamm has referred to as one of his most memorable flights. As the 7th Operations Group Commander, Colonel Vander Hamm also led planes in support of Operation Enduring Freedom, and the expeditionary group he commanded flew over 900 combat and combat support missions.

However, Colonel Vander Hamm describes himself as an officer first and an aviator second. At Ellsworth, he commanded the largest B-1 combat wing in the U.S. Air Force, with 29 aircraft and more than 4,300 personnel. His organizational skills and drive kept that force in top shape, ready to respond to a crisis at a moment's notice.

He's also a proud family man. His wife Joanna, seven daughters and four sons have all helped shape the Colonel into a great leader of men and women. The Vander Hamms have become an important part of the Ellsworth family and their looming absence will be felt by the entire base.

The leadership and diligence shown by Colonel Vander Hamm and our nation's other military commanders are second to none. I am personally immensely grateful for the values and honor that soldiers such as he have instilled in the fabric of our society. And I am sure the people of South Dakota and the entire country join me in thanking him for his sacrifices in helping keep all of us safe.

Madam Speaker, it is with enduring pride and respect that I rise today in recognition of Col. Vander Hamm and his service at Ellsworth Air Force Base. The state of South Dakota will miss him, but we are all fortunate that his service to our nation continues.

#### HONORING CHARLIE WINTERS

#### HON. RON KLEIN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KLEIN of Florida. Madam Speaker, I rise today to honor the memory of Charlie Winters. Mr. Winters was an ordinary Florida businessman who played an extraordinary role in history.

In 1948, he provided an aircraft to the Jewish armed forces in pre-war Israel for its defense during the Israeli Independence War. Had Mr. Winters and other Americans not provided this assistance at such a critical time, Israel may not have survived as an independent state and become one of our Nation's staunchest allies. However, Mr. Winters was not honored at the time for his heroism. Instead, he was arrested and convicted under the "Neutrality Act" for his role in Israel's founding. In fact, he was one of a handful of Americans convicted and he was the only one to serve a prison sentence.

Mr. Winters was released from prison on November 17, 1949 and lived a humble and quiet life thereafter in Miami. In 1984, Mr. Winters passed away, and never told his family about his story. But, his obituary in the Miami Herald was entitled "Charles Winters, 71, Aided Birth of Israel," and noted that he was

honored by the late Golda Meir, and had earned "a place of distinction among the Americans who banded together clandestinely at the end of World War II to help Jews establish a state in Palestine."

Last year, several of my colleagues and I sent a letter to the United States Justice Department, asking for a posthumous pardon for Mr. Winters. We are grateful that President Bush issued a pardon in December, thereby clearing Mr. Winters name and providing comfort to his family.

Today, the Jewish Federation of Palm Beach County's Jewish Community Relations Council will be hosting Jimi Winters, the son of Charlie Winters, to honor the memory of his father. While I regret that I cannot be with them today, I join them in their celebration of Mr. Winters' memory. Mr. Winters' actions helped secure the independence of the state of Israel, thereby establishing a beacon of democracy in the Middle East.

#### PERSONAL EXPLANATION

#### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately Monday night, May 18, 2009, I was unable to cast my votes on H. Res. 300, S. 386 and H. Res. 442 and wish the record to reflect my intentions had I been able to vote.

Had I been present for rollcall No. 267, on suspending the rules and passing H. Res. 300, Congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary, I would have voted "aye."

Had I been present for Rollcall No. 268, on suspending the Rules and agreeing to the Senate Amendments to the House Amendments on S. 386, the Fraud Enforcement and Recovery Act, I would have voted "aye."

Had I been present for Rollcall No. 269, on suspending the Rules and passing H. Res. 442, Recognizing the importance of the Child and Adult Care Food Program and its positive effect on the lives of low-income children and families, I would have voted "aye."

#### A PROCLAMATION HONORING PRIVATE FIRST CLASS (PFC) EUGENE F. WOOD FOR RECEIVING THE BRONZE STAR MEDAL WITH "V" DEVICE CITATION FOR HEROISM

#### HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. SPACE. Madam Speaker, Whereas, PFC Wood was assigned as a rifleman to Company C, 3rd Battalion, 60th Infantry Regiment, 9th Infantry Division; and

Whereas, PFC Wood was involved in a combat mission in Vietnam on January 10, 1968; and

Whereas, PFC Wood's company came under heavy enemy fire while moving to the aid of another company; and

Whereas, PFC Wood saw a fellow soldier fall wounded in an open rice paddy between his position and the enemy position; and

Whereas, PFC Wood completely disregarded his personal safety and immediately moved forward to treat his wounded comrade; and

Whereas, PFC Wood sustained multiple wounds from automatic weapons fire while attending to his comrade but refused to retreat or stop his treatment; now, therefore, be it

Resolved, that along with his friends, family, and the residents of the 18th Congressional District, I congratulate Private First Class Eugene F. Wood on winning the Bronze Star with "V" Device for heroism and gallant action. We recognize the incredible determination, loyalty, courage, and valor he displayed for his comrades on that day in January 1968, and all the days of his service to the United States Army.

#### HONORING THE 75TH ANNIVERSARY OF THE ESTABLISHMENT OF THE OMAHA DISTRICT OF THE U.S. ARMY CORPS OF ENGINEERS

#### HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. TERRY. Madam Speaker, I rise today to honor the establishment of the Omaha District of the U.S. Army Corps of Engineers 75 years ago. Since that time, the Omaha District of the Corps has performed admirably in a wide range of duties, and today manages more than a billion dollars worth of civil works, military construction, and environmental restoration projects. Members of the Omaha District of the U.S. Army Corps of Engineers currently serve in Afghanistan and Iraq as part of the Global War on Terror.

When the Omaha District was established in 1934, its initial mission was the construction of the Fort Peck Dam in Montana. That project was the first of many that resulted in the construction of a total of 6 dams along the main stem of the Missouri River that provided necessary jobs during the Great Depression. This was just part of the Corps' efforts to harness the mighty Missouri River basin through construction of a vast set of engineering projects which control flooding, facilitate commerce by improving navigation, generate electricity, and spur agriculture. These projects evolved into a flood control system that has prevented over \$25 billion in flood damages to date.

During World War II and the Cold War, the Omaha District of the U.S. Army Corps of Engineers was involved in numerous aspects of our nation's defense. It constructed the assembly plant for the B-29 Superfortress and the B-26 Marauder, and gained technical expertise in constructing runways which proved valuable for Army Air Force training. The Omaha District also was involved in the construction of the Northern Area Defense Command in Colorado, facilities for Space Command, and various missile control and launch facilities throughout the Midwest. Following the Cold War, the Omaha District helped lead on

environmental remediation by removing ordnance from closed bombing ranges, containing below ground chemical plumes, and remediating landfills and wetlands.

In 1982, the Corps added environmental cleanup to its mission. Since that time the Corps has provided technical expertise to the Environmental Protection Agency's Superfund cleanup projects. In fact, the Corps' Omaha District became the Center of Expertise for Hazardous and Toxic Waste. Individuals trained at this facility have assisted in EPA environmental cleanup of projects in California and Pennsylvania. The Omaha District continues to take the lead in remediation of hazardous, toxic, and radioactive waste sites in current and former military sites.

For 75 years, the Omaha District has answered the nation's call for service. I commend the Omaha District Corps' continued commitment to military construction, improving civil works and environmental restoration both in Nebraska and throughout our nation under the current leadership of Colonel David Press. The Omaha District of the U.S. Corps of Engineers has earned the recognition of Congress on the celebration of the 75th anniversary of its founding.

#### IN HONOR OF MEMORIAL DAY

### HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. GREEN of Texas. Madam Speaker, I wish to honor our fallen veterans this Memorial Day on May 25, 2009. Our veterans, as well as our troops, risked their lives and their livelihoods for their country and for our freedom. They deserve our utmost respect and appreciation.

Memorial Day was initially called Decoration Day. After the Civil War, Americans honored fallen soldiers in the Union and Confederacy by decorating the soldiers' graves. After World War I, Memorial Day became a day to honor all American soldiers who died in war. In 1971, Congress declared Memorial Day as a national holiday celebrated on the last Monday in May. Today, the national celebration of Memorial Day is held at Arlington National Cemetery. It is a ceremony of sincere solemnity, as well as one of great pride because it pays tribute to those who made the ultimate sacrifice while defending the American flag.

While we pay tribute to our fallen heroes, it is important that we also recognize those veterans who fought valiantly and returned home to their loved ones. Our nation's heroes who fought so bravely to defend the American Dream also deserve the opportunity to achieve it. According to the U.S. Department of Veterans Affairs (VA), on any given night in this country, between 150,000 and 200,000 adult veterans live on the streets, in shelters or in community-based organizations. Unfortunately, approximately 150,000 homeless heroes do not have access to the vital permanent housing and supportive services they need each year.

Last year, I introduced H.R. 3329: The Homes for Heroes Act to address this prob-

lem. My bill will provide shelter for homeless veterans and their families and help prevent low-income veteran families from falling into homelessness. On July 9, 2008, the Homes for Heroes Act passed the House by a vote of 412-9, but did not make it through both chambers. Fortunately, the author of the Senate companion bill, former Senator Barack Obama, is now the President of the United States. Therefore, I look forward to working with this Congress and our current President to pass this very important legislation in the 111th Congress. The Homes for Heroes Act will truly honor those who have sacrificed for our country by providing them with the assistance they deserve and have so deeply earned.

I ask all of my colleagues and fellow Americans to pause and observe the great sacrifice that our fallen heroes and veterans made for our beloved country. Our military men and women were there to answer their nation's call to duty and now our government must prove that we will be there for them. In words, deeds and actions, our nation's heroes have earned it. This is the least a grateful nation can do.

#### THE 21ST CENTURY GREEN HIGH-PERFORMING PUBLIC SCHOOL FACILITIES ACT

### HON. PHIL HARE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. HARE. Madam Speaker, I rise today in strong support of H.R. 2187, the 21st Century Green High-Performing Public School Facilities Act.

Schools all over my district are struggling to find the money to pay for the most basic school repairs, let alone the funding to upgrade school facilities to meet the needs of 21st century learners.

It is estimated that the national need for school construction and renovation is somewhere between \$100 billion and \$300 billion. While school construction funding has traditionally been a State and local responsibility, the magnitude of the challenge warrants a small Federal role—a role that could help Lewistown Community High School in my district repair a leaky roof and replace World War II era equipment.

The bill before us authorizes \$6.4 billion to address unmet school modernization needs. Additionally, the bill guarantees that our nation's lowest-achieving school districts receive a minimum grant of \$5,000 for school enhancement projects.

I am also pleased that this bill encourages schools to make energy efficient improvements. By dedicating the majority of funds to green building projects, H.R. 2187 will save schools an average of \$100,000 each year in energy costs alone—enough to hire two additional full-time teachers, purchase 5,000 new textbooks, or buy 500 new computers.

Education infrastructure is not an expenditure, it is an investment in our Nation's future. Many of our students are being taught in unsafe and unhealthy conditions that make high-quality learning impossible. H.R. 2187 turns

crumbling schools into environments ripe for learning.

Madam Speaker, I urge all my colleagues to vote for H.R. 2187.

#### A PROCLAMATION HONORING CORPORAL CARLOS M. EASTERDAY FOR RECEIVING THE BRONZE STAR MEDAL WITH "V" DEVICE CITATION FOR HEROISM

### HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. SPACE. Madam Speaker:

Whereas, Corporal Easterday was assigned as a Private First Class to Company E, 19th Infantry Regiment, 24th Infantry Division; and

Whereas, Corporal Easterday was involved in a combat mission near Kumsong, Korea on August 8, 1951; and

Whereas, Corporal Easterday exposed himself to two separate fixed automatic weapons positions in order to relieve his platoon from deadly suppression fire; and

Whereas, Corporal Easterday eliminated both positions with expert use of both rifle fire and hand grenades while completely unsupported and exposed to enemy fire; and

Whereas, Corporal Easterday's actions allowed his platoon to advance on the flank of their objective and quickly capture it, saving lives and material with the speed of its accomplishment; now, therefore, be it

Resolved, that along with his friends, family, and the residents of the 18th Congressional District, I congratulate Corporal Carlos M. Easterday on winning the Bronze Star with "V" Device for heroism and gallant action. We recognize the incredible determination, loyalty, courage, and valor he displayed for his comrades on that day in August 1951, and all the days of his service to the United States Army.

#### IN HONOR OF BRENT LARKIN

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of Brent Larkin, upon his retirement as Editorial Page Director of the Plain Dealer, where his political columns and news stories inspired emotion, provoked thought and blazed across the pages of our City's daily newspaper for nearly thirty years.

A native Clevelander, Brent Larkin graduated from Brush High School in 1965. He earned a bachelor's degree in journalism from Ohio University, and later a doctorate of law degree from Cleveland Marshall College of Law in 1986. He was admitted to the Ohio Bar in 1987.

Brent's interest in Cleveland's political scene was sparked in 1970, when he was hired by the Cleveland Press to cover the news at Cleveland City Hall. In 1976, he was named the newspaper's politics editor. In 1981, he



joined The Plain Dealer as a politics writer then later as a columnist. In 1991, he was named director of The Plain Dealer's opinion pages. Brent Larkin has been honored several times over the years for his work in journalism, including an induction into the Cleveland Press Club Hall of Fame in October of 2002. Brent's editorial columns deftly highlighted Cleveland's political and social scenes for Ohio's largest newspaper.

Madam Speaker and Colleagues, please join me in honor and recognition of Brent Larkin, upon his recent retirement from The Cleveland Plain Dealer. Fearless in expressing his opinion, his columns were entertaining, informative and above all, his ability to zero in on the heart of an issue in just a few strategically written paragraphs earned him a constituency of readers that kept coming back to see what he would write next.

#### TAIWAN'S INVITATION TO THE WORLD HEALTH ASSEMBLY

#### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. GARRETT of New Jersey. Madam Speaker, at the end of last month, Taiwan received an invitation from the World Health Organization (WHO) to attend this year's World Health Assembly (WHA) meeting as an observer under the name "Chinese Taipei." The WHA weeklong meeting started a few days ago on Monday, May 18, 2009 in Geneva, Switzerland.

This week marks the first time Taiwan has been allowed to participate in a meeting or activity of a specialized United Nations agency since losing its UN membership to China in 1971. I have seen some label Taiwan's participation a "breakthrough" and I have heard the "goodwill of the mainland authorities" praised.

Yes, we should celebrate the announcement that Taiwan will finally be permitted to participate in the WHO. But we also need to remind ourselves that participation as an "observer" does not give Taiwan the right to vote. In addition, Taiwan's participation is not permanent; it comes only under Beijing's sponsorship on a one-year-at-a-time basis. While we are grateful that Taiwan has been given the chance to attend the WHA meeting, I hope that Taiwan's 23 million people will one day be represented at the WHO as a full fledged participant.

We all remember that in 2003 Taiwan was struck by an outbreak of Severe Acute Respiratory Syndrome, or SARS. By the end of May 2003, 483 probable cases had been reported. A total of 60 people died. Worries over SARS subsequently hampered international travel and commerce, dealing a serious blow to Taiwan's economy. This morning, Taiwan reported its second case of H1N1 flu.

Despite these outbreaks, China continues to block Taiwan's full and equal membership in the WHO. Disease knows no borders and I believe the current threat of a worldwide epidemic demonstrates Taiwan's need for the highest level of access to the WHO as possible.

In addition, I would prefer to see Taiwan join the WHO under the name "Taiwan," which,

after all, is the name of the country. Taipei is merely Taiwan's capital.

When I was elected to the U.S. House of Representatives in 2002, some of my colleagues had already been campaigning for Taiwan's inclusion in the WHO for more than five years, ever since Taiwan launched its campaign to participate in the WHO in 1997.

I am concerned that that Chinese approval is becoming a prerequisite for Taiwan's participation in any international organization, and that countries will begin to view China as Taiwan's suzerain. If this view becomes the accepted international norm, Taiwan's current status as an independent, sovereign state would be undermined.

It is an outrage that China has essentially blocked Taiwan from participating in the WHO for so long. I firmly believe that the health of Taiwan's 23 million citizens should not be used as a political weapon. I therefore urge my colleagues to join me in continuing to support Taiwan's full and equal membership in the World Health Organization.

#### INTRODUCTION OF THE NORTH MAUI COASTAL PRESERVATION ACT

#### HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Ms. HIRONO. Madam Speaker, I rise today to introduce the North Maui Coastal Preservation Act of 2009, a bill directing the National Park Service to study the suitability and feasibility of designating certain lands along the northern coast of Maui, between Sprecklesville and Paia, as a unit of the National Park System.

The citizens of Maui strongly support preservation of this coast, which provides important open space and public beach areas. Thousands of post cards in support of creating a national park or national seashore along this coast have been sent to me and to my predecessor.

This beautiful coastline is under significant development pressure. Its closeness to major population centers in Maui and its popularity with both visitors and residents makes protecting access a major concern.

Supporters of this park have asked that it be named after Congresswoman Patsy Takemoto Mink, a native of Maui who grew up in the Hamakua Poko/Paia area. While this bill, which authorizes a study, does not direct what the prospective national park would be named, I would certainly support naming it after Patsy Mink, whose commitment to the people of the island and state was without question.

I urge my colleagues to join me in supporting this bill.

#### MR. SCOTT HOLUPKA

#### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Mr. Scott

Holupka, recipient of the Citizen of the Year Award from The Optimist Club of Dundalk, Inc. Scott has dedicated his time and talents to the constant improvement and revitalization of the Dundalk community.

Scott is a life-long resident of Dundalk, Maryland, and a native to the Three Garden Village in southeastern Baltimore County. He went on to attend nearby Dundalk High School. In 1983, he graduated from Johns Hopkins University with a Ph.D. in sociology. Soon after graduating, he returned to Dundalk, where he immediately began working on a project called the "Greening of Dundalk." The recycling effort included in this program was the first of its kind in Baltimore County.

Since then, Scott has held positions in many community organizations including president of the Board of the Family Crisis Center, co-creator of the Southeast Neighborhood Development Coalition, member of the Baltimore Citizens Planning and Housing Association, president of the Greater Dundalk Community Council, and cofounder of the Dundalk Renaissance Corporation. These organizations are just a glimpse into the busy, community-oriented lives Scott and his wife, Amy, have led.

The Citizen of the Year award is given annually to an individual in the Dundalk community who demonstrates leadership, civic responsibility, and accomplishment. Scott not only possesses all of these qualities, but he goes above and beyond in every community activity in which he is involved. He was recently inducted into the Dundalk High School Alumni Hall of Fame, and will soon receive an award from the Maryland-Delaware-D.C. Press Association.

Madam Speaker, I ask that you join with me today to honor Mr. Scott Holupka on this memorable occasion. Scott is admired by others in the community, and deserving of the prestigious Citizen of the Year Award. His dedication to Dundalk is apparent in every aspect of his life, and the community is truly a better place because of him.

#### IN REMEMBRANCE OF DR. HENRY T. KING, JR.

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. KUCINICH. Madam Speaker, I rise today in remembrance of Dr. Henry T. King Jr., a renowned lawyer and great man of peace, and in honor of his dedication to his country, community and to international human rights. Dr. King died at home on May 9, 2009, at age 89.

Dr. Henry King was a distinguished scholar of international law, international trade, and international human rights. Shortly after graduating from Yale Law School and while practicing law in New York at Millbank, Tweed & Hope, Dr. King learned about Supreme Court Justice Robert Jackson's appointment as Chief Prosecutor of war criminals at Nuremberg. With the encouragement of his wife, he left for Nuremberg in 1946 with Justice Jackson as one of the youngest of 200 prosecutors. As one of the prosecutors working on the

Nuremberg Trials, he worked on the convictions of many Nazi officials, including Walther von Brauchitsch, Erhard Milch, Hermann Goring, and Albert Speer. Dr. King was deeply affected by what he saw upon stepping off the train in Nuremberg. Surrounded by the rubble of bombed out buildings and people begging for food, he vowed at that time to dedicate his life to the prevention of war.

Following the Nuremberg Trials, Dr. King served as Chief Counsel for the Marshall Plan. Between 1961 and 1981 he was Chief International Corporate Counsel at TRW, Inc., the position which brought Dr. King to Cleveland. For the last 28 years, he taught at Case Western Reserve University School of Law in Cleveland while practicing law at Cleveland's Squire Sanders & Dempsey. Upon his arrival at Case Western Reserve, he established the Canada-U.S. Law Institute in partnership with the University of Western Ontario. The Institute holds an annual conference in Cleveland, which I have had the pleasure of participating in a number of times since my career in Congress began in 1997. This year, I had the honor of addressing the conference about the commoditization of Great Lakes water.

Throughout his illustrious career, Dr. King continued his activism in the struggle for peace through international law. He pushed for the creation of the International Criminal Court as a member of the international delegation in Rome to establish that court in 1998. After the delegation failed to include wars of aggression as war crimes, he continued to push for that with other delegates until they ultimately adopted a reference to the crime of war of aggression in the court's statute. Additionally, Dr. King served as a member of the American Bar Association's Task Force on War Crimes in the former Yugoslavia. He also believed that democracies which trade with one another tend to not go to war and advocated for international trade rules and statutes as another avenue toward peace.

Dr. King received an honorary degree of Doctor of Civil Laws by the University of Western Ontario in 2003. In 2004, the government of Canada appointed Dr. King Honorary Consul General for Cleveland and Northeast Ohio. Dr. King was truly a pioneer in promoting peace through international law and was cited in the Plain Dealer by David Crane, Syracuse University Professor and Chief Prosecutor of Sierra Leone President Charles Taylor as "the George Washington of modern international law."

Madam Speaker and Colleagues, please join me in honor and remembrance of one of the great men of our time, Dr. Henry T. King, Jr. He will be greatly missed by those in the peace community working on issues of international humanitarian justice under the rule of law. Despite his absence, his work will continue to inspire countless activists and lawyers around the world who follow in his footsteps.

## CELEBRATING THE 100TH ANNIVERSARY OF NAACP

### HON. DEBORAH L. HALVORSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mrs. HALVORSON. Madam Speaker, today I rise to recognize the NAACP for one hundred years of promoting equal rights and fighting for the eradication of racial prejudice within the United States. The NAACP is the largest and oldest civil rights organization in the United States. It currently has more than half a million members and supporters throughout the United States and the world who serve as advocates for civil rights in their communities.

On February 12, 1909, the 100th anniversary of President Abraham Lincoln's birth, the NAACP was founded in response to race riots in Lincoln's hometown of Springfield, Illinois. From the time of its founding, the NAACP has recognized that racial justice is important for every single American. This is reinforced by the fact that the organization has always been led by a diverse group of Americans from many races and backgrounds. These leaders came to the organization because, as Dr. King so eloquently described, "All men are caught in an inescapable network of mutuality."

The NAACP played a pivotal role in overturning disenfranchisement, racial segregation in public schools, and discriminatory hiring practices. It fought for the passage of the Civil Rights Acts of the 1950s and 60s, the Voting Rights Act, and the Fair Housing Act. The work of the NAACP paved the way for the election of Barack Obama—another of Illinois' favorite sons—as our first African American President, one hundred years after the founding of the NAACP. The NAACP continues to work on ensuring equal access to education, health care, and jobs.

On the 100th anniversary of its founding, I would like to celebrate the NAACP and its many important accomplishments towards securing equal rights of all persons.

## RECOGNIZING THE SERVICE AND ACHIEVEMENTS OF CLAUDE DAVIS

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. MILLER of Florida. Madam Speaker, I rise to recognize Mr. Claude Davis on the occasion of his 101st birthday for his lifetime of service to his community and to his country. Throughout his life, Mr. Davis has been leader in Northwest Florida, and I am pleased to honor such an admirable American.

Born in 1908, Claude Davis enlisted in the United States Navy in 1926 at the age of 18 and served for over twenty years. Mr. Davis fought in World War II and was aboard the USS Saratoga aircraft carrier during two separate torpedo attacks by the Japanese. He also commissioned the USS Antietam in 1945. Recently, Mr. Davis visited the WWII Memorial for the first time as part of the Second Emerald Coast Honor Flight.

After his retirement from the Navy in 1946, Claude purchased a farm in Santa Rosa County, Florida and began a lifetime of service to his local community. He was the first agent for the Florida Farm Bureau Fire Insurance Company, where he remained for 25 years. Mr. Davis became president of the Farm Bureau, and helped organize the annual Santa Rosa County Farm Tour, an event conducted each year by the Santa Rosa Agricultural Committee to increase agricultural awareness in the area. As one of the original organizers of the Warrington Presbyterian Church and the Warrington Kiwanis Club, Claude's record of service to the community is outstanding and deserving of this recognition.

Madam Speaker, on behalf of the United States Congress, I would like to thank Claude Davis for his lifetime of dedication and service to others. My wife Vicki and I wish to congratulate him and his entire family on this momentous occasion.

## 75TH ANNIVERSARY OF HOSTELLING INTERNATIONAL USA

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. YOUNG of Alaska. Madam Speaker, I rise today in recognition of Hostelling International USA for 75 years of service to youth travel.

Hostelling International USA was founded in 1934 to improve and promote international understanding of the world and its countless cultures through hostelling. Hostelling International operates and maintains almost 70 hostel accommodations throughout the United States, with over 4,000 locations worldwide. These inexpensive and safe facilities range from high-rise buildings with hundreds of beds to small remote hostels in rural setting found throughout Alaska.

Hostel volunteers act as ambassadors for their communities and for our nation by administering travel education programs to young and old. Alaskan hostels have welcomed and housed guests since the early 1960's, in a diverse set of locations including: Central Juneau, Ketchikan, Nome, Anchorage, Delta Junction, Fairbanks, Haines, Homer, Sitka, Tok, Willow, Girdwood, Slana and Ninilchik.

I commend Hostelling International USA for its 75 years of continued quality service.

## CONGRATULATIONS TO THE MAYOR, THE COMMON COUNCIL AND THE RESIDENTS OF THE CITY OF LACKAWANNA ON THE OCCASION OF THE 100TH ANNIVERSARY OF THEIR MUNICIPAL INCORPORATION

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. HIGGINS. Madam Speaker, I rise today to congratulate and pay tribute to the Mayor,

the Common Council and the residents of the City of Lackawanna on the occasion of the 100th anniversary of their municipal incorporation.

The fortunes of this great City are emblematic of the struggles of the entire region. Having experienced the difficulties associated with the decline of heavy industry in recent decades, Lackawanna has turned the corner and now demonstrates a new spirit of hope and optimism under the leadership of its esteemed Mayor and Council.

Due in significant part to the diligence and hard work of the Mayor and the Council, the site of the former Bethlehem Steel plant—long a symbol of post-industrial decay and disinvestment, is now a beacon of progress as it is home to the nation's largest urban wind farm. This project is a testament to the tenacity of the Mayor, the Council and the people of this great city, and has been a symbol of the resurgence of the entire region. Through this effort, Lackawanna has demonstrated that the time has come to build upon our industrial past and move toward a prosperous, green future.

On this 100th Anniversary, I would like to congratulate the great City of Lackawanna on its recent successes and to thank the leadership for shepherding innovative ideas to preserve and enhance the Great City of Lackawanna. I commend and thank Lackawanna residents for the example they have set for other communities in Western New York. As we celebrate our history, we also acknowledge that our best days are immediately in front of us, and that progress and prosperity are on the horizon. I wish the leadership in the City of Lackawanna and its people the best of luck in the future as it continues to grow and prosper.

**HONORING THE LOUISIANA  
HONORAIR VETERANS**

**HON. JOHN FLEMING**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. FLEMING. Madam Speaker, I rise today to recognize and honor a very special group from Northwest Louisiana.

On May 16, 2009 a group of 104 veterans and their guardians flew to Washington with a very special program. Louisiana HonorAir is providing the opportunity for these Louisiana veterans to visit Washington, DC on a chartered flight, free of charge. For many, this will be the first and only opportunity to visit the memorials created in their honor. These brave men and women, from my home state of Louisiana, deserve the thanks of a grateful nation for everything they have sacrificed for our freedom.

Today I ask my colleagues to join me in honoring these great Americans and thank them for their unselfish service.

Robert M. Acosta, Edward E. Allen, William J. Archambeau, Francis W. Artley, Carl A. Barr, Clifford A. Birchfield, Joe E. Bizet, Richard E. Blake, Dudley H. Boddie, Roy Timon Buckner, Robert L. Bufkin, Jesse E. Burkheart, Adolph B. Campbell, Willard E. Charrier,

James A. Clark, George Cockerham, Claude M. Corbett, Joe R. Crain, Alonza Crawford, Joe H. Curtis, Willie V. Dark, R. Debusk, Samuel D. Doles, Thomas B. Erwin, Jack B. Evans, James E. Evans, Frank H. Falkenberry, Daniel W. Fallin, James, L. Fallin, James H. Fisher, Frank H. Ford, John C. Foster, Paul D. Gandy, Jesus Garcia, James C. Gardner, Leo J. Garner, Leon C. Green, Claude Gulley, Joseph Warren Harris, Tom N. Havard, James W. Helton, Charles M. Henley, Edward J. Heuer, John N. Holman, John L. Iles, Joe M. Ivey, Loin Jacob, James Prentice Johnson, Alvin B. Kessler, Oscar C. Laborde, Charles A. Lammons, Joseph H. LeBeau, Gus D. Levy, Clayton E. Manning, W.C. Mayfield, Mary E. McMahon, Leonard S. Micinski, Charles E. Monson, McLuther Monzingo, Donald R. Moreau, Lucien L. Oldham, Elmore C. Owens, Lester L. Pace, Frederick E. Parker, Robert A. Peiser, J.L. Pennington, Carlos B. Perez, Wallace P. Perryman, James Ferrell Reeder, James E. Rigal, Kenneth Roberts, Richard Roy, James G. Sandifer, Ira R. Schulling, Luther E. Self, Geroge E. Shanks, Whilman G. Sheets, James L. Shelton, Cecil O. Simmons, Shirley R. Simmons, Richard D. Smart, Shurman C. Smith, Robert A. Stacy, Roy E. Stickman, Fletcher Thorne-Thomsen, Maurice S. Thrasher, Carroll E. Timmons, Bobby G. Turrentine, Howard V. Walker, Clomer Walton, Ray M. Ward, William B. Wardlaw, Carl J. Waters, Billy J. Wells, Claude O. West, G.F. White, James Wilson, Allen J. Wiltz, Marcus D. Wren.

**HONORING MR. HELMUTH J.H.  
BAERWALD**

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. GERLACH. Madam Speaker, I rise today to honor Helmuth J.H. Baerwald who is retiring after faithfully serving the residents, businesses and elected officials of East Norriton Township, Montgomery County, Pennsylvania for 32 years.

Mr. Baerwald's distinguished career of public service to East Norriton started in May 1977 when he became the Township's Finance Officer and Assistant Manager. A little more than three years later, he was appointed Township Manager and Secretary/Treasurer.

Evidence of Mr. Baerwald's outstanding leadership during the last four decades abounds. He was instrumental in the building of a Veterans Memorial at Old Stanbridge Street and Germantown Pike. He was a driving force in establishing a sister city program between East Norriton and Treptow-Kopenick, Germany. And his prudent investment and management practices helped the Township acquire a 35-acre municipal complex, including the Township offices, storage facility and highway department garage.

Mr. Baerwald earned the respect of his peers and elected officials with his sharp administrative skills, which have been invaluable as the Township has grown. In addition to serving the Township, Mr. Baerwald selflessly gave his time to several organizations, includ-

ing the Pennsylvania State Association of Township Supervisors and the Montgomery County Association of Township Officials.

Madam Speaker, I ask that my colleagues join me today in recognizing the outstanding service and extraordinary career of Helmuth J. H. Baerwald and all who dedicate their careers to serving the public.

**A LIFETIME OF SERVICE BY  
MARGE JOHANNES OF SAUK  
RAPIDS, MINNESOTA**

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor Marge Johannes of Sauk Rapids, Minnesota as she celebrates her 90th birthday. Marge is known as "Grandma Marge" to the students at Pleasantview Elementary School, where she volunteers as a Foster Grandparent, a role she has played for over 20 years.

As a Foster Grandma, Marge spends four hours a day helping students and assisting the teachers. She even takes time to provide childcare for the Adult Basic Education classes. When many students and teachers are taking a break from school, Grandma Marge helps with the summer school programs in the Sauk Rapids-Rice School District. She is the definition of grace, bringing a love of learning to the schools at which she volunteers and sharing a smile with all she meets. All the students know that her favorite book is the dictionary, because she likes to learn something new every day and she spreads that kind of earnest enthusiasm everywhere she goes.

It is my honor to rise to wish Grandma Marge a "Happy Ninetieth Birthday" today and to thank her for her lifetime of service to her community. She is a teacher to us all, demonstrating the important values of service and citizenship. But, to the children, she is so much more: She's a member of their family; their Grandma Marge.

**RECOGNIZING AMERICAN RED  
CROSS EVERYDAY HEROES**

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KILDEE. Madam Speaker, I stand before you today on behalf of one of our country's most honored and respected organizations, the American Red Cross. Each year, the Genesee-Lapeer Chapter of the Red Cross acknowledges individuals who have shown tremendous courage, kindness, and selflessness through acts of goodwill and heroism. 14 individuals will be honored at the annual "Salute to Everyday Heroes" on Friday, May 29th in Grand Blanc, Michigan.

Everyday Heroes are selected for acts of bravery related to fire, rescue, and lifesaving, and are awarded to those who live in Genesee or Lapeer Counties, or if the rescue occurred in one of the two counties.

This year Trooper Bradley Ross and Trooper David Stokes will receive the Law Enforcement Award. Robert Elliott and Timothy Knott will be recognized with the Emergency Medical Response Award. Firefighters Jason Abbey, Dustin Lucius, Al Morea, Nick Schulz, Josh Sturgis, and Pat Whalen will be honored for their work. The Youth Good Samaritan Award will be given to Brandon Howe and the Adult Good Samaritan Award will be given to Jack and Jean Seibert. Myla Swanson will be recognized with the Workplace Good Samaritan Award. Judge Robert E. Weiss will be posthumously honored with the Community Good Samaritan Award.

Madam Speaker, I ask the House of Representatives to rise with me and applaud the courageous, altruistic accomplishments of these 14 persons. They have generously acted without thought to their own safety to assist others in danger. They have earned the title of "hero" and I am grateful for their service to our community.

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HONORING TYNGSBOROUGH,  
MASSACHUSETTS

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**HON. NIKI TSONGAS**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. TSONGAS. Madam Speaker, I rise today to celebrate the bicentennial anniversary of the town of Tyngsborough, Massachusetts. Known as the "gateway to the White Mountains," Tyngsborough is a unique and diverse community, defined by innovative businesses, rich history, and hardworking families. I am proud to honor the people of Tyngsborough for their spirit of innovation and success as they celebrate this milestone.

With its distinct location along the Route 3 corridor between Boston and New Hampshire's mountains, Tyngsborough continues to draw new residents and businesses as it grows in both size and prosperity. Leading companies in the fields of software, energy, materials, and technology have chosen Tyngsborough for their headquarters.

Tyngsborough's location also makes it a popular leisure destination thanks to the 1,000-acre Lowell-Dracut-Tyngsboro State Forest, which features miles of trails for hiking, cycling, horseback riding, cross-country skiing, and snowmobiling as well as ponds and streams for fishing and water sports. This land has long held special significance to the Native Americans who first settled along the banks of the Merrimack River above the Pawtucket Falls. The preservation of the natural beauty afforded by the river and woods is an important goal of the community and one that I particularly applaud.

I am proud to honor Tyngsborough's bicentennial, and I urge my colleagues to join me in wishing the people of Tyngsborough another 200 years of innovation and success.

HONORING THE KNIGHTS OF COLUMBUS LIGHT OF CHRIST COUNCIL 8726

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**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. GERLACH. Madam Speaker, I rise today to congratulate the Knights of Columbus, Light of Christ Council 8726, for its 25 years of outstanding charitable work and dedicated service to three parishes in western Berks County, Pennsylvania.

Since its founding in June 1984 at the St. Ignatius Loyola Parish, Council 8726 has grown to more than 200 members committed to nurturing spiritual growth and a tremendous desire to help anyone in need.

The members' selfless service has included financial backing and volunteer work in support of St. Mary's Shelter for single mothers, a Veterans Memorial monument in Whitfield, a Special Olympics basketball tournament, and weekend soup kitchens that feed hundreds who would otherwise go hungry in the Reading area.

Madam Speaker, I ask that my colleagues join me today in congratulating the Knights of Columbus, Light of Christ Council 8726, upon its 25th Anniversary and recognizing the exemplary efforts of the Council's members in serving and supporting Berks County churches, communities and charities.

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NEW CHARGES BROUGHT UP  
AGAINST BAHAI LEADERS IN  
IRAN

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**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. WOLF. Madam Speaker, May 14 marked the one-year anniversary of the imprisonment of the seven member national committee of the Iranian Baha'is. According to CNN reports, the seven Baha'i leaders may now face charges of "spreading of corruption on Earth" which carries the threat of the death penalty under Iran's penal code. The United States Commission on International Religious Freedom recently released their 2009 report which recommends that the State Department designate Iran a country of particular concern due to its gross violations of religious freedom. Such violations include the execution of over 200 Baha'i leaders since 1979, the desecration of Baha'i cemeteries and places of worship, and the violent arrest and harassment of members of the Baha'i faith. As the Administration seeks diplomatic engagement with Iran, I urge them to make human rights and religious freedom an integral part of the dialogue. Human dignity and freedom must not be made a sidebar as the Administration seeks to engage the Iranians.

HONORING STEPHEN REISTER

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**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. COFFMAN of Colorado. Madam Speaker, I rise today to honor America's entrepreneurs, those distinguished individuals who support our communities, drive innovation, and keep our nation strong. Small businesses bring fresh ideas to the table, develop the resources to meet the demands of an ever-changing world, and make a meaningful impact on our neighborhoods. Entrepreneurs are responsible for providing 60 to 80 percent of all new jobs, giving them the potential to propel rapid economic growth and expand ever-developing fields. Some of the country's largest companies began as start-ups in small offices, homes and garages exploring these new fields. Limited only by their imagination, these firms performed cutting-edge work in emerging industries that have become the very foundation of our society.

As our nation and the world face the most difficult economic conditions in decades, entrepreneurs have the potential to lead us back to prosperity. The resiliency and adaptability shown by small businesses in past recessions demonstrate their capability to meet the challenges standing in their way and emerge stronger than ever. America's small businesses will drive the economic recovery from this downturn and our economy will rebound. Times may be tough, but America's entrepreneurial spirit is tougher.

To recognize the monumental achievements of our nation's small firms, the Small Business Administration (SBA) has declared May 17-23 as the 46th Annual National Small Business Week. The House Small Business Committee is celebrating all our country's hard-working entrepreneurs by saluting the Heroes of Small Business, those men and women who have shown the strength, leadership, and resourcefulness that keeps our economy moving forward.

I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in recognizing and thanking Mr. Stephen Reister for his tremendous accomplishments on behalf of small businesses. Mr. Reister has been with Steel-T Heating and Air Conditioning for nearly 20 years, joining the company after it was purchased by his family in 1989. The company is one of the leading heating and air conditioning contractors in the Denver and northern Colorado area. Mr. Reister's contributions to the industry have earned him a place on the national furnace PID team for Carrier Corporation, the world's leader in heating and cooling solutions, and several awards for raising awareness and sales of more environmentally friendly products.

Mr. Reister is an active member of his community, serving as a board member of the Columbine Valley Water and Sanitation District. He is also involved in community organizations including the Colorado Fellowship of Christian Athletes CMT Board and The Gift of Warmth Program.

Madam Speaker, Mr. Reister has exemplified the remarkable accomplishments of which

America's entrepreneurs are capable. This week, he will testify before the House Small Business Committee to share his story. I ask that you and the entire U.S. House of Representatives join with me in honoring him for the extraordinary work he has done for the small business economy. His efforts demonstrate that if given the right resources, America's small businesses can be the catalysts that lift our economy from the current downturn and put us on the road to recovery.

CONGRATULATING THE SOUTH  
BEND ADAMS HIGH SCHOOL  
MOCK TRIAL TEAM

**HON. JOE DONNELLY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. DONNELLY of Indiana. Madam Speaker, I rise today to honor the victory of the South Bend Adams High School team in the National Mock Trial Competition. The championship culminates a year of successes for the "Usual Suspects," a team which won its second straight state championship. It was the perfect finish to a season full of intense training and practice. The victory caps a record of twelve state titles in the thirteen years of the mock trial program at Adams.

The exceptional members of the Adams Mock Trial team include: Josh Courtney, Jenn Deeter, Ellis Smith, Chris Silvestri, Adam Kern, Gabe Young, timekeeper David Kern, and student coaches Kieran Neal and Allie Soisson. The team was led to victory by coaches Lucas Burkett and Professor Jay Tidmarsh and faculty advisor Judith Overmyer.

Mock Trial competition involves not only knowledge of the law, but also the ability to plan both defensive and prosecutorial strategies and act the parts of lawyers and witnesses. The Adams team prepared a cunning defense and excelled at portraying believable witnesses and convincing lawyers while developing their communication, research, and organizational skills. Chris Silvestri distinguished himself among the participants by earning the "Best Witness" award.

The Adams Mock Trial team has achieved a memorable ending to an extraordinary year of competition. I offer my congratulations to the members of the team, the coaches, John Adams High School students, faculty and staff. I also offer my thanks and congratulations to members of the community, including local attorneys and judges, who supported the team on the road to this impressive accomplishment. The Adams Mock Trial team has represented Indiana, the City of South Bend, their school and themselves with excellence and distinction.

RECOGNIZING MAY AS HUNTINGTON'S  
DISEASE AWARENESS  
MONTH

**HON. DARRELL E. ISSA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. ISSA. Madam Speaker, today I rise to recognize May as Huntington's Disease Awareness Month. In support of those with Huntington's Disease and of finding a cure, I have cosponsored H.R. 678, "Huntington's Disease Parity Act of 2009." This bipartisan legislation sponsored by Rep. BOB FILNER (D-CA-41) would eliminate the 24-month waiting period for Medicare eligibility for those suffering from Huntington's Disease.

Huntington's Disease is a progressive degenerative neurological disease that causes total mental and physical deterioration in as few as 12 years and currently no cure exists. Already 20,000 Americans have been diagnosed with Huntington's and 6.5% of the population, or 200,000 individuals, are at risk for this disease.

The physical, emotional, and mental alterations a victim of Huntington's Disease undergoes are extreme to say the least. Even in the initial stages, patients are unable to continue employment and they must rely on family care and Social Security Disability Income. A similar neurological disease, Amyotrophic Lateral Sclerosis, received a waiver for the 24-month waiting period in 2000.

H.R. 678 would help to alleviate suffering that those diagnosed with Huntington's Disease must face every day. Implementing this legislation would not only help those diagnosed with Huntington's but also the families that have been financially devastated by this degenerative disease.

Madam Speaker, I urge my colleagues in Congress and the public at large to recognize this important month.

IN HONOR OF FRANKLYN KELLOGG

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor of my friend, Franklyn Kellogg, on the occasion of his 90th Birthday and in recognition of his dedication to his community and a life lived with a great sense of humor, energetic spirit, joy for living and positive outlook.

Mr. Kellogg grew up in the Tremont neighborhood of Cleveland, Ohio. After high school, he joined the army and served as a military police officer during WWII. Following the war, he came back to Cleveland and began his lifelong vocation of protecting others, first as a firefighter and then as Fire Chief of City Cleveland. Mr. Kellogg was a leader in evolving safety training and techniques, many of which are still used today in Ohio and across the country.

Mr. Kellogg was one of the first firefighters in Cleveland to be trained as a certified para-

medic. He became a top-notch instructor, training firefighters and paramedics, even travelling as far as California with requests for his training expertise. Mr. Kellogg has earned a nationally-known reputation as being one of the best arson investigators in the country, and has been consulted numerous times by fire departments in Ohio and across the country. Several of Mr. Kellogg's arson cases are still used today as models in firefighter training courses, including courses taught at Cuyahoga Community College. He continues to be an active member of his community and of the Zion United Church of Christ of Tremont, the church he has attended since childhood.

Madam Speaker and colleagues, please join me in honor and celebration of Mr. Kellogg's 90th Birthday. His kindness and commitment to community leadership and service continues to be evident in all he does. I stand in honor and gratitude of Mr. Kellogg's lifelong service to our community and I wish him the best as he and his family celebrate his 90th birthday.

COMMEMORATING THE 75TH ANNI-  
VERSARY OF THE NORTH SEA  
FIRE DEPARTMENT

**HON. TIMOTHY H. BISHOP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BISHOP of New York. Madam Speaker, residents of Long Island, New York are truly fortunate that our local firefighters are also our neighbors. Since 1934, residents of the Peconic Bay hamlet of North Sea have relied on the professionalism of the all-volunteer North Sea Fire Department, and today I proudly rise to mark the 75th anniversary of its founding.

To date, 2009 has been one of the busiest years on record for the North Sea Fire Department, as they have responded to more fire calls than any other department in Suffolk County. Each has been answered with the speed, skill and courtesy that has been the department's calling card for 75 years.

Madam Speaker, while the children of North Sea may be upset that the firefighters have not been able to lavish their customary level of attention on the department's annual Fourth of July carnival and fireworks, their parents can rest assured that their neighbors at the firehouse are devoted to keeping the community safe any hour of the day or night. I offer my thanks and best wishes as they continue their tradition of community service for many years to come.

INTRODUCTION OF THE EMPOWERING MEDICARE PATIENT CHOICES ACT ESTABLISHES A PHASED IN PROGRAM TO SUPPORT SHARED DECISION-MAKING IN MEDICARE BY EQUIPPING BENEFICIARIES WITH UNBIASED, EVIDENCED-BASED RESOURCES THAT CAN HELP THEM BE BETTER INVOLVED IN TREATMENT DECISIONS

**HON. EARL BLUMENAUER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BLUMENAUER. Madam Speaker, today I am proud to introduce the Empowering Medicare Patient Choices Act of 2009.

The onset of an illness creates intense stress and anxiety for patients and families. In addition to the weight of a diagnosis, patients struggle to learn about their illness and determine which treatments to pursue. During this time, people often feel helpless and unprepared to make such critical decisions, but it doesn't have to be that way. We have the opportunity to improve both the quality of health care and patient satisfaction by better engaging patients and families in treatment decisions.

The Empowering Medicare Patient Choices Act will create a shared decision-making process between physicians and patients within Medicare, offering incentives for doctors to provide resources such as DVD's and web-based, interactive programs. These materials provide unbiased, evidence-based information on treatment options. After reviewing the decision aids, patients and families are better prepared to have meaningful conversations with their doctors to determine the course of action right for them.

The legislation introduces shared decision-making into Medicare in three phases. Phase I is a three-year period pilot program allowing 'early adopting' providers to participate, providing data and serving as Shared Decision-Making Resource Centers. Phase II expands the pilot for a three-year period during which a larger pool of providers will be eligible to receive reimbursement for the use of certified patient decision aids. The final stage requires providers to use patient decision aids for certain conditions as a standard of practice.

Shared decision-making is a common-sense program that will improve quality of care, but more importantly, support patients and families during difficult times.

INTRODUCTION OF THE INDEPENDENCE AT HOME ACT

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. MARKEY of Massachusetts. Madam Speaker, I rise today to introduce the Independence at Home Act. I would like to thank my colleague and fellow co-chair of the bipartisan Alzheimer's Task Force, Mr. CHRIS SMITH

of New Jersey, for working with me on this important legislation.

As health care reform efforts move forward, we have a golden opportunity to provide high-quality care for our most vulnerable seniors right in their own homes at dramatically lower costs. The bi-partisan Independence at Home legislation we are reintroducing today aims to better coordinate care for Medicare beneficiaries with multiple, debilitating chronic diseases, including Alzheimer's, congestive heart failure, diabetes and other chronic conditions.

In many cases, our frail elders prefer to remain in their own homes, in the comfort of familiar surroundings, rather than enter a nursing home or hospital. Our current health care system does a poor job caring for seriously ill Americans, who often are "lost in transition", struggling to manage multiple illnesses as they transition between emergency room, hospital, nursing facility and home. The Independence at Home Act holds great promise for reducing hospitalizations, preventing medication errors, and lifting the spirits of those who, after a lifetime of contributions to our society, deserve the dignity and peace of mind that comes with living independently.

This legislation builds on successful house calls programs operating around the country and at the Department of Veterans Affairs by establishing a 3-year pilot program in Medicare that would enable beneficiaries with chronic, complex conditions to receive the care they need in their own homes. These patients see roughly 14 physicians and fill about 50 prescriptions each year. Due to a lack of coordination between their many doctors, these patients often receive disjointed care, conflicting information, and multiple diagnoses for the same symptoms. At the same time, Medicare beneficiaries with multiple chronic conditions account for a highly disproportionate share of Medicare spending.

The Independence at Home Act creates a three year pilot program that utilizes a patient-centered health delivery model to ensure that Medicare beneficiaries with multiple chronic conditions can remain independent, in their homes, for as long as possible. Our model is a better, more coordinated way of getting these patients the care they need by physicians who know them and are experienced in managing their unique needs.

The Independence at Home care teams tasked with coordinating the care of these patients will be comprised of qualified and experienced physicians, physician assistants, and nurse practitioners. Participating organizations will be required to produce improved health outcomes, demonstrate patient and caregiver satisfaction, and show that their methods result in savings to Medicare. In order to realize these savings, our bill holds participating providers accountable for demonstrating a minimum savings of 5 percent to Medicare. As an incentive, providers are able to keep a portion of savings they achieve beyond the initial 5 percent. Whereas our current health care system runs up costs by reimbursing for the volume of care, the Independence at Home model incentivizes the value of care.

This proposal also encourages the adoption of electronic medical records and other technologies that will result in more efficient and cost-effective care. And, to help address the

existing shortage of primary care physicians, this bill develops a new, promising career path for primary care physicians who can own and operate Independence at Home organizations and receive reimbursements for house calls.

The Independence at Home Act addresses the needs of patients with multiple chronic diseases and holds providers accountable for producing savings. As such, I believe this bill to be a critical part of our efforts to reform health care because it will produce better, coordinated care and reduce costs. I look forward to working with my colleagues in the House to turn our "sick-care" system into a true health care system, and I look forward to working on this bill with my colleagues as efforts proceed to pass comprehensive health care reform this year.

CONGRATULATING CHRIS ECONOMAKI, THE 2009 RECIPIENT OF POCONO RACEWAY'S BILL FRANCE AWARD OF EXCELLENCE

**HON. PAUL E. KANJORSKI**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KANJORSKI. Madam Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Chris Economaki, the dean of motorsports journalists, who has dedicated himself to the promotion of a national sport that has enriched the lives of countless people for more than 60 years.

Mr. Economaki is the first journalist to receive this award, first presented in 1977, which is dedicated to the memory of William H. G. France, the founder of NASCAR. This award is presented annually to a person, organization or corporation that has made outstanding contributions to the sport of NASCAR Sprint Cup Series Racing.

Born in Brooklyn, New York, in 1920, Mr. Economaki's father was a Greek immigrant while his mother was a great niece of Robert E. Lee. He witnessed his first auto race in Atlantic City at the age of nine and was immediately hooked on the sport. He started his career at the age of 13 selling copies of National Speed Sport News newspapers. He wrote his first column at the age of 14 for the National Auto Racing News. In 1950, he became editor of the National Speed Sport News. He began a column for that publication, titled "The Editor's Notebook," that he still writes more than 50 years later. He eventually became owner, publisher and editor of the National Speed Sport News. His daughter, Corinne Economaki, is the current publisher and the paper is still considered "America's Weekly Motorsports Authority."

His autobiography is entitled "Let Em All Go: The Story of Auto Racing by the Man Who Was There."

Mr. Economaki worked as a race track announcer in the 40s and 50s. He covered races at Indianapolis, Daytona, LeMans and many other locations. His motorsports coverage on radio and television became legendary.

Mr. Economaki has been the recipient of numerous major motorsports award and he was



inducted into the Motorsports Hall of Fame of America in 1994. The Economaki Champion of Champions Award is named after him. A day at the Dodge Charger 500 at the Darlington Speedway race weekend is named "Chris Economaki Day." The press room at the Indianapolis Motor Speedway was named the "Economaki Press Conference Room" in 2006. He appeared as a pit reporter in two motion picture films, "Stroker Ace" and "Six Pack."

Madam Speaker, please join me in congratulating Mr. Economaki on this notable occasion. His contributions to the motorsports industry have been economically rewarding to countless families across America and have improved the quality of life for so many. Mr. Economaki epitomizes the spirit of American entrepreneurs and his example is inspirational to the generations who will follow him.

IN RECOGNITION OF THE 100TH  
BIRTHDAY OF SALLY MATTHEWS

**HON. STEVEN R. ROTHMAN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. ROTHMAN of New Jersey. Madam Speaker, I rise to recognize the 100th birthday of Mrs. Sally Matthews, which will take place on May 30, 2009. Sally, a lifelong resident of Jersey City, New Jersey, is the proud mother of two sons and six grandchildren. Throughout her life, Sally has been an outstanding public servant and professional. She worked for the New Jersey State Board of Children's Guardians from 1925 to 1942. Sally was subsequently employed as a legal secretary, receiving the distinction of being the Hudson County Legal Secretaries Association's Legal Secretary of the Year in 1970. Sally has always taken the time to give back to her community, having volunteered at St. Aedan's Rectory in Jersey City and having been a charter member of St. Aedan's Golden Club, 41 years ago. As Sally and her friends gather on June 1st to celebrate her 100th birthday, I wish her, on behalf of myself and the people of the 9th Congressional District of New Jersey, the very best as she reaches this exciting milestone in her life.

IN HONOR OF THE GREEK ORTHODOX  
CHURCH OF THE ANNUNCIATION AND THE 2009 HELLENIC  
HERITAGE FESTIVAL

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of the Greek Community of Cleveland, Ohio, and the members and leaders of the Greek Orthodox Church of the Annunciation of Cleveland as join fellow community members this Memorial Day weekend to celebrate the heritage and culture of Greece at the annual Hellenic Heritage Festival.

The oldest Greek Orthodox Church in Cleveland, the Greek Orthodox Church of the Annunciation was officially incorporated on February 15, 1913. Located on the corner of West 14th Street and Fairfield Avenue in the Historic Tremont District of Cleveland, it was the only Greek Orthodox Church to exist in the Greater Cleveland area until 1937. Today, it remains an active parish with an internationally-accredited Greek School.

For more than thirty years, members of the Greater Cleveland Community have gathered on the grounds of the Greek Orthodox Church of the Annunciation to partake in the annual Hellenic Heritage Festival, a wonderful community and family event that is enjoyed and shared by Clevelanders of all ethnic backgrounds. The event reflects the values of our community: faith, family, heritage and diversity. The festival is also a time of remembrance and honor—remembering our ancestors and relatives whose struggles, tragedies and triumphs will be remembered and revered from generation to generation, and honoring the numerous and significant contributions made to our community and our nation by Americans of Greek heritage.

Madam Speaker and colleagues, please join me in honoring Greek-Americans throughout our community and throughout our nation. I also stand in recognition of the members and leaders of the Greek Orthodox Church of the Annunciation, whose individual and collective commitment to preserving and promoting the history and heritage of their beloved Greek homeland serves to enrich the diverse fabric of the Greater Cleveland Community.

HONORING SOMPOP JANTRAKA  
AND HIS SCHOOL DEPCD

**HON. PATRICK J. KENNEDY**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KENNEDY. Madam Speaker, I rise today to acknowledge the extraordinary vision and compelling work for peace of Sompop Jantraka and his school, DEPCD—the Development and Education Programme for Daughters and Communities.

Mr. Jantraka understands the necessity for caring intervention in order to save the young, innocent, poverty-stricken masses of the world. He has toiled tirelessly and fearlessly, in the face of danger, organized crime and desperation and oftentimes abandonment by parents of their offspring, to prevent child trafficking in the Mekong sub-region of Thailand's "Golden Triangle." He has made this cause, above many others, one of the main purposes of his life.

DEPCD is Thailand's first pro-active center for the prevention of child trafficking. It began with modest beginnings, nineteen "daughters" in a small house. And because of the incessant commitment to the preservation of children's futures, DEPCD has to-date prevented over 3,000 "daughters" and "sons" from being sold and from other forms of child exploitation. DEPCD has achieved this colossal feat by helping children gain access to adequate schooling and protective, safe sheltering.

Being a man of great humility, Mr. Jantraka has not sought acknowledgement but yet stands as a giant amongst many because of the success of his passion. In September 2008, Mr. Jantraka received a Rockefeller travel grant to participate as a panelist at the "Clinton Global Initiative" Annual Meeting in New York City in order to provide his expertise and insight. In March 2008, the University of Michigan awarded Mr. Jantraka its "Wallenberg Medal" for humanitarian service. It is my hope that Mr. Jantraka's work will continue to bring light to this severe, international pandemic that is encroaching upon and threatening the human rights of children across the globe.

It has been said of Mr. Jantraka that, with few resources and many enemies, he has been a strong force in the fight against human trafficking. Sompop Jantraka is not only a living example of passion and concern manifesting into tangible humanitarian works, but he also serves an inspiration to the world, reminding us of the great fellow citizens we can be and invoking the compulsion to be the great fellow citizens we should be.

TRIBUTE TO SISTER HELEN  
DONOHUE

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. ESHOO. Madam Speaker, I rise today to pay tribute to Sister Helen Donohoe who was called into eternity on Holy Saturday night, April 11, 2009, surrounded by her beloved Sisters, the Religious of the Sacred Heart.

My family was especially blessed to have Sister Helen as our dearest friend for decades. She was gentle, intelligent, loving, wise and holy. The following was read at Sister Donohoe's Memorial Mass celebrating her life:

On November 30, 1918, two and a half months premature, Helen Dorothy Donohoe, the youngest of ten children, was born into a loving and faith-filled family to Patrick and Frances Brogan Donohoe in San Francisco, California. Her father and all her grandparents were immigrants from Ireland. One of her earliest memories was of the family gathering around a large dining room table to say the rosary, a devotion that her father began and which lasted her lifetime.

When she was only four years old, her father died of leukemia, leaving her mother a 41 year-old widow with ten vibrant children. Helen reported that all her siblings were at home until she was six years old, when her oldest brother, Hugh, later a Bishop, entered the seminary. She attended St. Agnes parochial school and Notre Dame High School. During these years two of her older sisters became Sisters of Notre Dame de Namur; two brothers entered the Jesuits; other siblings married. When Helen was seventeen, her mother would not allow her to enter the Notre Dame novitiate, and her brother would not allow her to attend a state college, so she chose the San Francisco College for Women, Lone Mountain, run by the Religious of the Sacred

Heart. Helen reported being very aware of how prayerful the nuns were. After three years of college, she wanted to enter religious life, but her mother insisted that she finish college. She even recalled being torn between the Notre Dame Sisters and the Religious of the Sacred Heart. The latter won out.

In August of 1940, she arrived with three other candidates at Kenwood, Albany, New York—the novitiate of the Society of the Sacred Heart. Her eyes were so bad that she ended up working in the sacristy and the library, instead of doing needlework. On February 22, 1943, Helen pronounced First Vows in the Society and returned to the Academy in San Francisco to teach in the elementary school. In May of 1945, she was sent to bed for three months when doctors feared she had incipient tuberculosis. The life of Sister Josefa was a great help during that time. Afterwards, she was sent to recuperate in San Diego, Old Town, where the first Religious of the Sacred Heart were forming a community and preparing to move to the newly founded San Diego College for Women, later to become the University of San Diego.

By 1946 Helen returned to Atherton, enrolled at Stanford University, and began work on an M.A. in History and later changed to Economics—a long, arduous journey. During this time she was finally professed in Rome on February 9, 1949. By 1951 she received her M.A. in Economics, and she was assigned to Lone Mountain to teach both history and economics and to be junior counselor. From that year until 1967, Helen held a variety of positions at Lone Mountain: Professor, counselor, and assistant to the Dean, until she was named Assistant to the Superior, and later Superior.

One of the young nuns, Mary Jane Tiernan, who arrived from the noviceship at El Cajon, California at that time reports: "Dear Helen broke ranks and hugged me in welcome. I will never forget her and that warm hug in the midst of an austere scene. She was always warm and loving to me, the youngest in the community. Because of her I maintained my equilibrium in a changing world. She had a laugh, almost a talking giggle, when she thought someone or something was funny. I can still hear it. Throughout my life she was a loving presence. I do know that she was anxious, but she always had that ready Irish sense of humor despite her fears."

By 1975 Helen became a member of the Western Province Provincial Team, serving with two provincials. In this time period she took a sabbatical, spending a year at Oxford, England, and having exciting excursions in Europe. In 1985 she was Superior at the Society's retirement facility in Atherton, followed by two years in charge of hospitality at the provincial house in St. Louis. After returning West, Helen worked in hospital chaplaincy, and eventually for nine years as Director of the Oakwood Retirement Center.

Those who knew Helen best describe her as gentle, loving, deeply loyal and full of life, open to possibilities, responsible, but light. As one friend said, "Helen was an absolute delight; she was full of fun and stories. She evoked many good laughs." One of her great gifts was that of hospitality in a variety of roles. People felt loved and cared for when

Helen was around. Her close friend Sister Be Mardel, said, "Helen was physically fearful—terrified of being on the edge of a precipice, wary of heights and speed and winding mountain roads. She was, however, steadfast. One could always count on her. She was always ready to help, to support, to listen, and always ready to laugh at herself. A few years ago, Helen said to me, 'You know, I'm ready for anything,' and she added, 'I've had a big grace.' And, indeed, she did, and that deep peace and calm stayed with her right up to the end."

In 2004 Helen moved to Oakwood, where, surrounded by her Sisters, she died peacefully on Holy Saturday night, April 11, 2009. Mary Jane Tiernan wrote, "When I heard that Helen had gone to God, I knelt down in my house and prayed for her and to her. What joy and love she nurtured me with during the years. I know she now enjoys life to the fullest with a shy smile and a twinkle in her eyes."

Madam Speaker, I ask that the entire House of Representatives join me in extending our sympathy to the Religious of the Sacred Heart and the Donohoe family. Heaven is enhanced with Sister Helen's presence. She left our world better for how she lived her life, for all those she educated, and for her countless acts of love.

#### HONORING ALBIN GRUHN

#### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. GEORGE MILLER of California. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for the Hammond Lumber Co. where he joined the Sawmill and Loggers Federal Union. A strike shortly afterwards resulted in the deaths of three union picketers and deeply affected him, resulting in a life-long commitment to the labor movement.

He was also blacklisted as a result of his participation in the strike but soon found employment in construction, joining the Laborers Local where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

In 1940 Mr. Gruhn was first elected to what is now the California Labor Federation as district vice president and became its president in 1960. He led with skill, enthusiasm, and passion until his retirement in 1996. He helped build the organization into a strong and effective advocacy group for the rights of workers, inspiring several generations of political and labor leaders along the way.

During the 1960s, Mr. Gruhn was also a founder of the Association of California Consumers, California's first consumer group, and later became a founding officer and then president emeritus of the Consumer Federation of California. He also devoted some of his considerable energies to the California Apprenticeship Council and the California Constitution Revision Commission as well as serving on various state commissions. These were appointments over the decades by five California governors and covered a variety of issues from fair housing to air pollution. One of the commissions dealt with children and youth, reflecting his deep involvement in the annual scholarship program established by the California Labor Federation.

Mr. Gruhn was always politically active as a means of supporting the causes he believed in. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

Mr. Gruhn was married to the former Dorothy Coon for over 37 years. Dorothy predeceased him in 2005, and the couple are survived by a large family of eight children, 14 grandchildren, and 17 great grandchildren.

Madam Speaker, Albin Gruhn was proud to fight for working people, and all those with whom he came in contact—from family and friends to political leaders and co-workers—drew inspiration from his commitment. It is fitting in honoring him today to remember the remarks he always used to conclude his labor speeches: "In unity there is strength. United we stand, divided we fall. An injury to one is an injury to all."

#### HONORING ALBIN GRUHN

#### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. HONDA. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was preserving and improving the welfare of working people in California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for the Hammond Lumber Co. where he joined the Sawmill and Loggers Federal Union. A strike shortly afterwards resulted in the deaths of three union picketers and deeply affected him, resulting in a life-long commitment to the labor movement.

Blacklisted as a result of his participation in the strike, he soon found employment in construction, joining the Laborers Local where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

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During the 1960s, Mr. Gruhn was also a founder of the Association of California Consumers, California's first consumer group, and later became a founding officer and then president emeritus of the Consumer Federation of California. He also devoted some of his considerable energies to the California Apprenticeship Council and the California Constitution Revision Commission as well as serving on various state commissions. These appointments spanned several decades and five California governors, covering a variety of issues from fair housing to air pollution. One of the commissions dealt with children and youth, reflecting his deep involvement in the annual scholarship program established by the California Labor Federation.

Mr. Gruhn supported the causes he believed in by staying politically active. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

Mr. Gruhn was married to the former Dorothy Coon for over 37 years. Dorothy predeceased him in 2005, and the couple is survived by a large family of eight children, 14 grandchildren, and 17 great grandchildren.

Madam Speaker, Albin Gruhn was proud to fight for working people, and all those with whom he came in contact—from family and friends to political leaders and co-workers—drew inspiration from his commitment. It is fitting in honoring him today to remember the remarks he always used to conclude his labor speeches: "In unity there is strength. United we stand, divided we fall. An injury to one is an injury to all."

#### HONORING ALBIN GRUHN

#### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Ms. LEE of California. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

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Mr. Gruhn was always politically active as a means of supporting the causes he believed in. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

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#### INTRODUCTION OF THE PROSTHETIC AND CUSTOM ORTHOTIC PARITY ACT OF 2009

#### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. ANDREWS. Madam Speaker, I rise today with my colleagues to introduce the "Prosthetic and Custom Orthotic Parity Act of 2009 (PCOPA)." At a time when health care costs are rising by about 7 percent annually, the financial hardship on those in need of prosthetic and custom orthotic devices is devastating. Yet, by expanding coverage for pros-

thetic and custom orthotic devices so that it is on par with other types of essential care, not only will provide amputees with proper treatment, which will allow them to experience a better quality of life, but save our health care system money in the long-term. That is, prosthetic and orthotic devices often dramatically decrease secondary health problems for those in need of such a device.

The Prosthetic and Custom Orthotic Parity Act would address the significant health insurance inequity that amputees in our society currently face by requiring insurance companies that offer prosthetic and custom orthotic services to provide the same level of coverage as they do for medical and surgical services. Specifically PCOPA would provide coverage of prosthetic and custom orthotic devices, as well as their repair and replacement, under the same terms and conditions applicable to the other medical and surgical benefits provided under the health insurance policy.

Currently, eleven states have addressed this problem and have enacted prosthetic and/or custom orthotic "parity" legislation. Furthermore, prosthetic and/or custom orthotic parity legislation has been introduced and is being actively considered in thirty other states.

I ask my colleagues to join me in supporting this important piece of legislation that will help put an end to the inequity many Americans who have lost a limb by way of a tragic event as well as those living with cerebral palsy and alike, experience when denied coverage by their insurance company.

#### PERSONAL EXPLANATION

#### HON. CHRISTOPHER P. CARNEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. CARNEY. Madam Speaker, on Monday, May 18, I was absent for three rollcall votes. If I had been here, I would have voted: "yea" on rollcall vote 267; "yea" on rollcall vote 268; and "yea" on rollcall vote 269.

#### INTRODUCTION OF COERCION IS NOT HEALTH CARE

#### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. PAUL. Madam Speaker, today I am introducing the Coercion is Not Health Care Act. This legislation forbids the Federal Government from forcing any American to purchase health insurance, and from conditioning participation in any Federal program, or receipt of any Federal benefit, on the purchase of health insurance.

While often marketed as a "moderate" compromise between nationalized health care and a free market solution, forcing every American to purchase a government-approved health insurance plan is a back door approach to creating a government-controlled health care system.

If Congress requires individuals to purchase insurance, Congress must define what insurance policies satisfy the government mandate.

Thus, Congress will decide what is and is not covered in the mandatory insurance policy. Does anyone seriously doubt that what conditions and treatments are covered will be determined by who has the most effective lobby. Or that Congress will be incapable of writing a mandatory insurance policy that will fit the unique needs of every individual in the United States?

The experience of States that allow their legislatures to mandate what benefits health insurance plans must cover has shown that politicizing health insurance inevitably makes health insurance more expensive. As the cost of government-mandated health insurance rises, Congress will likely create yet another fiscally unsustainable entitlement program to help cover the cost of insurance.

When the cost of government-mandated insurance proves to be an unsustainable burden on individuals and small employers, and the government, Congress will likely impose price controls on medical treatments, and even go so far as to limit what procedures and treatments will be reimbursed by the mandatory insurance. The result will be an increasing number of providers turning to "cash only" practices, thus making it difficult for those relying on the government-mandated insurance to find health care. Anyone who doubts that result should consider the increasing number of physicians who are withdrawing from the Medicare program because of the low reimbursement and constant bureaucratic harassment from the Centers for Medicare and Medicaid Services.

Madam Speaker, the key to effective health care reform lies not in increasing government control, but in increasing the American people's ability to make their own health care decisions. Thus, instead of forcing Americans to purchase government-approved health insurance, Congress should put the American people back in charge of health care by expanding health care tax credits and deductions, as well as increasing access to Health Savings Accounts. Therefore, I have introduced legislation, the Comprehensive Health Care Reform Act (H.R. 1495), which provides a series of health care tax credits and deductions designed to empower patients. I urge my colleagues to reject the big government-knows-best approach to health care by cosponsoring my Coercion is Not Health Care Act and Comprehensive Health Care Reform Act.

#### INTRODUCTION OF THE VACCINE SAFETY AND PUBLIC CONFIDENCE ASSURANCE ACT OF 2009

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. MALONEY. Madam Speaker, today I am reintroducing important legislation with my colleague Mr. SMITH that I hope will go a long way to restoring public confidence in governmental vaccine-safety monitoring agencies. Public confidence in vaccine-safety is critical to maintaining the effectiveness of our Nation's vaccine program in preventing the

spread of infectious disease. However, this confidence has been shaken by the actual or perceived conflicts of interest that may arise in the current system by which federal government agencies compete for funds or promote high immunization rates while concurrently promoting vaccine-safety. In addition to possible conflicts of interest, the public has serious concerns with the safety of vaccines or multiple vaccine schedules that may result in vaccine-related injuries. This legislation aims to build and maintain public confidence by putting measures in place to ensure the integrity and quality of vaccine-safety research. It is absolutely necessary that the American public have total and complete trust in the safety of our Nation's vaccine program, which is why I introduce this legislation today.

#### GRATITUDE FOR THE SERVICE OF MARIO V. DISPENZA

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. CONYERS. Madam Speaker, Judiciary Crime Subcommittee Chairman BOBBY SCOTT and I would like to take this opportunity to thank one of the most productive and dedicated members of the Judiciary Committee staff, Mario Dispenza. For the past two years, Mario has served as a counsel for the Committee, working principally with the Crime, Terrorism, and Homeland Security Subcommittee.

Mario came to the Judiciary Committee on a detail from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), where he has worked for 20 years. After graduating with honors from Kean University, he began his distinguished career with the ATF as a special agent in Cleveland, quickly moving up through the ranks to become a Program Manager in the Office of Professional Responsibility and Security Operations. While working for the ATF, Mario studied in the International Human Rights Programme at the New College of Oxford University, and earned his law degree with honors from The George Washington University Law School.

Mario's tenure with the Committee included work on legislation of critical importance to our nation's criminal justice system. He ushered several important measures through the Committee and the full House, including during the 110th Congress: H.R. 923, the "Emmet Till Unsolved Civil Rights Crime Act"; H.R. 1199, the "Drug Endangered Children Act of 2007"; H.R. 1759, the "Managing Arson Through Criminal History (MATCH) Act of 2007"; H.R. 1943, the "Stop AIDS in Prison Act of 2007"; H.R. 2286, the "Bail Bond Fairness Act of 2007"; H.R. 2878, the "Enhanced Financial Recovery and Equitable Treatment Act of 2007"; H.R. 3480, the "Let Our Veterans Rest in Peace Act of 2007"; H.R. 3456/S. 231 to Reauthorize the Edward Byrne Memorial Justice Assistant Grant Program at Fiscal Year 2006 Levels through 2012; H.R. 3971, the "Deaths in Custody Reporting Act of 2008"; H.R. 4056/S. 2565, the "Federal Law Enforcement Congressional Badge of Bravery Act of 2007"; H.R. 4238, the "Literacy, Education

and Rehabilitation Act of 2007"; H.R. 4300, the "Juvenile Justice Accountability and Improvement Act of 2007"; H.R. 5057, the "Debbie Smith Reauthorization Act of 2008"; H.R. 5938, the "Former Vice President Protection Act of 2008"; H.R. 6083, To authorize funding to conduct a national training program for State and local prosecutors; H.R. 6295/S. 3598, the "Drug Trafficking Vessel Interdiction Act of 2008"; H.R. 6838, the "Campus Safety Act of 2008"; H.R. 4110/S. 973, the "Restitution for Victims of Crime Act of 2007" and H.R. 845, the "Criminal Restitution Improvement Act." During the 111th Congress, Mario has been integral to the progress of: H.R. 738, the "Death in Custody Reporting Act of 2008"; H.R. 748, the "Center to Advance, Monitor, and Preserve University Security (CAMPUS) Safety Act of 2009"; H.R. 503, the "Prevention of Equine Cruelty Act of 2009"; H.R. 1741, the "Witness Security and Protection Grant Program Act of 2009"; H.R. 1667, the "War Profiteering Prevention Act of 2009"; and the Department of Justice reauthorization appropriations.

We would like to thank the ATF for their generosity in lending such an able, responsible, and genial member of their team to the Congress. Mario will be missed, for he has become a trusted colleague, mentor, and friend to many members of the staff and Committee. We wish him the best of luck and extend our deepest gratitude for his service and professionalism.

#### HONORING ALBIN GRUHN

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. STARK. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for the Hammond Lumber Co. where he joined the Sawmill and Loggers Federal Union. A strike shortly afterwards resulted in the deaths of three union picketers and deeply affected him, resulting in a life-long commitment to the labor movement.

He was also blacklisted as a result of his participation in the strike but soon found employment in construction, joining the Laborers Local where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

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Mr. Gruhn was always politically active as a means of supporting the causes he believed in. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

Mr. Gruhn was married to the former Dorothy Coon for over 37 years. Dorothy predeceased him in 2005, and the couple are survived by a large family of eight children, 14 grandchildren, and 17 great grandchildren.

Madam Speaker, Albin Gruhn was proud to fight for working people, and all those with whom he came in contact—from family and friends to political leaders and co-workers—drew inspiration from his commitment. It is fitting in honoring him today to remember the remarks he always used to conclude his labor speeches: "In unity there is strength. United we stand, divided we fall. An injury to one is an injury to all."

#### HONORING ALBIN GRUHN

#### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

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Madam Speaker, Albin Gruhn was proud to fight for working people, and all those with whom he came in contact—from family and friends to political leaders and co-workers—drew inspiration from his commitment. It is fitting in honoring him today to remember the remarks he always used to conclude his labor speeches: "In unity there is strength. United we stand, divided we fall. An injury to one is an injury to all."

#### HONORING ALBIN GRUHN

#### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. THOMPSON of California. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for

the Hammond Lumber Co. where he joined the Sawmill and Loggers Federal Union. A strike shortly afterwards resulted in the deaths of three union picketers and deeply affected him, resulting in a life-long commitment to the labor movement.

He was also blacklisted as a result of his participation in the strike but soon found employment in construction, joining the Laborers Local where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

In 1940 Mr. Gruhn was first elected to what is now the California Labor Federation as district vice president and became its president in 1960. He led with skill, enthusiasm, and passion until his retirement in 1996. He helped build the organization into a strong and effective advocacy group for the rights of workers, inspiring several generations of political and labor leaders along the way.

During the 1960s, Mr. Gruhn was also a founder of the Association of California Consumers, California's first consumer group, and later became a founding officer and then president emeritus of the Consumer Federation of California. He also devoted some of his considerable energies to the California Apprenticeship Council and the California Constitution Revision Commission as well as serving on various state commissions. These were appointments over the decades by five California governors and covered a variety of issues from fair housing to air pollution. One of the commissions dealt with children and youth, reflecting his deep involvement in the annual scholarship program established by the California Labor Federation.

Mr. Gruhn was always politically active as a means of supporting the causes he believed in. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

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#### TRIBUTE TO CONGREGATION B'NAI ISRAEL

#### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. PAYNE. Madam Speaker, I ask my colleagues here in the House of Representatives to join me as I rise to commend Congregation

B'nai Israel in Millburn, New Jersey on its groundbreaking ceremony on Sunday, April 26, 2009. Congregation B'nai Israel, under the leadership of Rabbi Steven Bayar decided to commit to an over six million dollar renovation project in spite of the tenuous economy and worrisome financial markets.

Congregation B'nai Israel is blessed to have financial commitments of \$5.2 million from its members for this important project. The most significant part of the renovation will be a new, two story building for B'nai Israel's nursery and religious school. Fortunately, the decision to go ahead with the renovation will guarantee jobs for local construction crews and a revenue stream for suppliers of building materials.

It is a pleasure for me to celebrate with the members of Congregation B'nai Israel, Rabbi Bayar, Mayor Sandra Haimoff and others as they take this leap of faith in moving forward with the project. This initiative will serve as a model to other entities that may be contemplating similar projects but have been reluctant to proceed in today's challenging economic times. It is this kind of dedication and steadfastness that will help propel our Nation forward and bring us back to a sense of prosperity and hopefulness.

Madam Speaker, I know my colleagues agree that Congregation B'nai Israel has made the right decision in continuing with its renovation project and demonstrating its faith to the community it serves. I am pleased to recognize Congregation B'nai Israel and proud to have it in my Congressional District.

#### RECOGNITION FOR HISTORICAL SOLDIERS' RELOCATION PROJECT

#### HON. GABRIELLE GIFFORDS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. GIFFORDS. Madam Speaker, I rise today to reaffirm a sacred principle that has guided and inspired our Armed Forces for more than two centuries. That principle—"leave no man behind"—was given new meaning in Southeastern Arizona on May 15 and 16, 2009.

On those dates, 58 American soldiers who died while serving their country were reburied in an emotional ceremony. The flag-draped caskets holding the remains of these soldiers were carefully transported from Tucson to their final resting place at the veterans cemetery in Sierra Vista.

What made this ceremony so poignant was not the journey from one Arizona city to another. This reburial also was a journey through time. These men who once wore the military uniform of our country died between the 1860s and 1880s. Their remains, as well as the remains of four civilians, were unearthed during an excavation project in downtown Tucson.

My hometown has undergone many changes since the late 19th century. Then, Arizona was decades away from becoming a state and our military was nothing like the global fighting force it is today. Yet then and now we adhere to the principle that no soldier who died for his country should be left behind.

This principle—like the Constitution these soldiers fought to defend—transcends eras and endures through the ages.

The reaffirmation of this principle would not have been possible without the men and women of the Historical Soldiers' Relocation Project who dedicated their time and energy to make sure our soldiers were given an honorable and dignified burial. These patriotic citizens worked tirelessly to organize a ceremony that would reflect the significance of the occasion. No detail was overlooked, from the Victorian style cemetery to the marble headstones made for each of the deceased. The flag covering each casket was the thirty-five star flag—the flag under which these soldiers once served.

The remains of the soldiers were given every honor we should give all who have served our nation in the Armed Forces. The soldiers were placed among the other honored dead of our military after being escorted by more than 200 veterans on motorcycles from Tucson to their new resting place at the Southern Arizona Veterans Memorial Cemetery. I was honored to be a part of this escort.

All of this would not have been possible without the commitment of the members of the Historical Soldiers' Relocation Project. They are: Joey Strickland, Joe Larson, Bob Strain, Larry McKim, Ingrid Ballie, Tom Dingwall, Earl Devine, Col. Bob White, Dr. Randy Groth, Dan Ferguson, Donald Nelson, Paul Weishaupt, Angela Moncur, Bill Hess, Ty Holland, Mike Rutherford, John Clabourne, Lynn Roehsler, Dave Schultz, Jan Groth, Joe Smith, Phil Vega, Stephen Siemsen, Clarence "Shorty" Larson, Timothy J. Quinn, Jim Bellomy, Jacob Loveron, Jeremiah Sprat, Logan Daynes, 1st Sgt. Matthew A. Putnam, LCDR Shannon Willits, SSGT Timothy Diggs, David Schreiner, John Prokop, Roger Anyon, Marlessa Gray M.A. RPA, Dorothy Ohman, Jim De Castro.

I commend them for their work on this important project and for ensuring we rightfully honor all those who have put on the uniform to serve our country.

#### IN HONOR OF ALBIN GRUHN

#### HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. MATSUI. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for the Hammond Lumber Co., where he joined the Sawmill and Loggers Federal Union. Shortly after, a strike resulted in the deaths of three union picketers and deeply affected him, resulting in a lifelong commitment to the labor movement.

Mr. Gruhn was also blacklisted as a result of his participation in the strike but soon found employment in construction, joining the Laborers Local, where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

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#### INTRODUCING THE PROTECT PATIENTS' AND PHYSICIANS' PRIVACY ACT

#### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. PAUL. Madam Speaker, I rise to introduce the Protect Patients' and Physicians' Privacy Act. This legislation protects medical privacy, as well as quality health care, by allowing patients and physicians to opt out of any federally mandated, created, or funded electronic medical records system. The bill also repeals the sections of Federal law establishing



a "unique health identifier" and requires patient consent before any electronic medical records can be released to a third party.

Congress has refused to fund the development of a unique health identifier every year since 1998. Clearly, the majority of my colleagues recognize the threat this scheme poses to medical privacy. It is past time for Congress to repeal the section of law authorizing the Federal unique health identifier.

Among the numerous provisions jammed into the stimulus bill, which was rushed through Congress earlier this year, was funding for electronic medical records. Medicare providers have until 2015 to "voluntarily" adopt the system of electronic medical records, or face financial penalties.

One of the major flaws with the federally mandated electronic record system is that it does not provide adequate privacy protection. Electronic medical records that are part of the federal system will only receive the protection granted by the Federal "medical privacy rule." This misnamed rule actually protects the ability of government officials and state-favored special interests to view private medical records without patient consent.

Even if the law did not authorize violations of medical privacy, patients would still have good reason to be concerned about the government's ability to protect their medical records. After all, we are all familiar with cases where third parties obtained access to electronic veteran, tax, and other records because of errors made by federal bureaucrats. My colleagues should also consider the abuse of IRS records by administrations of both parties and ask themselves what would happen if unscrupulous politicians gain the power to access their political enemies' electronic medical records.

As an OB/GYN with over 30 years of experience in private practice, I understand that one of the foundations of quality health care is the patient's confidence that all information the patient shares with his or her health care provider will remain confidential. Forcing physicians to place their patients' medical records in a system without adequate privacy protection undermines that confidence, and thus undermines effective medical treatment.

A physician opt out is also necessary in order to allow physicians to escape from the inefficiencies and other problems that are sure to occur in the implementation and management of the Federal system. Contrary to the claims of the mandatory system's proponents, it is highly unlikely an efficient system of mandatory electronic health records can be established by the Government.

Many health technology experts have warned of the problems that will accompany the system of mandatory electronic medical records. For example, David Kibbe, a top technology adviser to the American Academy of Family Physicians, warned President Obama in an open letter late last year that existing medical software is often poorly designed and does a poor job of exchanging information. Allowing physicians to opt out provides a safety device to ensure that physicians can avoid the problems that will inevitably accompany the government-mandated system.

Madam Speaker, allowing patients and providers to opt out of the electronic medical

records system will in no way harm the practice of medicine or the development of an efficient system of keeping medical records. Instead, it will enhance these worthy goals by ensuring patients and physicians can escape the inefficient, one-size-fits-all government-mandated system. By creating a market for alternatives to the government system, the opt-out ensures that private businesses can work to develop systems that meet the demands for an efficient system of electronic records that protects patients' privacy. I urge my colleagues to stand up for privacy and quality health care by cosponsoring the Protect Patients' and Physicians' Privacy Act.

#### INTRODUCTION OF THE KA'U COAST PRESERVATION ACT

**HON. MAZIE K. HIRONO**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. HIRONO. Madam Speaker, I rise today to introduce the Ka'u Coast Preservation Act, a bill directing the National Park Service to assess the feasibility of designating coastal lands on the Ka'u Coast of the island of Hawaii between Kapao'o Point and Kahuku Point as a unit of the National Park System.

Late last year, the National Park Service issued a reconnaissance report that made a preliminary assessment of whether the Ka'u Coast would meet the National Park Service's demanding criteria as a resource of national significance.

The reconnaissance survey concluded that "based upon the significance of the resources in the study area, and the current integrity and intact condition of these resources, a preliminary finding of national significance and suitability can be concluded." The report goes on to recommend that Congress proceed with a full resource study of the area.

Although under significant development pressure, the coastline of Ka'u is still largely unspoiled. The study area contains significant natural, geological, and archeological features. The northern part of the study area is adjacent to Hawaii Volcanoes National Park and contains a number of noteworthy geological features, including an ancient lava tube known as the Great Crack, which the National Park Service has expressed interest in acquiring in the past.

The study area includes both black and green sand beaches as well as a significant number of endangered and threatened species, most notably the endangered hawksbill turtle (at least half of the Hawaiian population of this rare sea turtle nests within the study area), the threatened green sea turtle, the highly endangered Hawaiian monk seal, the endangered Hawaiian hawk, native bees, the endangered and very rare Hawaiian orange-black damselfly (the largest population in the state), and a number of native endemic birds. Humpback whales and spinner dolphins also frequent the area. The Ka'u Coast also boasts some of the best remaining examples of native coastal vegetation in Hawaii.

The archeological resources related to ancient Hawaiian settlements within the study

area are also very impressive. These include dwelling complexes, heiau (religious shrines), walls, fishing and canoe houses or sheds, burial sites, petroglyphs, water and salt collection sites, caves, and trails. The Ala Kahakai National Historic Trail runs through the study area.

The Ka'u Coast is a truly remarkable area: its combination of natural, archeological, cultural, and recreational resources, as well as its spectacular views, are an important part of Hawaii's and our nation's natural and cultural heritage. I believe a full feasibility study, which was recommended in the reconnaissance survey, will confirm that the area meets the National Park Service high standards as an area of national significance.

I urge my colleagues to join me in supporting this bill.

#### RECOGNIZING JUDITH BISHOP

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BURGESS. Madam Speaker, I rise today to recognize Judith Bishop, who is retiring as Executive Director of the Fort Worth & Tarrant County YWCA at the end of May, 2009.

The YWCA of Fort Worth & Tarrant County offers programs at three different facilities in the Dallas/Fort Worth area. The programs provide various services and promote increased financial growth, leadership, education and training opportunities for women. These facilities also provide safe housing, child care, crisis intervention, and social services transitionally homeless women.

Ms. Bishop has served as the Executive Director of the Fort Worth & Tarrant County YWCA for twenty years. During her time as Executive Director, Ms. Bishop has shown continued dedication to providing community service and helping those in need. Judith has been persistent in her mission to ensure that all children, regardless of circumstance, have the same opportunity to be successful in life.

Madam Speaker, it is with great appreciation that I rise today to honor the accomplishments of Judith Bishop. I salute Ms. Bishop for all of her hard work and altruism. I am confident that her contributions to the YWCA will touch lives for years to come. It is an honor to represent Judith Bishop and the YWCA of Fort Worth and Tarrant County in the 26th Congressional District of the U.S. House of Representatives.

#### INTRODUCTION OF THE MERCURY- FREE VACCINES ACT OF 2009

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. MALONEY. Madam Speaker, today I am reintroducing an important piece of legislation with my colleagues Mr. SMITH, Mr. KENNEDY, Mr. BURTON, and Mr. ACKERMAN that will

protect infants and young children from mercury, a known neurotoxin, in vaccines. This legislation builds on the policy recommendations issued in July 1999 by the Public Health Service, the American Academy of Pediatrics, and the American Academy of Family Physicians. That policy proclaimed "[The] Public Health Service, the American Academy of Pediatrics, and vaccine manufacturers agree that thimerosal-containing vaccines should be removed as soon as possible." Mercury is well established as a neurotoxin and is particularly harmful to the developing central nervous system. Given that mercury remains in some childhood vaccines and that some infants are likely to receive mercury-containing flu vaccine in the upcoming flu season this bill puts in statute definite timelines for the elimination of mercury from vaccines to eliminate this exposure in children and reduce this exposure in adults. It is incumbent upon us to ensure the immunizations we provide our children are free from harmful neurotoxins, which is why I proudly introduce this legislation.

HONORING RICHARD C. PROTO

**HON. JOHN B. LARSON**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. LARSON of Connecticut. Madam Speaker, I rise today in honor of Richard C. Proto, former Director of Research for the United States National Security Agency. A great civil servant to our nation, Mr. Proto was born and raised in Connecticut, and he attended New Haven public schools growing up. He played with the Wilbur Cross 1958 New England High School basketball champions and received his bachelor's degree in mathematics from Fairfield University in Fairfield, Connecticut. Mr. Proto went on to receive his Master's degree in mathematics from Boston College in 1964 and joined the NSA following graduation, where he remained for 35 years. During his time with the NSA, Mr. Proto received the Presidential Rank Award for Distinguished Service and the National Intelligence Distinguished Service Medal. After his retirement in 1999, he remained an advisor to the intelligence community, the national laboratories, and the Institute for Defense Analysis at Princeton, until his death in July of 2008.

In a formal ceremony on May 18, 2009, the United States NSA dedicated its Symposium Center to Richard C. Proto, in honor and recognition of his dedicated service to the agency. During the ceremony, Mr. Proto was praised by his former colleagues and recognized for his creation of the still-relied upon "Proto Algorithm." Mr. Proto's family was present and participated in the ceremony. Family members included his brother, Neil Proto, sister, Diana Proto Avino, and four of Mr. Proto's cousins.

His parents, Matthew and Celeste Proto, were active in Connecticut's civic and political life. Celeste immigrated to the United States in 1916 from Italy. Mr. Proto's pride for his Italian heritage led him to also found the Antonio Gatto Lodge of the Sons of Italy in Laurel, Maryland.

I am honored to join with others in praise for this remarkably-gifted and dedicated public servant from Connecticut. Mr. Proto's strategic and practical aid to the protection of our nation and our country's troops—from the Cold War to the Gulf War—is deserving of recognition and admiration. I ask my colleagues to join with me in honoring the life of this great man.

2009 TOP COPS—SERGEANT PAUL E. JOHNSON

**HON. DAVID G. REICHERT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. REICHERT. Madam Speaker, I rise today recognizing the outstanding law enforcement officers across our country who received a 2009 TOP COPS award from the National Association of Police Organizations, NAPO. Today, especially, I want to highlight the work of a Sergeant in my home state of Washington and thank him for his exemplary public service.

Sergeant Paul E. Johnson of the Olympia Police Department was recognized as an Honorable Mention TOP COPS award recipient. Johnson, a Sergeant in the Patrol Unit, is a 29-year veteran of the Olympia Police Department and has served in various capacities, including several stints as a detective, as well as serving as Sergeant in the Narcotics Task Force and Detective Bureau. Johnson is known department- and city-wide for his attention to detail, his professionalism working with residents and staff, and the pride with which he wears his uniform: all hallmarks of policing "the Olympia way", a policy guided by professional enforcement, prevention, planning and coordination. Johnson's son, Corey, is also an officer with the Olympia Police Department and I wish him the very best throughout his career in law enforcement.

As a 33-year veteran of law enforcement and the co-chair of the Congressional Law Enforcement Caucus, this is a topic close to my heart and it is a pleasure to recognize a wonderful public servant such as Sergeant Paul E. Johnson—and the rest of the recipients around the country—for being honored by NAPO with a TOP COPS award. As this House and law enforcement officers continue to serve the people of the United States, I know this House will continue to serve and support our law enforcement officers.

A TRIBUTE IN RECOGNITION OF THE 100TH ANNIVERSARY OF JAPAN AMERICA SOCIETY OF SOUTHERN CALIFORNIA

**HON. LUCILLE ROYBAL-ALLARD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. ROYBAL-ALLARD. Madam Speaker, I rise today to recognize the Japan America Society of Southern California, a non-profit charitable and educational organization dedicated to fostering friendship, understanding and rela-

tionship building opportunities for the people of Japan and the United States, on the occasion of its 100th Anniversary.

Sixteen American and Japanese volunteer leaders in Los Angeles founded the Japan America Society of Southern California in 1909. These visionaries understood the long-term role that such a unique organization could play in their diverse community and were committed to its establishment during a period of increasing anti-Asian sentiment. The fledgling society soon grew to as many as 800 members by the time of the opening in Los Angeles of the first Consulate General of Japan in 1915.

Since those early, formative years, the Japan America Society has undertaken the primary responsibility for forging relationships between Americans and the Japanese in Southern California. Its mission is to promote mutual understanding and to strengthen economic, cultural, governmental and personal relationships between Americans and the Japanese.

The Japan America Society offers unique opportunities to become involved in the business and cultural relationship between the two countries. Its active calendar of events includes breakfast and luncheon programs, business networking mixers, weekend family events, and programs highlighting art, music, fashion, film, performing arts and other special activities. Annual events include the Anniversary Gala Dinner, Golf Classic & Tennis Open, Family Fishing Trip and Family Whale Watch Cruise, Japan America Kite Festival® and United States-Japan Green Conference.

Throughout the year of its Centennial, the Japan America Society is celebrating its history by presenting an extraordinary series of programs focusing on the United States-Japan relationship. It will showcase Japan-related programming through collaborations with numerous Japanese-American and Japanese organizations, and other cultural and educational organizations throughout Southern California and Japan.

The Japan America Society's Centennial Dinner & Gala Celebration, scheduled for June 15, 2009, at The Globe Theatre, Universal Studios Hollywood, will commemorate the important role of the United States-Japan relationship, past, present and future.

The future agenda of the Japan America Society includes the establishment of a Japan America Language Center that will offer comprehensive introductory, advanced and business Japanese-language courses for Los Angeles residents. These language courses will be designed to build and improve upon the language skills of non-native Japanese speakers so they can more fully appreciate Japanese history and culture and open doors to lasting personal and professional relationships. Other specialized courses and workshops will be offered, including shodō (Japanese calligraphy). In addition, the Center will cater to native Japanese speakers living in Los Angeles by providing English conversation (ESL) classes and a Japanese Language Teacher Training Program.

The society also plans to expand the elementary school Hitachi Japanese Kite Workshops that take place throughout Southern California, including Los Angeles, every fall.

The workshops are "hands-on," in-classroom special events that help to teach our very young children the concept of different perspectives. They also provide a positive introduction to Japan and Japanese culture through the building of a traditional Japanese kite. Led by Japanese kite masters from Japan, elementary students learn how to build and fly a Japanese bamboo and washi (rice paper) kite. To date, nearly 4,000 students have benefited from this program.

Madam Speaker, on the occasion of the Japan America Society of Southern California's 100th Anniversary, I join today with fellow leaders from throughout the state in recognizing Board Chairman Robert Brasch, Co-Vice Chairs Kappei Morishita and Nancy Woo Hiromoto, President Douglas Erber, the Board of Directors, the Board of Governors and the organization's employees and members for their outstanding work to promote mutual understanding and friendship between Japan and the United States. I extend my thanks on behalf of the residents of the 34th Congressional District for their passion to provide educational opportunities for school children and their determination to strengthen economic, cultural, governmental and personal relationships between Americans and Japanese, and I wish them many years of continued success.

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**EDWIN WAY TEALE HISTORICAL  
MARKER**

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. VISCLOSKY. Madam Speaker, it is my distinct honor to take this time to recognize the Indiana Historic Bureau's unveiling of one of their 500 historical markers to honor the late Pulitzer Prize author, photographer, naturalist, and former Porter County, Indiana, resident, Edwin Way Teale (1899–1980). The historical marker is located at the center of Furnessville, Indiana, where Edwin Way Teale and his family once lived. Furnessville, a community with undefined borders, lies between Pine and Westchester townships, at the north end of Porter County. An unveiling ceremony of the historical marker will take place on Saturday, May 30, 2009, in the center of Furnessville near Musette Lewry, estate of the late American Naturalist, Edwin Way Teale.

Edwin Way Teale put Furnessville on the map with his autobiographical book *Dune Boy: The Early Years of a Naturalist*. The book was an account of the time he spent as a child on the farm owned by his grandparents, Edwin and Jemina Way, discovering the dunes of Northwest Indiana. In 1915, his grandparents' farm burned down. Next, The Maples, in the center of Furnessville, became home to his grandparents, and many years later, was the home of Teale's wife, Nellie, and their son, David. Eventually, Musette Lewry was built on this foundation. Trent D. Pendley, who purchased Teale's home in Furnessville, applied for the State Historical Marker, which was approved in October 2007 by the Indiana State Library after undergoing significant study. There are only about 500 of these larger

markers throughout the State of Indiana. The criteria for the State Historical Marker is based on the national significance of the site or honoree.

Edwin Way Teale was born on June 2, 1899, in Joliet, Illinois. As a child, his fondest memories were the summer months he spent on the Furnessville farm owned by his grandparents. It was this time spent in Indiana, as a child, that became the backdrop for Teale to discover his love, respect, and wonder of nature. His grandparents gave him the freedom to explore the surrounding landscape, which became the most significant influence on his future career as a writer and naturalist. Teale went on to study English Literature and received a Bachelor of the Arts degree from Earlham College in Richmond, Indiana. During this time, he met his wife, Nellie Donovan, and they were married in 1923. Teale then began his writing career after graduating with a Master of the Arts degree from Columbia University in 1926. Edwin and Nellie had one son, David, who died in battle during World War II. In honor of their son, Edwin and Nellie collaborated on a four-book series detailing natural seasonal changes across the United States. In 1965, Teale won the Pulitzer Prize for *Wandering Through Winter*, a book that was part of this series, which is an account of the four winter months he and his wife spent traveling through the United States. He also won the John Burroughs Award for nature writing, and went on to publish thirty books in his lifetime. Edwin Way Teale passed away on October 18, 1980.

Madam Speaker, I ask you and my other distinguished colleagues to join me in commending the Indiana Historic Bureau's unveiling of the State Historical Marker to honor one of Northwest Indiana's finest citizens, Edwin Way Teale. For his notable, and highly respectable literary and environmental influence both nationally and in Northwest Indiana, he is worthy of the highest praise. I respectfully ask you and my other distinguished colleagues join me in honoring Edwin Way Teale and acknowledging the Indiana State Historical Marker in his name as a tremendous source of pride for Northwest Indiana.

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**COMMENDING GUAM ANIMALS IN  
NEED (GAIN)**

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. BORDALLO. Madam Speaker, I rise today to commend the Guam Animals in Need, GAIN, organization for their service to our community and for their leadership in a recent effort to rescue greyhounds. After a greyhound race track closed on Guam, GAIN led efforts to rescue the greyhounds by finding caring owners on island to adopt the abandoned dogs, and by helping to transport the majority of the greyhounds to shelters in the mainland.

Chartered in 1989, GAIN is a non-profit organization dedicated to preventing cruelty toward animals and to providing shelter for animals in need. GAIN's efforts have also in-

cluded educating our community on animal welfare. In 2001, GAIN expanded its services by assuming management and operation of our island's animal shelter.

GAIN has led numerous initiatives over the years to improve animal welfare on Guam. It has been instrumental in taking stray animals off the streets and reducing the number of stray animals through the annual Spay Neuter Assistance Program, operated by visiting and local veterinarians and volunteers. This program has resulted in the sterilization of over 3,500 dogs and cats. GAIN also successfully partnered with local businesses and community organizations to provide support through the Adopt a Kennel project. These businesses and organizations are recognized with a sign placed on their sponsored kennel. Furthermore, GAIN has facilitated the adoption of thousands of animals by caring pet owners through their Shelter Adoption Program.

GAIN recently received national attention resulting from their efforts to help over two hundred greyhounds that needed homes after the sudden closure of the greyhound race track on Guam. For several months after the track's closure, GAIN rescued abandoned greyhounds in villages and remote areas. The organization and its members cared for these greyhounds and searched for responsible pet owners in our community to adopt them. GAIN worked with the management of the former race track to address the large number of greyhounds needing adoptive homes. GAIN partnered with mainland greyhound advocacy groups to help rescue the greyhounds on Guam, including the Greyhound Protection League; Home Stretch Greys; North Coast Greyhound; and Greyhound Friends of Massachusetts. Continental Airlines contributed to this effort by providing discounted air fares to transport some greyhounds on flights to the mainland.

The greyhound rescue effort was a significant and combined effort for Guam's animal welfare community. Under GAIN's leadership, non-profit organizations and community groups worked together to provide care and medical services to the greyhounds. As a result of GAIN's efforts, to date, 136 greyhounds have been successfully relocated to shelters and homes in the mainland and 23 greyhounds have been adopted in local homes. This rescue effort continues as GAIN and its volunteers work to locate the remaining abandoned greyhounds and to find homes for all the dogs from the former race track.

I commend the Guam Animals In Need organization for their service to our community and for their commitment to caring for animals on Guam.

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**CONGRATULATING THE DALLAS  
CHAMBER OF COMMERCE'S 100TH  
ANNIVERSARY**

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BURGESS. Madam Speaker, I am proud to recognize the Dallas Chamber of Commerce as they celebrate 100 years of excellence.

Founded in 1909 when the Board of Trade merged with the Commercial Club, the 150,000 Club, and the Freight Bureau, the Dallas Chamber of Commerce has emerged over a century as one of the largest member-driven organizations of businesses in the nation. Membership currently represents 3,000 businesses of all sizes and consists cumulatively of 600,000 employees. The Dallas Regional Chamber is committed to the betterment of the region through active involvement in public policy, economic development, and member engagement.

The Dallas-Fort Worth area has grown significantly in the past century and the Dallas Chamber has been there through all of it. Institutions such as Southern Methodist University, the Federal Reserve Bank, DFW airport, UT Southwestern Medical Center, and DART rail have all grown and benefited from the contributions of the Dallas Chamber.

The Chamber has also been active in the effort to ensure the region's future success through its educational outreach programs. Programs such as the Job Shadowing program and the Principal Executive Partnership, which builds relationships between educational and business leaders, illustrate the Dallas Chamber of Commerce's investment in aspects of our region's education to help provide for a well trained workforce and a stronger North Texas economy for the future.

Madam Speaker, I commend the Dallas Chamber for its long-standing service to the North Texas region, and I congratulate the organization on its centennial anniversary.

#### INTRODUCTION OF NATIONAL TRAILS DAY RESOLUTION

#### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BLUMENAUER. Madam Speaker, as co-chair of the House Trails Caucus, I am pleased to introduce a resolution highlighting National Trails Day®, which will fall this year on June 6, 2009.

National Trails Day, which was founded by the American Hiking Society, is held every year on the first Saturday of June. It is a day of public events celebrating trails coordinated by the American Hiking Society in partnership with local trail clubs, parks, government agencies, and businesses. On this day, more than 1,500 trails events will take place around the country, including hiking, paddling, biking, horseback riding, bird watching, running, trail maintenance, and other activities.

I am introducing this resolution to highlight the importance of this day and to call attention to our Nation's network of trails. Trails improve our quality of life, whether they are urban paths running through major metropolitan areas or wilderness tracks leading to remote mountaintops. Some of my favorite moments have been spent running or biking on the Leif Erickson Trail in Forest Park or hiking on the Timberline Trail around Mount Hood.

Trails provide Americans with opportunities to engage in activities that improve our physical and mental health and they promote a

greater understanding of nature and a connection to communities. In addition, the hundreds of thousands of volunteers who care for our nation's trails understand the value of volunteerism and stewardship of our public landscapes.

This resolution recognizes the contribution of trail volunteers and organizations, highlights the opportunities trails provide to improve our physical and mental health, supports the goals and ideas of National Trails Day, encourages people to observe National Trails Day, and applauds national, State, and community agencies and groups for their work in promoting awareness about trails.

I hope my colleagues will join me in celebrating National Trails Day and recognizing the value of America's 200,000-mile trail network. On June 6, I hope we can all take time to join our constituents in doing trail maintenance, hiking, or another fun outdoor activity in honor of this day.

#### IN RECOGNITION OF DR. RHEA PAUL

#### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. DELAURO. Madam Speaker, I rise to recognize Dr. Rhea Paul, a resident of Milford, Connecticut, for her lifetime of dedication to the improvement of quality-of-life for children who suffer from language and significant developmental disorders, for serving as a teaching professor who has mentored hundreds of undergraduate and graduate students, and for contributing extensively to the research in autism and language disorders as she prepares for her investiture as President of the Connecticut Speech-Language-Hearing Association.

Dr. Paul currently serves as a Professor at the Edward Zigler Center in Child Development and Social Policy within the Yale University School of Medicine, where in 2008 she became the first woman in her field to be awarded a Yale professorship. She has published over 70 papers in refereed journals and her textbook, *Language Disorders from Infancy Through Adolescence: Assessment and Intervention*, is considered the gold standard by scholars, clinicians and students alike.

Dr. Paul, who specializes in autism studies and preliteracy development, has been the recipient of numerous awards in recognition of her enormous contribution to the field of Speech Communication Disorders including the Millar Award for Faculty Excellence in 1988, an American Speech-Language-Hearing Association Fellowship in 1991, the Editor's Award from the American Journal of Speech-Language Pathology in 1996, and the Faculty Scholar Award from Southern Connecticut State University in 1999. She is the widow of Dr. Charles Isenberg, who passed away in 1997, and the proud mother of three grown children.

Today, I would like to recognize Dr. Rhea Paul as she begins her term as leader of Connecticut's professional association of speech-language pathologists, audiologists, and pro-

fessional affiliates. I am truly proud that such an accomplished woman resides in my Congressional District, and grateful for the energy and advocacy Dr. Paul demonstrates on behalf of children with communication disorders and their families. I offer my best wishes to her and the Connecticut Speech-Language-Hearing Association in their future endeavors.

#### MEMORIAL DAY

#### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. VISCLOSKY. Madam Speaker, this Memorial Day Weekend, we remember the brave men and women who have given their lives in battle, and we also honor the veterans who served in prior engagements and the troops currently in uniform. Throughout our history, brave Americans have fought for freedom and democracy around the world, and today we remember them for their noble service. We honor our troops and veterans through our deeds and our words, reaffirming our commitment to support our troops and providing our veterans with the benefits they deserve.

Over the last few years, Congress has made historic gains for America's troops, veterans, and military families. Among these accomplishments include a New GI Bill to restore the promise of a full, four-year college education for Iraq and Afghanistan veterans, the largest increase in history for veterans' healthcare and other services, and significant strides in rebuilding the American military and strengthening other benefits for our troops and military families. This Memorial Day I pledge to continue this critical work to put America's troops and veterans first.

I know that more remains to be done. I will never stop fighting to ensure we do right by the men and women who serve our nation and defend our freedom. This Memorial Day, please join me in paying tribute to the brave men and women from Northwest Indiana, and all of America, who gave their lives in defense of freedom and democracy.

#### RECOGNITION OF SERVICE MEN AND WOMEN FROM NEW JERSEY'S 3RD CD, MEMORIAL DAY 2009

#### HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. ADLER. Madam Speaker, in honor of Memorial Day, May 25, 2009, I would like to recognize service members from the 3rd Congressional District of New Jersey that have made the ultimate sacrifice in Operations Iraqi and Enduring Freedom:

SPC Ryan Baker, United States Army—Browns Mills, NJ

SSG Robert Chiomento, United States Army—Fort Dix, NJ

CPT Gregory Dalessio, United States Army—Cherry Hill, NJ

PFC Vincent Frassetto, United States Marine Corps Reserves—Toms River, NJ

SGT Bryan Freeman, United States Army  
Reserves—Lumberton, NJ  
SSGT Anthony Goodwin, United States  
Marine Corps—Westampton, NJ  
SSG Terry Hemingway, United States  
Army—Willingboro, NJ  
MAJ Dwayne Kelley, United States Army  
Reserves—Willingboro, NJ  
MAJ John Pryor, United States Army Re-  
serves—Moorestown, NJ  
CPL Thomas Saba, United States Marine  
Corps—Toms River, NJ  
LTCOL John Spahr, United States Marine  
Corps—Cherry Hill, NJ  
SPC Philip Spakosky, United States  
Army—Browns Mills, NJ

Within our military, servicemen and women demonstrate the highest level of heroism and bravery. The presence of these heroes makes our nation stronger and safer. The loss of any service member is painful. This Memorial Day we, as we should ever day, honor and give thanks to these men, and all other Soldiers, Marines, Sailors and Airmen who have given their lives in service to our country. We mourn their loss, and we offer prayers to their families. God bless our service members and their families.

#### PERSONAL EXPLANATION

#### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. DEGETTE. Madam Speaker, during final consideration of H.R. 627, Credit Cardholders' Bill of Rights Act of 2009, I inadvertently voted "aye" on roll call vote 277 when I had intended to vote "nay". I would like the record to reflect that I am proud of my long support of sensible policies and regulations that promote the health and safety of children and families from gun violence, including within our parks.

#### EARMARK DECLARATION

#### HON. STEVEN C. LATOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. LATOURETTE. Madam Speaker, pursuant to the Republican Leadership standards on earmarks, I am submitting the following information for publication in the CONGRESSIONAL RECORD regarding earmarks I received as part of H.R. 915, the FAA Reauthorization Act of 2009.

Requesting Member: Congressman STEVEN C. LATOURETTE.

Bill Number: H.R. 915.

Legal Name of Requesting Entity: Lake County, OH

Address of Requesting Entity: 1885 Lost Nation Road, Willoughby, OH 44094 USA.

Description of Request: To authorize and make funds available to Lake County, OH for the purchase of Lost Nation airport from the City of Willoughby. The transaction will help maintain the capacity of the national aviation system. Up to \$1,220,000 will be made available to Lake County, OH for the purchase.

#### TRIBUTE TO PAT BOONE

#### HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. WAMP. Madam Speaker, today I rise to honor the legendary singer, actor and author Pat Boone of Nashville, Tennessee, for his 75th birthday on June 1. I want to take a moment to recognize his tremendous accomplishments and thank him for all he has contributed to Tennessee, our country and across the world.

Pat continues to give back to the community through charitable and educational organizations. For 32 years, he has played a significant role in the growth and success of Bethel Bible Village, a residential group home in my hometown of Chattanooga, Tennessee, that provides a happy, healthy and godly environment for children of families in crisis. Through golf tournaments, banquets and auctions, Pat has helped raise more than \$2.7 million for this ministry and the families it serves.

Before graduating from Columbia University in 1958, Pat had already signed a multi-million dollar recording contract and had various television and movie deals, including hosting The Pat Boone Chevy Show. Through the course of his successful career, Pat started two record companies and released more than 30 Gold Record albums, including "Ain't That a Shame," which climbed the charts to number one in 1955. He is the Billboard number ten all-time top record artist and a member of the Gospel Music Hall of Fame.

Pat's writings are as well known as his entertainment and have been translated into multiple languages, allowing people across the world to read his works. His first book, *Twixt Twelve and Twenty*, was a number-one best-seller in the 1950s and can now be found in school and church libraries across the nation. Pat Boone has proven himself an inspiring and successful writer, authoring more than 15 books.

Pat has served as the National Spokesman for the March of Dimes, the National Association for the Blind and other worthy charities. As the Entertainment Chairman of the National Easter Seal telethon, Pat helped raise over \$600 million dollars to help handicapped children and adults. He currently is helping build a worldwide Internet "blood bank" to help solve the recurring blood shortages in certain parts of the world.

Pat and his wife of 55 years, Shirley, initiated Mercy Corps, one of the most respected humanitarian relief organizations in the world. What started as a small relief effort in Cambodia, now operates in more than 22 countries and delivers millions of dollars in food and basic necessities to those in need.

Pat Boone is an accomplished man of integrity, loyalty and outstanding leadership. He has positively shaped our community in Chattanooga, providing hope and encouragement to a generation of children at Bethel Bible Village and I am proud to recognize his accomplishments.

#### IN HONOR OF MAYOR GENE CAREY

#### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BURGESS. Madam Speaker, I rise today to honor the former Mayor Gene Carey for his years of service to the City of Lewisville and the North Texas Region.

Gene Carey has a long tenure of public service in Lewisville where he served as Mayor for nine years, a City Councilman for seven years and a member of the city's Park Board for four years. His experience supported his philosophy that Mayor is not a position you start at, rather a position you work up to. Carey is known as a principled and ethical leader with a calming effect on the community.

Although he is leaving his position on the City Council, his hard work has resulted in projects that will serve as a reminder of his work for years to come. Under his leadership, Lewisville has seen the securing of new funding for infrastructure and neighborhood improvements, and the revitalization of Old Town Lewisville. Mayor Carey has offered strong guidance at a time when the city saw valued economic developments. He, along with his fellow City Council members also worked hard to provide a new jail facility.

During Mayor Carey's tenure, Lewisville saw major efforts to improve the overall quality of life for its citizens with passage of parks and library funding that has resulted in a new library and several areas where families can safely gather to enjoy a day away from hectic schedules. He was a strong advocate for a cultural arts center that will soon break ground.

His work has earned him the respect of fellow public servants. Council members will be quick to tell you that Carey always made sure all citizens had their voice heard, whether the issue be large or small. A fellow Council Member stated, "For 20 years, Gene Carey served with honor and integrity. With his quiet humility he has led the City Council and staff in making Lewisville one of the best places to live in North Texas".

Gene Carey is also respected for his deeds beyond city government. He is family man and a member of Lakeland Baptist Church. He served as President of Christian Community Action in Lewisville and is a graduate of the Lewisville Citizen's Police Academy. He also has the distinction of Honorary Police Officer. He is a professional with a well known sense of humor.

It is with great honor that I recognize Mayor Gene Carey for his years of hard work and dedication given to the citizens of Lewisville and North Texas. I am proud to represent him in Washington. His service sets a standard of devotion and true leadership, one that will endure.

INTRODUCTION OF THE  
AFFORDABLE GAS PRICE ACT

**HON. RON PAUL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. PAUL. Madam Speaker, I rise to introduce the Affordable Gas Price Act. This legislation reduces gas prices by reforming government policies that artificially inflate the price of gas. While the price of gas has not yet reached the record levels of last year, over the last 2 months the average price of gas has risen approximately 16 percent. In some areas, the price of gas is approaching \$3.00 per gallon. There is thus a real possibility that the American people while soon by once again hard hit by skyrocketing gas prices.

High gas prices threaten our fragile economy and diminishes the quality of life for all Americans. One industry that is particularly hard hit is the trucking industry. The effects of high gas prices on the trucking industry will be reflected in increased costs for numerous consumer goods, thus further harming American consumers.

Unfortunately, many proposals to address the problem of higher energy prices involve increasing government interference in the market through policies such as price controls. These big government solutions will, at best, prove ineffective and, at worst, bring back the fuel shortages and gas lines of the seventies.

Instead of expanding government, Congress should repeal Federal laws and policies that raise the price of gas, either directly through taxes or indirectly through regulations that discourage the development of new fuel sources. This is why my legislation repeals the Federal moratorium on offshore drilling and allows oil exploration in the ANWR reserve in Alaska. My bill also ensures that the National Environmental Policy Act's environmental impact statement requirement will no longer be used as a tool to force refiners to waste valuable time and capital on nuisance litigation. The Affordable Gas Price Act also provides tax incentives to encourage investment in new refineries.

Federal fuel taxes are a major part of gasoline's cost. The Affordable Gas Price Act suspends the Federal gasoline tax any time the average gas prices exceeds \$3.00 per gallon. During the suspension, the Federal Government will have a legal responsibility to ensure the Federal highway trust fund remains funded. My bill also raises the amount of mileage reimbursement not subject to taxes, and, during times of high oil prices, provides the same mileage reimbursement benefit to charity and medical organizations as provided to businesses.

Misguided and outdated trade policies are also artificially raising the price of gas. For instance, even though Russia and Kazakhstan allow their citizens the right and opportunity to emigrate, they are still subject to Jackson-Vanik sanctions, even though Jackson-Vanik was a reaction to the Soviet Union's highly restrictive emigration policy. Eliminating Jackson-Vanik's threat of trade-restricting sanctions would increase the United States' access to oil supplies from non-Arab countries. Thus,

my bill terminates the application of title IV of the Trade Act of 1974 to Russia and Khazaskin, allowing Americans to enjoy the benefits of free trade with these oil-producing nations.

Finally, the Affordable Gas Price Act creates a Federal study on how the abandonment of the gold standard and the adoption of freely floating currencies are affecting the price of oil. It is no coincidence that oil prices first became an issue shortly after President Nixon unilaterally severed the dollar's last connection to gold. The system of fiat money makes consumers vulnerable to inflation and to constant fluctuations in the prices of essential goods such as oil.

In conclusion, Madam Speaker, I urge my colleagues to support the Affordable Gas Price Act and end government policies that increase the cost of gasoline.

IN SPECIAL RECOGNITION OF THE  
SESQUICENTENNIAL ANNIVERSARY  
OF THE VILLAGE OF OTTAWA,  
OHIO

**HON. ROBERT E. LATTA**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. LATTA. Madam Speaker:

Whereas, Congressman ROBERT E. LATTA extends his congratulations on the occasion of the One-Hundred Seventy-Fifth Anniversary of the Village of Ottawa, Ohio; and

Whereas, Ottawa, Ohio has been a proud member of the Northwest Ohio community since 1833; and

Whereas, the citizens of Ottawa, Ohio provide friendship and tradition to all those in Northwest Ohio; and

Whereas, Ottawa, Ohio has a long history of fostering business, education, and community relationships; therefore, be it

Resolved, The people of Northwest Ohio are grateful for the service of the citizens and employers of Ottawa, Ohio. Ohio's Fifth Congressional District is well served by their dedication and support. We wish Ottawa, Ohio all the best during its celebration the One-Hundred Seventy-Fifth anniversary.

HONORING SILVIO J. PICCINOTTI

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. WOOLSEY. Madam Speaker, I rise with sadness today to honor Silvio J. Piccinotti of Petaluma, California, who passed away April 19, 2009, at the age of 100. Silvio was a fixture of the community for most of those years as it developed from an agricultural center to a small city with a variety of businesses but true to its rural roots.

Like many of their contemporaries in the area, Silvio's parents emigrated from the Italian-speaking area of Switzerland to the dairy ranching area of nearby Marin County where Silvio was born. They moved to Two

Rock near Petaluma when he was an infant, and he worked on the local ranches as he grew up. In 1930 he purchased a ranch with his brother Americo, retiring from that business in 1975.

But Silvio is most known for his lifelong passion for draft horses, a passion he shared with the community. He was a founding member of the Northbay Draft Horse and Mule Club and tutored many young enthusiasts. He participated with his horse team and wagon in the Sonoma County Fair and the Harvest Fair and was especially appreciated at events in Petaluma, such as the annual Butter and Eggs Day parade. For 25 years he also sponsored an annual draft horse Wagon Train through Sonoma and Marin Counties.

Silvio was predeceased by his wife Alice and is survived by his son Vernon S. and his grandson Vernon J. Piccinotti as well as his dear friend Ellen Wight.

Madam Speaker, in 2005 the Sonoma County Horse Council appropriately inducted Silvio into its Equus Hall of Fame. His true fame lies with the generations of locals who will remember the wagon rides and the teams of draft horses that brought them joy and represented the spirit of the community.

RECOGNIZING MAURO LUNA'S  
SERVICE TO THE U.S. PROBATION  
SERVICE

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. CUELLAR. Madam Speaker, I am proud to have this opportunity to celebrate the retirement of Mauro Luna from the U.S. Probation Service. His 22-year career in Laredo exhibits his native and lifelong dedication to the city and its people.

It was at Mary Help of Christians School that Mr. Luna developed his high standard of morals and ethics that he later exhibited as an officer and supervisor. He brought this leadership to his job everyday, and positively impacted those he interacted with through the course of a day.

Mauro Luna found education to be the cornerstone to any successful life and career, so after graduating from J.W. Nixon High School he went on to earn his degree from the University of Texas-Austin and his MBA from Laredo State University. During this time Mr. Luna married Maria Martinez and had two children, Marcos and Massiel Melinda.

Madam Speaker, now after 11 years with the Juvenile Department and 22 years with the U.S. Probation Office I find great pleasure in wishing Mauro Luna a long deserved retirement so he may spend more time with his family and hunting.



EXTENDING THE SUPPLEMENTAL  
SECURITY INCOME BENEFITS  
PROGRAM TO AMERICAN SAMOA,  
GUAM, PUERTO RICO, AND THE  
U.S. VIRGIN ISLANDS

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. BORDALLO. Madam Speaker, I have introduced today legislation that will extend the Supplemental Security Income (SSI) benefits program to American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands. Specifically, this legislation would amend Section 303 of the Social Security Amendments of 1972 to make qualified residents of American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands eligible to receive supplemental security income.

The Supplemental Security Income program assures a minimum cash income to all aged, blind, or disabled persons. Section 301 of the Social Security Amendments of 1972 established the Supplemental Security Income benefits program and ended matching grant programs to the 50 states and the District of Columbia for assistance to aged, blind, and disabled individuals. It is important to note that the House bill in 1972 included the territories under the proposed SSI program, but the final bill did not include that provision. SSI was extended to the Northern Mariana Islands in 1976, while American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands remain under the old matching grant programs with limited Federal funding.

Territorial governments currently receive non-entitlement, federal-state grants under Title I (Grants to States for Old-Age Assistance for the Aged); Title X (Grants to the States for Aid to the Blind); Title XIV (Aid to the Permanently and Totally Disabled); and Title XVI (Grants to the States for Aid to the Aged, Blind and Disabled) of the Social Security Act for programs designed to assist the needy, aged, blind, and disabled. Residents of American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands who would otherwise qualify for SSI benefits are shortchanged under the current Aid to the Aged, Blind, or Disabled (AABD) Program where the federal payment is \$637 per individual compared with an average payment under the AABD program on Guam being \$100. American Samoa is at a greater disadvantage, receiving no AABD funds.

The legislation which I have introduced today would bring uniformity and fairness in annual payments by the federal government for all eligible persons residing in the 50 states, the District of Columbia and the territories under the SSI program and is one step in ensuring equity in Federal health programs for the territories.

I look forward on working with my colleagues to advance this bill.

INTRODUCTION OF THE REAFFIRMATION OF AMERICAN INDEPENDENCE RESOLUTION

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. GOODLATTE. Madam Speaker, Article VI of the U.S. Constitution declares that "this Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land." Since its beginning, our nation has operated under the fundamental principle that the people of the United States should determine their own destiny.

However, recently there has been a deeply disturbing trend in American jurisprudence. The Supreme Court, the highest court in the land, has begun to look abroad, to international laws, regulations and opinions to interpret the U.S. Constitution. This is a very frightening prospect considering these materials are crafted by bureaucrats and non-governmental organizations with virtually no democratic input.

This new trend is a threat to both our Nation's sovereignty and the democratic underpinnings of our system of government. Our Nation's founders acknowledged this very danger when they decried in the Declaration of Independence that King George had "combined to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws."

The contrast between this language in the Declaration of Independence and that of many of our Supreme Court justices could not be clearer. Justice Ruth Bader Ginsburg told the New York City Bar Association in 2005, "I will take enlightenment wherever I can get it. I don't want to stop at a national boundary."

Former Supreme Court Justice Sandra Day O'Connor made the prediction that the Supreme Court will rely "increasingly on international and foreign courts in examining domestic issues . . ." as opposed to relying solely on our Constitution as the basis for its rulings.

Indeed, with the laws of an entire world of nations to choose from, citing foreign laws and opinions encourages cherry-picking the foreign precedents that suit the desired outcome of the one citing them. It promises to be a very convenient tool for any federal judge or justice seeking to stretch the meaning of our Constitution beyond its original meaning.

As elected representatives of the people, we cannot stand by and let this occur any longer. We must return the focus of federal judges to their role as interpreters of the Constitution, not importers of foreign laws and opinions.

The Supreme Court is charged with making final pronouncements about our Constitution, which is uniquely American. Each of our nation's judges, as well as Supreme Court justices, took an oath to defend and uphold the U.S. Constitution—and it is time that Congress reminds these unelected officials of their sworn duties.

That is why I am introducing this resolution today, which expresses the sense of Congress that Federal judges and justices should not

cite foreign judgments, laws, or pronouncements when interpreting the U.S. Constitution. This common sense resolution sends a strong, clear message that the Congress is not willing to simply stand idly by and see our nation's sovereignty weakened.

I believe the judicial branch is guaranteed a very high level of independence when it operates within the boundaries of the U.S. Constitution. However, when judges and justices begin to operate outside of those boundaries, Congress must respond. We must be steadfast guardians of the freedoms that are protected in the Constitution of the United States of America.

I urge the Members of this body to support this important resolution.

TRIBUTE TO COLONEL DIONYSIOS  
ANNINOS

**HON. J. RANDY FORBES**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. FORBES. Madam Speaker, I rise today to pay tribute to Colonel Dionysios Anninos, who will assume Command of the United States Army Corps of Engineers Gulf Region Central District, located in Baghdad, Iraq on July 7, 2009.

There is without a doubt, few, if any, men who are as capable or prepared to oversee engineer projects in Iraq than Colonel Anninos. However, it is with reluctance and a heavy heart that we bid farewell to an officer who has served the Hampton Roads region of Virginia so well.

For almost three years, Colonel Anninos has commanded the Norfolk District U.S. Army Corps of Engineers. As Commander, Colonel Anninos managed the Corps' water resources development and navigable waterways operations for five river basins in the Commonwealth of Virginia. A key contributor to Chesapeake Bay restoration efforts, Colonel Anninos also oversaw projects helping to create jobs while improving the Nation's aging infrastructure.

From maintaining the critical intercoastal waterways and the Great Dismal Swamp Canal, to laying the groundwork for the Deep Creek Bridge in Chesapeake, Colonel Anninos has demonstrated a level of professionalism and excellence that I have only rarely had the benefit to witness.

For the many Virginians and residents of North Carolina within the sixteen counties and 5,000 square miles that lie within the Chowan River Basin, Colonel Anninos will be remembered for his tireless leadership to address the flooding there. Because of his efforts, we can look forward to a comprehensive Reconnaissance Study to investigate the flooding beginning in the next several months. In addition, Colonel Anninos' persistence and resourcefulness were central to bringing together federal, state, and local officials in a local-federal partnership to install a system of early-warning gauges on the River, which has risen to six of its highest flood levels in the last eleven years.

Under Colonel Anninos' command, the Norfolk District has also provided support in response to several natural disasters within Virginia and some of our Nation's greatest natural disasters, including Hurricanes Katrina and Ike. All the while his District provided engineering support to Overseas Contingency Operations in Iraq and Afghanistan serving side-by-side with our men and women overseas.

On behalf of the U.S. House of Representatives, the residents of the Chowan River Basin, and the residents of the Fourth congressional District of Virginia, I express my gratitude to Colonel Anninos for his service to our Nation, and for his friendship. I wish Colonel Anninos, his wife Catherine, and his two sons the very best as he continues to serve our great Nation.

CONGRATULATING ERIC YANG,  
WINNER OF THE NATIONAL GEOGRAPHIC BEE

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BURGESS. Madam Speaker, I rise today to congratulate Eric Yang, who won first place in the 2009 National Geographic Bee.

I had the pleasure of finding out that Eric had advanced to the final round of the National Geographic Bee, and I was ecstatic to hear that he won. Eric, who is a 7th grader from The Colony, Texas, captured the 1st place title in the tie-breaker round. Eric did not miss a single question during the entire final round, in a competition that National Geographic reported as their most difficult competition to date. Eric is now the proud recipient of a \$25,000 scholarship, a trip to the Galapagos Islands, and bragging rights for life.

More than just a geography buff, Eric demonstrates his giftedness in several other aspects of his life. An avid pianist, Eric placed first in the Dallas Jazz competition three years in a row. He also conquers in chess, reads anything he can get his hands on, and has an insatiable curiosity. I am encouraged by the inquisitiveness we see in this talented young man. Young people like Eric are the guiding lights we will look upon in the future to better our society.

I am proud to recognize Eric Yang for his great accomplishment. It is a distinct privilege to represent Mr. Yang in the 26th District of Texas, and I wish him the very best for a bright future.

TRIBUTE TO MIKE MCGOVERN

**HON. PATRICK J. KENNEDY**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KENNEDY. Madam Speaker, on behalf of the constituents of the State of Rhode Island and those whose lives have been impacted by Special Olympics Rhode Island, I would like to pay tribute to Mike McGovern, a

man who has dedicated his life to the fulfillment of dreams of many with intellectual disabilities.

After a long and accomplished career serving in various leadership capacities for Special Olympics Rhode Island, Mike has decided to retire. He served as Assistant Executive Director from 1988 through 1998 before taking on the role of Executive Director in 1998. Over the last two decades, Special Olympics Rhode Island has benefited from his talents in fiscal management, fundraising, public relations, personnel management, and compliance with accreditation requirements established by Special Olympics, Inc.

Without a doubt, Mike's greatest satisfaction has come from watching young children with intellectual disabilities defy stereotypes and low expectations. Witnessing the children develop into confident, productive members of society is one of the many motivations that have empowered Mike over the course of his career. Additionally, Mike has been the driving force behind the success that Special Olympics Rhode Island has enjoyed in its commitment to being an athlete-centered program. His enthusiasm and guidance has ensured that Special Olympics Rhode Island is one of the most innovative and dynamic sports organizations in the state.

Mike McGovern remains a true friend to all those whose lives are touched by a person with developmental disabilities. Special Olympians across Rhode Island will miss his dedication and devotion as an individual who truly exemplifies the true meaning of Special Olympics, sport, spirit, and splendor.

CLOUD AND LAKEVIEW HOSPITALS  
BEING NAMED AMONGST THE  
TOP 100 HOSPITALS BY THOMSON  
REUTERS

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. BACHMANN. Madam Speaker, to congratulate and honor St. Cloud Hospital and Lakeview Hospital in Stillwater, Minnesota for being named to the Top 100 Hospitals list by Thomson Reuters. The people of St. Cloud and Stillwater know how great their hospitals are and I'm thrilled to see the staff members and administrations receive this recognition.

The Top 100 Hospitals evaluates short-term, acute care and non-federal hospitals on the overall care of a patient, including rate of medical complications and adherence to clinical standards, fiscal responsibility and patient satisfaction. We are fortunate to have high medical standards in this country and St. Cloud and Lakeview Hospitals demonstrate day in and day out that they take the Hippocratic oath to "do no harm" very seriously.

Lakeview Hospital was listed as a Small Community category winner. St. Cloud Hospital was recognized for its work in the Teaching Hospitals category, which only makes this hospital's achievements that much more important as it is a place where future doctors and administrators can learn how to create the best patient experience. St. Cloud Hospital

was also one of 23 hospitals to receive the Everest Award, which recognizes the hospitals with the most improvement over a five-year period.

Madam Speaker, I rise today to honor these two institutions, St. Cloud and Lakeview Hospitals, as some of the top hospitals in the nation. Their recognition by Thomson Reuters as Top 100 Hospitals validates the pride Minnesota takes in their hospitals and other care facilities. As a small business owner working closely with the medical community, I am pleased to see that the people of St. Cloud and Stillwater have some of the best hospital care available to them in the country. Congratulations to everyone who works with these hospitals and to the communities that support them as their own.

IN TRIBUTE TO NEWT HEISLEY

**HON. JANE HARMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. HARMAN. Madam Speaker, displayed prominently in my district office is an autographed medal featuring the POW/MIA flag. It was given to me and signed by Newt Heisley, the designer of the famous image. The black-and-white flag is a symbol of a Nation's gratitude, respect and commitment to those who never came back. In 1998, legislation I authored was signed into law mandating that the flag be flown above Federal buildings on six days a year, including Veterans and Memorial Day. We will never forget.

Newt Heisley died on May 18, at 88. He led a rich life committed to serving his country, to family, and to his artistic passion—forces that would ultimately inform the design of his seminal work.

In the early 1940s, after graduating from Syracuse University with a Fine Arts degree, Heisley joined the Army Air Forces—where he served heroically as a pilot in the Pacific Theatre in World War II.

After the war, Heisley put his artistic talent to work, joining an advertising agency in New Jersey—where he lived with his wife, Bunny, and son, Jeffrey. Hoping to follow in his father's footsteps, Jeffrey entered Marine Corps training but returned emaciated and sick with hepatitis.

Soon after his son's homecoming in 1971, Heisley was tasked with designing a flag for the National League of Families of American Prisoners and Missing in Southeast Asia. Heisley settled on a silhouette of a gaunt man, barbed wire and guard tower. Below that, he wrote "You are not forgotten."

To Heisley's surprise, the flag became a national icon. In 1988, it flew over the White House for the first time, and in 1990, Congress adopted it as the official symbol of appreciation for POWs and MIAs.

Despite the newfound fame, Heisley kept his humility. "I did it for the men who were prisoners of war or missing in action. They're the real heroes," he told the Denver Post in 2002, the same year he wrote his autobiography, *Faith Under Fire*.

This Memorial Day, I will be thinking of them—and Newt Heisley. In words of my dear

friend Dave Albert, the former Lomita Councilman, whose failed attempt to get his local post office to fly the POW/MIA flag inspired the 1998 law, Heisley "was a true patriot for the POW/MIA cause, and he will never be forgotten."

A TRIBUTE TO THE LIFE OF  
LEWIS WILLIAM SEIDMAN

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. EHLERS. Madam Speaker, I rise today to pay tribute to my friend, Lewis William "Bill" Seidman, who died on May 13, 2009 at the age of 88. Bill was well-known and respected not only in the Grand Rapids area, but throughout our nation. He spent a great deal of his life serving our country, and he was a role model from the Greatest Generation. He was also an enthusiastic supporter of his home town of Grand Rapids, Michigan; it is the city I call home, and I have seen first-hand how his passion for public service has improved our community. He is well-known nationally as head of the Resolution Trust Corporation, which was ultimately responsible for cleaning up the Savings and Loan scandal.

Bill was born in Grand Rapids, Michigan on April 29, 1921. He graduated from Dartmouth College in 1943, served honorably in the Navy in the Pacific theater, during World War II, and was awarded the Bronze Star Medal. His record as a communications officer on a Navy destroyer during some of the key battles in World War II clearly shows Bill Seidman's unselfish demeanor. Bill always put his country first.

After the war, he obtained a law degree from Harvard and a Master of Business Administration degree from the University of Michigan. Bill married Sarah "Sally" Berry in 1944, and they had six children, 11 grandchildren and two great-grandchildren.

Bill had a large hand in shaping West Michigan as we know it today. He founded and was president of the television station WZZM in Grand Rapids. Bill actively encouraged the Michigan legislature to create a state college in 1963 to serve the Grand Rapids area; this has now grown to become Grand Valley State University (GVSU).

Bill's role in galvanizing support for Grand Valley State University was critical in its creation. His affiliation with GVSU is among his proudest legacies. The institution is now a world-class university that serves over 20,000 students in West Michigan. Bill once said, "There's nothing that I've done in life that gives me more satisfaction than seeing how Grand Valley State University is delivering on its promise to the Western Michigan area."

Bill helped reform the State of Michigan's financial management practices under the leadership of Governor George Romney in the 1960s. He later was appointed by President Gerald R. Ford as Assistant for Economic Affairs, and focused primarily on controlling inflation. He went on to co-chair the White House Conference on Productivity under President Ronald Reagan.

Mr. Seidman is most well-known for his service as the fourteenth chairman of the Federal Deposit Insurance Corporation. He was appointed in 1985 by President Ronald Reagan at a time when the nation's savings and loan financial system was descending into a crisis caused by ill-considered lending, in which hundreds of firms failed. This led Congress to form the Resolution Trust Corporation (RTC), which was the entity ultimately responsible for cleaning up the Savings and Loans scandal. Bill was appointed as head of the RTC by President George H. W. Bush. Mr. Seidman stated during a speech in Tokyo on September 18, 1996, "... the banking problems of the 80s and 90s came primarily, but not exclusively, from unsound real estate lending."

Bill never stopped working. As an expert on economic and financial matters, he was a regular commentator on CNBC, and an authoritative speaker on our current economic crisis.

Bill's pursuit of public service was a passion born from his drive to do what was right for the country, and for those close to him. He loved his country, and believed public service was a noble and important calling. The nation is far better off for his devoted public service.

I extend my most heartfelt sympathy and prayers to his wife and family. We will all miss him greatly.

JOB CREATION THROUGH  
ENTREPRENEURSHIP ACT OF 2009

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. HOLT. Madam Speaker, I voted yesterday in support of our Nation's small business and for the passage of the "Job Creation through Entrepreneurship Act of 2009", H.R. 2352.

Small businesses play an integral role in the United States economy. Small businesses employ more than half of all workers in the private sector and generate 60 to 80 percent of new jobs in this country. The entrepreneurial development programs developed by this bill will help small businesses not only survive the current downturn, but allow them to expand and create new jobs.

I am particularly pleased that this bill creates Veterans Business Centers for veteran entrepreneurs. Our nation was built by citizen-soldiers, yet too often, our veterans have difficulty finding well-paid, rewarding work in the nation they served and protected. According to the Department of Labor, we need to do more to help our youngest veterans find gainful employment. Veterans between the ages of 18 and 24 had an unemployment rate of 14.1 percent; nearly double the rate of those between the ages of 25 to 34 (7.3 percent). It is unacceptable that hundreds of thousands of veterans who have risked their own lives to defend our country can't find jobs, and many endure homelessness and lives of poverty after they return home. Our brave men and women in uniform have given so much for this country; it is right that the Congress help ensure that our returning soldiers have jobs when they come home.

I also am pleased that this bill increases the amount of entrepreneurial development training that will be offered through online training. I have long supported greater use of online job training, which is why I introduced H.R. 145, the Online Job Training Act of 2009, which amends the Workforce Investment Act to provide grants to states that establish or improve workforce training programs on the Internet. I have seen the value of online job training first-hand at a successful pilot program in my state run by the New Jersey Department of Labor and Workforce Development and Rutgers University. Online training allows workers to access needed development services during the time most convenient for them and in a location most convenient for them—scheduling around jobs, child care, and elder care responsibilities. Offering entrepreneurial development training online will expand the reach of this training to reach more workers and increase the impact of these existing programs.

The Job Creation Through Entrepreneurship Act will build on the investments that this Congress made through the American Recovery and Reinvestment Act. This bill will provide further aid to our small business and continues our efforts to put the economy back on the track to recovery.

REMEMBERING DR. NORVAL POHL,  
FORMER UNIVERSITY OF NORTH  
TEXAS PRESIDENT

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Mr. BURGESS. Madam Speaker, I rise today to remember Dr. Norval Pohl, the former president of the University of North Texas, located in Denton, Texas.

Over his six-year tenure as the 13th President of UNT, Dr. Pohl made several prominent, lasting contributions that will benefit the university's students for years to come. Among other accomplishments, Dr. Pohl helped establish the College of Engineering, and oversaw the creation of Discovery Park, a brand new 105,000 square-foot chemistry building, and a student recreation center, which was later named after him.

More important is the relationship he cultivated between faculty and students. Dr. Pohl always kept his door open to students, making time to listen to their ideas and concerns and give advice. Under Dr. Pohl's guidance, UNT truly became a student-centered university. Not even a brave struggle with cancer kept him from giving his time to the students who sought his counsel.

Dr. Pohl earned his Ph.D. in Quantitative Systems from Arizona State University, and received an M.B.A. in Management and a B.A. in Psychology from California State University at Fresno. In addition to his years at UNT, Dr. Pohl's career saw success at Northern Arizona University, the University of Nevada at Las Vegas, and finally at the Prescott campus of Embry-Riddle University, where he served as Chancellor and Provost.

My thoughts go out to his wife Dr. Barbikay Bissell Pohl, and sons Chandler and Prescott,

as well as a long list of family and friends. Dr. Pohl will be greatly missed by the many that are fortunate enough to have known him.

275TH ANNIVERSARY OF  
TEWKSBURY MASSACHUSETTS

**HON. NIKI TSONGAS**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. TSONGAS. Madam Speaker, I rise today to commemorate the 275th anniversary of the founding of the Town of Tewksbury, Massachusetts.

From its inception, Tewksbury has contributed to the rich history of Massachusetts and the country. Tewksbury began as a small collection of farms that now exist alongside the technological powerhouses of the new millennium. Businesses that call Tewksbury home conduct cutting edge research in the areas of energy, defense, digital entertainment, and medicine. From the American Revolution through the industrial revolution and now the information technology revolution, Tewksbury has emerged as a successful, innovative, and vibrant community.

I am proud to honor Tewksbury's 275th anniversary, and I urge my colleagues to join me in wishing the people of Tewksbury another 275 years of innovation and success.

MRS. CAROLYN MROZ

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Mrs. Carolyn Mroz, recipient of the Humanitarian Award from The Optimist Club of Dundalk, Inc. Carolyn has been selected to receive this award because of her dedication to the Dundalk community over the last several decades.

Born in Dundalk, Maryland, Carolyn graduated from Sparrows Point High School but has not lived in the Dundalk Community for 34 years. Moving to Howard County in the 1970s so her husband could be closer to his job, Carolyn has remained active in her home community despite her physical distance from it.

Today, Carolyn is the President of Bay-Vanguard Federal Savings Bank, a company her father started in 1959. Her father began his work at the bank working with families from the steel yards and factories, leading him to establish conservative banking principles that Bay-Vanguard still operates by today. Sticking to her father's policies, Carolyn has kept the bank healthy in the current economic crisis, posting a zero percent foreclosure rate on home loans.

The Humanitarian of the Year award is presented to individuals who benefit the communities of Dundalk and Edgemere even though they do not reside in the area. In addition to Carolyn's efforts in the banking sector, she has been the president of the North Point Pe-

ninsula Community Coordinating Council, where she now serves as secretary. Additionally, she has served as president of the Todd's Inheritance Historic Site, helping to raise over \$500,000 for the renovation of the Todd House on North Point Road in Edgemere.

Madam Speaker, I ask that you join with me today to honor Mrs. Carolyn Mroz on this memorable occasion. Her dedication to the community of Dundalk is apparent in every aspect of her life despite her not residing there, and the community is truly a better place because of her.

INTRODUCING A BILL HONORING  
THE CONTRIBUTIONS OF  
TAKAMIYAMA DAIGORO TO THE  
SPORT OF SUMO AND TO UNITED  
STATES-JAPAN RELATIONS

**HON. MAZIE K. HIRONO**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. HIRONO. Madam Speaker, I rise today to introduce a bill that recognizes the contributions of Jesse Kuhaulua, known professionally as Takamiyama Daigoro, a trailblazer in the sport of sumo wrestling.

Maui-born and a graduate of Baldwin High School in Wailuku, Jesse made his debut as an aspirant in Japan's national sport in the winter of 1964 in Osaka. At the time, he knew little of the Japanese language and the subtleties of the sport itself. In this initial test, he wondered if his stay in Japan would be counted in weeks or months.

On June 15, 2009, Takamiyama Daigoro will retire from a 45-year long sumo career filled with historic milestones. This day marks the day before his 65th birthday by which senior members of the sport must retire.

Takamiyama Daigoro was the first United States born wrestler to enter the sport of sumo. In 1972, he became the first foreigner to win the Emperor's Cup, a top division championship in the sport. He was also the first foreign-born wrestler to climb to the sumo's third highest rank of sekiwake. Takamiyama also stands as the only foreigner to open his own stable, to train future generations in the sport, after he stopped actively competing himself.

Takamiyama opened the door for others from Hawaii to join him in this most ancient of sports. This group includes Saleva'a Atisano'e, also known as Konishiki, who became the first foreigner to reach the second-highest rank of ozeki; as well as Chad Rowen, also known as Akebono, who became the first foreigner to hold the highest rank of sumo, that of yokozuna; and Fiamalu Penitani, also known as Musashimaru, who became the second foreigner to hold the title of yokozuna.

I urge my colleagues to support this recognition of Jesse Kuhaulua, a true ambassador of aloha spirit.

MOREEN BLUM

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BERMAN. Madam Speaker, I am honored to pay tribute to my good friend, Moreen Blum, who was recently honored by the Sherman Oaks Democratic Club for her outstanding contributions to democratic politics in the San Fernando Valley. I have known Moreen for over two decades and have had the pleasure of working with her on many important issues in our community.

A long time volunteer in local politics, Moreen was born in Cleveland, Ohio. She joined the Navy when she was 20 years old and was a member of the Waves until 1952. Shortly after moving to Los Angeles in 1959, she formed the West Hollywood Democratic Club and was a Golden Girl at the John F. Kennedy nominating convention. Currently, she is President Emeritus of the Sherman Oaks Democratic Club, and is very active as the president and founder of the Summerville Democratic Club. Her noteworthy achievements were recognized by the Democratic Party of the San Fernando Valley, as she was presented with the Dorothy Mayer Award. She serves as a worthy example to all political activists.

Madam Speaker and distinguished colleagues, I ask you to join me in saluting Moreen Blum for her impressive career and dedication to the people of the San Fernando Valley.

PERSONAL EXPLANATION

**HON. LARRY KISSELL**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. KISSELL. Madam Speaker, on Monday, May 18, 2009, I was unable to vote as I was participating in an Armed Services Congressional Delegation meeting at Ft. Bragg and missed three rollcall votes. Had I been present, I would have voted "yea" on rollcall No. 267 to pass H. Res. 300, Congratulating Camp Dudley YMCA of Westport, New York, on the occasion of its 125th anniversary; "yea" on rollcall No. 268 to pass S. 386, the "Fraud Enforcement and Recovery Act of 2009"; and "yea" on rollcall No. 269 to pass H. Res. 442, "Recognizing the Importance of the Child and Adult Care Food Program and its Positive Effect on the Lives of Low Income Children and Families."

RECOGNIZING MAYOR VIC  
BURGESS

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BURGESS. Madam Speaker, I rise today to recognize Mayor Vic Burgess who will be retiring from the City of Corinth this month after many years serving his community.

Since 2003, Mayor Burgess served selflessly in the non-paying position and also served for over five years as a City Council Member before being elected as Mayor. Mayor Burgess also held the position of County Judge for four years. His commitment to his community is further illustrated by his service as a volunteer police reserve officer for the City of Lewisville for six years and as a reserve officer for the Denton County Sheriff's Department for two and a half years.

As Mayor and former City Council Member, Vic Burgess demonstrated professionalism, integrity, enthusiasm and dedication to the city and citizens of Corinth. A fellow Council Member stated that, "Mayor Burgess had a steady guiding hand to lead in good and bad times. He put the city on a good path for the future."

It is with great honor that I recognize Mayor Vic Burgess for his years of hard work and dedication given to the citizens of Corinth and North Texas. I am proud to represent him in Washington and honor his service and devotion that demonstrates true leadership.

HONORING JAMES F. VESELY

**HON. DAVID G. REICHERT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. REICHERT. Madam Speaker, today I pause to honor a man who spent more than 40 years using his exceptional journalistic skill, integrity and ethic to promote civic engagement and help educate his readership and many others in the Pacific Northwest and beyond.

James F. Vesely retired from The Seattle Times on Friday, May 15, 2009. He oversaw the editorial pages at The Times since 2001 after holding the position of associate editorial page editor for the previous 10 years. During his tenure at the largest newspaper in my home state of Washington, Mr. Vesely consistently pushed The Times editorial pages and its writers to think independently, write accurately and report fairly. And, with an outstanding journalist with a lifetime of experience under his belt in the lead, the editorial page and its writers did just that. During a tremendously difficult time for newspapers throughout our country the editorial pages at The Times spoke consistently, accurately and uncompromisingly.

Before joining The Times in 1991, Mr. Vesely spent much of his career in the Midwest, including ten years in Detroit with The Detroit News. He also worked as a consulting editor for the Anchorage Times and as a visiting editor at The People's Daily in Beijing. In the mid-seventies, he was a Journalism Fellow at Stanford University and was a member of the National Conference of Editorial Writers for the past 15 years.

Mr. Vesely's involvement in civic engagement was the true barometer of his positive effect on citizens looking to "get involved" in their communities and government. In 2005, Mr. Vesely took the time to moderate a forum I held in the 8th District on Social Security and he and The Times Editorial Board hosted, moderated and submitted questions at many

political debates—races I was involved in and a variety of others. Mr. Vesely also offered his time to CityClub, a non-profit, non-partisan education organization dedicated to informing citizens and building community leadership, in order to facilitate healthy dialogue and educational opportunities for people in the greater Seattle area. He never rested in educating himself and others to make our corner of the country a more informed, vibrant place to live.

With the retirement of James F. Vesely from The Seattle Times, the Pacific Northwest is losing an informed voice of reason and the journalism profession is losing a wealth of experience, wisdom and generosity. I wish Mr. Vesely the best in retirement. He told The Times on May 13 that he was "plan(ing) to do a lot of fly-fishing"; that sounds like a great start.

AMENDING THE PUBLIC HEALTH SERVICE ACT TO PROVIDE FOR A HEALTH SURVEY REGARDING NATIVE HAWAIIANS AND OTHER PACIFIC ISLANDERS

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. BORDALLO. Madam Speaker, today I introduced legislation to amend the Public Health Service Act for the purposes of providing the resources necessary for the Department of Health and Human Services to survey the health of Native Hawaiians and other Pacific Islanders (NHOPI). Specifically, the bill I have introduced today would amend Part B of Title III of the Public Health Service Act to authorize the award of a contract or grant by the Secretary of Health and Human Services for the express purpose of developing a health survey targeting Native Hawaiians and other Pacific Islanders residing in the United States and the Freely Associated States in the Pacific Region.

In 1997, the Office of Management and Budget (OMB) revised federal data collection standards to recognize the significant demographic, historical, cultural, and ethnic differences that exist between Native Hawaiians and other Pacific Islanders and Asian Americans. These important distinctions are not simply cultural or historical, but also encompass unique health and socio-economic challenges among the different populations. The standard requires that Native Hawaiian and other Pacific Islander data be collected, disaggregated and reported separately from Asian American data by all federal agencies no later than January 1, 2003.

As of 2007, however, not all federal agencies are in full compliance with OMB Revised Directive 15. In the places where limited agency data do exist, they are not made publicly available or it takes years to release. On a national level, the sample size of the NHOPI population in studies and reports is not represented because of a lack of data—resulting in meaningful information and statistics being unavailable to health organizations, federal, state, territorial and local agencies and policymakers.

Native Hawaiian and other Pacific Islander communities are eager to move forward with their efforts to improve public health. This scientific survey would establish baseline health information to inform health policy and interventions so that individual and community health can be properly tracked and evaluated. Additionally, it would provide critical information for both NHOPI communities' health care providers and organizations that work with these communities to develop appropriate health care strategies for public health education and resources.

I look forward on working with my colleagues in addressing this need and advancing the larger cause of eliminating health disparities.

TRIBUTE TO ALL VETERANS

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. QUIGLEY. Madam Speaker, President Abraham Lincoln said a Gettysburg, "The world will little note nor long remember what we say here, but it can never forget what they did here."

I rise today to honor those who have fallen in defense of our country, and I do so recognizing that history won't remember what a guy like me has to say.

But it's important for those who served, and those who serve, to know we will always take the time to remember, and say thank you.

I rise to recognize the sacrifices of the Soldier holding the line in Gettysburg, the Sailor defending the fleet in the South Pacific, the Marine landing at Inchon, South Korea, and the Airman patrolling the skies over Vietnam.

Madam Speaker, we mark this holiday at a time when our sons and daughters are keeping watch over the streets of Baghdad and the mountains of Afghanistan.

We mark this holiday as a reminder that in conflicts past, present, and future, a generation of Americans will answer the call and pay the price of freedom.

While there is never doubt that they will do their duty and serve their country, let there never be doubt that we will stand by them and remember their service and their sacrifice.

You may know that my hometown, Chicago, has one of the nation's largest Memorial Day parades.

But you probably don't know about another, smaller, commemoration.

Dan Wenserski is a gentleman from my district who knows about paying tribute to his brothers and sisters who wore the uniform.

For as long as many can remember, Dan has paid his respects to those who served this country since its inception.

Each year, Dan unpacks flags that had draped the caskets of the fallen to create an Avenue of Flags at Rosehill Cemetery.

He believes it is important to pay tribute to all who sacrificed and served.

As an 85-year-old veteran of World War II, Dan shuns the spotlight, preferring to honor his fallen colleagues than receive honor himself.

But this Memorial Day, I ask all to join me in honoring and thanking Mr. Daniel Wenserski.

Mr. Wenserski saw combat in the European theater and returned from World War II as a 21-year-old with three purple hearts.

He is commander of Amvets Post 243.

Dedicated veterans like him are a national treasure.

We must remember them not only with memorials but in how we dedicate ourselves to the unfinished work of our Republic.

We must remember Lincoln's pledge to, "care for him who shall have borne the battle and for his widow and his orphan."

That means we can't just use this day to pay homage to those who are lost.

We need to remember those who remain behind.

We need to remember the mother or father who has to raise a family alone, and the children who are left with only a photo.

We have, and must continue to make great strides during this Congress to help that mother and that father.

We must not allow the lessons learned during this day go unheeded during every other.

We must dedicate every day to taking care of our veterans and their families, as they have taken every one of their days to dedicate to us.

I'd like to thank all of our veterans for the freedoms we all take for granted, and wish you and your families all the very best on this Memorial Day.

#### CLOUD AND LAKEVIEW HOSPITALS BEING NAMED AMONGST THE TOP 100 HOSPITALS BY THOMSON REUTERS

#### HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mrs. BACHMANN. Madam Speaker, I congratulate and honor St. Cloud Hospital and Lakeview Hospital in Stillwater, Minnesota for being named to the Top 100 Hospitals list by Thomson Reuters. The people of St. Cloud and Stillwater know how great their hospitals are and I'm thrilled to see the staff members and administrations receive this recognition.

The Top 100 Hospitals evaluates short-term, acute care and non-federal hospitals on the overall care of a patient, including rate of medical complications and adherence to clinical standards, fiscal responsibility and patient satisfaction. We are fortunate to have high medical standards in this country and St. Cloud and Lakeview Hospitals demonstrate day in and day out that they take the Hippocratic oath to "do no harm" very seriously.

Lakeview Hospital was listed as a Small Community category winner. St. Cloud Hospital was recognized for its work in the Teaching Hospitals category, which only makes this hospital's achievements that much more important as it is a place where future doctors and administrators can learn how to create the best patient experience. St. Cloud Hospital was also one of 23 hospitals to receive the Everest Award, which recognizes the hospitals

with the most improvement over a five-year period.

Madam Speaker, I rise today to honor these two institutions, St. Cloud and Lakeview Hospitals, as some of the top hospitals in the nation. Their recognition by Thomson Reuters as Top 100 Hospitals validates the pride Minnesota takes in their hospitals and other care facilities. As a small business owner working closely with the medical community, I am pleased to see that the people of St. Cloud and Stillwater have some of the best hospital care available to them in the country. Congratulations to everyone who works with these hospitals and to the communities that support them as their own.

#### RECOGNIZING MICHAELA RODENO OF NAPA COUNTY, CALIFORNIA

#### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. THOMPSON of California. Madam Speaker, I rise today to honor the many contributions made by my good friend, Michaela Rodeno, to the California wine industry and to Napa County. After serving 20 years as CEO of St. Supery Vineyards and Winery, Ms. Rodeno is retiring to become the winery's first CEO Emeritus.

Ms. Rodeno began her career in the wine industry in 1972 as the first female tour guide at Beaulieu Vineyard in Rutherford. She quickly capitalized on her college major in French Literature by impressing the first French wine company to invest in California with her linguistic skills. She became the second employee hired at Domaine Chandon, which quickly became one of Napa County's premier wineries.

Ms. Rodeno remained with Domaine Chandon for 15 years, advancing to the position of Vice President of Marketing. While there, she developed one of the first winery "clubs" in the industry, which eventually grew to more than 100,000 members. While at Domaine Chandon, she also earned her MBA at the University of California, Berkeley.

In 1988 she was offered the position of CEO at St. Supery, another French-backed winery. St. Supery Vineyards and Winery is known for its innovations in winemaking and its commitment to consumer education and their Napa Valley Estate Sauvignon Blanc, Cabernet Sauvignon and meritage blends, Elu and Virtu, have earned critical acclaim and many awards.

A true pioneering woman in the wine industry, Ms. Rodeno was one of the original co-founders of Women for WineSense, a national organization promoting wine as part of a healthy, balanced lifestyle. She is a founding director of the Wine Marketing Council, has chaired the Meritage Association and the Napa Valley Wine Auction and has also served on the boards of the Wine Institute and the Napa Valley Vintners.

She and her husband, Greg, live on a 25 acre ranch near Oakville planted in Sauvignon Blanc and Pinot Grigio grapes and also own another 40 acres planted in Bordeaux varieties

in Pope Valley. Although nearly all of the family's grapes are sold to Napa Valley wineries, they do produce a small amount of Sangiovese under their own Villa Ragazzi label.

Madam Speaker, it is fitting at this time that we honor Michaela Rodeno today for her many accomplishments. She has had a distinguished career in the wine industry and will be long remembered for her many contributions and innovations. We wish her all the best, and I am proud to call her my friend.

#### ON THE OBSERVANCE OF MEMORIAL DAY

#### HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. PERRIELLO. Madam Speaker, as we prepare to observe Memorial Day, I rise to pay tribute to all those who have fallen in defense of our country. From Appomattox Courthouse to the National D-Day Memorial, the veterans of central and southern Virginia stand as a testament to the virtues of sacrifice and selfless service. I am proud to work for those who have given so much to our nation.

I firmly believe the best way to honor the veterans of past generations is to take care of the veterans alive today. Since coming to Congress, I have served as an active member of the House Committee on Veterans Affairs, working hard to ensure that the U.S. Department of Veterans Affairs continues to uphold its commitment to this Nation's veterans. I have been a co-sponsor of H.R. 1016, the Veterans Health Care Budget Reform and Transparency Act of 2009, a bill which would authorize Congress to provide VA medical care appropriations one year in advance of the start of each fiscal year. An advance appropriation would provide the VA with a year to plan how to deliver the most efficient and effective care to an increasing number of veterans with increasingly complex medical conditions.

Taking care of our veterans also means helping them take care of their families. In today's economy many of our veterans are returning home after extended deployments only to find that the jobs they left behind no longer exist. I recently introduced H.R. 1098, the Veterans Worker Retraining Act of 2009. H.R. 1098 will help address the growing problem of veteran unemployment by reinstating and making permanent the rate increase for On-the-Job Training (OJT) benefits available to eligible veterans through the Department of Veterans Affairs. OJT offers veterans and members of the Guard and Reserve an alternative to attending a college or university by using their education benefit to obtain employment training.

As a Nation we have prospered because we have always had brave men and women willing to answer the call to arms in times of great uncertainty. May God bless all those who have fallen in the name of freedom and all those who stand vigilant to protect it.



IN REMEMBRANCE OF THOMAS  
BYRNE

**HON. BETTY McCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. McCOLLUM. Madam Speaker, I rise today to honor the memory of Mr. Thomas Byrne, former Mayor of St. Paul, Minnesota who died on Sunday, April 5. While the city of St. Paul mourns the loss of a great civil servant, it is also a time to reflect on the legacy of this remarkable Minnesotan.

Elected St. Paul's mayor in 1966 and again in 1968, Mr. Byrne's time in office is remembered for his commitment to community and transparency, and for his abiding love for the great city of St. Paul. He was dedicated to the idea that government best serves its people when it is accessible and open to all, an idea that to this day underpins the very spirit of Saint Paul's local government.

During his very first year as mayor, Thomas Byrne brought back one of St. Paul's most festive traditions, its annual St. Patrick's Day parade. While the Irish-themed celebration may be the most tangible result of Byrne's time in office, his legacy runs much deeper. He managed to pass a city-wide housing law, and helped make St. Paul the first city in the United States to pass a human rights ordinance, all while fostering an environment of open dialogue that has become tradition in St. Paul. When protestors once staged a peaceful sit-in at his office, Mayor Byrne brought them coffee and doughnuts, a testament to his approach to politics.

Thomas Byrne was an exceptional man not only for his service to the city of St. Paul, but for his service to our great nation. After growing up in St. Paul, where he attended Cretin High School, Mr. Byrne enrolled at the University of St. Thomas for a bachelor's degree in education. He put his own education on hold, however, to serve as a navigator for the Army Air Corps during World War II. Stationed in Italy, he flew over 50 missions before returning home to receive his bachelor's degree from St. Thomas, and a master's degree in education from the University of Minnesota.

Both before and after his career as mayor, Thomas Byrne worked as a teacher and administrator for the St. Paul public school system. He served on the St. Paul Parks and Recreation Commission, the Minnesota Municipal Commission, and in his local Veterans of Foreign Wars post. He was a member of the Holy Spirit Men's Club and Choir, the St. Paul Federation of Teachers, the St. Paul Volunteer Bureau, his local American Legion chapter, and countless other community groups from Little League to the Knights of Columbus.

Thomas Byrne was the true embodiment of an active, involved citizen. A profound love for his community motivated him to give back in every way he could. Like so many Minnesotans, however, he still found time to fish at the family cabin in Northern Minnesota.

On behalf of myself, the City of St. Paul, and the state of Minnesota, I wish to honor the life and legacy of Thomas Byrne. I offer my thoughts and my prayers to Mary Therese Byrne, Thomas' wife of 63 years, and his

three remaining children, Tim Byrne, Joseph Byrne, and Margaret Allen.

HONORING BRIAN O'NEILL

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. WOOLSEY. Madam Speaker, I rise today to honor the memory of Brian O'Neill, one of the great visionaries of the National Park Service, who passed on May 13, 2009.

For 25 years Brian served as Superintendent of the Golden Gate National Recreational Area, a vast swath of 75,500 acres in San Mateo and San Francisco Counties and across the Golden Gate in Marin County in my congressional district. His influence on the Golden Gate National Recreational Area (GGNRA) and on our entire national park system was immense, and will last far into the future.

Brian O'Neill was born in 1941 in Washington D.C. and grew up there. In high school he teamed up with his mother, Virginia and his twin brother, Alan, to found a nonprofit organization to expose urban children to the wonders of national parks. After graduating from the University of Maryland, he joined what was then the Bureau of Outdoor Education, and worked on park planning. The Bureau's name was changed to Heritage Recreation and Conservation Service and later was merged into the National Park Service. In the early 70's, Brian had the opportunity to pitch the idea of urban national parks to President Nixon, who became an enthusiastic backer, and signed legislation creating the GGNRA in 1972. Nine years later Brian became Assistant Superintendent of the park and in 1986, he became its Superintendent.

When Brian first hiked through the GGNRA's fragrant headlands in his green uniform and flat brimmed hat, the park was a beautiful, but in many cases, crumbling collection of former military installations looking out on the broad Pacific and busy San Francisco Bay. Yet these places were steeped in history and brimming with potential. What it took to bring it all together was a passion for parks, a commitment to solid planning and the personal skills to create partnerships—all attributes of Brian O'Neill.

During Brian's tenure he strengthened and expanded the non-profit partnerships at Fort Mason, Fort Baker, the Presidio and the Mann Headlands. Where else could you visit a national park and see such well regarded and varied institutions as the Magic Theatre and Antenna Theatre, the Discovery Museum, the Marine Mammal Center and the headquarters of the Gulf of the Farallones National Marine Sanctuary? Where else could you hike through the magnificent redwood cathedral of Muir Woods and the same day hear an internationally known economist lecture at Cavallo Point?

The GGNRA under the leadership of Brian O'Neill became a place to enjoy nature and to learn about nature; a place to renew your spirit and expand your potential; a place to encounter the Bay Area's history and to prepare

for its future. It was, and is now, a place for hikers, cyclists, equestrians, dog walkers, artists, educators, environmentalists, wind surfers, college kids and city kids, tourists from near and afar, and ordinary folks, taking just a few minutes to leave the city's bustle, enter the park's natural splendor and get away from it all.

It would be simplistic to say that the Golden Gate Recreational Area became everything to all people because, of course, it can't. Despite its urban interface, it is a national park, and the mission to preserve and protect its natural and cultural resources is always in tension with human uses. Brian's not always so fun job was to find ways to resolve these kinds of conflicts. For this job, he had an affability that diffused conflict, an encyclopedic knowledge of Park Service policies and regulations, and a crafty and creative mind. He never seemed to back down, but he found ways to churn out solutions to the most difficult and complex problems.

The Fort Baker Retreat and Conference Center is a case in point. At first it was to be a rather large public-private endeavor, but that disturbed residents and the City of Sausalito, who asked for my help. The Secretary of Interior intervened, more than a year of negotiation ensued, and the City of Sausalito eventually sued unsuccessfully to halt the project. Brian O'Neill listened and piece by piece he put together a new planning process that resulted in the project's downsizing, the selection of a local developer, new public meetings, and a campus that utilizes green building materials, solar energy, and transportation management.

Fort Baker is now the pride of the Park Service and Sausalito, and it couldn't have turned out so well without the persistence and varied skills of Brian O'Neill. What could have become a political quagmire became instead, Brian O'Neill's triumph.

Madam Speaker, there are a lot of people who are going to miss Brian O'Neill, his big smile, his twinkling blue eyes and his obvious enjoyment of his job. My consolations especially go to his wife Marti, his mother, Virginia, his twin brother Alan, and his two adult children, Kim and Brent. They have so much to be proud of. Brian O'Neill has left us a rich legacy in a park that is as wonderfully expansive as the man himself.

Brian O'Neill was an institution, but also a warm, caring human being, a friend . . . and a great dancer.

CONGRATULATING TAIWAN ON ITS  
PARTICIPATION AS AN OBSERVER  
IN THE 62ND WORLD  
HEALTH ASSEMBLY

**HON. DAVID WU**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. WU. Madam Speaker, as the 62nd World Health Assembly convenes in Geneva this week, I rise to congratulate Taiwan's participation as an observer. This occasion is a significant milestone for Taiwan because it marks the first time since withdrawing from the

United Nations 38 years ago that Taiwan is rejoining a United Nations-related body as an observer.

I have been a longtime supporter of Taiwan's meaningful participation in the World Health Organization. The outbreaks of SARS, avian influenza, and most recently, the H1N1 flu, have made it clear that public health problems know no borders. With the great potential for the spread of infectious diseases across countries and continents, it is critical that all parts of the world, including Taiwan, be given the opportunity to participate in international health cooperation forums and programs.

In 2004, Congress demonstrated unequivocal support for Taiwan's participation in the World Health Organization by enacting Public Law 108-235, which authorized the secretary of state to initiate and implement a plan to endorse and obtain observer status for Taiwan at the annual World Health Assembly. I applaud this year's decision to finally grant Taiwan a seat at the table of this critical global health forum. May this occasion mark the beginning of Taiwan's growing involvement in other international organizations.

BEST WISHES TO DR. JAMES  
BILLINGTON, LIBRARIAN OF  
CONGRESS

**HON. EARL BLUMENAUER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BLUMENAUER. Madam Speaker, I rise to present my best wishes to Dr. James Billington, the Librarian of Congress, as he celebrates his 80th birthday on June 1. He is a friend and an exceptional steward of the Library of Congress.

The Library, a priceless although perhaps underappreciated resource, has evolved into so much more than a Congressional collection. It is truly the nation's library, containing a diverse multi-media collection of 140 million items on more than 600 miles of shelves.

It is our good fortune that this institution has been wisely directed since 1987 by James Billington, a scholar and an outstanding public servant. During his tenure, Dr. Billington has expanded the Library's collection to include not just hardcopy works, but digital and interactive material as well. Dr. Billington has displayed a commitment to public access and engagement by sharing the Library's priceless collections widely and also delving more deeply to generate knowledge and distill wisdom. I look forward to the continued development of innovative programs such as the National Digital Library and now the World Digital Library, and the annual National Book Festival on the Mall. In his inaugural address as Librarian he said, "This place has a destiny to be a living encyclopedia of democracy, not just a mausoleum of culture, but a catalyst for civilization."

I take great inspiration from the Library's art and architecture, and also in knowing that the Library of Congress is here for all. We've formed the bipartisan Congressional Library of Congress Caucus to promote this world class resource and to show appreciation for the Library, its collections, curators, and Librarian.

Thanks to Dr. Billington's vision and efforts the Library of Congress is now a must-see destination for visitors in Washington. I greatly appreciate his efforts and leadership of this esteemed institution, and wish him the best.

#### THE END OF THE LONG MARCH

**HON. BRIAN P. BILBRAY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. BILBRAY. Madam Speaker, on this Memorial Weekend, when we remember the sacrifices of the men and women who fought for our freedom and democracy, I would like to call my colleagues' attention to a powerful essay that appeared in the Japan Times last month. It was written by one of my constituents, Dr. Lester Tenney who is a survivor of the Battle of the Philippines, the Bataan Death March, a "Hell Ship," and a Mitsui coal mine. He recalls that at his first prison camp, the Japanese commandant turned to the American prisoners of war (POWs) and told them that they were "lower than dogs" and "they (the Japanese) would treat us that way for the rest of our lives." Then he said, "We will never be friends with the piggish Americans."

Yet the Japanese commandant who belittled this brave American was wrong. The United States and Japan have become friends and close allies, a result we welcome. Dr. Tenney's anger has been tempered by the many Japanese people who have welcomed him to Japan. Personal friendships and common goals heal many wounds.

Most important, Dr. Tenney reports an important development in US-Japan relations that cements the trust between our people. This year, the Government of Japan has apologized finally and officially to all former POWs of Japan. The Japanese are also considering including the American POWs in a program for peace, friendship and exchange. I hope that they will follow through with this. It is this spirit of reconciliation and remembrance that makes this American Memorial Day so significant.

#### THE END OF THE LONG MARCH

(By Lester Tenney)

Carlsbad, CA.—Sixty-seven years ago this month, on April 9, 1942, I was surrendered to the Japanese Imperial Army on the Bataan Peninsula in the Philippines. At my first prison camp, the Japanese commandant turned to the American prisoners of war (POWs) and told us that we were "lower than dogs" and "they (the Japanese) would treat us that way for the rest of our lives." Then he said, "We will never be friends with the piggish Americans."

For a long time I thought he was right. But we have both changed. This year, I welcomed the Japanese government's first official apology to the American POWs, 63 years after our liberation.

If my fellow soldiers or I had known the consequences of being a POW of the Japanese, we would have fought to the death. After three long months of jungle fighting against a better-equipped invasion force, the American and Filipino troops were starving, sick, exhausted and out of ammunition.

At surrender, we were immediately forced to march 105 km through the steaming Ba-

taan Peninsula without food, water, medical treatment or rest. Today, the Bataan Death March is remembered as one of the worst war crimes of World War II.

I will never forget my buddies who were shot simply for trying to get a drink of water; crushed by a tank for stumbling; bayoneted just because they could not take another step; or forced at gun point to bury alive the sick. I bear a deep scar where a Japanese officer on horseback brought his samurai sword down on my shoulder.

Those who survived the Death March faced over three years of unimaginably brutal imprisonment. Many, like me, were herded into "Hell Ships," packed shoulder to shoulder without food or sanitation and shipped to factories, mines and docks across the Japanese Empire. The survivors were literally sold to private Japanese companies to work sustaining wartime production.

I dug coal in a dangerous Mitsui Corporation-owned mine. Like all POWs, I was overworked, beaten, humiliated and starved. The damage and suffering we endured from these companies' employees were comparable to, and sometimes worse than, that inflicted upon us by the Imperial Japanese military. Among World War II combat veterans and former POWs, those who were prisoners of the Japanese have the highest percentage of post-traumatic stress disorders. To say the least, we POWs had and still have intense feelings about Japan.

Yet the Japanese commandant who belittled his American captives was wrong. The United States and Japan have become friends and close allies—a result we welcome. My anger has been tempered by the many Japanese people who have welcomed me to Japan. Personal friendships and common goals heal many wounds.

Our unfortunate history came largely to closure in a personal meeting with the Japanese ambassador to the U.S. and his wife last November. I was finally able to tell a Japanese official my story. He heard of my humiliations, saw my scars and learned of my Japanese friends who have helped me overcome my POW trauma.

I asked for the ambassador's help in requesting three things from his government so that justice is achieved for POWs: (1) an official apology; (2) an appeal to companies to apologize for their wartime use of POWs; and (3) a reconciliation project.

In December, the ambassador wrote me with news for which I have waited decades. His letter said that Japan's government extends "a heartfelt apology for our country having caused tremendous damage and suffering to many people, including those who have undergone tragic experiences in the Bataan Peninsula and Corregidor Island in the Philippines."

This acknowledging gesture was followed in February by a Cabinet-approved statement to a member of the Diet that extended the apology to all "former POWs." It is the first official apology specifically to mention POWs or any particular group hurt by Imperial Japan.

We POWs accept these long-sought apologies and now ask Japan to state them for all to hear and understand. I trust that my two other requests will be fulfilled soon. It has taken nearly seven decades, but Japan's recognition of its mistreatment of POWs attains historic justice and brings fullness to the U.S.-Japan relationship. A future of a peaceful alliance is what we really wanted in the first place.

CELEBRATING THE CENTENNIAL  
OF THE VILLAGE OF KENSINGTON

**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. ACKERMAN. Madam Speaker, I rise today in recognition of the Village of Kensington on the occasion of its centennial. As one of New York's most unique and historic communities, Kensington is a quiet treasure on the North Shore of Long Island. With its beautiful green space, stylish architecture, and warm-hearted residents, Kensington has become synonymous with pleasant living.

The original vision for a "planned colony" on Long Island which would become Kensington, was the brainchild of the President of Aetna Bank in New York, Charles Finlay, and his partner, E.J. Rickert. With the farmland they purchased, Mr. Finlay and Mr. Rickert envisioned a community of spectacular homes amidst natural beauty, while maintaining proximity to the local railroad station. Their vision became a reality when in February 1909, the Kensington Association was created to organize Village improvements, including roads, landscaping, utilities, pool facilities, and walkways.

Rickert and Finlay built Kensington's famous white gates, modeled from those of London's Kensington Gardens, and named the Village after its new landmark. Improvements to Kensington continued, while honoring Rickert's and Finlay's vision for maintaining the natural beauty of the area. By a unanimous vote of Kensington's residents, Kensington became an incorporated village on November 28, 1921.

While a lot has changed around Kensington since that time, the Village has remained a wonderful community in which to raise a family and live out the American dream. Despite the hustle and bustle of the world's greatest metropolis just a few miles away, Kensington continues to be a community of tranquility. Its welcoming white gates will always symbolize the hospitable nature of its residents. I ask all my colleagues in the House of Representatives to please join me in honoring Mayor Susan Lopatkin, Deputy Mayor Gail Strongwater, Trustees Howard Diamond, Alina Hendler, and Gregory Keller, Village Clerk/Treasurer Arlene Giniger, and all the people of the Village of Kensington on their 100th anniversary.

IN REMEMBRANCE OF MRS.  
CARRIE SUE WILLIAMS

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. MATSUI. Madam Speaker, I rise today to remember and honor Mrs. Carrie Sue Williams, who passed away on May 6, 2009, at the age of seventy-seven. I ask my colleagues to join me in honoring this fine woman.

Mrs. Williams was born Carrie Sue Martin on August 19, 1931, in Summit, Mississippi to

Sam and Florence Martin. She was the eighth of nine children the Martins would have.

A woman of faith and quiet strength, Mrs. Williams' father passed away when she was young and she would often credit her mother's demeanor and ability to stay focused while raising nine with making a huge impact on her life.

United in holy matrimony on November 22, 1953, in Chicago, Illinois, Carrie Sue and Pastor Ephraim Williams stood by each other's side for more than 55 years. They have been blessed with two children, Gwendolyn Sue and Ephraim Jr., four grandchildren, and nine great grandchildren.

Affectionately known as "Sister Sue," Mrs. Williams was a life long student devoted to God. During her studies, she attended Conroe Normal Industrial College, Andrews Bible College, and The Golden Gate Southern Baptist Extension. She graduated from the Southern Baptist Seminary Extension and the National Baptist Convention Certificate of Progress Program.

Additionally, Mrs. Williams undertook two years of pastoral training from local seminaries in Sacramento. She regularly attended conferences and seminars in religious programs, and completed enough hours of college level education to have earned her two master's degrees.

Always the devoted wife and mother, Mrs. Williams believed strongly that she had been called to be a pastor's wife, and defined her role as supporting her husband fully and being available for his needs.

Being devoted to her husband and his work as a pastor at St. Paul's Missionary Baptist Church, Mrs. Williams traveled extensively with him on church duties throughout the country and world. Their travels took them to 32 States and countries in Africa, Europe, and the Middle East.

Madam Speaker, I hereby recognize and honor Mrs. Carrie Sue Williams for her life of service and dedication to her family, friends, and community. Mrs. Williams was a cheerful and loving woman who reached out to those in need and practiced what she believed in every day. She will be greatly missed.

HONORING CHIEF RON SHIELDS

**HON. JEB HENSARLING**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. HENSARLING. Madam Speaker, I rise today to honor Chief Ron Shields of the Brownsboro Police Department and recognize his exceptional service and contributions to his country, the State of Texas and his community.

His exemplary career in law enforcement has touched communities throughout Texas. As an instructor with the East Texas Police Academy at Kilgore College, Chief Shields has helped train more than 500 peace officers. Chief Shields represents public service in the highest regard.

Before his career in law enforcement, Chief Shields served his country honorably as a member of the Army National Guard.

As the Congressman for the Fifth District of Texas, I am honored to recognize Chief Ron Shields for his many years of public service and innumerable contributions to his country, state and community. Chief, on behalf of all the constituents of the Fifth District, I would like to extend our most sincere thanks.

EARMARK DECLARATION

**HON. DON YOUNG**

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. YOUNG of Alaska. Madam Speaker, in adherence to the Republican Earmark Standards for the FAA Reauthorization, H.R. 915, I submit the following:

Requesting Member: Congressman DON YOUNG.

Bill Number: H.R. 915.

Section: 814.

Legal Name of Requesting Entity: Municipality of Anchorage.

Address of Requesting Entity: 632 W. 6th Ave., Anchorage, AK 99501.

Description of Request: The legislation enables airport land at Merrill Field to revert to the Municipality of Anchorage rather than the Federal Government. The Muni would like to use the land to expand the highway that runs by Merrill Field.

Requesting Member: Congressman DON YOUNG.

Bill Number: H.R. 915.

Section: 103.

Legal Name of Requesting Entity: Alaska DOT&PF.

Address of Requesting Entity: 4111 Aviation Avenue, Anchorage, AK 99519-6900.

Description of Request: This provision would allow the continuation of the Alaska Aviation Safety Project to conduct 3-dimensional mapping of Alaska's aviation corridors.

PERSONAL EXPLANATION

**HON. JARED POLIS**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. POLIS. Madam Speaker, on Wednesday, May 20, I was absent from the House of Representatives due to an emergency dental procedure, and thus I missed rollcall votes Nos. 276-278. Had I been present, I would have voted "aye" on Nos. 276, 277, 278.

IN RECOGNITION OF ALBIN GRUHN

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. SPEIER. Madam Speaker, I rise with sadness today to honor Albin Gruhn of San Anselmo, California, who passed away March 18 at the age of 94. Mr. Gruhn was a respected and beloved labor leader and consumer rights activist whose calling was the

welfare of the working people of California. His 36 years as president of the California Labor Federation and his role as a founder of the Association of California Consumers were at the heart of a remarkable career.

Mr. Gruhn was born in Eureka, California, in 1915. At the age of 19 he began working for the Hammond Lumber Co. where he joined the Sawmill and Loggers Federal Union. A strike shortly afterwards resulted in the deaths of three union picketers and deeply affected him, resulting in a life-long commitment to the labor movement.

He was also blacklisted as a result of his participation in the strike but soon found employment in construction, joining the Laborers Local where his membership continued for over 60 years. At the age of 22, he became secretary of the Central Labor Council of Humboldt and Del Norte Counties and led that council for over 20 years.

In 1940 Mr. Gruhn was first elected to what is now the California Labor Federation as district vice president and became its president in 1960. He led with skill, enthusiasm, and passion until his retirement in 1996. He helped build the organization into a strong and effective advocacy group for the rights of workers, inspiring several generations of political and labor leaders along the way.

During the 1960s, Mr. Gruhn was also a founder of the Association of California Consumers, California's first consumer group, and later became a founding officer and then president emeritus of the Consumer Federation of California. He also devoted some of his considerable energies to the California Apprenticeship Council and the California Constitution Revision Commission as well as serving on various state commissions. These were appointments over the decades by five California governors and covered a variety of issues from fair housing to air pollution. One of the commissions dealt with children and youth, reflecting his deep involvement in the annual scholarship program established by the California Labor Federation.

Mr. Gruhn was always politically active as a means of supporting the causes he believed in. From campaigning for Franklin Roosevelt at the age of 17 to serving as an Adlai Stevenson delegate in 1956, he stayed engaged in the process. In 1944, he founded the Northern California AFL Political League.

Mr. Gruhn was married to the former Dorothy Coon for over 37 years. Dorothy predeceased him in 2005, and the couple are survived by a large family of eight children, 14 grandchildren, and 17 great grandchildren.

Madam Speaker, Albin Gruhn was proud to fight for working people, and all those with whom he came in contact—from family and friends to political leaders and co-workers—drew inspiration from his commitment. It is fitting in honoring him today to remember the remarks he always used to conclude his labor speeches: "In unity there is strength. United we stand, divided we fall. An injury to one is an injury to all."

IN APPRECIATION OF SUPER-  
INTENDENT OF SCHOOLS BAR-  
BARA OLDS

### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Ms. SPEIER. Madam Speaker, Barbara Olds has served the children of South San Francisco as a teacher, principal, Superintendent and everything in between for more than forty years, since taking her first job as a teacher at South San Francisco High School in 1966.

Superintendent Olds' legacy of service is a remarkable achievement, one truly fitting of recognition. She is set to retire at the end of this academic year to give herself time to pursue her many and varied interests.

Barbara Olds was the type of teacher that kids tell their parents about and parents pray that their children get assigned to her classroom. To Barbara, instruction never ended at the bell and learning was never confined to textbooks. During her 14-years as a teacher, Ms. Olds tirelessly gave of her free time for the benefit of her students and fellow educators, serving as Director of Student Government, Director of Student Activities, and serving the South San Francisco Classroom Teachers Association in many capacities—including as a member of the Negotiating Council and as both President and Vice President.

Since moving into school administration in 1979, Barbara served as an Assistant Principal for Discipline and Attendance, then Counseling and Guidance, before being named Principal of South San Francisco High School in 1991.

In 2003, her excellent work, unparalleled standing in the community and clear passion for education led the SSF Unified School District Board of Trustees to elevate Barbara Olds to the position of Superintendent of Schools. Since that time the district has thrived, despite difficult financial times.

Barbara Olds received her Bachelor of Arts and Secondary Teaching Credential from San Francisco State University and a Master's of Public Administration from the College of Notre Dame in Belmont. She further advanced her education with an IDEA Fellowship in 1989.

Madam Speaker, I have been privileged to know Superintendent Olds these many years and can attest to the fact that she shaped thousands of young minds and encouraged countless students to engage in their world and pursue their dreams. Her love and passion for education was passed onto her son, Robert, who continues the family tradition as a fourth grade teacher.

Our community and our nation are better places because of the work of Barbara Olds. On behalf of the United States House of Representatives and the grateful citizens of the City of South San Francisco, I thank her and wish Barbara much joy and success in the years to come.

IN APPRECIATION FOR THE EX-  
CEPTIONAL PUBLIC SERVICE OF  
MARILYN MILLER

### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 2009

Ms. SPEIER. Madam Speaker, the end of every school year is a time of change as graduates move on and students move up. In California's Twelfth Congressional District, this school year ends by bidding farewell to an unparalleled education professional, Marilyn Miller, Superintendent of the Hillsborough City School District.

Ms. Miller came to our community in 1975, with ten years of teaching under her belt in Southern California and Illinois. Her experience, passion for teaching and devotion to her students were immediately recognized and within five years, Marilyn was promoted to Principal of South Hillsborough School. In 1984, she was given even greater responsibility when she moved to William H. Crocker Middle School, where she stayed until ascending to the Superintendent's position 17 years ago.

Under Superintendent Miller's extraordinary leadership, Hillsborough schools have been singled out for local, statewide, national and even international awards. Nine times in her tenure, Hillsborough schools have been named a California Distinguished School, while on ten occasions the district has been awarded a J. Russell Kent Award for outstanding programs in San Mateo County public schools. Under Marilyn's stewardship, Hillsborough schools have also received four National Blue Ribbon Awards and in 1993, received the "Best in Services Recognition" from the Royal Swedish Academy of Sciences.

As both a principal and superintendent, Marilyn's tireless dedication has led to numerous public and private grants for her school system, including funding for science, technology, reading and reforming curriculum.

Madam Speaker, I know from personal experience that everything Marilyn has done in her educational career has been to further the excellence and opportunities of the children in her care. Nevertheless, she has been singled out for numerous personal recognitions, including being a finalist for the National Safety Council's Principal of the Year; elected President of the Association of California School Administrators; State Coordinator of the California Partnership Network Schools; Chairperson of the ACSA Middle School State Conference; and awarded College of Notre Dame, Belmont's Alumnus of the Year; Hinsdale, Illinois' Teacher of the Year; and San Mateo County's Outstanding Educator.

Marilyn has represented our community and our nation at international conferences, including presenting to the Stockholm School of Economics and serving as the United States representative to the New Leaders Conference in Singapore. In addition, she regularly attended the nationally-acclaimed Harvard University Superintendents' Forum.

Marilyn Miller studied History and English at the University of California, Berkeley before

transferring to San Jose State University for her Education Degree. She went on to receive a Masters in Public Administration at Belmont's College of Notre Dame.

Madam Speaker, Marilyn has earned her retirement, even if the hole she leaves will be impossible to fill. She recently welcomed a new grandson, Cole, who with granddaughter, Erin, will happily occupy whatever free time Marilyn finds herself with. She and her always supportive husband, Dr. Arthur Miller, will now be able to spend more time with the little ones as well as their daughter Ashleigh and sons Garreth and Heath. As with all great public servants, their service is largely dependent on the amount of support they receive at home, so it is fitting to thank Marilyn's loving family for sharing their wife and mother with the greater community for all these years.

IN APPRECIATION OF BARBARA  
PLETZ

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Ms. SPEIER. Madam Speaker, San Mateo County has one of the most respected Emergency Medical Services agencies in the nation. Much of that success is due to EMS Program Administrator Barbara Pletz, who retires May 21st after 21 years of dedicated and inspired service.

Under Barbara's leadership, the San Mateo County EMS system has been transformed into a nationally recognized model of excellence. The department has been singled out for many honors, including the Award for Excellence from the International Association of Fire Chiefs, International City-County Management's Award for Outstanding Partnerships, the Helen Putnam Award for Excellence in Public Safety from the League of California Cities, and a commendation from the National Council for Public-Private Partnerships.

Barbara Pletz has advanced emergency medical services in San Mateo County by, among other things, encouraging public-private partnerships, working with hospitals to develop the County's Trauma and Stroke Plans and helping develop the San Mateo County Mental Health Assessment and Referral Treatment Program.

Ms. Pletz is a registered nurse with over 35 years of health care experience, including a quarter century in emergency medical services. She is past president of the Emergency Medical Services Agency Administrators' Association of California and was its Legislative Chair from 1998–2004. She is also past president of the California Emergency Department Nurses Association and was one of the very first commissioners on the California State EMS Commission.

Besides honors bestowed on her department, Ms. Pletz has received personal acclaim, including the Distinguished Service Award from the Emergency Nurses Association, the Circle of Service Award from the California State Association of California, and the Lawrence M. Herman Award for Legislative Advocacy from the American Heart Association.

Madam Speaker, all of us in San Mateo County are sorry to see Barbara go, but we wish her much joy and adventure as she pursues her love of travel and experiencing new foods and cultures. Our county is a better place because of her service and for that we are eternally grateful.

MEMORIAL DAY

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. WAXMAN. Madam Speaker, each year Memorial Day is an important time to honor the fallen, renew our support to the wounded and recognize the commitment and heroism of those who serve the United States.

In my district this weekend the headstones of the Los Angeles National Cemetery, as those in hundreds of cemeteries across the country, will be surrounded by flowers and by loved ones paying their respects to the departed. In the hustle and bustle of everyday life, these serene and mournful fields honor those who have made the ultimate sacrifice in defense of the freedoms we so cherish.

The sanctity and preservation of our nation's battlefields, monuments and institutions are of utmost importance to ensure that future generations can pay their respects to those who have fought. One of my constituents, Leon Cooper, has been tireless in his efforts to raise awareness about the build-up of garbage and debris at Red Beach in Tarawa Atoll in the remote Pacific island nation of Kiribati. On this site, in a span of just a few days in November 1943, nearly 1700 Marines and Navy personnel were killed and over 2000 more wounded in heavy fighting.

I applaud Mr. Cooper for his commitment. Recently his story about the Battle of Tarawa and its aftermath, Return to Tarawa: The Leon Cooper Story, debuted on the Discovery Network. This documentary, narrated by Ed Harris, provides a remarkable window into the events surrounding both the battle itself and Mr. Cooper's involvement, and is a great service to future generations.

I encourage our local U.S. Embassy in Fiji to work with the Government of Kiribati on sanitation and conservation projects that would provide long-term solutions for maintaining the coastline and preserving the area. It would be a tribute to our veterans and a great benefit to the Kiribati people.

While we honor those fallen and veterans from generations past, we must also honor the needs of our soldiers returning from Iraq and Afghanistan. The past three years have seen a remarkable increase in support for our nation's veterans, including the strengthening of quality health care, funding increases to treat traumatic brain injury and post-traumatic stress disorder, a record increase in veterans' educational funding, and other improvements to address deficiencies in medical facilities and housing.

The 30th congressional district is home to the West Los Angeles Veterans Medical Center, the largest VA hospital in the continental United States. The West LA VA was built on

land that was generously donated in 1888 to serve as an Old Soldiers' Home. I am pleased that a State Veterans Home is being constructed on the property and that the VA is moving forward to develop long-term therapeutic supportive housing on the campus. In addition, I am delighted that the Fisher Foundation has built a facility on the property where veterans' families can live while their loved ones are getting medical treatment at the hospital. These are all appropriate uses that are consistent with the deed and will benefit our nation's veterans.

I remain opposed, however, to the VA's consideration of any plan that would divert portions of this land for commercial uses. That is why I am pleased that Senator DIANNE FEINSTEIN and I were able to have legislation passed by Congress and signed by the President to prohibit the sale or commercialization of the campus. I will continue my work with local veterans groups, elected officials and the community to ensure that the property of the West LA VA is preserved for programs that benefit and serve our veterans.

As Americans join together this Memorial Day, let us properly thank those who stand in harm's way, far from home, living under continual risk and fighting under the stars and stripes to preserve and defend the freedoms that all Americans cherish and hold dear. We owe these brave men and women an enduring debt of gratitude.

TRIBUTE TO THE DAUGHERTY ME-  
MORIAL ASSESSMENT CENTER  
AT THE NAVAL SURFACE WAR-  
FARE CENTER, CORONA DIVISION

**HON. KEN CALVERT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 21, 2009*

Mr. CALVERT. Madam Speaker, I rise today to pay tribute to a young man who died in service to his country and whose name will be forever immortalized at the Naval Surface Warfare Center (NSWC) in Corona, California. Cryptologic Technician, Technical, Petty Officer First Class Steven P. Daugherty is an American hero and I know that the men and women who work at NSWC, Corona are honored to have his name grace their new Joint Warfare Assessment Laboratory Building. Today, Armed Forces Day, would have been Steven's 30th birthday.

Steven P. Daugherty was born in Apple Valley, California, and was killed in action July 6, 2007, in Baghdad, Iraq, by an improvised explosive device (IED). Steven excelled at an early age: he was student of the month at Barstow High School and made the honor roll at Barstow Community College. After graduating with an associate's degree in liberal studies, Steven enlisted in the Navy, where he worked as part of an elite Navy SEAL team.

On that fateful day in July, Petty Officer Steven and his team were returning from an important mission when their vehicle struck an IED, killing him and the two other members of his unit. According to the National Security Agency, the work he and his team performed earlier in the day played a decisive role in

thwarting a dangerous group of insurgents trying to kill coalition forces. Today, across from our Nation's Capitol, Steven rests in peace in the sacred ground of Arlington National Cemetery.

Steven was respected by his peers as a professional and dedicated cryptologic technician, and his work was vital to the success of important combat missions. He was a decorated Sailor, having been awarded a Bronze Star (with combat "V" for Valor), the Purple Heart, a Combat Action Ribbon and other medals and commendations. His name is inscribed on National Security Agency's Memorial Wall, "They Served in Silence." Steven is also the first formal recipient of the National Intelligence Medal for Valor.

Steven was a loving 28-year-old father to an adoring 5-year-old son; a loyal brother to three fellow warfighters—two Airmen and one Soldier, Richard, Robert, and Kristine; and a faithful son to his parents, Thomas and Lydia.

Most of all, Steven P. Daugherty was a patriot who gave the full measure of devotion defending America's freedom.

In naming this important building to honor the sacrifice of Petty Officer Steven P. Daugherty, the Navy dedicates to him the latest addition to the Nation's premiere Joint Warfare Assessment Laboratory at the Naval Surface Warfare Center, Corona Division. The Daugherty Memorial Assessment Center will stand as an ever-present reminder of Steven—and to every Sailor, Marine, Soldier, and Airman who has given their life in defense of this country. This dedication also commemorates the groundbreaking work NSWC, Corona is doing to support the Joint IED Defeat Organization in its mission to combat the threat of IEDs against our Armed Forces.

In addition to supporting needed counter-IED efforts, the Daugherty Memorial Assessment Center greatly enhances NSWC Corona's ability to support key national missions. NSWC, Corona will provide Strike Group inter-

operability assessment needed to certify ships for deployment; provide critical flight analysis for all Navy surface missile systems; provide performance assessment of Aegis and Aegis Ballistic Missile Defense ships throughout their entire lifecycle; and finally, NSWC, Corona will centralize, process, and distribute the Navy's combat and weapon system data on one of the largest classified networks in the Department of Defense.

The Daugherty Memorial Assessment Center is a state-of-the-art analysis and assessment asset that gives the Nation extensive capability to protect our Armed Forces, our country, and our freedom. May the new Daugherty Memorial Assessment Center serve as a reminder to the men and women who carry out the mission of NSWC, Corona how very important their work is to our troops. And may we pledge to always remember Steven P. Daugherty; the goodness he brought to our world and the sacrifice he has made will never be forgotten.

## SENATE—Monday, June 1, 2009

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our God and Creator, You brought order out of chaos. We marvel at the balance in nature and the orderly succession of the seasons.

Bring order and harmony to this legislative body. Lord, remind our lawmakers that far more will be accomplished through unity than can ever be achieved through partisan divisions. Help them to listen to one another and to respect the wisdom that may come from someone with a different political label. May the strengthening of their relationship with You improve their ability to cooperate in their human interactions as Your spirit unites them for the common good.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 1, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

Mr. REID. Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### UPCOMING CHALLENGES

Mr. REID. Mr. President, at the beginning of each of this year's work periods, we have returned to the Capitol from all corners of the country reminded of the serious nature of the challenges we face. American families are looking up from the deepest ditch in generations—a hole we all inherited and one from which we are committed to climb out. Like Americans who worry about how they will pay their bills, send their kids to school, and afford to stay healthy, getting our economy back on track is the first thing we think about in the morning and the last thing we think about at night. We also know we are headed in the right direction.

Nellis Air Force Base in Nevada is home to the largest solar array of its kind in the Western Hemisphere. Last week, President Obama and I toured the Nellis solar array and met the people who benefit from the tens of thousands of solar panels that help power that base. It is a huge base; 12,000 people are fixed on that base. But the solar panels provide 30 percent of the electricity for that electric-hungry base. It is an example of exactly the kind of project that creates jobs, moves America toward energy independence, and makes the air we breathe cleaner. Because of the economic recovery plan we passed earlier this year, we are investing in projects such as this one at Nellis to put America on a path to prosperity.

During the past few weeks, we have seen the good that can happen when we look out for Main Street, not just Wall Street.

There is no reason the next work period should be any different. Similar to the earlier months of this year, the next one presents a long list of priorities.

Before the July 4 holiday, we will do everything we can to help stop kids from smoking before they start, make tobacco products less toxic, and make sure tobacco companies are honest with the American people about the dangers of smoking.

We will pass the conference report of the supplemental appropriations bill

we passed last month—a bill that gives our brave troops the resources they need to do their jobs and return home safely.

Both the HELP and Finance Committees will continue to work on health care reform legislation, the top priority of President Obama and millions of Americans. Both committees hope to report out legislation before our July 4 recess.

We will begin work on a number of appropriations bills and, with Republican cooperation, we would like to finish work on some of those. I spoke to the Republican leader a few minutes ago, and we will have a plan to move forward on some of those appropriations bills.

We will continue working to confirm President Obama's many nominees for critical positions. Those who have chosen to serve our country must be able to get to work without delay.

We will begin the process of reviewing the most high-profile nomination of all, which is President Obama's outstanding pick for the Supreme Court. Judge Sotomayor's record and qualifications are terrific and tremendous. In fact, if she is confirmed, she will bring to the bench more judicial experience than any sitting justice had when they joined the Court.

Judge Sotomayor's experience comes not only from the legal world but the real world as well. Her understanding of the law is grounded not only in theory but also practice.

Several Senators will have the pleasure of meeting with Judge Sotomayor this week, and I know they will be impressed. She deserves a fair and respectful hearing, and I know she will get that. I will do all I can to ensure she gets that and that Senators get what they require as quickly as possible. I wish to make sure she is ready to go when the new term starts.

### SCHEDULE

Mr. REID. Mr. President, we are going to be in a period of morning business for a while today. We have a matter that is on the calendar dealing with railroad antitrust. It is pretty clear most Senators agree there is a compromise that has been worked on, on a bipartisan basis. We will see if we can have a vote on cloture vitiated, and we will go directly to the matter.

I have spoken to the Republican leader on how we are going to proceed on the tobacco legislation. It is not quite clear yet. We need to move forward and protect the ability to offer amendments. If consent is granted on the



railroad bill, we would extend morning business throughout the day.

There will be no votes today. Senators should expect one tomorrow around 11 a.m.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

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#### READY TO GO

Mr. MCCONNELL. Mr. President, let me say to the distinguished majority leader welcome back from the recess. It is good to see him. We are ready to get to work.

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#### NOMINATION OF JUDGE SONIA SOTOMAYOR

Mr. MCCONNELL. Mr. President, on the matter of the Supreme Court, I note that I spoke with the President's nominee, Judge Sotomayor, over the recess, and I assured her she would be treated fairly and respectfully during the confirmation process. I will deliver the same message when the two of us have a chance to sit down and talk later this week.

Republicans take very seriously our obligation to review anyone who is nominated to a lifetime position on our Nation's highest Court. The Senate will therefore thoroughly review Judge Sotomayor's judicial record to ensure a full and informed debate over her qualifications to become one of the chief guardians of our Nation's Constitution and its laws. We believe the American people expect nothing less.

Judge Sotomayor is no stranger to the process. This will be the third time she has come before the Senate for confirmation to the Federal bench. In considering her for a seat on the Supreme Court, the standards for review become understandably more rigorous, as the Vice President observed when he chaired the Judiciary Committee. Yet the basic qualities we look for in our justices are the same qualities we look for in any Federal judge: superb legal ability, personal integrity, sound temperament, and, most importantly, a commitment to read the law evenhandedly.

In this last respect, some of Judge Sotomayor's past statements and decisions have raised some understandable questions and concerns. One of these is a statement she made a few years back that the Court of Appeals is, "Where policy is made." I think that is a tough statement to square with Article III of the U.S. Constitution, which clearly contemplates a far more limited role for Federal judges, and I suspect that a number of us over here in the legislative branch will want to ask Judge Sotomayor questions about that statement.

The reason is simple. I think most Americans would agree that the courtroom is not an appropriate place to ex-

ercise one's political beliefs or personal preferences. As far as most of us are concerned, politics ends at the courthouse door. The courtroom is where you go to get a fair and evenhanded reading of the law, regardless of who you are or where you came from or who you voted for. Legislators make the laws, not judges. Most people understand that and place a high value on it. And the last time Judge Sotomayor came before the Senate for confirmation, I voted against her nomination precisely out of a concern that she would bring pre-existing personal and political beliefs into the courtroom.

Many of the same concerns I had about Judge Sotomayor 11 years ago persist. But a fresh review of her record has now begun and, as I said, Republicans will insist that the confirmation process for Judge Sotomayor is conducted in a fair and professional manner. This is the way Republicans have treated judicial nominees in the past, and this is the way we will continue to treat them: with respect.

But respectful doesn't mean rushed. Judge Sotomayor has a long record, and it will take a long time to get through it. She has served 17 years on both the trial and the appellate court. She has been involved in more than 3,600 cases since becoming a judge. In order to conduct a thorough examination of all these cases, it is vital that the Senate have sufficient time to do so.

During the last three Supreme Court confirmations, the average amount of time the Senate had to prepare for a hearing was more than 60 days. For Justice Alito, the Senate had 70 days to prepare for an informed hearing. And like Judge Sotomayor, Justice Alito had thousands of cases for Senators to review. Our Democrat colleagues who were in the minority during the Alito nomination appreciated the fairness they were afforded; both the senior Senator from Vermont and the senior Senator from New York noted at the time that in handling the Alito nomination it was important to do it right, not quick.

This time around, our friend Senator SCHUMER notes that Judge Sotomayor has a very "extensive" record, and we certainly have a "right" to "scrutinize" it. So in considering this nomination I am confident our Democratic colleagues will treat us fairly and allow us to do it "right."

Throughout this process, Republicans will be guided by a few simple principles. But perhaps the most important ones are these: Americans expect and should receive equal treatment under the law, and Americans want judges who understand their role is to interpret the law, not write it. As Chief Justice Roberts put it during his confirmation hearing, the American people expect a judge to be like an umpire—someone who applies the rules but

doesn't make them. No one ever went to a ballgame, as he put it, to watch the umpire.

Lawmakers make law, and they have to answer for those laws every 2 or 6 years to the voters. Federal judges, on the other hand, never have to face the voters, and thus aren't supposed to make policy. Lifetime appointments are a serious matter, and voting on a Supreme Court Justice is one of the most important decisions a Senator will ever make. Republicans approach this nomination with a clear set of guiding principles, and we will make every effort to determine whether Judge Sotomayor shares them.

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#### HEALTH CARE

Mr. MCCONNELL. Mr. President, we're all interested in reforming health care. And while this debate has yet to fully play out, we already know one thing for sure: any action we take on this issue will affect every single American.

There is no doubt Americans are frustrated with the increasing cost of health care and that many are worried about losing the health care they have. Many Americans can't afford health care or have to choose between basic necessities and medical care they need. This is what is wrong with the current system, and we need to fix it.

Yet it is also true that many Americans are satisfied with the care they have. They like being able to see their doctor and being able to get the care they need, when they need it. These are the things that are right about patient-focused American-style healthcare, and that we wouldn't want to sacrifice.

So while both parties recognize that serious reform of our health care system is needed, we must also recognize the importance of getting it right. Americans want reform. The question is what kind of reform. Reform is necessary, but not all so-called reforms are necessarily good.

Based on some of the things we have been hearing out of Democrats in Washington in recent weeks, Americans have good reason to be concerned about what the future holds for health care.

The biggest concern is the talk of a Government takeover of health care. Americans suspect that what's being sold as a Government "option" would soon become the only option.

Those who like the care they have don't particularly like the idea of the people who brought us the Department of Motor Vehicles handling life or death health care decisions, like whether or not they are eligible for surgery or whether they qualify for a certain medicine according to some impersonal Government board in Washington. They don't want to rely on bureaucrats in Washington to get their

phone calls returned or their office visits covered. But the prospect of a Government takeover of health care is becoming more and more real.

Democrats in the Senate want Government to play a dominant role in health care delivery. Both the chairmen of the Senate Finance and HELP Committees have said they want to produce legislation that relies on a Government-run plan. And nearly half of Senate Democrats have endorsed a resolution stating that any health care reform must include a Government-run plan.

Democrats in the House of Representatives are circulating an outline of how they would like to change American health care. Their plan would create a Government-run insurance model that could limit patient choices. Americans who want to keep their health insurance plan should be allowed to do so. Yet one respected study showed that 118 million Americans could lose their current private insurance and end up in a Government plan if this proposal was enacted. The House Democrats' plan could also lead to the creation of a Government board that would determine what benefits and drugs are available to patients and what prices would be charged.

The administration also wants the Government to take a leading role in health care. During the campaign, the President said that if he were designing a system from scratch, he would probably "go ahead" with a single-payer system. The Secretary of Health and Human Services shares the President's belief that any reform must guarantee the inclusion of a Government plan.

The American people want health care decisions left up to families and doctors, not bureaucrats in Washington. They don't want a Government takeover that denies or delays the care they need, and they don't want politicians telling them how much or what kind they can have.

That is why many of us who recognize the need for reform will insist on making health care more affordable and accessible, while protecting the doctor-patient relationship and ensuring every American can get the care they need, when they need it. This is the kind of health care reform that Americans want, and this is the reform we will support.

I yield the floor.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I recognize that the order is for Senators to speak for up to 10 minutes. I ask unanimous consent at this time to speak for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NUCLEAR ENERGY

Ms. MURKOWSKI. Mr. President, several years back—actually, it was further than several years, it was in the early 1990s—there was a popular culture sensation in kids' books. The books were entitled, "Where's Waldo." Those with kids probably remember the books. It was a great way to test your kids' eyes and areas of identification. This was crafted by a gentleman by the name of Martin Hansford. You try to find Waldo with his glasses and his red-and-white striped hat. He would be tucked in on the page somewhere, filled with lots of other colors, and you would have to hunt through the page. More often than not, Waldo was tucked in behind similar looking characters who would attract your attention. They played a central role in the overall picture but ultimately were not Waldo. I see the young pages nodding. They have all seen the "Where's Waldo?" books.

I do not want to take time this afternoon talking about the "Where's Waldo." books, but I will tell you I am concerned and the point of my comments today is the concern I have that the Obama administration has engaged in a new game of "Where's Waldo" and doing so with our energy policies, only this time instead of "Where's Waldo" it is "Where's Nuclear." We will need to search carefully to find where the administration has hidden the resurgence of nuclear energy.

The confluence of high oil prices this past summer and the desire to reduce harmful greenhouse gas emissions has certainly and justifiably promoted the interest in and development of renewable and alternative forms of energy, from more mature technologies, such as wind and solar, to greater awareness of the potential for geothermal, biomass, ocean tidal energy, along with greater energy efficiency and conservation measures.

Congress in both the Bush administration and now the Obama administration was active in promoting these fields, in extending the tax breaks, mandating levels of ethanol to be used, updating our energy efficiency standards, and providing for incentives for energy conservation measures.

We are expecting to tackle a climate change bill at some point this Congress. In what shape or form certainly remains to be seen at this point in time, but we know that we must work

to slow and reduce our carbon emissions. There is certainly a role for all of these technologies and increased energy efficiency to play in our energy future. But ultimately, as the new administration lays out its energy policy priorities, I have to ask the question: Where is nuclear?

In an interview with "U.S. News & World Report," Secretary of Energy Steven Chu says:

[t]he biggest gains, in terms of decreasing the country's energy bill, the amount of carbon dioxide we put into the atmosphere, and our dependency on foreign oil, will come from energy efficiency and conservation in the next 20 years.

Our Energy Secretary, Secretary Chu, has basically said that when it comes to making reductions in emissions, it is going to come from energy efficiency and conservation.

I am absolutely all for conservation, but, once again, nuclear power, the one energy source that currently provides emissions-free, stable, baseload power, along with large-scale, high-paying job creation across the United States, seems to be missing from the Obama administration's energy plans.

What is the current state of play when it comes to nuclear? The map behind me indicates where we have nuclear facilities throughout the Nation. The different colors are based on years of operation. The blue triangles are nuclear facilities that have been in operation from between 30 and 39 years. That is the majority of the reactors. We have 52 that have been in operation for about a 40-year period, 42 for a 20 to 29-year period.

What this map demonstrates quite clearly is not only where in the country our nuclear facilities lie, but the fact that we simply do not have any new nuclear plants that have been ordered in this country since 1978. We have 104 operating nuclear powerplants across the country that are providing right around 20 percent of our electric power and approximately 75 percent of our carbon-free power.

Again, no new nuclear plants have been ordered in this country since 1978. But we have seen a resurgence of interest that has led to license applications for 26 new reactors at 17 sites. These applications have all been docketed by the Nuclear Regulatory Commission with construction on the first plant expected to begin in the year 2012. This is a very welcome revival. This comes at a time when we know our economy is suffering.

At a recent Senate Energy and Natural Resources hearing, the president and CEO of the Nuclear Energy Institute, Mr. Marvin Fertel, noted that to date, investment in new nuclear energy plants over the past 2 to 3 years has created 15,000 jobs. If all 26 new reactors currently in the licensing process are built, that would result in an annual average of over 100,000 new jobs,

according to a recent study by Oxford Economics. Over 20,000 long-term jobs would be generated to operate those plants. Those new jobs would allow nuclear energy to continue to make the contribution that it does today as our energy needs grow.

We know that nuclear plants also play a key role in reducing our carbon emissions and meeting our climate change goals, while also helping to mitigate economic harm. In 2007 alone, nuclear power resulted in the avoidance of almost 700 million metric tons of carbon emissions.

How much is 700 million metric tons of carbon emissions? It is more carbon than Canada collectively emits each year. It is roughly twice the amount of carbon emitted by all privately owned vehicles in the United States on an annual basis. It is safe to say that nuclear power avoids a significant amount of carbon emissions, and it brings our expenses down as well.

An EIA analysis of last year's Lieberman-Warner climate change legislation showed that a new nuclear plant construction would reduce carbon prices in 2030 by 33 percent, residential electricity prices by 20 percent, and residential natural gas prices by 19 percent compared to a scenario where new nuclear construction is limited.

Not only is nuclear emission free, nuclear also provides a constant reliable source of baseload power. This is an issue we hear time and again in the Energy Committee, an issue that renewable and alternative energy sources, as much as we like them, struggle with this reality of reliable baseload. After all, we certainly know, regardless what part of the country you are from, the Sun does not always shine, and the wind does not always blow. On the other hand, in 2008, the average operating capacity for the 104 nuclear plants in the United States was over 90 percent—well above that of coal-fired power generation.

If we look at the chart, in terms of the capacity factor and what nuclear can provide on a sustainable, reliable basis, we have nuclear and then coal coming in a good second. But as we look to wind, hydro, solar, even oil and gas, if what we are looking for is a level of reliability, the answer is nuclear. It is the type of dependable power that our utilities need to operate efficiently and effectively.

This year's Gallup Environmental poll shows 59 percent of Americans support the use of nuclear power, which is a new high, but support for nuclear is nothing new in the international community. Since 1978, when the last nuclear reactor was ordered in the United States, over 250 new reactors were constructed overseas. Japan intends to increase the amount of electricity it gets from nuclear from where they are today at 30 percent to over 40 percent by the year 2020. France already gets 75 percent of its electricity from nuclear.

I think the American people get it and the international community certainly gets it. Nuclear power is a broadly accepted form of safe energy, and it is time that we in Washington understood this as well.

It is clear that nuclear provides good-paying jobs at home, reduces our carbon emissions, provides reliable baseload power, and it is supported by the American people. So what is not clear is where the new administration is on nuclear. While there has been some mention of nuclear energy being part of the overall energy strategy, the actions of the administration do not support the claim.

So far, the administration has sought to kill Yucca Mountain as a long-term repository for spent fuel. They have shown an unwillingness to increase the loan guarantee program and the funding levels to support construction of new nuclear plants, and they have focused on renewable and alternative fuel developments to reduce our carbon emissions without any mention of nuclear energy. So where nuclear energy truly stands with the current administration is a bit of a mystery to me. Let's talk about Yucca Mountain.

The administration seems to view Yucca Mountain in the same vein as the Guantanamo Bay prison. Both are politically uncomfortable solutions to a toxic problem, and they are going to be shut down, never mind that we do not have an alternative plan for either one of them. So what are we going to do with the thousands of tons of spent nuclear fuel and defense-related, high-level waste that is spread out all across the country?

That map we saw earlier with all of those dots all across the country is where we are keeping the nuclear waste. It is sitting right there spread out across this country.

How many tens of billions of dollars in liability will the American taxpayers be on the hook for when the administration finally abandons all hope of fulfilling the Nuclear Waste Policy Act's already well past 1998 deadline for a permanent repository?

Billions of dollars have been spent over the last 25 years in characterization and engineering development for the Yucca Mountain license. It is hard to imagine a better understood piece of real estate on the planet. Onsite dry cask storage is a safe but a temporary solution, and it does not remove the need for a permanent repository.

In the meantime, the nuclear industry faces uncertainty regarding spent fuel liabilities. States have no permanent disposition path for defense-related waste, and the Federal Government cannot address tens of billions of dollars in taxpayer liabilities.

So far the alternative plan seems to be to leave the waste at its current location, and we will talk about it.

I mentioned the Loan Guarantee Program. The administration seems to be

just as confused about its support for the new reactor construction needed to maintain nuclear energy's current contribution. As part of the 2005 Energy Policy Act, Congress created the Loan Guarantee Program to help us develop the 21st century energy system our country needs.

The Loan Guarantee Program provides support for a broad portfolio of clean energy technologies, from energy efficiency and renewable energy systems to pollution control and vehicle technology used to advance nuclear and carbon capture projects. It is a widely popular program. Despite the current limitation of \$42 billion for the program, the Department of Energy has received applications for over \$120 billion in new projects.

Of the \$42 billion for the overall program, \$18.5 billion was made available for the new nuclear technology. Over \$93 billion in support has been requested. Mr. President, \$18.5 billion has been made available for the new nuclear technology, but \$93 billion has been requested. It is oversubscribed by a factor of five.

We can see on this chart that \$93 billion has been requested; \$18.5 billion available. The others—the renewable, nuclear, fossil, mix—when you look at what we had intended with the Loan Guarantee Program and how we envisioned that would move forward, I think we can clearly underestimate where that support would be for the nuclear programs.

It is important to note that the Loan Guarantee Program is also entirely self-funded and does not represent a handout to the industry and does not expose the taxpayer to default risks. The total loan volume for the program is established by the Appropriations Committee, but any potential defaults are covered by fees paid by the applicants, not by the taxpayer. So the industry does get the help, the assistance—that backstop, if you will—of the loan guarantee from the Federal Government, but they pay for it. That seems reasonable.

During debate on the stimulus bill, there was a \$50 billion increase in the size of the Loan Guarantee Program that was sought. Again, this is a \$42 billion program with \$120 billion in application requests. But increasing the size of the program authority was shot down several months back because of fears that construction of new nuclear plants would take up the bulk of the loan guarantee authority. So where was the administration's support for the Loan Guarantee Program during this debate? This program helps all forms of clean energy technologies, but this increase was denied because nuclear was in the mix.

For 10 years now, we have consistently heard about the urgency of global climate change and the need to address it. I agree. There is clearly evidence of

climate change. I see the real-life impacts in my State of Alaska. But I do find it more than a little bit inconsistent that the same entities that would press for immediate action would deny nuclear a role in the solution.

Perhaps the current administration thinks global climate change isn't as important as developing a centrally planned electrical system based on renewable energy that the administration believes is in the best interest of the public. Renewable energy sources will be important and deserve solid support, but, as you can see from this chart—and I apologize because it is very busy—we could double the amount of electricity produced by renewable resources and it still wouldn't equal what we currently receive from nuclear power.

So if you look at our nuclear electric power, 100 percent of nuclear power goes to generation of electricity; 21 percent of the sector creates our electric power here. Looking up to renewable energy and how it feeds into consumption, whether it is transportation, industrial, residential and commercial, or electric, if we were to increase—double—our renewable energy, again we still don't come close to what we are able to provide currently with nuclear.

So going back to the issue of climate change, I believe it is important to ask the question as to whether this issue of climate change can really wait for renewables to develop to such a scale that they will become the primary source of energy. The point I wish to leave folks with is that we need to be advancing all technologies equitably.

Nuclear energy is the most robust form of nonemitting base load power we have available to us, bar none. Over the last 20 years, the industry has demonstrated its ability to operate these reactors efficiently and safely to the great benefit of our country.

Mr. President, I mentioned it earlier. The rest of the world gets it, the American public gets it, but where is the administration on nuclear? The time to demonstrate our resolve for new nuclear energy development is now. We as a nation cannot afford additional delay if we are truly serious about how we reduce our carbon emissions while maintaining access to affordable energy.

It is time for the administration to come forward with its plan for the inclusion of nuclear power in its overall energy policy and what it intends to do with existing and future spent nuclear fuel. We shouldn't be left standing here asking: Where is nuclear?

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

#### EXTENSION OF MORNING BUSINESS

Mr. CARPER. Mr. President, do I understand that the time for morning business expires at 3 o'clock?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CARPER. Mr. President, I ask unanimous consent to extend that for an extra 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARPER. Mr. President, while my colleague from Alaska is still in the Chamber, let me bring her some good news, as one on our side who is a strong advocate for nuclear power and who believes it is incredibly important that we do it safely. I chair the Senate Subcommittee on Clean Air and Nuclear Safety, and, as she mentioned, we have now, I think, 17 applications to build 26 new nuclear powerplants. I think we have \$18 billion in loan guarantees.

One of the things we have done this year is we have taken off the time restriction on the loan guarantees so they can go beyond the next couple of years, if needed. Hopefully, they won't be needed, but at least the amount of money will be there and available for a number of years.

Another piece we had put in the stimulus package was a provision that says that not only can renewables—solar, wind, geothermal, and all the rest—be able to participate in the manufacturing tax credits to create—if you will, manufacture—the components of solar, wind, geothermal, but also nuclear. If we are going to build 26, 27 new nuclear powerplants in the next decade or two, I sure don't want to be getting the components from China, South Korea, Japan, or someplace in Europe. We should get the components from manufacturers that are here, and part of the stimulus package has been designed to do that.

The other thing I would mention regarding cap and trade on climate change, if we actually take that approach—and my hope is we will—just by its very nature, being a producer of electricity but not one that creates carbon dioxide, money will flow in the cap-and-trade approach to utilities which use nuclear energy, which will develop more nuclear energy.

So I appreciate the concerns the Senator from Alaska raises.

I might add that just 3 weeks ago, I hosted a roundtable at MIT, near Boston, and we brought to the table some of the smartest people around—from MIT and from Harvard—who focused a lot on spent nuclear fuel and what to do with it. As you know, a lot of the fuel rods, I am told, still have 80 or 90 percent of the energy in the spent fuel rods. One of the questions I asked was, What should we do about it? Yucca Mountain is on hold for now. And I was pleasantly surprised to hear a unanimous opinion from everybody there who said, for now, maybe for the next 30, 40, 50, 60 years, even longer, the spent fuel rods, which are stored on

site with our nuclear powerplants in dry cask storage, are perfectly adequate in terms of providing security and safekeeping for the spent fuel.

In the meantime—and I would hope the Senator would join those of us who are advocates of nuclear power, would also understand we need to address the spent fuel issue, and would work with us to help fund technology for reprocessing and recycling to make sure we don't wait 50 or 60 years to do that but we get started a lot sooner.

So it is not all gloom and doom, but I appreciate the concerns the Senator from Alaska has raised and very much look forward to working with her on these issues, as we do on so many others, hopefully to good effect, and I thank her.

#### AFGHANISTAN/PAKISTAN CODEL

Mr. CARPER. Mr. President, I missed you in Afghanistan/Pakistan. I understand you and another CODEL were there at the same time we were, and I think we missed you by a day or so in both countries. I don't presume to speak for you or for those in your CODEL. We had five in ours. Senator MARK UDALL, Senator JEANNE SHAHEEN, Senator KAY HAGAN, Senator MARK BEGICH of Alaska, and I was privileged to be a part of that delegation. We had 2 days in Afghanistan and 2 days in Pakistan. We left Lahore, a large city in the eastern part of the country, about 2 days before they had the assault that killed 30 or so people, a terrorist assault.

I wish to take a couple of minutes, if I could, today. We could almost take turns here. I understand you can't speak from the podium about your congressional delegation, but if we could, we could probably have quite a good conversation.

There is a reason they call Afghanistan the graveyard for empires, because for a long time empires have been going there and trying to subdue the Afghans—the Brits among them, the Soviet Union among them—and not with great success. When the Afghans sort of thrust the Soviet Union out from their country, with our support, we promptly left. As we left, we left a vacuum in Afghanistan, and we left a vacuum which was filled all too readily by the Taliban, and providing a sanctuary for al-Qaida.

On the heels of 9/11, we decided to go back and clean the place out, drove the Taliban out of there, and a bunch of them took refuge over in the mountainous areas between Afghanistan and Pakistan. Once we had done that, we took our eye off the ball. We decided to go into Iraq and made that country take down their regime—Saddam Hussein's regime—and we transferred a lot of our troops and treasure and attention to Iraq and took our eye off the ball in Afghanistan. Into that vacuum

we left came—not surprisingly—the Taliban to resume their ways of before. They are especially plentiful in the southern part of the state.

As we were preparing to leave Afghanistan and head for Pakistan, we did a series of press interviews, radio and print interviews, from that country. Among the questions that were asked of our congressional delegation were: What is the exit strategy? What is your exit strategy from Afghanistan? I responded that I think the exit strategy is our new strategy.

The reporters said: Why is that?

I said: Well, let me take a minute to talk about that new strategy. It is not just about sending 17,000 more troops to Afghanistan, a little more than half of which are marines, and some of those are being redeployed from Iraq, and some are to be brought in fresh from the United States. But, I said, if all we did was put another 17,000 or 27,000 troops in Afghanistan, that is not going to be the answer to success. It is not going to be what we need to do.

In addition to the 17,000 troops who are being committed in a buildup that will occur over the next 3 months or so, we are bringing in about 150 additional helicopters to move around where the Taliban is and track them down and hopefully eliminate their presence in that country. But even that is not enough force at this juncture.

The other thing that is called for in our strategy is to bring in about 4,000 trainers. These trainers are to go along with the men and women, the American troops who are embedded and mentoring Afghan units already—4,000 new trainers. Their job really is twofold: one, to help not just to stand up the Afghan army—and the Afghan army is a good fighting force. They are not big enough, given the size of their country and all the people who live there.

I don't know if this is the experience of the Presiding Officer, but we met with a number of American troops who had been in Iraq and were now in Afghanistan, and I said: What is the difference in terms of the fighting force—what you saw in Iraq and what you are seeing in Afghanistan?

They said: Well, there were times when we almost had to coax the Iraqis out of their barracks and try to cajole them into taking the lead on operations. We don't have to do that with the Afghans. These guys are ferocious fighters.

That is why they are known as the graveyard for empires and drove out the Brits and the Soviets with our help.

We want to help the Afghans double the size of their army and improve the quality. We want to help them double the size of their police force and improve dramatically the quality.

The Afghans have a whole lot of respect for their army. They do not have

the same level of respect for the police force. As the Presiding Officer knows, the country is rampant with corruption. The corruption includes the police. It is not uncommon for police to take bribes, to almost solicit or command money from others in their country. As a result, it is maybe less effective as a force, certainly less respected as a force.

One of the smartest things done this year is the salaries of the police officers have been raised by a factor of four—quadrupled—putting them pretty much on parity with the salaries paid to the army, taking away the need for those police officers who feel they need to supplement their income by bribing or accepting bribes from folks.

One of the questions that was asked as I did that press interview was: What surprised you about what you saw in Afghanistan?

I said: Well, a number of things. I didn't realize this was a country that as recently as the 1970s was able to feed itself, and not just feed itself but to feed a number of other nations in that part of the world.

This is a country that is able to raise fruits, has vegetables and orchards, they can raise wheat, they can raise cotton and saffron, and they can raise chickens—some of the same things we raise in each of our States, as the Presiding Officer knows. Currently, though, for the most part, what they raise is poppies. They raise the poppies to feed the opium trade, and they use the opium to make heroin. Most of the heroin in the world, literally and figuratively, has its root in Afghanistan.

The production of poppies peaked in 2007. It began coming down in 2008. We want to continue to drive it down in 2009, again in 2010 and 2011, until we get to the point where there are no poppies being grown in Afghanistan and where the farmers are able to feed themselves and to make a good living raising and selling fruits and vegetables in their country and for neighboring countries, and to be able to do the same kind of thing with the wheat they raise and the other commodities they raise too. It is not unrealistic. Our troops cannot go in and tell them how to do that, but it turns out there is a component of our strategy that calls for a significant civilian component. What we are going to see is people going into Afghanistan—our folks in many cases, sometimes our NATO allies—who are specialists in agriculture, helping the Afghan farmers diversify away from poppies and toward other commodities which will enable them to feed themselves and to feed their country. It is a smart strategy.

That isn't all, though. Going back to the question of what surprised me, I was surprised to learn about those big mountains, big snow-capped mountains—they are quite beautiful—in that there are a lot of minerals and there is

a potential for a very successful mining and mineral industry in Afghanistan. They need a little help figuring out how to get it going and figuring out how to transport the minerals they mine, but there is money to be made there for that country.

Also, I didn't realize they have oil and gas deposits in Afghanistan. I certainly didn't realize they found, about a year ago, they have three times more oil and gas holdings beneath the surface of the Earth and in those mountains more than was originally believed to be the case. We have all seen pictures of Afghanistan. I was a naval flight officer, going through my training earlier in my career in Corpus Christi, the area of south Texas toward Brownsville. Afghanistan reminds me of that except it has these huge mountains that pop up all over the place. But the mountains give them a great opportunity for producing wind power. Just as we have windmills on the tops of mountains in this country, the wind blows a whole lot in Afghanistan. They can do themselves well by harnessing that wind and turning it into electricity. They have vast expanses of lands that would lend themselves to solar energy panels, and they also have rivers that could be harnessed and used to create energy as well, hydroelectric energy.

There are a number of sources—oil, gas, wind power, solar, hydroelectric power—that could help this country meet its needs and maybe even export some of that electricity to the other countries in the region. Those are things that surprised me that I did not fully expect to see.

What also surprised me was the level of corruption, the extent of the corruption. It is endemic in that country. They have not much experience or time governing themselves, 5 years or so experience with democracy. Here in the United States we have been working on democracy for how long? Over 220 years. We still struggle with it. We should not be surprised that a country that has had maybe 5 years of experience with democracy is struggling with it as well. They need help figuring out how to govern at the national level; they need help figuring out how to govern at the provincial level; and they need help figuring out how to govern at the local level. Part of what our civilian component will do there is to help, really, like Self-Government 101, them figure out how to govern more effectively, govern more honestly, and ferret out corruption where it exists.

One of the most encouraging conversations I had was at Ambassador Eikenberry's residence. Right across from me at the table was a fellow I called the Secretary of Finance. He was really the Minister of Finance, like our Treasury Secretary in this country. We talked about corruption. It was a very frank discussion.

He said, basically I am ashamed of what goes on in this country. He said, in my ministry, the Ministry of Finance, we basically set, last month—in April at the time—zero tolerance. We are not going to put up with it anymore. The idea that people skim revenues coming in to the government, we don't even have enough to make ends meet, even to come close. He said, on my watch, in my ministry, in my department, we are going to get rid of that. If people want to do that, they are not going to work with me.

That is the kind of leader we need in every ministry. That is the kind of leader we need in the whole country. As they go to the polls, I think in August, to elect a President, they have a number of people who are running. I hope whatever flows from that will include a leader who will provide the right kind of personal example, calling on the government that he leads to lead by example and to ferret out corruption where it exists.

Let me take a minute or two on Pakistan, if I could. I had not been to Pakistan either. In the weeks before we arrived there, in fact the months before we arrived, the Taliban, who were already pretty well entrenched in the territories up along the border of Afghanistan, began reaching out tentacles and spreading their influence to other parts of the country that in ways I found alarming. I know many people in this country saw the expansion of Taliban influence in Pakistan as something to be concerned about. Here is a country with about 100 nuclear warheads with the Taliban less than 100 miles from their capital of Islamabad. That got my attention and caused me a fair amount of concern; not just me but others in our delegation, in our Senate and Congress and in the administration.

Something happened a couple of weeks before we got there that helped turn that situation around. The Government of Pakistan was following what I will call almost a policy of appeasement with the Taliban, trying to get the Taliban to play nice, stay in their place, if you will, and leave the rest of the country alone, a policy of appeasement that allowed the Taliban to begin to exert its influence in places where it had previously not done so. As they extended their influence and presence, the Taliban sought to replace the regular law and order of the country, the laws of the provinces and the National Government with Islamic law. One incident occurred a month or so ago which has done maybe more to change this picture than anything I can think of. It was rather remarkable.

In one of the areas where Islamic law had replaced the traditional law of the community, the father of a young woman insisted that she marry a man she didn't want to marry. Apparently under Islamic law—I don't pretend to

be an expert, but under Islamic law apparently that is what fathers can do with their daughters, tell them who to marry. She didn't want to have any part of that, and made it clear to him and to others. She ended up being publicly flogged in the streets of her community by the Taliban, in a flogging that was not just witnessed by a number of people but it was videotaped. That videotape ended up being played hundreds of times on every television station in Pakistan and on the Internet. Anybody who wanted to watch it or didn't want to watch it had the opportunity to do so.

About the same time one of the Taliban leaders gave a major address in Pakistan and showed their true colors, what they were about if they gained the upper hand in Pakistan.

The people of that country, including the military, the political leadership, multiparty—the rank and file and the military basically stood up as one and said that is not where we want to go as a country. That is not the Pakistan that we want. We don't want to have any part of seeing that kind of change occur to our country, and they turned on the Taliban.

In the days the Presiding Officer and I were there, our CODELs were there, we met with the military and political leadership of the country—I am sure his delegation did—and I was very much heartened by the forcefulness with which they are going after the very people they appeared to be almost appeasing in the months before. They are determined to wipe them out, to crush them, and to be able to live their lives and govern their country in a way that I think more of us would want any country to be able to govern itself.

I came back and, I say to my colleagues—I came back not wearing rose-colored glasses. I did not change my name to Pollyanna. I realize the fighting that lies ahead, especially in Afghanistan as we stand up our 17,000 troops, roughly 10,000 marines, and bring in all those helicopters and trainers. We are going to take up the Taliban in the southern part of the country, in Kandahar, in Helmand Province. That is where they raise all the poppies for the drug trade. That puts money in the pockets of farmers. It also puts money in the pockets of the Taliban and other terrorists, not only in that country but other countries as well. We do not need that. The people in Afghanistan and Pakistan don't need that either. One of the advantages of getting rid of the poppy trade and replacing it with fruits and vegetables and chickens and wheat, and so forth, is we stop supporting in a financial way the terrorists wreaking such havoc over there.

But there is going to be a lot of tough fighting in the weeks that lie ahead as we raise our profile, as we raise our ability to deliver a punch. We

are going to be there training our Afghan colleagues, both at the military level, the army, and at the police level. Ultimately, while we help them to stand up and strengthen themselves in the next 3 to 5 years, we have sown the seeds of an exit strategy that will enable us to draw down and eventually pull most of the fighting forces out of there—perhaps leave behind a residual to help lead the training effort as many of our NATO allies are helping with the training effort.

Let me close with this. One of the other things I learned when I was over there, I was surprised to find out how many other countries are involved. We have the major part of the fighting force. There are a lot of other nations involved. I am sure my colleague, who is presiding, saw that too. One of the things that surprised me was the Japanese, who have no trainers there, no fighting forces there—I don't know that they have a civilian component there—but they are paying the salary of the police force for the whole country for the next 6 months. It is about \$100 million, a substantial contribution. It is an example of what others can do to help. We hope those who are helping will do more of the same and those who are not will find ways to be supportive.

The operations today and in the months ahead will be military led with a civilian component. Eventually it will transform and we will have a force led by the civilians, and the military will be a smaller part of what we do in Afghanistan.

That is about it. I look forward to coming back and maybe presiding when the Presiding Officer shares what he saw and learned as well. But I look forward to working with him and those who accompanied him on his delegation trip, and those who went with us, as we help the Afghans and Pakistanis take on a tough enemy in a fight that can be won and should be won.

With that, I see no one seeking to speak so I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARRASSO. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARRASSO. I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. BARRASSO. I ask unanimous consent that morning business be extended until 4:15 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CRAIG THOMAS RURAL HOSPITAL AND PROVIDER EQUITY ACT

Mr. BARRASSO. Mr. President, it will come as no surprise to many that rural health care issues are near and dear to my heart. Prior to my service in the Senate, I practiced medicine in Casper, WY, for almost a quarter of a century. I have firsthand knowledge of the obstacles families face in obtaining medical care throughout rural America. I also understand the challenges hospitals and providers must overcome in delivering quality care to families in remote areas with limited resources.

To give a snapshot of Wyoming's health care landscape, we have only 26 hospitals spread over nearly 100,000 square miles. With vast distances, complex medical cases, and increased demand for technology and advanced medical care, the rural health care delivery system is not a one-size-fits-all system. I have fought, and will continue to fight each and every day, to protect Wyoming's hospitals, providers, and the patients they serve. This is one of my top legislative priorities. That is why I am an active member of the Senate rural health caucus. For decades the caucus has built a reputation of bipartisan and bicameral collaboration and cooperation. Each Congress we come together to design rural and frontier-specific health care legislation. These efforts have produced incredible results.

For example, when Congress enacted the Medicare Modernization Act of 2003, it included a comprehensive health care package specifically tailored with rural communities, rural hospitals, and rural providers in mind. The Medicare Modernization Act finally put rural providers on a level playing field with other doctors and hospitals across the country.

In Wyoming, that meant hospitals in Worland, Lander, and Torrington could keep their doors open and serve patients as close to home as possible. With the passage of that act, Congress put into place commonsense Medicare payment equity provisions critical to maintaining access to quality health care in isolated and underserved areas. Rural and frontier America achieved a significant victory. There was much to celebrate. But the mission is not complete. Several of the act's rural health provisions have expired, and many are set to expire soon.

That brings us to the Craig Thomas Rural Hospital and Provider Equity Act or R-HoPE. I have joined Senators CONRAD, ROBERTS, and HARKIN in introducing a comprehensive rural health care bill. The legislation is titled the "Craig Thomas Rural Hospital and Provider Equity Act." This bill reau-

thorizes expiring rural provisions included in the Medicare Modernization Act. It also takes additional steps to address inequities in the Medicare payment system. These inequities continually place rural providers at a disadvantage.

But there are additional challenges. We have a great need for adequate outpatient reimbursement in smaller towns, towns such as Rawlins, Kemmerer, and Laramie. Rural hospitals such as these are more dependent on Medicare payments as part of their total revenue. In fact, Medicare accounts for approximately 70 percent of total revenue for small rural hospitals. Rural hospitals have lower patient volumes. But these same hospitals must compete nationally to recruit doctors and nurses. This is due to an alarming shortage of nurses and other health care professionals across the country. Additional burdens are placed on these hospitals and providers due to higher rates of uninsured and underinsured patients who live in rural areas. Also, seniors living in rural areas have more financial needs and have increased rates of chronic disease. This legislation would preserve achievements in the Medicare Modernization Act and give much needed relief to rural doctors, nurses, and hospitals.

First, this bill equalizes payments that are known as Medicare disproportionate share hospital payments. These are payments that help hospitals cover the extra costs associated with serving a high proportion of low-income and uninsured patients. It is time we bring rural hospital payments in line with the benefits big city hospitals receive when they are providing medical care to the uninsured.

Second, the bill recognizes that low-volume hospitals do have a higher cost per case, which further puts Wyoming's similar hospitals in the red. This bill would give these unique rural hospitals extra payments, payments that will give Wyoming's low-volume hospitals the resources to continue to provide high-quality, lifesaving medical care. There are several hospitals in my State located in Laramie, Rawlins, Kemmerer, and Lander that need this critical provision.

In addition to the Medicare hospital payment provision, this bill also strengthens over 3,500 rural health clinics across the country. Many of these communities depend on these clinics for important preventive health care. Currently, rural health clinics receive an all-inclusive capped payment rate that has not been adjusted, except for inflation, since 1988. That is 21 years. So to recognize the rising cost of health care, this measure would raise the rural health clinic cap from \$72 to \$92. This increase makes it comparable to the reimbursement urban community health centers currently receive.

Since every small town cannot support a full-service hospital, rural health clinics are a key component to deliver medical care all across Wyoming. To see how critical this program is, all we have to do is visit two towns in northeastern Wyoming: Moorcroft, a population of 807; and Hulett, population of 434. Residents in these ranching and mining towns depend on their rural health clinics to receive primary medical care as close to home as possible.

Finally, the legislation would help rural areas maintain important emergency medical services. Rural EMS providers are primarily volunteers. They have difficulty recruiting, difficulty retaining, and spend additional time educating EMS personnel. These volunteers have day jobs as farmers, ranchers, teachers, and lawyers. They volunteer because the community needs their help.

Not all Wyoming cities and towns have the resources to pay for this service. Even less have the means to buy and upgrade essential lifesaving equipment. This legislation will allow ambulance providers to collect payments for transporting patients to the hospital after they answer a 911 call—regardless of the final diagnosis of the patient.

Wyoming is blessed with pristine landscapes. These landscapes, though, also present significant challenges. Longer distances, bad weather, and other challenges make obtaining and providing quality health care often difficult. Our unique circumstances require us to work together to share resources and to develop networks.

I believe the Federal Government must continue to recognize the important differences between urban and rural health care and respond with appropriate policy. Washington must remember that one payment system does not fit all. Rural providers provide care for their patients under circumstances much different than their urban counterparts.

This legislation is designed to make sure rural hospitals, rural clinics, rural ambulance providers, rural home health agencies, rural mental health providers, rural doctors, and other critical health clinicians are paid accurately and fairly.

I strongly encourage my colleagues with an interest in rural health to cosponsor this legislation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.



### EXTENSION OF MORNING BUSINESS

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the period of morning business be extended until 5:45 p.m. under the same conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NASA NOMINEES

Mr. NELSON of Florida. Madam President, later on this week, I will talk about the plans we have in the Space and Science Subcommittee of the Senate Commerce Committee to do the hearings on the President's nominee for the NASA Administrator and Deputy Administrator, and I will announce that timetable later, after conferring with Senator ROCKEFELLER, the chairman of the Commerce Committee.

I have a lot to say about the President's nominee, who I think is going to be one of the outstanding Administrators of NASA.

GEN Charlie Bolden will take over at a critical time in NASA's history because NASA is in drift. It is right at the ending of the life of the space shuttle as we finish the next eight missions to further complete the construction of the space station and equip it to be the national laboratory it is designed to be and then to ramp up in the development and testing of the new rocket, a program called Constellation, the rocket Aries, the capsule, hearkening back to some of the similar designs of the old capsule in the Apollo days, this one being called Orion, carrying a crew of up to seven, or should I say a crew of six. All that is now under review by a specially appointed Presidential commission, headed by a very esteemed aerospace expert, former Lockheed Martin CEO, now retired, Norm Augustine.

I will have more to say about this later, but let me congratulate President Obama on such an exceptional appointment. It is needed because our space program is certainly a part of the American character. GEN Charlie Bolden is the right person at the right time to lead this little agency out of the wilderness to the promised land, and that promised land is a robust space program, both human and unmanned, as we explore. That is what we are, we are explorers by nature.

### HEALTH CARE REFORM

Mr. NELSON of Florida. Madam President, I wish to talk about health care reform which is just about happening. We have an unprecedented opportunity to reform our health system. It has major flaws. It is one that has left 46 million people in this country without health insurance and millions of others are struggling to afford the

cost of health care. It is in need of repair, and that is what this Senate, this Congress is going to try to tackle in the next few months. As a matter of fact, the majority leader has expressed his intention to have such a bill of monumental proportions on this Senate floor for consideration by next month. It is ambitious, but it is necessary. We have no choice but to succeed.

The health care costs are felt by many of our fellow Americans. There are significant economic costs associated with this broken system. Those who lack insurance have few options for care, which means they will delay and delay treatment until the condition worsens to the point that what could have been treated has turned into a full-blown emergency. Guess what happens. Where do they go? They go to the emergency room, and it is the most expensive place. As a result, the cost of that expensive care is borne by all Americans with health insurance by us paying higher premiums for those who do not have any insurance, but they still get the care.

This is a phenomenal statistic. According to research done by Families USA, our families in America with health insurance paid an additional \$1,000, on average, last year to cover the care for the uninsured.

One very important component, therefore, of this package that the Senate Finance Committee is going to take up pretty soon and try to pass—I hope we are able to do it—is bipartisanship. We keep hearing it is going to be done in a bipartisan way. I know the chairman and the ranking member of the Finance Committee are committed to trying to do that. But at the end of the day, the proof is going to be in the pudding. Are the Republicans on the Finance Committee going to support a committee approach? Will they support universal health insurance, which is what I described? It is hard to disagree with what I described, insuring all those 46 million so the average family does not pay an additional thousand bucks on their health insurance premiums to care for those who are uninsured. That is hard to disagree with. But somehow the word “universal” has some taint on it. That is what it is. So until we have everyone in the system, we are going to continue to see the inefficiencies and the cost shifting I described.

In this system that I think we are going to bring to the floor, those who like what they have are going to be able to keep it. If you are happy with your insurance, with your employer, and it is affordable to you, you can certainly keep it. But for those who cannot afford insurance or those who have the very sad tales we have heard, have a preexisting condition and, therefore, they cannot even get insurance coverage, this insurance reform package is

going to mean they are going to have access to insurance that is going to be affordable and that is going to be quality. In this reform system that I hope we are going to be able to pass, insurers are going to have to be prohibited from denying coverage based on a preexisting condition. The needs of those individuals are often the greatest, and they deserve to be met.

We are also going to try something called a health insurance exchange. It would simplify the process of purchasing insurance, and it could be simplified in purchasing it through a Web portal that would present all of the available insurance options in a comprehensive manner and in a comprehensible manner and expedite the enrollment process with a standardized application.

If you are satisfied with your employer's insurance, you stay right there. But all the others who want an alternative or cannot get insurance from an insurance company, they would have this health insurance exchange, participated in by the private insurance companies that would have a series of maybe a half-dozen standardized policies, that then those insurance companies would bid—make available, in other words—competition, get the free market competition going on for those who could offer the best policy at the best price for all those millions of Americans who would want to purchase from that health insurance exchange.

As we do this package, it is also important for us to focus on cost. Health care costs have skyrocketed. They have been increasing at a rate much higher than the average American's paycheck. In addition to placing a prohibitive financial burden on American families, these costs are affecting American businesses as well and their ability to compete in the global marketplace. So health care reform is going to have to be assisting individuals, families, and businesses in managing what has become an overwhelming expense.

As we consider this package, we ought to provide tax credits. We can do tax credits that could help small businesses to offset the cost of providing the insurance to their employees, if that is what they choose, instead of doing it through the health insurance exchange.

Tax credits could also be extended to low-income individuals to assist them in purchasing coverage from that exchange.

Along with those incentives, there would also come the responsibility for insurance coverage that would be shared by individuals and, in some cases, their employers.

Then we always have the question of what should be the eligibility in the Medicaid Program. Medicaid is a joint State-Federal program for the poor and for the disadvantaged. One of the

things that will be taken up will be that coverage should be expanded through the Medicaid Program by increasing eligibility for parents, for children, and for pregnant women who otherwise cannot afford the health care.

I also think it is important to have reform that promotes quality care by mandating coverage of the services necessary to maintain health and wellness. What do I mean? I mean primary care, a lot of what we talk about that is preventive care so you get at the root of the problem before it becomes a big problem, and then it becomes expensive to treat. Get at the root of the problem, and a lot of that is with primary care doctors and other health providers who provide that very important preventive medicine. For example, diabetes, heart disease—if you catch it early, you can prevent the big problems. But prevention requires knowledge and awareness that comes with comprehensive care, and it is critical that preventive care is available to Medicaid and Medicare recipients and, therefore, also in that health insurance exchange. We are going to have to bring these preventive services into these programs.

I close by saying we have come in this country to feel, as we should, that access to a quality, affordable health insurance system is a right. We certainly do not have that now. The system is cockeyed. This is a historic opportunity to answer this need by expanding and improving coverage while cutting the wasteful spending and addressing the flaws of the system.

The time for reform is now. We are going to start hashing it out, as we have been in these long roundtable sessions in the Finance Committee. I hope this can be bipartisan, but the proof is going to be in the pudding on final passage. Are there going to be votes, and how many from both sides of the aisle? If we are successful, it is going to turn around our ability to have adequate quality and affordable health care, which we need.

But it is going to do one more thing: It is going to start bringing under control the exploding cost of Medicare and Medicaid that, over the next 20 to 30 years, unless we change it, the Government is not going to be able to afford. That doesn't say one thing about cutting back on access to care nor the quality of care; it simply speaks to bringing those costs under control by rooting out the inefficiencies in the system and doing a lot of the things I have just talked about.

I look forward with great gusto to tackling what is one of the most enormous problems facing us. I look forward to sharing my thoughts with the Senate later in the week about GEN Charlie Bolden to be the next head of the National Aeronautics and Space Administration.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GM'S SPRING HILL ANNOUNCEMENT

Mr. ALEXANDER. Madam President, General Motors' decision to put the Spring Hill plant in Tennessee on standby is a blow to many employees who work there and to their families, but hopefully it will be a short-term problem. I have discussed with Governor Phil Bredesen how I can be of as much help as possible to the families who are affected, as well as the suppliers and the dealers. For the longer term, though, there is no reason in the world why the New GM cannot build cars and trucks at Spring Hill, TN, more competitively than any other location in America. Tennessee offers hundreds of suppliers, one of the country's best four-lane highway systems, a right-to-work law, thousands of trained workers, and low taxes. The Saturn plant was said to be the largest U.S. capital investment in history, and since then, General Motors has spent hundreds of millions of dollars modernizing it. For the same reasons Saturn and Nissan, Volkswagen, and their suppliers located here, Tennessee will continue to be a major automotive center.

What is more, General Motors has a proud history in Tennessee. As Governor of our State in 1985, I wrote the full-page ad for the Wall Street Journal. I took almost all of our economic development funds for advertising that year, and the ad proudly said this: "Saturn finally found a home in Spring Hill, Tennessee." Saturn was the most sought-after plant in America then. A Saturn car had not been built then. Yet the name was better known than Pontiac, which had been on the market for 60 years. Saturn, together with the arrival of Nissan a few years earlier, helped to attract auto industry to a State—Tennessee—that had almost no auto jobs and to a region that had very few auto jobs. Today, nearly 150,000 jobs—or about one-third of Tennessee's manufacturing jobs—are auto related, almost all of them at suppliers to the 12 auto-assembly plants that are now located in the Southeastern United States.

Madam President, I would like to look ahead a little bit toward the New

GM and the Government ownership of 60 percent of what we are calling the new General Motors. We are told that when General Motors emerges from bankruptcy in 60 or 90 days, the U.S. Treasury will own 60 percent of the New GM. To avoid the possibility of the Government owning New GM for years, I will introduce legislation authorizing the Treasury to distribute to individual taxpayers all of its stock in the New GM and in Chrysler as soon as is practical following the emergence of the New GM from bankruptcy proceedings. So instead of the Treasury owning shares in the New GM and Chrysler, you would own them if you were one of 154 million Americans who filed individual Federal tax forms on April 15.

The stock certificates would be in your name, not that of your Government. To keep it simple, and to help the little guy also have an ownership stake in America's future, Treasury would give each taxpayer an equal number of the available auto shares.

The Treasury Department has said it wants to sell its auto shares as soon as possible, but Fritz Henderson, the president and CEO of General Motors, told Senators and Congressmen in a telephone call this morning, in which I participated, that while it is the Treasury's decision to make, this is a "very large amount" of stock, and that the orderly offering of these shares to establish a market might have to be "managed down over a period of years." Another option, of course, might be to sell blocks of the New GM stock to one or more large investors, but that might also take years.

So I want the Treasury also to have the option of getting the ownership of these companies out of the hands of Washington and back in the hands of the marketplace in months rather than years. Distributing New GM shares and Chrysler shares to individual taxpayers is the way to do that.

Those shares might not be worth very much today, but put them away and 1 day they might help pay for a college education. For example, General Motors' 610 million shares were only worth 75 cents just before bankruptcy, but they were worth \$40 per share 2 years ago.

I would not interfere with the loans the Federal Reserve Board made to companies in trouble. The Fed is independent. Its loans are collateralized. It makes money for the Treasury. I am only talking about the taxpayer bailouts that Congress has authorized since last October that have resulted in Government ownership of auto company assets.

Under my proposal, the fiduciary duty that management owes to owners would be owed to the more than 154 million Americans owning New GM stock and not to a few Washington politicians and bureaucrats.

You know what would happen if the Treasury owned 60 percent of the New GM for the next several years: Members of Congress would start holding hearings and saying things such as: "We are the owners and we demand to know why are you building this model? Why are you closing the plant in North Carolina and not in Tennessee? Why are workers not paid more? What about these work rules? Why is this battery being built in South Korea and this engine being shipped from Mexico?"

When the company negotiates with the Federal Government on such things as, for example, fuel efficiency standards, won't it be negotiating with itself? And as the elections approach, might not the White House be tempted to build plants in States it might carry instead of States it might not?

As the New York Times editorialized this morning:

It was only March when the Obama administration let GM slide toward bankruptcy by denying it more taxpayer money, partly on the grounds that the company was too heavily dependent on SUVs, while its biggest stab at fuel economy, the Volt, was too expensive to work in the near future.

Not long after that, we saw the President of the United States fire the president of General Motors. So if it is going to take years to sell the Treasury's New GM stock and Chrysler stock, the best way to help those auto companies succeed and recover the taxpayers' more than \$50 billion in loans may well be to simply give all the Government stock to taxpayers and get Washington out of the business of owning and running auto companies—the sooner the better.

Here is one disadvantage. Giving the stock to taxpayers might well add a few billion dollars to the Federal debt. But whose debt is it, anyway? The 154 million taxpayers'. So why not give individual taxpayers the ride up, if there is to be one.

Some will say another disadvantage is that the old GM will not be able to sell its tax breaks to an acquiring company. But these tax breaks would be just another bailout paid by taxpayers. It would be better to distribute the Treasury's stock to individual taxpayers and let the marketplace decide what happens, rather than spend billions more on bailouts.

Here are the advantages as I see them. No. 1, 154 million new investor cheerleaders. Think fan base of the Green Bay Packers, whose ownership is distributed among the people of Green Bay. This new investor fan base could produce customers for the auto companies.

No. 2, better odds for success. Does anyone think Washington can run car companies? Did you ever ride in a Lada, a clunky Soviet car made by a government-run company? The standing joke was: How do you double the value of a Lada? Answer: Fill up the tank with gas.

No. 3, fairness. Decisions about these auto companies would be made by collective decisions of people in a marketplace rather than by lobbyists with access to Washington.

No. 4, any benefits are more likely to go to taxpayers rather than to some Government program. For example, the law says that all proceeds made from the Troubled Assets Relief Program, TARP, purchased assets should go to reduce Government debt. Yet that is not happening because Treasury has not purchased toxic assets yet and has not made any profit yet. My proposal would make sure taxpayers get the profit rather than recycling this money into more bailouts.

Finally, this is the fastest way back to the wise principle, if you can find it in the Yellow Pages the Government probably should not be doing it. More than the money, it is the principle of the thing.

The other day a visiting European automobile executive said to me, with a laugh, that he had come to "the new American automotive capital: Washington, DC."

To get our economy moving again, let's get our auto companies out of the hands of Washington and back into the marketplace—the sooner the better.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### E-VERIFY

Mr. SESSIONS. Madam President, I am concerned by the reports of several news outlets that the implementation of Executive Order 12989, which mandates the use of E-Verify for Federal contractors and subcontractors for the Federal Government, is now being delayed again until September of this year. This is the fourth such delay this year and I am afraid that it signals this administration is not serious about immigration enforcement—not even serious enough to utilize effective systems that we have in place.

On January 28 of this year, President Obama pushed back implementation of Executive Order 12989 to February 20. A few weeks later, that implementation date was pushed back again to May 21. Prior to that date, implementation was pushed back to June 30. Now various sources are reporting implementation will be delayed until sometime in September. E-Verify is one of the most effective tools at our disposal for protecting American jobs and should be made mandatory and permanent. Instead, the administration yet again has

decided to delay this program as it applies to Federal contractors and subcontractors—that is, people who do work for the Federal Government; not every private business, just those who get jobs and money from the Federal Government to do contracting work. The administration claims they need more time to review the program. But it has been 5 months already.

I was also, let me recall, extremely disappointed when this Senate's Democratic Members stripped the E-Verify provisions from the final version of the economic stimulus package without discussion or debate. I tried to bring up an amendment in the Senate that would have matched the language that the House accepted unanimously in committee and was included in the final version of their bill. That language said that contractors who get money out of the stimulus program from the Federal Government had to use E-Verify, this computer system, to determine whether the people they are hiring are legally in the country. That was not too much to ask, I thought. The House, as I said, unanimously accepted that provision in committee and passed it overwhelmingly as part of the final version of their bill.

Every time I sought to bring it up, it was blocked by the Democratic leadership. They did not want to vote on it. It became pretty clear why, because if it was in the Senate bill and the House bill, it would certainly be in the final conference report language and would become law. As long as they could keep it out of the Senate bill, when they went to conference they could take the language that had been passed in the House out of the bill. Part of the compromise in conference would be to eliminate the E-Verify related language. I warned that would happen and that is exactly what did happen. We could not get a vote in the Senate. If we had gotten a vote, I am confident the Senate would have voted in favor of requiring recipients of stimulus funds to use E-Verify.

The purpose of the stimulus bill was to put Americans back to work. Unemployment continues to rise. We are now hearing it will hit 10 percent. That is a serious number, much higher than some were projecting. I think the Obama administration's budget projected unemployment would be between 8.1 to 8.5 percent. Currently, unemployment rates are close to 9 percent and many are saying we will hit 10 percent. So why would we want to use stimulus money that was promoted as a way to create jobs for Americans and reduce unemployment in this time of recession and not make sure that those jobs go to American citizens. I think it is a matter of real, serious import and I am baffled by it.

Briefly, E-Verify is an on-line system operated jointly by Homeland Security and the Social Security Administration. Employers can check the work

status of people who apply to work for them on line by comparing information from the employee I-9 application form against the Social Security and DHS databases. More than 112,000 employers are already using it because they do not desire to hire somebody not legally in the country. I think they should be congratulated for that.

It also helps the employer because they can use this as a defense and say I used the E-Verify system if it is later found out that an employee they hired is here illegally. It did not tell me the person was illegal. They produced a document. It looked good to me. I checked the number and they said it was OK. They are protected. They have safe harbor against Government action for hiring people who are illegal.

E-Verify is a free and voluntary system. As a practical matter, it is the best means we have today for determining employment eligibility for any hires and the validity of their Social Security number.

We have had thousands of employees using bogus Social Security numbers to get work. There are examples of hundreds of people being hired under the same Social Security number. Well, that ought to give somebody a clue.

According to the Department of Homeland Security, 96 percent of the employees who are checked by businesses are cleared immediately. So the idea that large numbers of people are being blocked is not true. If you are not cleared, you can still be hired temporarily until further validation occurs to see if you have a legitimate Social Security number or if you are legitimately in the country.

It is working fine. This many companies would not be using it if it were not. On a related note, though people do not like to talk about the impact of illegal immigration on low-skilled workers, we must be factual. The large number of illegal workers in this country is having a depressing effect, particularly on the standard of living of low-skilled Americans.

The U.S. Commission on Immigration Reform, chaired by the late civil rights pioneer, Barbara Jordan, found:

Immigration of unskilled immigrants comes at a cost to unskilled U.S. workers.

The Center for Immigration Studies has estimated that such immigration has reduced the wage of the average native-born workers in a low-skilled occupation by 12 percent, or almost \$2,000 annually.

Harvard economist, George Borjas, himself an immigrant from Cuba, has studied this probably more than any other person in the whole source of issues on this. He has written a book on the subject. He has estimated that immigration in recent decades reduced the wages of native-born workers without a high school degree by 8.2 percent.

Doris Meissner, in 2009, a few months ago, the former head of Immigration Services under President Clinton, said:

Mandatory employer verification [that is what we are talking about through E-Verify] must be at the center of legislation to combat illegal immigration . . . the E-Verify system provides a valuable tool for employers who are trying to comply with the law. E-Verify also provides an opportunity to determine the best electronic means to implement verification requirements. The administration should support reauthorization of E-Verify and expand the program . . .

That was Doris Meissner, the INS Director under President Clinton, who said that a few months ago.

Alexander Aleinkoff, who was an official at INS under President Clinton, and the Obama administration DHS transition official—he participated in the transition for President Obama—calls it a “myth” that “there is little or no competition between undocumented workers and American workers.”

I know our majority leader has written that he favors the E-Verify Program. Senator REID wrote this:

I strongly believe that every job in our country should go only to those who are authorized to work in the United States. That is why I strongly support programs like E-Verify that are designed to ensure that employers only hire those who are legally authorized to work in the United States, and believe we need to strengthen enforcement against employers who knowingly hire individuals who are not authorized to work. I support reauthorization of the E-Verify program, as well as immigration reform that is tough on lawbreakers, fair to taxpayers and practical to implement.

Those are Senator REID's comments. So it is time for us to get busy. Let's do some of these things. I know some have said this is a cumbersome program. That is not so. These are excuses put out by big businesses that are using workers, many of whom they have reason to believe—I would suggest—are illegal. They do not want to be checked. They do not want to have any checks.

There was a recent letter to the Wall Street Journal by Mark Powell, a human resource executive for a Fortune 500 company. This is what he said about how hard it is to use this system:

The E-Verify program is free, only takes a few minutes, and is less work than a car dealership would do checking a credit score prior to selling a vehicle or letting you take a test drive.

Well, that is correct. He is right about that. How else can you explain the thousands of employers who voluntarily sign up to use the program? Short-term extensions and delay in implementation, such as what we are seeing today, only discourage participation in the E-Verify Program, since employers have no assurance that the program will even exist down the road.

I have offered legislation, and others have worked on the floor, to try to make E-Verify permanent and manda-

tory. We keep having one roadblock after another one.

Who is pulling the strings around here? I do not believe they are talking to the American people. I do not believe whoever it is blocking this kind of activity is talking to the American people, talking to people with common sense.

They must be talking with people who have special interests that are not interested in a lawful system. T.J. Bonner, who heads the Border Patrol Officers Association, testified at the Judiciary Committee, and he said this many times: One of the best things, perhaps the best thing, you can do to reduce the numbers of people who enter our country illegally is to eliminate the jobs magnet. The jobs possibility is a magnet that draws those who come illegally.

He said: There are a lot of things that can be done to eliminate that magnet, and this is one of them.

Further delay in the implementation of this Executive order is not acceptable, I believe, and am afraid it signals some sort of lack of commitment to enforce our immigration laws. You see, E-Verify does not require anybody to be arrested, it does not require anybody to be deported, it does not require anything—you simply do not get the job if you are not legally authorized to work. Law enforcement officers are not called. The businesses check the number to see if the person is legally here with a valid Social Security number, and if they have information that the individual is not, then they do not hire them.

That is all that happens. How simple is that? It is a good step, a modest step but an important step. We keep putting it off and keep rejecting the idea that even Government contractors that get work from the Government of the United States should have to use the program.

Every employer in America should be using the program. That is where we should be going. That is the policy we should be pursuing if we are at all serious about dealing with the matter.

There has been some good news. The good news is that last year, our border enforcement officers arrested only 770,000 people entering our country illegally. A couple years ago it was over 1.1 million arrests. That number doesn't include illegal aliens that evade CBP agents at the border. The reason the number of apprehensions is still so high, in my opinion, and I have studied it a good bit, is that we have inadvertently, perhaps intentionally, sent messages around the world that our border is open.

As long as we have a willing worker and a willing employer, President Bush once said, he almost said: I am okay with it. Well, that is not right, is it? We have laws. Good people every day apply to come to our country and to

enter our country through legal channels. Some of them have to wait in line, and they do so dutifully. But large numbers are ignoring that because somehow they have gotten the impression that nobody here cares at all.

So we have stepped up enforcement. We have built some fencing, not nearly what was contemplated being built, but we built some. We are doing better. We are prosecuting some of the people who enter the country illegally. That has worked dramatically. I do not mean long times in jail but a prosecution for a misdemeanor.

They serve a little time, they got a conviction, if they come back it can be a felony. That is working. So you do those kind of things and it makes a big difference. If we make the E-Verify system a part of what we do within this country every day, and especially for government business, that will further send the signal to the world that our country is not open to illegal entry. If you want to come you should come under the normal, lawful process.

It is so important America reestablish the rule of law when it comes to immigration in our country. We are a nation of immigrants. We are the most generous Nation, I think, in the world for allowing people to come here. But there has to be some limit on those numbers. It has to be done in an orderly fashion, a lawful fashion.

If you do not have order and lawfulness at our border and you have huge numbers coming through every year, then it undermines respect for law and sends a signal worldwide that we are not serious.

I think we are making some progress. We need to get E-Verify going. It needs to be made permanent and mandatory. At the very least, every business that does business with the U.S. Government should have to use it. Pretty soon every business in America should use it. When we do that, we will have taken a big step toward assuring even ourselves that we mean what we say and that we are going to establish a lawful program.

Some say we need these workers. Well, let's talk about a good guest worker program that would work, and we could allow people to come legally. That is critically important. So when your unemployment rate is going over 9 percent, highest in over 20 years, then maybe we do not need as many people coming into our country, as some people have said we do.

But regardless, there ought to be a mechanism for allowing temporary workers to come, the number allowed to come should serve our national interest, and we ought not to allow the large numbers who are now coming illegally to come and be able to successfully take jobs that Americans need right now.

Maybe the reports saying that the administration is delaying implemen-

tation of mandatory E-Verify for Federal contractors are not correct. But since we have seen it happen several times already, I think it is important the American people know something is not going well here and maybe there will be an opportunity to make their voices heard and maybe we can somehow, some way get this E-Verify Program made permanent and workable.

#### TRIBUTE TO THE CAMPBELLSVILLE UNIVERSITY TIGERS BASEBALL TEAM

Mr. MCCONNELL. Madam President, I rise today to pay tribute to the accomplishments of the Campbellsville University Tigers' Baseball Team from my home State of Kentucky. Their recent 4-0 win over Kansas Wesleyan earned the Tigers their first trip to the NAIA Baseball World Series in Lewiston, ID.

The Tigers' hard work and dedication throughout the season has paid off as they represent their school in the tournament. The players embody the principles of teamwork and their tireless efforts resulted in a successful season that has led to this monumental and meaningful honor.

Mr. President, I ask my colleagues to join me in honoring the team and coaches from Campbellsville for their performance during the regular season and for making it to the World Series. I further ask unanimous consent that the full article be printed in the RECORD as well as the names of the players and coaches.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### CAMPBELLSVILLE UNIVERSITY TIGERS BASEBALL TEAM

Head Coach Beauford Sanders, Assistant Coach Scott Hortness, Assistant Coach Randy LeBleu, Assistant Coach Jake McKinley, Rob Elliott, Bryan Fuller, Spencer Frantz, Jimmy Voelker, Craig Edwards, Nick Bertolucci, Logan Smith, Zach Townsend, Chris Curley, Curtis Payne, Colin Bryan, Alex Ponich, Tyler Derby, Nathan Quesenberry, Jake Kutsukos, Chance Harker, Marc Wilson, Ian Pick, Eric Mattos, Eric Staples, Nick Smith, Alex Tolmachoff, Jon Bourassa, Brian Chase

[From ESPN, May 16, 2009]

#### CAMPBELLSVILLE GAINS NAIA SERIES BERTH

Bryan Fuller told his Campbellsville University coaches he was never going to play baseball professionally, so he was willing to sacrifice his arm.

With much debate and reluctance, but knowing what was at stake and what their other options were, his coaches acquiesced.

Fuller, a senior, ended up pitching 21 shut-out innings in 26 hours as Campbellsville (Ky.) advanced to the NAIA World Series in Lewiston, Idaho, where on Friday it will face Lee (Tenn.).

Campbellsville had fallen into the loser's bracket in its NAIA super regional, and needed to win three straight to get the World Series berth. Against Lindenwood on Thursday, Fuller, who throws sidearm, pitched three scoreless innings for the save.

With just 25 minutes between games, Campbellsville's coaches decided to start Fuller in the next game, against Kansas Wesleyan, which had won 26 straight. Fuller, according to assistant coach Jake McKinley, "is an undersized kid" who had started only once previously in four seasons.

"We were nearly out of pitching and he looked comfortable," McKinley said. "We told Fuller we would need him to make his second career start and if he could give us three or four innings, that would be great, and it was in the biggest game in the history of our program against a team that had won 26 straight games."

Fuller ended up pitching a complete game as Campbellsville snapped Kansas Wesleyan's winning streak with a 11-0 victory.

That put Campbellsville in the final. According to McKinley, the coaches were prepared to start their No. 1 pitcher on two days' rest, but Fuller wanted the start.

"We told him no way, because we didn't want to hurt him . . . He just threw 12 innings the day before," McKinley said. "He told us that he was a senior that will never play pro ball and he was going to be an accountant in just a few weeks. He said he didn't care about his arm and told us he will give us a chance to win."

And he did, using just 77 pitches in his second consecutive complete-game shutout as Campbellsville (39-10) beat Kansas Wesleyan again 4-0, giving the Tigers their first NAIA World Series appearance in school history.

"We're not sure yet, but we are not opposed to using him in any role," McKinley said. "At this point, we'd be fools not to start him."

#### TRIBUTE TO DR. JAMES H. BILLINGTON

Mr. NELSON of Nebraska. Madam President, I join with Senator LISA MURKOWSKI, to convey heartfelt good wishes to Dr. James H. Billington, the Librarian of Congress, who will celebrate his 80th birthday on June 1.

Dr. Billington was educated in the public schools in the Philadelphia area and was valedictorian at Princeton University before pursuing his doctorate at Oxford University where he was a Rhodes Scholar. Following service in the Army he taught history at Harvard and Princeton. From 1973-1987, he was director of the Woodrow Wilson School for International Scholars where he founded the Kennan Institute for Advanced Russian Studies. He is a well-known scholar of Russia, has authored six books on Russian history, accompanied 10 congressional delegations to Russia and the former Soviet Union, and received more than 40 honorary doctorates from around the world.

In 1987 James Billington was nominated to be the 13th Librarian of Congress by President Reagan and was confirmed for that position by the Senate. From the day he took over the Library of Congress, he has vigorously pursued his vision for the Library and its future: to continue to acquire and preserve materials for its unparalleled collections and make them available to Congress, the American people and the

world. Dr. Billington has a phrase for this, "to get the champagne out of the bottle." His aim from the beginning has been to share the riches of the world's largest collection of knowledge with ever broader audiences and to translate this wisdom into a catalyst for civilization.

Early in his tenure, even before the digital revolution, Dr. Billington saw the need to use new information technologies to get content out to users around the country so that the Library of Congress would not simply become a "warehouse of information." Through initiatives such as the pioneering American Memory Project created in 1990 he saw to it that the rich American history collections of the Library were available in new ways to a wider audience, culminating in 1995 with millions of digital items posted on the Web through the National Digital Library. The Library of Congress, through its National Digital Information Infrastructure and Preservation Program, led an ongoing effort with partner institutions to collect and preserve digital materials that would otherwise disappear. The Library is also leading the way in getting more than 15 million of its rich primary source materials out online to K-12 educators throughout the nation. In 1995 Dr. Billington proposed to UNESCO formation of a World Digital Library to gather an online collection of significant primary materials from cultures around the world which was officially launched in seven languages in Paris last month with the Library, UNESCO, and more than 30 partner institutions around the world.

Dr. Billington has been a prodigious private fundraiser for the Library's programs. In 1990 he formed the Madison Council whose members have raised nearly \$400 million for the Library which has been well used to support scholarly studies such as the Kluge Center and some 300 stimulating and popular exhibitions such as the Vatican Library, American Treasures, Lewis and Clark, and the recent Lincoln Bicentennial. A major accomplishment was the creation of the Packard Campus for Audio-Visual Conservation achieved through a public/private partnership with the Packard Humanities Institute for archiving and preservation of the Library's massive collection of audio visual material.

Jim Billington has presided over an increase of more than 50 million items in the Library's collections which now total nearly 140 million. He has also ensured that the Library's valuable multiple format collections are preserved for future generations and enhanced the security of staff, researchers, and visitors.

It was Dr. Billington's far sighted initiative in 1999 to bring young leaders to the United States from Russia to learn practical skills through exposure

to America's democratic government and free market system. Since then through the Open World Program more than 14,000 current and future leaders from Russia, Ukraine, Lithuania and Uzbekistan have experienced our democracy and community life gaining new ideas for implementing change in their countries and fostering cooperation with the United States.

These are just a few of the many accomplishments that Jim Billington has made both to the Library of Congress and the Nation. His energy, enthusiasm and vision for a knowledge based democracy and the life of the mind are commendable and he is still going strong at 80. We wish him a happy birthday.

Mrs. HUTCHISON. Madam President, I offer my best wishes to the Librarian of Congress, Dr. James Billington, who just celebrated his 80th birthday.

Dr. Billington became the Librarian of Congress in 1987 after being nominated by President Reagan and confirmed by the Senate. If you read his confirmation testimony closely you can see the seeds for the direction he wanted to take the Library of Congress. It was Dr. Billington's vision for what the Library of Congress could be for current and future generations and his effective management that steered that great institution into the digital age. Because of his leadership, the Library today collects a diversity of material in both conventional and digital formats. Dr. Billington refers to this as "adding without subtracting," and it is now a model for archival institutions. But simply collecting and preserving this material is not enough. It was his insistence, through programs such as the National Digital Library and World Digital Library, that this goldmine of information be shared much more widely with researchers, educators, and the general public both here on Capitol Hill and online via the Library's renowned Web site that makes it so useful.

I know how much Jim Billington reveres the Library's role of service to Congress and the American people. He works tirelessly to attract Members to visit the Library. It has been my pleasure to co-host with him several dinners in recent years for my colleagues which gave them a clearance to see some of the incomparable Library of Congress exhibits, such as Creating the U.S., Jefferson's Library, and Winston Churchill, in the magnificent surroundings of the Jefferson Building.

Formation of the Madison Council, the Library's first ever philanthropic and advisory body, was Dr. Billington's idea which he carried out with great energy and success. The Madison Council has been invaluable in bringing priceless collections to the Library and augmenting appropriated funding.

Finally, I applaud Dr. Billington for instituting and cosponsoring with First

Lady Laura Bush the National Book Festival since 2001, in which I have had the good fortune of participating as an author. The National Book Festival, modeled on the Texas Book Festival initiated in the 1990s by Laura Bush, has been a very popular annual event in Washington and has done much to promote reading and the creativity of America's writers.

Jim Billington is truly a national treasure. He is a man of great intellect and leadership. I want to thank him for all he has done at the Library of Congress and throughout his long career of public service. I am happy to call him my friend, and I wish him all the best on his 80th birthday.

I yield the floor.

#### ADDITIONAL STATEMENTS

##### REMEMBERING FRANCES NAM

• Mrs. BOXER. Madam President, today I want to speak about an extraordinary young woman who has left us far too soon. On May 15, my former staff member Frances Nam died after a 3-year battle with lung cancer. Fran was just 39 years old. She left behind two beautiful daughters—Seanna, age 11, and Henna, age 9.

In the mid to late 1990s, Fran was my legislative assistant on all matters related to appropriations, immigration, housing, judicial appointments, and matters under the jurisdiction of the Judiciary Committee. She was a stand-out staff member in every way: always enthusiastic and diligent about her work, always caring about her colleagues, and an exemplary public servant who cared deeply about our constituents.

In January 1999, Frances went to work for U.S. Department of Justice's Community Relations Service, CRS, DOJ's race relations mediation arm. This job brought out another side of Fran: the compassionate but cool-headed mediator, a master of human relations. CRS sent Frances all over the country, wherever ethnic communities were at odds with one another, to prevent or soothe civil strife and bring disparate people together despite their differences. Originally a political appointee in the Clinton administration, Fran stayed at CRS until 2003 as a senior policy adviser.

Frances then went to work as senior policy adviser to the late Congresswoman Juanita Millender-McDonald. Along with her primary legislative and policy duties, Fran was the Congresswoman's liaison to the Congressional Black Caucus, CBC. In this role she became the first non-African American to organize a CBC annual legislative conference, and she is still remembered fondly by CBC members and staff for her charm, efficiency, and diplomatic skills.



Since late 2003, Frances has worked as vice president of Government Affairs for Sodexo USA, a major food service company. Here, in addition to working with Congress as well as State and local governments, Fran was known for her extraordinary efforts to open new educational and career opportunities for Asian Americans and other people of color.

Outside her working life, Fran was a vivacious young woman who enjoyed a wide circle of friends and her two loving daughters. A woman who truly loved her work and life, she was recently the subject of an article in *Working Woman* magazine on successful working mothers.

In her all-too-brief life, Frances Nam made a deep and lasting difference in the lives of many people—here in the Senate, in communities across the country, and in her own close community of family, friends, and colleagues. She will be deeply and truly missed.●

#### TRIBUTE TO HARRY M. HALLMAN, JR.

● Mr. GRAHAM. Madam President, today I ask the Senate to join me in recognizing Mayor Harry M. Hallman, Jr., on the occasion of his retirement as mayor of Mount Pleasant, SC. Mayor Hallman is a dedicated public servant and his work has earned our gratitude and appreciation.

It was with much personal and professional sadness that he recently announced he would have to relinquish his position as the mayor of one of South Carolina's largest municipalities as he continues his personal battle with Alzheimer's.

In an address to the residents of Mount Pleasant, the mayor made clear this was a difficult decision. He could have stayed in office and carried on. But Mayor Hallman felt he could no longer meet the high standard he had set for himself of being "effective."

As Mayor Hallman said in his resignation, "To me, being 'effective' means 'excellence'. I realize now that I am not meeting my personal definition of 'effective.' This Town deserves only the best from its leadership. Half way will not do for my Town."

His resignation was the mark of a true public servant willing to put the interests of the town he loves above his own personal interests.

Mayor Hallman has compiled a long and distinguished career of service in public office and private life.

After being elected to the office of mayor in September of 2000, Mayor Hallman spent nearly two terms in office growing his town and improving its assets. He will be remembered as a mayor who instituted infrastructure projects that helped change the face of Mount Pleasant. After only 3 years under his service, the town saw over \$150 million worth of road improve-

ments and city development. Additionally, he helped secure Federal and State moneys for a newly debuted farmer's market venue and a waterfront park for public use.

During his time as mayor of Mount Pleasant, Mr. Hallman chaired the Police, Legal and Judicial Committee and the Transportation Committee. He also served on the Water Supply Committee and as an ex-officio member of the Mount Pleasant Waterworks Commission, the Patriots Point Authority, and the Charleston Aviation Authority.

In 1988, Mayor Hallman was elected to serve in the South Carolina House of Representatives. While in office, he chaired the Charleston County Legislative Delegation as well as the State House Committee, which was responsible for overseeing the \$78 million renovation of the South Carolina State House. He also offered his skills on the Joint Bond Review Committee, and the State Development Board.

Born and raised in South Carolina, Mayor Hallman took great pride in seeing his State develop from corner to corner. As the son of a retired oil executive and a stock market investor in Greenwood, SC, he grew up to appreciate all that the State has to offer. He was a 1958 graduate of the University of South Carolina, where he finished with a degree in business administration. Years later he was awarded an honorary doctor of humanity letters degree from the University of Charleston.

As a distinguished member of the State community, Mayor Hallman was often asked to participate in the development of multiple health and educational improvements and expansions. He served on the University Study Committee as their chairman, as well as the Low Country Graduate Advisory Board. Mayor Hallman chaired the South Carolina Department of Health and Environmental Control and served as treasurer for Charleston Memorial Hospital. His dedication to all aspects of life in South Carolina was broad in scope and great in impact.

A devoted citizen, Mayor Hallman formally retired on May 20, 2009, as a revered member of the Mount Pleasant and South Carolina community. His leadership and his commitment to our State will be forever marked by his extraordinary vision and endless sacrifice. Throughout his entire career and to this day, Mayor Hallman has served as a model to those around him.

Along with his wife Shirley "Brooke" Hallman, who has stood next to him with unwavering loyalty and shared sacrifice, he celebrates his retirement with his three children and six grandchildren. I thank him for his service and wish him the very best in his retirement.

I ask that the Senate join me in honoring him for his lifelong career of service and also send along our best wishes to him and his family as he continues his battle.●

#### TRIBUTE TO DR. TOM DEAN

● Mr. JOHNSON. Madam President, today I rise to recognize Dr. Tom Dean of Wessington Springs, SD, who has been named the National Rural Health Association's 2009 Practitioner of the Year and wish to congratulate him on this well-deserved honor.

Dr. Dean has spent the majority of his 30 years in practice as a family physician in Wessington Springs, SD, and has served as a member of the Medicare Payment Advisory Commission since 2007.

After completing his medical education and training out of the State, Dr. Dean returned to his native Wessington Springs, SD, as a National Health Service Corps physician. Dr. Dean dedicated his professional career to delivering health care to his neighbors in rural South Dakota. He is well known in his community for the personal attention he gives to his patients and for his understanding of the value of the patient-doctor relationship.

Having spent most of his career helping the residents of Wessington Springs stay healthy, Dr. Dean has come to understand the particular challenges of rural health care delivery and the impact of health policies on rural America. Dr. Dean is greatly involved with the National Rural Health Association, an organization whose mission is to improve the health and well-being of rural Americans and to provide leadership on rural health issues.

In addition to his practice and MedPAC work, Dr. Dean is chief of staff at Avera Wesskota Memorial Medical Center, and serves on the board of directors of the Bush Foundation Medical Fellowship and the South Dakota Academy of Family Physicians. He is a past president of the National Rural Health Association, recipient of numerous awards and honors, and his research is published in many medical journals.

Through his practice and research, Dr. Dean has demonstrated his commitment to improving the quality of care provided to the one-fifth of Americans who live in rural areas.

I applaud Dr. Dean's commitment to providing quality health care to his patients. His contribution to shaping health care policy has added a valuable and powerful voice for both rural health care providers and patients.●

#### TRIBUTE TO ERIC F. ROSS

● Mr. LAUTENBERG. Madam President, I wish to pay tribute to Eric F. Ross who will celebrate his 90th birthday on June 25, 2009. A loving grandfather, great-grandfather, and husband, Eric has been dedicated to educating the public about the Holocaust and is a passionate supporter of educational and cultural institutions in the United States, Germany, and Israel.

Born in Dortmund, Germany, Eric fled Nazi Germany and arrived in the



United States when he was 20 years old. He courageously returned to Europe in 1942 as a soldier in the U.S. Army and a member of the "Ritchie Boys," a group of young men who escaped Nazi Germany and joined the Army. These men were specially trained to fight the Nazis and because of his service, Eric was awarded a Bronze Star. He went on to become a successful businessman, establishing Alpha Chemical & Plastics in Newark, New Jersey and Mercer Plastics Company, which is based in Florida.

Holocaust remembrance and education are extremely important to Eric. In 2003, he was appointed by President George W. Bush to the U.S. Holocaust Memorial Council and he remains actively involved with the museum. He and his beloved wife Lore, who recently passed away, are the museum's largest individual donors and the museum's Ross Administrative Center is named in memory of his parents, Albert and Regina Rosenberg, who perished during the Holocaust.

I am pleased to ask my colleagues to join me in commemorating the 90th birthday of this remarkable man. His passion for education and dedication to philanthropy has touched countless lives and should serve as an example to others. I thank him for his tireless work and would like to extend my warmest wishes on this momentous occasion.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Zapata, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 915. An act to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2010 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

H.R. 1676. An act to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 267h, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. McCAUL of Texas, Mr. DREIER of California, Mr. MACK of Florida, Mr. BILBRAY of California, Mr. NUNES of California.

The message further announced that pursuant to section 703(c) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note), the Minority Leader reappoints the following member to the Public Interest Declassification Board: Admiral William O. Studeman of Great Falls, Virginia.

The message also announced that pursuant to the National Foundation of the Arts and Humanities Act of 1965 (20 U.S.C. 955(b) note), the Minority Leader reappoints the following Member of the House of Representatives to the National Council on the Arts: Mr. TIBERI of Ohio.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 915. To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2010 through 2012, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1676. An act to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 713. A bill to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense (Rept. No. 111-23).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself, Mr. DURBIN, Mr. BROWN, and Mr. MENENDEZ):

S. 1160. A bill to provide housing assistance for very low-income veterans; to the Committee on Banking, Housing, and Urban Affairs.

#### ADDITIONAL COSPONSORS

S. 146

At the request of Mr. KOHL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 146, a bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads.

S. 211

At the request of Mr. VITTER, his name was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 211, *supra*.

S. 229

At the request of Mrs. BOXER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 311

At the request of Mrs. BOXER, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 354

At the request of Mr. WEBB, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 369

At the request of Mr. KOHL, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 369, a bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mrs. McCASKILL) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 456

At the request of Mr. DODD, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 461

At the request of Mrs. LINCOLN, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Georgia (Mr. ISAKSON), the Senator from Missouri (Mr. BOND) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 511

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 511, a bill to amend part B of title XVIII of the Social Security Act to provide for an exemption of pharmacies and pharmacists from certain Medicare accreditation requirements in the same manner as such exemption applies to certain professionals.

S. 515

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 515, a bill to amend title 35, United States Code, to provide for patent reform.

S. 547

At the request of Mr. BINGAMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 547, a bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of Medicaid managed care organizations by extending the discounts offered under fee-for-service Medicaid to such organizations.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 582

At the request of Mr. SANDERS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 582, a bill to amend the Truth in Lending Act to protect consumers from usury, and for other purposes.

S. 623

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 623, a bill to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Service Act, and the Internal Revenue Code of 1986 to prohibit pre-existing condition exclusions in group health plans and in health insurance coverage in the group and individual markets.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 666

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 666, a bill to prohibit products that contain dry ultra-filtered milk products, milk protein concentrate, or casein from being labeled as domestic natural cheese, and for other purposes.

S. 686

At the request of Ms. MIKULSKI, the names of the Senator from New York (Mr. SCHUMER), the Senator from Hawaii (Mr. INOUE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 686, a bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment for, and retention, research, and reinvestment in, the profession, and for other purposes.

S. 700

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 711

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 731

At the request of Mr. NELSON of Nebraska, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 731, a bill to amend title 10, United States Code, to provide for continuity of TRICARE Standard coverage for certain members of the Retired Reserve.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 781

At the request of Mr. ROBERTS, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 781, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 832

At the request of Mr. NELSON of Florida, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 833

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 872

At the request of Mr. VOINOVICH, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 872, a bill to establish a Deputy Secretary of Homeland Security for Management, and for other purposes.

S. 973

At the request of Mr. NELSON of Florida, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 973, a bill to amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

S. 982

At the request of Mr. KENNEDY, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Michigan (Ms. STABENOW), the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 985

At the request of Mrs. LINCOLN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 985, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 999, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Missouri (Mr. BOND), the Senator from Maryland (Mr. CARDIN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. JOHANNES) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1111

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1111, a bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project.

S. 1118

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1118, a bill to amend title 38, United States Code, to provide for an increase in the amount of monthly dependency and indemnity compensation payable to surviving spouses by the Secretary of Veterans Affairs, and for other purposes.

S. 1126

At the request of Mr. REID, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1126, a bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America and for other purposes.

S. 1131

At the request of Mr. WYDEN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1131, a bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals.

S. 1132

At the request of Mr. LEAHY, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1132, a bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes.

S.J. RES. 1

At the request of Mr. VITTER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. CON. RES. 23

At the request of Mr. CARDIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 23, a concurrent resolution supporting the goals and objectives of the Prague Conference on Holocaust Era Assets.

S. RES. 157

At the request of Mr. LUGAR, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from North Dakota (Mr. DORGAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 157, a resolution recognizing Bread for the World, on the 35th anniversary of its founding, for its faithful advocacy on behalf of poor and hungry people in our country and around the world.

#### NOTICE OF HEARING

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Thursday, June 4, 2009, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

#### RAILROAD ANTITRUST ENFORCEMENT ACT

Mr. REID. Madam President, I ask unanimous consent that the order with respect to resuming the motion to proceed to S. 146 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the cloture motion with respect to the motion to proceed to S. 146 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I wish to thank Senators ROCKEFELLER and KOHL and others for their work in securing an agreement to work together on comprehensive rail competition legislation. I ask unanimous consent that the Dear Colleague letter they jointly signed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, June 1, 2009.

DEAR COLLEAGUES: We wanted to let you know that we have jointly decided to ask Senator Reid to withdraw the pending cloture petition on S. 146, the Railroad Antitrust Enforcement Act. We share the common goals of addressing the longstanding concerns of rail shippers and making the rail industry more competitive.

The Commerce and Judiciary Committees intend to work together on comprehensive rail competition legislation. We hope to shortly have a bipartisan package that reforms the Surface Transportation Board and repeals the railroads' antitrust exemption available for the consideration by the full Senate. We are working on harmonizing our two efforts to produce a robust reform package.

This is a high priority for both of us and we are absolutely committed to finding real solutions that can be enacted into law this year.

Sincerely,

JOHN D. ROCKEFELLER IV,  
*Chairman, Committee  
on Commerce,  
Science, and Transportation.*  
HERB KOHL,  
*Chairman, Antitrust  
Subcommittee, Judiciary Committee.*

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 139; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order and any statements relating to this matter be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

#### DEPARTMENT OF STATE

Susan Flood Burk, of Virginia, a Career Member of the Senior Executive Service, to be Special Representative of the President, with the rank of Ambassador.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

### ORDERS FOR TUESDAY, JUNE 2, 2009

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, June 2; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; further I ask unanimous consent that following morning business,

the Senate proceed to executive session under the previous order; finally, I ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Madam President, tomorrow, following morning business, the Senate will proceed to vote on confirmation of the nomination of Regina McCarthy to be an Assistant Administrator of the Environmental Protection Agency. That vote should be a voice vote. We will have to wait and see for sure.

Earlier today we were able to reach an agreement to vitiate the cloture motion on the motion to proceed to the railroad antitrust legislation. As a result, upon disposition of the McCarthy nomination, the Senate will immediately proceed to a cloture vote on the motion to proceed to H.R. 1256, the FDA tobacco regulation legislation. Therefore, Senators should expect at least one rollcall vote to begin around 11 a.m. tomorrow.

### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 5:59 p.m., adjourned until Tuesday, June 2, 2009, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

#### DEPARTMENT OF AGRICULTURE

EVAN J. SEGAL, OF PENNSYLVANIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE, VICE CHARLES R. CHRISTOPHERSON, JR., RESIGNED.

#### NATIONAL CREDIT UNION ADMINISTRATION

DEBORAH MATZ, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING APRIL 10, 2015, VICE RODNEY E. HOOD, TERM EXPIRED.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

ELLEN GLONINGER MURRAY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE CHARLES E. JOHNSON, RESIGNED.

#### DEPARTMENT OF STATE

PATRICIA A. BUTENIS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALDIVES.

CHRISTOPHER WILLIAM DELL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOSOVO.

CHARLES H. RIVKIN, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COM-

PENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONACO.

THOMAS ALFRED SHANNON, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

NICOLE LURIE, OF MARYLAND, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE W. CRAIG VANDERWAGEN, RESIGNED.

#### SUPREME COURT OF THE UNITED STATES

SONIA SOTOMAYOR, OF NEW YORK, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE DAVID H. SOUTER, RETIRING.

#### DEPARTMENT OF DEFENSE

GORDON S. HEDDELL, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE CLAUDE M. KICKLIGHTER, RESIGNED.

J. MICHAEL GILMORE, OF VIRGINIA, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION, DEPARTMENT OF DEFENSE, VICE CHARLES E. MCQUEARY.

DENNIS M. MCCARTHY, OF OHIO, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE THOMAS FORREST HALL.

#### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### To be admiral

ADM. ROBERT F. WILLARD

#### IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

#### To be colonel

MARK W. ANDERSON  
MARK DAVID AUER  
DAVID M. BAKOS  
JOHN MICHAEL BALBIERER  
STEPHEN E. BEAUCHAMP  
MARK W. BECK  
STEPHEN M. BECKER  
SANDRA M. BLALOCK  
MONTE J. BOETTGER  
EUGENE H. BRISLIN, JR.  
TODD ALLEN BROWN  
WALTER A. BRYAN, JR.  
LARRY RANDOLPH BURRIS  
MARY S. BURRUS  
JOHNIE A. BURTON, JR.  
JOHN D. CAINE  
JEFFREY B. CASHMAN  
MICHAEL R. CASTALDI  
TIMOTHY J. CATHCART  
KIMBERLY R. CHATFIELD  
ALAN J. CLARKE  
PATRICK J. COBB  
KELLY WARD COBBLE  
SEAN THOMAS COLLINS  
JAMES BRADLEY CUSHMAN  
JOEL K. DARBO  
JOHN C. DAVIS  
KURT R. DAVIS  
STEPHEN P. DEPTULA  
BRADLEY M. DERRIG  
NICOLE L. DESILETSBIXLER  
MARK J. DEVINE  
WADE FRANKLIN DEWEY  
VITO AUGUST DIMICCO, JR.  
DALE F. FATH  
RUBEN FERNANDEZVERA  
MICHAEL E. FLANAGAN  
BRYAN P. FOX  
MICHAEL J. FRANCIS  
TIMOTHY H. FUJINO  
HELEN R. GALLOWAY  
JOSEPH A. GARNETT  
DANIEL E. GELINAS  
EDITH M. GRUNWALD  
LAUN R. HALLSTROM  
KEVIN J. HEER  
CHRISTOPHER A. HEGARTY  
DOUGLAS J. HENRY  
LANCE A. HESTER  
JEFFREY W. HICKMAN  
EDWARD J. HIGGINS  
ROBERT J. HOFFMAN  
RANDY C. HUFFMAN  
LEONARD WESLEY ISABELLE, JR.  
ADAM H. JENKINS  
GREGORY F. JONES  
RONALD M. KICHURA  
ROBERT G. KILGORE  
ANTHONY J. KISSIK  
ROBERT C. KORTE

KENNETH L. LAMBRICH  
 GERALD D. LAVER  
 CHRISTIAN P. LEDET  
 DONNA D. LOOMIS  
 TIMOTHY THOMAS LUNDERMAN  
 EDWARD C. LUTZ  
 PAUL S. LYMAN  
 MICHAEL T. MACK  
 DANIEL B. MARINO  
 KEITH P. MARTIN  
 STUART K. MATHEW  
 EDWARD P. MAXWELL  
 STEPHEN C. MELTON  
 JESSICA MEYERAAN  
 MICHAEL H. MORGAN  
 TIMOTHY ALOYSIUS MULLEN  
 THAD L. MYERS  
 DAVID R. NARDI  
 RICHARD ROBERT NEELY  
 JILL J. NELSON  
 JEFFREY L. NEWTON  
 PAUL E. NORRIS  
 MICHAEL J. NOWICKI  
 JAMES A. OEHMCKE  
 PIERRE B. OURY  
 EILEEN K. PANACEK  
 JONATHAN RAY PAYNE  
 JEFFREY L. PETERS  
 JAMES E. RAMSEY  
 MICHAEL J. RAND  
 MICHAEL T. RAY  
 PAUL EDGAR RESEL  
 ADALBERTO RIVERA  
 GREGORY J. ROMAIN  
 GLENN ALAN ROWLEY  
 WALTER C. RUSTMANN  
 STEPHEN M. RYAN  
 MARK T. SCHARF  
 PETER R. SCHNEIDER  
 DAVID W. SILVA II  
 MARK C. SNYDER  
 MITCHELL D. SPERLING  
 PETER D. STAVROS  
 PAUL E. SWANSON  
 GARY J. SZABO  
 GLENN A. TAYLOR  
 BRYAN J. TEFF  
 LARRY D. THORPE  
 JAMES R. TREUTEL  
 EDWARD L. VAUGHN IV  
 MATTHEW WALLACE WESSEL  
 BRYAN F. WITEOF  
 JEFFREY S. WOELBLING  
 STEVEN W. WRIGHT

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR AT THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 4333(B) AND 4336(A):

*To be colonel*

EDWARD P. NAESSENS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY

MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

DONALD R. ANDERSON

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

SANDRA M. KEAVEY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTION 531 AND 3064:

*To be major*

THAMIUS J. MORGAN

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

CONSTANCE ROSSER

*To be major*

AVERY E. DAVIS

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

NORMA G. SANDOW

*To be major*

CENK AYRAL  
 PAUL J. SINUEFIELD

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

CHARLES W. HIPPI

*To be major*

ROBER B. BANCHEFSKY  
 RAYMOND V. DEMPSEY  
 ANITA M. KIMBROUGHJACOB

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be colonel*

DANIEL E. BANKS

ERIC F. SABERTY  
 DARREL W. WYATT

*To be lieutenant colonel*

PRAN M. KAR  
 DANIEL R. MARINO  
 JOHN A. MCHENRY  
 EUGENE J. SCHNEIDER  
 STEVENS H. UNTRACHT  
 WILLIAM A. WOLKSTEIN

*To be major*

LYNN M. MURPHY  
 NORRIS L. NEWTON  
 RICK A. SHACKET

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

CARLTON L. DAY  
 JEFFREY N. HICE  
 DAVID E. POPPLETON  
 MARK W. WEISS

## IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

JUDI C. HERRING

*To be lieutenant commander*

ADEGBOYEGA A. ADESOKAN  
 THOMAS V. BOLLING  
 NICHOLAS C. CARO  
 CHRISTOPHER CARR  
 MARY R. A. CUNNINGHAM  
 RALPH L. LEONARD  
 PATRICK W. MULLINS  
 LUIS M. TUMIALAN

## CONFIRMATION

Executive nomination confirmed by the Senate, Monday, June 1, 2009:

## DEPARTMENT OF STATE

SUSAN FLOOD BURK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE SPECIAL REPRESENTATIVE OF THE PRESIDENT, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## EXTENSIONS OF REMARKS

### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 2, 2009 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JUNE 3

9:30 a.m.

#### Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of Education.

SD-124

9:45 a.m.

#### Appropriations

Interior, Environment, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of the Interior.

SD-138

10 a.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Martha N. Johnson, of Maryland, to be Administrator, General Services Administration.

SD-342

#### Judiciary

To hold hearings to examine The Uniting American Families Act, focusing on addressing inequalities in federal immigration law.

SD-226

#### Armed Services

Readiness and Management Support Subcommittee

To receive a closed briefing to examine electricity grid vulnerabilities to critical defense assets and missions.

SVC-217

11 a.m.

#### Foreign Relations

To meet in closed session to receive a briefing from national security briefers.

SVC-217

2 p.m.

Homeland Security and Governmental Affairs

State, Local, and Private Sector Preparedness and Integration Subcommittee  
To hold hearings to examine pandemic flu.

SD-342

#### Agriculture, Nutrition, and Forestry

To hold hearings to examine regulatory reform and derivatives markets.

SR-328A

#### Banking, Housing, and Urban Affairs

To hold hearings to examine a fresh start for new starts.

SD-538

#### Aging

To hold hearings to examine the value of long-term care insurance.

SH-216

2:30 p.m.

#### Commerce, Science, and Transportation

To hold hearings to examine General Motors and Chrysler dealership closures, focusing on dealers and consumers.

SD-106

#### Foreign Relations

To hold hearings to examine the nominations of Eric P. Schwartz, of New York, to be Assistant for Population, Refugees, and Migration, and Andrew J. Shapiro, of New York, to be Assistant Secretary for Political-Military Affairs, both of the Department of State.

SD-419

#### Armed Services

#### Personnel Subcommittee

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for military family programs, policies, and initiatives.

SR-222

#### Armed Services

#### Strategic Forces Subcommittee

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for strategic forces programs.

SR-232A

#### JUNE 4

Time to be announced

#### Environment and Public Works

Business meeting to consider the nominations of Peter Silva Silva, of California, to be an Assistant Administrator for Water, and Stephen Alan Owens, of Arizona, to be Assistant Administrator for Prevention, Pesticides, and Toxic Substances, both of the Environmental Protection Agency.

Room to be announced

9:30 a.m.

#### Armed Services

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for the Department of the Navy;

to be possibly followed by a closed session in SVC-217.

SH-216

#### Banking, Housing, and Urban Affairs

To hold hearings to examine the nomination of Herbert M. Allison, Jr., of Connecticut, to be Assistant Secretary of the Treasury for Financial Stability.

SD-538

#### Appropriations

Commerce, Justice, Science, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Federal Bureau of Investigation, to be followed by a closed session at 11:15am in SVC-217.

SD-192

#### Energy and Natural Resources

Business meeting to consider pending energy legislation.

SD-366

#### Small Business and Entrepreneurship

To hold hearings to examine SBIR and STTR reauthorization, focusing on ensuring a strong future for small business in federal research and development.

SR-428A

10 a.m.

#### Foreign Relations

To hold hearings to examine challenges and opportunities for U.S.-China cooperation on climate change.

SD-419

#### Judiciary

Business meeting to consider S. 417, to enact a safe, fair, and responsible state secrets privilege Act, S. 257, to amend title 11, United States Code, to disallow certain claims resulting from high cost credit debts, S. 448 and H.R. 985, bills to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media, and the nominations of David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit, Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit, and Thomas E. Perez, of Maryland, to be Assistant Attorney General, Civil Rights Division, Department of Justice.

SD-226

10:30 a.m.

#### Appropriations

#### Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of the Air Force.

SD-138

2 p.m.

#### Appropriations

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of Agriculture.

SD-192

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2:30 p.m.

JUNE 10

JUNE 17

## Appropriations

## Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Library of Congress and the Open World Leadership Center.

SD-138

## Intelligence

To hold closed hearings to examine certain intelligence matters.

S-407, Capitol

JUNE 5

9:30 a.m.

## Joint Economic Committee

To hold hearings to examine the employment situation for May 2009.

SD-106

10 a.m.

## Finance

To hold hearings to examine the nomination of Miriam E. Sapiro, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

SD-215

9:30 a.m.

## Veterans' Affairs

To hold an oversight hearing to examine the Department of Veterans Affairs' construction process.

SR-418

2:30 p.m.

## Commerce, Science, and Transportation

## Aviation Operations, Safety, and Security Subcommittee

To hold hearings to examine aviation safety, focusing on the Federal Aviation Administration's role in the oversight of air carriers.

SR-253

JUNE 16

2:30 p.m.

## Armed Services

## Airland Subcommittee

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for Army modernization and management of the Future Combat Systems Program.

SR-222

10 a.m.

## Commerce, Science, and Transportation

## Aviation Operations, Safety, and Security Subcommittee

To hold hearings to examine aviation safety, focusing on the role and responsibility of commercial air carriers and employees.

SR-253

JUNE 18

2:30 p.m.

## Armed Services

## Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for United States Special Operations Command.

SR-222

JUNE 24

9:30 a.m.

## Veterans' Affairs

To hold an oversight hearing to examine the Department of Veterans Affairs quality management activities.

SR-418



## SENATE—Tuesday, June 2, 2009

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, we thank You for another day with its fresh promise, its opportunities and duties. As our bodies are renewed, so give strength to our minds and hearts to glorify You in our lives.

Be near our Senators as they labor. For their added burdens, give them increased strength. Lord, to all who serve in the government, provide a full measure of grace and wisdom that all things may be ordered according to Your will. Help our lawmakers to be faithful and obedient to Your vision for our Nation as You keep them from becoming weary in their pursuit of Your purposes.

We pray in Your loving Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 2, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period

of morning business until 11 a.m., with the time equally divided between the two leaders or their designees and with Senators permitted to speak for up to 10 minutes each. At 11 a.m., the Senate will turn to executive session and immediately proceed to vote on confirmation of Regina McCarthy to be an Assistant Administrator of the Environmental Protection Agency. It is expected that will be a voice vote, but we will have to wait and see.

Upon disposition of the nomination, the Senate will resume legislative session and proceed to a rollcall vote on the motion to invoke cloture on the motion to proceed to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. Therefore, Senators should expect at least one rollcall vote to begin at 11 a.m. The Senate will recess from 12:30 until 2:15 today to allow for the weekly caucus luncheons.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

### HEALTH CARE

Mr. MCCONNELL. Mr. President, yesterday I noted that all of us wish to reform health care but that we need to do so without sacrificing what Americans like about our current system. They like the freedom, they like the choice, they like the quality of care, they like the options, and they like the efficiency. I also noted that the kind of government takeover of health care that some of our Democratic friends are contemplating could lead to a decline in every one of those things. This morning, I wish to explain in a little greater detail how it could happen.

The first point I wish to make is that the very concept of a government option is itself misleading. What starts out as an option could quickly become the only option. This is clear to anyone who realizes that, unlike market-based health plans, any government-run plan would have unlimited access to tax-

payer money and could use that money to subsidize the cost of services, and artificially lower prices would make the government-run plan more attractive to individuals and businesses. Some say this could be avoided by creating "safeguards" to ensure a level playing field for the market-based insurers and a government plan. But no safeguard could create a truly level playing field, and any safeguard could easily be eliminated once a government plan is enacted. A government plan would also be able to operate at a loss—a loss the taxpayers would have to cover one way or another.

Government could also keep health care costs artificially low by paying providers less than private insurers do, just as it already does with both Medicare and Medicaid. At first blush, that may actually sound appealing, but as we know, there is no such thing as a free lunch. Let me explain.

Right now, doctors and hospitals make up the difference between what a procedure costs and what the government is willing to pay for it by passing those costs on to private insurers. But doctors and hospitals would likely get even less under a new government health plan, so they would shift even more costs on to private insurers, who would then raise rates for individuals and businesses even higher than they were before. Once these higher rates take effect, employers would be all but certain to start encouraging workers to enroll in the government-run plan.

As a result of all of this, it is easy to see how private market health plans would become more and more expensive and thus less and less affordable and accessible. At some point, private health plans would likely be crowded out altogether, and government care would be the only option left. That is where the delays and the denied care would begin to kick in. Under a government system, Americans would have no choice but to accept all the bureaucratic hassles and the endless time spent on hold waiting for a government service representative to take their calls. They would also have to deal with all of the restrictions of care that inevitably follow. What is being advertised as an option will eventually lead to delays—delays in testing, delays in diagnosis, and delays in treatment.

So the question Americans need to ask themselves is whether this is the reform they really want. Do we really want a government takeover of health care, because that is what a so-called government option would lead to in very short order. Americans need to realize that when someone says "government option," what could really occur

is a government takeover that soon could lead to government bureaucrats denying and delaying care and telling Americans what kind of care they can have.

The irony in all of this is that as a result of a government takeover of health care, the private plans tens of millions of Americans currently enjoy will eventually only be available to just a very few wealthy Americans—to those who are able to pay for more health care than they currently have and like. According to a recent study, 119 million Americans would lose the private coverage they currently have as a consequence of a government plan. The best options would only remain available to a select few.

Over the last few months, we have seen government getting involved in virtually every aspect of our economy. Washington is suddenly running the banks and the auto companies. Now it is thinking about running America's health care. The results, I am afraid, would not lead to the kinds of reforms Americans really want in their health care. Instead, it would lead to a system that most Americans would deeply regret.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

#### UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 97, the nomination of Hillary Chandler Tompkins to be Solicitor of the Department of the Interior; that the nomination be confirmed; that the motion to reconsider be laid upon the table; that no further motions be in order; that any statements related to the nomination be printed in the RECORD; that upon confirmation, the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object, and I will

have to object, I would just say to my friend from New Mexico, we have not been able to get that nomination cleared yet on this side, but we will be consulting with the Republican colleagues and at some point let him know whether it is possible to go forward. Therefore, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BINGAMAN. Mr. President, let me briefly describe the circumstances that caused me to make this unanimous-consent request. I am obviously disappointed there has been an objection raised to the confirmation of Ms. Tompkins. I am advised that one or more Republican Members have placed an anonymous hold on her nomination.

The Solicitor of the Department of the Interior—the office to which the President has nominated Ms. Tompkins—is one of the most important posts in the Department of the Interior and one of the most important legal positions in our government. The Department of the Interior has broad authority over the administration and care of our public lands and natural resources. Its many offices and bureaus face daily a broad range of legal issues requiring special expertise in public land law, mining law, water rights law, Indian law, and wildlife law. The Solicitor is the Department's general counsel. She is solely responsible for the legal work of the Department. By law, all the legal work of the Department is performed under the supervision and direction of the Solicitor. She is responsible for the interpretation and application of the legal authority affecting all of the actions taken under the Department of the Interior's programs and operations.

The job requires a deep knowledge of the law, professional experience, and sound judgment. In my view, the President has nominated such a person—a person with demonstrated ability and stature in this field in the person of Hillary Tompkins. She earned a law degree at Stanford University Law School in 1996. She served as a trial attorney in the Environment and Natural Resources Division of the Department of Justice, as a special Assistant U.S. Attorney in Brooklyn, as an associate in Sonosky Chambers, one of the Nation's leading law firms specializing in Native American law, as chief counsel to the Governor of New Mexico, and as an adjunct law professor at the University of New Mexico Law School.

As chief counsel to Governor Bill Richardson, Ms. Tompkins demonstrated her ability to lead and manage a team of lawyers, to oversee the general counsels of multiple agencies, and to render sound legal advice and counsel.

She will bring to the Solicitor's office considerable expertise in the areas of environmental, natural resources, water, and Indian law, as well as expe-

rience in the areas of constitutional law, administrative law, and the legislative process.

In addition, Ms. Tompkins has a compelling personal story. She was born on the Navajo reservation, and although she was raised in New Jersey, she has not lost touch with her Navajo heritage. If confirmed, she will be the first Native American, and only the second woman, to hold the office of Solicitor.

It is unclear to me why anyone would object to confirming Ms. Tompkins. She is clearly well qualified for the position. At her hearing in April and in the weeks since then, Senators on the other side of the aisle have expressed their concerns about departmental policies, over which Ms. Tompkins has had no control and no responsibility. Secretary Salazar has bent over backwards to address those concerns, and it is my understanding all of those concerns now have been addressed.

In any event, Senators had chosen to place holds on David Hayes's nomination to be the Deputy Secretary of the Interior, rather than on Ms. Tompkins' nomination, pending resolution of their concerns. The holds on Mr. Hayes's nomination were lifted before the recess, and he and all of the other Department of the Interior nominees have now been confirmed. Only Ms. Tompkins' nomination is still being blocked.

Many of the most pressing problems facing the Department of the Interior are legal ones. During its final weeks, the previous administration took a number of controversial actions. In its rush to lock in those actions before it left office, the previous administration failed to give adequate consideration to various legal requirements. As a result, several of those actions have been overturned by the courts.

Secretary Salazar has inherited this legacy and is doing his best to address these problems. But he needs a Solicitor. More than 4 months into the new administration, the Department of the Interior should not still be without its top legal officer. And Ms. Tompkins should not still be the victim of anonymous holds.

#### DEATH OF ANASTASIOS "TASS" HATJIKIRIAKOS

Mr. BINGAMAN. Mr. President, I was deeply sorry to learn this morning of the death of a long-time Senate employee and friend, "Mr. Tass." An integral part of the Senate Restaurants staff for many years, he was a great friend to me and to my office.

He died on Sunday from injuries received when he was hit by a car in Silver Spring. All of us who knew him and appreciated his service to the Senate join his family and friends in mourning his loss. He—and they—are in our thoughts and prayers.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### REGINA MCCARTHY

Mr. BARRASSO. Mr. President, I rise today to offer my concerns regarding the nomination of Regina McCarthy to be the Administrator for the Office of Air and Radiation in the Environmental Protection Agency.

For the past few weeks, I have been seeking responses from the nominee and the administration on their efforts to use the Clean Air Act to regulate climate change.

I have put a hold on her because I have serious concerns about the EPA using the Clean Air Act to regulate climate change.

I want to know the plan that the nominee will implement. I want to know how she will protect businesses, farms, hospitals, and nursing homes from the effects of the EPA's endangerment finding.

As you know, the endangerment finding designates CO<sub>2</sub> as a harmful pollutant to public health under the Clean Air Act.

The finding's effects on the Clean Air Act will require EPA to regulate any building, structure, facility or installation that emits more than 250 tons of a CO<sub>2</sub> in a year.

The result would be thousands of lost jobs, with no environmental benefit to show for it.

Hospitals, schools, farms, commercial building and nursing homes will be required to obtain preconstruction permits for their activities. EPA says this will not occur, that they will use discretion and good judgment.

According to legal scholars, the statutory language in the Clean Air Act is mandatory and does not leave any room for EPA to exercise discretion or create exceptions.

The only jobs that will be created are in law firms as the litigation bonanza begins. EPA will be sued by environmental groups wanting to eliminate exempted sectors. The EPA will also be sued by industries not exempted.

It will, as Democrat Congressman JOHN DINGELL stated, be a glorious mess.

I have nothing personal against Mrs. McCarthy. I simply wanted an answer to a question, the same question Americans all across our country want answered: How are you going to protect them?

I still do not have a credible answer to this question. I am tired of the stonewalling.

Mrs. McCarthy believes that she can not answer the question until she is confirmed by the Senate. That answer, I believe, is not good enough.

She has also stated that she wanted to be informed of any potential lawsuit. She stated she wanted to discuss the issue with the litigants in the hopes of convincing them not to sue.

Government officials can't go around the country trying to convince every litigant, whether it be a national environmental group or a local group, not to sue.

I have also posed this same question to the EPA Administrator in the hopes that she could provide EPA's plan on behalf of Ms. McCarthy.

EPA Administrator Lisa Jackson says that she can target what she regulates. She claims she will only target cars and trucks.

That is setting the precedent of picking winners and losers. We do not know what standards will be applied to make those decisions. We do not know what role politics will play in these decisions.

Administrator Jackson's statement also ignores the regulatory cascade that the endangerment finding and the motor vehicle emission standards will certainly trigger.

Litigators and courts will drive much of this job-killing regulation.

We have a nominee to head up the EPA's Air Office, Ms. Regina McCarthy. We have an Administrator of the EPA and we have a climate and energy czar who is supposed to coordinate climate change policy for the administration.

Carol Browner, the climate and energy czar has not been confirmed by Congress. We do not know who is developing a roadmap for how to use the Clean Air Act to regulate climate change.

What jobs in what industries will be kept? Which industries will be penalized? Who will be held accountable for making these decisions?

The economic consequences of the ticking timebomb will be devastating.

By the EPA's own estimate, the typical preconstruction permit in 2007 cost each applicant \$125,000 and 866 hours to obtain.

Ranchers or private nursing homes have no background in this area. They will need to hire lawyers. They will need to hire experts. They will be taking time out of their day to figure out all this redtape.

This will create such a fog of uncertainty with investors and small businesses. This makes small businesses even riskier to lend money to; nobody will know how much this will cost their business.

With lending having already ground to a halt, this is hardly the right move to help our economy.

According to the U.S. Chamber of Commerce, there are 1.2 million schools, hospitals, nursing homes, farms, small businesses, and other commercial entities that would be vulnerable to new controls, monitoring, paperwork, and litigation.

If even 1 percent of the 1.2 million have to get preconstruction permits, that would mean 12,000 new preconstruction permits a year.

By the EPA's own analysis, if permitting is increased by just two to three thousand, this would impose "significant new costs and an administrative burden on permitting authorities."

According to the EPA, this "could overwhelm permitting authorities."

The net result of all of this will be thousands of jobs lost.

As I have stated previously on the floor, if the administration can not tell us by what legal authority they can pick winners and losers, if the administration can not provide economic certainty to lenders and businesses, if the administration does not know how they will deal with all the thousands of new preconstruction permits, they should take this job killing option off the table.

There appears to be such a frenzy of political pressure from special interests to pass something on climate change.

The pressure has reached the point where enacting any climate change policy before Copenhagen is more important than addressing its aftermath.

The thinking is, just get something done on climate change. We will deal with the impacts later.

That's not how you make good policy.

But that is exactly what is going on here.

The President's own attorneys, from a host of Federal agencies, have expressed concerns with this approach.

Their concerns were contained in a memo.

This memo is a well thought out, scientific and legal critique of using the Clean Air Act to regulate climate change by the Obama administration.

It confirms the fears of every small business owner, every farmer, school and hospital administrator, both large and small, that the Obama administration knows that using the Clean Air Act to regulate climate change is bad for America.

They know it, but for political reasons, they have ignored the science, the consequences to our economy and the impact to the American people.

The memo states, "Making the decision to regulate CO<sub>2</sub> under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities. Should EPA later extend this finding to stationary sources, small businesses and institutions would be subject to costly regulatory programs."

The document also highlights that EPA undertook no "systemic risk analysis or cost-benefit analysis" in making their endangerment finding.

The White House legal brief questions the link between the EPA's scientific technical endangerment proposal and the EPA's political summary.

EPA Administrator Jackson said in the endangerment summary that "scientific findings in totality point to compelling evidence of human-induced climate change, and that serious risks and potential impacts to public health and welfare have been clearly identified..."

But the Obama administration's memo states that this is not accurate.

The memo actually questions the science behind designating CO<sub>2</sub> as a health threat stating the scientific data on which the agency relies are "almost exclusively from non-EPA sources."

The memo goes on to say the essential behaviors of greenhouse gases are "not well determined" and "not well understood."

This memo confirms that the administration has so far ignored its own advice.

What is somewhat surprising is that those who express these concerns are ridiculed or, even worse, attacked by administration officials.

In one instance, attempts were made by administration personnel to smear the reputation of a career employee at the Small Business Administration.

This was a person who offered a reasonable and thoughtful critique of the impact the endangerment finding has on small business.

This is unacceptable behavior by the administration.

Strangely enough, not just the authors of the Obama administration legal brief, but also environmental groups, disagree with EPA Administrator Jackson's position that a targeted approach under the Clean Air Act is legal and appropriate.

The Sierra Club's chief climate counsel stated last year that "the Clean Air Act has language in there that is kind of all or nothing if CO<sub>2</sub> gets regulated and it could be unbelievably complicated and administratively nightmarish."

I have warned the administration that groups such as these will sue the EPA if the EPA does not capture both large and small emitters. She has dismissed such threats. This is despite the Wall Street Journal report last month that a representative of the Center of Biological Diversity stated her group is prepared to sue for regulation of smaller emitters, such as farms, schools, hospitals, and nursing homes, if the EPA stops at simply the large emitters.

I have asked for a plan from the administration on how she will address losing court cases if the agency is sued for picking winners and losers. Her response in a committee hearing 3 weeks ago is she could not share with me any such plans in that forum.

I have posed the question to the administration: If you can't share information with the elected representatives of the 50 States, then in what forum, if not a Senate hearing, can you share the information?

I am confident the majority believes they have a strong chance at passing something along the lines of the Waxman-Markey bill this Congress regarding climate change. They are hopeful they can get something to the President for him to sign. If hope alone could pass legislation, we could all adjourn early. But hope is not certainty. The negative effects of the endangerment finding on the American economy is certain.

The bottom line is that the nominee, as well as Lisa Jackson and the administration, appears to have no credible plan to use the Clean Air Act in a way to regulate climate change.

There is only one responsible choice for us to make. Let us take this regulatory ticking timebomb off the table. This is why I plan to introduce a bill very soon that will take the Clean Air Act out of the business of regulating climate change.

I wish to give every Member an opportunity to join me in giving the Senate and the American people the time we need to forge a sound energy and climate strategy, a strategy that makes energy as clean as we can—and I am talking about American energy—as clean as we can, as fast as we can, without raising energy prices for American families.

Let's develop all of our energy resources—our wind, our solar, our geothermal, hydro, clean coal, nuclear, and natural gas. We need an "all of the above" strategy to address our Nation's needs. As Lisa Jackson, the EPA Director, stated on a recent trip to my home State of Wyoming, "As a home of wind, coal, and natural gas, Wyoming is at the heart of America's energy future." That is because Wyoming has it all—coal, wind, natural gas, oil, and uranium for nuclear power. We have it all, and we need it all. I look forward to working with my colleagues, as well as Ms. Jackson, to make that happen.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

#### EPA POLICIES

Mr. GRASSLEY. Mr. President, I wish to speak about Regina McCarthy's nomination but not about the nominee or her qualifications. Rather, I will highlight a few concerns I have with the EPA and the burdens being placed on those in rural areas and agriculture because of EPA actions.

A few weeks ago, I had the pleasure of joining President Obama for lunch. While the purpose of the lunch was to discuss health care reform, I took the opportunity to bring up a few concerns

I have with EPA and agriculture. In particular, I raised four issues where EPA policies are causing tremendous concern and are burdening family farmers. The issues I raised to the President are indirect land use attributed to biofuels; second, fugitive dust; three, greenhouse gases and livestock producers; and, four, point source pollution permits.

Since that meeting with the President, I have had follow-on meetings with Nancy Sutley, chair of the Council on Environmental Quality and also the President's legislative staff. They heard me out. They seemed sympathetic to the concerns I raised. However, I am not sure the message is being relayed to the EPA bureaucrats.

The first issue pertains to a component of the new Renewable Fuels Standard that requires various biofuels to meet specified lifecycle greenhouse gas emission reductions. The law specifies that lifecycle greenhouse gas emissions are to include direct emissions and significant indirect emissions from indirect land use.

In the proposed rule changes released by EPA last week, they rely on incomplete science and inaccurate assumptions to penalize U.S. biofuels for so-called indirect land-use changes. The fact is, measuring indirect emissions of greenhouse gases is far from a perfect science. There is a great deal of complexity and uncertainty surrounding this issue. Because of this uncertainty, the EPA has committed to an open and transparent review by the public.

The EPA compiled a system of models to analyze land-use impacts of U.S. biofuels policies. They have indicated that these models have been peer reviewed and that they stand up to scientific scrutiny. That is true for the models independently, but—and a big but—it is not true for the way the EPA has overlaid and integrated their models. In addition, the models are not publicly accessible. There is inadequate data in how the models and data have integrated.

As it stands, stakeholders are unable to replicate the EPA's results. So this process is neither open nor is it transparent.

Under the EPA's analysis, ethanol produced from corn reduces greenhouse gas emissions by 16 percent compared to gasoline. However, if you remove the murky science of emissions from indirect land-use changes, corn ethanol reduces greenhouse gas emissions by 61 percent compared to the gasoline. So one can see that sound science plays a very important role in whether ethanol is more environmentally positive or less environmentally positive.

The EPA's models conclude that international land use contributes more in greenhouse gases than the entire direct emissions of ethanol production and use—from the growing of their crops, the production of ethanol at the

refinery, up to and including tailpipe emissions. The ripple effects are greater than the direct effects. Wouldn't you think you ought to take more into consideration for the direct effects? The fact is, the model the EPA has cobbled together to measure indirect land use is far from scientific. It is more like a guess.

The rule indicates that itself by including the word "uncertainty." Understand, this is an EPA rule that talks about the science of indirect land-use calculation, and it uses the word "uncertainty" more than 60 times.

Even larger in this debate is the role of common sense. It defies logic that the EPA would try to blame a farmer in my State of Iowa for the actions of farmers or developers in Brazil. Do they think Brazilians are waiting to see what I am going to plant on my farm, for instance, before they plant their crops in Brazil? It does not pass the commonsense test. The facts do not support it either.

During the past 5 years, when biodiesel and ethanol production in the United States ramped up, Brazilian soybean acres decreased and corn acres remained unchanged. See, there is no relationship.

Amazon deforestation has also fallen in the past 5 years. A recent study indicated that the primary reason for land clearing was for timber production and land grabbing, followed by cattle farming, not because of ethanol production in the United States. So nowhere on the list—we are talking about a list from a study—was U.S. biofuel production.

I think this debate comes down to a few simple questions: Do we want more production of green fuels or less production? Do we want greater dependency on Iran and Venezuela for energy needs or less dependence? Do we want to increase our national security by reducing foreign dependence on energy?

I don't think the people at EPA get the big picture, and I am pretty sure they don't understand how American agriculture works. While the EPA's actions have a significant impact on the rural economy and the agriculture industry, it is clear the EPA has a lack of understanding of American agriculture. I know this to be the case regarding the indirect land use.

Margo Oge, the Director of the office in charge of this rule, admitted during a committee hearing in the House of Representatives last month that she has never been on a farm in the United States. How can regulators with such a great impact on the agricultural industry have so little understanding of the industry they are regulating? We need to encourage some commonsense thinking in EPA. So I have invited Administrator Lisa Jackson and a number of EPA officials to come to Iowa to visit a farm, to see firsthand how the agricultural industry works.

I have also invited Regina McCarthy, who should be confirmed by the Senate today. She will be Assistant Administrator for the Office of Air and Radiation. I have also invited Margo Oge, the Director I referred to, the Director of the Office of Transportation and Air Quality, the office that wrote these regulations on indirect land-use changes.

Another issue I brought up with the President that I am concerned about is EPA's attempt to regulate particulate matter.

In 2007, the EPA published the "Clean Air Fine Particle Implementation Rule" in which the EPA inappropriately opted for the administrative convenience of regulating all particles that fall within the fine PM size range the same, including dust.

Instead they should have appropriately based the regulation on particle composition.

Essentially, this rule treats dust as though it were cigarette smoke, causing the same adverse health issues.

There are no scientific studies that show this to be the fact. Controlling dust from combining soybeans, gravel roads, and feedlots is impossible.

When it comes to a rule in the EPA that you have to keep dust on your farm within the property lines of your farm, think how nonsensical that approach is. Only God determines when the wind blows and only God determines when soybeans have 13 percent moisture and they have to be harvested immediately. We cannot make decisions based on EPA rules of when the wind blows or doesn't. God makes that decision.

Compliance with the more stringent fine PM standard will be unattainable for many farmers and ranchers.

The fine PM standard is health-based and must be met at the property line of each individual operation regardless of cost.

This could essentially require farmers to sell some of their cattle, combine wet crops, or wall in their roads and driveways.

This would be a ridiculous way to regulate agriculture.

The next concern I have with the EPA is their decision not to appeal a Sixth Circuit decision which vacated an EPA rule that exempted pesticides applied under the Clean Water Act.

The EPA rule in question had exempted pesticides applied near or into waters of the United States from obtaining permits when applied in accordance with the Federal Insecticide Fungicide, and Rodenticide Act.

In vacating the rule, the court issued an opinion declaring that agricultural sprayers and nozzles are point-source conveyances and that all residues and excesses of chemical pesticides that remain in water after the beneficial use is completed are "pollutants" under the Clean Water Act.

I share concerns of many who represent agricultural states as to how the EPA is going to implement the new permitting process without creating a burden on our farmers.

Producers could face legal liability if a permit is not issued quickly, yet the farmer needs to spray immediately.

I urge the EPA to draft a flexible rule that does not impede a producer's ability to apply pesticides and allows emergency application to be done expeditiously.

If they don't, we are going to have major problems on our farms when bugs, weeds, and disease show up.

The final issue is related to some of Senator BARRASSO's concerns with the nominee we are considering. That is, the direction the EPA is heading toward regulation of greenhouse gases under the Clean Air Act.

While this could have wide ranging, unforeseen effects on all sorts of small businesses, I want to talk about how agriculture could be affected.

The Clean Air Act was designed for more traditional types of pollution that can have a direct negative effect on human health and the environment in relatively small quantities.

Given the emissions thresholds in the law, a family farm cattle operation, for example, could be considered an emitter just like a factory smokestack, with all the red tape and costs that entails.

And, at the end of the day, how are you going to get cows to stop passing gas?

Nancy Sutley assured me that EPA has no desire to regulate livestock emissions in this way.

However, Senator BARRASSO raises some good points about what would happen should environmental groups follow through on their threats to sue EPA to force them to regulate sources as small as family farms.

Rather than rely on EPA's assurances, I would like these questions answered before EPA goes any further down this road.

I am hoping that a visit to the heartland will help them better understand the real world implications of some of their decisions.

They owe it to the hardworking farmers and ranchers to get a better understanding of how U.S. agriculture works.

Hopefully, they will realize a little common sense will go a long way when making broad policy decisions that affect the farmers who put food on their table.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

#### RAILROAD ANTITRUST ENFORCEMENT ACT

Mr. KOHL. Mr. President, I rise to speak about an agreement we have reached with Senator ROCKEFELLER regarding today's planned consideration

of the Railroad Antitrust Enforcement Act. Before describing our agreement, I would like to say a few words about this legislation.

We believe this legislation is essential to restoring competition to the Nation's crucial freight railroad sector. Freight railroads are essential to shipping a myriad of vital goods—everything from coal used to generate electricity to grain used for basic foodstuffs. But for decades, the freight railroads have been insulated from the normal rules of competition followed by almost all other parts of our economy because of their outmoded and unwarranted antitrust exemptions. Our legislation is designed to eliminate the obsolete antitrust exemptions that protect freight railroads from competition.

This bipartisan legislation has 11 cosponsors, including members of both the Judiciary Committee and Commerce Committee, and was reported out of the Judiciary Committee on a unanimous 14-to-0 vote in March.

The railroad industry's obsolete antitrust exemptions resulted in higher prices to millions of consumers every day. Consolidation in the railroad industry in recent years has resulted in only four class I railroads providing nearly 90 percent of the Nation's freight rail transportation. Three decades ago, by contrast, there were 42 class I railroads. A 2006 GAO report found shippers in many geographic areas "may be paying excessive rates due to a lack of competition in these markets."

The ill-advised effects of these consolidations are exemplified by the high prices paid by captive shippers; namely, industries served by only one railroad. A recent study by the Consumer Federation of America found that rail shipping rates for captive shippers are \$3 billion higher than they would be if the market were competitive. These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, results in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, reduces earnings for American farmers who ship their products by rail, and raises food prices paid by consumers.

Repeal of the railroad antitrust exemption is supported by the attorneys general of 20 States and a wide range of consumer organizations and leading industry trade organizations, including the American Public Power Association, the American Chemistry Council, the National Farmers Union, the American Corn Growers Association, and the National Industrial Transportation League, as well as many more.

Once their outmoded antitrust exemptions are removed, railroads will be subject to the same laws as the rest of the economy. Government antitrust

enforcers will finally have the tools to prevent anticompetitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to deter anticompetitive conduct and to seek redress for their grievances. On the Antitrust Subcommittee, we have seen that in industry after industry, vigorous application of our Nation's antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, and to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads to ship their products deserve the full application of the antitrust laws to end the anticompetitive abuses all too prevalent in this industry today.

That is why I am so pleased by the agreement that I have reached today with Senator ROCKEFELLER. He has agreed to include this necessary repeal of the railroads' unwarranted antitrust exemption in his comprehensive bill to reform the freight rail industry and the Surface Transportation Board when that bill is introduced in the coming weeks. Senator ROCKEFELLER has also agreed that his comprehensive rail reform bill will address a specific railroad practice that is of great concern to me—a practice known as paper barriers. He has pledged that his legislation will give the STB enhanced power to address this issue so that shippers are not denied the benefit of competition in relation to these arrangements. With this agreement, we have avoided a potentially divisive floor debate and we have the solid support of the distinguished chairman of the Commerce Committee for repealing the antitrust exemption and addressing paper barriers.

I thank my friend from West Virginia for his compromise as well as his support for the need to reform the freight rail system in the United States in the interest of all parties, including rail shippers and consumers.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NOMINATION OF REGINA MCCARTHY

Mrs. BOXER. Mr. President, as chairman of the Environment and Public Works Committee, I look forward to the Senate's vote this morning on the confirmation of Regina McCarthy to be Assistant Administrator of the Office of Air and Radiation at the Environ-

mental Protection Agency. I am happy to report to the Senate that my ranking member, Senator INHOFE, supports her as well, and he wanted to make that point.

The Assistant Administrator for Air and Radiation plays a crucial role in developing and improving programs that better protect public health and the environment, and she also will help address critical threats to our families and our communities. Regina McCarthy is very qualified to be Assistant Administrator. She comes to this position with a stellar record of achievement. During her hearing before the EPW, she impressed us all with her deep firsthand knowledge of clean air policy. She has three decades of experience in public service. She has a unique record of accomplishments in addressing air pollution at the State level in Massachusetts as well as Connecticut.

Here is the thing: She will bring a spirit of bipartisanship to this critical EPA office that is focused on protecting public health and the environment. In Massachusetts, Regina McCarthy served under Governors Cellucci and Romney, both Republicans. She served as Assistant Secretary for Policy at the Office of Environmental Protection and Deputy Secretary of the Office of Commonwealth Development. In 2005, Republican Governor Jodi Rell of Connecticut—another Republican—appointed Regina to be Commissioner of Connecticut's Department of Environment. So Regina's ability to work with people on both sides of the aisle is clear. She wants to solve the serious air pollution problems facing our families and communities, and I believe her experience in a bipartisan world will greatly help her.

California faces some of the most dangerous air pollution in the country. My State is a magnificent State, but it has its problems because we have the busiest ports in the Nation. We actually are responsible for taking care of 40 percent of the Nation's imports, and those goods are brought into our ports by ships that, unfortunately, still use—many of them—a highly polluting fuel called bunker fuel. And when we look at the rates of cancer across this Nation, you see clusters of cancer at all of our ports, and a lot certainly at our ports in California.

I worry very much about those families. We have been able to work in a bipartisan way—although not quickly enough, in my view—to make sure that these ships get away from this bunker fuel, and actually we are working very hard with the Obama administration, as we did with the Bush administration, on international treaties to move us away from this very polluting bunker fuel. So we are making great progress there, but we still have a lot of the trucks at our ports. We are working closely with, in this case, Los Angeles, where they have a very cutting edge program to move away from

the dirty trucks, and we are fighting hard to get that program to move forward.

So we look at the ports and we know there are problems, and we look at the highways, and we know there are problems. In my State, and other States, where we have valleys, the dirty air is trapped into those areas. So as a Senator from California, I welcome Regina McCarthy to this job, because, frankly, we need to do much more about the quality of the air, or lack of same, across the country.

The California Air Resources Board estimates that diesel emissions contribute to 2,000 premature deaths each year, and that the health costs of diesel emissions are billions of dollars each year. So I want to say again, we are talking about 2,000 premature deaths each year when we talk about dirty air. We are not just saying we are upset because you can start to see the air and it looks terrible; we are saying that this dirty air is being breathed in by our kids, by our grandkids, by pregnant women, by people with disabilities, and only the strongest survive on this. So we know it is a problem, and Regina McCarthy gets it. Her job isn't to be a robot, her job is to understand that the situation is dire here—2,000 premature deaths a year because of dirty air. And that is just from diesel emissions. So we need an assistant administrator on air who has the experience, the expertise, and the ability to work with communities large and small, to work with industry, and to work with government to find lasting solutions.

One of the opportunities we have here, separate and apart from the enforcement of the Clean Air Act—which will be under her domain—is to pass global warming legislation which will move us away from the dirty sources of fuel toward clean energy and, by the way, create long-lasting clean energy jobs which will stay here and boost our economy forward.

We have a lot of work ahead of us on this committee which I am so privileged to chair, and certainly right here in the Senate, and we are going to call on Regina McCarthy. She is well qualified, she has the ability to work with communities and industry, and she is the right person for this job.

I am disappointed that we had a colleague of ours hold her nomination up, you know, week after week after week. It should have been done. But today it looks good that we are moving forward. I hope we can do it by voice vote, and again I want to point out that in terms of Regina McCarthy's nomination, Senator INHOFE, the ranking member on the committee, supports her for this job, as do I. And I think that is the best thing I could say for a nominee, because oftentimes we find ourselves at loggerheads. But in this case, we are together.

I thank the Presiding Officer, I urge approval of her, and I hope we can do this by voice vote.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### EXECUTIVE SESSION

#### NOMINATION OF REGINA MCCARTHY TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Regina McCarthy, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

Mr. LIEBERMAN. Mr. President, I rise today to express my strong support for the confirmation of Gina McCarthy to head the Office of Air and Radiation at the Environmental Protection Agency. I have had the opportunity to work with and get to know Ms. McCarthy during her tenure as the commissioner of Connecticut's Department of Environmental Protection. Ms. McCarthy has worked tirelessly to make Connecticut's air, land and water cleaner, which in turn has made Connecticut the wonderful place it is today to live, work and raise a family.

Among her achievements, I would like to highlight Ms. McCarthy's pioneering work to address climate change in New England. She is widely recognized as a chief engineer of the very successful Regional Greenhouse Gas Initiative. Since her appointment in 2004, Ms. McCarthy has worked to dramatically improve Connecticut's environment. She has restored and defended the integrity of many of Connecticut's most cherished natural treasures. She devoted herself to protecting Long Island Sound, a source of nourishment and recreation to the millions who live and work along its coastline. As commissioner, Ms. McCarthy devised strategies for dealing with our State's solid waste, and

she worked to improve Connecticut's air quality. She also made great strides to reinvigorate our parks and open spaces.

Gina arrived in Connecticut with a wealth of experience after holding a number of health and environmental positions in Massachusetts at the local, State and Federal levels. She worked for the Stoughton Board of Health and Conservation, Massachusetts' Hazardous Waste Facility Site Safety Council, the Massachusetts Toxics Use Reduction Program and the New England Governor's Environment Committee. Ms. McCarthy also served as the under secretary of policy at the Massachusetts Executive Office of Environmental Affairs and as the deputy secretary of operations to the Office for Commonwealth Development where she oversaw the development and implementation of Massachusetts' first Climate Protection Action Plan.

We have been lucky to have Gina in Connecticut and I am excited that the entire country will now benefit from her talents at the EPA. In her new position, Ms. McCarthy will be responsible for developing national programs, technical policies and regulations to control air pollution and prevent exposure to radiation. She will continue her work to address climate change and improve energy efficiency—a double charge that is both timely and imperative to the continued health of our planet. She will also develop strategies to reduce industrial and vehicle-generated air pollution as she works to improve indoor and outdoor air quality. I am excited to have someone of Ms. McCarthy's character and credentials leading these essential efforts and I am filled with confidence in her ability to address them productively.

I strongly support the nomination of Gina McCarthy to head the EPA's Office of Air and Radiation and urge my colleagues to do the same.

Mr. DODD. Mr. President, I rise today in support of the nomination of Regina McCarthy to be Assistant Administrator for Air and Radiation at the Environmental Protection Agency. I would also like to thank Chairman BOXER and the members of the Environment and Public Works Committee for their support of this excellent and deserving nominee. While I think it is regrettable that her confirmation was delayed for so long, I am glad that she will soon be able to get to work on finding solutions to the many important environmental issues facing our nation.

I congratulate President Obama on nominating such a remarkably qualified, energetic, and passionate individual to serve as Assistant Administrator. Commissioner McCarthy has 25 years of experience working at all levels of local and State government and has a depth and breadth of knowledge on environmental issues that few can



rival. She has also served under both Democratic and Republican Governors, in Massachusetts as well as my home State of Connecticut. In both States and in all capacities, Gina has been universally recognized as a uniquely talented environmental advocate.

As commissioner of Connecticut's Department of Environmental Protection since 2004, Gina has amassed an impressive record of accomplishments. She spearheaded the "No Child Left Inside" initiative in Connecticut and nationwide, which combines environmental education with numerous outdoor programs to promote physical activity while teaching kids to become good stewards of the environment. She has also been a key proponent of sustainable economic development in Connecticut, has worked tirelessly to rein-vigorate our State park system, and has been a terrific advocate for open space and conservation initiatives.

Perhaps most prominently, Commissioner McCarthy was one of the driving forces behind the creation of the Regional Greenhouse Gas Initiative, RGGI, the Nation's first mandatory cap and trade program, which was adopted by 10 States in the Northeast to address the grave threat of climate change. The commissioner's work on the issue of climate change has been recognized and lauded nationally, and her experience will be invaluable when she is confirmed as Assistant Administrator for Air and Radiation. President Obama has made it clear that addressing climate change is a top priority for his administration, and as Assistant Administrator, Gina will play a vital role in developing and implementing policies to control greenhouse gas emissions.

In my view, this incredible list of accomplishments does not do justice to the qualities Gina will bring to her new position once she is confirmed. Across my State she has a well-deserved reputation for her boundless energy, incredible passion and determination, and willingness to speak frankly in order to address challenges head on.

Indeed, she has made such an enormous impact that on March 14, the Hartford Courant ran an editorial entitled "DEP Chief Gina McCarthy a Hard Act to Follow," which praised both her passion for the issues and her pragmatic approach. The Courant specifically noted her ability to revitalize a department which had lost the public's trust and engage people across the State in preserving Connecticut's landscape and Long Island Sound.

Once again, I congratulate Gina McCarthy and strongly urge all my colleagues to support her nomination. Connecticut's loss is a win for our Nation. And, while we are sad to see her leave Connecticut, I am confident that Gina will continue to be the outstanding advocate for the environment and public health she has always been

and I look forward to working with her in her new capacity at the EPA.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Regina McCarthy, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency?

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

Mr. LAUTENBERG. Mr. President, I rise today to speak in support of Regina McCarthy, President Obama's nominee to be Assistant Administrator of the Environmental Protection Agency for Air and Radiation. Ms. McCarthy has decades of experience administering environmental programs at the state level under both Democratic and Republican administrations. Her qualifications are unquestionable, and her confirmation will help move our country toward a safer environment and a healthier economy.

We are at a critical point in the history of our Nation and indeed our planet. New science appears seemingly every month showing the danger posed by climate change. Already this year, new peer-reviewed studies revealed that the Arctic will likely be ice-free in the summer as early as 2012—not 2050, as predicted by the Nobel Prize-winning Intergovernmental Panel on Climate Change—IPCC—in 2007. Another peer-reviewed study in the Proceedings of the National Academy of Sciences showed that global emissions, if they continue at current rates, would increase global temperatures by 12 degrees Fahrenheit by the end of the century. This is on the extreme high end of temperature projections by the IPCC. Finally, two new studies found that ice melt from Antarctica and Greenland will likely raise sea levels by five to six feet by the end of the century, far above the two feet predicted by the IPCC, which did not consider melting from those two sources.

Regina McCarthy will be on the front lines of our Nation's battle to stabilize the climate. The office she will manage is responsible for improving air quality and reducing the greenhouse gas emissions that cause global warming.

Congress must act quickly to place strong, science-based limits on emissions, and force polluters to pay to clean up the damage they have done to our environment and our health. We must do so in a way that creates jobs, allows businesses and individuals to save money through efficiency, and pulls the country out of this recession and into a clean energy future.

The coal and oil industries are powerful, and are spending billions of dollars fighting the science and fighting any policies that would break their stranglehold on our Nation's energy policy.

In the first 3 months of this year alone, the oil and gas industry spent \$37.3 million to lobby the Federal Government. That is money that could be going toward cleaning up their operations. Instead it goes toward impeding our progress toward a clean energy jobs bill to stop climate change.

Despite those obstacles, the House has reported legislation out of committee and we are working toward a bill in the Environment and Public Works Committee. However, as Congress works toward comprehensive legislation, our planet cannot afford to wait to begin reducing emissions. That's why President Obama's EPA recently found that greenhouse gases are pollutants under the Clean Air Act. This will allow the EPA to use existing authority to regulate some of the largest sources of greenhouse gases, such as power plants, refineries, and automobiles.

Just as the EPA does not use the Clean Air Act to regulate small sources of air pollution such as residential buildings, churches, or hospitals for pollutants like smog and soot, it will not regulate these sources for greenhouse gases. Our economy grew rapidly as we dramatically reduced emissions of air pollutants under the Clean Air Act, and I am certain we can use the Clean Air Act to reduce greenhouse gases while creating clean energy jobs and reviving our economy.

Ms. McCarthy is supremely qualified to succeed in that task. Throughout her 25 years of experience at the State level, she has proven to be practical and intelligent in her approach to protecting the environment. She most recently served as the commissioner for the Connecticut Department of Environmental Protection—DEP—and was appointed to this post by Republican Governor M. Jodi Rell in December 2004. Prior to serving in this capacity, Ms. McCarthy worked on environmental issues for 20 years at the State and local level in Massachusetts. She served as the deputy secretary of operations for the Massachusetts Office of Commonwealth Development, a "super Secretariat" that coordinates policies and programs of that state's environmental, transportation, energy and housing agencies. She was appointed to this position by then-Governor Mitt Romney.

Ms. McCarthy is known for her active role as Connecticut DEP commissioner in promoting the Regional Greenhouse Gas Initiative, RGGI, a cooperative initiative by 10 Northeastern States, including New Jersey, to implement a cap-and-trade program for greenhouse gas emissions from powerplants. That experience will serve her well when she is tasked with implementing the climate legislation that Congress must—and will—pass.

Our planet cannot wait any longer for lower emissions from cars and

power plants, American workers cannot wait any longer for clean energy jobs, and our economy cannot wait any longer for the technological innovations and improved efficiency that will lay the groundwork for lasting, sustainable prosperity. Confirming Regina McCarthy will let her get to work cleaning up our environment, and we in the Senate will begin the work of passing a bill that makes polluters pay, creates clean energy jobs, and revives our economy.

#### LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will resume legislative session.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

##### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

##### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Michael F. Bennet, Mark Udall, Patty Murray, Claire McCaskill, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Jeff Merkley, Robert Menendez, Charles E. Schumer, Max Baucus.

Mr. ENZI. Mr. President, today the Senate will vote on cloture on the motion to proceed on H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Full and fair debate is one of the hallmarks of American democracy and the Senate in particular. All we are voting on today is whether we are going to get to debate, not whether we are going to have FDA regulation of tobacco. But if this vote does not get 60 votes, we will not have the opportunity in this Congress to see whether we can take real steps to curb tobacco use.

Whether you are for this bill or against it, I urge you to support cloture on the motion to proceed. We cannot get to substantive amendments and improvements to the bill until we have cloture on the motion to proceed.

I will have a number of amendments to improve this bill and fight the scourge of tobacco use and its deadly health consequences. In order to get to offer my amendments, I will support cloture on the motion to proceed, and I urge my colleagues to do the same.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from West Virginia (Mr. BYRD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Florida (Mr. MARTINEZ).

The PRESIDING OFFICER (Mrs. GILLIBRAND). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 84, nays 11, as follows:

[Rollcall Vote No. 203 Leg.]

#### YEAS—84

Akaka	Feinstein	Murkowski
Alexander	Gillibrand	Murray
Barrasso	Graham	Nelson (NE)
Baucus	Grassley	Nelson (FL)
Bayh	Gregg	Pryor
Bennet	Harkin	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Risch
Boxer	Isakson	Rockefeller
Brown	Johanns	Sanders
Burr	Johnson	Schumer
Cantwell	Kaufman	Sessions
Cardin	Kerry	Shaheen
Carper	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Kyl	Specter
Cochran	Landrieu	Stabenow
Collins	Lautenberg	Tester
Conrad	Leahy	Thune
Corker	Levin	Udall (CO)
Cornyn	Lieberman	Udall (NM)
Crapo	Lincoln	Vitter
Dodd	Lugar	Voinovich
Dorgan	McCain	Warner
Durbin	McCaskill	Webb
Ensign	Menendez	Whitehouse
Enzi	Merkley	Wicker
Feingold	Mikulski	Wyden

#### NAYS—11

Bond	Coburn	Inhofe
Brownback	DeMint	McConnell
Bunning	Hagan	Roberts
Burr	Hatch	

#### NOT VOTING—4

Begich	Kennedy
Byrd	Martinez

The PRESIDING OFFICER. On this vote, the yeas are 84, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Connecticut.

Mr. DODD. Madam President, I rise in support of S. 982, the Family Smoking Prevention and Tobacco Control Act, the matter that is before the Senate. This bill would give the Food and Drug Administration the authority to regulate the tobacco industry and put in place the tough protections for families that for too long have been absent when it comes to how cigarettes are marketed to our youngest citizens—our children.

This is an issue that many in this Chamber have worked on for a long

time. For those who have been here for some time, this issue is not a new issue. It has been before the Congress now for over a decade, and for various reasons along the way—the other body has adopted this bill or we have adopted the bill but not at the same time the other Chamber has; the committees have acted but never in the same year or in the same Congress—so we have had sort of a disjointed process that has never brought the other Chamber and this one together around the importance of this legislation.

So once again we are here, this time I think with the greatest opportunity to do something I believe most Members—I cannot believe anyone in this Chamber could be adverse to the notion we ought to do everything in our power to limit the 3,000 to 4,000 children who every day—every single day—begin smoking in the United States.

Madam President, 400,000 of our fellow citizens die every year because of smoking-related illnesses. We are about to begin, in a few weeks, a debate on health care. One of the major provisions of that effort will be in the area of prevention. There are a lot of divisions I suppose about how we ought to proceed with health care, but as I have listened over the last number of months to our colleagues talk about health care reform, one issue—one issue—enjoys almost unanimous support; and that is, what can we do to reduce chronic illness in the country? How do we do a better job of having a health care system, not a sick care system? How do we prevent people from acquiring or contracting these illnesses that are so debilitating and so costly? One of them is, obviously, smoking-related illnesses and the 400,000 who die every year.

The one certain way is to try to limit the number of people who begin smoking every day; that is, our youngest citizens, our children. That is what this bill is all about. It comes down to simply that. We will have a long debate about various provisions in this bill, but in the final analysis, we will have to decide in the coming day or two whether, for the first time—the very first time—the Food and Drug Administration of our Nation will have the power and the capability to regulate tobacco products and begin to restrain—to restrain—the 3,000 to 4,000 who begin smoking every single day. So even in the 2 or 3 days we will debate this bill, keep in mind that during those 2 or 3 days, close to 10,000 children will begin smoking, 1,000 of whom will become addicted every day, and of that 1,000, anywhere from 300 to 500 will die. I have 76,000 children in my small State of Connecticut today who are going to die because of smoking-related illnesses, because they are already hooked and addicted to tobacco products. So there are a lot of things we debate and discuss and there is a lot

of rhetoric and talk about protecting our children and protecting families, but here is an opportunity we have, as Democrats and Republicans coming together in common cause, to make a difference for literally millions of people in our country for years and years and years to come.

When the Supreme Court struck down the FDA's tobacco rule in 2000, it became very clear that legislation was going to be necessary in order to protect our children and the public health from deadly tobacco products. Eight years ago, I introduced comprehensive children's legislation that included, with the help of my good friend Senator HARKIN, the Kids Deserve Freedom From Tobacco Act to give the authority to the FDA over these products. In the 108th Congress, our colleague from Massachusetts, who has been a champion on this issue—who has been the leader and champion on this issue for literally years and years and years, Senator KENNEDY, and who is the major sponsor, by the way, of this legislation—was able to take this issue to the next level. He worked out a bipartisan bill called the Family Smoking Prevention and Tobacco Control Act with our colleague from Ohio, Senator MIKE DEWINE, Representatives HENRY WAXMAN, and TOM DAVIS of the other body and the other party, and other members of the HELP Committee on a bipartisan basis. The bill we consider today is virtually the same legislation that Senator KENNEDY and Senator MIKE DEWINE, HENRY WAXMAN and TOM DAVIS worked on before. It has a long history, having passed each Chamber, but never at the same time.

So allow me to share a little of that history with my colleagues as we enter this debate. In July of 2004, the Senate voted 78 to 15 to add it as an amendment to another bill; that is, this tobacco bill. Unfortunately, the language was removed in conference between the House and the Senate. Three months later, Senators KENNEDY and DEWINE reintroduced the legislation and it was passed by unanimous consent, but the other body did not consider it at that time. Refusing to give up, of course, as he always does—he never gives up—Senator KENNEDY reintroduced the bill in the 109th and the 110th Congresses. In August of 2007, the Health, Education, Labor and Pensions Committee, on which Senator ENZI and I serve, reported out this bill by a vote of 13 to 8. In July of 2008, the House passed a very similar bill by a margin of 326 to 102. Although the Senate version had 60 cosponsors, there was not enough time left in that year for the Senate to pass the House-passed legislation.

On April 2 of this year, the other body—the House—once again passed its version of this legislation, with very minor changes, by an overwhelming vote of 298 to 112.

The point I wish to make to my colleagues is simply this: Over the years,

this bill has been reviewed, it has been vetted, it has been debated over and over. I think all of us, I would hope, agree that the time has come to act with uniformity in both Chambers, with the President committed to this issue to protect our Nation's children and pass this legislation into law.

Frankly, we can't afford to wait any longer. Every day, as I mentioned at the outset of these remarks, another 3,500 to 4,000 children are ensnared by tobacco companies that target them with impunity as they try smoking for the first time—every single day. One thousand of these children who will start today—that close to 4,000 across our country—will be addicted probably for life as smokers, and a third of that number will eventually die—if not more—from smoking-related diseases.

The tobacco industry is well aware of these numbers. They know that if they can't bring children into the process, then they won't have any more smokers. If you lose 400,000 people a year who lose their lives from smoking-related illnesses, then you have to replenish those numbers somehow. You can't lose 400,000 people every year, year after year, from smoking-related illnesses and not replenish the numbers. How do you do it? You do it by drawing in children, by getting kids to start smoking. That is why they have been so successful. When you get 3,000 to 4,000 every day—every day starting—40,000 in a 10-day period, then do the math yourself and you see what happens very quickly. You begin to replenish those numbers. If a quarter of that number remains addicted for life, you make up that 400,000 rather quickly and that doesn't include, by the way, the foreign sales of tobacco products. That is just right here in our country.

I would suspect that if you have been a smoker or are a smoker—and let me say in truth in everything, I was a smoker and I know how difficult it is to give up tobacco products. Anyone who tells you it is easy doesn't know what they are talking about. It is hard. It is difficult. It is extremely difficult. But even people who smoke, I will tell my colleagues, the one thing they pray every day is that their children will not begin it. In fact, I suspect some of the strongest advocates of this legislation are the people who have been hooked on tobacco products and they would tell you that the one thing they pray and hope is that their children don't become addicted to this product because they know how damaging it is. They know what it does to them. They know the potential harm to themselves and to their families. So this is not an issue, in my view, that ought to cause any division among parents and family members when it comes to what happens to their children.

Tobacco companies, as I say, are well aware of all of this. Almost 90 percent of smokers begin as children, and that

is an astonishing figure. Equally astonishing is the fact that smoking kills more Americans every year than alcohol, AIDS, car accidents, illegal drug use, murders, and suicides combined. Take all of those causes of death in our Nation, combine all of them, and they don't equal the number of people who lose their lives as a result of tobacco-related illnesses.

In my home State of Connecticut, more than one in five high school students smokes. Every year, 15,000 children in my State try cigarettes for the first time and another 4,600 become regular smokers. Absent action from our Congress, of course, more than 6 million children who are alive today will die from smoking, including the 76,000 I mentioned in my small State of Connecticut. This ought to be entirely unacceptable to all of us.

Here we are soon to begin a debate, as I said a few minutes ago, on health care, with the common cause of trying to create a health care system, not a sick care system, where prevention is going to be a major focus of our attention. I can't think of a more significant step we could take on the eve of dealing with the health care debate than having this Congress stand up with an overwhelming vote and say we are going to begin an effort here to reduce that 90 percent who end up beginning smoking over a lifetime—that is our children—and that is what this bill is designed to do.

If ever there was a moral obligation to act, I think it is at this moment. No one suggests that any law is going to stop every child—of course it won't—from lighting a cigarette or beginning that process. Obviously, parents have to do their part in educating their children, as do others. But we shouldn't be making it harder on them than it already is, which is precisely what we are doing every second that we fail to act on a bill such as this.

So the purpose of this historic public health legislation is very simple: It is to protect our children and give them a longer, healthier future—the future they deserve. It will give the Food and Drug Administration the authority to prevent the sale and marketing of tobacco to children, require changes to cigarettes to make them less harmful, and protect the public health, and to prevent tobacco companies from using misleading marketing practices to encourage tobacco use. It would accomplish this by prohibiting outdoor advertising within 1,000 feet of a school or playground. Parents ought not to live in fear that their children are being marketed cigarettes when they are at school every day. It would limit advertising in publications with significant youth readership to a black-on-white, text-only format; no pictures, mascots, or other eye-catching logos. It would restrict promotions that appeal to children and adolescents, and stop illegal

sales of tobacco products to children and adolescents. Lastly, it would prohibit tobacco product vending machines except in adult-only facilities.

For this first time, the bill would regulate tobacco products, requiring all tobacco product manufacturers to register with the Food and Drug Administration and to provide that agency with a detailed product list. The legislation would assess user fees on manufacturers to pay for the cost of the FDA tobacco regulation. And it would mandate larger and far more informative health warnings on tobacco products, including prohibiting misleading terms such as "light" and "mild" on products that offer no health benefits whatsoever, and instead are intended to kill.

This bill is supported by over 1,000 organizations, including every major public health group in the United States: the Campaign for Tobacco Free Children, the American Cancer Society, the American Lung Association, the American Heart Association, and many others. Thirty national faith organizations and over 800 State and local organizations support this bill. In addition, former Secretaries of Health and Human Services, both Democrats and Republicans, including Tommy Thompson and Donna Shalala; former Surgeon Generals, Republicans and Democrats, David Satcher and Richard Carmona; David Kessler, the former FDA Commissioner; and Julie Gerberding, the former CDC Director, have all expressed their support of the legislation now before us.

In its 2007 report, "Ending the Tobacco Problem: A Blueprint for the Nation," the Institute of Medicine urged Congress to: "Confer upon the Food and Drug Administration broad regulatory authority over the manufacture, distribution, marketing and use of tobacco products."

That is precisely what we give them in this bill. It deals with the manufacture, the distribution, and the marketing of tobacco products, particularly to our children.

Again, I hope my colleagues will gather behind this.

Lastly, let me say we would not be here on the cusp of winning this fight without the tireless efforts of our committee chairman, Senator TED KENNEDY of Massachusetts, who has made the public health the cause of his lifetime. It has been his passion over the past 40 years that he has been involved in his public career. This bill is but one more example of good policy he has shepherded through the Congress which puts children and their families and the public first. All of us ought to thank him for his leadership on this issue.

Passing this bill will be a historic victory for our Nation's children—protecting children from aggressive marketing by tobacco companies and es-

tablishing sound manufacturing practices of tobacco products. It will be an historic step for parents who have enough to worry about in today's day and age without having to be concerned that cigarettes are being marketed directly to them, or tobacco products designed in ways to be specifically appealing to the youngest of our citizens in this country. Parents deserve peace of mind when it comes to how dangerous tobacco products are being marketed. With this legislation, that is precisely what we are trying to do.

I will emphasize again, this is not going to stop all of the problems of children starting smoking every day, but if we can make a difference and cut those numbers down. Then we will have achieved a great deal for our Nation. This is an opportunity to do so.

I should point out as well, I am not unsympathetic at all to the tobacco States—the States that grow tobacco where literally thousands of farms, their livelihood, and jobs depend upon this industry. This bill takes into account the needs of those small family farmers to provide help to them as they transition. All of us know what it is like to be in a State where there are certain things that occur, products that are made, services provided where they could be adversely affected by changes through no fault of their own. This bill tries to accommodate, to the extent possible, the industries and the businesses in those States that would be adversely affected, obviously, by the reduction in the use of tobacco products by our citizenry as a whole. I think all of us here, and again particularly parents, whether you are a smoker or a nonsmoker—you ask any parent in this country whether they would like to see their children begin smoking—ask them that simple question. I don't care where you live, the last thing you want to see is your child begin a lifetime of use that you know is going to put their life in jeopardy from the moment they start. So if nothing else, as you think about this bill and you think about these amendments coming along, many of which may be appealing on a certain level, remember, we have tried for 10 years and we have failed. Think about how this bill might have made a difference 10 years ago, if it had been adopted, and how many young children might not have started because of the inclusions and the provisions in this bill.

We cannot wait for another Congress, another 2 or 4 or 5 years to get back to this again. This is the moment. This is the hour. This is the time when we can accomplish that kind of achievement. We have a chance to do something in a meaningful way, and I urge my colleagues to join us in this effort.

Let me also say this to my friend and colleague from Wyoming, who is a champion on this issue and cares deep-

ly about it. We had a very good and extensive markup of the bill a couple of weeks ago. There are some outstanding amendments Senator ENZI has raised, and our staffs are working together to try to resolve those matters, as I promised we would, before we get to offering a substitute that may include some of the provisions we are in the business of trying to resolve. I thank him for his cooperation, and also the members of the committee, who stayed 2 days to mark up this legislation.

I commend my friend from Wyoming for his diligence in all of this, as he always demonstrates, and our colleagues on both sides of the committee, who worked on this legislation; I am grateful to them as well. I look forward to a good, healthy, and vibrant debate, with the final conclusion being strong support for this bill.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I rise today to talk against the deadly scourge of tobacco. Tobacco use is the leading preventable cause of death in the United States. We have to take some dramatic steps to reduce smoking.

Smoking killed my dad, my mom, and my mother-in-law, and secondhand smoking conclusively affected me. This isn't political; this is about the health of all Americans. This bill comes out of the Health, Education, Labor, and Pensions Committee. The Senator from Connecticut, Mr. DODD, mentioned that we don't want kids to start. We don't want anybody to start. There is enough information out there that can tell you that this will kill you. So don't do something that will kill you. Yes, it is a slow death; it may take a number of years, but it will kill you. Cancer is one of the big results of smoking.

I wish to share a little bit from a contract that an oncologist—a person who deals strictly in solving cancer and providing cancer treatment—makes his patients sign before he will treat them because if they keep smoking, they are adding to the problem, causing recurrences of the problem. It starts off this way:

Tobacco is a dangerous substance. It contains 50 carcinogens (cancer-causing substances) and is a Group A Carcinogen in the same class as asbestos and radon. It has many toxic substances besides cancer-causing agents; among these are insecticides which are used on the tobacco plant. In some parts of the country, tobacco is used as an industrial insecticide because of this composition. Tobacco use is considered the number 1 preventable cause of death in the world. On average, tobacco users live 35 years less than non-tobacco users.

I go on to quote:

Tobacco has been found to cause a multitude of cancer types, whether it is smoked or used in a smokeless fashion. Tobacco is the number one cause of cardiovascular disease leading to heart attack and strokes.

Emphysema, chronic bronchitis, and many other diseases are a consequence.

When I care for patients, I expect them to be involved in the healing process, no matter what disease they are afflicted by. If they continue to smoke, they do not want to improve their health. Because of this, they can either discontinue tobacco and continue under my care, or find another health care provider.

Any tobacco user followed in our clinic will be given the opportunity for tobacco cessation (quitting the habit).

They work with them on that.

Tobacco users must discontinue tobacco use within 2 weeks of the initial consultation.

I ask unanimous consent that the entire contract be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### TOBACCO POLICY

(By Philip C. McMahon M.D.)

Tobacco is a dangerous substance. It contains 50 carcinogens (cancer causing substances) and is a Group A Carcinogen in the same class as asbestos and radon. It has many toxic substances besides cancer causing agents; among these are insecticides which are used on the tobacco plant. In some parts of the country, tobacco is used as an industrial insecticide because of this composition. Tobacco use is considered the number 1 preventable cause of death in the world. On average tobacco users live 35 years less than non tobacco users.

Tobacco has been found to cause a multitude of cancer types, whether it is smoked or used in a smokeless fashion. Tobacco is the number one cause of cardiovascular disease leading to heart attacks and strokes. Emphysema, chronic bronchitis, and many other diseases are a consequence.

When I care for patients, I expect them to be involved in the healing process, no matter what disease they are afflicted by. If they continue to smoke, they do not want to improve their health. Because of this, they can either discontinue tobacco and continue under my care, or find another health care provider.

Any tobacco user followed in our clinic will be given the opportunity for tobacco cessation (quitting the habit). Tobacco users must discontinue tobacco use within 2 weeks of the initial consultation.

Random urine nicotine testing is used to monitor patients. If a patient is positive on 3 urine nicotine tests, they must find another health care provider. If someone refuses nicotine testing on any given day, that counts as a positive urine nicotine. If a patient has a positive urine test and is on treatment, the treatment will be delayed for one week. Do not use nicotine products, such as patches or gum that may cause a positive urine test.

Patient Signature  
Date

Mr. ENZI. Madam President, I did notice that in the last couple of weeks, a Federal appeals court has even looked at a landmark ruling that found that the Nation's top tobacco companies were guilty of racketeering and fraud for deceiving the public about the dangers of smoking. A three-judge panel of U.S. courts of appeals in Washington unanimously upheld requirements that manufacturers change the way they

market cigarettes. The requirements, which have been on hold pending appeal, would ban labels such as low tar, light, ultra light, or mild, since such cigarettes have been found to be no safer than the others. That is one of the requirements in this bill—that they cannot use that kind of false advertising.

I wish to share some facts with you. The Senator from Connecticut shared some with you. These are from the Centers for Disease Control and Prevention. Among current U.S. adult smokers, 70 percent report they want to quit completely. In 2006, an estimated 19.2 million adult smokers had stopped smoking for at least 1 day during the preceding 12 months because they were trying to quit. That is more than 44 percent of the smokers. Think about it—70 percent of smokers want to quit, and 44 percent of them are trying each year. Unfortunately, not enough of them succeed. I know what a terribly addictive thing it is. I watched my parents deal with it. The numbers are even more shocking when we consider youth smokers. Nearly one in five young people smokes, but more than 54 percent of current high school smokers in the United States tried to quit smoking during the preceding year.

We need to get people to stop smoking or, better yet, never start. I support incentives to quit smoking—for example, offering incentives to lower health insurance premiums for those who stop smoking or, better yet, who never start. That becomes a continuing cost to us. The cost of health care is out of control. There seems to be support in the context of health care reform.

Full, fair, and open debate is critical to the democratic process. I am pleased to have the opportunity this week to offer amendments to this bill to help lessen the toll tobacco takes on our society. Senator DODD mentioned the committee action. We have a committee that works a little differently from some of the others. We look at that opportunity of the committee process to see what the key concerns are and to see how they can be incorporated into making a better bill. That is what Congress is about. That is why we have 100 people here and 435 on the other end of the building, so that we get a lot of backgrounds, opinions, and ideas, so that can avoid unintended consequences and tighten up processes so that what we are trying to do can actually get done.

I appreciate the way this bill has been worked on. One of the things we did, of course, was leave about six amendments to be worked on in the interim, before we actually get to amendments on this bill. I am hopeful those can be worked out so they will tighten up the bill a little bit more.

This Congress does have a unique opportunity to have an impact on smok-

ing and health consequences. My record is clear when it comes to tobacco. I am no friend of big tobacco. I have never taken a dime of tobacco company money for my campaigns, and I don't intend to start now. I have ideas to make a real impact on the public health and win the war on tobacco.

I thank the Senator and all those on the other side of the aisle for the serious consideration they are giving the bill and the opportunity now to have the floor debate. I am hoping we will stick to germane issues so that it will stay a tobacco bill. That is the only way we will actually reach a conclusion on it.

I hope the ideas presented with the goal of making this a better bill will get serious consideration. I am sure they will. I encourage people to bring those ideas forward and, if they will, talk to us a little bit before they put them in to see if they are already under consideration as opposed to already in the bill.

I am thankful for this opportunity. I am glad that the bill is being brought to the floor and that it went through the regular process. I hope something good can come out of this. We need to make sure what we are doing will stop smoking.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I thank my colleague from Wyoming for his eloquent comments and his commitment to the issue.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that during today's session the recess time for the caucus luncheon period and any period of morning business be counted postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS

Mr. DODD. Madam President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:21 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED—Continued

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

## NUCLEAR POWER

Mr. ALEXANDER. Mr. President, 1 year ago I went to the Oak Ridge National Laboratory in Tennessee to propose a new Manhattan Project to put America on the path to clean energy independence. The project would focus on seven grand challenges: plug-in electric cars and trucks, carbon capture from coal plants, making solar power cost competitive; recycling used nuclear fuel, advanced biofuels from crops we don't eat, green buildings, and fusion. Last week I went back to Oak Ridge, spoke to a gathering, a summit of people from several States who were meeting to talk about how to attract and keep high technology jobs. I proposed that the United States should build 100 new nuclear plants during the next 20 years, while scientists and engineers figure out the grand challenges I discussed 1 year ago. This would double America's nuclear powerplants which today produce 20 percent of all of our electricity and 70 percent of our pollution-free, carbon-free electricity. This is an aggressive goal. But with Presidential leadership, it could happen. I am convinced it should happen. Conservation and nuclear power are the only real alternatives we have today to produce enough low-cost, reliable, clean electricity to clean the air, deal with climate change, and keep good jobs from going overseas. Climate change may be the inconvenient problem of the day, but nuclear power is, for many skeptics, the inconvenient answer. These nuclear skeptics cite regulatory delays and past problems with safety. They appoint commissions to slow walk decisions about recycling used nuclear fuel. They point to the shortage of welders for new plants. They complain that Japan and France are building most of the essential equipment for new nuclear plants. No surprise, since Japan is building 1 nuclear plant a year, and France is producing 80 percent of all of its electricity from nuclear powerplants. The skeptics say that carbon from coal plants contributes to climate change, which is true, and so they offer their solution: operate our big complex country, which uses 25 percent of all of the energy in the world, on electricity generated from the wind, the sun, and the Earth. One day that might be possible. But today there is a huge energy gap between the renewable electricity we wish to have and the reliable, low-cost electricity that we must have. My guess is, it will be 30 or 40 or 50 years before these new sources of electricity are cheap enough and reliable enough to supply most of the power to our electric grid.

The nuclear skeptics in Congress, urged by the President, reported last month an energy and climate change bill that would require 20 percent of our electricity to be made from a very narrow definition of renewable energy.

My visit to Oak Ridge was to a gathering to discuss how to attract and keep high tech jobs in the region. I tried to paint a picture for those attending about how this legislation would affect those who attended.

To put things in perspective, the Tennessee Valley Authority produces an average of about 27,000 megawatts of electricity for industrial and household customers in our seven-State region. Sixty percent comes from coal, 30 percent from nuclear, 8 percent from hydroelectric power, and 1 percent from natural gas. Across the country, it is 50 percent coal, 20 percent nuclear, 20 percent natural gas, and 6 percent hydroelectric power. Nationally, only about 1½ percent of electricity comes from the Sun, the wind, and the Earth. Almost none of the TVA's power does. But the 40 percent of TVA power that comes from nuclear and hydro plants is just as clean as these narrowly defined renewables. It is free of pollution that dirties the air, and it is free of carbon that contributes to global warming. In that sense, TVA is the sixteenth cleanest utility in the country already.

Here is another yardstick. The new nuclear powerplant at Watts Bar in Tennessee can produce 1,240 megawatts of electricity. The Bull Run coal plant produces about 870 megawatts; the Fort Loudoun Dam, 150 megawatts. All three operate almost all the time. This is called base load power, which is important since large amounts of power can't be stored. Some forget that solar power is only available when the Sun shines and wind power is only available when the wind blows.

So how much renewable electricity is available in our region? The new solar plant our Governor Phil Bredesen has proposed in Haywood County would cover 20 acres but produce just 5 megawatts. The 18 big wind turbines atop Buffalo Mountain, a few miles away from where I made my speech, have the capacity to produce 29 megawatts but actually produce only 6 megawatts. It may be also possible to squeeze a few hundred megawatts from turbines in the Mississippi River. The Southern Company's new biomass plant in Georgia—biomass is sort of a controlled bonfire of waste wood products—would produce 96 megawatts. All this for a utility that needs 27,000 megawatts to operate at any given time.

Each of these sources of renewable energy consumes a lot of space. For example, the big solar thermal plants in the western desert where they line up mirrors to focus the Sun's rays take more than 30 square miles—that is more than 5 miles on a side—to produce the same 1,000 megawatts that one can get from a single coal or single nuclear plant that sits on one square mile. Or take wind, to generate the same 1,000 megawatts with wind, one would need 270 square miles. That is 16

miles on a side. An unbroken line of wind turbines 50 stories high from Chattanooga to Bristol would give us only one-fourth of the electricity we get from one unit of the Watts Bar nuclear powerplant which fits on one square mile, and we would still need the nuclear powerplant for the times when the wind doesn't blow. There is good reason why there is only one wind farm in the entire southern United States. In our region, the wind blows less than 20 percent of the time. Much of that time is at night when TVA already has several thousand megawatts of unused electricity.

Biomass will be a renewable source that we will emphasize in the South, we are told. That's a good idea. It might reduce forest fires, and it will conserve resources. The National Forest Service told us last week that there are 2 million tons of wood scraps and dead trees in Tennessee's forests, and pulp and paper companies might produce another 2 million tons. That sounds like a lot. But let's not expect too much. We would need a forest the size of the entire 550,000-acre Great Smoky Mountain National Park to feed a 1,000-megawatt biomass plant on a sustained basis. That is a plant that would produce as much electricity as one nuclear power unit.

Think of the energy it is going to take to haul this around. Georgia Southern says it will take 160 to 180 trucks a day to feed biomass into a 96-megawatt electrical plant. Remember, TVA uses at least 27,000 megawatts of electricity every day.

Of course, conservation and efficiency are the places to start when looking at America's and, especially, Tennessee's electricity futures. Tennesseans use more electricity per person than residents of any other State. If we reduced our use to the national average, it would equal the electricity produced by four nuclear powerplants. We might still have to build some new powerplants, because our history and that of the country is that conservation only limits electricity growth. It usually doesn't reduce it. For example, 20 years ago we never would have guessed that computers would be using nearly 5 percent of our electricity. One can see we will need some breakthroughs, something like a new Manhattan project, before we can rely very much on renewable electricity.

Of all these forms of electricity in our region, solar has the most promise. It takes up massive space, but we can use rooftops. It only works when the Sun shines, but the Sun shines during peak times of electricity use. I believe our Governor is exactly right to try to make Tennessee a hub for solar power. The first grand challenge of my proposed Manhattan project is to try to make solar power cost competitive. According to TVA, in our region, it is far from that today. Solar costs four to



five times as much as the base load electricity that TVA now produces. Wind power, on the other hand, can supplement electricity on the Great Plains and perhaps offshore. But for our region, it would be a terrible mistake.

In Tennessee it is a waste of money, and it destroys the environment in the name of saving the environment. The turbines are three times as tall as Neyland Stadium, which is our great big football stadium in Knoxville. In our region they only work on mountaintops where the winds are strongest, and they barely work there. I haven't mentioned the new transmission lines that will be necessary from the mountaintops through backyards in Tennessee.

Someone asked Boone Pickens if he would put any of these turbines on his 68,000-acre ranch in Texas. "Hell no," he said. "They're ugly." Well, if Boone doesn't want them on his ranch because they are ugly, why would we want them on the most beautiful mountaintops in America, in North Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, all the way up to the White Mountains of New Hampshire?

Some of the jobs that we will be growing and attracting to our region and across the country are so-called green jobs, created as scientists and engineers work on the grand challenges I propose. Please remember that nuclear power is also green. Electric cars and trucks are green. One-third of Tennessee's manufacturing jobs are auto related. Even green jobs need low-cost electricity. The two new polysilicon plants located in Cleveland and Clarksville, TN manufacture polysilicon for solar panels that go on roofs. Together these two plants use 240 megawatts of electricity, about one-fifth of the production of the new nuclear unit at Watts Bar. Don't forget about places like the Aluminum Company of America in my hometown, which has closed its smelter and won't open until it can get a 20-year, low-cost electricity contract from TVA, or the steady stream of regional manufacturers who have been to my office saying that electric rates are already too high for them to keep jobs in our region.

The point is, if we care about jobs of any color, the cost of electricity matters. Which is why it is especially galling to see France, a country we usually don't like to emulate, using the technology we Americans invented to give themselves some of the lowest electric rates and lowest carbon emissions in the European Union.

So why is it that nuclear energy, perhaps the most important scientific advancement of the 20th century, was invented in America and yet we stopped taking advantage of it just when we most need it? Shortly after World War II, Glenn Seaborg, the great American

Nobel Prize winner, said that nuclear energy had come along just in time because we were reaching the limits of fossil fuels. He was right. The succeeding decades proved that fossil fuels are not unlimited, and their supplies could seriously compromise energy independence. And that doesn't even address global warming.

Yes, I do believe global warming and climate change are problems we must address. We can't go on throwing 3 billion tons of carbon dioxide into the atmosphere every year without running into some kind of trouble. Every session I have been in Congress, I have introduced legislation to cap carbon emissions from coal powerplants. But the way to deal with global warming and to keep our jobs is to encourage what has been called the "Nuclear Renaissance" and start making nuclear energy the backbone of a new industrial economy.

Right now there are 17 proposals for 26 new reactors in licensing hearings before the Nuclear Regulatory Commission. That is a start. I think we need to go well beyond that.

I propose that from the years 2010 to 2030 we build 100 new nuclear reactors to match the ones we are already operating. That is what we did from 1970 to 1990. During that 20-year interval, we built almost every one of the 104 reactors that now provide us with 20 percent of our electricity. If we build another 100 by 2030, we will be able to provide well over 40 percent of our electricity from nuclear power. Clean hydropower provides 6 percent of our electricity today, and with the electrification of small dams around the country, we may be able to expand that to 8 percent. With diligent conservation, and some renewable resources, we can add another perhaps 10 or 12 percent. Then, my friends, we will really be talking about a clean energy economy.

Still, that is only the beginning. The second largest source of carbon emissions—and the biggest source of our energy instability—is the 20 million barrels of oil we consume every day to run our cars and trucks. I believe we should make half our cars and trucks plug-in within 20 years. That would reduce by one-third the oil we import from foreign sources. The Brookings Institution scholars estimate we can power those cars and trucks by plugging them in at night without building one new powerplant. Let me repeat that. If we electrify half our cars and trucks in America, we can plug them in at night without building one new powerplant because we have so much unused electricity at night.

As our fleet of electric vehicles grows, the most logical option for plugging in will be supplied by clean nuclear power. Until we make great advances in storage batteries, it cannot be electricity that is sometimes there and sometimes not. We cannot have

Americans going to bed every night praying for a strong wind so they can start their cars in the morning.

Still, when it comes to nuclear power, a lot of people worry about safety. They say: Well, nuclear power sounds great to me, but I am afraid one of those reactors is going to blow up and cause a holocaust.

Well, let's make a few things clear. As Oak Ridge—where I was last week—know better than almost anyone, a reactor is not a bomb. It cannot blow up. That is impossible. There is not enough fissionable material there.

What a nuclear reactor can do is overheat if it loses its cooling water, just the way your car engine can overheat and break down if it loses its antifreeze. It is called a meltdown. Nuclear scientists have warned about this from the beginning and take many precautions so it will not happen.

Nuclear skeptics like to bring up Three Mile Island, so let's talk about that. What happened at Three Mile Island was basically an operator error. A valve failed, and when the automatic safety mechanism kicked in, the operators overrode it because of a mass of flashing lights and sirens on the control panel, which confused them about what was happening.

Three Mile Island completely changed the nuclear industry. The Kemeny Commission, appointed by President Carter, analyzed the problems and made many recommendations, most of which were put into practice. The valve that started the whole thing had failed nine times before in other reactors and the manufacturer had tried to keep it a secret. People in the nuclear industry were not talking to each other.

Now all of that has changed. Nuclear operators train for 5 years before they can take over control rooms. They spend 1 week of out of every 5 in a simulator honing their skills. The nuclear companies have special SWAT teams that can be dispatched anywhere in the country at a moment's notice in case anything goes wrong. A Nuclear Regulatory Commission inspector practically lives on the site. What is more, every reactor in the country is on the hook for \$100 million if something goes wrong at another reactor. As you can imagine, they watch each other very closely.

And it shows. Our entire nuclear fleet—104 reactors—is now up and running 90 percent of the time. There has only been one year-long shutdown for safety problems in the last decade. We have added the equivalent of 29 new reactors since 1990 by doing a better job of running the ones we already have. If the rest of America ran as well as the nuclear industry, we would be sitting on top of the world.

"But what about Chernobyl?" someone will say? "Wasn't that a nuclear catastrophe?" Well, the Soviets did



things very differently at Chernobyl than we know how to do in this country. For instance, they did not put a containment structure around the reactor, which is like not putting a roof on your house and then acting surprised when it rains and you get wet. In addition, they did something no American power reactor has ever done: They surrounded the core with carbon in the form of graphite. That is like building your reactor in the middle of a charcoal grill. When the graphite caught fire, it spewed radioactive smoke all over the world. That could never happen at an American reactor—and it will not happen again in Russia since they have made a lot of changes over there and now they are building reactors in the same way we build reactors.

So let's build 100 new nuclear reactors during the next 20 years. Our new reactors have even better safety features—although it is never good to be overconfident. We have learned how to run the current fleet at its full potential. Most reactors are making close to \$2 million a day. The attorney general of Connecticut proposed a windfall profits tax a few years ago when fossil fuel prices went through the roof. He said it was not fair that reactors could run so cheaply. So why not expand on our winnings? Why not build another generation of reactors?

Well, a lot of people say it cannot be done. They say we do not manufacture anything anymore in America. We have to import all our goods from China. They say we do not have the nuclear engineers to design the new generation. They say we do not have the specialty welders to put them together on site. They say we cannot manufacture the steel vessel heads anymore, and our steel forges are not big enough. Right now, the only forge in the world big enough to make a reactor vessel is Japan Steel Works, and they are backed up. People say our new plants will spend a decade standing in line behind the 34 other reactors that are already under construction in the world, mostly in Asia. And you know something. They are right. They are right because all the things they are saying here are true. We do not have a nuclear construction industry. But then, they do not know America. America can respond to a challenge. Just as we rose to the occasion in 1943 when we began the Manhattan Project at Oak Ridge and at other sites in our country, so can we rise to the occasion today to build a new generation of nuclear reactors that will provide clean, reliable power for America for the rest of this century.

It is not going to be easy. What we are talking about here is essentially a rebirth of Industrial America, and it is already starting to happen. Westinghouse is opening a school for training welders who can knit together a containment structure strong enough to

protect both the environment from the reactor and the reactor from outside threats. Alstom, a French company, is investing \$200 million in Chattanooga, in my State, to manufacture heavy turbines for nuclear plants.

We also have to train nuclear engineers to take the place of the great generation that embraced the technology in the 1960s and 1970s, only to see their dreams come to naught when the Nation turned away from nuclear power. We have to find a steel manufacturer somewhere in this country that is willing to step up and say: "Here, we can do those forgings right here in Pennsylvania or Ohio or Michigan or Illinois. We do not have to stand in line in Japan." And we have to find investors who are willing to put up their money and say: "Yes, I have faith in America. I have faith in technology. I am ready to invest in building a cleaner, safer, more prosperous world."

With Presidential leadership, we could add more loan guarantees to accelerate construction, and could streamline the permit system to ensure that new reactors do not become ensnared in regulatory mazes or combative lawsuits. But we cannot sit on our hands because in America we do not sit around waiting for the Government to do things for us. We do things for ourselves.

So the task we face here today is no less formidable than the task the Oak Ridge pioneers faced when they first arrived in Tennessee in 1943. They were trying to save the world from Japanese militarism and Nazi totalitarianism. Now we are trying to save the world from the pending disaster of dwindling energy supplies, the uncertain dangers of a warming planet, and the stagnation and decay that can only follow if we do not revive American industry.

So I propose today that we work together across the aisle, with the President, in the task of bringing about a Nuclear Renaissance in helping to generate the Rebirth of Industrial America.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURR. Mr. President, I come to the floor because the Senate this week is considering a new regulatory bill for the tobacco industry and there will be Members who will come to the floor to say: We have tried to do this for 10 years. This is well past due.

Well, in part they are right. This bill was produced 10 years ago. It has not changed. It is exactly what was pro-

duced. But let me try to fill in some history for the Members of the Senate.

In 1998, we passed the FDA Modernization Act. I was the lead sponsor of that bill in the House of Representatives. We spent 2½ years developing a bill to modernize the Food and Drug Administration.

Most Americans do not even realize what the Food and Drug Administration is. It is an agency in the Federal Government that regulates 25 cents of every dollar in our economy. It is what assures every American that when you go to the pharmacy and you get a drug, there is a Federal agency that has determined that drug is, one, safe, and, two, effective; or that when you go to a hospital or a doctor's office, and they take a medical device—maybe it is something that permits them to go inside your body without cutting you open—that device has gone through an extensive review by the FDA.

In some cases, pharmaceutical products take up to 12 to 14 years for approval—the amount of clinical trials to prove safety and efficacy that we go through, not just on animals but on humans—but it assures every American that the gold standard in the world exists right here in the United States of America. We put manufacturers and their products through a test at the FDA like no other country does. As a matter of fact, when the European Union was created and there were efforts to try to harmonize our approval process in the United States with that of Europe, what we found was that Europe's adoption, then, of 15 countries was that they take any of the 15 countries' approval process. What we found in the United States was it was hard for us to find one country that had as rigid a requirement as the United States of America; therefore, we didn't harmonize. For that reason, there are drugs that are approved in the European Union that are not approved in the United States because they either haven't met the test of the FDA or they have chosen not to go through the test.

The reason I share all of that with my colleagues is that for 2½ years, there were two focuses of those of us who worked on FDA modernization: one was to make sure we had an agency that could perform its task of efficiency, and two, that we did nothing to change the gold standard—the assurance the American people had that every time they got a prescription, every time there was a device, that the gold standard was intact, that it was safe and effective.

It says on the FDA's Web site—and this is just part of their mission statement:

The FDA is responsible for protecting the public health by assuring the safety, efficacy and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation.

For the most part, I think we would agree that we do set the gold standard on the approval of products. We do have some questions about the Nation's food supply. This body has taken up three or four different pieces of legislation because of the fact that the FDA has not had the preview process they needed, and because of that, there have been contaminated foods—some produced here in the United States, some things were shipped in from out of the country, but it was FDA's mission to make sure that did not happen. Well, when we passed that piece of legislation, we all of a sudden accelerated the application process, the review process of drugs and pharmaceuticals. In the next year, we approved 81 new applications because that FDA Modernization Act was in place but, more importantly, the gold standard was still in place.

I wish to ask my colleagues, what are we here today to do? The legislation that is on the floor is to give the FDA the jurisdictional responsibility of regulating tobacco. I want my colleagues to think hard about this. The FDA's responsibility is for protecting the public health—well, tobacco is bad for the public health; it causes disease and it causes death—"by assuring the safety and effectiveness." Well, how in the world can you certify that tobacco is safe? It can't be done.

So to say we are going to allow the FDA to become the agency of regulatory jurisdiction is to say to an FDA reviewer: We would like you to do this on drugs, we would like you to do this on devices, we would like you to do this on foods, and we would like you to do this on cosmetics and products that emit radiation, but when it comes to tobacco, we don't want you to hold tobacco to the core mission statement of the FDA. We want you to ignore that it kills people, we want you to ignore that it causes disease, and we want you to just regulate it based upon how Congress said regulate it.

It is not making much sense to people who are listening. Why would you do this? You could find any agency or create an agency to do exactly what Congress laid out in law. But no, we are laying it out in law and we are saying to the FDA: We want you to take that on as your jurisdiction, as your responsibility.

But what is the likelihood of this, that by putting this new burden on the FDA and surging reviewers who are currently working through applications on drugs and devices, working on food safety, and we surge them over to this new area of responsibility called tobacco, that we are going to put more junior employees working on applications of drugs? It might be the next lifesaving drug that is on the marketplace. It might be a device that is actually a device that is inserted into your body, and maybe a young reviewer ei-

ther delays the approval of that device or that pharmaceutical or makes the wrong decision because the senior reviewer has gone over to do tobacco.

Some will come to the floor and claim that tobacco has to be in the FDA. The FDA, since its inception, has never, ever regulated tobacco. We regulate it through what was the ATF, Alcohol, Tobacco and Firearms; the Federal Trade Commission has regulated the labeling; and the industry on its own eliminated most of the concerns the American people had when they had a master settlement with States years ago.

We are going to be debating this for days. I am going to be down here frequently until this debate is over with because what I want is for the Members of the Senate and the American people to understand that it is not as black and white as what some people would come to the floor and say: Just give it to the FDA and let them handle the responsibility. Feel comfortable doing that if you are willing to jeopardize drug safety, food safety, and device safety because they can't prove the safety and efficacy of this product. As a matter of fact, the bill that is being considered by the Senate doesn't do anything to regulate existing products that are on the marketplace. Think about that. Think of all of the cigarette brands you see behind the counter. The Kennedy bill actually says they are grandfathered. You can't touch them. You have to allow them to continue to be sold. But to a new product, one that might be a reduced-risk product, meaning less harm to the user, the pathway to try to be approved through the FDA is impossible.

It is estimated that without doing anything, we will have a 2-percent reduction in cigarette usage per year in this country. That is a statistic the CBO came out with. But if we enact this bill, according to the—excuse me, CBO estimated that it is currently being reduced at 2 percent annually. According to the Centers for Disease Control, smoking rates declined among Americans annually at 2 to 4 percent. Think about this: CBO says this bill will reduce cigarette smoking by 2 percent annually. CDC says we are currently reducing cigarette smoking use 2 to 4 percent in the United States. In essence, what CDC says is, if you do nothing, we are going to reduce it more than what this bill is going to do. Why? Because CDC—the Centers for Disease Control and Prevention—realizes that when you grandfather all of these products, where FDA has no ability to go in and say, do this, do that, what you are doing is you are locking in the American people. When you say to the FDA: Have this jurisdiction, but we are not going to give you any real way to bring reduced-risk products or reduced-harm products to the marketplace, all you are doing is assuring that people are going to continue to smoke cigarettes.

The marketplace at least has brought smokeless tobacco into the marketplace, and through that smokeless tobacco, it has generated a 2-percent reduction in smoking. We can make the claim that smokeless tobacco is not good for the American people. It is certainly not good for our youth. But the statistics show it is not as bad as smoking. You don't have the degree of death and disease from smokeless tobacco. We will get into that because there are studies around the world, many of them done in the country of Sweden, where we find exactly that, that they have been able to reduce smoking drastically in Sweden by allowing new, reduced-harm products to come to the marketplace, and through the ability of the public to decide that they would like to switch, they have drastically gotten off of cigarette products.

No, that is not the course we are going to take. We are going to take one that is typical Washington. We are going to pick an agency and we are going to say: Let's dump this responsibility on them, no matter what the cost is. We forget the fact that the FDA is the gold standard. It is responsible for protecting the public health. How are you protecting the public health when you grandfather every cigarette product that is currently on the marketplace to exist just as it is? How do you prove safety and efficacy? How can this be effective?

We are headed in the wrong direction. As one of the authors of the 1998 act, this troubles me greatly because I spent 2½ years trying to figure out how not to change the gold standard, that balance at the FDA that assured every American that it had gone through a grueling process of review, that it had passed every test that had been set to prove safety and efficacy. Why would we jeopardize this? Why would we risk the fact that we might change this gold standard?

These are the questions that are going to be asked over the next several days. They are questions I hope to answer for people, not with what I believe but with the facts, with the truth about what is going on around the world, why we are headed in the wrong direction, and why we can have an effective regulatory entity in Washington without jeopardizing the future of drug and device safety, food safety, cosmetics, and products that emit radiation. These are things we need to take very seriously.

I will make this last request, as I see my colleagues are headed to the floor and wish to speak as well. I only asked one thing a week and a half ago of the committee members, and that was to read the bill. Well, the fact that attitudes haven't changed much, that we are on an accelerated pathway, I can just about assure my colleagues they didn't do what I asked. I didn't expect

them to. I think the American people believe we read every bill before it is considered. I think most Members attempt to do that through staff or themselves. This is one that, quite frankly, had they read it, we wouldn't be here today. We wouldn't be doing what we are attempting to do.

This is not about a quest of 10 years. In 1998, when we opened the Food and Drug Administration to do the Modernization Act, we opened the entire thing. Every Member of Congress had an opportunity to amend that bill in the House and the Senate at the time and to give the FDA jurisdiction over tobacco. No Member exercised that ability. So in 1998, there were no Members who thought it was important enough to put that responsibility in the FDA.

We have seen steady reductions in smoking among adults and, more importantly, smoking among youth. Youths are always the ones we point at and we say we have to make sure we do this because children shouldn't have cigarettes. They are right. They shouldn't. That is why we have age limits and advertising limitations.

Can we do better? Yes, we can. Let me assure my colleagues, I will offer a substitute that not only is effective regulation, but it will protect the gold standard of the Food and Drug Administration. It won't put in jeopardy what we have established as the most crucial regulatory body we have that controls or regulates 25 cents of every dollar of our economy. I don't believe that is responsible of the Members of the Congress. They have already made the mistake in the House. I hope we don't make the mistake in the Senate. We can come up with effective regulation but not doing it through the Food and Drug Administration.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. GREGG. Mr. President, I rise to speak about health care and where we are going on the issue of health care here as a government and as a nation. The health care train is beginning to leave the station, so to say. I wish to make sure it is on the right track, that it not be on tracks which will lead it over a cliff. So I want to lay out a few fundamental tests that I believe need to be passed for health care reform to be effective.

First, everybody needs to be covered. Everybody should have the right to get insurance in this country. That is a reasonable request, and it is a reasonable thing to do. The fact that some

people don't have adequate health care coverage is not acceptable.

Secondly, we need to have a system which encourages the marketplace to produce better products, more quality, better health care. We also need a system that doesn't let the government become too intrusive into the health care administration so that we don't end up with the government between you and the doctor and we have a system where the government basically creates such a top-down bureaucracy that you end up with rationing or significant delays in the delivery of health care, as occurs in some of our sister countries such as Canada and England.

Thirdly, we have to have a system that encourages innovation and gives those creative minds out there in the health care field who are discovering new drugs and new ways to treat very serious illnesses the opportunity to do that, to get a reasonable reward for what they are doing, both monetarily and, of course, the great satisfaction of helping to cure people.

We also need a health care system which says to the American people: You are going to get quality health care when you go to get health care, and you are going to get it at a reasonable price.

So these conditions, these standards are things we should follow.

As this train starts to leave the station, we are seeing a great deal of talk around here about how any health care that is proposed, if it is coming from the other side of the aisle, must be heavily laden with new government restrictions and new government directions, the most significant of which is something called a public plan. A public plan—no matter how it is dressed up or what costume is put on it—has the same effect. It is a statement by the government that it is going to compete in the marketplace with the private sector for the delivery of health care insurance in this country.

That is not fair competition. There is no way the private sector will be able to compete with a public plan; we know that. What we know is that a public plan is essentially a stocking horse for a single-payer plan. It is more than the camel's nose under the tent, it is the camel's neck, and probably front legs, under the tent on the effort to produce a single-payer plan.

It doesn't make a whole lot of sense for us to go into a single-payer plan, which is essentially nationalizing the health care system. We have seen neighboring nations have this experience, and their experience is not good. In your nationalized health care systems, such as in England, for example, about 78 percent of the women who get breast cancer survive. Here that percentage is around 92 percent. The difference is because in the United States detection occurs early. In England, un-

fortunately, because they have a public health care system, which essentially involves delay in the ability to get treatment, people are not determined to have that illness early enough to cure it effectively. You see that with all sorts of diseases.

In Canada, you may not be able to get hip surgery if you are over a certain age—certainly not in time to have your lifestyle improved. The simple fact is, a single-payer plan inevitably leads to delay in the delivery of care and also rationing. In addition, of course, it leads to massive bureaucracies, inefficiency, and a reduction in quality. It drives out of the market people who create new products, the new research, the new drugs, because you are basically setting a fixed return on what a person can make if they invest in producing a new drug, and the production of new drugs is a very expensive business. It costs almost \$1 billion and 12 years to bring a new drug to the market. It is extremely expensive. If you cannot get a reasonable return on your money, you are not going to be able to get investors. If your investors are looking at that and saying the government may step in and fix my return and change the years of exclusivity and create a formulary to determine how and what drugs can be sold and who can buy them and ration those drugs, that does not work. It reduces research, and therefore quality, and it reduces the ability to get good health care.

A public plan should be a nonstarter. It should never happen. I have proposed—and I think we should be proposing formal ideas; we have not heard formal ideas from the other side of the aisle yet and I hope we will get some soon—I have sat on a number of bipartisan groups, which have been constructive, especially the Baucus group has been very constructive, but we still don't have anything formal coming out of that group. The same is true with the HELP Committee, under Senator KENNEDY—and from the administration, for that matter, we do not have anything formal.

I think we have an obligation to lay down the specifics on what we want to do. I proposed "CPR." That is the title I have given the proposal: Coverage, Prevention, and Reform. Essentially, it will set up a system where every American will be required to get health insurance, and we will have affordable health insurance for low-income Americans, people under 300 percent of poverty or less. They will have assistance to get health insurance. The insurance will be focused on the biggest concern for most Americans, which is when someone in your family gets sick or has a severe accident and your entire economic lifestyle has changed and, in fact, maybe you are wiped out and bankrupted by that event. Essentially, this proposal will make sure everybody

in this country has meaningful health insurance, so they cannot be wiped out by a medical event.

Secondly, this proposal is focused aggressively on the issue of prevention. It changes the HIPAA rules so employers can put more money into giving people incentives to live healthy lifestyles. That is critical to our society. We have diseases in this country that can be addressed through improving lifestyles. We have seen that, and a lot of companies have been successful in this area—in the area of obesity, which is a severe problem, and with diabetes and other huge costs to society, we can change the impact of those costs and those very detrimental health problems through a better lifestyle. We should incentivize that—monetarily incentivize that. That is what my proposal does.

In addition, the proposal incentivizes people to take preventive action relative to screenings and to getting early health care intervention, rather than late health care intervention. It does it through financial incentives. That is the best way to do things—pay money for being thoughtful and healthy.

Third, it looks at the system of reimbursement and says this is a chaotic system in this country, where we have stovepipes branching off everywhere. We need to have a system that reimburses, first, for quality, rather than simply for procedures, and one that says if you are delivering quality care, you will be reimbursed—especially if you are delivering quality care at less of a cost, and you are going to get a benefit for that—the providers will. We have seen study after study, now over a period of 20 years—most done by the group at DARPA—which has shown us it is not an issue of cost that produces quality, it is an issue of those who are performing the procedures.

We know, for example, that in some parts of the country it can cost 50 percent more to get a certain procedure, and you will have 20 percent less of an outcome than if you go to other parts of the country. For example, if you go to Mayo Clinic, it will cost less to get one procedure, and you will get a better outcome than if you go to a hospital in southern California, where it costs more and you get less of an outcome. It is the same if you compare Florida and Washington State. If we incentivize quality and reasonable costs, we know we will get better quality and lower costs.

We also know we have a haphazard procedure around here on how we have deductibles relative to Medicare and the various parts of it. Nobody knows what their deductible is because it changes depending on what type of treatment you are getting—Part A, B or D, whatever. We should standardize those and get more efficiency into the health care system.

How do we accomplish this? If you are going to get everybody in the sys-

tem, you have to basically require that everybody be in the system. We have 47 million uninsured people. Of that number, 20 million can buy their insurance. They have incomes up to \$75,000 or more. But they choose, as a matter of lifestyle, not to insure themselves. A fair amount of people—the other 27,000 people—either don't have the wherewithal or they are with companies that are so small they don't have the wherewithal to supply health care.

What I am suggesting is that everybody in America has to buy health insurance—the coverage I talked about—meaningful health insurance, with a heavy emphasis on prevention and reform. If you cannot afford it, then we will help you buy it. But you have to buy it. It is an individual mandate. This is an approach that I think will work. It doesn't require that we throw the baby out with the bathwater. It doesn't require that we entirely rewrite our health care system in this country to satisfy those who want to run the health care system out of the government.

It is not a nationalization of the health care system, not a single-payer or a public plan system. There will be innumerable competing insurance products out there for people to buy in order to meet these standards of coverage—innumerable. They will be settled by the marketplace. People will have choices. States will have an exchange program, and you will be able to see everything available to you and quickly decide what is best for you as a family or an individual. It is not an attempt to totally rewrite the health care system. It is an attempt to build on the present system, and it recognizes we have weaknesses, such as the fact that 47 million people are not covered and that we actually disincentivize preventive medicine and a healthy lifestyle under HIPAA and such that we have a reimbursement system that makes no sense and is chaotic and has grown up, over the years, as a result of the bureaucratic machine that would make Rube Goldberg seem simple. Take the strength of our system—we have private sector initiatives going on that are creating better health care, which doesn't cause people to have to suffer massive delays and doesn't create rationing in the marketplace, depending on your age, and doesn't put the government between you and your doctor. That is a good health care system, and we should not throw it out by going to a public plan, a single-payer system. We should build on the health care system we have and bring those who are not covered into it and bring all of us into an attitude of living healthier lifestyles and focusing on prevention, quality, and reform; thereby promoting research and better health care.

That is my proposal. I don't expect this proposal to win the day, but I hope

it will be listened to as we go down the road because this is a huge issue. Seventeen percent of the American gross national product is spent on health care. We don't need massive amounts of money in health care. We spend 6 percent more of our gross national product than the next closest nation. There is a huge amount of money moving around in our system. We need more quality at a more reasonable cost.

In addition, a lot of people are quite happy with their health care system, with what they are provided by their employer—usually. Why should we throw them out the door too? Let's address that. What we need is to look at the system we have, its strengths, and build on those strengths. We need to look at its weaknesses and reform them. I know my proposal will help accomplish that, and I hope it will be taken seriously.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I know we are on the 30 hours postcloture on the legislation that is the Family Smoking Prevention and Tobacco Control Act. I support that legislation. I applaud our colleague Senator KENNEDY for his leadership on this issue. It gives the FDA the authority to regulate tobacco, including ingredients in tobacco products and tobacco marketing, which I think is an important step for our Nation's health.

We talked a lot about this in the past. The fact is that smoking and the use of tobacco is dangerous to one's health. We know that. I had a doctor once say there are three things that will give you pretty good odds for a longer life. One is wear a seatbelt. The second is keep your weight down. And the third is don't smoke. Pretty sound advice. The "don't smoke" piece is about the health consequences of smoking.

We know especially the issue of marketing and marketing to children is a pernicious activity. We also know the best way you can get somebody hooked on cigarettes is to get them when they are kids, get them when they are young. Do you know of anybody who at age 35 is sitting in a La-Z-Boy recliner watching a color television set ruminating about life and thinking to themselves: What on Earth have I missed in life? What can I do to enhance my life? What should I be doing that I so far have been unable to do and they decide: I have to take up smoking. That just

doesn't happen. If you don't get them when they are kids, you don't get them. That is why we pay a lot of attention to addiction to nicotine, marketing to children, and so on.

Let me say again the leadership of Senator KENNEDY and so many others on a bipartisan basis on this issue I think is very important. It deals directly with the issue of the health of the American people.

I do want to say, however, that I intend to offer an amendment tomorrow when we get on the bill itself. I want to describe why I am offering an amendment and what the amendment does.

The amendment is called the Pharmaceutical Market Access and Drug Safety Act. This underlying bill deals with the FDA. So, too, will my amendment deal with the FDA. I will offer the amendment with Senator SNOWE from Maine, the Dorgan-Snowe bill which we worked on for a long while. It has very wide support in this Chamber from TED KENNEDY, JOHN MCCAIN, CHUCK GRASSLEY, DEBBIE STABENOW. So many others in this Chamber on a bipartisan basis have supported this concept.

Let us give the American people the opportunity that comes with the worldwide economy and the ability in the free market to choose your products. And here is the reason it is important to do that.

The American people at this point understand the value of prescription drugs. They are enormously valuable, and I commend all of those who produce prescription drugs. Yes, the pharmaceutical industry—good for them. Yes, the National Institutes of Health and in so many other areas with public funding as well that develop the approaches that result in lifesaving prescription drugs. I commend all of them, including the pharmaceutical industry.

But it is also the case that the pricing mechanism the pharmaceutical industry uses in this country is fundamentally flawed. They have a pricing mechanism that in most cases for major brand drugs, the American people are told: You get to pay the highest prices in the world. You, the American people, get to pay the highest prices in the world for the same pill put in the same bottle made by the same company. And it is not fair.

I have an example of that, and I ask unanimous consent to show them on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, this is the drug called Lipitor. Most people understand what Lipitor is. It is a drug that is used to lower cholesterol. This happens to be made in Ireland and sent all over the world. These two bottles were sent to two different places—one to the United States and one to Canada. The United States consumer got

to pay twice as much as the Canadian consumer. It is the same bottle, same pill, same company, FDA approved, and the American people are charged twice as much. And it is not just Lipitor. It is drug after drug.

The question is, why? Why should that be the case? It is not just Canada, it is virtually every other country in the world as well that enjoys lower cost prescription drugs, when, in fact, we pay a much higher cost for the identical drug.

This happens to be the price—\$4.47 per 20 milligram tablet of Lipitor to a U.S. consumer, and just north of the border, \$1.82 for the same drug. I could have used other countries. It would have shown the same result.

I have taken a busload of North Dakotans to Canada because I live in a State that borders Canada. In a one-room drugstore at Emerson, Canada, I saw individuals buy their prescription drugs and saw the savings drug by drug. I sat in a farmyard one summer afternoon with an old codger in his eighties from North Dakota. He was talking about health care. He said: You know, my wife has been fighting breast cancer for 3 years. He said: For 3 years every 3 months we have driven to Canada to buy Tamoxifen to fight her breast cancer. Why did we drive to Canada? Because we couldn't afford it in the United States. We couldn't afford to pay for the drugs for my wife's fight against breast cancer. It was 80 percent less costly for the identical drug just north of the border. That is not fair.

Again, it is not just Canada. It is virtually every other industrialized country where drugs are sold for a fraction of the price they are sold in the United States. These are FDA-approved drugs, made in FDA-approved facilities, and sent all around the world. The only difference is pricing. We are charged the highest prices in the world.

The Wall Street Journal had a piece on April 15 of this year, quoting some experts:

These kinds of price increases—  
Speaking of prescription drugs—  
are way out of line with what's being experienced in the rest of the economy.

Said Ron Pollack, executive director of Families USA, a consumer health care advocacy organization.

Credit Suisse's Catherine Arnold said drug companies have increased prices so aggressively in recent months to wring sales out of products before any health care cost-cutting efforts eat into profits.

That is not fair. One might ask: How can they do it? They can do it because there is something in law that prevents the importation of prescription drugs, even FDA-approved drugs, prevents the importation into this country by anybody except the drug manufacturer itself. That means the American people are not given the same opportunity to shop worldwide for an FDA-approved

drug. It means it is a free-trade economy except the American people cannot participate in that free trade.

What we propose to do is to offer a piece of legislation that gives the American people the opportunity to access FDA-approved drugs, the same drug made in the same place marketed differently but priced higher in the United States to access those same drugs. Do we do this because we want Americans to buy their drugs from other countries? No, that is not the point. The point is if they can access that same FDA-approved drug sold for a fraction of the price in another country, it will force the pharmaceutical industry to reprice their drugs at a lower cost in this country in a manner that is fair to the American people.

The estimates of what this will save are \$50 billion in 10 years—\$50 billion in savings in this country. That is not insignificant at all.

One of the things that is always raised by those who support the practice of the pharmaceutical industry is this is going to cause all kinds of safety concerns. Can you imagine the counterfeit drugs that will come across?

I just described this drug Lipitor. This is not made here. It is made in Ireland and then shipped in. How do we know this is real? The provisions in the legislation that we have created actually provide safety requirements that exceed those that now exist with respect to batch lots and pedigrees and all kinds of new resources for the FDA to do more audits than they now do, to do more inspections than they now do.

Don't anybody come to the floor of the Senate raising those kinds of issues because they do not exist. This legislation is legislation that has very stringent safety requirements and will provide an opportunity for the American people for some basic fairness.

Here is a quote from Mr. Hank McKinnell, former Pfizer CEO. He said:

Name an industry in which competition is allowed to flourish—computers, telecommunications, small package shipping, retailing, entertainment—and I'll show you lower prices, higher quality, more innovation, and better customer service. There's nary an exception. OK, there's one. So far, the health care industry seems immune to the discipline of competition.

That is exactly why the pharmaceutical industry can decide this afternoon behind a closed door: Here is what we are going to do to our prices, and if you don't like it, tough luck, because we have the capability to make it stick.

I don't come to the floor of the Senate as someone who has some sort of grief against the pharmaceutical industry. As I said when I started, the pharmaceutical industry plays a very important role in health care in this country. I have a grief against their pricing policy, however.

I held hearings on this issue long ago. A group of us on the floor of the Senate—Republicans and Democrats—has

tried for some long while only to be blocked to pass legislation that would give the American people the opportunity to access the identical prescription drugs that are sold for a fraction of the price in the rest of the world and do it in a manner that is fair to the American people. We have been blocked in that opportunity.

This is an FDA bill on the floor of the Senate. This is the place to offer this amendment.

I visited with my colleagues this morning, Democrats and Republicans. I talked with Senator STABENOW, Senator SNOWE, Senator MCCAIN, and many others this morning about this amendment to this bill. On a bipartisan basis, we believe this will help the American consumer. It is long overdue. And at a time and during a year in which there is a lot of discussion about health care issues and the problems confronting this country in health care, one of the most significant problems is this dramatic march of price increases in health care.

Look, we spend more money per person on health care than any other group. We spend more money than any group of people in the world per capita by far, and we rank 41st in life expectancy. Something is not working out quite so well there. One of the areas of these price increases in health care that leads the pack is the issue of prescription drugs. Prescription drugs allow us to manage disease, in many cases keep people out of an acute care bed, which is very expensive. We know the ability to manage health care conditions through the use of prescription drugs has been very helpful and has been lifesaving to many Americans and people around the world. We understand that completely.

Those who oppose the amendment I am proposing would say: Look, all that will do then is shut down or at least reduce the revenue that the drug companies have, pharmaceutical companies have and, therefore, they will do less research and, therefore, have less opportunity to unlock the mysteries of these dreaded diseases and find the very next cure for Parkinson's, Alzheimer's, or some other disease.

It is interesting to me that the costs or the amount of funds spent for marketing and promotion by the pharmaceutical industry, at least from information I have, exceed the amount of money they spend on research. How many people in the morning have a little television set somewhere near while they are brushing their teeth getting ready for work. The television set is on, and there is a voice on the television set and a really interesting picture and it is describing some awful symptom that you have that you want to get rid of, and they are describing the symptom and describe the 85 things that could go wrong if you take the pill they are pushing. Then they say: Go to

your doctor and ask him if the purple pill is right for you. I don't know what the purple pill does; I don't know what it is about, but the commercials are so intriguing and so persuasive, you almost want to go ask someone if the purple pill is right for you.

There is so much advertising relentlessly pushing prescription medicine at consumers—who can only get it if a doctor prescribes it in the first instance—how about cutting back on some of that advertising? So don't tell me that if they have to charge a price that is competitive with other prices around the world for the prescription drugs they sell in the United States that somehow it will injure their research.

Let me say that a fair amount of the research goes on here at the Federal Government level through the National Institutes of Health and the contracts all across the country, and we are substantially increasing that investment. I believe in that and I support it. I am one of those who has pushed and pushed because there are so many things that we can unlock with respect to these mysterious diseases, and we can make this a much better future if we invest in the research necessary.

When we find the capability and research to address these diseases, very often we see that research available to pharmaceutical industry companies that then market a pill or market some medicine as a result of it. And they do some research themselves—not insignificant, by the way—and find opportunities in their own companies as well to introduce and provide life-saving medicines. So my hat is off to all of them. It is just that I insist on fair pricing for the American people, and that has not been the case for a long time.

I am offering an amendment that is going to save this country \$50 billion over the next 10 years. My colleague, Senator SNOWE, and I, along with many other colleagues, have introduced this piece of legislation—with more than 25 colleagues now, but we have had far more than that many in previous Congresses—and we are impatient. This has been a long tortuous trail and we are impatient to get this done on behalf of the American people.

I wanted to come today, even during the 30-hour postcloture period, to say that when we are on the bill tomorrow, I intend to offer this legislation and to do it in a way that advantages the American consumer to be able to access the same quality prescription drugs that other consumers around the world are accessing for similar prices. At the moment that is not the case. We are overcharged. The drugs are overpriced. It is unfair to the American consumer, and it is past time—long past the time—for this Congress to do something about it.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. Mr. President, as I stated earlier today, I will be back time and time and time again to help my colleagues, one, understand what bill is being considered this week in the Senate but, more importantly, the ramifications of doing the wrong thing.

I think most Americans would agree that we should do everything we can to regulate tobacco products as relates to the youth of our country. By the same standard, I think that we have an obligation as Members of the Senate to make sure we don't in fact limit the choice of adults who choose a tobacco product. I believe that you don't limit that if you responsibly regulate the product. I believe you do limit it if in fact to make something fit you design a regulatory scheme that by default limits the future options adults might have.

I left off earlier talking about the core mission of the Food and Drug Administration being to protect the public health by ensuring the safety and efficacy of pharmaceutical products, biologics, medical devices, cosmetics, and the food supply. God knows we have been challenged over the last couple of years with the food supply. Whether you talk about contaminated peanut butter or spinach in California, a number of things have come into play, and I think many of us would agree the Food and Drug Administration has been deficient in the area of food safety. As a matter of fact, the people now authorizing bills to dump on the FDA the responsibilities for tobacco were very critical of the FDA as it related to their food safety oversight, so it shouldn't shock any of us that I think they are misguided in where they have chosen to focus their efforts toward regulating this industry.

Let me add to that the former—just recently former with the change in administration—FDA Commissioner's statements about this bill.

The provisions in this bill would require substantial resources, and FDA may not be in a position to meet all of the activities within the proposed user fee levels. As a consequence of this, FDA may have to divert funds from its other programs, such as addressing the safety of drugs and food, to begin implementing this program.

This is not something I have schemed up. This comes from the former Commissioner of the FDA, who says that within the framework of the Kennedy bill, the user fee levels alone may not be enough for us to set up this regulatory framework and, therefore, we might have to divert funds from other



programs, such as addressing the safety of drugs and food to begin this program.

Let me explain. To implement this program, it will cost \$787 million a year—\$787 million a year. I will propose, along with Senator HAGAN, a substitute—that when HHS was asked to tell us how much they needed to absolutely fund that new entity to regulate the tobacco industry they told us they would need \$100 million. So there is already an option on the table that allows us to take user fees from the industry to fund a \$100-million-a-year program to regulate the entirety of tobacco; or we can choose to put it at the FDA, where we are basically going to do the same thing and the former FDA Commissioner said the \$787 million devoted to user fees may not be sufficient to meet the regulatory requirements set forth in this legislation.

It is actually a little bit worse than that, because the CBO stated that before the Kennedy plan can be implemented—which is paid for by a shell game of requiring military servicemembers to mandatorily participate in TSP, the savings plan, the 401(k) of the Federal Government—to pay for the program you have to come up with \$200 million to kick the program off. You know, it is a catch-22. The Kennedy program can't even be implemented from the shell game of funding they have set up, but more importantly it is going to cost almost eight times more than if we were to regulate tobacco in a separate entity under the guidance of the Secretary of Health and Human Services—the same person who has the guidance of the FDA; the same Secretary.

What we are going to propose is that we set up a new agency to in fact regulate the tobacco product, but not get it confused with other core missions, such as the safety and efficacy of drugs and biologics and devices. That would be a huge mistake, I believe.

Let me, if I could, quote Jack Sullum's April 2008 op-ed in Reason Magazine in talking about the Kennedy bill. He said:

A consumer protection bill that reduced competition, raised prices, restricted choice, blocked information, and made products more hazardous could not really be counted as a success. The act imposes new regulatory burdens and advertising restrictions. The compliance costs and reduced competition are likely to raise prices. The bill not only authorizes the prohibition of safer tobacco products in the censorship of potentially lifesaving information about relative risks; it gives the FDA permission to make cigarettes more dangerous by ordering reductions in nicotine content. Such a mandate aimed at making cigarettes less attractive to new smokers would force current smokers to absorb higher levels of toxins and carcinogens to obtain their usual doses of nicotine. According to supporters, this bill, backed by the biggest tobacco company, will enable the FDA to protect smokers from big tobacco. But who will protect smokers from the FDA?

That doesn't come from RICHARD BURR or any other Member, this comes from an individual who has had an opportunity to read the bill, something a majority of the Members in the Senate have not done. If Members of the Senate read the Kennedy bill, they would never put the jurisdiction of tobacco with the FDA. They would never jeopardize the safety of drugs, of cosmetics, of devices and biologics. In fact, the Kennedy bill authorizes the prohibition of safer tobacco products.

Let me say that again, because I don't think everybody realizes what I said. The bill prohibits safer tobacco products and the censoring of potentially lifesaving information about relative risks among tobacco products. But this is being sold as a public health bill. This is being sold as a bill that reduces youth access, youth usage of tobacco products.

Let me tell you what we did in 1998. It really wasn't what we did. We were, I guess, smart enough to stay out of it. The tobacco companies, understanding that there was a tremendous health cost that resulted from their products, came up with a settlement with all the States. It was called the Master Settlement Agreement—the MSA—and we will talk about the MSA a lot over the next few days. How much was the MSA? It was a guaranteed award of \$280 billion over a period of time, and every year the companies make that payment to the States. These funds were to be used for health care costs and programs associated with tobacco use, mainly cessation programs. The industry was actually paying States to run cessation programs to get people to stop smoking—to stop using tobacco products.

If States spent the MSA money the way the CDC recommended to them every year, trust me, we wouldn't be here today. We would not be talking about the FDA taking over the jurisdiction of the regulatory responsibilities of tobacco, because had States used the money that was devoted for these cessation programs, the reduction in smoking would have been dramatic.

Let me add that, according to the CDC, smoking rates among Americans decline annually 2 to 4 percent currently—2 to 4 percent a year. The CBO, when looking at the Kennedy bill, estimated that, when implemented, this legislation would only decrease smoking by 2 percent annually. In other words, doing nothing versus the Kennedy bill, we have a trend line that gets us to a 15.97 percent usage of tobacco products in the year 2016; under the Kennedy bill, as scored by CBO, you would have a usage of cigarettes—of smoking products—of 17 percent in 2016. That is almost a 2-percent difference—a 2-percent additional decline, if we do nothing. And I am not here proposing that we do nothing. I am

here proposing we do a new regulation, but we don't do it in a way that necessarily jeopardizes the safety, the gold standard of the Food and Drug Administration.

I think it is shocking in talking about the MSA, the \$280 billion over these number of years designed to help States with their health care costs and with cessation programs. What have the States been doing? Let me pick a few of them, if I could. Of the amount the CDC recommended to the State of Connecticut that they spend on cessation programs—programs designed to get people to stop using tobacco products—how much did Connecticut spend? It is easy, 18.9 percent of what the CDC recommendation was—18.9 percent. I don't know whether they built sidewalks or highways or paved roads or what they did with it, but they certainly didn't do it to try to get people to quit smoking.

It is easy to come up here and pass something that you can turn around and say: Well, this should work, rather than to actually devote money to actually doing something that matters. As a matter of fact, let me say that the smoking prevalence among youth in Connecticut is 21.1 percent.

The alcohol prevalence in youth in Connecticut is 46 percent. The use of marijuana prevalence among youth is 23.2 percent. The use of marijuana in youth in Connecticut is 23.2 percent; alcohol, it is 46 percent; of tobacco, it is 21.1 percent. Why aren't we addressing the real problems? Alcohol usage prevalence among youth is twice what tobacco is. Marijuana is 2 percent higher than tobacco.

Illinois. Of the CDC recommended amount to go to cessation, how much did they spend of the recommended amount? Mr. President, 6.1 percent—6 percent of what CDC said they ought to be spending of the FSA money on programs to reduce the rate of smoking. They used 6 percent. And 19.9 percent of the prevalence among youth in the use of tobacco; 43.7 percent of alcohol; 20.3 percent of marijuana. Again, alcohol and marijuana are higher in youth prevalence than tobacco usage. Six percent of the CDC recommendation devoted to programs to try to reduce the use of tobacco products.

Massachusetts. Of the CDC recommendation as to how much should go to programs to get people to stop the use of tobacco products, 15 percent; 85 percent devoted to something else—building sidewalks, filling in budget gaps—but not to reduction in the use of tobacco products.

But this is such a prevalent issue, we are going to spend a week or longer of the Senate's time talking about how we jeopardize the gold standard of the FDA when States that have had the funds since 1998 to reduce the problem chose to use them on something else because it wasn't a big deal.



In Massachusetts, 17.7 percent prevalence in youth usage of tobacco products; 46.2 of alcohol; 24.6 of marijuana.

Missouri. Of the CDC recommendation for cessation programs, how much did they spend? They spent 3.7 percent. For 96-plus percent, they said: We are not going to spend this on what the CDC recommended that we do to reduce tobacco consumption. We are going to spend it on what we want. Mr. President, 23.8 percent youth prevalence of tobacco usage; 44 percent for alcohol; 19 percent of marijuana usage. Thank goodness marijuana usage in Missouri is lower in the rate of prevalence among youth than tobacco.

Nevada. Of the CDC recommendation of how much they devote in Nevada to reduce tobacco usage, 12.6 percent. And 13.6 percent youth prevalence—they do a tremendous job with making sure the usage by youth is minimal, 13.6 percent; 37 percent for alcohol; 15.5 percent for marijuana.

New Hampshire. Of the CDC recommendation, they spent 5.7 percent on programs to get people to stop smoking. Nineteen percent youth prevalence for smoking; 44.8 percent youth prevalence for alcohol; 22.9 percent youth prevalence for marijuana.

New Jersey. Of the CDC recommendation, 8.5 percent; 19.8 percent for smoking prevalence in youth; 46.5 percent alcohol prevalence for youth; 19.9 percent marijuana prevalence for youth.

Ohio. How much of the CDC recommendation for programs to actually reduce consumption of tobacco products? It is 4.9 percent. Tobacco use prevalence among youth, 21.6 percent; alcohol, 45.7 percent; marijuana, 17.7 percent.

Texas. Of the CDC recommendation, 4.7 percent. Over 95 percent of the recommendation of the CDC, if you wanted to reduce youth prevalence of smoking, 95 percent went somewhere else. Twenty-one percent prevalence in youth smoking; 48 percent alcohol; and 19 percent in marijuana.

This is a sampling for now 11 years during which they have had the funding to do the programs. They have seen a greater need in the States, a greater need to the tune in some cases of 96-plus percent that they were going to devote to something else because the prevalence of youth smoking wasn't that big a concern to those States. They diverted the money. Now, all of a sudden, this is such a pressing issue even though the trendline says doing nothing actually reduces the use of tobacco products, of smoking, more than the bill that is being considered. If we did nothing, it would do better, but all of a sudden we have religion in the Senate.

Here is an opportunity to actually pass something and to go home and say: Here is what we have done. Ten years ago, we promised you the FDA would have jurisdiction, and we didn't do it.

What they forget is, 11 years ago, when we passed the FDA Modernization Act, we opened up the entirety of the FDA as we redesigned how they functioned, and no Member of Congress offered an amendment to give the FDA—11 years ago—the responsibility for tobacco. Every Member focused, over 2½ years in crafting that legislation, on making sure that this mission statement, the responsibility for protecting the public health by assuring the safety and efficacy of drugs, devices, cosmetics, food safety, that we didn't do anything to diminish this. Now, all of a sudden, 11 years later, we are claiming that for 10 years we actually wanted FDA to have jurisdiction of tobacco, and we are willing to jeopardize the mission of FDA on drugs, devices, biologics, and food safety just because we want to give them this new jurisdiction.

Read the bill. Actually spend the time to sit down and read the bill. You will find out how we are jeopardizing the future of the American people relative to drug safety.

Let me quote from the American Association of Public Health Physicians in its white paper on the case of harm reduction. We will talk about reduced-risk products and harm reduction a lot of over the next several days.

From the white paper:

Tobacco harm reduction is taken to mean encouraging and enabling smokers to reduce their risk of tobacco-related illness and death by switching to less hazardous smokeless tobacco products. In practical terms, enhancement of current policies based on the premise that all tobacco products are equal risk will yield only small and barely measurable reductions in tobacco-related illness and death. Addition of harm reduction components, however, could yield a 50 to 80 percent reduction in tobacco-related illness and death over the first 10 years and a likely reduction of up to 90 percent within 20 years.

That is from the American Association of Public Health Physicians. That basically says what you are getting ready to do is a huge mistake. You are getting ready to grandfather every tobacco product on the market today and you are ruling out these new products that might come to market in the future that would have a devastating impact on the reduction of death and illness among the American people, which has a direct impact on health care costs.

From the Royal College of Physicians in Sweden:

In Sweden, the available low-harm smokeless products have been shown to be an acceptable substitute for cigarettes to many smokers, while "gateway" progression from smokeless to smoking is relatively uncommon.

Why is this important? You will hear people say these new smokeless products shouldn't come to the marketplace because that is an opportunity for youth to get hooked on nicotine and then to turn to smoking. Smoke-

less product has an age limit, just like cigarettes. As a matter of fact, I quoted the numbers on marijuana prevalence for youth. Marijuana is illegal. It does not have an age limit to it. It is illegal. Yet, for most of the States I referenced, the prevalence among youth of marijuana usage was higher than that of tobacco. Where is the outrage?

Dr. COBURN will come to the floor at some point before the end of this debate. He will offer a recommendation that we give the jurisdiction to the FDA for smoking marijuana. Why? Because smoking marijuana does more health hazard to one's lungs than smoking tobacco. I will let him make the case because he is a doctor and deserves the credibility of his profession.

There are 14 doctors in the 111th Congress, with two of those doctors in the Senate: Dr. COBURN and Dr. BARRASSO.

One of the House M.D.s, MICHAEL BURGESS, a member of the Health Subcommittee of the House Committee on Energy and Commerce, felt compelled to explain why he voted against this bill in the House, a doctor who voted against the companion bill to the Kennedy bill. He practiced medicine in North Texas for 25 years and lost both parents to tobacco-related illness. He said:

The FDA is a beleaguered agency that cannot do what we currently require it to do with food and drugs. Agency officials have stated the FDA is badly understaffed and underfunded. Yet, with this bill, we are giving the agency an entire new group, tobacco. This is hardly a logical rationale, let alone safe for the American public. Until the agency is able to demonstrate on a consistent basis that they have the capacity to do all we currently require them, we should not give them additional responsibilities.

That is a doctor of 25 years who is basically looking at the work of the FDA and saying: Nobody in their right mind, especially a medical professional, would consider this to be a wise thing, to offer the FDA additional jurisdiction.

Until they can prove that they understand the responsibility of the FDA, which is to protect the public health by assuring the safety and efficacy and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation, until they do that, why would we even consider giving them any more?

That is a medical doctor of 25 years making that statement when he voted against this bill in the House.

This bill is going to pass, make no illusions about that. Why? Because Members haven't read it. If they did, there is no way they would vote for it. The truth is, this is going to be popular at home. They will go home and say: I gave the FDA regulation of tobacco products. They will not go home and say: We had an opportunity since 1998 to reduce youth usage of tobacco and

our State decided not to even meet the recommendations of the CDC, much less the others. We thought it was more important to build sidewalks or fill budget gaps than to meet these new targets. Now we have the answer to it because giving it to the FDA, no child will ever smoke again. Baloney. If they are under 18 today, they are finding some way to buy tobacco. It is illegal, but it should not surprise us when we look at marijuana usage, where we have a product that is not age limited, it is illegal, and more youth use marijuana than use cigarettes.

We really have to focus on this, if, in fact, we want to make sure we don't do the wrong thing.

Let me, at this time, cite part of a letter from Elizabeth Whelan. Dr. Whelan is the president of the American Council on Science and Health. This letter was sent to Congressman STEVE BUYER and Congressman MIKE MCINTYRE in the House. She writes:

(H.R. 1256) will not only fail to reduce the ravages of cigarette induced disease and death—it will likely worsen it. The new regulation of tobacco additives will not lower the toxic and carcinogenic mixture induced by the combustion and inhalation of cigarette smoke. The enhanced restrictions on lower risk tobacco products such as smokeless tobacco and clean nicotine which have been shown to assist addicted smokers in quitting will condemn the over 40 million addicted smokers to the same old quit or die pair of options.

Limit 40 million addicted smokers to the same old quit or die options.

We are going to see, over the next several days, people come to the floor and say this is about public health, this is about reducing youth usage, this is about addressing the health risks of tobacco. Yet every professional who has written on this issue has said: What we are getting ready to do in the Senate is the worst thing we could do. It is going to make the problem worse. It is going to raise the cost of health care, not lower it. It is going to lock more people into choosing cigarettes versus smokeless products or other nicotine products that might get them off of cigarettes as an addiction.

In addition to not advancing the public health, I firmly believe this bill will further overburden the FDA and doom the FDA at its core mission of safety and efficacy of drugs and devices and biologics and food safety.

Again, Mr. President, I plan to visit the floor a lot, as will some of my colleagues, over the next several days as we have an opportunity to continue to talk about this bill but also to offer amendments on this bill.

The FDA grew out of a single chemist in the U.S. Department of Agriculture in 1862 to a sprawling agency today of nearly 10,000 employees comprising chemists, pharmacologists, physicians, microbiologists, veterinarians, pharmacists, lawyers, and many others. Let me assure you, they are

some of the most talented people we have in this country—the most dedicated professionals—to make sure this core mission is met every day. The worst mistake we could make is to give them something that does not fit in the mission of FDA because I do not care how much you try, you just cannot prove that tobacco is safe and effective. It just cannot happen.

If the effort is to get more Americans to make the choice of giving up the habit, then do not create a system that does not allow new products that Sweden and other countries have experienced reduce the amount of usage. Certainly, do not fall prey to the belief that if we pass this legislation we are going to reduce drastically the use of tobacco products. As a matter of fact, as CDC proved, doing nothing reduces the use of tobacco products 2 percent more than if we pass the Kennedy bill. CBO estimate for the Kennedy bill; CDC estimate if we do nothing.

If the effort is to get it right, one would suggest we are doing it wrong. If the effort is to make sure we address public health to reduce the prevalence of youth usage, not to limit the choice of adults, why in the world would you give it to an agency, jeopardizing its core mission by prescribing to the agency an impossible task of bringing new, reduced-risk products to the marketplace?

Where would you create a new regulatory body where you grandfathered every product that currently contributes to death and disease and say: If new products are created that reduce the risk, that reduce the harm, we are going to make it unbelievably difficult for you to be able to market those products. I do not think that is what the term “only in America” was meant to portray. The insanity of what this institution is getting ready to do—why, the American people, they must think we are crazy by now. If they do not today, they will by the time this bill passes.

Again, Mr. President, I will be on the floor frequently between now and then. I am committed to not only point out the difficulties and challenges of the legislation that serves as the base bill but am committed early on to present a substitute bill that brings every bit as much regulatory oversight and responsibility to the tobacco industry but will allow new, less harmful products to come to the market that will allow adults—people of legal age—to choose to use those products, if they choose to, and especially to use them if they are trying to reduce their dependency on smoking. That is the way you reduce the risk of death and disease. You reduce the cost of health care in this country. It is not necessarily by allowing the FDA to have jurisdiction. If I was wrong, I would not point to these States that underfunded the commitment needed to successfully do ces-

sation programs that were paid by the tobacco industry and in most cases found that the prevalence of marijuana use among youth is higher than the prevalence of tobacco use. Marijuana is illegal. Tobacco does have an age limitation.

Our belief that we can just wave a magic wand, give it to a new agency, and that youth numbers are going to go down—well, we might be lucky enough to get them to go down, probably not more than they are naturally going down. I wish we were here debating why the prevalence of marijuana use—an illegal drug—is higher among America's youth than tobacco is. I think the country would be better served if that were the debate we were having on the Senate floor and not a debate about how we jeopardize the safety and efficacy of drugs and devices and cosmetics and food safety in the future.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I rise in strong support of the Family Smoking Prevention and Tobacco Control Act. This legislation has been a long time coming, and for millions of Americans affected each day by tobacco addiction and the hazards of secondhand smoke, for hundreds of thousands diagnosed each year with lung or throat cancer, it provides potentially lifesaving protections that are long overdue.

I wish to commend Senator KENNEDY for his leadership of the HELP Committee in crafting this comprehensive bill. It will give the U.S. Food and Drug Administration the legal authority to regulate tobacco products, curb sales to children, and restrict misleading tobacco advertising.

For many years, the Federal Government has known about the addictive nature of tobacco products and the damaging effects of cigarettes on smokers. We have seen the seductive and deceptive advertisements that have targeted children, women, minorities, and even smokers suffering from tobacco-related illnesses. We have read the evidence spelling out the numerous carcinogens added over the years to increase consumers' dependency on cigarettes. Despite overwhelming data showing the products' destructive effects, the industry's representatives, under oath, refuted well-documented scientific findings about the additives in their products and concealed their own internal research reports.

So far, the Federal Government has been powerless to effectively regulate

the industry. The bill before us tackles this obstacle head-on and gives the FDA the power it has lacked in years past to make Americans aware of tobacco's dangers and to reduce tobacco use. It is a much needed and responsible approach to the epidemic of smoking addiction in this country.

The toll taken by tobacco use in our Nation is devastating. State data compiled by the Campaign for Tobacco-Free Kids outlines the effects in my own State of Maryland. More than one in seven Maryland high school students smoke cigarettes, and each year 22,000 Maryland children try cigarettes for the first time. Of these, 6,600 become new daily smokers each year. Although the sale of cigarettes to those under 18 is illegal, 12.5 million packs of cigarettes are smoked by children in my State each year. It is clear that better tools and stronger enforcement of our laws are needed.

The mortality data shows why we must be alarmed by these numbers. More than 6,800 Marylanders die each year from their own smoking, and 780 nonsmokers die each year from exposure to secondhand smoke. For every person in Maryland who dies from smoking, approximately 20 more Marylanders are suffering from serious smoking-caused diseases and disabilities or other tobacco-caused health problems.

The Senate will begin to consider health reform legislation this month. A major goal of that effort will be to reduce health care costs in this Nation. Well, the legislation on the floor today is a good place for us to start.

It is estimated that the annual health care expenditures in Maryland that are directly caused by tobacco use totals almost \$2 billion, and expenditures from secondhand smoke exposure another \$79 million. Our State's Medicaid budget alone spends \$476 million each year to address tobacco-related illnesses. We can save health care costs and save lives by passing a strong tobacco regulation bill and sending it to the President for his signature.

Perhaps the best case I can make for the passage of this bill comes from Ms. Geraldine Lloyd, who lives in nearby Frederick, MD. She is a courageous woman who has asked that her story be shared with Congress so we can take the necessary actions to protect the American people. Geraldine started smoking at the age of 15 and became a pack-a-day smoker within the first year. Geraldine spent 15 years trying to quit smoking but was unable to do so.

Finally, Geraldine was diagnosed with throat cancer. After radiation and 17 surgeries, she has been left speechless and has to breathe through a hole in her neck. After 11 years of not smoking, she was diagnosed with lung cancer in 2004. In her own words, this is her story:

I was born in 1943, into generations of smokers. Both my grandfathers were North

Carolina tobacco farmers, and my mother's father was a lobbyist for Liggett & Myers Tobacco Company. Although they died before I was born of heart disease and lung cancer, they remained vivid symbols of my roots, until four years ago, when I discovered that my mother's grandfather coined the term "I'd walk a mile for a Camel" and was paid royalties for the slogan until he died. It was also the last cigarette I smoked.

I'm absolutely certain that I was addicted as a child to secondhand smoke. I was constantly sick with chest infections and spent the best years of my life coughing and struggling to breathe. I loved sports, but never had the lung capacity to participate because I was in a futile cycle of withdrawal. I found no relief until I started smoking at the age of 15, escalating to a pack a day within a year.

I didn't try to quit until my mother died in 1975 from brain and lung cancer. But I couldn't. My father died four short years later, from cancer of the throat and the lung. They were both pack-a-day smokers.

Witnessing what smoking had done to them, I was determined to stop. I spent the better part of 15 years trying to quit, using every imaginable over-the-counter treatment as a way of escape. I underwent hypnosis, therapy, acupuncture, patches, gum, and could never remain abstinent for more than a few weeks. Each and every time I quit and began again, the addiction became more ruthless, leaving me less and less capable of coping without them.

I was diagnosed with throat cancer in 1993, and through the next four years I underwent radiation and surgery, and sixteen subsequent surgeries to save my esophagus. Lengthy stays in hospitals, and the stress of breathing through a stoma (a hole in my neck), relieved me of the physical addiction. Looking at myself in the mirror took care of the rest.

Since then, I have been speechless, with the aid of electro-larynx, and dedicated to helping children understand addiction to nicotine. In 2004, after a lengthy recovery, and 11 years of not smoking, I was diagnosed with another cancer, in the lung.

I'm in remission, but my life has been drastically changed. The compromised life I lived while smoking was a vacation compared to the life I've been forced to live since surviving cancer.

The collective and unspeakable horror of allowing an industry to run with a free license to kill is finally being heard. We represent lives of freedom and happiness robbed from nicotine addiction due to an industry that remains unregulated, with rampant freedom to manipulate their product to suit their greed. I have survived, but so many do not. Sometimes survival is the cruellest joke against tobacco's victims. The tobacco industry has been laying down a genetic map of pain, suffering, sorrow, and unconscionable human injustice for decades, and it is time for it to stop.

Mr. President, I want Geraldine Lloyd to know we have heard her message and we take it to heart. It is time to empower the Federal Government, through the FDA, to put an end to the tobacco industry's longstanding practices and to begin to eliminate the threat of tobacco-related illnesses that have taken so many American lives and harmed so many others.

I am proud to be a cosponsor of this legislation. I urge my colleagues to support it overwhelmingly. We owe it

to our children, we owe it to our Nation, and we owe it to Geraldine Lloyd.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HAGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAGAN. Mr. President, I know we are going to have a lot to say about the pending business, the FDA tobacco bill, over the course of the week. I have a number of amendments, and I know many of my colleagues also have amendments they wish to offer as well.

Those amendments and the specific concerns they seek to address we will have an opportunity to discuss when we get to that stage of the process. For the moment, I simply want to lay out some of my general concerns about this legislation.

This broad, sweeping legislation will have a devastating impact on the economy in my State of North Carolina and on the lives of many of my constituents. In my State, we have 12,000 tobacco farmers. We also have over 65,000 jobs in North Carolina tied to the tobacco industry. North Carolina generates about \$587 million annually in farm income from tobacco. The economic impact of tobacco in North Carolina is \$7 billion.

As you know, we are in the midst of an economic crisis, and the bill before us today is further going to devastate our economy in North Carolina by putting thousands of people out of work and exacerbating the already high level of unemployment throughout the State.

First, we are going to hear about how this bill will prevent youth from taking up smoking. I fully support that goal. In fact, I know that every day probably about 3,500 youth across the United States try their first cigarette, and another thousand become regular, daily smokers. Clearly, we have to do something to prevent youth smoking.

But the bill before us goes much further than that. It grants the FDA extremely broad authority to take actions that it considers to be in the interest of public health. That is an interesting standard—especially when you consider that cigarettes, when used as intended, are a dangerous, unhealthy product. I know that and you know that.

Given that cigarettes are an unhealthy product, asking the FDA to take actions in the interest of public health puts them in a very difficult position. It creates a practically unprecedented regulatory conundrum for the FDA that will require them to go much farther than the stated mission of reducing youth smoking.

Another issue is the product standards. Under the bill we are going to be considering this week, not only can the FDA take actions that reduce smoking, but they would also have the authority to change what actually constitutes a cigarette. I will discuss that point in more detail later, but I will state now that, unequivocally, this bill gives the FDA the authority to set standards for tobacco products, whether or not the technology actually exists today to meet those changing standards.

If we are, one, asking the FDA to set standards in the interest of public health and, two, we are giving them the authority to require the removal of harmful components from tobacco products—including components that are native to the tobacco leaf itself—and, three, if we are allowing them to move forward with these regulations even if the technology doesn't exist today, what do we expect the FDA to do? What would any of us do if we were in that position? This legislation puts the FDA in an impossible situation.

I will close by saying that I have many friends in North Carolina who are wonderful tobacco farmers. Many of their families have been growing tobacco for generations. I am very concerned about the impact this bill will have on their livelihood. I think that a reasonable compromise can be found on this bill, and I look forward to discussing some of the ways this legislation can be improved as we move forward in the process.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I rise to speak about an amendment that my friend from Kansas, Senator BROWNBACK, and I will be introducing at the appropriate time, to this very important underlying bill that we have in front of us. I want to particularly thank our majority leader for supporting this effort, given the important timing of this particular legislation to the economy and to those involved in our auto industry—our dealers in communities across the country. I thank him for allowing us to put this forward and hopefully have the support of colleagues to be able to place this on this bill so it can be moved to the President as quickly as possible. Timing is very much of the essence on this amendment.

I also thank Senators DURBIN, VOINOVICH, LEVIN, BROWN, MIKULSKI, LIEBERMAN, and others who are cosponsoring the legislation we have introduced, and those who are cosponsoring this amendment as well.

This is the Drive America Forward Act. It will save jobs in America. It will help our dealers across the country, both those who are going forward as dealers and those who, under Chrysler and GM bankruptcies, have been told that they will have to either liquidate or look for other options as business people. It will help stimulate the economy. This is very much a stimulus. It will save money for consumers. And it will also lower carbon emissions—all of that in one amendment. We are very hopeful that we will have a strong bipartisan vote at the appropriate time when this amendment comes forward.

Under the program that we are outlining in our amendment, consumers may trade in their older vehicles and receive vouchers worth up to \$4,500 toward the purchase of a new vehicle that is more fuel efficient, a car or truck that is, in fact, more fuel efficient.

I thank colleagues in the House who have done terrific work on this particular piece of legislation. Chairman WAXMAN and Congressman MARKEY, and Congressman STUPAK and Congressman DINGELL from Michigan, worked together through the Energy and Commerce Committee in the context of the bill that was reported out a couple of weeks ago from Energy and Commerce on energy and climate change. They had this provision in their legislation. I thank them.

We have taken their language, working with them every step of the way. We have addressed some issues to allow dealers to make sure this is operationally going to work best in terms of the administrative side of it. We have combined those efforts into this amendment. It is critical that we pass it at this time.

It goes, really almost without saying, when we look at what happened yesterday with General Motors, when we look at what happened in terms of Chrysler—and we are looking for some very good news either by the end of this week or next week on Chrysler, hopefully to come out of bankruptcy—wouldn't it be a wonder that, as they do, we have in place an incentive program for purchasing new vehicles, turning in older vehicles and purchasing new ones?

We will get people back into these dealerships. We will be able to help communities across the country, neighborhoods, large and small, where the local dealership is, where, because of the economy, because of the lack of financing for too long—and we appreciate President Obama and the auto team in helping create the financing mechanisms for people to finance the purchasing of a vehicle and for dealers to finance their floor plans—for too long everyone was hit by the global credit crisis, the economy and the economy at large. We found an ex-

tremely difficult situation for dealers as well as the automakers and suppliers.

Obviously, there are still many challenges. We know that thousands of dealerships across the country are currently in peril. This is an opportunity to immediately stimulate auto sales, to bring people back into the dealerships, to turn in vehicles that are worth \$4,500 or less—and this is a program where you are taking the old vehicle off the road, so we know we are not talking about somebody turning in a vehicle that is worth \$10,000 or \$15,000 for a \$4,500 voucher—older vehicles, vehicles that we know are less fuel efficient, to turn those in, get them off the road, buy a new vehicle and, at the same time, have the other benefits that go with it.

We know that across the country it is not only the automakers about which I care deeply, as do others, and the great suppliers of the industry but the dealers, and from sales to administrative staff, to advertising outlets, to the local suppliers. Many dealerships are being forced to close or cut back because vehicle sales are down. This will help immediately. It couldn't come at a more important time.

The Drive America Forward Act will send buyers back to showrooms, keep people working in cities and towns across America.

President Obama called on us yesterday to pass a fleet modernization bill, to increase demand and get buyers back into the showrooms. Our bill does exactly that. Sometimes it is called cash for clunkers. Sometimes it is called fleet modernization. We call it a good old-fashioned jobs bill. This is Drive America Forward. That is exactly what we want to do with this amendment. It will stimulate the economy.

New vehicle sales are down nearly 40 percent compared to last year due, in large part, to the credit crisis, to job losses, and dwindling consumer confidence. It has affected every automaker, not only GM, Ford, and Chrysler, which I am very proud to have as part of Michigan's economy, but every single automaker has been affected which is why other countries have responded with similar plans.

If we look right now, auto sales are down 40 percent from last year. If we look at January to May of this year and January to May of last year, there is a 40-percent reduction. Imagine a dealer, an automaker or supplier trying to keep the doors open and 40 percent of their business is down. GM is down 41.8 percent; Toyota, 39 percent; Ford, 36.8 percent; Chrysler, 46.3 percent; Honda, 34.4 percent. We could keep right on going across the board as we look at auto companies and what is happening. This would be available to all the dealers, all the auto companies.

At this point, we want to make sure we are providing stimulus across the

board in the economy. The average dealership employs 53 people, so we are talking truly about small businesses. That is almost 160,000 people nationwide, more than the combined workforce of GM and Chrysler. That is how many people work for dealerships. This is about getting people into the dealership, getting people back into a position to buy automobiles and to keep those folks working and keep the economy going in communities across the country. Moreover, local dealerships have cut spending on advertising, as companies have, which hurts newspapers and radio and television revenue at a time when local businesses are suffering. We know the stories. We have heard of the ripple effect. We have heard from those dealerships that are being given notice about closing, the impact of that.

I have said before, I grew up in one of those dealerships. My dad and grandfather, in a community of about 2,500 people in Clare, MI, had the Olds dealership. We were very proud of that. One of the side benefits for me is I always had an automobile to drive. That made me pretty popular among my friends, although they only let me drive the old ones. But the reality is, this is a part of the fabric of America. When we talk about my dad and grandpa's dealership, they were the ones sponsoring the Little League team and buying the ads in the newspapers and the nonprofits that were doing fundraising drives and so on. This bill, the Drive America Forward Act, will help places such as my dad's and grandpa's. That is what this is all about.

It is going to save money for consumers. The Department of Energy estimates that a consumer who drives a vehicle that gets 30 miles per gallon will save approximately \$780 a year compared to a vehicle that gets 18 miles per gallon. We are saying under this program that if you have a car that gets 18 miles per gallon or less, you qualify. You turn it in, you can get a higher mileage vehicle and get from \$3,500 to \$4,500. We are saving consumers money by that.

In Michigan right now, everybody I know who is in Michigan could find a lot of ways to use \$780 more as a result of that savings.

In addition to saving jobs, the program will save fuel. As buyers turn in their older, less-efficient cars, more fuel-efficient vehicles will take their place, and the fuel savings could exceed 1 billion gallons per year.

Finally, the bill helps lower carbon emissions. If the program removes 10 percent of the V-8 engines from the road, carbon dioxide emissions will be reduced by tens of millions of metric tons annually. It can take up to 20 years to replace most cars on the road today with new, more efficient cars. That could take longer because of the economic downturn. People are waiting

to buy a new car. Automotive purchases are way down, about 40 percent. This will turn that around. This will help incentivize turning that around.

The oldest cars on the road are also the ones that pollute the most. The dirtiest 10 percent of the cars account for more than 50 percent of the smog and carbon monoxide. The dirtiest one-third of the fleet accounts for more than 80 percent of the pollution. The dirtiest one-third of the automobiles account for 80 percent of the pollution. I talk about these issues because they are very important. I also go back to the beginning. This is about a stimulus. This is a terrific thing, that we are adding cost savings and fuel economy savings and getting rid of carbon pollution. This is all very good. There will be others who talk about other ways to do this that would have more savings on that end. Unfortunately, it would sacrifice our ability to help the auto industry.

Right now what we have is the ability to do both. It is critically important that whatever we do, we make sure our American automakers can benefit. We have to make sure we are not putting in place something where the fuel efficiency standards, the goals are so high or written in a way that creates an incentive for foreign automakers, while curbing those folks right now who need our help the most.

This is a balanced bill. This gives us the ability to benefit from increased fuel efficiency. It gives us the ability to deal with cost, to deal with carbon pollution. But it does so in a way that, at the end of the day, treats American automakers fairly and gives them the opportunity fully to participate, so the Chrysler dealers we have been hearing from, the GM dealers, as well as the great Ford Motor Company will be able to benefit as much as the other companies. That is what this does. That is why there has been a tremendous effort put into this. It doesn't seem like it would take that much to put this together, but in order to make sure we are complying with our trade laws, so we were allowing any company to participate under our trade laws but making sure we were being fair to our own companies that have been here and created the middle class of this country and are going through so much right now, every single line has been reviewed and discussed and reviewed again.

The House did terrific work, putting together language that is fair for everybody. That is what this bill is all about.

In the context of talking about all the hard work, I thank my key staff person, Colleen Briggs, who has lived and breathed this issue for several months. I told her I would name this after her, at least in my office, because there has been so much work that has had to go into this effort. I thank her

for her hard work. I thank also the White House auto task force that has been so committed to doing whatever we can to support jobs here, manufacturing jobs, auto jobs, and every way we can to incentivize, whether it is being able to get the financing one needs, supporting the industries as they go through the bankruptcy process or this incentive. I thank them for their support in doing that.

I also, once again, thank my friend from Kansas who has been a stalwart on this issue. We have had a true partnership on this which I appreciate very much. I very much appreciate that both of us are leading this effort, as well as other colleagues on both sides of the aisle who are cosponsoring this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I am delighted to join my colleague from Michigan in support of this bill. This is the right way forward. She has outlined most of the provisions, and I will add a few points, if I may.

It is a humbling time for auto manufacturers globally. She went through the figures for all auto manufacturers, and there has been a huge falloff in the market. As the global credit crisis has impacted the world, maybe the industry hit the most has been automobile manufacturing on a global basis. We saw the numbers in the United States. One of the ways other countries have responded is with what they call scrappage programs. We have heard it referred to in different terms but several countries have looked at doing a type of scrappage program. It has been very successful. I was looking at the numbers. In March, Germany, France, and China saw increases in car sales—all three did scrappage programs—of 40 percent, 8 percent, and 8 percent, respectively.

During the same period of time, the United States and the United Kingdom did not have scrappage programs, and we saw declines in car sales of 37 percent here and 30 percent in Great Britain. That is the difference these programs are making on a global basis because the credit crisis has hit this industry the most. A lot of things one has to buy on a regular basis. We have to buy gasoline, food, shoes for the kids. But often, for a lot of people, they look at their car or pickup, and they say: I am not sure what is going to take place. I will hold off on this one. So they hold off and the sales tank. That is what has taken place. People say: I am not sure what is going to take place; therefore, I am going to hold off.

I have a brother who is a veterinarian who was saying to me the other day—he has an old pickup in his business. He is doing just fine in his business. He said: I am just going to wait a

while. I said: No. This is the time we need you in the marketplace. This gets him back to the marketplace. It has been proven effective in other countries to get people back in the marketplace. It has worked in other places. We now see that the United Kingdom—that did not do the scrappage program—has enacted their own scrappage program. That is another reason why I think we should do that one here.

There is another point, and I think it is an important one to make. It is often very difficult to find ways to support manufacturing without breaking international trade rules because we have a number of international trade rules that restrict what governments can do to help a particular industry.

As to the World Trade Organization, this is a legal and consistent way for us to help automobile manufacturing without breaking any trade rules. That is important because we cannot be getting into some sort of trade sanctioning or there being offsets to it. This one is consistent with that.

Another thing I think is very important—and my colleague from Michigan was very good to talk about this—this is a balanced approach that helps the environment, helps the economy, and helps our energy sector as well with us being more efficient with energy.

I think as we move forward with concerns about CO<sub>2</sub>, concerns about the environment, concerns about the economy, concerns about domestic energy production and the need for domestic energy production, we have to balance the three Es: energy, the environment, and the economy. This bill does that. So here you are stimulating the economy, reducing your energy demand, and improving your environment—all at the same time.

And this bill—and this, to me, as a fiscal conservative, is the key point—also uses funds that have already been appropriated. There is no new money on this bill. These funds have been appropriated. They are going to be reprogrammed. I believe they will be reprogrammed. We are being told by the Obama administration that if this passes, this will be implemented with reprogrammed funds. So those funds—having already been approved by the Congress—would be used in a more effective way for a consumer-driven economic stimulus that helps the local dealerships, that helps the car manufacturers, that helps the environment, that helps our energy dependency in a very positive way.

It has worked around the world. It will work in the United States. It will get people such as my brother back in the showroom, I hope. I am certainly going to push him to do that, as all of us will. We have seen an unprecedented falloff in car sales. It helps in a State such as mine where there are a lot of work trucks being used. This voucher program is targeted for use and utility

by businesses that use trucks, and they can use that on this one as well. It works, and it helps out there.

For all those reasons, I urge my colleagues to support this bill. It is balanced. We have worked a long time on it.

Senator STABENOW recognized her staff member. I have had Landon Fulmer in my office working for some period of time on this issue to get it to where it would work. It would be simple, it would be direct, it would hit, and it would hit quickly. He has worked to do that, as her staff has. I think we have got a good product here, and it is not any new appropriated money.

I would say particularly to my colleagues on my side that I am very concerned about where our deficit and debt is going. This is no new appropriated money to do this, which I think is key.

For those reasons, I urge the backing of this bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I rise today to discuss the Family Smoking Prevention and Tobacco Control Act.

Let me be clear from the outset. Thanks to public information campaigns that have been waged for decades, the 45 million Americans who smoke already know that cigarettes are dangerous. If you smoke, chances are you could die from smoking.

This legislation does little, if anything, to change that. The proponents of the bill say it is public health legislation that will lower the cost of medical care. That is a very noble goal. Everyone is in favor of saving lives and bringing down health care costs.

But this bill will not accomplish that. Instead, it engages in overregulation with no practical effect on smoking rates. The Congressional Budget Office says it would only result in a 2-percent reduction in smoking rates over 10 years and would have a minimal impact on health care savings.

Meanwhile, according to the Centers for Disease Control and Prevention, smoking rates are already declining an average of 2 to 4 percent over that same period of time. So according to the CDC, if we do nothing, we will still have a decline in smoking rates equal to or greater than what CBO says this bill will do.

The goal of any Federal tobacco regulation should be to keep children from smoking or using tobacco products and to help adult users stop or, at a very

minimum, to use a less harmful product. But the bill does just the opposite. If this bill passes, cigarette manufacturers such as Philip Morris and Reynolds America will be prevented from using the terms “light” and “low tar.” That means their cigarettes will still be on the market but under different names, not leading to fewer smokers, but leading to consumer confusion.

Just as bad is the overregulation that this bill will put on the already beleaguered tobacco farmer, in effect, helping put those who are left out of business. It would allow the FDA to enter just about any tobacco farm in the country. And it would indirectly require tobacco manufacturers to dictate production methods to farmers. It would also require the development of a new, unnecessary regulatory process at the FDA to set pesticide residue tolerances. This would duplicate a process that already exists at the Environmental Protection Agency. It makes no sense to pile these new responsibilities onto the FDA since the agency is barely able to keep up with its present duties.

Oddly, under this bill, the FDA—an agency that is designed with ensuring the safety of drugs—would be given regulatory authority over an inherently dangerous product.

Again, cigarettes will kill you. We have known that for decades. Even if the FDA managed to cut smoking-related deaths in half, it would still be vested with regulating a product that kills 200,000 people each year.

The American Association of Public Health Physicians has said that even if the FDA has the authority to remove some harmful ingredients in cigarettes, changing the chemical nature of tobacco itself or lowering nicotine levels will not measurably reduce tobacco-related illness and death.

This bill is slated to spend \$5.4 billion taxpayer dollars to provide even more Federal regulation which will have no real effect. About a quarter of that money will be raised off the backs of our men and women in uniform, who will be forced into a mandatory thrift savings plan program to pay for yet another Government program that simply does not work.

This legislation mandates TSP participation for new Government and military personnel. This may sound good in theory, but even with an opt-out provision—which the legislation does call for—it is bad policy for our soldiers, our sailors, our airmen, and marines, who, at junior ranks, frankly, earn very little money and are often under 20 years of age. That is why the Chairman of the Joint Chiefs of Staff opposes this provision and says if you are going to have any revenue-raising money, it should be an opt-in provision with respect to TSP for our military men and women.

Mr. President, I ask unanimous consent that the letter from Admiral



Mullen, Chairman of the Joint Chiefs of Staff, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE JOINT CHIEFS

OF STAFF

Washington, DC, May 29, 2009.

Hon. JOHN MCCAIN,

*Ranking Member, Committee on Armed Services,  
U.S. Senate, Washington, DC.*

DEAR SENATOR MCCAIN: Thank you for your letter of concern regarding H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

I have reviewed the legislative language and the Services' views on the pending legislation. I disagree with the language contained in H.R. 1256, Division B, Title I, Section 102(a)(2)(E)(ii). While this language allows for Services to suspend automatic enrollment, which is the preference of the Navy, Air Force, and Marine Corps, I disagree with placing the onus on the Service Secretaries to "opt-out" of automatic enrollment.

My recommendation is that the language should be written to reflect that the Service Secretaries must "opt-in" if they desire to make enrollment in TSP automatic for Service members.

Thank you for your concern regarding the financial well being of our Service members. I am sure you will agree with me that financial education by our senior leaders is paramount, and I have every confidence in their abilities.

Sincerely,

M. G. MULLEN,  
*Admiral, U.S. Navy.*

Mr. CHAMBLISS. Mr. President, we may not like smoking, and we should do everything we can to keep cigarettes away from children. But adults in this country have a choice, and many of them, aware of the inherent dangers, still choose to smoke. Spending billions of taxpayer dollars on an ineffective program to convince them otherwise, while regulating our farmers out of business, and taking away more of our troops' paychecks, is not good policy. It is more shortsighted government.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. COBURN. Madam President, I wish to speak for a few minutes on the bill we are proceeding toward and to ask a few questions of the American public.

We have a bill that is going to regulate tobacco, and I am OK with us regulating tobacco. I do not have any problems with it. I think we should do it. What we should be doing is banning tobacco. Nobody up here has the courage to do that. It is a big business.

There are millions of Americans who are addicted to nicotine. And even if they are not addicted to the nicotine, they are addicted to the habit.

But we have a bill, we are trying to do something positive, and we find ourselves constrained by our own short-sighted vision. We have an agency called the Food and Drug Administration. I have had a lot of experience with them. I manufactured medical devices in the 1970s and had several investigational new drug permits under them. I know the rigors under which INDs are managed and the care that is put forth by the employees of the Food and Drug Administration, as well as their advisory councils, as we go through that.

But if we go back and look at the charge of what the Food and Drug Administration is, the Food and Drug Administration is about safety and efficacy—"safety," meaning they are responsible to make the judgment that if we are going to approve this medicine or this device that is within an acceptable risk—there is always going to be down sides to anything they approve, but within an acceptable risk, in total, it is going to be better for the country.

In this bill, we allow existing tobacco products not ever to be eliminated. So we are going to take products that we know are not safe and we know are not efficacious and we are going to apply the resources of an agency that is having trouble meeting its demands right now, as well as meeting the demands of food safety right now, and we are going to take resources and put them there.

The first problem with that is we send a totally mixed message to the Food and Drug Administration: Your job is no longer about safety and efficacy; your job now is to warn everybody about the downside of tobacco.

We know that. What we have to do is stop new addiction. We know that. If we really want to make a difference in health and we want to eliminate dependence on tobacco, what we have to do is to stop the addiction. We have had all of these lawsuits through the years where billions of dollars have gone into attorneys' coffers, and about 40 percent of it has gone into, supposedly, stop-tobacco-use programs, and we are going to say to the Food and Drug Administration: Your job is about safety and efficacy, making sure that what it says it does, it does, and we are going to turn them into a different kind of agency. I believe that is where this bill is misdirected.

We ought to have an agency that does control tobacco, that does heavily regulate its advertising in terms of the warnings on the packages, in terms of limiting what young people can get to, so we can actually stop this trend toward addiction. But to do it in the Food and Drug Administration sends a mixed message: No longer is our job efficacy, no longer is our job safety; our

job is to control advertising, we are going to control packaging, we are going to control and have them report to us on the contents of all of these thousands of bad products that are associated with tobacco, that are in tobacco—not just nicotine and not just the effects of the tobacco, whether it be inhaled or chewed or sucked on. The fact is, we are going to change the direction of the agency.

So what should we do? We should regulate tobacco. We should set up a way for us to do that which will effectively stop new addiction, especially among young people because that is where it starts. It starts with the young, and there are certain personality types as well as certain genotypes that, even with some of the medicines we have today, cannot wean themselves from the addiction to nicotine.

So why wouldn't we go another way? We have the Department of Health and Human Services, of which FDA is a part. Why wouldn't we create a smaller agency that is just about tobacco, just about regulating tobacco, so that we can see clearly—and we can also do it, by the way, for about a fourth of the cost of what it is going to cost to do it under the FDA. So for one-fourth of the cost, we can create a new agency within HHS that will be solely focused on this and this only, that will have one primary objective, and we will force and guide and direct and measure whether they are accomplishing their purpose. Instead, we are going to hide it in another agency that is struggling today.

We are at \$400 million to get a new drug through the FDA right now. That is the cost of processing. That doesn't even talk about the research costs, but the new drug. That is just the cost to get it through the trials and get it through the FDA. We have all of these drugs today that aren't approved, that could be saving people's lives, because we can't get it through the FDA. And now, what are we going to place on the FDA? We are going to place the regulation of tobacco on the FDA.

Tobacco is not safe. In no way is it efficacious for any individual. Yet we are going to put a segment within the FDA and say: Run it the way you are running the rest of the business. It makes absolutely no sense to me. It doesn't mean that the goal behind this legislation isn't a good goal. It is. It is a good goal, but how we are doing it and where we put the control of this is totally counterintuitive.

I think if you would ask anybody in America, you want the people who are approving the drugs that are good for you to also control—why don't we put alcohol under them? Why don't we put the DEA under them, under the FDA? If, in fact, we want a controlling agency, then let's move it to the DEA—the Drug Enforcement Agency—or Alcohol, Tobacco and Firearms, right? Why



don't we put it in ATF? We already have other agencies. But to put it in the FDA, when the total goal of the FDA is to approve new products for our benefit, our safety, and to cure health needs—tobacco creates health needs; it doesn't cure them. The only thing I know that it cures is if you get a wasp or a red hornet sting and you take some chewing tobacco and put it on the sting, it takes the pain away. I experienced that a lot as a young boy. My grand dad would pull it out and put that plug right there, and the pain would go away very quickly. That is the only efficacious thing I know about tobacco.

So I would just ask my colleagues to think again about what we are doing. Let's do the intent of the bill, but let's do it in a way that makes sense, that doesn't send a cross signal, and either put it into one of the other organizations we already have that is handling products that are bad for Americans—not products that are good for Americans—or let's put it into a separate agency where we can see it transparently and clearly.

I wish to make one other point. Inside this bill is the banning of any new nicotine products. I wish to tell my colleagues that is totally shortsighted. If you are a smoker today and we could get you off of smoking even though we still give you nicotine and we can do that through a new product, such as a dissolvable flavored lozenge, where we supply the nicotine addiction to your body but you are no longer creating lung disease, chronic obstructive pulmonary disease, bolus emphysema, or increasing your chances for heart disease and hypertension, markedly increasing your chances for lung cancer, if we could convert that to something that would satisfy the demand yet wouldn't harm the rest of your body—we ban that in this bill. We stop all positive movement through commercial products to create a nicotine source that is other than chewing tobacco or cigarettes or cigars.

So why would we want to do that, especially if, in fact, we could take these millions of smokers today who, most of them, their habit is—there are two addictions they have. One is the nicotine craving that actually hits at the intercellular level. It is called a nicotinic interface in terms of receptors on certain parts of the body. If we could do that in a way that would allow us to put nicotine in there to solve it but not cause all of the other disease, why would we say with this piece of legislation that we are never going to let that happen? Yet we are. I don't understand it. We could do that in a way where that could be highly restricted to only people who had a prescription, where they were already nicotine addicted.

So there are things we are missing in here from a general health standpoint that are going to be very harmful be-

cause what we are saying is: You can use the nicotine patch, you can take some of the new drugs that work in the brain to relieve the nicotine addiction, but rather than supply something in a harmless way that has no other ill health effects—I don't understand why we would not do that.

So I would appreciate my colleagues considering my comments. I believe the FDA is the last place we ought to put this. I think we ought to do it. We ought to change some of the things on how we are going to do it. We ought to create a capability to have nicotine supplied other than through chewing tobacco or cigars or cigarettes so that we can take the effects of it that we know are very harmful today and lessen them for the citizens who are addicted to nicotine.

My hope is that we wake up before we pass this bill because what we are really going to do is we are kind of shooting ourselves in the foot. If we really want to stop and help those people who are already addicted and really want to prevent new addictions, then we have to allow for some of these new products, and we ought to do it at an agency that doesn't have purposes counter to what the charge of that agency is.

With that, I yield the floor to my friend from Oregon. I also thank him for being so kind to allow me to go first.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, before he leaves the floor, let me tell the distinguished Senator from Oklahoma that I very much appreciate working with him on health care legislation. We did it in the House, and we are going to do it again. I think this time the Senate is going to make history and have comprehensive health reform, and I look forward to working with my colleague on it.

I come here today to express my strong support for the Family Smoking Prevention and Tobacco Control Act. The lead sponsor of this legislation is, of course, Senator KENNEDY. I say "of course" because the fact is, for four decades Senator KENNEDY, often against great odds, has consistently come back again and again to lead the fight to improve health care for the people of our country. Sometimes it was for children. Sometimes it was for seniors. Sometimes it was for the disabled. Sometimes it was for those who have suffered mental illness. I could go on and on, and we would be here until breakfast time if I were to try to itemize all of the major pieces of health reform legislation Senator KENNEDY has authored over the last four decades. It is very appropriate that he is the lead sponsor of this legislation. The fact is, after Congress passes this important bill and takes steps to improve public health, we will be very

fortunate that Senator KENNEDY is going to lead the Senate once more on comprehensive health reform. I wish to make clear as a member of the Senate Finance Committee that I am very much looking forward to Senator KENNEDY's involvement in this issue and his championing of the cause of fixing American health care. He has been the leader on this issue for four decades.

I come to this topic with I think a personal perspective that also affects my role as a policymaker. In 1994, when I was a Member of the House, I served on the Health and Environment Subcommittee. It was chaired by HENRY WAXMAN, a great champion of trying to protect children against the dangers of tobacco. Chairman WAXMAN had the CEOs of major tobacco companies before his subcommittee. He put all of the CEOs under oath, and as expected, Chairman WAXMAN did a tremendous job in terms of laying out the case for public health. In fact, he was so effective, that by the time it came to my turn, I was hard-pressed to find a question he hadn't already asked the tobacco CEOs. Just as I was thinking about packing up, I turned to some of Chairman WAXMAN's staff, who are wonderful public servants, and I asked whether any of the members of our committee had asked the tobacco executives if they thought nicotine was addictive. The staff all told me nobody had. They said: You ought to ask them. I wish to take a minute to lay out that historical record of what happened.

I asked each one of the tobacco executives that day back in April of 1994 whether they thought nicotine was addictive. The president of Philip Morris spoke first and said:

I believe nicotine is not addictive, Yes.

Then the chairman and CEO of Reynolds Tobacco Company spoke and said:

Mr. Congressman, cigarettes and nicotine clearly do not meet the classic definition of addiction. There is no intoxication.

Then the president of U.S. Tobacco spoke. He said:

I don't believe that nicotine or our products are addictive.

The chairman and CEO of Lorillard said:

I believe that nicotine is not addictive.

The chairman and CEO of the Liggett Group said:

I believe nicotine is not addictive.

The chairman and CEO of Brown & Williamson said:

I believe nicotine is not addictive.

Finally, the president and CEO of American Tobacco said:

I, too, believe that nicotine is not addictive.

I made a vow after I had asked that question that during the time I would have the honor of serving in the House and later the Senate, to make an effort to do everything I could to hold tobacco companies and other companies

that mislead the American people accountable. Today, we are able to do that because of the outstanding leadership of Chairman KENNEDY. He is giving us the opportunity to hold accountable the tobacco companies that mislead the public with respect to their marketing practices and with respect to advertising. The Kennedy legislation is, in my view, very much needed to protect the public health—particularly the health of our young people—because it will give us the authority to hold the tobacco companies accountable for their actions.

This is also relevant to the next major health bill that we will be dealing with in the Senate which will take the form of comprehensive health reform—health reform that ensures all Americans have good, quality, affordable coverage and, particularly, does so in a way that holds costs down.

I, gratefully, had a chance to meet with the President today at the White House. The President, who has clearly signaled this will be a top priority for him, has now sent the message that history, to a great extent, is going to judge us on our ability to hold down runaway health costs and cut costs for American families.

In my home State alone, \$1.1 billion in health care costs are directly attributed to smoking per year, and it costs the Oregon Medicaid Program nearly \$287 million per year. Nationwide, \$96 billion in health care costs are directly attributed to smoking. This includes \$24.7 billion in smoking-caused Medicare expenditures.

There are enormous financial costs specifically associated with people at an early age getting addicted to tobacco use. Then, of course, there is the extraordinary loss of life that comes about as a result of tobacco. According to the Centers for Disease Control, in the United States, over 400,000 deaths each year are directly attributable to tobacco use. The FDA has given the authority to regulate food and prescription drugs, and it certainly makes sense that the FDA regulates tobacco, which is responsible for the death of over 400,000 Americans per year.

The Senate, because of the leadership of Senator KENNEDY, has the unique opportunity to reduce the financial and human toll of tobacco. I wished to recount, briefly, that hearing in 1994, because ever since that time, when the tobacco executives said under oath that nicotine wasn't addictive, I have wished to be part of an effort to hold the tobacco companies accountable when they mislead the American people. As a result of the outstanding leadership of Chairman KENNEDY, it is possible for the Senate to finally hold these companies accountable by passing this legislation. I hope that Senators on both sides of the aisle will join me and Chairman KENNEDY in supporting this long overdue bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Madam President, this week the Senate takes up a bill that is long overdue. It is a historic opportunity for us to finally protect our children in this country from tobacco addiction. I didn't realize, when I was elected to the House of Representatives, in 1982, that the issue of tobacco would be a major part of my congressional activity. My family, similar to virtually every family in America, has been touched with tobacco death. My father died when he was 53 years old of lung cancer. I was 14 years old. He smoked two packs of Camels a day back in the 1950s, when even doctors were saying in magazines how safe it was to smoke. His cough was a sound I will carry to the grave in my memory. When I hear that smoker's cough, I can pick it out of a crowd. As a kid, I heard it over and over, night after night, day after day, until he passed away on November 13, 1959. That is my story on tobacco. Every family in America has a story to tell.

Tobacco products are some of the deadliest products sold in America but, unfortunately, the least regulated.

The tobacco industry has been successful in keeping tobacco products outside the regulatory authority of the FDA. They said it is not food and it is not a drug; therefore, we are exempt. That specious argument continues until this day, when we are finally facing reality. Tobacco is, in fact, a carrier of a drug—nicotine—which is addictive. That addiction is what leads to more smoking, more tobacco exposure, and more death.

The Family Smoking Prevention and Tobacco Control Act is a strong bill that will protect the public health and reduce tobacco use, especially among kids.

Forty-three million American adults currently smoke. That is one in five. Ninety percent of them started smoking in their teenage years, before they were adults. You wonder why. Well, I remember, when I was a kid, the first time my cousin, Mike Peterson, and I decided to sneak out behind the garage with cigarettes and try them out. It was an adventure. We were being like the grownups whom we wanted to be like someday. Luckily, for me, I stopped. Mike didn't. Mike passed away 10 days ago. He was a year younger than I, but, unfortunately, the ravages of tobacco and the addiction lead to cancer, COPD, and ultimately cost him his life at the age of 63. That happens

a lot. Some kids quit, some kids don't quit; those who don't quit get addicted. Their addiction can lead to death, as it did for my cousin and childhood friend, Michael Peterson.

Every day in the United States more than 3,500 kids try smoking for the first time. A thousand of them become regular daily smokers.

In Illinois, almost 20 percent of the kids smoke, and together they consume about 34 million packs of cigarettes a year. We know tobacco is the largest preventable cause of death in America. For the longest time, the tobacco lobby held Congress in the grip of its hands. It would not allow the passage of any significant legislation. It was too powerful.

We knew their power meant they would be able to continue to sell their products, leading to devastating results. A few years back, I decided to take them on. It wasn't to get even for my own family circumstance, but I thought there was an unfair and unjust situation. It resulted in a change in the law, which changed a lot of things in this country. Mine was the first bill to pass the ban smoking on airplanes. At the time, it was considered a fool's errand to try to defeat the tobacco lobby. When I offered the bill in the House of Representatives, it was opposed by the leadership on both sides of the aisle, Democrats and Republicans. Somehow or another, through faith and good luck and the help of people such as former Senator and Congressman Claude Pepper of Florida, I was able to bring this matter to the floor for a vote, and I won, to my great amazement. We banned smoking on airplanes for flights of 2 hours or less.

Eventually, Senator LAUTENBERG picked up the issue in the Senate, and he showed amazing leadership in passing it in the Senate. The two of us managed to make this the law of the land. I don't want to take too much credit, but once people started thinking: If secondhand smoke is unsafe in an airplane, why is it safe in a train or in a bus or in an office or in a school or in a hospital or in a hallway? Pretty soon, the dominoes started falling across America. Laws were passed—local, State, and Federal laws—which have made smoking the exception in closed quarters and have changed the way we look at smoking today, from the time just 15 or 16 years ago, when it was considered to be the normal thing to do and objecting to it was considered out of normal.

That has changed, but still there is a lot to do. The tobacco industry hasn't stopped. They are still selling and marketing their product. As they do, more and more people become addicted, get sick, and many of them die. Tobacco companies, it was found in 2006 by Judge Kessler in the U.S. Court of Appeals in the District of Columbia, issued a final opinion finding that the

tobacco companies had engaged in a decades-long scheme to deceive and defraud the American public.

Last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia issued a unanimous opinion upholding Judge Kessler's finding of liability. Let's review some of Judge Kessler's findings. He found the tobacco industry falsely denied, distorted, and minimized the significant adverse health consequences of smoking for decades. The tobacco companies were aware that smoking and nicotine are addictive, but they publicly denied it.

Just 15 years ago, the CEOs from seven major tobacco companies stood before a committee of the House of Representatives, raised their hands, and swore under oath that nicotine was not addictive. That was the death knell of their credibility. People knew better. I knew better. My dad died from lung cancer. He couldn't stop smoking. My friend Mike Peterson died of COPD. He smoked a cigarette the night before he died. He just couldn't stop. It is a terrible addiction.

The tobacco industry falsely denied that they can and do control the level of nicotine delivered in order to create and sustain addiction. They knew they were piling that chemical into their product, and they knew that as long as they could, they had you hooked and it would be darn tough to quit.

Tobacco companies falsely marketed so-called light and low-tar cigarettes. They turned out to be just as harmful as the others.

From the 1950s to the present day, tobacco companies have intentionally marketed to kids. Of course you want to convince kids to smoke because they are not mature enough to make the right judgment. If a kid waits until he becomes an adult to decide to smoke, he is not going to do it. He will be a lot smarter. He will not be addicted. Tobacco companies track youth behavior and preferences and use marketing themes that resonate with kids.

The list goes on and on and clearly demonstrates that this industry cannot be trusted to do the right thing. That is why we need the bill that is on the floor of the Senate.

The tobacco industry has a long and disturbing history of marketing its products to kids and young people. The financial reasons are obvious. Ninety percent of adult smokers began smoking cigarettes when they were teenagers or younger.

In the 1980s, R.J. Reynolds was looking for a way to revitalize its Camel brand, which was primarily popular with older smokers. To increase Camel's appeal to younger smokers, it created the Joe Camel cartoon character. Joe Camel became as recognizable as Mickey Mouse with a lot of kids—just what the folks who made Camel cigarettes wanted. While Joe Camel is no

longer around, the problem of marketing to young people still remains.

Tobacco companies doubled their marketing expenses between 1998 and 2005. They now spend over \$13 billion a year on marketing. They claim they don't market to kids, but just look at this ad. How about this one: Great Camel cigarettes. They are offering a back-to-school special. That certainly is marketing to kids. We know as parents and adults exactly what they are trying to do. This picture was taken from a shop in Camden Wyoming, DE. They knew what they were trying to do—lure these kids into tobacco at an early age—and their advertising did its best to draw them in. These companies are not going to waste a penny advertising on groups they don't think they can win over. So they go after the kids.

This bill recognizes the importance of curbing marketing to kids. It would empower the Food and Drug Administration for the first time to establish reasonable marketing restrictions that adhere to our first amendment guarantees under the Constitution. For example, the bill bans outdoor advertising near schools and playgrounds, prohibits colorful and alluring images used to appeal to young people. It limits ads to only black-and-white text in newspapers and magazines with significant teen readership. It ends incentives to buy cigarettes by prohibiting free giveaways with the purchase of tobacco products. Remember all the stuff they used to peddle in the name of cigarettes? Backpacks and caps—you name it. That kind of stuff is going to end. It gives the FDA the authority to respond to the inevitable innovative attempts by tobacco companies to get around these restrictions. It strengthens restrictions on youth access to tobacco products by requiring retailers to verify the age of all over-the-counter sales of tobacco products and prohibits vending machines and self-service displays unless they are in adult-only facilities.

In addition to restricting marketing and youth access, the bill lifts the shroud of secrecy the tobacco industry has used to hide the contents of its products for decades. For virtually all other consumer products, manufacturers are required to disclose what is in their product. Walk into any grocery store, take a product off the shelf, and you will see a list of ingredients. But cigarettes and other tobacco products, some of the most dangerous products American consumers can buy, do not have to follow the same rules as other consumer products. The tobacco industry does not want you to know what is in its products, and for good reason.

Cigarettes are not just tobacco leaves rolled up in paper; they are sophisticated, highly engineered products. In addition to tobacco leaf, cigarettes contain additives and chemicals that increase the kick of nicotine and mask

the harshness of tobacco smoke. The act of lighting a cigarette creates a toxic soup of more than 4,000 known chemical compounds, all carefully added to that little cigarette in the hope that you will enjoy it so darn much you will become addicted for life. According to the National Cancer Institute, there are 69 known and probable carcinogens in cigarette smoke. Is it any wonder people develop cancer from smoking?

Researchers at Harvard University School of Public Health have also discovered that tobacco companies increased nicotine levels in cigarettes by nearly 12 percent between 1997 and 2005. They were pumping nicotine into these cigarettes knowing it was more addictive, knowing they had these folks hooked for life.

This bill ends the special treatment of the tobacco industry by requiring manufacturers to disclose to the FDA the ingredients, including substances in the smoke, of each brand of tobacco product. It requires the Secretary of Health and Human Services to publish a list of harmful and potentially harmful constituents in each brand of tobacco products and requires tobacco companies to provide information they have on the health effects of existing and future tobacco products. Why did it take us so long to do this? We knew for decades what was going on here. But the tobacco companies were just too powerful. They stopped us. Now we have a chance to change that. This bill on the floor will finally give consumers across America the information they need, the information which researchers need to stop this insidious addiction.

For a product as deadly as tobacco, public disclosure of ingredients is not enough. The FDA should be able to require the industry to reduce or eliminate harmful ingredients or additives to protect the public health. For decades, the industry has manipulated its products at the expense of American consumers. No other industry in America is allowed to freely choose the types and amounts of toxic substances that are in their products—only tobacco companies, and that is going to end with this bill. This bill gives the Food and Drug Administration the authority to set standards to reduce these harmful ingredients, to reduce nicotine levels, and to ban those candy and fruit-flavored cigarettes popular with kids.

Another long overdue reform is to establish a credible process for ensuring that health claims about tobacco products are scientifically proven. Almost as soon as cigarettes became a widely used product, companies started making false claims.

In the 1920s, Lorillard came up with a slogan: "Not a Cough in a Carload."

In the 1930s, Philip Morris said smoking their cigarettes was less irritating

than other brands and ran ads advising the public to "Ask Your Doctor About a Light Smoke."

In the 1940s, R.J. Reynolds ran an ad campaign for Camel cigarettes with the slogan "More Doctors Smoke Camels than Any Other Cigarette."

In the 1950s and 1960s, tobacco companies introduced "light" and "low tar" cigarettes to ease the growing concern about the harmful effects of smoking. The marketing of these light and low-tar cigarettes was so successful that they quickly dominated the market. Some advertisements explicitly encouraged smokers to switch to these new products instead of quitting. But the tobacco companies never had to demonstrate these new products would actually reduce harm. In fact, scientific evidence has shown light and low-tar cigarettes have not lowered health risks.

Tobacco companies continue to develop new products and make health claims that cannot be validated. This bill will prohibit tobacco companies from using misleading descriptors such as "light," "mild," and "low" to describe their products. It gives the FDA authority to review a product before it can be marketed as a "reduced harm" product to ensure sound science is behind that claim. These are reasonable requirements for any product in America and certainly for a deadly product such as cigarettes and tobacco.

The warnings currently displayed on cigarettes and smokeless tobacco products are more than 20 years old. Let's be honest about this. The warnings on cigarette packages are widely ignored. They have been virtually the same for decades. People don't even read them or pay attention to them. But that is going to change. This legislation requires large, clearly visible warning labels on 50 percent of the front and back of a pack of cigarettes, with graphic and textual messages such as "Warning: Cigarettes Cause Cancer." You will not be able to miss it. You may miss some of the advertising and colorful photographs, but the message is going to be clear for anyone who can read. Warning messages are to comprise at least 20 percent of an advertisement. That is a big change.

This is something we introduced 20 years ago to finally change these warning labels. Congressman HENRY WAXMAN has been a great champion and advocate on this subject. We just could not pull it off. The tobacco companies were too powerful. Now we have a chance to beat them with this bill on the floor. These reforms will start to reduce the terrible toll tobacco has taken on families across the Nation.

I used to say from time to time when I would reflect on this and people would say: You are going too far, DURBIN, just too much regulation, I have yet to meet the first parent who has said to me: I have great news. I just

learned last night that my daughter started smoking. I never heard that said. We know intuitively as adults it is a terrible thing when a child takes up smoking and use of tobacco. It can lead to an addiction that can harm them.

The FDA is the right agency to do this. It is the only agency with the science, the regulatory experience, and the public health mission to get this job done. Through a user fee on the industry, the bill gives the agency the funding it needs to get this job done.

This is a strong public health bill and a bipartisan bill. After more than 10 years and, in my case, more than 20 years, we have never been so close to giving the FDA the authority to regulate tobacco products. I urge my colleagues to resist efforts to weaken this bill or to add provisions that jeopardize its enactment. FDA regulation of tobacco products is long overdue. The time for Congress to act is now.

I would like to say in closing that it is a shame that my colleague and friend, TEDDY KENNEDY, is not here. He is recovering, as we know, from his own battle with a brain tumor. I talked with him a couple weeks ago, and he sounded just great. I wish he could be on the floor with us because I know how much this bill means to him personally. TEDDY KENNEDY, on this issue and so many others, stood there and fought that lonely battle, faced rollcall after rollcall when he could never get enough votes. And now the moment is at hand to come up with the votes necessary. In his name and in the name of all the people over the years who have fought so valiantly for tobacco regulation, people such as Congressman Mike Synar of Oklahoma and TEDDY KENNEDY—all of them dreamed of the day when this would pass. We now have a chance, this Senate in this Congress this year, to finally do something to start saving lives across America and bring the kind of sensible regulation of tobacco that has been long overdue.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMENDING THOMAS O. SUGAR

Mr. BAYH. Mr. President, I rise today to honor Mr. Thomas O. Sugar, who has served as one of my most valued and trusted aides in the U.S. Senate and in the Indiana Governor's office. I am proud to have this opportunity to recognize Tom for the remarkable service he has rendered on behalf of the people of Indiana.

Tom is a native of Kokomo, IN, an auto town in the heart of our proud manufacturing State. Tom never forgot where he came from, and he has been a faithful and passionate emissary of the hard-working, middle-class Hoosiers who inspired him to enter public service in the first place.

Tom's career in government and politics began when he served as a campaign field organizer for Jim Jontz, who represented Indiana's fifth Congressional District. Throughout his 7 years of service for Congressman Jontz, Tom held a variety of positions, culminating in his ascension to chief of staff in 1991.

I was fortunate to have Tom join my staff as director of communication and planning during my second term as Indiana Governor. Among his many achievements, Tom orchestrated a successful conference on promoting responsible fatherhood that brought together leaders of the most successful fatherhood programs in the country. He also helped plan the Governor's adoption initiative, heralding needed reforms in Indiana's adoption system.

Tom served as my campaign manager for my first Senate race in 1998 and then took over as my chief of staff, a position he has held for over a decade. Tom has carried out this demanding role with unceasing skill, diplomacy, and determination. His portfolio has been considerable. Tom has been a top adviser on a range of significant policy issues, helping to improve our Nation's educational system, supporting working families, strengthening national security, and expanding volunteer opportunities for Americans to serve their country.

In addition to playing a crucial role on policy issues, Tom has served as a leader and a mentor to members of my staff in both my Indiana and Washington offices. Tom had a knack for discovering new talent, and he helped hone the professional development of countless public servants.

Most importantly, Tom is a devoted father to his sons, Jackson and Carter, and a loving husband to his wife Nancy. Tom cares about the people he works with and treats his colleagues like extended family. Tom was always ready with a kind word during times of plenty and an understanding ear during periods of personal difficulty and loss.

This week, Tom leaves my office to pursue a new opportunity helping lower income students finish their college and postsecondary education. The

newly formed National Consortium for College Completion is extraordinarily lucky to have Tom as a part of their organization. While I will deeply miss having Tom on my Senate staff, I look forward to hearing about the work he will do on behalf of students in need across our country.

Tom is a trusted aide, a dear friend, and a true-blue Hoosier whose contributions to the State of Indiana are immeasurable.

Mr. President, I am pleased to recognize Tom's extraordinary contributions to this body, and I wish him the best of luck in his future pursuits.

#### ADDITIONAL STATEMENTS

##### REMEMBERING ERNEST P. KLINE

• Mr. CASEY. Madam President, the Commonwealth of Pennsylvania recently lost a distinguished former lieutenant governor and a life-long Pittsburgh sports fan, Ernest P. Kline. Ernie passed away of congestive heart failure after a life that tells the story of a Pennsylvanian with the determination to reach his goals, a love of public service, and a devoted father and grandfather. Today I honor his memory.

Ernest P. Kline was lieutenant governor of the Commonwealth of Pennsylvania from 1971 to 1979. During his 8 years of public service, he worked to advance the causes of women and older citizens. After his career in public service, Ernie was president of Kline Associates in Palmyra, PA. His story is a Pennsylvania story of hard work and deep abiding commitment to help people.

Ernie and his two brothers were raised by a single mother in Webster, just outside of Pittsburgh. It was the love and support of his extended Italian-American family, his teachers, and his devout Catholic faith that would shape him into the statesman he came to be. Ernie was the starting quarterback of his Rostraver high school football team. He attended Duquesne University but had to drop out early due to financial constraints. He became a radio-news broadcaster. While working with the radio station in Charleroi, he met his beloved wife Josephine. They would have celebrated their 60th wedding anniversary June 25th.

When covering a Beaver Falls city council meeting for WBVP-AM, Ernie realized that he wanted to enter public service. He went home, told his family, and was elected to the city council of Beaver Falls, PA, in 1955. Nine years later, Ernie was elected to the senate of Pennsylvania, later becoming the youngest Democratic floor leader ever. After 7 years in the State senate, he was elected lieutenant governor of the Commonwealth.

His life of public service continued after he left elected office through vol-

unteering with different nonprofit organizations such as the Ronald McDonald House and the United Way. He continued supporting Democratic politics his entire life. Ernie also loved to fish and root for the Pittsburgh Steelers.

He and Josephine raised 7 children and they were blessed with 12 grandchildren. Ernie was a loving father and devoted grandfather who instilled in his family a love of Pennsylvania and the value of a life in public service. More importantly, he was a dad who made sure the kids did all of their homework and all of their chores.

Ernie Kline was a person of integrity and compassion. He never forgot where he came from and the values that guided his life. I extend my sincere condolences to Josephine and the Kline family for their loss. His life story will continue to inspire his family and many others to devote their lives to public service and to the poor and the powerless.●

##### JUDGE COLLEEN KOLLAR-KOTELLY

• Mrs. FEINSTEIN. Madam President, shortly before the recess, U.S. District Judge Colleen Kollar-Kotelly completed her service as presiding judge of the Foreign Intelligence Surveillance Court. By law, after serving for a maximum of 7 years, judges of the FISA Court, who are designated from the U.S. districts courts by the Chief Justice of the United States to serve on the FISA Court in addition to their regular judicial responsibilities, are not eligible for redesignation.

Now that Judge Kollar-Kotelly has completed her distinguished service on the FISA Court, it is fitting to take note of the admirable service she has rendered as the presiding judge of an institution that is central to our Nation's commitment to conduct foreign intelligence within the rule of law.

Judge Kollar-Kotelly was appointed in 1984 to serve as an associate judge of the Superior Court of the District of Columbia. In 1997, she was appointed by President Clinton to serve on the U.S. District Court for the District of Columbia. In 2002, Chief Justice William H. Rehnquist designated her to be presiding judge of the FISA Court. Her ability to earn the trust of two Presidents and a Chief Justice is noteworthy in itself.

The period of Judge Kollar-Kotelly's service as presiding judge, from 2002 to 2009, has been, of course, a period of enormous challenge for the FISA Court. The work of the court, apart from limited releases of statistical information and the rare case in which a redacted opinion has been released publicly, occurs in secrecy. But while little is publicly known about her service as presiding judge, from the vantage point of the Senate Intelligence Committee I can say with confidence that

the American people should be very grateful for her leadership of this most important court.

Congratulations, Judge Kollar-Kotelly, and thanks for a job well done.●

##### CONGRATULATING THE GEORGE WASHINGTON HIGH SCHOOL CLASS OF 2009

• Mr. LUGAR. Madam President, I take the opportunity today to congratulate the class of 2009 at George Washington Community High School in Indianapolis, IN. This class has achieved the notable result of having all 89 spring and summer graduates accepted to college—a rare feat for any high school in America. Many of these students will be the first members of their families to attend college. Only about 5 percent of the adults in the surrounding community have attended college.

I am especially proud of what the students, teachers, and families of Washington High School are achieving because the school and community have played a big role in my early career and in the life of my family. My grandfather, Thomas L. Green, lived on the West Side of Indianapolis near Washington High School. Although he had only a fifth-grade education, he established Thomas L. Green and Company, a food machinery manufacturing firm, in a factory near the high school.

When I returned to Indianapolis in 1960 after my Navy service, I joined my brother, Thomas R. Lugar, in managing the food machinery business. Many of our employees and interns came from the neighborhood surrounding George Washington High School. Thanks to the leadership of Principal Cloyd Julian and others, we joined the George Washington Business club, through which we met frequently with the students and teachers.

In late 1963, a delegation from the West Side came to my office at the factory to encourage me to run for the Indianapolis Board of School Commissioners. They felt that schools on the West Side were being neglected, and they wanted to ensure that the perspective of our community was heard. I accepted their challenge and won a seat on the board in May of 1964. This responsibility deepened my involvement in the affairs of George Washington and other schools in our neighborhood.

I was elected mayor of Indianapolis in 1967 and continued to stay closely involved with the school. During this period, George Washington had developed a legendary basketball program that was followed closely on the West Side. The school won the Indiana High School Basketball State Championship in 1965 and 1969. We attended every tournament game and any pep rallies. It was wonderful to see the high school

as a leader politically, academically, and athletically.

I take a moment to recount this cherished history because George Washington is a prime example of how a school can succeed through the hard work of its students and teachers, the support of the community, and the expectation of achievement. These students have dedicated themselves to setting an example for their younger siblings and the classes that will follow them at George Washington. The teachers never stop preaching about the advantages of going to college and never let the students assume that their education ends with high school. And parents have supported these students, even if the experience of college is a new one for their families.

The most fundamental element of American competitiveness and progress is the quality of education that our children receive. We must make sure that all of our young people are educated 100 percent of them. We cannot afford to be satisfied with less. George Washington High School clearly has embraced this challenge.

I am privileged to recognize this marvelous school and the students who are graduating and going to college, for this signal achievement. It is clear that the students at George Washington have the vision and inspiration to move ahead, which is so important to their lives but also to the success of our great country. I look forward to following their achievements and supporting their dreams in the years ahead.

Below is a complete list of the remarkable George Washington High School Class of 2009:

Edgardo Aboytes, Megan Adams, Armando Alejo, Mauricio Arreola, Salvador Arteaga, Jose Arteaga, Louis Aumann, Imelda Benitez-Vasquez, Sarah Boles, Devon Brogan, Dawn Caffery, Sebastiana Campos, Aloric Carson, Ariel Casillas, Katherine Cook, Erik Cook, Cheris Drotz-Smith, Joyce East, Luis Escatel, Petra Felder.

Edith Flores, Anthony Fuller, Manuel Gil, Dortha Glenn, Noe Gonzalez, John Graves, Christopher Hall, Katey Hicks, Kaela Hunt, Kathryn Hunter, Tiffany Ingalls, Alma Jimenez, Dujuan Johnson, Cleveland Johnson, Charles Lile, James Locke, Adelmer Lopez, Rubi Lopez, Daniel Luckett, Karina Magallanes.

Jessica Martinez, Joshua Masters, Angela McClure, Ashley McClure, Patrick McDonald, Frederick McKnight, Keith McLemore, Adem Meftah, Shantina Moore, Fernando Mora, James Morris, Felicia Moy, Nohemi Ocampo, Rick Owens, Andrew Parsley, Julian Peters, Kiara Ragland, Miguel Ramirez, Tisha Ramirez, Daniel Rangel.

Matthew Reeves, Jeffery Riley, Tiffany Riley, Brittney Ritchie, Marcos Rivera, Marvin Rodriguez, Maria Rodriguez, Fernando Rojas, Marcus Ross, Emanuel Ruiz, Loniqua Smith, Erica Snyder, Gregorio Soto, Brittany Spears, Jason Stark-Jines, DeVaughn Stokes.

India Tinsley, Samantha Turner, Maria Valdez, Kenneth Valentine, Cassandra Vest, Sherry Whitescarver, Brandy Whitescarver, Victoria Wilcox, Calvin Williams, Rodshied

Williams, William Wilson, Cassandra Wilson, Jose Zelaya.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES DISCHARGED

The following bill was discharged from the Committee on Banking, Housing, and Urban Affairs by unanimous consent, and referred as indicated:

S. 1007. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for excessive compensation of any employee of an employer; to the Committee on Finance.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1740. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Etoxazole; Pesticide Tolerances" (FRL-8413-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1741. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Exemptions from the Requirement of a Tolerance; Technical Amendments" (FRL-8417-9) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1742. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a six-month periodic report relative to the national emergency that was declared in Executive Order 12938 with respect to the proliferation of weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC-1743. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC-1744. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Assistant Sec-

retary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Real Estate Settlement Procedures Act (RESPA): Rule To Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs; Withdrawal of Revised Definition of 'Required Use'" ((RIN2502-AI61)(FR-5180-F-06)) received in the Office of the President of the Senate on May 26, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1745. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Establishing U.S. Ports of Entry in the Commonwealth of the Northern Mariana Islands (CNMI) and Implementing the Guam-CNMI Visa Waiver Program; Change of Implementation Date" (RIN1651-AA77) received in the Office of the President of the Senate on May 22, 2009; to the Committee on Energy and Natural Resources.

EC-1746. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Western Electricity Coordinating Council Regional Reliability Standard Regarding Automatic Time Error Correction" (Docket No. RM08-12-000) as received during adjournment of the Senate in the Office of the President of the Senate on May 16, 2009; to the Committee on Energy and Natural Resources.

EC-1747. A communication from the Director, Office of Human Resources, Environmental Protection Agency, transmitting, pursuant to law, (4) reports relative to vacancy announcements within the Agency; to the Committee on Environment and Public Works.

EC-1748. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for Cherokee County" (FRL-8911-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC-1749. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Update of Continuous Instrumental Test Methods; Correction" (FRL-8910-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC-1750. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Implementation of the New Source Review Program for Particulate Matter Less Than w.5 Micrometers (PM2.5)" (FRL-8910-6) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC-1751. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Wintering Population of the Piping Plover (*Charadrius melodus*) in Texas" (RIN1018-AV46) received in the Office of the



President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC-1752. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Peninsular Bighorn Sheep and Determination of a Distinct Population Segment of Desert Bighorn Sheep (*Ovis canadensis nelsoni*)" (RIN1018-AV09) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC-1753. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Florida; Removal of Gasoline Vapor Recovery from the Southeast Florida Area" (FRL-8911-6) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mrs. LINCOLN):

S. 1161. A bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 1162. A bill to require notification of the Federal Aviation Administration with respect to wildlife strikes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER:

S. 1163. A bill to add 1 member with aviation safety expertise to the Federal Aviation Administration Management Advisory Council; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1164. A bill to amend the Public Health Service Act to reauthorize the Automated Defibrillation in Adam's Memory Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1165. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. BURR, Mr. BAYH, Ms. SNOWE, and Mr. MCCAIN):

S. Res. 164. A resolution amending Senate Resolution 400, 94th Congress, and Senate

Resolution 445, 108th Congress, to improve congressional oversight of the intelligence activities of the United States, to provide a strong, stable, and capable congressional committee structure to provide the intelligence community appropriate oversight, support, and leadership, and to implement a key recommendation of the National Commission on Terrorist Attacks Upon the United States; to the Committee on Rules and Administration.

By Mr. LEVIN (for himself, Mr. MCCAIN, Mr. NELSON of Nebraska, and Mr. GRAHAM):

S. Res. 165. A resolution to encourage recognition of 2009 as the "Year of the Military Family"; considered and agreed to.

By Mr. SCHUMER:

S. Res. 166. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 148

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 148, a bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer's product or service cannot be sold violates the Sherman Act.

S. 348

At the request of Mr. ROCKEFELLER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 424

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 424, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 451

At the request of Ms. COLLINS, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. RISCH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 456

At the request of Mr. DODD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 570

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 570, a bill to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

S. 572

At the request of Mr. THUNE, his name was added as a cosponsor of S. 572, a bill to provide for the issuance of a "forever stamp" to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 590

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 590, a bill to assist local communities with closed and active military bases, and for other purposes.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 711

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.



S. 779

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 779, a bill to amend titles 23 and 49, United States Code, to modify provisions relating to the length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes.

S. 788

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 788, a bill to prohibit unsolicited mobile text message spam.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 831

At the request of Mr. KERRY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 833

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 846

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 908

At the request of Mr. BAYH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 924

At the request of Ms. MIKULSKI, the names of the Senator from Wisconsin

(Mr. FEINGOLD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 924, a bill to ensure efficient performance of agency functions.

S. 981

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1012

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 1013

At the request of Mr. BINGAMAN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1013, a bill to authorize the Secretary of Energy to carry out a program to demonstrate the commercial application of integrated systems for long-term geological storage of carbon dioxide, and for other purposes.

S. 1044

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1044, a bill to preserve the ability of the United States to project power globally.

S. 1048

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1048, a bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants.

S. 1057

At the request of Mr. TESTER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1057, a bill to amend the Public

Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1090

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1090, a bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources.

S. 1157

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S.J. RES. 15

At the request of Mr. VITTER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S.J. Res. 15, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mrs. LINCOLN):

S. 1161. A bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator LINCOLN to introduce the Nurse Faculty and Physical Therapist Education Act

of 2009. This legislation will help to address the critical shortage of nurse faculty and physical therapists that is facing our Nation. The nationwide nursing shortage is growing rapidly, because the average age of the nursing workforce is near retirement and because the aging population has increased health care needs. The shortage is one that affects the entire Nation. A 2006 Health Resources and Services Administration, HRSA, report estimated that the national nursing shortage would more than triple, to more than one million nurses, by the year 2020. The report also predicts that all 50 States will experience nursing shortages by 2015. Quite simply, we need to educate more nurses, or we, as a Nation, will not have enough trained nurses to meet the needs of our aging society.

One of the biggest constraints to educating more nurses is a shortage of nursing faculty. Almost three-quarters of nursing programs surveyed by the American Association of Colleges of Nursing cited faculty shortages as a reason for turning away qualified applicants. Although applications to nursing programs have surged 59 percent over the past decade, the National League for Nursing estimates that 147,000 qualified applications were turned away in 2004. This represents a 27 percent decrease in admissions over the previous year, indicating the need to scale up capacity in nursing programs is more critical than ever.

I know that in my home State of New Mexico, nursing programs turned down almost half of qualified applicants, even though HRSA predicts that New Mexico will only be able to meet 64 percent of its demand for nurses by 2020. With a national nurse faculty workforce that averages 53.5 years of age, and an average nurse faculty retirement age of 62.5 years, we cannot and must not wait any longer to address nurse faculty shortages.

Nursing faculty are not the only segment of the population that is aging. As the baby boom generation ages, there will be an increased need for nurses to care for the elderly. However, less than one percent of practicing nurses have a certification in geriatrics.

The Nurse Faculty and Physical Therapist Education Act will amend the Public Health Service Act, to help alleviate the faculty shortage by providing funds to help nursing schools increase enrollment and graduation from nursing doctoral programs. The act will increase partnering opportunities between academic institutions and medical practices, enhance cooperative education, support marketing outreach, and strengthen mentoring programs. The bill will increase the number of nurses who complete nursing doctoral programs and seek employment as faculty members and nursing

leaders in academic institutions. In addition, the bill authorizes awards to train nursing faculty in clinical geriatrics, so that more nursing students will be equipped for our aging population.

By addressing the faculty shortage, we are addressing the nursing shortage.

The aging population will also require additional health workers in other fields. Physical therapy was listed as one of the fastest growing occupations by the U.S. Department of Labor, with a projected job growth of greater than 36 percent between 2004 and 2014. The need for physical therapists is particularly acute in rural and urban underserved areas, which have three to four times fewer physical therapists per capita than suburban areas. To address this need, the bill also authorizes a distance education pilot program to improve access to educational opportunity for both nursing and physical therapy students. Finally, the bill calls for a study by the Institute of Medicine at the National Academy of Sciences which will recommend how to balance education, labor, and immigration policies to meet the demand for qualified nurses and physical therapists.

The provisions of the Nurse Faculty and Physical Therapist Education Act are vital to overcoming workforce challenges. By addressing nurse faculty and physical therapist shortages, we will enhance both access to care and the quality of care.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1161

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Nurse Faculty and Physical Therapist Education Act of 2009”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The Nurse Reinvestment Act (Public Law 107-205) has helped to support students preparing to be nurse educators. Yet, nursing schools nationwide are forced to deny admission to individuals seeking to become nurses and nurse educators due to the lack of qualified nurse faculty.

(2) The American Association of Colleges of Nursing reported that 42,866 qualified applicants were denied admission to nursing baccalaureate and graduate programs in 2006, with faculty shortages identified as a major reason for turning away students.

(3) Seventy-one percent of schools have reported insufficient faculty as the primary reason for not accepting qualified applicants. The primary reasons for lack of faculty are lack of funds to hire new faculty, inability to identify, recruit and hire faculty in the competitive job market as of May 2007, and lack of nursing faculty available in different geographic areas.

(4) Despite the fact that in 2006, 52.4 percent of graduates of doctoral nursing pro-

grams enter education roles, the 103 doctoral programs nationwide produced only 437 graduates, which is only an additional 6 graduates from 2005. This annual graduation rate is insufficient to meet the needs for nurse faculty. In keeping with other professional academic disciplines, nurse faculty at colleges and universities are typically doctorally prepared.

(5) The nursing faculty workforce is aging and will be retiring.

(6) With the average retirement age of nurse faculty at 62.5 years of age, and the average age of doctorally prepared faculty, as of May 2007, that hold the rank of professor, associate professor, and assistant professor is 58.6, 55.8, and 51.6 years, respectively, the health care system faces unprecedented workforce and health access challenges with current and future shortages of deans, nurse educators, and nurses.

(7) Research by the National League of Nursing indicates that by 2019 approximately 75 percent of the nursing faculty population (as of May 2007) is expected to retire.

(8) A wave of nurses will be retiring from the profession in the near future. As of May 2007, the average age of a nurse in the United States is 46.8 years old. The Bureau of Labor Statistics estimates that more than 1,200,000 new and replacement registered nurses will be needed by 2014.

(9) By 2030, the number of adults age 65 and older is expected to double to 70,000,000, accounting for 20 percent of the population. As the population ages, the demand for nurses and nursing faculty will increase.

(10) Despite the need for nurses to treat an aging population, few registered nurses in the United States are trained in geriatrics. Less than 1 percent of practicing nurses have a certification in geriatrics and 3 percent of advanced practice nurses specialize in geriatrics.

(11) Specialized training in geriatrics is needed to treat older adults with multiple health conditions and improve health outcomes. Approximately 80 percent of Medicare beneficiaries have 1 chronic condition, more than 60 percent have 2 or more chronic conditions, and at least 10 percent have coexisting Alzheimer's disease or other dementias that complicate their care and worsen health outcomes. Two-thirds of Medicare spending is attributed to 20 percent of beneficiaries who have 5 or more chronic conditions. Research indicates that older persons receiving care from nurses trained in geriatrics are less frequently readmitted to hospitals or transferred from nursing facilities to hospitals than those who did not receive care from a nurse trained in geriatrics.

(12) The Department of Labor projected that the need for physical therapists would increase by 36.7 percent between 2004 and 2014.

(13) The need for physical therapists is particularly acute rural and urban underserved areas, which have 3 to 4 times fewer physical therapists per capita than suburban areas.

#### **TITLE I—GRANTS FOR NURSING EDUCATION**

##### **SEC. 101. NURSE FACULTY EDUCATION.**

Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

##### **“SEC. 832. NURSE FACULTY EDUCATION.**

“(a) **ESTABLISHMENT.**—The Secretary, acting through the Health Resources and Services Administration, shall establish a Nurse Faculty Education Program to ensure an adequate supply of nurse faculty through the awarding of grants to eligible entities to—

“(1) provide support for the hiring of new faculty, the retaining of existing faculty, and the purchase of educational resources;

“(2) provide for increasing enrollment and graduation rates for students from doctoral programs; and

“(3) assist graduates from the entity in serving as nurse faculty in schools of nursing;

“(b) **ELIGIBILITY.**—To be eligible to receive a grant under subsection (a), an entity shall—

“(1) be an accredited school of nursing that offers a doctoral degree in nursing in a State or territory;

“(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

“(3) develop and implement a plan in accordance with subsection (c);

“(4) agree to submit an annual report to the Secretary that includes updated information on the doctoral program involved, including information with respect to—

“(A) student enrollment;

“(B) student retention;

“(C) graduation rates;

“(D) the number of graduates employed part-time or full-time in a nursing faculty position; and

“(E) retention in nursing faculty positions within 1 year and 2 years of employment;

“(5) agree to permit the Secretary to make on-site inspections, and to comply with the requests of the Secretary for information, to determine the extent to which the school is complying with the requirements of this section; and

“(6) meet such other requirements as determined appropriate by the Secretary.

“(c) **USE OF FUNDS.**—Not later than 1 year after the receipt of a grant under this section, an entity shall develop and implement a plan for using amounts received under this grant in a manner that establishes not less than 2 of the following:

“(1) Partnering opportunities with practice and academic institutions to facilitate doctoral education and research experiences that are mutually beneficial.

“(2) Partnering opportunities with educational institutions to facilitate the hiring of graduates from the entity into nurse faculty, prior to, and upon completion of the program.

“(3) Partnering opportunities with nursing schools to place students into internship programs which provide hands-on opportunity to learn about the nurse faculty role.

“(4) Cooperative education programs among schools of nursing to share use of technological resources and distance learning technologies that serve rural students and underserved areas.

“(5) Opportunities for minority and diverse student populations (including aging nurses in clinical roles) interested in pursuing doctoral education.

“(6) Pre-entry preparation opportunities including programs that assist returning students in standardized test preparation, use of information technology, and the statistical tools necessary for program enrollment.

“(7) A nurse faculty mentoring program.

“(8) A Registered Nurse baccalaureate to Ph.D. program to expedite the completion of a doctoral degree and entry to nurse faculty role.

“(9) Career path opportunities for 2nd degree students to become nurse faculty.

“(10) Marketing outreach activities to attract students committed to becoming nurse faculty.

“(d) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to entities from States and territories that have a lower number of employed nurses per 100,000 population.

“(e) **NUMBER AND AMOUNT OF GRANTS.**—Grants under this section shall be awarded as follows:

“(1) In fiscal year 2010, the Secretary shall award 10 grants of \$100,000 each.

“(2) In fiscal year 2011, the Secretary shall award an additional 10 grants of \$100,000 each and provide continued funding for the existing grantees under paragraph (1) in the amount of \$100,000 each.

“(3) In fiscal year 2012, the Secretary shall award an additional 10 grants of \$100,000 each and provide continued funding for the existing grantees under paragraphs (1) and (2) in the amount of \$100,000 each.

“(4) In fiscal year 2013, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of \$100,000 each.

“(5) In fiscal year 2014, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of \$100,000 each.

“(f) **LIMITATIONS.**—

“(1) **PAYMENT.**—Payments to an entity under a grant under this section shall be for a period of not to exceed 5 years.

“(2) **IMPROPER USE OF FUNDS.**—An entity that fails to use amounts received under a grant under this section as provided for in subsection (c) shall, at the discretion of the Secretary, be required to remit to the Federal Government not less than 80 percent of the amounts received under the grant.

“(g) **REPORTS.**—

“(1) **EVALUATION.**—The Secretary shall conduct an evaluation of the results of the activities carried out under grants under this section.

“(2) **REPORTS.**—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under paragraph (1). Not later than 6 months after the end of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

“(h) **STUDY.**—

“(1) **IN GENERAL.**—Not later than 3 years after the date of the enactment of this section, the Comptroller General of the United States shall conduct a study and submit a report to Congress concerning activities to increase participation in the nurse educator program under the section.

“(2) **CONTENTS.**—The report under paragraph (1) shall include the following:

“(A) An examination of the capacity of nursing schools to meet workforce needs on a nationwide basis.

“(B) An analysis and discussion of sustainability options for continuing programs beyond the initial funding period.

“(C) An examination and understanding of the doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

“(D) An analysis of program design under this section and the impact of such design on nurse faculty retention and workforce shortages.

“(E) An analysis of compensation disparities between nursing clinical practitioners and nurse faculty and between higher education nurse faculty and higher education faculty overall.

“(F) Recommendations to enhance faculty retention and the nursing workforce.

“(i) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—For the costs of carrying out this section (except the costs described in paragraph (2), there are authorized to be appropriated \$1,000,000 for fiscal year 2010, \$2,000,000 for fiscal year 2011, and \$3,000,000 for each of fiscal years 2012 through 2014.

“(2) **ADMINISTRATIVE COSTS.**—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014.”

#### **SEC. 102. GERIATRIC ACADEMIC CAREER AWARDS FOR NURSES.**

Part I of title VIII of the Public Health Service Act (42 U.S.C. 298 et seq.) is amended by adding at the end the following:

##### **“SEC. 856. GERIATRIC FACULTY FELLOWSHIPS.**

“(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish a program to provide Geriatric Academic Career Awards to eligible individuals to promote the career development of such individuals as geriatric nurse faculty.

“(b) **ELIGIBLE INDIVIDUALS.**—To be eligible to receive an Award under subsection (a), an individual shall—

“(1) be a registered nurse with a doctorate degree in nursing;

“(2)(A) have completed an approved advanced education nursing program in geriatric nursing or geropsychiatric nursing; or

“(B) have a State or professional nursing certification in geriatric nursing or geropsychiatric nursing; and

“(3) have a faculty appointment at an accredited school of nursing, school of public health, or school of medicine.

“(c) **APPLICATION.**—An eligible individual desiring to receive an Award under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, which shall include an assurance that the individual will meet the service requirement described in subsection (d).

“(d) **SERVICE REQUIREMENT.**—An individual who receives an Award under this section shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 50 percent of the obligations of such individual under the Award.

“(e) **AMOUNT AND NUMBER.**—

“(1) **AMOUNT.**—The amount of an Award under this section shall equal \$75,000 annually, adjusted for inflation on the basis of the Consumer Price Index. The Secretary may increase the amount of an Award by not more than 25 percent, taking into account the fringe benefits and other research expenses, at the recipient's institutional rate.

“(2) **NUMBER.**—The Secretary shall award up to 125 Awards under this section from 2008 through 2016.

“(3) **REGIONAL DISTRIBUTION.**—

“(A) **IN GENERAL.**—The Secretary shall provide Awards to individuals from 5 regions in the United States, of which—

“(i) 2 regions shall be an urban area;

“(ii) 2 regions shall be a rural area; and

“(iii) 1 region shall include a State with—

“(I) a medical school that has a department of geriatrics that manages rural outreach sites and is capable of managing patients with multiple chronic conditions, 1 of which is dementia; and

“(II) a college of nursing that has a required course in geriatric nursing in the baccalaureate program.

“(B) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that the 5 regions established under subparagraph (A) are located in different geographic areas of the United States.

“(f) TERM OF AWARD.—The term of an Award made under this section shall be 5 years.

“(g) REPORTS.—

“(1) EVALUATION.—

“(A) IN GENERAL.—The Secretary shall conduct an evaluation of the results of the activities carried out under the Awards established under this section.

“(B) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under this paragraph. Not later than 180 days after the expiration of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

“(2) CONTENT.—The evaluation under paragraph (1) shall examine—

“(A) the program design under this section and the impact of the design on nurse faculty retention; and

“(B) options for continuing the program beyond fiscal year 2018.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—To fund Awards under subsection (e), there are authorized to be appropriated \$1,875,000 for each of fiscal years 2010 through 2018.

“(2) ADMINISTRATIVE COSTS.—To carry out this section (except to fund Awards under subsection (e)), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2016.

“(3) SEPARATION OF FUNDS.—The Secretary shall ensure that the amounts appropriated pursuant to paragraph (1) are held in a separate account from the amounts appropriated pursuant to paragraph (2).”.

## **TITLE II—DISTANCE EDUCATION PILOT PROGRAM AND OTHER PROVISIONS TO INCREASE THE NURSING AND PHYSICAL THERAPY WORKFORCE**

### **SEC. 201. INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.**

(a) ESTABLISHMENT OF NURSE AND PHYSICAL THERAPISTS DISTANCE EDUCATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), in conjunction with the Secretary of Education, shall establish a Nurse and Physical Therapist Distance Education Pilot Program through which grants may be awarded for the conduct of activities to increase accessibility to nursing and physical therapy education.

(2) PURPOSE.—The purpose of the Nurse and Physical Therapist Distance Education Pilot Program established under paragraph (1) shall be to increase accessibility to nursing and physical therapy education to—

(A) provide assistance to individuals in rural areas who want to study nursing or physical therapy to enable such individuals to receive appropriate nursing education and physical therapy education;

(B) promote the study of nursing and physical therapy at all educational levels;

(C) establish additional slots for nursing and physical therapy students at existing accredited schools of nursing and physical therapy education programs; and

(D) establish new nursing and physical therapy education programs at institutions of higher education.

(3) APPLICATION.—To be eligible to receive a grant under the Pilot Program under para-

graph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—

(1) IN GENERAL.—Not later than January 1, 2010, the Secretary, in conjunction with the Secretary of Education, shall—

(A) submit to Congress a report concerning the country of origin or professional school of origin of newly licensed nurses and physical therapists in each State, that shall include—

(i) for the most recent 3-year period for which data is available—

(I) separate data relating to teachers at institutions of higher education for each related occupation who have been teaching for not more than 5 years; and

(II) separate data relating to all teachers at institutions of higher education for each related occupation regardless of length of service;

(ii) for the most recent 3-year period for which data is available, separate data for each related occupation and for each State;

(iii) a separate identification of those individuals receiving their initial professional license and those individuals licensed by endorsement from another State;

(iv) with respect to those individuals receiving their initial professional license in each year, a description of the number of individuals who received their professional education in the United States and the number of individuals who received such education outside the United States; and

(v) to the extent practicable, a description, by State of residence and country of education, of the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(B) in consultation with the Department of Labor, enter into a contract with the Institute of Medicine of the National Academy of Sciences for the conduct of a study and submission of a report that includes—

(i) a description of how the United States can balance health, education, labor, and immigration policies to meet the respective policy goals and ensure an adequate and well-trained nursing and physical therapy workforce;

(ii) a description of the barriers to increasing the supply of nursing and physical therapy faculty, domestically trained nurses, and domestically trained physical therapists;

(iii) recommendations of strategies to be utilized by Federal and State governments that would be effective in removing the barriers described in clause (ii), including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(iv) recommendations for amendments to Federal laws that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(v) recommendations for Federal grants, loans, and other incentives that would provide increases in nurse and physical therapist educators and training facilities, and other measures to increase the domestic education of new nurses and physical therapists;

(vi) an identification of the effects of nurse and physical therapist emigration on the

health care systems in their countries of origin; and

(vii) recommendations for amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived; and

(C) collaborate with the heads of other Federal agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived into the United States, to—

(i) address health worker shortages caused by emigration; and

(ii) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

(2) ACCESS TO DATA.—The Secretary shall grant the Institute of Medicine access to the data described under paragraph (1)(A), as such data becomes available to the Secretary for use by the Institute in carrying out the activities under paragraph (1)(B).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$1,400,000 to carry out paragraph (1)(B).

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1164. A bill to amend the Public Health Service Act to reauthorize the Automated Defibrillation in Adam's Memory Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I am introducing the reauthorization of the Automated Defibrillators in Adam's Memory Act, or the ADAM Act. This bill is modeled after the successful Project ADAM that originally began in Wisconsin, and will reauthorize a program to establish a national clearing house to provide schools with the “how-to” and technical advice to set up a public access defibrillation program.

Every 2 minutes, someone in America falls into sudden cardiac arrest. By improving access to AEDs, we can improve the survival rates of cardiac arrest in our communities.

In my home State of Wisconsin, as in many other states, heart disease is the number one killer. Nationwide, heart disease is the cause of one out of every 2.8 deaths. Overall, heart disease kills more Americans than breast cancer, lung cancer, and HIV/AIDS combined.

Cardiac arrest can strike anyone. Cardiac victims are in a race against time, and unfortunately, for too many of those in rural areas, Emergency Medical Services are unable to reach people in need, and time runs out for victims of cardiac arrest. It's simply not possible to have EMS units next to every farm and small town across the nation.

Fortunately, recent technological advances have made the newest generation of AEDs inexpensive and simple to operate. Because of these advancements in AED technology, it is now practical to train and equip police officers, teachers, and members of other community organizations.

Over 163,000 Americans experience out-of-hospital sudden cardiac arrests each year. Immediate CPR and early defibrillation using an automated external defibrillator, AED, can more than double a victim's chance of survival. By taking some relatively simple steps, we can give victims of cardiac arrest a better chance of survival.

Over the past 9 years, I have worked with Senator SUSAN COLLINS, a Republican from Maine, on a number of initiatives to empower communities to improve cardiac arrest survival rates. We have pushed Congress to support rural first responders—local police and fire and rescue services—in their efforts to provide early defibrillation. Congress heard our call, and responded by enacting two of our bills, the Rural Access to Emergency Devices Act and the ADAM Act.

The Rural Access to Emergency Devices program allows community partnerships across the country to receive a grant enabling them to purchase defibrillators, and receive the training needed to use these devices. This program is entering its ninth year of helping rural communities purchase defibrillators and train first responders, and I am pleased to say that grants have already put defibrillators in rural communities all over the country, helping those communities be better prepared when cardiac arrest strikes.

Approximately ninety-five percent of sudden cardiac arrest victims die before reaching the hospital. Every minute that passes before a cardiac arrest victim is defibrillated, the chance of survival falls by as much as 10 percent. After only eight minutes, the victim's survival rate drops by 60 percent. This is why early intervention is essential—a combination of CPR and use of AEDs can save lives.

Heart disease is not only a problem among adults. A few years ago I learned the story of Adam Lemel, a 17-year-old high school student and a star basketball and tennis player in Wisconsin. Tragically, during a timeout while playing basketball at a neighboring Milwaukee high school, Adam suffered sudden cardiac arrest, and died before the paramedics arrived.

This story is incredibly tragic. Adam had his whole life ahead of him, and could quite possibly have been saved with appropriate early intervention. In fact, we have seen a number of examples in Wisconsin where early CPR and access to defibrillation have saved lives.

Seventy miles away from Milwaukee, a 14-year-old boy collapsed while playing basketball. Within three minutes, the emergency team arrived and began CPR. Within five minutes of his collapse, the paramedics used an AED to jump start his heart. Not only has this young man survived, doctors have identified his father and brother as having the same heart condition and have begun preventative treatments.

These stories help to underscore some important issues. First, although cardiac arrest is most common among adults, it can occur at any age—even in apparently healthy children and adolescents. Second, early intervention is essential—a combination of CPR and the use of AEDs can save lives. Third, some individuals who are at risk for sudden cardiac arrest can be identified.

After Adam Lemel suffered his cardiac arrest, his friend David Ellis joined forces with Children's Hospital of Wisconsin to initiate Project ADAM to bring CPR training and public access defibrillation into schools, educate communities about preventing sudden cardiac deaths and save lives.

Today, Project ADAM has introduced AEDs into several Wisconsin schools, and has been a model for programs in Washington, Florida, Michigan and elsewhere. Project ADAM provides a model for the nation, and now, with the enactment of this new law, more schools will have access to the information they seek to launch similar programs.

The ADAM Act was passed into law in 2003, but has yet to be funded. I have been very proud to play a part in having this bill signed into law, and it is my hope that the reauthorization of the Act will quickly pass through the Congress and into law, and that funding will follow. It would not take much money to fund this program and save lives across the country.

The ADAM Act is one way we can honor the life of children like Adam Lemel, and give tomorrow's pediatric cardiac arrest victims a fighting chance at life.

This act exists because a family experienced the tragic loss of their son, but they were determined to spare other families that same loss. I thank Adam's parents, Joe and Patty, for their courageous efforts and I thank them for everything they have done to help the ADAM Act become law. Their actions take incredible bravery, and I commend them for their efforts.

By making sure that AEDs are available in our nation's rural areas, schools and throughout our communities we can help those in a race against time have a fighting chance of survival when they fall victim to cardiac arrest. I urge Congress to pass this reauthorization, and to fund the ADAM Act and the Rural AED program at their full levels. We have the power to prevent death—all we must do is act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1164

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Automated Defibrillation in Adam's Memory Reauthorization Act".

#### SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 312 of the Public Health Service Act (42 U.S.C. 244) is amended—

(1) in subsection (c)(6), after "clearing-house" insert " , that shall be administered by an organization that has substantial expertise in pediatric education, pediatric medicine, and electrophysiology and sudden death,"; and

(2) in the first sentence of subsection (e), by striking "fiscal year 2003" and all that follows through "2006" and inserting "for each of fiscal years 2003 through 2014".

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1165. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today, along with my colleague Senator COLLINS from Maine, I am reintroducing legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

Nationally, the annual average cost to an employer for an individual employee's health care is \$3,983. For a family, the employer contribution is \$9,325. We must curb these rapidly increasing health care costs. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees' health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health care premiums for their employees. According to the National Business Coalition on Health, there are nearly 60 employer-led coalitions across the U.S. that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 7,000 employers nationwide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of high-quality health care, we will be able to lower long term health care costs. Effective care, such as high-quality preventive services, can reduce overall health care

expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to health care are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally. Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 13 surrounding counties on behalf of more than 160 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their more than 80,000 employees and dependents.

This legislation seeks to build on successful local initiatives, such as the Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to groups of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer high-quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and others. By pooling their experience and interests, employers involved in a coalition could better address essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation

of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing. Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better insurance plans and negotiate better rates.

This legislation also tries to alleviate the burden that our Nation's farmers face when trying to purchase health care for themselves, their families, and their employees. Because the health insurance industry looks upon farming as a high-risk profession, many farmers are priced out of, or simply not offered, health insurance. By helping farmers join cooperatives to purchase health insurance, we will help increase their health insurance options.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pools by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pools are also given flexibility to find innovative ways to lower costs, such as enhancing benefits—for example, more preventive care—and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in supporting this proposal to improve the quality and costs of health care.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1165

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Health Care Purchasing Cooperatives Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Health care spending in the United States has reached 16.2 percent of the Gross Domestic Product of the United States, yet over 46,000,000 people remain uninsured.

(2) After nearly a decade of manageable increases in commercial insurance premiums, many employers are now faced with consecutive years of double digit premium increases.

(3) Purchasing cooperatives owned by participating businesses are a proven method of achieving the bargaining power necessary to manage the cost and quality of employer-sponsored health plans and other employee benefits.

(4) The Employer Health Care Alliance Cooperative has provided its members with health care purchasing power through provider contracting, data collection, activities to enhance quality improvements in the health care community, and activities to promote employee health care consumerism.

(5) According to the National Business Coalition on Health, there are nearly 60 employer-led coalitions across the United States that collectively purchase health care, proactively challenge high costs and the inefficient delivery of health care, and share information on quality. These coalitions represent more than 7,000 employers, and approximately 25,000,000 employees and their dependents.

(b) PURPOSE.—It is the purpose of this Act to build off of successful local employer-led health insurance initiatives by improving the value of their employees' health care.

#### SEC. 3. GRANTS TO SELF INSURED BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

(a) AUTHORIZATION.—The Secretary of Health and Human Services (in this Act referred to as the "Secretary"), acting through the Director of the Agency for Healthcare Research and Quality, is authorized to award grants to eligible groups that meet the criteria described in subsection (d), for the development of health care purchasing cooperatives. Such grants may be used to provide support for the professional staff of such cooperatives, and to obtain contracted services for planning, development, and implementation activities for establishing such health care purchasing cooperatives.

(b) ELIGIBLE GROUP DEFINED.—

(1) IN GENERAL.—In this section, the term "eligible group" means a consortium of 2 or more self-insured employers, including agricultural producers, each of which are responsible for their own health insurance risk pool with respect to their employees.

(2) NO TRANSFER OF RISK.—Individual employers who are members of an eligible group may not transfer insurance risk to such group.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible group shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(d) CRITERIA.—

(1) FEASIBILITY STUDY GRANTS.—

(A) IN GENERAL.—An eligible group may submit an application under subsection (c) for a grant to conduct a feasibility study concerning the establishment of a health insurance purchasing cooperative. The Secretary shall approve applications submitted under the preceding sentence if the study will consider the criteria described in paragraph (2).

(B) REPORT.—After the completion of a feasibility study under a grant under this section, an eligible group shall submit to the Secretary a report describing the results of such study.

(2) GRANT CRITERIA.—The criteria described in this paragraph include the following with respect to the eligible group involved:

(A) The ability of the group to effectively pool the health care purchasing power of employers.

(B) The ability of the group to provide data to employers to enable such employers to



make data-based decisions regarding their health plans.

(C) The ability of the group to drive quality improvement in the health care community.

(D) The ability of the group to promote health care consumerism through employee education, self-care, and comparative provider performance information.

(E) The ability of the group to meet any other criteria determined appropriate by the Secretary.

(e) COOPERATIVE GRANTS.—After the submission of a report by an eligible group under subsection (d)(1)(B), the Secretary shall determine whether to award the group a grant for the establishment of a cooperative under subsection (a). In making a determination under the preceding sentence, the Secretary shall consider the criteria described in subsection (d)(2) with respect to the group.

(f) COOPERATIVES.—

(1) IN GENERAL.—An eligible group awarded a grant under subsection (a) shall establish or expand a health insurance purchasing cooperative that shall—

(A) be a nonprofit organization;

(B) be wholly owned, and democratically governed by its member-employers;

(C) exist solely to serve the membership base;

(D) be governed by a board of directors that is democratically elected by the cooperative membership using a 1-member, 1-vote standard; and

(E) accept any new member in accordance with specific criteria, including a limitation on the number of members, determined by the Secretary.

(2) AUTHORIZED COOPERATIVE ACTIVITIES.—A cooperative established under paragraph (1) shall—

(A) assist the members of the cooperative in pooling their health care insurance purchasing power;

(B) provide data to improve the ability of the members of the cooperative to make data-based decisions regarding their health plans;

(C) conduct activities to enhance quality improvement in the health care community;

(D) work to promote health care consumerism through employee education, self-care, and comparative provider performance information; and

(E) conduct any other activities determined appropriate by the Secretary.

(g) REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date on which grants are awarded under this section, and every 2 years thereafter, the Secretary shall study the programs funded under the grants and submit to the appropriate committees of Congress a report on the progress of such programs in improving the access of employees to quality, affordable health insurance.

(2) SLIDING SCALE FUNDING.—The Secretary shall use the information included in the report submitted under paragraph (1) to establish a schedule for scaling back payments under this section with the goal of ensuring that programs funded with grants under this section are self sufficient within 10 years.

#### SEC. 4. GRANTS TO SMALL BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

The Secretary shall carry out a grant program that is identical to the grant program provided for in section 3, except that an eligible group for purposes of a grant under this section shall be a consortium of 2 or more employers, including agricultural producers, each of which—

(1) have 99 employees or less; and

(2) are purchasers of health insurance (are not self-insured) for their employees.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

From the administrative funds provided to the Secretary for each fiscal year, the Secretary may use not to exceed a total of \$60,000,000 for fiscal years 2009 through 2018 to carry out this Act.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 164—AMENDING SENATE RESOLUTION 400, 94TH CONGRESS, AND SENATE RESOLUTION 445, 108TH CONGRESS, TO IMPROVE CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE ACTIVITIES OF THE UNITED STATES, TO PROVIDE A STRONG, STABLE, AND CAPABLE CONGRESSIONAL COMMITTEE STRUCTURE TO PROVIDE THE INTELLIGENCE COMMUNITY APPROPRIATE OVERSIGHT, SUPPORT, AND LEADERSHIP, AND TO IMPLEMENT A KEY RECOMMENDATION OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. FEINGOLD (for himself, Mr. BURR, Mr. BAYH, Ms. SNOWE, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 164

Whereas the National Commission on Terrorist Attacks Upon the United States (hereinafter referred to as the “9/11 Commission”) conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation;

Whereas in its final report, the 9/11 Commission found that congressional oversight of the intelligence activities of the United States is dysfunctional;

Whereas in its final report, the 9/11 Commission further found that under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

Whereas in its final report, the 9/11 Commission further found that as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

Whereas in its final report, the 9/11 Commission further found that a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership;

Whereas in its final report, the 9/11 Commission further found that the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed;

Whereas in its final report, the 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities;

Whereas in its final report, the 9/11 Commission further recommended that the authorizing authorities and appropriating authorities with respect to intelligence activities in each house of Congress be combined into a single committee in each house of Congress;

Whereas Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission; and

Whereas the Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding intelligence oversight have not been implemented: Now, therefore, be it

*Resolved,*

#### SECTION 1. PURPOSES.

The purposes of this resolution are—

(1) to improve congressional oversight of the intelligence activities of the United States;

(2) to provide a strong, stable, and capable congressional committee structure to provide the intelligence community appropriate oversight, support, and leadership;

(3) to implement a key recommendation of the National Commission on Terrorist Attacks Upon the United States (the “9/11 Commission”) that structural changes be made to Congress to improve the oversight of intelligence activities; and

(4) to provide vigilant legislative oversight over the intelligence activities of the United States to ensure that such activities are in conformity with the Constitution and laws of the United States.

#### SEC. 2. INTELLIGENCE OVERSIGHT.

(a) AUTHORITY OF THE SELECT COMMITTEE ON INTELLIGENCE.—Paragraph (5) of section 3(a) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress), is amended in that matter preceding subparagraph (A) by striking the comma following “authorizations for appropriations” and inserting “and appropriations,”.

(b) ABOLISHMENT OF THE SUBCOMMITTEE ON INTELLIGENCE.—Senate Resolution 445, agreed to October 9, 2004, (108th Congress), is amended by striking section 402.

Mr. FEINGOLD. Mr. President, I am introducing today, along with Senators BURR, BAYH, SNOWE and MCCAIN, a resolution that will implement a key recommendation of the 9/11 Commission—the granting of appropriations authority to the Senate Intelligence Committee. This effort to reform and improve congressional oversight has a long bipartisan history. It began as an amendment offered by Senator MCCAIN to the 2004 reorganizing resolution that accompanied the intelligence reform bill. And, in the last Congress, this resolution was introduced by Senator BURR. It should also be noted that it has the same bipartisan set of cosponsors as it did last year, despite the



change of administration. This underscores the principle that effective congressional oversight is neither a partisan nor political issue and that it has nothing to do with who the President is. It is about ensuring that the Intelligence Community is keeping America safe, complying with the Constitution and laws of our country, and using taxpayer dollars in an appropriate manner.

Next month will mark the 5th anniversary of the release of the 9/11 Commission's report. The country is by now familiar with the many recommendations of the Commission that have been implemented, including the establishment of the DNI and the National Counterterrorism Center. Yet, the Commission stressed that, "Of all our recommendations, strengthening congressional oversight may be among the most difficult and important."

In November 2007, Lee Hamilton, the former Vice Chairman of the Commission testified to the Senate Intelligence Committee on behalf of himself and former Chairman Tom Kean and again emphasized what needs to be done. He testified that:

The single most important step to strengthen the power of the intelligence committees is to give them the power of the purse. Without it, they will be marginalized. The intelligence community will not ignore you, but they will work around you. In a crunch, they will go to the Appropriations Committee. Within the Congress, the two bodies with the jurisdiction, time and expertise to carry out a careful review of the budget and activities of the Intelligence Community are the Senate and House intelligence committees. Yet all of us have to live by the Gold Rule: That is, he who controls the Gold makes the Rules.

The testimony of the former Chairman and Vice Chairman highlighted three practical examples of why this particular reform is so critical. First, if and when the U.S. goes to war, the decision will ride largely on intelligence—and oversight is critical to ensuring that the intelligence community gets it right. Second, oversight is necessary to safeguard the privacy and civil liberties of Americans in an age of enhanced collection capabilities and data mining. Third, the success of intelligence reform requires sustained congressional oversight.

Vigorous, effective, independent congressional oversight is fundamental to the checks and balances of our constitutional system. In recent years, we have seen outright contempt for this oversight, particularly as the previous administration sought to hide the CIA's detention and interrogation and the NSA's warrantless wiretapping programs from Congress. But the inauguration of a new president has not removed all impediments to effective oversight, nor is it a guarantee that serious abuses won't occur in the future. That is why the implementation of this reform is just as important as ever and

why this resolution has bipartisan support.

In the end, this reform is not just about our constitutional system, as important as that is. It is about how best to protect the American people. As Lee Hamilton testified, "the strong point simply is that the Senate of the U.S. and the House of the U.S. is not doing its job. And because you are not doing the job, the country is not as safe as it ought to be, because one of my premises is that robust oversight is necessary for a stronger intelligence community."

The implementation of this reform is long overdue. It has been more than seven and a half years since the attacks of 9/11, almost 5 years since the 9/11 Commission made this recommendation, and a year and a half since the Senate Intelligence Committee heard directly from former Chairman Hamilton and former Vice Chairman Kean. There should be no more excuses, or delays.

#### SENATE RESOLUTION 165—TO ENCOURAGE RECOGNITION OF 2009 AS THE "YEAR OF THE MILITARY FAMILY"

Mr. LEVIN (for himself, Mr. McCain, Mr. NELSON of Nebraska, and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

##### S. RES. 165

Whereas there are more than 1.8 million family members of regular component members of the Armed Forces and an additional 1.1 million family members of reserve component members;

Whereas slightly more than half of all members of the regular and reserve components are married, and just over 40 percent of military spouses are 30 years or younger and 60 percent of military spouses are under 36 years of age;

Whereas there are nearly 1.2 million children between the ages of birth and 23 years who are dependents of regular component members, and there are over 713,000 children between such ages who are dependents of reserve component members;

Whereas the largest group of minor children of regular component members consist of children between the ages of birth and 5 years, while the largest group of minor children of reserve component members consist of children between the ages of 6 and 14 years;

Whereas the needs, resources, and challenges confronting a military family, particularly when a member of the family has been deployed, vastly differ between younger age children and children who are older;

Whereas the United States recognizes that military families are also serving their country, and the United States must ensure that all the needs of military dependent children are being met, for children of members of both the regular and reserve components;

Whereas military families often face unique challenges and difficulties that are inherent to military life, including long separations from loved ones, the repetitive demands of frequent deployments, and frequent uprooting of community ties resulting from

moves to bases across the country and overseas;

Whereas thousands of military family members have taken on volunteer responsibilities to assist units and members of the Armed Forces who have been deployed by supporting family readiness groups, helping military spouses meet the demands of a single parent during a deployment, or providing a shoulder to cry on or the comfort of understanding;

Whereas military families provide members of the Armed Forces with the strength and emotional support that is needed from the home front for members preparing to deploy, who are deployed, or who are returning from deployment;

Whereas some military families have given the ultimate sacrifice in the loss of a principal family member in defense of the United States; and

Whereas 2009 would be an appropriate year to designate as the "Year of the Military Family"; Now, therefore be it

*Resolved by the Senate, That the Senate—*

(1) expresses its deepest appreciation to the families of members of the Armed Forces who serve, or have served, in defense of the United States;

(2) recognizes the contributions that military families make, and encourages the people of the United States to share their appreciation for the sacrifices military families give on behalf of the United States; and

(3) encourages the people of the United States and the Department of Defense to observe the "Year of Military Family" with appropriate ceremonies and activities.

#### SENATE RESOLUTION 166—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

##### S. RES. 166

*Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Committee on Rules and Administration.*

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1225. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1226. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1227. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1228. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1229. Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1225.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### SEC. \_\_\_\_ . MARIJUANA.

(a) IN GENERAL.—The Secretary of Health and Human Services shall—

(1) require that if a State permits the use of marijuana without adhering to the established legal processes associated with the Federal Food, Drug, and Cosmetic Act, the State-permitted marijuana shall be subject to the full regulatory requirements of the Food and Drug Administration, including a risk evaluation and mitigation strategy and all other requirements and penalties of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals; and

(2) require that any State-permitted marijuana likely to be offered to, or purchased by, consumers as marijuana intended to be consumed as a cigarette will be subject to section 900 of the Federal Food Drug and Cosmetic Act (as amended by section 101).

(b) MODIFICATION OF STATE LAWS.—

(1) IN GENERAL.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) is amended—

(A) in the section heading, by inserting “**AND MARIJUANA**” after “**TOBACCO**”;

(B) in subsection (a)(1), by inserting “or marijuana” after “tobacco”; and

(C) in subsection (b)—

(i) in paragraph (1), by inserting “and marijuana” after “tobacco”; and

(ii) in paragraph (2)(B)(i), by inserting “and marijuana” after “tobacco”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to State laws beginning in fiscal year 2010, except that in the case of a State whose legislature does not convene a regular session in fiscal year 2009, such amendments shall apply beginning in fiscal year 2011.

**SA 1226.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A insert the following:

#### SEC. \_\_\_\_ . INDEPENDENT STUDY OF FEDERAL TOBACCO REGULATORY ACTIVITIES EFFECTIVENESS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) develop performance measures for the Food and Drug Administration's regulatory activities with respect to tobacco; and

(2) recommend program evaluations that should be conducted for programs and activities related to tobacco regulation that are administered by the Food and Drug Administration.

(b) CONTENTS.—The performance measures developed under subsection (a) shall—

(1) to the maximum extent practicable draw on research-based, quantitative data;

(2) take into account program and activity purpose and design;

(3) include criteria to evaluate the cost effectiveness of programs and activities conducted by the Food and Drug Administration related to tobacco;

(4) include criteria to evaluate the administration and management of programs and activities conducted by the Food and Drug Administration related to tobacco;

(5) include criteria to evaluate harm-reduction strategies approved by the Food and Drug Administration;

(6) include criteria to evaluate whether consumers are better informed relating to health and dependency effects or safety of tobacco;

(7) include criteria to evaluate if the Food and Drug Administration's programs make tobacco less accessible to minors; and

(8) include criteria to evaluate whether the Food and Drug Administration's programs have encouraged smoking cessation and reduced tobacco-related disease

(c) REPORT.—Not later than 2 years after the development of the performance measures under subsection (a), and every 5 years thereafter, the Comptroller General of the United States shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report containing an assessment of each such program and activity with respect to the performance measures and program evaluations developed under subsection (a).

**SA 1227.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Beginning in section 102(a) of division A, strike paragraph (5) and all that follows through section 103(g) of such division and insert the following:

#### (5) ENFORCEMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail

sale of tobacco products) are enforced with respect to the United States.

(B) INDIAN TRIBES.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) apply to, and are enforced with respect to, Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code, shall not apply to the final rule published under paragraph (1).

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents” (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document titled “Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act” (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document titled “Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination” (61 Fed. Reg. 44619-45318 (August 28, 1996)).

#### SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting “tobacco product,” after “device.”;

(2) in subsection (b), by inserting “tobacco product,” after “device.”;

(3) in subsection (c), by inserting “tobacco product,” after “device.”;

(4) in subsection (e)—

(A) by striking the period after “572(i)”;

and

(B) by striking “or 761 or the refusal to permit access to” and inserting “761, 909, or 920 or the refusal to permit access to”;

(5) in subsection (g), by inserting “tobacco product,” after “device.”;

(6) in subsection (h), by inserting “tobacco product,” after “device.”;

(7) in subsection (j)—

(A) by striking the period after “573”; and  
(B) by striking “708, or 721” and inserting “708, 721, 904, 905, 906, 907, 908, 909, or 920(b)”;

(8) in subsection (k), by inserting “tobacco product,” after “device,”;

(9) by striking subsection (p) and inserting the following:

“(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(3).”;

(10) by striking subsection (q)(1) and inserting the following:

“(q)(1) The failure or refusal—

“(A) to comply with any requirement prescribed under section 518, 520(g), 903(b), 907, 908, or 915;

“(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or 920; or

“(C) to comply with a requirement under section 522 or 913.”;

(11) in subsection (q)(2), by striking “device,” and inserting “device or tobacco product,”;

(12) in subsection (r), by inserting “or tobacco product” after the term “device” each time that such term appears; and

(13) by adding at the end the following:

“(oo) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

“(pp) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

“(qq)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

“(rr) The charitable distribution of tobacco products.

“(ss) The failure of a manufacturer or distributor to notify the Attorney General and the Secretary of the Treasury of their knowledge of tobacco products used in illicit trade.

“(tt) Making any express or implied statement or representation directed to consumers with respect to a tobacco product, in a label or labeling or through the media or advertising, that either conveys, or misleads or would mislead consumers into believing, that—

“(1) the product is approved by the Food and Drug Administration;

“(2) the Food and Drug Administration deems the product to be safe for use by consumers;

“(3) the product is endorsed by the Food and Drug Administration for use by consumers; or

“(4) the product is safe or less harmful by virtue of—

“(A) its regulation or inspection by the Food and Drug Administration; or

“(B) its compliance with regulatory requirements set by the Food and Drug Administration;

including any such statement or representation rendering the product misbranded under section 903.”.

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) in paragraph (1)(A), by inserting “or tobacco products” after the term “devices” each place such term appears;

(2) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking “assessed” the first time it appears and inserting “assessed, or a no-tobacco-sale order may be imposed,”; and

(ii) by striking “penalty” the second time it appears and inserting “penalty, or upon whom a no-tobacco-sale order is to be imposed,”;

(B) in subparagraph (B)—

(i) by inserting after “penalty,” the following: “or the period to be covered by a no-tobacco-sale order,”; and

(ii) by adding at the end the following: “A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.”; and

(C) by adding at the end the following:

“(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.”;

(3) in paragraph (6)—

(A) by inserting “or the imposition of a no-tobacco-sale order” after the term “penalty” each place such term appears; and

(B) by striking “issued.” and inserting “issued, or on which the no-tobacco-sale order was imposed, as the case may be.”; and

(4) by adding at the end the following:

“(8) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1). Prior to the entry of a no-sale order under this paragraph, a person shall be entitled to a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer’s request a hearing by telephone, or at the nearest regional or field office of the Food and Drug Administration, or at a Federal, State, or county facility within 100 miles from the location of the retail outlet, if such a facility is available.”.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking “and” before “(D)”;

(B) by striking “device.” and inserting the following: “device, and (E) Any adulterated or misbranded tobacco product.”;

(2) in subsection (d)(1), by inserting “tobacco product,” after “device,”;

(3) in subsection (g)(1), by inserting “or tobacco product” after the term “device” each place such term appears; and

(4) in subsection (g)(2)(A), by inserting “or tobacco product” after “device”.

(e) SECTION 505.—Section 505(n)(2) (21 U.S.C. 355(n)(2)) is amended by striking “section 904” and inserting “section 1004”.

(f) SECTION 523.—Section 523(b)(2)(D) (21 U.S.C. 360m(b)(2)(D)) is amended by striking

“section 903(g)” and inserting “section 1003(g)”.

(g) SECTION 702.—Section 702(a)(1) (U.S.C. 372(a)(1)) is amended—

(1) by striking “(a)(1)” and inserting “(a)(1)(A)”;

and

(2) by adding at the end the following:

“(B) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with this paragraph to carry out inspections of retailers within that State in connection with the enforcement of this Act.”.

**SA 1228.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. \_\_\_\_ STUDY CONCERNING THE IMPACT ON PUBLIC HEALTH PROGRAMS.**

The Comptroller General of the United States shall conduct a study of the impact that this Act (and the amendments made by this Act) may have on Federal public health programs (including the State Children’s Health Insurance Program under title XXI of the Social Security Act). Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress, a report on the findings made in study conducted under this section.

**SA 1229.** Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **DIVISION —IMPORTATION OF PRESCRIPTION DRUGS**

##### **SEC. 1. SHORT TITLE.**

This division may be cited as the “Pharmaceutical Market Access and Drug Safety Act of 2009”.

##### **SEC. 2. FINDINGS.**

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to

safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American spend more than \$200,000,000,000 on prescription drugs every year;

(6) the Congressional Budget Office has found that the cost of prescription drugs are between 35 to 55 percent less in other highly-developed countries than in the United States; and

(7) promoting competitive market pricing would both contribute to health care savings and allow greater access to therapy, improving health and saving lives.

### SEC. 3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

### SEC. 4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by inserting after section 803 the following:

#### “SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

“(a) IMPORTATION OF PRESCRIPTION DRUGS.—

“(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

“(A) the limitation on importation that is established in section 801(d)(1) is waived; and

“(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

“(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

“(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

“(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

“(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

“(A) by a registered importer; or

“(B) from a registered exporter to an individual.

“(4) DEFINITIONS.—

“(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

“(i) The term ‘registered exporter’ means an exporter for which a registration under subsection (b) has been approved and is in effect.

“(ii) The term ‘registered importer’ means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

“(iii) The term ‘registration condition’ means a condition that must exist for a registration under subsection (b) to be approved.

“(B) QUALIFYING DRUG.—For purposes of this section, the term ‘qualifying drug’ means a drug for which there is a corresponding U.S. label drug.

“(C) U.S. LABEL DRUG.—For purposes of this section, the term ‘U.S. label drug’ means a prescription drug that—

“(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

“(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

“(iii) is approved under section 505(c); and

“(iv) is not—

“(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

“(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

“(aa) a therapeutic DNA plasmid product;

“(bb) a therapeutic synthetic peptide product;

“(cc) a monoclonal antibody product for in vivo use; and

“(dd) a therapeutic recombinant DNA-derived product;

“(III) an infused drug, including a peritoneal dialysis solution;

“(IV) an injected drug;

“(V) a drug that is inhaled during surgery;

“(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

“(VII) a sterile ophthalmic drug intended for topical use on or in the eye.

“(D) OTHER DEFINITIONS.—For purposes of this section:

“(i)(I) The term ‘exporter’ means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

“(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

“(AA) the training of pharmacists;

“(BB) the practice of pharmacy; and

“(CC) the protection of the privacy of personal medical information; and

“(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

“(ii) The term ‘importer’ means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(iii) The term ‘pharmacist’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

“(iv) The term ‘pharmacy’ means a person that—

“(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

“(II) employs 1 or more pharmacists.

“(v) The term ‘prescription drug’ means a drug that is described in section 503(b)(1).

“(vi) The term ‘wholesaler’—

“(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

“(II) does not include a person authorized to import drugs under section 801(d)(1).

“(E) PERMITTED COUNTRY.—The term ‘permitted country’ means—

“(i) Australia;

“(ii) Canada;

“(iii) a member country of the European Union, but does not include a member country with respect to which—

“(I) the country’s Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

“(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

“(iv) Japan;

“(v) New Zealand;

“(vi) Switzerland; and

“(vii) a country in which the Secretary determines the following requirements are met:

“(I) The country has statutory or regulatory requirements—

“(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

“(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

“(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

“(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

“(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

“(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

“(III) The importation of drugs to the United States from the country will not adversely affect public health.

“(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

“(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a ‘registrant’) submits to the Secretary a registration containing the following:

“(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

“(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

“(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

“(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the

sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

“(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

“(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

“(D) An agreement by the registrant to—

“(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

“(ii) provide for the return to the registrant of such drug; and

“(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

“(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

“(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

“(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

“(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

“(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

“(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

“(I) In the case of an exporter:

“(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

“(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

“(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

“(II) \$1,000,000.

“(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

“(iv) An agreement by the exporter to report to the Secretary—

“(I) not later than August 1 of each fiscal year, the total price and the total volume of

drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

“(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

“(J) In the case of an importer, an agreement by the importer to report to the Secretary—

“(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

“(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

“(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

“(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

“(ii) importation by individuals of qualifying drugs under subsection (a).

“(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

“(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

“(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

“(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

“(4) SUSPENSION AND TERMINATION.—

“(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

“(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

“(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a

qualifying drug to an individual in violation of subsection (1)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

“(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

“(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

“(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

“(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

“(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

“(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

“(1) The drug was manufactured in an establishment—

“(A) required to register under subsection (h) or (i) of section 510; and

“(B)(i) inspected by the Secretary; or

“(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

“(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

“(3) The exporter or importer obtained the drug—

“(A) directly from the establishment; or

“(B) directly from an entity that, by contract with the exporter or importer—

“(i) provides to the exporter or importer a statement (in such form and containing such

information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

“(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

“(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

“(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

“(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

“(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

“(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

“(6) The exporter or importer retains a sample of each lot of the drug for testing by the Secretary.

“(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

“(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

“(A) the exporter agrees to permit the Secretary—

“(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

“(ii) to have access, including on a day-to-day basis, to—

“(I) records of the exporter that relate to the export of such drugs, including financial records; and

“(II) samples of such drugs;

“(iii) to carry out the duties described in paragraph (3); and

“(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

“(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

“(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

“(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

“(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

“(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

“(D) Monitoring the affixing of markings under paragraph (2).

“(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

“(F) Determining whether the exporter is in compliance with all other registration conditions.

“(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

“(A) the name and complete contact information of the person submitting the notice;

“(B) the name and complete contact information of the importer involved;

“(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

“(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

“(E) the country from which the drug is shipped;

“(F) the name and complete contact information for the shipper of the drug;

“(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

“(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

“(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

“(J) such other information as the Secretary may require by regulation.

“(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a quali-

fying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

“(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

“(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

“(C) Reviewing notices under paragraph (4).

“(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

“(E) Determining whether the importer is in compliance with all other registration conditions.

“(e) IMPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of \$10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

“(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

“(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs



under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

“(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

“(C) TOTAL PRICE OF DRUGS.—

“(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

“(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

“(4) USE OF FEES.—

“(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

“(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

“(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(f) EXPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of \$10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

“(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

“(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

“(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

“(C) TOTAL PRICE OF DRUGS.—

“(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

“(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

“(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United

States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

“(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

“(4) USE OF FEES.—

“(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

“(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

“(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(g) COMPLIANCE WITH SECTION 801(a).—

“(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

“(2) SECTION 505; APPROVAL STATUS.—

“(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

“(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

“(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

“(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

“(aa) the variations provided for in the application; and

“(bb) any difference in labeling (except ingredient labeling); or

“(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

“(aa) the variations provided for in the application; and



“(bb) any difference in labeling (except ingredient labeling).

“(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

“(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

“(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

“(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

“(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

“(I) the information provided in the notice is complete and true; and

“(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

“(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

“(v) TIMING OF SUBMISSION OF NOTICES.—

“(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

“(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

“(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

“(vi) REVIEW BY SECRETARY.—

“(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

“(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

“(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary shall—

“(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

“(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

“(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

“(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

“(aa) such inspection by the Secretary shall be authorized; and

“(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

“(vii) PUBLICATION OF INFORMATION ON NOTICES.—

“(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

“(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

“(aa) a notice is under review;

“(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

“(cc) the importation of the drug is permitted under subsection (a).

“(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

“(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

“(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

“(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

“(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

“(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

“(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

“(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

“(I) vacate the order under clause (ii), if any;

“(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

“(III) permit importation of the qualifying drug under subsection (a); and

“(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

“(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

“(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country cease;

“(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

“(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

“(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of

a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

“(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

“(ii) may not order that the importation of the qualifying drug involved cease; and

“(iii) shall promptly notify registered exporters and registered importers.

“(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

“(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

“(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

“(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

“(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

“(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

“(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

“(III) include a right of reference to the application for the drug approved under section 505(b); and

“(IV) include such additional information as the Secretary may require.

“(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

“(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

“(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

“(I) the same; or

“(II) different salts, esters, or complexes of the same moiety.

“(3) SECTION 502; LABELING.—

“(A) IMPORTATION BY REGISTERED IMPORTER.—

“(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug

shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

“(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

“(II) the name of the manufacturer and location of the manufacturer;

“(III) the lot number assigned by the manufacturer;

“(IV) the name, location, and registration number of the importer; and

“(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

“(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

“(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

“(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

“(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

“(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

“(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

“(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

“(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

“(B) IMPORTATION BY INDIVIDUAL.—

“(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

“(I) directions for use by the consumer;

“(II) the lot number assigned by the manufacturer;

“(III) the name and registration number of the exporter;

“(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

“(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

“(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

“(bb) a list of the ingredients of the drug as would be required under section 502(e); and

“(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a phar-

macist in the United States, without regard to whether the special labeling bears any trademark involved.

“(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

“(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

“(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

“(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

“(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

“(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

“(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

“(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

“(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

“(A) The drug is not a qualifying drug.

“(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

“(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

“(D) The drug does not comply with paragraph (3) or (4).

“(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

“(F) The Secretary becomes aware that—

“(i) the drug may be counterfeit;

“(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

“(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

“(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

“(H) The Secretary has under section 505(e) withdrawn approval of the drug.

“(I) The manufacturer of the drug has instituted a recall of the drug.

“(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

“(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

“(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

“(ii) The markings on the shipping container appear to be counterfeit.

“(iii) The shipping container or markings appear to have been tampered with.

“(h) EXPORTER LICENSURE IN PERMITTED COUNTRY.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

“(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

“(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

“(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

“(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

“(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

“(i) is valid under applicable Federal and State laws; and

“(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

“(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

“(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

“(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

“(ii) to prevent a duplicative filling by another pharmacist.

“(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

“(E) The quantity of the drug does not exceed a 90-day supply.

“(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an ‘ineligible subpart H drug’ if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

“(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

“(j) MAINTENANCE OF RECORDS AND SAMPLES.—

“(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

“(A) maintain records required under this section for not less than 2 years; and

“(B) maintain samples of each lot of a qualifying drug required under this section for not more than 2 years.

“(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

“(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

“(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

“(k) DRUG RECALLS.—

“(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

“(A) if the drug is recalled or withdrawn from the market in a permitted country;

“(B) how the drug may be identified, including lot number; and

“(C) the reason for the recall or withdrawal.

“(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

“(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

“(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

“(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

“(1) DRUG LABELING AND PACKAGING.—

“(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

“(A) The lot number assigned by the manufacturer.

“(B) The name and registration number of the importer.

“(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

“(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

“(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

“(ii) a list of the ingredients of the drug as would be required under section 502(e).

“(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

“(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

“(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

“(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

“(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

“(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

“(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

“(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

“(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

“(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

“(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), and (5) of section 4 of the Pharmaceutical Market Access and Drug Safety Act of 2009, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

“(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

“(G) cause there to be a difference (including a difference in active ingredient, route of

administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

“(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

“(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

“(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

“(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

“(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

“(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

“(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

“(3) AFFIRMATIVE DEFENSE.—

“(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

“(i) the person exporting or importing a qualifying drug into the United States under this section; or

“(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

“(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

“(i) the difference was required by the country in which the drug is distributed;

“(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

“(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

“(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

“(4) EFFECT OF SUBSECTION.—

“(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribu-

tion of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

“(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

“(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

“(ii) require that such discounts be made available to other purchasers of the prescription drug; or

“(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

“(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

“(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

“(ii) apply to such donations or supplying of a prescription drug.

“(5) ENFORCEMENT.—

“(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

“(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

“(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

“(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

“(6) ACTIONS BY STATES.—

“(A) IN GENERAL.—

“(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

“(I) enjoin that practice;

“(II) enforce compliance with this subsection;

“(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

“(IV) obtain such other relief as the court may consider to be appropriate.

“(ii) NOTICE.—

“(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

“(aa) written notice of that action; and

“(bb) a copy of the complaint for that action.

“(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

“(B) INTERVENTION.—

“(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

“(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

“(I) to be heard with respect to any matter that arises in that action; and

“(II) to file a petition for appeal.

“(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

“(i) conduct investigations;

“(ii) administer oaths or affirmations; or

“(iii) compel the attendance of witnesses or the production of documentary and other evidence.

“(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

“(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

“(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

“(i) is an inhabitant; or

“(ii) may be found.

“(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

“(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

“(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term ‘antitrust laws’ has the meaning given it in the first section of the

Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

“(8) MANUFACTURER.—In this subsection, the term ‘manufacturer’ means any entity, including any affiliate or licensee of that entity, that is engaged in—

“(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

“(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.”.

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

“(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

“(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

“(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

“(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

“(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

“(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.”; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

“(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i) (2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.”.

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

“(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

“(1) the drug has been refused admission because the drug was not a lawful import under section 804;

“(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

“(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

“(4) the individual can find information about such importation, including a list of

registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.”.

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after “import into the United States” the following: “, including a drug that is, or may be, imported or offered for import into the United States under section 804.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this division.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

“(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.”.

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this division; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this division.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this division will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this division shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this division, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) may limit the number of registered exporters under such section 804 to

not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this division, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this division, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this division that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this division if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based

on the 12 calendar month period most recently completed before the date of enactment of this division; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this division that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this division if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this division; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this division and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this division shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with the first full fiscal year after the date of enactment of this division, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such sec-

tion 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during the first fiscal year in which this division takes effect to be an amount equal to the amount which bears the same ratio to \$1,000,000,000 as the number of days in such fiscal year during which this division is effective bears to 365.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) the first fiscal year in which this division takes effect to be an amount equal to the amount which bears the same ratio to \$1,000,000,000 as the number of days in such fiscal year during which this division is effective bears to 365; and

(ii) the second fiscal year in which this division is in effect to be \$3,000,000,000.

(C) SECOND YEAR ADJUSTMENT.—

(i) REPORTS.—Not later than February 20 of the second fiscal year in which this division is in effect, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1 through January 31 of such fiscal year.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during the second fiscal year in which this division is in effect. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1 of the second fiscal year in which this division is in effect, from each importer so that the aggregate total of fees collected under subsection (e)(2) for such fiscal year does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during such fiscal year as reestimated under clause (ii).

(D) FAILURE TO PAY FEES.—Notwithstanding any other provision of this section, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug under such section 804 until such fee is paid.

(E) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this division (or an amendment made by this division), the Secretary shall expedite the designation of any additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this division;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(3) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(4) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with

and approved by the Food and Drug Administration.

(h) **EFFECT ON ADMINISTRATION PRACTICES.**—Notwithstanding any provision of this division (and the amendments made by this division), the practices and policies of the Food and Drug Administration and Bureau of Customs and Border Protection, in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, shall remain in effect.

(i) **REPORT TO CONGRESS.**—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this division), including any pending investigations or civil actions under such section.

**SEC. 5. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.**

(a) **IN GENERAL.**—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 4, is further amended by adding at the end the following section:

**“SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.**

“(a) **IN GENERAL.**—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

“(1) the shipment has a declared value of less than \$10,000; and

“(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

“(B) the Secretary has requested delivery of such shipment of drugs.

“(b) **NO BOND OR EXPORT.**—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

“(c) **DESTRUCTION OF VIOLATIVE SHIPMENT.**—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

“(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

“(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

“(d) **CERTAIN PROCEDURES.**—

“(1) **IN GENERAL.**—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

“(2) **OBJECTIVE OF PROCEDURES.**—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

“(e) **EVIDENCE EXCEPTION.**—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be

preserved as evidence or potential evidence with respect to an offense against the United States.

“(f) **RULE OF CONSTRUCTION.**—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than \$10,000.”

(b) **PROCEDURES.**—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this division.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this division.

**SEC. 6. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.**

(a) **STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.**—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking “and who is not the manufacturer or an authorized distributor of record of such drug”; and

(B) by striking “to an authorized distributor of record or”; and

(C) by striking subparagraph (B) and inserting the following:

“(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

“(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as ‘alternative requirements’) to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

“(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).”

(2) in paragraph (2)(A), by adding at the end the following: “The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.”; and

(3) in paragraph (3), by striking “and subsection (d)—” in the matter preceding subparagraph (A) and all that follows through “the term ‘wholesale distribution’ means” in subparagraph (B) and inserting the following: “and subsection (d), the term ‘wholesale distribution’ means”.

(b) **CONFORMING AMENDMENT.**—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

“(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

“(5) For purposes of this subsection, the term ‘authorized distributors of record’ means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer’s products.”

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2012.

(2) **DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.**—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this division with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section 4.

(3) **EFFECT WITH RESPECT TO REGISTERED EXPORTERS.**—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this division.

(4) **ALTERNATIVE REQUIREMENTS.**—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than January 1, 2012.

(5) **INTERMEDIATE REQUIREMENTS.**—The Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on prescription drugs at the case and pallet level effective not later than 1 year after the date of enactment of this division.

(6) **ADDITIONAL REQUIREMENTS.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of this section, the Secretary shall, not later than 18 months after the date of enactment of this division, require that the packaging of any prescription drug incorporates—

(i) a standardized numerical identifier unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(ii)(I) overt optically variable counterfeit-resistant technologies that—

(aa) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(bb) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(cc) are manufactured and distributed in a highly secure, tightly controlled environment; and

(dd) incorporate additional layers of non-visible covert security features up to and including forensic capability, as described in subparagraph (B); or

(II) technologies that have a function of security comparable to that described in subclause (I), as determined by the Secretary.

(B) **STANDARDS FOR PACKAGING.**—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described



in subparagraph (A) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

#### SEC. 7. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503B the following:

#### “SEC. 503C. INTERNET SALES OF PRESCRIPTION DRUGS.

“(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

“(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

“(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

“(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

“(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

“(i) are not intended to be accessed by purchasers or prospective purchasers; or

“(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

“(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

“(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

“(i) The name of such person.

“(ii) Each State in which the person is authorized by law to dispense prescription drugs.

“(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

“(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

“(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

“(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words ‘licensing and contact information’.

“(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

“(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

“(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

“(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

“(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

“(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

“(2) EXCEPTIONS.—Paragraph (1) does not apply to—

“(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

“(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

“(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

“(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

“(3) QUALIFYING MEDICAL RELATIONSHIP.—

“(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

“(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

“(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

“(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

“(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

“(4) RULES OF CONSTRUCTION.—

“(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

“(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

“(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or inter-

pretation of State law, concerning the practice of medicine.

“(c) ACTIONS BY STATES.—

“(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(1), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

“(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

“(A) to intervene in such action;

“(B) upon so intervening, to be heard on all matters arising therein; and

“(C) to file petitions for appeal.

“(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

“(5) ACTIONS BY OTHER STATE OFFICIALS.—

“(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

“(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

“(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

“(e) GENERAL DEFINITIONS.—For purposes of this section:

“(1) The term ‘practitioner’ means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

“(2) The term ‘prescription drug’ means a drug that is described in section 503(b)(1).

“(3) The term ‘qualifying medical relationship’, with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

“(f) INTERNET-RELATED DEFINITIONS.—

“(1) IN GENERAL.—For purposes of this section:

“(A) The term ‘Internet’ means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

“(B) The term ‘link’, with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

“(i) to move from viewing one portion of a page on such site to another portion of the page;

“(ii) to move from viewing one page on such site to another page on such site; or

“(iii) to move from viewing a page on one Internet site to a page on another Internet site.

“(C) The term ‘page’, with respect to the Internet, means a document or other file accessed at an Internet site.

“(D)(i) The terms ‘site’ and ‘address’, with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

“(ii) The term ‘domain name’ means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as ‘.com’, ‘.edu’, ‘.gov’, ‘.net’, or ‘.org’.

“(iii) The term ‘Internet Protocol numbers’ includes any successor protocol for determining a specific location on the Internet.

“(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

“(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person’s selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.”

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

“(l) The dispensing or selling of a prescription drug in violation of section 503C.”

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503C of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated \$100,000 for each of the first 3 fiscal years in which this section is in effect.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this division, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

#### SEC. 8. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

“(h) RESTRICTED TRANSACTIONS.—

“(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

“(2) PAYMENT SYSTEM.—

“(A) IN GENERAL.—The term ‘payment system’ means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

“(i) a credit card system;

“(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

“(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

“(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

“(i) a creditor;

“(ii) a credit card issuer;

“(iii) a financial institution;

“(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

“(v) a money transmitting business; or

“(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

“(3) RESTRICTED TRANSACTION.—The term ‘restricted transaction’ means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

“(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

“(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

“(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

“(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term ‘unlawful drug importation request’ means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

(5) UNREGISTERED FOREIGN PHARMACY.—The term ‘unregistered foreign pharmacy’ means a person in a country other than the United States that is not a registered exporter under section 804.

(6) OTHER DEFINITIONS.—

(A) CREDIT; CREDITOR; CREDIT CARD.—The terms ‘credit’, ‘creditor’, and ‘credit card’ have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms ‘access device’ and ‘electronic fund transfer’—

“(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

“(ii) the term ‘electronic fund transfer’ also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

(C) FINANCIAL INSTITUTION.—The term ‘financial institution’—

“(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

“(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms ‘money transmitting business’ and ‘money transmitting service’ have the meaning given the terms in section 5330(d) of title 31, United States Code.

(E) BOARD.—The term ‘Board’ means the Board of Governors of the Federal Reserve System.

(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

(A) REGULATIONS.—The Board shall promulgate regulations requiring—

“(i) an operator of a credit card system;

“(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

“(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic

transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

“(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system

“(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

“(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

“(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

“(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

“(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

“(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

“(D) ENFORCEMENT.—

“(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

“(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

“(I) The extent to which the payment system or person knowingly permits restricted transactions.

“(II) The history of the payment system or person in connection with permitting restricted transactions.

“(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

“(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a per-

son, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

“(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

“(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this division.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this division.

#### SEC. 9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking “not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.” and inserting “import into the United States not more than 10 dosage units combined of all such controlled substances.”.

#### SEC. 10. SEVERABILITY.

If any provision of this division, an amendment by this division, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this division, the amendments made by this division, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

### NOTICE OF HEARING

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources Subcommittee on Public Lands and Forests.

The hearing will be held on Wednesday, June 17, 2009, at 2:30 p.m. in room SD-366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on the following bills:

S.409, to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal

land, and for other purposes; S. 782, to provide for the establishment of the National Volcano Early Warning and Monitoring System; S.874, to establish El Rio Grande Del Norte National Conservation Area in the State of New Mexico, and for other purposes; S.1139, to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; and S.1140, to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510-6150, or by email to [anna\\_fox@energy.senate.gov](mailto:anna_fox@energy.senate.gov).

For further information, please contact David Brooks at (202) 224-9863 or Anna Fox at (202) 224-1219.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 2, 2009, at 9:30 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, June 2, 2009, at 2:15 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. With objection, it is so ordered.

#### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, June 2, 2009, at 10 a.m., in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. With objection, it is so ordered.

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 2, 2008, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President I ask unanimous consent that the Select Committee on Intelligence be authorized to

meet during the session of the Senate on June 2, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUPPLEMENTAL APPROPRIATIONS ACT, 2009

On Thursday, May 21, 2009, the Senate passed H.R. 2346, as amended, as follows:

### H.R. 2346

*Resolved*, That the bill from the House of Representatives (H.R. 2346) entitled “An Act making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert the following:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:*

### TITLE I

#### DEPARTMENT OF AGRICULTURE

##### FOREIGN AGRICULTURAL SERVICE

##### PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, \$700,000,000, to remain available until expended: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISION—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, any amounts made available prior to the date of enactment of this Act to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202) that are unobligated as of the date of enactment of this Act shall be available to carry out any purpose under that program without fiscal year limitation: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### (INCLUDING RESCISSION OF FUNDS)

SEC. 102. (a)(1) For an additional amount for gross obligations for the principal amount of direct farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: direct farm ownership loans, \$360,000,000; and direct operating loans, \$225,000,000.

(2) For an additional amount for the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, \$22,860,000; and direct operating loans, \$26,530,000.

(b) Of available unobligated discretionary balances from the Rural Development mission area carried forward from fiscal year 2008, \$49,390,000 are hereby rescinded: *Provided*, That none of the amounts may be rescinded other than those from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) That the amount under this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sec-

tions 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

### TITLE II

#### DEPARTMENT OF COMMERCE

##### ECONOMIC DEVELOPMENT ADMINISTRATION

##### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for “Economic Development Assistance Programs”, \$40,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading shall be for the Trade Adjustment Assistance for Communities program as authorized by section 1872 of Public Law 111–5: *Provided further*, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### DEPARTMENT OF JUSTICE

##### GENERAL ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$30,000,000, to remain available until September 30, 2010: *Provided*, That funds provided in the previous proviso shall only be for carrying out Department of Justice responsibilities required by Executive Orders 13491, 13492, and 13493: *Provided further*, That the Attorney General shall submit to the Committees on Appropriations of the House and the Senate a detailed plan for expenditure of such funds no later than 30 days after enactment of this Act.

##### DETENTION TRUSTEE

For an additional amount for “Detention trustee”, \$60,000,000, to remain available until September 30, 2010.

##### LEGAL ACTIVITIES

##### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and expenses, general legal activities”, \$1,648,000, to remain available until September 30, 2010.

##### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and expenses, United States attorneys”, \$5,000,000, to remain available until September 30, 2010.

For an additional amount for “Salaries and expenses, United States attorneys”, \$10,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

##### UNITED STATES MARSHALS SERVICES

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$10,000,000, to remain available until September 30, 2010.

##### NATIONAL SECURITY DIVISION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$1,389,000, to remain available until September 30, 2010.

##### FEDERAL BUREAU OF INVESTIGATION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$35,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

##### DRUG ENFORCEMENT ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$20,000,000, to remain available until September 30, 2010.

##### BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$14,000,000, to remain available until September 30, 2010.

##### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$5,038,000, to remain available until September 30, 2010.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 201. Unless otherwise specified, each amount in this title is designated as being for overseas deployment and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term “United States” means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading “SALARIES AND EXPENSES” is hereby reduced by \$30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading “OPERATION AND MAINTENANCE, DEFENSE-WIDE” under paragraph (3) is hereby reduced by \$50,000,000.

### TITLE III

#### DEPARTMENT OF DEFENSE

##### MILITARY PERSONNEL

##### MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$11,455,777,000.

##### MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$1,565,227,000.

##### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$1,464,353,000.

##### MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$1,469,173,000.

##### RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$387,155,000.

##### RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$39,478,000.

##### RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine Corps”, \$29,179,000.

##### RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$14,943,000.

##### NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$1,542,333,000.

##### NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$46,860,000.

## OPERATION AND MAINTENANCE

## OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", \$13,933,801,000.

## OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", \$2,337,360,000.

## OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", \$1,037,842,000.

## OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", \$5,992,125,000.

## OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", \$5,065,783,000, of which:

(1) not to exceed \$12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed \$1,050,000,000, to remain available until expended, for payments to reimburse key cooperating nations, for logistical, military, and other support including access provided to United States military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: Provided, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

(3) up to \$50,000,000 shall be available, 30 days after the Secretary of Defense submits an expenditure plan to the congressional defense committees detailing the specific planned use of these funds, only to support the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base to locations outside of the United States, relocate military and support forces associated with detainee operations, and facilitate the closure of detainee facilities: Provided, That the Secretary of Defense shall certify in writing to the congressional defense committees, prior to transferring prisoners to foreign nations, that he has been assured by the receiving nation that the individual or individuals to be transferred will be retained in that nation's custody as long as they remain a threat to the national security interest of the United States: Provided further, That the funds in this paragraph available to provide assistance to foreign nations to facilitate the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base are in addition to any other authority to provide assistance to foreign nations: Provided further, That these funds are available for transfer to any other appropriations accounts of the Department of Defense or, with the concurrence of the head of the relevant Federal department or agency, to any other Federal appropriations accounts to accomplish

the purposes provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", \$110,017,000.

## OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", \$25,569,000.

## OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", \$30,775,000.

## OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", \$34,599,000.

## OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", \$203,399,000.

## AFGHANISTAN SECURITY FORCES FUND

For the "Afghanistan Security Forces Fund", \$3,606,939,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

## IRAQ SECURITY FORCES FUND

For an additional amount for the "Iraq Security Forces Fund", \$1,000,000,000, to remain available until September 30, 2011: Provided, That, not later than July 31, 2010, any remaining unobligated funds in this account shall be transferred to the Department of State to be available for the same purposes as provided herein.

## PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

## (INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States the "Pakistan Counterinsurgency Capability Fund". For the "Pakistan Counterinsurgency Capability Fund", \$400,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Central Command, or the Secretary's des-

ignee, to provide assistance to Pakistan's security forces; including program management and the provision of equipment, supplies, services, training, and funds; and facility and infrastructure repair, renovation, and construction to build the counterinsurgency capability of Pakistan's military and Frontier Corps, and of which up to \$2,000,000 shall be available to assist the Government of Pakistan in creating a program to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist Pakistani people affected by military operations: Provided further, That the authority to provide assistance under this provision is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense may transfer such amounts as he may determine from the funds provided herein to appropriations for operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds: Provided further, That funds so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

## PROCUREMENT

## AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", \$315,684,000, to remain available until September 30, 2011.

## MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", \$737,041,000, to remain available until September 30, 2011.

## PROCUREMENT OF WEAPONS AND TRACKED

## COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", \$1,434,071,000, to remain available until September 30, 2011.

## PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", \$230,075,000, to remain available until September 30, 2011.

## OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", \$7,029,145,000, to remain available until September 30, 2011.

## AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", \$754,299,000, to remain available until September 30, 2011.

## WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", \$31,403,000, to remain available until September 30, 2011.

## PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", \$348,919,000, to remain available until September 30, 2011.

## OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", \$207,181,000, to remain available until September 30, 2011.

## PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", \$1,658,347,000, to remain available until September 30, 2011.

## AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", \$2,064,118,000, to remain available for obligation until September 30, 2011.

**MISSILE PROCUREMENT, AIR FORCE**

For an additional amount for "Missile Procurement, Air Force", \$49,716,000, to remain available until September 30, 2011.

**PROCUREMENT OF AMMUNITION, AIR FORCE**

For an additional amount for "Procurement of Ammunition, Air Force", \$138,284,000, to remain available until September 30, 2011.

**OTHER PROCUREMENT, AIR FORCE**

For an additional amount for "Other Procurement, Air Force", \$1,910,343,000, to remain available until September 30, 2011.

**PROCUREMENT, DEFENSE-WIDE**

For an additional amount for "Procurement, Defense-Wide", \$237,868,000, to remain available until September 30, 2011.

**NATIONAL GUARD AND RESERVE EQUIPMENT**

For an additional amount for "National Guard and Reserve Equipment", \$500,000,000, to remain available until September 30, 2011.

**MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND****(INCLUDING TRANSFER OF FUNDS)**

For the "Mine Resistant Ambush Protected Vehicle Fund", \$4,243,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION****RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY**

For an additional amount for "Research, Development, Test and Evaluation, Army", \$71,935,000, to remain available until September 30, 2010.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY**

For an additional amount of "Research, Development, Test and Evaluation, Navy", \$141,681,000, to remain available until September 30, 2010.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE**

For an additional amount of "Research, Development, Test and Evaluation, Air Force", \$174,159,000, to remain available until September 30, 2010.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE**

For an additional amount of "Research, Development, Test and Evaluation, Defense-Wide", \$498,168,000, to remain available until September 30, 2010.

**REVOLVING AND MANAGEMENT FUNDS****DEFENSE WORKING CAPITAL FUNDS**

For an additional amount for "Defense Working Capital Funds", \$861,726,000, to remain available until expended.

**DEFENSE HEALTH PROGRAM**

For an additional amount for "Defense Health Program", \$909,297,000, of which \$845,508,000 for operation and maintenance; of

which \$30,185,000, to remain available until September 30, 2011, for procurement; and of which \$33,604,000, to remain available until September 30, 2010, for research, development, test and evaluation.

**DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE****(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", \$123,398,000, to remain available until September 30, 2010: Provided, That these funds may be used only for such activities related to Afghanistan, Pakistan, and Central Asia.

**JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND**

For an additional amount for "Joint Improvised Explosive Device Defeat Fund", \$1,116,746,000, to remain available until September 30, 2011.

**OFFICE OF THE INSPECTOR GENERAL**

For an additional amount for "Office of the Inspector General", \$9,551,000.

**GENERAL PROVISIONS—THIS TITLE**

SEC. 301. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2009.

**(INCLUDING TRANSFER OF FUNDS)**

SEC. 302. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2009, (Public Law 110-116) except for the fourth proviso.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 304. During fiscal year 2009 and from funds in the "Defense Cooperation Account", as established by 10 U.S.C. 2608, the Secretary of Defense may transfer not to exceed \$6,500,000 to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: Provided, That such amounts shall be available for the same time period as the appropriation to which transferred: Provided further, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 305. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or "Afghanistan Security Forces Fund" provided in this title, and executed in direct support of the overseas contingency operations in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 306. Funds made available in this title to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than \$250,000: Provided, That upon determination by the Secretary of Defense that such action is nec-

essary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than \$500,000: Provided further, That the Secretary shall report to the Congress all purchases made pursuant to this authority within 30 days of using the authority.

SEC. 307. From funds made available in this title, the Secretary of Defense may purchase motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan, up to a limit of \$75,000 per vehicle, notwithstanding other limitations applicable to passenger carrying motor vehicles.

SEC. 308. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: Provided, That none of the amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

"Procurement, Marine Corps, 2007/2009", \$54,400,000;

"Other Procurement, Army, 2008/2010", \$29,300,000;

"Procurement, Marine Corps, 2008/2010", \$10,300,000;

"Research, Development, Test and Evaluation, Navy, 2008/2009", \$5,000,000;

"Research, Development, Test and Evaluation, Air Force, 2008/2009", \$36,107,000;

"Research, Development, Test and Evaluation, Defense-Wide, 2008/2009", \$200,000,000;

"Operation and Maintenance, Army, 2009/2009", \$352,359,000;

"Operation and Maintenance, Navy, 2009/2009", \$881,481,000;

"Operation and Maintenance, Marine Corps, 2009/2009", \$54,466,000;

"Operation and Maintenance, Air Force, 2009/2009", \$925,203,000;

"Operation and Maintenance, Defense-Wide, 2009/2009", \$267,635,000;

"Operation and Maintenance, Army Reserve, 2009/2009", \$23,338,000;

"Operation and Maintenance, Navy Reserve, 2009/2009", \$62,910,000;

"Operation and Maintenance, Marine Corps Reserve, 2009/2009", \$1,250,000;

"Operation and Maintenance, Air Force Reserve, 2009/2009", \$163,786,000;

"Operation and Maintenance, Army National Guard, 2009/2009", \$57,819,000;

"Operation and Maintenance, Air National Guard, 2009/2009", \$250,645,000;

"Aircraft Procurement, Army, 2009/2011", \$11,500,000;

"Procurement of Ammunition, Army, 2009/2011", \$107,100,000;

"Other Procurement, Army, 2009/2011", \$195,000,000;

"Procurement, Marine Corps, 2009/2011", \$10,300,000;

"Procurement, Defense-Wide, 2009/2011", \$6,400,000;

"Research, Development, Test and Evaluation, Army, 2009/2010", \$202,710,000;

"Research, Development, Test and Evaluation, Navy, 2009/2010", \$270,260,000; and

"Research, Development, Test and Evaluation, Air Force, 2009/2010", \$392,567,000.

SEC. 309. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109-364).

SEC. 310. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2008 or



2009 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 311. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for the purpose of establishing any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 312. (a) REPEAL OF SECRETARY OF DEFENSE REPORTS ON TRANSITION READINESS OF IRAQ AND AFGHAN SECURITY FORCES.—Subsection (a) of section 9205 of Public Law 110-252 (122 Stat. 2412) is repealed.

(b) MODIFICATION OF REPORTS ON USE OF CERTAIN SECURITY FORCES FUNDS.—

(1) PREPARATION IN CONSULTATION WITH COMMANDER OF CENTCOM.—Subsection (b)(1) of such section is amended by inserting “the Commander of the United States Central Command;” after “the Secretary of Defense;”.

(2) PERIOD OF REPORTS.—Such subsection is further amended by striking “not later than 120 days after the date of the enactment of this Act and every 90 days thereafter” and inserting “not later than 45 days after the end of each fiscal year quarter”.

(3) FUNDS COVERED BY REPORTS.—Such subsection is further amended by striking “and ‘Afghanistan Security Forces Fund’” and inserting “, ‘Afghanistan Security Forces Fund’, and ‘Pakistan Counterinsurgency Capability Fund’”.

(c) NOTICE NEW PROJECTS AND TRANSFERS OF FUNDS.—Subsection (c) of such section is amended by striking “the headings” and all that follows and inserting “the headings as follows:

“(1) ‘Iraq Security Forces Fund’.

“(2) ‘Afghanistan Security Forces Fund’.

“(3) ‘Pakistan Counterinsurgency Capability Fund’.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. (a) Section 1174(h)(1) of title 10, United States Code, is amended to read as follows:

“(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.”.

(b) Section 1175(e)(3)(A) of title 10, United States Code, is amended to read as follows:

“(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid. If the member elected to have a reduction in voluntary sep-

aration incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment, including any ongoing repayment actions that were initiated prior to this amendment.

SEC. 314. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for “Operation and Maintenance, Air Force”.

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of

such detainee from Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) FORM.—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

(g) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

#### TITLE IV

#### DEPARTMENT OF DEFENSE—CIVIL

#### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

#### OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” to dredge navigation channels and repair damage to Corps projects nationwide related to natural disasters, \$38,375,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of natural disasters as authorized by law, \$804,290,000, to remain available until expended: Provided, That the Secretary of the Army is directed to use \$315,290,000 of the funds appropriated under this heading to support emergency operations, repair eligible projects



nationwide, and for other activities in response to natural disasters: Provided further, That the Secretary of the Army is directed to use \$489,000,000 of the amount provided under this heading for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: Provided further, That this work shall be carried out at full Federal expense: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**DEPARTMENT OF ENERGY  
ENERGY PROGRAMS  
STRATEGIC PETROLEUM RESERVE  
(TRANSFER OF FUNDS)**

For an additional amount for the "Strategic Petroleum Reserve" account, \$21,585,723, to remain available until expended, to be derived by transfer from the "SPR Petroleum Account" for site maintenance activities: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**NATIONAL NUCLEAR SECURITY ADMINISTRATION  
WEAPONS ACTIVITIES  
(TRANSFER OF FUNDS)**

For an additional amount for "Weapons Activities", \$34,500,000, to remain available until expended, to be divided among the three national security laboratories of Livermore, Sandia and Los Alamos to fund a sustainable capability to analyze nuclear and biological weapons intelligence: Provided, That the Director of National Intelligence shall provide a written report to the Senate Appropriations Committee, the Senate Armed Services Committee and the Senate Select Committee on Intelligence within 90 days of enactment on how the National Nuclear Security Administration will invest these resources in technical and core analytical capabilities: Provided further, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**DEFENSE NUCLEAR NONPROLIFERATION**

For an additional amount for "Defense Nuclear Nonproliferation" in the National Nuclear Security Administration, \$55,000,000, to remain available until expended, for the International Nuclear Materials Protection and Cooperation Program to counter emerging threats at nuclear facilities in Russia and other countries of concern through detecting and deterring insider threats through security upgrades: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**GENERAL PROVISIONS—THIS TITLE**

**LIMITED TRANSFER AUTHORITY**

SEC. 401. Section 403 of title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended by striking all of the text and inserting the following:

**"SEC. 403. LIMITED TRANSFER AUTHORITY.**

"The Secretary of Energy may transfer up to 0.5 percent from each amount appropriated to the Department of Energy in this title to any other appropriate account within the Department of Energy, to be used for management and oversight activities: Provided, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate 15 days prior to any transfer: Provided further, That any funds so transferred under this section shall remain available for obligation until September 30, 2012."

**WAIVER OF FEDERAL EMPLOYMENT  
REQUIREMENTS**

SEC. 402. Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking "September 30, 2008" and inserting "September 30, 2009".

**CORPS OF ENGINEERS TECHNICAL FIX**

SEC. 403. (a) IN GENERAL.—Section 3181 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1158) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (4) through (11) as paragraphs (5), (6), (8), (9), (10), (11), (12), and (13), respectively;

(B) by inserting after paragraph (3) the following:

"(4) NORTHEAST HARBOR, MAINE.—The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12)."; and

(C) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:

"(7) TENANTS HARBOR, MAINE.—The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275)."; and

(2) in subsection (h)—

(A) by striking paragraphs (15) and (16); and

(B) by redesignating paragraphs (17) through (29) as paragraphs (15) through (27), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1041)

**CORPS OF ENGINEERS REPROGRAMMING  
AUTHORITY**

SEC. 404. Unlimited reprogramming authority is granted to the Secretary of the Army for funds provided in title IV—Energy and Water Development of Public Law 111-5 under the heading "Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil".

**BUREAU OF RECLAMATION REPROGRAMMING  
AUTHORITY**

SEC. 405. Unlimited reprogramming authority is granted to the Secretary of the Interior for funds provided in title IV—Energy and Water Development of Public Law 111-5 under the heading "Bureau of Reclamation, Water and Related Resources".

**COST ANALYSIS OF TRITIUM PROGRAM CHANGES**

SEC. 406. No funds in this Act, or other previous Acts, shall be provided to fund activities related to the mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities during the current fiscal year and until the Department can provide the Senate Appropriations Committee an independent technical mission review and cost analysis by the JASON's as proposed in the Complex Transformation Site-Wide Programmatic Environmental Impact Statement.

**CORPS OF ENGINEERS PROJECT COST CEILING  
INCREASE**

SEC. 407. The project for ecosystem restoration, Upper Newport Bay, California, authorized by section 101(b)(9) of the Water Resources

Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of \$50,659,000, with an estimated Federal cost of \$32,928,000 and a non-Federal cost of \$17,731,000.

SEC. 408. None of the funds provided in the matter under the heading entitled "Department of Defense—Civil" in this Act, or provided by previous appropriations Acts under the heading entitled "Department of Defense—Civil" may be used to deconstruct any work (including any partially completed work) completed under the Mississippi River and Tributaries Project authorized by the Act of May 15, 1928 (45 2 Stat. 534; 100 Stat. 4183), during fiscal year 2009, 2010, and 2011.

**TITLE 17 INNOVATIVE TECHNOLOGY LOAN  
GUARANTEE PROGRAM**

SEC. 409. The matter under the heading "Title 17 Innovative Technology Loan Guarantee Program" of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 619) is amended in the ninth proviso—

(1) by striking "or (d)" and inserting "(d)"; and

(2) by striking "the guarantee" and inserting "the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009".

**TITLE V**

**DEPARTMENT OF THE TREASURY**

**DEPARTMENTAL OFFICES**

**SALARIES AND EXPENSES**

**(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for "Departmental Offices, Salaries and Expenses", \$4,000,000, to remain available until December 31, 2010: Provided, That, not later than 10 days following enactment of this Act, the Secretary of the Treasury shall transfer funds provided under this heading to an account to be designated for the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**EXECUTIVE OFFICE OF THE PRESIDENT  
AND FUNDS APPROPRIATED TO THE  
PRESIDENT**

**NATIONAL SECURITY COUNCIL**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$2,936,000, of which \$800,000 shall remain available until expended and \$2,136,000 shall remain available until September 30, 2010: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**PANDEMIC PREPAREDNESS AND RESPONSE**

**(INCLUDING TRANSFERS OF FUNDS)**

For an amount to be deposited into an account for "Pandemic Preparedness and Response" to be established within the Executive

Office of the President for expenses to prepare for and respond to a potential pandemic disease outbreak and to assist international efforts to control the spread of such an outbreak, including for the 2009-H1N1 influenza outbreak, \$1,500,000,000, to remain available until September 30, 2010, and to be transferred by the Director of the Office of Management and Budget as follows: \$900,000,000 shall be transferred to and merged with funds made available under the heading "Department of Health and Human Services, Public Health and Social Services Emergency Fund" for allocation by the Secretary; \$190,000,000 shall be transferred to and merged with funds made available for the United States Department of Homeland Security under the heading "Departmental Management and Operations, Office of the Secretary and Executive Management" for allocation by the Secretary; \$100,000,000 shall be transferred to and merged with funds made available for the United States Department of Agriculture under the heading "Agricultural Programs, Production, Processing and Marketing, Office of the Secretary" for allocation by the Secretary; \$50,000,000 shall be transferred to and merged with funds made available under the heading "Department of Health and Human Services, Food and Drug Administration, Salaries and Expenses"; \$110,000,000 shall be transferred to and merged with funds made available under the heading "Department of Veterans Affairs, Veterans Health Administration, Medical Services"; and \$150,000,000 shall be transferred to and merged with funds made available under the heading "Bilateral Economic Assistance, Funds Appropriated to the President, Global Health and Child Survival", to support programs of the United States Agency for International Development: Provided, That such transfers shall be made not more than 10 days after the date of enactment of this Act: Provided further, That none of the funds provided under this heading shall be available for obligation until 15 days following the submittal of a detailed spending plan by each Department receiving funds to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority available in this or any other Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### THE JUDICIARY

##### COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

##### SALARIES AND EXPENSES

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", \$10,000,000, to remain available until September 30, 2010: Provided, That notwithstanding section 302 of division D of Public Law 111-8, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives on the Southwest border: Provided further, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### INDEPENDENT AGENCIES

##### SECURITIES AND EXCHANGE COMMISSION

##### SALARIES AND EXPENSES

For an additional amount for necessary expenses for the Securities and Exchange Commis-

sion, \$10,000,000, to remain available until September 30, 2010, for investigation of securities fraud: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 501. (a) IN GENERAL.—Section 3(c)(2)(A) of Public Law 110-428 is amended—

(1) in the matter before clause (i), by striking "4-year" and inserting "5-year"; and

(2) in clause (i), by striking "1-year" and inserting "2-year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 110-428.

SEC. 502. The fourth proviso under the heading "District of Columbia Funds" of title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 655) is amended by striking "and such title" and inserting "as amended by laws enacted pursuant to section 442(c) of the Home Rule Act of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 798), and such title, as amended".

SEC. 503. Title V of division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8) is amended under the heading "Federal Communications Commission" by striking the first proviso and inserting the following: "Provided, That of the funds provided, not less than \$3,000,000 shall be available for developing a national broadband plan pursuant to title VI of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and for carrying out any other responsibility pursuant to that title".

#### EXTENSION OF LIMITATIONS

SEC. 504. (a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking "evidence of debt by any insured" and inserting the following: "evidence of debt by—

"(A) any insured"; and

(3) by striking the period at the end and inserting the following: "and

"(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

"(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

"(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

"(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

"(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

"(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

"(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

"(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic de-

velopment, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

"(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2))."

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

#### TITLE VI

##### DEPARTMENT OF HOMELAND SECURITY

##### U.S. CUSTOMS AND BORDER PROTECTION

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$46,200,000, to remain available until September 30, 2010, of which \$6,200,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which \$40,000,000 shall be for response to border security issues on the Southwest border of the United States.

##### AIR AND MARINE INTERDICTION, OPERATIONS,

##### MAINTENANCE, AND PROCUREMENT

For an additional amount for "Salaries and Expenses", \$5,000,000, to remain available until September 30, 2010, for response to border security issues on the Southwest border of the United States.

##### U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$66,800,000, to remain available until September 30, 2010, of which \$11,800,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which \$55,000,000 shall be for response to border security issues on the Southwest border of the United States.

##### COAST GUARD

##### OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$139,503,000; of which \$129,503,000 shall be for Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom; and of which \$10,000,000 shall be available until September 30, 2010, for High Endurance Cutter maintenance, major repairs, and improvements.

##### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", \$30,000,000 shall be for Operation Stonegarden.

#### GENERAL PROVISIONS—THIS TITLE

##### (INCLUDING RESCISSION)

SEC. 601. (a) RESCISSION.—Of amounts previously made available from "Federal Emergency Management Agency, Disaster Relief" to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, an additional \$100,000,000 are rescinded.

(b) APPROPRIATION.—For "Federal Emergency Management Agency, State and Local Programs", there is appropriated an additional \$100,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 602. The Department of Homeland Security Appropriations Act, 2009 (Public Law 110-329) is amended under the heading “Federal Emergency Management Agency, Management and Administration” after “the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.),” by adding “Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583).”.

SEC. 603. Notwithstanding any provision under (a)(1)(A) of 15 U.S.C. 2229a specifying that grants must be used to increase the number of fire fighters in fire departments, the Secretary of Homeland Security may, in making grants described under 15 U.S.C. 2229a for fiscal year 2009 or 2010, grant waivers from the requirements of subsection (a)(1)(B), subsection (c)(1), subsection (c)(2), and subsection (c)(4)(A), and may award grants for the hiring, rehiring, or retention of firefighters.

SEC. 604. The Administrator of the Federal Emergency Management Agency shall extend through March 2010 reimbursement of case management activities conducted by the State of Mississippi under the Disaster Housing Assistance Program to individuals in the program on April 30, 2009.

SEC. 605. Section 552 of division E of the Consolidated Appropriations Act, 2008 (Public Law 110-161) is amended by striking “local educational agencies” and inserting “primary or secondary school sites” and by inserting “and section 406(c)(2)” after “section 406(c)(1)”.

SEC. 606. (a) IN GENERAL.—Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under section 601 of this title.

SEC. 607. For purposes of qualification for loans made under the Disaster Assistance Direct Loan Program as allowed under Public Law 111-5 relating to disaster declaration DR-1791 (issued September 13, 2008) the base period for tax determining loss of revenue may be fiscal year 2009 or 2010.

#### TITLE VII

##### DEPARTMENT OF THE INTERIOR

###### DEPARTMENT-WIDE PROGRAMS

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Department of the Interior, \$50,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

##### DEPARTMENT OF AGRICULTURE

###### FOREST SERVICE

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency

rehabilitation activities of the Forest Service, \$200,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of Agriculture may transfer not more than \$50,000,000 of these funds to the Secretary of the Interior if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 701. Public Law 111-8, division E, title III, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, Toxic Substances and Environmental Public Health is amended by inserting “per eligible employee” after “\$1,000”.

SEC. 702. (a) Section 1606 of division A, title XVI of Public Law 111-5 shall not be applied to projects carried out by youth conservation organizations under agreement with the Department of the Interior or the Forest Service for which funds were provided in title VII.

(b) For purposes of this provision, the term “youth conservation organizations” means not-for-profit organizations that provide conservation service learning opportunities for youth 16 to 25 years of age.

#### TITLE VIII

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

###### ADMINISTRATION FOR CHILDREN AND FAMILIES

###### REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for “Refugee and Entrant Assistance” for necessary expenses for unaccompanied alien children as authorized by section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, \$82,000,000, to remain available through September 30, 2011: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### GENERAL PROVISIONS—THIS TITLE

##### (TRANSFER OF FUNDS)

SEC. 801. Section 801(a) of division A of Public Law 111-5 is amended by inserting “, and may be transferred by the Department of Labor to any other account within the Department for such purposes” before the end period.

##### (INCLUDING TRANSFER OF FUNDS)

SEC. 802. (a) Notwithstanding any other provision of law, during the period from September 1 through September 30, 2009, the Secretary of Education shall transfer to the Career, Technical, and Adult Education account an amount not to exceed \$17,678,270 from amounts that would otherwise lapse at the end of fiscal year 2009 and that were originally made available under the Department of Education Appropriations Act, 2009 or any Department of Education Appropriations Act for a previous fiscal year.

(b) Funds transferred under this section to the Career, Technical, and Adult Education account shall be obligated by September 30, 2009.

(c) Any amounts transferred pursuant to this section shall be for carrying out Adult Education State Grants, and shall be allocated, not-

withstanding any other provision of law, only to those States that received funds under that program for fiscal year 2009 that were at least 9.9 percent less than those States received under that program for fiscal year 2008.

(d) The Secretary shall use these additional funds to increase those States’ allocations under that program up to the amount they received under that program for fiscal year 2008.

(e) The Secretary shall notify the Committees on Appropriations of both Houses of Congress of any transfer pursuant to this section.

#### TITLE IX

##### LEGISLATIVE BRANCH

###### CAPITOL POLICE

###### GENERAL EXPENSES

For an additional amount for “Capitol Police, General Expenses”, \$71,606,000, to purchase and install a new radio system for the U.S. Capitol Police, to remain available until September 30, 2012: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

#### CONGRESSIONAL BUDGET OFFICE

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$2,000,000, to remain available until September 30, 2010.

#### GENERAL PROVISION—THIS TITLE

SEC. 901. The amount available to the Committee on the Judiciary for expenses, including salaries, under section 13(b) of Senate Resolution 73, agreed to March 10, 2009, is increased by \$500,000.

#### TITLE X

##### MILITARY CONSTRUCTION

###### MILITARY CONSTRUCTION, ARMY

###### (INCLUDING RESCISSION)

For an additional amount for “Military Construction, Army”, \$1,229,731,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefunding statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

For an additional amount for “Military Construction, Army”, \$49,000,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That the preceding amount in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: Provided further, That of the funds appropriated for “Military Construction, Army” under Public Law 110-252, \$49,000,000 are hereby rescinded.

##### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$243,083,000, to remain available until September

30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

#### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", \$265,470,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefunding statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

#### MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for "Military Construction, Defense-Wide", \$181,500,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That \$1,781,500,000 is hereby authorized for fiscal years 2009 through 2013 for the purposes of this appropriation.

#### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for "North Atlantic Treaty Organization Security Investment Program", \$100,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds are authorized for the North Atlantic Treaty Security Investment Program for purposes of section 2806 of title 10, United States Code, and section 2502 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417).

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$230,900,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out operation and maintenance, planning and design and military construction projects not otherwise authorized by law.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 1001. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center, and the Joint Pathology Center is demonstrably performing the minimum requirements set forth in section 722 of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 1002. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under the heading "Military Construction, Defense-Wide".

#### TITLE XI

#### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Diplomatic and Consular Programs", \$645,444,000, to remain available until September 30, 2010, of which \$117,983,000 is for World Wide Security Protection and shall remain available until expended: Provided, That the Secretary of State may transfer up to \$135,629,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provisions of the Foreign Assistance Act of 1961: Provided further, That of the funds appropriated under this heading, not more than \$10,000,000 for public diplomacy activities may be transferred to, and merged with, funds made available under the heading "International Broadcasting Operations" for broadcasting activities to the Pakistan-Afghanistan border region: Provided further, That of the funds appropriated under this heading, \$57,000,000 shall be made available for aircraft acquisition, maintenance, operations and leases in Afghanistan for the Department of State and the United States Agency for International Development (USAID), and the uses and oversight of such aircraft shall be the responsibility of the United States Chief of Mission in Afghanistan: Provided further, That of the funds made available pursuant to the previous proviso, \$40,000,000 shall be transferred to, and merged with, funds made available under the heading "United States Agency for International Development, Funds Appropriated to the President, Operating Expenses" for the purpose of USAID's air services: Provided further, That such aircraft utilized by USAID may be used to transport Federal and non-Federal personnel supporting USAID programs and activities: Provided further, That official travel of other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.

##### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", \$22,200,000, to remain available until September 30, 2010, of which \$7,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and \$7,200,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight: Provided, That the Special Inspector General for Afghanistan Reconstruction may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section) for funds made available for fiscal years 2009 and 2010.

##### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", \$820,500,000, to remain available until expended, for worldwide security upgrades, acquisition, and construction as authorized, and shall be made available for secure diplomatic facilities and housing for United States mission staff in Afghanistan and Pakistan, and for mobile mail screening units.

##### INTERNATIONAL ORGANIZATIONS CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", \$721,000,000, to remain available until September 30, 2010.

##### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$112,600,000, to remain available until September 30, 2010.

##### CAPITAL INVESTMENT FUND

For an additional amount for "Capital Investment Fund", \$48,500,000, to remain available until expended.

##### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$3,500,000, to remain available until September 30, 2010, for oversight of programs in Afghanistan and Pakistan.

##### BILATERAL ECONOMIC ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for "Global Health and Child Survival", \$50,000,000, to remain available until September 30, 2010, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108-25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

##### DEVELOPMENT ASSISTANCE

For an additional amount for "Development Assistance", \$38,000,000, to remain available until September 30, 2010, for assistance for Kenya.

##### INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", \$245,000,000, to remain available until expended.

##### ECONOMIC SUPPORT FUND

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", \$2,828,000,000, to remain available until September 30, 2010: Provided, That of the funds appropriated under this heading, not less than \$866,000,000 may be made available for assistance for Afghanistan, of which not less than \$100,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and for women-led nongovernmental organizations: Provided further, That of the funds appropriated under this heading, not less than \$115,000,000 shall be made available for the Afghan Reconstruction Trust Fund, of which not less than \$70,000,000 shall be made available for the National Solidarity Program: Provided further, That of the funds appropriated under this heading, not less than \$11,000,000 shall be made available for the Afghan Civilian Assistance Program: Provided further, That of the funds appropriated under this heading, not less than \$439,000,000 shall be made available for assistance for Pakistan, of which not more than \$215,000,000 shall be made available for economic growth programs, including basic education to counter the influence of madrassas; not less than \$50,000,000 shall be made available for assistance for internally displaced persons; and not less than \$10,000,000 shall be made available for democracy programs, including to strengthen democratic political parties: Provided further,

That of the funds appropriated under this heading that are available for assistance for Afghanistan and Pakistan, not less than \$20,000,000 shall be made available for a cross border development program to be administered by the Special Representative for Afghanistan and Pakistan at the Department of State: Provided further, That of the funds appropriated under this heading, not less than \$439,000,000 shall be made available for assistance for Iraq, of which not less than \$50,000,000 shall be for the Community Action Program and not less than \$10,000,000 shall be for the Marla Ruzicka Iraqi War Victims Fund: Provided further, That of the funds appropriated under this heading, not less than \$150,000,000 shall be made available for assistance for Jordan to mitigate the impact of the global economic crisis, including for health, education, water and sanitation, and other assistance for Iraqi and other refugees in Jordan: Provided further, That of the funds appropriated under this heading, not less than \$15,000,000 shall be made available for assistance for Yemen; not less than \$10,000,000 shall be made available for assistance for Somalia; and not less than \$10,000,000 shall be made available for programs and activities to assist victims of gender-based violence in the Democratic Republic of the Congo: Provided further, That funds made available pursuant to the previous proviso shall be administered by the United States Agency for International Development: Provided further, That none of the funds appropriated in this title for democracy and civil society programs may be made available for the construction of facilities in the United States.

#### ASSISTANCE FOR EUROPE, EURASIA, AND CENTRAL ASIA

For an additional amount for "Assistance for Europe, Eurasia and Central Asia", \$230,000,000, to remain available until September 30, 2010, of which \$200,000,000 may be made available for assistance for Georgia and other Eurasian countries: Provided, That of the funds appropriated under this heading, \$30,000,000 may be made available for assistance for the Kyrgyz Republic to provide a long-range air traffic control and safety system to support air operations in the Kyrgyz Republic, including at Manas International Airport, notwithstanding any other provision of law.

#### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", \$393,500,000, to remain available until September 30, 2010: Provided, That of the funds appropriated under this heading, not more than \$109,000,000 may be made available for assistance for the West Bank and not more than \$66,000,000 may be made available for assistance for Mexico.

##### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", \$102,000,000, to remain available until September 30, 2010: Provided, That of this amount, not more than \$77,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, of which not more than \$50,000,000 may be made available to enhance security along the Gaza border: Provided further, That the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings and shall submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and every 45 days there-

after until September 30, 2010, detailing progress in this effort.

#### MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", \$345,000,000, to remain available until expended.

#### INTERNATIONAL SECURITY ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### PEACEKEEPING OPERATIONS

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Peacekeeping Operations", \$172,900,000, to remain available until September 30, 2010, of which \$155,900,000 may be made available to support the African Union Mission to Somalia and which may be transferred to, and merged with, funds appropriated under the heading "Contributions for International Peacekeeping Activities" for peacekeeping in Somalia: Provided, That of the funds appropriated under this heading, \$15,000,000 shall be made available for assistance for the Democratic Republic of the Congo and \$2,000,000 shall be made available for the Multinational Force and Observer mission in the Sinai.

##### INTERNATIONAL MILITARY EDUCATION AND TRAINING

For an additional amount for "International Military Education and Training", \$2,000,000, to remain available until September 30, 2010, for assistance for Iraq.

##### FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", \$98,000,000, to remain available until September 30, 2009, for assistance for Lebanon.

#### GENERAL PROVISIONS—THIS TITLE

##### AFGHANISTAN

SEC. 1101. (a) IN GENERAL.—Funds appropriated under the heading "Economic Support Fund" that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, in a manner that utilizes Afghan entities and emphasizes the participation of Afghan women and directly improves the security, economic and social well-being, and political status, of Afghan women and girls.

(b) LIMITATION ON CONTRACTS AND GRANTS.—Funds appropriated under the heading "Economic Support Fund" that are available for assistance for Afghanistan shall not be used to initiate or make an amendment to any contract, grant or cooperative agreement in an amount exceeding \$10,000,000.

##### (c) ASSISTANCE FOR WOMEN AND GIRLS.—

(1) Of the funds appropriated under the heading "International Narcotics Control and Law Enforcement" that are available for assistance for Afghanistan, not less than \$10,000,000 shall be made available to train and support Afghan women investigators, police officers, prosecutors and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

(2) Of the funds appropriated under the heading "Economic Support Fund" that are available for assistance for Afghanistan, not less than \$5,000,000 shall be made available for capacity building for Afghan women-led nongovernmental organizations, and not less than \$25,000,000 shall be made available to support programs and activities of such organizations, including to provide legal assistance and training for Afghan women and girls about their rights, and to promote women's health (including mental health), education, and leadership.

(d) ANTICORRUPTION.—Ten percent of the funds appropriated under the heading "International Narcotics Control and Law Enforcement" that are available for assistance for the Government of Afghanistan shall be withheld

from obligation until the Secretary of State reports to the Committees on Appropriations that the Government of Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violations of human rights, or other major crimes.

(e) ACQUISITION OF PROPERTY.—Not more than \$10,000,000 of the funds appropriated in this title may be made available to pay for the acquisition of property for diplomatic facilities in Afghanistan.

(f) UNITED NATIONS DEVELOPMENT PROGRAM.—None of the funds appropriated in this title may be made available for programs and activities of the United Nations Development Program (UNDP) in Afghanistan unless the Secretary of State reports to the Committees on Appropriations that UNDP is fully cooperating with efforts of the United States Agency for International Development (USAID) to investigate expenditures by UNDP of USAID funds associated with the Quick Impact Program in Afghanistan, and has agreed to reimburse USAID, if appropriate.

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

##### ALLOCATIONS

SEC. 1102. (a) Funds appropriated in this title for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

- (1) "Diplomatic and Consular Programs".
- (2) "Embassy Security, Construction, and Maintenance".
- (3) "Economic Support Fund".
- (4) "International Narcotics Control and Law Enforcement".

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referenced in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

##### BURMA

SEC. 1103. (a) Funds appropriated under the heading "Economic Support Fund" for humanitarian assistance for Burma may be made available notwithstanding any other provision of law.

(b) Not later than 30 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report that details the findings and recommendations of the Department of State's review of United States policy toward Burma.

##### EXTENSION OF AUTHORITIES

SEC. 1104. Funds appropriated in this title may be obligated and expended notwithstanding section 10 of Public Law 91-672, section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law

103-236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

#### GLOBAL FINANCIAL CRISIS

**SEC. 1105. (a) IN GENERAL.**—Of the funds appropriated under the heading “Economic Support Fund”, not more than \$285,000,000 may be made available for assistance for vulnerable populations in developing countries severely affected by the global financial crisis: Provided, That funds made available pursuant to this section may be obligated only after the Administrator of the United States Agency for International Development (USAID) submits a report to the Committees on Appropriations detailing a spending plan for each such country including criteria for eligibility, proposed amounts and purposes of assistance, and mechanisms for monitoring the uses of such assistance, and indicating that USAID has reviewed its existing programs in such country to determine reprogramming opportunities to increase assistance for vulnerable populations: Provided further, That funds made available pursuant to this section shall be transferred to, and merged with, the following accounts:

(1) Not less than \$12,000,000 for the “Development Credit Authority”, for the cost of direct loans and loan guarantees notwithstanding the dollar limitations in such account on transfers to the account and the principal amount of loans made or guaranteed with respect to any single country or borrower: Provided, That such transferred funds may be made available to subsidize total loan principal, any portion of which is to be guaranteed, of up to \$3,300,000,000: Provided further, That the authority provided in this subsection is in addition to authority provided under the heading “Development Credit Authority” in Public Law 111-8: Provided further, That and up to \$1,500,000 may be made available for administrative expenses to carry out credit programs administered by the United States Agency for International Development; and

(2) Not more than \$20,000,000 for the “Overseas Private Investment Corporation Program Account”, notwithstanding section 708(b) of Public Law 111-8: Provided, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation.

(b) **REPROGRAMMING AUTHORITY.**—Notwithstanding any other provision of law and in addition to funds otherwise available for such purposes, funds appropriated under the heading “Millennium Challenge Corporation” (MCC) in prior Acts making appropriations for the Department of State, foreign operations, export financing, and related programs may be transferred to, and merged with, funds appropriated under the heading “Economic Support Fund” that are made available pursuant to this section.

(1) The authority contained in subsection (b) may only be exercised for a country that has signed a compact with the MCC or has been designated by the MCC as a threshold country, and such a reprogramming of funds should be made, if practicable, prior to making available additional assistance for such purposes.

(2) The MCC shall consult with the Committees on Appropriations prior to exercising the authority of this subsection.

#### IRAQ

**SEC. 1106. (a) IN GENERAL.**—Funds appropriated in this title that are available for assistance for Iraq shall be made available, to the maximum extent practicable, in a manner that utilizes Iraqi entities.

(b) **MATCHING REQUIREMENT.**—Funds appropriated in this title for assistance for Iraq shall be made available in accordance with the Department of State’s April 9, 2009, “Guidelines for

Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects”.

(c) **OTHER ASSISTANCE.**—Of the funds appropriated in this title under the heading “Economic Support Fund”, not less than \$20,000,000 shall be made available for targeted development programs and activities in areas of conflict in Iraq, and the responsibility for policy decisions and justifications for the use of such funds shall be the responsibility of the United States Chief of Mission in Iraq.

#### PROHIBITION ON ASSISTANCE FOR HAMAS

**SEC. 1107. (a)** None of the funds appropriated in this title may be made available for assistance to Hamas, or any entity effectively controlled by Hamas or any power-sharing government of which Hamas is a member.

(b) Notwithstanding the limitation of subsection (a), assistance may be provided to a power-sharing government only if the President certifies and reports to the Committees on Appropriations that such government, including all of its ministers or such equivalent, has publicly accepted and is complying with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961, as amended.

(c) The President may exercise the authority in section 620K(e) of the Foreign Assistance Act as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109-446) with respect to this subsection.

(d) Whenever the certification pursuant to subsection (b) is exercised, the Secretary of State shall submit a report to the Committees on Appropriations within 120 days of the certification and every quarter thereafter on whether such government, including all of its ministers or such equivalent, are continuing to comply with the principles contained in section 620K(b)(1)(A) and (B). The report shall also detail the amount, purposes and delivery mechanisms for any assistance provided pursuant to the abovementioned certification and a full accounting of any direct support of such government.

#### MEXICO

**SEC. 1108. (a)** Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing actions taken by the Government of Mexico since June 30, 2008, to investigate and prosecute violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and to support a thorough, independent, and credible investigation of the murder of American citizen Bradley Roland Will.

(b) None of the funds appropriated in this title may be made available for the cost of fuel for helicopters provided to Mexico, or for logistical support, including operations and maintenance, of aircraft purchased by the Government of Mexico.

(c) In order to enhance border security and cooperation in law enforcement efforts between Mexico and the United States, funds appropriated in this title that are available for assistance for Mexico may be made available for the procurement of law enforcement communications equipment only if such equipment utilizes open standards and is compatible with, and capable of operating with, radio communications systems and related equipment utilized by Federal law enforcement agencies in the United States to enhance border security and cooperation in law enforcement efforts between Mexico and the United States.

#### MULTILATERAL DEVELOPMENT BANK REPLENISHMENTS

**SEC. 1109. (a) INTERNATIONAL DEVELOPMENT ASSOCIATION.**—The International Development

Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following:

#### “SEC. 24. FIFTEENTH REPLENISHMENT.

“(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States \$3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$3,705,000,000 for payment by the Secretary of the Treasury.

#### “SEC. 25. MULTILATERAL DEBT RELIEF.

“(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than \$356,000,000 for payment by the Secretary of the Treasury.

“(c) In this section, the term ‘Multilateral Debt Relief Initiative’ means the proposal set out in the G8 Finance Ministers’ Communiqué entitled ‘Conclusions on Development,’ done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.”.

(b) **AFRICAN DEVELOPMENT FUND.**—The African Development Fund Act (22 U.S.C. 290 et seq.) is amended by adding at the end thereof the following:

#### “SEC. 219. ELEVENTH REPLENISHMENT.

“(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$468,165,000 for payment by the Secretary of the Treasury.

#### “SEC. 220. MULTILATERAL DEBT RELIEF INITIATIVE.

“(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than \$26,000,000 for payment by the Secretary of the Treasury.”.

#### PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

**SEC. 1110.** Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end thereof the following:

#### “SEC. 1626. REFORM OF THE ‘DOING BUSINESS’ REPORT OF THE WORLD BANK.

“(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and



Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

“(1) Suspension of the use of the ‘Employing Workers’ Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers’ rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

“(2) Elimination of the ‘Labor Tax and Social Contributions’ Subindicator from the annual Doing Business Report of the World Bank.

“(3) Removal of the ‘Employing Workers’ Indicator as a ‘guidepost’ for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

“(b) Within 60 days after the date of the enactment of this section, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

**“SEC. 1627. ENHANCING THE TRANSPARENCY AND EFFECTIVENESS OF THE INSPECTION PANEL PROCESS OF THE WORLD BANK.**

“(a) **ENHANCING TRANSPARENCY IN IMPLEMENTATION OF MANAGEMENT ACTION PLANS.**—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semi-annual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

“(b) **SAFEGUARDING THE INDEPENDENCE AND EFFECTIVENESS OF THE INSPECTION PANEL.**—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

“(c) **EVALUATION OF COUNTRY SYSTEMS.**—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

“(d) **WORLD BANK DEFINED.**—In this section, the term ‘World Bank’ means the International Bank for Reconstruction and Development and the International Development Association.”.

**CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING**

**SEC. 1111.** Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end thereof the following:

**“SEC. 1308. CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING.**

“(a) **USE OF GREENHOUSE GAS ACCOUNTING.**—The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 1701(c)(4) of this Act) adopt and implement greenhouse gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

“(b) **EXPANSION OF CLIMATE CHANGE MITIGATION ACTIVITIES.**—The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 1701(c)(4)) expand their activities supporting climate change mitigation by—

“(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

“(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

“(3) increasing the dialogue with the governments of developing countries regarding—

“(A) analysis and policy measures needed for low carbon emission economic development; and

“(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

“(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

“(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.”.

**MULTILATERAL DEVELOPMENT BANK REFORM**

**SEC. 1112.** (a) **BUDGET DISCLOSURE.**—The Secretary of the Treasury shall seek to ensure that the multilateral development banks make timely, public disclosure of their operating budgets including expenses for staff, consultants, travel and facilities.

(b) **EVALUATION.**—The Secretary of the Treasury shall seek to ensure that multilateral development banks rigorously evaluate the development impact of selected bank projects, programs, and financing operations, and emphasize use of random assignment in conducting such evaluations, where appropriate and to the extent feasible.

(c) **EXTRACTIVE INDUSTRIES.**—The Secretary of the Treasury shall direct the United States Executive Directors at the multilateral development banks to promote the endorsement of the Extractive Industry Transparency Initiative (EITI) by these institutions and the integration of the principles of the EITI into extractive industry-related projects that are funded by the multilateral development banks.

(d) **REPORT.**—Not later than September 30, 2009, the Secretary of the Treasury shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations

and the Committee on Foreign Affairs of the House, detailing actions taken by the multilateral development banks to achieve the objectives of this section.

(e) **COORDINATION OF DEVELOPMENT POLICY.**—The Secretary of the Treasury shall coordinate the formulation and implementation of United States policy relating to the development activities of the World Bank Group with the Secretary of State, the Administrator of the United States Agency for International Development, and other Federal agencies, as appropriate.

**OVERSEAS COMPARABILITY PAY ADJUSTMENT**

**SEC. 1113.** (a) Subject to such regulations prescribed by the Secretary of State, including with respect to phase-in schedule and treatment as basic pay, and notwithstanding any other provision of law, funds appropriated for this fiscal year in this or any other Act may be used to pay an eligible member of the Foreign Service as defined in subsection (b) of this section a locality-based comparability payment (stated as a percentage) up to the amount of the locality-based comparability payment (stated as a percentage) that would be payable to such member under section 5304 of title 5, United States Code if such member’s official duty station were in the District of Columbia.

(b) A member of the Service shall be eligible for a payment under this section only if the member is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) and the member’s official duty station is not in the continental United States or in a non-foreign area, as defined in section 591.205 of title 5, Code of Federal Regulations.

(c) The amount of any locality-based comparability payment that is paid to a member of the Foreign Service under this section shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

**ASSESSMENT ON AFGHANISTAN AND PAKISTAN**

**SEC. 1114.** (a) **FINDING.**—The Congress supports economic and security assistance for Afghanistan and Pakistan, but long-term stability and security in those countries is tied more to the capacity and conduct of the Afghan and Pakistani governments and the resolve of both societies for peace and stability, to include combating extremist networks, than it is to the policies of the United States.

(b) **REPORT.**—The President shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 6 months thereafter until September 30, 2010, in classified form if necessary, assessing the extent to which the Afghan and Pakistani governments are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President’s policy announced on March 27, 2009, to include:

(1) The level of political consensus and unity of purpose across ethnic, tribal, religious and political party affiliations to confront the political and security challenges facing the region;

(2) The level of official corruption that undermines such political consensus and unity of purpose, and actions taken to eliminate it;

(3) The actions taken by the respective security forces and appropriate government entities in developing a counterinsurgency capability, conducting counterinsurgency operations, and establishing security and governance on the ground;

(4) The actions taken by the respective intelligence agencies in cooperating with the United States on counterinsurgency and counterterrorism operations and in terminating policies and programs, and removing personnel, that provide material support to extremist networks



that target United States troops or undermine United States objectives in the region;

(5) The ability of the Afghan and Pakistani governments to effectively control and govern the territory within their respective borders; and

(6) The ways in which United States Government assistance contributed, or failed to contribute, to achieving the goals outlined above.

(c) **POLICY ASSESSMENT.**—The President, on the basis of information gathered and coordinated by the National Security Council, shall advise the Congress on how such assessment requires, or does not require, changes to such policy.

(d) **DEFINITION.**—For purposes of this section, “appropriate congressional committees” means the Committees on Appropriations, Foreign Relations and Armed Services of the Senate, and the Committees on Appropriations, Foreign Affairs and Armed Services of the House of Representatives.

#### ASSISTANCE FOR PAKISTAN

##### SEC. 1115. (a) FINDINGS.—

(1) The United States and the international community have welcomed and supported Pakistan’s return to civilian rule since the democratic elections of February 18, 2008;

(2) Since 2001, the United States has provided more than \$12,000,000,000 in economic and security assistance to Pakistan;

(3) Afghanistan and Pakistan are facing grave threats to their internal security from a growing insurgency fueled by al Qaeda, the Taliban and other violent extremist groups operating in areas along the Afghanistan-Pakistan border; and

(4) The United States is committed to supporting vigorous efforts by the Government of Pakistan to secure Pakistan’s western border and counter violent extremism, expand government services, support economic development, combat corruption and uphold the rule of law in such areas.

(b) **REPORT.**—Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report, in classified form if necessary, to the Committees on Appropriations detailing—

(1) a spending plan for the proposed uses of funds appropriated in this title under the headings “Economic Support Fund” and “International Narcotics Control and Law Enforcement” that are available for assistance for Pakistan including amounts, the purposes for which funds are to be made available, and intended results;

(2) the actions to be taken by the United States and the Government of Pakistan relating to such assistance;

(3) the metrics for measuring progress in achieving such results; and

(4) the mechanisms for monitoring such funds.

#### SPECIAL AUTHORITY

SEC. 1116. (a) Notwithstanding any other provision of law, funds appropriated under the headings “Global HIV/AIDS Initiative” or “Global Health and Child Survival” in prior Acts making appropriations for the Department of State, foreign operations, export financing and related programs for assistance for Kenya to carry out the President’s Emergency Plan for AIDS Relief may be transferred to, and merged with, funds made available under the heading “Economic Support Fund” to respond to instability in Kenya arising from conflict or civil strife.

(b) The Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority of this section.

#### SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1117. (a) **SPENDING PLAN.**—Not later than 45 days after the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for Inter-

national Development, shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated in this title, except for funds appropriated under the headings “International Disaster Assistance” and “Migration and Refugee Assistance”.

(b) **NOTIFICATION.**—Funds appropriated in this title, with the exception of funds appropriated under the headings “International Disaster Assistance” and “Migration and Refugee Assistance”, shall be subject to the regular notification procedures of the Committees on Appropriations and section 631A of the Foreign Assistance Act of 1961.

#### TECHNICAL PROVISIONS

SEC. 1118. (a) **MODIFICATIONS.**—The funding limitation in section 7046(a) of Public Law 111–8 shall not apply to funds made available for assistance for Colombia through the United States Agency for International Development’s Office of Transition Initiatives: Provided, That title III of division H of Public Law 111–8 is amended under the heading “Economic Support Fund” in the second proviso by striking “up to \$20,000,000” and inserting “not less than \$20,000,000”.

(b) **NOTIFICATION REQUIREMENT.**—Funds appropriated by this Act that are transferred to the Department of State or the United States Agency for International Development shall be subject to the regular notification procedures of the Committees on Appropriations, notwithstanding any other provision of law.

(c) **AUTHORITY.**—Funds appropriated in this title, and subsequent and prior acts appropriating funds for Department of State, Foreign Operations, and Related Programs and under the heading “Public Law 480 Title II Grants” in this, subsequent, and prior Acts appropriating funds for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, shall be made available notwithstanding the requirements of and amendments made by section 3511 of Public Law 110–417.

#### (d) REEMPLOYMENT OF ANNUITANTS.—

(1) Section 824 of the Foreign Service Act of 1980 (22 U.S.C. 4064) is amended in subsection (g)(1)(B) by inserting “, Pakistan,” after “Iraq” each place it appears; by inserting “to positions in the Response Readiness Corps,” before “or to posts vacated”; and, in subsection (g)(2) by striking “2009” and inserting instead “2012”.

(2) Section 61 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733) is amended in subsection (a)(1) by adding “, Pakistan,” after “Iraq” each place it appears; by inserting “, to positions in the Response Readiness Corps,” before “or to posts vacated”; and, in subsection (a)(2) by striking “2008” and inserting instead “2012”.

(3) Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended in subsection (j)(1)(A) by adding “, Pakistan,” after “Iraq” each place it appears; by inserting “, to positions in the Response Readiness Corps,” before “or to posts vacated”; and, in subsection (j)(1)(B) by striking “2008” and inserting instead “2012”.

(e) **INCENTIVES FOR CRITICAL POSTS.**—Notwithstanding sections 5753(a)(2)(A) and 5754(a)(2)(A) of title 5, United States Code, appropriations made available by this or any other Act may be used to pay recruitment, relocation, and retention bonuses under chapter 57 of title 5, United States Code to members of the Foreign Service, other than chiefs of mission and ambassadors at large, who are on official duty in Iraq, Afghanistan, or Pakistan. This authority shall terminate on October 1, 2012.

(f) Of the funds appropriated under the heading “Foreign Military Financing Program” in Public Law 110–161 that are available for assistance for Colombia, \$500,000 may be transferred

to, and merged with, funds appropriated under the heading “International Narcotics Control and Law Enforcement” to provide medical and rehabilitation assistance for members of Colombian security forces who have suffered severe injuries.

#### TERMS AND CONDITIONS

SEC. 1119. Unless otherwise provided for in this Act, funds appropriated or otherwise made available in this title shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8), except that sections 7042(a) and (c) and 7070(e)(2) of such Act shall not apply to such funds.

#### OVERSEAS DEPLOYMENTS

SEC. 1120. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

#### AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) **OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.**—Not later than 60 days after the date of the enactment of this Act, the President shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

#### (b) REPORTS.—

(1) **IN GENERAL.**—Not later than March 30, 2010 and every 120 days thereafter until September 30, 2011, the President, in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) **FORM.**—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

#### ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA

SEC. 1122. The amount appropriated by this title under the heading “Assistance for Europe, Eurasia and Central Asia” may be increased by up to \$42,500,000, with the amount of the increase to be available for assistance for Georgia.

## TITLE XII

## DEPARTMENT OF TRANSPORTATION

## OFFICE OF THE SECRETARY

## PAYMENTS TO AIR CARRIERS

## (AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available under Public Law 111-8 and funds authorized under subsection 41742(a)(1) of title 49, United States Code, to carry out the essential air service program, to be derived from the Airport and Airway Trust Fund, \$13,200,000, to remain available until expended.

## FEDERAL AVIATION ADMINISTRATION

## GRANTS-IN-AID FOR AIRPORTS

## (AIRPORT AND AIRWAY TRUST FUND)

## (RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, \$13,200,000 are permanently rescinded from amounts authorized for the fiscal year ending September 30, 2008.

## GENERAL PROVISIONS—THIS TITLE

SEC. 1201. Section 1937 of Public Law 109-59 (119 Stat. 1144, 1510) is amended—

(1) in paragraph (1) by striking “expenditures” each place that it appears and inserting “allocations”; and

(2) in paragraph (2) by striking “expenditure” and inserting “allocation”.

SEC. 1202. A recipient and subrecipient of funds appropriated in Public Law 111-5 and apportioned pursuant to section 5311 and section 5336 (other than subsection (i)(1) and (j)) of title 49, United States Code, may use up to 10 percent of the amount apportioned for the operating costs of equipment and facilities for use in public transportation: Provided, That a grant obligating such funds prior to the date of the enactment of this Act may be amended to allow a recipient and subrecipient to use the funds made available for operating assistance: Provided further, That such funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1203. Public Law 110-329, under the heading “Project-Based Rental Assistance”, is amended by striking “project-based vouchers” and all that follows up to the period and inserting “activities and assistance for the provision of tenant-based rental assistance, including related administrative expenses, as authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.), \$80,000,000, to remain available until expended: Provided, That such funds shall be made available within 60 days of the enactment of this Act: Provided further, That in carrying out the activities authorized under this heading, the Secretary shall waive section (o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437(o)(13)(B))”: Provided, That such additional funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1204. Public Law 111-5 is amended by striking the second proviso under the heading “HOME Investment Partnerships Program” and inserting “Provided further, That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under sections 42(h) and 1400N of the Internal Revenue Code of 1986.”.

## TITLE XIII

## OTHER MATTERS

## INTERNATIONAL ASSISTANCE PROGRAMS

## INTERNATIONAL MONETARY PROGRAMS

## UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,973,100,000 Special Drawing Rights, to remain available until expended: Provided, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

## LOANS TO INTERNATIONAL MONETARY FUND

For loans to the International Monetary Fund under section 17(a)(ii) and (b)(ii) of the Bretton Woods Agreements Act (Public Law 87-490, 22 U.S.C. 286e-2), as amended by this Act pursuant to the New Arrangements to Borrow, the dollar equivalent of up to 75,000,000,000 Special Drawing Rights, to remain available until expended, in addition to any amounts previously appropriated under section 17 of such Act: Provided, That if the United States agrees to an expansion of its credit arrangement in an amount less than the dollar equivalent of 75,000,000,000 Special Drawing Rights, any amount over the United States' agreement shall not be available until further appropriated: Provided further, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

## GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1301. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e-2) is amended—

(1) in subsection (a)—  
(A) by inserting “(1)” before “In order to”; and

(B) by adding at the end the following:  
“(2) In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G-20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing

the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this Act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.”.

and  
(2) in subsection (b)—  
(A) by inserting “(1)” before “For the purpose of”;

(B) by inserting “subsection (a)(1) of” after “pursuant to”; and

(C) by adding at the end the following:

“(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.”.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**“SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63-2 and 63-3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

**“SEC. 65. QUOTA INCREASE.**

“(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

“(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

**“SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.**

“(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary

Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

“(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than \$4 billion;

“(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances:

“(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

“(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

“(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this Act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this Act, to also use such proceeds for the purpose of assisting low-income countries.

**“SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.**

“The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54-4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.”

SEC. 1303. (a) Not later than 30 days after enactment of this Act, the Secretary of the Treasury, in consultation with the Executive Director of the World Bank and the Executive Board of the International Monetary Fund (IMF), shall submit a report to the appropriate congressional committees detailing the steps taken to coordinate the activities of the World Bank and the IMF to avoid duplication of missions and programs, and steps taken by the Department of the Treasury and the IMF to increase the oversight and accountability of IMF activities.

(b) For the purposes of this section, the “appropriate congressional committees” means the Committees on Appropriations, Banking, Housing, and Urban Affairs, and Foreign Relations of the Senate, and the Committees on Appropriations, Foreign Affairs, and Ways and Means of the House of Representatives.

(c) In the next report to Congress on international economic and exchange rate policies, the Secretary of the Treasury shall: (1) report on ways in which the IMF's surveillance function under Article IV could be enhanced and made more effective in terms of avoiding currency manipulation; (2) report on the feasibility and usefulness of publishing the IMF's internal calculations of indicative exchange rates; and (3) provide recommendations on the steps that the IMF can take to promote global financial stability and conduct effective multilateral surveillance.

(d) The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund to a Heavily Indebted Poor Country that imposes budget caps or restraints that do not allow the maintenance of or an increase in governmental spending on health care or education; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the Fund's activities with respect to Heavily Indebted Poor Countries.

SEC. 1304. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**DETAINEE PHOTOGRAPHIC RECORDS PROTECTION**

SEC. 1305. (a) **SHORT TITLE.**—This section may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(b) **DEFINITIONS.**—In this section:  
(1) **COVERED RECORD.**—The term “covered record” means any record—

(A) that is a photograph that was taken between September 11, 2001 and January 22, 2009 relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) **PHOTOGRAPH.**—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

**(c) CERTIFICATION.**—

(1) **IN GENERAL.**—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or  
(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) **CERTIFICATION EXPIRATION.**—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (3) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) **CERTIFICATION RENEWAL.**—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and  
(B) more than 1 renewal of a certification.

(4) **CERTIFICATION RENEWAL.**—A timely notice of the Secretary's certification shall be provided to Congress.

(d) **NONDISCLOSURE OF DETAINEE RECORDS.**—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) Nothing in this section shall be construed to preclude the voluntary disclosure of a covered record.

(f) **EFFECTIVE DATE.**—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

**SHORT TITLE**

SEC. 1306. This section may be cited as the “OPEN FOIA Act of 2009”.

**SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS**

SEC. 1307. Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

“(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

“(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

“(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.”

**GENERAL PROVISION—THIS ACT**

**AVAILABILITY OF FUNDS**

SEC. 1308. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the “Supplemental Appropriations Act, 2009”.

**SMOKY MOUNTAINS NATIONAL PARK 75TH ANNIVERSARY**

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 137 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 137) recognizing and commending the people of the Great Smoky Mountains National Park on the 75th anniversary of the establishment of the park.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

**S. RES. 137**

Whereas, in the 1920s, groups of citizens and officials in Western North Carolina and Eastern Tennessee displayed enormous foresight in recognizing the potential benefits of a national park in the Southern Appalachian Mountains;

Whereas the location of the park that became the Great Smoky Mountains National Park was selected from among the finest examples of the most scenic and intact mountain forests in the Southeastern United States;

Whereas the creation of the Great Smoky Mountains National Park was the product of more than 2 decades of determined effort by leaders of communities across Western North Carolina and Eastern Tennessee;

Whereas the State legislatures and Governors of North Carolina and Tennessee exercised great vision in appropriating the funding that was used, along with funding from the Laura Spelman Rockefeller Memorial Fund, to purchase more than 400,000 acres of private land that became part of the Great Smoky Mountains National Park;

Whereas the citizens of communities surrounding the Great Smoky Mountains National Park generously contributed funding for land acquisition to bring the Great Smoky Mountains National Park into being;

Whereas more than 1,100 families and other property owners were called upon to sacrifice their farms and homes for the benefit and enjoyment of future generations that would visit the Great Smoky Mountains National Park;

Whereas the Great Smoky Mountains National Park was established as a completed park by the Act entitled "An Act to establish a minimum area for the Great Smoky Mountains National Park, and for other purposes", approved June 15, 1934 (16 U.S.C. 403g);

Whereas the Great Smoky Mountains National Park covers approximately 521,621 acres of land in the States of Tennessee and North Carolina, making it the largest protected area in the Eastern United States;

Whereas the Great Smoky Mountains National Park provides sanctuary for the most diverse flora and fauna of any national park in the temperate United States, and preserves an unparalleled collection of historic structures as a "time capsule" of Appalachian culture during the 19th and early 20th centuries;

Whereas, on September 2, 1940, President Franklin D. Roosevelt dedicated the Great Smoky Mountains National Park;

Whereas the Great Smoky Mountains National Park has been the most popular national park in the United States since it opened, and attracts between 9,000,000 and 10,000,000 visitors each year, making it the most visited of the 58 national parks in the United States; and

Whereas visitors to the Great Smoky Mountains National Park contribute more than \$700,000,000 to the local economy each year, resulting in more than 14,000 jobs in North Carolina and Tennessee: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the citizens of Western North Carolina and Eastern Tennessee for their vision and sacrifice;

(2) commends the people of the Great Smoky Mountains National Park and the National Park Service for 75 years of successful management and preservation of the park land;

(3) congratulates the people of the Great Smoky Mountains National Park on the 75th anniversary of the park; and

(4) requests the Secretary of the Senate to transmit an enrolled copy of this resolution for appropriate display to the headquarters of the Great Smoky Mountains National Park.

#### COMMEMORATING THE END OF COMMUNIST RULE IN POLAND

Mr. UDALL of Colorado. Madam President, I ask unanimous consent

that the Committee on Foreign Relations be discharged from further consideration of S. Res. 139 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 139) commemorating the 20th anniversary of the end of communist rule in Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 139

Whereas in January 1947, the communist Democratic Bloc party seized control of the Polish Parliament in a rigged election orchestrated by the Government of the Soviet Union;

Whereas, from 1947 to 1952, the communist Government of Poland prosecuted, imprisoned, and executed many individuals who fought as part of the wartime Underground Resistance, an organization that valiantly supported the Allied struggle against Nazi Germany as part of the largest resistance movement in occupied Europe;

Whereas in July 1952, the passage of a new constitution formally created the communist People's Republic of Poland and outlawed any non-communist candidate from seeking office to represent the people of Poland;

Whereas during the ensuing years of communist rule, the people of Poland suffered severe hardships because of the communist-led government's failure to provide for the basic economic needs of its people;

Whereas under communist rule, Polish intellectuals, religious leaders, labor officials, students, and reformers were imprisoned and exiled for speaking out against a succession of increasingly corrupt, inefficient, and repressive pro-Soviet puppets;

Whereas despite the harsh repression of the communist-led government and the great personal risk they faced, the Polish people struggled for freedom by staging strikes, publishing underground newspapers, organizing street protests, and speaking out against the economic and political failures of the communist regime;

Whereas in August 1980, in the wake of a shipyard workers' strike in Gdansk, the Solidarity Movement was created as the first free trade union in the Soviet Bloc nations;

Whereas ultimately 1 in 4 Polish citizens became members of the Solidarity movement, which served as the driving force for Poland's liberation from communist rule;

Whereas, on June 4, 1989, the Solidarity Party secured an overwhelming victory over the existing communist government in the first open election in Poland since the end of

World War II, marking the fall of pro-Soviet rule in Poland; and

Whereas this victory inspired a succession of similarly peaceful transitions from communism to democracy in other former Soviet Bloc nations: Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the 20th anniversary of the end of communist rule in Poland;

(2) expresses its admiration for the people of Poland for their bravery and resolve in the face of economic hardship and political oppression under communist rule;

(3) congratulates the people of Poland for their accomplishments in the years since the end of pro-Soviet communist rule in building a free democracy, and for their contributions as international partners;

(4) expresses its appreciation for the close friendship between the Government of the United States and the Government of Poland; and

(5) urges the Government of the United States to continue to seek new ways to enhance its partnership with the Government of Poland.

#### RECOGNIZING FOUNDING OF BREAD FOR THE WORLD

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 157.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 157) recognizing Bread for the World on the 35th anniversary of its founding, for its faithful advocacy on behalf of poor and hungry people in our country and around the world.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 157) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 157

Whereas Bread for the World, now under the leadership of the Reverend David Beckmann, has grown in size and influence, and is now the largest grassroots advocacy network on hunger issues in the United States and on behalf of impoverished people overseas;

Whereas members of Bread for the World believe that by addressing policies, programs, and conditions that allow hunger and poverty to persist, they are providing help and opportunity far beyond the communities in which they live;

Whereas Bread for the World has inspired the engagement of hundreds of thousands of individuals, more than 8,000 congregations, and more than 50 denominations across the religious spectrum to seek justice for hungry and poor people by making our Nation's laws more fair and compassionate to people in need;

Whereas members of Bread for the World use hand-written letters and other personalized forms of communication to convey to

their legislators their moral concern for the needs of mothers, children, small farmers, and other hungry and poor people; and

Whereas Bread for the World has a strong record of success in working with Congress to—

(1) strengthen our national nutrition programs;

(2) establish and fund the Child Survival account that has helped reduce child mortality rates worldwide;

(3) increase and improve the Nation's poverty-focused development assistance to help developing countries in Africa and other underprivileged parts of the world;

(4) pass the Africa: Seeds of Hope Act of 1998 that redirected United States resources toward small-scale farmers and struggling rural communities in Africa;

(5) lead an effort to provide debt relief to the world's poorest countries and tie debt relief to poverty reduction; and

(6) establish an emergency grain reserve to improve the Nation's response to humanitarian crises: Now, therefore, be it

*Resolved*, That the Senate—

1. recognizes and commends Bread for the World, on the 35th anniversary of its founding, for its encouragement of citizen engagement, its advocacy for poor and hungry people, and its successes as a collective voice; and

2. challenges Bread for the World to continue its work to address world hunger.

#### AUTHORIZING PRINTING OF A COLLECTION OF THE RULES OF THE SENATE COMMITTEES

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 166, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 166) to authorize printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 166) was agreed to, as follows:

#### S. RES. 166

*Resolved*, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Committee on Rules and Administration.

#### YEAR OF THE MILITARY FAMILY

Mr. UDALL of Colorado. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 165, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 165) to encourage the recognition of 2009 as the "Year of the Military Family."

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Madam President, there are more than 1.8 million family members of active duty servicemembers and an additional 1.1 million family members of reserve component members. Every one of these families makes sacrifices each and every day along with their servicemember and plays a very significant role in serving our country.

Military families often face unique challenges and difficulties throughout their loved one's career, including frequent relocations to bases across the country and overseas as well as the various demands stemming from continued deployments of members from every service. The Nation must ensure that all the needs of military dependent children and spouses are being met. The life of a military family member has never been an easy one, but in our 8th year of war, families are facing even more hardships.

Deployments are an undeniable strain on families. While a servicemember is away, spouses are often forced into the role of a single parent—juggling employment, child care, and household duties each and every day, all the while living with the pressure of having a family member deployed to a combat zone. Families are an integral part of the force, and stress on the force affects overall readiness.

Servicemembers will experience less stress in the field if they are assured their families are well taken care of back home. And it is imperative that families remain as resilient as possible in order to provide a stable environment for loved ones when they return home from those deployments. Families are often the first line of defense against posttraumatic stress and suicide, but may be experiencing similar feelings themselves. We must ensure that families and servicemembers have timely access to mental health resources and programs. We must make every dependent aware of the resources available to them to assist in everything from finances to job placement to health care and counseling.

Thousands of military family members have taken it upon themselves to confront these challenges by volunteering to provide critical assistance during deployments to servicemembers, their spouses, and children, as well as giving vital support to families relocating to a new area. And sadly, many families have made the ultimate sacrifice in the loss of a servicemember who proudly defended our Nation.

We in Congress have tried to do our part to help, and have made family

support programs and initiatives a priority. In recent bills we have called for: the establishment of a Department of Defense Military Family Readiness Council; education, training, and tuition assistance to help spouses maintain careers; respite care for parents caring for children on their own due to deployments; authorized increased levels of Impact Aid for military dependents' education; and established and supported the nationwide expansion of the Department's Yellow Ribbon Reintegration Program which is aimed at helping members and families of the Guard and Reserve. But there is still more to do.

With President and Mrs. Obama placing the support of our military families among their top priorities, we must take this opportunity to renew our commitment and express our deepest appreciation to military family members who bravely serve this Nation alongside their servicemembers. It is my hope that this Year of the Military Family inspires us, the Department of Defense, the military Services, and Americans everywhere to commit to helping military families and servicemembers in any way we can, and to ensure that these strong men, women, and children are given the recognition, appreciation, and support that they so truly deserve.

Mr. MCCAIN. Madam President, it is my privilege to support S. Res. 165, a resolution encouraging the recognition of 2009 as the "Year of the Military Family." I am honored to be an original cosponsor of this resolution, along with my colleagues on the Committee on Armed Services, Senator LEVIN, Senator BEN NELSON and Senator GRAMM.

Our Nation is honored by the brave men and women who selflessly risk their lives for our freedom, and by their families, who accept risks, both known and unknown, in support of their country and loved ones who serve. The programs and resources our Nation provides must match the quality of the service and sacrifice of military families. That is why I and others fought so hard to include a special provision in the post-9/11 G.I. bill to allow career service members the opportunity to share the educational benefits that they earn with their immediate family members.

Many military families are distinguished by generations, who have served, from the American Revolution, to the American Civil War, World Wars, Korea, Vietnam, the first gulf war and recent conflicts. The resolution before us today recognizes the contributions and resilience of all military families, and especially those who have endured multiple deployments, or the loss of a loved one who answered the call to service and paid the ultimate price in defense of our Nation.

SFC Kimberly Hazelgrove was serving as an intelligence expert in the

U.S. Army when she received the news on January 23, 2004, that her husband, Army CW2 Brian Hazelgrove, had died. His helicopter crashed on its return from a combat mission in northern Iraq. On that tragic day, Kimberly Hazelgrove became a survivor of an American hero. But, like so many whose spouses have died as a consequence of their service to our Nation, she is also a hero in her own right. Kimberly had to abandon her own promising military career to care for four young children. She struggled, with the help of family and friends, to start over—to transition to civilian life, to find employment in which to apply her military skills, and return to school—and with courage and determination she succeeded. Today she balances a new career with the needs of the children that she and Brian had planned to raise, and has never abandoned her selfless advocacy on behalf of survivors of the fallen. Kimberly Hazelgrove represents the essence of service and sacrifice of military families, and I salute her.

Not all military families are defined only as the service member, a spouse, and children. Many of the young men and women serving our country are unmarried and identify as a family with their parents and siblings. My friend 1LT Andrew Kinard graduated from the Naval Academy in 2005 and chose to lead Marines in Iraq. Andrew deployed as a platoon leader with the Second Marine Division in support of Operation Iraqi Freedom in September 2006. He was gravely wounded by an IED attack while leading a security patrol in Al Anbar Province. His father Harry immediately left his surgical practice so that he could buoy Andrew's spirit through dozens of surgeries that followed. His mother, Mary, remained with Andrew for 5 more months after her husband returned to his medical practice. The separation that Andrew's parents and siblings endured represents a family's selfless sacrifice, to support Andrew and his quality of life even as he faced many surgeries and grueling physical therapy. Andrew Kinard is now a retired marine and will enter Harvard Law School in the fall. The Kinard family represents the unifying, supportive force of a military family that helps a service member survive the most grievous wounds of war, and then get back to the important work of citizenship. I salute them.

MAJ Brian Love is a Green Beret. His family accompanied him to assignment in Germany where, in 2004, their son Patrick was diagnosed with autism. Today Brian and his wife Naomi apply the unique problem solving skills of military special forces to the daily challenge of meeting Patrick's complex needs—a challenge compounded by the rigors of a career as a military leader, and the uncertain limitations of Federal, State and local programs. Major

Love has deployed to Iraq twice since 2005. He believes that he is a better leader—that his family relationships are stronger—for having seen the world through the eyes of a child with special needs. Brian is now preparing to assume command of an Army special forces unit and faces the possibility of future deployments. His service, and that of his wife Naomi, honors each of us. Because of their service, and thousands like them, we can all view our victories differently. As an emblem of the dedicated service of military families and to their children, I salute them.

Finally, Mary Scott modestly asserts that hers is a “normal military family.” Her father was killed in 1972 in Vietnam; her husband served for 30 years in the U.S. Army; each one of their six children serves their nation in the military today. Kate is an Army captain and lawyer and now serves in Iraq; Karoline, an Air Force captain and public affairs officer; Andy, an Army captain and lawyer who has also deployed to Iraq; 1LT Kerney Scott pilots an Army Blackhawk in Korea; 2LT Alec Scott is a newly commissioned officer in the Army Chaplain Corps, and Cadet Adam Scott, followed his family's well worn path to the U.S. Military Academy. “It's not unusual,” Mary says, “for kids to go into the family business.”

All of those whom I have described and their families, live the values of military service, and enrich us all. They volunteer and advocate on behalf of causes greater than their own. They support one another during challenging times, and find that even in difficulty they are bound more closely together.

I rise in support of the resolution encouraging the recognition of 2009 as the “Year of the Military Family.” I salute all military families, and it is to their service that I dedicate my own.

Mr. UDALL of Colorado. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 165

Whereas there are more than 1.8 million family members of regular component members of the Armed Forces and an additional 1.1 million family members of reserve component members;

Whereas slightly more than half of all members of the regular and reserve components are married, and just over 40 percent of military spouses are 30 years or younger and 60 percent of military spouses are under 36 years of age;

Whereas there are nearly 1.2 million children between the ages of birth and 23 years

who are dependents of regular component members, and there are over 713,000 children between such ages who are dependents of reserve component members;

Whereas the largest group of minor children of regular component members consist of children between the ages of birth and 5 years, while the largest group of minor children of reserve component members consist of children between the ages of 6 and 14 years;

Whereas the needs, resources, and challenges confronting a military family, particularly when a member of the family has been deployed, vastly differ between younger age children and children who are older;

Whereas the United States recognizes that military families are also serving their country, and the United States must ensure that all the needs of military dependent children are being met, for children of members of both the regular and reserve components;

Whereas military families often face unique challenges and difficulties that are inherent to military life, including long separations from loved ones, the repetitive demands of frequent deployments, and frequent uprooting of community ties resulting from moves to bases across the country and overseas;

Whereas thousands of military family members have taken on volunteer responsibilities to assist units and members of the Armed Forces who have been deployed by supporting family readiness groups, helping military spouses meet the demands of a single parent during a deployment, or providing a shoulder to cry on or the comfort of understanding;

Whereas military families provide members of the Armed Forces with the strength and emotional support that is needed from the home front for members preparing to deploy, who are deployed, or who are returning from deployment;

Whereas some military families have given the ultimate sacrifice in the loss of a principal family member in defense of the United States; and

Whereas 2009 would be an appropriate year to designate as the “Year of the Military Family”: Now, therefore be it

*Resolved by the Senate, That the Senate—*

(1) expresses its deepest appreciation to the families of members of the Armed Forces who serve, or have served, in defense of the United States;

(2) recognizes the contributions that military families make, and encourages the people of the United States to share their appreciation for the sacrifices military families give on behalf of the United States; and

(3) encourages the people of the United States and the Department of Defense to observe the “Year of Military Family” with appropriate ceremonies and activities.

#### DISCHARGE AND REFERRAL—S. 1007

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the bill S. 1007 be discharged from the Committee on Banking, Housing, and Urban Affairs and it be referred to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.



## ORDERS FOR WEDNESDAY, JUNE 3, 2009

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., tomorrow, Wednesday, June 3; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with the Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Control Act, and that time during any adjournment, recess or period of morning business count postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. UDALL of Colorado. Madam President, if we are required to run the entire 30 hours of postcloture debate time, we will not be able to turn to consideration of the FDA tobacco bill until approximately 5:20 p.m. tomorrow. However, we hope to yield back a portion of that time so we can begin the legislative process on the bill after lunch. Once we are on the bill, Senator DODD will offer the substitute amendment and then the bill will be open to further amendments.

## ORDER FOR ADJOURNMENT

Mr. UDALL of Colorado. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order, following the remarks of Senator BILL NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

## TOBACCO CONTROL

Mr. NELSON of Florida. Mr. President, I rise to speak on the tobacco

control act. It has been said over and over—and I want to reassert—that tobacco use is the leading preventable cause of death in the United States. It kills more than 400,000 Americans each year. That is staggering. We think of all the deaths by automobiles. Here tobacco is killing close to half a million people a year. An additional 50,000 a year are dying because of exposure to secondhand smoke.

I will never forget, when I was a kid, flying on airplanes. It was back in the days that people smoked on airplanes. I would come off of the airplane, and I would smell the sleeve of my coat, and it would be total tobacco smoke.

Breaking it down for my State of Florida: 28,000 people die each year in my State alone from tobacco-related illnesses. Despite the risk involved with tobacco consumption, 20 percent of Americans—that is almost 40 million people—still smoke cigarettes. It is tough to break the habit. Fortunately, I have never been a smoker, but I understand people who are. One of them is our President. It is tough to break the habit. I was with him a lot during the campaign, because he was in my State campaigning. He would break out that pack of Nicorette chewing gum. He would go to work on that chewing gum. And more power and more credit to the President for breaking this habit. It is tough.

Here is what is sad. Nearly 90 percent of smokers began as children, and they got addicted by the time they were adults. It is estimated that 3,500 children try cigarettes for the first time each day, and each day 1,000 children become regular smokers. It would really be something if we could change that. Look at what it would save us in health care costs. We are getting ready to mark up in this month, in the Finance Committee and in the HELP Committee, the big health reform package. Think how much money we could save if we didn't have all of these deaths because of tobacco usage. And of course, the health care cost resulting from tobacco use amounts to \$96 billion a year, more than \$54 billion of which is borne by the Federal Government. We can see that would be staggering, if we had a magic wand and we could stop this health care cost to the country. No wonder our health care costs are so high, if you look at that and the addiction to alcohol and all of the health care costs.

Yet tobacco products are largely an unregulated product. It basically is exempt from requirements to disclose product ingredients and exempt from undergoing product testing. On top of that, manufacturers are able to advertise and market products to youth without the necessary restrictions. At least we have stopped magazine advertisements and TV advertisements. But have my colleagues seen this new kind of candy that is being marketed that is

basically to addict children to nicotine? When are we going to put an end to this?

There are a bunch of us who are co-sponsoring this bill to give the Food and Drug Administration the authority to regulate the manufacturing, marketing, and sale of tobacco products. This legislation would try to restrict youth smoking by restricting access to tobacco products and prohibit marketing campaigns that specifically target children. If this is such a bad thing and a consequence on the financial condition of the country, isn't that something we ought to stop, targeting children to get them hooked?

What we find is, so many adults were hooked when they were children. This legislation is also going to try to put a bead on consumer safety by requiring full disclosure of the product ingredients—that would have to be disclosed to the Food and Drug Administration—and for the FDA to mandate the elimination of certain ingredients and additives that are going to be put out there for consumers. This bill is going to try to make sure we get adequate and accurate information out to the public by giving the Food and Drug Administration the authority to restrict tobacco marketing, to require stronger warning labels and to regulate the manufacturers' claims about certain products having fewer health risks.

Tobacco use costs us billions of dollars and hundreds of thousands of lives. When are we going to learn? Now is the time for us to step up and try to help protect the public from dangerous products and the very subtle tactics used to get young people addicted to tobacco.

I sure hope we are going to be able to pass this bill and pass it fairly quickly this week.

I yield the floor.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:15 p.m., adjourned until Wednesday, June 3, 2009, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

## DEPARTMENT OF DEFENSE

DANIEL GINSBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE CRAIG W. DUEHRING.

## DEPARTMENT OF STATE

LOUIS B. SUSMAN, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND Plenipotentiary OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

## CONFIRMATION

Executive nomination confirmed by the Senate, Tuesday, June 2, 2009:



*June 2, 2009*

ENVIRONMENTAL PROTECTION AGENCY

REGINA MCCARTHY, OF MASSACHUSETTS, TO BE AN  
ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL  
PROTECTION AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO  
THE NOMINEE'S COMMITMENT TO RESPOND TO RE-  
QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY  
CONSTITUTED COMMITTEE OF THE SENATE.

## HOUSE OF REPRESENTATIVES—Tuesday, June 2, 2009

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. LARSEN of Washington).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
June 2, 2009.

I hereby appoint the Honorable RICK LARSEN to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: God eternal, Creator of unfailing light, give that same kind of light to all who call upon Your Holy Name.

May our minds and hearts be purified of all self-centered wishes and judgments.

So, freed enough to be attentive to Your Word and Holy Inspirations, enable this Congress to accomplish Your purpose for this country and do what is best, not only for ourselves but for those most in need. This will give You lasting glory, both now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Arizona (Mrs. KIRKPATRICK) come forward and lead the House in the Pledge of Allegiance.

Mrs. KIRKPATRICK of Arizona led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK  
Washington, DC, May 22, 2009.

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 22, 2009, at 9:55 a.m.:

That the Senate passed without amendment H.R. 663.

That the Senate passed without amendment H.R. 918.

That the Senate passed without amendment H.R. 1284.

That the Senate passed without amendment H.R. 1595.

That the Senate agreed to without amendment H. Con. Res. 133.

That the Senate passed S. Con. Res. 19.  
With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK  
Washington, DC, May 26, 2009.

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 26, 2009, at 10:03 a.m.:

That the Senate passed with an amendment H.R. 2346.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

### COMMUNICATION FROM CHIEF OF STAFF, THE HONORABLE PETER VISCLOSKY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Charles E. Brimmer, Chief of Staff, the Honorable PETER VISCLOSKY, Member of Congress:

HOUSE OF REPRESENTATIVES,  
Washington, DC, June 1, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena

for documents issued by the U.S. District Court for the District of Columbia.

After consultation with counsel, I will make the determinations required by Rule VIII.

Sincerely,

CHARLES E. BRIMMER,  
*Chief of Staff.*

### COMMUNICATION FROM THE HONORABLE PETER VISCLOSKY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable PETER VISCLOSKY, Member of Congress:

HOUSE OF REPRESENTATIVES,  
Washington, DC, June 1, 2009.

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,*  
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with two grand jury subpoenas for documents issued by the U.S. District Court for the District of Columbia.

After consultation with counsel, I will make the determination required by Rule VIII.

Sincerely,

PETER J. VISCLOSKY,  
*Member of Congress.*

### HONORING THE LIVES OF JOHN BROWN, JR. AND THOMAS CLAW

(Mrs. KIRKPATRICK of Arizona asked and was given permission to address the House for 1 minute.)

Mrs. KIRKPATRICK of Arizona. Mr. Speaker, I rise to honor the lives of two American heroes. In May, we lost two of the last surviving Navajo Code Talkers, John Brown, Jr., of Crystal, New Mexico, and Thomas Claw of Chinle, Arizona.

Navajo Code Talkers saved the lives of countless Americans in World War II and Korea by using DINE to communicate without risk of interception.

Mr. Brown was among those who developed the original code. At the 2001 ceremony, where the original 29 Code Talkers received Congressional Gold Medals, he said, "As Code Talkers, as Marines, we did our part to protect freedom and democracy. It is my hope that our young people will carry on this honorable tradition as long as the grass shall grow and the rivers flow."

I hope for just as long, we remember to honor the memory of Mr. Brown, Mr. Claw and all those DINE who served our Nation.

## SAVING PLANET EARTH TAX

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the new carbon energy tax is about to nail all Americans who use energy. It's about old-fashioned, central planning control that would make the now-defunct Soviet Union green with envy.

In the name of saving Planet Earth, the taxacrats want to control every dollar spent on energy in America. They also want control over who can use it and how. So they came up with the mother of all mandates: The cap-and-trade national tax on energy consumption. This scheme will bankrupt manufacturing businesses and cost American families thousands of dollars a year in new taxes.

If you use electricity or natural gas in your home, you've got another tax. If you drive your car, the gasoline tax will go up. It's all about government control over our lives.

And the nonpartisan Congressional Budget Office said the cap-and-trade boondoggle will be a major tax increase or a massive expansion of government, or both. And they also told the Senate last week that it won't have any impact on the Earth's temperature. Now isn't that lovely.

And that's just the way it is.

## CONCERN FOR THE DOLLAR

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, the dollars in your wallet are about to become less valuable, a lot less valuable.

Over the last several months, the Federal Reserve has been lending money to the Federal Government using "monetized" assets. That's Washington-speak for printing money we do not have. To date, the Fed has printed over \$130 billion by just running a virtual electronic printing press on its balance sheet. Most Americans do not know this is happening. Most Chinese do.

The dollar-printing policy of Chairman Bernanke and Secretary Geithner should worry every American. High interest rates and inflation are the enemy of homeowners with a mortgage and senior citizens on a fixed income. Nothing sinks a middle class faster than inflation.

Concern for the dollar is also front page news in China. China's leaders approved over \$1 trillion in lending to the U.S. And if the Fed continues printing money, then China's dollar-denominated loans will lose considerable value.

As co-chair of the China Working Group, I led a mission to China, where I heard about deep concern in China. It's a concern that we should all listen

to for our own sakes, as well as our international trade.

## REMEMBERING THE LIFE AND SERVICE OF LIEUTENANT LEEVI K. BARNARD

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, today I rise in solemn remembrance of the life of a fallen hero, 1st Lieutenant Leevi Khole Barnard, of the North Carolina National Guard. Lieutenant Barnard was killed while serving his country in Iraq on May 21 when an improvised explosive device targeted his unit in Baghdad.

Lieutenant Barnard joined the North Carolina National Guard in 2004 after graduating as a Distinguished Military Graduate from the Advanced Individual Training Class at Fort Sill, Oklahoma. His unit, the 30th Heavy Brigade Combat Team, was recently deployed to Iraq this April.

Lieutenant Barnard graduated from UNC Charlotte, where he participated in the university's ROTC program. This selfless American patriot, who paid the heaviest price for his country, will be remembered forever as a young man whose life was overflowing with potential and whose personality filled other people's lives with joy. His tragic death in the line of duty is an irreplaceable loss for his family and friends, his community and his country.

Today we mourn with those who mourn. And we pay tribute to and honor this soldier and his inspiring life that was cut short while he was serving his country. His country owes him an immeasurable debt of gratitude for his 5 years of service and his great sacrifice on the battlefield.

May God's peace be with Lieutenant Barnard's family, friends and all those who continue to mourn his death and remember his life.

## CAP-AND-TRADE OR CAP-AND-TAX

(Mr. LUETKEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUETKEMEYER. Mr. Speaker, the cap-and-trade bill currently working its way through the House is nothing more than a national energy tax. The right to emit carbon would essentially be auctioned off to generate revenue for more government spending programs, amounting to a major tax increase for all American consumers.

This proposed cap-and-trade is actually a cap-and-tax system that will increase taxes, eliminate jobs, or drive them offshore, and raise the cost of energy and the price of purchasing any product or service dependent upon energy. Many sources have looked at this

and said that it will cost about \$4,000 per household, if not more. Even the President expects energy prices to rise, and describes them as skyrocketing. This national energy tax will be disastrous, particularly in light of our Nation's current economic circumstances.

As an alternative, I support an "all of the above" energy policy to end our dependence on foreign oil. I support increasing domestic exploration for oil, investing in biofuels, alternative fuels, clean coal and nuclear technology.

## HONORING THE SACRIFICE OF ARMY FIRST SERGEANT BLUE C. ROWE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor one of America's bravest, First Sergeant Blue Rowe, who sacrificed his life in support of Operation Enduring Freedom.

In 1994, after graduating from Siloam Springs High School, Blue enlisted in the Army. He served honorably all over the world, and earned several military awards, including the Meritorious Service Medal and Posthumous Combat Action Badge, and a Bronze Star.

Blue's family and friends describe him as funny, compassionate, hard-working and 100 percent Arkansan. A lifelong Razorback fan, it wasn't out of the ordinary for Blue to leave Northwest Arkansas with a bag full of new Razorback gear and show his support for the team while stationed in California.

Blue made the ultimate sacrifice for his country. He is a true American hero.

I ask my colleagues to keep Blue's family and friends in their thoughts and prayers during these very difficult times, and I humbly offer my thanks to Army First Sergeant Blue Rowe for his selfless service to the security and well-being of all Americans.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## AVRA/BLACK WASH RECLAMATION AND RIPARIAN RESTORATION PROJECT

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the

bill (H.R. 325) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Avra/Black Wash Reclamation and Riparian Restoration Project.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 325

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Avra/Black Wash Reclamation and Riparian Restoration Project".

#### SEC. 2. PROJECT AUTHORIZATION.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

**"SEC. 16. AVRA/BLACK WASH RECLAMATION AND RIPARIAN RESTORATION PROJECT, PIMA COUNTY, ARIZONA.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with Pima County, Arizona, may participate in the planning, design, and construction of water recycling facilities and to enhance and restore riparian habitat in the Black Wash Sonoran Desert ecosystem in Avra Valley west of the metropolitan Pima County area.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the cost of the project.

"(c) LIMITATION.—Federal funds provided under this section shall not be used for operation or maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$14,000,000.

"(e) USE OF FUNDS.—Federal funds provided under this section shall only be used for the design, planning and construction of water-related infrastructure."

(b) CLERICAL AMENDMENT.—The table of sections for Public Law 102-575 is amended by inserting after the last item relating to title XVI the following:

"Sec. 16. Avra/Black Wash Reclamation and Riparian Restoration Project, Pima County, Arizona."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

□ 1415

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. I yield myself such time as I may consume.

Mr. Speaker, H.R. 325, sponsored by the National Parks, Forests and Public

Lands Subcommittee chairman, RAÚL GRIJALVA, authorizes the Secretary of the Interior to participate in the Avra/Black Wash Reclamation and Riparian Restoration Project. The extremely arid conditions and climate of the Tucson, Arizona metropolitan area require the careful and innovative planning of both water supply and wastewater treatment systems.

The proposed Avra Valley Reclamation and Riparian Restoration site would spread treated wastewater on the mesquite riparian forest in Black Wash, creating valuable riparian habitat for migrating birds while recharging groundwater for the greater Tucson area.

I commend Mr. GRIJALVA for bringing this legislation to our attention, and I urge my colleagues to support the passage of H.R. 325.

I reserve the balance of my time.

Mr. LAMBORN. I yield myself such time as I may consume.

Mr. Speaker, the Democratic bill manager has adequately explained this bill. An earlier version of the bill would have allowed water infrastructure funds to be expended for trails and a visitors center. The bill now targets funding for water recycling infrastructure only. As such, we have no objection to this narrowly focused bill.

I would yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 325.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CENTRAL TEXAS WATER RECYCLING ACT OF 2009

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1120) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Central Texas Water Recycling Act of 2009".

#### SEC. 2. PROJECT AUTHORIZATION.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities

Act (Public Law 102-575; 43 U.S.C. 390h et seq.) is amended by inserting after section 16 the following new section:

**"SEC. 16. CENTRAL TEXAS WATER RECYCLING AND REUSE PROJECT.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Waco and other participating communities in the Central Texas Water Recycling and Reuse Project is authorized to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in McLennan County, Texas.

"(b) COST SHARE.—The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project described in subsection (a).

"(d) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this section."

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is amended by inserting after the item relating to section 16 the following:

"Sec. 16. Central Texas Water Recycling and Reuse Project."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. I yield myself such time as I may consume.

Mr. Speaker, H.R. 1120 authorizes the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project. The project will treat and recycle wastewater generated by the city of Waco and six neighboring communities. Similar legislation was passed by the House under suspension of the rules in the 109th and 110th Congresses.

I urge my colleagues to support the passage of H.R. 1120, and I commend the bill's sponsor, Mr. EDWARDS of Texas, for his persistence and hard work to secure authorization for this very important project.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I yield myself such time as I may consume.

The Democratic bill manager has adequately explained this bill, which authorizes limited Federal participation in a water reuse project in McLennan County, Texas. We have no objection to this well-intended bill.

I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I would now like to yield such time as he might consume to the sponsor of this act, to our colleague, Mr. EDWARDS of Texas.

Mr. EDWARDS of Texas. Mr. Speaker, I first want to thank the gentlewoman from the Virgin Islands for her courtesy and for her kind comments and support for this legislation and for her leadership on the committee.

Mr. Speaker, our communities and Nation have a responsibility to be good stewards of our water resources. That is why I introduced H.R. 1120, the Central Texas Water Recycling Act of 2009.

This bill will authorize approximately \$8 million in Federal funds to help build an innovative water recycling program in partnership with my hometown of Waco, Texas, and with several neighboring communities. It supports efforts to manage water resources efficiently in McLennan County by strategically locating regional satellite water treatment plants that will not only provide for the conservation of our community's water supply but will also reduce costs to the taxpayers.

This project can provide up to 10 million gallons per day of reused water, thereby reducing the water demand on Lake Waco. Instead of wasting valuable drinking water for use in factories and on golf courses in July and August in Texas, which doesn't make much sense, we will be able to use lower-cost recycled wastewater for those purposes, and will be able to save enough drinking water for over 20,000 households.

The bottom line is this: By being good stewards of our water supply, we will reduce water costs for businesses and for working families. It will save taxpayers millions of dollars, and it will encourage economic growth and jobs.

I want to thank Chairman RAHALL and Ranking Member HASTINGS for their support of this measure, and I want to thank the subcommittee chairwoman, Mrs. NAPOLITANO, and the ranking subcommittee member, Mrs. McMORRIS RODGERS, for their key roles in this bill's passage.

This legislation, Mr. Speaker, is a kind of effort that shows what Congress can do when we work together on a bipartisan basis.

I also want to thank the mayors, city council and staff from the cities of Waco, Lorena, Robinson, Hewitt, Woodway, Bellmead, and Lacy-Lakeview for their cooperative efforts that brought us here today.

Finally, I want to extend special credit to Waco's city manager, Larry Groth, for his extraordinary leadership on this bill. Without his leadership and that of his staff's, without their hard work and professionalism, we would not be here today. As a citizen of Waco, I am grateful for his and his staff's outstanding service to my hometown.

I urge a "yes" vote on H.R. 1120.

Mr. LAMBORN. Mr. Speaker, I will just reaffirm the support that this bill has from our side of the aisle, I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 1120.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2009

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1393) to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1393

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2009".

#### SEC. 2. AUTHORIZATION OF ADDITIONAL PROJECTS AND ACTIVITIES UNDER THE LOWER RIO GRANDE WATER CONSERVATION AND IMPROVEMENT PROGRAM.

(a) ADDITIONAL PROJECTS.—Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3067) is amended by adding at the end the following:

"(20) In Cameron County, Texas, Bayview Irrigation District No. 11, water conservation and improvement projects as identified in the March 3, 2004, engineering report by NRS Consulting Engineers at a cost of \$1,425,219.

"(21) In the Cameron County, Texas, Brownsville Irrigation District, water conservation and improvement projects as identified in the February 11, 2004, engineering report by NRS Consulting Engineers at a cost of \$722,100.

"(22) In the Cameron County, Texas, Harlingen Irrigation District No. 1, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$4,173,950.

"(23) In the Cameron County, Texas, Cameron County Irrigation District No. 2, water conservation and improvement projects as identified in the February 11, 2004, engineering report by NRS Consulting Engineers at a cost of \$8,269,576.

"(24) In the Cameron County, Texas, Cameron County Irrigation District No. 6, water

conservation and improvement projects as identified in an engineering report by Turner Collie Braden, Inc., at a cost of \$5,607,300.

"(25) In the Cameron County, Texas, Adams Gardens Irrigation District No. 19, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$2,500,000.

"(26) In the Hidalgo and Cameron Counties, Texas, Hidalgo and Cameron Counties Irrigation District No. 9, water conservation and improvement projects as identified by the February 11 engineering report by NRS Consulting Engineers at a cost of \$8,929,152.

"(27) In the Hidalgo and Willacy Counties, Texas, Delta Lake Irrigation District, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$8,000,000.

"(28) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 2, a water conservation and improvement project identified in the engineering reports attached to a letter dated February 11, 2004, from the district's general manager, at a cost of \$5,312,475.

"(29) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 1, water conservation and improvement projects identified in an engineering report dated March 5, 2004, by Melden and Hunt, Inc. at a cost of \$5,595,018.

"(30) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 6, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$3,450,000.

"(31) In the Hidalgo County, Texas Santa Cruz Irrigation District No. 15, water conservation and improvement projects as identified in an engineering report dated March 5, 2004, by Melden and Hunt at a cost of \$4,609,000.

"(32) In the Hidalgo County, Texas, Engelman Irrigation District, water conservation and improvement projects as identified in an engineering report dated March 5, 2004, by Melden and Hunt, Inc. at a cost of \$2,251,480.

"(33) In the Hidalgo County, Texas, Valley Acres Water District, water conservation and improvement projects as identified in an engineering report dated March 2004 by Axiom-Blair Engineering at a cost of \$500,000.

"(34) In the Hudspeth County, Texas, Hudspeth County Conservation and Reclamation District No. 1, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$1,500,000.

"(35) In the El Paso County, Texas, El Paso County Water Improvement District No. 1, water conservation and improvement projects as identified in the March 2004 engineering report by Axiom-Blair Engineering at a cost of \$10,500,000.

"(36) In the Hidalgo County, Texas, Donna Irrigation District, water conservation and improvement projects identified in an engineering report dated March 22, 2004, by Melden and Hunt, Inc. at a cost of \$2,500,000.

"(37) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 16, water conservation and improvement projects identified in an engineering report dated March 22, 2004, by Melden and Hunt, Inc. at a cost of \$2,800,000.

"(38) The United Irrigation District of Hidalgo County water conservation and improvement projects as identified in a March

2004 engineering report by Sigler Winston, Greenwood and Associates at a cost of \$6,067,021.”.

(b) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY; TRANSFERS AMONG PROJECTS.—Section 4 of such Act (Public Law 106-576; 114 Stat. 3067) is further amended by redesignating subsection (c) as subsection (e), and by inserting after subsection (b) the following:

“(c) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY.—In addition to the activities identified in the engineering reports referred to in subsection (a), each project that the Secretary conducts or participates in under subsection (a) may include any of the following:

“(1) The replacement of irrigation canals and lateral canals with buried pipelines.

“(2) The impervious lining of irrigation canals and lateral canals.

“(3) Installation of water level, flow measurement, pump control, and telemetry systems.

“(4) The renovation and replacement of pumping plants.

“(5) Other activities that will result in the conservation of water or an improved supply of water.

“(d) TRANSFERS AMONG PROJECTS.—Of amounts made available for a project referred to in any of paragraphs (20) through (38) of subsection (a), the Secretary may transfer and use for another such project up to 10 percent.”.

### SEC. 3. REAUTHORIZATION OF APPROPRIATIONS FOR LOWER RIO GRANDE CONSTRUCTION.

Section 4(e) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3067), as redesignated by section 2(b) of this Act, is further amended by inserting before the period the following: “for projects referred to in paragraphs (1) through (19) of subsection (a), and \$42,356,145 (2004 dollars) for projects referred to in paragraphs (20) through (38) of subsection (a)”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to add extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. I yield myself such time as I may consume.

Mr. Speaker, H.R. 1393 amends the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2009 to authorize the construction of several water conservation projects in Cameron, Hidalgo, Willacy, Hudspeth, and El Paso Counties in Texas. I commend the bill's sponsor, Mr. HINOJOSA, for bringing this measure to our attention. I urge the passage of this noncontroversial bill.

I reserve the balance of my time.

Mr. LAMBORN. I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1393. The Democratic bill manager has adequately explained this bill, which has passed the House in the last two Congresses in one form or another.

I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I now want to yield as much time as he might consume to the sponsor of the bill, to my classmate, Mr. RUBEN HINOJOSA of Texas.

Mr. HINOJOSA. Mr. Speaker, I thank the gentlewoman from my wonderful congressional class of 1996 for giving me this time and opportunity to speak about an issue that is very important to us in Texas.

I rise in strong support of H.R. 1393, a bill that will authorize a variety of water conservation projects, including several in my congressional district in Texas and other projects all the way up to El Paso.

I want to thank Chairman RAHALL and Ranking Member HASTINGS for bringing the legislation to the floor.

I represent a region of the country that is subject to periodic droughts but yet is experiencing phenomenal population growth. When I came to Congress in 1997, we had 7 years of drought that made it impossible for our farmers to be able to make a profit. The 2000 census showed that the population of Hidalgo County, in my congressional district, increased by 48 percent. The 2010 census is expected to show a very similar growth of 48 to 50 percent.

On the Mexican side of the border, millions have come to work in the maquiladoras to take advantage of the economic boom that has come from NAFTA. This growth has placed an enormous strain on water delivery systems along the Texas-Mexico border.

Agriculture irrigation water often flows through open dirt ditches, and studies show that much is lost to seepage. Much of it is also lost to evaporation. Municipalities rely on the water from the irrigation delivery systems to meet the water needs of growing communities.

This bill, H.R. 1393, will authorize 19 projects that will allow border water districts to continue upgrading and modernizing our antiquated water delivery systems through the installation of water pipes—PVC pipes and canal linings. That is what we have been doing during the last 10 years, saving anywhere from 38 to 42 percent of water that we would have lost to seepage and evaporation. Similar projects were authorized in the 106th and 107th Congresses. This identical bill was passed in the 109th and 110th Congresses, but it has always stalled in the Senate. I am hoping that the third time is the charm.

We have already made a great deal of progress because this has been a collaborative effort. The irrigation dis-

tricts have provided matching funds. The Texas Water Development Board and Texas A&M University have paid for many of the engineering studies. Federal appropriators have provided close to \$20 million for previously authorized projects. These funds are being put to good use. Numerous projects are already under way, and some are almost completed.

Mr. Speaker, as a result, we are seeing a water savings of as high as 80 percent in the projects that have been completed. When the metering system is fully installed, irrigation districts have a much clearer picture of water usage and of water savings. This type of investment is bringing us the state of the art in irrigation systems in agricultural regions like the ones we have in deep south Texas. This data will be vital to improving water management throughout our region.

Most importantly, Federal authorization has allowed us to tap into the resources of the North American Development Bank. To date, NADBank has approved almost \$24 million for these kinds of projects, and the passage of H.R. 1393 will make these new projects eligible for NADBank assistance.

In closing, I wish to say that, as south Texas moves back into a drought cycle, I urge my colleagues to support this critical legislation. I urge my colleagues on both sides of the aisle to support H.R. 1393.

Mr. LAMBORN. Mr. Speaker, at this point, I will yield back the balance of my time.

Mrs. CHRISTENSEN. I yield back the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 1393.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1430

### LAND GRANT PATENT MODIFICATION

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1280) to modify a land grant patent issued by the Secretary of the Interior.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1280

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. AMENDMENTS TO LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.

Patent Number 61-2000-0007, issued by the Secretary of the Interior to the Great Lakes

Shipwreck Historical Society, Chippewa County, Michigan, pursuant to section 5505 of division A of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-516) is amended in paragraph 6, under the heading "SUBJECT ALSO TO THE FOLLOWING CONDITIONS" by striking "Whitefish Point Comprehensive Plan of October 1992, or a gift shop" and inserting "Human Use/Natural Resource Plan for Whitefish Point, dated December 2002, permitted as the intent of Congress".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, I'm pleased to bring to the House for its consideration this legislation sponsored by the gentleman from Michigan (Mr. STUPAK). This bill makes a minor technical correction to a land patent issued by the Secretary of the Interior to the Great Lakes Shipwreck Historical Society.

In 1997, Congress directed the Secretary to grant a land patent transferring a portion of the Whitefish Point Coast Guard Light Station to the society for the purposes of developing a public museum dedicated to shipping on the Great Lakes, including the well-known tragedy of the S.S. Edmund Fitzgerald, an iron ore carrier lost on Lake Superior in 1975.

A condition of the patent was that the use of the land conform to the Whitefish Point Comprehensive Plan of 1992. That plan has been replaced by a new document, the December 2002 Human Use/Natural Resource Plan for Whitefish Point. This bill strikes the reference to the old plan and replaces it with the title of the current document.

Congressman STUPAK has worked diligently on behalf of this legislation. The museum is one of the most popular attractions in Michigan's Upper Peninsula, and Mr. STUPAK has been a great advocate on its behalf.

I wholeheartedly support H.R. 1280 and urge its adoption by the House today.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I rise to speak on H.R. 1280, and I yield myself such time as I may consume.

H.R. 1280 has been well explained by the majority, and we support the legislation.

At this point, I would reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, at this time I would like to yield to the sponsor of the legislation, Mr. BART STUPAK of Michigan.

Mr. STUPAK. Mr. Speaker, I rise today as the author of H.R. 1280. I would like to thank the chairman and ranking member of the Interior Committee, Mrs. CHRISTENSEN and Mr. LAMBORN, and the committee staff for their assistance in moving forward with this legislation.

H.R. 1280 is a straightforward bill that would allow the Great Lakes Shipwreck Historical Society to implement the new Human Use/Natural Resource Management Plan for the Great Lakes Shipwreck Museum in Chippewa County, Michigan.

We have passed identical legislation on suspension out of the House of Representatives in the 109th and 110th sessions of Congress before, but it was not considered by the Senate. I am hopeful, with the House acting early this year in this legislative session, that the legislation we pass today will allow the Senate ample time to consider and approve this legislation.

The Great Lakes Shipwreck Historical Society is a nonprofit organization dedicated to preserving the history of shipwrecks in the Great Lakes. Since 1992, the Great Lakes Shipwreck Historical Society has operated the Great Lakes Shipwreck Museum to educate the public about shipwrecks in the region. The museum provides exhibits on several shipwrecks in the area, including an in-depth exhibit on the Edmund Fitzgerald, which was lost with her entire crew of 29 men near Whitefish Point, Michigan, on November 10, 1975. Among the items on display is the 200-pound bronze bell recovered from the wreckage in 1995, as a memorial to her lost crew.

In 2002, the Great Lakes Shipwreck Historical Society, working with the U.S. Fish and Wildlife Service, the Michigan Audubon Society, and the local community finalized a new management plan to improve the experience at the museum. The new management plan, which was signed and agreed upon by the interested parties, will allow the historical society to expand the museum's exhibits while addressing concerns about parking and access to surrounding wildlife areas. However, because the original land patent references the previous management plan, legislation to amend the patent is necessary before the new management plan can be implemented.

H.R. 1280 amends the land grant patent to allow the new management plan to be implemented. Congressman CAMP of Michigan has joined me in cosponsoring this legislation, and I thank him for his support.

The Great Lakes Shipwreck Historical Society has continuously improved the experience at the museum since it was established in 1992. With the ap-

proval of H.R. 1280, Congress will allow the Great Lakes Shipwreck Museum to further develop this cultural and historical resource.

I encourage my colleagues to support this simple legislation which would improve the opportunities available to visitors of Chippewa County, Michigan, and the Great Lakes Shipwreck Museum.

I thank the gentlewoman for yielding me time.

Mr. LAMBORN. Mr. Speaker, I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 1280.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### SHASTA-TRINITY NATIONAL FOREST LAND TRANSFER

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 689) to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 689

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. INTERCHANGE OF LANDS TO THE BUREAU OF LAND MANAGEMENT.

(a) INTERCHANGE.—Effective on the date of the enactment of this Act, administrative jurisdiction of the federally owned lands described in subsection (b) is transferred from the Secretary of Agriculture to the Secretary of the Interior to be subject to the laws, rules, and regulations applicable to the public lands administered by the Bureau of Land Management (hereafter in this Act referred to as the "BLM").

(b) LANDS AFFECTED.—Except as provided in subsection (c), the lands transferred to the administration of the Secretary of the Interior, through the BLM, under subsection (a) are those heretofore within the Shasta-Trinity National Forest in California, Mount Diablo Meridian, as shown on the map titled "H.R. 689, Transfer from Forest Service to BLM, Map 1", dated April 21, 2009.

(c) EXCEPTED LANDS.—Excepted from the transfer under this section are those lands within the Shasta Dam Reclamation Zone which shall continue to be administered by the Secretary of the Interior through the Bureau of Reclamation.

#### SEC. 2. INTERCHANGE OF LANDS TO THE FOREST SERVICE.

(a) INTERCHANGE.—Effective on the date of the enactment of this Act, administrative jurisdiction of the federally owned lands described in subsection (b) is transferred from the Secretary



of the Interior to the Secretary of Agriculture to be subject to the laws, rules, and regulations applicable to the National Forest System. Such lands are hereby withdrawn from the public domain and reserved for administration as part of the Shasta-Trinity National Forest.

(b) **LANDS AFFECTED.**—The lands transferred to the administration of the Secretary of Agriculture, through the Forest Service, under subsection (a), are those heretofore administered by the BLM in California, Mount Diablo Meridian, as shown on the map titled "H.R. 689, Transfer from BLM to Forest Service, Map 2", dated April 21, 2009.

(c) **WILDERNESS ADMINISTRATION.**—The transfer of administrative jurisdiction from the BLM to the Forest Service of certain lands previously designated as part of the Trinity Alps Wilderness shall not affect the wilderness status of such lands.

(d) **LAND AND WATER CONSERVATION FUND.**—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Shasta-Trinity National Forest, as adjusted pursuant to this Act, shall be considered the boundaries of that national forest as of January 1, 1965.

### SEC. 3. EXISTING RIGHTS AND AUTHORIZATIONS.

Nothing in this Act shall affect any valid existing rights, nor affect the validity or term and conditions of any existing withdrawal, right-of-way, easement, lease, license or permit on lands transferred by this Act, except that any such authorization shall be administered by the agency having jurisdiction of the land after the enactment of this Act in accordance with applicable law. Reissuance of any such authorization shall be in accordance with applicable law and regulations of the agency having jurisdiction.

### SEC. 4. HAZARDOUS SUBSTANCES.

(a) **NOTICE.**—The Forest Service for lands described in section 1, and the BLM for lands described in section 2, shall identify any known sites containing hazardous substances and provide such information to the receiving agency.

(b) **CLEAN UP OBLIGATIONS.**—The clean up of hazardous substances on lands transferred by this Act shall be the responsibility of the agency having jurisdiction over the lands on the day before the date of the enactment of this Act.

### SEC. 5. CORRECTIONS.

(a) **MINOR ADJUSTMENTS.**—The Director of the BLM and the Chief of the Forest Service, may, by mutual agreement, effect minor corrections and adjustments to the interchange provided for in this Act to facilitate land management, including survey.

(b) **PUBLICATIONS.**—Any corrections or adjustments made under subsection (a) shall be effective upon publication of a notice in the Federal Register.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 689 was introduced by our col-

league from California, Representative HERGER. The bill authorizes the exchange of land between the Forest Service and the Bureau of Land Management. The specified lands are located within the Shasta-Trinity National Forest in Northern California.

The purpose of the exchange is to ease problems that off-highway vehicle users are having with permitting. Due to the patchwork nature of the Federal land in that area, OHV users currently need to acquire two permits—one from the BLM and one from the Forest Service. This bill will mean that OHV users need only one permit from the BLM to operate the vehicles in the region.

The administration supports this legislation, and so do I.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I rise to speak on behalf of H.R. 689 and yield myself such time as I may consume.

Mr. Speaker, I want to commend Congressman HERGER and his staff for their excellent work on this legislation.

After hearing from many concerned constituents, Congressman HERGER has sought to help Forest Service and Bureau of Land Management officials better manage a complex mix of administrative jurisdictions in Shasta County, a place renowned for its natural beauty. This legislation will help both agencies. It will also greatly benefit the off-highway vehicle users who have been using this area for generations.

Not surprisingly, this bill has widespread support among local OHV users. It is a rare feat to have two separate Federal agencies and the public all agreeing that a particular piece of legislation is worthy of praise. Congressman HERGER should be congratulated for this. It is for legislation such as this that Congressman HERGER has a reputation for addressing the needs of his Northern California constituents.

At this time, I would yield such time as he may consume to the gentleman from California (Mr. HERGER), the author of the bill.

Mr. HERGER. I thank the gentleman.

Mr. Speaker, I rise today in support of H.R. 689 to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management. This bill is a simple jurisdictional exchange between Federal agencies to allow for more consolidated and efficient management of the Chappie-Shasta Off-Highway Vehicle area in the Northern California congressional district I represent.

I'm a firm believer in policies that limit bureaucracy and government interference in our everyday lives. H.R. 689 accomplishes these goals and will also improve access and recreational use of these Federal lands.

For years, many of my constituents have raised their concerns over difficulties in dealing with two Federal

agencies to use one OHV area. Issues such as duplicative permits add substantial and unnecessary costs to the users, and even different opening dates for the same area have resulted in frustration from the thousands of users from across California and elsewhere who try to cope with this redundant management.

This noncontroversial exchange was developed collaboratively at the local level by the Forest Service and BLM in conjunction with the local OHV community. The BLM will be able to consolidate the OHV area, while in exchange, the Forest Service will benefit by receiving small tracts of wilderness area that are currently managed by the BLM but are contiguous to Forest Service land. The exchange only involves lands that are already controlled by the Federal Government and will not change the designation of these lands.

This legislation is a prime example of commonsense solutions and better government that will result in a win-win for the taxpayers and their access to our public lands.

I would urge my colleagues to support this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I would inquire if my colleague has any other speakers on the other side?

Mr. LAMBORN. We have no more speakers.

Mrs. CHRISTENSEN. I yield back the balance of my time.

Mr. LAMBORN. And I yield back also.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 689, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

### CAMP HALE STUDY ACT

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2330) to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2330

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Camp Hale Study Act".

#### SEC. 2. SPECIAL RESOURCE STUDY OF THE SUITABILITY AND FEASIBILITY OF ESTABLISHING CAMP HALE AS A UNIT OF THE NATIONAL PARK SYSTEM.

(a) **IN GENERAL.**—The Secretary of the Interior, acting through the Director of the

National Park Service (hereinafter referred to as the "Secretary"), shall complete a special resource study of Camp Hale to determine—

(1) the suitability and feasibility of designating Camp Hale as a separate unit of the National Park System; and

(2) the methods and means for the protection and interpretation of Camp Hale by the National Park Service, other Federal, State, or local government entities or private or nonprofit organizations.

(b) **STUDY REQUIREMENTS.**—The Secretary shall conduct the study in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

(c) **REPORT.**—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

### SEC. 3. EFFECT OF STUDY.

Nothing in this Act shall affect valid existing rights, including—

(1) all interstate water compacts in existence on the date of the enactment of this Act (including full development of any apportionment made in accordance with the compacts);

(2) water rights decreed at the Camp Hale site or flowing within, below, or through the Camp Hale site;

(3) water rights in the State of Colorado;

(4) water rights held by the United States; and

(5) the management and operation of any reservoir, including the storage, management, release, or transportation of water.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, again I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 2330 was introduced by our colleague from Colorado, Representative LAMBORN, and the bill directs the National Park Service to study how best to preserve Camp Hale near Leadville, Colorado. Camp Hale operated from 1942 to 1965 as a winter and high-altitude training venue for the 10th Mountain Division and other elements of the U.S. Armed Forces.

This 250,000-acre camp was also used by the Central Intelligence Agency as a secret center for training Tibetan refugees in guerilla warfare to resist the Chinese occupation. The lands were returned to the Forest Service in 1966.

Today, the camp is part of the White River and San Isabel National Forests.

Camp Hale was placed on the National Register of Historic Places in 1992. This legislation passed the House last Congress but was not acted upon by the other body.

Mr. Speaker, we support the passage of this measure.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I yield myself such time as I may consume.

Thank you. I would like to thank the gentlelady for her kind words.

I am pleased to be the sponsor of this bill that directs the National Park Service to study the suitability of Camp Hale for designation as a unit of the National Park System. Tennessee Pass and Camp Hale served as the training site for the 10th Mountain Division, a specialized skiing unit whose heroism during World War II in Italy still inspires our Nation. Later, the site was used for covert training operations for Tibetan freedom fighters and other activities that furthered the cause of freedom during the Cold War.

The geography of the area is ideal for winter and high-altitude training, with steep mountains surrounding a level valley suitable for housing and other facilities. In addition to the 10th Mountain Division, the 38th Regimental Combat Team and 99th Infantry Battalion, as well as soldiers from Fort Carson, were trained at Camp Hale from 1942 to 1965.

Today, this landmark section of Colorado is the location of an outstanding ski area. With Park Service recognition, it will provide unique educational opportunities for learning about an important but little-known part of our history. Listing Tennessee Pass and Camp Hale as a unit of the National Park System will allow us to learn about and experience a unique episode of history in its original setting in this spectacular beauty of Colorado.

□ 1445

I also want to thank Senator MARK UDALL, who last year as a Representative was a cosponsor of this bill with me and this year has agreed to be the Senate sponsor if, and when, this bill goes to the Senate.

At this point, I would yield back the balance of my time.

Mrs. CHRISTENSEN. I have no further speakers. I yield back the balance of my time as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 2330, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

### DIRECTING FISH STOCKING IN CERTAIN WASHINGTON LAKES

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2430) to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2430

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FINDINGS; PURPOSE.

(a) **FINDINGS.**—Congress finds the following:

(1) The North Cascades complex contains 245 mountain lakes, of which 91 have been historically stocked with fish.

(2) In many cases, the stocking of fish in these lakes dates back to the 1800s.

(3) This practice has been important to the economy of the area because of the recreational opportunities it creates.

(4) During congressional hearings on the designation of the North Cascades National Park, the Department of the Interior indicated that the practice of fish stocking would be continued if the area became a unit of the National Park Service system.

(5) Since designation of the National Park in 1968, the stocking of certain lakes has continued under various agreements between the National Park Service and the State of Washington.

(6) An Environmental Impact Statement completed by the National Park Service recommends continued stocking of up to 42 of the lakes that have historically been stocked with fish.

(b) **PURPOSE.**—The purpose of this Act is to clarify the continued authority of the National Park Service to allow the stocking of fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

#### SEC. 2. STOCKING OF CERTAIN LAKES IN NORTH CASCADES NATIONAL PARK, ROSS LAKE NATIONAL RECREATION AREA, AND LAKE CHELAN NATIONAL RECREATION AREA.

(a) **IN GENERAL.**—The Secretary of the Interior, acting through the Director of the National Park Service, shall authorize the stocking of fish in lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

(b) **CONDITIONS.**—The following conditions shall apply to stocking of lakes under subsection (a):

(1) The Secretary is authorized to allow stocking in not more than 42 of the 91 lakes which have historically been stocked with fish.

(2) The Secretary shall only stock fish that are—

(A) native to the watershed; or

(B) functionally sterile.

(3) The Secretary shall coordinate the stocking of fish with the State of Washington.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 2430, introduced by the ranking member of the Natural Resources Committee, DOC HASTINGS, directs the Secretary of the Interior to stock certain lakes in the North Cascades National Park with fish.

Fish did not naturally inhabit any of the 245 lakes in the North Cascades of Washington because they are at such high elevations. But in the late 1800s, local officials began stocking some of these mountain lakes with nonnative fish. By the late 1930s, the State had assumed management of this effort, and recreational fishing in these lakes became increasingly popular.

In 1968, North Cascades was designated as a national park, and in 1988, the Steven T. Mather Wilderness Area was set aside within the park. Now, all but one of these lakes are located within the Mather Wilderness Area. Stocking continued, though, through a series of National Park Service waivers, but the National Park Service has made it clear that stocking will not continue unless the practice is specifically authorized by Congress.

H.R. 2430 will provide that authorization. We have no objections to H.R. 2430.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2430 was introduced by the ranking Republican of the committee, Mr. HASTINGS of Washington, and has the bipartisan support of five other Members of the Washington delegation.

This legislation simply implements the recommendations of the National Park Service's 2008 final Environmental Impact Statement on mountain lakes fishery management in the North Cascades National Park.

Beginning in the 1880s, 91 of the 245 lakes within the park complex have been stocked with trout. When the North Cascades National Park was created in 1968, the Park Service continued to allow fish stocking under the supervision of the Washington State Department of Fish and Wildlife.

To address subsequent questions about the environmental impact of stocking the lakes, the Park Service agreed to complete a NEPA review on fisheries management within the park. This review began in 2002 and resulted in a record of decision last year, which

concluded that fish stocking could continue in 42 of these lakes without adversely affecting native ecosystems.

The legislation creating the North Cascades National Park specifically identifies fishing as an important recreational use. Although recreational fishing is called for in the park's enabling act and stocking has continued throughout its existence, the Park Service has requested that this authority be specifically authorized for it to continue.

H.R. 2430 adopts the 42 lakes identified in the Park Service's Environmental Impact Statement as a ceiling for fish stocking, directs the agency to work with the Washington State Department of Fish and Wildlife to supervise this activity, and limits stocking to native or sterile fish.

Passing this legislation will authorize fish stocking in limited circumstances in this particular park rather than relying on a waiver from the director of the Park Service to the agency's general policy against stocking lakes. This will ensure that allowing this activity to continue where it has been carefully reviewed and found to be appropriate does not set a precedent for other Parks.

Mr. Speaker, the National Parks, Forests and Public Lands Subcommittee held hearings on this legislation on April 24 of last year, and it passed the House by voice vote on July 14, 2008. This bipartisan legislation has been carefully and narrowly drafted and has the support of recreation advocates, as well as State and local government. I urge my colleagues to support this bill.

Mr. LARSEN of Washington. Mr. Speaker, I rise today to express my support for H.R. 2430, legislation which will allow for the continued stocking of trout in mountain lakes in the North Cascades National Park, Lake Chelan National Recreation Area, and Ross Lake National Recreation Area in my home State of Washington.

For over 100 years, sportsmen and women in the Pacific Northwest have stocked lakes in the North Cascades with trout early each summer and returned later in the year with family and friends to camp and fish.

Fish stocking brings not only recreational benefits, but also economic benefits for rural communities that rely on sportsmen and park visitors to sustain local businesses.

The practice of fish stocking is supported by both the angling community and the Washington State Department of Fish and Wildlife. Earlier this year, the North Cascades National Park issued an Environmental Impact Statement supporting the continued stocking of fish.

However, a recent legal opinion issued by the National Parks Service threatens this decades-old tradition. The Parks Service has determined that, without legal clarification from Congress, they will be unable to allow fish stocking in the future.

H.R. 2430 would provide the Parks Service with the clarification it needs to continue to allow fish stocking. This legislation will author-

ize the Secretary of the Interior, in coordination with the State of Washington, to allow sportsmen to stock native or functionally sterile trout in up to 42 alpine lakes in the North Cascades National Park, Lake Chelan National Recreation Area, and Ross Lake National Recreation Area.

I urge my colleagues to join me in supporting this bipartisan legislation to protect the tradition of fish stocking in and around the North Cascades National Park.

Mr. HASTINGS of Washington. Mr. Speaker, I urge my colleagues to support H.R. 2430, legislation to allow for the continued stocking of fish in certain alpine lakes in the North Cascades National Park Complex, including the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

Many of these lakes have been stocked since the late 19th century, long before they became part of the National Park complex. For decades, volunteer groups, working with the State of Washington, have stocked trout in a number of lakes in this area under carefully constructed management plans written by State and Park Service biologists. In addition, congressional consideration of the creation of the North Cascades National Park clearly indicated that fish stocking should continue. More significantly, the legislation creating the Park even identifies fishing as an important recreational use.

When questions were raised about the environmental impacts of fish stocking, the Park Service prepared an Environmental Impact Statement on the fisheries in these mountain lakes. The preferred alternative selected in the final record of decision is to allow continued fish stocking in forty-two lakes where the agency has concluded there would be no adverse impact on native ecosystems. In this report the Park Service also requested explicit authority to allow fish stocking to continue within the Park.

In order to protect this longstanding practice in the North Cascades, I introduced H.R. 2430 to ensure that fish stocking can continue. After years of consultation with local leaders on this issue, it is clear to me that communities in and around the North Cascades National Park Complex want fish stocking to continue. Many tourists visit the Park for its scenic beauty as well as for its fishing opportunities, helping make fish stocking an important component of the Central Washington economy.

Finally, I would like to thank many of my Washington state colleagues who cosponsored H.R. 2430, including RICK LARSEN, NORM DICKS, CATHY MCMORRIS RODGERS, BRIAN BAIRD and ADAM SMITH. I especially would like to note the assistance provided by NORM DICKS, whose involvement in this issue goes back to his time as a staff member in Congress. I urge all my colleagues to support this common sense legislation and ensure that local residents and all visitors to the North Cascades National Park can continue to enjoy recreational fishing as they have for more than a century.

Mr. LAMBORN. I would yield back the balance of my time.

Mrs. CHRISTENSEN. I yield back the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by

the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the bill, H.R. 2430.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### NATIVE AMERICAN HERITAGE DAY ACT OF 2009

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 40) to honor the achievements and contributions of Native Americans to the United States, and for other purposes, as amended.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

#### H.J. RES. 40

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Heritage Day Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) Native Americans are the descendants of the aboriginal, indigenous, native people who were the original inhabitants of and who governed the lands that now constitute the United States;

(2) Native Americans have volunteered to serve in the United States Armed Forces and have served with valor in all of the Nation's military actions from the Revolutionary War through the present day, and in most of those actions, more Native Americans per capita served in the Armed Forces than any other group of Americans;

(3) Native American tribal governments included the fundamental principles of freedom of speech and separation of governmental powers;

(4) Native Americans have made distinct and significant contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art, and Native Americans have distinguished themselves as inventors, entrepreneurs, spiritual leaders, and scholars;

(5) Native Americans should be recognized for their contributions to the United States as local and national leaders, artists, athletes, and scholars;

(6) nationwide recognition of the contributions that Native Americans have made to the fabric of American society will afford an opportunity for all Americans to demonstrate their respect and admiration of Native Americans for their important contributions to the political, cultural, and economic life of the United States;

(7) nationwide recognition of the contributions that Native Americans have made to the Nation will encourage self-esteem, pride, and self-awareness in Native Americans of all ages;

(8) designation of the Friday following Thanksgiving of each year as Native American Heritage Day will underscore the government-to-government relationship between the United States and Native American governments;

(9) designation of Native American Heritage Day will encourage public elementary and secondary schools in the United States to enhance understanding of Native Americans by providing curricula and classroom instruction focusing on the achievements and contributions of Native Americans to the Nation; and

(10) the Friday immediately succeeding Thanksgiving Day of each year would be an appropriate day to designate as Native American Heritage Day.

#### SEC. 3. HONORING NATIVE AMERICAN HERITAGE IN THE UNITED STATES.

Congress encourages the people of the United States, as well as Federal, State, and local governments, and interested groups and organizations to honor Native Americans, with activities relating to—

(1) appropriate programs, ceremonies, and activities to observe Native American Heritage Day;

(2) the historical status of Native American tribal governments as well as the present day status of Native Americans;

(3) the cultures, traditions, and languages of Native Americans; and

(4) the rich Native American cultural legacy that all Americans enjoy today.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, House Joint Resolution 40 honors the achievements and contributions of Native Americans to the United States. The descendants of the original indigenous people of this great Nation have greatly contributed to our Nation's rich cultural heritage and deserve to be recognized for their contributions to the United States as national leaders, artists, athletes, scholars and patriots.

Native Americans have made distinct and significant contributions to the United States and the world in many fields, including agriculture, medicine, music, language, and art. Native Americans have distinguished themselves as notable inventors, entrepreneurs, spiritual leaders, and scholars.

Tribal governments have embodied the spirit of the U.S. Constitution and the liberties of democracy since before the Founding Fathers. They enjoyed the fundamental principles of freedom of speech and separation of governmental powers that we hold so dearly. Native Americans have, and continue to be, noteworthy and tireless community activists, fair and impartial judges, and deft politicians.

With this resolution, we honor the contributions and cultural heritage of Native Americans.

Mr. Speaker, I want to take this time to congratulate and thank our colleague, Mr. BACA of California, for his hard work to bring this bill to the floor. Were it not for him, the continuing legacy of Native Americans would go unrecognized for its great achievements. Mr. BACA's dedication to all Native Americans is most admirable.

I urge all of my colleagues to support the passage of House Joint Resolution 40.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Speaker, I yield myself such time as I may consume.

We have no objection to the joint resolution, and in fact, we wholeheartedly support passage of this measure. This measure encourages all people in the United States to recognize the legacy, as well as the future, of Native Americans as an intrinsic part of our Nation's culture and history.

Indian Country has produced such a treasury of wisdom and talent that it is difficult to know how to begin to describe it all. From the Indian people who encountered the Pilgrims, to those who helped Lewis and Clark, from the courageous souls who fought in the Revolutionary War, to veterans of the foreign wars, from Chief Joseph, to Maria Tallchief, to Jim Thorpe; Indian people from hundreds of different tribes have distinguished themselves across history as leaders, peacemakers, and in many walks of life. They bequeathed a legacy that inspires and enriches future generations.

It is right that this resolution encourages all Americans to recognize the day after Thanksgiving as a day to appreciate and learn more about Native Americans, and again, we support this measure.

I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, at this time I'd like to yield such time as he may consume to the sponsor of this resolution, Congressman BACA of California.

Mr. BACA. I rise today in support of H.J. Res. 40, the Native American Heritage Day Act of 2009.

I would like to thank Natural Resources Chairman NICK RAHALL, Ranking Member DOC HASTINGS, and the leadership for their support and efforts in bringing this resolution to the floor.

I also would like to recognize the gentlelady from the Virgin Islands, Representative CHRISTENSEN, and DOUG LAMBORN from Colorado, for their hard work in the Natural Resources Committee.

H.J. Res. 40 will help pay tribute to Native Americans for their many contributions to the United States by encouraging all Americans to observe Native American Heritage Day through appropriate programs, ceremonies, and activities.

I have been working diligently towards an official day of recognizing for Native Americans since my time in the California legislature.

In the 110th Congress, H.J. Res. 62 was passed in both the House and the Senate and was signed by President George Bush. This bill encouraged all Americans to recognize the Friday after Thanksgiving in 2008 as Native American Heritage Day. This law was the first time in 25 years that Native Americans were honored on such a national level.

Due to House rules that restrict commemorative legislation, we are not able to have legislation on an annual basis recognizing the Native American holiday and I hope one day we will be able to do that. This legislation needed to be reintroduced to ensure that this day of recognition continues in 2009.

So in this Congress, under a new administration, I introduced H.J. Res. 40, the Native American Heritage Day Act of 2009. The act encourages all Americans, the Congress, and President Barack Obama to recognize the important contributions of the Native American community.

I will work with Senator DANIEL INOUE and his colleagues to pass this resolution in the Senate and send this once again to the President for his signature. This recognition should not be just for 1 year or one Congress, but it should be for every year.

I thank Senator INOUE and the National Indian Gaming Association for their help in this Congress and for all of their efforts from the 110th Congress.

It is important that we recognize the contributions of Native Americans in all aspects of our society, including government, language, and history. Native Americans distinguished themselves throughout history as inventors, entrepreneurs, spiritual leaders, athletes, and scholars. People caring about people. They have made significant contributions in the fields of agriculture, medicine, music, language, and art.

We must not forget that Native Americans have fought with valor in every American war dating back to the Revolutionary War. In fact, Native Americans have the highest record of service per capita when compared to other ethnic groups. More than 44,000 served with distinction between 1941 and 1945 in both European and Pacific theaters of war. One Native American hero many of us are familiar with is Corporal Ira Hayes, the courageous soldier immortalized forever when he helped to raise the flag at Iwo Jima.

More than 40,000 Native Americans left their reservations to work in ordnance depots, factories, and other war industries. They also invested more than \$50 million in war bonds, and contributed generously to the Red Cross and the Army and Navy Relief societies.

During the Vietnam War, over 42,000 Native Americans fought bravely, of these over 90 percent of them volunteers. Native American contributions in United States military combat continued in the 1980s and 1990s as they saw duty in Grenada, Panama, Somalia, and the Persian Gulf.

Last Congress, as chair of the Congressional Hispanic Caucus, I worked with my colleagues to ensure the PBS World War II documentary "The War" included the sacrifices of both our Native American and our Hispanic heroes.

But there are many other Native American contributions away from the battlefield that also deserve to be recognized. Our history, our culture, our traditions, and what we give to our society and each of our communities is part of an integral educational process that we should do.

□ 1500

In an area near and dear to my heart—athletes—Native Americans have produced one of the greatest football players ever—Jim Thorpe. And their native languages are cultural treasures that were often used to keep the United States safe from attack—as was the case with the Navajo Code Talkers of World War II, who fought for freedom and democracy.

Last Congress—again, in my role as the chair of CHS—I fought with my colleagues to beat back harmful English-only amendments that would have threatened the continued existence of their language and their contributions to our society.

Today—through Indian gaming—Native Americans build an important economic engine that creates good-paying jobs, that can't be outsourced, in many of our communities.

In my own area, the Inland Empire of Southern California, the Pechanga and Soboba Band of Luiseno Indians both make it a point to give back to the community, along with the San Manuel Band of Mission Indians. My good friend James Ramos and I served to make sure that the legislation passed in the State of California.

These tribes contribute extensively to local charities and also have donated funds to counties and local governments. The funds have been used to purchase everything from police equipment to books for the classroom.

It is important for all of us to see the significant contributions of the cultures and traditions and that everyone is properly educated on the heritage and achievements of Native Americans. And I state: everybody is properly educated, without the stereotypes that have been in place.

That is why my bill encourages public schools to place a greater emphasis on teaching Native American history and culture to our children. We must ensure that future generations understand the significant cultural legacy of

Native Americans to this country—the true Americans, the true heroes, and the true citizens of this country.

For many of us, the Friday after Thanksgiving is known simply as a day of shopping or a day off work or off school. It's a day to recognize what it means in recognizing those who have contributed to our country. Let us make this day a true reflection of the significant contributions of all Native Americans.

As we all know, nationwide recognition of this contribution is long overdue. I urge my colleagues to support H.J. Resolution 40, and take a firm step in honoring Native Americans. I thank both of my colleagues for supporting this legislation.

Mr. LAMBORN. I want to commend Representative BACA for his work on this issue and for his eloquent remarks. At this point I will reaffirm that we support this measure wholeheartedly.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of House Joint Resolution 40, which honors the achievements and contributions of Native Americans to the United States, and for other purposes.

I want to commend the sponsor of this resolution, my good friend from California, Mr. JOE BACA, for introducing such an important piece of legislation designating a day to honor and celebrate the rich traditions and cultures of our Native American heritage. I also want to thank and recognize my fellow colleagues and supporters of this joint resolution.

Today, this legislation honors the distinct and notable contributions the Native Americans have made to the United States and the rest of the world. They have achieved significant accomplishments and have made many contributions to the many fields of agriculture, medicine, music, language, and art. These First Americans who were here prior to the arrival of Europeans have been and always will be an integral part of our U.S. history. This resolution recognizes the contributions they have made through politics, economics, and, importantly, enriching the cultural fabric of our country.

Our Native American brothers and sisters have always volunteered to serve in the Armed Forces since the time of the Revolutionary War and they continue to serve with valor in our military today. We must also acknowledge the contributions and impact the Native Americans had on the creation of the fundamental principles that make our great country. Either through inspiring the Founding Fathers of the separation of governmental powers or providing for and the protection of freedom of speech, the Native American tribal governments are instrumental in the creation of our United States Constitution.

This day, Native American Heritage Day, will provide for the nationwide recognition of all our Native Americans who are estimated to number almost 2.5 million. It will help the American public celebrate and understand the culture and history of the many 562 federally recognized tribes as well as the other hundreds of tribes who have yet or are in the process being recognized by the states and the federal government. By way of programs,

ceremonies, or activities to celebrate Native American Heritage Day or the enhancement of classroom instruction, we will better appreciate and understand the richness of the Native Americans.

In today's world, our country is more diverse than ever and it is important that we honor the Native Americans. It is imperative that we celebrate and recognize the rich cultural legacy of our first brothers and sisters.

For these reasons, I strongly urge my fellow colleagues to support this resolution honoring the First Americans.

Mrs. KIRKPATRICK of Arizona. Mr. Speaker, I rise today to offer my support for H.J. Res. 40, the Native American Heritage Day Act of 2009. Though I was unable to vote for this measure, I would like the record to reflect that I wholeheartedly support the establishment of a Native American Heritage Day whereby all Americans can pause to remember the numerous contributions Native Americans have made to our country.

Their commitment to family, to community and our country is noteworthy and substantial. They have played important roles in our society as artists, teachers, leaders, statesmen and stateswomen, soldiers and public servants. As Native American communities across Arizona and the country seek to empower and improve their community through self-governance and strengthen the bond of the government-to-government relationship between the United States and Native American governments, we should welcome the opportunity to reflect on their past and continued contributions to the United States' society and culture.

It is an honor to have 11 tribal communities in the First Congressional District of Arizona. My commitment to serving their communities and improving their lives by working together is a natural extension of my earliest memories living and growing up on White Mountain Apache tribal lands.

Establishing Native American Heritage Day is an important step to help celebrate and preserve the cultures of Native America, and I congratulate Rep. BACA and this House for their support and recognition of Native America.

Mr. COLE of Oklahoma. Mr. Speaker, I rise today not only as a Member of Congress representing 11 tribal nations, but also as a proud member of the Chickasaw Nation to support the passage of H.J. Res. 40. I would like to thank Mr. BACA for his leadership on this bill and for all the work he does on behalf of Tribes. This bill recognizes of the achievements and contributions of Native Americans to the United States and encourages all Americans to observe the day after Thanksgiving as Native American Heritage Day. As a Nation with a tragic history in the treatment toward Native Americans, it is important that this Congress recognize the contribution that native peoples have made to the development of our Nation.

Today, there are 562 federally recognized Indian tribes in 34 States. Mr. Speaker, throughout the course of American history, these tribes ceded millions of acres of land to the United States, but have never ceded sovereignty or agreed to self-liquidation. Today, Indian lands are only about 5 percent of all land in the United States. Sadly, Mr. Speaker,

many tribes remain fractured and broken, due to the destructive policies toward Native Americans. However, tribal heritage, history and contributions to the United States remain robust and all Americans should remember to honor the contributions of this courageous group.

Mr. Speaker, from the birth of the United States, Native Americans have contributed to our success as a country. The first European settlers could not have survived without the help of the native communities. Even during the Revolutionary War, Native Americans fought along side the colonists to fight for liberty. During their journey west, Lewis and Clark depended on tribes to see them through harsh winters and save them from starvation. Mr. Speaker, even while it was the policy of the United States to remove or destroy tribal governments in the 19th and early 20th centuries, Native Americans still worked alongside European settlers to grow our Nation both economically and culturally.

Mr. Speaker, throughout the course of our history, Native Americans have fought with, against, and for the United States. In fact, Indians have served in all the country's wars and historically enlist in the military in great numbers. Though all Native Americans did not even have U.S. Citizenship during World War I, they still volunteered their service. It is estimated that more than 12,000 American Indians served in the United States military in World War I. By using native languages to confuse the enemy, these soldiers were able to turn the tide of one of the bloodiest wars in history. These "Codetalkers" continued this heroic effort in World War II. Historically, Native Americans have the highest record of service per capita than any other demographic group and there are over 190,000 Native American veterans today.

Today, Mr. Speaker, tribal communities are vibrant and growing. Tribal governments are strong, ensuring that their people retain their culture, values and way of life. In my state of Oklahoma in particular, home to 39 distinct tribes, Indian Country is flourishing. Tribal enterprises contribute millions of dollars to the State's economy and provide thousands of jobs for Oklahomans. Mr. Speaker, unlike private corporations, Native American owned businesses give back to their communities by investing in basic infrastructure, healthcare, education, law enforcement and a host of other government services. In many areas, tribal cultural activities are the only access to the arts and humanities that the local population can readily access. The changes that have been made my Native businesses in recent years are absolutely astounding. Tribal cultures enrich American life, and tribal economies provide opportunities where few would otherwise exist.

As legislators and as Americans, it is vitally important that we consider the contributions that Native Americans have made to the success of our great country. It is equally imperative that Congress remembers that we have engaged with Indian tribes as a government-to-government relationship with tribes since the first European settlers arrived in North America. As we make laws that will affect Indian Country, we should do so with the intention of keeping tribal governments strong, self-

sufficient and encourage the preservation of tribal cultures.

Again, Mr. Speaker, I encourage all Members to vote in favor of this significant legislation.

Mr. LAMBORN. I yield back the balance of my time.

Mrs. CHRISTENSEN. I, too, want to thank and commend Congressman BACA for this resolution. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and pass the joint resolution, H.J. Res. 40, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. CHRISTENSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### RECOGNIZING 75TH ANNIVERSARY OF GREAT SMOKY MOUNTAINS NATIONAL PARK

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 421) recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 421

Whereas groups of local citizens and officials in western North Carolina and east Tennessee in the 1920s displayed enormous foresight in recognizing the potential benefits of a national park in the southern Appalachians;

Whereas the boundaries and location of said park were selected from among the finest examples of the most scenic and intact mountain forests in the Southeast;

Whereas its creation was the product of over two decades of determined effort by leaders of communities across western North Carolina and east Tennessee;

Whereas the State Assemblies and the Governors of those two States exercised great vision in appropriating funding, along with the Laura Spellman Rockefeller Memorial Fund for the purchase of the over 400,000 acres of private lands which had been accumulated;

Whereas the citizens of surrounding communities generously contributed to that land acquisition funding to bring the park into being;

Whereas over 1,100 families and other property owners were called upon to sacrifice their farms and homes for the benefit and enjoyment of future generations;

Whereas Great Smoky Mountains National Park was created by Congress on June 15, 1934;

Whereas Great Smoky Mountains National Park covers approximately 521,621 acres of



land, in both Tennessee and North Carolina making it the largest protected areas in the Eastern United States;

Whereas the park provides sanctuary for the most diverse flora and fauna of any national park in the temperate United States, and preserves an unparalleled collection of historic structures as a "time capsule" of Appalachian culture during the 19th and early 20th centuries;

Whereas, on September 2, 1940, President Franklin D. Roosevelt dedicated Great Smoky Mountains National Park;

Whereas the Great Smoky Mountains National Park has been America's most popular national park since it opened, and now attracts 9,000,000 to 10,000,000 visitors each year, making it the most visited of the 58 national parks; and

Whereas park visitors contribute over \$700,000,000 each year resulting in over 14,000 jobs within the States and the surrounding local economies: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commends the citizens of east Tennessee and western North Carolina for their vision and sacrifice;

(2) commends the Great Smoky Mountains National Park and the National Park Service for 75 years of successful management and preservation of the park land;

(3) congratulates the Great Smoky Mountains National Park on its 75th anniversary; and

(4) directs the Clerk of the House of Representatives to transmit a copy of this resolution to the Great Smoky Mountains National Park Headquarters located at 107 Park Headquarters Road, Gatlinburg, TN 37738, for appropriate display.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Colorado (Mr. LAMBORN) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

#### GENERAL LEAVE

Mrs. CHRISTENSEN. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, The Great Smoky Mountains National Park was created by Congress on June 15, 1934. The park now encompasses more than 520,000 acres of land in Tennessee and North Carolina, making it the largest protected area in the eastern United States. It is also our Nation's most visited national park.

This great park is world-renowned for the diversity of its plant and animal life, the beauty of its ancient mountains, and the quality of its remnants of Southern Appalachian mountain culture.

House Resolution 421, introduced by the gentleman from Tennessee, Representative DAVID ROE, would express the commendation of the House of Representatives to Great Smoky Moun-

tains National Park and the National Park Service for 75 years of successful management and preservation of the park land.

Mr. Speaker, we support House Resolution 421, and urge its adoption by the House today.

I reserve the balance of my time.

Mr. LAMBORN. I rise in support of House Resolution 421 and yield myself such time as I may consume.

This resolution celebrates one of the most popular national parks in our country. It is a beautiful part of the country that I have had the privilege of visiting on several occasions.

I congratulate Congressman ROE for bringing this resolution to the House so that we may recognize the 75th anniversary of the establishment of the Great Smoky Mountains National Park. I urge my colleagues to support this resolution.

At this time I would yield such time as he may consume to the distinguished gentleman from Tennessee (Mr. DUNCAN), whose congressional district includes about half of the Tennessee portion of the Great Smoky Mountains National Park.

Mr. DUNCAN. I thank the gentleman from Colorado for yielding me this time. I rise in support of this resolution to recognize the 75th anniversary of the Great Smoky Mountains National Park, a resolution that was introduced by my good friend and neighbor from the First Congressional District of Tennessee, Dr. ROE.

I represent about half of the Tennessee part of the Great Smoky Mountains National Park and Dr. ROE represents the other half of the Tennessee portion, which is, of course, the bigger portion of the national park.

The Great Smoky Mountains National Park is one of the things of which those of us from east Tennessee are most proud. It has often been said that our national parks are our Nation's crown jewels. If that is true, then the Great Smoky Mountains National Park must certainly be one of the largest jewels in that crown.

The Great Smoky Mountains National Park is, by far, our most visited national park, with over 9 million visitors each year—approximately three times the number of visitors that go to our second and third largest national parks.

The Great Smoky Mountains National Park, with only 520,000 acres, seems huge to anyone who comes there. Of course, it is very small in comparison. We talk often here about the Arctic National Wildlife Refuge, which is 19.8 million acres, which is 36 or 37 times the size of the Great Smokies, but it certainly is one of the most beautiful areas of this country. And more than 50 percent of the Nation's population lies within a day's drive of the park.

Within the park you can find more than 1,500 species of plants, over 200

species of birds, 66 species of mammals, 50 species of fish, and so on. You will also find plenty of recreation opportunities in the park, including 800 miles of hiking and horse trails, and some of the most beautiful valleys and high peaks anyone has ever seen, such as Cades Cove and Mount LeConte.

Although any time is a great time to visit the park, the views are truly spectacular in the spring, with the blooming of the dogwoods and redbud trees and in the fall when the leaves begin turning various shades of red and orange and yellow.

My hometown of Knoxville is considered by many to be the gateway to the Smokies, and residents of Knoxville played a very important role in establishing the park.

The original idea for a Smokies National Park came from a wealthy and influential Knoxville family, Mr. and Mrs. William P. Davis, who came back from a visit to the national parks out West in the early 1920s with a simple question: Why can't we have a national park in the Smokies?

Very quickly, other influential citizens of Knoxville such as politicians, businessmen, naturalists, and others joined in this movement. Eventually, the legislatures in Tennessee and North Carolina realized that this was a worthy project. Both legislatures appropriated \$2 million in 1927.

Although this was a large amount of money, it was not enough. Colonel David C. Chapman of Knoxville joined forces with National Park Service Director Arno Cammerer and began seeking additional sources of funding. Ultimately, they convinced John D. Rockefeller, Jr., to contribute to the cause.

The Rockefeller family was well known for their philanthropy, especially in regards to the National Parks. They made a gift of \$5 million to the effort, but only on the stipulation that the funds would be matched. To get the full \$5 million, the States and Park Service would have to come up with \$5 million on their own.

Once the funding commitments were in place by 1929, it took several more years to acquire the land and develop the facilities. While this land has become almost priceless today, I don't think enough credit or recognition has been given to those families and people from whom land was taken to create this park.

During the Great Depression, the Civilian Conservation Corps, the Works Progress Administration, and other Federal organizations made trails, fire watchtowers, and other infrastructure improvements to the park. The park was officially opened in June of 1934. That date is the date we are commemorating with this resolution.

I would like once again to thank and congratulate Dr. ROE for his very thoughtful resolution, and I urge all of my colleagues to support this resolution celebrating and recognizing the



75th anniversary of the Great Smoky Mountains National Park.

Mrs. CHRISTENSEN. I reserve the balance of my time.

Mr. LAMBORN. I think it's evident from the remarks of Representative DUNCAN that he has a great love and appreciation and support for this beautiful national park, and the fact that it's the most visited national park in the entire park system attests to its popularity and its beauty.

I would urge all of my colleagues to support this resolution.

Mr. ROE of Tennessee. Mr. Speaker, I urge support for H. Res. 421 and congratulate the Great Smoky Mountains National Park on turning 75. What an amazing success story!

This Park—the most visited in the United States—serves as a source of pride for residents of our entire region and we celebrate the vision of our ancestors who had the foresight to preserve this amazing area for all future generations to enjoy. As an avid outdoorsman myself, I am particularly grateful for this natural wonder.

Two weeks from yesterday, the Park will officially turn 75 with activities planned all summer to commemorate this accomplishment. I hope all Americans will join in the celebration and come visit what is truly one of our nation's finest examples of scenic beauty.

I also want to congratulate the National Park Service for its diligent management of the Park. Without its leadership, the Great Smoky Mountains National Park would not be what it is today.

I hope all members of Congress will join me in supporting H. Res. 421.

Mr. LAMBORN. I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and agree to the resolution, H. Res. 421.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. CHRISTENSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### JOSH MILLER HELPING EVERYONE ACCESS RESPONSIVE TREATMENT IN SCHOOLS ACT OF 2009

Mr. TONKO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1380) to establish a grant program for automated external defibrillators in elementary and secondary schools.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1380

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Josh Miller Helping Everyone Access Responsive Treatment in Schools Act of 2009" or the "Josh Miller HEARTS Act".

#### SEC. 2. GRANT PROGRAM FOR AUTOMATED EXTERNAL DEFIBRILLATORS.

(a) PROGRAM REQUIRED.—The Secretary of Education shall carry out a program under which the Secretary makes grants to local educational agencies, to be used by the local educational agencies for one or both of the following:

(1) To purchase automated external defibrillators for use in elementary and secondary schools served by the local educational agency.

(2) To provide training to enable elementary and secondary schools served by the local educational agency to meet the requirements of subsection (d)(1), but only if automated external defibrillators are already in use at such schools or are acquired through this program.

(b) ELIGIBILITY.—

(1) LOCAL EDUCATIONAL AGENCIES.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) ELEMENTARY AND SECONDARY SCHOOLS.—To be eligible to receive an automated external defibrillator through a grant under this section, a school may be any public or private school served by the local educational agency, except that an Internet- or computer-based community school is not eligible.

(c) MATCHING FUNDS REQUIRED.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, the local educational agency must provide matching funds from non-Federal sources equal to not less than 25 percent of the amount of the grant.

(2) WAIVER.—The Secretary shall waive the requirement of paragraph (1) for a local educational agency if the number of children counted under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)) is 20 percent or more of the total number of children aged 5 to 17, inclusive, served by the local educational agency.

(d) TRAINING AND COORDINATION REQUIRED.—A local educational agency that receives a grant under this section shall demonstrate that, for each elementary and secondary school at which the automated external defibrillators are to be used—

(1) there are at least 5 individuals at the school who—

(A) are employees or volunteers at the school;

(B) are at least 18 years of age; and

(C) have successfully completed training, with the expectation that the certification shall be maintained, in the use of automated external defibrillators and in cardiopulmonary resuscitation, conducted by the American Heart Association, the American Red Cross, the National Safety Council, or another nationally recognized organization offering training programs of similar caliber;

(2) local paramedics and other emergency services personnel are notified where on school grounds the automated external defibrillators are to be located; and

(3) the automated external defibrillator will be integrated into the school's emergency response plan or procedures.

(e) PRIORITY.—In making grants under this section, the Secretary shall give priority to schools—

(1) that do not already have an automated external defibrillator on school grounds;

(2) at which a significant number of students, staff, and visitors are present on school grounds during a typical day;

(3) with respect to which the average time required for emergency medical services (as defined in section 330J of the Public Health Service Act (42 U.S.C. 254c-15(f))) to reach the school is greater than the average time for emergency medical services to reach other public facilities in the community; and

(4) that have not received funds under the Rural Access to Emergency Devices Act (42 U.S.C. 254c note).

(f) ESEA DEFINITIONS.—The terms used in this section shall have the meanings given to such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2010 through 2015.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Thank you, Mr. Speaker. I request 5 legislative days during which Members may revise and extend and insert extraneous material on H.R. 1380 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself, Mr. Speaker, such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 1380, the Josh Miller HEARTS Act. This is a bill that my colleague and friend from the neighboring State of Ohio has introduced that will save countless lives at a relatively low cost to taxpayers.

According to the American Heart Association, more than 200,000 Americans die of sudden cardiac arrest each year. Even more disturbing is the fact that 50,000 of these deaths could have been prevented with the use of an automated external defibrillator, or AED.

AEDs are portable devices used to restart the heart after sudden cardiac arrest. Studies have shown that these devices, which are required in Federal buildings and on airplanes, can be safely used by anyone, including children. Defibrillators talk the user through the lifesaving process and do not deliver a shock unless the heartbeat analyzed by the machine is in need of it.

Prompt response to a patient experiencing cardiac arrest is imperative, and waiting for EMS to arrive can be indeed fatal. Utilizing CPR techniques and administering an AED can more than double the victim's chances of surviving. A defibrillator shock is the

most effective treatment for sudden cardiac arrest, and heart experts at Johns Hopkins University believe over 500 lives can be saved annually with the widespread placement of AEDs.

The legislation put forward today will go a long way towards saving lives in our Nation's schools. This bill establishes a grant program to place life-saving defibrillators in every elementary and secondary school that chooses to participate in the program.

□ 1515

Additionally, the law would require recipients of these grants to train school staff in AED and CPR practices, coordinate with local paramedics, and integrate AEDs into existing medical emergency response plans. These provisions will save the lives of students, of teachers, of parents, staff and community members in our American schools. On any given day as much as 20 percent of the community's population passes through its schools, and it is our duty to ensure that these are safe places for our children to learn and for the community members to interact. Since schools are natural meeting places for the public, this bill can save the lives of countless children, teachers, parents and others. Similar legislation passed the House last year; and some States, such as Ohio and New York, are taking a leadership role in making an important difference. As a response to the tragic death of 15-year-old Josh Miller, Ohio instituted a program to place AEDs in schools. Since the inception of the program in 2005, 13 lives have been saved by defibrillators. Similarly, the New York program, in honor of 14-year-old Louis Acompora, has saved 38 lives since 2002.

I want to thank families like those of the Millers and the Acomporas whose hard work has brought national attention to this important issue. They have worked through their grief and, fueled by the tragic loss of a child, have toiled tirelessly to keep other parents from experiencing a similar loss. With passage of this bill, Congress has the opportunity to join these families and prevent future tragedies. Encouraging results and the many lives saved already demonstrates why we must pass this legislation. By putting in place preventative measures like those offered in this bill, we can save more lives.

Mr. Speaker, once again I express my support for H.R. 1380, and I thank Representative SUTTON for her dedication to this cause. I urge my colleagues to pass this resolution sponsored by the Member of our House, Representative SUTTON.

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1380, the Josh Miller Helping Everyone Access Responsiveness Treatment in Schools Act

of 2009, also referred to as the Josh Miller HEARTS Act. This legislation would authorize the United States Secretary of Education to make grants to public and private elementary and secondary schools to purchase automated external defibrillators, also known as AEDs, for school grounds and to train employees and volunteers on how to use these devices which have saved thousands of lives all over the United States.

An AED is a portable, computerized medical device that can check a person's heart rhythm to determine whether he or she is in cardiac arrest. It can recognize a rhythm that requires an electronic shock and can advise a rescuer when a shock is needed. The AED uses voice prompts, lights and text messages to tell the rescuer the precise steps he or she needs to take to operate the device. It is an extremely accurate and easy device to use. As such, the device is widely credited for saving hundreds of lives each year.

This bill requires local education agencies that receive a grant under the program to provide at least a 25 percent match from non-Federal sources. It also ensures that local paramedics and other emergency services personnel are notified regarding where the actual AED is located on the school grounds in case they ever have to respond to a situation on the campus. H.R. 1380 is an important piece of legislation that will help save lives all across the country. I urge my colleagues to support the bill.

I have no requests for time, and I yield back the balance of my time.

Mr. TONKO. Mr. Speaker, I am pleased to recognize the gentlewoman from Ohio (Ms. SUTTON) whose thoughtful resolution is before the House for as much time as she may consume.

Ms. SUTTON. I thank the gentleman from New York for his great leadership on this issue and for all of the work that he does in Education and Labor on many issues that are so important to the people of America.

Mr. Speaker, I rise today as the proud sponsor of H.R. 1380, the Josh Miller Helping Everyone Access Responsiveness Treatment in Schools Act, also known as the Josh Miller HEARTS Act. Sudden cardiac arrest is the leading cause of death in the United States and is the leading cause of death on school property and for student athletes. This bill establishes a grant program to help elementary and secondary schools across the country purchase automated external defibrillators, or AEDs.

I introduced the Josh Miller HEARTS Act in memory of a young man from my hometown of Barberton, Ohio. To know Josh Miller was to know a kindhearted and generous young man with limitless potential. Josh was a Barberton High School sophomore with a 4.0 grade point average, the son of

proud parents Ken and Geri Miller. He was a linebacker who dreamed of playing football for Ohio State someday. He was the kind of kid who could walk into a room and light it up. But one day, without warning, his dreams were cut short. Josh never showed any signs of heart trouble; but while playing football for his school in 2000, he collapsed after leaving the field. And by the time his heart was shocked with an automated external defibrillator, it was too late to save him. Josh suffered a sudden cardiac arrest which, according to the American Heart Association, claims the lives of nearly 300,000 Americans every year. Josh's death was devastating not only to his family but to our entire community.

Like Josh, the vast majority of these individuals who suffer sudden cardiac arrest do not display any prior signs of heart trouble. Yet there is an easy-to-use, relatively inexpensive piece of medical equipment that more than doubles the odds of survival for someone experiencing a sudden cardiac arrest. An AED is the single most effective treatment for starting the heart after a sudden cardiac arrest; and because the chances of survival decrease by up to 10 percent for every minute that passes, every second is critical.

In March, I reintroduced the Josh Miller HEARTS Act to increase the availability of AEDs in our communities. Because schools are central gathering places in our communities, placing AEDs in our schools will save the lives of students enrolled there; but they will also be available for teachers and staff, parents and volunteers, and the many other members of the community who pass through their halls every single day.

This legislation is modeled on a similar program for the State of Ohio. Dr. Terry Gordon, a cardiologist at Akron General Medical Center, has dedicated his life to this lifesaving mission. His tireless efforts in Ohio led to the adoption of a statewide initiative to put an AED into every school in our State. I hope that we in Congress can build on Dr. Gordon's good work and carry out this program at the national level.

This bill is endorsed by the American Red Cross, the American Heart Association, the Heart Rhythm Society, the Sudden Cardiac Arrest Association, the International Association of Firefighters, the American College of Cardiology, the National Education Association, the Parent Heart Watch, the American Federation of Teachers and the National Safety Council. I want to thank these organizations for their support on this issue, and I look forward to working with them to continue to raise awareness on AEDs.

Losing a young life like Josh's can bring a sense of helplessness. In just the last year in the short time from August 2008 to December 2008, 63 children lost their lives to sudden cardiac

arrest. But today we have an opportunity to act. This bill passed the House in the last Congress, but it did not emerge from the Senate. This time I am pleased to report that Ohio Senator GEORGE VOINOVICH will be leading the charge in the Senate and that Ohio Senator SHERROD BROWN will be working alongside him to make sure that it gets done.

It is appropriate that this bill comes to the floor this week. This week is National CPR and AED Awareness Week, and this week serves to raise awareness of the importance of CPR training and AED accessibility. In fact, the American Heart Association has embarked on a campaign to train 1 million people in CPR and the use of AEDs this week. I urge my colleagues to join me in supporting this effort to bring AEDs into every single school across this country. I thank the gentleman from across the aisle for his support of this measure. AEDs in schools will save lives. I want to thank the Miller family and the Acompora family and others who have turned their personal tragedies into a lifesaving mission.

Mr. TONKO. Mr. Speaker, I am pleased to recognize the gentleman from Kentucky (Mr. YARMUTH) for 3 minutes.

Mr. YARMUTH. I thank the gentleman for yielding.

Mr. Speaker, I rise today in strong support of the Josh Miller HEARTS Act so that we may take another step to ensure that all the resources necessary to keep our children safe in their schools are readily available.

More than 200,000 Americans die of sudden cardiac arrest each year. Of these, more than 50,000 lives could be saved if automated external defibrillators were easily accessible. The AED is a portable device that can restart the heart after cardiac arrest, and can be safely used by anyone, including children, as the device actually talks users through the lifesaving process and automatically analyzes whether a potentially lifesaving shock is needed. Making defibrillators available in our schools will save lives, and the Josh Miller HEARTS Act will go a long way toward increasing the availability of these emergency lifesaving devices.

As we recognize National CPR and AED Awareness Week, this legislation is particularly timely. The bill will require recipients of these grants to train school staff in AED and CPR practices, coordinate with local paramedics and integrate AEDs into existing medical emergency response plans. These provisions will save the lives of students, teachers, parents, staff and community members in U.S. schools.

As we have heard, the act bears the name of Josh Miller, 15-year-old from Barberton, Ohio. I had the privilege of meeting with Josh's family, and I was so taken with how they have used his loss to mount a national effort to pre-

vent additional losses like their tragic one. Last fall in my district, a young football player also died on a practice field. I don't know that the existence of an AED might have saved his life, but I do know that we owe our young people every possible resource, including AEDs, to make sure that these tragedies do not recur.

I want to congratulate Congresswoman SUTTON for her leadership in this effort. She has been tireless and passionate about making sure that our kids are protected. I also want to thank Dr. Terry Gordon who is now Congresswoman SUTTON's constituent but is a long-time friend and a native of Louisville, Kentucky. He has also been tireless and passionate in this effort.

With that, I urge my colleagues to support the Josh Miller HEARTS Act and take one more step forward to protecting our young Americans.

Mr. TONKO. Mr. Speaker, to the point of H.R. 1380, we have heard of the wisdom of making available defibrillators throughout the schools of our great country. It's a natural fit because of the clustering that takes place each and every school day where the need may arise. Obviously a preventative sort of plan like this will help with saving lives and certainly will honor the memory of Josh Miller and Louis Acompora in that hopefully they will not have died in vain, that a measure like this can bring us to a sound bit of policy.

For all those reasons, I would strongly urge our House to support H.R. 1380 and commend Representative SUTTON for her outstanding leadership on this issue.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and pass the bill, H.R. 1380.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CONGRATULATING UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL TEAM

Mr. TONKO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 196) congratulating the University of Tennessee women's basketball team (the "Lady Vols") and Head Coach Pat Summitt on her 1,000th victory.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 196

Whereas, on February 5, 2009, Head Coach Pat Summitt recorded her 1,000th win with a victory over Georgia 73-43;

Whereas Coach Summitt has a lifetime record of 1,000-188 in her more than 35 years of coaching, all with the Lady Vols;

Whereas Coach Summitt's first win as Coach of the Lady Vols was on January 10, 1975, against Middle Tennessee State 69-32;

Whereas, on March 22, 2005, Coach Summitt passed Dean Smith for most NCAA collegiate basketball wins of all-time with a 75-54 victory over Purdue on March 22, 2005;

Whereas Coach Summitt and the Lady Vols own a 404-62 all-time record versus 12 teams from the Southeastern Conference (SEC);

Whereas Coach Summitt and the Lady Vols have won 27 SEC titles;

Whereas Coach Summitt has never had a losing season;

Whereas Coach Summitt and the Lady Vols have had 32 consecutive seasons with at least 20 wins;

Whereas Coach Summitt and the Lady Vols teams have gone undefeated in SEC play 8 times;

Whereas since Tennessee began contesting games with SEC opponents, the Lady Vols have produced a 168-12 record in home games;

Whereas Coach Summitt has been named SEC Coach of the Year 7 times;

Whereas Coach Summitt has been named NCAA Coach of the Year 7 times;

Whereas Coach Summitt and the Lady Vols have an NCAA Tournament Best record (men or women) of 104-19, including 18 NCAA Tournament number 1 seeds;

Whereas Coach Summitt and the Lady Vols have won 8 NCAA Championships;

Whereas Coach Summitt is recognized as a leader and role model for her work not only on the basketball court but also for her work off the court; and

Whereas Coach Pat Summitt's Lady Vols continue their remarkable 100 percent graduation rate, with every student athlete who has completed her eligibility at the University of Tennessee either graduating or working toward all of the requirements for graduation: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates the University of Tennessee women's basketball team and Head Coach Pat Summitt on her 1,000th victory;

(2) recognizes the significant achievements of the players, coaches, students, alumni, and support staff whose dedication and hard work have contributed greatly to the success of the Lady Vols program and Coach Summitt; and

(3) respectfully requests the Clerk of the House of Representatives to transmit copies of this resolution to the following for appropriate display—

(A) Dr. John D. Petersen, President of the University of Tennessee;

(B) Dr. Loren Crabtree, Chancellor of the University of Tennessee, Knoxville;

(C) Joan Cronan, Women's Athletics Director; and

(D) Pat Summitt, Women's Basketball Head Coach.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I request 5 legislative days during which Members

may revise and extend and insert extraneous material on H. Res. 196 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume.

Mr. Speaker, I rise today to congratulate the University of Tennessee's women's basketball team and Head Coach Pat Summitt on winning her 1,000th NCAA basketball game.

On February 5, 2009, basketball fans witnessed Head Coach Pat Summitt lead her Lady Volunteers to her 1,000th basketball victory. The University of Tennessee easily defeated the University of Georgia 73-43. This 30-point victory over Georgia not only reflects the Lady Vols' dominance but this victory reflects another milestone in the great Coach Summitt's illustrious career.

Pat Summitt started coaching at the age of 22 and recorded her first win for the Lady Vols on January 10, 1975.

□ 1530

From the moment she started coaching, she excelled in every facet of the game. During her tenure, the Lady Vols have won eight NCAA titles, as well as 27 Southeastern Conference tournament and regular season championships. Tennessee has made an unprecedented 27 consecutive appearances in the NCAA Sweet 16 and produced 12 Olympians, 19 Kodak All-Americans named to 33 teams, and 71 All-SEC performers. Her 1,000-188 lifetime record leaves basketball fans in complete awe. She has collected more wins than any other NCAA collegiate basketball program, men's or women's.

Coach Summitt garnered a multitude of awards. The NCAA recognized her great success by awarding Summitt with seven Southeastern Coach of the Year awards and seven NCAA Coach of the Year awards. Coach Summitt and the Lady Volunteers have left a legacy of greatness that will certainly place them in the Basketball Hall of Fame.

Along with her success on the court, Summitt's student athletes have had tremendous productivity in the classroom. Coach Summitt has a 100 percent graduation rate for all Lady Vols who have completed their eligibility at Tennessee. She still considers the academic success of her athletes as one of her greatest accomplishments.

While Coach Summitt and the Lady Vols produced remarkable success, congratulations also go to the assistant coaches, the fans, the alumni, and students for their unyielding support and contributions.

Once again, I congratulate Coach Summitt and the Lady Vols for their unprecedented success. Mr. Speaker, I want to thank Congressman DUNCAN for bringing this resolution forward, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the sponsor of the resolution, the gentleman from Tennessee, my colleague, Mr. DUNCAN.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time. It is a very special honor and privilege for me to rise to urge support for a resolution honoring a personal friend of mine, the head women's basketball coach at my alma mater, the University of Tennessee, and that is our great coach, Pat Head Summitt.

The gentleman from New York has very succinctly outlined many of the accomplishments and honors that Coach Summitt has received in her career, but I would like to reiterate some of these things. It is really a phenomenal record that she has.

Coach Summitt has coached for more than 35 years, all with the Lady Vols. Her overall record is 1,005 wins and 192 losses for a winning percentage of better than 84 percent. Coach Summitt and the Lady Vols have won 27 Southeastern Conference titles. Coach Summitt and the Lady Vols have won eight NCAA championships. She has been named the NCAA Coach of the Year seven times and SEC Coach of the Year seven times.

Coach Summitt also coached the U.S.A. women's basketball team to the Olympic Gold Medal in the 1984 Olympics in Los Angeles. She is the author of two books, "Reach for the Summitt" and "Raise the Roof." They are both very inspiring books.

In 1999, Coach Summitt was inducted into the Women's Basketball Hall of Fame, and in 2000 she was inducted into the Basketball Hall of Fame in Springfield, Massachusetts, becoming only the fourth women's basketball coach to receive that distinction. Also in 2000, she was named the Naismith Coach of the Century.

On February 2, 2007, Wheaties unveiled a Breakfast of Champions box in her honor, making her the first women's basketball coach to be honored on such a box. Coach Summitt has two streets named in her honor: Pat Head Summitt Street on the University of Tennessee-Knoxville campus, and Pat Head Summitt Avenue on the University of Tennessee-Martin campus.

Coach Summitt also has a remarkable 100 percent graduation rate, as the gentleman from New York mentioned, with every student athlete who has completed their eligibility at UT either graduating or working toward all of the requirements for graduation within the NCAA-allotted time of 6 years. I don't think there is any other coach, men or women's coach, in this country that can say that. And I will tell you that she also insists on her students taking tough courses that lead to good careers. And we often read in the Knoxville newspapers about the great success of many of her graduates.

Pat Head Summitt is simply an outstanding woman and an outstanding individual in every way, both personally and professionally. And it is a great honor for me to stand here before you today to bring this resolution to the floor honoring Coach Pat Head Summitt and the Lady Vols and congratulating her on achieving that tremendous, just almost unbelievable mark of 1,000 victories.

I urge all of my colleagues to support the resolution.

Mr. PETRI. I have no further requests for time. I urge all of my colleagues to join me in supporting the resolution of our colleague from Tennessee honoring Head Coach Pat Summitt on her exceeding 1,000 victories.

I yield back the balance of my time.

Mr. TONKO. Mr. Speaker, it is most obvious that Coach Summitt and the Lady Vols have set basketball history with more than five times the number of wins in relation to the number of losses. And while they have excelled on the basketball court, it is important to note that they have also excelled in the classroom. And so for those records, both athletically and academically, and for the great career to date of Coach Summitt, we acknowledge that this is a very worthy resolution and that H. Res. 196 should be supported in the House, Mr. Speaker.

Mr. TANNER. Mr. Speaker, I rise today to join our colleagues in honoring a very gifted leader and my friend, University of Tennessee Lady Vol Head Coach Pat Summitt. Earlier this year, Coach Summitt marked her 1000th victory, the first coach in women's or men's college basketball to reach that hallmark.

I have had the pleasure of getting to know Coach Summitt over the years, and my chief of staff, Vickie Walling, is a long-time friend of Pat's, from their days together at the University of Tennessee-Martin, which I now have the honor of representing in this chamber. Summitt became the winningest coach in college basketball in 2005, passing Dean Smith's 879 career wins. You can imagine our Tennessee pride when, on February 5 of this year, the Lady Vols helped Pat achieve another hallmark: winning her 1000th game as head coach.

During Pat's time at UT, the Lady Vols have won eight NCAA titles, as well as 27 Southeastern Conference tournament and regular season championships and 28 consecutive appearances in the NCAA tournament. Tennessee has produced 12 Olympians, 19 Kodak All-Americans and 71 All-SEC performers.

As an alumnus of the University of Tennessee and of the UT basketball program, I understand the importance of the Lady Vols to the university and to our state. The talented women led by Coach Summitt not only demonstrate great athletic ability but also understand the importance of academic accomplishment; under Pat's leadership, the Lady Vols have a 100 percent graduation rate for those who have completed their eligibility at Tennessee.

Pat's continued dedication to the academic, athletic and personal growth of her players is a trademark of her coaching style and a testament to her tireless commitment to women's basketball and the well-rounded development of young women.

Mr. Speaker, I want to thank my friend JIMMY DUNCAN for introducing this resolution and giving us the opportunity to congratulate Pat Summitt on accomplishing this feat, recognize her outstanding career, and wish her and the Lady Vols all the best in their future successes.

Mr. TONKO. I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 196.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### RECOGNIZING TOYS FOR TOTS LITERACY PROGRAM

Mr. TONKO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 232) recognizing and commending the Toys for Tots Literacy Program for its contributions in raising awareness of illiteracy, promoting children's literacy, and fighting poverty through the support of literacy.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 232

Whereas, for more than 60 years, Toys for Tots has been bringing smiles to the faces of less fortunate children through the gift of a new toy;

Whereas, after supporting Toys for Tots since 2005 and raising \$1.3 million to help brighten the lives of thousands of children nationwide, The UPS Store and Mail Boxes Etc. network launched the Toys for Tots Literacy Program in March 2008 to expand upon their existing partnership as an example of what small businesses can do to help their community;

Whereas the mission of the Toys for Tots Literacy Program is to offer the Nation's most economically disadvantaged children the ability to compete academically and to succeed in life by providing them direct access to resources that enhance their ability to read and to communicate effectively;

Whereas this initiative maintains the Toys for Tots mission of delivering hope while extending its reach and impact in a meaningful way by providing less fortunate children

with tools that can help them break the cycle of poverty;

Whereas, in 2007, the National Center for Educational Statistics released its annual Reading Report, which asserts that 33 percent of all fourth graders in the United States still cannot read at even the basic level, highlighting the need for a program like the Toys for Tots Literacy Program;

Whereas every \$1 donation helps the Marine Toys for Tots Foundation buy a book for a deserving child within the community where it was donated;

Whereas since March 2008 more than \$630,000 has been raised for the Toys for Tots Literacy Program through a variety of activities, including donation card campaigns, coin box collections, special events, and sponsorships;

Whereas March 2009 marks the one-year anniversary of the Toys for Tots Literacy Program; and

Whereas the Toys for Tots Literacy Program has created a literacy award, in honor of Alferd Williams, a 71-year-old resident of St. Joseph, Missouri, who, to combat illiteracy, enrolled in Alesia Hamilton's first-grade class at Edison Elementary School in St. Joseph; Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that the Toys for Tots Literacy Program has made significant contributions in raising awareness of illiteracy and promoting children's literacy; and

(2) recognizes and commends the Toys for Tots Literacy Program for its effort to battle poverty through the support of literacy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes. The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 232 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time as I may consume, Mr. Speaker.

Mr. Speaker, I rise today in support of H. Res. 232, a resolution to recognize and commend the Toys for Tots Literacy Program for its contributions in raising awareness of illiteracy, promoting children's literacy, and fighting poverty through the support of literacy.

For more than 60 years, Toys for Tots has been bringing smiles to the faces of less fortunate children through the gift of a new toy. After supporting Toys for Tots since 2005 and raising some \$1.3 million to help brighten the lives of thousands of children nationwide, the UPS Store and Mail Boxes Etc. network launched the Toys for Tots Literacy Program in March 2008 to expand upon its existing partnership and to serve as an example of what small businesses can do to help their community.

The Toys for Tots Literacy Program stands by its mission of offering the

Nation's most economically disadvantaged children the ability to compete academically and to succeed in life by providing them direct access to resources that enhance their ability to read and to communicate effectively. By providing less fortunate children with tools that will help them break the cycle of poverty, Toys for Tots maintains its initiative of delivering hope while extending its reach and impact in a very meaningful way.

This outstanding program has touched the lives of many since every \$1 donation helps the Marine Toys for Tots Foundation buy a book for a deserving child within the community where it was donated. Since its creation in March of 2008, more than \$800,000 has been raised for the literacy program through a variety of activities, including donation card campaigns, coin box collections, special events, and sponsorships. This equates to more than 800,000 books being delivered to children across our Nation.

Given the estimate that in low-income neighborhoods the ratio of books per child is one age-appropriate book for every 300 children, this program not only brings children the joy of reading, but also serves as an important tool in breaking that cycle of poverty.

Mr. Speaker, this resolution serves to commend the Toys for Tots Literacy Program for its outstanding efforts in raising awareness of illiteracy and fighting poverty by promoting literacy. And I thank my colleague, Representative GRAVES, for introducing this resolution.

I urge my colleagues to resoundingly pass this resolution, Mr. Speaker, and I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I am honored to recognize the Toys for Tots Literacy Program for their commitment to providing our Nation's less fortunate children with the resources they need to develop early reading skills. I ask all of my colleagues to support this resolution. I have no requests for time.

I yield back the balance of my time.

Mr. TONKO. Mr. Speaker, obviously the literacy issue is one of great significance to all age demographics out there. However, if we can create a program such as Toys for Tots whereby we combat illiteracy and raise awareness of the importance of literacy and allow for us to conquer poverty at the same time, we can accomplish many, many good things in the lives of children.

I thank Representative GRAVES for having introduced House Resolution 232. Again, I strongly encourage our colleagues to support the measure before the House.

Mr. GRAVES. Mr. Speaker, I rise today in strong support of H. Res. 232, a measure recognizing and commending the Toys for Tots Literacy Program for its contributions in raising awareness of illiteracy, promoting children's literacy, and fighting poverty through the support of literacy.

I want to thank Chairman MILLER and Ranking Member MCKEON for allowing this important resolution to come to the floor today. I also want to thank my colleagues who joined me as co-sponsors in moving forward such an important tribute.

Mr. Speaker, earlier this year I was honored to introduce a resolution recognizing the achievements of the Toys for Tots Literacy Program. For over 60 years Toys for Tots has collected toy donations for underprivileged youth. Beginning in March 2008, Toys for Tots expanded beyond toy donations to taking on the challenge of rising illiteracy rates. With the help of the UPS Store and Mail Boxes Etc., and UPS Store owners like Bob and Share Tate of Kearney, MO, the Toys for Tots Literacy Program was formed to assist economically disadvantaged children compete and succeed in academics by providing them direct access to resources that enhance their ability to read and communicate effectively.

Through this initiative comes an inspiring story. Alferd Williams, a son of sharecroppers, had a simple and uncomplicated dream—he wanted to learn to read. That is how the then 70-year-old came to enroll in Alesia Hamilton's first grade class at Edison Elementary School in St. Joseph, Missouri.

With help from Alesia, Alferd learned to read. And in the process he inspired a movement to do more to combat illiteracy. The Toys for Tots Literacy program was started with the goal of providing the nation's least fortunate children with books and educational material.

Nationwide over 33 percent of fourth graders cannot read according to the 2007 annual Reading Report. There is an economic cost to taxpayers, but more importantly there is a cost to that individual. When a child does not learn to read, they lose out on a world of opportunity.

The story of Alferd Williams demonstrates that ventures such as the Toys for Tots Literacy program are important vehicles in raising awareness of illiteracy. Through the gift of a book, we can provide individuals with the tools they need to help break the cycle of poverty.

Please join with me in thanking Toys for Tots and congratulating Alferd and Alesia's commitment to literacy by supporting this important resolution.

Mr. TONKO. I yield back my time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 232.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TONKO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

# ANTHONY DEJUAN BOATWRIGHT ACT

Mr. TONKO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1662) to amend the Child Care and Development Block Grant Act of 1990 to require child care providers to provide to parents information regarding whether such providers carry current liability insurance.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1662

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Anthony DeJuan Boatwright Act".

## SEC. 2. AMENDMENTS.

Section 658e(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(2)) is amended—

(1) in subparagraph (E)(i) by adding at the end the following: "The State shall include as part of its regulatory process for issuance and renewal of licenses to providers of child care services, a recommendation to each provider that it carry current liability insurance covering the operation of its child care business.", and

(2) in subparagraph (F)—

(A) in clause (ii) by striking "and" at the end,

(B) in clause (iii) by striking the period at the end and inserting a semicolon,

(C) by inserting after clause (iii) the following:

"(iv) a requirement that each licensed child care provider—

"(I) post publicly and conspicuously in the service area of its premises a notice specifying whether or not such provider carries current liability insurance covering the operation of its child care business;

"(II) provide to parents of children to whom it provides child care services a written notice stating whether or not such provider carries current liability insurance covering the operation of its child care business, including the amount of any such coverage;

"(III) obtain the signature of at least 1 parent of each such child on such written notice acknowledging that such parent has received such notice; and

"(IV) maintain such notice (or a copy of such notice) as signed by such parents (or a copy of the signed notice) in such provider's records during the period in which the child receives such services.", and

(D) in the last sentence by inserting "clauses (i), (ii), or (iii) of" after "Nothing in".

## SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1 of the 1st fiscal year that begins more than 1 year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TONKO) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes. The Chair recognizes the gentleman from New York.

## GENERAL LEAVE

Mr. TONKO. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert ex-

traneous material on H.R. 1662 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TONKO. I yield myself as much time, Mr. Speaker, as I may consume.

Mr. Speaker, I rise today in support of H.R. 1662, which amends the Child Care and Development Block Grant Act of 1990 to require child care providers to provide information regarding whether such providers carry current liability insurance. Working parents depend on child care so they can earn an income needed to support their families, as well as ensure that their children are well cared for in a safe environment while they are working. As such, child care is an integral part of the daily routine for millions of American families with young children.

Nearly 12 million children under 5 years of age are regularly in child care settings. Research clearly shows us that high quality child care has a lasting impact on a child's development and well-being. Children in poor quality child care miss a crucial early learning opportunity and are more likely to arrive at kindergarten unprepared and unable to succeed in school. As a country, we need to be doing much more to invest in and support high quality child care programs so that children have the best opportunity to develop.

Back in 2001, Anthony DeJuan Boatwright's mother, Jacqueline Boatwright, placed her child in child care so that she could work to improve her and her son's life. She understood the child care program market. She shopped around and found a child care center. It was licensed by the State. It was clean, and it complied with Federal regulations under the Child Care Development Block Grant Act governing such items as the prevention and control of infectious diseases, building safety, premises access, and safety training for staff. However, little Anthony nearly drowned and ended up on life support due to an oversight at the child day care center.

Jackie Boatwright did not know that a child care program could take her money, harm her child, and escape punishment for their dire mistake.

□ 1545

Because the childcare center had no liability insurance, the facility could not be financially responsible for any harm they could do. There wasn't a law, State or Federal, that required childcare centers to tell Ms. Boatwright either.

The bill before us makes a small but, indeed, important amendment to current law. This bill would require each provider to openly post whether or not they have current liability insurance covering the operation of the childcare



business, and it requires each provider to supply parents with a written notice stating whether or not the provider carries liability insurance, including the amount of such coverage.

This legislation does not supersede any State regulations regarding facility licensure or insurance requirements. We are simply asking childcare providers to inform parents whether or not they hold liability insurance.

As we move forward reauthorizing this program, we must consider policies that foster effective learning environments where children can obtain the cognitive, the social and the academic skills needed to succeed. And we must make sure that parents can feel secure in the knowledge that their children will be safe from harm while out of their care.

This bill gives parents more information that they need to make educated decisions about daycare facilities. We must provide safe childcare programs for our children.

I thank Representative BARROW for introducing this bill, and ask my colleagues to support the measure.

I reserve the balance of my time, Mr. Speaker.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to discuss H.R. 1662, to amend the Child Care and Development Block Grant Act to require childcare providers to supply parents with information regarding whether such providers carry current liability insurance.

The bill before us today requires that States, as part of their licensing requirements, recommend that childcare providers carry liability insurance. The bill also requires childcare providers to post whether or not they have current liability insurance covering the operation of their childcare businesses, and it requires providers to supply parents with a written notice stating whether or not the provider carries liability insurance.

Today, many parents depend on childcare in order to continue to work to support their families. As such, childcare is an integral part of the daily routine for millions of American families with young children. A cost-efficient childcare is very important and, hopefully, this legislation, if it is passed, can be implemented without adding to the costs of these hard-working families.

Asking providers to post information on their liability insurance may give additional peace of mind if it's properly implemented, at little or no additional cost to these families and, hopefully, will avoid tragedies such as the one that affected 14-month old Anthony DeJuan Boatwright, who fell, and the accident left him in a semi-comatose state and ventilator-dependent.

I'd like to note that the bill before us does not reauthorize the Child Care and

Development Block Grant Act. Hopefully, that bill will be brought before the Education and Labor Committee for reauthorization and full committee consideration during the 111th Session of Congress so that additional improvements can be made.

As we move forward, we must ensure that Federal policy provides States maximum flexibility in developing childcare programs and policies, and provides parents with the ability to choose from a variety of options so that parents can decide the care best suited for their children.

With those comments, I reserve the balance of my time.

Mr. TONKO. Mr. Speaker, I am pleased to recognize the gentleman from Georgia, sponsor of H.R. 1662, a very thoughtful piece for the children of this country, Mr. BARROW, for as much time as he may consume.

Mr. BARROW. Mr. Speaker, back home in Augusta, Georgia, there's a little 9-year old boy by the name of Anthony DeJuan Boatwright, who's in a semi-comatose state and hooked up to a ventilator. He's been like this since September 9, 2001.

Now, Juan, as he's called, wasn't born that way. He was the victim of a tragic and a preventable accident. The worst of it is if his mom had been given the information that this bill requires, then this accident never would have happened.

Back in 2001, Juan's mother, Jacqueline Boatwright, was doing what millions of mothers and fathers all over the country do everyday. She dropped her child in daycare so that she could go to work to improve her family's life.

Ms. Boatwright had done her homework. She was a sophisticated consumer and she shopped around and found a daycare center that she felt comfortable leaving her baby boy with. It was licensed by the State of Georgia. It was clean. And most importantly, it complied with all sorts of Federal regulations under the Child Care Development Block Grant Act that are designed to prevent and control infectious diseases, ensure building safety, premises access, and mental health and safety training for staff.

But there was one thing that Jackie Boatwright did not know; that these folks could take her money, they could take her child, they could harm her child, and they would not be financially responsible for any of the harm that they do. That's because they had no liability insurance. There was no law that required them to have any liability insurance, and there wasn't even any law that required them to tell her that.

Mr. Speaker, sure enough, that's just what happened. They ignored Juan long enough for him to find a bucket of water. Like every child that age, he had just enough strength to pull him-

self up to look over inside and to fall inside head first, but not enough upper body strength to push himself back up. It was a death trap, and little Juan fell into it. Well, Juan survived, but his life and that of his family have been ruined and changed forever.

Now, this bill would have prevented all of this from happening. It wouldn't have prevented this from happening by adding a whole new bureaucracy of daycare inspectors to watch the watchers. It would have prevented this from happening in the least expensive and most efficient way possible, by simply requiring the daycare center to tell parents that they're willing to accept the moral responsibility of taking care of your children, but they won't accept any of the financial responsibility for failing to do so.

That would have prevented this from happening, because if Jackie had known that she would have done what any other parent would do. She would have taken her business someplace else, someplace where they accept some degree of financial responsibility for the consequences of their negligence and incorporate that cost in the cost of doing business, just like every other financially responsible business does.

Now, Jackie has tried to make something positive out of all this. She's determined to prevent this from happening to anybody else. Thanks to her efforts, financial responsibility disclosure laws are now on the books in four States: Georgia, California, Virginia and New Hampshire. This bill will close the gap by requiring financial responsibility disclosure for licensed daycare facilities in the rest of the country.

In 2005, there were literally millions of kids in this country receiving daycare in facilities that are governed by the Child Care and Development Block Grant Act. Only a fraction of these kids live in the four States that have now stepped forward to enact financial responsibility disclosure laws. That means that millions of kids still go to licensed daycare facilities all around the country, today, where parents have no idea that their daycare centers can harm their child and accept none of the financial consequences for doing so.

This bill will give the parents of these millions of children the same information that parents are entitled to as a matter of law in the States of Georgia, California, Virginia and New Hampshire. These parents have just as much need to know about the financial responsibility of the folks they give their kids to, and this bill will give them the same right to that information.

Now, this bill does not require any daycare facilities to actually go out and get liability insurance. It merely requires licensed daycare centers to tell parents whether or not they have



insurance and, if so, how much. That's all. It then leaves it up to the parents to do what Jackie Boatwright would have done if only she had had this information, and that is to decide for themselves whether or not to leave their child with somebody who wants to accept the responsibility for caring for your child, wants to take your money for doing so, but is unable and unwilling to accept any of the financial consequences for failing to fulfill this responsibility.

Indirectly, Mr. Speaker, this bill actually does more than that. By giving parents the information that they have a right to know, it places a powerful economic incentive on all daycare centers to do what all of the responsible daycare centers are already doing, and that is to assume the financial responsibility that goes along with the moral responsibility of taking care of children in their care and to incorporate the cost of that into the cost of doing business. Anyone who wants to do business without doing that will be at a competitive disadvantage compared to those who do.

This approach gives the invisible hand of self interest the opportunity to do some good in the marketplace. Parents who place their children in daycare centers will have the information that they need in order to make the right choice for their children, and daycare centers that don't want to do the right thing by the children in their care will compete at a disadvantage compared to those who do.

We have truth in labeling. We have truth in lending, and we have truth in advertising. This is truth in daycare. The States have led the way, and now it's time for the Federal Government to follow their lead. The families who end up being harmed because they are kept in the dark deserve to know the truth.

Mr. PETRI. I have no further requests for time.

I yield back the balance of my time.

Mr. TONKO. Mr. Speaker, I thank my good friend from the State of Georgia, Representative BARROW, for introducing H.R. 1662.

Obviously, childcare decisions are major decisions for any family. And in addition to those cognitive and social and educational skills that are invested in our children, the sense of security and comfort that needs to be afforded the families who participate in these wonderful resources needs to be enhanced. And by simply and rightfully asking childcare providers to inform parents whether or not they hold liability insurance is a strengthener for any family and any children in our country.

So, with all that being said, I strongly encourage our colleagues to support H.R. 1662.

Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and pass the bill, H.R. 1662.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### RECOGNIZING 65TH ANNIVERSARY OF ALLIED LANDING ON D-DAY

Mr. KRATOVIL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 259) expressing the gratitude and appreciation of the House of Representatives for the acts of heroism and military achievement by the members of the United States Armed Forces who participated in the June 6, 1944, amphibious landing at Normandy, France, and commending them for leadership and valor in an operation that helped bring an end to World War II, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 259

Whereas June 6, 2009, marks the 65th anniversary of the Allied assault at Normandy, France, which was known as Operation Overlord;

Whereas before Operation Overlord, the German Army still occupied France and the Nazi government still had access to the raw materials and industrial capacity of Western Europe;

Whereas Supreme Allied Commander General Dwight D. Eisenhower called Operation Overlord a "Crusade in Europe", telling the soldiers, sailors, and airmen who would participate in the operation that "The free men of the world are marching together to victory. I have full confidence in your courage, devotion to duty, and skill in battle.";

Whereas the naval assault phase on Normandy was code-named "Neptune", and the June 6th assault date is referred to a D-Day to denote the day on which the combat attack was initiated;

Whereas significant aerial bombardments and operations (including Operation Fortitude) by Allied forces during the weeks and months leading up to, and in support of Operation Overlord, played a significant role in the success of the Normandy landings;

Whereas more than 13,000 soldiers parachuted, and several hundred soldiers of the glider units participating in Mission Detroit and Mission Chicago landed, behind enemy lines to secure landing fields in the 24 hours preceding the amphibious landing;

Whereas soldiers of six divisions (three American, two British and one Canadian) stormed ashore in five main landing areas on beaches in Normandy, which were code-named "Utah", "Omaha", "Gold", "Juno" and "Sword";

Whereas the D-Day landing was the largest single amphibious assault in history, consisting of approximately 31,000 members of the United States Armed Forces and more than 3,000 vehicles, which embarked on 208 vessels from Weymouth and Portland, England;

Whereas, of the estimated 9,400 casualties incurred by Allied troops on the first day of the landing, an estimated 5,400 casualties were members of the United States Armed Forces;

Whereas only five days after the initial landing, Allied troops secured a beachhead that was 50 miles long and 12 miles deep and was occupied by more than 325,000 soldiers;

Whereas on July 25, 1944, Allied Forces launched Operation COBRA to break out of the beachhead and began the liberation of France, which contributed to the destruction of the Nazi regime on May 7, 1945; and

Whereas members of the "greatest generation" assumed the task of freeing the world from Nazi and Fascist regimes and restoring liberty to Europe: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the 65th anniversary of the Allied amphibious landing on D-Day, June 6, 1944, at Normandy, France, during World War II;

(2) expresses its gratitude and appreciation to the members of the United States Armed Forces who participated in Operation Overlord; and

(3) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. KRATOVIL) and the gentlewoman from Oklahoma (Ms. FALLIN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

#### GENERAL LEAVE

Mr. KRATOVIL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. KRATOVIL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 259 recognizing June 6 as the 65th anniversary of D-day, the massive amphibious landing on the beaches of Normandy, France, beginning the initial assault of Operation Overlord, and the eventual victory for Allied Forces of World War II.

I rise not only to recognize a day whose historical significance cannot be overstated, but to express gratitude and appreciation to the members of the United States Armed Forces who served in defense of freedom that day, and throughout the campaign.

Before Operation Overlord, the German Army occupied France, giving the Nazi government unrestricted access to the raw materials and industrial capacity of Western Europe. Hailed as a crusade in Europe by Supreme Allied Commander General Dwight D. Eisenhower, this successful undertaking forced Germany into a two-front war, subsequently beginning the liberation of

France and contributing to the downfall of the Nazi regime.

Approximately 31,000 members of the United States Armed Forces joined the Allied troops on D-day, the largest single amphibious assault in world history. Allied and American soldiers stormed onto five landing fields, secured only 24 hours prior, through airborne operations designed to slow the enemy's ability to launch counterattacks while sufficient forces gathered along the beachhead.

□ 1600

American troops suffered an estimated 5,400 of the 9,400 Allied casualties that day, and their immeasurable sacrifice will never be forgotten.

I would like to make special note of the 29th Infantry Division, which drew part of its ranks from Maryland's Eastern Shore. On D-day, the 29th division was the only National Guard division to land on the beaches of Normandy. Throughout the campaign, they spent 242 days in combat throughout Normandy, northern France, the Rhineland, and Central Europe, earning four Distinguished Unit Citations in the process.

House Resolution 259 is our small way of commending the United States Armed Forces for their leadership and valor in a mission that defined the beginning of the end of World War II. Today, I ask the Members of this House to join me in supporting this resolution, thereby expressing our appreciation and gratitude for the members of the United States Armed Forces involved with D-day operations. We must always remember to honor the sacrifices made by our fellow countrymen so that others around the world may continue to know the gift of freedom.

I reserve the balance of my time.

Ms. FALLIN. I yield myself as much time as I may consume.

Mr. Speaker, I am proud today to support House Resolution 259, which recognizes the valor and the military achievements of the members of the Armed Forces who participated in the invasion of France on June 6, 1944, 65 years ago.

I want to commend Representative JOHN BOOZMAN from Arkansas and the chairman of the House Armed Services Committee, IKE SKELTON, for sponsoring this legislation.

The facts of Operation Overlord, the start of what General Eisenhower called the "crusade in Europe," are clearly set forth in the text of this resolution. This was the largest amphibious operation in history, and in breaching German defenses, the Allied forces suffered more than 10,000 casualties on the first day of the invasion.

Beyond the facts of the invasion, however, is the heroism and the unselfish sacrifice of the men who carried out this most magnificent operation. One such man was Sergeant Melvin "Hawk-

eye" Myers, a Comanche warrior from the Boone-Apache area of my home State of Oklahoma. As a member of the 82nd Airborne Division, Sergeant Myers parachuted into Normandy in the pre-dawn hours of D-day. He fought the vicious battles to defend the beachhead, and he rescued a fellow soldier before being killed on June 14.

Another Oklahoman who fulfilled his duty that day in June was Harry Furr from Oklahoma City. As the pilot of a glider, his job was to get his canvas and plywood aircraft safely to the ground.

He said, "They were clumsy, difficult to land and came down pretty fast," and many of them crashed.

He had one chance to land with a jeep, a trailer of medical supplies and 15 men aboard. Furr's glider brushed the tops of the trees before landing in a field, smashing in the whole front of the aircraft.

"No one was hurt," Furr recalled. "We got down safe," but the Germans were firing on the glider in the field, and they threw in mortars. So Furr noted, "It was very intense until we got out of that field."

On the beach, Thomas Valence, a member of the 116th Infantry in the first assault wave, left his landing craft and floundered in knee-deep water. He was almost shot twice through his left hand.

In an article he wrote, he said, "I made my way forward as best I could. My rifle jammed, so I picked up a carbine and got off a couple of rounds. I was hit again—once in the left thigh, which broke my hip, and a couple of times in my pack, and then the chin strap of my helmet was severed by a bullet."

He said, "I worked my way up onto the beach and staggered up against a wall and collapsed there. The bodies of the other guys washed ashore, and I was the one live body amongst many of my friends who were dead."

Because of the heroism and perseverance of such men as Myers, Furr and Valence, the door to Hitler's fortress in Europe was cracked open. So it is entirely fitting that today, 65 years after that historic day, we take time to honor and to commemorate the events of June 6, 1944.

On that day, which is going to be later this week, I want to urge all of my colleagues to reflect upon the extraordinary service that was rendered by the veterans of World War II. Moreover, I would like to also urge my colleagues, as they see both previous and current members of the Armed Forces whom they encounter, to take time individually to thank them for their service to our great Nation.

I heartily recommend that all of my colleagues vote "yes" on this resolution.

Madam Speaker, I would like to reserve the balance of my time.

Mr. KRATOVIL. Madam Speaker, at this time, I have no further requests for time. I am prepared to close after my colleague has yielded back her time.

I continue to reserve the balance of my time.

Ms. FALLIN. Madam Speaker, I have another speaker. I would like to yield as much time as he may consume to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Madam Speaker, on April 27, 2009, Chairman SKELTON and I introduced H. Res. 259 to recognize the members of the United States Armed Forces who participated in the amphibious D-day invasion in Normandy, France and to express the gratitude and appreciation of the House of Representatives for their achievements and acts of heroism.

Madam Speaker, 65 years ago this Saturday marks the 65th anniversary of the beginning of Operation Overlord, commonly referred to as D-day, what would be the largest single amphibious assault in the history of the world.

On June 6, 1944, the supreme commander of the Allied Expeditionary Force, General Dwight D. Eisenhower, said in his official message to the soldiers, sailors and airmen, "You are about to embark upon the Great Crusade, toward which we have striven many months. The eyes of the world are upon you. The hopes and prayers of liberty-loving people everywhere march with you. In company with our brave allies and brothers-in-arms on other fronts, you will bring about the destruction of the German war machine, the elimination of Nazi tyranny over the oppressed peoples of Europe and security for ourselves in a free world."

General Eisenhower then went on to express his confidence in their "courage, devotion to duty and skill in battle," reminding our young men that the United States would accept nothing less than full victory.

So these brave and selfless young men, in the face of incredible danger and challenges, assaulted the Atlantic Wall—a series of military fortifications along Normandy's coast that consisted of minefields, bunkers and artillery emplacements. They courageously bombarded these fortifications, parachuted and glided behind enemy lines and stormed the beaches, code named "Utah," "Omaha," "Juno," and "Sword," to break the grip of the Nazi and fascist regimes and to restore the hope of freedom to Europe and to the entire world.

These were young men like combat medic and surgical technician Warren D. Blaylock of Alma, Arkansas, who served in the 67th Evacuation Hospital, which arrived at Utah beach shortly following the initial invasion forces. One of Warren's responsibilities was to seek out suitable places to treat and to

care for the wounded—tents, schools, buildings or any other suitable cover that could be found to protect the wounded and other personnel from enemy fire.

In one instance, Warren recalls a situation in which German machine gun-fire strafed his immediate area, and he dove into a foxhole. At that same moment, another soldier dove into the same hole, landing on top of him, angrily cursing the enemy. Warren looked up, and it was none other than his good friend Clovis Bryant from Van Buren, Arkansas, who would later become an Arkansas State senator. Warren would serve in five campaigns during his 2 years in Europe, part of that in support of Patton's 3rd Army into the Bastogne area until he was held behind to care for 23 wounded soldiers, all of whom survived thanks to his direct and excellent care. Warren D. Blaylock received the Bronze Star for his service.

While he is just one of many of Arkansas' native sons who served during this very dangerous time, his story is a testament to their bravery, skill and personal sacrifice in the name of freedom. This resolution honors Warren and all of those who fought to bring peace to Europe.

So I would ask all Members of Congress to take pause this Saturday and to remember the great accomplishment of these servicemembers and what the world might have been if not for the bravery, skill and selfless determination to preserve the universal human right of freedom.

I encourage all of my colleagues to thank those servicemembers on the 65th anniversary of their great endeavor for all of the sacrifices made by them and by their entire generation to secure victory and peace for the freedom-loving people of the world.

I would also like to express my appreciation to Chairman SKELTON and to his staff for their assistance in bringing forward this resolution, as well as to Mr. MCHUGH and to his staff so that we might bring this to the House floor in time to honor these servicemembers prior to the 65th anniversary of this great feat. I strongly encourage my colleagues to vote "yes" on this resolution.

Mr. SKELTON. Madam Speaker, I rise in strong support of H. Res. 259, expressing gratitude and appreciation to the U.S. Forces who took part in World War II's D-day invasion, which led to the end of the war in Europe.

This resolution urges Americans to honor the heroic deeds and immeasurable sacrifices of our Allied troops on D-day. The passing of the years fails to diminish the tremendous debt we owe to the Greatest Generation for liberating Europe and fighting to preserve freedom.

Almost sixty-five years ago, on June 6, 1944, American and Allied Forces invaded Normandy, France, in Operation Overlord.

Thus began the arduous task of liberating Europe from the yoke of Nazi tyranny. At the time, few people understood the full impact this invasion would have. But with the success of the D-day invasion, the tide of the war swung in favor of the Allies, and Adolf Hitler began his ultimate demise.

The sheer scale of Operation Overlord is astounding and even today remains the largest single amphibious assault in history. The first day of the operation involved 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force, composed of American, British, and Canadian forces.

But it is important to remember that Allied victory against the entrenched Nazi forces was hardly a foregone conclusion. Our courageous troops who participated in the invasion understood the enormous risks—and more than 6,500 lost their lives in the effort—but their dedication to duty and love of freedom gave them the strength to take on the seemingly impossible task before them. Their sacrifices made it possible to restore true freedom to millions of people across the European continent.

I was a young teenager during World War II, and my friends and neighbors in uniform were my heroes. The achievements of our D-day veterans and all those who fought in World War II continue to inspire me today. But our nation has been blessed with generation after generation of patriotic Americans who have selflessly served our country.

As we honor the heroes of D-day, our thoughts, prayers, and gratitude go also to today's volunteers who wear our nation's uniform. Today's soldiers, sailors, airmen, and Marines inherit a proud legacy from those who stormed the beaches of Normandy: a legacy of commitment to duty, dedication to freedom, and love of country. As we recognize the 65th Anniversary of D-day, our nation has an obligation to remember all of these heroes.

Ms. FALLIN. Madam Speaker, I yield back the balance of my time.

Mr. KRATOVIL. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. RICHARDSON). The question is on the motion offered by the gentleman from Maryland (Mr. KRATOVIL) that the House suspend the rules and agree to the resolution, H. Res. 259, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### EXPRESSING SYMPATHY FOR VICTIMS OF CAMP LIBERTY SHOOTINGS

Mr. KRATOVIL. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 471) expressing sympathy to the victims, families, and friends of the tragic act of violence at the combat stress clinic at Camp Liberty, Iraq, on May 11, 2009, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 471

Whereas on Monday, May 11, 2009, the Nation experienced a tragedy when a soldier at the combat stress clinic at Camp Liberty, Iraq, reportedly killed five innocent American servicemen, and wounded three others;

Whereas the shooting resulted in the tragic loss of Navy Commander Charles K. Springle, Army Major Matthew P. Houseal, Army Sergeant Christian E. Bueno-Galdos, Army Specialist Jacob D. Barton, and Army Specialist Michael E. Yates;

Whereas the lives of the victims were taken while they were bravely and honorably serving the United States on the front lines in Iraq;

Whereas the combat stress clinic at Camp Liberty, Iraq, and similar clinics in theater and at home provide essential mental health services to the Nation's servicemen and women;

Whereas the Nation's protracted military engagements in Iraq and Afghanistan call for increased attention to the mental health challenges faced by the courageous members of the Armed Forces; and

Whereas honoring the Nation's commitment to those who serve the Nation and their families means offering these heroic soldiers not only first class medical care for physical injuries, but also first class mental health services: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its heartfelt condolences to the families and friends of the victims of the May 11, 2009, shooting at the combat stress clinic at Camp Liberty, Iraq;

(2) conveys its ongoing deep gratitude to the brave members of the Armed Forces who risk their lives in service of protecting the Nation;

(3) recognizes the important work of the medical professionals and staff members, who provide essential mental health services to our servicemen and women, at Combat Stress Control Center in Camp Liberty, Iraq, and other clinics in theater and at home; and

(4) commits to focus on the mental, in addition to the physical, well being of the Nation's military servicemen and women, and veterans, and to support the policies, resources, and funding necessary to successfully combat the mental and physical healthcare challenges that they may confront.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. KRATOVIL) and the gentlewoman from Oklahoma (Ms. FALLIN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

#### GENERAL LEAVE

Mr. KRATOVIL. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. KRATOVIL. I yield myself as much time as I may consume.

Madam Speaker, I rise today to call attention to a tragedy our Nation experienced on Monday, May 11, 2009, at the

combat stress clinic in Camp Liberty, Iraq, when a soldier reportedly killed five innocent American servicemen and wounded three others.

The shooting resulted in the tragic loss of Navy Commander Charles K. Springle, Army Major Matthew P. Houseal, Army Sergeant Christian E. Bueno-Galdos, Army Specialist Jacob D. Barton, and a native of my district and Maryland's Eastern Shore, Specialist Michael E. Yates.

This resolution expresses heartfelt condolences to the families and friends of the victims of this tragic act, and it conveys Congress' ongoing deep gratitude for all of the brave members of our Armed Forces who have risked their lives in the service of our Nation. This resolution also recognizes the important work of medical professionals and staff who provide essential mental health services to servicemen and women at Camp Liberty and at other clinics both in theater and at home.

Now is the time to give increased attention to the mental health challenges faced by the courageous members of our Armed Forces, especially given our Nation's protracted military engagements in Iraq and Afghanistan. Our servicemen and -women and their families make extreme sacrifices each day in order to keep our Nation safe. Honoring our commitment to those who serve our Nation means not only offering first-class medical care for physical injuries but also in providing first-class mental health services.

Congress must commit to focusing on both the mental and physical well-being of the Nation's active military as well as of its veterans, and it must commit to supporting the policies, resources, and funding necessary to successfully combat the mental and physical health care challenges that they may confront.

As a result of this tragic accident, Maryland's Eastern Shore lost a native son in Specialist Michael Yates of Federalsburg. Growing up on the Eastern Shore, Michael was an avid hunter and fisherman. Like many of my constituents, he held a deep love for his country and a desire to serve in the defense of freedom. At the young age of 17, Michael joined the Army. He was then sent to Fort Knox, Germany and then to Iraq where he served as a cavalry scout. Michael had recently returned to Federalsburg where he was able to visit with family and friends one last time before returning to Iraq and ultimately to the counseling center at Camp Liberty.

It was here that a fellow soldier, whom Michael had described to his stepfather as a "fairly decent guy who had some major issues," reportedly shot and killed Michael.

We must make soldiers' and veterans' mental health a priority and heed Secretary of Defense Gates' recommendation to support funding for traumatic

brain injury and psychological health exams for our servicemen and -women.

We owe this to Specialist Yates, to Commander Springle, to Major Houseal, to Sergeant Bueno-Galdos, and to Specialist Barton, as well as to the friends and families of those involved in this tragic event.

□ 1615

We owe this to each and every brave soldier and their families who make sacrifices daily and face the intense stress that comes with the defense of our Nation.

House Resolution 471 was introduced along with fellow colleagues who lost constituents in this incident honoring their service and recognizing mental health issues among servicemen and veterans. I urge all of my colleagues to support this resolution in honor of the those who lost their lives and all who serve in our Armed Forces.

I reserve the balance of my time.

Ms. FALLIN. Madam Speaker, I am here today to lend my support to House Resolution 471 expressing my sympathy to the victims, the families, and the friends of the victims of the tragic act of violence at the combat stress clinic at Camp Liberty in Iraq on May 11, 2009. And, Madam Speaker, it is with deep sadness that we come to the floor of the House of Representatives today to recognize five of our brave members of our Armed Forces who answered the call of duty and ultimately gave their lives to preserve our freedom and our way of life.

We may never understand what led to the tragic events at Camp Liberty, but what we do know is that five honorable men lost their lives; men who were husbands, who were fathers, sons, and brothers: Navy Commander Charles K. Springle of Wilmington, North Carolina; Army Major Matthew P. Houseal of Amarillo, Texas; Army Sergeant Christian E. Bueno-Galdos of Paterson, New Jersey; Army Specialist Jacob D. Barton of Springfield, Missouri; and Army Specialist Michael E. Yates of Federalsburg, Maryland.

Madam Speaker, there is no question that serving in combat is a profoundly life-altering experience. Men and women who face the challenges of combat are forever changed, and our Nation is eternally indebted to the brave men and women of the Armed Forces who fight to preserve our freedoms. But we also owe them more than just our gratitude. We owe them our commitment to protect them and to provide support and services to help them deal with the emotional and physical effects of combat.

And with that, I would like to extend my personal deepest sympathy to the family and friends of the servicemen who lost their lives at Camp Liberty in Iraq on May 11, 2009, and would like to urge all Members of Congress to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. KRATOVIL. Madam Speaker, I yield to my friend and colleague, the gentleman from New Jersey (Mr. PASCARELL), as much time as he may consume.

Mr. PASCARELL. Madam Speaker, I want to thank the gentleman from Maryland, the gentlewoman from Oklahoma.

This resolution, H. Res. 471, is a resolution that deserves all of our support. The legislation expresses our sympathies to the five victims and their countless friends and families of the violent acts that took place at Camp Liberty in Iraq in May. Many of us have been there many times.

These are senseless deaths. In a book that just came out 2 months ago, Joshua Cooper Ramo, "The Age of the Unthinkable," wrote, Our old way of war is increasingly useless. It is senseless to aspire to periods of peace on Earth during the lifetime of anyone who reads the book unless we begin to change how, where, and why we do fight.

These deaths took place at a very particular spot at Camp Liberty, and both the gentlewoman and the gentleman who spoke of the names and places where these five soldiers came from are on the RECORD.

One of these soldiers, one of these brave men, came from the city I have lived in all my life. Army Sergeant Christian Bueno-Galdos was 25 years old. I honor, and we all honor, his sacrifice and his service. It exemplifies the deep sense of commitment that so many immigrants have for America. He was the youngest of four. He was born in Peru, and came here when he was 7 years old. He and his family settled in a gray house in a neighborhood I grew up in—Paterson, New Jersey. It was just across the street from the county road department in south Paterson.

He attended high school at Passaic County Tech. After graduating, he considered studying premed but instead decided to serve his country and joined the U.S. Army Reserves. It was in this service to his Nation that Sergeant Bueno-Galdos became a citizen of the United States of America. He went into the service before he was a citizen. His dedication and love for this country was so great, he voluntarily signed up for a second tour of duty. How many times have we heard this?

Then, on May 11, Sergeant Bueno-Galdos tragically lost his life, and Paterson and New Jersey and the United States lost a fine citizen. His parents first considered laying him to rest in their home country of Peru. But upon reflection of their son's love of America and commitment to this great Nation, Sergeant Bueno-Galdos was laid to rest in New Jersey with full military honors.

So we extend our deepest sympathies and heartfelt gratitude to his surviving

wife Greisyn, his mother Eugenia, his father Carlos, and his three siblings.

Sergeant Bueno-Galdos was a courageous soldier, a loving husband, a son, a brother, a fine American citizen. He will be greatly missed but never forgotten in Paterson. We have already erected a monument on Memorial Day for him.

But my friends, today something else happened. We promoted from Lieutenant Colonel, Mike Jaffee, who is now a full Colonel in the Air Force. Dr. Jaffee is a neurologist, psychologist. He's a leader in the Department of Defense to respond to traumatic brain injury and posttraumatic stress disorder. Isn't it ironic that these killings took place in a stress area where American soldiers were trying to help those in need?

Twenty percent of those who have fought, who have been on the front lines, whether in Iraq or Afghanistan, have posttraumatic stress disorder. Most are misdiagnosed, most are undiagnosed, and the stigma is slowly peeling away. They need our help. Their families need our help.

So not only did we go into a war unprepared, but we did little for those who put their lives on the front line while we, supposedly gray men, decided where they would go and when they would return and how many times they would return to the battlefield. We are fools, to say the least.

We need to think about what's going on. These brave men and women have taken the entire burden while we act as if nothing happens. These senseless deaths will not be forgotten.

I ask all of us to vote for this legislation and remember their families

God bless America. Thank you.

Mr. MCMAHON. Madam Speaker, the tragic events that occurred at Camp Liberty in Iraq are a sad and prominent reminder that the mental health needs of our service men and women are simply not being met.

I have co-sponsored H. Res. 471 not only to express my sympathy, but because I know that such a tragedy could have been avoided.

A month ago, 46 of my colleagues in the House and I sent a letter to Chairman MURTHA and Ranking Member YOUNG of the defense appropriations subcommittee, supporting Secretary Gates' recommendations to increase mental health funding in the FY10 DOD budget by \$300 million.

I hold fast to this request and hope that this increase will contribute to an increase in mental health professionals to treat the invisible wounds of our men and women in uniform.

Mental Health screenings should be confidential, mandatory and comfortable for those who have witnessed the unimaginable on the battlefield. H.R. 1308, The Veterans Mental Health Screenings and Assessments Act, which I have introduced with my colleague, Congressman TOM ROONEY aims to do just this by eliminating the stigma of mental treatment through mandating screenings for all returning service men and women.

Again, my heart goes out to the families of the victims of the Camp Liberty shootings. We,

in the Congress, must act to ensure that such a tragedy does not happen again.

Through granting Secretary Gates' request and enacting H.R. 1308, we will ensure that the victims of the awful Camp Liberty tragedy will not be forgotten and hopefully, prevent such catastrophes from occurring in the future.

Ms. FALLIN. Madam Speaker, I yield back the balance of my time.

Mr. KRATOVIL. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. KRATOVIL) that the House suspend the rules and agree to the resolution, H. Res. 471, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KRATOVIL. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 25 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1707

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. RICHARDSON) at 5 o'clock and 7 minutes p.m.

#### COMMEMORATING 20TH ANNIVERSARY OF THE TIANANMEN SQUARE SUPPRESSION

Mr. LEVIN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 489) recognizing the twentieth anniversary of the suppression of protesters and citizens in and around Tiananmen Square in Beijing, People's Republic of China, on June 3 and 4, 1989 and expressing sympathy to the families of those killed, tortured, and imprisoned in connection with the democracy protests in Tiananmen Square and other parts of China on June 3 and 4, 1989 and thereafter.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 489

Whereas freedom of expression and assembly are fundamental human rights that be-

long to all people, and are recognized as such under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas June 4th, 2009, marks the 20th anniversary of the day in 1989 when the People's Liberation Army and other security forces finished carrying out the orders of Chinese leaders to use lethal force to disperse demonstrators in and around Beijing's Tiananmen Square;

Whereas the death on April 15, 1989, of Hu Yaobang, former General Secretary of the Communist Party of China, was followed by peaceful protests calling for the elimination of corruption, acceleration of economic and political reforms, especially freedom of expression and freedom of assembly; and calling for a dialogue between protesters and Chinese authorities on these issues;

Whereas by early May 1989, citizens advocating publicly for democratic reform across China included not only students, but also government employees, journalists, workers, police, members of the armed forces and other citizens;

Whereas on May 20, 1989, martial law was declared in Beijing after authorities had failed to persuade demonstrators to leave Tiananmen Square;

Whereas during the late afternoon and early evening hours of June 3, 1989, ten- to fifteen thousand helmeted, armed troops carrying automatic weapons and traveling in large truck convoys moved into Beijing to "clear the Square" and surrounding streets of demonstrators;

Whereas on the night of June 3 and continuing into the morning of June 4, 1989, soldiers in armored columns of tanks outside of Tiananmen Square fired directly at citizens and indiscriminately into crowds, inflicting high civilian casualties, killing or injuring unarmed civilians who reportedly ranged in age from 9 years old to 61 years old; and whereas tanks crushed some protesters and onlookers to death;

Whereas after 20 years, the exact number of dead and wounded remains unclear; credible sources believe that a number much larger than that officially reported actually died in Beijing during the period of military control; credible sources estimate the wounded numbered at least in the hundreds; detentions at the time were in the thousands, and some political prisoners who were sentenced in connection with the events surrounding June 4, 1989, still languish in Chinese prisons;

Whereas there are Chinese citizens still imprisoned for "counter-revolutionary" offenses allegedly committed during the 1989 demonstrations, even though, according to the 1997 revision of China's Criminal Law, the "offenses" for which they were convicted are no longer crimes;

Whereas the Tiananmen Mothers is a group of relatives and friends of those killed in June 1989 whose demands include the right to mourn victims publicly, to call for a full and public accounting of the wounded and dead, and the release of those who remain imprisoned for participating in the 1989 protests;

Whereas members of the Tiananmen Mothers group have faced arrest, harassment and discrimination; the group's Web site is blocked in China; and international cash donations made to the group to support families of victims reportedly have been frozen by Chinese authorities;

Whereas Chinese authorities censor information that does not conform to the official version of events surrounding the

Tiananmen crackdown, and limits or prohibits information about the Tiananmen crackdown from appearing in textbooks in China;

Whereas Chinese authorities continue to suppress peaceful dissent by harassing, detaining, or imprisoning advocates for democratic processes, journalists, advocates for worker rights, religious believers, and other individuals in China, including in Xinjiang and in Tibet, who seek to express their political dissent, ethnic identity, or religious views peacefully and freely; and

Whereas Chinese authorities continue to harass and detain advocates for democratic processes, such as Mr. Liu Xiaobo, a Tiananmen Square protester, prominent intellectual, dissident writer, and more recently a signer of Charter 08 (a call for peaceful political reform and respect for the rule of law published on-line in December 2008 by over 300 citizens, and subsequently endorsed by thousands more), who remains under house arrest; Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses sympathy to the families of those killed, tortured, and imprisoned as a result of their participation in the democracy protests in Tiananmen Square and elsewhere in China on June 3 and 4, 1989, and thereafter, and to all those persons who have suffered for their peaceful efforts to keep that struggle alive during the last two decades;

(2) calls on the People's Republic of China to invite full and independent investigations into the Tiananmen Square crackdown, assisted by the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross;

(3) calls on the legal authorities of People's Republic of China to review immediately the cases of those still imprisoned for participating in the 1989 protests for compliance with internationally recognized standards of fairness and due process in judicial proceedings, and to release those individuals imprisoned solely for peacefully exercising their internationally-recognized rights;

(4) calls on the People's Republic of China to end its harassment and detention of and its discrimination against those who were involved in the 1989 protests not only in Beijing, but in other parts of China where protests took place, and to end its harassment and detention of those who continue to advocate peacefully for political reform such as Mr. Liu Xiaobo, a signer of Charter 08 who remains under house arrest, and his wife, Liu Xia;

(5) calls on the People's Republic of China to allow protest participants who escaped to or are living in exile in the United States and other countries, or who reside outside of China because they have been "blacklisted" in China as a result of their peaceful protest activity, to return to China without risk of retribution or repercussion; and

(6) calls on the Administration and Members of the Congress to mark the 20th Anniversary of the events at Tiananmen Square appropriately and effectively by taking steps that includes—

(A) meeting whenever and wherever possible with participants in the demonstrations who are living in the United States;

(B) meeting with others outside of China who have been "blacklisted" in China as a result of their peaceful protest activities;

(C) signaling support for those in China who demand an accounting of the events surrounding June 4th, 1989; and

(D) expressing support for those advocating for accountable and democratic governance in China.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. LEVIN) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

#### GENERAL LEAVE

Mr. LEVIN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LEVIN. Madam Speaker, I rise in strong support of this resolution. I now yield myself as much time as I may consume.

This resolution recognizes the 20th anniversary of the suppression of Chinese protesters and citizens in Tiananmen Square. Freedom of expression and freedom of assembly are fundamental human rights that belong to all people and are recognized as such under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In the last 20 years since Tiananmen Square, the significance of the U.S.-China relationship has grown dramatically on a variety of foreign policy issues and on our economic relationships. In pursuing these relations successfully, a key challenge has been to find the right combination of pursuit of basic American values. That was a challenge in consideration of trade relations with China in its accession to the WTO. There was incorporated in the legislation before Congress in 2000 the creation of the Congressional-Executive Commission on China to pursue issues relating to human rights, including labor rights and the rule of law. The commission has actively engaged on these issues and has issued a comprehensive report every year since its inception.

When peaceful protesters gathered in Beijing's Tiananmen Square and in over 100 other Chinese cities, it represented a burst of freedom. They called for the elimination of corruption and the acceleration of economic and political reforms, especially freedom of expression and freedom of assembly. These protesters included not only students but also government employees, journalists, workers, police and members of China's armed forces. People peacefully filled the square until thousands of armed forces moved in, surrounding the demonstrators. On June 4, 1989, soldiers fired directly into the crowds outside of Tiananmen Square, killing and injuring unarmed civilians. The exact number of the dead and

wounded remains unknown. The wounded are estimated to have numbered at least in the hundreds. Detentions at the time were in the thousands. Some political prisoners still languish in Chinese prisons.

We today express our sympathy to the relatives and friends of those killed and injured on that day, and we stand with them as we honor the memory of those whose lives were lost and those who continue to suffer today. Let us be absolutely clear: this resolution asks nothing of China that is inconsistent with commitments to international standards to which China, in principle, has already agreed. We ask of China's leaders full and independent investigations into the Tiananmen Square crackdown with a full commitment to openness, and we call on Chinese authorities to release those individuals imprisoned solely for peacefully exercising their internationally recognized rights. We call on Chinese authorities to end the harassment and detention of those who were involved in the 1989 protests and to end the harassment and detention of those who continue to advocate peacefully for political reform.

I encourage my colleagues to support those in China who demand an accounting of the events of June 4, 1989, and to express support for those advocating for accountable and democratic governance in China.

In closing, let me note that two decades ago, the Chinese people stood up at Tiananmen, but China's leaders ordered them to stand down. Many defied that order, choosing instead to remain faithful to their aspirations. The world took note, and we today preserve that memory for history.

I reserve the balance of my time.

The Chairman of the committee will take over the remainder of the time. I salute him, if I might, for his work and that of the ranking member on the committee and all of those who joined in supporting this resolution.

The SPEAKER pro tempore. Without objection, the gentleman from California will control the remainder of the time.

There was no objection.

□ 1715

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in very strong support of this resolution "recognizing the 20th anniversary of the suppression of protesters and citizens in and around Tiananmen Square in Beijing, People's Republic of China, on June 3 and 4, 1989." The words "Tiananmen" mean "Gate of Heavenly Peace." Sadly, however, the events of that dark night 20 years ago were anything but heavenly or peaceful.

It was during that dark night that the hopes of a generation for a new and democratic China were cruelly



smashed along with the papier-mache and wire statue of the Goddess of Democracy, built with youthful idealism by art students in Tiananmen Square. It was during that dark night that a single, brave figure in the picture seen around the world stood in silent defiance of army tanks as they rolled toward the square.

It was during that dark night that the people of China watched in horror as their own so-called "People's Army" turned assault weapons and bayonets on their own people, who reportedly ranged in age from 9 years old to 61 years old, all of whom were participating in a peaceful demonstration.

It was during that dark night that the blood of student martyrs stained a square where a previous generation of students had petitioned the rulers of China for democracy during the May 4 movement in 1919.

It was during that dark night that the pain began for the Tiananmen Mothers who, through two decades of harassment and intimidation, have displayed the courage to keep their dead children's hopes alive and their dreams alive of liberty.

It would be easy to forget that night of the long knives. It would be easy to look at the glittering business towers rising above an increasingly prosperous China and say that is in the past and that it is over. That would be the easy thing to do, Madam Speaker. But that would not be the right thing to do.

A rising China is increasingly taking its place on the international stage. But it is a rising China that has no moral compass. That compass was lost in that dark night in Tiananmen Square when they murdered their own people, mostly students.

Now, two decades later, a time for truth and a time for truth telling is overdue. That is why this resolution calls on the Chinese authorities to invite full and independent investigations into the Tiananmen Square crackdown, assisted by the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross.

A famous saying goes that "Those who forget their past are destined to repeat it." Neither China nor the world could stand a repeat of that horrific tragedy of the Tiananmen Square Massacre.

It is time to honor the dead, express profound sympathy to the surviving family members, and to seek a full and honest accounting of the shocking events that occurred two decades ago this week before that gate which is meant to symbolize heavenly peace.

I urge my colleagues to strongly support this resolution, and I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I'm very honored to yield 1 minute to the Speaker of the House. For those of us who were in this Chamber at the time

of the Tiananmen Square movement 20 years ago, we all remember that there was no one more passionate or eloquent on the aspirations of those students and more outraged by the dashing of those aspirations, whether the people at the square or of the Chinese people generally or the thousands of Chinese students who were studying in the United States at that time and watching that happen, than Leader PELOSI.

I am pleased to yield 1 minute to the Speaker of the House.

Ms. PELOSI. I thank the gentleman for yielding.

And I thank him and SANDER LEVIN and Congresswoman ILEANA ROS-LEHTINEN for bringing this legislation to the floor. I associate myself with the comments of Mr. POE and my friend, Mr. WOLF. We have been working on this issue for a very long time in our task force on China ever since I think even before Tiananmen.

Human rights in China is a very, very important issue. China is a very important country. The relationship between our two countries is very important economically, security-wise, culturally, and in every way. But the size of the economy, the size of the country, and the size of the relationship doesn't mean that we shouldn't speak out. I have said that if we don't speak out about our concerns regarding human rights in China and Tibet, then we lose all moral authority to discuss it about any other country in the world.

Today we come together to support a resolution on the floor of the House of Representatives recognizing that 20th anniversary of the Tiananmen Square massacre. Again, I thank my colleagues for bringing this legislation to the floor.

Twenty years ago, a generation ago, thousands, millions of Chinese students, workers, and citizens assembled in Tiananmen Square and all of the streets leading to it and from it to bravely speak out. It was about promoting more freedom in China in terms of accountability of the government in ending corruption. It was about, again, more transparency and the ability to speak and to assemble. It was about the aspirations of people in a country that they love and their desire to have dialogue with their leaders on the future of China.

It will be forever seared in our memory what happened next. The People's Liberation Army, the People's Army was used against the people, crushing demonstrators in Tiananmen Square and crushing dissent throughout China. And so again, Tiananmen Square is the place where many people assembled, but the demonstrations were beyond that and well into Beijing and across the country.

We remember, again, one of the most enduring images which actually hap-

pened after the crush, after the order was given to clear Tiananmen Square by such and such a time on June 4. A day or two later, a brave man stood before the tank. One of the most enduring images of the 20th century will forever be seared again in the conscience of the world, the picture of the lone man standing before the tank in the street bringing a line of tanks to a halt. When the tanks moved, he moved. He even climbed on the tank to communicate to the person in charge of the tank that Beijing was their city and they did not want tanks overtaking it. Today that spirit of Tiananmen lives in the hearts and minds of those continuing to work for freedom in China and beyond. The heroes had the courage to speak out for freedom.

There will be other observances of the Berlin Wall coming down throughout Europe in the next weeks and months. And actually, while the Chinese students, workers, and demonstrators used the Goddess of Democracy as the symbol in Tiananmen Square, inspired by our Founders, they, in turn, inspired others throughout Europe and the rest of the world to speak out for freedom, and they did achieve freedom. Unfortunately, the Chinese did not.

Some of the people arrested at the time of Tiananmen Square are still in prison. We really don't have all of their names, but we do have the names of some prisoners of conscience that I brought to the attention of the Chinese Government. In a letter to the President of China, I included some of those, and I want to read them into the RECORD. And I will submit their names and the description of their situation into the RECORD.

Before I read them all, I want to talk particularly about Liu Xiaobo. Liu Xiaobo is one of those individuals who spoke for freedom. He spent 5 years in prison and in reeducation-through-labor camps for supporting the Tiananmen students and for questioning the one-party system. Late last year, he was again arrested for being one of the organizers of the Charter '08, an online public petition for democracy and the rule of law. About 5,000 people signed it. Imagine the courage of these people to sign such a petition. Liu continues to be held without charges. We call for his immediate and unconditional release.

Let me read the name of Dr. Wang Bingzhang. He is very famous. There was an article in the paper yesterday about him. Hu Jia, Shi Tao, Chen Guangcheng, Gao Zhisheng, Yan Zhengxue, Pastor Zhang Rongliang, Bangri Chogtrul Rinpoche, and Ronggyal Adrag are being held. Some of these are from Tibet as well. There are others, but I want to submit these names for the RECORD as they are representative of the situation.

I just had the privilege of visiting China last week. We had magnificent



hospitality from the Chinese Government, and I am grateful for the opportunity they gave us to hear about their plans for climate change and issues of global concern. It also afforded me the opportunity to speak about human rights in China and Tibet and congressional concern about it to the President, the Premier and the Chairman of the National People's Congress. In terms of our dialogue, congressional and interparliamentary dialogue, I think it was clear from our visit that this concern is bipartisan, and any dialogue we had between our two congresses would have to include a discussion of human rights.

When we were there, the first meeting we had was with Bishop Jin of Shanghai to discuss the status of religious freedom in China. He was optimistic about the Catholics that he led in Shanghai having some more freedom and making progress in that regard. And I respect that. But that is not the case for all who wish to exercise their religious freedom in China. And again, China is a country of contradictions. You see progress here and you see oppression there. Perhaps it is how regions deal with these issues. But the fact is that much more needs to be done in terms of religious freedom.

I mentioned that we had submitted this letter to the Chinese Government. When we were in Hong Kong we met with Han Dongfang. Mr. WOLF, you know him. Han Dongfang was in Tiananmen Square as a bus driver at the time, and he gave us his view about what was happening and what opportunities that could be there.

It is something that is not taught to children. What we learned is that some students in Beijing University did not have any idea of who the man before the tank was. They didn't have any idea. They could not relate to that. It was not part of their knowledge. It didn't trigger anything that they had heard about in China. That is pretty remarkable. But the fact is that the world will never forget, and that image is one that inspires those who aspire to freedom wherever it is in the world.

I do believe that all countries of the world have to get to a place of more openness, more transparency and more accountability of government. And perhaps the issue we visited the Chinese about, climate change, is one that can open some doors. Environmental justice can help people have clean air and clean water and get answers from their government as to why they do not have it.

Today, on this floor, and this week we are observing something that is sacred ground when we talk about human rights in the world. It is a remarkable occurrence that will continue to inspire people throughout the world and also inspire those in China who hope for and aspire to freedom.

Mr. Lantos, our late colleague, introduced me to the Dalai Lama and the

issue of human rights in China and Tibet. He was always saying to me, "don't be discouraged; the fight for human rights is a long one." But who would have thought that 20 years after Tiananmen Square we would be observing this, that people would still be imprisoned and that we would be submitting names of people who want to be able to speak more freely, to assemble and have more accountability from their government?

For this and many other reasons, I'm grateful to our colleagues for their leadership in bringing this legislation to the floor. Thank you for that opportunity.

And with that, Madam Speaker, I want to submit, in full, my letter and the list of prisoners. This is important because they say the worst form of punishment for someone who is a political prisoner is to say that no one remembers that you are here. No one remembers why you are here. So think about that as you are in prison.

Well, we want them to know that in the Congress of the United States, we do know about them, we do care about them, and that we will continue to call for their freedom.

MAY 27, 2009.

Hon. HU JINTAO,  
*President,*

*People's Republic of China.*

DEAR PRESIDENT HU: I am writing to ask for your assistance in obtaining the release of certain individuals detained or imprisoned in China. It is my understanding that these individuals are prisoners of conscience and they are detained or imprisoned for exercising rights that are guaranteed to them under Chinese law or under international human rights conventions that have been signed or ratified by the Chinese government.

Attached is a list of selected prisoners and brief descriptions of their cases. I look forward to working with you on a positive outcome on these cases and for the welfare of these individuals. Thank you for your consideration of this request.

Sincerely,

NANCY PELOSI,  
*Speaker of the House.*

KEY PRISONERS IN CHINA WHO SHOULD BE  
RELEASED—SUBMITTED MAY 27, 2009

Liu Xiaobo was detained and transported to an undisclosed location in December 2008 without any legal proceeding. He was one of the original signers of Charter 08 that calls for new policies to improve human rights and democracy in China. Liu is reportedly under residential surveillance at a location outside of his residence, in violation of China's Criminal Procedure law. It is my understanding that he has not been allowed to meet with his lawyer or family except for one brief visit with his wife. Under Chinese law, a person under residential surveillance does not need permission to meet with his lawyer.

Dr. Wang Bingzhang was abducted by Chinese authorities in Vietnam in June 2002 and brought to China. He was then convicted and sentenced to life imprisonment in solitary confinement in a trial that produced no evidence or witnesses to prove the charges against him. Dr. Wang is an internationally recognized pro-democracy activist and the

UN Working Group on Arbitrary Detention found that Wang's detention is arbitrary. Dr. Wang is a permanent resident of the United States and his sister and daughter are U.S. citizens. He is currently held in Beijing Prison in Shaoguan, Guangdong province, and suffers from phlebitis and has had three major strokes. At minimum, he should be released on medical parole.

Hu Jia was detained in December 2007 and sentenced to 3.5 years in prison in March 2008. The decision to take him into custody seems to have been made after leaders in several Chinese provinces issued a manifesto demanding broader land rights for peasants whose property had been confiscated for development. Hu pleaded not guilty on charges of "inciting subversion of state power" at his trial.

Shi Tao is a Chinese journalist serving a ten-year prison sentence for sending an email description of a government order prohibiting Chinese media from recognizing the fifteenth anniversary of the Tiananmen Square protests to a New York-based democracy website. Shi Tao was convicted with email account information provided by Yahoo! China. His lawyer, Guo Guoting, was repeatedly harassed in an effort to prevent him from representing Shi Tao.

Chen Guangcheng, a self-trained legal advocate who tried in June 2005 to investigate reports that officials in Linyi city, Shandong province, had subjected thousands of people to forced abortions, beatings, and compulsory sterilization in order to meet population control targets. Although central government officials agreed that the officials used illegal means, authorities rejected the class-action lawsuit Chen tried to file. Chen was tried on August 24, 2006, and sentenced to four years and three months for "intentional destruction of property" and "gathering people to disturb traffic order." Chen, who is blind, has reportedly been severely beaten in jail and has gone on a hunger strike to protest the beatings. He is serving his sentence in Linyi Prison.

Gao Zhisheng, founder of a Beijing law firm, has represented numerous activists, religious leaders, and writers. On October 18, 2005, Gao wrote an open letter to Hu Jintao and Wen Jiabao, exposing widespread torture against Falun Gong practitioners. On November 4, officials shut down his law firm and began a campaign of harassment against Gao, his family, and associates. Authorities abducted Gao on August 15, 2006 and convicted him on December 22 of "inciting subversion of state power" and subject to a three-year sentence, suspended for five years. After Gao sent an open letter to the U.S. Congress in September 2007, he was taken away by the police for over 50 days, and tortured. Gao disappeared again on January 19, 2009. His current whereabouts are unknown.

Yan Zhengxue, a 63-year old writer and painter, was detained on October 18, 2006, during a police raid on his home in the Jiaojiang district of Taizhou city, Zhejiang province. The Taizhou People's Intermediate Court convicted him on April 13, 2007, of inciting subversion and sentenced him to three years in prison after he attended a conference in the U.S. several years earlier and published on the Internet three articles critical of the Chinese government. Yang's cell mate reportedly attacked him, causing head injuries. Yang's family is concerned about his diminishing physical and mental health due to harsh treatment in prison.

Pastor Zhang Rongliang is a Christian leader who was detained in Zhengzhou city,

Henan province, in December 2004 and sentenced in June 2006 to seven years and six months in prison. Authorities charged him with "fraudulently obtaining border-exit documents" and illegally crossing the border in an effort to attend missions conferences. He had been beaten, detained, and harassed a number of times since his conversion to Christianity in 1969. He is reportedly in poor health and suffering from diabetes.

Bangri Chogtrul Rinpoche, a lama who lived as a householder, was convicted of inciting splittism and sentenced to life imprisonment in September 2000. He and his wife managed a children's home in Lhasa. The Lhasa Intermediate People's Court commuted his sentence from life imprisonment to a fixed term of 19 years in July 2003, and then reduced his sentence by an additional year in November 2005. He is serving his sentence, which will be complete on July 30, 2021, in Qushui Prison near Lhasa. He suffers from heart disease and gall stones.

Ronggyal Adrag, a nomad, climbed onto a stage at a horse-racing festival in Litang county, Sichuan province, on August 1, 2007, and shouted slogans calling for the Dalai Lama's return to Tibet, the release of Gedun Choekyi Nyima (the Panchen Lama identified by the Dalai Lama), freedom of religion, and Tibetan independence. The Ganzi Intermediate People's Court sentenced him on November 20, 2007, to eight year's imprisonment for inciting splittism.

□ 1730

Mr. POE of Texas. Madam Speaker, I yield 5 minutes to the gentleman from Virginia, (Mr. WOLF), the ranking member of the Appropriations Subcommittee on Commerce, Justice and Science, and also, he's the co-chair of the Tom Lantos Congressional Human Rights Commission.

Mr. WOLF. I thank the gentleman. I also want to thank the chairman and the ranking member and the Speaker for their efforts to bring this important resolution to the floor.

Twenty years after peaceful pro-democracy demonstrators gathered in Tiananmen Square and were brutally crushed, the human rights situation in China remains bleak. Not only does the government consistently silence dissent, repress religious believers and stifle opposition, but it is in the business of actively rewriting history, almost like the communist government did in Russia.

Today's Washington Post features an op-ed, which I'd like to submit for the RECORD, which opens with an exchange that the author, Dan Southerland, had with a Chinese student a couple of years ago. Southerland, chief of the Washington Post's Beijing Bureau in the late Eighties, references his time as a reporter in Beijing on the now infamous June 4, 1989.

He writes, "but it soon became clear that June 4 meant nothing to her," a student. "Chinese censors have managed to erase all mention of that tragedy from the country's textbooks and state-run media."

The human rights situation in China is made worse by America's diminished commitment to raise these issues and

be a voice for the voiceless. I'm saddened to say today that this has been true of successive administrations of both political parties.

In her first trip to the region, Secretary of State Clinton failed to make even a cursory public mention of human rights, saying that, "those issues can't interfere with economic, security or environmental matters."

Now, why would the Secretary of State say that? A Washington Post editorial following her trip and similarly dismissive comments on human rights in Egypt said that Secretary Clinton is, quote the Washington Post, and I thank them for this editorial, "sending a message to rulers around the world that their abuses won't be taken seriously by this U.S. administration."

Nor were they taken seriously in the waning days of the last administration. Congressman SMITH and I traveled to Beijing last July, just 1 month prior to the commencement of the 2008 Olympics. We brought with us a list of over 700 political prisoners to present to Ambassador Li, the current chairman of the Foreign Affairs Committee in the National People's Congress, and pressed for the release of all political prisoners in China.

One night during our trip we were scheduled to meet with several human rights lawyers for dinner. All but one person scheduled to meet us was detained or otherwise prevented from attending by the Chinese security forces. The one activist with whom we were able to meet was arrested later that evening, and he and his family continue to face harassment by security forces. Very little was done by the Embassy or the State Department in the last administration when that took place. Silence was their response, basically, to this problem.

Now we see just this week, news reports indicate that Treasury Secretary Geithner desperately sought to assure China, our biggest creditor, that their billions of dollars in U.S. government debt were not a liability.

Why didn't Geithner at least raise the issue of human rights? Couldn't he have just said something about it? Couldn't he have made a statement about it? Couldn't he have done something about it? And the answer? He did nothing about it. Perhaps if he's caught up or wherever he is in Beijing today he will correct the record and at least say something.

Our own economic reality has effectively silenced our voice, a tragic loss for all those political dissidents who languish in the Chinese laogai, those house church Christians who worship secretly in their homes, the Tibetans—and I've been to Tibet. They have plundered Tibet. The Uyghurs who are being persecuted, the Muslims who are being persecuted by the Chinese Government.

And the Catholic Church. There are 34 bishops in jail today in the Catholic

Church, and yet no one speaks out on behalf of the Catholic Church.

And lastly, the Falun Gong who have suffered so much.

Since my first trip to China in 1991 with my good friend, Congressman SMITH, the human rights situation has gotten worse, despite promises to the contrary during the debate to grant China most favored nation status. One of the worst votes that this institution has ever cast was to give this evil empire, if you will, in China the most favored nation trading status.

It was during this trip that we visited Beijing Prison Number One. Chinese authorities informed us that approximately 40 Tiananmen Square protesters were in prison. Our requests to visit the demonstrators were denied. But instead, we found some demonstrators making socks for export to the United States whereby they were working on free and cheap labor to sell things to the United States.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POE of Texas. I yield the gentleman an additional 1 minute.

Mr. WOLF. Unbelievably, 20 years after Tiananmen, our own State Department Human Rights Report indicates that the Chinese Government still has not provided a comprehensible, credible accounting of all those killed, missing or detained in connection with the violent suppression of the 1989 demonstration.

But Tiananmen is not simply a commemoration of a past event. Dozens of people are still believed to be imprisoned in connection with the demonstrating at Tiananmen, and millions more Chinese citizens still hope for the end to their oppression.

In a Constitution Day speech, President Ronald Reagan described the United States Constitution as "a covenant we have made, not only with ourselves, but with all of mankind."

In closing, Madam Speaker, we have an obligation to keep the covenant. And I continue to pray, as many people prayed during the days of the evil empire in the Soviet Union, pray for the fall, the collapse of the Chinese, of the Russian Government, and the collapse of the Wall, many and millions are praying here in the United States and around the West for the fall, the fall of the Chinese Government, whereby there will be freedom, the government will be changed and the people of China, the good people of China, and they are good people.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. POE of Texas. I yield the gentleman an additional minute.

Mr. WOLF. The good people of China will be able to live in freedom, and there can be a rally in Tiananmen Square, a prayer meeting in Tiananmen Square, where millions can

come from every denomination and worship in peace and have freedom and justice and democracy.

So we must remember, remember those who suffer. They are the heroes for China. And we will see this government change and we will see, in my lifetime, freedom in China.

[From the Washington Post, June 2, 2009]

#### TIANANMEN: DAYS TO REMEMBER

(By Dan Southerland)

Two years ago I met a Chinese student who was entering graduate school in the United States. I told her I had been in Beijing during "6-4," the Chinese shorthand for the massacre of June 4, 1989.

"What are you talking about?" she asked.

At first I thought she might not have understood my Chinese, but it soon became clear that "June 4" meant nothing to her. I probably shouldn't have been surprised.

In the 20 years since that day in 1989 when Chinese troops opened fire on unarmed civilians near Tiananmen Square, Chinese censors have managed to erase all mention of that tragedy from the country's textbooks and state-run media.

But for me, Tiananmen is impossible to forget. As Beijing bureau chief for The Post, I covered the student demonstrations that began in mid-April, tried to track a murky power struggle among top Chinese leaders and managed a small team of young, Chinese-speaking American reporters.

What I remember best was the sudden openness of many Beijing citizens of all professions. They were inspired by throngs of students calling for political reform, media freedom and an end to "official profiteering."

People I believed to be Communist Party supporters were suddenly telling me what they really thought. Some who had been silent in the past even debated politics on street corners.

In early May, Chinese journalists petitioned for the right to report openly on the Tiananmen protests, which on May 17 swelled to more than a million people marching in the capital. Journalists from all the leading Chinese newspapers, including the People's Daily, the mouthpiece of the Communist Party, joined in. Their slogan was "Don't force us to lie."

For a brief period, Chinese journalists were allowed to report objectively on the student protests. But this press freedom was short-lived and ended May 20 with the imposition of martial law and the entry of the People's Liberation Army into Beijing.

At first, Beijing residents manning makeshift barriers blocked the troops. But late on the evening of June 3, tanks, armored personnel carriers and soldiers firing automatic weapons broke through to the square.

The death toll quickly became a taboo subject for Chinese media.

Chinese doctors and nurses who had openly sided with students on the square, and who had allowed reporters into operating rooms to view the wounded, came under pressure to conceal casualty figures.

One brave doctor at a hospital not far from Tiananmen Square led me and a colleague to a makeshift morgue, where we saw some 20 bullet-riddled bodies laid out on a cement floor. I later learned that the doctor was "disciplined" for allowing us to view that scene.

A Chinese journalist I considered a friend tried to convince me that government estimates of fewer than 300 killed were correct

and that these included a large number of military and police casualties. I later learned from colleagues of his that this journalist was working for state security.

After comparing notes with others, my guess was that the actual death toll was at least 700, and that most of those killed were ordinary Beijing residents.

It's almost incredible that the Chinese government has succeeded for so long in covering up a tragedy of this magnitude.

But for those who closely monitor the continued repression of civil liberties in China—and the government's stranglehold on news deemed "sensitive"—it's not surprising.

Chinese authorities continue to intimidate reporters, block Web sites and jam broadcasts of outside news organizations. China is the world's leading jailer of journalists and cyber-dissidents.

Chinese youths are among the most Web-savvy in the world. But Chinese search engines, chat and blog applications, as well as Internet service providers, are equipped with filters that block out certain keywords incorporated in a blacklist that is continually updated.

China's censorship is multipronged, sometimes heavy-handed and sometimes sophisticated, allowing debate on some issues and shutting it down on others, such as Tiananmen.

Censors hold online service providers and Internet cafe owners responsible for the content that users read and post. A small blogging service will usually err on the side of caution rather than lose its license because of a debate about June 4.

Lines that cannot be crossed shift from time to time, leaving citizens uncertain and therefore prone to self-censorship.

The good news is that the blackout isn't complete. We know from Radio Free Asia's call-in shows that some younger Chinese know just enough about Tiananmen to want to learn more.

I work with several Chinese broadcasters who were students in Beijing on June 4. Many of them saw more than I did. And they are here to remind me—and many Chinese—of a history we should never forget.

Mr. BERMAN. Madam Speaker, I am very pleased to yield 5 minutes to the chair, or co-chair, of the Tom Lantos Human Rights Caucus, an outspoken advocate for human rights internationally and domestically, the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Madam Speaker, I want to thank the gentleman from California (Mr. BERMAN), the chair of the Foreign Affairs Committee, for his leadership on this issue and for his advocacy of human rights.

And I also want to thank my good friend, Congressman SANDER LEVIN, for introducing this resolution.

I want to thank Congressmen FRANK WOLF and CHRIS SMITH for their dedication to promoting human rights in China.

And I especially want to thank the Speaker of the House, NANCY PELOSI, for insisting that we keep alive the memory of Tiananmen Square.

Madam Speaker, 1989 was a tumultuous year. It was the year Solidarity won the elections in Poland, the year the people of Germany tore down the Berlin Wall, and the year six Jesuit priests were murdered by the Salvadoran military.

And in May and June of 1989, it was the year when the people of China spontaneously came together calling for political and economic reforms. Students, journalists, workers, government employees, police, and even members of the Armed Forces, nonviolently raised their voices and asked their government, the Chinese Government, to listen to the people and engage in direct dialogue on how to reform the nation.

Because the largest gathering was in the largest main square of China, Tiananmen Square in Beijing, this moment in history is known as Tiananmen Square.

After an internal struggle, the Chinese authorities decided they did not want to talk directly with their people. Instead, they chose to respond with brute force that forever links the words "Tiananmen Square" with the brutal quelling of democracy, dissent and human aspiration.

Earlier today the Tom Lantos Human Rights Commission held a hearing entitled, "20 years After the Crackdown: Tiananmen Square and Human Rights in China." And I would like to briefly describe just two of the individuals who testified before the Commission.

Mr. Fang Zheng was leaving Tiananmen Square in the early morning of June 4, 1989, along with other student protesters in an orderly retreat. He suddenly realized that a military tank was approaching them from behind. Sensing the imminent danger, he used all his strength to push a female student out of the tank's path. In doing so, both his legs were crushed by the tank's rolling treads.

Fang Zheng has continued to live in China. He has refused to cooperate with the government in its effort to cover up the truth of his lost legs and the massacre that took place. For the past 20 years he's been harassed and closely monitored by the police.

Always an excellent athlete, he excelled at sports, even after his legs were amputated. He won two gold medals and broke two Chinese national records at the 1992 All-China Disabled Athletic Games. And in 1994 he was forbidden to participate in the Far East and South Pacific Region Games, and last year he was banned from competing in the 2008 Special Olympics held in Beijing.

With the help of the mothers of Tiananmen Square and other brave Chinese who keep alive the memory of Tiananmen Square inside China, Fang Zheng is here in Washington to remember the 20th anniversary.

And even before Tiananmen, another brave man, Mr. Wang Youcai, was active in the Chinese democracy movement. In 1989 he was the Secretary-General of the Beijing Higher Education Students Autonomous Union in the Tiananmen Square protest. A graduate student at Peking University, he

was arrested in 1989 and sentenced in 1991 to 4 years in prison for counter-revolutionary propaganda and incitement. He was paroled in 1991, following a visit by then-Secretary of State, James Baker.

In 1998, Wang and a group of fellow Chinese citizens tried to officially register the China Democracy Party, but it was banned by the Chinese Government. And in December of 1998, Wang was sentenced to 11 years in prison for subversion. He was released in 2004, due to U.S. and international pressure, and sent into exile.

He has since lived in the United States, studying at Harvard and the University of Illinois, and he continues to be a member of the Chinese Democracy Party and firmly believes that the transition to constitutional democracy will occur in China.

These are just two of the millions of stories surrounding the events known as Tiananmen Square. And I would like to take a moment to remember the hundreds, perhaps thousands who were murdered in Tiananmen Square or later imprisoned or sent into exile. And I want to remember the families and friends and the colleagues of those who died and those who survived.

Madam Speaker, I will enter into the RECORD articles by Dr. Jianli Yang and Mr. Ha Jin, both of whom live in Massachusetts, and have recently published reflections on Tiananmen Square. Dr. Jianli was a student in Tiananmen, and Mr. Ha, a member of the People's Liberation Army and a student in the United States.

This week there will be a number of events on Capitol Hill and around Washington to remember Tiananmen Square. I encourage my House colleagues, congressional staff and House employees to take advantage of this opportunity and hear from firsthand eyewitnesses like U.S. journalists.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BERMAN. I am pleased to yield the gentleman an additional 30 seconds.

Mr. MCGOVERN. They will be able to hear from firsthand eyewitnesses like U.S. journalists speaking at the Newseum on reporting live from Tiananmen Square, watching the documentary "Tank Man" in the Congressional Visitor Center, celebrating around a replica of the Goddess of Democracy Statue on the west lawn of the Capitol, or attending other hearings and events.

The Chinese Government wants not only the Chinese people but the world to forget Tiananmen Square. It is up to each of us to keep the memory alive.

[From the New York Times, May 31, 2009]

EXILED TO ENGLISH

(By Ha Jin)

BOSTON.—I was in the People's Liberation Army in the 1970s, and we soldiers had always been instructed that our principal task

was to serve and protect the people. So when the Chinese military turned on the students in Tiananmen Square, it shocked me so much that for weeks I was in a daze.

At the time, I was in the United States, finishing a dissertation in American literature. My plan was to go back to China once it was done. I had a teaching job waiting for me at Shandong University.

After the crackdown, some friends assured me that the Communist Party would admit its mistake within a year. I couldn't see why they were so optimistic. I also thought it would be foolish to wait passively for historical change. I had to find my own existence, separate from the state power in China.

That was when I started to think about staying in America and writing exclusively in English, even if China was my only subject, even if Chinese was my native tongue. It took me almost a year to decide to follow the road of Conrad and Nabokov and write in a language that was not my own. I knew I might fail. I was also aware that I was forgoing an opportunity: the Chinese language had been so polluted by revolutionary movements and political jargon that there was great room for improvement.

Yet if I wrote in Chinese, my audience would be in China and I would therefore have to publish there and be at the mercy of its censorship. To preserve the integrity of my work, I had no choice but to write in English.

To some Chinese, my choice of English is a kind of betrayal. But loyalty is a two-way street. I feel I have been betrayed by China, which has suppressed its people and made artistic freedom unavailable. I have tried to write honestly about China and preserve its real history. As a result, most of my work cannot be published in China.

I cannot leave behind June 4, 1989, the day that set me on this solitary path. The memory of the bloodshed still rankles, and working in this language has been a struggle. But I remind myself that both Conrad and Nabokov suffered intensely for choosing English—and that literature can transcend language. If my work is good and significant, it should be valuable to the Chinese.

[From Foreign Policy, May 2009]  
AN ALTERNATIVE HISTORY OF CHINA  
(By Jianli Yang)

The memoirs of Zhao Ziyang provide insight into what China would be like today if the 1989 democracy movement had prevailed.

"We must establish that [the] final goal of political reform is the realization of this advanced political system. If we don't move towards this goal, it will be impossible to resolve the abnormal conditions in China's market economy."

One of the most sincere advocates for an "advanced political system" in China—a system that included an independent judiciary, freedom of the press, and the right of citizens to organize (in a word, democracy)—was not a disenchanting dissident or an armchair academic. Writing at the most unlikely of times, the man was Zhao Ziyang, secretary general of the Chinese Communist Party (CCP). Zhao was toppled in 1989 after trying to peacefully negotiate with student demonstrators—like myself—in Tiananmen Square. His fall paved the way for hard-liners, under the leadership of CCP official Deng Xiaoping, to crush the demonstrations with soldiers and tanks on the morning of June 4, 1989. In one bold, violent stroke, the one-party regime, teetering on the verge of collapse, found reprieve. Zhao's vision of a more moderate democratic future, one me-

taculously documented in his recently released memoirs, vanished from the scene, its author put under house arrest.

There could hardly be a better time for Prisoner of the State: The Secret Journal of Premier Zhao Ziyang to be published, as the memoirs will be in both English and Chinese this week. Early June marks the 20th anniversary of Tiananmen Square—a memory that will certainly remind China of the democratic ideals left behind in tragedy. Reading Zhao's account, I—and no doubt other readers—cannot help but imagine what China would be like today if Zhao had prevailed in June 1989. What if the dissenters who stood firmly before the government in Tiananmen Square had gained Zhao as a powerful ally to their cause? Would China have devolved into political chaos? Or would it be a robust democracy, steeped in cultural freedoms, social justice, and economic vibrancy? In seeking to answer that question about the past, we can learn much about the present: a China that in terms of its political system and tendency toward authoritarianism has evolved little since 1989, and yet has become both the United States' second-largest trading partner and its most significant competitor.

Looking back at the crucial moment in 1989, it is first important to keep in mind how easily things might have turned in a different direction. China's movement toward democracy in 1989 was not as far-fetched as it might seem today. In fact, support for the democratic movement was so great that it caused an unprecedented split within the CCP leadership. A quarter or even a third of the officials in Beijing joined the protesters. Most of the rest were sympathetic toward the students. The degree of dissatisfaction within the party was very high, and many agreed with the protesters that the CCP had lost any pretense of being a "people's" party and had become a self-serving elite.

That disillusionment came from a series of market-oriented reforms begun a decade earlier, in 1978. Although the changes produced rapid economic growth, they also led to contradictions: opening the economy negated the moral authority of the Communist revolution and unleashed unbridled corruption in its place. The 1989 democracy movement had two slogans. One was "Freedom and democracy," and the other was "No official business dealings, no corruption." After Tiananmen Square protesters were quashed and their government sympathizers, like Zhao, sidelined, corruption blossomed just as much as China's GDP (the fastest-growing among developed states over the last 25 years) has.

It didn't have to be this way. If the democracy movement had succeeded, the CCP would likely still be the ruling party. But its policies and goals would have evolved more democratically under Zhao's leadership. In the last chapter of his memoirs, the former general-secretary of CCP praises the Western system of parliamentary democracy and says it is the only way for China to address corruption and inequality. He would no doubt have led the country down this path.

Zhao's reforms, one might imagine, would have proceeded at a purposeful but amenable pace, beginning with an opening of partial freedoms of assembly and demonstration. Student organizations would have become lawful, eventually precipitating a lift on the ban on political parties. The press would likewise feel a weight lifted, and the country's National People's Congress would have become more than a rubber-stamp assembly. Public participation would have followed,

with public debate emerging on difficult questions from ethnic relations, to foreign affairs, to government corruption, to HIV/AIDS and the environment. In other words, China would have embarked on a peaceful transition to democracy. A democratic China—one that followed Zhao's model—would have prospered economically, too.

Instead, today China feels the consequences of rejecting this path of reform. The same corruption that motivated the opposition 20 years ago is today an open sore on the face of Chinese society. Eighty percent of China's wealth is thought to be controlled by the top 10 percent of party officials. And it's visible. Corruption distorts every aspect of Chinese society, from the shoddy workmanship of the elementary schools that collapsed during last year's earthquake (while the homes of party officials stood firm) to the summary displacement of more than 300,000 Beijing citizens in the name of "beautification" to prepare for the 2008 Olympics. No wonder, then, that corruption is still the largest source of alienation between the CCP and the population. Endemic corruption is the grievance cited in an estimated 100,000 major protests each year in China.

To the outside world, Chinese society has prospered. But internally, it has atrophied morally and socially. China maintains its competitive edge through a base exploitation of its workers, who labor without rights or avenues of recourse. Even the most advanced free market economies find it hard to compete. The Chinese government becomes rich, but ordinary people do not. The average Chinese citizen contributes less to the country's GDP today than he or she did in 1988.

One of the most famous slogans for China's reforms has been to "cross the river by feeling stones." Surely, Deng Xiaoping meant to infer a gradual notion of change. Instead, the metaphor today mockingly describes a society at odds with itself, lacking direction to support its ever-looming one party structure. The contradiction will not easily go away—and will likely flare again, just as it did two decades ago. Zhao Ziyang foresaw this perpetual confrontation years ago, arguing that unless the Chinese government moved toward real democratic reform "it will be impossible to resolve the abnormal conditions in China's market economy."

They were prophetic words, indeed. Today, even as China's leadership has moved further from Zhao's vision, the Tiananmen ideals never left the political dialogue. More than at any time in the last two decades, people might just be willing to protest to bring those ideals back again. Until then, we are left to confront the equally predictive words of the Soviet-era dissident, Andrei Sakharov: "The world community cannot rely on a government that does not rely on its own people."

Mr. POE of Texas. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER), ranking member of the Foreign Affairs Subcommittee on International Organizations, Human Rights and Oversight.

Mr. ROHRABACHER. Madam Speaker, June 4 marks the 20th anniversary of the massacre of the Chinese democracy movement at Tiananmen Square in Beijing. This date marks a turning point, and it also marks a day of shame for the bloody murder, a murder that was committed by the Communist party bosses when they sent Chinese

troops to slaughter the idealistic Chinese people who were demanding democracy in Tiananmen Square at this time just 20 years ago.

This day the government of China affirmed to the world that it is a criminal enterprise that is perfectly willing to murder unarmed people in order to stay in power.

□ 1745

Shame on those Communist Party bosses who still 20 years after Tiananmen Square would still massacre advocates of democracy if they would gather in their streets, just as they would massacre Falun Gong members one at a time as they would arrest them, put them into prison, murder them, and would sell their body parts, just as they would murder Tibetan nationalists or Christians or other religious believers. Shame on Beijing. Shame on the people of the world who would treat the Government of Beijing as if it were the same as a democratic government.

June 4 is not just a day of shame for the Beijing regime, however. It is a day of shame for our government as well. Under President Reagan, we made it clear that the United States would continue providing credit, investment, beneficial trade arrangements, and technology transfer as long as China was willing to continue on the path of reform and on the path of making their society more open. Reagan, had he been confronted with Tiananmen Square, would have sent a message: if you send the troops in to massacre these people, the deal is off. You will pay a price.

Do you know what our government did? It wasn't President Reagan. It was President Herbert Walker Bush. Do you know what his message said? It said nothing because he didn't send a message, and that was the message the murderers in Beijing needed to hear.

America really doesn't give a damn about democracy. America doesn't care about human rights. We care about making a buck, and if you have to slaughter the people at Tiananmen Square, the Americans will never ever protest; they won't whisper a protest; they won't cancel contracts, because money is more important to the Americans than freedom.

Well, I'm afraid that did not represent the America that I'm all about. That immorality of siding with a dictatorship, of siding with the gangsters, of siding with the murderers in order to make a short-term profit—that policy—is coming back to haunt us now. That policy has created a monster in Beijing—a powerful, powerful force for evil in this world that we now must confront.

Today marks an anniversary—an anniversary of shame on those who committed the murders, an anniversary of shame on what our reaction was to

those murders and to the repression that took place 20 years ago.

Let us send a message to the people of China: We are on their side. Hopefully, if nothing else, this resolution will let them know that, as our people stumble over themselves in trying to make short-term profits by making deals with the gangsters who have oppressed the people of China, there are Americans here who still hold true to the values of Jefferson, of Washington—of our Founding Fathers—and that there are Americans who still hold true to those values that liberty and justice for all is more important than short-term profit gains for American capitalists.

Mr. BERMAN. Madam Speaker, let me first ask you how much time I may consume.

The SPEAKER pro tempore. The gentleman from California has 8 minutes remaining.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

First of all, I would like to thank my good friend, Representative SANDY LEVIN of Michigan, for his leadership as the chief sponsor of this resolution and as the co-Chair of the Congressional-Executive Commission on China.

First and foremost, I would like to express my sympathy to the families of those killed, tortured and imprisoned as a result of their participation in the democracy protests in Tiananmen Square and in other parts of China 20 years ago this week.

The world must not forget the horrendous events which occurred that fateful day when the Chinese Army was ordered to clear the square, using lethal force against its own citizens. Hundreds of unarmed civilians were killed or injured. The Chinese Government detained thousands of Chinese citizens in connection with the protests. Many of them still languish today in Chinese prisons.

Even after 20 years, the precise number of dead, wounded, and detained remains unclear. Chinese authorities still censor information that does not conform to its official version of events surrounding the Tiananmen massacre. The government also limits or bans information about the crackdown from appearing in Chinese textbooks.

How can China claim its place as a major global power if the government refuses to address the Tiananmen protests in an honest and candid way? How can China develop into a modern society if its own citizens are prevented from knowing their own history?

This resolution calls on the Chinese Government to initiate a full investigation into the crackdown, to review the cases of those still imprisoned for participating in the protests and to end its harassment and discrimination against those who were involved. Finally, this resolution recognizes those

Chinese citizens who have suffered for their efforts to keep the struggle for democracy alive during the last two decades.

I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. POE of Texas. I yield myself such time as I may consume.

Madam Speaker, in 1992, I had the opportunity to go to Tiananmen Square. I was there by myself, but the square was packed. Once again, it was packed with a lot of people, with a lot of students. I was well-received by those students. They wanted to talk to me. They were very friendly, and they were friendly to me for the sole reason that I was an American. Otherwise, they did not know me at all.

While talking to some of the students who weren't afraid to talk to me because of the authorities that were nearby, one of them whispered to me in perfect English that we want what you have in America. Of course, he was speaking of that word "liberty." Down in the soul of every person on Earth, I believe, is that spirit that the good Lord gives us for freedom. I think we are made that way. We are made that way in this country, but we are made that way throughout the world, and those students in China are made that way as well for they seek and hope to obtain the word "liberty."

The rulers in China need to release the Tiananmen Square students. China should show the world that they are no longer going to continue to murder their own people who peaceably disagree with the government.

In Beijing, not only is there Tiananmen Square, but also nearby is the Forbidden City. The Forbidden City got its name because it was a walled fortress where the emperors for thousands of years would live and rule the massive country of China, but they forbade the people to come into the Forbidden City. The Forbidden City still exists in a mentality way in China for the City of Beijing still forbids its own people the freedom to speak as they wish, the freedom to assemble, and it forbids the freedom of the people to disagree with their government in a peaceful way.

In the name of liberty and in the name of freedom in which we believe, we have an obligation here in the United States to speak out against the acts of terror that the Chinese Government imposes on their own people. We need to remember the dark nights of June 1989. We need to light a candle to bring openness and transparency to the acts that the Chinese Government committed on its own students.

And that's just the way it is.

Mr. SMITH of New Jersey. Madam Speaker, I would like to thank, Mr. LEVIN for introducing this important resolution commemorating the 20th anniversary of the brutal suppression of innocent men, women and children in China.

Twenty years ago, in May 1989, hundreds of thousands of demonstrators gathered on Tiananmen Square and elsewhere in China to express their desire for peaceful democratic reform. In the face of these massive demonstrations the Chinese Communist Party hesitated. There were apparently some decent men and women in the party's leadership, who had begun to understand what a tragedy Communist rule has been for the Chinese people, countless millions of whose lives had been destroyed by its famines and cultural revolutions and totalitarian social controls.

But we know what happened. Jiang Zemin [JANG ZUH-MEEN] pushed the reformers aside, cleared Tiananmen Square with tanks, and shot to death thousands of peaceful demonstrators.

In December of 1996 here in Washington, at the invitation of President Bill Clinton, General Chi Haotian, the Defense Minister of the People's Republic of China, the general who was the operational commander of the soldiers who slaughtered pro-democracy demonstrators in and around Tiananmen Square in June of 1989, said, "Not a single person lost his life in Tiananmen Square."

According to General Chi, the Chinese Army did nothing more violent than, and I quote him, "pushing of people."

General Chi not only met with Mr. Clinton in the White House but was accorded full military honors, including a 19-gun salute and visits to military bases. Rather than getting the red carpet, General Chi should have been held to account for his crimes against humanity.

To counter the big lie, I quickly put together and chaired a hearing of eyewitnesses to the Tiananmen Square massacre, including several Chinese, a former editor of the People's Daily, and Time Magazine's Beijing bureau chief.

I also invited General Chi or anyone else to testify before our committee from the government of China. They were no-shows, although I left a chair for them.

One of our witnesses, a man by the name of Xuecan Wu, the former editor of the People's Daily, was singled out by Li Peng for punishment and got 4 years in prison for trying to tell the truth to his readers in Beijing.

Mr. Wu called General Chi's lie about no one being killed "shameless" and told my subcommittee that he personally saw at least, and I quote him here, "at least 30 carts carrying dead and wounded people."

Eyewitness Jian-Ki Yang, Vice President of the Alliance for a Democratic China, testified, and I quote, "I saw trucks of soldiers who got out and started firing automatic weapons at the people. Each time they fired the weapons, three or four people were hit, and each time the crowd went down to the ground. We were there for about an hour and a half. I saw 13 people killed. We saw four tanks coming from the square, and they were going very fast at a very high speed. The two tanks in front were chasing students."

He went on to say, "They ran over the students. Everyone was screaming. We counted 11 bodies."

Time Magazine's David Aikman, another eyewitness said, and I quote, "Children were killed holding hands with their mothers. A 9-year-old boy was shot seven or eight times in

the back, and his parents placed the corpse on a truck and drove through the streets of northwest Beijing on Sunday morning. 'This is what the government has done,' the distraught mother kept telling crowds of passersby through a makeshift speaker system."

Madam Speaker, 20 years after Tiananmen Square, the Chinese government perpetuates General Chi's Orwellian fabrication that no one died. In truth, thousands died and approximately 7,000 were wounded.

Twenty years after Tiananmen Square, an untold number of democracy activists remain incarcerated for peacefully advocating human rights. To be jailed by the Chinese, as we all know, means torture, humiliation, and severe deprivations. The ugly spirit of the Tiananmen Square Massacre continues. The brave and noble human rights attorney Gao Zhisheng has been subjected to excruciating torture that continues today. We must raise our voice on his behalf—and for others like him.

Earlier this year, Secretary of State Hillary Clinton said she wouldn't let China's shameless human rights record "interfere" with other issues including and especially China's purchase of U.S. treasury securities to finance America's debt. Wittingly or not, that kind of attitude enables abuse and torture.

In the early 1990s, Congressman FRANK WOLF and I visited Beijing Prison Number 1, a bleak gulag where 40 Tiananmen Square prisoners were being unjustly detained. We saw firsthand the price paid by brave and tenacious individuals for peacefully petitioning their government for freedom. And it was not pretty. They looked like the walking skeletons of Auschwitz.

Despite the hopes and expectations of some that robust trade with China would usher in at least a modicum of respect for human rights and fundamental liberties, the simple fact of the matter is that the dictatorship in China oppresses, tortures and mistreats millions of its own citizens.

Moreover, China is the land of the one-child-per-couple policy, a barbaric policy that makes brothers and sisters illegal. Forced abortion, force sterilization and ruinous fines are routinely deployed to ensure compliance with this Draconian and utterly cruel family planning policy.

The criminal slaughter of Tiananmen has had terrible and lasting consequences for the Chinese people, and for the world. China had reached a turning point, and failed to turn. Twenty years later, it still has not turned.

The Chinese people still live under a one-party government that ruthlessly represses dissenters and democratic activists, that controls all news media and blocks and censors the Internet. The Communist party still enforces a one-child policy that makes brothers and sisters illegal, and regularly conducts campaigns of forced abortion. It still persecutes religious believers, and it has stepped up its campaign of cultural genocide in Xinjiang [SHIN JANG] and Tibet.

The men and women who rule China today are the protégés of the criminals of Tiananmen, and, in order to claim legitimacy, do everything they can to suppress the facts about Tiananmen. Last summer FRANK WOLF and I walked across Tiananmen Square—officials searched us before we entered the



square, and squads of police surrounded us while we were on it, terrified we might hold up a simple sign or banner. Later, we tried to look up "Tiananmen Square" on the tightly-controlled Chinese Internet. Of course, mere mention of the slaughter has been removed from the Chinese Internet. As noted in the resolution before us, the Chinese authorities censor any effort to inform the public about what occurred in June 1989.

I also want to say that our government has not done enough to support the Chinese people. And our failure has been a defining event for our own foreign policy, also with terrible consequences for the world.

The Chinese Communist Party, and dictators around the world, drew the conclusion that America's talk of human rights was just hot air, that the only interests that really matter to us are financial.

Our government has a duty to speak up more on human rights in China. Unfortunately, they have been doing the opposite. President Obama has not shown much interest in human rights. In our policies towards Cuba, Venezuela, Iran, and Russia, to name a few countries, human rights have been dramatically downgraded, and everyone understands this.

And Secretary Clinton has effectively taken human rights off the U.S. agenda with the Chinese Government, telling the global media that concern for the protection of human rights of the Chinese people can't be allowed to "interfere" with the economic crisis, climate change, and security—as if human rights were disconnected and irrelevant to those issues.

And so, Madam Speaker, it is all the more important that the House of Representatives pass this resolution, and by doing so:

- express sympathy to the families of those who suffered so terribly as a result of the Chinese Government's actions 20 years ago, and our solidarity with those who continue to suffer human rights abuses at the hands of Chinese Government officials;

- call for a full and independent investigation into what occurred during the Tiananmen Square suppression;

- call on the Chinese Government to release all those, including those who participated in the Tiananmen Square demonstrations, who are wrongfully imprisoned in violation of their human rights; and

- call on the Administration to take aggressive action in support of China's human rights defenders.

Mr. DREIER. Madam Speaker, this week, on June 3 and 4, we will mark the 20th anniversary of the tragic events at Tiananmen Square in Beijing in 1989. I remember very vividly the terrible images of tanks rolling through the square. At the time, I happened to be in Krakow, Poland as an election observer for Poland's first free elections. As we watched the television coverage from Solidarity Headquarters, we did not know the context or the details of the event that was unfolding before us. We didn't know what we were witnessing, and speculated that it was stock footage meant to intimidate the Polish people from voting the next morning.

Of course, the reality of what had happened soon became clear: a brutal crackdown on Chinese supporters of democracy. Twenty years later, on the occasion of this anniversary,

we should take the opportunity not only to remember the victims of that terrible event, but to assess both the path that China has since followed and our bilateral relationship.

We know well that China has a very long way to go in eradicating human rights abuses. Unlawful and politically motivated imprisonments, ethnic persecution and restrictions on free speech rank highest among the abuses that persist. But that is only part of China's story in the past two decades. Hundreds of millions of Chinese people have also been lifted out of poverty because of economic reforms, and today have a far better quality of life than ever before. Chinese civil society has developed, government transparency has improved and a number of key human rights laws have been passed. Of course, laws aren't worth the paper they are printed on if they are not enforced, but that only highlights the need to develop legal institutions and a professional, independent judiciary that can enforce the laws that have been passed.

All of this paints a mixed picture—but one that is slowly improving. In China's 5,000-year history, no period has seen more rapid and dramatic change than the last 20 years. The pace of progress may seem glacial by American standards; but in the Chinese context, this is important progress that must be continued. It is also important to recognize that this progress has been made possible through U.S. engagement. By working with the Chinese and encouraging economic and political reform, on a bilateral and multilateral basis, we have been able to ensure that the move toward greater freedom and accountability continues. By bringing China into the WTO and other multilateral institutions, we have bound the Chinese to a rules-based system where the rule of law is the only arbiter.

Looking down the road, we see that the Chinese government has a very long way to go indeed before it has the moral authority that only comes from being of the people, by the people and for the people. But we also cannot lose sight of the road behind us, the progress that has already been made. Any improvement in the quality of life of the Chinese people since 1989 is due in large part to engagement with the American people. If we are to ensure that progress does not stop until every Chinese person is free and the rule of law prevails, we must continue to engage, encourage and hold China accountable.

Mr. BLUMENAUER. Madam Speaker, having just returned from a week in China with Speaker PELOSI, I am glad to more fully appreciate the country's tremendous scope, population, the vast and varied landscape, and its rich history. Although the focus was on global warming and the environment and the impressive progress China has made to adjust its policies, the subject of human rights was never far from the surface.

In Tiananmen Square I was taken back to the monumental events of 20 years ago and their tragic conclusion. It is sobering to understand how intensely the Chinese government suppresses any mention or image of the Tiananmen Square massacre. So much so that today there is virtually no knowledge of these events on the part of the young.

That is why it is so important for Congress to mark this observance: to give knowledge to

those with no memory and to give hope to those that do remember. It is critical that those who risked so much, those who died or who were persecuted, are celebrated for their courage. It is my hope that one day the Chinese people will have the freedom they deserve.

Mr. HOLT. Madam Speaker, I rise today in support of H. Res. 489, recognizing the twentieth anniversary of the Tiananmen Square crackdown. In June of 1989, the Chinese government unnecessarily applied the heavy hand of the People's Liberation Army to violently suppress peaceful demonstrators who were calling for an elimination of corruption, the expansion of freedoms, and progress toward political and economic reforms. Twenty years later, there still has been no accurate accounting of those who were killed or injured, and we do not know how many hundreds or thousands of activists remain imprisoned. But we do know that thousands living in exile and millions living in China are unable to freely express themselves in their home country, where censorship and repression still drown out peaceful calls for reform.

The People's Republic of China is a proud nation that increasingly is taking its place on the world stage. But if China wants to be fully integrated into the community of nations, it must recognize that the persecution of peaceful movements is unacceptable, and it must act to reverse the objectionable and counter-productive policies exemplified by the Tiananmen Square crackdown. Violations of human rights and international standards of law are not behavior consistent with a modern nation that wants to contribute to the world of international exchange, global trade, and academic cooperation.

The freedoms of expression and assembly are universal rights, and the flames of these liberties burn in all mankind. Today, we speak for the brave voices who were wrongfully silenced 20 years ago, for the families who have been unable to publicly mourn the loss of their loved ones, and for all those who continue to stand up for free expression in China and around the world. I fervently hope that this effort will hasten the day that the unfettered voices of the Chinese people may be heard in Tiananmen Square and throughout China. For though freedom's flames may be smothered, its smoldering embers will always prod ice, as Martin Luther King put it, a certain kind of fire that no water can put out.

Mr. PAUL. Madam Speaker, I rise to oppose this unnecessary and counter-productive resolution regarding the 20th anniversary of the incident in China's Tiananmen Square. In addition to my concerns over the content of this legislation, I strongly object to the manner in which it was brought to the floor for a vote. While the resolution was being debated on the House floor, I instructed my staff to obtain a copy so that I could read it before the vote. My staff was told by no less than four relevant bodies within the House of Representatives that the text was not available for review and would not be available for another 24 hours. It is unacceptable for Members of the House of Representatives to be asked to vote on legislation that is not available for them to read!

As to the substance of the resolution, I find it disturbing that the House is going out of its way to meddle in China's domestic politics,



which is none of our business, while ignoring the many pressing issues in our own country that definitely are our business.

This resolution "calls on the People's Republic of China to invite full and independent investigations into the Tiananmen Square crackdown, assisted by the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross . . ." Where do we get the authority for such a demand? I wonder how the U.S. government would respond if China demanded that the United Nations conduct a full and independent investigation into the treatment of detainees at the U.S.-operated Guantanamo facility?

The resolution "calls on the legal authorities of People's Republic of China to review immediately the cases of those still imprisoned for participating in the 1989 protests for compliance with internationally recognized standards of fairness and due process in judicial proceedings." In light of U.S. government's extraordinary renditions of possibly hundreds of individuals into numerous secret prisons abroad where they are held indefinitely without charge or trial, one wonders what the rest of the world makes of such U.S. demands. It is hard to exercise credible moral authority in the world when our motto toward foreign governments seems to be "do as we say, not as we do."

While we certainly do not condone government suppression of individual rights and liberties wherever they may occur, why are we not investigating these abuses closer to home and within our jurisdiction? It seems the House is not interested in investigating allegations that U.S. government officials and employees approved and practiced torture against detainees. Where is the Congressional investigation of the U.S.-operated "secret prisons" overseas? What about the administration's assertion of the right to detain individuals indefinitely without trial? It may be easier to point out the abuses and shortcomings of governments overseas than to address government abuses here at home, but we have the constitutional obligation to exercise our oversight authority in such matters. I strongly believe that addressing these current issues would be a better use of our time than once again condemning China for an event that took place some 20 years ago.

Mr. WU. Madam Speaker, one of the primary reasons that I ran for public office was to promote democracy, human rights, and the rule of law at home and abroad—particularly in China. There is perhaps no greater singular event that compels me to do so than the Tiananmen Square massacre of June 3 and 4, 1989.

On this, the twentieth anniversary of the violent suppression of protesters in and around Tiananmen Square in Beijing, I express my deepest condolences to the families of those killed and imprisoned in connection with the demonstrations. I urge the Chinese government to immediately review the cases of those still imprisoned for participating in the 1989 protests and to release those individuals who were imprisoned solely for exercising their internationally recognized rights to free expression and peaceful assembly.

In many ways the China of 1989 and the China of 2009 are worlds apart. Twenty years

ago, no one would have imagined that China would become the world's largest Internet user a mere twenty years later. And yet, even with the power of the Internet to fuel greater transparency, the people of China still face the same censorship and restrictions of expression.

The U.S. and China must continue to work together to appeal to the better angels of our collective nature and strive not just for prosperity but for freedom.

Mr. POE of Texas. I yield back.

Mr. BERMAN. Madam Speaker, if the gentleman has yielded back the balance of his time, I will yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and agree to the resolution, H. Res. 489.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BERMAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 55 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1840

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. TAUSCHER) at 6 o'clock and 40 minutes p.m.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 31, LUMBEE RECOGNITION ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 1385, THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT OF 2009

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 111-131) on the resolution (H. Res. 490) providing for consideration of the bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes, and providing for consideration of the bill (H.R. 1385) to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Divi-

sion, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe, which was referred to the House Calendar and ordered to be printed.

#### APPOINTMENT OF MEMBERS TO HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER pro tempore. Pursuant to 2 U.S.C. 501(b), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the House Commission on Congressional Mailing Standards:

Mr. DANIEL E. LUNGREN, California  
Mr. PRICE, Georgia  
Mr. MCCARTHY, California

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 421,

House Joint Resolution 40, and

House Resolution 489, in each case by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### RECOGNIZING 75TH ANNIVERSARY OF GREAT SMOKY MOUNTAINS NATIONAL PARK

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 421, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and agree to the resolution, H. Res. 421.

The vote was taken by electronic device, and there were—yeas 392, nays 1, not voting 40, as follows:

[Roll No. 292]

YEAS—392

Abercrombie	Baird	Bishop (NY)
Ackerman	Baldwin	Bishop (UT)
Aderholt	Barrow	Blackburn
Adler (NJ)	Bartlett	Blumenauer
Akin	Barton (TX)	Blunt
Alexander	Bean	Bocchieri
Altmire	Becerra	Boehner
Andrews	Berkley	Bonner
Arcuri	Berman	Bono Mack
Austria	Biggert	Boozman
Baca	Bilbray	Boren
Bachmann	Bilirakis	Boswell
Bachus	Bishop (GA)	Boucher

Boustanz	Gonzalez	Massa	Schiff	Space	Velazquez	Billbray	Flake	Lujan
Boyd	Goodlatte	Matheson	Schmidt	Spratt	Visclosky	Bilirakis	Fleming	Lungren, Daniel
Brady (PA)	Gordon (TN)	Matsui	Schrock	Stark	Walden	Bishop (GA)	Forbes	E.
Brady (TX)	Granger	McCarthy (CA)	Schrader	Stearns	Walz	Bishop (NY)	Fortenberry	Lynch
Braley (IA)	Graves	McCarthy (NY)	Schwartz	Stupak	Wamp	Bishop (UT)	Foster	Mack
Bright	Grayson	McCaul	Scott (GA)	Tanner	Wasserman	Blackburn	Foxx	Maffei
Brown (SC)	Green, Al	McClintock	Scott (VA)	Tauscher	Schultz	Blumenauer	Frank (MA)	Manzullo
Brown-Waite,	Green, Gene	McCotter	Sensenbrenner	Taylor	Watson	Blunt	Frelinghuysen	Marchant
Ginny	Grijalva	McDermott	Serrano	Teague	Watt	Boccieri	Fudge	Markey (CO)
Buchanan	Guthrie	McGovern	Sessions	Terry	Waxman	Boehner	Galleghy	Markey (MA)
Burgess	Gutierrez	McHenry	Shadegg	Thompson (CA)	Weiner	Bonner	Garrett (NJ)	Marshall
Burton (IN)	Hall (NY)	McHugh	Shea-Porter	Thompson (MS)	Welch	Bono Mack	Gerlach	Massa
Butterfield	Hall (TX)	McIntyre	Sherman	Thompson (PA)	Westmoreland	Boozman	Giffords	Matheson
Buyer	Halvorson	McKeon	Shimkus	Thornberry	Wexler	Boren	Gingrey (GA)	Matsui
Calvert	Hare	McMorris	Shuster	Tiahrt	Whitfield	Boswell	Gohmert	McCarthy (CA)
Camp	Harman	Rodgers	Simpson	Tiberi	Wittman	Boucher	Gonzalez	McCarthy (NY)
Campbell	Hastings (FL)	McNerney	Sires	Tierney	Wittman	Boustany	Goodlatte	McClintock
Cantor	Hastings (WA)	Meek (FL)	Skelton	Titus	Wolf	Boyd	Gordon (TN)	McCollum
Cao	Heinrich	Melancon	Slaughter	Tonko	Woolsey	Brady (PA)	Granger	McCotter
Capito	Heller	Mica	Smith (NE)	Towns	Wu	Braley (IA)	Graves	McDermott
Capps	Hensarling	Michaud	Smith (TX)	Tsongas	Yarmuth	Bright	Grayson	McGovern
Capuano	Herger	Miller (FL)	Smith (WA)	Turner	Young (AK)	Brown (SC)	Green, Al	McHenry
Cardoza	Hersth Sandlin	Miller (MI)	Snyder	Upton	Young (FL)	Brown-Waite,	Green, Gene	McHugh
Carnahan	Higgins	Miller (NC)	Souder	Van Hollen		Ginny	Grijalva	McIntyre
Carney	Hill	Miller, Gary				Buchanan	Guthrie	McKeon
Carson (IN)	Himes	Miller, George				Burton (IN)	Gutierrez	McMorris
Carter	Hinchev	Minnick				Butterfield	Hall (NY)	Rodgers
Cassidy	Hinojosa	Mitchell				Buyer	Hall (TX)	McNerney
Castle	Hirono	Mollohan				Calvert	Halvorson	Meek (FL)
Castor (FL)	Hodes	Moore (KS)	Barrett (SC)	Jackson-Lee	Ros-Lehtinen	Camp	Hare	Melancon
Chaffetz	Hoekstra	Moore (WI)	Broun (GA)	(TX)	Rothman (NJ)	Campbell	Hastings (FL)	Mica
Chandler	Holden	Moran (KS)	Brown, Corrine	Johnson (GA)	Ruppersberger	Cantor	Hastings (WA)	Michaud
Childers	Holt	Moran (VA)	Clarke	Johnson (IL)	Salazar	Cao	Heinrich	Miller (FL)
Clay	Honda	Murphy (CT)	Coble	Johnson, Sam	Sanchez, Loretta	Capito	Heller	Miller (MI)
Cleaver	Hoyer	Murphy (NY)	Conyers	Lipinski	Sestak	Capps	Hensarling	Miller (NC)
Clyburn	Hunter	Murphy, Patrick	Delahunt	Maloney	Shuler	Capuano	Herger	Miller, Gary
Coffman (CO)	Inglis	Murphy, Tim	Doyle	McCollum	Smith (NJ)	Cardoza	Hersth Sandlin	Miller, George
Cohen	Insee	Murtha	Engel	McMahon	Speier	Carnahan	Higgins	Minnick
Cole	Israel	Myrick	Etheridge	Meeks (NY)	Sullivan	Carney	Hill	Mitchell
Conaway	Issa	Nadler (NY)	Franks (AZ)	Pallone	Sutton	Carson (IN)	Himes	Mollohan
Connolly (VA)	Jackson (IL)	Napolitano	Griffith	Payne	Waters	Carter	Hinchev	Moore (KS)
Cooper	Jenkins	Neal (MA)	Harper	Peters	Wilson (OH)	Cassidy	Hinojosa	Moore (WI)
Costa	Johnson, E. B.	Neugebauer		Radanovich	Wilson (SC)	Castle	Hirono	Moran (KS)
Costello	Jones	Nunes				Castor (FL)	Hodes	Moran (VA)
Courtney	Jordan (OH)	Nye				Chaffetz	Hoekstra	Murphy (CT)
Crenshaw	Kagen	Oberstar				Chandler	Holden	Murphy (NY)
Crowley	Kanjorski	Obey				Childers	Holt	Murphy, Patrick
Cuellar	Kaptur	Olson				Clarke	Honda	Murphy, Tim
Culberson	Kennedy	Oliver				Clay	Hoyer	Murtha
Cummings	Kildee	Ortiz				Cleaver	Hunter	Myrick
Dahlkemper	Kilpatrick (MI)	Pascrell				Clyburn	Inglis	Nadler (NY)
Davis (AL)	Kilroy	Pastor (AZ)				Coffman (CO)	Insee	Napolitano
Davis (CA)	Kind	Paul				Cohen	Israel	Neal (MA)
Davis (IL)	King (IA)	Paulsen				Cole	Issa	Neugebauer
Davis (KY)	King (NY)	Pence				Conaway	Jackson (IL)	Nunes
Davis (TN)	Kingston	Perlmutter				Connolly (VA)	Jenkins	Nye
Deal (GA)	Kirk	Perriello				Cooper	Johnson, E. B.	Oberstar
DeFazio	Kirkpatrick (AZ)	Peterson				Costa	Jones	Obey
DeGette	Kissell	Petri				Costello	Jordan (OH)	

Roybal-Allard  
Royce  
Rush  
Ryan (OH)  
Ryan (WI)  
Sánchez, Linda  
T.  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Simpson

Sires  
Slaughter  
Smith (NE)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stark  
Stearns  
Stupak  
Sutton  
Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tierney  
Titus  
Tonko

Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wittman  
Wolf  
Woolsey  
Wu  
Young (AK)  
Young (FL)

[Roll No. 294]

## YEAS—396

Abercrombie  
Ackerman  
Adersholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)

Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Eshoo  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Frelinghuysen  
Fudge  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Johnson, E. B.  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee

Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye

Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pascarell  
Pastor (AZ)  
Paulsen  
Pelosi  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Roskam

Ross  
Roybal-Allard  
Royce  
Rush  
Ryan (OH)  
Ryan (WI)  
Sánchez, Linda  
T.  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Spratt  
Stark  
Stupak  
Sutton

Tanner  
Tauscher  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Watson  
Watt  
Waxman  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NOT VOTING—48

Barrett (SC)  
Brady (TX)  
Broun (GA)  
Brown, Corrine  
Burgess  
Coble  
Conyers  
Delahunt  
Doyle  
Engel  
Etheridge  
Franks (AZ)  
Griffith  
Harman  
Harper  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, Sam  
Kirkpatrick (AZ)  
Lipinski  
Lucas  
Lummis  
Maloney  
McCaul  
McMahon  
Meeks (NY)  
Pallone  
Payne  
Peters  
Rangel  
Ros-Lehtinen  
Rothman (NJ)

Ruppersberger  
Salazar  
Sanchez, Loretta  
Sestak  
Shuler  
Shuster  
Skelton  
Smith (NJ)  
Speier  
Sullivan  
Tiberi  
Waters  
Wilson (OH)  
Wilson (SC)  
Yarmuth

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1912

So (two-thirds being in the affirmative) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# COMMEMORATING THE 20TH ANNIVERSARY OF THE TIANANMEN SQUARE SUPPRESSION

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 489, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and agree to the resolution, H. Res. 489.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 1, not voting 37, as follows:

## NAYS—1

Paul

## NOT VOTING—37

Barrett (SC)  
Broun (GA)  
Brown, Corrine  
Burgess  
Coble  
Conyers  
Delahunt  
Doyle  
Engel  
Etheridge  
Franks (AZ)  
Griffith  
Harper  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, Sam  
Lipinski  
McMahon  
Meeks (NY)  
Pallone  
Payne  
Ros-Lehtinen  
Rothman (NJ)  
Ruppersberger

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are less than 2 minutes remaining on this vote.

□ 1921

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BROUN of Georgia. Madam Speaker, today, I was unable to vote on the following bills: H.J. Res. 40, H. Res. 421, and H. Res. 489. If I had been able to make these votes, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. CONYERS. Madam Speaker, due to events in my congressional district, I was unable to vote today. If I were present, I would vote "yea" to the following bills:

H. Res. 421, recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary;

H.J. Res. 40, Native American Heritage Day Act of 2009;

H. Res. 489, recognizing the 20th anniversary of the brutal suppression of protesters and citizens in and around Tiananmen Square.

#### NOTICE OF INTENTION TO OFFER RESOLUTION RAISING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. FLAKE. Madam Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby notify the House of my intention to offer a resolution as a question of the privileges of the House.

The form of my resolution is as follows:

Whereas, The Hill reported that a prominent lobbying firm, founded by Mr. Paul Magliocchetti and the subject of a "federal investigation into potentially corrupt political contributions," has given \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, the New York Times noted that Mr. Magliocchetti "set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmarks contracts back to his clients."

Whereas, a guest columnist recently highlighted in Roll Call that "... what [the firm's] example reveals most clearly is the potentially corrupting link between campaign contributions and earmarks. Even the most ardent earmarkers should want to avoid the appearance of such a pay-to-play system."

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm; including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees of the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill."

Whereas, the Associated Press highlighted the "huge amounts of political donations" from the firm and its clients to select members and noted that "those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests."

Whereas, clients of the firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, the Associated Press reported that "the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash."

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of the institution. Now, therefore, be it:

Resolved, That (a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin an investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of the resolution.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Arizona will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

#### PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Madam Speaker, I was unavoidably detained on official business.

Had I been present, I would have voted "aye" for the adoption of H. Res. 421, recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary; I would have voted "aye" on adoption of H.J. Res. 40, Native American Heritage Day Act of 2009; and I would have voted "aye" on H. Res. 489, recognizing the 20th anniversary of the brutal suppression of protesters and citizens in and around Tiananmen Square.

□ 1930

#### STOP SELLING AMERICA TO CHINA

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. On the last resolution, I heard earlier tonight my friend from California (Mr. BERMAN) who has a heart for those who suffer around this world, and I certainly acknowledge that.

In support of the resolution of remembering the devastation in

Tiananmen Square, he asked a question about how China could rightfully take a place among the superpowers, or among the world powers, when there is so much left unresolved about Tiananmen Square. Who was shot? Who was killed? I have an answer. They're buying America. We're going into debt bigger and bigger every day, and they're buying us, so they can kind of do what they want as long as they're buying America. The answer that it started with Bush is not a good answer because, yes, it did. So stop already. We were promised change. Let's change. Let's stop running up debt, and let's stop selling this country to China.

#### STANDING ALONGSIDE PAKISTAN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, the eyes of the world have been watching the terrible conflict in Pakistan. They have watched the Pakistani military attempt to free certain areas of terrorist interests that would undermine the peace and security of that nation.

I would hope that we would all support the idea of peace and security. I believe in peace over conflict. I actually am appalled at the level of violence, but we must support the people of Pakistan and its military, which has risen to the occasion to fight against those who would undermine the civilian government. We can't have it both ways, and they are not doing this at the behest of the United States Government but for their own people.

We must also join in the humanitarian aid to give to those 2.5 million people who are now being evacuated. We must be prayerful about the young people who were abducted, and we must praise again the Pakistani military, which itself has lost lives. We now need to stand alongside this country and not forsake it and stand for its democracy and its security.

#### THE CONGRESSIONAL RURAL CAUCUS

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I come before the House today to bring attention to the Congressional Rural Caucus, of which I have the privilege of being vice Chair, along with my colleague from across the aisle, Mr. WALZ of Minnesota. The caucus is being led by co-Chairs Mr. CHILDERS of Mississippi and Mr. SMITH of Nebraska, whom I commend for their bipartisan spirit and for their ability to reach across this so-often divided aisle in order to push for the betterment of rural issues—our rural values and our rural way of life.

The Rural Caucus has re-formed and is alive and well. Together, we will focus on issues of telecom, education and workforce development, transportation, and health care.

In January, the Congressional Rural Caucus penned a letter to the President asking him to form an Office of Rural Policy to complement the recently created Office of Urban Policy. Today, I echo that call, and I encourage the administration to make a commitment to create communities of choice, not of destiny, where no one should ever be at a disadvantage because of where one is born or chooses to live.

#### MEDIA SHOULD NOT ALLOW VOTING TO INFLUENCE REPORTING

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, at the recent White House Correspondents' Dinner, President Obama joked to the reporters in attendance: "Most of you covered me. All of you voted for me."

Some jokes are true; and, unfortunately, this joke is on the American people.

According to Investor's Business Daily, journalists who gave campaign money to then-Senator Obama outnumbered those who contributed to Senator MCCAIN by a 20-1 margin. The media gave money to him. They voted for him. Now they're giving him a free pass.

According to one analysis, network newscasts have portrayed the President as a deficit fighter five times more often than they have portrayed him as a big spender even though his budget will double the national debt in 5 years and will triple it in 10.

Yes, the media voted for President Obama, but they should not allow their voting to influence their reporting.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HIMES). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### THE COMPLEX EMERGENCY IN PAKISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Recently, Mr. Speaker, I met with a distinguished group of Pakistani Americans whom I proudly represent in the Seventh Congressional District of Maryland. I listened to their perspectives regarding the current situation in Pakistan.

Ladies and gentlemen, I rise today to share their concerns, and I urge each of you to recognize the complex emergency that is taking place in Pakistan. The situation requires our immediate attention and assistance.

As you should be aware, more than 3 million people have been displaced from the Swat Valley area of Pakistan since early April 2009. At a rate of approximately 85,000 people fleeing per day, the unfolding internal displacement crisis in Pakistan is the fastest movement of people in such massive numbers since the Rwandan genocide of 1994. The United Nations has warned of a long-term humanitarian crisis, and it has called for massive aid for the refugees.

President Obama's administration took a proactive role in providing humanitarian aid to the internally displaced people. The administration's recent announcement to provide \$110 million in additional humanitarian aid was the beginning of a new era of friendship and trust between the governments and the people of Pakistan and the United States. Although this funding was a significant first step, it is only a fraction of what is required to repatriate the internally displaced people to their homes and to reestablish some degree of normalcy in their lives.

All efforts must be made for the safe and early return of the internally displaced Pakistanis to their homes. The United States, along with the international community, must come together and provide the needed assistance.

Recently, I sent a letter to Secretary of State Hillary Clinton to ask that she immediately increase her appeal of help to the international community from the current \$500 million to \$1 billion in humanitarian aid to provide immediate assistance to the internally displaced people from Swat. Lending support of this magnitude equates to a small pledge of approximately \$400 per IDP.

The second concern is the impression the Pakistani people have about the United States' interest. We must work to dispel the image the Pakistanis have about our country. The time has come to establish a long-term, consistent policy to close the trust deficit in our relationship by making investments in Pakistan's future.

I believe that the United States needs to take immediate action which translates into goodwill in the eyes of the Pakistanis. Effective ways to accomplish this goal by directly impacting people's lives include providing more humanitarian aid, investing in infrastructure development projects such as electrical power plants, road construction and railway improvements, and contributing to bilateral trade. It is imperative that we focus on projects with a tangible outcome that improve the well-being of Pakistanis.

Pakistanis are putting faith into democratic movements. Now we must learn how to relate to them and how to build their confidence in our ability to deliver on our promises.

My discussion with the Pakistani Americans in my district was an eye opener that allowed me to gain their perspectives on the current situation in Pakistan. I encouraged Ambassador Holbrooke to and he has agreed to sit down with a small group on June 12, 2009, so that he, too, can get a better understanding of the complex issues that the people of Pakistan now face.

I also encourage each of you to reach out to the Pakistani Americans and to their affiliated organizations within your districts. I encourage you to really listen to what they have to say. You will be amazed by what they will tell you. Let us seize the moment by delivering President Obama's promise of hope to the people of the great nation of Pakistan.

#### PARTISAN POLITICS IN AUTO DEALERSHIP CLOSURES?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, just south of Houston, there is a town called Alvin, Texas, where a Chrysler dealership called Rogers Dodge is making a lot of money selling Chryslers; but on June 9, they are going to close down because the auto task force gang has notified them that they have to close.

Rogers Dodge is on the list of 789 Chrysler dealerships around the country that are being closed down under questionable circumstances. There are five in the Houston area alone. The question remains: What are the criteria for closing down these dealerships?

The auto task force gang picks winners and losers, but they refuse to tell America how those decisions are made. Well, neither they nor the administration is talking. The blissful silence makes us wonder what's going on. Some of these Chrysler dealerships being ordered to close are profitable—others are not—but according to some news reports, there's one thing they all have in common except for one single exception found so far: they all have connections in some manner to making campaign contributions to Republicans.

Chrysler, an American institution, is no longer being run as a private-sector company. It has been taken over by the auto task force tyrants appointed personally by the administration. These individuals tell Chrysler what to do, and they have to do it because Chrysler took all that bailout money before they went into bankruptcy. Now the auto task force gang gets to run the company.

By the way, Mr. Speaker, we still don't know where that wasted bailout money went.

According to the Federal Election Commission Web site, there are reporters and bloggers around the country who have been digging through lists of donations. They have been comparing donor names on the lists with the names of owners of the Chrysler dealerships that have been forced to close. Some of these reports say that campaign contributions went to GOP candidates or to political action committees from the Chrysler dealerships that are being forcibly shut down.

Did this group of auto task force individuals discriminate against Republican dealerships in Chrysler-style or in Chicago-style paybacks? We don't know. How in the world can we square that with the reports that only one dealership being ordered to close down so far contributed to the administration's campaign—and that was only for \$200? Campaign contributions appear to be the common thread in all of these ordered closures. That's some coincidence.

Rogers Dodge in Alvin, Texas, is one of the more profitable dealerships. Newspaper reports say they have increased their new car sales by 50 percent in just the last 4 months. That's a big accomplishment in this economy. They paid cash for their brand-new \$3.7 million building 3 years ago. Along with many other dealerships, they bought millions of dollars of inventory after being pressured by Chrysler to help the company's financial situation so that Chrysler wouldn't go bankrupt. Now all of these assets paid for by these dealerships will be worth mere pennies on the dollar. One report in the Houston Chronicle said this inventory of cars that the dealerships were pressured to buy now will have to be sold as used cars.

□ 1945

Some of these dealerships are fighting back against the Auto Task Force with a lawsuit of their own. According to the Houston Chronicle article, Nicholas Parks, the president of Rogers Dodge and a lawyer, says he's fighting the closure because he doesn't think the bankruptcy court should be used to close these vendors, especially those that are making money. How can you use the bankruptcy laws to shut down a vendor who is making a profit for Chrysler? This is very interesting. The American people are starting to ask a few questions on their own.

Are these Auto Task Force tyrants picking the winners and losers based on campaign contributions? Does the administration have a Nixon-style enemies list? All these questions because the Auto Task Force guys aren't talking and aren't telling us why they closed down certain dealerships and why they let others remain open.

We are now living in a time where the government controls both Chrysler and GM, which we should call Government Motors. And the government alone, not the free market, decides who wins, who loses, who stays in business and who must be forcibly closed down. Meanwhile, 100,000-plus Chrysler workers at auto dealerships who did nothing wrong will be out of work on June 9 thanks to government control. So much for the promise of new jobs.

And that's just the way it is.

#### ENDING THE NUCLEAR THREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, when the Cold War ended, the people of the world hoped that the threat of nuclear war would end also, but that hasn't happened. Today, more nations than ever have nuclear weapons. North Korea's powerful underground nuclear explosion last week reminded us that testing continues. And there are great fears that terrorists could get nuclear weapons through the black market. Tragically, the United States has not done enough to stop the threat.

The previous administration turned its back on arms control. It practically laughed at America's obligations under the Nuclear Non-Proliferation Treaty. It refused to push for Senate ratification of the comprehensive Test Ban Treaty, and it proceeded with plans for the United States to develop new nuclear weapons, which undermined our ability to deal with North Korea and Iran.

Mr. Speaker, we must do better. The United States must lead. We must lead a new global effort to make the world nuclear free. It's the moral thing to do, and it's also smart politics. If we are seen as leading the fight for non-proliferation and disarmament, we will be in a much better position to convince the world community to put peaceful pressure on North Korea and Iran to give up their nuclear ambitions.

President Obama is already moving the right direction. In his speech in Prague on April 5, he promised to reduce the role of nuclear weapons in our national security strategy. He announced the new diplomatic effort with Russia to reduce warheads. He promised to work for ratification of the Test Ban Treaty, and he said he would seek a new treaty to end the production of fissile materials for use in nuclear weapons. I welcome all of these policies.

In fact, 3 days before the press speech in Prague, I introduced Resolution 333, which is called No Nukes. It calls upon the United States to take a number of important actions to end the nuclear threat. It calls upon the United States

to pursue multilateral negotiations to produce verifiable steps that every country should take to eliminate their nuclear weapons. It calls for the United States and Russia to work together to end the deployment of nuclear weapons that are currently operational and can be launched on short notice. It urges the President to declare that so long as the United States has nuclear weapons, we will not—and I say we will not—use them first. It calls for ending the previous administration's policy of preventative warfare and ending our development of new weapons of mass destruction, and it calls for a ban on weapons in outer space.

I've also introduced House Resolution 363, which describes my Smart Security Platform for the 21st Century, which includes several initiatives to stop the spread of weapons of mass destruction. It calls for beefing up inspections and regional security arrangements to stop proliferation. And it advocates more funding for the programs designed to keep Russian weapons and materials from falling into the wrong hands.

I urge my colleagues, please examine both of these resolutions and support them. There is no time to waste. The world is getting more dangerous every single minute. And if there is a nuclear attack, we won't be able to save our lives by ducking under our desks like we were taught in grade school.

Mr. Speaker, America must move aggressively to end the nuclear menace. It's the most important thing we can do for our country, and it is the most important thing we can do for our children and our grandchildren.

#### STOP AWARDING NO-BID CONTRACTS TO PRIVATE COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, just moments ago I gave notice of my intent to offer a privileged resolution asking that the House Ethics Committee look into the relationship between earmarks and campaign contributions and the link between PMA, the PMA Group that is currently under investigation by the Justice Department.

Now, it has been raised several times that this privileged resolution is a blunt instrument and that the Ethics Committee is really not designed to deal with such a resolution. And let me be the first to concede that point. These resolutions that I've offered—this is the ninth one that was offered tonight—they are a blunt instrument. The Ethics Committee is not designed to deal with an investigation of this magnitude, but it's the only instrument we've got at this point. We are really out of other options.

Right now as it stands, when Members of Congress request earmarks,



they have to sign a statement saying that they have no financial interest in the earmark that they are pursuing; in other words, that a family member doesn't work on or for the firm receiving the earmark. But to receive campaign contributions in close proximity to that earmark request is not considered financial interest by the House Committee on Ethics, and the guidance that they've issued to Members is that that does not necessarily constitute financial interest. Yet we know that there are numerous investigations going on outside of this body by the Justice Department that have to do with earmarks and campaign contributions.

So out of an abundance of caution, I would hope that this institution would say we need to stay above this fray, that when you can—when a Member of Congress has the ability to award a no-bid contract to a private company, and then executives in that private company—and the lobbyists that are retained by them—can turn around and make sizable campaign contributions to that same Member who awarded the no-bid contract, we are going to have problems here and we're going to have investigations go on. And it will continue to represent a cloud over this body, a cloud that rains on Republicans and Democrats alike.

This is not a partisan resolution. This is not a partisan problem. No one party is above this. Both the Democratic Party and the Republican Party have Members who are requesting earmarks for companies who then turn around and make sizable—I'm sorry—individuals in those companies turn around and make sizable contributions back to those same Members. And it is unbelievable that we continue to allow that to happen.

Now, I have said before, and I will say again, that I will stop offering this resolution as soon as we have an agreement not to allow the awarding of no-bid contracts for private companies. As soon as the leadership—both the Republicans and Democrats—agree in this body to stop that practice, to not have Members of Congress have the ability to award no-bid contracts—in other words, to get earmarks for private companies—then I will stop offering this resolution. It is a blunt instrument. I recognize that. The Ethics Committee is not really meant to deal with issues of this magnitude, but as long as we continue this practice and allow this to happen, then this institution is going to be under a cloud, as it is now.

So, again, I've noticed this resolution tonight. I don't have to call it up later this week. I would prefer not to. I would prefer not to have another vote on this resolution. But as long as we continue the practice of allowing Members of this body to award no-bid contracts to companies, private compa-

nies, who can then turn around and have their executives and the lobbyists they retain make sizable contributions to those same Members, and as long as we allow that practice to continue, we're going to need to address it somehow; and this is the only forum, this is the only vehicle that we're allowed right now.

So I would hope, Mr. Speaker, that we can bring this resolution to some type of conclusion, that we won't have to offer a 10th next week or in some week to come, that we can actually deal with this meaningfully. This institution deserves far better than we are giving it.

I think when most of us were elected, we believed that we had a higher purpose than to come here and grovel for crumbs that fall from appropriators' tables, that we're here to debate the great issues of our time. And when you have an issue like we have now where Members are able to award no-bid contracts to private companies, then we simply have to stop the practice.

#### THE BANKS' ARROGANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, today the New York Times lead editorial "Foreclosures: No End in Sight," states there will be no economic recovery until there is a halt in the relentless rise in foreclosures. Foreclosures threaten millions of families with financial ruin, and by driving prices down, they sap the wealth of all homeowners. They exacerbate bank losses putting pressure on the still-fragile financial system.

Let's give Wall Street credit. They've accomplished the biggest transfer of wealth from the middle class to the super rich in U.S. history. And still, no one is holding them accountable. What a crying shame.

Study this picture. Five Wall Street money center banks had subsidiaries involved in the subprime mortgage loan fraud which led to our economic meltdown—JPMorgan Chase, Citigroup, Bank of America, Wachovia, and Wells Fargo—yet we, the American taxpayers, continue to bail out their bad business practices.

The Dow, in fact, removed Citigroup today from their listed companies. The very people who originated subprime loans, bundled them and passed them on are the very winners of taxpayer largesse with no strings attached. Those who come out on top are the same five, arrogant and recalcitrant. They don't even return phone calls from local Realtors trying desperately to resurrect their local housing stock.

Nonresponse is but the tip of the iceberg. The banks' arrogance has led them to use their inordinate power to

hold up our Republic. Elected officials tiptoe around them. Some even protect them. And any group with that much power needs to be reined in in a democratic republic. If you're too big to fail, you're too big to exist.

But who will do it? Last year, Treasury Secretary Paulson struck fear in a skittish Congress a mere 6 weeks before elections—how convenient that timing was—to pass the \$700 billion taxpayer bailout of Wall Street saying America was on the verge of an economic disaster. Congress stampeded to pass that bill, and the economy melted down anyway.

Paulson held his conversations behind closed doors—no records—banking on, both literally and figuratively, the honor of politicians to not repeat his exact words. But a few weeks after Paulson got his hands on the public spigot, he changed direction. Originally he said, We asked for \$700 billion to purchase troubled assets and at the time we believed that would be the most effective means of getting credit flowing. But, in fact, after the bill was passed on October 3, in consultation with the Federal Reserve, he determined that the most timely, effective step to improve market conditions was to put the money into the banks themselves.

□ 2000

So rather than holding banksters accountable in the courts and in the system, Washington has been systematically rewarding them.

Since then, every clever bill Congress has cooked up to address the credit crisis engendered by the housing market meltdown has just picked at the edges. Look at your districts. Look at our country.

The headlines and signing ceremonies look good. But there are over 5 million families' mortgages now under water, and it's rising. The economic fundamentals are out of whack. Legislation that looks good on the surface keeps being pushed forward, but in effect, the bills simply allow the government to become a bigger dumping ground for Wall Street's housing excess. Neither justice nor prudence are being brought to Wall Street.

When Louis Brandeis wrote "Other People's Money," his conscience moved a Nation to regulate banks that were plundering our republic during the Roosevelt years. This included Ferdinand Pecora, who directed Senate hearings over a period of 2 years, examining and illuminating Wall Street practices. And those exhaustive hearings turned Wall Street inside-out to public view. We should do no less.

But who will be our Pecora? Where is this Congress? Where is our President? And what has happened to our democratic government?

[From the New York Times, June 2, 2009]

#### FORECLOSURES: NO END IN SIGHT

A continuing steep drop in home prices combined with rising unemployment is

powering a new wave of foreclosures. Unfortunately, there is little evidence, so far, that the Obama administration's anti-foreclosure plan will be able to stop it.

The plan offers up to \$75 billion in incentives to lenders to reduce loan payments for troubled borrowers. Since it went into effect in March, some 100,000 homeowners have been offered a modification, according to the Treasury Department, though a tally is not yet available on how many offers have been accepted.

That's a slow start given the administration's goal of preventing up to four million foreclosures. It is even more worrisome when one considers the size of the problem and the speed at which it is spreading. The Mortgage Bankers Association reported last week that in the first three months of the year, about 5.4 million mortgages were delinquent or in some stage of foreclosure.

Not all of those families will lose their homes. Some will find the money to catch up on their payments. Others will qualify for loan modifications that allow them to hang on. But as borrowers become more hard pressed, lenders—whose participation in the Obama plan is largely voluntary—may not be able or willing to keep up with the spiraling demand for relief.

One of the biggest problems is that the plan focuses almost entirely on lowering monthly payments. But overly onerous payments are only part of the problem. For 15.4 million "underwater" borrowers—those who owe more on their mortgages than their homes are worth—a lack of home equity puts them at risk of default, even if their monthly payments have been reduced. They have no cushion to fall back on in the event of a setback, like job loss or illness.

This page has long argued that a robust anti-foreclosure plan should directly address the plight of underwater homeowners by reducing the loans' principal balance. That would restore some equity to borrowers—and give them a further incentive to hold on to their homes—in addition to lowering monthly payments. The mortgage industry has resisted this approach, and the Obama plan does not emphasize it.

With joblessness rising, lower monthly payments could quickly become unaffordable for many Americans. In a recent report, researchers at the Federal Reserve Bank of Boston argued that unemployment is driving foreclosures and to make a difference, anti-foreclosure policy should focus on helping unemployed homeowners. The report suggests a temporary program of loans or grants to help them pay their mortgages while they look for another job.

The government will also have to make far more aggressive efforts to create jobs. The federal stimulus plan will preserve and generate a few million jobs, but that will barely make a dent—in the overall economic crisis or the foreclosure disaster. Since the recession began in December 2007, nearly six million jobs have been lost, and millions more are bound to go missing before this downturn is over.

President Obama needs to put more effort and political capital into promoting the middle-class agenda that he outlined during the campaign, including a push for new jobs in new industries, expanded union membership and a fairer distribution of profits among shareholders, executives and employees.

There will be no recovery until there is a halt in the relentless rise in foreclosures. Foreclosures threaten millions of families with financial ruin. By driving prices down, they sap the wealth of all homeowners. They

exacerbate bank losses, putting pressure on the still fragile financial system. Lower monthly payments are a balm, but they are no substitute for home equity. And until more Americans can find a good job and a steady paycheck, the number of foreclosures will continue to rise.

#### PUBLICATION OF THE RULES OF THE COMMITTEE ON THE JUDICIARY, 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I submit the Committee on the Judiciary's Rules of Procedure for the 111th Congress adopted on January 22, 2009, reflecting the addition yesterday of MIKE QUIGLEY as a member of the Committee.

#### RULES OF PROCEDURE

##### RULE I.

The Rules of the House of Representatives are the rules of the Committee on the Judiciary and its Subcommittees with the following specific additions thereto.

##### RULE II. COMMITTEE MEETINGS

(a) The regular meeting day of the Committee on the Judiciary for the conduct of its business shall be on Wednesday of each week while the House is in session.

(b) Additional meetings may be called by the Chairman and a regular meeting of the Committee may be dispensed with when, in the judgment of the Chairman, there is no need therefor.

(c) At least 24 hours (excluding Saturdays, Sundays and legal holidays when the House is not in session) before each scheduled Committee or Subcommittee meeting, each Member of the Committee or Subcommittee shall be furnished a list of the bill(s) and subject(s) to be considered and/or acted upon at the meeting. Bills or subjects not listed shall be subject to a point of order unless their consideration is agreed to by a two-thirds vote of the Committee or Subcommittee.

(d) In an emergency that does not reasonably allow for 24 hours' notice, the Chairman may waive the 24-hour notice requirement with the agreement of the Ranking Minority Member.

(e) Committee and Subcommittee meetings for the transaction of business, i.e., meetings other than those held for the purpose of taking testimony, shall be open to the public except when the Committee or Subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(f) Every motion made to the Committee and entertained by the Chairman shall be reduced to writing upon demand of any Member, and a copy made available to each Member present.

(g) For purposes of taking any action at a meeting of the full Committee or any Subcommittee thereof, a quorum shall be constituted by the presence of not less than one-third of the Members of the Committee or subcommittee, except that a full majority of the Members of the Committee or Subcommittee shall constitute a quorum for purposes of reporting a measure or recommendation from the Committee or Sub-

committee, closing a meeting to the public, or authorizing the issuance of a subpoena.

(h)(1) Subject to subparagraph (2), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chairman shall take all reasonable steps necessary to notify Members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(i) Transcripts of markups shall be recorded and may be published in the same manner as hearings before the Committee.

(j) Without further action of the Committee, the Chairman is directed to offer a motion under clause 1 of rule XXII of the Rules of the House of Representatives whenever the Chairman considers it appropriate.

##### RULE III. HEARINGS

(a) The Committee Chairman or any subcommittee chairman shall make public announcement of the date, place, and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing. If the Chairman of the Committee, or Subcommittee, with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee or Subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or Subcommittee chairman shall make the announcement at the earliest possible date.

(b) Committee and Subcommittee hearings shall be open to the public except when the Committee or Subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(c) For purposes of taking testimony and receiving evidence before the Committee or any Subcommittee, a quorum shall be constituted by the presence of two Members.

(d) In the course of any hearing each Member shall be allowed five minutes for the interrogation of a witness until such time as each Member who so desires has had an opportunity to question the witness.

(e) The transcripts of those hearings conducted by the Committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Individuals, including Members of Congress, whose comments are to be published as part of a Committee document shall be given the opportunity to verify the accuracy of the transcription in advance of publication. Any requests by those Members, staff or witnesses to correct any errors other than errors in the transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional

Committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript.

#### RULE IV. BROADCASTING

Whenever a hearing or meeting conducted by the Committee or any Subcommittee is open to the public, those proceedings shall be open to coverage by television, radio and still photography except when the hearing or meeting is closed pursuant to the Committee Rules of Procedure.

#### RULE V. STANDING SUBCOMMITTEES

(a) The full Committee shall have jurisdiction over the following subject matters: copyright, patent, and trademark law, information technology, tort liability, including medical malpractice and product liability, legal reform generally, and such other matters as determined by the Chairman.

(b) There shall be five standing Subcommittees of the Committee on the Judiciary, with jurisdictions as follows:

(1) Subcommittee on Courts and Competition Policy: antitrust law, monopolies, and restraints of trade, administration of U.S. courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, other appropriate matters as referred by the Chairman, and relevant oversight.

(2) Subcommittee on the Constitution, Civil Rights, and Civil Liberties: constitutional amendments, constitutional rights, federal civil rights laws, ethics in government, other appropriate matters as referred by the Chairman, and relevant oversight.

(3) Subcommittee on Commercial and Administrative Law: bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

(4) Subcommittee on Crime, Terrorism, and Homeland Security: Federal Criminal Code, drug enforcement, sentencing, parole and pardons, terrorism, internal and homeland security, Federal Rules of Criminal Procedure, prisons, criminal law enforcement, other appropriate matters as referred by the Chairman, and relevant oversight.

(5) Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law: immigration and naturalization, border security, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, non-border enforcement, other appropriate matters as referred by the Chairman, and relevant oversight.

(c) The Chairman of the Committee and Ranking Minority Member thereof shall be ex officio Members, but not voting Members, of each Subcommittee to which such Chairman or Ranking Minority Member has not been assigned by resolution of the Committee. Ex officio Members shall not be counted as present for purposes of constituting a quorum at any hearing or meeting of such Subcommittee.

#### RULE VI. POWERS AND DUTIES OF SUBCOMMITTEES

Each Subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective Subcommittees after consultation with the Chairman and other Subcommittee chairmen with a view

toward avoiding simultaneous scheduling of full Committee and Subcommittee meetings or hearings whenever possible.

#### RULE VII. NON-LEGISLATIVE REPORTS

No report of the Committee or Subcommittee which does not accompany a measure or matter for consideration by the House shall be published unless all Members of the Committee or Subcommittee issuing the report shall have been apprised of such report and given the opportunity to give notice of intention to file supplemental, additional, or dissenting views as part of the report. In no case shall the time in which to file such views be less than three calendar days (excluding Saturdays, Sundays and legal holidays when the House is not in session).

#### RULE VIII. COMMITTEE RECORDS

The records of the Committee at the National Archives and Records Administration shall be made available for public use according to the Rules of the House. The Chairman shall notify the Ranking Minority Member of any decision to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

#### RULE IX. OFFICIAL COMMITTEE WEBSITE

(a) The Chairman shall maintain an official website on behalf of the Committee for the purpose of furthering the Committee's legislative and oversight responsibilities, including communicating information about the Committee's activities to Committee Members and other Members of the House.

(b) The Chairman shall make the record of the votes on any question on which a record vote is demanded in the full Committee available on the Committee's official website not later than 3 legislative days after such vote is taken. Such record shall identify or describe the amendment, motion, order, or other proposition, the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of the Members voting present.

(c) The Ranking Member is authorized to maintain a similar official website on behalf of the Committee Minority for the same purpose, including communicating information about the activities of the Minority to Committee Members and other Members of the House.

### GROWING AN INNOVATION ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from New York (Mr. TONKO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TONKO. Mr. Speaker, this evening we have an opportunity as members of the freshman class, Democratic members, to speak during an hour designated for our class members. Tonight is the second time our class has spoken as a group, and as you recognize, we are a diverse group of members who come from all sections and regions of the country and do share some common fabric but also would identify differences. But one thing very certainly in common that we share is the need to move forward with a positive

direction on energy policy that will spark an innovation economy, Mr. Speaker.

And so this evening during this opportunity we will hear from my colleagues in our freshman class that will speak to their concerns and the optimism we share about growing an innovation economy based on energy policy that can transform just how we deal with those resources, how we create our generated power that we require, how we transmit that power, and certainly how we can effectuate conservation and efficiency programs that will strengthen our outcome.

As you know, I have spent much of my life with energy policy. My professional life found me working in the State Assembly in New York chairing the Energy Committee for some 15 years, and then I moved on to become president and CEO of NYSERTA, the New York State Energy, Research and Development Authority.

It was there that I recognized that through the program implementation we had encouraged through public policy formation that we were able to effectuate tremendously strong impacts, positive impacts on the business community and on the residential community, making certain that as we embraced efficiency efforts we could address that demand side of the equation, which has been, from a Federal perspective, not really addressed effectively at all.

And so now we find ourselves with leadership in the White House and certainly here in the House that wants to move forward and make certain that we advance sound energy policy. It is important for us to do that in a way that maintains an open mind to developing the sort of policy that needs to be crafted, policy that will speak to those innovative ideas, and projects that will find us investing in research, in development, in deployment, in engineering, in developing a green-collar workforce, all of which will create an array of jobs that are not yet on that radar screen, that will allow us to produce outcomes that are favorable to this country's economy.

And certainly as we do that, we will need to update and upgrade our transmission grid, our delivery system, which was designed for regulatory response rather than free-wheeling electrons from different regions and sections of the country, or to even imports from our neighbor to the north in Canada with hydropower that has been done in some situations. We need to make certain that we address both supply-side and demand-side solutions. For far too long, we're increasing supply but not looking at that opportunity to create here in America those needs that are addressed by American-produced power that obviously would strengthen our economy and our job situation.

It allows us to also move forward to create a more clean and more sustainable environment which needs to be a goal that is embraced by the policy that we'll formulate.

You know, Mr. Speaker, it has been said often that a crisis is a terrible thing to waste. Well, there are multiple crises that this President inherited, he and his administration. Certainly the House, as a leadership, is addressing those crises that have been passed on here to not only legislators and policymakers and executives but to the American public where we struggle with situations that for far too long have gone unaddressed.

You know, I liken this to the space race that we had decades ago, where this country came behind its leadership, where President Kennedy indicated that we could place a person on the Moon, where he boldly expressed that vision, and we were able to go forward and invest in science and technology. Sputnik was mentioned in every classroom. There was a race going on, and it was important for us to win that race.

The same can be said today with the global race that exists out there for some Nation to emerge as that go-to Nation that will export the energy intellect and the energy innovation and ideas that will transform not only our economy but the worldwide use and the worldwide response to energy needs and energy solutions. We can win that race but we need to invest. We need to open up with new policy, and we need to commit to resources that are essential.

We are doing that today as we talk about the transformation to an innovation economy, and as we look at some of the situations that we have with the power that is addressed by foreign oil imports, noting that nearly 67 percent of our oil is imported from foreign supplies, from foreign countries, that is finding we're spending some \$475 billion that is shipped overseas. People will talk about different economic impacts or concerns or fears that they try to forecast and project, when in fact we need only to look at history to see what's been happening with the hundreds of billions that are invested in foreign economies and an overwhelming, near two-thirds, of our supply for oil being imported from foreign countries.

This should tell us something. It should tell us that there are opportunities to create jobs to go forward and produce American-based power and to address jobs through energy efficiency and conservation efforts, through research and development, to develop those prototypes to make certain they're deployed into the manufacturing sector and that we can grow this richness of economy and also export these ideas and this invention to other world economies across the globe.

My colleague and friend from our freshman class—and I've grown to respect each and every one of my freshmen colleagues, but one who has expressed a very strong concern about jobs, job creation, job retention is MARK SCHAUER from the State of Michigan, from the seventh, I believe, district in Michigan. Representative SCHAUER is very concerned about jobs, and I believe MARK sees this as a way to address that job situation.

Mr. SCHAUER. I thank Mr. TONKO. It's an honor to be part of this discussion on behalf of a new group of Democratic Members of the U.S. House of Representatives.

I am from Michigan. The Seventh Congressional District is seven counties in southern and central Michigan in a State with an unemployment rate of 12.9 percent. To me, energy policy is about two things. It's about protecting our planet, being stewards that we need to be to hand this planet to our children and grandchildren, but energy policy in my State is jobs policy, and that's how it must be and that's how my constituents look at it.

I'm here to offer that and magnify reality in Michigan. Yesterday, the news from General Motors was very difficult for my State when they announced seven plants that would be closed. Based on that forecast, the fiscal analysts in Michigan have projected that our unemployment rate will reach 17 percent. That is really horrific, and for every family experiencing that, that's 100 percent unemployment and very, very devastating.

So our State has lost over 400,000 jobs since the turn of this century, and we have much to do to rebuild our economy.

I want to talk about a couple of things relating to a clean energy economy in Michigan and around the country. First is in the auto industry. Michigan has the highest concentration and the most by number of automotive and advanced manufacturing research and development of anywhere in the country, in fact anywhere in this continent, and that is an asset that we must build upon.

I was at an event in my good friend and colleague JOHN DINGELL's district in Ann Arbor. My district is immediately adjacent to his and shares Washtenaw County, with a company called Sakti 3. This was a company that was a direct spinoff from the University of Michigan's School of Engineering, that this entrepreneur has developed the second generation of automotive battery technology before the first generation of that technology has actually been built.

Everyone knows, I'm sure, that the Chevy Volt will be built here in this country. The reality of the truth is General Motors chose a Korean supplier of that battery. They developed the chemistry there. Sadly, they were

ahead of us here in the U.S. That battery will be built in the U.S. That's the first generation. This electric car that will be developed will be able to travel up to 40 miles without using a single drop of gasoline. Talk about reducing our carbon footprint. That is amazing. And of course, in the American Recovery and Reinvestment Act there is a generous tax credit to help drive down the cost of those electric vehicles.

But I was mentioning this other new startup, and I want to mention that a number of battery technology companies in my State are seeking some of the \$2 billion that we approved in the American Recovery and Reinvestment Act for automotive battery technology. So the first generation is about to be built for the new Chevy Volt. The second generation is already being developed by a company immediately adjacent to my district, and it will employ people from within my district. And this is, I think, an example of how good energy policy is good jobs policy.

This is what we need, and we candidly need, to do our part in Congress to partner with a new General Motors, new Chrysler, Ford and other auto companies to innovate. Representative TONKO talked about an innovation policy, innovation economy, and that's exactly what we can do in the domestic auto industry, and we must do, and I certainly will be making the case that Michigan should be the center of that new technology and our commitment to not only reducing our carbon footprint but to creating jobs.

□ 2015

I'm optimistic about what we can do. It's going to take all of us, Democrats and Republicans, to work together with our President to make sure that we make the right investments—the right strategic investments in protecting our planet and creating jobs. We certainly need that in Michigan. We need that in every part of the country during this deep recession.

Thank you. I yield back my time to my good colleague from New York, Representative TONKO.

Mr. TONKO. Thank you, Representative SCHAUER. You're absolutely right on with the need for job creation. The facts are there that really speak to us so forcefully because, as you indicated, we can better control our destiny simply by focusing on job creation that is American based. That we can better control our destiny with the environment by moving to cleaner outcomes, by having automobiles that burn more effectively, more efficiently, and cleaner.

Now, it's said that if we produce 25 percent of our electricity and our motor fuels by renewables—by moving to renewables to that 25 percent level by 2025, we can create 5 million jobs here in this country. So it really behooves us to move forward and advance

a situation that will find us investing in jobs in manufacturing, in engineering, certainly in transportation, as we can move forward and really effectuate the source of investments and changes that will really produce a strong economic outcome for us here in this Nation. And it's not whether or not we have the luxury to make that decision. As we speak, China invests \$12.6 million per hour in greening up their economy.

Going back to the space race of decades ago inspired by JFK and others, we have President Obama, Speaker PELOSI, leadership in the House, the conference, the caucus, the membership here, the majority in this House advancing an effort to really produce jobs to clean up the environment and create a situation that not only address a stronger sense of energy security and energy independence, but also a national security factor that is thereby strengthened simply by growing our energy independence and our energy security because our reliance on some of the most troubled spots in the world finds us in the middle of conflicts, as we see today.

One of our other freshman class members who is equally passionate about change and reform, who was also a student of history, checks into these situations of cleaning up our environment and producing jobs, Representative CONNOLLY from the great Commonwealth of Virginia, from the Congressional District 11 in that State, is with us this evening also.

Representative CONNOLLY.

Mr. CONNOLLY of Virginia. Mr. Speaker, I thank my colleague from New York, Mr. TONKO, and I thank my colleague Mr. SCHAUER from Michigan for his passion about the situation, the deteriorating situation in the great State of Michigan, and the hope a green economy brings to that situation. I look forward to joining with my colleague from New Mexico, Mr. LUJAN, on his take on this very important subject.

Mr. Speaker, although the sky is falling, you will notice I'm not wearing a helmet. Today, a small but organized and well-compensated group of Chicken Littles is claiming that a bill to reduce global warming pollution will somehow wreck our economy and create lots of new taxes. We've heard it all before—and none of it was true.

When Congress was considering whether or not to reduce acid rain in 1990, polluting industries and their paid lobbyists claimed then that it would drive up electricity bills and destroy the domestic economy. Neither predicted disaster transpired. Moreover, in addition to the acid rain solution and with the implementation of the Montreal Protocol to reduce CFC pollution, we also used a cap-and-trade system to reverse the growth in the ozone hole due to chlorofluorocarbon, once front-page news.

During the 1960s and 1970s, sulfur dioxide pollution was poisoning rivers and streams across America, while inflicting damage on infrastructure and some of our most famous public art, to say nothing of deforesting huge swaths of woodlands here in the United States and North America and in Europe.

This pollution came from some of the same sources that are emitting global warming pollution today, including coal-fired power plants especially. In 1980, polluters released over 17 million tons of sulfur dioxide into the atmosphere. Since implementation of a cap-and-trade program—yes, a cap-and-trade program that we adopted, legislated, and implemented to stop acid rain, we reduced acid rain pollution by 8.9 million tons—a 50 percent cut every year.

When Congress was considering capping acid rain pollution in 1990, polluters claimed that such a cap would drive electricity prices through the roof and cripple the economy. Sound familiar? In fact, the acid rain cap-and-trade program has saved \$40 in costs for every dollar spent on pollution controls. This 40-1 cost to benefit ratio saves Americans \$119 billion every year.

Each dollar that we don't have to spend on premature health problems or damaged infrastructure due to acid rain is another dollar saved and invested. By reducing sulfur dioxide pollution that causes acid rain, we also reduce ground level ozone that causes asthma and other respiratory health problems. By reducing sulfur dioxide pollution that causes acid rain, we also reduce the incidence of premature heart problems in America.

Nor did the acid rain program hurt American energy production, as predicted. Coal companies installed scrubbers that remove sulfur dioxide as well as other pollutants like mercury from their facilities. Installation of these scrubbers created high-paying jobs right here in America, the kind that Mr. SCHAUER from Michigan just finished talking about. We created new sources of employment for electricians and other skilled tradesmen to retrofit older coal-fired power plants.

The nonpartisan Congressional Research Service has conducted several reports on the efficacy of the acid rain cap-and-trade program. A recent CRS memo, which I would introduce into the RECORD at this point, notes that the acid rain reduction program is nearly 100 percent compliant in pollution reduction and has not experienced any problems with market manipulation. It's an extraordinary success story and a template for what we're talking about on a larger scale, admittedly, on carbon dioxide.

[From the Congressional Research Service]  
THE SULFUR DIOXIDE CAP-AND-TRADE  
PROGRAM

Sulfur dioxide (SO<sub>2</sub>) emissions from electricity generators and other sources con-

tribute to acid rain and fine particle concentrations in the atmosphere. Specifically, the U.S. Environmental Protection Agency (EPA) states that sulfur dioxide and nitrogen oxides (NO<sub>x</sub>), in their various forms, lead to the acidification of lakes and streams rendering some of them incapable of supporting aquatic life. In addition, they impair visibility in national parks, create respiratory and other health problems in people, weaken forests, and degrade monuments and buildings.

The electricity sector emits approximately two-thirds of the SO<sub>2</sub> emissions in the United States. To address these emissions of SO<sub>2</sub>, the Clean Air Act Amendments of 1990 added a cap-and-trade program to the Clean Air Act (42 U.S.C. 7401 et seq.). The object of the program is to reduce SO<sub>2</sub> emissions to 8.95 million tons, compared with 17.3 million tons emitted in 1980. From the beginning of the program in 1995, SO<sub>2</sub> emissions have declined to 8.9 million tons in 2007—a reduction of almost 50% from 1980 levels.

According to EPA, the lower SO<sub>2</sub> emission levels from the power sector have contributed to significant air quality and environmental and human health improvements. In its 10-year report in 2004 on the program's progress, EPA listed the following accomplishments:

Led to significant cuts in acid deposition, including reductions in sulfate deposition of about 36 percent in some regions of the United States and improvements in environmental indicators, such as fewer acidic lakes.

Provided the most complete and accurate emission data ever developed under a federal air pollution control program and made that data available and accessible by using comprehensive electronic data reporting and Web-based tools for agencies, researchers, affected sources, and the public.

Served as a leader in delivering e-government, automating administrative processes, reducing paper use, and providing online systems for doing business with EPA.

Resulted in nearly 100 percent compliance through rigorous emissions monitoring, allowance tracking, and an automatic, easily understood penalty system for noncompliance. Flexibility in compliance strategies reduced implementation costs.

A 2005 study estimates that in 2010, the Acid Rain Program's annual benefits will be approximately \$122 billion (2000\$), at an annual cost of about \$3 billion—a 40-to-1 benefit-to-cost ratio.

Thus, the program has achieved its environmental goal of reducing acid deposition, its economic goal of reducing SO<sub>2</sub> emission in a cost-effective manner, and achieving almost 100% compliance. It should be noted that there have been no indications of allowance market abuse during the implementation of the program. However, it should also be noted that the secondary market for sulfur dioxide allowances is not heavily traded, as the free allocation of almost all allowances to electric generators has reduced the need for such entities to enter the secondary market to meet compliance requirements.

Today, the minority party claims we can't afford to reduce greenhouse gas pollution because it will increase costs and hurt the economy. We have heard these arguments before during the acid rain debate in 1990, and they have all been proven false. We have saved money by cutting acid rain and pollution, created clean energy jobs, and improved public health, and achieved our

goals of reducing pollution. Far from being a burden, reduction of acid rain pollution improved our quality of life.

Here in Washington, there is a great debate about the reality and threat that global warming poses to our quality of life and long-term economic prosperity. That debate, manufactured by the polluters who want to continue to pass along their costs the average Americans, is not taking place in communities across America. The vast majority of Americans understand that global warming is real and it threatens not only distant ecosystems, but neighborhoods and ecosystems all across our great country.

Most importantly, Mr. Speaker, our constituents understand that inaction carries very high costs. We cannot afford to let polluters pass along their costs to average citizens. For the sake of our health, our children's health, our agriculture production, our coastal communities, we must make polluters pay in order to avoid what would otherwise be catastrophic impacts of global warming.

We know from past experience we can achieve dramatic reductions in air pollution that save money for the average American while improving our quality of life.

Many Americans, Mr. Speaker, remember a time when the ozone hole was growing, raising the threat of skin cancer and other health problems, while damaging the environment. Such a large problem seemed difficult if not impossible to address.

The growing ozone hole was the subject of front-page newspaper stories all across the country, amid widespread concerns of its health impact, particularly with respect to skin cancer. Using a cap-and-trade system, again, to reverse the growth in the ozone hole, we successfully tackled one of the most pressing environmental issues this country and the world has faced by establishing a cap-and-trade system to reduce pollution from chlorofluoro carbons and other pollutants that were destroying the ozone.

We have not one but two successful models of cap-and-trade systems right here in the United States. They help solve problems that seem too big to solve at the time. Today, children may not even remember that we had to deal with the hole in the ozone. The fact that we haven't heard of it much is evidence of the success of a cap-and-trade system. Let us seize that opportunity again.

Mr. TONKO. Thank you, Representative CONNOLLY. You know, it's just so good to revisit recent past history as we look at just what the results of some of that progressive policy formation was about. And it did have a positive effect on our environment and it did create jobs and it did address in sound economic terms a stronger future.

So we seem to be at a threshold, again, that needs to be inspired. We need to be inspired by that history that perhaps was expressed and touted in some measures of fear when in fact science and technology led us through some very difficult challenges and we responded by creating jobs and responding favorably to the environment that we share and maintain for coming generations.

Mr. CONNOLLY of Virginia. Mr. Speaker, my colleague, Mr. TONKO, is exactly right. I think there are some who live with a static model rather than a dynamic model. And it's all a zero sum game. In fact, that's not just how it worked.

And you're absolutely right, Mr. TONKO, that when in fact we have used it, we created jobs, we avoided health care costs, we innovated in industry, and the economy moved forward in a dynamic and vibrant way rather than in fact contract.

Mr. TONKO. Well, with carbon capture and reducing the carbon impact into our environment by having a comprehensive energy plan, by putting together a cap-and-invest program, we're able to address greenhouse gas pollution in a way that can be addressed from both sides of the energy equation, and from all sectors, including transportation. And the energy generation, more efficient transmission, where we can use superconductive cable, where there's less line lost, making it more efficient and a conservative thing to do.

To be able to move forward with diversifying our energy mix with kinetic hydropower and what it has to offer; with geothermal and what it has to offer; with the inclusion of renewables—using our wind, our Sun, our Earth to respond to our energy needs. And then, on the flip side, on the demand side, conservation and energy efficiency, where we use shelf-ready products to retrofit systems, make manufacturing more productive and efficient, saving them money in the line of producing their products.

All of this is saving jobs and creating jobs. Taking those white- and blue-collar traditional jobs, implementing the newly created green collar jobs, of which we need to speak, and really producing, I believe, that innovation economy that pulls us into a new order of thinking for energy's sake and really stakes a claim here in a Nation that has invested for a long time in R&D.

But we need now to go beyond those prototypes. We need to deploy into manufacturing and deploy into commercial sector use these great ideas that are, by the way, being picked up by emerging nations and they're using American know-how.

□ 2030

Mr. CONNOLLY of Virginia. My colleague, Mr. Speaker, made reference to

John Kennedy's call to put a man on the Moon by the end of the sixties. Think about the positive externalities, the positive consequences of that innovative decision and innovative investment. Think of the technologies that spin off inventions, patents and economic wonders that were generated by that one decision to make that one critical investment. Similarly, the investments my colleague Mr. TONKO was talking about—and he's absolutely right—will have a lot of positive consequences for this economy for a generation to come. I would also suggest to my colleague, Mr. TONKO, that there's also a very high cost for inaction, and that needs to be examined as well. Some on the other side of the aisle seem to think that maybe if we wring our hands and hold our breath, perhaps it will all get better or go away. And I think there are huge costs that don't often get talked about associated with inaction.

Mr. TONKO. I believe those huge costs are there, that inaction that came through the prior administration found the American households, American families on average spending \$1,100 more because of their dependence on gas, oil, electricity and what have you.

Just looking at this chart, which is portraying a rise in the importation of crude oil, finds us peaking in the last several years where we're now near 3.7 trillion barrels of crude oil that are running our economy, degrading our environment and finding us without any sort of clever progressive agenda that really is within our grasp. Again, it translates into the concerns that you expressed here this evening, Representative CONNOLLY and Representative SCHAUER. And we're going to hear from another of our freshman colleagues who has been on this mantra of energy transformation that equates to job growth, job retention and innovation that we can reach to with the American know-how, the brain trust, the intellectual capacity that we have as a Nation.

Our colleague from New Mexico's Third Congressional District is Representative LUJÁN. Representative LUJÁN, you also have great knowledge and experience. You add to that array of diversity within the freshman class, in the Democratic Caucus that sees it from a regulatory perspective, but you also are there talking about the need for jobs, jobs in your State, in your district, in our American economy.

It's great to yield to you, Representative LUJÁN.

Mr. LUJÁN. Representative TONKO, thank you very much. It's very good to be here with a few of my friends this evening as we get a chance to talk to our constituency, our colleagues and maybe share some new ideas, maybe talk about some old ideas. As we've heard from my good friend from Virginia (Mr. CONNOLLY), he talked a little



bit about the act that was adopted in 1990, the Clean Air Act, which was strangely in response to a campaign pledge from a Republican President that we had. This was a campaign pledge that was made during the 1988 election. We hear sometimes from some of our colleagues that the idea of a cap-and-trade system is this new idea, that this is something that hasn't been talked about ever before. Well, when you go back to what the American people were hearing back in 1988 and after the adoption of the Clean Air Act in 1990, what we heard from our Republican presidential candidate at the time was that there was a pledge to curb acid rain, and it could be fulfilled with the world's first emissions cap-and-trade system. And that resulted in what we now know to be the address that we moved forward with, the address to clean up acid rain. What's interesting with that is we're reminded by our friend Mr. Fred Krupp that within 5 years, the U.S. utilities cut emissions 30 percent more than the law required. They went over and beyond what was required from them because it made sense. But not only did it make sense, they found a way to utilize this to generate revenue. Even while increasing electricity generation from coal by 6.8 percent and reducing retail electricity prices, during that same period the U.S. economy grew by a healthy 5.4 percent. Even though there were dire predictions that the program would eventually cost more than \$6 billion a year, it was less, 30 percent less, between \$1.1 and \$1.8 billion. This was all in response to making sure that we were able to go out and address some of the concerns with some of our lakes and some of our rivers and our streams and our national parks.

I have a lot of friends back home that like to fish, and I know that we all have a lot of constituents that are outdoors people, that depend on being able to go out and take their kids out to show them what the outdoors is all about. The enactment of the legislation in 1990 was a direct result from being able to protect some of these things, but we have to look a little further back when we talk about history.

In 1977 under another Republican administration, when we talk about the Clean Air Act being put together, under two Republican administrations where we saw people working together, where we as a Congress could come together and reach across the aisle and work with the President to do what was right. And as we hear from our friend, Mr. SCHAUER from Michigan, we talk about the importance of job creation. Comprehensive energy reform, there's no doubt that it will create millions of jobs, millions of clean energy jobs, many in New Mexico, many in Michigan and Virginia, New York, the Midwest, the South, the East and the West, throughout the United States.

And this has been an area where we've always led, and there's no reason we can't take advantage of moving forward strong policy to create good jobs that will make a difference.

I would like to point us to something that China is doing. We heard from my friend Mr. CONNOLLY about this. Doing nothing means that we fall further behind China and Europe and even Japan and Germany as we talk about the progress that they've made in this specific area. But China alone is investing \$12.6 billion in a clean energy economy every hour. Nearly 40 percent of China's proposed \$586 billion stimulus plan, \$221 billion over 2 years, is for clean energy investments, including an advanced electric grid. We hear about what China's doing and India's doing. Well, they're investing in this area. And if we, as a country, don't get ahead of this and create jobs and make investments in clean energy and do what's right for the American people, we're going to fall behind, and we can't afford to do that.

I look forward to being here this evening and visiting with our friends as we get a chance to talk a little bit more about the benefits, about the positive things we can do and the importance of coming together, as was done in 1990, as was done in 1977, to make sure that we're able to pass and adopt responsible legislation that will make a difference for the American people and for this great Nation of ours.

Thank you very much, Mr. TONKO.

Mr. TONKO. Representative LUJÁN, well said. Whoever, whichever country emerges from this race for energy innovation will become that go-to nation. And what a chance we have out there to really create a new era of job creation and to strengthen our economy nationally and to export talent in a way that will strengthen every region of this country. It's about that job growth. It's about job retention and, more importantly, job creation, embracing that investment that we have made through academia, that we have made through the private sector R&D components.

Just recently I was with the GE leadership as they announced the plans to build an advanced battery manufacturing center in Upstate New York, and they're doing that with a commitment to a battery type that can be used for heavy vehicles, that can be used for energy generation and for intermittent energy storage. That then takes us to a whole new area of opportunity, a key that unlocks the doors to vast potential that then can transition this whole way that we respond to our energy needs and create jobs at the same time.

Let me yield to Representative SCHAUER because I know, again, his real passion here for his State of Michigan, his home State, is to talk about those jobs that we can create.

Mr. SCHAUER. Thank you, Representative TONKO. I want to tell you about what can happen when governments work together with the private sector. Obviously the ideas, the innovation comes from the private sector. It's often led by our great universities, and we all come from incredible States. But the State of Michigan has an amazing system of public universities, public higher education. I've talked about the University of Michigan a little bit. There are others, including Michigan State University, that are doing amazing things in biofuel and bioenergy. But I want to tell you what can happen when everyone makes a commitment to developing these new energy technologies.

Having recently come from the Michigan legislature, some of these incentives are very real to me. The State of Michigan made more than \$500 million in incentives available to prospective advanced battery manufacturers. The State of Michigan has already attracted four of these advanced battery manufacturing companies. They plan to invest \$1.7 billion—with a B—and create more than 6,500 jobs.

Now, to stand here the day after General Motors announced some very difficult cuts in my State and in other States around the country, the prospect of 6,500 jobs from advanced battery manufacturers to propel our vehicles with clean energy to reduce our carbon footprint is exactly what we need to be doing.

I will mention one other thing that I have been working on in my office, and I gather each of my colleagues here have been working with companies in their States. We all have assets regardless of our region. Some are sunnier. Some have stronger winds. In Michigan we have the most fresh water shoreline in the country that we need to take advantage of from an energy standpoint. But I've also been working with some wind energy companies and solar energy companies. There is a company in my hometown of Battle Creek that is developing a facility to build the state-of-the-art photovoltaic material. I think to the credit of President Obama and through the work of the American Recovery and Reinvestment Act, we will move more aggressively to see that our Federal buildings—and I'd like to see that include our military buildings—use that photovoltaic material to reduce energy costs. That's a job creator. And certainly with a company like United Solar Ovonic that's building a facility in my district, that's a job creator. But I'll mention briefly, before I yield to Representative CONNOLLY from Virginia, that wind energy in a State like Michigan provides incredible job opportunities. I am working with a company that is an automotive supplier, that is one of those shops that's been in business for multiple generations. In this case, in Eaton

County, the company is called Dowding Industries in Eaton Rapids. They made the leap about a year ago to start building windmill turbine hubs, creating new jobs. They partnered with a company to build the machining. They're the industry standard. But they're ready to do more, and they're talking about creating thousands of jobs with a new technology to build wind turbine blades right in a State that has lost hundreds of thousands of jobs due to the decline, the transformation of the auto industry. So this is about energy policy. But to me, this is about economic policy and jobs policy.

I thank the gentleman from New York for the opportunity to talk about jobs, talk about Michigan and talk about energy policy.

Mr. TONKO. It was a pleasure.

Representative SCHAUER, you said it well. It is the transitioning, that we need to transform that economy into ways that can assume some of those gaps that have not been addressed. I know, coming from a State that I will talk about in a while, about the investments we've made in our region. It was without that sort of broader comprehensive plan coming from the Federal level. I think while we are a diverse freshman class, and we cover the map of the U.S. rather well as a new class, even amongst our diversity, there is that common thread that we understand, that the American public stated clearly through the election. We want change. We want reform. We want production. We want productivity, and we want things to happen. And these are the things that can happen to the very good.

To the freshman Member, Representative CONNOLLY, you are coming from a State that, obviously, is a large State, that hears the issues that are expressed out there. And you've been a very strong and forceful voice on behalf of reform and change. Your perspective again on job growth?

Mr. CONNOLLY of Virginia. I thank my colleague from New York. I'm struck by listening to you, Mr. TONKO, and you, Mr. SCHAUER, especially on the whole issue, for example, of advanced battery research.

□ 2045

The enormous extraordinary potential of an innovative investment, when we look at advanced lithium batteries for example and the impact potentially on your home State, Mr. SCHAUER, of Michigan, in particular it could completely revolutionize the automotive industry and once again put the United States at the edge, the competitive edge and the dominance of the automotive industry as in years past. That advanced battery research has the potential to create a plug-in hybrid, for example, that gets on average the equivalent of 100 miles per gallon. If

every vehicle on the roads in the United States, just as an example, actually could average 100 miles per gallon, we could virtually eliminate the need for foreign oil imports in the United States with just that one innovation. That is the power of advanced battery research.

Similarly, and you mentioned it, Mr. TONKO, the potential of new batteries to store power could transform the solar panel industry and suddenly make solar affordable and accessible to residents and commercial entities alike. And I had reason recently to look at the German experience before I came to Congress. In Northern Virginia, we have a sister relationship with the Stuttgart region in Germany, and we went and we looked at a combination of solar and geothermal as an alternative to high utilization of fossil fuels. And these two renewables dominated huge swaths of Germany that we visited: Berlin, Hamburg and Stuttgart.

Now, Germany is not known for its sunny climate, and yet they are making it work with a combination of Federal incentives and a lot of research that has made the deployment of solar practical for Germany. And I believe that the advanced battery research that we funded in the stimulus bill earlier this year in the American Recovery and Reinvestment Act of 2009 holds enormous promise, similar, Mr. TONKO, to that call to put a man on the moon over 40 years ago.

Mr. TONKO. Most assuredly, Representative CONNOLLY. And you speak of the impact that Germany is making with perhaps lesser solar hours available to their situation. While at NYSERDA, at the New York State Energy Research and Development Authority, at I believe our third conference on green collar workforce development, we were visited by representatives from 33 States and four nations, including Germany. They talked about the particular niche they were creating for plumbers in Germany to do hot water solar arrays where you could address those hot water needs through solar panels.

We know also, through the stimulus package, the opportunity to shave that priceyness from solar activity PV by thin film advancements along with the intermittent battery storage issues. So there is great potential out there that is yet untapped, or undertapped, that should motivate us, should challenge us to really move forward with a comprehensive plan that is well structured, that deals with carbon capture, that mentions both the supply and demand side of the equation, and to go forward in a way that structures and implements the policy that then shows sound leadership. That is what we are looking at here. We have a President who gets it, a President who talks about innovation, who talks in a way

that will allow us to be creative and put the academic notions of this society to work. That, to me, is tremendously strong. The expression of innovative ideas can really inspire our Nation.

The Speaker, the leadership of this House and the membership of this House is there ready to move forward to progressive outcomes. And that, I think, speaks to sounder environmental outcomes, sounder economic outcomes and a stronger energy policy, crises that are addressed in one fell swoop of activity with public policy.

Representative LUJAN, you have joined us this evening, for which we are most grateful. You have a regulatory aspect that you have borne before your involvement here in Congress, which is always helpful. But you also seem to have that tremendous passion for thinking outside the barrel, if you will, in a way that will reduce that glutinous dependency of this society and this economy on foreign imported oil.

Mr. LUJAN. Mr. TONKO, we talked a little bit about my background. Before I came to Congress, before I was given the great honor of serving in this Congress to so many wonderful people, I did serve on the New Mexico Public Regulation Commission. And we were one of many States who adopted a renewable portfolio standard, standards which will require utilities to generate more power from the sun, from the wind, being smarter about the way we generate power. And when we talk about the American Energy and Security Act, about making sure that we are looking after our Nation's security, when you look at the chart which shows so much of our Nation's money, billions of dollars, hundreds of billions of dollars going to other nations that aren't friends of the United States, we have to wonder why aren't we moving forward with the commitment and will to bring about the change that is required? This provision includes enacting a provision where we will encourage more renewable generation across the United States. It is going to encourage more energy efficiency standards and building standards that will make a difference.

This last week, on Monday, before I came back to Washington, I had the great fortune of visiting a new high school being built in one of the cities in my district, in Rio Rancho. It is a large high school, but it is a high school that was built with energy efficiency in mind, with smart building standards. And the increase in cost is actually going to be regained, and it is going to be seen within 5 years, a 5-year paydown of the investment. This means better lighting for our students, a stronger learning environment. It is what is right. And that is what this act will do.

We heard about the importance of education. In New Mexico, we have a

few colleges, the National Wind Research Center in Tucumcari, at the Mesa Lands Community College, working on wind research and turbine research in agricultural parts of my district where ranchers and farmers are excited about seeing these wind turbines pop up around New Mexico. This is the kind of investment that we are talking about, job opportunities and revenue streams that will make a world of difference: the investment that is being made in our laboratories where the gains can be made to solve the storage problem so we can see more robust generation when it comes to renewables, job creation, investments in science, investment in our schools and how we can go tie that education gap together from K through 12 to college, to our laboratories, bringing everyone together.

This last week we heard from the President, and he said, "I have spoken repeatedly of the need to lay a new foundation for lasting prosperity." That is what we are talking about here, a foundation for new prosperity. We, as a Nation, will lead again. We will work with the rest of the world. We will make sure that we are providing job opportunities for Americans from sea to shining sea, as the President likes to remind us.

For the first time, what is interesting to my friends here this evening, my colleagues, for the first time we have utility companies and corporate leaders who are joining, not opposing, environmental advocates and labor leaders to create a new system of clean energy jobs. We were reminded of this from our President last week. It is amazing what can happen when people come together.

We have an opportunity now, again, to act responsibly for the American people to come together, come together as a Congress and make a difference, come together and create more jobs, invest in science, technology and change the way that we do things, but change them for the better.

Mr. CONNOLLY of Virginia. I wonder if my colleague will yield for a question.

Mr. LUJÁN. Absolutely, Mr. CONNOLLY.

Mr. CONNOLLY of Virginia. I heard your eloquence and I heard you talk, Mr. LUJÁN, about the high cost of oil imports. Sometimes I want to have us focus on the other side of the equation, what are the costs of inaction? You talked about how, in 1977, President Jimmy Carter came into office, but prior to that, in the Nixon-Ford years, the United States had committed itself to energy independence. Is that not correct?

Mr. LUJÁN. That is absolutely true, Mr. CONNOLLY.

Mr. CONNOLLY of Virginia. And how did that turn out for the United States of America?

Mr. LUJÁN. We saw what resulted after the adoption of the act in 1990. The economy actually increased from about 5.4 percent. We saw growth in the economy. We saw utility companies making wise decisions in investments and creating jobs.

Mr. CONNOLLY of Virginia. But with respect to energy independence, is it not true, Mr. LUJÁN, that instead of creating energy independence that the United States became more energy dependent on foreign oil?

Mr. LUJÁN. That is absolutely correct.

Mr. CONNOLLY of Virginia. Doesn't that underscore the reason and the imperative nature of why we need to take action now?

Mr. LUJÁN. If we, as a Nation, don't take action now and utilize these dollars to invest in American jobs, in solving our dependence on foreign oil, talking about our Nation's security, we couldn't be more right. And as we talk about our Nation's security, what has happened to the economy, we need to create the jobs to be able to provide opportunities for the American people, make sure that we are changing the way we are going to generate power, move power, consume power, be smarter about the way that we do things. It is all wrapped up in one, Mr. CONNOLLY, and I couldn't agree more.

Mr. CONNOLLY of Virginia. Mr. LUJÁN, I just want to echo, if I may, what you just said about national security. It is another cost to the United States. Every year, because of our growing appetite for foreign oil, we are putting money into the hands and into the pockets of many countries who don't necessarily have American interests at heart. Is that not true?

Mr. LUJÁN. That is absolutely true. And we saw with some of the charts that Mr. TONKO was sharing with us, as we see what is happening with the U.S. imports of crude oil, we see what is happening, you go back to the time period we are talking about here, Mr. CONNOLLY, you go back here to 1977 and you see some of the changes that resulted and going forward with what has happened with imports and what can be done here. What didn't we learn when we saw these increases and spikes starting in the 1970s there? We have an opportunity to learn and to make a difference here.

And I know that Mr. TONKO had the other chart there, and I will yield to Mr. TONKO to be able to explain what has happened with the dollars again.

Mr. TONKO. Mr. CONNOLLY, this chart says it all, what you're raising as a very strong concern. Somehow there is a willingness to spend, export \$475 billion out of the U.S.

When you think about the impact that has on our economy, the jobs that could be created if we relied on American-produced power, if we put American brain trusts to work, what

couldn't happen? Might we not see this as a tax, a situation that finds us dealing with a dreadful blow to our economy and impacting in strong negative measure our environment which we borrow and need to send on to the next generation in even cleaner format?

So when I look at the small microcosm of the country expressed by the 21st Congressional District in New York, I see so many opportunities that require that overlay of energy policy and energy resources from a Federal perspective. And that is why the President and the leadership in the House, the Speaker and our Chairs and our rank-and-file Members are to be encouraged, I believe, to move forward on this matter.

We have, within the 21st New York Congressional District, semiconductor investments, nanoscience investments, emerging technologies all on a green campus, R&D investment centers through General Electric's emerging wind institute that will also embrace other renewables with their ecomagination situation and private and public sector campuses that are investing in R&D. We have superpower which is breaking its own record in superconducted cable development that can be used to transmit far more electrons over similarly sized traditional cable.

So all of this is there as an undercurrent, an underpinning of support that can then blossom into its fullest potential if we allow for policy to take hold. And that is what the moment is about and leadership expressed in the greatest, boldest green upturns.

Mr. LUJÁN. Mr. TONKO, I would be remiss if I didn't include the faith community. They came together and they wrote a letter to the members of the Energy and Commerce Committee, the Coalition on the Environment and Jewish Life, the Episcopal Church, the Evangelical Lutheran Church of America, the National Council of Churches USA, the United Church of Christ, Justice and Peace Ministries, and the United Methodist Church General Board of Church and Society. They said, "The American Clean Energy and Security Act lays a necessary foundation to begin addressing the global climate crisis. We urge you to oppose any attempts to further weaken the bill as it goes through committee and continue moving this legislation forward while working to strengthen key provisions and ensure a just and sustainable future for all of God's Creation."

Understanding how we can work together again, Mr. TONKO, it is truly amazing, and it is great to see that we can come together to get great things done.

Mr. TONKO. Thank you, Representative LUJÁN and Representative CONNOLLY.

Representative SCHAUER, we are going to let you close our hour here because we are running out of time.

Mr. SCHAUER. Thank you. This is why we are here. I came to Congress to help fight for Michigan's economy, help move our country in a new direction, and energy policy is going to help us do that. We have touched on so many of those pieces this evening. As new Democratic Members of the U.S. House of Representatives, we will continue to lead to make sure we invest in our country, invest in protecting our planet, and invest in new clean energy jobs in this country.

Mr. TONKO. Thank you so much to my colleagues from the freshman class, Mr. Speaker. I yield back the remainder of our time.

#### CALCULATING YOUR SHARE OF "CAP-AND-TRADE"

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

□ 2100

Mr. AKIN. Good evening, Mr. Speaker. It's a pleasure to join you and to take a look at a very interesting topic today. The whole idea of, it's kind of a combination of thoughts, first of all, the idea of global warming, and then how that relates to this cap-and-tax bill that we've been hearing more about, and exactly what's behind all of this discussion, because what we have here is something that is, if you want to talk about change, there's a whole lot of change here.

This is a very, very significant proposal that's being made in terms of the size of the tax that's involved, and the proposal that we're actually going to change the climate of the world by some of these different things that are going to be done by the government, a very interesting thought.

And so I thought, when we talk about global warming, there's a little bit of the story that I think has been forgotten. Some of it, not surprisingly, is the history of what's going on. I'd like to go back just a little bit in what's been going on.

Let's go back to the year 1920, when newspapers in the 1920s were filled with scientists' warnings of a fast approaching glacial age. The Earth was going to get cold. And so you had to really be stocking up on extra coal and overcoats and things in the 1920s.

In the 1930s it seems that the scientists changed their opinion, and they reversed themselves, that there was going to be serious global warming in the 1930s.

By 1972, Time magazine was citing numerous scientific reports of imminent runaway glaciation. So it's going to get cold again.

In 1975, Newsweek reported that the scientific evidence of an "Ice Age"

called to stockpile food. And we also were even engaged in discussions about melting some of the Arctic ice cap or something because of this Ice Age that was readily, eminently approaching.

By 1976 the U.S. government said the Earth is heading into some sort of mini ice age. And now we have back again, global warming. In fact, global warming is even getting a little bit out of fashion now, and people want to talk about climate change. It's a little safer to talk about climate change because you're not predicting whether it's going to get colder or warmer. But anyway, we've had some considerable amounts of disagreement, depending on what year you're on. So we go back and forth. It's either going to be the sky is going to fall because it's going to freeze, or the sky is falling because it's going to get warmer.

So we have today this whole subject of global warming. That's what the most common term that you hear nowadays is global warming. And I think the facts of the matter are that there has been a considerable amount of disagreement, depending on which decade you're living in.

I'm joined this evening by some very good friends, some respected colleagues, a medical doctor, as a matter of fact, and another gentleman from Pennsylvania, a very big coal and energy producing state. We're going to be chatting with them in just a minute.

But I thought it would be appropriate just to kind of lay down, first of all, historically some of the differences of opinion, depending on which decade you live in.

The general theory today, the way it works is the idea that mankind is creating CO<sub>2</sub>. We do that when we breathe, so there's not much scientific argument about that. There are other ways that CO<sub>2</sub> is produced as well. Whenever we make a campfire we produce a certain amount of CO<sub>2</sub> as we burn some combustible with the oxygen in the air.

And the theory is that this CO<sub>2</sub>, because we're burning so much in the way of hydrocarbons, now is actually affecting the environment. And so we're going to take a look at that.

And the question is whether or not, really, this CO<sub>2</sub> is affecting the environment. I think most scientists agree that when we create or when we produce CO<sub>2</sub> it has some impact on the environment. The question is how much. And then it's also a big question as to whether or not there's anything we could really do about that in a practical sense, or are there any sort of cost-effective solutions. And of course there is a solution that's on the table that's being proposed. It's a cap-and-tax bill that's being proposed by the Democrats. And it follows the pattern of most Democrat bills, and that is, I've got a great big whopping tax increase, and it has a whole lot of government regulations.

If we go back in history a little bit, history is an amusing thing to take a look at. One of the things that history tells us is how effective the U.S. government is in solving these kinds of problems.

We created a thing called the U.S. Department of Energy. Maybe a lot of people know we have a U.S. Department of Energy, but they may not recall why it was that the Department of Energy was created. Well, the fact of the matter is the Department of Energy was created so that we would not be dependent on foreign energy. And so, for years we've added more and more employees to the U.S. Department of Energy so that we won't be dependent on foreign energy, and each year we become more dependent on foreign energy. So it's amusing to postulate that we're going to solve this problem using a lot of taxation and a government solution.

I think the Republicans—I'm a Republican, my colleagues that are joining me tonight are Republicans—I think that we prefer a more free enterprise kind of solution, and we want to take a look at the premises behind what we're talking about.

I'm joined by my good friend, G.T. THOMPSON. He's from Pennsylvania. I'd like to recognize Congressman THOMPSON, who is already making himself a name here as being a very feet-on-the-ground, commonsense kind of guy, has an intuitive sense for free enterprise, and also potential dangers that come from this idea of we can solve all the problems with a great big whopping tax increase and government regulations.

Please, I yield time.

Mr. THOMPSON of Pennsylvania. Well, I thank the gentleman from Missouri. Your overview of this, your reference to real science is refreshing. In the debate and most of the debate of the majority party here, it's not so much based on real science as political science or even, to some degree, science fiction. And so, to look at why this—and I looked at every piece of legislation in terms of cost benefits. And when we look at the benefits of this, I think human activity, it's acknowledged, does contribute towards carbon dioxide emissions. But it's less than 4 percent. To put that into perspective, forest fires, wildfires contribute 10 percent of CO<sub>2</sub> emissions. And so not even with the debate of, you know, are we warming the Earth or not warming the Earth, there's a lot of smart folks out there that are publishing research or earning their dissertations based on debating that science. But what the experts agree upon, the researchers agree is, human activity is less than 4 percent contributes towards CO<sub>2</sub> emissions.

You know, in terms of the cap-and-trade, cap-and-tax that we're discussing—

Mr. AKIN. Could I interrupt you just a minute because I thought you were

on a rather important topic, because the whole crux of the idea for this huge tax proposal and all kinds of sweeping changes and government power and influence and regulation is based on the fact that CO<sub>2</sub> is such a bad thing, and it's based on the assumption that the CO<sub>2</sub> that we're releasing by burning fossil fuels is creating some kind of a problem. I mean, that's the whole linchpin that this debate is going around.

And yet you have, here's kind of an interesting quote here. And I think I'd like to get into this just a little bit. Here's a former U.S. Senator and he says, we've got to ride the global warming issue. Even if the theory of global warming is wrong, we'll be doing the right thing in terms of economic policy and environmental policy.

So, in other words, there's a solution that they have in mind, whether global warming is going on or not. And the thing that's been embarrassing, you've noticed we don't hear as much global warming. We hear climate change, and the reason is because the planet has not really been warming the last number of years as all of these economic models were saying that it was going to. And that doesn't necessarily mean the CO<sub>2</sub> that we've generated hasn't created some warming. It just seems that the world climate is more connected to sunspot activity than these other things.

But here you're just talking about the effect of CO<sub>2</sub>, and I thought this was interesting. This is how much does the human activity affect greenhouse gases? The block in light blue here represents all the greenhouse gases, which comprise only 2 percent of the total atmosphere. So this is all the greenhouse gases.

And that yellow block over there on the end is the CO<sub>2</sub>. And the little tiny red block inside the yellow block is the part that our human activity is creating. And so the question is, in terms of leverage, does this little red dot over here have that much impact on the climate?

And this is, I don't think anybody disputes the percentages of these gases and the mixture. So the question then is, is this stuff that we're doing really that important?

And you just said the forest fires, which were created by poor environmental policy by the way, a lot of them, because we're not allowed to clean that brush out, the underbrush, and then it burns everything and burns Bambi and snowy owls and everything else because we didn't want to clear the brush out, and that's generating, what is that, 2½ times more than all of the coal and oil and things we burn.

I didn't mean to interrupt you, but I think it's important for us to stick on what science, what really does science say. And this is not an easy thing for any scientist to figure out, is it, be-

cause what's happening is there's all sorts of things that play together, and so, the CO<sub>2</sub> we generate could be warming the planet some, but it could be also that we're in a time where the planet is growing colder. So all of that, we don't really understand that totally, do we?

Mr. THOMPSON of Pennsylvania. I think the gentleman points out an important point. These are all based on models and strictly speculation.

Mr. AKIN. Some of the models said that we're going to have surf at the front steps of the Capitol pretty soon. I was really looking forward to that.

Go ahead, I yield.

Mr. THOMPSON of Pennsylvania. Well, and the purpose overall of this is to really eliminate all energy other than green energy. And today, I mean, the energy sources that are only seen as viable by the majority party under cap-and-tax are, frankly, solar and wind. And today, that represents less than 1 percent of meeting our energy needs in this country.

So say we work real hard and we give it that Manhattan Project, and we absolutely double that, the energy capacity of solar and wind, well, that's 2 percent. We still have a huge gap that this country has that we need to be able to fuel our vehicles, heat our homes.

And I'm from a very rural district. The folks in my area, we have some pretty harsh, frigid winters, and we need to heat our homes. We commute in my home for work, for groceries. You know, frankly, a lot of folks in my area commute just to pick up their mail. And the cost of cap-and-tax, I believe, is projected, well, with, just on gasoline alone to increase by over 70 percent.

Mr. AKIN. I appreciate your bringing that up, and I'd like to get into that just a little bit more as we move on this evening into that area, about the Democrat proposal, what it does to people's costs, average costs.

But we're also joined by a good friend of mine, Dr. FLEMING. And people that have a technical or scientific background are a little rare in the Chambers here. So to have actually a guy who's passed high school science is tremendously helpful. And Dr. FLEMING is from Louisiana.

I'm a misfit in politics. I'm an engineer by training. I don't know how they ever—there's few of us in here that are engineers.

But Dr. FLEMING, I would be encouraged if you'd join us too in our discussion.

Mr. FLEMING. Well, thank you. And I want to thank my friend, of course, from Missouri for having this hour discussion, very important discussion, coming right at the heels of our classmates from the other side of the aisle speaking on the same subject, but with a different opinion.

I also thank my fellow Republican classmate, Mr. THOMPSON from Pennsylvania as well for his discussion.

Well, let me just point out that, you know, you don't have to be detailed in the science to understand one empirical fact, and that is, this globe has warmed and cooled several times in its life before there was the first emission of fossil fuels.

So, that being said, we already have proof positive that the Earth can warm under its own circumstances and its own environment and its own test tube, if you will. And you just mentioned sunspots and other activities. There are many things that go into the global warming effect and global cooling effect.

And as you say, now that we're not able to accurately actually predict that the globe is warming, now the whole issue is changing to climate change, so that whatever happens different than what it is at this moment can somehow be blamed.

□ 2115

Mr. AKIN. Just reclaiming my time, somehow or another, this whole thing strikes me, if it weren't so serious, as being a comedy. You know, we just went from winter to spring in Missouri. When we go from winter to spring, that's a good climate change. I don't want to stop that climate change, you know. Who in the world would want to put politicians in charge of the weather anyway? What a dumb idea. Anyhow, we need to be a little bit serious because this is a tremendous tax that we're talking about, a tremendous removal of freedom away from Americans, and it is a tremendous investment in more and more big government solutions. That is extremely scary in spite of the fact that the science seems to be a little bit amazing. We'll get into that, too.

I was just recalling that my friend from Pennsylvania was here with the guy from Spain, I think it was, 2 weeks ago. They were talking about how Spain has driven this cap-and-tax, and they were talking about what has happened, and we're going to get into it. So it isn't something we're going to speculate about. It has been tried. We can say: here is what happened in Spain. Do we really want to reproduce this or not?

I didn't mean to interrupt you, Doctor. Please continue.

Mr. FLEMING. Thank you. To sort of gear down to the real topic tonight, I heard talk from the other side of the aisle this evening about terms such as "investment," which really, to me, is a code for tax, and also "jobs" or "green jobs."

Mr. AKIN. You have to translate. "Investment" means we're going to tax you.

Mr. FLEMING. Exactly. Exactly.

Mr. AKIN. Thank you, Doctor.

Mr. FLEMING. Also, it was very interesting that the discussion hinged

somewhat on the fact that this investment creates more jobs and that it creates revenue down the line. If you listen closely to the discussion, what you hear is really good old-fashioned subsidies. That is, whenever the government is subsidizing forms of energy that are not cost-effective at this point and whenever the technologies are not there, what we really get is a pass-through of taxpayer dollars that goes into what I would call artificial, or papier mache jobs, so-called "green jobs." We'll learn from the Spanish experiment that has been going on now for 10 years that, for 2.2 jobs that are lost, there is only one so-called "green job" gained. That job 90 percent of the time is in implementation and construction. It is not a continuous job.

Mr. AKIN. Reclaiming my time, as for the green jobs that are being talked about, we're going to create all of these green jobs in Spain. They call them "subprime jobs," you see. This is the same old warmed over Keynesian economics that we've been hearing since the days of FDR. That is, if the government taxes everybody a whole lot and takes the money and pays people to do stuff, then we've somehow created jobs.

The trouble is, when you tax them, you have prevented other jobs from being created. So, in effect, what you've done is, yes, you've created jobs, but you've lost 2.2 jobs. So what sort of math is that? That's not a very good mathematical formula. So there's this talk about green jobs. In Spain, they call them "subprime jobs," and they've now got, I think, 17.5 percent unemployment as a result of this nifty project that they're doing to get rid of CO<sub>2</sub>. The trouble is, even measured on the face of it, they're making more CO<sub>2</sub> than they did before, so it isn't working.

Anyway, proceed, Doctor.

Mr. FLEMING. Well, just to extend that a little further, where are these jobs going?

It turns out that some of the Spanish jobs have come to America because we understand that the net effect of tax, or cap-and-trade, or cap-and-tax as we call it, is that there is a higher cost to produce goods for manufacturing. So as a result, for someone who owns a factory or a company that perhaps owns a factory, he has to find the most cost-effective location for that factory. Otherwise, he can't compete in the worldwide economy. We know today that this is, indeed, a worldwide economy. We can't get away from that fact.

Just today, a Chinese company bought Hummer—a portion of General Motors. So we know that to be true. Well, we actually have received a dividend from Spain going down this road. We've actually had companies coming to the U.S., and we've actually gained jobs as a result of Spain's having gone down this cap-and-trade boondoggle.

Mr. AKIN. If I could just interrupt and go over to my good friend from

Pennsylvania, to Congressman THOMPSON, let's flesh out this idea.

If you do this solution that the Democrats are proposing, which is a cap-and-tax or a cap-and-trade or whatever you want to call it, how does that end up with our losing jobs? Let's go through that very specifically so that people can understand it, because that's what we're talking about. That's what happened in Spain. Let's go through that model and identify where those jobs went.

The brag that the Democrats were saying an hour ago was that they're going to create jobs and that everything is going to be better. Yet the very thing they're proposing in Spain has gotten them to 17.5 percent unemployment. Let's go through how that happens.

Can you please help us with that, Congressman THOMPSON?

Mr. THOMPSON of Pennsylvania. Sure. I think the important baseline on that 17.5 percent unemployment today in the country of Spain is the fact that, when cap-and-trade was instituted, it was 7 percent. Unemployment was 7 percent.

Mr. AKIN. So they've driven it up 10 percent.

Mr. THOMPSON of Pennsylvania. Over 10 percentage points is the outcome. Those really are the only two major outcomes that I see of cap-and-trade—higher unemployment and higher energy costs.

In terms of the job losses, that's what this bill is all about. This is a jobs bill. They're correct on that part; but, unfortunately, it's a job loss bill. You know, they talk about all of the green jobs that were created in Spain as a part of cap-and-trade and the proposal of cap-and-trade here to create jobs. Well, in Spain, for every 10 green jobs that were created, mostly related to solar or to wind, only one was sustainable within that economy by the industry that paid for that job and for its implementation. As my colleague from Louisiana talked about, nine out of those 10 jobs are still around today because the country of Spain doesn't want to see unemployment driven higher.

So how do they hang onto those nine out of 10 jobs? It's a subsidy bubble. There are tens of billions of dollars annually that the country of Spain has to infuse into the alternative energy industry so that it doesn't drive their unemployment up over 20 percentage points. You think about what this does to cost. There is no industry that will go untouched. Any industry that uses energy—and that's all of them—is going to see significant energy increases and costs. Today, especially in these economic times and even in the best of times, to be competitive globally and to have our costs be put up by—I don't know—say 30 percent or more, that totally makes us uncompetitive within the world.

Mr. AKIN. Reclaiming my time, let's go through this. So in other words, let's say we did what the Democrats want to do: let's do this great big tax increase. This is a very big tax increase. So what we're going to do is essentially tax energy. Now, as to energy issues within companies, some companies are using more than others, particularly aluminum manufacturing, steel manufacturing, your basic, hard manufacturing jobs. These then support lots of other burger flipping types of jobs that are very heavily energy intensive, but also food is very energy intensive. So now what's going to happen?

You're going to tax energy. When you tax it, it means the prices go up. The energy-producing company doesn't just pay the tax. It pays the tax, and it passes it on to the consumer. So the person who flips the light switch on or the person who lights up his pilot light to run his stove or his heater for natural gas or the people who fire up their diesel engines or their gasoline engines are paying more money. Therefore, those businesses are less competitive. In being less competitive, there are more foreign people who can compete and who can send products into this country. We can't compete against them because our prices go up. So, effectively, we send jobs overseas that way. We're less competitive. So the jobs go away.

The government taxes everybody in the private sector. The money comes out of the private sector. They use it to hire somebody. This then displaces a couple of jobs, and here we go around in this circle. This is basically what Morgenthau tried, the Secretary of the Treasury under FDR. He said that we're going to raise the taxes a whole lot, that we're going to spend a whole lot of money to "stimulate the economy" and that it will drive unemployment down.

Then he came here to this Chamber 9 years later, before the Ways and Means Committee, and his quote was: "We've tried it and it doesn't work." Those were exactly his words: "It doesn't work." So he said that now we've got high unemployment and a whole lot of taxes and a big debt to boot.

So this is the same old tried-and-true Democrat scheme of raising taxes and of creating and trusting the government, of trusting that the government is going to run it better than would free enterprise. Yet we've got this Department of Energy out there that was founded to get us off our dependence on foreign energy; and ever since it has been founded, it has gotten worse.

I yield to my good friend from Pennsylvania.

Mr. THOMPSON of Pennsylvania. Well, thank you, sir.

You mentioned natural gas. We could talk all evening on different types of manufacturing that utilize natural gas,



not just as a process for heating and for energy but also as an ingredient. Natural gas is a key component in almost any type of manufacturing. I want to just focus briefly on two.

You know, some of the folks who help feed us are our family farms throughout the Nation; and I don't care what they're raising or what they're growing, many of those family farms use processes that use natural gas, specifically with fertilizer for growing crops—for growing our food. It feeds this Nation. When we see under the cap-and-trade of natural gas, it's clean. It's a very clean fossil fuel, but it's a fossil fuel that's going to be punished and penalized under cap-and-trade. We're going to raise the cost of food for America because of cap-and-trade and feel the impact of taxing the use of natural gas on our farmers.

Mr. AKIN. Just reclaiming my time, you know, I've got a chart I'd like to talk to you about because we figured out what the size of this tax is. You take the average per family, and we're going to go in a minute and take a look at what it is going to cost the average family every year for the next 8 years for this \$1.2 trillion tax increase.

We've been joined by another doctor, a medical doctor but also a guy who graduated from high school science as well, from Georgia, my good friend, Congressman GINGREY.

It's just great to have you in our discussion this evening. Please jump in. I yield.

Mr. GINGREY of Georgia. Mr. Speaker, I thank the gentleman from Missouri for yielding time to me and for bringing to this body this important hour.

I was watching our colleagues on the other side of the aisle, the Democrat majority. I think they were mostly freshmen who had the previous hour, and they were praising, of course, the American Clean Energy Act and Security Act of 2009, and they were talking about all of the great and wonderful things that it does.

Certainly, there are some good things in the bill. I'm not going to stand here, Mr. Speaker, and completely criticize every aspect of it. Our freshmen colleagues—our Democrat colleagues—spoke very eloquently, but they never talked about the whole picture. I don't know where they were. They obviously were not Members of this body in the 110th Congress when we Republicans stayed here a year ago in August rather than going home for our vacations, or for our August recess, or for our codels. The Speaker and others rushed out of here to head out to foreign places, leaving Americans high and dry with \$4 a gallon regular gasoline at the time. That's when the real commitment came on our side of the aisle to say it's unconscionable to leave this body and to do nothing for the American people and to say, oh, well, we'll

take care of it in 5 weeks when we get back in early September. That's exactly what the Democrat majority did a little less than a year ago.

When I heard my freshmen colleagues on the other side of the aisle talking about how wonderful this new cap-and-trade energy bill is, I think one of them even described it as the foundation for new prosperity from sea to shining sea. Well, let me just tell you, Mr. Speaker: the folks in the 11th District of Georgia, in northwest Georgia—in fact, in the entire State of Georgia, in fact in the entire Southeast—don't think this is a foundation for new prosperity from sea to shining sea. It might be wonderful for northern New Mexico. It might be good for upstate New York. It may be good for some parts of Virginia. It may even be good, I guess—although I can't imagine how—in some parts of Michigan, which are the areas that these freshmen represent on the Democratic side of the aisle.

I want to tell you that it is not good in the Southeast. I think my colleagues have already pointed out that what the Democratic majority has done with this American Clean Energy and Security Act of 2009 has crammed down the throats of the American people not a comprehensive, all-of-the-above approach. It is not going to be a foundation for new prosperity from sea to shining sea because what it does is raise energy prices for every American family by an average of \$3,000 a year.

Mr. AKIN. I can't help but jump in here.

Mr. GINGREY of Georgia. I would be glad to yield back to the gentleman who controls the time. I thank him for allowing me to be part of the discussion.

Mr. AKIN. It's a treat to have you. I think you brought up a couple of very, very significant things.

First of all, we stood in this Chamber just a couple of months ago and heard the President say that anybody making less than \$250,000 doesn't need to worry about any tax increases. Yet, this tax increase that is being proposed happens to anybody who flips a light switch. That means you could make a lot less than \$250,000 a year and get hit with a tax.

This cap-and-tax—these circles here—represent different, expensive things that America has bought.

□ 2130

This is the war in Iraq and this is the Korean war, and you have got the gulf war over here. Over in the far right you've got Hurricane Katrina, different things like this. This is World War II, this big blue one. This is this tax: \$1.9 trillion worth of tax. That's what's being proposed here. And we're just told if you're making \$250,000 or less, you won't get any tax, and yet this taxes you when you turn the lights on,

when you turn the thermostat up, when you start your car. That's what this tax is about right here. And when you eat food, that's what this tax is about.

Mr. GINGREY of Georgia. If the gentleman will yield for an additional few seconds.

Exactly. You break down this cost right at \$3,000 a year for a family of four, it breaks down, as the gentleman has pointed out, Mr. Speaker, a 90 percent increase in the cost of electricity, 74 percent increase in the cost of gasoline, 55 percent increase in the cost of natural gas.

Now, when I was home during this Memorial Day remembrance and district work period, I went to visit one of the plants in my district—again, northwest Georgia, the 11th—Dow Chemical, and what they do is make all kinds of products out of polyurethane, and the dashboard in your automobile is an example. And the cost, their feedstock is natural gas. And what we're doing is putting additional costs on all of these manufacturers, everybody that produces electricity, and it was a cost that was never there before. And somebody has to pay for that cost. And who is that somebody? The American public.

I yield back to the gentleman.

Mr. AKIN. We've also been joined by my very good friend, Congressman BISHOP, who talked before on this subject, very knowledgeable.

And I would yield time to Congressman BISHOP. Please jump in.

Mr. BISHOP of Utah. I, unfortunately, don't have the wonderful accent that my good friend from Georgia has, but I will try and slur some words together to see if I can emulate that in some small way.

The problem that I think all of us here in Congress are facing, as well as the people out there are facing, is that the government has promised they're going to do something. Not market forces. The government is going to do something. And this cap-and-tax policy is an effort of the government to try to ratchet down carbon emissions into the atmosphere by changing the way industry works in an effort to have them changing the way they produce things. That change passes on to the consumer. Everything we use, as the gentleman said, has some kind of carbon footprint. The essence is that not only industries but individuals will change their lifestyles.

I don't care how you went to spin it. It is still a tax on people—we are looking at estimates around \$400 billion—a tax on people that doesn't go to changing the amount of energy we have or changing the way we live our lives to better the people's lives. It's an amount of money that goes simply to the government. It is a windfall to the government.

Mr. AKIN. Reclaiming my time.

They're talking about using that for socialized medicine or something,

right? It has nothing to do with CO<sub>2</sub> at all.

Mr. BISHOP of Utah. That is exactly the point there. If people are going to actually put out that kind of money, they should know what they're going to get and they should know what the goal of all of this is.

The goal has been stated that we'll have an 80 percent reduction by 2050. Sounds wonderful. In my particular State of Utah, we have a carbon footprint of roughly 66 million tons of CO<sub>2</sub> per year and a population of 2.6 million. If you simply do the math, 80 percent by 2050 means we will be producing in 2050 2.2 tons of CO<sub>2</sub>. Sounds like a lot. Except the last time in the history of the State of Utah we had a carbon output that was that low, I'm sorry, Brigham Young wasn't there. If you tried to do something for this Nation, the Pilgrims hadn't landed before you do that. So the question is how do we actually do that? How do we reconcile a lifestyle with these elements, especially when there are 6.2 billion on the Earth, 2 billion who have never switched on a light?

Mr. AKIN. Reclaiming my time.

Those numbers are incredible.

What you're saying is we want to maintain—maybe we don't want to maintain our current standard of living but we want to go back to a pre-Pilgrim America in terms of CO<sub>2</sub> output?

Mr. BISHOP of Utah. It's the only way it works as long as you can keep the other 2 billion people in the world who don't have electricity today from ever getting electricity.

We can keep our lights, our flat-screen TVs, our computers, our cell phones, everything that uses electricity now, our low-cost food without bugs because fertilizer is fossil fuels. We can keep the clothes and the plastics. You go into an emergency room, everything except steel is part of fossil fuels. Composites made for airplanes now that make them lighter weight and more efficient is all gas. You fly here back and forth on gas.

The problem we have with this entire concept is basically we're saying we're going to get rid of fossil fuels at the same time we live with fossil fuels, and that is simply nothing short of schizophrenia on our part.

Here's a problem. I had a great friend that gave a speech at one point. And one of the things we need to be looking at is the fact that all of these, what we classify as alternative fuel sources, really are supplemental fuel sources. If you add everything we do from solar and wind power together, it's one-sixth of 1 percent of our energy consumption. You try to make one of those pie charts with that and it's a thin line. You can't get anything more than that. That's the best a PowerPoint—which also uses electricity—would ever produce. And we get that with 20 years or 30 years of the government having

spent \$20 billion to try to increase wind and solar power.

President Obama said we want to double that figure. Actually, in the last 3 years of the Bush administration, we doubled that figure. Admittedly, it's a higher base now. It would be harder to do at the next doubling. But if you double it, you go from one-sixth to one-third of 1 percent. And that's on the assumption that no economy grows anywhere else. Everything remains flat.

Mr. AKIN. Now, just reclaiming my time.

Now, my understanding was what we heard from the guy from Spain, he said that they had been able to get a lot of windmills and solar panels out there and that it was a significant part of what they generated. But he said here was the problem: When the weather didn't cooperate, they had to tell the big industries, You can't make any aluminum today because we don't have any electricity because the wind isn't blowing or the sun isn't shining. And they told the steel manufacturers, You can't make any steel. And so these companies are moving guess where? To America. They're moving out of Spain because of the fact that the energy is no longer reliable.

To make things worse—what they described to me was really chilling, and I need to jump over to my good friend from Louisiana who is also here on this, but this is what really stuck in my mind. He said what they did was they took a whole bunch of bureaucrats and they guaranteed them that they could sell energy to the government at a certain high price so those people would invest in solar panels and windmills. They guaranteed the price, and now they've got this thing created and it's a political monster because you have all of these people with windmills and solar panels and they don't want to politically change it because that's where their revenue is coming from. So they've created this thing that's driving over 17 percent unemployment and all kinds of people are in on the government take and they don't want to change it.

My good friend from Louisiana, Congressman SCALISE, please jump into the conversation.

Mr. SCALISE. I thank my friend for talking about this issue.

This cap-and-trade energy tax, this proposal that this administration and this leadership in Congress has brought forward—you're talking about the Spain study, and Spain is an interesting study because there are other countries that have gone down this road. So there are some good models to look at and see what is cap-and-trade, what has this national energy tax done to other countries, and you go to Europe and see the devastation to their economies.

And you look at Spain. They just did a study on the Spain experiment in

cap-and-trade, and they came back with some numbers that showed, for every green job they created, they lost 2.2 regular jobs. And what's even more than that is that 9 out of 10 of those new jobs they created were temporary jobs.

So, in essence, for every one permanent new job they created with cap-and-trade energy tax, they lost 20 regular permanent jobs in their regular economy.

So if you look at what's happening here in the United States with this proposal, this cap-and-trade energy tax, it literally would run—estimates by the National Association of Manufacturers say that it would run 3 to 4 million jobs, American jobs, run them overseas to countries like China, India, and Brazil that are not going to comply with this.

So the real irony is for those people who really do believe that we need to reduce carbon emissions—ultimately we all recognize that carbon emissions have the same effect if they're emitted in the United States or in China. And so the real irony is, if you want to reduce carbon emissions, if you support cap-and-trade, you're going to have an increase in worldwide carbon emissions because the jobs that are done here in the United States, for example, that produce steel, to produce steel in the United States, and that same steel is going to be produced in China, for example. The same steel produced in China will emit four times the amount of carbon that the steel in the United States would emit because we already have tougher environmental regulations in place.

So for the people that are trying to use cap-and-trade, this energy tax to reduce carbon emissions, you'll actually have an increase in carbon emissions because the jobs that are in America right now that will go overseas, that we will lose in our economy, the 3 to 4 million jobs we will lose in tough economic times while American consumers actually end up paying over \$2,000 or \$3,000 a year in their electricity bill, those jobs go to China.

Mr. AKIN. What you're saying is, in simple terms, this cap-and-tax not only won't work; it's going to make a bad situation worse. It's not only going to create unemployment, but it's going to create more CO<sub>2</sub>.

The amusing thing is there is a chart here that—I just discovered this. If we were to double our nuclear power production—we're currently producing about 20 percent of our electric power through nuclear, 25 percent, somewhere in that range. If we were to double it, it would have the same effect as taking almost every passenger car off the road in terms of getting rid of CO<sub>2</sub>. And yet the funny thing is, do you know what happened in Spain, what they did with nuclear? They shut their nuclear stuff down, which is absolutely insane, because nuclear is the one kind of energy

that doesn't make any CO<sub>2</sub> at all and yet they shut it down. So this whole thing about CO<sub>2</sub> being such a big problem, it seems like we're talking out of both sides of our mouth.

I promised my good friend from Utah I would let him have the last word before he had to scoot out of here.

Okay. We'll go back over to the gentleman from Louisiana.

Mr. SCALISE. Ultimately, we need a national energy policy. We don't have that in our country. So you've got very clear differences. The approach that we here that have been talking tonight support is a comprehensive national energy policy that understands that we've got our own national resources like oil, natural gas. We can develop clean coal technology. We can promote more nuclear, and we can use that to fund more solar and wind and other alternative sources of energy, but using our natural resources in America, not shipping jobs overseas like the cap-and-trade energy tax proposal by our colleagues on the Democratic side.

Mr. AKIN. Now you're getting me excited. You're talking about freedom instead of a whole bunch of government taxes and bureaucracy. What you're talking about allows Americans, empowering Americans to use the resources that we have, the technology, the innovation, and to develop energy from all different kinds of ways within our country and let that energy compete in a free market sense and let people buy the energy they want to buy.

Mr. SCALISE. And reduce our dependence on Middle Eastern oil while creating good jobs here in America, as opposed to their plan which taxes people on their energy bills and runs jobs to countries like China and India that will emit more carbon for doing the exact same thing we do here.

So I yield back.

Mr. AKIN. I really appreciate your emphasis on free enterprise, free solutions, and not government bureaucracies. But it still just dazzles me that the Spanish were able to sell this thing politically that they're worried about CO<sub>2</sub> and they shut down the nuclear, where we say here we just double our amount of nuclear and we get rid of all emissions of almost every passenger car on our highways. That's incredible.

Congressman BISHOP.

Mr. BISHOP of Utah. I am glad you feel excited right now, because one of the things that we are talking about in Congress is alternatives and other ideas. And as we have gone through this, we have shown that the cap-and-trade policy is nothing more than a tax. There are lots of negatives that go around with it. It's idealism, because the alternatives we have are not able to replace fossil fuels yet unless we want to totally change our lives. And there are easier ways than government mandates to get it done: allowing the markets to work—which I hate to say,

especially from a "just say no" party, but if you include the no cost stimulus bill that many of us here have sponsored, H.R. 2300, which is from the Republican Study Committee in the Western Caucus—I think all of us here sponsored—those are viable options that make life better by having a reliable and sufficient energy to drive down the costs to help us find a bridge to come up with supplemental, not alternative, but supplemental energy and to do it in an orderly and efficient manner where people get to choose.

The government doesn't pick the winners. People get to pick the winners. There aren't those options out there. And what you got excited about is exactly what many of us here are trying to do. It is another voice. It is another option. Let the American people know it is out there and available.

Mr. AKIN. I appreciate that great plug for freedom. I think there is something—there are a few statistics that all of our guests here tonight know these things.

□ 2145

But an awful lot of people don't know about it, and here's something that I thought was just amazing. If I were to say to you that this place where we work here, the U.S. Congress, is polarized between Republicans and Democrats on the abortion issue, you'd go, yawn, well of course they're polarized.

But what I don't think a lot of people know is that this Chamber is more polarized on the energy issue than we are on the abortion issue. We went back and took a look at about 8 years of voting between the two parties on developing American energy. And you know what we found? It's no surprise to you gentlemen. Ninety percent of the time where there is some proposal to help the development of American energy, Republicans voted for it, and even in the most mundane or the most easy to get along with politically, 86 to 88 percent of the Democrats voted "no." There is a huge party-line difference on the development of American energy.

And I just think a lot of people aren't aware of that, but people say there's no difference between the parties. Boy, there sure is on this issue, isn't there?

And my good friend Dr. FLEMING, I would appreciate you again joining us in the discussion here.

Mr. FLEMING. Well, I thank the gentleman. I think that really the extension of what you just said is what is the real agenda behind this, and I think that we've recognized in the last few years that the American taxpayer has had enough. They don't want to pay any more taxes. Americans feel like they pay enough on the city level, county level, State and Federal level, and I think that our more liberal friends, our tax friendly friends, have realized this, and now they're coming up with schemes to disguise taxes.

And I think Congressman DINGELL said it better than anybody in this Chamber—and of course, he's a Democrat—that this is a tax, a very big tax, and I think that really strikes to the heart of what the purpose of this is. Someone a moment ago made reference to the fact that we're going to need at least \$1.2 trillion if we go forward with a single-payer, comprehensive health care system, Medicare for all, if you will. And I think that those who support that are scrambling around to find a tax that can be defined as something not a tax, and I think they've got this cap-and-tax program squarely in their sights.

Mr. AKIN. Just reclaiming for a moment here, just to support what you're saying, this is kind of interesting. This is a Gallup poll about how do different people that are concerned with the environment, how do they rank global warming as compared to other kinds of environmental issues.

And this is March 2008 and March 2009. You can see both of these charts. It hasn't changed that much over a year, but the thing that was the most important to people in terms of environmental was the pollution of drinking water. That was their number one thing, and then they wanted water pollution, was also eighty-something percent, very important to people in terms of environmental concerns. All the way down, all the way over here to the smaller side, global warming is the last one, and yet that's all we've been doing for a month is global warming, and it suggests that maybe global warming isn't the real issue. Maybe that's just the horse that's supposed to pull a big fat tax increase. That's what we're starting to see here, and I yield to my friend from Georgia.

Mr. GINGREY of Georgia. I appreciate the gentleman yielding to me, Mr. Speaker, because this is a great segue into what I think is the bottom line here.

When Madam Speaker became the Speaker in January of 2007, it was clear that her signature issue was this issue of global warming, and shortly after that Al Gore got a Nobel Prize. He shared it with an intergovernmental climate control panel of the United Nations, and of course, he came before the Science Committee and Energy and Commerce Committee. This was their signature issue. This was the most important thing, and here we are in 2009 in the deepest of recessions, the worst recession that we've experienced since the Great Depression—

Mr. AKIN. Since Jimmy Carter.

Mr. GINGREY of Georgia. If the gentleman will allow me, just on that same theme that you were just mentioning, this is not the number one concern of the American people today. The number one concern of the American people today is their jobs and their families and the cost of all these

things, not just the cost of electricity, but everything that they have to purchase and concern over what's going to happen to Social Security and Medicare. And here we are going crazy about this cap-and-trade when we're taping our hands behind our back, penalizing the American people and losing jobs by the hundreds of thousands. It is pure idiocy, especially in an economic time of crisis like we're in.

Mr. AKIN. I would just like to discuss this a little bit with my good friend from Pennsylvania, Congressman THOMPSON. You know, I'm from Missouri, and I've been a legislator now a number of years. One of the things that is amusing is that the legislature passes some bill to do something, and the exact opposite thing happens of what they meant to have happen.

I'm just picturing some of my friends here tonight from Georgia and from Pennsylvania and Louisiana. I'm thinking about Missouri. And you put a big old tax on natural gas and electricity, and you know what the good old boy is going to do? They're going to break out that steel chainsaw. They're going to go to the wood lot. They're going to be cutting firewood, and they're going to be heating with wood and generating twice the CO<sub>2</sub> that would have happened if this silly bill hadn't been passed.

And the funny thing is it must be happening that way in Spain because their CO<sub>2</sub> has gone up in spite of the fact they got all this unemployment and taxes and this huge government bureaucracy they've created.

I just wanted to allow my friend from Pennsylvania, if you wanted to jump in on that subject.

Mr. THOMPSON of Pennsylvania. Absolutely. I appreciate that.

I mean, this is a tax that hits everybody and everything, every business, every industry, every family, and it's a tax on everyone. And I tell you, the folks, I tell you what makes it an immoral tax is the fact that it taxes those folks who are just now maybe getting by paycheck to paycheck, those people that work hard every day and do their best and they're just making it. You know, what they bring in income, they're putting out on bills. And in Pennsylvania because our electricity, 60 percent of it comes from coal, we have about 35, 38 percent that comes from nuclear and nuclear's taxed. Even though there's no CO<sub>2</sub> emissions, under cap-and-trade, nuclear is going to be taxed the same way.

Mr. AKIN. Just stop for a minute. That just absolutely dumbfounds me. The whole point of this deal is not to make any CO<sub>2</sub> supposedly, so we are going to tax the nuclear power plant that doesn't make any CO<sub>2</sub>. What's the logic of that?

Mr. THOMPSON of Pennsylvania. One of my opening comments was the

fact that it is refreshing to be here debating real science versus political science or science fiction. And here's the thing: The alternatives are out there. Republicans have been working hard. We've got an energy solutions group. We've been putting that out there. During the district days, we were in Pittsburgh and Indiana and out in the West Coast, and we were talking about a better solution for America. We've been hitting on parts of it tonight.

I view that that solution would provide us an energy margin. You know, what is it, 9 months ago where gas was pushing \$4 or \$5 a gallon? And gas prices are going up now again, and yet we're furthering our dependence on foreign oil. The President has shut off the tax deductions for domestic drilling and shut down areas in this country for domestic drilling, including through the Forest Service, an area in my district, Allegheny National Forest, really slowed down to a screeching halt new drilling.

And we could have an energy margin with the proposals put forward by the Republican Party that will allow us to have the domestic energy resources so that in the future when there's a hurricane, or where a foreign country that we have been dependent on for our energy resources decides to shut down that flow or some other catastrophic attack, we actually have an energy margin where our energy prices remain stable. And that's good for America. That's the type of energy policy Americans expect.

I'm actually blessed here standing between two physicians. I'd like to take the opportunity to call on their expertise—I worked in health care myself in rehab for about 28 years, but not as a physician—to get their diagnostic opinion on this. This is all in the name of green, greening America, specifically solar and hydro, but in terms of the economy, the other green that comes to mind is gangrene. And I just would defer that, though, to my colleagues who are physicians to have a better feel for that.

Mr. AKIN. Well, now you're really hurting me when you start to get into that, but you know, that idea is that what you're doing is you're doing something that makes the economy sicker. That doesn't seem to be the thing that we want to do.

You know, the thing that strikes me, too, who is going to be paying this big tax? It's going to be the guy that is using electricity, the guy that's using natural gas, the guy that's buying food. Who is that? Is that rich people? No. That's, as you say, those are average Americans just trying to get along, barely got their lips above water, economy's in trouble, they're wondering whether they're going to have a job, they may have a kid home because the kid lost a job.

What are we talking about? We're talking about with this cap-and-tax, this proposal that's been proposed by the Democrats, what we're talking about here is every year you're going to have to come up with the amount of money you spend on for the average family on meat, poultry, fish, eggs, dairy, produce, juices and vegetables, that is how much extra it's going to cost you. Or you want to put it in something else, consider furniture, appliances, carpet, and other furnishings. That's how much. All of these different categories here are smaller than what this tax is going to cost the average family.

This isn't something that the President says, hey, \$250,000, don't worry, we're not going to tax you. This is taxing all of these families, and that's why we get excited about it, and it doesn't need to be done. The fact of the matter is that we can have that energy independence just by using basic freedom.

I'm going to go to my friend from Louisiana. Congressman SCALISE, if you could join us.

Mr. SCALISE. Again, what we're talking about here is this is a proposal that just passed out of committee 2 weeks ago, a very detrimental proposal to our Nation's economy, a proposal that threatens our energy security at a time when we've got proposals and solutions that we've presented that actually would allow America to have energy independence. So it is a true debate between the two parties where we have very different views.

Their proposal is this cap-and-trade energy tax which, literally, to that senior citizen who is on a fixed income—the President's own budget director, President Obama's own budget director, said this proposal, cap-and-trade energy tax, would add another \$1,300 per year to that fixed income senior citizen's electricity bill. Now, I don't know how they're going to go explain that to people, that this is what they're trying to do to them as we're talking about a summer coming up where people want to run their air-conditioning to stay cool. They're going to just tell those people to turn the air-conditioning off.

When people start wondering why we're not developing our own natural resources, in my State of Louisiana and in Dr. FLEMING's own district, my colleague from Louisiana, the largest natural gas find in the history of our country was found just 3 years ago in Haynesville, enough natural gas to supply all of our country's natural gas needs for 10 years.

And then in my colleague from Pennsylvania, Congressman THOMPSON's district, another find, the Marselles find, which could be even bigger. They're just discovering how big that find is, could be even bigger than the Haynesville find.

We've got kinds of natural resources: oil, natural gas, clean coal, not to mention the nuclear capability that Europe and other countries have gone to in large proportions, that we are denying by policy, and they're saying don't use our own natural resources, which then increases dependence on Middle Eastern oil. We're trying to put up a proposal here to say let's use our own natural resources, not send jobs to China and India like cap-and-trade, not raise people's electricity bills. We've got the ability to create our own energy independence and secure our future while creating good jobs, and that's the true difference right now between their cap-and-trade energy tax and our American Energy Solutions Act, which is a very different approach to a comprehensive energy national policy.

Mr. AKIN. Just reclaiming my time, I think you're being reasonable. You're talking about there's a contrast, two different approaches to solving where we're going with energy. And one of them is we're going to use the instrument of a great big tax increase and a lot of government regulations, and the other one is free enterprise.

What you're talking about is the fact that you're exploring. You're talking about finding more natural gas. I don't know if people are aware of it, but by things that have been passed on this congressional floor, eighty-some percent of our continental shelves are off limits for any exploration. What's the logic of that? I remember thinking the reason that the liberals didn't like nuclear was because of the waste, and yet we had a 100 percent vote in the Science Committee not to recycle nuclear waste.

I appreciate your joining us tonight. I think these are things that are of importance to Americans.

Thank you all. And thank you, Mr. Speaker.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUPPERSBERGER (at the request of Mr. HOYER) for today and through June 15 on account of medical reasons (surgery).

Mr. SULLIVAN (at the request of Mr. BOEHNER) for today and the balance of the month on account of illness.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CUMMINGS) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, today, June 3, 4, 5, 8 and 9.

Mr. JONES, for 5 minutes, today, June 3, 4, 5, 8 and 9.

Mr. BURTON of Indiana, for 5 minutes, today, June 3, 4 and 5.

Mr. WOLF, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today, June 3, 4 and 5.

Mr. FLAKE, for 5 minutes, today.

Mr. NEUGEBAUER, for 5 minutes, today.

Mr. INGLIS, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 19. Concurrent resolution expressing the sense of Congress that the Shiite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed; to the Committee on Foreign Affairs.

#### BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on May 21, 2009 she presented to the President of the United States, for his approval, the following bills:

H.R. 627. To amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

H.R. 131. To establish the Ronald Reagan Centennial Commission.

#### ADJOURNMENT

Mr. AKIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 p.m.), the House adjourned until tomorrow, Wednesday, June 3, 2009, at 10 a.m.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Speaker-Authorized Official Travel during the first and second quarter of 2009 pursuant to Public Law 95-384 are as follows:

##### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO REPUBLIC OF CUBA, EXPENDED BETWEEN APR. 3 AND APR. 7, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. Barbara Lee .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	787.02	.....	1,467.02
Hon. Emanuel Cleaver .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	416.66	.....	1,096.66
Hon. Marcia L. Fudge .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	416.66	.....	1,096.66
Hon. Michael M. Honda .....	4/3	4/5	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	249.99	.....	929.99
Hon. Laura Richardson .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	416.66	.....	1,096.66
Hon. Bobby L. Rush .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	416.66	.....	1,096.66
Hon. Melvin L. Watt .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	555.54	.....	1,235.54
Patrice Willoughby .....	4/3	4/7	Republic of Cuba .....	.....	680.00	.....	( <sup>3</sup> )	.....	416.66	.....	1,096.66
Committee total .....	.....	.....	.....	.....	5,440.00	.....	.....	.....	3,675.85	.....	9,115.85

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

<sup>3</sup> Military air transportation.

June 2, 2009

## CONGRESSIONAL RECORD—HOUSE, Vol. 155, Pt. 10

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## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JENNIFER M. STEWART, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 6, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Jennifer M. Stewart .....	4/4	4/6	Israel .....		364.00		( <sup>3</sup> )				364.00
	4/6	4/7	Afghanistan .....		78.00		( <sup>3</sup> )				78.00
	4/7	4/9	Pakistan .....		421.00		( <sup>3</sup> )				421.00
	4/9	4/10	Turkey .....		165.00		( <sup>3</sup> )				165.00
Committee total .....											1,028.00

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

HON. JOHN A. BOEHNER, Chairman, May 21, 2009.

## (AMENDED) REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NATO PARLIAMENTARY ASSEMBLY WINTER MEETING IN BRUSSELS, BELGIUM, OECD MEETING IN PARIS, FRANCE, AND BILATERAL MEETINGS IN VIENNA, AUSTRIA, AND OBERAMMERGAU/GARMISCH, GERMANY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 14 AND FEB. 22, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. John Tanner .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. John Boozman .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Jo Ann Emerson .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Baron Hill .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Carolyn McCarthy .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Charlie Melancon .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Jeff Miller .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )4,253.93				6,732.01
Hon. Dennis Moore .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. Mike Ross .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Hon. David Scott .....	2/14	2/17	Belgium .....		2,478.08		( <sup>3</sup> )				4,740.63
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Melissa Adamson .....	2/14	2/17	Belgium .....		1,245.73		( <sup>3</sup> )				3,508.28
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Kathy Becker .....	2/14	2/17	Belgium .....		1,245.73		( <sup>3</sup> )3,391.10				6,899.38
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )				
Paul Belkin .....	2/14	2/17	Belgium .....		1,245.73		( <sup>3</sup> )3,391.10				6,899.38
	2/17	2/18	France .....		627.78		( <sup>3</sup> )				
	2/18	2/20	Austria .....		862.13		( <sup>3</sup> )				
	2/20	2/22	Germany .....		772.64		( <sup>3</sup> )3,391.10				
Delegation Expenses:											
Representational Funds .....									25,976.49		25,976.49
Miscellaneous .....									684.97		684.97
Committee total .....					55,668.59		11,036.13		26,661.46		93,366.18

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

HON. JOHN S. TANNER, Chairman, May 13, 2009.

## REPORT OF EXPENDITURES FOR OFFICIAL TRAVEL, DELEGATION TO ESTONIA, LITHUANIA, CZECH REPUBLIC AND GERMANY, EXPENDED BETWEEN APR. 14 AND APR. 21, 2009

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Shelley Berkley .....	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
	4/20	4/21	Germany .....		330.00						330.00
John Carter .....	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54



REPORT OF EXPENDITURES FOR OFFICIAL TRAVEL, DELEGATION TO ESTONIA, LITHUANIA, CZECH REPUBLIC AND GERMANY, EXPENDED BETWEEN APR. 14 AND APR. 21, 2009—  
Continued

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Steve Cohen .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Virginia Fox .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Phil Gingrey .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Paul Kanjorski .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Rob Klein .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Loretta Sanchez .....	4/20	4/21	Germany .....		330.00						330.00
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Riley Moore .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Sarah Preisser .....	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Amanda Sloat .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Richard Urey .....	4/20	4/21	Germany .....		330.00						330.00
	4/14	4/15	Estonia .....		160.98				169.10		330.08
	4/15	4/17	Lithuania .....		270.00				266.70		536.70
	4/17	4/20	Czech Republic .....		558.00				485.54		1,043.54
Control Room .....	4/20	4/21	Germany .....		330.00						330.00
			Estonia .....		1,697.72						1,697.72
			Lithuania .....		5,118.77						5,118.77
			Czech Republic .....		918.384						918.384
Committee total .....											33,421.93

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. SHELLEY BERKLEY, May 19, 2009.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1952. A letter from the Major General, USAF Vice Director, Defense Logistics Agency, transmitting the Agency's Annual Materials Plan for the operation of the stockpile during fiscal year 2010, pursuant to Section 11(b)(1) of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

1953. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting the Department's Evaluation of the TRICARE Program Fiscal Year (FY) 2009 Report to Congress, pursuant to Public Law 104-106, section 717; to the Committee on Armed Services.

1954. A letter from the Acting Deputy Under Secretary of Defense for Logistics and Material Readiness, Department of Defense, transmitting the Department's notification that all three Military Departments were in compliance with the 50 percent limitation for FY 2008, and while the Departments of the Army and Navy are projecting compliance for FY 2009 and 2010, the Department of the Air Force's projections for FY 2009 and 2010 indicate they will be required to manage the distribution of depot-level maintenance and repair workloads to remain compliant with 10 U.S.C. 2466; to the Committee on Armed Services.

1955. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of

Health and Human Services, transmitting the Department's "Major" final rule — Substances Prohibited From Use in Animal Food or Feed; Confirmation of Effective Date of Final Rule [[Docket No.: FDA-2002-N-0031] (formerly Docket No. 2002N-0273)] (RIN: 0910-AF46) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1956. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-79, "KIPP DC — Douglas Property Tax Exemption Temporary Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1957. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-80, "Newborn Safe Haven Temporary Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1958. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-74, "Health Occupations Revision General Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1959. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-81, "Department of Parks and Recreation Term Employee Appointment Temporary Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1960. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. ACT 18-82, "Rent Administrator Hearing Authority Temporary Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1961. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-85, "Closing of an Alley in Square 5872, S.O. 07-2225, Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1962. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-83, "Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Temporary Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1963. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-98, "CEMI-Ridgecrest, Inc. — Walter Washington Community Center Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1964. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-86, "Retail Service Station Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1965. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. ACT 18-90, "Closing, Dedication and Designation of Public Streets at The Yards Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1966. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-89, "Mortgage Lender and Broker Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1967. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-84, "Domestic Partnership Judicial Determination of Parentage Amendment Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1968. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-88, "Kenilworth-Parkside Partial Street Closure, S.O. 07-1213, S.O. 07-1214 and Building Restriction Line Elimination, S.O. 07-1212 Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1969. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 18-87, "Closing of a Portion of a Public Alley in Square 4488, S.O. 07-7333, Act of 2009", pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

1970. A letter from the Acting Assistant Administrator, Environmental Protection Agency, transmitting the Agency's report on the amount of acquisitions made from entities that manufacture articles, materials, or supplies outside of the United States for fiscal year 2008, pursuant to Public Law 110-28, section 8306; to the Committee on Oversight and Government Reform.

1971. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's report entitled, "Annual Report on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002: Fiscal 2008 (April 2009); to the Committee on Oversight and Government Reform.

1972. A letter from the Chairman, United States Sentencing Commission, transmitting the Commission's amendments to the federal sentencing guidelines, policy statements, and official commentary, together with the reasons for the amendments, pursuant to 28 U.S.C. 994(o); to the Committee on the Judiciary.

1973. A letter from the Staff Director, United States Sentencing Commission, transmitting the Commission's report entitled, "2008 Annual Report and Sourcebook of Federal Sentencing Statistics", pursuant to 28 U.S.C. 994(w)(3) and 997; to the Committee on the Judiciary.

1974. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; PILATUS AIRCRAFT LTD. Models PC-12 and PC-12/45 Airplanes [Docket No.: FAA-2009-0126; Directorate Identifier 2009-CE-003-AD; Amendment 39-15884; AD 2009-08-11] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1975. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket

No.: 30660 Amdt. No. 3316] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1976. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30661; Amdt. No. 3317] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1977. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class D and Class E Airspace; Conroe, TX [Docket No.: FAA-2009-0338; Airspace Docket No. 09-ASW-9] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1978. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Dallas, GA. [Docket No.: FAA-2008-1084; Airspace Docket No. 08-ASO-17] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1979. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Summersville, WV [Docket No.: FAA-2008-1073; Airspace Docket No. 08-AEA-28] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1980. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Modification of Class D and Class E Airspace, Establishment of Class E Airspace; Binghamton, NY [Docket No.: FAA-2009-0202; Airspace Docket 09-AEA-11] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1981. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Battle Creek, MI [Docket No.: FAA-2008-1290; Airspace Docket No. 08-AGL-19] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1982. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Omaha, NE [Docket No.: FAA-2008-1228; Airspace Docket No. 08-ACE-3] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1983. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class D and Class E Airspace; Corpus Christi NAS/Trux Field, TX [Docket No.: FAA-2008-1140; Airspace Docket No. 08-ASW-24] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1984. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Natchitoches, LA [Docket No.: FAA-2008-1229; Airspace Docket No. 08-ASW-26] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1985. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Refugio, TX [Docket No.:

FAA-2009-0241; Airspace Docket No. 09-ASW-6] received May 11, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1986. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters [Docket No.: FAA-2009-0351; Directorate Identifier 2009-SW-08-AD; Amendment 39-15886; AD 2009-07-53] (RIN: 2120-AA64) received May 11, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1987. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30664; Amdt. No. 3319] received May 11, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1988. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80A Series Turbofan Engines [Docket No.: FAA-2008-0827; Directorate Identifier 2008-NE-26-AD; Amendment 39-15879; AD 2009-08-06] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1989. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 206A Series, 206B Series, 206L Series, 407, and 427 Helicopters [Docket No.: FAA-2009-0350; Directorate Identifier 2009-SW-07-AD; Amendment 39-15885; AD 2009-07-52] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1990. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Arriel 1B, 1D, 1D1, 2B, and 2B1 Turbohaft Engines [Docket No.: FAA-2009-0302; Directorate Identifier 2009-NE-09-AD; Amendment 39-15881; AD 2009-08-08] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1991. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 40 and DA 40F Airplanes [Docket No.: FAA-2009-0125 Directorate Identifier 2009-CE-002-AD; Amendment 39-15873; AD 2009-07-14] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1992. A letter from the Chairman and Vice Chairman, U.S.-China Economic & Security Review Commission, transmitting the Commission's report on the February 17 public hearing on "China's Role in the Origins of and Response to the Global Recession", pursuant to Public Law 109-108, section 635(a); jointly to the Committees on Ways and Means, Armed Services, and Foreign Affairs.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. GORDON of Tennessee: Committee on Science and Technology. H.R. 1709. A bill to establish a committee under the National Science and Technology Council with the responsibility to coordinate science, technology, engineering, and mathematics education activities and programs of all Federal agencies, and for other purposes; with an amendment (Rept. 111-130 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CARDOZA: Committee on Rules. House Resolution 490. Resolution providing for consideration of the bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes, and providing for consideration of the bill (H.R. 1385) to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe. (Rept. 111-131). Referred to the House Calendar.

#### DISCHARGE OF COMMITTEE

*[The following action occurred on May 22, 2009]*

Pursuant to clause 2 of rule XII, the Committee on Rules discharged from further consideration of H.R. 1886.

*[Submitted on June 2, 2009]*

Pursuant to clause 2 of rule XII, the Committee on Education and Labor discharged from further consideration. H.R. 1709 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

#### REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

*[The following action occurred on May 22, 2009]*

Mr. BERMAN: Committee on Foreign Affairs. H.R. 1886. A bill to authorize democratic, economic, and social development assistance for Pakistan, to authorize security assistance for Pakistan, and for other purposes, with an amendment (Rept. 111-129, Pt. 1); referred to the Committee on Armed Services for a period ending not later than June 5, 2009, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c), rule X.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. TOWNS:

H.R. 2646. A bill to amend title 31, United States Code, to enhance the oversight authorities of the Comptroller General, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. SKELTON (for himself and Mr. MCHUGH) (both by request):

H.R. 2647. A bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2010, and for other purposes; to the Committee on Armed Services.

By Mr. CARSON of Indiana (for himself, Mr. PASCRELL, Mr. CONYERS, Mr. CUMMINGS, Mr. MEEKS of New York, Ms. NORTON, Mr. DAVIS of Illinois, Mr. PAYNE, Ms. FUDGE, Mrs. CHRISTENSEN, Mr. FATTAH, Mr. AL GREEN of Texas, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. SCOTT of Virginia, Ms. WATSON, Mr. TOWNS, Mr. BUTTERFIELD, Mr. SERRANO, Mr. DAVIS of Alabama, Mr. HONDA, Mr. MORAN of Virginia, Mr. BACA, Ms. CORRIE BROWN of Florida, Mr. MCGOVERN, and Ms. KILPATRICK of Michigan):

H.R. 2648. A bill to authorize the President to award a gold medal on behalf of Congress to Muhammad Ali in recognition of his contributions to the Nation; to the Committee on Financial Services.

By Ms. BEAN:

H.R. 2649. A bill to amend the Internal Revenue Code of 1986 to modify the new energy efficient home credit and to provide a credit against tax for the purchase of certain energy efficient homes; to the Committee on Ways and Means.

By Mr. OBERSTAR (for himself and Mr. CUMMINGS):

H.R. 2650. A bill to amend title 14, United States Code, to modernize the leadership of the Coast Guard, to modernize the administration of marine safety by the Coast Guard, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CUMMINGS (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. LOBONDO):

H.R. 2651. A bill to amend title 46, United States Code, to direct the Secretary of Transportation to establish a maritime career training loan program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself and Mr. CUMMINGS):

H.R. 2652. A bill to amend title 46, United States Code, to improve vessel safety, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. YARMUTH:

H.R. 2653. A bill to amend the Tom Osborne Federal Youth Coordination Act to create the White House Office of National Youth Policy to ensure the coordination and effectiveness of services to youth, and for other purposes; to the Committee on Education and Labor.

By Mr. ADERHOLT:

H.R. 2654. A bill to extend temporarily the suspension of duty on polyethylene HE1878; to the Committee on Ways and Means.

By Mr. BURTON of Indiana (for himself, Mr. WILSON of South Carolina, Ms. CLARKE, and Mr. DAVIS of Illinois):

H.R. 2655. A bill to amend the Internal Revenue Code of 1986 to expand and extend the first-time homebuyer credit; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 2656. A bill to require amounts remaining in Members' representational allowances at the end of a fiscal year to be used for deficit reduction or to reduce the Federal debt, and for other purposes; to the Committee on House Administration.

By Mr. CAPUANO:

H.R. 2657. A bill to amend the Federal Deposit Insurance Act to limit the authority of the Federal Deposit Insurance Corporation to engage in activities relating to systemic

risk without a congressional declaration of a financial emergency, and for other purposes; to the Committee on Financial Services.

By Mr. CAPUANO:

H.R. 2658. A bill to amend the Internal Revenue Code of 1986 to increase the estate and gift tax unified credit to an exclusion equivalent of \$5,000,000, to adjust such amount for inflation, to repeal the 1-year termination of the estate tax, and for other purposes; to the Committee on Ways and Means.

By Mrs. CHRISTENSEN:

H.R. 2659. A bill to convey certain submerged lands to the Government of the Virgin Islands, and for other purposes; to the Committee on Natural Resources.

By Mr. ELLISON:

H.R. 2660. A bill to amend the Federal Deposit Insurance Act to require the appropriate Federal banking agencies to prescribe capital standards for certain special purpose entities; to the Committee on Financial Services.

By Mr. GOHMERT (for himself and Mr. ROONEY):

H.R. 2661. A bill to amend title 18, United States Code, to increase the penalty for violations of section 119 (relating to protection of individuals performing certain official duties); to the Committee on the Judiciary.

By Mr. HEINRICH (for himself, Mr. BISHOP of Utah, Mr. BLUMENAUER, Mr. INSLEE, Mr. LUJÁN, Ms. MARKEY of Colorado, Mr. MINNICK, Mr. TEAGUE, and Ms. TITUS):

H.R. 2662. A bill to dedicate a portion of the rental fees from wind and solar energy projects on Federal land under the jurisdiction of the Bureau of Land Management for the administrative costs of processing applications for new wind and solar projects, and for other purposes; to the Committee on Natural Resources.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 2663. A bill to amend title 23, United States Code, to increase certain infrastructure finance provisions, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LEE of New York (for himself, Mr. DAVIS of Kentucky, Mr. SCOTT of Georgia, Mr. CASTLE, and Mr. PUTNAM):

H.R. 2664. A bill to require annual oral testimony before the Financial Services Committee of the Chairperson or a designee of the Chairperson of the Securities and Exchange Commission, the Financial Accounting Standards Board, and the Public Company Accounting Oversight Board, relating to their efforts to promote transparency in financial reporting; to the Committee on Financial Services.

By Ms. MATSUI:

H.R. 2665. A bill to establish national centers of excellence for regional smart growth planning, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. MATSUI (for herself and Ms. MOORE of Wisconsin):

H.R. 2666. A bill to require the Federal Trade Commission to conduct a rulemaking proceeding with respect to mortgage foreclosure rescue and loan modification services, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McDERMOTT (for himself, Mr. DAVIS of Illinois, and Mr. PLATTS):

H.R. 2667. A bill to amend part B of title IV of the Social Security Act to provide grants to States to establish or expand quality programs providing home visitation for families with young children and families expecting children; to the Committee on Ways and Means.

By Mr. MURPHY of Connecticut (for himself, Mr. BRALEY of Iowa, and Mr. WELCH):

H.R. 2668. A bill to provide for the offering of an American Trust Health Plan to provide choice in health insurance options so as to ensure quality, affordable health coverage for all Americans; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL:

H.R. 2669. A bill to direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself, Mr. MCHUGH, Mr. STUPAK, Mr. OBERSTAR, Mr. DICKS, Mr. MICHAUD, Mr. HINCHAY, Mr. NADLER of New York, Mr. LARSEN of Washington, Mr. HIGGINS, Mr. LEE of New York, Mr. LATOURETTE, Mr. HODES, Mr. MAFFEI, Mr. ARCURI, Mr. MANZULLO, Ms. PINGREE of Maine, Mr. SMITH of Washington, Mrs. MALONEY, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. MASSA, and Mr. TONKO):

H.R. 2670. A bill to require reports on the effectiveness and impacts of the implementation of the Western Hemisphere Travel Initiative, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER of New York (for himself, Ms. LEE of California, Mr. McDERMOTT, Mr. CROWLEY, Mr. BERMAN, Mr. GRIJALVA, Mr. PIERLUISI, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. LEWIS of Georgia, Mr. CASTLE, Mr. HINCHAY, Ms. NORTON, Mr. WAXMAN, Mr. ABERCROMBIE, Mr. MARKEY of Massachusetts, Mr. KUCINICH, and Mrs. CHRISTENSEN):

H. Con. Res. 137. Concurrent resolution expressing the sense of the Congress that the lack of adequate housing must be addressed as a barrier to effective HIV prevention, treatment, and care, and that the United States should make a commitment to providing adequate funding for developing housing as a response to the AIDS pandemic; to the Committee on Financial Services.

By Mr. LEVIN (for himself, Mr. SMITH of New Jersey, Mr. BERMAN, Ms. ROSELEHTINEN, Mr. McGOVERN, Mr. WOLF, Mr. POE of Texas, Mr. INGLIS, Mr. ROHRABACHER, Mr. McCOTTER, Mr. FRANKS of Arizona, Mr. MINNICK, Mr. ROGERS of Alabama, Mr. PASCRELL, Mr. WALZ, Mr. WU, Mr. HOLT, Mr. GUTIERREZ, Mr. BURTON of Indiana, Mr. WAXMAN, and Ms. SCHAKOWSKY):

H. Res. 489. A resolution recognizing the twentieth anniversary of the suppression of protesters and citizens in and around Tiananmen Square in Beijing, People's Republic of China, on June 3 and 4, 1989 and ex-

pressing sympathy to the families of those killed, tortured, and imprisoned in connection with the democracy protests in Tiananmen Square and other parts of China on June 3 and 4, 1989 and thereafter; to the Committee on Foreign Affairs; considered and agreed to.

By Mr. ADLER of New Jersey (for himself, Mrs. LUMMIS, Ms. BORDALLO, Mr. McGOVERN, Mr. TEAGUE, and Mr. LANCE):

H. Res. 491. A resolution encouraging each institution of higher education in the country to seek membership in the Servicemembers Opportunity Colleges (SOC) Consortium; to the Committee on Education and Labor.

By Mr. CARNAHAN (for himself and Mrs. BIGGERT):

H. Res. 492. A resolution supporting the goals and ideals of High-Performance Building Week; to the Committee on Science and Technology.

By Mr. KLEIN of Florida (for himself, Mr. JOHNSON of Illinois, Mr. HODES, Mr. ISRAEL, Mr. WEXLER, Ms. CORRINE BROWN of Florida, Ms. WASSERMAN SCHULTZ, Mr. SCHIFF, Mr. MEEK of Florida, Mr. WAXMAN, Ms. SCHWARTZ, Mr. MORAN of Virginia, Mr. SESTAK, Mrs. LOWEY, Mr. GRAYSON, Mr. NADLER of New York, Mr. McMAHON, Ms. SCHAKOWSKY, Ms. CASTOR of Florida, Mr. MOORE of Kansas, Mr. KING of New York, Mrs. MALONEY, Mr. FRANK of Massachusetts, Mr. WEINER, Ms. HARMAN, Mr. ACKERMAN, Mr. KAGEN, Mr. CAPUANO, Mr. SHERMAN, Mr. HASTINGS of Florida, Mr. CANTOR, Mr. PETERS, Mr. BERMAN, Mr. LOEBSACK, Mr. HOLT, Mr. YARMUTH, Mr. CARSON of Indiana, Mr. STEARNS, and Mr. KIRK):

H. Res. 493. A resolution recognizing the significant contributions of Hillel: The Foundation for Jewish Campus Life to college campus communities in the United States and around the world; to the Committee on Education and Labor.

By Mr. KISSELL:

H. Res. 494. A resolution recognizing the exemplary service of the soldiers of the 30th Infantry Division (Old Hickory) of the United States Army during World War II; to the Committee on Armed Services.

By Mr. POE of Texas (for himself, Mr. BILIRAKIS, Mr. McCOTTER, Mr. INGLIS, Mr. ROONEY, Mr. COHEN, Mr. BURTON of Indiana, Ms. BORDALLO, and Mr. KING of New York):

H. Res. 495. A resolution recognizing and honoring the American troops who gave their lives on D-Day at the Battle of Normandy; to the Committee on Armed Services.

By Mr. POE of Texas:

H. Res. 496. A resolution recognizing the 20th anniversary of the fall of the Berlin Wall; to the Committee on Foreign Affairs.

By Mr. ROGERS of Michigan (for himself, Mr. BOEHNER, Mr. HOEKSTRA, Mr. BILIRAKIS, Mr. BLUNT, Mr. BROUN of Georgia, Mr. BURTON of Indiana, Mr. CONAWAY, Mr. DENT, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. McCAUL, Mr. McKEON, Mr. MILLER of Florida, Mrs. MYRICK, Mr. ROONEY, Mr. SHUSTER, Mr. SMITH of Texas, Mr. SOUDER, Mr. THORNBERRY, Mr. WILSON of South Carolina, Mr. MCCARTHY of California, and Mr. SESSIONS):

H. Res. 497. A resolution honoring the brave men and women of the intelligence

community of the United States whose tireless and selfless work has protected America from a terrorist attack for the past eight years, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. TEAGUE (for himself, Mr.

REYES, Mr. McCAUL, Mr. THOMPSON of Mississippi, Mr. HINOJOSA, Mr. RODRIGUEZ, Mr. KING of New York, Mr. ORTIZ, Ms. LORETTA SANCHEZ of California, Mr. CUELLAR, Mrs. KIRKPATRICK of Arizona, Mr. KRATOVIL, Mr. FILNER, Mr. SHULER, Mr. BRADY of Texas, Mr. ROYCE, Mr. BILIRAKIS, Mr. BILBRAY, Mr. ROHRABACHER, Mr. MARCHANT, Mr. CARTER, Mr. SMITH of Texas, Mr. BROUN of Georgia, Mr. JONES, Mr. POE of Texas, Mr. CONAWAY, Mr. NEUGEBAUER, Mr. CAO, Ms. GIFFORDS, Mr. GALLEGLY, Mrs. MILLER of Michigan, Mr. MINNICK, Mr. PRICE of North Carolina, Mr. GORDON of Tennessee, Mrs. McMORRIS RODGERS, Mrs. BLACKBURN, Mr. BURTON of Indiana, and Ms. TITUS):

H. Res. 498. A resolution honoring and congratulating the U.S. Border Patrol on its 85th anniversary; to the Committee on Homeland Security.

## MEMORIALS

Under clause 4 of Rule XXII, memorials were presented and referred as follows:

58. The SPEAKER presented a memorial of the Department of Education of West Virginia, relative to a Resolution to Support 21st Century Integration of Technology Into Classroom Instruction and Learning; to the Committee on Education and Labor.

59. Also, a memorial of the State Legislature of Maine, relative to a JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SECRETARY OF ENERGY AND THE CONGRESS OF THE UNITED STATES TO REVIEW NATIONAL POLICY ON USED NUCLEAR FUEL; to the Committee on Energy and Commerce.

60. Also, a memorial of the Conservation Federation of Missouri, relative to a resolution entitled, "Restoring Clean Water Act Protections For Wetlands and Ephemeral and Intermittent Streams"; to the Committee on Transportation and Infrastructure.

61. Also, a memorial of the 75th Legislative Assembly of Oregon, relative to Senate Joint Memorial 1 urging the Congress of the United States, to enact legislation allowing Oregon veterans to obtain Oregon home loans at any time after a veteran has separated from services; to the Committee on Veterans' Affairs.

62. Also, a memorial of the Seventy-fifth Legislative Assembly of Oregon, relative to Senate Joint Memorial 3, urging the Congress of the United States, to enact legislation that increases funding levels for the United States Department of Veterans Affairs and the Veterans Health Administration to meet honorably discharged veteran's health care requirements and to enact legislation that provides universal health care access for honorably discharged veterans and their families; to the Committee on Veterans' Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. HIMES introduced a bill (H.R. 2671) to authorize the Secretary of the department in which the Coast Guard is operating to issue a certificate of documentation with a coastwise endorsement for the vessel M/V GEYSIR; which was referred to the Committee on Transportation and Infrastructure.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

June 2, 2009

H.R. 13: Mr. HINCHEY and Mr. YOUNG of Alaska.

H.R. 17: Mr. PLATTS and Mr. BILIRAKIS.

H.R. 21: Mr. MCNERNEY and Mr. SABLON.

H.R. 22: Mr. RUPPERSBERGER and Mr. AUSTRIA.

H.R. 43: Mr. WALDEN, Mr. YOUNG of Alaska, Mr. HINCHEY, Mr. PUTNAM, Mr. THOMPSON of Pennsylvania, Ms. GIFFORDS, Mrs. CAPPS, Mr. OBERSTAR, Mr. FLEMING, Mr. HINOJOSA, Mr. BOREN, Mr. PAULSEN, Mr. LATOURETTE, and Mr. OLVER.

H.R. 55: Mr. HIMES and Mr. CONNOLLY of Virginia.

H.R. 60: Mr. COURTNEY.

H.R. 104: Mr. KUCINICH and Mr. McDERMOTT.

H.R. 137: Mr. WAMP and Mr. LAMBORN.

H.R. 158: Ms. ESHOO.

H.R. 179: Ms. BORDALLO.

H.R. 181: Mr. FORTENBERRY.

H.R. 182: Mr. HINOJOSA and Ms. ROYBAL-ALLARD.

H.R. 187: Mr. FARR.

H.R. 188: Mr. FARR.

H.R. 197: Mr. BOUSTANY, Mr. GOODLATTE, and Mr. LAMBORN.

H.R. 204: Mr. STARK, Mr. HOLT, Mr. FILNER, Mr. WAXMAN, Mr. HINCHEY, Mr. GRIJALVA, Mr. BERMAN, and Mr. HONDA.

H.R. 205: Mr. REICHERT, Mr. CALVERT, and Mrs. CAPITO.

H.R. 270: Mr. WAMP, Mr. BOREN, and Mr. RODRIGUEZ.

H.R. 297: Mr. CASSIDY.

H.R. 303: Mr. PLATTS, Mrs. LOWEY, and Mr. MARCHANT.

H.R. 329: Mr. STARK and Mr. KUCINICH.

H.R. 333: Mrs. LOWEY and Mr. PLATTS.

H.R. 426: Mr. GUTHRIE.

H.R. 430: Mr. COURTNEY.

H.R. 433: Mr. PIERLUISI and Mr. RODRIGUEZ.

H.R. 450: Mr. WITTMAN, Mr. NEUGEBAUER, and Mr. BILIRAKIS.

H.R. 482: Mr. PIERLUISI, Mr. SPRATT, and Mr. ROGERS of Kentucky.

H.R. 503: Mr. SARBANES and Mr. PALLONE.

H.R. 556: Mr. McDERMOTT, Mr. BLUMENAUER, Mr. NEAL of Massachusetts, and Mr. NADLER of New York.

H.R. 560: Mr. DAVIS of Kentucky.

H.R. 569: Mr. BERMAN.

H.R. 614: Mr. BILIRAKIS.

H.R. 615: Mr. STARK.

H.R. 621: Mr. CAO, Mr. DAVIS of Kentucky, Mr. ALEXANDER, Mr. CUMMINGS, Mr. HARE, Ms. HERSETH SANDLIN, Mr. SNYDER, Mr. ROSS, Ms. LINDA T. SANCHEZ of California, Mr. DICKS, Mr. HIMES, and Mr. CULBERSON.

H.R. 622: Mr. MILLER of North Carolina, Mr. BLUMENAUER, and Mr. THOMPSON of Pennsylvania.

H.R. 653: Mr. HOLT.

H.R. 676: Ms. FUDGE.

H.R. 699: Ms. WATERS and Mr. WU.

H.R. 716: Mr. CULBERSON.

H.R. 745: Mr. GALLEGLEY and Mrs. HALVORSON.

H.R. 816: Mrs. LOWEY, Mr. BILIRAKIS, Mr. GONZALEZ, Mr. KILDEE, Mr. CHANDLER, Mr. GUTIERREZ, Mr. STARK, Mr. WU, Mr. MITCHELL, Mr. KLEIN of Florida, Mr. SMITH of Texas, Mr. WEXLER, Mr. VAN HOLLEN, and Mrs. TAUSCHER.

H.R. 832: Mr. BERMAN.

H.R. 877: Mr. HENSARLING.

H.R. 881: Mr. HENSARLING.

H.R. 904: Mr. LINCOLN DIAZ-BALART of Florida and Mr. INSLEE.

H.R. 913: Mr. FILNER.

H.R. 930: Mr. LOBIONDO.

H.R. 948: Mr. GERLACH and Mr. LARSEN of Washington.

H.R. 958: Mr. BRADY of Pennsylvania, Mr. BACA, Mr. MCINTYRE, Ms. DeLAURO, Mr. TONKO, Ms. BALDWIN, Mr. GUTIERREZ, Ms. MCCOLLUM, Mr. MINNICK, and Mr. RAHALL.

H.R. 964: Mr. ADERHOLT.

H.R. 1021: Mr. RADANOVICH.

H.R. 1064: Mr. WAXMAN, Mr. PLATTS, Mr. WITTMAN, and Mr. WOLF.

H.R. 1066: Ms. SCHWARTZ, Ms. WATERS, and Ms. CLARKE.

H.R. 1074: Mr. CARTER and Mr. LAMBORN.

H.R. 1085: Mr. HOLT.

H.R. 1086: Mr. McHUGH.

H.R. 1101: Mr. GRIJALVA and Mr. KUCINICH.

H.R. 1126: Mr. TIBERI and Mr. BAIRD.

H.R. 1165: Mr. FILNER.

H.R. 1173: Mr. BRADY of Pennsylvania.

H.R. 1177: Mr. KLEIN of Florida, Mrs. BLACKBURN, Mrs. MYRICK, and Mr. WILSON of South Carolina.

H.R. 1179: Mr. FORBES, Mr. LOBIONDO, Mr. MASSA, Mr. SERRANO, Ms. WATERS, Mr. WU, Mr. BOSWELL, Mr. CONNOLLY of Virginia, and Mr. PETRI.

H.R. 1182: Mr. REYES, Mr. MASSA, Mr. DOYLE, and Mr. PIERLUISI.

H.R. 1185: Ms. BALDWIN.

H.R. 1190: Mr. BACHUS and Mr. HODES.

H.R. 1204: Mr. LARSEN of Washington, Mr. BOYD, and Mr. BACHUS.

H.R. 1207: Mr. JORDAN of Ohio, Mr. HINCHEY, and Mr. ROSKAM.

H.R. 1213: Mr. GORDON of Tennessee, Ms. SCHAKOWSKY, and Mr. GONZALEZ.

H.R. 1283: Mr. QUIGLEY.

H.R. 1293: Mr. CASSIDY and Ms. ROSELEHTINEN.

H.R. 1295: Mr. KING of New York.

H.R. 1302: Mr. LATHAM.

H.R. 1303: Ms. NORTON.

H.R. 1310: Ms. SPEIER and Ms. RICHARDSON.

H.R. 1313: Mr. FOSTER, Mr. GONZALEZ, and Mr. GINGREY of Georgia.

H.R. 1322: Mr. GENE GREEN of Texas, Mr. LOEBACK, Ms. MCCOLLUM, Mr. HINCHEY, Mr. LYNCH, Mr. WILSON of Ohio, Mr. HOLT, Mr. WU, Mr. FILNER, and Mrs. MALONEY.

H.R. 1327: Mr. HEINRICH, Mr. LEVIN, Mr. PAYNE, and Mr. COURTNEY.

H.R. 1339: Mr. BOYD and Mr. RYAN of Ohio.

H.R. 1346: Ms. ROSELEHTINEN, Mr. MILLER of North Carolina, and Mrs. HALVORSON.

H.R. 1349: Mr. KILDEE.

H.R. 1362: Mr. PASCRELL, Mr. GALLEGLEY, and Mr. REICHERT.

H.R. 1380: Mr. HINOJOSA, Ms. ROYBAL-ALLARD, Mr. BUTTERFIELD, Mr. LANGEVIN, Mr. BOREN, Mr. BACA, Ms. WATSON, Mr. SCOTT of Georgia, Mr. JOHNSON of Georgia, Mr. SNYDER, Mr. CONNOLLY of Virginia, Mr. SCOTT of Virginia, Ms. DeLAURO, Ms. FUDGE, and Mr. CARNEY.

H.R. 1389: Mr. RODRIGUEZ.

H.R. 1392: Ms. WATERS and Ms. CORRINE BROWN of Florida.

H.R. 1441: Mr. PRICE of Georgia and Mr. BURTON of Indiana.

H.R. 1454: Mr. McCOTTER, Mr. BUTTERFIELD, Mr. ISRAEL, Mr. CONNOLLY of Virginia, Mr. LATHAM, and Mr. McMAHON.

H.R. 1458: Ms. WOOLSEY, Mr. LOBIONDO, Mr. MARSHALL, Mr. INSLEE, and Mr. McCOTTER.

H.R. 1474: Mr. LOEBACK, Mr. TANNER, and Mr. GUTIERREZ.

H.R. 1475: Mr. WAXMAN and Ms. ZOE LOFGREN of California.

H.R. 1479: Mr. HONDA, Mr. THOMPSON of Mississippi, Ms. CORRINE BROWN of Florida, and Mr. MEEKS of New York.

H.R. 1505: Ms. GRANGER.

H.R. 1521: Mr. GERLACH, Ms. ROYBAL-ALLARD, Ms. MATSUI, Mr. STEARNS, Mr. LANCE, Mr. DAVIS of Kentucky, Mr. BROWN of South Carolina, Mrs. CAPPS, Mr. WILSON of South Carolina, Mr. PAYNE, Mr. HINOJOSA, Mr. LOBIONDO, and Mr. ADLER of New Jersey.

H.R. 1523: Mr. KUCINICH, Mr. SMITH of New Jersey, Mr. RUSH, Mr. QUIGLEY, Mr. TONKO, Mr. FILNER, Mr. GUTIERREZ, and Mr. INSLEE.

H.R. 1545: Ms. KILROY and Mr. McMAHON.

H.R. 1548: Mrs. HALVORSON, Mr. CASSIDY, Mrs. McMORRIS RODGERS, Mr. GONZALEZ, Mr. GRAVES, and Mr. ROE of Tennessee.

H.R. 1551: Ms. EDWARDS of Maryland, Mr. CARSON of Indiana, Mr. MASSA, Mr. ELLISON, and Mr. SARBANES.

H.R. 1552: Mr. CALVERT and Ms. MARKEY of Colorado.

H.R. 1577: Mr. NYE.

H.R. 1584: Mr. KING of New York and Mr. COURTNEY.

H.R. 1588: Mr. THORNBERRY and Mr. WAMP.

H.R. 1596: Mr. COURTNEY.

H.R. 1604: Mr. GUTIERREZ.

H.R. 1612: Mr. SARBANES, Mr. FILNER, Mrs. CAPPS, Mr. PAYNE, Ms. HIRONO, and Mr. KILDEE.

H.R. 1616: Mr. GEORGE MILLER of California, Mr. CROWLEY, Mr. CONNOLLY of Virginia, Mr. KUCINICH, Mr. ELLISON, Ms. BERKLEY, and Mr. HOLT.

H.R. 1618: Mr. WU, Ms. FUDGE, and Ms. WATERS.

H.R. 1620: Mr. GOODLATTE.

H.R. 1633: Mr. WAXMAN and Mr. JONES.

H.R. 1646: Mr. WOLF, Mr. GORDON of Tennessee, and Mrs. BONO MACK.

H.R. 1675: Ms. MOORE of Wisconsin.

H.R. 1684: Mr. CARTER, Mr. CANTOR, Mr. MATHESON, Mr. McCOTTER, and Mr. TIAHRT.

H.R. 1685: Mr. ELLISON and Ms. CLARKE.

H.R. 1691: Mrs. BONO MACK and Mr. WAMP.

H.R. 1708: Mr. CONNOLLY of Virginia, Mr. FILNER, Mr. SCOTT of Georgia, and Mr. MCINTYRE.

H.R. 1740: Mr. GERLACH.

H.R. 1751: Mr. CUMMINGS, Ms. JACKSON-LEE of Texas, Mr. ELLISON, and Mr. McDERMOTT.

H.R. 1790: Mr. GRIJALVA.

H.R. 1799: Mr. BARTLETT.

H.R. 1826: Mr. CUMMINGS, Mr. JOHNSON of Georgia, Mr. HARE, Mr. CONNOLLY of Virginia, Mr. HODES, and Mr. HONDA.

H.R. 1835: Mr. McCOTTER, Mr. CUELLAR, Mr. PIERLUISI, Mr. SNYDER, Mr. SALAZAR, and Ms. NORTON.

H.R. 1836: Mr. CALVERT.

H.R. 1845: Mr. DOYLE and Mr. THOMPSON of Pennsylvania.

H.R. 1848: Mr. TONKO.

H.R. 1868: Mr. GARRETT of New Jersey, Mr. BILIRAKIS, Mr. COBLE, Mr. FORTENBERRY, Mr. ROGERS of Alabama, Mr. SMITH of Texas, Mr. POSEY, Mr. BACHUS, Mr. BONNER, Mr. CARTER, Mr. GRAVES, Mr. HALL of Texas, Mr. McKEON, Mr. MICA, Mr. PITTS, Mr. ROSKAM, Mr. SESSIONS, Mr. SOUDER, Mr. STEARNS, Mr. SHUSTER, Mr. SULLIVAN, Mr. WAMP, Mr. WILSON of South Carolina, Mr. BURGESS, and Mr. PENCE.

H.R. 1897: Mr. MICHAUD, Mr. WEXLER, Mr. GRAYSON, Mr. DEFazio, Mr. CALVERT, Mr. GERLACH, Mr. ROONEY, and Mr. PAUL.

H.R. 1903: Mr. POSEY.

H.R. 1912: Mr. WELCH, Mr. GRIJALVA, Mr. TONKO, and Mr. HINCHEY.

H.R. 1927: Mr. COHEN, Mr. ANDREWS, Ms. NORTON, Mr. LATHAM, and Mr. HINCHEY.

H.R. 1932: Mr. KUCINICH.

H.R. 1934: Mrs. BIGGERT.

H.R. 1956: Mr. ELLISON, Mr. ABERCROMBIE, and Mrs. BACHMANN.

H.R. 1958: Mr. GRIJALVA and Ms. ROS-LEHTINEN.

H.R. 1963: Mr. MEEK of Florida and Mr. BRADY of Pennsylvania.

H.R. 1969: Mr. McCOTTER.

H.R. 1985: Mr. FORBES.

H.R. 2002: Mr. PITTS.

H.R. 2009: Mr. SCHOCK.

H.R. 2016: Mr. GRIJALVA.

H.R. 2017: Mr. SPRATT, Mr. KLEIN of Florida, Mr. YOUNG of Alaska, Mr. BROWN of South Carolina, Mr. KIND, Mr. GORDON of Tennessee, Mr. MCCAUL, Mr. TIBERI, and Mr. PLATTS.

H.R. 2027: Mr. CONAWAY.

H.R. 2028: Mr. PLATTS.

H.R. 2030: Mr. LINDER and Mr. GUTIERREZ.

H.R. 2031: Mr. COURTNEY.

H.R. 2056: Mr. GRIJALVA.

H.R. 2060: Mr. GRIJALVA, Mr. PIERLUISI, and Mr. LANGEVIN.

H.R. 2064: Mr. BURTON of Indiana.

H.R. 2067: Ms. ROYBAL-ALLARD.

H.R. 2076: Mrs. DAVIS of California and Mr. WAXMAN.

H.R. 2093: Mrs. DAHLKEMPER.

H.R. 2095: Mr. LARSON of Connecticut and Mr. HASTINGS of Florida.

H.R. 2102: Mr. DICKS and Mr. MOORE of Kansas.

H.R. 2115: Mr. LOBIONDO.

H.R. 2129: Mr. HALL of New York and Mrs. CAPPS.

H.R. 2138: Mr. AL GREEN of Texas.

H.R. 2139: Mr. NADLER of New York, Mr. MICHAUD, Mr. WAXMAN, Mrs. DAVIS of California, and Mr. BISHOP of New York.

H.R. 2149: Mr. WU and Mr. McCOTTER.

H.R. 2160: Mr. BARTLETT and Mr. GORDON of Tennessee.

H.R. 2161: Mr. SARBANES.

H.R. 2190: Ms. DEGETTE.

H.R. 2194: Mr. LARSON of Connecticut, Mr. GRIFFITH, Mr. BISHOP of New York, Mr. DAVIS of Tennessee, Ms. GRANGER, Mr. CARTER, Mr. ROSKAM, Mr. PRICE of Georgia, Mr. WILSON of Ohio, Mr. DAVIS of Alabama, Mr. VISCLOSKEY, Mr. BOYD, and Mr. CLEAVER.

H.R. 2209: Ms. WATERS and Mr. STARK.

H.R. 2243: Mr. CASSIDY.

H.R. 2246: Mr. SCOTT of Virginia and Mr. ELLISON.

H.R. 2261: Mr. McCOTTER.

H.R. 2269: Mr. RUSH, Ms. JACKSON-LEE of Texas, and Mr. BRADY of Pennsylvania.

H.R. 2274: Mr. FRANKS of Arizona, Ms. FOXX, and Mr. TIAHRT.

H.R. 2279: Ms. WATERS.

H.R. 2287: Mr. CULBERSON, Mr. BROWN of South Carolina, Mr. WAMP, and Mrs. BLACKBURN.

H.R. 2289: Ms. JACKSON-LEE of Texas.

H.R. 2294: Mr. AKIN, Mr. BUCHANAN, and Mr. RADANOVICH.

H.R. 2296: Mr. CARTER, Mr. ROSS, Mr. BURTON of Indiana, Ms. HERSETH SANDLIN, Mr. CHILDERS, Mr. CHANDLER, Mr. GORDON of Tennessee, Mr. BOUSTANY, Mr. WILSON of Ohio, Mr. BOUCHER, Mr. PETERSON, Mr. WALZ, Mr. CASSIDY, Mr. BOOZMAN, Mr. CARNEY, and Mr. DAVIS of Alabama.

H.R. 2298: Ms. BERKLEY.

H.R. 2300: Mr. RYAN of Wisconsin and Mr. BROWN of South Carolina.

H.R. 2311: Mr. CONNOLLY of Virginia.

H.R. 2312: Mr. CONNOLLY of Virginia.

H.R. 2313: Mr. CONNOLLY of Virginia.

H.R. 2329: Mr. CHAFFETZ, Ms. MCCOLLUM, Ms. ROS-LEHTINEN, Mr. GRIJALVA, Mr. MILLER of North Carolina, Mr. WILSON of Ohio, Mr. ETHERIDGE, Mr. BURGESS, Mr. HINCHEY, Mr. COURTNEY, Mr. TONKO, Ms. BORDALLO, and Mr. FILNER.

H.R. 2339: Mr. GRAYSON.

H.R. 2345: Mr. LARSEN of Washington, Mr. PUTNAM, and Mr. HASTINGS of Washington.

H.R. 2349: Ms. KAPTUR.

H.R. 2350: Mr. OBERSTAR and Mr. McMAHON.

H.R. 2358: Ms. SCHAKOWSKY and Ms. ROYBAL-ALLARD.

H.R. 2365: Ms. KAPTUR and Mr. SPACE.

H.R. 2368: Mr. FILNER.

H.R. 2373: Mr. BISHOP of Georgia, Mr. ROTHMAN of New Jersey, Mr. BRALEY of Iowa, Mr. BOUCHER, Mr. VISCLOSKEY, Mr. BARROW, Mr. FRELINGHUYSEN, Mr. LEWIS of Georgia, Mr. OBERSTAR, Mr. SMITH of New Jersey, Mr. HINCHEY, and Mr. SCOTT of Georgia.

H.R. 2393: Mr. JONES, Mr. WITTMAN, and Mr. WILSON of South Carolina.

H.R. 2401: Ms. NORTON.

H.R. 2404: Ms. HIRONO.

H.R. 2408: Mr. ISRAEL, Mrs. MILLER of Michigan, and Mrs. BONO MACK.

H.R. 2414: Mr. REYES.

H.R. 2415: Mr. HALL of New York, Ms. BORDALLO, and Mr. SIRES.

H.R. 2416: Mr. HALL of New York, Ms. BORDALLO, and Mr. SIRES.

H.R. 2424: Mr. CUMMINGS.

H.R. 2427: Mr. FILNER.

H.R. 2448: Ms. SHEA-PORTER, Mr. COURTNEY, Mr. PLATTS, Mr. WELCH, and Mr. WEXLER.

H.R. 2452: Mr. CHILDERS, Mrs. MALONEY, Mr. CARNEY, Ms. SCHWARTZ, Mr. GOHMERT, and Mr. ISRAEL.

H.R. 2453: Mr. DAVIS of Tennessee.

H.R. 2458: Mr. CARTER.

H.R. 2474: Ms. WATSON, Mrs. NAPOLITANO, Mr. BACA, and Mr. STARK.

H.R. 2478: Ms. LEE of California, Ms. MOORE of Wisconsin, and Mr. MORAN of Virginia.

H.R. 2493: Mr. HIGGINS.

H.R. 2499: Mr. THOMPSON of Pennsylvania, Mr. PETERSON, Mr. KUCINICH, Mr. AL GREEN of Texas, Mr. CULBERSON, Mr. CARSON of Indiana, Ms. SUTTON, and Mr. PRICE of North Carolina.

H.R. 2504: Mr. HARE.

H.R. 2509: Mr. FRANKS of Arizona and Mr. MITCHELL.

H.R. 2515: Ms. SCHAKOWSKY.

H.R. 2516: Mrs. LUMMIS.

H.R. 2517: Ms. CLARKE, Mr. HINCHEY, Mr. ISRAEL, Mr. MEEK of Florida, Mr. LARSON of Connecticut, Mr. SESTAK, Mr. DEFazio, and Mr. FRANK of Massachusetts.

H.R. 2523: Mr. LUJAN, Ms. MCCOLLUM, and Mr. KILDEE.

H.R. 2525: Mr. SMITH of New Jersey, Mr. HOLT, and Mr. FILNER.

H.R. 2554: Mr. SOUDER, Mr. BERRY, Mr. LANCE, and Mr. ROSKAM.

H.R. 2555: Mr. JOHNSON of Georgia, Mr. CAPUANO, Mr. ELLISON, Ms. HIRONO, Mr. MORAN of Virginia, Mr. PIERLUISI, and Mr. MARIO DIAZ-BALART of Florida.

H.R. 2559: Mr. WALZ.

H.R. 2567: Mr. GEORGE MILLER of California, Mr. ELLISON, Mr. BOUCHER, and Ms. BEAN.

H.R. 2568: Mr. COSTA and Ms. WOOLSEY.

H.R. 2571: Mr. MURPHY of Connecticut.

H.R. 2583: Ms. BORDALLO.

H.R. 2594: Mr. MINNICK, Mr. WAMP, Mr. BOREN, and Mr. CULBERSON.

H.R. 2608: Mr. ADERHOLT, Mr. BURTON of Indiana, Mr. DANIEL E. LUNGREN of California, Mr. HARPER, Mr. COSTELLO, Mr. BARRETT of

South Carolina, Mr. SOUDER, Mr. CHILDERS, Mr. WAMP, Mrs. McMORRIS RODGERS, Mr. PITTS, and Mr. HOEKSTRA.

H.R. 2613: Mr. ROTHMAN of New Jersey.

H.J. Res. 26: Mr. SNYDER.

H.J. Res. 47: Mrs. BIGGERT, Mr. MANZULLO, Mr. SHUSTER, Mr. MCCAUL, Mrs. BLACKBURN, Mr. KAGEN, Mr. PLATTS, Mr. EDWARDS of Texas, and Mr. WOLF.

H. Con. Res. 18: Mr. STARK.

H. Con. Res. 46: Mr. FILNER.

H. Con. Res. 49: Mr. KILDEE, Mr. BILIRAKIS, Mr. LANCE, Ms. BERKLEY, Mr. TEAGUE, Mr. LUJAN, Mr. ROYCE, Ms. SCHWARTZ, Mr. INGLIS, and Mr. KIND.

H. Con. Res. 57: Mr. CONNOLLY of Virginia.

H. Con. Res. 59: Mr. FLEMING and Mr. LATHAM.

H. Con. Res. 74: Ms. BORDALLO and Mr. PAYNE.

H. Con. Res. 91: Mr. RANGEL.

H. Con. Res. 98: Ms. DELAURO.

H. Con. Res. 102: Mr. KENNEDY, Ms. MCCOLLUM, Mr. MILLER of North Carolina, and Mr. CONNOLLY of Virginia.

H. Con. Res. 108: Ms. MOORE of Wisconsin and Ms. SHEA-PORTER.

H. Con. Res. 109: Mr. ALTMIRE, Mr. THOMPSON of Pennsylvania, Mr. WALDEN, Ms. SHEA-PORTER, Mrs. BLACKBURN, Mr. PALLONE, and Mr. CALVERT.

H. Con. Res. 117: Mr. HARE.

H. Con. Res. 118: Mr. HOLT.

H. Con. Res. 123: Mr. CALVERT, Mr. POSEY, and Mr. MOORE of Kansas.

H. Con. Res. 127: Mr. CONYERS, Ms. NORTON, Ms. WASSERMAN SCHULTZ, Mr. WATT, Mr. FALEOMAVAEGA, Mr. CLEAVER, Mr. HINCHEY, Mr. THOMPSON of Mississippi, Mr. RUSH, Ms. CASTOR of Florida, Mr. MCGOVERN, Mr. DAVIS of Illinois, Mr. SERRANO, Mr. GONZALEZ, Mr. STARK, Mr. BERMAN, Ms. RICHARDSON, Mr. GUTIERREZ, Mr. CUMMINGS, Mr. SABLAN, Ms. VELÁZQUEZ, and Mr. CARSON of Indiana.

H. Con. Res. 131: Mrs. BACHMANN, Mrs. BLACKBURN, Mr. BOUSTANY, Mr. CARTER, Mr. CONAWAY, Mr. HERGER, Mr. JORDAN of Ohio, Mr. MILLER of Florida, Mr. ROE of Tennessee, Mr. ROGERS of Michigan, Mrs. SCHMIDT, Mr. FORTENBERRY, Mr. SENSENBRENNER, Mr. PITTS, Mr. MCCLINTOCK, and Mr. KING of New York.

H. Con. Res. 135: Mr. MCCARTHY of California and Ms. RICHARDSON.

H. Con. Res. 136: Mr. CUMMINGS.

H. Res. 54: Mr. TIAHRT.

H. Res. 57: Ms. NORTON.

H. Res. 69: Mr. CARDOZA, Mr. BERMAN, Mr. RODRIGUEZ, Mr. FILNER, and Mr. LUJAN.

H. Res. 89: Mr. ALTMIRE, Ms. TITUS, Mr. MAFFEI, Mr. LUJAN, Mr. DAVIS of Alabama, Mr. CARNEY, and Ms. WATSON.

H. Res. 111: Mr. PASCRELL, Mr. AKIN, Mr. BOREN, and Ms. PINGREE of Maine.

H. Res. 130: Mr. COURTNEY.

H. Res. 150: Mr. FILNER.

H. Res. 156: Mr. YOUNG of Alaska, Mr. WAMP, and Mr. TIBERI.

H. Res. 175: Mr. WAMP and Mr. CALVERT.

H. Res. 225: Mr. POE of Texas and Mr. CULBERSON.

H. Res. 232: Mr. DAVIS of Kentucky and Mr. SESTAK.

H. Res. 259: Mr. SCALISE, Mr. BOREN, Mr. POE of Texas, Mr. WAMP, Mr. McHENRY, and Mr. NYE.

H. Res. 260: Ms. CLARKE, Mr. CLYBURN, Mr. PAULSEN, Mr. FILNER, Ms. RICHARDSON, Mr. BARROW, and Ms. SCHAKOWSKY.

H. Res. 274: Ms. SCHAKOWSKY and Mr. RANGEL.

H. Res. 285: Mr. LEWIS of Georgia and Mr. HOEKSTRA.

H. Res. 309: Mr. CALVERT, Mr. INGLIS, and Mr. ROYCE.

H. Res. 314: Ms. SUTTON, Mr. BLUMENAUER, Ms. CASTOR of Florida, Mr. CAPUANO, Mr. DAVIS of Illinois, Mr. HIGGINS, Mr. MORAN of Virginia, Mr. MACK, Mrs. BONO MACK, Mr. LANGEVIN, Ms. TSONGAS, Mrs. DAVIS of California, Ms. GIFFORDS, Mr. LUJÁN, Mr. BECERRA, Mr. MCMAHON, Mr. PETERS, and Mr. SCHRADER.

H. Res. 318: Mr. TAYLOR, Mr. LATTA, and Mr. BURTON of Indiana.

H. Res. 330: Mr. BRADY of Pennsylvania, Mr. CHILDERS, Mr. MATHESON, Mr. CARDOZA, Mr. INGLIS, Mr. MILLER of North Carolina, Mr. SPRATT, Mr. PETERSON, Mr. DAVIS of Alabama, Mr. MASSA, and Mr. KLINE of Minnesota.

H. Res. 364: Ms. SCHWARTZ, Mrs. TAUSCHER, Mr. MARKEY of Massachusetts, Mr. GUTIERREZ, and Mr. PIERLUISI.

H. Res. 383: Mr. HINCHEY.

H. Res. 394: Mr. ROHRBACHER.

H. Res. 397: Mr. SAM JOHNSON of Texas and Mr. GORDON of Tennessee.

H. Res. 407: Ms. SCHAKOWSKY, Mr. PIERLUISI, and Mr. WEINER.

H. Res. 408: Mr. HUNTER.

H. Res. 409: Mr. CHAFFETZ, Mr. BURGESS, Mr. LATTA, and Mr. CALVERT.

H. Res. 418: Mr. PRICE of Georgia.

H. Res. 420: Mr. SKELTON, Mr. MANZULLO, Mr. PITTS, Mrs. KIRKPATRICK of Arizona, Mr. BURGESS, and Mr. FLEMING.

H. Res. 429: Mr. PASTOR of Arizona, Ms. BEAN, Mr. TANNER, Mr. CARNEY, Mr. BOUCHER, Mr. ABERCROMBIE, and Mr. CARDOZA.

H. Res. 440: Mr. SCHRADER.

H. Res. 465: Mr. JONES, Mr. KINGSTON, Mr. MCINTYRE, Ms. WASSERMAN SCHULTZ, and Mr. WILSON of South Carolina.

H. Res. 467: Mr. LATOURETTE, Mr. RYAN of Ohio, Ms. KAPTUR, Mr. KUCINICH, Mr. AUSTRIA, and Mr. DRIEHAUS.

H. Res. 471: Mr. ADERHOLT, Mr. CONNOLLY of Virginia, Mr. YOUNG of Florida, and Mr. BISHOP of New York.

H. Res. 475: Mr. McDERMOTT, Mr. PRICE of North Carolina, and Ms. EDWARDS of Maryland.

H. Res. 476: Ms. RICHARDSON, Ms. FUDGE, Mr. BISHOP of Georgia, Mr. COOPER, Mr. RUSH, Mr. SERRANO, Mr. SAM JOHNSON of Texas, Mr. DAVIS of Illinois, Mr. ISRAEL, Mr. MEEK of Florida, Mr. FATTAH, Mr. BUTTERFIELD, Ms. CORRINE BROWN of Florida, Mr. SKELTON, and Ms. MOORE of Wisconsin.

H. Res. 480: Mr. MORAN of Virginia, Mr. HALL of New York, Mr. FARR, and Mr. FILLNER.

H. Res. 483: Mr. SPRATT, Ms. MCCOLLUM, Mr. ROGERS of Kentucky, Mrs. BLACKBURN, Mr. WALZ, Mr. ORTIZ, and Mr. GINGREY of Georgia.

H. Res. 484: Mr. McDERMOTT.

H. Res. 486: Mr. PAYNE.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

Amendment number 1 to be offered by Representative GOODLATTE of Virginia, or a des-

ignee, to H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

36. The SPEAKER presented a petition of the California Federation of Teachers (CFT), AFT, AFL-CIO, relative to 2009 CFT RESOLUTION 23 to Protect the human rights of child soldiers Omar Khadr and Mohammed Jawad; to the Committee on Armed Services.

37. Also, a petition of the Town of Shandaken, New York, relative to RESOLUTION #63 requesting the United States Congress, Governor of New York, New York State Legislature and New York State Board of Elections to enact laws, rules and regulations and take all other needed actions to specifically authorize the continued use of lever voting machines; to the Committee on House Administration.

38. Also, a petition of the Democratic Party of Douglas County, Oregon, relative to RESOLUTION NO. 2009-40 supporting Representative Conyer's investigation of Judge Bybee's role in authoring the "Torture Memo" of August 1, 2002; to the Committee on the Judiciary.



## EXTENSIONS OF REMARKS

ANGELICA JACOBO

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Angelica Jacobo who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Angelica Jacobo is a senior at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Angelica Jacobo is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Angelica Jacobo for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

RECOGNIZING PATRICIA NINO

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of Patricia Nino, a member of my staff. Next Friday, May 29th is Patricia's last day as the Staff Assistant in our office. Patricia has been serving the people of the Fifth Congressional District of Illinois since 1997.

Patricia was born in Chicago, Illinois, and has raised her family here. Her working experience spans from the Chicago Board of Education, City of Chicago-Purchasing Department and working at the Chicago Park District until her retirement. She has been working in the Fifth Congressional District Office having joined my predecessor Rahm Emanuel's staff in 2003.

Patricia has been a cornerstone for the Fifth Congressional District office for over a decade, and her cheerful disposition and dedication to service will be sorely missed. Patricia has always shown determination and heart in everything she's done, including raising two sons, caring for her ill husband, and volunteering in the community.

Patricia's family has always been a priority in her life. Her two children, John and Frank, are the proud parents of her grandchildren, Collette, Dionna, Brittany and Lexie. Patricia is awaiting the birth of her first great-grandchild in August.

I wish Patricia all the happiness in the future and thank her for her service to the people of Illinois' Fifth Congressional District.

HONORING EVERETT JOHNSON,  
M.D.

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Dr. Everett Johnson upon being honored with the 2009 John Darroch Memorial Award/Outstanding Physician Award, for his service to the Turlock community for over 50 years. Dr. Johnson will be honored at the Stanislaus Medical Society, Annual Membership meeting, on Thursday, May 28, 2009, at the Del Rio Country Club in Modesto, California.

Everett Johnson was born and raised in Turlock. He graduated from Turlock High School, and began his medical career as a medical corpsman. He attended medical school from 1944 to 1949 while serving in the United States Naval Reserve. Dr. Johnson continued to serve our nation by completing an internship and two years of service in the United States Air Force. Dr. Johnson earned his Bachelor of Arts degree from the University of California, Berkeley. He earned a second Bachelor of Arts degree from the University of Wisconsin in Madison, where he also attended medical school and earned his M.D. In 1949, he interned at the University of Oregon's Hospitals and Clinics in and around the Portland, Oregon area. Dr. Johnson returned to Wisconsin to complete his residency program where he focused on Internal Medicine.

In 1954, with military service and medical school under his belt, Dr. Johnson returned to Turlock and opened a private practice of internal medicine. After six years, Dr. Johnson entered into a partnership. The partnership lasted until 1970, when he decided to turn to education and become an Associate Professor at Stanford University. Dr. Johnson returned to private practice in 1973 and maintained his practice through 2006. While maintaining his own practice, he also worked for Stanislaus County Hospital, Emanuel Medical Center and Memorial Hospital of Stanislaus County.

Throughout his career, Dr. Johnson has been involved with both the medical community and the greater community. He is an Honorary Member of the Medical Fraternity, Alpha Omega Alpha; he is a past president of the Stanislaus County Medical Society and he served as the Hospital Examiner for the California Medical Association and the Joint Commission for Hospital Accreditation in the United States from 1965 until 2000. Dr. Johnson also served as the Chairman of the Medical Advisory Committee for the Medic Alert Founda-

tion, where he also served on the Board of Directors for twenty-five years and as a consultant for eleven years. He is involved with the American Medical Association, American College of Professors and is a past member of the California Society of Internal Medicine and the American Society of Internal Medicine. Outside of medicine, Dr. Johnson is a past president of the Rotary Club in Turlock, a member of the Church Council for Nazareth Lutheran Church. He has also served on the Board of Trustees of Turlock High School for thirteen years and was a Board Member for the Turlock High School Auditorium Restoration Committee, and the Commonwealth Club of San Francisco.

Madam Speaker, I rise today to congratulate Dr. Everett Johnson upon being named the 2009 John Darroch Memorial Award/Outstanding Physician Award. I invite my colleagues to join me in wishing Dr. Johnson many years of continued success.

HONORING THE 200TH ANNIVERSARY OF THE FOUNDING OF  
WHITE PLAINS

**HON. BART GORDON**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the 200th anniversary of the founding of White Plains, Tennessee. In recognizing the anniversary of White Plains, we are also recognizing the creation of Putnam County.

On Christmas Day 1809, Lt. William Pennington Quarles, a Revolutionary War hero, and his family, which included his wife, Ann Hawes Quarles, 10 children, four sons-in-law; and 30 slaves, reached their new home in White Plains. Having traveled down Walton Road from Bedford County, Virginia, Lt. Quarles and his family built a log cabin on land in White Plains, some of which was purchased from Daniel Alexander.

The Quarles family expanded an inn built by Mr. Alexander and added a general store, blacksmith shop, post office and farm. Andrew Jackson and other dignitaries of the time stayed at the inn on their way to Washington, D.C. and during trips to other cities east and west.

Lt. Quarles began to practice law in what was then White County and was appointed judge. His court convened in the blacksmith shop. Lt. Quarles was also a Mason, in addition to serving in the White County Militia. He was the postmaster of the White Plains Post Office until his untimely death in 1813 when he was shot a few miles from his home while returning from a meeting in Sparta.

Between 1813 and 1842, the population of the area surrounding White Plains increased

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

substantially. Residents successfully petitioned the Tennessee state government to create a new county—Putnam County—from areas of White, Overton and Jackson counties.

White Plains became the trade center of Putnam County, where elections and public speeches were held. Andrew Jackson and James K. Polk spoke there during their respective presidential campaigns.

The log cabin that Lt. Quarles built after arriving in White Plains in 1809 stayed in his family's name until the mid-1950s when Harvey Draper and his daughter, Mildred Summers, purchased it and began restoration. Plans are now underway to place the home and slave graveyard on the National Historic Register.

June 6, 2009 marks the 200th anniversary of the founding of White Plains, and what would later become Putnam County.

#### HONORING JAMES T. PHILLIPS

#### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PALLONE. Madam Speaker, I rise today to honor the accomplishments of Mayor James T. Phillips, who has committed the past five years of his life to being the mayor of the Township of Old Bridge. Under his leadership, Old Bridge has thrived and become a vibrant home to many New Jersey citizens. On May 3, 2009 his accomplishments earned him the Hubert H. Humphrey Friend of Labor Award, presented by the Middlesex County AFL-CIO.

Every year since 1983, the Middlesex County Central Labor Council has recognized a prominent individual who has followed the example of U.S. Vice President Hubert H. Humphrey's dedication to human and civil rights. As a leader and key proponent of labor unions and their interests, Humphrey furthered the rights of laborers across the nation. Mayor Phillips has followed in his footsteps as a strong advocate for labor who has furthered the cause of labor unions and civil rights.

The Honorable James T. Phillips has become a valuable leader and advocate for the state of New Jersey. The mayor began his career in 1995 as the Middlesex County Treasurer, as well as serving on the Middlesex County Board of Chosen Freeholders. His involvement with the County Board led to the acquisition of a 2,500 acre plot of land designated for public open space. In addition to acquiring this land for open space he created the Middlesex Co. Old Bridge Waterfront Park, which maintains a healthy and protected community forest.

The influence of Mayor Phillip's hard work and his active presence in the area extends throughout the Township of Old Bridge. Mayor Phillips is a member of the Old Bridge Township Housing and Redevelopment Agency, which has founded two important residences: the Maher Manor and the Chuck Costello Home. The Maher Manor is a 100-unit complex that provides senior citizens with health, wellness and recreation activities. The Chuck Costello Home offers independent living for seniors with more than 60 units of housing.

Madam Speaker, I sincerely hope that my colleagues will join me in congratulating Mayor Phillips on this achievement and thanking him for his service to the community. His accomplishments will continue to benefit and inspire my constituents and future generations.

#### TRIBUTE TO THE 150TH ANNIVERSARY OF WYANDOTTE COUNTY, KANSAS

#### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. MOORE of Kansas. Madam Speaker, I rise today to pay tribute to the upcoming 150th anniversary of Wyandotte County, Kansas, which is one of three counties composing the Third Congressional District of Kansas. On June 6th and 7th, the Wyandotte County Historical Museum will commemorate Wyandotte County's 150th anniversary, including activities featuring re-enactors, speakers, dancers and music.

In the territorial period of Kansas, previous to 1859, the area that is embraced in Wyandotte County was a part of Leavenworth and Johnson counties. Thus, with the domination of the "Leavenworth crowd," or of the Missourians who came over into Kansas territory, the citizens at the mouth of the Kansas River had little influence over the affairs of government or of politics. The first election in the county, aside from the elections held by the Indians themselves before the organization of the territory, was in June 1857 to select a delegate to the Lecompton constitutional convention. The polls were guarded by soldiers and the votes were deposited in a candle box, which was afterward found buried in a woodpile at Lecompton and became historically infamous. In October of the same year the county came into notice again, politically, due to the stuffing of a ballot box and other frauds, perpetrated at the Delaware crossing, eight miles west of Wyandotte. It is said that many of the names found on the poll list could also be found in a New York City directory, which some enterprising pro-slavery advocate happened to have in his possession at that time.

The political history of Wyandotte County, however, began with its organization under an act passed by the legislature of January 1859, the same legislature that authorized the Wyandotte constitutional convention. The act, signed by Governor Medearby on January 29, 1859, cut off one hundred and fifty-three square miles from the southeast corner of Leavenworth County and the north side of Johnson County. The Wyandotte Constitutional Convention was a key event in Kansas history. From this convention, Wyandotte County was created, Kansas became a state that was free from slavery, and women were given some rights in voting and holding property. The county is named after the Wyandot (a.k.a. Wyandott or Wyandotte) Indians. They were called the Huron by the French in Canada, but they called themselves Wendat. They were distantly related to the Iroquis, with whom they sometimes fought. They had hoped to hold off movement by white Ameri-

cans into their territory and had hoped to make the Ohio River the border between the United States and Canada. One branch of the Wyandot moved to the area that is now the state of Ohio. They generally took the course of assimilation into Anglo-American society. Many of them embraced Christianity under the influence of missionaries. They were transported to the current area of Wyandotte County in 1843, where they set up a community and worked in cooperation with Anglo settlers. The Christian Munsee also influenced early settlement of this area.

Wyandotte County, with roughly 160,000 residents, today boasts one of the most vibrant economies in the state of Kansas and an amazing story of resurgence. Comprised of the cities of Bonner Springs, Edwardsville and Kansas City, Kansas, the entire county has embraced a unified vision for the future. This vision has produced a monumental transformation over the last several years with the creation of the Kansas City metro area's premier tourist and retail destination including the Kansas Speedway, Nebraska Furniture Mart, Cabela's, the Legends at Village West, and Schlitterbahn Vacation Village. The explosion of development in the western portion of the City of Kansas City, Kansas, is also paving the way for redevelopment opportunities in the eastern portion of the city.

Madam Speaker, I know that all members of this House join with me in celebrating the 150th anniversary of Wyandotte County, Kansas. I am proud to represent it in the U.S. House of Representatives.

#### RECOGNIZING LORDS AND LADIES OF FAIRFAX

#### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize a dedicated group of men and women in Northern Virginia. For the past twenty-five years, each member of the Fairfax County Board of Supervisors has selected two people from their district who have demonstrated an exceptional commitment to our community. Since the program's inception in 1984, more than 470 individuals have been recognized as a Lord or Lady Fairfax by their representative on the Board of Supervisors.

Individuals recognized as Lords and Ladies of Fairfax have made significant contributions in their communities. This year, the Fairfax County Board of Supervisors recognized outstanding individuals who have made tremendous impacts through their support of our public schools, parks, youth sports leagues, arts community, public safety providers, and human service programs. It is nearly impossible to fully describe the diversity of accomplishments by the honorees. Their efforts contribute greatly to the quality of life for the residents of Fairfax County and should be commended.

The following individuals were recognized as Lord and Lady Fairfax Honorees for 2009. Each of these individuals was selected as a

result of his or her outstanding volunteer service, heroism, or other special achievements. These individuals have earned our praise and appreciation.

Chairman of the Board—At Large: Lady Corazon Sandoval Foley and Lord William “Bill” Hanks

Braddock District: Lady Pamela K. Barrett and Lord Thomas Frenzingier

Dranesville District: Lady Lisa Lombardozzi and Lord Vance Zavela

Hunter Mill District: Lady Joan Dempsey and Lord Howard Springsteen

Lee District: Lady Michele Menapace and Lord Doug Koelemay

Mason District: Lady Suzanne Holland and Lord Kevin Holland

Mt. Vernon District: Lady Christine Morin and Lord Gilbert McCutcheon

Providence District: Lady Lola Quintela and Lord G. Ray Worley

Springfield District: Lady Leslie Carlin and Lord Erik Hawkins

Sully District: Lady Patrica “Trish” Strat and Lord David L. Lacey

Madam Speaker, I ask my colleagues to join me in expressing gratitude to these men and women who volunteer their time and energy on behalf of our community. The selfless commitment of these individuals provides innumerable benefits to Northern Virginia and serves to strengthen and enrich our communities.

#### RECOGNIZING MARILYNN RUBIO

##### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of Marilyn Rubio, a member of my staff. Friday, May 29, was Marilyn's last day as the Congressional Aide in our office. Marilyn has been serving the people of the Illinois Fifth Congressional District with distinction since 2007, and deserves our wholehearted thanks for her efforts.

After graduating from DePaul University in 2007, Marilyn went to work for my predecessor, Rahm Emanuel, beginning as an intern. After spending a few months working for Emily's List, Marilyn returned to Congressman Emanuel's office in April 2008, working in the District Office and the Washington Office as a Congressional Aide.

Marilynn has been extremely helpful to me as I've begun my time in Congress. I have certainly benefited from her experience handling casework for Spanish-speaking constituents, managing the Fifth Congressional District of Illinois office in the interim period, and assisting with travel, records and logistics for our new office.

I would like to wish Marilyn the best of luck in her future endeavors, whether it be teaching English to students in Brazil, attending law school, or any other adventure. I know that she will find success in whatever path she chooses, and I thank her for her service to the people of the Illinois Fifth Congressional District.

IN CELEBRATION OF THE ARMY AND AIR FORCE EXCHANGE SERVICE'S 114TH ANNIVERSARY AND DEPLOYEE APPRECIATION WEEK, JULY 19, 2009–JULY 25, 2009

##### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. SESSIONS. Madam Speaker, I rise today to recognize the Army and Air Force Exchange Service (AAFES) and 114 years of dedicated service to our service men and women.

Founded on August 25, 1895, the War Department envisioned an exchange at every post where practical to bring our troops a taste of Americana. Since then AAFES has expanded to over 3,100 facilities worldwide. The growth and success of this exchange service is due in large part to the numerous employees, now totaling over 43,000 associates, dedicated to serving and supporting our service members and their families. For Operations Enduring Freedom and Iraqi Freedom, over 450 associates annually volunteered for deployment, choosing to follow our troops wherever they may go and proudly upholding the AAFES motto of “We go where you go!” Their dedication, courage, and patriotism are commendable and resonate deeply within each of us, as we stand united in our support for our soldiers and AAFES.

Madam Speaker, I ask my esteemed colleagues to join me in congratulating AAFES for 114 years of exemplary service and in expressing our heartfelt gratitude for their unwavering support of our armed forces.

##### DARBY HIEB

##### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Darby Hieb who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Darby Hieb is an 8th grader at Drake Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Darby Hieb is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Darby Hieb for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

#### TRIBUTE TO RICHARD PROTO

##### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Ms. DELAURO. Madam Speaker, it is with special and personal gratification that I introduce into the CONGRESSIONAL RECORD for the Nation and the people of my District, especially in my home town of New Haven, Connecticut, the enormously gratifying and important tribute that was paid to Richard Proto on May 18, 2009, by the United States National Security Agency, who died last July after a hard-fought bout with cancer, was recognized by the NSA with the naming of the “Richard C. Proto Symposium Center” within the NSA compound at Fort Meade, Maryland. It is only the second time the NSA has formally named one of its facilities.

Richard was born and raised in the Fair Haven section of New Haven, a graduate of the city's public schools—Strong, Fair Haven, and Wilbur Cross High School—and the son of Matthew and Celeste Proto, both active in the political life of our community at the same time as my own parents. Like many of the children of immigrants—Richard's mother was born in Italy and immigrated with her parents in 1916 at six years old, and both his grandparents were immigrants from Italy as well—his parents encouraged education, broadly defined, and a commitment to public service as a way of ensuring more fairness in the Nation they now called home. Richard was educated at Fairfield University, where he received his bachelor's degree in mathematics in 1962 and at Boston College, where he received his master's degree in mathematics in 1964. He then joined the NSA.

His contribution to the Nation—he served at NSA for thirty-five years; its Director of Research from 1994 to 1999—was described by the current Director of Research, Jim Schatz, in these terms during the ceremony: Richard was “Universally regarded as one of the Agency's most visionary thinkers. He influenced NSA unmatched by anyone else in recent history . . . Nearly twenty years ago, when large scale networking was still in its infancy, Richard anticipated the emergence of cyberspace as a battleground for national defense, and committed himself to ensuring NSA was prepared. . . . [His] life was a celebration of intellectual power dedicated to the service of his country. He was an exemplary American . . . NSA and the Nation owe him a debt of gratitude.” Senator BARBARA MIKULSKI (Maryland), in her capacity as a member of the Senate Select Committee on Intelligence, in a letter following Richard's death, wrote that “By any definition of the words, Mr. Proto was a warfighter and a patriot. He set high standards of performance at NSA and inspired others to conform to his expectations. He dedicated his life to the security of this Nation and has left a contribution that will endure for decades.” During his career, Richard received the Presidential Rank Award for Distinguished Service and the National Intelligence Distinguished Service Medal. Since his retirement in 1999, he remained as an adviser to the intelligence community, the national laboratories, and the

Institute for Defense Analysis at Princeton, until his death.

Richard's family was present and participated in the ceremony, including his brother, Neil Proto, also a New Haven public school graduate and now a lawyer in Washington, D.C. and a professor of public policy at Georgetown University, and his sister, Diana Proto Avino, an educator and mathematics consultant in the public school system in Clinton, Connecticut, and formerly a nationally-recognized teacher of the year. Richard had been raised in New Haven among twenty-six cousins, four of whom made the journey from Connecticut. Richard was truly a product of his community and his Italian-American heritage. He was a member of the famed 1958 Wilbur Cross team that won the New England High School basketball championship in the Boston Garden that captured the soul of our community when I was a teenager. Mr. Proto also was the founder of the Antonio Gatto Lodge of the Sons of Italy in Laurel, Maryland.

I am personally gratified to recognize Richard; a wonderful American who exercised his responsibility when the duty was his; who helped ensure the safety of our men and women soldiers in the tumult of combat; who rose to the highest rank of a dedicated public servant from the neighborhoods of New Haven, and who never lost sight of his origins and their values; the son of an immigrant insistent on defining America in its highest ideals.

HONORING JUDGE PAUL V.  
GADOLA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. KILDEE. Madam Speaker, I ask the House of Representatives to join me in paying tribute to Judge Paul V. Gadola. The Greater Flint Branch of the American Civil Liberties Union bestowed the 2009 Thomas A. Baltus Civil Libertarian of the Year Award upon Judge Gadola at a dinner held last Thursday, May 28, in my hometown of Flint Michigan.

Paul Gadola graduated from Michigan State University in 1951 and received his Juris Doctor Degree from the University of Michigan Law School in 1953. After serving in the United States Army from 1953 to 1955, he returned to his home in Flint and started a private practice. President Ronald Reagan appointed him to the U.S. District Court for the Eastern District of Michigan, the U.S. Senate confirmed his appointment in October 1988, and on January 6, 1989 he took office. He served in this capacity until his retirement in 2008.

Judge Gadola is certified as a Diplomat in Civil Trial Advocacy by the National Board of Trial Advocacy, a Lifetime Fellow of the American Trial Lawyers Foundation, served as an arbitrator for the American Arbitration Association, a mediator for the Circuit Courts of Genesee and Shiawassee Counties, and is a Fellow of the Michigan State Bar Foundation. Judge Gadola is a member of the Executive Board of the Federal Bar Association—East-

ern District of Michigan Chapter, the Board of Directors of the Historical Society for the U.S. District Court of Eastern Michigan, the Michigan Supreme Court Historical Society, the Federalist Society for Law and Public Policy Studies and the Advisory Committee of its Michigan Chapter. He is a member of the Philadelphia Society, the Economic Club of Detroit, Committee of Sponsors of the Flint College and Cultural Development Fund, the Hannah Society, and he has served as the President of the Incorporated Society of Irish/American Lawyers. As an alumnus of Michigan State University he has served the school's President's Club, the Board of Directors of the MSU Development Fund, and as a member of Directors of the school's Alumni Association. He has also served on the Board of Directors of the Mott Community College Foundation.

Over the years he has served the Urban League of Flint as President, the Cystic Fibrosis Research Foundation of Genesee County as President, the March of Dimes of Genesee County as Chairman, Genesee County Legal Aid Society as Vice-President, he has been a Director of the Flint Environmental Action Team and the Flint Area Convention and Tourist Council. Preceding his time on the bench, Judge Gadola was elected to the Board of Trustees of Mott Community College from 1969 to 1989. He served as Chair from 1983 to 1989.

Madam Speaker, Judge Paul Gadola was a founding member of the Flint Branch of the American Civil Liberties Union when the organization formed in 1963. The American Civil Liberties Union gave this award to him because of his hard work on behalf of the right to free association, the right to equal protection of the laws, the right to free speech, and the right to effective assistance of counsel. I have known Judge Gadola for many years and have benefited from his legal counsel and sage advice. I ask the House of Representatives to join me in congratulating him as he is honored for his work on behalf of our civil liberties.

RECOGNIZING THE RECIPIENTS OF  
THE 2009 FAIRFAX EDUCATION  
ASSOCIATION HUMAN AND CIVIL  
RIGHTS COMMITTEE WALT MIKA  
AWARDS

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the awardees of the Fairfax Education Association (FEA) Human and Civil Rights Committee Walt Mika Awards. The mission of the FEA Human and Civil Rights Committee includes advocacy and review responsibility to ensure that the policies, practices and programs of the Fairfax County Public Schools are inclusive and represent all ethnic, minority, gender and gay, lesbian, bisexual and transgender (GLTB) groups. The Committee recommends strategies to address GLTB, racial, ethnic and gender issues to ensure a quality educational ex-

perience for all students. In addition, the Committee promotes diversity awareness to recognize and celebrate the diverse cultures that enrich Fairfax County.

These awards are named after Walt Mika. Mr. Mika dedicated more than 30 years to the education of our youth as a teacher and also as former FEA and Virginia Education Association President. With the establishment of the FEA Retirement Housing Corporation and the development of the Educational Employees Supplemental Retirement System for Fairfax County, Mr. Mika has made significant improvements in the lives of thousands of retired teachers and Fairfax County Public School employees.

The recipients of the Walt Mika Award are recognized for their outstanding commitment to the education of children in Fairfax County. In addition to serving as notable educators, these individuals serve as role models for their students through their many and varied activities outside the classroom.

Madam Speaker, it is my honor to recognize the following recipients for their positive influence in the lives of students and their roles in promoting diversity:

Deb Cerie, Retired Art Teacher  
Robbie Ellen, Instructional Assistant  
Ilryong Moon, School Board Member  
Janice Winters, PhD, Community Activist.

Madam Speaker, I ask my colleagues to join me in honoring the contributions these individuals and all of the educators serving the children of Fairfax County. They provide enumerable benefits to Northern Virginia and life-changing experiences to the children they mentor.

TRIBUTE TO GARY HOLMES  
FAGAN

HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERRIELLO. Madam Speaker, today I recognize Gary Holmes Fagan upon his completion of 34 years of service to Albemarle County Public Schools. For 32 of these years, he served as the Band Director at J.T. Henley Middle School, imparting to thousands of young students the lasting gift of a musical education. As one of the many students privileged to have studied with Mr. Fagan, it is an honor to acknowledge his contribution to the community.

Gary Fagan was born and raised in Frederick, Maryland, the son of a teacher and a musician. He earned his undergraduate degree in Music Education at Bridgewater College and his master's degree in Music Education from James Madison University. He has taught music since 1973, moved to Albemarle County to teach in 1975, where he lives today with his wife, Phyllis. A fellow lover of music, Phyllis will also retire this year from her position as Choral Director for Henley Middle School. He is active in the Music Educators National Conference and the Virginia Band and Orchestra Directors Association, the American Society of Composers, Authors, and Publishers, and the National Band Association, as well as playing percussionist with the

Charlottesville Municipal Band and composing over 30 original pieces of music.

During his time at Henley Middle School, Mr. Fagan was the recipient of numerous accolades and honors from the community and beyond, including the Piedmont Council of the Arts Outstanding Educator Award, the Central Virginia Outstanding Middle School Teacher of the Year by the UVA chapter of Phi Delta Kappa, the WINA Teacher of the Month, National Band Association "Band Booster Award," membership in the James Madison University Music Education Advisory Council and the Phi Beta Mu International School Bandmasters Fraternity, and a Presidential Citation from the Governor's School of Virginia for the Visual and Performing Arts at the University of Richmond. Under his tutelage, the Concert Band has consistently attained superior ratings at the District Band festival, the Jazz Band has brought home 1st place at the Tri-State Jazz Festival for 3 out of the past 5 years, and the Marching Band has received scores of prestigious awards, including trophies from the Dogwood Parade, the Harrisonburg Poultry Parade and the Culpeper Firemen's Parade.

Throughout his career, Mr. Fagan has consistently brought out the best in each student, whether the student began middle school having played music for years or never having read a note of music. His students have widely varying backgrounds, abilities, and unique talents, but he is always patient, even with a future Congressman who struggled to extract melodious sounds from a baritone saxophone. By the end of each school year, however, the students have become a cohesive team, an accomplishment made evident in the annual spring concert in which his students play while marching in formation down Charlottesville's Market Street. In helping each student reach his or her potential, he has consistently created accomplished ensembles of young musicians dedicated to ensuring the school music program's continued success. He has been important to my whole family, particularly my late father, Vito Perriello, who found in Gary a like-minded music lover as well as a teacher he could trust to share such a love with his—and others'—children.

Many of Mr. Fagan's students have been inspired to enter the field of music and performing arts as a career, and their accomplishments will continue his legacy. For those of his students who have gone to other fields, his invaluable lessons of teamwork, dedication, and striving for personal excellence still persist. On behalf of Albemarle County and Virginia's 5th District, I thank Mr. Fagan for his generosity and devotion in sharing his talent throughout the years and wish both him and Phyllis all the best in their retirement.

#### HONORING MONUMENT BANK

#### HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to recognize the dedication and opening of the new head-

quarters for Monument Bank in Doylestown, Bucks County, Pennsylvania.

This day 141 years ago marks the anniversary of the official dedication of the Doylestown Monument. The Doylestown landmark commemorates the officers and men of the 104th Pennsylvania Regiment who fell in the Civil War, and serves as the namesake for Monument Bank.

The founding members and shareholders of the new Monument Bank have a proven history of successful local banking. They have provided some of the most outstanding professional banking services in our area, recognizing the importance of local community relationships and support. Their service and community leadership will undoubtedly be an important asset to Doylestown, Pennsylvania.

I applaud Monument Bank for moving forward in these trying economic times to provide valuable banking services to our community. Madam Speaker, I proudly recognize Monument Bank and I extend my congratulations on the dedication of their headquarters today.

#### RECOGNIZING EMMA JURADO

#### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of Emma Jurado, a member of my staff. Friday, May 29, was Emma's last day as a Legislative Aide and Scheduler in our office. Emma served the people of the Fifth Congressional District of Illinois with distinction from 2003–2005, returned in 2007, and deserves our wholehearted appreciation for her efforts.

After graduating from Georgetown University in 2005, Emma went to work for my predecessor, Rahm Emanuel, beginning as a Staff Assistant. After spending a year working for Skadden, Arps, Slate, Meagher & Flom LLP and the National AIDS Marathon Training Program, Emma returned to Congressman Emanuel's office in January 2007, working as a Legislative Aide and Scheduler.

In addition to doing superlative work for my predecessor, Emma has been an extraordinary asset to my office as we've managed the transition process. This process has been a lot of hard work, but that is nothing new to Emma. Whether it was handling science and technology, art, innovation, or postal issues legislation, assisting the people of the Fifth Congressional District during the interim period, or establishing my scheduling operation, Emma has always given her all.

I would like to wish Emma the best of luck working in President Obama's Administration. I am confident that she will find success in whatever path she chooses, and I thank her for her service to the people of Illinois' Fifth Congressional District.

JOHN HORTON

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud John Horton who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. John Horton is a senior at Pomona High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by John Horton is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to John Horton for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

#### HONORING 20TH ANNIVERSARY OF THE BAY TRAIL PROJECT

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. STARK. Madam Speaker, the Bay Trail Project will celebrate its 20th Anniversary on July 6, 2009 at the Hayward Shoreline Interpretive Center in Hayward, California. A commemorative event will highlight the adoption of the Bay Trail Plan by the Association of Bay Area Governments (ABAG) Executive Board since July 1989 and will point to the accomplishments and importance of the Bay Trail over the past 20 years. California State Senator Bill Lockyer will be honored for his contributions of creating and preserving the Bay Trail.

In 1987, then-California State Senator Bill Lockyer conceived the idea of a hiking and bicycling trail that would encircle San Francisco and San Pablo Bays. His plan was often called "Ring Around the Bay." Lockyer authored Senate Bill 100 authorizing ABAG to, "develop and adopt a plan for a continuous recreational corridor which will extend around the perimeter of San Francisco and San Pablo Bays." SB 100 required that the plan include: a specific trail route, connections to parks and other recreational facilities, links to existing and proposed public transportation facilities, an implementation and funding program for the trail, and provisions for implementing the trail without adversely affecting the natural environment of the Bay. SB 100 was passed into law with widespread support.

A broad-ranging advisory committee to ABAG developed the Bay Trail Plan over a 2-year period and its policies continue today to guide the development of the Bay Trail.

For oversight of the Hayward section of the Bay Trail, the Hayward Area Shoreline Planning Agency (HASPA) was formed in 1971.

HASPA continues to preserve and advocate for the Hayward shoreline as part of the Bay Trail. To date, slightly more than half of the Bay Trail's ultimate alignment, approximately 293 miles out of the envisioned 500-mile trail, has been completed.

I join the Bay Area community in honoring State Treasurer Bill Lockyer for his vision in authoring SB 100, ABAG for developing the plan for the recreational corridor, HASPA for its oversight and stewardship of the Hayward section of the Bay Trail and all the individuals who continue to contribute to the success of the Bay Trail. The Bay Trail is a treasured gift for all to enjoy.

HONORING CHIEF MASTER  
SERGEANT JOHN SLEDZ

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mrs. BLACKBURN. Madam Speaker, I ask my colleagues to join me in congratulating Chief Master Sergeant John Sledz upon his upcoming retirement from the United States Air Force after 30 years of service to our country.

Chief Sledz has reached the pinnacle of enlisted service, the rank of Chief Master Sergeant. Less than 1 percent of airmen are allowed to hold this rank, and achieving it is a testimony to the extraordinary abilities that Chief Sledz has put to work for the protection of our nation.

He has been awarded the Meritorious Service Medal (with five oak leaf clusters), the Air Force Commendation Medal, Air Force Achievement Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, among many others awards and decorations. He has served on three continents and five different states, and is concluding his career in the position of Chief, Fuels Management Flight, 43rd Logistics Readiness Squadron at Pope Air Force Base, North Carolina.

By focusing his career on the critical logistical tasks required in maintaining the Air Force's ability to launch aircraft, Chief Sledz's efforts have contributed mightily to the safety and well being of the citizens of this country and the stability of the world. We owe him a debt of gratitude that is impossible to repay. He has set a high example of service, leadership, caring, and commitment that all would do well to follow.

Madam Speaker, I congratulate Chief Sledz and his family on his well-deserved retirement, and ask my colleagues to join me in celebrating his accomplishments.

HONORING DR. VINCENT J. VIVONA

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PALLONE. Madam Speaker, I rise today to honor the accomplishments of Dr. Vincent J. Vivona, who has dedicated his time to fight-

ing cardiovascular disease and stroke. Throughout his many years of service, Dr. Vivona has worked to make the community of Ocean County a healthier place to live. On May 30, 2009 his accomplishments earned him the Ronald Rubinstein, M.D. Hearts-In-Action Award, presented by the American Heart Association/American Stroke Association at the annual Have A Heart Ball.

Once a year, this prestigious award is given to a health care professional who embodies the spirit and commitment of Dr. Ronald Rubinstein. As a former regional president of the American Heart Association Board in Central-South Jersey, Dr. Rubinstein devoted himself to his community. Dr. Vivona has inherited this passion by also using his skills for the benefit of those around him.

Dr. Vivona has become a valuable member of the state of New Jersey, and this is largely due to his distinguished past. He is the founding member of Brick Cardiovascular Specialists P.A., a group that strives to provide its patients with the highest quality medical care. Additionally, Dr. Vivona has served as Chief of Staff at Ocean Medical Center and Chief of Cardiology at Community Medical Center. Currently, he is an active member of the American College of Physicians and the American College of Cardiology, two institutions that relentlessly strive for a healthier America.

Rarely do you find someone who has such a deeply rooted interest in the well-being of his community. Dr. Vivona has practiced in Ocean County for the past 30 years. Moreover, he has resided within Toms River for 29 years. Dr. Vivona's place in the New Jersey community has allowed the citizens of my great state to receive the best care in dealing with cardiovascular disease and stroke. I am certain that Dr. Vivona will continue to serve his community with the same dedication he has shown in the past.

Madam Speaker, I sincerely hope that my colleagues will join me in congratulating Dr. Vivona on this achievement and thanking him for his service to the community. His accomplishments will continue to benefit and inspire my constituents and future generations.

MISTY HOCKMAN

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Misty Hockman who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Misty Hockman is a senior at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Misty Hockman is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Misty Hockman for winning the Ar-

vada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

HONORING NI INDUSTRIES, INC.

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate NI Industries, Inc. for over fifty-five years of business in Stanislaus County. Although the company is relocating, I would like to recognize NI Industries for its success while in California.

NI Industries, formally known as Norris Industries, Inc., was founded in 1930. The company manufactures over four hundred high quality munitions products including cartridge cases, mortars, projectile bodies, grenade bodies, rocket motors, warheads and rocket launchers. Headquartered in Vernon, California, NI is the United States Army's Industrial Mobilization Base Supplier with over one million square feet in manufacturing space. Their unique capabilities are unrivalled anywhere in the world, with over fifteen hundred pieces of equipment and many thousand tons of press capacity.

NI has been the operating contractor at the Riverbank Army Ammunitions Plant in Riverbank, California since 1951. Since the reactivation of the cartridge case facility at the Riverbank plant ten years ago, the company has produced over half a million cases of the Navy's 5"/54 gun and the Army's 105mm gun on the Stryker. NI Industries has also been an innovative leader in the development of the steel cartridge case for the Navy's 155mm-Advanced Gun Systems (AGS) for the DD (1000) Program.

The metal manufacturing technology that NI uses employs a deep draw process and a unique technology, to produce a single, unwelded piece of alloyed metal with high precision to fit a complex configuration. The company has management, technical and manufacturing teams with hundreds of years of experience in the defense industry. They take great pride in their engineers and researchers, as well as their production artisans and machinists. With the registration of the ISO 9001 and the ISO 14001, NI has taken appropriate steps to further ensure both products and processes meet the highest quality and environmental standards. Their attention to detail and technical capabilities has earned NI the reputation for being the only munitions manufacturer capable of deep drawing a combination of steel, brass and aluminum.

Due to the outcome of the 2005 Defense Base Closure and Realignment Commission Law, the highly successful cartridge case facility at the Riverbank Army Ammunitions Plant will be beginning the relocation process in June 2009. The plant is being relocated to Rock Island Arsenal, Illinois, and the relocation project will be completed in 2012. NI will operate the new facility and continue its production of cartridge cases and other products with the same care of quality.

Madam Speaker, I rise today to wish NI Industries the best of luck with the relocation. I encourage my colleagues to join me in wishing NI Industries, Inc. continued success.

RECOGNIZING THE RETIREMENT  
OF LIEUTENANT COLONEL JOSEPH M. ARTHUR

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. MILLER of Florida. Madam Speaker, it is with great honor that I rise today to recognize the retirement of Joseph Arthur, Special Assistant to the Commander 919th Special Operations Wing, Eglin AFB, Duke Field, Florida.

Lieutenant Colonel Arthur was commissioned through the Air Force Officer Training School in 1981 and entered Undergraduate Pilot Training (UPT) in 1982. Upon graduation from UPT, he was assigned to the 711th Special Operations Squadron as an AC-130A Spectre Gunship Pilot. In 1997, he joined the 5th Special Operations Squadron (SOS) flying the MC-130P. During his service with the 5th SOS, Lieutenant Colonel Arthur served as Aircraft Commander, Instructor Pilot, Chief Pilot, Chief of Training, Director of Operations and Combat Mission Commander.

Lieutenant Colonel Arthur has deployed and supported combat operations in the air and on the ground in support of Operations Just Cause, Restore Democracy, Enduring Freedom and Iraqi Freedom. His command experience in support of the Global War on Terrorism includes serving as Mission Commander, Air Force Special Operations Detachment-South, Jacobabad Air Base, Pakistan, Deputy Commander, Joint Special Operations Air Component, Masirah Air Base, Oman. His other deployments include peacetime aerial reconnaissance missions in Central America and participation in military operations over Haiti.

Madam Speaker, on behalf of the United States Congress, I am proud to recognize Lieutenant Colonel John M. Arthur for his excellent leadership and selfless service in the United States Air Force and wish him well in his retirement.

HONORING MR. MARTIN J.  
MARASCO

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. SHUSTER. Madam Speaker, I rise today to honor the accomplishments of Mr. Martin J. Marasco. As this year's recipient of the Penn's Woods Council Boy Scouts of America's Distinguished Citizen Award, Marty has shown exemplary performance as a businessman, a community leader, a philanthropist, and a role model.

Through his 39 years affiliation with the Altoona-Blair County Development Corporation,

Marty has worked at developing and delivering purposeful and creative programs and services involving all aspects of the economic development process to his community. He is responsible for much of the industrial and commercial economic expansion that has been crucial to Blair County's growth and development.

Marty's experiences in all facets of economic development have enabled him to be successful in his dealings with local, state, and federal agencies as well as commercial and industrial clients. His ability to capitalize on both public and private financing vehicles has led to the creation and preservation of 17,580 jobs, and serves to demonstrate how good business sense and strong work ethic can benefit the individual as well as the community.

The diverse background and numerous accomplishments Marty has spent a lifetime working toward have allowed him to be extremely active in his community. He is Past Chair and Member of the Pastoral Council at Our Lady of Mount Carmel Church, as well as a Member and Vice Chairman of the Executive Roundtable of Blair County. Always supportive of community sports activities, Marty coached instructional level through elementary basketball for 25 years. He also served, for 8 years, as the treasurer and coach for the Altoona Little League baseball program.

As a family man, Marty has been a husband to his wife Carol for nearly 42 years; he is a father to eight children, and a grandfather to thirteen grandchildren. Marty's efforts and accomplishments serve to exemplify great service to self, family, and community. For these reasons I commend those who have seen fit to honor Marty with this year's Distinguished Citizen Award, and I too recognize and congratulate Marty Marasco for all he has done.

TRIBUTE TO ROBERT D. WEXLER,  
PH.D

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. BERMAN. Madam Speaker, I am honored to pay tribute to my friend, Robert D. Wexler, on the occasion of his thirty years of service to the American Jewish University (AJU), and particularly his service as president for the past seventeen years.

During the first decade of his presidency at AJU, Dr. Wexler launched three major initiatives which promote education, understanding and peace: the Ziegler School for Rabbinic Studies, the Center for Israel Studies, and the Ziering Institute. Under his leadership, AJU started its Community Partners Initiative in which the university reaches out to the many ethnic and religious communities of Los Angeles. He has helped AJU's Whizin Center for Continuing Education become the largest Jewish adult education program in the United States with more than 15,000 participants each year.

In addition to his work at the American Jewish University, Dr. Wexler has served in many community leadership roles. He chaired the

Los Angeles Federation's Commission on Israelis and the Committee on Jewish Education. He has also published several articles, including contributions to the Encyclopedia Judaica, the Etz Hayim commentary on the Torah, and a volume entitled Israel, the Diaspora and Jewish Identity.

Born in Los Angeles, Dr. Wexler received his B.A. in Sociology from UCLA, and was ordained as a rabbi at the Jewish Theological Seminary in New York where he also earned a Master of Arts degree in Hebrew Literature. While enrolled in rabbinical school, Dr. Wexler also earned his M.B.A. from Baruch College in New York City. Following his ordination, he spent a year on the faculty of Princeton University, teaching in the Department of Middle East Studies. Dr. Wexler later earned both a Master of Arts degree and a Ph.D. from UCLA in the Department of Near Eastern Languages.

Dr. Wexler is included every year in Newsweek's list of America's 50 most influential rabbis, ranking number three in 2008. He has also been included on the Forward's list of the 50 most significant American Jewish leaders.

Dr. Wexler is married to Dr. Hana Wexler, the Director of the Wadsworth Anaerobe Laboratory at the Veteran's Administration in West Los Angeles. They have four children: Daniella, Elisheva, Zev and Nili.

Madam Speaker and distinguished colleagues, I ask you to join me in saluting Robert D. Wexler for his impressive career and dedication to the community and the American Jewish University, and to congratulate him on the occasion of his thirty years of service.

JESSICA KALIN

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jessica Kalin who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jessica Kalin is a senior at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Jessica Kalin is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jessica Kalin for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.



HONORING ROBERT HAWKINS ON BEING NAMED DEAN OF THE CENTRAL TEXAS LABOR COUNCIL AFTER 50 YEARS OF SERVICE

### HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. EDWARDS of Texas. Madam Speaker, I rise today to honor a lifelong friend of working families from my hometown Waco, Texas, Robert Hawkins. This week, we celebrate Robert's 50th year of service, and congratulate him on being named Dean of the Central Texas Labor Council.

Prior to his appointment to the Council, he served on the State Job Training Coordinating Council and has held a number of appointments from six Texas Governors. After 30 years of service, Mr. Hawkins retired as the Director of Special Programs at Texas State Technical College in Waco. During his 30 years at the college, he was instrumental in pioneering work in the area of career education and economic development training. He is Chair Emeritus of the Central Texas Economic Development Council and is Chairman Emeritus of the Heart of Texas Economic Development District Board of Directors. He serves his community as a member of the Bellmead City Council and has served four terms as Mayor.

Mr. Hawkins is also a proud member of the United Association of Plumbers and Pipefitters Local 529, Texas Academy of Science, and the Texas Technical Society. He has served as a member of an Advisory Committee for the Texas Department of Health, on a Senate Advisory Committee for Vocational-Technical Education, as Vice-Chair of the State Board of Physical Therapy Examiners, and on the President's Council of Youth Opportunity.

Robert is also a true friend to our troops, veterans, and their families. He served in the U.S. Army, the Army National Guard, the Texas State Guard, and the U.S. Army Reserves. He retired with 25 years of combined military service with the rank of Colonel. Robert was attached to the 5th Armored Division, D Battery at Camp Chafee, Arkansas, on September 24, 1957, and participated in the pre-dawn exercises to secure Central High School in Little Rock in preparation for integration of the school. He also taught military courses at the National Guard Professional Education Center and for the Department of Defense.

Robert has received numerous awards for military and public service and humanitarian activities. Among these are the Distinguished Service Award from the Secretary of the Army, the Lone Star Distinguished Service Medal and the Clara Barton Medal from the American Red Cross.

I want to personally thank Robert for his lifetime of service to our community. He is an example of someone who has truly made a positive difference in the lives of others.

HONORING RALPH AND ROBERT BROWN FOR THEIR SUPPORT OF WOUNDED WARRIORS

### HON. GUS M. BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. BILIRAKIS. Madam Speaker, I rise today to honor two of my constituents, brothers Ralph and Robert Brown. Ralph and Robert will be attempting a 2nd Guinness World Record this summer by sailing non-stop across the Atlantic Ocean from Tampa, Florida to Hamburg, Germany to raise funds for Wounded Warrior Foundations.

In 2007, Ralph and Robert set their first Guinness World Record for the "longest non-stop ocean voyage in a flats boat" traveling from North Carolina to Bermuda and back to New York in a 21-foot open fishing boat of their own design. This voyage garnered a great deal of publicity and convinced the brothers to use this notoriety to raise money for Wounded Warriors Organizations in the future. Ralph and Robert will be using the publicity from their second voyage to raise money for six Wounded Warrior and Disabled Veterans Organizations, having set a goal of \$3 million.

In 1980, former Marine Ralph Brown was placed on the roster to liberate the American Embassy in Iran during the hostage takeover. However, at the last minute Ralph's group was replaced by another group of soldiers, out of which three men were killed. Mr. Brown and his brother have since dedicated their lives to honoring the lives of these three soldiers and their many other brave countrymen.

Madam Speaker, Ralph and Robert Brown truly are doing more than just saying "thanks," by raising money and awareness for our nation's wounded warriors. And they are doing so in one of the most original manners possible.

### CONGRATULATING DONEISHA BROWN

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. GARRETT of New Jersey. Madam Speaker, this evening the Michelle Mitzvah Group and the Beth Haverim Shir Shalom Temple of Mahwah will bestow their LeBron-Michelle Mitzvah Scholarship upon an outstanding young woman, Doneisha Brown. Doneisha is a graduating senior at Eastside High School in Paterson, NJ, where she is ranked in the top 5 percent of her class. During her time at Eastside, Doneisha was active in the PEER Leadership Program, a student-run organization that helps incoming freshmen acclimate to a high school setting. PEER seeks to create a positive, reaffirming community by creating small support groups that cut across class divides, and by standing up against physical, emotional, and psychological bullying. Along with contributing to this very important organization, Doneisha is a scholar

athlete, having competed in track and field and girl's softball.

The Michelle Mitzvah Group was founded by Marc Applebaum as a living memorial to his daughter Michelle, who succumbed to leukemia. The Michelle Mitzvah Group seeks to practice the Jewish covenant of Mitzvah through "hands-on projects," such as ministering at children's hospitals, food banks, and homeless shelters. The Group also raises money for charities, sponsors blood drives, and collects items for our wounded veterans. Three years ago, Nathan LeBron partnered with the Michelle Mitzvah Group to form the LeBron-Michelle Mitzvah Scholarship Fund. Nathan is a cancer survivor who grew up in a dysfunctional home and was mentored by Marc Applebaum. With the love and support of individuals such as Marc, Nathan went on to graduate from SUNY Albany and Harvard University. Nathan formed the LeBron-Michelle Mitzvah Scholarship Fund to help other promising-yet-disadvantaged youths in receiving the help and guidance they require to go on to college or technical school.

Doneisha Brown is an exceptional student and role model for her peers. I am proud of her accomplishments, and expect great things from her as she continues her education. I am also proud of the Michelle Mitzvah Group and Beth Haverim Shir Shalom Temple on helping make a college education possible for Ms. Brown. Through this scholarship and countless other acts of selfless service, the individuals involved have made their community a better place. I wish all the very best in the coming years.

### PERSONAL EXPLANATION

### HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. NUNES. Madam Speaker, on the legislative day of Thursday, May 21, 2009, I was unavoidably detained and was unable to cast a vote on a number of Rollcall votes. Had I been present, I would have voted: Rollcall 289—"yea"; Rollcall 290—"yea"; Rollcall 291—"nay".

### YARITZA HUERTA

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Yaritza Huerta, who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Yaritza Huerta is a senior at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Yaritza Huerta is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Yaritza Huerta for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career in her future accomplishments.

HONORING MR. AND MRS. WALLY  
AND MARY GROTZ ON THEIR  
60TH WEDDING ANNIVERSARY

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor Mr. and Mrs. Wally and Mary Grotz of Delano, Minnesota, on the occasion of their sixtieth wedding anniversary. For the last sixty years, they have raised four children and lived in the homestead Wally built while the town of Delano grew into a city. But this is no ordinary couple; they are some of America's "Greatest Generation" and both have tremendous wisdom to share from their personal histories.

Wally was a B-24 bomber pilot during World War II and at one point served under American film legend, Jimmy Stewart. But Wally's story goes much deeper. He was shot down over Germany in 1944 and taken as a Prisoner of War until May of 1945. When he returned home he found a job at the local post office where he worked for 34 years, serving as Postmaster for 16 years.

Mary spent her time working for Minnesota-based food producer, General Mills. Her job was as unique as she is; she answered cooking and baking questions as Betty Crocker, the General Mills kitchen icon. She still remains active in her church and the Delano community today.

Madam Speaker, I rise today to congratulate and honor Wally and Mary Grotz. Their accomplishments as individuals and dedicated citizens would be enough to warrant recognition, but the love and devotion they have shown to one another sweetens their story as American heroes. I wish them a happiest anniversary and another sixty years together!

IN HONOR OF GERALD OEHLER,  
M.D.

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. FARR. Madam Speaker, for more than 50 years, Dr. Gerald Oehler has dedicated his life and his work to the care and well being of his patients. Born January 29, 1933 in Harvey, North Dakota, Dr. Oehler's well rounded medical education came from Kansas University Medical Center, where he was trained in several specialties and gained the broad-based knowledge that would become his hallmark. Graduating from medical school in 1958, Dr. Oehler put his skills to work for his country, enjoying a distinguished career in the United States Navy.

Named to the staff at Salinas Valley Memorial Healthcare System in 1966 and Board Certified in 1973, Dr. Oehler's practice was dedicated to the entire patient. In his four decades at Salinas Valley Memorial, his surgical and family practice touched the lives of thousands in the Salinas Valley and Monterey Peninsula. Dr. Oehler's specialty was the patient, his practice in the operating room, at bedside or in his medical office. Regardless of the location, his knowledge and experience touched and saved lives.

While witness to many changes in medical techniques and styles, Dr. Oehler showed a remarkable ability to adapt, and to keep his focus on patient-based medicine. His legacy will long remain a testament to that focus.

Dr. Gerald Oehler became Physician Emeritus at Salinas Valley Memorial Healthcare System on June 1, 2007. His dedication and professionalism will remain as an inspiration to all who follow.

HONORING SUPERVISORY SPECIAL  
AGENT RICHARD J. MCCUE FOR  
HIS 25 YEARS OF SERVICE WITH  
THE NAVAL CRIMINAL INVESTIGATIVE  
SERVICE (NCIS)

**HON. ERIC CANTOR**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CANTOR. Madam Speaker, I rise today to honor one of my constituents, Supervisory Special Agent Richard J. McCue. After 25 years of distinguished and honorable service, he retires this month from the Naval Criminal Investigative Service (NCIS).

In addition to his service with the NCIS, Mr. McCue has also served his country as an officer in the United States Marine Corps. Since September 11th, Mr. McCue has volunteered for several dangerous overseas assignments, including being part of the first NCIS team in the nation to provide Protective Services support to Coalition Provisional Authority leadership in southern Iraq. During this tour, Mr. McCue conducted over one hundred missions in active combat zones, directly encountering both active fire and several Improvised Explosive Devices.

Among numerous honors and achievements, Mr. McCue was requested by name to formalize the Surveillance Detection Mission for U.S. Forces within Kuwait, as well as forces transitioning to the Theater of Operations in support of Operation Enduring Freedom. In addition, Mr. McCue volunteered to serve as a forensic expert on the investigative/recovery team at the Pentagon after the September 11th attacks, providing both his expertise and compassionate care for the victims of that attack. In honor of this selfless service, Mr. McCue received the Department of the Navy Meritorious Civilian Service Medal as well as the Expeditionary Service Medal.

Please join me in recognizing Richard McCue for his distinguished service to the people of the United States. We wish him well on his retirement.

EATHAN HOLTZ

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Eathan Holtz who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Eathan Holtz is a senior at Compass Montessori High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Eathan Holtz is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Eathan Holtz for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

A TRIBUTE TO SI FRUMKIN

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. WAXMAN. Madam Speaker, it is a privilege to join my colleague HOWARD BERMAN in paying tribute to Si Frumkin, who passed away in Los Angeles, California on May 15, 2009. For more than 40 years, Si was a singularly focused and steadfast voice fighting for equality, freedom and dignity. As a Holocaust survivor, he heard a call of duty and answered it with a passionate resolve to not rest until the injustices he identified had been addressed. He was a role model, a mentor, and a friend we will miss.

Born in 1930 in the town of Kaunas, Lithuania, Simas Frumkinas came from an affluent family that was not particularly religious or politically active. When the Germans invaded Kaunas in 1941, and the Communists took over his father's business, the Frumkin family was herded into a Jewish ghetto. The ghetto was liquidated in 1944, and Si and his father were sent to the Dachau concentration camp where he and his father were forced laborers in a Nazi aircraft hangar. Si was just 13 years old.

Si's father passed away just 20 days before Dachau was liberated in 1945. When the camp was liberated by the U.S. Army, he went on to study in Switzerland, England, and Venezuela, where he was reunited with his mother before graduating from New York University in 1953. Soon after, he arrived in Los Angeles, where he took over a textile company—Universal Drapery Fabrics—and earned a master's degree in History at night at the California State University campus in Northridge.

As he became aware of the repression of Soviet Jews in the early 1960s, Si leapt into action, beginning a relentless journey as a

founding father of the Soviet Jewry movement and becoming a mentor and ally on behalf of Soviet Jews. He brought up a young student to UCLA and that student went on to become Los Angeles City Councilman (now County Supervisor) Zev Yaroslavsky. In 1968, he formed the Southern California Council for Soviet Jews and excelled in using unconventional methods to bring attention to the issue. When the Bolshoi ballet performed in Los Angeles, Si wrote up fake programs encouraging patrons to enjoy the ballet but adding a message about the oppression. When President Nixon was visited by Soviet President Leonid Brezhnev, Si released 5,000 balloons with the message, "Let My People Go." With candlelight rallies attended by tens of thousands, letter-writing campaigns and other grass roots efforts, he enlisted a generation into action.

Once the Iron Curtain fell and thousands of Jews were permitted to leave, Si turned his focus to assist in resettling those who arrived in Los Angeles and Southern California. He became the liaison for the émigrés on everything from résumé workshops to clothing drives.

In 1992, Si began publishing "Graffiti for Intellectuals," a bi-weekly newsletter with information and commentary on politics, social issues, and challenges in the community. With candor, conviction and often a touch of humor, his columns expounded on the needs of Holocaust survivors seeking restitution and reparations, the plight of Israel, the fight against anti-Semitism, and other Jewish causes.

In the face of fierce resistance, Si never relented or grew too tired to persevere. His creativity and sincerity inspired people to action. While we mourn his absence, we pay tribute with an enduring debt of gratitude for his remarkable courage and vision. His tremendous legacy will be felt for generations to come.

Si is survived by his wife, Ella, his son, Michael, and two grandchildren. Ella, who always stood solidly beside him and encouraged him to carry on the cause, deserves recognition as an equal partner in his lifelong achievements. Those who knew Si well can attest to his enduring love for his family and his avid collection of chess sets.

We ask that our colleagues join us as we celebrate the remarkable life and tremendous contributions of Si Frumkin. Si was living proof that one person can change the course of history.

CONGRATULATING PAM BRUNETTE  
ON HER EXEMPLARY VOLUNTEER  
SERVICE TO OUR MEN AND  
WOMEN IN UNIFORM

### HON. JOE DONNELLY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. DONNELLY of Indiana. Madam Speaker, today I pay tribute to an outstanding citizen of South Bend, Pamela Brunette, a woman who has selflessly devoted her time, talent and energy to our Marines. Her impact on the lives of our troops and their families is immeasurable, the result of her unflagging efforts to boost their morale during some of the most trying periods of their lives.

Like so many, Pam was shocked by the assault on our country that took place on September 11, 2001. She took positive action in a way that would help those sent to defend our lives, liberty and honor. Pam learned about Adoptaplatoon, whose mission it is to "Support America's men and women deployed abroad, while they protect our country." Believing in this mission, Pam joined Adoptaplatoon to support those who sacrifice so much on our behalf.

Pam first adopted a platoon of soldiers who were deployed to Kosovo and Bosnia. As part of her service to these men and women, Pam communicated with them regularly, through letters and emails, bringing a glimpse of "home" to many of them. Even as Pam's adoptees returned from duty, she continued her efforts by caring for newly deployed service members.

When Marines from Engineer Company B deployed for Iraq for the first time in 2003, Pam stepped forward and adopted the entire company. She coordinated the efforts of other volunteers to ensure that each Marine was assigned a supporter to communicate with them throughout their deployment. In addition, Pam wrote them herself, and sent care packages. Pam provided so much love, support and appreciation to these troops, that she is now called "Mom." In addition, many of these soldiers and their families include her in their personal celebrations. To Pam, this is the greatest honor of all.

Pam continued to support Engineer Company B when they were redeployed in 2005. In addition, she helps them with the annual Toys for Tots drive. She continues to encourage others to join Adoptaplatoon and support our service men and women. Pam believes our military is the best in the world, and they should receive the best we can give. She takes it upon herself to give them her best.

Because of her outstanding commitment to Adoptaplatoon and our troops, Pam has been awarded the President's Volunteer Service Award from the President's Council on Service and Civic Participation. This award is given to volunteers in recognition of their service to their community and their country.

So, today, on behalf of the citizens of Indiana's Second District, I thank Pam Brunette for her years of selfless dedication to our men and women in uniform. As she continues to work to bring a sense of appreciation and concern to our military personnel and their families, let us pay special tribute to this woman who truly expresses support for our troops through her action, dedication and commitment.

KATERYNA KONDRATYSHYNA

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Kateryna Kondratyshyna who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Kateryna Kondratyshyna is a junior at Arvada High School and received this award

because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Kateryna Kondratyshyna is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Kateryna Kondratyshyna for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

### HONORING THE MEMORY OF PATRICK O'CONNOR

### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today to pay tribute to a great Chicagoan and a true friend, Patrick O'Connor, who passed away this past Tuesday.

An athlete and a sports fan, Patrick was the past President of the Chicago Gaelic Athletic Association, and the St. Pat's Football Club. An active member of our community, Patrick was a committed member of the DeSoto Council Knights of Columbus. A dedicated family man, Patrick leaves behind his beloved wife Barbara, his five children: Michael, Robert, Catherine, Daniel, and Alderman Pat O'Connor, as well as dozens of grandchildren, nieces and nephews.

On behalf of my family, and those lives in my district that Patrick touched over the years, I send my deepest condolences to his family and friends. He will be missed.

### RECOGNIZING THE RECIPIENTS OF THE 2009 BEAT THE ODDS AWARDS

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the recipients of the 2009 Beat the Odds Awards presented by the Prince William County Bar Foundation. The awards recognize extraordinary youth in our community for their determination to overcome adversity and lead a full, productive life.

Beat the Odds Awards focus on young people who have come into contact with the juvenile justice system and, despite such an obstacle, have overcome abuse, neglect or juvenile delinquency with an earnest effort to realize a successful future.

It is my honor to commend the following individuals who have risen above substantial negative influences and are now being recognized as community success stories.

Recipients of the 2009 Beat the Odds Phoenix Award: Jessi Danner, Angela Garcia, Cynthia Hubler, Sha-Kina Jackson, and Maria Ann Sisson.

Recipients of the 2009 Beat the Odds Scholarship Award: Diana S. Alvarado, Howard James Artis, Courtney Blaydes, Ian Gabriel Byrd, Breanna Lee West Chrisman, Christopher England, Kendra A. Hedgespeth, Devon Kennedy, Brittani Nicole Rodriguez, Yailen Rodriguez, and Rebecca L. Smith.

Madam Speaker, I ask that my colleagues join me in congratulating these young people for the positive example they set for their peers. Our community sends a powerful message to our youth when we encourage them to triumph over setbacks and to gain strength from hardship. The fact that more than \$100,000 in Beat the Odds scholarships have been awarded thus far is a testament to that message.

IN TRIBUTE TO AMBASSADOR  
ALEXANDROS P. MALLIAS

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mrs. MALONEY. Madam Speaker, I rise to honor Mr. Alexandros P. Mallias, the Ambassador of Greece to the United States. During his tenure, Ambassador Mallias has fostered greater understanding and forged closer bonds between the leaders of Greece and America, including with many members of the House and Senate and officials in the Executive Branch. Ambassador Mallias has been a truly outstanding representative of the Hellenic Republic.

After nearly four years leading the Greek diplomatic delegation to the United States, Ambassador Alexandros Mallias is returning to serve as a senior advisor to the Greek Foreign Minister, Dora Bakoyianni, on critical issues in the sensitive Balkan region. Having first presented his credentials in Washington in 2005, Ambassador Mallias has served with distinction during a critical period in Greek American relations.

A proponent of public diplomacy, Ambassador Mallias has made hands-on interaction with the American people an integral part of his mission here, reaching beyond the bounds of Beltway politics. He traveled extensively throughout the U.S., visiting more than 30 states and delivering more than 140 public lectures at universities, think tanks and other organizations, not just on issues relating to Greece, but also on matters affecting the broader Southeastern European region.

Born on October 1, 1949, Ambassador Mallias traces his family's roots to Sternitsa in the mountainous region of Arcadia. He received his undergraduate degree in Economics from University of Athens, studied Political Science at the University of Geneva, and obtained a Post-Graduate Certificate from the "Institut des Hautes Etudes Européennes". He joined the Foreign Service of the Hellenic Republic in 1976.

Ambassador Mallias developed a close and warm relationship with the Hellenic American Community.

He and his wife Françoise, whom he affectionately calls his "pillar of support," devoted themselves tirelessly and selflessly to pro-

moting the relationship between the United States and Greece. They opened the Greek Embassy in Washington to events and cultural occasions, frequently hosting the Hellenic-American community and the diplomatic community at large. I was honored to be included at many of these events and even, on one special occasion, to be honored by the Greek Embassy. It was a true highlight of my career, the memory of which I will always treasure.

During his four years as Ambassador, Alexandros P. Mallias worked to ensure that the critical strategic relationship between Greece and the United States remained on a positive note. There is a fresh interest on the part of the United States to work with Greece on a wide array of issues of regional as well as global importance, such as the security of vital sea lanes.

As Ambassador Mallias has always said, Greece's greatest asset in the United States remains the vibrant Hellenic-American community, so many of whose members I am proud to serve in the United States House of Representatives. As the Co-Founder and Co-Chair of the Hellenic Congressional Caucus on Hellenic Issues, I can say with certainty that this outstanding ambassador will be sorely missed. Ambassador Mallias, we wish you "Ke Sta Annoterai," or great success, in all your future endeavors!

Madam Speaker, I ask that my colleagues join me in honoring Ambassador Alexandros P. Mallias, a great statesman and diplomat whose life's work has contributed immeasurably to cross-cultural understanding and international cooperation.

NATIONAL ASSOCIATION OF LETTER CARRIERS AND SECOND HARVEST FOOD BANK "STAMP OUT HUNGER" FOOD DRIVE

**HON. CHARLES W. DENT**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. DENT. Madam Speaker, I rise today to recognize the National Association of Letter Carriers and the Second Harvest Food Bank of the Lehigh Valley and Northeast Pennsylvania for their continued efforts in the battle against hunger.

On May 9th, letter carriers and postal customers across the country joined forces to "stamp out hunger" in the nation's largest single-day food drive for the 17th consecutive year. This also marked the 16th year that Second Harvest of the Lehigh Valley and Northeast PA took part in this extremely important event. Last year this food drive collected over 143,000 pounds of food to help struggling families in Lehigh, Northampton, Pike, Wayne, Monroe and Carbon counties. The local effort helped the National Association of Letter Carriers set a new record of 73.1 million pounds of food collected in 2008 in the "Stamp it out" drive.

Food banks like Second Harvest of the Lehigh Valley are even more important during economic downturns like the one we are currently facing. Second Harvest of the Lehigh Valley and Northeast Pennsylvania has seen

the demand for assistance rise dramatically in the past year and has been able to help 64,000 people so far in 2009, up from 50,000 in 2008. Thankfully, the generosity and compassion of their neighbors in the Lehigh Valley and Northeast PA showed again this year as they donated over 155,000 pounds of food exceeding last year's total.

I believe that programs like this by the National Association of Letter Carriers and the Second Harvest Food Bank of the Lehigh Valley and Northeast Pennsylvania bring us closer to achieving the goal of eradicating hunger in our communities. Once again, I would like to thank these organizations for their continued efforts.

ALEXANDER HILLMAN

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Alexander Hillman who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Alexander Hillman is a senior at Pomona High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Alexander Hillman is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Alexander Hillman for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

IN HONOR OF BILL KYSOR'S 40 YEARS OF TEACHING EXCELLENCE

**HON. PETE SESSIONS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. SESSIONS. Madam Speaker, I rise today to pay tribute to Mr. Bill Kysor's 40 years of teaching at St. Mark's School of Texas. I am proud to represent St. Mark's in the 32nd Congressional District of Texas.

For forty years, Mr. Kysor has inspired young men and fostered their artistic capabilities and appreciation. During his tenure, Mr. Kysor has taught Middle School art and Upper School Art Elements, Painting, and Sculpture, but he is best known for his Ceramics class.

In addition to his work in the studio, Mr. Kysor has introduced scores of boys to the wonders of the outdoors during Middle School campouts and the annual Pecos Wilderness Trip. Playing his beloved drums, he co-sponsors the Blues Club. Mr. Kysor also has the distinction of being the only "Honorary Member of the Science Department," an honor

awarded to him as thanks for creating the ceramic Periodic Table of the Elements that graces the Cecil and Ida Green Science Building.

In 2006, Mr. Kysor escorted his student, Jason Sanford as he received a Presidential Scholar in the Arts award for his command of the art of ceramics.

Mr. Kysor was appointed to the St. Mark's faculty on August 28, 1969, after receiving his M.A. from Southern Methodist University. He is an icon at St. Mark's, and I admire him for continuing to teach even after reaching his forty-year milestone. I wish Mr. Kysor all the best.

FRIENDS OF THE ARAVA INSTITUTE  
HONORING HERSHEL J.  
RICHMAN

**HON. ALLYSON Y. SCHWARTZ**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Ms. SCHWARTZ. Madam Speaker, I rise today to commend a constituent, Hershel J. Richman, who is being honored on June 7, 2009 with the "Peace Building and Environmental Stewardship Award" of the Friends of the Arava Institute.

The Friends of the Arava Institute is a Pennsylvania-based non-profit organization that supports the Arava Institute for Environmental Studies in the south of Israel. This institute, which has the particularly timely philosophy that "Nature Has No Borders," brings together students from Israel, Jordan, the Palestinian Authority and beyond to study common environmental concerns and to forge mutual understanding among tomorrow's leaders in that conflicted region.

Given the special and forward-thinking mission of the Arava Institute, it is no wonder that a special and forward-thinking man such as Mr. Richman became involved with it. For decades now, Mr. Richman has been one of Pennsylvania's foremost leaders on environmental issues. A graduate of the Pennsylvania State University and the Villanova University School of Law, Mr. Richman has devoted countless hours to environmental issues, in government, in private practice, in academia, and as a volunteer.

Mr. Richman and his wife Dr. Elizabeth Richman have been involved with the Arava Institute since they participated in a five-day, 300-mile bike ride through Israel sponsored by Arava in 2007.

Madam Speaker, I have no doubt that Mr. Richman deserves this and many other honors in recognition of his commitment both to the environment and to the cause of Middle East peace. I ask that my colleagues join me in congratulating Mr. Richman on this honor.

HONORING KEVIN DUNCAN

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PALLONE. Madam Speaker, I rise today to honor the hard work of Kevin Duncan, a de-

voted member of the International Union of Bricklayers and Allied Craftworkers Administration (BAC). On May 3, 2009 Mr. Duncan was recognized by the Middlesex County AFL-CIO as this year's Labor Person of the Year. This recognition is bestowed upon a committed labor leader who has worked tirelessly on behalf of his fellow laborers.

The BAC is an organization dedicated to providing fair wages, good benefits, and safe working conditions. Mr. Duncan joined the former BAC Local #8 in 1980. As the International Union merged local unions to create three larger statewide organizations in New Jersey, Mr. Duncan continued to take on a more prominent role in the new Local #5. Mr. Duncan has been a valuable and faithful member of the BAC for over 29 years.

As a Field Representative for BAC Local #5 in 2001, Mr. Duncan held an active position in the labor movement. Three years later he undertook the position of Secretary on the Middlesex County Building and Construction Trades Council AFL-CIO, where he now currently works. In the past, he has also served as vice-presidents and recording secretary to the Middlesex County AFL-CIO Labor Council. Today, he is one of their most committed members and serves as the council's treasurer.

Along with his dedicated work at the International Union of Bricklayers and Allied Craftworkers, Mr. Duncan has been a valuable citizen of New Jersey. Mr. Duncan was born and raised in New Jersey, and now maintains a home and joyful family life in the Garden State. He and his wife Penny have been married for 26 years and they live in Fair Haven where they have raised three beautiful daughters.

Madam Speaker, I sincerely hope that my colleagues will join me in celebrating the accomplishments and hard work of Kevin Duncan. Organized labor in New Jersey would not be the same without his determination and excellent service.

MAGGIE HURSEY

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Maggie Hursey who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Maggie Hursey is a senior at Ralston Valley High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Maggie Hursey is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Maggie Hursey for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her

academic career to her future accomplishments.

PERSONAL EXPLANATION

**HON. SHELLEY BERKLEY**

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Ms. BERKLEY. Madam Speaker, I was unable to vote on rollcall Nos. 288 through 291. Had I been present, I would have voted "aye" on Nos. 288, 289 and 291, and "no" on No. 290.

HONORING TEMPLE PARKS AND  
RECREATION

**HON. JOHN R. CARTER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CARTER. Madam Speaker, I would like to commend Temple Parks and Recreation for their recent honor of being named one of the top four departments in the country for a city of its size. When the American Academy for Park and Recreation Administration honors one city with its National Gold Medal Award for Excellence, I am proud to say that one of our own cities, in Texas District 31, will be among the elite finalists.

Congratulations to the residents, boards, committees, city council, city administration, and department staff, whose commitment to excellence over the past several years did not go unnoticed. I wish you all the best when the winner is named in October.

HONORING THE CAREER AND AC-  
COMPLISHMENTS OF REAR AD-  
MIRAL JOEL R. WHITEHEAD,  
UNITED STATES COAST GUARD

**HON. HOWARD COBLE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. COBLE. Madam Speaker, I take this occasion to honor Rear Admiral Joel Whitehead of the United States Coast Guard for his service to the United States Congress and for his 38 years of service to our country.

Admiral Whitehead presently serves as the Commander of the Eighth Coast Guard District in New Orleans where he is responsible for Coast Guard operations in 26 states, over 1,200 miles of Gulf of Mexico coastline and 10,300 miles of inland waterways including the entire lengths of the Mississippi, Ohio, Missouri, Illinois, and Tennessee River systems. As commander of the largest Coast Guard District, Admiral Whitehead leads over 9,000 active duty, reservists, civilian members and Coast Guard Auxiliary volunteers. From 2003 to 2005, then Captain Whitehead served as Chief of Congressional Affairs and as Acting Assistant Commandant for Governmental and Public Affairs. I am proud to have had the opportunity to work closely with him during this

time. My staff and I have often relied on Admiral Whitehead's knowledge and understanding of the missions, challenges and responsibilities of the United States Coast Guard to help me in my leadership roles on the Coast Guard and Maritime Transportation Subcommittee and in numerous other venues where his great depth of experience was invaluable.

Admiral Whitehead comes from a distinguished military family that has served this nation since before the American Revolution. His oldest known ancestor, Isaac Whitehead, served in the militia of the New Haven Colony in Connecticut as early as 1643. The Whitehead family moved westward in 1666 to become founders of the Elizabethtown, New Jersey Colony and again to Morristown, New Jersey where Onesimus Whitehead was a member of the New Jersey militia when George Washington encamped in Morristown the winter of 1779-80 and endured a winter as severe as that at Valley Forge where thousands died. His family having been awarded land for their service in the Revolutionary War, Isaac Whitehead IV moved to the Finger Lakes of New York about 1700 where the Whitehead family remained until they again traveled westward in 1826 after the opening of the Erie Canal. The Whitehead family remained in Ohio until the outbreak of World War II when Admiral Whitehead's father James entered the Army and served over 20 years, retiring as a Lieutenant Colonel. In 1968 Admiral Whitehead's brother Scott also answered the call to serve his Nation, joining the United States Marine Corps while in college and recently retiring as a Colonel in the Marine Corps Reserve.

Admiral Whitehead has served at sea and ashore in a variety of operational and policy tours during his career. A native of Newport News, Virginia, he graduated from Williamsburg Academy in Williamsburg, Virginia. He began his military career at the United States Coast Guard Academy in New London, Connecticut in 1971, where he was elected Class President and served as a Regimental Commander in the year of his graduation in 1975. Ensign Whitehead first trained new Cadets of the Class of 1979 as a Summer Ensign at the Coast Guard Academy. He then went to Governor's Island, New York, to serving two years aboard the cutter MORGENTHAU as Anti-Submarine Officer, Weapons Officer and Deck Watch Officer. He later served as Executive Officer of Marine Safety Office, Albany, New York. There, for the first, but not last time in his career, he led the Coast Guard's response to an environmental crisis when he was second in command during the first "Superfund" cleanup in the nation's history.

After earning a Master's Degree in Public Administration at the State University of New York at Albany, Lieutenant Commander Whitehead and his family accepted their first tour in Washington, D.C., where they spent some 12 years during his career. There, he helped negotiate the worldwide implementation of international MARPOL Treaty at the International Maritime Organization in London and subsequently wrote the U.S. federal regulations to enforce them in the United States. When the EXXON VALDEZ disaster occurred in 1989, Lieutenant Commander Whitehead was as-

signed for two weeks to assist the Admiral in charge of the cleanup. He ultimately stayed for almost a year as an adviser to the Federal On-Scene Coordinator and later wrote the federal report detailing the government's response and recommendations that came from the lessons learned from this historic event. Following the EXXON VALDEZ response in Alaska, Lieutenant Commander Whitehead returned to Washington, D.C., to assist in implementing the newly passed Oil Pollution Act of 1990 and later served as a Program Reviewer for the Coast Guard's budget where he was responsible for program oversight and development for almost one-third of the Coast Guard's operating budget. He also led the Coast Guard's efforts with the new presidential administration's transition team in 1992.

Again in the field from 1993 to 1996, Commander Whitehead was assigned as Deputy Group Commander of Group Woods Hole, Massachusetts, where his group responded to more than 4,000 law enforcement boardings and 5,400 search and rescue cases resulting in over 450 lives saved. In 1996, Commander Whitehead was selected to study for a year with 17 select military officers as a National Security Fellow at Harvard University's John F. Kennedy School of Government. From that elite educational experience he again found himself in Washington working for the Commandant of the Coast Guard as the Chief of Strategic Planning for the U.S. Coast Guard. There his team developed the Coast Guard's strategic vision, Coast Guard 2020 and pioneered a scenario-based planning process to develop long-range strategies to plot the Coast Guard's future.

It was not long afterward that Captain Whitehead was in command in Boston as Commanding Officer of Marine Safety Office Boston. There he managed the explosive growth of Liquefied Natural Gas transits through the port, Sail Boston 2000 and led the federal response to the largest oil spill in Boston's history: the 2000 Tank Vessel POSAVINA spill, which put over 59,000 gallons of fuel oil in the harbor. Under his leadership the Coast Guard collected an unprecedented 89% of the oil from that near-pristine waterway that had just undergone a \$4 billion, 10-year water quality improvement project.

In 2001, Captain Whitehead was transferred early to begin his close association with the Gulf of Mexico when he was selected as Chief of Staff of the Eighth Coast Guard District. There he managed the day-to-day operations of a 200 person staff and 9,000 Coast Guard men and women located at sub-units throughout the heartland of America and the Gulf of Mexico. He was there only a few months when the attacks of 9/11 occurred and, as acting District Commander, he personally led the federal maritime homeland security response on the inland waterways, Gulf of Mexico ports and offshore oil and gas fields. Recalling over 800 Reservists to protect the Nation's busiest ports and the energy gateway to America, he reorganized the District staff to include the first Homeland Security staff element in the Coast Guard.

Returning to Washington in 2003, Captain Whitehead assumed the reigns of the Coast Guard's relations with Capitol Hill as the Chief of Congressional Affairs. There he managed

some 25 young Coast Guard men and women at DOT Headquarters, in the House of Representatives and the Senate, and organized over 100 Congressional and staff delegation visits to the field. It was there I met Captain Whitehead as he worked the many policy and budget issues including the growing Deep-water acquisition project, homeland security and port security issues.

While Chief of Congressional Affairs, he was promoted to Rear Admiral in 2004 and officially became the Assistant Commandant for Governmental and Public Affairs. As the heart-rending events of Hurricanes KATRINA and RITA unfolded in 2005, Admiral Whitehead ably represented the Coast Guard in Washington as a national spokesman alongside the Secretary of Homeland Security and provided numerous briefings to Members of Congress and Congressional committee staffs. In addition, he orchestrated an extraordinary and expansive media effort documenting the Coast Guard's historic response to that natural tragedy.

In 2006, Admiral Whitehead volunteered to return to New Orleans, this time to lead the Eighth Coast Guard District. Faced with the rebuilding of many Coast Guard facilities destroyed or damaged during the hurricanes, he prepared the staff for more hurricanes and tropical storms, as well as the ubiquitous flooding from the inland river system. During his tenure, the Coast Guard responded flawlessly to over 8,100 search and rescue cases. Then in 2008, during the fifth most active weather year since 1944, Admiral Whitehead led his Eighth District team through Tropical Storms EDOUARD, FAY and HANNAH, as well as Hurricanes DOLLY, GUSTAV and IKE in which 220 people were saved. In the largest oil spill in many years in New Orleans when the motor vessel TINTOMARA and the tug MEL OLIVER collided on the Mississippi river, Sector New Orleans and the Eighth District responded immediately and effectively, partially opening the port to traffic within days and fully opening it within two weeks to prevent a multi-billion dollar economic loss. The Midwest floods of Iowa and Missouri in 2008 also set records, only to be surpassed in 2009 by the flooding of the Red River of the North in which the Coast Guard rescued by helicopter and small boats over 105 people.

Admiral Whitehead has earned numerous military decorations during his years of active duty, including the Legion of Merit, the Meritorious Service Medal, the Coast Guard Commendation medal, the 9/11 medal, as well as numerous unit commendations and team awards. He has also received a number of other honors, including being named the Distinguished Alumnus in Public Administration & Policy for 2007 at the State University of New York at Albany. He is also an Honorary Master Chief Petty Officer of the Coast Guard, a recognition which the Admiral is most proud of. Over the years, Admiral Whitehead has also been able to serve his alma maters as a Director of the U.S. Coast Guard Academy Alumni Association and from 1999-2003 as a member and Chairman of the Alumni Executive Council at the John F. Kennedy School of Government at Harvard University, which represents more than 20,000 alumni in 120 nations.

This week, Admiral Whitehead will leave his post in New Orleans and retire after 38 years of honorable service to the Coast Guard and the Nation. He will be missed as a military congressional affairs alumnus in the United States House of Representatives and Senate. It has been my pleasure to work with Admiral Whitehead over the years. On behalf of all who have also been able to work with him, we wish Admiral Whitehead, his wife Martha, whom I have had the pleasure of knowing for many years, and his two wonderful daughters Christine, a medical student at the Virginia College of Osteopathic Medicine in Blacksburg, Virginia and Katherine, a fine art photography major who will graduate this year from the Corcoran College of Art and Design here in Washington, the best in their future endeavors.

HONORING RIVERDALE HIGH SCHOOL LADY WARRIORS ON WINNING THE 2009 TSSAA CLASS AAA GIRLS' STATE SOFTBALL CHAMPIONSHIP

**HON. BART GORDON**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the 2009 Riverdale High School Lady Warriors for winning their first TSSAA Class AAA State Softball Championship.

In a best of three series, the Lady Warriors fought back after a game-one loss and beat Beech High School's Lady Buccaneers two games in a row to secure the tournament championship. They showed tenacity and perseverance to emerge as victors, and finished the season with an overall record of 47-7.

I know the parents of these young ladies must be very proud, and much credit is due to them for their many hours of support, attending practices and games, helping with fundraisers and volunteering when needed.

I commend Riverdale High School Head Coach Jeff Breeden and Assistant Coaches Dennis Weaver and Falon Catalano, Athletic Director Barry Messer, and Principal Tom Nolan.

I congratulate each player of the 2009 AAA State Champion Lady Warrior Softball Team: Kacie Walker, Amber Castleman, Amber Bailey, Anne Russell, Samantha Hoadwonic, Megan Chesney, Hannah Porter, Alice O'Brien, Maria Frebis, Morgan Lester, Courtney Clark, Breana Thomas, Donté Souviney, Brittany Pendergrast, Ashia Terry, Jessica Ayers, Mary Beth Canterberry, Megan Kelley, Taylor Lee, Casey Clark, Kelsey Choate, Dené Souviney, Leslie Cope, Tara Greer, Amy Russell, Megan Quinn, Rachel Albritton, and Katie Brown.

IN HONOR OF JAY LENO

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. KUCINICH. Madam Speaker, I rise today in honor of Mr. Jay Leno, whose comedic talent charmed audiences across the nation, as he steps down as host of the Tonight Show after seventeen seasons. As Americans tuned in every night, Jay's hilarious insights and observations whisked away our worries, if only for a brief time.

Jay began his career in night clubs across the country, perfecting his stand-up routine. As his career took off, he earned small roles in TV and film, but hit the comedic goldmine in the early eighties when he was invited to perform on The Tonight Show Starring Johnny Carson and Late Night with David Letterman. For many years, Jay served as Johnny Carson's permanent guest host. Following Carson's retirement, Jay debuted as the new host of the Tonight Show on May 25, 1992. His work has been honored numerous times with several awards and nominations, including his Emmy win in 1995.

Beyond his professional success and achievements, Jay Leno's character has not changed. A humble man with a compassionate heart and strong sense of responsibility toward others, both Jay and his wife, Mavis Nicholson Leno, have consistently avoided the fanfare and flashing lights of celebrity, working behind the scenes to further the causes of many charities and humanitarian efforts. Mavis is the Chair of the Feminist Majority's Foundation's Campaign to Help Afghan Women and Girls, and has been an outspoken advocate and activist on behalf of women's rights in America and around the world. Jay has consistently invested his time, talents and resources on behalf of several charities. He has a record of supporting our men and women in the military, and has made countless free appearances to audiences made up of families and individuals in need, including most recently, laid-off auto workers in Detroit, Michigan.

Madam Speaker and Colleagues, please join me in honor and recognition of Mr. Jay Leno as he steps down as host of the Tonight Show with Jay Leno. From his commitment to social service and various causes behind the scenes, to making us laugh day after day, Jay Leno's contributions continue to lift the heart and soul of our entire nation, one joke and one kind gesture at a time.

HONORING THE HISTORY OF THE MAD RIVER AND LAKE ERIE RAILROAD

**HON. JIM JORDAN**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. JORDAN of Ohio. Madam Speaker, I am honored to commend to the House the work of the Champaign County Bicentennial Historical Marker Committee and the West

Central Ohio Port Authority to promote the history of the Mad River and Lake Erie Railroad.

The Mad River and Lake Erie Railroad was chartered by the State of Ohio in 1832, making it both the first chartered railroad in Ohio and the first to be built west of the Allegheny Mountains. Groundbreaking ceremonies took place in 1835 in Sandusky, attended by General William Henry Harrison (the first of eight Presidents to hail from the Buckeye State) and Ohio Governor Joseph Vance.

By 1848, more than 130 miles of track were completed from Sandusky to Springfield at a cost of roughly \$1.75 million. Urbana resident John H. James, who served as treasurer of the railroad, was instrumental in securing lines of credit to fund rail construction and early operations of the line.

The rail line was eventually expanded to tie in with the Little Miami Railroad, allowing for continuous rail service from Lake Erie to the Ohio River through western Ohio.

After numerous mergers, the Mad River and Lake Erie Railroad ultimately became part of Conrail, which has since been divided between the Norfolk Southern Railway and CSX Transportation. The West Central Ohio Port Authority acquired portions of the old Mad River track in 1994 to ensure continued freight rail service between Bellefontaine and Springfield.

On June 6, two historical markers celebrating the history of the line will be dedicated in Urbana. I am honored to join the Champaign County Bicentennial Historical Marker Committee, the West Central Ohio Port Authority, and Bellevue's Mad River and Lake Erie Museum in commemorating this event.

HONORING THE MEMORY OF THOMAS R. ALLEN, JR.

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today to honor the memory of a great and respected Chicagoan, Thomas R. Allen, Jr., who recently passed away at the age of 85. Thomas Allen Jr. was a man who lived life to the fullest, and the friends and family he had are a testament to the quality of his character and the type of man he was.

Thomas R. Allen, Jr. was born on the 12th of February, 1924 on the West Side of the city of Chicago. He achieved his success in life through hard work and determination. He followed his own father into the bricklayers' trade after serving as a marine during World War II.

After his service, Tom became involved with Local 21 of the International Union of Bricklayers and Allied Craftworkers. He held the position of Midwest apprentice coordinator for the union for 35 years. He traveled the region to oversee the training of young people in his profession.

It was Tom's connection to and involvement in his community that his friends will remember. He was an active member of St. Eugene's Parish. Not only had he served as an usher for 55 years, he also served as a youth basketball coach and a member of the Big



Brother program. He had a smile and kind word for everyone

Tom's top priority was always his family and the love and support they provided him was most important in his life. In 1948 he married his high school sweetheart, Irene Feehan, and together the couple raised eight children. His family includes their daughter, Barbara Wiemhoff and her husband John, their daughter, Nancy Cullerton and her husband Tim, and their sons; Thomas III and his wife, Janis, James and his wife, Lin, Dan and his wife, Sue, Patrick and his wife, Laura, and Terrence and his wife, Jean; 26 grandchildren and four great-grandchildren. After a long illness, Irene passed away in 1997.

Madam Speaker, Thomas R. Allen, Jr. ("the real Tom Allen") was an inspiration to all who knew him. I wish to express my deepest condolences to his family, and may God bless the Allen family and the memory of a man who was truly loved by his family, his friends, and his community.

#### RECOGNIZING THE ONE-HUNDRED AND SEVENTY-FIFTH ANNIVERSARY OF THE GUM SPRINGS COMMUNITY

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the One-hundred and seventy-fifth anniversary of the Gum Springs Community in Alexandria, Virginia. The Gum Springs Historical Society celebrated the anniversary on May 16, 2009.

Gum Springs is an African-American community founded in 1833 by West Ford, a freed slave. West previously was owned by John Augustine Washington and frequently accompanied John's brother, General George Washington following the Revolutionary War. As a freed man, West inherited 160 acres from the Washington family adjacent to Mount Vernon which he later sold to acquire a nearby tract of 214 acres that became the basis of the Gum Springs Community.

West Ford's Gum Springs Community became a refuge for freed and runaway slaves before the Civil War, and the residents built homes, became farmers and loggers and worked in other various trades. They took a patch of land, empty except for a solitary gum tree, and built a place of belonging for many Americans who, sadly, were marginalized and discriminated against in general society. Despite the hardships they were forced to endure, the residents persevered and prospered and the Gum Springs Community is a vibrant home to 2,500 people today.

Madam Speaker, I ask that my colleagues join me in congratulating the Gum Springs Community on its One-hundred and seventy-fifth anniversary, and thank the Gum Springs Historical Society for preserving the heritage and courage of those first residents who overcame tremendous challenges and successfully raised their families and created a lasting community.

**TRIBUTE TO VINCENT J. TORNELLO**

**HON. THOMAS S.P. PERRIELLO**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PERRIELLO. Madam Speaker, today I recognize Vincent J. Tornello upon his completion of 37 years of service to Virginia's Fifth District. As conductor of the Charlottesville High School musical ensemble since 1972, he has imparted to thousands of young students the lasting gift of a musical education, and it is an honor to acknowledge his contribution to the community.

Vincent Tornello was born and raised in Oceanside, New York. He began conducting at age 17, and went on to earn his undergraduate degree at the Shenandoah Conservatory of Music, where he studied alto saxophone, flute, and piano; and his master's degree at the University of Virginia. During his time at Charlottesville High School, Mr. Tornello was the recipient of numerous accolades and honors from the community and beyond, including Sousa Foundation's Legion of Honor Award and membership in the Virginia Band Hall of Fame. Under his tutelage, Charlottesville High School bands have been named a Virginia Honor Band 27 out of 28 possible years, received superior ratings for 28 consecutive years at the state marching band festival, and performed at the 1998 Cotton Bowl Parade and the 1993 Fiesta Bowl Parade.

Throughout his career, Mr. Tornello has challenged each student to grow not only in musical skill, but also in discipline and an appreciation for the process of making music. Described as "tough, but inspiring" by his students, he has encouraged young people of varying backgrounds, abilities, and unique talents to take pride in the dedication and teamwork required to meet high standards of achievement. In helping each student reach his or her potential, he has created accomplished ensembles of young musicians dedicated to ensuring the school music program's continued success.

Although Mr. Tornello's legacy partly continues, his students have been inspired to enter the field of music and performing arts as a career, his students who have chosen a different path have noted the lasting impact of the life lessons learned under his guidance. Mr. Tornello has taught thousands of young people to strive for personal excellence and find satisfaction and fulfillment in a job well done. On behalf of the City of Charlottesville and Virginia's Fifth District, I thank Mr. Tornello for his generosity and devotion in sharing his talent throughout the years and wish him all the best in his retirement.

**HONORING PATTY CARLIS AS THIS YEAR'S WALLENBERG TRIBUTE HONOREE**

**HON. CHARLES W. DENT**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. DENT. Madam Speaker, I rise today to honor my constituent, Patty Carlis, as a community leader in the arts and interfaith understanding.

At the 25th annual Wallenberg Tribute Dinner on Sunday, April 19, 2009 Patty was recognized as this year's Wallenberg Tribute Honoree. The award, given by the Institute for Jewish Christian Understanding (IJCU) at Muhlenberg College, is named for Raoul Wallenberg, a Swedish diplomat who saved tens of thousands of Hungarian Jews from the Nazis during the Second World War. He was taken into Soviet custody just days after Budapest was liberated and was never again accounted for by Western sources. Each year since 1989, the Wallenberg Tribute has honored one or more local individuals who are recognized for their courageous moral action on behalf of others. Patty's lifetime of work makes her truly deserving of such an honor.

Patty served as the IJCU's Schools Program Coordinator from 2000-2006 and before that was responsible for creating the Youth and Prejudice Conference in 1995. The conference, held each spring on Muhlenberg College's Campus in Allentown, has reached over 15,000 students in the Lehigh Valley. Students are able to be a part of a live theatrical performance while learning valuable lessons about interfaith and cultural tolerance. By meeting with Holocaust survivors and relatives of survivors they learn firsthand about prejudice and bigotry. The conference teaches students valuable lessons about human rights and that their own dignity and that of others depends on the choices they make each day.

Throughout her career, Patty has been able to combine her commitment to tolerance and interfaith understanding with her passion for the arts and education. Since 2000 she has been part of the theatre faculty of Muhlenberg College and each year leads her students in the production of the play *The Library*: the story of a Jewish girl in Nazi Germany. This play, which puts a human face on the history of the Holocaust, is performed at elementary schools across the Lehigh Valley each spring.

Most recently, Patty has implemented after-school drama programs in the Allentown School District. Now students who attend Roosevelt Elementary, Central Elementary, and Trexler Middle School have had the opportunity to explore and express themselves through the arts under the guidance and supervision of Muhlenberg theatre, music and dance majors. Patty is passionate about the power of the arts to spark imaginations, motivate learning and develop life skills.

Madam Speaker, in closing, I would like to offer my sincere gratitude to Patty Carlis for all her work to build bridges and connect communities through the arts in the Lehigh Valley, the United States, and the world. She has made our community extremely proud.

## HONORING CHARLES ROSE

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Charles Rose for his dedication to his family and community. Mr. Rose passed away on Saturday, May 23, 2009 at his home in Fresno, California after a two and a half year battle with cancer.

Charles Rose was born on August 12, 1938 in Kansas City, Missouri. His family moved to the San Joaquin Valley in 1943. As a teenager Mr. Rose worked in the fields, canneries and the Port of Stockton. He graduated from Stockton College High School in 1956. Upon graduation he was recruited to play major league baseball as a pitcher; he did not take this opportunity, but instead chose to serve his country in the United States Marine Corps. Mr. Rose served in the Corps from 1958 through 1966.

Prior to his military service Mr. Rose met the love of his life, Bonnie Jean. He and Bonnie were married in August, 1964. After life in the military, they settled down in Fresno and Mr. Rose began working at Foster Farms Dairy. He worked there for many years as a distributor. He was well-known for his black 1927 Ford Model T that he drove to work every day and to the Fig Garden Golf Course on the weekends. Mr. Rose was a devoted husband, father and grandfather.

Mr. Rose was preceded in death by his mother and father, Pearl and Harold Rose and his precious daughter, Felecia Ann. He is survived by his wife of forty-four years; his children, daughter Michelle and Wayne Ransier of Stockton, son Darren and Lisa Rose of Clovis, and daughter Linda Banks of Rocklin; his grandchildren, Brittany, Ashten, Sarah and Grace; and his sister Vermona Geigel of Stockton.

Madam Speaker, I rise today to posthumously honor Charles Rose. I invite my colleagues to join me in honoring his life and wishing the best for his family.

## HONORING HEALTHSOUTH REHABILITATION HOSPITALS OF NEW JERSEY TINTON FALLS AND TOMS RIVER

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. PALLONE. Madam Speaker, I rise today to honor the accomplishments of HealthSouth Rehabilitation Hospitals of New Jersey Tinton Falls and Toms River. Throughout the years, employees within these hospitals have worked to rehabilitate those who are fighting heart disease and stroke. On May 30, 2009, their accomplishments earned them the American Heart Association Have A Heart Ball Community Leadership Award, presented by the American Heart Association/American Stroke Association.

At the annual Have A Heart Ball, the Community Leadership Award is given in recogni-

tion of outstanding and consistent dedication to the well-being of Ocean and Monmouth County Communities. The American Heart Association is in need of allies in its attempt to combat cardiovascular disease and stroke, and I can safely say that it has found two in the HealthSouth Rehabilitation Hospitals of New Jersey Tinton Falls and Toms River.

The services of these two hospitals have been invaluable to their local communities. Serving 4,000 inpatients and 28,000 outpatients annually, the hospitals of Tinton Falls and Toms River are committed in their care for the community. This commitment begins at the top with Linda A. Savino, Chief Executive Officer of the Tinton Falls hospital, and Patty Ostaszewski, Chief Executive Officer of the Toms River hospital. Their devotion to this honorable cause shows that they are truly deserving of this award.

The areas of Tinton Falls and Toms River are undoubtedly better off with the presence of these hospitals. HealthSouth has become part of these communities through charitable support, community education programs, and support on local and state-wide initiatives. Moreover, HealthSouth has contributed to various initiatives such as the Shoreline Start! NJ Heart Walk, Go Red For Women movement, and the Have a Heart Ball. I am sure that this commitment will continue as time goes on.

Madam Speaker, I sincerely hope that my colleagues will join me in congratulating HealthSouth Rehabilitation Hospitals of New Jersey Tinton Falls and Toms River on this achievement and thanking their employees for their service to the community. Their accomplishments will continue to benefit and inspire my constituents and future generations.

## RECOGNIZING GERALD O. GUSTAFSON

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today in recognition of Gerald "Jerry" Gustafson, a member of my staff. Next Friday, May 29th, is Jerry's last day as a Congressional Aide in our office. Jerry has been serving the people of the Fifth Congressional District of Illinois for many years.

Jerry was born on the North West Side of the City of Chicago. His working experience spans from working in private industry as a personnel manager; a union representative at Central States Joint Board; and State of Illinois Department of Veterans' Affairs. He has been working in the Fifth Congressional District Office having joined my predecessor Rahm Emanuel's staff in 2006.

Jerry worked hard to develop close relationships with the many congressional liaisons and always knew the right person to contact for a constituent in need. Jerry always went above and beyond to provide assistance to those who were unable to access alternate means of assistance. He calmly dealt with many difficult circumstances.

Jerry has been an extraordinary asset to my office as we've managed the transition proc-

ess. It has been a lot of hard work, but that is nothing new to Jerry. Whether it was raising his two sons, Glenn and Kevin, with his wife, Barbara, working long hours, or volunteering in the community and the 32nd Ward Regular Democratic Organization, he has given his all every step of the way.

Jerry's family has always been a priority in his life and the love and support they provide is the most important thing to him.

I wish Jerry all the happiness in the future and thank him for his service to the people of Illinois' Fifth Congressional District.

## PAYING TRIBUTE TO CONGRESSIONAL MEDAL OF MERIT STUDENTS

**HON. BILL POSEY**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. POSEY. Madam Speaker, I rise to honor the accomplishments of 26 distinguished high school students from Florida's Fifteenth District. I was proud to award the Congressional Medal of Merit to these students during a ceremony at the Brevard County Government Complex on June 1, 2009.

These graduating seniors were nominated by their schools for the Congressional Medal of Merit. To be nominated, each student demonstrated exemplary citizenship and academic excellence throughout their high school careers.

These young men and women have demonstrated an outstanding sense of service to their peers, schools and communities. Honoring their achievements with the Congressional Medal of Merit is a privilege and I congratulate each of them along with their parents, family, teachers and community. Together, this group of students represents the best and brightest America has to offer:

Brevard County: James Brandenburg, Cocoa High School; Lance Freeberg, Viera High School; Charlene Gracia, Florida Air Academy; Michelle Grubka, Melbourne High School; George Holstein III, Community Christian School; Ashley Lipscomb, Rockledge High School; Bryan Maxwell, Holy Trinity Episcopal Academy; Aaron Mayer, Merritt Island High School; Lindsay Miller, Palm Bay High School; Jared Mushell, Eau Gallie High School; Bao-Uyen Nguyen, Edgewood Jr./Sr. High School; Katherine Nickerson, West Shore Jr./Sr. High School; Erica Robes, Merritt Island Christian High School; Trevor Steele, Brevard Christian School; Harry Tuazon, Bayside High School; Noel Turner, Satellite High School.

Indian River County: Margaret Cancelosi, Saint Edward's School; Kyrie Carlson, Indian River Charter High School; Tim Martinelli, Sebastian River High School; Sarah Sarnoski, Vero Beach High School.

Osceola County: Jarrett Lane, Osceola High School; Priscila Quito, Gateway High School; Antinia Taylor, New Dimensions High School; Roy Tyson, Harmony High School; Joseph Williams, St. Cloud High School.

Polk County: Nichole Periquito, Ridge Community High School.

THE PRESERVATION OF  
ERDENHEIM FARM

**HON. ALLYSON Y. SCHWARTZ**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Ms. SCHWARTZ. Madam Speaker, I rise to mark a significant victory in my district for open space preservation in Pennsylvania and the United States. Yesterday, an agreement was finalized to permanently protect 426 acres of the 450-acre Erdenheim Farm in Whitemarsh and Springfield Townships.

The conservation of this property will become the centerpiece of 2,000 acres of open space between Fairmount Park in Philadelphia and Fort Washington State Park in Whitemarsh, Pennsylvania. It will also ensure the completion of a regional trail network between Fort Washington Park and the Morris Arboretum that has been envisioned since 1899.

Erdenheim Farm has been working agricultural land since the days of William Penn. It was purchased in 1912 by George D. Widener Jr, son of the streetcar magnate. In 1971, Widener bequeathed the property to his nephew, Fitz Eugene Dixon Jr. Mr. Dixon maintained the property as a working farm raising cattle, sheep, and thoroughbred horses until his death in 2006.

The preservation of Erdenheim Farm is a remarkable example of the excellent work that can be accomplished through public-private partnerships leveraging local and state funds.

There are many organizations that deserve recognition: the descendants of the Dixon Estate for their willingness to work with conservationists to protect the farm; Peter and Bonnie McCausland, for purchasing 259 acres of the estate and placing all but 23 of those acres under conservation easements; the Whitemarsh Foundation led by Hugh Moulton for its efforts to acquire 189 acres using \$26 million in state and local grants, tax revenue, and private donations; the Natural Lands Trust led by Molly Morrison, for its expertise in putting this deal together and enforcing the easements on the land; and state, county, and local officials who also deserve immense credit for their willingness to secure the necessary funding to make this happen.

I ask that the full House of Representatives join me in congratulating everyone that made this historic accomplishment possible. On behalf of the residents of Philadelphia and Montgomery Counties, I acknowledge and appreciate this important work and the opportunity it provides for future generations to enjoy this national treasure.

HONORING THE LIFE OF RALPH  
BLANTON

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to honor the life of firefighter Ralph Blanton of Tempe and to recognize the significant contributions he made to our community.

On May 11, 2009 Ralph passed away of natural causes at the age of 79.

Ralph will be remembered for his active involvement in the development and growth of Tempe's first professional fire department. He gained valuable experience in the 1950s as a volunteer Tempe fireman, long before the formation of a paid fire department. In 1961, he, along with 10 others, established the Tempe Fire Department. Ralph earned the first ever Fireman of the Year award in 1963 for his dedication and work ethic. Finally, after 20 years of service, he was the last member of the original force to retire.

In addition to Ralph's extensive career achievements, he was also known for his role as a mentor. Many young firefighters looked up to him and learned priceless lessons, chief among them to take pride in one's work. Together, he and his wife Shirley helped establish an annual picnic for retired Tempe firefighters, which the union plans to rename the Ralph Blanton Retirees Picnic for Tempe firefighters in his honor.

Madam Speaker, please join me in commemorating the life of Ralph Blanton and remembering the strong and positive impact he left on his community and the many people who knew and loved him.

HONORING MARY CRISALLI  
SANSONE AND ZACHARY SANSONE

**HON. MICHAEL E. McMAHON**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. McMAHON. Madam Speaker, I rise today to acknowledge, congratulate and celebrate the 93rd Birthday of a prominent Brooklyn community activist and civil rights trailblazer, Mary Crisalli Sansone and the 93rd Birthday of her beloved and devoted husband of 60 years, Zachary Sansone.

Since her early days of union organizing with her father, to her involvement with the late Bayard Rustin of the civil rights movement, Mary has fought for social justice and human rights throughout her life.

Mary is the founder of three very influential New York City organizations. Mary organized the first coalition of African Americans, Latinos and Italians in New York City in the 1960s to promote racial harmony, which resulted in the formation of an organization comprised of community leaders known as CURE, Community Understanding for Racial and Ethnic Equality. CURE builds bridges between all racial, ethnic and religious groups to promote tolerance through education and cooperation.

In the 1970s, Mary founded CIAO, the Congress of Italian Americans Organization, which has developed and continues to run many social service programs to help the poor and needy. Mary is and has been a political godmother and angel to those in need.

Mary also is the founder of New Era Democrats (NED), an independent political association. NED is a good government group that promotes and assists government leaders and candidates for elected office who espouse the utmost integrity and independence, regardless of party affiliation.

Zachary Sansone was born in Brooklyn, New York and grew up in Naples, Italy. After law school, he was inducted into the Italian Army as a First Lieutenant. Zachary served as the Mayor of the town of San Antonio in Naples. Upon his return to New York in 1949, he married Mary Crisalli—and Zachary and Mary have been happily married for 60 years. Zachary worked as a checker and clerk at the waterfront for over 20 years. In 1970, he organized and directed the Mott Street Senior Center in Manhattan. Now retired and celebrating his own 93rd Birthday, he dedicates all of his time to CIAO, CURE and the Ralph J. Sansone Foundation.

Zachary and Mary Crisalli Sansone have dedicated their lives to helping others without ever asking anyone for anything in return. I am honored to stand here today both to recognize Mary and Zachary Sansone on their 93rd Birthdays, and to acknowledge their 60th Anniversary.

INTRODUCTION OF THE WHTI IM-  
PLEMENTATION MONITORING  
PLAN TO ASSURE CONTINUED  
TRAVEL AND TRADE (IMPACTT)  
ACT OF 2009

**HON. LOUISE McINTOSH SLAUGHTER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Ms. SLAUGHTER. Madam Speaker, I rise today to introduce the WHTI IMPACTT Act. As with many people who live along the U.S.-Canada border, we in Western New York do not think of the bi-national Buffalo-Niagara region as two separate countries, but rather as one community with a river running through it. We have shared principles and values, and rely on an intertwining economic relationship that is vital to our prosperity.

In the Buffalo-Niagara region and all across the border, the most pressing issue facing border communities is the implementation of the Western Hemisphere Travel Initiative (WHTI). It is clear that our economy relies on the smart functioning of the Northern border and the increased documentation requirements under WHTI presents a difficult challenge for smooth travel and trade between the U.S. and Canada.

I recognize that there are security concerns at our border, and that in the post-9/11 world it is important that we know that those entering both of our countries are who they say they are, mean us no harm, and have the secure documents to prove it. That is why I agree with the intent of WHTI. We must be confident that the documents individuals present for entry into the United States are secure and authentic. However, there cannot be a one-size-fits-all approach to our border concerns. We cannot simply flip a switch and move from having the world's largest open border to requiring expensive new crossing documentation.

Recognizing this, in 2007 I led the charge in Congress to delay the implementation of WHTI from January 2008 until June 2009. Language mandating this delay was successfully included in the FY08 Omnibus appropriations bill which was signed into law in December 2007.

It has become clear over the past year that this delay has proved to be absolutely necessary. Consider what has been done since the original January 2008 deadline in Western New York alone towards WHTI implementation:

The first NEXUS enrollment center in Western New York was not opened until September of 2008, and the RFID technology that is so critical to the success of Passport cards, NEXUS cards, and Enhanced Driver's Licenses, did not "go live" at the Peace Bridge in Buffalo until this past November.

At other important border crossings in New York State and Michigan, this vital technology was not set to be working and active until April; less than two months before yesterday's final WHTI implementation.

Despite this progress being made, and despite DHS and State Department issuing their WHTI certification, I, along with a number of my colleagues, remain wary of the readiness of WHTI and committed to ensuring that it is implemented in a way that will not harm the cross border trade and travel that is so critical to our border communities.

During President Obama's visit to Ottawa earlier this year, he and Prime Minister Harper stressed the importance of a healthy U.S.-Canada trade relationship to bringing both countries out of the current economic recession. I would contend that a successful WHTI implementation is an important aspect of this trade relationship, and a failed WHTI implementation could have a devastating effect not only on border communities, but on the broader national economy.

The economic downturn facing both countries has already dramatically affected cross border travel and trade. Statistics from the Public Border Operators Association show that passenger, truck and bus crossings at all New York and Michigan border crossings in January of 2009 decreased by an average of over 16% from January 2008 levels. In Western New York, traffic at the Lewiston-Queenston Bridge and the Peace Bridge decreased by 19% and 13% respectively. If WHTI is not implemented properly it will only compound the current negative trend in commerce across the border.

For this reason, today I introduce the WHTI Implementation Monitoring Plan to Assure Continued Travel and Trade Act, or the WHTI IMPACTT Act. This legislation will place significant oversight on the implementation of WHTI to identify and mitigate any harmful effects of the new requirements. It will require joint reports to Congress from the State Department and the Department of Homeland Security on December 1, 2009, and June 1, 2010, that detail the effect of WHTI on freight and passenger travel across the border, enrollment levels in frequent traveler programs, the effectiveness on RFID technology, CBP staffing levels, and its effect on overall border security. It will also require the Government Accountability Office to conduct a study on the impact of WHTI on border economies and overall domestic security.

This legislation will allow Congress to partner with DHS and State to identify any problems with WHTI implementation prior to the 2010 Olympics and the 2010 tourist season, and hopefully quickly determine what actions

need to be taken to ensure that our border and our regional economies are healthy.

#### TRIBUTE TO DR. JAMES BILLINGTON

#### HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. WAMP. Madam Speaker, on June 1 the Librarian of Congress, Dr. James Billington, celebrated his 80th birthday. I want to take this opportunity to not only wish him Happy Birthday, but express my profound admiration and thanks for his service to America.

I have been a long time supporter of the Library of Congress, which is the oldest Federal cultural institution and the greatest storehouse of knowledge and wisdom in the history of the world. I have personally brought friends and constituents up to the dome of the Jefferson Building and marvel at the art, architecture, and symbolism of the magnificent Great Hall every time I am there.

The Library of Congress would not be where it is today—leading the world in acquiring, preserving, and making accessible some 140 million items of America's and the world's heritage—without Dr. Billington's vision, energy, and firm guiding hand. It was Dr. Billington who, shortly after being nominated by President Reagan and confirmed by the Senate in 1987, quickly set the Library on a path to harness new technologies as we moved into the digital age so that the Library of Congress would not recede into a position of being a passive warehouse of information but a world leader in making its collections more broadly available on the Internet for the benefit of all. Through programs such as American Memory, the National Digital Library, and the World Digital Library, just launched last month in Paris, Dr. Billington has changed the face of research and scholarship forever, making it easier for all to be enriched by the Library's treasures.

Jim Billington created the Madison Council, the Library's first ever private sector philanthropic and advisory group, which has spearheaded countless collections and initiatives, including the Kluge Center, the National Audio Visual Conservation Center, and a variety of cultural and educational outreach programs such as the Library's magnificent series of exhibitions, attracting millions of visitors to the Library and its website over the years.

I am particularly fond of the Veterans History Project at the Library of Congress which has collected over 60,000 personal stories of America's war veterans and is now the largest oral history project in American history. In my own district we have set up a unique partnership with WRCB-TV, First Tennessee Bank, and the Erlanger Health System to interview local veterans and have collected hundreds of interviews for the Veterans History Project so far. At my request, Dr. Billington took time from his busy schedule to help kickoff this effort in Chattanooga on Veterans Day in 2002.

As a member of the Legislative Branch Subcommittee of the House Appropriations Committee, which has jurisdiction over the Library

of Congress, and currently as co-chair of the Library of Congress Congressional Caucus, I have become even better acquainted with the collections and services of the Library. At a Caucus dinner, Dr. Billington organized earlier this year in the magnificent Members Room we had a chance to get a special guided tour of the Lincoln bicentennial exhibit and participate with Library and outside scholars in a fascinating discussion about our 16th President. Additionally, I know how much we here in Congress rely on and appreciate the Congressional Research Service, the Law Library, and other parts of the Library of Congress to support our legislative and representational duties.

I cannot say enough good things about how much I appreciate the leadership efforts of Jim Billington and his exemplary stewardship of that great institution—the Library of Congress. I am personally grateful for his friendship. We all owe him an immense debt of gratitude for his outstanding public service and I look forward to more years of his visionary leadership.

I wish Dr. Billington all the best on his 80th birthday.

#### PERSONAL EXPLANATION

#### HON. GLENN THOMPSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. THOMPSON of Pennsylvania. Madam Speaker, on rollcall No. 287, I was unfortunately detained in a cab during rush hour traffic after visiting with constituents of the 5th Congressional District of Pennsylvania, causing me to miss the vote.

Had I been present, I would have voted "yea."

#### EARMARK DECLARATION

#### HON. JOHN FLEMING

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. FLEMING. Madam Speaker, I would like to submit the following request:

Bill Number: H.R. 915, "FAA Reauthorization Act of 2009".

Provision: Section 811 "Pollock Municipal Airport, Louisiana".

Address of requesting entity: Town of Pollock, Louisiana.

Description of request: Requires the Administrator of the Federal Aviation Administration to approve a request from the Town of Pollock, Louisiana, to close the airport as a public airport; and release the town from any term, condition, reservation, or restriction contained in a surplus property conveyance or transfer document, and from any order or finding by the Department of Transportation on the use and repayment of airport revenue applicable to the airport, that would otherwise prevent the closure of the airport and redevelopment of the facilities to non-aeronautical uses. Upon the approval of the request to close the airport, the town of Pollock shall obtain fair market value for the sale of the airport property

and shall immediately upon receipt transfer all such proceeds from the sale of the airport property to the sponsor of a public airport designated by the Administrator to be used for the development or improvement of such airport.

IN RECOGNITION OF NAVAL AIR  
CREWMAN 1ST CLASS SAMUEL  
"GRANT" KERSLAKE

**HON. MIKE ROSS**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. ROSS. Madam Speaker, I rise today to recognize a dedicated patriot and a true American hero. On May 19, 2009, our state and our nation lost a brave servicemember when Naval Air Crewman 1st Class Samuel "Grant" Kerslake died during training operations off the Pacific Ocean near San Diego, California. In all, the U.S. Navy lost six members of its Helicopter Anti-submarine Squadron (HS) when its HH-60 Seahawk helicopter crashed.

Petty Officer Kerslake was a 1986 graduate of Lake Hamilton High School in Percy, Arkansas. Dedicating his life to his country, Petty Officer Kerslake had just completed 20 years of honorable service with the U.S. Armed Forces.

While his untimely and tragic death is a shock to all of us in Arkansas, we are left with the memories and inspiration Petty Officer Kerslake shared with all who met him. We admired Petty Officer Kerslake for his commitment to his family, community and country. His legacy of service, patriotism and honor will forever define what we remember about this brave sailor.

My deepest thoughts and prayers are with his wife, Christine; two sons, Samuel Ryan Kerslake and Justin Fields; his mother, JoAnne Kerslake of Hot Springs; his father, Samuel Kerslake of Florida; and the rest of his

family, friends and loved ones during this difficult time.

Today, I ask all members of Congress to join me as we honor the life of Petty Officer Samuel "Grant" Kerslake and his legacy and all those men and women in our Armed Forces who give the ultimate sacrifice in service to their country.

OBAMA NOT SERIOUS ABOUT  
IMMIGRATION ENFORCEMENT

**HON. LAMAR SMITH**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mr. SMITH of Texas. Madam Speaker, thirteen million Americans are out of work, and yet eight million illegal immigrants hold jobs in the U.S. But the Obama administration's proposed budget does little to help.

To its credit, the administration requested funds for the E-Verify system, which helps companies check to make sure they have hired legal workers.

But in this administration's budget, the E-Verify request is the beginning and end of reducing illegal immigration.

The administration has no plans to build more of the border fence to keep illegal immigrants from coming here in the first place.

The administration has no plans to increase the size of detention facilities to hold illegal immigrants until their deportation.

And when it comes to immigration fugitives—those illegal immigrants who've ignored a deportation order—the administration intends to let them off the hook unless they have a criminal record in addition to being fugitives.

If the administration is serious about protecting lives and jobs, they need to enforce all immigration laws—not just a select few.

IN REMEMBRANCE OF BISHOP  
ROGER KAFFER

**HON. DEBORAH L. HALVORSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 2, 2009*

Mrs. HALVORSON. Madam Speaker, today I rise to honor the life of Bishop Roger Kaffer, auxiliary bishop of the Diocese of Joliet. The Most Reverend Bishop Kaffer passed away at Our Lady of Angels Retirement Home in his hometown of Joliet on Thursday, May 28, 2009. He was 81 years old.

Bishop Kaffer was ordained to the priesthood in 1954 at the Cathedral of St. Raymond in Joliet, the same Cathedral in which he was baptized and confirmed and from which he eventually retired as auxiliary bishop.

He was the kind of person that inspired everyone he encountered. As principal for Providence Catholic High School in New Lenox, Illinois, he made a point to visit every family with a child enrolled in the school. Bishop Kaffer believed that young people are not the future of the church but the now of the church. For this reason, he attended each annual international World Youth Day, his last being in August of 2008 in Australia. Though his health was not good, it did not overshadow his commitment to the youth.

Bishop Kaffer led a spiritually rich life with a deep dedication to prayer and public service. Even in retirement, he continued to mentor priests and bishops and offer spiritual direction through retreats.

Not only has the Joliet community lost a devoted son in the passing of Bishop Kaffer, so has the world faith community. It is with reverent honor that I remember the life and legacy of Bishop Roger Kaffer of the Diocese of Joliet.

## SENATE—Wednesday, June 3, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord, who shall abide in Your tabernacle? Who shall dwell in Your holy hill? You have given us the answers. Those who walk upright and work righteousness, who speak the truth in their hearts, will abide in Your presence.

Today, prepare the men and women of this body to dwell with You. Give them the integrity to be true to their duties, always striving to please You. Lord, fix their hearts on You, that everything they say and do will be under Your Lordship. Send out Your light and Your truth that they may shine in this Chamber, and guide our Senators in these challenging times. Join our lawmakers to You with an inseparable bond of love for You. You alone, O God, can guard their hearts with peace.

We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 3, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for 1 hour. Senators will be permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes and the Republicans will control the next 30 minutes.

Following morning business, the Senate will resume consideration of the tobacco legislation, H.R. 1256. This is postcloture on the motion to proceed. Upon the use or yielding back of the 30 hours of postcloture debate time, the Senate will turn its consideration to that legislation. We hope that some time can be yielded back. We will wait and see what the will of the Republicans is at this time. We would like to begin the amendment process. We had a number of very good speeches yesterday from Senators who intend to offer amendments to this legislation. I will be speaking with the Republican leader throughout the day.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, at some point we will be back on the postcloture time. When that occurs, I ask unanimous consent that my hour postcloture be given to the Senator from North Carolina, Mr. BURR.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### TOBACCO REGULATION

Mr. MCCONNELL. Mr. President, I wish to say a few words about the FDA legislation we have been debating on the floor this week. First, I thank Senator ENZI for his hard work in managing this bill. He always does a great job. I also wish to acknowledge Senator

BURR's thoughtful leadership on this legislation. This is a complicated set of issues. No one—I repeat, no one—knows the intricacies better than the Senator from North Carolina, Mr. BURR. He has been a good friend and ally of producers and growers dating back to his days in the House, and he has offered a thoughtful alternative to this very flawed legislation which we have before us.

A few years ago, I led the effort in Congress to enact a tobacco buyout which ended the Federal Government's support of tobacco production. Although the number of tobacco farms in Kentucky has decreased as a result of that legislation, thousands of Kentucky farm families and communities still depend on the income from tobacco production. I have concerns about the effect this legislation might have on them.

Still, no one in this Chamber would deny that tobacco is hazardous to the health of those who use it. Everyone knows that. If the purpose of this bill is to reduce the harm it could cause the people who consume it, then forcing the Food and Drug Administration to do the regulating would be the wrong route to take.

Former FDA Administrator Dr. Andrew von Eschenbach has predicted that forcing the FDA to regulate tobacco would undermine the agency's core mission of protecting the public health and ensuring that foods, medicines, and other products don't pose a risk to American consumers. When the FDA approves a product, Americans expect the product to be safe, but as we all know, there is no such thing as a safe cigarette. It doesn't exist. Forcing the FDA to regulate cigarettes will not make them safer for the American people.

This legislation is flawed for other reasons as well. As Senators BURR, ENZI, and others have repeatedly pointed out, the FDA is already overworked in carrying out its core mission of protecting the public health. When it comes to contaminated peanut butter, tainted toothpaste, or unsafe drugs coming into the United States, Americans expect that all of FDA's resources are being used to protect them. Yet instead of freeing additional resources for the FDA to perform this important function, this legislation could divert the agency's limited resources toward an impossible task: Vouching for the safety of a product that cannot be made safe. The American people don't want the FDA's resources diverted on a fool's errand.

It is hard to understand what the supporters of this bill are trying to accomplish. If the goal is to reduce smoking, then why isn't there a single dime—not one dime—in this bill directed at smoking cessation programs? If there is no such thing as a safe cigarette, the best way to help smokers is to help them kick the habit. This bill doesn't do that. If the goal of this legislation is to launch a public campaign to reduce smoking and promote better health, then why is there no focus on Federal programs that are already in place to achieve this goal?

This legislation is the wrong way to regulate tobacco, and that is why Senator BURR will offer a thoughtful way to accomplish the goal. Senator BURR's proposal would create a new agency whose sole responsibility is to regulate tobacco. This would address the problem without undermining FDA's mission or straining its resources.

Forcing the FDA to regulate and approve the use of tobacco would be a distortion of the agency's mission and a tremendous misuse of its overstretched resources. We should be focused on giving FDA the resources it needs to protect the public health, not burdening it with an impossible assignment.

#### HEALTH CARE REFORM

Mr. McCONNELL. Mr. President, as we consider the best way to reform health care, some have argued that a so-called government option would not lead to a government takeover of health care. They promise safeguards to ensure a level playing field between private plans and a government-run plan. But no safeguard could ever create a truly level playing field. The reason is simple: Unlike private insurance plans, a government-run plan would have unlimited access to taxpayer money and could borrow as much money as it wants to subsidize the cost of services. The Federal Government is already planning to borrow \$1.8 trillion this year alone. If a company were allowed to borrow that much money, it could easily wipe out its competition, set prices, and create a monopoly. That is just what a so-called government "option" for health care will, in all likelihood, lead to.

A government-run plan would set artificially low prices that private insurers would have no way of competing with. Rates for private health plans would either skyrocket, leaving companies and individuals unable to afford them, or private health plans would simply be forced out of business. Either way, the government-run plan would take over the health care system, radically changing the way Americans choose and receive their care, from routine checkups to lifesaving surgeries. No safeguard could prevent this crowdout from happening, and no safeguard could, therefore, keep the mil-

lions of Americans who currently like the health care they have from being forced off of their plans and onto a government-run plan instead.

This isn't some fantasy scenario. We are already seeing in the government takeover of the auto industry how government interference in business forces firms out of the way by leveraging taxpayer dollars against their private competitors. Now that the government runs General Motors and has provided billions to its financing arm, GMAC, the company is offering interest rates that Ford, which hasn't taken any government money, and other companies which haven't taken any government money just can't compete with. What this means is that one American auto company that actually made the tough decisions so that it wouldn't need a government bailout is now at a competitive disadvantage to a company that is being propped up by billions of dollars of borrowed tax money. This is how the government subsidizes failure at taxpayers' expense and can unfairly undercut good companies, and this is precisely why so many Americans are worried about the trend of increased government involvement in the economy. The government is running banks now. It is running insurance companies. As of this week, it is running a significant portion of the American automobile industry. Now it is thinking seriously about running the entire health care industry, and chances are Americans won't like the result any more than they like the government takeover of the banks or the auto industry.

Americans who now take for granted the ability to choose their care may suddenly find themselves being told by government bureaucrats that they are too old to qualify for a certain kind of surgery or that they have to go to the back of the line for a procedure they can now get right away. As I have said, Americans want health care reform, but this isn't what they have in mind. Americans don't want their health care denied and they don't want it delayed. But once government health care is the only option, bureaucratic hassles, endless hours stuck on hold waiting for government service representatives, restrictions on care, and, yes, rationing, are sure to follow. Americans don't want some remote bureaucrat in Washington deciding whether their mothers and fathers or spouses have access to a lifesaving drug. They don't want to share the fate of Bruce Hardy.

Bruce was a British citizen who was suffering from cancer. According to press reports, his doctor wanted to prescribe a new drug that was proven to delay the spread of his disease. But the government agency that runs Britain's health care system denied the treatment. They said it was too expensive—that Bruce Hardy's life wasn't worth prolonging, based on the cost to the

government of the drug he needed to live. In a story discussing Bruce's plight, the New York Times noted that if Bruce had lived in the United States, he likely would have been able to get this treatment.

But that could change. What happened to Bruce Hardy could happen here. Americans who now have the freedom to find the care they need and to make their own health care decisions could be stripped of that right by a new government agency. This happens every single day in countries such as Britain. It happens to people like Bruce Hardy, against their will and against the will of their loved ones. As Bruce's wife put it:

Everybody should be allowed to have as much life as they can.

In America, we are free to make those decisions ourselves. If Congress approves a government takeover of health care, that freedom could soon be a memory.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the second half.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### DETAINEE PHOTOGRAPHIC RECORDS PROTECTION ACT

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about supporting President Obama in his efforts to protect the safety and security of the American people, the American military, and the civilian personnel serving us all abroad. This goes to the question of the pending lawsuit by the American Civil Liberties Union that would require the publication of various photographs of treatment by Americans of detainees.



On May 13, President Obama announced that he would not release nearly 2,100 photographs depicting the alleged mistreatment of detainees in U.S. custody. Detainees are what we normally call "prisoners of war," except they have a lower status than that under the Geneva Conventions. Many of these photographs were the subject of a Freedom of Information Act lawsuit filed by the ACLU, while others were discovered during internal Department of Defense investigations into detainee abuse.

Last fall, as part of that lawsuit, the Second Circuit Court of Appeals in New York ordered the release of many of those photographs. Instead of appealing that decision to the Supreme Court at that time, government lawyers agreed to release the images, as well as others that were part of the internal Department of Defense investigation.

Senator LINDSEY GRAHAM and I strongly objected to that decision and wrote a letter to the President explaining our position. We know that photographs such as the ones at issue in the ACLU lawsuit are, in fact, used by Islamist terrorists around the world to recruit followers and inspire attacks against American service men and women. In particular, there is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed safely in their mission there.

After consulting with his commanders on the ground, including General Petraeus and General Odierno, President Obama decided to reverse the decision of the government lawyers and fight the release of these photographs. Of course, I feel very strongly that he made not only a gutsy decision but the entirely right decision.

The President said, in making that decision:

The publication of these photos would not add any additional benefit to our understanding of what was carried out in the past by a small number of individuals. In fact, the most direct consequence of releasing them, I believe, would be to further inflame anti-American opinion and to put our troops in great danger.

I strongly believe this decision was the right one by the President, acting as Commander in Chief. It will protect our troops in Iraq, Afghanistan, and elsewhere, and it will make it easier and safer for them to carry out the missions we have asked them to do. In fact—and this has become public in recent days, and I heard it earlier around the time the President made the decision—after learning that the release of these photographs was either possible or likely, before President Obama's decision to appeal, Iraq's Prime Minister Maliki said, according to these press reports, that "Baghdad will burn" if the photos are released, jeopardizing many of the remarkable security gains our military and civilian personnel

have achieved in Iraq in recent years, putting our troops and personnel in danger.

To support the President's decision and establish a procedure to protect the release of similar photos in the future, for the exact same reason, Senator GRAHAM—my colleague and friend, who is now on the floor—and I introduced the Detainee Photographic Records Protection Act. That legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs such as the ones at issue in the ACLU lawsuit would endanger the lives of U.S. citizens and members of the armed services deployed abroad. Essentially, our bill would codify the exact process that President Obama went through in arriving at his decision to fight the release of these photos.

Also, the language in the bill Senator GRAHAM and I introduced is clear, we believe, in that it would apply to the current ACLU lawsuit and block the release of these photographs, preventing the damage to American lives that would occur from that release.

The Senate unanimously supported the inclusion of a slightly modified version of the Detainee Photographic Records Protection Act in the supplemental appropriations bill for the wars in Iraq and Afghanistan. The Senate then approved the supplemental bill by a vote of 86 to 3 before we broke for the Memorial Day recess.

I rise today, along with my friend and colleague from South Carolina, to strongly encourage our colleagues in the Senate and in the House on the conference committee to include the modified version of the Detainee Photographic Records Protection Act in the conference report that is currently being negotiated.

We know there are those who are urging the conferees to delete this provision, or to water it down. That would be a terrible mistake. As President Obama well understands, nothing less than the safety and security and lives of our military service men and women is at stake—not to mention our non-military personnel deployed abroad, not to mention Americans here at home and throughout the world, who may be at risk of terrorist attack by an individual recruited to Islamist extremism and terrorism, as a result of the anger spurred by the release of these photographs.

Bottom line: American lives are at stake. Senator GRAHAM and I feel so strongly about this. I will speak for myself here and then allow him, in a moment, to speak for himself. Any decision to eliminate this provision from the Supplemental Appropriations Act, or to water it down so it has no meaning, would lead me, certainly, much as I support what is in the Supplemental

Appropriations Act, to oppose that act, because I think a failure to back up President Obama in this matter would, as I have said, compromise safety and, ultimately, the lives of a lot of Americans, particularly those in uniform.

Let me be clear. By including the Detainee Photographic Records Protection Act in the conference report for the supplemental appropriations bill, Congress will not be condoning the behavior depicted in the photographs. In fact, the exact opposite is true. Such behavior has already been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by executive orders issued by President Obama.

We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations that are finished or are underway.

But the bottom line is that the release of these photographs, and potentially others that may be discovered, will endanger the lives of our military personnel and every U.S. citizen. Every American, whether in a military uniform or not, will always be a target for al-Qaida or supporters of al-Qaida around the world.

The public release of these pictures, which we know will be spread on violent jihadist Web sites around the world immediately after they are published, will only energize the efforts of our enemies.

With the inclusion of the Detainee Photographic Records Protection Act in the supplemental appropriations bill conference report, Congress has the opportunity to support the President in his primary mission as Commander in Chief—and, frankly, our number one mission as well—to protect the safety and security of the United States.

I strongly urge my colleagues to include our amendment—which had unanimous support in this Chamber—in the final conference report.

I yield the floor for my friend from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I ask that my time be taken from the minority side when it comes to the 30-minute allocation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I stand up in support of my friend and colleague from Connecticut, Senator LIEBERMAN. We were able to get passed a piece of legislation, through an amendment on the supplemental bill, that is directly on point regarding the pending court case, the subject matter of which is releasing additional detainee photos of past abuse.

The President has looked at these photos, and we all understand that it is

more of the same—that the photos in question came from American troops' cameras, who were engaged in inappropriate activity. Disciplinary action has been taken where appropriate, and nothing new is to be learned. There is no new evidence of crimes by people who have yet to be dealt with.

It would, as my friend from Connecticut said, be voyeurism for the sake of voyeurism. The photos are offensive but no different than what we have already seen.

The reason we are here supporting this legislation and supporting the President is because, as Senator LIEBERMAN said, the consequences of releasing the photos are not a mystery. Americans are going to die.

I just got back from a trip to North Africa, Morocco, and Algeria, and I went to Greece. Every embassy very much was worried about what would happen to Americans if these photos were released. They were preparing to be, quite frankly, under siege.

As Senator LIEBERMAN indicated in the Miami Herald article, when Prime Minister Maliki in Iraq was informed these additional photos may be released, another tranche of photos coming out about detainee abuse, according to American military officials involved, he went pale in the face and uttered the phrase: "Baghdad will burn."

To those who are arguing for the release of the photos, I do not question their patriotism, I do not question their motives. I question their judgment. To our House and Senate colleagues who are in conference, please understand that Senator LIEBERMAN, myself, and I think the vast majority of our Senate colleagues—we did not take a recorded vote—believe this is a life-and-death matter. I believe that to release the photos would result in certain death and attack against American interests abroad, particularly against the diplomatic corps and our men and women serving abroad, and no higher purpose would be achieved here at home.

We made compromises in the legislation, but we did not destroy the intent of the legislation. And for the courts that may listen to try to discern the legislative intent, the intent by both authors was to make sure that the photos subject to the pending litigation were never released and Congress weighed in and agreed with the President's decision not to release those photos. We have changed the law, directly on point, to give legislative backing to the idea that these particular photographs, and those like these photographs, should not be released for a period of 3 years, and that is in our national security interests to do so.

I hope the courts will understand what we were trying to do and what we actually did.

To our House and Senate colleagues trying to find compromises on the sup-

plemental legislation, please understand the purpose of this amendment, how important it is to the war effort, why the President is in support of the amendment. He is making a very responsible decision as Commander in Chief. I applaud him for doing that. This language needs to stay as is, intact. Again, it is a matter of life and death. And if for some reason it came out, it would be a disaster—because the court case is pending now—if it came out, please understand that there will be nothing done in the Senate for as long as I am here and Senator LIEBERMAN is here that would not have this amendment attached. You could not name a post office without this amendment. It is not going away.

I thank my colleague from Arkansas for her courtesies.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleagues, Senator LIEBERMAN and Senator GRAHAM, for their thoughtful dedication to this issue and certainly looking for the right compromise and, more importantly, for their support of our troops, the men and women in uniform and those who serve this country all across the globe.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mrs. LINCOLN. Mr. President, I rise today to urge my colleagues to support and pass the legislation that is currently before the Senate, and that is the Family Smoking Prevention and Tobacco Control Act. The Family Smoking Prevention and Tobacco Control Act would implement important marketing restrictions on tobacco products and especially on the marketing practices that have been shown to increase tobacco use among our Nation's young people.

I, like so many of my colleagues, some of whom are experiencing at the same time I am, and some who have already been through it—I am just beginning the teen years with my children. My twin boys will be turning 13 in a couple of weeks. Let me tell you, the pressure on our young people across this country is very real and very tough.

What we are talking about in this bill—the authority—is absolutely critical. The tobacco industry has a long and disturbing history of marketing its products to appeal to young people. Last year, the National Cancer Institute published a comprehensive report on tobacco marketing that documented the powerful influence that tobacco marketing has on our children.

The report found that "the evidence base indicates a casual relationship between tobacco advertising and increased levels of tobacco initiation and continued consumption" and that even

brief exposure to tobacco advertising influences kids' attitudes and perceptions about smoking, as well as their intentions to smoke.

The tobacco industry spends more than \$13 billion per year to promote their products. Many of these marketing efforts directly reach our children. I want to share with folks an ad. Here is an ad that appeared in a convenience store in Delaware. Yes, it says what you think it says. It is a back-to-school special for Camel cigarettes—a back-to-school special.

I have to say, I so enjoyed when my kids were in elementary school and taking them to the store to get their crayons and their pencils and their notebooks. I think about now even in their teen years, we go and maybe we get a couple of new outfits, we talk about graph paper and what they are going to learn and all the exciting things. We prepare them for school, getting back to school. We are ending up school right now, but we will go through it in the fall again. It is unbelievable to me that we would run ads: back to school, get your bargain, here it is, a pack of cigarettes.

The industry also reaches our kids by saturating convenience stores, drugstores, and gas stations with tobacco advertisements, often placing ads and products near the candy and gum displays, or using other visual tricks such as bright colors and also through sponsorship of sports and entertainment events which are obviously what kids are interested in so often in the sports arena and other things with which they are involved.

Tobacco companies know that almost all new smokers begin as kids. They carefully design their products to make them more attractive to kids. For example, in this ad, flavors are used to make the smoke less harsh, more flavorful, and easier for kids to smoke.

We see in this ad, R. J. Reynolds has heavily marketed products with fruit flavors such as Twista Lime, Warm Winter Toffee, and Winter Mocha Mint. Bright colorful ads for these cigarettes have appeared in magazines that are very popular with our children.

Who do we think candy and fruit-flavored products are for? Certainly they are not for the adults who have been smoking Marlboros or Camels all their lives. Survey evidence shows what we would expect: that these candy and fruit-flavored products are far more popular with our young people than among adults.

Targeting our children like this is absolutely unacceptable—unacceptable for the health of our children and for the well-being of our health care system. Here we are debating health care reform at a time when we realize that it is 18 percent of our GDP, and over the next 10 years health care is going to be one-fifth of our economy. To be advertising to our children to start

something that we know is going to be detrimental to their health is absolutely unacceptable.

If we are ever going to address the No. 1 preventable cause of death in the United States, we need to provide the FDA with the authority to restrict tobacco companies marketing to our children.

While progress has been made in the last decade, youth tobacco use remains far too high. More than 20 percent of high school students in my home State of Arkansas smoke, and more than 18 percent of Arkansas's high school boys use smokeless tobacco. Each year, a staggering 13,100 Arkansas kids try cigarettes for the first time, and another 3,900 additional kids become new and regular daily smokers. Ninety percent of all adult smokers began smoking in their teen years. Tobacco companies know they have to attract kids to be able to survive. They know that if they get kids hooked, then they will have those adult smokers, and their marketing efforts have paid off.

According to recent studies by the U.S. Centers for Disease Control and Prevention, more than 80 percent of kids smoke the three most heavily advertised brands. While tobacco companies claim they do not market to our children, they are surely doing a good job of getting kids to use their products.

We simply must do more to protect our children from the tobacco company advertising and promotion. Effective regulation of the tobacco industry must provide FDA with the authority to restrict tobacco company marketing to children. That is one of the key goals of the Family Smoking Prevention and Tobacco Act. It imposes those specific marketing restrictions on tobacco products, restrictions on those forms of tobacco marketing I mentioned earlier that have been shown to increase youth tobacco use.

Even more importantly, the bill gives the FDA the flexibility to further restrict tobacco marketing so it can respond to the inevitable innovative attempts by the tobacco companies to get around specific restrictions. The restrictions on marketing included in the FDA tobacco bill are critical to any effort to prevent kids from starting to smoke and reduce the toll caused by tobacco.

Even though tobacco companies claim they have stopped intentionally marketing to kids, they continue their tradition of designing products that appeal explicitly to new users. The large majority—and we cannot ignore it—the large majority of those new users are our children.

I mentioned that my children are about to be teens, and as the mother of twins about to be teens, I know that parents want to do all they can to protect their children. Children are faced with so much in today's world, whether

it is violence, whether it is issues such as this, whether it is peer pressure. Our children are faced with many things. We want to protect them. We want to help them learn to wear seatbelts and bicycle helmets. We want to teach them all that we can, the skills they need in life so they can remain safe and healthy.

I look at the restrictions we put on our children each day to make sure they are wearing those helmets, to make sure they are not on the computer too much, to make sure they are using the computer safely. All of these things we do as parents to ensure we are doing our job to keep our children as safe as we possibly can.

We also need to protect our children from tobacco companies—their advertising and promotion. The Family Smoking Prevention and Tobacco Control Act does this. It would end special protection for the tobacco industry, and it would be safeguarding our children and creating a healthier nation in the process.

Again, I encourage my colleagues to work with me and all of the other Senators working on this bill to move this bill forward on behalf of our children, certainly on behalf of the health care needs of this country but, most importantly, for parents who are trying so hard to ensure their kids will get off on the right foot and that they will learn to make wise decisions and will not be faced with these types of temptations and others to stray in a way that is going to be unhealthy for them and unhealthy for their future.

Mr. President, I ask unanimous consent to reserve the remaining majority time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

#### NUCLEAR WEAPONS

Mr. McCAIN. Mr. President, today we celebrate the unveiling in the Capitol of a statue of Ronald Reagan, one of our country's great Presidents and a personal hero to me throughout my political life. While there are many aspects of President Reagan's legacy we might reflect on today, I would like to take the opportunity to discuss one of them—his dream of a world free of nuclear weapons.

Speaking before the Japanese Diet on November 11, 1983, President Ronald Reagan said:

The only value in possessing nuclear weapons is to make sure they can't ever be used. I know I speak for people everywhere when I say our dream is to see the day when nuclear weapons will be banished from the face of the earth.

That is my dream, too, and it is one shared by many of our most distinguished national security practitioners. In 2007, former Secretaries of State Henry Kissinger and George Shultz, along with former Secretary of Defense William Perry and Senator Sam Nunn, authored an article entitled "A World Free of Nuclear Weapons," in which they laid out their vision of the globe free of the most dangerous weapons ever known.

This is a distant and difficult goal. We must proceed toward it prudently and pragmatically and with a focused concern for our security and the security of allies that depend on us. But the Cold War ended almost 20 years ago, and the time has come to take further measures to reduce dramatically the number of nuclear weapons in the world's arsenals. In so doing, the United States can—and indeed must—show the kind of leadership the world expects from us, in the tradition of American Presidents who worked to reduce the nuclear threat to mankind.

Our highest priority must be to reduce the danger that nuclear weapons will ever be used. Such weapons, while still important to deter an attack with weapons of mass destruction against us and our allies, represent the most abhorrent and indiscriminate form of warfare known to man. We do, quite literally, possess the means to destroy all mankind. We must seek to do all we can to ensure that nuclear weapons will never again be used. As the administration renews its nuclear weapons posture, it should, I believe, seek to reduce the size of our nuclear arsenal to the lowest number possible, consistent with our security requirements and global commitments. This means a move, as rapidly as possible, to a significantly smaller force. As we take such steps, it will be crucial to continue to deploy a safe and reliable nuclear deterrent, robust missile defenses, and superior conventional forces capable of defending the United States and our allies.

Today, we find ourselves at a nuclear crossroads. As rogue nations, including North Korea and Iran, push the nuclear envelope, the perils of a world awash in nuclear weapons is clear. Yet we should also consider the more hopeful alternative—a world in which there are far fewer such weapons than there are today and in which proliferation, instability, and nuclear terrorism are far less likely.

In achieving this world, Ronald Reagan's dream will be more important than ever before. As Secretaries Kissinger and Shultz wrote with their colleagues in 2008:

Progress must be facilitated by a clear statement of our ultimate goal. Indeed, this is the only way to build the kind of international trust and broad cooperation that will be required to effectively address today's threats. Without the vision of moving towards zero, we will not find the essential

cooperation required to stop our downward spiral.

Make no mistake, we must arrest the downward spiral. North Korea's recent nuclear test is just the latest provocative demonstration of the troubling reality the world faces today. Together with Iran's ongoing commitment to nuclear development, we face real dangers in the proliferation of the world's most terrible weapons. The United States must lead the world not only in reducing the size of existing nuclear arsenals but also in reversing the course of nuclear proliferation. This requires a tough-minded approach to both Iran and North Korea, both of which have gotten away with too much for far too long.

We must also help ensure that other potential nuclear programs do not get off the ground. Last week, former National Security Adviser Brent Scowcroft joined two colleagues in calling on the President to promote the international ban on the spread of fissile materials that can be used in the production of nuclear weapons. I agree and urge the President to do so.

But we must also strengthen enforcement. We must insist that countries that receive the benefits of peaceful nuclear cooperation return or dismantle what they have received if, at any point, they violate or withdraw from the Non-Proliferation Treaty. Leading up to the 2010 Non-Proliferation Treaty Review conference, we should lay the groundwork for building an international consensus to ensure that the International Atomic Energy Agency has the tools to be a meaningful agent for achieving the dream of a nuclear weapon-free world. We should work with allies and partners to interdict the spread of nuclear weapons and materials—including any borne on vessels traveling to and from North Korea—under the Proliferation Security Initiative.

As a nation, we have a number of important decisions in the coming months, including those related to a follow-on to the Strategic Arms Reduction Treaty with Russia, the administration's planned resubmission of the Comprehensive Test Ban Treaty for ratification, and the need for a robust missile defense shield.

As we move ahead with these and other decisions, let us keep in mind the dream of a nuclear-free world, enunciated so eloquently by our 40th President. As Secretary Shultz has written, this was a dream President Reagan pursued with great patience and depth of conviction. We would be wise to follow his lead.

Mr. President, I ask unanimous consent to have printed in the RECORD two articles by George Shultz, William Perry, Henry Kissinger, and Sam Nunn, one of January 4, 2007, and the other of January 15, 2008.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Jan. 4, 2007]

A WORLD FREE OF NUCLEAR WEAPONS  
(By George P. Shultz, William J. Perry,  
Henry A. Kissinger and Sam Nunn)

Nuclear weapons today present tremendous dangers, but also an historic opportunity. U.S. leadership will be required to take the world to the next stage—to a solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands, and ultimately ending them as a threat to the world.

Nuclear weapons were essential to maintaining international security during the Cold War because they were a means of deterrence. The end of the Cold War made the doctrine of mutual Soviet-American deterrence obsolete. Deterrence continues to be a relevant consideration for many states with regard to threats from other states. But reliance on nuclear weapons for this purpose is becoming increasingly hazardous and decreasingly effective.

North Korea's recent nuclear test and Iran's refusal to stop its program to enrich uranium—potentially to weapons grade—highlight the fact that the world is now on the precipice of a new and dangerous nuclear era. Most alarmingly, the likelihood that non-state terrorists will get their hands on nuclear weaponry is increasing. In today's war waged on world order by terrorists, nuclear weapons are the ultimate means of mass devastation. And non-state terrorist groups with nuclear weapons are conceptually outside the bounds of a deterrent strategy and present difficult new security challenges.

Apart from the terrorist threat, unless urgent new actions are taken, the U.S. soon will be compelled to enter a new nuclear era that will be more precarious, psychologically disorienting, and economically even more costly than was Cold War deterrence. It is far from certain that we can successfully replicate the old Soviet-American "mutually assured destruction" with an increasing number of potential nuclear enemies worldwide without dramatically increasing the risk that nuclear weapons will be used. New nuclear states do not have the benefit of years of step-by-step safeguards put in effect during the Cold War to prevent nuclear accidents, misjudgments or unauthorized launches. The United States and the Soviet Union learned from mistakes that were less than fatal. Both countries were diligent to ensure that no nuclear weapon was used during the Cold War by design or by accident. Will new nuclear nations and the world be as fortunate in the next 50 years as we were during the Cold War?

\* \* \* \* \*  
Leaders addressed this issue in earlier times. In his "Atoms for Peace" address to the United Nations in 1953, Dwight D. Eisenhower pledged America's "determination to help solve the fearful atomic dilemma—to devote its entire heart and mind to find the way by which the miraculous inventiveness of man shall not be dedicated to his death, but consecrated to his life." John F. Kennedy, seeking to break the logjam on nuclear disarmament, said, "The world was not meant to be a prison in which man awaits his execution."

Rajiv Gandhi, addressing the U.N. General Assembly on June 9, 1988, appealed, "Nuclear war will not mean the death of a hundred

million people. Or even a thousand million. It will mean the extinction of four thousand million: the end of life as we know it on our planet earth. We come to the United Nations to seek your support. We seek your support to put a stop to this madness."

Ronald Reagan called for the abolishment of "all nuclear weapons," which he considered to be "totally irrational, totally inhumane, good for nothing but killing, possibly destructive of life on earth and civilization." Mikhail Gorbachev shared this vision, which had also been expressed by previous American presidents.

Although Reagan and Mr. Gorbachev failed at Reykjavik to achieve the goal of an agreement to get rid of all nuclear weapons, they did succeed in turning the arms race on its head. They initiated steps leading to significant reductions in deployed long- and intermediate-range nuclear forces, including the elimination of an entire class of threatening missiles.

What will it take to rekindle the vision shared by Reagan and Mr. Gorbachev? Can a world-wide consensus be forged that defines a series of practical steps leading to major reductions in the nuclear danger? There is an urgent need to address the challenge posed by these two questions.

The Non-Proliferation Treaty (NPT) envisioned the end of all nuclear weapons. It provides (a) that states that did not possess nuclear weapons as of 1967 agree not to obtain them, and (b) that states that do possess them agree to divest themselves of these weapons over time. Every president of both parties since Richard Nixon has reaffirmed these treaty obligations, but non-nuclear weapon states have grown increasingly skeptical of the sincerity of the nuclear powers.

Strong non-proliferation efforts are under way. The Cooperative Threat Reduction program, the Global Threat Reduction Initiative, the Proliferation Security Initiative and the Additional Protocols are innovative approaches that provide powerful new tools for detecting activities that violate the NPT and endanger world security. They deserve full implementation. The negotiations on proliferation of nuclear weapons by North Korea and Iran, involving all the permanent members of the Security Council plus Germany and Japan, are crucially important. They must be energetically pursued.

But by themselves, none of these steps are adequate to the danger. Reagan and General Secretary Gorbachev aspired to accomplish more at their meeting in Reykjavik 20 years ago—the elimination of nuclear weapons altogether. Their vision shocked experts in the doctrine of nuclear deterrence, but galvanized the hopes of people around the world. The leaders of the two countries with the largest arsenals of nuclear weapons discussed the abolition of their most powerful weapons.

\* \* \* \* \*  
What should be done? Can the promise of the NPT and the possibilities envisioned at Reykjavik be brought to fruition? We believe that a major effort should be launched by the United States to produce a positive answer through concrete stages.

First and foremost is intensive work with leaders of the countries in possession of nuclear weapons to turn the goal of a world without nuclear weapons into a joint enterprise. Such a joint enterprise, by involving changes in the disposition of the states possessing nuclear weapons, would lend additional weight to efforts already under way to avoid the emergence of a nuclear-armed North Korea and Iran.

The program on which agreements should be sought would constitute a series of agreed and urgent steps that would lay the groundwork for a world free of the nuclear threat. Steps would include:

Changing the Cold War posture of deployed nuclear weapons to increase warning time and thereby reduce the danger of an accidental or unauthorized use of a nuclear weapon.

Continuing to reduce substantially the size of nuclear forces in all states that possess them.

Eliminating short-range nuclear weapons designed to be forward-deployed. Initiating a bipartisan process with the Senate, including understandings to increase confidence and provide for periodic review, to achieve ratification of the Comprehensive Test Ban Treaty, taking advantage of recent technical advances, and working to secure ratification by other key states.

Providing the highest possible standards of security for all stocks of weapons, weapons-usable plutonium, and highly enriched uranium everywhere in the world.

Getting control of the uranium enrichment process, combined with the guarantee that uranium for nuclear power reactors could be obtained at a reasonable price, first from the Nuclear Suppliers Group and then from the International Atomic Energy Agency (IAEA) or other controlled international reserves. It will also be necessary to deal with proliferation issues presented by spent fuel from reactors producing electricity.

Halting the production of fissile material for weapons globally; phasing out the use of highly enriched uranium in civil commerce and removing weapons-usable uranium from research facilities around the world and rendering the materials safe.

Redoubling our efforts to resolve regional confrontations and conflicts that give rise to new nuclear powers.

Achieving the goal of a world free of nuclear weapons will also require effective measures to impede or counter any nuclear-related conduct that is potentially threatening to the security of any state or peoples.

Reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America's moral heritage. The effort could have a profoundly positive impact on the security of future generations. Without the bold vision, the actions will not be perceived as fair or urgent. Without the actions, the vision will not be perceived as realistic or possible.

We endorse setting the goal of a world free of nuclear weapons and working energetically on the actions required to achieve that goal, beginning with the measures outlined above.

[From the Wall Street Journal Online, Jan. 15, 2008]

#### TOWARD A NUCLEAR-FREE WORLD

(By George P. Shultz, William J. Perry, Henry A. Kissinger and Sam Nunn)

The accelerating spread of nuclear weapons, nuclear know-how and nuclear material has brought us to a nuclear tipping point. We face a very real possibility that the deadliest weapons ever invented could fall into dangerous hands.

The steps we are taking now to address these threats are not adequate to the danger. With nuclear weapons more widely available, deterrence is decreasingly effective and increasingly hazardous.

One year ago, in an essay in this paper, we called for a global effort to reduce reliance

on nuclear weapons, to prevent their spread into potentially dangerous hands, and ultimately to end them as a threat to the world. The interest, momentum and growing political space that has been created to address these issues over the past year has been extraordinary, with strong positive responses from people all over the world.

Mikhail Gorbachev wrote in January 2007 that, as someone who signed the first treaties on real reductions in nuclear weapons, he thought it his duty to support our call for urgent action: "It is becoming clearer that nuclear weapons are no longer a means of achieving security; in fact, with every passing year they make our security more precarious."

In June, the United Kingdom's foreign secretary, Margaret Beckett, signaled her government's support, stating: "What we need is both a vision—a scenario for a world free of nuclear weapons—and action—progressive steps to reduce warhead numbers and to limit the role of nuclear weapons in security policy. These two strands are separate but they are mutually reinforcing. Both are necessary, but at the moment too weak."

We have also been encouraged by additional indications of general support for this project from other former U.S. officials with extensive experience as secretaries of state and defense and national security advisors. These include: Madeleine Albright, Richard V. Allen, James A. Baker III, Samuel R. Berger, Zbigniew Brzezinski, Frank Carlucci, Warren Christopher, William Cohen, Lawrence Eagleburger, Melvin Laird, Anthony Lake, Robert McFarlane, Robert McNamara and Colin Powell.

Inspired by this reaction, in October 2007, we convened veterans of the past six administrations, along with a number of other experts on nuclear issues, for a conference at Stanford University's Hoover Institution. There was general agreement about the importance of the vision of a world free of nuclear weapons as a guide to our thinking about nuclear policies, and about the importance of a series of steps that will pull us back from the nuclear precipice.

The U.S. and Russia, which possess close to 95% of the world's nuclear warheads, have a special responsibility, obligation and experience to demonstrate leadership, but other nations must join.

Some steps are already in progress, such as the ongoing reductions in the number of nuclear warheads deployed on long-range, or strategic, bombers and missiles. Other near-term steps that the U.S. and Russia could take, beginning in 2008, can in and of themselves dramatically reduce nuclear dangers. They include:

Extend key provisions of the Strategic Arms Reduction Treaty of 1991. Much has been learned about the vital task of verification from the application of these provisions. The treaty is scheduled to expire on Dec. 5, 2009. The key provisions of this treaty, including their essential monitoring and verification requirements, should be extended, and the further reductions agreed upon in the 2002 Moscow Treaty on Strategic Offensive Reductions should be completed as soon as possible.

Take steps to increase the warning and decision times for the launch of all nuclear-armed ballistic missiles, thereby reducing risks of accidental or unauthorized attacks. Reliance on launch procedures that deny command authorities sufficient time to make careful and prudent decisions is unnecessary and dangerous in today's environment. Furthermore, developments in cyber-

warfare pose new threats that could have disastrous consequences if the command-and-control systems of any nuclear-weapons state were compromised by mischievous or hostile hackers. Further steps could be implemented in time, as trust grows in the U.S.-Russian relationship, by introducing mutually agreed and verified physical barriers in the command-and-control sequence.

Discard any existing operational plans for massive attacks that still remain from the Cold War days. Interpreting deterrence as requiring mutual assured destruction (MAD) is an obsolete policy in today's world, with the U.S. and Russia formally having declared that they are allied against terrorism and no longer perceive each other as enemies.

Undertake negotiations toward developing cooperative multilateral ballistic-missile defense and early warning systems, as proposed by Presidents Bush and Putin at their 2002 Moscow summit meeting. This should include agreement on plans for countering missile threats to Europe, Russia and the U.S. from the Middle East, along with completion of work to establish the Joint Data Exchange Center in Moscow. Reducing tensions over missile defense will enhance the possibility of progress on the broader range of nuclear issues so essential to our security. Failure to do so will make broader nuclear cooperation much more difficult.

Dramatically accelerate work to provide the highest possible standards of security for nuclear weapons, as well as for nuclear materials everywhere in the world, to prevent terrorists from acquiring a nuclear bomb. There are nuclear weapons materials in more than 40 countries around the world, and there are recent reports of alleged attempts to smuggle nuclear material in Eastern Europe and the Caucasus. The U.S., Russia and other nations that have worked with the Nunn-Lugar programs, in cooperation with the International Atomic Energy Agency (IAEA), should play a key role in helping to implement United Nations Security Council Resolution 1540 relating to improving nuclear security—by offering teams to assist jointly any nation in meeting its obligations under this resolution to provide for appropriate, effective security of these materials.

As Gov. Arnold Schwarzenegger put it in his address at our October conference, "Mistakes are made in every other human endeavor. Why should nuclear weapons be exempt?" To underline the governor's point, on Aug. 29–30, 2007, six cruise missiles armed with nuclear warheads were loaded on a U.S. Air Force plane, flown across the country and unloaded. For 36 hours, no one knew where the warheads were, or even that they were missing.

Start a dialogue, including within NATO and with Russia, on consolidating the nuclear weapons designed for forward deployment to enhance their security, and as a first step toward careful accounting for them and their eventual elimination. These smaller and more portable nuclear weapons are, given their characteristics, inviting acquisition targets for terrorist groups.

Strengthen the means of monitoring compliance with the nuclear Non-Proliferation Treaty (NPT) as a counter to the global spread of advanced technologies. More progress in this direction is urgent, and could be achieved through requiring the application of monitoring provisions (Additional Protocols) designed by the IAEA to all signatories of the NPT.

Adopt a process for bringing the Comprehensive Test Ban Treaty (CTBT) into effect, which would strengthen the NPT and

aid international monitoring of nuclear activities. This calls for a bipartisan review, first, to examine improvements over the past decade of the international monitoring system to identify and locate explosive underground nuclear tests in violation of the CTBT; and, second, to assess the technical progress made over the past decade in maintaining high confidence in the reliability, safety and effectiveness of the nation's nuclear arsenal under a test ban. The Comprehensive Test Ban Treaty Organization is putting in place new monitoring stations to detect nuclear tests—an effort the U.S. should urgently support even prior to ratification.

In parallel with these steps by the U.S. and Russia, the dialogue must broaden on an international scale, including non-nuclear as well as nuclear nations.

Key subjects include turning the goal of a world without nuclear weapons into a practical enterprise among nations, by applying the necessary political will to build an international consensus on priorities. The government of Norway will sponsor a conference in February that will contribute to this process.

Another subject: Developing an international system to manage the risks of the nuclear fuel cycle. With the growing global interest in developing nuclear energy and the potential proliferation of nuclear enrichment capabilities, an international program should be created by advanced nuclear countries and a strengthened IAEA. The purpose should be to provide for reliable supplies of nuclear fuel, reserves of enriched uranium, infrastructure assistance, financing, and spent fuel management—to ensure that the means to make nuclear weapons materials isn't spread around the globe.

There should also be an agreement to undertake further substantial reductions in U.S. and Russian nuclear forces beyond those recorded in the U.S.-Russia Strategic Offensive Reductions Treaty. As the reductions proceed, other nuclear nations would become involved.

President Reagan's maxim of "trust but verify" should be reaffirmed. Completing a verifiable treaty to prevent nations from producing nuclear materials for weapons would contribute to a more rigorous system of accounting and security for nuclear materials.

We should also build an international consensus on ways to deter or, when required, to respond to, secret attempts by countries to break out of agreements.

Progress must be facilitated by a clear statement of our ultimate goal. Indeed, this is the only way to build the kind of international trust and broad cooperation that will be required to effectively address today's threats. Without the vision of moving toward zero, we will not find the essential cooperation required to stop our downward spiral.

In some respects, the goal of a world free of nuclear weapons is like the top of a very tall mountain. From the vantage point of our troubled world today, we can't even see the top of the mountain, and it is tempting and easy to say we can't get there from here. But the risks from continuing to go down the mountain or standing pat are too real to ignore. We must chart a course to higher ground where the mountaintop becomes more visible.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ENERGY

Mr. INHOFE. Mr. President, as the ranking member and previously the chairman of the Environment and Public Works Committee, I understand we are actually the committee of jurisdiction over a lot of the energy concerns we have in this country. It is a real crisis. I know there are other things happening now that people are focused on, but this is certainly something the Presiding Officer is aware of, given the committees on which he is serving. When it comes to developing a comprehensive energy policy in the United States, we are faced with a stark contrast. We can develop and produce domestic supplies of reliable and affordable energy that will help jump-start our economy, create high-paying jobs, and bring down energy costs on consumers, all while making our Nation less dependent on foreign energy supplies, or we can implement policies designed to drive up the costs of energy on American families, shift jobs overseas, and deepen this recession.

For the sake of our economy, our energy security, and environmental goals, I choose the "all of the above" approach.

I sit and listen to people who say we want to do something about our dependence on foreign countries for our ability to run this machine called America. At the same time, they are against coal, they are against oil, they are against gas, they are against nuclear. Those are the things that are there, the technology is there and we can use them. But they are looking somehow into the future and saying there has to be some green solution. I am the first one to say, when the technology is there, I am going to be right there with them. It is not there yet.

Over the next several weeks, I am planning to speak on the floor several times about the benefits of nuclear energy and my proposals for reinvigorating that industry. Today, I will discuss how nuclear will help put Americans back to work and move our economy forward as well as focus on the regulatory challenges facing new nuclear construction and what I plan to do to help nuclear energy play an increasing role in meeting our energy needs.

One of the problems we have had is we have had several colleagues coming down, talking about why nuclear is good and why we should do it, but they have not addressed the barriers there and the bureaucratic problems we have right now.

The need to grow our domestic energy supply is clear. The Energy Information Administration projects that our demand for electricity will increase 26 percent by the year 2030, requiring 260 gigawatts of new electricity generation. Every source will need to grow to produce more energy to meet that demand. Curtis Frasier, the executive vice president of Shell America Gas & Power, was recently quoted in *Greenwire*, warning that the recession could be masking a global energy shortage.

He said:

When the economy returns, we're going to be back to the energy crisis.

He said:

Nothing has been done to solve that crisis. We've got a huge mountain to climb.

This is a very significant chart. It shows electricity growth is linked to the American economy. Mr. Frasier voices real concern. As you can see, this graph shows the total energy and shows the GDP. The GDP is the blue line going up and the electricity use and the total energy are lines that go right along with it. In fact, when it flattens out, such as it did in 1990 for about a 3-year period, all three flattened out at the same time. The same thing is true up here when it flattened out during 2005. So we see there is that linkage there, and it is a very real one.

This is not your father's nuclear industry. Today's nuclear industry has demonstrated marked improvement in safety, reliability, and costs since the late 1980s. The industry also has proved that safety and reliable performance are closely linked.

We have a chart here, "Improved Safety Yields Better Performance." If you look at the two lines, we are talking about the line that would be the capacity factor, and this line, the red line, would be significant events. Significant events are things that are problems. We all remember significant events in nuclear energy. The press always highlights these and tries to make us believe this is a dangerous form when it is, in fact, not dangerous. The significant events have been going down. It is hard to see there. It goes from 1988 all up to the present year and it goes down as the capacity factor is going up. This is an indicator of the results, that the industry has dramatically increased its capacity by 45 percent and has operated roughly 90 percent of the time in the last 5 years. This improved performance is demonstrating that nuclear is both safe and reliable. It has made nuclear energy more affordable.

We have another chart that is the "U.S. Electricity Production Costs." Nuclear energy generates nearly 20 percent of the energy that powers our economy and has the lowest production cost compared to other sources. You can see by the chart, not only has nuclear energy had the lowest production



costs for the last 7 years, its production cost is very stable and not vulnerable to the price fluctuations here shown by the other resources.

These lines here represent nuclear and coal. They go along pretty much the same. However, if you look at fluctuations in gas and in petroleum, you can see they are moving. This is something that is very significant.

I might mention, even though we only are using 22 percent of our energy coming from nuclear, countries such as France and other countries are doing 80 percent. That is what we are going to get to. We are going to try to do something to increase our nuclear capacity. Not only will nuclear energy give a boost to our economy by providing safe, reliable, and affordable electricity, it will also produce new jobs. Mark Ayers, the President of the AFL-CIO Building and Construction Trades Department, has described his union's relationship with the industry. He said—and this is the unions I am quoting now:

We will be there with you to help pursue the adoption of a diverse American energy portfolio that places a high priority on the reemergence of nuclear power.

Why is Mr. Ayers so supportive of nuclear energy? He knows the number of high-quality jobs that just one new nuclear plant would provide. It would be 1,400 to 1,800 jobs during construction for each new plant; 400 to 700 permanent jobs when the plant begins operating, with salaries 36 percent higher than the local average. It would provide 400 to 700 additional jobs providing goods and services.

It is a huge boost for the economy and for the labor unions, so we have their strong support. Clearly, increased development of nuclear energy would strongly benefit our economy by providing energy and putting Americans back to work. However, right now investors in new nuclear plants face political and regulatory risks. The capital investors still remember the cost overruns experienced during the construction of our existing fleet of plants, caused in part by a cumbersome licensing process. The licensing process has been revised but has, as yet, to be fully tested. The risk of licensing delays may be lower, but the potential consequences of regulatory delays remain significant.

This chart shows the locations of the potential new nuclear plants. On September 25 of 2007, the Nuclear Regulatory Commission filed an application to build and operate a plant near Bay City, TX. That was the first application for a new plant that the NRC has received in 34 years. Since then, 16 more applications have been filed for a total of 26 new nuclear reactors.

Let's stop and think about that. We are talking about 2007.

I ask unanimous consent I be given an additional 5 minutes of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. That is, since 2007, we have been able to do that. We did nothing for 34 years, and now we have 16 more applications on file which would be for 26 nuclear reactors. Some applications cover more than one reactor. These efforts to develop new plants are critical to meeting our energy needs, and I am committed to doing what I can to help build these new plants.

One of the most significant factors contributing to this revitalization is the NRC's transformation over the last 12 years. In 1997, Republicans were the majority. I was the chairman of the Clean Air Subcommittee of the Environment and Public Works Committee, which had jurisdiction over nuclear energy. At that time, we had not had an oversight hearing in some 12 years, and I tell you, you cannot let a bureaucracy continue to operate without any oversight, so we started having oversight hearings. We gave targets that they had to do certain things by certain dates. As a result of that, they are now coming along and doing a good job.

This chart shows where the 16 applications are, so people can find their own State and see what it would do to the economy of their own State. Unfortunately, we don't have any in my State of Oklahoma. I wish we did and perhaps we will be able to in the future.

The next chart is the "Applications Under Review By NRC." It is a little bit complicated, so I am not going to be using this chart. If anyone wants to know where the status is and what the companies are that have made the applications, certainly we have that information for them.

Despite significant efforts on the part of the NRC staff, this process has not unfolded as smoothly as it should. Schedules are not as detailed or transparent as they should be, and detailed schedules are a critical tool for managing such a large and complex process and to ensure it is thorough, efficient, and timely. Schedules are publicly available for safety evaluation reports and environmental impact statements but not for hearings or Commission consideration, which will ultimately determine when the license is actually issued.

At this time, there appears to be no information readily available regarding any of the actual dates that any of the new plant licenses will be issued. The absence of any specific schedules for issuing licenses seems to indicate a failure of the agency to properly plan and schedule its work, a failure to share such information, or both. This situation is troubling. How could a utility prepare for construction without a firm date when it can expect—to be expected to receive their license?

These are huge investments we are talking about. There has to be predict-

ability. How can an investor judge the risk of a project without being able to evaluate progress in the regulatory process? Both licensees and their potential investors would greatly benefit from the increased certainty.

I commend the Commission and staff for the level of effort that is reflected in existing schedules. However, I believe the Commission should pursue these remaining steps. It should require hearing boards to produce and to follow detailed schedules that reflect lessons learned during the review of the LES National Enrichment Facility in New Mexico. We would consider the recommendations we have there.

I firmly believe proper planning, detailed schedules, and the Commission engagement will foster more thorough, consistent, organized, and efficient efforts to issue new plants licenses.

I take my oversight role as the ranking member of the EPW Committee very seriously and will work to ensure that the NRC continues to build on the improvements made since I initiated oversight back in 1997. I intend to increase my focus on this and other licensing issues, including monthly progress reports on licensing activity and regular meetings with Chairman Jaczko. In our committee, we have Democrats and Republicans very supportive of this effort to expand our capability in nuclear energy.

My hope is to see that the NRC issues the first new license before the end of 2011 and eight more by 2013. Given construction estimates of 4 to 5 years, the first 2 reactors could be operational in 2016, with 14 more potentially in operation by the year 2018. Sixteen new reactors would be a good start to rejuvenating an industry that has been stagnant for 34 years. I believe these reactors can revitalize our economy and meet the growing demand for energy. I also agree with labor unions that are excited about the prospect of new jobs and what it will do for low-cost energy for America.

I look forward to the future. I plan to host a roundtable to highlight progress toward advanced design and to stay on board. Back in 1997, we hadn't had an oversight hearing in 12 years at that time, and we will make sure we don't repeat that mistake.

A lot has been done to prepare for nuclear construction, but a lot remains to be done. Whether the industry will succeed in building new plants will greatly depend upon President Obama's leadership. I am disappointed that the administration seems to send mixed signals regarding its support for nuclear energy. Last month in Prague, the President said:

We must harness the power of nuclear energy on behalf of our efforts to combat climate change and to advance peace and opportunity for all people.

Yet just this month his budget contained language terminating the Yucca



Mountain program before the Nuclear Regulatory Commission could even do its review—30 years of research and \$7.7 billion down the drain, purely for political reasons. It is unthinkable that could happen, but it has happened.

In addition, President Obama recently appointed, as Chairman of the Federal Energy Regulatory Commission, Joe Wellenbach, who stated his belief that we won't need any more nuclear plants ever. This isn't right, and it is totally inconsistent.

These mixed messages will soon become clear. President Obama has recently designated a new Chairman of the NRC and is expected to propose two additional nominees soon. Time will tell whether the NRC is an effective and efficient regulator.

In his Senate confirmation hearing, DOE Secretary Steven Chu said:

Nuclear power . . . is going to be an important part of the energy mix. It is 20 percent of our electricity generated today, but it is 70 percent of the carbon-free portion of electricity today. And it is baseload. So I think it is very important that we push ahead.

For that reason and every other reason, for the economy and for the environment and for our ability to provide our own energy in this country and lower our reliance upon foreign countries, I believe we need to move forward rapidly. We intend to do so with nuclear energy.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I ask unanimous consent that all time in morning business be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business is closed.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 1256, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise to speak in support of the Family Smoking Prevention and Tobacco Control Act, a bill that will finally give

the Food and Drug Administration the authority to regulate tobacco products.

This was the first bill for which I had the honor of voting in my new role as a member of the Health, Education, Labor, and Pensions Committee—the newest member—but it is the result of years of tireless effort by members of this committee and by their staffs. I especially commend its primary sponsor, our chairman, TED KENNEDY, who has long been committed to protecting our Nation's children from the dangers of tobacco and nicotine addiction, and Senator DODD, who is so ably leading that fight in his stead today. I thank them and our colleagues in the House for the efforts that have brought us this bill before the Senate today.

This legislation is long overdue and very much needed. Just last month, a three-judge panel of the U.S. Court of Appeals for the DC Circuit unanimously upheld the decision of the district court that the tobacco companies had engaged in racketeering. The court found that for at least 50 years, the companies have knowingly kept information from the American public about the health and safety risks of their products and that they continue to do so today. These companies have worked together to deceive the American public and cannot be trusted to regulate themselves.

As generations of customers died from illnesses related to smoking, the tobacco companies have kept their profits up by marketing their products to children through cartoon advertisements, candy flavorings, and sports sponsorships. Public health advocates, lawmakers, prosecutors, and family members who have lost loved ones to the ravages of smoking have attempted to take on the tobacco companies, but they confronted a coordinated effort backed by billions of dollars to protect this deadly business.

In the next year, 400,000 Americans will die from smoking-related illness and more than 450,000 children will become daily smokers. Every day, 3,500 kids pick up a cigarette for the first time.

Even those who do not smoke still pay a price—\$96 billion each year in public and private health expenditures to treat illness caused by smoking. The companies will, of course, point to concessions and payouts over the years, but it is clearly not enough. As we work to reform our broken health care system, we cannot ignore this public health menace.

That is why it is vital that we finally pass this legislation. The FDA is the agency most prepared to take on the regulatory, scientific, and public health challenges created by tobacco products. This carefully crafted compromise bill gives FDA the tools necessary to take on the tobacco companies in three major areas: advertising and sales to young people, the composi-

tion of cigarettes, and representations of health effects of tobacco products.

We have wasted too much time fighting the same battles over the same issues for years. This legislation finally enacts tough but constitutionally sound regulations on advertising targeted toward young people. It puts a warning label on every pack of cigarettes that covers 50 percent of each side of the package. The companies will finally have to disclose the content of tobacco products, and FDA will have the authority to regulate hazardous ingredients. Tobacco product manufacturers will no longer be able to make unsubstantiated claims about their products—FDA will have to verify any health claim based on its impact on the population as a whole in order to protect tobacco users and potential tobacco users. This will be paid for by the tobacco product manufacturers and importers themselves, taking no resources away from the FDA's other vital missions.

So many of us have been touched by the ravages of smoking and lost family and friends. Yet we still see too many young people become addicted to cigarettes or pick up the newest smokeless tobacco product without knowing the real risks to their health. We cannot leave this to court settlements or to the industry itself. We have been waiting for 50 years, and the evidence shows we are still being deceived. Regulation is long past due. This bipartisan bill, with the support of over 1,000 public health, faith, education, and children's organizations, is the best opportunity to help protect our children from the menace of tobacco. We have delayed long enough.

I again thank Chairman KENNEDY, Senator DODD, and my colleagues on the HELP Committee for their hard work bringing this bill to the floor and getting us closer than any other point in the long history of this legislation to finally seeing the effective regulation of tobacco products.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRAIG THOMAS RURAL HOSPITAL AND PROVIDER EQUITY ACT

Mr. ROBERTS. Mr. President, I rise today to again pay tribute to one of the Senate's finest: our colleague, the late Craig Thomas from Wyoming. Two years ago this week, the Senate lost a steady hand and a man who did much for his State of Wyoming. Craig was dependable in the finest sense of the word. He defined the word "dependable." He was the epitome of a workhorse, not a show horse.

On a personal note, for many Senators, why, Craig was not only a colleague but a dear friend. I will cherish that always. Craig was also a fellow marine. In this case, *Semper Fidelis*—always faithful—is most appropriate. If anyone faced trouble in their life, the one person you would want by your side would be Craig Thomas.

This is why I am proud and honored again to join with my colleagues KENT CONRAD and TOM HARKIN, and with the new Senator from Wyoming, JOHN BARRASSO, and the distinguished Senator from Utah, ORRIN HATCH, to introduce the Senate Rural Health Caucus bill in honor of Senator Thomas. The bill we are introducing is the Craig Thomas Rural Hospital and Provider Equity Act, with emphasis on the “equity.”

The people of Wyoming and all of Craig’s colleagues knew he fought for rural America and always put the needs of his State above all else. On the health care front, why, Craig was truly a champion for strengthening our rural health care delivery system and providing relief to our hospitals and other providers in our rural areas.

He served for 10 years as the cochair of the Senate Rural Health Caucus. He actually took over the reins as cochair after my fellow Kansan, Bob Dole, retired from the Senate. And as I know personally, it is hard to follow in the footsteps of Senator Dole—for that matter, Senator Thomas.

However, Craig did this with great ease and great pride. His steady leadership put the caucus on the map, and he made great strides in showing all of our colleagues the true needs of rural health care. We will truly miss him during the current health care debate. I and the members of the caucus miss him and his leadership greatly.

One of the biggest accomplishments for Craig in the Rural Health Caucus was passage of the Medicare Modernization Act in 2003, which provided a big boost to our rural hospitals and providers. There was recognition and support from our colleagues from all of our geographical areas, large and small, for including these badly needed rural health provisions.

These provisions included in the Medicare bill provided much needed relief to rural health providers, enhanced beneficiary access to quality health care services, and improved provider payments in our rural areas. So many times those payments simply do not even come close to the costs of the provider and the service they provide to our rural citizens.

However, you would never know that it was Craig Thomas behind the scenes working to get these rural health provisions included in the Medicare bill. Craig was more concerned with getting the work done rather than taking the credit. So instead of taking individual credit for his hard work and his dedication on the Medicare bill, he applauded

the entire Rural Health Caucus and patted everybody else on the back. It is this kind of leadership that set Craig Thomas apart from his colleagues.

However, Craig knew that while passage of the Medicare bill was a giant step for rural health, we still had much work to do to ensure our rural system can continue to survive. Sometimes when they ask me about health care reform—“they” meaning most of the people interested in health care reform: the media, others, the health care providers—I simply say one of the things we want to do is to make sure we preserve what we have. This is why we were proud and honored to carry on his legacy by introducing the Craig Thomas Rural Hospital and Provider Equity Act in the 110th Congress, and again in this Congress. We can enhance Craig’s legacy certainly in this way.

I wish to especially recognize a member of Craig’s former staff who has always worked extremely hard to advance rural health care causes and who has remained a champion for Wyoming as a member of Senator JOHN BARRASSO’s staff: Erin Dempsey. I know my staff has worked very closely with Erin over the years, and I have a great amount of respect for her hard work. We always have an expression: We are only as good as our staff here—or at least some of us do actually admit to that. Erin, thank you for being such a hero alongside Craig, and now Senator BARRASSO. We are proud of you for everything you have done on behalf of rural health care.

This Congress, with health care reform at the front and center, Senators BARRASSO, CONRAD, HARKIN, HATCH, and I will do our very best to lead in Craig’s absence and to ensure that rural health does not get left behind. I have made a personal commitment to make sure we get this bill done and ultimately provide the much needed relief to our rural communities.

The Craig Thomas Rural Hospital and Provider Equity Act recognizes that rural health care providers have very different needs than their urban counterparts and that health care is not one size fits all.

The Craig Thomas Rural Hospital and Provider Equity Act—and the acronym of that, by the way—everything has to be an acronym in Washington—is R-HoPE—so the R-HoPE Act of 2009 makes changes to Medicare regulations for rural hospitals and providers. It recognizes the difficulty in achieving the same economies of scale as large urban facilities. This legislation equalizes Medicare’s disproportionate share of hospital payments to bring the rural hospitals in line with our urban hospitals. This bill also provides additional assistance for small rural hospitals that have a very low volume of patients. Often these hospitals have trouble making ends meet under the Medicare payment system.

The Craig Thomas Rural Hospital and Provider Equity Act, R-HoPE Act, also provides a Capital Infrastructure Loan Program to make loans available to help rural facilities improve crumbling buildings and infrastructure. In addition, rural providers can apply to receive planning grants to help assess capital and infrastructure needs.

The bill extends to January 1, 2011, two incentive programs aimed at improving the quality of care by attracting health care providers to health professional shortage areas. The first is the Medicare Incentive Payment Program, which provides a 10-percent bonus payment to physicians who will practice in shortage areas. The second is the Physician Fee Schedule Work Geographic Adjustment—that is a mouthful—but it simply means it will bring rural doctors’ Medicare fee schedules for wages more in line with urban doctors.

The bill also recognizes that other providers do play a great role in the rural health care delivery system. Our bill increases the payment cap for rural health clinics to keep them in line with community health centers. It provides a 5-percent add-on payment for rural home health services. And it provides a 5-percent add-on payment for ground ambulance services in our rural areas.

One of the provisions in the bill—and this is the one that Craig Thomas certainly championed—is a provision to allow marriage and family therapists and licensed professional counselors to bill Medicare for their services and be paid the rate of social workers.

Currently, the Medicare program only permits psychiatrists, psychologists, social workers, and clinical nurse specialists to bill Medicare for mental health services that are provided to our seniors. However, most rural counties—most rural counties—simply do not have a psychiatrist or a psychologist. Marriage and family therapists, however, and licensed professional counselors are much more likely to practice in a rural setting and are often the only mental health professionals available.

Finally, this bill uses technology to improve home health services and quality of care by creating a pilot program providing incentives for home health agencies to purchase and utilize home monitoring and also communication technologies and facilitates telehealth services across State lines.

Today I am proud and honored to introduce this bill on behalf of our former Senator and colleague, Craig Thomas. We miss him greatly as a personal friend, a confidante and colleague. Our thoughts and prayers are with his wife Susan, his sons Peter, Patrick, and Greg, and his daughter Lexie.

Mr. President, it is time to pass this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### NATIONAL DEBT

Mr. GREGG. Mr. President, I rise today to return to a topic I have discussed on the floor a number of times but which I think needs to be discussed again because of the severity of its implications for our Nation; that is, the massive amount of debt which we are running up in our country.

This massive expansion of our debt, at levels which we have never seen in our history, as proposed by the President's budget and the budget which passed this Congress, threatens the value of the dollar. It threatens to create instability through massive inflation. And it clearly threatens the future of our children.

I am not the only one who thinks this way. As you look around the world, there are a lot of folks taking a look at where we as a nation are going and asking the question: Can we afford this debt as a country?

Interestingly, just a week and a half ago or so, Standard & Poor's, the rating agency, looked at the English situation and put out a statement that the triple A bond rating of England was in jeopardy. They essentially took the adjective "stable" out from their designation of that bond rating and said they had a negative bias on the triple A rating. They did not reduce it, but they did put out a major warning sign.

What does that mean? Well, if your bond rating as a nation drops, that means the world community does not have a lot of confidence in your ability to repay your debt and it is going to charge you a lot more to lend you money. The effect of a bond rating change for a nation such as the United Kingdom—which is one of the most stable and industrialized countries in the world—is catastrophic. What brought about this decision by Standard & Poor's to put, at least on a watch list, so to say, the bonds of the United Kingdom? It is the fact that England has so expanded its debt that its debt now represents approximately 52 percent of its gross national product.

Well, where do we stand as a nation in our debt relative to our gross national product? This chart reflects the fact that historically, in the last 30 or 40 years, our debt has averaged between 30 percent and 40 percent of GDP, but in this economic downturn, we are seeing a dramatic increase in our debt as a nation. In the short run, I have said many times, we can tolerate this for the purpose of trying to float the economy, for the purpose of the government being the lender of last resort, for the purpose of stabilizing the financial systems. A short-term, huge spike in our debt is not desired, but it can be managed. We have done this in the past. During World War II, for example, our debt went up dramatically. But the key is, it has to come back down. It just can't keep going up.

Well, today, our debt is about 57 percent of our gross national product, our public debt. It is up around here on the chart. As we see from this line, under the budget proposed by President Obama, it continues to go up, almost in a perpendicular manner, to the point where, by the end of the budget as proposed by the President and as passed by this Congress, the public debt will be approximately 82 percent of gross national product. That is not a sustainable situation. Over the next 10 years, under the budget as proposed by the President, we will be running deficits which represent \$1 trillion a year, on average—\$1 trillion a year, on average. As a percentage of our gross national product, those deficits will be between 4 percent and 5 percent.

As I have said before on this floor, you can't get into the European Union if your deficit exceeds 3 percent of your gross national product and your debt exceeds 60 percent of your gross national product.

These are all big numbers and nobody can catch up with those numbers, but the basic implication is very simple. Under the present path we are on, the debt is going to double in 5 years, triple in 10 years, and the implications to our children are that they are going to inherit a country where the payments required on that debt are going to be the single largest item of the Federal Government—\$800 billion a year which will have to be paid in just interest. For every American, they will receive \$130,000 of debt—every American household will have \$130,000 of debt on that household to pay off the Federal responsibility—and \$65,000 in interest payments annually for every American household. That is more than many American households' mortgages and more than their interest payments on their mortgages, but that is what every American household is going to owe as a result of this dramatic expansion in debt.

What is driving this debt? Well, in the short term, obviously, it is the economic downturn. But we are not going to be in this economic downturn forever. Everybody is presuming we are starting to move out of it, and we will because we are a resilient nation. In the outyears, what is driving this debt is spending—it is that simple—new, additional spending put on the books or planned to be put on the books under this budget.

This blue line here, which flattens out where the debt stabilizes over the next 5 years, is if we had current law. In other words, if the law that was in place before the President's budget was passed were to take effect and stay in place, that is the blue line. That is what the debt would do; it would stabilize. But because the President has proposed so much new spending in addition to the spending that is going to come as a result of the retirement of

the baby boom generation and the expansion of entitlements, this debt just continues up in an astronomical way.

This is a real concern for us. I recognize it is hard for a Congress to deal with anything but the next election—and what we are talking about here is really what we are doing to the next generation—but we should be very concerned—more than concerned, we should be really focused on this as our primary issue of domestic policy as we go forward as being a threat to our prosperity as a nation.

What are other governments saying? Well, China, which is our biggest creditor—we financed this debt by lending from China. They give us money to spend on our operations as a government. They have always looked on the U.S. debt as something that was a good investment, a safe investment, but the Chinese are having second thoughts. In an extraordinarily embarrassing incident, the Secretary of the Treasury, speaking before an audience of sophisticated college students in Beijing, was asked about the status of our debt that is held by the Chinese. He told them that Chinese assets are very safe, and the audience laughed. The audience actually laughed at the Secretary of the Treasury saying that Chinese assets are very safe. That is an anecdotal incident, but it would never have happened 6 months ago, 2 years ago, because these types of increases in debt as a percentage of our economy were nowhere in sight then—nowhere in sight.

Then Mr. Yu, who is the former adviser to the Central Bank, made the following statement just a couple of days ago. He said:

The United States Government should not be complacent and it should understand that there are alternatives to China buying U.S. bonds and bills. Investments in Euros are an alternative, and there are lots of raw materials we can buy too. China should not close those options.

Well, if the Chinese Government starts to reduce its purchase of our bonds and our need to sell bonds is going up, what happens? That means the interest on the bonds is going to have to go up because we are going to have to find somebody who wants to buy these bonds and we are going to have to make them attractive around the world. As the interest on the bonds goes up, taxpayers end up having to bear that burden and the next generation ends up having to bear that burden.

So what is the solution? How do we get around the fact that we are now on an unsustainable course which will lead to a fiscal calamity for our Nation and potentially put us in the position where we will have to devalue the dollar or have massive inflation?

Interestingly enough, the Economic Information Daily, another Chinese publication, hit the nail right on the

head. Maybe because they are looking from the outside in and because of all they have invested they can see these things, because they said the question that should be asked of Secretary Geithner is, How do you propose implementing fiscal discipline? How will you maintain the stability of the dollar after the crisis—and I emphasize “after.” What they are saying is, after we get past this recession and the need to stabilize the financial structure of our country and the need to float the economy, how do we bend this curve back to something reasonable and sustainable? That is the question we should be asking around here as a Congress. We need to start asking it pretty soon.

The President has said—he said it again yesterday—that one way you do this is by addressing the cost of health care, and he is absolutely right. Health care is the primary driver—one of the primary drivers—of this massive increase in expenditures at the Federal level. But the President has put nothing on the table so far that bends the curve on the question of the cost of health care—in fact, just the opposite. His budget proposed that health care spending would go up \$1.2 trillion over the next 10 years and, more importantly than that, it sets up a series of entitlements which will cost hundreds of billions—as I said, \$1.6 trillion in new spending. He is suggesting that instead of keeping health care spending at about 17 percent of gross national product, which is a huge amount of money, by the way, more than any other industrialized country spends by almost 50 percent—the next closest country spends about 11 percent on health care—he is suggesting that instead of maintaining health care costs at 17 percent of gross national product, it be allowed to rise to 18, 19, and 20 percent of gross national product. Well, we can't afford that. We can't afford that.

What we need in the area of health care is to address the issue that the President said, which is to control the costs of health care, not by expanding the size of the costs of health care but by using the dollars in the health system more effectively and by getting better quality at lower costs, which can be done, by the way. There are a lot of proposals for doing exactly that. But one of them isn't to create a single-payer plan or a public plan which essentially puts the government in charge of health care and, as a result, drives up the cost of health care significantly and drives the spending up and the borrowing up that goes with it. So, yes, we have to address it, but we have to address it in a way that actually controls spending, controls the rate of growth in spending and health care, and that doesn't aggravate this additional debt.

It is hard to understate the significance of the threat this debt rep-

resents. It is hard to understate it. I know I have spoken on this floor about it a number of times, but that is because it is so critical to our future as a nation. We literally are bankrupting the futures of our children by putting this much debt on their backs, by doubling the national debt in 5 years and tripling it in 10 years. I am beginning to feel a little bit like Cato the Elder, who used to speak in the Roman Senate and begin and end every speech with “Carthago delenda est.” Finally, somebody listened to him, and they actually did destroy Carthage.

Well, I am saying let's get the debt under control. Let's control the spending of this government. Let's do something about this outyear spending before we get to a position where the world loses confidence in our dollar, loses confidence in our debt, before we get into the position where we have to inflate the economy or we have to place taxes on our children that are so high that they have no chance to have as prosperous and as competitive a life as we have had. It is not fair, as I have said before, for one generation to create this type of debt and pass it on to the next generation to pay. It is not fair. It is not right. It is something we have never done as a nation. Whenever we have run up debt significantly like this, we have always paid it down on an equally quick basis. After World War II, when our debt got to over 100 percent of GDP, we brought it down very quickly. We need to bring it down today. We need to have discipline around here that leads to getting the debt of this Nation back to a responsible level, which means something under 50 percent, hopefully closer to the historic norm of 40 percent; where we get the deficits back to a responsible level, which means under 3 percent, hopefully even headed toward balance; and where we can tell our children that we are passing on to them a stronger nation, not a weaker nation, a more prosperous nation, not a nation confronting massive inflation, leading to the devalue of the dollar or massive tax increases.

Mr. President, I yield the floor and make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Mr. BURR. Madam President, I needed to come to the floor and apologize for a misstatement I made yesterday on the current bill, the Kennedy tobacco bill. In yesterday's debate, I stated that the CBO, the Congressional Budget Office, report on the bill re-

vealed that if enacted, smoking rates would decline 2 percent annually. In fact, I was wrong.

I prepared a chart yesterday that showed, based upon what CBO said, that we would reduce by 2016 the smoking rate in the country to 17.8 percent, and also the CDC's projection, which if we did nothing, we would reduce it to 15.9 percent, clearly showing the CBO estimate under the current bill we are considering would not bring the smoking rate down as much as doing nothing.

The mistake I made yesterday was I assumed the way I read it that the CBO estimate is it would reduce smoking 2 percent per year. In fact, what the CBO report actually said was it would reduce by 2 percent over 10 years. So, in fact, I have been way too generous to the current bill that it would reduce smoking to a point of 17.8 percent, which was figured based on a 2-percent-per-year reduction. In fact, the gap between doing nothing and passing this bill clearly is much bigger than I had anticipated; that by doing nothing, we get much more value, if the objective through passage of this legislation is to reduce the smoking rate in the United States.

The bill that is being considered does not change existing products. Let me restate that. We grandfather in all the tobacco products that are currently being marketed. What CBO has concluded is that then you have to permanently figure that about the same rate of Americans will continue to smoke because they do not have new options to turn to.

Let me make this pledge to my colleagues. If the CBO report that smoking will decrease by a scant 2 percent under the bill is because of new warning labels and graphic warning labels that are mandated in the bill, then let me say the substitute Senator HAGAN and I will offer provides for the same warning labels and the same graphic warning labels. If that is what gets the 2 percent reduction over 10 years, which clearly it has to be, then I am willing to cosponsor that bill right now and substitute it for the entire Kennedy bill, so we get the full 2 percent we get in the Kennedy bill over 10 years of reductions.

A simple warning label would be a tremendous improvement over this legislation—\$787 million, a new mandate to the men and women in our military to pay for it, and it has been portrayed as an effort to reduce the usage of tobacco products with our youth.

I covered for all our colleagues yesterday the fact that when you go down and look at the CDC proposals to States on part of the \$280 billion of MSA payments that the industry made to States, that the States had spent a pittance of what CDC projected on cessation programs to get people to stop smoking. But more alarming than the

fact that States use the tobacco money to fill their budget gaps and build sidewalks rather than to fund programs to get people to stop smoking is the fact that in practically every case of 50 States, the marijuana prevalence use among youth was higher than the tobacco prevalence.

Let me say that again. Marijuana usage by our youth is projected by CDC to be higher in practically every State than what they have projected youth prevalence of tobacco use. It is actually smoking. That does not necessarily include smokeless.

For my colleagues, including myself, I have spoken on the fact that we must keep tobacco out of the hands of our children. It has an age limit. I would agree it has some problems on enforcement. But marijuana is illegal. It is supposed to be enforced in every community. It is supposed to be enforced in every State. Yet more kids use it than they do tobacco products.

In 1975, Congress commissioned the University of Michigan to track youth smoking rates. At that time, youth smoking was at an alltime high. However, those rates have started to come down and leveled off around 30 percent, all the way up to 1993.

For some unknown reason at the time, youth smoking rates started to increase around 1993, peaking at close to a new alltime high in 1997.

In 1998, 12th graders who said they tried cigarettes in the last 30 days was approximately 36 percent, according to the University of Michigan.

Congress did not have a good sense of why this was happening. Opponents of the tobacco industry started blaming all this on the alleged manipulation of young people by tobacco manufacturers through sophisticated marketing and advertising campaigns.

I heard a Member on the floor last night of the Senate basically blaming everything on these very creative marketing techniques. Trust me, if they were that effective, every company would be figuring out how to adopt those techniques.

The tobacco industry has a checkered past, at best, when it comes to marketing and advertising. But what I am suggesting is, it may not have been all due to tobacco. There was another trend occurring in the 1993 to 1998 period that virtually mirrored that of youth smoking, and it was the increased use of illicit drugs by teenagers. Something much broader was happening among youths in our society during that time period. The Senate's answer to smoking rate increases was to pass a massive FDA tobacco regulation bill, the exact bill we are debating today. Congress said nothing else would work to save our kids and bring down youth smoking rates.

Senator KENNEDY made the following remarks during the 1998 Senate floor debate to emphasize the need to protect our children. I quote:

FDA Commissioner David Kessler has called smoking a "pediatric disease with its onset in adolescence." In fact, studies show that over 90 percent of the current adult smokers began to smoke before they reached the age of 18. It makes sense for Congress to do what we can to discourage young Americans from starting to smoke during these critical years. . . . Youth smoking in America has reached epidemic proportions. According to a report issued last month by the Centers for Disease Control and Prevention, smoking rates among high school students soared by nearly a third between 1991 and 1997. Among African-Americans, the rates have soared by 80 percent. More than 36 percent of high school students smoke, a 1991 year high. . . . With youth smoking at crisis levels and still increasing we cannot rely on halfway measures. Congress must use the strongest legislative tools available to reduce smoking as rapidly as possible.

Senator KENNEDY, on the Senate floor, May 19, 1998.

Of course, the Senate told the American public that passage of the massive FDA tobacco regulation bill back in 1998 contained the "strongest legislative tools available" to address youth smoking issue.

Congress did not pass the FDA bill we are debating today. What happened with youth smoking rates? They decreased since 1998 to current alltime lows. I am talking about record lows over a 34-year period. In 1998, we were told by some in the Senate that youth smoking rates would not come down absent a major bureaucratic expansion over tobacco at FDA. Those Senators were wrong, dead wrong.

Today, we continue the same debate over basically the same bill, and we are debating this as if nothing else has happened or changed. Obviously, something we are doing across this country is working, and it has nothing to do with what Congress is talking about doing. It has to do with the passage of the Master Settlement Agreement, advertising restrictions, awareness campaigns, and education.

None of these things are enhanced in H.R. 1256, the Kennedy bill. It is about design, not about keeping kids from smoking. CBO recently stated that if it was enacted, youth smoking would reduce, over the 10-year period, 2 percent—excuse me, 11 percent for youth, 2 percent overall. But according to the University of Michigan, youth smoking rates have declined by 5 percent over the last 5 years and 16 percent over the last 10 years.

If this is an indication of how youth smoking rates will go over the next 10 years, we will actually slow the decline by passing this bill.

Let me say that again. My colleagues do not understand. We slow the decline of youth usage by actually passing this bill. It is the University of Michigan, it is the Congressional Budget Office, all very reputable agencies.

I know I have a colleague on the floor who wants to speak. I am going to yield the floor to him. But let me re-

mind my colleagues, we are talking about a massive expansion of regulation for the FDA, not a massive expansion of regulation over tobacco. There are a host of agencies currently that regulate tobacco. It is the most regulated product in the United States of America. Now we want to centralize that regulation into the FDA.

Let me read the FDA's mission statement:

The FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics and products that emit radiation.

Just in the first phrase, "protecting the public health," you are not protecting public health when you allow cigarettes to be sold. So the fact that we have constructed a bill that grandfathered every existing product but makes it practically impossible to bring to market reduced-risk products that allow Americans to give up the cigarettes and to move to something else, the CBO was right, it will slow the reduction in smoking rates. We do nothing for disease and death. We do more for disease and death by not passing legislation than we do by passing legislation. If the authors of this bill are, in fact, honest and the effort is to reduce youth access and youth usage, then the Members of the Senate should do nothing.

Hopefully, tonight Senator HAGAN and I will offer a substitute that brings as much regulatory authority to an entity outside the Food and Drug Administration but one under the Secretary of Health and Human Services. Why? Because I spent 15 years in Washington trying to protect the integrity and the gold standard of the FDA, so that when every American goes to bed at night and they take that prescription they got from a pharmacist prescribed by a doctor, they don't have any question as to whether, one, it is safe, or, two, it is going to work; that when they go to the hospital and all of a sudden a doctor shows them a procedure they are going to have and a medical device is involved, they are not sitting wondering: Is this going to work? Is it going to hurt me? Because the FDA has already said it is safe and effective; as we bring on this new line of biological products that are going to cure terminal illnesses that are very expensive, we are not going to do it in a way that hurts our health because the FDA's gold standard is in place; that when we go to the store and we buy food, we are going to be assured it is safe, something we haven't been able to do for the last few years—spinach contamination, salmonella in peanut butter. The list goes on and on.

Why, with an agency that is struggling to meet their core mission, would we ask them to take on a product that in legislation we say we know you cannot prove it is protecting public health

or it meets safety and efficacy, but on that we want you to turn your head, we want you to ignore the core mission for this new jurisdiction we are going to give you, but for everything else, we want you to apply that gold standard, we want to ensure drug safety, device safety, food safety but not with tobacco.

To my colleagues, it is very simple. Read the bill. You won't vote for this bill. You want to reduce youth consumption of tobacco? It is real simple. We reduce it faster by doing nothing.

Again, I think there will be a substitute that all Members can vote for tonight. It accomplishes further reductions of youth usage, because we don't constrict less harmful products in the future from coming to the market. We don't lock an adult population in to only being smokers because they are addicted to nicotine. We give them options, such as Sweden gave their citizens, where they have reduced adult tobacco smoking at incredible rates because of innovative new products that deliver nicotine in a way that reduces the risk of disease and reduces the rate of death.

If the objective here is to reduce disease, to reduce death, to reduce youth usage, then I would encourage my colleagues tonight, when Senator HAGAN and I introduce the substitute, to listen very carefully and support the substitute. But at the end of the day, if your objective is to reduce youth consumption of cigarettes, in the absence of passing that substitute, it is very clear—the CBO and the University of Michigan says: Pass nothing.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I ask unanimous consent to refer to these tobacco orb products during my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Madam President, I want to start by thanking Senator DODD for his tireless advocacy on this issue. The need to regulate tobacco products has been evident for many years, and for year after year it has been impossible to accomplish this goal. It is frankly unbelievable that while we heavily regulate the production and sale of aspirin, a product that is not addicting and not destructive, tobacco, which is addictive and is destructive, goes without regulation.

This bill will go a long way in helping to keep these addictive tobacco products out of the hands of our children. This bill gives the FDA the legal authority it needs to reduce youth smoking by preventing tobacco advertising targeting children. It provides the FDA with the authority to prevent the sale of tobacco products to minors as well as the authority to prevent the tobacco industry from misleading the public about the dangers of smoking.

Additionally, this bill takes important steps in the regulation of smokeless tobacco. We are all familiar with the dangers posed by cigarettes—the health effects have long been documented—both on users and bystanders. We are also familiar with the steps being taken in many cities and many States to rid our public areas of secondhand smoke. These actions, thankfully, have been quite successful, but they lead to a major dilemma for tobacco companies: if smoking becomes socially unacceptable, how can the industry replace the hundreds of thousands of tobacco addicts who die every year? The industry's response has been to bet heavily on smokeless tobacco products and to bet on addicting youngsters to those products.

Chewing tobacco has been around for a while, but it has its own limitations. There aren't many places—outside of this very Chamber—in the United States where you can find a spittoon. So the tobacco companies are looking for hip new smokeless tobacco products that don't require spitting and that can appeal to a new generation of children.

This picture was taken just a few blocks from this Capitol. It is of a new product called “Snus” that R.J. Reynolds is selling nationwide. It is a flavored, pouched tobacco product advertised as not requiring spitting. And as you can see here, it is advertised next to displays of candy and Peppermint Patties. I should note that this container was not the original designed for the Snus container. The original container was round. As reported by the Portland Oregonian last December, it came in containers similar to chewing tobacco, but teachers in schools noticed these containers in their students' pockets.

So now R.J. Reynolds has redesigned them so that teachers can't recognize that these are smokeless tobacco products in their students' pockets.

Clearly, the marketing is aimed at young people. But it gets even worse. Now R.J. Reynolds has come out with another product that they are test marketing in three cities across the country, one of which is in my home State of Oregon. Portland, OR, is a site for the test market of tobacco candy.

Tobacco candy, as you see here, also comes in what was designed to look like a cell phone in your pocket rather than a traditional can of smokeless tobacco. They have done two other things to make this product appealing, and I have a sample right here. First, they come in candy flavors. This one is euphemistically called “fresh.” It is a mint candy. This one is euphemistically called “mellow.” It is a caramel-flavored candy. So they have thrown in the candy flavoring and a really cool dispenser. And not only does the dispenser look like a cell phone—so teachers can't tell what it is—but it has a feature taken from the

world of the Pez candy dispenser. You pop it open, and out pops a single tobacco tablet. You close it and shake it around, open it up again, and out pops another one. So we have three features here designed specifically to market to children: the cell phone shape, the candy flavoring, and the Pez-style dispenser.

Now, why is it tobacco companies need to market to children? It is because when adult testers try out a tobacco product, they rarely continue using it. Therefore, they rarely become a customer of a tobacco company. A teenager who tries one of these products—whose brain is still being wired and, therefore, is much more susceptible to the influence of nicotine—is much more likely to become addicted and become a lifelong customer or reliable customer. That is why the tobacco companies are marketing tobacco candy to our children.

There is no question that this tobacco candy is dangerous. The Indiana Poison Control has estimated that each tablet delivers 60 to 300 percent of the nicotine in a single cigarette. The product is addictive. The product causes cancer. And unless we pass this bill and give the FDA the authority to regulate, soon you will see this tobacco candy in a convenience store near you, and we will see more displays such as the one shown here in Portland—tobacco candy advertised right next to ice cream.

Once the companies master the technique of turning tobacco into kid-friendly candy, there is no end to the variety of products that can be turned out. Already RJR has announced they are planning to launch two new forms of tobacco candy; sticks, which look like toothpicks you suck on, and strips, which are nearly identical to breath mint strips that dissolve on your tongue.

Everywhere I go and talk about these products, people are outraged. Meanwhile, the tobacco industry and its champions are trying to justify these products as safe alternatives to smoking. That just isn't so. And that rhetoric poses a real danger to consumers who might think smokeless tobacco is harmless. In fact, this very rhetoric shows why we need to have the FDA regulating this product. In fact, the Surgeon General has determined the use of smokeless tobacco can lead to oral cancer, gum disease, heart attacks, heart disease, cancer of the esophagus, cancer of the stomach.

This is not a safe product. This is not safe tobacco. It is a product like cigarettes that causes cancer and kills. Further, it is not a method of helping smokers to quit smoking. The purpose of smokeless tobacco candy is not to help people quit tobacco products, it is designed to addict them to tobacco products. The idea that the tobacco companies would be out marketing a



product designed to get people to quit using tobacco products is, quite frankly, obviously ridiculous. Unlike Nicorette or the nicotine patch, which are designed to help people quit smoking, tobaccoless candy does not help you quit and the doses do not get any lower over time.

The U.S. Public Health Service Clinical Practice Guideline notes:

The use of smokeless tobacco products is not a safe alternative to smoking, nor is there evidence suggesting it is effective in helping smokers quit.

It is no secret these products are dangerous. Six years ago to this very day, Surgeon General Richard Carmona talked about what he called the "public health myth" that smokeless tobacco is a good alternative to smoking. He emphatically said that was simply not true, and I think it is worth quoting him at some length:

I cannot conclude that the use of any tobacco product is a safer alternative to smoking. This message is especially important to communicate to young people, who may perceive smokeless tobacco as a safe form of tobacco use. Smokeless tobacco is not a safe alternative to cigarettes. Smokeless tobacco does cause cancer.

That statement is from a 2003 House hearing on tobacco harm reduction, and I ask unanimous consent, Madam President, to have printed in the RECORD the entire prepared testimony delivered that day.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION, COMMITTEE ON ENERGY AND COMMERCE, UNITED STATES HOUSE OF REPRESENTATIVES

CAN TOBACCO CURE SMOKING? A REVIEW OF TOBACCO HARM REDUCTION

Statement of Richard H. Carmona, M.D., M.P.H., F.A.C.S., Surgeon General, U.S. Public Health Service, Acting Assistant Secretary for Health, Department of Health and Human Services

Mr. Chairman, distinguished members of the Subcommittee, thank you for the opportunity to participate in this important hearing. My name is Richard Carmona and I am the Surgeon General of the United States of America.

Let me start with a few statements that were once accepted throughout society that have now been relegated to the status of myth.

Men do not suffer from depression.

Domestic violence is a 'family' or 'private' matter.

The HIV-AIDS epidemic is of no concern to most Americans.

All of us here know that these three statements are very dangerous public health myths.

My remarks today will focus on a fourth public health myth which could have severe consequences in our nation, especially among our youth: smokeless tobacco is a good alternative to smoking. It is a myth. It is not true.

As the nation's Surgeon General, my top responsibility is to ensure that Americans are getting the best science-based informa-

tion to make decisions about their health. So I very much appreciate the opportunity to come before this Subcommittee today and help refute this dangerous idea.

First, let me emphasize this:

No matter what you may hear today or read in press reports later, I cannot conclude that the use of any tobacco product is a safer alternative to smoking. This message is especially important to communicate to young people, who may perceive smokeless tobacco as a safe form of tobacco use.

Smokeless tobacco is not a safe alternative to cigarettes.

Smokeless tobacco does cause cancer.

Our nation's experience with low-tar cigarettes yields valuable lessons for the debate over smokeless tobacco.

Tobacco use is the leading preventable cause of death in the United States.

Each year, 440,000 people die of diseases caused by smoking or other form of tobacco use—that is about 20 percent of all deaths in our nation.

The office I lead as Surgeon General has long played a key role in exposing the risks of tobacco use. In 1986, the Surgeon General's Report *The Health Consequences of Using Smokeless Tobacco* reached four major conclusions about the oral use of smokeless tobacco:

1. Smokeless tobacco represents a significant health risk;

2. Smokeless tobacco can cause cancer and a number of non-cancerous oral conditions;

3. Smokeless tobacco can lead to nicotine addiction and dependence; and

4. Smokeless tobacco is not a safer substitute for cigarette smoking.

Recognizing these serious health consequences, Congress passed the Comprehensive Smokeless Tobacco Health Education Act in 1986. This law required the placement of Surgeon General's warnings on all smokeless tobacco products.

Mr. Chairman and Members of the Subcommittee, I respectfully submit that smokeless tobacco remains a known threat to public health just as it was when Congress acted in 1986.

Conversely, time has only brought more disease, death and destroyed lives.

The National Toxicology Program of the National Institutes of Health continues to classify smokeless tobacco as a known human carcinogen—proven to cause cancer in people.

As Surgeon General I cannot recommend use of a product that causes disease and death as a 'lesser evil' to smoking. My commitment, and that of my office, to safeguard the health of the American people demands that I provide information on safe alternatives to smoking where they exist.

I cannot recommend the use of smokeless tobacco products because there is no scientific evidence that smokeless tobacco products are both safe and effective aids to quitting smoking.

Smokers who have taken the courageous step of trying to quit should not trade one carcinogenic product for another, but instead could use Food and Drug Administration-approved methods such as nicotine gum, nicotine patches, or counseling.

While it may be technically feasible to someday create a reduced-harm tobacco product, the Institute of Medicine recently concluded that no such product exists today. When and if such a product is ever constructed, we would then have to take a look at the hard scientific data of that particular product.

Our nation's experience with low-tar, low-nicotine cigarettes is instructive to the issue

at hand. Low-tar, low-nicotine cigarettes were introduced in the late 1960's and widely endorsed as a potentially safer substitute for the typical cigarette on the market at that time. Within a decade, the low-tar brands dominated the cigarette market. Many smokers switched to them for their perceived health benefits.

Unfortunately, the true health effects of these products did not become apparent for another 10 to 20 years. We now know that low-tar cigarettes not only did not provide a public health benefit, but they also may have contributed to an actual increase in death and disease among smokers.

First, many smokers switched to these products instead of quitting, which continued their exposure to the hundreds of carcinogens and other dangerous chemicals in cigarettes. Second, to satisfy their bodies' craving for nicotine, many smokers unwittingly changed the way they smoked these low-tar cigarettes: they began inhaling more deeply, taking more frequent puffs, or smoking more cigarettes per day.

In fact, we now believe that low-tar cigarettes may be responsible for an increase in a different form of lung cancer, adenocarcinoma, which was once relatively rare. This cancer is found farther down in the lungs of smokers, indicating deeper inhalations, and appears linked to a specific carcinogen particularly present in low-tar brands.

We must learn the lessons of the low-tar cigarette experience. Not only did they fail to reduce an individual's risk of disease, but they also appear to have increased population risk by delaying quitting and potentially contributing to initiation among young people. This has taught us that we must move cautiously in recommending any supposedly safer alternative for people trying to quit smoking—because now, with more knowledge and the benefit of hindsight, the science does not support early recommendations on low-tar cigarettes.

Mr. Chairman, in the interest of time I will shortly ask that the remainder of my statement and the scientific information contained in it be considered as read and made part of the record. But before I do that, I would like to ask for this Subcommittee and the Congress' help in getting the message out about the dangers of the myth of smokeless tobacco.

All of us in this room are very concerned about our nation's youth. Kids growing up today have a tough time of it. In addition to the normal struggles of puberty, many kids are facing a host of other challenges. Many, especially minority kids, must struggle to find their way in unsafe neighborhoods.

So the temptation to engage in behavior that is not healthy, and the opportunity to do so, is very hard for our young people to resist.

According to a 2000 survey by the Substance and Mental Health Services Administration (SAMHSA) (The National Household Survey on Drug Abuse), about 1 million kids from age 12-17 smoke every day. Another 2 million kids smoke occasionally.

And we know that smoking is often not a "stand-alone" risk behavior; it travels with others. The SAMHSA survey found that youth who were daily cigarette smokers or heavy drinkers were more likely to use illicit drugs than either daily smokers or heavy drinkers from older age groups. More than half of 12-17 year olds who were daily smokers had also used illicit drugs within the past month.

Every day, more than 2,000 kids in the U.S. will start to smoke, and more than 1,000



adults will die because of smoking. We have to get youth to stop starting. But the answer is not smokeless tobacco.

We have evidence to suggest that instead of smokeless tobacco being a less dangerous alternative to smoking, just as smoking is a gateway to other drugs, smokeless tobacco is a gateway to smoking.

So we must redouble our efforts to get our youth to avoid tobacco in all forms.

We have some real work to do on the "culture" of smokeless tobacco, which is glamorized by some sports stars. Chicago Cub Sammy Sosa, who has made a public commitment to avoiding smokeless tobacco, is a great example for kids. Past baseball great Joe Garagiola is now Chairman of the National Spit Tobacco Education program, and regularly lectures young players against the dangers of smokeless tobacco.

As Members of Congress, you can lead by example too, not just in legislation, but in your own lives. I encourage you to avoid tobacco in all its forms. Do not fall for the myth—a very dangerous public health myth—that smokeless tobacco is preferable to smoking. Do not let America's youth fall for it, either.

From the perspective of individual risk, the cumulative effect on smokers of switching to smokeless tobacco is simply not known. But we clearly know that use of smokeless tobacco has serious health consequences. Overall, smokeless tobacco products have been classified as a known human carcinogen. And limited scientific data indicate that former smokers who switch to smokeless tobacco may not have as great a decrease in lung cancer risks as quitters who do not use smokeless tobacco.

From the perspective of population risk, there are even more unanswered questions. Even if there was some decreased risk for smokers who switch to smokeless tobacco, that benefit may be more than offset by increased exposure of the overall population to this known carcinogen.

The marketing of smokeless tobacco as a potentially safer substitute for cigarettes could lead to:

More smokers switching to smokeless tobacco instead of quitting tobacco use completely;

A rise in the number of lifetime smokeless tobacco users if more youth begin using smokeless tobacco;

A rise in the number of cigarette smokers as a result of more youth starting to use smokeless tobacco and then switching to cigarette use; and

Some former smokers returning to using tobacco if they believe that smokeless tobacco is a less hazardous way to consume tobacco.

Concerns about youth initiation are especially troubling. The scientific evidence is clear that use of smokeless tobacco is a gateway to cigarette use. Young people may be especially attracted to smokeless tobacco if they perceive it to be safer than cigarettes. Studies show that more than one in five teenage males have used smokeless tobacco, with age 12 being the median age of first use. Surveys also show that more than two in five teenagers who use smokeless tobacco daily also smoke cigarettes at least weekly. Finally, independent research and tobacco company documents show that youth are encouraged to experiment with low-nicotine starter products and subsequently graduate to higher-level nicotine brands or switch to cigarettes as their tolerance for nicotine increases.

Finally, we simply do not have enough scientific evidence to conclude that any to-

bacco product, including smokeless tobacco, is a means of reducing the risks of cigarette smoking. At this time, any public health recommendation that positions smokeless tobacco as a safer substitute for cigarettes or as a quitting aid would be premature and dangerous. With the memory of our experience with low-tar cigarettes fresh in our minds, we must move extremely cautiously before making any statement or endorsement about the potential reduced risk of any tobacco product.

Finally, my strong recommendation as Surgeon General is a call for sound evidence about tobacco products and their individual and population based health effects. We need more research. We need to know more about the risks to individuals of switching from smoking to smokeless; and we need to know more about the risks to the entire population of a promotion campaign that would position smokeless tobacco as a safer substitute for smoking.

Until we have this science base, we must convey a consistent and uncompromised message: there is no safe form of tobacco use.

Thank you. I would be happy to answer any questions.

Mr. MERKLEY. Madam President, it is a travesty that R.J. Reynolds can launch an addictive carcinogenic candy targeted at children with no review by the Food and Drug Administration. Nicorette—designed to help you quit smoking—went to the FDA for approval, but caramel tobacco candy or mint tobacco candy—designed to hook kids on tobacco—is on the shelves in Portland, OR, right now with zero oversight.

This bill will finally bring some transparency and common sense to the regulation of tobacco. Finally, the FDA will be able to address the single greatest public health menace in our Nation. I am pleased that this bill does include an amendment that Senator BROWN and I authored to require the Tobacco Advisory Committee to expedite the review of tobacco candy. I look forward to passing this bill and to keeping tobacco candy from store shelves before the industry succeeds in hooking a whole new generation of our children.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I rise today in support of the Family Smoking Prevention and Tobacco Control Act, but first, I would like to take a moment to recognize the outstanding leadership of Chairman KENNEDY on this important public health issue. This is not the first time he has ushered a bill on this topic from committee to the Senate floor. I am confident that my colleagues, in recogni-

tion of the tremendous, hazardous effects that tobacco has on children, adolescents, adults, and seniors, will join me in fulfilling one of chairman KENNEDY's wishes, and mine, of finally seeing this bill signed into law.

I would also like to thank Senator DODD for his dedication in carrying out the aggressive schedule of the HELP Committee set forth by the chairman so we can bring this legislation to the floor.

As a cosponsor of this legislation, I firmly believe that we cannot afford to wait another day for it to be enacted. This is not the first time that I have risen to speak on the importance of regulating the sale of tobacco products, but I am hopeful that with this legislation we will take a giant leap toward eradicating the use of nicotine, by discouraging our youth from ever lighting-up, and chip away at skyrocketing smoking-related healthcare costs.

Every year that passes, and this legislation is not enacted, another 4,700 children in Rhode Island try a cigarette for the first time—that amounts to 1,400 children in my State alone becoming regular, daily smokers each year. These new smokers become part of the 8.6 million individuals nationwide suffering from smoking-caused illnesses; they become part of the 400,000 deaths every year attributed to tobacco use. We can and must do more to curb the use of this very serious and deadly poison. This is a public health emergency that demands action.

Over the years, the tobacco industry has been confronted with opportunities to do the right thing—to be honest about the health effects of tobacco or even the intended targets of various marketing campaigns. In every instance they passed up that opportunity and actively fought to continue alluring generation after generation to use tobacco products.

I would like to use the time that I have today to walk through some of those occasions in an attempt to demonstrate how important the Family Smoking Prevention and Tobacco Control Act is to the American people, not only to our health, but to our economic prosperity.

In 1994, while I was in the House of Representatives, seven executives from the tobacco industry took an oath before a House committee that they would tell the truth about tobacco. In their statements and responses to questions from members on the committee, all seven individuals stated that they believed nicotine was not addictive, and that new marketing practices were not designed to reach younger and younger age groups, below the legal smoking age of 18.

In order to support these claims, the executives cited research councils and institutes. But these statements were contrary to what many public health

officials were saying, and what I believed. This further obscured the notion that smoking was a direct cause of disease.

A total of 46 States—including my own—States in which the majority of my colleagues represent—then proceeded to call their bluff, one lawsuit at a time.

Through these cases, the American people learned that the lies and deceit of the tobacco industry extended far beyond that of a Congressional hearing room. The suits unearthed that the tobacco industry had established and funded the councils and institutes claiming tobacco was not a health hazard; and had internal documents stating that No. 1, nicotine is addictive; No. 2, smoking is a habit of addiction; and No. 3, that in order to continue to prosper, cigarettes must be marketed to younger and younger age groups—below the legal smoking age of 18.

The tobacco industry settled these lawsuits. The agreement, totaling nearly \$206 billion, was ordered to be distributed to the States in an effort to recoup Medicaid dollars spent on smoking-related health care costs. While \$206 billion seems like a lot to you and me, this amount of money only accounts for approximately 7 years of the Medicaid budgets of the 46 States.

The fact that the industry did settle should have been a clear sign that tobacco production and marketing needs to be regulated. Unfortunately, around the same time that the settlement occurred, the Supreme Court narrowly ruled—on a 5-to-4 margin—that the FDA did not have such authority to regulate their products. The tobacco industry continued to aggressively market tobacco products.

Nearly 10 years later, this past December, the Supreme Court upheld that tobacco firms could, in fact, be charged at the State level with deceptive advertising practices of cigarettes. We have on the one hand, no regulation; on the other hand, the possibility of State enforcement.

These two Supreme Court decisions further complicate the message received by Americans regarding the use, marketing and distribution of tobacco. In essence, the industry could be held liable for certain advertising practices, but direct, regulatory oversight of those practices does not exist. Appropriate guidelines do not exist. With this bill, we have the opportunity to ensure that guidelines are established.

To add yet another layer to this debate, only 2 weeks ago, the U.S. District Court of Appeals for the District of Columbia ruled that the tobacco industry falsely advertised “light” and “low-tar” cigarettes under the guise that they were less dangerous than other products. This ruling comes after 10 years from the date the suit was originally filed—10 years too late to prevent 10,000 Rhode Island children be-

ginning to regularly use tobacco. Had we enacted the Family Smoking Prevention and Tobacco Control Act, or a similar version of this legislation, years ago, we could have prevented some of those in my State and across the country from ever smoking. Instead, the debate has dragged on for 10 years.

Unfortunately, this debate will continue to drag on. The tobacco industry has already publicly stated that it will continue to argue the decision that was recently rendered. Rather than taking the tortuous, time-consuming and very expensive path of taking the case through litigation, I think we have to give the FDA the authority to regulate tobacco products.

We have the opportunity before us to put an end to the courtroom drama. With the Family Smoking Prevention and Tobacco Control Act, we can give the FDA the authority to regulate tobacco, restrict illegal advertising practices targeting children, prevent the unlawful sale of tobacco to our Nation's youth, and strengthen warning labels.

With this legislation, everyone wins. The tobacco industry would have clear guidance on advertising practices which could help them avoid lengthy litigation; young people will not be targeted by aggressive tobacco media campaigns; and the public health crisis caused by tobacco use—which costs the American people in health care dollars, in lost productivity, and in loss of loved ones—tremendous prices—would hopefully begin to fade.

In preparation for our discussion, I looked back at some of the past statements that I have made in support of regulating tobacco—and one sticks out in my mind: the tobacco industry has worked hard to earn the trust of the American people.

We must try to win that trust back. We must empower the FDA to regulate tobacco in order to rein in the use of tobacco by children, control the access that our children have to tobacco, and warn the American public about its dangers.

The Senate is finally once again on the path to having a meaningful debate about our Nation's health care system. It is my hope that this debate will result in appropriate, high quality health care coverage and access for every American. Of course, we hope to do all of this at the lowest possible cost.

If we are serious about reforming our health care system, why wait? Smoking-related health care costs are skyrocketing. Today the average cost of a pack of cigarettes in the country is about \$5 but the social cost is much more.

Every year, the public and private health care expenditures caused by smoking total approximately \$100 billion, and \$100 billion in lost productivity. These are staggering totals.

I will repeat: we literally cannot afford to wait another day for this legislation to be enacted.

We have the opportunity to begin charting a new course today. With this bill, we will begin to chip away at health care costs, steer our youth away from smoking, and pave the way for a healthier future for our Nation.

I look forward to working with my colleagues to enact this important piece of legislation and set forth on this new path for a healthier and more prosperous America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Madam President, I am very pleased that we are finally taking up this very important legislation. Regulating tobacco through the FDA is an essential part of addressing public health issues related to tobacco use, and I fully support this long overdue legislation. The cost of smoking is estimated at \$96 billion a year in health care costs. The human toll is even more appalling: 440,000 smoking-related deaths per year. Tobacco is responsible for one-third of all cancer deaths in the United States each year, and tobacco use is the most preventable cause of death in the country.

There are many important provisions in this bill, but this issue is primarily about our children. It is appalling that in Vermont, one in every six high school students smokes cigarettes, and nationally 20 percent—one in every five high school students—smoke. Every day, about 3,600 children between 12 and 17 years of age smoke their first cigarette; 1,100 of them will become regular smokers, and 300 of those will ultimately die from this habit. That is condemning over 100,000 kids every year to a certain early death caused by tobacco. No wonder that 70 percent of voters strongly support FDA having the authority to regulate tobacco.

Make no mistake, tobacco marketing and marketing to kids is big business. The tobacco industry spends about \$36 million every day marketing and advertising its addictive products in the United States. That is over \$13 billion a year. The multinational corporations that market tobacco are not spending that kind of money if they don't expect a big return. Some of these ads are not just trying to get older addicted smokers to switch brands, they are marketing to girls and young women to get them to start smoking and they are marketing to teenage boys to get them to start smoking. They are adding candy flavors to get young people to start smoking.

That our Nation's most vulnerable are subjected to these kinds of marketing campaigns of multimillion-dollar profit companies is a disgrace and an outrage. Can one imagine a company trying to addict our young people to a habit which will prematurely kill them? I am not quite sure what kind of morality exists on the part of people who do this. We are talking about an industry where the largest company, Philip Morris, brought in \$18.5 billion in revenue in 2007 from their U.S. business alone and over \$64 billion in total revenues internationally. The tobacco industry spent nearly \$28 million lobbying Congress in 2008, and from 1998 to 2006, they spent over \$248 million to prevent Congress from acting to protect the children and the citizens of our country from this addictive practice. Given these figures and the fact that profit margins are estimated at 46 cents per pack for Philip Morris, I cannot understand any argument against legislation to regulate the marketing, advertising, and product standards of cigarettes and other tobacco products.

Tobacco has been considered more addictive than heroin. Let me repeat: Tobacco has been considered more addictive than heroin. In fact, there are a number of anecdotal stories of former heroin addicts who were able to kick their heroin habit but not their tobacco habit. It was just too hard to quit tobacco compared to heroin. Imagine that.

Tobacco companies are adding nicotine and other chemicals to their products to make these products even more addictive. And they are not regulated. Nobody regulates them. They can add whatever they want whenever they want. So we have multinational corporate executives in three-piece suits making huge amounts in compensation packages based on selling a killing and addictive product to the American people and to our children. We should be very clear when we take a look at these CEOs and understand that they are nothing more than high-priced and high-paid drug pushers. This Congress has spoken out repeatedly against those horrendous people, the lowest of the low, who are trying to get our kids into heroin and other drugs. We should look at these CEOs in the same way and say to them: How dare you try to sell addictive products to our kids, get them hooked into smoking cigarettes, and force them to end their lives prematurely and, in many cases, very painfully.

While one major part of this issue is stopping tobacco use before it starts, Congress will also need to take up the issue of cessation. About 70 percent of all smokers say they want to quit smoking, but tobacco is so addictive that even the most motivated may try to quit eight or nine times before they are able to do so. I look forward to working with my colleagues in the

Senate to address what I see as an addiction that leaves hard-working people struggling to make ends meet with limited choices in terms of cessation programs. What we have to do as a nation—and I know it is outside the scope of this particular bill—is to make it as easy as possible for anyone in America who wants help in order to stop smoking and kicking the habit to be able to do so. We are not there right now. Sometimes it is complicated. Sometimes it is expensive. Sometimes people do not know how to access cessation programs. But I think that is a goal we must strive for.

Studies have shown smoking has become even more concentrated among populations with lower incomes and with less education. Why do low-income people smoke? Medical research shows that being poor is, needless to say, extremely stressful. And as anyone who has ever been addicted to tobacco knows, being anxious, being stressful makes you reach for a cigarette.

We have a lot of work in front of us. I think this bill is a very good step forward. The bottom line is, this Congress has to, through the FDA, regulate tobacco. Our goal has to be for these companies to stop pushing their dangerous and addictive product onto our people, especially our kids. Our goal has to be to come up with programs to make it as easy as possible for people to get off their addiction.

So we have a lot of work in front of us. I think this bill is a very good step forward.

Having said that, Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 1173 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FEINGOLD. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of New Mexico. Madam President, I rise to support the Family Smoking Prevention and Tobacco Control Act, and I wish to start by thank-

ing Senator KENNEDY and all those who have fought for this legislation over the years.

Watching this debate, I can't help but think of the movie "Groundhog Day." In that movie, Bill Murray has to live the same day over and over. Like him, I have been here before. We have all been here before.

The FDA first attempted to regulate tobacco products in August 1996, almost 13 years ago. In 2000, a narrow majority on the Supreme Court ruled that the Congress had not given the FDA authority to regulate tobacco. But even as the Court struck down the FDA rules, it noted that tobacco poses "one of the most troubling public health problems facing our Nation today."

Immediately after that decision, this body considered legislation to provide the needed authority. That legislation was introduced by the Senator from Rhode Island and our senior Senator from New Mexico. They argued that the FDA regulation of tobacco was "long overdue." They pointed out that every day we delayed, more kids would start smoking and more citizens would face disease and death. That was almost a decade ago.

Since the FDA first tried to regulate tobacco, more than 20.6 million American kids smoked their first cigarette, and more than 2.6 million of those kids will die because they did. Almost \$1 trillion has been spent on health care costs associated with smoking, and 4.6 million Americans have lost their lives to cigarettes.

We do not know how many young people would not be addicted today if these companies had been prevented from advertising their products to our children. We do not know how many cases of lung cancer and heart disease could have been prevented if tobacco companies had not boosted nicotine levels and marketed light cigarettes as if these cigarettes weren't killers. We don't know how many lives were lost while Congress failed to act. But we do know that number is too high—much too high.

I first became involved with this issue when I was New Mexico's attorney general. In May of 1997, we joined a lawsuit that would eventually involve 46 States and 6 territories. In some ways, this lawsuit was like any other. My client, the State of New Mexico, had lost thousands of lives and billions of dollars because of the defendant. Our suit simply demanded restitution and damages.

But on a broader level, the tobacco cases were unprecedented. We were responding to a threat that impacts every American. The suit began in Mississippi and it spread to almost every State, regardless of politics or geography. We were addressing a national problem because the Congress had failed to act.

In 1998, we negotiated a Master Settlement Agreement that was an important step forward. But we knew there was more to be done. Some have claimed the settlement makes FDA regulation of the tobacco industry unnecessary. As somebody who helped negotiate that agreement, let me tell you that nothing could be further from the truth.

The settlement was not intended as a substitute for adequate Federal regulation. In fact, the agreement originally called for FDA regulation as an integral part of efforts to protect the public. The National Association of Attorneys General recently filed an amicus brief saying the settlement has not stopped tobacco companies from marketing to kids.

In fact, tobacco company memos demonstrate that their business depends on recruiting what they call "replacement smokers." Companies used to strategize about how to attract customers as young as 13, and evidence suggests this strategy has not changed. Even after the 1998 settlement agreement, one tobacco company noted, "market renewal is almost entirely from 18-year-old smokers." They do not say they are targeting minors. That would be illegal. But somebody is going to have to explain to me how you can focus your business model on 18-year-olds without marketing to 17-year-olds.

When I came to Congress after my service as an AG, I strongly supported FDA regulation of tobacco. I knew then the settlement did not provide the kind of flexibility needed to effectively control tobacco industry actions. Since the settlement was signed, the tobacco companies have shown us they will evade it at every opportunity. On May 22, the DC Circuit Court of Appeals affirmed the 2006 ruling that found tobacco companies guilty of racketeering and fraud. The original ruling contained 1,300 pages describing tobacco company efforts to endanger the public health and to cover up their activities. Many of these actions were taken after the settlement agreement.

The court found the tobacco companies "began to evade and at times even violate the settlement agreement's prohibitions almost immediately after signing the agreement." After disbanding a research program, according to the terms of the agreement, the companies initiated a new research program with the same office, the same board, and even the same phone numbers.

Given the obvious dangers of tobacco products and the behavior of the tobacco company executives over the years, why isn't this product already regulated by the FDA? This question was answered implicitly by the Supreme Court in 2000, and the answer is instructive. The Court found that tobacco, unlike other FDA-regulated

drugs, has no health benefits. In other words, tobacco is too unhealthy to be regulated.

Whatever you think of that ruling, it poses a serious question. Should an agency that regulates Tylenol be unable to regulate a substance that kills 440,000 Americans every year—more than—and think about this for a minute—more than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined? Tobacco kills more than all those combined. Is it possible that one of the world's most deadly addictive substances should be immune from the rules that govern almost every other addictive substance that can be legally sold in this country?

Some of those who have spoken on this bill have pointed out the FDA cannot solve the most significant problem with tobacco—that when used as directed, it kills the user. But the FDA can stop tobacco companies from adding ingredients that make their products more addictive and more deadly. It can stop them from lying to consumers about the health impact of their products, and it can stop them from marketing to our children. In fact, the FDA is particularly qualified to do these things.

As I was preparing to come to the floor today, I got an e-mail from one of my constituents in Hobbs, NM, and she reminded me why this bill is so important. She had received an e-mail from a tobacco company. The company thought she was one of their customers, and they asked her to send me a form e-mail opposing this legislation. She forwarded their e-mail, and at the beginning of the e-mail she wrote:

They strongly urged me to copy the following message to you and to vote against it. What they don't know is I don't smoke. But my 12 and 7-year-olds do because they have to go visit their dad, who smokes around them. Not only do they get a lot of secondhand smoke, but my oldest one idolizes her dad and will probably end up smoking because of him. So by all means, pass the bill.

Congress has waited too long to protect this woman and her children. It is time to get this done.

In "Groundhog Day," Bill Murray wakes up to a different day when he finally does the right thing. I am hoping we will all wake up after this vote to a new day—a day when our citizens have the health protections they should expect from their government. I would ask you to join me in supporting this commonsense legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I yield 45 minutes postcloture time to Senator BURR.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, let me say to my colleague, who had his constituent send him a letter and who

served in an incredibly effective fashion as State attorney general and who was involved in the MSA, the MSA was very clear. States extorted—that is what I call it—money from the tobacco companies to pay for health care costs. That money that was part of the Master Settlement Agreement was laid out on behalf of the tobacco industry to address the health care costs in those States but also to provide the resources so those States could, in fact, do cessation programs for adults to stop smoking.

What is our experience in the country relative to the recommendations given by the Centers for Disease Control to those States in terms of what they ought to spend on programs to get individuals to stop smoking? Well, in the State of New Mexico, they have done very well. They have actually spent 44 percent of what the CDC suggested they spend.

But I think you would also find it shocking to know that the prevalence of marijuana usage in that State is 1 percent higher than the prevalence of smoking by youth. The prevalence of youth marijuana usage is 1 percent higher than the prevalence of smoking cigarettes by youth. In addition to that, I might add that the prevalence of alcohol among the youth there is almost double what the usage is of smoking or the prevalence of marijuana usage.

There are two objectives to regulating differently an industry that is currently the most regulated industry in America, and the sponsors of this bill have stated it numerous times: No. 1, to reduce youth usage; No. 2, to reduce disease and death. That is the public health component, and I agree totally with it. But I think what we have to look at is the experience of what is happening today and what the assessments are of the bill that is being considered that would grant FDA jurisdiction of this product.

Today, the Centers for Disease Control says smoking is being reduced annually by 2 to 4 percent. The Congressional Budget Office has looked at the Kennedy bill and assessed that over the next 10 years the bill would reduce consumption by smokers at 2 percent. Let me say that again. Currently, doing nothing—not spending billions of dollars, not giving new authorities to the FDA—we reduce smoking by 2 to 4 percent per year. But if we put this bill into effect—at \$787 million annually—and we give the FDA authority and jeopardize the gold standard of the agency which approves drugs and biologics, medical devices and food safety, we are actually not going to reduce smoking usage as much as if we did nothing.

Why is that? This is very important because you will hear me talk over the next several days about reduced-risk products. Reduced-risk products are

products that deliver the nicotine needed for the addiction but reduce the risk of disease and death because it may be moved from smoking products to smokeless products. The truth is, under the Kennedy bill, we basically eliminate any product that wasn't marketed in February of 2007—over 2 years. We have put a marker in the bill that says if there is a product in the marketplace that was not sold in February of 2007, it can't be sold any more. But if it is a product that was sold before February 2007, the FDA can't change it one bit. It is grandfathered in.

So what is the CBO's assessment? What the Kennedy bill does is it grandfathers every cigarette that was on the market 2½ years ago and it doesn't allow the FDA to change it in any way. The only thing it does is to increase the warning label. I stated on the floor earlier today that if putting a warning label on it reduces the usage of cigarettes, I am willing to do it today. I will cosponsor it with anybody. The truth is, what this bill does is it locks in these products; therefore, it eliminates the choices adults have to try to get off of cigarettes and move to a reduced-risk product.

My colleague pointed to the Supreme Court ruling on the tobacco industry, and he was partially correct. He just didn't tell the whole story. The whole story was the Court said, in 1998, when the FDA Modernization Act was written and passed and signed into law, Congress opened the entirety of the FDA Act and had the opportunity to give the FDA tobacco jurisdiction and chose at the time not to do it. That was 11 years ago; 11 years ago, the FDA Modernization Act was passed. I was the lead sponsor of that bill, writing that bill in the House of Representatives. It took 2½ years to construct it. Every Member believed that the gold standard of the FDA was so important that we never lost focus on the fact that we had to maintain the integrity of the mission statement of the FDA. But no Member of Congress ever attempted to extend jurisdiction over tobacco to the FDA because they were concerned at the time that to do that would lessen that gold standard at the FDA.

How can you tell an agency that has a regulatory responsibility to protect the safety and effectiveness of those products they regulate that we want you to do it on drugs and biologics and medical devices, but we don't want you to do it on this new product of tobacco? The risk and concerns and fears at the time were that this might diminish the effectiveness of the FDA.

What has happened in 11 years? For 11 years, we have had a steady decrease in smokers. Now we are going to adopt a bill that potentially locks us into just the products in 2007. Why have we had a reduction? Because new reduced-

risk products have come to the marketplace. We ought to continue to bring new reduced-risk products to the marketplace. Unfortunately, this bill does not do that. As a matter of fact, in section 910 of this bill, a so-called new tobacco product would not be marketed unless these three things were met: No. 1, it can show the marketing is appropriate for the protection of public health; No. 2, the increased likelihood that existing users of tobacco products will stop using such products; and No. 3, the likelihood that those not using such products will not start.

Let's take the first requirement and put it into English. Before a company could market a new tobacco product, it would have to show that its use is appropriate for the protection of public health. Who in the world can show that the use of a tobacco product is appropriate for public health? It is impossible. In other words, this new tobacco product—be it a cigarette, raw tobacco, perhaps an alternative tobacco product—the companies would have to show that this new product is appropriate for the protection of public health. Somebody is going to have to explain to me how a cigarette can be appropriate for the protection of public health. It cannot be done. Therein lies why I grandfathered products before 2007.

Even if by some miracle the inventor could show a product was appropriate for the protection of public health, this would only meet a third of the qualifications for a new product to come to market. It would also have to show that the product will make smokers or those using chewing tobacco less likely to smoke or chew and will prevent new people from starting. Again, somebody will have to show me how you can provide an example of a tobacco product currently for sale that would satisfy these standards: it discourages people from smoking, and it deters young people from starting. The bill's manager, the author of the bill, could not share with us exactly how you accomplish that.

How does one go about assembling the data that is needed for new products when, in fact, you cannot actually ask consumers about a product that has yet to have an application approved. It is a catch-22. It sounds good.

Let me highlight another problem with the bill as it relates to harm reduction. You heard me discuss harm-reduction products or products that are less harmful. These are not found in H.R. 1256.

I am sure my colleagues are aware that the legislation would ban several products not sold in 2007. One of the products is a product called snus. We have seen the can. It is a Swedish smokeless tobacco, it is pasteurized, and it doesn't require one to spit. It is a tool that in Sweden has been used to get people off of cigarettes. Yes, it is

still the use of tobacco products, but it meets the threshold of diminishing the risk of death and disease. Some suggest because there is a wintergreen and there is a spice, that this is attractive to kids. That is not the case. If that were the case, we would see wintergreen marijuana, because the usage or preference among youth is higher. The truth is, that has nothing to do with it. As I understand it, the product does not require the burning of tobacco. It does not require the actual smoking of tobacco. It generates no secondhand smoke. It will not affect the children near a user. According to the research done by a host of reputable scientists and public health organizations, use of this product instead of cigarettes can actually reduce death and disease associated with smoking. Why would you ban this product if the pretext of passing this bill is to reduce the risk of death and disease? You would not. But we eliminate the ability for this product to come to market in the future, and that which is at market today we ban from the market. In other words, it is clear that snus is far less dangerous than cigarettes, and it would be appropriate for the protection of public health because it eliminates secondhand smoke, it moves people away from smoking cigarettes. It would meet much of the standard of the bill, but the legislation still mandates that the manufacturer of snus demonstrate that snus will not encourage nonusers to start.

Again, I am not sure how you communicate with the general public—which is strictly prohibited in the bill until you have an approved application. If you need to communicate with the public in order to understand whether the product would cause nonusers to start for a reduced product approval application but you cannot communicate with consumers until you have an approved application, how would you ever get approval under section 911? The devil is in the details. In fact, you cannot communicate, but you have to communicate to be able to pass the third threshold of allowing the product to come to the marketplace.

So it is disingenuous to suggest that this bill is for the purposes of reducing death and disease when, in fact, those things that are proven to reduce death and disease have strictly been forbidden. And in the case of those that are at market today, they would be pulled from the marketplace.

It would be fair to say that what we are doing is freezing the marketplace for cigarettes and chewing tobacco. In 2007, I raised the issue with the HELP Committee because this same bill was brought up. The answer I was told then was that it may be difficult to bring a reduced-risk product to market. Bringing a reduced-exposure product to market is much simpler. So I said: Let's take a look at it. Maybe a cigarette

with less benzene or nitrosamines can work, so I read the reduced-exposure portion of section 911.

The first part of the reduced-exposure language reads that in the absence of conducting a 20- to 25-year study on tobacco products, if you can show a reduction in a harmful constituent in the product, you can classify it as reduced exposure. That seems reasonable.

Then, in addition, those little pesky words pop up: "additional findings." The reduced-exposure language states that you must show how the product would actually be used by consumers. Once again, catch-22—you can't talk to consumers until you have an approved application. You can't show how the product is going to be used by consumers unless you can talk to consumers. Therefore, there is no such thing as reduced exposure.

The bottom line? The bill that is being considered to give FDA jurisdiction brings no new harm reduction to tobacco users in America. It does to smokers exactly what the bill states, it locks in place all the cigarettes that were sold prior to February 1, 2007. Any of the reduced-risk product that has been introduced in over 2½ years automatically goes off the market, and the pathway through FDA for any new technology that might not burn tobacco or that might use tobacco in a different way that enables somebody to quit smoking and reduces death and disease—there is no pathway for it to happen because there is no way to communicate with the public until you have an application, and a part of the application process means you have to communicate with the public to meet the test that has been designed.

You know what this is typical of what the American people think about Congress, that we say one thing and we do something else. That is exactly what we are doing here.

I will offer a substitute with Senator HAGAN tonight, I believe. That substitute will bring full regulatory authority to an entity to regulate this industry. I am not up here saying we cannot regulate it better than we do today. It is the most regulated product in America. It is regulated by more agencies than any product that is sold today. Can we do it more extensively? Sure. Can we have better warning labels? Absolutely. Can we be graphic in our description of what these products cost? Certainly. But the question is, Where is it more appropriate to do the regulation?

I suggest that creating a new entity under the Secretary of Health and Human Services, where they have full authority to regulate this product, to limit its advertising, to eliminate its advertising, is a more appropriate place than to give it to the FDA, where their mission statement is to prove the safety and efficacy of all products they regulate, but they can never do it on

tobacco products; to put it under the same guidance of the Secretary of Health and Human Services, who also oversees the FDA.

What is so magical about putting this at the FDA? I will tell you, because they have attempted to do it for 10 years. It is because when you put it there, over time you will be able to outlaw this product—or you think.

I go back to this chart from the CDC, the Centers for Disease Control, where in 48 out of 50 States the prevalence of youth marijuana usage is higher than the prevalence of youth smoking. Don't think just because you outlaw it you are going to reduce this country's youth usage. As a matter of fact, you may find out you have increased youth access.

The way to do it is to take the money the manufacturers gave to the States and use the money to provide the education, to provide the cessation programs, to provide the reduced-use products that will allow individuals to get off cigarettes and go to something that really does reduce death and disease. But if you pass the Kennedy bill, that is not what we are doing. What we are doing is we are locking in forever the 21 or 22 percent of the American people who are going to smoke. In fact, the Centers for Disease Control said that if we do nothing, by 2016 we will reduce, from 21 or 22 percent, the smoking rate in America to 15.9 percent. We will actually reduce it over 6 percentage points by doing nothing.

Yet we are getting ready, if we don't support the substitute, to lock in a measure that assures us indefinitely into the future that 21 or 22 percent of the country will choose cigarettes as their means of tobacco usage. It means we will continue the rate of death and disease. We may look back and say: But we picked the strongest regulatory agency that we could to be in charge of the regulation of this product. Tell that to a patient waiting for a life-saving drug and the reviewer who was reviewing the application was moved over to the tobacco section, because this new responsibility they had made them take senior reviewers and get them over because they had to regulate this product from day one. Tell the individual in America who is harmed because of a medical device that should have never been approved but got through the system because the gold standard of safety and efficacy was not adhered to at FDA because they were asked to turn to tobacco and not prove that public health was important on this product and, therefore, new reviewers looked at it and said: We don't have to be 100 percent accurate on devices. Or the biologic companies, when they see a delay in the approval of an application, that actually invest billions of dollars to bring a lifesaving biologic to the marketplace that ends a terminal or chronic illness, what if this

product doesn't come because of what we do?

These are questions we should be asking ourselves. The American people deserve us to fully vet this. But in 2 days of markup on this bill, when questions were asked, the answers were ignored. They were more interested in the speed with which we pass this than the accuracy of the policies that we put in place. I have tried to keep the debate since yesterday on facts. I have tried, when I made a claim, to produce the numbers. The CDC is typically a credible source. The Congressional Budget Office is usually a credible source. The University of Michigan, many have come on the floor and used it as a credible source. This is not industry hype. These are institutions that we come to the floor and use to make our claims every day. What all of them say is: Don't pass this bill. But they don't say not to do something.

Tonight Members will have an opportunity to vote for a substitute, a substitute that gives the same level of authority, that does away with advertising in total, that puts the same descriptive labels on so that people cannot only read it in plain English but see it in detail. It just doesn't put it at the FDA. Why? Because I spent 2½ years of my life trying to modernize the Food and Drug Administration through a piece of legislation we passed in 1998. Why did it take so long? Because the FDA regulates 25 cents of every dollar of our economy. When the American people go to bed at night, they know if they take a drug that was prescribed by a doctor and filled by a pharmacist, it will not hurt them. More importantly, it is probably going to help them. It will make them better. Or when they go to the hospital or the doctor's office and they use a device, they know it has been reviewed and it is safe. They know that when they go to the grocery store, there is an agency called the Food and Drug Administration that is responsible for food safety. What they buy and what they eat is actually not going to kill them.

Yet we have seen instances over the last 3 years where spinach is sneaked through and peanut butter is sneaked through. And as we become a more global economy, our concerns about where it is made and what they put on it mean that our review of food safety has to be as stringent as everything else. The FDA is struggling today. The biggest mistake we could make is to give them another product and say, regulate this, and don't regulate it based upon the same standards you do everything else. But that is what we are doing.

If you want to reduce youth access, youth usage, if you want to reduce death and disease, vote for the substitute tonight. Reject the base bill. If we do that, we will have successfully done our job. If, in fact, we fall prey to



jeopardizing the gold standard of the FDA, mark my words, this body will be back at some point fixing a mistake they made.

My only hope today is that there won't be an American who loses their life by the actions we have taken. I am willing to concede that if the FDA gets the jurisdiction, the authority to regulate this industry, we will miss the opportunity to take a lot of Americans off of cigarettes and move them to other products, other products that are better for their health and not as likely to kill them. The statistics say that that will happen. Ask yourself, knowing that, is it worth risking that you might change the gold standard at the FDA, that you might lower the bar for drug or device approval, that we might actually slip on food safety. I am not sure the risk is worth it.

This is about our kids. Vote for the substitute. This is about the status quo. This is about letting an outside group have a win that has fought this for 10 years because they are in some battle with an industry.

Is it worth it for us to give them a win versus the American people? I don't think so. I encourage my colleagues to support the substitute tonight. Reject the base bill.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, pending before the Senate now is consideration of a bill that would dramatically change the way we regulate tobacco and tobacco products in America. This is an issue which has meant a lot to me during the course of my time in the House and in the Senate.

Many years ago—over 20 years ago—I offered an amendment which was the first successful attempt to regulate tobacco. I should say, earlier efforts at warning labels go back many years. But this was the first successful attempt to regulate the use of tobacco product.

What we did 20 years ago was suggest that the old days and the old ways of allowing people to smoke on airplanes had to change. Some of us are old enough to remember those days when you would make a reservation to fly on an airplane and you would tell them whether you wanted to sit in the smoking or nonsmoking section—as if there was any difference. For the most part, if you happen to be seated, at least, in the last seat of the nonsmoking section, you might as well be smack dab in the middle of the smoking section.

So we decided to eliminate smoking on airplanes. That was an amendment I offered in the House of Representatives over 20 years ago. It had the opposition of the tobacco lobby and the opposition of all the political leadership in the House of Representatives—Democrats and Republicans. They all opposed it for a variety of different reasons. But we called it anyway, and the amendment was successful. What it taught me was that Members of Congress are members of the largest frequent flyer club in America. We spend more time on airplanes than most. If there is something we want to change, it affects us personally. And this did.

So Democrats and Republicans came forward, and we started a trend which I think has been very beneficial for this country because once I passed that amendment, Senator FRANK LAUTENBERG of New Jersey took it up here in the Senate. He successfully passed it. We worked together to eventually eliminate smoking on airplanes, and the American people noticed. They liked it. They reached an obvious and rational conclusion: If secondhand smoke is dangerous in an airplane, then it is also dangerous in a train, in a bus, in an office, in a school, in a hospital, in a restaurant. Of course, the dominoes just kept falling. As they fell, there were more and more restrictions on smoking in public-type places.

So there were many things still to be done, and we started thinking about the obvious need for change. We knew we were up against one of the most powerful lobbies on Capitol Hill with the tobacco lobby. Not only were they very wealthy, with a lot of revenue from the sale of their product, but they also had ingratiated themselves to many Members of Congress of both parties. They did it in obvious ways: in contributing to campaigns. They were a major factor in some districts where they either manufactured their product or tobacco was grown. But they also befriended many Members of Congress, providing charitable contributions to hometown charities for Members of the House and Senate. It went a long way to build up good will and to convince Members of Congress to oppose any other changes when it came to tobacco regulation.

Well, there were things we knew needed to be done. You see, each day in America, 3,000 to 4,000 children start smoking for the first time—3,000 to 4,000 a day. During the course of that decisionmaking, about a third or a fourth of them will decide to stick with it. They will stick with it long enough that the nicotine chemical in the cigarette creates a craving and satisfies an addiction which is tough to break.

Oh, I have seen people walk away from a lifetime of smoking in a few days. But I have also seen people struggling for their entire lives trying to break that smoking habit—patches

notwithstanding and hypnosis and all those things. For a lot of people, it is a very hard thing to do.

The tobacco companies know if they are going to have 400,000 of their customers die each year, they have to replace them with children. If people wait until they are 18 years old or 21 years old, they are likely to be smart enough not to start smoking, but if you are 12 or 13, it is an adventure. It is something that is forbidden, and it shows that you are just like a grownup, and kids try it.

The tobacco companies know that. Although they deny it, they market to kids. They sell their products in a way that appeals to children, hoping that teenagers and even younger will start taking up this tobacco habit because it is not only cool, it tastes good. The advertising is appealing. Tobacco companies spend over \$13 billion a year promoting their products and many of those marketing efforts are directed right at our kids.

Mr. BROWN. Mr. President, would the assistant majority leader yield for a moment?

Mr. DURBIN. I would be happy to.

Mr. BROWN. Mr. President, I wanted to reemphasize the words of the assistant majority leader for a moment because I was walking through and heard his comments about tobacco companies' efforts to get children addicted.

As the assistant majority leader said, more than 1,000 Americans a day—400,000 a year—die from tobacco-related illnesses. I remember 15 years ago sitting in the House Energy and Commerce Health Subcommittee listening to tobacco executives talk to us about a whole host of things that they weren't exactly truthful about. But from the point Senator DURBIN makes that 400,000 Americans die a year from tobacco-related illnesses, it is clear that what the tobacco companies know they have to do is they have to replenish their customers. They have to find more than 1,000 new customers a day. They don't go to our age group. They do not go to 50-year-olds and 60-year-olds or 40-year-olds or even 30-year-olds; they go to the people the age of the pages sitting in front of us. They go to teenagers. Those are the people whom they know they must addict to replenish their customer base, if you will. That is why this legislation is so important and why the efforts of the assistant majority leader over the last 20 years, as a Member of the House and Senate, are so important, the victories he has had such as stopping smoking on airplanes and all of those other places. This legislation is extraordinarily important.

I yield back to the assistant majority leader.

Mr. DURBIN. Mr. President, I thank my colleague from Ohio for joining in. He certainly recalls those infamous



hearings in the House of Representatives when the tobacco company executives stood up and ceremoniously testified under oath that nicotine was not addictive. That, I think, was the beginning of the end of the tobacco lobby in Washington, DC. Everyone knew that they were, at best, misleading and, at worst, just plain lying to the American people. When it came to their advertising, they denied for years that kids were their targets. They said it hadn't been the case.

Then one can take a look at some of the tobacco companies' internal documents that came out during the course of lawsuits, and let me tell my colleagues some of the things they found.

The Lorillard Tobacco Company was quoted as saying: "The base of our business is the high school student."

Philip Morris, in their internal documents, said: "Today's teenager is tomorrow's potential regular customer."

U.S. Tobacco: "Cherry Skoal is for somebody who likes the taste of candy, if you know what I'm saying." I think I know what they are saying.

R.J. Reynolds, in an internal document, said:

Many manufacturers have "studied" the 14-20 market in hopes of uncovering the "secret" of the instant popularity some brands enjoy to the almost exclusion of others. . . . creating a "fad" in this market can be a great bonanza.

So make no mistake about it. We know. We all know. Tobacco companies have directed their ad campaigns and their recruitment at our children. I have said it before; it bears repeating. I have never met a parent who has said to me, I got the greatest news last night. My daughter came home and announced she had started smoking.

I have never heard that. I don't think I ever will. Most parents know that is a bad decision and one that can be fatal.

Cigarette companies claim they have finally stopped intentionally marketing to kids and targeting youth in their research and in their promotions, but they continue to advertise cigarettes in ways that reach these populations. They continue to make products that appeal to kids.

For example, take a look at this one on this chart. This is a product called Liquid Zoo. The packaging is powerful, and the cigarettes come in fun flavors: Coconut cigarettes. How about that one? Vanilla cigarettes. Strawberry cigarettes. Liquid Zoo offers these. It is almost as if you are going into an ice cream store, which most kids like to do, because you are offering the flavors they will find in the ice cream.

Look at the Sweet Dreams and Chocolate Dreams cigarettes over here; again, a variety of kid-friendly flavors. This time, the cigarettes themselves, if you will notice down here, are pastel colors to make them even more appealing to children. Not only are these

cigarettes designed to appeal to kids, but the tobacco companies buy the ads in magazines that teenagers read and try to draw them to their brands through advertising.

Here is a familiar one: Camel. Look at this ad for Camel cigarettes that ran in Rolling Stone Magazine, Cosmopolitan, and Vogue in 2004 and 2005. You can see from this ad it is appealing. These packages are designed in ways to appeal to young people, and the advertising as well. It took 39 State attorneys general to get on the tobacco companies' case before they finally agreed to stop marketing these cigarettes.

So what is next? Well, until we pass this legislation, it is inevitable that these tobacco companies will dream up another way to market their product to the kids.

This bill before us will make a difference. For the first time we are going to get serious about this. Tobacco products are one of the few, and maybe the only, products in America that go unregulated. You can't sell food or medicine in America without the Food and Drug Administration, or even the U.S. Department of Agriculture, taking a look at it. I will concede they don't inspect every package of food you will find in the store, but they have an overall responsibility to make sure that that product is safe for Americans to consume. But tobacco is an exception. Tobacco is not regulated. Tobacco is not inspected. They somehow manage to wiggle their way somewhere between food and drugs, saying, Oh, we are not a food product, and we are definitely not a drug product you would find in a pharmacy. But we know better. Even though it is an odd way to deliver a chemical—a drug—tobacco delivers nicotine and a lot of other chemicals as well. So even though they were successful in Congress for decades exempting themselves from coverage and inspection by the Food and Drug Administration, this bill is going to change that.

Senator TED KENNEDY is recovering from cancer, a brain tumor he has been fighting for many months now, and we all wish him the very best. He was the one who pushed this bill. He is the one who believed that the Food and Drug Administration should regulate tobacco products. I am sorry he can't be on the floor, because I would like to give him a big shout-out for the years he put into this effort. But we are here, and we have a chance to pass this legislation.

Here is what the bill does. It prohibits the colorful and alluring images in advertising that these tobacco companies shamelessly use to appeal to children. This bill also limits ads to only black-and-white text in newspapers and magazines with significant young readership, and in stores that are accessible to children. It makes it

harder for them to reach out to these kids and to dazzle them with their artwork and all of their images. It bans outdoor advertising near schools and playgrounds so kids won't be standing, waiting to go into school, looking up at a billboard suggesting that after school, you better get a pack of cigarettes. It ends incentives to buy cigarettes by prohibiting free giveaways with the purchase of tobacco products, and it finally puts a stop to tobacco sponsorship of sports and entertainment events.

I wish to tell my colleagues that most of us know the warnings that have been on cigarette packages for more than 40 years have outlived their usefulness. Does anybody notice them anymore? They put them on the sides of packages. They are really routine. Folks don't pay attention.

Well, we are going to change that. We are going to have much more effective warning labels on these products. This bill requires large, clearly visible warning labels at least covering half of the front and half of the back of the package of cigarettes. These labels will have large text and graphics displaying the dangers of smoking. Some people say, Why waste your time warning people? They know it already. Maybe they do. Maybe they need to be reminded. But we have an obligation as a government, as a people, to do everything we can to discourage this deadly addiction.

We are also going to require much larger warning labels in print ads for products. Some of these pictures I have shown my colleagues, you almost need a magnifying glass to find the Surgeon General's warning, which sadly has gone ignored too often. We are going to improve that by requiring that warning messages take up at least 20 percent of any advertisement they have in a magazine or on a billboard.

Study after study shows that advertising can influence young buyers. We certainly want to influence them to make a healthy decision when it comes to tobacco. This bill makes critical changes to limit kids' exposure to tobacco ads, and we know that is going to prevent kids from trying cigarettes and getting addicted.

One of the things we do in this bill as well is finally tell those who buy tobacco products what they are buying. If you believe a cigarette is just tobacco leaves ground up and put into a paper cylinder, you have missed the point. Those cigarettes are loaded with chemicals, not just the obvious naturally occurring nicotine but added nicotine to increase the addiction of smokers, as well as other chemicals which they think will make the taste of tobacco more appealing and will in some ways help the new smoker get through that first two or three cigarettes where they might be coughing. They are trying to make it a smooth

transition from ordinary breathing to breathing with tobacco smoke, so they load up the cigarettes with these chemicals.

If you go in and buy a box of macaroni at the store and take a look at the side of the package, you will see the contents. What is that macaroni made of? It will have 6 or 8 or 10 different things and a nutrition labeling box. If you pick up one of these packs of cigarettes and look for the ingredients, what is included in that cigarette, you won't find it. Why the exception? Because the tobacco lobby made sure there was an exception. They don't want you to know what is in that little paper cylinder of tobacco. Now that is going to change. This bill before us is going to give the Food and Drug Administration the authority to require disclosure of ingredients so that consumers know what they are getting into, and, of course, in the process, give us information we need to find out what kind of dangerous, toxic chemicals are being added to cigarettes. Those listening may say, Well, this Senator is getting carried away calling them toxic chemicals. In fact, they are. They are toxic, and they are carcinogenic, they are dangerous, and they make that smoking experience even more hazardous for the people who are involved in it. Don't we owe that warning to consumers across America? Don't we owe it to our kids? Shouldn't we try to protect the American people from the dangers that are associated with the No. 1 preventable cause of death in America today, tobacco-related illness?

This bill has been a long time coming. Some of us have been battling this tobacco industry for two decades, and more. Now we have a chance to do something. We had a press conference earlier with Senator CHRIS DODD of Connecticut, and he has kind of picked up this standard and is carrying it for Senator KENNEDY, who is the inspiration for most of us when it comes to this issue. Senator DODD just completed the Credit Card Reform Act a couple of weeks ago, a measure we have been trying to bring to the Senate floor for 25 years. He successfully guided it through. Here he is back 2 weeks later with an issue that has been waiting in the wings for at least 10 or 20 years. I salute Senator DODD for his extraordinary leadership on these two historic issues.

Senator LAUTENBERG, my colleague when it came to banning smoking on airplanes, was at the press conference. Senator JACK REED of Rhode Island, who has always been stalwart when it comes to this issue, was there. I said at the press conference: I wonder if 20 years from now, a child or grandchild of one of these Senators will come up and say Granddad, explain to me. You mean you actually sold these cigarettes with warning labels people

couldn't read and they didn't have to disclose their ingredients, and they could sell them to kids and they could advertise to kids? You mean that actually happened? Well, it is happening right now, and unless we pass this bill, it will continue to happen. Unless we pass this bill, 1,000 of our children today and every single day will start smoking and start an addiction which will lead to the deaths of at least one out of three. That is the reality. We can face our responsibility here, pass this bill on a bipartisan basis and say to America, it took a long time, but this Congress of the United States of America has finally put the public health of the people we represent ahead of the tobacco lobby.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as in morning business for up to 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NORTH KOREA

Mr. BOND. Mr. President, East Asia is a very interesting and challenging area. There are tremendous opportunities. We have great friends there. The potential for trade and better relations continues to grow in many ways, and there are many good things that are happening that we need to pursue in that part of the world, but they are also coupled with some immense challenges. There are some real problems there. Unfortunately, we were reminded of one of those key challenges most recently; that is, North Korea.

One of the world's most secretive societies, North Korea has increased its isolation from the rest of the world by continuing to pursue its nuclear ambitions, along with its missile capability potentially to deliver those weapons.

As one of the countries still under Communist rule, Supreme Leader Kim Jong-il heads a rigid, state-controlled system where no dissent is tolerated. Its destroyed economy has suffered from natural disasters, poor planning, and a failure to keep up with its burgeoning neighbors—China and South Korea.

North Korea, officially named the "Democratic People's Republic of Korea"—and that in itself is an oxymoron—maintains one of the world's largest armies, but the standards of training, the discipline, and the equipment are reported to be very poor.

The Korean war ended with the armistice of 1953. But when one visits the demilitarized zone, as I did in March of 2006, the tension of the zone feels as if the war has done anything but end. The north has recently fueled the tension by launching six short-range missiles, renouncing the 1953 armistice, and threatening continued attacks on South Korea.

After 15 years of negotiations, bilateral and multilateral talks, and a state of affairs worse than when we started, it is time for tougher action, barring all-out war. We hear people say: We want to talk with them, we want to negotiate with them, we need to pass a resolution. The bottom line, as we say in the old country music song: We need a little less talk and a lot more action. Talk has not gotten the job done. We need action.

A key to the successful resolution of this difficult situation is our good friend China. China provides as much as 90 percent of the north's energy, 40 percent of its food. Like Russia, it has used its Security Council veto, regrettably, against attempts to isolate Pyongyang. Without its support, its poor neighbor would struggle to survive. And it appears that the North Koreans may be exhausting Beijing's patience. Recent nuclear tests, last month's rocket launch, increasing threats, and the suspected restarting of the Yongbyon nuclear plant have reignited debate about how best to deal with this very troublesome neighbor. Beijing was swift to slap down the recent nuclear test. I hope that was the final straw for China.

We need China to play a constructive leadership role and support the Security Council resolution in toughening existing sanctions and implementing them. When you look at the sanctions that have been applied to Iran, sanctions should be applied to North Korea that are at least as tough if not tougher than those on Iran. After all, it is North Korea that has actually tested and detonated a nuclear weapon and fired missiles over Japan and throughout the region. And the North Koreans' continued sabre-rattling could lead to proliferation in the region and alter balances of power. Our friends there may not be willing to see a nuclear North Korea unchecked and unbridled, posing threats to them. We do not need to put our allies and friends in a position where they believe they must have a nuclear counterweight.

After 15 years of happy-talk and discouraging attempts during the last months of the Bush administration to turn the six-party talks into two-party talks, the time for tougher action is way overdue. My personal opinion was the two-party negotiations last fall were a tragic mistake. Obviously, they did not stop what has happened since.

North Korea poses security and humanitarian challenges to the world and

particularly to China's core interests. China's ability to contain North Korea is critical in demonstrating it will provide leadership on the world stage, but it is certainly not fair to ask China to handle it all. This is the world's problem, and I believe we can work together with China and our critical allies in Japan and South Korea to defuse this situation.

South Korea's President Lee Myung-bak, unlike his predecessor, has embraced the United States instead of North Korea. He has embraced working constructively within the six-party framework and with the United States, and we certainly ought not to be getting into bilateral negotiations. The six-party talks at the minimum are absolutely essential.

South Korea is one of our most important security partners in the region. I was proud last year to support the United States-Korea Defense Cooperation Enhancement Act to strengthen this important alliance. We must take the next step and approve the United States-Korea Free Trade Agreement to further strengthen our economic and strategic partnership. It is in our interest, their interest, and the interest of peace and prosperity in the region.

Japan is steadily increasing the role it is playing in international security affairs. We must continue to support these initiatives. Japan and the United States work very closely together on the AEGIS missile defense system, and robust support for ballistic missile defense is now more important than ever.

We have seen that these countries have the ability to shoot off missiles. We used to think we have mutually assured destruction. We feared the only place that would be sending missiles at us might be the former Soviet Union. That ain't so. North Korea has shown its ability, and others are working on it.

But we have made progress. According to the head of the Missile Defense Agency, LTG Patrick O'Reilly, the United States has fine-tuned its ability to shoot down long-range missiles launched by North Korea, based on a trio of tests mimicking such an attack. At a recent conference at the National Defense University, he went on to say:

We have made adjustments to give ourselves even higher confidence, even though we intercepted three out of three times in that scenario.

General O'Reilly, in response to a question, said the U.S. ability to hit a specific spot on a target missile had improved "dramatically" during the tests. "So, do I think it is likely that you're going to intercept if somebody launches out there?" He said, "Yes, I do. And the basis is those three tests and what we know about the threat. . . ."

I can tell you that President Obama was fully engaged, working with our National Security Council, to be able

to use the resources we have at our disposal should a North Korean missile launch have threatened the United States or other of our close allies or our interests. I congratulate him on that. I applaud him for having that in place and being willing to use what was necessary. But unfortunately—and I don't understand why, with the threats we have—President Obama's defense budget reduced funding for more ground-based interceptors in Alaska and California. It scaled back funding for the airborne laser interceptor and canceled further research and development for multiple kill vehicles—all of this at a time when North Korea is increasing its sabre-rattling and Iran is showing no signs of reducing its program and continues to issue threats to Israel and its neighbors in the Middle East.

When I visited Israel in December, I went over to talk about intelligence. They only wanted to talk about one thing. They needed missile defense—short-range, medium-range, long-range—because they are looking at weapons coming in, missiles coming into them: short range, potentially ultimately long range. To protect our allies and Israel, we are working with them on the Arrow and certain other programs that I am proud to support that give them that defense, but they are in a position where they are subject to attack, not only from long-range and medium-range missiles but very short-range missiles, and we have to provide them that kind of capability.

I hope my colleagues will reconsider the proposed cuts to ballistic missile defense. It is a threat that is here, it is now, it is threatening our allies and, yes, possibly, even the United States.

As far as North Korea goes, in addition, I have recently agreed to cosponsor Senator BROWNBACK's North Korea Sanctions Act. The legislation would require the Secretary of State to relist North Korea as a state sponsor of terrorism. This requirement could be waived by Presidential certification as provided for in the bill. But we were able to hurt North Korea significantly when we imposed sanctions on the bank, the Bank of Asia, which was handling their transfer of funds. But in a very unfortunate, misguided effort to try to win the friendship of North Korea, we took off those sanctions last year. That was a mistake.

This is a challenging area. It is one in which I hope others will pay great attention, and I look forward, when the budgets come before us, to talking about the need for ballistic missile defense. We are seeing that threat. It is being visited on a daily basis on our allies in Israel. It is no time to back away from the tremendous technology we have that could protect us, our allies, and our interests around the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. Mr. President, while the Senate is in consideration of a bill to regulate tobacco, I think it is extremely important that Members of the body understand that tobacco is not an unregulated industry today. Let me preface this by saying that I am not proposing that we do not do something additionally in the Senate. I think we can regulate more effectively. But what I have put up—I know it is hard for the Presiding Officer to see—is the current regulatory structure of the tobacco industry in America. It shows every Federal agency that currently has a regulatory jurisdiction over tobacco: Department of Transportation, Department of Treasury, Department of Commerce, Department of Justice, the Executive Office of the President, Department of Health and Human Services, Department of Education, Department of Labor, General Services Administration—the GSA—the Department of Veterans Affairs, Federal Trade Commission, Department of Agriculture, the Environmental Protection Agency, the U.S. Postal Service, and the Department of Defense. These are all Federal agencies that currently, today, regulate the product of tobacco. For any person to come to the floor of the Senate and claim that there is not sufficient regulation of this industry right now is ludicrous. As a matter of fact, this is the most regulated product sold in the United States of America currently.

The proposal Senator KENNEDY has introduced is a proposal that concentrates all the regulation of tobacco in the Food and Drug Administration, an agency that was created for the sole purpose, by its mission statement, of approving the safety and efficacy of drugs, biologics, medical devices, cosmetics, products that emit radiation, and responsibility for food safety.

We are going to shift from all these Federal agencies and all the flowcharts underneath them of different aspects of regulation currently for the tobacco industry, and we will concentrate this in the Food and Drug Administration. It probably makes a lot of sense from the standpoint of consolidation, but what I want my colleagues to understand is that this truly today is the most regulated product sold in America, when we look at the expanse of the regulatory framework that exists today.

The authors of the bill have suggested we have to allow the FDA to have jurisdiction because there should be two objectives. One is to reduce death and disease, and the other is to

reduce youth usage of tobacco products. These are two goals I embrace wholeheartedly.

Let me share this chart. It starts with a product I consider to be the base: 100 percent of these products presents a health risk. What is the product? Nonfiltered cigarettes. I know the President of the Senate probably remembers when all his friends smoked nonfiltered cigarettes. The truth is, we probably still have some friends who do it today. The continuum of risk goes down in the next category, filtered cigarettes. The industry introduced filtered cigarettes at some point, probably before I was born. The risk is only reduced by 10 percent. It meant it was 10 percent less likely to have a risk involved in it. But still, clearly, 90 percent of users having the risk is pretty unacceptable.

Then we go to a category that never hit the market, except for experimentally through market testing. That was tobacco-heated cigarettes, a product that didn't actually burn tobacco, but it had a ceramic disk in the front that glowed and got hot. As that hot air was pulled through the tobacco, the nicotine was extracted and delivered, but the product never burned. It never created secondhand smoke. In fact, it never had any smoke that actually was emitted afterward. Whatever was emitted was a vapor, and it dissipated.

Then we have a new category called electronic cigarettes, a fascinating product, rather expensive. It actually runs off a battery. It extracts the nicotine and delivers it into the system in a totally different way than the tobacco-heated cigarette. But, clearly, we see that in two new iterations, we have gone from 100 percent risk to 90 percent risk to 45 percent risk and now, with this new electronic cigarette, to a risk of less than 20 percent. One would say, moving from here to here from the standpoint of risk is an advantageous opportunity for people who use nonfiltered cigarettes. If we could get them over here, we have reduced the risk of death, and we have reduced the risk of disease.

Let me move out to the next category, which is smokeless tobacco, U.S. smokeless tobacco. I need to draw the distinction because globally there are new types of smokeless tobacco. But U.S. smokeless tobacco all of a sudden reduces the risk to 10 percent. We have gone from 100 percent to 10 percent. We have reduced by 90 percent the risk presented by the use of tobacco products. Now we move to the next category, which is probably hard to see. I would equate this to about 2 or 3 percent risk. This is Swedish smokeless snus, a pasteurized product. It is actually spitless. It can be swallowed because of the pasteurization. But, again, products that deliver the nicotine need to allow somebody to go from a nonfiltered product all the way over here to

a U.S. smokeless or to a Swedish smokeless. We have now gone from 100 percent risk to 2 or 3 percent risk.

Now a new category, not even on the market, a category already targeted as a product that should not be: dissolvable tobacco, a product that dissolves in the mouth. That delivers what this person needs over here from the standpoint of being addicted to nicotine but puts the category of risk somewhere down in the 1 percent category. As innovation has taken place, we have allowed the opportunity for people to come off products that had 100 percent risk down to products that reduce the risk by 99 percent. Then we have therapeutics, such as gum and patches and lozenges, that have minimal risk and pharmaceutical products that allow people to actually either reduce or quit the habit of tobacco usage.

When we look at the goal of a tobacco bill—and the authors have said the goal is to reduce disease, death, and youth usage—I ask the Presiding Officer, if you reduce from 100 percent the risk to 10 percent for U.S. smokeless or 2 percent for Swedish smokeless, does that embrace the spirit or intent of what the author of the bill is trying to do? I say yes. But what I have to share with my colleagues is this category that is at 2 percent, under the current bill being considered, would be banned. Why? Because of an arbitrary date that they have chosen to say if the product wasn't sold in the United States before February of 2002, then this product is not allowed to stay on the marketplace.

My point is, if the authors say the objective of the legislation is to reduce the risk, as you reduce the risk, you reduce the likelihood of disease, the severity of death, isn't this the category we would like more smokers to move to? I think the answer is obviously yes. We would like to move people away. We would like to reduce the health cost. We would like to reduce death. If we can do that by bringing this new age of products to the marketplace, this is beneficial to everybody. It makes a lot of sense.

That is not what the legislation does. I have spent this day coming to the floor trying to emphasize with my colleagues that what the legislation does is grandfathers two categories, nonfiltered cigarettes and filtered cigarettes. It says these are the only products that will be allowed to stay on the market. It means the 20 percent of Americans who currently have chosen to smoke, hopefully adults, are not locked into these two categories from the standpoint of choice. Yet in Sweden, they created this new product, and they have had a massive movement of people from these two categories to this category. This is not something I have made up. The data is there to show.

The authors of the bill would suggest we allow this product to be created,

but there are three thresholds they have to meet. The three thresholds they have set are absurd. Let me focus on the third threshold. They suggest that the manufacturer would have to prove this product wouldn't be used by a nontobacco user. For you to accumulate data to know whether a nontobacco user would be interested in using this product, you would have to go out and present the product to them and explain it before they could comment on whether they would be inclined to want to try it. But the bill forbids any communication about a product that hasn't been approved. So I ask, how do we get a product approved if the threshold is to tell them what the likelihood is of people who haven't used tobacco products using it, if you can't talk to people who haven't used tobacco products about using the product because the product hasn't been approved?

In Washington we call this a quite crafty way of making a claim but reversing in the bill the ability to use it. In essence, the bill that is under consideration creates these two categories indefinitely and says: It is OK if we have 20 percent of the American people who choose to use those products. Hopefully, over time, more adults won't choose to use them. We are willing to accept that 20 percent are using them, and they are going to die or have severe disease.

If that is the case, then how can you come out and claim that this is a public health bill, that we are going to pass this bill because of the responsibilities we have to public health?

Since 1998, smoking rates in America have dropped from approximately 23.5 percent to 19.5 percent. The Centers for Disease Control and Prevention, the agency that many come to the floor and quote with great frequency because of their expertise, says if the Senate does nothing, if we don't pass a piece of legislation, by 2016, the rate of smokers in America will drop to 15.7 percent. But if we look at the Congressional Budget Office that has had an opportunity to see the Kennedy bill, they estimate the Kennedy bill will reduce smoking 2 percent over the next 10 years. Meaning in 2019, the rate will fall from 19.5 percent to 17.5 percent. You get where I am going? By giving the FDA regulatory authority, we are going to increase by over 2.5 percent the number of smokers in the country than if we did nothing. That doesn't make much sense, does it?

Let me explain. When we lock in these two categories and we eliminate the ability for somebody who is a smoker to find one of these products to move to, we have now locked in the category of smokers. When we explain it to somebody, it makes tremendous sense. The question is, Why would we do this? I expect Sweden to be up here arguing that this is the right strategy.

Yet Sweden is the one that is the most progressive. Why? Because they are truly focused on the health of Swedes. The fact that we claim that we are doing this because of death and disease isn't true. We are doing this because 10 years ago somebody wanted to do something punitive to an industry. As a matter of fact, the date that is set in the Kennedy bill is February 2007, meaning if the product wasn't sold before 2007, it is banned from the marketplace. Why did they use February 2007? Because they wouldn't even change the bill they passed out of committee in 2007 to reflect 2009, which is the current date. There was so little attention paid to this piece of legislation that they didn't even go through to purge the date and change it. They printed the same page of the bill they had last time.

I have said several times throughout, the only thing I ask Members to do before they vote on this bill is to read it. I don't think that is too much to ask. If they read the bill, they will never vote for it. If they read the bill, they will understand that, one, this makes a lot of sense. But, two, remember, when I went over the current regulatory structure, I didn't mention the Food and Drug Administration. I did mention the Department of Health and Human Services. As we go down this flowchart of things under the HHS, there is no FDA. We are choosing an agency of the Federal Government that has never regulated tobacco. How can that possibly make sense? Maybe if you claimed you were going to put it at the Centers for Disease Control, they actually have some responsibility within the framework currently of regulating tobacco. But not the FDA. We may have taken the only piece of the Federal Government that doesn't currently have any jurisdictional responsibilities to regulate tobacco, and we are giving them 100 percent of the requirement to regulate tobacco.

The truth is, we don't need the FDA to do it. We can do it by creating a new entity under the Secretary of HHS, the same person who is over the FDA today, and we would suggest doing that by creating a new center. That new center would be responsible to regulate in total tobacco products throughout the industry.

It is a Harm Reduction Center. Think about that: Harm Reduction Center. Let me go back to this chart: The continuum of risk. If the objective is to reduce death and disease, then you have to drive the risk down. To drive the risk down, you have to bring less harmful products to the marketplace. So you have two choices. You have a bill that will do that through creating a Harm Reduction Center that regulates with all the authority the FDA has or you can choose the Kennedy bill, which basically isolates these two categories of 100 percent risk and 90 percent risk;

and you put that into statute that the FDA cannot touch products that are over here, as shown on the chart, but, more importantly, you structure it in a way that the FDA could never approve any new products that are less harmful.

The Harm Reduction Center actually has two responsibilities. One, it is to regulate the entire tobacco industry and, two, to facilitate smokers moving over to lower risk options because we want to reduce the harm that potentially can be caused.

I am going to speak later tonight, as I offer this substitute, which I hope every Member will take the opportunity to read on behalf of Senator HAGAN and myself. I am sure we will both speak tonight and throughout the day tomorrow as we get ready to have a vote. It is my hope Members will take the opportunity to review the substitute.

Let me put Members on notice right now, some will come to the floor and claim: Well, this is a substitute that the HELP Committee considered and they rejected it 12 to 8, 13 to 8—I cannot remember exactly what it was. Let me put Members on notice before they come down here and make claims on it, it is not the same bill. It is not the same substitute. I am sure staff now is going to scramble to figure out what is in this new bill.

We listened to criticism. Where we thought we could better the bill, we did that. The fact is, there are still going to be Members who come and make claims tonight, tomorrow—before this is all settled—that are not accurate. I put them on notice now: I will come to the floor and expose exactly what you say.

This is not a debate where we are going to use the charts we had 10 years ago and say they are relevant today. This is not a debate where we are going to have information that was produced in 1990 for an issue we are discussing and debating in 2009. It is not right to do that to the American people.

In concluding—because I see my colleague is here wanting to speak—I pointed out earlier that in 1998 the industry made a massive payment to the 50 States of this country. It was called the Master Settlement Agreement, MSA. Mr. President, \$280 billion that the industry, over a fixed period of time, was paying out to States. It was for two purposes: No. 1, to subsidize health care costs—the Medicaid costs in States—that might have been from the direct cause of tobacco usage; and, No. 2, so States would have the resources they needed to create cessation programs so people would move from this category, as shown on the chart, to this category or quit tobacco use all together.

I came to the floor yesterday—and I will say for the purposes of the Presiding Officer in the Senate, who is

from Illinois—CDC made recommendations to every State to do this every year: How much of the money they got that year should be used for cessation programs.

Well, in Illinois, Illinois devoted 6.1 percent of what the CDC recommended for cessation programs to cessation programs—6.1 percent. Mr. President, 19.9 percent of the youth in Illinois have a prevalence to smoking—way too high. In Illinois, though, 43.7 percent have a prevalence to alcohol use. In Illinois, 20.3 percent have a prevalence of marijuana use. I am not picking on the Presiding Officer of the Senate, and I am certainly not picking on Illinois. I will have used all 50 States before this is over with.

As I said, one of the shocking things to me, as I explored this chart, was that I found that, I believe it was, 48 out of the 50 States have higher youth prevalence in marijuana use than of smoking.

Well, some are going to claim the reason you have to give FDA jurisdiction over this is because the age limitation of 18 is not working, that youth are getting products. Well, you know what. There is no age where it is legal to buy marijuana, especially for youth. Yet in 48 out of 50 States, the prevalence of marijuana usage is higher than the prevalence of smoking.

Do not believe for a minute you are going to construct a regulatory regimen here that is going to take a product that is legal to people over 18 and it is going to allow a framework where people under 18 are not going to get it, when a higher percentage of them can get a product that is illegal for everybody in America.

I might also say to the Presiding Officer, his State is not the lowest from the standpoint of the percentage they chose of the CDC recommendation to devote to cessation programs. As a matter of fact, one State had a commitment of 3.7 percent.

Now, \$280 billion—paid for by the tobacco industry to cover health care costs and cessation programs—I would suggest to you, if the States had all spent 100 percent of what the CDC told them they needed to spend, we would not be here talking about the regulation of the tobacco industry because cessation programs would have worked and the rate of 19.6 percent today of smokers would have reduced drastically.

I would remind you that the CDC says, if we do nothing, by 2016, we reduce the rate to 15.7 percent of the American people. But when CBO looked at the Kennedy bill, they said, in 10 years, in 2019, the Kennedy bill would reduce smoking to 17.5 percent. If we do nothing, we get to 15.7 percent. If we pass this bill, we get to 17.5 percent. If the objective is to have less smokers, the answer is: Do nothing.

But tonight, sometime around 6 o'clock, Senator HAGAN and I will come

to the floor not to suggest to our colleagues that we do nothing but to suggest to our colleagues we do the right thing, that we find the appropriate place to put regulation, that we give it the same teeth the FDA has, that we give them the ability not just to have black-and-white print advertising—such as the Kennedy bill does—I suggest in my substitute we eliminate print advertising, we do away with it in total.

We do not worry about whether *Vogue* magazine, which is typically bought by an adult woman, might be looked at by a teenage girl. If we just eliminate print advertising, we do not have that problem. The Kennedy Bill limits it to black and white. We ban it in total.

If Members will take the opportunity to read both bills—to read the substitute, to read the base bill—they will find out we are actually more expansive from the standpoint of regulation. We actually accomplish the task of reducing disease and death. I believe, by some of the things we do, we actually reduce the amount of youth usage, such as by eliminating print ads.

But there is a big difference. I do not turn it over to the FDA. I do not do that for a selfish reason—purely selfish. I spent 2½ years, 15 years ago, when I got to the U.S. House of Representatives, where I was tasked by the chairman of the Energy and Commerce Committee to write a bill that modernized the Food and Drug Administration. It took 2½ years to do. It was signed into law in 1998.

We opened the entirety of the Food and Drug Administration and revamped all the ways it worked to make sure we could reach new efficiencies in the approval of lifesaving drugs, biologics, which were new, devices. We spent a meticulous amount of time going through this with one goal in mind: Do not lower the gold standard the American people have come to expect through the FDA; do not lower the standard an applicant has to reach so we can assure the safety and efficacy of the products we regulate.

Well, I thought that was important, and in 1998 it became law. And you know what. When we had the entirety of the FDA bill open to every Member of the House and the Senate, no Member of Congress offered an amendment to give the FDA authority over tobacco because they knew, at the time, the integrity of the FDA was more important than who controlled it from a regulatory standpoint. They did not want to jeopardize the integrity of what the FDA core mission was.

But here now, 11 years later—I might also say, the Supreme Court ruled in a court case that the FDA did not have jurisdiction over tobacco. The reason they chose was, in 1998, the Congress opened the FDA Act and did not give FDA authority. Therefore, it was not

the intent of Congress for FDA to have authority.

So those who claim this is part of the FDA—should have been, always would be—it is not the case. Because Members of Congress had the opportunity and did not do it. Why? Because of the integrity of the Food and Drug Administration. Why in the world would we have changed, in 11 years, to where we would risk the gold standard of drug approval, of biologic approval, of medical devices approval? Why would we risk at a time where, every year for the past 3 years, we have had an issue on food safety—we have had salmonella in peanut butter; we have had tainted spinach; we have had imported products that have killed Americans; and the FDA is the agency responsible for the regulation of food safety—why would we dump on an agency today that is struggling to meet their core mission of food safety a new product such as tobacco?

Why would we take an agency, such as the FDA, that regulates 25 cents of every \$1 of the U.S. economy, and say: You know what. You have never regulated tobacco before, but we would like you to do it now. We would like you to take senior reviewers who are approving lifesaving applications for drugs, and we would like you to move them over to the tobacco area.

What else can they do? You cannot go out in the world and find people automatically at the FDA who have ever regulated tobacco. So they are going to take their most senior folks. What does that mean? The likelihood is, we are going to wait longer for that lifesaving drug. We are not going to reduce health care costs because chronic disease is not going to have new therapies because the applications will not be acted on. Heaven forbid we do this and all of a sudden somebody dies as a result of an FDA reviewer who looked at it and said: Well, you know, I know our core mission is to prove the safety and efficacy of all the products we regulate—with the exception of tobacco because you cannot prove it is safe and effective—so if I am going to turn my head on tobacco, maybe I will turn my head on this medical device because it does not look too bad, and all of a sudden somebody dies from it.

This is a huge mistake for the Senate to do. I urge my colleagues: Read the bill. You will not vote for it. Read the substitute, it will supply the sufficient amount of regulation to an industry that can be better regulated, should be better regulated—more importantly, a substitute that goes much further from the standpoint of reducing youth usage of tobacco, which gets at the heart of death and disease.

In fact, the substitute is the only bill that accomplishes what the authors of the current base bill suggest is the reason we are debating this issue. This chart I have in the Chamber proves it.

It does it in the most visual of ways. If we do not allow these products to come, you have now locked it into this. That is not what the authors suggest is the objective.

I urge my colleagues, tonight, when given the opportunity, listen intently, read the bills. Tomorrow, when you are given an opportunity to vote, vote for the substitute. Do not support the base bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I wish to express my appreciation to Senator BURR for his hard work on this issue. He is one of our most able Members. I think the fundamental premise of the study that showed his bill will reduce smoking more than the bill on the floor, the Kennedy bill, is something that should give us pause. I know they have worked very hard on it, and I hope my colleagues will avail themselves of his suggestion to read it—both bills—and make a judgment on what they think is best for the country.

#### UNPRECEDENTED BUDGET DEFICITS

Mr. President, the unprecedented budget deficits we see today are creating fears of a surge in bond interest yields and a fall in the U.S. credit rating. I wish to talk about that. I have talked about it previously. But I would repeat my fundamental assertion that nothing comes from nothing, nothing ever could, as Julie Andrews said. Debts must be paid, and they will be paid one way or the other. Either somebody is going to lose—either you are going to print money and inflate the money or you are going to pay back the debt with interest to whom ever will loan you the money to fund the debt. We are moving into a decade of the most unprecedented deficits in the history of our country. Nothing has ever been seen like it before. It is irresponsible. We have not discussed it enough. It is breathtaking to people who examine it.

The estimated deficit for fiscal year 2009, the one we are in, ending September 30, is expected to be \$1.84 trillion. That is a lot of money. That number dwarfs even the \$500 billion maximum, inflation-adjusted deficit—nearly the same dollars to dollars—during World War II. It was only \$500 billion in World War II. So this year, the deficit is projected to be 12.9 percent of the gross domestic product. In 1 year, the deficit will be 12.9 percent of the gross domestic product of the United States of America. That is a level not seen since World War II.

David Walker, the former Comptroller General of the United States—that is what we call the Government Accountability Office—has been speaking out for a number of years on deficits. He criticized President Bush for deficits. He continues now to speak out



since he has left government. He has concluded that the United States of America is in danger of losing our AAA credit rating. He points out that the cost of insuring U.S. Government debt has risen so much that it recently cost more to buy protection on U.S. debt than debt issued by McDonald's Corporation. That is his statement. In fact, a Wall Street Journal editorial in March noted that the insurance rate for U.S. Government bonds rose 700 percent to 100 basis points between March of 2008 and March of 2009. That means in this past month of March, it costs \$10,000 to insure \$1 million in Treasury bonds. Who would think you would have to get insurance to guarantee the payment of U.S. Treasury bonds? As of May 28, that insurance cost had fallen to 45 basis points, but that is still more than three times what it was in March of 2008, just a year ago. Not only that, as of May 28, the cost of insuring our government's debt is higher than that of France and Germany.

Mr. Walker goes on to note that the United States has had a AAA credit rating since 1917. Furthermore, he states that given the current national debt and deficit, the United States may not deserve the AAA rating we have today. That is a warning. I hope that is not so. I hope we don't see a reduction of our AAA rating, which has a real impact in how much we have to pay to borrow money, and we are borrowing a lot. But I think this man deserves hearing. This is a serious commentator on American deficits and debt.

So the idea he has proposed is not farfetched. In fact, the Standard & Poor's—S&P—a few weeks ago lowered its outlook on Great Britain's debt. They put it on a negative outlook. While the United Kingdom is keeping its AAA rating for now, the Wall Street Journal notes that the negative outlook that S&P has found is a precursor to a downgrade. They also note that Japan's debt, in fact, has already been downgraded to AA2 from AAA. So the question is, are we next?

Not only is our credit rating in danger, but it is costing more and more to borrow. This is very important. While it may appear to be a separate problem, I think it is related to us spending more and borrowing too much. The yield on the 10-year Treasury bond, which rises with the increased government debt and expectations of inflation, has surged 54 percent this year, from 2.4 percent to 3.7 percent as of yesterday. It was 3.2 percent 2 weeks ago. Yesterday it was 3.7 percent. That is a significant surge.

So let me say it this way, and to repeat: We will borrow this year a record amount of money. Not only that, over the next 10 years, we will continue to borrow at unprecedented rates. We are borrowing because we are spending more than we take in—a lot more than

we take in—and nothing comes from nothing.

How do we spend more than we take in, in taxes? How do we do it? We borrow the money. How do we borrow the money? We sell Treasury bills. We ask people to take their money out of their bank account and buy U.S. Treasury bills. We have had an unusual situation with interest rates being low, because people were so afraid if they bought stock or private bonds, that companies may go bankrupt, and they were interested in buying government bonds, Treasury bonds, presumably the most secure bonds in the world. So we have had a bargain and we have been taking advantage of it. But all of a sudden now we are beginning to see a surge in these interest rates, because people are thinking: Well, if I don't get a 3-percent return when I buy a Treasury bill, and inflation next year is 5 percent, and my money is tied up for 10 years, I am losing 2 percent a year. I am not gaining money; I am losing money. The world looks at it like that. The Chinese and people in Saudi Arabia who have excess wealth and bought Treasury bills are looking at this too and they are demanding higher interest rates. That is why it is going up. That means each year we will pay a larger percentage of the tax money we take in to pay interest on the debt than we would have if that had not been the case.

I am told that this rampant rise in Treasury rates is the talk of Wall Street. How has it happened? Net debt sales; that is, the net sales of Treasury bills and the borrowing the government has done, increased from \$332 billion last year to \$1.555 billion this year. That is a lot. That is almost five times. When you put too much of a product on the market, things happen, and people start demanding better returns. Two weeks ago, Barron's reported as big news that the U.S. Department of Treasury bond yields could top 4 percent this year. And it seems, since it already hit 3.7 percent yesterday, that we may get there sooner than Barron's even anticipated.

So how does all this stack up with what the President estimated when he submitted his budget earlier this year? His budget estimated an average yield on Treasury bonds at 2.8 percent for the entire year. We already hit 3.7, and Barron's said we are going to hit 4, so we are ahead of Barron's schedule already. So the 10-year Treasury bill is increasing, and hopefully, it won't surge out of reason. Some are worried about that. It does look like it may well reach that 4 percent or more this year. That is bad news for American taxpayers.

So we are like the credit cardholder. When interest rates go up, it costs us more. When the interest rates on Treasury bills go up, we have to pay more to get people to loan us money so we can spend it. I guess it is fair to say we have only ourselves to blame.

Even if you took the President's assumptions, interest on the debt is supposed to be \$170 billion this year. So this Nation will pay on the debt we already have accumulated \$170 billion in interest this year. That is a lot of money. We spend \$40 billion on the Federal highway program. We spend less than \$100 billion on Federal aid to education in America. We are already spending, and will spend this year, \$170 billion on interest, on debt we have run up before. That equals \$1,435 per household. That is a lot of money, \$1,435. By 2019, according to the Congressional Budget Office, our own Budget Office's evaluation of what the President's budget is going to be, 10 years from now, the interest on the debt will not be \$170 billion; it will be \$800 billion. That would be \$3,433 per household, more than twice the current debt interest payment that each household in America is to incur. Why? Because we are spending too much. We are spending money we don't have. We spent \$800 billion on a stimulus package. We are spending \$700 billion on the TARP Wall Street bailout. Our increase in spending for the underlying Federal budget this year, the nondefense, the discretionary spending was a 9-percent increase. That is huge, many times the rate of inflation, a 9-percent baseline increase. Most of my colleagues know that if you increase spending, or have an interest rate of 7 percent, your money will double in 10 years. So at 9 percent, in less than 10 years, the amount of our spending would double; entire government spending in 8 or 9 years would be doubled. That is why we are running up debt. But the most troubling thing is, it is going to continue.

We have heard the President say, I am worried about this. We are going to have to talk about this in the future. Have you heard that? Oh, yes. This is a big problem. We are going to have to do something about it in the future. Well, the future is becoming now. The budget that he submitted to us didn't do anything about it in the future. Let me be frank with my colleagues. The budget this year, the deficit this year the President projected would be \$1.76 trillion. That has already been proven to be low. They are now estimating \$1.84 trillion in 1 year. And they project it dropping down to maybe \$500 billion in 3 or 4 years, assuming the economy is growing well. But over the 10 years, in the tenth year of his budget deficit, the annual deficit in the tenth year, is over \$1 trillion. And over the 10 years, the average deficits from the President's own submitted budget would be almost \$1 trillion a year, and the highest deficit prior to this we have ever had was \$455 billion last year. So this is averaging almost twice, really twice the highest deficit we have ever had.

The President has said, correctly, that these trends are unsustainable. He



recognizes that. He also said, according to Bloomberg at a townhall meeting in New Mexico on May 14, that current deficit spending is unsustainable. He warned of skyrocketing interest rates for consumers if the United States continues to finance government by borrowing from other countries. So I agree with him on that, but it is time to start doing something.

China remains the biggest foreign holder of United States debt in Treasuries, and Prime Minister Wen Jiabao stated in March that China is worried about its investments.

Not only that, but yields are currently rising despite an extremely unusual move by the Federal Reserve to directly purchase Treasury bonds. So the U.S. Federal Reserve—our banking gurus—have decided they will take money and purchase U.S. Treasury bonds to keep the interest rates from going up so fast, because there are not enough people out there to buy them all, I suggest. It holds the interest rates down somewhat.

The Fed has not done anything like this since the 1960s. It is very unusual. Even then, it was a much smaller operation. They announced a \$300 billion purchase plan in March and have made \$100 billion in purchases so far. If those purchases are not carefully managed, they could lead to inflation down the road; there is no doubt about it. Not only that, but the Fed could get stuck with sizable losses if the yield on those Treasury bills continues to rise.

According to Barron's, if rates rise 1 percentage point, it could lead to a \$140 billion loss for the Fed in that deal of purchasing these bonds. That is \$140 billion. The Federal highway spending in America is \$40 billion. This is a huge sum of money.

Let's look at the deficit and debt that are driving our interest rates higher as part of his detailed budget released in May. The President raised his estimate of a deficit from \$1.75 trillion to \$1.84 trillion. I ask, do we remember that at that same time when the President released his budget, he also released a plan that was going to show that he was committed to frugality, and it would supposedly save \$17 billion? Remember that? Some people had to laugh at it, really. It was pretty amazing. There were these numbers out there, and he announced this frugality package to save \$17 billion. It wasn't clearly understood, in my view, how insignificant that was, because at the same time they were announcing saving \$17 billion, the reaccounting of the projected deficit for this very fiscal year jumped \$90 billion. So it dwarfed the \$17 billion in spending cuts that were announced at that time. So we had a \$17 billion efficiency project, which remains to be seen whether it will be successful, and the total deficit expectation jumped \$90 billion.

The President's budget proposes to take us to a debt level of 82 percent of

GDP by 2019. In 2019, the amount of debt, in the country at that point would amount to 82 percent of our entire gross domestic product in America. That is a level not seen since 1946, at the height of World War II. The difference between now and then, of course, is that that was during a war. It was widely known that those expenditures were temporary, and when the war was over, they would end; and, in fact, they did.

However, today, the President is projecting deficits averaging nearly \$1 trillion as far as the eye can see, with no projections to show them drop, or be reduced. It has been popular to complain that, well, President Bush had deficits—and he did. I criticized him for that, and I think he could have done a better job. His highest deficit was \$455 billion. This year's deficit will be \$1.8 trillion, and they will average \$900 billion over the next 10 years. Not 1 year in the next 10 years, according to the President's own budget, will his deficit be as low as the highest deficit President Bush had, which was \$455 billion. Even as a percentage of the total gross domestic product, it is astounding. President Bush's deficits averaged 3.2 percent of GDP. President Obama's budget, over the next 10 years, will average 7.3 percent of GDP each year—twice what President Bush's averaged.

I am worried that we are not getting the kind of bang for our buck that we hoped to get. We got an \$800 billion stimulus package that was supposed to go out there and build infrastructure and create jobs now. It was money that had to be spent in a hurry. The truth is, though, that most of that money is not going to be spent until after 2010. It takes time to get that money out. The CBO estimated that \$162 billion of the \$311 billion now appropriated won't be spent until 2011, or later—not to mention that there is no evidence of the government ever taxing and spending its way out of a recession. That is not, historically speaking, proven to work.

Christina Romer, the Chairman of President Obama's Council of Economic Advisers, wrote about this in 1992, in a paper titled "What Ended the Great Depression?" in the 1930s. She concluded:

Nearly all of the observed recovery of the U.S. economy prior to 1942 was due to monetary expansion [from gold inflows].

She gives almost no credit to the increased spending that occurred.

Another report with Ms. Romer's name on it, one that the President's economic team put out this January—and she is the head of the team—was titled "The Job Impact of the American Recovery and Reinvestment Plan." It estimates that the \$800 billion stimulus package will lower the unemployment rate and create 3.6 million new jobs, and it includes a chart. The chart, if you look at it today—and it has been examined by others, such as

Greg Mankiw, Chairman of the Council of Economic Advisers—it shows that their projected unemployment rate, without the stimulus package—that rate would hit a certain level. Now that we have had the \$800 billion stimulus package, what does it show? That we are trending, on unemployment, exactly where they projected the unemployment rate would be if there were no stimulus package at all.

Indeed, if you look at the numbers, very little of it has gotten out of there, and you can see how little was stimulative, or job creating, or how much of it was spent on things it should not have been spent on. Indeed, this Senate rejected and failed to adopt my amendment that would have said at least the employers who hired people with this money ought to run the E-Verify system to make sure the people they hire are here legally in America and are entitled to work. That wasn't even part of it.

Unemployment continues to go up. It was 8.9 percent in May, and a lot of people think it may hit 10 percent. I hope not, but I think it is likely to continue above 9 percent, which is higher than what was projected, for sure.

I say all this to point out that some of the brilliant thinkers in our country believe we had to do all this; if we had not, the country would sink into the ocean. We could have this problem and that problem. But the testimony we had in the Budget Committee from the Congressional Budget Office, whose numbers have held up pretty well so far, and they are basically hired by the Democratic majority here, but they are nonpartisan and do a good job. They projected only a slight difference in unemployment, if you had a stimulus package—only slightly better than if you didn't have one at all. But, more importantly, they concluded that over 10 years, the stimulus package, if we passed it, would have a net negative effect on the economy. It should help some in the 2 or 3 years from the monies being pumped out—it has to help some out soon.

But the crowding out of private borrowing, the interest that will have to be paid on the debt over the 10-year period, will mean that the economy will be less healthy at the end of 10 years than if we hadn't had the bailout package or stimulus package at all, which confirms my view that nothing comes from nothing. There is no free lunch. Debts have to be repaid. You cannot create something out of thin air. If you spend something today and you have resources today to spend today, and you took them from tomorrow, they are not going to be there tomorrow. Somebody is going to have a greater burden to carry—our young people—than if we hadn't taken their money and spent it today.

I have to say that I am not happy about this. I am worried about it. I do

believe deficits matter. People who say deficits don't matter—and some Republicans used to say that—what planet are they from? Of course, deficits matter. You can cover them up, the Fed can help, and smart monetary policy and spending policies may make a difference here and there, but in the long run, it drives you down, and we have to be serious about it. I hope as time goes by, we can work together in a bipartisan way to try to establish some control over our spending.

Just Monday, GM went into bankruptcy. We already have \$20 billion in Federal Government money going into General Motors prior to bankruptcy, and the White House plans to add another \$30 billion. That is a substantial additional investment. This is what the numbers show. First, the White House said we are going to be out of GM and get our money back in 5 years. That is their goal, right? You heard that we are going to get the money back. But the Wall Street Journal has calculated this, and they have said for the Federal Government to get their money back out of GM, they would have to sell their stock, and GM's market cap, the total value of their stock, would have to reach a value of \$80 billion. So to get our money back in 5 years, the market cap or value of GM stock would have to total \$80 billion. Let me remind you that at its peak, in 2000, the highest GM ever got as a market cap was \$56 billion. Their current market cap is less than \$1 billion—\$441 million dollars. It goes beyond rationality to believe that in 5 years—or maybe ever—we are going to get our money back out of GM. I am worried about that.

That is one more example of the kind of spending we are doing, and the money is being spent in a way that is not controlled. How does the Secretary of the Treasury decide how much money to give? And to what corporation? What about suppliers of GM? What about automobile dealers, who are losing their shirts and going into bankruptcy? Nobody bailed them out.

Somewhere along the way, it has been decided that we need to do this. It should have been done according to the established constitutionally-approved reorganization policies of bankruptcy. The U.S. Government could have put some money into GM in an effective way, I think, and had a positive benefit. But just to pour the money in, as we have, in an unprincipled way, is not good.

I will repeat one more time my concern about the unlawful way, the unprecedented way, in which this money is allocated.

The money comes from the TARP, the Wall Street bailout. I opposed it because I thought the language was too broad, but even I didn't know it was this broad. But we were told if we passed the TARP bill, Secretary Paulson and the Treasury Department

would buy toxic assets. He was specifically asked at a House committee meeting whether he would buy stock in banks. He said: No. His goal was to get the money flowing again in the financial markets, and we had to do something about the financial markets. Senators were eventually convinced, and it was rammed through here in the very shortest period of time—in a panic, really. A week had not gone by when he had decided to buy stock and not buy toxic assets, not to buy toxic mortgages. As time has gone by, that same money is used to buy stock in what was once a private corporation.

I think this is unbelievable. There are no hearings on where the money is going. There is no public ability to understand what kind of justification these banks, GM, or Chrysler had to put forward to receive billions of dollars from the taxpayers. It was all done basically in secret, as far as I can understand. They are telling the company they have to do this and that and firing the CEO and all of those kinds of things that have been occurring. I don't think the American people are happy with that. The American people are very concerned—I believe they are rightly concerned—because we are doing some things that have never been done in the history of our Republic. It is not healthy.

I hope that somehow we can get our footing again, get our balance, and return to the tried-and-true principles that made this country great.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

#### HEALTH CARE

Mr. BENNETT. Mr. President, we have just heard from the President of the United States with respect to an effort to get a bipartisan health care plan. I have been to the White House summit on health care. I have heard the President speak directly to this issue. I applaud him in his effort to make sure we deal with this problem intelligently, and I accept at face value his desire that it be done in a bipartisan manner.

But as we have this discussion about doing this in a bipartisan manner, it all ultimately comes down to one sticking point that seems to be firmly established in the President's position and firmly established in the position of those who sit on this side of the aisle. At the moment, that sticking point seems to be irreconcilable. I want to talk about it in direct terms so that we understand what it is we are talking about and those who listen will understand why those of us who are Republicans are determined to stand firm on this point.

This is the point: Shall there be a public plan, a government-run option in the choices that are available to people with respect to health care?

Along with Senator WYDEN of Oregon, I have cosponsored the Healthy

Americans Act, which is determined to create as many options as possible, to create a wide range of choices for Americans to make with respect to their health care.

We recognize we are going to have to change the tax laws in order to give people control over their own health care dollars. Right now, health care is the only part of the economy where the individual receiving the goods or services does not control the money that pays for the goods or services. So it is obvious that you will not have market forces available in that circumstance. If the individual who is receiving the goods or services controls the money that pays for the goods or services, he or she will make a different choice than if someone else is controlling the money. But in health care, somebody else makes the choice, and that is why the core function of the Healthy Americans Act, which Senator WYDEN and I are cosponsoring, says individuals should be in control of their own money and we should have as many choices as possible so that individuals can go out in the market.

There will be competing forces. Competition brings prices down. Competition creates new opportunities. Competition fills niche markets. We believe all of that will happen if we have this degree of choice.

When we have had this conversation with officials of the administration, they don't disagree. As a matter of fact, many officials of the administration have said to me: We really like what you are doing with Senator WYDEN, and we applaud you, Senator BENNETT, for reaching out in a bipartisan way to try to solve this problem. But we just have one additional factor we would like to add to your bill. We would like to say that as a backup, as a final option, we want a government-run plan to be there as one of the available choices, just in case none of the others work. That is, as I say, the sticking point here.

I have said to members of the administration: If we end up with a government-run plan as one of the options in my bill, I will vote against my own bill.

The government-run option will change the playing field, will ultimately drive out all of the other choices because the government is in a position to subsidize it. The government is in a position to make it more attractive than anything else and thereby gain the blessing of the voters because the voters will say: The government took care of those greedy companies that would otherwise make me pay this, that, or the other. Here, the government choice is cheaper; isn't it wonderful that the government is looking out for me? Ultimately, we would end up with a government plan, single payer for the whole country.

I know there are many of my friends on the other side of the aisle who want

that, and they are very open about it and very direct about it. They say a number of things. They say the government plan is cheaper, the government plan provides health care for everybody, the government plan is fairer, and that is what we ought to have.

I wish to spend a little time talking about the experience of those countries that have adopted that attitude. If I may be personal and give my own example before I get into the statistics, I will tell you about a situation when I was living in Great Britain and had a medical problem. I won't bore you, Mr. President, with the details of the problem, simply that I went to a doctor in Scotland to see if anything should be done. The doctor first signed me up because under the British system a doctor—this shows how long ago it was, but the system has not changed—got a shilling a week for every patient he signed up on his list. So immediately he wanted to sign me up so he would get that shilling for having me there, which would be a decimal of a pound today rather than that old designation.

Once he had me signed up, as I say, he examined me. He said: Yes, you do need treatment. And he gave me a piece of paper that would allow me to go to the Edinburgh Royal Infirmary, where I was to see a surgeon. So I went to the Edinburgh Royal Infirmary and sat there for most of the day before a doctor could finally see me.

The doctor saw me and checked me out and said: Yes, indeed, you should be scheduled for surgery.

I said: Fine. I have a schedule. Can you give me some idea when the surgery will be so I can arrange my affairs to be available?

He said: My guess would be 9 months.

I said: I am going to be returning to the United States in less than 9 months, so I guess we can just forget this.

I communicated that to my father, who was in the United States, and he said: I don't think so. Can you get a surgeon who would operate on you right away?

So I inquired and I was told: Yes, you can get a private surgeon, but the private surgeon cannot take the health care system dollars or pounds. He is outside of it. If he stays in private practice, he cannot participate in the national health system at all.

I said: OK, that is fine.

My father said: I will pay it. Where can you go?

I went to the private surgeon and, yes, he had a practice where he took only patients who were outside of the health plan. He looked at it and said: Yes, you need surgery.

I said: All right. When?

He said: Will Wednesday be soon enough?

This was on a Monday.

I said: All right.

We went into a private hospital. It was separated from the national health

service. He performed the surgery. I paid him cash, got the thing taken care of, and finished my time in Great Britain with that particular problem solved.

I would like to think that was only the case back when I was younger, but I find it is still the case, not only in Great Britain but in other countries that have this kind of problem.

Let me share a few statistics with you of what happens with respect to this single-payer system.

One of the things we are told by those who support single payers is that the outcomes in these other countries are really not any different than they are in America, that we are paying far more in America and the outcomes are basically the same. The statistic they usually use in order to prove that America is not any better is life expectancy and infant mortality. They say as a country, our life expectancy is not that much better than anybody else's and our infant mortality rate is as high or higher than other countries. Shame on us, we are not getting good health care that we are paying for.

Life expectancy is tied in very many cases to either ethnic or geographic locations. The life expectancy, for example, in Utah, where the behavior is a little different than it is in some other places, is substantially higher and has little or nothing to do with the health care. It has to do with the culture in Utah that causes people to behave in a healthier lifestyle.

Let's go beyond this broad-brush approach and look at some specifics.

The largest international study to date has found that the 5-year survival rate for all types of cancer among both men and women is higher in the United States than in Europe. Isn't that a statistic showing that we are getting a better result in America than in Europe? A cancer survival rate is not something that is due to the geography of where you are born. If you are born in the inner city, that has something to do with infant mortality rates, or if you live in a healthy environment, that has something to do with life expectancy. Cancer survival rate has to do with health care, and the health care in the United States is better than it is in Europe and has produced a higher survival rate for both men and women.

In Britain, there are one-fourth as many CT scanners per capita as there are in the United States and one-third as many MRIs. If we think the CT scanner and the MRI produce a better result in terms of health care, we want to be in the United States. We do not want to be in one of these single-payer, government plans of the kind President Obama wants as an option destroying the other options and choices there would be if we pass the Healthy Americans Act.

The rate for treating kidney failure—dialysis or transplants—is five times

higher in the United States for patients between the ages of 45 and 84 and nine times higher for patients 85 years and older. Again, there is a personal interest here because members of my family have kidney disease. I want them in the United States with the kind of system we have where they do not have to wait and they do not have to worry about government regulations. I want them here where it is five times better than it is in Europe with respect to kidney disease.

Right now, nearly 1.8 million Britons are waiting for hospital or outpatient treatments at any given time—1.8 million waiting in the circumstance that I described in my own situation. In 2002 to 2004, dialysis patients waited an average of 16 days for permanent blood vessel access in the United States, or 20 days in Europe, and 62 days in Canada.

We often hear about the benefits of being in Canada. I have constituents who come from Canada, who have moved to Utah. Every time this comes up, they come to me and say: Senator, whatever you do, do not give us the Canadian system. Whatever you do, make sure that America doesn't go in the direction the Canadians have gone.

Let me give you some examples to demonstrate why that is good advice. This is one that broke out in the debate in the Canadian Parliament. A woman by the name of Emily Morely, in March of 2006, was informed by her doctor that her cancer had spread and she needed to see an oncologist, and then she was told: You will not be able to get an appointment for months. Well, if my cancer is spreading, I don't want to wait months for an appointment. Her family raised a ruckus, they called the local newspaper, a petition was signed by her neighbors demanding she get care, and then, in response to that, the government got her to a specialist. Once again, in the government, you respond to the voters. If you are getting bad publicity in the press, or the voters don't like what you are doing: Oh, let's take her to a specialist. So she got to a specialist and he told her she had only 3 months to live.

Well, she at least had time to put her affairs in order. Had she not had the intervention of her family and her neighbors, it is quite likely she would have died before even seeing an oncologist for the first time.

But let's go to another example that may be even closer to home to the legislators. A member of Parliament in Canada, Belinda Stronach, strongly supports the Canadian health care system, and she would object to this kind of argument that the Canadian health care system isn't very good. But where did she go when she was diagnosed with cancer in 2007? She went to California and paid for the treatment out of pocket. Even a member of Parliament who supports the Canadian system recognized that the government plan didn't

work for her. And with her own health at risk, she came to America and took advantage of what we offer here.

There is the case of the mother in Calgary, Alberta who was expecting quadruplets. I am the father of twins, and they came as a great surprise. Quadruplets is something I am not sure we could handle, and certainly they would require very good facilities to deal with a pregnancy that produces quadruplets. She is in Albert, Canada, and she is flown to Great Falls, MT, to deliver the quadruplets. Great Falls, MT, is not thought of as one of the great centers of health care excellence in the United States. Yet the facilities in this small town in Montana were better than any facility available anywhere in Alberta.

These are the examples of a government-run plan and because people who are getting the service don't control the money the government plan can end up focusing on overall cost control to the detriment of the people who are trying to access it. I don't think ultimately the American voters, having gotten used to the access that they currently have—being used to the idea that they do not have to wait—would ultimately tolerate a government plan.

My consult to President Obama and to my colleagues here in the Senate is to slow down a little. We are talking about restructuring 18 percent of the entire economy. We spend 18 percent of our GDP on health care. I agree absolutely that it is long past time that we addressed this issue; that we rationalize the challenge; and that we do things that make it far more effective.

As I have spent the last 3 or so years working with Senator WYDEN to try to understand the problem and fashion the Healthy Americans Act in a way that will solve the problem, I have discovered a great truth that I didn't realize before, and that is this: The greatest cost control factor in health care is quality. The best health care is the cheapest health care. And it has been achieved in those places that have focused on quality first and the patient first, and it has not involved any government intervention.

Dartmouth has done a study and told us the three cities in the United States where you get the best health care. They are Seattle, WA; Rochester, MN; and Salt Lake City, UT. I take some pride in that fact. And then the Dartmouth study goes on to say that if every American got his or her health care in Salt Lake City, UT, it would not only be the best in the United States, it would be one-third cheaper than the national average.

Those are the kinds of examples we should be focusing on and learning from, and then doing our best to write legislation that would support that. Slow down. We are not going to understand this in time for any artificial deadline set for some political agenda.

I understand the sense of urgency that the Obama administration feels on this issue, and I share the idea that now is the time to address it. This is the Congress in which we should pass it. But I don't think setting a deadline to say it must be done in July, when we are talking about 18 percent of GDP, is that persuasive.

We can examine these alternatives a little more carefully than the present deadline will allow us to do. We can say: All right, why is quality the best cost control, and does our bill create the kinds of incentives and rewards focused on quality that will produce that result, instead of saying: Whatever else you do, you have to have a government option in there. You have to have a government plan that can compete with all the rest of this, and thus set us up for the kind of situation where we would move as a nation to imitate Great Britain or Canada or the others that have produced the kinds of examples I have talked about here.

So I am more than willing and I am anxious to work with President Obama and his administration, to work with my friends across the aisle. I have worked with Senator WYDEN for these past 3-plus years to try to fashion an intelligent solution. But I repeat what I said at the beginning: The sticking point in this entire debate is the demand on the part of the Obama administration that the final product have within it a government plan as one of the options. And if that happens, I vote against my own bill. If that happens, I do everything I can to say no. Because I am convinced if that happens, we end up with a situation where there is only one option that survives.

One of my colleagues has described this, I think, quite well. He says: Having a government plan as one of the options is a little like taking an elephant into a room full of mice and then saying: All right, this is a roomful of animals, let's let them compete. And as the elephant walks around the room, pretty soon there aren't any mice left. A government plan is the elephant in the room.

Those of us who want to solve this problem intelligently say: Let's learn from the examples of those people who have adopted a single-payer system. Let us realize that the American experiment in health care produces better outcomes in all of the areas I have outlined. And as politicians, let's realize that the American voter will never stand for the kind of rationing by delay that seems to have crept into every other system. Let's take our time to do it right. There is a bipartisan consensus to get it done. We can work together and make that accomplishment, if we are not quite so insistent that the government plan ultimately is the only way to go.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The 30 hours postcloture under rule XXII has expired. The question is on agreeing to the motion to proceed to H.R. 1256.

The motion was agreed to.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent the only amendments in order today after the amendment is offered by myself, Senator DODD, the HELP Committee substitute amendment, be the Lieberman amendment re: TSP, and the substitute amendment of Senators BURR AND HAGAN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### ORDER FOR RECESS

Mr. DODD. Mr. President, I now ask unanimous consent the Senate stand in recess from 6 p.m. to 6:30 p.m. My intention would be to address for a few minutes some comments and then would defer to others who may want to speak until we recess at 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Mr. DODD. Mr. President, I rise to offer an amendment in the nature of a substitute to H.R. 1256.

As I understand it from the leadership, while there will be some comments I will make this evening, briefly, about the substitute, and others may have some comments to make before the evening concludes, there will be no votes this evening. The leadership has notified us of that, so colleagues ought to be aware there will be no votes at all this evening.

If I could, I wish to take a few minutes to describe the substitute amendment, and I will yield the floor to others who want to talk before the 6 p.m. hour arrives and others who may come back around 6:30 to make some additional comments.

#### AMENDMENT NO. 1247

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1247.

Mr. DODD. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DODD. Mr. President, this substitute amendment represents the work of the Committee on Health, Education, Labor and Pensions, which was reported out of our committee by a vote of 15 to 8 prior to the Memorial Day recess. In this substitute we have included some very important changes as a result of good work by my friend and colleague from Wyoming, Senator ENZI. I thank him and thank his staff, as well as the majority staff, for their work in reaching agreement on this amendment. It was important to my colleague from Wyoming that we improve the language on civil monetary penalties on companies that violate the law, and I agree with those suggestions. Senator ENZI also made clear, and I agree with him, that we need to make sure that over time, Congress and the public need to understand how this bill is being implemented, so we have enhanced the reporting requirements on the Food and Drug Administration and called on the General Accountability Office to make a study of the bill's implementation.

These are strong provisions and I appreciate very much the diligence of my colleague from Wyoming, his work, and the work of his staff as well.

Otherwise, the substitute would still give the Food and Drug Administration the authority to regulate the tobacco industry and put in place very tough provisions for families that, for far too long, have been absent when it comes to how cigarettes are marketed to America's children.

We cannot afford to wait any longer. Every day we delay, as I have said over and over, another 3,000 to 4,000 children across our country—as they did today and will again tomorrow, will again every single day—3,000 to 4,000 of our young people are ensnared by the tobacco companies that target them with impunity as they try smoking for the very first time. Those numbers are incredible; 3,000 to 4,000 every single day take that first cigarette, begin that process. Almost a third to a quarter of them will actually become addicted. Roughly a third of that number will die, in many cases prematurely, because of that process that starts today with 3,000 to 4,000 children.

A thousand of these children become addicted. Of these addicted, a third, as I said, will die eventually of smoking-related diseases. Absent any action by this Congress, more than 6 million children alive today will die from smoking,

including more than 76,000 people in my own State of Connecticut.

The purpose of this historic public health legislation is very simple. It is to protect America's children and to give them the longer, healthier future they deserve. This is a cry from parents as well, including parents who smoke. As I said earlier, parents who smoke, if all of them could be here in this Chamber today and have the privilege that I have to have a microphone attached to my pocket here to talk about this, as smokers, would plead that their children never ever begin this habit. If they could wish anything, they would wish their children would avoid this deadly habit. So it is not just those who do not smoke or those who are offended by it or those who are worried about the health implications. I don't know of anybody who wants to see a young child begin the habit of smoking.

Yet for almost 10 years we have been unable to get this bill passed—almost 10 years of effort, led by our colleague from Massachusetts, Senator KENNEDY, who has tried over and over to get this legislation up and to get it adopted by both Chambers.

For the benefit of our colleagues, they should know this Chamber has adopted legislation, but at the time we did, the other body didn't. Candidly, the other body has acted as well, but when they did, we did not. So we have had this kind of circus going on over the last 8 or 10 years, where when the Senate acted, the House didn't; then the House acted but the Senate didn't. We are on the cusp of both Chambers acting and a President who will sign this bill into law to make a difference for the millions of people who have been adversely affected by this subject matter.

I also want to address some of the points our opponents of the bill have been saying about the legislation. Let me be clear. The Food and Drug Administration is absolutely the right agency for this job. It is the one Federal agency with the necessary scientific expertise, regulatory experience, and public health mission to do the job. No other agency of government is able to do all three of these.

Many others can do good work, but they can't do all three. They don't have the scientific expertise, they don't have the regulatory experience, and they don't have the public health mission that the Food and Drug Administration does.

The FDA regulates food, drugs, cosmetics, even pet food, but they do not regulate tobacco. They can regulate what your cat has and what your dog has but not what your child starts today, the 3,000 to 4,000 who do. We have been able to get that done so your pets are OK, but your child may not be because of our failure over the years to make sure tobacco will be regulated by

the FDA. Tobacco, we know, is the most dangerous consumer product sold in the United States, or anywhere in the world for that matter. Yet it is currently exempted from oversight by the agency that regulates virtually every other product that Americans consume.

Some have said this bill will drain precious resources away from the FDA. In fact, what we have done with this bill ensures that the Food and Drug Administration is given adequate resources to perform its new tobacco product responsibilities without taking any resources from its other important activities. We do this by setting up a special division within the FDA to do just this job and we allocate specific resources, collected as user fees, to fund the very efforts we are seeking to accomplish. So all of the other functions the FDA does are not going to be adversely affected because of what we have written into this bill. The legislation does this, as I said, by assessing user fees on the companies and the cost of regulating tobacco is paid entirely by these user fees.

Some have also suggested that we should not act because States have squandered the funding provided in the Master Settlement Agreement on smoking and tobacco products. Some States have, and we do not defend their actions. But this is not a reason for inaction now, when we can protect as many children as we will with the adoption of this legislation.

Furthermore, while the 1998 Master Settlement Agreement on tobacco between the States and the tobacco industry was a very positive step, it simply did not go far enough. In order to protect the public and to prevent and reduce smoking, especially among children and kids, tobacco products must be regulated by the Food and Drug Administration. Since the Master Settlement Agreement was signed, marketing expenditures by the tobacco industry have reached record levels. The industry spends \$13 billion a year—\$13 billion a year—to market their products to America's children.

This bill would restrict the tobacco industry's ability to market to children. Mr. President, 400,000 people die every year from tobacco-related illnesses. That is more than die from alcohol abuse, automobile accidents, violent crime, illegal drugs, and suicide. All of them combined do not equal the number of deaths caused by tobacco products and by cigarettes. In order to make up those loss numbers, the industry targets the youngest of our citizens, our children. They do it with a \$13 billion appropriation to go out and actually solicit the children to become addicted to these products.

Let me be clear that despite what some have claimed, this bill does not

grandfather any existing tobacco products. In fact, this legislation will finally allow the Food and Drug Administration to take action on these products that have had special protection for decades. For the very first time, the FDA will have the broad authority to require changes in existing tobacco products and make them less risky or less addictive.

Some opponents have sought to downplay the significant impact of this bill. The Congressional Budget Office has estimated that the bill will reduce adult smoking by 2 percent over 10 years. This is true. But what opponents do not tell us is that a 2-percent decline in adult smoking is about 900,000 fewer adult smokers. That is not insignificant, almost a million people. That 2 percent sounds small, but when you translate it into actual numbers, it is somewhere in the neighborhood of 900,000 to a million people. More importantly, opponents leave out the fact that, according to the Congressional Budget Office, this bill would reduce youth smoking by 11 percent. Such a decline would save the lives of some 700,000 children from premature smoking-related deaths.

For adults to quit smoking is hard. I could be a personal witness to this, having been a smoker. I can tell my colleagues how hard it is to quit. People I know try every day and fail. It is hard. It is a very addictive product. So as a former smoker, I know what this is like and how hard it can be for people to break this habit. But 90 percent of the adults who smoke started as kids. They started as children. If we can break that link with children so that they don't begin this deadly habit, then we can start saving lives. And if lives don't impress you, how about money? It is billions of dollars we spend every year as part of our health care costs. A lot of those don't die but end up being sick or ill for years in a very debilitated fashion as a result of smoking-related products, particularly cigarettes.

In a few days, we are going to be dealing with health care. There is a lot of division here about what we ought to do on health care. One subject matter we are not divided on is prevention. To avoid chronic illnesses, the best way is to prevent them from happening in the first place. If we thought we could make a dent of even 100,000 lives, what about 200,000 lives because we made a difference in the number of children who started this deadly habit each year? What better way to begin the debate about prevention than going after the one cause, the self-inflicted wound that we impose on ourselves because of smoking habits? That is self-infliction that we do. We know it kills. We know what damage it does. Here we have the ability in a few days, maybe, or less, to actually do something in a meaningful way that has never, ever

happened before. Cat food, pet food, dog food get regulated by the FDA, and finally tobacco will, tobacco and cigarettes.

Passing this bill will be a historic victory for our Nation's health, helping parents protect their children, as every parent across the country tonight would pray and hope their child would never begin this deadly habit. Their Federal Government is now going to be of some assistance. We are going to provide for these products the same kinds of protections we do for animals in terms of what they eat every night in your homes. We will now say the same kind of protection ought to be afforded to your children. Parents deserve peace of mind when it comes to how dangerous tobacco products are marketed. With this legislation, that is precisely what we will give them.

I commend my colleagues in this Chamber who over the years have voted, when they have had the opportunity, to implement this legislation. I thank immensely our colleague from Massachusetts, Senator KENNEDY. I thank Mike DeWine of Ohio, who is no longer with us as a Member. He was Senator KENNEDY's partner on this issue, as were HENRY WAXMAN and TOM DAVIS on the House side. This has had bipartisan support. Tonight, our friend from Massachusetts is at home recovering from his own struggle with illness. But he may be watching at this hour. We want him to know how grateful we are to him for his undying efforts to make this bill a reality.

I thank MIKE ENZI. MIKE cares deeply about this issue. He gets passionate about a lot of subject matters, but this is one where I have seen the most passion by my colleague from Wyoming. He can tell his own personal stories of what he has witnessed over the years. While he may have some problems with this particular proposal, he has no problem with the idea that we ought to be cutting back and making significant inroads in children beginning this deadly habit.

Our substitute is a bipartisan effort to bring together these ideas and once and for all to do something in a way that will make a difference in the lives of millions of people in this country and hopefully one day around the world as well. This habit is not confined to our own Nation. We can't legislate for the world, but we can legislate for ourselves, to say to America's parents that tonight and over the next day or so we will make a huge difference, I believe, in their children's lives by limiting the ability of this industry to appeal and market directly to their children. That is what this bill does.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1246 TO AMENDMENT NO. 1247

Mr. BURR. Mr. President, I ask unanimous consent to call up an amend-

ment in the nature of a substitute, No. 1246, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR], for himself and Mrs. HAGAN, proposes an amendment numbered 1246 to amendment No. 1247.

Mr. BURR. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BURR. Mr. President, let me say it is shocking that the argument as to why we should do this is because the Food and Drug Administration regulates cat and dog food, what we have just heard. The truth is, the FDA regulates every pharmaceutical product, every medical device, every biological product, lifesaving drugs, chronic disease, treatments, therapies. It is in charge of food safety, of products that emit radiation. It is the gold standard of the world from the standpoint of the approval and assurance of safety and efficacy of things Americans take that are prescribed by doctors and filled by pharmacists. They know when they go home, they can take it because it is safe and effective. Now we are talking about giving that same agency a product for which they can't prove safety and efficacy—their core mission statement for every product they regulate. They will have to turn their head on tobacco because it kills. It causes disease. It isn't safe. This makes no sense.

What the substitute does is create a tobacco harm reduction center. It locates it at the Department of Health and Human Services, under the Secretary—the same Secretary who oversees the Food and Drug Administration.

Within that tobacco harm reduction center, it gives the authority to the center to regulate all cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, and other tobacco products that are deemed by the Secretary to be necessary for regulation. We don't lessen the regulation of this industry. As a matter of fact, as Members have an opportunity to hear tomorrow about this substitute amendment, we increase the regulatory authority. We do it under the same guidance of the Secretary of Health and Human Services. We define what adulterated and misbranded tobacco products are. We give the tobacco harm reduction center the ability to pull products directly from the market and to prevent those products from going to market. Misbranded product would be a label that is false or misleading, labels that don't contain all the information, are not in compliance with section 109,

and tobacco or ingredients are not disclosed. It requires tobacco manufacturers to submit extensive lists of ingredients, substances, compounds, and additives by brand style to the tobacco harm reduction center. It requires the center to determine and make public a list of harmful constituents, including smoke constituents and by brand styles. It requires annual registration and submission of additional information by the manufacturers to the center. It requires establishment of tobacco product design standards and establishes tar and nicotine ceilings for cigarettes. It eliminates candy and fruit descriptors on cigarette advertising and marketing. It gives the center the authority to remove tobacco products from interstate commerce if such products pose an unreasonable risk of substantial harm to public health.

This is about public health. The objective of any bill should be to reduce youth usage, to reduce disease, to reduce death. If we put it in the FDA, we grandfather a tremendous amount of smoking products, but we don't allow a pathway for new, less harmful products to reach the marketplace. In our case, we allow reduced-risk products to come but under the supervision, the direction of the harm reduction center.

It requires all tobacco manufacturers of imported tobacco products to establish and maintain records, make reports, provide information as the Secretary requests, not as we prescribe. It requires premarket approval of new combustible tobacco products before entering interstate commerce. It bans the use of such descriptions as "light," "ultra-light," and "low tar" on packaging, advertising, and marketing of cigarettes. It requires testing and reporting of all tobacco product constituents, ingredients, additives, including smoke constituents and by brand styles. It creates a scientific advisory committee of 19 people. It establishes a new warning label that communicates the health risk of cigarettes, with placement for cigarettes on the front of the packaging. It requires ingredient disclosures and other information on all tobacco packaging. It has the graphic warning labels required. It establishes new warning labels that communicate the health risks of smokeless tobacco. It requires ingredient disclosure and information on tobacco products. The list goes on and on.

The authors of the base bill and the substitute that has been offered in its place suggest that they do a better job of making sure that youth don't access tobacco products. That is just wrong. Every State sets an age limit. One bill does not police the process more than the other.

The one thing this substitute does, this amendment in the nature of a substitute, is we ban print advertising except in a publication that is an indus-

try publication. So every general print ad, every general print publication, a publication that a mom might buy but a teenager might look at, we eliminate advertising. What does the base bill do? It limits it to black-and-white advertising.

Don't come to the floor and suggest one does a better job than this substitute. When you ban advertising, you have banned the ability to market to the youth. When you ban descriptors and other items such as candy and fruit descriptors, we do that as effectively, we just do it through a harm reduction center. Why? Because it is under the same leadership of the Secretary of HHS.

I don't want to jeopardize the gold standard of the FDA. I don't want to compromise the gold standard that it has to meet the test of safety and efficacy so the American people have trust in products. We jeopardize that when we give the FDA this mission.

Some will claim the FDA is the only one that can do it. As I showed before, there is the regulatory chart for tobacco today in the United States. Every Federal agency is listed up here, including HHS. FDA has no current jurisdiction. They have no expertise to regulate tobacco.

It is the most regulated product sold in America today. But I am not on the floor arguing that this is enough. We can do better. We can consolidate that regulation. We can build on the strengths of all of these underneath the heads. But to add FDA is a huge mistake.

We just got faxed to us the endorsement of this substitute amendment, No. 1246, by the American Association of Public Health Physicians. The Association of Public Health Physicians endorses the Burr-Hagan amendment. All of a sudden, health care entities are looking at these two bills, and they are saying: The amendment in the nature of a substitute, No. 1246, actually does accomplish what is best for public health. And public health physicians are willing to put their name on it.

We are going to have an opportunity tomorrow to talk at length about what is in the substitute. My colleague, Senator HAGAN, cosponsor of this bill, will have an opportunity to address it either tonight or tomorrow. I look forward to the opportunity to do that.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 6:30 p.m.

Thereupon, at 6 p.m., the Senate recessed until 6:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. BENNET.)

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—Continued

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, basic instinct in humankind directs so much attention to the well-being of our children. We do it in various ways. Now you see it creeping into better nutrition. We see it in our attention to environmental conditions, to global climate change. We see it in our attention to deal with violent behavior against children. We do whatever we can to protect our kids, to protect them and do whatever it takes to do what we can to make sure they grow up healthy, they have long lives.

One of the ways we can be effective is to protect our kids against addiction. I use the word deliberately. "Addiction" immediately conjures up a view of drugs—prescription drugs, prohibited drugs. We are not talking about that addiction. I am talking about a serious addiction, an addiction to tobacco—to tobacco—that has such a devastating effect on the people who smoke and often on those who are around the people who smoke.

We heard from Senator DODD earlier about what happens from smoking. It kills more than 400,000 Americans each and every year. Many of them are of younger ages. In addition to the lethal dose, there is that kind of attack on health that disables people—emphysema, conditions that affect the heart, all kinds of things. We know lung cancer is among the most dangerous.

Senator DURBIN, who was a Member of the House at the time, and I decided to take up the fight against big tobacco and their powerful special interests more than 20 years ago when we wrote the law banning smoking on airplanes. We stood up to big tobacco because smoking on airplanes was so unhealthy. We learned the dangers of secondhand smoke. Many of the people who were cabin attendants were subjected to terrible respiratory discomfort and danger.

As a matter of fact, there was a study that was done, and it said even those who never smoked—people who worked in the cabin of the airplane—would show nicotine in their body fluids weeks after they had worked a trip. That is how pervasive this was. But big tobacco fought back. They fought back ferociously. They unleashed their forces. Money flowed to protect their addicted clientele and to keep them there. They brought phony science and



high-paid lobbyists to squash this assault on behalf of public health. They had phony experts testify to Congress, up here on television, saying unashamedly that there was no evidence that secondhand smoke was dangerous, even though they knew in the tobacco companies. In the 1930s they learned that nicotine was so addictive and that it would continue to help them earn enormous profits. We fought back, and we succeeded in banning smoking on airplanes. It was a tough fight because of all of the misinformation that the industry spread. That then started a smoke-free revolution, and it did change the world culture on tobacco.

Some years later I authored a law that banned smoking in buildings that provided services to children, any building that had Federal funds. It could have been a library, a clinic, a daycare center; whatever it was, there was no smoking allowed in those buildings, except if it was in a separate room that ventilated directly to the outside. They fought us on that, but the people won. It is as clear to me today as it was then that this industry has not earned the trust to regulate itself. That is a plea they make, but no one believes they mean it.

Ten years ago, I was able to gather unpublished, internal reports by the tobacco industry showing that so-called "light" and "low-tar" cigarettes were a poor disguise of the true harm that these cigarettes brought. The cigarette makers were seducing smokers into thinking that these cigarettes were a healthier choice than those previously generally sold.

Real government oversight was essential to protect the public, especially our young, from this deadly product. As we know, since the 1980s, the tobacco industry has continued to engage in one sophisticated marketing campaign after another to get youngsters addicted to nicotine—just get them started and they are yours—even though selling and marketing cigarettes to children is generally against the law. It is our obligation, our responsibility to end the recruitment of kids as the next generation of smokers.

If there was ever any doubt about how effective and real this unlawful marketing is, just consider that more than 3 million young people—people who are under the age of 18—in our society are smokers. What is more, currently 3,500 kids every day try smoking. That, for many, is the first step to a life of addiction.

When I served in the Army, we were given an emergency pack in case we got in trouble, in case we were isolated from our units, and the emergency pack had some food, including a high-nutrition chocolate bar, but it also had four cigarettes in a little sleeve. Everybody got cigarettes free, even if you didn't use them before. The temptation to use them then was great, and it was right down the addiction alley.

The legislation we are talking about now that is being debated in this Chamber would finally grant some supervision and give a Federal agency—the Food and Drug Administration—the authority to regulate the tobacco industry. The bill, very simply, would give the FDA jurisdiction over the content and the marketing of tobacco products, and more explicit warning labels would be required. President Obama supports this effort, and it is now our turn and our obligation to safeguard families and children by passing this critical bill.

The legislation would give us more and better information about cigarettes. The fact is that we still don't know a cigarette's exact contents. That means 40 million Americans—the number of people in this country who are addicted to smoking—burn and inhale a product whose real ingredients are a mystery. Think about it. We see evidence of the fact that these people are typically locked in a vice, a vice so embarrassing that they sneak into hallways, they stand outside in a huddle in the rain, or in all kinds of weather conditions, whatever they are, to get the puffs on cigarettes. I know people who work in the Capitol here whom I see frequently going down the hall to get outside in inclement weather. Why? To smoke. So we have a situation we can't deal with. We have to understand what is in these products. The real ingredients are a mystery. To lead so many Americans on a dangerous path to a debilitating disease, and often lethal, is not simply wrong, it is the definition of negligence. If this legislation is successful, the FDA would monitor the content of cigarettes and could call for the reduction or removal of the toxic substances.

FDA oversight would also ensure that cigarette makers don't deceive Americans through trick advertising and promotional campaigns. History has proven how untrustworthy the tobacco companies are. Just think: More than 20 percent of twelfth graders said they have smoked in the last 30 days—20 percent of kids in the twelfth grade, typically 16, 17, 18 years old, have had a cigarette in the last 30 days.

For years, we have set our sights on getting the FDA to regulate cigarettes. Why? To protect our kids. No other government agency is as qualified to get this job done. In fact, one out of every five products that Americans purchase is regulated by the FDA. They watch over all kinds of things. Now they are looking at chemicals that are in products that very small children have contact with. The agency currently oversees prescription drugs, over-the-counter medicines, and medical devices, and it already regulates a number of well-known nicotine delivery products, such as the Nicorette gum and the patch.

For the last 45 years, ever since the Surgeon General's office began issuing

warnings about cigarettes, big tobacco has used every tactic imaginable, including sham organizations, influential lobbyists, and powerful lawyers, to avoid public scrutiny. It is time to make big tobacco accountable to the public. It is time to make it accountable so that we can protect our children from the danger that kills more than 400,000 Americans every year.

I, too, was a smoker at one time, until over 30 years ago. Many times I thought about quitting, but the temptation to light up was always there and overcame any decision that could persuade me to stop from lighting up and taking a few drags. What happened? One night after dinner my third daughter, who was about 7 or 8—she was in maybe second grade—said, Daddy, why are you smoking? I said, well, because it makes me feel relaxed. It feels good when I am doing it after I have eaten. This little kid looked at me and she said, Daddy, today in school we learned that if you smoke, you get a black box in your throat. She was 7 years old. She said, I love you and I don't want you to have a black box in your throat. That convinced me. Within days I had my last cigarette.

I will close with another hideous reminder about the woman who appeared in front of one of my committees. She had already had an operation on her esophagus, I think, but in her throat, she actually had a hole in her throat. She admitted that despite the fact that she had essentially lost her voice box, she still smoked through the hole in her throat. She said her doctor got angry with her when after this serious surgery she was asking for a cigarette. The hold on people is almost unbreakable. But we can do our part here in the Senate if we pass this bill.

I ask my colleagues to vote yes on this legislation. It is good for your constituents, it is good for your families, it is good for America's financial well-being. We spend over \$100 billion a year as a result of premature death and disability from tobacco use.

With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HAGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mrs. HAGAN. Mr. President, we are going to hear a lot this week about how the Family Smoking Prevention and Smoking Control Act is going to prevent youth from taking up smoking. I fully support that goal. I think all of us do. I don't think anybody here believes that smoking among our Nation's youth isn't a problem. Every day, over 3,500 youth in our country try

their first cigarette and another thousand become regular daily smokers. Clearly, we must do something to deter our children from smoking.

As I mentioned yesterday, this bill before us goes much further than that. It grants the FDA extremely broad authority to take action that it considers to be in the interest of public health. I reiterate that is an interesting standard—especially when you consider that cigarettes, when used as intended, are a dangerous, unhealthy product. This bill puts the FDA in an impossible situation.

My colleague from North Carolina, Senator BURR, is offering a sensible alternative to the bill before us that focuses on reducing tobacco use among our Nation's youth. I joined Senator BURR in supporting this alternative because I believe it balances the need to curb teenage smoking while protecting tobacco farmers and, in turn, North Carolina's families. Similar to the Family Smoking Prevention and Tobacco Control Act, this alternative would be financed through user fees assessed on tobacco manufacturers.

While the bill before us today would place additional burdens on the already overtaxed FDA, our alternative instead creates the Tobacco Regulatory Agency—a Federal agency within the Department of Health and Human Services dedicated solely to regulating the manufacture, marketing, and use of tobacco products.

Unlike the Family Smoking Prevention and Tobacco Control Act, this alternative bill has a smoking-cessation component which would require the administrator to develop recommendations to reduce smoking and reduce the harm of tobacco use.

The alternative contains language similar to the amendment I offered in the committee to ensure that the technology is available to meet the standards and that the Tobacco Regulatory Agency does not have the authority to regulate tobacco growers. In fact, the alternative explicitly states that the new Tobacco Regulatory Agency would not have authority over the actual tobacco growers and tobacco cooperatives. It takes this protection one step further by prohibiting any changes to traditional farming practices, including standard cultivation practices, the curing process, seed composition, tobacco type, fertilization, soil, record keeping, or any other requirement affecting farming practices.

The alternative also prescribes requirements for cigarette and smokeless tobacco labels and warnings, and it requires the administrator of the new agency to publicly disclose the ingredients in each brand of tobacco.

Finally, as I mentioned, this alternative requires some thoughtful changes that will reduce teen smoking rates. It prohibits fruits and candy branding on cigarettes. None of us

want that. It also reduces the utilization of any character cartoons in advertisements. It prohibits providing any free samples, sponsoring sports events, and any advertising on television and radio in order to sell cigarettes. Stiff penalties are imposed for distributing tobacco products to minors and for minors possessing tobacco products.

Again, I think this alternative offers a better approach to curb teen smoking. It helps adults to quit smoking, and it ensures that the Federal Government can adequately regulate tobacco and protect the 12,000 tobacco farmers and 65,700 employees in tobacco-related industries in North Carolina.

Finally, I say this to my colleagues. I have no doubt they would view an amendment to this bill supported by two Senators from North Carolina with suspicion. But if they will look at the amendment that Senator BURR has offered, I think they will agree this is a serious amendment that actually addresses the issues with which this underlying bill purports to deal. I hope my colleagues will consider the Burr amendment with an open mind.

Mr. UDALL of Colorado. Mr. President, I am here to add my voice to the strong bipartisan support for the bill before us today. I also thank Senator TED KENNEDY for his tireless effort to shepherd its success. While this legislation is long overdue, I think it is especially timely and appropriate that we have the opportunity to see it signed into law in the midst of a historic health reform debate.

We have known for some time that one of the biggest obstacles we face in reforming our broken health care system is the nearly exponential rise in health care costs. An enormous contributor to these costs is the price tag for treating chronic disease and preventable illness, particularly the pulmonary disorders and throat and lung cancer that come with smoking.

What better way to help lower health care costs and promote wellness and prevention than by going after the No. 1 cause of preventable death and disease in this country? Coloradans currently pay taxes to cover over \$1 billion per year in smoking and tobacco-driven costs. That is nearly \$600 per Colorado household.

As we are struggling to find ways to pay for a revamped health care system that provides quality care to everyone who needs it, let's have part of that pay-for be this bill by preventing millions of American children and teens from becoming addicted to a product that is really a one-way ticket to disease, cancer, and many times death.

While I have been disturbed by so many of the sobering facts, figures, and statistics we have heard throughout this debate, there is one in particular that I think really drives home the underlying issue here: 90 percent of cur-

rent adult smokers were addicted by the age of 18.

That means that, in order to maintain its bottom line, big tobacco isn't finding new customers in our age range. The only way for them to continue making big profits is to target what they have, in the past, deemed "their base": our children. As a father, it terrifies me to know that tobacco companies view our children as "replacement smokers."

As tobacco companies continue to find more creative ways to get kids to join their customer base through deceptive marketing and other tactics, parents must continue to educate their children about the dangers of smoking. But we can give them a helping hand by ensuring that youth magazines aren't full of colorful ads tailored specifically to make them the new generation of smokers—tailored to encourage addiction. We can help them by ensuring that the convenience store across the street from their kids' high school doesn't have an advertised "back-to-school" special on newly introduced fruit-flavored tobacco products, displayed prominently next to their shelves of gum and candy products. As we have heard from my colleagues who have spoken before me, practices like these have been documented, and they are horribly unacceptable.

In addition to many important tools this legislation would give to the FDA to protect children and consumers, this bill will allow the agency to restrict tobacco advertising, especially to children; prevent sales to youth; improve and strengthen warning labels on products; prevent misleading marketing and misrepresentation; regulate and remove many of the hazardous chemicals and ingredients used to make tobacco products more addictive—and many times more deadly.

Because this bill is, at its root, about people, I would like to share the story of a Coloradan who knew firsthand the effects of cigarette smoke and spent many years fighting to keep kids safe.

First diagnosed with throat cancer in 2002, David Hughes was a musician, Colorado outdoorsman and cave explorer, father, and husband. Having begun his smoking habit as a teenager, he quit cigarettes upon diagnosis and bravely endured 70 radiation treatments, chemotherapy, and successful surgery. Feeling as if he had a new lease on life, David went back to school and started a woodworking business, spent even more time with his wife Kathy and son Nathan, and volunteered with the Loveland Alliance on Smoking and Health to fight for smoke-free air for his family and community. He worked especially hard to keep cigarettes out of the hands of children, knowing firsthand the lifelong addiction that can come from being exposed to tobacco early on.

Unfortunately, 4 years later, the cancer returned—this time to his lungs—

eventually taking his life on June 4, 2008, but not without a spirited fight fueled by an infectious positive attitude and love for his family and friends.

David's wife Kathy has called 2009 her and Nathan's year of "adventurous recovery." I hope getting this bill signed into law will help, if even in just a small way, give them the energy to continue their adventure and give them the peace of mind of knowing that their father and husband's powerful advocacy on behalf of this cause will help prevent other families from experiencing similar heartache and loss.

David's story underscores the importance of this legislation to real people and the affect it can have on real lives.

The time to act on this bill is now. The idea for the Family Smoking Prevention and Tobacco Control Act has been around for over a decade, and the provisions contained in this version have been debated and polished by countless capable policymakers. The FDA is the only agency that combines the scientific know-how and regulatory authority to get the job done. This bill is fiscally responsible and fully paid for through user fees to tobacco companies.

Given the current rate of tobacco use, it is estimated that 92,000 Colorado kids alive in my home State today could ultimately die of smoking. While the long-term goal is to shrink this figure to zero, let's pass this legislation this week and put a significant dent in such an overwhelming and unacceptable number.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1256 TO AMENDMENT NO. 1247  
(Purpose: To modify provisions relating to Federal employees retirement)

Mr. SCHUMER. Mr. President, under the previous order, on behalf of Senator LIEBERMAN, I call up his amendment, which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for Mr. LIEBERMAN, for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH, proposes an amendment numbered 1256 to amendment No. 1247.

(The amendment is printed in today's RECORD under "Text of Amendments.")

#### MORNING BUSINESS

Mr. SCHUMER. I ask unanimous consent that the Senate proceed to a pe-

riod of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMENDING NONCOMMISSIONED OFFICERS

Mr. REID. Mr. President, I rise today in recognition of the Army's 234th anniversary. On June 14, 2009, the Army celebrates its 234th year of courageous and noble service to the people of the United States of America.

The Army has designated 2009 as "The Year of the Noncommissioned Officer," in recognition of the dedicated and selfless service of noncommissioned officers, known as the "Backbone of the Army," throughout the Nation's history. Our country nation owes a debt of gratitude to those noncommissioned officers who have defended our country and freedom worldwide, serving in harm's way across the globe to defend freedom and secure the peace for the American people. It is fitting that we should pay special tribute to the Army's noncommissioned officer corps on the 234th anniversary of the Army's establishment in 1775.

At Fort Lewis, WA, home of the I Corps, known as "America's Corps," noncommissioned officers are observing the Army's birthday while preparing for deployment into harm's way, training for future service to the Nation, and upholding the high standards of our armed services.

It is my desire to thank and honor those courageous, dedicated and selfless men and women. I am grateful for the Army's outstanding corps of noncommissioned officers at Fort Lewis, WA, under the direction of COL Cynthia Murphy, Garrison Commander, and Command Sergeant MAJ Matthew Barnes, for their role in defending our Nation and serving its people as the keepers of the Army's high standards, the trainers and maintainers who make our Army the greatest force for good across the globe, and the heart and soul of our fighting forces at home and abroad. They are truly the "Backbone of the Army."

#### 150TH ANNIVERSARY OF VIRGINIA CITY, NV

Mr. REID. Mr. President, I rise today in honor of a very historic event—this Saturday marks the 150th anniversary of the founding of Virginia City, NV. Many Americans know Virginia City from the old TV show "Bonanza," but this city also played an extremely important role in the history of the United States in the second half of the 19th century.

Virginia City's roots as a mining town began in 1850 as the '49ers traveled through on their way to California. Men often stopped in this area

to practice their gold-mining skills but never found much of value until 1859 when Peter O'Riley and Patrick McLaughlin found some gold in the dirt. Henry Comstock passed by shortly after and talked his way into a share of what would later be named after him: the Comstock Lode. For several months, they mined the earth, tossing aside buckets full of "blue stuff" that got in the way of only a small amount of gold. Out of curiosity, they sent away a sample of this blue stuff to be tested, and it turned out to be made up of three-fourths silver ore. News spread quickly, and by the following spring, 10,000 men had arrived hoping to make their fortune.

This silver lode proved more difficult to mine than the gold in California, and mines collapsed before they could reach much of the ore. American ingenuity persevered, however, and a whole list of new technologies were developed that would be used in mines across the country. In no time, the ground below Virginia City was crisscrossed with mines, and the city itself was a boom town full of boarding houses and saloons. The official value of all the gold and silver taken out of the Comstock between 1859 and 1882 is over \$300 million. These riches helped Nevada in its effort to become an independent territory and then its own State in 1864.

Virginia City also produced some of America's great historical figures. George Hearst made his fortune in Nevada before founding the newspaper empire he became famous for, and Samuel Clemens first used the name "Mark Twain" while writing for the local paper, the Territorial Enterprise.

Today, Virginia City has a population of less than a tenth of what it had at its peak in the 1870s. However, it remains a vibrant community and an outstanding monument to the Wild West. The millions of tourists who visit Virginia City each year can stroll the wooden sidewalks, explore old mines, pan for gold, and watch the annual international camel and ostrich races. I am happy I will be able to celebrate this historic anniversary in Virginia City, and I am proud to recognize the city's achievements today.

#### CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 311(a) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, the aggregates, and other appropriate levels in the resolution for legislation that authorizes the Food and Drug Administration to regulate products and assess user fees on manufacturers and importers of those products to cover the cost of the regulatory activities. Additionally, section 307 of S. Con. Res. 13 permits the chairman to adjust the allocations of a committee

or committees, aggregates, and other appropriate levels in the resolution for legislation that, among other things, reduces or eliminates the offset between the survivor benefit plan annuities and veterans' dependency and indemnity compensation. The adjustments under both reserve funds are contingent on the legislation not increasing the deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019.

I find that the amendment in the nature of a complete substitute to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, contains language that fulfills the conditions of the deficit-neutral reserve funds for the Food and Drug Administration and America's veterans and wounded servicemembers. Therefore, pursuant to sections 311(a) and 307, I am adjusting the aggregates in the 2010 budget resolution, as well as the allocation to the Senate Health, Education, Labor, and Pensions Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 311 DEFICIT-NEUTRAL RESERVE FUND FOR THE FOOD AND DRUG ADMINISTRATION AND SECTION 307 DEFICIT-NEUTRAL RESERVE FUND FOR AMERICA'S VETERANS AND WOUNDED SERVICEMEMBERS**

[In billions of dollars]

*Section 101*

(1)(A) Federal Revenues:

FY 2009 .....	1,532.571
FY 2010 .....	1,653.722
FY 2011 .....	1,929.684
FY 2012 .....	2,129.674
FY 2013 .....	2,291.204
FY 2014 .....	2,495.884

(1)(B) Change in Federal Revenues:

FY 2009 .....	0.000
FY 2010 .....	-12.264
FY 2011 .....	-158.947
FY 2012 .....	-230.719
FY 2013 .....	-224.133
FY 2014 .....	-137.774

(2) New Budget Authority:

FY 2009 .....	3,674.397
FY 2010 .....	2,888.696
FY 2011 .....	2,844.909
FY 2012 .....	2,848.114
FY 2013 .....	3,012.188
FY 2014 .....	3,188.874

(3) Budget Outlays: FY2009

FY 2009 .....	3,358.510
FY 2010 .....	3,003.315
FY 2011 .....	2,968.399
FY 2012 .....	2,882.772
FY 2013 .....	3,019.399
FY 2014 .....	3,174.863

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 311 DEFICIT-NEUTRAL RESERVE FUND FOR THE FOOD AND DRUG ADMINISTRATION AND SECTION 307 DEFICIT-NEUTRAL RESERVE FUND FOR AMERICA'S VETERANS AND WOUNDED SERVICEMEMBERS**

[In millions of dollars]

**Current Allocation to Senate Health, Education, Labor, and Pensions Committee:**

FY 2009 Budget Authority .....	-22,436
FY 2009 Outlays .....	-19,058
FY 2010 Budget Authority .....	4,487
FY 2010 Outlays .....	1,526
FY 2010-2014 Budget Authority .....	50,349
FY 2010-2014 Outlays ....	44,474

**Adjustments:**

FY 2009 Budget Authority .....	0
FY 2009 Outlays .....	0
FY 2010 Budget Authority .....	0
FY 2010 Outlays .....	0
FY 2010-2014 Budget Authority .....	17
FY 2010-2014 Outlays ....	17

**Revised Allocation to Senate Health, Education, Labor, and Pensions Committee:**

FY 2009 Budget Authority .....	-22,436
FY 2009 Outlays .....	-19,058
FY 2010 Budget Authority .....	4,487
FY 2010 Outlays .....	1,526
FY 2010-2014 Budget Authority .....	50,366
FY 2010-2014 Outlays ....	44,491

**FURTHER CHANGES TO S. CON. RES. 13**

Mr. CONRAD. Mr. President, section 401(c)(5) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, budgetary aggregates, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974 for the aggregate difference for discretionary appropriations in 2010 and related outlays between the Congressional Budget Office's reestimate of the President's budget and the Office of Management and Budget's original estimate of such policies.

On May 29, the Congressional Budget Office released its reestimate of the President's request for discretionary appropriations. Based on that reestimate, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays. As specified by section 401(c)(5), the adjustment reflects the aggregate difference in budget authority in 2010 between the CBO reestimate and the original OMB esti-

mate of the President's request for discretionary spending, as well as the related outlays. For 2010, I am revising the amount of budget authority by \$3.766 billion and the amount of outlays by \$2.355 billion. In addition, I am similarly adjusting the budgetary aggregates consistent with section 401(c)(5) of S. Con. Res. 13. In addition to the 2010 adjustments in budget authority and outlays, I am adjusting outlays in fiscal years 2011 through 2014 to reflect further changes in outlays that result from the adjustment in budget authority in 2010.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(5)—REVISED APPROPRIATIONS FOR FISCAL YEAR 2010**

[In billions of dollars]

*Section 101*

(1)(A) Federal Revenues:

FY 2009 .....	1,532.571
FY 2010 .....	1,653.722
FY 2011 .....	1,929.684
FY 2012 .....	2,129.674
FY 2013 .....	2,291.204
FY 2014 .....	2,495.884

(1)(B) Change in Federal Revenues:

FY 2009 .....	0.000
FY 2010 .....	-12.264
FY 2011 .....	-158.947
FY 2012 .....	-230.719
FY 2013 .....	-224.133
FY 2014 .....	-137.774

(2) New Budget Authority:

FY 2009 .....	3,674.397
FY 2010 .....	2,892.462
FY 2011 .....	2,844.909
FY 2012 .....	2,848.114
FY 2013 .....	3,012.188
FY 2014 .....	3,188.874

(3) Budget Outlays:

FY 2009 .....	3,358.510
FY 2010 .....	3,005.670
FY 2011 .....	2,969.115
FY 2012 .....	2,883.130
FY 2013 .....	3,019.578
FY 2014 .....	3,174.976

**CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(5) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS**

In millions of dollars	Initial allocation limit	Adjustment	Revised allocation limit
FY 2009 Discretionary Budget Authority .....	1,480,686	0	1,480,686
FY 2009 Discretionary Outlays .....	1,247,230	0	1,247,230
FY 2010 Discretionary Budget Authority .....	1,082,255	3,766	1,086,021
FY 2010 Discretionary Outlays .....	1,304,885	2,355	1,307,240

**CLEAN WATER RESTORATION ACT**

Mr. BARRASSO. Mr. President, we all know that one word can make a

world of a difference, especially in Washington. Some are advocating for the removal of the word "navigable" from the Clean Water Restoration Act. Doing so would give the government control over all wet areas in the country. In this case, one word will send common sense soaring out the window.

It snows in Wyoming. When the snow melts, it often leaves large puddles on ranches and farms across the State.

The Federal Government should not be regulating mud puddles.

This proposal will be detrimental to Wyoming's farmers and ranchers. We have been living out here for a long time quite successfully without the "helpful hand" of Washington.

A recent article printed in the June edition of the Wyoming Farm Bureau Federation's newspaper, "Wyoming Agriculture" really hit home. I recommend my colleagues read the article by Kerin Clark. I believe it is an accurate reflection of the feelings of Wyoming farmers and ranchers on this issue. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

What's in one word?

Deletion of "navigable" from CWA would have far-reaching consequences

Federal control of a ditch or grass waterway that is only filled with water after a rainstorm. Sound outlandish? Not, if the term "navigable" is deleted from the Clean Water Act and that is just what proponents of the Clean Water Restoration Act (CWRA) are pushing to do.

"This proposal, if passed, would clearly define intrastate waters as waters of the United States and give control to areas that only have water during rainfall events," Don Parrish, American Farm Bureau Federation (AFBF) Senior Director, Regulatory Relations, stated. "It is clearly the largest expansion of the Clean Water Act since it was passed in 1972."

The deletion of the term "navigable" from the Clean Water Act could have grave consequences for Wyoming water.

"Under both proposals the sponsors make it explicit they intend to roll-back the Supreme Court decision in SWANCC which gives the opportunity for agencies to regulate intrastate water," Parrish continued.

"Both bills also intend to roll-back the Supreme Court decision in Rapanos," He explained. "This was about ephemerals a loosely defined set of waters, what the Corp of Engineers and EPA define as only having water in them during and after a precipitation event."

"What is water and what is a ditch is hard to ascertain," He continued. "It is extremely broad and goes beyond what the Supreme Court has allowed."

According to Parrish, the implications of rolling back these two Supreme Court rulings are many including: 1) All intrastate waters and all water confined and retained completely on the property of a single owner would be federalized; 2) the use of all water, if linked to economic and commerce would be federalized; 3) Any areas that have flowing water only during, and for a short duration after, precipitation events would be treated as "waters of the U.S."; 4) the agen-

cies would be allowed to use any and all economic activity involving water, including the production of agricultural and forestry products, as the hook for federal regulatory reach; and 5) environmental activists would have the ability to sue landowners or the agencies to expand Federal jurisdiction.

The proposals would allow the Corp of Engineers and the Environmental Protection Agency to use the broadest possible regulatory reach of federal waters. "It probably even reaches the preverbal western water hole" Parrish stated. "If cattle drink from the water hole and then rancher sell those cattle out-of-state to be finished and that could be an economic hook for federal regulation of that water."

In a May 2009 Field and Stream article, passage of the Clean Water Restoration Act is listed as one of the five crucial goals sportsmen must work toward right now. "Sportsmen need to understand what the implications are for landowning and not just shooting ducks," Parrish continued. "Farmers and ranchers have to make a living working the land and this legislation will make it harder to do that. Thus, keeping the land in open spaces and providing habitat for wildlife and birds would be even harder."

The American Farm Bureau Federation opposes the Clean Water Restoration Act because it is an expansion of federal jurisdiction.

"Farmers and ranchers do good things for the environment, we support the Clean Water Act," Parrish concluded. "But removing the term 'navigable' from the CWA gives total control to the federal government and leaves little or no authority for the states and owners of private property."

#### HONORING OUR ARMED FORCES

SENIOR AIRMAN ASHTON L.M. GOODMAN

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of SA Ashton L. M. Goodman, from Indianapolis, IN. Ashton was 21 years old when she lost her life on May 26, 2009, from injuries sustained from a bomb attack near Bagram Air Field, Afghanistan. She was a member of the 43rd Logistics Readiness Squadron, Pope Air Force Base, NC.

Today, I join Ashton's family and friends in mourning her death. Ashton will forever be remembered as a loving daughter, sister, and friend to many. She is survived by her mother, Vicki Goodman; father and stepmother, Mark and Chasity Goodman; brother, Levi Goodman; grandmother, Lois Kammers; aunt, Yvonne Chapman; stepsisters, Amber and Michelle Jefferies; half-sisters, Brianna and Courtney Goodman; and a host of other friends and relatives.

Ashton joined the Air Force in 2006, following her graduation from Indianapolis Warren Central High School. She served as a driver for the Air Force in Afghanistan, working with the Panshir Provincial Reconstruction Team, a unit that rebuilds roads and schools in Afghanistan. Ashton, who loved animals, was training to be a biologist. In high school, she worked at a local pet store and was active in the Zoo Teen Club, a student

group that volunteers at the Indianapolis Zoo. She was also a member of the Japan Club.

While we struggle to express our sorrow over this loss, we can take pride in the example Ashton set as a soldier. Today and always, she will be remembered by family and friends as a true American hero, and we cherish the legacy of her service and her life.

As I search for words to do justice to this valiant fallen soldier, I recall President Abraham Lincoln's words as he addressed the families of soldiers who died at Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as we can take some measure of solace in knowing that Ashton's heroism and memory will outlive the record of the words here spoken.

It is my sad duty to enter the name of Ashton L. M. Goodman in the official Record of the U.S. Senate for her service to this country and for her profound commitment to freedom, democracy, and peace. I pray that Ashton's family can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Ashton.

#### SRI LANKA

Mr. FEINGOLD. Mr. President, last month Sri Lanka saw an end to the longstanding military conflict between the Liberation Tigers of Tamil Eelam, the LTTE, and the Sri Lankan Government. In the immediate days that followed the end of fighting, President Mahinda Rajapaksa delivered a speech to his nation's parliament which formally marked the conclusion of an armed conflict that has escalated since January, but stretches back over 26 years.

This tragic war has claimed the lives of over 70,000 Sri Lankans, displaced hundreds of thousands, and seen systematic and brutal atrocities committed by both sides. Over the last 5 months, as the conflict intensified, it drew increasing and unprecedented attention from the international community. Nevertheless, obtaining a clear picture of this conflict, especially the situation of the estimated 290,000 people living in internally displaced persons camps, has been obscured by the Sri Lankan Government's severe restrictions on access for media, international observers, and humanitarian

aid workers. If we are to see a sustainable solution to this conflict over the long term, it is vital that the Sri Lankan Government remove these restrictions now and allow access to all independent actors.

I was pleased that President Rajapaksa acknowledged that Sri Lanka must not accept a military solution as the ultimate solution. As we have seen in conflicts around the world, a military ceasefire will not hold if the underlying causes that led to this conflict are not addressed. The fundamental grievances of the Tamil minority have been overshadowed, distorted, and in some cases silenced by the severe tactics of the LTTE, who since 1997 have been designated by the United States as a terrorist organization. The LTTE claimed to be the voice of the Tamil people, and yet their commitment to both indiscriminate and targeted violence, as well as reports from the last days of fighting that they used Tamil civilians as human shields, would indicate otherwise. If we are to see legitimate reconciliation in Sri Lanka, the grievances of the Tamil minority must be seen as distinct from the violence of the LTTE and addressed thoroughly and justly.

I urge President Rajapaksa to take steps now to demonstrate a serious commitment to a political solution, the rule of law, and most importantly, to genuinely addressing the needs of the Tamil people. At the same time, in proportion to the passion and effort with which the world's diplomats have demanded peace and respect for civilians throughout this conflict, donor countries must remain actively engaged and dedicated to helping bring about a lasting resolution to this decades-old conflict.

I am especially concerned about issues surrounding resettlement. In the wake of this conflict, land mines line those roads which still exist and cover farmers' fields in northern Sri Lanka. Schools, hospitals, roads, homes, and businesses have been damaged and in some cases completely destroyed. Some 290,000 internally displaced people languish in squalid humanitarian camps the safe and voluntary return of whom must be a top priority for postconflict recovery. The Sri Lankan Government must not shirk its responsibility to help these people return to their homes swiftly and safely. The international community, too, can provide assistance to help these people return home safely or seek other lasting solutions. The U.S. government should join with its international partners to coordinate demining efforts, work with the Sri Lankan government to develop and rebuild infrastructure, and ensure that those who have been displaced are able to reclaim the land that is rightfully theirs.

These events are critical steps in the right direction in a long and com-

plicated history. If we seek to address this conflict comprehensively, we must learn from past setbacks and help identify new opportunities for the people of Sri Lanka. It will not be easy, but on behalf of all the innocent civilians whose lives have been caught in the crossfire of this conflict, we must support this opportunity to finally achieve lasting and long awaited peace in Sri Lanka.

#### U.N. KENYA REPORT

Mr. FEINGOLD. Mr. President, this week the U.N. Special Rapporteur, Mr. Philip Alston, has released his final report on extrajudicial, summary or arbitrary executions in Kenya. His report states that, despite significant investigative work, no concrete steps have been taken to prosecute perpetrators of the violence after Kenya's December 2007 election. It also finds that both the Sabaot Land Defense Forces—SLDF—and the Kenyan government's security forces engaged in widespread brutality in Mount Elgon, including torture and unlawful killings. These alleged abuses have not been seriously investigated by the police or the military. Finally, the report concludes that the police in Kenya continue to carry out extrajudicial killings and that death squads continue to exist within the police to assassinate high-profile suspected criminals.

The report makes a number of detailed recommendations for how Kenya can address these problems, beginning with the replacement of the existing police commissioner and a clear public order that extrajudicial killings will not be tolerated, then followed by a comprehensive reform of the police. In addition, the report calls for the attorney general to resign and for the Kenyan government to take steps to reduce corruption and incompetence in the judiciary. With regard to the post-election violence, the report calls for the Kenyan government to establish a special tribunal to seek accountability for persons bearing the greatest responsibility for the violence after the elections. And with regard to the killings in Mount Elgon, the report calls on the government to immediately set up an independent commission to investigate human rights abuses, including those committed by the SLDF.

I urge the Obama administration to issue a strong response to the release of the Special Rapporteur's final report and press for the implementation of these recommendations. I was pleased that Assistant Secretary Carson traveled earlier this month to Nairobi as part of his first trip to Africa following his confirmation. He met with government leaders there and delivered a strong message of concern. This was an important step. It must now be followed by concrete actions that both

support reforms and press for individuals found guilty of killings and kleptocracy to be held accountable. To that end, I noted with interest that the President's budget request included increased military assistance for Kenya. Such assistance may be justified, but before we provide it, we need to make sure that steps are being taken by the Kenyan government to investigate past abuses and stop continuing ones. We need to ensure that U.S. taxpayer dollars do not enable a pattern of impunity in Kenya's security forces.

For some time I have worried about the very real possibility that political instability in Kenya could worsen and that armed conflict could return if these underlying rule of law problems are not addressed. That backsliding would be tragic, not least because Kenya is an extremely important country for the stability of the Horn of Africa and east Africa. Moreover, it is a country with vast potential that has been and continues to be a leader on the African continent. The United States, given our longstanding and historic partnership with Kenya must step up to the plate and work to ensure Kenya achieves its full potential. We can begin by ensuring the U.N. Special Rapporteur's report serves as a guide and a catalyst for needed reforms and renewed progress.

#### REMEMBERING TIANANMEN SQUARE

Mr. KAUFMAN. Mr. President, tomorrow marks 20 years since China's crackdown on democracy advocates in Tiananmen Square that resulted in an estimated 700 deaths of innocent civilians. Unfortunately, this represents a mere estimate of the senseless loss of life because the Chinese government has not been transparent in disclosing what happened at Tiananmen Square, and has actively suppressed reporters, protestors, and medical personnel who may have provided a firsthand account. Twenty years later, this suppression continues in the form of government-led crack downs on New Media sources, such as blogs, Twitter, and social networking sites including Facebook, where state censors target internet service providers in an attempt to control the free flow of information.

As we solemnly mark 20 years since Tiananmen Square, it is critical to highlight the ongoing limitations on human rights and freedom of the press in China. This Tuesday, a column was published in the Washington Post by Dan Southerland, the former China bureau chief, which did just that. I ask unanimous consent that this important editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### TIANANMEN: DAYS TO REMEMBER

Two years ago I met a Chinese student who was entering graduate school in the United



States. I told her I had been in Beijing during "6-4," the Chinese shorthand for the massacre of June 4, 1989.

"What are you talking about?" she asked.

At first I thought she might not have understood my Chinese, but it soon became clear that "June 4" meant nothing to her. I probably shouldn't have been surprised.

In the 20 years since that day in 1989 when Chinese troops opened fire on unarmed civilians near Tiananmen Square, Chinese censors have managed to erase all mention of that tragedy from the country's textbooks and state-run media.

But for me, Tiananmen is impossible to forget. As Beijing bureau chief for *The Post*, I covered the student demonstrations that began in mid-April, tried to track a murky power struggle among top Chinese leaders and managed a small team of young, Chinese-speaking American reporters.

What I remember best was the sudden openness of many Beijing citizens of all professions. They were inspired by throngs of students calling for political reform, media freedom and an end to "official profiteering."

People I believed to be Communist Party supporters were suddenly telling me what they really thought. Some who had been silent in the past even debated politics on street corners. In early May, Chinese journalists petitioned for the right to report openly on the Tiananmen protests, which on May 17 swelled to more than a million people marching in the capital. Journalists from all the leading Chinese newspapers, including the *People's Daily*, the mouthpiece of the Communist Party, joined in. Their slogan was "Don't force us to lie."

For a brief period, Chinese journalists were allowed to report objectively on the student protests. But this press freedom was short-lived and ended May 20 with the imposition of martial law and the entry of the People's Liberation Army into Beijing.

At first, Beijing residents manning makeshift barriers blocked the troops. But late on the evening of June 3, tanks, armored personnel carriers and soldiers firing automatic weapons broke through to the square.

The death toll quickly became a taboo subject for Chinese media.

Chinese doctors and nurses who had openly sided with students on the square, and who had allowed reporters into operating rooms to view the wounded, came under pressure to conceal casualty figures.

One brave doctor at a hospital not far from Tiananmen Square led me and a colleague to a makeshift morgue, where we saw some 20 bullet-riddled bodies laid out on a cement floor. I later learned that the doctor was "disciplined" for allowing us to view that scene.

A Chinese journalist I considered a friend tried to convince me that government estimates of fewer than 300 killed were correct and that these included a large number of military and police casualties. I later learned from colleagues of his that this journalist was working for state security.

After comparing notes with others, my guess was that the actual death toll was at least 700, and that most of those killed were ordinary Beijing residents.

It's almost incredible that the Chinese government has succeeded for so long in covering up a tragedy of this magnitude.

But for those who closely monitor the continued repression of civil liberties in China—and the government's stranglehold on news deemed "sensitive"—it's not surprising.

Chinese authorities continue to intimidate reporters, block Web sites and jam broad-

casts of outside news organizations. China is the world's leading jailer of journalists and cyber-dissidents. Chinese youths are among the most Web-savvy in the world. But Chinese search engines, chat and blog applications, as well as Internet service providers, are equipped with filters that block out certain keywords incorporated in a blacklist that is continually updated.

China's censorship is multipronged, sometimes heavy-handed and sometimes sophisticated, allowing debate on some issues and shutting it down on others, such as Tiananmen.

Censors hold online service providers and Internet cafe owners responsible for the content that users read and post. A small blogging service will usually err on the side of caution rather than lose its license because of a debate about June 4.

Lines that cannot be crossed shift from time to time, leaving citizens uncertain and therefore prone to self-censorship.

The good news is that the blackout isn't complete. We know from *Radio Free Asia's* call-in shows that some younger Chinese know just enough about Tiananmen to want to learn more. I work with several Chinese broadcasters who were students in Beijing on June 4. Many of them saw more than I did. And they are here to remind me—and many Chinese—of a history we should never forget.

#### ADDITIONAL STATEMENTS

##### COMMENDING LUCIA MOCZ

• Mr. AKAKA. Mr. President, I congratulate Mililani High School senior Lucia Mocz for winning the third place Addiction Science Award at this year's Intel International Science and Engineering Fair, ISEF. With over 1,500 students participating from more than 50 countries, the Intel ISEF is the world's largest science competition for high school students. The awards were presented by the National Institute on Drug Abuse—NIDA—at a ceremony on May 14, 2009.

I wish to acknowledge Lucia's technical skill, innovation, and creativity in creating her winning project. Lucia's computer science project, "Complex Evaluation of Danger and Tranquility in Urban Settings: An Immunocomputing Intelligence Approach," used an artificial intelligence algorithm to generate highly detailed maps correlating indicators of danger and tranquility in the urban region of her hometown. While there are medical and behavioral science awards given by various public and private agencies, this is the first series of awards given exclusively for projects that advance addiction science.

However, this young woman could not have achieved what she has done without the additional support and knowledge of science and social issues provided by her teachers. I commend the teachers at Mililani High School, who played a role in Lucia's success. Their dedication to instructing, nourishing and inspiring the next generation of professionals is exemplary. Her family is recognized as well for their

commitment, sacrifice, and support that all helped to encourage and instill the important values that led to her award.

I would also like to note NIDA Director Dr. Nora D. Volkow's comments that "our judges recognized a provocative strategy that could one day help us better understand how the built environment relates to patterns of drug abuse . . . This approach nicely mirrors the multidimensionality of the many factors known to influence the risk and consequences of drug abuse in our communities."

I encourage Lucia to continue to study and follow her passions for applied science and social issues. I wish nothing but the best for the her and her family and wish her continued success as she faces the challenges of college and beyond.●

##### COMMENDING DR. NANCY ZIMPHER

• Mr. BROWN. Mr. President, today I honor the accomplishments of Dr. Nancy Zimpher, president of the University of Cincinnati. For the last 5 years, Dr. Zimpher has served the university, its students, and the Cincinnati community, and she will soon leave to become the chancellor of the State University of New York.

An Ohio native, President Zimpher earned her academic credentials at the Ohio State University and has devoted her professional life to improving higher education for America's young people. In 2003, she became the 25th president, and the first woman to lead the University of Cincinnati. Shortly after her arrival, UC embarked on a comprehensive strategic plan to transform the University of Cincinnati into one of the nation's top research universities. Dr. Zimpher's work resulted in a significant increase in the graduation rate along with nearly a 10-percent increase in university enrollment.

During her tenure at UC, President Zimpher has been highly engaged on the national and regional level regarding education policy. As chair of the Coalition of Urban Serving Universities, Dr. Zimpher was heavily involved in issues surrounding the reauthorization of the Higher Education Act and was a strong advocate for issues facing urban research universities.

I have had the opportunity to work closely with Dr. Zimpher on issues relating to workforce development. Dr. Zimpher served on the host committee of our inaugural Ohio College Presidents' Conference, where she was instrumental in forming partnerships between universities and employers. One of Dr. Zimpher's greatest achievements at UC was the founding of Strive, a Cincinnati-northern Kentucky collaborative focused on college access and success. This partnership involves



higher education institutions in the Cincinnati region, urban P-12 school districts in Cincinnati and northern Kentucky, as well as business, civic, and nonprofit organizations. As President Obama has recognized through the creation of the Promise Neighborhoods initiative, these types of partnerships are essential to the health of urban communities like Cincinnati.

The State of Ohio, the city of Cincinnati, and the university are grateful to President Zimpher for her service. I am confident the university will continue to grow and increase in national stature because of her hard work and leadership. I wish her the best in her new position at SUNY and I know that we will continue to work together in the future.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 4:06 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 325. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Avra/Black Wash Reclamation and Riparian Restoration Project.

H.R. 689. An act to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management, and for other purposes.

H.R. 1120. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project, and for other purposes.

H.R. 1280. An act to modify a land grant patent issued by the Secretary of the Interior.

H.R. 1380. An act to establish a grant program for automated external defibrillators in elementary and secondary schools.

H.R. 1393. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes.

H.R. 1662. An act to amend the Child Care and Development Block Grant Act of 1990 to require child care providers to provide to parents information regarding whether such providers carry current liability insurance.

H.R. 2330. An act to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System.

H.R. 2430. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

H. J. Res. 40. Joint resolution to honor the achievements and contributions of Native Americans to the United States, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 325. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Avra/Black Wash Reclamation and Riparian Restoration Project; to the Committee on Energy and Natural Resources.

H.R. 689. An act to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1120. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1280. An act to modify a land grant patent issued by the Secretary of the Interior; to the Committee on Energy and Natural Resources.

H.R. 1380. An act to establish a grant program for automated external defibrillators in elementary and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1393. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1662. An act to amend the Child Care and Development Block Grant Act of 1990 to require child care providers to provide to parents information regarding whether such providers carry current liability insurance; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2330. An act to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System; to the Committee on Energy and Natural Resources.

H.R. 2430. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area; to the Committee on Energy and Natural Resources.

#### MEASURES DISCHARGED

The following bill was discharged from the Committee on Commerce,

Science, and Transportation by unanimous consent, and referred as indicated:

S. 1144. A bill to improve transit services, including in rural States; to the Committee on Banking, Housing, and Urban Affairs.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1754. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Necessary to Facilitate Business Election Filing; Finalizing Controlled Group Qualification Rules" ((RIN1545-BF25)(TD 9451)) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1755. A communication from the Chief of Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application of Sections 7702 and 7702A to Life Insurance Contracts that Mature after Age 100" (Notice 2009-47) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1756. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Tier 1 Issue—Section 965 Foreign Earnings Repatriation Directive #3" (LMSB-4-0409-017) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1757. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 42.—Low-Income Housing Credit" (Notice 2009-44) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1758. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Certain Employer-Owned Life Insurance Contracts" (Notice 2009-48) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1759. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tier 1 Issue—International Hybrid Instrument Transactions" (LMSB-4-0509-122) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Finance.

EC-1760. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Interim Final Regulations—Student Assistance General Provisions; Teacher Education Assistance for College and Higher Education (TEACH) Grant Program; Federal Pell Grant Program; Academic Competitiveness Grant Program and National Science and Mathematics Access to Retain Talent

Grant Program" (RIN1840-AC96) received in the Office of the President of the Senate on May 26, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-1761. A communication submitted jointly by the Chairman and the General Counsel, National Labor Relations Board, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1762. A communication from the Acting Administrator, General Services Administration transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1763. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1764. A communication from the Secretary of Energy, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1765. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1766. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1767. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, a report relative to action on a nomination for the position of Associate Director of National Intelligence and Chief Information Officer, received in the Office of the President of the Senate on May 27, 2009; to the Select Committee on Intelligence.

EC-1768. A communication from the Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the Connecticut Advisory Committee; to the Committee on the Judiciary.

EC-1769. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a manufacturing license agreement for the export of technical data, defense services, and defense articles for the manufacture and support of the S-70B(SH-60J/K) Helicopters, parts and support equipment in the amount of \$100,000,000 or more with Japan; to the Committee on Foreign Relations.

EC-1770. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of technical data, defense services, and defense articles for the manufacture of the AN/APG-63(V)1 Radar

System Retrofit Kits in the amount of \$100,000,000 or more with Japan; to the Committee on Foreign Relations.

EC-1771. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of technical data, defense services, and defense articles for the manufacture and support of the S-70A(UH-60J) Helicopters, parts and support equipment in the amount of \$100,000,000 or more with Japan; to the Committee on Foreign Relations.

EC-1772. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license agreement for the export of defense articles and defense services in the amount of \$50,000,000 or more with the United Kingdom, Germany, Netherlands, Sweden, Luxembourg, Belgium, France, and Kazakhstan; to the Committee on Foreign Relations.

EC-1773. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more with Canada; to the Committee on Foreign Relations.

EC-1774. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of \$50,000,000 or more with Mexico; to the Committee on Foreign Relations.

EC-1775. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, and defense services articles in the amount of \$50,000,000 or more with Mexico; to the Committee on Foreign Relations.

EC-1776. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more with the United Kingdom, Russia, Germany, Netherlands, Sweden, Luxembourg, Belgium, France, and Kazakhstan; to the Committee on Foreign Relations.

EC-1777. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more with the United Arab Emirates; to the Committee on Foreign Relations.

EC-1778. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the

amount of \$50,000,000 or more with Iraq, the United Kingdom, the United Arab Emirates; to the Committee on Foreign Relations.

EC-1779. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Mexico; to the Committee on Foreign Relations.

EC-1780. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Israel; to the Committee on Foreign Relations.

EC-1781. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Japan; to the Committee on Foreign Relations.

EC-1782. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to provisions of Section 7072 of the Foreign Operations, and Related Programs Appropriations Act, 2009, as they relate to restrictions on assistance to the central government of Serbia; to the Committee on Foreign Relations.

EC-1783. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the status of the Government of Cuba's compliance with the United States-Cuba September 1994 "Joint Communiqué" and on the treatment of persons returned to Cuba in accordance with the United States-Cuba May 1995 "Joint Statement"; to the Committee on Foreign Relations.

EC-1784. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Suspending Prohibitions on Certain Sales and Leases Under the Anti-Economic Discrimination Act of 1994 with regards to Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, the United Arab Emirates, and Yemen; to the Committee on Foreign Relations.

EC-1785. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2009-0068—2009-0073); to the Committee on Foreign Relations.

EC-1786. A communication from the Deputy Assistant Administrator of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Placement of Lacosamide into Schedule V" (Docket Number DEA-325) received in the Office of the President of the Senate on June 3, 2009; to the Committee on the Judiciary.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate part or all of any income tax refund to support reservists and National Guard members; to the Committee on Finance.

By Mr. THUNE (for himself, Mr. VITTER, Mr. BROWNBACK, Mr. ROBERTS, and Mr. INHOFE):

S. 1167. A resolution to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SCHUMER:

S. 1168. A bill to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND (for herself, Ms. COLLINS, Mr. CARDIN, Mr. SANDERS, Mr. BROWNBACK, and Mr. SPECTER):

S. 1169. A bill to amend title 10, United States Code, to provide for the treatment of autism under TRICARE; to the Committee on Armed Services.

By Ms. MURKOWSKI:

S. 1170. A bill to improve aviation safety in Alaska, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PRYOR (for himself, Mr. BROWNBACK, Mr. BAYH, Mr. ISAKSON, Mr. CHAMBLISS, Mr. LUGAR, and Mr. INHOFE):

S. 1171. A bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program; to the Committee on Finance.

By Mr. BROWN:

S. 1172. A bill to direct the Secretary of Energy to establish a grant program to facilitate the production of clean, renewable energy from municipal solid waste, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 1173. A bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Ms. COLLINS, and Mr. WHITEHOUSE):

S. 1174. A bill to amend the Public Health Service Act and the Social Security Act to increase the number of primary care physicians and primary care providers and to improve patient access to primary care services, and for other services; to the Committee on Finance.

By Ms. CANTWELL:

S. 1175. A bill to amend the Public Utility Regulatory Policies Act of 1978 to authorize the Secretary of Energy to make loans to electric utilities to carry out projects to comply with any Federal renewable electricity standard, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL:

S. 1176. A bill to amend the Public Health Service Act to promote and improve the allied health professionals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. WYDEN):

S. 1177. A bill to improve consumer protections for purchasers of long-term care insur-

ance, and for other purposes; to the Committee on Finance.

By Mr. WEBB (for himself and Mr. WARNER):

S. 1178. A bill to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe; to the Committee on Indian Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE (for himself, Mr. BROWN, Mr. GRAHAM, Mr. KYL, Mr. MENENDEZ, Mr. VITTER, Mr. LIEBERMAN, Mr. COBURN, and Mr. WEBB):

S. Res. 167. A resolution commending the people who have sacrificed their personal freedoms to bring about democratic change in the People's Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Missouri (Mr. BOND) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 424

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 424, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 451

At the request of Ms. COLLINS, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 461

At the request of Mrs. LINCOLN, the names of the Senator from Iowa (Mr.

HARKIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 491

At the request of Mr. WEBB, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 546

At the request of Mr. REID, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 565

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 581

At the request of Mr. BENNET, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 663

At the request of Mr. NELSON of Nebraska, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 718

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 812

At the request of Mr. BAUCUS, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

At the request of Mr. THUNE, his name was added as a cosponsor of S. 812, *supra*.

S. 823

At the request of Ms. SNOWE, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 837

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 837, a bill to require that North Korea be listed as a state sponsor of terrorism, to ensure that human rights is a prominent issue in negotiations between the United States and North Korea, and for other purposes.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 934

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. DORGAN), the Senator from Vermont (Mr. SANDERS), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Massachusetts (Mr. KERRY) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 950

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 950, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 982

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Kansas (Mr. BROWNBACK), the Senator from

Georgia (Mr. ISAKSON) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1048

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1048, a bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants.

S. 1064

At the request of Mr. LIEBERMAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1064, a bill to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted under such Act, and for other purposes.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1103

At the request of Mr. VITTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1103, a bill to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration application forms and to require organizations to register with the State prior to the distribution of such forms.

S. 1113

At the request of Mr. PRYOR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1113, a bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes.

S. 1121

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1121, a bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools.

S. 1147

At the request of Mr. KOHL, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1148

At the request of Mr. GRASSLEY, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Nebraska (Mr. JOHANNES) were added as cosponsors of S. 1148, a bill to amend the Clean Air Act to modify a provision relating to the renewable fuel program.

S. CON. RES. 14

At the request of Mr. BARRASSO, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 71

At the request of Mr. WYDEN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 142

At the request of Mr. ENZI, the names of the Senator from Nebraska (Mr. JOHANNES), the Senator from Kansas (Mr. ROBERTS) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. Res. 142, a resolution designating July 25, 2009, as "National Day of the American Cowboy".

AMENDMENT NO. 1229

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 1229 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority

to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

At the request of Mr. DORGAN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1229 intended to be proposed to H.R. 1256, supra.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate part or all of any income tax refund to support reservists and National Guard members; to the Committee on Finance.

Mr. REID. Mr President, I rise today to introduce legislation to help reduce the financial burden placed on our Reserve and National Guard troops and their families. More than a quarter of a million have deployed in support of operations in Iraq and Afghanistan, and we must make it a priority to honor their service at home.

Nevada alone has more than three thousand Guards men and women, and a thousand Reservists—many of whom work full-time jobs when they are not on active duty. Since September 11th, our National Guard and Reserve Troops have significantly increased their deployments beyond what had been forecasted, advertised or expected. They have continued their engagements around the globe while still responding to historic callouts in support of disaster relief.

In our Democracy, we enjoy the luxury of an all-volunteer military force. Yet in volunteering, many of our Citizen-Soldiers are financially penalized for their service. Far too frequently, when a Service Member is mobilized in service to their state or our nation, they suffer a financial burden in the reduced pay received while mobilized. A National Guard medic might earn much less while he or she is deployed in Afghanistan than they did working a full-time job in a Nevada hospital. This legislation gives American taxpayers the option of contributing money to help our military families to make up for wages lost during a deployment.

The bill I am introducing today allows Americans to designate all or a portion of their income tax refunds to the Reserve Income Replacement Program. The Program is a compensation that must be paid to all eligible Service Members when they incur a loss in monthly income as a result of a mobilization. The funds that volunteers donate will be transferred from the Treasury Department to this program,

which was developed specifically to provide payments to eligible members of the National Guard and Reserve who are involuntary serving on active-duty and who are experiencing a monthly active-duty income differential of more than \$50. In 2007, the IRS issued 106 million refunds that totaled \$246 billion with the average refund coming in at \$2,342. Even a small percentage of this amount could make a significant difference in the lives of these reservist and National Guard families.

The financial stress of deployments during a recession has placed enormous pressures on our National Guard and Reserve Service Members and their families. Many of these members are returning from war only to find their businesses facing extreme difficulty. This bill would not only assist the Guard with monetary resources, but it would also rightfully focus more attention on the financial struggles that our brave and dedicated citizen Soldiers and Airmen undertake in defense of our country. With this legislation, we can show them that their service is not taken for granted.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1166

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Voluntary Support for Reservists and National Guard Members Act".

#### SEC. 2. DESIGNATION OF OVERPAYMENTS TO SUPPORT RESERVISTS AND NATIONAL GUARD MEMBERS.

(a) DESIGNATION.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

#### "PART IX—DESIGNATION OF OVERPAYMENTS TO RESERVE INCOME REPLACEMENT PROGRAM

"Sec. 6097. Designation.

#### "SEC. 6097. DESIGNATION.

"(a) IN GENERAL.—In the case of an individual, with respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that a specified portion (not less than \$5) of any overpayment of tax for such taxable year be paid over to the Reserve Income Replacement Program (RIRP) under section 910 of title 37, United States Code.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made in such manner as the Secretary prescribes by regulations except that such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

"(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as—

"(1) being refunded to the taxpayer as of the last date prescribed for filing the return

of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed, and

“(2) a contribution made by such taxpayer on such date to the United States.”.

(b) **TRANSFERS TO RESERVE INCOME REPLACEMENT PROGRAM.**—The Secretary of the Treasury shall, from time to time, transfer to the Reserve Income Replacement Program (RIRP) under section 910 of title 37, United States Code, the amounts designated under section 6097 of the Internal Revenue Code of 1986, under regulations jointly prescribed by the Secretary of the Treasury and the Secretary of Defense.

(c) **CLERICAL AMENDMENT.**—The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART IX. DESIGNATION OF OVERPAYMENTS TO RESERVE INCOME REPLACEMENT PROGRAM”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

By Mr. PRYOR (for himself, Mr. BROWNBACK, Mr. BAYH, Mr. ISAKSON, Mr. CHAMBLISS, Mr. LUGAR, and Mr. INHOFE):

S. 1171. A bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program; to the Committee on Finance.

Mr. PRYOR. Mr. President, I rise today to introduce legislation with Senators BROWNBACK, BAYH, ISAKSON, and CHAMBLISS. The Critical Access Flexibility Act of 2009 will return to States the flexibility needed to help preserve local hospitals that serve rural communities.

Hospitals are often the largest employers in rural America. They provide much needed jobs and are facing serious financial difficulties during this economic downturn. Without immediate relief, many small hospitals are at serious risk of closure, job loss, or reductions in patient services. Rural areas most often have sicker, older, and poorer populations. In these difficult times, it is crucial that we protect hospitals serving our rural communities.

A Critical Access Hospital, CAH, is a hospital that is certified to receive cost-based reimbursement from Medicare. The reimbursement that CAHs receive is intended to improve their financial performance and thereby reduce hospital closures. CAHs are certified under a different set of Medicare conditions of participation that are more flexible than those used for acute care hospitals. In order for a hospital to be classified as a CAH, it must meet a number of conditions including a distance requirement that it must be 35 miles away from the nearest hospital. Prior to enactment of the 2003 Medicare Modernization Act, MMA, hospitals that were designated as “necessary providers” by a State could be exempt from the distance requirement.

I am joining with Senators BROWNBACK, BAYH, and ISAKSON today to in-

troduce legislation that restores a state’s authority to waive the mileage requirements if all other requirements are met and the State designates the facility as a necessary provider. Existing requirements that cannot be waived include requiring that CAHs be nonprofit or public hospitals in a rural area, offer 24-hour emergency room services, and have no more than 25 acute care inpatient beds.

There are at least two communities in my State where changing conditions are threatening small town hospitals, and restoring the flexibility for States to make exemptions for the distance requirement would help residents of these communities continue to be able to receive necessary medical care from a local hospital. I know from talking to my colleagues in the Senate and to health care providers that this is the case throughout rural America. In recent years, there have been legislative efforts for single hospitals to be singled out and granted an exemption to the distance requirement. I believe the best way to address this problem is to have a uniform national policy that gives States the flexibility they need.

I want to thank Senators BROWNBACK, BAYH, ISAKSON, and CHAMBLISS for their work, leadership and support on this very important legislation, and I urge the rest of my colleagues to support this effort.

By Mr. FEINGOLD:

S. 1173. A bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I introduce the Community-Based Health Care Retraining Act, which would amend the Workforce Investment Act to help communities with both significant job losses and shortages in the health care professions create programs to retrain displaced workers for high-demand health care jobs. I have introduced similar legislation in the past to help workers who are displaced from the manufacturing and service sectors.

In light of the state of our economy and the tremendous increase in unemployment across this country, I have tried to broaden the bill to cover workers from all sectors. According to the Department of Labor, in the last year the number of unemployed people in the United States has increased by 6 million. In April alone, private sector employment fell by 539,000, bringing the unemployment rate to 8.9 percent. In my home State of Wisconsin, the unemployment rate is up to 8.8 percent.

In Wisconsin, we have seen the loss of many manufacturing jobs, including at the idled General Motors automobile assembly plant in my hometown of Janesville, and in Kenosha, where

Chrysler recently announced that the Kenosha Chrysler plant will cease production in 2010. But these large factories are just the tip of the iceberg. Some small manufacturing businesses are also going out of business in communities around Wisconsin, and others are struggling to survive.

In addition, the economic troubles in the last few years have permeated other industries besides manufacturing, including construction, business, and also the retail industry.

The people in my State are facing tough economic challenges, but they are meeting them head-on. Wisconsin has a determined workforce that is a tremendous asset as we look to rebuild this economy. These talented, hard-working people are ready, willing, and able to work, and Congress should be doing more to help connect them with jobs in growing industries.

That is exactly what I am proposing to do as I introduce this Community-Based Health Care Retraining Act. This bill will help more dislocated workers find jobs in the growing health care industry. My bill would create \$25 million in grants to help workforce development boards in our communities identify health care job openings and train people for these positions. This bill is also paid for, so it won’t increase the deficit. This bill is a small step toward two critically important goals: helping the hard-working Americans whose jobs have disappeared and providing all Americans with the health care they deserve.

The Community-Based Health Care Retraining Act puts control in the hands of the local communities. It allows local workforce development boards to partner with institutions of higher education and other community leaders to design programs that can retrain dislocated workers for jobs in the health care industry. Allowing the local workforce boards and their partners to apply for the grant funds and design the programs means that each community can use the funds differently to address the specific needs it faces. Particularly in such challenging economic times, I think a one-size-fits-all approach will not work; communities know best about the resources they need to run an efficient program. I believe the Federal programs should be flexible enough to allow partnerships to tailor the programs to meet the needs of individual communities.

For years, despite limited resources and increases in demand for their services, our workforce development boards have worked tirelessly to retrain workers for new employment. These boards are a tremendous asset for local economies, bringing together members of the labor, business, education, and other communities to ensure that the boards are doing their best to provide the most valuable services and training. In Wisconsin, workforce development



boards are leading the way in finding innovative solutions to retraining workers for new careers on shoestring budgets. I look forward to the long overdue reauthorization of the Workforce Investment Act this year and to the opportunity to provide better support for these boards.

I wish to take this time to commend the leaders of these boards in Wisconsin and across the country for their dedication and hard work. Workforce development agencies in Wisconsin have already been training people for health care jobs. But in these difficult times, we have to do more to support our communities in these efforts. We must do our best to ensure that communities across the country have the resources they need to help employ more dislocated workers.

As we face the challenge of helping Americans who lose jobs, we must look to industries that continue to grow and demand more workers. As many of my colleagues know, there is, in fact, a real shortage of health care workers in the United States. Congress continues to fund programs that address nursing shortages and recently provided stimulus funds for health care retraining, but we need to develop longer term and wider ranging programs. Shortages of health care professionals of all sorts pose a real threat to the health of our communities by impacting access to timely, high-quality health care.

As Congress looks forward to reforming our Nation's health care system, we must also ensure that there are enough trained professionals to provide services. According to the Bureau of Labor Statistics, we are going to need an additional 700,000 nursing aides, home health aides, and other health professionals in long-term care before the year 2016.

This bill will help provide communities with the resources they need to run retraining programs for the health professions.

Partnerships funded by the legislation will be able to use these funds for a variety of purposes, including for implementing training programs, providing tuition assistance, providing transportation assistance, and also to increase capacity for existing training programs that are already working but could use more resources.

We must ensure we are doing what we can to train laid-off Americans into fields such as health care that continue to demand more workers, and this Community-Based Health Care Retraining Act takes a small but important step toward that goal.

Mr. President, I ask unanimous consent that the text of the bill and a list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1173

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Community-Based Health Care Retraining Act".

#### SEC. 2. HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

"(f) HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED COMMUNITY.—The term 'covered community' means a community or region—

"(i) that has experienced a significant percentage decline in rates of employment; and

"(ii)(I) that is determined by the Secretary of Health and Human Services (in consultation with the medical community) to be an area with a shortage of health care professionals described in subparagraph (C)(i); or

"(II) that is underserved by the health care structure, such as a rural community, a community with a significant minority population, or a community for which an applicant can otherwise demonstrate need for increased training for health care professionals.

"(B) COVERED WORKER.—The term 'covered worker' means an individual who—

"(i)(I) has been terminated or laid off, or who has received a notice of termination or layoff;

"(II)(aa) is eligible for or has exhausted entitlement to unemployment compensation; or

"(bb) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

"(III) is unlikely to return to a previous industry or occupation;

"(ii)(I) has been terminated or laid off, or has received a notice of termination or layoff, as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; or

"(II) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

"(iii) is an incumbent worker employed in a health care profession, and whose training will provide an opportunity for employment of other individuals by increasing—

"(I) the number of instructors serving the covered community; or

"(II) the number of vacant positions in the covered community.

"(C) HEALTH CARE PROFESSIONAL.—The term 'health care professional'—

"(i) means an individual who is involved with—

"(I) the delivery of health care services, or related services, pertaining to—

"(aa) the identification, evaluation, management, and prevention of diseases, disorders, or injuries; or

"(bb) home-based or community-based long-term care;

"(II) the delivery of dietary and nutrition services;

"(III) the delivery of dental services; or

"(IV) rehabilitation and health systems management; and

"(ii) includes individuals in health care professions for which there is a shortage in the community involved, as determined by the Secretary of Health and Human Services

(in consultation with the medical community) or as otherwise demonstrated by the applicant.

"(D) TRIBAL COLLEGE OR UNIVERSITY.—The term 'tribal college or university' means a Tribal College or University, as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

"(2) ESTABLISHMENT OF PROJECT.—In accordance with subsection (b), the Secretary shall establish and carry out a health professions training demonstration project.

"(3) GRANTS.—In carrying out the project, the Secretary, after consultation with the Secretary of Health and Human Services, shall make grants to eligible entities to pay for the Federal share of the cost of enabling the entities to carry out programs in covered communities to train covered workers for employment as health care professionals (referred to in this subsection as 'training programs'). The Secretary shall make each grant in an amount of not less than \$100,000 and not more than \$500,000, and each such grant shall be for a period of 5 years.

"(4) ELIGIBLE ENTITIES.—Notwithstanding subsection (b)(2)(B), to be eligible to receive a grant under this subsection to carry out a training program in a covered community, an entity shall be a partnership that consists of—

"(A) a local workforce investment board established under section 117 that is serving the covered community; and

"(B) an institution of higher education, as defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002), in partnership with at least 1 of the following:

"(i) A health clinic or hospital.

"(ii) A home-based or community-based long-term care facility or program.

"(iii) A health care facility administered by the Secretary of Veterans Affairs.

"(iv) A tribal college or university.

"(v) A labor organization, or an industry or industry group.

"(vi) A local economic development entity serving the covered community.

"(vii) A joint labor-management partnership.

"(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

"(A) a proposal to use the grant funds to establish or expand a training program in order to train covered workers for employment as health care professionals, including information that demonstrates the long-term viability of the training program beyond the period of the grant;

"(B) information demonstrating the need for the training and support services to be provided through the training program;

"(C) information describing the manner in which the entity will expend the grant funds, and the activities to be carried out with the funds;

"(D) information demonstrating that the entity meets the requirements of paragraph (4);

"(E) with respect to training programs carried out by the applicant, information—

"(i) on the graduation rates of the training programs involved;

"(ii) on the retention measures carried out by the applicant;

"(iii) on the length of time necessary to complete the training programs of the applicant; and

"(iv) on the number of qualified covered workers that are refused admittance into the



training programs because of lack of capacity; and

“(F) a description of how the applicant has engaged all relevant stakeholders, including the health care industry to be served by the training program, local labor organizations and other workforce groups, and local industry, in the design of the training program to be served with grant funds.

“(6) SELECTION.—In making grants under paragraph (3), the Secretary, after consultation with the Secretary of Health and Human Services, shall—

“(A) consider the information submitted by the eligible entities under paragraph (5)(E);

“(B) select—

“(i) eligible entities submitting applications that meet such criteria as the Secretary of Labor determines to be appropriate; and

“(ii) among such entities, the eligible entities serving the covered communities with the greatest need for the grants and the greatest potential to benefit from the grants; and

“(C) give preference to eligible entities—

“(i) submitting applications to serve covered workers who have been terminated or laid off or have received a notice of termination or layoff from a manufacturing, service, or construction industry, or another industry with significant decline in employment as determined by the Secretary; and

“(ii) with a demonstrated history of similar and successful partnerships with State boards or local boards, institutions of higher education (as defined in paragraph (4)(B)), industry groups, and labor organizations.

“(7) USE OF FUNDS.—

“(A) IN GENERAL.—An entity that receives a grant under this subsection shall use the funds made available through the grant for training and support services that meet the needs described in the application submitted under paragraph (5), which may include—

“(i) implementing training programs for covered workers;

“(ii) providing support services for covered workers participating in the training programs, such as—

“(I) providing tuition assistance;

“(II) establishing or expanding distance education programs;

“(III) providing transportation assistance; or

“(IV) providing child care; or

“(iii) increasing capacity, subject to subparagraph (B), at an educational institution or training center to train individuals for employment as health professionals, such as by—

“(I) expanding a facility, subject to subparagraph (B);

“(II) expanding course offerings;

“(III) hiring faculty;

“(IV) providing a student loan repayment program for the faculty;

“(V) establishing or expanding clinical education opportunities;

“(VI) purchasing equipment, such as computers, books, clinical supplies, or a patient simulator; or

“(VII) conducting recruitment.

“(B) LIMITATION.—Any such grant funds that are used to expand facilities may only be used to rent or modernize existing facilities, not to build additional facilities. The entity shall use not less than 50 percent of the grant funds to carry out activities described in clause (i) or (ii) of subparagraph (A), unless the entity demonstrates, in the application submitted under paragraph (5), a need to spend more than 50 percent of the

grant funds on activities described in subparagraph (A)(iii).

“(8) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost described in paragraph (3) shall be—

“(i) for the first year of the grant period, 95 percent;

“(ii) for the second such year, 85 percent;

“(iii) for the third such year, 75 percent;

“(iv) for the fourth such year, 65 percent; and

“(v) for the fifth such year, 55 percent.

“(B) NON-FEDERAL SHARE.—The eligible entity shall provide the non-Federal share of the cost in cash or in kind, fairly evaluated, including plant, equipment, or services.

“(9) EVALUATION.—

“(A) IN GENERAL.—Under the Secretary's existing authority under section 172, not more than 1 percent of the funds provided under this subsection shall be used for evaluation of the training programs described in paragraph (3). Eligible entities receiving grants under this section shall use not more than 1 percent of the grant funds for purposes of evaluation or documentation of the training programs.

“(B) CONTENTS.—In conducting an evaluation under subparagraph (A), an eligible entity shall provide data detailing the success of the training program carried out by the entity under paragraph (3), including—

“(i) information on the number and percentage of participating covered workers who complete a training program, including those who earn a degree or certificate through such training programs;

“(ii) information on the rate of employment of covered workers who have completed the training program;

“(iii) an assessment of how well the needs of the health care community were addressed by the training program; and

“(iv) any other data determined to be relevant by the entity to demonstrate the success of the training program.

“(C) REPORT.—The Secretary shall compile the information resulting from the evaluation or documentation conducted under subparagraph (A), and shall submit a report to Congress containing the information.

“(10) FUNDING.—Of the amounts appropriated to, and available at the discretion of, the Secretary or the Secretary of Health and Human Services for programmatic and administrative expenditures, a total of \$25,000,000 shall be used to establish and carry out the demonstration project described in paragraph (2) in accordance with this subsection.”.

Service Employees International Union (SEIU), Wisconsin Hospital Association, Wisconsin Workforce Development Association, University of Wisconsin System, Southwest Wisconsin Workforce Development Board, Workforce Development Board of South Central Wisconsin, Moraine Park Technical College, Gunderson Lutheran, American Health Care Association, South Central AHEC, Rural Wisconsin Health Cooperative, National Rural Recruitment and Retention Network (3RNet), American Indian Higher Education Consortium, Wisconsin Indianhead Technical College, Madison Area Technical College, Wisconsin Community Action Program Association (WISCAP), UMOs, Fox Valley Technical College, Columbia County Economic Development Corporation, Lakeshore Technical College, Western Technical College, Workforce Connections Inc., Blackhawk Technical College, Mid-State Technical College, Northeast Wisconsin Technical College, Southwest Tech-

nical College, Chippewa Valley Technical College, Northcentral Technical College, Gateway Technical College.

By Ms. CANTWELL (for herself, Ms. COLLINS, and Mr. WHITEHOUSE):

S. 1174. A bill to amend the Public Health Service Act and the Social Security Act to increase the number of primary care physicians and primary care providers and to improve patient access to primary care services, and for other services; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Preserving Patient Access to Primary Care Act of 2009, together with my colleagues from Maine, Senator SUSAN COLLINS, and from Rhode Island, Senator SHELDON WHITEHOUSE. As we set about the urgently important business of health care reform, we will be hearing a lot about the uninsured. But there is another urgent problem in our health care system: the underserved. We must address both problems as we set about reforming the health care system.

It does you little good to have health care insurance if the nearest primary care physician is hundreds of miles away.

This bipartisan proposal sets out a multifaceted approach to supporting and expanding our primary care workforce as well as enhancing the coordination of care within our health care system. I am grateful for the input and collaboration of key health-care stakeholders in Washington state that has helped make this legislation possible. In my state, we know it is possible to both increase health care quality while also lowering costs, all within an integrated system that places a priority on expanding our primary care workforce and protecting patients' relationships with their doctors.

A dramatic increase in the primary care physician workforce will be needed. My legislation not only addresses the needs of those individuals to whom health insurance coverage will be extended but also of those who are currently insured but who live in areas underserved by our current health care system.

I believe we can address this problem by adopting long overdue reforms to improve pay levels for primary care providers while also taking measures to ensure an adequate primary care workforce, particularly in rural areas. As more Americans gain health care coverage, the experts estimate there will be a shortage of 46,000 primary care physicians available to care for the influx of patients by the year 2025. As the need grows, the number of medical students choosing primary care is rapidly dwindling.

Detailed studies from the Center for Evaluative Clinical Sciences at Dartmouth and the Commonwealth Fund found that populations with ready access to primary care physicians realize

improved health outcomes, reduced mortality, lower utilization of health care resources, and lower overall costs of care. Yet despite what we know, all across this country, we are failing to realize the benefits of primary care and a system of having a primary care physician coordinate a patient's health care needs. This bill includes several key provisions aimed at achieving a high quality, more comprehensive integrated health system.

Specific provisions include: scholarship and loan repayment opportunities for primary care providers who serve in areas with critical shortages of primary care services. New residency positions for primary care with a focus on more opportunities to train in ambulatory care settings—including community in health centers. Increased reimbursements for primary care providers. Medicare payments for care coordination services, and bonus payments to providers who serve as integrated patient-centered medical homes. Improved access to primary care for seniors by eliminating copayments for preventives care services in Medicare.

I look forward to working with my colleagues in the Senate to ensure we make the necessary investments in our primary care workforce. Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1174

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Preserving Patient Access to Primary Care Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

#### TITLE I—MEDICAL EDUCATION

- Sec. 101. Recruitment incentives.
- Sec. 102. Debt forgiveness, scholarships, and service obligations.
- Sec. 103. Deferment of loans during residency and internships.
- Sec. 104. Educating medical students about primary care careers.
- Sec. 105. Training in a family medicine, general internal medicine, general geriatrics, general pediatrics, physician assistant education, general dentistry, and pediatric dentistry.

- Sec. 106. Increased funding for National Health Service Corps Scholarship and Loan Repayment Programs.

#### TITLE II—MEDICAID RELATED PROVISIONS

- Sec. 201. Transformation grants to support patient centered medical homes under Medicaid and CHIP.

#### TITLE III—MEDICARE PROVISIONS

##### Subtitle A—Primary Care

- Sec. 301. Reforming payment systems under Medicare to support primary care.
- Sec. 302. Coverage of patient centered medical home services.
- Sec. 303. Medicare primary care payment equity and access provision.
- Sec. 304. Additional incentive payment program for primary care services furnished in health professional shortage areas.
- Sec. 305. Permanent extension of floor on Medicare work geographic adjustment under the Medicare physician fee schedule.
- Sec. 306. Permanent extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 307. HHS study and report on the process for determining relative value under the Medicare physician fee schedule.

##### Subtitle B—Preventive Services

- Sec. 311. Eliminating time restriction for initial preventive physical examination.
- Sec. 312. Elimination of cost-sharing for preventive benefits under the Medicare program.
- Sec. 313. HHS study and report on facilitating the receipt of Medicare preventive services by Medicare beneficiaries.

##### Subtitle C—Other Provisions

- Sec. 321. HHS study and report on improving the ability of physicians and primary care providers to assist Medicare beneficiaries in obtaining needed prescriptions under Medicare part D.
- Sec. 322. HHS study and report on improved patient care through increased caregiver and physician interaction.
- Sec. 323. Improved patient care through expanded support for limited English proficiency (LEP) services.
- Sec. 324. HHS study and report on use of real-time Medicare claims adjudication.
- Sec. 325. Ongoing assessment by MedPAC of the impact of medicare payments on primary care access and equity.
- Sec. 326. Distribution of additional residency positions.
- Sec. 327. Counting resident time in outpatient settings.
- Sec. 328. Rules for counting resident time for didactic and scholarly activities and other activities.
- Sec. 329. Preservation of resident cap positions from closed and acquired hospitals.
- Sec. 330. Quality improvement organization assistance for physician practices seeking to be patient centered medical home practices.

#### TITLE IV—STUDIES

- Sec. 401. Study concerning the designation of primary care as a shortage profession.
- Sec. 402. Study concerning the education debt of medical school graduates.
- Sec. 403. Study on minority representation in primary care.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Approximately 21 percent of physicians who were board certified in general internal medicine during the early 1990s have left internal medicine, compared to a 5 percent departure rate for those who were certified in subspecialties of internal medicine.

(2) The number of United States medical graduates going into family medicine has fallen by more than 50 percent from 1997 to 2005.

(3) In 2007, only 88 percent of the available medicine residency positions were filled and only 42 percent of those were filled by United States medical school graduates.

(4) In 2006, only 24 percent of third-year internal medicine resident intended to pursue careers in general internal medicine, down from 54 percent in 1998.

(5) Primary care physicians serve as the point of first contact for most patients and are able to coordinate the care of the whole person, reducing unnecessary care and duplicative testing.

(6) Primary care physicians and primary care providers practicing preventive care, including screening for illness and treating diseases, can help prevent complications that result in more costly care.

(7) Patients with primary care physicians or primary care providers have lower health care expenditures and primary care is correlated with better health status, lower overall mortality, and longer life expectancy.

(8) Higher proportions of primary care physicians are associated with significantly reduced utilization.

(9) The United States has a higher ratio of specialists to primary care physicians than other industrialized nations and the population of the United States is growing faster than the expected rate of growth in the supply of primary care physicians.

(10) The number of Americans age 65 and older, those eligible for Medicare and who use far more ambulatory care visits per person as those under age 65, is expected to double from 2000 to 2030.

(11) A decrease in Federal spending to carry out programs authorized by title VII of the Public Health Service Act threatens the viability of one of the programs used to solve the problem of inadequate access to primary care.

(12) The National Health Service Corps program has a proven record of supplying physicians to underserved areas, and has played an important role in expanding access for underserved populations in rural and inner city communities.

(13) Individuals in many geographic areas, especially rural areas, lack adequate access to high quality preventive, primary health care, contributing to significant health disparities that impair America's public health and economic productivity.

(14) About 20 percent of the population of the United States resides in primary medical care Health Professional Shortage Areas.

#### SEC. 3. DEFINITIONS.

(a) GENERAL DEFINITIONS.—In this Act:

(1) CHRONIC CARE COORDINATION.—The term “chronic care coordination” means the coordination of services that is based on the Chronic Care Model that provides on-going health care to patients with chronic diseases that may include any of the following services:

(A) The development of an initial plan of care, and subsequent appropriate revisions to such plan of care.

(B) The management of, and referral for, medical and other health services, including interdisciplinary care conferences and management with other providers.

(C) The monitoring and management of medications.

(D) Patient education and counseling services.

(E) Family caregiver education and counseling services.

(F) Self-management services, including health education and risk appraisal to identify behavioral risk factors through self-assessment.

(G) Providing access by telephone with physicians and other appropriate health care professionals, including 24-hour availability of such professionals for emergencies.

(H) Management with the principal non-professional caregiver in the home.

(I) Managing and facilitating transitions among health care professionals and across settings of care, including the following:

(i) Pursuing the treatment option elected by the individual.

(ii) Including any advance directive executed by the individual in the medical file of the individual.

(J) Information about, and referral to, hospice care, including patient and family caregiver education and counseling about hospice care, and facilitating transition to hospice care when elected.

(K) Information about, referral to, and management with, community services.

(2) **CRITICAL SHORTAGE HEALTH FACILITY.**—The term “critical shortage health facility” means a public or private nonprofit health facility that does not serve a health professional shortage area (as designated under section 332 of the Public Health Service Act), but that has a critical shortage of physicians (as determined by the Secretary) in a primary care field.

(3) **PHYSICIAN.**—The term physician has the meaning given such term in section 1861(r)(1) of the Social Security Act.

(4) **PRIMARY CARE.**—The term “primary care” means the provision of integrated, high-quality, accessible health care services by health care providers who are accountable for addressing a full range of personal health and health care needs, developing a sustained partnership with patients, practicing in the context of family and community, and working to minimize disparities across population subgroups.

(5) **PRIMARY CARE FIELD.**—The term “primary care field” means any of the following fields:

(A) The field of family medicine.

(B) The field of general internal medicine.

(C) The field of geriatric medicine.

(D) The field of pediatric medicine

(6) **PRIMARY CARE PHYSICIAN.**—The term “primary care physician” means a physician who is trained in a primary care field who provides first contact, continuous, and comprehensive care to patients.

(7) **PRIMARY CARE PROVIDER.**—The term “primary care provider” means—

(A) a nurse practitioner; or

(B) a physician assistant practicing as a member of a physician-directed team; who provides first contact, continuous, and comprehensive care to patients.

(8) **PRINCIPAL CARE.**—The term “principal care” means integrated, accessible health care that is provided by a physician who is a medical subspecialist that addresses the majority of the personal health care needs of patients with chronic conditions requiring the subspecialist's expertise, and for whom the subspecialist assumes care management, developing a sustained physician-patient partnership and practicing within the context of family and community.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(b) **PRIMARY MEDICAL CARE SHORTAGE AREA.**—

(1) **IN GENERAL.**—In this Act, the term “primary medical care shortage area” or “PMCSA” means a geographic area with a shortage of physicians (as designated by the Secretary) in a primary care field, as designated in accordance with paragraph (2).

(2) **DESIGNATION.**—To be designated by the Secretary as a PMCSA, the Secretary must find that the geographic area involved has an established shortage of primary care physicians for the population served. The Secretary shall make such a designation with respect to an urban or rural geographic area if the following criteria are met:

(A) The area is a rational area for the delivery of primary care services.

(B) One of the following conditions prevails within the area:

(i) The area has a population to full-time-equivalent primary care physician ratio of at least 3,500 to 1.

(ii) The area has a population to full-time-equivalent primary care physician ratio of less than 3,500 to 1 and has unusually high needs for primary care services or insufficient capacity of existing primary care providers.

(C) Primary care providers in contiguous geographic areas are overutilized.

(c) **MEDICALLY UNDERSERVED AREA.**—

(1) **IN GENERAL.**—In this Act, the term “medically underserved area” or “MUA” means a rational service area with a demonstrable shortage of primary healthcare resources relative to the needs of the entire population within the service area as determined in accordance with paragraph (2) through the use of the Index of Medical Underservice (referred to in this subsection as the “IMU”) with respect to data on a service area.

(2) **DETERMINATIONS.**—Under criteria to be established by the Secretary with respect to the IMU, if a service area is determined by the Secretary to have a score of 62.0 or less, such area shall be eligible to be designated as a MUA.

(3) **IMU VARIABLES.**—In establishing criteria under paragraph (2), the Secretary shall ensure that the following variables are utilized:

(A) The ratio of primary medical care physicians per 1,000 individuals in the population of the area involved.

(B) The infant mortality rate in the area involved.

(C) The percentage of the population involved with incomes below the poverty level.

(D) The percentage of the population involved age 65 or over.

The value of each of such variables for the service area involved shall be converted by the Secretary to a weighted value, according to established criteria, and added together to obtain the area's IMU score.

(d) **PATIENT CENTERED MEDICAL HOME.**—

(1) **IN GENERAL.**—In this Act, the term “patient centered medical home” means a physician-directed practice (or a nurse practitioner directed practice in those States in which such functions are included in the scope of practice of licensed nurse practitioners) that has been certified by an organization under paragraph (3) as meeting the following standards:

(A) The practice provides patients who elect to obtain care through a patient centered medical home (referred to as “participating patients”) with direct and ongoing ac-

cess to a primary or principal care physician or a primary care provider who accepts responsibility for providing first contact, continuous, and comprehensive care to the whole person, in collaboration with teams of other health professionals, including nurses and specialist physicians, as needed and appropriate.

(B) The practice applies standards for access to care and communication with participating beneficiaries.

(C) The practice has readily accessible, clinically useful information on participating patients that enables the practice to treat such patients comprehensively and systematically.

(D) The practice maintains continuous relationships with participating patients by implementing evidence-based guidelines and applying such guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries.

(2) **RECOGNITION OF NCQA APPROVAL.**—Such term also includes a physician-directed (or nurse-practitioner-directed) practice that has been recognized as a medical home through the Physician Practice Connections—patient centered Medical Home (“PPC-PCMH”) voluntary recognition process of the National Committee for Quality Assurance.

(3) **STANDARD SETTING AND QUALIFICATION PROCESS FOR MEDICAL HOMES.**—The Secretary shall establish a process for the selection of a qualified standard setting and certification organization—

(A) to establish standards, consistent with this subsection, to enable medical practices to qualify as patient centered medical homes; and

(B) to provide for the review and certification of medical practices as meeting such standards.

(4) **TREATMENT OF CERTAIN PRACTICES.**—Nothing in this section shall be construed as preventing a nurse practitioner from leading a patient-centered medical home so long as—

(A) all of the requirements of this section are met; and

(B) the nurse practitioner is acting consistently with State law.

(e) **APPLICATION UNDER MEDICARE, MEDICAID, PHSA, ETC.**—Unless otherwise provided, the provisions of the previous subsections shall apply for purposes of provisions of the Social Security Act, the Public Health Service Act, and any other Act amended by this Act.

## TITLE I—MEDICAL EDUCATION

### SEC. 101. RECRUITMENT INCENTIVES.

Title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.) is amended by adding at the end the following:

#### “PART F—MEDICAL EDUCATION

##### RECRUITMENT INCENTIVES

#### “SEC. 786. MEDICAL EDUCATION RECRUITMENT INCENTIVES.

“(a) **IN GENERAL.**—The Secretary is authorized to award grants or contracts to institutions of higher education that are graduate medical schools, to enable the graduate medical schools to improve primary care education and training for medical students.

“(b) **APPLICATION.**—A graduate medical school that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) **USES OF FUNDS.**—A graduate medical school that receives a grant under this section shall use such grant funds to carry out 1 or more of the following:

“(1) The creation of primary care mentorship programs.

“(2) Curriculum development for population-based primary care models of care, such as the patient centered medical home.

“(3) Increased opportunities for ambulatory, community-based training.

“(4) Development of generalist curriculum to enhance care for rural and underserved populations in primary care or general surgery.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$50,000,000 for each of the fiscal years 2010 through 2012.”

#### **SEC. 102. DEBT FORGIVENESS, SCHOLARSHIPS, AND SERVICE OBLIGATIONS.**

(a) PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in primary care physician careers.

(b) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

##### **“Subpart XI—Primary Care Medical Education**

#### **“SEC. 340I. SCHOLARSHIPS.**

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to critical shortage health facilities to enable such facilities to provide scholarships to individuals who agree to serve as physicians at such facilities after completing a residency in a primary care field (as defined in section 3(a)(5) of the Preserving Patient Access to Primary Care Act of 2009).

“(b) SCHOLARSHIPS.—A health facility shall use amounts received under a grant under this section to enter into contracts with eligible individuals under which—

“(1) the facility agrees to provide the individual with a scholarship for each school year (not to exceed 4 school years) in which the individual is enrolled as a full-time student in a school of medicine or a school of osteopathic medicine; and

“(2) the individual agrees—

“(A) to maintain an acceptable level of academic standing;

“(B) to complete a residency in a primary care field; and

“(C) after completing the residency, to serve as a primary care physician at such facility in such field for a time period equal to the greater of—

“(i) one year for each school year for which the individual was provided a scholarship under this section; or

“(ii) two years.

“(c) AMOUNT.—

“(1) IN GENERAL.—The amount paid by a health facility to an individual under a scholarship under this section shall not exceed \$35,000 for any school year.

“(2) CONSIDERATIONS.—In determining the amount of a scholarship to be provided to an individual under this section, a health facility may take into consideration the individual's financial need, geographic differences, and educational costs.

“(3) EXCLUSION FROM GROSS INCOME.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received as a scholarship under this section.

“(d) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III of part D shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the

National Health Service Corps Scholarship Program established in such subpart.

“(e) DEFINITIONS.—In this section:

“(1) CRITICAL SHORTAGE HEALTH FACILITY.—The term ‘critical shortage health facility’ means a public or private nonprofit health facility that does not serve a health professional shortage area (as designated under section 332), but has a critical shortage of physicians (as determined by the Secretary) in a primary care field.

“(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who is enrolled, or accepted for enrollment, as a full-time student in an accredited school of medicine or school of osteopathic medicine.

#### **“SEC. 340J. LOAN REPAYMENT PROGRAM.**

(a) PURPOSE.—It is the purpose of this section to alleviate critical shortages of primary care physicians and primary care providers.

(b) LOAN REPAYMENTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a program of entering into contracts with eligible individuals under which—

“(1) the individual agrees to serve—

“(A) as a primary care physician or primary care provider in a primary care field; and

“(B) in an area that is not a health professional shortage area (as designated under section 332), but has a critical shortage of primary care physicians and primary care providers (as determined by the Secretary) in such field; and

“(2) the Secretary agrees to pay, for each year of such service, not more than \$35,000 of the principal and interest of the undergraduate or graduate educational loans of the individual.

“(c) SERVICE REQUIREMENT.—A contract entered into under this section shall allow the individual receiving the loan repayment to satisfy the service requirement described in subsection (a)(1) through employment in a solo or group practice, a clinic, a public or private nonprofit hospital, or any other appropriate health care entity.

“(d) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III of part D shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.

“(e) DEFINITION.—In this section, the term ‘eligible individual’ means—

“(1) an individual with a degree in medicine or osteopathic medicine; or

“(2) a primary care provider (as defined in section 3(a)(7) of the Preserving Patient Access to Primary Care Act of 2009).

#### **“SEC. 340K. LOAN REPAYMENTS FOR PHYSICIANS IN THE FIELDS OF OBSTETRICS AND GYNECOLOGY AND CERTIFIED NURSE MIDWIVES.**

(a) PURPOSE.—It is the purpose of this section to alleviate critical shortages of physicians in the fields of obstetrics and gynecology and certified nurse midwives.

(b) LOAN REPAYMENTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a program of entering into contracts with eligible individuals under which—

“(1) the individual agrees to serve—

“(A) as a physician in the field of obstetrics and gynecology or as a certified nurse midwife; and

“(B) in an area that is not a health professional shortage area (as designated under

section 332), but has a critical shortage of physicians in the fields of obstetrics and gynecology or certified nurse midwives (as determined by the Secretary), respectively; and

“(2) the Secretary agrees to pay, for each year of such service, not more than \$35,000 of the principal and interest of the undergraduate or graduate educational loans of the individual.

“(c) SERVICE REQUIREMENT.—A contract entered into under this section shall allow the individual receiving the loan repayment to satisfy the service requirement described in subsection (a)(1) through employment in a solo or group practice, a clinic, a public or private nonprofit hospital, or any other appropriate health care entity.

“(d) APPLICATION OF CERTAIN PROVISIONS.—The provisions of subpart III of part D shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.

“(e) DEFINITION.—In this section, the term ‘eligible individual’ means—

“(1) a physician in the field of obstetrics and gynecology; or

“(2) a certified nurse midwife.

#### **“SEC. 340L. REPORTS.**

“Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary shall submit to Congress a report that describes the programs carried out under this subpart, including statements concerning—

“(1) the number of enrollees, scholarships, loan repayments, and grant recipients;

“(2) the number of graduates;

“(3) the amount of scholarship payments and loan repayments made;

“(4) which educational institution the recipients attended;

“(5) the number and placement location of the scholarship and loan repayment recipients at health care facilities with a critical shortage of primary care physicians;

“(6) the default rate and actions required;

“(7) the amount of outstanding default funds of both the scholarship and loan repayment programs;

“(8) to the extent that it can be determined, the reason for the default;

“(9) the demographics of the individuals participating in the scholarship and loan repayment programs;

“(10) the justification for the allocation of funds between the scholarship and loan repayment programs; and

“(11) an evaluation of the overall costs and benefits of the programs.

#### **“SEC. 340M. AUTHORIZATION OF APPROPRIATIONS.**

“To carry out sections 340I, 340J, and 340K there are authorized to be appropriated \$55,000,000 for fiscal year 2010, \$90,000,000 for fiscal year 2011, and \$125,000,000 for fiscal year 2012, to be used solely for scholarships and loan repayment awards for primary care physicians and primary care providers.”

#### **SEC. 103. DEFERMENT OF LOANS DURING RESIDENCY AND INTERNSHIPS.**

(a) LOAN REQUIREMENTS.—Section 427(a)(2)(C)(i) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(2)(C)(i)) is amended by inserting “unless the medical internship or residency program is in a primary care field (as defined in section 3(a)(5) of the Preserving Patient Access to Primary Care Act of 2009)” after “residency program”.

(b) FFEL LOANS.—Section 428(b)(1)(M)(i) of the Higher Education Act of 1965 (20 U.S.C.

1078(b)(1)(M)(i)) is amended by inserting “unless the medical internship or residency program is in a primary care field (as defined in section 3(a)(5) of the Preserving Patient Access to Primary Care Act of 2009)” after “residency program”.

(c) **FEDERAL DIRECT LOANS.**—Section 455(f)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)(A)) is amended by inserting “unless the medical internship or residency program is in a primary care field (as defined in section 3(a)(5) of the Preserving Patient Access to Primary Care Act of 2009)” after “residency program”.

(d) **FEDERAL PERKINS LOANS.**—Section 464(c)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1087d(c)(2)(A)(i)) is amended by inserting “unless the medical internship or residency program is in a primary care field (as defined in section 3(a)(5) of the Preserving Patient Access to Primary Care Act of 2009)” after “residency program”.

**SEC. 104. EDUCATING MEDICAL STUDENTS ABOUT PRIMARY CARE CAREERS.**

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k) is amended by adding at the end the following:

**“SEC. 749. EDUCATING MEDICAL STUDENTS ABOUT PRIMARY CARE CAREERS.**

“(a) **IN GENERAL.**—The Secretary shall award grants to eligible State and local government entities for the development of informational materials that promote careers in primary care by highlighting the advantages and rewards of primary care, and that encourage medical students, particularly students from disadvantaged backgrounds, to become primary care physicians.

“(b) **ANNOUNCEMENT.**—The grants described in subsection (a) shall be announced through a publication in the Federal Register and through appropriate media outlets in a manner intended to reach medical education institutions, associations, physician groups, and others who communicate with medical students.

“(c) **ELIGIBILITY.**—To be eligible to receive a grant under this section an entity shall—

“(1) be a State or local entity; and

“(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(d) **USE OF FUNDS.**—

“(1) **IN GENERAL.**—An entity shall use amounts received under a grant under this section to support State and local campaigns through appropriate media outlets to promote careers in primary care and to encourage individuals from disadvantaged backgrounds to enter and pursue careers in primary care.

“(2) **SPECIFIC USES.**—In carrying out activities under paragraph (1), an entity shall use grants funds to develop informational materials in a manner intended to reach as wide and diverse an audience of medical students as possible, in order to—

“(A) advertise and promote careers in primary care;

“(B) promote primary care medical education programs;

“(C) inform the public of financial assistance regarding such education programs;

“(D) highlight individuals in the community who are practicing primary care physicians; or

“(E) provide any other information to recruit individuals for careers in primary care.

“(e) **LIMITATION.**—An entity shall not use amounts received under a grant under this section to advertise particular employment opportunities.

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to

carry out this section, such sums as may be necessary for each of fiscal years 2010 through 2013.”

**SEC. 105. TRAINING IN A FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL GERIATRICS, GENERAL PEDIATRICS, PHYSICIAN ASSISTANT EDUCATION, GENERAL DENTISTRY, AND PEDIATRIC DENTISTRY.**

Section 747(e) of the Public Health Service Act (42 U.S.C. 293k) is amended by striking paragraph (1) and inserting the following:

“(1) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$198,000,000 for each of fiscal years 2010 through 2012.”

**SEC. 106. INCREASED FUNDING FOR NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.**

(a) **IN GENERAL.**—There is authorized to be appropriated \$332,000,000 for the period of fiscal years 2010 through 2012 for the purpose of carrying out subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 2541 et seq.). Such authorization of appropriations is in addition to the authorization of appropriations in section 338H of such Act (42 U.S.C. 254q) and any other authorization of appropriations for such purpose.

(b) **ALLOCATION.**—Of the amounts appropriated under subsection (a) for the period of fiscal years 2010 through 2012, the Secretary shall obligate \$96,000,000 for the purpose of providing contracts for scholarships and loan repayments to individuals who—

(1) are primary care physicians or primary care providers; and

(2) have not previously received a scholarship or loan repayment under subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 2541 et seq.).

**TITLE II—MEDICAID RELATED PROVISIONS**

**SEC. 201. TRANSFORMATION GRANTS TO SUPPORT PATIENT CENTERED MEDICAL HOMES UNDER MEDICAID AND CHIP.**

(a) **IN GENERAL.**—Section 1903(z) of the Social Security Act (42 U.S.C. 1396b(z)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

“(G) Methods for improving the effectiveness and efficiency of medical assistance provided under this title and child health assistance provided under title XXI by encouraging the adoption of medical practices that satisfy the standards established by the Secretary under paragraph (2) of section 3(d) of the Preserving Patient Access to Primary Care Act of 2009 for medical practices to qualify as patient centered medical homes (as defined in paragraph (1) of such section).”; and

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i), by striking “and” at the end;

(ii) in clause (ii), by striking the period at the end and inserting “; and”; and

(iii) by inserting after clause (ii), the following new clause:

“(iii) \$25,000,000 for each of fiscal years 2010, 2011, and 2012.”; and

(B) in subparagraph (B), by striking the second and third sentences and inserting the following: “Such method shall provide that 100 percent of such funds for each of fiscal years 2010, 2011, and 2012 shall be allocated among States that design programs to adopt the innovative methods described in paragraph (2)(G), with preference given to States that design programs involving multipayers (including under title XVIII and private

health plans) test projects for implementation of the elements necessary to be recognized as a patient centered medical home practice under the National Committee for Quality Assurance Physicians Practice Connection-PCMH module (or any other equivalent process, as determined by the Secretary).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section take effect on October 1, 2010.

**TITLE III—MEDICARE PROVISIONS**

**Subtitle A—Primary Care**

**SEC. 301. REFORMING PAYMENT SYSTEMS UNDER MEDICARE TO SUPPORT PRIMARY CARE.**

(a) **INCREASING BUDGET NEUTRALITY LIMITS UNDER THE PHYSICIAN FEE SCHEDULE TO ACCOUNT FOR ANTICIPATED SAVINGS RESULTING FROM PAYMENTS FOR CERTAIN SERVICES AND THE COORDINATION OF BENEFICIARY CARE.**—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)(B)) is amended—

(1) in clause (ii)(II), by striking “(iv) and (v)” and inserting “(iv), (v), and (vii)”; and

(2) by adding at the end the following new clause:

“(vii) INCREASE IN LIMITATION TO ACCOUNT FOR CERTAIN ANTICIPATED SAVINGS.—

“(I) **IN GENERAL.**—Effective for fee schedules established beginning with 2010, the Secretary shall increase the limitation on annual adjustments under clause (ii)(II) by an amount equal to the anticipated savings under parts A, B, and D (including any savings with respect to items and services for which payment is not made under this section) which are a result of payments for designated primary care services and comprehensive care coordination services under section 1834(m) and the coverage of patient centered medical home services under section 1861(s)(2)(FF) (as determined by the Secretary).

“(II) **MECHANISM TO DETERMINE APPLICATION OF INCREASE.**—The Secretary shall establish a mechanism for determining which relative value units established under this paragraph for physicians’ services shall be subject to an adjustment under clause (ii)(I) as a result of the increase under subclause (I).

“(III) **ADDITIONAL FUNDING AS DETERMINED NECESSARY BY THE SECRETARY.**—In addition to any funding that may be made available as a result of an increase in the limitation on annual adjustments under subclause (I), there shall also be available to the Secretary, for purposes of making payments under this title for new services and capabilities to improve care provided to individuals under this title and to generate efficiencies under this title, such additional funds as the Secretary determines are necessary.”.

(b) **SEPARATE MEDICARE PAYMENT FOR DESIGNATED PRIMARY CARE SERVICES AND COMPREHENSIVE CARE COORDINATION SERVICES.**—

(1) **IN GENERAL.**—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

“(n) **PAYMENT FOR DESIGNATED PRIMARY CARE SERVICES AND COMPREHENSIVE CARE COORDINATION SERVICES.**—

“(1) **IN GENERAL.**—The Secretary shall pay for designated primary care services and comprehensive care coordination services furnished to an individual enrolled under this part.

“(2) **PAYMENT AMOUNT.**—The Secretary shall determine the amount of payment for designated primary care services and comprehensive care coordination services under this subsection.

“(3) DOCUMENTATION REQUIREMENTS.—The Secretary shall propose appropriate documentation requirements to justify payments for designated primary care services and comprehensive care coordination services under this subsection.

“(4) DEFINITIONS.—

“(A) COMPREHENSIVE CARE COORDINATION SERVICES.—The term ‘comprehensive care coordination services’ means care coordination services with procedure codes established by the Secretary (as appropriate) which are furnished to an individual enrolled under this part by a primary care provider or principal care physician.

“(B) DESIGNATED PRIMARY CARE SERVICES.—The term ‘designated primary care service’ means a service which the Secretary determines has a procedure code which involves a clinical interaction with an individual enrolled under this part that is inherent to care coordination, including interactions outside of a face-to-face encounter. Such term includes the following:

“(i) Care plan oversight.

“(ii) Evaluation and management provided by phone.

“(iii) Evaluation and management provided using internet resources.

“(iv) Collection and review of physiologic data, such as from a remote monitoring device.

“(v) Education and training for patient self management.

“(vi) Anticoagulation management services.

“(vii) Any other service determined appropriate by the Secretary.”

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services furnished on or after January 1, 2010.

#### SEC. 302. COVERAGE OF PATIENT CENTERED MEDICAL HOME SERVICES.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (DD), by striking “and” at the end;

(2) in subparagraph (EE), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(FF) patient centered medical home services (as defined in subsection (hhh)(1)).”

(b) DEFINITION OF PATIENT CENTERED MEDICAL HOME SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Patient Centered Medical Home Services

“(hhh)(1) The term ‘patient centered medical home services’ means care coordination services furnished by a qualified patient centered medical home.

“(2) The term ‘qualified patient centered medical home’ means a patient centered medical home (as defined in section 3(d) of the Preserving Patient Access to Primary Care Act of 2009).”

(c) MONTHLY FEE FOR PATIENT CENTERED MEDICAL HOME SERVICES.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

“(p) MONTHLY FEE FOR PATIENT CENTERED MEDICAL HOME SERVICES.—

“(1) MONTHLY FEE.—

“(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall establish a payment methodology for patient centered medical home services (as defined in paragraph (1) of section 1861(hhh)). Under such payment methodology, the Secretary shall pay quali-

fied patient centered medical homes (as defined in paragraph (2) of such section) a monthly fee for each individual who elects to receive patient centered medical home services at that medical home. Such fee shall be paid on a prospective basis.

“(B) CONSIDERATIONS.—The Secretary shall take into account the results of the Medicare medical home demonstration project under section 204 of the Medicare Improvement and Extension Act of 2006 (42 U.S.C. 1395b-1 note; division B of Public Law 109-432) in establishing the payment methodology under subparagraph (A).

“(2) AMOUNT OF PAYMENT.—

“(A) CONSIDERATIONS.—In determining the amount of such fee, subject to paragraph (3), the Secretary shall consider the following:

“(i) The clinical work and practice expenses involved in providing care coordination services consistent with the patient centered medical home model (such as providing increased access, care coordination, disease population management, and education) for which payment is not made under this section as of the date of enactment of this subsection.

“(ii) Ensuring that the amount of payment is sufficient to support the acquisition, use, and maintenance of clinical information systems which—

“(I) are needed by a qualified patient centered medical home; and

“(II) have been shown to facilitate improved outcomes through care coordination.

“(iii) The establishment of a tiered monthly care management fee that provides for a range of payment depending on how advanced the capabilities of a qualified patient centered medical home are in having the information systems needed to support care coordination.

“(B) RISK-ADJUSTMENT.—The Secretary shall use appropriate risk-adjustment in determining the amount of the monthly fee under this paragraph.

“(3) FUNDING.—

“(A) IN GENERAL.—The Secretary shall determine the aggregate estimated savings for a calendar year as a result of the implementation of this subsection on reducing preventable hospital admissions, duplicate testing, medication errors and drug interactions, and other savings under this part and part A (including any savings with respect to items and services for which payment is not made under this section).

“(B) FUNDING.—Subject to subparagraph (C), the aggregate amount available for payment of the monthly fee under this subsection during a calendar year shall be equal to the aggregate estimated savings (as determined under subparagraph (A)) for the calendar year (as determined by the Secretary).

“(C) ADDITIONAL FUNDING.—In the case where the amount of the aggregate actual savings during the preceding 3 years exceeds the amount of the aggregate estimated savings (as determined under subparagraph (A)) during such period, the aggregate amount available for payment of the monthly fee under this subsection during the calendar year (as determined under subparagraph (B)) shall be increased by the amount of such excess.

“(D) ADDITIONAL FUNDING AS DETERMINED NECESSARY BY THE SECRETARY.—In addition to any funding made available under subparagraphs (B) and (C), there shall also be available to the Secretary, for purposes of effectively implementing this subsection, such additional funds as the Secretary determines are necessary.

“(4) PERFORMANCE-BASED BONUS PAYMENTS.—The Secretary shall establish a

process for paying a performance-based bonus to qualified patient centered medical homes which meet or achieve substantial improvements in performance (as specified under clinical, patient satisfaction, and efficiency benchmarks established by the Secretary). Such bonus shall be in an amount determined appropriate by the Secretary.

“(5) NO EFFECT ON PAYMENTS FOR EVALUATION AND MANAGEMENT SERVICES.—The monthly fee under this subsection shall have no effect on the amount of payment for evaluation and management services under this title.”

(d) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking “and” before “(W)”; and

(2) by inserting before the semicolon at the end the following: “, and (X) with respect to patient centered medical home services (as defined in section 1861(hhh)(1)), the amount paid shall be (i) in the case of such services which are physicians’ services, the amount determined under subparagraph (N), and (ii) in the case of all other such services, 80 percent of the lesser of the actual charge for the service or the amount determined under a fee schedule established by the Secretary for purposes of this subparagraph”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2012.

#### SEC. 303. MEDICARE PRIMARY CARE PAYMENT EQUITY AND ACCESS PROVISION.

(a) IN GENERAL.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4), as amended by section 302(c), is amended by adding at the end the following new subsection:

“(q) PRIMARY CARE PAYMENT EQUITY AND ACCESS.—

“(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall develop a methodology, in consultation with primary care physician organizations and primary care provider organizations, the Medicare Payment Advisory Commission, and other experts, to increase payments under this section for designated evaluation and management services provided by primary care physicians, primary care providers, and principal care providers through 1 or more of the following:

“(A) A service-specific modifier to the relative value units established for such services.

“(B) Service-specific bonus payments.

“(C) Any other methodology determined appropriate by the Secretary.

“(2) INCLUSION OF PROPOSED CRITERIA.—The methodology developed under paragraph (1) shall include proposed criteria for providers to qualify for such increased payments, including consideration of—

“(A) the type of service being rendered;

“(B) the specialty of the provider providing the service; and

“(C) demonstration by the provider of voluntary participation in programs to improve quality, such as participation in the Physician Quality Reporting Initiative (as determined by the Secretary) or practice-level qualification as a patient centered medical home.

“(3) FUNDING.—

“(A) DETERMINATION.—The Secretary shall determine the aggregate estimated savings for a calendar year as a result of such increased payments on reducing preventable hospital admissions, duplicate testing, medication errors and drug interactions, Intensive Care Unit admissions, per capita health care expenditures, and other savings under this part and part A (including any savings



with respect to items and services for which payment is not made under this section).

“(B) FUNDING.—The aggregate amount available for such increased payments during a calendar year shall be equal to the aggregate estimated savings (as determined under subparagraph (A)) for the calendar year (as determined by the Secretary).

“(C) ADDITIONAL FUNDING AS DETERMINED NECESSARY BY THE SECRETARY.—In addition to any funding made available under subparagraph (B), there shall also be available to the Secretary, for purposes of effectively implementing this subsection, such additional funds as the Secretary determines are necessary.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after January 1, 2010.

**SEC. 304. ADDITIONAL INCENTIVE PAYMENT PROGRAM FOR PRIMARY CARE SERVICES FURNISHED IN HEALTH PROFESSIONAL SHORTAGE AREAS.**

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

“(x) ADDITIONAL INCENTIVE PAYMENTS FOR PRIMARY CARE SERVICES FURNISHED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—

“(1) IN GENERAL.—In the case of primary care services furnished on or after January 1, 2010, by a primary care physician or primary care provider in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a health professional shortage area as identified by the Secretary prior to the beginning of the year involved, in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid (on a monthly or quarterly basis) an amount equal to 10 percent of the payment amount for the service under this part.

“(2) DEFINITIONS.—In this subsection:

“(A) PRIMARY CARE PHYSICIAN; PRIMARY CARE PROVIDER.—The terms ‘primary care physician’ and ‘primary care provider’ have the meaning given such terms in paragraphs (6) and (7), respectively, of section 3(a) of the Preserving Patient Access to Primary Care Act of 2009.

“(B) PRIMARY CARE SERVICES.—The term ‘primary care services’ means procedure codes for services in the category of the Healthcare Common Procedure Coding System, as established by the Secretary under section 1848(c)(5) (as of December 31, 2008 and as subsequently modified by the Secretary) consisting of evaluation and management services, but limited to such procedure codes in the category of office or other outpatient services, and consisting of subcategories of such procedure codes for services for both new and established patients.

“(3) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting the identification of primary care physicians, primary care providers, or primary care services under this subsection.”.

(b) CONFORMING AMENDMENT.—Section 1834(g)(2)(B) of the Social Security Act (42 U.S.C. 1395m(g)(2)(B)) is amended by adding at the end the following sentence: “Section 1833(x) shall not be taken into account in determining the amounts that would otherwise be paid pursuant to the preceding sentence.”.

**SEC. 305. PERMANENT EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.**

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “and before January 1, 2010,”.

**SEC. 306. PERMANENT EXTENSION OF MEDICARE INCENTIVE PAYMENT PROGRAM FOR PHYSICIAN SCARCITY AREAS.**

Section 1833(u) of the Social Security Act (42 U.S.C. 1395l(u)) is amended—

(1) in paragraph (1)—

(A) by inserting “or on or after July 1, 2009” after “before July 1, 2008”; and

(B) by inserting “(or, in the case of services furnished on or after July 1, 2009, 10 percent)” after “5 percent”; and

(2) in paragraph (4)(D), by striking “before July 1, 2008” and inserting “before January 1, 2010”.

**SEC. 307. HHS STUDY AND REPORT ON THE PROCESS FOR DETERMINING RELATIVE VALUE UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.**

(a) STUDY.—The Secretary shall conduct a study on the process used by the Secretary for determining relative value under the Medicare physician fee schedule under section 1848(c) of the Social Security Act (42 U.S.C. 1395w-4(c)). Such study shall include an analysis of the following:

(1)(A) Whether the existing process includes equitable representation of primary care physicians (as defined in section 3(a)(6)); and

(B) any changes that may be necessary to ensure such equitable representation.

(2)(A) Whether the existing process provides the Secretary with expert and impartial input from physicians in medical specialties that provide primary care to patients with multiple chronic diseases, the fastest growing part of the Medicare population; and

(B) any changes that may be necessary to ensure such input.

(3)(A) Whether the existing process includes equitable representation of physician medical specialties in proportion to their relative contributions toward caring for Medicare beneficiaries, as determined by the percentage of Medicare billings per specialty, percentage of Medicare encounters by specialty, or such other measures of relative contributions to patient care as determined by the Secretary; and

(B) any changes that may be necessary to reflect such equitable representation.

(4)(A) Whether the existing process, including the application of budget neutrality rules, unfairly disadvantages primary care physicians, primary care providers, or other physicians who principally provide evaluation and management services; and

(B) any changes that may be necessary to eliminate such disadvantages.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

**Subtitle B—Preventive Services**

**SEC. 311. ELIMINATING TIME RESTRICTION FOR INITIAL PREVENTIVE PHYSICAL EXAMINATION.**

(a) IN GENERAL.—Section 1862(a)(1)(K) of the Social Security Act (42 U.S.C. 1395y(a)(1)(K)) is amended by striking “more than” and all that follows before the comma at the end and inserting “more than one time during the lifetime of the individual”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2010.

**SEC. 312. ELIMINATION OF COST-SHARING FOR PREVENTIVE BENEFITS UNDER THE MEDICARE PROGRAM.**

(a) DEFINITION OF PREVENTIVE SERVICES.—Section 1861(ddd) of the Social Security Act (42 U.S.C. 1395w(ddd)) is amended—

(1) in the heading, by inserting “; Preventive Services” after “Services”; and

(2) in paragraph (1), by striking “not otherwise described in this title” and inserting “not described in subparagraphs (A) through (N) of paragraph (3)”; and

(3) by adding at the end the following new paragraph:

“(3) The term ‘preventive services’ means the following:

“(A) Prostate cancer screening tests (as defined in subsection (oo)).

“(B) Colorectal cancer screening tests (as defined in subsection (pp)).

“(C) Diabetes outpatient self-management training services (as defined in subsection (qq)).

“(D) Screening for glaucoma for certain individuals (as described in subsection (s)(2)(U)).

“(E) Medical nutrition therapy services for certain individuals (as described in subsection (s)(2)(V)).

“(F) An initial preventive physical examination (as defined in subsection (ww)).

“(G) Cardiovascular screening blood tests (as defined in subsection (xx)(1)).

“(H) Diabetes screening tests (as defined in subsection (yy)).

“(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in subsection (s)(2)(AA)).

“(J) Pneumococcal and influenza vaccine and their administration (as described in subsection (s)(10)(A)).

“(K) Hepatitis B vaccine and its administration for certain individuals (as described in subsection (s)(10)(B)).

“(L) Screening mammography (as defined in subsection (jj)).

“(M) Screening pap smear and screening pelvic exam (as described in subsection (s)(14)).

“(N) Bone mass measurement (as defined in subsection (rr)).

“(O) Additional preventive services (as determined under paragraph (1)).”.

(b) COINSURANCE.—

(1) GENERAL APPLICATION.—

(A) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 302, is amended—

(i) in subparagraph (T), by striking “80 percent” and inserting “100 percent”; and

(ii) in subparagraph (W), by striking “80 percent” and inserting “100 percent”; and

(iii) by striking “and” before “(X)”; and

(iv) by inserting before the semicolon at the end the following: “, and (Y) with respect to preventive services described in subparagraphs (A) through (O) of section 1861(ddd)(3), the amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined under the fee schedule that applies to such services under this part”.

(2) ELIMINATION OF COINSURANCE FOR SCREENING SIGMOIDOSCOPIES AND COLONOSCOPIES.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “, except that payment for such tests under such section shall be 100 percent of the payment determined under such section for such tests” before the period at the end; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and



(II) in clause (i)—

(aa) by striking “(i) IN GENERAL.—Notwithstanding” and inserting “Notwithstanding”;

(bb) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the left; and

(cc) in the flush matter following clause (ii), as so redesignated, by inserting “100 percent of” after “based on”; and

(B) in paragraph (3)—

(i) in subparagraph (A), by inserting “, except that payment for such tests under such section shall be 100 percent of the payment determined under such section for such tests” before the period at the end; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) in clause (i)—

(aa) by striking “(i) IN GENERAL.—Notwithstanding” and inserting “Notwithstanding”;

and

(bb) by inserting “100 percent of” after “based on”.

(3) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—

(A) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “and diagnostic mammography” and inserting “, diagnostic mammography, and preventive services (as defined in section 1861(ddd)(3))”.

(B) CONFORMING AMENDMENTS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (F), by striking “and” after the semicolon at the end;

(ii) in subparagraph (G)(ii), by adding “and” at the end; and

(iii) by adding at the end the following new subparagraph:

“(H) with respect to preventive services (as defined in section 1861(ddd)(3)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W) or (1)(X), as applicable;”.

(c) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(1) in clause (1), by striking “items and services described in section 1861(s)(10)(A)” and inserting “preventive services (as defined in section 1861(ddd)(3))”;

(2) by inserting “and” before “(4)”; and

(3) by striking “, (5)” and all that follows up to the period at the end.

#### **SEC. 313. HHS STUDY AND REPORT ON FACILITATING THE RECEIPT OF MEDICARE PREVENTIVE SERVICES BY MEDICARE BENEFICIARIES.**

(a) STUDY.—The Secretary, in consultation with provider organizations and other appropriate stakeholders, shall conduct a study on—

(1) ways to assist primary care physicians and primary care providers (as defined in section 3(a)) in—

(A) furnishing appropriate preventive services (as defined in section 1861(ddd)(3) of the Social Security Act, as added by section 312) to individuals enrolled under part B of title XVIII of such Act; and

(B) referring such individuals for other items and services furnished by other physicians and health care providers; and

(2) the advisability and feasibility of making additional payments under the Medicare program to physicians and primary care providers for—

(A) the work involved in ensuring that such individuals receive appropriate preventive services furnished by other physicians and health care providers; and

(B) incorporating the resulting clinical information into the treatment plan for the individual.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### **Subtitle C—Other Provisions**

#### **SEC. 321. HHS STUDY AND REPORT ON IMPROVING THE ABILITY OF PHYSICIANS AND PRIMARY CARE PROVIDERS TO ASSIST MEDICARE BENEFICIARIES IN OBTAINING NEEDED PRESCRIPTIONS UNDER MEDICARE PART D.**

(a) STUDY.—The Secretary, in consultation with physician organizations and other appropriate stakeholders, shall conduct a study on the development and implementation of mechanisms to facilitate increased efficiency relating to the role of physicians and primary care providers in Medicare beneficiaries obtaining needed prescription drugs under the Medicare prescription drug program under part D of title XVIII of the Social Security Act. Such study shall include an analysis of ways to—

(1) improve the accessibility of formulary information;

(2) streamline the prior authorization, exception, and appeals processes, through, at a minimum, standardizing formats and allowing electronic exchange of information; and

(3) recognize the work of the physician and primary care provider involved in the prescribing process, especially work that may extend beyond the amount considered to be bundled into payment for evaluation and management services.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### **SEC. 322. HHS STUDY AND REPORT ON IMPROVED PATIENT CARE THROUGH INCREASED CAREGIVER AND PHYSICIAN INTERACTION.**

(a) STUDY.—The Secretary, in consultation with appropriate stakeholders, shall conduct a study on the development and implementation of mechanisms to promote and increase interaction between physicians or primary care providers and the families of Medicare beneficiaries, as well as other caregivers who support such beneficiaries, for the purpose of improving patient care under the Medicare program. Such study shall include an analysis of—

(1) ways to recognize the work of physicians and primary care providers involved in discussing clinical issues with caregivers that relate to the care of the beneficiary; and

(2) regulations under the Medicare program that are barriers to interactions between caregivers and physicians or primary care providers and how such regulations should be revised to eliminate such barriers.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### **SEC. 323. IMPROVED PATIENT CARE THROUGH EXPANDED SUPPORT FOR LIMITED ENGLISH PROFICIENCY (LEP) SERVICES.**

(a) ADDITIONAL PAYMENTS FOR PRIMARY CARE PHYSICIANS AND PRIMARY CARE PROVIDERS.—Section 1833 of the Social Security Act (42 U.S.C. 1395l), as amended by section 304, is amended by adding at the end the following new subsection:

“(y) ADDITIONAL PAYMENTS FOR PROVIDING SERVICES TO INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY.—

“(1) IN GENERAL.—In the case of primary care providers’ services furnished on or after January 1, 2010, to an individual with limited English proficiency by a provider, in addition to the amount of payment that would otherwise be made for such services under this part, there shall also be paid an appropriate amount (as determined by the Secretary) in order to recognize the additional time involved in furnishing the service to such individual.

“(2) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting the determination of the amount of additional payment under this subsection.”.

(b) NATIONAL CLEARINGHOUSE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a national clearinghouse to make available to the primary care physicians, primary care providers, patients, and States translated documents regarding patient care and education under the Medicare program, the Medicaid program, and the State Children’s Health Insurance Program under titles XVIII, XIX, and XXI, respectively, of the Social Security Act.

(c) GRANTS TO SUPPORT LANGUAGE TRANSLATION SERVICES IN UNDERSERVED COMMUNITIES.—

(1) AUTHORITY TO AWARD GRANTS.—The Secretary shall award grants to support language translation services for primary care physicians and primary care providers in medically underserved areas (as defined in section 3(c)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to award grants under this subsection, such sums as are necessary for fiscal years beginning with fiscal year 2010.

#### **SEC. 324. HHS STUDY AND REPORT ON USE OF REAL-TIME MEDICARE CLAIMS ADJUDICATION.**

(a) STUDY.—The Secretary shall conduct a study to assess the ability of the Medicare program under title XVIII of the Social Security Act to engage in real-time claims adjudication for items and services furnished to Medicare beneficiaries.

(b) CONSULTATION.—In conducting the study under subsection (a), the Secretary consult with stakeholders in the private sector, including stakeholders who are using or are testing real-time claims adjudication systems.

(c) REPORT.—Not later than January 1, 2011, the Secretary shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### **SEC. 325. ONGOING ASSESSMENT BY MEDPAC OF THE IMPACT OF MEDICARE PAYMENTS ON PRIMARY CARE ACCESS AND EQUITY.**

The Medicare Payment Advisory Commission, beginning in 2010 and in each of its subsequent annual reports to Congress on Medicare physician payment policies, shall provide an assessment of the impact of changes

in Medicare payment policies in improving access to and equity of payments to primary care physicians and primary care providers. Such assessment shall include an assessment of the effectiveness, once implemented, of the Medicare payment-related reforms required by this Act to support primary care as well as any other payment changes that may be required by Congress to improve access to and equity of payments to primary care physicians and primary care providers.

**SEC. 326. DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.**

(a) IN GENERAL.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (4)(F)(i), by striking “paragraph (7)” and inserting “paragraphs (7) and (8)”;

(2) in paragraph (4)(H)(i), by striking “paragraph (7)” and inserting “paragraphs (7) and (8)”;

(3) by adding at the end the following new paragraph:

“(8) DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.—

“(A) ADDITIONAL RESIDENCY POSITIONS.—

“(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

“(I) IN GENERAL.—The Secretary shall reduce the otherwise applicable resident limit for a hospital that the Secretary determines had residency positions that were unused for all 5 of the most recent cost reporting periods ending prior to the date of enactment of this paragraph by an amount that is equal to the number of such unused residency positions.

“(II) EXCEPTION FOR RURAL HOSPITALS AND CERTAIN OTHER HOSPITALS.—This subparagraph shall not apply to a hospital—

“(aa) located in a rural area (as defined in subsection (d)(2)(D)(ii));

“(bb) that has participated in a voluntary reduction plan under paragraph (6); or

“(cc) that has participated in a demonstration project approved as of October 31, 2003, under the authority of section 402 of Public Law 90-248.

“(ii) NUMBER AVAILABLE FOR DISTRIBUTION.—The number of additional residency positions available for distribution under subparagraph (B) shall be an amount that the Secretary determines would result in a 15 percent increase in the aggregate number of full-time equivalent residents in approved medical training programs (as determined based on the most recent cost reports available at the time of distribution). One-third of such number shall only be available for distribution to hospitals described in subclause (I) of subparagraph (B)(ii) under such subparagraph.

“(B) DISTRIBUTION.—

“(i) IN GENERAL.—The Secretary shall increase the otherwise applicable resident limit for each qualifying hospital that submits an application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods occurring on or after the date of enactment of this paragraph. The aggregate number of increases in the otherwise applicable resident limit under this subparagraph shall be equal to the number of additional residency positions available for distribution under subparagraph (A)(ii).

“(ii) DISTRIBUTION TO HOSPITALS ALREADY OPERATING OVER RESIDENT LIMIT.—

“(I) IN GENERAL.—Subject to subclause (II), in the case of a hospital in which the reference resident level of the hospital (as defined in clause (ii)) is greater than the otherwise applicable resident limit, the increase

in the otherwise applicable resident limit under this subparagraph shall be an amount equal to the product of the total number of additional residency positions available for distribution under subparagraph (A)(ii) and the quotient of—

“(aa) the number of resident positions by which the reference resident level of the hospital exceeds the otherwise applicable resident limit for the hospital; and

“(bb) the number of resident positions by which the reference resident level of all such hospitals with respect to which an application is approved under this subparagraph exceeds the otherwise applicable resident limit for such hospitals.

“(II) REQUIREMENTS.—A hospital described in subclause (I)—

“(aa) is not eligible for an increase in the otherwise applicable resident limit under this subparagraph unless the amount by which the reference resident level of the hospital exceeds the otherwise applicable resident limit is not less than 10 and the hospital trains at least 25 percent of the full-time equivalent residents of the hospital in primary care and general surgery (as of the date of enactment of this paragraph); and

“(bb) shall continue to train at least 25 percent of the full-time equivalent residents of the hospital in primary care and general surgery for the 10-year period beginning on such date.

In the case where the Secretary determines that a hospital no longer meets the requirement of item (bb), the Secretary may reduce the otherwise applicable resident limit of the hospital by the amount by which such limit was increased under this clause.

“(III) CLARIFICATION REGARDING ELIGIBILITY FOR OTHER ADDITIONAL RESIDENCY POSITIONS.—Nothing in this clause shall be construed as preventing a hospital described in subclause (I) from applying for additional residency positions under this paragraph that are not reserved for distribution under this clause.

“(iii) REFERENCE RESIDENT LEVEL.—

“(I) IN GENERAL.—Except as otherwise provided in subclause (II), the reference resident level specified in this clause for a hospital is the resident level for the most recent cost reporting period of the hospital ending on or before the date of enactment of this paragraph, for which a cost report has been settled (or, if not, submitted (subject to audit)), as determined by the Secretary.

“(II) USE OF MOST RECENT ACCOUNTING PERIOD TO RECOGNIZE EXPANSION OF EXISTING PROGRAM OR ESTABLISHMENT OF NEW PROGRAM.—If a hospital submits a timely request to increase its resident level due to an expansion of an existing residency training program or the establishment of a new residency training program that is not reflected on the most recent cost report that has been settled (or, if not, submitted (subject to audit)), after audit and subject to the discretion of the Secretary, the reference resident level for such hospital is the resident level for the cost reporting period that includes the additional residents attributable to such expansion or establishment, as determined by the Secretary.

“(C) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subparagraph (B) (other than an increase under subparagraph (B)(ii)), the Secretary shall take into account the demonstrated likelihood of the hospital filling the positions within the first 3 cost reporting periods beginning on or after July 1, 2010, made available under this paragraph, as determined by the Secretary.

“(D) PRIORITY FOR CERTAIN AREAS.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subparagraph (B) (other than an increase under subparagraph (B)(ii)), the Secretary shall distribute the increase to hospitals based on the following criteria:

“(i) The Secretary shall give preference to hospitals that submit applications for new primary care and general surgery residency positions. In the case of any increase based on such preference, a hospital shall ensure that—

“(I) the position made available as a result of such increase remains a primary care or general surgery residency position for not less than 10 years after the date on which the position is filled; and

“(II) the total number of primary care and general surgery residency positions in the hospital (determined based on the number of such positions as of the date of such increase, including any position added as a result of such increase) is not decreased during such 10-year period.

In the case where the Secretary determines that a hospital no longer meets the requirement of subclause (II), the Secretary may reduce the otherwise applicable resident limit of the hospital by the amount by which such limit was increased under this paragraph.

“(ii) The Secretary shall give preference to hospitals that emphasizes training in community health centers and other community-based clinical settings.

“(iii) The Secretary shall give preference to hospitals in States that have more medical students than residency positions available (including a greater preference for those States with smaller resident-to-medical-student ratios). In determining the number of medical students in a State for purposes of the preceding sentence, the Secretary shall include planned students at medical schools which have provisional accreditation by the Liaison Committee on Medical Education or the American Osteopathic Association.

“(iv) The Secretary shall give preference to hospitals in States that have low resident-to-population ratios (including a greater preference for those States with lower resident-to-population ratios).

“(E) LIMITATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), in no case may a hospital (other than a hospital described in subparagraph (B)(ii)(I), subject to the limitation under subparagraph (B)(ii)(III)) apply for more than 50 full-time equivalent additional residency positions under this paragraph.

“(ii) INCREASE IN NUMBER OF ADDITIONAL POSITIONS AVAILABLE FOR DISTRIBUTION.—The Secretary shall increase the number of full-time equivalent additional residency positions a hospital may apply for under this paragraph if the Secretary determines that the number of additional residency positions available for distribution under subparagraph (A)(ii) exceeds the number of such applications approved.

“(F) APPLICATION OF PER RESIDENT AMOUNTS FOR PRIMARY CARE AND NONPRIMARY CARE.—With respect to additional residency positions in a hospital attributable to the increase provided under this paragraph, the approved FTE resident amounts are deemed to be equal to the hospital per resident amounts for primary care and nonprimary care computed under paragraph (2)(D) for that hospital.

“(G) DISTRIBUTION.—The Secretary shall distribute the increase to hospitals under this paragraph not later than 2 years after the date of enactment of this paragraph.”

(b) IME.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the second sentence, is amended—

(A) by striking “subsection (h)(7)” and inserting “subsections (h)(7) and (h)(8)”; and

(B) by striking “it applies” and inserting “they apply”.

(2) CONFORMING PROVISION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following clause:

“(x) For discharges occurring on or after the date of enactment of this clause, insofar as an additional payment amount under this subparagraph is attributable to resident positions distributed to a hospital under subsection (h)(8)(B), the indirect teaching adjustment factor shall be computed in the same manner as provided under clause (ii) with respect to such resident positions.”.

#### SEC. 327. COUNTING RESIDENT TIME IN OUTPATIENT SETTINGS.

(a) D-GME.—Section 1886(h)(4)(E) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(E)) is amended—

(1) by striking “under an approved medical residency training program”; and

(2) by striking “if the hospital incurs all, or substantially all, of the costs for the training program in that setting” and inserting “if the hospital continues to incur the costs of the stipends and fringe benefits of the resident during the time the resident spends in that setting”.

(b) IME.—Section 1886(d)(5)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended—

(1) by striking “under an approved medical residency training program”; and

(2) by striking “if the hospital incurs all, or substantially all, of the costs for the training program in that setting” and inserting “if the hospital continues to incur the costs of the stipends and fringe benefits of the intern or resident during the time the intern or resident spends in that setting”.

(c) EFFECTIVE DATES; APPLICATION.—

(1) IN GENERAL.—Effective for cost reporting periods beginning on or after July 1, 2009, the Secretary of Health and Human Services shall implement the amendments made by this section in a manner so as to apply to cost reporting periods beginning on or after July 1, 2009.

(2) APPLICATION.—The amendments made by this section shall not be applied in a manner that requires reopening of any settled hospital cost reports as to which there is not a jurisdictionally proper appeal pending as of the date of the enactment of this Act on the issue of payment for indirect costs of medical education under section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) or for direct graduate medical education costs under section 1886(h) of such Act (42 U.S.C. 1395ww(h)).

#### SEC. 328. RULES FOR COUNTING RESIDENT TIME FOR DIDACTIC AND SCHOLARLY ACTIVITIES AND OTHER ACTIVITIES.

(a) GME.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)), as amended by section 327(a), is amended—

(1) in paragraph (4)(E)—

(A) by designating the first sentence as a clause (i) with the heading “IN GENERAL” and appropriate indentation and by striking “Such rules” and inserting “Subject to clause (ii), such rules”; and

(B) by adding at the end the following new clause:

“(ii) TREATMENT OF CERTAIN NONHOSPITAL AND DIDACTIC ACTIVITIES.—Such rules shall

provide that all time spent by an intern or resident in an approved medical residency training program in a nonhospital setting that is primarily engaged in furnishing patient care (as defined in paragraph (5)(K)) in non-patient care activities, such as didactic conferences and seminars, but not including research not associated with the treatment or diagnosis of a particular patient, as such time and activities are defined by the Secretary, shall be counted toward the determination of full-time equivalency.”;

(2) in paragraph (4), by adding at the end the following new subparagraph:

“(I) In determining the hospital’s number of full-time equivalent residents for purposes of this subsection, all the time that is spent by an intern or resident in an approved medical residency training program on vacation, sick leave, or other approved leave, as such time is defined by the Secretary, and that does not prolong the total time the resident is participating in the approved program beyond the normal duration of the program shall be counted toward the determination of full-time equivalency.”; and

(3) in paragraph (5), by adding at the end the following new subparagraph:

“(M) NONHOSPITAL SETTING THAT IS PRIMARILY ENGAGED IN FURNISHING PATIENT CARE.—The term ‘nonhospital setting that is primarily engaged in furnishing patient care’ means a nonhospital setting in which the primary activity is the care and treatment of patients, as defined by the Secretary.”.

(b) IME DETERMINATIONS.—Section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)), as amended by section 326(b), is amended by adding at the end the following new clause:

“(xi)(I) The provisions of subparagraph (I) of subsection (h)(4) shall apply under this subparagraph in the same manner as they apply under such subsection.

“(II) In determining the hospital’s number of full-time equivalent residents for purposes of this subparagraph, all the time spent by an intern or resident in an approved medical residency training program in non-patient care activities, such as didactic conferences and seminars, as such time and activities are defined by the Secretary, that occurs in the hospital shall be counted toward the determination of full-time equivalency if the hospital—

“(aa) is recognized as a subsection (d) hospital;

“(bb) is recognized as a subsection (d) Puerto Rico hospital;

“(cc) is reimbursed under a reimbursement system authorized under section 1814(b)(3); or

“(dd) is a provider-based hospital outpatient department.

“(III) In determining the hospital’s number of full-time equivalent residents for purposes of this subparagraph, all the time spent by an intern or resident in an approved medical residency training program in research activities that are not associated with the treatment or diagnosis of a particular patient, as such time and activities are defined by the Secretary, shall not be counted toward the determination of full-time equivalency.”.

(c) EFFECTIVE DATES; APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided, the Secretary of Health and Human Services shall implement the amendments made by this section in a manner so as to apply to cost reporting periods beginning on or after January 1, 1983.

(2) DIRECT GME.—Section 1886(h)(4)(E)(ii) of the Social Security Act, as added by subsection (a)(1)(B), shall apply to cost reporting periods beginning on or after July 1, 2009.

(3) IME.—Section 1886(d)(5)(B)(xi)(III) of the Social Security Act, as added by subsection (b), shall apply to cost reporting periods beginning on or after October 1, 2001. Such section, as so added, shall not give rise to any inference on how the law in effect prior to such date should be interpreted.

(4) APPLICATION.—The amendments made by this section shall not be applied in a manner that requires reopening of any settled hospital cost reports as to which there is not a jurisdictionally proper appeal pending as of the date of the enactment of this Act on the issue of payment for indirect costs of medical education under section 1886(d)(5)(B) of the Social Security Act or for direct graduate medical education costs under section 1886(h) of such Act.

#### SEC. 329. PRESERVATION OF RESIDENT CAP POSITIONS FROM CLOSED AND ACQUIRED HOSPITALS.

(a) GME.—Section 1886(h)(4)(H) of the Social Security Act (42 U.S.C. Section 1395ww(h)(4)(H)) is amended by adding at the end the following new clauses:

“(vi) REDISTRIBUTION OF RESIDENCY SLOTS AFTER A HOSPITAL CLOSURES.—

“(I) IN GENERAL.—Subject to the succeeding provisions of this clause, the Secretary shall, by regulation, establish a process under which, in the case where a hospital with an approved medical residency program closes on or after the date of enactment of the Balanced Budget Act of 1997, the Secretary shall increase the otherwise applicable resident limit under this paragraph for other hospitals in accordance with this clause.

“(II) PRIORITY FOR HOSPITALS IN CERTAIN AREAS.—Subject to the succeeding provisions of this clause, in determining for which hospitals the increase in the otherwise applicable resident limit is provided under such process, the Secretary shall distribute the increase to hospitals located in the following priority order (with preference given within each category to hospitals that are members of the same affiliated group (as defined by the Secretary under clause (ii)) as the closed hospital):

“(aa) First, to hospitals located in the same core-based statistical area as, or a core-based statistical area contiguous to, the hospital that closed.

“(bb) Second, to hospitals located in the same State as the hospital that closed.

“(cc) Third, to hospitals located in the same region of the country as the hospital that closed.

“(dd) Fourth, to all other hospitals.

“(III) REQUIREMENT HOSPITAL LIKELY TO FILL POSITION WITHIN CERTAIN TIME PERIOD.—The Secretary may only increase the otherwise applicable resident limit of a hospital under such process if the Secretary determines the hospital has demonstrated a likelihood of filling the positions made available under this clause within 3 years.

“(IV) LIMITATION.—The aggregate number of increases in the otherwise applicable resident limits for hospitals under this clause shall be equal to the number of resident positions in the approved medical residency programs that closed on or after the date described in subclause (I).

“(vii) SPECIAL RULE FOR ACQUIRED HOSPITALS.—

“(I) IN GENERAL.—In the case of a hospital that is acquired (through any mechanism) by another entity with the approval of a bankruptcy court, during a period determined by the Secretary (but not less than 3 years), the applicable resident limit of the acquired hospital shall, except as provided in subclause

(II), be the applicable resident limit of the hospital that was acquired (as of the date immediately before the acquisition), without regard to whether the acquiring entity accepts assignment of the Medicare provider agreement of the hospital that was acquired, so long as the acquiring entity continues to operate the hospital that was acquired and to furnish services, medical residency programs, and volume of patients similar to the services, medical residency programs, and volume of patients of the hospital that was acquired (as determined by the Secretary) during such period.

“(II) LIMITATION.—Subclause (I) shall only apply in the case where an acquiring entity waives the right as a new provider under the program under this title to have the otherwise applicable resident limit of the acquired hospital re-established or increased.”

(b) IME.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the second sentence, as amended by section 326(b), is amended by striking “subsections (h)(7) and (h)(8)” and inserting “subsections (h)(4)(H)(vi), (h)(4)(H)(vii), (h)(7), and (h)(8)”.

(c) APPLICATION.—The amendments made by this section shall not be applied in a manner that requires reopening of any settled hospital cost reports as to which there is not a jurisdictionally proper appeal pending as of the date of the enactment of this Act on the issue of payment for indirect costs of medical education under section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) or for direct graduate medical education costs under section 1886(h) of such Act (42 U.S.C. 1395ww(h)).

(d) NO AFFECT ON TEMPORARY FTE CAP ADJUSTMENTS.—The amendments made by this section shall not affect any temporary adjustment to a hospital's FTE cap under section 413.79(h) of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act).

#### **SEC. 330. QUALITY IMPROVEMENT ORGANIZATION ASSISTANCE FOR PHYSICIAN PRACTICES SEEKING TO BE PATIENT CENTERED MEDICAL HOME PRACTICES.**

Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall revise the 9th Statement of Work under the Quality Improvement Program under part B of title XI of the Social Security Act to include a requirement that, in order to be an eligible Quality Improvement Organization (in this section referred to as a “QIO”) for the 9th Statement of Work contract cycle, a QIO shall provide assistance, including technical assistance, to physicians under the Medicare program under title XVIII of the Social Security Act that seek to acquire the elements necessary to be recognized as a patient centered medical home practice under the National Committee for Quality Assurance's Physician Practice Connections-PCMH module (or any successor module issued by such Committee).

#### **TITLE IV—STUDIES**

#### **SEC. 401. STUDY CONCERNING THE DESIGNATION OF PRIMARY CARE AS A SHORTAGE PROFESSION.**

(a) IN GENERAL.—Not later than June 30, 2010, the Secretary of Labor shall conduct a study and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions a report that contains—

(1) a description of the criteria for the designation of primary care physicians as pro-

fessions in shortage as defined by the Secretary under section 212(a)(5)(A) of the Immigration and Nationality Act;

(2) the findings of the Secretary on whether primary care physician professions will, on the date on which the report is submitted, or within the 5-year period beginning on such date, satisfy the criteria referred to in paragraph (1); and

(3) if the Secretary finds that such professions will not satisfy such criteria, recommendations for modifications to such criteria to enable primary care physicians to be so designated as a profession in shortage.

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary of Labor shall consider workforce data from the Health Resources and Services Administration, the Council on Graduate Medical Education, the Association of American Medical Colleges, and input from physician membership organizations that represent primary care physicians.

#### **SEC. 402. STUDY CONCERNING THE EDUCATION DEBT OF MEDICAL SCHOOL GRADUATES.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to evaluate the higher education-related indebtedness of medical school graduates in the United States at the time of graduation from medical school, and the impact of such indebtedness on specialty choice, including the impact on the field of primary care.

(b) REPORT.—

(1) SUBMISSION AND DISSEMINATION OF REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study required by subsection (a) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives, and shall make such report widely available to the public.

(2) ADDITIONAL REPORTS.—The Comptroller General may periodically prepare and release as necessary additional reports on the topic described in subsection (a).

#### **SEC. 403. STUDY ON MINORITY REPRESENTATION IN PRIMARY CARE.**

(a) STUDY.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall conduct a study of minority representation in training, and in practice, in primary care specialties.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall submit to the appropriate committees of Congress a report concerning the study conducted under subsection (a), including recommendations for achieving a primary care workforce that is more representative of the population of the United States.

AMERICAN COLLEGE OF  
OSTEOPATHIC FAMILY PHYSICIANS,  
*Arlington Heights, IL, May 21, 2009.*

Hon. MARIA CANTWELL,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the American College of Osteopathic Family Physicians (ACOFPP), I am pleased to offer you our strong support for the “Preserving Patient Access to Primary Care Act”. This legislation lays the groundwork for a much needed boost to the primary care physician workforce through reforms of both the Medicare payment system and the graduate med-

ical education (GME) system. The ACOFP lauds your ambitious leadership on these important issues and looks forward to helping you secure enactment of this legislation.

As you are well aware, the current Medicare physician payment system neglects to recognize the value of primary care services in the health care delivery system. Studies show that access to primary health care is associated with better health outcomes and lower health care costs. We commend you on the emphasis your legislation places on addressing payment equity among physicians by increasing payments for evaluation and management services and providing bonus payments for care coordination and other tenets central to the delivery of primary care.

The ACOFP applauds the provisions included in the “Preserving Patient Access to Primary Care Act” to expand the Patient Centered Medical Home (PCMH). Building upon the progress made in the current Medicare demonstration projects, your legislation would require that Medicare transition to a new payment methodology to provide monthly payments to PCMH practices that provide care coordination to Medicare beneficiaries. Additionally, grants to states for inclusion of the PCMH into Medicaid and SCHIP programs will further provide patients with on-going access to coordinated care by a physician.

Over the last decade, the population of our country has increased and grown older. Increasing access to health care coverage for all Americans is at the center of the health care reform debate. We must work to ensure that our nation's physician workforce is capable of meeting future increased demand. Central to achieving this is a strong GME system.

The current Medicare payment system in the United States neglects the value of didactic experiences, training opportunities in non-hospital settings, and voluntary physician supervision of medical residents within the GME system. The ACOFP is supportive of your efforts to create new training opportunities in non-hospital settings as well as those seeking to clarify existing regulations governing non-hospital training. Recent statistics associated with career choices of medical school graduates reveal the acute need to increase our nation's supply of family physicians. The ACOFP strongly believes that by providing experiences in non-hospital settings for resident physicians, especially those in primary care specialties, increases the likelihood that they will seek practice opportunities in those settings.

Finally, the ACOFP supports your efforts to increase the number of primary care physicians through new scholarship and loan forgiveness programs. We recognize that the education debt burden carried by medical school graduates discourages students from seeking careers in public health service, seeking careers in family practice or practicing in underserved areas. According to the American Association of Colleges of Osteopathic Medicine (AACOM), the average osteopathic medical school graduate has a debt load of \$168,031. Further, the average first year medical resident stipend is \$44,747. Scholarships and loan forgiveness for physicians who agree to practice primary care medicine in underserved areas would allow medical school graduates to pursue careers in medical specialties based upon their individual career interests rather than their financial obligations, while additionally addressing geographic disparities in access to care.

Again, thank you for your leadership on this important legislation. The ACOFP and

our members stand ready to assist you in securing enactment of this important legislation.

Respectfully,

JAN D. ZIEREN,  
*ACOPF President.*

MAY 20, 2009.

Hon. MARIA CANTWELL,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR CANTWELL: I am writing on behalf of the American Nurses Association (ANA) to applaud your efforts to address the shortage of primary care providers by introducing the Preserving Patient Access to Primary Care Act of 2009. ANA strongly supports this legislation because it recognizes the integral role nurses and nurse practitioners play in the delivery of primary care and helps bring the focus of our health care system back where it belongs—on the patient and the community.

The American Nurses Association is the only full-service national association representing the interests of 2.9 million registered nurses (RNs). Through our 51 constituent nursing associations, we represent RNs across the nation in all educational and practice settings. ANA believes that a health care system that is patient-centered, comprehensive, accessible, and delivers quality care for all is something that should not be a partisan or political issue.

The Preserving Patient Access to Primary Care Act of 2009 would provide scholarship and loan repayment opportunities for primary care providers who serve in areas with critical shortages of primary care services. Secondly, the bill would increase Medicare reimbursements for primary care providers, and provide Medicare payments for care coordination services, and monthly payments to practices which serve as patient centered medical homes. Moreover, the Preserving Patient Access to Primary Care Act of 2009 aims to support an interdisciplinary model in which providers, physicians and nurses, are able to practice collaboratively and to the full extent of their education and licensure on behalf of the patient.

The American Nurses Association is proud to support this legislation and we look forward to working with you and others in the health care community to ensure that your vision of strengthening primary care becomes reality.

Sincerely,

ROSE GONZALEZ,  
*Director, Government Affairs,  
American Nurses Association.*

AMERICAN OSTEOPATHIC ASSOCIATION,  
*Washington, DC, May 20, 2009.*

Hon. MARIA CANTWELL,  
*U.S. Senate,  
Washington, DC.*

Hon. SUSAN COLLINS,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATORS CANTWELL AND COLLINS: On behalf of the American Osteopathic Association (AOA) and the 64,000 osteopathic physicians it represents, I am pleased to inform you of our strong support for the "Preserving Patient Access to Primary Care Act." We believe your legislation would provide a critical boost to the primary care physician workforce through innovative changes to the Medicare payment structure and graduate medical education system, among other reforms. The AOA commends your leadership on these important issues and we are committed to assisting you in securing enactment of this legislation.

We applaud the emphasis your legislation places upon improving primary care through alternative payment mechanisms. As you know, the Medicare physician payment system is fundamentally flawed and fails to recognize the value of primary care services in achieving savings through prevention and care coordination. Studies indicate that income disparities have a significant negative impact on the choice of primary care as a career. The "Preserving Patient Access to Primary Care Act" would promote payment equity for primary care physicians by increasing payments for evaluation and management services and providing bonus payments for other important primary services. The AOA appreciates your foresight and recognition of the long-term savings that will be realized through increased access to primary care.

The AOA strongly supports an expansion of the Patient Centered Medical Home (PCMH) through the Medicare demonstration project and grants to states for inclusion of PCMH models in their Medicaid and SCHIP programs. Your legislation provides a monthly primary care management fee for physicians who are designated the health home of a Medicare beneficiary and provide continuous medical care. This policy is consistent with the principles of the patient-centered medical home as envisioned by the AOA. The PCMH payment policy contained in this legislation accounts for the considerable practice expenses involved in comprehensive care coordination and facilitates widespread adoption of the medical home. The AOA strongly supports this move toward a model of health care delivery that is based on an ongoing personal relationship with a physician.

Over the past 10 years our population has increased and aged, and to ensure that our nation's physician workforce is capable of meeting increased demand, we must begin to educate and train a larger cadre of physicians now. A strong graduate medical education (GME) system capable of providing training opportunities across specialties and geographic regions is central to building the physician workforce. However, these institutions are currently confronted with fierce competition from private markets, increasing costs and shrinking federal support. In addition to increasing residency training programs to meet the needs of our growing population, this legislation would appropriately permit Direct Graduate Medical Education (DGME) and Indirect Medical Education (IME) reimbursement for didactic educational activities and allow hospitals to count the time residents spend providing patient care in outpatient settings. The AOA strongly supports these provisions.

Finally, the AOA strongly supports your efforts to address the burden of the educational debt carried by many young physicians that may discourage them from seeking careers in public health service, practicing in underserved areas, or seeking careers in primary care specialties. The average osteopathic medical school graduate has a debt load of \$168,031 and the average first year medical resident stipend is \$44,747, making student debt a significant hardship throughout a physician's training. By providing scholarships and loan forgiveness for primary care physicians who agree to practice in underserved areas, this legislation would address geographic disparities in access to care and allow medical school graduates to pursue training opportunities in medical specialties based upon their individual career interests and talents versus their financial obligations.

Today, one in five medical students in the United States is enrolled in a college of osteopathic medicine. The current colleges of osteopathic medicine, and those set to open in the future, are located in regions that historically have had limited access to physician services. The location of current and future colleges of osteopathic medicine reflects the osteopathic profession's commitment to rural and underserved communities. We believe that our graduates and their patients will benefit greatly from the primary care policies and programs in this legislation.

Again, thank you for introducing this important legislation. The AOA and our members stand ready to assist you in promoting primary care and securing enactment of the "Preserving Patient Access to Primary Care Act."

Sincerely,

CARLO J. DiMARCO,  
*President.*

By Mr. KOHL (for himself and Mr. WYDEN):

S. 1177. A bill to improve consumer protections for purchasers of long-term care insurance, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to express my support for the Confidence in Long-Term Care Insurance Act of 2009. With America aging at an unprecedented rate, and with the high and rising costs of caring for a loved one, the financing of long-term care must be addressed if we are going to get health care costs under control. I am proud to be an original cosponsor of this bill. I wish to also thank my colleague Senator WYDEN for his leadership on addressing the financing of long-term care.

We all know that long-term care is expensive. The cost of an average nursing home is nearly \$75,000 per year. However, according to the Congressional Research Service, most Americans do not realize that neither Medicare nor Medicaid will cover these costs unless their household savings are nearly eliminated. States share the responsibility of providing Medicaid funding for long-term care with the federal government, and are also looking for ways to reduce their expenses. As of today, 43 states are in the process of launching "Partnership" programs, which provide incentives to consumers who purchase private long-term care insurance. But in the rush to ease the burden of long-term care costs on state budgets, we fear that some key concerns are being overlooked.

We have a duty to make sure these policies, which may span many decades, are financially viable. Several long-term care insurance providers have applied for TARP funds in recent months, raising questions about their solvency. In addition, many insurance companies have been raising their policyholders' monthly premiums, which can be devastating for older persons who are living on a fixed income. Many Americans living on modest or fixed incomes, who have held policies for many years, have seen premium rates double

when a company encounters financial difficulties. For such consumers, the choices are stark and very limited: they can either dig deeper and pay the increased premiums, or let their policy lapse, leaving them with no coverage if they ever need care.

Last year, I was joined by several Senate and House colleagues in releasing a GAO report on whether adequate consumer protections are in place for those who purchase long-term care insurance. The report found that rate increases are common throughout the industry, and that consumer protections are uneven. While some states have adopted requirements that keep rates relatively stable, some have not, leaving consumers unprotected.

The Confidence in Long-Term Care Insurance Act takes several important steps to ensure that premiums increase as kept at a minimum, insurance agents receive adequate training, and that complaints and appeals are addressed in a timely manner. We should also make it easier for consumers to accurately compare policies from different insurance carriers, particularly with regard to what benefits are covered and whether the plan offers inflation protection. States should also have to approve materials used to market Partnership policies. The Confidence in Long-Term Care Insurance Act will institute many of these needed improvements.

In closing, I urge my colleagues to support the Confidence in Long-Term Care Insurance Act of 2009. It is estimated that two out of three Americans who reach the age of 65 will need long-term care services and supports at some point to assist them with day-to-day activities, and enable them to maintain a high-quality, independent life. Long-term care insurance is an appropriate product for many who wish to plan for a secure retirement. But we must guarantee that consumers have adequate information and protections, and that premiums won't skyrocket down the road. I thank Senator WYDEN for his commitment to ensuring we address the important issue of long-term care financing. I look forward to working with my colleagues to enact the legislation we are introducing today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1177

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Confidence in Long-Term Care Insurance Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—NATIONAL MARKET SURVEY; MODEL DISCLOSURES AND DEFINITIONS; LTC INSURANCE COMPARE

Sec. 101. NAIC national market survey.

Sec. 102. Model disclosures and definitions.

Sec. 103. LTC Insurance Compare.

#### TITLE II—IMPROVED STATE CONSUMER PROTECTIONS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS AND MEDICAID PARTNERSHIP POLICIES

Sec. 201. Application of Medicaid partnership required model provisions to all tax-qualified long-term care insurance contracts.

Sec. 202. Streamlined process for applying new or updated model provisions.

#### TITLE III—IMPROVED CONSUMER PROTECTIONS FOR MEDICAID PARTNERSHIP POLICIES

Sec. 301. Biennial reports on impact of Medicaid long-term care insurance partnerships.

Sec. 302. Additional consumer protections for Medicaid partnerships.

Sec. 303. Report to Congress regarding need for minimum annual compound inflation protection.

#### TITLE I—NATIONAL MARKET SURVEY; MODEL DISCLOSURES AND DEFINITIONS; LTC INSURANCE COMPARE

##### SEC. 101. NAIC NATIONAL MARKET SURVEY.

(a) **IN GENERAL.**—The Secretary shall request the NAIC to conduct biennial reviews of the national and State-specific markets for long-term care insurance policies and to submit biennial reports to the Secretary on the results of such reviews.

(b) **CONTENT.**—The Secretary shall request that the biennial reviews include, with respect to the period occurring since any prior review, analysis of the following:

(1) Information on key market parameters, including the number of carriers offering long-term care insurance, and the scope of coverage offered under those policies (such as policies offering nursing-home only benefits, policies offering comprehensive coverage, and hybrid products in which long-term care benefits are present).

(2) The number of complaints received and resolved, including benefit denials.

(3) The number of policies that are cancelled (including because of having lapsed or not being renewed) and reasons for such cancellations.

(4) The number of agents trained and the content of that training, including a description of agent training standards, the extent to which competency tests are included in such standards, and the pass and fail rates associated with such tests.

(5) The number of policyholders exhausting benefits.

(6) Premium rate increases sought by carriers and the range of the amount of the increase sought.

(7) Premium rate increases that were approved and the range of the amount of increase.

(8) The number of policyholders affected by any approved premium rate increases.

(9) Requests for exceptions to State reserving or capital requirements.

(c) **TIMING FOR BIENNIAL REVIEW AND REPORT.**—The Secretary shall request the NAIC to—

(1) complete the initial market review under this section not later than 2 years after the date of enactment of this Act;

(2) submit a report to the Secretary on the results of the initial review not later than December 31, 2011; and

(3) complete each subsequent biennial review and submit each subsequent biennial report not later than December 31 of each second succeeding year.

(d) **CONSULTATION REQUIRED.**—The Secretary shall request the NAIC to consult with State insurance commissioners, appropriate Federal agencies, issuers of long-term care insurance, States with experience in long-term care insurance partnership plans, other States, representatives of consumer groups, consumers of long-term care insurance policies, and such other stakeholders as the Secretary or the NAIC determine appropriate, to conduct the market reviews requested under this section.

(e) **DEFINITIONS.**—In this section and section 102:

(1) **LONG-TERM CARE INSURANCE POLICY.**—The term “long-term care insurance policy”—

(A) means—

(i) a qualified long-term care insurance contract (as defined in section 7702B(b) of the Internal Revenue Code of 1986); and

(ii) a qualified long-term care insurance contract that covers an insured who is a resident of a State with a qualified State long-term care insurance partnership under clause (iii) of section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) or a long-term care insurance policy offered in connection with a State plan amendment described in clause (iv) of such section; and

(B) includes any other insurance policy or rider described in the definition of “long-term care insurance” in section 4 of the model Act promulgated by the National Association of Insurance Commissioners (as adopted December 2006).

(2) **NAIC.**—The term “NAIC” means the National Association of Insurance Commissioners.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

##### SEC. 102. MODEL DISCLOSURES AND DEFINITIONS.

(a) **IN GENERAL.**—The Secretary shall request the NAIC, in consultation with State health agencies as appropriate, to carry out the activities described in subsection (b).

(b) **ACTIVITIES DESCRIBED.**—The activities described in this subsection are the following:

(1) **DEVELOP MODEL DISCLOSURES AND DEFINITIONS FOR MARKETING OF POLICIES.**—To develop model language for marketing of long-term care insurance policies (including, as appropriate, language specific to qualified long-term care insurance contracts, partnership long-term care insurance policies, and such other contracts for coverage of long-term care services or benefits as the NAIC determines appropriate), that includes the following:

(A) **CONSISTENT DEFINITIONS.**—Consistent definitions for coverage of the various types of services and benefits provided under such policies, including institutional services, residential services with varying levels of assistance, such as assisted living, home care services, adult day services, and other types of home and community-based care, (as appropriate to describe the range of services and benefits offered under such policies in various States).

(B) **CONSISTENT EXPLANATORY LANGUAGE.**—Consistent language for use by issuers of such policies, and for agents selling such policies, in explaining the services and benefits covered under the policies and restrictions on the services and benefits.



(C) INFLATION PROTECTION OPTIONS.—A form that describes different inflation level options offered for long-term care insurance policies, including how policies with various levels of inflation protection compare in premium costs and benefits within 5-year time increments from 5 years through 30 years post-purchase.

(D) STANDARDIZED METHODOLOGY FOR CALCULATING INFLATION PROTECTION.—Standardized methodology for use by issuers to use to calculate inflation protection under such policies.

(2) ENFORCE.—To develop recommendations for enforcement of the model marketing disclosures and definitions, including standardized language for States to adopt to prohibit carriers from marketing policies within the State that do not meet the model marketing disclosures and definitions or the rate stability provisions under section 20 of the long-term care insurance model Act promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000 and as of December 2006) and any provisions of such section adopted after December 2006.

(c) PUBLIC COMMENT.—The Secretary shall request the NAIC to allow for public comment on the work of the NAIC in carrying out the activities described in subsection (b).  
**SEC. 103. LTC INSURANCE COMPARE.**

(a) IN GENERAL.—Section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (ii), by striking “and” at the end;

(ii) in clause (iii), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(iv) establish an Internet directory of information regarding long-term care insurance, to be known as ‘LTC Insurance Compare’, that shall include the following:

“(I) Comparison tools to assist consumers in evaluating long-term care insurance policies (as defined in subparagraph (D)) with different benefits and features.

“(II) State-specific information about the long-term care insurance policies marketed in a State, including the following:

“(aa) Whether a State has promulgated rate stability provisions for all issuers of long-term care insurance policies and how the rate stability standards work.

“(bb) The rating history for issuers selling long-term care insurance policies in the State for at least the most recent preceding 5 years.

“(cc) The policy documents for each such policy marketed in the State.

“(III) Links to State information regarding long-term care under State Medicaid programs (which may be provided, as appropriate, through Internet linkages to the websites of State Medicaid programs) that includes the following:

“(aa) The medical assistance provided under each State’s Medicaid program for nursing facility services and other long-term care services (including any functional criteria imposed for receipt of such services, as reported in accordance with section 1902(a)(28)(D) of the Social Security Act) and any differences from benefits and services offered under long-term care insurance policies in the State and the criteria for triggering receipt of such benefits and services.

“(bb) If the State has a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of the Social Security Act, information regarding how and when an individual with a partnership long-

term care insurance policy who is receiving benefits under the policy should apply for medical assistance for nursing facility services or other long-term care services under the State Medicaid program and information regarding about how Medicaid asset protection is accumulated over time under such policies.”; and

(B) by adding at the end the following:

“(C) CURRENT INFORMATION.—The Secretary of Health and Human Services shall ensure that, to the greatest extent practicable, the information maintained in the National Clearinghouse for Long-Term Care Information, including the information required for LTC Insurance Compare, is the most recent information available.

“(D) LONG-TERM CARE INSURANCE POLICY DEFINED.—In subparagraph (A)(iv), the term ‘long-term care insurance policy’ means a qualified long-term care insurance contract (as defined in section 7702B(b) of the Internal Revenue Code of 1986), a qualified long-term care insurance contract that covers an insured who is a resident of a State with a qualified State long-term care insurance partnership under clause (iii) of section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) or a long-term care insurance policy offered in connection with a State plan amendment described in clause (iv) of such section, and includes any other insurance policy or rider described in the definition of ‘long-term care insurance’ in section 4 of the model Act promulgated by the National Association of Insurance Commissioners (as adopted December 2006).”;

(2) by redesignating paragraph (3) as paragraph (4)

(3) in paragraph (4), (as so redesignated), by inserting “, and \$5,000,000 for each of fiscal years 2011 through 2013” after “2010”; and

(4) by inserting after paragraph (2) the following:

“(3) CONSULTATION ON LTC INSURANCE COMPARE.—The Secretary of Health and Human Services shall consult with the National Association of Insurance Commissioners and the entities and stakeholders specified in section 101(d) of the Confidence in Long-Term Care Insurance Act of 2009 in designing and implementing the LTC Insurance Compare required under paragraph (2)(A)(iv).”.

(b) MEDICAID STATE PLAN REQUIREMENT TO SUBMIT NURSING FACILITY SERVICES FUNCTIONAL CRITERIA DATA.—Section 1902(a)(28) of the Social Security Act (42 U.S.C. 1396a(a)(28)) is amended—

(1) in subparagraph (C), by striking “and” after the semicolon;

(2) in subparagraph (D)(iii), by adding “and” after the semicolon; and

(3) by inserting after subparagraph (D)(iii), the following new subparagraph:

“(E) for the annual submission of data relating to functional criteria for the receipt of nursing facility services under the plan (in such form and manner as the Secretary shall specify);”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation or State regulation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to

comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

## TITLE II—IMPROVED STATE CONSUMER PROTECTIONS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS AND MEDICAID PARTNERSHIP POLICIES

### SEC. 201. APPLICATION OF MEDICAID PARTNERSHIP REQUIRED MODEL PROVISIONS TO ALL TAX-QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 7702B(g)(1) of the Internal Revenue Code of 1986 (relating to consumer protection provisions) is amended—

(1) in subparagraph (A), by inserting “(but only to the extent such requirements do not conflict with requirements applicable under subparagraph (B)),” after “paragraph (2)”,

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(3) by inserting after subparagraph (A), the following new subparagraph:

“(B) the requirements of the model regulation and model Act described in section 1917(b)(5) of the Social Security Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts issued after the date of enactment of this Act.

### SEC. 202. STREAMLINED PROCESS FOR APPLYING NEW OR UPDATED MODEL PROVISIONS.

(a) SECRETARIAL REVIEW.—

(1) TAX-QUALIFIED POLICIES.—

(A) 2000 AND 2006 MODEL PROVISIONS.—Not later than 3 months after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall review the model provisions specified in subsection (c)(1) for purposes of determining whether updating any such provisions for a provision specified in section 7702B(g)(2) of the Internal Revenue Code of 1986, or the inclusion of any such provisions in such section, for purposes of an insurance contract qualifying for treatment as a qualified long-term care insurance contract under such Code, would improve consumer protections for insured individuals under such contracts.

(B) SUBSEQUENT MODEL PROVISIONS.—Not later than 3 months after model provisions described in paragraph (2) or (3) of subsection (c) are adopted by the National Association of Insurance Commissioners, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall review the model provisions to determine whether the application of such provisions to an insurance contract for purposes of qualifying for treatment as a qualified long-term care insurance contract under section 7702B(g)(2) of the Internal Revenue Code of 1986, would improve consumer protections for insured individuals under such contracts.

(2) MEDICAID PARTNERSHIP POLICIES.—

(A) SUBSEQUENT MODEL PROVISIONS.—Not later than 3 months after model provisions described in paragraph (2) or (3) of subsection (c) are adopted by the National Association of Insurance Commissioners, the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury,



shall review the model provisions to determine whether the application of such provisions to an insurance contract for purposes of satisfying the requirements for participation in a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act (42 U.S.C. 1396p(b)(1)(C)(iii)) would improve consumer protections for insured individuals under such contracts.

(B) REVIEW OF OTHER PARTNERSHIP REQUIREMENTS.—The Secretary of Health and Human Services, in consultation with the Secretary of the Treasury, shall review clauses (iii) and (iv) of section 1917(b)(1)(C) for purposes of determining whether the requirements specified in such clauses should be modified to provide improved consumer protections or, as appropriate, to resolve any conflicts with the application of the 2006 model provisions under paragraph (5) of section 1917(b) (as amended by section 302(a)) or with the application of any model provisions that the Secretary determines should apply to an insurance contract as a result of a review required under subparagraph (A).

(b) EXPEDITED RULEMAKING.—

(1) TAX-QUALIFIED POLICIES.—Subject to paragraph (3), if the Secretary of the Treasury determines that any model provisions reviewed under subsection (a)(1) should apply for purposes of an insurance contract qualifying for treatment as a qualified long-term care insurance contract under the Internal Revenue Code of 1986, the Secretary, shall promulgate an interim final rule applying such provisions for such purposes not later than 3 months after making such determination.

(2) MEDICAID PARTNERSHIP POLICIES.—Subject to paragraph (3), if the Secretary of Health and Human Services determines that any model provisions or requirements reviewed under subsection (a)(2) should apply for purposes of an insurance contract satisfying the requirements for participation in a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act (42 U.S.C. 1396p(b)(1)(C)(iii)), the Secretary, shall promulgate an interim final rule applying such provisions for such purposes not later than 3 months after making such determination.

(3) CONSULTATION REQUIRED.—The Secretary of the Treasury and the Secretary of Health and Human Services, respectively, shall consult with the National Association of Insurance Commissioners and the entities and stakeholders specified in section 101(d) regarding the extent to which it is appropriate to apply the model provisions described in paragraph (1) or (2) (as applicable) to insurance contracts described in such paragraphs through promulgation of an interim final rule. If, after such consultation—

(A) the Secretary of the Treasury determines it would be appropriate to promulgate an interim final rule, the Secretary of the Treasury shall use notice and comment rulemaking to promulgate a rule applying such provisions to insurance contracts described in paragraph (1); and

(B) the Secretary of Health and Human Services determines it would be appropriate to promulgate an interim final rule, the Secretary of Health and Human Services shall use notice and comment rulemaking to promulgate a rule applying such provisions to insurance contracts described in paragraph (2).

(4) RULE OF CONSTRUCTION RELATING TO APPLICATION OF CONGRESSIONAL REVIEW ACT.—Nothing in paragraphs (1), (2), or (3) shall be construed as affecting the application of the

sections 801 through 808 of title 5, United States Code (commonly known as the “Congressional Review Act”) to any interim final rule issued in accordance with such paragraphs.

(5) TECHNICAL AMENDMENT ELIMINATING PRIOR REVIEW STANDARD MADE OBSOLETE.—Section 1917(b)(5) of the Social Security Act (42 U.S.C. 1396p(b)(5)) is amended by striking subparagraph (C).

(c) MODEL PROVISIONS.—In this section, the term “model provisions” means—

(1) each provision of the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000 and as of December 2006);

(2) each provision of the model language relating to marketing disclosures and definitions developed under section 102(b)(1); and

(3) each provision of any long-term care insurance model regulation, or the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners and adopted after December 2006.

### TITLE III—IMPROVED CONSUMER PROTECTIONS FOR MEDICAID PARTNERSHIP POLICIES

#### SEC. 301. BIENNIAL REPORTS ON IMPACT OF MEDICAID LONG-TERM CARE INSURANCE PARTNERSHIPS.

Section 6021(c) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) is amended to read as follows:

“(c) BIENNIAL REPORTS.—

“(1) IN GENERAL.—Not later than January 1, 2010, and biennially thereafter, the Secretary of Health and Human Services (in this subsection referred to as the ‘Secretary’) shall issue a report to States and Congress on the long-term care insurance partnerships established in accordance with section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)). Each report shall include (with respect to the period the report addresses) the following information, nationally and on a State-specific basis:

“(A) Analyses of the extent to which such partnerships improve access of individuals to affordable long-term care services and benefits and the impact of such partnerships on Federal and State expenditures on long-term care under the Medicare and Medicaid programs.

“(B) Analyses of the impact of such partnerships on consumer decisionmaking with respect to purchasing, accessing, and retaining coverage under long-term care insurance policies (as defined in subsection (d)(2)(D)), including a description of the benefits and services offered under such policies, the average premiums for coverage under such policies, the number of policies sold and at what ages, the number of policies retained and for how long, the number of policies for which coverage was exhausted, and the number of insured individuals who were determined eligible for medical assistance under the State Medicaid program.

“(2) DATA.—The reports by issuers of partnership long-term care insurance policies required under section 1917(b)(1)(C)(iii)(VI) of the Social Security Act shall include such data as the Secretary shall specify in order to conduct the analyses required under paragraph (1).

“(3) PUBLIC AVAILABILITY.—The Secretary shall make each report issued under this subsection publicly available through the LTC Insurance Compare website required under subsection (d).

“(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring

the Secretary to conduct an independent review of each long-term care insurance policy offered under or in connection with such a partnership.

“(5) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out this subsection, \$1,000,000 for the period of fiscal years 2010 through 2012.”.

#### SEC. 302. ADDITIONAL CONSUMER PROTECTIONS FOR MEDICAID PARTNERSHIPS.

(a) APPLICATION OF 2006 MODEL PROVISIONS.—

(1) UPDATING OF 2000 REQUIREMENTS.—

(A) IN GENERAL.—Section 1917(b)(5)(B)(i) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(i)) is amended by striking “October 2000” and inserting “December 2006”.

(B) CONFORMING AMENDMENTS.—

(i) Subclause (XVII) of such section is amended by striking “section 26” and inserting “section 28”.

(ii) Subclause (XVIII) of such section is amended by striking “section 29” and inserting “section 31”.

(iii) Subclause (XIX) of such section is amended by striking “section 30” and inserting “section 32”.

(2) APPLICATION TO GRANDFATHERED PARTNERSHIPS.—Section 1917(b)(1)(C)(iv) of such Act (42 U.S.C. 1396p(b)(1)(C)(iv)) is amended by inserting “, and the State satisfies the requirements of paragraph (5)” after “2005”.

(b) APPLICATION OF PRODUCER TRAINING MODEL ACT REQUIREMENTS.—Section 1917(b)(1)(C) of such Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

(1) in clause (iii)(V), by inserting “and satisfies the producer training requirements specified in section 9 of the model Act specified in paragraph (5)” after “coverage of long-term care”; and

(2) in clause (iv), as amended by subsection (a)(2), by inserting “clause (iii)(V) and” before “paragraph (5)”.

(c) APPLICATION OF ADDITIONAL REQUIREMENTS FOR ALL PARTNERSHIPS.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(1) in paragraph (1)(C)—

(A) in clause (iii)—

(i) by inserting after subclause (VII) the following new subclause:

“(VIII) The State satisfies the requirements of paragraph (6).”; and

(ii) in the flush sentence at the end, by striking “paragraph (5)” and inserting “paragraphs (5) and (6).”; and

(B) in clause (iv), as amended by subsections (a)(2) and (b)(2), by striking “paragraph (5)” and inserting “paragraphs (5) and (6).”; and

(2) by adding at the end the following new paragraph:

“(6) For purposes of clauses (iii)(VIII) and (iv) of paragraph (1)(C), the requirements of this paragraph are the following:

“(A) The State requires issuers of long-term care insurance policies to—

“(i) use marketing materials approved by the State for purposes of the partnership verbatim in all sales and marketing activities conducted or supported by the issuers in the State with respect to any long-term care insurance policies marketed by the issuer in the State;

“(ii) provide such materials to all agents selling long-term care insurance policies in the State;

“(iii) ensure that agent training and education courses conducted or supported by the issuers incorporate such materials;

“(iv) make such materials available to any consumer upon request, and to make such

materials available to all prospective purchasers of a policy offered under a qualified State long-term care insurance partnership before submission of an application for coverage under that policy.

“(B) The State requires issuers of long-term care insurance policies to require agents to use the inflation protection comparison form developed by the National Association of Insurance Commissioners in accordance with section 102(b)(1)(C) of the Confidence in Long-Term Care Insurance Act of 2009 when selling the policies in the State.

“(C) The State requires issuers of long-term care insurance policies sold in the State to comply with the provisions of section 8 of the model Act specified in paragraph (5) relating to contingent nonforfeiture benefits.

“(D) The State enacts legislation, not later than January 1, 2012, that establishes rate stability standards for all issuers of long-term care insurance policies sold in the State that are no less stringent than the premium rate schedule increase standards specified in section 20 of the model regulation specified in paragraph (5).

“(E) The State develops, updates whenever changes are made under the State plan that relate to eligibility for medical assistance for nursing facility services or other long-term care services or the amount, duration, or scope of such assistance, and provides public, readily accessible materials that describe in clear, simple language the terms of such eligibility, the benefits and services provided as such assistance, and rules relating to adjustment or recovery from the estate of an individual who receives such assistance under the State plan. Such materials shall include a clear disclosure that medical assistance is not guaranteed to partnership policyholders who exhaust benefits under a partnership policy, and that Federal changes to the program under this title or State changes to the State plan may affect an individual's eligibility for, or receipt of, such assistance.

“(F) The State—

“(i) through the State Medicaid agency under section 1902(a)(5) and in consultation with the State insurance department, develops written materials explaining how the benefits and rules of long-term care policies offered by issuers participating in the partnership interact with the benefits and rules under the State plan under this title;

“(ii) requires agents to use such materials when selling or otherwise discussing how long-term care policies offered by issuers participating in the partnership work with potential purchasers and to provide the materials to any such purchasers upon request;

“(iii) informs holders of such policies of any changes in eligibility requirements under the State plan under this title and of any changes in estate recovery rules under the State plan as soon as practicable after such changes are made; and

“(iv) agrees to honor the asset protections of any such policy that were provided under the policy when purchased, regardless of whether the State subsequently terminates a partnership program under the State plan.

“(G) The State Medicaid agency under section 1902(a)(5) and the State insurance department enter into a memorandum of understanding to—

“(i) inform consumers about changes in long-term care policies offered by issuers participating in the partnership, changes in the amount, duration, or scope of medical assistance for nursing facility services or other long-term care services offered under the

State plan, changes in consumer protections, and any other issues such agency and department determine appropriate; and

“(ii) jointly maintain a nonpublic database of partnership policyholders for purposes of facilitating coordination in eligibility determinations for medical assistance under the State plan and the provision of benefits or other services under such policies and medical assistance provided under the State plan that includes—

“(I) the number of policyholders applying for medical assistance under the State plan; and

“(II) the number of policyholders deemed eligible (and, if applicable, ineligible) for such assistance.

“(H) The State does not apply any limit to the disregard, for purposes of determining the eligibility of a partnership policyholder for medical assistance under the State plan and for purposes of exemption from the estate recovery requirements under the plan, of benefits provided under a partnership policy, including cash benefits provided for long-term care services, and benefits provided under the policy after the effective date of the policyholder's enrollment in the State plan.

“(I) The State enters into agreements with other States that have established qualified State long-term care insurance partnerships under which such States agree to provide reciprocity for policyholders under such partnerships.

“(J) The State provides guaranteed asset protection to all individuals covered under a policy offered under a qualified State long-term care insurance partnership who bought such a policy in the State or in another State with such a partnership and with which the State has a reciprocity agreement at the time of purchase.

“(K) At the option of the State, notwithstanding any limitation that would otherwise be imposed under subsection (f), the State disregards any amount of the equity interest in the home of an individual covered of policy offered under a qualified State long-term care insurance partnership for purposes of determining the individual's eligibility for medical assistance with respect to nursing facility services or other long-term care services.”

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date that is 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 303. REPORT TO CONGRESS REGARDING NEED FOR MINIMUM ANNUAL COMPOUND INFLATION PROTECTION.**

Not later than 18 months after the date of enactment of this Act, the Secretary of

Health and Human Services (in this section referred to as the “Secretary”) shall submit a report to Congress that includes the Secretary's recommendation regarding whether legislative or other administrative action should be taken to require all long-term care insurance policies sold after a date determined by the Secretary in connection with a qualified State long-term care insurance partnership under clause (iii) of section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) or a long-term care insurance policy offered in connection with a State plan amendment described in clause (iv) of such section, provide, at a minimum, 5 percent annual compound inflation protection, and if so, whether such requirements should be imposed on a basis related to the age of the policyholder at the time of purchase. The Secretary shall include in the report information on the various levels of inflation protection available under such long-term care insurance partnerships and the methodologies used by issuers of such policies to calculate and present various inflation protection options under such policies, including policies with a future purchase option feature.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 167—A BILL COMMENDING THE PEOPLE WHO HAVE SACRIFICED THEIR PERSONAL FREEDOMS TO BRING ABOUT DEMOCRATIC CHANGE IN THE PEOPLE'S REPUBLIC OF CHINA AND EXPRESSING SYMPATHY FOR THE FAMILIES OF THE PEOPLE WHO WERE KILLED, WOUNDED, OR IMPRISONED, ON THE OCCASION OF THE 20TH ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE IN BEIJING, CHINA FROM JUNE 3 THROUGH 4, 1989**

Mr. INHOFE (for himself, Mr. BROWN, Mr. GRAHAM, Mr. KYL, Mr. MENENDEZ, Mr. VITTER, Mr. LIEBERMAN, Mr. COBURN, and Mr. WEBB) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 167

Whereas freedom of expression, assembly, association, and religion are fundamental rights that all people should be able to possess and enjoy;

Whereas, in April 1989, in a demonstration of democratic progress, thousands of students took part in peaceful protests against the communist government of the People's Republic of China in the capital city of Beijing;

Whereas, throughout the month of May 1989, the students, in peaceful demonstrations, drew more people, young and old and from all walks of life, into central Beijing to demand better democracy, basic freedoms of speech and assembly, and an end to corruption;

Whereas, from June 3 through 4, 1989, the Government of China ordered an estimated 300,000 members of the People's Liberation Army to enter Beijing and clear Tiananmen Square (located in central Beijing) by lethal force;

Whereas, by June 7, 1989, the Red Cross of China reported that the People's Liberation

Army had killed more than 300 people in Beijing, although foreign journalists who witnessed the events estimate that thousands of people were killed and thousands more wounded;

Whereas more than 20,000 people in China were arrested and detained without trial, due to their suspected involvement in the protests at Tiananmen Square;

Whereas, according to the Department of State, the Government of China has worked to censor information about the massacre at Tiananmen Square by blocking Internet sites and other media outlets, along with other sensitive information that would be damaging to the Government of China;

Whereas the Government of China has continued to oppress the people of China by denying basic human rights, such as freedom of speech and religion, and suppressing minority groups;

Whereas, during the 2008 Olympic Games, the Government of China promised to provide the international media covering the Olympic Games with the same access given the media at all the other Olympic Games, but denied access to certain Internet sites and media outlets in attempts to censor free speech;

Whereas the Department of State Human Rights Report for 2008 found that the Government of China had increased already severe cultural and religious suppression of ethnic minorities in Tibetan areas and the Xinjiang Uighur Autonomous Region, increased the persecution of members of Falun Gong, Christians from China, and other religious minorities, increased the detention and harassment of dissidents and journalists, and maintained tight controls on freedom of speech and the Internet;

Whereas the United States Commission on International Religious Freedom in 2009 stated, "The Chinese government continues to engage in systematic and egregious violations of the freedom of religion or belief, with religious activities tightly controlled and some religious adherents detained, imprisoned, fined, beaten, and harassed."; and

Whereas the China Aid Association reported that in 2007, there were 693 cases in which Christians from China were detained or arrested and 788 cases in which Christian house church groups were persecuted by the Government of China: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the people who have sacrificed their personal freedoms and, in the case of the people who demonstrated at Tiananmen Square in 1989, sacrificed their lives and freedom to—

(A) bring about democratic change in the People's Republic of China; and

(B) gain freedom of expression, assembly, association, and religion for the people of China;

(2) expresses its sympathy for the families of the people who were killed, wounded, or imprisoned due to their involvement in the peaceful protests in Tiananmen Square in Beijing, China from June 3 through 4, 1989;

(3) condemns the ongoing human rights abuses by the Government of China;

(4) calls on the Government of China to—

(A) release all prisoners that are—

(i) still in captivity as a result of their involvement in the events from June 3 through 4, 1989, at Tiananmen Square; and

(ii) imprisoned without cause;

(B) allow freedom of speech and access to information, especially information regarding the events at Tiananmen Square in 1989; and

(C) cease all harassment, intimidation, and imprisonment of—

(i) members of religious and minority groups; and

(ii) people who disagree with policies of the Government of China;

(5) supports efforts by free speech activists in China and elsewhere who are working to overcome censorship (including censorship of the Internet) and the chilling effect of censorship; and

(6) urges the President to support peaceful advocates of free speech around the world.

Mr. INHOFE. Mr. President, I rise today to pay tribute to a true American hero, Army Sergeant Schuyler Patch of Owasso, OK, who died on February 24, 2009 serving our Nation in Kandahar, Afghanistan. Schuyler was assigned to the 2nd Squadron, 106th Cavalry Regiment, 33rd Infantry Brigade Combat Team, in the Illinois National Guard, based out of Kewanee, IL.

Schuyler enlisted in the Oklahoma National Guard in March 2005, and volunteered to deploy in 2006 to Afghanistan. In November 2007, he transferred to the Illinois Army National Guard and volunteered a second time to deploy to Afghanistan in support of Operation Enduring Freedom. He was killed alongside four of his fellow Soldiers, when their vehicle was hit by an IED while on a joint patrol with the Afghan National Security Forces. Schuyler leaves behind his father John Patch of Illinois and mother Colleen Stevens of Owasso, Oklahoma. He also leaves behind a sister, Amber Patch and two brothers, Garrett and Seth Patch.

Schuyler was a selfless and courageous Soldier committed to this country and its freedom. His mother, Colleen, said that he died doing what he loved to do; making a difference in the world. She also expressed his love and care for the Afghan children while he was in Afghanistan. Schuyler's sister, Amber said, "He loved everything about the Army and he believed in everything he was doing over there." His aunt, Julie Morland said, "We are all very proud of him for even going over the first time and then volunteering to go over. It takes a special person to even join the Guard in the first place. To go there and fight as a volunteer, it takes a special person."

On Schuyler's online Guest Book, I read through some of the things said about his life and character.

Schuyler's cousin wrote, "Schuyler was not only brave, he was caring and never afraid to show his love for family and friends. A hello was never complete until he gave those he loved a hug . . . the world will be a sadder place without this fun loving, vibrant, kind, generous young man who always made me smile."

Another friend wrote, "He was a great guy and no one that ever knew him will ever forget him. He is sadly missed and that smile of his will never be forgotten." Schuyler's mom Colleen also talked about his incredibly warm smile that will be forever in her mind.

A fellow soldier wrote, "I was proud to have served with [Patch] in Afghani-

stan in 2006–2007. He was a good guy and liked to make the best of the situation."

A friend wrote, "We will all miss him and we all love him very much. He was the kind of guy who could cheer you up on your worst day and the most outgoing person I'll ever know. Thank you Schuyler for all the great memories we had and thank you so much for serving to protect all of us. I love you."

Captain Jon Prain, a National Guard chaplain who spoke at his funeral, summed up Schuyler's life well when he said, "He heard freedom's call. He paid freedom's price, so that we all might enjoy the benefits of freedom . . . He was, and always shall be, an American soldier."

Schuyler lived a life of love for his family, friends, and country. He will be remembered by many for his contagious smile and warm, affectionate personality. I am honored to pay tribute to this true American hero who volunteered to go into the fight and gave the ultimate sacrifice by giving up his life for our freedom.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1230. Mr. JOHANNES (for himself, Mr. INHOFE, Mr. CHAMBLISS, Mr. ISAKSON, Mr. RISC, Mr. VITTER, Mr. BARRASSO, Mr. MCCAIN, Mr. COBURN, Mr. MCCONNELL, Mr. BOND, Mr. ROBERTS, Mr. HATCH, Mr. MARTINEZ, Mrs. HUTCHISON, Mr. WICKER, Mr. BUNNING, Mr. KYL, Mr. SESSIONS, Mr. DEMINT, Mr. CORNYN, Mr. THUNE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1231. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1232. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1233. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1234. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1235. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1236. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1237. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1238. Mr. BUNNING submitted an amendment intended to be proposed by him

to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1239. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1240. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1241. Mr. BROWNBACK (for himself, Mr. KYL, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1242. Mr. BAYH (for himself, Ms. MURKOWSKI, Mr. BURRIS, Mr. LIEBERMAN, Mr. WARNER, Mr. WEBB, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1243. Mr. DEMINT (for himself, Mr. KYL, Mr. BUNNING, Mr. MARTINEZ, Mr. JOHANNES, Mr. RISCH, Mr. CRAPO, Mr. MCCONNELL, Mr. BOND, Mr. CORNYN, Mr. CHAMBLISS, Mr. COBURN, Mr. ROBERTS, Mr. INHOFE, Mr. BENNETT, Mr. BURR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1244. Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1245. Ms. STABENOW (for herself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1246. Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, *supra*.

SA 1247. Mr. DODD proposed an amendment to the bill H.R. 1256, *supra*.

SA 1248. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1249. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1250. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1251. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1252. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1253. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1254. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1255. Ms. STABENOW (for herself, Mr. BROWNBACK, Ms. MIKULSKI, Mr. VOINOVICH, Mrs. SHAHEEN, Mr. BOND, Mr. BURRIS, Mr. DURBIN, Mr. LEVIN, and Mr. BROWN) submitted an amendment intended to be proposed by her to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1256. Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA,

and Mr. VOINOVICH)) proposed an amendment to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, *supra*.

#### TEXT OF AMENDMENTS

**SA 1230.** Mr. JOHANNES (for himself, Mr. INHOFE, Mr. CHAMBLISS, Mr. ISAKSON, Mr. RISCH, Mr. VITTER, Mr. BARRASSO, Mr. MCCAIN, Mr. COBURN, Mr. MCCONNELL, Mr. BOND, Mr. ROBERTS, Mr. HATCH, Mr. MARTINEZ, Mrs. HUTCHISON, Mr. WICKER, Mr. BUNNING, Mr. KYL, Mr. SESSIONS, Mr. DEMINT, Mr. CORNYN, Mr. THUNE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ CONGRESSIONAL APPROVAL OF CERTAIN TARP EXPENDITURES.

Notwithstanding any other provision of law, including any provision of the Emergency Economic Stabilization Act of 2008, on and after May 29, 2009, no funds may be disbursed or otherwise obligated under that Act to any entity, if such disbursement would result in the Federal Government acquiring any ownership of the common or preferred stock of the entity receiving such funds, unless the Congress first approves of such disbursement or obligation.

**SA 1231.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2.

**SA 1232.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 919 of the Federal Food Drug, and Cosmetic Act (as added by section 101), add at the end the following:

“(d) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—With respect to fiscal years beginning with fiscal year

2020, the amount provided for in subsection (b)(1)(K) for a fiscal year shall be adjusted by the Secretary by notice, published in the Federal Register, by the greater of—

“(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items, United States city average), for the 12 month period ending June 30 preceding the fiscal year for which the amount is being adjusted;

“(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia; or

“(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions, for the first 5 years of the most recent 6-year period ending on September 30 of the year for which such amount is being adjusted.

The adjustment made with respect to each fiscal year under this subsection shall be added on a compounded basis to the sum of all adjustments made for each such fiscal year after fiscal year 2020.

“(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2020, after the amount provided for in subsection (b)(1)(K) is adjusted for a fiscal year in accordance with paragraph (1), the fee revenues shall be further adjusted for such fiscal year to account for changes in the workload of the Secretary in carrying out the responsibilities provided for under this chapter. With respect to such adjustment, the following shall apply:

“(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of applications under sections 910 and 911 during the previous 12-month period. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for fiscal year 2019 (as established under subsection (b)(1)(K)), as adjusted under paragraph (1).”

**SA 1233.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, line 10, insert “, except the term shall not include a member of the uniformed services” before the period.

On page 199, strike lines 15 through 24.

On page 209, line 12, strike all through page 210, line 12.

**SA 1234.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products,

to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . POINT OF ORDER TO KEEP HEALTH PLAN AND CHOICE OF DOCTOR AND TO LIMIT GOVERNMENT MANAGED, RATIONED HEALTH CARE.**

(a) IN GENERAL.—In the Senate, it shall not be in order, to consider any bill, joint resolution, amendment, motion, or conference report that—

(1) eliminates the ability of Americans to keep their health plan or their choice of doctor (as determined by the Congressional Budget Office); or

(2) decreases the number of Americans enrolled in private health insurance plans, while increasing the number of Americans enrolled in government-managed, rationed health care (as determined by the Congressional Budget Office).

(b) WAIVER.—This section may be waived or suspended only by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(c) APPEALS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

**SA 1235.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 907(a)(1) of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)), add the following:

“(C) CHARACTERIZING FLAVOR.—For purposes of subparagraph (A), the term ‘characterizing flavor’ means—

“(i) a distinguishable flavor, taste, or aroma imparted by the tobacco product, or any smoke emanating from that product, prior to or during consumption that predominates over the flavor, taste, or aroma of the tobacco; or

“(ii) a distinguishable flavor, taste, or aroma other than tobacco used to advertise or market the tobacco product.”

**SA 1236.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 4, strike subsection (b) and insert the following:

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take action with regards to tobacco products shall not be construed to affect any authority of the Secretary of Agriculture regarding the growing, cultivation, curing or processing of raw tobacco. Nothing in this Act (or amendments) shall be construed to provide the Food and Drug Administration with any authority regarding the growing, cultivation, curing or processing of raw tobacco.

**SA 1237.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 919 of the Federal Food, Drug, and Cosmetic Act (as added by section 101) add the following:

“(f) TOBACCO GROWER GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall use a portion of the amounts collected under this section to award grants to producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower co-operatives, to enable such producers to offset the costs imposed under this chapter.

“(2) APPLICATION.—To be eligible for a grant under paragraph (1), a producer of tobacco leaf shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(3) USE OF FUNDS.—A producer of tobacco leaf shall use amounts received under this subsection to pay the additional expenses associated with compliance by such producer with the requirements of this chapter.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this subsection.”

**SA 1238.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 917 of the Federal Food, Drug, and Cosmetic Act (as added by section 101) strike subsections (a) and (b)(1) and insert the following:

“(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 14-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the ‘Advisory Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests of the tobacco manufacturing industry;

“(v) 1 individual as a representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee; and

“(vi) 3 individuals as representatives of the interests of the tobacco growers, with 1 such individual representing flu tobacco, one such individual representing burley tobacco, and one such individual representing dark tobacco.

“(B) CONFLICTS OF INTEREST.—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products.”

**SA 1239.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . FARMER FEASIBILITY STUDY.**

The Secretary of Health and Human Services, acting through the Food and Drug Administration shall conduct a study of the technical, logistical, and economic viability of any standards imposed under the Act (and the amendments made by this Act) on farmers regarding the growing, cultivation, curing, or processing of raw tobacco. Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report concerning the results of such study to the Committee on Agriculture of the Senate and the Committee on Agriculture of the House of Representatives.

**SA 1240.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —TOBACCO BUYOUT**

**SEC. —01. ESTABLISHMENT OF TOBACCO BUYOUT PROGRAM.**

Chapter IX of the Federal Food, Drug, and Cosmetic Act (as added by section 101 and amended by section 301) is further amended by adding at the end the following:

**"SEC. 921. ESTABLISHMENT OF TOBACCO BUYOUT PROGRAM.**

"(a) IN GENERAL.—The Secretary shall establish a program to require annual reductions in the sale of cigarettes.

"(b) REQUIREMENT.—

"(1) IN GENERAL.—Under the program under subsection (a), each tobacco product manufacturer shall annually certify to the Secretary that—

"(A) with respect to cigarettes made by such manufacturer, the total number of such cigarettes sold during the year for which the certification is submitted is 1 percent less than the total number of such cigarettes sold during the preceding year; or

"(B) such manufacturer has purchased an additional cigarette sales allotment from another manufacturer as provided for in subsection (c).

"(2) INITIAL CERTIFICATION.—With respect to the first year for which a certification is submitted by a tobacco product manufacturer, the 1 percent reduction required under paragraph (1)(A) with respect to the sale of cigarettes shall be determined using the amount of such manufacturer's cigarettes sold in the highest sales year during the preceding 5-year period (as determined by the Secretary).

"(c) ADDITIONAL CIGARETTE SALES ALLOTMENT.—

"(1) IN GENERAL.—A tobacco product manufacturer (referred to in this subsection as the 'contracting manufacturer') to which this section applies may enter into a contract with one or more additional manufacturers (referred to in this subsection as a 'decreased sales manufacturer') to purchase from such manufacturers an additional sales allotment.

"(2) REQUIREMENT.—A contract entered into under paragraph (1) shall—

"(A) require the decreased sales manufacturer to provide for a further reduction in the total number of cigarettes sold during the year involved (beyond that required under subsection (b)(1)) by an amount equal to the additional sales allotment provided for in the contract; and

"(B) permit the contracting manufacturer to increase the total number of cigarettes sold during the year involved by an amount equal to the additional sales allotment provided for in the contract.

"(3) ADDITIONAL SALES ALLOTMENT.—In this subsection, the term 'additional sales allotment' means the number of cigarettes by which the decreased sales manufacturer agrees to further reduce its sales during the year involved.

"(d) ENFORCEMENT.—

"(1) IN GENERAL.—A tobacco product manufacturer that fails to comply with the requirement of subsection (b) for any year shall be subject to a penalty in an amount equal to \$2 multiplied by the number of cigarettes by which such manufacturer has failed to comply with such subsection (b). Amounts collected under this paragraph shall be used to carry out paragraph (2).

"(2) TOBACCO USE COUNTER-ADVERTISING.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall carry out a campaign of counter-advertising with respect to tobacco use. The campaign shall consist of the placement of pro-health advertisements regarding tobacco use on television, on radio, in print, on billboards, on movie trailers, on the Internet, and in other media.

"(e) PROCEDURES.—The Secretary shall develop procedures for—

"(1) the submission and verification of certificates under subsection (a);

"(2) the administration and verification of additional cigarette sales allotment contracts under subsection (c); and

"(3) the imposition of penalties under subsection (d)."

**SA 1241.** Mr. BROWNBACK (for himself, Mr. KYL, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**DIVISION C—DESIGNATION OF NORTH KOREA AS STATE SPONSOR OF TERRORISM**

**SEC. 101. FINDINGS.**

Congress makes the following findings:

(1) On October 11, 2008, the Department of State removed North Korea from its list of state sponsors of terrorism, on which it had been placed in 1988.

(2) North Korea was removed from that list despite its refusal to account fully for its abduction of foreign citizens, proliferation of nuclear and other dangerous technologies and weapon systems to other state sponsors of terrorism, or its commission of other past acts of terrorism.

(3) On March 17, 2009, American journalists Euna Lee and Laura Ling were abducted near the Chinese-North Korean border by agents of the North Korean government.

(4) The Government of North Korea has announced that these United States citizens will stand trial on June 4, 2009, where they face imprisonment in a North Korean prison camp.

(5) On April 5, 2009, the Government of North Korea tested a long-range ballistic missile in violation of United Nations Security Council Resolutions 1695 and 1718.

(6) After purportedly disabling its Yongbyon nuclear facility in 2008, the Government of North Korea has since announced its re-commissioning.

(7) On April 15, 2009, the Government of North Korea announced it was expelling

international inspectors from its Yongbyon nuclear facility and ending its participation in disarmament talks.

(8) On May 25, 2009, the Government of North Korea conducted a second illegal nuclear test, in addition to conducting tests of its ballistic missile systems.

(9) President Barack Obama stated that actions of the Government of North Korea "are a matter of grave concern to all nations. North Korea's attempts to develop nuclear weapons, as well as its ballistic missile program, constitute a threat to international peace and security. By acting in blatant defiance of the United Nations Security Council, North Korea is directly and recklessly challenging the international community. North Korea's behavior increases tensions and undermines stability in Northeast Asia. Such provocations will only serve to deepen North Korea's isolation. It will not find international acceptance unless it abandons its pursuit of weapons of mass destruction and their means of delivery."

**SEC. 102. DESIGNATION AS A COUNTRY THAT HAS REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.**

(a) DESIGNATION.—The Secretary of State shall designate the Democratic People's Republic of North Korea as a country that has repeatedly provided support for acts of international terrorism for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 40 of the Arms Export Control Act (22 U.S.C. 2780), and section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(b) WAIVER AUTHORITY.—The President may waive the requirements under subsection (a) upon certifying to Congress that the Government of North Korea has—

(1) verifiably dismantled its nuclear weapons programs;

(2) ceased all nuclear and missile proliferation activities;

(3) released United States citizens Euna Lee and Laura Ling;

(4) returned the last remains of United States permanent resident, Reverend Kim Dong-shik;

(5) released, or accounted for, all foreign abductees and prisoners of war; and

(6) released all North Korean prisoners of conscience.

**SA 1242.** Mr. BAYH (for himself, Ms. MURKOWSKI, Mr. BURRIS, Mr. LIEBERMAN, Mr. WARNER, Mr. WEBB, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**DIVISION —NURSE FACULTY LOAN REPAYMENT PROGRAM**

**SEC. 1. SHORT TITLE.**

This division may be cited as the "Nurses' Higher Education and Loan Repayment Act of 2009".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The Health Resources and Services Administration estimates there is currently a



shortage of more than 200,000 registered nurses nationwide and projects the shortage will grow to more than 1,000,000 nurses by 2020, 36 percent less than needed to meet demand for nursing care.

(2) The shortage of qualified nursing faculty is the primary factor driving the inability of nursing schools to graduate more registered nurses to meet the Nation's growing workforce demand.

(3) There continues to be strong interest on the part of young Americans to enter the nursing field. The National League for Nursing estimates that 88,000 qualified applications, or 1 out of every 3 submitted to basic registered nurse programs in 2006, were rejected due to lack of capacity.

(4) The American Association of Colleges of Nursing (in this section referred to as the "AACN") estimates that 49,948 applicants were turned away specifically from baccalaureate and graduate schools of nursing in 2008 and over 70 percent of the schools responding to the AACN survey reported a lack of nurse faculty as the number 1 reason for turning away qualified applicants. Likewise, nearly 70 percent of the associate's degree registered nurse programs responding to the most recent American Association of Community Colleges Nursing Survey reported a lack of faculty to teach as the number 1 reason for turning away qualified applicants.

(5) Large numbers of faculty members at schools of nursing in the United States are nearing retirement. According to the AACN, the average age of a nurse faculty member is 55 years old and the average age at retirement is 62.

(6) The current nationwide nurse faculty vacancy rate is estimated to be as high as 7.6 percent, including 814 vacant positions at schools of nursing offering baccalaureate and advanced degrees and, in 2006, as many as 880 in associate's degree programs.

(7) Market forces have created disincentives for individuals qualified to become nurse educators from pursuing this career. The average annual salary for an associate professor of nursing with a master's degree is nearly 20 percent less than the average salary for a nurse practitioner with a master's degree, according to the 2007 salary survey by the journal ADVANCE for Nurse Practitioners.

(8) The most recent Health Resources and Services Administration survey data indicates that from a total of more than 2,000,000 registered nurses, only 143,113 registered nurses with a bachelor's degree and only 51,318 registered nurses with an associate's degree have continued their education to earn a master's degree in the science of nursing, the minimum credential necessary to teach in all types of registered nurse programs. The majority of these graduates do not become nurse educators.

(9) Current Federal incentive programs to encourage nurses to become educators are inadequate and inaccessible for many interested nurses.

(10) A broad incentive program must be available to willing and qualified nurses that will provide financial support and encourage them to pursue and maintain a career in nursing education.

### SEC. 3. NURSE FACULTY LOAN REPAYMENT PROGRAM.

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846A the following new section:

#### "SEC. 846B. NURSE FACULTY LOAN REPAYMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health

Resources and Services Administration, may enter into an agreement with eligible individuals for the repayment of education loans, in accordance with this section, to increase the number of qualified nursing faculty.

"(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall require that the eligible individual shall serve as a full-time member of the faculty of an accredited school of nursing for a total period, in the aggregate, of at least 4 years during the 6-year period beginning on the later of—

"(1) the date on which the individual receives a master's or doctorate nursing degree from an accredited school of nursing; or

"(2) the date on which the individual enters into an agreement under subsection (a).

"(c) AGREEMENT PROVISIONS.—Agreements entered into pursuant to subsection (a) shall be entered into on such terms and conditions as the Secretary may determine, except that—

"(1) not more than 300 days after the date on which the 6-year period described under subsection (b) begins, but in no case before the individual starts as a full-time member of the faculty of an accredited school of nursing, the Secretary shall begin making payments, for and on behalf of that individual, on the outstanding principal of, and interest on, any loan the individual obtained to pay for such degree;

"(2) for an individual who has completed a master's degree in nursing—

"(A) payments may not exceed \$10,000 per calendar year; and

"(B) total payments may not exceed \$40,000; and

"(3) for an individual who has completed a doctorate degree in nursing—

"(A) payments may not exceed \$20,000 per calendar year; and

"(B) total payments may not exceed \$80,000.

"(d) BREACH OF AGREEMENT.—

"(1) IN GENERAL.—In the case of any agreement made under subsection (a), the individual is liable to the Federal Government for the total amount paid by the Secretary under such agreement, and for interest on such amount at the maximum legal prevailing rate, if the individual fails to meet the agreement terms required under subsection (b).

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual with the agreement involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) shall be available to the Secretary for making loan repayments under this section and shall remain available for such purpose until expended.

"(e) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'eligible individual' means an individual who—

"(1) is a United States citizen, national, or lawful permanent resident;

"(2) holds an unencumbered license as a registered nurse; and

"(3) has either already completed a master's or doctorate nursing program at an accredited school of nursing or is currently enrolled on a full-time or part-time basis in such a program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2010 through 2014 to carry out this Act. Such sums shall remain available until expended.

"(g) SUNSET.—The provisions of this section shall terminate on December 31, 2020."

**SA 1243.** Mr. DEMINT (for himself, Mr. KYL, Mr. BUNNING, Mr. MARTINEZ, Mr. JOHANN, Mr. RISCH, Mr. CRAPO, Mr. MCCONNELL, Mr. BOND, Mr. CORNYN, Mr. CHAMBLISS, Mr. COBURN, Mr. ROBERTS, Mr. INHOFE, Mr. BENNETT, Mr. BURR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. . STATE-SPONSOR OF TERRORISM.

The Secretary of State shall consider the Government of the Democratic People's Republic of Korea to have repeatedly provided support for acts of international terrorism, and the Democratic People's Republic of Korea shall be subject to the provisions set forth in section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), and section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)).

**SA 1244.** Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Preventing Disease and Death from Tobacco Use Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Scope and effect.
- Sec. 5. Severability.
- Sec. 6. Effective date.

#### TITLE I—AUTHORITY OF THE TOBACCO HARM REDUCTION CENTER

- Sec. 100. Definitions.



- Sec. 101. Center authority over tobacco products.
- Sec. 102. Exclusion of other regulatory programs.
- Sec. 103. Existing Federal statutes maintained.
- Sec. 104. Proceedings in the name of the United States; subpoenas; preemption of State and local law; no private right of action.
- Sec. 105. Adulterated tobacco products.
- Sec. 106. Misbranded tobacco products.
- Sec. 107. Submission of health information to the Administrator.
- Sec. 108. Registration and listing.
- Sec. 109. General provisions respecting control of tobacco products.
- Sec. 110. Smoking article standards.
- Sec. 111. Notification and other remedies.
- Sec. 112. Records and reports on tobacco products.
- Sec. 113. Application for review of certain smoking articles.
- Sec. 114. Modified risk tobacco products.
- Sec. 115. Judicial review.
- Sec. 116. Jurisdiction of and coordination with the Federal Trade Commission.
- Sec. 117. Regulation requirement.
- Sec. 118. Preservation of State and local authority.
- Sec. 119. Tobacco Products Scientific Advisory Committee.
- Sec. 120. Drug products used to treat tobacco dependence.

#### TITLE II—TOBACCO PRODUCTS WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

- Sec. 201. Cigarette label and advertising warnings.
- Sec. 202. Smokeless tobacco labels and advertising warnings.

#### TITLE III—PUBLIC DISCLOSURES BY TOBACCO PRODUCTS MANUFACTURERS

- Sec. 301. Disclosures on packages of tobacco products.
- Sec. 302. Disclosures on packages of smokeless tobacco.
- Sec. 303. Public disclosure of ingredients.

#### TITLE IV—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

- Sec. 401. Study and report on illicit trade.
- Sec. 402. Amendment to section 1926 of the Public Health Service Act.
- Sec. 403. Establishment of rankings.

#### TITLE V—ENFORCEMENT PROVISIONS

- Sec. 501. Prohibited acts.
- Sec. 502. Injunction proceedings.
- Sec. 503. Penalties.
- Sec. 504. Seizure.
- Sec. 505. Report of minor violations.
- Sec. 506. Inspection.
- Sec. 507. Effect of compliance.
- Sec. 508. Imports.
- Sec. 509. Tobacco products for export.

#### TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Use of payments under the master settlement agreement and individual State settlement agreements.
- Sec. 602. Preemption of State Laws Implementing Fire Safety Standard for Cigarettes.
- Sec. 603. Inspection by the alcohol and tobacco tax trade bureau of records of certain cigarette and smokeless tobacco sellers.
- Sec. 604. Severability.

#### TITLE VII—TOBACCO GROWER PROTECTION

- Sec. 701. Tobacco grower protection.

#### TITLE VIII—RESTRICTIONS ON YOUTH ACCESS TO TOBACCO PRODUCTS AND EXPOSURE OF YOUTHS TO TOBACCO PRODUCT MARKETING AND ADVERTISING

- Sec. 801. Prohibitions on youth targeting.

#### TITLE IX—USER FEES

- Sec. 901. User fees.

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) Cigarette smoking is a leading cause of preventable deaths in the United States. Cigarette smoking significantly increases the risk of developing lung cancer, heart disease, chronic bronchitis, emphysema and other serious diseases with adverse health conditions.

(2) The risk for serious diseases is significantly affected by the type of tobacco product and the frequency, duration and manner of use.

(3) No tobacco product has been shown to be safe and without risks. The health risks associated with cigarettes are significantly greater than those associated with the use of smoke-free tobacco and nicotine products.

(4) Nicotine in tobacco products is addictive but is not considered a significant threat to health.

(5) It is the smoke inhaled from burning tobacco which poses the most significant risk of serious diseases.

(6) Quitting cigarette smoking significantly reduces the risk for serious diseases.

(7) Adult tobacco consumers have a right to be fully and accurately informed about the risks of serious diseases, the significant differences in the comparative risks of different tobacco and nicotine-based products, and the benefits of quitting. This information should be based on sound science.

(8) Governments, public health officials, tobacco manufacturers and others share a responsibility to provide adult tobacco consumers with accurate information about the various health risks and comparative risks associated with the use of different tobacco and nicotine products.

(9) Tobacco products should be regulated in a manner that is designed to achieve significant and measurable reductions in the morbidity and mortality associated with tobacco use. Regulations should enhance the information available to adult consumers to permit them to make informed choices, and encourage the development of tobacco and nicotine products with lower risks than cigarettes currently sold in the United States.

(10) The form of regulation should be based on the risks and comparative risks of tobacco and nicotine products and their respective product categories.

(11) The regulation of marketing of tobacco products should be consistent with constitutional protections and enhance an adult consumer's ability to make an informed choice by providing accurate information on the risks and comparative risks of tobacco products.

(12) Reducing the diseases and deaths associated with the use of cigarettes serves public health goals and is in the best interest of consumers and society. Harm reduction should be the critical element of any comprehensive public policy surrounding the health consequences of tobacco use.

(13) Significant reductions in the harm associated with the use of cigarettes can be achieved by providing accurate information regarding the comparative risks of tobacco products to adult tobacco consumers, thereby encouraging smokers to migrate to the use of smoke-free tobacco and nicotine prod-

ucts, and by developing new smoke-free tobacco and nicotine products and other actions.

(14) Governments, public health officials, manufacturers, tobacco producers and consumers should support the development, production, and commercial introduction of tobacco leaf, and tobacco and nicotine-based products that are scientifically shown to reduce the risks associated with the use of existing tobacco products, particularly cigarettes.

(15) Adult tobacco consumers should have access to a range of commercially viable tobacco and nicotine-based products.

(16) There is substantial scientific evidence that selected smokeless tobacco products can satisfy the nicotine addiction of inveterate smokers while eliminating most, if not all, risk of pulmonary and cardiovascular complications of smoking and while reducing the risk of cancer by more than 95 percent.

(17) Transitioning smokers to selected smokeless tobacco products will eliminate environmental tobacco smoke and fire-related hazards.

(18) Current "abstain, quit, or die" tobacco control policies in the United States may have reached their maximum possible public health benefit because of the large number of cigarette smokers either unwilling or unable to discontinue their addiction to nicotine.

(19) There is evidence that harm reduction works and can be accomplished in a way that will not increase initiation or impede smoking cessation.

(20) Health-related agencies and organizations, both within the United States and abroad have already gone on record endorsing Harm Reduction as an approach to further reducing tobacco related illness and death.

(21) Current Federal policy requires tobacco product labeling that leaves the incorrect impression that all tobacco product present equal risk.

#### SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Tobacco Harm Reduction Center by recognizing it as the primary Federal regulatory authority with respect to tobacco products as provided for in this Act;

(2) to ensure that the Center has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Center to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Center with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) to ensure that consumers are better informed regarding the relative risks for death and disease between categories of tobacco products;

(7) to continue to allow the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote prevention, cessation, and harm reduction policies and regulations to

reduce disease risk and the social costs associated with tobacco-related diseases;

(10) to provide authority to the Department of Health and Human Services to regulate tobacco products;

(11) to establish national policies that effectively reduce disease and death associated with cigarette smoking and other tobacco use;

(12) to establish national policies that encourage prevention, cessation, and harm reduction measures regarding the use of tobacco products;

(13) to encourage current cigarette smokers who will not quit to use noncombustible tobacco or nicotine products that have significantly less risk than cigarettes;

(14) to establish national policies that accurately and consistently inform adult tobacco consumers of significant differences in risk between respective tobacco products;

(15) to establish national policies that encourage and assist the development and awareness of noncombustible tobacco and nicotine products;

(16) to coordinate national and State prevention, cessation, and harm reduction programs;

(17) to impose measures to ensure tobacco products are not sold or accessible to underage purchasers; and

(18) to strengthen Federal and State legislation to prevent illicit trade in tobacco products.

#### SEC. 4. SCOPE AND EFFECT.

(a) **INTENDED EFFECT.**—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action;

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind; or

(3) be applicable to tobacco products or component parts manufactured in the United States for export.

(b) **AGRICULTURAL ACTIVITIES.**—The provisions of this Act (or an amendment made by this Act) which authorize the Administrator to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

(c) **REVENUE ACTIVITIES.**—The provisions of this Act (or an amendment made by this Act) which authorize the Administrator to take certain actions with regard to tobacco products shall not be construed to affect any authority of the Secretary of the Treasury under chapter 52 of the Internal Revenue Code of 1986.

#### SEC. 5. SEVERABILITY.

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

#### SEC. 6. EFFECTIVE DATE.

Except as otherwise specifically provided, the effective date of this Act shall be the date of its enactment.

### TITLE I—AUTHORITY OF THE TOBACCO HARM REDUCTION CENTER

#### SEC. 100. DEFINITIONS.

In this Act:

(1) The term “Administrator” means the chief executive of the Tobacco Regulatory Agency (the Agency responsible for administering and enforcing this Act and regulations promulgated pursuant to this Act).

(2) The term “adult” means any individual who has attained the minimum age under applicable State law to be an individual to whom tobacco products may lawfully be sold.

(3) The term “adult-only facility” means a facility or restricted area, whether open-air or enclosed, where the operator ensures, or has a reasonable basis to believe, that no youth is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, if the operator ensures, or has a reasonable basis to believe, that no youth is present during any period of operation as an adult-only facility.

(4) The term “advertising” means a communication to the general public by a tobacco product manufacturer, distributor, retailer, or its agents, which identifies a tobacco product by brand name and is intended by such manufacturer, distributor, retailer, or its agents to promote purchases of such tobacco product. Such term shall not include—

(A) any advertising or other communication in any tobacco trade publication or tobacco trade promotional material;

(B) the content of any scientific publication or presentation, or any patent application or other communication to the United States Patent and Trademark Office or any similar office in any other country;

(C) any corporate or financial report or financial communication;

(D) any communication to a lending institution or to securities holders;

(E) any communication not intended for public display or public exposure, except that a direct mailing or direct electronic communication of what otherwise is advertising shall be deemed to be advertising;

(F) any communication in, on, or within a factory, office, plant, warehouse, or other facility related to or associated with the development, manufacture, or storage of tobacco products;

(G) any communication to any governmental agency, body, official, or employee;

(H) any communication to any journalist, editor, Internet blogger, or other author;

(I) any communication in connection with litigation, including arbitration and like proceedings; or

(J) any editorial advertisement that addresses a public issue.

(5) The term “affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The terms “owns,” “is owned,” and “ownership” refer to ownership of an equity interest, or the equivalent thereof, of 50 percent or more.

(6) The term “Agency” means the Tobacco Regulatory Agency.

(7) The term “age-verified adult” means any individual who is an adult and—

(A) who has stated or acknowledged, after being asked, that he or she is an adult and a tobacco product user, and has presented proof of age identifying the individual and verifying that the individual is an adult; or

(B) whose status as an adult has been verified by a commercially available database of such information.

(8) The term “annual report” means a tobacco product manufacturer’s annual report to the Agency, which provides ingredient in-

formation and nicotine yield ratings for each brand style that tobacco product manufacturer manufactures for commercial distribution domestically.

(9) The term “brand name” means a brand name of a tobacco product distributed or sold domestically, alone, or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicium of product identification identical or similar to, or identifiable with, those used for any domestic brand of tobacco product. The term shall not include the corporate name of any tobacco product manufacturer that does not, after the effective date of this Act, sell a brand style of tobacco product in the United States that includes such corporate name.

(10) The term “brand name sponsorship” means an athletic, musical, artistic, or other social or cultural event, series, or tour, with respect to which payment is made, or other consideration is provided, in exchange for use of a brand name or names—

(A) as part of the name of the event; or

(B) to identify, advertise, or promote such event or an entrant, participant, or team in such event in any other way.

(11) The term “brand style” means a tobacco product having a brand name, and distinguished by the selection of the tobacco, ingredients, structural materials, format, configuration, size, package, product descriptor, amount of tobacco, or yield of “tar” or nicotine.

(12) The term “carton” means a container into which packages of tobacco products are directly placed for distribution or sale, but does not include cases intended for shipping. Such term includes a carton containing 10 packages of cigarettes.

(13) The term “cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(A) The use of comically exaggerated features.

(B) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique.

(C) The attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

The term does not include any drawing or other depiction that, on the effective date of this Act, was in use in the United States in any tobacco product manufacturer’s corporate logo or in any tobacco product manufacturer’s tobacco product packaging.

(14) The term “cigar” has the meaning assigned that term by the Alcohol and Tobacco Tax and Trade Bureau in section 40.11 of title 27, Code of Federal Regulations.

(15) The term “cigarette” means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of the appearance of the roll of tobacco, the type of tobacco used in the filler, or its package or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(16) The term “competent and reliable scientific evidence” means evidence based on tests, analyses, research, or studies, conducted and evaluated in an objective manner by individuals qualified to do so, using procedures generally accepted in the relevant scientific disciplines to yield accurate and reliable results.

(17) The term “distributor” means any person who furthers the distribution of tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the tobacco product to individuals for personal consumption. Common carriers, retailers, and those engaged solely in advertising are not considered distributors for purposes of this Act.

(18) The terms “domestic” and “domestically” mean within the United States, including activities within the United States involving advertising, marketing, distribution, or sale of tobacco products that are intended for consumption within the United States.

(19) The term “human image” means any photograph, drawing, silhouette, statue, model, video, likeness, or depiction of the appearance of a human being, or the appearance of any portion of the body of a human being.

(20) The term “illicit tobacco product” means any tobacco product intended for use by consumers in the United States—

(A) as to which not all applicable duties or taxes have been paid in full;

(B) that has been stolen, smuggled, or is otherwise contraband;

(C) that is counterfeit; or

(D) that has or had a label, labeling, or packaging stating, or that stated, that the product is or was for export only, or that it is or was at any time restricted by section 5704 of title 26, United States Code.

(21) The term “illicit trade” means any transfer, distribution, or sale in interstate commerce of any illicit tobacco product.

(22) The term “immediate container” does not include package liners.

(23) The term “Indian tribe” has the meaning assigned that term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(24) The term “ingredient” means tobacco and any substance added to tobacco to have an effect in the final tobacco product or when the final tobacco product is used by a consumer.

(25) The term “International Organization for Standardization (ISO) testing regimen” means the methods for measuring cigarette smoke yields, as set forth in the most recent version of ISO 3308, entitled “Routine analytical cigarette-smoking machine—Definition of standard conditions”; ISO 4387, entitled “Cigarettes—Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine”; ISO 10315, entitled “Cigarettes—Determination of nicotine in smoke condensates—Gas-chromatographic method”; ISO 10362-1, entitled “Cigarettes—Determination of water in smoke condensates—Part 1: Gas-chromatographic method”; and ISO 8454, entitled “Cigarettes—Determination of carbon monoxide in the vapour phase of cigarette smoke—NDIR method”. A cigarette that does not burn down in accordance with the testing regimen standards may be measured under the same puff regimen using the number of puffs that such a cigarette delivers before it extinguishes, plus an additional three puffs, or with such other modifications as the Administrator may approve.

(26) The term “interstate commerce” means all trade, traffic, or other commerce—

(A) within the District of Columbia, or any territory or possession of the United States;

(B) between any point in a State and any point outside thereof;

(C) between points within the same State through any place outside such State; or

(D) over which the United States has jurisdiction.

(27) The term “label” means a display of written, printed, or graphic matter upon or applied securely to the immediate container of a tobacco product.

(28) The term “labeling” means all labels and other written, printed, or graphic matter (1) upon or applied securely to any tobacco product or any of its containers or wrappers, or (2) accompanying a tobacco product.

(29) The term “little cigar” has the meaning assigned that term by the Alcohol and Tobacco Tax and Trade Bureau in section 40.11 of title 27, Code of Federal Regulations.

(30) The term “loose tobacco” means any form of tobacco, alone or in combination with any other ingredient or material, that, because of its appearance, form, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making or assembling cigarettes, incorporation into pipes, or otherwise used by consumers to make any smoking article.

(31) The term “manufacture” means to design, manufacture, fabricate, assemble, process, package, or repack, label, or relabel, import, or hold or store in a commercial quantity, but does not include—

(A) the growing, curing, de-stemming, or aging of tobacco; or

(B) the holding, storing or transporting of a tobacco product by a common carrier for hire, a public warehouse, a testing laboratory, a distributor, or a retailer.

(32) The term “nicotine-containing product” means a product intended for human consumption, other than a tobacco product, that contains added nicotine, whether or not in the form of a salt or solvate, that has been—

(A) synthetically produced, or

(B) obtained from tobacco or other source of nicotine.

(33) The term “outdoor advertising”—

(A) except as provided in subparagraph (B), means—

(i) billboards;

(ii) signs and placards in arenas, stadiums, shopping malls, and video game arcades (whether any of such are open air or enclosed), but not including any such sign or placard located in an adult-only facility; and

(iii) any other advertisements placed outdoors; and

(B) does not include—

(i) an advertisement on the outside of a tobacco product manufacturing facility; or

(ii) an advertisement that—

(I) is inside a retail establishment that sells tobacco products (other than solely through a vending machine or vending machines);

(II) is placed on the inside surface of a window facing outward; and

(III) is no larger than 14 square feet.

(34) The term “package” means a pack, box, carton, pouch, or container of any kind in which a tobacco product or tobacco products are offered for sale, sold, or otherwise distributed to consumers. The term “package” does not include an outer container used solely for shipping one or more packages of a tobacco product or tobacco products.

(35) The term “person” means any individual, partnership, corporation, committee, association, organization or group of persons, or other legal or business entity.

(36) The term “proof of age” means a driver’s license or other form of identification that is issued by a governmental authority and includes a photograph and a date of birth of the individual.

(37) The term “raw tobacco” means tobacco in a form that is received by a tobacco product manufacturer as an agricultural commodity, whether in a form that is—

(A) natural, stem or leaf;

(B) cured or aged; or (3)

(C) as parts or pieces, but not in a reconstituted form, extracted pulp form, or extract form.

(38) The term “reduced-exposure claim” means a statement in advertising or labeling intended for one or more consumers of tobacco products, that a tobacco product provides a reduced exposure of users of that tobacco product to one or more toxicants, as compared to an appropriate reference tobacco product or category of tobacco products. A statement or representation that a tobacco product or the tobacco in a tobacco product contains “no additives” or is “natural” or that uses a substantially similar term is not a reduced-exposure claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h) of this Act.

(39) The term “reduced-risk claim” means a statement in advertising or labeling intended for one or more consumers of tobacco products, that a tobacco product provides to users of that product a reduced risk of morbidity or mortality resulting from one or more chronic diseases or serious adverse health conditions associated with tobacco use, as compared to an appropriate reference tobacco product or category of tobacco products, even if it is not stated, represented, or implied that all health risks associated with using that tobacco product have been reduced or eliminated. A statement or representation that a tobacco product or the tobacco in a tobacco product contains “no additives,” or is “natural,” or that uses a substantially similar term is not a reduced-risk claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h).

(40) The term “retailer” means any person that—

(A) sells tobacco products to individuals for personal consumption; or

(B) operates a facility where the sale of tobacco products to individuals for personal consumption is permitted.

(41) The term “sample” means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product, but excludes tobacco products distributed—

(A) in conjunction with the sale of other tobacco products;

(B) for market research, medical or scientific study or testing, or teaching;

(C) to persons employed in the trade;

(D) to adult consumers in response to consumer complaints; or

(E) to employees of the manufacturer of the tobacco product.

(42) The term “small business” means a tobacco product manufacturer that—

(A) has 150 or fewer employees; and

(B) during the 3-year period prior to the current calendar year, had an average annual gross revenue from tobacco products that did not exceed \$40,000,000.

(43) The term “smokeless tobacco product” means any form of finely cut, ground, powdered, reconstituted, processed or shaped tobacco, leaf tobacco, or stem tobacco, whether or not combined with any other ingredient, whether or not in extract or extracted form, and whether or not incorporated within any carrier or construct, that is intended

to be placed in the oral or nasal cavity, including dry snuff, moist snuff, and chewing tobacco.

(44) The term "smoking article" means any tobacco-containing article that is intended, when used by a consumer, to be burned or otherwise to employ heat to produce a vapor, aerosol or smoke that—

(A) incorporates components of tobacco or derived from tobacco; and

(B) is intended to be inhaled by the user.

(45) The term "State" means any State of the United States and, except as otherwise specifically provided, includes any Indian tribe or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Atoll, the Northern Marianas, and any other trust territory or possession of the United States.

(46) The term "tar" means nicotine-free dry particulate matter as defined in ISO 4387, entitled "Cigarettes—Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine".

(47) The term "tobacco" means a tobacco plant or any part of a harvested tobacco plant intended for use in the production of a tobacco product, including leaf, lamina, stem, or stalk, whether in green, cured, or aged form, whether in raw, treated, or processed form, and whether or not combined with other materials, including any by-product, extract, extracted pulp material, or any other material (other than purified nicotine) derived from a tobacco plant or any component thereof, and including strip, filler, stem, powder, and granulated, blended, or reconstituted forms of tobacco.

(48) The term "tobacco product" means—

(A) the singular of "tobacco products" as defined in section 5702(c) of the Internal Revenue Code of 1986;

(B) any other product that contains tobacco as a principal ingredient and that, because of its appearance, type, or the tobacco used in the product, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a tobacco product as described in subparagraph (A); and

(C) any form of tobacco or any construct incorporating tobacco, intended for human consumption, whether by—

(i) placement in the oral or nasal cavity;

(ii) inhalation of vapor, aerosol, or smoke; or

(iii) any other means.

(49) The term "tobacco product category" means a type of tobacco product characterized by its composition, components, and intended use, and includes tobacco products classified as cigarettes, loose tobacco for roll-your-own tobacco products, little cigars, cigars, pipe tobacco, moist snuff, dry snuff, chewing tobacco, and other forms of tobacco products (which are treated in this Act collectively as a single category).

(50) The term "tobacco product communication" means any means, medium, or manner for providing information relating to any tobacco product, including face-to-face interaction, mailings by postal service or courier to an individual who is an addressee, and electronic mail to an individual who is an addressee.

(51) The term "tobacco product manufacturer" means an entity that directly—

(A) manufactures anywhere a tobacco product that is intended to be distributed commercially in the United States, including a tobacco product intended to be distributed commercially in the United States through an importer;

(B) is the first purchaser for resale in the United States of tobacco products manufactured outside the United States for distribution commercially in the United States; or

(C) is a successor or assign of any of the foregoing.

(52) The term "toxicant" means a chemical or physical agent that produces an adverse biological effect.

(53) The term "transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar location.

(54) The term "tribal organization" has the meaning assigned that term in section 4(1) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(1)).

(55) The term "United States" means the several States, as defined in this Act.

(56) The term "vending machine" means any mechanical, electric, or electronic self-service device that, upon insertion of money, tokens, or any other form of payment, automatically dispenses tobacco products.

(57) The term "video game arcade" means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by adults) or pinball machines.

(58) The term "youth" means any individual who is not an adult.

#### SEC. 101. CENTER AUTHORITY OVER TOBACCO PRODUCTS.

(a) IN GENERAL.—Tobacco products, including modified risk tobacco products for which an order has been issued in accordance with section 117, shall be regulated by the Administrator under this Act.

(b) APPLICABILITY.—This Act shall apply to all cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco and to any other tobacco products that the Administrator by regulation deems to be subject to this Act.

(c) CENTER.—The Secretary of Health and Human Services shall establish within the Department of Health and Human Services the Tobacco Harm Reduction Center. The head of the Center shall be an Administrator, who shall assume the statutory authority conferred by this Act, perform the functions that relate to the subject matter of this Act, and have the authority to promulgate regulations for the efficient enforcement of this Act. In promulgating any regulations under such authority, in whole or in part or any regulation that is likely to have an annual effect on the economy of \$50,000,000 or more or have a material adverse effect on adult users of tobacco products, tobacco product manufacturers, distributors, or retailers, the Administrator shall—

(1) determine the technological and economic ability of parties that would be required to comply with the regulation to comply with it;

(2) consider experience gained under any relevantly similar regulations at the Federal or State level;

(3) determine the reasonableness of the relationship between the costs of complying with such regulation and the public health benefits to be achieved by such regulation;

(4) determine the reasonable likelihood of measurable and substantial reductions in morbidity and mortality among individual tobacco users;

(5) determine the impact to United States tobacco producers and farm operations;

(6) determine the impact on the availability and use of tobacco products by minors; and

(7) determine the impact on illicit trade of tobacco products.

(d) LIMITATION OF AUTHORITY.—

(1) IN GENERAL.—The provisions of this Act shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Center have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

(2) EXCEPTION.—Notwithstanding paragraph (1), if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this Act in the producer's capacity as a manufacturer. The exception in this subparagraph shall not apply to a producer of tobacco leaf who grows tobacco under a contract with a tobacco product manufacturer and who is not otherwise engaged in the manufacturing process.

(3) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to grant the Administrator authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof.

(e) RULEMAKING PROCEDURES.—Each rulemaking under this Act shall be in accordance with chapter 5 of title 5, United States Code.

(f) CONSULTATION PRIOR TO RULEMAKING.—Prior to promulgating rules under this Act, the Administrator shall endeavor to consult with other Federal agencies as appropriate.

#### SEC. 102. EXCLUSION OF OTHER REGULATORY PROGRAMS.

(a) EXCLUSION OF TOBACCO PRODUCTS AND NICOTINE-CONTAINING PRODUCTS FROM THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—No tobacco product and no nicotine-containing product shall be regulated as a food, drug, or device in accordance with section 201 (f), (g) or (h) or Chapter IV or V of the Federal Food, Drug, and Cosmetic Act, except that any tobacco product commercially distributed domestically and any nicotine-containing product commercially distributed domestically shall be subject to Chapter V of the Federal Food, Drug, and Cosmetic Act if the manufacturer or a distributor of such product markets it with an explicit claim that the product is intended for use in the cure, mitigation, treatment, or prevention of disease in man or other animals, within the meaning of section 201(g)(1)(C) or section 201(h)(2) of that Act.

(b) LIMITATION ON EFFECT OF THIS ACT.—Nothing in this Act shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in any Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(c) EXCLUSIONS FROM AUTHORITY OF ADMINISTRATOR.—The authority granted to the Administrator under this Act shall not apply to—

(1) raw tobacco that is not in the possession or control of a tobacco product manufacturer;

(2) raw tobacco that is grown for a tobacco product manufacturer by a grower, and that is in the possession of that grower or of a person that is not a tobacco product manufacturer and is within the scope of subparagraphs (A) through (F) of paragraph (3); or

(3) the activities, materials, facilities, or practices of persons that are not tobacco product manufacturers and that are—

(A) producers of raw tobacco, including tobacco growers;

(B) tobacco warehouses, and other persons that receive raw tobacco from growers;

(C) tobacco grower cooperatives;

(D) persons that cure raw tobacco;

(E) persons that process raw tobacco; and

(F) persons that store raw tobacco for aging.

If a producer of raw tobacco is also a tobacco product manufacturer, an affiliate of a tobacco product manufacturer, or a person producing raw tobacco for a tobacco product manufacturer, then that producer shall be subject to this Act only to the extent of that producer's capacity as a tobacco product manufacturer.

#### **SEC. 103. EXISTING FEDERAL STATUTES MAINTAINED.**

Except as amended or repealed by this Act, all Federal statutes in effect as of the effective date of this Act that regulate tobacco, tobacco products, or tobacco product manufacturers shall remain in full force and effect. Such statutes include, without limitation—

(1) the Federal Cigarette Labeling and Advertising Act, sections 1331–1340 of title 15, United States Code, except that section 1335 of title 15, United States Code, is repealed;

(2) the Comprehensive Smokeless Tobacco Health Education Act of 1986, sections 4401–4408 of title 15, United States Code, except that section 4402(f) of title 15, United States Code, is repealed;

(3) section 300x–26 of title 42, United States Code; and

(4) those statutes authorizing regulation of tobacco, tobacco products, or tobacco product manufacturers by the Federal Trade Commission, the Department of Agriculture, the Environmental Protection Agency, the Internal Revenue Service, and the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

#### **SEC. 104. PROCEEDINGS IN THE NAME OF THE UNITED STATES; SUBPOENAS; PRE-EMPTION OF STATE AND LOCAL LAW; NO PRIVATE RIGHT OF ACTION.**

In furtherance of this Act:

(1) All proceedings for the enforcement, or to restrain violations, of this Act shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any proceeding under this section. No State, or political subdivision thereof, may proceed or intervene in any Federal or State court under this Act or under any regulation promulgated under it, or allege any violation thereof except a violation by the Administrator. Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act or of any regulation promulgated under it.

(2) With respect to any subject matter addressed by this Act or by any regulation promulgated under it, no requirement or prohibition shall be imposed under State or local law upon any tobacco product manufacturer or distributor.

(3) Paragraph (2) shall not apply to any requirement or prohibition imposed under State or local law before the date of introduction of the bill that was enacted as this Act.

#### **SEC. 105. ADULTERATED TOBACCO PRODUCTS.**

A tobacco product shall be deemed to be adulterated—

(1) if it bears or contains any poisonous or deleterious substance other than—

(A) tobacco;

(B) a substance naturally present in tobacco;

(C) a pesticide or fungicide chemical residue in or on tobacco if such pesticide or fungicide chemical is registered by the Environmental Protection Agency for use on tobacco in the United States; or

(D) in the case of imported tobacco, a residue of a pesticide or fungicide chemical that—

(i) is approved for use in the country of origin of the tobacco; and

(ii) has not been banned, and the registration of which has not been canceled, by the Environmental Protection Agency for use on tobacco in the United States) that may render it injurious to health; but, in case the substance is not an added substance, such tobacco product shall not be considered adulterated under this subsection if the quantity of such substance in such tobacco product does not ordinarily render it injurious to health;

(2) if there is significant scientific agreement that, as a result of the tobacco it contains, the tobacco product presents a risk to human health that is materially higher than the risk presented by—

(A) such product on the effective date of this Act; or

(B) if such product was not distributed commercially domestically on that date, by comparable tobacco products of the same style and within the same category that were commercially distributed domestically on that date;

(3) if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth;

(4) if its package is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health; or

(5) if its "tar" yield is in violation of section 111.

#### **SEC. 106. MISBRANDED TOBACCO PRODUCTS.**

A tobacco product shall be deemed to be misbranded—

(1) if its labeling is false or misleading in any particular;

(2) if in package form unless it bears a label containing—

(A) an identification of the type of product it is, by the common or usual name of such type of product;

(B) an accurate statement of the quantity of the contents in the package in terms of weight, measure, or numerical count, except that reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations promulgated by the Administrator;

(C) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

(D) the information required by section 201(c) and (e) or section 202(c) and (e), as applicable;

(3) if any word, statement, or other information required by or under authority of this Act to appear on the label, labeling, or advertising is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs on the label, labeling, or advertising, as applicable) and in such terms as to render it reasonably likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) if any word, statement, or other information is required by or under this Act to appear on the label, unless such word, statement, or other information also appears on the outside container or wrapper, if any, of

the retail package of such tobacco product, or is easily legible through the outside container or wrapper;

(5) if it was manufactured, prepared, or processed in an establishment not duly registered under section 109, if it was not included in a list required by section 109, or if a notice or other information respecting it was not provided as required by section 109;

(6) if its packaging, labeling, or advertising is in violation of this Act or of an applicable regulation promulgated in accordance with this Act;

(7) if it contains tobacco or another ingredient as to which a required disclosure under this Act was not made;

(8) if it is labeled or advertised, or the tobacco contained in it is advertised, as—

(A) containing "no additives," or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: "No additives in our tobacco does NOT mean safer."; or

(B) being "natural," or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: "Natural does NOT mean safer.";

(9) if in its labeling or advertising a term descriptive of the tobacco in the tobacco product is used otherwise than in accordance with a sanction or approval granted by a Federal agency;

(10) if with respect to such tobacco product a disclosure required by section 603 was not made;

(11) if with respect to such tobacco product a certification required by section 803 was not submitted or is materially false or misleading; or

(12) if its manufacturer or distributor made with respect to it a claim prohibited by section 115.

#### **SEC. 107. SUBMISSION OF HEALTH INFORMATION TO THE ADMINISTRATOR.**

(a) REQUIREMENT.—Each tobacco product manufacturer or importer, or agents thereof, shall submit to the Administrator the following information:

(1) Not later than 18 months after the date of enactment of the Act, a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and brand style.

(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Administrator in accordance with section 4(e) of the Federal Cigarette Labeling and Advertising Act.

(3) Beginning 4 years after the date of enactment of this Act, a listing of all constituents, including smoke constituents as applicable, identified by the Administrator as harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand.

(b) DATA SUBMISSION.—At the request of the Administrator, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health,

toxicological, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a significant reduction in risk to health from tobacco products can occur upon the employment of technology available to the manufacturer.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

**(c) DATA LIST.—**

(1) **IN GENERAL.**—Not later than 4 years after the date of enactment of the Act, and annually thereafter, the Administrator shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Administrator) the list established under subsection (d).

(2) **CONSUMER RESEARCH.**—The Administrator shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Act, the Administrator shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

(d) **DATA COLLECTION.**—Not later than 36 months after the date of enactment of this Act, the Administrator shall establish, and periodically revise as appropriate, a list of harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand.

**SEC. 108. REGISTRATION AND LISTING.**

(a) **DEFINITIONS.**—As used in this section:

(1) The term “manufacture, preparation, or processing” shall include repackaging or otherwise changing the container, wrapper, or label of any tobacco product package other than the carton in furtherance of the distribution of the tobacco product from the original place of manufacture to the person that makes final delivery or sale to the ultimate consumer or user, but shall not include the addition of a tax marking or other marking required by law to an already packaged tobacco product.

(2) The term “name” shall include in the case of a partnership the name of the general partner and, in the case of a privately held corporation, the name of the chief executive officer of the corporation and the State of incorporation.

(b) **ANNUAL REGISTRATION.**—Commencing one year after enactment, on or before December 31 of each year, every person that owns or operates any establishment in any State engaged in the manufacture, preparation, or processing of a tobacco product or products for commercial distribution domestically shall register with the Administrator its name, places of business, and all such establishments.

(c) **NEW PRODUCERS.**—Every person upon first engaging, for commercial distribution domestically, in the manufacture, preparation, or processing of a tobacco product or products in any establishment that it owns or operates in any State shall immediately register with the Administrator its name, places of business, and such establishment.

(d) **REGISTRATION OF FOREIGN ESTABLISHMENTS.**—

(1) Commencing one year after enactment of this Act, on or before December 31 of each year, the person that, within any foreign country, owns or operates any establishment engaged in the manufacture, preparation, or processing of a tobacco product that is imported or offered for import into the United States shall, through electronic means or other means permitted by the Administrator, register with the Administrator the name and place of business of each such establishment, the name of the United States agent for the establishment, and the name of each importer of such tobacco product in the United States that is known to such person.

(2) Such person also shall provide the information required by subsection (j), including sales made by mail, or through the Internet, or other electronic means.

(3) The Administrator is authorized to enter into cooperative arrangements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether tobacco products manufactured, prepared, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 708.

(e) **ADDITIONAL ESTABLISHMENTS.**—Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Administrator any additional establishment that it owns or operates and in which it begins the manufacture, preparation, or processing of a tobacco product or products for commercial distribution domestically or for import into the United States.

(f) **EXCLUSIONS FROM APPLICATION OF THIS SECTION.**—The foregoing subsections of this section shall not apply to—

(1) persons that manufacture, prepare, or process tobacco products solely for use in research, teaching, chemical or biological analysis, or export; or

(2) such other classes of persons as the Administrator may by regulation exempt from the application of this section upon a finding that registration by such classes of persons in accordance with this section is not necessary for the protection of the public health.

(g) **INSPECTION OF PREMISES.**—Every establishment registered with the Administrator pursuant to this section shall be subject to inspection pursuant to section 706; and every such establishment engaged in the manufacture, preparation, or processing of a tobacco product or products shall be so inspected by one or more officers or employees duly designated by the Administrator at least once in the two-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive two-year period thereafter, except that inspection of establishments outside the United States may be conducted by other personnel pursuant to a cooperative arrangement under subsection (d)(3).

(h) **FILING OF LISTS OF TOBACCO PRODUCTS MANUFACTURED, PREPARED, OR PROCESSED BY REGISTRANTS; STATEMENTS; ACCOMPANYING DISCLOSURES.**—

(1) Every person that registers with the Administrator under subsection (b), (c), (d), or (e) shall, at the time of registration under any such subsection, file with the Administrator a list of all brand styles (with each brand style in each list listed by the common or usual name of the tobacco product category to which it belongs and by any proprietary name) that are being manufactured,

prepared, or processed by such person for commercial distribution domestically or for import into the United States, and that such person has not included in any list of tobacco products filed by such person with the Administrator under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Administrator may prescribe, and shall be accompanied by the label for each such brand style and a representative sampling of any other labeling and advertising for each;

(2) Each person that registers with the Administrator under this section shall report to the Administrator each August for the preceding six-month period from January through June, and each February for the preceding six-month period from July through December, following information:

(A) A list of each brand style introduced by the registrant for commercial distribution domestically or for import into the United States that has not been included in any list previously filed by such registrant with the Administrator under this subparagraph or paragraph (1). A list under this subparagraph shall list a brand style by the common or usual name of the tobacco product category to which it belongs and by any proprietary name, and shall be accompanied by the other information required by paragraph (1).

(B) If since the date the registrant last made a report under this paragraph (or if such registrant has not previously made a report under this paragraph, since the effective date of this Act) such registrant has discontinued the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of a brand style included in a list filed by such registrant under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity (by the common or usual name of the tobacco product category to which it belongs and by any proprietary name) of such tobacco product.

(C) If, since the date the registrant reported pursuant to subparagraph (B) a notice of discontinuance of a tobacco product, the registrant has resumed the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of that brand style, notice of such resumption, the date of such resumption, the identity of such brand style (by the common or usual name of the tobacco product category to which it belongs and by any proprietary name), and the other information required by paragraph (1), unless the registrant has previously reported such resumption to the Administrator pursuant to this subparagraph.

(D) Any material change in any information previously submitted pursuant to this paragraph (2) or paragraph (1).

(i) **ELECTRONIC REGISTRATION.**—Registrations under subsections (b), (c), (d), and (e) (including the submission of updated information) shall be submitted to the Administrator by electronic means, unless the Administrator grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.

**SEC. 109. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.**

(a) **IN GENERAL.**—Any requirement established by or under section 106, 107, or 113 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product

has been changed by action taken under section 111, section 114, section 115, or subsection (d) of this section, and any requirement established by or under section 106, 107, or 113 which is inconsistent with a requirement imposed on such tobacco product under section 111, section 114, section 115, or subsection (d) of this section shall not apply to such tobacco product.

(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking or other notification under section 111, 112, 113, 114, or 115 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Administrator by a notice published in the Federal Register stating good cause therefore.

(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Administrator or the Administrator's representative under section 107, 108, 111, 112, 113, 114, 115, or 504, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(d) RESTRICTIONS.—

(1) IN GENERAL.—The Administrator may issue regulations, consistent with this Act, regarding tobacco products if the Administrator determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the users of the tobacco product, and taking into account that the standard is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Administrator may in such regulation prescribe.

(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

(A) IN GENERAL.—In applying manufacturing restrictions to tobacco, the Administrator shall, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point method-

ology, as prescribed in such regulations to assure that the public health is protected and that the tobacco product is in compliance with this Act. Such regulations may provide for the testing of raw tobacco for pesticide chemical residues after a tolerance for such chemical residues has been established.

(B) REQUIREMENTS.—The Administrator shall—

(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

(iii) provide the Tobacco Products Scientific Advisory Committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices but no earlier than four years from date of enactment.

(C) ADDITIONAL SPECIAL RULE.—A tobacco product manufactured in or imported into the United States shall not contain foreign-grown flue-cured or burley tobacco that—

(i) was knowingly grown or processed using a pesticide chemical that is not approved under applicable Federal law for use in domestic tobacco farming and processing; or

(ii) in the case of a pesticide chemical that is so approved, was grown or processed using the pesticide chemical in a manner inconsistent with the approved labeling for use of the pesticide chemical in domestic tobacco farming and processing.

(D) EXCLUSION.—Subparagraph (C)(ii) shall not apply to tobacco products manufactured with foreign-grown flue-cured or burley tobacco so long as that foreign grown tobacco was either—

(i) in the inventory of a manufacturer prior to the effective date, or

(ii) planted by the farmer prior to the effective date of this Act and utilized by the manufacturer no later than 3 years after the effective date.

(E) SETTING OF MAXIMUM RESIDUE LIMITS.—The Administrator shall adopt the following pesticide residue standards:

Pesticide residue standards

The maximum concentration of residues of the following pesticides allowed in flue-cured or burley tobacco, expressed as parts by weight of the residue per one million parts by weight of the tobacco (PPM) are:

CHLORDANE.....3.0  
DIBROMOCHLOROPROPANE  
(DBCP).....1.0  
DICAMBA (Temporary).... 5.0  
ENDRIN.....0.1  
ETHYLENE DIBROMIDE (EDB)....0.1  
FORMOTHION.....0.5  
HEXACHLOROBENZENE (HCB)....0.1  
METHOXYCHLOR.....0.1  
TOXAPHENE.....0.3  
2,4-D (Temporary).....5.0  
2,4,5-T.....0.1  
Sum of ALDRIN and DIELDRIN.....0.1

Sum of CYPERMETHRIN and PERMETHRIN (Temporary).....3.0

Sum of DDT, TDE (DDD), and DDE .....0.4

Sum of HEPTACHLOR and HEPTACHLOR EPOXIDE.....0.1

(F) MAXIMUM RESIDUE LIMITS.—The Administrator shall adopt regulations within one year of the effective date of this Act to establish maximum residue limits for pesticides identified under subparagraph (E) but not included in the table of such subparagraph to account for the fact that weather and agronomic conditions will cause pesticides identified in subparagraph (E) to be detected in foreign-grown tobacco even where the farmer has not knowingly added such pesticide.

(2) EXEMPTIONS; VARIANCES.—

(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Administrator for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Administrator in such form and manner as the Administrator shall prescribe and shall—

(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this Act;

(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

(iii) contain such other information as the Administrator shall prescribe.

(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Administrator may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Administrator with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

(i) the date the petition was submitted to the Administrator under subparagraph (A); or

(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Administrator shall by order either deny the petition or approve it.

(C) APPROVAL.—The Administrator may approve—

(i) a petition for an exemption for a tobacco product from a requirement if the Administrator determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this Act; and

(ii) a petition for a variance for a tobacco product from a requirement if the Administrator determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this Act.

(D) CONDITIONS.—An order of the Administrator approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing,



and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this Act.

(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the end of the 3-year period following the date of enactment of this Act.

(f) RESEARCH AND DEVELOPMENT.—The Administrator may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes.

#### SEC. 110. SMOKING ARTICLE STANDARDS.

(a) IN GENERAL.—

(1) RESTRICTIONS ON DESCRIPTORS USED IN MARKETING OF CIGARETTES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no person shall use, with respect to any cigarette brand style commercially distributed domestically, on the portion of the package of such cigarette brand style that customarily is visible to consumers before purchase, or in advertising of such cigarette brand style any of the following as a descriptor of any cigarette brand style—

- (i) the name of any candy or fruit;
- (ii) the word “candy,” “citrus,” “cream,” “fruit,” “sugar,” “sweet,” “tangy,” or “tart,”; or
- (iii) any extension or variation of any of the words “candy,” “citrus,” “cream,” “fruit,” “sugar,” “sweet,” “tangy,” or “tart,” including but not limited to “creamy,” or “fruity.”

(B) LIMITATION.—Subparagraph (A) shall not apply to the use of the following words or to any extension or variation of any of them: “clove” and “menthol.”

(C) SCENTED MATERIALS.—No person shall use, in the advertising or labeling of any cigarette commercially distributed domestically, any scented materials, except in an adult-only facility.

(D) DEFINITIONS.—In this section:

(i) The term “candy” means a confection made from sugar or sugar substitute, including any confection identified generically or by brand, and shall include the words “cacao,” “chocolate,” “cinnamon,” “cocoa,” “honey,” “licorice,” “maple,” “mocha,” and “vanilla.”

(ii) The term “fruit” means any fruit identified by generic name, type, or variety, including but not limited to “apple,” “banana,” “cherry,” and “orange.” The term “fruit” does not include words that identify seeds, nuts or peppers, or types or varieties thereof or words that are extensions or variations of such words.

(2) SMOKING ARTICLE STANDARDS.—

(A) IN GENERAL.—The Administrator may adopt smoking article standards in addition to those in paragraph (1) if the Administrator finds that a smoking article standard is appropriate for the protection of the public health.

(B) DETERMINATIONS.—

(i) CONSIDERATIONS.—In making a finding described in subparagraph (A), the Administrator shall consider scientific evidence concerning—

(I) the risks and benefits to the users of smoking articles of the proposed standard; and

(II) that the standard is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(ii) ADDITIONAL CONSIDERATIONS.—In the event that the Administrator makes a determination, set forth in a proposed smoking article standard in a proposed rule, that it is appropriate for the protection of public health to require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a smoking article because the Administrator has found that the additive, constituent, or other component is harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Administrator’s consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

(3) CONTENT OF SMOKING ARTICLE STANDARDS.—A smoking article standard established under this section for a smoking article—

(A) may include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

- (i) for “tar” and nicotine yields of the product;
- (ii) for the reduction of other constituents, including smoke constituents, or harmful components of the product; or
- (iii) relating to any other requirement under subparagraph (B); and

(B) may, where appropriate for the protection of the public health, include—

- (i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the smoking article;
- (ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the smoking article;
- (iii) provisions for the measurement of the smoking article characteristics of the smoking article; and
- (iv) provisions requiring that the results of each or of certain of the tests of the smoking article required to be made under clause (ii) show that the smoking article is in conformity with the portions of the standard for which the test or tests were required.

(4) PERIODIC REEVALUATION OF SMOKING ARTICLE STANDARDS.—The Administrator may provide for periodic evaluation of smoking article standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data.

(5) CIGARETTE “TAR” LIMITS.—

(A) NO INCREASE IN “TAR” YIELDS.—No cigarette manufacturer shall distribute for sale domestically a brand style of cigarettes that generates a “tar” yield greater than the “tar” yield of that brand style of cigarettes on the date of introduction of this Act, as determined by the ISO smoking regimen and its associated tolerances. The “tar” tolerances for cigarettes with ISO “tar” yields in the range of 1 to 20 milligrams per cigarette, based on variations arising from sampling procedure, test method, and sampled product, itself, are the greater of plus or minus—

- (i) 15 percent; or
  - (ii) 1 milligram per cigarette.
- (B) LIMIT ON NEW CIGARETTES.—After the effective date of this Act, no cigarette manufacturer shall manufacture for commercial distribution domestically a brand style of cigarettes that both—

- (i) was not in commercial distribution domestically on the effective date of this Act, and
- (ii) generates a “tar” yield of greater than 20 milligrams per cigarette as determined by

the ISO smoking regimen and its associated tolerances.

(C) LIMIT ON ALL CIGARETTES.—After December 31, 2010, no cigarette manufacturer shall manufacture for commercial distribution domestically a brand style of cigarettes that generates a “tar” yield greater than 20 milligrams per cigarette as determined by the ISO smoking regimen and its associated tolerances.

(D) REVIEW BY ADMINISTRATOR.—After the effective date of this Act, the Administrator shall evaluate the available scientific evidence addressing the potential relationship between historical “tar” yield values and risk of harm to smokers. If upon a review of that evidence, and after consultation with technical experts of the Tobacco Harm Reduction Center and the Centers for Disease Control and Prevention and notice and an opportunity for public comment, the Administrator determines, that a reduction in “tar” yield may reasonably be expected to provide a meaningful reduction of the risk or risks of harm to smokers, the Administrator shall issue an order that—

(i) provides that no cigarette manufacturer shall manufacture for commercial distribution domestically a cigarette that generates a “tar” yield that exceeds 14 milligrams as determined by the ISO smoking regimen and its associated tolerances; and

(ii) provides a reasonable time for manufacturers to come into compliance with such prohibition.

(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Administrator shall endeavor to—

(A) use personnel, facilities, and other technical support available in other Federal agencies;

(B) consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Administrator’s judgment can make a significant contribution.

(b) CONSIDERATIONS BY ADMINISTRATOR.—

(1) TECHNICAL ACHIEVABILITY.—The Administrator shall consider information submitted in connection with a proposed standard regarding the technical achievability of compliance with such standard.

(2) OTHER CONSIDERATIONS.—The Administrator shall consider all other information submitted in connection with a proposed standard, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this Act and the significance of such demand.

(c) PROPOSED STANDARDS.—

(1) IN GENERAL.—The Administrator shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any smoking article standard.

(2) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a smoking article standard shall—

(A) set forth a finding with supporting justification that the smoking article standard is appropriate for the protection of the public health;

(B) invite interested persons to submit a draft or proposed smoking article standard for consideration by the Administrator;

(C) invite interested persons to submit comments on structuring the standard so that it does not advantage foreign-grown tobacco over domestically grown tobacco; and

(D) invite the Secretary of Agriculture to provide any information or analysis which the Secretary of Agriculture believes is relevant to the proposed smoking article standard.

(3) FINDING.—A notice of proposed rulemaking for the revocation of a smoking article standard shall set forth a finding with supporting justification that the smoking article standard is no longer appropriate for the protection of the public health.

(4) COMMENT.—The Administrator shall provide for a comment period of not less than 90 days.

(d) PROMULGATION.—

(1) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under subsection (c) respecting a standard and after consideration of comments submitted under subsections (b) and (c) and any report from the Tobacco Products Scientific Advisory Committee, if the Administrator determines that the standard would be appropriate for the protection of the public health, the Administrator shall—

(A) promulgate a regulation establishing a smoking article standard and publish in the Federal Register findings on the matters referred to in subsection (c); or

(B) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

(2) EFFECTIVE DATE.—A regulation establishing a smoking article standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Administrator determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade. In establishing such effective date or dates, the Administrator shall consider information submitted in connection with a proposed product standard by interested parties, including manufacturers and tobacco growers, regarding the technical achievability of compliance with the standard, and including information concerning the existence of patents that make it impossible to comply in the timeframe envisioned in the proposed standard.

(3) LIMITATION ON POWER GRANTED.—Because of the importance of a decision of the Administrator to issue a regulation—

(A) banning cigarettes, smokeless smoking articles, little cigars, cigars other than little cigars, pipe tobacco, or roll-your-own smoking articles;

(B) requiring the reduction of “tar” or nicotine yields of a smoking article to zero;

(C) prohibiting the sale of any smoking article in face-to-face transactions by a specific category of retail outlets;

(D) establishing a minimum age of sale of smoking articles to any person older than 18 years of age; or

(E) requiring that the sale or distribution of a smoking article be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products, the Administrator is prohibited from taking such actions under this Act.

(4) MATCHBOOKS.—For purposes of any regulations issued by the Administrator under

this Act, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of smoking articles, shall be considered as adult-written publications which shall be permitted to contain advertising.

(5) AMENDMENT; REVOCATION.—

(A) AUTHORITY.—The Administrator, upon the Administrator's own initiative or upon petition of an interested person, may by a regulation, promulgated in accordance with the requirements of subsection (c) and paragraph (2), amend or revoke a smoking article standard.

(B) EFFECTIVE DATE.—The Administrator may declare a proposed amendment of a smoking article standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Administrator determines that making it so effective is in the public interest.

(6) REFERRAL TO ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Administrator shall refer a proposed regulation for the establishment, amendment, or revocation of a smoking article standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.

(B) INITIATION OF REFERRAL.—The Administrator shall make a referral under this paragraph—

(i) on the Administrator's own initiative; or

(ii) upon the request of an interested person that—

(I) demonstrates good cause for the referral; and

(II) is made before the expiration of the period for submission of comments on the proposed regulation.

(C) PROVISION OF DATA.—If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Administrator shall provide the Advisory Committee with the data and information on which such proposed regulation is based.

(D) REPORT AND RECOMMENDATION.—The Tobacco Products Scientific Advisory Committee shall, within 90 days after the referral of a proposed regulation under this paragraph and after independent study of the data and information furnished to it by the Administrator and other data and information before it, submit to the Administrator a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

(E) PUBLIC AVAILABILITY.—The Administrator shall make a copy of each report and recommendation under subparagraph (D) publicly available.

#### SEC. 111. NOTIFICATION AND OTHER REMEDIES.

(a) NOTIFICATION.—If the Administrator determines that—

(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm materially above the risk for death and disease of tobacco products currently in interstate commerce, to the public health; and

(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this Act

(other than this section) to eliminate such risk,

the Administrator may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Administrator may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Administrator shall consult with the persons who are to give notice under the order.

(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

(c) RECALL AUTHORITY.—

(1) IN GENERAL.—If the Administrator finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, acute adverse health consequences or death, the Administrator shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Administrator determines that inadequate grounds exist to support the actions required by the order, the Administrator shall vacate the order.

(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Administrator determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Administrator shall, except as provided in subparagraph (B), amend the order to require a recall. The Administrator shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Administrator describing the progress of the recall.

(B) NOTICE.—An amended order under subparagraph (A)—

(i) shall not include recall of a tobacco product from individuals; and

(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Administrator may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Administrator shall notify such persons under section 705(b).

(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

#### SEC. 112. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such

records, make such reports, and provide such information, as the Administrator may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded.

#### SEC. 113. APPLICATION FOR REVIEW OF CERTAIN SMOKING ARTICLES.

##### (a) IN GENERAL.—

(1) NEW SMOKING ARTICLE DEFINED.—For purposes of this section the term “new smoking article” means—

(A) any smoking article that was not commercially marketed in the United States as of the date of enactment of this Act; and

(B) any smoking article that incorporates a significant modification (including changes in design, component, part, or constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or other additive or ingredient) of a smoking article where the modified product was commercially marketed in the United States after the date of enactment of this Act.

##### (2) PREMARKET REVIEW REQUIRED.—

(A) NEW PRODUCTS.—An order under subsection (c)(1)(A) for a new smoking article is required unless the product—

(i) is substantially equivalent to a smoking article commercially marketed in the United States as of date of enactment of this Act; and

(ii) is in compliance with the requirements of this Act.

(B) CONSUMER TESTING.—This section shall not apply to smoking articles that are provided to adult tobacco consumers for purposes of consumer testing. For purposes of this section, the term “consumer testing” means an assessment of smoking articles that is conducted by or under the control and direction of a manufacturer for the purpose of evaluating consumer acceptance of such smoking articles, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

##### (3) SUBSTANTIALLY EQUIVALENT DEFINED.—

(A) IN GENERAL.—In this section, the term “substantially equivalent” or “substantial equivalence” means, with respect to the smoking article being compared to the predicate smoking article, that the Administrator by order has found that the smoking article—

(i) has the same general characteristics as the predicate smoking article; or

(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Administrator, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health for the consumer of the product.

(B) CHARACTERISTICS.—In subparagraph (A), the term “characteristics” means the materials, ingredients, design, composition, heating source, or other features of a smoking article.

(C) LIMITATION.—A smoking article may not be found to be substantially equivalent to a predicate smoking article that has been removed from the market at the initiative of the Administrator or that has been determined by a judicial order to be misbranded or adulterated.

(4) HEALTH INFORMATION.—As part of a submission respecting a smoking article, the person required to file a premarket notification shall provide an adequate summary of any health information related to the smoking article or state that such information will be made available upon request by any person.

##### (b) APPLICATION.—

(1) CONTENTS.—An application under this section shall contain—

(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such smoking article and whether such smoking article presents less risk than other smoking articles;

(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such smoking article;

(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such smoking article;

(D) an identifying reference to any smoking article standard under section 111 which would be applicable to any aspect of such smoking article, and either adequate information to show that such aspect of such smoking article fully meets such smoking article standard or adequate information to justify any deviation from such standard;

(E) such samples of such smoking article and of components thereof as the Administrator may reasonably require;

(F) specimens of the labeling proposed to be used for such smoking article; and

(G) such other information relevant to the subject matter of the application as the Administrator may require.

(2) REFERRAL TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Administrator—

(A) may, on the Administrator's own initiative; or

(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Administrator may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

##### (c) ACTION ON APPLICATION.—

(1) DEADLINE.—As promptly as possible, but in no event later than 90 days after the receipt of an application under subsection (b), the Administrator, after considering the report and recommendation submitted under subsection (b)(2), shall—

(A) issue an order that the new product may be introduced or delivered for introduction into interstate commerce if the Administrator finds that none of the grounds specified in paragraph (2) of this subsection applies; or

(B) issue an order that the new product may not be introduced or delivered for introduction into interstate commerce if the Administrator finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

(2) DENIAL OF APPLICATION.—The Administrator shall deny an application submitted under subsection (b) if, upon the basis of the information submitted to the Administrator as part of the application and any other information before the Administrator with respect to such smoking article, the Administrator finds that—

(A) there is a lack of a showing that permitting such smoking article to be marketed would be appropriate for the protection of the public health;

(B) the methods used in, or the facilities or controls used for, the manufacture, proc-

essing, or packing of such smoking article do not conform to the requirements of section 110(e);

(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

(D) such smoking article is not shown to conform to a smoking article standard in effect under section 111, and there is a lack of adequate information to justify the deviation from such standard.

(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Administrator determines to be practicable, be accompanied by a statement informing the applicant of the measures required to remove such application from deniable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Administrator).

(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether the commercial introduction of a smoking article for which an application has been submitted is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the users of the smoking article, and taking into account whether such commercial introduction is reasonably likely to increase the morbidity and mortality among individual tobacco users.

(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

(1) IN GENERAL.—The Administrator shall, upon obtaining, where appropriate, advice on scientific matters from the Tobacco Products Scientific Advisory Committee, and after due notice and opportunity for informal hearing for a smoking article for which an order was issued under subsection (c)(1)(A), issue an order withdrawing the order if the Administrator finds—

(A) that the continued marketing of such smoking article no longer is appropriate for the protection of the public health;

(B) that the application contained or was accompanied by an untrue statement of a material fact;

(C) that the applicant—

(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 113; or

(ii) has refused to permit access to, or copying or verification of, such records as required by section 110; or

(D) on the basis of new information before the Administrator with respect to such smoking article, evaluated together with the evidence before the Administrator when the application was reviewed, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such smoking article do not conform with the requirements of section 110(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Administrator of nonconformity;

(E) on the basis of new information before the Administrator, evaluated together with the evidence before the Administrator when the application was reviewed, that the labeling of such smoking article, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Administrator of such fact; or

(F) on the basis of new information before the Administrator, evaluated together with the evidence before the Administrator when

such order was issued, that such smoking article is not shown to conform in all respects to a smoking article standard which is in effect under section 111, compliance with which was a condition to the issuance of an order relating to the application, and that there is a lack of adequate information to justify the deviation from such standard.

(2) **APPEAL.**—The holder of an application subject to an order issued under paragraph (1) withdrawing an order issued pursuant to subsection (c)(1)(A) may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with section 116.

(3) **TEMPORARY SUSPENSION.**—If, after providing an opportunity for an informal hearing, the Administrator determines there is reasonable probability that the continuation of distribution of a smoking article under an order would cause serious, adverse health consequences or death, that is greater than ordinarily caused by smoking articles on the market, the Administrator shall by order temporarily suspend the authority of the manufacturer to market the product. If the Administrator issues such an order, the Administrator shall proceed expeditiously under paragraph (1) to withdraw such application.

(e) **SERVICE OF ORDER.**—An order issued by the Administrator under this section shall be served—

(1) in person by any officer or employee of the department designated by the Administrator; or

(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Administrator.

(f) **RECORDS.**—

(1) **ADDITIONAL INFORMATION.**—In the case of any smoking article for which an order issued pursuant to subsection (c)(1)(A) for an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Administrator, as the Administrator may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Administrator to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such order.

(2) **ACCESS TO RECORDS.**—Each person required under this section to maintain records, and each person in charge of custody thereof, shall, upon request of an officer or employee designated by the Administrator, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

(g) **INVESTIGATIONAL SMOKING ARTICLE EXEMPTION FOR INVESTIGATIONAL USE.**—The Administrator may exempt smoking articles intended for investigational use from the provisions of this Act under such conditions as the Administrator may by regulation prescribe.

#### **SEC. 114. MODIFIED RISK TOBACCO PRODUCTS.**

(a) **IN GENERAL.**—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless an order issued pursuant to subsection (g) is effective with respect to such product.

(b) **DEFINITIONS.**—In this section:

(1) **MODIFIED RISK TOBACCO PRODUCT.**—The term “modified risk tobacco product” means any tobacco product that is sold or distributed for use to reduce harm or the risk of to-

bacco-related disease associated with commercially marketed tobacco products.

(2) **SOLD OR DISTRIBUTED.**—

(A) **IN GENERAL.**—With respect to a tobacco product, the term “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products” means a tobacco product—

(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

(III) the tobacco product or its smoke does not contain or is free of a substance;

(ii) the label, labeling, or advertising of which uses the descriptors “light”, “mild”, “low”, “medium”, “ultra light”, “low tar” or “ultra low tar”; or

(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling, or advertising, after the date of enactment of the Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

(B) **LIMITATION.**—No tobacco product shall be considered to be “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products”, except as described in subparagraph (A).

(C) **SMOKELESS TOBACCO PRODUCT.**—No smokeless tobacco product shall be considered to be “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products”.

(3) **EFFECTIVE DATE.**—The provisions of paragraph (2)(A)(ii) shall take effect 12 months after the date of enactment of the Act.

(c) **TOBACCO DEPENDENCE PRODUCTS.**—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section if it has been approved as a drug or device by the Center and is subject to the requirements of chapter V.

(d) **FILING.**—Any person may file with the Administrator an application for a modified risk tobacco product. Such application shall include—

(1) a description of the proposed product and any proposed advertising and labeling;

(2) the conditions for using the product;

(3) the formulation of the product;

(4) sample product labels and labeling;

(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

(6) data and information on how consumers actually use the tobacco product; and

(7) such other information as the Administrator may require.

(e) **PUBLIC AVAILABILITY.**—The Administrator shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

(f) **ADVISORY COMMITTEE.**—

(1) **IN GENERAL.**—The Administrator shall refer to the Tobacco Products Scientific Advisory Committee any application submitted under this section.

(2) **RECOMMENDATIONS.**—Not later than 60 days after the date an application is referred to the Tobacco Products Scientific Advisory Committee under paragraph (1), the Advisory Committee shall report its recommendations on the application to the Administrator.

(g) **MARKETING.**—

(1) **MODIFIED RISK PRODUCTS.**—Except as provided in paragraph (2), the Administrator shall, with respect to an application submitted under this section, issue an order that a modified risk product may be commercially marketed only if the Administrator determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

(B) is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(2) **SPECIAL RULE FOR CERTAIN PRODUCTS.**—

(A) **IN GENERAL.**—The Administrator may issue an order that a tobacco product may be introduced or delivered for introduction into interstate commerce, pursuant to an application under this section, with respect to a tobacco product that may not be commercially marketed under paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

(i) such order would be appropriate to promote the public health;

(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b) is limited to an explicit or implicit representation that such tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;

(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies.

(B) **ADDITIONAL FINDINGS REQUIRED.**—To issue an order under subparagraph (A) the Administrator must also find that the applicant has demonstrated that—

(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually

used exposes consumers to the specified reduced level of the substance or substances;

(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

(I) is or has been demonstrated to be significantly less harmful; or

(II) presents or has been demonstrated to present significant less of a risk of disease than other commercially marketed tobacco products; and

(iv) issuance of an order with respect to the application is expected to benefit the health of users of tobacco products.

(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

(A) the scientific evidence submitted by the applicant; and

(B) scientific evidence and other information that is made available to the Administrator.

(h) ADDITIONAL CONDITIONS FOR MARKETING.—

(1) MODIFIED RISK PRODUCTS.—The Administrator shall require for the marketing of a product under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

(2) COMPARATIVE CLAIMS.—

(A) IN GENERAL.—The Administrator may require for the marketing of a product under this subsection that a claim comparing a tobacco product to other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

(B) QUANTITATIVE COMPARISONS.—The Administrator may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

(i) POSTMARKET SURVEILLANCE AND STUDIES.—

(1) IN GENERAL.—The Administrator shall require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the applicant conduct postmarket surveillance and studies for such a tobacco product to determine the impact of the order issuance on consumer perception, behavior, and health, to enable the Administrator to review the accuracy of the determinations upon which the order was based, and to provide information that the Administrator determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of postmarket surveillance and studies shall be submitted to the Administrator on an annual basis.

(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Administrator, a protocol for the required surveillance. The Administrator, within 30 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Administrator as necessary to protect the public health.

(j) WITHDRAWAL OF AUTHORIZATION.—The Administrator, after an opportunity for an informal hearing, shall withdraw an order under subsection (g) if the Administrator determines that—

(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Administrator can no longer make the determinations required under subsection (g);

(2) the application failed to include material information or included any untrue statement of material fact;

(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

(A) a tobacco product standard is established pursuant to section 111;

(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

(C) any postmarket surveillance or studies reveal that the order is no longer consistent with the protection of the public health;

(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or subsection (i); or

(5) the applicant failed to meet a condition imposed under subsection (h).

(k) CHAPTER IV OR V.—A product for which the Administrator has issued an order pursuant to subsection (g) shall not be subject to chapter IV or V of the Federal Food, Drug, and Cosmetic Act.

(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Act, the Administrator shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

(A) to the extent that adequate scientific evidence exists, establish minimum standards for scientific studies needed prior to issuing an order under subsection (g) to show a reasonable likelihood that a substantial reduction in morbidity or mortality among individual tobacco users occurs for products described in subsection (g)(1) or is reasonably likely for products described in subsection (g)(2);

(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

(C) establish minimum standards for postmarket studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

(E) establish a reasonable timetable for the Administrator to review an application under this section.

(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) may be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Act, the Administrator shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 114 and which the applicant seeks to commercially market under this section.

#### SEC. 115. JUDICIAL REVIEW.

(a) RIGHT TO REVIEW.—

(1) IN GENERAL.—Not later than 60 days after—

(A) the promulgation of a regulation under section 111 establishing, amending, or revoking a tobacco product standard; or

(B) a denial of an application under section 114(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

(2) REQUIREMENTS.—

(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Administrator.

(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Administrator shall file in the court in which such petition was filed—

(i) the record of the proceedings on which the regulation or order was based; and

(ii) a statement of the reasons for the issuance of such a regulation or order.

(C) DEFINITION OF RECORD.—In this section, the term “record” means—

(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

(ii) all information submitted to the Administrator with respect to such regulation or order;

(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

(iv) any hearing held with respect to such regulation or order; and

(v) any other information identified by the Administrator, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

(c) **FINALITY OF JUDGMENT.**—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) **OTHER REMEDIES.**—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

(e) **REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.**—To facilitate judicial review, a regulation or order issued under section 110, 111, 112, 113, 114, or 119 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

#### **SEC. 116. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.**

Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

#### **SEC. 117. REGULATION REQUIREMENT.**

(a) **TESTING, REPORTING, AND DISCLOSURE.**—Not later than 36 months after the date of enactment of the Act, the Administrator shall promulgate regulations under this Act that meet the requirements of subsection (b).

(b) **CONTENTS OF RULES.**—The regulations promulgated under subsection (a)—

(1) shall require annual testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand style that the Administrator determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand style; and

(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising.

(c) **AUTHORITY.**—The Administrator shall have the authority under this Act to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

(d) **JOINT LABORATORY TESTING SERVICES.**—The Administrator shall allow any 2 or more tobacco product manufacturers to join together to purchase laboratory testing services required by this section on a group basis in order to ensure that such manufacturers receive access to, and fair pricing of, such testing services.

(e) **EXTENSIONS FOR LIMITED LABORATORY CAPACITY.**—

(1) **IN GENERAL.**—The regulations promulgated under subsection (a) shall provide that a tobacco product manufacturer shall not be considered to be in violation of this section before the applicable deadline, if—

(A) the tobacco products of such manufacturer are in compliance with all other requirements of this Act; and

(B) the conditions described in paragraph (2) are met.

(2) **CONDITIONS.**—Notwithstanding the requirements of this section, the Administrator may delay the date by which a to-

bacco product manufacturer must be in compliance with the testing and reporting required by this section until such time as the testing is reported if, not later than 90 days before the deadline for reporting in accordance with this section, a tobacco product manufacturer provides evidence to the Administrator demonstrating that—

(A) the manufacturer has submitted the required products for testing to a laboratory and has done so sufficiently in advance of the deadline to create a reasonable expectation of completion by the deadline;

(B) the products currently are awaiting testing by the laboratory; and

(C) neither that laboratory nor any other laboratory is able to complete testing by the deadline at customary, nonexpedited testing fees.

(3) **EXTENSION.**—The Administrator, taking into account the laboratory testing capacity that is available to tobacco product manufacturers, shall review and verify the evidence submitted by a tobacco product manufacturer in accordance with paragraph (2). If the Administrator finds that the conditions described in such paragraph are met, the Administrator shall notify the tobacco product manufacturer that the manufacturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Administrator has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Administrator finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

(4) **ADDITIONAL EXTENSION.**—In addition to the time that may be provided under paragraph (3), the Administrator may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Administrator determines, based on evidence properly and timely submitted by a tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

(f) **RULE OF CONSTRUCTION.**—Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this Act other than this section.

#### **SEC. 118. PRESERVATION OF STATE AND LOCAL AUTHORITY.**

(a) **IN GENERAL.**—

(1) **PRESERVATION.**—Except as provided in paragraph (2)(A), nothing in this Act, or rules promulgated under this Act, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to requirements established under this Act, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, or use of tobacco products by individuals of any age, information reporting to the State. No provision of this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(2) **PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.**—

(A) **IN GENERAL.**—No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this Act relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

(B) **EXCEPTION.**—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, use of, tobacco product by individuals of any age. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of title 5, United States Code, shall be treated as a trade secret and confidential information by the State.

(b) **RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.**—No provision of this Act relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

#### **SEC. 119. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a 16-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the “Advisory Committee”).

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—

(A) **MEMBERS.**—The Administrator shall appoint as members of the Tobacco Harm Reduction Advisory Committee individuals who are technically qualified by training and experience in medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

(i) 6 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

(ii) 2 individuals who are an officer or employee of a State or local government or of the Federal Government;

(iii) 2 representatives of the general public;

(iv) 2 representatives of the interests of the tobacco manufacturing industry;

(v) 1 representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee;

(vi) 1 individual as a representative of the interests of the tobacco growers; and

(vii) 1 individual who is an expert in illicit trade of tobacco products.

(B) **CONFLICTS OF INTEREST.**—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products or government agency with any form of jurisdiction over tobacco products.

(2) **LIMITATION.**—The Administrator may not appoint to the Advisory Committee any

individual who is in the regular full-time employ of the Tobacco Harm Reduction Center or any agency responsible for the enforcement of this Act. The Administrator may appoint Federal officials as ex officio members.

(3) **CHAIRPERSON.**—The Administrator shall designate 1 of the members appointed under clauses (i), (ii), and (iii) of paragraph (1)(A) to serve as chairperson.

(c) **DUTIES.**—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Administrator—

(1) as provided in this Act;

(2) on the implementation of prevention, cessation, and harm reduction policies;

(3) on implementation of policies and programs to fully inform consumers of the respective risks of tobacco products; and

(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Administrator.

(d) **COMPENSATION; SUPPORT; FACA.**—

(1) **COMPENSATION AND TRAVEL.**—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Administrator, which may not exceed the daily equivalent of the rate in effect under the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) **ADMINISTRATIVE SUPPORT.**—The Administrator shall furnish the Advisory Committee clerical and other assistance.

(3) **NONAPPLICATION OF FACA.**—Section 14 of the Federal Advisory Committee Act does not apply to the Advisory Committee.

(e) **PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.**—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

## **SEC. 120. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.**

(a) **REPORT ON INNOVATIVE PRODUCTS.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Administrator, after consultation with recognized scientific, medical, and public health experts (including both Federal agencies and nongovernmental entities, the Institute of Medicine of the National Academy of Sciences, and the Society for Research on Nicotine and Tobacco), shall submit to the Congress a report that examines how best to promote, and encourage the development and use by current tobacco users of innovative tobacco and nicotine products and treatments (including nicotine-based and non-nicotine-based products and treatments) to better achieve, in a manner that best protects and promotes the public health—

(A) total abstinence from tobacco use;

(B) reductions in consumption of tobacco; and

(C) reductions in the harm associated with continued tobacco use by moving current users to noncombustible tobacco products.

(2) **RECOMMENDATIONS.**—The report under paragraph (1) shall include the recommendations of the Administrator on how the Tobacco Harm and Reduction Center should coordinate and facilitate the exchange of information on such innovative products and treatments among relevant offices and centers within the Center and within the National Institutes of Health, the Centers for Disease Control and Prevention, and other relevant Federal and State agencies.

## **TITLE II—TOBACCO PRODUCTS WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE**

### **SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.**

(a) **AMENDMENT.**—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

#### **“SEC. 4. LABELING.**

“(a) **LABEL REQUIREMENTS.**—

“(1) **IN GENERAL.**—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

“**WARNING:** Cigarettes are addictive.

“**WARNING:** Tobacco smoke can harm your children.

“**WARNING:** Cigarettes cause fatal lung disease.

“**WARNING:** Cigarettes cause cancer.

“**WARNING:** Cigarettes cause strokes and heart disease.

“**WARNING:** Smoking during pregnancy can harm your baby.

“**WARNING:** Smoking can kill you.

“**WARNING:** Tobacco smoke causes fatal lung disease in nonsmokers.

“**WARNING:** Quitting smoking now greatly reduces serious risks to your health.

“(2) **PLACEMENT; TYPOGRAPHY; ETC.**—Each label statement required by paragraph (1) shall be located in the lower portion of the front panel of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise at least the bottom 25 percent of the front panel of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c).

“(3) **DOES NOT APPLY TO FOREIGN DISTRIBUTION.**—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) **APPLICABILITY TO RETAILERS.**—A retailer of cigarettes shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license or permit-holding smoking article manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) **ADVERTISING REQUIREMENTS.**—

“(1) **IN GENERAL.**—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2) **TYPOGRAPHY, ETC.**—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the bottom of each advertisement within the trim area. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

“(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) **MATCHBOOKS.**—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of smokeless tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(c) **MARKETING REQUIREMENTS.**—

“(1) **RANDOM DISPLAY.**—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(2) **ROTATION.**—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the smokeless tobacco product manufacturer,



importer, distributor, or retailer to, and approved by, the Secretary.

“(3) REVIEW.—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

“(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(B) assures that all of the labels required under this section will be displayed by the smokeless tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(4) APPLICABILITY TO RETAILERS.—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 24 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a).

#### SEC. 202. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

(a) AMENDMENT.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

##### “SEC. 3. SMOKELESS TOBACCO WARNING.

“(a) GENERAL RULE.—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

“WARNING: This product can cause mouth cancer.

“WARNING: This product can cause gum disease and tooth loss.

“WARNING: This product has significantly lower risks for diseases associated with cigarettes.

“WARNING: Smokeless tobacco is addictive.

“(2) The label statements required by paragraph (1) shall be introduced by each smokeless tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(3) The provisions of this subsection do not apply to a smokeless tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(4) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license- or permit-holding smokeless tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) REQUIRED LABELS.—

“(1) It shall be unlawful for any smokeless tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2)(A) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) For press and poster advertisements, each such statement and (where applicable) any required statement relating to nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement.

“(C) The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(D) The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(E) The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements.

“(F) The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement.

“(G) The label statements shall be in English, except that—

“(i) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(ii) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraphs (A) and (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the smokeless tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection.

“(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 24 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by subsection (a).

#### TITLE III—PUBLIC DISCLOSURES BY TOBACCO PRODUCTS MANUFACTURERS

##### SEC. 301. DISCLOSURES ON PACKAGES OF TOBACCO PRODUCTS.

(a) BACK FACE FOR REQUIRED DISCLOSURES.—For purposes of this section—

(1) the principal face of a package of a tobacco product is the face that has the largest surface area or, for faces with identical surface areas, any of the faces that have the largest surface area; a package shall not be characterized as having more than 2 principal faces;

(2) the front face shall be the principal face of the package;

(3) if the front and back faces are of different sizes in terms of area, then the larger face shall be the front face;

(4) the back face shall be the principal face of a package that is opposite the front face of the package;

(5) the bottom 50 percent of the back face of the package shall be allocated for required package disclosures in accordance with this section; and

(6) if a package of a tobacco product is cylindrical, a contiguous area constituting 30 percent of the total surface area of the cylinder shall be deemed the back face.

(b) REQUIRED INFORMATION ON BACK FACE.—Not later than 24 months after the effective date of this Act, the bottom 50 percent of the back face of a package of a tobacco product shall be available solely for disclosures required by or under this Act, the Federal Cigarette Labeling and Advertising Act, sections 1331–1340 of title 15, United States Code, and any other Federal statute. Such disclosures shall include—

(1) the printed name and address of the manufacturer, packer, or distributor, and any other identification associated with the manufacturer, packer, or distributor or with the tobacco product that the Administrator may require;

(2) a list of ingredients as required by subsection (e); and

(3) the appropriate tax registration number.

(c) **PACKAGE DISCLOSURE OF INGREDIENTS.**—Not later than 24 months after the effective date of this Act, the package of a tobacco product shall bear a list of the common or usual names of the ingredients present in the tobacco product in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients), that shall comply with the following:

(1) Such listing of ingredients shall appear under, or be conspicuously accompanied by, the heading “Tobacco and principal tobacco ingredients”.

(2) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(3) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(4) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(5) Preservatives may be listed as “preservatives” without naming each.

(6) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(7) The package say state “Not for sale to minors”.

(8) In the case of a package of cigarettes, the package shall state that smokeless tobacco has significantly lower risks for disease and death than cigarettes.

#### **SEC. 302. DISCLOSURES ON PACKAGES OF SMOKELESS TOBACCO.**

(a) **BACK FACE FOR REQUIRED DISCLOSURES.**—For purposes of this section—

(1) the principal face of a package of smokeless tobacco is the face that has the largest surface area or, for faces with identical surface areas, any of the faces that have the largest surface area; a package shall not be characterized as having more than two principal faces;

(2) the front or top face shall be the principal face of the package;

(3) if the front or top and back or bottom faces are of different sizes in terms of area, then the larger face shall be the front or top face;

(4) the back or bottom face of the package shall be the principal face of a package that is opposite the front or top face of the package;

(5) beginning 24 months after the effective date of this Act, 50 percent of the back or bottom face of the package shall be allocated for required package disclosures in accordance with this section; and

(6) if the package is cylindrical, a contiguous area constituting 30 percent of the total surface area of the cylinder shall be deemed the back face.

(b) **REQUIRED INFORMATION ON BACK OR BOTTOM FACE.**—50 percent of the back or bottom face of a package of smokeless tobacco shall be available solely for disclosures required by or under this Act, the Comprehensive Smokeless Tobacco Health Education Act of 1986, sections 4401–4408 of title 15, United States Code, and any other Federal statute. Such disclosures shall include a list of ingredients as required by subsection (e).

(c) **PACKAGE DISCLOSURE OF INGREDIENTS.**—Commencing 24 months after the effective date of this Act, a package of smokeless tobacco shall bear a list of the common or usual names of the ingredients present in the smokeless tobacco in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients).

(1) Such listing of ingredients shall appear under, or be conspicuously accompanied by,

the heading “Tobacco and principal tobacco ingredients”.

(2) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(3) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(4) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(5) Preservatives may be listed as “preservatives” without naming each.

(6) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(7) Not for sale to minors.

#### **SEC. 303. PUBLIC DISCLOSURE OF INGREDIENTS.**

(a) **REGULATIONS.**—Not later than 24 months after the effective date of this Act, the Administrator shall, by regulation, establish standards under which each tobacco product manufacturer shall disclose publicly, and update at least annually—

(1) a list of the ingredients it uses in each brand style it manufactures for commercial distribution domestically, as provided in subsection (b); and

(2) a composite list of all the ingredients it uses in any of the brand styles it manufactures for commercial distribution domestically, as provided in subsection (c).

(b) **INGREDIENTS TO BE DISCLOSED AS TO EACH BRAND STYLE.**—

(1) **IN GENERAL.**—With respect to the public disclosure required by subsection (a)(1), as to each brand style, the tobacco product manufacturer shall disclose the common or usual name of each ingredient present in the brand style in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients).

(2) **REQUIREMENTS.**—Disclosure under paragraph (1) shall comply with the following:

(A) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(B) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(C) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(D) Preservatives may be listed as “preservatives” without naming each.

(E) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(c) **AGGREGATE DISCLOSURE OF INGREDIENTS.**—

(1) **IN GENERAL.**—The public disclosure required of a tobacco product manufacturer by subsection (a)(2) shall consist of a single list of all ingredients used in any brand style a tobacco product manufacturer manufactures for commercial distribution domestically, without regard to the quantity used, and including, separately, each spice, each natural or artificial flavoring, and each preservative.

(2) **LISTING.**—The ingredients shall be listed by their respective common or usual names in descending order of predominance by the total weight used annually by the tobacco product manufacturer in manufacturing tobacco products for commercial distribution domestically.

(d) **NO REQUIRED DISCLOSURE OF QUANTITIES.**—The Administrator shall not require any public disclosure of quantitative information about any ingredient in a tobacco product.

(e) **DISCLOSURE ON WEBSITE.**—The public disclosures required by subsection (a) of this section may be by posting on an Internet-accessible website, or other location electronically accessible to the public, which is identified on all packages of a tobacco product manufacturer’s tobacco products.

(f) **TIMING OF INITIAL REQUIRED DISCLOSURES.**—No disclosure pursuant to this section shall be required to commence until the regulations under subsection (a) have been in effect for not less than 1 year.

#### **TITLE IV—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

##### **SEC. 401. STUDY AND REPORT ON ILLICIT TRADE.**

(a) The Administrator shall, after consultation with other relevant agencies including Customs and Tobacco Tax Bureau, conduct a study of trade in tobacco products that involves passage of tobacco products either between the States or from or to any other country across any border of the United States to—

(1) collect data on such trade in tobacco products, including illicit trade involving tobacco products, and make recommendations on the monitoring and enforcement of such trade;

(2) collect data on any advertising intended to be broadcast, transmitted, or distributed from or to the United States from or to another country and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, such advertising; and

(3) collect data on such trade in tobacco products by person that is not—

(A) a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement of November 23, 1998, between certain of the States and certain tobacco product manufacturers); or

(B) an affiliate or subsidiary of a participating manufacturer.

(b) Not later than 18 months after the effective date of this Act, the Administrator shall submit to the Secretary, and committees of relevant jurisdiction in Congress, a report the recommendations of the study conducted under subsection (a).

##### **SEC. 402. AMENDMENT TO SECTION 1926 OF THE PUBLIC HEALTH SERVICE ACT.**

Section 1926 of the Public Health Service Act (42 U.S.C. § 300x–26) is amended by adding at the end thereof the following:

“(e)(1) Subject to paragraphs (2) and (3), for the first fiscal year after enactment and each subsequent fiscal year, the Secretary shall reduce, as provided in subsection (h), the amount of any grant under section 300x–21 of this title for any State that does not have in effect a statute with substantially the following provisions:

##### **“SEC. 1. DISTRIBUTION TO MINORS.**

“(a) No person shall distribute a tobacco product to an individual under 18 years of age or a different minimum age established under State law. A person who violates this subsection is liable for a civil money penalty of not less than \$25 nor more than \$125 for each violation of this subsection;

“(b) The employer of an employee who has violated subsection (a) twice while in the employ of such employer is liable for a civil money penalty of \$125 for each subsequent violation by such employee.

“(c) It shall be a defense to a charge brought under subsection (a) that—

“(1) the defendant—

“(A) relied upon proof of age that appeared on its face to be valid in accordance with the Federal Tobacco Act of 2007;

“(B) had complied with the requirements of section 5 and, if applicable, section 7; or

“(C) relied upon a commercially available electronic age verification service to confirm that the person was an age-verified adult; or

“(2) the individual to whom the tobacco product was distributed was at the time of the distribution used in violation of subsection 8(b).

**“SEC. 2. PURCHASE, RECEIPT, OR POSSESSION BY MINORS PROHIBITED.**

“(a) An individual under 18 years of age or a different minimum age established under State law shall not purchase or attempt to purchase, receive or attempt to receive, possess or attempt to possess, a tobacco product. An individual who violates this subsection is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation, and shall be required to perform not less than four hours nor more than ten hours of community service. Upon the second or each subsequent violation of this subsection, such individual shall be required to perform not less than eight hours nor more than twenty hours of community service.

“(b) A law enforcement agency, upon determining that an individual under 18 years of age or a different minimum age established under State law allegedly purchased, received, possessed, or attempted to purchase, receive, or possess, a tobacco product in violation of subsection (a) shall notify the individual’s parent or parents, custodian, or guardian as to the nature of the alleged violation if the name and address of a parent or parents, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the individual who allegedly violated subsection (a) is cited by such agency for the violation. The notice may be made by any means reasonably calculated to give prompt actual notice, including notice in person, by telephone, or by first-class mail.

“(c) Subsection (a) does not prohibit an individual under 18 years of age or a different minimum age established under State law from possessing a tobacco product during regular working hours and in the course of such individual’s employment if the tobacco product is not possessed for such individual’s consumption.

**“SEC. 3. OUT-OF-PACKAGE DISTRIBUTION.**

“It shall be unlawful for any person to distribute cigarettes or a smokeless tobacco product other than in an unopened package that complies in full with section 108 of the Federal Tobacco Act of 2007. A person who distributes a cigarette or a smokeless tobacco product in violation of this section is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

**“SEC. 4. SIGNAGE.**

“It shall be unlawful for any person who sells tobacco products over-the-counter to fail to post conspicuously on the premises where such person sells tobacco products over-the-counter a sign communicating that—

“(1) the sale of tobacco products to individuals under 18 years of age or a different minimum age established under State law is prohibited by law;

“(2) the purchase of tobacco products by individuals under 18 years of age or a different minimum age established under State law is prohibited by law; and

“(3) proof of age may be demanded before tobacco products are sold. A person who fails to post a sign that complies fully with this section is liable for a civil money penalty of not less than \$25 nor more than \$125.

**“SEC. 5. NOTIFICATION OF EMPLOYEES.**

“(a) Within 180 days of the effective date of the Preventing Disease and Death from Tobacco Use Act, every person engaged in the business of selling tobacco products at retail shall implement a program to notify each employee employed by that person who sells tobacco products at retail that—

“(1) the sale or other distribution of tobacco products to any individual under 18 years of age or a different minimum age established under State law, and the purchase, receipt, or possession of tobacco products in a place open to the public by any individual under 18 years of age or a different minimum age established under State law, is prohibited; and

“(2) out-of-package distribution of cigarettes and smokeless tobacco products is prohibited.

Any employer failing to provide the required notice to any employee shall be liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

“(b) It shall be a defense to a charge that an employer violated subsection (a) of this section that the employee acknowledged receipt, either in writing or by electronic means, prior to the alleged violation, of a statement in substantially the following form:

“I understand that State law prohibits the distribution of tobacco products to individuals under 18 years of age or a different minimum age established under State law and out-of-package distribution of cigarettes and smokeless tobacco products, and permits a defense based on evidence that a prospective purchaser’s proof of age was reasonably relied upon and appeared on its face to be valid. I understand that if I sell, give, or voluntarily provide a tobacco product to an individual under 18 years of age or a different minimum age established under State law, I may be found responsible for a civil money penalty of not less than \$25 nor more than \$125 for each violation. I promise to comply with this law.”

“(c) If an employer is charged with a violation of subsection (a) and the employer uses as a defense to such charge the defense provided by subsection (b), the employer shall be deemed to be liable for such violation if such employer pays the penalty imposed on the employee involved in such violation or in any way reimburses the employee for such penalty.

**“SEC. 6. SELF-SERVICE DISPLAYS.**

“(a) It shall be unlawful for any person who sells tobacco products over-the-counter at retail to maintain packages of such products in any location accessible to customers that is not under the control of a cashier or other employee during regular business hours. This subsection does not apply to any adult-only facility.

“(b) Any person who violates subsection (a) is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation, except that no person shall be responsible for more than one violation per day at any one retail store.

**“SEC. 7. DISTRIBUTION BY MAIL OR COURIER.**

“(a) It shall be unlawful to distribute or sell tobacco products directly to consumers by mail or courier, unless the person receiving purchase requests for tobacco products takes reasonable action to prevent delivery to individuals who are not adults by—

“(1) requiring that addressees of the tobacco products be age-verified adults;

“(2) making good faith efforts to verify that such addressees have attained the minimum age for purchase of tobacco products

established by the respective States wherein the addresses of the addressees are located; and

“(3) addressing the tobacco products delivered by mail or courier to a physical addresses and not to post office boxes.

“(b) Any person who violates subsection (a) is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

**“SEC. 8. RANDOM UNANNOUNCED INSPECTIONS; REPORTING; AND COMPLIANCE.**

“(a) The State Police, or a local law enforcement authority duly designated by the State Police, shall enforce this Act in a manner that can reasonably be expected to reduce the extent to which tobacco products are distributed to individuals under 18 years of age or a different minimum age established under State law and shall conduct random, unannounced inspections in accordance with the procedures set forth in this Act and in regulations issued under section 1926 of the Federal Public Health Service Act (42 U.S.C. § 300x-26).

“(b) The State may engage an individual under 18 years of age or a different minimum age established under State law to test compliance with this Act, except that such an individual may be used to test compliance with this Act only if the testing is conducted under the following conditions:

“(1) Prior to use of any individual under 18 years of age or a different minimum age established under State law in a random, unannounced inspection, written consent shall be obtained from a parent, custodian, or guardian of such individual;

“(2) An individual under 18 years of age or a different minimum age established under State law shall act solely under the supervision and direction of the State Police or a local law enforcement authority duly designated by the State Police during a random, unannounced inspection;

“(3) An individual under 18 years of age or a different minimum age established under State law used in random, unannounced inspections shall not be used in any such inspection at a store in which such individual is a regular customer; and

“(4) If an individual under 18 years of age or a different minimum age established under State law participating in random, unannounced inspections is questioned during such an inspection about such individual’s age, such individual shall state his or her actual age and shall present a true and correct proof of age if requested at any time during the inspection to present it.

“(c) Any person who uses any individual under 18 years of age or a different minimum age established under State law, other than as permitted by subsection (b), to test compliance with this Act, is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

“(d) Civil money penalties collected for violations of this Act and fees collected under section 9 shall be used only to defray the costs of administration and enforcement of this Act.

**“SEC. 9. LICENSURE.**

“(a) Each person engaged in the over-the-counter distribution at retail of tobacco products shall hold a license issued under this section. A separate license shall be required for each place of business where tobacco products are distributed at retail. A license issued under this section is not assignable and is valid only for the person in whose name it is issued and for the place of business designated in the license.

“(b) The annual license fee is \$25 for each place of business where tobacco products are distributed at retail.

“(c) Every application for a license, including renewal of a license, under this section shall be made upon a form provided by the appropriate State agency or department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business for which the license is to be issued, the street address to which all notices relevant to the license are to be sent (in this Act referred to as “notice address”), and any other identifying information that the appropriate State agency or department may require.

“(d) The appropriate State agency or department shall issue or renew a license or deny an application for a license or the renewal of a license within 30 days of receiving a properly completed application and the license fee. The appropriate State agency or department shall provide notice to an applicant of action on an application denying the issuance of a license or refusing to renew a license.

“(e) Every license issued by the appropriate State agency or department pursuant to this section shall be valid for 1 year from the date of issuance and shall be renewed upon application except as otherwise provided in this Act.

“(f) Upon notification of a change of address for a place of business for which a license has been issued, a license shall be reissued for the new address without the filing of a new application.

“(g) The appropriate State agency or department shall notify every person in the State who is engaged in the distribution at retail of tobacco products of the license requirements of this section and of the date by which such person should have obtained a license.

“(h)(1) Except as provided in paragraph (2), any person who engages in the distribution at retail of tobacco products without a license required by this section is liable for a civil money penalty in an amount equal to (i) two times the applicable license fee, and (ii) \$50 for each day that such distribution continues without a license.

“(2) Any person who engages in the distribution at retail of tobacco products after a license issued under this section has been suspended or revoked is liable for a civil money penalty of \$100 per day for each day on which such distribution continues after the date such person received notice of such suspension or revocation.

“(i) No person shall engage in the distribution at retail of tobacco products on or after 180 days after the date of enactment of this Act unless such person is authorized to do so by a license issued pursuant to this section or is an employee or agent of a person that has been issued such a license.

#### “SEC. 10. SUSPENSION, REVOCATION, DENIAL, AND NONRENEWAL OF LICENSES.

“(a) Upon a finding that a licensee has been determined by a court of competent jurisdiction to have violated this Act during the license term, the State shall notify the licensee in writing, served personally or by registered mail at the notice address, that any subsequent violation of this Act at the same place of business may result in an administrative action to suspend the license for a period determined by the specify the appropriate State agency or department.

“(b) Upon finding that a further violation by this Act has occurred involving the same place of business for which the license was issued and the licensee has been served notice once under subsection (a), the appropriate State agency or department may initiate an administrative action to suspend

the license for a period to be determined by the appropriate State agency or department but not to exceed six months. If an administrative action to suspend a license is initiated, the appropriate State agency or department shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefor and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why suspension of the license would be unwarranted or unjust.

“(c) The appropriate State agency or department may initiate an administrative action to revoke a license that previously has been suspended under subsection (b) if, after the suspension and during the one-year period for which the license was issued, the licensee committed a further violation of this Act, at the same place of business for which the license was issued. If an administrative action to revoke a license is initiated, the appropriate State agency or department shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefor and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why revocation of the license would be unwarranted or unjust.

“(d) A person whose license has been suspended or revoked with respect to a place of business pursuant to this section shall pay a fee of \$50 for the renewal or reissuance of the license at that same place of business, in addition to any applicable annual license fees.

“(e) Revocation of a license under subsection (c) with respect to a place of business shall not be grounds to deny an application by any person for a new license with respect to such place of business for more than 12 months subsequent to the date of such revocation. Revocation or suspension of a license with respect to a particular place of business shall not be grounds to deny an application for a new license, to refuse to renew a license, or to revoke or suspend an existing license at any other place of business.

“(f) A licensee may seek judicial review of an action of the appropriate State agency or department suspending, revoking, denying, or refusing to renew a license under this section by filing a complaint in a court of competent jurisdiction. Any such complaint shall be filed within 30 days after the date on which notice of the action is received by the licensee. The court shall review the evidence *de novo*.

“(g) The State shall not report any action suspending, revoking, denying, or refusing to renew a license under this section to the Federal Secretary of Health and Human Services, unless the opportunity for judicial review of the action pursuant to subsection (f), if any, has been exhausted or the time for seeking such judicial review has expired.

#### “SEC. 11. NO PRIVATE RIGHT OF ACTION.

“(1) Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act.

#### “SEC. 12. JURISDICTION AND VENUE.

“(1) Any action alleging a violation of this Act may be brought only in a court of general jurisdiction in the city or county where the violation is alleged to have occurred.

#### “SEC. 13. REPORT.

“(1) The appropriate State agency or department shall prepare for submission annually to the Federal Secretary of Health and Human Services the report required by sec-

tion 1926 of the Federal Public Health Service Act (42 U.S.C. 300x-26).’”

“(2) In the case of a State whose legislature does not convene a regular session in fiscal year 2007, and in the case of a State whose legislature does not convene a regular session in fiscal year 2008, the requirement described in subsection (e)(1) as a condition of a receipt of a grant under section 300x-21 of this title shall apply only for fiscal year 2009 and subsequent fiscal years.

“(3) Subsection (e)(1) shall not affect any State or local law that (A) was in effect on the date of introduction of the Federal Tobacco Act of 2007, and (B) covers the same subject matter as the law described in subsection (e)(1). Any State law that meets the conditions of this paragraph shall also be deemed to meet the requirement described in subsection (e)(1) as a condition of a receipt of a grant under section 300x-21 of this title, if such State law is at least as stringent as the law described in subsection (e)(1).

“(f)(1) For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under section 300x-21 of this title is a funding agreement under which the State involved will enforce the law described in subsection (e)(1) of this section in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18 or a different minimum age established under State law for the purchase of tobacco products.

“(2) For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under section 300x-21 of this title is a funding agreement under which the State involved will—

“(A) conduct random, unannounced inspections to ensure compliance with the law described in subsection (e)(1); and

“(B) annually submit to the Secretary a report describing—

“(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

“(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under 18 years of age or a different minimum age established under State law, including the results of the inspections conducted under subparagraph (A); and

“(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

“(g) The law specified in subsection (e)(1) may be administered and enforced by a State using—

“(1) any amounts made available to the State through a grant under section 300x-21 of this title;

“(2) any amounts made available to the State under section 300w of this title;

“(3) any fees collected for licenses issued pursuant to the law described in subsection (e)(1);

“(4) any fines or penalties assessed for violations of the law specified in subsection (e)(1); or

“(5) any other funding source that the legislature of the State may prescribe by statute.

“(h) Before making a grant under section 300x-21 of this title to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (e) and (f) of this section. If, after notice to the State and an opportunity for a hearing, the

Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under section 300x-21 of this title for the State for the fiscal year involved by an amount equal to—

“(1) In the case of the first applicable fiscal year, 10 percent of the amount determined under section 300x-33 for the State for the fiscal year;

“(2) In the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 300x-33 for the State for the fiscal year;

“(3) In the case of the second such fiscal year, 30 percent of the amount determined under section 300x-33 for the State for the fiscal year; and

“(4) In the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 300x-33 for the State for the fiscal year.

The Secretary shall not have authority or discretion to grant to any State a waiver of the terms and requirements of this subsection or subsection (e) or (f).

“(i) For the purposes of subsections (e) through (h) of this section the term ‘first applicable fiscal year’ means—

“(1) fiscal year 2009, in the case of any State described in subsection (e)(2) of this section; and

“(2) fiscal year 2008, in the case of any other State.

“(j) For purposes of subsections (e) through (h) of this section, references to section 300x-21 shall include any successor grant programs.”

“(k) As required by paragraph (1), and subject to paragraph (4), an Indian tribe shall satisfy the requirements of subsection (e)(1) of this section by enacting a law or ordinance with substantially the same provisions as the law described in subsection (e)(1).

“(l) An Indian tribe shall comply with subsection (e)(1) of this section within 180 days after the Administrator finds, in accordance with this paragraph, that—

“(A) the Indian tribe has a governing body carrying out substantial governmental powers and duties;

“(B) the functions to be exercised by the Indian tribe under this Act pertain to activities on trust land within the jurisdiction of the tribe; and

“(C) the Indian tribe is reasonably expected to be capable of carrying out the functions required under this section.

Within 2 years of the date of enactment of the Federal Tobacco Act of 2007, as to each Indian tribe in the United States, the Administrator shall make the findings contemplated by this paragraph or determine that such findings cannot be made, in accordance with the procedures specified in paragraph (4).

“(2) As to Indian tribes subject to subsection (e)(1) of this section, the Administrator shall promulgate regulations that—

“(A) provide whether and to what extent, if any, the law described in subsection (e)(1) may be modified as adopted by Indian tribes; and

“(B) ensure, to the extent possible, that each Indian tribe's retailer licensing program under subsection (e)(1) is no less stringent than the program of the State or States in which the Indian tribe is located.

“(3) If with respect to any Indian tribe the Administrator determines that compliance with the requirements of subsection (e)(1) is inappropriate or administratively infeasible, the Administrator shall specify other means for the Indian tribe to achieve the purposes

of the law described in subsection (e)(1) with respect to persons who engage in the distribution at retail of tobacco products on tribal lands.

“(4) The findings and regulations promulgated under paragraphs (1) and (2) shall be promulgated in conformance with section 553 of title 5, United States Code, and shall comply with the following provisions:

“(A) In making findings as provided in paragraph (1), and in drafting and promulgating regulations as provided in paragraph (2) (including drafting and promulgating any revised regulations), the Administrator shall confer with, and allow for active participation by, representatives and members of Indian tribes, and tribal organizations.

“(B) In carrying out rulemaking processes under this subsection, the Administrator shall follow the guidance of subchapter III of chapter 5 of title 5, United States Code, commonly known as the ‘Negotiated Rulemaking Act of 1990.’

“(C) The tribal participants in the negotiation process referred to in subparagraph (B) shall be nominated by and shall represent the groups described in this subsection and shall include tribal representatives from all geographic regions.

“(D) The negotiations conducted under this paragraph (4) shall be conducted in a timely manner.

“(E) If the Administrator determines that an extension of the deadlines under subsection (k)(1) of this section is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

“(5) This subsection shall not affect any law or ordinance that (A) was in effect on tribal lands on the date of introduction of the Preventing Disease and Death from Tobacco Use Act, and (B) covers the same subject matter as the law described in subsection (e)(1). Any law or ordinance that meets the conditions of this paragraph shall also be deemed to meet the requirement described in subsection (k)(1), if such law or ordinance is at least as stringent as the law described in subsection (e)(1).

“(6) For purposes of this subsection—

“(A) ‘Administrator’ means the Administrator of the Tobacco Harm Reduction Center.

“(B) ‘Indian tribe’ has the meaning assigned that term in section 4(e) of the Indian Self Determination and Education Assistance Act, section 450b(e) of title 25, United States Code.

“(C) ‘Tribal lands’ means all lands within the exterior boundaries of any Indian reservation, all lands the title to which is held by the United States in trust for an Indian tribe, or lands the title to which is held by an Indian tribe subject to a restriction by the United States against alienation, and all dependent Indian communities.

“(D) ‘tribal organization’ has the meaning assigned that term in section 4(1) of the Indian Self Determination and Education Assistance Act, section 450b(1) of title 25, United States Code.”

#### SEC. 403. ESTABLISHMENT OF RANKINGS.

(a) STANDARDS AND PROCEDURES FOR RANKINGS.—Within 24 months after the effective date of this Act, the Administrator shall, by regulation, after consultation with an Advisory Committee established for such purpose, establish the standards and procedures for promulgating rankings, comprehensible to consumers of tobacco products, of the following categories of tobacco products and also nicotine-containing products on the basis of the relative risks of seri-

ous or chronic tobacco-related diseases and adverse health conditions those categories of tobacco products and also nicotine-containing products respectively present—

- (1) cigarettes;
- (2) loose tobacco for roll-your-own tobacco products;
- (3) little cigars;
- (4) cigars;
- (5) pipe tobacco;
- (6) moist snuff;
- (7) dry snuff;
- (8) chewing tobacco;
- (9) other forms of tobacco products, including pelletized tobacco and compressed tobacco, treated collectively as a single category; and
- (10) other nicotine-containing products, treated collectively as a single category.

The Administrator shall not have authority or discretion to establish a relative-risk ranking of any category or subcategory of tobacco products or any category or subcategory of nicotine-containing products other than the ten categories specified in this subsection.

(b) CONSIDERATIONS IN PROMULGATING REGULATIONS.—In promulgating regulations under this section, the Administrator—

(1) shall take into account relevant epidemiologic studies and other relevant competent and reliable scientific evidence; and

(2) in assessing the risks of serious or chronic tobacco-related diseases and adverse health conditions presented by a particular category, shall consider the range of tobacco products or nicotine-containing products within the category, and shall give appropriate weight to the market shares of the respective products in the category.

(c) PROMULGATION OF RANKINGS OF CATEGORIES.—Once the initial regulations required by subsection (a) are in effect, the Administrator shall promptly, by order, after notice and an opportunity for comment, promulgate to the general public rankings of the categories of tobacco products and nicotine-containing products in accordance with those regulations. The Administrator shall promulgate the initial rankings of those categories of tobacco products and nicotine-containing products to the general public not later than January 1, 2010. Thereafter, on an annual basis, the Administrator shall, by order, promulgate to the general public updated rankings that are (1) in accordance with those regulations, and (2) reflect the scientific evidence available at the time of promulgation. The Administrator shall open and maintain an ongoing public docket for receipt of data and other information submitted by any person with respect to such annual promulgation of rankings.

#### TITLE V—ENFORCEMENT PROVISIONS

##### SEC. 501. PROHIBITED ACTS.

The following acts and the causing thereof are hereby prohibited—

(1) the introduction or delivery for introduction into interstate commerce of any tobacco product that is adulterated or misbranded;

(2) the adulteration or misbranding of any tobacco product in interstate commerce;

(3) the receipt in interstate commerce of any tobacco product that is known to be adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(4) the failure to establish or maintain any record, or make any report or other submission, or to provide any notice required by or under this Act; or the refusal to permit access to, verification of, or copying of any record as required by this Act;

(5) the refusal to permit entry or inspection as authorized by this Act;

(6) the making to the Administrator of a statement, report, certification or other submission required by this Act, with knowledge that such statement, report, certification, or other submission is false in a material aspect;

(7) the manufacturing, shipping, receiving, storing, selling, distributing, possession, or use of any tobacco product with knowledge that it is an illicit tobacco product;

(8) the forging, simulating without proper permission, falsely representing, or without proper authority using any brand name;

(9) the using by any person to his or her own advantage, or revealing, other than to the Administrator or officers or employees of the Agency, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of this Act concerning any item which as a trade secret is entitled to protection; except that the foregoing does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee;

(10) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a tobacco product, if such act is done while such tobacco product is held for sale (whether or not the first sale) after shipment in interstate commerce, and results in such tobacco product being adulterated or misbranded;

(11) the importation of any tobacco product that is adulterated, misbranded, or otherwise not in compliance with this Act; and

(12) the commission of any act prohibited by section 201 of this Act.

#### SEC. 502. INJUNCTION PROCEEDINGS.

(a) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act, except for violations of section 701(k).

(b) In case of an alleged violation of an injunction or restraining order issued under this section, which also constitutes a violation of this Act, trial shall be by the court, or upon demand of the defendant, by a jury.

#### SEC. 503. PENALTIES.

(a) **CRIMINAL PENALTIES.**—Any person who willfully violates a provision of section 501 of this Act shall be imprisoned for not more than one year or fined not more than \$25,000, or both.

(b) **CIVIL PENALTIES FOR VIOLATION OF SECTION 803.**—

(1) Any person who knowingly distributes or sells, other than through retail sale or retail offer for sale, any cigarette brand style in violation of section 803(a)—

(A) for a first offense shall be liable for a civil penalty not to exceed \$10,000 for each distribution or sale, or

(B) for a second offense shall be liable for a civil penalty not to exceed \$25,000 for each distribution or sale,

except that the penalty imposed against any person with respect to violations during any 30-day period shall not exceed \$100,000.

(2) Any retailer who knowingly distributes, sells or offers for sale any cigarette brand style in violation of section 803(a) shall—

(A) for a first offense for each sale or offer for sale of cigarettes, if the total number of packages of cigarettes sold or offered for sale—

(i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed \$500 for each sale or offer for sale, and

(ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed \$1,000 for each sale or offer for sale;

(B) for each subsequent offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale—

(i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed \$2,000 for each sale or offer for sale, and

(ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed \$5,000 for each sale or offer for sale; except that the penalty imposed against any person during any 30-day period shall not exceed \$25,000.

#### SEC. 504. SEIZURE.

(a) **ARTICLES SUBJECT TO SEIZURE.**—

(1) Any tobacco product that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of this Act, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the tobacco product is found. No libel for condemnation shall be instituted under this Act for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(A) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act, or

(B) when the Administrator has probable cause to believe from facts found, without hearing, by the Administrator or any officer or employee of the Agency that the misbranded tobacco product is dangerous to health beyond the inherent danger to health posed by tobacco, or that the labeling of the misbranded tobacco product is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided, the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which they are found—

(A) any tobacco product that is an illicit tobacco product;

(B) any container of an illicit tobacco product;

(C) any equipment or thing used in making an illicit tobacco product; and

(D) any adulterated or misbranded tobacco product.

(3)(A) Except as provided in subparagraph (B), no libel for condemnation may be instituted under paragraph (1) or (2) against any tobacco product which—

(i) is misbranded under this Act because of its advertising, and

(ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the tobacco product.

(B) A libel for condemnation may be instituted under paragraph (1) or (2) against a tobacco product described in subparagraph (A) if the tobacco product's advertising which resulted in the tobacco product being misbranded was disseminated in the establishment in which the tobacco product is being held for sale to the ultimate consumer—

(i) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment, or

(ii) all or part of the cost of such advertising was paid by such owner or operator.

(b) **PROCEDURES.**—The tobacco product, equipment, or other thing proceeded against shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(c) **SAMPLES AND ANALYSES.**—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, the party's attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(d) **DISPOSITION OF CONDEMNED TOBACCO PRODUCTS.**—(1) Any tobacco product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct; and the proceeds thereof, if sold, less the legal costs

and charges, shall be paid into the Treasury of the United States; but such tobacco product shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such tobacco product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act, under the supervision of an officer or employee duly designated by the Administrator; and the expenses of such supervision shall be paid by the person obtaining release of the tobacco product under bond. If the tobacco product was imported into the United States and the person seeking its release establishes (A) that the adulteration, misbranding, or violation did not occur after the tobacco product was imported, and (B) that the person seeking the release of the tobacco product had no cause for believing that it was adulterated, misbranded, or in violation before it was released from customs custody, the court may permit the tobacco product to be delivered to the owner for exportation under section 709 in lieu of destruction upon a showing by the owner that there is a reasonable certainty that the tobacco product will not be re-imported into the United States.

(2) The provisions of paragraph (1) of this subsection shall, to the extent deemed appropriate by the court, apply to any equipment or other thing which is not otherwise within the scope of such paragraph and which is referred to in paragraph (2) of subsection (a).

(3) Whenever in any proceeding under this section, involving paragraph (2) of subsection (a), the condemnation of any equipment or thing (other than a tobacco product) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (A) that such claimant has not caused the equipment or thing to be within one of the categories referred to in such paragraph (2) and has no interest in any tobacco product referred to therein, (B) that such claimant has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by such claimant in good faith, and (C) that such claimant at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to any illicit tobacco product.

(e) COSTS AND FEES.—When a decree of condemnation is entered against the tobacco product or other article, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the tobacco product or other article.

(f) REMOVAL FOR TRIAL.—In the case of removal for trial of any case as provided by subsection (a) or (b)—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court

would have been subject, if such case had not been removed.

#### (g) ADMINISTRATIVE DETENTION OF TOBACCO PRODUCTS.—

##### (1) DETENTION AUTHORITY.—

(A) IN GENERAL.—An officer or qualified employee of the Agency may order the detention, in accordance with this subsection, of any tobacco product that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences beyond those normally inherent in the use of tobacco products.

(B) ADMINISTRATOR'S APPROVAL.—A tobacco product or component thereof may be ordered detained under subparagraph (A) if, but only if, the Administrator or an official designated by the Administrator approves the order. An official may not be so designated unless the official is an officer with supervisory responsibility for the inspection, examination, or investigation that led to the order.

(2) PERIOD OF DETENTION.—A tobacco product may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to institute an action under subsection (a) or section 702.

(3) SECURITY OF DETAINED TOBACCO PRODUCT.—An order under paragraph (1) may require that the tobacco product to be detained be labeled or marked as detained, and shall require that the tobacco product be maintained in or removed to a secure facility, as appropriate. A tobacco product subject to such an order shall not be transferred by any person from the place at which the tobacco product is ordered detained, or from the place to which the tobacco product is so removed, as the case may be, until released by the Administrator or until the expiration of the detention period applicable under such order, whichever occurs first. This subsection may not be construed as authorizing the delivery of the tobacco product pursuant to the execution of a bond while the tobacco product is subject to the order, and section 709 does not authorize the delivery of the tobacco product pursuant to the execution of a bond while the article is subject to the order.

##### (4) APPEAL OF DETENTION ORDER.—

(A) IN GENERAL.—With respect to a tobacco product ordered detained under paragraph (1), any person who would be entitled to be a claimant of such tobacco product if the tobacco product were seized under subsection (a) may appeal the order to the Administrator. Within five days after such an appeal is filed, the Administrator, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Administrator shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such five-day period the Administrator fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

(B) EFFECT OF INSTITUTING COURT ACTION.—The process under subparagraph (A) for the appeal of an order under paragraph (1) terminates if the Administrator institutes an action under subsection (a) or section 702 regarding the tobacco product involved.

#### SEC. 505. REPORT OF MINOR VIOLATIONS.

Nothing in this Act shall be construed as requiring the Administrator to report for prosecution, or for institution of libel or injunction proceedings, minor violations of

this Act whenever the Administrator believes that the public interest will be adequately served by a suitable written notice or warning.

#### SEC. 506. INSPECTION.

(a) AUTHORITY TO INSPECT.—The Administrator shall have the power to inspect the premises of a tobacco product manufacturer for purposes of determining compliance with this Act, or the regulations promulgated under it. Officers of the Agency designated by the Administrator, upon presenting appropriate credentials and a written notice to the person in charge of the premises, are authorized to enter, at reasonable times, without a search warrant, any factory, warehouse, or other establishment in which tobacco products are manufactured, processed, packaged, or held for domestic distribution. Any such inspection shall be conducted within reasonable limits and in a reasonable manner, and shall be limited to examining only those things, including but not limited to records, relevant to determining whether violations of this Act, or regulations under it, have occurred. No inspection authorized by this section shall extend to financial data, sales data other than shipment data, pricing data, personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act), or research data. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) REPORT OF OBSERVATIONS.—Before leaving the premises, the officer of the Agency who has supervised or conducted the inspection shall give to the person in charge of the premises a report in writing setting forth any conditions or practices that appear to manifest a violation of this Act, or the regulations under it.

(c) SAMPLES.—If the officer has obtained any sample in the course of inspection, prior to leaving the premises that officer shall give to the person in charge of the premises a receipt describing the samples obtained. As to each sample obtained, the officer shall furnish promptly to the person in charge of the premises a copy of the sample and of any analysis made upon the sample.

#### SEC. 507. EFFECT OF COMPLIANCE.

Compliance with the provisions of this Act and the regulations promulgated under it shall constitute a complete defense to any civil action, including but not limited to any products liability action, that seeks to recover damages, whether compensatory or punitive, based upon an alleged defect in the labeling or advertising of any tobacco product distributed for sale domestically.

#### SEC. 508. IMPORTS.

(a) IMPORTS; LIST OF REGISTERED FOREIGN ESTABLISHMENTS; SAMPLES FROM UNREGISTERED FOREIGN ESTABLISHMENTS; EXAMINATION AND REFUSAL OF ADMISSION.—The Secretary of Homeland Security shall deliver to the Administrator, upon request by the Administrator, samples of tobacco products that are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. The Administrator shall furnish to the Secretary of Homeland Security a list of establishments registered pursuant to subsection (d) of section 109 of this Act, and shall request that, if any tobacco products manufactured, prepared, or processed in an establishment not so registered are imported or offered for import



into the United States, samples of such tobacco products be delivered to the Administrator, with notice of such delivery to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such tobacco product is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (2) such tobacco product is adulterated, misbranded, or otherwise in violation of this Act, then such tobacco product shall be refused admission, except as provided in subsection (b) of this section. The Secretary of Homeland Security shall cause the destruction of any such tobacco product refused admission unless such tobacco product is exported, under regulations prescribed by the Secretary of Homeland Security, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

(b) **DISPOSITION OF REFUSED TOBACCO PRODUCTS.**—Pending decision as to the admission of a tobacco product being imported or offered for import, the Secretary of Homeland Security may authorize delivery of such tobacco product to the owner or consignee upon the execution by such consignee of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of Homeland Security. If it appears to the Administrator that a tobacco product included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this Act or rendered other than a tobacco product, final determination as to admission of such tobacco product may be deferred and, upon filing of timely written application by the owner or consignee and the execution by such consignee of a bond as provided in the preceding provisions of this subsection, the Administrator may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected tobacco products or portions thereof, as may be specified in the Administrator's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Agency designated by the Administrator, or an officer or employee of the Department of Homeland Security designated by the Secretary of Homeland Security.

(c) **CHARGES CONCERNING REFUSED TOBACCO PRODUCTS.**—All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any tobacco product refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

#### **SEC. 509. TOBACCO PRODUCTS FOR EXPORT.**

(a) **EXEMPTION FOR TOBACCO PRODUCTS EXPORTED.**—Except as provided in subsection (b), a tobacco product intended for export shall be exempt from this Act if—

(1) it is not in conflict with the laws of the country to which it is intended for export, as shown by either (A) a document issued by the government of that country or (B) a document provided by a person knowledgeable with respect to the relevant laws of that country and qualified by training and experience to opine on whether the tobacco product is or is not in conflict with such laws;

(2) it is labeled on the outside of the shipping package that it is intended for export; and

(3) the particular units of tobacco product intended for export have not been sold or offered for sale in domestic commerce.

(b) **PRODUCTS FOR U.S. ARMED FORCES OVERSEAS.**—A tobacco product intended for export shall not be exempt from this Act if it is intended for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

(c) This Act shall not apply to a person that manufactures and/or distributes tobacco products solely for export under subsection (a), except to the extent such tobacco products are subject to subsection (b).

#### **TITLE VI—MISCELLANEOUS PROVISIONS**

##### **SEC. 601. USE OF PAYMENTS UNDER THE MASTER SETTLEMENT AGREEMENT AND INDIVIDUAL STATE SETTLEMENT AGREEMENTS.**

(a) **REDUCTION OF GRANT AMOUNTS.**—(1) For fiscal year 2010 and each subsequent fiscal year, the Secretary shall reduce, as provided in subsection (b), the amount of any grant under section 1921 of the Public Health Service Act (42 U.S.C. § 300x-21) for any State that spends on tobacco control programs from the funds received by such State pursuant to the Master Settlement Agreement, the Florida Settlement Agreement, the Minnesota Settlement Agreement, the Mississippi Memorandum of Understanding, or the Texas Settlement Agreement, as applicable, less than 20 percent of the amounts received by that State from settlement payments.

(2) In the case of a State whose legislature does not convene a regular session in fiscal year 2009 or 2010, and in the case of a State whose legislature does not convene a regular session in fiscal year 2010, the requirement described in subsection (a)(1) as a condition of receipt of a grant under section 1921 of the Public Health Service Act shall apply only for fiscal year 2009 and subsequent fiscal years.

(b) **DETERMINATION OF STATE SPENDING.**—Before making a grant under section 1921 of the Public Health Service Act, section 300x-21 of title 42, United States Code, to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether, during the immediately preceding fiscal year, the State has spent on tobacco control programs, from the funds received by such State pursuant to the Master Settlement Agreement, the Florida Settlement Agreement, the Minnesota Settlement Agreement, the Mississippi Memorandum of Understanding, or the Texas Settlement Agreement, as applicable, at least the amount referenced in (a)(1). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State has spent less than such amount, the Secretary shall reduce the amount of the allotment under section 300x-21 of title 42, United States Code, for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year.

The Secretary shall not have authority or discretion to grant to any State a waiver of the terms and requirements of this subsection or subsection (a).

(c) **DEFINITIONS.**—For the purposes of this section—

(1) The term “first applicable fiscal year” means—

(A) fiscal year 2011, in the case of any State described in subsection (a)(2) of this section; and

(B) fiscal year 2010, in the case of any other State.

(2) The term “Florida Settlement Agreement” means the Settlement Agreement, together with the exhibits thereto, entered into on August 25, 1997, between the State of Florida and signatory tobacco product manufacturers, as specified therein.

(3) The term “Master Settlement Agreement” means the Master Settlement Agreement, together with the exhibits thereto, entered into on November 23, 1998, between the signatory States and signatory tobacco product manufacturers, as specified therein.

(4) The term “Minnesota Settlement Agreement” means the Settlement Agreement, together with the exhibits thereto, entered into on May 8, 1998, between the State of Minnesota and signatory tobacco product manufacturers, as specified therein.

(5) The term “Mississippi Memorandum of Understanding” means the Memorandum of Understanding, together with the exhibits thereto and Settlement Agreement contemplated therein, entered into on July 2, 1997, between the State of Mississippi and signatory tobacco product manufacturers, as specified therein.

(6) The term “Secretary” means the Secretary of Health and Human Services.

(7) The term “Texas Settlement Agreement” means the Settlement Agreement, together with the exhibits thereto, entered into on January 16, 1998, between the State of Texas and signatory tobacco product manufacturers, as specified therein.

##### **SEC. 602. PREEMPTION OF STATE LAWS IMPLEMENTING FIRE SAFETY STANDARD FOR CIGARETTES.**

(a) **IN GENERAL.**—With respect to fire safety standards for cigarettes, no State or political subdivision shall—

(1) require testing of cigarettes that would be in addition to, or different from, the testing prescribed in subsection (b); or

(2) require a performance standard that is in addition to, or different from, the performance standard set forth in subsection (b).

(b) **TEST METHOD AND PERFORMANCE STANDARD.**—

(1) To the extent a State or political subdivision enacts or has enacted legislation or a regulation setting a fire safety standard for cigarettes, the test method employed shall be—

(A) the American Society of Testing and Materials ("ASTM") standard E2187-4, entitled "Standard Test Method for Measuring the Ignition Strength of Cigarettes";

(B) for each cigarette on 10 layers of filter paper;

(C) so that a replicate test of 40 cigarettes for each brand style of cigarettes comprises a complete test trial for that brand style; and

(D) in a laboratory that has been accredited in accordance with ISO/IEC 17205 of the International Organization for Standardization ("ISO") and that has an implemented quality control and quality assurance program that includes a procedure capable of determining the repeatability of the testing results to a repeatability value that is no greater than 0.19.

(2) To the extent a State or political subdivision enacts or has enacted legislation or a regulation setting a fire safety standard for cigarettes, the performance standard employed shall be that no more than 25 percent of the cigarettes of that brand style tested in a complete test in accordance with paragraph (1) exhibit full-length burns

(c) EXCEPTION TO SUBSECTION (b).—In the event that a manufacturer of a cigarette that a State or political subdivision or its respective delegated agency determines cannot be tested in accordance with the test method prescribed in subsection (b)(1)(A), the manufacturer shall propose a test method and performance standard for the cigarette to the State or political subdivision. Upon approval of the proposed test method and a determination by the State or political division that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (b)(2), the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to this subsection notwithstanding subsection (b).

**SEC. 603. INSPECTION BY THE ALCOHOL AND TOBACCO TAX TRADE BUREAU OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS.**

(a) IN GENERAL.—Any officer of the Bureau of the Alcohol and Tobacco Tax Trade Bureau may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

(2) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

(b) COVERED PERSONS.—Subsection (a) applies to any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, within a single month.

(c) RELIEF.—

(1) IN GENERAL.—The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).

(2) VIOLATIONS.—Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount not to exceed \$10,000 for each violation.

(d) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are—

(1) the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the "Jenkins Act");

(2) chapter 114 of title 18, United States Code; and

(3) this Act.

(e) DELIVERY SALE DEFINED.—In this section, the term "delivery sale" has the meaning given that term in 2343(e) of title 18, United States Code, as amended by this Act.

**SEC. 604. SEVERABILITY.**

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected, and shall continue to be enforced to the fullest extent possible.

**TITLE VII—TOBACCO GROWER PROTECTION**

**SEC. 701. TOBACCO GROWER PROTECTION.**

No provision in this Act shall allow the Administrator or any other person to require changes to traditional farming practices, including standard cultivation practices, curing processes, seed composition, tobacco type, fertilization, soil, record keeping, or any other requirement affecting farming practices.

**TITLE VIII—RESTRICTIONS ON YOUTH ACCESS TO TOBACCO PRODUCTS AND EXPOSURE OF YOUTHS TO TOBACCO PRODUCT MARKETING AND ADVERTISING**

**SEC. 801. PROHIBITIONS ON YOUTH TARGETING.**

Effective beginning on the date that is 18 months after the effective date of this Act, no person shall engage in any of the following activities or practices in the advertising, promotion, or marketing of any tobacco product:

(1) The use, or causing the use, of any cartoon in the advertising, promoting, packaging, or labeling of any tobacco product.

(2) The use, or causing the use, of any human image in the advertising, promoting, packaging, or labeling of any tobacco product, except for the following:

(A) The use, or continued use, in advertising, promoting, marketing, packaging, or labeling of any human image appearing on a tobacco product package before December 31, 2009.

(B) The use, or continued use, of a human image in the advertising, promoting, or marketing of a tobacco product, if conducted solely in an adult-only facility or facilities.

(C) The use, or continued use, of a human image in a tobacco product communication means directed solely to persons that the tobacco product manufacturer has a good-faith belief are age-verified adults.

(3) The advertising of tobacco products in any magazine or newspaper intended for distribution to the general public.

(4) The engaging in any brand name sponsorship in the United States, other than a brand name sponsorship occurring solely in an adult-only facility or facilities.

(5) The engaging in any brand name sponsorship of any event in the United States in which any paid participants or contestants are youths.

(6) The sponsoring of any athletic event between opposing teams in any football, basketball, baseball, soccer, or hockey league.

(7)(A) The securing of a right, by agreement, to name any stadium or arena located within the United States with a brand name; or

(B) otherwise causing a stadium or arena located within the United States to be named with a brand name.

(8) The securing of a right by agreement pursuant to which payment is made or other

consideration is provided to use a brand name in association with any football, basketball, baseball, soccer, or hockey league, or any team involved in any such league.

(9) The use of, or causing the use of, by agreement requiring the payment of money or other consideration, a brand name with any nationally recognized or nationally established trade name or brand designation of any non-tobacco item or service, or any nationally recognized or nationally established sports team, entertainment group or individual celebrity for purposes of advertising, except for an agreement between or among persons that enter into such agreement for the sole purpose of avoiding infringement claims.

(10) The license, express authorization, or otherwise causing of any person to use or advertise within the United States any brand name in a manner that—

(A) does not pertain to a tobacco product; or

(B) causes that person to use the brand name to advertise, promote, package or label, distribute, or sell any product or service that is not a tobacco product.

(11) The marketing, distribution, offering, selling, licensing, or authorizing of, or the causing to be marketed, distributed, offered, sold, licensed, or authorized, any apparel or other merchandise (other than a tobacco product) bearing a brand name, except—

(A) apparel or other merchandise that is used by individuals representing a tobacco product manufacturer within an adult-only facility and that is not distributed, by sale or otherwise, to any member of the general public;

(B) apparel or merchandise provided to an adult employee of a tobacco product manufacturer for use by such employee;

(C) items or materials used to hold or display tobacco products at retail;

(D) items or materials the sole function of which is to advertise tobacco products;

(E) written or electronic publications;

(F) coupons or other items used by adults solely in connection with the purchase of tobacco products;

(G) that the composition, structure, form, or appearance of any tobacco product, package, label, or labeling shall not be affected by the prohibitions of this paragraph; and

(H) that no person shall be required to retrieve, collect or otherwise recover any item or material that was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by such person.

(12) The distribution, or causing the distribution, of any free sample domestically, except in an adult-only facility or facilities to individuals who are age-verified adults.

(13) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration to any other person to use, display, make reference to, or use as a prop in any performance medium (for the purposes of this paragraph, the terms "performance medium" and "performance media" mean any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game), any tobacco product, tobacco product package, advertisement for a tobacco product, or any other item bearing a brand name; except for the following:

(A) Performance media for which the audience or viewers are within one or more adult-only facilities, if such performance media are not audible or visible to persons outside such adult-only facility or facilities.

(B) Performance media not intended to be heard or viewed by the general public.

(A) Instructional performance media that concern tobacco products and their use, and that are intended to be heard or viewed only by, or provided only to, age-verified adults.

(A) Performance media used in tobacco product communications to age-verified adults.

(14) Engaging in outdoor advertising or transit advertisements of tobacco products within the United States, except for the following:

(A) Advertising that is within an adult-only facility.

(B) The use of outdoor advertising for purposes of identification of an adult-only facility, to the extent that such outdoor advertising is placed at the site, premises, or location of the adult-only facility.

(C) The use of outdoor advertising in identifying a brand name sponsorship at an adult-only facility, if such outdoor advertising—

(i) is placed at the site, premises, or location of the adult-only facility where such brand name sponsorship will occur no more than 30 days before the start of the initial sponsored event; and

(ii) is removed within 10 days after the end of the last sponsored event.

(15) The distribution or sale domestically of any package or other container of cigarettes containing fewer than 20 cigarettes.

(16) The advertising of tobacco products on any broadcast, cable, or satellite transmission to a television or radio receiver, or other medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, except electronic communications—

(A) contained on log-in or home pages containing no tobacco product advertising other than brand name identification;

(B) in an adult-only facility or facilities; or

(C) through the Internet or other individual user-accessible electronic communication means, including websites accessible using the Internet, if the advertiser takes reasonable action to restrict access to individuals who are adults by—

(i) requiring individuals accessing such electronic communications to be age-verified adults, and

(ii) making good faith efforts to verify that such individuals are adults.

(18) The distribution or sale of tobacco products directly to consumers by mail or courier, unless the person receiving purchase requests for tobacco products takes reasonable action to prevent delivery to individuals who are not adults by—

(A) requiring that the addressees of the tobacco products be age-verified adults;

(B) making good faith efforts to verify that such addressees are adults; and

(C) addressing the tobacco products delivered by mail, courier or common carrier to a physical address and not a post office box.

(19) The providing of any gift of a non-tobacco product, except matches, in connection with the purchase of a tobacco product.

(20) The engaging in the sponsorship or promotion, or causing the sponsorship or promotion, of any consumer sweepstakes, contest, drawing, or similar activity resulting in the award of a prize in connection with advertising.

(21) The offering, promoting, conducting, or authorizing, or causing to be offered, promoted, conducted, or authorized, any consumer sweepstakes, drawing, contest, or other activity resulting in the award of a prize, based on redemption of a proof-of-pur-

chase, coupon, or other item awarded as a result of the purchase or use of a tobacco product.

(22) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration, to any other person with regard to the display or placement of any cigarettes, or any advertising for cigarettes, in any retail establishment that is not an adult-only facility.

#### TITLE IX—USER FEES

##### SEC. 901. USER FEES.

(a) ASSESSMENT OF USER FEES.—The Administrator shall assess an annual user fee for each fiscal year beginning in fiscal year 2010, in an amount calculated in accordance with this section, upon each tobacco product manufacturer (including each importer) that is subject to this Act.

(b) USE OF FEE.—The Administrator shall utilize an amount equal to the amount of user fees collected under this section in each fiscal year to pay for the costs of the activities of the Tobacco Regulatory Agency related to the regulation of tobacco products under this Act.

(c) AMOUNT OF FEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the total amount of user fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to pay for the costs of the activities described in subsection (b) for that fiscal year.

(2) TOTAL.—The total assessment under this section—

(A) for fiscal year 2010 shall be \$100,000,000; and

(B) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Administrator (after notice, published in the Federal Register) to reflect the greater of—

(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 preceding the fiscal year for which fees are being established; or

(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

(3) NOTIFICATION.—The Administrator shall notify each tobacco product manufacturer subject to this section of the amount of the annual assessment imposed on such tobacco product manufacturer under subsection (d). Such notifications shall occur not later than the July 31 prior to the beginning of the fiscal year for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification. Such notification shall contain a complete list of the assessments imposed on tobacco product manufacturers for that fiscal year.

(d) LIABILITY OF TOBACCO PRODUCT MANUFACTURERS FOR USER FEES.—

(1) IN GENERAL.—The user fee to be paid by each tobacco product manufacturer shall be determined in each fiscal year by multiplying—

(A) such tobacco product manufacturer's market share of tobacco products, as determined under regulations issued pursuant to subsection (e); by

(B) the total user fee assessment for such fiscal year, as determined under subsection (c).

(2) LIMITATION.—Except as provided in paragraph (3), no tobacco product manufacturer shall be required to pay a percentage of a total annual user fee for all tobacco product manufacturers that exceeds the market share of such manufacturer.

(3) FAILURE TO PAY.—If—

(A) a tobacco product manufacturer fails to pay its user fee share in full by the due date;

(B) the Administrator, after diligent inquiry, concludes that such manufacturer is unlikely to pay its user fee share in full by the time such payment will be needed by the Administrator; and

(C) the Administrator and the Department of Justice make diligent efforts to obtain payment in full from such tobacco product manufacturer;

the Administrator may re-allocate the unpaid amount owed by that tobacco product manufacturer to the other tobacco product manufacturers on the basis of their respective market shares. If the Administrator takes such action, the Administrator shall set a reasonable time, not less than 60 days from the date of the notice of the amount due, for payment of that amount. If and to the extent that the Administrator ultimately receives from that tobacco product manufacturer or any successor to such tobacco product manufacturer any payment in respect of the previously unpaid obligation, the Administrator shall credit such payment to the tobacco product manufacturers that paid portions of the re-allocated amount, in proportion to their respective payments of such amount.

(e) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Administrator shall, by regulation, establish a system for determining the market shares of tobacco products for each tobacco product manufacturer subject to this section. In promulgating regulations under this subsection, the Administrator shall—

(1) take into account the differences between categories and subcategories of tobacco products in terms of sales, manner of unit packaging, and any other factors relevant to the calculation of market share for a tobacco product manufacturer;

(2) take into account that different tobacco product manufacturers rely to varying degrees on the sales of different categories and subcategories of tobacco products; and

(3) provide that the market share of tobacco products for each tobacco product manufacturer shall be recalculated on an annual basis.

**SA 1245.** Ms. STABENOW (for herself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. —. REPORTING OF DATA IN APPLICATIONS FOR DRUGS, BIOLOGICAL PRODUCTS, AND DEVICES.

(a) DRUGS.—

(1) NEW DRUG APPLICATIONS.—Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended—

(A) in paragraph (1), in the second sentence—

(i) by striking “drug, and (G)” and inserting “drug; (G)”; and

(ii) by inserting before the period the following: “; and (H) the information required under paragraph (7)”; and

(B) by adding at the end the following:

“(7)(A) With respect to clinical data in an application under this subsection, the Secretary may deny such an application if the application fails to meet the requirements of sections 314.50(d)(5)(v) and 314.50(d)(5)(vi)(a) of title 21, Code of Federal Regulations.

“(B) The Secretary shall modify the sections referred to in subparagraph (A) to require that an application under this subsection include any clinical data possessed by the applicant that relates to the safety or effectiveness of the drug involved by gender, age, and racial subgroup.

“(C) Promptly after approving an application under this subsection, the Secretary shall, through an Internet site of the Department of Health and Human Services, make available to the public the information submitted to the Secretary pursuant to subparagraphs (A) and (B), subject to sections 301(j) and 520(h)(1) of this Act, subsection (b)(4) of section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’), and other provisions of law that relate to trade secrets or confidential commercial information.

“(D) The Secretary shall develop guidance for staff of the Food and Drug Administration to ensure that applications under this subsection are adequately reviewed to determine whether the applications include the information required pursuant to subparagraphs (A) and (B).”.

(2) INVESTIGATIONAL NEW DRUG APPLICATIONS.—Section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended—

(A) in paragraph (2), by striking “Subject to paragraph (3),” and inserting “Subject to paragraphs (3) and (5),” ; and

(B) by adding at the end the following:

“(5)(A) The Secretary may place a clinical hold (as described in paragraph (3)) on an investigation if the sponsor of the investigation fails to meet the requirements of section 312.33(a) of title 21, Code of Federal Regulations.

“(B) The Secretary shall modify the section referred to in subparagraph (A) to require that reports under such section include any clinical data possessed by the sponsor of the investigation that relates to the safety or effectiveness of the drug involved by gender, age, and racial subgroup.”.

(b) BIOLOGICAL PRODUCT LICENSE APPLICATIONS.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

“(k) The provisions of section 505(b)(7) of the Federal Food, Drug, and Cosmetic Act (relating to clinical data submission) apply with respect to an application under subsection (a) of this section to the same extent and in the same manner as such provisions apply with respect to an application under section 505(b) of such Act.”.

(c) DEVICES.—

(1) PREMARKET APPROVAL.—Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) is amended—

(A) in subsection (c)(1)—

(i) in subparagraph (G)—

(I) by moving the margin 2 ems to the left; and

(II) by striking “and” after the semicolon at the end;

(ii) by redesignating subparagraph (H) as subparagraph (I); and

(iii) by inserting after subparagraph (G) the following subparagraph:

“(H) the information required under subsection (d)(7); and”;

(B) in subsection (d), by adding at the end the following paragraph:

“(7) To the extent consistent with the regulation of devices, the provisions of section 505(b)(7) (relating to clinical data submission) apply with respect to an application for premarket approval of a device under subsection (c) of this section to the same extent and in the same manner as such provisions apply with respect to an application for premarket approval of a drug under section 505(b).”.

(2) INVESTIGATIONAL DEVICES.—Section 520(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(g)(2)) is amended by adding at the end the following subparagraph:

“(D) To the extent consistent with the regulation of devices, the provisions of section 505(i)(5) (relating to individual study information) apply with respect to an application for an exemption pursuant to subparagraph (A) of this paragraph to the same extent and in the same manner as such provisions apply with respect to an application for an exemption under section 505(i).”.

(d) RULES OF CONSTRUCTION.—This Act and the amendments made by this Act may not be construed—

(1) as establishing new requirements under the Federal Food, Drug, and Cosmetic Act relating to the design of clinical investigations that were not otherwise in effect on the day before the date of the enactment of this Act; or

(2) as having any effect on the authority of the Secretary of Health and Human Services to enforce regulations under the Federal Food, Drug, and Cosmetic Act that are not expressly referenced in this Act or the amendments made by this Act.

(e) APPLICATION.—This section and the amendments made by this section apply only with respect to applications received under section 505 or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) on or after the date of the enactment of this Act.

**SA 1246.** Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Preventing Disease and Death from Tobacco Use Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.

Sec. 3. Purpose.

Sec. 4. Scope and effect.

Sec. 5. Severability.

Sec. 6. Effective date.

#### **TITLE I—AUTHORITY OF THE TOBACCO HARM REDUCTION CENTER**

Sec. 100. Definitions.

Sec. 101. Center authority over tobacco products.

Sec. 102. Exclusion of other regulatory programs.

Sec. 103. Existing Federal statutes maintained.

Sec. 104. Proceedings in the name of the United States; subpoenas; preemption of State and local law; no private right of action.

Sec. 105. Adulterated tobacco products.

Sec. 106. Misbranded tobacco products.

Sec. 107. Submission of health information to the Administrator.

Sec. 108. Registration and listing.

Sec. 109. General provisions respecting control of tobacco products.

Sec. 110. Smoking article standards.

Sec. 111. Notification and other remedies.

Sec. 112. Records and reports on tobacco products.

Sec. 113. Application for review of certain smoking articles.

Sec. 114. Reduced risk tobacco products.

Sec. 115. Judicial review.

Sec. 116. Jurisdiction of and coordination with the Federal Trade Commission.

Sec. 117. Regulation requirement.

Sec. 118. Preservation of State and local authority.

Sec. 119. Tobacco Products Scientific Advisory Committee.

Sec. 120. Drug products used to treat tobacco dependence.

#### **TITLE II—TOBACCO PRODUCTS WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE**

Sec. 201. Cigarette label and advertising warnings.

Sec. 202. Smokeless tobacco labels and advertising warnings.

#### **TITLE III—PUBLIC DISCLOSURES BY TOBACCO PRODUCTS MANUFACTURERS**

Sec. 301. Disclosures on packages of tobacco products.

Sec. 302. Disclosures on packages of smokeless tobacco.

Sec. 303. Public disclosure of ingredients.

#### **TITLE IV—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

Sec. 401. Study and report on illicit trade.

Sec. 402. Amendment to section 1926 of the Public Health Service Act.

Sec. 403. Establishment of rankings.

#### **TITLE V—ENFORCEMENT PROVISIONS**

Sec. 501. Prohibited acts.

Sec. 502. Injunction proceedings.

Sec. 503. Penalties.

Sec. 504. Seizure.

Sec. 505. Report of minor violations.

Sec. 506. Inspection.

Sec. 507. Effect of compliance.

Sec. 508. Imports.

Sec. 509. Tobacco products for export.

#### **TITLE VI—MISCELLANEOUS PROVISIONS**

Sec. 601. Use of payments under the master settlement agreement and individual State settlement agreements.

Sec. 602. Inspection by the alcohol and tobacco tax trade bureau of records of certain cigarette and smokeless tobacco sellers.

Sec. 603. Severability.

# TITLE VII—TOBACCO GROWER PROTECTION

Sec. 701. Tobacco grower protection.

## TITLE VIII—RESTRICTIONS ON YOUTH ACCESS TO TOBACCO PRODUCTS AND EXPOSURE OF YOUTHS TO TOBACCO PRODUCT MARKETING AND ADVERTISING

Sec. 801. Prohibitions on youth targeting.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. User fees.

### SEC. 2. FINDINGS.

The Congress finds the following:

(1) Cigarette smoking is a leading cause of preventable deaths in the United States. Cigarette smoking significantly increases the risk of developing lung cancer, heart disease, chronic bronchitis, emphysema and other serious diseases with adverse health conditions.

(2) The risk for serious diseases is significantly affected by the type of tobacco product and the frequency, duration and manner of use.

(3) No tobacco product has been shown to be safe and without risks. The health risks associated with cigarettes are significantly greater than those associated with the use of smoke-free tobacco and nicotine products.

(4) Nicotine in tobacco products is addictive but is not considered a significant threat to health.

(5) It is the smoke inhaled from burning tobacco which poses the most significant risk of serious diseases.

(6) Quitting cigarette smoking significantly reduces the risk for serious diseases.

(7) Adult tobacco consumers have a right to be fully and accurately informed about the risks of serious diseases, the significant differences in the comparative risks of different tobacco and nicotine-based products, and the benefits of quitting. This information should be based on sound science.

(8) Governments, public health officials, tobacco manufacturers and others share a responsibility to provide adult tobacco consumers with accurate information about the various health risks and comparative risks associated with the use of different tobacco and nicotine products.

(9) Tobacco products should be regulated in a manner that is designed to achieve significant and measurable reductions in the morbidity and mortality associated with tobacco use. Regulations should enhance the information available to adult consumers to permit them to make informed choices, and encourage the development of tobacco and nicotine products with lower risks than cigarettes currently sold in the United States.

(10) The form of regulation should be based on the risks and comparative risks of tobacco and nicotine products and their respective product categories.

(11) The regulation of marketing of tobacco products should be consistent with constitutional protections and enhance an adult consumer's ability to make an informed choice by providing accurate information on the risks and comparative risks of tobacco products.

(12) Reducing the diseases and deaths associated with the use of cigarettes serves public health goals and is in the best interest of consumers and society. Harm reduction should be the critical element of any comprehensive public policy surrounding the health consequences of tobacco use.

(13) Significant reductions in the harm associated with the use of cigarettes can be achieved by providing accurate information regarding the comparative risks of tobacco

products to adult tobacco consumers, thereby encouraging smokers to migrate to the use of smoke-free tobacco and nicotine products, and by developing new smoke-free tobacco and nicotine products and other actions.

(14) Governments, public health officials, manufacturers, tobacco producers and consumers should support the development, production, and commercial introduction of tobacco leaf, and tobacco and nicotine-based products that are scientifically shown to reduce the risks associated with the use of existing tobacco products, particularly cigarettes.

(15) Adult tobacco consumers should have access to a range of commercially viable tobacco and nicotine-based products.

(16) There is substantial scientific evidence that selected smokeless tobacco products can satisfy the nicotine addiction of inveterate smokers while eliminating most, if not all, risk of pulmonary and cardiovascular complications of smoking and while reducing the risk of cancer by more than 95 percent.

(17) Transitioning smokers to selected smokeless tobacco products will eliminate environmental tobacco smoke and fire-related hazards.

(18) Current "abstain, quit, or die" tobacco control policies in the United States may have reached their maximum possible public health benefit because of the large number of cigarette smokers either unwilling or unable to discontinue their addiction to nicotine.

(19) There is evidence that harm reduction works and can be accomplished in a way that will not increase initiation or impede smoking cessation.

(20) Health-related agencies and organizations, both within the United States and abroad have already gone on record endorsing Harm Reduction as an approach to further reducing tobacco related illness and death.

(21) Current Federal policy requires tobacco product labeling that leaves the incorrect impression that all tobacco product present equal risk.

### SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Tobacco Harm Reduction Center by recognizing it as the primary Federal regulatory authority with respect to tobacco products as provided for in this Act;

(2) to ensure that the Center has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Center to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Center with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) to ensure that consumers are better informed regarding the relative risks for death and disease between categories of tobacco products;

(7) to continue to allow the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote prevention, cessation, and harm reduction policies and regulations to reduce disease risk and the social costs associated with tobacco-related diseases;

(10) to provide authority to the Department of Health and Human Services to regulate tobacco products;

(11) to establish national policies that effectively reduce disease and death associated with cigarette smoking and other tobacco use;

(12) to establish national policies that encourage prevention, cessation, and harm reduction measures regarding the use of tobacco products;

(13) to encourage current cigarette smokers who will not quit to use noncombustible tobacco or nicotine products that have significantly less risk than cigarettes;

(14) to establish national policies that accurately and consistently inform adult tobacco consumers of significant differences in risk between respective tobacco products;

(15) to establish national policies that encourage and assist the development and awareness of noncombustible tobacco and nicotine products;

(16) to coordinate national and State prevention, cessation, and harm reduction programs;

(17) to impose measures to ensure tobacco products are not sold or accessible to underage purchasers; and

(18) to strengthen Federal and State legislation to prevent illicit trade in tobacco products.

### SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action;

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind; or

(3) be applicable to tobacco products or component parts manufactured in the United States for export.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Administrator to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

(c) REVENUE ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Administrator to take certain actions with regard to tobacco products shall not be construed to affect any authority of the Secretary of the Treasury under chapter 52 of the Internal Revenue Code of 1986.

### SEC. 5. SEVERABILITY.

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

### SEC. 6. EFFECTIVE DATE.

Except as otherwise specifically provided, the effective date of this Act shall be the date of its enactment.

# **TITLE I—AUTHORITY OF THE TOBACCO HARM REDUCTION CENTER**

## **SEC. 100. DEFINITIONS.**

In this Act:

(1) The term “Administrator” means the chief executive of the Tobacco Regulatory Agency (the Agency responsible for administering and enforcing this Act and regulations promulgated pursuant to this Act).

(2) The term “adult” means any individual who has attained the minimum age under applicable State law to be an individual to whom tobacco products may lawfully be sold.

(3) The term “adult-only facility” means a facility or restricted area, whether open-air or enclosed, where the operator ensures, or has a reasonable basis to believe, that no youth is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, if the operator ensures, or has a reasonable basis to believe, that no youth is present during any period of operation as an adult-only facility.

(4) The term “advertising” means a communication to the general public by a tobacco product manufacturer, distributor, retailer, or its agents, which identifies a tobacco product by brand name and is intended by such manufacturer, distributor, retailer, or its agents to promote purchases of such tobacco product. Such term shall not include—

(A) any advertising or other communication in any tobacco trade publication or tobacco trade promotional material;

(B) the content of any scientific publication or presentation, or any patent application or other communication to the United States Patent and Trademark Office or any similar office in any other country;

(C) any corporate or financial report or financial communication;

(D) any communication to a lending institution or to securities holders;

(E) any communication not intended for public display or public exposure, except that a direct mailing or direct electronic communication of what otherwise is advertising shall be deemed to be advertising;

(F) any communication in, on, or within a factory, office, plant, warehouse, or other facility related to or associated with the development, manufacture, or storage of tobacco products;

(G) any communication to any governmental agency, body, official, or employee;

(H) any communication to any journalist, editor, Internet blogger, or other author;

(I) any communication in connection with litigation, including arbitration and like proceedings; or

(J) any editorial advertisement that addresses a public issue.

(5) The term “affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The terms “owns,” “is owned,” and “ownership” refer to ownership of an equity interest, or the equivalent thereof, of 50 percent or more.

(6) The term “Agency” means the Tobacco Regulatory Agency.

(7) The term “age-verified adult” means any individual who is an adult and—

(A) who has stated or acknowledged, after being asked, that he or she is an adult and a tobacco product user, and has presented proof of age identifying the individual and verifying that the individual is an adult; or

(B) whose status as an adult has been verified by a commercially available database of such information.

(8) The term “annual report” means a tobacco product manufacturer’s annual report to the Agency, which provides ingredient information and nicotine yield ratings for each brand style that tobacco product manufacturer manufactures for commercial distribution domestically.

(9) The term “brand name” means a brand name of a tobacco product distributed or sold domestically, alone, or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicium of product identification identical or similar to, or identifiable with, those used for any domestic brand of tobacco product. The term shall not include the corporate name of any tobacco product manufacturer that does not, after the effective date of this Act, sell a brand style of tobacco product in the United States that includes such corporate name.

(10) The term “brand name sponsorship” means an athletic, musical, artistic, or other social or cultural event, series, or tour, with respect to which payment is made, or other consideration is provided, in exchange for use of a brand name or names—

(A) as part of the name of the event; or

(B) to identify, advertise, or promote such event or an entrant, participant, or team in such event in any other way.

(11) The term “brand style” means a tobacco product having a brand name, and distinguished by the selection of the tobacco, ingredients, structural materials, format, configuration, size, package, product descriptor, amount of tobacco, or yield of “tar” or nicotine.

(12) The term “carton” means a container into which packages of tobacco products are directly placed for distribution or sale, but does not include cases intended for shipping. Such term includes a carton containing 10 packages of cigarettes.

(13) The term “cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(A) The use of comically exaggerated features.

(B) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique.

(C) The attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

The term does not include any drawing or other depiction that, on the effective date of this Act, was in use in the United States in any tobacco product manufacturer’s corporate logo or in any tobacco product manufacturer’s tobacco product packaging.

(14) The term “cigar” has the meaning assigned that term by the Alcohol and Tobacco Tax and Trade Bureau in section 40.11 of title 27, Code of Federal Regulations.

(15) The term “cigarette” means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of the appearance of the roll of tobacco, the type of tobacco used in the filler, or its package or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(16) The term “competent and reliable scientific evidence” means evidence based on

tests, analyses, research, or studies, conducted and evaluated in an objective manner by individuals qualified to do so, using procedures generally accepted in the relevant scientific disciplines to yield accurate and reliable results.

(17) The term “distributor” means any person who furthers the distribution of tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the tobacco product to individuals for personal consumption. Common carriers, retailers, and those engaged solely in advertising are not considered distributors for purposes of this Act.

(18) The terms “domestic” and “domestically” mean within the United States, including activities within the United States involving advertising, marketing, distribution, or sale of tobacco products that are intended for consumption within the United States.

(19) The term “human image” means any photograph, drawing, silhouette, statue, model, video, likeness, or depiction of the appearance of a human being, or the appearance of any portion of the body of a human being.

(20) The term “illicit tobacco product” means any tobacco product intended for use by consumers in the United States—

(A) as to which not all applicable duties or taxes have been paid in full;

(B) that has been stolen, smuggled, or is otherwise contraband;

(C) that is counterfeit; or

(D) that has or had a label, labeling, or packaging stating, or that stated, that the product is or was for export only, or that it is or was at any time restricted by section 5704 of title 26, United States Code.

(21) The term “illicit trade” means any transfer, distribution, or sale in interstate commerce of any illicit tobacco product.

(22) The term “immediate container” does not include package liners.

(23) The term “Indian tribe” has the meaning assigned that term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(24) The term “ingredient” means tobacco and any substance added to tobacco to have an effect in the final tobacco product or when the final tobacco product is used by a consumer.

(25) The term “International Organization for Standardization (ISO) testing regimen” means the methods for measuring cigarette smoke yields, as set forth in the most recent version of ISO 3308, entitled “Routine analytical cigarette-smoking machine—Definition of standard conditions”; ISO 4387, entitled “Cigarettes—Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine”; ISO 10315, entitled “Cigarettes—Determination of nicotine in smoke condensates—Gas-chromatographic method”; ISO 10362-1, entitled “Cigarettes—Determination of water in smoke condensates—Part 1: Gas-chromatographic method”; and ISO 8454, entitled “Cigarettes—Determination of carbon monoxide in the vapour phase of cigarette smoke—NDIR method”. A cigarette that does not burn down in accordance with the testing regimen standards may be measured under the same puff regimen using the number of puffs that such a cigarette delivers before it extinguishes, plus an additional three puffs, or with such other modifications as the Administrator may approve.

(26) The term “interstate commerce” means all trade, traffic, or other commerce—

(A) within the District of Columbia, or any territory or possession of the United States;

(B) between any point in a State and any point outside thereof;

(C) between points within the same State through any place outside such State; or

(D) over which the United States has jurisdiction.

(27) The term "label" means a display of written, printed, or graphic matter upon or applied securely to the immediate container of a tobacco product.

(28) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon or applied securely to any tobacco product or any of its containers or wrappers, or (2) accompanying a tobacco product.

(29) The term "little cigar" has the meaning assigned that term by the Alcohol and Tobacco Tax and Trade Bureau in section 40.11 of title 27, Code of Federal Regulations.

(30) The term "loose tobacco" means any form of tobacco, alone or in combination with any other ingredient or material, that, because of its appearance, form, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making or assembling cigarettes, incorporation into pipes, or otherwise used by consumers to make any smoking article.

(31) The term "manufacture" means to design, manufacture, fabricate, assemble, process, package, or repackage, label, or relabel, import, or hold or store in a commercial quantity, but does not include—

(A) the growing, curing, de-stemming, or aging of tobacco; or

(B) the holding, storing or transporting of a tobacco product by a common carrier for hire, a public warehouse, a testing laboratory, a distributor, or a retailer.

(32) The term "nicotine-containing product" means a product intended for human consumption, other than a tobacco product, that contains added nicotine, produced and intended to be absorbed from the skin, mouth, or nose, or inhaled as a vapor or aerosol.

(33) The term "outdoor advertising"—

(A) except as provided in subparagraph (B), means—

(i) billboards;

(ii) signs and placards in arenas, stadiums, shopping malls, and video game arcades (whether any of such are open air or enclosed), but not including any such sign or placard located in an adult-only facility; and

(iii) any other advertisements placed outdoors; and

(B) does not include—

(i) an advertisement on the outside of a tobacco product manufacturing facility; or

(ii) an advertisement that—

(I) is inside a retail establishment that sells tobacco products (other than solely through a vending machine or vending machines);

(II) is placed on the inside surface of a window facing outward; and

(III) is no larger than 14 square feet.

(34) The term "package" means a pack, box, carton, pouch, or container of any kind in which a tobacco product or tobacco products are offered for sale, sold, or otherwise distributed to consumers. The term "package" does not include an outer container used solely for shipping one or more packages of a tobacco product or tobacco products.

(35) The term "person" means any individual, partnership, corporation, committee, association, organization or group of persons, or other legal or business entity.

(36) The term "proof of age" means a driver's license or other form of identification that is issued by a governmental authority and includes a photograph and a date of birth of the individual.

(37) The term "raw tobacco" means tobacco in a form that is received by a tobacco product manufacturer as an agricultural commodity, whether in a form that is—

(A) natural, stem or leaf;

(B) cured or aged; or (3)

(C) as parts or pieces, but not in a reconstituted form, extracted pulp form, or extract form.

(38) The term "reduced-exposure claim" means a statement in advertising or labeling that a tobacco product provides a reduced exposure to one or more toxicants, as compared to an appropriate reference tobacco product within the same category of tobacco products. Such a statement must include the wording "reduction in risk has not been demonstrated for this reduction in exposure". A statement or representation that a tobacco product or the tobacco in a tobacco product contains "no additives" or is "natural" or that uses a substantially similar term is not a reduced-exposure claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h) of this Act.

(39) The term "reduced-risk claim" means a statement in advertising or labeling that a tobacco product provides a reduced risk of illness and death compared to cigarettes. A statement or representation that a tobacco product or the tobacco in a tobacco product contains "no additives," or is "natural," or that uses a substantially similar term is not a reduced-risk claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h).

(40) The term "retailer" means any person that—

(A) sells tobacco products to individuals for personal consumption; or

(B) operates a facility where the sale of tobacco products to individuals for personal consumption is permitted.

(41) The term "sample" means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product, but excludes tobacco products distributed—

(A) in conjunction with the sale of other tobacco products;

(B) for market research, medical or scientific study or testing, or teaching;

(C) to persons employed in the trade;

(D) to adult consumers in response to consumer complaints; or

(E) to employees of the manufacturer of the tobacco product.

(42) The term "small business" means a tobacco product manufacturer that—

(A) has 150 or fewer employees; and

(B) during the 3-year period prior to the current calendar year, had an average annual gross revenue from tobacco products that did not exceed \$40,000,000.

(43) The term "smokeless tobacco product" means any form of finely cut, ground, powdered, reconstituted, processed or shaped tobacco, leaf tobacco, or stem tobacco, whether or not combined with any other ingredient, whether or not in extract or extracted form, and whether or not incorporated within any carrier or construct, that is intended to be placed in the oral or nasal cavity, including dry snuff, moist snuff, and chewing tobacco.

(44) The term "smoking article" means any tobacco-containing article that is in-

tended, when used by a consumer, to be burned or otherwise to employ heat to produce a vapor, aerosol or smoke that—

(A) incorporates components of tobacco or derived from tobacco; and

(B) is intended to be inhaled by the user.

(45) The term "State" means any State of the United States and, except as otherwise specifically provided, includes any Indian tribe or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Atoll, the Northern Marianas, and any other trust territory or possession of the United States.

(46) The term "tar" means nicotine-free dry particulate matter as defined in ISO 4387, entitled "Cigarettes—Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine".

(47) The term "tobacco" means a tobacco plant or any part of a harvested tobacco plant intended for use in the production of a tobacco product, including leaf, lamina, stem, or stalk, whether in green, cured, or aged form, whether in raw, treated, or processed form, and whether or not combined with other materials, including any by-product, extract, extracted pulp material, or any other material (other than purified nicotine) derived from a tobacco plant or any component thereof, and including strip, filler, stem, powder, and granulated, blended, or reconstituted forms of tobacco.

(48) The term "tobacco product" means—

(A) the singular of "tobacco products" as defined in section 5702(c) of the Internal Revenue Code of 1986;

(B) any other product that contains tobacco as a principal ingredient and that, because of its appearance, type, or the tobacco used in the product, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a tobacco product as described in subparagraph (A); and

(C) any form of tobacco or any construct incorporating tobacco, intended for human consumption, whether by—

(i) placement in the oral or nasal cavity;

(ii) inhalation of vapor, aerosol, or smoke; or

(iii) any other means.

(49) The term "tobacco product category" means a type of tobacco product characterized by its composition, components, and intended use, and includes tobacco products classified as cigarettes, loose tobacco for roll-your-own tobacco products, little cigars, cigars, pipe tobacco, moist snuff, dry snuff, chewing tobacco, and other forms of tobacco products (which are treated in this Act collectively as a single category).

(50) The term "tobacco product communication" means any means, medium, or manner for providing information relating to any tobacco product, including face-to-face interaction, mailings by postal service or courier to an individual who is an addressee, and electronic mail to an individual who is an addressee.

(51) The term "tobacco product manufacturer" means an entity that directly—

(A) manufactures anywhere a tobacco product that is intended to be distributed commercially in the United States, including a tobacco product intended to be distributed commercially in the United States through an importer;

(B) is the first purchaser for resale in the United States of tobacco products manufactured outside the United States for distribution commercially in the United States; or



(C) is a successor or assign of any of the foregoing.

(52) The term "toxicant" means a chemical or physical agent that produces an adverse biological effect.

(53) The term "transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar location.

(54) The term "tribal organization" has the meaning assigned that term in section 4(1) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(1)).

(55) The term "United States" means the several States, as defined in this Act.

(56) The term "vending machine" means any mechanical, electric, or electronic self-service device that, upon insertion of money, tokens, or any other form of payment, automatically dispenses tobacco products.

(57) The term "video game arcade" means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by adults) or pinball machines.

(58) The term "youth" means any individual who is not an adult.

#### SEC. 101. CENTER AUTHORITY OVER TOBACCO PRODUCTS.

(a) IN GENERAL.—Tobacco products, including reduced risk tobacco products for which an order has been issued in accordance with section 117, shall be regulated by the Administrator under this Act.

(b) APPLICABILITY.—This Act shall apply to all cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco and to any other tobacco products that the Administrator by regulation deems to be subject to this Act.

(c) CENTER.—The Secretary of Health and Human Services shall establish within the Department of Health and Human Services the Tobacco Harm Reduction Center. The head of the Center shall be an Administrator, who shall assume the statutory authority conferred by this Act, perform the functions that relate to the subject matter of this Act, to conduct postmarket surveillance, research, and public education activities and have the authority to promulgate regulations for the efficient enforcement of this Act. In promulgating any regulations under such authority, in whole or in part or any regulation that is likely to have an annual effect on the economy of \$50,000,000 or more or have a material adverse effect on adult users of tobacco products, tobacco product manufacturers, distributors, or retailers, the Administrator shall—

(1) determine the technological and economic ability of parties that would be required to comply with the regulation to comply with it;

(2) consider experience gained under any relevant similar regulations at the Federal or State level;

(3) determine the reasonableness of the relationship between the costs of complying with such regulation and the public health benefits to be achieved by such regulation;

(4) determine the reasonable likelihood of measurable and substantial reductions in morbidity and mortality among individual tobacco users;

(5) determine the impact to United States tobacco producers and farm operations;

(6) determine the impact on the availability and use of tobacco products by minors; and

(7) determine the impact on illicit trade of tobacco products.

#### (d) LIMITATION OF AUTHORITY.—

(1) IN GENERAL.—The provisions of this Act shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Center have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

(2) EXCEPTION.—Notwithstanding paragraph (1), if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this Act in the producer's capacity as a manufacturer. The exception in this subparagraph shall not apply to a producer of tobacco leaf who grows tobacco under a contract with a tobacco product manufacturer and who is not otherwise engaged in the manufacturing process.

(3) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to grant the Administrator authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof.

(e) RULEMAKING PROCEDURES.—Each rulemaking under this Act shall be in accordance with chapter 5 of title 5, United States Code.

(f) CONSULTATION PRIOR TO RULEMAKING.—Prior to promulgating rules under this Act, the Administrator shall endeavor to consult with other Federal agencies as appropriate.

#### SEC. 102. EXCLUSION OF OTHER REGULATORY PROGRAMS.

(a) EXCLUSION OF TOBACCO PRODUCTS AND NICOTINE-CONTAINING PRODUCTS FROM THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—No tobacco product and no nicotine-containing product shall be regulated as a food, drug, or device in accordance with section 201 (f), (g) or (h) or Chapter IV or V of the Federal Food, Drug, and Cosmetic Act, except that any tobacco product commercially distributed domestically and any nicotine-containing product commercially distributed domestically shall be subject to Chapter V of the Federal Food, Drug, and Cosmetic Act if the manufacturer or a distributor of such product markets it with an explicit claim that the product is intended for use in the cure, mitigation, treatment, or prevention of disease in man or other animals, within the meaning of section 201(g)(1)(C) or section 201(h)(2) of that Act.

(b) LIMITATION ON EFFECT OF THIS ACT.—Nothing in this Act shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in any Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(c) EXCLUSIONS FROM AUTHORITY OF ADMINISTRATOR.—The authority granted to the Administrator under this Act shall not apply to—

(1) raw tobacco that is not in the possession or control of a tobacco product manufacturer;

(2) raw tobacco that is grown for a tobacco product manufacturer by a grower, and that is in the possession of that grower or of a person that is not a tobacco product manufacturer and is within the scope of subparagraphs (A) through (F) of paragraph (3); or

(3) the activities, materials, facilities, or practices of persons that are not tobacco product manufacturers and that are—

(A) producers of raw tobacco, including tobacco growers;

(B) tobacco warehouses, and other persons that receive raw tobacco from growers;

(C) tobacco grower cooperatives;

(D) persons that cure raw tobacco;

(E) persons that process raw tobacco; and

(F) persons that store raw tobacco for aging.

If a producer of raw tobacco is also a tobacco product manufacturer, an affiliate of a tobacco product manufacturer, or a person producing raw tobacco for a tobacco product manufacturer, then that producer shall be subject to this Act only to the extent of that producer's capacity as a tobacco product manufacturer.

#### SEC. 103. EXISTING FEDERAL STATUTES MAINTAINED.

Except as amended or repealed by this Act, all Federal statutes in effect as of the effective date of this Act that regulate tobacco, tobacco products, or tobacco product manufacturers shall remain in full force and effect. Such statutes include, without limitation—

(1) the Federal Cigarette Labeling and Advertising Act, sections 1331–1340 of title 15, United States Code, except that section 1335 of title 15, United States Code, is repealed;

(2) the Comprehensive Smokeless Tobacco Health Education Act of 1986, sections 4401–4408 of title 15, United States Code, except that section 4402(f) of title 15, United States Code, is repealed;

(3) section 300x–26 of title 42, United States Code; and

(4) those statutes authorizing regulation of tobacco, tobacco products, or tobacco product manufacturers by the Federal Trade Commission, the Department of Agriculture, the Environmental Protection Agency, the Internal Revenue Service, and the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

#### SEC. 104. PROCEEDINGS IN THE NAME OF THE UNITED STATES; SUBPOENAS; PRE-EMPTION OF STATE AND LOCAL LAW; NO PRIVATE RIGHT OF ACTION.

In furtherance of this Act:

(1) All proceedings for the enforcement, or to restrain violations, of this Act shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any proceeding under this section. No State, or political subdivision thereof, may proceed or intervene in any Federal or State court under this Act or under any regulation promulgated under it, or allege any violation thereof except a violation by the Administrator. Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act or of any regulation promulgated under it.

(2) With respect to any subject matter addressed by this Act or by any regulation promulgated under it, no requirement or prohibition shall be imposed under State or local law upon any tobacco product manufacturer or distributor.

(3) Paragraph (2) shall not apply to any requirement or prohibition imposed under State or local law before the date of introduction of the bill that was enacted as this Act.

#### SEC. 105. ADULTERATED TOBACCO PRODUCTS.

A tobacco product shall be deemed to be adulterated—

(1) if it bears or contains any poisonous or deleterious substance other than—

(A) tobacco;

(B) a substance naturally present in tobacco;

(C) a pesticide or fungicide chemical residue in or on tobacco if such pesticide or fungicide chemical is registered by the Environmental Protection Agency for use on tobacco in the United States; or

(D) in the case of imported tobacco, a residue of a pesticide or fungicide chemical that—

(i) is approved for use in the country of origin of the tobacco; and

(ii) has not been banned, and the registration of which has not been canceled, by the Environmental Protection Agency for use on tobacco in the United States) that may render it injurious to health; but, in case the substance is not an added substance, such tobacco product shall not be considered adulterated under this subsection if the quantity of such substance in such tobacco product does not ordinarily render it injurious to health;

(2) if there is significant scientific agreement that, as a result of the tobacco it contains, the tobacco product presents a risk to human health that is materially higher than the risk presented by—

(A) such product on the effective date of this Act; or

(B) if such product was not distributed commercially domestically on that date, by comparable tobacco products of the same style and within the same category that were commercially distributed domestically on that date;

(3) if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth;

(4) if its package is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health; or

(5) if its "tar" yield is in violation of section 111.

#### SEC. 106. MISBRANDED TOBACCO PRODUCTS.

A tobacco product shall be deemed to be misbranded—

(1) if its labeling is false or misleading in any particular;

(2) if in package form unless it bears a label containing—

(A) an identification of the type of product it is, by the common or usual name of such type of product;

(B) an accurate statement of the quantity of the contents in the package in terms of weight, measure, or numerical count, except that reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations promulgated by the Administrator;

(C) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

(D) the information required by section 201(c) and (e) or section 202(c) and (e), as applicable;

(3) if any word, statement, or other information required by or under authority of this Act to appear on the label, labeling, or advertising is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs on the label, labeling, or advertising, as applicable) and in such terms as to render it reasonably likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) if any word, statement, or other information is required by or under this Act to appear on the label, unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such tobacco product,

or is easily legible through the outside container or wrapper;

(5) if it was manufactured, prepared, or processed in an establishment not duly registered under section 109, if it was not included in a list required by section 109, or if a notice or other information respecting it was not provided as required by section 109;

(6) if its packaging, labeling, or advertising is in violation of this Act or of an applicable regulation promulgated in accordance with this Act;

(7) if it contains tobacco or another ingredient as to which a required disclosure under this Act was not made;

(8) if it is labeled or advertised, or the tobacco contained in it is advertised, as—

(A) containing "no additives," or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: "No additives in our tobacco does NOT mean safer."; or

(B) being "natural," or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: "Natural does NOT mean safer.";

(9) if in its labeling or advertising a term descriptive of the tobacco in the tobacco product is used otherwise than in accordance with a sanction or approval granted by a Federal agency;

(10) if with respect to such tobacco product a disclosure required by section 603 was not made;

(11) if with respect to such tobacco product a certification required by section 803 was not submitted or is materially false or misleading; or

(12) if its manufacturer or distributor made with respect to it a claim prohibited by section 115.

#### SEC. 107. SUBMISSION OF HEALTH INFORMATION TO THE ADMINISTRATOR.

(a) REQUIREMENT.—Each tobacco product manufacturer or importer, or agents thereof, shall submit to the Administrator the following information:

(1) Not later than 18 months after the date of enactment of the Act, a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and brand style.

(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Administrator in accordance with section 4(e) of the Federal Cigarette Labeling and Advertising Act.

(3) Beginning 4 years after the date of enactment of this Act, a listing of all constituents, including smoke constituents as applicable, identified by the Administrator as harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand.

(b) DATA SUBMISSION.—At the request of the Administrator, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, or physiologic effects of tobacco products and their constituents (in-

cluding smoke constituents), ingredients, components, and additives.

(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a significant reduction in risk to health from tobacco products can occur upon the employment of technology available to the manufacturer.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

#### (c) DATA LIST.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of the Act, and annually thereafter, the Administrator shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Administrator) the list established under subsection (d).

(2) CONSUMER RESEARCH.—The Administrator shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Act, the Administrator shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

(d) DATA COLLECTION.—Not later than 36 months after the date of enactment of this Act, the Administrator shall establish, and periodically revise as appropriate, a list of harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand.

#### SEC. 108. REGISTRATION AND LISTING.

(a) DEFINITIONS.—As used in this section:

(1) The term "manufacture, preparation, or processing" shall include repackaging or otherwise changing the container, wrapper, or label of any tobacco product package other than the carton in furtherance of the distribution of the tobacco product from the original place of manufacture to the person that makes final delivery or sale to the ultimate consumer or user, but shall not include the addition of a tax marking or other marking required by law to an already packaged tobacco product.

(2) The term "name" shall include in the case of a partnership the name of the general partner and, in the case of a privately held corporation, the name of the chief executive officer of the corporation and the State of incorporation.

(b) ANNUAL REGISTRATION.—Commencing one year after enactment, on or before December 31 of each year, every person that owns or operates any establishment in any State engaged in the manufacture, preparation, or processing of a tobacco product or products for commercial distribution domestically shall register with the Administrator its name, places of business, and all such establishments.

(c) NEW PRODUCERS.—Every person upon first engaging, for commercial distribution domestically, in the manufacture, preparation, or processing of a tobacco product or products in any establishment that it owns or operates in any State shall immediately register with the Administrator its name, places of business, and such establishment.

(d) REGISTRATION OF FOREIGN ESTABLISHMENTS.—

(1) Commencing one year after enactment of this Act, on or before December 31 of each

year, the person that, within any foreign country, owns or operates any establishment engaged in the manufacture, preparation, or processing of a tobacco product that is imported or offered for import into the United States shall, through electronic means or other means permitted by the Administrator, register with the Administrator the name and place of business of each such establishment, the name of the United States agent for the establishment, and the name of each importer of such tobacco product in the United States that is known to such person.

(2) Such person also shall provide the information required by subsection (j), including sales made by mail, or through the Internet, or other electronic means.

(3) The Administrator is authorized to enter into cooperative arrangements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether tobacco products manufactured, prepared, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 708.

(e) **ADDITIONAL ESTABLISHMENTS.**—Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Administrator any additional establishment that it owns or operates and in which it begins the manufacture, preparation, or processing of a tobacco product or products for commercial distribution domestically or for import into the United States.

(f) **EXCLUSIONS FROM APPLICATION OF THIS SECTION.**—The foregoing subsections of this section shall not apply to—

(1) persons that manufacture, prepare, or process tobacco products solely for use in research, teaching, chemical or biological analysis, or export; or

(2) such other classes of persons as the Administrator may by regulation exempt from the application of this section upon a finding that registration by such classes of persons in accordance with this section is not necessary for the protection of the public health.

(g) **INSPECTION OF PREMISES.**—Every establishment registered with the Administrator pursuant to this section shall be subject to inspection pursuant to section 706; and every such establishment engaged in the manufacture, preparation, or processing of a tobacco product or products shall be so inspected by one or more officers or employees duly designated by the Administrator at least once in the two-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive two-year period thereafter, except that inspection of establishments outside the United States may be conducted by other personnel pursuant to a cooperative arrangement under subsection (d)(3).

(h) **FILING OF LISTS OF TOBACCO PRODUCTS MANUFACTURED, PREPARED, OR PROCESSED BY REGISTRANTS; STATEMENTS; ACCOMPANYING DISCLOSURES.**—

(1) Every person that registers with the Administrator under subsection (b), (c), (d), or (e) shall, at the time of registration under any such subsection, file with the Administrator a list of all brand styles (with each brand style in each list listed by the common or usual name of the tobacco product category to which it belongs and by any proprietary name) that are being manufactured, prepared, or processed by such person for commercial distribution domestically or for

import into the United States, and that such person has not included in any list of tobacco products filed by such person with the Administrator under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Administrator may prescribe, and shall be accompanied by the label for each such brand style and a representative sampling of any other labeling and advertising for each;

(2) Each person that registers with the Administrator under this section shall report to the Administrator each August for the preceding six-month period from January through June, and each February for the preceding six-month period from July through December, following information:

(A) A list of each brand style introduced by the registrant for commercial distribution domestically or for import into the United States that has not been included in any list previously filed by such registrant with the Administrator under this subparagraph or paragraph (1). A list under this subparagraph shall list a brand style by the common or usual name of the tobacco product category to which it belongs and by any proprietary name, and shall be accompanied by the other information required by paragraph (1).

(B) If since the date the registrant last made a report under this paragraph (or if such registrant has not previously made a report under this paragraph, since the effective date of this Act) such registrant has discontinued the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of a brand style included in a list filed by such registrant under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity (by the common or usual name of the tobacco product category to which it belongs and by any proprietary name) of such tobacco product.

(C) If, since the date the registrant reported pursuant to subparagraph (B) a notice of discontinuance of a tobacco product, the registrant has resumed the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of that brand style, notice of such resumption, the date of such resumption, the identity of such brand style (by the common or usual name of the tobacco product category to which it belongs and by any proprietary name), and the other information required by paragraph (1), unless the registrant has previously reported such resumption to the Administrator pursuant to this subparagraph.

(D) Any material change in any information previously submitted pursuant to this paragraph (2) or paragraph (1).

(i) **ELECTRONIC REGISTRATION.**—Registrations under subsections (b), (c), (d), and (e) (including the submission of updated information) shall be submitted to the Administrator by electronic means, unless the Administrator grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.

#### **SEC. 109. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.**

(a) **IN GENERAL.**—Any requirement established by or under section 106, 107, or 113 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 111, section 114, section 115, or subsection (d) of this section, and any require-

ment established by or under section 106, 107, or 113 which is inconsistent with a requirement imposed on such tobacco product under section 111, section 114, section 115, or subsection (d) of this section shall not apply to such tobacco product.

(b) **INFORMATION ON PUBLIC ACCESS AND COMMENT.**—Each notice of proposed rulemaking or other notification under section 111, 112, 113, 114, or 115 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Administrator by a notice published in the Federal Register stating good cause therefore.

(c) **LIMITED CONFIDENTIALITY OF INFORMATION.**—Any information reported to or otherwise obtained by the Administrator or the Administrator's representative under section 107, 108, 111, 112, 113, 114, 115, or 504, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(d) **RESTRICTIONS.**—

(1) **IN GENERAL.**—The Administrator may issue regulations, consistent with this Act, regarding tobacco products if the Administrator determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the users of the tobacco product, and taking into account that the standard is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(2) **LABEL STATEMENTS.**—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Administrator may in such regulation prescribe.

(e) **GOOD MANUFACTURING PRACTICE REQUIREMENTS.**—

(1) **METHODS, FACILITIES, AND CONTROLS TO CONFORM.**—

(A) **IN GENERAL.**—In applying manufacturing restrictions to tobacco, the Administrator shall, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point methodology, as prescribed in such regulations to assure that the public health is protected and that the tobacco product is in compliance with this Act. Such regulations may

provide for the testing of raw tobacco for pesticide chemical residues after a tolerance for such chemical residues has been established.

(B) REQUIREMENTS.—The Administrator shall—

(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

(iii) provide the Tobacco Products Scientific Advisory Committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices but no earlier than four years from date of enactment.

(C) ADDITIONAL SPECIAL RULE.—A tobacco product manufactured in or imported into the United States shall not contain foreign-grown flue-cured or burley tobacco that—

(i) was knowingly grown or processed using a pesticide chemical that is not approved under applicable Federal law for use in domestic tobacco farming and processing; or

(ii) in the case of a pesticide chemical that is so approved, was grown or processed using the pesticide chemical in a manner inconsistent with the approved labeling for use of the pesticide chemical in domestic tobacco farming and processing.

(D) EXCLUSION.—Subparagraph (C)(ii) shall not apply to tobacco products manufactured with foreign-grown flue-cured or burley tobacco so long as that foreign grown tobacco was either—

(i) in the inventory of a manufacturer prior to the effective date, or

(ii) planted by the farmer prior to the effective date of this Act and utilized by the manufacturer no later than 3 years after the effective date.

(E) SETTING OF MAXIMUM RESIDUE LIMITS.—The Administrator shall adopt the following pesticide residue standards:

Pesticide residue standards

The maximum concentration of residues of the following pesticides allowed in flue-cured or burley tobacco, expressed as parts by weight of the residue per one million parts by weight of the tobacco (PPM) are:

CHLORDANE.....3.0  
DIBROMOCHLOROPROPANE  
(DBCP).....1.0  
DICAMBA (Temporary).... 5.0  
ENDRIN....0.1  
ETHYLENE DIBROMIDE (EDB)....0.1  
FORMOTHION.....0.5  
HEXACHLOROBENZENE (HCB)....0.1  
METHOXYCHLOR.....0.1  
TOXAPHENE.....0.3  
2,4-D (Temporary).....5.0  
2,4,5-T.....0.1  
Sum of ALDRIN and DIELDRIN.....0.1  
Sum of CYPERMETHRIN and  
PERMETHRIN (Temporary).....3.0  
Sum of DDT, TDE (DDD), and DDE .....0.4  
Sum of HEPTACHLOR and HEPTACHLOR  
EPOXIDE.....0.1

(F) MAXIMUM RESIDUE LIMITS.—The Administrator shall adopt regulations within one year of the effective date of this Act to establish maximum residue limits for pesticides identified under subparagraph (E) but not included in the table of such subparagraph to account for the fact that weather and agronomic conditions will cause pesticides identified in subparagraph (E) to be detected in foreign-grown tobacco even where the farmer has not knowingly added such pesticide.

(2) EXEMPTIONS; VARIANCES.—

(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Administrator for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Administrator in such form and manner as the Administrator shall prescribe and shall—

(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this Act;

(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

(iii) contain such other information as the Administrator shall prescribe.

(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Administrator may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Administrator with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

(i) the date the petition was submitted to the Administrator under subparagraph (A); or

(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee, whichever occurs later, the Administrator shall by order either deny the petition or approve it.

(C) APPROVAL.—The Administrator may approve—

(i) a petition for an exemption for a tobacco product from a requirement if the Administrator determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this Act; and

(ii) a petition for a variance for a tobacco product from a requirement if the Administrator determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this Act.

(D) CONDITIONS.—An order of the Administrator approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this Act.

(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a

petition, the petitioner shall have an opportunity for an informal hearing on such order.

(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the end of the 3-year period following the date of enactment of this Act.

(f) RESEARCH AND DEVELOPMENT.—The Administrator may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes.

## SEC. 110. SMOKING ARTICLE STANDARDS.

(a) IN GENERAL.—

(1) RESTRICTIONS ON DESCRIPTORS USED IN MARKETING OF CIGARETTES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no person shall use, with respect to any cigarette brand style commercially distributed domestically, on the portion of the package of such cigarette brand style that customarily is visible to consumers before purchase, or in advertising of such cigarette brand style any of the following as a descriptor of any cigarette brand style—

(i) the name of any candy or fruit;

(ii) the word “candy,” “citrus,” “cream,” “fruit,” “sugar,” “sweet,” “tangy,” or “tart,”; or

(iii) any extension or variation of any of the words “candy,” “citrus,” “cream,” “fruit,” “sugar,” “sweet,” “tangy,” or “tart,” including but not limited to “creamy,” or “fruity.”

(B) LIMITATION.—Subparagraph (A) shall not apply to the use of the following words or to any extension or variation of any of them: “clove” and “menthol”.

(C) SCENTED MATERIALS.—No person shall use, in the advertising or labeling of any cigarette commercially distributed domestically, any scented materials, except in an adult-only facility.

(D) DEFINITIONS.—In this section:

(i) The term “candy” means a confection made from sugar or sugar substitute, including any confection identified generically or by brand, and shall include the words “cacao,” “chocolate,” “cinnamon,” “cocoa,” “honey,” “licorice,” “maple,” “mocha,” and “vanilla.”

(ii) The term “fruit” means any fruit identified by generic name, type, or variety, including but not limited to “apple,” “banana,” “cherry,” and “orange.” The term “fruit” does not include words that identify seeds, nuts or peppers, or types or varieties thereof or words that are extensions or variations of such words.

(2) SMOKING ARTICLE STANDARDS.—

(A) IN GENERAL.—The Administrator may adopt smoking article standards in addition to those in paragraph (1) if the Administrator finds that a smoking article standard is appropriate for the protection of the public health.

(B) DETERMINATIONS.—

(i) CONSIDERATIONS.—In making a finding described in subparagraph (A), the Administrator shall consider scientific evidence concerning—

(I) the risks and benefits to the users of smoking articles of the proposed standard; and

(II) that the standard is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(ii) ADDITIONAL CONSIDERATIONS.—In the event that the Administrator makes a determination, set forth in a proposed smoking article standard in a proposed rule, that it is appropriate for the protection of public

health to require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a smoking article because the Administrator has found that the additive, constituent, or other component is harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Administrator's consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

(3) **CONTENT OF SMOKING ARTICLE STANDARDS.**—A smoking article standard established under this section for a smoking article—

(A) may include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

(i) for “tar” and nicotine yields of the product;

(ii) for the reduction of other constituents, including smoke constituents, or harmful components of the product; or

(iii) relating to any other requirement under subparagraph (B); and

(B) may, where appropriate for the protection of the public health, include—

(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the smoking article;

(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the smoking article;

(iii) provisions for the measurement of the smoking article characteristics of the smoking article; and

(iv) provisions requiring that the results of each or of certain of the tests of the smoking article required to be made under clause (ii) show that the smoking article is in conformity with the portions of the standard for which the test or tests were required.

(4) **PERIODIC REEVALUATION OF SMOKING ARTICLE STANDARDS.**—The Administrator may provide for periodic evaluation of smoking article standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data.

(5) **CIGARETTE “TAR” LIMITS.**—

(A) **NO INCREASE IN “TAR” YIELDS.**—No cigarette manufacturer shall distribute for sale domestically a brand style of cigarettes that generates a “tar” yield greater than the “tar” yield of that brand style of cigarettes on the date of introduction of this Act, as determined by the ISO smoking regimen and its associated tolerances. The “tar” tolerances for cigarettes with ISO “tar” yields in the range of 1 to 20 milligrams per cigarette, based on variations arising from sampling procedure, test method, and sampled product, itself, are the greater of plus or minus—

(i) 15 percent; or

(ii) 1 milligram per cigarette.

(B) **LIMIT ON NEW CIGARETTES.**—After the effective date of this Act, no cigarette manufacturer shall manufacture for commercial distribution domestically a brand style of cigarettes that both—

(i) was not in commercial distribution domestically on the effective date of this Act, and

(ii) generates a “tar” yield of greater than 20 milligrams per cigarette as determined by the ISO smoking regimen and its associated tolerances.

(C) **LIMIT ON ALL CIGARETTES.**—After December 31, 2010, no cigarette manufacturer shall manufacture for commercial distribu-

tion domestically a brand style of cigarettes that generates a “tar” yield greater than 20 milligrams per cigarette as determined by the ISO smoking regimen and its associated tolerances.

(D) **REVIEW BY ADMINISTRATOR.**—After the effective date of this Act, the Administrator shall evaluate the available scientific evidence addressing the potential relationship between historical “tar” yield values and risk of harm to smokers. If upon a review of that evidence, and after consultation with technical experts of the Tobacco Harm Reduction Center and the Centers for Disease Control and Prevention and notice and an opportunity for public comment, the Administrator determines, that a reduction in “tar” yield may reasonably be expected to provide a meaningful reduction of the risk or risks of harm to smokers, the Administrator shall issue an order that—

(i) provides that no cigarette manufacturer shall manufacture for commercial distribution domestically a cigarette that generates a “tar” yield that exceeds 14 milligrams as determined by the ISO smoking regimen and its associated tolerances; and

(ii) provides a reasonable time for manufacturers to come into compliance with such prohibition.

(6) **INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.**—In carrying out duties under this section, the Administrator shall endeavor to—

(A) use personnel, facilities, and other technical support available in other Federal agencies;

(B) consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Administrator's judgment can make a significant contribution.

(b) **CONSIDERATIONS BY ADMINISTRATOR.**—

(1) **TECHNICAL ACHIEVABILITY.**—The Administrator shall consider information submitted in connection with a proposed standard regarding the technical achievability of compliance with such standard.

(2) **OTHER CONSIDERATIONS.**—The Administrator shall consider all other information submitted in connection with a proposed standard, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this Act and the significance of such demand.

(c) **PROPOSED STANDARDS.**—

(1) **IN GENERAL.**—The Administrator shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any smoking article standard.

(2) **REQUIREMENTS OF NOTICE.**—A notice of proposed rulemaking for the establishment or amendment of a smoking article standard shall—

(A) set forth a finding with supporting justification that the smoking article standard is appropriate for the protection of the public health;

(B) invite interested persons to submit a draft or proposed smoking article standard for consideration by the Administrator;

(C) invite interested persons to submit comments on structuring the standard so that it does not advantage foreign-grown tobacco over domestically grown tobacco; and

(D) invite the Secretary of Agriculture to provide any information or analysis which

the Secretary of Agriculture believes is relevant to the proposed smoking article standard.

(3) **FINDING.**—A notice of proposed rulemaking for the revocation of a smoking article standard shall set forth a finding with supporting justification that the smoking article standard is no longer appropriate for the protection of the public health.

(4) **COMMENT.**—The Administrator shall provide for a comment period of not less than 90 days.

(d) **PROMULGATION.**—

(1) **IN GENERAL.**—After the expiration of the period for comment on a notice of proposed rulemaking published under subsection (c) respecting a standard and after consideration of comments submitted under subsections (b) and (c) and any report from the Tobacco Products Scientific Advisory Committee, if the Administrator determines that the standard would be appropriate for the protection of the public health, the Administrator shall—

(A) promulgate a regulation establishing a smoking article standard and publish in the Federal Register findings on the matters referred to in subsection (c); or

(B) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

(2) **EFFECTIVE DATE.**—A regulation establishing a smoking article standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Administrator determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade. In establishing such effective date or dates, the Administrator shall consider information submitted in connection with a proposed product standard by interested parties, including manufacturers and tobacco growers, regarding the technical achievability of compliance with the standard, and including information concerning the existence of patents that make it impossible to comply in the timeframe envisioned in the proposed standard.

(3) **LIMITATION ON POWER GRANTED.**—Because of the importance of a decision of the Administrator to issue a regulation—

(A) banning cigarettes, smokeless smoking articles, little cigars, cigars other than little cigars, pipe tobacco, or roll-your-own smoking articles;

(B) requiring the reduction of “tar” or nicotine yields of a smoking article to zero;

(C) prohibiting the sale of any smoking article in face-to-face transactions by a specific category of retail outlets;

(D) establishing a minimum age of sale of smoking articles to any person older than 18 years of age; or

(E) requiring that the sale or distribution of a smoking article be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products, the Administrator is prohibited from taking such actions under this Act.

(4) **MATCHBOOKS.**—For purposes of any regulations issued by the Administrator under this Act, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of smoking articles, shall be considered as adult-written publications which shall be permitted to contain advertising.

**(5) AMENDMENT; REVOCATION.—**

(A) **AUTHORITY.**—The Administrator, upon the Administrator's own initiative or upon petition of an interested person, may by a regulation, promulgated in accordance with the requirements of subsection (c) and paragraph (2), amend or revoke a smoking article standard.

(B) **EFFECTIVE DATE.**—The Administrator may declare a proposed amendment of a smoking article standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Administrator determines that making it so effective is in the public interest.

**(6) REFERRAL TO ADVISORY COMMITTEE.—**

(A) **IN GENERAL.**—The Administrator shall refer a proposed regulation for the establishment, amendment, or revocation of a smoking article standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.

(B) **INITIATION OF REFERRAL.**—The Administrator shall make a referral under this paragraph—

(i) on the Administrator's own initiative; or

(ii) upon the request of an interested person that—

(I) demonstrates good cause for the referral; and

(II) is made before the expiration of the period for submission of comments on the proposed regulation.

(C) **PROVISION OF DATA.**—If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Administrator shall provide the Advisory Committee with the data and information on which such proposed regulation is based.

(D) **REPORT AND RECOMMENDATION.**—The Tobacco Products Scientific Advisory Committee shall, within 90 days after the referral of a proposed regulation under this paragraph and after independent study of the data and information furnished to it by the Administrator and other data and information before it, submit to the Administrator a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

(E) **PUBLIC AVAILABILITY.**—The Administrator shall make a copy of each report and recommendation under subparagraph (D) publicly available.

**SEC. 111. NOTIFICATION AND OTHER REMEDIES.**

(a) **NOTIFICATION.**—If the Administrator determines that—

(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm materially above the risk for death and disease of tobacco products currently in interstate commerce, to the public health; and

(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this Act (other than this section) to eliminate such risk,

the Administrator may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification

in order to eliminate such risk. The Administrator may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Administrator shall consult with the persons who are to give notice under the order.

(b) **NO EXEMPTION FROM OTHER LIABILITY.**—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

**(c) RECALL AUTHORITY.—**

(1) **IN GENERAL.**—If the Administrator finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, acute adverse health consequences or death, the Administrator shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Administrator determines that inadequate grounds exist to support the actions required by the order, the Administrator shall vacate the order.

(2) **AMENDMENT OF ORDER TO REQUIRE RECALL.—**

(A) **IN GENERAL.**—If, after providing an opportunity for an informal hearing under paragraph (1), the Administrator determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Administrator shall, except as provided in subparagraph (B), amend the order to require a recall. The Administrator shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Administrator describing the progress of the recall.

(B) **NOTICE.**—An amended order under subparagraph (A)—

(i) shall not include recall of a tobacco product from individuals; and

(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Administrator may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Administrator shall notify such persons under section 705(b).

(3) **REMEDY NOT EXCLUSIVE.**—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

**SEC. 112. RECORDS AND REPORTS ON TOBACCO PRODUCTS.**

Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Administrator may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded.

**SEC. 113. APPLICATION FOR REVIEW OF CERTAIN SMOKING ARTICLES.**

(a) **IN GENERAL.**—

(1) **NEW SMOKING ARTICLE DEFINED.**—For purposes of this section the term “new smoking article” means—

(A) any smoking article that was not commercially marketed in the United States as of the date of enactment of this Act; and

(B) any smoking article that incorporates a significant modification (including changes in design, component, part, or constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or other additive or ingredient) of a smoking article where the reduced product was commercially marketed in the United States after the date of enactment of this Act.

**(2) PREMARKET REVIEW REQUIRED.—**

(A) **NEW PRODUCTS.**—An order under subsection (c)(1)(A) for a new smoking article is required unless the product—

(i) is substantially equivalent to a smoking article commercially marketed in the United States as of date of enactment of this Act; and

(ii) is in compliance with the requirements of this Act.

(B) **CONSUMER TESTING.**—This section shall not apply to smoking articles that are provided to adult tobacco consumers for purposes of consumer testing. For purposes of this section, the term “consumer testing” means an assessment of smoking articles that is conducted by or under the control and direction of a manufacturer for the purpose of evaluating consumer acceptance of such smoking articles, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

**(3) SUBSTANTIALLY EQUIVALENT DEFINED.—**

(A) **IN GENERAL.**—In this section, the term “substantially equivalent” or “substantial equivalence” means, with respect to the smoking article being compared to the predicate smoking article, that the Administrator by order has found that the smoking article—

(i) has the same general characteristics as the predicate smoking article; or

(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Administrator, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health for the consumer of the product.

(B) **CHARACTERISTICS.**—In subparagraph (A), the term “characteristics” means the materials, ingredients, design, composition, heating source, or other features of a smoking article.

(C) **LIMITATION.**—A smoking article may not be found to be substantially equivalent to a predicate smoking article that has been removed from the market at the initiative of the Administrator or that has been determined by a judicial order to be misbranded or adulterated.

(4) **HEALTH INFORMATION.**—As part of a submission respecting a smoking article, the person required to file a premarket notification shall provide an adequate summary of any health information related to the smoking article or state that such information will be made available upon request by any person.

**(b) APPLICATION.—**

(1) **CONTENTS.**—An application under this section shall contain—

(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such smoking article and whether such smoking article presents less risk than other smoking articles;

(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such smoking article;

(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such smoking article;

(D) an identifying reference to any smoking article standard under section 111 which would be applicable to any aspect of such smoking article, and either adequate information to show that such aspect of such smoking article fully meets such smoking article standard or adequate information to justify any deviation from such standard;

(E) such samples of such smoking article and of components thereof as the Administrator may reasonably require;

(F) specimens of the labeling proposed to be used for such smoking article; and

(G) such other information relevant to the subject matter of the application as the Administrator may require.

(2) REFERRAL TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Administrator—

(A) may, on the Administrator's own initiative; or

(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Administrator may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

(C) ACTION ON APPLICATION.—

(1) DEADLINE.—As promptly as possible, but in no event later than 90 days after the receipt of an application under subsection (b), the Administrator, after considering the report and recommendation submitted under subsection (b)(2), shall—

(A) issue an order that the new product may be introduced or delivered for introduction into interstate commerce if the Administrator finds that none of the grounds specified in paragraph (2) of this subsection applies; or

(B) issue an order that the new product may not be introduced or delivered for introduction into interstate commerce if the Administrator finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

(2) DENIAL OF APPLICATION.—The Administrator shall deny an application submitted under subsection (b) if, upon the basis of the information submitted to the Administrator as part of the application and any other information before the Administrator with respect to such smoking article, the Administrator finds that—

(A) there is a lack of a showing that permitting such smoking article to be marketed would be appropriate for the protection of the public health;

(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such smoking article do not conform to the requirements of section 110(e);

(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

(D) such smoking article is not shown to conform to a smoking article standard in ef-

fect under section 111, and there is a lack of adequate information to justify the deviation from such standard.

(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Administrator determines to be practicable, be accompanied by a statement informing the applicant of the measures required to remove such application from deniable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Administrator).

(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether the commercial introduction of a smoking article for which an application has been submitted is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the users of the smoking article, and taking into account whether such commercial introduction is reasonably likely to increase the morbidly and mortality among individual tobacco users.

(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

(1) IN GENERAL.—The Administrator shall, upon obtaining, where appropriate, advice on scientific matters from the Tobacco Products Scientific Advisory Committee, and after due notice and opportunity for informal hearing for a smoking article for which an order was issued under subsection (c)(1)(A), issue an order withdrawing the order if the Administrator finds—

(A) that the continued marketing of such smoking article no longer is appropriate for the protection of the public health;

(B) that the application contained or was accompanied by an untrue statement of a material fact;

(C) that the applicant—

(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 113; or

(ii) has refused to permit access to, or copying or verification of, such records as required by section 110; or

(D) on the basis of new information before the Administrator with respect to such smoking article, evaluated together with the evidence before the Administrator when the application was reviewed, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such smoking article do not conform with the requirements of section 110(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Administrator of nonconformity;

(E) on the basis of new information before the Administrator, evaluated together with the evidence before the Administrator when the application was reviewed, that the labeling of such smoking article, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Administrator of such fact; or

(F) on the basis of new information before the Administrator, evaluated together with the evidence before the Administrator when such order was issued, that such smoking article is not shown to conform in all respects to a smoking article standard which is in effect under section 111, compliance with which was a condition to the issuance of an order relating to the application, and that there is a lack of adequate information to justify the deviation from such standard.

(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing an order issued pursuant to subsection (c)(1)(A) may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with section 116.

(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Administrator determines there is reasonable probability that the continuation of distribution of a smoking article under an order would cause serious, adverse health consequences or death, that is greater than ordinarily caused by smoking articles on the market, the Administrator shall by order temporarily suspend the authority of the manufacturer to market the product. If the Administrator issues such an order, the Administrator shall proceed expeditiously under paragraph (1) to withdraw such application.

(e) SERVICE OF ORDER.—An order issued by the Administrator under this section shall be served—

(1) in person by any officer or employee of the department designated by the Administrator; or

(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Administrator.

(f) RECORDS.—

(1) ADDITIONAL INFORMATION.—In the case of any smoking article for which an order issued pursuant to subsection (c)(1)(A) for an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Administrator, as the Administrator may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Administrator to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such order.

(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge of custody thereof, shall, upon request of an officer or employee designated by the Administrator, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

(g) INVESTIGATIONAL SMOKING ARTICLE EXEMPTION FOR INVESTIGATIONAL USE.—The Administrator may exempt smoking articles intended for investigational use from the provisions of this Act under such conditions as the Administrator may by regulation prescribe.

#### SEC. 114. REDUCED RISK TOBACCO PRODUCTS.

(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any reduced risk tobacco product unless an order issued pursuant to subsection (g) is effective with respect to such product.

(b) DEFINITIONS.—In this section:

(1) REDUCED RISK TOBACCO PRODUCT.—The term “reduced risk tobacco product” means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

(2) SOLD OR DISTRIBUTED.—

(A) IN GENERAL.—With respect to a tobacco product, the term “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products” means a tobacco product—



(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

(III) the tobacco product or its smoke does not contain or is free of a substance;

(ii) the label, labeling, or advertising of which uses the descriptors “light”, “mild”, “low”, “medium”, “ultra light”, “low tar” or “ultra low tar”; or

(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling, or advertising, after the date of enactment of the Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

(B) LIMITATION.—No tobacco product shall be considered to be “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products”, except as described in subparagraph (A).

(C) SMOKELESS TOBACCO PRODUCT.—No smokeless tobacco product shall be considered to be “sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products”.

(3) EFFECTIVE DATE.—The provisions of paragraph (2)(A)(ii) shall take effect 12 months after the date of enactment of the Act.

(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a reduced risk tobacco product under this section if it has been approved as a drug or device by the Center and is subject to the requirements of chapter V.

(d) FILING.—Any person may file with the Administrator an application for a reduced risk tobacco product. Such application shall include—

(1) a description of the proposed product and any proposed advertising and labeling;

(2) the conditions for using the product;

(3) the formulation of the product;

(4) sample product labels and labeling;

(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

(6) data and information on how consumers actually use the tobacco product; and

(7) such other information as the Administrator may require.

(e) PUBLIC AVAILABILITY.—The Administrator shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the informa-

tion contained in the application and on the label, labeling, and advertising accompanying such application.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Administrator shall refer to the Tobacco Products Scientific Advisory Committee any application submitted under this section.

(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to the Tobacco Products Scientific Advisory Committee under paragraph (1), the Advisory Committee shall report its recommendations on the application to the Administrator.

(g) MARKETING.—

(1) REDUCED RISK PRODUCTS.—Except as provided in paragraph (2), the Administrator shall, with respect to an application submitted under this section, issue an order that a reduced risk product may be commercially marketed only if the Administrator determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

(B) is reasonably likely to result in measurable and substantial reductions in morbidity and mortality among individual tobacco users.

(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—The Administrator may issue an order that a tobacco product may be introduced or delivered for introduction into interstate commerce, pursuant to an application under this section, with respect to a tobacco product that may not be commercially marketed under paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

(A) such order would be appropriate to promote the public health; and

(B) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies.

(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

(A) the scientific evidence submitted by the applicant; and

(B) scientific evidence and other information that is made available to the Administrator.

(h) ADDITIONAL CONDITIONS FOR MARKETING.—

(1) REDUCED RISK PRODUCTS.—The Administrator shall require for the marketing of a product under this section that any advertising or labeling concerning reduced risk products enable the public to comprehend the information concerning reduced risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of cigarettes and other tobacco products.

(2) COMPARATIVE CLAIMS.—The Administrator may require for the marketing of a product under this subsection that a claim comparing a tobacco product to other commercially marketed tobacco products shall compare the tobacco product to the known risk of cigarettes.

(i) POSTMARKET SURVEILLANCE AND STUDIES.—Under the guidance of the Scientific Advisory Committee, the Tobacco Harm Reduction Center shall engage in postmarket surveillance studies and other research as needed to ascertain the health impact of

each of the major classes of tobacco and other nicotine containing products in the United States, ascertain the possible presence of unusual levels of harm from specific tobacco products, and determine the steps that should be taken to further reduce illness, death and other social harms from tobacco products.

(j) WITHDRAWAL OF AUTHORIZATION.—The Administrator, after an opportunity for an informal hearing, shall withdraw an order under subsection (g) if the Administrator determines that—

(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Administrator can no longer make the determinations required under subsection (g);

(2) the application failed to include material information or included any untrue statement of material fact;

(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

(A) a tobacco product standard is established pursuant to section 111;

(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

(C) any postmarket surveillance or studies reveal that the order is no longer consistent with the protection of the public health;

(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or subsection (i); or

(5) the applicant failed to meet a condition imposed under subsection (h).

(k) CHAPTER IV OR V.—A product for which the Administrator has issued an order pursuant to subsection (g) shall not be subject to chapter IV or V of the Federal Food, Drug, and Cosmetic Act.

(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Act, the Administrator shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of reduced risk tobacco products. Such regulations or guidance shall—

(A) to the extent that adequate scientific evidence exists, establish minimum standards for scientific studies needed prior to issuing an order under subsection (g) to show a reasonable likelihood that a substantial reduction in morbidity or mortality among individual tobacco users occurs for products described in subsection (g)(1) or is reasonably likely for products described in subsection (g)(2);

(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

(C) establish minimum standards for postmarket studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

(E) establish a reasonable timetable for the Administrator to review an application under this section.

(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) may be

developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

(3) **REVISION.**—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

(4) **NEW TOBACCO PRODUCTS.**—Not later than 2 years after the date of enactment of the Act, the Administrator shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 114 and which the applicant seeks to commercially market under this section.

#### SEC. 115. JUDICIAL REVIEW.

(a) **RIGHT TO REVIEW.**—

(1) **IN GENERAL.**—Not later than 60 days after—

(A) the promulgation of a regulation under section 111 establishing, amending, or revoking a tobacco product standard; or

(B) a denial of an application under section 114(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

(2) **REQUIREMENTS.**—

(A) **COPY OF PETITION.**—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Administrator.

(B) **RECORD OF PROCEEDINGS.**—On receipt of a petition under subparagraph (A), the Administrator shall file in the court in which such petition was filed—

(i) the record of the proceedings on which the regulation or order was based; and

(ii) a statement of the reasons for the issuance of such a regulation or order.

(C) **DEFINITION OF RECORD.**—In this section, the term “record” means—

(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

(ii) all information submitted to the Administrator with respect to such regulation or order;

(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

(iv) any hearing held with respect to such regulation or order; and

(v) any other information identified by the Administrator, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

(b) **STANDARD OF REVIEW.**—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

(c) **FINALITY OF JUDGMENT.**—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) **OTHER REMEDIES.**—The remedies provided for in this section shall be in addition

to, and not in lieu of, any other remedies provided by law.

(e) **REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.**—To facilitate judicial review, a regulation or order issued under section 110, 111, 112, 113, 114, or 119 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

#### SEC. 116. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

#### SEC. 117. REGULATION REQUIREMENT.

(a) **TESTING, REPORTING, AND DISCLOSURE.**—Not later than 36 months after the date of enactment of the Act, the Administrator shall promulgate regulations under this Act that meet the requirements of subsection (b).

(b) **CONTENTS OF RULES.**—The regulations promulgated under subsection (a)—

(1) shall require annual testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand style that the Administrator determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand style; and

(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising.

(c) **AUTHORITY.**—The Administrator shall have the authority under this Act to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

(d) **JOINT LABORATORY TESTING SERVICES.**—The Administrator shall allow any 2 or more tobacco product manufacturers to join together to purchase laboratory testing services required by this section on a group basis in order to ensure that such manufacturers receive access to, and fair pricing of, such testing services.

(e) **EXTENSIONS FOR LIMITED LABORATORY CAPACITY.**—

(1) **IN GENERAL.**—The regulations promulgated under subsection (a) shall provide that a tobacco product manufacturer shall not be considered to be in violation of this section before the applicable deadline, if—

(A) the tobacco products of such manufacturer are in compliance with all other requirements of this Act; and

(B) the conditions described in paragraph (2) are met.

(2) **CONDITIONS.**—Notwithstanding the requirements of this section, the Administrator may delay the date by which a tobacco product manufacturer must be in compliance with the testing and reporting required by this section until such time as the testing is reported if, not later than 90 days before the deadline for reporting in accordance with this section, a tobacco product manufacturer provides evidence to the Administrator demonstrating that—

(A) the manufacturer has submitted the required products for testing to a laboratory

and has done so sufficiently in advance of the deadline to create a reasonable expectation of completion by the deadline;

(B) the products currently are awaiting testing by the laboratory; and

(C) neither that laboratory nor any other laboratory is able to complete testing by the deadline at customary, nonexpedited testing fees.

(3) **EXTENSION.**—The Administrator, taking into account the laboratory testing capacity that is available to tobacco product manufacturers, shall review and verify the evidence submitted by a tobacco product manufacturer in accordance with paragraph (2). If the Administrator finds that the conditions described in such paragraph are met, the Administrator shall notify the tobacco product manufacturer that the manufacturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Administrator has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Administrator finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

(4) **ADDITIONAL EXTENSION.**—In addition to the time that may be provided under paragraph (3), the Administrator may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Administrator determines, based on evidence properly and timely submitted by a tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

(f) **RULE OF CONSTRUCTION.**—Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this Act other than this section.

#### SEC. 118. PRESERVATION OF STATE AND LOCAL AUTHORITY.

(a) **IN GENERAL.**—

(1) **PRESERVATION.**—Except as provided in paragraph (2)(A), nothing in this Act, or rules promulgated under this Act, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to requirements established under this Act, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, or use of tobacco products by individuals of any age, information reporting to the State. No provision of this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(2) **PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.**—

(A) **IN GENERAL.**—No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this Act relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk tobacco products.

(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, use of, tobacco product by individuals of any age. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of title 5, United States Code, shall be treated as a trade secret and confidential information by the State.

(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this Act relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

#### SEC. 119. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a 19-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the “Advisory Committee”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—

(A) MEMBERS.—The Administrator shall appoint as members of the Tobacco Harm Reduction Advisory Committee individuals who are technically qualified by training and experience in medicine, public health, medical ethics or other science or technology involving the means by which cigarettes and other tobacco products cause illness, death and other societal harms, and the steps that can be taken by government and the private sector to most rapidly and substantially reduce said illness, death and other societal harms. The committee shall be composed of—

(i) 10 individuals who are physicians, dentists, other scientists or other public health or healthcare professionals;

(ii) 4 individuals representing the general public;

(iii) 2 representatives of the interests of the tobacco manufacturing industry;

(iv) 1 representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee;

(v) 1 individual as a representative of the interests of the tobacco growers; and

(vi) 1 individual who is an expert in illicit trade of tobacco products.

(B) CONFLICTS OF INTEREST.—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products or government agency with any form of jurisdiction over tobacco products.

(2) LIMITATION.—The Administrator may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Tobacco Harm Reduction Center or any agency responsible for the enforcement of this Act. The Administrator may appoint Federal officials as ex officio members.

(3) CHAIRPERSON.—The Administrator shall designate 1 of the members appointed under clauses (i), (ii), and (iii) of paragraph (1)(A) to serve as chairperson.

(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Administrator—

(1) as provided in this Act;

(2) on the implementation of prevention, cessation, and harm reduction policies;

(3) on implementation of policies and programs to fully inform consumers of the respective risks of tobacco products; and

(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Administrator.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Administrator, which may not exceed the daily equivalent of the rate in effect under the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Administrator shall furnish the Advisory Committee clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act does not apply to the Advisory Committee.

(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

#### SEC. 120. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

(a) REPORT ON INNOVATIVE PRODUCTS.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Administrator, after consultation with recognized scientific, medical, and public health experts (including both Federal agencies and nongovernmental entities, the Institute of Medicine of the National Academy of Sciences, and the Society for Research on Nicotine and Tobacco), shall submit to the Congress a report that examines how best to promote, and encourage the development and use by current tobacco users of innovative tobacco and nicotine products and treatments (including nicotine-based and non-nicotine-based products and treatments) to better achieve, in a manner that best protects and promotes the public health—

(A) total abstinence from tobacco use;

(B) reductions in consumption of tobacco; and

(C) reductions in the harm associated with continued tobacco use by moving current users to noncombustible tobacco products.

(2) RECOMMENDATIONS.—The report under paragraph (1) shall include the recommendations of the Administrator on how the Tobacco Harm and Reduction Center should coordinate and facilitate the exchange of information on such innovative products and treatments among relevant offices and centers within the Center and within the National Institutes of Health, the Centers for Disease Control and Prevention, and other relevant Federal and State agencies.

## TITLE II—TOBACCO PRODUCTS WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

### SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) AMENDMENT.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

#### “SEC. 4. LABELING.

“(a) LABEL REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

“WARNING: Cigarettes are addictive.

“WARNING: Tobacco smoke can harm your children.

“WARNING: Cigarettes cause fatal lung disease.

“WARNING: Cigarettes cause cancer.

“WARNING: Cigarettes cause strokes and heart disease.

“WARNING: Smoking during pregnancy can harm your baby.

“WARNING: Smoking can kill you.

“WARNING: Tobacco smoke causes fatal lung disease in nonsmokers.

“WARNING: Quitting smoking now greatly reduces serious risks to your health.

“(2) PLACEMENT; TYPOGRAPHY; ETC.—Each label statement required by paragraph (1) shall be located in the lower portion of the front panel of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise at least the bottom 25 percent of the front panel of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c). The Secretary shall by regulation adjust the format and type size of the warnings required under this Act to include color graphics depicting the negative health consequences of smoking on the bottom portion of the front and rear panels.

“(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a licensee or permit-holding smoking article manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its

advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2) **TYPOGRAPHY, ETC.**—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the bottom of each advertisement within the trim area. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

“(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) **MATCHBOOKS.**—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of smokeless tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(c) **MARKETING REQUIREMENTS.**—

“(1) **RANDOM DISPLAY.**—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(2) **ROTATION.**—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(3) **REVIEW.**—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

“(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(B) assures that all of the labels required under this section will be displayed by the smokeless tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(4) **APPLICABILITY TO RETAILERS.**—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 24 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a).

#### **SEC. 202. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.**

(a) **AMENDMENT.**—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

##### **“SEC. 3. SMOKELESS TOBACCO WARNING.**

“(a) **GENERAL RULE.**—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, the following labels:

“(WARNING: Smokeless tobacco is addictive.

“(2) Rotating warnings for all smokeless products shall consist of ‘lower risk than cigarettes’ and ‘addictive’ and the Secretary shall have the discretion to add warnings relating to mouth cancer, gum disease, and tooth loss to those smokeless products that have a demonstrated risk of such hazards.

“(3) The two main rotating warnings should be extended to the ‘nicotine containing products.’

“(4) The label statements required by paragraph (1) shall be introduced by each smokeless tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(5) The provisions of this subsection do not apply to a smokeless tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(6) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license or permit-holding smokeless tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) **REQUIRED LABELS.**—

“(1) It shall be unlawful for any smokeless tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2)(A) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) For press and poster advertisements, each such statement and (where applicable) any required statement relating to nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement.

“(C) The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(D) The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(E) The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements.

“(F) The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement.

“(G) The label statements shall be in English, except that—

“(i) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(ii) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the smokeless tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraphs (A) and (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the smokeless tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection.

“(C) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 24 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by subsection (a).

### TITLE III—PUBLIC DISCLOSURES BY TOBACCO PRODUCTS MANUFACTURERS

#### SEC. 301. DISCLOSURES ON PACKAGES OF TOBACCO PRODUCTS.

(a) BACK FACE FOR REQUIRED DISCLOSURES.—For purposes of this section—

(1) the principal face of a package of a tobacco product is the face that has the largest surface area or, for faces with identical surface areas, any of the faces that have the largest surface area; a package shall not be characterized as having more than 2 principal faces;

(2) the front face shall be the principal face of the package;

(3) if the front and back faces are of different sizes in terms of area, then the larger face shall be the front face;

(4) the back face shall be the principal face of a package that is opposite the front face of the package;

(5) the bottom 50 percent of the back face of the package shall be allocated for required package disclosures in accordance with this section; and

(6) if a package of a tobacco product is cylindrical, a contiguous area constituting 30 percent of the total surface area of the cylinder shall be deemed the back face.

(b) REQUIRED INFORMATION ON BACK FACE.—Not later than 24 months after the effective date of this Act, the bottom 50 percent of the back face of a package of a tobacco product shall be available solely for disclosures required by or under this Act, the Federal Cigarette Labeling and Advertising Act, sections 1331–1340 of title 15, United States Code, and any other Federal statute. Such disclosures shall include—

(1) the printed name and address of the manufacturer, packer, or distributor, and any other identification associated with the manufacturer, packer, or distributor or with the tobacco product that the Administrator may require;

(2) a list of ingredients as required by subsection (e); and

(3) the appropriate tax registration number.

(c) PACKAGE DISCLOSURE OF INGREDIENTS.—Not later than 24 months after the effective date of this Act, the package of a tobacco

product shall bear a list of the common or usual names of the ingredients present in the tobacco product in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients), that shall comply with the following:

(1) Such listing of ingredients shall appear under, or be conspicuously accompanied by, the heading “Tobacco and principal tobacco ingredients”.

(2) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(3) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(4) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(5) Preservatives may be listed as “preservatives” without naming each.

(6) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(7) The package may state “Not for sale to minors”.

(8) In the case of a package of cigarettes, the package shall state that smokeless tobacco has significantly lower risks for disease and death than cigarettes.

#### SEC. 302. DISCLOSURES ON PACKAGES OF SMOKELESS TOBACCO.

(a) BACK FACE FOR REQUIRED DISCLOSURES.—For purposes of this section—

(1) the principal face of a package of smokeless tobacco is the face that has the largest surface area or, for faces with identical surface areas, any of the faces that have the largest surface area; a package shall not be characterized as having more than two principal faces;

(2) the front or top face shall be the principal face of the package;

(3) if the front or top and back or bottom faces are of different sizes in terms of area, then the larger face shall be the front or top face;

(4) the back or bottom face of the package shall be the principal face of a package that is opposite the front or top face of the package;

(5) beginning 24 months after the effective date of this Act, 50 percent of the back or bottom face of the package shall be allocated for required package disclosures in accordance with this section; and

(6) if the package is cylindrical, a contiguous area constituting 30 percent of the total surface area of the cylinder shall be deemed the back face.

(b) REQUIRED INFORMATION ON BACK OR BOTTOM FACE.—50 percent of the back or bottom face of a package of smokeless tobacco shall be available solely for disclosures required by or under this Act, the Comprehensive Smokeless Tobacco Health Education Act of 1986, sections 4401–4408 of title 15, United States Code, and any other Federal statute. Such disclosures shall include a list of ingredients as required by subsection (e).

(c) PACKAGE DISCLOSURE OF INGREDIENTS.—Commencing 24 months after the effective date of this Act, a package of smokeless tobacco shall bear a list of the common or usual names of the ingredients present in the smokeless tobacco in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients).

(1) Such listing of ingredients shall appear under, or be conspicuously accompanied by, the heading “Tobacco and principal tobacco ingredients”.

(2) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(3) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(4) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(5) Preservatives may be listed as “preservatives” without naming each.

(6) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(7) Not for sale to minors.

#### SEC. 303. PUBLIC DISCLOSURE OF INGREDIENTS.

(a) REGULATIONS.—Not later than 24 months after the effective date of this Act, the Administrator shall, by regulation, establish standards under which each tobacco product manufacturer shall disclose publicly, and update at least annually—

(1) a list of the ingredients it uses in each brand style it manufactures for commercial distribution domestically, as provided in subsection (b); and

(2) a composite list of all the ingredients it uses in any of the brand styles it manufactures for commercial distribution domestically, as provided in subsection (c).

(b) INGREDIENTS TO BE DISCLOSED AS TO EACH BRAND STYLE.—

(1) IN GENERAL.—With respect to the public disclosure required by subsection (a)(1), as to each brand style, the tobacco product manufacturer shall disclose the common or usual name of each ingredient present in the brand style in an amount greater than 0.1 percent of the total dry weight of the tobacco (including all ingredients).

(2) REQUIREMENTS.—Disclosure under paragraph (1) shall comply with the following:

(A) Tobacco may be listed as “tobacco,” and shall be the first listed ingredient.

(B) After tobacco, the ingredients shall be listed in descending order of predominance, by weight.

(C) Spices and natural and artificial flavors may be listed, respectively, as “spices” and “natural and artificial flavors” without naming each.

(D) Preservatives may be listed as “preservatives” without naming each.

(E) The disclosure of any ingredient in accordance with this section may, at the option of the tobacco product manufacturer, designate the functionality or purpose of that ingredient.

(c) AGGREGATE DISCLOSURE OF INGREDIENTS.—

(1) IN GENERAL.—The public disclosure required of a tobacco product manufacturer by subsection (a)(2) shall consist of a single list of all ingredients used in any brand style a tobacco product manufacturer manufactures for commercial distribution domestically, without regard to the quantity used, and including, separately, each spice, each natural or artificial flavoring, and each preservative.

(2) LISTING.—The ingredients shall be listed by their respective common or usual names in descending order of predominance by the total weight used annually by the tobacco product manufacturer in manufacturing tobacco products for commercial distribution domestically.

(d) NO REQUIRED DISCLOSURE OF QUANTITIES.—The Administrator shall not require any public disclosure of quantitative information about any ingredient in a tobacco product.

(e) DISCLOSURE ON WEBSITE.—The public disclosures required by subsection (a) of this

section may be by posting on an Internet-accessible website, or other location electronically accessible to the public, which is identified on all packages of a tobacco product manufacturer's tobacco products.

(f) **TIMING OF INITIAL REQUIRED DISCLOSURES.**—No disclosure pursuant to this section shall be required to commence until the regulations under subsection (a) have been in effect for not less than 1 year.

#### **TITLE IV—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

##### **SEC. 401. STUDY AND REPORT ON ILLICIT TRADE.**

(a) The Administrator shall, after consultation with other relevant agencies including Customs and Tobacco Tax Bureau, conduct a study of trade in tobacco products that involves passage of tobacco products either between the States or from or to any other country across any border of the United States to—

(1) collect data on such trade in tobacco products, including illicit trade involving tobacco products, and make recommendations on the monitoring and enforcement of such trade;

(2) collect data on any advertising intended to be broadcast, transmitted, or distributed from or to the United States from or to another country and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, such advertising; and

(3) collect data on such trade in tobacco products by person that is not—

(A) a participating manufacturer (as that term is defined in section II(j) of the Master Settlement Agreement of November 23, 1998, between certain of the States and certain tobacco product manufacturers); or

(B) an affiliate or subsidiary of a participating manufacturer.

(b) Not later than 18 months after the effective date of this Act, the Administrator shall submit to the Secretary, and committees of relevant jurisdiction in Congress, a report the recommendations of the study conducted under subsection (a).

##### **SEC. 402. AMENDMENT TO SECTION 1926 OF THE PUBLIC HEALTH SERVICE ACT.**

Section 1926 of the Public Health Service Act (42 U.S.C. § 300x-26) is amended by adding at the end thereof the following:

“(e)(1) Subject to paragraphs (2) and (3), for the first fiscal year after enactment and each subsequent fiscal year, the Secretary shall reduce, as provided in subsection (h), the amount of any grant under section 300x-21 of this title for any State that does not have in effect a statute with substantially the following provisions:

##### **“(SEC. 1. DISTRIBUTION TO MINORS.**

“(a) No person shall distribute a tobacco product to an individual under 18 years of age or a different minimum age established under State law. A person who violates this subsection is liable for a civil money penalty of not less than \$25 nor more than \$125 for each violation of this subsection;

“(b) The employer of an employee who has violated subsection (a) twice while in the employ of such employer is liable for a civil money penalty of \$125 for each subsequent violation by such employee.

“(c) It shall be a defense to a charge brought under subsection (a) that—

“(1) the defendant—

“(A) relied upon proof of age that appeared on its face to be valid in accordance with the Preventing Disease and Death from Tobacco Use Act;

“(B) had complied with the requirements of section 5 and, if applicable, section 7; or

“(C) relied upon a commercially available electronic age verification service to confirm that the person was an age-verified adult; or

“(2) the individual to whom the tobacco product was distributed was at the time of the distribution used in violation of subsection 7(b).

##### **“(SEC. 2. OUT-OF-PACKAGE DISTRIBUTION.**

“(It shall be unlawful for any person to distribute cigarettes or a smokeless tobacco product other than in an unopened package that complies in full with section 108 of the Preventing Disease and Death from Tobacco Use Act. A person who distributes a cigarette or a smokeless tobacco product in violation of this section is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

##### **“(SEC. 3. SIGNAGE.**

“(It shall be unlawful for any person who sells tobacco products over-the-counter to fail to post conspicuously on the premises where such person sells tobacco products over-the-counter a sign communicating that—

“(1) the sale of tobacco products to individuals under 18 years of age or a different minimum age established under State law is prohibited by law;

“(2) the purchase of tobacco products by individuals under 18 years of age or a different minimum age established under State law is prohibited by law; and

“(3) proof of age may be demanded before tobacco products are sold.

A person who fails to post a sign that complies fully with this section is liable for a civil money penalty of not less than \$25 nor more than \$125.

##### **“(SEC. 4. NOTIFICATION OF EMPLOYEES.**

“(a) Within 180 days of the effective date of the Preventing Disease and Death from Tobacco Use Act, every person engaged in the business of selling tobacco products at retail shall implement a program to notify each employee employed by that person who sells tobacco products at retail that—

“(1) the sale or other distribution of tobacco products to any individual under 18 years of age or a different minimum age established under State law, and the purchase, receipt, or possession of tobacco products in a place open to the public by any individual under 18 years of age or a different minimum age established under State law, is prohibited; and

“(2) out-of-package distribution of cigarettes and smokeless tobacco products is prohibited.

Any employer failing to provide the required notice to any employee shall be liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

“(b) It shall be a defense to a charge that an employer violated subsection (a) of this section that the employee acknowledged receipt, either in writing or by electronic means, prior to the alleged violation, of a statement in substantially the following form:

“I understand that State law prohibits the distribution of tobacco products to individuals under 18 years of age or a different minimum age established under State law and out-of-package distribution of cigarettes and smokeless tobacco products, and permits a defense based on evidence that a prospective purchaser's proof of age was reasonably relied upon and appeared on its face to be valid. I understand that if I sell, give, or voluntarily provide a tobacco product to an individual under 18 years of age or a different minimum age established under State law, I

may be found responsible for a civil money penalty of not less than \$25 nor more than \$125 for each violation. I promise to comply with this law.”

“(c) If an employer is charged with a violation of subsection (a) and the employer uses as a defense to such charge the defense provided by subsection (b), the employer shall be deemed to be liable for such violation if such employer pays the penalty imposed on the employee involved in such violation or in any way reimburses the employee for such penalty.

##### **“(SEC. 5. SELF-SERVICE DISPLAYS.**

“(a) It shall be unlawful for any person who sells tobacco products over-the-counter at retail to maintain packages of such products in any location accessible to customers that is not under the control of a cashier or other employee during regular business hours. This subsection does not apply to any adult-only facility.

“(b) Any person who violates subsection (a) is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation, except that no person shall be responsible for more than one violation per day at any one retail store.

##### **“(SEC. 6. DISTRIBUTION BY MAIL OR COURIER.**

“(a) It shall be unlawful to distribute or sell tobacco products directly to consumers by mail or courier, unless the person receiving purchase requests for tobacco products takes reasonable action to prevent delivery to individuals who are not adults by—

“(1) requiring that addressees of the tobacco products be age-verified adults;

“(2) making good faith efforts to verify that such addressees have attained the minimum age for purchase of tobacco products established by the respective States wherein the addresses of the addressees are located; and

“(3) addressing the tobacco products delivered by mail or courier to a physical addresses and not to post office boxes.

“(b) Any person who violates subsection (a) is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

##### **“(SEC. 7. RANDOM UNANNOUNCED INSPECTIONS; REPORTING; AND COMPLIANCE.**

“(a) The State Police, or a local law enforcement authority duly designated by the State Police, or a public health authority shall enforce this Act in a manner that can reasonably be expected to reduce the extent to which tobacco products are distributed to individuals under 18 years of age or a different minimum age established under State law and shall conduct random, unannounced inspections in accordance with the procedures set forth in this Act and in regulations issued under section 1926 of the Federal Public Health Service Act (42 U.S.C. § 300x-26).

“(b) The State may engage an individual under 18 years of age or a different minimum age established under State law to test compliance with this Act, except that such an individual may be used to test compliance with this Act only if the testing is conducted under the following conditions:

“(1) Prior to use of any individual under 18 years of age or a different minimum age established under State law in a random, unannounced inspection, written consent shall be obtained from a parent, custodian, or guardian of such individual;

“(2) An individual under 18 years of age or a different minimum age established under State law shall act solely under the supervision and direction of the State Police or a local law enforcement authority, or public health authority duly designated by the

State Police during a random, unannounced inspection;

“(3) An individual under 18 years of age or a different minimum age established under State law used in random, unannounced inspections shall not be used in any such inspection at a store in which such individual is a regular customer; and

“(4) If an individual under 18 years of age or a different minimum age established under State law participating in random, unannounced inspections is questioned during such an inspection about such individual's age, such individual shall state his or her actual age and shall present a true and correct proof of age if requested at any time during the inspection to present it.

“(c) Any person who uses any individual under 18 years of age or a different minimum age established under State law, other than as permitted by subsection (b), to test compliance with this Act, is liable for a civil money penalty of not less than \$25 nor more than \$125 for each such violation.

“(d) Civil money penalties collected for violations of this Act and fees collected under section 9 shall be used only to defray the costs of administration and enforcement of this Act.

#### “SEC. 8. LICENSURE.

“(a) Each person engaged in the over-the-counter distribution at retail of tobacco products shall hold a license issued under this section. A separate license shall be required for each place of business where tobacco products are distributed at retail. A license issued under this section is not assignable and is valid only for the person in whose name it is issued and for the place of business designated in the license.

“(b) The annual license fee is \$25 for each place of business where tobacco products are distributed at retail.

“(c) Every application for a license, including renewal of a license, under this section shall be made upon a form provided by the appropriate State agency or department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business for which the license is to be issued, the street address to which all notices relevant to the license are to be sent (in this Act referred to as “notice address”), and any other identifying information that the appropriate State agency or department may require.

“(d) The appropriate State agency or department shall issue or renew a license or deny an application for a license or the renewal of a license within 30 days of receiving a properly completed application and the license fee. The appropriate State agency or department shall provide notice to an applicant of action on an application denying the issuance of a license or refusing to renew a license.

“(e) Every license issued by the appropriate State agency or department pursuant to this section shall be valid for 1 year from the date of issuance and shall be renewed upon application except as otherwise provided in this Act.

“(f) Upon notification of a change of address for a place of business for which a license has been issued, a license shall be reissued for the new address without the filing of a new application.

“(g) The appropriate State agency or department shall notify every person in the State who is engaged in the distribution at retail of tobacco products of the license requirements of this section and of the date by which such person should have obtained a license.

“(h)(1) Except as provided in paragraph (2), any person who engages in the distribution at retail of tobacco products without a license required by this section is liable for a civil money penalty in an amount equal to (i) two times the applicable license fee, and (ii) \$50 for each day that such distribution continues without a license.

“(2) Any person who engages in the distribution at retail of tobacco products after a license issued under this section has been suspended or revoked is liable for a civil money penalty of \$100 per day for each day on which such distribution continues after the date such person received notice of such suspension or revocation.

“(i) No person shall engage in the distribution at retail of tobacco products on or after 180 days after the date of enactment of this Act unless such person is authorized to do so by a license issued pursuant to this section or is an employee or agent of a person that has been issued such a license.

#### “SEC. 9. SUSPENSION, REVOCATION, DENIAL, AND NONRENEWAL OF LICENSES.

“(a) Upon a finding that a licensee has been determined by a court of competent jurisdiction to have violated this Act during the license term, the State shall notify the licensee in writing, served personally or by registered mail at the notice address, that any subsequent violation of this Act at the same place of business may result in an administrative action to suspend the license for a period determined by the specify the appropriate State agency or department.

“(b) Upon finding that a further violation by this Act has occurred involving the same place of business for which the license was issued and the licensee has been served notice once under subsection (a), the appropriate State agency or department may initiate an administrative action to suspend the license for a period to be determined by the appropriate State agency or department but not to exceed six months. If an administrative action to suspend a license is initiated, the appropriate State agency or department shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefor and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why suspension of the license would be unwarranted or unjust.

“(c) The appropriate State agency or department may initiate an administrative action to revoke a license that previously has been suspended under subsection (b) if, after the suspension and during the one-year period for which the license was issued, the licensee committed a further violation of this Act, at the same place of business for which the license was issued. If an administrative action to revoke a license is initiated, the appropriate State agency or department shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefor and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why revocation of the license would be unwarranted or unjust.

“(d) A person whose license has been suspended or revoked with respect to a place of business pursuant to this section shall pay a fee of \$50 for the renewal or reissuance of the license at that same place of business, in addition to any applicable annual license fees.

“(e) Revocation of a license under subsection (c) with respect to a place of business shall not be grounds to deny an application

by any person for a new license with respect to such place of business for more than 12 months subsequent to the date of such revocation. Revocation or suspension of a license with respect to a particular place of business shall not be grounds to deny an application for a new license, to refuse to renew a license, or to revoke or suspend an existing license at any other place of business.

“(f) A licensee may seek judicial review of an action of the appropriate State agency or department suspending, revoking, denying, or refusing to renew a license under this section by filing a complaint in a court of competent jurisdiction. Any such complaint shall be filed within 30 days after the date on which notice of the action is received by the licensee. The court shall review the evidence de novo.

“(g) The State shall not report any action suspending, revoking, denying, or refusing to renew a license under this section to the Federal Secretary of Health and Human Services, unless the opportunity for judicial review of the action pursuant to subsection (f), if any, has been exhausted or the time for seeking such judicial review has expired.

#### “SEC. 10. NO PRIVATE RIGHT OF ACTION.

“Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act.

#### “SEC. 11. JURISDICTION AND VENUE.

“Any action alleging a violation of this Act may be brought only in a court of general jurisdiction in the city or county where the violation is alleged to have occurred.

#### “SEC. 12. REPORT.

“The appropriate State agency or department shall prepare for submission annually to the Federal Secretary of Health and Human Services the report required by section 1926 of the Federal Public Health Service Act (42 U.S.C. 300x-26).”

“(2) In the case of a State whose legislature does not convene a regular session in fiscal year 2007, and in the case of a State whose legislature does not convene a regular session in fiscal year 2008, the requirement described in subsection (e)(1) as a condition of a receipt of a grant under section 300x-21 of this title shall apply only for fiscal year 2009 and subsequent fiscal years.

“(3) Subsection (e)(1) shall not affect any State or local law that (A) was in effect on the date of introduction of the Federal Tobacco Act of 2007, and (B) covers the same subject matter as the law described in subsection (e)(1). Any State law that meets the conditions of this paragraph shall also be deemed to meet the requirement described in subsection (e)(1) as a condition of a receipt of a grant under section 300x-21 of this title, if such State law is at least as stringent as the law described in subsection (e)(1).

“(f)(1) For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under section 300x-21 of this title is a funding agreement under which the State involved will enforce the law described in subsection (e)(1) of this section in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18 or a different minimum age established under State law for the purchase of tobacco products.

“(2) For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under section 300x-21 of this title is a funding agreement under which the State involved will—



“(A) conduct random, unannounced inspections to ensure compliance with the law described in subsection (e)(1); and

“(B) annually submit to the Secretary a report describing—

“(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

“(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under 18 years of age or a different minimum age established under State law, including the results of the inspections conducted under subparagraph (A); and

“(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

“(g) The law specified in subsection (e)(1) may be administered and enforced by a State using—

“(1) any amounts made available to the State through a grant under section 300x–21 of this title;

“(2) any amounts made available to the State under section 300w of this title;

“(3) any fees collected for licenses issued pursuant to the law described in subsection (e)(1);

“(4) any fines or penalties assessed for violations of the law specified in subsection (e)(1); or

“(5) any other funding source that the legislature of the State may prescribe by statute.

“(h) Before making a grant under section 300x–21 of this title to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (e) and (f) of this section. If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under section 300x–21 of this title for the State for the fiscal year involved by an amount equal to—

“(1) In the case of the first applicable fiscal year, 10 percent of the amount determined under section 300x–33 for the State for the fiscal year;

“(2) In the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 300x–33 for the State for the fiscal year;

“(3) In the case of the second such fiscal year, 30 percent of the amount determined under section 300x–33 for the State for the fiscal year; and

“(4) In the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 300x–33 for the State for the fiscal year.

The Secretary shall not have authority or discretion to grant to any State a waiver of the terms and requirements of this subsection or subsection (e) or (f).

“(i) For the purposes of subsections (e) through (h) of this section the term ‘first applicable fiscal year’ means—

“(1) fiscal year 2009, in the case of any State described in subsection (e)(2) of this section; and

“(2) fiscal year 2008, in the case of any other State.

“(j) For purposes of subsections (e) through (h) of this section, references to section 300x–21 shall include any successor grant programs.”

“(k) As required by paragraph (1), and subject to paragraph (4), an Indian tribe shall

satisfy the requirements of subsection (e)(1) of this section by enacting a law or ordinance with substantially the same provisions as the law described in subsection (e)(1).

“(1) An Indian tribe shall comply with subsection (e)(1) of this section within 180 days after the Administrator finds, in accordance with this paragraph, that—

“(A) the Indian tribe has a governing body carrying out substantial governmental powers and duties;

“(B) the functions to be exercised by the Indian tribe under this Act pertain to activities on trust land within the jurisdiction of the tribe; and

“(C) the Indian tribe is reasonably expected to be capable of carrying out the functions required under this section.

Within 2 years of the date of enactment of the Federal Tobacco Act of 2007, as to each Indian tribe in the United States, the Administrator shall make the findings contemplated by this paragraph or determine that such findings cannot be made, in accordance with the procedures specified in paragraph (4).

“(2) As to Indian tribes subject to subsection (e)(1) of this section, the Administrator shall promulgate regulations that—

“(A) provide whether and to what extent, if any, the law described in subsection (e)(1) may be modified as adopted by Indian tribes; and

“(B) ensure, to the extent possible, that each Indian tribe's retailer licensing program under subsection (e)(1) is no less stringent than the program of the State or States in which the Indian tribe is located.

“(3) If with respect to any Indian tribe the Administrator determines that compliance with the requirements of subsection (e)(1) is inappropriate or administratively infeasible, the Administrator shall specify other means for the Indian tribe to achieve the purposes of the law described in subsection (e)(1) with respect to persons who engage in the distribution at retail of tobacco products on tribal lands.

“(4) The findings and regulations promulgated under paragraphs (1) and (2) shall be promulgated in conformance with section 553 of title 5, United States Code, and shall comply with the following provisions:

“(A) In making findings as provided in paragraph (1), and in drafting and promulgating regulations as provided in paragraph (2) (including drafting and promulgating any revised regulations), the Administrator shall confer with, and allow for active participation by, representatives and members of Indian tribes, and tribal organizations.

“(B) In carrying out rulemaking processes under this subsection, the Administrator shall follow the guidance of subchapter III of chapter 5 of title 5, United States Code, commonly known as the ‘Negotiated Rulemaking Act of 1990.’

“(C) The tribal participants in the negotiation process referred to in subparagraph (B) shall be nominated by and shall represent the groups described in this subsection and shall include tribal representatives from all geographic regions.

“(D) The negotiations conducted under this paragraph (4) shall be conducted in a timely manner.

“(E) If the Administrator determines that an extension of the deadlines under subsection (k)(1) of this section is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

“(5) This subsection shall not affect any law or ordinance that (A) was in effect on

tribal lands on the date of introduction of the Preventing Disease and Death from Tobacco Use Act, and (B) covers the same subject matter as the law described in subsection (e)(1). Any law or ordinance that meets the conditions of this paragraph shall also be deemed to meet the requirement described in subsection (k)(1), if such law or ordinance is at least as stringent as the law described in subsection (e)(1).

“(6) For purposes of this subsection—

“(A) ‘Administrator’ means the Administrator of the Tobacco Harm Reduction Center.

“(B) ‘Indian tribe’ has the meaning assigned that term in section 4(e) of the Indian Self Determination and Education Assistance Act, section 450b(e) of title 25, United States Code.

“(C) ‘Tribal lands’ means all lands within the exterior boundaries of any Indian reservation, all lands the title to which is held by the United States in trust for an Indian tribe, or lands the title to which is held by an Indian tribe subject to a restriction by the United States against alienation, and all dependent Indian communities.

“(D) ‘tribal organization’ has the meaning assigned that term in section 4(l) of the Indian Self Determination and Education Assistance Act, section 450b(l) of title 25, United States Code.”

#### SEC. 403. ESTABLISHMENT OF RANKINGS.

(a) STANDARDS AND PROCEDURES FOR RANKINGS.—Within 24 months after the effective date of this Act, the Administrator shall, by regulation, after consultation with an Advisory Committee established for such purpose, establish the standards and procedures for promulgating rankings, comprehensible to consumers of tobacco products, of the following categories of tobacco products and also nicotine-containing products on the basis of the relative risks of serious or chronic tobacco-related diseases and adverse health conditions those categories of tobacco products and also nicotine-containing products respectively present—

(1) smoking articles, including—

(A) cigarettes;

(B) cigars;

(C) little cigars;

(D) loose tobacco for roll-your own tobacco products;

(E) loose tobacco for pipes, hookas, and other pipe-like devices; and

(F) other smoking articles;

(2) smokeless products, including—

(A) chewing tobacco;

(B) dry snuff;

(C) snus (a type of moist snuff);

(D) other forms of moist snuff; and

(E) dissolvable tobacco products (such as sticks, orbs, or lozenges); and

(3) nicotine containing non-tobacco or tobacco extract products, including—

(A) nicotine gum;

(B) nicotine patches;

(C) electronic cigarettes; and

(D) other forms of such products.

The Administrator shall not have authority or discretion to establish a relative-risk ranking of any category or subcategory of tobacco products or any category or subcategory of nicotine-containing products other than the ten categories specified in this subsection.

(b) CONSIDERATIONS IN PROMULGATING REGULATIONS.—In promulgating regulations under this section, the Administrator—

(1) shall take into account relevant epidemiologic studies and other relevant competent and reliable scientific evidence; and

(2) in assessing the risks of serious or chronic tobacco-related diseases and adverse

health conditions presented by a particular category, shall consider the range of tobacco products or nicotine-containing products within the category, and shall give appropriate weight to the market shares of the respective products in the category.

(C) **PROMULGATION OF RANKINGS OF CATEGORIES.**—Once the initial regulations required by subsection (a) are in effect, the Administrator shall promptly, by order, after notice and an opportunity for comment, promulgate to the general public rankings of the categories of tobacco products and nicotine-containing products in accordance with those regulations. The Administrator shall promulgate the initial rankings of those categories of tobacco products and nicotine-containing products to the general public not later than January 1, 2010. Thereafter, on an annual basis, the Administrator shall, by order, promulgate to the general public updated rankings that are (1) in accordance with those regulations, and (2) reflect the scientific evidence available at the time of promulgation. The Administrator shall open and maintain an ongoing public docket for receipt of data and other information submitted by any person with respect to such annual promulgation of rankings.

#### **TITLE V—ENFORCEMENT PROVISIONS**

##### **SEC. 501. PROHIBITED ACTS.**

The following acts and the causing thereof are hereby prohibited—

(1) the introduction or delivery for introduction into interstate commerce of any tobacco product that is adulterated or misbranded;

(2) the adulteration or misbranding of any tobacco product in interstate commerce;

(3) the receipt in interstate commerce of any tobacco product that is known to be adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(4) the failure to establish or maintain any record, or make any report or other submission, or to provide any notice required by or under this Act; or the refusal to permit access to, verification of, or copying of any record as required by this Act;

(5) the refusal to permit entry or inspection as authorized by this Act;

(6) the making to the Administrator of a statement, report, certification or other submission required by this Act, with knowledge that such statement, report, certification, or other submission is false in a material aspect;

(7) the manufacturing, shipping, receiving, storing, selling, distributing, possession, or use of any tobacco product with knowledge that it is an illicit tobacco product;

(8) the forging, simulating without proper permission, falsely representing, or without proper authority using any brand name;

(9) the using by any person to his or her own advantage, or revealing, other than to the Administrator or officers or employees of the Agency, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of this Act concerning any item which as a trade secret is entitled to protection; except that the foregoing does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee;

(10) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a tobacco

product, if such act is done while such tobacco product is held for sale (whether or not the first sale) after shipment in interstate commerce, and results in such tobacco product being adulterated or misbranded;

(11) the importation of any tobacco product that is adulterated, misbranded, or otherwise not in compliance with this Act; and

(12) the commission of any act prohibited by section 201 of this Act.

##### **SEC. 502. INJUNCTION PROCEEDINGS.**

(a) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act, except for violations of section 701(k).

(b) In case of an alleged violation of an injunction or restraining order issued under this section, which also constitutes a violation of this Act, trial shall be by the court, or upon demand of the defendant, by a jury.

##### **SEC. 503. PENALTIES.**

(a) **CRIMINAL PENALTIES.**—Any person who willfully violates a provision of section 501 of this Act shall be imprisoned for not more than one year or fined not more than \$25,000, or both.

(b) **CIVIL PENALTIES FOR VIOLATION OF SECTION 803.**—

(1) Any person who knowingly distributes or sells, other than through retail sale or retail offer for sale, any cigarette brand style in violation of section 803(a)—

(A) for a first offense shall be liable for a civil penalty not to exceed \$10,000 for each distribution or sale, or

(B) for a second offense shall be liable for a civil penalty not to exceed \$25,000 for each distribution or sale, except that the penalty imposed against any person with respect to violations during any 30-day period shall not exceed \$100,000.

(2) Any retailer who knowingly distributes, sells or offers for sale any cigarette brand style in violation of section 803(a) shall—

(A) for a first offense for each sale or offer for sale of cigarettes, if the total number of packages of cigarettes sold or offered for sale—

(i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed \$500 for each sale or offer for sale, and

(ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed \$1,000 for each sale or offer for sale;

(B) for each subsequent offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale—

(i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed \$2,000 for each sale or offer for sale, and

(ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed \$5,000 for each sale or offer for sale; except that the penalty imposed against any person during any 30-day period shall not exceed \$25,000.

##### **SEC. 504. SEIZURE.**

(a) **ARTICLES SUBJECT TO SEIZURE.**—

(1) Any tobacco product that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of this Act, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the tobacco product is found. No libel for condemnation shall be instituted under this Act for any alleged misbranding if there is pending in any court

a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(A) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act, or

(B) when the Administrator has probable cause to believe from facts found, without hearing, by the Administrator or any officer or employee of the Agency that the misbranded tobacco product is dangerous to health beyond the inherent danger to health posed by tobacco, or that the labeling of the misbranded tobacco product is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided, the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which they are found—

(A) any tobacco product that is an illicit tobacco product;

(B) any container of an illicit tobacco product;

(C) any equipment or thing used in making an illicit tobacco product; and

(D) any adulterated or misbranded tobacco product.

(3)(A) Except as provided in subparagraph (B), no libel for condemnation may be instituted under paragraph (1) or (2) against any tobacco product which—

(i) is misbranded under this Act because of its advertising, and

(ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the tobacco product.

(B) A libel for condemnation may be instituted under paragraph (1) or (2) against a tobacco product described in subparagraph (A) if the tobacco product's advertising which resulted in the tobacco product being misbranded was disseminated in the establishment in which the tobacco product is being held for sale to the ultimate consumer—

(i) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment, or

(ii) all or part of the cost of such advertising was paid by such owner or operator.

(b) **PROCEDURES.**—The tobacco product, equipment, or other thing proceeded against shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the

same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(c) **SAMPLES AND ANALYSES.**—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, the party's attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(d) **DISPOSITION OF CONDEMNED TOBACCO PRODUCTS.**—(1) Any tobacco product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct; and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such tobacco product shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such tobacco product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act, under the supervision of an officer or employee duly designated by the Administrator; and the expenses of such supervision shall be paid by the person obtaining release of the tobacco product under bond. If the tobacco product was imported into the United States and the person seeking its release establishes (A) that the adulteration, misbranding, or violation did not occur after the tobacco product was imported, and (B) that the person seeking the release of the tobacco product had no cause for believing that it was adulterated, misbranded, or in violation before it was released from customs custody, the court may permit the tobacco product to be delivered to the owner for exportation under section 709 in lieu of destruction upon a showing by the owner that there is a reasonable certainty that the tobacco product will not be re-imported into the United States.

(2) The provisions of paragraph (1) of this subsection shall, to the extent deemed appro-

priate by the court, apply to any equipment or other thing which is not otherwise within the scope of such paragraph and which is referred to in paragraph (2) of subsection (a).

(3) Whenever in any proceeding under this section, involving paragraph (2) of subsection (a), the condemnation of any equipment or thing (other than a tobacco product) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (A) that such claimant has not caused the equipment or thing to be within one of the categories referred to in such paragraph (2) and has no interest in any tobacco product referred to therein, (B) that such claimant has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by such claimant in good faith, and (C) that such claimant at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to any illicit tobacco product.

(e) **COSTS AND FEES.**—When a decree of condemnation is entered against the tobacco product or other article, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the tobacco product or other article.

(f) **REMOVAL FOR TRIAL.**—In the case of removal for trial of any case as provided by subsection (a) or (b)—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

(g) **ADMINISTRATIVE DETENTION OF TOBACCO PRODUCTS.**—

(1) **DETENTION AUTHORITY.**—

(A) **IN GENERAL.**—An officer or qualified employee of the Agency may order the detention, in accordance with this subsection, of any tobacco product that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences beyond those normally inherent in the use of tobacco products.

(B) **ADMINISTRATOR'S APPROVAL.**—A tobacco product or component thereof may be ordered detained under subparagraph (A) if, but only if, the Administrator or an official designated by the Administrator approves the order. An official may not be so designated unless the official is an officer with supervisory responsibility for the inspection, examination, or investigation that led to the order.

(2) **PERIOD OF DETENTION.**—A tobacco product may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to institute an action under subsection (a) or section 702.

(3) **SECURITY OF DETAINED TOBACCO PRODUCT.**—An order under paragraph (1) may require that the tobacco product to be detained be labeled or marked as detained, and shall require that the tobacco product be

maintained in or removed to a secure facility, as appropriate. A tobacco product subject to such an order shall not be transferred by any person from the place at which the tobacco product is ordered detained, or from the place to which the tobacco product is so removed, as the case may be, until released by the Administrator or until the expiration of the detention period applicable under such order, whichever occurs first. This subsection may not be construed as authorizing the delivery of the tobacco product pursuant to the execution of a bond while the tobacco product is subject to the order, and section 709 does not authorize the delivery of the tobacco product pursuant to the execution of a bond while the article is subject to the order.

(4) **APPEAL OF DETENTION ORDER.**—

(A) **IN GENERAL.**—With respect to a tobacco product ordered detained under paragraph (1), any person who would be entitled to be a claimant of such tobacco product if the tobacco product were seized under subsection (a) may appeal the order to the Administrator. Within five days after such an appeal is filed, the Administrator, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Administrator shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such five-day period the Administrator fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

(B) **EFFECT OF INSTITUTING COURT ACTION.**—The process under subparagraph (A) for the appeal of an order under paragraph (1) terminates if the Administrator institutes an action under subsection (a) or section 702 regarding the tobacco product involved.

#### **SEC. 505. REPORT OF MINOR VIOLATIONS.**

Nothing in this Act shall be construed as requiring the Administrator to report for prosecution, or for institution of libel or injunction proceedings, minor violations of this Act whenever the Administrator believes that the public interest will be adequately served by a suitable written notice or warning.

#### **SEC. 506. INSPECTION.**

(a) **AUTHORITY TO INSPECT.**—The Administrator shall have the power to inspect the premises of a tobacco product manufacturer for purposes of determining compliance with this Act, or the regulations promulgated under it. Officers of the Agency designated by the Administrator, upon presenting appropriate credentials and a written notice to the person in charge of the premises, are authorized to enter, at reasonable times, without a search warrant, any factory, warehouse, or other establishment in which tobacco products are manufactured, processed, packaged, or held for domestic distribution. Any such inspection shall be conducted within reasonable limits and in a reasonable manner, and shall be limited to examining only those things, including but not limited to records, relevant to determining whether violations of this Act, or regulations under it, have occurred. No inspection authorized by this section shall extend to financial data, sales data other than shipment data, pricing data, personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act), or research data. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) **REPORT OF OBSERVATIONS.**—Before leaving the premises, the officer of the Agency who has supervised or conducted the inspection shall give to the person in charge of the premises a report in writing setting forth any conditions or practices that appear to manifest a violation of this Act, or the regulations under it.

(c) **SAMPLES.**—If the officer has obtained any sample in the course of inspection, prior to leaving the premises that officer shall give to the person in charge of the premises a receipt describing the samples obtained. As to each sample obtained, the officer shall furnish promptly to the person in charge of the premises a copy of the sample and of any analysis made upon the sample.

#### **SEC. 507. EFFECT OF COMPLIANCE.**

Compliance with the provisions of this Act and the regulations promulgated under it shall constitute a complete defense to any civil action, including but not limited to any products liability action, that seeks to recover damages, whether compensatory or punitive, based upon an alleged defect in the labeling or advertising of any tobacco product distributed for sale domestically.

#### **SEC. 508. IMPORTS.**

(a) **IMPORTS; LIST OF REGISTERED FOREIGN ESTABLISHMENTS; SAMPLES FROM UNREGISTERED FOREIGN ESTABLISHMENTS; EXAMINATION AND REFUSAL OF ADMISSION.**—The Secretary of Homeland Security shall deliver to the Administrator, upon request by the Administrator, samples of tobacco products that are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. The Administrator shall furnish to the Secretary of Homeland Security a list of establishments registered pursuant to subsection (d) of section 109 of this Act, and shall request that, if any tobacco products manufactured, prepared, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such tobacco products be delivered to the Administrator, with notice of such delivery to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such tobacco product is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (2) such tobacco product is adulterated, misbranded, or otherwise in violation of this Act, then such tobacco product shall be refused admission, except as provided in subsection (b) of this section. The Secretary of Homeland Security shall cause the destruction of any such tobacco product refused admission unless such tobacco product is exported, under regulations prescribed by the Secretary of Homeland Security, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

(b) **DISPOSITION OF REFUSED TOBACCO PRODUCTS.**—Pending decision as to the admission of a tobacco product being imported or offered for import, the Secretary of Homeland Security may authorize delivery of such tobacco product to the owner or consignee upon the execution by such consignee of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of Homeland Security. If it appears to the Administrator that a tobacco product included within the provisions of clause (3) of subsection (a) of

this section can, by relabeling or other action, be brought into compliance with this Act or rendered other than a tobacco product, final determination as to admission of such tobacco product may be deferred and, upon filing of timely written application by the owner or consignee and the execution by such consignee of a bond as provided in the preceding provisions of this subsection, the Administrator may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected tobacco products or portions thereof, as may be specified in the Administrator's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Agency designated by the Administrator, or an officer or employee of the Department of Homeland Security designated by the Secretary of Homeland Security.

(c) **CHARGES CONCERNING REFUSED TOBACCO PRODUCTS.**—All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any tobacco product refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

#### **SEC. 509. TOBACCO PRODUCTS FOR EXPORT.**

(a) **EXEMPTION FOR TOBACCO PRODUCTS EXPORTED.**—Except as provided in subsection (b), a tobacco product intended for export shall be exempt from this Act if—

(1) it is not in conflict with the laws of the country to which it is intended for export, as shown by either (A) a document issued by the government of that country or (B) a document provided by a person knowledgeable with respect to the relevant laws of that country and qualified by training and experience to opine on whether the tobacco product is or is not in conflict with such laws;

(2) it is labeled on the outside of the shipping package that it is intended for export; and

(3) the particular units of tobacco product intended for export have not been sold or offered for sale in domestic commerce.

(b) **PRODUCTS FOR U.S. ARMED FORCES OVERSEAS.**—A tobacco product intended for export shall not be exempt from this Act if it is intended for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

(c) This Act shall not apply to a person that manufactures and/or distributes tobacco products solely for export under subsection (a), except to the extent such tobacco products are subject to subsection (b).

#### **TITLE VI—MISCELLANEOUS PROVISIONS**

##### **SEC. 601. USE OF PAYMENTS UNDER THE MASTER SETTLEMENT AGREEMENT AND INDIVIDUAL STATE SETTLEMENT AGREEMENTS.**

(a) **REDUCTION OF GRANT AMOUNTS.**—(1) For fiscal year 2010 and each subsequent fiscal year, the Secretary shall reduce, as provided in subsection (b), the amount of any grant under section 1921 of the Public Health Serv-

ice Act (42 U.S.C. § 300x-21) for any State that spends on tobacco control programs from the funds received by such State pursuant to the Master Settlement Agreement, the Florida Settlement Agreement, the Minnesota Settlement Agreement, the Mississippi Memorandum of Understanding, or the Texas Settlement Agreement, as applicable, less than 20 percent of the amounts received by that State from settlement payments.

(2) In the case of a State whose legislature does not convene a regular session in fiscal year 2009 or 2010, and in the case of a State whose legislature does not convene a regular session in fiscal year 2010, the requirement described in subsection (a)(1) as a condition of receipt of a grant under section 1921 of the Public Health Service Act shall apply only for fiscal year 2009 and subsequent fiscal years.

(b) **DETERMINATION OF STATE SPENDING.**—Before making a grant under section 1921 of the Public Health Service Act, section 300x-21 of title 42, United States Code, to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether, during the immediately preceding fiscal year, the State has spent on tobacco control programs, from the funds received by such State pursuant to the Master Settlement Agreement, the Florida Settlement Agreement, the Minnesota Settlement Agreement, the Mississippi Memorandum of Understanding, or the Texas Settlement Agreement, as applicable, at least the amount referenced in (a)(1). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State has spent less than such amount, the Secretary shall reduce the amount of the allotment under section 300x-21 of title 42, United States Code, for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 300x-33 of title 42, United States Code, for the State for the fiscal year.

The Secretary shall not have authority or discretion to grant to any State a waiver of the terms and requirements of this subsection or subsection (a).

(c) **DEFINITIONS.**—For the purposes of this section—

(1) The term “first applicable fiscal year” means—

(A) fiscal year 2011, in the case of any State described in subsection (a)(2) of this section; and

(B) fiscal year 2010, in the case of any other State.

(2) The term “Florida Settlement Agreement” means the Settlement Agreement, together with the exhibits thereto, entered into on August 25, 1997, between the State of Florida and signatory tobacco product manufacturers, as specified therein.

(3) The term "Master Settlement Agreement" means the Master Settlement Agreement, together with the exhibits thereto, entered into on November 23, 1998, between the signatory States and signatory tobacco product manufacturers, as specified therein.

(4) The term "Minnesota Settlement Agreement" means the Settlement Agreement, together with the exhibits thereto, entered into on May 8, 1998, between the State of Minnesota and signatory tobacco product manufacturers, as specified therein.

(5) The term "Mississippi Memorandum of Understanding" means the Memorandum of Understanding, together with the exhibits thereto and Settlement Agreement contemplated therein, entered into on July 2, 1997, between the State of Mississippi and signatory tobacco product manufacturers, as specified therein.

(6) The term "Secretary" means the Secretary of Health and Human Services.

(7) The term "Texas Settlement Agreement" means the Settlement Agreement, together with the exhibits thereto, entered into on January 16, 1998, between the State of Texas and signatory tobacco product manufacturers, as specified therein.

**SEC. 602. INSPECTION BY THE ALCOHOL AND TOBACCO TAX TRADE BUREAU OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS.**

(a) IN GENERAL.—Any officer of the Bureau of the Alcohol and Tobacco Tax Trade Bureau may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

(2) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

(b) COVERED PERSONS.—Subsection (a) applies to any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, within a single month.

(c) RELIEF.—

(1) IN GENERAL.—The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).

(2) VIOLATIONS.—Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount not to exceed \$10,000 for each violation.

(d) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are—

(1) the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the "Jenkins Act");

(2) chapter 114 of title 18, United States Code; and

(3) this Act.

(e) DELIVERY SALE DEFINED.—In this section, the term "delivery sale" has the meaning given that term in 2343(e) of title 18, United States Code, as amended by this Act.

**SEC. 603. SEVERABILITY.**

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected, and shall continue to be enforced to the fullest extent possible.

**TITLE VII—TOBACCO GROWER PROTECTION**

**SEC. 701. TOBACCO GROWER PROTECTION.**

No provision in this Act shall allow the Administrator or any other person to require changes to traditional farming practices, including standard cultivation practices, curing processes, seed composition, tobacco type, fertilization, soil, record keeping, or any other requirement affecting farming practices.

**TITLE VIII—RESTRICTIONS ON YOUTH ACCESS TO TOBACCO PRODUCTS AND EXPOSURE OF YOUTHS TO TOBACCO PRODUCT MARKETING AND ADVERTISING**

**SEC. 801. PROHIBITIONS ON YOUTH TARGETING.**

Effective beginning on the date that is 18 months after the effective date of this Act, no person shall engage in any of the following activities or practices in the advertising, promotion, or marketing of any tobacco product:

(1) The use, or causing the use, of any cartoon in the advertising, promoting, packaging, or labeling of any tobacco product.

(2) The use, or causing the use, of any human image in the advertising, promoting, packaging, or labeling of any tobacco product, except for the following:

(A) The use, or continued use, in advertising, promoting, marketing, packaging, or labeling of any human image appearing on a tobacco product package before December 31, 2009.

(B) The use, or continued use, of a human image in the advertising, promoting, or marketing of a tobacco product, if conducted solely in an adult-only facility or facilities.

(C) The use, or continued use, of a human image in a tobacco product communication means directed solely to persons that the tobacco product manufacturer has a good-faith belief are age-verified adults.

(3) The advertising of tobacco products in any magazine or newspaper intended for distribution to the general public.

(4) The engaging in any brand name sponsorship in the United States, other than a brand name sponsorship occurring solely in an adult-only facility or facilities.

(5) The engaging in any brand name sponsorship of any event in the United States in which any paid participants or contestants are youths.

(6) The sponsoring of any athletic event between opposing teams in any football, basketball, baseball, soccer, or hockey league.

(7)(A) The securing of a right, by agreement, to name any stadium or arena located within the United States with a brand name; or

(B) otherwise causing a stadium or arena located within the United States to be named with a brand name.

(8) The securing of a right by agreement pursuant to which payment is made or other consideration is provided to use a brand name in association with any football, basketball, baseball, soccer, or hockey league, or any team involved in any such league.

(9) The use of, or causing the use of, by agreement requiring the payment of money or other consideration, a brand name with any nationally recognized or nationally established trade name or brand designation of any non-tobacco item or service, or any nationally recognized or nationally established sports team, entertainment group or individual celebrity for purposes of advertising, except for an agreement between or among persons that enter into such agreement for the sole purpose of avoiding infringement claims.

(10) The license, express authorization, or otherwise causing of any person to use or advertise within the United States any brand name in a manner that—

(A) does not pertain to a tobacco product; or

(B) causes that person to use the brand name to advertise, promote, package or label, distribute, or sell any product or service that is not a tobacco product.

(11) The marketing, distribution, offering, selling, licensing, or authorizing of, or the causing to be marketed, distributed, offered, sold, licensed, or authorized, any apparel or other merchandise (other than a tobacco product) bearing a brand name, except—

(A) apparel or other merchandise that is used by individuals representing a tobacco product manufacturer within an adult-only facility and that is not distributed, by sale or otherwise, to any member of the general public;

(B) apparel or merchandise provided to an adult employee of a tobacco product manufacturer for use by such employee;

(C) items or materials used to hold or display tobacco products at retail;

(D) items or materials the sole function of which is to advertise tobacco products;

(E) written or electronic publications;

(F) coupons or other items used by adults solely in connection with the purchase of tobacco products;

(G) that the composition, structure, form, or appearance of any tobacco product, package, label, or labeling shall not be affected by the prohibitions of this paragraph; and

(H) that no person shall be required to retrieve, collect or otherwise recover any item or material that was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by such person.

(12) The distribution, or causing the distribution, of any free sample domestically, except in an adult-only facility or facilities to individuals who are age-verified adults.

(13) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration to any other person to use, display, make reference to, or use as a prop in any performance medium (for the purposes of this paragraph, the terms "performance medium" and "performance media" mean any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game), any tobacco product, tobacco product package, advertisement for a tobacco product, or any other item bearing a brand name; except for the following:

(A) Performance media for which the audience or viewers are within one or more adult-only facilities, if such performance media are not audible or visible to persons outside such adult-only facility or facilities.

(B) Performance media not intended to be heard or viewed by the general public.

(C) Instructional performance media that concern tobacco products and their use, and that are intended to be heard or viewed only by, or provided only to, age-verified adults.

(D) Performance media used in tobacco product communications to age-verified adults.

(14) Engaging in outdoor advertising or transit advertisements of tobacco products within the United States, except for the following:

(A) Advertising that is within an adult-only facility.

(B) The use of outdoor advertising for purposes of identification of an adult-only facility, to the extent that such outdoor advertising is placed at the site, premises, or location of the adult-only facility.

(C) The use of outdoor advertising in identifying a brand name sponsorship at an adult-only facility, if such outdoor advertising—

(i) is placed at the site, premises, or location of the adult-only facility where such brand name sponsorship will occur no more than 30 days before the start of the initial sponsored event; and

(ii) is removed within 10 days after the end of the last sponsored event.

(15) The distribution or sale domestically of any package or other container of cigarettes containing fewer than 20 cigarettes.

(16) The advertising of tobacco products on any broadcast, cable, or satellite transmission to a television or radio receiver, or other medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, except electronic communications—

(A) contained on log-in or home pages containing no tobacco product advertising other than brand name identification;

(B) in an adult-only facility or facilities; or

(C) through the Internet or other individual user-accessible electronic communication means, including websites accessible using the Internet, if the advertiser takes reasonable action to restrict access to individuals who are adults by—

(i) requiring individuals accessing such electronic communications to be age-verified adults, and

(ii) making good faith efforts to verify that such individuals are adults.

(17) The distribution or sale of tobacco products directly to consumers by mail or courier, unless the person receiving purchase requests for tobacco products takes reasonable action to prevent delivery to individuals who are not adults by—

(A) requiring that the addressees of the tobacco products be age-verified adults;

(B) making good faith efforts to verify that such addressees are adults; and

(C) addressing the tobacco products delivered by mail, courier or common carrier to a physical address and not a post office box.

(18) The providing of any gift of a non-tobacco product, except matches, in connection with the purchase of a tobacco product.

(19) The engaging in the sponsorship or promotion, or causing the sponsorship or promotion, of any consumer sweepstakes, contest, drawing, or similar activity resulting in the award of a prize in connection with advertising.

(20) The offering, promoting, conducting, or authorizing, or causing to be offered, promoted, conducted, or authorized, any consumer sweepstakes, drawing, contest, or other activity resulting in the award of a prize, based on redemption of a proof-of-purchase, coupon, or other item awarded as a result of the purchase or use of a tobacco product.

(21) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration, to any other person with regard to the display or placement of any cigarettes, or any advertising for cigarettes, in any retail establishment that is not an adult-only facility.

#### TITLE IX—USER FEES

##### SEC. 901. USER FEES.

(a) ASSESSMENT OF USER FEES.—The Administrator shall assess an annual user fee for each fiscal year beginning in fiscal year

2010, in an amount calculated in accordance with this section, upon each tobacco product manufacturer (including each importer) that is subject to this Act.

(b) USE OF FEE.—The Administrator shall utilize an amount equal to the amount of user fees collected under this section in each fiscal year to pay for the costs of the activities of the Tobacco Regulatory Agency related to the regulation of tobacco products under this Act.

##### (c) AMOUNT OF FEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the total amount of user fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to pay for the costs of the activities described in subsection (b) for that fiscal year.

(2) TOTAL.—The total assessment under this section—

(A) for fiscal years 2010, 2011, and 2012 shall be \$100,000,000; and

(B) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Administrator (after notice, published in the Federal Register) to be determined on the basis of both inflationary increases and guidance from the Scientific Advisory Committee—

(3) NOTIFICATION.—The Administrator shall notify each tobacco product manufacturer subject to this section of the amount of the annual assessment imposed on such tobacco product manufacturer under subsection (d). Such notifications shall occur not later than the July 31 prior to the beginning of the fiscal year for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification. Such notification shall contain a complete list of the assessments imposed on tobacco product manufacturers for that fiscal year.

(d) LIABILITY OF TOBACCO PRODUCT MANUFACTURERS FOR USER FEES.—

(1) IN GENERAL.—The user fee to be paid by each tobacco product manufacturer shall be determined in each fiscal year by multiplying—

(A) such tobacco product manufacturer's market share of tobacco products, as determined under regulations issued pursuant to subsection (e); by

(B) the total user fee assessment for such fiscal year, as determined under subsection (c).

(2) LIMITATION.—Except as provided in paragraph (3), no tobacco product manufacturer shall be required to pay a percentage of a total annual user fee for all tobacco product manufacturers that exceeds the market share of such manufacturer.

##### (3) FAILURE TO PAY.—If—

(A) a tobacco product manufacturer fails to pay its user fee share in full by the due date;

(B) the Administrator, after diligent inquiry, concludes that such manufacturer is unlikely to pay its user fee share in full by the time such payment will be needed by the Administrator; and

(C) the Administrator and the Department of Justice make diligent efforts to obtain payment in full from such tobacco product manufacturer;

the Administrator may re-allocate the unpaid amount owed by that tobacco product manufacturer to the other tobacco product manufacturers on the basis of their respective market shares. If the Administrator takes such action, the Administrator shall set a reasonable time, not less than 60 days

from the date of the notice of the amount due, for payment of that amount. If and to the extent that the Administrator ultimately receives from that tobacco product manufacturer or any successor to such tobacco product manufacturer any payment in respect of the previously unpaid obligation, the Administrator shall credit such payment to the tobacco product manufacturers that paid portions of the re-allocated amount, in proportion to their respective payments of such amount.

(e) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Administrator shall, by regulation, establish a system for determining the market shares of tobacco products for each tobacco product manufacturer subject to this section. In promulgating regulations under this subsection, the Administrator shall—

(1) take into account the differences between categories and subcategories of tobacco products in terms of sales, manner of unit packaging, and any other factors relevant to the calculation of market share for a tobacco product manufacturer;

(2) take into account that different tobacco product manufacturers rely to varying degrees on the sales of different categories and subcategories of tobacco products; and

(3) provide that the market share of tobacco products for each tobacco product manufacturer shall be recalculated on an annual basis.

**SA 1247.** Mr. DODD proposed an amendment to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### **DIVISION A—FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT**

##### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the "Family Smoking Prevention and Tobacco Control Act".

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.  
Sec. 3. Purpose.  
Sec. 4. Scope and effect.  
Sec. 5. Severability.  
Sec. 6. Modification of deadlines for Secretarial action.

#### **TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION**

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act.  
Sec. 102. Final rule.  
Sec. 103. Conforming and other amendments to general provisions.  
Sec. 104. Study on raising the minimum age to purchase tobacco products.  
Sec. 105. Enforcement action plan for advertising and promotion restrictions.  
Sec. 106. Studies of progress and effectiveness.

#### **TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE**

Sec. 201. Cigarette label and advertising warnings.

Sec. 202. Authority to revise cigarette warning label statements.

Sec. 203. State regulation of cigarette advertising and promotion.

Sec. 204. Smokeless tobacco labels and advertising warnings.

Sec. 205. Authority to revise smokeless tobacco product warning label statements.

Sec. 206. Tar, nicotine, and other smoke constituent disclosure to the public.

#### TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

Sec. 301. Labeling, recordkeeping, records inspection.

Sec. 302. Study and report.

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year, and approximately 8,600,000

Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease. Such a reduction in youth smoking would also result in approximately \$75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2005, the cigarette manufacturers spent more than \$13,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco marketing than adults: more than 80 percent of youth smoke three heavily marketed brands, while only 54 percent of adults, 26 and older, smoke these same brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public

health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615-44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the first amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration, and the restriction on the sale and distribution of, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this division.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion play a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.



(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes, and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in ensuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be reviewed in advance of marketing, and to require that the evidence relied on to support claims be fully verified.

(44) The Food and Drug Administration is a regulatory agency with the scientific expertise to identify harmful substances in products to which consumers are exposed, to design standards to limit exposure to those substances, to evaluate scientific studies supporting claims about the safety of products, and to evaluate the impact of labels, labeling, and advertising on consumer behavior in order to reduce the risk of harm and promote understanding of the impact of the product on health. In connection with its mandate to promote health and reduce the risk of harm, the Food and Drug Administration routinely makes decisions about whether and how products may be marketed in the United States.

(45) The Federal Trade Commission was created to protect consumers from unfair or deceptive acts or practices, and to regulate

unfair methods of competition. Its focus is on those marketplace practices that deceive or mislead consumers, and those that give some competitors an unfair advantage. Its mission is to regulate activities in the marketplace. Neither the Federal Trade Commission nor any other Federal agency except the Food and Drug Administration possesses the scientific expertise needed to implement effectively all provisions of the Family Smoking Prevention and Tobacco Control Act.

(46) If manufacturers state or imply in communications directed to consumers through the media or through a label, labeling, or advertising, that a tobacco product is approved or inspected by the Food and Drug Administration or complies with Food and Drug Administration standards, consumers are likely to be confused and misled. Depending upon the particular language used and its context, such a statement could result in consumers being misled into believing that the product is endorsed by the Food and Drug Administration for use or in consumers being misled about the harmfulness of the product because of such regulation, inspection, approval, or compliance.

(47) In August 2006 a United States district court judge found that the major United States cigarette companies continue to target and market to youth. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

(48) In August 2006 a United States district court judge found that the major United States cigarette companies dramatically increased their advertising and promotional spending in ways that encourage youth to start smoking subsequent to the signing of the Master Settlement Agreement in 1998. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

(49) In August 2006 a United States district court judge found that the major United States cigarette companies have designed their cigarettes to precisely control nicotine delivery levels and provide doses of nicotine sufficient to create and sustain addiction while also concealing much of their nicotine-related research. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

#### SEC. 3. PURPOSE.

The purposes of this division are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products as provided for in this division;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product

manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco-related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

#### SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this division (or an amendment made by this division) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this division (or an amendment made by this division) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

(c) REVENUE ACTIVITIES.—The provisions of this division (or an amendment made by this division) which authorize the Secretary to take certain actions with regard to tobacco products shall not be construed to affect any authority of the Secretary of the Treasury under chapter 52 of the Internal Revenue Code of 1986.

#### SEC. 5. SEVERABILITY.

If any provision of this division, of the amendments made by this division, or of the regulations promulgated under this division (or under such amendments), or the application of any such provision to any person or circumstance is held to be invalid, the remainder of this division, such amendments and such regulations, and the application of such provisions to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

#### SEC. 6. MODIFICATION OF DEADLINES FOR SECRETARIAL ACTION.

(a) DELAYED COMMENCEMENT OF DATES FOR SECRETARIAL ACTION.—

(1) IN GENERAL.—Except as provided in subsection (c), with respect to any time periods specified in this division (or in an amendment made by this division) that begin on the date of enactment of this Act, within which the Secretary of Health and Human Services is required to carry out and complete specified activities, the calculation of such time periods shall commence on the date described in subsection (b).

(2) LIMITATION.—Subsection (a) shall only apply with respect to obligations of the Secretary of Health and Human Services that must be completed within a specified time period and shall not apply to the obligations of any other person or to any other provision of this division (including the amendments made by this division) that do not create such obligations of the Secretary and are not contingent on actions by the Secretary.

(b) DATE DESCRIBED.—The date described in this subsection is the first day of the first fiscal quarter following the initial 2 consecutive fiscal quarters of fiscal year 2010 for

which the Secretary of Health and Human Services has collected fees under section 919 of the Federal Food, Drug, and Cosmetic Act (as added by section 101).

(c) EXCEPTION.—Subsection (a) shall not apply to any time period (or date) contained—

(1) in section 102, except that the reference to “180 days” in subsection (a)(1) of such section shall be deemed to be “270 days”; and

(2) in sections 201 through 204 (or the amendments made by any such sections).

(d) ADJUSTMENT.—The Secretary of Health and Human Services may extend or reduce the duration of one or more time periods to which subsection (a) applies if the Secretary determines appropriate, except that no such period shall be extended for more than 90 days.

## TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

### SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(rr)(1) The term ‘tobacco product’ means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

“(2) The term ‘tobacco product’ does not mean an article that is a drug under subsection (g)(1), a device under subsection (h), or a combination product described in section 503(g).

“(3) The products described in paragraph (2) shall be subject to chapter V of this Act.

“(4) A tobacco product shall not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetic, medical device, or a dietary supplement).”

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 910 as sections 1001 through 1010; and

(3) by inserting after chapter VIII the following:

## “CHAPTER IX—TOBACCO PRODUCTS

### “SEC. 900. DEFINITIONS.

“In this chapter:

“(1) ADDITIVE.—The term ‘additive’ means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

“(2) BRAND.—The term ‘brand’ means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes.

“(3) CIGARETTE.—The term ‘cigarette’—

“(A) means a product that—

“(i) is a tobacco product; and

“(ii) meets the definition of the term ‘cigarette’ in section 3(1) of the Federal Cigarette Labeling and Advertising Act; and

“(B) includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

“(4) CIGARETTE TOBACCO.—The term ‘cigarette tobacco’ means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this chapter shall also apply to cigarette tobacco.

“(5) COMMERCE.—The term ‘commerce’ has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act.

“(6) COUNTERFEIT TOBACCO PRODUCT.—The term ‘counterfeit tobacco product’ means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

“(7) DISTRIBUTOR.—The term ‘distributor’ as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

“(8) ILLICIT TRADE.—The term ‘illicit trade’ means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

“(9) INDIAN COUNTRY.—The term ‘Indian country’ has the meaning given such term in section 1151 of title 18, United States Code.

“(10) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act.

“(11) LITTLE CIGAR.—The term ‘little cigar’ means a product that—

“(A) is a tobacco product; and

“(B) meets the definition of the term ‘little cigar’ in section 3(7) of the Federal Cigarette Labeling and Advertising Act.

“(12) NICOTINE.—The term ‘nicotine’ means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

“(13) PACKAGE.—The term ‘package’ means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

“(14) RETAILER.—The term ‘retailer’ means any person, government, or entity who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

“(15) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-your-own tobacco’ means any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

“(16) SMALL TOBACCO PRODUCT MANUFACTURER.—The term ‘small tobacco product manufacturer’ means a tobacco product manufacturer that employs fewer than 350

employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence, the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer.

“(17) SMOKE CONSTITUENT.—The term ‘smoke constituent’ means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

“(18) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

“(19) STATE; TERRITORY.—The terms ‘State’ and ‘Territory’ shall have the meanings given to such terms in section 201.

“(20) TOBACCO PRODUCT MANUFACTURER.—The term ‘tobacco product manufacturer’ means any person, including any repacker or relabeler, who—

“(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

“(B) imports a finished tobacco product for sale or distribution in the United States.

“(21) TOBACCO WAREHOUSE.—

“(A) Subject to subparagraphs (B) and (C), the term ‘tobacco warehouse’ includes any person—

“(i) who—

“(I) removes foreign material from tobacco leaf through nothing other than a mechanical process;

“(II) humidifies tobacco leaf with nothing other than potable water in the form of steam or mist; or

“(III) de-stems, dries, and packs tobacco leaf for storage and shipment;

“(ii) who performs no other actions with respect to tobacco leaf; and

“(iii) who provides to any manufacturer to whom the person sells tobacco all information related to the person’s actions described in clause (i) that is necessary for compliance with this Act.

“(B) The term ‘tobacco warehouse’ excludes any person who—

“(i) reconstitutes tobacco leaf;

“(ii) is a manufacturer, distributor, or retailer of a tobacco product; or

“(iii) applies any chemical, additive, or substance to the tobacco leaf other than potable water in the form of steam or mist.

“(C) The definition of the term ‘tobacco warehouse’ in subparagraph (A) shall not apply to the extent to which the Secretary determines, through rulemaking, that regulation under this chapter of the actions described in such subparagraph is appropriate for the protection of the public health.

“(22) UNITED STATES.—The term ‘United States’ means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

### “SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

“(a) IN GENERAL.—Tobacco products, including modified risk tobacco products for which an order has been issued in accordance with section 911, shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V.

“(b) APPLICABILITY.—This chapter shall apply to all cigarettes, cigarette tobacco,

roll-your-own tobacco, and smokeless tobacco and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

“(c) SCOPE.—

“(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or in sections 101(a), 102, or 103 of title I, title II, or title III of the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect, expand, or limit the Secretary's authority over (including the authority to determine whether products may be regulated), or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

“(2) LIMITATION OF AUTHORITY.—

“(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. The exception in this subparagraph shall not apply to a producer of tobacco leaf who grows tobacco under a contract with a tobacco product manufacturer and who is not otherwise engaged in the manufacturing process.

“(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

“(d) RULEMAKING PROCEDURES.—Each rulemaking under this chapter shall be in accordance with chapter 5 of title 5, United States Code. This subsection shall not be construed to affect the rulemaking provisions of section 102(a) of the Family Smoking Prevention and Tobacco Control Act.

“(e) CENTER FOR TOBACCO PRODUCTS.—Not later than 90 days after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish within the Food and Drug Administration the Center for Tobacco Products, which shall report to the Commissioner of Food and Drugs in the same manner as the other agency centers within the Food and Drug Administration. The Center shall be responsible for the implementation of this chapter and related matters assigned by the Commissioner.

“(f) OFFICE TO ASSIST SMALL TOBACCO PRODUCT MANUFACTURERS.—The Secretary shall establish within the Food and Drug Administration an identifiable office to provide technical and other nonfinancial assistance to small tobacco product manufacturers to assist them in complying with the requirements of this Act.

“(g) CONSULTATION PRIOR TO RULEMAKING.—Prior to promulgating rules under this chapter, the Secretary shall endeavor to consult with other Federal agencies as appropriate.

“SEC. 902. ADULTERATED TOBACCO PRODUCTS.

“A tobacco product shall be deemed to be adulterated if—

“(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

“(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

“(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

“(4) the manufacturer or importer of the tobacco product fails to pay a user fee assessed to such manufacturer or importer pursuant to section 919 by the date specified in section 919 or by the 30th day after final agency action on a resolution of any dispute as to the amount of such fee;

“(5) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

“(6)(A) it is required by section 910(a) to have premarket review and does not have an order in effect under section 910(c)(1)(A)(i); or

“(B) it is in violation of an order under section 910(c)(1)(A);

“(7) the methods used in, or the facilities or controls used for, its manufacture, packing, or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

“(8) it is in violation of section 911.

“SEC. 903. MISBRANDED TOBACCO PRODUCTS.

“(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

“(1) if its labeling is false or misleading in any particular;

“(2) if in package form unless it bears a label containing—

“(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

“(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

“(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

“(D) the statement required under section 920(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

“(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

“(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

“(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary

for the protection of users unless its labeling conforms in all respects to such regulations;

“(6) if it was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

“(7) if, in the case of any tobacco product distributed or offered for sale in any State—

“(A) its advertising is false or misleading in any particular; or

“(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

“(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

“(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

“(B) a brief statement of—

“(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

“(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

“(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

“(10) if there was a failure or refusal—

“(A) to comply with any requirement prescribed under section 904 or 908; or

“(B) to furnish any material or information required under section 909.

“(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product to ensure that such statements do not violate the misbranding provisions of subsection (a) and that such statements comply with other provisions of the Family Smoking Prevention and Tobacco Control Act (including the amendments made by such Act). No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Federal Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act.

**"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.**

"(a) REQUIREMENT.—Each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

"(1) Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(e) of the Federal Cigarette Labeling and Advertising Act.

"(3) Beginning 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 3 years after such date of enactment, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

"(4) Beginning 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, all documents developed after such date of enactment that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

"(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

"(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

"(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(c) TIME FOR SUBMISSION.—

"(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such prod-

uct shall provide the information required under subsection (a).

"(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

"(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

"(d) DATA LIST.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

"(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

"(e) DATA COLLECTION.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish, and periodically revise as appropriate, a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

**"SEC. 905. ANNUAL REGISTRATION.**

"(a) DEFINITIONS.—In this section:

"(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

"(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person. If enactment of

the Family Smoking Prevention and Tobacco Control Act occurs in the second half of the calendar year, the Secretary shall designate a date no later than 6 months into the subsequent calendar year by which registration pursuant to this subsection shall occur.

"(c) REGISTRATION BY NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment registered with the Secretary under this section shall be subject to inspection under section 704 or subsection (h), and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) REGISTRATION BY FOREIGN ESTABLISHMENTS.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which have not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list

shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

“(2) CONSULTATION WITH RESPECT TO FORMS.—The Secretary shall consult with the Secretary of the Treasury in developing the forms to be used for registration under this section to minimize the burden on those persons required to register with both the Secretary and the Tax and Trade Bureau of the Department of the Treasury.

“(3) BIENNIAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

“(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

“(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

“(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate com-

merce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of February 15, 2007, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

“(A) the basis for such person's determination that—

“(i) the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007, or to a tobacco product that the Secretary has previously determined, pursuant to subsection (a)(3) of section 910, is substantially equivalent and that is in compliance with the requirements of this Act; or

“(ii) the tobacco product is modified within the meaning of paragraph (3), the modifications are to a product that is commercially marketed and in compliance with the requirements of this Act, and all of the modifications are covered by exemptions granted by the Secretary pursuant to paragraph (3); and

“(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

“(2) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 21 months after such date of enactment.

“(3) EXEMPTIONS.—

“(A) IN GENERAL.—The Secretary may exempt from the requirements of this subsection relating to the demonstration that a tobacco product is substantially equivalent within the meaning of section 910, tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

“(i) such modification would be a minor modification of a tobacco product that can be sold under this Act;

“(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

“(iii) an exemption is otherwise appropriate.

“(B) REGULATIONS.—Not later than 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

#### “SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

“(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911,

or subsection (d) of this section shall not apply to such tobacco product.

“(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking or other notification under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

“(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

“(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

“(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

“(d) RESTRICTIONS.—

“(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

“(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

“(3) LIMITATIONS.—

“(A) IN GENERAL.—No restrictions under paragraph (1) may—

“(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

“(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

“(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products, shall be considered as adult-written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult-written publications.

“(4) REMOTE SALES.—

“(A) IN GENERAL.—The Secretary shall—

“(i) within 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, promulgate regulations regarding the sale and distribution of tobacco products that occur through means other than a direct, face-to-face exchange between a retailer and a consumer in order to prevent the sale and distribution of tobacco products to individuals who have not attained the minimum age established by applicable law for the purchase of such products, including requirements for age verification; and

“(ii) within 2 years after such date of enactment, issue regulations to address the promotion and marketing of tobacco products that are sold or distributed through means other than a direct, face-to-face exchange between a retailer and a consumer in order to protect individuals who have not attained the minimum age established by applicable law for the purchase of such products.

“(B) RELATION TO OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary to take additional actions under the other paragraphs of this subsection.

“(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

“(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

“(A) IN GENERAL.—In applying manufacturing restrictions to tobacco, the Secretary shall, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point methodology, as prescribed in such regulations to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Such regulations may provide for the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

“(B) REQUIREMENTS.—The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

“(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

“(iii) provide the Tobacco Products Scientific Advisory Committee a reasonable time to make its recommendation with re-

spect to proposed regulations under subparagraph (A);

“(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices; and

“(v) not require any small tobacco product manufacturer to comply with a regulation under subparagraph (A) for at least 4 years following the effective date established by the Secretary for such regulation.

“(2) EXEMPTIONS; VARIANCES.—

“(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

“(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

“(iii) contain such other information as the Secretary shall prescribe.

“(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

“(i) the date the petition was submitted to the Secretary under subparagraph (A); or

“(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

“(C) APPROVAL.—The Secretary may approve—

“(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

“(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

“(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing,

and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

“(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

“(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the end of the 3-year period following the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes.

#### “SEC. 907. TOBACCO PRODUCT STANDARDS.

“(a) IN GENERAL.—

“(1) SPECIAL RULES.—

“(A) SPECIAL RULE FOR CIGARETTES.—Beginning 3 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this subparagraph.

“(B) ADDITIONAL SPECIAL RULE.—Beginning 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a tobacco product manufacturer shall not use tobacco, including foreign grown tobacco, that contains a pesticide chemical residue that is at a level greater than is specified by any tolerance applicable under Federal law to domestically grown tobacco.

“(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (c).

“(3) TOBACCO PRODUCT STANDARDS.—

“(A) IN GENERAL.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health.

“(B) DETERMINATIONS.—

“(i) CONSIDERATIONS.—In making a finding described in subparagraph (A), the Secretary shall consider scientific evidence concerning—

“(I) the risks and benefits to the population as a whole, including users and nonusers of tobacco products, of the proposed standard;

“(II) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(III) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(ii) ADDITIONAL CONSIDERATIONS.—In the event that the Secretary makes a determination, set forth in a proposed tobacco product standard in a proposed rule, that it is appropriate for the protection of public health to

require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a tobacco product because the Secretary has found that the additive, constituent, or other component is or may be harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Secretary's consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

“(4) **CONTENT OF TOBACCO PRODUCT STANDARDS.**—A tobacco product standard established under this section for a tobacco product—

“(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

“(iii) relating to any other requirement under subparagraph (B);

“(B) shall, where appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d);

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product; and

“(D) shall require tobacco products containing foreign-grown tobacco to meet the same standards applicable to tobacco products containing domestically grown tobacco.

“(5) **PERIODIC REEVALUATION OF TOBACCO PRODUCT STANDARDS.**—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

“(6) **INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.**—In carrying out duties under this section, the Secretary shall endeavor to—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, work-

shops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) **CONSIDERATIONS BY SECRETARY.**—

“(1) **TECHNICAL ACHIEVABILITY.**—The Secretary shall consider information submitted in connection with a proposed standard regarding the technical achievability of compliance with such standard.

“(2) **OTHER CONSIDERATIONS.**—The Secretary shall consider all other information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand.

“(c) **PROPOSED STANDARDS.**—

“(1) **IN GENERAL.**—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

“(2) **REQUIREMENTS OF NOTICE.**—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

“(A) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

“(B) invite interested persons to submit a draft or proposed tobacco product standard for consideration by the Secretary;

“(C) invite interested persons to submit comments on structuring the standard so that it does not advantage foreign-grown tobacco over domestically grown tobacco; and

“(D) invite the Secretary of Agriculture to provide any information or analysis which the Secretary of Agriculture believes is relevant to the proposed tobacco product standard.

“(3) **FINDING.**—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

“(4) **COMMENT.**—The Secretary shall provide for a comment period of not less than 60 days.

“(d) **PROMULGATION.**—

“(1) **IN GENERAL.**—After the expiration of the period for comment on a notice of proposed rulemaking published under subsection (c) respecting a tobacco product standard and after consideration of comments submitted under subsections (b) and (c) and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

“(A) if the Secretary determines that the standard would be appropriate for the protection of the public health, promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in subsection (c); or

“(B) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(2) **EFFECTIVE DATE.**—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date

of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade. In establishing such effective date or dates, the Secretary shall consider information submitted in connection with a proposed product standard by interested parties, including manufacturers and tobacco growers, regarding the technical achievability of compliance with the standard, and including information concerning the existence of patents that make it impossible to comply in the timeframe envisioned in the proposed standard. If the Secretary determines, based on the Secretary's evaluation of submitted comments, that a product standard can be met only by manufacturers requiring substantial changes to the methods of farming the domestically grown tobacco used by the manufacturer, the effective date of that product standard shall be not less than 2 years after the date of publication of the final regulation establishing the standard.

“(3) **LIMITATION ON POWER GRANTED TO THE FOOD AND DRUG ADMINISTRATION.**—Because of the importance of a decision of the Secretary to issue a regulation—

“(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll-your-own tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero, the Secretary is prohibited from taking such actions under this Act.

“(4) **AMENDMENT; REVOCATION.**—

“(A) **AUTHORITY.**—The Secretary, upon the Secretary's own initiative or upon petition of an interested person, may by a regulation, promulgated in accordance with the requirements of subsection (c) and paragraph (2), amend or revoke a tobacco product standard.

“(B) **EFFECTIVE DATE.**—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) **REFERRAL TO ADVISORY COMMITTEE.**—

“(A) **IN GENERAL.**—The Secretary may refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.

“(B) **INITIATION OF REFERRAL.**—The Secretary may make a referral under this paragraph—

“(i) on the Secretary's own initiative; or

“(ii) upon the request of an interested person that—

“(I) demonstrates good cause for the referral; and

“(II) is made before the expiration of the period for submission of comments on the proposed regulation.

“(C) **PROVISION OF DATA.**—If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the Advisory Committee with the data and information on which such proposed regulation is based.

“(D) **REPORT AND RECOMMENDATION.**—The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral



of a proposed regulation under this paragraph and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

“(E) PUBLIC AVAILABILITY.—The Secretary shall make a copy of each report and recommendation under subparagraph (D) publicly available.

“(e) MENTHOL CIGARETTES.—

“(1) REFERRAL; CONSIDERATIONS.—Immediately upon the establishment of the Tobacco Products Scientific Advisory Committee under section 917(a), the Secretary shall refer to the Committee for report and recommendation, under section 917(c)(4), the issue of the impact of the use of menthol in cigarettes on the public health, including such use among children, African-Americans, Hispanics, and other racial and ethnic minorities. In its review, the Tobacco Products Scientific Advisory Committee shall address the considerations listed in subsections (a)(3)(B)(i) and (b).

“(2) REPORT AND RECOMMENDATION.—Not later than 1 year after its establishment, the Tobacco Product Scientific Advisory Committee shall submit to the Secretary the report and recommendations required pursuant to paragraph (1).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol.

“(f) DISSOLVABLE TOBACCO PRODUCTS.—

“(1) REFERRAL; CONSIDERATIONS.—The Secretary shall refer to the Tobacco Products Scientific Advisory Committee for report and recommendation, under section 917(c)(4), the issue of the nature and impact of the use of dissolvable tobacco products on the public health, including such use among children. In its review, the Tobacco Products Scientific Advisory Committee shall address the considerations listed in subsection (a)(3)(B)(i).

“(2) REPORT AND RECOMMENDATION.—Not later than 2 years after its establishment, the Tobacco Product Scientific Advisory Committee shall submit to the Secretary the report and recommendations required pursuant to paragraph (1).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act at any time applicable to any dissolvable tobacco product.

#### “SEC. 908. NOTIFICATION AND OTHER REMEDIES.

“(a) NOTIFICATION.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

“(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary

may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

“(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

“(c) RECALL AUTHORITY.—

“(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

“(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

“(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(B) NOTICE.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

“(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

#### “SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

“(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

“(1) may require a tobacco product manufacturer or importer to report to the Sec-

retary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

“(b) REPORTS OF REMOVALS AND CORRECTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

“(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

#### “SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

“(a) IN GENERAL.—

“(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term ‘new tobacco product’ means—

“(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007; or

“(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007.

“(2) PREMARKET REVIEW REQUIRED.—

“(A) NEW PRODUCTS.—An order under subsection (c)(1)(A)(i) for a new tobacco product is required unless—

“(i) the manufacturer has submitted a report under section 905(j); and the Secretary has issued an order that the tobacco product—

“(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007; and

“(II) is in compliance with the requirements of this Act; or

“(ii) the tobacco product is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

“(B) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

“(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

“(ii) for which a report was submitted under section 905(j) within such 21-month period,

except that subparagraph (A) shall apply to the tobacco product if the Secretary issues an order that the tobacco product is not substantially equivalent.

“(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

“(A) IN GENERAL.—In this section and section 905(j), the term ‘substantially equivalent’ or ‘substantial equivalence’ means, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

“(i) has the same characteristics as the predicate tobacco product; or

“(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

“(B) CHARACTERISTICS.—In subparagraph (A), the term ‘characteristics’ means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

“(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

“(4) HEALTH INFORMATION.—

“(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

“(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

“(b) APPLICATION.—

“(1) CONTENTS.—An application under this section shall contain—

“(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

“(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

“(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

“(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

“(F) specimens of the labeling proposed to be used for such tobacco product; and

“(G) such other information relevant to the subject matter of the application as the Secretary may require.

“(2) REFERRAL TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

“(A) may, on the Secretary’s own initiative; or

“(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

“(c) ACTION ON APPLICATION.—

“(1) DEADLINE.—

“(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under subsection (b)(2), shall—

“(i) issue an order that the new product may be introduced or delivered for introduction into interstate commerce if the Secretary finds that none of the grounds specified in paragraph (2) of this subsection applies; or

“(ii) issue an order that the new product may not be introduced or delivered for introduction into interstate commerce if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

“(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order under subparagraph (A)(i) may require that the sale and distribution of the tobacco product be restricted but only to

the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

“(2) DENIAL OF APPLICATION.—The Secretary shall deny an application submitted under subsection (b) if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

“(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

“(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

“(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

“(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, and there is a lack of adequate information to justify the deviation from such standard.

“(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to remove such application from deniable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

“(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether the marketing of a tobacco product for which an application has been submitted is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(5) BASIS FOR ACTION.—

“(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

“(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product, the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

“(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

“(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from the Tobacco Products Scientific Advisory Committee, and after due notice and opportunity for informal hearing for a tobacco product for which an order was issued under subsection (c)(1)(A)(i), issue an order withdrawing the order if the Secretary finds—

“(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

“(B) that the application contained or was accompanied by an untrue statement of a material fact;

“(C) that the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

“(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

“(iii) has not complied with the requirements of section 905;

“(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was reviewed, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was reviewed, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such order was issued, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to the issuance of an order relating to the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing an order issued pursuant to subsection (c)(1)(A)(i) may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with section 912.

“(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an order would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the authority of the manufacturer to market the product. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“(f) RECORDS.—

“(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an order issued pursuant to subsection (c)(1)(A)(i) for an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such order.

“(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge of custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

“(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

#### “SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

“(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless an order issued pursuant to subsection (g) is effective with respect to such product.

“(b) DEFINITIONS.—In this section:

“(1) MODIFIED RISK TOBACCO PRODUCT.—The term ‘modified risk tobacco product’ means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

“(2) SOLD OR DISTRIBUTED.—

“(A) IN GENERAL.—With respect to a tobacco product, the term ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’ means a tobacco product—

“(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

“(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

“(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

“(III) the tobacco product or its smoke does not contain or is free of a substance;

“(ii) the label, labeling, or advertising of which uses the descriptors ‘light’, ‘mild’, or ‘low’ or similar descriptors; or

“(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling, or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

“(B) LIMITATION.—No tobacco product shall be considered to be ‘sold or distributed for use to reduce harm or the risk of tobacco-re-

lated disease associated with commercially marketed tobacco products’, except as described in subparagraph (A).

“(C) SMOKELESS TOBACCO PRODUCT.—No smokeless tobacco product shall be considered to be ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’ solely because its label, labeling, or advertising uses the following phrases to describe such product and its use: ‘smokeless tobacco’, ‘smokeless tobacco product’, ‘not consumed by smoking’, ‘does not produce smoke’, ‘smokefree’, ‘smoke-free’, ‘without smoke’, ‘no smoke’, or ‘not smoke’.

“(3) EFFECTIVE DATE.—The provisions of paragraph (2)(A)(ii) shall take effect 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act for those products whose label, labeling, or advertising contains the terms described in such paragraph on such date of enactment. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with paragraph (2)(A)(ii).

“(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section if it has been approved as a drug or device by the Food and Drug Administration and is subject to the requirements of chapter V.

“(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

“(1) a description of the proposed product and any proposed advertising and labeling;

“(2) the conditions for using the product;

“(3) the formulation of the product;

“(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall refer to the Tobacco Products Scientific Advisory Committee any application submitted under this section.

“(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to the Tobacco Products Scientific Advisory Committee under paragraph (1), the Advisory Committee shall report its recommendations on the application to the Secretary.

“(g) MARKETING.—

“(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall, with respect to an application submitted under this section, issue an order that a modified risk product may be commercially marketed only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

“(A) IN GENERAL.—The Secretary may issue an order that a tobacco product may be introduced or delivered for introduction into interstate commerce, pursuant to an application under this section, with respect to a tobacco product that may not be commercially marketed under paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

“(i) such order would be appropriate to promote the public health;

“(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b) is limited to an explicit or implicit representation that such tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;

“(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

“(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies.

“(B) ADDITIONAL FINDINGS REQUIRED.—To issue an order under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

“(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

“(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

“(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

“(I) is or has been demonstrated to be less harmful; or

“(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

“(iv) issuance of an order with respect to the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(C) CONDITIONS OF MARKETING.—

“(i) IN GENERAL.—Applications subject to an order under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

“(ii) AGREEMENTS BY APPLICANT.—An order under this paragraph shall be conditioned on the applicant's agreement to conduct postmarket surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the order on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the order was based in accordance with a protocol approved by the Secretary.

“(iii) ANNUAL SUBMISSION.—The results of such postmarket surveillance and studies described in clause (ii) shall be submitted annually.

“(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

“(A) the scientific evidence submitted by the applicant; and

“(B) scientific evidence and other information that is made available to the Secretary.

“(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

“(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

“(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

“(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

“(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

“(E) comments, data, and information submitted by interested persons.

“(h) ADDITIONAL CONDITIONS FOR MARKETING.—

“(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the marketing of a product under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

“(2) COMPARATIVE CLAIMS.—

“(A) IN GENERAL.—The Secretary may require for the marketing of a product under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

“(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

“(3) LABEL DISCLOSURE.—

“(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

“(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

“(4) TIME.—An order issued under subsection (g)(1) shall be effective for a specified period of time.

“(5) ADVERTISING.—The Secretary may require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the product comply with requirements relating to advertising and promotion of the tobacco product.

“(i) POSTMARKET SURVEILLANCE AND STUDIES.—

“(1) IN GENERAL.—The Secretary shall require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the applicant conduct postmarket surveillance and studies for such a tobacco product to determine the impact of the order issuance on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the order was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of postmarket surveillance and studies shall be submitted to the Secretary on an annual basis.

“(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

“(j) WITHDRAWAL OF AUTHORIZATION.—The Secretary, after an opportunity for an informal hearing, shall withdraw an order under subsection (g) if the Secretary determines that—

“(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

“(2) the application failed to include material information or included any untrue statement of material fact;

“(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

“(A) a tobacco product standard is established pursuant to section 907;

“(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

“(C) any postmarket surveillance or studies reveal that the order is no longer consistent with the protection of the public health;

“(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or subsection (i); or

“(5) the applicant failed to meet a condition imposed under subsection (h).

“(k) CHAPTER IV OR V.—A product for which the Secretary has issued an order pursuant to subsection (g) shall not be subject to chapter IV or V.

“(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

“(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

“(A) to the extent that adequate scientific evidence exists, establish minimum standards for scientific studies needed prior to issuing an order under subsection (g) to show that a substantial reduction in morbidity or mortality among individual tobacco users occurs for products described in subsection (g)(1) or is reasonably likely for products described in subsection (g)(2);

“(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

“(C) establish minimum standards for postmarket studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

“(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception;

“(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product; and

“(F) establish a reasonable timetable for the Secretary to review an application under this section.

“(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

“(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

“(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and which the applicant seeks to commercially market under this section.

“(m) DISTRIBUTORS.—Except as provided in this section, no distributor may take any action, after the date of enactment of the Fam-

ily Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

#### “SEC. 912. JUDICIAL REVIEW.

“(a) RIGHT TO REVIEW.—

“(1) IN GENERAL.—Not later than 30 days after—

“(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

“(B) a denial of an application under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

“(2) REQUIREMENTS.—

“(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

“(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

“(i) the record of the proceedings on which the regulation or order was based; and

“(ii) a statement of the reasons for the issuance of such a regulation or order.

“(C) DEFINITION OF RECORD.—In this section, the term ‘record’ means—

“(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

“(ii) all information submitted to the Secretary with respect to such regulation or order;

“(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

“(iv) any hearing held with respect to such regulation or order; and

“(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

“(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

“(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the

issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

#### “SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

“The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

#### “SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

“(a) JURISDICTION.—

“(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

“(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act and shall be considered a violation of a rule promulgated under section 18 of that Act.

“(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986—

“(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

“(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

#### “SEC. 915. REGULATION REQUIREMENT.

“(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations under this Act that meet the requirements of subsection (b).

“(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a)—

“(1) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and subbrand that the Secretary determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand; and

“(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco-related disease.

“(c) AUTHORITY.—The Secretary shall have the authority under this chapter to conduct

or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

“(d) SMALL TOBACCO PRODUCT MANUFACTURERS.—

“(1) FIRST COMPLIANCE DATE.—The initial regulations promulgated under subsection (a) shall not impose requirements on small tobacco product manufacturers before the later of—

“(A) the end of the 2-year period following the final promulgation of such regulations; and

“(B) the initial date set by the Secretary for compliance with such regulations by manufacturers that are not small tobacco product manufacturers.

“(2) TESTING AND REPORTING INITIAL COMPLIANCE PERIOD.—

“(A) 4-YEAR PERIOD.—The initial regulations promulgated under subsection (a) shall give each small tobacco product manufacturer a 4-year period over which to conduct testing and reporting for all of its tobacco products. Subject to paragraph (1), the end of the first year of such 4-year period shall coincide with the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers or the end of the 2-year period following the final promulgation of such regulations, as described in paragraph (1)(A). A small tobacco product manufacturer shall be required—

“(i) to conduct such testing and reporting for 25 percent of its tobacco products during each year of such 4-year period; and

“(ii) to conduct such testing and reporting for its largest-selling tobacco products (as determined by the Secretary) before its other tobacco products, or in such other order of priority as determined by the Secretary.

“(B) CASE-BY-CASE DELAY.—Notwithstanding subparagraph (A), the Secretary may, on a case-by-case basis, delay the date by which an individual small tobacco product manufacturer must conduct testing and reporting for its tobacco products under this section based upon a showing of undue hardship to such manufacturer. Notwithstanding the preceding sentence, the Secretary shall not extend the deadline for a small tobacco product manufacturer to conduct testing and reporting for all of its tobacco products beyond a total of 5 years after the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers.

“(3) SUBSEQUENT AND ADDITIONAL TESTING AND REPORTING.—The regulations promulgated under subsection (a) shall provide that, with respect to any subsequent or additional testing and reporting of tobacco products required under this section, such testing and reporting by a small tobacco product manufacturer shall be conducted in accordance with the timeframes described in paragraph (2)(A), except that, in the case of a new product, or if there has been a modification described in section 910(a)(1)(B) of any product of a small tobacco product manufacturer since the last testing and reporting required under this section, the Secretary shall require that any subsequent or additional testing and reporting be conducted in accordance with the same timeframe applicable to manufacturers that are not small tobacco product manufacturers.

“(4) JOINT LABORATORY TESTING SERVICES.—The Secretary shall allow any 2 or more small tobacco product manufacturers to join together to purchase laboratory testing serv-

ices required by this section on a group basis in order to ensure that such manufacturers receive access to, and fair pricing of, such testing services.

“(e) EXTENSIONS FOR LIMITED LABORATORY CAPACITY.—

“(1) IN GENERAL.—The regulations promulgated under subsection (a) shall provide that a small tobacco product manufacturer shall not be considered to be in violation of this section before the deadline applicable under paragraphs (3) and (4), if—

“(A) the tobacco products of such manufacturer are in compliance with all other requirements of this chapter; and

“(B) the conditions described in paragraph (2) are met.

“(2) CONDITIONS.—Notwithstanding the requirements of this section, the Secretary may delay the date by which a small tobacco product manufacturer must be in compliance with the testing and reporting required by this section until such time as the testing is reported if, not later than 90 days before the deadline for reporting in accordance with this section, a small tobacco product manufacturer provides evidence to the Secretary demonstrating that—

“(A) the manufacturer has submitted the required products for testing to a laboratory and has done so sufficiently in advance of the deadline to create a reasonable expectation of completion by the deadline;

“(B) the products currently are awaiting testing by the laboratory; and

“(C) neither that laboratory nor any other laboratory is able to complete testing by the deadline at customary, nonexpedited testing fees.

“(3) EXTENSION.—The Secretary, taking into account the laboratory testing capacity that is available to tobacco product manufacturers, shall review and verify the evidence submitted by a small tobacco product manufacturer in accordance with paragraph (2). If the Secretary finds that the conditions described in such paragraph are met, the Secretary shall notify the small tobacco product manufacturer that the manufacturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Secretary has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Secretary finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

“(4) ADDITIONAL EXTENSION.—In addition to the time that may be provided under paragraph (3), the Secretary may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Secretary determines, based on evidence properly and timely submitted by a small tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

“(f) RULE OF CONSTRUCTION.—Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this Act or the Family Smoking Prevention and Tobacco Control Act other than this section.

“SEC. 916. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) IN GENERAL.—

“(1) PRESERVATION.—Except as provided in paragraph (2)(A), nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, tribal, or local taxation of tobacco products.

“(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

“(A) IN GENERAL.—No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

“(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of title 5, United States Code, shall be treated as a trade secret and confidential information by the State.

“(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“SEC. 917. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 12-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the ‘Advisory Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests of the tobacco manufacturing industry;

“(v) 1 individual as a representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee; and

“(vi) 1 individual as a representative of the interests of the tobacco growers.

“(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv), (v), and (vi) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

“(C) CONFLICTS OF INTEREST.—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products.

“(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

“(3) CHAIRPERSON.—The Secretary shall designate 1 of the members appointed under clauses (i), (ii), and (iii) of paragraph (1)(A) to serve as chairperson.

“(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

“(1) as provided in this chapter;

“(2) on the effects of the alteration of the nicotine yields from tobacco products;

“(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

“(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

“(d) COMPENSATION; SUPPORT; FACILITY.—

“(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect under the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

“(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

“(3) NONAPPLICATION OF FACILITY.—Section 14 of the Federal Advisory Committee Act does not apply to the Advisory Committee.

“(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall

make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

#### “SEC. 918. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

“(a) IN GENERAL.—The Secretary shall—

“(1) at the request of the applicant, consider designating products for smoking cessation, including nicotine replacement products as fast track research and approval products within the meaning of section 506;

“(2) consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence; and

“(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention.

“(b) REPORT ON INNOVATIVE PRODUCTS.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, after consultation with recognized scientific, medical, and public health experts (including both Federal agencies and nongovernmental entities, the Institute of Medicine of the National Academy of Sciences, and the Society for Research on Nicotine and Tobacco), shall submit to the Congress a report that examines how best to regulate, promote, and encourage the development of innovative products and treatments (including nicotine-based and non-nicotine-based products and treatments) to better achieve, in a manner that best protects and promotes the public health—

“(A) total abstinence from tobacco use;

“(B) reductions in consumption of tobacco; and

“(C) reductions in the harm associated with continued tobacco use.

“(2) RECOMMENDATIONS.—The report under paragraph (1) shall include the recommendations of the Secretary on how the Food and Drug Administration should coordinate and facilitate the exchange of information on such innovative products and treatments among relevant offices and centers within the Administration and within the National Institutes of Health, the Centers for Disease Control and Prevention, and other relevant agencies.

#### “SEC. 919. USER FEES.

“(a) ESTABLISHMENT OF QUARTERLY FEE.—Beginning on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall in accordance with this section assess user fees on, and collect such fees from, each manufacturer and importer of tobacco products subject to this chapter. The fees shall be assessed and collected with respect to each quarter of each fiscal year, and the total amount assessed and collected for a fiscal year shall be the amount specified in subsection (b)(1) for such year, subject to subsection (c).

“(b) ASSESSMENT OF USER FEE.—

“(1) AMOUNT OF ASSESSMENT.—The total amount of user fees authorized to be assessed and collected under subsection (a) for a fiscal year is the following, as applicable to the fiscal year involved:

“(A) For fiscal year 2009, \$85,000,000 (subject to subsection (e)).

“(B) For fiscal year 2010, \$235,000,000.

“(C) For fiscal year 2011, \$450,000,000.

“(D) For fiscal year 2012, \$477,000,000.

“(E) For fiscal year 2013, \$505,000,000.

“(F) For fiscal year 2014, \$534,000,000.

“(G) For fiscal year 2015, \$566,000,000.

“(H) For fiscal year 2016, \$599,000,000.

“(I) For fiscal year 2017, \$635,000,000.

“(J) For fiscal year 2018, \$672,000,000.

“(K) For fiscal year 2019 and each subsequent fiscal year, \$712,000,000.

“(2) ALLOCATIONS OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

“(A) IN GENERAL.—The total user fees assessed and collected under subsection (a) each fiscal year with respect to each class of tobacco products shall be an amount that is equal to the applicable percentage of each class for the fiscal year multiplied by the amount specified in paragraph (1) for the fiscal year.

“(B) APPLICABLE PERCENTAGE.—

“(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage for a fiscal year for each of the following classes of tobacco products shall be determined in accordance with clause (ii):

“(I) Cigarettes.

“(II) Cigars, including small cigars and cigars other than small cigars.

“(III) Snuff.

“(IV) Chewing tobacco.

“(V) Pipe tobacco.

“(VI) Roll-your-own tobacco.

“(ii) ALLOCATIONS.—The applicable percentage of each class of tobacco product described in clause (i) for a fiscal year shall be the percentage determined under section 625(c) of Public Law 108-357 for each such class of product for such fiscal year.

“(iii) REQUIREMENT OF REGULATIONS.—Notwithstanding clause (ii), no user fees shall be assessed on a class of tobacco products unless such class of tobacco products is listed in section 901(b) or is deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter.

“(iv) REALLOCATIONS.—In the case of a class of tobacco products that is not listed in section 901(b) or deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter, the amount of user fees that would otherwise be assessed to such class of tobacco products shall be reallocated to the classes of tobacco products that are subject to this chapter in the same manner and based on the same relative percentages otherwise determined under clause (ii).

“(3) DETERMINATION OF USER FEE BY COMPANY.—

“(A) IN GENERAL.—The total user fee to be paid by each manufacturer or importer of a particular class of tobacco products shall be determined for each quarter by multiplying—

“(i) such manufacturer's or importer's percentage share as determined under paragraph (4); by

“(ii) the portion of the user fee amount for the current quarter to be assessed on all manufacturers and importers of such class of tobacco products as determined under paragraph (2).

“(B) NO FEE IN EXCESS OF PERCENTAGE SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the percentage share of such manufacturer or importer.

“(4) ALLOCATION OF ASSESSMENT WITHIN EACH CLASS OF TOBACCO PRODUCT.—The percentage share of each manufacturer or importer of a particular class of tobacco products of the total user fee to be paid by all manufacturers or importers of that class of tobacco products shall be the percentage determined for purposes of allocations under subsections (e) through (h) of section 625 of Public Law 108-357.



“(5) ALLOCATION FOR CIGARS.—Notwithstanding paragraph (4), if a user fee assessment is imposed on cigars, the percentage share of each manufacturer or importer of cigars shall be based on the excise taxes paid by such manufacturer or importer during the prior fiscal year.

“(6) TIMING OF ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under this subsection for each quarter of each fiscal year. Such notifications shall occur not later than 30 days prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made by the last day of the quarter involved.

“(7) MEMORANDUM OF UNDERSTANDING.—

“(A) IN GENERAL.—The Secretary shall request the appropriate Federal agency to enter into a memorandum of understanding that provides for the regular and timely transfer from the head of such agency to the Secretary of the information described in paragraphs (2)(B)(ii) and (4) and all necessary information regarding all tobacco product manufacturers and importers required to pay user fees. The Secretary shall maintain all disclosure restrictions established by the head of such agency regarding the information provided under the memorandum of understanding.

“(B) ASSURANCES.—Beginning not later than fiscal year 2015, and for each subsequent fiscal year, the Secretary shall ensure that the Food and Drug Administration is able to determine the applicable percentages described in paragraph (2) and the percentage shares described in paragraph (4). The Secretary may carry out this subparagraph by entering into a contract with the head of the Federal agency referred to in subparagraph (A) to continue to provide the necessary information.

“(C) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts, subject to paragraph (2)(D). Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation.

“(2) AVAILABILITY.—

“(A) IN GENERAL.—Fees appropriated under paragraph (3) are available only for the purpose of paying the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter and the Family Smoking Prevention and Tobacco Control Act (referred to in this subsection as ‘tobacco regulation activities’), except that such fees may be used for the reimbursement specified in subparagraph (C).

“(B) PROHIBITION AGAINST USE OF OTHER FUNDS.—

“(i) IN GENERAL.—Except as provided in clause (ii), fees collected under subsection (a) are the only funds authorized to be made available for tobacco regulation activities.

“(ii) STARTUP COSTS.—Clause (i) does not apply until October 1, 2009. Until such date, any amounts available to the Food and Drug Administration (excluding user fees) shall be available and allocated as needed to pay the costs of tobacco regulation activities.

“(C) REIMBURSEMENT OF START-UP AMOUNTS.—

“(i) IN GENERAL.—Any amounts allocated for the start-up period pursuant to subparagraph (B)(ii) shall be reimbursed through any appropriated fees collected under subsection (a), in such manner as the Secretary determines appropriate to ensure that such allocation results in no net change in the total amount of funds otherwise available, for the period from October 1, 2008, through September 30, 2010, for Food and Drug Administration programs and activities (other than tobacco regulation activities) for such period.

“(ii) TREATMENT OF REIMBURSED AMOUNTS.—Amounts reimbursed under clause (i) shall be available for the programs and activities for which funds allocated for the start-up period were available, prior to such allocation, until September 30, 2010, notwithstanding any otherwise applicable limits on amounts for such programs or activities for a fiscal year.

“(D) FEE COLLECTED DURING START-UP PERIOD.—Notwithstanding the first sentence of paragraph (1), fees under subsection (a) may be collected through September 30, 2009 under subparagraph (B)(ii) and shall be available for obligation and remain available until expended. Such offsetting collections shall be credited to the salaries and expenses account of the Food and Drug Administration.

“(E) OBLIGATION OF START-UP COSTS IN ANTICIPATION OF AVAILABLE FEE COLLECTIONS.—Notwithstanding any other provision of law, following the enactment of an appropriation for fees under this section for fiscal year 2010, or any portion thereof, obligations for costs of tobacco regulation activities during the start-up period may be incurred in anticipation of the receipt of offsetting fee collections through procedures specified in section 1534 of title 31, United States Code.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2009 and each subsequent fiscal year, there is authorized to be appropriated for fees under this section an amount equal to the amount specified in subsection (b)(1) for the fiscal year.

“(d) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(e) APPLICABILITY TO FISCAL YEAR 2009.—If the date of enactment of the Family Smoking Prevention and Tobacco Control Act occurs during fiscal year 2009, the following applies, subject to subsection (c):

“(1) The Secretary shall determine the fees that would apply for a single quarter of such fiscal year according to the application of subsection (b) to the amount specified in paragraph (1)(A) of such subsection (referred to in this subsection as the ‘quarterly fee amounts’).

“(2) For the quarter in which such date of enactment occurs, the amount of fees assessed shall be a pro rata amount, determined according to the number of days remaining in the quarter (including such date of enactment) and according to the daily equivalent of the quarterly fee amounts. Fees assessed under the preceding sentence shall not be collected until the next quarter.

“(3) For the quarter following the quarter to which paragraph (2) applies, the full quarterly fee amounts shall be assessed and collected, in addition to collection of the pro rata fees assessed under paragraph (2).”.

(c) CONFORMING AMENDMENT.—Section 9(1) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408(i)) is amended to read as follows:

“(1) The term ‘smokeless tobacco’ has the meaning given such term by section 900(18) of the Federal Food, Drug, and Cosmetic Act.”.

#### SEC. 102. FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—On the first day of publication of the Federal Register that is 180 days or more after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a final rule regarding cigarettes and smokeless tobacco, which—

(A) is deemed to be issued under chapter 9 of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this division; and

(B) shall be deemed to be in compliance with all applicable provisions of chapter 5 of title 5, United States Code, and all other provisions of law relating to rulemaking procedures.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection in accordance with this division and the amendments made by this division;

(B) strike Subpart C—Labels and section 897.32(c);

(C) strike paragraphs (a), (b), and (i) of section 897.3 and insert definitions of the terms “cigarette”, “cigarette tobacco”, and “smokeless tobacco” as defined in section 900 of the Federal Food, Drug, and Cosmetic Act;

(D) insert “or roll-your-own paper” in section 897.34(a) after “other than cigarettes or smokeless tobacco”;

(E) include such modifications to section 897.30(b), if any, that the Secretary determines are appropriate in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in *Lorillard Tobacco Co. v. Reilly* (533 U.S. 525 (2001));

(F) become effective on the date that is 1 year after the date of enactment of this Act; and

(G) amend paragraph (d) of section 897.16 to read as follows:

“(d)(1) Except as provided in subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of cigarettes, smokeless tobacco, or other tobacco products (as such term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act).

“(2)(A) Subparagraph (1) does not prohibit a manufacturer, distributor, or retailer from distributing or causing to be distributed free samples of smokeless tobacco in a qualified adult-only facility.

“(B) This subparagraph does not affect the authority of a State or local government to prohibit or otherwise restrict the distribution of free samples of smokeless tobacco.

“(C) For purposes of this paragraph, the term ‘qualified adult-only facility’ means a facility or restricted area that—

“(i) requires each person present to provide to a law enforcement officer (whether on or off duty) or to a security guard licensed by a governmental entity government-issued

identification showing a photograph and at least the minimum age established by applicable law for the purchase of smokeless tobacco;

“(ii) does not sell, serve, or distribute alcohol;

“(iii) is not located adjacent to or immediately across from (in any direction) a space that is used primarily for youth-oriented marketing, promotional, or other activities;

“(iv) is a temporary structure constructed, designated, and operated as a distinct enclosed area for the purpose of distributing free samples of smokeless tobacco in accordance with this subparagraph;

“(v) is enclosed by a barrier that—

“(I) is constructed of, or covered with, an opaque material (except for entrances and exits);

“(II) extends from no more than 12 inches above the ground or floor (which area at the bottom of the barrier must be covered with material that restricts visibility but may allow airflow) to at least 8 feet above the ground or floor (or to the ceiling); and

“(III) prevents persons outside the qualified adult-only facility from seeing into the qualified adult-only facility, unless they make unreasonable efforts to do so; and

“(vi) does not display on its exterior—

“(I) any tobacco product advertising;

“(II) a brand name other than in conjunction with words for an area or enclosure to identify an adult-only facility; or

“(III) any combination of words that would imply to a reasonable observer that the manufacturer, distributor, or retailer has a sponsorship that would violate section 897.34(c).

“(D) Distribution of samples of smokeless tobacco under this subparagraph permitted to be taken out of the qualified adult-only facility shall be limited to 1 package per adult consumer containing no more than 0.53 ounces (15 grams) of smokeless tobacco. If such package of smokeless tobacco contains individual portions of smokeless tobacco, the individual portions of smokeless tobacco shall not exceed 8 individual portions and the collective weight of such individual portions shall not exceed 0.53 ounces (15 grams). Any manufacturer, distributor, or retailer who distributes or causes to be distributed free samples also shall take reasonable steps to ensure that the above amounts are limited to one such package per adult consumer per day.

“(3) Notwithstanding subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of smokeless tobacco—

“(A) to a sports team or entertainment group; or

“(B) at any football, basketball, baseball, soccer, or hockey event or any other sporting or entertainment event determined by the Secretary to be covered by this subparagraph.

“(4) The Secretary shall implement a program to ensure compliance with this paragraph and submit a report to the Congress on such compliance not later than 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(5) Nothing in this paragraph shall be construed to authorize any person to distribute or cause to be distributed any sample of a tobacco product to any individual who has not attained the minimum age established by applicable law for the purchase of such product.”.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promul-

gate a proposed rule in accordance with chapter 5 of title 5, United States Code.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with chapter 5 of title 5, United States Code, the regulation promulgated pursuant to this section, including the provisions of such regulation relating to distribution of free samples.

(5) ENFORCEMENT OF RETAIL SALE PROVISIONS.—The Secretary of Health and Human Services shall ensure that the provisions of this division, the amendments made by this division, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) are enforced with respect to the United States and Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code, shall not apply to the final rule published under paragraph (1).

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents” (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document titled “Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act” (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document titled “Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination” (61 Fed. Reg. 44619–45318 (August 28, 1996)).

#### SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting “tobacco product,” after “device,”;

(2) in subsection (b), by inserting “tobacco product,” after “device,”;

(3) in subsection (c), by inserting “tobacco product,” after “device,”;

(4) in subsection (e)—

(A) by striking the period after “572(i)”;

and

(B) by striking “or 761 or the refusal to permit access to” and inserting “761, 909, or 920 or the refusal to permit access to”;

(5) in subsection (g), by inserting “tobacco product,” after “device,”;

(6) in subsection (h), by inserting “tobacco product,” after “device,”;

(7) in subsection (j)—

(A) by striking the period after “573”; and

(B) by striking “708, or 721” and inserting “708, 721, 904, 905, 906, 907, 908, 909, or 920(b)”;

(8) in subsection (k), by inserting “tobacco product,” after “device,”;

(9) by striking subsection (p) and inserting the following:

“(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(3).”;

(10) by striking subsection (q)(1) and inserting the following:

“(q)(1) The failure or refusal—

“(A) to comply with any requirement prescribed under section 518, 520(g), 903(b), 907, 908, or 915;

“(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or 920; or

“(C) to comply with a requirement under section 522 or 913.”;

(11) in subsection (q)(2), by striking “device,” and inserting “device or tobacco product,”;

(12) in subsection (r), by inserting “or tobacco product” after the term “device” each time that such term appears; and

(13) by adding at the end the following:

“(oo) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

“(pp) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

“(qq)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

“(rr) The charitable distribution of tobacco products.

“(ss) The failure of a manufacturer or distributor to notify the Attorney General and the Secretary of the Treasury of their knowledge of tobacco products used in illicit trade.

“(tt) Making any express or implied statement or representation directed to consumers with respect to a tobacco product, in a label or labeling or through the media or advertising, that either conveys, or misleads or would mislead consumers into believing, that—

“(1) the product is approved by the Food and Drug Administration;

“(2) the Food and Drug Administration deems the product to be safe for use by consumers;

“(3) the product is endorsed by the Food and Drug Administration for use by consumers; or

“(4) the product is safe or less harmful by virtue of—

“(A) its regulation or inspection by the Food and Drug Administration; or

“(B) its compliance with regulatory requirements set by the Food and Drug Administration;

including any such statement or representation rendering the product misbranded under section 903.”.

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) in paragraph (5)—

(A) by striking “paragraph (1), (2), (3), or (4)” each place such appears and inserting “paragraph (1), (2), (3), (4), or (9)”;

(B) in subparagraph (A)—

(i) by striking “assessed” the first time it appears and inserting “assessed, or a no-tobacco-sale order may be imposed,”; and

(ii) by striking “penalty” the second time it appears and inserting “penalty, or upon whom a no-tobacco-sale order is to be imposed.”;

(C) in subparagraph (B)—

(i) by inserting after “penalty,” the following: “or the period to be covered by a no-tobacco-sale order,”; and

(ii) by adding at the end the following: “A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.”; and

(D) by adding at the end the following:

“(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.”;

(2) in paragraph (6)—

(A) by inserting “or the imposition of a no-tobacco-sale order” after the term “penalty” each place such term appears; and

(B) by striking “issued,” and inserting “issued, or on which the no-tobacco-sale order was imposed, as the case may be.”; and

(3) by adding at the end the following:

“(8) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1). Prior to the entry of a no-sale order under this paragraph, a person shall be entitled to a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer’s request a hearing by telephone, or at the nearest regional or field office of the Food and Drug Administration, or at a Federal, State, or county facility within 100 miles from the location of the retail outlet, if such a facility is available.

“(9) CIVIL MONETARY PENALTIES FOR VIOLATION OF TOBACCO PRODUCT REQUIREMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), any person who violates a requirement of this Act which relates to tobacco products shall be liable to the United States for a civil penalty in an amount not to exceed \$15,000 for each such violation, and not to exceed

\$1,000,000 for all such violations adjudicated in a single proceeding.

“(B) ENHANCED PENALTIES.—

“(i) Any person who intentionally violates a requirement of section 902(5), 902(6), 904, 908(c), or 911(a), shall be subject to a civil monetary penalty of—

“(I) not to exceed \$250,000 per violation, and not to exceed \$1,000,000 for all such violations adjudicated in a single proceeding; or

“(II) in the case of a violation that continues after the Secretary provides written notice to such person, \$250,000 for the first 30-day period (or any portion thereof) that the person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed \$1,000,000 for any 30-day period, and not to exceed \$10,000,000 for all such violations adjudicated in a single proceeding.

“(ii) Any person who violates a requirement of section 911(g)(2)(C)(ii) or 911(i)(1), shall be subject to a civil monetary penalty of—

“(I) not to exceed \$250,000 per violation, and not to exceed \$1,000,000 for all such violations adjudicated in a single proceeding; or

“(II) in the case of a violation that continues after the Secretary provides written notice to such person, \$250,000 for the first 30-day period (or any portion thereof) that the person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed \$1,000,000 for any 30-day period, and not to exceed \$10,000,000 for all such violations adjudicated in a single proceeding.

“(iii) In determining the amount of a civil penalty under clause (i)(II) or (ii)(II), the Secretary shall take into consideration whether the person is making efforts toward correcting the violation of the requirements of the section for which such person is subject to such civil penalty.”.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking “and” before “(D)”;

(B) by striking “device.” and inserting the following: “device, and (E) Any adulterated or misbranded tobacco product.”;

(2) in subsection (d)(1), by inserting “tobacco product,” after “device,”;

(3) in subsection (g)(1), by inserting “or tobacco product” after the term “device” each place such term appears; and

(4) in subsection (g)(2)(A), by inserting “or tobacco product” after “device”.

(e) SECTION 505.—Section 505(n)(2) (21 U.S.C. 355(n)(2)) is amended by striking “section 904” and inserting “section 1004”.

(f) SECTION 523.—Section 523(b)(2)(D) (21 U.S.C. 360m(b)(2)(D)) is amended by striking “section 903(g)” and inserting “section 1003(g)”.

(g) SECTION 702.—Section 702(a)(1) (U.S.C. 372(a)(1)) is amended—

(1) by striking “(a)(1)” and inserting “(a)(1)(A)”;

(2) by adding at the end the following:

“(B)(i) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with this paragraph to carry out inspections of retailers within that State in connection with the enforcement of this Act.

“(ii) The Secretary shall not enter into any contract under clause (i) with the government of any of the several States to exercise enforcement authority under this Act on Indian country without the express written consent of the Indian tribe involved.”.

(h) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting “tobacco product,” after the term “device,” each place such term appears; and

(2) by inserting “tobacco products,” after the term “devices,” each place such term appears.

(i) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)—

(A) by striking “devices, or cosmetics” each place it appears and inserting “devices, tobacco products, or cosmetics”;

(B) by striking “or restricted devices” each place it appears and inserting “restricted devices, or tobacco products”; and

(C) by striking “and devices and subject to” and all that follows through “other drugs or devices” and inserting “devices, and tobacco products and subject to reporting and inspection under regulations lawfully issued pursuant to section 505 (i) or (k), section 519, section 520(g), or chapter IX and data relating to other drugs, devices, or tobacco products”;

(2) in subsection (b), by inserting “tobacco product,” after “device,”; and

(3) in subsection (g)(13), by striking “section 903(g)” and inserting “section 1003(g)”.

(j) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting “tobacco products,” after “devices.”.

(k) SECTION 709.—Section 709 (21 U.S.C. 379a) is amended by inserting “tobacco product,” after “device.”.

(l) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting “tobacco products,” after the term “devices,”;

(B) by inserting “or section 905(h)” after “section 510”; and

(C) by striking the term “drugs or devices” each time such term appears and inserting “drugs, devices, or tobacco products”;

(2) in subsection (e)(1)—

(A) by inserting “tobacco product” after “drug, device,”; and

(B) by inserting “, and a tobacco product intended for export shall not be deemed to be in violation of section 906(e), 907, 911, or 920(a),” before “if it—”; and

(3) by adding at the end the following:

“(p)(1) Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

“(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

“(B) the public health implications of such exports, including any evidence of a negative public health impact; and

“(C) recommendations or assessments of policy alternatives available to Congress and the executive branch to reduce any negative public health impact caused by such exports.

“(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.”.

(m) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(b)) is amended—

(1) by striking “and” after “cosmetics,”; and

(2) inserting “, and tobacco products” after “devices”.

(n) SECTION 1009.—Section 1009(b) (as redesignated by section 101(b)) is amended by striking “section 908” and inserting “section 1008”.

(c) SECTION 409 OF THE FEDERAL MEAT INSPECTION ACT.—Section 409(a) of the Federal Meat Inspection Act (21 U.S.C. 679(a)) is amended by striking “section 902(b)” and inserting “section 1002(b)”.

(p) RULE OF CONSTRUCTION.—Nothing in this section is intended or shall be construed to expand, contract, or otherwise modify or amend the existing limitations on State government authority over tribal restricted fee or trust lands.

(q) GUIDANCE AND EFFECTIVE DATES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance—

(A) defining the term “repeated violation”, as used in section 303(f)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)(8)) as amended by subsection (c), as including at least 5 violations of particular requirements over a 36-month period at a particular retail outlet that constitute a repeated violation and providing for civil penalties in accordance with paragraph (2);

(B) providing for timely and effective notice by certified or registered mail or personal delivery to the retailer of each alleged violation at a particular retail outlet prior to conducting a followup compliance check, such notice to be sent to the location specified on the retailer's registration or to the retailer's registered agent if the retailer has provided such agent information to the Food and Drug Administration prior to the violation;

(C) providing for a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer's request a hearing by telephone or at the nearest regional or field office of the Food and Drug Administration, and providing for an expedited procedure for the administrative appeal of an alleged violation;

(D) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(E) establishing that civil money penalties for multiple violations shall increase from one violation to the next violation pursuant to paragraph (2) within the time periods provided for in such paragraph;

(F) providing that good faith reliance on the presentation of a false government-issued photographic identification that contains a date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(i) adopting and enforcing a written policy against sales to minors;

(ii) informing its employees of all applicable laws;

(iii) establishing disciplinary sanctions for employee noncompliance; and

(iv) requiring its employees to verify age by way of photographic identification or electronic scanning device; and

(G) providing for the Secretary, in determining whether to impose a no-tobacco-sale order and in determining whether to compromise, modify, or terminate such an order, to consider whether the retailer has taken effective steps to prevent violations of the minimum age requirements for the sale of tobacco products, including the steps listed in subparagraph (F).

(2) PENALTIES FOR VIOLATIONS.—

(A) IN GENERAL.—The amount of the civil penalty to be applied for violations of restrictions promulgated under section 906(d), as described in paragraph (1), shall be as follows:

(i) With respect to a retailer with an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, \$0.00 together with the issuance of a warning letter to the retailer;

(II) in the case of a second violation within a 12-month period, \$250;

(III) in the case of a third violation within a 24-month period, \$500;

(IV) in the case of a fourth violation within a 24-month period, \$2,000;

(V) in the case of a fifth violation within a 36-month period, \$5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, \$10,000 as determined by the Secretary on a case-by-case basis.

(ii) With respect to a retailer that does not have an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, \$250;

(II) in the case of a second violation within a 12-month period, \$500;

(III) in the case of a third violation within a 24-month period, \$1,000;

(IV) in the case of a fourth violation within a 24-month period, \$2,000;

(V) in the case of a fifth violation within a 36-month period, \$5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, \$10,000 as determined by the Secretary on a case-by-case basis.

(B) TRAINING PROGRAM.—For purposes of subparagraph (A), the term “approved training program” means a training program that complies with standards developed by the Food and Drug Administration for such programs.

(C) CONSIDERATION OF STATE PENALTIES.—The Secretary shall coordinate with the States in enforcing the provisions of this Act and, for purposes of mitigating a civil penalty to be applied for a violation by a retailer of any restriction promulgated under section 906(d), shall consider the amount of any penalties paid by the retailer to a State for the same violation.

(3) GENERAL EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect upon the issuance of guidance described in paragraph (1) of this subsection.

(4) SPECIAL EFFECTIVE DATE.—The amendment made by subsection (c)(1) shall take effect on the date of enactment of this Act.

(5) PACKAGE LABEL REQUIREMENTS.—The package label requirements of paragraphs (3) and (4) of section 903(a) of the Federal Food, Drug, and Cosmetic Act (as amended by this division) shall take effect on the date that is 12 months after the date of enactment of this Act. The package label requirements of paragraph (2) of such section 903(a) for cigarettes shall take effect on the date that is 15 months after the issuance of the regulations required by section 4(d) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201 of this division. The package label requirements of paragraph (2) of such section 903(a) for tobacco products other than cigarettes shall take effect on the date that is 12 months after the date of enactment of this Act. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 903(a) (2), (3), and (4) and section

920(a) of the Federal Food, Drug, and Cosmetic Act.

(6) ADVERTISING REQUIREMENTS.—The advertising requirements of section 903(a)(8) of the Federal Food, Drug, and Cosmetic Act (as amended by this division) shall take effect on the date that is 12 months after the date of enactment of this Act.

#### SEC. 104. STUDY ON RAISING THE MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS.

The Secretary of Health and Human Services shall—

(1) convene an expert panel to conduct a study on the public health implications of raising the minimum age to purchase tobacco products; and

(2) not later than 5 years after the date of enactment of this Act, submit a report to the Congress on the results of such study.

#### SEC. 105. ENFORCEMENT ACTION PLAN FOR ADVERTISING AND PROMOTION RESTRICTIONS.

(a) ACTION PLAN.—

(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop and publish an action plan to enforce restrictions adopted pursuant to section 906 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this division, or pursuant to section 102(a) of this division, on promotion and advertising of menthol and other cigarettes to youth.

(2) CONSULTATION.—The action plan required by paragraph (1) shall be developed in consultation with public health organizations and other stakeholders with demonstrated expertise and experience in serving minority communities.

(3) PRIORITY.—The action plan required by paragraph (1) shall include provisions designed to ensure enforcement of the restrictions described in paragraph (1) in minority communities.

(b) STATE AND LOCAL ACTIVITIES.—

(1) INFORMATION ON AUTHORITY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall inform State, local, and tribal governments of the authority provided to such entities under section 5(c) of the Federal Cigarette Labeling and Advertising Act, as added by section 203 of this division, or preserved by such entities under section 916 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this division.

(2) COMMUNITY ASSISTANCE.—At the request of communities seeking assistance to prevent underage tobacco use, the Secretary shall provide such assistance, including assistance with strategies to address the prevention of underage tobacco use in communities with a disproportionate use of menthol cigarettes by minors.

#### SEC. 106. STUDIES OF PROGRESS AND EFFECTIVENESS.

(a) FDA REPORT.—Not later than 3 years after the date of enactment of this Act, and not less than every 2 years thereafter, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning—

(1) the progress of the Food and Drug Administration in implementing this division, including major accomplishments, objective measurements of progress, and the identification of any areas that have not been fully implemented;

(2) impediments identified by the Food and Drug Administration to progress in implementing this division and to meeting statutory timeframes;

(3) data on the number of new product applications received under section 910 of the Federal Food, Drug, and Cosmetic Act and modified risk product applications received under section 911 of such Act, and the number of applications acted on under each category; and

(4) data on the number of full time equivalents engaged in implementing this division.

(b) GAO REPORT.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of, and submit to the Committees described in subsection (a) a report concerning—

(1) the adequacy of the authority and resources provided to the Secretary of Health and Human Services for this division to carry out its goals and purposes; and

(2) any recommendations for strengthening that authority to more effectively protect the public health with respect to the manufacture, marketing, and distribution of tobacco products.

(c) PUBLIC AVAILABILITY.—The Secretary of Health and Human Services and the Comptroller General of the United States, respectively, shall make the reports required under subsection (a) and (b) available to the public, including by posting such reports on the respective Internet websites of the Food and Drug Administration and the Government Accountability Office.

## **TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE**

### **SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.**

(a) AMENDMENT.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

#### **“SEC. 4. LABELING.**

“(a) LABEL REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

“WARNING: Cigarettes are addictive.

“WARNING: Tobacco smoke can harm your children.

“WARNING: Cigarettes cause fatal lung disease.

“WARNING: Cigarettes cause cancer.

“WARNING: Cigarettes cause strokes and heart disease.

“WARNING: Smoking during pregnancy can harm your baby.

“WARNING: Smoking can kill you.

“WARNING: Tobacco smoke causes fatal lung disease in nonsmokers.

“WARNING: Quitting smoking now greatly reduces serious risks to your health.

“(2) PLACEMENT; TYPOGRAPHY; ETC.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise the top 50 percent of the front and rear panels of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such

area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c).

“(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

“(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(c) MARKETING REQUIREMENTS.—

“(1) RANDOM DISPLAY.—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(2) ROTATION.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(3) REVIEW.—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

“(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(B) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(4) APPLICABILITY TO RETAILERS.—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).

“(d) GRAPHIC LABEL STATEMENTS.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations that require color graphics depicting the negative health consequences of smoking to accompany the label statements specified in subsection (a)(1). The Secretary may adjust the type size, text and format of the label statements specified in subsections (a)(2) and (b)(2) as the Secretary determines appropriate so that both the graphics and the accompanying label statements are clear, conspicuous, legible and appear within the specified area.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 15 months after the issuance of the regulations required by subsection (a). Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a).

**SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.**

(a) **PREEMPTION.**—Section 5(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334(a)) is amended by striking “No” and inserting “Except to the extent the Secretary requires additional or different statements on any cigarette package by a regulation, by an order, by a standard, by an authorization to market a product, or by a condition of marketing a product, pursuant to the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), or as required under section 903(a)(2) or section 920(a) of the Federal Food, Drug, and Cosmetic Act, no”.

(b) **CHANGE IN REQUIRED STATEMENTS.**—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

“(d) **CHANGE IN REQUIRED STATEMENTS.**—The Secretary through a rulemaking conducted under section 553 of title 5, United States Code, may adjust the format, type size, color graphics, and text of any of the label requirements, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.”.

**SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.**

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

“(c) **EXCEPTION.**—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.”.

**SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.**

(a) **AMENDMENT.**—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

**“SEC. 3. SMOKELESS TOBACCO WARNING.**

“(a) **GENERAL RULE.**—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

“**WARNING:** This product can cause mouth cancer.

“**WARNING:** This product can cause gum disease and tooth loss.

“**WARNING:** This product is not a safe alternative to cigarettes.

“**WARNING:** Smokeless tobacco is addictive.

“(2) Each label statement required by paragraph (1) shall be—

“(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

“(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

“(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) **REQUIRED LABELS.**—

“(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2)(A) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement.

“(C) The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(D) The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(E) The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements.

“(F) The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid news-

paper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement.

“(G) The label statements shall be in English, except that—

“(i) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(ii) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraphs (A) and (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection.

“(4) The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(c) **TELEVISION AND RADIO ADVERTISING.**—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 12 months after the date of enactment of this



Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by subsection (a).

**SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.**

(a) IN GENERAL.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 204, is further amended by adding at the end the following:

“(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.”.

(b) PREEMPTION.—Section 7(a) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4406(a)) is amended by striking “No” and inserting “Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no”.

**SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.**

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by sections 201 and 202, is further amended by adding at the end the following:

“(e) TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE.—

“(1) IN GENERAL.—The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary’s sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

“(2) RESOLUTION OF DIFFERENCES.—Any differences between the requirements established by the Secretary under paragraph (1) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

“(3) CIGARETTE AND OTHER TOBACCO PRODUCT CONSTITUENTS.—In addition to the disclosures required by paragraph (1), the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that

disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act.

“(4) RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section.”.

**TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

**SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.**

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

**“SEC. 920. LABELING, RECORDKEEPING, RECORDS INSPECTION.**

“(a) ORIGIN LABELING.—

“(1) REQUIREMENT.—Beginning 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of tobacco products other than cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement ‘sale only allowed in the United States’. Beginning 15 months after the issuance of the regulations required by section 4(d) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201 of Family Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement ‘Sale only allowed in the United States’.

“(2) EFFECTIVE DATE.—The effective date specified in paragraph (1) shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with such paragraph.

“(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

“(1) IN GENERAL.—The Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

“(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products.

“(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

“(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

“(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to

maintain records relating to individual purchasers of tobacco products for personal consumption.

“(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products. The Secretary shall not authorize an officer or employee of the government of any of the several States to exercise authority under the preceding sentence on Indian country without the express written consent of the Indian tribe involved.

“(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—

“(1) NOTIFICATION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

“(A) imported, exported, distributed, or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

“(B) imported, exported, distributed, or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General and the Secretary of the Treasury of such knowledge.

“(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term ‘knowledge’ as applied to a manufacturer or distributor means—

“(A) the actual knowledge that the manufacturer or distributor had; or

“(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

“(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Attorney General of the United States and the Secretary of the Treasury, as appropriate.”.

**SEC. 302. STUDY AND REPORT.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising; and

(3) collect data on the health effects (particularly with respect to individuals under 18 years of age) resulting from cross-border trade in tobacco products, including the health effects resulting from—



(A) the illicit trade of tobacco products and the trade of counterfeit tobacco products; and

(B) the differing tax rates applicable to tobacco products.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

(c) **DEFINITION.**—In this section:

(1) The term “cross-border trade” means trade across a border of the United States, a State or Territory, or Indian country.

(2) The term “Indian country” has the meaning given to such term in section 1151 of title 18, United States Code.

(3) The terms “State” and “Territory” have the meanings given to those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

#### **DIVISION B—FEDERAL RETIREMENT REFORM ACT**

##### **SEC. 100. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This division may be cited as the “Federal Retirement Reform Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

#### **DIVISION B—FEDERAL RETIREMENT REFORM ACT**

Sec. 100. Short title; table of contents.

#### **TITLE I—PROVISIONS RELATING TO FEDERAL EMPLOYEES RETIREMENT**

Sec. 101. Short title.

Sec. 102. Automatic enrollments and immediate employing agency contributions.

Sec. 103. Qualified Roth contribution program.

Sec. 104. Authority to establish mutual fund window.

Sec. 105. Reporting requirements.

Sec. 106. Acknowledgment of risk.

Sec. 107. Subpoena authority.

Sec. 108. Amounts in Thrift Savings Funds subject to legal proceedings.

Sec. 109. Accounts for surviving spouses.

Sec. 110. Treatment of members of the uniformed services under the Thrift Savings Plan.

#### **TITLE II—SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR SURVIVING SPOUSES OF ARMED FORCES MEMBERS**

Sec. 201. Increase in monthly amount of special survivor indemnity allowance for widows and widowers of deceased members of the Armed Forces affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.

#### **TITLE I—PROVISIONS RELATING TO FEDERAL EMPLOYEES RETIREMENT**

##### **SEC. 101. SHORT TITLE.**

This title may be cited as the “Thrift Savings Plan Enhancement Act of 2009”.

##### **SEC. 102. AUTOMATIC ENROLLMENTS AND IMMEDIATE EMPLOYING AGENCY CONTRIBUTIONS.**

(a) **IN GENERAL.**—Section 8432(b) of title 5, United States Code, is amended by striking paragraphs (2) through (4) and inserting the following:

“(2)(A) The Executive Director shall by regulation provide for an eligible individual to be automatically enrolled to make contributions under subsection (a) at the default percentage of basic pay.

“(B) For purposes of this paragraph, the default percentage shall be equal to 3 percent or such other percentage, not less than 2 percent nor more than 5 percent, as the Board may prescribe.

“(C) The regulations shall include provisions under which any individual who would otherwise be automatically enrolled in accordance with subparagraph (A) may—

“(i) modify the percentage or amount to be contributed pursuant to automatic enrollment, effective not later than the first full pay period following receipt of the election by the appropriate processing entity; or

“(ii) decline automatic enrollment altogether.

“(D)(i) Except as provided in clause (ii), for purposes of this paragraph, the term ‘eligible individual’ means any individual who, after any regulations under subparagraph (A) first take effect, is appointed, transferred, or reappointed to a position in which that individual becomes eligible to contribute to the Thrift Savings Fund.

“(ii) Members of the uniformed services shall not be eligible individuals for purposes of this paragraph.

“(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1), 8440c(a)(1), 8440d(a)(1), and 8440e(a)(1) shall be applied in a manner consistent with the purposes of this paragraph.”.

(b) **TECHNICAL AMENDMENT.**—Section 8432(b)(1) of title 5, United States Code, is amended by striking the parenthetical matter in subparagraph (B).

##### **SEC. 103. QUALIFIED ROTH CONTRIBUTION PROGRAM.**

(a) **IN GENERAL.**—Subchapter III of chapter 84 of title 5, United States Code, is amended by inserting after section 8432c the following:

“§ 8432d. **Qualified Roth contribution program**

“(a) **DEFINITIONS.**—For purposes of this section—

“(1) the term ‘qualified Roth contribution program’ means a program described in paragraph (1) of section 402A(b) of the Internal Revenue Code of 1986 which meets the requirements of paragraph (2) of such section; and

“(2) the terms ‘designated Roth contribution’ and ‘elective deferral’ have the meanings given such terms in section 402A of the Internal Revenue Code of 1986.

“(b) **AUTHORITY TO ESTABLISH.**—The Executive Director shall by regulation provide for the inclusion in the Thrift Savings Plan of a qualified Roth contribution program, under such terms and conditions as the Board may prescribe.

“(c) **REQUIRED PROVISIONS.**—The regulations under subsection (b) shall include—

“(1) provisions under which an election to make designated Roth contributions may be made—

“(A) by any individual who is eligible to make contributions under section 8351, 8432(a), 8440a, 8440b, 8440c, 8440d, or 8440e; and

“(B) by any individual, not described in subparagraph (A), who is otherwise eligible to make elective deferrals under the Thrift Savings Plan;

“(2) any provisions which may, as a result of enactment of this section, be necessary in order to clarify the meaning of any reference to an ‘account’ made in section 8432(f), 8433, 8434(d), 8435, 8437, or any other provision of law; and

“(3) any other provisions which may be necessary to carry out this section.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432c the following:

“8432d. Qualified Roth contribution program.”.

##### **SEC. 104. AUTHORITY TO ESTABLISH MUTUAL FUND WINDOW.**

(a) **IN GENERAL.**—Section 8438(b)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period and inserting “; and”; and

(3) by adding after subparagraph (E) the following:

“(F) a service that enables participants to invest in mutual funds, if the Board authorizes the mutual fund window under paragraph (5).”.

(b) **REQUIREMENTS.**—Section 8438(b) of title 5, United States Code, is amended by adding at the end the following:

“(5)(A) The Board may authorize the addition of a mutual fund window under the Thrift Savings Plan if the Board determines that such addition would be in the best interests of participants.

“(B) The Board shall ensure that any expenses charged for use of the mutual fund window are borne solely by the participants who use such window.

“(C) The Board may establish such other terms and conditions for the mutual fund window as the Board considers appropriate to protect the interests of participants, including requirements relating to risk disclosure.

“(D) The Board shall consult with the Employee Thrift Advisory Council (established under section 8473) before authorizing the addition of a mutual fund window or establishing a service that enables participants to invest in mutual funds.”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 8438(d)(1) of title 5, United States Code, is amended by inserting “and options” after “investment funds”.

##### **SEC. 105. REPORTING REQUIREMENTS.**

(a) **ANNUAL REPORT.**—The Board shall, not later than June 30 of each year, submit to Congress an annual report on the operations of the Thrift Savings Plan. Such report shall include, for the prior calendar year, information on the number of participants as of the last day of such prior calendar year, the median balance in participants’ accounts as of such last day, demographic information on participants, the percentage allocation of amounts among investment funds or options, the status of the development and implementation of the mutual fund window, the diversity demographics of any company, investment adviser, or other entity retained to invest and manage the assets of the Thrift Savings Fund, and such other information as the Board considers appropriate. A copy of each annual report under this subsection shall be made available to the public through an Internet website.

(b) **REPORTING OF FEES AND OTHER INFORMATION.**—

(1) **IN GENERAL.**—The Board shall include in the periodic statements provided to participants under section 8439(c) of title 5, United States Code, the amount of the investment management fees, administrative expenses, and any other fees or expenses paid with respect to each investment fund and option under the Thrift Savings Plan. Any such statement shall also provide a statement notifying participants as to how they may access the annual report described in subsection (a), as well as any other information concerning the Thrift Savings Plan that might be useful.

(2) **USE OF ESTIMATES.**—For purposes of providing the information required under this

subsection, the Board may provide a reasonable and representative estimate of any fees or expenses described in paragraph (1) and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on the previous year's experience.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the term “Board” has the meaning given such term by 8401(5) of title 5, United States Code;

(2) the term “participant” has the meaning given such term by section 8471(3) of title 5, United States Code; and

(3) the term “account” means an account established under section 8439 of title 5, United States Code.

#### **SEC. 106. ACKNOWLEDGMENT OF RISK.**

(a) **IN GENERAL.**—Section 8439(d) of title 5, United States Code, is amended—

(1) by striking the matter after “who elects to invest in” and before “shall sign an acknowledgment” and inserting “any investment fund or option under this chapter, other than the Government Securities Investment Fund.”; and

(2) by striking “either such Fund” and inserting “any such fund or option”.

(b) **COORDINATION WITH PROVISIONS RELATING TO FIDUCIARY RESPONSIBILITIES, LIABILITIES, AND PENALTIES.**—Section 8477(e)(1)(C) of title 5, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (C)(i); and

(2) by adding at the end the following:

“(ii) A fiduciary shall not be liable under subparagraph (A), and no civil action may be brought against a fiduciary—

“(I) for providing for the automatic enrollment of a participant in accordance with section 8432(b)(2)(A);

“(II) for enrolling a participant in a default investment fund in accordance with section 8438(c)(2); or

“(III) for allowing a participant to invest through the mutual fund window or for establishing restrictions applicable to participants’ ability to invest through the mutual fund window.”.

#### **SEC. 107. SUBPOENA AUTHORITY.**

(a) **IN GENERAL.**—Chapter 84 of title 5, United States Code, is amended by inserting after section 8479 the following:

##### **“§ 8480. Subpoena authority**

“(a) In order to carry out the responsibilities specified in this subchapter and subchapter III of this chapter, the Executive Director may issue subpoenas commanding each person to whom the subpoena is directed to produce designated books, documents, records, electronically stored information, or tangible materials in the possession or control of that individual.

“(b) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any individual, domestic or foreign corporation or upon a partnership or other unincorporated association for such production.

“(c) When a person fails to obey a subpoena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

“(d) The Executive Director shall prescribe regulations to carry out subsection (a).”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8479 the following:

“8480. Subpoena authority.”.

#### **SEC. 108. AMOUNTS IN THRIFT SAVINGS FUNDS SUBJECT TO LEGAL PROCEEDINGS.**

Section 8437(e)(3) of title 5, United States Code, is amended in the first sentence by striking “or relating to the enforcement of a judgment for the physically, sexually, or emotionally abusing a child as provided under section 8467(a)” and inserting “the enforcement of an order for restitution under section 3663A of title 18, forfeiture under section 8432(g)(5) of this title, or an obligation of the Executive Director to make a payment to another person under section 8467 of this title”.

#### **SEC. 109. ACCOUNTS FOR SURVIVING SPOUSES.**

Section 8433(e) of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following:

“(2) Notwithstanding section 8424(d), if an employee, Member, former employee, or former Member dies and has designated as sole or partial beneficiary his or her spouse at the time of death, or, if an employee, Member, former employee, or former Member, dies with no designated beneficiary and is survived by a spouse, the spouse may maintain the portion of the employee’s or Member’s account to which the spouse is entitled in accordance with the following terms:

“(A) Subject to the limitations of subparagraph (B), the spouse shall have the same withdrawal options under subsection (b) as the employee or Member were the employee or Member living.

“(B) The spouse may not make withdrawals under subsection (g) or (h).

“(C) The spouse may not make contributions or transfers to the account.

“(D) The account shall be disbursed upon the death of the surviving spouse. A beneficiary or surviving spouse of a deceased spouse who has inherited an account is ineligible to maintain the inherited spousal account.

“(3) The Executive Director shall prescribe regulations to carry out this subsection.”.

#### **SEC. 110. TREATMENT OF MEMBERS OF THE UNIFORMED SERVICES UNDER THE THRIFT SAVINGS PLAN.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) members of the uniformed services should have a retirement system that is at least as generous as the one which is available to Federal civilian employees; and

(2) Federal civilian employees receive matching contributions from their employing agencies for their contributions to the Thrift Savings Fund, but the costs of requiring such a matching contribution from the Department of Defense could be significant.

(b) **REPORTING REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to Congress on—

(1) the cost to the Department of Defense of providing a matching payment with respect to contributions made to the Thrift Savings Fund by members of the Armed Forces;

(2) the effect that requiring such a matching payment would have on recruitment and retention; and

(3) any other information that the Secretary of Defense considers appropriate.

## **TITLE II—SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR SURVIVING SPOUSES OF ARMED FORCES MEMBERS**

### **SEC. 201. INCREASE IN MONTHLY AMOUNT OF SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR WIDOWS AND WIDOWERS OF DECEASED MEMBERS OF THE ARMED FORCES AFFECTED BY REQUIRED SURVIVOR BENEFIT PLAN ANNUITY OFFSET FOR DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) **PAYMENT AMOUNT PER FISCAL YEAR.**—Paragraph (2) of section 1450(m) of title 10, United States Code, is amended—

(1) in subparagraph (E), by striking “and” after the semicolon; and

(2) by striking subparagraph (F) and inserting the following new subparagraphs:

“(F) for months during fiscal year 2014, \$150;

“(G) for months during fiscal year 2015, \$200;

“(H) for months during fiscal year 2016, \$275; and

“(I) for months during fiscal year 2017, \$310.”.

(b) **DURATION.**—Paragraph (6) of such section is amended—

(1) by striking “February 28, 2016” and inserting “September 30, 2017”; and

(2) by striking “March 1, 2016” both places it appears and inserting “October 1, 2017”.

**SA 1248.** Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

### **TITLE —REDUCING LUNG CANCER**

#### **SEC. —1. SHORT TITLE.**

This title may be cited as the “Lung Cancer Mortality Reduction Act of 2009”.

#### **SEC. —2. SENSE OF THE SENATE CONCERNING INVESTMENT IN LUNG CANCER RESEARCH.**

It is the sense of the Senate that—

(1) lung cancer mortality reduction should be made a national public health priority; and

(2) a comprehensive mortality reduction program coordinated by the Secretary of Health and Human Services is justified and necessary to adequately address and reduce lung cancer mortality.

#### **SEC. —3. LUNG CANCER MORTALITY REDUCTION PROGRAM.**

(a) **IN GENERAL.**—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

#### **“SEC. 417G. LUNG CANCER MORTALITY REDUCTION PROGRAM.**

“(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of the Lung Cancer Mortality Reduction Act of 2009, the Secretary, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, the Commissioner of the Food and Drug Administration,

the Administrator of the Centers for Medicare & Medicaid Services, the Director of the National Center on Minority Health and Health Disparities, and other members of the Lung Cancer Advisory Board established under section 6 of the Lung Cancer Mortality Reduction Act of 2009, shall implement a comprehensive program to achieve a 50 percent reduction in the mortality rate of lung cancer by 2016.

“(b) REQUIREMENTS.—The program implemented under subsection (a) shall include at least the following:

“(1) With respect to the National Institutes of Health—

“(A) a strategic review and prioritization by the National Cancer Institute of research grants to achieve the goal of the program in reducing lung cancer mortality;

“(B) the provision of funds to enable the Airway Biology and Disease Branch of the National Heart, Lung, and Blood Institute to expand its research programs to include predispositions to lung cancer, the interrelationship between lung cancer and other pulmonary and cardiac disease, and the diagnosis and treatment of these interrelationships;

“(C) the provision of funds to enable the National Institute of Biomedical Imaging and Bioengineering to expand its Quantum Grant Program and Image-Guided Interventions programs to expedite the development of computer assisted diagnostic, surgical, treatment, and drug testing innovations to reduce lung cancer mortality; and

“(D) the provision of funds to enable the National Institute of Environmental Health Sciences to implement research programs relative to lung cancer incidence.

“(2) With respect to the Food and Drug Administration—

“(A) the establishment of a lung cancer mortality reduction drug program under subchapter G of chapter V of the Federal Food, Drug, and Cosmetic Act; and

“(B) compassionate access activities under section 561 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb).

“(3) With respect to the Centers for Disease Control and Prevention, the establishment of a lung cancer mortality reduction program under section 1511.

“(4) With respect to the Agency for Healthcare Research and Quality, the conduct of a biannual review of lung cancer screening, diagnostic and treatment protocols, and the issuance of updated guidelines.

“(5) The cooperation and coordination of all minority and health disparity programs within the Department of Health and Human Services to ensure that all aspects of the Lung Cancer Mortality Reduction Program adequately address the burden of lung cancer on minority and rural populations.

“(6) The cooperation and coordination of all tobacco control and cessation programs within agencies of the Department of Health and Human Services to achieve the goals of the Lung Cancer Mortality Reduction Program with particular emphasis on the coordination of drug and other cessation treatments with early detection protocols.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

“(1) \$25,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(B), and such sums as may be necessary for each of fiscal years 2011 through 2014;

“(2) \$25,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(C), and such sums as may be necessary for each of fiscal years 2011 through 2014;

“(3) \$10,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(D), and such sums as may be necessary for each of fiscal years 2011 through 2014; and

“(4) \$15,000,000 for fiscal year 2010 for the activities described in subsection (b)(3), and such sums as may be necessary for each of fiscal years 2011 through 2014.”

(b) FOOD, DRUG, AND COSMETIC ACT.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

**“Subchapter G—Lung Cancer Mortality Reduction Programs**

**“SEC. 581. LUNG CANCER MORTALITY REDUCTION PROGRAM.**

“(a) IN GENERAL.—The Secretary shall implement a program to provide incentives of the type provided for in subchapter B of this chapter for the development of chemoprevention drugs for precancerous conditions of the lung, drugs for targeted therapeutic treatments and vaccines for lung cancer, and new agents to curtail or prevent nicotine addiction. The Secretary shall model the program implemented under this section on the program provided for under subchapter B of this chapter with respect to certain drugs.

“(b) APPLICATION OF PROVISIONS.—The Secretary shall apply the provisions of subchapter B of this chapter to drugs, biological products, and devices for the prevention or treatment of lung cancer, including drugs, biological products, and devices for chemoprevention of precancerous conditions of the lungs, vaccination against the development of lung cancer, and therapeutic treatment for lung cancer.

“(c) BOARD.—The Board established under section 6 of the Lung Cancer Mortality Reduction Act of 2009 shall monitor the program implemented under this section.”

(c) ACCESS TO UNAPPROVED THERAPIES.—Section 561(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb(e)) is amended by inserting before the period the following: “and shall include providing compassionate access to drugs, biological products, and devices under the program under section 581, with substantial consideration being given to whether the totality of information available to the Secretary regarding the safety and effectiveness of an investigational drug, as compared to the risk of morbidity and death from the disease, indicates that a patient may obtain more benefit than risk if treated with the drug, biological product, or device.”

(d) CDC.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended by adding at the end the following:

**“SEC. 1511. LUNG CANCER MORTALITY REDUCTION PROGRAM.**

“(a) IN GENERAL.—The Secretary shall establish and implement an early disease research and management program targeted at the high incidence and mortality rates among minority and low-income populations.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.”

**SEC. 4. DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS.**

The Secretary of Defense and the Secretary of Veterans Affairs shall coordinate with the Secretary of Health and Human Services—

(1) in the development of the Lung Cancer Mortality Reduction Program under section 417E of part C of title IV of the Public Health Service Act, as amended by section 4;

(2) in the implementation within the Department of Defense and the Department of Veterans Affairs of an early detection and disease management research program for military personnel and veterans whose smoking history and exposure to carcinogens during active duty service has increased their risk for lung cancer; and

(3) in the implementation of coordinated care programs for military personnel and veterans diagnosed with lung cancer.

**SEC. 5. LUNG CANCER ADVISORY BOARD.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a Lung Cancer Advisory Board (referred to in this section as the “Board”) to monitor the programs established under this title (and the amendments made by this title), and provide annual reports to Congress concerning benchmarks, expenditures, lung cancer statistics, and the public health impact of such programs.

(b) COMPOSITION.—The Board shall be composed of—

(1) the Secretary of Health and Human Services;

(2) the Secretary of Defense;

(3) the Secretary of Veterans Affairs; and

(4) two representatives each from the fields of—

(A) clinical medicine focused on lung cancer;

(B) lung cancer research;

(C) imaging;

(D) drug development; and

(E) lung cancer advocacy, to be appointed by the Secretary of Health and Human Services.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out the programs under this title (and the amendments made by this title), there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014.

**SA 1249.** Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 907(a) of the Federal Food, Drug, and Cosmetic Act (as added by section 101), insert after paragraph (4) the following:

“(5) TECHNOLOGICAL FEASIBILITY.—A tobacco product standard adopted under this section shall be based on a finding by the Secretary that technology is available to achieve the reductions required by such standard.”

**SA 1250.** Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 102(a)(2)(D), insert “and other components and accessories necessary for the assembly of roll-your-own cigarettes” after “paper”.

**SA 1251.** Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 900 of the Federal Food, Drug, and Cosmetic Act (as added by section 101) strike paragraph (16) and insert the following:

“(16) **SMALL TOBACCO PRODUCT MANUFACTURER.**—The term ‘small tobacco product manufacturer’ includes any farmer owned tobacco cooperative or a tobacco product manufacturer other than a cooperative that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence, the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacture.”.

**SA 1252.** Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 907(a)(4) of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)), strike clause (ii) of subparagraph (B) and all that follows through clause (v) of such subparagraph, and insert the following:

“(ii) provisions for the testing in a laboratory located in the United States (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d);

“(C) shall require all tobacco product testing on domestic and foreign manufacturers' products to be performed in a laboratory located in the United States to ensure compliance with Federal law;

**SA 1253.** Mrs. HAGAN submitted an amendment intended to be proposed by

her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 901(c)(2)(C) of the Federal Food, Drug, and Cosmetic Act (as added by section 101), strike “, other than activities by a manufacturer affecting production”.

**SA 1254.** Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 907 of the Federal Food, Drug, and Cosmetic Act (as added by section 101) add the following:

“(f) **TECHNOLOGY REQUIRED TO MEET STANDARD.**—It shall not be an act of infringement under section 271 of title 35, United States Code, for a tobacco product manufacturer to make use of a patented technology if such technology is used for the purpose of meeting any standard established under this section.”.

**SA 1255.** Ms. STABENOW (for herself, Mr. BROWNBACK, Ms. MIKULSKI, Mr. VOINOVICH, Mrs. SHAHEEN, Mr. BOND, Mr. BURRIS, Mr. DURBIN, Mr. LEVIN, and Mr. BROWN) submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **DIVISION ————DRIVE AMERICA FORWARD PROGRAM**

##### **SEC. 01. SHORT TITLE.**

This division may be cited as the “Drive America Forward Act of 2009”.

##### **SEC. 02. DRIVE AMERICA FORWARD PROGRAM.**

(a) **ESTABLISHMENT.**—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the “Drive America Forward Program” through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of

a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) certify dealers for participation in the Program and require all participating dealers—

(A) to accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by such dealers, in accordance with the regulations issued under subsection (d); and

(4) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the Program.

(b) **QUALIFICATIONS FOR AND VALUE OF VOUCHERS.**—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

(1) **\$3,500 VALUE.**—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$3,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

(2) **\$4,500 VALUE.**—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$4,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only for the purchase or qualifying lease of new fuel efficient automobiles that occur between—

(i) the date of the enactment of this Act; and

(ii) the day that is 1 year after the date on which the regulations promulgated under subsection (d) are implemented.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

(D) CAP ON FUNDS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(F) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

(A) IN GENERAL.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

(ii) will transfer the vehicle (including the engine block), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who dismantles or disposes of the vehicle from—

(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless the transmission, drive shaft, or rear end are sold as separate parts); or

(ii) retaining the proceeds from such sale.

(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

(d) REGULATIONS.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) provide for a means of certifying dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for both the amount of the vouchers and any reasonable administrative costs incurred by the dealer as soon as practicable but no longer than 10 days after the submission of a voucher for the new fuel efficient automobile to the Secretary;

(3) require the dealer to use the voucher in addition to any other rebate or discount advertised by the dealer or offered by the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrap value of such vehicle and to permit the dealer to retain \$50 of any amounts paid to the dealer for scrap value of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

(5) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

(A) requirements for the removal and appropriate disposition of refrigerants, anti-freeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher; and

(C) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal; and

(6) provide for the enforcement of the penalties described in subsection (e).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to violate any provision under this section or any regulations issued pursuant to subsection (d) (other than by making a clerical error).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than \$15,000 for each violation. In determining the amount of the civil penalty, the severity of the violation and the intent and history of the person committing the violation shall be taken into account.

(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

(1) how to determine if a vehicle is an eligible trade-in vehicle;

(2) how to participate in the Program, including how to determine participating dealers; and

(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

(2) REPORT ON EFFICACY OF THE PROGRAM.—Not later than 60 days after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

(iii) the location of sale or lease;

(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

(C) an estimate of the overall economic and employment effects of the Program.

(h) EXCLUSION OF VOUCHERS FROM INCOME.—

(1) FOR PURPOSES OF ALL FEDERAL AND STATE PROGRAMS.—A voucher issued under the Program shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or State program.

(2) FOR PURPOSES OF TAXATION.—A voucher issued under the Program shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term “passenger automobile” means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

(2) the term “category 1 truck” means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

(3) the term “category 2 truck” means a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled “Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008”;

(4) the term “category 3 truck” means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

(5) the term “combined fuel economy value” means—

(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words “Combined Fuel Economy” on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words “Estimated New EPA MPG” and above the word “Combined” for vehicles of model year 1984 through 2007, or posted under the words “New EPA MPG” and above the word “Combined” for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1984, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle;

(6) the term “dealer” means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

(7) the term “eligible trade-in vehicle” means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

(A) is in drivable condition;

(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

(C) was manufactured less than 25 years before the date of the trade-in; and

(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

(8) the term “new fuel efficient automobile” means an automobile described in paragraph (1), (2), (3), or (4)—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer’s suggested retail price of \$45,000 or less;

(C) that—

(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under sec-

tion 86.1811-04 of title 40, Code of Federal Regulations; or

(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816-08, 86.007-11, or 86.008-10 of title 40, Code of Federal Regulations; and

(D) that has the combined fuel economy value of at least—

(i) 22 miles per gallon for a passenger automobile;

(ii) 18 miles per gallon for a category 1 truck; or

(iii) 15 miles per gallon for a category 2 truck;

(9) the term “Program” means the Drive America Forward Program established by this section;

(10) the term “qualifying lease” means a lease of an automobile for a period of not less than 5 years;

(11) the term “scrapage value” means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying the vehicle;

(12) the term “Secretary” means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

(13) the term “ultimate purchaser” means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale; and

(14) the term “vehicle identification number” means the 17-character number used by the automobile industry to identify individual automobiles.

#### SEC. 103. REALLOCATION OF APPROPRIATIONS.

The Director of the Office of Management and Budget may reallocate not more than \$4,000,000,000 from the amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) to carry out the Drive America Forward Program established under this division if the Director notifies the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives not less than 15 days before reallocating any such amounts.

#### SEC. 104. EMERGENCY DESIGNATION.

For purposes of House and Senate enforcement, this division is designated as an emergency requirement and necessary to meet emergency needs pursuant to—

(1) clause 10 of rule XXI of the Rules of the House of Representatives for the 111th Congress for purposes of pay-as-you-go principles; and

(2) section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**SA 1256.** Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) proposed an amendment to amendment 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B, add the following:

#### Subtitle B—Other Retirement-Related Provisions

##### SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking “(l) In computing” and inserting “(l)(1) In computing”; and

(B) by adding at the end the following:

“(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.”.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking “section 8415(k)” and inserting “paragraph (1) or (2) of section 8415(l)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

##### SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking “October 1, 1990” each place it appears and inserting “March 1, 1991”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

##### SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

“(3) In the administration of paragraph (1)—

“(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

“(B) subparagraph (B) of such paragraph—

“(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

“(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

##### SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:



“(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

“(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

“(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking “8411(f);” and inserting “8411(f) or 8422(i);”.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: “Deposits made by an employee, Member, or survivor also shall be credited to the Fund.”.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

**“§ 8422. Deductions from pay; contributions for other service; deposits”.**

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

“8422. Deductions from pay; contributions for other service; deposits.”.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking “based.” and inserting “based, until the employee or Member is reemployed in the service subject to this chapter.”.

**SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.**

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under sec-

tion 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, “qualifying District of Columbia service” means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the

certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

**SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.**

(a) DEFINITION.—In this section the term “covered employee” means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all



Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

**(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—**

(i) **CONTRIBUTIONS.**—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made under title II of the Social Security Act while employed by the United States Secret Service. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable.

(ii) **BENEFITS.**—A covered employee shall not be entitled to any benefit based on any contribution forfeited under clause (i).

(3) **IMPLEMENT.**—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

**(d) EFFECTIVE DATE.—**

(1) **IN GENERAL.**—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) **ELECTIONS AND IMPLEMENTATION.**—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

**TITLE —NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Non-Foreign Area Retirement Equity Assurance Act of 2009” or the “Non-Foreign AREA Act of 2009”.

**SEC. 02. EXTENSION OF LOCALITY PAY.**

(a) **LOCALITY-BASED COMPARABILITY PAYMENTS.**—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

“(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;”;

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting “; and”; and

(iii) by adding after subparagraph (B) the following:

“(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and”; and

(B) by adding at the end the following:

“(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).”; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking “and” after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

“(C) a Senior Executive Service position under section 3132 or 3151 or a senior level

position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and”;

(D) in clause (iv) in the matter following subparagraph (D), by inserting “, except for members covered by subparagraph (C)” before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting “, except for members covered by subparagraph (C)” before the semicolon.

(b) **ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.**—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence “Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).”;;

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

“(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

“(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

“(A) January 1, 2010; and

“(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

“(2)(A) In this paragraph, the term ‘applicable locality-based comparability pay percentage’ means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section 04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

“(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

“(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

“(ii) dividing the resulting percentage determined under clause (i) by the sum of—

“(I) one; and

“(II) the applicable locality-based comparability payment percentage expressed as a numeral.

“(3) No allowance rate computed under paragraph (2) may be less than zero.

“(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).”.

**SEC. 03. ADJUSTMENT OF SPECIAL RATES.**

(a) **IN GENERAL.**—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section

04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 08 of this title.

**(b) AGENCIES WITH STATUTORY AUTHORITY.—**

(1) **IN GENERAL.**—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) **STATUTORY AUTHORITY.**—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) **TEMPORARY ADJUSTMENT.**—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

**SEC. 04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.**

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using 1/3 of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using 2/3 of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

**SEC. 05. SAVINGS PROVISION.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the application of this title to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may

exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the "Rest of the United States", the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

**(b) SAVINGS PROVISIONS.—**

(1) **IN GENERAL.**—During the period described under section 541 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 541 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(2) **CONTINUATION OF COST OF LIVING ALLOWANCE RATE.**—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate, but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) **LOCALITY-BASED COMPARABILITY PAYMENTS.**—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 541 of this title which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title

5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

**SEC. 56. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.**

**(a) IN GENERAL.—**

(1) **DEFINITION.**—In this subsection, the term "covered employee" means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-

of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

**(2) APPLICATION TO COVERED EMPLOYEES.—**

(A) **IN GENERAL.**—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 502 of this title), and section 541 of this title apply.

(B) **PAY FIXED BY STATUTE.**—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) **PERFORMANCE APPRAISAL SYSTEM.**—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amend-

ed by section 502 of this title), may be reduced on the basis of the performance of that employee.

**(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—**

(1) **IN GENERAL.**—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking "Section 5941," and inserting "Except as provided under paragraph (2), section 5941";

(C) by striking "For purposes of such section," and inserting "Except as provided under paragraph (2), for purposes of section 5941 of that title,"; and

(D) by adding at the end the following:

"(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

"(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

"(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section 506(b)(2) of that Act shall apply."

**(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—**

(A) **IN GENERAL.**—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 541.

(B) **RULE OF CONSTRUCTION.**—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 507 of this title.

**SEC. 57. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.**

(a) **DEFINITION.**—In this section the term "covered employee" means any employee—

(1) to whom section 541 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

**(b) ELECTION.—**

(1) **IN GENERAL.**—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) **DEADLINE.**—An election under this subsection may be filed not later than December 31, 2012.

**(c) COMPUTATION OF ANNUITY.—**

(1) **IN GENERAL.**—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any

cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) **LIMITATION.**—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 4 of this title did not apply.

(d) **CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.**—

(1) **EMPLOYEE CONTRIBUTIONS.**—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) **AGENCY CONTRIBUTIONS.**—

(A) **IN GENERAL.**—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) **SOURCE.**—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) **REGULATIONS.**—The Office of Personnel Management may prescribe regulations to carry out this section.

#### **SEC. 08. REGULATIONS.**

(a) **IN GENERAL.**—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section 03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) **OTHER PAY SYSTEMS.**—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to

employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

#### **SEC. 09. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) **LOCALITY PAY AND SCHEDULE.**—The amendments made by section 02 and the provisions of section 04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

#### **TITLE —PART-TIME REEMPLOYMENT OF ANNUITANTS**

##### **SEC. 1. SHORT TITLE.**

This title may be cited as the “Part-Time Reemployment of Annuitants Act of 2009”.

##### **SEC. 2. PART-TIME REEMPLOYMENT.**

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

“(1)(l) For purposes of this subsection—

“(A) the term ‘head of an agency’ means—

“(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

“(ii) the head of the United States Postal Service;

“(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

“(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

“(B) the term ‘limited time appointee’ means an annuitant appointed under a temporary appointment limited to 1 year or less.

“(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

“(A) fulfill functions critical to the mission of the agency, or any component of that agency;

“(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

“(C) assist in the development, management, or oversight of agency procurement actions;

“(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

“(E) promote appropriate training or mentoring programs of employees;

“(F) assist in the recruitment or retention of employees; or

“(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

“(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

“(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual’s annuity commencing date;

“(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

“(C) for more than a total of 3120 hours of service performed by that annuitant.

“(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

“(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

“(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

“(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

“(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

“(B) Any regulations promulgated under subparagraph (A) may—

“(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

“(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

“(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

“(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

“(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

“(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

“(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

“(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.”; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking “(k)” and inserting “(l)”; and

(B) in paragraph (2), by striking “or (k)” and inserting “(k), or (l)”.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

“(i)(1) For purposes of this subsection—

“(A) the term ‘head of an agency’ means—

“(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

“(ii) the head of the United States Postal Service;

“(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

“(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

“(B) the term ‘limited time appointee’ means an annuitant appointed under a temporary appointment limited to 1 year or less.

“(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

“(A) fulfill functions critical to the mission of the agency, or any component of that agency;

“(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

“(C) assist in the development, management, or oversight of agency procurement actions;

“(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

“(E) promote appropriate training or mentoring programs of employees;

“(F) assist in the recruitment or retention of employees; or

“(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

“(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

“(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual’s annuity commencing date;

“(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

“(C) for more than a total of 3120 hours of service performed by that annuitant.

“(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(1) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

“(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(1) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

“(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

“(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

“(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

“(B) Any regulations promulgated under subparagraph (A) may—

“(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

“(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

“(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

“(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

“(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

“(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

“(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

“(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.”; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking “(h)” and inserting “(i)”;

(B) in paragraph (2), by striking “or (h)” and inserting “(h), or (i)”.

(C) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(D) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking “(1)(2)” and inserting “(m)(2)”;

(2) by striking “(i)(2)” and inserting “(j)(2)”.

### SEC. 3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section 2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection

(1) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(1)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section 2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 3, 2009 at 2 p.m. to conduct a hearing entitled “A Fresh Start For New Starts.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 2:30 p.m., in room 106 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 3, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Homeland security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized

to meet during the session of the Senate on June 3, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "The Uniting American Families Act: Addressing Inequality in Federal Immigration Law."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PERSONNEL SUBCOMMITTEE

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 2 p.m. to conduct a hearing entitled, "Pandemic Flu: Closing the Gaps."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON STRATEGIC FORCE

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the

Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 3, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 3, 2009, from 2 p.m. to 4 p.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DISCHARGE AND REFERRAL—S. 1144

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill S. 1144 be discharged from the Committee on Commerce, Science, and Transportation and that it be referred to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR THURSDAY, JUNE 4, 2009

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., tomorrow, Thursday, June 4; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and

the majority controlling the second half; further, I ask following morning business the Senate resume consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. SCHUMER. Mr. President, tomorrow we will resume consideration of the tobacco regulation bill; the Burr-Hagan substitute amendment is pending and we hope to reach agreement to vote in relation to it tomorrow morning. Senators will be notified when any votes are scheduled.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHUMER. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 7:55 p.m., adjourned until Thursday, June 4, 2009, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### DEPARTMENT OF STATE

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

##### DEPARTMENT OF THE TREASURY

DANIEL M. TANGHERLINI, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE PETER B. MCCARTHY, RESIGNED.

DANIEL M. TANGHERLINI, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY, VICE PETER B. MCCARTHY, RESIGNED.

##### DEPARTMENT OF LABOR

RAYMOND M. JEFFERSON, OF HAWAII, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING, VICE CHARLES S. CICCOLELLA, RESIGNED.

## HOUSE OF REPRESENTATIVES—Wednesday, June 3, 2009

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. BERKLEY).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

June 3, 2009.

I hereby appoint the Honorable SHELLEY BERKLEY to act as Speaker pro tempore on this day.

NANCY PELOSI,

*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord God, source of eternal light, on this new day we offer not only our prayer but all the work of Congress as a living sacrifice of praise. Born of human effort, the fruit of experience and right judgment, pressed by negotiations and compromise, with the result of common concern for Your people, the decisions of this Congress are raised up before the people of this democracy to realize their best intuitions, inspire their hopes for the future, and foster their goodness.

At the same time, this work is raised up before You as the sovereign ruler of all times and nations and the compassionate defender of Your people, both now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kentucky (Mr. DAVIS) come forward and lead the House in the Pledge of Allegiance.

Mr. DAVIS of Kentucky led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 requests

for 1-minute speeches on each side of the aisle.

### INTRODUCING THE ARMED FORCES BEHAVIORAL HEALTH AWARENESS ACT AND THE VETERANS AND SURVIVORS BEHAVIORAL HEALTH AWARENESS ACT

(Ms. GIFFORDS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GIFFORDS. Madam Speaker, a couple weeks ago our Nation celebrated Memorial Day, a day to give tribute to the men and women who have given their lives for our country. But I think it's important for those of us who serve in the Congress to realize that we, on a regular basis, have to do everything we can to protect and defend those who protect and defend us.

Later today I will be introducing the Armed Forces Behavioral Health Awareness Act as well as the Veterans and Survivors Behavioral Health Awareness Act with Congressman AKIN. These bills represent a strong bipartisan commitment to expanding and protecting access to mental health treatment and services for our active duty and retired military. These bills will provide all servicemembers with equal access to readjustment counseling and mental health services at Vet Centers. We will provide dedicated funding for nonprofits supporting military families and create a program for proactive mental health outreach to soldiers. We will also provide a program for Vet Centers aimed at growing the number of mental health trainers as well as providers.

These bills will dramatically expand our ability to provide mental health coverage to our warriors who are doing so much for all of us both here at home and abroad.

I encourage my colleagues to join me in moving these bills toward swift passage.

### TIANANMEN ANNIVERSARY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, 20 years ago today the brutal massacre of peaceful student demonstrators occurred in Tiananmen Square, Beijing, China, by the People's Liberation Army. Hundreds, perhaps thousands were shot, killed or wounded, including

being run over by tanks. The extraordinary image of a man standing unarmed in front of a row of Chinese tanks has become one of the most famous photos of the 21st century and will forever be ingrained in our memories. That man represents thousands of others thirsting for freedom, thousands who were arrested and detained. Some of those are still in labor camps today.

This week we pause to remember the lives of those who were tragically lost in the massacre and imprisoned in the gulag. We honor their courage and their stand for freedom. China has made significant progress towards economic reform, but political reform is still needed to ensure the fundamental rights of the people, such as freedom of religion, expression and assembly.

The Chinese Government continues to intimidate reporters, block Web sites, jam broadcasts and censor the Internet. We look forward to a day when the people of China are truly free. That day will surely come.

### INTRODUCTION OF CLEAN ENERGY PROMOTION ACT

(Mr. HEINRICH asked and was given permission to address the House for 1 minute.)

Mr. HEINRICH. Madam Speaker, I rise today to introduce the Clean Energy Promotion Act. This bill will help create thousands of clean energy jobs across America and help end our dependence on foreign oil. Today some 200 solar energy projects, 25 wind energy projects and 200 wind energy production test sites are on hold because the Bureau of Land Management doesn't have the resources to evaluate their applications. Madam Speaker, bureaucratic bottlenecks should not stand in the way of thousands of clean energy jobs. My bill will help eliminate these bottlenecks by creating a dedicated funding stream so that the BLM can remove the current backlog in applications and facilitate future projects. This is a long-term, common-sense investment in America's energy leadership. Not only will we jump-start clean energy job creation today, we'll also be laying the foundation for America's clean energy prosperity tomorrow.

I urge your support.

### THE FEDERAL RESERVE PRINTS MONEY AS CHINA IS RELUCTANT TO LEND MORE

(Mr. KIRK asked and was given permission to address the House for 1

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. KIRK. Madam Speaker, we are running out of other people's money. We borrowed \$1 trillion from China, and their leaders are reluctant to lend more. In response, the Federal Reserve has begun electronically printing dollars to cover new debts. Chinese leaders told me that this was unconventional and troubling. They worry that America will try to repay her debts with newly printed dollars. The Fed so far this year has printed \$130 billion that it does not have. Rating agencies have already cut Britain's AAA credit rating and warned we are next.

Later this week I will ask the Fed to stop printing money to buy U.S. debt. Unless we stop, the enemy of the middle class and seniors—inflation—will come back to hurt our recovery.

#### THE D-DAY MEMORIAL IN BEDFORD, VIRGINIA

(Mr. PERRIELLO asked and was given permission to address the House for 1 minute.)

Mr. PERRIELLO. I rise in honor of the lives sacrificed by our brave men in uniform on the beaches of Normandy 65 years ago. This Saturday, let us remember the morning of the 6th of June, 1944, and the bravery of those involved. In the town of Bedford, Virginia, 19 of the 34 servicemen who landed on the beaches gave their lives for freedom. Bedford suffered the largest per capita death toll of any American community during the invasion. These were the famous Bedford Boys, and we mourn the recent loss of the last of the survivors. Our Nation should not forget their sacrifices, which is why this Chamber recognized the D-day Memorial in Bedford as the National D-day Memorial. Sadly, that memorial faces financial difficulties in these grim economic times. Because of this and the sacrifice these men made, I am introducing legislation to ensure this memorial in the memory of the servicemen does not fade. The men we lost were local heroes, but the freedom and security bought with their sacrifice is a national treasure. So too is our D-day memorial, and I urge my colleagues to join me in making this a permanent part of our Nation's life.

#### THE NECESSITY FOR A BILATERAL INCIDENTS AT SEA AGREEMENT BETWEEN THE U.S. AND IRAN

(Mr. DAVIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Kentucky. Madam Speaker, as a former enlisted soldier and Army officer, the lives and safety of our servicemen and -women has always been one of my top priorities.

Chairman CONYERS and I are, therefore, calling for the prompt negotiation of a bilateral naval agreement between the United States and Iran.

In January of 2008, Iranian Revolutionary Guards naval speedboats engaged in provocative actions against three U.S. naval vessels, showed little to no regard for maritime safety, and the event very nearly escalated into an armed conflict between the United States and Iranian vessels.

The Strait of Hormuz is one of the most crowded shipping lanes in the world. A conflict in the strait would have dire consequences for the world's oil supply and the international economy. An average of 15 tankers carrying between 16 and 17 million barrels of crude oil pass through the strait each day, making these waters one of the most strategically important oil choke points. The Department of Defense has stressed the importance of preventing future naval interactions in the region from escalating. The U.S. has a significant long-standing naval presence in the Persian Gulf, protecting our soldiers and marines in theater and international shipping lanes critical to global commerce. A military-to-military negotiation of bilateral "Incidents at Sea" agreement between the U.S. and Iran would codify vessel-to-vessel communications and improve safety, similar to the agreement during the Cold War.

I ask you to join Chairman CONYERS and me in support of this agreement.

#### CALLING FOR A BILATERAL INCIDENTS AT SEA AGREEMENT

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Madam Speaker, I, along with GEOFF DAVIS and others—BOB FILNER, GENE TAYLOR, WALTER JONES—are putting forward House Concurrent Resolution 94 so that we can avoid the incidents of the sea that could happen in the Straits of Hormuz because of the incredible number of commercial ships that traffic that area. Eight Navy ships, 250 oil tankers and naval craft of a dozen other nations pass through the strait. These negotiations have been done before. We did it with the Soviet Union a generation ago. It's very pragmatic. It avoids any incidents which could start a war, and could change our relationship with the oil cartels.

I urge Members to give it consideration.

#### RECOGNIZING RICK BARRENTINE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, I rise today to recognize Rick

Barrentine, a talented constituent from my district, the Sixth Congressional District of Georgia. Rick Barrentine and his family will be in Washington this week as he joins a unique group of Americans, an elite circle whose artistic work is displayed upon a United States postage stamp.

On June 5, the U.S. Postal Service will unveil a new stamp; and on the face of this stamp is a photograph taken by Mr. Barrentine, showing a close-up view of an American flag draped upon itself. This same flag was displayed outside of his home until it was retired recently with the respect that it deserves. Though Mr. Barrentine didn't seek this honor, this recognition is a testament to his talents. Looking at this now timeless image, one can easily grasp Mr. Barrentine's appreciation for the sacrifice and dedication of all those individuals, including in his own family, who carried the Star-Spangled Banner in the service of our Nation.

This Congress commends him for his patriotism and for his artistic achievement. Freedom is inspiring.

#### CLEAN ENERGY JOBS

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Madam Speaker, the Clean Energy Jobs plan, which recently emerged from the House Energy and Commerce Committee, is the next step to create millions of American jobs in clean energy efficiency and modernizing a smart electric grid. Clean energy can provide an engine to drive the Nation out of recession and sustain our economy for years to come.

In my hometown of Louisville, Kentucky, we are already seeing the dividends from investments made in this country with the American Recovery and Reinvestment Act in the form of new green jobs. Earlier this week General Electric announced it would relocate production of a new energy-efficient water heater from China to Louisville's Appliance Park, which is the location of the Consumer Products Division of GE. Federal dollars allocated to the State energy fund from the American Recovery and Reinvestment Act and reserved for the manufacture of energy-efficient products are available to support this project and others like it.

The addition of 450 new green jobs in Louisville is a sign of the growth we had hoped would come from our major investment in the Nation's economic recovery and our commitment to moving this country toward energy independence.

□ 1015

#### A TRIBUTE TO JIMMY DEE CLARK

(Mr. NEUGEBAUER asked and was given permission to address the House



for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Madam Speaker, I rise today to recognize a great American. Jimmy Clark has served this country and particularly the 19th District with distinction for 23 years. Starting off with former Congressman Larry Combest and now serving as my deputy chief of staff, Jimmy has served with great pride and excellence the people of this district. It is a large district. He has traveled many miles to represent and make sure that the constituents of the 19th District have the great service that they deserve.

Jimmy brings to the table a lot of experience. And over the 23 years, he helped put valuable input from his farming background into four farm bills, valuable input that helped shape what I think is good policy for this country.

We are going to miss Jimmy Clark. We are going to miss his service to the district. When people talk about Jimmy Clark, they talk about someone of great honor and character and someone who is always willing to help. We wish Jimmy and his lovely wife, Rita, all the best as they embark on a new journey in their life. All of us from the 19th Congressional District, and really the people of the United States of America, thank Jimmy Clark for his great service to his country.

#### H.R. 2648, AWARDING THE CONGRESSIONAL GOLD MEDAL TO MUHAMMAD ALI

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Madam Speaker, yesterday, I introduced a bill that will award the Congressional Gold Medal to Muhammad Ali. Years ago many of my colleagues before my time watched Ali defeat Sonny Liston for the heavyweight title and saw him capture a gold medal at the 1960 Olympics.

His epic fights inspired a generation. But it was outside of the ring where Ali truly made his mark, fighting for civil rights and racial harmony and combating world hunger and disease. Under the shadow of 1960s discrimination, few could have imagined an African American and Muslim would transcend race, religion and culture to promote peace around the world. I believe that today, as so many around the world are struggling, it is more important than ever to pay tribute to those who selflessly devote their lives to others.

I encourage all of my colleagues to recognize a great humanitarian who remains a role model for generations to come. Join me please in supporting H.R. 2648.

#### AMERICANS DESERVE ENERGY INDEPENDENCE CREATED BY AMERICAN WORKERS

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, under the Democrats' national energy tax plan, American households will pay on average \$3,100 a year in extra energy costs, and between 1.8 and 7 million American jobs will be lost. The President admitted under his energy plan, energy prices would "necessarily skyrocket" and that the cost would be passed on to American consumers.

Manufacturing jobs will be relocated to other parts of the world, like India and China, which have less stringent environmental restrictions, hurting American workers and our environment.

Forcing through Congress an energy plan that raises energy prices and that leads to further job loss during a time of economic crisis is irresponsible and the wrong direction to take our country. The American people know that we can do better.

Republicans want a clean environment and will create comprehensive energy solutions that lessen our dependence on foreign oil and that lead us to a stronger economy.

The American people deserve American energy independence created by American workers.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### JOHN S. WILDER POST OFFICE BUILDING

Mr. LYNCH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1817) to designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the "John S. Wilder Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1817

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. JOHN S. WILDER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, shall be known and designated as the "John S. Wilder Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John S. Wilder Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Madam Speaker, I now yield myself such time as I may consume.

Madam Speaker, as chairman of the House subcommittee with jurisdiction over the United States Postal Service, I am pleased to present H.R. 1817 for consideration. This legislation will designate the United States postal facility located at 116 North West Street in Somerville, Tennessee, as the "John S. Wilder Post Office Building."

Introduced by Representative Marsha Blackburn on March 31, 2009 and reported out of the Oversight Committee by unanimous consent on May 6, 2009, H.R. 1817 enjoys the support of the entire Tennessee delegation.

A longtime resident of Somerville, Tennessee, John Shelton Wilder admirably devoted over 40 years of his life to public service, including over 30 years as the Lieutenant Governor of the State of Tennessee.

Born on June 3, 1921 in Fayette County, John Wilder attended the University of Tennessee College of Agriculture and subsequently received his juris doctor at the Memphis State University Law School. A distinguished United States Army veteran of World War II, Mr. Wilder also served as a member of the Fayette County Quarterly Court, known also as the county commission, for 18 years.

In 1958, Mr. Wilder was first elected to the Tennessee State Senate as a Democrat representing senate district 26, which included Chester, Crockett, Fayette, Hardin, McNairy, and Wayne Counties. While he did not run for reelection in 1960, Mr. Wilder returned to the State senate in 1966.

Following the adoption of a State constitutional amendment that extended the length of terms in the State senate in Tennessee to 4 years, Mr. Wilder was elected to his first 4-year term in 1968 and was subsequently re-elected to nine consecutive terms until his retirement in March of 2008.

In 1971, Mr. Wilder's senate colleagues elected him speaker of the

State senate, a position that under the State constitution also granted him the title of Lieutenant Governor. And notably Mr. Wilder became the first Tennessee Lieutenant Governor in almost 50 years to serve under a Governor of a different political party, Republican Winfield Dunn.

While the Tennessee General Assembly had not traditionally maintained its own staff or its own offices prior to Mr. Wilder's tenure, State senate Speaker Wilder undertook a variety of efforts to enhance the State legislature's standing, including the construction of General Assembly offices.

Mr. Wilder also made a unique mark by retaining the lieutenant governorship of Tennessee for over 30 years. Notably, the State had not previously seen an individual serve more than three consecutive terms as speaker of the State senate since 1870. In contrast to other elected officials in his position, Mr. Wilder never sought higher office. And he often stated that "the speaker likes being speaker." In fact, Mr. Wilder's service as Lieutenant Governor from 1971 until 2007 is regarded as one of the longest Lieutenant Governor tenures in United States history.

During his simultaneous service as Lieutenant Governor and as State senate speaker, Mr. Wilder was widely admired for his unrivaled and genuine commitment to bipartisanship. Mr. Wilder routinely awarded chairmanships to both Democratic and Republican members. And in 1987, Mr. Wilder, a Democrat, even earned the Republican Caucus's nomination for Lieutenant Governor.

Mr. Wilder's commitment to bipartisanship, for the benefit of the citizens of Tennessee, was further evidenced by his retirement announcement in March of 2008. In that address, Mr. Wilder encouraged his colleagues to "be statesmen, to do what is good and right for this State of Tennessee and leave partisan politics out of it." Mr. Wilder further noted the destructive nature of partisan politics and emphasized that the success of the State of Tennessee greatly depended on legislators voting their conscience, absent the influence of partisan politics.

Madam Speaker, let us honor this dedicated public servant, John Shelton Wilder, through the passage of this legislation to designate the Somerville, Tennessee, post office in his honor. And I urge my colleagues to join me in supporting H.R. 1817.

I reserve the balance of my time.

Mr. ISSA. Madam Speaker, it is with great pleasure that I yield such time as she may consume to the gentlewoman from Tennessee, the author of the bill, MARSHA BLACKBURN.

Mrs. BLACKBURN. Madam Speaker, I want to thank my colleague from Massachusetts for his wonderful words about Governor Wilder. I will tell you, though, we probably are having Gov-

ernor Wilder and some of his friends listening in Somerville, Tennessee, today who are saying, we need an interpreter on that one so that they can understand that wonderful New England accent to our Southern ears. Thank you so much for those gracious words.

It is indeed an honor to stand and to recognize Governor Wilder. And as the gentleman from Massachusetts said, today is his birthday. He is 88 years old today, so it is wonderful that we are having this resolution come forward today and that we are able to designate the post office in Somerville, Tennessee, for this dedicated public servant.

He chose to be a Democrat, but he legislated from the center. And it is so amazing when you look at his career and all that he accomplished, because, Madam Speaker, he chose to build a bipartisan conservative governing coalition. And he really took a great amount of pride in the fact that he established that for the State of Tennessee. Indeed, when you look at the fact that the legislature in the State of Tennessee is a coequal branch with the executive branch, you see Governor Wilder's handprints on this.

Those of us who had the opportunity to serve in the State senate and serve with Governor Wilder did have the opportunity to participate in the way he addressed that coalition. He really is the embodiment of "public service." And as has been stated, he served under the leadership of both parties.

He served as Lieutenant Governor when our now senior Senator, Senator ALEXANDER, was Governor. Lieutenant Governor Wilder was indeed the Lieutenant Governor under his time of service. And indeed Governor Wilder is the one who granted Governor Alexander an extra 3 days on his term when Governor Wilder moved forward with what he called "impeachment Tennessee style" for the incumbent Governor who was in place prior to Senator ALEXANDER taking the reins as Governor of our State.

Indeed, Lieutenant Governor Wilder served as Lieutenant Governor when my predecessor in the Seventh Congressional District seat, former Congressman and former Governor Don Sundquist, was in office. So Lieutenant Governor Wilder has a storied career. I also have the opportunity to serve as his Member of Congress now. And when he was in the State senate and speaker of the senate and Lieutenant Governor, I shared the representation of many of those west Tennessee counties with Governor Wilder.

So he has truly had such an incredible career in public service that it is an honor for me to be able to stand here and to recognize him and to make certain that we in this body pay tribute to him by naming that post office for him there in Somerville, Tennessee.

I know some of my colleagues have come to the floor to speak on this resolution. And, Madam Speaker, as we all know, in the State of Tennessee, anyone who serves in public office has sought the advice of John Wilder. So whether you served with him in the State senate or not, everyone went to him for advice and counsel as to how they would carry forth their public duties and how they would serve in the State of Tennessee.

So I thank the gentleman from California for yielding. I thank the gentleman from Massachusetts for his very kind words. And I thank my colleagues for joining me on my bill, H.R. 1817, to appropriately honor and recognize our former Lieutenant Governor.

I rise today to pay tribute to John S. Wilder, former Lieutenant Governor of Tennessee, and to express my support of H.R. 1817, legislation to have a Postal Service office building in Somerville, Tennessee named the "John S. Wilder Post Office Building."

Mr. Wilder commendably served the state of Tennessee for just shy of fifty years, in part as a member of the Tennessee Senate and as Lieutenant Governor of Tennessee. He served as Lieutenant Governor of Tennessee and Speaker of the Tennessee Senate from 1971 to 2007, becoming both the longest serving Lieutenant Governor and the longest serving head of a legislative body in United States history. For his extraordinary life achievements, I today honor a man who through example has exhibited devotion to his community and to the state of Tennessee.

Today, June third, Mr. Wilder celebrates his eighty-eighth birthday. The first born son of Martha and John Wilder, John Shelton Wilder grew up in Fayette County. He enlisted in the army and served our country during World War II. After the war, he attended the University of Tennessee School of Agriculture, and then enrolled in Memphis State University, now the University of Memphis, from where he obtained a degree in law.

Mr. Wilder was first elected to the Tennessee Senate in 1959. In January 1971, the Tennessee Senate elected Mr. Wilder to be the Speaker of the State Senate, which also made him Tennessee's Lieutenant Governor. During his tenure in the Tennessee Senate, Mr. Wilder was noted for his exceptional leadership skills and his ability to cross party lines in garnering the support of both Republicans and Democrats. His reputation with both parties enabled him to be continuously re-elected Lieutenant Governor every four years from 1971 until 2007.

Moreover, he served as a state senator until 2007 concluding his remarkable career in public service.

Mr. Wilder has been a member of many commissions, association and committees, including the Southern Legislative Conference Executive Committee, the Tennessee Judicial Council, Tennessee Industrial and Agricultural Development Commission, and the National Conference of State Legislatures Legislative Leaders. In addition to his legislative work, he has an active business career as director of Health Management and Cumberland Savings Bank, chairman of the board of Cumberland

Bank Shares and First Federal Bank FSI Holding Company, and he continues to participate in the management of Longtown Supply Company, a family owned cotton business founded in 1887. Additionally, he has worked as an attorney in the town of Somerville.

Mr. Wilder has been an extraordinary public servant for nearly fifty years. With gratitude for his service to the state of Tennessee, I ask all members to join me in support of H.R. 1817.

Mr. LYNCH. Madam Speaker, at this time, I would like to yield 5 minutes to the gentleman from the Ninth District of Tennessee (Mr. COHEN).

□ 1030

Mr. COHEN. Madam Speaker, I want to thank the Speaker, and Mr. LYNCH and Congressperson BLACKBURN for bringing this to the floor and for extending the time.

I particularly want to thank Congresswoman BLACKBURN for initiating this concept because John Wilder deserves recognition, and he deserves recognition by having this post office named for him. We name post offices quite frequently for people, people that deserve it. But John Wilder put Fayette County on the map. And when you put a county on the map, the post office in those small counties is the place where the county is. That's where mileage is measured from and people congregate and political gatherings occur and all that.

John Wilder was my friend, is my friend, and has had an unbelievable contribution to the people of Tennessee. I know it's been discussed how many years he served as Lieutenant Governor, longest-serving elected official in the free world of a legislative body, and how much he accomplished.

I served in the Tennessee State Senate with John Wilder for 24 years. I think one of his most significant moments came before I knew him, at a time when there was segregation in the South and there were efforts to penalize black farmers in Fayette County, an instance that John Wilder refers to it, and many people do who remember it, as Tent City.

And there were attempts to take advantage of the sharecroppers and to force them in certain ways, and John Wilder didn't go along with the establishment and he stood up for civil rights, and he stood with the black farmers in Fayette County, the African American tenant farmers, and refused to punish those black tenant farmers by evicting them or calling in their crop loans. That's a moment that John Wilder refers to when he speaks, and I believe, for those who are people of conscience, people in the civil rights movement throughout the MidSouth remember John Wilder for that principled stand. It was a stand by which men were known.

One of the other things that John Wilder did that is most significant is he instituted a system in Tennessee

where our judges were taken out of the political spectrum to the extent possible and put into a selection system. The Wilder plan, which survived an attempt to eliminate it in this general assembly, has served Tennessee well, provides that appellate judges are selected, not elected but selected, and that that meets the provisions of our State constitution and allows for judges who are not well known by the public to be chosen by a merit process. They have to stand for approval elections at the public ballot, the general election, but they are chosen not initially in contests where people have to go raise money and campaign on name recognition, but are selected based on their qualifications as submitted through a panel and chosen by the Governor from a list of three and then stand for reelection. And I think all but one of those people have been approved by the electorate and maintained. So his stand for civil rights and his stand for meritocracy in the judiciary are the two things I think John Wilder has done that are most, most admirable of the many.

He also set up a Board of Education for the State to help K-12 and to put some common sense into the education processes in our State. No things are more important than civil rights, education, and a fair and impartial judiciary, and John Wilder stood for all of those.

He's been a lawyer and respected in the courtroom. He's a farmer. He's a banker. He has interests in just about any business that's important to west Tennessee, and anything that got done in west Tennessee, rural west, and Memphis included, John Wilder had a stamp on it.

There's a tower at the University of Memphis known as the John Wilder Tower because he was most instrumental in securing funds for the University of Memphis, which is the great State university in west Tennessee.

John Wilder helped me in my career, appointed me chairman of the State and Local Government Committee, for which I served, I think it was, 12 years in that body. And although there were times when he was not as enthusiastic about the Tennessee education lottery as I was, at the end, there were 22 votes on the board in the Tennessee Senate to provide, give the people the right to vote on a lottery provision that had been banned in our constitution since the early 1800s, and that vote, with those essential 22 votes, every one was necessary, Governor John Wilder was one, Congresswoman MARSHA BLACKBURN was another, Congressman LINCOLN DAVIS was another, led to students in Tennessee having the opportunity to go to school.

I thank John Wilder. I thank Congresswoman BLACKBURN for bringing this, and I'm proud to be a cosponsor of the John Wilder Post Office.

Mr. ISSA. Madam Speaker, at this time it is my pleasure to introduce yet another friend of the former Lieutenant Governor, JIMMY DUNCAN, a member of the committee and a fellow Tennessean. I yield him such time as he may consume.

Mr. DUNCAN. Madam Speaker, I thank the gentleman from California for yielding me this time, and I want to express my appreciation also to my colleague from Tennessee, Congresswoman BLACKBURN for bringing this legislation to the floor, very appropriate legislation.

I have come here to express my great admiration and respect for Governor Wilder, in addition to the very kind things that my colleagues, the gentleman from the 9th District, Congressman COHEN, has said, and also what Congresswoman BLACKBURN has said.

The hills and mountains and valleys of east Tennessee are very, very different from the flat lands of west Tennessee, but we're all Tennesseans. And even though my district in east Tennessee is very far from Governor Wilder's district in west Tennessee, still, I have known of his work for our State for many years now, and I have great respect for that.

I also have seen him in action each year for many, many years, hosting the annual legislative luncheon at the University of Tennessee. And Governor Wilder did so much for the University of Tennessee, his alma mater and my alma mater.

I read a few years ago that less than 20 percent of the people in the State legislative bodies around the country have served, that less than 20 percent have served more than 12 years. And so turnover in legislative bodies is at a higher rate or level than any time in our history, contrary to what some people think. So anyone who serves in office for such a long number of years as Governor Wilder has really accomplished something that very few people have done in our history. And you don't serve in office for as long as he did without helping thousands and thousands of people and doing many, many good things, both for individual citizens and for the State as a whole.

And so I just wanted to come here briefly. I did not have the privilege of serving in the State senate, as Congressman COHEN and Congresswoman BLACKBURN did. I never served with Governor Wilder, but I certainly met with him many times and saw him at different inaugurations and at various events in Nashville and in my hometown of Knoxville. And so I appreciate Governor Wilder, and I admire and respect him, as I said earlier.

And I thank the gentlelady from Tennessee for bringing this legislation to the floor.

Mr. LYNCH. Madam Speaker, I don't believe we have any further speakers at this time, but I will continue to reserve our time.

Mr. ISSA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it is with great pleasure that I join with the other Members, primarily of the Tennessee delegation, who so aptly are wishing a happy birthday to the Governor today on his 88th birthday. And I do support strongly the naming of this post office after a public servant of such a unique character and longevity of service.

And now that we have dispensed with this portion, the suspension, the non-controversial part, as is the tradition of this committee, sometimes we make a point of other things on this allocated time. And today I believe that it's appropriate to speak about the impending, before August, cap-and-tax scheme that has been proposed by the Speaker and is likely to come to a vote.

We on this side of the aisle are deeply concerned about a system which is designed to raise the cost of all utilities in America, with no offset, no offset, for the ultimate CO<sub>2</sub> that is likely to be created by moving those jobs overseas. It's very clear that cap-and-tax, if not uniform and enforced, would simply move American jobs overseas. And the bill, which is being considered by the Global Warming, otherwise sometimes called the Junket Committee here, is in fact something that I oppose, and I oppose because it is very clear that we cannot, in this body, simply make a decision that we're going to stop producing a certain amount of CO<sub>2</sub> in the United States. And this, I might mention, while Air Force One consumes an incredible amount of CO<sub>2</sub> or produces an incredible amount of CO<sub>2</sub> while flying empty over New York City.

The world and the air around us is not isolated. If we go forward with a cap-and-trade initiative that is not globally enforced by every single nation, we simply are pollution laundering. We're saying we're going to have cleaner cars here, we're going to have cleaner this here, and yet CO<sub>2</sub> will be produced in other places. Already it is very clear that China, for every single product it produces, is more energy intensive than the same product produced in the United States. Literally, when you import the same product from China that would otherwise be made here, although it may be cheaper, it produces more CO<sub>2</sub> and a great many other pollutants.

I've been to China. I've been to Hanoi. I have been to many of these countries, and what I generally see are leaves blackened from the burning of coal, with not even scrubbers, much less any sequestration.

So, Madam Speaker, as we do not disagree one bit on the naming of this post office, this side of the aisle has to make it very clear that we do object to the present form that is being proposed without any real inclusion of Repub-

licans and with the American jobs at stake.

And with that, I would yield back the balance of my time.

Mr. LYNCH. Madam Speaker, I do want to bring this discussion back to the point at hand and this bill that seeks to honor Governor Wilder. And I would hope that, in taking the moment to dedicate this post office—and I chair this committee, and we do name a lot of post offices here. As a matter of fact, I think sometimes we'll run out of names before we run out of post offices. But I do think that this is one that is so well deserved because of the wonderful career of bipartisanship, and it disappoints me greatly that people would take away the focus of this dedication to harp on a bunch of hot air about some other issues that are going to have plenty of time to be debated.

This is a moment that we have to honor this gentleman, Governor Wilder, for his wonderful accomplishment, and in all the testimony here given this morning by his closest friends and his strongest advocates, he is one of the most bipartisan leaders that we have had in this country, and he has held that position as Lieutenant Governor for over 30 years. So I want to make sure that he gets the recognition that he deserves.

I want to congratulate Mrs. BLACKBURN for being the lead sponsor of this, and Mr. COHEN and all of the House Members, both Republican and Democrat, on behalf of the Tennessee delegation for the wonderful work that they've done.

And I ask all of my colleagues to join with us in giving due honor to Governor Wilder by naming this post office in Somerville, Tennessee, in his name.

Mr. TANNER. Madam Speaker, I rise in support of this resolution, which honors a long-time leader in our state, whose career has been distinguished and historic.

John Shelton Wilder was first elected to the Tennessee State Senate in 1958, and, in 1971, was chosen by his Senate colleagues to serve as Senate Speaker and Lt. Governor. He served in these capacities until 2006, making him the longest-serving leader of a state legislative body anywhere in this country. Because of his trademark bipartisanship and his insistence in wanting "the Senate to be the Senate," the Tennessee State Senate accomplished many things under Lt. Governor Wilder's leadership.

I had the honor of serving alongside Lt. Governor Wilder in the General Assembly when I served in the Tennessee House of Representatives. During my time in this body, I have been honored to represent some of the same counties that Lt. Governor Wilder represented in the Tennessee Senate. I know firsthand how dedicated he has always been to serving the public and helping families in West Tennessee and across our state.

Madam Speaker, I hope you and our colleagues will join us in supporting this resolution to honor Lt. Gov. John S. Wilder—known to many of us in Tennessee simply as "Governor Wilder"—for his long public service.

Mr. LYNCH. I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1817.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. ISSA. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further Proceedings on this motion will be postponed.

□ 1045

#### FREDERIC REMINGTON POST OFFICE BUILDING

Mr. LYNCH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2090) to designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the "Frederic Remington Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2090

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FREDERIC REMINGTON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, shall be known and designated as the "Frederic Remington Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Frederic Remington Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. I yield myself such time as I may consume.

Madam Speaker, I am pleased to present H.R. 2090 for consideration. This legislation will designate the United States postal facility located at 431 State Street in Ogdensburg, New York, as the Frederic Remington Post

Office Building introduced on April 23, 2009, by the Republican vice chair of my subcommittee—and the recently nominated Secretary of Army—Mr. McHUGH of New York. H.R. 2090 was reported out of the Oversight Committee by unanimous consent on May 6, 2009. I'm also pleased to report that this legislation enjoys strong support from the New York House delegation.

A long-time resident of the City of Ogdensburg in St. Lawrence County, New York, Frederic Remington was a renowned 19th century painter, illustrator, sculptor and writer who specialized—and I think in many people's minds really captured the essence and legend of the American West.

Born on October 4, 1861, in Canton, New York, Frederic Sackrider Remington moved to Ogdensburg, New York, in 1873 and attended the Yale College School of Art before soon heeding the call to go west.

Remington's early travels through America's new frontier in the late 1800s provided him with the unique opportunity to observe scenes that he had imagined since his childhood and gained an authentic view on America's west that would later translate into his unparalleled and inspirational depictions of frontier life.

Harper's Weekly published Remington's first commercial illustration in 1882 and Remington soon began to receive a steady flow of commissioned work from additional publications, including Collier's, that were searching for authenticity in Western themes. Remington's first full cover appeared in Harper's in 1886 when he was only 25 years old. And in 1887, Remington received a highly regarded commission for 83 illustrations for a book by Theodore Roosevelt entitled "Ranch Life and the Hunting Trail." This latter assignment provided a significant boost to Remington's career and marked the beginning of a lifelong bond between the artist and Roosevelt.

Despite his success as a magazine and book illustrator, Remington was focused on further developing his artistic abilities; and in the mid-1880s and 1890s, he turned his attention to water and full-color oil painting as well as sculpture. In order to retain the authenticity of his work, Remington embarked on annual trips to the West and even created a Western environment in his New York studio by surrounding himself with objects collected from his various travels.

In noted paintings, such as the "Return of the Blackfoot War Party" and "Mule Train Crossing the Sierras," and "A Dash For the Timber," Remington continued to evidence a unique ability to handle complex compositions and realistically capture the sweeping landscapes, heroic figures and moments of danger and conflicts which came to epitomize the American West. In 1888, Remington even achieved the honor of

having two of his paintings used for reproduction on United States postal stamps.

In the mid-1890s, Remington quickly mastered a new medium and became immersed in sculpture. Similar to his previous illustrations and paintings, well-known Remington bronzes such as "The Broncho Buster" and "The Cheyenne" were highly regarded for their detail, movement, energy, and overall realism. Notably, Remington's piece "The Broncho Buster," was presented to Theodore Roosevelt following the Rough Riders' return from the Spanish-American War, an honor that Remington deemed the "greatest compliment I ever had."

Regrettably, Frederic Remington died on December 26, 1909, at the young age of 48 and at the height of his profession. Nevertheless, he was able to produce over 3,000 drawings and paintings, 22 bronze sculptures, over 100 articles and stories, and even a novel and a Broadway play over the course of a career that inspired the American imagination and immortalized the Western experience.

Madam Speaker, let us honor the great 19th century artist, Mr. Frederic Remington, through the passage of this legislation to designate the Ogdensburg post office in his honor. I urge my colleagues to join me in supporting H.R. 2090.

I reserve the balance of our time.

Mr. ISSA. Madam Speaker, at this time due to the entry of the Ronald Reagan statue here in Statuary Hall, I ask unanimous consent that the gentleman from Ohio (Mr. JORDAN) be able to control my time.

The SPEAKER pro tempore. Without objection, the Chair recognizes the gentleman from Ohio.

There was no objection.

Mr. JORDAN of Ohio. Madam Speaker, I yield myself such time as I may consume.

The pretty long speech here that was put together by staff on Mr. McHUGH's post office renaming, and some of it will be, I think, redundant from Mr. LYNCH's comments, but I think it's important that we do give the proper respect to the Frederic Remington Post Office Building.

I rise in support of H.R. 2090, a bill designating the postal facility located at 431 State Street in Ogdensburg, New York, as the Frederic Remington Post Office Building in honor of the renowned 19th century sculptor, painter, author and illustrator.

Frederic Remington was born in Canton, New York, in 1861 and moved to Ogdensburg, New York, in 1873. He headed west to the Montana territory and is best known for his depictions of frontier life of the American West, including cowboys taming broncos, cavalry soldiers engaged in battle, and Native American warriors and scouts. He began his career as a magazine illus-

trator upon his return east, when he sold his first sketches to Harper's Weekly.

In the mid-1880s, Remington moved from illustration to water color and oil painting; and in 1895, he began sculpting in bronze. He ultimately produced nearly 3,000 drawings and paintings, 22 sculptures, and eight volumes of writings throughout his career. Frederic Remington died on December 26, 1909, thus making 2009 the 100th anniversary of his death. Unfortunately, he was only 48 years old and died at the height of his popularity.

In 1961, the U.S. Postal Service issued a postal stamp to commemorate the 100th anniversary of Frederic Remington's birth. The stamp featured an oil painting drawn by Remington in 1905 entitled "Smoke Signal." Over 111 million Remington stamps were issued by the postal service.

Remington's works can be found throughout the Nation in some of America's highly regarded museums, including the Art Institute of Chicago, the Metropolitan Museum of Art, and many others. In fact, "The Broncho Buster," the stirring Remington sculpture to this day remains in a prominent location within the Oval Office at the White House.

Today a comprehensive collection of original Remington paintings, sketches and sculptures are housed at the Frederic Remington Art Museum founded in 1923 and located in Ogdensburg, New York.

Frederic Remington was one of northern New York's most famous residents, and his home town of Ogdensburg is one of the most historic destinations. Located along the St. Lawrence River, Ogdensburg was the site of key battles during the French and Indian War as well as the War of 1812. In fact, the city was captured by British forces during the famed Battle of Ogdensburg in the War of 1812.

Ogdensburg was also the site of the appropriately titled Ogdensburg Agreement of 1940. This was a joint defense pact between the Canadian Prime Minister and President Franklin Roosevelt.

Ogdensburg's post office is also of historic significance and was listed in the National Historic Register in 1977. The building serves as the oldest active post office in New York and among the oldest in the United States. It was constructed between 1867 and 1870; and in August of 1872, President Grant visited the building for a public reception. It is also very likely Frederic Remington himself would have sent some of his correspondence from the very post office that will be dedicated in his name.

I rise today to ask my colleagues to join me in support of this legislation to designate the Ogdensburg, New York, post office as the Frederic Remington Post Office Building.

I reserve the balance of my time

Mr. LYNCH. Madam Speaker, we have no further speakers at this moment. I continue to reserve.

Mr. JORDAN of Ohio. I would yield as much time as she may consume to the gentlelady from North Carolina (Ms. FOXX).

Ms. FOXX. I thank my colleague for yielding.

Madam Speaker, I want to commend my colleague, Mr. MCHUGH, for introducing this legislation to honor Frederic Remington. I'm sure it is a very well-deserved honor, and I'm glad that we have the opportunity to do it here today.

However, there is a really critical issue facing our country these days, and it is the cap-and-tax plan that the Democrats are doing their best to get passed in the House of Representatives. We know that the Commerce and Energy Committee voted it out the night we left for our district work period for Memorial Day. But we also know that it is not good legislation for this country.

The truth behind the Democrats' cap-and-tax plan is that it is a national energy tax which will kill jobs, raise taxes, and lead to more government intrusion in our lives. This is an irresponsible proposal that will do more harm than good. The President's energy plan is a \$646 billion national energy tax that will hit every American family, small business and family farm. Family energy costs will rise on average by more than \$3,100 a year. Those hardest hit by this massive tax will be the poor, who experts agree spend a greater proportion of their income on energy consumption. So much for the President's promise to cut taxes for everybody who makes less than \$200,000 a year.

A devastating consequence will be fewer jobs for hardworking Americans. Various studies suggest anywhere from 1.8 million to 7 million jobs could be lost.

Republicans believe there are better solutions than more taxes, fewer jobs, and more government intrusion. House Republicans want to increase American energy production made by American workers, encourage greater efficiency and conservation, and promote the use of clean alternative fuels. House Republicans offer a plan that is more environmentally friendly than the Democratic plan. The Democrat cap-and-tax plan will relocate manufacturing plants overseas in countries with far less stringent environmental regulations.

Furthermore, the GOP plan will include nuclear energy which does not emit carbon. We find it very interesting that we know very well that the French, who have gotten 80 percent of their electricity from nuclear power, have no problem with their nuclear waste because they recycle everything and wind up with very, very small

amounts of waste and yet the Democrats deny this opportunity to create electricity from nuclear power.

We think the American public needs to be made aware of this issue, and we're going to do everything we can to educate the public on the disastrous way that the Democrats are taking this country in terms of cap-and-tax.

Mr. LYNCH. Madam Speaker, I continue to reserve.

Mr. JORDAN of Ohio. Madam Speaker, before I yield back my time, I would just say that I think the gentlelady from North Carolina makes an outstanding point. This cap-and-trade/cap-and-tax concept, all you've got to do is look at the Heritage Foundation study, which rank-orders all 435 Congressional districts in this country who would be most negatively impacted, who would lose jobs because of this proposal. And it hits home because nine of the top 10 most affected districts are in Ohio and Indiana. I happen to represent one of those districts in Ohio. We'd be fourth hardest hit in the country. It doesn't take a genius to figure out if you are heavy into manufacturing, as we are, and frankly, rely on coal, from coal-fired plants on the Ohio River to provide your electricity needs, you're going to get hit hard. This is a terrible move for our country, but it will have disproportionately negative impacts on the Midwest. That's why we should defeat this proposal.

With that, I would yield back the balance of our time.

Mr. LYNCH. Madam Speaker, again, I would like to bring the discussion back to the matter at hand which is the dedication of this post office in Ogdensburg, New York, in memory of Frederic Remington.

I think it's especially notable that people would take away from the honor that's trying to be bestowed here by a Republican colleague and, you know, a nominee for Secretary of the Army. Mr. MCHUGH asked that we take a moment and designate this post office in memory of one of New York's most renowned citizens and someone who has provided great service to this country in his artistic work in capturing an era of our country that is enormously important to all of us.

And I know a lot of people out there must be very confused. What does the French use of nuclear power have to do with the post office being named on behalf of Frederic Remington? And there is no connection.

□ 1100

There is no connection. There is a denigration going on here, a discourtesy, I think, to Mr. MCHUGH, a discourtesy to the people of New York by the Republican Party, and taking this moment of recognition away from Mr. Remington and his memory, away from Mr. MCHUGH and the object of his legislation, to spout on about issues that

can be spouted on about at different times and more appropriate times. We do not have to have either discussion of one issue at the cost of reducing the respect and courtesy that are due to Members and particular initiatives that they put forward that they deem important to their districts and to the people that they represent.

I will not do that. I will not go on about cap-and-trade. I will wait for the debate on cap-and-trade. I will not go on about whether I think the French are doing the right thing with nuclear power and the disposal of their waste. I'll wait on that. There will be appropriate times to discuss that.

What we're here about today in this bill is recognizing Frederic Remington for what he provided for in this country in his brief time on this Earth and in a way that is consistent with the wishes of the sponsor of this legislation, the Republican gentleman from New York (Mr. MCHUGH) who deserves our respect.

And with that, I urge all my Members to join with Congressman MCHUGH, the nominee for the Secretary of the Army, a good choice in my opinion, and support this measure unanimously.

Mr. MCHUGH. Madam Speaker, I rise today as the proud sponsor of H.R. 2090, which would designate the Ogdensburg, New York post office in honor of renowned 19th-century American sculptor, painter, author and illustrator Frederic Remington. I want to thank the Gentleman from New York (Mr. TOWNS) and the Gentleman from California (Mr. ISSA) for their work to bring this legislation to the floor today. I also want to thank the members of the New York delegation for cosponsoring this measure along with Representative CHAFFETZ, Ranking Member of the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia.

Frederic Remington was born in Canton, New York, in 1861 and moved to Ogdensburg, New York in 1873. Best known for his depictions of frontier life of the American West, including cowboys taming broncos, cavalry soldiers engaged in battle, and Native American warriors and scouts, Remington first headed west to the Montana Territory in 1881. Upon his return east, he sold his first sketches to Harper's Weekly, thus beginning his career as a magazine illustrator.

In the mid 1880s, Remington moved from illustration to water-color and oil painting, and in 1895 began sculpting in bronze. He ultimately produced nearly 3,000 drawings and paintings, 22 sculptures, and eight volumes of writings throughout his career. Frederic Remington died on December 26, 1909, thus making 2009 the 100th anniversary of his death. Unfortunately, he was only 48 years old and died at the height of his popularity.

In 1961 the U.S. Postal Service issued a stamp to commemorate the 100th anniversary of Frederic Remington's birth. The stamp featured an oil painting drawn by Remington in 1905 entitled "Smoke Signal." Over 111 million Remington stamps were issued by the Postal Service.



Remington's works can be found throughout the nation, in some of America's most highly regarded museums, including the Art Institute in Chicago, the Metropolitan Museum of Art, and many others. Indeed, President Obama has kept "The Bronco Buster," the stirring Remington sculpture, in a prominent location within the Oval Office at the White House.

Today, a comprehensive collection of original Remington paintings, sketches and sculptures are housed at the Frederic Remington Art Museum, founded in 1923, and located in Ogdensburg, New York. The Remington Museum is open year-round, and offers many programs for the public, including school tours, gallery talks, exhibit openings and workshops. Since the Museum's founding, purchases and donations of Remington art and personal artifacts have added significantly to the breadth of this amazing collection. The Remington Museum's importance to the residents of my Congressional District can be attributed to both its cultural and historical significance, as well as its economic impact on the surrounding community.

Frederic Remington was, indeed, one of Northern New York's most famous residents and it is fitting we honor his artistic contributions to the world. It is also fitting that Ogdensburg, one of America's most historic destinations, be the home of such an equally historic figure. Located along the strategic St. Lawrence River, Ogdensburg was the site of key battles during the French and Indian War as well the War of 1812. In fact, the city was captured by British forces during the famed Battle of Ogdensburg in the War of 1812. Ogdensburg was also the site of the appropriately titled Ogdensburg Agreement of 1940. This was a joint defense pact signed between Canadian Prime Minister Mackenzie King and President Franklin Roosevelt.

It is also fitting that such a storied city has a duly historic post office. In fact, the Ogdensburg Post Office was listed in the National Historic Register in 1977. The building serves as the oldest active post office in New York State and among the oldest in the United States. It was constructed between 1867 and 1870, and is truly a building befitting of this honor. Of note, on August 7, 1872, President Ulysses S. Grant visited the building for a public reception. It is also very likely Frederic Remington himself would have sent some of his correspondence from the very post office that will be dedicated in his name.

Accordingly, I ask my colleagues to support this legislation to designate the Ogdensburg, New York Post Office as the Frederic Remington Post Office Building.

Mr. LYNCH. I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 2090.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CARL B. SMITH POST OFFICE

Mr. LYNCH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2173) to designate the facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, as the "Carl B. Smith Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CARL B. SMITH POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, shall be known and designated as the "Carl B. Smith Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Carl B. Smith Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Arizona (Mr. FLAKE) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I am pleased to present H.R. 2173 for consideration. This legislation will designate the United States postal facility located at 1009 Crystal Roads in Island Falls, Maine, as the "Carl B. Smith Post Office."

This bill, introduced by my colleague and friend, Representative MIKE MICHAUD of Maine, on April 29, 2009, was reported out of the Oversight Committee by unanimous consent on May 6, 2009, and enjoys the support of both members of Maine's House delegation.

A lifelong resident of the town of Island Falls, Maine, Carl B. Smith dedicated over half of his life to public service and local and State government, the United States military, and the United States Postal Service.

Born on March 30, 1922, Carl B. Smith graduated from Sherman High School in 1940 and 2 years later joined the United States Army Corps. Representative Smith's subsequent 10-year tenure in the United States Army included service in Europe during World War II, as well as service in Japan and Korea during the Korean conflict. He would go on to become a lifelong member of the Veterans of Foreign Wars Post 7529 out of Island Falls as well.

Following his discharge from the service, Representative Smith attended barber school and proceeded to serve his beloved community of Island Falls as a barber for 30 years. In addition, he also worked as a rural letter carrier with the United States Postal Service and, of course, was a proud member of the Maine Rural Letter Carriers Union.

Representative Smith would subsequently embark on a distinguished career in local and State government.

First, he served as the town clerk of Island Falls for 13 years and later served on the Island Falls Board of Selectmen.

In 1980, Mr. Smith was elected to the Maine State Legislature as the representative serving house district 140, which includes Island Falls, Ludlow, Oakfield, Sherman, and other areas. His admirable career in the Maine House of Representatives would span 10 years, during which time he was a member of the State's Joint Standing Committee on Inland Fisheries and Wildlife, Agriculture, and State and Local Government.

Throughout his tenure in the Maine State House, Mr. Smith was widely noted for his efforts on behalf of environmental causes, as well as his devotion to social issues such as poverty, health, and aging.

In 1987, Mr. Smith received statewide recognition when he was selected by House Speaker John L. Martin to serve on the Maine Commission on Outdoor Recreation. Upon announcing Representative Smith's appointment to the commission, Speaker Martin described Smith as an "extremely hard-working legislator who has devoted a great amount of time and energy to environmental issues."

Regrettably, Carl B. Smith passed away on October 4, 2000, at the age of 78.

Madam Speaker, let us honor this dedicated public servant through the passage of this legislation to designate the Island Falls post office in Carl B. Smith's honor.

I urge my colleagues to join me in supporting H.R. 2173.

I reserve the balance of our time.

Mr. FLAKE. Madam Speaker, I thank the gentleman for introducing this. I think it's appropriate that the Congress at times names post offices, but I don't think that it is appropriate that we spend hours and hours doing it.

I think that if we ask our constituents at home if they want us to spend more time naming post offices or talking about post offices that have been named or talking about something important that will really affect them like cap-and-trade or cap-and-tax coming down the road, I think they'd say the latter. And I plan to vote for this post office naming, and I think it's appropriate that Carl B. Smith have a post office named after him in Maine.

Now, I think it's important that people across the country know what we're



going to be debating this summer. It's going to affect them and affect them deeply, and if I was convinced that we're going to have adequate debate time on the floor for cap-and-trade, then I might feel more inclined to talk about post offices. But my guess is, when it comes to this, we're going to be having a very small amount of time actually on the floor. Very few amendments, if history is any guide, will be allowed on this cap-and-trade legislation, and there will be a truncated time and space that we actually have to talk about what is going to affect people all across the country.

Now, if I were supporting this cap-and-trade legislation that's coming down the pike, believe me, I wouldn't want to talk about it much here either because I think the more people learn about it, the more they fear about what is coming down the road here.

What is coming down the road are higher energy taxes. Let's be real here. And I think some on the other side of the aisle have been honest enough to admit that. The Representative from Michigan said it best: I think nobody in this country realizes that cap-and-trade is a tax, and it's a great big one. Even the President, we know, said during his campaign that electricity prices, energy prices would necessarily skyrocket under cap-and-trade.

So we know that that's going to happen, but let's be honest about it. This is a high energy tax that Americans all over the country are going to be paying that's going to come to Washington, and then Washington is going to decide how to spend it, likely on something completely different.

If we want to be honest about helping the environment, then just impose a carbon tax and make it revenue neutral, give commensurate tax relief on the other side. Myself and another Republican colleague have introduced that legislation to do just that. Let's have an honest debate about whether or not we want to help the environment by actually having something that is revenue neutral where you tax consumption as opposed to income. Then you would have a real honest debate at least here.

Instead, this is a revenue source to pay for other items. Not just that, it is a revenue source that is haphazardly imposed, more tax that is haphazardly imposed. I shouldn't say haphazardly because I think it's by design. When you look at this cap-and-trade legislation that is coming through committee now, you realize that certain sectors, certain utilities and others, have been exempted from it, will be given permits instead of sold permits to pollute.

And so this is nothing more than bringing more revenue to Washington, deciding who is going to be taxed in the end, and down the road somehow the environment is supposed to be helped.

But whenever you have just a new revenue source for Washington to de-

cide how you're going to spend it, you don't really have an honest debate about what you're doing, let's face it.

What we're likely to have is something like we've had over the past few decades with ethanol policy where we've subsidized ethanol again and again, every year more and more, by tariffs, by market protections, by all-out subsidies. You name it, we've protected that industry. And in the end, what have we gained by it? I think it's a record that is dubious at best, and we keep saying we are just going to prime the pump just a few more years and it will be on its own, but it never is. Now, it's not working that well, but it's a bridge to something else.

Let's be honest about this debate. Let's have a debate where if you're going to help the environment, if you feel that we ought to put a value on carbon, then do it in a revenue neutral manner so you're not bringing more revenue to Washington, and that's what this cap-and-trade legislation is about.

I don't know how else you can put it. That's why it's important to talk about this rather than simply talk about post offices being named because this will affect the average American family in a big way. Some have estimated a few thousand dollars a year it might impact the average American family.

Whatever it is is going to impose a cost on the economy that is very difficult at this point to bear. And for what? What do we get in return? More revenue that Washington can spend on a different purpose or some other program? That's what this is turning into right now.

So I think it's appropriate, Madam Speaker, that we talk about cap-and-trade today, and I'm glad that we have something on the floor that allows us to do that.

And with that, I reserve the balance of my time.

Mr. LYNCH. Madam Speaker, I continue to reserve.

Mr. FLAKE. I ask unanimous consent that the gentleman from Utah (Mr. CHAFFETZ) be allowed to control the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. CHAFFETZ. Madam Speaker, I appreciate and thank my colleague from Massachusetts.

I rise in support of H.R. 2173, to designate the United States postal facility at 1009 Crystal Road in Island Falls, Maine, as the "Carl B. Smith Post Office Building."

As an advocate for all of the citizens in Maine's House District 140, State Representative Carl B. Smith was a standout legislator in the Maine House of Representatives.

After graduating from Sherman High School in 1940, and then marrying

Annie Jane Porter in 1946, Representative Smith began a long and distinguished career in a number of fields. Prior to his marriage, Mr. Smith joined the Army Air Corps in 1942, serving in Europe during World War II, and in Japan and Korea during the Korean conflict for a total of 10 years. He then returned to his home in Island Falls where he trained and worked for over 30 years as the local barber.

Throughout the years, Mr. Smith served as the town clerk of Island Falls, town selectman, and for 10 years as a rural letter carrier for the United States Postal Service.

Mr. Smith's successful and varied careers made him well-suited for public office. His responsiveness to the needs of the citizens of his district ensured him of a successful 10 years in the State legislature.

He believed that as a true representative of his constituents it was his obligation to introduce legislation when asked to do so by a citizen even though there were times he did not necessarily support the bill. He believed by doing this he was giving the requesting citizens an opportunity to have an issue that was important to them addressed. He had a deep belief in local input on legislation and local control of development issues. Mr. Smith was also a strong advocate in requiring the State to reimburse any locality 75 percent of the cost of all mandated programs.

A true representative of the long-held ideal of Maine's citizens, Mr. Smith felt very strongly about energy and environmental conservation issues.

□ 1115

He championed many environmental initiatives and served on committees in the legislature related to fisheries and wildlife.

During his time in the legislature, he supported the Clean Indoor Air Act, a nonsmoking ban for the State. Another area of interest to Mr. SMITH was prison reform. While serving on the Corrections Committee, he proposed a bill that would provide a restitution program where imprisoned persons convicted of nonviolent crimes worked to pay their room and board at the prison, supporting their dependents, and pay damages owed to persons as a result of their crimes.

Representative SMITH personified the ideals of this country. He served his country in war, worked hard in his community of Island Falls, and was elected to serve in the State legislature, where he was able to positively affect the lives of citizens of Maine well beyond the borders of his legislative district.

With gratitude for his service to the State of Maine, I ask all Members to join me in the support of H.R. 2173.

Madam Speaker, I reserve the balance of my time.

Mr. LYNCH. Madam Speaker, at this time I'd like to yield 2 minutes to the

gentleman from northern Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. Madam Speaker, I thank my colleague and my friend from Massachusetts. I can't help but rise, having heard our friend from Arizona who decided that really we were sort of wasting our time, despite the words of our friend from Utah just now, on the naming of a post office.

I'm reminded of the words from the book of Ecclesiastes that to everything there is a season. Today, at this moment, that season involves the naming of a post office that matters a lot to that community, that family, the memory of that individual, to the Members who represent that area in the United States Congress.

There will be time enough to debate cap-and-trade. In fact, last night we spent over an hour talking about cap-and-trade on our side of the aisle. I was privileged to participate in that.

But I think that it's easy sometimes when one has perfected the politics of "gotcha" to sound sanctimonious that one is rising above the trivial and addressing real issues when, as a matter of fact, in this body we address a whole range of issues.

I just rise in defense of the naming of a post office that's not trivial to part of the folks we represent in this body and hardly represents the avoidance of a vigorous debate that I look forward to on cap-and-trade when that season is right.

I thank my friend from Massachusetts.

Mr. CHAFFETZ. I yield such time as she may consume to my distinguished colleague from the State of North Carolina (Ms. FOXX).

Ms. FOXX. I thank my colleague from Utah for the recognition. I want to make it clear, as my colleague from Arizona made it clear, we mean no disrespect, no denigration to the people for whom these post offices are being named. In fact, we're all very proud of Mr. McHUGH, the nominee for the Secretary of the Army, whose bill preceded this bill.

I want to commend my colleague from Maine for introducing this legislation to honor Carl B. Smith with a post office named in his honor. However, we know the way that things are handled around here. It's been all too clear a pattern.

When it comes time to debate the legislation that is of major significance to everyone in this country, we wind up with closed rules and we wind up with debate cut off. And so it is up to us to inform the American people at every opportunity that we have what the impact of proposed legislation by the majority is going to be.

We hear over and over again when earmarks are requested by people on the other side that it's important that they bring home the bacon to their districts. Well, it's important to our con-

stituents that they be told how much this cap-and-tax bill is going to cost them, because many Americans do not know it.

And I would say that the things that I have heard in Special Orders and even in the 1-minutes where folks on the other side are talking about cap-and-tax, it's as though we're talking about two different bills.

So we're not really having a debate on the merits of a piece of legislation. We're hearing a lot of propaganda about that legislation, but we're not having a real true debate on it. So it's up to us to inform the American people of the facts of the legislation.

As my colleagues have said before, the cap-and-tax bill that was passed out of the Congress in the Energy Committee a couple of weeks ago is a government planning scheme. It is more of taking all the choices in people's lives in this country up to the Federal Government level.

It will stifle private sector innovation. We are the most innovative country in the world because of the freedom that we have, and yet all the legislation coming through this Congress is aimed at stifling that freedom.

It is going to result in higher consumer energy prices. We know that. The President has admitted it. One of our colleagues from Michigan has admitted it's a huge tax. The President has said the prices are going to skyrocket. So how can they deny it when their own leadership has said it?

We know it's going to result in job losses, lower wages, and stock devaluation. It's not likely to reduce emissions, and there is no guarantee that reducing U.S. emissions is going to stop what is being called global warming. We don't even know that human beings are causing the global warming.

So we're using—I'm not even sure you can call it bad science. I think using the term "science" in conjunction with what is the underlying rationale for this bill is too strong a word.

But Republicans do have an alternative. Contrary to what our colleagues are saying over and over, we are not the Party of No. We are the Party of Do, and do right by the American people.

The American Energy Innovation Act, which is the Republican alternative to this, encourages innovation within the energy market to create the renewable fuel options and energy careers of tomorrow. It promotes greater conservation and efficiency by providing incentives for easing energy demand and creating a cleaner, more sustainable environment.

It increases the production of American energy by responsibly utilizing all available resources and technologies and streamlining burdensome regulations.

We have an alternative. It is a viable alternative. But that bill will never be

debated. You talk about wanting debate. You talk about wanting discussions. Why not bring that bill up and let it be debated? Why not put it up for a vote just like the cap-and-tax bill will be put up for a vote?

No, that's not the way of this majority. The way of this majority is to stifle every idea that is good for this country and say, We won. We're going to do what we want to do. That's the attitude of the majority party. That is not true debate.

We would love to have true debate. We'd love to see the people on this floor have choices. They are not being given choices. They're not being allowed to debate.

So, Madam Speaker, we don't mean in any way to take away from the honors being given to these people for whom post offices are being named. As was pointed out earlier, one of them was by one of our Republican colleagues that we respect. But we think it's important to inform the American people of what they will be facing if some of the legislation being proposed by the Democrat majority is passed.

Mr. LYNCH. I yield myself such time as I may consume just to rebut the fallacy that the other side of the aisle needs to step on a bill that Mr. McHUGH put forward to recognize someone from his district because we're naming a post office for that individual; or the gentleman from Tennessee who was honored, Governor Wilder, 30 years served as Lieutenant Governor of that State.

The other side argues that there's a lack of opportunity to talk about these other issues so they have to use the time that was designated to honor these people—a very brief amount of time, by the way. Normally, just a few minutes on each side, we get rid of these bills. They have extended the time we have spent on this floor.

But I just want to take today's schedule. Today's schedule, we have hearings all over the Capitol. We have 14 hearings in the Senate; some of those dealing with cap-and-trade. We have 18 hearings where Members of Congress will stand behind microphones just like this one and expound of their views on issues everywhere from agriculture to appropriations to energy and commerce, which is the subject matter that the other side would like to talk about.

There are ample opportunities for people in Congress to talk and talk and talk. Matter of fact, it reminds me of that movie, "Charlie Wilson's War." Charlie Wilson's secretary, who was not familiar with the workings of Congress, turned to the Congressman and said, Charlie, why do Members of Congress talk and talk and talk and never do anything? And Charlie turned to her and he said, Well, honey, mostly it's tradition. And that's what's going on here.

I have great respect for the ranking member, the gentleman from Utah, who came up and talked about the bill that was on the floor, talked about its merits. And Carl B. Smith; this is a post office being named after a gentleman who worked as a rural letter carrier.

Now you may laugh down your nose at that, but we seem to think that's honorable service to our country. Just because this guy was a letter carrier is no reason for Members on the other side of the aisle to denigrate his service, to denigrate the honor that's being bestowed upon him.

This man worked his entire life. He was a veteran. He was a letter carrier. This is the backbone of America. He was a proud union member. He dedicated his life. He was a good American. He put on the uniform of this country. Served in the Army. What about his service? What about his service?

Instead, we get a bunch of . . . standing up here spouting about stuff that you can talk in any single committee hearing on this schedule.

Mr. CHAFFETZ. Madam Speaker, I ask to take his words down.

Mr. LYNCH. I withdraw my comments. I apologize. I apologize on the word "blowhard." I retract that. I retract that.

Instead, we have Members—

The SPEAKER pro tempore. Without objection, the words are stricken.

There was no objection.

Mr. LYNCH. I ask to strike.

The SPEAKER pro tempore. The gentleman from Massachusetts will proceed.

Mr. LYNCH. That was overreaching on my part.

The SPEAKER pro tempore. The gentleman will proceed.

Mr. LYNCH. Instead of giving those gentlemen—the gentleman from Tennessee, who served 30 years, Carl Smith, 30 years as an elected official and a postal servicemember, and Fred-eric Remington—giving them their due time on this floor, the brief moment that they have, probably the highest moment of achievement for certainly Mr. Smith in Maine—and, by the way, the sponsor of that resolution, MIKE MICHAUD, is actually chairing a subcommittee on Veterans' Affairs so he can't be here. So he has relied upon us to extend the basic courtesy to someone in his district who dedicated their lives to this country.

He was a man of a common position; just a rural letter carrier—like a lot of folks in this country, from a small town—and we're trying to name a post office after him.

Mr. MICHAUD sent this bill over while he is in committee dealing with veterans' affairs and debating those issues and asked us to handle this. I just think some of us have handled that responsibility poorly. That's what I think. That's my opinion.

And I just wish that even though you may look down your nose at this, you may not think that this is important at all, it's very important for these families and for these individuals to be honored.

With that, Madam Speaker, I reserve the balance of my time.

□ 1130

Mr. CHAFFETZ. May I inquire as to the remaining time, please.

The SPEAKER pro tempore. The gentleman from Utah has 5 minutes remaining, and the gentleman from Massachusetts has 10 minutes remaining.

Mr. CHAFFETZ. I yield myself as much time as I may consume.

Madam Speaker, let me just say that I appreciate the gentleman from Massachusetts and sometimes the emotions. It seems to me, having just joined this debate, that we have spent more time criticizing what the Republican side of the aisle would like to talk about and that we have started to engage in the politics of personal destruction as opposed to talking about the issues of the day that are going to affect not just this one letter carrier who has served honorably.

I just want to reiterate the great work and dedication that this individual gave to the State. I think it is appropriate that we recognize and have a post office named after him. That's quite an honor that will stay, I hope, for a long, long period of time, for eons of time so that people can appreciate and can get to know and recognize him.

At the same time, I think a fair assessment would be, while we can give these individuals a few minutes of time and can recognize their strengths and contributions to the State, we do need more ample time to deal with what could be the single largest tax increase in the history of the United States of America, an increase that is going to touch every single American's life.

While there may be committee meetings over in the Senate and on committees that I'm not a participant in, I would hope that this body would continue to extend the time to talk about one of the most pertinent issues—the cap-and-trade—and the opposition that many of us here on the Republican side of the aisle feel to this bill.

With that, I reserve the balance of my time.

Mr. LYNCH. Madam Speaker, I welcome the gentleman's remarks. I understand the pressures put on the schedule, but I do know there is enormous opportunity for Congress. Never in the history of this country have we had more outlets and more opportunity to get our message out.

Last night, I know that our side took an hour just to talk about cap-and-trade. I know that your side does the same thing. There are a lot of opportunities and a lot of forums in this building and elsewhere on Capitol Hill to

speak about them. We have a lot of issues. We have a lot of issues that confront us today, and there are many, many, many opportunities to express our opinions. I just think that this is one little slice of time that we have put aside for a significant purpose. It may be a narrow purpose in recognizing certain individuals, but I think that it should be dedicated and spent on that purpose without intervening subject matter denigrating that recognition and that honor that is so well deserved.

With that, I welcome the gentleman's remarks. Again, if it were not clear before, I apologize for my earlier remarks. The descriptions were inappropriate, and I do apologize for those remarks. Again, I ask that they be stricken from the RECORD.

I reserve the balance of my time.

Mr. CHAFFETZ. Madam Speaker, I urge all Members to support the passage of H.R. 2173, and I yield back the balance of my time.

Mr. LYNCH. Madam Speaker, with that and on behalf of the gentleman who is the lead sponsor of this resolution, MIKE MICHAUD from Maine, in honor of Carl B. Smith, we ask that this resolution be supported unanimously by the Members of Congress in recognition of a good, good American.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 2173.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### HONORING ANNUAL SUSAN G. KOMEN RACE FOR THE CURE

Mrs. CAPPS. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 109) honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009, and for other purposes.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

#### H. CON. RES. 109

Whereas breast cancer is the most frequently diagnosed cancer in women worldwide, with more than 1,300,000 diagnosed each year;

Whereas breast cancer is the leading cause of death among women worldwide, more than 465,000 die from the disease each year, and a woman dies from breast cancer every 68 seconds;

Whereas there are more than 2,500,000 breast cancer survivors alive in the United

States today, the largest group of all cancer survivors;

Whereas a woman has a one-in-eight lifetime risk of developing breast cancer, and only a small percentage of cases are due to heredity;

Whereas incidence rates for breast cancer are increasing by as much as five percent annually in low-resource countries;

Whereas, since its inception, Susan G. Komen for the Cure has invested more than \$1,300,000,000 in breast cancer research, education, and community health services that have raised awareness and improved treatment, helping more people survive the disease and creating a strong support community of breast cancer survivors;

Whereas publicly and privately funded research has resulted in treatment that has raised the 5-year survival rate for women with localized breast cancer from 80 percent in the 1950s to 98 percent in 2008;

Whereas the Susan G. Komen Race for the Cure Series is the organization's signature program and is the world's largest and most successful education and fundraising event for breast cancer;

Whereas more than 120 Komen Race for the Cure events are held across the globe, raising significant funds and awareness for the fight against breast cancer;

Whereas a record \$3,700,000 from the 2008 Komen Race for the Cure was granted to 18 organizations in the National Capital area for 2009, a 10 percent increase over last year's local funding;

Whereas these grants are awarded to projects dedicated to addressing gaps and unmet needs in breast health education and breast cancer screening and treatment in underserved populations throughout the National Capital area;

Whereas 2009 marks the 20th anniversary of the first Susan G. Komen National Race for the Cure in Washington, DC;

Whereas this year the Susan G. Komen National Race for the Cure becomes the first-ever Susan G. Komen Global Race for the Cure, reflecting Komen's global mission to end breast cancer wherever we find it, at home or abroad; and

Whereas more than 50,000 participants, including 4,000 breast cancer survivors and hundreds of congressional and Federal agency employees are expected for the 20th annual 5K run/walk on Saturday, June 6, 2009, on the National Mall: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) remembers the lives of the women and men who have lost their fight with breast cancer and expresses support and admiration for those who have survived;

(2) congratulates those survivors, family, friends, and other community members who participate in the Global Race for the Cure in order to raise money for research and education so that many more may survive and encourages Americans to walk this year and to support their family and friends who participate; and

(3) honors the Susan G. Komen Global Race for the Cure for its impact on the National Capital Area, the Nation, and the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. CAPPS. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. CAPPS. I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H. Con. Res. 109, a resolution that honors the Susan G. Komen Global Race for the Cure.

More and more women are surviving breast cancer due in no small part to Susan's sister and to the many women and others who took to the streets and, in a variety of grassroots ways, decided to take this curse, really, which is breast cancer, out of the closet and into the spotlight where attention could be paid to it. We have seen that more and more women are surviving, but there is much more work to do in extending screening and treatment here and abroad. More research is needed into how we can better detect and treat breast cancer, and more work needs to be done to ensure that survivors have the tools they need to navigate the complexities of treatment, symptom management and follow-up care.

This Saturday will be the 20th Susan G. Komen Race for the Cure here in Washington, D.C. In recognition of the global scope of breast cancer this year, the race's name has been changed to the Susan G. Komen Global Race for the Cure.

I want to thank our colleagues, Representatives CONNOLLY, WASSERMAN SCHULTZ and SABLON, for their leadership on this issue. I urge my colleagues to join me in supporting this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. TERRY. I yield myself as much time as I may consume.

Madam Speaker, I appreciate working with the gentlewoman from California. We work on a lot of our health bills together. That's the spirit of comity in the Energy and Commerce Committee.

It is with great pride that I rise today in support of the House Concurrent Resolution 109, honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009.

So this Saturday, here in Washington, D.C., D.C. will be the host of the Susan G. Komen Global Race for the Cure, and participants will be walking, running, volunteering, and even sleeping to help raise money for breast cancer research, education and community awareness. More than 50,000 participants, including 4,000

breast cancer survivors and hundreds of congressional and Federal agency employees are expected for the 20th annual 5K walk on the National Mall.

I would like to at this point inject that Omaha, Nebraska's Susan G. Komen race is in October when it will be a little cooler. We like running and walking, and our office has a team for that race. I would encourage every congressional office, in their districts, to field a team to help raise awareness and research for breast cancer.

My mother was a breast cancer survivor until a different cancer got her a year ago. So I would like to express my gratitude for the \$1.3 billion the Susan G. Komen for the Cure has invested, helping more people survive the disease and creating strong community support for breast cancer survivors.

Publicly and privately funded research has resulted in the treatment that has raised the 5-year survival rate for women with localized breast cancer from 80 percent in the 1950s to nearly 98 percent as we stand here today.

I would like to thank the author of the resolution, Mr. GERALD CONNOLLY of Virginia, for his leadership in honoring the Susan G. Komen Global Race for the Cure. I encourage all of my colleagues to vote in favor of this resolution.

I reserve the balance of my time.

Mrs. CAPPS. Madam Speaker, I concur with my colleague from Nebraska as to the significance of our local races, and I have a feeling that this weekend there will be many from Capitol Hill who will also be participating in the Washington, D.C. event. As a sister of a breast cancer survivor, I know this is a very personal story for almost everyone today.

With great pleasure, I yield to the author of the legislation, Representative CONNOLLY from Virginia, for such time as he may consume.

Mr. CONNOLLY of Virginia. Madam Speaker, I thank my colleague from California, and I thank my colleague from Nebraska for his kind remarks.

I rise in strong support of H. Con. Res. 109, honoring the Susan G. Komen National Race for the Cure.

This Saturday, June 6, 2009, marks the 20th anniversary of the race here on the National Mall in the Nation's Capital. More than 50,000 race participants, including 4,000 breast cancer survivors—4,000 breast cancer survivors, Madam Speaker—their families, their friends and supporters, plus hundreds of congressional and Federal agency staff, including staff from my own office and many others, will participate in the annual 5K run and walk. Thanks to last year's race, a record \$3.7 million in grants was provided to 18 organizations in the National Capital region alone.

Madam Speaker, Susie Komen, as her sister affectionately called her, was just 36 years old when she was stricken

and lost her 3-year battle with breast cancer in 1980. She did not have the benefit of a nationwide support network like the one her sister, Nancy Goodman Brinker, would found in her name 2 years later because, together, they identified large gaps in the system of care as part of Susan's valiant experience.

The first Race for the Cure was held in 1983 in Houston, Texas, and its success has subsequently spread to communities across the Nation. Now the annual race is the primary fund-raising vehicle for the Komen Foundation, which today has invested more than \$1.3 billion worldwide for breast cancer research, education and community health services.

Those efforts have raised greater awareness, and have improved the treatment of breast cancer, itself, helping more people survive and creating a strong support of community survivors. Thanks in large part to organizations like Komen for the Cure, nearly 75 percent of women over the age of 40 now receive regular mammograms compared to just 30 percent when the campaign started in 1982. The 5-year survival rate for breast cancer was just 74 percent in 1982. Today, it is 98 percent. Numbering more than 2.5 million fellow Americans, breast cancer survivors now are the largest group of any cancer survivor community in the United States of America, but more needs to be done.

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Through the Department of Defense peer-reviewed Breast Cancer Research Program, we already have invested more than \$2.1 billion in the ongoing search for a cure, and the Fiscal Year 2009 Omnibus Appropriations Act included another \$150 million for this purpose.

We are also considering legislation, Madam Speaker, initiated by my colleague Congresswoman DEBBIE WASSERMAN SCHULTZ of Florida, who also is an original cosponsor of this resolution and a survivor, to better educate young women about the threat of breast cancer and other related bills that would provide greater protections to patients being treated for breast cancer.

Mr. Speaker, let me also note that we anticipated having our original cosponsor, Congressman GREGORIO SABLÁN, with us today on the floor, but he is attending his son's graduation back home in the Northern Mariana Islands.

Succeeding in this effort will require continued persistence from us and from the thousands who will converge this weekend on the National Mall and from races all across the globe in the months to come. The National Race for the Cure is just one of more than 120 Race for the Cure events that will be held internationally this year. With more than 1.3 million diagnoses each

year, breast cancer is the most frequently diagnosed cancer worldwide with incident rates increasing by as much as 5 percent annually in low-resource countries. Sadly, despite the progress we've made in 5-year survival rates, it's also the leading cause of death for women worldwide, claiming more than half a million lives each year, according to the World Health Organization. At that rate, a woman will die from breast cancer virtually every minute of every day in the year. To emphasize the significance of those numbers, the Komen Foundation is renaming its annual race as the Global Race for the Cure, reflecting its global mission to end breast cancer wherever it is found, at home or abroad.

Mr. Speaker, as we prepare for this weekend's race, I invite survivors and supporters to join the team from my office if you do not already have somebody to walk with or run. We can be found under CONNOLLY's Cruisers on the race Web site. Much like the cherry blossoms do in the spring, we will turn the National Mall a vibrant shade of pink this weekend as we come together to demonstrate the urgency and necessity for finding a cure.

Mr. Speaker, I urge all of my colleagues to join us in supporting this very important effort.

Mr. TERRY. I continue to reserve the balance of my time.

Mrs. CAPPS. Mr. Speaker, it is with great pleasure that I yield as much time as she may consume to our colleague from Florida (Ms. WASSERMAN SCHULTZ) whose connection to this topic is the most personal you can get.

Ms. WASSERMAN SCHULTZ. I thank the gentlelady from California for the time.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 109, which honors the 20th anniversary of the Susan G. Komen Race for the Cure. Susan G. Komen for the Cure is the largest and most progressive group of breast cancer activists in the world. So it is no surprise that the race, now in its 20th year, is the world's largest and most successful fundraising event in the fight against breast cancer. Over the years, participants have raised tens of millions of dollars to fund screening, treatment and education programs for the medically underserved. And with over 120 races across the globe, it is fitting that when the thousands of runners, walkers and, yes, even sleepers participate this Saturday, they will be part of the newly named Global Race for the Cure. The new name is also fitting because we know that breast cancer respects no national boundaries and is, in fact, the leading cause of death among women worldwide.

To be sure, while we have come a long way in the fight against breast cancer, we still have too far to go. This year in the United States alone, over 190,000 women will be diagnosed with

breast cancer. Many of those women will be younger than 45 years old. Each year, 28,000 women younger than 45 are diagnosed with breast cancer, and far too many of them lose their battle. Forty-thousand of the women diagnosed nationwide will not survive. Globally, over 1.3 million women will be diagnosed with breast cancer, and almost half a million will die. That is why we cannot rest in our efforts to fund research and find a cure for this insidious disease, and it is why we cannot rest in our efforts to provide education and awareness for all women. We must ensure that they have access to screening and treatment, and we must do all we can to support the more than 2.5 million survivors in our country alone.

As many of you know, I recently had my own battle with breast cancer. I am both grateful and humbled to count myself among this growing group of passionate survivors. I was fortunate to have access to the treatment and support that I needed to win my own fight. Through efforts like the Race for the Cure, we can all work together to make sure that everyone has that same opportunity.

So thanks to the many people participating in this year's race—the countless volunteers, the supporters, the runners, walkers and all the staff of Susan G. Komen for the Cure for making this event an annual reality. And thanks to my colleague and friend Representative GERRY CONNOLLY for his leadership in sponsoring this important resolution and for working with myself and Delegate GREGORIO SABLÁN to honor the work of everyone fighting against breast cancer. And congratulations to Mr. SABLÁN's family on his child's high school graduation.

I urge my colleagues to support this wonderful resolution and to take a moment to honor all of those we have lost in this fight and also those that struggle on. Let us not stop until the race is won. Early detection is the key. I did not find my tumor through luck. I found it through education and awareness. All women and all families in this country deserve access to that education and awareness.

Let me just issue a little challenge to the 13 teams in the congressional division competing in the Race for the Cure this Saturday. Let's show all the other teams what our congressional teams can do, step up our efforts in the last few days, and really increase the participation of the Members and staff of the congressional division for the Global Race for the Cure.

Mr. TERRY. I have no further speakers. I will just say that I really appreciate the gentlelady from Florida (Ms. WASSERMAN SCHULTZ) for coming down to the floor and speaking about her personal experiences. The courage that she has in speaking about this openly, educating people across the country,

she's very special; and I'm glad she came down.

I want to congratulate all of the D.C. employees of our staffs that will be participating in the Race for the Cure this weekend. I wish them well. Raise lots of money. This is one of the truly great organizations, and it is the symbol of grassroots efforts for a cure for breast cancer. I wish them well this weekend as well as all of the other walks and runs that will occur in most cities across the Nation over the next few months.

I yield back the balance of my time. Mrs. CAPPS. I want to thank my colleague from Nebraska and to acknowledge that this is truly one bipartisan issue that we all agree upon. And as our colleague from Florida has issued us all a challenge, we now have a goal to try to reach here with our staffs and on the Hill, from the Hill as we participate. I want to thank the sponsors of the race for expanding their scope and now for this resolution being known as the Susan G. Komen Global Race for the Cure and to acknowledge this day coming, June 6, 2009.

Mr. SABLAN. Mr. Speaker, I rise today in support of House Concurrent Resolution 109. Many, many families across the United States have had their lives irrevocably changed because of a diagnosis of breast cancer. Many of these families have lost a loved one, a mother or sister or daughter, or even a father, brother, or son, to this devastating disease.

The statistics surrounding breast cancer are sobering. One in eight women in the United States will be diagnosed with breast cancer in her lifetime. Though there are 2.5 million survivors in the United States today, many more lives could be saved with the benefit of better, earlier detection and more effective treatment.

The problem is just as serious in other nations around the world. Breast cancer is the most frequently diagnosed of all cancers worldwide, with more than 1.3 million diagnoses each year. It is also the leading cause of death among women around the world, with over 465,000 deaths each year.

Imagine that for a moment—465,000 children without mothers, fathers without daughters, sisters and brothers without their siblings. And these are people from every walk of life, of every age, and in every corner of the globe.

Fortunately for all of us, there are many organizations whose mission is to improve research and education surrounding this devastating disease. Through their efforts, groundbreaking treatments have raised the 5-year survival rate for women with localized breast cancer from 80 percent in the 1950s to 98 percent in 2008.

Among these organizations is the Susan G. Komen Foundation. Komen's fundraisers, including the Race for the Cure and the Breast Cancer Three-Day, have raised tens of millions of dollars that will help people around the world improve detection, treatment, and education—since its inception, Komen alone has invested more than \$1.3 billion in such programs.

Komen's annual National Race for the Cure will take place this weekend in Washington,

D.C.—the 20th such race. More than 50,000 participants, including survivors of breast cancer, family members of patients, and others, will help medical research move forward and benefit many more men and women in the future.

Last year, my district even fielded its own team to participate in the Breast Cancer 3-Day Walk in Seattle. The "Saipan Sweet Feet" team included Bobbi Grizzard, Marian Aldan Pierce, Clarie Kosak, Pam Brown, Rhoda Smith, Roberta Guerrero, Kazuyo Tojo, and Corrine Loprinzi. I hope others will participate in these wonderful events this year.

I wish, along with my colleagues, to congratulate the participants in this race and thank them for dedicating their time and money to such a cause, to express my admiration for the strength and courage of breast cancer survivors, to honor the Susan G. Komen foundation for its work, and to offer my heartfelt condolences to those who have lost friends and family members to this disease.

Ms. WATERS. Mr. Speaker, I rise in strong support of House Concurrent Resolution 109—Honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009. I commend my colleague Representative GERALD E. CONNOLLY for bringing this measure before the floor.

Breast cancer has had a devastating impact on women worldwide, as 1.3 million cases are diagnosed each year. In a 2009 report, the National Cancer Institute estimates there will be 192,370 new breast cancer cases among women living in the United States. And in addition to these statistics, the disease continues to pose unique challenges to the African American community. Clearly, we must continue to educate and inform the American public about breast cancer and the importance of being proactive in having regular medical screenings, particularly focusing on individuals that belong to high-risk demographics. Accordingly, the Susan G. Komen Race for the Cure has achieved great strides in raising money for breast cancer research, community initiatives, and educating women about the disease.

The impact of cancer within the African American community has been particularly devastating. The mortality rates for Blacks with breast, colon, prostate, and lung cancer are much higher than those of any other racial group. Although African American women are less likely to be diagnosed with breast cancer than other racial and ethnic groups, they are 35 percent more likely to die from the disease. This is due in part to the fact that Black and Hispanic women are less likely to receive breast cancer screening with mammograms than White women.

Research has proven that early detection is essential in increasing an individual's chance of beating the disease. Thus, community outreach and education go a long way in combating breast cancer mortality rates. The Susan G. Komen Foundation has invested more than \$1.3 billion in breast cancer research, education, and community health services that have raised awareness and improved treatment, helping more people survive the disease and creating a strong support commu-

nity of breast cancer survivors. Undoubtedly, the organization has done much to advance our national fight against breast cancer, and it certainly deserves our recognition for the great work it has accomplished.

Mr. Speaker, as a strong advocate for breast cancer research, community outreach, and awareness campaigns, I am pleased to add my voice of support for House Concurrent Resolution 109.

Mrs. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to commemorate the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition, on June 6, 2009, to the Susan G. Komen Global Race for the Cure. With its headquarters located within my congressional district in Dallas, Susan G. Komen for the Cure reaches out both nationally and globally to women affected by breast cancer. I am pleased to honor the foundation today as they celebrate their achievements and continue to move forward in creating a world without breast cancer.

Susan G. Komen for the Cure was founded by Nancy G. Brinker in 1982 on the basis of fulfilling a promise she made to her sister, Susan G. Komen. Her promise was to end breast cancer forever. Since its establishment, Susan G. Komen has raised \$1.2 billion from events like the Race for the Cure, contributing the largest source of non-profit funds dedicated to fighting breast cancer. As a result, there have been several advances in the fight against breast cancer. There is now increased government funding in cancer research, prevention, and funding, and an increased chance of survival due to earlier detection.

Over the next ten years, Susan G. Komen for the Cure will continue to contribute to the fight against breast cancer. The foundation plans to invest an additional \$2 billion to help find a cure for breast cancer and better the lives of women all across the world. As a former nurse, I am honored to congratulate them on their 20th anniversary of the Race for the Cure in the Nation's Capital, as well as their transition to a global organization.

Ms. RICHARDSON. Mr. Speaker, I rise today in strong support of H. Con. Res. 109, honoring the 20th Anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009. I'd like to thank Chairman WAXMAN and the gentleman from Virginia, Representative CONNOLLY, for bringing this resolution to the Floor today. It is my strong hope that twenty years from today we will be celebrating the cure and marveling at all the lives that have been saved.

Breast cancer is the most frequently diagnosed cancer in women worldwide, with more than 1.3 million diagnosed each year. It is also the leading cause of death among women, 465,000 die each year worldwide. Breast cancer is a disease that knows no boundaries based on age, ethnicity, geographic location or socio-economic status. Fortunately, the United States has 2.5 million breast cancer survivors and we need to work together to educate our community and encourage participation in screenings and mammograms.

Mr. Speaker, Nancy Brinker promised her dying sister, Susan G. Komen, that she would



do everything possible to eradicate breast cancer. By launching Susan G. Komen for the Cure in 1982, a movement began and more than \$1.3 billion in breast cancer research, education, and community health services has been invested by this organization. Today, Susan G. Komen for the Cure is the largest grassroots network fighting breast cancer and is led by thousands of survivors. Local activists are present in 125 communities and have mobilized one million friends for events such as the Komen Race for the Cure. Komen is a unique organization where 75 percent of the net proceeds stay in the communities where they were raised. The remaining 25 percent of the funds are given to Komen's National Grant Program, an innovative leader in breast cancer research. Because of publicly and privately funded research, the five-year survival rate for women with localized breast cancer has increased. In the 1950s, the survival rate was 80 percent and last year the survival rate grew to 98 percent. Last year, the Komen Race for the Cure raised an unprecedented \$3.7 million in the National Capital area. As the National Race for the Cure becomes the Global Race for the Cure, we will work with our partners around the world to eradicate breast cancer, a disease that affects everyone in some way.

As we celebrate the 20th Anniversary of the Race for the Cure in the Nation's Capital, we will not rest until a cure is found. I urge all Members to join me in supporting H. Con. Res. 109 and honor the women and men who have lost their lives to breast cancer, and celebrate the survivors and friends who are participating in the Global Race for the Cure.

Mrs. CAPPS. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOLDEN). The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 109.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. CAPPS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SUPPORTING MENTAL HEALTH MONTH

Mrs. CAPPS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 437) supporting the goals and ideals of Mental Health Month, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 437

Whereas the mental health and well-being of people in the United States is a issue that affects not only quality of life, but also the health of our communities;

Whereas the stigma associated with mental health continues to persist;

Whereas more than 57,000,000 people in the United States suffer from mental illness;

Whereas approximately 1 in 5 children and adolescents has a diagnosable mental disorder;

Whereas more than a quarter of our troops suffer from psychological or neurological injuries sustained from combat, including major depression and post-traumatic stress disorder;

Whereas more than half of all prison and jail inmates suffer from mental illness;

Whereas major mental illness costs businesses and the United States economy over \$193,000,000,000 per year in lost earnings;

Whereas untreated mental illness is a cause of absenteeism and lost productivity in the workplace;

Whereas in 2006, over 33,000 individuals committed suicide in the U.S., nearly twice the rate of homicide;

Whereas suicide is the third leading cause of death among people between the ages of 15 and 24;

Whereas in 2004, individuals age 65 and older comprised only 12.4 percent of the population but accounted for 16.6 percent of all suicides, and the rate of suicide among older people in the United States is higher than for any other age group;

Whereas 1 in 4 Latina adolescents report seriously contemplating suicide, a rate higher than any other demographic;

Whereas studies report that persons with serious mental illness die, on average, 25 years earlier than the general population; and

Whereas it would be appropriate to observe May 2009 as Mental Health Month: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of Mental Health Month in order to place emphasis on scientific facts and findings regarding mental health and to remove stigma associated therewith;

(2) recognizes that mental well-being is equally as important as physical well-being for our citizens, our communities, our businesses, our economy and our country;

(3) applauds the coalescing of national and community organizations in working to promote public awareness of mental health and providing information and support to the people and families affected by mental illness; and

(4) encourages all organizations and health practitioners to use Mental Health Month as an opportunity to promote mental well-being and awareness, promote access to care, and support quality of life for those living with mental illness.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California

GENERAL LEAVE

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in strong support of House Resolution 437, supporting the goals and ideals of Mental Health Month. I would like to thank my colleague Congresswoman NAPOLITANO for her leadership on this issue. This resolution underscores the importance of mental health for the overall well-being of Americans, the health of our communities and the Nation's economic strength. It's an opportunity to commend the important work of health practitioners who, together with national and community organizations, are so dedicated to the promotion of mental health. These practitioners, these organizations, work tirelessly to improve awareness of mental health issues. As a nurse, I especially welcome this opportunity to recognize the contributions of so many of my colleagues.

Over 57 million Americans suffer from mental illness. Mental illness is the leading cause of disability in our Nation; and when left untreated, mental illness is a leading cause of absenteeism and lost productivity in the workplace. This resolution knows that mental illness disproportionately affects a number of groups, including the elderly, adolescents, young adults, minorities and now, most especially we note, our troops returning home from combat. Despite the prevalence of mental illness in our society, this resolution appropriately highlights the stigma still associated with many of these conditions and that the stigma persists. Even though we have passed mental health parity legislation, we have so much more work to do to fully realize equal benefits for mental illness prevention and treatment. For this very reason, it is important to support the goals and ideals of Mental Health Month while also working to reduce the stigma associated with mental illness.

I urge my colleagues to join the bipartisan sponsors of this bill in supporting Mental Health Month.

Mr. Speaker, I reserve the balance of my time.

Mr. TERRY. Mr. Speaker, I yield myself as much time as I may consume.

I, too, rise in support of House Resolution 437, acknowledging the month of May as National Mental Health Month.

Mental health has been recognized by Congress for over 50 years and has continued to raise awareness in our communities and lower the stigma associated with mental disorders. I would like to express my gratitude to the national and community organizations working to promote public awareness of mental health and providing the proper information for families affected by mental illness. Your work is critical to increasing the quality of life for those with mental illness. I would like to thank the author of the resolution, Mrs. GRACE NAPOLITANO, who was a classmate of mine, for her leadership in helping Americans while addressing



mental disorders. I encourage all of my colleagues to vote in favor of this resolution.

I reserve the balance of my time.

Mrs. CAPPS. Mr. Speaker, it's a pleasure to yield to the author of this legislation, our colleague from California (Mrs. NAPOLITANO) as much time as she may consume.

Mrs. NAPOLITANO. I thank the gentlewoman from California.

I certainly am very grateful that this has been put on the agenda, and I'd certainly like to thank Chair WAXMAN and Ranking Member BARTON of the Energy and Commerce Committee for promoting this resolution.

Every year we recognize in the United States May as the National Mental Health Month. Now today with House Resolution 437 we do so with great joy and sometimes with great trepidation. Mental health is an important issue that deserves attention year round. For too long there's been an associated stigma with mental health. You don't want to talk about it. You don't want to hear it. You don't want to see it. But we must continue to work to remove the stigma, the barrier to knowledge, to make more awareness available and increase access to mental health services both to our military and also to our young men and women, whether it's at the schools, at the universities, in the different areas where it's more prevalent. We have found that early detection, intervention and assistance is very key to being able to have productive citizens in this area. Our U.S. Surgeon General has estimated that over 57 million Americans suffer from mental illness, and it affects everybody. It crosses boundaries. It does not rise to gender or political parties. It is affecting everybody. It does not discriminate.

One in five children in the United States has a mental disorder. This is according to the U.S. Surgeon General's report. And fewer than 20 percent of these children receive the mental health services they desperately need.

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Seventy to ninety percent of those treated do experience reduction of symptoms. So we know treatment is very effective. We just know that we don't have sufficient funding to allow for that treatment to be made available to everybody that needs it. And based on the Surgeon General's report, suicide is the third leading cause of death of young people ages 10 to 24. We are losing a lot of youngsters who will not have an opportunity to provide us with their knowledge, expertise and support in the future years of America.

Mental illness also disproportionately affects minorities. In 1999, a study done called "The State of Hispanic Girls in the United States" said one in three was reported considering suicide in ages 9 to 11. Currently the

Hispanic rate for young girls remains the highest. Although it has been lowered somewhat, it still remains the highest percentage in the United States of attempted suicides.

And a new study just recently revealed that fifth-graders who believe they have experienced racial discrimination are at increased risk for depression, attention deficit disorder and other mental health problems. And unfortunately, Hispanics are three times more likely to have those symptoms. And blacks, African Americans, are twice as likely to be affected by these symptoms.

Then we go into our troops, our soldiers, our returning veterans. More than one in five Iraq and Afghanistan veterans will suffer from mental health conditions, whether it is PTSD, depression, even traumatic brain injury. There is increased news coverage on this. It happens every day. We hear and we see the reports about the effect it has on some of our men and women who have gone and served two, three, four and sometimes as many as five deployments. We continue to bring that to the forefront because we owe those servicemen and women the ability to be able to assimilate back into society and help them by delivering mental health services that they will desperately need not 1 month, not 5 months, maybe not years, but maybe somewhere along the line they are going to be able to have somebody help them out.

We must educate ourselves. We must educate our families. We must educate our loved ones what may happen to a returning veteran, how to recognize it and how to refer them for help and assistance in being able to deal with the symptoms that will not enable them to keep a job and be able to be productive citizens. They need to learn the symptoms of post-traumatic stress syndrome.

Families are also impacted, wives, the children, the separation, the long separations of the father or the mother, whatever the case may be, from their parent, the primary care providers and all physicians, nurses, psychologists and psychiatrists must also learn how to be able to recognize PTSD, which is a little bit separate than trauma, to ensure that all these men and women receive the care they need. The most common problem in the military culture, of course, is the fear of how this will impact their military career. And I'm glad to say that some of our military leaders are beginning to recognize that this is an important way to be able to help their men and women in service remain in service and be a part of their troops or their units. And we must continue to bring that forth and be able to assure them that they will not lose their ability to be able to be promoted.

We must train those military leaders and educate them, the doctors, the

corpsmen and the nurses on how to treat PTSD and ask the soldiers to identify signs and symptoms of it with mild TBI, traumatic brain injury, to reinforce the collective responsibility to take care of each other. All of us must work together to ensure our troops, who have given so much, are taken care of. And at home, our economy, as pointed out by my colleague, Mrs. CAPPS, has caused struggle. So have our minds. The recession has taken a toll on our families. Economic uncertainty is causing stress, anxiety and depression. The worrying about losing their homes or their jobs, worrying about the children and the retirement, if they are going to be able to retire or has their retirement fund gone somewhere.

It affects not only the quality of life but also our U.S. economy. Major depression is the leading cause of disability in the United States. The National Institute of Mental Health reports that serious mental illness costs the Nation at least \$139 billion a year in lost earnings alone. So we must continue to have businesses know that including them in the health provision of services will help them be able to cut down on lost productivity in other areas. Again we must remove the stigma. We must remove the barrier to knowledge and bring more awareness and increase mental health services. Again, early detection and intervention and assistance is key.

I encourage all my colleagues to support House Resolution 437 to recognize May as Mental Health Month. We all know of someone who suffers from some kind of debilitating disorder. Even women with breast cancer; knowing that they have an issue with cancer is disabling. We must recognize also scientific facts and findings, increase awareness of services and how it affects the quality of life, the health and well-being of our communities and our economic stability. Let's work together to improve our lives and ask for support of House Resolution 437.

Mr. TERRY. We greatly appreciate the gentlelady from California's comments. And it was very striking that out of the age group of ninth-grade to eleventh-grade young ladies in that demographic that one in three would contemplate suicide. That is just stunning.

The Energy and Commerce Committee has a real asset on mental health as well as an advocate for treatment, awareness and education in the gentleman from Pennsylvania who is our resident psychologist on the committee. We use him a great deal.

And I would yield as much time as he may consume to the gentleman from Pennsylvania (Mr. TIM MURPHY).

Mr. TIM MURPHY of Pennsylvania. I thank the gentleman from Nebraska. And, Mr. Speaker, I also want to thank my friend and colleague from California, GRACE NAPOLITANO, who has

been a great advocate. And I'm pleased to serve with her as leaders on the Mental Health Caucus. Her passion for working to bring awareness to our Nation and more treatment to those with mental illness is truly commendable and admirable.

With 57 million people in this country suffering from mental illness, it is no small problem. With one in five children and adolescents, with somewhere between 17 percent to 24 percent of our returning soldiers affected with mental illness, it is of great concern to us. Unfortunately, the problem that so often comes up with mental illness is not that it is not diagnosable, for it is. It is not that it is not treatable, for it is very treatable. The problem is for so many, the chosen treatment and approach to mental illness is denial. What we do is we deny its significance, we deny its existence, and therefore we deny the treatment to so many.

In some ways, we have not advanced beyond those Puritanical days of the Salem witch trials, where prejudice haunts the ability to get help, so people who have need of mental health treatment avoid it, families are not supportive of it, employers oftentimes will dismiss employees without understanding what it is, and quite frankly even here in Congress people have an awareness that is, well, dated, to say the least, when we do not understand that the way we need to approach mental illness is to vigorously approach it and treat it.

In the workplace, when mental illness is something that is part of someone's treatment insurance plan, we find that it actually saves money for employers because those employees get back to work. When we find that employees are denied mental illness treatment, and may I also add Medicare for the longest time also did not cover mental illness treatment, we find people worse. People who have chronic illness have twice the risk of mental illness. People with chronic illness, which is 75 percent of our health care cost, have twice the risk of mental illness. And yet for many years, Medicaid didn't cover it, and many insurance plans still do not. When you have a chronic illness and you have mental illness combined together, the health care costs double. They double. And it is important that we treat this with all of the tools possible.

Unfortunately, many times mental illness is treated only by pharmaceutical approaches. Some 75 percent of mental illness drugs are prescribed by nonpsychiatrists. That is unfortunate because I'm sure that many heart surgeons with their cardiac patients would not be very happy if noncardiologists treated the heart patients. And it goes on. But unfortunately when insurance plans do not pay for it, that is the only recourse.

There is one particular group of folks suffering from mental illness that have

been mentioned a couple of times here, and that is our returning veterans from Iraq. Initial studies have suggested that some 17 percent of combat veterans may suffer from post-traumatic stress disorder. More recent studies suggest that of those who are coming back who actually experienced combat, those numbers may be as high as 24 to 25 percent. The military has made remarkable advances in dealing with suicide and depression and post-traumatic stress disorder in our returning soldiers, and with good reason. Right now, more soldiers die from suicide than from combat. It is also something that is contributing to those soldiers who have returned who have some mental health problems may actually engage in highly risky behavior, driving fast, more drinking and more drugs, which leads to further problems for families and more undetected mental illness.

The Navy, for example, has established programs where they actually send teams of Navy psychologists and sociology workers out to see where they can return with the veterans and work with them while they are onboard ship, helping to identify problems, screen them and get them involved with the help they need. The Army is also advancing in this, as the Marines and the Air Force, and that is good, because over the last couple of centuries in our country, if you look at the pictures, the photographs, the drawings and the paintings of our military, the ships have changed, the uniforms have changed, the guns have changed and the weapons have changed. But the soldiers have remained the same. Over the last century, we referred to such things as "combat fatigue" or "battle fatigue." And for the longest time, soldiers were treated with "three hots and a cot" as a method of treatment. But now we are recognizing that teams of mental health professionals in the theater of combat are very helpful.

Recently the combat stress center in Iraq at Camp Liberty came literally under some fire, however, when one person they were treating allegedly walked into this combat stress facility and opened fire. He had had his weapons taken away, but then on his way back after he was dismissed from there and told to come back later, he took someone's gun, came back and opened fire. Two therapists and three people waiting for care were all killed. It is worth noting that one of those people waiting for care stood up and tried to stop him from killing others, and that person was killed in the process. So even in the course of trying to get some help, we have somebody who stood as the hero.

I had mentioned early on that denial is a huge problem, and it is important that all of us understand post-traumatic stress disorder and acute anxiety disorders in our returning veterans. Because whether you are a family mem-

ber, you are a friend or you are a member of the American Legion or the VFW, it is the responsibility of all of us to look out for these returning citizens and help them get the help they need.

Watch for these symptoms:

Recurrent and intrusive distressing recollections of an event, including images, thoughts and perceptions such as seeing a comrade's dead body or experiencing flashbacks of the sounds of explosions and screaming;

Recurrent and distressing nightmares of the traumatic event;

Intense psychological distress when exposed to cues or reminders of any aspect of the trauma, such as the backfiring of a car or an explosion that could set someone off again;

Extreme physical reactivity, such as racing pulse, sweating, and intense fear, when exposed to any cues or reminders of the trauma. This could even be set off in Vietnam veterans or World War II veterans when they watch a program or a movie on television;

Persistent avoidance of any reminder, not wanting to talk about it, avoiding any thoughts, activities, places or people, of the traumatic event;

A general numbing in responsiveness, such as the person feels detached and estranged from others and may have little range in emotion and few strong feelings. Oftentimes this is a concern raised by spouses when their spouse returns home from combat, and they say he or she is just not the same anymore. The emotions are blunted. They have less ability to show the depth of emotions, less interest in the children.

They may also have a sense of a foreshortened future; having come close to death, they may see their own death and problem as imminent and may engage in more risky behavior.

They may have hypervigilance. They may be constantly scanning the environment for danger, even when there are no problems. They may be driving along the highway, if they were perhaps the driver of a Hummer in Iraq, they may be constantly scanning the road to see, are there problems ahead?

They may have an exaggerated startle response, especially to sudden movement or loud noises. They may have poor concentration, irritability and anger. And anger is an important symptom that we need to pay attention to for depression and anxiety disorders and post-traumatic stress disorder for veterans. And of course they may have disturbances in one's ability to sleep.

Many times the veteran will work towards self-medicating, alcohol and drugs, and, of course, keep that quiet from others too. They may find themselves not sleeping at night but having a job where they sleep a lot during the day so they can hide this from others.

But what is so important, as I said in the outset, is that denial is not appropriate treatment, and that the rest of

us do not get engaged in denial too. It is absolutely essential that we support our returning veterans no matter what. Regardless of someone's political views, we need to stifle our own comments and understand they were doing what we asked them to do. They were following orders.

□ 1215

And, quite frankly, they were doing it pretty darn well. And they accomplished their mission, and we're happy to see them returning home.

But, that being said, the silent battle that our veterans continue to fight, that invisible, silent battle that goes on inside their own heart and in their own mind is something that we need to be reaching out and paying attention to. And as we look at Mental Health Month, as we have just come back from Memorial Day, as we continue to see the yellow ribbons fly from trees and posts in every hometown of America as our soldiers return home, as we continue to send our notes and our e-mails and our care packages to our veterans, let us remember that we must continue to reach out for the veteran who has borne the battle, for their orphans and for their spouses and for those persons who have come back with that silent problem of the posttraumatic stress disorder and other disorders. We will work with them. We will help them. And God bless our veterans. And again, I thank the sponsor for this bill on Mental Health Month.

Mr. TERRY. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania (Mr. TIM MURPHY) may control the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mrs. CAPPS. Mr. Speaker, it is with great honor that I now yield as much time as he may consume to our colleague from Rhode Island, PATRICK KENNEDY, who has championed this issue for as long as he has been a Member of Congress and really made us very much aware of the need, and then the passing of the resolution for the legislation for mental health parity. And I now yield time.

Mr. KENNEDY. Mr. Speaker, I would like to thank the gentlelady from California (Mrs. CAPPS). Thank you for all your good work on health care. As a former nurse, you know full well of the challenges of making sure that we have adequate supply of providers and how important it is for us to address the needs of those with mental illness by making sure that there are enough providers out there who are adequately educated in the field of mental illness. And I appreciate your cosponsorship on the Child Work Force Reduction Act, which will address the need of bringing in more child and adolescent mental health workers into the workforce field

to deal with children and adolescents who need mental health care, because right now we're at a critical stage in this country with respect to the need for our children to gain access to providers willing to take care of those special needs that children have in the area of mental health. And nurses and doctors are in great need for those reasons. And LOIS CAPPS has been really one of the champions in the area of trying to provide greater numbers of nurses and professionals who can take on the enormous challenges ahead.

In addition to that, Mrs. CAPPS, you've been very helpful in recognizing the enormous boom that's going to happen with our aging population. We're going to have a baby boom generation that's going to become a senior boom generation, where so many of our baby boomers are going to be elder boomers. They're going to be elderly, and the demand for new nurses is going to be extraordinary. And we don't have, right now, the necessary populations of nurses to deal with that.

Many people write off senior citizens' dementia, if you will, as part of growing older. They say, Oh, Grandma. Well, that's Grandma. That's the way they are when they're nonresponsive.

Well, frankly, I certainly don't want to be treated that way when I grow old, and I dare say anybody watching this doesn't want to be treated that way when they grow old. And the fact of the matter is, for most older people, it isn't dementia that leaves them isolated and with their heads down; it's depression. It's depression. And who wouldn't be depressed if you're a senior citizen and you've lost your life mate after over 40 years of marriage, if you've had to pick up and sell your house because you've no longer been able to afford it any longer, if your children and grandchildren are scattered all across the country and very rarely visit you any longer, if now you're confined to an elderly-only high rise. I would imagine that would be pretty depressing for a lot of elderly people, and for many of them, it is depressing. And so we are working on the Positive Aging Act, which will address the needs of our senior centers and the needs of our seniors with regards to that.

But I also want to acknowledge my good friend and colleague, GRACE NAPOLITANO, who has been so wonderful in her efforts to lead the charge of the Mental Health Caucus. And GRACE NAPOLITANO has been a terrific champion for making sure that our young people are also included in on these issues of mental health because she has seen in her own neighborhoods, that we may talk about war overseas and the posttraumatic stress that our veterans suffer when they go into harm's way, and they come back and they're suffering from reconciling all this violence to the new world they're coming

back to, and they have to readjust to the main life of everybody else, and they have to somehow come home, and a lot of them suffer from PTSD. Well, you can imagine, these are adults. These are fighting men and women, the men and women of our Armed Forces, and they have adult coping mechanisms. And even adults, with adult coping mechanisms, have posttraumatic stress disorder.

So imagine what a child is facing in a barrio in East Los Angeles, or in a borough in Upper Manhattan, or a neighborhood in South Providence, or Pawtucket, Rhode Island, imagine the coping mechanisms that the children are going to need to have in those areas when they see violence in their own hometowns. In a very real way, they are suffering from posttraumatic stress, while not even having to go overseas to go see a war because the war that they are seeing is in their own backyard. They are seeing gunshots in their own backyard on a regular basis.

We have 36,000 people killed by firearms in this country every year, a far cry from the number of people that have been killed in action over in Iraq.

You know, this is a situation where it's not a small wonder that there are so many kids in this country who are acting out and who are having trouble with their own mental health needs and posttraumatic stress.

So, Mr. Speaker, we have a lot to do with addressing the mental health needs of our people, both seniors and children and, of course, those who suffer from serious mental illnesses at the same time.

So this is Mental Health Week. We need to raise awareness of mental health. And the most crucial part of destigmatizing mental health is for people to go online to any of the National Institutes of Health, National Institute on Drug Abuse, National Institute of Mental Health and so forth, National Institute on Alcoholism, and look up the studies, because you will see the biochemical makeup and breakdown of the brain and how it operates differently for those who are at high risk of being alcoholics, or at high risk of having a propensity to have a bipolar disorder or not, or having depression, or those people who may have other diagnosable mental disorders. It's quite striking that what you'll see in these videos that are a result of these MRIs, these new x-rays of the brain, that you cannot dismiss the notion that mental illnesses are physical illnesses. And we know that for a fact, because if you simply give people who were in total depression before certain medications, it's amazing how they blossom in their abilities to now live more functional lives after they've taken the medications.

So why we would ever treat the brain unlike any other organ in the body is beyond me. The brain is an organ in

the body just like every other organ of the body. But unfortunately, in this country, in our health care system it's treated as if it's something separate.

What we need to do in health care reform is make sure the brain is treated holistically, as part of the body. And in any health care reform, it's got to be reimbursed holistically in terms of the rest of the health care package.

I thank Representative NAPOLITANO for introducing this resolution in support of the goals and ideals of Mental Health Month. I rise today to speak to those goals, and the need to integrate them into health care reform.

According to the Institute of Medicine, together, mental and substance-use illnesses are the leading cause of combined death and disability for women of all ages and for men aged 15–44, and the second highest for all men. When appropriately treated, individuals with these conditions can recover and lead satisfying and productive lives. Conversely, when treatment is not provided or is of poor quality, these conditions can have serious consequences for individuals, their loved ones, their workplaces, and the nation as a whole. Tragically, individuals with serious mental illness have a life expectancy of 25 years less than the general population.

The World Health Organization defines health as “a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity.” As we work to reform and reincentivize our health care system, we must ensure that it is a whole-body initiative, recognizing that mental health is integral to overall health, and that optimal overall health cannot be achieved without this.

With this in mind, we must diligently work to ensure that when crafting health care reform, we create a health care system that treats the whole person. Health care reform policy should support and encourage practices that fully integrate mental health into primary care. All providers, and in particular primary care doctors, must be trained and adequately reimbursed, for providing comprehensive and coordinated care—care that approaches health as a whole body initiative. Primary care physicians must be given the resources needed to adequately address the mental health needs of their patients. Innovations, like medical homes, are working to improve quality and contain cost, but the primary care workforce is not sufficient to meet the country's needs.

Over the last two decades, fewer medical students are choosing primary care for a number of reasons, including reimbursement issues. Payment policies do not adequately compensate doctors for the time it takes to coordinate care, provide case management, or address mental health and substance abuse issues in the primary care visit. Specialty providers and other physicians must likewise have training on mental health and substance abuse problems and be trained to provide collaborative care and case management, and be reimbursed accordingly.

For the 45.7 million Americans without health insurance (a number which has grown due to the recent economic downturn), we must create an affordable, quality health care system in which all Americans are covered. Providing coverage alone, as it exists now, is

not a solution onto itself however. The coverage we provide for all Americans must include the full spectrum of evidenced-based mental health care, including both treatment and prevention services. Mental health coverage should not be subject to restrictive or prohibitive limits when formulating coverage determinations on the frequency or duration of treatment, cost-sharing requirements, access to providers and specialists, range of covered services, life-time caps, and reimbursement practices.

The expansion of insurance coverage is not the same as ensuring access. Lack of insurance is only one of the many barriers to care for those seeking mental health services. Those with coverage also face financial barriers to care due to prohibitive cost sharing requirements, limited access to providers, and denials of coverage for mental health conditions. Once all Americans have health insurance, coverage must provide for access to affordable, high quality care. Current barriers to care within the health insurance system must be eliminated, and mental health coverage must include access to the full spectrum of evidenced-based care for both prevention and treatment of mental health conditions. This includes, but is not limited to, access to and choice of doctors who approach health as a whole body initiative.

Other reform measures necessary to create a system best posed to treat the health of the whole body include: instituting rules for standardized payments; ensuring that clinical necessity is the determinant of patient care; replacing underwriting with a “community rating” system that would set premiums based on age and location instead of health status of the individual; requiring that any denials of coverage be transparent and subject to a meaningful and independent review process; promoting and incentivizing mental health prevention programs; integrating mental health consumers and providers in emerging health information technology systems; requiring the regular use of standardized, objective and uniformly applied clinical outcome measures; and improving coordination among social service sectors.

Further, in order to truly achieve the above stated principles, we need health care reform that addresses the underlying, systemic issues in our current system. We are the only industrialized country that treats health care like a market commodity instead of a social service. Thus, care is not distributed according to medical need but rather according to ability to pay. Cost savings cannot be discussed without acknowledging that 31 percent of all health care expenditures in the U.S. are administrative costs. The average overhead for private insurance in this country is 26 percent, compared to 3 percent for Medicare. The majority of doctors and Americans support a single-payer health care system, yet this option has been dismissed by many policymakers as unrealistic. As elected Representatives of this democratic system, we are responsible for representing the views of the public. Therefore, it is imperative that we keep this option in the discussion of health care reform.

I hope to work together with my colleagues to institute these critical changes to our nation's health care system. The American people deserve nothing less.

Mr. TIM MURPHY of Pennsylvania. Mr. Speaker, I would just like to add a few more comments here. We have no more speakers, and I'll close with that. But it has to do with this.

As I discuss the issues of our returning soldiers, it is important I add this element too, and that is that we need to reflect to them a tremendous sense of hope. Many times soldiers in theater and after they return home are hesitant to talk with anybody about their symptoms for two fears: one, if they're in theater or combat, they worry that it will prevent them from going back to their unit. If their deployment is ending, they are worried that it will delay them from coming home; and they also are concerned that it will affect their promotion, their advancement, their continuation in the military, and they don't want to let their fellow soldiers down or themselves.

What our military is working on, however, is making sure they understand that our duty as mental health professionals is to make sure they're back to full form, and, in fact, that is something that's a change of how the military has handled this. Whereas, in the past someone would be pulled out of their unit if they could, now the work is to get them back on their feet as fast as possible, but making sure they're not adding risk to their fellow soldiers.

Along those lines, it's important we send the same message of hope, whether it is someone who is a veteran in battle, or perhaps a veteran, as my friend from Rhode Island just pointed out, someone who has faced the same sort of problems in their neighborhood.

There are also genetic aspects of mental illness that may have very little to do with environment. There are parts that have to do with other neurological problems that occur.

Overall, our advance in the mental health field has grown tremendously. It may be that you cannot necessarily do a CT scan or a x ray or a blood test to diagnose mental illness, but it is diagnosable. It is treatable. And we have to make sure that part of this resolution for Mental Health Month and the goals and ideals is to help our Nation understand that it is diagnosable, it is treatable. We need to come to grips with it and deal with this in a way that understands that the science and the technology and the medicine behind mental health treatment gives a lot of hope for the future.

And with that, Mr. Speaker, I yield back the balance of my time.

Mrs. CAPPS. For all the reasons that have been cited by the many speakers, and in strong support of House Resolution 437, I urge my colleagues to support this resolution.

Mr. PAUL. Mr. Speaker, I certainly support efforts aimed at removing the stigma associated with mental health, increasing public awareness of the need to support those with

mental health problems and their families, and the other goals of Mental Health Month. However, I am concerned that certain language in H. Res. 437 appears to endorse all of the recommendations of the New Freedom Commission on Mental Health, even though certain of the commission's recommendations threaten individual liberty and the wellbeing of American children.

In particular, the commission recommended that the federal and state governments work toward the implementation of a comprehensive system of mental-health screening for all Americans. The commission recommends that universal or mandatory mental-health screening first be implemented in public schools as a prelude to expanding it to the general public. However, neither the commission's report nor any related mental-health screening proposal requires parental consent before a child is subjected to mental-health screening. Federally-funded universal or mandatory mental-health screening in schools without parental consent could lead to labeling more children as "ADD" or "hyperactive" and thus force more children to take psychotropic drugs, such as Ritalin, against their parents' wishes.

Already, too many children are suffering from being prescribed psychotropic drugs for nothing more than children's typical rambunctious behavior. According to Medco Health Solutions, more than 2.2 million children are receiving more than one psychotropic drug at one time. In fact, according to Medco Trends, in 2003, total spending on psychiatric drugs for children exceeded spending on antibiotics or asthma medication.

Many children have suffered harmful side effects from using psychotropic drugs. Some of the possible side effects include mania, violence, dependence, and weight gain. Yet, parents are already being threatened with child abuse charges if they resist efforts to drug their children. Imagine how much easier it will be to drug children against their parents' wishes if a federally-funded mental-health screener makes the recommendation.

Universal or mandatory mental-health screening could also provide a justification for stigmatizing children from families that support traditional values. Even the authors of mental-health diagnosis manuals admit that mental-health diagnoses are subjective and based on social constructions. Therefore, it is all too easy for a psychiatrist to label a person's disagreement with the psychiatrist's political beliefs a mental disorder. For example, a federally-funded school violence prevention program lists "intolerance" as a mental problem that may lead to school violence. Because "intolerance" is often a code word for believing in traditional values, children who share their parents' values could be labeled as having mental problems and a risk of causing violence. If the mandatory mental-health screening program applies to adults, everyone who believes in traditional values could have his or her beliefs stigmatized as a sign of a mental disorder. Taxpayer dollars should not support programs that may label those who adhere to traditional values as having a "mental disorder."

In order to protect America's children from being subject to "universal mental screening" I have introduced the Parental Consent Act

(H.R. 2218). This bill forbids federal funds from being used for any universal or mandatory mental-health screening of students without the express, written, voluntary, informed consent of their parents or legal guardians. H.R. 2218 protects the fundamental right of parents to direct and control the upbringing and education of their children.

Ms. WATERS. Mr. Speaker, I rise in support of House Resolution 437, providing full support of the goals and ideals of Mental Health Month, which is recognized annually in May. I commend my colleague, and fellow Californian Rep. NAPOLITANO, for acknowledging the importance of this measure and presenting it before the House.

The first Mental Health Act was signed in 1946 after it had been determined that soldiers who fought in World War II had returned with severe mental health issues. Still today a significant portion of individuals who suffer from mental illness are troops who suffer from depression and post-traumatic stress. Shortly after the act was signed the first Mental Health Week was developed. Eventually Mental Health Week evolved into the Mental Health Month program that we are celebrating today.

Legislation regarding mental health has been developed in the past to prevent health care discrimination. Patients experienced grave inequalities because mental health was not considered a legitimate issue, as too often mental health is viewed as a minuscule issue in comparison to physical health. Many people may not know that more than 57,000,000 individuals in the United States suffer from mental illness and H. Res 437 will not only raise awareness of mental health conditions but also aid citizens in their ability to combat stress to promote a healthy lifestyle.

Unfortunately, every year mental health illnesses go unrecognized and untreated, and Mental Health Month was developed in an effort to prevent such circumstances. This May, Mental Health America has promoted a National Children's Mental Health Awareness Day, to educate the general public about the realities of mental health. Mental health illnesses affect all age ranges, and House Resolution 437 lends its full support for communities to promote positive youth development, and help families cope during times of hardship. The United States Department of Health and Human Services utilizes necessary funds and manpower to advocate for the rights and services of mental health patients. It will continue to provide Family and Community Support Programs to aid those adults and children with serious mental illnesses.

Mr. Speaker, this measure is particularly important to the well-being of our citizens and I'm pleased to add my voice in support for this legislation. I will work diligently with my colleagues to ensure that the goals and ideals of Mental Health Month are recognized as notable issues. This is a significant step in raising awareness, and promoting healthy families and communities.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of House Resolution 437 which recognizes the goals and ideals of mental health month.

Mental health issues affect many members of the population, altering their lives and the lives of their families. Over 57 million Amer-

ican citizens suffer from mental illness, and it is one of the leading causes of disability in our nation. In addition, people who suffer from serious mental illnesses die on average 25 years earlier than the general population, many of them from diseases that could be treated if diagnosed early.

Approximately 6.7 percent of the population is affected by Major Depressive Disorder, and more than 90 percent of people who commit suicide suffer from a depressive disorder before they take their lives. Post Traumatic Stress Disorder has become one of the most serious mental health illnesses, with over a quarter of all U.S. troops suffering from the disorder. H. Res. 437 stresses a desire on the part of either those suffering from mental illness, or the families of those suffering, to seek help.

As a registered nurse, I have seen firsthand the affects that mental illness has on individuals and their families, and I understand fully the importance of maintaining and advocating for mental health. This is an issue that affects many of us in some way, and we need to ensure that there is no stigma attached to mental illness so that those suffering can and will get the help they need. I ask my fellow colleagues to join me in recognizing the goals and ideals of Mental Health Month and supporting this Resolution in order to raise awareness for mental health issues.

Mrs. CAPPS. I yield back.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the resolution, H. Res. 437, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1230

PROVIDING FOR CONSIDERATION OF H.R. 31, LUMBEE RECOGNITION ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 1385, THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT OF 2009

Mr. CARDOZA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 490

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the

bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources; and (2) one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1385) to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. CARDOZA) is recognized for 1 hour.

Mr. CARDOZA. Thank you, Mr. Speaker.

For the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule today is for debate only.

#### GENERAL LEAVE

Mr. CARDOZA. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on House Resolution 490.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CARDOZA. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 490 provides for consideration of H.R. 31, the Lumbee Recognition Act, under a closed rule, and also for separate consideration of H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009, under a structured rule. Both bills are debatable for 1 hour, each equally divided and controlled by the chairman and ranking member of the Committee on Natural Resources. The rule for H.R. 1385 makes in order two amendments listed in the Rules Committee report. Each amendment is debatable for 10 minutes. The rule also provides for a motion to recommit with or without instructions on both bills.

Mr. Speaker, the two bills before us today will right several wrongs in our country's history and bring closure to the issue of full Federal recognition of the Lumbee Indians of North Carolina and six Indian tribes in Virginia.

Since the late 1800s, the Lumbee Tribe has been seeking Federal recognition despite the fact that congressional hearings and the Department of the Interior's studies have consistently concluded that the Lumbees are a distinct, self-governing Indian community. In fact, the Lumbees were first recognized as a tribe in 1885 by their home State of North Carolina. In that time, however, various bills to recognize the tribe failed due to opposition from the Department of the Interior.

Most importantly, in 1956, Congress formally acknowledged the Lumbee Tribe with passage of the Lumbee Act. However, it was passed during a period of Federal Indian policy known as the Termination Era. As such, while Congress acknowledged the Lumbee, it effectively ended its relationship with the tribe at the same time by denying them access to the benefits and privileges that accompany Federal recognition.

This termination has subsequently prevented the Lumbees from receiving recognition from the Department of the Interior which has maintained that only Congress can restore that relationship.

A similar injustice has occurred in Virginia. Records exist documenting a relationship between the six Indian tribes, local governments, and the Commonwealth of Virginia for centuries. It has long been established that ancestors of these six tribes resided in Virginia when the first white

settlers landed in Jamestown, yet their history is fraught with deliberate discrimination and document destruction.

During the Civil War, most local records and tribal documentation were destroyed in fires at government buildings. At that time, many Indians began adopting Anglo-American names, language, and customs to conceal their tribal identity and ensure their survival.

In addition, Virginia's 1924 Racial Integrity Act—pushed by a noted white supremacist—was responsible for the deliberate and systematic destruction of over 46 years of any records that traced and recorded the existence of vast Indian tribes.

The Department of the Interior has generally not questioned the tribes' ancestry or tribal government status. But despite the wealth of documentation that exists for each tribe, it is not clear whether they could obtain proper documentation to be acknowledged by the Bureau of Indian Affairs. I would add that each of these six tribes was recognized by the Commonwealth of Virginia between 1983 and 1989.

Mr. Speaker, the circumstances surrounding all of these tribes are certainly unique and warrant special attention by Congress. Congress has passed bills recognizing all of these tribes several times, including last session. The Lumbee bill passed with strong bipartisan support while the Virginia Tribes bill passed by voice vote.

I ask my colleagues on both sides of the aisle to once again support these long-overdue bills.

I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

First, let me say how great it is to see you in the Chair, Mr. Speaker. I would like to express my appreciation to my good friend from California, my colleague, Mr. CARDOZA, for yielding me the customary 30 minutes.

Mr. Speaker, this rule actually provides for the consideration of two problematic bills—H.R. 1385, which would extend recognition to six Indian tribes in the Commonwealth of Virginia; and H.R. 31, which would extend recognition to the Lumbee Tribe in the State of North Carolina. Both adopt an arbitrary and inconsistent recognition process that threatens those tribes who are already Federally recognized and upends the process for future applicants. And this rule provides for an even more problematic process.

The issue of tribe recognition—like all matters before Congress—demands clarity, fairness and transparency. The two underlying bills, unfortunately, deliver just the opposite. H.R. 1385 would extend recognition to six Virginia tribes rather than requiring that they go through the normal Federal recognition process at the Bureau of Indian Affairs.



These tribes have sought legislative action because they lack the proper documentation to complete the regular administrative process. This is due to the fact—and it was correctly pointed out by my California colleague—that they've been victims of targeted attacks in the past which resulted in the destruction of many of the very important historical documents that would have been necessary. This is a reminder, Mr. Speaker, of a very, very ugly chapter in our Nation's history, and Congress should work very carefully to address this issue.

While the situation of the Virginia tribes is difficult—and I recognize that—for the reasons I just stated, we need to consider the overall fairness of our actions. For instance, there are currently nine other tribes, nine other tribes that have fully completed their application processes and are awaiting final determinations. They have done their due diligence and deserve to have their cases addressed in the proper order. While the six tribes covered in H.R. 1385 may deserve special dispensation from the normal BIA process, questions have been raised regarding the fairness of penalizing the nine other tribes who fully completed the process and are patiently waiting in line for the determination.

The process serves a purpose: ensuring that tribal determination is fair, consistent and fully vetted. We need to think very, very carefully, Mr. Speaker, before upending that regime.

H.R. 31 is even more controversial, not least because the price tag comes to \$786 million—or, Mr. Speaker, I should say “at least” \$786 million. We know that an enactment of this bill would cost, again, at least three-quarters of a billion dollars. And I say “billion” because I know the word “trillion” is used more frequently around here tragically these days. But it would be very, very, very costly. It could balloon to an even larger level of funding.

At issue is conflicting membership estimates of the Lumbee Tribe. The Interior Department estimates it at 40,000; the tribe itself estimates it at about 55,000, a difference of nearly 40 percent. But what's more, local North Carolina media have reported that some in the tribe intend to expand its membership once this bill is enacted. They're waiting for Federal recognition and then want to increase their numbers, expanding the cost of this bill even further and pulling resources away from the long-recognized tribes.

Now, Mr. Speaker, the Lumbee Tribe, just like any other Indian tribe, should obtain Federal recognition on its merits. It may indeed deserve recognition. However, the merits are still far from clear. The last several administrations have opposed their application. The Obama administration has reversed course, but it has not offered any ex-

planation as to why. In fact, the administration does not yet have its appointees in place at the Interior Department to even articulate their reasoning.

Mr. Speaker, Congress must fully vet all of these issues and act in a clear, comprehensive way that eliminates the current confusion and restores clarity and certainty. And yet inexplicably, the rule which we're debating right now curtails the ability of Members, Republican and Democratic Members, to offer their amendments so that a comprehensive consensus solution could, in fact, be reached.

Rather than an open process which would have allowed the House to address many of these issues, the rule for the Lumbee Tribe bill is a closed rule, despite submission of the very thoughtful amendment by Mr. SHULER. It is, in fact, a bipartisan amendment. He should be allowed to bring his alternative before the House for an up-or-down vote. It's very sad that I have to stand here as a minority Member fighting for the rights of a majority Member of this institution.

Similarly, Madam Speaker, the ranking member of the Agriculture Committee, our friend from Roanoke, Virginia, (Mr. GOODLATTE) asked for an open amendment process on the Virginia bill. While two of his amendments were made in order, an open process would have allowed him to offer all of his amendments and permitted all Members to participate.

Madam Speaker, these bills have problems but this rule has a bigger problem. As happens all too often in this Democratic majority, this debate will be closed rather than open, and Members will be shut out of the process.

So I urge my colleagues to oppose the rule. We can address these very, very important issues in a more fair and balanced way.

□ 1245

With that, I reserve the balance of my time.

Mr. CARDOZA. Madam Speaker, I'd like to inquire from my friend and colleague from California if he has any further speakers.

Mr. DREIER. Would the gentleman yield?

Mr. CARDOZA. I would yield.

Mr. DREIER. I thank my friend for yielding, and, Madam Speaker, I will inform my friend that there are no other requests for time on our side of the aisle. At this juncture, I will encourage my colleagues to oppose this rule, and I yield back the balance of my time.

Mr. CARDOZA. Madam Speaker, I very much appreciate my colleague from California, and I understand that he has concerns about this process and these measures.

I would just like to remind the entire body that the Lumbee bill has, in fact,

been before the Congress before. This Congress has acted on it. Despite the claims to the contrary, Congress has traditionally taken the lead in recognizing Indian tribes. In fact, Congress has recognized 530 of the 561 Federally recognized tribes.

Despite the fact that the Department of the Interior established certain administrative procedures in 1978, Congress has stepped in and recognized tribes nine additional times due to extraordinary circumstances, much like this.

I think that this is an appropriate rule, and I think we will have an opportunity to debate the issues during the debate time that has been allotted.

I would ask my colleagues to support the rule, and I urge Members on both sides of the aisle to once again take an important step forward in correcting hundreds of years of injustice which are long overdue.

Madam Speaker, I urge a “yes” vote on the rule and on the previous question.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. TAUSCHER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 174, not voting 28, as follows:

[Roll No. 295]

YEAS—231

Abercrombie	Clyburn	Green, Al
Ackerman	Cohen	Green, Gene
Aderholt	Connolly (VA)	Grijalva
Adler (NJ)	Conyers	Hall (NY)
Andrews	Cooper	Halvorson
Arcuri	Costa	Hare
Baca	Costello	Harman
Baird	Courtney	Hastings (FL)
Baldwin	Crowley	Heinrich
Barrow	Cuellar	Herseth Sandlin
Berkley	Cummings	Higgins
Berman	Dahlkemper	Himes
Berry	Davis (AL)	Hinchee
Bishop (GA)	Davis (CA)	Hinojosa
Bishop (NY)	DeFazio	Hirono
Blumenauer	DeGette	Hodes
Bocciari	Delahunt	Holden
Boren	DeLauro	Holt
Boswell	Dicks	Honda
Boucher	Doggett	Hoyer
Boyd	Donnelly (IN)	Inslee
Brady (PA)	Doyle	Israel
Braley (IA)	Driehaus	Jackson (IL)
Bright	Edwards (MD)	Jackson-Lee
Butterfield	Edwards (TX)	(TX)
Capps	Ellison	Johnson (GA)
Capuano	Eshoo	Johnson, E. B.
Cardoza	Etheridge	Kagen
Carnahan	Farr	Kanjorski
Carney	Fattah	Kaptur
Carson (IN)	Filner	Kildee
Castor (FL)	Foster	Kilpatrick (MI)
Chandler	Frank (MA)	Kilroy
Childers	Fudge	Kind
Clarke	Giffords	Kirkpatrick (AZ)
Clay	Gonzalez	Kissell
Cleaver	Gordon (TN)	Klein (FL)



Kosmas	Murphy (NY)	Scott (VA)
Kratovil	Murphy, Patrick	Serrano
Kucinich	Murtha	Sestak
Langevin	Nadler (NY)	Shea-Porter
Larsen (WA)	Napolitano	Sherman
Larson (CT)	Neal (MA)	Sires
Lee (CA)	Nye	Skelton
Levin	Oberstar	Slaughter
Lewis (GA)	Obey	Smith (WA)
Lipinski	Olver	Snyder
Loeb sack	Ortiz	Space
Lofgren, Zoe	Pallone	Speier
Lujan	Pascarell	Spratt
Lynch	Pastor (AZ)	Stark
Maffei	Payne	Sutton
Maloney	Perlmutter	Tauscher
Marchant	Perriello	Taylor
Markey (CO)	Peters	Teague
Markey (MA)	Peterson	Thompson (CA)
Marshall	Polis (CO)	Thompson (MS)
Massa	Pomeroy	Tierney
Matheson	Price (NC)	Titus
Matsui	Quigley	Tonko
McCarthy (NY)	Rahall	Towns
McCollum	Rangel	Tsongas
McDermott	Reyes	Van Hollen
McGovern	Richardson	Velázquez
McIntyre	Rodriguez	Visclosky
McMahon	Ross	Walz
McNerney	Rothman (NJ)	Wasserman
Meek (FL)	Roybal-Allard	Schultz
Meeks (NY)	Rush	Waters
Michaud	Ryan (OH)	Watson
Miller (NC)	Salazar	Watt
Miller, George	Sarbanes	Waxman
Mitchell	Schakowsky	Weiner
Mollohan	Schauer	Wexler
Moore (KS)	Schiff	Woolsey
Moore (WI)	Schrader	Wu
Moran (VA)	Schwartz	Yarmuth
Murphy (CT)	Scott (GA)	

## NAYS—174

Akin	Fallin	Mack
Alexander	Flake	Manzullo
Altmire	Fleming	McCarthy (CA)
Austria	Forbes	McCaul
Bachmann	Fortenberry	McClintock
Bachus	Fox	McCotter
Barrett (SC)	Franks (AZ)	McHenry
Bartlett	Frelinghuysen	McHugh
Barton (TX)	Gallegly	McKeon
Biggert	Garrett (NJ)	Mica
Bilbray	Gerlach	Miller (FL)
Bilirakis	Gingrey (GA)	Miller (MI)
Blackburn	Gohmert	Miller, Gary
Boehner	Goodlatte	Minnick
Bonner	Granger	Moran (KS)
Bono Mack	Graves	Murphy, Tim
Boozman	Griffith	Myrick
Boustany	Guthrie	Neugebauer
Brady (TX)	Hall (TX)	Nunes
Brown (SC)	Harper	Olson
Brown-Waite,	Hastings (WA)	Paul
Ginny	Heller	Paulsen
Buchanan	Hensarling	Petri
Burgess	Herger	Pitts
Burton (IN)	Hill	Platts
Buyer	Hoekstra	Poe (TX)
Calvert	Hunter	Posey
Camp	Inglis	Price (GA)
Campbell	Issa	Putnam
Cantor	Jenkins	Radanovich
Cao	Johnson (IL)	Rehberg
Capito	Jones	Reichert
Carter	Jordan (OH)	Roe (TN)
Cassidy	King (IA)	Rogers (AL)
Castle	King (NY)	Rogers (KY)
Chaffetz	Kingston	Rogers (MI)
Coble	Kirk	Rohrabacher
Coffman (CO)	Kline (MN)	Rooney
Cole	Lamborn	Roskam
Conaway	Lance	Royce
Crenshaw	Latham	Ryan (WI)
Culberson	LaTourette	Scalise
Davis (KY)	Latta	Schmidt
Deal (GA)	Lee (NY)	Sensenbrenner
Dent	Lewis (CA)	Sessions
Diaz-Balart, L.	Linder	Shadegg
Diaz-Balart, M.	LoBiondo	Shimkus
Dreier	Lucas	Shuler
Duncan	Luetkemeyer	Shuster
Ehlers	Lummis	Simpson
Ellsworth	Lungren, Daniel	Smith (NE)
Emerson	E.	Smith (NJ)

Smith (TX)	Thornberry	Whitfield
Souder	Tiahrt	Wilson (SC)
Stearns	Tiberi	Wittman
Stupak	Turner	Wolf
Tanner	Upton	Young (AK)
Terry	Walden	Young (FL)
Thompson (PA)	Wamp	

## NOT VOTING—28

Bean	Grayson	Ros-Lehtinen
Becerra	Gutierrez	Ruppersberger
Bishop (UT)	Johnson, Sam	Sánchez, Linda
Blunt	Kennedy	T.
Broun (GA)	Lowey	Sanchez, Loretta
Brown, Corrine	McMorris	Schock
Davis (IL)	Rodgers	Sullivan
Davis (TN)	Melancon	Welch
Dingell	Pence	Westmoreland
Engel	Pingree (ME)	Wilson (OH)

## □ 1309

Mr. YOUNG of Alaska changed his vote from “yea” to “nay.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. LOWEY. Madam Speaker, I regrettably missed rollcall vote No. 295 on June 2, 2009. Had I been present, I would have voted “yea.”

Mr. PENCE. Madam Speaker, I was unavoidably detained and missed rollcall vote No. 295 on passage of H. Res. 490. Had I been present, I would have voted “nay.”

Mrs. McMORRIS RODGERS.

Madam Speaker, on rollcall No. 295 I was unavoidably detained. Had I been present, I would have voted “nay.”

Mr. WESTMORELAND. Madam Speaker, on rollcall No. 295 I was unavoidably detained. Had I been present, I would have voted “nay.”

## GENERAL LEAVE

Mr. RAHALL. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 1385.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1385.

## □ 1311

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1385) to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond

Indian Tribe, with Mr. HOLDEN in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to rule, the bill is considered read the first time.

The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Washington (Mr. HASTINGS) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. Thank you, Mr. Chairman. I yield myself such time as I may consume.

Mr. Chairman, we are here today, over 400 years after the first English settlers landed in what became Jamestown, Virginia, to finally acknowledge a government-to-government relationship with some of the Indian tribes who met those early settlers.

While the House passed a prior version of this legislation last Congress, the bill was not considered in the Senate, so we are here again.

H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009, extends Federal recognition to the Virginia tribes that have lived in Virginia since before the settlers of Jamestown first arrived.

This bill is sponsored by our colleague, Representative JIM MORAN of Virginia, and enjoys bipartisan support, including from other Virginia colleagues, Congressman ROB WITTMAN, BOBBY SCOTT, THOMAS PERRIELLO, and GERRY CONNOLLY. I, too, am a cosponsor of H.R. 1385.

The bill is named for Thomasina “Red Hawk Woman” Jordan, whose lifelong pursuit of advancing Native American rights encompassed the promise of education for all Indians and securing Federal recognition of Virginia Indian tribes. Ms. Jordan also served as chairperson of the Virginia Council of Indians.

H.R. 1385 would extend Federal recognition status to six Indian tribes of Virginia. All six tribes have obtained State recognition by the State of Virginia. Former Virginia Governors George Allen and Mark Warner, as well as current Governor Tim Kaine have endorsed the tribes’ recognition as sovereign governments.

During his recent trip to England, President Obama presented Queen Elizabeth with an iPod. Included on the iPod was a copy of the 400th anniversary ceremony commemorating the establishment of Jamestown, Virginia, that she attended last year. The highlight of this ceremony included the Queen and the Virginia Indian tribes.

These six Virginia tribes have faced hundreds of years of discrimination, abuse, and outright attempts to extinguish their existence and rob them of their heritage.

From 1912 to 1947, Dr. Walter Plecker, a white supremacist, set out to rid the Commonwealth of Virginia of any documents that recorded the existence of Indians or Indian tribes living

therein. He was instrumental in ensuring passage of the Racial Integrity Act in 1924, making it illegal for individuals to classify themselves or their newborn children as Indian.

□ 1315

But he went further than that and spent decades changing the race designation on birth certificates and on other legal documents from "Indian" to "Colored," "Negro" or "Free Issue." Throughout it all, the Virginia Indians did not break but held firm to their culture and to their identity.

To address claims that tribes are only interested in Federal recognition so they may conduct gaming, all six tribes supported an outright gaming prohibition to be included in this bill. This gaming prohibition precludes the Virginia tribes from engaging in, licensing or regulating gaming pursuant to the Indian Gaming Regulatory Act on their lands.

Congressman MORAN has spent several years tirelessly working to achieve Federal recognition for Virginia's First Americans. It is because of his tireless dedication to this issue that this legislation is before us today. It is time to put this issue to rest and to do the right thing by extending Federal recognition to these tribes. I urge all of my colleagues to join me today in creating a government-to-government relationship with these Virginia tribes.

I reserve the balance of my time.

Mr. HASTINGS of Washington. I yield myself as much time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1385, but not for the reason for which this legislation is intended to point out or to create but, rather, for reasons that I will outline in my remarks here this morning.

In the last Congress, a nearly identical bill passed the House by voice vote. I do not expect to change anyone's mind, and I believe that the results will probably be the same as the last vote we had in the last Congress, but I must highlight serious shortcomings with this bill that should cause Members to reconsider their positions.

First, the House has not acquired sufficient evidence to justify extending Federal recognition to the six Virginia tribes identified in this bill. In the committee hearing on H.R. 1385, we heard a lot of testimony from witnesses for the six tribes, from the Governor of Virginia, from a historian, and from the Department of the Interior. All provided interesting and often passionate statements.

Although the Department provided no position on the bill, the Department's witnesses did remark that all six groups have petitioned for recognition with the Bureau of Indian Affairs, but none of the six tribes have completed the process within the Bureau of Indian Affairs.

If the Department lacks completely documented petitions, then how can we be sure that we in Congress have enough information about these six tribes?

None of the witnesses explained why the six Virginia tribes should be recognized before all of the other tribes whose recognition petitions are within and are lingering within the Bureau of Indian Affairs. About nine of these groups have completed their petitions. In this respect, Mr. Chairman, they are more prepared for a final determination than the Virginia tribes with which this bill deals.

H.R. 1385 contains ample lists of congressional findings about the history of these six groups, but there is no requirement to verify that members of these tribes can trace descendants to historic Virginia tribes. This is a basic standard that the House must observe if it wants to ensure the integrity of tribal recognition. If the House is not prepared to take additional time to study this, then we should ask the Secretary to study it and to provide us with the answers.

The committee held no field hearings in Virginia to learn more about the tribes on their home turf. It has relatively little information from county officials and from private individuals who might be interested in tribal recognition and what it means to them. This is a State without a history of recognized tribes, unless you reach back to the colonial era, and Virginia presently has no Indian trust lands. We simply do not know if there are any counties or private individuals in affected areas who fully understand that placing land in trust removes property from the tax rolls and from State and municipal jurisdictions.

On this note, the Rules Committee made in order an amendment by the gentleman from Virginia (Mr. GOODLATTE) to remove some counties from the bill. This suggests to me the majority is beginning to understand that counties in Virginia are just now becoming more informed on what this bill means.

So, Mr. Chairman, prudence dictates that we put this bill on hold until these issues are vetted. If the House recognizes new tribes and acquires lands in trust for them without thoroughly examining the views of the jurisdiction where the lands are located, we potentially risk creating local problems. This is going to hamper our efforts to resolve land-in-trust controversies occurring elsewhere in the United States.

Such controversies, Mr. Chairman, do occur. We have a huge one to deal with right now. In February, the Supreme Court, in *Carcieri v. Salazar*, held the Department of the Interior has no authority to acquire lands in trust for any tribe recognized after 1934 unless there is a specific act of Congress authorizing it. This is a major decision

that has, frankly, Mr. Chairman, shaken Indian Country, and it is a case that has caught the attention of Governors, attorneys general, and county leaders around the country. The committee has held one hearing on the subject, and I am hopeful that there will be more.

Virginia's tribes are directly affected by this decision because they were not recognized in 1934. Thus, anything done with H.R. 1385 could set a precedent for resolving the *Carcieri* issue. Under H.R. 1385, lands placed in trust for the Virginia tribes will be secure. Meanwhile, lands held in trust or proposed for trust status for others may not be secure. This kind of inconsistency in Federal Indian policy helped fuel the controversy that led to the Supreme Court's *Carcieri* in the first place.

If the solution to *Carcieri* is to deal with each and every post-1934 tribe's trust land application separately in Congress, then H.R. 1385 might be appropriate. If the solution is to provide the Secretary of the Interior with the appropriate authority to acquire lands in trust, then H.R. 1385 is not appropriate.

So, while the committee has held a hearing on *Carcieri*, there seems to be no consensus on how to resolve it. We have received no testimony from the Department, and none of the tribes, States or other concerned interests have had an opportunity to testify in the committee as of the time the report for H.R. 1385 was filed. It would be wise then, Mr. Chairman, to postpone floor action on any recognition bills until the committee acquires a better understanding of the impacts of *Carcieri* and what to do about it.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I recognize for 3 minutes the gentleman from Virginia, one of the cosponsors of the legislation, Mr. BOBBY SCOTT.

Mr. SCOTT of Virginia. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act. I want to thank my colleague from Virginia (Mr. MORAN) for, again, introducing this bill. Similar legislation passed this body by voice vote in the 110th Congress, but it was never acted on in the Senate.

Two years ago, Virginia and the Nation celebrated the 400th anniversary of the founding of Jamestown, Virginia, the first permanent English settlement in North America. Jamestown is the cornerstone of our great Republic, and its success relied heavily on the help of the indigenous people of Virginia. Virginia's Native Americans played a critical role in helping the first settlers of Jamestown survive the harsh conditions of the New World.

After the Jamestown colony weathered its first few years in the New

World, the colony expanded, and the English pushed further inland, but the same Native Americans who helped those first settlers were coerced and were pushed from their land without compensation. Treaties, many of which precede our own Constitution, were often made in an effort to compensate the Virginia Native Americans, but as history has shown, these treaties were rarely honored or upheld.

Like many other Native Americans, the Virginia Indian tribes were marginalized from society. They were deprived of their land, prevented from getting an education, and they were denied a role in our society. Virginia's Native Americans were denied their fundamental human rights and were denied the very freedoms and liberties enshrined in our own Constitution.

Mr. Chairman, the bill will finally grant Federal recognition to the Chickahominy, to the Eastern Chickahominy, to the Upper Mattaponi, to the Rappahannock, to the Monacan Indian Nation, and to the Nansemond tribes. H.R. 1385 will ensure the rightful status of Virginia's tribes in our national history. Federal recognition will provide housing and educational opportunities for those who cannot afford it. Federal recognition will also promote the tribal economic development that will allow Virginia's tribes to become self-sufficient. These new opportunities will allow Virginia's tribes to flourish culturally and economically, which will lead to a brighter future for a whole new generation. The Virginia tribes have waited far too long for Federal recognition.

Again, I want to thank my colleague from Virginia (Mr. MORAN) for his excellent leadership on this important issue. I urge my colleagues to support the bill.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I want to first thank the chairman and thank Mr. MORAN for the language that explicitly prohibits gambling. I appreciate that very much. I think the chairman and Mr. MORAN have to get the credit for doing this because, in previous cases, we have seen major, major expansions. So, as people talk about this, this is Earth-shattering in some respects, and so I want to again thank the chairman and thank Mr. MORAN.

The Virginia tribes have consistently indicated that they oppose gambling, and I believe them. Yet, during the consideration of this measure in the last Congress, we heard rumors about an interest in challenging this gambling limitation in court. We have not heard those rumors today.

The Virginia Indian tribes were the first to greet the settlers at Jamestown when they arrived 400 years ago. With-

out the Indians' friendship, the Jamestown settlement very likely would not have survived. The Americans owe the Virginia tribes a huge debt of gratitude.

I also want to recognize the gentleman from Virginia for including language that explicitly forbids the establishment of tribal casinos. Current tribal leadership has consistently stated they do not want to pursue gambling. I believe them. However, I remain concerned that future leadership of the tribes will pursue establishing tribal casinos.

Virginia does not have casino gambling, and because we do not, we have avoided the crime, corruption and scandal that sometimes comes with gambling. As the author of the legislation which created the National Gambling Impact Study Commission that released its 2-year study in 1999, we know firsthand of the devastating social and financial costs of gambling: crime, prostitution, corruption, suicide, destroyed families, child and spousal abuse, and bankruptcy.

In moving forward with this, I want to ensure that Congress continues this, and I want to ensure that this language does not change when it goes to the Senate.

Under this bill, Congress intends that no Virginia Indian tribe or tribal member, if granted Federal recognition, would have any greater rights to gamble or to conduct gambling operations under the laws of the Commonwealth of Virginia than would any other citizen of Virginia.

Further, it is Congress' expectation that the provision limiting the tribes' ability to engage in gambling conforms with the *Ysleta Del Sur Pueblo v. The State of Texas* case. In that case, the U.S. Court of Appeals for the Fifth Circuit upheld a law prohibiting gaming by the tribe. In supporting H.R. 1385, Congress and the Virginia delegation, in particular, expect that the language restricting gambling operations by Indian tribes will be upheld if it is ever challenged.

I would like to enter into the RECORD a letter I received from the Virginia tribal leadership, acknowledging the anti-gambling language in this bill and reaffirming the view of tribal leadership that the language prohibits gambling.

VIRGINIA INDIAN TRIBAL  
ALLIANCE FOR LIFE (VITAL),  
New Kent, VA, May 18, 2009.

HOUSE OF REPRESENTATIVES,  
Washington, DC.

DEAR MEMBER OF CONGRESS: Corn, or in the Virginia Algonquian tongue, hominy, represents the sustenance of the early American cultures. When the English came to Tsenacomoco, now called Virginia, our tribes traded corn, sometimes unwillingly, to the men of the Virginia Company. As historians will tell you, corn saved the colony in these early years. But corn also represents participatory government. Our elders tell us that corn was used when voting on matters

of importance in the early years. Each eligible member was given a kernel of corn and a pea. Corn signified a "yes" vote and the pea, a "no" vote.

Soon you will be given an opportunity to vote on HR 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009, which extends federal recognition to the six Virginia Tribes comprising the Virginia Indian Tribal Alliance for Life (VITAL): (1) the Chickahominy Tribe; (2) the Chickahominy Indian Tribe—Eastern Division; (3) the Upper Mattaponi Tribe; (4) the Rappahannock Tribe, Inc.; (5) the Monacan Indian Nation; and (6) the Nansemond Indian Tribe.

On behalf of our Tribes, we ask that you use your kernel of corn to vote YES on HR 1385 when it comes to the floor of the House of Representatives for a vote.

We are sure you have questions about this bill which is of such vital importance to us.

If these Tribes have been in existence since first contact with the Europeans, why haven't they already been recognized by the United States?

Quite simply, because our Tribes never waged war on the United States of America. The hostilities between our Tribes and the Europeans who came here in 1607 effectively ended with the Treaty of Middle Plantation in 1677. This Treaty was signed between England and our Tribes. Predating the creation of the United States of America by just short of 100 years, our Treaty was never recognized by the founding fathers of the United States because it was not negotiated with them. Our Treaty of 1677 is still commemorated annually on the steps of the Governor's Mansion in Virginia but has yet to be recognized by the United States of America.

If these Tribes have been here since first contact with the Europeans, has there ever been any federal recognition of these Tribes?

Not officially by the entity called the United States and that is why we seek this federal acknowledgement now. However, hundreds of our sons and daughters have fought on behalf of the United States of America in many wars over the years. The "dog tags" of our military people, who have fought alongside Americans from across the country, have stated our race as "American Indian."

If these Tribes deserve recognition, why don't they utilize the administrative route created by Congress instead of seeking legislation?

For five decades the official policy of Virginia, enforced through the Racial Integrity Act of 1924, stated that there were only two races, white and colored. Over the years our Tribes were subjected to paper genocide. Not only were we denied our race in the everyday requests for birth and marriage certificates, but the Commonwealth of Virginia went into its records and changed the race of our documented ancestors. This law was continually upheld by Virginia Courts until the final vestiges of the law were struck down in 1971. In addition, five of the six courthouses that held the vast majority of the records that our Tribes would need to document our history to the degree required by the Bureau of Indian Affairs Office of Federal Acknowledgement were destroyed in the Civil War. As much as our Tribes would like to comply with the administrative rules to gain recognition, the combination of the official laws of the Commonwealth, the bureaucracy implementing those laws and the loss of our records create an insurmountable burden. We believe that since it was an act of government (Virginia) that denied us our heritage,

it should be an act of government that restores it.

But still there is a process that has been established; why should Congress be asked to make this decision?

Of the 562 Tribes recognized by the United States of America, 140 were recognized by Treaties and other negotiations and only 16 were recognized by the administrative process (which has been in effect since 1978). Acts of Congress recognized the remaining 406 Tribes. We are not asking for your vote to do the extraordinary. We ask for your vote to recognize our heritage and our place in history.

What about gaming? Won't this allow gaming by the Indian Tribes?

Our goal is not now, nor has it ever been, to establish or utilize gaming. Our heritage is such that our affiliation with churches has been strong, having embraced collectively (and individually) the faith, beliefs and sacraments of several Christian denominations. Gaming is, however, an issue that concerns many of you. As such, HR 1385 has strong anti-gaming language. In fact, the language prohibits our Tribes from gaming even if it is allowed in the Commonwealth of Virginia for its citizens generally!

With our deepest respect and admiration, we ask you to use this kernel of corn to vote YES on HR 1385.

Sincerely,

WAYNE ADKINS,  
*President.*

Enclosure.

Again, my concern is not with the Federal recognition of Virginia Indian tribes but with the explosive spread of gambling and with the potential for casino gambling to come to the State of Virginia.

I also continue to have concerns about the broader Indian recognition process. Quite frankly, this Congress has not done enough to help Indian tribes. The process is broken. We have seen that in the past; but today, I'm supporting this bill because I believe it ensures that the State of Virginia's interests are safeguarded while still providing full recognition.

Again, I want to thank the chairman, and I want to thank Mr. MORAN. This is really significant. If only we had had this language in previous recognitions; I think a lot of the problems we have in this country with gambling and with corruption and crime would not have taken place.

□ 1330

Mr. RAHALL. Mr. Chairman, I am happy to yield 3 minutes to the distinguished gentleman from Virginia (Mr. MORAN), the main sponsor of this legislation and without whose leadership we would not be considering it today.

Mr. MORAN of Virginia. Thank you very much, Chairman RAHALL. And I thank my colleagues Mr. WOLF and Mr. SCOTT. I understand Mr. WOLF's original reluctance to originally agree with the bill, but we have put in language that I understand is now acceptable to Mr. WOLF. Mr. WOLF genuinely was concerned about the possibility of casino gambling in Virginia. The language in this bill addresses that satis-

factorily to Mr. WOLF. So I would hope that others who have previously opposed this legislation would follow Mr. WOLF's leadership and support it. We are having some discussions on a very small piece of land with Mr. GOODLATTE, another colleague from Virginia, and I trust we can work that out.

These six Indian tribes have sacrificed a great deal and have undergone quite an amount of demeaning treatment over generations. This is the right thing to do. We don't do this very often in the Congress of the United States, but this is a unique situation. These are the Indian tribes that enabled the first English settlers to survive in the colonies. We have right here in the Dome of the Capitol John Gadsby Chapman's dramatic painting of Pocahontas' baptism. That commemorates a landmark historic event, but it is connected to what happened 400 years ago when these Indians enabled the English settlers to survive, and eventually it led to Virginia being one of the original 13 colonies. We know the situation today, but what we do not know is the history of the Indian tribes that enabled the English settlers to survive on this continent. They have been very badly treated. And, in fact, even though they have a treaty signed with King Charles II in 1677, in the early part of the 20th century, the Commonwealth of Virginia conducted what was called a paper genocide. They made it illegal to be an American Indian in Virginia. They went into the courthouses and destroyed the birth records and everything they could relating to the legitimacy of these Indian tribes, even though everyone knew that they did actually exist. This was a time of severe racism, a time that we are very shamed by. But these Indian tribes never gave up their pride or their stature.

The CHAIR. The time of the gentleman has expired.

Mr. RAHALL. I yield the gentleman 2 additional minutes.

Mr. MORAN of Virginia. I thank my good friend, Chairman RAHALL from West Virginia, who has been tremendous in supporting this legislation.

To go back to the history behind this bill, this is so much a matter of pride and the restoration of justice. They survived even though they were denied employment and were denied educational opportunities. The only people who provided it were Christian missionaries. They oppose gambling. They don't even take advantage of the opportunity to have bingo games, which other nonprofits do in their vicinity, because they don't think it's the right thing. So I don't think that's any kind of a threat. Every other objection that has been raised I think has been adequately and fully addressed.

These are good people, and they have been subjected to a great deal that was unjust. We should have done this by

the 400th anniversary of Jamestown, but today we are about to do so two years later.

Now there was a Supreme Court decision just a few months ago in February, and that Supreme Court decision said that the Secretary of the Interior no longer has unilateral discretion to determine what lands can be put in trust. That's why some additional lands and counties were included in this bill in case there is land that would be given to these Indian tribes in the future. They are willing to compromise on this, to give up virtually all of that potential territory. They're left with very little land and very few rights. The laws of Virginia would apply on this land. They are not allowed to engage in gambling like other Indian tribes. This is a part of a list of compromises they have made. They've made all of these compromises because it is important to them that their children, grandchildren and great grandchildren recognize that these are Native American people deserving of our utmost respect. They are people who deserve to be able to hold their chins up in pride for what they meant to this country.

I strongly urge support of this legislation. It's overdue.

Mr. Chairman, I know it is against the rules of the House to address anyone but the Speaker.

If it were allowed, I would want to address the 2,500 or so members of the six Virginia tribes seeking Federal recognition.

I would say that I know their quest to assert their identity and their rights has been a long struggle.

Despite centuries of racial hostility and coercion by the Commonwealth of Virginia and others, they have refused to yield their most basic human right and have suffered and lost much.

But, throughout the centuries they have retained their dignity and supported their people.

When it appeared that no one else would, when little was available, when even the doors of public school house were closed to their children, they have never yielded to those who said they didn't exist.

Mr. Chairman, I would say to the Virginia tribes; win or lose today, you have already won by refusing to yield and by remaining true and faithful to who you are.

I would also say that it has been an honor for me to have helped carry this legislation.

While it is less than ideal, it moves you closer to the day our national government recognizes your existence.

Mr. Chairman, as Members of this chamber know, the crafting of congressional legislation is far from a perfect process. But, when it speaks, it speaks with the people's voice.

Today, I encourage my colleagues to speak and finally affirm that the Virginia tribes exist and deserve Federal recognition.

Mr. HASTINGS of Washington. I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. WITTMAN).

Mr. WITTMAN. I rise in support of H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009. I would like to

start by thanking Ranking Member HASTINGS for yielding time to me. I would like to thank Representative MORAN for his hard work in introducing this bill and for his work on behalf of the tribes. I would like to thank Chairman RAHALL for his leadership in moving this legislation forward. We thank you for your efforts. It is an effort long overdue.

As a cosponsor of H.R. 1385, I am supportive of Federal recognition of Virginia's Indian tribes. This bill would extend Federal recognition to six Virginia tribes; and my district, the First Congressional District of Virginia, better known as America's First District, includes the historic tribal areas of the Chickahominy, Chickahominy Eastern Division, Upper Mattaponi, Rappahannock and Nansemond tribes. These tribes are important culturally and historically to the Commonwealth of Virginia. Tribal ancestors from these tribes populated coastal Virginia when Captain John Smith settled at Jamestown in 1607. These "first contact" tribes have been intertwined with the birth of our Nation for over 400 years and continue to preserve a culture and heritage important to both Virginia and the Nation.

I believe that it's especially important to recognize these tribes because so many tribal members served our country bravely and heroically as members of our armed services. These tribal members who served our country during our Nation's conflicts have not been officially recognized by our government. This legislation, after nearly 400 years, will recognize these tribes.

Mr. Chairman, I'm a cosponsor of this bill, and I definitely and strongly support its passage. However, I do want to bring up one point. I have heard from some in the convenience store and gasoline marketing industry who have faced issues in other States when tribal businesses sell gasoline and tobacco tax-free to nontribal members, negatively impacting off-reservation business and State tax revenue. I don't want to see these types of problems in the Commonwealth of Virginia, and I don't believe that we will. I have assurance from the tribes that that is not their intent, and we've had a great working relationship with the Virginia General Assembly who have said that they will be working to make sure that through State compacts that this is taken care of. I bring this up with the hope that, moving forward, we can address this issue while respecting tribal sovereignty and protecting nontribal businesses. I do believe that that will happen. I believe that folks with the tribes are going to make that happen. I think they have reached out and have done an extraordinary job in doing everything to make sure that they are helpful in getting this issue taken care of.

Mr. Chairman, I am pleased to strongly support this bill, and I ask my colleagues to do the same.

Mr. RAHALL. Mr. Chairman, I am happy to yield 2 minutes to the very valued member of our Committee on Natural Resources, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Chairman, I do want to thank the distinguished chairman of our committee, Mr. RAHALL, and our ranking member, Mr. HASTINGS, even though he may have some reservations concerning this bill but especially also to thank my colleague Mr. MORAN as the chief author of this important bill.

Mr. Chairman, I rise today in strong support of H.R. 1385, legislation to extend Federal recognition of the Thomasina E. Jordan Indian Tribes of Virginia.

Mr. Chairman, under the current Federal recognition process for recognizing Indian tribes, the six Virginia tribes considered under this bill may not be able to meet the strict qualifying requirements under the Federal recognition process. This is despite the wealth of documentation that exists for each of these tribes. While references exist from the 1600s until the present showing the existence of these Indian tribes in the Virginia area, much of the documentation that is needed to meet the criteria in the Federal recognition process has been tampered with or destroyed.

Mr. Chairman, this is another perfect example of a recognition process that has not worked and that any group of people who don't make a paper trail to prove their existence aren't worthy of Federal recognition. Congress has the authority to correct this grave injustice to these tribes. After some 400 years, Mr. Chairman, it is long overdue. I urge my colleagues to support this bill.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself as much time as I may consume.

The gentleman from Northern Virginia (Mr. MORAN) made an observation about the paper genocide issue, and I have to say that every member at the committee hearing that attended that hearing and heard the testimony on H.R. 1385 were, frankly, shocked and saddened and dismayed that, in fact, this sort of action went on in Virginia, how they treated the Indian people in the 20th century. I think that goes without saying. But I do want to point out, Mr. Chairman, for the record that there was a career employee of the Bureau of Indian Affairs who heads up the Office of Federal Acknowledgement that had a different view, and I just at least want to put that on the record as we debate this issue.

He said, "Records in Virginia do exist, and they were not destroyed. The vital records of birth, marriage, divorce, death and probate, they are in

the record. Not only are they in the hands of the individuals to whom they pertain, but they are available at the local registrar level and State registrar level." He went on, continuing to quote, "In preparation for this hearing, I wanted to reach into what evidence was submitted on behalf of the Virginia groups, and in 2001 this was the material that we received. And one of the group's materials were copies of vital records that were not destroyed."

So this BIA witness went on to describe how these documents identified the persons and Indians. So it appears that there are records in Virginia, notwithstanding the fact that the State of Virginia went through this process in the last century.

So, Mr. Chairman, I just wanted to point that out that in the committee hearing we did hear testimony that at least in part disputed the issue of paper genocide. I wanted to make that observation in the debate today.

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, how much time remains on both sides?

The CHAIR. The gentleman from West Virginia has 17½ minutes remaining, and the gentleman from Washington has 15 minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I want to congratulate Mr. RAHALL, Mr. MORAN, Mr. WITTMAN, Mr. CONNOLLY, Mr. GRIJALVA, Mr. SCOTT, Mr. ABERCROMBIE and Mr. KILDEE for introducing legislation that confers Federal recognition on the Indian tribes of Virginia.

Affirming sovereign recognition first conferred by treaties is a matter of both history and conscience for the United States. Today we are correcting the mistakes of the past that relate to tribes that were among the very first to be in contact with white settlers when they came to these shores in 1607. While this is a great day for the tribes of Virginia, we must not forget that our work is not finished. The Duwamish tribe has lived in Seattle, which I represent, and has been there for centuries, long before there was the United States or a State of Washington. Seattle, in fact, was named after the great Duwamish chief, Chief Seattle.

□ 1345

Despite the treaty of Point Elliot, which the Duwamish signed in good faith with the United States in 1855, Federal recognition has not been extended, and in my belief, this is wrong. It went through the process. It was signed by President Clinton. And in one of his first executive orders, President Bush reversed the decision of recognition of the Duwamish. And it is time to correct that injustice with the

Duwamish, just as we are doing here in Virginia.

That is why I am introducing legislation today to confer Federal recognition on the Duwamish tribe. So long as one Native tribe is denied justice and rights to which they are entitled, we all suffer.

It is my hope that the new day dawning across America is bright enough to shine enough light for us to see and correct the injustices endured for too long by the First Americans. I hope that we will have a day like this some time soon for the Duwamish tribe.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I thank my good friend and outstanding chairman of the Natural Resources Committee.

I know the House leadership and Chairman RAHALL are undertaking some risk in having scheduled this legislation because this type of legislation is invariably controversial. But Congress' past reluctance to grant Federal recognition and the demeaning and dysfunctional acknowledgement process at the Bureau of Indian Affairs has served to compound a grave injustice that this legislation will redress.

The Virginia tribes identified in this legislation, as I mentioned earlier, are the direct descendants of the tribes that greeted and ensured the survival of the first permanent English colony in the New World.

Almost exactly 2 years ago to this day, we marked the 400th anniversary of the founding of Jamestown. It was an event important enough to bring Queen Elizabeth across the Atlantic to commemorate.

While the 1607 settlement succeeded and laid the English claim and foundation for the original 13 colonies, history has not been very kind to Virginia's Native Americans of the great Powhatan Confederacy who greeted the English and provided food and assistance to ensure their initial survival.

Few are aware today that the direct descendants of the Native Americans who met these settlers are with us today. And in fact, some are in the Chamber watching. And they are still awaiting their due recognition by our Federal Government. This is the opportunity to correct this grave wrong.

This bill, at long last, is named after Thomasina E. Jordan, who fought in such a committed way to get this recognition once she realized the history of discrimination that necessitated it. It grants recognition to the six Indian tribes in Virginia, and I would like to name them: the Chickahominy, the Eastern Chickahominy, the Upper Mattaponi, the Rappahannock, the Monacan and the Nansemond. The Commonwealth of Virginia recognized all six tribes in the 1980s. It is now time for the Federal Government, by this act of the U.S. Congress, to do the same.

Like most Native Americans, the Virginia tribes welcomed Western settlers but quickly became subdued. The settlers had guns, and Indians had bows and arrows. They were pushed off their land, and up through much of the 20th century, denied any rights as U.S. citizens.

Despite their devastating loss of land and population, the Virginia Indians survived centuries of racial hostility and coercive State and State-sanctioned actions that tried to eradicate their heritage and cultural identity.

The history of Virginia tribes is unique in two important ways that are relevant to why this bill is on the House floor today. The first explains why the Virginia tribes were never recognized by the Federal Government. The second explains why congressional action is absolutely needed. The first circumstance is that unlike most tribes that resisted encroachment and obtained Federal recognition when they signed peace treaties with the Federal Government, Virginia's tribes signed their peace treaties with the kings of England.

Most notable among these was the Treaty of 1677 between these tribes and Charles II that is still observed by Virginia every year when the Governor accepts tribute. I was there with Mr. SCOTT just this year. Governor Kaine accepted a deer that was brought by the tribes. And it is a ceremony that has been observed for 331 years. It is the longest celebrated treaty in the United States today.

Now the second unique circumstance for the Virginia tribes is what they experienced in the hands of the State government during the first half of the 20th century that Mr. HASTINGS has alluded to. It is called a "paper genocide." At a time when the Federal Government granted Native Americans the right to vote, Virginia's elected officials adopted racially hostile laws targeted at those classes of people who did not fit into the dominant white society.

These actions culminated with the Racial Integrity Act of 1924 that targeted Native Americans and sought to deny them their identity. The act empowered zealots, like Dr. Walter Plecker. He was in charge of the Bureau of Records at the State and he destroyed all the State and local courthouse records and reclassified, in Orwellian fashion, all nonwhites in the words of the day as "colored."

It targeted Native Americans and sought to deny them their identity. Calling yourself a "Native American" in Virginia risked a jail sentence of 1 year. For up to 50 years, State officials waged a war to destroy all public and private records that affirmed the existence of Native Americans in Virginia. That law remained in effect until it was struck down in the Federal courts in 1967.

All six tribes have filed petitions with the Bureau of Acknowledgement seeking Federal recognition. But it is a heavy burden. They have been told it won't happen in their lifetime. The acknowledgement process is expensive. It is subject to unreasonable delays. It lacks dignity. We ought to address that separately. But Virginia's history of this paper genocide only further complicates these tribes' quest for Federal recognition, making it difficult to furnish corroborating State and official documents. They can't really prove it because the documents were destroyed.

The CHAIR. The time of the gentleman has expired.

Mr. RAHALL. I yield the gentleman 3 additional minutes.

Mr. MORAN of Virginia. I thank my good friend. So here they are told to prove their existence, and yet the State government destroyed the proof of their existence, again aggravating an injustice that had already been visited upon these people. The only people who cared about them were Christian missionaries who allowed them to get some education. But they were denied employment for much of their history in the 20th century in Virginia.

We are rectifying this wrong today. And in light of the 400th anniversary of Jamestown, we will bring closure to this national injustice. There is no doubt that these tribes have existed on a continuous basis since before the first Western European settlers set foot in America, and they are here with us today.

I know there is great resistance from Congress to grant any American tribe Federal recognition. And I can appreciate how the issue of gambling and its economic and moral dimension influence many Members' perspectives in tribal recognition issues.

The Virginia tribes have agreed to forgo gaming. An amendment offered by Congressman DUNCAN offered last session was approved by the Natural Resources Committee. That is in this bill before us. It prohibits these tribes from gaming under Federal law even if one day the State were to reverse course and set up gambling casinos in the State. The State can have gambling casinos. These Indians cannot. Go figure. But that is the way the legislation reads.

The Virginia tribes, under the bill being considered today, could not engage in gambling on their sovereign lands. The Virginia tribes are also prepared to grant Virginia full civil and criminal jurisdiction over any future reservation lands until such time as the Secretary of the Interior and the U.S. Attorney General agree that they have developed an acceptable alternative judicial framework that the Federal Government can honor.

Mr. Chairman, these tribes recognize that the legislative route to recognition is a very imperfect process and



that compromise is a necessary ingredient. That compromise and that balance have now been struck. Now is the time to pass this legislation. Failure to do so would unravel the progress we have made and lose this time in history for these tribes to finally gain Federal recognition. It would be a setback and an injustice. They have suffered enough injustices. Let's not add another one.

Congress has the power to recognize these tribes. It has exercised these powers in the past. It should exercise this power again for these six tribes. More than 300 of the 562 federally recognized tribes have been recognized by an act of Congress.

I urge my colleagues to support this legislation. We will be doing our part to bring closure to some tragic and unjust acts that have transpired since Englishmen established their first permanent settlement more than 400 years ago in this New World. This is the right thing to do. I trust that Congress will do it today.

Mr. HASTINGS of Washington. Mr. Chairman, I reserve my time.

Mr. RAHALL. If I might ask the ranking member, do you have further speakers?

Mr. HASTINGS of Washington. Mr. Chairman, I advised my friend, I have no further speakers. But I just want to take a moment here to close beforehand.

So with that I yield myself the balance of the time.

I think what has been demonstrated on the floor here is the passion surrounding this issue. And I can certainly understand that passion, especially with the history, particularly here in the eastern part of the United States. And I don't expect that my opposition or my arguments are going to change the outcome of the votes, as I mentioned in my opening remarks. But as I mentioned in my opening remarks, because of the Carcieri decision, I think it is important for us to set at least some guidelines as to what process we in Congress, who have the constitutional right, by the way, to recognize tribes, at least to have a set of criteria that we should look at. And one of them ought to be at least some verification at the minimal.

I know that at the Bureau of Indian Affairs, and admittedly this is regulatory, there are seven or eight steps that certainly make sense. A lot of tribes have gone through that process. So I understand the passion. I respect the passion and the work that has been done on this. But for the reasons I outlined, more of a process reason than anything else, I urge my colleagues to vote against this legislation.

And with that, I yield back my time.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

Just to respond to my dear friend, the gentleman from Washington, the

Carcieri decision did not impact Congress' power to place land into trust for an Indian tribe directly or Congress' power to authorize the Secretary to place land in a trust for a specific tribe beyond the general authority found in the Indian Reorganization Act.

There is much precedent for this legislation. Congress has recognized other Indian tribes and placed land into trust and/or authorized the Secretary to place land into trust for those tribes on numerous occasions. So I just conclude by saying that this legislation, again, is not affected by the Carcieri decision, nor does this legislation overturn said decision.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

#### H.R. 1385

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2009”.

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—CHICKAHOMINY INDIAN TRIBE

Sec. 101. Findings.

Sec. 102. Definitions.

Sec. 103. Federal recognition.

Sec. 104. Membership; governing documents.

Sec. 105. Governing body.

Sec. 106. Reservation of the Tribe.

Sec. 107. Hunting, fishing, trapping, gathering, and water rights.

Sec. 108. Jurisdiction of Commonwealth of Virginia.

#### TITLE II—CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION

Sec. 201. Findings.

Sec. 202. Definitions.

Sec. 203. Federal recognition.

Sec. 204. Membership; governing documents.

Sec. 205. Governing body.

Sec. 206. Reservation of the Tribe.

Sec. 207. Hunting, fishing, trapping, gathering, and water rights.

Sec. 208. Jurisdiction of Commonwealth of Virginia.

#### TITLE III—UPPER MATTAPONI TRIBE

Sec. 301. Findings.

Sec. 302. Definitions.

Sec. 303. Federal recognition.

Sec. 304. Membership; governing documents.

Sec. 305. Governing body.

Sec. 306. Reservation of the Tribe.

Sec. 307. Hunting, fishing, trapping, gathering, and water rights.

Sec. 308. Jurisdiction of Commonwealth of Virginia.

#### TITLE IV—RAPPAHANNOCK TRIBE, INC.

Sec. 401. Findings.

Sec. 402. Definitions.

Sec. 403. Federal recognition.

Sec. 404. Membership; governing documents.

Sec. 405. Governing body.

Sec. 406. Reservation of the Tribe.

Sec. 407. Hunting, fishing, trapping, gathering, and water rights.

Sec. 408. Jurisdiction of Commonwealth of Virginia.

#### TITLE V—MONACAN INDIAN NATION

Sec. 501. Findings.

Sec. 502. Definitions.

Sec. 503. Federal recognition.

Sec. 504. Membership; governing documents.

Sec. 505. Governing body.

Sec. 506. Reservation of the Tribe.

Sec. 507. Hunting, fishing, trapping, gathering, and water rights.

Sec. 508. Jurisdiction of Commonwealth of Virginia.

#### TITLE VI—NANSEMOND INDIAN TRIBE

Sec. 601. Findings.

Sec. 602. Definitions.

Sec. 603. Federal recognition.

Sec. 604. Membership; governing documents.

Sec. 605. Governing body.

Sec. 606. Reservation of the Tribe.

Sec. 607. Hunting, fishing, trapping, gathering, and water rights.

Sec. 608. Jurisdiction of Commonwealth of Virginia.

#### TITLE I—CHICKAHOMINY INDIAN TRIBE

##### SEC. 101. FINDINGS.

*Congress finds that—*

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York Mattaponi River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(12) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(13) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;



(14) in 1919, C. Lee Moore, Auditor of Public Accounts for Virginia, told Chickahominy Chief O.W. Adkins that he had instructed the Commissioner of Revenue for Charles City County to record Chickahominy tribal members on the county tax rolls as Indian, and not as white or colored;

(15) during the period of 1920 through 1930, various Governors of the Commonwealth of Virginia wrote letters of introduction for Chickahominy Chiefs who had official business with Federal agencies in Washington, DC;

(16) in 1934, Chickahominy Chief O.O. Adkins wrote to John Collier, Commissioner of Indian Affairs, requesting money to acquire land for the Chickahominy Indian Tribe's use, to build school, medical, and library facilities and to buy tractors, implements, and seed;

(17) in 1934, John Collier, Commissioner of Indian Affairs, wrote to Chickahominy Chief O.O. Adkins, informing him that Congress had passed the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et seq.), but had not made the appropriation to fund the Act;

(18) in 1942, Chickahominy Chief O.O. Adkins wrote to John Collier, Commissioner of Indian Affairs, asking for help in getting the proper racial designation on Selective Service records for Chickahominy soldiers;

(19) in 1943, John Collier, Commissioner of Indian Affairs, asked Douglas S. Freeman, editor of the *Richmond News-Leader* newspaper of Richmond, Virginia, to help Virginia Indians obtain proper racial designation on birth records;

(20) Collier stated that his office could not officially intervene because it had no responsibility for the Virginia Indians, "as a matter largely of historical accident", but was "interested in them as descendants of the original inhabitants of the region";

(21) in 1948, the Veterans' Education Committee of the Virginia State Board of Education approved Samaria Indian School to provide training to veterans;

(22) that school was established and run by the Chickahominy Indian Tribe;

(23) in 1950, the Chickahominy Indian Tribe purchased and donated to the Charles City County School Board land to be used to build a modern school for students of the Chickahominy and other Virginia Indian tribes;

(24) the Samaria Indian School included students in grades 1 through 8;

(25) in 1961, Senator Sam Ervin, Chairman of the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the Senate, requested Chickahominy Chief O.O. Adkins to provide assistance in analyzing the status of the constitutional rights of Indians "in your area";

(26) in 1967, the Charles City County school board closed Samaria Indian School and converted the school to a countywide primary school as a step toward full school integration of Indian and non-Indian students;

(27) in 1972, the Charles City County school board began receiving funds under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) on behalf of Chickahominy students, which funding is provided as of the date of enactment of this Act under title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.);

(28) in 1974, the Chickahominy Indian Tribe bought land and built a tribal center using monthly pledges from tribal members to finance the transactions;

(29) in 1983, the Chickahominy Indian Tribe was granted recognition as an Indian tribe by the Commonwealth of Virginia, along with 5 other Indian tribes; and

(30) in 1985, Governor Gerald Baliles was the special guest at an intertribal Thanksgiving

Day dinner hosted by the Chickahominy Indian Tribe.

## SEC. 102. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term "tribal member" means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term "Tribe" means the Chickahominy Indian Tribe.

## SEC. 103. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of New Kent County, James City County, Charles City County, and Henrico County, Virginia.

## SEC. 104. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

## SEC. 105. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

## SEC. 106. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—Upon the request of the Tribe, the Secretary of the Interior—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities as a matter of claimed inherent

authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

## SEC. 107. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

## SEC. 108. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over—

(1) all criminal offenses that are committed on; and

(2) all civil actions that arise on,

lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to re-assume such jurisdiction.

## TITLE II—CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION

### SEC. 201. FINDINGS.

Congress finds that—

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1870, a census revealed an enclave of Indians in New Kent County that is believed to be the beginning of the Chickahominy Indian Tribe—Eastern Division;

(12) other records were destroyed when the New Kent County courthouse was burned, leaving a State census as the only record covering that period;

(13) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(14) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(15) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;

(16) in 1910, a 1-room school covering grades 1 through 8 was established in New Kent County for the Chickahominy Indian Tribe—Eastern Division;

(17) during the period of 1920 through 1921, the Chickahominy Indian Tribe—Eastern Division began forming a tribal government;

(18) E.P. Bradby, the founder of the Tribe, was elected to be Chief;

(19) in 1922, Tsena Commocko Baptist Church was organized;

(20) in 1925, a certificate of incorporation was issued to the Chickahominy Indian Tribe—Eastern Division;

(21) in 1950, the 1-room Indian school in New Kent County was closed and students were bused to Samaria Indian School in Charles City County;

(22) in 1967, the Chickahominy Indian Tribe and the Chickahominy Indian Tribe—Eastern Division lost their schools as a result of the required integration of students;

(23) during the period of 1982 through 1984, Tsena Commocko Baptist Church built a new sanctuary to accommodate church growth;

(24) in 1983 the Chickahominy Indian Tribe—Eastern Division was granted State recognition along with 5 other Virginia Indian tribes;

(25) in 1985—

(A) the Virginia Council on Indians was organized as a State agency; and

(B) the Chickahominy Indian Tribe—Eastern Division was granted a seat on the Council;

(26) in 1988, a nonprofit organization known as the “United Indians of Virginia” was formed; and

(27) Chief Marvin “Strongoak” Bradby of the Eastern Band of the Chickahominy presently chairs the organization.

#### SEC. 202. DEFINITIONS.

In this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term “tribal member” means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term “Tribe” means the Chickahominy Indian Tribe—Eastern Division.

#### SEC. 203. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all future services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of New Kent County,

James City County, Charles City County, and Henrico County, Virginia.

#### SEC. 204. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

#### SEC. 205. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

#### SEC. 206. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—Upon the request of the Tribe, the Secretary of the Interior—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

#### SEC. 207. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

#### SEC. 208. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over—

(1) all criminal offenses that are committed on; and

(2) all civil actions that arise on,

lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to re-assume such jurisdiction.

### TITLE III—UPPER MATTAPONI TRIBE

#### SEC. 301. FINDINGS.

Congress finds that—

(1) during the period of 1607 through 1646, the Chickahominy Indian Tribes—

(A) lived approximately 20 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) Mattaponi Indians, who later joined the Chickahominy Indians, lived a greater distance from Jamestown;

(3) in 1646, the Chickahominy Indians moved to Mattaponi River basin, away from the English;

(4) in 1661, the Chickahominy Indians sold land at a place known as “the cliffs” on the Mattaponi River;

(5) in 1669, the Chickahominy Indians—

(A) appeared in the Virginia Colony's census of Indian bowmen; and

(B) lived in “New Kent” County, which included the Mattaponi River basin at that time;

(6) in 1677, the Chickahominy and Mattaponi Indians were subjects of the Queen of Pamunkey, who was a signatory to the Treaty of 1677 with the King of England;

(7) in 1683, after a Mattaponi town was attacked by Seneca Indians, the Mattaponi Indians took refuge with the Chickahominy Indians, and the history of the 2 groups was intertwined for many years thereafter;

(8) in 1695, the Chickahominy and Mattaponi Indians—

(A) were assigned a reservation by the Virginia Colony; and

(B) traded land of the reservation for land at the place known as “the cliffs” (which, as of the date of enactment of this Act, is the Mattaponi Indian Reservation), which had been owned by the Mattaponi Indians before 1661;

(9) in 1711, a Chickahominy boy attended the Indian School at the College of William and Mary;

(10) in 1726, the Virginia Colony discontinued funding of interpreters for the Chickahominy and Mattaponi Indian Tribes;

(11) James Adams, who served as an interpreter to the Indian tribes known as of the date of enactment of this Act as the “Upper Mattaponi Indian Tribe” and “Chickahominy Indian Tribe”, elected to stay with the Upper Mattaponi Indians;

(12) today, a majority of the Upper Mattaponi Indians have “Adams” as their surname;

(13) in 1787, Thomas Jefferson, in Notes on the Commonwealth of Virginia, mentioned the Mattaponi Indians on a reservation in King William County and said that Chickahominy Indians were “blended” with the Mattaponi Indians and nearby Pamunkey Indians;

(14) in 1850, the census of the United States revealed a nucleus of approximately 10 families, all ancestral to modern Upper Mattaponi Indians, living in central King William County, Virginia, approximately 10 miles from the reservation;

(15) during the period of 1853 through 1884, King William County marriage records listed Upper Mattaponis as “Indians” in marrying people residing on the reservation;

(16) during the period of 1884 through the present, county marriage records usually refer to Upper Mattaponis as “Indians”;

(17) in 1901, Smithsonian anthropologist James Mooney heard about the Upper Mattaponi Indians but did not visit them;

(18) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians with a section on the Upper Mattaponis;

(19) from 1929 until 1930, the leadership of the Upper Mattaponi Indians opposed the use of a “colored” designation in the 1930 United States census and won a compromise in which the Indian ancestry of the Upper Mattaponis was recorded but questioned;

(20) during the period of 1942 through 1945—

(A) the leadership of the Upper Mattaponi Indians, with the help of Frank Speck and others, fought against the induction of young men of

the Tribe into "colored" units in the Armed Forces of the United States; and

(B) a tribal roll for the Upper Mattaponi Indians was compiled;

(21) from 1945 to 1946, negotiations took place to admit some of the young people of the Upper Mattaponi to high schools for Federal Indians (especially at Cherokee) because no high school coursework was available for Indians in Virginia schools; and

(22) in 1983, the Upper Mattaponi Indians applied for and won State recognition as an Indian tribe.

#### SEC. 302. DEFINITIONS.

In this title:

(1) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(2) **TRIBAL MEMBER.**—The term "tribal member" means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) **TRIBE.**—The term "Tribe" means the Upper Mattaponi Tribe.

#### SEC. 303. FEDERAL RECOGNITION.

(a) **FEDERAL RECOGNITION.**—

(1) **IN GENERAL.**—Federal recognition is extended to the Tribe.

(2) **APPLICABILITY OF LAWS.**—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) **FEDERAL SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) **SERVICE AREA.**—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area within 25 miles of the Sharon Indian School at 13383 King William Road, King William County, Virginia.

#### SEC. 304. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

#### SEC. 305. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

#### SEC. 306. RESERVATION OF THE TRIBE.

(a) **IN GENERAL.**—Upon the request of the Tribe, the Secretary of the Interior—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of King William County, Caroline County, Hanover County, King and Queen County, and New Kent County, Virginia; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of King William County, Caroline County, Hanover County, King and Queen County, and New Kent County, Virginia.

(b) **DEADLINE FOR DETERMINATION.**—The Secretary shall make a final written determination

not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) **RESERVATION STATUS.**—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

(d) **GAMING.**—The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

#### SEC. 307. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

#### SEC. 308. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) **IN GENERAL.**—The Commonwealth of Virginia shall exercise jurisdiction over—

(1) all criminal offenses that are committed on; and

(2) all civil actions that arise on, lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) **ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.**—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to re-assume such jurisdiction.

#### TITLE IV—RAPPAHANNOCK TRIBE, INC.

##### SEC. 401. FINDINGS.

Congress finds that—

(1) during the initial months after Virginia was settled, the Rappahannock Indians had 3 encounters with Captain John Smith;

(2) the first encounter occurred when the Rappahannock weroance (headman)—

(A) traveled to Quiyocohannock (a principal town across the James River from Jamestown), where he met with Smith to determine whether Smith had been the "great man" who had previously sailed into the Rappahannock River, killed a Rappahannock weroance, and kidnapped Rappahannock people; and

(B) determined that Smith was too short to be that "great man";

(3) on a second meeting, during John Smith's captivity (December 16, 1607 to January 8, 1608), Smith was taken to the Rappahannock principal village to show the people that Smith was not the "great man";

(4) a third meeting took place during Smith's exploration of the Chesapeake Bay (July to September 1608), when, after the Moraughtacund Indians had stolen 3 women from the Rappahannock King, Smith was prevailed upon to facilitate a peaceful truce between the Rappahannock and the Moraughtacund Indians;

(5) in the settlement, Smith had the 2 Indian tribes meet on the spot of their first fight;

(6) when it was established that both groups wanted peace, Smith told the Rappahannock King to select which of the 3 stolen women he wanted;

(7) the Moraughtacund King was given second choice among the 2 remaining women, and Mosco, a Wighcocomoco (on the Potomac River) guide, was given the third woman;

(8) in 1645, Captain William Claiborne tried unsuccessfully to establish treaty relations with

the Rappahannocks, as the Rappahannocks had not participated in the Pamunkey-led uprising in 1644, and the English wanted to "treat with the Rappahannocks or any other Indians not in amity with Opechancanough, concerning serving the county against the Pamunkeys";

(9) in April 1651, the Rappahannocks conveyed a tract of land to an English settler, Colonel Morre Fauntleroy;

(10) the deed for the conveyance was signed by Accopatough, weroance of the Rappahannock Indians;

(11) in September 1653, Lancaster County signed a treaty with Rappahannock Indians, the terms of which treaty—

(A) gave Rappahannocks the rights of Englishmen in the county court; and

(B) attempted to make the Rappahannocks more accountable under English law;

(12) in September 1653, Lancaster County defined and marked the bounds of its Indian settlements;

(13) according to the Lancaster clerk of court, "the tribe called the great Rappahannocks lived on the Rappahannock Creek just across the river above Tappahannock";

(14) in September 1656, (Old) Rappahannock County (which, as of the date of enactment of this Act, is comprised of Richmond and Essex Counties, Virginia) signed a treaty with Rappahannock Indians that—

(A) mirrored the Lancaster County treaty from 1653; and

(B) stated that—

(i) Rappahannocks were to be rewarded, in Roanoke, for returning English fugitives; and

(ii) the English encouraged the Rappahannocks to send their children to live among the English as servants, who the English promised would be well-treated;

(15) in 1658, the Virginia Assembly revised a 1652 Act stating that "there be no grants of land to any Englishman whatsoever de futuro until the Indians be first served with the proportion of 50 acres of land for each bowman";

(16) in 1669, the colony conducted a census of Virginia Indians;

(17) as of the date of that census—

(A) the majority of the Rappahannocks were residing at their hunting village on the north side of the Mattaponi River; and

(B) at the time of the visit, census-takers were counting only the Indian tribes along the rivers, which explains why only 30 Rappahannock bowmen were counted on that river;

(18) the Rappahannocks used the hunting village on the north side of the Mattaponi River as their primary residence until the Rappahannocks were removed in 1684;

(19) in May 1677, the Treaty of Middle Plantation was signed with England;

(20) the Pamunkey Queen Cockacoeske signed on behalf of the Rappahannocks, "who were supposed to be her tributaries", but before the treaty could be ratified, the Queen of Pamunkey complained to the Virginia Colonial Council "that she was having trouble with Rappahannocks and Chickahominies, supposedly tributaries of hers";

(21) in November 1682, the Virginia Colonial Council established a reservation for the Rappahannock Indians of 3,474 acres "about the town where they dwell";

(22) the Rappahannock "town" was the hunting village on the north side of the Mattaponi River, where the Rappahannocks had lived throughout the 1670s;

(23) the acreage allotment of the reservation was based on the 1658 Indian land act, which translates into a bowman population of 70, or an approximate total Rappahannock population of 350;

(24) in 1683, following raids by Iroquoian warriors on both Indian and English settlements,

the Virginia Colonial Council ordered the Rappahannocks to leave their reservation and unite with the Nanzatico Indians at Nanzatico Indian Town, which was located across and up the Rappahannock River some 30 miles;

(25) between 1687 and 1699, the Rappahannocks migrated out of Nanzatico, returning to the south side of the Rappahannock River at Portobacco Indian Town;

(26) in 1706, by order of Essex County, Lieutenant Richard Covington "escorted" the Portobaccos and Rappahannocks out of Portobacco Indian Town, out of Essex County, and into King and Queen County where they settled along the ridgeline between the Rappahannock and Mattaponi Rivers, the site of their ancient hunting village and 1682 reservation;

(27) during the 1760s, 3 Rappahannock girls were raised on Thomas Nelson's Bleak Hill Plantation in King William County;

(28) of those girls—

(A) 1 married a Saunders man;

(B) 1 married a Johnson man; and

(C) 1 had 2 children, Edmund and Carter Nelson, fathered by Thomas Cary Nelson;

(29) in the 19th century, those Saunders, Johnson, and Nelson families are among the core Rappahannock families from which the modern Tribe traces its descent;

(30) in 1819 and 1820, Edward Bird, John Bird (and his wife), Carter Nelson, Edmund Nelson, and Carter Spurlock (all Rappahannock ancestors) were listed on the tax roles of King and Queen County and taxed at the county poor rate;

(31) Edmund Bird was added to the tax roles in 1821;

(32) those tax records are significant documentation because the great majority of pre-1864 records for King and Queen County were destroyed by fire;

(33) beginning in 1819, and continuing through the 1880s, there was a solid Rappahannock presence in the membership at Upper Essex Baptist Church;

(34) that was the first instance of conversion to Christianity by at least some Rappahannock Indians;

(35) while 26 identifiable and traceable Rappahannock surnames appear on the pre-1863 membership list, and 28 were listed on the 1863 membership roster, the number of surnames listed had declined to 12 in 1878 and had risen only slightly to 14 by 1888;

(36) a reason for the decline is that in 1870, a Methodist circuit rider, Joseph Mastin, secured funds to purchase land and construct St. Stephens Baptist Church for the Rappahannocks living nearby in Caroline County;

(37) Mastin referred to the Rappahannocks during the period of 1850 to 1870 as "Indians, having a great need for moral and Christian guidance";

(38) St. Stephens was the dominant tribal church until the Rappahannock Indian Baptist Church was established in 1964;

(39) at both churches, the core Rappahannock family names of Bird, Clarke, Fortune, Johnson, Nelson, Parker, and Richardson predominate;

(40) during the early 1900s, James Mooney, noted anthropologist, maintained correspondence with the Rappahannocks, surveying them and instructing them on how to formalize their tribal government;

(41) in November 1920, Speck visited the Rappahannocks and assisted them in organizing the fight for their sovereign rights;

(42) in 1921, the Rappahannocks were granted a charter from the Commonwealth of Virginia formalizing their tribal government;

(43) Speck began a professional relationship with the Tribe that would last more than 30 years and document Rappahannock history and traditions as never before;

(44) in April 1921, Rappahannock Chief George Nelson asked the Governor of Virginia, Westmoreland Davis, to forward a proclamation to the President of the United States, along with an appended list of tribal members and a handwritten copy of the proclamation itself;

(45) the letter concerned Indian freedom of speech and assembly nationwide;

(46) in 1922, the Rappahannocks established a formal school at Lloyds, Essex County, Virginia;

(47) prior to establishment of the school, Rappahannock children were taught by a tribal member in Central Point, Caroline County, Virginia;

(48) in December 1923, Rappahannock Chief George Nelson testified before Congress appealing for a \$50,000 appropriation to establish an Indian school in Virginia;

(49) in 1930, the Rappahannocks were engaged in an ongoing dispute with the Commonwealth of Virginia and the United States Census Bureau about their classification in the 1930 Federal census;

(50) in January 1930, Rappahannock Chief Otho S. Nelson wrote to Leon Truesdell, Chief Statistician of the United States Census Bureau, asking that the 218 enrolled Rappahannocks be listed as Indians;

(51) in February 1930, Truesdell replied to Nelson saying that "special instructions" were being given about classifying Indians;

(52) in April 1930, Nelson wrote to William M. Stewart at the Census Bureau asking about the enumerators' failure to classify his people as Indians, saying that enumerators had not asked the question about race when they interviewed his people;

(53) in a followup letter to Truesdell, Nelson reported that the enumerators were "flatly denying" his people's request to be listed as Indians and that the race question was completely avoided during interviews;

(54) the Rappahannocks had spoken with Caroline and Essex County enumerators, and with John M.W. Green at that point, without success;

(55) Nelson asked Truesdell to list people as Indians if he sent a list of members;

(56) the matter was settled by William Stewart, who concluded that the Bureau's rule was that people of Indian descent could be classified as "Indian" only if Indian "blood" predominated and "Indian" identity was accepted in the local community;

(57) the Virginia Vital Statistics Bureau classed all nonreservation Indians as "Negro", and it failed to see why "an exception should be made" for the Rappahannocks;

(58) therefore, in 1925, the Indian Rights Association took on the Rappahannock case to assist the Rappahannocks in fighting for their recognition and rights as an Indian tribe;

(59) during the Second World War, the Pamunkeys, Mattaponis, Chickahomies, and Rappahannocks had to fight the draft boards with respect to their racial identities;

(60) the Virginia Vital Statistics Bureau insisted that certain Indian draftees be inducted into Negro units;

(61) finally, 3 Rappahannocks were convicted of violating the Federal draft laws and, after spending time in a Federal prison, were granted conscientious objector status and served out the remainder of the war working in military hospitals;

(62) in 1943, Frank Speck noted that there were approximately 25 communities of Indians left in the Eastern United States that were entitled to Indian classification, including the Rappahannocks;

(63) in the 1940s, Leon Truesdell, Chief Statistician, of the United States Census Bureau, listed 118 members in the Rappahannock Tribe in the Indian population of Virginia;

(64) on April 25, 1940, the Office of Indian Affairs of the Department of the Interior included the Rappahannocks on a list of Indian tribes classified by State and by agency;

(65) in 1948, the Smithsonian Institution Annual Report included an article by William Harlen Gilbert entitled, "Surviving Indian Groups of the Eastern United States", which included and described the Rappahannock Tribe;

(66) in the late 1940s and early 1950s, the Rappahannocks operated a school at Indian Neck;

(67) the State agreed to pay a tribal teacher to teach 10 students bused by King and Queen County to Sharon Indian School in King William County, Virginia;

(68) in 1965, Rappahannock students entered Marriott High School (a white public school) by executive order of the Governor of Virginia;

(69) in 1972, the Rappahannocks worked with the Coalition of Eastern Native Americans to fight for Federal recognition;

(70) in 1979, the Coalition established a pottery and artisans company, operating with other Virginia tribes;

(71) in 1980, the Rappahannocks received funding through the Administration for Native Americans of the Department of Health and Human Services to develop an economic program for the Tribe; and

(72) in 1983, the Rappahannocks received State recognition as an Indian tribe.

#### SEC. 402. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term "tribal member" means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—

(A) IN GENERAL.—The term "Tribe" means the organization possessing the legal name Rappahannock Tribe, Inc.

(B) EXCLUSIONS.—The term "Tribe" does not include any other Indian tribe, subtribe, band, or splinter group the members of which represent themselves as Rappahannock Indians.

#### SEC. 403. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of King and Queen County, Caroline County, Essex County, Spotsylvania County, Stafford County, and Richmond County, Virginia.

#### SEC. 404. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 405. GOVERNING BODY.**

The governing body of the Tribe shall be—  
 (1) the governing body of the Tribe in place as of the date of enactment of this Act; or  
 (2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 406. RESERVATION OF THE TRIBE.**

(a) **IN GENERAL.**—Upon the request of the Tribe, the Secretary of the Interior—  
 (1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of King and Queen County, Stafford County, Spotsylvania County, Richmond County, Essex County, and Caroline County, Virginia; and  
 (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of King and Queen County, Stafford County, Spotsylvania County, Richmond County, Essex County, and Caroline County, Virginia.

(b) **DEADLINE FOR DETERMINATION.**—The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) **RESERVATION STATUS.**—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

(d) **GAMING.**—The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

**SEC. 407. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

**SEC. 408. JURISDICTION OF COMMONWEALTH OF VIRGINIA.**

(a) **IN GENERAL.**—The Commonwealth of Virginia shall exercise jurisdiction over—  
 (1) all criminal offenses that are committed on; and  
 (2) all civil actions that arise on, lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) **ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.**—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to reassume such jurisdiction.

**TITLE V—MONACAN INDIAN NATION****SEC. 501. FINDINGS.**

Congress finds that—

(1) in 1677, the Monacan Tribe signed the Treaty of Middle Plantation between Charles II of England and 12 Indian “Kings and Chief Men”;

(2) in 1722, in the Treaty of Albany, Governor Spotswood negotiated to save the Virginia Indians from extinction at the hands of the Iroquois;

(3) specifically mentioned in the negotiations were the Monacan tribes of the Totero (Tutelo), Saponi, Ocheneeches (Occaneechi), Stengenocks, and Meipontskys;

(4) in 1790, the first national census recorded Benjamin Evans and Robert Johns, both ancestors of the present Monacan community, listed as “white” with mulatto children;

(5) in 1782, tax records also began for those families;

(6) in 1850, the United States census recorded 29 families, mostly large, with Monacan surnames, the members of which are genealogically related to the present community;

(7) in 1870, a log structure was built at the Bear Mountain Indian Mission;

(8) in 1908, the structure became an Episcopal Mission and, as of the date of enactment of this Act, the structure is listed as a landmark on the National Register of Historic Places;

(9) in 1920, 304 Amherst Indians were identified in the United States census;

(10) from 1930 through 1931, numerous letters from Monacans to the Bureau of the Census resulted from the decision of Dr. Walter Plecker, former head of the Bureau of Vital Statistics of the Commonwealth of Virginia, not to allow Indians to register as Indians for the 1930 census;

(11) the Monacans eventually succeeded in being allowed to claim their race, albeit with an asterisk attached to a note from Dr. Plecker stating that there were no Indians in Virginia;

(12) in 1947, D’Arcy McNickle, a Salish Indian, saw some of the children at the Amherst Mission and requested that the Cherokee Agency visit them because they appeared to be Indian;

(13) that letter was forwarded to the Department of the Interior, Office of Indian Affairs, Chicago, Illinois;

(14) Chief Jarrett Blythe of the Eastern Band of Cherokee did visit the Mission and wrote that he “would be willing to accept these children in the Cherokee school”;

(15) in 1979, a Federal Coalition of Eastern Native Americans established the entity known as “Monacan Co-operative Pottery” at the Amherst Mission;

(16) some important pieces were produced at Monacan Co-operative Pottery, including a piece that was sold to the Smithsonian Institution;

(17) the Mattaponi-Pamunkey-Monacan Consortium, established in 1981, has since been organized as a nonprofit corporation that serves as a vehicle to obtain funds for those Indian tribes from the Department of Labor under Native American programs;

(18) in 1989, the Monacan Tribe was recognized by the Commonwealth of Virginia, which enabled the Tribe to apply for grants and participate in other programs; and

(19) in 1993, the Monacan Tribe received tax-exempt status as a nonprofit corporation from the Internal Revenue Service.

**SEC. 502. DEFINITIONS.**

In this title:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(2) **TRIBAL MEMBER.**—The term “tribal member” means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) **TRIBE.**—The term “Tribe” means the Monacan Indian Nation.

**SEC. 503. FEDERAL RECOGNITION.**

(a) **FEDERAL RECOGNITION.**—

(1) **IN GENERAL.**—Federal recognition is extended to the Tribe.

(2) **APPLICABILITY OF LAWS.**—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not

inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) **FEDERAL SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) **SERVICE AREA.**—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of all land within 25 miles from the center of Amherst, Virginia.

**SEC. 504. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 505. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 506. RESERVATION OF THE TRIBE.**

(a) **IN GENERAL.**—Upon the request of the Tribe, the Secretary of the Interior—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of Albemarle County, Alleghany County, Amherst County, Augusta County, Campbell County, Nelson County, and Rockbridge County, Virginia; and  
 (2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of Albemarle County, Alleghany County, Amherst County, Augusta County, Campbell County, Nelson County, and Rockbridge County, Virginia.

(b) **DEADLINE FOR DETERMINATION.**—The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) **RESERVATION STATUS.**—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the Tribe, be considered part of the reservation of the Tribe.

(d) **GAMING.**—The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

**SEC. 507. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

**SEC. 508. JURISDICTION OF COMMONWEALTH OF VIRGINIA.**

(a) **IN GENERAL.**—The Commonwealth of Virginia shall exercise jurisdiction over—

(1) all criminal offenses that are committed on; and

(2) all civil actions that arise on, lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) **ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.**—The Secretary of the Interior is authorized to accept on behalf of the United

States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to re-assume such jurisdiction.

#### **TITLE VI—NANSEMOND INDIAN TRIBE**

##### **SEC. 601. FINDINGS.**

Congress finds that—

(1) from 1607 until 1646, Nansemond Indians—  
(A) lived approximately 30 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) after 1646, there were 2 sections of Nansemonds in communication with each other, the Christianized Nansemonds in Norfolk County, who lived as citizens, and the traditionalist Nansemonds, who lived further west;

(3) in 1638, according to an entry in a 17th century sermon book still owned by the Chief's family, a Norfolk County Englishman married a Nansemond woman;

(4) that man and woman are lineal ancestors of all of members of the Nansemond Indian tribe alive as of the date of enactment of this Act, as are some of the traditionalist Nansemonds;

(5) in 1669, the 2 Nansemond sections appeared in Virginia Colony's census of Indian bowmen;

(6) in 1677, Nansemond Indians were signatories to the Treaty of 1677 with the King of England;

(7) in 1700 and 1704, the Nansemonds and other Virginia Indian tribes were prevented by Virginia Colony from making a separate peace with the Iroquois;

(8) Virginia represented those Indian tribes in the final Treaty of Albany, 1722;

(9) in 1711, a Nansemond boy attended the Indian School at the College of William and Mary;

(10) in 1727, Norfolk County granted William Bass and his kinsmen the "Indian privileges" of clearing swamp land and bearing arms (which privileges were forbidden to other nonwhites) because of their Nansemond ancestry, which meant that Bass and his kinsmen were original inhabitants of that land;

(11) in 1742, Norfolk County issued a certificate of Nansemond descent to William Bass;

(12) from the 1740s to the 1790s, the traditionalist section of the Nansemond tribe, 40 miles west of the Christianized Nansemonds, was dealing with reservation land;

(13) the last surviving members of that section sold out in 1792 with the permission of the Commonwealth of Virginia;

(14) in 1797, Norfolk County issued a certificate stating that William Bass was of Indian and English descent, and that his Indian line of ancestry ran directly back to the early 18th century elder in a traditionalist section of Nansemonds on the reservation;

(15) in 1833, Virginia enacted a law enabling people of European and Indian descent to obtain a special certificate of ancestry;

(16) the law originated from the county in which Nansemonds lived, and mostly Nansemonds, with a few people from other counties, took advantage of the new law;

(17) a Methodist mission established around 1850 for Nansemonds is currently a standard Methodist congregation with Nansemond members;

(18) in 1901, Smithsonian anthropologist James Mooney—

(A) visited the Nansemonds; and

(B) completed a tribal census that counted 61 households and was later published;

(19) in 1922, Nansemonds were given a special Indian school in the segregated school system of Norfolk County;

(20) the school survived only a few years;

(21) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians that included a section on the Nansemonds; and

(22) the Nansemonds were organized formally, with elected officers, in 1984, and later applied for and received State recognition.

##### **SEC. 602. DEFINITIONS.**

In this title:

(1) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(2) **TRIBAL MEMBER.**—The term "tribal member" means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) **TRIBE.**—The term "Tribe" means the Nansemond Indian Tribe.

##### **SEC. 603. FEDERAL RECOGNITION.**

(a) **FEDERAL RECOGNITION.**—

(1) **IN GENERAL.**—Federal recognition is extended to the Tribe.

(2) **APPLICABILITY OF LAWS.**—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) **FEDERAL SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe.

(2) **SERVICE AREA.**—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach, Virginia.

##### **SEC. 604. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

##### **SEC. 605. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

##### **SEC. 606. RESERVATION OF THE TRIBE.**

(a) **IN GENERAL.**—Upon the request of the Tribe, the Secretary of the Interior—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if such lands are located within the boundaries of the city of Suffolk, the city of Chesapeake, or Isle of Wight County, Virginia; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if such lands are located within the boundaries of the city of Suffolk, the city of Chesapeake, or Isle of Wight County, Virginia.

(b) **DEADLINE FOR DETERMINATION.**—The Secretary shall make a final written determination not later than three years of the date which the Tribe submits a request for land to be taken into trust under subsection (a)(2) and shall immediately make that determination available to the Tribe.

(c) **RESERVATION STATUS.**—Any land taken into trust for the benefit of the Tribe pursuant to this paragraph shall, upon request of the

Tribe, be considered part of the reservation of the Tribe.

(d) **GAMING.**—The Tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

##### **SEC. 607. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

##### **SEC. 608. JURISDICTION OF COMMONWEALTH OF VIRGINIA.**

(a) **IN GENERAL.**—The Commonwealth of Virginia shall exercise jurisdiction over—

(1) all criminal offenses that are committed on; and

(2) all civil actions that arise on, lands located within the Commonwealth of Virginia that are owned by, or held in trust by the United States for, the Tribe.

(b) **ACCEPTANCE OF STATE JURISDICTION BY SECRETARY.**—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) upon verification by the Secretary of a certification by a tribe that it possesses the capacity to re-assume such jurisdiction.

The CHAIR. No amendment to the committee amendment is in order except those printed in House Report 111-131. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GOODLATTE

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111-131.

Mr. GOODLATTE. I offer an amendment.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GOODLATTE:

At the end of the bill, add the following new title:

#### **TITLE VII—EMINENT DOMAIN**

##### **SEC. 701. LIMITATION.**

Eminent domain may not be used to acquire lands in fee or in trust for an Indian tribe recognized under this Act.

The CHAIR. Pursuant to House Resolution 490, the gentleman from Virginia (Mr. GOODLATTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I rise today to offer an amendment to H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act. Given that this bill could



dramatically change localities in Virginia, I am offering an amendment to provide an additional protection for private property. This amendment would ensure that no use of eminent domain could be used to acquire private property to transfer it to the tribes. This would ensure that lands are not taken out of current private use for the sole purpose of expanding tribal lands and ensure some protection for private residents and localities. The bill greatly expands the congressionally recommended areas in which tribes can acquire lands for their trust. Given that this is a great expansion in comparison to versions of this bill introduced in previous Congresses, I believe that it is necessary and appropriate to provide this level of protection. I hope my colleagues will join me in supporting this amendment.

Mr. RAHALL. Would the gentleman yield?

Mr. GOODLATTE. I will be happy to yield.

Mr. RAHALL. I appreciate the gentleman yielding.

Under existing law, as the gentleman knows, and under this legislation, the Interior Secretary may place land owned by an Indian tribe into trust as part of a tribe's reservation. Eminent domain does not enter the picture.

Indeed, the pending legislation states for each of the six tribes involved that the Secretary may take into trust "any land held in fee by the tribe that was acquired by the tribe." Considering that neither the Interior Secretary or, for that matter, these tribes, made eminent domain authority, the gentleman's amendment is chasing a problem that does not exist. But having said that, if it makes the gentleman from Virginia feel better, and if it makes him more comfortable with this bill, and since it does pose no harm, I will accept the amendment.

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Mr. GOODLATTE. Reclaiming my time, the chairman makes me feel a lot better, and I'm pleased that he will accept my amendment.

I yield back the balance of my time.

The Acting CHAIR (Ms. BALDWIN). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. GOODLATTE

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-131.

Mr. GOODLATTE. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GOODLATTE:

Page 51, beginning on line 1, strike "Albermarle" and all that follows through "Vir-

ginia" on line 4 and insert "Amherst County, Virginia".

Page 51, line 7, strike "Albermarle" and all that follows through "Virginia" on line 10 and insert "Amherst County, Virginia".

The Acting CHAIR. Pursuant to House Resolution 490, the gentleman from Virginia (Mr. GOODLATTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Madam Chairman, I have always supported granting these six Virginia tribes Federal recognition, and I am extremely happy that that bill has included language that seeks to prevent casino-style gaming in the Commonwealth of Virginia. However, I was troubled to learn of a change that was made to the bill without notification to any of the local communities that would be affected.

In the section dealing with the Monacan Indian Tribe, the area that the tribe could have placed in trust for their reservation grew from one county to seven. Originally, it was an area of approximately 479 square miles, and now it's an area of approximately 3,728 square miles.

What is even more disturbing to me is that none of these new localities knew that they would be part of an area in which the tribes could acquire lands. My office only discovered it once the bill was scheduled for floor consideration.

This bill could dramatically affect these counties. If tribal lands were established in these counties, it could mean the localities would lose all control of the lands that were placed in trust in them. We would no longer be in control of zoning, environmental reviews, and these localities could no longer collect tax revenues from these lands. These are serious concerns and could greatly impact operations of the counties.

The fact that the bill would establish tribal land in these counties is a total surprise to these jurisdictions. They have not had a sufficient opportunity to discuss and study how such a change would affect them.

The addition of these new counties is also a total surprise to me and the counties involved, and they should be removed from this bill. I've also spoken to my colleagues, TOM PERRIELLO and RICK BOUCHER of the Fifth and Ninth Congressional Districts, who also represent these newly added counties, and they also support this amendment.

These communities should have the right to know how these changes will affect them as far as this legislation is concerned and the far-reaching consequences that could permanently change central Virginia.

I reserve the balance of my time.

Mr. MORAN of Virginia. I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Virginia is recognized for 5 minutes.

Mr. MORAN of Virginia. Madam Chairman, first of all, this land was the Indians' land. The Monacan tribe owned much of this land. It was taken from them.

Now, in terms of the counties that my friend, Mr. GOODLATTE, has included, there is no land currently that would be placed in trust. All they want is the ability to place land in trust because of the recent Supreme Court decision that said that the Secretary of the Interior does not have discretion to do this.

Now, this Supreme Court decision just occurred in February, so it's a brand new context in which these things are dealt with. If it had not been for the Supreme Court decision, these additional counties would not have been added. But they're added in case people in those counties who are understanding of the plight of the Monacan Indians chose to provide land to them. We don't know that that's even going to occur. There is only one very small parcel of land that the Monacan tribe is aware of that it would receive from a current landowner in Rockbridge County.

Now, the Indian tribes have compromised so much for so long, I think that they would compromise again if necessary. But to deny them this one small plot of land that's relatively isolated, it's certainly a long ways from Interstate 81 or any main highway, it doesn't seem to me fair.

So if the gentleman was willing to accommodate that land in Rockbridge County, maybe, once again, the Indian tribes would agree to compromise and preclude the other counties included in Mr. GOODLATTE's amendment.

I will reserve the balance of my time.

Mr. GOODLATTE. Madam Chairman, I yield myself such time as I may consume to say the gentleman's points are well taken. We certainly understand the concerns of the tribe and the interests of the individual who owns the land in Rockbridge County that would like to have it taken into trust.

My concern, of course, is that this has happened at a late hour and, as you know, we've been scrambling to figure out exactly what that land is. We now think we have a reasonably good definition of it, and subject to the approval of the local government, I think that we could agree on language. And if the chairman and the ranking member, or other Members for that matter, do not object, I would be prepared to make a unanimous consent request.

The Acting CHAIR. The Chair would inquire whether the gentleman is submitting a modification.

Mr. GOODLATTE. I am. I am asking unanimous consent to submit a modification.

The Acting CHAIR. The Clerk will report the modification.



The Clerk read as follows:

Modification to amendment No. 2 offered by Mr. GOODLATTE:

In lieu of the matter proposed to be inserted, insert the following:

Page 51, beginning on line 1, strike "Albermarle" and all that follows through "Virginia" on line 4 and insert "Amherst County, Virginia"

Page 51, beginning on line 7, strike "Albermarle" and all that follows through "Virginia" on line 10 and insert "Amherst County, Virginia, and those parcels in Rockbridge County, Virginia (subject to the consent of the local unit of government), owned by Mr. J. Poole, described as East 731 Sandbridge (encompassing approximately 4.74 acres) and East 731 (encompassing approximately 5.12 acres))."

The Acting CHAIR. Is there objection to the modification?

Mr. MORAN of Virginia. Reserving the right to object, my concern with this modification is only one; not the specificity of the modifying amendment, but it's subject to the approval of Rockbridge County. What does that mean? Does there have to be some formal legislation passed by Rockbridge County? Is it the County Board? Do they have to pass formal legislation and by when?

I would be fine with it up to the approval part, but I don't know what the approval part constitutes.

Mr. GOODLATTE. If the gentleman would yield, the consent of the local unit of government, to me, would mean the approval of the Rockbridge County Board of Supervisors by way of an ordinance or some other measure that they would pass, a resolution, approving the action taken. If the gentleman has some perfecting language, I'm certainly willing to consider it.

Mr. MORAN of Virginia. Would the gentleman accept language that said, "unless disapproved by the Rockbridge County government"?

In other words, I hate to have it so that the Rockbridge County government can just decide to sit on this indefinitely. But if they specifically, through their County Board, disapproved it, then I guess that would be acceptable. But I don't want to give the kind of leverage where inaction might preclude this from occurring.

Mr. GOODLATTE. Well, if the gentleman would yield further, I take the gentleman's point. However, by the same token, we would have to have some kind of a date by which they would have to act in disapproval, because otherwise they could disapprove some time well into the future. So I think that the appropriate step here would be to adopt this amendment with the unanimous consent modification, if no one objects to that, and then the tribe would then proceed to go to the Rockbridge County Board of Supervisors and ask them to approve this. If they refuse to approve it, they would still have the opportunity to come back in the future and ask them for approval at a later date. Whereas, the

gentleman's language might be more confusing.

Mr. MORAN of Virginia. By the same token, unless disapproved within 180 days of passage, because your argument applies just as well.

Mr. GOODLATTE. If the gentleman would yield, I don't think the gentleman is going down the right track because the gentleman who owns this land is still living, and it's my understanding that he's going to convey the land in a testamentary document, and therefore, to try to set a date for the action by the board seems to me to be trying to put the cart before the horse. I believe that I must insist, myself, on my own unanimous consent request.

Mr. MORAN of Virginia. The gentleman makes a legitimate point, and I will withdraw my reservation.

The Acting CHAIR. Without objection, the amendment is modified.

There was no objection.

The Acting CHAIR. The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Madam Chairman, with that modification, I would urge my colleagues to support the amendment. And I do believe that this is a good and effective way to address the concerns that I raise and were raised by Congressman PERRIELLO and Congressman BOUCHER in my conversations with them and my staffs conversations with their staffs about the impact that this could have on these particular localities. And, therefore, I would ask my colleagues to support the amendment, as modified.

I yield back the balance of my time. The Acting CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE), as modified.

The amendment, as modified, was agreed to.

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DOYLE) having assumed the chair, Ms. BALDWIN, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1385) to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe, pursuant to House Resolution 490, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore (Ms. BALDWIN). Without objection, the title of H.R. 1385 is amended to read as follows:

To extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

□ 1415

#### GENERAL LEAVE

Mr. RAHALL. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 31.

The SPEAKER pro tempore (Ms. BALDWIN). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

#### LUMBEE RECOGNITION ACT

Mr. RAHALL. Madam Speaker, pursuant to House Resolution 490, I call up the bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 490, the amendment in the nature of a substitute printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 31

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Lumbee Recognition Act".*

#### SEC. 2. PREAMBLE.

*The preamble to the Act of June 7, 1956 (70 Stat. 254), is amended as follows:*

(1) *By striking "and" at the end of each clause.*

(2) *By striking "": Now, therefore," at the end of the last clause and inserting a semicolon.*

(3) *By adding at the end the following new clauses:*

*"Whereas the Lumbee Indians of Robeson and adjoining counties in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw, and have remained a*

distinct Indian community since the time of contact with white settlers;

"Whereas since 1885 the State of North Carolina has recognized the Lumbee Indians as an Indian tribe;

"Whereas in 1956 the Congress of the United States acknowledged the Lumbee Indians as an Indian tribe, but withheld from the Lumbee Tribe the benefits, privileges and immunities to which the Tribe and its members otherwise would have been entitled by virtue of the Tribe's status as a federally recognized tribe; and

"Whereas the Congress finds that the Lumbee Indians should now be entitled to full Federal recognition of their status as an Indian tribe and that the benefits, privileges and immunities that accompany such status should be accorded to the Lumbee Tribe: Now, therefore,".

### SEC. 3. FEDERAL RECOGNITION.

The Act of June 7, 1956 (70 Stat. 254), is amended as follows:

(1) By striking the last sentence of the first section.

(2) By striking section 2 and inserting the following new sections:

"SEC. 2. (a) Federal recognition is hereby extended to the Lumbee Tribe of North Carolina, as designated as petitioner number 65 by the Office of Federal Acknowledgement. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Lumbee Tribe of North Carolina and its members.

"(b) Notwithstanding the first section, any group of Indians in Robeson and adjoining counties, North Carolina, whose members are not enrolled in the Lumbee Tribe of North Carolina as determined under section 3(c), may petition under part 83 of title 25 of the Code of Federal Regulations for acknowledgement of tribal existence.

"SEC. 3. (a) The Lumbee Tribe of North Carolina and its members shall be eligible for all services and benefits provided to Indians because of their status as members of a federally recognized tribe. For the purposes of the delivery of such services, those members of the Tribe residing in Robeson, Cumberland, Hoke, and Scotland counties in North Carolina shall be deemed to be residing on or near an Indian reservation.

"(b) Upon verification by the Secretary of the Interior of a tribal roll under subsection (c), the Secretary of the Interior and the Secretary of Health and Human Services shall develop, in consultation with the Lumbee Tribe of North Carolina, a determination of needs to provide the services to which members of the Tribe are eligible. The Secretary of the Interior and the Secretary of Health and Human Services shall each submit a written statement of such needs to Congress after the tribal roll is verified.

"(c) For purposes of the delivery of Federal services, the tribal roll in effect on the date of the enactment of this section shall, subject to verification by the Secretary of the Interior, define the service population of the Tribe. The Secretary's verification shall be limited to confirming compliance with the membership criteria set out in the Tribe's constitution adopted on November 16, 2001, which verification shall be completed within 2 years after the date of the enactment of this section.

"SEC. 4. (a) The Secretary may take land into trust for the Lumbee Tribe pursuant to this Act. An application to take land located within Robeson County, North Carolina, into trust under this section shall be treated by the Secretary as an 'on reservation' trust acquisition under part 151 of title 25, Code of Federal Regulation (or a successor regulation).

"(b) The tribe may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, includ-

ing the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

"SEC. 5. (a) The State of North Carolina shall exercise jurisdiction over—

"(1) all criminal offenses that are committed on; and

"(2) all civil actions that arise on, lands located within the State of North Carolina that are owned by, or held in trust by the United States for, the Lumbee Tribe of North Carolina, or any dependent Indian community of the Lumbee Tribe of North Carolina.

"(b) The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, any transfer by the State of North Carolina to the United States of any portion of the jurisdiction of the State of North Carolina described in subsection (a) pursuant to an agreement between the Lumbee Tribe and the State of North Carolina. Such transfer of jurisdiction may not take effect until 2 years after the effective date of the agreement.

"(c) The provisions of this section shall not affect the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

"SEC. 6. There are authorized to be appropriated such sums as are necessary to carry out this Act."

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Washington (Mr. HASTINGS) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. To my colleagues on both sides of the aisle, let me begin by saying that this measure, which would extend Federal recognition to the Lumbee Tribe of North Carolina, is more than a century overdue. When 240 of us voted for Federal recognition during the 102nd Congress, that should have resolved the question of Lumbee status. When we voted again in favor of similar legislation in the 103rd Congress, that certainly should have meant that the United States had finally taken a stand and done the right thing by acknowledging a trust relationship with the Lumbee Tribe, but it was not to be. Last Congress, the Lumbee Tribe Recognition Act passed the House of Representatives with 256 votes but, unfortunately, this legislation stalled in the Senate.

So here we are again today, over 115 years after the Lumbee first sought Federal recognition, still attempting to clarify their status.

The history and struggle of the Lumbee Tribe to obtain Federal acknowledgment has been well documented. When Congress passed the Lumbee Act of 1956, it simultaneously recognized and terminated the Lumbee Tribe by acknowledging their status as an Indian tribe by denying them Federal service. That act was passed during the era of Federal Indian policy known as the Termination Era. If you examine the results of the Termination Acts of the 1950s, you would see how detrimental that misguided policy was to the terminated tribes. Through it

all, the Lumbee Tribe has managed to maintain their sense of community and provide some services to their citizens.

This is a testament to the fact that the Lumbees have a functioning government worthy of Federal acknowledgment. Yet the Lumbee people still do not have the government-to-government relationship they deserve. At no time has the Department of the Interior ever opposed Federal recognition for this tribe based on the belief that the Lumbees are not entitled to such status. Indeed, the Department has repeatedly concluded that the Lumbee Tribe descends from similar speaking tribes.

Several studies undertaken by the Department have consistently concluded that the Lumbees are a distinct, self-governing Indian community which has been historically located on the Lumbee River in North Carolina.

During President Obama's campaign, he pledged his full support for recognition of the Lumbee people. At the Natural Resources hearing this year, the administration testified in support of H.R. 31 stating: "There are rare circumstances when Congress should intervene and recognize a tribal group. And the case of Lumbee Indians is one such case."

During this debate, we may hear a number of canards against Lumbee recognition but not one will be a legitimate reason to deny recognition. One such relates to the different names given the Lumbee Tribe. Although the State of North Carolina has recognized the tribe for over 100 years, it has done so under various names. Other than the Lumbee Tribe, North Carolina is responsible for the various names that it imposed upon the tribe. It was not until the tribe pressured the State that the tribe was authorized to conduct a referendum to choose their own name. When it did so in 1951, it chose the name Lumbee Indians of North Carolina. This is the only name ever selected by the tribe, and it is this name by which Congress, in 1956, recognized the Lumbees.

Some have expressed concern about the cost of this bill, and I want to note that the cost of this bill is for discretionary programs only. There is no mandatory spending. Any actual costs to this bill are subject to appropriations.

To address claims that the tribe was only interested in Federal recognition so that they may conduct gaming, the tribe supported an outright gaming prohibition which has been included in this bill. The gaming prohibition precludes the Lumbee Tribe from engaging in, licensing, or regulating gaming pursuant to the Indian Gaming Regulatory Act or any other Federal law.

Finally, some may argue that the Lumbees should not be allowed to bypass administrative process established by the Bureau of Indian Affairs and

should be allowed to go through the administrative process. I can assure you extending Federal recognition to a tribe at this time is not something new, nor does it bypass administrative process. If a tribe has been terminated by the Federal Government, they are ineligible for the administrative process.

Because we, the Congress, terminated the Lumbees in 1956, it is solely our responsibility to restore their status.

In closing, I would like to commend the gentleman from North Carolina, Mr. MIKE MCINTYRE, for his dedication to this issue. Over the years, he has acted in a professional and respectful manner in his tireless efforts, his superb leadership. This bill has garnered 185 cosponsors. Mr. MCINTYRE's dedication to the Lumbee people is most admirable, and I'm sure they recognize and salute him for that dedication.

I would also like to commend the Lumbee Tribe for being extremely patient with Congress as we have failed to clarify their status for far too long.

In the face of adversity, their determination and sheer stamina has served as testament to their belief in who they are as a people. They have endured rejection by Congress, hostility by the Bureau of Indian Affairs, and have even been snubbed in their quest by neighboring Indian tribes unwilling to have the Lumbee recognized the Congress as they were.

All the Lumbee want is the respect of being acknowledged for who they are—an American Indian tribe.

Let us join this effort to grant the Lumbee the recognition they have so long deserved. It is up to us to do the right thing by extending Federal recognition to the Lumbee Tribe, and I urge all of my colleagues to support H.R. 31.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I rise in opposition to H.R. 31, and I do so because I believe this bill sets a bad precedent. It extends Federal recognition to what I understand would become the third largest tribe in the country. Though the size of the Lumbee Tribe does not disqualify it from consideration for recognition, it does demand, nonetheless, that Congress exercise great caution. And I will point that out later on in my remarks.

Madam Speaker, a fundamental principle of Indian law is that a recognized tribe should be a tribe that can trace continuous existence from the earliest days of our Republic to the present. In fact, this is enshrined in one of the seven mandatory criteria that the Bureau of Indian Affairs, or BIA, uses to evaluate petitions from groups seeking recognition. The BIA process might have its problems, but at least it has a clear set of standards that a petitioner must meet.

We in Congress do not seem to have a clear standard for determining that

the Lumbee Tribe warrants recognition. Legislative proposals to recognize the Lumbee has surfaced numerous times over the last century, yet none were enacted. No new information has come to light to justify passing that legislation today. Moreover, the committee applied no visible standard for determining why the Lumbees warrant recognition while other groups do not. Unless the House develops a clear, rational, fixed policy on recognition, then our act of recognizing a tribe would deem to be arbitrary. This could undermine the standing of recognized tribes everywhere.

The lack of transparent standards in H.R. 31 leads to a major issue: the tribe size and the cost of providing services to it. Two years ago when we considered the same legislation, the Congressional Budget Office, or CBO, estimated that recognizing the Lumbees would cost taxpayers \$480 million over 5 years based on an enrollment of about 40,000 members. Today, CBO advises that the bill is going to cost \$786 million over 5 years based on a tribal enrollment of 54,000.

\$786 million, Madam Speaker, is an enormous sum and it could force the BIA and the Indian Health Service to alter formulas for the provisions of service to all other tribes, possibly reducing their allocation.

A recent news article in the North Carolina paper indicates the tribal rolls are closed because of the concerns over the size of the tribe. The implication is that the tribal rolls will be reopened again after Congress passes this bill. As I said earlier, the size of the tribe is not an issue here. What is at issue is the kind of enrollment standards the tribe applies because taxpayers and other tribes want to know what the cost implications will be down the road.

Let me restate a few points that I made when the Committee on Natural Resources marked up this measure, because the objections and the concerns that I raised then have not been resolved today.

First, the Obama administration testified in support of H.R. 31, reversing the stance of the previous administration. In the committee hearing on the bill, the Department's witness did not explain how the administration came to the conclusion that the Lumbees warrant Federal recognition. When I asked the witness who was at the Department who made the decision, his reply was, The political leadership.

The Secretary of the Interior, Ken Salazar, is the top political leader there. I would note since the day he took office, Secretary Salazar has repeatedly stressed that his decisions will be based on the law and sound science. For example, an Interior news release quotes him as saying: "My first priority at Interior is to lead the Department with openness in decision

making, high ethical standards, and respect to scientific integrity." Again, this is from a news release that was sent out by the Department.

We are debating a bill about tribal recognition and the Department of the Interior is supposed to base its recognition decisions based on the research of the professional historians, anthropologists, and genealogists employed in the Bureau of Indian Affairs.

So in this new leadership at Interior, how did this new leadership at Interior and the administration arrive at support of H.R. 31? Was it because of the professional opinion of those career social scientists? Was there openness in this decisionmaking? I think the answer is no. The Department has not provided the committee with any data supporting its conclusion that the Lumbee met the same basic criteria as other tribes the Secretary has recognized.

While there are a number of other concerns with H.R. 31, let me highlight one more which is extremely important. While the Constitution grants Congress plenary authority to recognize a tribe, the Congress must respect some reasonable limits on the exercise of this authority. To do otherwise undermines the whole notion of tribal recognition and thereby dishonors all validly recognized tribes. With this in mind, the House today should, at a minimum, ensure that a tribe being formally recognized descends from a known historic tribe.

□ 1430

H.R. 31 fails this test. The legislation limits the Secretary to "confirming compliance with the membership criteria set out in the Tribe's constitution."

The tribe has testified that its members are descendants of coastal North Carolina tribes. At a minimum, the Secretary should verify that every member of the tribe descends from such historic tribes. Such verification has not been done, and it is not required under H.R. 31. It could have been done if the amendment filed by the gentleman from North Carolina (Mr. SHULER) were made in order by the Rules Committee, but the Rules Committee chose not to make his amendment in order.

His amendment would have required the Secretary to evaluate the Lumbee recognition petition using the Bureau of Indian Affairs' seven mandatory criteria. One of the criteria requires a petitioner to show that its membership consists of individuals who descend from a historic Indian tribe.

H.R. 31, again, Madam Speaker, does not impose a reasonable standard that justifies the recognition of the Lumbee Tribe.

So with that, Madam Speaker, I reserve the balance of my time.

Mr. RAHALL. Madam Speaker, I'm most delighted to yield 10 minutes to

the distinguished gentleman from North Carolina (Mr. MCINTYRE), lead sponsor of this legislation, and, again, commend him for his tremendous leadership.

Mr. MCINTYRE. Madam Speaker, the members of the Lumbee Tribe, many of whom are here from the tribal council today, and I appreciate Chairman RAHALL's strong support of the Lumbee Tribe in the past and your willingness to cosponsor this bill for Federal recognition to bring long overdue justice to the recognition of this tribe.

Madam Speaker, I place into the RECORD four letters from all of North Carolina's Governors, both Democratic and Republican, from the last 32 years in recognition and desire that this tribe be federally recognized.

STATE OF NORTH CAROLINA,  
OFFICE OF THE GOVERNOR,  
Raleigh, NC, May 1, 2009.

Hon. NICK J. RAHALL II,  
Chair, Natural Resources Committee, House of  
Representatives, Longworth House Office  
Building, Washington, DC.

Hon. DOC HASTINGS,  
Ranking Member, Natural Resources Committee,  
House of Representatives, Longworth House  
Office Building, Washington, DC.

DEAR CONGRESSMAN RAHALL AND CONGRESS-  
MAN HASTINGS: Thank you for the opportunity to submit written comments about pending legislation for federal recognition of the Lumbee Tribe of North Carolina by the Congress of the United States of America.

I am writing to express my support for the century-long effort of the Lumbee Tribe of North Carolina to attain a favorable decision on federal recognition. Both Republican and Democratic administrations have supported Lumbee efforts, and the State of North Carolina has recognized the Lumbees as a Tribe. The Lumbee people have waited too long on a decision on federal recognition, and the US Congress should give them this opportunity.

As you know, the Lumbee Tribe has sought federal recognition since 1888, after being recognized by the State of North Carolina as the "Croatan" Tribe in 1885. In 1956, the Congress acknowledged that Lumbees were Indians, but at the request of the Department of the Interior, included language in this legislation that precluded access to federal funds. This left the Lumbees without a federal relationship as an Indian tribe. This provision also halted the efforts of the Lumbees to gain federal acknowledgement through the federal acknowledgement process at the Department of the Interior. I understand that Congress has enacted special legislation to address special circumstances such as these.

I thank the House and the Natural Resources Committee for holding this hearing and for allowing me to offer written comments about the Lumbee Tribe recognition bill.

Thank you for your consideration.  
Sincerely,

BEVERLY PERDUE,  
Governor.

STATE OF NORTH CAROLINA,  
Raleigh, NC, April 18, 2007.

Hon. NICK J. RAHALL II,  
Chair, Natural Resources Committee, House of  
Representatives, Longworth House Office  
Building, Washington, DC.

Hon. DON YOUNG,  
Ranking Member, Natural Resources Committee,  
House of Representatives, Longworth House  
Office Building, Washington, DC.

DEAR CONGRESSMAN RAHALL AND CONGRESS-  
MAN YOUNG: Thank you for the opportunity to submit written comments about pending legislation for federal recognition of the Lumbee Tribe of North Carolina by the Congress of the United States of America. I believe full federal recognition of the Lumbee Tribe by Congress is long overdue.

Recognition of and interaction with the Lumbee people as a unique, distinct Indian tribe began when settlers from Virginia, South Carolina and Europe first arrived in the Cape Fear and Pee Dee River Basins after the Tuscarora War (1711-1715). There, the settlers encountered a well-populated, cohesive American Indian tribal group situated mostly along and to the west of what is now known as the Lumber River in Robeson County. As early as 1890, the U.S. Department of Interior acknowledged this fact among others as evidence that the Lumbee people are American Indians.

A proclamation by colonial Governor Matthew Rowan on May 10, 1753 stated that Drowning Creek (Lumber River in Robeson County) was "the Indian Frontier." Other historical records of the eighteenth and early nineteenth centuries, including Revolutionary War pensions for Lumbees who fought for American independence, attest to the Lumbees as American Indians.

In 1885, North Carolina's General Assembly passed a bill recognizing and naming the Lumbee tribe "Croatan." In 1911 the General Assembly changed their name to the "Indians of Robeson County" and in 1913 to "Cherokee Indians of Robeson County." None of these names was chosen by the tribe. In 1953, the State officially changed the tribe's name to "Lumbee Tribe of North Carolina" following a 1952 tribal referendum requested by the Lumbees and paid for by the State in which this name was overwhelmingly chosen. These names all apply to the same American Indian tribe.

For more than a century, North Carolina's Governors, various state legislators and Members of the North Carolina Congressional delegation have supported the effort by the Lumbee Tribe to obtain federal recognition, beginning with a petition to Congress in 1888. Enclosed are copies of letters by former Governors James G. Martin (R) and James B. Hunt, Jr., (D)—my immediate predecessors—attesting to the strong bipartisan support for federal recognition that the Lumbee Tribe has enjoyed during the last generation.

In the past, federal recognition has been denied because of opposition by the Bureau of Indian Affairs and Department of the Interior on budgetary grounds. Each of several federal investigations into the Lumbees' history, genealogy and ethnicity has concluded that the Lumbees are in fact American Indians. It follows that federal recognition should be authorized for this long-standing American Indian Tribe.

Personally and on behalf of North Carolina, I offer to our fellow Lumbee citizens and to the Congress our full, unqualified support for Congressional recognition of the Lumbee Tribe. I encourage your support for the Lumbee Tribe and for the adoption of this bill.

I thank the House and the Natural Resources Committee for holding this hearing and for allowing me to offer written comments about the Lumbee Tribe recognition bill.

With warm personal regards, I remain  
Very truly yours,  
MICHAEL F. EASLEY,  
Governor.

STATE OF NORTH CAROLINA,  
OFFICE OF THE GOVERNOR,  
Raleigh, March 11, 1993.

Hon. BRUCE BABBITT,  
Secretary, U.S. Department of Interior, Wash-  
ington, DC.

DEAR BRUCE: I am pleased that you were able to be in our state recently and I appreciated the opportunity to meet with you.

There are approximately 40,000 Lumbee Indians living in North Carolina and they have been officially recognized by the State of North Carolina since 1885. The Lumbees have been seeking federal recognition since 1888. Seven studies have shown them to be an independent Indian community.

I would like to reiterate my strong support for the Congressional process for federal recognition of the Lumbee Indian tribe in North Carolina. As you know H. R. 334, introduced by Congressman Charlie Rose of North Carolina, would provide such recognition. We support that legislation as stated in my letter of January 28, 1993.

Federal recognition of the tribe has been endorsed by the N.C. Commission of Indian Affairs, the Governors' Interstate Indian Council, and the National Congress of American Indians which is the oldest and largest Indian organization in the country.

In 1956 a bill was passed by the Congress to recognize the Lumbee tribe, but it denied the tribe the benefits or protections afforded to Indians by the U.S. of America.

For over 100 years the Lumbees have tried to obtain federal recognition, but to no avail. It is my opinion that the administrative recognition process that was proposed by the previous administration simply is too cumbersome, time-consuming, costly and has not worked effectively. Therefore, I would urge you to support the Congressional recognition process as proposed by Congressman Rose.

I want to work with you and the President in any way possible to help the Lumbee Tribe receive Congressional recognition. I am confident that this recognition is not only in our state's and the tribe's best interest, but in the interest of the United States as well.

Sincerely,  
JAMES B. HUNT, Jr.,  
Governor.

STATE OF NORTH CAROLINA,  
OFFICE OF THE GOVERNOR,  
Raleigh, January 28, 1993.

Re Federal Recognition of the Lumbee Indians.

Hon. BRUCE BABBITT,  
Secretary, U.S. Department of Interior, Wash-  
ington, DC.

DEAR BRUCE: This letter is to ask for your assistance in obtaining federal recognition for the Lumbee Indian tribe, which has many members in North Carolina. Congressman Charlie Rose (D-N.C.) has introduced a bill (H.R. 334) that would provide such recognition.

Before the House Subcommittee on Indian Affairs considers H.R. 334, I understand that the Clinton Administration will release its position on the bill. I ask that you and the President support the bill.

The Lumbee have 40,000 enrolled members in the United States and should be recognized. In fact, seven studies in this century have shown them to be an independent Indian community.

I appreciate your consideration of this letter. Please contact Congressman Rose or me if we can assist you in any way with this matter.

My warmest personal regards.

Sincerely,

JAMES B. HUNT, Jr.,  
Governor.

STATE OF NORTH CAROLINA,  
OFFICE OF THE GOVERNOR,  
Raleigh, July 30, 1991.

Hon. DANIEL K. INOUE,  
Chairman, Senate Select Committee on Indian  
Affairs, Hart Senate Office Building, Wash-  
ington, DC.

DEAR SENATOR INOUE: I have asked James S. Lofton, Secretary of the North Carolina Department of Administration to represent me at the Joint Hearing regarding S. 1036, the Lumbee Recognition Bill, which will be held on August 1. Secretary Lofton will be accompanied by Henry McKoy, Deputy Secretary of the Department of Administration, Patrick O. Clark, Chairman of the North Carolina Commission of Indian Affairs; and A. Bruce Jones, the commission's executive director.

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

I thank you for your attention to this matter and will appreciate your favorable consideration of my request.

Sincerely,

JAMES G. MARTIN,  
Governor.

Madam Speaker, I was born and reared in Robeson County, North Carolina, the primary home of the Lumbee people. I go home there virtually every weekend and have the high honor of representing about 40,000 of the 55,000 Lumbees who live in my home county. In fact, there are more Lumbees in Robeson County than any other racial or ethnic group. The Lumbee Indians are my friends, many of whom I've known all my life. They're important to the success of everyday life, not only in Robeson County, but throughout southeastern North Carolina, our entire State, as evidenced by these letters from our Governors, and their contributions, indeed, to our Nation.

From medicine and law, to business and banking, from the farms and factories, to the schools and the churches—we had a Lumbee Indian come and open the National Day of Prayer right here as our guest chaplain the first Thursday in May—from government, military, our veterans, community service, to entertainment and athletic accomplishments, the Lumbees have made tremendous contributions to our country, our State and, indeed, our Nation.

In fact, in my home county, the former sheriff, the current clerk of court, the register of deeds, the school superintendent, several county commissioners, including the chairman, school board members, and the person who represents me and my family in the State legislature are all Lumbee Indians. Also, judges on both the District Court and Superior Court bench are Lumbee Indians.

In other words, the Lumbee Indians have achieved great accomplishments. Their contributions have been recognized from the city councils and county commissioners, to the chamber of commerce, to our regional medical center, and the list goes on. They all have endorsed recognition of this tribe.

But let me say this in a broader sense. I personally visited with over 300 of my colleagues, many of you listening back in your offices right now, and your legislative directors and chiefs of staff, and we've talked about this. In one aspect or another, the United States Congress has been dealing with this issue since 1888. During that time, Congress has directed the Department of the Interior to examine the tribe's history.

Eleven times, 11 times this tribe has been examined by the Department of the Interior. This is not about going around the process. It's not about skipping over the BIA. It's not about setting a precedent that some other tribe is going to say, oh, we will just skip the process. This tribe has gone through it. They have been examined. Over and over and over and over and over and over and over, and we can go on and say that 11 times.

So why are we still debating this? Well, in 1956, in fact the year I was born—it's been that long now—53 years later, 1956, this Congress recognized the Lumbees in Maine in name only but did not complete the recognition process. You know, there were two other tribes in America that had this dilemma: the Tiwas of Texas and also our friends from Arizona, the Yaqui Pascua. These two tribes, Congress went back and completed the recognition, 1987 and also back in 1978.

So, now, there's one tribe in America left in this situation, one tribe. This is not setting a precedent for other tribes. In fact, the solicitor from the Department of the Interior said the only way to resolve this issue is to go back to Congress. Yeah, you've been through the BIA 11 times. BIA can't do it. Go back to Congress because what Congress started Congress should finish, and that's why we're back here today.

We had it in the 103rd and 104th and just, yes, in our last session of Congress, the 110th, we passed this legislation. In fact, we had a two-thirds majority, Republicans and Democrats, liberals, conservatives and moderates, because this isn't about philosophy or

partisan politics. This is about doing the right thing.

And to think I go home on weekends, and every weekend, the folks from the Lumbee Tribe wonder why doesn't our government still recognize we exist? We have tribal members here today. Do we not recognize as a Nation that 55,000 people, who have died for this country as veterans and served our country in the military and law enforcement and the hospitals and banks and farms and factories, and all the other places I mentioned earlier, are people that deserve the dignity of recognition?

This is not about gaming. Please hear me friends and colleagues listening in the offices. They have agreed to prohibit gaming in the enacting legislation. So that this is not about going around the process, and it's not about gaming, and it's not about a reservation of land. Why? Because they are fully integrated in society, as I have already mentioned. They are our judges. They're our law enforcement. They're our doctors and our bankers back home in North Carolina.

What is it about then? It's about getting the politics out of the way that have delayed this bill the last 53 years, and let's get on with it and complete the recognition that the solicitor has said only we can complete.

It is a unique situation. They are the only tribe in America in this situation. It is not an antecedent for any other argument about any other tribe.

Today, our North Carolina Senators on a bipartisan basis support this bill. Today, 185 of my colleagues have cosponsored, on a bipartisan basis, this bill. Today, the White House recognizes that this is an injustice that, yes, must finally be resolved.

The political leadership has stopped it since 1956. Political leadership ought to help correct it, and thank God that they're willing to do that now.

And today, we can take that step toward rectifying this wrong of 53 years ago. When we passed it those other times that I mentioned, three other times, it got to the Senate only to face inaction. Last year, they ran out of time before the general election. We don't want that to happen. That's why we're getting this done today so that they will have the rest of this year and all of next year hopefully to finally give this tribe its long overdue recognition. What Congress started Congress should finish.

Madam Speaker, in conclusion, let me urge this House not to delay anymore. Justice delayed is justice denied. The evidence is clear, cogent, convincing. The examinations have occurred. We have heard the advisory opinion from the solicitor. We know that only Congress can resolve this. It is time to say "yes." "Yes" to dignity and respect. "Yes" to fundamental fairness. "Yes" to decency. "Yes" to honor. "Yes" to Federal recognition.

Let's do what is right. People in America are tired of bickering in Washington. They are tired of people pointing fingers and dreaming up excuses not to get things done. You know, let's send a message today that we're willing to do the right thing to correct inequities that have occurred in our history. We have conservatives and liberal and moderates and Republicans and Democrats on this bill. So it is not a philosophical or political argument anymore. It's only about doing the right thing.

I challenge all of my colleagues in our United States Congress to do the right thing. It's time for discrimination to end and recognition to begin.

Mr. HASTINGS of Washington. Madam Speaker, I'm pleased to yield 3 minutes to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Madam Speaker, I thank my colleague and ranking member for yielding.

I thank my colleague from North Carolina as well for his honest efforts on behalf of his constituents. I respectfully disagree with the conclusions the gentleman's made, but I certainly respect him and his abilities in representing his constituents and the hard work he's offered on this legislation.

But I rise today in opposition of H.R. 31, the Lumbee Recognition Act. I believe all groups seeking Federal recognition as an Indian tribe should go through the administrative process at the Department of the Interior. It's clear that this process does need reforming, but Congress should do the hard work of reforming that process.

In this case, the Department of Indian Affairs has stated that the 1956 Lumbee Act prevents the Lumbee from going through the proper course of action to attain this status. I believe Congress should act to lift that restriction, and that is why I joined with my other North Carolina Democratic colleague, Congressman HEATH SHULER, in submitting an amendment to the Rules Committee to remove the barriers set forth in the 1956 Lumbee Act and provide the Lumbee with the same opportunity to attain Federal recognition as other tribes have. I think that's the proper path. Unfortunately, the Rules Committee disallowed us that opportunity to vote on that legislation here on the House floor, and I think that's unfortunate.

To the extent that the process needs to be reformed, we should let Congress or the agency focus on those specific areas, instead of passing individual recognition bills.

I cannot support the underlying legislation, which would allow the Lumbee to circumvent this proper recognition process and their hard work in diligently working toward recognition through the Office of Federal Acknowledgment. This would be unfair to those tribes who have gone through the prop-

er requirements to attain their official status.

Also, it's unfair to existing federally recognized tribes who do not want to see their cultural identity undermined by legislation such as this.

I urge my colleagues to vote against this bill and allow the Office of Federal Acknowledgment to carry out its appropriate responsibilities. That's why we instituted, as a Congress, the Office of Federal Acknowledgment, and we should make sure it does its proper work.

Mr. RAHALL. Madam Speaker, I yield 5 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in strong support of H.R. 31, the proposed bill to provide for the recognition of the Lumbee Tribe of North Carolina.

First, I want to commend the gentleman and my dear friend, the gentleman from North Carolina (Mr. MCINTYRE) for his leadership and tremendous work that he has done to move this bill through committee that is now before us.

I also want to commend Chairman RAHALL and our ranking member, Mr. HASTINGS, and my colleagues on the Natural Resources Committee for their agreement to bringing this bill to the floor.

Madam Speaker, it has been more than 120 years since the Lumbees first attempted Federal recognition since 1888. More than a century has passed since they first started this labyrinth known as Federal recognition process. Since then, the Lumbee themselves have been subjected to such demeaning vetting process, including having the size of their teeth measured and their blood tested to see how much Indian they were.

Since 1888, the Lumbees have submitted all documentation they have to prove their existence. After more than 100 years' worth of documentation and witness testimony, the Lumbees have fully exhausted the Federal recognition process but to no avail.

Madam Speaker, it is also important to note that the policy of the United States has been terribly inconsistent with regard to the original inhabitants of this land, the first Americans. Our first policy was to do battle with them, kill them. The prevailing opinion at the time was epitomized by General Philip Sheridan in 1869 when he said: "The only good Indians I ever saw were dead."

Our next policy was that of assimilation. During this period, the United States tried to make Indians part of American mainstream. And then in the 1950s and the early 1960s, this country's policy was termination, termination meaning Indian tribes were no longer in existence.

□ 1445

Then there was the policy of rein-

statement. Since 1978, the tribes now have to seek recognition from the Federal Government, and doing so by a series of administrative regulations that have caused tremendous hardship for the tribes seeking to be recognized by the Federal Government.

Throughout this entire period, the Lumbees were seeking recognition. While Congress recognized the Lumbee Indians in the 1956 Act, the Lumbees were still deprived of critical services and benefits that were available to other Indian tribes. Since then, the Lumbees have felt like they were second-class citizens. And I agree.

Madam Speaker, it is public record that the Interior Department has found the Lumbee petition for recognition wanting. Apparently, the Lumbees didn't keep sufficient written records of their existence for the period supposedly encompassing roughly from 1760 to 1850 to convince the Department of the Interior. I guess the Department thinks that any group of people who don't have a paper trail to prove their existence aren't worthy of Federal recognition.

While I know it's true that the Bureau of Indian Affairs exists only to create a paper trail, I cannot help but think the Lumbee case is a perfect example of a bureaucratic process run amok.

Madam Speaker, there comes a time when the process for process' sake loses its value. While it might be procedurally nice for the Bureau of Indian Affairs and the Department of the Interior to provide a timely review of each group that seeks recognition, sometimes justice requires otherwise. The cost of continuing the acknowledgment process in the case of the Lumbees, for me at least, is just simply too high. And I believe that this is one of the principal roles that Congress has to play.

The time has come for this institution to take action. By our own inaction, Congress will continue to defer to a Federal recognition process that, in the case of the Lumbees, has failed miserably, a Federal recognition process that is also in greater need of reform. And I have introduced legislation to have Congress change the process.

Today, we are considering H.R. 31, a bill to grant Lumbees Federal recognition. After reviewing this bill, there's nothing in here that threatens the economic stream of other federally recognized tribes. Indeed, H.R. 31 contains prohibition of gaming activities.

Madam Speaker, further inaction would lead to more time lost for the Lumbees. For over 100 years, the Lumbees are still seeking recognition. And just prior to the introduction of this bill, we have had to recognize six tribes from Virginia after they waited for 400 years. Does this suggest that the poor Lumbees are to wait for another 300 years, Madam Speaker? I say not.



The time has come to give the Lumbees Federal recognition. I urge my colleagues and Members of this House, do pass H.R. 31 and give the Lumbee Indians at last the recognition they so dearly deserve.

Mr. HASTINGS of Washington. I yield back the balance of my time.

Mr. RAHALL. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate having expired, pursuant to House Resolution 490, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mr. HASTINGS of Washington. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HASTINGS of Washington. I am, in its current form, Madam Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hastings of Washington moves to recommit the bill H.R. 31 to the Committee on Natural Resources with instructions to report the same back to the House forthwith with the following amendment:

Page 5, lines 17 and 18, strike "The Secretary" and all that follows through the period on line 22, and insert the following: "For purposes of the delivery of Federal services, the Secretary of the Interior shall verify that the persons on the Lumbee base rolls are descendants of Cheraw or other coastal North Carolina Indian tribes."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. HASTINGS) is recognized for 5 minutes in support of his motion.

Mr. HASTINGS of Washington. Thank you very much, Madam Speaker.

Madam Speaker, the motion to recommit amends the bill to require the Secretary of the Interior to verify that members of the Lumbee Tribe are descendants of the Cheraw and coastal North Carolina tribes. I don't believe this is unreasonable, and I say that because the preamble contained in H.R. 31 states that, "the Lumbee Indians of Robeson and adjoining counties in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw."

At the same time, section 3 of the legislation limits the Secretary's role in verifying the Lumbee tribal rolls only to "confirming compliance with the membership criteria set out in the tribe's constitution."

Thus, Madam Speaker, nothing in H.R. 31 requires the Secretary or any third party to verify that individuals enrolled in the Lumbee Tribe are de-

scendants of the historic Cheraw and coastal North Carolina Indians.

Under the Bureau of Indian Affairs regulations, as has been mentioned several times today, one of the seven mandatory requirements that must be met to be recognized by the Secretary as a tribe is that: "The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity." These regulations list a wide variety of evidence that can be used to meet this requirement.

The Rules Committee, as I have mentioned and as Mr. MCHENRY mentioned, would not make Mr. SHULER of North Carolina's amendment in order that would have required the Lumbees to meet all seven of the BIA criteria, including the one quoted above, to obtain Federal recognition.

This motion requires the Secretary to verify that members of the Lumbee Tribe meet the equivalent of just one of the seven criteria that are applied to the other petitioners seeking recognition through the BIA process.

I believe, Madam Speaker, this is reasonable because there have been some concerns about the tribe's enrollment.

Today, the tribe claims 54,000 members, and the CBO says the cost would be \$786 million over 5 years. This is an increase from just 2 years ago when they were told that there were 40,000 tribal members. Moreover, it appears the tribe is keeping its rolls closed until Congress passes this bill.

It is fair to have the Secretary verify the base rolls the tribe uses to establish membership. This verification requirement does not cancel the tribe's recognition; it merely provides a means of verifying the base rolls, something the BIA should do if the Lumbees had gone through the regulatory process.

Thus, a motion to recommit merely ensures the House has taken extra care to ensure the decision to extend recognition to the Lumbee is appropriate, because a wrong decision, a wrong decision, Madam Speaker, could have an adverse impact on all tribes.

With that, I yield back the balance of my time.

Mr. RAHALL. I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Wow. Madam Speaker, it certainly has been a torturous and long path for the Lumbee Indian Tribe. This is but yet another stake that is attempted to be driven in their heart.

It is long established policy in this country for Indian tribes to determine their own membership, their own roll. This motion to recommit would single out the Lumbee Tribe as the only tribe

in America that would be subject to this new requirement. It's discriminatory. It's ugly. It deserves to be defeated.

I want to make something very clear before yielding to the gentleman from North Carolina. This is not something new that we're doing today, granting Federal recognition to an Indian tribe. There are 561 federally recognized Indian tribes according to the GAO. Of those, 530 were recognized by the Congress of the United States. That would be this body. That's 530 of 561. And none were recognized under the criteria that's being offered in this motion to recommit.

I yield the balance of my time in opposition to the gentleman from North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Thank you, Mr. Chairman. Let's just put this straightforward. This is yet another subterfuge. It's another attempt to push the Lumbees back yet again through political action. It's another attempt to send them back to the bureaucracy. And the last thing our American citizens deserve and that our Lumbee American citizens deserve is to be put back through a simple saying of, Go back to the bureaucracy. Let's once again let Congress skip its duty.

Our United States Constitution itself says that the Congress—right there where it says, "to regulate commerce with foreign nations and among the several States and with the Indian tribes." It is a congressional duty and responsibility.

Now, they've gone through this process, we already explained, 11 times. This is a 12th time being offered. That's what this is. And our Members should recognize this and also recognize that no other tribe that has received Federal recognition through an act of the United States Congress has had to go back through a verification process that is now proposed in this motion to recommit.

Let's treat the Lumbees fairly. This would put them in a situation that would single them out to further treat them unfairly when they now have already been singled out, and we have been told by the Solicitor that we must resolve this problem.

Mr. RAHALL. Madam Speaker, if I have time left, I yield to the gentleman from American Samoa.

The SPEAKER pro tempore. The gentleman from West Virginia controls 1½ minutes.

Mr. RAHALL. I yield 1½ minutes to the gentleman from American Samoa.

Mr. FALEOMAVEGA. I just want to note for the record, as much as I respect my dear friend, the gentleman from Washington, I remember distinctly we had a hearing on this very issue, and the gentleman who wrote the regulations, the seven criteria that were outlined in terms of what these poor tribes had to go through, admitted before this committee, our committee, even he would not have been



able to seek recognition if this is the way the bureaucratic maze had to be conducted on how to recognize an Indian tribe.

So I say this to my good friend from the State of Washington, we are setting precedent here to the effect that we have already recognized all other tribes, the six that we just recognized 30 minutes ago. There was no requirement they had to go back to one of the separate criteria in order to be recognized.

This is the prerogative of the Congress. The Congress can pass this legislation to give recognition to this tribe. And I say this with all due respect to my good friend from Washington.

Mr. RAHALL. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The SPEAKER pro tempore. The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Washington. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, if ordered, and motions to suspend the rules on House Concurrent Resolution 109, and House Resolution 471.

The vote was taken by electronic device, and there were—yeas 197, nays 224, not voting 12, as follows:

[Roll No. 296]

YEAS—197

Adler (NJ)	Cao	Frelinghuysen
Akin	Capito	Gallegly
Alexander	Carney	Garrett (NJ)
Altmire	Carter	Gerlach
Arcuri	Cassidy	Gingrey (GA)
Austria	Castle	Gohmert
Bachmann	Chaffetz	Goodlatte
Bachus	Chandler	Granger
Baird	Childers	Graves
Barrett (SC)	Coble	Guthrie
Bartlett	Coffman (CO)	Hall (NY)
Barton (TX)	Conaway	Hall (TX)
Bilbray	Courtney	Harper
Bilirakis	Crenshaw	Hastings (WA)
Blackburn	Culberson	Heller
Blunt	Davis (AL)	Hensarling
Boehner	Davis (KY)	Herger
Bono Mack	Davis (TN)	Hill
Boozman	Deal (GA)	Himes
Boren	DeLauro	Hoekstra
Boustany	Dent	Hunter
Boyd	Donnelly (IN)	Inglis
Brady (TX)	Dreier	Jenkins
Bright	Duncan	Johnson (IL)
Brown-Waite,	Ehlers	Jones
Ginny	Ellsworth	Jordan (OH)
Buchanan	Emerson	King (IA)
Burgess	Fallin	King (NY)
Burton (IN)	Flake	Kingston
Buyer	Fleming	Kirk
Calvert	Forbes	Kissell
Camp	Fortenberry	Kline (MN)
Campbell	Fox	Lamborn
Cantor	Franks (AZ)	Lance

Latham	Neugebauer	Shadegg
LaTourette	Nunes	Shea-Porter
Latta	Nye	Shimkus
Lee (NY)	Olson	Shuler
Lewis (CA)	Paul	Shuster
Linder	Paulsen	Simpson
LoBiondo	Pence	Sires
Lucas	Perriello	Smith (NE)
Luetkemeyer	Petri	Smith (NJ)
Lummis	Pitts	Souder
Mack	Platts	Space
Maffei	Poe (TX)	Stearns
Manzullo	Posey	Stupak
Marchant	Price (GA)	Tanner
Marshall	Putnam	Taylor
McCarthy (CA)	Quigley	Teague
McCaul	Radanovich	Terry
McClintock	Rangel	Thompson (PA)
McCotter	Rehberg	Thornberry
McHenry	Reichert	Tiahrt
McHugh	Roe (TN)	Tiberi
McKeon	Rogers (KY)	Turner
McMorris	Rogers (MI)	Upton
Rodgers	Rohrabacher	Walden
Mica	Rooney	Wamp
Miller (FL)	Roskam	Westmoreland
Miller, Gary	Royce	Whitfield
Minnick	Ryan (WI)	Wilson (SC)
Moran (KS)	Scalise	Wittman
Murphy (CT)	Schmidt	Wolf
Murphy (NY)	Schock	Young (FL)
Murphy, Tim	Sensenbrenner	
Myrick	Sessions	

NAYS—224

Abercrombie	Eshoo	Loeb
Ackerman	Etheridge	Lofgren, Zoe
Aderholt	Farr	Lowey
Andrews	Fattah	Lujan
Baca	Filner	Lungren, Daniel
Baldwin	Foster	E.
Barrow	Frank (MA)	Lynch
Bean	Fudge	Maloney
Berkley	Giffords	Markey (CO)
Berman	Gonzalez	Markey (MA)
Berry	Gordon (TN)	Massa
Biggert	Grayson	Matheson
Bishop (GA)	Green, Al	Matsui
Bishop (NY)	Green, Gene	McCarthy (NY)
Blumenauer	Griffith	McCollum
Boccheri	Grijalva	McDermott
Bonner	Gutierrez	McGovern
Boswell	Halvorson	McIntyre
Boucher	Hare	McMahon
Brady (PA)	Harman	McNerney
Bralley (IA)	Hastings (FL)	Meek (FL)
Brown (SC)	Heinrich	Meeks (NY)
Brown, Corrine	Hereth Sandlin	Melancon
Butterfield	Higgins	Michaud
Capps	Hinchee	Miller (MI)
Capuano	Hinojosa	Miller (NC)
Cardoza	Hirono	Miller, George
Carnahan	Hodes	Mitchell
Carson (IN)	Holden	Mollohan
Castor (FL)	Holt	Moore (KS)
Clarke	Honda	Moore (WI)
Clay	Hoyer	Moran (VA)
Cleaver	Inslie	Murphy, Patrick
Clyburn	Israel	Murtha
Cohen	Issa	Nadler (NY)
Cole	Jackson (IL)	Napolitano
Connolly (VA)	Jackson-Lee	Neal (MA)
Conyers	(TX)	Oberstar
Cooper	Johnson (GA)	Obey
Costa	Johnson, E. B.	Olver
Costello	Kagen	Ortiz
Crowley	Kanjorski	Pallone
Cuellar	Kaptur	Pascarelli
Cummings	Kennedy	Pastor (AZ)
Dahlkemper	Kildee	Payne
Davis (CA)	Kilpatrick (MI)	Perlmutter
DeFazio	Kilroy	Peters
DeGette	Kind	Peterson
Delahunt	Kirkpatrick (AZ)	Pingree (ME)
Diaz-Balart, L.	Klein (FL)	Polis (CO)
Diaz-Balart, M.	Kosmas	Pomeroy
Dicks	Kratovil	Price (NC)
Dingell	Kucinich	Rahall
Doggett	Langevin	Reyes
Doyle	Larsen (WA)	Richardson
Driehaus	Larson (CT)	Rodriguez
Edwards (MD)	Lee (CA)	Ross
Edwards (TX)	Levin	Rothman (NJ)
Ellison	Lewis (GA)	Roybal-Allard
Engel	Lipinski	Rush

Ryan (OH)	Smith (WA)	Visclosky
Salazar	Snyder	Walz
Sarbanes	Speler	Wasserman
Schakowsky	Spratt	Schultz
Schauer	Stark	Waters
Schiff	Sutton	Watson
Schrader	Tauscher	Watt
Schwartz	Thompson (CA)	Waxman
Scott (GA)	Thompson (MS)	Weiner
Scott (VA)	Tierney	Welch
Serrano	Titus	Wexler
Sestak	Tonko	Woolsey
Sherman	Towns	Wu
Skelton	Tsongas	Yarmuth
Slaughter	Van Hollen	Young (AK)
Smith (TX)	Velázquez	

NOT VOTING—12

Becerra	Rogers (AL)	Sanchez, Loretta
Bishop (UT)	Ros-Lehtinen	Sullivan
Brown (GA)	Ruppersberger	Wilson (OH)
Davis (IL)	Sánchez, Linda	
Johnson, Sam	T.	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1532

Messrs. BLUMENAUER, HOYER, ISSA, COLE, HODES, PASTOR of Arizona, PERLMUTTER, BERRY, ELLISON, STARK, WU, GUTIERREZ, LARSON of Connecticut, SALAZAR, MARKEY of Massachusetts, Mrs. MCCARTHY of New York, Ms. JACKSON-LEE of Texas, Ms. BERKLEY, Mrs. MILLER of Michigan, Ms. FUDGE, Messrs. MELANCON, GRIFFITH, SHERMAN, KIND, TOWNS, Ms. KOSMAS, Messrs. BOUCHER, CLEAVER, Mrs. BIGGERT, Messrs. COSTA, ISRAEL, JOHNSON of Georgia, Ms. TITUS, Mrs. DAHLKEMPER, Messrs. SMITH of Texas and GORDON of Tennessee changed their vote from "yea" to "nay."

Mr. HERGER, Mrs. BACHMANN, Messrs. BOYD, FRANKS of Arizona, FORBES, ADLER of New Jersey, Ms. DELAULO, Ms. SHEA-PORTER and Mr. MARSHALL changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Washington. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 240, nays 179, not voting 14, as follows:

[Roll No. 297]

YEAS—240

Ackerman	Berman	Boswell
Aderholt	Berry	Boucher
Andrews	Biggert	Boyd
Baird	Bishop (GA)	Brady (PA)
Baldwin	Bishop (NY)	Brady (TX)
Barrow	Blumenauer	Bralley (IA)
Bean	Boccheri	Brown (SC)
Berkley	Bonner	Brown, Corrine

Butterfield Israel  
Capito Jackson (IL)  
Capps Jackson-Lee  
Capuano (TX)  
Cardoza Johnson (GA)  
Carnahan Johnson, E. B.  
Carson (IN) Kagen  
Castor (FL) Kanjorski  
Chandler Kaptur  
Clarke Kennedy  
Clay Kildee  
Cleverer Kilpatrick (MI)  
Clyburn Kilroy  
Coble Kind  
Cohen King (NY)  
Connolly (VA) Kirkpatrick (AZ)  
Conyers Kissell  
Cooper Klein (FL)  
Costa Kosmas  
Costello Kratochvil  
Crowley Kucinich  
Cuellar Langevin  
Cummings Larsen (WA)  
Dahlkemper Larson (CT)  
Davis (AL) LaTourette  
Davis (CA) Lee (CA)  
Davis (KY) Levin  
DeFazio Lewis (GA)  
DeGette Linder  
Diaz-Balart, L. Lipinski  
Diaz-Balart, M. Loebach  
Dicks Lofgren, Zoe  
Dingell Lowey  
Doggett Lujan  
Donnelly (IN) Lynch  
Doyle Maloney  
Driehaus Markey (CO)  
Edwards (MD) Markey (MA)  
Edwards (TX) Marshall  
Ellison Massa  
Engel Matheson  
Eshoo Matsui  
Etheridge McCarthy (CA)  
Farr McCarthy (NY)  
Fattah McCollum  
Filner McDermott  
Foster McGovern  
Frank (MA) McHugh  
Fudge McIntyre  
Giffords McKeon  
Gohmert McMahon  
Gonzalez McNerney  
Gordon (TN) Meek (FL)  
Grayson Meeks (NY)  
Green, Al Melancon  
Green, Gene Michaud  
Grijalva Miller (NC)  
Gutierrez Miller, George  
Hare Mitchell  
Harman Mollohan  
Hastings (FL) Moore (KS)  
Heinrich Moore (WI)  
Heller Moran (VA)  
Higgins Murphy (NY)  
Hinchey Murtha  
Hinojosa Nadler (NY)  
Hirono Napolitano  
Hodes Neal (MA)  
Holden Nunes  
Holt Oberstar  
Honda Obey  
Hoyer Oliver  
Inslee Ortiz

## NAYS—179

Adler (NJ) Boustany  
Akin Bright  
Alexander Brown-Waite,  
Altmire Ginny  
Arcuri Buchanan  
Austria Burgess  
Baca Burton (IN)  
Bachmann Buyer  
Bachus Calvert  
Barrett (SC) Camp  
Bartlett Campbell  
Barton (TX) Cantor  
Bilbray Cao  
Bilirakis Carney  
Blackburn Carter  
Blunt Ellsworth  
Boehner Emerson  
Bono Mack Fallon  
Boozman Flake  
Boren Fleming  
Fortenberry

Pallone  
Pascrell  
Pastor (AZ)  
Payne  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Platts  
Polis (CO)  
Price (NC)  
Rahall  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Rush  
Ryan (OH)  
Salazar  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shimkus  
Simpson  
Skelton  
Slaughter  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Sutton  
Tauscher  
Terry  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wexler  
Woolsey  
Wu  
Yarmuth  
Young (AK)

Foxx  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (NY)  
Hall (TX)  
Halvorson  
Harper  
Hastings (WA)  
Hensarling  
Herger  
Herse Sandlin  
Hill  
Himes  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Jones  
Jordan (OH)  
King (IA)  
Kingston  
Kirk  
Kline (MN)  
Lamborn  
Lance  
Latham  
Latta  
Lee (NY)  
Lewis (CA)  
LoBiondo

## NOT VOTING—14

Abercrombie Johnson, Sam  
Becerra Rangel  
Bishop (UT) Rogers (AL)  
Broun (GA) Ros-Lehtinen  
Davis (IL) Ruppersberger  
Wilson (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1541

Mr. POMEROY changed his vote from “yea” to “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. MCCARTHY of California. Mr. Speaker, during final consideration of H.R. 31, I inadvertently voted “yea” on rollcall 297. I intended to vote “nay.”

## HONORING ANNUAL SUSAN G. KOMEN RACE FOR THE CURE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the concurrent resolution, H. Con. Res. 109, on which the yeas and nays were ordered.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 109.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 16, as follows:

[Roll No. 298]

## YEAS—417

Abercrombie Crenshaw Holden  
Ackerman Crowley Holt  
Aderholt Cuellar Honda  
Adler (NJ) Culberson Hoyer  
Akin Cummings Hunter  
Alexander Dahlkemper Inglis  
Altmire Davis (AL) Inslee  
Andrews Davis (CA) Israel  
Arcuri Davis (KY) Issa  
Austria Davis (TN) Jackson (IL)  
Baca Deal (GA) Jackson-Lee  
Bachmann DeFazio (TX)  
Bachus DeGette Jenkins  
Baird Delahunt Johnson (GA)  
Baldwin DeLauro Johnson (IL)  
Barrett (SC) Dent Johnson, E. B.  
Barrow Diaz-Balart, L. Jones  
Bartlett Diaz-Balart, M. Jordan (OH)  
Barton (TX) Dicks Kagen  
Bean Dingell Kanjorski  
Berkley Doggett Kaptur  
Berman Donnelly (IN) Kennedy  
Berry Doyle Kildee  
Biggert Dreier Kilpatrick (MI)  
Bilbray Driehaus Kilroy  
Bilirakis Duncan Kind  
Bishop (GA) Edwards (MD) King (IA)  
Bishop (NY) Edwards (TX) King (NY)  
Blackburn Ehlers Kingston  
Blumenauer Ellison Kirk  
Blunt Ellsworth Kirkpatrick (AZ)  
Bocciari Emerson Kissell  
Boehner Engel Klein (FL)  
Bonner Eshoo Kline (MN)  
Bono Mack Etheridge Kosmas  
Boozman Fallon Kratochvil  
Boren Farr Kucinich  
Boswell Fattah Lamborn  
Boucher Filner Lance  
Boustany Flake Langevin  
Boyd Fleming Larsen (WA)  
Brady (PA) Forbes Larson (CT)  
Brady (TX) Fortenberry Latham  
Braley (IA) Foster LaTourette  
Bright Foxx Latta  
Brown (SC) Frank (MA) Lee (CA)  
Brown, Corrine Franks (AZ) Lee (NY)  
Brown-Waite, Frelinghuysen Levin  
Ginny Fudge Lewis (CA)  
Buchanan Gallegly Lewis (GA)  
Burgess Garrett (NJ) Linder  
Burton (IN) Gerlach Lipinski  
Butterfield Giffords LoBiondo  
Buyer Gingrey (GA) Loebach  
Calvert Gohmert Lofgren, Zoe  
Camp Gonzalez Lowey  
Campbell Goodlatte Lucas  
Cantor Gordon (TN) Luetkemeyer  
Cao Granger Lujan  
Capito Graves Lummis  
Capps Grayson Lungren, Daniel  
Capuano Green, Al E.  
Cardoza Green, Gene Lynch  
Carnahan Griffith Mack  
Carney Grijalva Maffei  
Carson (IN) Guthrie Maloney  
Carter Gutierrez Manzullo  
Cassidy Hall (NY) Marchant  
Castle Hall (TX) Markey (CO)  
Castor (FL) Halvorson Markey (MA)  
Chaffetz Hare Marshall  
Chandler Harman Massa  
Childers Harper Matheson  
Clarke Hastings (FL) Matsui  
Clay Hastings (WA) McCarthy (CA)  
Cleverer Heinrich McCarthy (NY)  
Clyburn Heller McCaul  
Coble Hensarling McClintock  
Coffman (CO) Herger McCollum  
Cohen Herseth Sandlin McCotter  
Cole Higgins McDermott  
Conaway Hill McGovern  
Connolly (VA) Himes McHenry  
Conyers Hinchey McHugh  
Cooper Hinojosa McIntyre  
Costa Hirono McKeon  
Costello Hodes McMahon  
Courtney Hoekstra

McMorris Price (GA)  
Rodgers Price (NC)  
McNerney Putnam  
Meek (FL) Quigley  
Meeks (NY) Radanovich  
Melancon Rahall  
Mica Rangel  
Michaud Rehberg  
Miller (FL) Reichert  
Miller (MI) Reyes  
Miller (NC) Richardson  
Miller, Gary Rodriguez  
Miller, George Roe (TN)  
Minnick Rogers (AL)  
Mitchell Rogers (KY)  
Mollohan Rogers (MI)  
Moore (KS) Rohrabacher  
Moore (WI) Rooney  
Moran (KS) Roskam  
Moran (VA) Ross  
Murphy (CT) Rothman (NJ)  
Murphy (NY) Roybal-Allard  
Murphy, Patrick Royce  
Murphy, Tim Rush  
Murtha Ryan (OH)  
Nadler (NY) Ryan (WI)  
Napolitano Salazar  
Neal (MA) Sarbanes  
Neugebauer Scalise  
Nunes Schakowsky  
Nye Schauer  
Oberstar Schiff  
Obey Schock  
Olson Schrader  
Olver Schwartz  
Ortiz Scott (GA)  
Pallone Scott (VA)  
Pascrell Sensenbrenner  
Pastor (AZ) Serrano  
Paul Sessions  
Paulsen Sestak  
Payne Shadegg  
Perlmutter Shea-Porter  
Perriello Sherman  
Peters Shimkus  
Peterson Shuler  
Petri Shuster  
Pingree (ME) Simpson  
Platts Sires  
Poe (TX) Skelton  
Polis (CO) Slaughter  
Pomeroy Smith (NE)  
Posey Smith (NJ)

## NOT VOTING—16

Becerra Pence  
Bishop (UT) Pitts  
Broun (GA) Ros-Lehtinen  
Davis (IL) Ruppersberger  
Johnson, Sam Sanchez, Linda  
Myrick T.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have less than 2 minutes remaining in this vote.

□ 1550

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## EXPRESSING SYMPATHY FOR VICTIMS OF CAMP LIBERTY SHOOTINGS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 471, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr.

KRATOVL) that the House suspend the rules and agree to the resolution, H. Res. 471, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MCGOVERN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 17, as follows:

[Roll No. 299]

YEAS—416

Abercrombie Cleaver  
Ackerman Clyburn  
Adierholt Coble  
Adler (NJ) Coffman (CO)  
Akin Cohen  
Alexander Cole  
Altmire Conaway  
Andrews Connolly (VA)  
Arcuri Conyers  
Austria Cooper  
Baca Costa  
Bachmann Costello  
Bachus Courtney  
Baird Crenshaw  
Baldwin Crowley  
Barrett (SC) Cuellar  
Barrow Culberson  
Bartlett Cummings  
Barton (TX) Dahlkemper  
Bean Davis (AL)  
Berkley Davis (CA)  
Berry Davis (KY)  
Biggett Davis (TN)  
Bilirakis Deal (GA)  
Bishop (GA) DeFazio  
Bishop (NY) DeGette  
Blackburn Delahunt  
Blumenauer DeLauro  
Blunt Dent  
Bocieri Diaz-Balart, L.  
Boehner Diaz-Balart, M.  
Bonner Dicks  
Bono Mack Dingell  
Boozman Doggett  
Boren Donnelly (IN)  
Boswell Doyle  
Boucher Dreier  
Boustany Driehaus  
Boyd Duncan  
Brady (PA) Edwards (MD)  
Brady (TX) Edwards (TX)  
Braley (IA) Ehlers  
Bright Ellison  
Brown (SC) Ellsworth  
Brown, Corrine Emerson  
Brown-Waite, Engel  
Ginny Eshoo  
Buchanan Etheridge  
Burgess Fallin  
Burton (IN) Farr  
Butterfield Fattah  
Buyer Filner  
Calvert Flake  
Camp Fleming  
Campbell Forbes  
Cantor Fortenberry  
Cao Foster  
Capito Foxx  
Capps Frank (MA)  
Capuano Franks (AZ)  
Cardoza Frelinghuysen  
Carnahan Fudge  
Carney Gallegly  
Carson (IN) Garrett (NJ)  
Carter Gerlach  
Cassidy Giffords  
Castle Gingrey (GA)  
Castor (FL) Gohmert  
Chaffetz Gonzalez  
Chandler Goodlatte  
Childers Granger  
Clarke Graves  
Clay Grayson

Levin Nunes  
Lewis (CA) Nye  
Lewis (GA) Oberstar  
Linder Obey  
Lipinski Olson  
LoBiondo Olver  
Loeb sack Ortiz  
Lofgren, Zoe Pallone  
Lowey Pascarelli  
Lucas Pastor (AZ)  
Luetkemeyer Paul  
Lujan Paulsen  
Lummis Payne  
Lungren, Daniel Pence  
E. Perlmutter  
Lynch Perriello  
Mack Peters  
Maffei Peterson  
Maloney Petri  
Manzullo Pingree (ME)  
Marchant Pitts  
Markey (CO) Platts  
Markey (MA) Poe (TX)  
Marshall Polis (CO)  
Massa Pomeroy  
Matheson Posey  
Matsui Price (GA)  
McCarthy (CA) Price (NC)  
McCarthy (NY) Putnam  
McCaul Quigley  
McClintock Radanovich  
McCollum Rahall  
McCotter Rangel  
McDermott Rehberg  
McGovern Reichert  
McHenry Reyes  
McHugh Richardson  
McIntyre Rodriguez  
McKeon Roe (TN)  
McMahon Rogers (AL)  
McMorris Rogers (KY)  
Rodgers Rogers (MI)  
McNerney Rohrabacher  
Meek (FL) Rooney  
Meeks (NY) Roskam  
Melancon Ross  
Mica Rothman (NJ)  
Michaud Roybal-Allard  
Miller (FL) Royce  
Miller (MI) Rush  
Miller (NC) Ryan (OH)  
Miller, Gary Ryan (WI)  
Miller, George Salazar  
Minnick Sarbanes  
Mitchell Scalise  
Moore (KS) Schakowsky  
Moore (WI) Schauer  
Moran (KS) Schiff  
Moran (VA) Schmidt  
Murphy (CT) Schock  
Murphy (NY) Schrader  
Murphy, Patrick Schwartz  
Murphy, Tim Scott (GA)  
Murtha Scott (VA)  
Nadler (NY) Sensenbrenner  
Napolitano Serrano  
Neal (MA) Sessions  
Neugebauer Sestak

## NOT VOTING—17

Becerra Gordon (TN)  
Berman Johnson, Sam  
Bilbray Kirk  
Bishop (UT) Mollohan  
Broun (GA) Myrick  
Davis (IL) Ros-Lehtinen

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1559

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO REPORT TO THE HOUSE OF REPRESENTATIVES ON THE ACTIONS THE COMMITTEE HAS TAKEN CONCERNING ANY MISCONDUCT OF MEMBERS AND EMPLOYEES OF THE HOUSE IN CONNECTION WITH ACTIVITIES OF THE PMA GROUP

Mr. HOYER. Madam Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 500

Whereas there have been allegations in the media concerning the improper involvement of Members of the House of Representatives in certain activities of the PMA Group; and

Whereas according to these media accounts and the statements of those involved, the Department of Justice is conducting an investigation into such activities of the PMA Group: Now, therefore, be it

*Resolved*, That not later than 45 days after the adoption of this resolution, the Committee on Standards of Official Conduct shall report to the House of Representatives on the actions the Committee has taken, if any, concerning any misconduct of Members and employees of the House in connection with such activities of the PMA Group.

The SPEAKER pro tempore. The resolution qualifies.

MOTION OFFERED BY MR. MCGOVERN

Mr. MCGOVERN. Madam Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MCGOVERN moves that the resolution be referred to the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized on his motion.

Mr. MCGOVERN. Madam Speaker, this measure merits review in the Committee on Standards of Official Conduct.

I yield back the balance of my time, and I move the previous question on the motion.

PARLIAMENTARY INQUIRIES

Mr. FLAKE. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FLAKE. I just saw the resolution. I don't know if it actually just punts the ball until the appropriations cycle is done or if it actually requires that the committee investigate.

Can the committee wait for 45 days and then announce that it is not investigating the PMA scandal, and then we're at the same place we are now?

The SPEAKER pro tempore. The Chair cannot interpret the pending resolution. It is available at the desk for review.

Mr. FLAKE. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. FLAKE. This resolution, as I understand it, does not require the Committee on Standards of Official Conduct to do anything but report whether or not an investigation is occurring.

Does this motion require any action on the part of the Committee on Standards of Official Conduct?

The SPEAKER pro tempore. The pending motion is to refer the resolution to committee.

Mr. FLAKE. So no action is required.

Mr. BOEHNER. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BOEHNER. Madam Speaker, does this motion do anything other than refer this worthless piece of paper to the Ethics Committee?

The SPEAKER pro tempore. The proposal is to refer the resolution to committee.

Mr. BOEHNER. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. BOEHNER. Does it require the Committee on Standards of Official Conduct to do anything?

The SPEAKER pro tempore. The proposal before the body is to refer the resolution to committee.

Mr. BOEHNER. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. BOEHNER. If the House were to adopt this motion, this resolution, would it require the committee to do anything?

The SPEAKER pro tempore. The measure would be referred to committee for its consideration.

Mr. BOEHNER. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. BOEHNER. If the House were to adopt this motion to refer this to the Committee on Standards of Official Conduct, under the previous announcement from the Chair, the Committee on Standards of Official Conduct would be required to do nothing.

The SPEAKER pro tempore. The committee would have referral of the resolution.

Mr. BOEHNER. And nothing else?

The SPEAKER pro tempore. The committee would have referral of the resolution.

Mr. FLAKE. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FLAKE. Does the resolution require that the committee report back in 45 days or 45 legislative days?

The SPEAKER pro tempore. The Chair cannot interpret the resolution. It is available for inspection.

Mr. FLAKE. Madam Speaker, the reason I ask is because within 45 days, the appropriations cycle will likely be completed.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

Without objection, the previous question is ordered.

Mr. PRICE of Georgia. I object.

The SPEAKER pro tempore. Objection is heard.

The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOEHNER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 270, nays 134, answered “present” 17, not voting 12, as follows:

[Roll No. 300]

YEAS—270

Abercrombie	Davis (TN)	Holt
Ackerman	DeFazio	Honda
Adler (NJ)	DeGette	Hoyer
Altmire	Delahunt	Inslee
Andrews	DeLauro	Israel
Arcuri	Dicks	Jackson (IL)
Baca	Dingell	Jackson-Lee
Baird	Doggett	(TX)
Baldwin	Donnelly (IN)	Johnson (GA)
Barrow	Doyle	Johnson, E. B.
Bean	Driehaus	Jones
Berkley	Edwards (MD)	Kagen
Berman	Edwards (TX)	Kanjorski
Berry	Ehlers	Kaptur
Biggart	Ellison	Kennedy
Bishop (GA)	Ellsworth	Kildee
Bishop (NY)	Emerson	Kilpatrick (MI)
Blumenauer	Engel	Kilroy
Blunt	Eshoo	Kind
Bocchieri	Etheridge	Kirkpatrick (AZ)
Boren	Farr	Kissell
Boswell	Fattah	Klein (FL)
Boucher	Filner	Kosmas
Boyd	Forbes	Kratovil
Brady (PA)	Foster	Kucinich
Braley (IA)	Frank (MA)	Langevin
Brown, Corrine	Fudge	Larsen (WA)
Buyer	Gerlach	Larson (CT)
Capps	Giffords	LaTourette
Capuano	Gohmert	Lee (CA)
Cardoza	Gonzalez	Levin
Carnahan	Goodlatte	Lewis (GA)
Carney	Grayson	Lipinski
Carson (IN)	Green, Al	LoBiondo
Cassidy	Green, Gene	Loebsack
Castle	Griffith	Lowe
Childers	Grijalva	Lujan
Clarke	Gutierrez	Lynch
Clay	Hall (NY)	Maffei
Cleaver	Hall (TX)	Maloney
Clyburn	Halvorson	Markey (CO)
Cohen	Hare	Markey (MA)
Connolly (VA)	Harman	Marshall
Conyers	Hastings (FL)	Massa
Cooper	Heinrich	Matheson
Costa	Herseht Sandlin	Matsui
Costello	Higgins	McCarthy (NY)
Courtney	Hill	McCollum
Crowley	Himes	McDermott
Cuellar	Hinchey	McGovern
Cummings	Hinojosa	McIntyre
Dahlkemper	Hirono	McMahon
Davis (AL)	Hodes	McNerney
Davis (CA)	Holden	Meek (FL)

Meeks (NY)	Price (NC)	Spratt
Melancon	Quigley	Stark
Michaud	Rahall	Stupak
Miller (FL)	Rangel	Sutton
Miller (NC)	Reichert	Tanner
Miller, George	Reyes	Tauscher
Minnick	Richardson	Taylor
Mitchell	Rodriguez	Teague
Mollohan	Ross	Thompson (CA)
Moore (KS)	Rothman (NJ)	Thompson (MS)
Moore (WI)	Roybal-Allard	Tierney
Moran (VA)	Rush	Titus
Murphy (CT)	Ryan (OH)	Tonko
Murphy (NY)	Salazar	Towns
Murphy, Patrick	Sarbanes	Tsongas
Murphy, Tim	Schakowsky	Turner
Murtha	Schauer	Upton
Nadler (NY)	Schiff	Van Hollen
Napolitano	Schmidt	Velázquez
Neal (MA)	Schrader	Visclosky
Nye	Schwartz	Walz
Oberstar	Scott (GA)	Wasserman
Obey	Scott (VA)	Schultz
Olver	Serrano	Waters
Ortiz	Sestak	Watson
Pallone	Shea-Porter	Watt
Pascarell	Sherman	Waxman
Pastor (AZ)	Shuler	Weiner
Payne	Shuster	Wexler
Perlmuter	Sires	Wittman
Perriello	Skelton	Wolf
Peters	Slaughter	Woolsey
Peterson	Smith (NJ)	Wu
Petri	Smith (WA)	Yarmuth
Pingree (ME)	Snyder	Young (AK)
Polis (CO)	Space	Young (FL)
Pomeroy	Speier	

## NAYS—134

Aderholt	Franks (AZ)	Mica
Akin	Frelinghuysen	Miller (MI)
Alexander	Gallely	Miller, Gary
Austria	Garrett (NJ)	Moran (KS)
Bachmann	Gingrey (GA)	Neugebauer
Bachus	Granger	Nunes
Bartlett	Graves	Olson
Barton (TX)	Guthrie	Paul
Bilbray	Harper	Paulsen
Bilirakis	Heller	Pence
Bishop (UT)	Hensarling	Pitts
Blackburn	Herger	Platts
Boehner	Hoekstra	Posey
Bono Mack	Hunter	Price (GA)
Boozman	Inglis	Putnam
Boustany	Issa	Radanovich
Brady (TX)	Jenkins	Rehberg
Brown (SC)	Johnson (IL)	Roe (TN)
Brown-Waite,	Jordan (OH)	Rogers (AL)
Ginny	King (IA)	Rogers (KY)
Buchanan	King (NY)	Rogers (MI)
Burgess	Kingston	Rohrabacher
Burton (IN)	Kirk	Rooney
Calvert	Lamborn	Roskam
Camp	Lance	Royce
Campbell	Latta	Ryan (WI)
Cantor	Lee (NY)	Scalise
Cao	Lewis (CA)	Schock
Capito	Linder	Sensenbrenner
Carter	Lucas	Sessions
Chaffetz	Luetkemeyer	Shadegg
Coble	Lummis	Shimkus
Coffman (CO)	Lungren, Daniel	Simpson
Cole	E.	Smith (NE)
Crenshaw	Mack	Smith (TX)
Culberson	Manzullo	Souder
Davis (KY)	Marchant	Stearns
Deal (GA)	McCarthy (CA)	Thompson (PA)
Diaz-Balart, M.	McCauley	Thornberry
Dreier	McClintock	Tiahrt
Duncan	McCotter	Tiberi
Fallin	McHenry	Wamp
Flake	McHugh	Westmoreland
Fleming	McKeon	Whitfield
Fortenberry	McMorris	Wilson (SC)
Fox	Rodgers	

## ANSWERED "PRESENT"—17

Barrett (SC)	Conaway	Lofgren, Zoe
Bonner	Dent	Myrick
Bright	Diaz-Balart, L.	Poe (TX)
Butterfield	Hastings (WA)	Walden
Castor (FL)	Kline (MN)	Welch
Chandler	Latham	

## NOT VOTING—12

Becerra	Ros-Lehtinen	Sullivan
Broun (GA)	Ruppersberger	Terry
Davis (IL)	Sánchez, Linda	Wilson (OH)
Gordon (TN)	T.	
Johnson, Sam	Sanchez, Loretta	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1628

Mr. BACHUS changed his vote from "yea" to "nay."

Messrs. LOBIONDO, JOHNSON of Georgia, HALL of Texas, GOHMERT, MINNICK, GERLACH, WOLF, Mrs. BIGGERT and Mrs. SCHMIDT changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BROUN of Georgia. Madam Speaker, today, I missed the following votes: Rollcall Nos. 295, 296, 297, 298, 299, and 300. If I had been able to make these votes, I would have voted "aye" on rollcall votes 296, 298, and 299, I would have voted "nay" on rollcall votes 295, 297, and 300.

## RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Armed Services:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, June 3, 2009.

Hon. NANCY PELOSI,  
Speaker of the House, House of Representatives,  
Washington, DC.

DEAR SPEAKER PELOSI: Given my nomination by the President as Secretary of the Army, this letter serves as my intent to resign from the Committee on Armed Services, effective today.

Sincerely,

JOHN M. MCHUGH,  
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

## MAKE HEALTH INSURANCE MORE AFFORDABLE FOR SMALL BUSINESSES

(Mr. ADLER of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. ADLER of New Jersey. I rise today to bring attention to the many small business owners and employees in New Jersey and across this country who cannot afford health insurance. Small businesses are the backbone of our local communities and economies. The small business owners are struggling to make ends meet under the

weight of their health insurance costs, and the price just keeps rising.

I know the struggle personally. My father owned and operated a small business, a dry cleaning business. My dad lost his business after suffering multiple heart attacks without health insurance. He worked hard, supported his family, but the price of insurance was just too high. Over 30 years later, more and more families in New Jersey are still feeling the same pinch.

From the year 2000 to 2007, health insurance premiums in New Jersey increased by 71 percent, while median yearly wages increased only 15 percent. And more than 28 percent of individuals working for small businesses are living without health insurance.

I hear from small business owners in Burlington County and Ocean County almost every day. They want to provide health insurance for themselves, their families, and their employees. They just can't afford it.

That's why I'm proud to join a bipartisan group of legislators supporting the Small Business Health Options Program, or SHOP Act. The SHOP Act will allow small businesses to pool their resources and find the best options to meet the needs of their employees.

Let's support small business and their hard work and entrepreneurial spirit.

## AMERICAN ENERGY INNOVATION ACT

(Ms. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JENKINS. Summer travel season is here and prices at the pump are climbing. Rather than pursuing policies that will help Americans who are already struggling, as well as reduce our dependence on foreign energy, some in this body are leading us down a very different path.

This Congress' decision to embark on a journey toward a future where cap-and-trade taxes every man, woman, and child who dares to flip on a light switch or drive to the grocery store is the wrong approach. There's no doubt we can take better care of our environment, and I'm convinced that with an all-of-the-above approach taken in the American Energy Innovation Act, we can produce clean alternative energy without breaking the bank of American families.

Why do I think that? Because to address our energy demand we need look no further than Kansas.

From the nuclear plant in Burlington, wind farms in Pottawatomie County, biodiesel produced from crops grown in Kansas, we do it all there. All we ask is to be allowed to do it.

#### POLAND AND THE VISA WAIVER PROGRAM

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, Poland has proven to be an indispensable ally in the global campaign against terrorism. Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization and has been a staunch ally to the United States during Operation Iraqi Freedom.

Poland has been a valuable member state of the European Union, joining several other member states like France and Germany that take advantage of the visa waiver program. Poland unilaterally repealed a visa requirement for United States citizens traveling to Poland.

I strongly believe that the United States should extend the visa waiver program, with its enhanced program security requirement, and extend visa-free privileges to Poland, a country that has proven its steadfast dedication to the cause of freedom and friendship with the United States.

Poland has done much for the United States. Now it is our time to repay this great country.

#### HAZY POLITICAL CLIMATE

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the State of Texas is caught in the crosshairs of a green movement hostile and detrimental to our energy industries. Texas produces 1 million barrels of oil every day, or 20 percent of the U.S. production. We're also home to refineries that produce one-quarter of the country's gasoline and also produce oil by-products for plastics.

The new cap-and-trade tax will destroy thousands of Texas jobs, and the Congressional Budget Office says that the tax on energy won't even help the climate. No matter, the taxocrats in Washington want to punish red energy State voters by nailing them with the new disastrous tax on energy consumption.

In the name of saving planet Earth, the government barons are trying to push us to so-called "green" energy sources that don't even exist yet. Green energy that will support this country's needs is at least 10 years away.

The immediate solution right in front of us is expanding our own oil and gas production while we develop these new technologies. That will create jobs, keep money in America, and make us less dependent on foreign oil. But that logic is lost in the hazy political climate of Washington.

And that's just the way it is.

#### THINK ABOUT THIS

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. America's manufacturing base is being decimated, but it's not only happening because of economic trends in our country.

Yes, our gross domestic product has fallen off. Yes, we have a massive trade deficit. But this week when GM filed for bankruptcy—GM was pushed into bankruptcy, and when they were pushed into bankruptcy, we also lost 14 manufacturing plants, 21,000 jobs, and 2,400 dealerships are going to be closed.

Think about this. If we take away this manufacturing infrastructure of manufacturing and dealerships and suppliers, what happens when our economy comes back? We will have permanently altered our ability to produce cars in this country.

I want the Members of Congress to consider this when you think about this administration's auto task force. It hasn't gone the right way for the American worker, it's not going the right way for American manufacturing, and it's not going the right way for the American economy.

#### ENERGY SHELL GAME

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. The national energy tax has moved its way out of the Energy and Commerce Committee. It's called the cap-and-trade, and what it means is everyone pays more for the use of fossil fuels.

This is what happened in Illinois when we passed the last Clean Air Act amendments; 14,000 miners lost their jobs. In the State of Ohio, 35,000 miners lost their jobs.

What is the solution? An all-of-the-above energy policy that talks about the Outer Continental Shelf, brings on energy from coal, does renewable coal, does renewable wind and solar and renewable fuels like ethanol and biodiesel. We can produce the energy needs for this country right here in this country.

The national energy tax, this cap-and-trade shell game, will not do it. It will only destroy this country.

#### GUNS IN NATIONAL PARKS

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, just before we went into the last recess, we passed much-needed, overdue legislation relating to credit card abuse. That was a good, responsible thing to do. But in the process of doing

that, this Congress did something that was grossly irresponsible. We passed legislation enabling anyone who wants to bring a loaded, concealed firearm onto national parks, so that the hundreds of thousands of American families who would like to enjoy our parks safe in the knowledge that their families are secure from the threat of wanton violence can no longer have that sense of security.

A particularly egregious case in point is the Wolf Trap Center for the Performing Arts, a national treasure. Any number of performing artists are now informing Wolf Trap that they do not want to go to Wolf Trap because their lives are endangered by this legislation.

It's time to fix this legislation, provide for the security of the American people, and not the profit of the National Rifle Association.

#### IN RECOGNITION OF JOHN MCHUGH

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to recognize our friend and colleague, JOHN MCHUGH, who was nominated by President Obama to be the next Secretary of the Army.

I have had the pleasure to work with JOHN on a number of different issues pertaining to our military and their families. I have always been grateful for his leadership on the House Armed Services Committee and, in particular, his role as the ranking member on the committee promoting military personnel.

JOHN brings a lifetime of military knowledge and experience which will serve him, our soldiers, and our Nation well. He is committed fully to our servicemembers, and he understands how particularly vital the families of our military are to ensuring a strong national defense.

I know JOHN will be passionate as an advocate for our military families as Secretary of the Army, as he has been in Congress for the last 16 years. I saw firsthand his appreciation of our troops when he toured Fort Jackson, South Carolina, last year.

In conclusion, God bless our troops, and we will never forget September 11th.

#### MEDIA IGNORE NEGATIVE STORIES ABOUT SOTOMAYOR

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the national media have conspicuously ignored two recent stories about Judge Sotomayor. The Washington Times reported last week that three out of five

majority decisions written by Judge Sotomayor and reviewed by the United States Supreme Court have been overturned. That's a 60 percent overturn rate.

In another story, the Washington Times reported on findings of the Almanac of the Federal Judiciary. It revealed that out of 21 judges reviewed, Judge Sotomayor was the only one who received decidedly negative comments about her demeanor on the bench.

Not surprisingly, there's been no mention of the questions raised about the judge's qualifications in any major newspaper or on any network TV news program.

Supreme Court nominees should face scrutiny from the national media if they're doing their job. Americans need the national media to set aside their bias and report the facts about Judge Sotomayor.

#### CONFIDENTIAL DOCUMENT MADE PUBLIC

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, it was reported today in the New York Times that the Federal Government mistakenly made public a 266-page report marked "highly confidential," and it gives detailed information about hundreds of the Nation's civilian nuclear sites and programs, including maps that show the precise locations of stockpiles of fuel for nuclear weapons.

Can you believe that? A confidential document that is supposed to be kept secret was publicized, and every terrorist in the world now knows exactly where our nuclear supplies are stored and maps showing where, in detail, these nuclear supplies are stored.

Now, hopefully, they're very secure and there's a lot of guards around there to protect us. But I think it's tragic that top secret information, highly classified information, is being made public at a time when we're fighting a war against terrorism.

It makes absolutely no sense. And those who are responsible for making this public should be held accountable.

□ 1645

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. DRIEHAUS). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### LOSING SIGHT OF OLD GLORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, recently, in Texas, we actually had a woman ordered to remove her American flag from her work space. Debbie McLucas works at Kindred Hospital in Mansfield, Texas. She comes from a very patriotic family. Her husband and both of her sons served in the United States military. Her daughter is a combat medic and is currently deployed on her second tour of duty in Iraq.

When Debbie arrived at work the Friday before Memorial Day, her American flag was gone from her hospital work space. She had displayed it in honor of Memorial Day and in honor of our troops. Debbie was met by her supervisor and was told that there had been complaints about the American flag. An immigrant coworker had complained that the American flag was offensive, so the flag was taken down by management. Debbie found her flag wrapped around the pole and laying on the floor in the corner of her supervisor's office.

Debbie McLucas said in an interview that one of her colleagues who had migrated to the United States from Africa 14 years ago had complained to the supervisor. Debbie was then told by management that it only took one complaint, and the so-called "offensive" flag had to come down immediately. Debbie told her supervisor that she was offended that somebody removed the flag. She said she could not fathom that anyone in America would find the American flag objectionable.

As soon as this episode hit the news wires, there was outrage from sea to shining sea and rightfully so. After all, Debbie's freedom of speech to display the flag was stolen by the hospital elites because one person whined and griped. Let me tell you about how some Americans appreciate the flag as Debbie McLucas does.

Several years ago during the Vietnam War, a university student in Houston, Texas, had desecrated the American flag. He was charged under Texas law with the felony of flag desecration. That was before the Supreme Court gave peaceniks the right to burn the flag, saying it was free speech. Anyway, two young prosecutors—Vic Pecorino and Andy Horn, a recent returning Vietnam veteran—had to prove to the jury that the flag was, in legal terms, a venerated object, or one that deserves special treatment.

After proving the case, except for this one requirement, the State called Chris Cole, a judge, to prove that the flag had to be treated in a respectful manner. He came in to testify, accompanied by his seeing eye dog. Judge Cole was a marine in World War II. He was involved in the bloody island hopping of the South Pacific. During the flag trial, he was asked by the prosecutors when the last time was he saw the U.S. flag.

He paused, and with a tearful response, he said, The last time I saw the

flag it was raised on Mt. Suribachi on Iwo Jima Island in 1945. You see, several days later, Judge Chris Cole had a Japanese hand grenade explode near him, and he permanently lost the sight in both eyes. He never saw Old Glory again.

In the flag trial, the defendant was convicted by the jury because they thought, as Judge Cole testified, that the flag holds special significance to Americans; but the law was declared unconstitutional by the Supreme Court.

There are a lot of Americans, especially those who serve in the military, who hold the view that the flag represents everything that is good and right about our Nation and that it is their right to display the flag.

Mr. Speaker, the flag is displayed here on the wall behind me. Each morning, Members of Congress pledge allegiance to the flag as do schoolchildren across the vast plains of America. Obviously, Debbie McLucas is another one of those Americans who respects the values that the flag represents, and she wishes to proudly display it. Debbie McLucas should be praised for exercising her constitutional right of freedom of speech by displaying America's flag.

So, in her honor and to honor her military family, I have requested that an American flag be flown over the United States Capitol on Saturday, June 6, on the 65th anniversary of the D-day landing of Normandy during World War II. The flag will be sent to this American lady in appreciation of her patriotic spirit, of her loyalty to American warriors and to the American flag. May she display it proudly.

And that's just the way it is.

#### IT IS TIME FOR SMART POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, everyone here in the House of Representatives knows that I've been a critic of our Nation's long occupation of Iraq. Our strategy there has relied almost exclusively on military power, which is what got us into this quagmire that we still can't escape. Now I fear we're making the very same mistake in Afghanistan and Pakistan because over 90 percent of the supplemental budget for Afghanistan and Pakistan, which the House passed just a few weeks ago and which I opposed, goes strictly toward military purposes, and less than 10 percent goes toward the building of our smart power in that region.

"Smart power" means investing in humanitarian assistance, in economic development, in reconciliation, and in reconstruction. It means helping the Afghan people to improve their transportation, their health care, their education, and their agricultural systems.



It means investing in their judiciary and law enforcement systems to expand the rule of law. It means creating jobs, building up local capacity and improving the lives of women and girls, and it means strengthening our diplomatic operations in the region.

All of these efforts are desperately needed to shore up the fragile governments in Afghanistan and Pakistan. They're desperately needed because we must offer the people a better life. We must give the people of Afghanistan real hope for a better future because that is the best way to defeat the Taliban, and it is the best way to bring peace and stability to the region. We will never be able to do that if we nickel and dime smart power.

Even our own counterinsurgency strategy recognizes this. It calls for an 80-20 ratio. That means 80 percent of our funds being spent on the smart investment that I just mentioned with 20 percent going to purely military spending. Currently, we've got a 90-10 split going the opposite way. We're actually ignoring our own best strategy.

On this subject, I would like to call the House's attention to remarks that were recently made by Ambassador Akbar Ahmed, the former High Commissioner of Pakistan to Great Britain. He spoke about Pakistan's Federally Administered Tribal Areas, the very explosive area on the border between Pakistan and Afghanistan.

Referring to the tribes there, he said, "A successful strategy to deal with them is not to take them head on—sending in troops, throwing grenades and missiles or sending in tanks."

Instead, he said that we should be working to win the hearts and minds of the tribal members, of those who have a great sense of pride and dignity. He said, if America did that, there would be "resistance to the Taliban, not from 30,000 feet in the sky but right here on the ground."

He also said, "The one thing every Pakistani wants for his kids is education." If America helped to improve education in that country, he said that we could turn things around in a few years and that America's greatest enemies will become America's allies.

Mr. Speaker, the American people want a strategy for Afghanistan and Pakistan, a strategy that will protect the lives of our troops, that will strengthen our national security and that will help the people of that region to lead better lives. I've recommended a plan to accomplish this. It's House Resolution 363, the SMART Security Platform for the 21st Century. I'm hoping every Member of the House reads it and remembers that smart power is not soft power. It's the real power, the power we need to keep America safe and to make our world peaceful.

#### CONGRATULATING THE 2009 MILITARY SPOUSE OF THE YEAR: TANYA QUEIRO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I rise today to congratulate Tanya Queiro, who was named the 2009 Military Spouse of the Year.

The honor is presented by USAA to an individual who embodies the best qualities of today's military spouse. USAA is a diversified financial services group of companies that serves the members of the United States military and their families. The award honors the sacrifices and selfless service of the more than 1 million military spouses who provide unwavering support to our Armed Services today and to those who have served in previous generations.

Tanya Queiro was chosen from more than 650 nominations submitted to "Military Spouse" magazine. The criteria used to select the winner include one's impact on community change, one's volunteerism, personal sacrifice, education, career pursuits, and other spouse-related efforts. During an awards ceremony in Washington, D.C., Mrs. Queiro was honored for her commitment to the troops, for the ongoing support of her active duty husband, Gunnery Sergeant Jose Queiro, for her volunteer work, and for the many contributions to her community.

Mrs. Queiro, herself, served as an active duty marine for more than 12 years. It was during this time that she met and married her husband, that she began raising her three children and that she began earning her bachelor's degree and also her master's degree. Now, in addition to raising her children—Jose, Marcus and Adrianna—and managing the house while her husband deploys, she works full time as a human resources specialist and is pursuing a doctorate degree in organization and management.

Mrs. Queiro has also managed to find the time to be extremely active in her community. She is a USDA New Leader Program graduate, an active Civilian Career Leadership Development participant and mentor, an American Military University Career mentor, and an Operation Noble Heart volunteer. She has volunteered as a Life Style, Insight, Networking, Knowledge, and Skills mentor, Onslow County Women's Shelter Victim Advocate, and Key Volunteer. As a lifetime member of the Women's Marine Association, Mrs. Queiro is dedicated to cementing the bond and comradery shared by those who have gone through the training to become United States Marines.

Mr. Speaker, I had the pleasure of meeting Mrs. Queiro last week in my district office in Greenville, North Carolina. She is a resident of Jacksonville, North Carolina, which is part of

my congressional district. Her outstanding record of achievement and of continued commitment to her husband, to her children, to the United States Marine Corps family, and to her community are truly inspiring. Once again, I extend my sincere congratulations to Mrs. Queiro for a well-deserved honor.

Mr. Speaker, before closing, as I do frequently on the floor of the House, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform, and I ask God, in his loving arms, to hold the families who have given a child dying for freedom in Afghanistan and Iraq, and I ask God three times: Please God, please God, please God, continue to bless America.

□ 1700

#### FREEDOMS AND QUALITY OF LIFE ARE BEING THREATENED RIGHT HERE AT HOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the freedoms and the quality of life of Americans is being threatened right here at home not necessarily just by those outside the country but here at home. And I want to tell you why tonight. We're talking about a socialized approach to medicine called national health care that's going to cost billions and billions and probably trillions of dollars. It will take away from people their right to pick their own doctor in many cases; and it will cause the rationing of health care, which will put people, particularly seniors, at the back of the line when it comes to very important things that have to be done to them to keep them alive and healthy. It's going to cost trillions of dollars; and in the budget that we passed earlier, this last month, they put \$635 billion in there as a down payment, the first tranche, on socialized medicine which will take away a lot of the freedoms that people have in choosing their own doctor and getting qualified health care.

The second thing that is being threatened is the control of our financial institutions. We passed a TARP bill that bailed out a lot of Wall Street companies and banks. And because of that, a lot of those financial institutions are now directly or indirectly controlled by the Federal Government. I don't think the American people want that. They don't want socialism in this country. They don't want a government-controlled economy or financial institutions.

So we have national health care that is going to be controlled by the government. They don't do a very good job of controlling other things in this country, as many of us know, but national

health care and now financial institutions. And then next we have the automobile industry. The government just acquired 61 percent of the control of General Motors, which we should be calling I guess now Government Motors or Obama Motors because it is, in effect, controlled by the government even though the President said that he really didn't want to control the auto industry. In fact, that's what's being done.

Finally, we're talking about the energy section of our economy. We have a bill that's come out of committee that's going to be on the floor before too long called cap-and-trade. It's going to cost every single family in America between \$3,000 to \$4,000 in additional expenditures for electricity, additional taxes on gasoline that's passed on to them and other forms of energy because of CO<sub>2</sub> emissions. Now we have a terribly difficult economy right now. Can you imagine the average family, having to load on their backs an additional \$3,000 to \$4,000 in expenses for energy every time you turn on a light switch or anything else? But that's a fact. It's going to happen if that bill becomes law.

In addition to that, we're going to lose millions of jobs because China has already said they would not comply with the same environmental stand-

ards we're talking about and neither would India or many other countries in the world that are competitors of ours. So they won't have to pay for those costs that the American people are going to have to pay for, that American industry is going to have to pay for. So those jobs will be going overseas, millions of them, because we're loading on the backs of individuals and American industry additional taxes and expenses that our competitors around the world will not have to pay. So when they make a car, a truck or a refrigerator, they'll be able to do it with less expense because they don't have to live up to the same environmental standards that we do.

This is a very difficult time for America. We're losing jobs. We see people suffering all across this country. But I'm concerned not only about today, but I'm concerned about tomorrow. We don't want to see this governmental structure that we hold so dear and the freedoms we hold so dear go right out the window, and that's what's happening today right before our very eyes. We see the government taking over the health care industry, the financial institutions, the automobile industry; and now they're going to try to take over the energy industry as well.

I hope my friends across this country and my colleagues are paying attention because this government is turning very rapidly toward a controlled economy which is called socialism, and that's anathema to this country and should be anathema to every single American.

#### REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Madam Speaker, under section 422(c) of S. Con. Res. 13, the concurrent resolution on the budget for fiscal year 2010, I hereby submit a revision to the budget aggregates and allocations for the Committee on Appropriations for fiscal year 2010. A table is attached.

This revision represents an adjustment for the purposes of sections 311 and 302 of the Congressional Budget Act of 1974, as amended. For the purposes of the Congressional Budget Act of 1974, as amended, this revised allocation is to be considered as an allocation included in the budget resolution, pursuant to section 427(b) of S. Con. Res. 13.

#### BUDGET AGGREGATES

[(On-budget amounts, in millions of dollars)]

	Fiscal year— 2009	Fiscal year— 2010	Fiscal years— 2010–2014
Current Aggregates: <sup>1,2</sup>			
Budget Authority .....	3,668,777	2,878,341	3
Outlays .....	3,354,482	2,995,863	3
Revenues .....	1,532,571	1,653,682	10,499,809
Change for CBO repricing of President's request (Section 422(c) of S. Con. Res. 13):			
Budget Authority .....	0	3,766	3
Outlays .....	0	2,355	3
Revenues .....	0	0	0
Revised Aggregates:			
Budget Authority .....	3,668,777	2,882,107	3
Outlays .....	3,354,482	2,998,218	3
Revenues .....	1,532,571	1,653,682	10,499,809

<sup>1</sup> Current aggregates do not include the disaster allowance assumed in the budget resolution, which if needed will be excluded from current level with an emergency designation (section 423(b)).

<sup>2</sup> Current aggregates exclude the allocation adjustment made for the House-passed Supplemental Appropriations bill. Final action on the supplemental may change the adjustment.

<sup>3</sup> Not applicable because annual appropriations Acts for fiscal years 2011 through 2014 will not be considered until future sessions of Congress.

#### DISCRETIONARY APPROPRIATIONS—APPROPRIATIONS COMMITTEE 302(a) ALLOCATION

[In millions of dollars]

	BA	OT
Current allocation: <sup>1</sup>		
Fiscal Year 2009 .....	1,391,471	1,220,843
Fiscal Year 2010 .....	1,082,540	1,269,745
Change for CBO repricing of President's request (Section 422(c) of S. Con. Res. 13):		
Fiscal Year 2009 .....	0	0
Fiscal Year 2010 .....	3,766	2,355
Revised allocation:		
Fiscal Year 2009 .....	1,391,471	1,220,843
Fiscal Year 2010 .....	1,086,306	1,272,100

<sup>1</sup> Excludes the allocation adjustment made for the House-passed Supplemental Appropriations bill. An adjustment will be made at the next stage of action.

#### MISTAKES: JUST A FEW!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, in the last few years in interviews on the econ-

omy, I've been asked what I would do if I were in charge. In answering the question, I usually started with explaining the errors we made that gave us the crisis. The interviewer frequently responded by saying that he wasn't interested in the cause of the problems, only what we should do now to correct it. This is a typical attitude in Washington, but we cannot expect correct policies to be implemented if we don't understand the cause of the crisis. Instead, we have pursued all the wrong policies. Let me list a few mistakes we have made.

We have failed to recognize the true cause of the crisis. Instead, free markets and not enough regulations and central economic planning have been blamed.

We continue to listen to and give too much credibility to the very people

who caused the crisis and failed to predict the onset.

A massive single-year debt increase of \$2 trillion and a \$9 trillion stimulus by Congress and the Federal Reserve verges on madness.

This has entailed taxpayers being forced to buy worthless assets, propping up malinvestments, not allowing the liquidation of bad debt, bailing out privileged banking, Wall Street and corporate elites. We promote artificially low interest rates which eliminates information that only the market can provide. Steadily sacrificing economic and personal liberty is accepted as good policy. Socializing American industry offers little hope that prosperity will soon return.

Inflating the money supply over 100 percent in less than a year is no way to restore confidence to a failing financial

system. Expect huge price increases in the future.

We have set the stage for further expanding the money supply many folds over through fractional reserve banking.

We deliberately liquidate debt, especially government debt, by debasing the currency. We refuse to accept the fact that the debt cannot be paid, and future obligations are incomprehensible with revenues crashing and unpredictable while expenditures are put on auto pilot with no new request being denied.

There's an attitude that the deficit and inflation can be dealt with later on, yet tomorrow will be here sooner than later.

Plans are being laid for a super regulator, even if it takes a worldwide government organization like the IMF to impose it.

Promising the IMF \$100 billion when we can't even take care of our own people's medical needs is obviously absurd.

Plans are laid to massively increase taxes, especially with the carbon tax, that when tried in other countries didn't work and had many unintended consequences.

A national sales tax, now being planned, sends bad signals to investors, consumers and workers.

The deeply flawed neoconservative foreign policy of expanding our militarism in the Middle East and Central Asia continues.

There's no end in sight for secret prisons, special courts, ignoring the right of habeas corpus, no penalties for carrying out illegal torture and a new system of preventive detention. We continue to protect the concepts of state secrets and Presidential signing statements. We are enlarging Bagram prison in Afghanistan, and there's no cessation of the senseless war on drugs.

Indeed, as former Vice President Dick Cheney has said, we're in greater danger today than under the Bush administration; but it's not because we're not following the Cheney-Bush foreign policy of preventive war, but rather because we are. The Bush doctrine on war is still in place, and the economic failures of the previous administration are being continued and expanded.

The policies required to provide a solution to this catastrophic crisis we face are available. We must apply a precise philosophy of liberty along with respect for private property ownership, free markets, voluntary contracts enforced by law and free minds.

Also required is the adoption of a commonsense foreign policy that requires us to stay out of the internal affairs of other nations.

Pretending that politicians, central bankers and regulators have the knowledge to centrally plan the economy and police the world only makes things worse. Realizing this provides the necessary first step to salvage our economy and liberty.

## THE RELEASE OF UYGHUR DETAINEES FROM GUANTANAMO BAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, on Thursday, May 21, the President delivered a speech at the National Archives on the closing of the detention center at Guantanamo Bay and other national security matters, yet today we have no more additional information about his plans to close Guantanamo Bay than we did before. We still don't have any answers on which detainees he's planning to transfer to the United States, where they will be tried or how the administration intends to protect the American people. We still don't have any information on his plans to release into our communities trained Uyghur terrorists, and that is unacceptable.

As I have said on numerous occasions, this issue isn't about closing Guantanamo Bay. My concern is that the order was given before a comprehensive plan was in place which sufficiently addressed national security concerns. I have sent three letters to Eric Holder since March asking specific questions about the disposition of the detainees. I still have not received a response.

Last week, Military Families United, an organization representing America's Gold and Blue Star families, announced its opposition to the release of the Uyghurs. Rather than work with Congress, Eric Holder is preventing career officials with the FBI, CIA, the Department of Homeland Security and other agencies from briefing Members of Congress on plans to relocate detainees once Guantanamo Bay is closed.

The Germans, who had tentatively agreed to accept the Uyghur detainees, have complained that the administration won't share enough information with them for an independent assessment of the detainees' security risk. According to The Washington Post, "More trouble emerged when Washington stipulated that the Uyghurs would be barred from traveling to the United States."

What is Eric Holder hiding from the American people and our allies? The administration has a moral obligation to provide information to the American people on any detainee they plan to try or to release in the U.S.

Last week, Newsweek magazine reported that the Attorney General planned to secretly fly the Uyghur detainees from Guantanamo Bay and release them in Northern Virginia—without telling the American people or telling the Congress. Those Uyghur detainees are part of the Eastern Turkistan Islamic Movement, led by Abdul Haq who sits on the governing council of al Qaeda. The Obama Treasury Department designated Haq as an al Qaeda

leader last month; and yet Eric Holder says, Well, we're still going to release them. Regardless of whether or not they have vowed to attack Americans, a trained terrorist is a terrorist.

Their release is particularly troubling given the recent New York Times article, indicating that one out of every seven low-security prisoners released from Guantanamo Bay were recaptured on foreign battlefields fighting American forces.

□ 1715

What does this say about the threat from the medium and high-security risk detainees still being held? What does it say when FBI Director Mueller tells Congress that he shares our concerns about transferring detainees to U.S. prisons? During a recent hearing, Director Mueller stated that detainees could support terrorism, even radicalize other inmates in high-security prisons, if sent to the United States.

Other press reports indicate that officials within the Department of Homeland Security also opposed releasing detainees in the U.S.

Aside from the Uyghur detainees, many other detainees at Guantanamo Bay who may be moved to the U.S. for trial are self-admitted members of terrorist groups that actively try to break out of prisons.

Eric Holder would have you believe that detainees would be sent directly from Guantanamo Bay to a super maximum prison. In fact, detainees transferred for trial in civilian courts would have to be held in a facility near that venue and would only possibly be transferred to a super maximum prison if convicted. These are local jails similar to the lower-security Alexandria jail that held Zacharias Moussaoui during the 4 years he was on trial.

Such a move could mean Khalid Sheikh Mohammed, the mastermind of the 9/11 attacks and the man who brutally beheaded Wall Street Journal reporter Daniel Pearl, could be held in Alexandria for 6 or 7 years. Above all, I'm concerned that the presence of these high-profile detainees could possibly cause major problems for the communities.

In closing, Mr. Speaker, I believe that any trials or military commissions should be held on military bases far away from the civilian population centers. I would hope that Eric Holder is taking these concerns into account, but he has continued to deny Members of Congress access to this information.

## ON SEAN GOLDMAN: JUSTICE DELAYED AGAIN

The SPEAKER pro tempore (Mr. PETERS). Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, child abduction is a serious

crime that no legitimate government or self-respecting judicial body anywhere on Earth should ever countenance, support or enable by either direct complicity or incompetence. But the denial of fundamental justice in the kidnapping of an American child is exactly what has happened, and is happening, in Brazil today.

The tragic kidnapping case of Sean Goldman, pictured here with his dad, David, now in its almost fifth year, raises serious and troubling questions concerning the Lula administration's commitment to honoring its clearly defined international obligations.

Mr. Speaker, why has Brazilian President Lula's government so comprehensively failed to honor and respect international law, namely the Hague Convention on the Civil Aspects of International Child Abduction, which it freely, and without reservation, signed and ratified, to expeditiously return a kidnapped child to the left-behind parent in the country of habitual residence?

David Goldman's 9-year-old son, Sean, was abducted by his now-deceased mother almost 5 years ago. For 5 long years, David, his dad, has sought relief in the Brazilian courts. And with the aid of an extraordinarily talented legal team and a group of dedicated loved ones at home, friends and neighbors, David Goldman has left no stone unturned in trying to get his son back. Because of the Lula Government's complicity and/or incompetence, however, David Goldman has been frustrated at every turn.

Justice was delayed again, thus denied again, earlier today when a clear, unambiguous order to return Sean to his dad and to the United States was frustrated by yet another legal filing.

At its core, Mr. Speaker, it is utterly outrageous that Lins e Silva, a well-connected lawyer, who is not Sean's father, continues to hold Sean. By abducting a boy that is not his son, Lins e Silva commits what is among the most cruel, unethical and brazen acts of continuing illegality imaginable. Even Brazilian court-appointed psychiatrists have said that with each passing day, Sean is being harmed by his continued abduction.

This week, Mr. Speaker, all of us involved in the case were cautiously optimistic about a positive ruling by a Brazilian federal court judge ordering the abductor to turn Sean over at the U.S. Consulate in Rio De Janeiro at 2 p.m. today so that David could immediately bring his son back to the United States.

Sadly, it didn't happen. A new appeal, filed by individuals associated with the abducting party, has resulted in the Brazilian Supreme Court suspending the federal court's order to return Sean. This filing apparently seeks to nullify Brazil's obligations under the Hague Convention treaty on child

abduction, a delaying and obstructionist tactic that will further harm Sean and continue the extreme agony of his father. We have been told that perhaps the supreme court will decide the case by next week. Yeah, we'll see.

I would note parenthetically that if a political party in Brazil, and they are the ones who brought the case, wants to challenge Brazil's accession to the Hague Convention, or any part of it, it should do so without taking Sean Goldman hostage.

Enough is enough, Mr. Speaker. It is long past time to bring Sean Goldman home. The Brazilian Government must more fully understand that these reckless legal maneuverings which have no finality or compassion or justice and bring dishonor on the Brazilian Government. How long will President Lula allow this disgraceful charade to continue?

Let me be clear on this, Mr. Speaker. Our argument isn't with the Brazilian people, for whom I have deep affection and admiration, as do my colleagues in this Chamber. Many Brazilians have supported David Goldman's quest for justice against two wealthy and politically powerful families that brazenly abuse their connections and exercise grossly undue influence over certain parts of the Brazilian judiciary.

The Lula Government has failed to honor its commitments under international law. And because of that, a son has been deprived of his father, and a father has been deprived of his son.

That is unconscionable.

#### THE 65TH ANNIVERSARY OF OPERATION OVERLORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, this Saturday, June 6, 2009 marks the 65th anniversary of D-day.

Sixty-five years ago, 150,000 Allied soldiers, many of them just teenagers, braved tumbling seas, inclement weather, waves of machinegun fire and millions of land mines to take a stretch of beach at a place called Normandy. The bravery and sacrifice of these young men began the Allied effort to liberate Europe from Nazi occupation during World War II. D-day signaled the beginning of the end for the brutal fascist regime bent on global domination, and the return of hope to millions across the world.

With the enormity and significance of D-day, it is often difficult for our minds to comprehend that such a historic undertaking was carried out by individual everyday Americans. However these individuals were not ordinary people. Rather, they possessed profound determination, courage and commitment to purpose and were led by extraordinary leaders with

unrivaled character and unmatched vision.

No star shined brighter at this dangerous hour than one of our greatest Kansas sons, General Dwight D. Eisenhower. Dwight D. Eisenhower, a boy from Abilene, Kansas, grew up to serve America as Supreme Commander of the Allied forces during World War II and later as our 34th President. During the most difficult days of World War II, General Eisenhower made the crucial and controversial decisions necessary for victory.

With the responsibility of Operation Overlord, the largest amphibious invasion in the history of the world, General Eisenhower was fully aware that weather would play a critical factor in the success of D-day and the safety of hundreds of thousands of troops. Under the full weight of these consequences, he elected to delay the massive undertaking by one day due to weather concerns. Faced with only marginally better weather forecast the next day, June 6, 1944, he ordered the commencement of the operation and took sole responsibility for this critical decision, a choice that ultimately determined the outcome of the war.

General Eisenhower's words to his troops on D-day are inscribed at the national World War II Memorial. He is quoted, "You are about to embark on the Great Crusade, toward which we have striven for many months. The eyes of the world are upon you. I have full faith in your confidence, in your courage, devotion to duty and skill in battle. We will accept nothing less than full victory."

No one understood the historical enormity of D-day more than General Eisenhower. His sense of responsibility was profound. Following the successful landing at Normandy, one of Eisenhower's aides discovered a note that Eisenhower had scribbled before the invasion. It read, "Our landings in the area have failed to gain a satisfactory foothold, and I have withdrawn the troops. My decision to attack at this time and place was based upon the best information available. The troops, the air, and the Navy did all that bravery and devotion could do. If any blame or fault attaches to the attempt it is mine alone."

In these current times of great national challenges, we need leaders who possess the same sense of responsibility.

I'm honored to serve as a Commissioner on the Dwight D. Eisenhower Memorial Commission. The Commission was established by Congress in 1999, and it is charged with creating a permanent national memorial to our World War II hero and 34th President. Following a rigorous selection process, the commission has selected a world-renowned architect, Frank Gehry, as the lead designer for the memorial. The National Eisenhower Memorial

will reflect Ike's great legacy and his optimism for America's future. It will illustrate his love of democracy and country, and his faith in international cooperation and understanding. In fact, his memorial will be the first to reach out to international visitors in their own languages.

President Eisenhower represents the best of Kansas and the best of America. This weekend, as we pause to remember those veterans who selflessly gave their lives for the cause of freedom on a foreign French beach 65 years ago, my hope is that we will reflect upon the principled leadership, conviction and commitment shown by General Eisenhower, a man who never forgot that his first responsibility was to lead a coalition to the best of his ability to victory. Indeed, we currently face tough and uncertain times ourselves, but in these difficult times, it is important to remember President Eisenhower's words: "America is exactly as strong as the initiative, courage, understanding and loyalty of our individual citizen."

#### THIS IS NOT THE TIME TO CUT THE MISSILE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. FLEMING) is recognized for 5 minutes.

Mr. FLEMING. Mr. Speaker, on April 5 of this year, North Korea launched a missile capable of hitting nations friendly to us and even parts of the United States. The rocket broke apart during its second phase, but it was able to track halfway across the Pacific Ocean.

What was our response to the growing threat? We announced the missile defense budget would be cut by \$1.4 billion.

On May 25, 2009, North Korea successfully detonated a nuclear bomb at an underground test facility and launched at least six separate short-range ballistic missiles. And I understand that the bomb was about a 3- to 5-kiloton magnitude bomb.

Now there is news that North Korea may be preparing another long-range missile test. North Korea's nuclear weapons testing and production have been a major concern for years as they continue to make technological advances that could one day allow them to deliver a nuclear warhead anywhere in the U.S. This is not the time to cut our missile defense budget.

Mr. Speaker, we must continue to invest in the ground-based sensors to track, intercept and destroy missiles during the mid-course of flight and ensure America is protected against attacks from those who pose the biggest threat to our safety and freedom.

History remains clear on this. Being unprepared or passive always invites aggression.

#### CONTROL CARBON AND CONTROL LIFE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Utah (Mr. BISHOP) is recognized for 60 minutes as the designee of the minority leader.

Mr. BISHOP of Utah. Mr. Speaker, I appreciate that opportunity and the opportunity of being here. As somebody who is old, I remember the good old days when we still had vinyl albums. If I wanted to buy a song, I had to buy the entire stupid record. Today, my kids tell me they have these neat things called "iPods" in which, if they want a song, all they have to do is download a song. They get to pick exactly what they want to.

I'm in one of those situations where I go in a supermarket and I realize I can stand in that aisle and I have literally hundreds of cereals from which to choose. Or if I want to watch a movie, Netflix has thousands of options for me to choose from. There are millions of songs I could download. There are even 34 types of Eggo waffles. Our entire life is run with options and choices by American people.

In fact, the only segment of our life in which the concept of options seems to have dissipated is with the government, because the government is still here to pick winners and losers and decide how I will or will not live my lifestyle. The government is still here to try to go back to those halcyon days of the Carter administration where the government told you where to put your thermostat, how fast to drive and on which days you could or could not get gasoline for your car. It is a lifestyle that happens to be there.

We are dealing with a situation which may be, in essence, one of the biggest lifestyle changers we have ever had in this world with cap-and-trade, because we are talking about carbon policy. As was written in 2007, controlling carbon is a bureaucrat's dream. If you can control carbon, you can control life.

One of the fears I have right now is that we are moving into an area in which, instead of giving Americans options on how to live and how to produce and how to go forward with their lives, we are starting to tell them how to live their lives, because the government is the one that is going to be picking winners and losers.

We are going to be talking about energy. We are going to be talking about cap-and-trade tonight, the implications of cap-and-trade and the tax policies of cap-and-trade, with the idea that what we should be trying to do, as a government, is giving people choices and options to let them choose how they live rather than having the government be the one to pick out who is going to win, who is going to lose and how we will proceed.

□ 1730

I've been joined by several of my friends here tonight. I appreciate their service to this Nation as a Member of Congress. I'd like to turn some time over to the gentleman from Georgia (Mr. BROUN) who is on the floor right now, even though his committee is still meeting in a markup. But I'd like him to have the opportunity of taking as much time as he wishes to consume so he can get back to his other work, which is trying to keep the Science Committee on the right track in their particular markup.

Mr. BROUN.

Mr. BROUN of Georgia. I thank my good friend, Mr. BISHOP from Utah, for yielding.

Mr. Speaker, I rise today in very strong opposition to the Waxman-Markey cap-and-tax boondoggle. That's what it is. It's a boondoggle. This energy tax is the largest tax increase in American history, an estimate of almost \$2 trillion tax increase. It will probably cost every family, it's estimated to cost every single family, rich, poor and in between, over \$3,100 for every family in additional energy costs and will drive millions of good-paying American jobs overseas.

In fact, I have several plants in my district in northeast Georgia that have told me that, if this onerous bill passes, they'll have to lock the door. And those manufacturing jobs will go overseas because they cannot afford to pay this high energy tax. It will devastate their business, and we'll lose jobs.

This is an outrageous tax on every family that drives a car, who buys American products, or even flips on their light switch when they come home. So that means you, it means every single family in this country is going to pay over \$3,100 per family for this increased energy tax.

Senior citizens, the poor, the unemployed will be hit hardest by this tax increase, as experts agree that they spend a greater proportion of what money that they have, their income, on energy consumption and on products that have high energy consumption and, thus, will have higher costs for those goods and services. In fact, it's going to raise the cost of every single product, every single service in this country, because of this outrageous energy tax.

This is a time when we should be promoting policies that stimulate our economy and not tear it down. Various studies suggest that as many as 7 million jobs will be lost. In fact, our President has held forth as a paradigm the country of Spain that put in an energy tax similar to this one and about the green jobs that were created there.

We just talked to a man who serves in their legislature in Spain, and for every single green job produced in Spain, they lost 2.2 additional jobs. So

they had a net loss of 1.2 jobs for every job that was created.

It's not right. It's not in the best interest of our Nation. Make no mistake that the Democrats' airtight tax-and-cap will suffocate America's small business, and it will strangle America's respiratory system, the free enterprise system.

My colleagues on the other side of the aisle will claim that that tax-and-cap will help clean up the environment. However, this doesn't seem like it's even about the environment or about global warming anymore. This has turned into a revenue generator, a revenue generator for NANCY PELOSI and HARRY REID, for their radical agenda that includes socialized medicine. And, in fact, the President said, if we don't pass this, that he's not going to have the funds to force this socialized medicine system that he's proposing down the throats of the American people. It's a socialized medicine system that's going to take your health decisions from you and your doctor and put it in the hands of Washington bureaucrats. That's why they want this tax-and-cap, as I call it, bill passed, so that they can afford, have the money to grow this huge socialized health care system that's going to destroy the quality of health care.

Fortunately, Republicans have offered an alternative, an alternative to this unaffordable energy tax. We believe you can clean up the environment. We can clean up the environment. We must be good stewards of the environment. We can clean up the environment. We can keep jobs and keep money in peoples' pockets all at the same time.

Our solutions include American energy, American energy produced by American workers to create American jobs. Our all-of-the-above energy plan brings us closer to energy independence, which is critical for our own national security. It encourages greater efficiency. It encourages conservation. It promotes the use of alternative fuels, and it will lower gasoline prices. Lower gasoline prices.

This cap-and-tax bill isn't the only disguise we've seen here lately. In the last hundred-plus days we've seen the following: We've seen a nonstimulus stimulus package. We've seen secretive bills in what was supposed to be an open and transparent Congress, and we've seen bigger government creating trillion dollar commitments versus fiscal responsibility. In fact, what we have seen is downright fiscal irresponsibility.

So far this year, Washington Democrats have forced taxpayers to pay for the following: A \$1 trillion stimulus spending bill; a nonstimulus bill that, in spite of the administration's repeated attempts to spin it in a positive light, is riddled with waste and inefficiency on projects such as a skateboard

park in Rhode Island, a new auxiliary runway at Representative John Murtha's airport for no one. It's even worse than the bridge to nowhere, an airport for no one in Pennsylvania. And even checks have been sent to deceased people who've been deceased for many years in Maryland, and who knows wherever else in this country those checks have been sent.

We've seen a 400-plus billion dollar omnibus bill, a spending bill loaded with more than 9,000 unscrutinized earmarks. We've seen a budget that adds a staggering \$13 trillion to the debt. It doubles our national debt over the next 5 years and triples it over the next 10. Triples our debt. Who's going to pay for that? It's stealing our grandchildren's future because they're going to have to pick up the bill.

We've seen a \$50 billion check written in financial aid to General Motors, which seems to have only brought a bankruptcy filing. And it's only June the 3rd.

The sad fact is that this administration has added more debt than every single President combined, from George Washington all the way through George W. Bush. We hear it here on the floor all the time that our financial problems were caused by George Bush, but we've created, we're creating, more debt in the next 5 years, listen, people, more debt in the next 5 years than every single President from George Washington through George W. Bush all combined created. This eclipsed, in less than 5 months, what it's taken more than 230 years to establish. And now they're calling for the largest tax increase in American history.

Enough is enough. I urge the American people to stand up and say "no." No more of these policies that will create more and more debt and will actually bring down our economy even worse than it is today. And it will steal our children's and grandchildren's future.

We must say "no" to our Representatives and Senators in this Congress to oppose the Waxman-Markey cap-and-tax or, as I call it, tax-and-cap legislation, and we need to begin to return to some fiscal responsibility here in Washington, D.C.

Republicans have offered, over and over again, multiple alternatives, multiple alternatives, but the Speaker has been an obstructionist. She's obstructed every effort to get to this floor the proposals that the Republicans have brought. She's blocked every effort that we have had for all of these proposals to stimulate our economy, to solve our energy crisis, to put America back on the right track economically, to solve the housing crisis in America.

We've proposed solutions, common-sense, market-based solutions that would not have cost American jobs,

would not increase taxes, would not have stolen our grandchildren's future. And the American people need to stand up and say "yes" to all these other proposals, and say "no" to Waxman-Markey, "no" to the course that this administration and the leadership in this House and over in the Senate are taking us, because it's going to bring financial ruin to America if we don't.

So it's up to the American people to say "no" to your Congressman, say "no" to your two U.S. Senators to this tax-and-trade or cap-and-tax or tax-and-cap legislation that's going to ruin America, cost American jobs, and it's going to be a tremendous financial burden on you and your family. So say "no" and resist this as we are here on the Republican side in the U.S. House of Representatives.

I thank my colleague for yielding, and I applaud all your efforts to bring forth our proposals to the American public, the proposals that make sense economically. And I thank you, Mr. BISHOP. You're doing a great job, and I applaud that.

Mr. BISHOP of Utah. Well, I appreciate the gentleman from Georgia being able to join us in the middle of his committee markup, and I appreciate him being here and talking about simply some of the major problems that would take place with this overall system that may be here. It's one of the reality checks that we have to deal with is why, indeed, are we going to do this kind of an approach.

I happen to think that one of the reasons why we're marching down this path right now, so rapidly marching down this path, is simply because the government promised to do something, and the something that they decided to do is a cap-and-trade or cap-and-tax policy, which simply means to put government pressure on the business community to try and lower their amount of CO<sub>2</sub> emissions by putting, insisting they put economic pressure on them so that right now, to try and get those caps exceeded, they have to buy some kind of credit, and then put the economic pressure on them to change over to a new way of doing business.

Both of those costs, both the cost of buying the cap-and-trade process right now as well as the change, will be passed on to the consumer. So the consumer basically gets hit both ways, two times, once going and once coming in this process at the same time; because the consumer basically has, all of our life is surrounded in some way by a fossil fuel economy, and the consumer, therefore, has to have a life change at the same time the business is having a life change.

Now, I don't care how you want to try and spin this, as a new way of living or whatever it is, this is going to be the opportunity to change lifestyles based on bureaucratic decisions. And it will be, as the gentleman from Georgia

just said, a concept of a tax on people. For the rich amongst us, this new tax is going to be an annoyance. For poor people, where 50 percent of their income has to go to energy choices, this tax is going to be the difference between being able to have a luxury like Hamburger Helper that night. This is not going to be fairly distributed throughout society.

In fact, you'll notice, I think the gentleman from Ohio is here to talk to us in just a moment, and his area is going to be even more severely hit than some of the other parts of this country.

And what it will be, though, is a windfall profit tax for the government. As the gentleman from Georgia said, this 400-plus billion dollars we're talking about does not go into improving our lifestyle or does not go into coming up with alternative energy sources. It goes to the government, pure and simple.

Mr. BROUN of Georgia. Will the gentleman yield?

Mr. BISHOP of Utah. Sure, be happy to.

Mr. BROUN of Georgia. I just want to bring out a point that you were talking about what it's going to do. Let me tell you something that it won't do, and you may want to talk about this, too. It's not going to solve the global warming problem. In fact, they don't talk about global warming here in America anymore in the government. They talk about climate change. And why? The reason they don't talk about global warming anymore is because we've had global cooling for almost a decade now, global cooling.

□ 1745

And the experts say that if we marginally reduce the carbon emissions like this bill proposes, it's going to be less than one degree of improvement in the global temperatures. In fact, it's only a smidgen of the total carbon put out throughout history that we're going to be affecting. So it's not going to accomplish the thing that they're trying to sell it on, and that's affecting climate change. It's all about getting more money, more money for a socialistic government that's going to control people's lives. And that's what it's all about. The socialized medicine and care for this steamroller of socialism that they're trying to shove down the throats of the American people, and we've got to stop it.

Mr. BISHOP of Utah. I appreciate the comments of the gentleman from Georgia as well. I want to concur in the last part of what he did say very clearly that this is going to be a tax, it's going to be a windfall for money for the government, not necessarily to go back into this issue but for the government.

The Washington Post simply said that the proposals will require a wholesale transformation in the Nation's economy and society. One of our

former colleagues who is now in the Senate, he said, cap-and-trade is the most significant proposal of our time. Friends of the Earth published way back in 2007, The concept of a climate change response must have at its heart a redistribution of wealth and resources. Alan Greenspan said cap-and-trade systems, or carbon taxes, are likely to be popular only until real people lose real jobs as their consequence.

There is no effective way to meaningfully reduce emissions without negatively impacting a large part of our economy.

Now, there's a couple of reality checks that I want to deal with today. And I'm joined by two of my good colleagues, one, the gentleman from Ohio, and also the gentleman from Louisiana, who are going to talk about some of the problems that we presently have; and especially the gentleman from Ohio because his area is going to be hit perhaps as hard as anyone in this unfair distribution of income. It's going to be a byproduct of this approach.

With that, Mr. Speaker, I will be glad to yield as much time as he may consume to the gentleman from Ohio who can tell us what's going to be happening in his backyard.

Mr. LATTI. I appreciate the gentleman for yielding.

Ohio and Indiana are going to be especially hard hit under the cap-and-tax, cap-and-trade system. I think it's important to start off with what the President said last year, Under my plan of cap-and-trade system, electricity rates would necessarily skyrocket. That will cost money. They will pass that money on to the consumers.

And I tell you, my friend, that's what scares me. As the gentleman from Utah was just saying, pointing out the amount of money that's going to be collected under the system is absolutely scary.

Ohio, Indiana. I would like to point a few of these out.

I represent in Ohio the 5th Congressional District, the largest manufacturing district in the State, also the largest agricultural district in the State of Ohio. And when we're talking about cap-and-trade, cap-and-tax back home, it has businesses and farmers scared. Why is that?

The Heritage Foundation, not too long ago, put together what they call this manufacturing vulnerability index. It takes how many manufacturing jobs that you have in your district and also with the type of energy mostly that your State uses—in our case, and also if you look at Indiana, Ohio is at 87.2 percent coal while Indiana is at 94.2 percent coal.

The problem with it, as you see, we have a very high vulnerability. When you take these numbers and go across—a lot of times when you were in

school you wanted to be at the top, when you were playing sports you wanted to be at the top. This is one chart you don't want to be at the top of. The Ohio 5th Congressional District ranks number three in the most vulnerable districts in the State of Ohio when it comes under the cap-and-tax, cap-and-trade notion.

What's happening right now? We've been in a tough recession. Again, being the largest manufacturing district in the State of Ohio, we're suffering. And fortunately when the announcements were made from General Motors yesterday, we did not lose our General Motors plant, but just nearby in the 4th Congressional District, they are going to be closing. But a lot of my people work in those plants.

So what does this mean? One of my counties right now, which is right in the corner of Indiana, Michigan and Ohio, it's the highest unemployment rate in the State of Ohio. Williams County. Over 16 percent. You have hardworking men and women up there that want to go to a job every day; but because of this recession that we're in, they're not getting to a job.

What we gotta do is we've got to get these people back to work. But the thing is—that's already been mentioned by my friend in Georgia—it's going to be very difficult to retain, expand and create new jobs if we're in a situation where we're not going to be able to compete around the world. How is that?

If you look at these numbers right here with Indiana and Ohio, if you tip this down to the 20th Congressional District that's going to be hit by cap-and-tax, 16 of those districts are from Ohio and Indiana. It's not very enviable when Indiana and Ohio split eight each in the vulnerability of our jobs into the future under cap-and-tax. And it's going to be very difficult for businesses to survive.

Every week when I get home, I try to be in my district at a plant or in a business. And not too long ago, I was in another factory—and these factories are all pretty much holding on to what they got. It might be that they're not able to go out there and keep people employed. So a lot of them are doing, you know, if we cut back and cut back the number of hours people are working, if management takes a cut, if they try to do anything in-house and not do any contracting out, what happens is they're trying to hold on to the jobs they got.

However, there are a lot of factories in my district that are working 5, 6 days a week. Now they've got people working four 10-hour-shift days. The problem with that is people aren't working overtime. They're not getting money to put in the bank. They're not getting more money out there because—in my district I have the largest washing machine plant in the world. In



a good year, they're producing over 6 million washing machines. We can produce anything in northwest, north central Ohio when it comes on the automotive side. But, again, these companies are hurting.

You have got companies out there that supply the auto plants and if you're in tier 2 or tier 3, you're in trouble. They say, Well, it's going to be rationalized—I think the term was down the street—that we're going to have to rationalize what's going to happen to these. A good term for that is “you're out of business.” Where are these people going to go? We've got a domino effect that's going to be happening. But this domino effect is going to be happening more rapidly if these companies cannot afford power.

Again, in Ohio, 87.2 percent of our power is coal generated. Indiana, again, is 94.2. So we can't have that going on because when we're talking about these numbers, we're talking about a catastrophe in the making.

I just wanted to show this chart. Again, this is the top eight districts in the State of Ohio. They're going to be affected by cap-and-tax. I would like to show you the bottom eight.

Well, as we start down the list, that being as least affected with a manufacturing vulnerability index ranking of only 3.2 percent is Mr. WAXMAN's district. When you go down to Speaker PELOSI's district it only gets down to a 2.2. And, again, we're talking about Ohio and Indiana, districts in the 100 percent, the 98 percent range.

Out in California they're using a lot of nuclear; they're using a lot of natural gas. So these areas in the country aren't going to be hit.

People say, back home, BOB, who's asking for this? We're in a catastrophe here in the Midwest. Who's asking for this?

If you look at a map, go from California to Oregon to Washington, you know these are very low vulnerability with these States. You go from the east coast, very low vulnerability. Not a lot of manufacturing, not a lot of coal.

So when you look at this, who's getting hit the hardest? The Midwest. Those States that are the industrial heartland of America, those men and women who get up every day, pack that lunch box and get to work are the ones that are going to be affected.

And as the gentleman mentioned from Georgia, what's going to happen?

Well, if we can't manufacture cheaply in the United States and compete against the rest of the world—and the rest of the world today is China, India and that area—what are they going to be doing about it? There is some talk around here and at the White House, We're going to go over and talk to the Chinese and say we would like you to cap your emissions. That's what all of this is about, capping carbon emis-

sions. There is not one person in this Chamber that would say that they want to have pollution. But we have to manufacture in a way that can be done that we can compete. When you're looking at these numbers, it's going to hurt the Midwest.

But what happened when the Chinese were questioned about the whole notion of what are we going to do about cap-and-tax, especially when it comes to China? China's philosophy is this—and it was a quote that was in the Washington Times not too long ago. Their minister said this: You don't understand the problem. We only produce it. You consume it. If you hadn't consumed it, we wouldn't have produced it. So you pay any of the tax that might come from this.

They don't want to get involved in it. They are not going to get involved in it. So what we're putting around the legs of the manufacturing in the United States is a ball and chain. We're saying, Okay, we're going to throw you in a hundred feet of water and you better start swimming somehow. That's what this Congress is advocating, and it can't be done because America cannot compete under those standards.

We have got to be on an equal playing field with the rest of the world. If we don't have that, we're going to be in a situation where American jobs are going to be lost to overseas.

I said about my district, I have some of the highest unemployment in the State of Ohio. Again, high manufacturing, and we cannot afford to be in a situation where we have this type of situation where we're going to be hurting the heartland of America under this policy. And as I mentioned, we've got businesses out there hanging on by their fingertips and all we've got to do is put this chain around them and they're not going to be able to survive into the future.

A lot of things are being advocated when you're talking about carbon capture and sequestration. That technology, in a lot of cases, is not even available and it's untested. And we're telling businesses we're going to have to be doing some of this into the future. Impossible.

Businesses out there, they're going to say, How are we going to do this? Some of the businesses out there that are owned by multinationals across Ohio and the Midwest—you know, I've had some companies tell me, We don't have to be in Ohio. We don't have to be in the United States. We can go over to our Pacific Rim countries and produce the product and bring it back to the United States probably at a cheaper rate than you can do it right here in the United States. And they're saying that, but they want to stay here; but if we do this, if this cap-and-tax gets passed, America is going to suffer, America is going to lose jobs.

And when you look at some of these numbers that the Heritage Foundation

has brought forward, they're looking at by the year 2035, it's reducing the aggregate gross domestic product by \$9.6 trillion. Destroy 1.1 million jobs per year on average with the peak years seeing unemployment rise by over 2.479 million jobs.

Again, as has been mentioned by my friend in Georgia, increasing the average American cost of living by 2035, \$4,300. Where are Americans going to come up with this money?

If you are getting cut back on your hours right now at your plant, you're not going to have additional dollars, and then we're going to have the Federal Government mandating these things. There are not going to be any Federal dollars.

Raising electricity rates by 90 percent. Again, when you look at this vulnerability, you look at the Midwest. You look at the companies that are out there that have to have that base load capacity every day to turn those machines on to keep America running. They are not going to be able to do it. Pass this bill and that's what you're going to get.

We're going to see gasoline prices rise by 74 percent. Right now, you're looking at gas increasing. It was really nice for a while there this past year when we were looking at about \$1.63 gasoline in northwest Ohio. Well, the other day when I got gas before I came back to Washington, it was \$2.52. And people were saying to me at those gas pumps, When is it going to stop?

I say, if you pass this bill, you're going to watch gasoline prices skyrocket. Eighty percent of everything that is brought into Ohio in goods is brought in by truck. So, again, those prices are going to go up.

Agricultural prices are going to go up because the fuel that's needed to make the fertilizer, the fuel for the tractors to make sure that you can harvest, all of these things are going to go up. The drying of the grain. All prices are going up. Again, when these numbers that they're talking about how can you come up with \$4,300, when you look at your electricity, your gasoline—you go right down the line—the food you put on the table, these prices are going to go up.

Raise residential national gas prices by 55 percent. And then increase the inflation-adjusted Federal debt by 26 percent or \$29,150 additional Federal debt per person again after adjusting for inflation.

□ 1800

We can't afford this. We cannot afford this, and we can't have this happen.

But my friends let me tell you, there's not one person that's not for clean energy, and here the Americans want something, and the Republican Party has come up in this House with a strategy.

And last week during the break, several of us were in Pittsburgh and Indiana and California stressing the need to make sure that we have this nuclear being stressed. There's a nuclear power plant in California that supplies 10 percent of that State's needs, and the last time we've even been able to site a new plant in this country was 1977.

So we can do it in this country by just having what we've got, by making sure we use our clean coal technology, to use nuclear. Get out there, get the oil, the natural gas, we use the hydro, the geothermal, and then of course on all the others. We have the wind, the solar, the ethanol, the biodiesel. We can do it, but we've got to have an all-of-the-above policy, but we cannot go with this cap-and-tax because, again, it's a jobs killer for America, and I thank the gentleman for yielding.

Mr. BISHOP of Utah. I appreciate the gentleman from Ohio for talking about some of the realities that happen to be there. I hate to say this, but sometimes we need to make a reality check on this entire issue of what the goal is. When we are told the goal is to have an 80 percent reduction in CO<sub>2</sub> by the year 2050, what does that really mean for us?

In my own State of Utah, we have a yearly output of approximately 66 million tons of CO<sub>2</sub> per year and a population of 2.6 million. Now, if you simply do the math, to reach that goal that everyone says we have to reach, we would have to go down to 2.2-tons of CO<sub>2</sub> emitted every year in the State of Utah. The last time that happened, I hate to admit this, but Brigham Young hadn't even arrived. If you want to do the kind of math that it takes to reach that goal in the United States, the Pilgrims weren't here yet on Plymouth Rock.

One of the things that we have to reconcile is that, look, there are 6.2 billion people in the world. Two billion of those people have never flipped on a switch because they have never had electricity. To reach the kind of goals that we're talking about here, we have to insist that those 2 billion people never have to experience things like lights and flat screen TVs and computers that we all take for granted and live with; that they don't have to have adequate food free of bugs because, I'm sorry, the fertilizer is fossil fuels; and they don't have to have clothes which are made of fossil fuels. My pen is a fossil fuel. Everything in the emergency room except for the steel is a fossil fuel. We make composites for aircraft to make them lighter and more efficient right now. You get on plane; you are riding on gas. All those things are there, and we have this schizophrenic idea that we want to get rid of fossil fuels, at the same time it is our lifestyle, without recognizing what it is.

Back in the 1970s, we had a specific term in there and that's when we came

up with the idea that these are alternative fuels. What we really should be saying is they are supplemental fuels, because I hate to say this, but one-sixth of one percent of the energy we use today comes from wind and solar. If you try to do a PowerPoint presentation of a pie chart, all you get is a little thin line because it can't get smaller than that little thin line.

And after 30 years and \$20 billion of the United States Government trying to expand wind and solar, we are still at one-sixth of one percent. The President wants to double that, which I applaud him for. Actually, the last 3 years of the Bush administration, we doubled the amount of wind and solar power we were using, but all that does is take us from one-sixth of 1 percent down to one-third of 1 percent. So that line is only a little bit wider.

Now, if you have a coal or a gas-fired power plant that puts out 1,000 megawatts of power, it takes about 40 acres of ground to do that, 40 acres. To accomplish that same power output with wind, you would take 500 windmills that would require 30,000 acres to accomplish that. The Denver Post had this wonderful article about this great solar plant in an area in Denver that was putting out 8.2 million megawatts. To accomplish what that one coal-fired plant would put out, you would have to have 250 of those miracle plants covering 20,000 acres.

In my home State we have a new geotherm plant, which is great, puts out 14 million megawatts of power. We take 10- to 20,000 every year just to keep up with the grid.

So what we have to do as we're talking about all these issues is come up with some kind of realism that the bottom line is the wind does not always blow and the sun doesn't always shine, and we have yet to come up with a way of capturing wind and solar power, let alone the capacity for moving those. We have a reality check before we go marching down this path of where we're going.

I want the gentleman from Louisiana who is here, who has been involved in these issues, has signed one of the early bills that deals with one of the potential solutions to this, especially to talk about some other options out there because what we, once again, need to do is we have to be able to give the American people choices and options, not have the Federal Government telling them what to do.

So I yield to the gentleman from Louisiana.

Mr. FLEMING. I thank the gentleman from Utah, and I, too, feel very privileged, Mr. Speaker, to have been a cosponsor on the no-cost stimulus energy plan that my friend from Utah was also a sponsor of, and it would have provided tremendous utilization of the potential energy we have, but of course, it never made it to the floor.

As a good segue into really what I want to talk about is my local district, I just want to reiterate what we discussed this evening, and we also talked about it last night, that this cap-and-tax program has been tried before. We've been 10 years down this pathway with Spain. Representatives from Spain came and spoke with us about this, and they said that the net of all that has been is they've lost companies, they've lost jobs, their unemployment rate is now 17.5 percent, and their energy costs are skyrocketing, which of course prophetically even our own President, President Obama, made the comment in January 2008 that utility costs, electrical costs, home costs of energy will skyrocket if this bill is passed.

What I want to talk about for a moment, Mr. Speaker, is the Haynesville shale. I'm from the fourth district of Louisiana. This is the northwestern corner of Louisiana, and 3 years ago no one had ever heard of the Haynesville shale. In fact, the whole idea of shale formation, that is, a rock formation that holds like a porous sponge deposits of natural gas, something that was barely heard of even 4 years ago, and today, we're finding that in the case of the Haynesville shale, it is perhaps the largest natural gas find in this hemisphere.

And hopefully, the camera will pick this map up, but you see the area, and it borders, of course, several parishes in Louisiana and then also counties in Texas. As you can see, it covers a wide swath of area, and so this represents a tremendous opportunity for the State of Louisiana and also parts of the State of Texas.

So I just want to tell you something about the impact. We're talking about 234 trillion cubic feet of natural gas production potential. This could be a source of energy for many years to come for this country, and remember that natural gas is a very clean form of fossil fuel. It produces significantly less carbon dioxide than say coal, and yet there's forces out there that would like to stop the drilling for natural gas in the Haynesville shale. We're even going to have hearings tomorrow talking about the manufacturing process and potentially issues having to do with the environment with that. But let me tell you about what we also can lose if we lose the ability to extract natural gas just in my district.

A 2008 study was done, and it showed that \$4.5 billion was pumped into the Louisiana economy in that year. It created \$3.9 billion in household earnings. The greatest impact on indirect household earnings was experienced by workers in the mining sector, with new household earnings of \$193 million in 2008. It created over \$30 million in new earnings in separate sectors; \$56.7 million in health care; management, \$46 million. On and on and on, many millions of dollars. It's creating cash into

the local economy in my district. And as a result of this, our unemployment rate is much lower than that of the east of the country, and our economy's doing very well. Real estate is doing very well. On that, we've created many jobs. Large impacts were felt with 5,229 jobs in the utility sector; health care, 3,496 jobs.

Conservative estimates report that State and local tax revenues increased by \$153.3 million in 2008. Some parishes reported a 300 percent increase in sales tax.

So as you can see, Mr. Speaker, the Haynesville shale is just starting, and yet it is creating a tremendous impact on the economy of my district. So, if we continue down this cap-and-tax road, not only are we going to lose what we have but potentially lose what we're going to have.

In the 2010 budget of President Obama on this same subject, we're looking at a potential loss of \$80 billion in tax incentives for oil and natural gas businesses, and this impacts small companies. The majority of oil and gas companies in my district are small companies. They're mom-and-pop businesses, and that is the backbone of our economy. We're not talking about Shell Oil. We're not talking about Exxon. We're talking about local, Joe Smith kinds of businesses.

Independent oilmen and women in northeast Louisiana rely on these incentives to reinvest their capital in these companies. This is caused by the loss of depletion allowance and the writeoff of intangible drilling costs. It will also broaden our dependence for foreign oil; of course, the thing that we used to talk about when gas was \$4 a gallon and soon we're going to be talking about that again.

Well, in closing, I just want to say, Mr. Speaker, that we cannot tax and spend our way out of growing our economy. In a time of recession, the best way to encourage an economic turnaround is to preserve jobs. The State, instead of flowing money into the economy, as we've tried with this stimulus plan, which, estimates are, only 6 percent of the money is even in the economy, we may actually be pulling out of this recession as we speak.

Without the development of natural gas plays like the Haynesville shale, without increased exploration in ANWR, the Outer Continental Shelf, without the tax incentives that I just mentioned, without these things we're going to see our economy, even if it pulls out of this, level off.

We can have our cake and eat it, too, Mr. Speaker. We don't have to destroy our economy and clean up our environment at the same time. We can be good, responsible tenders of our environment. We can be good stewards of our environment without destroying our economy in the process.

Someday perhaps we will be able to use some of these technologies. Per-

haps we can use solar, maybe wind, but at this point, my friend from Utah says it's 1.6 percent of production, and we're going to have a lot of breakthroughs to make it go much higher than that. But until that time, there's a lot we can do with the technologies we have, technologies that are coming online, and that's not even mentioning nuclear power which many countries, particularly in Europe, are way ahead of us on.

But we can do a lot to solve our problems without throwing our economy into the dumpster, as Spain has.

So with that I want to thank my friend from Utah for his time, his many great efforts with this. I appreciate his leadership on this subject.

Mr. BISHOP of Utah. I appreciate very much the gentleman from Louisiana joining us and talking about other kinds of options that are out there for the American people. The reality has always been that reliable and affordable energy has been the great liberator of mankind. It has improved our lifestyle. It has allowed those who are poor to escape that kind of poverty.

One of the things we cannot do is allow us to restrain ourselves so that that does not happen. As we said before, if you're rich, all this stuff could be an annoyance. If you're poor, it's a life-and-death decision, and as one wag simply said, never underestimate the ability of Congress to offer nonsolutions to problems that may or may not exist. We may be looking at that right now, but I appreciate especially the fact that there are other options out there that need to be explored because this is not the only answer and the only solution.

With that, I'd like to yield to our good friend from Indiana who has spoken often on these particular topics and these issues, in fact, is organizing an effort to explore other options that America needs and recently took those conversations on the road to actually hear from Americans. I yield to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. I thank the gentleman for yielding.

Mr. Speaker, I come before this Chamber today at a time when millions of American families are hurting. I just spent time home in Indiana, heard from small business owners and family farmers that are struggling to make it through these difficult times. And they know, and I heard not only in Indiana but in Pennsylvania and in California as House Republicans traveled this Nation to take our case against the Democrats cap-and-trade proposal.

□ 1815

I heard from those Americans one simple message, and that is: The last thing we should do during a difficult recession is pass a national energy tax on every working family, small business owner, and family farm in this

country. But, Mr. Speaker, that's precisely what the House Democrats are preparing to do.

Just before the break, virtually along party lines, House Democrats reported out of their committee the so-called cap-and-trade legislation, which is better understood as a cap-and-tax legislation. My colleague, FRED UPTON from Michigan, says it will cap growth and trade jobs. And the truth is it will have just that effect.

According to a study done by MIT, divided by the number of households in this country, if the Democrats' cap-and-trade legislation becomes law, the energy costs of the average American household would rise by more than \$3,000 per year. According to some independent estimates as well, if their legislation became law, various studies suggest 1.8 million to 7 million jobs could be lost in this country.

Why on Earth, at a time when this Congress ought to be coming together with bipartisan solutions to bring relief to small business owners, to American manufacturing, a time when we see the government reaching deeper and deeper into our financial sector, offering one bailout after another to one business after another, why on Earth would we heap more weight on the backs of Americans and on the back of this American economy in the form of a national energy tax?

But I rise today, Mr. Speaker, to say with authority that's precisely what Democrats are planning to do.

I pull out a device that helps me keep up with the news here. And I will quote, for the sake of attribution, a story published this afternoon at about 5 o'clock in Roll Call, because as we returned to Washington, D.C., there was a great deal of talk, Mr. Speaker, that we were moving on to health care reform for the summer. The majority in Congress wasn't talking any more about a national energy tax. They weren't talking any more about cap-and-trade. The focus was health care. The President of the United States gave a speech saying that it's a time for health care reform, and that should be the focus.

But I have got to tell you, I used to play a little bit of basketball back in Indiana. There was something called a head fake. You know, when you got the ball and you want to go this way, you put your head that way and you make the guy follow, and then you go this way.

I had this feeling it was a bit of a head fake, that in fact liberals here in Washington, D.C., were not going to relent in their drive to pass a national energy tax and the cap-and-trade legislation. And it turns out, according to Roll Call, I might just be right.

An article filed by Steven Dennis of the Roll Call staff reports that, "Speaker Nancy Pelosi is kick-starting the movement on the controversial climate change bill, setting a deadline of

June 19 for committee action in the Ways and Means Committee."

The Speaker of the United States House of Representatives has told the chairman of the House Ways and Means Committee that they have until 2 weeks from this Friday, according to Roll Call, to have that bill out of committee. And it could very well be on the floor of this Congress before we break for the 4th of July.

So I think the American people have a right to know what's in this bill. They have a right to understand how this national energy tax, under the guise of climate change legislation, is going to result in an increase in their home utility costs, an increase in the costs of gasoline at the pump, an increase in the cost of virtually every good we buy, because of course energy is an input cost on virtually all the goods and services that we use in our daily lives. It's going to increase the cost of businesses. And I rise, of course, with a particular interest in this.

As we heard from the Governor of the State of Indiana, Mitch Daniels, last week, that because the cap-and-trade legislation essentially puts the heaviest burden on those States that draw the majority of their electricity from coal-burning power plants, the truth is that, rightly understood, this cap-and-trade legislation amounts to an economic declaration of war on the Midwest by liberals here in Washington, D.C., and it must be opposed.

I mean, in the State of Indiana, our households, when we flip the light switch, we draw about more than 90 percent of our electrical energy from coal-burning power plants. Very similar in Michigan, very similar in Ohio. That may well be why the Heritage Foundation recently estimated that States like Indiana and Ohio and Michigan will be the hardest hit States.

We had testimony last week from representatives of Richmond Power and Light in Richmond, Indiana. They testified at a public hearing that we held in my home State capital of Indianapolis, and they said that their utility rates in Richmond, Indiana, a city that I represent, their home utility rates would go up by 25 to 40 percent if cap-and-trade legislation became law.

We have got to come clean with the American people about the reality of this national energy tax. The American people have a right to know that this Democratic majority is preparing to pass legislation that will increase the cost of doing business, increase the cost of their household budget, and they're preparing to do that in name of environmental priority and climate change legislation at precisely the time that American working families, small business owners, and family farmers can least afford it.

So I commend the gentleman from Utah. I commend him for his extraor-

dinary and visionary leadership on issues involving energy. But I pledge this: That as chairman of the House Republican Conference, as one of those tasked with the American Energy Solutions Group on which my colleagues have the privilege of serving, we are going to make the fight in the weeks ahead against this national energy tax and, to the gentleman's point, we're going to offer a Republican alternative in the American Energy Act that will lessen our dependence on foreign oil, make a commitment to wind and solar and nuclear energy, make a commitment to new, cleaner technologies, more fuel efficiency. But it will not include a national energy tax that will drive this economy further down during these difficult days.

I yield back.

Mr. BISHOP of Utah. I appreciate the gentleman from Indiana giving us what I think is not necessarily bright news, but good news to realize that the cap-and-tax approach or the cap-and-trade policy is not the only one that's out there. There are other options.

The gentleman from Louisiana and I have joined with Senator VITTER on what is called the No Cost Stimulus Bill that solves this problem in a different approach. The Republican Study Committee and the Western Caucus have joined with H.R. 2300, which solves this problem with an alternative approach that provides American energy and American jobs without the harmful side effects.

I just went this afternoon to the National Center for Policy Analysis. They presented 10—they call it 10 cool global warming policies—but 10 specific ideas or concepts, many of them that we have incorporated in some of those other bills that would help our situation without having to impose a tax that hurts the poorest of our people.

Now I am pleased to yield to my good friend from Texas, someone who is, I think, the most fascinating speaker I have a chance to listen to, the last few minutes that we have on this particular issue at this time tonight to try and summarize once again that where we're going, hopefully we can avoid the pitfalls, and there are other options than what we have simply seen placed before us so far.

I yield as much time as he may consume to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. I appreciate your yielding. I don't think there's anybody who brings more clarity to the issues of energy than my friend from Utah, Mr. BISHOP. I sure do appreciate the clarity he brings.

But when we talk about this cap-and-tax-away-jobs bill that's apparently going to be coming rather quickly upon us, you need to look at the reasons being given as to why we have to have this cap-and-tax-away-jobs bill, why we have got to get rid of more jobs, cost

more Americans more money when they don't have it. And we're told it's because of the carbon dioxide out there and that it's creating global warming.

Well, have you noticed we're not calling it global warming anymore? Now we're calling it climate change. And you wonder why have they started calling it climate change. Well, you start looking at some of the scientific data that's coming out and they're realizing, you know what, this planet may be cooling instead of warming. It may be starting on a cooling cycle instead of warming.

So, since we have millions and millions and millions of dollars being made by scaring people about global warming, in case it is cooling, maybe we better change the name to climate change. That way we're going to keep the money coming in either way, because we're scaring people.

It's climate change, no matter which way it's going—warming, cooling. In fact, I saw an article that indicated, you know what, we have been saying that carbon dioxide is trapping the heat and warming the planet, but we may be wrong about that. It may be that the carbon dioxide is creating a shield and causing the Sun's rays to bounce off and, therefore, cooling the planet.

That way, they can have it either way. If it's warming the planet, then it's catastrophe and we need to pass all kinds of laws to tax people, put business out of the U.S., and go to other countries. And if it's cooling, we will have it that way, too. Keep the money flowing in.

In our Natural Resources Committee, we have talked about the polar bears. I have seen that deeply touching commercial where this mama bear with the cub, it looks like they're dying out there. Maybe they are. But what we have heard in our committee is that 20 years ago we know for sure there were less than 12,000 polar bears. And we know today, for sure, there are at least 25,000 polar bears in the world. They have more than doubled in 20 years.

But somebody is making a lot of money by telling people the polar bears are all dying, so give us money, take away American jobs, send them around the planet, and we will be better for it. Well, they will because they're going to have bigger houses. And I don't begrudge Al Gore having that wonderful house and using all that energy, but he just shouldn't make the middle class of America pay more for their energy and cause the loss of their jobs in the name of helping the planet. It doesn't help anybody but him and people like him that are out there scaring folks.

We have talked about the jobs that would be created in ANWR. You open ANWR, a million new jobs across America. You open the Outer Continental Shelf to drilling, another 1.1 million or 2 million jobs in America.

The President can finally keep his promise; instead of losing more jobs, we'd have more jobs coming into America instead of going out.

That's why we don't need a cap-and-tax-away-jobs in America. We need to produce more of our own. And I mean everything. We're talking about wind. We're talking solar.

I have a bill for a prize for somebody that comes up with a way to store electrical energy in megawatt form for more than 30 days. Solar could be our answer to the future. But for right now, it's carbon-based energy. And it will keep jobs in America, bring them back.

But, for goodness sake, let's don't hurt the middle class in America any more than they're already being hurt.

I appreciate so much my friend from Utah. And with that, I will yield back to him.

Mr. BISHOP of Utah. I appreciate the gentleman from Texas. It is one of those things that we live in a new iPod generation in which in all our lives we are given options and choices. In this particular area, it is not the time for the government to now establish who wins, who loses, what is our only path.

We still have to provide our people with options so that they can live and expand their lives the way they deem best. That's the important part here.

I want to emphasize there are options out there on the table that the Republican Party is presenting. Those options need to be heard and explored because they lead us to a proper goal and an easier pattern.

With that, we yield back the balance of whatever time is left.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 626, FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2009

Mr. ARCURI (during the Special Order of Mr. BISHOP of Utah), from the Committee on Rules, submitted a privileged report (Rept. No. 111-133) on the resolution (H. Res. 501) providing for consideration of the bill (H.R. 626) to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### HEALTH CARE IN AMERICA

The SPEAKER pro tempore (Mr. KISSELL). Under the Speaker's announced policy of January 6, 2009, the gentleman from Connecticut (Mr. MURPHY) is recognized for 60 minutes as the designee of the majority leader.

Mr. MURPHY of Connecticut. We are going to take the next 45 minutes to an hour, myself, Mr. KAGEN, Mr. LANGEVIN, and a few others that will likely

join us over the course of the hour, to talk about a subject that's on the minds of more and more Americans every day, and that is the issue of getting health care for all Americans.

President Obama was swept into office with a mandate to fix what has become an unjustifiably broken health care system here in this country. It costs way too much, outpacing all of our industrialized neighbors by almost twofold. It gets care that, compared to those same nations, ranks pitifully in the middle of the pack. And it has changed the very practice of medicine for far too many physicians who went into their profession for the love of treating people and making them better and now find themselves dedicating more and more of their time filling out paperwork, dealing with red tape, and arguing with insurance companies over whether or not they should get paid for their services.

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We can make this health care system better for our society as a whole, for our government as a payer, for the patients who interact with it, and for the providers—the doctors and the nurses and practitioners—who perform miracles every day within that system despite the system.

There are a lot of people who enter this debate from various sides, and we're, frankly, not going to have over the course of this next hour unanimity of opinion on the exact solution to this crisis going forward. What you will hear over the next hour is a group of individuals on the Democratic side of the aisle who are committed not just to reform for reform's sake, not just to a—pardon the pun—Band-Aid fix, but to comprehensive health care reform. We're beyond making little incremental fixes here or there. We've got to strip this thing down and build it back up again. We've got to learn from our mistakes.

On the Democratic side of the aisle, we've heard the American people loud and clear whether it was at the ballot box last November when they voted for a President, a President who made it clear that health care reform and getting coverage to every American was going to be at the top of his priority list, or whether it's every weekend when we go home, when we talk to individuals who are facing the reality of an economy that leaves them one paycheck away, one pink slip away, from losing their health care forever. That number is going up. More and more Americans are afraid that their breadwinners may lose their jobs over the next 6 months to a year. They realize that what comes along with that is the risk of having their entire lives turned over. Half of the bankruptcies in this country are not due to irresponsible spending decisions or due to houses that they bought that cost too much or

due to a couple too many plasma TVs in the basement.

No, it's medical costs. It's an unforeseen illness visited upon a family who didn't have the resources to pay for it. Half of the bankruptcies in this country are due to people who got sick but who didn't have the means to pay for it. Half of the bankruptcies are due to the people who played by all of the rules and who did everything we asked them to do but who just got sick.

Now, in the richest country in the world, there is no justification for the fact that somebody who has the misfortune to be diagnosed with cancer or with an expensive illness has to lose everything—his house and his car—just because his fortune was a little bit different than someone else's fortune. There is no justification for the fact that millions of little kids in this country are going to bed, sick at night, just because their parents can't afford to get them to doctors. In this country, that can't be all right. People have come to the conclusion that this is the time—this year, right now, this summer, this fall—when we finally will wake up and will fix this thing for good.

You're going to hear from a lot of us as to our ideas on how we should address this crisis. We're going to talk today about the role of consumers in this debate, whereby we can make our health care customers better purchasers of health care if we give them the right information and so that we can empower them in a new, reformed health care market.

You're going to hear about the role of the Federal Government in this reform and, as part of that new purchasing power that we can give to individuals, that we can give them the option to buy the same health care that I have and that Mr. LANGEVIN may have and that others in this Chamber may have. I know Mr. KAGEN doesn't take the Federal employees' health care plan, but it doesn't seem like it's so revolutionary that we should not allow regular, everyday Americans to have the same kind of health care that Members of Congress have.

We're going to talk about the role of people to have choices between public insurance and private insurance. We're going to talk about reforming the way that medicine is practiced so that physicians can get back to spending their time with patients rather than with filling out paperwork and with hiring more and more people to argue over whether they will get paid or not.

We're going to talk about how we make this reform centered around improving quality. It still doesn't make sense that we spend 70 percent of our gross domestic product on health care, and yet we have infection rates, life expectancy numbers and infant mortality rates that should leave us pretty embarrassed given the amount of money

that we're spending. So I'm excited to be here on the floor for the next hour or so to talk about these things.

I know Mr. LANGEVIN has joined us here on the floor. I would be thrilled to turn it over in just a second to Mr. KAGEN to give a couple of introductory remarks, and then I will turn it over to Mr. LANGEVIN.

So I'm glad to have you join us here, Mr. KAGEN.

Mr. KAGEN. Thank you, Mr. MURPHY.

If you could raise up that sign one more time, it does say "Health Care for America." It doesn't say "health insurance." It says "health care," which is our focus. We care about the people we're listening to—the people we have the honor of representing. It is about making certain that people can get to see their doctors when they need to at prices they can afford to pay. I'll share with you some of the stories that, perhaps, President Obama is going to hear when he comes to Green Bay, Wisconsin, on the 11th of June, just a few days from now.

Here is someone from Green Bay who wrote to me. Her name is Stephanie: "Insurance is number one on my list. My current employer can't afford to give us health insurance, and I can't get individual coverage. Help, please."

President Obama might hear from Jim, who is also from Green Bay: "Every human should have health care. Don't have insurance. 60 years old." He is between the cracks. He is not old enough for Medicare, and he is not poor enough for welfare or for Medicaid.

In Sturgeon Bay, just outside of Green Bay, I got a card from Rhonda: "Our middle class income cannot support the increase in medical premiums, copays and deductibles. What will be done for the middle class?" She is Rhonda in Sturgeon Bay.

People are writing to their legislators, not just in the Federal House here in Washington but across the State houses. Every government at every level understands the pressure and that the cost for health care has risen astronomically. It is 17 percent of our GDP. It is that investment that we make in ourselves to guarantee that we have health. If you don't have your health, you may not have anything.

Now, recently, I received a mailing from an insurance company that is in my district. It's a great company. I just want to read this into the RECORD because, if you have certain preexisting conditions, all the marketing in the world won't allow you to purchase their product, because they don't insure people with preexisting conditions:

"Important information about pre-existing conditions: Although we make every effort to extend coverage to all applicants, not everyone will qualify. If you have had treatment for any of the following conditions, you may not

qualify for the coverage being offered." It reads: "HIV/AIDS, alcohol, drug dependence, cancer, chronic obstructive pulmonary disease, connective tissue disease, Crohn's disease, diabetes, emphysema, heart attack, stroke, hepatitis, inpatient emotional and mental health care, organ or tissue transplant, ulcerative colitis."

It goes on to conclude: "You should also be aware that we may not be able to provide coverage to individuals who are severely obese, who are severely underweight or who are undergoing or who are awaiting results of diagnostic tests. We cannot offer coverage to expectant parents or to children less than 2 months old." Finally, it reads: "This list is not all-inclusive. Other conditions may apply."

I don't think it was a doctor who wrote this policy. I think it was someone who had his economic interests in mind and not the care of the people who are looking for the coverage they need in order to guarantee they get the care that they're going to require.

We are prepared in this Congress, I believe on both sides of the aisle, to step up and to face and to confront this essential economic fiscal problem. It's not just about your money. It's about your life. This, after all, is the House of Representatives. Some people back home in Wisconsin think that we're trying to talk them out of their money and out of their lives.

Tonight we're going to have a conversation with one another and with the American people about what is most important to you, and that is your health care. I'm hoping that, someday soon, we're going to come to a time when we'll have all prices openly disclosed everywhere in these United States for all of the products.

Mr. MURPHY, last week when I was home, I had a "Congress on your Corner" at a grocery store in Waupaca, Wisconsin. While there, I didn't get a headache, but if I had had a headache and had wanted to buy some aspirin—I took a picture of this. Now, some of my staff here in Washington think this is pretty cheap. You know, you can get Bayer's cherry- or orange-flavored aspirin for \$2.55. Right there in the middle, you can buy a generic brand for \$2.05, which is 20 percent less. What do you want to pay: more or less? It's the same medication. This price is openly disclosed.

I think we have to have this type of health care available, not just at the grocery store for aspirin products but at the hospitals and at the doctors' offices and everywhere in health care across the country, most particularly for health insurance policies. If at the end of the day we're going to continue to allow companies to be in the marketplace, like the offering I just read to you, I believe very strongly they should be compelled to sell the same product to any willing customer with

no discrimination due to preexisting medical conditions.

If, after all, we have Federal standards in this country for almost everything, why don't we have the standard of a comprehensive health insurance coverage plan that each and every insurance company must offer to any citizen or legal resident anywhere in these United States?

There is nothing wrong with having standards so long as we can meet those standards. So I think these are some of the issues that are important, one of which is transparency in health care purchases. We have to have no discrimination anywhere in health care. I think the President has accepted this as one of his most essential elements, as one of his eight principles for health care.

One should not suffer in this country due to discrimination based on the color of one's skin. Well, what about the chemistry of one's skin? If we're not allowed to discriminate against anyone because of what they're thinking, what about how they're thinking? What about the chemistry of their minds?

So I think it's time that we apply our civil rights that guarantee no discrimination to health care. When we do, we'll begin to guarantee access to affordable care for every single citizen and legal resident.

I yield back.

Mr. MURPHY of Connecticut. Thank you, Dr. KAGEN.

Dr. KAGEN has been such a great voice on this. He highlights a growing issue that, I think, we can get bipartisan agreement on, which is that transparency of price, whether it be insurance products or physicians, is going to be so important, and empowering consumers to make these decisions can be part and parcel of what gets those costs down.

With that, I am very happy to have my good friend from Rhode Island join us today. I would yield to him.

Mr. LANGEVIN. I want to thank the gentleman for yielding, and I applaud his efforts, along with Mr. KAGEN's and along with those of many of my other colleagues. I applaud them for their interest and for their concern about the health care crisis that is facing America and that has been facing this country for decades. I am proud to join in the effort to speak out and to demand that this Congress finally, once and for all, addresses the health care crisis in America and establishes universal health care.

I particularly want to commend President Obama for making this such a strong priority for his young administration.

I thank the gentleman for yielding and, again, for his efforts in organizing this Special Order.

Mr. Speaker, our country has seen a significant rise in health care costs

over the past several years. Again, this is a national crisis, and it is probably one of the most pressing domestic public policy concerns of our time. We have witnessed a growing population with longer life spans, with higher incidence of chronic disease, with greater income disparities, and with increased levels of the uninsured, all of which put a tremendous strain on our health care system. Each of these elements has conspired to create an untenable situation that is being felt in hospitals, in doctors' offices, by individuals and families, and by businesses. It poses a threat to our long-term economic competitiveness and fiscal well-being.

According to a recently released report by Families USA, 254,000 individuals in my home State of Rhode Island were uninsured during some point during the last 2 years. Well, these numbers are unconscionable, but I have to say they come as no surprise. I have continuously heard from individuals and families who are struggling with rising premiums and copays and who are overwhelmed by medical debt.

In fact, as my colleague mentioned, Mr. MURPHY from Connecticut, the rising cost of care for unexpected illness is one of the leading causes for personal bankruptcy. It is outrageous in a country like America that being sick could put a family into bankruptcy. I think this is unconscionable.

I have also heard from Rhode Island businesses that want to provide health coverage for their employees, but they simply can't afford the time or, most importantly, the expense of providing that coverage. Of course, workers who are fortunate enough to have access to health insurance face increasingly daunting costs while many people are afraid that they'll lose their benefits all together. This simply cannot continue. The time for comprehensive health care reform has come. This has to be the year that we fix health care in America, that we afford everyone universal health care coverage.

I am pleased that, within the last few months, this Congress and President Obama have already taken significant steps to expand health coverage for children, to increase funding for community health centers and to invest in innovative technologies that will ensure better treatments and outcomes for our future.

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It is only with comprehensive health care reform that we will achieve substantive change that improves both our Nation's health care system and the health of our Nation's citizens. Fixing our health care system is also critical to ensuring that the U.S. remains competitive globally in this international market, making sure that our businesses can be competitive in the global economy and will improve our vital long-term economic growth.

In the spirit of furthering this important dialogue on health care reform, I have reintroduced my own universal health care proposal. I'm calling it the American Health Benefits Program Act which is designed to guarantee every American access to the same health care coverage as Members of Congress. I think that this is the right thing to do for the American people. In introducing this legislation, I'm not trying to reinvent the wheel. I want to look to a template, something that is already working. This proposal is modeled after the Federal Employees Health Benefits Program, or FEHB. It uses basically a health insurance exchange template while leveraging the power of the Federal Government to negotiate with private insurance carriers so that competition for enrollees is based on quality, efficiency, service and price. Basically there is still a role for private health insurers, but it uses the bulk purchasing power of the Federal Government on behalf of the American people to get the best quality and the best price for health insurance.

Under this program, no one will be denied coverage or discriminated against based on their health status or pre-existing condition. The goal is to offer portable continuous coverage that drives investment and disease prevention and long-term preventative care which decrease the cost of health care over time. But most especially, it ensures that when someone is sick, they can go to a doctor and not worry about whether or not they can pay for it.

This proposal represents my own vision for health reform, one that contains cost, improves quality, increases efficiency, promotes wellness, guarantees universal coverage, and encourages the investment in treatments and cures for the 21st century. Each of these principles comprises a key element, an important goal within the national dialogue on health reform. Particularly it contains the key elements that President Obama has laid out as his requirements for fixing health care in America.

It is clear that we are about to set the scene for the next chapter of health care in America. And it is my strong belief that by working together, we can create a truly inclusive and sustainable model for health care that meets the needs of our children, adults and seniors regardless of their income level, employment status, age or disability. We are all stakeholders in this important debate, and we will all have a role to play in health care reform. I look forward to working with my colleagues to offer fresh solutions and create a new vision for health care in America. The time has come. This is the year. We're going to get it done.

I want to thank my colleague Mr. MURPHY and all of my colleagues who have joined in this Special Order tonight in this effort to fix health care in America.

Mr. MURPHY of Connecticut. I thank the gentleman from Rhode Island. You have been such a leader in this Congress for years on the issue of health care reform, especially, as the world knows, on the issue of stem cell investment. We know that one of the ways that we're going to get savings ultimately is by stimulating the next round of breakthrough treatments and cures that are going to save lives but also save money.

With that, we'll turn to my very good friend and classmate from Florida (Mr. KLEIN) for some wise sage words.

Mr. KLEIN of Florida. Thank you very much. I appreciate the gentleman from Connecticut and his characterization of "wise sage words." I will try not to disappoint you.

It is a pleasure to be here tonight with Members of the House to talk about health care. This is something that obviously touches every one of us, as 300 million Americans face health care issues every day. Some of us don't have to think about them from year to year other than maybe just a minor incident or you have to go to see a doctor from time to time. Others face literally chronic and life-threatening health situations every day, and it hangs over you. It hangs over you as just an emotional and physical thing as it relates to your body or your family, one of the members of your family. It relates to and hangs over you because of the costs and the threat of that overwhelming cost and impact on your family's wherewithal and to be able to do it. Certainly from the business community side, we hear from our small businesses. I know in South Florida, where I come from, we're a small business State, and so many small businesses with five employees, people who are self-employed, 10 employees, 50 employees, they go through the same experience year after year, double-digit increases with no experiences, nothing that went on during the year that was a major cost factor that set off these double-digit increases. And what happens is, they then have to make a decision: What can I cut back? We are in difficult times right now. Do I increase the copayments? Do I increase the deductible? Do I cut back on the scope of care? Businesses want to provide health care. It creates loyalty from the employees to the business. It creates a healthy employee and someone who is able to come to work every day, someone who you've invested a lot in to train that employee. You also have large businesses that can compete internationally. They know that the costs of producing something with that added double-digit increase of health care cost impacts the cost of the product that they are selling worldwide and competing with other countries which somehow integrate the cost of their health care into their government operations or just in a lower cost way.



We now have a dynamic in place here that's been around, but I think it has finally hit the point where there is a coalition of people all across America that are saying, we need change. And we don't want nipping around the edges. We don't want some small little thing that isn't going to make a difference. We have fundamental problems. We have cost problems. We have coverage problems in some cases, pre-existing conditions. I know anybody this in this room I can speak to and people listening tonight, everyone could talk about a family member, a neighbor, a friend who has breast cancer or some other chronic condition that when you need that insurance the most is when it will be unavailable to you because if you change jobs or you are getting a new policy, they will be excluding coverage from that pre-existing condition when you need it the most. So the notion of insurance and spreading the risk among our whole population, which it's supposed to do, is what has somehow gotten away from the insurance system as we know it, and that's wrong.

So where are we? We're at a place where I think Americans say and want and know that they want to have something that's stable, something that will be there for them. They're willing to pay a fair price for it. They want to be able to compete in their businesses. And the good news is our President, many Members of the United States House of Representatives and the Senate want to do something about it, and we're getting great support from across the country. We have got to get it right, but I think there's a tremendous amount of opportunity here.

Let's talk just very briefly about what some of those notions are, those principles that we're going to create this plan. There are a lot of ideas out there right now. We can certainly invite Americans to talk to their Representatives and give us some input on what you think.

Number one, I think one of the most important things is this notion of restoring the doctor-patient relationship. We have a lot of doctors. Dr. KAGEN is a doctor. I see our friend from Pennsylvania who is going to speak in a few minutes. She has a doctor, I believe, as a husband and a son. There are a lot of doctors in the Schwartz family. And I think as patients we know the best thing we can do is have a long-term relationship with a doctor who knows my family history, knows my history. Not that I have to change jobs and change doctors, or my plan knocks this doctor off the panel, I have to find somebody else. So let's go back to the notion of having a doctor-patient relationship whose decisions are not dictated by people who are outside of the medical field, insurance companies, managed care, et cetera. Let's put that in place.

Number two, let's make sure that as we go forward that people who like

what they have in the insurance world can keep it. I mean, there are a lot of people who like what they have. I wasn't out here criticizing everybody. Some people are very comfortable with the plan that they have. They should be able to keep it. Nobody is saying you shouldn't be able to have it. Keep it. It's good. Let's stick with it. We want to provide tax credits to small businesses and individuals to make coverage affordable. In other words, again, it's not mandatory as we know it right now. So encourage businesses by doing it with tax credits to make it affordable. We want to certainly end this practice of eliminating pre-existing conditions from coverage. Spreading the risk is a very simple principle that could be done with a pen, and we're all set. So that's a principle that has to go in there.

We want to make sure that whatever we put forward invests in preventive and well care medical coverage. I take Lipitor or I take something for cholesterol. It's a family history thing. A lot of people take it. It's just something that keeps me healthy. If I didn't take it, I would have cholesterol. Dr. KAGEN could probably tell me how I should change my diet. I do run. I try to keep in shape. But the bottom line is, I take it as a preventive tool. There are lots of other tools and things that we can take, plus exercise programs and other things. But we should incentivize behavior through our health insurance scenario. Just the last couple of items before I turn it back to my colleagues, we want to ensure that we're using science-based information, that when decisions are made, it's based on science and not some of these non-science-based concepts. I mean, science really relates to the best individualized treatment and care.

Then, of course, we have to crack down on the waste, fraud and abuse. There's a lot of money in this current system here that is a lot of waste. We have to fix all that, you know, wring it tight so we can make sure that that money is being spent directly on health care. These are principles—and there are others that we're working on—that I think most Americans approve of and support. I think this is the construct by which the various ideas are being discussed here in Washington and are part of that discussion. There may be details which we may not all agree 100 percent on, but this is something that the time has come. The time has come for peace of mind for every American, for every business to know that we'll have a stable health care system that will support Medicaid, support Medicare, and on the private side, very important, most of us will get our care from the private side. We'll have that opportunity to know that it's cost-effective, and it will give us that necessary coverage.

I thank the gentleman from Connecticut who brought us together to-

night. I know being from South Florida and having a tremendous amount of senior citizens who depend on a good quality health care system and a whole lot of families that are very interested in making sure their families are covered as well, we're working to make sure that we take care of them the right way here.

Mr. MURPHY of Connecticut. Listening to the gentleman from Florida, I'm reminded—you were down here with us the last time we were doing this. I got an e-mail not long after from a family member who comes from the other side, both the partisan and ideological side of the aisle. And he said, you know, be careful. You keep on talking about this. You know, it makes a lot more sense to me. I am struck by the principles that you have laid out because I think that a lot of our friends on the Republican side of the aisle, either here or out in the world, aren't going to find a lot of disagreement with a lot of things that we're talking about this system doing. I just think it's important for our constituents and for the American people out there to really do a little investigation when they hear the pundits on TV or the leaders of the Republican Party talking about President Obama and socialized medicine or the Democrats' plan for a government takeover because all you've got to do is scratch the surface there, and you will find out that really what we're talking about is some pretty important and I think broadly agreed upon reform and that the bogeyman and the straw man that gets thrown out there in terms of terminology that doesn't have any place in this debate can easily distract you from what is really a pretty unifying debate that's starting to happen here. I appreciate your words.

One of the things you mentioned was the importance of getting at this issue of pre-existing conditions. Representative COURTNEY has been a great leader, offering his own legislation on that issue. I am glad to yield to the gentleman from Connecticut.

Mr. COURTNEY. I thank the gentleman for yielding.

Again, like the others, I think this is an incredibly important moment right now not only this evening but this summer. The summer of 2009 I think will go down in history really as one of the great movements forward by our country really at the level of when we passed Social Security, Medicare, Medicaid. And I, like you and the other speakers here, understand that; and getting this debate started and getting the facts out I think is the best way to make sure that we move forward and get this done.

I wanted to just share briefly an experience I had at the Congress on the Corner that I think is important because there clearly will be, as we go further into the summer, forces out

there that are going to use misinformation and fear as a way of trying to stop the change that Mr. KLEIN described a few moments ago. At my Congress on the Corner, which was actually at a somewhat sort of off the beaten track or place, it was actually at a military PX, at the Navy base in Groton, Connecticut, where we set up our tables as active duty sailors, their families and retirees were going in to do their shopping. I had an experience which I just wanted to share with you, which was that many people, because of some urban myth that's out there, and whether it's talk radio or the Internet that is sort of propagating it, is spreading the claim that the Obama health care plan is going to take away TRICARE from our military and from retirees who are eligible for it. I just think it's important on this floor as clearly and as loudly to make the point that that is absolutely flatly untrue, that the veterans' health care system, the active duty health care system is going to be completely unaffected, as Mr. KLEIN said. It is an example of where the basic principles of this effort, which says that if you like the health care that you have right now, you can keep it. And that is clearly true for the people who wear the uniform of this country or who did and who now are eligible for VA benefits.

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In fact, between the stimulus package and the budget that has been presented by the administration, what we are seeing is an unprecedented new investment in military health care and in veterans' health care. We have great new leadership at the VA in General Shinseki and Tammy Duckworth, who are totally committed to making sure that this system is improved and, in fact, expanded to keep the promise for people who served in our military. And the efforts that we are going to be talking about over the next 2 months completely leave that system intact in toto.

What is ironic, though, is that enemies of reform are using the argument that we are taking away a government-run system at the same time that they are attacking the reform effort as being too much government. Make up your mind. Either one doesn't work and we should get rid of it, or if it does work, well, maybe we should take some good ideas that exist in the military health care system and in the VA and apply them towards the populace at large. We know in terms of electronic medical records that probably the most highly developed and advanced system in American health care is military health care as far as electronic medical records. Doctors in Landstuhl hospital in Germany can track the charts of our soldiers who are recuperating at Walter Reed hospital or other military hospitals around the country. They can

just pull it up in ways that in the civilian system don't exist today. Again, I would just argue that rather than using government as sort of an example of inefficiencies, the fact is that the military has shown that they can actually organize a sound, comprehensive system that provides high-quality care.

Lastly, I just wanted to, because, again, some of you have already spoken very powerfully and eloquently about the fact that we have an insurance system that has run amok. We come from the insurance capital of the world, Connecticut. Your family and my family have people who worked in the insurance industry. In the good old days, insurance was about pooling risk and sharing risk and using it as a mechanism to help cover people in terms of dealing with accident, disease and chronic illness. Obviously, it has gone off in a different direction. It is about avoiding risk in terms of the way insurance markets are set up. We are not about dismantling the system in toto. But what we are trying to do is reestablish it and go back to its roots in terms of creating health care systems that pool risk and share it and do it in a way that actually gets back to the basic principles of when the insurance was first started. The whaling industry in Connecticut created a situation where the whale ship owners realized they had to do something about losing ships. And that was the birth of insurance in Connecticut.

I will spare that history lesson and yield back. Again, my compliments for organizing this debate. And again, I do think this is a summer that historians will write about. And the discussion here is going to be an important part of it. So I yield back to Mr. MURPHY.

Mr. MURPHY of Connecticut. I thank you, Mr. COURTNEY.

There is, and you can feel it, I hope, from the folks that are on the floor today, an enthusiasm and an optimism that we have that I don't think we have felt in this House for a long time. The forces are aligned in a way that they have not been in a long time to get this effort done. And I think your point about people wanting to stand up the public health care system as an example of what needs to remain and then also tear it down I think is a really good comment. I'm reminded of a point made by a political columnist who talked about one of the statistics that is very often used by the side backing up the status quo, which is that in the Canadian health care system, you have to wait weeks, if not months, for a hip replacement surgery, and here in the United States you can get it pretty immediately. What they fail to point out is that 70 percent of hip replacement surgeries in the United States are paid for by Medicare, are paid for by a government-run health care system. And so we, through our public payment system, already do

a pretty good job of getting people the care that they need. The fact is they spend a lot less money on health care in Canada than we do here. And we are not even talking about cutting back the amount of money we are spending. We are simply talking about trying to restrain the rate of growth. By reordering the money that we already have in the most expensive health care system in the world, we are going to be able to get good care. We will have short waiting times and access to all the people that don't have it.

So with that, I'm so glad that Representative SCHWARTZ has joined us on the floor. Whether it is standing up for primary care physicians or being a leader in this Congress on the issue of health care IT, I'm so glad to have you joining us here.

Ms. SCHWARTZ. Thank you very much. I'm very pleased to join you. I want to acknowledge the really good work, Mr. MURPHY, you have done in having these kind of dialogues on the floor and talking about health care and how important and how possible it is for us to actually find a uniquely American solution to the problems that are facing us, and to just reiterate a little bit, which is why we are here, why we are talking about this. It isn't only because it is a moral imperative; I know many of us have worked particularly on making sure Medicare works very well or extending health care coverage for children, the CHIP program which we all really worked so hard on, I know some of us in our States, certainly I did, back in Pennsylvania in 1992, but even here on the floor, making sure that children of working families had access in most cases to private health insurance, to affordable private health insurance.

But the fact is that we are here because it is also an economic imperative. And we know that from hearing it from our businesses, small businesses and large businesses, saying that they cannot be economically competitive because of double-digit inflation and inflationary costs of health premiums for their employees. A business owner just told me the other day that their rates went up 40 percent from one year to the next. That is just not sustainable.

So we need to address that because if they are going to be economically competitive and continue private health benefits where the cost-sharing is reasonable with employees, we have to do something about the escalation in costs in health care.

And third, of course, is as a government we are spending money that is growing again in unsustainable rates under Medicare, and we need to contain the growth of those costs. And again I think I would reiterate what was said before is that we believe that Americans should have access to quality health care. They should have access to

doctors, to be able to continue to have relationships with their doctors, ongoing relationships. But we also think that we can do three things. We have to be able to contain costs. And we can be smarter and more efficient and more effective in the way we provide health care in this country. And I will talk about that in a minute.

But secondly, we have to improve the quality of health care. We actually provide a lot of health care. And not all of it is exactly what you need and maybe more than you need, sometimes less than you need. We have to get that right. And we can.

And then we have to extend coverage to all Americans because Americans do put off health care that they ought to get. They go to emergency rooms because there isn't a doctor for them to see. And they often don't fill a prescription because they simply can't afford to. They don't follow the recommendations of health care providers.

I agree with Mr. COURTNEY. We are here in a moment when we can find a way, where we can, in fact, contain the growth of costs, extend coverage and improve quality for all Americans. And that is what we want to do. We are going to do it in a uniquely American way, which means it will be very much a public-private partnership. And we will build on what works in the system, which is that most Americans get their health coverage through their employers, 55 percent of the insured get it through their employers. They will be able to keep that. Hopefully it will be less expensive for the employers. And for the group in particular that is so hard to access health coverage, these small businesses, individuals, they are going to be able to find a way to find affordable, meaningful coverage. Mr. COURTNEY didn't even talk about his preexisting condition bill, which is really very important in making sure that when you buy insurance to find out maybe years later that you don't have coverage for a condition because, in fact, they found some reason that this was a preexisting condition, is really just not acceptable anymore in this country. We should make sure that coverage is meaningful.

I do want to just say on the delivery system, we have already taken a very major step forward in putting some real dollars into the system and under Medicare to incentivize our hospitals and our doctors to use electronic medical records. Interoperable—that means different doctors and hospitals can see what is going on, patients can see what is going on to them, go and check their own records potentially, which is a very exciting way to empower patients. Under Medicare, we are going to say that physicians and doctors in this country are going to use electronic medical records. And this way they won't duplicate unnecessarily tests. They will actually be able to find out if

a patient filled the prescription and if they are taking the medication, and if not, give them a call and say, you haven't been back in 2 months, you're early diabetes and you really need to be taking this medication. You really need to be monitoring what you eat. And if you don't, you're going to get a lot sicker. Why don't you come in and we will talk about that? Wouldn't that be something if a doctor gave you a call and said that?

One of the ways we can do that is making sure that we have adequate primary care in this country. And we don't. We don't have enough primary care providers. I just had a conversation with another Member representing a rural area. And he said, I represent a small town. There are not enough primary care doctors. I know what, I represent a suburban/urban district and we don't have enough primary care doctors. This is a problem across this country.

In 1998, half of the medical students were choosing primary care. Well, just now, we are actually looking at 20 percent choosing primary care, and they expect that number is going down. And so there is a reason why we can't find a primary care physician. They aren't out there. And while we all want to have our specialists when we need them, having the access to primary care is extremely important to making sure you get the kind of care that you need and that you get it in a timely fashion and that you have somebody help you figure out what specialist to go to and figure out what kind of care you need and hopefully help you stay healthy and help those, particularly with serious chronic diseases, have ongoing care.

I see you all nodding. You're probably ready for me to conclude. But this is something I think people do as part of health care reform. As we move forward, there are a lot of different pieces. It is complicated. It is not going to be easy to do. We have to believe in each other that we can do this right and that we can get it right. And that is what we are trying to do. The next 8 weeks will be very important to the American people, to American businesses, to the sustainability of providing quality health care to Americans.

I look forward to working with all of you to get it done.

Mr. KAGEN. You have got me all excited now. It has taken so long to get to this point. It is very frustrating. Back when we first got here, the class of '06, we got to initiate bills in '07 in the first few months. And as they say here, I dropped a bill called "no discrimination" to apply our constitutional rights to prevent us from being discriminated against, to prevent the insurance companies from cherry-picking people out.

I don't know how it is in Pennsylvania, but in Wisconsin, in my neigh-

borhood, I grew up in a neighborhood. But that neighborhood has been chopped apart by the insurance industry. The insurance industry was allowed to separate Mrs. Koss or Mr. Romer out of the risk pool because they had some condition they didn't want to touch or insure. And it has gotten to the point now where even some mothers may be split from their family because they have a condition, and their children can be insured but they can't. So I like the idea that we are going to get primary care and access to primary care. But as you know, we don't have enough doctors and nurses right now. So we have to invest in a possibility to make sure that our students can go to school and perhaps have their funding paid for through medical school and in return give us those years back in terms of service in primary care where that need most exists. My district is a rural district. I would point you to the rural district of northern Wisconsin.

As Mr. COURTNEY has brought out so elegantly about the VA system, I would ask this question not only to him but to everybody in the country: Is there any reason why a soldier served only for himself or herself to get that benefit at the VA at the pharmacy? If a soldier has a VA benefit and has a discount, a medication available at a lower price, is there any reason not to provide his or her entire family with that same medication at that price? And what about his neighborhood? What about his community? In fact, what about the whole United States?

No soldier today is serving in Iraq and Afghanistan for him or herself. They are there for our Nation. And if the VA was successful in negotiating a steep discount for a given medication, I think that price ought to be available to anyone who is willing and in need of that medication. And Mr. KLEIN from Florida mentioned that he might be taking a medication. Is there any reason that it continues to exist today that if I go into a pharmacy anywhere in the country, if all four of us are in line to get the same exact prescription, the same number of pills, we are going to pay four different prices for the same thing? I think not. I think we have to have complete transparency, and the price that one should pay for medication is the lowest price available within that community, and that price should be openly disclosed.

And no one put it better than one of my constituents. Kaukauna is another city that Barack Obama has visited in my district. I tell you, this guy, Obama, is everywhere. Sally from Kaukauna said, "Our prescriptions cost \$1,000 a month. This is a very big issue for us." Well, heck, yeah. If you don't have the money, you're not going to get the medication you require just to survive. So I would submit to you that it is time to end discrimination in

health care. And when we do, that form of discrimination that takes place at the pharmacy where Mr. KLEIN might get charged three times what the person in line next to him is charged for the same medication, to me that is a form of discrimination. I think it is time that that form of discrimination came to an end. We have to have openness and transparency for prescription drugs and be allowed to negotiate for a lower price.

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Mr. MURPHY of Connecticut. You know, Mr. KAGEN, the discrimination finds itself in a lot of different corners. It's not just you, as an individual, who may not be able to get that insurance. But it prevents you from going out and getting employed or reemployed, because that discrimination is against you individually, but also against your employer, that if you have a small employer who's looking to go out and get health care for his five or six employees, that insurance could potentially be double for your pool of five or six employees if one of them happens to have a preexisting condition.

So, you know, it's really a triple whammy for somebody that gets sick and has expensive care: one, you have to deal with the limitations on yourself through that disease; two, you may not be able to get insurance to cover it. You may have to pay for it out of your pocket; and three, you may not even be able to be employed because employers today are going to say, Forget it. Even though that guy might be the perfect person for this job, I might need that person to fill that slot. It's going to break my bank if I have to put that person on the insurance rolls. And that's another reason why we have to make sure that the elimination of preexisting discrimination is part of this bill.

Ms. SCHWARTZ. I just want to mention a couple of answers. I was also going to say it prevents people sometimes from leaving a job. Sometimes they say, you know, I don't know if my next job's going to have the same health benefits. Can I risk taking another job? And you have sort of a job lock in that situation. And, of course, as we know, because of the high cost, a lot of employers are passing it along, there's more cost sharing.

But there are several answers to this. There's a bill that's been introduced, we hope to get done, that requires transparency in the language that's used in insurance policies. All of us are supposed to read that fine print. Well, I don't know how many of us really read the fine print. And the fact is that even if you do, you may not really know what it means until you're faced with the situation.

So there's a bill I worked on with Congresswoman ROSA DELAUNO, and it says about language, if it says, I'm

going to cover hospitalization, well, it means the same thing whichever insurance company is selling it. So if you're going to look at that, you will know what's covered and what isn't and then be able to decide whether that's the kind of policy you want or not.

The others we also—there's legislation that I also actively support that says that small businesses should be able to band together to use their purchasing power to buy insurance in the private marketplace.

And third, something that we can do to help individuals as well as small businesses is to do something called community rating. So you say it's not this small business that has five employees, somebody gets cancer, well, they're rated on that experience. Their rates can go skyrocket the next year.

What you can do instead is say we're going to tell the insurance companies sell insurance, but the records have to be set not on the experience of that small group but on the experience of the broader community. We're going to really spread that risk. That's how insurance is supposed to work. Share the risk more broadly, come up with a community rating system that's fair, that the businesses or individuals would pay but isn't, one by one, based on your conditions, your gender, your age, and to be able to go forward on that.

We can do those things. Those are just changing the rules of the marketplace, and that will make it more affordable, more accessible for more Americans to be able to buy health insurance.

Mr. KLEIN of Florida. Will the gentlewoman yield?

Ms. SCHWARTZ. Please.

Mr. KLEIN of Florida. I think that's an excellent point. And again, if we think about what insurance is supposed to do, it is supposed to spread the risk. Yet the experiences that small businesses have with 8 employees or 1 self-employed or 10 is they get a different pricing than somebody who's negotiating for 10,000 people. A major corporation that negotiates for 10,000 or 100,000 lives has a much—we call it the economy of scale, but it is also the insurance company saying, All right, we have a large group. We can spread the risk.

Well, why should that be any different than you take your small business and your small business, and in Fort Lauderdale where I'm from or Delray Beach or wherever, you've got all these small businesses, 8 and 20 and 110, and let them combine together and purchase policies. And that is just a basic right of free enterprise to be able to do that.

I'm going to toss out another idea because, again, a lot of this thinking that we're talking about is common sense. It's not out-of-the-box thinking; it's just common sense.

When I was in the Florida legislature a number of years ago, we were looking at various ways to fix the health system, because, unfortunately, despite your good efforts and others for the last number of years, nothing was really happening of any major consequence. And we said, Well, what if we allow people to purchase into the State of Florida health insurance plan?

Or let's use the Federal system. We have hundreds and hundreds of thousands of people in our Federal system. Okay? Members of Congress and everybody else gets to buy this, and it's a typical plan. The government pays a piece of the premium and we pay a piece of the premium. Okay? What if we allow people to buy into the Federal plan? Okay. Not on the Federal Government's dime. No subsidy whatsoever. Whatever the cost is, the administration and the policy and everything else, purchase into that.

Well, we did some research on this to the State of Florida plan, which is not that much different than the Federal plan, and we found that if you take a small business that was trying to buy a policy, the same policy, apples and apples, the price was almost twice what it would cost if they paid the full out-of-pocket cost in the State of Florida plan.

Now, of course, our friends in the insurance industry were not interested in supporting that because they like the idea of the small groups buying individually. And they said, Well, it's going to change the risk assessment.

You know, where there's a will, there's a way. That's my attitude about this whole thing. So again, I think as we're going through this discussion, maybe we can talk. I know some of the Members of the Senate and some House Members. I think that just may be another way of offering alternatives, options to people. Let them purchase into a large plan like the Federal Government plan.

Again, the U.S. taxpayer is not subsidizing it. Whatever the cost is, it is. But you get the benefit of a large plan that lots of people are in and you can spread the risk.

So, again, to me the excitement right now is lots of good ideas are coming forward, and I think we're going to be able to get there, and let's just engage the American people in the right answers.

Mr. MURPHY of Connecticut. And, Mr. KLEIN, when you talk about it like that, it is common sense. When you talk to a small business out there and you tell them, Listen, what do you think about having the option, up to you, to purchase into a plan that is run or administered by the State of Florida? The State of Connecticut, we're looking at doing the same thing, or the Federal Government. If it costs you less, you know, people are going to raise their hands by the droves because

you're giving them more choice. Right now they may be, you know, if you're in some States in this Nation and you are looking to purchase an individual policy or a group policy, you don't have a lot of choice out there. It's Blue Cross/Blue Shield or—

Mr. KLEIN of Florida. Would the gentleman yield for 1 second?

Mr. MURPHY of Connecticut. Of course.

Mr. KLEIN of Florida. I want to make it perfectly clear, if I didn't make this, when I say State of Florida or Federal Government, the State of Florida doesn't own an insurance company. It could be Blue Cross or United, any combination of private companies. So it's the Federal Government through our Blue Cross or whatever it may be. It's private companies offering the insurance. But the beauty, of course, is the spreading of the risk.

Mr. MURPHY of Connecticut. And giving people choice. I mean, I think that this really gets back to the fact that if consumers—and Mr. KAGEN was talking about this at the beginning. If consumers know what they're buying, if they can really compare the cost of A to B, and as Ms. SCHWARTZ said, they know the terms of what they're buying, they're going to make smart choices.

And many of us here in Congress who would like for individuals to simply have the option to buy into even the plan that as Federal employees and Members of Congress we have the benefit of getting, we want them to have the option of doing that. If it costs less in their particular region of the country, great, they'll buy it. If it costs more somewhere else then maybe they won't. But no subsidy from taxpayers, no check from the general treasury, just the cost of providing that plan.

And the fact is that the plan that is run or sponsored by the Federal Government, it might be cheaper for people because maybe it doesn't have the same profit motive that the private insurers have. Maybe it's found a way to get administrative or marketing costs down. Maybe it doesn't have to return money to shareholders like private plans do.

But all we think is that individuals and businesses out there should have that choice, like I have the choice to buy private health care in the market or join the Federal employees health care plan.

Ms. SCHWARTZ. Just to reiterate, I think what we want to really be very clear with our constituents and with all Americans is that we are looking for creative ways to increase the choices and increase access. And again, it should be affordable. It has to be meaningful coverage. We have to make sure we have the delivery system that works.

We also think that this is a shared responsibility. I certainly do. This is

something that we're asking individuals to take some responsibility, employers to take some responsibility, we're asking insurance companies, and many of them are stepping up to the plate saying, We can do this. Many big companies are also saying, We're doing some really innovative work on prevention and health care for our own employees. We're encouraging them to walk and to eat right. And, obviously, I think we should do that for school kids and all of that as well.

So there's not really a single answer here. The issue is how can we improve the delivery system, the health care system you encounter so you get the best kind of care you might, that we make sure we have the right kind of providers working at their scope of practice, as we call it, and really providing you with the right kind of care. But all of this has to work together.

One of the reasons we're looking at all of these issues at once is because we know it makes a difference if we can contain costs, if we can get everyone coverage, if we can actually improve the delivery system, then all of us will be better off. But it takes—it's not really the government doing this alone by any means. We're hoping to be a trigger for some of this, and we have asked all of the stakeholders to participate.

Yes, the insurance industry, the pharmaceutical industry, the hospitals, the physicians, and they've really been at the table, a lot of advocates for the different groups as well, and so have we. We all bring our personal experiences, some of them good, some of them not so good in the health care arena, but we all recognize that we could be without health care coverage. We could be without access to the health care providers that we need, and we never, none of us, want to be in that situation. And, unfortunately, it's true for too many of our neighbors, too many of our constituents. And it's about time for us to step up and say we again are going to find a uniquely American way to address these issues for our constituents and for our country, and we're all going to be better off for it.

Mr. KAGEN. Thank you for yielding. I'm just reassured, I'm more reassured tonight, I'm more optimistic tonight than ever before that by working together, not just as Democrats and Republicans or Libertarians or Independents, but as Americans we're going to come up with the solutions we need, as you say, to find this uniquely American solution to our health care crisis. It's going to happen. And, as we said tonight, in part it's going to be by leveraging the marketplace, using the marketplace to leverage down prices for everyone.

After all, for those of you who are listening tonight, do you want to pay the higher price or the lowest price for the

medical care that you need? Today the price is whatever they can get.

So I look forward to working with all my colleagues on the floor in the House and working with the Senate to bring about the solutions that we need.

Mr. MURPHY of Connecticut. Mr. KAGEN, as a closing comment I will just say that, as much agreement as we've had over the last hour, there's going to be disagreement. There are going to be people that try to stand in the way of this change happening. And there's a memo circulated by a Newt Gingrich pollster going around Washington now and around the circles that want to stop reform from happening, and it sort of lays out the case for how you can stop health care reform. But it's interesting because one of the underlying points of that memo, based on the polling that this pollster had done around the country, was that this year you can't be for nothing. This year you have to be for something.

Now, he undergoes a very cynical analysis of how, in the end, you stop reform from happening. But the message, even through this conservative Republican pollster, is clear: People want change. And I think they're going to get it this year.

I thank the Speaker for giving us this time, and we yield back our balance.

#### THE STIMULUS PLAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. LATOURETTE) is recognized for 60 minutes.

Mr. LATOURETTE. Mr. Speaker, I thank you for the recognition, and I thank the minority leader for giving me the opportunity to take some of the Republican time this evening. And we're going to talk about a couple of things that, one, we've talked about before, and two, we're going to talk about this mess.

Never in my lifetime did I think that the United States of America would not only own a lot of banks in this country, but also two of the big three automakers are soon to be owned by the American taxpayers.

The first issue of business, just to do some cleanup, you will recall, Mr. Speaker, that earlier in the year, in President Obama's stimulus bill there was a provision, originally it was inserted by the Senate, and the Senate indicated that AIG executives should not receive exorbitant bonuses unless there were some conditions put on it.

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That legislation, that section of the stimulus bill was authored by a Democrat and Republican: Senator SNOWE, the Republican of Maine, and Senator WYDEN, the Democrat of Oregon. And the House version was silent. And then

it went into this conference committee and, Mr. Speaker, you know well that when we pass something and the Senate passes something and they're not exactly the same, we have to have a conference and we have to work out the details and resolve things.

So there was a conference committee. Sadly, there weren't any Republicans on the conference committee. The conference committee was comprised of all—completely of Members of the Democratic Party. And in that conference room, somebody took out the Snowe-Wyden language that put restrictions on the AIG bonuses and instead put in this paragraph, about 50 words over there to my far left, that not only removed the Snowe-Wyden language but it put in that paragraph—and that paragraph, if you read it closely, indicates that not only were we not going to put restrictions on the AIG bonuses but that specifically protects them because it says any bonus that was entered into before February 11 of this year—which happens to be the date that the stimulus bill passed, the conference report passed—is protected and you're not going to mess with it.

Well, a lot of people were embarrassed, and I would dare say—and I don't cast aspersions on my Democratic friends. I suspect a lot of them didn't know about it. But every Democrat in the House of Representatives voted for the stimulus bill with the AIG bonuses protection language included in it except for 11, and every Republican voted against it. And we had made kind of a simple argument. If you remember, the stimulus bill was a thousand—it was over a thousand pages long and it spent upwards of \$790 billion of taxpayers' money. And we had sort of this novel idea, and that was maybe Members of Congress should have the opportunity to read the bill before we are asked to vote on it.

So the Tuesday of that week we had a motion on the floor and everybody, every Republican, every Democrat voted that we would have 48 hours to read the bill. And as a matter of fact, it further stipulated that it would be put on the Internet just in case some of our constituents were wondering how the government was going to spend \$792 billion of their money.

A funny thing happened between Tuesday and Thursday at midnight, and that is apparently the President had promised he would have the stimulus bill on his desk for signature for the President's Day weekend, and that weekend was the President's Day weekend. So the bill was filed at about midnight on Thursday night and it was brought to the floor. And rather than having 48 hours, we had 90 minutes—90 minutes—to read a thousand pages of how the hundreds of billions of dollars were being spent. And son of a gun, it got missed that this paragraph was in there protecting the AIG bonuses.

The next day, if you remember the news, Mr. Speaker, everybody was shocked. The President was shocked, Members of Congress were shocked. We can't believe it. We couldn't believe that \$173 million was going to be given out to AIG executives in the form of bonuses. How can this happen? You have to do something about it. You have to lock them up.

They came up with a goofy idea to put a bill on the floor—and I said it wasn't a fig leaf, it was a fig tree—that we should tax these bonuses at 90 percent. And oh my gosh. First of all, the thought that we would use the United States Tax Code to punish people that we're mad at to the tune of 90 percent is nuts; but then secondly, if you look at the top bonus receiver at AIG, he was getting \$6.4 million. And so if we're really, really mad at them, why are we only taking 90 percent away from them in taxes? Why don't we take the whole thing? That guy or gal—I don't remember if it was man or woman—still got \$640,000.

Somebody in my district making 40,000 a year has to work 16 years to get \$640,000. So clearly stupid, clearly people were embarrassed.

So we have been on the floor the last little bit, and most people who grew up in my generation are familiar with the very fine Hasbro game Clue, and we have been trying to determine how that paragraph got into the bill 'cause nobody wants to claim it. It just all of a sudden showed up, but we know that can't be right. Somebody had to physically take out the Snowe-Wyden language and put in this language.

So we do have a game of Clue that we're working our way through. And I think, hopefully, we're going to be close to solving it.

And just around the board, Mr. Geithner, who is the Treasury Secretary, Rahm Emanuel—who happens to be the President's chief of staff—CHARLIE RANGEL, who is the Ways and Means chairman, Senator DODD from Connecticut, who was the chairman of the Senate Banking Committee, the Speaker of the House, Mrs. PELOSI, and the leader of the Senate, Mr. REID of Nevada.

If you remember, in the game of Clue you have to identify where the thing happened, what was the weapon used and who did it. And over the last couple months we've made amazing progress. We know that the weapon used was a pen—might have been a computer but we're going to go with a pen. We also know from the President's reports that it either happened in the Speaker's office where there was shuttle diplomacy going back and forth, or the conference room. And now we just have to get down and figure out who did it because nobody is willing to stand up and say who did it.

Mr. Geithner, the Treasury Secretary, has testified that he got in-

structions from Senator DODD's staff. Senator DODD says, Okay. Maybe we put it in but we did it at the request of the Treasury. We ruled out Mr. RANGEL because we don't think he had anything to do with it. But Mr. Emanuel, the Speaker, and the majority leader were in the room when the deals were being cut. And so we're just trying to figure out who did it.

And it would be nice so we could move on to other things if the person that did it would come forward and say, You know what? I wrote those 50 words to protect \$173 million in bonuses at AIG and here's why I did it. But sadly, we haven't had anybody step up to the plate and be willing to talk about that.

So we filed what's known as a resolution of inquiry, and if there is a very cooperative bipartisan person in the story, it's BARNEY FRANK, who is the chairman of the House Financial Services Committee, a Democrat from Massachusetts, and he moved that legislation out of his committee—I think the vote was 63, 64-0. Everybody said let's get to the bottom of it. But now sadly—and somebody who's not pictured here is the distinguished majority leader of the House of Representatives, Mr. HOYER of Maryland. He has the power to schedule things and not schedule things, and sadly, we're now entering our third month and Mr. HOYER has not seen fit to schedule this legislation on the floor for consideration.

But Chairman FRANK did organize a meeting with folks at the Treasury, and they had promised to send us a letter. And they have indicated in this letter that we might finally be able to say that it was, for instance, Senator DODD in the conference room with the pen. So we hope to get there from here.

But, sadly, this isn't where it stops.

The automotive world has been shaken by the bankruptcies, forced bankruptcies of Chrysler and General Motors. And the auto world has been shaken with the forced bankruptcy of Chrysler and now General Motors this week. And a couple of things happened that have again spawned our curiosity and we can't quite get to the bottom of it.

Chrysler. We'll start with Chrysler. Chrysler filed a viability plan with the Treasury on February 17, and that was rejected. They then filed another one and it was accepted. And they sent on the Wednesday of the week that the President made his announcement on April 30, anybody that was a UAW member, United Auto Worker, who worked for the Chrysler facilities went to the ballot box, if you will, to determine whether or not to authorize a new contract that gave pretty serious concessions in terms of wages, health care benefits, retirement benefits to Chrysler.

And one plant in my district—I'm from northeastern Ohio, Twinsburg,



Ohio, stamping plant there, 1,200 people employed—they went and they said, Look, we want to keep our jobs and so even though these are pretty significant reductions in pay and benefits, we're going to vote for it. And they did. Eighty-eight percent of the auto-workers in Twinsburg voted for the contract. They were further emboldened and happy because this paragraph that's on this chart was specifically bargained for by the Twinsburg workers with Chrysler—and you can read it for yourself, Mr. Speaker—but it basically indicates that Chrysler has agreed to bring more work to Twinsburg. So 88 percent of the people voted for it. And as a matter of fact, all across the country the contract passed pretty handily.

Then you fast forward to Thursday.

Thursday, if you were interested and you are a Member of Congress, you could get on a conference call with the President's automotive task force and they indicated to us that it's a great day for Chrysler and we're saving a lot of jobs. There will be no disruptions. There will be no displacements. People aren't going to lose their jobs and communities aren't going to be affected. So I was pretty happy. I sent out a press release saying “thank you” to the President, “thank you” to his task force, “thank you” to Chrysler, “thank you” to the UAW, that this looked like pretty good news.

Then at noon that day, that's what President Obama had to say on noon on April 30. He indicated, Lest no one should be confused about what a bankruptcy process means, it will not disrupt the lives of the people that work at Chrysler or live in communities that depend on Chrysler.

So that's pretty good news.

So the President says no people's lives are going to be disrupted who work at Chrysler and no communities will be disrupted. Which, again, just from my parochial view was pretty exciting because 13 percent of the tax base where this stamping plant is located is based upon the stamping plant and the people that work there.

So the mayor was relieved. She sent out a press release. Everything was good.

So then at 1 o'clock on April 30, we had a conference call with Robert Nardelli. He was former chief executive officer at Chrysler. And it was a question-and-answer session. And the first question was asked by the Democratic Governor of the State of Michigan, Jennifer Granholm. And she said, Congratulations, guys. This is great news. I just heard the President, but I want to make sure that the President wasn't speaking in code because I heard him say that this deal saves 30,000 jobs and we, especially in Michigan, know that more than 30,000 people work for Chrysler. It's about 39,000. So I'm just asking it to make sure that he wasn't saying

we saved 30,000, but we couldn't save the other 9,000. And the answer was, Absolutely not. The President was just giving us a round number and there would be no disruptions to people's lives and no disruptions to the communities.

Well, son of a gun, that afternoon there was a pretty famous picture in most of the newspapers of this young guy with a truck taking these bankers boxes into the bankruptcy court up in New York. And buried in that set of documents is an affidavit by a guy named Robert Manzo. Mr. Manzo happens to be one of the consultants who was guiding Chrysler through this process. And in there it identifies eight plants and 9,000 people that are going to be shut down, including the Twinsburg plant. And, clearly, that came as kind of a shock to people. And I have an article that talks about—they interviewed the President of Local 122 in Twinsburg, and he said, Well, what do you think? And his response—Doug Rice is his name—he said, I don't know if I was told the whole truth on everything. I don't feel like I was. It would be a shame if this was something that was known for some time. If they kept this back from people, that's wrong. That's wrong.

He was later on a radio program, and the host of the radio program asked him, Would that vote have been the same had you had the information you have now? And he says no. Needless to say, people ain't gonna vote to eliminate their jobs. And I think Mr. Rice is right. What autoworker would go to approve a contract on the belief that their jobs are going to be saved if they really think their jobs are going to be gone?

So we have developed, Mr. Speaker, Clue, the travel edition now, to supplement our work on AIG. And in this case clearly—I mean, the documents that were wheeled into the bankruptcy courts on the afternoon of April 30 with Mr. Manzo's affidavit, clearly somebody knew. Somebody knew that when the President got up and delivered this happy news, this good news that five plants—eight plants were going to be closed and 9,000 people across the country were going to be out of work.

And here's how silly it got. One of the next questions was by a Democratic Representative from Wisconsin, GWEN MOORE, who represents the Milwaukee area, and she said, Hey, Mr. Nardelli, how about our plant in Kenosha, Wisconsin? Eight hundred people and we are really proud of it. It has a long history of manufacturing automobile parts. And so are we going to be okay? And Mr. Nardelli says, We're proud of Kenosha, Wisconsin. Kenosha is part of the new Chrysler, and we very much look forward to continuing that partnership.

Sadly, like my stamping plant in Twinsburg, the Kenosha plant was one

of the eight scheduled to be shut. Obviously, Representative MOORE had some questions and said, Well, I asked you. It's not like I didn't ask you. I asked you about Kenosha, Wisconsin. And Mr. Nardelli's response was he got confused. He confused Kenosha, Wisconsin, with Trenton, Michigan. They don't sound alike to my ear, but when he was saying that Kenosha, Wisconsin, was safe, he really meant Trenton, Michigan.

□ 1945

In addition, the mayor of my town, Katherine Procop, wrote Mr. Bloom on the President's task force and said I heard the President say no communities were going to be affected. We're just taking a pretty big whack here; what's going on? And she got a nice letter back, and the letter said, well, what the President meant to say was that no communities were going to be disrupted other than the eight with the plant closures and the 9,000 people out of their jobs.

The problem with that is that was known by no one. Nobody knew, at least the auto workers, the elected officials, the mayor and others, that this was going to happen. And when you ask them, they said, well, we couldn't tell anybody, it was a secret. Somebody knew, because it was in the documents.

So we have created Clue, the travel edition, and this time instead of a pen, we know that the weapon is an ax, because they axed 9,000 people who work in this country and had good, paying jobs. And again, we have the same rooms where these negotiations took place, and our suspects this time are the President of the United States. President Obama is up there; Larry Summers, who is the President's economic adviser; down here Mr. Nardelli, who I referred to, the former CEO of Chrysler, the ax of course; Ron Bloom, whom I referenced and communicated with my mayor; again, Mr. Geithner, the Treasury Secretary; and up here is President George W. Bush.

Now, somebody in this Clue edition knew that eight plants were going to be closed and how easy would it have been for the President's speech writers to give him the information that, great news, we saved 30,000 jobs, we saved all these plants, but we can't save them all. It's like four words. But rather than diluting the happy message, somebody didn't tell eight cities, eight plants, 9,000 workers, that their jobs were to be lost, and I think it's a shame.

And again, I should just tell you, nobody is stepping up yet. The call that I referenced with Governor Granholm and Representative MOORE was tape-recorded, and I called up the Chrysler guys. And I said, hey, the thing was tape-recorded; why don't you let us have the tape. And first response was, it wasn't tape-recorded. And I said,



well, you know, my hearing isn't what it used to be when I was in my 20s, but I do remember people saying it was recorded. And then they called back and said, yes, it was recorded, we have a transcript. And I said, well, send it over, and they said, sure. And I said, how about that courier? They said sure. And so that was in the morning.

About 5 o'clock in the afternoon. You know, I'm looking around, I don't see any package from Chrysler. And so I called back and was told that the lawyers have it. And listen, anytime the lawyers get a hold of something, you know you've got a big problem. And so I was beginning to think that I wasn't going to get this transcript. And then a couple days later, they called and said, I'm sending you a letter. And I said, I think that means I'm not getting my transcript. And they said absolutely not, we're not sending you the transcript.

And again, if the facts were not as I just laid them out, the transcript speaks volumes. I mean, it is what it is. And again, in the game of Clue, I mean, who knew? Who knew? And I yield to my friend, Mr. TIBERI.

Mr. TIBERI. Well, I thank the gentleman and my friend from northeastern Ohio. Your explanation and your comments have been very, very enlightening. I'm pleased to be here to participate in the travel edition, as well as the original edition.

I'm a bit confused, though. You haven't explained why the pictures, the six pictures—I understand five of the six. But the top, as I'm looking at it or as I guess the viewers are looking at it, the top left, right there, why the former President's picture is on it when he's been out of town since mid-January of this year.

Mr. LATOURETTE. That's a great question, and the reason that President George W. Bush is up here is that there's some people that blame him for everything bad. And so as a result, I thought to be fair, just in case, even though he was back in Crawford, Texas, when all this was going on, just in case, we should have President Bush up there to satisfy those that blame him for just about everything that has happened.

I want to move on for just a second before I yield to my friend again, and the news has gotten worse. And the news has indicated that in addition to the 9,000 people who worked for Chrysler that aren't going to be able to work for Chrysler anymore, for some reason, through the bankruptcy, first Chrysler indicated and sent notices to 789 auto dealers across the country that they needed to shutter their doors. And according to the National Association of Automobile Dealers, about 60 people work on average at each auto dealership. And then this week's news, with General Motors news, 2,600 General Motors dealerships, and again, 60 employ-

So the first job loss is projected to be 47,000 roughly, second job loss 156,000. So another 200,000 people are going to be out of work. And you know, some people don't understand how an auto dealer costs the car company any money. And some people further think it's a strange business model to have less stores. You want to sell more stuff, and in particular in rural areas and in particular when it comes to their service department.

On top of that, The Detroit News reported on May 11 that this task force that Mr. Geithner's on and Mr. Bloom's on indicated that during the bankruptcy proceedings not only were we going to have to approve these closures of these 789 Chrysler dealerships, they also said they didn't want Chrysler spending any money on advertising during the course of the bankruptcy. And finally, when it was indicated to them how stupid that was, they let Chrysler spend half of what they intended.

So, again, you have a business model where the thinking is that Chrysler's going to be more successful with less stores, and Chrysler's going to be more successful with no advertising, especially when it's in the news and people have concerns about buying a car from a company that's in bankruptcy.

So some strange decisions have been made, and it's caused some people to ask Harley Shaiken, who is a labor expert at the University of California, Berkeley, certainly not a hotbed of conservative thought; he said the auto task force tends to be a little tone deaf. A large part of their approach tends to be at cross-purposes with the stimulus package. The Obama administration is trying to spend money to create jobs at the same time that they're cutting jobs.

I know my friend from Ohio knows that another colleague of ours from Ohio, Mr. JORDAN from the western part of Ohio, participated in a hearing in front of the Judiciary Committee. And the question came up, These people on the task force, do any of them have experience in manufacturing, manufacturing cars, selling cars, making parts? And the answer was none, nobody has. They had plenty of Wall Street experience, but they don't have any experience when it comes to the automotive industry.

And the witness went on to say—and this was really startling—that most of them don't own cars, and not only don't they own cars, those that do own cars drive foreign cars. But again, this is a group of people that are making—and they're not elected, they're appointed—this is a group of people that are making these decisions that is going to cost, if you add in the Chrysler stuff, we're getting north of—and you have to put in the GM workers, another 21,000 workers this week, you're north of 250,000 jobs. I yield to my friend.

Mr. TIBERI. Well, and just to kind of emphasize a point that you had made earlier about your mayor and the response that she got, that the President's quote of it will not disrupt the lives of the people who work at Chrysler or live in communities that depend on it, his quote, and then the reply back to her meaning, well, those communities outside those targeted for closing. Well, that doesn't include, to the point of your chart right there, the thousands, the tens of thousands, the hundreds of thousands of jobs that are going to be lost by dealers throughout America and many communities, and those who are subcontractors within the industry or others in the supply chain, suppliers of different parts.

And we have in Ohio, as you know, one of the larger presence of auto suppliers throughout our State. And if you look at the dealers, as your chart demonstrates, 789 Chrysler dealers throughout many small communities and larger communities, 2,600 GM dealers, many of whom by the way made money last year. These are not dealers that were struggling or going to be put of business. They were making money. They were employing people. They were participating in their communities, in their Rotaries, sponsoring Little League baseball teams. This is a huge jolt to many communities throughout our State, throughout our country, let alone the plants that you had spoke about earlier.

But there is a missing link here as to who is calling these shots, how are they determining which dealers close, who is actually making the call, the decision, that Chrysler cut their budget in half, what kind of decisions are being made with respect to General Motors that we don't know about. I know I'm asking more questions rather than providing answers. Maybe one day we will get to some of these answers, but I see the gentleman has a new chart.

Mr. LATOURETTE. I thank you very much, and I want to go back to Mr. Manville because we know already that the President's task force determined that Chrysler shouldn't have an advertising budget that they wanted to have, and now with the GM news, it's sort of been like Pontius Pilate; they're washing their hands. These are all decisions that have been made by the car companies, we don't have anything to do with it.

But here's an e-mail that was exchanged the day before the bankruptcy filing between Robert Manzo and Matthew Feldman, who is an attorney on the President's automobile task force. And just to indicate the depths and the breadth to which these unelected folks who have plenty of bankruptcy experience and Wall Street experience but don't have any automobile experience will go to, Mr. Manzo is saying, well, do you think it's worth giving us one

more shot. And the one more shot that he's referring to, he testified in court, was maybe we don't have to go to this bankruptcy route, maybe we can come to some agreement with our bondholders, and do we have to do this?

Well, the rather professional response from Mr. Feldman is that I'm now not talking to you, you went where you shouldn't. And Mr. Manzo backs up and he apologizes, and Feldman writes him another e-mail, it's over, the President doesn't negotiate second rounds. We've given and lent billions of dollars so that your team could manage this properly, and now you're telling me to bend over to a terrorist like Lauria.

And Lauria is another bankruptcy lawyer who represents some of the bondholders in the GM suit, and I think he might—I may be wrong about that—but I think he represents the Indiana Teachers Pension Fund. And he was basically saying, it's all well and good that you want to do this, but I invested teacher pension fund money in Chrysler and you're now telling me that I have to go back to my clients and say that I agreed to take five or ten cents on the dollar. He could be sued. He might be able to be put in jail. So I don't think that's the definition of a terrorist. And of course, Mr. Feldman signs off with an affectionate "that's BS."

So the day before you still have Chrysler trying to work it out and the President's task force telling him to take a hike. And the same thing happened this week. And if you look at how this thing is being manipulated, the same thing happened when—as you know, the GM bankruptcy is in New York as well, and people think that, well, that's kind of strange because we thought General Motors was either organized under the laws of Delaware or the laws of Michigan certainly. And as a matter of fact they are, and you don't get into Federal court in New York without some kind of nexus.

Well, lo and behold, the brainiacs at General Motors and on the President's task force found one General Motors dealership in Harlem, New York, and they are the lead pleader in the bankruptcy so that they could get a New York bankruptcy judge rather than having it decided where the company actually does business and people who work there, you know, live.

Mr. TIBERI. Being a lawyer and former prosecutor, can you explain the advantages of a bankruptcy in New York City rather than Detroit?

Mr. LATOURETTE. Well, I'm going to tell you, first of all, you don't have the affected parties, and so all of the people that worked for General Motors, all of the dealers that depend on it, they're not in New York. They could only find one dealer in Harlem, and so you avoid that problem.

In addition, you are able to judge shop. I mean, it's called forum shop-

ping, and every lawyer would love, I mean love—lawyers like to win—every lawyer would love to be able to go out and pick his judge or her judge, because who wouldn't? I mean, this judge is tough, this judge is not so tough; this judge is smart, this judge is not so smart. So I mean if you could pick where your case goes, you could do pretty well. And it appears exactly what our friends at the task force did and our friends at General Motors did.

And then on top of it, I go back to the job losses at the auto dealer. It's worse than that chart because every dealer who sells GM products has gotten a letter, and it's either a you're gone letter or you're safe letter. But the guys that are safe, they are going to be required, the dealers that are going to be part of the new GM, to sign participation agreements. And if they don't sign the participation agreement, they're out and they will lose their franchise, their livelihood—their 60 people are out of work. And we have both State and Federal legislation that says, look, the car companies are pretty powerful. They have bargaining power that the small dealer doesn't. They've got lawyers, they've got millions of dollars.

□ 2000

And so we're not going to let this sort of unfair stuff happen. But, again, the beauty of picking a New York bankruptcy judge is that they are arguing that we should preempt all of those laws, and the car dealers no longer have protection.

So they're telling them things like, Well, you have to buy so many cars from us, even if it's a horrible business decision. And they used to have these noncompete clauses that the car company agreed not to put another GM dealership within 2 miles or 5 miles, or whatever the case may be. If we decide to put a new GM dealership right next to you, tough. That's just the way it goes.

It's unconscionable. The Sopranos would be proud of this letter by General Motors. It's clearly not—I never thought I'd see the day that this was happening in the United States.

Mr. TIBERI. Would the gentleman yield?

Mr. LATOURETTE. I'd be happy to yield.

Mr. TIBERI. They could essentially say to a dealer, If you don't sign this agreement which we could ultimately say you're going to rebuild your store, you're going to make it so many more square feet, you're going to move your location, if they don't sign that, if that business owner doesn't sign that, they're out. They have absolutely no leverage. All contract law has been violated.

Mr. LATOURETTE. General Motors has made clear that there's going to be a new Chrysler and an old Chrysler—

the bad assets going to old Chrysler; the new Chrysler, the good assets. The same thing with General Motors. The letter to the dealer is clear that if you don't sign these participation agreements and agree to whatever terms we can think of, you're out. And you're going to go under the old General Motors. Not much of a choice.

We were talking about you, my friend; our friend from the western part of Ohio, Mr. JORDAN. We were talking a little bit about your experience in the Judiciary Committee. Maybe you can share, since you were there. I tried to relate it as best I could, but maybe you could chat about what happened.

Mr. JORDAN of Ohio. Well, thank you. I appreciate the gentleman for yielding and for this Special Order on just a critical issue highlighting why you should never start down this road where government is making decisions in private enterprise.

But the gentleman related 2 weeks ago in Judiciary Committee we had auto dealers, we had experts, and two experts on the auto industry, unlike the auto task force, which has no manufacturing experience, no auto dealer business experience. We had real experts in there talking about the fact that these handful of people who are making decisions that impact so many communities and so many families across this country really have just that, no experience whatsoever in manufacturing, and particularly auto manufacturing.

I just appreciate my colleagues from the Buckeye State pointing out—here's what is so frustrating. Government caused this problem, and now government is going to fix it? I mean, the CAFE standards artificially plucked out of the air, which are the reason, frankly, one of the reasons that the stamping facility in the Fourth Congressional District was closed down, announced foreclosure this Monday. The lack of what I call a coherent, commonsense energy policy.

Let's remember where we were last summer that really started to lead to this situation. It was \$4 gasoline. And the fact that we don't use the natural resources we have in this country to help this situation and specifically to help this industry. Again, a failure of government to do the right thing, which helped bring us to this day.

Frankly, we're only going to make it worse, as my colleagues know, if we pass this crazy cap-and-trade concept, which will make it even tougher for manufacturing and auto manufacturing. So that's the frustrating part.

One last point before I yield back to my colleague. I was on a conference call Sunday night with some of the members of the auto task force briefing Members of Congress about what was going to happen with the restructuring at General Motors and, frankly, the announcements that were going to occur

the next day, June 1, 2009, when 11 GM facilities, an announcement was made they were going to close. Again, one of which was in Ontario, Ohio, in Richland County in the Fourth Congressional District.

Mr. Sperling, a member of the auto task force, stated in his comments that the government, the auto task force, wasn't going to be involved in day-to-day decisions about General Motors. They would only get involved if it was a "major event."

And so when his comments were done and Members of Congress began to ask questions, I finally got around to my turn and I said, Mr. Sperling, you indicated in your opening comments that the auto task force, the government would only get involved if it was a major event. I said, It's going to be pretty major tomorrow when they shut down 11 facilities in 11 congressional districts. What is your definition of "major"?

And here's the scary thing. He didn't have one. He said it could be a merger, it could be a major change in corporate philosophy. He didn't have a definition, which just tells you they can do whatever they want, whenever they want, and that's why it's so appropriate what Mr. LATOURETTE and Mr. TIBERI are doing here tonight on the floor of the House of Representatives, showing the chaos that they have caused in all kinds of congressional districts, in all kinds of families and communities around this country.

So I want to applaud, again, the Member from Ohio and his hard work in trying to get to the bottom of this and letting the American people know what is really going on out there in this important industry in our country.

With that, I would yield back.

Mr. LATOURETTE. I thank you, Mr. JORDAN, for saying that. Listening to your story, I couldn't make that conference call. I made one the next day with Fritz Henderson, who's the CEO after the President fired the old CEO of General Motors.

Hearing your description, it sounds like the Supreme Court used to wrestle with the definition of pornography. They don't know what the definition is, but they'll know it when they see it. So perhaps a major event will be known by the President's task force when they see.

Mr. JORDAN of Ohio. If the gentleman would yield.

Mr. LATOURETTE. Sure.

Mr. JORDAN of Ohio. I think this is important to understand. If President Obama can fire the CEO of General Motors, then he can keep a facility open. Frankly, his task force and members of his Cabinet, who are traveling across the Midwest right now, who are in our State, in Ohio as we speak—they were there yesterday and today—they owe it to those communities like Twinsburg, like Ontario. They owe it the those

workers, those families to go to those facilities, look those workers in the eye and explain to them why they chose to shut down their facility and keep another one open. They owe that to them.

This is coming from someone whose father worked 30 years at a General Motors facility in Dayton, Ohio. I know what it's like for those families. I remember when I was a kid and there was talk of a possible layoff, talk of a possible strike. The emotion that that causes in a family and the concern that caused within a family is real.

So we know what these families are going through in Twinsburg, Ohio, and Ontario, Ohio, and Michigan and other States. We know what they're going through. Frankly, the auto task force owes it to those families to come to those communities and explain to them why they're closing their facility.

I yield back.

Mr. LATOURETTE. I'm glad my friend brought that up, because one of the people that has been sent out as a member of the auto task force, Mr. Montgomery, and he was in Twinsburg, and rather than explaining how Twinsburg got picked and these 1,200 people are out of jobs, they were there to announce a great new initiative, a nationwide initiative, \$50 million, to take now 30,000 unemployed autoworkers, \$5 million for 30,000 unemployed autoworkers, and transition them to green jobs.

Now, I made the observation, and the Labor Secretary didn't like it very much, but I made the observation at the rate these guys are going, the only green jobs that are going to be left are cutting the grass of the Wall Street guys that got the \$700 billion bailout. So some of this defies logic.

I just want to close the loop on these auto dealers, not only the workers, but the dealers. Because if you look who's being negatively impacted, it's the bondholders who had \$27 billion in General Motors and they are being forced to settle for peanuts or they're called not patriotic.

You have 30,000 autoworkers whose livelihood and their family's livelihood depends upon getting up and going to work for this company. You have the communities that are impacted, and you have over 200,000 people that work at auto dealers.

Mr. Nardelli was on the witness stand in New York and he was being questioned by Amy Brown, who's an attorney for the Chrysler dealers who doesn't seem real happy about this decision. And the question was, Well, what is it that these dealers are costing the company? Mr. Nardelli's response was, Well, there's a host of expenses relating to such things as tooling, service training, advertising, and sales incentives.

But when Ms. BROWN asked him to quantify how much those things cost

the automaker, Mr. Nardelli said he could not, and he wasn't sure if the automaker had ever determined those exact costs.

So I don't think that that's what's going on here. I think that you have people taking advantage of a bankruptcy situation, a crisis, to engage in an agenda that they perhaps have been wanting to engage in for a very long time. And I think that it's disingenuous. And that's why we have unveiled Clue, the Travel Edition. We would like to know.

I want to yield to my friend now, one of the great champions of the auto industry from the State of Michigan that's been more impacted. I think at lunch today I heard his State may crest 25 percent unemployment as a result of some of these decisions.

My friend, Mr. McCOTTER from Michigan.

Mr. McCOTTER. I thank the gentleman from Ohio and I thank him for what he is doing today. As you mentioned, I come from the suburbs northwest of Detroit. Obviously, what we have seen with both Chrysler and with GM is very painful because of the human cost involved: the workers at these plants who will lose their jobs, the manufacturing supply chain, those employees and owners that will lose their jobs, lose their small businesses, and the dealers who will lose their jobs and their small businesses.

But it will not simply be a Michigan problem. It will not simply be a Midwest problem. As we found out from the Chrysler dealerships that were closed, it went across the country, all the way from the Atlantic to the Pacific.

Many of our colleagues all of a sudden remember that if auto manufacturers have a problem, auto dealers have a problem. This was not news to many of us, but it portends what is going to happen over the course of this year and next year as these plants are closed.

The gentleman from Ohio, Mr. LATOURETTE, the gentleman from Ohio, Mr. KUCINICH, put forward a bipartisan letter, which I was very grateful to be able to sign, that talked about how Congress should reexercise its power in this area, how the task force should have become advisory and brought the stakeholders together in a process similar to what was done with Chrysler in the 1970s to allow all stakeholders to come together, as opposed to being pitted against each other, workers or investors, in the process that we saw, which in the end turned out to be nothing but a prepackaged bankruptcy that could not be avoided.

At this point in time, obviously all of us who have plants closed—I had my Livonia power train assembly plant notified it was going to close; 164 workers going to lose their jobs. And I know that next door to me we saw the Willow Run assembly plant closed that

had produced the B-24 Liberator bombers that helped this Nation in World War II.

Our thoughts are with those workers and with all the workers who are going to be displaced. But to those who think again that this is simply an economic problem for Michigan, for the Midwest, I ask them a simple question. General Motors was a symbol to the world of the United States' prosperity and security. When this icon of the United States went into bankruptcy, in the nations that bode ill toward us, they were gleeful. Because with General Motors going into bankruptcy, it sends a clear signal to the world that the United States is in decline, and into that perceived vacuum these nations will inject themselves to advance their interests, with very detrimental results to the United States of America.

It is so often that we forget because we live in a land of prosperity and security what these corporations, especially General Motors, have meant throughout the world. It has not been lost on the rest of the world. And you ask yourself: If General Motors goes into bankruptcy, what do they think?

We have already seen what the Russians think. We will soon find out what the Communist Chinese think. And ask yourself this question as well: What do you think is going to happen when cars are made in Communist China, imported into the United States for sale? What does that tell us about the future of the United States, both in terms of its ability to defend itself by manufacturing the armaments necessary to undergird a peace through strength policy or the ability to provide prosperity for its people.

It's been a very painful week for Michigan and for America. The manufacturing base will be far smaller. We will get through this. We will help our fellow citizens who are going through a very difficult time, and we will emerge stronger, if not larger.

I yield back to the gentleman from Ohio.

Mr. LATOURETTE. I thank my friend from Michigan. I just want to bring to a conclusion this evening, we hear a lot that we can't deal with some of the problems in the country because we're really busy here in the United States Congress, and so we don't have floor time.

I talked a little earlier about the AIG thing and the majority leader can't schedule it on the floor because we're really busy doing other stuff. As a matter of fact, when we broke for the Memorial Day district work period, the Speaker and the majority leader and the Democratic leadership had a big press conference hailing all of the great things that we did. But I can tell you we didn't do anything about Chrysler, we didn't do anything about General Motors.

And so I went back, and in the last Congress, Mr. Speaker, you may re-

member that gasoline was going through the roof. In Ohio, it topped \$4 for the first time in my lifetime. And you would think that we would be doing something about a national energy policy here in the United States Congress, the greatest deliberative body in the world.

When the majority changed—and, again, as Republicans, we did such a swell job that the voters threw us out and they installed the Democrats as the majority. They took over and began their legislative responsibilities on January 29, 2007.

□ 2015

Gas was about \$2.22. On that day, the most important thing that the majority leader could schedule was congratulating the University of California at Santa Barbara's soccer team. Gas goes up a little bit to \$2.24, and that's getting people's attention. The most important thing we could do in the United States Congress is pass a resolution honoring National Passport Month. Gas goes over \$3, which has people alarmed. My phones are ringing off the hook, and my colleagues' phones are ringing off the hook. On that day, the most important thing we could do is commend the Houston Dynamo soccer team.

You see a pattern here, Mr. Speaker. We are told, in order to be successful in elective office, we have to get the soccer moms. So, as gas is going through the roof, we are congratulating a soccer team in California and one down in Texas. Just to make sure nobody is confused, we like soccer and we like soccer moms.

Gas goes up to \$3.77, and the most important thing that the majority can put on the floor is a resolution honoring National Train Day. Most of us like trains, but gas is \$3.77. Gas goes up to \$3.84. We passed—and I had to look this up because I didn't know what a "canid" was. When gas hit \$3.84, we passed the Great Cats and Rare Canids Act. Again, if you have trouble with canids, Mr. Speaker, that's a dog. So gas is \$3.84. Our constituents are suffering as they fill up their tanks, and we're talking about cats and dogs here in the United States Congress. It gets up to \$4.09. It crosses \$4 for the first time. Do you know what? A lot of people in my district don't know this, but 2008 was the International Year of Sanitation. So that was the most important thing we could do. Then out here, when we get to \$4.14, which is about where it crested in Ohio—it might have been higher or a little bit lower in other States—the most important thing that the majority can put on the floor is the Monkey Safety Act.

So, again, when talking about tone deaf, that made some of us think that perhaps the new majority was tone deaf, and we talked to them about it. We said, Hey, you know, maybe we

could do other stuff. So this year, when hundreds of thousands of people in this country who work in the automotive industry are losing their jobs, we're thinking, oh, they get it; they understand you can't do goofy things and commemorative things when people are losing their jobs.

Earlier this year, 4,000 people were axed at Chrysler. On that day, we honored former Senator Claiborne Pell. He had a long, storied career, but we've got 4,000 people out of work, and maybe we could be doing something else; 9,500 Chrysler people are out. On that day, the most important thing that the majority can put on the floor is a resolution supporting the goals and ideals of national team dating. All of us think team dating is important unless you happen to be the father of one of the team members; but we passed that resolution. You get up here just south of 10,000 Chrysler workers who are losing their jobs; and son of a gun, we pass the Monkey Safety Act again.

So we had time not to deal with gasoline prices, not to deal with an energy policy, not to deal with the automotive industry, but we did have time to take up floor time, 2 years in a row, on the Monkey Safety Act.

Then we got out here where 13,000 people are losing their jobs, and son of a gun, I guess the Senate didn't pass the bill about cats and dogs, and so we take more floor time talking about cats and dogs even though 13,000 people have lost their jobs.

Then you get out here. This is another guy who, I think, we all like, but now 16,000 people are out of jobs, and the most important thing the majority can put on the floor is awarding a gold medal to Arnold Palmer. I think most of us like Arnold Palmer, and we think he has had a nice career, but 16,000 of our friends and neighbors are without jobs. Then when it hits the top at 18,365, son of a gun, it's National Train Day Again.

So there clearly are difficulties with priorities here in the House, and I don't want to disparage the Democratic leadership too much. I would be happy to yield to my friend in just a second because it's not fair just to talk about the Monkey Safety Act and National Train Day and the International Year of Sanitation.

I want my colleagues to know that, since the beginning of this Congress, the majority has also taken up floor time at 40 minutes a pop to name all of these post offices in the United States of America. So, if you live in one of these towns, Mr. Speaker, you can rest assured that the United States Congress is on the job and that we have named your post office. So, when you go in and get that 44-cent stamp, it has got a name on it. The folks know that each one of these takes about an hour of floor time and a vote. I think there are 14 of them. There may be a few

more. So that's about 14 hours of precious time when the United States Congress could have been talking about jobs at Chrysler, about jobs at GM and about gasoline prices last year when we couldn't quite get there.

Just to close the loop on that thought, as we know, 11 plants have closed this week, GM plants, and another 21,000 people are out of work. So you would think, okay, because Chrysler is smaller than GM, maybe we didn't think it was that huge; but Flagship GM, as my friend from Michigan has talked about, is a national icon. So we came back from our district work period yesterday, and just to make sure that people don't think that I'm somehow bad-mouthing the Democratic majority, they really did stuff yesterday to take care of the GM situation other than naming post offices.

Yesterday, we debated legislation on the direct fish stocking of certain lakes in Washington State, and we commemorated the 75th anniversary of the Great Smoky Mountains. Apparently, the soccer moms have been replaced with basketball moms, and we honored the University of Tennessee's women's basketball team.

Mr. Speaker, I yield to my friend from Michigan.

Mr. McCOTTER. I thank the gentleman for yielding.

In fairness, I must point out that one of the first things that this Democratic-controlled Congress did, in conjunction with the administration, was pass a \$1 trillion stimulus bill, because I include the interest, and we're all going to have to pay it. The \$1 trillion stimulus bill had one provision that would have particularly helped the auto industry that was virtually eliminated in the dead of night by a hidden hand that also did something interesting. The \$1 trillion stimulus bill had protected the AIG bonuses, and yet it did nothing to prevent Chrysler and GM autoworkers from going into bankruptcy. At the time, I referred to it as a post-American manufacturing bill. I would just like to point out that, sadly, events have proven that assessment correct.

I yield back to the gentleman.

Mr. LATOURETTE. I thank the gentleman.

Mr. TIBERI, I would yield to you for an observation.

Mr. TIBERI. Well, thank you for yielding.

The gentleman from Michigan brings up the stimulus bill, and I just had a thought cross my mind.

Not to add more questions rather than answers, but maybe the next edition of Clue is to figure out how—as the gentleman from the Cleveland area knows and as the gentleman from western Ohio knows, just today, we find out that 1,200 jobs in the Miami Valley at NCR were lost from Ohio to Georgia, in part because, at least according to the

employer, in the stimulus bill, there were provisions to allow for a potential office building/manufacturing facility to be used to build and to lure jobs from Ohio to Georgia, which is absolutely outrageous. These aren't the types of jobs that we thought were going to be created. These are pitting States against States and localities against localities.

So I would ask the gentleman from Ohio if, maybe the next time we get together, we could add that to the auto industry and to the AIG bonuses. These are things that are done here, not on this House floor, not in the people's House, but in one of those rooms behind closed doors.

I yield back.

Mr. McCOTTER. Will the gentleman yield for a question?

My question is: If these 1,200 jobs in Ohio were in Ohio and they have moved to Georgia, does the administration consider them created or saved or is it going to have to come up with a third category—or shifted?

Mr. LATOURETTE. To answer the gentleman's question, I think it's both. I think we'll see the administration taking credit for saving 2,000 jobs and for creating 2,000 jobs. It will be too bad for the folks in the Miami Valley, and that's just the way it goes.

I would close with: we sent the President of the United States, President Obama, a letter that was signed by 36 of our colleagues. I believe all of the Members on the floor signed it. It basically asked the President to take a deep breath. As Mr. JORDAN has indicated, this unappointed task force, in my opinion, is not serving the President of the United States well. So take a deep breath.

Go back to 1979. There was Jimmy Carter, Lee Iacocca and the problem with Chrysler back in 1979. Have thoughtful hearings. Have thoughtful discussions. Have people who are experienced in the automotive industry or who, at a minimum, own a car, and let's have this conversation. In that case, my colleagues will remember, the United States not only got paid back, but we made money. We made \$35 million on the first Chrysler bailout. The problem that the government had is nobody ever expected us to make money on it, so there was no provision on how to spend it; but people at home need not worry—that Congress at the time figured out how to spend it rather quickly. It goes to show that, when done thoughtfully, it can be done okay.

So we come to Clue, the travel edition—and oh, by the way, we haven't heard back from the President yet. I know he is overseas and that he is a busy person being the leader of the Free World, so he hasn't had a chance to get back to us. I hope that he does. I hope he takes our suggestion. It is a bipartisan letter—I want to say that—from Republicans and Democrats who

are concerned about the autoworkers, the plants, the auto dealers, and the people who invest money.

Mr. Speaker, in closing, I think it's a shame. You know, if our constituents want safe monkeys, they can rest easy tonight because we've passed that bill twice. If you like cats and dogs, they're okay. You can rest easy. If you like trains, it's not a problem. If your post office hasn't been named this year, call your Member of Congress, and I'll bet we can slap a name on it sometime rather than dealing with the problems that ail the country.

If you're a union member who works for the United Autoworkers, too bad. We don't have time for any legislation for you. We will train you for a green job—cutting somebody's grass. If you, God forbid, were a stockholder in one of these companies or invested money in one of these companies, you're now being told your investment is worthless, so things like secured debt don't mean "secured debt." It's a little bit like the mortgage crisis. If you're tired of paying your mortgage, don't worry about it. We'll pay it for you.

There is the supply chain that Mr. TIBERI talked about, and there are the dealers that, I think, we've all talked about. We're talking about 200,000 people. Again, it doesn't make sense.

I think Mr. JORDAN's observation was right on the money. First of all, we have got to solve Clue, the travel edition, to figure out who did this. Secondly, I think they owe people an explanation. Why did my plant get closed and not somebody else's? Why did this dealership get closed and not somebody else's? Why are 1,200 people out of work in my district and not someplace else? Why are we picking on the dealers when, according to Mr. Nardelli, he doesn't know if they cost him any money? It is, indeed, a strange business model to think that you're going to sell more Chryslers with less stores and with no advertising, but maybe that's just me.

Mr. Speaker, I thank you. I thank my colleagues—two from Ohio and one from Michigan—for joining us for this hour.

I yield back our time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. HOYER) for today.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, June 10.

Mr. JONES, for 5 minutes, June 10.

Mrs. MILLER of Michigan, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

Mr. PAULSEN, for 5 minutes, June 5.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today and June 4.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. FLEMING, for 5 minutes, today.

#### ADJOURNMENT

Mr. LATOURETTE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Thursday, June 4, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1993. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Acibenzolar-S-methyl; Pesticide Tolerances [EPA-HQ-OPP-2008-0270; FRL-8413-7] received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1994. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — *Bacillus thuringiensis* CryIA.105 protein; Time Limited Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2009-0101; FRL-8417-3] received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1995. A letter from the Chairman of the Board, Farm Credit System Insurance Corporation, transmitting the Corporation's final rule — Premiums (RIN: 3055-AA10) received April 24, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1996. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations [Docket ID: FEMA-2008-0020] received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1997. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; California; Determination of Attainment of the 1-Hour Ozone Standard for the Ventura County Area [EPA-R09-OAR-2009-0133; FRL-

8909-6] received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1998. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Volatile Organic Compounds; Correction [EPA-R03-OAR-2009-005; FRL-8909-5] received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1999. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters [Docket No.: FAA-2009-0351; Directorate Identifier 2009-SW-08-AD; Amendment 39-15886; AD 2009-07-53] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2000. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Morehead, KY. [Docket No.: FAA-2008-0809; Airspace Docket No. 08-ASO-13] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2001. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8-50 Series Airplanes; Model DC-8F-54 and DC-8F-55 Airplanes; Model DC-8-60 Series Airplanes; Model DC-8-60F Series Airplanes; Model DC-8-70 Series Airplanes; and Model DC-8-70F Series Airplanes [Docket No.: FAA-2008-1324; Directorate Identifier 2008-NM-101-AD; Amendment 39-15875; AD 2009-08-02] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2002. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, DHC-8-103, DHC-8-106, DHC-8-201, DHC-8-202, DHC-8-301, DHC-8-311, and DHC-8-315 Airplanes Equipped with a Cockpit Door Electronic Strike System Installed in Accordance with Supplemental Type Certificate (STC) ST02014NY [Docket No.: FAA-2009-0313; Directorate Identifier 2008-NM-144-AD; Amendment 39-15769; AD 2008-26-03] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2003. A letter from the Federal Register Liaison Officer, Department of Treasury, transmitting the Department's final rule — Increase in Tax Rates on Tobacco Products and Cigarette Papers and Tubes; Floor Stocks Tax on Certain Tobacco Products, Cigarette Papers, and Cigarette Tubes; and Changes to Basis for Denial, Suspension, or Revocation of Permits (2009R-118P) [Docket No.: TTB-2009-0001; T.D. TTB-75; Re: Notice No. 93] (RIN: 1513-AB70) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2004. A letter from the Federal Register Liaison Officer, Department of the Treasury, transmitting the Department's final rule — Establishment of the Lake Chelan Viticultural Area (2007R-103P) [TTB Docket No.: 2008-0006; T.D. TTB-76; Re: Notice No. 87] (RIN: 1513-AB42) received May 5, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2005. A letter from the Branch Chief, Publications and Regulations, Internal Revenue

Service, transmitting the Service's final rule — Health Savings Accounts Inflation Adjustments for 2010 (Rev. Proc. 2009-29) received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2006. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Industry Directors' Directive #2 on Enhanced Oil Recovery Credit [LMSB Control No.: LMSB-04-0409-014 Impacted IRM: 4.51.2] received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2007. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Formless Conversion of Partnership to S Corporation (Rev. Rul. 2009-15) received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2008. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates [Notice 2009-45] received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2009. A letter from the Branch Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Allocation and Reporting of Mortgage Insurance Premiums [TD 9449] (RIN: 1545-BH84) received May 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2010. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Self-determination of Deficiency Dividend under Section 860(e)(4) (Rev. Proc. 2009-28) received May 19, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2011. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests [TD 9448] (RIN: 1545-BH96; RIN: 1545-BI56) received May 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2012. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Sub-Issue Letter Rulings Under Section 355 (Rev. Proc. 2009-25) received May 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2013. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Modification of Net Operating Loss Carryback Election under Section 1211 of American Recovery and Reinvestment Tax Act of 2009 (Rev. Proc. 2009-26) received May 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADY of Pennsylvania: Committee on House Administration. H.R. 415. A bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and



other rescue workers who are killed in the line of duty (Rept. 111-132). Referred to the Committee of the Whole House on the State of the Union.

Mr. CARDOZA: Committee on Rules. House Resolution 501. Resolution providing for consideration of the bill (H.R. 626) to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes (Rept. 111-133) Referred to the House Calendar.

#### DISCHARGE OF COMMITTEE

[Omitted from the Record of June 2, 2009]

Pursuant to clause 2 of rule XII, the Committee on Armed Services discharged from further consideration. H.R. 1886 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SCHOCK (for himself and Mr. BOSWELL):

H.R. 2672. A bill to amend the Internal Revenue Code of 1986 to allow credits for the establishment of franchises with veterans; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself and Mr. BERRY):

H.R. 2673. A bill to amend title 38, United States Code, to match the pension amount paid to surviving spouses of veterans who served during a period of war to the pension amount paid to such veterans; to the Committee on Veterans' Affairs.

By Mr. POE of Texas (for himself, Mr. GALLEGLY, and Mr. CARTER):

H.R. 2674. A bill to protect children from sex offenders; to the Committee on the Judiciary.

By Mr. JOHNSON of Georgia (for himself, Mr. COBLE, Mr. CONYERS, and Mr. SMITH of Texas):

H.R. 2675. A bill to amend title II of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such title for a 1-year period ending June 22, 2010; to the Committee on the Judiciary.

By Mr. CARDOZA:

H.R. 2676. A bill to amend chapter 3 of title 31, United States Code, to provide for an Assistant Secretary of the Treasury for Community Financial Institutions and an Office of Ombudsman for Community Financial Institutions, and for other purposes; to the Committee on Financial Services.

By Mr. FLEMING (for himself, Mr. BILBRAY, Mr. BURTON of Indiana, Ms. FALLIN, Mrs. BLACKBURN, and Mr. GINGREY of Georgia):

H.R. 2677. A bill to amend title 18, United States Code, to provide penalties for hate crimes against members of the Armed Forces, and for other purposes; to the Committee on the Judiciary.

By Mr. McDERMOTT:

H.R. 2678. A bill to extend Federal recognition to the Duwamish Tribe, and for other purposes; to the Committee on Natural Resources.

By Ms. GIFFORDS:

H.R. 2679. A bill to extend certain immigration programs, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be sub-

sequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BORDALLO (for herself, Mr. SERRANO, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, Mr. PIERLUISI, and Mr. SABLAN):

H.R. 2680. A bill to amend the Social Security Act to provide for payment parity for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BACA:

H.R. 2681. A bill to amend the Immigration and Nationality Act to provide for naturalization for certain high school graduates; to the Committee on the Judiciary.

By Mr. DUNCAN (for himself, Mr. MCHENRY, Mr. WESTMORELAND, Mr. SESSIONS, Mrs. BLACKBURN, and Mr. POE of Texas):

H.R. 2682. A bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. HOLT (for himself and Mr. PIERLUISI):

H.R. 2683. A bill to establish the American Veterans Congressional Internship Program; to the Committee on House Administration.

By Mr. ISRAEL (for himself, Ms. VELÁZQUEZ, and Mr. SERRANO):

H.R. 2684. A bill to establish grant programs to provide for the establishment of a national hate crime hotline and a hate crime information and assistance website, to provide training and education to local law enforcement to prevent hate crimes, and to provide assistance to victims of hate crimes; to the Committee on the Judiciary.

By Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. FARR, Mrs. CHRISTENSEN, Mr. GRIJALVA, Ms. HIRONO, Ms. SHEA-PORTER, Mr. HEINRICH, and Mr. PIERLUISI):

H.R. 2685. A bill to establish a National Oceanic and Atmospheric Administration and a National Climate Enterprise, and for other purposes; to the Committee on Science and Technology, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL (for himself and Mr. BISHOP of New York):

H.R. 2686. A bill to amend title XVIII of the Social Security Act to provide for a Medicare Advantage benchmark adjustment for certain local areas with VA medical centers and for certain contiguous areas; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MACK (for himself, Mr. SIRES, Ms. ROS-LEHTINEN, Mr. BROUN of Georgia, Mr. BURTON of Indiana, Mr. MARIO DIAZ-BALART of Florida, and Mr. LINCOLN DIAZ-BALART of Florida):

H.R. 2687. A bill to withhold United States assessed and voluntary contributions to the Organization of American States (OAS) if Cuba is allowed full membership or partici-

pation in the OAS unless the President certifies that Cuba has satisfied certain conditions, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PALLONE (for himself and Ms. DEGETTE):

H.R. 2688. A bill to amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PERRIELLO (for himself, Mr. SCOTT of Virginia, Mr. NYE, Mr. MORAN of Virginia, and Mr. BOUCHER):

H.R. 2689. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the National D-Day Memorial in Bedford, Virginia, as a unit of the National Park System; to the Committee on Natural Resources.

By Mr. SESTAK (for himself and Mr. BRALEY of Iowa):

H.R. 2690. A bill to create a universal, paperless school meal program that is nationally available; to the Committee on Education and Labor.

By Mr. STARK (for himself, Mr. CAMP, and Mrs. BONO MACK):

H.R. 2691. A bill to provide assistance to adolescents and young adults with serious mental health disorders as they transition to adulthood; to the Committee on Energy and Commerce.

By Mr. THORNBERRY (for himself, Mr. ROSS, Mr. BROUN of Georgia, Mr. SKELTON, Mr. THOMPSON of Pennsylvania, Mr. HELLER, and Mr. GRIJALVA):

H.R. 2692. A bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself and Mr. BAIRD):

H.R. 2693. A bill to amend title VII of the Oil Pollution Act of 1990, and for other purposes; to the Committee on Science and Technology.

By Ms. JACKSON-LEE of Texas:

H. Con. Res. 138. Concurrent resolution recognizing the 40th anniversary of the George Bush Intercontinental Airport in Houston, Texas; to the Committee on Transportation and Infrastructure.

By Mr. LAMBORN (for himself, Ms. BORDALLO, Mr. COFFMAN of Colorado, Mr. KLINE of Minnesota, Mr. MCCAUL, Mr. MASSA, Mrs. McMORRIS RODGERS, Mr. SESTAK, Mr. SPRATT, Mr. ROONEY, Ms. TSONGAS, Mr. WAMP, and Mr. WILSON of South Carolina):

H. Con. Res. 139. Concurrent resolution congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; to the Committee on Armed Services.

By Mr. CLAY:

H. Con. Res. 140. Concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor Wilton "Wilt" Chamberlain; to the Committee on Oversight and Government Reform.

By Mr. CLAY:

H. Con. Res. 141. Concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a postage stamp in commemoration of Carl B. Stokes; to the Committee on Oversight and Government Reform.



By Mr. CUMMINGS (for himself, Ms. LEE of California, Mr. MORAN of Virginia, Mr. THOMPSON of Mississippi, Mr. FATTAH, Mr. TANNER, Mrs. CHRISTENSEN, Mr. MEEKS of New York, Mr. SESTAK, Mr. LOBIONDO, Mr. ELLISON, Mr. KILDEE, Mr. GRIFFITH, Mrs. MALONEY, Mr. NEAL of Massachusetts, Mr. BRADY of Pennsylvania, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. HINOJOSA, Ms. BERKLEY, Mr. GINGREY of Georgia, Mr. HONDA, Mr. FLEMING, Mr. COHEN, Mr. SERRANO, Mr. HOLT, Ms. BORDALLO, Mr. GORDON of Tennessee, Mr. RUSH, Mr. ROE of Tennessee, Mr. SMITH of New Jersey, Mr. LYNCH, Ms. NORTON, Mr. GUTIERREZ, Mrs. DAVIS of California, Ms. CORRINE BROWN of Florida, Ms. WATERS, Mr. BURTON of Indiana, and Mr. BROUN of Georgia):

H. Con. Res. 142. Concurrent resolution supporting National Men's Health Week; to the Committee on Oversight and Government Reform.

By Mr. HOLT (for himself, Mr. BROWN of South Carolina, and Mr. HALL of New York):

H. Con. Res. 143. Concurrent resolution expressing support for the designation and goals of "Hire a Veteran Week" and encouraging the President to issue a proclamation supporting those goals; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MCCOLLUM:

H. Res. 499. A resolution congratulating the University of St. Thomas Tommies baseball team for winning the 2009 National Collegiate Athletic Association Division III Men's Baseball National Championship; to the Committee on Education and Labor.

By Mr. HOYER:

H. Res. 500. A resolution raising a question of the privileges of the House; to the Committee on Standards of Official Conduct.

By Mr. GARY G. MILLER of California (for himself, Mrs. MCCARTHY of New York, Mrs. BIGGERT, Mr. HINOJOSA, Mr. CALVERT, Ms. BORDALLO, Mr. DAVIS of Kentucky, Mr. MILLER of North Carolina, Mr. CHILDERS, Mr. CASTLE, Mr. BACHUS, Mr. NEUGEBAUER, and Mr. GERLACH):

H. Res. 502. A resolution recognizing National Homeownership Month and the importance of homeownership in the United States; to the Committee on Financial Services.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. INSLEE introduced a bill (H.R. 2694) to authorize the Secretary of the department in which the Coast Guard is operating to issue a certificate of documentation with a coastwise endorsement for the vessel GULF DIVER IV; which was referred to the Committee on Transportation and Infrastructure.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Ms. BEAN and Mr. POE of Texas.  
 H.R. 147: Mr. LYNCH, Mr. QUIGLEY, Mr. LOBIONDO, Mr. MURTHA, Mr. CULBERSON, Mr. FLEMING, Mr. LIPINSKI, and Ms. KAPTUR.  
 H.R. 197: Mr. HUNTER, Ms. FALLIN, and Mr. OLSON.  
 H.R. 213: Mr. LOBIONDO, Mr. MCCOTTER, and Mr. LEE of New York.  
 H.R. 220: Mr. MCCOTTER.  
 H.R. 233: Mr. KAGEN.  
 H.R. 235: Mr. BLUMENAUER, Mr. GRAVES, Mr. BUCHANAN, Mr. GUTIERREZ, and Mr. LUETKEMEYER.  
 H.R. 275: Mr. MACK, Mr. GARRETT of New Jersey, Mr. ROSKAM, Mr. BAIRD, Mr. WU, Mr. HIMES, and Mr. MURPHY of Connecticut.  
 H.R. 303: Ms. FOXX.  
 H.R. 406: Mr. COBLE and Mr. MARSHALL.  
 H.R. 422: Mr. BOSWELL, Mr. CONNOLLY of Virginia, Mr. ETHERIDGE, Ms. ZOE LOFGREN of California, and Ms. TSONGAS.  
 H.R. 442: Mrs. MILLER of Michigan, Mr. MACK, Mr. CARTER, Mr. LAMBORN, Mr. OLSON, Ms. FALLIN, and Mr. HUNTER.  
 H.R. 450: Mr. SMITH of Texas.  
 H.R. 669: Mr. BAIRD.  
 H.R. 690: Mr. SCHIFF.  
 H.R. 716: Mr. PAYNE.  
 H.R. 816: Mr. PERLMUTTER and Ms. KILPATRICK of Michigan.  
 H.R. 840: Mr. WEINER, Ms. CORRINE BROWN of Florida, Mr. COURTNEY, Mr. TONKO, Mr. VAN HOLLEN, Mr. YARMUTH, and Ms. ROYBAL-ALLARD.  
 H.R. 868: Mr. GERLACH and Mr. GUTIERREZ.  
 H.R. 879: Mr. GERLACH.  
 H.R. 890: Mr. CAPUANO.  
 H.R. 904: Mr. RUSH and Mr. YARMUTH.  
 H.R. 948: Mr. HEINRICH.  
 H.R. 977: Mr. MICHAUD.  
 H.R. 980: Mr. HODES.  
 H.R. 997: Mr. BLUNT.  
 H.R. 1032: Mr. PETRI and Mr. KISSELL.  
 H.R. 1051: Mr. BOUCHER, Mr. MCINTYRE, and Mr. MOORE of Kansas.  
 H.R. 1053: Mr. KRATOVL.  
 H.R. 1064: Mr. DEFazio, Mr. LOEBSACK, Mrs. MYRICK, and Mr. PIERLUISI.  
 H.R. 1066: Mr. MARKEY of Massachusetts, Ms. HERSETH SANDLIN, Mr. ROTHMAN of New Jersey, and Mr. COHEN.  
 H.R. 1074: Mr. HUNTER, Mr. HASTINGS of Washington, and Ms. FALLIN.  
 H.R. 1080: Mr. KILDEE, Mr. PALLONE, and Mr. HINCHEY.  
 H.R. 1118: Mrs. McMORRIS RODGERS.  
 H.R. 1129: Mr. QUIGLEY and Ms. KAPTUR.  
 H.R. 1157: Mr. KLEIN of Florida.  
 H.R. 1179: Ms. ESHOO.  
 H.R. 1189: Mr. HINCHEY.  
 H.R. 1193: Mr. MCCOTTER and Mr. GORDON of Tennessee.  
 H.R. 1203: Mr. RODRIGUEZ, Mr. SPRATT, Mr. ROGERS of Alabama, and Mr. SMITH of Texas.  
 H.R. 1207: Mr. YOUNG of Florida, Mr. GRIJALVA, Mr. FRELINGHUYSEN, and Mrs. HALVORSON.  
 H.R. 1211: Mr. RODRIGUEZ, Mr. MARSHALL, Mr. GONZALEZ, Mrs. DAVIS of California, Mr. COURTNEY, Mr. BROWN of South Carolina, and Ms. BERKLEY.  
 H.R. 1214: Mr. REYES, Mr. PAYNE, and Mr. SERRANO.  
 H.R. 1378: Mr. UPTON.  
 H.R. 1402: Ms. BORDALLO, Mr. KUCINICH, Mr. RYAN of Ohio, Mr. KLEIN of Florida, Mr. RODRIGUEZ, Mr. WALZ, Mr. WILSON of Ohio, Ms. LINDA T. SANCHEZ of California, and Mr. BOCCIERI.  
 H.R. 1430: Mr. GRAVES.  
 H.R. 1441: Mr. HALL of Texas.  
 H.R. 1452: Mr. LATHAM.  
 H.R. 1454: Mr. HONDA.  
 H.R. 1470: Ms. SHEA-PORTER.

H.R. 1509: Mr. CARNEY and Mrs. HALVORSON.  
 H.R. 1526: Mr. CARNAHAN.  
 H.R. 1547: Ms. HERSETH SANDLIN, Mr. COOPER, and Mrs. CAPITO.  
 H.R. 1552: Mr. HIMES.  
 H.R. 1558: Mr. CLAY, Mr. KLEIN of Florida, Ms. MCCOLLUM, Mr. HINCHEY, and Mr. TONKO.  
 H.R. 1570: Ms. BORDALLO and Mr. MCCOTTER.  
 H.R. 1584: Mr. WITTMAN.  
 H.R. 1620: Mr. MCHENRY.  
 H.R. 1670: Ms. PINGREE of Maine.  
 H.R. 1677: Mr. KILDEE.  
 H.R. 1688: Mr. DAVIS of Kentucky and Mr. GUTHRIE.  
 H.R. 1691: Mr. BOUCHER and Mr. HALL of New York.  
 H.R. 1702: Mr. BISHOP of Georgia, Mr. MOORE of Kansas, Mr. WALZ, Mr. SNYDER, and Mr. CLAY.  
 H.R. 1705: Ms. SLAUGHTER and Mr. GUTIERREZ.  
 H.R. 1796: Mr. NYE and Ms. SCHAKOWSKY.  
 H.R. 1799: Mr. HALL of Texas.  
 H.R. 1826: Ms. WOOLSEY and Mr. ISRAEL.  
 H.R. 1844: Mr. McDERMOTT, Mr. CAO, Ms. ZOE LOFGREN of California, Mr. ETHERIDGE, and Mr. BOUCHER.  
 H.R. 1881: Mr. OBERSTAR, Mr. CLEAVER, Mr. SCOTT of Georgia, Mr. DOYLE, and Mr. LANDEVIN.  
 H.R. 1894: Mr. ARCURI, Ms. RICHARDSON, Mr. CLAY, Mr. PAULSEN, and Mr. MCCOTTER.  
 H.R. 1932: Ms. SCHAKOWSKY.  
 H.R. 1970: Mr. THOMPSON of California, Mrs. McMORRIS RODGERS, Mr. LOEBSACK, and Mr. BOUCHER.  
 H.R. 2000: Ms. BORDALLO.  
 H.R. 2001: Mrs. CAPITO.  
 H.R. 2014: Ms. VELÁZQUEZ, Mr. POLIS of Colorado, Mr. SMITH of Washington, Mr. McMACHON, Ms. MCCOLLUM, Mr. LEWIS of California, Mr. ROYCE, Mr. BILBRAY, Mr. DAVIS of Alabama, Mr. WAMP, Ms. MARKEY of Colorado, Mr. QUIGLEY, Mr. ROSKAM, Ms. SLAUGHTER, Ms. ROYBAL-ALLARD, Mr. MITCHELL, Mr. DICKS, Mr. MCNERNEY, and Mr. SKELTON.  
 H.R. 2017: Mr. STEARNS.  
 H.R. 2021: Mr. CANTOR.  
 H.R. 2049: Mr. MURTHA and Mr. BOUSTANY.  
 H.R. 2058: Mr. GORDON of Tennessee.  
 H.R. 2060: Mr. SIRE.  
 H.R. 2062: Mr. HARE.  
 H.R. 2063: Mr. HERGER.  
 H.R. 2119: Mr. BUCHANAN.  
 H.R. 2123: Mr. DOYLE.  
 H.R. 2129: Mr. COHEN, Mr. WEXLER, and Mr. ACKERMAN.  
 H.R. 2132: Mr. SHERMAN and Mr. SESTAK.  
 H.R. 2139: Mr. PAULSEN and Mr. THORNBERRY.  
 H.R. 2149: Mr. WILSON of South Carolina.  
 H.R. 2181: Ms. LINDA T. SANCHEZ of California and Mr. FTLNER.  
 H.R. 2204: Ms. JENKINS, Ms. ESHOO, Mr. GONZALEZ, and Mr. CULBERSON.  
 H.R. 2214: Ms. SHEA-PORTER.  
 H.R. 2243: Mr. GUTHRIE, Mr. BARRETT of South Carolina, and Mr. MARSHALL.  
 H.R. 2299: Mr. MEEKS of New York, Ms. SCHAKOWSKY, and Mr. DRIEHAUS.  
 H.R. 2305: Mr. FORBES, Mr. KLINE of Minnesota, and Mr. MCCOTTER.  
 H.R. 2309: Mr. WAXMAN and Ms. SUTTON.  
 H.R. 2310: Mr. BOUSTANY, Mr. BAIRD, Mr. CONNOLLY of Virginia, Mr. DICKS, Mr. HONDA, Mr. CROWLEY, and Mr. PAULSEN.  
 H.R. 2322: Mr. SESTAK.  
 H.R. 2324: Mrs. LOWEY.  
 H.R. 2329: Mr. GUTHRIE, Mr. BOUCHER, and Ms. CORRINE BROWN of Florida.  
 H.R. 2360: Mr. COSTELLO, Mr. GALLEGLY, and Mr. KAGEN.

H.R. 2368: Ms. LEE of California.  
 H.R. 2373: Mr. COBLE, Mr. KISSELL, Mr. TIBERI, Mr. LEE of New York, and Mr. BARRETT of South Carolina.  
 H.R. 2389: Mr. SCHIFF.  
 H.R. 2405: Mr. LOBIONDO.  
 H.R. 2409: Mr. McHUGH and Mr. WESTMORELAND.  
 H.R. 2414: Mr. RODRIGUEZ, Mr. WU, and Mr. ARCURI.  
 H.R. 2427: Mr. DOYLE.  
 H.R. 2452: Mr. LATOURETTE, Mr. LEE of New York, Ms. BERKLEY, Mr. LARSON of Connecticut, Mr. HALL of Texas, Mr. JONES, and Mr. ROE of Tennessee.  
 H.R. 2480: Mr. JONES, Ms. LEE of California, Mr. SMITH of New Jersey, Mr. SERRANO, Mr. VAN HOLLEN, Mr. PASCRELL, Mr. WEXLER, Mr. KENNEDY, Mr. LYNCH, Mr. BERMAN, Mrs. CAPPS, Mr. WOLF, Mr. PAYNE, Mr. DOYLE, Mrs. DAVIS of California, and Mr. MCNERNEY.  
 H.R. 2483: Ms. MATSUI and Mr. NADLER of New York.  
 H.R. 2490: Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 2495: Mr. BURTON of Indiana.  
 H.R. 2499: Mr. PAUL, Mr. POSEY, Mr. AKIN, Mr. FRANKS of Arizona, Mr. DICKS, Mr. KIND, Ms. SHEA-PORTER, and Mr. LANGEVIN.  
 H.R. 2503: Mrs. BACHMANN and Mr. SMITH of Texas.  
 H.R. 2517: Mr. ABERCROMBIE and Mr. PALLONE.  
 H.R. 2519: Mr. VAN HOLLEN, Mr. CROWLEY, and Ms. SCHWARTZ.  
 H.R. 2527: Mr. MASSA and Mr. HONDA.  
 H.R. 2531: Mr. REYES, Mr. HOLT, Mr. ELLISON, Mr. NADLER of New York, and Ms. LEE of California.  
 H.R. 2537: Mr. SOUDER, Mr. FRANKS of Arizona, and Mr. PITTS.  
 H.R. 2539: Mr. BURTON of Indiana.  
 H.R. 2553: Mr. SMITH of Washington.  
 H.R. 2554: Mr. MURPHY of Connecticut.  
 H.R. 2562: Mr. PIERLUISI, Mr. CARNEY, and Ms. BORDALLO.  
 H.R. 2570: Ms. FUDGE and Ms. LINDA T. SANCHEZ of California.  
 H.R. 2577: Mr. VISCLOSKEY.  
 H.R. 2578: Mr. MEEKS of New York and Mr. LOBIONDO.  
 H.R. 2597: Ms. BORDALLO and Mr. STARK.  
 H.R. 2648: Ms. CLARKE, Mr. UPTON, and Mr. ISSA.

H.R. 2655: Mr. MANZULLO and Mr. TIBERI.  
 H.R. 2669: Mr. PALLONE.  
 H.R. 2670: Mr. PETERSON and Mr. KILDEE.  
 H. Con. Res. 20: Ms. LEE of California, Mr. ELLISON, and Mr. INGLIS.  
 H. Con. Res. 79: Mr. FATTAH and Mr. HASTINGS of Florida.  
 H. Con. Res. 94: Mr. TAYLOR.  
 H. Con. Res. 110: Ms. SHEA-PORTER, Mr. GORDON of Tennessee, and Mr. HARE.  
 H. Con. Res. 112: Mr. WALZ and Ms. MCCOLLUM.  
 H. Con. Res. 128: Ms. JACKSON-LEE of Texas and Ms. LEE of California.  
 H. Con. Res. 131: Mr. LATTA, Mr. BILBRAY, Mr. KING of Iowa, Mr. JONES, Ms. FALLIN, Mr. BURTON of Indiana, Mr. WESTMORELAND, and Mr. POSEY.  
 H. Con. Res. 132: Mr. WOLF, and Mr. GARRETT of New Jersey.  
 H. Res. 175: Mr. DENT.  
 H. Res. 185: Mr. LEWIS of Georgia.  
 H. Res. 236: Mr. LAMBORN.  
 H. Res. 241: Mr. WU and Mr. ROYCE.  
 H. Res. 260: Mr. CLEAVER, Mr. ISRAEL, Mr. HASTINGS of Florida, Mr. HODES, Ms. LINDA T. SANCHEZ of California, Mr. GEORGE MILLER of California, Mrs. MCCARTHY of New York, Mr. PERLMUTTER, Mr. LYNCH, Mr. TIERNEY, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Ms. FUDGE, Mr. COOPER, Mr. DONNELLY of Indiana, Mr. PETRI, Mr. KUCINICH, Mrs. DAVIS of California, Mr. LEVIN, Mrs. TAUSCHER, Mrs. MALONEY, Ms. WOOLSEY, Ms. SLAUGHTER, Mr. KLEIN of Florida, Mr. DOGGETT, Mr. KANJORSKI, Mr. WALZ, Ms. SHEA-PORTER, Mr. HALL of New York, Mr. KAGEN, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. LOEBBACH, Mr. HILL, Mr. ELLISON, Mr. BRALEY of Iowa, and Mr. TANNER.  
 H. Res. 293: Mr. LOBIONDO and Mr. HOLT.  
 H. Res. 330: Mr. HILL, Mr. MOORE of Kansas, Mr. NYE, Ms. HARMAN, and Mr. BOSWELL.  
 H. Res. 366: Mr. TIBERI, Mr. KIRK, Mr. MICHAUD, and Mr. GONZALEZ.  
 H. Res. 373: Mr. WOLF and Mr. McHUGH.  
 H. Res. 410: Ms. WASSERMAN SCHULTZ, Mr. ARCURI, Ms. BORDALLO, Mr. JONES, Mr. SHUSTER, Mr. PUTNAM, Mr. COBLE, Ms. BERKLEY, Ms. ROS-LEHTINEN, Mr. MCINTYRE, Mr. MACK, and Mr. OBERSTAR.  
 H. Res. 419: Ms. SCHAKOWSKY.  
 H. Res. 437: Mr. HOLT, Ms. ZOE LOFGREN of California, Mr. CALVERT, and Ms. ESHOO.

H. Res. 439: Mr. SERRANO.  
 H. Res. 443: Ms. SCHAKOWSKY, Mr. WATT, Mr. PIERLUISI, and Ms. BORDALLO.  
 H. Res. 469: Mr. CARNAHAN, Mr. REHBERG, Mr. WALDEN, Mr. BURGESS, Mr. GERLACH, Mr. BONNER, Mr. KLINE of Minnesota, Mr. OLSON, Mr. DAVIS of Kentucky, Mr. BOUSTANY, Mr. DEAL of Georgia, Mr. GUTHRIE, Mr. GALLEGLY, Ms. MOORE of Wisconsin, Mr. TIBERI, Mr. COFFMAN of Colorado, Mr. HUNTER, Mr. YOUNG of Florida, Mr. MCCOTTER, Mr. CALVERT, Mr. CASTLE, Mr. ADERHOLT, Mr. BURTON of Indiana, Mr. RADANOVICH, Mr. ISSA, Mr. MCCLINTOCK, Mr. SHUSTER, Mr. MILLER of Florida, Mr. CONAWAY, Mr. DENT, Mr. BLUNT, Mr. MCKEON, Mr. MARCHANT, Mr. SESSIONS, Mr. ALEXANDER, Mr. HASTINGS of Washington, Mr. HELLER, Mr. MACK, Mrs. BONO MACK, Mr. TIAHRT, Mr. TERRY, Mr. SCHOCK, Mr. MCHENRY, Mrs. CAPITO, Mr. AUSTRIA, Mrs. SCHMIDT, Mr. MCCARTHY of California, Mr. MARIO DIAZ-BALART of Florida, Mr. SOUDER, Mr. MORAN of Kansas, Mr. ROGERS of Alabama, Mr. TURNER, and Mr. PENCE.  
 H. Res. 473: Mr. WESTMORELAND, Mr. GARRETT of New Jersey, Mr. BROUN of Georgia, Mr. CONAWAY, and Mr. BILBRAY.  
 H. Res. 476: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Mr. HONDA, Mr. TANNER, and Mr. NADLER of New York.  
 H. Res. 480: Ms. CLARKE.  
 H. Res. 484: Mr. PALLONE.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative ISSA of California, or a designee, to H.R. 626, the Federal Employees Paid Parental Leave Act of 2009, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

## EXTENSIONS OF REMARKS

HONORING MARK COHN'S 80TH  
BIRTHDAY AND HIS DEDICATION  
TO SACRAMENTO COUNTY

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. MATSUI. Madam Speaker, I rise today to honor Mr. Mark Cohn for his sixty years of service and devotion to the Mosaic Law Congregation and the greater Sacramento community. On May 31st, the Mosaic Law Congregation celebrated Mr. Cohn's 80th birthday and honored him for his immeasurable dedication to the people of Sacramento. As Mr. Cohn's friends, family and colleagues gather to pay tribute to his lifelong achievements, I ask that all my colleagues join me in honoring this inspirational individual.

After proudly serving his country in the U.S. Air Force from the late 1940s to the early 1950s, Mr. Cohn returned to Sacramento and started his Kustom Kitchens design business. Since the inception of Kustom Kitchens, Mr. Cohn has received numerous residential designs awards which have been publicized in many local and national publications, such as the Sacramento Bee and Sacramento Magazine.

Despite the demands and immense time commitment it takes to run a successful business, Mr. Cohn continues to give back to the Sacramento community. A few of the many organizations Mr. Cohn has volunteered his time to includes the YWCA, Stanford Home Foundations, B'nai Brith, and 4 Robinhoods. "He takes on any challenge and never lets anything get in the way of the big picture," said his wife Dianne Cohn, "he never seems to run out of energy." For example, from 1991 to 1995, Mr. Cohn served as President of the Mosaic Law Congregation, managed his Kustom Kitchens business and served on various non-profit boards.

Mr. Cohn continues to be an incredibly active gentleman, walking the Great Wall of China at the age of 73, and skydiving at the ages of 75 and 80! Throughout his life, Mr. Cohn has shown substantial leadership skills, strength, innovation, and passion. He is a man we can all look up to.

Madam Speaker, as Mark Cohn, his wife Dianne and children Shelli, Lanie, Nelson, Larry, and Scott, along with his many friends and colleagues gather to celebrate Mr. Cohn's 80th birthday, I ask all my colleagues to join me in saluting him.

HONORING BETH ASHLEY

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. WOOLSEY. Madam Speaker, I rise with pleasure today to honor my long-time friend, Beth Ashley, of Marin County, California. Beth is retiring from the Marin Independent Journal, IJ, after 35 years of passionate and thoughtful writing that has made her a community institution.

Beth's news career began with school newspapers, including editor of the Stanford Daily. At the Marin IJ, she has served in many roles, most recently as a feature writer. Her columns reflected her immersion in many aspects of county life as well as her foreign travels. From Moscow during the early years of Glasnost to Afghanistan and Iran, her trips tended to focus on the humanitarian struggles in troubled areas of the world. Her compassionate heart shines through all her work.

From raising five sons to serving on non-profit boards in Marin County, Beth has had a very full life in addition to her IJ duties. Now 83, she writes that "it's hard to act the intrepid girl reporter, especially when I totter a bit when I walk and can hardly see, hear or speak coherently to boot." But she assures us she has "loved every minute. I only wish I'd done more."

Beth has done more in her career than most of us can dream of. The community will miss her regular features, but we still expect to see her around town enjoying her new adventure—she will be remarrying in a few months.

Madam Speaker, Beth Ashley's work has expressed the heart and soul of Marin County. It has been an honor and delight to read her columns and to know her as a friend. I wish her the best of luck in her retirement and in her new marriage.

### PERSONAL EXPLANATION

**HON. TRENT FRANKS**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. FRANKS of Arizona. Madam Speaker, on rollcall No. 292, I was unavoidably detained. Had I been present, I would have voted "yes."

A PROCLAMATION HONORING  
CLOW WATER SYSTEMS COM-  
PANY'S 100 YEAR ANNIVERSARY  
OF PROVIDING UNINTERRUPTED  
AND DEDICATED SERVICE

**HON. ZACHARY T. SPACE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. SPACE. Madam Speaker:  
Whereas, Clow Water Systems was founded on March 17, 1910 in the city of Coshocton; and

Whereas, Clow Water Systems has grown from a two-man operation to employing more than 350 workers; and

Whereas, Clow Water Systems has been at the cutting edge of pipe and fitting production, often trading and competing in discoveries that have both improved efficiency and lowered costs industry-wide; and

Whereas, Clow Water Systems recently expanded their industry even further, exporting pipes to help in the effort to rebuild Iraq; now, therefore, be it

Resolved, that along with their friends and family, and the residents of the 18th Congressional District, I congratulate Clow Water Systems Company on their 100 Year Anniversary. Their dedication to quality products and customer service has made them a dependable pillar of the Coshocton community.

IN RECOGNITION OF JACK E.  
SINGLEY AND HIS DEDICATED  
SERVICE TO IRVING INDE-  
PENDENT SCHOOL DISTRICT

**HON. PETE SESSIONS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. SESSIONS. Madam Speaker, I rise today to honor Mr. Jack E. Singley, former Superintendent of the Irving Independent School District (IISD).

Mr. Singley first joined Irving ISD as a math teacher at MacArthur High School in 1965. Over the past forty-four years, he has served in various roles from teacher to vice principal to personnel director to Superintendent. Upon taking the reins as Superintendent in 1988, Irving ISD has undergone tremendous change. Irving ISD added eight schools, enrollment grew from 21,887 to 33,233 students, over 30,000 students graduated from high schools, and employees increased from 2,309 to 4,177. He exhibited great leadership skills and carried out his vision to improve Irving ISD, helping students achieve their full potential. Aside from being one of the longest serving Superintendents in the State of Texas, Jack will be remembered for his commitment to public education and dedicated service to Irving ISD. He

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

has touched countless lives and will be greatly missed.

Madam Speaker, I ask my esteemed colleagues to join me in congratulating Mr. Singley for devoting his career to public education and expressing our heartfelt gratitude for his forty-four years of service to Irving ISD.

#### MEDIA SHOW

### HON. LAMAR SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. SMITH of Texas, Madam Speaker, Judge Sotomayor has yet to answer a question at a confirmation hearing, but the national media's verdict already is in.

Network evening newscasts used the term "conservative" to describe Judge Sotomayor's critics more often than they used the term "liberal" to describe Judge Sotomayor herself, despite her very liberal record.

And there is a clear double standard in the media's coverage of Judge Sotomayor compared to President Bush's nominees.

After they were nominated, the national media referred to Justice Alito and Justice Roberts as "conservative" far more frequently than they have labeled Judge Sotomayor "liberal."

In addition, the national media have heralded Judge Sotomayor's impressive life story, despite ignoring the similar personal story of former Attorney General Alberto Gonzales during his confirmation.

The national media should set aside bias and treat Judge Sotomayor the same way they treated previous nominees.

**HONORING THE LIFE OF MARIA ESTHER CARRILLO, FOUNDER OF THE HISPANIC-AMERICAN INTERCULTURAL WORKSHOP, FORMER MEMBER OF THE MAYOR'S HISPANIC ADVISORY COUNCIL, FOUNDER OF THE HISPANIC YOUTH VOICE OF TAMPA AND FORMER DIRECTOR OF THE TAMPA HISPANIC HERITAGE INC.**

### HON. KATHY CASTOR

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Ms. CASTOR of Florida. Madam Speaker, I rise today to herald the life and philanthropic contributions of Maria Esther Carrillo, and to express our gratitude for her achievements in the Tampa Bay area as a passionate community activist and educational leader.

Carrillo and her husband Francisco escaped a violent Colombia, controlled by Marxist guerrillas and drug cartels, to settle in Tampa in 1990; only five years after graduating from The University of the Andes in 1985. Carrillo immediately identified with the strong Hispanic culture in Tampa. She made it her life's work to focus on improving the education of those around her. She sought to bridge English and Hispanic cultures by introducing multicultural

studies in language and heritage. Through her work with the Tampa Hispanic Heritage Inc., Carrillo was able to bridge communities of Hispanic and non-Hispanic citizens through countless cultural celebrations and in so doing fusing together diverse groups within the Tampa area.

Carrillo's faith and fervor in a multicultural Tampa, led to the foundation of the Taller Intercultural Hispano-Americano (TICH) in 1998. Her non-profit was established to champion the coexistence of diverse groups; to educate, share and enjoy other cultures and heritage. Carrillo, the Founder-Director, amassed sponsorships for a free festival that emphasized dance, folklore, food, culture, lifestyle and art for the Tampa community.

Her core beliefs were founded in the limitless potential of the next generation and it is with her commitment that her intrinsic reaction was not surprising. Sacrificing herself, Maria Esther Carrillo moved her body into harm's way, allowing her maternal instinct to shield her daughter from the out of control truck in Miami, Florida. The proud mother was accompanying her daughter, a high school senior, home after accepting a college scholarship so that she could attend Columbia University in the fall.

She lived as she died, protecting and helping the future of the hardworking Hispanic youth that she loved so dearly.

I wish Maria Liliana Carrillo a speedy recovery and my thoughts and prayers are with the Carrillo family.

#### INTRODUCING THE HEALTHY TRANSITIONS ACT OF 2009

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. STARK. Madam Speaker, I rise today with Representatives MARY BONO MACK and DAVE CAMP to introduce bipartisan legislation aimed at addressing the unique needs of young people with serious mental illness. This legislation will provide comprehensive support for youth so that they can transition into healthy and successful adults.

Young adults suffering from mental illness fall through the cracks far too often. Last year, former Senator Gordon Smith and I requested a report from the Government Accountability Office (GAO) examining the challenges facing this population. The results were very troubling. As of 2006, approximately 2.4 million young adults age 18–26 in America had a serious mental illness and another 9.3 million suffered with a moderate or mild mental illness. This population has significantly higher rates of unemployment, incarceration, suicide, inadequate housing, as well as lower rates of continuing education.

There is no coherent federal policy to address this issue and our system is fragmented. The GAO found that many youth lose mental health coverage or have their coverage disrupted when they turn 18, and are unable to find age-appropriate services in the adult mental health system. As a result, many young adults are adrift without services, support, or guidance.

The dysfunctional mental health system described by GAO has had a particularly harsh impact on vulnerable youth, such as those aging out of foster care. A national survey found that foster youth were four times more likely to have attempted suicide in the preceding year when compared to those never placed in foster care. Another study found that these youth suffer from Post Traumatic Stress Disorder at rates similar to Iraq War veterans. We cannot let this cycle of neglect continue.

We developed the Healthy Transitions Act in response to GAO's findings that exposed the critical gaps in age-appropriate mental health and supportive services for young adults. This legislation builds on the successful Partnership for Youth in Transition Demonstration Program and will allow the Substance Abuse and Mental Health Services Administration (SAMHSA) to expand their efforts to assist states in serving young people with mental illness. It will provide grant funding to states to develop statewide coordination plans that will assist adolescents and young adults with serious mental health disorders in making a healthy transition into adulthood. The bill will also provide grant funding for states to successfully implement their plans and ensure that the care systems created are both comprehensive and sustainable. Finally, the legislation will create a Committee of Federal Partners. The Committee will include representatives from all agencies that serve young adults as well as representatives from consumer and family advocacy organizations. The Federal Partners will evaluate the states' programs, provide technical assistance, and report to Congress on the progress being made.

It has become increasingly difficult for young adults to navigate our current fragmented mental health system. The Healthy Transitions Act aims to fill the cracks in the system by coordinating the work of federal, state, and local partners. It is our social responsibility to help these youth develop into successful, independent adults. I hope all of my colleagues can recognize the importance of investing in our young people and will support this legislation.

**IN HONOR OF NATIONAL ARTHRITIS MONTH AND THE MILLIONS OF AMERICANS LIVING WITH ARTHRITIS**

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. PALLONE. Madam Speaker, I rise today to recognize that last month was National Arthritis Awareness Month. This commemoration provided an important opportunity to discuss the serious impact of arthritis, particularly for older Americans, and to highlight the range of treatments available to improve the health and quality of life of individuals with arthritis. However, just because May is over, doesn't mean our awareness of arthritis and the millions of Americans living with arthritis should be any less diminished.

The term arthritis describes more than 100 diseases and conditions affecting the joints.

The most common form of arthritis is osteoarthritis, which is a painful chronic condition characterized by the breakdown of the joint's cartilage. Osteoarthritis affects almost 27 million Americans. Older Americans are particularly impacted by this disease, with a third of the population 65 and older affected by osteoarthritis.

Osteoarthritis limits the movement of most patients, and can seriously interfere with basic activities of daily living. In fact, osteoarthritis of the knee is one of the leading causes of disability among non-institutionalized adults. As an indication of the seriousness of this disease, hospitalizations for osteoarthritis also are on the rise, increasing from about 322,000 in 1993 to 735,000 in 2006.

Fortunately, there are a range of treatments available that can help many individuals with osteoarthritis reduce the pain they experience, minimize damage to their joints, and improve their physical functions. In some cases, these treatments involve lifestyle modifications, such as exercise and weight loss. In other cases, physical therapy or medications can lead to improvements. And even in the more advanced cases of osteoarthritis, including those that have not responded to other treatments, surgical intervention, including debridement, resurfacing, and total joint replacement, can relieve pain and improve joint function.

Given the prevalence of osteoarthritis among the elderly, it is especially important for senior citizens to know that Medicare covers a wide range of osteoarthritis treatments. Doctor's visits, physical therapy, and surgical procedures, including total joint replacement surgery, all may be covered by Medicare if medically appropriate. It is also important to ensure that Medicare beneficiaries with advanced OA do not forgo medically necessary joint replacement procedures because of concerns about copayments, since pain and disability can get progressively worse when such procedures are delayed. In fact, most Medicare beneficiaries have supplemental coverage, such as Medigap or employer-provided insurance, to help pay the premium, deductible, and coinsurance associated with joint replacement surgery. Fear about copayments should not stand in the way of a beneficiary obtaining relief from this painful and debilitating disease.

Whether it be National Arthritis Awareness month or any month, individuals with arthritis should take the opportunity to talk to their doctors about lifestyle changes and other treatments available to help them manage their condition. With appropriate care, individuals with arthritis can take steps to live active, pain free lives.

**RECOGNIZING THE 50TH ANNIVERSARY OF STS. VARTANANTZ ARMENIAN APOSTOLIC CHURCH OF RIDGEFIELD, NEW JERSEY**

**HON. STEVEN R. ROTHMAN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. ROTHMAN. Madam Speaker, I rise today to honor the 50th anniversary of Sts. Vartanantz Armenian Apostolic Church of Ridgefield, New Jersey.

On May 19, 1957, a community's dream began to take shape. On that day, ground was broken for what was then known as the Armenian Apostolic Church of New Jersey. In two short years, the Armenian American community of Bergen County came together and raised the necessary funds to realize the dream of building a church.

On May 3, 1959, the church was consecrated by His Eminence Archbishop Khoren Paroyan, Nuncio of His Holiness Zareh I, Catholicos of the Great House of Cilicia.

Sts. Vartanantz today stands as a beacon of Armenian American community life in Bergen County with its Sunday school, the Nareg Saturday Armenian School, the ladies guild, the men's club, the seniors groups, and several cultural, youth, educational, and fraternal organizations working to perpetuate the Armenian faith and heritage.

I extend my congratulations to the pastor, Rev. Fr. Hovnan Bozoian, the Board of Trustees, and all members and friends of Sts. Vartanantz and wish them many more years of growth and service to the Armenian American community.

I sincerely hope that my colleagues will join me in celebrating the 50th anniversary of Sts. Vartanantz Church for its contributions to the Armenian American residents of Bergen County, as well the larger Armenian American community in the United States.

**PERSONAL EXPLANATION**

**HON. HOWARD COBLE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. COBLE. Madam Speaker, yesterday my flight was cancelled due to weather and I missed the three suspension votes.

On rollcall No. 292—H. Res. 421—Recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary, I would have voted "aye."

On rollcall No. 293—H.J. Res. 40—Native American Heritage Day Act of 2009, I would have voted "aye."

On rollcall No. 294—H. Res. 489—Recognizing the 20th anniversary of the brutal suppression of protesters and citizens in and around Tiananmen Square, I would have voted "aye."

**RECOGNIZING 65TH ANNIVERSARY OF ALLIED LANDING ON D-DAY**

**HON. TED POE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. POE of Texas. Madam Speaker, "We shall not flinch or fail. We shall go on to the end. . . . We shall fight on the seas and oceans. We shall fight with growing strength in the air. We shall defend . . . whatever the cost may be. We shall fight on the beaches. We shall fight on the landing grounds. We shall fight in the fields and in the streets. We shall fight everywhere. We shall never surrender."

Winston Churchill said this showing the dedication of our armed forces. They never give up; and, of course, they never give in.

Churchill was right, Madam Speaker. In WWII, American troops did not flinch—they fought wherever and whenever they were needed—to the very end.

For many young Americans, 31,000, to be specific, that courage took them to the beaches of Normandy, France.

And for more than 6,000 Americans that meant giving everything they had for the cause of liberty and freedom.

This July 6th marks the 65th anniversary of the infamous D-day.

I am a proud cosponsor of the resolution before the House today which expresses the gratitude and appreciation of the House of Representatives for the acts of heroism and military achievement of all the Members of the Armed Forces who participated in the D-day landings on Normandy beach.

These brave warriors went to war to liberate Europe for the cause of freedom.

The average age of the brave young warriors representing the United States on those shores was just 20 years old.

They might have been young Madam Speaker, but their leadership and their commitment to freedom marked the beginning of the liberation of France and ultimately culminated in the destruction of the Nazi Empire and the triumph of the Allied Forces.

I am pleased to speak in support of the resolution today and urge all my colleagues to support this important legislation.

And that's just the way it is.

**HONORING THE JHPIEGO GROUP**

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the JHPIEGO Group for its continuing efforts in preventing the deaths of women and children around the globe, on its 35th Anniversary.

For two and a half decades, the JHPIEGO Group has brought medical innovations into common practice for the worlds most vulnerable populations in order to bring high-quality medical services to these areas. While they began as a group of technical experts in reproductive, maternal, and children's health, they have expanded their purpose by embracing new challenges, including education of HIV/AIDS prevention, malaria, and cervical cancer.

In its continuing mission to save lives around the world, the JHPIEGO Group has become an innovator of healthcare treatments, a leader in sustainable healthcare systems, and a voice around the world advocating for the advancement of policies and programs designed to improve healthcare the world over. They have become a model for similar institutions worldwide by providing data, research and training.

The JHPIEGO Group provides front-line healthcare workers with effective, low cost, and hands on solutions designed to enhance

the delivery of health care services in difficult environments. By partnering with organizations from the local to national level, the JHPIEGO Group has been successful in building sustainable local capacity healthcare reforms through advocacy, policy development, and quality improvement approaches. Over the course of this journey, the JHPIEGO Group has worked in 150 countries and is currently running 60 programs in 40 countries.

Madam Speaker, I ask that you join with me today to honor the JHPIEGO Group on this memorable occasion. Their dedication to improving the quality of life of people around the world has provided life saving health care and opportunities for medical advancement that have made a positive difference in the global community.

#### RECOGNIZING THE POLK COUNTY CHAMBER OF COMMERCE

##### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. GINGREY of Georgia. Madam Speaker, I rise today to recognize a delegation, from my district that has traveled to Washington representing Polk County, Georgia and its Chamber of Commerce. The delegation includes representatives from the Chamber, elected officials from the City of Cedartown, elected officials from the City of Rockmart, county elected officials, as well as local business leaders.

Located just outside metro Atlanta on the Georgia-Alabama line, Polk County offers a number of great opportunities for both residents and businesses that are looking to locate to Georgia. However, like counties across America, Polk County and its citizens are facing their own economic challenges. For this reason, this delegation has come to Washington to advocate on behalf of their community and to discuss both the potential positive and negative impact that actions here in Washington can have not just on Polk County, but on all of our Nation's communities.

I want to take this opportunity to commend the Polk County Chamber of Commerce for taking this proactive approach in representing the best interests of the people of Northwest Georgia. I look forward to our visit as we continue to work together to facilitate a stronger and even more economically vibrant Polk County.

#### PERSONAL EXPLANATION

##### HON. TRENT FRANKS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. FRANKS of Arizona, Madam Speaker, on rollcall No. 293, I was unavoidably detained.

Had I been present, I would have voted "yes."

#### HONORING WINKELMAN BUILDING CORPORATION OF ST. CLOUD, MINNESOTA, FOR 40 YEARS OF EXCELLENCE

##### HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mrs. BACHMANN. Madam Speaker, I rise today to honor Winkelman Building Corporation on its 40th anniversary as a business leader in the St. Cloud community. Success at their level of expertise could not have been achieved without hard work, long hours, and many sacrifices. I know that everyone at Winkelman Building Corporation can be very proud of the accomplishment that brings them together at this milestone.

Winkelman Building Corporation has been working with communities across the nation to build structures that serve a purpose and make a statement. They have been recognized 18 times by local and national groups for their innovation and excellence since 1993. Most recently, they were awarded the Project of the Year by the Minnesota Construction Association for the Kennedy Community School in St. Joseph, Minnesota. This school is the pride of the community and one of the first Leader in Energy and Environmental Design (LEED) certified schools in the nation. When I toured the Kennedy Community School I was impressed by the amount of thought that went into making it not only an innovative facility, but a welcoming place in which children could learn.

I rise today, Madam Speaker, to honor the tireless efforts of the employees at Winkelman Building Corporation that have brought this company four decades of success. The backbone of our local and national economies is America's small businesses, and through good times and bad, companies like Winkelman are pulling through with resolve and optimism. I join other community and business leaders in St. Cloud in looking forward to another 40 years of groundbreakings, grand openings and award celebrations.

#### A TRIBUTE TO JANE HAGEDORN

##### HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Ms. MATSUI. Madam Speaker, I rise today in recognition of Jane Hagedorn's 33 years of service as Chief Executive Officers of Breathe California of Sacramento-Emigrant Trails, Inc. As Jane retires, she leaves a lasting legacy of dedication and commitment to the Sacramento region. After decades of service, her leadership and expertise will be deeply missed by all. I ask all my colleagues to join me in honoring one of Sacramento's finest public servants.

After earning her bachelor's degree with honors in political science from the University of North Carolina at Chapel Hill, and her master's degree in International Relations and Latin American Studies from Johns Hopkins

School of Advanced International Studies, Jane spent the last three decades advocating on behalf of the people of Sacramento for improved air quality. I met Jane when she first came to Sacramento and have always been impressed by her intellect, compassion, and desire to do what is right. She began her career with Breathe California of Sacramento-Emigrant Trails, Inc, formerly known as American Lung Association of Sacramento Emigrant Trails, in 1976. Under her leadership, the association has developed innovative clean air strategies which include creating the Cleaner Air Partnership with the Chamber of Commerce, bringing light rail to the Sacramento area, and working toward clean air initiatives. Breathe California was also a strong proponent of Proposition 99, California's tax initiative to reduce smoking.

Her dedication to our community is apparent through her work both with Breathe California and with other local non-profits. She serves on the board of Tahoe Regional Planning Agency, Arden Park and Recreation District, Friends of Light Rail, Planning and Conservation League, Sacramento Tomorrow Coalition, and the Sacramento Symphony. Additionally, she was the first woman appointed to the Sacramento County Planning Commission, was the founding President of the Sacramento Tree Foundation and is instrumental in the California Oak Foundation. Jane has chaired the American River Parkway Funding Working Group and served on the Board of Directors of Valley Vision. She has taught at the University of California, Davis Graduate School of Management and has co-authored two books on historic preservation of native oaks in the Central Valley. Personally, I am honored to call Jane my friend. She has always been a pleasure to work with. Her thoughtfulness and intelligence has touched many policy debates and countless people's lives.

Madam Speaker, I am honored to pay tribute to Jane Hagedorn's distinguished commitment to Sacramento and regions needs. Jane's outstanding leadership and dedication to Breathe California of Sacramento-Emigrant Trails Inc, has helped promote clean air strategies which has set an example for others across the state nation. We all are thankful for her efforts. As Jane's husband Jim, her children James and Jennifer, colleagues, family, and friends gather to honor her service, I ask all my colleagues to join me in wishing Jane Hagedorn continued good fortune in her future endeavors.

#### DEDICATION OF THE LIGHT OF RECONCILIATION MEMORIAL IN PRINCE EDWARD COUNTY, VIR- GINIA

##### HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. PERRIELLO. Madam Speaker, today I wish to commemorate the official unveiling and dedication of the Light of Reconciliation Memorial in Prince Edward County, Virginia. The Light of Reconciliation, in the bell tower of the Prince Edward County Courthouse, is a

permanent monument created to honor the memory of the historic events in Prince Edward County during the era of public school segregation, to recognize the role of local students in ending school discrimination in Virginia and across the United States and to call on each of us to shine our own Light of Reconciliation in the world.

In 1951, a group of dedicated high school students led by Barbara Rose Johns organized a strike to protest the disgraceful condition of Robert Russa Moton High School in Farmville, Virginia. The school lacked a gymnasium, a cafeteria, heat, desks, blackboards, and in some cases even classrooms: a school bus parked outside served as one classroom for the overcrowded and underfunded school. The student strike ultimately led to Davis v. County School Board of Prince Edward County, one of the five court cases that would make up Brown v. Board of Education. The Davis case was the only one of the five to arise from student activism. Following the Supreme Court's decision that "separate educational facilities are inherently unequal," Prince Edward County closed its public schools for the years of 1959 to 1964 rather than allow black and white students to attend school together. After five years and the Supreme Court decision in Griffin v. County School Board, the schools were finally reopened and integrated. The Light of Reconciliation and the memorial stand as both a reminder of the mistakes of the past and a celebration of the students from R.R. Moton High School and from other schools across the country who continued the fight for education for all.

Today marks the 50th anniversary of the action that would close the Prince Edward County public schools, one of the darkest moments of Virginia's civil rights struggle. Acknowledging this part of our history is painful, and I commend the Prince Edward County Board of Supervisors for their courage in publicizing past transgressions against our fellow citizens in hopes of preventing future ones. It is only in seeking truth about our past that we can hope to pursue justice for our future, and this memorial is a public expression of our renewed commitment to justice for all.

On this occasion we are reminded that each of us is called to work to bring our nation closer to its fundamental ideals of equality. If one 16-year-old student can spark the protests that would ultimately galvanize a nation in the cause of civil rights, we should all ask of ourselves what we can do to fight for human dignity and the common good. As long as inequality and suffering persist in our nation and in the world, our work is incomplete. This memorial not only looks back to the dreams deferred by locked schoolhouse doors, but also forward to a better nation, one of ever-expanding opportunity for all. Martin Luther King Jr. once said, "Darkness cannot drive out darkness; only light can do that." Let this light in Prince Edward County, Virginia be a permanent reminder of our ongoing struggle for a fairer world.

# CONGRATULATING WAR HERO IRA WEINSTEIN ON HIS 90TH BIRTHDAY

## HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. KIRK. Madam Speaker, I rise today in honor of the 90th birthday of Ira Weinstein. For almost 60 years Ira has been a resident of Illinois' 10th District, and currently lives in Glencoe, IL. We also take this time to commemorate Ira, a WWII hero and an ex-POW for his bravery and service to his country.

Born in Chicago in 1919 to a family of modest means, Mr. Weinstein found his calling in advertising when he worked for his high school newspaper. Unfortunately, his career aspirations were soon interrupted by the attack on Pearl Harbor and America's entrance into World War II.

In 1942, just before completing his training as a bombardier-navigator, he married Norma Randall, a marriage that would last until her death in 1995. While overseas, Ira was based with the 702nd Squadron in the 445th Bomb Group of the famed 8th Air Force. He flew two dozen harrowing missions, each time taking over the piloting duties of the massive B-24 Liberator.

Trying to close out his quota of missions in order to go back home to his new bride, he traded in his pass for the Jewish High Holidays to complete one more mission. What was supposed to be a routine mission became the ill-fated Kassel mission—the greatest single loss of men during the European air war. On September 27, 1944, his B-24 was critically damaged by an enemy attack forcing him to evacuate the bombardier's compartment while the aircraft was burning, falling to the ground in a dizzying flat spin. After a failed attempt, he bailed out with little time to spare. Landing safely in the tree line, Ira watched the locals pull his copilot out of the wreckage and pitchfork the man to death.

After 6 days of evading capture, Mr. Weinstein was forced to turn himself in to local authorities in Germany. For the better part of the following year, he was held prisoner in Stalag Luft I in Barth, Germany, enduring brutal and unthinkable conditions. On May 11, 1945, the camp was liberated and for his heroism Ira was awarded several medals, including the Purple Heart and the distinguished French Croix de Guerre.

Returning to Chicago, Mr. Weinstein took over a small advertising agency and grew it into a nationally known direct marketing firm. To those close to him, Ira was indefatigable, inquisitive, and inspiring, a man of unquestioned integrity, a loving father to two daughters, Laura and Terri, a proud grandfather, a cherished husband and a successful businessman acknowledged by his peers as a pioneer in his field. Today, Ira is retired and remarried to Mary Gandelman, with whom he continues to travel the globe.

On June 10, we pause to celebrate the 90th birthday of Ira Weinstein. I commend Ira for his hard work and determination throughout some of the most challenging moments in American history. I hope that his story will never be forgotten.

# PERSONAL EXPLANATION

## HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately last night, June 2, 2009, I was unable to cast my votes on H. Res. 421, H.J. Res. 40, and H. Res. 489 and wish the record to reflect my intentions had I been able to vote.

Had I been present for rollcall No. 292, on suspending the rules and passing H. Res. 421, Recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary, I would have voted "Aye."

Had I been present for rollcall No. 293, on suspending the Rules and passing H.J. Res. 40, To honor the achievements and contributions of Native Americans to the United States, and for other purposes, I would have voted "Aye."

Had I been present for rollcall No. 294, on suspending the rules and passing H. Res. 489, Recognizing the 20th anniversary of the suppression of protesters and citizens in and around Tiananmen Square, I would have voted "Aye."

# A PROCLAMATION HONORING OHIO'S FIRST AND OFFICIAL OUTDOOR DRAMA, TRUMPET IN THE LAND, ON THE 40TH ANNIVERSARY OF ITS FIRST PERFORMANCE

## HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. SPACE. Madam Speaker:

Whereas, former Governor James Rhodes named Trumpet in the Land Ohio's Official Outdoor Drama; and

Whereas, more than 2,300 actors and technicians have taken part in the drama; and

Whereas, July 3rd marks the 40th Anniversary of the first performance of Trumpet in the Land; and

Whereas, Trumpet in the Land is anticipated and enjoyed every year by hundreds of Ohio families and gives them a window into the historical beginnings of our great state; now, therefore, be it

Resolved, that along with the friends and family of the Ohio Outdoor Drama Historical Association and the residents of the 18th Congressional District, I congratulate the cast and crew of the 40th Anniversary production of Trumpet in the Land, as well as anyone who has been fortunate enough to experience and take part in this uniquely Ohioan historical drama.



**A TRIBUTE TO THE CAMPBELLSVILLE UNIVERSITY BASEBALL TEAM**

**HON. BRETT GUTHRIE**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. GUTHRIE. Madam Speaker, I rise today to honor the Campbellsville University Baseball Team on their outstanding performance this season. They demonstrated extraordinary athletic and academic achievement that brought national attention to Campbellsville University, the Campbellsville and Taylor County communities, and all of Kentucky's Second District.

Under the leadership of head coach Beauford Sanders and his staff, the Campbellsville University Baseball Team reached the National Association of Intercollegiate Athletics (NAIA) World Series for the first time in school history. The Tigers reached the NAIA World Series following a tremendous performance by senior pitcher Bryan Fuller. Mr. Fuller pitched 21 scoreless innings in 26 hours to give the team three straight victories that propelled them to the highest level of competition in their league.

The team finished the season with a remarkable 39–12 record. Coach Sanders reached a noteworthy milestone this season as well by reaching 835 career wins for his tenure. Coach Sanders and his staff should be commended for providing leadership, direction, and encouragement to these student athletes.

The Campbellsville University Baseball Team's performance is a testament to their exceptional talent and commitment to excellence. Theirs is an example for all of Kentucky to follow. I commend the coaching staff and student athletes for the recognition they have brought to Campbellsville University, the Campbellsville and Taylor County communities, and the Second District.

**A TRIBUTE TO THE JEWISH LABOR COMMITTEE AND ITS WESTERN REGION BASED IN LOS ANGELES ON THE OCCASION OF THE JLC'S 75TH ANNIVERSARY**

**HON. LUCILLE ROYBAL-ALLARD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. LUCILLE ROYBAL-ALLARD. Madam Speaker, I rise today to recognize the Jewish Labor Committee and the committee's Western Region, based in Los Angeles, California, on the occasion of the national non-profit organization's 75th anniversary of fighting to protect the rights of working families in our country.

In 1934, the national Jewish Labor Committee (JLC) formed on New York's Lower East Side by a coalition of labor and Jewish groups that recognized that European Nazism threatened the rights of trade unionists and Jews. That same year, the committee's "Western Region" formed in Los Angeles.

With its funding drawn primarily from labor union members and the Jewish community,

the JLC focused its resources on saving unionists and other political prisoners from Nazi tyranny in Europe during World War II. Alerting the world to the Nazi/Fascist threat, the JLC worked tirelessly with its labor affiliates to defeat Hitler by organizing economic boycotts of German-made products and raising large amounts of money for anti-Nazi partisan fighters. Immediately following the war, the JLC helped thousands of people, especially war orphans, survive Displaced Persons camps and emigrate to America and the then-forming state of Israel.

Recognizing post-war changing labor patterns, the JLC's Western Region developed deep relationships with Latino, African American and Asian communities in Los Angeles, continuing the fight for social justice on political fronts. The JLC's Western Region fought to elect minority candidates, gain fair housing, eradicate racial discrimination, and defeat anti-labor campaigns.

In 1949, the JLC's Western Region worked with the AFL Central Labor Council, the CIO Council, The Anti Defamation League, American Jewish Congress, the National Association for the Advancement of Colored People, Japanese American Citizens League, the Mexican-American oriented Community Services Organization, and many religious organizations, to rally behind my father, the late Congressman Edward Roybal, who was then a Los Angeles City Councilman as he proposed the Fair Employment Practices Ordinance. Eight years later, in 1958, the JLC's Western Region joined a coalition of labor, minority and religious civil rights groups to prevent California from becoming a Right-to-Work state.

In 2009, under the current leadership of President Floyd Glen-Lambert, the Jewish Labor Committee Western Region still fights anti-labor campaigns, most notably by pushing for passage of the Employee Free Choice Act in partnership with the Los Angeles County Federation of Labor.

To remind the community how critical it is for workers to safeguard organized representation to bargain for fair wages, benefits and conditions, the JLC holds annual Labor Pass-over Seders and continues to work with labor and Jewish businesses to resolve disputes. The JLC is also forming a new Ethnic Coalition to address persistent labor issues.

Under the auspices of Captive Daughters of the Los Angeles Unity Coalition, the JLC's Western Region is using a grant to make labor aware of human trafficking, the fastest growing crime in America. The JLC will never forget how quickly slave labor burgeoned in Europe during World War II and remains committed to its eradication.

As an affiliate of the Labor Task Force for Universal Healthcare, the JLC's Western Region is making headway on another crucial issue to workers—bringing health care reform to California and the nation. With state budget cuts looming, the Jewish Public Affairs Committee and the JLC's Western Region are also lobbying state legislators on many other critical issues, including how budget cuts will affect our most vulnerable citizens who need in-home health care to avoid being forced into nursing homes and the need for fair wages for in-home health care givers.

Finally, in keeping with the Jewish principle of Tikun Olam, which means "to repair the world," the JLC's Western Region is planning a training program for foster youth who are about to find their first jobs. In an effort to help them succeed, the training program is designed to give them an in-depth understanding of the legal, social and political intricacies of the workplace.

To mark the national organization's 75 year anniversary, the committee's Western Region is holding an awards brunch on June 14 at the Century Plaza Hyatt Regency Hotel in Los Angeles at which a number of honorees will be recognized for their outstanding service to our communities. The honorees are: State Controller John Chiang; Executive Liaison for Universal Pictures James D. Brubaker; President/CEO of the National Association for the Hispanic Elderly Dr. Carmela Lacayo; and Business Manager, Southern California District Council of Laborers, Mike Quevedo Jr.

Madam Speaker, as the Jewish Labor Committee observes this milestone and continues the fight for social and political justice in Los Angeles, California and throughout our great nation, I ask my colleagues to please join me in commending everyone involved with the national JLC and its Western Region as well as this year's honorees for their continued commitment to securing fairness for all working families. I extend to them my best wishes for many more successful years ahead.

**PAYING RESPECTS TO PRESIDENT EPHRAIM KATZIR**

**HON. SCOTT GARRETT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. GARRETT of New Jersey. Madam Speaker, I rise today to pay my respects to a great statesman and an important world leader. This past Saturday, Ephraim Katzir, the fourth President of the State of Israel, passed away at the age of 93.

Over a long and remarkable life, President Katzir dedicated himself to the security of the State of Israel and the progress of mankind. In addition to being a leading Israeli statesman, President Katzir was a world-renowned biophysicist, performing groundbreaking research in defense studies and the natural sciences. After receiving his Ph.D. from the Hebrew University of Jerusalem, Katzir went on to study and teach at leading American universities, such as Harvard, Columbia, and UCLA. He then returned to Israel to lead the Department of Biophysics at the Weizmann Institute of Science, and later became the chief scientist for the Israel Defense Forces. Katzir was awarded the Israel Prize—the state's highest civilian honor—for his work in natural science, and was the inaugural recipient of the Japan Prize for "original and outstanding achievements in science" and "having advanced the frontiers of knowledge and served the cause of peace and prosperity for mankind." He was also elected into the British Royal Society of London for the Improvement of Natural Knowledge, and in 1996 became the first Israeli inducted into the American Academy of Sciences.

In 1973, Ephraim Katzir answered Prime Minister Golda Meir's call to serve as President of Israel. During the first year of his tenure, Israel was attacked by her Egyptian and Syrian neighbors in the Yom Kippur War. Just four years later, President Katzir and Prime Minister Menachem Begin welcomed Egyptian President Anwar El Sadat to Jerusalem, making Sadat the first Arab leader to visit the Jewish capital. This visit, combined with President Katzir's dedication to peace and human progress, led to the Camp David Accords a year later and an easing in the previously contentious Israeli-Egyptian relations.

Like Cincinnatus returning to his field, President Katzir chose to not stand for a second term, instead returning to his studies and spending time with his beloved wife, Nina. Though an able public servant, Katzir was never motivated by power not defined by his position. His integrity and intellect had few peers, and his devotion to the State of Israel was sincere and complete. As a scientist, a politician, and a proud citizen, President Katzir dedicated his life to a Jewish state for the Jewish people. Through his stewardship of the Office of President, President Katzir handed down to later generations a safe and prosperous nation.

The prophet Isaiah writes, "Those who walk uprightly enter into peace; they find rest as they lie in death." On behalf of the Fifth District of New Jersey, I wish peace for former President Katzir, and convey my deepest condolences to his family, friends, and country.

#### PERSONAL EXPLANATION

### HON. GREGG HARPER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. HARPER. Madam Speaker, on rollcall Nos. 292, 293 and 294, my flight was delayed due to weather. Had I been present, I would have voted "yea" on all three.

#### HONORING DR. LEONARD SHLAIN

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Ms. WOOLSEY. Madam Speaker, I rise today with sadness to honor Dr. Leonard Shlain of Mill Valley, California who passed away May 11, at the age of 71, after a struggle with brain cancer.

Dr. Shlain excelled in two professions simultaneously. He was a pioneering surgeon in San Francisco as well as a best-selling author. As Chairman of Laparoscopic Surgery at California Pacific Medical Center and Associate Professor of Surgery at UCSF, he developed his surgical techniques to such an extent that he was flown around the world to train other doctors and also patented several surgical instruments.

His three published books have been best-sellers, their thoughtful and provocative content earning him fans from singer Bjork to Vice

President Al Gore. Despite some initial skepticism about a surgeon writing on other topics, his books wove connections between everything from art and physics to human evolution in a highly creative and accessible style.

Art & Physics (1990) was hailed as a visionary exploration of the work of scientists and artists over the centuries. The Alphabet vs. the Goddess (1998) further enhanced his reputation as an insightful and poetic storyteller while Sex, Time and Power: How Women's Sexuality Shaped Human Evolution (2003) offers dramatic explorations into the emergence of the human species. His fourth book, Leonardo's Brain, The Right-Left Roots of Creativity, will be published next year.

Dr. Shlain won many awards and was in high demand as a speaker from Italy to Los Alamos. But the most memorable thing about him was his generous and outgoing personality matched by intellectual curiosity and encyclopedic knowledge. His colleagues, friends, and family were privileged to experience this side of him, and he instilled his enthusiasm and drive in his children.

Daughter Kimberly Brooks relates "dinner conversations typically spanned from the Heisenberg Uncertainty Principle to politics, literature to an incredibly dirty joke." He would often "diagram the operation of the day on a napkin. Later, his diagrams became more adventuresome and expanded to thought experiments that included what it would be like to sit astride a beam of light and how that corresponded with Picasso's rose period." She also remembers how, for show and tell at her elementary school, her dad brought a human brain in a white bucket of formaldehyde and how he built a stained-glass geodesic dome (complete with a hot tub) in the back yard instead of a conventional swing set.

Born in 1937 in Detroit, Michigan, to immigrant parents, Dr. Shlain graduated from high school at the age of 16 and from medical school when he was 23. After a stint as a Captain in the U.S. Army, he got married and moved to Mill Valley in the late sixties.

He is survived by his wife, Judge Ina Gyemant, and children, artist Kimberly Brooks, filmmaker and Webby Awards founder, Tiffany Shlain, and doctor/entrepreneur Jordan Shlain. He was also father-in-law to filmmaker Albert Brooks, scientist/artist Ken Goldberg, Ph.D. and Caroline Eggli Shlain, Ph.D., respectively. He had two stepchildren, attorney Anne Gyemant Paris and writer Roberto Gyemant, Jr. His son-in-law Michael Paris is a medical engineer. He is pre-deceased by his sister Shirley Wollock and survived by siblings Marvin Shlain and Sylvia Goldstick, and nine grandchildren (with a tenth on the way).

Madam Speaker, although Dr. Shlain taught his children never to trust a man who needs more than one sentence to describe what he does for a living, it is impossible to sum up his own accomplishments so briefly. The world is a richer place for his work, his spirit, and his wonderful family.

#### TRIBUTE TO MR. DAVE SALLENGS

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. ROGERS of Kentucky. Madam Speaker, I rise today to pay tribute to Dave Sallengs, a Kentuckian whose efforts to fight the scourge of drug addiction throughout Kentucky have made huge strides towards stopping this horrific epidemic. His extensive knowledge of scheduled prescription drug trends has impacted the method in which doctors prescribe scheduled narcotics, how pharmacists track and fill orders, and the way law enforcement agencies fight the drug problem throughout Kentucky.

As the manager of Kentucky's Drug Enforcement and Professional Practices Branch, Dave Sallengs is responsible for operating the Kentucky All-Schedule Prescription Electronic Reporting (KASPER) monitoring program, as well as enforcing the Kentucky Controlled Substances Act. With the leading prescription monitoring system in the nation, Mr. Sallengs has made it his mission to train a broad range of authorized users on KASPER.

Under the leadership of Mr. Sallengs, the number of KASPER users tripled in merely two years. On average, the number of individuals participating in KASPER continues to grow by an astounding two percent each month. This growth is a testament of his effort to promote and educate health care providers and law enforcement officers to the tremendous impact KASPER can make on people's lives. The KASPER system is one of the best weapons we have in the war against prescription drug abuse and trafficking in the Bluegrass State.

Mr. Sallengs' passion for eliminating drug abuse and addiction is evident by his continual efforts to promote KASPER to all those agencies who benefit from this important program. A graduate of the University of Kentucky College of Pharmacy, Mr. Sallengs spent 12 years as an owner and operator of an independent retail pharmacy before gaining in-depth experience in the wholesale drug and pharmacy computer industries. In addition to being a registered pharmacist, Mr. Sallengs has served his community as a law enforcement officer.

Madam Speaker, I ask my colleagues to join me in honoring the Pharmacy Association of Kentucky's "Pharmacist of the Year," Mr. Dave Sallengs. The award recognizes those who use their profession to benefit those both in the profession and the community. In my opinion, there is no one more deserving of this award in our state, or in our country, as his work is now part of a national model to end prescription drug abuse.

#### HONORING MS. BEATRIZ A. GARZA

### HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. RODRIGUEZ. Madam Speaker, I rise today to celebrate and recognize the accomplishments of Ms. Beatriz A. Garza, the recent

college graduate from Haskell Indian Nations University in Lawrence, Kansas, and a tribal member of the Kickapoo Traditional Tribe of Texas (KTTT).

Graduating from Haskell Indian Nations University with an Associate of Arts degree in Liberal Arts in 2006 and a Bachelor of Science degree in Business Administration in 2009, Ms. Beatriz A. Garza has become the first college graduate from the Kickapoo Tribe in the state of Texas.

Ms. Garza grew up in Eagle Pass, Texas, on the Kickapoo Indian Reservation, graduating from Eagle Pass High School's C.C. Winn Campus. Influenced by her father, Juan Garza, Jr., she pursued higher education at Haskell Indian Nations University.

In 1884, the doors of this fine educational institution opened up to the yearning minds of twenty-two American Indian children. It was known then as the United States Indian Industrial Training School. Today, Haskell Indian Nations University, the largest Indian university in the country, serves roughly one thousand college students per semester, and continues to serve American Indians with a multitude of innovative curricula that prepares students to enter baccalaureate programs in areas such as elementary education, American Indian studies, and business administration, which Ms. Garza, as previously noted, pursued herself, emphasizing her study in tribal management. She currently plans to pursue a professional degree in law.

Students attending this University represent federally recognized tribes from across the United States, producing a dynamic and diverse student body bringing life experiences to the forefront of the classroom while integrating American Indian and Alaskan Native culture into all its curricula. Through my time spent on a Texas school board, I have seen people who, like Ms. Garza, are intelligent, responsible, and driven. Ms. Garza excelled in the classroom and pushed forward toward a brighter future. People like Ms. Garza, are the change makers in our world, the backbone of the American dream, and the reason America succeeds. Boundaries like this are broken by great men and women who lead this country forward, inspiring future generations to follow in their footsteps.

I am proud of Ms. Garza's success and it is with great honor that I extend my most sincere congratulations to Ms. Beatriz A. Garza as she makes this monumental milestone in her life.

#### PERSONAL EXPLANATION

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. ETHERIDGE. Madam Speaker, I regret that yesterday inclement weather delayed my flight and prevented my timely return to Washington. I was, therefore, unable to cast a vote on a number of roll call votes.

Had I been present, I would have voted Yes on H. Res. 421, recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary. I would have voted Yes on H.J. Res. 40, to encourage the people

of the United States to honor Native Americans by designating the Friday immediately following Thanksgiving Day as Native American Heritage Day. I also would have voted Yes on H. Res. 489, recognizing the 20th anniversary of the brutal suppression of protesters and citizens in and around Tiananmen Square.

#### IN MEMORY OF TERRENCE L. BARNICH

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. KIRK. Madam Speaker, I rise today to honor the life of Terrence L. Barnich. Terry served as Chairman of the Illinois Commerce Commission (ICC) in the early nineties, and spent the last two years as Deputy Director of the Iraq Transition Assistance Office in Baghdad. Terry died on Memorial Day after his convoy was hit by a roadside bomb on the outskirts of Fallujah.

Terry was appointed Chairman of the ICC by Gov. Jim Thompson in 1989, serving for three years before joining the private sector. In 2007 he took a leave of absence from his job as CEO of Paradigm Resources Group to spend a year working with the State Department in Baghdad. After that year, Terry volunteered to stay in Iraq to continue his work helping the Iraqis build modern public utility systems. He embodied the American commitment to the people of Iraq, and his work was helping us fulfill that commitment.

Terry died after inspecting a new wastewater treatment facility that will provide essential services to Fallujah and Anbar Province. His patriotism and love of his work are evident in a quote he gave a Chicago newspaper shortly after he arrived in Baghdad. He said: "To those back home who say the Iraqi experience has made the Iraqis unready or incapable for democracy, I say come work with me. I deal with Iraqis who daily brave physical hardship, violence and threats of violence to make their contribution to building a government that deserves the consent of the governed."

Funeral services were held today in Chicago, and I hope my colleagues will join me in sending our condolences to Terry's family as we remember his dedication to public service.

#### IN HONOR OF LARRY CAVITT'S 40 YEARS OF TEACHING EXCELLENCE

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. SESSIONS. Madam Speaker, I rise today to honor a teaching legend, Mr. Larry Cavitt and to celebrate his forty years of dedicated service at St. Mark's School of Texas. I am proud to represent St. Mark's in the 32nd Congressional District of Texas.

Mr. Cavitt first joined St. Mark's faculty on August 28, 1969 after receiving his M.A. from

Southern Methodist University. In his current role, he serves as the 5th grade humanities teacher and senior class advisor. During his tenure at St. Mark's, he has also taught 7th, 8th, and 9th grade Social Studies, 8th grade Humanities, U.S. History, and Advanced Placement Law and Government. Outside of the classroom, members of the basketball and baseball team know him as "coach." In his forty years of service, he has helped shaped young impressionable minds, providing them a firm educational foundation for success. He always encourages his students to chase their dreams and I know these young men have greatly benefitted from his teaching, wisdom, and insight. St. Mark's is a successful institution because of dedicated and caring teachers such as Mr. Cavitt.

I admire him for his passion for teaching and ask my colleagues to join me in expressing our gratitude for his continued service. I congratulate Mr. Cavitt on reaching his forty-year milestone and wish him all the best.

#### HONORING THOSE WHO HAVE SERVED IN THE ARMED FORCES

### HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. SESTAK. Madam Speaker,

A CORPSMAN'S LAMENT

(By HM3 Mike Hall, 5th Marine Division Iwo Jima)

I remember fair-haired dreamers,  
Full of themselves, going off to war.  
We went willing with visions of heroism in  
our head.

We felt prepared for what was to come.  
Then they opened the door to let reality in;  
Fear, blood, and the smell of death.  
All around us were the cries for "Doc!"  
Who should we help?

I tend to the first, second, and third:  
Bandages, Morphine, plasma, and more.  
No time for me to feel or think  
Keep moving, keep helping; don't sleep.  
Then they bring him all battered, near  
death;

I can't save him.  
I look into his eyes and want to cry.  
"Doc it's okay, let me go."  
I ignore his words; I try.  
This man who looks like me . . . he dies.  
Tears flow down my cheeks.  
No time to grieve, five others lay at my feet.  
That day stays with me still.  
I shall never forget his words.  
"It's okay, Doc."  
Let me go."

With his last breath,  
He comforted me.

#### HONORING THE RETIREMENT OF SENIOR CHIEF PETTY OFFICER TAMMY LOGAN

### HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. LARSEN of Washington. Madam Speaker, I rise today to honor Senior Chief Petty Officer Tammy D. Logan, United States Navy,

who is retiring after 20 years of service to our nation.

In May 1989, Senior Chief Logan, a native of my home state of Washington, enlisted in the U.S. Navy as a Seaman Recruit. Over the course of the next twenty years, Senior Chief Logan served the Navy in a wide variety of roles, travelling throughout the country and overseas. Her assignments include Helicopter Anti-Submarine Squadron (Light) 32, Carrier Strike Group 5, and the Commander in Chief, U.S. Atlantic Fleet.

Throughout her career, Senior Chief Logan has demonstrated a commitment to continuing her education. In 2002, she earned her Associate of Arts degree from Saint Leo University, and she is currently scheduled to graduate from Excelsior College with a Bachelor of Science Degree in July of 2009.

Senior Chief Logan has also earned a variety of awards for her outstanding service to our country. Her personal awards include the Meritorious Service Medal, Navy and Marine Corps Commendation Medal (two awards), Navy and Marine Corps Achievement Medal (five awards), and the Good Conduct Medal (six awards).

I commend Senior Chief Logan for her commitment to our country and the sacrifices she has made on its behalf. On the occasion of her retirement, I thank her and her family for her honorable service to our nation and wish her fair winds and following seas as she concludes a distinguished career.

A PROCLAMATION HONORING THE  
TOWN OF WARSAW, OHIO, ON  
THE 175TH ANNIVERSARY OF ITS  
FOUNDING

**HON. ZACHARY T. SPACE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. SPACE. Madam Speaker:

Whereas, Colonel William Simmons, a trusted friend of General George Washington, proved himself on the field of battle on numerous occasions; and

Whereas, for his more than 40 years of service, Colonel Simmons was given 4,297 acres of land in Southeastern Ohio; and

Whereas, Colonel Simmons laid out the plots of land in 1820 which were to become the town of Warsaw; and

Whereas, Warsaw was named after the capital of Poland, a country then attempting to achieve its own independence; and

Whereas, the official town charter dates back to June 3, 1834; now, therefore, be it

*Resolved*, that along with friends, family, and the residents of Warsaw, as well as the entire 18th Congressional District, I congratulate the town of Warsaw on their 175th Anniversary. The town of Warsaw has been and will continue to be a shining example for those who are willing to fight for their freedom and liberty.

IN HONOR OF THE SACRAMENTO  
REGIONAL CONSERVATION  
CORPS' 25TH ANNIVERSARY

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. MATSUI. Madam Speaker, I rise today to congratulate the members, employees, and supporters of the Sacramento Regional Conservation Corps on the 25th anniversary of the organization's founding last week. For the last twenty-five years, this fine organization has improved the Sacramento region, while also transforming the lives of thousands of corpsmembers.

In 1984, the Sacramento Metropolitan Chamber of Commerce saw the need to create a program that would give Sacramento's young adults an opportunity to further their education and at the same time allow them to garner invaluable work experience. From that, the Sacramento Local Conservation Corps was born. In order to properly reflect their growth and commitment to the greater Sacramento region's wellbeing, they recently changed their name to the Sacramento Regional Conservation Corps.

The Sacramento Regional Conservation Corps is a true community partnership. Exemplifying this is their board of directors, comprised of representatives from local financial institutions, law firms, businesses and government agencies. Their funding sources are equally as diverse. Each year the SRCC's committed staff looks far and wide in soliciting funding from government sources, private grants, and corporate supporters to ensure the SRCC can continue to serve the public and improve the lives of its corpsmembers.

The young men and women that make up the Sacramento Regional Conservation Corps are just as varied as their supporters. They come from all neighborhoods of Sacramento, from all ethnicities and backgrounds, but they are united in their purpose, which is to improve their own lives and their community. They take on projects from clearing creeks and planting trees to teaching children about recycling and performing weatherization improvements on the homes of the less fortunate. Since their founding in 1984, over 4,500 young adults have taken part in this wonderful organization.

In doing so, corpsmembers often earn their high school diploma or GED. Upon graduating from the Sacramento Regional Conservation Corps many have enrolled in college courses, while others have obtained well paying jobs. While in the program, corpsmembers learn valuable lessons in teamwork, community stewardship, and about how to become leaders in their own right.

Madam Speaker, as the Sacramento Regional Conservation Corps celebrates their 25th Anniversary at the annual "Breakfast on the River," I am honored to congratulate SRCC Executive Director Dwight Washabaugh, Board President Philip Lantsberger, and the thousands of SRCC alumni on this momentous achievement. I ask all my colleagues to join me in honoring this fine organization for all the work they have

done for the people of Sacramento, and to wish them continued success in the future.

PERSONAL EXPLANATION

**HON. TRENT FRANKS**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. FRANKS of Arizona. Madam Speaker, on rollcall No. 294 I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Thursday, May 21 2009.

Had I been present, I would have voted "Nay" on Roll Call vote #282 (on agreeing to H. Con. Res. 133), "Nay" on Roll Call vote #283 (Table Appeal of the Ruling of the Chair), "Nay" on Roll Call vote #284 (on ordering the previous question to H. Res. 464), "Nay" on Roll Call vote #285 (on agreeing to H. Res. 464), "Aye" on Roll Call vote #286 (on agreeing to the conference report to S. 454), "Aye" on Roll Call vote #287 (on motion to suspend the rules and pass H.R. 1676), "Aye" on Roll Call vote #288 (on agreeing to the Burgess of Texas amendment to H.R. 915), "Aye" on Roll Call vote #289 (on agreeing to the McCaul of Texas amendment to H.R. 915), "Aye" on Roll Call vote # 290 (on agreeing to the motion to recommit with instructions to H.R. 915), "Nay" on Roll Call vote # 291 (on passage of H.R. 915)

INTRODUCTION OF H.R. 2680, THE  
"TERRITORIAL HEALTH PARITY  
ACT OF 2009"

**HON. MADELINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. BORDALLO. Madam Speaker, today I have introduced a bill, H.R. 2680, to amend the Social Security Act to provide for parity in the Medicaid program for Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa. This bill, entitled the "Territorial Health Parity Act of 2009," would amend the Social Security Act to eliminate the federal funding caps now in place and to strike the statutorily set Federal Medicaid Assistance Percentage (FMAP) of 50% that currently applies to all the territories. This bill would ensure that each of the territories, like each of the 50 states, receives an FMAP that accurately reflects its economic conditions and demographics. In addition, because certain data

needed to determine the true FMAP rates for the territories is presently lacking from the Bureau of Economic Analysis (BEA), this bill would direct the Secretary of the Department of Health and Human Services to take steps to ensure that the FMAP rates for the territories are calculated in a fair and appropriate manner.

It is clear from all the evidence that the federal funding caps and the FMAP set in statute at 50% (which applies solely to the territories) have created significant health disparities between residents of the territories and their fellow citizens residing in the 50 states. Additionally, this policy has resulted in the territorial governments shouldering a disproportionately high financial liability when it comes to providing health care services to their indigent populations. Treating the territories in such fashion is as unjust in principle as it is harmful in effect.

The bill I have introduced today, along with my colleagues from the territories, is needed as Congress continues the debate over comprehensive health care reform. Based on a report released last year by the Office of Insular Affairs, within the Department of the Interior, the territories' health jurisdictions are "at the crossroads of a total breakdown." Combined with the financial state of the territorial governments, operating under decreasing revenues due to an economic downturn, the territories must bear a majority of the payment for indigent care under the current arrangements. Accordingly, eliminating the funding caps and adjusting the FMAPs for the territories are both critically important to public health in these U.S. jurisdictions.

Additionally there is a provision in this bill that extends the Medicaid program to the citizens of the Freely Associated States (FAS), which is comprised of the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI) and the Republic of Palau (RoP). The FAS governments have special relationships with the United States, as they entered into Compacts of Free Association that have been approved by the Congress of the United States. One component of these international, federally-negotiated agreements, allows for the unrestricted entry of citizens of the FAS to the United States, including the territories, without visas. Many FAS citizens have settled in the Pacific territories of Guam and the Commonwealth of the Northern Mariana Islands. They also constitute a significant and growing presence in the states of Hawaii and Arkansas. This section of the bill is important as it extends federal Medicaid coverage to them and would set an FMAP for otherwise qualified services rendered by the states and territories to them at 100%. This change in law would ensure that the territorial and state governments do not shoulder the sole costs of providing care for these citizens. I believe that this provision is consistent with the intent of the Medicaid program and provides for health equity to a disenfranchised population.

This bill represents policy for which I and my colleagues from the territories—Mr. PIERLUISI of Puerto Rico, Mrs. CHRISTENSEN of the Virgin Islands, Mr. SABLAN of the Northern Mariana Islands, and Mr. FALCOMA of American Samoa—have collaborated. We are grateful for the support that we have received

from Mr. SERRANO, who joins us as an original co-sponsor. Each of us and our predecessors has worked on improving the federal Medicaid program for the territories. This bill is to serve as starting point for advancing parity in treatment for the territories, with respect to the national health care reform debate. There are other areas of federal law that need to be amended in order to improve public health in the territories and to bring full parity. These include, for example, amendments to law governing Medicare Part D and the Supplemental Security Income Program (SSI). We look forward to working with the leaders in the House of Representatives and the Senate, and the Chairmen and Ranking Members of the committees of jurisdiction in both chambers in advancing legislation addressing these issues, including the bill we have introduced today.

**THE LUMBEE RECOGNITION ACT  
AND THE THOMASINA E. JORDAN  
INDIAN TRIBES OF VIRGINIA  
FEDERAL RECOGNITION ACT OF  
2009**

**HON. DONNA M. CHRISTENSEN**

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mrs. CHRISTENSEN. Madam Speaker, I am honored to join my colleagues to once again support H.R. 31, the Lumbee Recognition Act offered by Rep. MCINTYRE and H.R. 1385, the Thomasina E. Jordan Indian Tribes of Virginia Recognition Act of 2009 introduced by Rep. MORAN.

It is only fitting that these indigenous populations be officially recognized as Native peoples of this land. As we move forward as a Nation to level the playing field for all citizens, H.R. 31 and H.R. 1385 is undoubtedly a monumental step in righting these historical tragedies. I second the sentiments of our President in his remarks that Congress should intervene and recognize the Lumbee Indians as a tribal group.

Aptly extending federal distinction to the Lumbee, Chickahominy, Chickahominy—Eastern Division, Upper Mataponi, Rappahannock, Monacan and Nansemond tribes is the only way to address hundreds of years of injustice endured.

Federal recognition will dramatically transform the lives of the Native American tribes currently being considered. Our failure to extend federal recognition to them has meant years of discriminatory treatment. Countless individuals have had difficulty naming children, getting marriage licenses and even getting inducted into military service. Other communities have been disproportionately affected by interruptions and cuts in funding that are crucial to services provided by tribal programs.

It has been a long time coming, but it is high time that they are ascribed the rights and protections afforded to other citizens of our Country.

While this is a time marked by challenge for the entire Nation, it is my hope that this legislation be stalled no more and swiftly enacted into law.

I urge my colleagues to support this very important piece of legislation.

**RESOURCES, REVENUE, AND RESPONSIBILITY: STRENGTHENING REVENUE AND BUDGET TRANSPARENCY THROUGH THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. HASTINGS of Florida. Madam Speaker, as Co-Chairman of the U.S. Commission on Security and Cooperation in Europe (commonly referred to as the Helsinki Commission), I recently returned from a meeting in Dublin, Ireland, with almost 100 parliamentarians from 30 countries where we had the opportunity to discuss responses to the global economic crisis. The meeting was organized by the Organization for Security and Cooperation in Europe Parliamentary Assembly (OSCE PA) and the Parliament of Ireland. All countries are grappling with difficult national problems related to the economic crisis. And indeed, we are in a crisis, and for America, this is the worst economy we've experienced since the Great Depression in the 1920s. People all across America, and in my home state of Florida, are losing their homes, their jobs, and are unable to provide for their families.

In addition to discussions on financial regulation, trade protectionism, good governance, and the social consequences of the crisis, I was pleased that we also discussed revenue transparency in the extractive industries as an integral part of creating more transparency in the global financial system overall. As legislators, we have a duty to find ways to relieve the suffering caused by the financial crisis through vital investments in health care, education, infrastructure, and job creation so that we can emerge from this crisis stronger and better than before. But part of the solution is looking at how we even got into this crisis. Transparency—or the lack of it—in the financial world is certainly one of the culprits. And as revenue dwindles, making the most of what we have becomes even more important.

The way I see it, improvements in revenue transparency, particularly when we focus on the extractive industries, are important in at least three key ways: The first is to help alleviate poverty. 3.5 billion people live in countries that are rich in oil, gas and minerals. With good governance, the exploitation of these resources can generate large revenues to foster growth and reduce poverty. Resource revenue transparency is necessary in order for citizens—the true owners of their country's natural wealth—to be able to demand greater accountability from their governments for spending that serves the public interest.

The second is to promote stable investment climates. Mandatory disclosure can help diminish the political instability caused by opaque governance. Since extractive industries are capital-intensive and dependent on long-term stability to generate returns, transparency of payments made to a government can help mitigate political and reputational risks and also allow shareholders to make better-informed assessments of opportunity costs.

The third area is to enhance energy security. Opening the extractive industries sector to

greater public scrutiny is key to increasing civil society participation in government. This form of transparency, in conjunction with an increasingly active civil society, can help create more stable, democratic governments, as well as stable business environments.

It's a well-known, and well-bemoaned, fact that the United States is becoming more and more reliant on imported energy to fuel our economy. We are the world's largest consumer of oil—we account for an astounding 25 percent of global daily oil demand—despite having less than 3 percent of the world's proven reserves. And we source that oil from some unstable and unfriendly places in the world such as Nigeria and Venezuela.

In the context of today's discussion some of you may wonder why the United States should care what is happening in Turkmenistan or Kazakhstan, when we don't rely on these countries for our energy supplies. Russia is only number eight on our list of top ten oil suppliers and Kazakhstan, Turkmenistan, Uzbekistan and Azerbaijan don't even make it into the top twenty.

The answer is that unlike natural gas, oil is a commodity, so regardless of where we source our oil, what happens in other oil-rich countries impacts the stability of our price and our supply as well. Truly, no one country can achieve energy security without global energy security.

I think we can all agree that relying on a country as a source of energy can distort a bilateral relationship. I'm sure you can imagine how drastically different our interactions with some countries would be if we did not rely so heavily on these countries' resources. I think it goes without saying that we would have more leverage to promote democracy and civil society. Clearly oil constrains, if not drives, our foreign policy.

So while it is imperative that we work to limit our dependence on foreign oil and change the dynamic of supply and demand, it is just as important to create more stable and reliable sources of energy. One of the key ways the international community has sought to counteract the political and economic instability inherent in the resource curse is through programs that seek to instill transparency and accountability into the resource payment system.

As legislators, there is a lot that we can do to further the cause of transparency in the extractive industries.

As Co-Chairman of the U.S. Helsinki Commission, I have held hearings and briefings on energy security and transparency that call attention to problems and advocate for solutions. I have also written letters—co-signed by a number of my congressional colleagues—on this topic to the Executive Branch to advocate for specific policy stances related to U.S. participation in EITI. Drafting and passing legislation is also important, and in 2007 we were successful in passing legislation that spells out the importance of extractive industries transparency in U.S. foreign policy and directs the U.S. State Department to actively promote EITI.

I also co-sponsored legislation that would require oil, gas, and mining companies registered with the U.S. Securities and Exchange Commission (SEC) to publicly disclose the payments they make to foreign governments

for the extraction of natural resources. The information would be included in financial statements already required by the SEC and would apply to both American and foreign companies listed with the SEC, which includes 90 percent of the world's largest oil, gas and mining companies. I'm hopeful that we will see that legislation pass in this Congress.

Another tool is direct communication with the Executive Branch. One thing we have already started discussions with the Obama Administration on is how we can play a responsible role—not dominant—in EITI. I strongly believe that the best thing we can do to help boost EITI is to follow the lead of other OSCE member states such as Azerbaijan, Kazakhstan, Kyrgyzstan and Norway and become a Candidate Country with the goal of becoming fully compliant with EITI standards. Right now we think that can be accomplished without any legislative action by the Congress, but if we do need to make some legal changes, then that is something we will work on.

If there is one word that has gotten us in this problem, it is greed. This needs to be said so that we as legislators can do something about it. As we are talking about hedge funds, and all these other mechanisms for moving money, we can't ignore the impact of the shadow economy. It is something that we need to address because it fuels crime and instability.

Madam Speaker, in the Dublin meeting there were many opinions about the roots of the crisis and potential solutions. However, one clear message I took away from that meeting is that we must work together to find a global solution to a global crisis.

#### PERSONAL EXPLANATION

#### HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Tuesday, June 2, 2009.

Had I been present, I would have voted "Aye" on Roll Call vote #292 (Motion to suspend the rules and Agree to H. Res. 421), "Aye" on Roll Call vote #293 (Motion to Suspend the Rules and Agree to H.J. Res. 40), "Aye" on Roll Call vote #294 (Motion to Suspend the Rules and Agree to H. Res. 489)

#### UPON THE CHANGE OF COMMAND AT THE PORT OF BALTIMORE

#### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Mr. CUMMINGS. Madam Speaker, as Chairman of the Subcommittee on Coast Guard and Maritime Transportation, I rise today to recognize the accomplishments of Captain Brian Kelley, who has served as the Commander of Coast Guard Sector Baltimore

since June 2006. He is transferring out of this assignment on May 29.

As Captain of the Port of Baltimore, Captain Kelley oversaw all Coast Guard operations at this major port, currently ranked 12th in value of foreign cargo handled and 14th in foreign tonnage handled.

During his tenure, Captain Kelley conducted Major Control actions or detentions of 23 foreign vessels for safety violations—ensuring the safety of vessel operations in the Port of Baltimore. He also managed more than 1,100 search and rescue cases that saved the lives of more than 250 mariners in distress.

Captain Kelley oversaw a major effort to improve environmental conditions at Sector Baltimore and directed the clean-up of the abandoned vessel Sea Witch, preventing the release of more than half a million gallons of oil into the environment.

Captain Kelley's next assignment will be as the Deputy Commander of the Coast Guard's Personnel Services Command. As such, he will assist in managing all personnel services for all of the Coast Guard's nearly 42,000 active duty military members and in supervising the Coast Guard's recruiting efforts.

Since graduating from the Coast Guard Academy in 1982, Captain Kelley's assignments have included service as the Commander of cutters ATTU and POINT FRANKLIN. He also served as Chief of the Strategic and Business Planning Division at Coast Guard headquarters and was a Federal Executive Fellow at the Center for Strategic and International Studies.

On a personal note, I have known Captain Kelley to be an extraordinarily conscientious leader—and have appreciated his personal hospitality during numerous events at Sector Baltimore.

I have also appreciated his diligence in keeping me and my staff fully informed of developments at Sector Baltimore, including the Sector's evaluation of the proposed LNG terminal at Sparrow's Point in the Port of Baltimore.

Captain Kelley is an outstanding officer who embodies the highest ideals of the Coast Guard and I commend him for his dedication to excellence in the service of our nation.

#### HONORING THE WORK AND SERVICE OF JACK E. SINGLEY

#### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 3, 2009*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in recognition of Jack E. Singley and the 43 years he spent in service to Irving Independent School District.

Jack Singley began his career in 1965 by teaching Math at MacArthur High School in Irving, Texas, and rose through the ranks of the school district to become superintendent in 1988. He served in that role for nearly 21 years making him one of the longest serving school administrators in Texas. Earlier this year, he announced that 2009 would mark the end of his remarkable career, and his determination, strength of character, and wisdom will be greatly missed.

Throughout his career, Mr. Singley saw the transformation of Irving ISD from a small suburban school district to the large vibrant school district it is today. During his tenure as superintendent, eight schools were added to the school district and the number of employees serving in Irving ISD nearly doubled. One of Mr. Singley's most impressive successes was the creation of The Academy of Irving ISD. This high school opened in 2001 and is considered to be at the forefront of technological innovation and educational philosophy.

After Mr. Singley announced his retirement earlier this year, the Irving ISD School Board voted unanimously to rename the Academy of Irving ISD to the Jack E. Singley Academy, much to his dismay. With great humility and regard for others, he asked that the school not be named in his honor and said, "I honestly believe that when you're naming schools after local people, they ought to be volunteers, not staff members."

Jack Singley has made such a big difference in the lives of so many students and teachers, and I cannot think of a better way to honor him than by renaming this academy to the Jack E. Singley Academy. I ask my fellow colleagues to join me in recognizing Mr. Singley and his lifelong commitment to ensuring quality education for young people in Irving, Texas.

#### PERSONAL EXPLANATION

#### HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Wednesday, May 20, 2009.

Had I been present, I would have voted "Nay" on Rollcall vote No. 273 (on agreeing to H.Res. 456), "Nay" on Rollcall vote No. 274 (on ordering the previous question to H.Res. 457), "Nay" on Rollcall vote No. 275 (on agreeing to H. Res. 457), "Nay" on Rollcall vote No. 276 (concur in all but section 512 of Senate amendment to H.R. 627), "Aye" on Rollcall vote No. 277 (concur in Section 512 of Senate Amendment to H.R. 627), "Aye" on Rollcall vote No. 278 (Motion to suspend the rules and agree to H. Res. 297), "Aye" on Rollcall vote No. 279 (on agreeing to the Kratovil of Maryland amendment H.R. 2352), "Aye" on Rollcall vote No. 280 (on agreeing to the motion to recommit with instructions to H.R. 2352), "Aye" on Rollcall vote No. 281 (on agreeing to H.R. 2352).

#### A TRIBUTE TO MONTE HALE

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Mr. SCHIFF. Madam Speaker, I rise today to celebrate the life and accomplishments of the popular Singing Cowboy and actor, Monte Hale, who passed away on Sunday, March 29,

2009, at the age of 89. His career as an entertainer spanned over 60 years in the industry making Westerns and singing country tunes.

Born Samuel Buren Ely in Ada, Oklahoma, Monte moving to San Angelo, Texas at an early age. He bought his first guitar for \$8.50 at the age of thirteen and launched his musical career performing at various clubs around the State. It was during his performance at a War Bond Rally that Phillip Isley discovered him and soon the handsome, talented young man was headed to Hollywood for a screen test. He hitchhiked all the way, stopping at a gasoline station around the corner from the studio, just long enough to wash his face and comb his hair before making his appearance.

Monte's screen test was so impressive that he was immediately signed to star in "The Big Bonanza" with Richard Arlen. Shortly after he was signed to a 7-year contract with Republic where he was groomed up with films starring Wild Bill Elliott, Sunset Carson, and such fare as "Steppin in Society" (1945) with Everett Horton.

Around this time the executives at Republic were looking for someone to test a new color film and they decided to team Monte with Adrian Booth in the Magnicolor "Home On The Range" (1946), thus making Monte Hale Republic's first western star in a color series. Monte went on to star in 19 of his own films.

Monte was tall and handsome and possessed an excellent voice. With this in mind, Republic put his voice and his songwriting talents to work in the westerns. Not considered true musical westerns like those of Gene Autry and Roy Rogers, Monte's films were mainly dramas in which he stopped to sing a song now and then. He became one of Republic's most popular and respected singing cowboys.

Hale made a significant splash in the international comic book market of the era. Six Monte Hale series of the dime picture books were published in 27 languages and over two million copies per month were sold.

After his departure from Republic, Monte went on to do guest starring roles on such TV series as "Gunsmoke," "Wild Bill Hickock," and "Circus Boy." He was a member of the panel on "Juke Box Jury" and appeared on the "Western Star Theatre" radio program. In addition he continued his work in films, most notably as Rock Hudson's attorney in "Giant" (1956) and in "Chase" (1966) with Marlon Brando.

Off the screen, his most lasting contribution was helping to establish the Autry museum. Monte and his wife Joanne were co-founders of the Gene Autry Western Heritage Museum and served as members of the board of directors and have since the inception of the museum which is now part of the Autry National Center as the Museum of the American West. Hale made other contributions to the museum after its 1988 opening by greeting guests and enabling them to chat with a real, live singing cowboy. He also started encouraging fellow cowboy stars to contribute their signature memorabilia for permanent display in the museum's movie gallery.

He donated his own white hat, guns, gun belt and other prized treasures—then rounded up more contributions, including Chuck Connors' shirt from "The Rifleman" TV series, Bufalo Bill's saddle and a Lone Ranger outfit. A

permanent exhibit dedicated to Monte Hale's career is located in the Museum of the American West's Spirit of Imagination Gallery. In 2004, Monte was honored with a Star on the Hollywood Walk of Fame for Motion Pictures. His work for the Autry National Center of the American West and his legacy as an entertainer will not be forgotten.

#### INTRODUCTION OF H.R. 2685, THE CLIMATE AND OCEAN RESEARCH AND COORDINATION ACT OF 2009

#### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 2009

Ms. BORDALLO. Madam Speaker, the risks of climate change and climate variability are well-documented and under certain circumstances threaten public safety, national security, industry and the economy, natural resource management, and our American way of life. As these risks increase and become more known, we are all challenged with how to strategically respond and adapt to an unpredictable climate. Just as my constituents in Guam face uncertainty over how to respond to rising sea levels and the increasing frequency and ferocity of cyclonic storms, such as typhoons, each state and territory of our great Nation faces their own challenges in adapting to climate change. Without reliable climate information and tools to project climate impacts, it is difficult for any government to make informed and strategic decisions. Strong leadership, better coordination, more exchanges of information, and a new approach to federal climate services are required to strategically and cost-effectively manage public and private resources in this dynamic environment.

H.R. 2685, the Climate and Ocean Research and Coordination Act of 2009, which I have introduced today, addresses these needs by providing specific authority to enhance the leadership role of the National Oceanic and Atmospheric Administration (NOAA) in the delivery of oceanic, weather, atmospheric, and climate services, and for the first time, establishes a cooperative governmental and non-governmental partnership to advance the ability of the federal government and the public to respond to, adapt to, and plan for climate change and climate change impacts.

Title I of this legislation codifies NOAA, enabling it to better execute its diverse responsibilities, and formalizes its role as the link between global oceanic and atmospheric research science, and the functions, processes, ecosystems, and management of our coastal and ocean resources. Title II establishes a public-private National Climate Enterprise (NCE), comprised of federal and non-federal partners to provide scientifically-based, authoritative, timely, and useful climate and climate impacts information, products, and services to meet end-user needs and guide climate change adaptation and mitigation.

Coping with the uncertainties raised by climate change will be one of our Nation's most serious challenges in the foreseeable future. Credible, reliable, and usable climate information will be fundamental toward determining



our success in confronting this risk to our economy, society, and environment. Now is the time for the Congress to both codify NOAA and establish a coordinated, public-private National Climate Enterprise to ensure that our national efforts to mitigate climate impacts will be guided by the best available scientific information.

I look forward to working with my colleagues on both sides of the aisle, and especially with my colleagues on the Committee on Science and Technology which shares oversight responsibility for NOAA with the Committee on Natural Resources, to advance this legislation and to strengthen the abilities of the federal government and the public to better understand our dynamic climate and respond to, adapt to, and plan for climate change impacts.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 4, 2009 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

##### JUNE 5

9:30 a.m.  
Joint Economic Committee  
To hold hearings to examine the employment situation for May 2009. SD-106

10 a.m.  
Finance  
To hold hearings to examine the nomination of Miriam E. Sapiro, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador. SD-215

##### JUNE 9

9:30 a.m.  
Commerce, Science, and Transportation Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee  
To hold hearings to examine the role of the oceans in our nation's economic future. SR-253

10 a.m.  
Judiciary  
Constitution Subcommittee  
To hold hearings to examine the legal, moral, and national security consequences of prolonged detention. SD-226

Environment and Public Works  
Oversight Subcommittee  
To hold joint hearings to examine scientific integrity and transparency reforms at the Environmental Protection Agency. SD-406

Foreign Relations  
To hold hearings to examine the nomination of Ellen O. Tauscher, of California, to be Under Secretary of State for Arms Control and International Security. SD-419

Joint Economic Committee  
To hold hearings to examine the Troubled Asset Relief Program (TARP) accountability and oversight, focusing on the strength of financial institutions. 210, Cannon Building

10:30 a.m.  
Appropriations  
Defense Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of Defense. SD-192

Appropriations  
Financial Services and General Government Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of the Treasury and the Internal Revenue Service. SD-138

2:30 p.m.  
Armed Services  
Airland Subcommittee  
To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for tactical aviation programs. SR-222

Foreign Relations  
To hold hearings to examine the nomination of Eric P. Goosby, of California, to be Ambassador at Large and Coordinator of United States Government Activities to Combat HIV/AIDS Globally, Department of State. SD-419

Appropriations  
Labor, Health and Human Services, Education, and Related Agencies Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2010 for the Department of Health and Human Services. SD-124

Intelligence  
To hold closed hearings to examine certain intelligence matters. S-407, Capitol

##### JUNE 10

Time to be announced  
Health, Education, Labor, and Pensions  
Business meeting to consider any pending nominations. Room to be announced

9:30 a.m.  
Veterans' Affairs  
To hold an oversight hearing to examine the Department of Veterans Affairs' construction process. SR-418

10 a.m.  
Homeland Security and Governmental Affairs  
To hold hearings to examine the nominations of Tara Jeanne O'Toole, of Maryland, to be Under Secretary for Science and Technology, Department of Homeland Security, and Jeffrey D. Zients, of the District of Columbia, to be Deputy Director for Management, Office of Management and Budget. SD-342

Judiciary  
To hold hearings to examine the continued importance of the Violence Against Women Act. SD-226

2 p.m.  
Banking, Housing, and Urban Affairs  
To hold hearings to examine the state of the domestic automobile industry, focusing on the impact of federal assistance. SD-538

2:30 p.m.  
Commerce, Science, and Transportation  
Aviation Operations, Safety, and Security Subcommittee  
To hold hearings to examine aviation safety, focusing on the Federal Aviation Administration's role in the oversight of air carriers. SR-253

Rules and Administration  
To hold hearings to examine the nomination of John J. Sullivan, of Maryland, to be a Member of the Federal Election Commission. SR-301

3 p.m.  
Rules and Administration  
Business meeting to consider the nomination of John J. Sullivan, of Maryland, to be a Member of the Federal Election Commission. SR-301

##### JUNE 11

2 p.m.  
Foreign Relations  
To hold hearings to examine certain North Korea issues. SD-419

2:30 p.m.  
Homeland Security and Governmental Affairs  
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee  
To hold hearings to examine S. 372, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel. SD-342

Intelligence  
To hold closed hearings to examine certain intelligence matters. S-407, Capitol

##### JUNE 16

2:30 p.m.  
Armed Services  
Airland Subcommittee  
To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for Army modernization and

management of the Future Combat Systems Program.

SR-222

JUNE 17

10 a.m.

Commerce, Science, and Transportation  
Aviation Operations, Safety, and Security  
Subcommittee

To hold hearings to examine aviation safety, focusing on the role and responsibility of commercial air carriers and employees.

SR-253

2:30 p.m.

Energy and Natural Resources  
Public Lands and Forests Subcommittee

To hold hearings to examine S. 409, to secure Federal ownership and manage-

ment of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, S. 782, to provide for the establishment of the National Volcano Early Warning and Monitoring System, S. 874, to establish El Rio Grande Del Norte National Conservation Area in the State of New Mexico, S. 1139, to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and S. 1140, to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon.

SD-366

JUNE 18

2:30 p.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the Defense Authorization request for fiscal year 2010 and the Future Years Defense Program for United States Special Operations Command.

SR-222

JUNE 24

9:30 a.m.

Veterans' Affairs

To hold an oversight hearing to examine the Department of Veterans Affairs quality management activities.

SR-418

## SENATE—Thursday, June 4, 2009

The Senate met at 9:31 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Saviour, we need You every hour of every day. We not only need You during crisis times but also in the solitary moments of daily living.

Lord, our lawmakers need You. As they open their hearts to You, fill them with power for today's tasks. Show them Your will for our times and give them the wisdom to say, "Speak, Lord, for we are listening." May the inspiration they receive from You keep their hearts pure, their minds clear, their words true, and their deeds kind.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 4, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, after leader remarks, we are going to be in a

period of morning business for up to an hour. During that period of time, Senators will be allowed to speak for up to 10 minutes each. The Republicans will control the first half, and the majority will control the second half.

Following morning business, we will proceed to the tobacco legislation, H.R. 1256. Two amendments are currently pending to the Dodd substitute amendment; that is, the Burr-Hagan substitute and a Lieberman amendment regarding TSP. Senator HAGAN will be here as soon as we complete morning business to offer some amendments. The Republican leader and I thought it would be appropriate that Senators who have amendments relating to the bill that are relevant and germane would offer their amendments first, and those Senators are HAGAN and BURR. So we want them to get whatever amendments they want to offer laid down so that we can go to other matters people wish to bring up.

I announce that I have had, frankly, a number of conversations with Senators on both sides, and there are a number of important events today—this evening, I should say—so we are not going to be working late tonight. I think if we go to 6 o'clock, that will probably be about as far as we go. There is a funeral service for one of the employees of the Senate who has worked in the Capitol for many years who was killed in a car accident on Sunday. We have to make sure the people who want to go to that have that opportunity. There are a number of other events, including something at the Vice President's residence this evening. So everyone should be alerted to that.

I had a conversation with the Republican leader yesterday about the schedule for the next work period. We have 3 weeks left in this work period, and we have things we want to do. I have explained to the Republican leader that we would like to do at least two appropriations bills. I have indicated that to Chairman INOUE, and he has conveyed that to Ranking Member COCHRAN. We want to at least get the legislative branch legislation out of the way and Homeland Security out of the way.

There are other things, of course, we are going to work on during this work period. We have the supplemental appropriations bill that we need to complete within the next couple of days. We have this tobacco legislation which we need to complete. There is a tourism bill which was completed and reported out of the Commerce Committee which is bipartisan and important. It is interesting. In every State in

the Union, tourism is important. It is either the No. 1, 2, or 3 most important part of the State's economy. We are going to try to complete that this work period. So we have a lot of things to do.

The next work period, in July, where we have 5 weeks, we will have by then completed, we hope, the legislative branch appropriations, and we will have completed Homeland Security. We have appropriations bills we want to work on. We have health care that will likely be worked on during that period of time.

We have the DOD authorization, which is extremely important. Not only does it have the standard stuff in it that we always did, but we also have to do something about military commissions. This involves the situation we have with enemy combatants and other people who need to be tried in military courts and who can't be tried, for various reasons, in civil courts. That is going to be a part of the DOD authorization this year, which will make it difficult. We have to do that because what we have passed before was declared unconstitutional by the Federal courts. So we have to do that.

We also have to make a decision as to whether we are going to be able to do the Supreme Court nomination during the next work period or whether that will spill over until the next period, which would be September. I have spoken with the Republican leader about that, and he has indicated he is going to be communicating with me as to what he thinks should be done in more detail than our brief conversation yesterday.

So the reason I am talking about this today is to alert all Senators, as I have, as well as Senator MCCONNELL yesterday, that the next 5 weeks is going to be a unique work period in the Senate. Because of the makeup of the Senate changing over the years and it becoming a place where there is an obligation people have with their families, we aren't able to work the long weeks we have in the past. We have plenty of work to do. No one is complaining that we are not working hard enough, but sometimes you just have to put in the time because of the procedural obligations we have here, procedural rules we have to follow in the Senate.

So the next work period, which is July 5 through August 7, which is 5 weeks, there will only be one no-vote day, and that is July 16. The reason for that is as I have outlined. We are going to conduct business on Mondays and Fridays, and there will be rollcall votes on those days. That is the plan.

I have just been advised that the no-vote day is Friday, July 17, not July 16. So everything I have said other than that is valid. July 16 is a Thursday.

For example, health care—we cannot complete that most important legislation by working just Tuesday through Thursday.

I had a chairmen's meeting yesterday. We meet every other week with all of the chairmen. It was clear from conversations I had with all of our chairmen that we are going to have to have a very long, hard work period in July. If there are questions anyone has or special circumstances, they can contact either the Republican leader or me, and we will be happy to take a look, but everyone is on notice that is where we are. So with respect to your scheduling on Mondays and Fridays, be very careful because we are not going to be able to come in here on Mondays at 5:30. We are going to have to have regular workdays.

Mr. MCCONNELL. Madam President, I ask my friend before he leaves the floor, what was the no-vote day in the July work period?

Mr. REID. July 17.

Mr. MCCONNELL. The 17th. I thank the leader.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### HEALTH CARE REFORM

Mr. MCCONNELL. Madam President, one thing that unites Democrats and Republicans this morning is that all of us want health care reform in this country. Americans want reform that addresses the high cost of care and gives everyone access to quality care. In America in 2009, doing nothing is simply not an option. We must act, and we must act decisively. The question is not whether to reform health care; the question is how best to reform health care.

Some are proposing as a reform that the government simply take over health care, but Americans have seen the government take over banks, they have seen the government take over insurance companies, they have seen the government take over auto companies, all of that in recent months, and they are concerned about it. So as we discuss health care reform, it is understandable that many Americans would be equally if not more concerned about a government takeover of health care.

Some are openly calling for this government takeover of health care, making no apologies about it. Others disguise their intentions by arguing for a government "option" that we all know will really lead to government-run health care being the one and only op-

tion. But it should be perfectly obvious to anyone who has followed government takeovers in the financial sector and the auto industry that government creates an unfair, not level playing field that puts other companies at a disadvantage and only ends up hurting consumers in the end.

We have seen this with the insurance bailouts. When most companies want to raise money, they have to show they are viable and their products and services are a worthwhile investment. That is what most companies have to go through. Bailed out insurers just have to ask for more money, and the government hands it over. Apply this model to health care, and the government would be able to create the same kind of uneven playing field that would, in all likelihood, eventually wipe out competition, thus forcing millions of people off the private health plans they already have and which the vast majority of them very much like.

We are also seeing the ill effects of government control in the auto industry. The government has already given billions of dollars to the financing arms of Chrysler and General Motors, allowing them to offer interest rates Ford and other private companies struggle to compete with. This means the only major U.S. automaker that actually made the tough choices and didn't take bailout money is at a major disadvantage as it struggles to compete with government-run auto companies such as GM. If Ford needs money, it has to raise it at an 8-percent rate of interest. If GM wants money, all it has to do is to call up the Treasury and ask for it. No company can compete with that.

This is how the government subsidizes failure and undercuts private companies, and this is how a government plan would undercut private health care plans, forcing people off the health plans they like and replacing those plans with plans they like less.

No safeguard could prevent this from happening. Eventually, Americans would be stuck with government-run health care whether they like it or not. That is when the worst scenario would take shape, with Americans subjected to bureaucratic hassles, hours spent on hold waiting for a government service representative to take a call, restrictions on care, and, yes, lifesaving treatment and lifesaving surgeries denied or delayed. Medical decisions should be made by doctors and patients, but once the government is in control, politicians and bureaucrats would be the ones telling people what kind of care they can have. Americans could find themselves being told they are too old to qualify for a procedure or that a treatment that could extend or improve their lives is too expensive.

If anybody doubts this can happen, they should consider what happened to Bruce Hardy.

Bruce was a British citizen suffering from cancer. His doctor wanted to prescribe a drug that was proven to delay the spread of the cancer and may well have extended his life. But the government bureaucrats who run Britain's health care system denied treatment, saying the drug was too expensive. The British Government told Bruce his life wasn't worth prolonging because of what it would cost the government to buy the drugs he needed. The government decided that Bruce Hardy's life wasn't worth it.

Or take the case of Shona Holmes, a Canadian citizen who was told by the bureaucrats running the health care system in that country she would have to wait 6 months—6 months—to see a specialist to treat her brain tumor. Here is how Shona described her plight:

If I had relied on my government, I would be dead.

Shona's life was eventually saved, fortunately, because she came to the United States for the care she needed. With her vision deteriorating, she went to the Mayo Clinic in Arizona, and the doctors there told her immediate surgery would be needed to prevent permanent vision loss and maybe even death. Meanwhile, the government-run system in Canada would have required more appointments and more delays. Ms. Holmes got the treatment she needed, when she needed it, in the United States.

The American people want health care reform, but creating a government bureaucracy that denies, delays, and rations health care is not the reform they want. They don't want the people who brought us the Department of Motor Vehicles making life-and-death decisions for them, their children, their spouses, and their parents. They don't want to end up like Bruce Hardy or Shona Holmes.

#### GUANTANAMO BAY

Mr. MCCONNELL. Madam President, on a very timely subject, we understand that discussions are underway on the conference report on the supplemental. I think it is important to remind everybody in the House and in the Senate that, just a few weeks ago, the Senate answered the question that has concerned Americans and that is this: whether the terrorist detainees at Guantanamo Bay, Cuba, should be transferred stateside to facilities that could be in or near their communities.

By an overwhelming vote of 90 to 6, the Senate said: No way, not without a plan. It passed the bipartisan Inouye-Inhofe amendment that bars the administration from transferring these terrorist detainees into the United States—90 to 6.

This is not a change in the Senate's position. Just a few years ago, the Senate, by a vote of 94 to 3, said the same thing: We should not move some of the

world's most dangerous terrorists out of Guantanamo's modern, safe, and secure facility into our country.

The views of the Senate are abundantly clear. Nevertheless, it has been reported that congressional Democrats are privately considering the entreaties of the White House to repudiate these very clear views and to allow terrorist detainees to come into the United States.

What has changed? What has changed in the last couple weeks?

The views of the American people have not changed. In fact, they are more firmly opposed to this now than they were 2 months ago. Nor have the dangers and difficulties of moving the detainees into the United States.

The FBI Director, a couple weeks ago, testified about the dangers of holding these terrorists in the United States. Most of us are familiar with the problems Alexandria, VA, experienced with the trial of just one terrorist: security problems, transportation problems, logistical problems, commercial problems and on and on. Indeed, if you want to try these detainees by military commission—something I support—there is no better place than the \$12 million modern courtroom right there at Guantanamo Bay.

The administration's supporters point to Supermax as a place to house these terrorists. But our colleagues from Colorado don't support moving them there, nor is there anyplace in the facility to put them.

The Denver Post reports there is just one bed open at Supermax—just one. That means these terrorists would have to come somewhere else, perhaps to a facility in your State.

Why in the world would Senate Democrats be considering the idea of giving the administration millions of dollars for doing this, especially since we still don't have a plan?

According to a Member of the Democratic leadership, it is because keeping terrorists at Guantanamo is a "problem politically" for the administration.

That is most curious. Assuming this is a political problem, with whom does the administration have it? It is not with the American people. They don't want Guantanamo closed, and they certainly don't want its inmates transferred here. It is not with our colleagues from Colorado. They don't want these detainees transferred into their State any more than the rest of America does.

It seems like the administration's "political problem" is a diplomatic one with the Europeans, who want the United States to accept some of these dangerous terrorists before they will. It is not in the interest of the United States to compromise our security to appease our European critics.

Similar to most Americans, I am for keeping Guantanamo open. It is safe

and securely away from our civilian population. Perhaps I could be persuaded to change my mind if the administration comes up with a plan. They have time to do that and still receive funding to execute a plan through the regular order when we take up the 2010 appropriations bills in a few months.

But we should not rush to give the administration a blank check to do something, sight unseen, that Americans overwhelmingly oppose.

As Senate Democrats have often said, the Senate is not a rubberstamp. We should not flip-flop on our vote of a few weeks ago.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided and controlled between the two leaders, or their designees, with the Republicans controlling the first half and the majority controlling the second half.

The Senator from Oklahoma is recognized.

#### HEALTH CARE

Mr. COBURN. Madam President, I have given a lot of thought to this, and I appreciate what the leader said about health care. I am the only practicing physician in the Senate. We have one of our colleagues who is no longer practicing. But it struck me, as a physician, that what we should do in health care ought to be what our patients want us to do. What is it the people—the very personal aspect of health care—would like to see?

There is no question we have big problems in health care. There is dissatisfaction in the insurance side, with Medicare and Medicaid, and the lack of access. But what is it we should be talking about that will solve the insecurities, the problems, the concerns of the American people? I wish to go through with you a little list of items I think individuals in this country would agree with on how we ought to handle health care.

First, we ought to make sure health care is available to everybody in this country and that it is affordable. We will spend, this year, \$2.4 trillion on health care, or 17.5 percent of our GDP. Yet we know that out of that \$2.4 trillion, \$700 billion doesn't help anybody

get well and doesn't prevent anybody from getting sick. We now have an administration that wants to spend another \$1.3 trillion over the next 10 years, or \$130 billion more per year, to try to solve this problem. The money is not the problem. We know, in Medicare alone, there is \$70 billion to \$80 billion worth of fraud and in Medicaid \$40 billion worth of fraud and that is in the government-run programs.

The second thing we ought to make sure of is that everybody can be covered. We can do that with the money we have today. We can make sure everybody gets covered. The other thing we ought to do is make sure everybody who has a plan they like today can keep it. After all, health care isn't about health care, it is about individuals, it is about persons, what they desire, what they need, and when they need it.

We can, in fact, fix the fraud, waste, and abuse in health care. It is something we can do. Not long ago, we discovered we had one wheelchair that had been sold multiple times by one durable medical equipment company in Florida, but it was never delivered, and they collected \$5 million from Medicare for that one wheelchair. That is just the tip of the iceberg of the fraud.

Another thing we know we need to do, and that patients want us to do—because we have a government-run system for 60 percent of our health care today—is we ought to prioritize wellness and prevention. Do you realize Medicare doesn't pay for wellness and prevention and Medicaid doesn't pay for wellness and prevention? So we don't have wellness and prevention. What that leads to is additional chronic disease, which we then will have to manage—a disease we could have prevented.

Another issue I was thinking about—especially with my patients—is that some are employed and have insurance through their employer, but those who are employed but don't have insurance or they own their own business or they are self-employed, they get a totally different look from the IRS about their health expenses. If your employer pays for it, there are no taxes, but if you have to pay for it or you are self-employed or you have your own business, you have to take dollars, after tax, and pay for your health care. So one of the things we have to do is equalize that so everybody is treated the same under the Tax Code for their health care.

How does that work out? Well, if your employer provides your health care, you get about \$2,700 worth of tax benefits a year. But if you provide your health care, you get only about \$100 worth of tax benefit. It is ironic because it is so unfair to say you don't get the same benefit under the Tax Code because you happen to either work in a place that doesn't provide health insurance or you own your own business or you are self-employed.

The other issue I thought about that my patients would want is: What should we not do? What should we make sure we do not do? I think about my patients, and the last thing they want is more government involvement in their health care. We heard the minority leader talk about what happens in Canada when you get sick and how you have to wait and what happens in England when you get sick and are denied care because you are not worth it because of your age. Health care delayed, in the case of the lady he mentioned from Canada, is death. Health care denied, as he mentioned about the gentleman from England, is death—for both those individuals.

If you think about the government-run health care programs today, talk about Indian health care, a government-run program that is so substandard nobody would embrace it. If you think about VA health care—although it is improving through the years—it is still far below the standards of health care in this country. Then, if you think about the fraud in Medicaid and Medicare and the hoops everybody has to jump through, in terms of those two programs, I think most Americans would say: Let's fix it so everybody can have what they need and let's make sure everybody gets covered and let's make sure we do that without having government bureaucrats deciding what, when, and how we get our care.

The final issue is we know one of the problems we have today—besides a recession—is this huge amount of people who are unemployed. Yet we also know 72 percent of all new job creation comes from small business. A proposal is floating out there that we are going to tax you, through a pay-or-play mandate, if you don't provide health insurance for your employees, and you are going to pay into the government to do that. That will kill job creation in this country.

We can fix health care. It needs to be fixed. Everybody agrees with that. How we fix it is the most important issue we are going to deal with in the next 2 years. The idea that we can come to a solution of this in the next couple months, with the complexity we have, will assure us of one of two things: One is a government bureaucratic takeover of health care, or a piece of legislation that will deny care, which will put somebody in between a patient and their doctor and will either delay care or, in fact, will raise the cost of health care.

As somebody who has practiced for 25 years in the field of medicine, obstetrics, and allergy, what I know is that we have a good health care system if we can get the government out of it and not put more government into it. What we need is fairness in access, fairness in the Tax Code, and allow the true American experiment to work in

health care as we have had it work in so many other things.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

### ENERGY

Mr. VITTER. Madam President, I rise today to talk about the crucial issue of energy, to express real and deep concern that President Obama's energy proposals are, pure and simple, a huge package of new taxes on domestic energy production that will hurt this country and particularly hurt middle-class and working-class families, and to offer a clear alternative which is embodied in a bill I have introduced with 14 other Senators and 30 House Members, the No Cost Stimulus Act of 2009.

Energy plays a very unique and important role in our great society because energy—affordable, accessible energy—is one of the great equalizers in our great society. Low-cost energy provides for the single mom working two jobs to be able to drive her kids to school in the morning or soccer practice on the weekend, the way a wealthy family can. Low-cost energy allows for an elderly couple living on Social Security to stay warm in the winter and cool in the summer, as Warren Buffett can.

In providing energy that is truly affordable and accessible to businesses and consumers, we not only grow the society, but it is even more fundamental than that. It is a great equalizer. We ensure that those important opportunities and comforts are available to everyone in our society.

The converse of that is also true. When Congress acts to increase the cost of energy or when Congress acts knowing that will be the effect, we are making a decision to reduce the standard of living of middle-class, working-class families and the poor. We are making a decision to increase that gap, to put classes into our society and take away one of those great equalizers.

Cheap, affordable, accessible energy is as basic as putting a roof over your head and food on the plate of your children. Energy keeps the elderly in Wisconsin warm in the winter, keeps kids in Louisiana cool in the very hot and very humid summer.

With that truth, as sure as we should supply clean drinking water to all Americans, we must provide reliable, affordable energy to the people of our great Nation. It is our responsibility to do so in a nation of the people and by the people and for the people. It is fundamental to who we are as a people because it is a great equalizer, and we are a society not of classes but of one people.

In contrast to this, I am concerned about President Obama's energy proposals which across the board con-

stitute a set of major new taxes on domestically produced energy. I favor an alternative to that, the No Cost Stimulus Act of 2009.

Our goal in the energy debate should be four things. It should be ensuring affordable energy for all Americans, including middle- and low-income families, keeping energy that great positive equalizer in our society. It should be growing the economy from our own abundant resources right here at home and not creating another factor that pushes jobs out of the country to other countries. It should be to work vigilantly to achieve energy independence, doing more here at home. And No. 4, tied directly to that, it should be about ensuring our efforts are consistent with our national security interests, which is, of course, more energy independence.

Again, the President's tax proposals are big increases on domestic energy production across the board. So they work against all of those four core aims that I laid out.

To see how that happens, we can look at history, and not that far back, to President Carter. In 1980, President Jimmy Carter increased taxes on domestic energy production. He signed into law the Crude Oil Windfall Profits Tax Act. The windfall profits tax was forecasted to raise more than \$320 billion between 1980 and 1989. But a funny thing happened on the road of implementation. The reality was far different.

According to the CRS, the government collected only \$80 billion in gross tax revenue, compared to that \$320 billion projection. The CRS also found the windfall profits tax had the effect of decreasing domestic production, what we produce at home, by between 3 percent and 6 percent, thereby increasing our dependence on foreign oil sources from 8 percent to 16 percent.

A side effect was declining, not increasing, tax collections. And while the tax raised considerable revenue in the initial years following its enactment, those revenues declined to almost nothing as that domestic energy industry went down as a direct result.

So here we are in 2009 and, unfortunately, it seems to be back to the future, a repeat of that sad experience. The Obama administration is, again, proposing to increase taxes across the board in major ways on domestic energy production and on domestic utilities, even in the midst of this serious recession. In this case, the President imagines different results from the same policy of the 1980s, but I am afraid the result will be more of the same.

Let's look at exactly what these energy proposals, which are just tax increases, are.

First, a huge category of President Obama's proposals is his so-called cap-and-trade plan. Let's make no mistake.

Cap and trade is a phrase in vogue. It has gained a lot of vogue. What it is about, again, is a tax on domestic utilities and domestic energy. It is a carbon tax. It is an energy tax, pure and simple. You can dress it up, you can muddy it up, you can try to confuse the public, but it is a tax on utilities, and it is a tax on energy.

Independent analysis by the Heritage Foundation estimates that the economic impact of the Waxman-Markey bill by 2035 will be enormous and it will be negative: reduce aggregate gross domestic product by \$7.4 trillion; destroy 844,000 jobs, with peak years seeing unemployment rise by over 1.9 million jobs; raise electricity rates 90 percent after adjusting for inflation; raise gasoline prices by 74 percent after adjusting for inflation; raise natural gas that goes to residential customers, American families, by 55 percent; raise an average family's annual energy bill by \$1,500. That is a \$1,500 a year tax bill on working-class, middle-class families. Increase the Federal debt by 29 percent after adjusting for inflation. That is \$33,400 of additional Federal debt per person, again, after adjusting for inflation.

Some might say this is a conservative think tank, this is biased. There is independent analysis, and in this case it comes from President Obama. The President spoke very directly on the campaign trail. It was at a private editorial board meeting, but it was on the record, and we have his direct quote that said that utility rates would skyrocket—"skyrocket," his word—and he is right.

In addition to his carbon tax, cap-and-trade proposals, President Obama has other energy taxes on domestic production, right when we should be increasing domestic production, increasing that bridge to the future, energy independence. He has tax proposals on domestic production that would do the opposite: \$62 billion of new taxes on the so-called LIFO reserve through a change in accounting rules, bottom line, a \$62 billion tax increase on domestic energy; \$1 billion of new taxes by increasing the amortization period to 7 years for oil and natural gas production, bottom line, a billion-dollar tax increase on domestic energy; \$5 billion tax increase with new taxes on a significant part of domestic oil and gas production, 25 percent of oil production in the United States and 15 percent of gas; \$49 billion of new taxes through the repealing of the passive loss exception for oil and gas properties; \$13 billion of new taxes by repealing section 199 of the manufacturers tax deduction; \$175 billion of new taxes by forcing States into a renewable portfolio system which is particularly difficult and particularly troubling for States such as Louisiana which has many resources and many renewable resources but not the specific ones demanded by that

portfolio; and \$17 billion of new taxes by reinstating the Superfund excise and income taxes—again, a package of enormous tax increases all on domestic energy production.

If you raise taxes in a major, significant way on domestic energy production, do you think that production is going to go up or go down? The answer is obvious. In theory, it is going to go down. And the answer is obvious, in history, in practice, it is going to go down. It did go down with the Jimmy Carter windfall profits tax, which is small compared to this huge onslaught of new taxes on our utility bills and on domestic production.

Energy Secretary Chu has argued clearly in the past that if the United States wanted to reduce its carbon emissions, policymakers would have to find a way to increase petrol prices, as he put it, to levels like we see in Europe. It is not a secret. Secretary Chu is saying we need to increase taxes on oil, the cost of gasoline. President Obama said on the campaign trail that we need to do a carbon tax, cap and trade, that will, of course, cause utility bills to skyrocket. This is not a secret.

Let me go back to what I think the four main goals of a sound energy policy are and are these major energy tax increases doing any of it.

No. 1, ensuring affordable energy for all Americans, including middle- and low-income Americans. The President is doing the opposite. He is taking away a great equalizer of our society. He is putting an enormous burden on working-class, middle-class families.

No. 2, growing the economy from our own abundant resources and trying to stop the outsourcing of jobs to other countries. The President's plan is doing the opposite of that. He is putting taxes on at a time of a severe recession, and he is putting a tax on domestic energy which is going to increase the flow of jobs elsewhere.

No. 3, working vigilantly to achieve energy independence. It is common sense that if you dramatically increase the taxes on energy here, you are going to increase energy dependence, not increase independence.

No. 4, we need to ensure that our efforts are consistent with our national security interests. We need to increase our energy independence consistent with national security. Taxing energy here will do exactly the opposite.

It is one thing to say no to bad ideas, but with that comes a responsibility to lay out clear, positive alternatives that provide a positive answer. I have done that, working with many other colleagues, in introducing our No Cost Stimulus Act of 2009. Again, I introduced this bill with 14 other Senators and with 30 House Members about 2 months ago.

As the title suggests, this bill is a comprehensive economic recovery bill. It is a solid energy bill that does not

require borrowing more money from China or anywhere else, increasing the outflow of taxpayer dollars in a time of already historic deficits.

The No Cost Stimulus Act of 2009 can achieve a number of positive outcomes—again, without further indebting our kids and grandkids—and specifically, it does six major things:

First, we can save or create more than 2 million long-term, sustainable, well-paying jobs.

Second, we can dramatically increase GDP that could exceed \$10 trillion over the next 30 years.

Third, we would reduce the cost of energy to manufacturers, all U.S. businesses, and American families, including low-income families. On top of helping businesses compete internationally, that reduces the cost of a key input so that resources may be used on other purchases or employee hiring.

Fourth, we would have a real, positive impact on low-income families, as this is the equivalent of receiving a major stimulus check. As the price of energy decreases, a family may direct the extra money toward other needs.

Fifth, we can achieve these goals while not incurring huge amounts of new debt to foreign governments or to anyone else, leveraged against our kids' and grandkids' futures.

Sixth, this bill will have a direct and significant impact on reducing our dependence on foreign oil.

So again, you go back to those four main goals I laid out for sound energy policy. The No Cost Stimulus Act moves us toward those goals, unlike the President's energy tax proposals, which move us away from all of those goals.

What does the No Cost Stimulus Act do exactly? It does three big things:

No. 1, it increases domestic production of energy. We produce more energy here at home on the Outer Continental Shelf, in Alaska, and from oil shale. We have enormous energy resources in this country. We are the only country in the world that has major resources but puts 95 percent of them off limits. This bill would change that.

No. 2—and this is very important—this bill would invest in alternative and renewable energy. No one, including me, thinks our long-term future in energy is oil and gas. We need a new alternative, renewable energy future, and this bill will help build that by actually creating new Federal revenue through the royalty on energy production and devoting most of it to those investments in alternative and renewable energies. Again, we do this without borrowing money by establishing a renewable and alternative energy trust fund and putting funds from domestic production royalties into that trust fund. In doing so, we do more for alternative and renewable energy than



President Obama's entire \$800 billion stimulus plan.

No. 3, the third big thing the No Cost Stimulus Act of 2009 does, it streamlines the regulatory burden and clarifies environmental law. We streamline the review process for new nuclear energy production, and we prevent the abuse of environmental laws, which were not meant to be used as a way to simply stop and block all of these projects.

Madam President, I wish to close as I began. Energy is a big topic, and ensuring affordable, reliable energy is central to the core of who we are in this country because energy is a great equalizer. We are a society of equals. We have never had distinct classes. We have always had great mobility. You can make it in America. If you are successful, you can do anything. You are not born into a class. You are not limited in that way. Affordable, reliable energy is a key equalizer that ensures that American way of life.

So what should energy policy be about? It should be about four things:

No. 1, ensuring affordable energy for all Americans, particularly middle- and low-income families, so that we keep that great equalizer in the center of our society, in the center of our economy.

No. 2, it should be a way to grow the economy with our abundant domestic resources, particularly as we need to get out of this serious recession.

No. 3, good energy policy should work us toward energy independence so we do more here at home and we rely less on foreign sources.

No. 4, a good energy policy should ensure that it is consistent with national security, which, of course, increasing our energy independence is.

I truly believe the No Cost Stimulus Act of 2009 achieves all four of those broad goals in a very significant way. Just as clearly, President Obama's energy tax proposals, which across the board increase the tax burden on utility bills, on domestic energy, on domestic energy production, move us in the opposite direction.

President Obama said very recently about GM, in the midst of the latest GM bailout, that:

GM has been buried under an unsustainable mountain of debt, and piling an irresponsibly large debt on top of the new GM would mean simply repeating the mistakes of the past.

There is an old saying: What is good for GM is good for the country. I would like to modify that to say: What is true for GM is true for the country. So why are we piling an irresponsibly large debt on top of our existing historically high levels of debt in this country? We need another way. We need something like the No Cost Stimulus Act of 2009. We need to learn again how to generate wealth and a healthy economy. We need to refocus here at home on our

abundant energy resources. And that is the way we can have a sound energy policy that meets those four crucial goals I mentioned and allow us to work out of this severe recession—not by borrowing more from the Chinese, not by spending more taxpayer dollars—and it is all borrowed money right now—but focusing here at home on our own resources, on our own people, on good sustainable jobs we can build here toward a prosperous future and toward a new energy future.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. LIEBERMAN. Madam President, I rise today to describe and explain my amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. The central purpose of this legislation is to give the Food and Drug Administration the authority to regulate tobacco products. I support the bill's goals and am an original cosponsor of the Senate counterpart, S. 982.

Because the regulation of tobacco products under H.R. 1256 passes muster under budget rules only because of the increase in tax revenues generated by one federal employee retirement program, I want to make sure that the overall retirement system treats federal employees fairly. To accomplish this, I and colleagues on the Homeland Security and Governmental Affairs Committee—Senators COLLINS, AKAKA, and VOINOVICH—have developed this bipartisan amendment to make a number of much-needed corrections and improvements to the federal employee retirement program. In addition to Senators COLLINS, AKAKA, and VOINOVICH, I would also like to thank Senators MURKOWSKI, MIKULSKI, INOUE, and BEGICH, who have all asked to be included as cosponsors of this amendment.

The central purpose of our amendment is to bring justice to federal employees who—because of quirks in the law, errors, and oversight—have lost out on retirement benefits for which they would otherwise be eligible. Many of the provisions of this amendment have the very strong support of federal employee unions and organizations of managers.

Our amendment would add back into the pending substitute amendment sev-

eral of the reforms to the federal retirement system that were already passed by the House in its version of H.R. 1256. In addition, the amendment includes two very significant reforms to the federal employee pay and retirement systems that our Homeland Security and Governmental Affairs Committee recently approved by voice vote without dissent.

I have prepared a complete written summary of these provisions, and I will ask consent that it be printed in the RECORD. Now I want to focus on those that are most significant.

One of the most important reforms in our amendment would lift retirement penalties now experienced by long-time federal employees under the Civil Service Retirement System who want to switch to part-time work at the end of their careers. The amount of an employee's annuity is based, in part, on the highest rate of salary that the employee received over a 3-year period. Because an employee's salary ordinarily reaches its highest rate at the end of the employee's career, employees count on that end-of-career work period to help determine the amount of annuity. However, as the law now stands, employees who have a substantial period of service before April 1986, and who now switch to part-time work at the end of their career, get part of their annuity determined on the basis of the amount of salary received, which, for the part-time work, is only a fraction of the rate of salary received. With retirement credit for part-time work so reduced, many employees have little incentive to stay on part-time, and simply opt to retire altogether.

Our amendment would fix this problem by using the rate of salary, not the amount of salary, for determining the entire amount of the employee's annuity. This would remove the disincentive that now discourages federal employees near retirement from working on a part-time basis while phasing into retirement.

Our amendment is not only fair to the employee, but also good for the government, by helping to retain valuable employees who wish to phase down their work but to continue offering their talent and experience to serve the government and to train future leaders. This is one of the provisions in our amendment that was passed by the House as part of its version of H.R. 1256, and this provision is also very similar to a bill introduced by Senator VOINOVICH, S. 469, which was unanimously approved by the Homeland Security and Governmental Affairs Committee late last month by voice vote.

A second provision in our amendment would correct an injustice in calculating the retirement dates and benefits for nonjudicial employees of the DC courts, the Court Services and Offender Supervision Agency and the DC

Public Defender Service. Legislation in 1997 and 1998 converted these individuals from being employees of non-federal agencies into being federal employees. The converted employees were brought under the Federal Employees Retirement System, which essentially began calculating their eligibility for retirement and the amount of their benefits anew, without recognition of their previous service.

Some employees of these three agencies could have retired years ago had they received credit for their years of service with the DC government. Instead, they are still serving to make up for time lost when they were transferred into the federal service. One provision in our amendment would simply require that the time served by these employees before their date of transfer from DC to federal service will count towards their overall federal retirement eligibility as "creditable service." This is a fair and just correction.

Another important provision in our amendment will equalize the treatment of participants in the old Civil Service Retirement System and participants in the newer Federal Employees' Retirement System. This provision would allow FERS participants to apply their unused sick leave in determining their length of service for the purposes of computing the amount of retirement benefit—something Civil Service Retirement System participants are already allowed to do. This reform would not only bring equity to all federal employees participating in the two retirement plans. It also would help reduce the inevitable absenteeism that results from the current "use it or lose it" policy for sick leave under the FERS program.

Our amendment also provides relief to approximately 170 U.S. Secret Service agents and officers who have lost out on tens of thousands of dollars in retirement benefits because they did not receive what they were promised when hired. This provision would restore this group of agents and officers to the retirement system they were promised and paid into over 22 years ago.

Historically, Secret Service nonuniformed agents, like other federal employees, joined the Federal Civil Service Retirement System, whereas uniformed officers of the Secret Service were covered under the District of Columbia Police and Fire Retirement Plan, because their division had originally begun as an adjunct to the DC police force. Nonuniformed agents who accrued 10 years of protection time could also transfer into the DC plan, and many did so, because the DC plan is more generous and more flexible than the federal system.

New-hires to the Secret Service continued to be promised that they could retire under the DC Metro plan up until 1987. In that year, when the Fed-

eral Employee Retirement System was created to replace the older CSRS, the law did not permit Secret Service agents hired between the years of 1984 and 1987 to opt into the DC plan, but instead required them to be covered by the new federal retirement system.

We ask a tremendous amount from the men and women of the Secret Service, many of whom have some of the most challenging jobs within the federal government. It is not too much to expect that the federal government abide by its promises in return. Accordingly, this amendment will enable the affected Secret Service agents to convert to the DC Metro plan if they so choose.

Finally, our amendment incorporates two additional bipartisan reforms of the federal pay and benefits system that our Homeland Security and Governmental Affairs Committee recently approved without dissent.

First, the amendment incorporates a bill introduced as S. 507 by Senator AKAKA, and cosponsored by Senators MURKOWSKI, INOUE, and BEGICH, called the "Non-Foreign Area Retirement Equity Assurance Act of 2009." This legislation will bring federal employees in Hawaii, Alaska, and other "nonforeign" U.S. territories in line with federal employees in the lower 48 states with regard to pay and pension. Federal employees in the lower 48 states receive locality pay, which is taxed and counts towards employees' pensions. Federal employees in nonforeign areas instead receive a nonforeign cost of living allowance, which is neither taxed nor counted towards pensions.

This puts nonforeign area employees at a substantial disadvantage when it comes time to retire. To correct this situation, the legislation would move federal employees in nonforeign areas from the nonforeign COLA system to locality pay that would both be taxed and count toward pensions. Locality pay would be phased in over a 3-year period and the nonforeign COLA would be phased out. Although all future employees would be covered by the act, existing employees in nonforeign areas could choose to continue receiving the nonforeign COLA rather than being transitioned to locality pay.

We have also included in this amendment a bill, S. 629, which was introduced by Senator COLLINS and cosponsored by Senators VOINOVICH, KOHL, and MCCASKILL, named the "Part-Time Reemployment of Annuitants Act of 2009."

This legislation would authorize Federal agencies to reemploy retired Federal employees, under certain limited conditions, without offset of annuity against salary. The purpose is to help agencies weather the upcoming wave of retirements by hiring back retirees on a limited basis.

Under present law, most annuitants who return to work have the amount of

their pension offset against their salary. Congress has enacted certain limited exceptions to this general rule, and our amendment would grant all agencies the power to hire annuitants at full salary and annuity if certain conditions are met.

The bill includes several limits intended to ensure that the authority is used for the intended purpose, to fill particular staffing gaps and needs. A reemployed individual may not work more than a maximum of 520 hours—i.e., 65 days—in the first 6 months after retirement, or more than 1,040 hours—i.e., 130 days—in any 12-month period, or exceed a total of 3,120 hours—i.e., 390 days—for any one individual. These limits represent working at about half time.

Moreover, reemployed annuitants at an agency may not comprise more than 2.5 percent of the agency's total workforce, and may not exceed 1 percent of the agency's total workforce unless the agency head submits a written justification to OPM and Congress. The legislation would sunset after 5 years.

Federal employees, wherever they work, are a dedicated group of people who are asked to make a number of sacrifices for the sake of their country.

Those in the Secret Service, obviously, sacrifice more, sometimes with their lives. Our amendment will update and bring retirement parity and fairness to many federal employees. This amendment will provide a measure of justice for hundreds of thousands of public servants. I urge my colleagues to support this amendment.

Madam President, to reiterate, I rise today to describe and explain and speak on behalf of the bipartisan amendment to this underlying bill I am proud to introduce, along with Senator COLLINS, Senator AKAKA, and Senator VOINOVICH. The central purpose of the legislation before us, of course, is to give the Food and Drug Administration the authority to regulate tobacco products. I support the aims of the bill strongly and I am proud to be an original cosponsor of the Senate counterpart, S. 982.

Because the regulation of tobacco products is estimated to result in some reduction in tobacco excise taxes, the bill before us, H.R. 1256, passes muster under budget rules only because of an increase in revenues generated by a change that is made in the proposal in the Federal Employee Retirement System. The aim of Senator COLLINS, Senator AKAKA, Senator VOINOVICH, and myself, in proposing this amendment is to make sure that while that revenue-raising change occurs, that the overall retirement system treats Federal employees as fairly as possible. So we have developed this bipartisan amendment to make a number of corrections and improvements in the existing Federal employee program.

In addition to the Senators I have mentioned, I also thank Senators MURKOWSKI, MIKULSKI, INOUE, and BEGICH, who have also become cosponsors of this amendment.

The central purpose of the amendment is to bring justice to Federal employees who, because of quirks in the law—frankly of errors or oversights—have lost out on retirement benefits for which they would otherwise be eligible. Many of the provisions of this amendment have the very strong support of the groups representing Federal employees and managers as well. Our amendment would add back into the pending substitute amendment several of the reforms to the Federal retirement system that actually were already passed by the House in its version of H.R. 1256. In addition, the amendment includes two very significant reforms to the Federal employee pay and retirement systems that our Homeland Security and Governmental Affairs Committee recently approved by voice vote without dissent.

I should state here for the record that the committee now has very broad jurisdiction which has been added to, in recent years, when we became the Homeland Security Committee, but in the original governmental affairs jurisdiction of the committee we not only have general oversight of the activities of government, of the Federal Government, this is the committee responsible for the civil service, for those who work every day to enable our Federal Government to work for the citizens of our country.

I have a complete written summary of the provisions that are in this amendment. I will offer it a little bit later, but now I want to focus on a few of the most significant changes.

One of the most important reforms in the amendment would lift retirement penalties now experienced by long-time Federal employees under the Civil Service Retirement System when they want to switch to part-time work at the end of their careers. It is very important, as we face a time of increasing retirement from Federal service and increasing demand on Federal service. The amount of an employee's annuity is based in part on the highest rate of salary an employee received over a 3-year period. Although an employee's salary naturally reaches its highest rate at the end of an employee's career, employees count on that end-of-career work period to determine the amount of annuity they will live on in retirement. However, as the law now stands, employees who have a substantial period of service before April 1986, and who now switch to part-time work at the end of their career, get part of their annuity determined on the basis of the amount of salary received, which, for part-time work, is only a fraction of the rate of salary received.

With retirement credit for part-time work so reduced, a lot of employees

have very little incentive to stay on part time when we need them to do so, and they will, therefore, retire altogether.

Our amendment would fix this problem by using the rate of salary, not the amount of salary, for determining the entire amount of the employee's annuity. That would remove the disincentive to continue to serve that now exists.

A second provision in our amendment would correct an injustice in calculating the retirement dates and benefits for nonjudicial employees of the D.C. courts, the Court Services and Offender Supervision Agency, and D.C. Public Defender Service. These are fair and just corrections.

Another important provision in the amendment would equalize the treatment of participants in the Civil Service Retirement System with treatment of participants in the newer Federal Employees Retirement System. To the average American, this vocabulary is probably not too comprehensible. To the millions of Federal employees, the difference between the CSRS and FERS is quite well understood and significant. The provision that we have in this amendment would allow for its participants to apply their unused sick leave in determining their length of service for the purposes of computing the amount of retirement benefits—something Civil Service Retirement System participants are already allowed to do. So that is an inequity this amendment would eliminate.

The amendment also provides relief to approximately 170 U.S. Secret Service agents and officers who have lost out on tens of thousands of dollars in retirement benefits because they did not receive what they were promised when hired. This provision would restore this small group of agents and officers to the retirement system that they were promised and paid into over 22 years ago. We obviously ask so much of the men and women of the Secret Service that we should treat them fairly.

Finally, our amendment incorporates those two additional bipartisan reforms of the Federal Pay and Benefit System that our Homeland Security and Governmental Affairs Committee recently approved without dissent.

First, the amendment incorporates a bill introduced as S. 507 by Senator AKAKA, who I know is on the floor and I believe may speak on this when I am done, cosponsored by Senators MURKOWSKI, INOUE, and BEGICH, called the Non-Foreign Area Retirement Equity Assurance Act of 2009. These obviously are colleagues from Alaska and Hawaii, so it has unique relevance there. The legislation would bring Federal employees in Hawaii and Alaska and other "nonforeign" U.S. territories in line with Federal employees in the lower 48 States, as we call them, with regard to

pay and pension. Federal employees in the lower 48 receive locality pay, which is taxed and counts toward employee pensions. Federal employees in nonforeign areas, such as Alaska and Hawaii, instead receive a nonforeign cost of living allowance, which is neither taxed nor counted toward pensions.

This puts Federal workers in places such as Hawaii and Alaska at a substantial disadvantage when it comes to retirement. To correct this situation, this legislation would remove Federal employees in nonforeign areas—Alaska, Hawaii, et cetera—from the nonforeign COLA system to locality pay that would both be taxed and would count toward pensions.

We have also included in this amendment a bill, S. 629, which was introduced by Senator COLLINS and cosponsored by Senators VOINOVICH, KOHL, and MCCASKILL, which is called the Part-Time Reemployment of Annuitants Act of 2009. This is relative to something I talked about earlier. It would authorize Federal agencies to reemploy retired Federal employees under certain limited conditions without offset of annuity against salary. In other words, we have some retired employees who, after a long period of service, have built up specialized skills we need and will need more and more in the years ahead, as a generation retires from Federal service. Yet now there is an economic disincentive for those retired employees to come back part time or for limited periods of time to serve the American people.

Under present law, most annuitants who return to work have the amount of their pension offset against their salary. Congress has enacted certain limited exceptions to this general rule. Our amendment would grant all agencies the power to hire annuitants at full salary, while maintaining their full retirement benefit, if certain conditions are met.

The bill includes several limits to ensure that this authority is used for the intended purpose, which is to fill particular staffing gaps and needs and not used to frustrate the desire of a new generation of Federal workers to come in. A reemployed individual may not work more than a maximum of 520 hours, 65 days, in the first 6 months after retirement or more than 1,040 hours, 130 days, in any 12-month period or exceed a total of 390 days for any one individual for the entirety of their retirement.

Each of these proposals that are part of this amendment treat Federal employees fairly. They correct inequities; in some cases, oversights. The fact is, in many countries of the world, developed countries particularly, one of the most respected professions, lines of work one can go into is civil service, what we call the civil service. We are not where we should be in this country. These are the people who make the

Federal Government work. We should treat them fairly and, in this unique circumstance, when we are taking some more out as a result of a change in the Federal retirement system to offset the loss of excise taxes on tobacco, there is some money left over which we can use to correct these inequities on Federal employees. That is why I am so pleased this is a bipartisan amendment.

I hope, when it comes to a vote, it will receive overwhelming bipartisan support.

I thank Senator AKAKA, who is an extraordinary Senator in general but has been a wonderful, productive, contributing member of this committee and a great advocate for the most progressive human capital management; that is, the best management of our Federal workforce.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. AKAKA. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Madam President, I thank Chairman LIEBERMAN for his leadership. He has been doing a grand job in moving legislation on issues of homeland security. I rise today to support the Family Smoking Prevention and Tobacco Control Act. Tobacco products kill approximately 400,000 people each year. The FDA must be provided with the authority to regulate deadly tobacco products, limit advertising, and further restrict children's access to tobacco.

I commend my friend from Massachusetts, Senator KENNEDY, for his long-term commitment to advancing this vital public health legislation, and I thank my friend from Connecticut, Senator DODD, for managing this bill. I am proud to support their efforts.

Included in the bill are a number of Federal retirement provisions that go a long way to support retirement security and provide more options for Federal employees.

The provisions in the managers' amendment would make four changes to enhance the Thrift Savings Plan. Federal employees would be automatically enrolled in the TSP with the option of opting out of the program. Federal employees also will be eligible for immediate matching TSP contributions from their employing agency. In addition, the Thrift Savings Board will have the option to create a mutual fund window during which employees will be able to select mutual funds that are appropriate for their investment needs. Finally, employees will be allowed to invest in a Roth IRA through the TSP.

As chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I also am proud to

support my other good friend from Connecticut, Senator LIEBERMAN, in offering an amendment to support additional retirement security and equity provisions for the Federal workforce.

Most important to my home State of Hawaii, the amendment provides needed retirement equity to Federal employees in Hawaii, Alaska, and the territories. Nearly 20,000 Federal employees in Hawaii, and another 30,000 Federal employees in Alaska and the territories, currently receive a cost of living allowance, which is not taxed and does not count for retirement purposes.

Because of this, workers in these areas retire with significantly lower annuities than their counterparts in the 48 States and DC.

COLA rates are scheduled to go down later this year along with the pay of these nearly 50,000 Federal employees if we do not provide this fix.

In 2007, the Office of Personnel Management offered a proposal to correct this retirement inequity. After soliciting input from all affected employees, I introduced the Non-Foreign Area Retirement Equity Assurance Act. The bill passed the Senate by unanimous consent in October 2008. Unfortunately, the House did not have time to consider the bill before adjournment.

I reintroduced this as S. 507, which is included in this amendment, with Senators MURKOWSKI, INOUE, and BEGICH. It is nearly identical to the bill that passed the Senate last year.

This is a bipartisan effort to transition employees in Hawaii, Alaska, and the territories to the same locality pay system used in the rest of the United States, while protecting employees' take-home pay in the process. In this current economic climate we must be careful not to reduce employees' pay.

The measure passed unanimously through committee on April 1. OPM recently sent Congress a letter asking for prompt, favorable action on this measure.

This is one of the most important issues facing Federal workers in Hawaii, Alaska, and the territories. I urge my colleagues to support this change.

One of the other provisions in the amendment corrects how employees' annuities are calculated for part-time service under the Civil Service Retirement System. This provision treats Federal employees under CSRS the same way they are treated under the newer Federal Employee Retirement System. Eliminating this unnecessary disparity is a matter of fairness and correction.

Similarly, this amendment includes a provision to treat unused sick leave the same under the new retirement system as under the old system.

The Congressional Research Service recently found that FERS employees within 2 years of retirement eligibility used 25 percent more sick leave than CSRS employees within 2 years of re-

tirement. OPM also found that the disparity in sick leave usage costs the Federal Government approximately \$68 million in productivity each year.

This solution was proposed by Federal managers who wanted additional tools to build a more efficient and productive workplace and to provide employees with an incentive Congress should have retained years ago.

This amendment also will make good on the recruitment promise made to a small group of Secret Service agents. Approximately 180 Secret Service officers, hired during 1984 through 1986, were promised access to the DC retirement plan. This amendment would provide it.

The majority of these retirement reform provisions have the endorsement of all the major Federal employee groups including: the American Federation of Government Employees, the National Treasury Employees Union, the National Active and Retired Federal Employee Association, the Senior Executives Association, the Federal Managers Association, the Government Managers Coalition, and the list goes on.

I strongly encourage my colleagues to support this bill and the Federal retirement reform provisions.

I thank Chairman LIEBERMAN for his support and his leadership.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HAGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HAGAN. Madam President, I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HAGAN. Thank you.

Madam President, I rise in opposition to the Family Smoking Prevention and Tobacco Control Act that is before us. While the bill purports to reduce smoking among teenagers and to regulate tobacco products, it goes far beyond these two goals.

This broad, sweeping legislation will further devastate the economy of North Carolina and the lives of many of my constituents. In my State, we have 12,000 tobacco farmers and 65,700 jobs tied to this industry. It also generates close to \$600 million annually in farm income. And the economic impact of tobacco in North Carolina is \$7 billion. We know we are in the midst of an economic crisis, and the bill before us today will further impact the economy in North Carolina by putting thousands of people out of work and exacerbating the already high levels of unemployment throughout our State.

Many aspects of the bill will make it impossible for tobacco manufacturers to earn a living. For example, the labeling requirements in the bill will present a burdensome and costly obstacle for many of the smaller tobacco manufacturers, as will the marketing and advertising restrictions in this bill.

But I am also concerned that the bill will allow the FDA to develop standards for tobacco products for which technology now may not exist. For example, the bill requires the FDA to establish standards for the reduction or elimination of certain components, including smoke components. The problem is that many of these components are naturally found in the tobacco leaf and technology may not be available to extract these natural—they are not artificial—components. Allowing the FDA to develop unattainable standards will put farmers in an outright impossible position—again, hurting generation-old families and businesses in North Carolina.

But let me make it clear that the bill is going to make it more difficult for domestic tobacco manufacturers to compete with foreign tobacco manufacturers who are not going to be forced by the FDA to abide by the same standards as our domestic manufacturers.

For example, the bill requires that tobacco products be tested. I want to offer an amendment that is going to require that this testing be done in a laboratory in the United States because it is hard to fathom that the FDA is going to be allowed into foreign manufacturing facilities.

I believe we need to be cognizant of the burdens these new standards will impose on our domestic tobacco manufacturers in terms of greater costs to implement the reporting, testing, and labeling requirements. And we have to ensure that these costs are not going to put our domestic manufacturers at a total disadvantage with foreign competitors.

The bottom line is that in North Carolina, people are working hard to make a living. Some 65,000 work in this industry, and 12,000 work on our wonderful tobacco farms. In this economic downturn, I do not think now is the time to pass a bill that is going to disproportionately impact so many people in my State.

I have three amendments I wish to discuss at this point. I understand the majority leader is working on an agreement with the Republican leader so that these amendments will be called up at a later date.

The first amendment I wish to discuss is amendment No. 1249, requiring that the technology exist before the FDA can develop standards. This is an amendment I wish to have serious consideration given.

This amendment, No. 1249, simply clarifies that the FDA cannot establish technological standards until they

have determined that the technology is available to meet that particular standard.

The bill does not limit the FDA's authority to reduce or ban compounds found naturally in tobacco leaf. Rather, this bill gives the FDA the authority to require the removal of harmful components from tobacco products, including components that are native to the tobacco leaf. Because of this, many of the new requirements will only be achievable through dramatic changes in tobacco farming operations and could affect the growing and curing of the actual tobacco leaf. As such, this bill allows the FDA to establish standards on tobacco products that may not be achievable with the technology that exists. While the bill does include language that would require the FDA to consider technical achievability, it does not go far enough to ensure that the technology does, in fact, exist.

My amendment would require the FDA to actually establish that the technology is available before it sets the standards. This approach is similar to the standards the EPA must meet to implement environmental laws. I believe if we are going to put 65,700 jobs on the line in North Carolina, we certainly have to ensure that the technology is available to give those people and employers and employees a chance to adhere to the FDA standards.

I urge support of this amendment.

Madam President, I also wish to discuss amendment No. 1253, disallowing FDA regulation of the actual tobacco farmer.

This amendment would clarify that the FDA does not have the authority to regulate the production of tobacco or a farmer who produces tobacco, either directly or indirectly. The underlying bill does state that the FDA does not have authority over the tobacco leaf that is not in the possession of the manufacturer and that the FDA does not have the authority to enter onto a farm owned by a producer of tobacco. But the bill provides an exception to allow the FDA to regulate activities by a manufacturer that affects the actual production. This is a backdoor way of getting at the tobacco grower because nearly every activity by the tobacco manufacturer affects the production of the tobacco leaf.

Further, the underlying bill would allow the FDA to indirectly place mandates on a tobacco producer by placing mandates on a manufacturer. It is unrealistic to expect that mandating standards on tobacco manufacturers will not trickle down to drastically impact the actual farmer and their operations. I believe the exception in this bill is too broad.

My amendment drops this exception. This amendment is critical to ensure that as new standards and regulations are imposed on tobacco manufacturers, farmers and their families will be protected.

Again, there are 12,000 tobacco farmers in North Carolina who are on the line. Their livelihoods are on the line. We need to be sure they are able to have a playing field they can work with.

I urge support of this amendment.

Madam President, the third amendment I want to discuss is amendment No. 1252, which has to do with testing in U.S. laboratories.

This bill before us today requires foreign-grown tobacco to meet the same standards applied to domestically grown tobacco. But the problem is, the bill does not contain language suggesting how the FDA is going to enforce this. I sincerely doubt we will find any foreign tobacco manufacturers willing to invite the FDA into their companies to inspect and test their tobacco products. And I doubt we will find many foreign testing facilities that are willing to submit to U.S. standards.

My amendment addresses this concern by requiring, simply, that any testing of tobacco products required in this bill be conducted in a U.S. laboratory. Undoubtedly, the FDA is going to have a difficult time regulating products coming in from overseas. We do not have to look very far into FDA's past to figure that out. The solution to this problem is to require tobacco products intended for domestic consumption to be, simply, tested in our country.

This requirement would help ensure that domestic tobacco manufacturers are not put at a competitive disadvantage to foreign manufacturers, and that foreign manufacturers do not get preferential treatment because domestic manufacturers would be subject to stricter testing requirements. It would also help to ensure that foreign manufacturers are not simply dumping unsafe products into the U.S. market.

In this time of economic uncertainty, I think we have to do what we can to protect and create American jobs. Requiring tobacco products to be tested in the United States would certainly help keep those jobs here at home.

Once again, I urge support and consideration of this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. We are.

Mr. BURR. Mr. President, I ask unanimous consent to speak for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. I thank the Presiding Officer.

Mr. President, later this morning, today, we will go back on the tobacco FDA bill. As one who has tried to educate Members on why this is a flawed bill, let me state I am fighting an uphill battle. I have been all week.

I wish to thank my friends and colleagues who have come to the floor over the last days to support their belief that this is misguided, not the regulation, but the fact that we are concentrating this in the Food and Drug Administration, an agency that has the trust and confidence of the American people that the gold standard of proving safety and efficacy for all drugs, devices, biologics, and cosmetics, and food safety is their No. 1 mission. But my colleagues know this has been an uphill fight, too. I have tried over the course of those days to highlight for the American public why it is bad policy. I have highlighted portions of the bill that I thought were flawed. I haven't come out and said this is the wrong thing, even though, let me remind my colleagues, this is the current flowchart for the Federal regulation of tobacco before we do anything. So for Members who come and say this industry is underregulated, let me remind them it is the Department of Transportation, the Department of the Treasury, the Department of Commerce, the Department of Justice, the Office of the President, the Department of Health and Human Services, the Department of Education, the Department of Labor, General Services Administration, the Department of Veterans Affairs, the Federal Trade Commission, the Department of Agriculture, Environmental Protection, U.S. Postal, and the Department of Defense. Now we are going to take all of those areas of Federal regulation and we are going to condense them all into the Food and Drug Administration, which has a mission statement of proving the safety and efficacy of every product over which they have jurisdiction.

Twenty-five percent of the U.S. economy is currently regulated by the Food and Drug Administration. Americans go to bed at night after taking pills prescribed by a doctor and filled by a pharmacist with the comfort of knowing they have been approved to be safe and effective. Through this bill, we are going to dump on the Food and Drug Administration a product that is not safe and it is certainly not effective.

I have tried to point out the flaws. Heck, I have tried to point out the good things in the bill. I haven't been one-sided on it. But every time one of my colleagues from the other side of the aisle has come to speak, we have either seen charts that are 10 years old or data that is 10 years old. We have seen products that they have painted in a light that didn't even exist 10

years ago. I haven't heard a single question I have asked in this debate answered by the other side or even their opinion of what is wrong with the substitute. It has all been rhetoric.

I wish to share a story with my colleagues. This story is a news report. It was a report CNN ran on a product that is new to the market. It is called Camel Orbs. It is not a cigarette, and it is really not smokeless tobacco; it is a dissolvable tablet.

As I pointed out to my colleagues yesterday when I showed them the chart for continuum of risk, nonfiltered cigarettes have a 100-percent risk factor and filtered cigarettes have a 95-percent risk factor. As you introduce new products into the marketplace that allow individuals to move from cigarettes to other products, you reduce the risk. You reduce the risk of death and disease, and that is one of the three objectives of tobacco legislation. Youth usage should go down. Death and disease should be reduced from the standpoint of risk.

Let me come all the way over here on the chart to dissolvable tobacco. The risk is 2 percent. To bring these to market is to reduce the risk from 100 percent to 2 percent—98 percent better.

CNN ran this article on Orbs. It is a smokeless product, but I will get into that in a few minutes. For now, what you need to know is Orbs falls under the same age restrictions all tobacco products do. That means it contains no cartoon images. It must be shelved behind the counter where it is out of reach of children. Heck, it is out of reach of adults. They have to physically ask for the product. By the way, you must show photo ID to buy tobacco products today. Let me say that again. You must show a photo ID to purchase tobacco products.

When CNN did their story, take a guess on the angle they took. They labeled it as candy—candy—even though it is not candy flavored. They said it was candy. They didn't mention death or disease. You would think a story on tobacco would lead with that. I haven't been shy to come to the floor and say that is the result of tobacco usage. But they didn't even go to death and disease. No, they said it was candy. That is how they labeled it.

Even though they mischaracterized the product and took people down the path they wanted to go, that wasn't the bad news of this story. The bad part of the story was they took tins of the product and they actually placed them in the candy aisle at the convenience store, right there beside the Reese's Cups and the chewing gum. Then they took footage of a young boy, I think, reaching over and picking up one of the Camel Orbs, even though this is highly illegal. Even though the convenience store could be prosecuted, and therefore they don't put tobacco products in the candy section, still

CNN wanted to make their point. What a better way to make the point than to stage what the picture was. Let me say that again. What a better way to make the point than to stage that every retailer in the world out there is putting Orbs, a tobacco product, in its candy section. They portrayed Reynolds America as being deceptive and luring children. No candy. It is not going in the candy section. It is in the tobacco section where smokeless and stick smoke products are.

That is why it is so difficult. That is why the job I am on a quest for is an uphill battle. It is because nobody on that side wants to come down and talk about the policy.

The bill we are considering was written 10 years ago. No wonder we are using 10-year-old charts and 10-year-old statistics. The truth is, if you look at the statistics today, if you want to address death and disease, then accept the fact that there has to be an opportunity to reduce the risk. But what my colleagues need to know is that H.R. 1256 gives the FDA full jurisdiction over tobacco products, and it takes this category right here and it locks it in. It cements it because it grandfathered FDA from ever doing anything on the existing products that are in the marketplace: filtered cigarettes and nonfiltered cigarettes. FDA is forbidden from changing anything. The products that were sold continue to be sold. No new products can be sold.

They say there is a pathway for these products to come to market. It is a three-pronged test they have to meet. I won't dwell on the first two prongs. Let me dwell on the third one. The third one is this: You have to prove that people who don't use tobacco products aren't likely, when this new product is introduced, to actually use this product. But the way the bill is crafted says this: You can't communicate with the public unless you have an approved product. So I ask my colleagues, if you can't communicate with the American people to find out whether they are likely to buy a product that is new to the market until that product is actually approved, then how can you fill out an application and make the claim that the American people aren't likely to use that product when they don't use tobacco products? So it is disingenuous to suggest that there is a pathway for reduced-risk products when, under the construction you make anybody go through, you can't possibly make the claim they ask you to make because you can't communicate with non-tobacco users as to whether this product would be something they would choose to use. So any claim based upon that, that this is a bill which addresses death and disease, is disingenuous at best because what it does is it locks this category. It cements those people who currently use smoke products—cigarettes—the 19.8 percent of the American people who currently smoke.



So far in this debate, I have seen charts, like everybody else, that would make your skin crawl and I have heard stats that would make your head spin. I even heard Senator SANDERS come to the floor yesterday and say tobacco manufacturers want to get you addicted to heroin. I think he misspoke, but I have to tell my colleagues I am not absolutely positive of that.

All of this follows the same conclusion: Under H.R. 1256, which is the base bill, the sponsors claim that the FDA will stop everything, that all of this will go away. And let me concede for a minute that maybe they are right, then they would have to concede that I am right—with the exception of locking this product in forever. If you lock that product in forever, then you can't make the claim that you are reducing death and disease.

I think, as I have gone through this debate and pointed out that when you look at the CDC study of 50 States and you look at the percentage of smoking prevalence in our youth, what you find is that in 48 States out of 50, the prevalence of marijuana usage is higher than the prevalence of smoking. Let me say that again. In 48 out of the 50 States, the prevalence of marijuana use is higher than the prevalence of smoking. One would conclude from that, since marijuana is illegal—it is not age-tested; it is illegal—that the usage prevalence among youth would be zero. Well, the American people aren't that foolish. They realize nothing goes to zero. But they also realize it is foolish to suggest that if you concentrate tobacco jurisdiction at the FDA, the smoking prevalence is going to go below that of marijuana because marijuana is illegal.

The fact is, putting tobacco regulation at the FDA is not going to have any impact on youth usage. What is going to have an impact on it? Actually taking the master settlement dollars from 1998, the \$280 billion the tobacco industry committed to the States, all 50 of them, for two things: one, to defray their health care costs, and two, to fund the programs of cessation to get people to quit smoking and fund the programs to make sure children never take it up. But as I pointed out, we have some States that, when the CDC annually makes its recommendations, spend as little as 3.7 percent of what the CDC told them they needed to spend of this tobacco money to make sure kids got an educational message: "Do not smoke. It kills." Now we are blaming it on the fact that they are not regulated enough today and that we can concentrate this under one Federal agency, the Food and Drug Administration, and by some magical, mythical thing that happens, youth prevalence of smoking is going to go down. No. It is going to go down when States take the money the tobacco industry gave them

and they actually use it to reduce the youth usage, to make sure they never take up tobacco products, to make sure people switch from smoking products to some other form that has a better effect on death or disease.

I would love to say that my State of North Carolina devotes 100 percent of what the CDC recommends to use on cessation and youth education, but we only spend 17.3 percent of what the CDC recommended of the money we got. When you look at all of the States, though, 17 percent is pretty good. I don't know whether it was used in other States for sidewalks or for greenways. I know one thing for certain: It didn't go to try to educate young people in this country not to use tobacco products. If we want to get the youth usage down, then we have to use the tools we know work; that is, education.

I have listened to my colleagues come to the floor for weeks and make unbelievable statements. All of this has followed the same conclusion: FDA will stop all of this and FDA will put the evil tobacco out of the hands of kids. I think I have made a pretty good case that it is not going to happen, not with this legislation. The sad reality is, maybe Congress could pass a bill that does all that. That is why Senator HAGAN and I have offered a substitute. That substitute will be debated over the first half of this afternoon, and every Member will have an opportunity before the afternoon is over to vote on that substitute.

I encourage all Democrats, Republicans, and Independents to read the bill. You will find that it provides all the regulation in H.R. 1256, and more. The base bill limits print advertising to black-and-white ads. What does our substitute do? It eliminates print advertising. That magazine that mom buys that a 14- or 16-year-old daughter may like to look at in the afternoon—under our substitute, they cannot advertise there anymore. Under H.R. 1256, they are allowed to advertise, but in black and white. In some way, they believe kids cannot read in black and white, they can only read in color. That probably tells you more about how misguided the legislation is. It is not solving the problems—death, disease, and usage. The tools are in place. We can reinforce them in a more effective way. That is what the substitute amendment, I believe, will do.

My friend from Connecticut yesterday stated that I was misguided in my belief that the FDA was not the right agency to regulate tobacco. He said the FDA was the only agency in America that had the scientific expertise to do the job. I only have one question: Does the FDA have the expertise to make tobacco safe? Again, does it have the expertise to make tobacco safe? I think the answer is, no, it doesn't. Therefore, it doesn't meet the mission statement of safety and efficacy. But that is what

they are vested to do. That is what the American people believe the FDA accomplishes. To suggest that we would regulate a product that doesn't meet that threshold is, to some degree, disingenuous to the American people.

My friend from Connecticut also pointed out that my downplay of CBO's estimate on smoking reduction was misplaced. He said that while I kept using the 2-percent figure—which is all the population over 10 years—and CBO had estimated that if we pass the bill, we will reduce smoking by 2 percent over 10 years—that was 900,000 fewer smokers over 10 years, and that number was impressive. I agree that it is impressive. I think he said there would be tremendous health care savings with 900,000 fewer smokers. I am not sure if Senator DODD heard the statistics I gave that were the result of the CDC study. I said numerous times that the CDC said that if we do nothing, there is a reduction in smoking of between 2 and 4 percent per year—not over 10 years, but per year.

I ask my friend from Connecticut, what is more impressive, 900,000 or 9 million fewer smokers? By doing nothing, as CDC has said, we eliminate 9 million smokers. By passing this legislation, CBO says we eliminate 900,000 smokers. Nine million fewer smokers is what we would have if we pass the substitute, but it is not what we would have if we pass the base bill. I ask my friend from Connecticut to truly think about the health savings realized without passing the base bill and realize that, with the substitute, we might actually get to more than 9 million.

My colleague went on to say that I purposely ignore CBO's estimate that youth smoking rates will reduce by 11 percent over the next 10 years under the bill. That is the CBO projection.

Obviously, he didn't hear me earlier in the morning on this issue. I think it is great that smoking rates would decline by 11 percent over the life of the bill. I think it is much better that they would reduce 16 percent if, in fact, the bill weren't enacted. That is what the CDC says—16 percent if you do nothing, and 11 percent if you pass H.R. 1256.

We are not saving lives with this bill. We are not reducing youth usage. If you want to save lives, you need to follow where Senator HAGAN and I are and create a harm reduction center—one that will promote harm reduction products.

If we go back to the continuum of risk chart, if you look at the 100 percent risky and 90 percent risky, it is hard to believe you reduce death and disease. The only way to do that is if you get people to give up these products and you make available products that are on this chart, but also some products that are not on this chart. In the absence of doing that, there is no way you can claim that you have actually affected death, disease, or the cost of health care.



I listened to my friend from Oregon make statement after statement about those dissolvable tobacco products that I pointed out in the CNN expose on tobacco. He repeatedly called it candy, also, even though you cannot buy it unless you are 18, and it cannot be put in the candy section—unless you are CNN and you are doing a story. He said the packaging was intentionally shaped like a cell phone to attract kids. If a cell phone doesn't work, children don't want it, let me assure you. But I will make the pledge to him today that if he will offer an amendment to outlaw any packaging that looks like a cell phone, I will cosponsor it with him. If he were right, I think every manufacturer of anything in the United States would make it look like a cell phone today, if it were that effective.

My friend went on to call Camel Orbs dangerous. He had no scientific basis for that claim. He quoted an 8-year-old Surgeon General warning on smokeless tobacco that said it caused cancer, but the last time I checked, Camel Orbs didn't exist back then. He said that I called harm reduction products, such as Camel Orbs, safe.

I have been on the floor 4 days, and I spoke for 2 hours 37 minutes yesterday. I might have slipped, but I don't believe I have ever referred to any tobacco product as "safe." If I did, let me retract it. I have frequently said there are products that are "less harmful." I have constantly described and made the point that if you don't move people from cigarettes to other tobacco products that allow them to make that transition, you will not reduce death and disease.

I don't think tobacco is safe, but I do believe there are products that are safer than smoking. I believe that for adults who choose to use tobacco products, they should have every option available to make sure that that product is something they can access. Compared to smoking, they do reduce death and disease.

Camel Orbs and Sticks represent a 99-percent reduction in death and disease associated with tobacco use compared to cigarettes. They don't cause lung cancer, cardiovascular disease, emphysema, or COPD.

The American Association of Public Health Physicians states that those Orbs are the most effective way to fight death and disease associated with current tobacco users. Yes, much to my amazement, the American Association of Public Health Physicians came out and endorsed the substitute to H.R. 1256. Again, yesterday, the Association of Public Health Physicians endorsed the substitute amendment to this bill.

Unlike my friend from Oregon, I have the science to back up my claim. I have the studies from Sweden, and I have looked at the documented evidence. Alternative tobacco products work in

harm reduction. I will tell you what doesn't work—current cessation programs, especially the ones that are not funded in that money that was supplied to the States. The current cessation programs don't work; they have a 95-percent failure rate. So 95 percent of the people return to smoking.

Why in the world would we continue to support that as a pathway for reducing death and disease? Why wouldn't we acknowledge the science that currently exists and accept, in new policy, a policy that would in fact embrace this?

May I inquire how much time I have left?

The PRESIDING OFFICER. Four minutes.

Mr. BURR. Senators come to the floor and speak about the \$13 billion in marketing the tobacco industry spends. They fail to tell you that 95 percent of that money goes to retailers and coupons against the competition and to make them more attractively priced at retail. Only 3 percent actually went to advertising in adult venues and point of sale displays. That doesn't make it a good point.

What makes it a good point is that the tobacco industry spends a tremendous amount of money making sure that their industry is protected for those who choose to use it and are of legal age.

Last year, we taxed the tobacco industry to fund the children's health insurance program. There is a proposal on the table to tax them to pay for universal health care. Senator DODD admitted yesterday that the industry would be taxed to pay for this bill.

But that is not a good story. A good story is placing tobacco products in the candy aisle by a news organization just to make a point and then portray to the American people that these are the tactics of the tobacco industry.

I have, over 4 days now, come to the floor not to defend the tobacco industry, but to defend the FDA, because I don't believe the American people deserve us to discredit the gold standard of the FDA by putting this product under their jurisdiction and asking them to do something they have never, ever done.

When I showed the flow chart of jurisdictions, the one missing out of the current regulatory architecture for tobacco is the FDA. Nobody can claim to me they have done this before and, therefore, this is an appropriate thing to do again. Simply, I have come to the floor in the last 4 days to debate the policy. At the end of the day, I hope Members of the Senate will weigh the policy, the points that I have made, the statistics I have produced, the evidence I have brought to the table, and if, at the end of the day, what you are attempting to do is reduce death and disease, reduce youth usage, I hope I have made the case to you that you should not pass H.R. 1256.

This afternoon, before there is an opportunity to vote, I hope to make the case that you should support the Hagan-Burr substitute. I hope I have made the case to most that even if the choice comes down to passage of H.R. 1256 or nothing, that the CDC report says if you want to address a reduction in death and disease, the fastest way to get there is to do nothing if, in fact, your only choice is to pass H.R. 1256.

Once again, I thank my colleagues for their patience as I come to the floor to try to educate and provide facts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I unanimous consent to speak in morning business for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, first, I will address the issue pending on the floor of the Senate, which is the issue of whether we are going to have the FDA regulate tobacco.

The FDA, historically, focuses on the obvious—food and drugs. Over the years, we have expected from them that they would do their job and make sure, as much as humanly possible, that American consumers would not be exposed to dangerous food products or dangerous drugs and medicine. Sometimes they have failed us, but most of the time they do the job pretty well.

The way they do their job, when it comes to food, is pretty obvious when you go to the grocery store. A consumer buying a pound of spaghetti can grab the box or bag and look at the label and find out the contents, including a nutrition square that talks about carbohydrates, fat, and calories, which people are concerned about before making choices.

When it comes to medicines and drugs, the Food and Drug Administration goes a step further. They require that products that are sold in the United States be both safe and effective. If you are going to sell a drug that is supposed to lower your cholesterol, the Food and Drug Administration wants it tested to make sure it does not hurt you, No. 1, and, No. 2, that it does what it is supposed to do.

So over the years, for almost 100 years, the Food and Drug Administration has created a safety net for American consumers so that the things we purchase, at least by that agency and a few other Federal agencies, have some review before the consumer purchases it.

Then along comes tobacco, and the tobacco industry has argued for as long as this issue has been going on that they should not be covered by the Food and Drug Administration. They say: We are not food. Nobody eats tobacco for nutrition or other purposes. And we are not a drug. We are just tobacco leaves that are ground up, put in a little paper cylinder that people enjoy

smoking or maybe chewing. That is all it is about.

For the longest time, they were exempt from the Food and Drug Administration asking the most basic questions. For example: What is in your product? If you believe it is just tobacco leaf ground up and stuck in paper, you are wrong. It turns out that tobacco companies learned a long time ago that if they added chemicals to the cigarettes, they could get more consumer satisfaction, more consumer use, and people buying more of their product.

What did they add? They learned a long time ago that the tricky part of tobacco is nicotine. Nicotine is a drug naturally occurring in tobacco which, if you smoke it, your body starts to crave it, and with that craving and that demand of your body each day for more and more of the chemical, you smoke more and more. Nicotine, craving, leading to an addiction.

I don't use that word lightly. I have seen people who are addicted to tobacco products—virtually all of us have—folks who just cannot quit. They try everything—hypnosis, patches, lectures, you name it—and they cannot quit. They crave that nicotine chemical.

The tobacco companies learned a long time ago that if they added more nicotine to those tobacco leaves than naturally comes out of them, the people get more addicted. It makes it more difficult for them to quit. So they started piling more nicotine into the cigarette. But that was not the end of it.

They also said: The first time a kid or somebody picks up a cigarette and takes a big drag of it, often they cough because their body is saying: What are you doing to me? You are jamming that smoke into my lungs? That doesn't belong there. They found other chemicals that they could add to cigarettes which would reduce the body's rejection and would make it more pleasant to the taste, and so they pumped those chemicals in as well. Then came a whole soup of chemicals that they added for any number of reasons.

Obviously, when you buy a pack of cigarettes, if you want to know what is in the cigarette and take a look at the package, you will find there is no disclosure whatsoever. None. You don't know what is in there. All you know is this is paper and tobacco to start with, but you don't have a clue that there is more nicotine or other chemicals added. And you certainly don't have a warning on the package that some of the chemicals they stick in cigarettes literally cause cancer. It isn't bad enough that burning tobacco and inhaling the smoke can cause cancer, there are other chemicals that are carcinogenic added by tobacco companies because they think it makes a more pleasant product.

The obvious thing the American consumers would say is: Where is the Food and Drug Administration warning? Why won't they tell us the ingredients on that tobacco package? Why won't they tell us if they are dangerous? Because they do not have the legal authority to do it.

From the beginning of time, with the tobacco lobby being one of the most powerful in Washington, they made sure the Food and Drug Administration had no authority when it came to this product. None.

Who does regulate tobacco in the United States? The answer is not anyone; no agency does. The only real regulation has come out of court cases where people who were injured sued the tobacco companies because of things such as misrepresentations—light tobacco, low-tar tobacco, safer cigarettes. People take them to court and say that is misleading and deceptive. They have won cases, and they have had to disclose more information over the years.

Today we are trying to do something that the tobacco companies' lobby has been fighting for decades. We are trying to let the Food and Drug Administration take over the responsibility of making certain that American consumers are at least informed about tobacco products so they know what is in that little package, whether it is dangerous, and they can make a conscious choice about purchasing it.

The second thing we do is to make sure that we keep those tobacco products out of the hands of kids. Why? The math is very simple. Every day about 1,000 Americans die from tobacco-related disease—lung cancer, heart disease—1,000 die. If you were a company selling a product and 1,000 of your consumers are dying every day, you start wondering whether you are going to be in business in a few years. So you have to recruit more consumers of tobacco products.

But tobacco companies have a problem. If people wait until they are older—18, 19, 20 years old—to make a choice about smoking and using tobacco, they will probably say: Are you kidding? No way. It is dangerous and it is stupid and it is expensive. So if you cannot get adults to make up for the 1,000 tobacco users who die each day, where do you go? Kids. You go to children. You try to find ways to lure children into using tobacco products.

The advertising has a lot to do with it, but so does human nature. My wife and I raised three kids. We have seen a lot of kids being raised. I even have vague memories of my youth. The first thing you are attracted to is what your parents say you should not touch. Don't you dare touch that pack of tobacco. Don't you dare smoke a cigarette. Can't wait to try it, right? Get out behind the garage with your cousin, the way I did when I was 10 or 11

years old, to smoke my first cigarette. Man, that shows I am independent, I am grown up, I make up my own mind. Kids will do this. I wish they did not. I wish I had not. But they do it.

I told the story on the floor the other day about when I was a little kid growing up in East St. Louis. My cousin Mike and I went out behind a garage and smoked a cigarette. Lucky for me I didn't like it much. I didn't continue the habit. Unfortunately, my cousin Mike did. He passed away 2 weeks ago—younger than I am—passed away from tobacco-related lung disease. It was an addiction started behind that garage that he could never break the rest of his life. There he was, on oxygen, smoking the night before he died. He just could not quit. It is a terrible addiction.

The tobacco companies know to make up for the thousand who die each day. They need 1,000 new smokers a day. Where do they get them? They get them from our kids. Mr. President, 3,000 to 4,000 kids will try a cigarette in America for the first time today, and about 1,000 of them will decide: I am going to keep doing this. And so the ranks of those who die from tobacco-related disease are filled by children.

This bill says we know that and we have to stop it. So not only do we give the Food and Drug Administration the authority to tell us the ingredients in the package, we give them the authority to police how people sell tobacco products in America.

It is no coincidence that they start peddling these tobacco products with candy flavors, because they know kids enjoy candy and will enjoy candy cigarettes. I am not making this up. Chocolate cigarettes and vanilla and strawberry—all these things they come up with so that kids will be attracted to the product. We put an end to that stuff. And we say to retailers: Get serious. You better put those cigarettes away from kids. You better not sell to them or you are going to face a serious penalty. If we are sincere about protecting our kids, we have to do this.

I have been involved in this fight for a long time. I was attracted to it when I first got elected to Congress and probably because like virtually everyone following this debate, somebody in my family died from a tobacco-related disease. In my case, it was my dad. He was 53 years old, and he died of lung cancer. I was 14 years old. It was devastating to my family, to me. But my story is not unique. Sadly, it is a story that is repeated over and over every single day.

About 20 years ago, I decided as a Member of the House of Representatives that I was going to do something about it. The first thing I did was to tackle the tobacco lobby on one little tiny issue: banning smoking on airplanes. Hard as it may be for younger people to believe, there was a time

when we had what we called smoking and nonsmoking sections on airplanes. Can you believe that? We are all sitting in the same metal tube flying across the world or around the country, and we are somehow of a mind that if I sit in row 1 through 18 in the nonsmoking section that I will not be bothered by secondhand smoke; it is only those folks in rows 19 to 36 who are going to be in the smoking section that are in trouble. Crazy idea. It never made sense and caused a lot of problems, health and otherwise.

So 20 years ago, we banned smoking in airplanes. I did it in the House. Senator FRANK LAUTENBERG of New Jersey did it in the Senate. It became the law of the land and eventually all flights became smoke free.

I do not want to take more credit than is due, but I think finally people woke up and said: If secondhand smoke is dangerous on a plane, then it is dangerous on a train or a bus or an office or a school or a hospital. Things changed across America. Now, it is rare to walk into a public gathering place and see people smoking. Folks understand, and they do not do that. You do not expose some innocent person to secondhand smoke. If you want to smoke, if you made that terrible decision that you want to be a smoker, go outside and do it. Don't try to put yourself in a position where you endanger others.

What we are trying to do with this bill is to move this debate forward. It was not enough that we could put warning labels on at one time that now have become so small and irrelevant that people do not even see them. It wasn't enough that we banned it on airplanes. If we are serious about protecting our kids from tobacco and smoking, we have to do more.

This may be an easier issue for me coming from the State of Illinois than Senators from tobacco-producing States or tobacco-manufacturing States. I accept that. This is not easy. For them the issue may be different. It may be in terms of tobacco growers and farmers. It may be in terms of tobacco-related employees. For them the idea of reducing the number of people smoking cigarettes has an economic impact. So I am not going to begrudge them coming to the floor and their attempts to change this bill that is before us. It is perfectly understandable. I do not question their motives at all. But I come to it from a public health viewpoint. I think what they are offering as an alternative is not a good one. Let me tell you why.

We have 1,000 organizations, literally 1,000 organizations, health and consumer organizations across the United States that have endorsed this bill. I have literally in my time in Congress, 27 years, never seen a bill with this kind of endorsement. People understand this now. They understand we

have to do this now. Senator KENNEDY, who is our champion and inspiration, cannot be with us. He is battling a brain tumor and doing well, but he cannot make it to the floor. But I will tell you that he is in our hearts, thoughts, and prayers today. This bill is about his valiant effort to make sure we do this. So many organizations join him and us in saying this is long overdue.

Those on the other side have come up with a substitute, an alternative. There are a lot of problems with it. I have heard the Senators from North Carolina—Senator BURR was just on the floor—talk about their alternative. We took a look at it. It turns out there are some problems with their alternative.

They want to create a new Federal agency. They don't want the Food and Drug Administration to do this. Unfortunately, it will be an untested and underfunded agency. They do not understand the concept behind trying to keep tobacco products out of the hands of kids. They say maybe there are some alternative products these kids could use which would not be as dangerous, the so-called risk reduction idea. We started our bill on the premise that the tobacco industry's practices mislead people and result in terrible health consequences, and they have to be changed.

One of the ways they propose to reduce the risk of tobacco is to change the form of tobacco. Instead of cigarettes inhaled into the lungs, it turns out they believe that spit tobacco, chewing tobacco, is a safer way to use tobacco. The proposal that is being offered by the Senator from North Carolina virtually exempts smokeless tobacco products from regulation. You know what I am talking about, those little pouches you stick in your mouth that let tobacco juices flow, and so forth. We even have some Senators who chew tobacco, if you can believe that—it is a fact—and spit into cups. Not my idea of a good time. But some of them do it anyway.

This bill would not go after that form of tobacco. There is little, if any, evidence that smokeless tobacco products are a step in the way of quitting smoking or becoming healthy.

In fact, many of these new smokeless products are being marketed to smokers as a way to sustain their addictions in places where smoking is no longer allowed. Take a look at this product: Camel Snus, frost-flavored Camel Snus, 15 pouches. See these little pouches over here?

For those who aren't familiar with it, snus is a smoke-free, spit-free tobacco product that comes in little pouches which can be placed under the upper lip. And as one high school student described it: It is easy—says the high school kid—it is super discreet. None of the teachers will ever know what I am doing.

This is their idea and the alternative? This is the idea, the alternative of the Senator from North Carolina to kids smoking cigarettes. The Web site for Camel Snus boasts that "snus can be enjoyed almost anywhere, regardless of growing smoking bans and restrictions."

So do we really want a national policy—as the Senator from North Carolina is suggesting—that steers people toward this kind of a product? Let's look at the facts.

Smokeless tobacco is loaded with dangerous ingredients, just like cigarettes. The National Cancer Institute reports that chewing tobacco contains at least 28 known cancer-causing agents. Smokeless tobacco may be a reduced risk in some respects compared to cigarettes, but its use is still a serious health problem and a danger to children. If you need proof of that, look at this poor young man here.

Gruen Von Behrens is an oral cancer survivor. This young man has had more than 40 surgeries to save his life, including one radical surgery that removed half his neck muscles and the lymph nodes and half of his tongue. Like too many teenagers, Von Behrens first tried spit tobacco, which this bill says is a safer way of using tobacco than cigarettes, at age 13—13—in order to fit in. It only took 4 years for him to be diagnosed with squamous cell carcinoma. Look what this poor young man has been through because of a product which the North Carolina Senator tells us is something we should be moving toward in this country.

I think of all those kids who used to have the little can of snuff—baseball players—in the back of their jeans and how cool that was, and I just wonder how many of them face this kind of an outcome because of popular fads. Would we want to endorse that as part of our debate on the future of tobacco in America?

The Burr substitute is based in part on an unproven assumption that smokeless tobacco should be promoted as a way to help people quit smoking. But the 2008 U.S. Public Health Service Clinical Practice Guidelines concluded that the use of smokeless tobacco products is not a safe alternative to smoking, nor is there any evidence to suggest it is effective in helping smokers quit.

Smokers who are trying to quit already have access to safe, rigorously tested, and FDA approved forms of nicotine replacement, like including nicotine gum, the patch, lozenges and other medications.

Let's steer people who want to quit toward these FDA approved products, not toward smokeless tobacco, which is riddled with carcinogens.

Another weakness in my colleague's bill is in the limited authority it gives the new agency to oversee the contents of tobacco products.

The Kennedy bill gives the FDA strong authority to regulate the content of both existing and new tobacco products, including both cigarettes and smokeless tobacco products.

The Burr substitute gives the new agency virtually no authority over the content of existing smokeless tobacco products—no matter how much nicotine, and no matter how many cancer-causing agents they contain.

My colleague's substitute gives the agency far less authority to remove harmful constituents in cigarettes than the Kennedy bill does, and it makes it far more difficult for the agency to act.

The Kennedy bill allows the FDA to fully remove harmful constituents.

The Burr proposal allows only the reduction—but not the elimination—of known harmful substances.

The Kennedy bill allows the FDA to take into account the impact of product changes on potential users—including children—and the effects on former smokers who might be enticed to resume the nicotine addiction.

The Burr substitute allows the agency to consider only the narrow health impact on existing smokers.

The Kennedy bill allows the FDA to reduce or fully eliminate substances that “may be harmful” using the best available scientific evidence.

The Burr substitute requires the agency to demonstrate that a single product change is likely to result in “measurable and substantial reductions in morbidity.” This standard will be extraordinarily difficult to meet given the large number of harmful substances in cigarettes. It is language that will tie the agency in knots and prevent actions that are clearly in the interests of public health.

The Kennedy bill includes an outright ban on candy and fruit-flavored cigarettes.

The Burr alternative bans only the use of candy and fruit names on the products, while allowing the use of candy and fruit flavors to entice young people to begin using products laced with nicotine and carcinogens.

All these details are important—they mark the difference between an approach that gives the government real authority to regulate the contents of tobacco products, and an approach that bows down to the industry and leaves tobacco companies in charge of these decisions.

We shouldn't continue to give those companies that kind of power.

There is another serious problem with the substitute offered by the Senator from North Carolina. It does not adequately protect consumers from misleading health claims about tobacco products.

The Kennedy bill sets stringent but reasonable scientific standards before manufacturers of cigarettes and smokeless tobacco products are al-

lowed to claim that their products are safer or reduce the risk of disease.

The Burr substitute completely exempts smokeless tobacco products from these standards even if those claims are likely to cause youth to take up tobacco for the first time.

When smokeless tobacco manufacturers aggressively marketed their products to young people in the 1970s, often with themes suggesting that they were less harmful than cigarettes, use of those products increased among adolescents.

The Burr substitute only allows the agency to look at the impact of health claims on individual users of tobacco products.

It does not allow the agency to consider whether the reduced risk claim would increase the harm to overall public health by increasing the number of youth who begin using tobacco products or reducing the number of current users who quit.

The Senator from North Carolina has criticized the Kennedy bill for limiting tobacco advertising to black-and-white text-only material in publications with significant youth readership.

His substitute, he says, goes further by banning tobacco advertising.

That is an attractive talking point. But like so much tobacco advertising, it is misleading. It has a barbed hook buried in it.

The fact is, a broad, indiscriminate ban on tobacco advertising would likely be struck down by the courts.

The courts would probably rule that it is an impermissibly broad limitation on speech.

They would say the ends are not sufficiently tailored to the means, and they would conclude that it violates the first amendment.

That is what constitutional scholars tell us.

The result of the Senator's amendment would be a continuation of current law—a continuation of the insidious advertising the industry currently uses to lure new customers. Under the guise of a total advertising ban, he would give us the status quo.

And the tobacco industry would thank him for it.

My colleague from North Carolina has improved the warning labels he would require on cigarettes. But they would not be strong enough.

The Burr substitute would allocate 25 percent of the bottom front of the package to a warning label.

In contrast, the Kennedy bill reflects the latest science on warning labels by requiring text and graphic warning labels that cover 50 percent of the front and back of the package.

Clearly, a health warning that takes up the top half of the front and back of a package will be more noticeable and easier to read than one that takes up only a quarter of the bottom of the package—an area that may be hidden by the sales rack.

Senator KENNEDY's bill also gives the FDA the authority to change the warnings in light of emerging science. Under the Burr substitute, the agency would not have any authority to change the warning labels.

And the Burr amendment's required warning labels for smokeless tobacco products read more like endorsements than warnings.

For example, one of the required statements is a warning that the product has a significantly lower risk of disease than cigarettes. That is not a health warning—it is an unhealthy promotion.

We have an historic opportunity to finally put some real and meaningful regulations in place, and that will stop some of the tobacco industry's most egregious practices.

For decades, this industry has lied to us, and I don't know why we would trust them now to do the right thing.

We should not accept the underlying premise of the Burr substitute, that a lifetime of addiction and a high risk of premature death must be accepted, and that our strategy should be to steer people towards “reduced harm” products.

That is the smokeless tobacco approach, not the public health approach.

The Kennedy bill is a strong and carefully crafted solution that puts the public health first.

The Kennedy bill is the bill that should be enacted.

#### EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that morning business be extended until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mrs. HAGAN). Is there objection?

Hearing no objection, it is so ordered.

Mr. DURBIN. Madam President, I have about 10 minutes remaining, and then I will be glad to yield to the Senator from Kentucky, who has been sitting here. I ask unanimous consent that when I conclude my remarks, the Senator from Kentucky be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GUANTANAMO

Mr. DURBIN. Madam President, if you got up early this morning—like about 6 a.m.—and turned on the television, you would have heard a historic speech. President Barack Obama is in Cairo, Egypt, this morning—our time this morning—giving a speech to an assembled group at a university in Cairo about the relationship of the United States and Muslims around the world. It is a critically important speech.

All of us know what happened on 9/11/2001. We know our relationship with

people in the Middle East has been strained at best, and we have been troubled by the threats of Islamic extremism, and so the President went and spoke in Cairo. I listened to his speech. Now, I am biased because he was my former colleague from Illinois and I think so highly of him, but I think it was an excellent speech. I think what he tried to do was to explain to them how we can develop a positive relationship between people of the Islamic faith and America, and I thought he laid out the case very well in terms of our history, our tolerance, the diversity of religious belief in our country, and how some elements of Islam—extremist elements of Islam—are not even operating in a way consistent with their own basic values and principles.

The reason I refer to that speech is that one of the points that was important was when President Obama said to this assembled group—to their applause—that the United States was going to change its policies under his leadership. He said we are not going to use torture in the future, and he received applause from this group. He said we are going to close Guantanamo, and they applauded that as well.

What the President's statement said—and basically the reaction of the audience told us—is that regardless of our image of the United States, for some people around the world there are things that have occurred since 9/11 which have created a tension and a stress between us that need to be addressed honestly. President Obama made it clear that we are starting a new path, a new way to develop friendships and alliances around the world to stop terrorism and stop extremism, and he understands that torture—the torture of prisoners held by the United States—has, unfortunately, created a tension between the United States and other people in the world. They know of it because of Abu Ghraib, the graphic photographs that are emblazoned in our memory, and theirs as well, of the mistreatment of prisoners in Iraq. They know it from the photographs that have emerged and the documentary evidence about the treatment of some prisoners at Guantanamo.

It has, unfortunately, become a fact of life that Guantanamo itself is a symbol that is used by al-Qaida—the terrorist group responsible for 9/11—to recruit new members. They inflame their passions by talking about Guantanamo and the unfair treatment of some prisoners at Guantanamo. President Obama knew this and said in his first Executive order that the United States will not engage in torture and within a year or so we will close the Guantanamo corrections facility. I think it was the right decision—not an easy decision but the right decision. If we are truly going to break with the past and build new strength and alliances to

protect the United States, then we have to step up with this kind of leadership.

The President inherited a recession, two wars, and over 240 prisoners in Guantanamo, some of whom have been held for 6 or 7 years. Many of these people are very dangerous individuals who should never, ever be released, at least as long as they are a threat to the safety and security of the United States or a threat to other people. Some should be tried. They can be tried for crimes and, if convicted, they can be incarcerated. Others may be sent to another country, maybe returned to their own country of origin.

One of these prisoners I happen to know a little about because he is represented by an attorney in Chicago. He is Palestinian. He is from Gaza and was captured when he was 19 years old. He has now been held in prison for 7 years. He is now 26 years old. Last year, our government notified him and his attorney that we have no current charges against him. They have been trying to find a place to send him. He stayed another year in prison while we are trying to determine where he should be sent.

Each of these 240 cases is a challenge to make sure we come to a just conclusion as to each person and never compromise the safety of the United States.

A little over a week ago, the President went to the National Archives and gave a speech about Guantanamo and what we are going to do, and he made it clear that some of these people will be tried in our courts, some of them may end up in prisons in the United States, some of them may end up being held as long as they are enemy combatants and a danger to the United States, and some may be sent to other countries. They are trying to work out 240 different cases. It is not an easy assignment.

The reason I raise this is because it is clear that as long as Guantanamo remains open, it is going to be an irritant to many around the world and lead to the recruitment of more people to engage in terrorism against the United States. Don't accept my conclusion on that. The Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, said:

The concern I've had about Guantanamo in these wars is it has been a symbol, and one which has been a recruiting symbol for those extremists and jihadists who would fight us.

On the floor of the Senate this morning, shortly after the President's speech, the Republican minority leader, Senator McCONNELL of Kentucky—as he has many times before—came to discuss Guantanamo. He said explicitly—and he may have said this before, but I just want to make it clear that I am reading from the transcript of what he said on the floor this morning—“Like most Americans, I'm for keeping Guantanamo open.” So he clearly dis-

agrees with the President. He wants Guantanamo to stay open. I certainly hope that it doesn't. I don't want this recruiting tool for terrorists to continue.

Senator McCONNELL has raised the question repeatedly of whether it is safe for us to bring Guantanamo detainees to the United States for a trial or for incarceration. I think it is, based on the fact that we currently have 347 convicted terrorists serving time in American prisons today. Over half of them are international terrorists, and some of them are in my State of Illinois at the Marion Federal penitentiary. They are being held today. As I traveled around southern Illinois last week, I didn't hear one person step up and say: I am worried about the terrorists being held at the Marion prison.

In fact, I went to the Marion prison, met with the corrections officers and guards, and asked them this: What do you think about Guantanamo detainees?

Well, they were somewhere between insulted and angry at the notion that they couldn't safely incarcerate a Guantanamo detainee. One of the guards said to me: Senator, we have more dangerous people than that in this prison. We have serial killers, we have sexual predators, we have terrorists from Colombia, we had John Gotti—the syndicate kingpin. We held these people safely, and we can do it. That is what we do for a living. So don't you worry about putting them in this prison. We can take care of them. We have not had an escape, and we are not going to.

So when Senators come to the floor and suggest that these detainees cannot even be brought to the United States for trial and held in a prison while they are going to trial, that it is somehow unsafe to America, defies logic and experience. If there is one strength we have in this country—and you can debate it—we know how to incarcerate people. We have put more people in prison per capita than any nation on Earth. We hold them safely, certainly in the supermax facilities, and we must continue to. And this idea that we have to keep Guantanamo open because there is not a prison in America where they can be held safely is not true. The 347 convicted terrorists being held in America today are living proof that is not true.

This tactic of opposing the closing of Guantanamo is based on fear—fear that is being pedaled on this Senate floor that these detainees cannot be held safely and securely in the United States. It is the same fear that led people to conclude that our Constitution wasn't strong enough to deal with a war on terrorism, and therefore we had to look for ways to go around it when it came to wiretapping and interrogating prisoners. These are the same people who had fear that our courts in

America couldn't handle the cases before them if they dealt with terrorism, though, in fact, they have done that many times over. It is the same fear that our law enforcement authorities can't do their job effectively, when, in fact, they can.

We cannot as a nation be guided by fear. And those politicians who come up and make speeches, whether it is on radio or television or on the floor of Congress, and who try to appeal to the fear of the American people aren't doing us any favor. We are not a strong nation cowering in fear. We are a strong nation of principle, of values, that can stand up to the world and say: We will not in any way harbor or encourage terrorism and extremism. We are proud of our values. We can stand by them even in the toughest of times. And we are proud of the institutions of America that we have created and that make us strong.

I don't think those who come to this argument out of weakness and fear have a leg to stand on. And when the argument was made on the floor this morning that we should keep Guantanamo open, I would like to think that those who heard President Obama in Cairo, Egypt, and across the Muslim world today and who were encouraged by his aspirations to higher values and a better place for the United States will understand that this statement by one Senator on the floor of the Senate doesn't represent where America needs to go.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DURBIN. I wish to conclude briefly by saying we have a chance to do the right thing, to close Guantanamo in a safe and secure fashion, to put these prisoners in supermax facilities, to stop the use of Guantanamo as a recruitment device for al-Qaida. Turning them loose in countries around the world may mean the release of terrorists and more problems to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Madam President, we are in morning business, is that correct?

The PRESIDING OFFICER. The Senator is correct.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BUNNING. Madam President, I have four amendments I wish to discuss to the pending bill. I will not call them up but I wish to discuss them. When the bill is presented on the floor, then I will come back and talk about the specific amendments that are going to be considered in the first tranche of amendments.

First, I rise today in strong opposition to the tobacco regulatory bill on

the floor. This sweeping legislation would dramatically increase the FDA's regulatory authority outside the scope of original congressional intent. This is something that Congress did not intend to give the FDA when we wrote the Federal Food, Drug and Cosmetic Act, and that intent was even upheld by the U.S. Supreme Court in 2000. Yet there are still some of my colleagues out here who believe it would be safer for the American public to regulate tobacco under the FDA. They argue that, by doing so, we will help reduce the negative effect of smoking and prevent underage smokers.

As a grandfather of 39 grandchildren, believe me, I want to keep cigarettes out of the hands of kids. But the bill before us today does not do that. It is nothing more than an attempt to eliminate our national tobacco industry. The big problem with this approach is that our Nation's tobacco farmers are the ones who are going to pay the price.

Not once in this bill did I read any language that would provide any type of protection to our tobacco farmers—not even once. This is why I have introduced the four amendments. Let me give you their numbers: 1236, 1237, 1238, and 1239.

If the FDA is going to regulate tobacco and require sweeping changes within the industry, I want to ensure that farmers have a voice at the negotiating table. My amendments do this. Not only do they allow for fair grower representation, but they help ensure that those who will be most affected by this legislation will not be forced to pay the biggest price.

Let me be clear that I oppose the FDA regulation of tobacco. I have said that as long as tobacco is a legal commodity, it should be regulated through the USDA, the United States Department of Agriculture, not the FDA. If we are going to discuss giving the FDA this authority through this or similar legislation, I want to make sure that we consider the impact on agriculture.

In Kentucky, the family farm is the foundation for who we are as a State. For over a century, the family farm in Kentucky has centered around one crop—tobacco. Tobacco barns and small plots of tobacco dot the Kentucky landscape. We are proud of our heritage and proud that tobacco plays a role in our history. Even after the buy-out, tobacco still plays a prominent role in my State's agricultural landscape.

We have tried to broaden our agricultural base. We have had some success with several types of vegetables, cattle, and even raising catfish. But at the end of the day, nothing brings as much of a return to the small farmer in Kentucky as tobacco. It is big business for small farmers.

With the current economic conditions, more and more farmers in my

State are turning to growing tobacco to supplement their income or, in a lot of cases, tobacco is their sole source of income. The money they get from tobacco pays their mortgages, puts their kids through school, and actually allows them to stay on the farm.

Outside of the western part of my State, Kentucky does not have tens of thousands of acres of flat land. We have a lot of green, rolling hills and a climate where tobacco thrives. It can be raised very cheaply on small plots of land that simply cannot accommodate other crops. Whether we like it or not, tobacco remains an economic staple for rural Kentucky. It is profitable and farmers rely on it. That might not be popular today, but it is an economic reality that we have to face.

Whatever the opponents of tobacco say, there is no denying that this bill will add unnecessary mandates and expenses on the farmers in the attempt to punish the big tobacco companies. Sure, this bill will hurt big tobacco companies. They might have to move offshore. They might have to start exporting more of their products. But they will survive. But Kentucky's tobacco farmers do not have these options available to them. They are the ones who are going to be hurt by this type of legislation.

Some of my colleagues might support this legislation because they wish to outlaw tobacco. The last time I looked, tobacco was still a legal product in this country. If my colleagues want to make it illegal, let them be honest and upfront about it. Let's consider legislation to make it illegal. We can fight that here, out on the floor of the Senate. But let's not keep trying to slip it through the back door, through over-regulation and taxes in the name of preventing underage smoking.

Children should not have cigarettes. They should not. This is why we have age limits and advertising limits. We should do all that we can to keep cigarettes out of the hands of our kids. But the bill before us is not the answer. We can do better and should do better. All this bill does is move the regulation of a legal product from several agencies to another, one that has no jurisdiction to regulate it.

The only people this bill is going to hurt in the end are not the big tobacco companies, but the small and honest farmers who depend on tobacco to pay their bills. This is why I have offered four farmer-friendly amendments to the bill. I want to explain for a few minutes the four.

One, Bunning amendment No. 1236, clarifies that nothing in this bill would prevent our farmers from growing and cultivating tobacco as they have been able to do for the past hundred-plus years.

My second amendment, No. 1237, establishes a grower grant program that would help ease the financial burden of this bill on our farmers.

Amendment No. 1238 gives growers a seat at the negotiating table. The underlying bill establishes a Tobacco Scientific Advisory Committee made up of 12 members. Seven of those members are from the medical field to ensure that public health needs are taken into account. There is one of the public, and three representatives from the tobacco industry. There are two manufacturers and one grower. All members of the committee are voting except for the last three—the tobacco representatives. My amendment is simple. It gives the tobacco representatives the right to vote and adds two more grower positions. That way, all three forms of tobacco—burley, flue cured and dark leaf—are represented at the negotiating table.

The final Bunning amendment, No. 1239, asks the FDA if they are going to impose any new restrictions or requirements on farmers, then they should consider and conduct a feasibility study so that we know the effect on the farm level.

When my amendments come up, I encourage my colleagues to support them.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. ALEXANDER. I ask unanimous consent that morning business be extended until 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

#### AUTO STOCK TAXPAYER ACT

Mr. ALEXANDER. Mr. President, today along with Senator BENNETT and Senator MCCONNELL and Senator KYL, I will introduce the Auto Stock for Every Taxpayer Act—to require the Treasury to distribute to individual taxpayers all its stock in the new General Motors and Chrysler within 1 year following the emergence of the new GM from bankruptcy proceedings. This is the best way to get the auto companies out of the hands of Washington bureaucrats and politicians and into the hands of the American people in the marketplace where they belong. So instead of the Treasury owning 60 percent of shares in the new GM and 8 percent of Chrysler, you would own them if you were one of about 120 million individual Americans who paid Federal taxes on April 15.

This is the fastest way to get the stock out of the hands of Washington and back into the hands of the American people who paid for it. To keep it simple, and to help the little guy and girl also have an ownership stake in America's future, Treasury would give each taxpayer an equal number of the available shares.

The Treasury Department has said it wants to sell its auto shares as soon as possible, but Fritz Henderson, president and CEO of General Motors, told Senators and Congressmen in a telephone call on Monday that while it is the Treasury's decision to make, this is a "very large amount" of stock, and that orderly offering of those shares to establish a market may have to be "managed down over a period of years."

Those shares might not be worth very much at first, but put them away and one day they might contribute something toward a college education. For example, General Motors' 610 million shares were only worth 75 cents just before bankruptcy, but they were worth \$40 per share 2 years ago, and \$75 a few years before that.

Already we can see what government ownership of car companies will look like. Yesterday the presidents of General Motors and Chrysler spent 4 hours in front of congressional committees talking about dealerships.

I assume they drove themselves here from Detroit in their congressionally approved method of transportation, probably their newest hybrid cars.

They did not have much time yesterday to design, build, or sell cars and trucks for their troubled companies. Unless we get the stock out of the hands of Washington, this scene will be repeated over and over again.

There are at least 60 congressional committees and subcommittees authorized to hold hearings on auto companies, and most of them will hold hearings, probably many times.

Car company executives who need to be managing complex enterprises will be reduced to the status of an assistant secretary in a minor department hauling briefings books from subcommittee to subcommittee.

You can imagine what the questions will be and the president of each company will probably be asked these questions: What will the next model look like? What plant should be closed and which one opened? How many cars should have flex fuel? What will the work rules be? What will the salaries be? Where will the conferences be held, and in which cities should they not be held?

Congressmen will want to know why the Chevy Volt is using a battery from a South Korean company when it can be made in one of their congressional districts. There will be a lengthy hearing about the number of holidays allowed, and thousands of written ques-

tions demanding written answers under oath.

And it is not just the Congress we have to worry about. The President of the United States has already called the mayor of Detroit to reassure him that the headquarters of General Motors should stay in Detroit, instead of moving to Warren, MI. And the mayor of Detroit has announced his satisfaction with talking with members of the President's auto task force to make sure that the executives of the car companies do not get any ideas about moving their own headquarters.

Then there is the Treasury Secretary—and his Under Secretaries—who will want to keep up with what is happening to the taxpayers' \$50 billion investment in the New General Motors.

There is a very active economic czar in the White House. He will have some questions and opinions as well about how to run the car companies, not to mention the Environmental Protection Agency officials who might be busy deciding what size cars they ought to build.

And, of course, it was not very long ago that this administration let General Motors know that it was making too many SUVs and that its Chevy Volt was going to be too expensive to work. That was the opinion here in Washington. And the President of the United States himself fired the president of General Motors.

Giving the stock to the taxpayer who paid for it will get the government out of the companies' hair and give the companies a chance to succeed. It will create an investor fan base of 120 million-plus American taxpayers who may be a little more interested now in what the next Chevrolet will be. Think of the fan base of the Green Bay Packers, whose ownership is distributed among the people of Green Bay.

This is the fastest way back to the wise principle: If you can find it in the Yellow Pages, the government probably shouldn't be doing it. More than the money, it is the principle of the thing.

The other day, a visiting European automobile executive said to me with a laugh that he had come to the "new American automotive capital: Washington, DC."

To get our economy moving again, let's get our auto companies out of the hands of Washington and back into the marketplace. Let's put the stock in the hands of 120 million taxpayers, the sooner the better.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.



Mr. DODD. Madam President, I gather we are still in morning business.

The PRESIDING OFFICER. The Senator is correct.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. DODD. Madam President, I wish to take a few minutes to speak about the importance of what we are doing to address the issues raised by my friend and colleague from North Carolina, Senator BURR, who has raised some important issues. We are debating, of course, very historic public health legislation. The bill before this body will, for the first time, give the Food and Drug Administration authority to regulate the tobacco industry and to put in place tough protections for families that for too long have been absent, when it comes to how cigarettes are marketed to children.

As I have said, particularly over the last couple days, I don't think we can afford to wait any longer on this issue. As I think all colleagues are aware, every single day we delay action on this legislation, another 3,500 to 4,000 children across the Nation are ensnared by tobacco companies that target them with impunity as they try smoking for the very first time in their lives, 3,500 to 4,000 every single day. Smoking kills more Americans every year than alcohol abuse, AIDS, car accidents, illegal drug use, murders, and suicides combined. As tragic as all deaths are, particularly ones caused by the circumstances I have raised, if we took all of them together, they do not total the 400,000 people who lose their lives every year as a result of tobacco-related illnesses. Absent action by this Congress, more than 6 million children who are alive today will die from smoking, including the 76,000 or so in my home State of Connecticut.

The Congressional Budget Office has estimated that the bill before us would reduce adult smoking by 900,000 Americans. That is not an insignificant number. It represents about 2 percent. The CBO estimates that over the next 10 years, 2 million children will not take up smoking, if we are able to pass this legislation and have an effect on the marketing of these products to kids. That is 11 percent of children across the country. That is 700,000 people we would be able to have an influence on, convincing them not to take that first cigarette, to begin the habit of smoking.

Unfortunately, flaws in the Burr substitute will not achieve those goals. It would result in much less regulation of tobacco products, allow the tobacco industry to play many more games and hide more of the harm their products cause and leave children and others more vulnerable to the scourge of tobacco. Instead of using the FDA, a proven agency of 100 years, with experi-

ence in regulatory, scientific, and health care responsibilities, to carry out the purpose of this bipartisan bill, the Burr substitute creates a flawed agency, with inadequate resources, and limits the authority of that agency to take meaningful action to curtail the harm caused by tobacco products and their marketing.

The Institute of Medicine, which is highly respected by all of us, and the President's cancer panel have both endorsed giving the FDA this critical authority. The Food and Drug Administration has 100 years of experience in regulating almost every product we consume in order to protect public health. A new agency is not the answer. Obviously, one more bureaucracy is hardly the direction we ought to be going. Our bipartisan bill provides adequate funding to effectively regulate tobacco products through a user fee paid by the tobacco industry.

The Burr substitute does not provide adequate resources to get the job done either. In the first 3 years, the Burr substitute provides just a quarter of the funding provided in the Kennedy proposal, which has been with us for the last 7 or 8 years and has been endorsed by 1,000 organizations, faith-based organization, State-based organizations, and virtually every major public health advocacy group in the United States.

Our bipartisan bill gives the FDA strong authority to regulate the content of both existing and new tobacco products, including both cigarettes and smokeless tobacco products. The Burr substitute gives the new agency no authority whatsoever over the content of smokeless tobacco products, no matter how much nicotine and no matter how many cancer-causing agents are in those products. The National Cancer Institute, the American Cancer Society, the U.S. Surgeon General, and the Public Health Service have all concluded that smokeless tobacco products, as sold in the United States, are a cause of serious disease, including cancer.

This is not a partisan analysis. When the Surgeon General, the National Cancer Institute, the American Cancer Society, as well as the Public Health Service, says these products cause cancer and can kill, that is not an ideological conclusion. That is the scientific opinion of the very agencies and organizations we rely on for this information. They are saying, if one uses those products, they could get cancer and could die. Suggesting we ought to have an agency with no power to regulate those products takes us in exactly the wrong direction, given the growing use of smokeless tobacco products. They should be subject to regulation like other tobacco products. This amendment would allow smokeless tobacco manufacturers to make their products as harmful as they may want with no regard for public health.

The Food and Drug Administration regulates the food our pets consume. Products consumed by dogs and cats are regulated by the FDA. The idea that we would have an agency with the power to regulate not only the food we consume and the cosmetics and all variety of pharmaceuticals and so forth that we ingest, excluding tobacco, that we would also give them the power to regulate products our pets consume, but we wouldn't allow them to regulate smokeless tobacco or cigarettes runs counter to common sense in this day and age. This is the 21st century, and 400,000 people die every year from self-inflicted injury as a result of the use of these products. As well, 3,500 children begin smoking every single day. To say we can't use this Agency, which has the power and ability to regulate, do research, as well as engage in public health, flies in the face of logic. The idea that our pets at home have better protection than our children when it comes to tobacco products makes no sense to anyone I know.

The Burr substitute gives the Agency far less authority to remove harmful constituents in cigarettes than our bipartisan bill does, and it will make it far more difficult for the Agency to act.

I mentioned before I was a smoker. I am grateful that most of my colleagues were not. But having been one, I can tell them, it is hard to quit. People struggle every day to quit, and it is hard. I don't have any polling data, but I would bet that if we asked every parent who smokes—my parents did, my father smoked cigars and pipes; my mother smoked Chesterfields for about 20 years before she died of cardiovascular issues that may have been related to smoking—whether they would like their children to begin smoking or using smokeless tobacco products, I will guarantee that number is off the charts. They don't want their children to start this.

The Presiding Officer comes from a State of 12,000 small tobacco farmers in North Carolina. I haven't said this before, and I should have—and I apologize for not saying it—this is not the fault of the tobacco farmer. They are in business. They grow a crop. I don't know enough about the science of this, but I suspect the leaf itself is not the issue. It is the 15 carcinogens that are included. When we light up a cigarette, it isn't just the tobacco leaf that comes from North Carolina that is rolled into a piece of paper. There are 50 other ingredients, particularly ones designed specifically to create the addiction associated with cigarettes.

The last thing I wish to see is a farmer in North Carolina, whose economic well-being could be adversely affected by a decision we make, be harmed. We can help them. I know we try to do that in this bill, and I will be anxious to hear from my colleague from North

Carolina with the adoption of this legislation—not that I expect her to support it—what we can do to help these people. I suspect many of them, if asked the question: Would you like your children to begin smoking, would likely give the same answer. So that farmer out there would need some help, and we ought to provide it.

Our bill allows the Food and Drug Administration to take into account the impact of product changes on potential users, particularly children, and former smokers. The Burr substitute only allows the Agency to consider the narrow health impact on existing smokers. Our bipartisan bill allows the Food and Drug Administration to reduce or fully eliminate substances that may be harmful using the best available scientific evidence. The Burr substitute requires the Agency to demonstrate that a single product change is likely to result in “measurable and substantial reductions in morbidity,” knowing that this standard would be extraordinarily difficult to meet, given the large number of harmful substances in cigarettes.

Our bill bans candy- and fruit-flavored cigarettes. I hope my colleagues don't need me to explain why there are candy- and fruit-flavored cigarettes. That is not to convince a 55-year-old they ought to start smoking. When they decide to make cigarettes taste like candy, tell me who the audience is. If you think it is some adult, then we are living on different planets because that is designed specifically to get the kids. We know 90 percent of adults who smoke began as kids. Those are the statistics. Our bill bans candy- and fruit-flavored cigarettes. The Burr substitute only bans the use of candy and fruit names on products—leaving tobacco manufacturers to market cigarettes that taste like mocha mint or strawberry.

The Burr substitute prevents the Agency from requiring the manufacturer to make any product change that the manufacturer elects to implement by requiring changes in how tobacco is cured or might otherwise impact the tobacco leaf. This would always be used by the manufacturers to challenge the product standard. For example, a new study found that the high level of tobacco-specific nitrosamines in tobacco products has probably resulted in twice as many people dying from lung cancer. Under the Burr standard, it is highly unlikely, we are told, that the Agency would take action to address this issue because the simplest solution is to change how some tobacco is cured after it is grown. The Burr substitute allows tobacco companies to continue to deceive consumers in that regard.

The Burr substitute also bases its tar and nicotine standards on the results of a specific test that the Federal Trade Commission recently rejected because it does not provide meaningful

information about the health risks of different cigarettes. In its statement discrediting the test, the Federal Trade Commission wrote:

Our action today ensures that tobacco companies may not wrap their misleading tar and nicotine ratings in a cloak of government sponsorship. Simply put, the FTC will not be a smokescreen for the tobacco companies' shameful marketing practices.

That is from the Federal Trade Commission, hardly an ideological or partisan organization. That is their quote on discrediting the test the FTC conducted.

In addition, the National Cancer Institute has determined there is no evidence that reducing tar to a degree even greater than called for in the Burr substitute actually results in a reduction of risk of disease. The Burr substitute makes it likely that Americans will continue to be misled by nicotine and tar figures that appear to have the government stamp of approval, believing that cigarettes with lower tar numbers are safer. The National Cancer Institute is an organization that is highly credible and respected. The Burr substitute does not adequately protect consumers from misleading health claims about tobacco products, a very serious problem. The bipartisan bill sets stringent, but reasonable, scientific standards before manufacturers of cigarettes and smokeless tobacco products are allowed to claim that their products are safer or reduce the risk of disease.

The Burr substitute completely exempts smokeless tobacco products from these standards, no matter how spurious and even if those claims are likely to cause youth to take up tobacco for the first time. Supporters of this proposal argue we should allow and encourage the use of smokeless tobacco because it is less harmful than smoking. But this was refuted in 2003 by Surgeon General Richard Carmona, who was appointed by President Bush, when he addressed a congressional committee.

Let me quote the Surgeon General:

Do not fall for the myth—a very dangerous public health myth—that smokeless tobacco is preferable to smoking.

Again, this is the Surgeon General. Going back several administrations, Surgeons General, Secretaries of Health and Human Services, this is an issue that does not divide people. President Bush's Surgeon General was a fine man, Richard Carmona. I see my friend from Arizona. I believe Richard Carmona is from Arizona. I had an opportunity to meet with him and talk with him in the past, and he did a good job.

I will quote him again:

Do not fall for the myth—a very dangerous public health myth—that smokeless tobacco is preferable to smoking.

He went on to say, and I quote him further:

No matter what you may hear today or read in press reports later, I cannot conclude [as Surgeon General] that the use of any tobacco product is a safer alternative to smoking.

And the 2008 Update of the U.S. Public Health Service Clinical Practice Guidelines regarding tobacco cessation concluded:

[T]he use of smokeless tobacco products is not a safe alternative to smoking, nor is there evidence to suggest that it is effective in helping smokers quit.

Senator BURR's substitute only allows the agency to look at the health impact on individual users of tobacco products. It does not consider whether the reduced risk claim would increase overall public health harms by increasing the number of youth who begin using tobacco products or reducing the number of current users who quit. Senator BURR's and our colleague Senator HAGAN's standard would allow health claims that would increase tobacco use levels and increase the total amount of harm thus caused by tobacco use.

To prevent health claims from being used to increase the number of tobacco users, our bipartisan bill gives the Food and Drug Administration authority over how these products are marketed. Senator BURR's substitute eliminates that authority, putting our youth at greater risk. If you eliminate that authority, then, obviously, you have torn the heart out of what we are trying to achieve.

Senator BURR's substitute fails to give even the new agency it creates the authority to reduce youth access to tobacco products. Unlike our legislation, Senator BURR's substitute does not establish or fund a nationwide program to reduce illegal tobacco product sales to children. In addition, because the Burr substitute allows any retailer to fully escape responsibility for illegal sales if the employer's employees have signed a form saying they were informed that it is illegal to sell to underage youth, no matter how often the retail outlet is caught doing so, and no matter how strong the evidence that the employer looks the other way, it provides a significantly less effective approach than the one we have in the substitute, the bipartisan substitute that is before us.

The Burr substitute's minimum standards for State youth access laws are also too weak. The youth access standards in Senator BURR's substitute are riddled with loopholes that make them ineffective. For example, a retailer who never enforces the law against illegal sales to youth cannot be fined if the retailer has conducted a training program for its staff, even if it repeatedly looks the other way when illegal sales to youth are made. In addition, the vast majority of States already have laws in place that exceed the minimum standards in Senator BURR's substitute.

At any rate, these are all reasons why I urge my colleagues to reject the Burr substitute. Our bipartisan bill, as I say, has been endorsed—I have been here for some time. I have never heard of a piece of legislation being endorsed by 1,000 organizations: faith-based, State, as well as all the credible national public health or health organizations in the country. That is not reason enough, but understand we voted overwhelmingly in both Chambers, just not in the same Congress, over the last 6 or 7 years on this proposal.

Again, I want to say to my colleagues who come from tobacco-producing States, I understand the impact this kind of bill can have, and, in fact, we hope it has, with the reduction of smoking by all generations and all age groups, but particularly among children. I certainly stand ready and prepared to do what we can to help those farmers and others whose jobs and livelihoods depend on this industry, who, through no fault of their own but through their livelihoods, are engaged in this business. We want to provide that transitional help.

But we cannot stop doing what needs to be done. With 400,000 people a year dying—more deaths due to this self-inflicted disease than AIDS, murders, illegal drugs, suicides, alcohol abuse, automobile accidents—all of those combined—they do not equal the number that tobacco use causes. With 3,000 to 4,000 kids starting every day, I think my colleagues understand this cries out.

We are about to begin a health care debate. Prevention is a major issue. We are all trying to work on ideas to incentivize healthy living styles. What an irony it would be, on the eve of the emerging debate about prevention, that we had an opportunity to make a difference in doing just that, with having 900,000 adults who stopped smoking and 700,000 kids—maybe those are numbers that are not as impressive as we would like them to be—but if we can save 700,000 children's lives and 900,000 adults, to have them stop smoking and not get involved in this habit, what a difference it would make.

I have talked about deaths. There are people who live with this stuff—the emphysema. The cost—even if you are not impressed with the ethics of it, the morality of it, if the numbers is the only thing that drives you, we are spending billions of dollars every year to provide for people who are suffering from smoke-related illnesses.

So on the eve of the great health care debate, what a great way to begin that by saying, at least in this one area, we are going to do something about the children in this country. We are going to do something that is long overdue on the manufacturing and the marketing, as well as in the production of these products. We are going to say to the Food and Drug Administration:

Take over here. Take a look at all of this. Provide the regulations and the guidelines. If we can do it for the produce or the foodstuffs we provide for every pet in this country, we ought to be able to do it for the American children.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Arizona is recognized.

#### NORTH KOREA

Mr. KYL. Mr. President, I rise today to discuss recent events in North Korea. On April 5, the North Koreans tested a long-range Taepo Dong 2 missile, which traveled nearly 2,000 miles before falling into the Pacific Ocean. This test, which the North Koreans described as an attempt to launch a satellite into orbit, represented an improvement in the range of North Korea's missiles. In 2006, the Taepo Dong 2 only traveled 1,000 miles and did not successfully reach a second stage, as the most recent missile did.

U.N. Security Council Resolution 1718 prohibits the country's use of ballistic missile technology, and the United Nations Security Council issued a statement on April 13 condemning the recent launch and calling on member states to implement existing sanctions against North Korea.

In response, North Korea abandoned the six-party talks, promising to reactivate its nuclear program and never to return to the six-party negotiating table.

Less than 2 weeks later, North Korea conducted a nuclear test. Between the Taepo Dong 2 test and the nuclear test, North Korea also launched at least five shorter range missiles. Intelligence reports also indicate another long-range test is in the offing for later this month or early July.

So far, world response to this latest illicit behavior has been one dimensional, with leaders around the globe issuing condemnations of varying strength. President Obama issued a clear condemnation of North Korea's action, stating:

North Korea's ballistic missile programs pose a great threat to the peace and security of the world and I strongly condemn their reckless action.

Secretary Clinton echoed the President's remarks and emphasized, as the President did in his April speech in Prague that—and I am quoting—“there are consequences to such actions.” The question is, it is unclear what consequences the administration has in mind. And Susan Rice, our Ambassador to the United Nations, has been reluctant to commit U.S. support for the inclusion of sanctions in the U.N. resolutions currently being drafted.

Despite North Korea's detonation of a nuclear device and test of long-range missiles designed to threaten us, the relationship between the United States

and North Korea has not substantially changed. There are, however, several things that the United States could do to back up its condemnation of North Korea's reckless actions. Thankfully, we have a number of options available to us, and we are not faced with the “shoot first, ask questions later” approach that former Secretary of Defense William Perry advocated in a 2006 Washington Post editorial, when he argued that the United States had no other option than to destroy North Korea's missiles on their launching pads.

First, the United States could return North Korea to the state sponsor of terrorism list. North Korea was removed from this list when it agreed to a series of measures related to the disablement of its plutonium production at the Yongbyon reactor. Now that North Korea has renounced that agreement and restarted its nuclear program, there is no reason it should not return to that list.

President Obama indicated his support for this type of strategy on the campaign trail, saying:

If the North Koreans do not meet their obligations, we should move quickly to reimpose sanctions that have been waived, and consider new restrictions going forward.

Second, the United States could reimpose financial sanctions on high-level North Korean officials and banks affiliated with the North Korean Government. In March 2007, the U.S. Treasury ordered U.S. companies and financial institutions to terminate their relationships with Banco Delta Asia over alleged links between the bank and the Government of North Korea and froze certain funds of high-ranking North Korean officials.

Third, the United States could expand defense and nonproliferation initiatives. President Clinton's Secretary of Defense William Cohen recently argued in the Washington Times for reversing President Obama's deep cuts to missile defense programs. I agree with Secretary Cohen that the President's \$1.4 billion of cuts do not send the right signals to those who seek to threaten us, especially those who tout ballistic missiles as the chief element of their threats.

President Obama, in direct support of U.N. Security Council Resolutions 1695 and 1718, could also expand interdiction and intelligence cooperation under the Proliferation Security Initiative with our new partner, South Korea.

As the President said in Prague:

Rules must be binding. Violations must be punished. Words must mean something.

These commonsense steps would send a clear message to the North Koreans and their partners in proliferation that the United States is serious when it repeatedly refers to consequences and is willing to employ all measures and its full leverage in order to influence North Korea and avoid conflict.

Of course, the United States should work with the international community to enlist its support for increasing pressure on the North Koreans, and the administration has signaled its support for a multilateral approach through its focus on working through the United Nations. But this approach is already limited by North Korea's history of disregarding U.N. action and by continued Russian and Chinese waffling. I am not convinced new U.N. resolutions would be treated any differently by North Korea than the ones it has already ignored. Its record has led some to question whether a regime so willing to wreak famine and destruction on its own people is not beyond the traditional application of "carrot and stick" diplomacy.

Moreover, our effort to work with other nations does not excuse us from the responsibility to act ourselves. If Russia or China will not sanction North Korea, is that any argument that the United States should not? Of course not. We can offer nations attractive terms for their support, such as help in dealing with increased flow of North Korean refugees, trade incentives, or enhanced military-to-military cooperation, such as revoking the misguided Obey amendment and allowing Japan to purchase an export variant of the F-22 fighter. However, if other nations conclude that holding North Korea accountable is not in their interest, then we must not let that prevent us from doing what is best in our interest.

The gravity of events in North Korea is only increased by the similar disagreement between the international community and Iran on the subject of its nuclear program. If strong words are followed by weak and ineffective action toward North Korea, why should Iran expect different treatment? Conversely, if we display resolve and fortitude in confronting a belligerent North Korea that uses nuclear explosions and ballistic missiles as foreign policy tools, we send a powerful message to the rest of the world of our sincere commitment to nonproliferation and regional stability. This is doubly important considering the well-known cooperation between North Korea and Iran on a variety of illicit programs.

While some debate the proper U.S. response, I believe one thing is certain: Past negotiations have not been successful. North Korea has not been an honest negotiator, preferring to use, instead, "missile diplomacy" to spark international panic and extract a concession—typically fuel or grain shipments—from a worried international community. This process, in various permutations, happened in 1993, 1994, 1998, 2006, 2007, and it may repeat itself in 2009.

For those who would not repeat the blunders of the past, North Korea's actions have forced an unwelcome choice

on the world: either North Korea is a threat and we must take actions across all fronts to isolate the regime and defend our Nation and our allies against its considerable capabilities or these actions are the benign outbursts of a misunderstood regime.

The President has clearly said that North Korea poses a threat to world peace and security. It is now a question of matching action to rhetoric.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I thank the Chair.

#### REMEMBERING TIANANMEN SQUARE

Mr. INHOFE. Mr. President, 20 years ago this week, on June 3 and 4 in 1989, the world watched the Communist Government of China violently crack down on peaceful demonstrators in Tiananmen Square. We all remember that. It is hard for me to believe it has been 20 years ago.

One picture that is forever imprinted on our minds and our memories is that of a lone Chinese student who stood before a line of army tanks following days of violence that had resulted in hundreds killed and thousands more wounded. We never did find out what happened to that young student. I assume he was taken away, tortured, and killed, but we don't know that. He displayed tremendous courage in the face of tyranny and injustice. For weeks, students had raised their voices demanding greater democracy, basic freedoms of speech and assembly, and an end to corruption. While the photo of this student became infamous to the world as a picture of the Chinese people and their desire for true and lasting freedom and democracy, it remained virtually unknown to the people of China due to the Chinese Government's continued censorship and oppression.

On March 25, the Speaker of the House of Representatives, Nancy Pelosi, while on a trip to China, remained silent regarding the ongoing human rights abuses there. Instead, she talked about the government on global warming and issues such as that. This week in Beijing, U.S. Treasury Secretary Tim Geithner followed the Pelosi model, remaining mute on human rights abuses that are going on

today, and spoke only of environmental issues.

In 2005, I gave a series of speeches on the threat China poses to our Nation. Now, 4 years later, we are in a position where they are the largest holder of our national debt, and my concerns regarding China remain the same.

I have spent many years in activity in Africa, primarily Sub-Saharan Africa, and right now we are competing with China for the energy that is there. China is doing a better job than we are. They are competitors of ours not just militarily but economically. It is of great concern to me that as we continue to grow in our relationship and our dependence on China, our U.S. Government officials seem to place more value on the Chinese Government's treatment of the environment than the treatment of their own people and the threat they pose to our Nation.

On the 20th anniversary of the Tiananmen Square massacre, Pelosi and Geithner's omission is a disgrace to the memory of those who stood and many who died as they pleaded with the government to allow them basic freedoms that we as Americans possess and enjoy.

Sadly, ignoring these issues is exactly what the Government of Beijing wants. They would like nothing more than to erase the memory of the Tiananmen Square massacre from our minds and from the minds of all people around the world. The Chinese Government would like us to forget that in June of 1989, they used lethal force of 300,000 troops strong to crush peaceful protestors who were seeking greater freedoms. The Chinese Government would like the image of that courageous man standing before the line of tanks to fade from our memory. However, we can't forget the hundreds who were murdered, the thousands who were injured, and the more than 20,000 people who were arrested and detained without trial due to the suspected involvement in the protests, specifically in Tiananmen Square.

We don't know today where those people are. Most likely, they are still incarcerated someplace or they have been killed. The Communist government is so bent on wanting us to forget these issues that they have shut down blogs, blocking access to individual news sources such as Twitter, and denied access to popular sites such as YouTube.

Since Tiananmen Square, China has continued to increase severe cultural suppression of ethnic minorities such as the Tibetans, the Uighurs; increase persecution of Chinese Christians, the Falun Gong, and other religious groups and other minorities; increase detention and harassment of dissidents and journalists; and has maintained tight

controls on freedom of speech and access to the Internet. We know journalists who right now are still incarcerated over there, but there is no trace of exactly where they are.

Despite the promises to the contrary, China didn't provide greater access to the international media during the 2008 Olympic Games. Unlike the previous hosts of the past games, the Government in Beijing blocked access to certain Internet sites and media outlets in an attempt to censor free speech.

As China grows economically and continues to exert its influence globally and thus considers itself a significant player on the world stage, I believe China should be held to a standard of political, religious, and ethical responsibility.

Our country was founded by those who were seeking basic freedoms, and we have to stand for those who are doing the same in other countries. When basic freedoms can be practiced, countries thrive and prosper because people are allowed to choose a better way of life for themselves. We must also recognize the danger we place ourselves in by becoming closer and more dependent upon nations that continue to silence their people, deny them access to information and the ability to practice their cultures and beliefs. That is what is happening today.

On the occasion of the 20th anniversary of Tiananmen Square, my colleague Senator BROWN and I have introduced S. Res. 167 to remember the families and the victims who were killed in the June 1989 protest and to call on the Government of China to put an end to its continuing human rights violations. Our country must not remain silent, and many of my fellow colleagues in the Senate who are cosponsors of this resolution agree.

This resolution calls on the Chinese Government to release all prisoners still in captivity as a result of their suspected involvement in Tiananmen Square protests and to release all others who are currently being imprisoned without cause. This resolution puts the Senate on record, encouraging the Chinese Government to allow freedom of speech and to access information, while ending the harassment, intimidation, and imprisonment practices the government has carried out against those who are minorities and who seek religious freedom. We also call on our government to uphold human rights in China. Our silence only dishonors those who lost their lives and freedoms in Tiananmen Square.

We have this resolution right now. So far, we have cosponsors who have just found out about it and called in, including, in addition to Senator BROWN and myself, Senators GRAHAM, LIEBERMAN, KYL, COBURN, VITTER, MENENDEZ, WEBB, and BROWNBACK. I encourage others to join in this message that I believe is a very clear message that should be sent by the United States.

Today—this very day, this moment—there are 150,000 people who are protesting in Hong Kong right now because of the problems we are addressing with this resolution. So I encourage my colleagues to join in this resolution and get this message out loud and clear.

#### GUANTANAMO BAY

Mr. INHOFE. Mr. President, one of our colleagues from Illinois was talking about their desire to have these detainees from Guantanamo Bay come into the United States for trial. Let me just suggest—I am not a lawyer, but I do know this: I have spent a lot of time down there. I know the situation. I know it is a resource that we have to have, that we have to keep. There is no justification at all for closing Guantanamo Bay. No justification. All we hear is: Well, this came at a time when there was suspected terrorism or torture of prisoners in other areas. But never at Gitmo. There hasn't been a documented case of torture that went on there. This is a resource we need.

My friend from Illinois suggests bringing them to this country. The rules of evidence are different. These are not criminals, these are detainees. The proper place for them to be adjudicated is in the tribunals. The only place available right now is the tribunal that is set up in Gitmo.

If we bring them to this country, under our laws, quite a few of those would actually be released. When they are released, they could be released into society. For those who say we need to use some 17 areas for incarceration in the United States, as opposed to using Gitmo, to incarcerate these people, that would become 17 magnets for terrorist activity in the United States.

We have to get over this thing of everybody lining up and saying we have to close it. Guantanamo Bay is something we need, and we have to have it. There is not a pleasant alternative. It would cause the release of terrorists in the United States. If that is what the Senator from Illinois and the Democrats and the President want, they are going to find that virtually all Americans disagree with them.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

#### NUCLEAR ENERGY

Mr. VOINOVICH. As my colleagues know, supporting the development and expansion of the nuclear industry is something that has been one of my top priorities since I came to the Senate. I have been working to shape nuclear policy in this country for the past 8 years as chairman or ranking member of the Clean Air and Nuclear Safety Subcommittee. I wish to recognize my

colleague, Senator INHOFE, for the leadership he provided before I became chairman of the Nuclear Regulatory Commission committee.

Mr. INHOFE. Mr. President, first, I compliment the Senator from Ohio. When he was Governor of Ohio, he had the reputation of being the most knowledgeable person on air issues. Of course, the primary concern we had at that time was that we had a crisis in energy, and the one thing that had to be in the mix to resolve that crisis was to do something with nuclear power. There is nobody who has carried that banner more forcefully than the Senator from Ohio. I appreciate our joint efforts to make that happen. I believe we will be successful with the number of applications that are there right now and the progress that has been made.

Mr. VOINOVICH. I thank the Senator.

Mr. President, I take pride in the fact that our committee has helped transform NRC into one of the best and most respected regulatory agencies in the world. We have worked very hard on placing the right people on the Commission and providing the Commission with the resources and tools necessary to do its job and holding them accountable to the results. In fact, we have held more than 20 hearings involving the NRC in the past 8 years. So it is no accident that we have seen a dramatic improvement in both the safety record and the reliability of the 104 operating nuclear reactors today over the past 8 years. Without the public confidence that these plants are safe and secure, there won't be any nuclear renaissance.

We have spent time and effort to make sure the NRC has the resources—particularly the human capital—it needs to make sure that our 104 nuclear plants are operating safely but also to ensure it can process multiple license renewal applications and combined license applications for the new plants coming on board. We wanted to make sure the NRC doesn't become the bottleneck.

In 2005, we introduced three pieces of legislation as part of the 2005 Energy Policy Act to provide flexibility in hiring and employee retention. As a result, the NRC was able to hire over 1,000 highly qualified engineers and scientists over the last 3 years to replace retiring workers and also bring on those new people who are going to be necessary to process the new applications coming in. I am also pleased to note that the Nuclear Regulatory Commission has been rated as the best place to work among Federal agencies for 2 years in a row. They have a great workforce, and they are a top-notch organization.

The good news is that the NRC now has 17 applications for 26 new power reactors under review. All indications are that NRC's review of the applications

is progressing on schedule. I haven't heard a complaint from anybody who filed applications. We are expecting that these applications will be approved in late 2010 or in early 2011. Obviously, it is not a done deal, but we have every reason to believe we are on the right track. As a matter of fact, five utility companies today—Southern in Georgia, SCANA in South Carolina, NRG in Texas, Constellation in Maryland, and Progress in Florida—have signed engineering-procurement-construction contracts and are gearing up for construction pending NRC approval and loan guarantees from the DOE. In other words, we are starting to take off in terms of getting some air under our wings.

Mr. President, I have an opinion piece I wrote in the Nuclear News magazine last year, entitled "Making the Nuclear Renaissance a Reality." This paper outlines the need to expand the use of nuclear energy in the carbon-constrained economy and provides a roadmap to overcome challenges faced by the nuclear industry.

Mr. President, I urge my colleagues to read this. Anybody interested can get it on my Web site, [voinovich.senate.gov](http://voinovich.senate.gov).

As I watch the climate change debate unfold in this Congress, I rise to raise the same concern I raised last year during the debate on the Lieberman-Warner climate change bill: We cannot get there from here without nuclear.

The Waxman-Markey bill that was reported out of the House Energy and Commerce Committee 2 weeks ago sets the greenhouse gas emission reduction cap at 80 percent by 2050, as did the Lieberman-Warner bill last year, but it continues to ignore the need for much wider use of emission-free nuclear energy in order to make this extremely aggressive goal.

I pointed out then that one of the glaring holes in the Lieberman-Warner bill was its deafening silence on nuclear, while studies conducted by EPA, EIA, and others pointed to an inconvenient truth for some people: More than doubling the number of nuclear plants would be required; that is, bringing online more than 100 new nuclear plants in the next 40 years, in order to meet the emission goals set in that legislation. Around the world, governments are reaching the same conclusion and are turning to nuclear energy as a safe, homegrown, cost-effective, and emission-free solution to increasing energy demand.

This is true in Europe especially, where the nuclear renaissance is in full swing. In France, for example, almost 80 percent of its electricity comes from nuclear power. In fact, France exports a good deal of its nuclear power-generated electricity to its neighboring countries, including Germany. President Sarkozy has announced plans to build five additional plants within the

next 5 years, in addition to one currently under construction.

Prime Minister Gordon Brown recently signaled his intent to rebuild nuclear energy in the United Kingdom, saying:

Whether we like it or not, we will not meet the challenges of climate change without the far wider use of nuclear power.

He went on to note that the International Energy Agency estimates that we are going to have to build 32 nuclear powerplants each year if we are going to halve greenhouse gas emissions by 2050. That is more than 1,300 new reactors.

Italy, Finland, and Switzerland have all announced plans to build new reactors after spending the past 25 years trying to phase out nuclear power. These European countries have come full circle in reembracing nuclear after two decades of trying to solve their energy and environmental challenges with conservation and renewables alone. That is significant.

Unfortunately, many proponents of a cap-and-trade scheme, such as Lieberman-Warner or Waxman-Markey, seem to be stuck on fantasies that we can achieve the emission reduction goals with just conservation, efficiency, and renewables. Even those who believe nuclear has a role to play espouse policies that overwhelmingly favor renewables over nuclear.

A case in point: Nuclear energy was conspicuously missing from the \$787 billion stimulus package, while approximately \$40 billion in various tax credits went to energy efficiency, renewables, and transmission. I am not opposed to that, but why did they ignore nuclear?

So it was particularly discouraging when the Senate version of the legislative language providing an additional \$50 billion in loan guarantee authority in the stimulus bill was stripped from the final package during conference. Who did it? Why? The same thing happened when the Senate version of the budget resolution was passed a few weeks ago. We had it in there. We know we have to increase the Loan Guarantee Program to at least \$50 billion, and it got stripped out again. Instead, the majority added the taxpayer-paid \$60 billion Loan Guarantee Program allocated solely for renewables—wind, solar, and geothermal—and electric transmission systems to support renewable generation.

If you can do a priority in spending big money, let's do the grid. The grid is not what it should be. It has to be improved so that we can use wind and solar and get energy out across this country.

Unfortunately, many of the supporters of green energy never mention that it is unrealistic to rely solely on wind and solar power. This is something that I think needs to be made clear to every person in the United

States, particularly our children, who are being taught in school that windmills and solar power are the way to the future in terms of the energy needs of America, and there is something wrong, and coal is bad, nuclear is bad. I hear it constantly from people when I go back to Ohio. Right now, 50 percent of our electricity is generated by coal; 20 percent by nuclear; 19 percent by natural gas; 6 percent by hydro; 3 percent by wind, solar, and geothermal; and 2 percent by oil. Given this current makeup of U.S. energy use, I don't think these folks are leveling with the American people about the reality of what is possible.

They continually tout the need to increase the renewable energies to solve our dependence on foreign sources of energy. They say we need to double our use of renewables. I tell you this: A doubling of the utilization of renewables will bring us to 6 percent, and it would likely take at least 10 years or more to accomplish. Further, it is unlikely that a doubling in renewables would lead to any significant decrease in the use of oil because oil only produces 2 percent of the electricity in the country today.

Particularly, I think it is incredible that some policymakers, such as the newly appointed Chairman of FERC, suggest we can get our energy needs strictly from renewable sources of energy. Give me a break. At only 3 percent of total U.S. electric generation, it is simply intellectually dishonest to suggest that these renewable sources can replace the 70 percent of the base-load electricity currently generated by coal and nuclear in this country.

Don't get me wrong, I do support expanding the use of renewables such as solar and wind, and we see that industry growing in my State. But to just say that is it and not to look at reality is intellectually dishonest. My point is that, realistically, we are not yet in a position to be able to rely upon them for base-load power generation. This is despite receiving government subsidies.

Here is another little statistic people are not aware of. Most Americans are not aware of the fact that, in 2007, nuclear energy only—this is according to the Energy Information Agency—received a \$1.59-per-megawatt-hour subsidy while wind received \$23.37 and solar received \$24.34 per megawatt hour.

Today, there is a huge energy gap between renewable electricity and the reliable, low-cost electricity we must have. We need to look at the way to get the job done. If we want to generate carbon-free electricity, nuclear needs to be a big part of it—I am not saying the only part, but it has to be a big part.

The 104 nuclear powerplants we have operating today, which is 20 percent of the electricity generated, represent

over 70 percent of the Nation's emission-free portfolio. In other words, the 20 percent coming from nuclear represents 70 percent of the emission-free electricity in this country.

That means we are avoiding 700 million tons of carbon dioxide each year because of nuclear—700 million tons.

What does that mean to the ordinary citizen? That means 13 million tons is avoided by wind and solar today. That is compared with 700 million in terms of nuclear power. To put this in perspective, 700 million tons of annual carbon emission that is being avoided by our nuclear plants is more than what Canada collectively emits each year. In other words, nuclear nonemitting into the air is the equivalent of all of Canada. In terms of something we may better understand, it is the equivalent of 130 million cars each year. That is what nuclear power is doing for us. In effect, it is the equivalent of reducing emissions of 130 million automobiles each year in this country.

Nuclear power is the best source we have available to meet our energy needs while also curbing emissions of greenhouse gases. People are recognizing the importance of nuclear energy because they understand the facts.

Public opinion widely supports utilizing nuclear energy. According to a recent Gallup poll, 59 percent of Americans support it. We are not going to be able to turn around our economy, meet our energy needs, and enact some of the environmental policies being discussed today without expanding the use of nuclear energy.

I look at nuclear as a three-fer. Without it, we will not reach our goal of reducing carbon emissions. Without it, we are not going to be able to provide the baseload electricity we are going to need for our country. And without it, we are not going to be able to rebuild our manufacturing base in this country.

At a time when we are struggling to regain our economic footing, nuclear energy offers thousands of well-paying jobs in all stages of development and production. Each new nuclear plant will require an average of 2,000 workers during construction, with peak employment at 2,500 workers. If the industry were to construct 30 reactors that are currently planned, well over 60,000 workers would be required during construction. And once constructed, each plant will create 600 to 700 jobs to operate and maintain it.

That is not to mention the ripple effect this undertaking would make in other areas of the economy. Aris Candris, CEO of Westinghouse Electric, and Mike Rencheck, president of AREVA, recently told me that about 12,000 jobs will be created for each new nuclear plant if you include the manufacturing jobs.

This means that more than 200,000 manufacturing jobs will be created to

supply the needed parts and components for the 30 nuclear reactors that are currently planned.

And that is not counting the jobs associated with export opportunities to Europe, China, and India.

Organized labor understands expanding nuclear power will create a lot of well-paying jobs. In fact, here is what John Sweeney said at a roundtable discussion on nuclear workforce issues I chaired last year:

This isn't a Republican issue. This isn't a Democratic issue. It's an American issue.

I couldn't agree with him more.

I have met with Mark Ayers, Building and Construction Trades national president, a big union. He and his union members are actively supporting construction of new nuclear plants. They have also partnered with local community colleges and the nuclear industry in training workers. They are already training workers for the renaissance.

I have been working hard to get this message out in the past several years. Ohio and the surrounding Midwestern States have been the backbone of this Nation's nuclear manufacturing base. Ohio's small to medium-size enterprises are poised to lead the Nation's transition back into this market. In fact, hundreds of manufacturing jobs are already in existence in Ohio to support the nuclear industry, and more are to come in light of two announcements that are going to be coming up in the next couple of weeks that Ohioans will be very happy about that again will increase the number of people working in this industry.

I recently gave a speech at the Nuclear Manufacturing Infrastructure Council and had an opportunity to meet with several small manufacturing company executives. Their message was loud and clear: A clear policy statement from the administration and Congress is absolutely critical in acknowledging that nuclear power generation will be a growing part of our Nation's energy mix and investments in programs that will support the nuclear industry's near-term implementation needs are absolutely vital. The No. 1 thing is getting that \$50 billion loan guarantee so we can get more of these people off the ground.

They all see the long-term potential growth in nuclear and they would like to invest in nuclear manufacturing, but they need a clear commitment from the government before they make those investments.

I think what these people are saying is we need Presidential leadership to acknowledge what most of us and the rest of the world already know: We cannot get there from here without nuclear.

I am convinced that nuclear power is the only real alternative we have today to produce enough low-cost, reliable, clean energy to remove harmful pollut-

ants from the air, prevent the harmful effects of global climate change, and keep jobs from going overseas.

The biggest challenge remains the financing, particularly in nonregulated States. The deepening global economic crisis is putting additional pressure on the nuclear industry and on utilities.

As I mentioned, we have applications coming in, but right now DOE currently has 14 nuclear projects, representing a total project cost of \$188 billion and loan guarantee requests of \$122 billion. Basically what I am saying is that unless we can get this \$50 billion loan guarantee taken care of, it is going to bring the progress we have been making to a halt.

A very important point that often gets lost in this discussion is the fact that the loan guarantee program authorized under the Energy Policy Act requires the borrowers to pay all the required fees, including what is called a subsidy cost and, thus, there is no cost to the government. In other words, if they borrow \$5 billion, they are going to have to come up with close to \$1 billion to secure that loan so if things do not go well on the loan, we have something to turn to.

The subsidy cost is levied on each loan guarantee, similar to a downpayment on a mortgage, in case of a default. Any potential defaults are covered by fees paid by the applicants.

In my hand, I have a copy of a recent MIT study on the future of nuclear power. The authors of this study include former Clinton administration officials John Deutch and Ernest Moniz. The central premise of the MIT study on the future of nuclear power is that in order to reduce greenhouse gas emissions and mitigate global warming, we must reevaluate the role nuclear power has as part of this country's energy future.

I wish to share the conclusions of this report because I believe it fits rather nicely with this speech:

The current assistance program put into place by the 2005 Energy Policy Act has not been effective and needs to be improved. The sober warning is that if more is not done, nuclear power will diminish as a practical and timely option for deployment at a scale that would constitute a material contribution to climate change risk mitigation.

I commend to my colleagues this MIT report on the future of nuclear power.

Another issue that has plagued the nuclear industry for decades is the U.S. Government's failure to meet its commitment to assume responsibility for spent nuclear fuel. First, let's set the record straight. I have talked with many experts and policy people, including Secretary Chu and NRC Chairman Klein. They all assured me—it is important that everyone understands this—that the current spent nuclear that is being stored today in dry casks and pools are safe—are safe—and are secure for at least 100 years. That is



very important because folks are saying you cannot go forward with this because we don't know what to do with the waste; we would like to do something more permanent than what we are doing.

But the fact is that with the dry casks we have, we are in good shape for at least 100 years. The lack of a repository at Yucca should not be something that inhibits us from licensing new reactors.

That being said, we must pursue a long-term solution now. If Yucca is not going to materialize, then we owe the American people a viable alternative. The 1982 Nuclear Waste Policy Act established a nuclear waste fund, a fee paid by utilities to create a fund to deal with nuclear waste. Since its beginning, it has collected \$29 billion. So everyone understands this, since that act went into effect, we have collected \$29 billion from ratepayers in this country. Unfortunately, the fund is on budget and only about \$9 billion was used to deal with waste. The rest of the \$20 billion amounts to little more than an IOU to U.S. ratepayers. Even if the administration decided to proceed with Yucca, we don't have the money to build a repository. We spent the money on other things. We will have to borrow over \$20 billion to replenish the fund.

The Federal courts have ruled in favor of utilities. This is something else of which most people are not aware. And thus far we have paid utilities \$550 million in damages because we have not come up with a permanent repository for nuclear waste. I am sure if we keep going the way we are, it is going to be in the billions.

I recently met with Secretary Chu, and he told me he would convene a blue ribbon panel to study Yucca. Unfortunately, I believe this is just kicking the can down the road for a couple of years. We have been studying this for more than four decades. We need to provide clear direction and certainty on this issue. The time for studying options is over, and the Federal Government must meet its legal obligations and start taking care of the spent fuel problem sooner rather than later.

If the administration is pulling the plug on Yucca without having a viable alternative long-term solution, then I think we owe it to the American people to refund their fees and stop levying fees.

I introduced the U.S. Nuclear Fuel Management Corporation Establishment Act of 2008 in the last Congress, together with Senators Domenici, Murkowski, Alexander, and Dole, to create an independent government corporation to manage the back end of the nuclear fuel cycle. The bill will also take the nuclear waste fund off budget and give it directly to this corporation without the budget/appropriations process. I am planning to reintroduce that bill with Senators Murkowski,

Alexander, and Burr, and I hope we can get additional cosponsors on the bill. It is about time we get serious about mapping out a future course for our Nation.

I firmly believe that utilizing nuclear energy as a key part of a mixed bag of energy sources offers us the best opportunity to truly harmonize our energy, the environment, and economic needs.

As I said before, nuclear energy offers thousands of well-paying jobs in all stages of development at a time when we are struggling to regain our economic footing. It is worth repeating—12,000 well-paying jobs will be created with each new nuclear powerplant. That is 360,000 jobs for the 30 nuclear reactors that are currently planned.

The American people get it, manufacturing gets it, the labor unions get it, and the international community—I have been to London, I have been to Paris, I have been to Austria. I have been around. All of them understand. In fact, I was on a climate change panel about a month ago that was sponsored by the German Marshall Fund when we met in Brussels. I was amazed at the number of people who said: Mr. Senator, we are never going to meet the Kyoto or Copenhagen goals for reducing our emissions without the use of nuclear power.

It is time President Obama and this Congress get it. We have to launch a nuclear renaissance in this country. We just cannot get there from here without nuclear.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that morning business be extended until 2:15 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

#### THE STIMULUS

Mr. NELSON of Florida. Mr. President, the question that has been posited before the Senate is, What has the stimulus bill done? It has some fancy name—the recovery act—but, in effect, it is known as the stimulus bill. It was an expensive bill. With the country in the economic doldrums that we have been in, it was hoped it was going

to get money out there into the economy and provide a kind of electric shock therapy and stimulate the economy to get it moving again; that it would turn the engine of the economy and, therefore, as those dollars in the stimulus bill got injected into the economy and it turned over, it was going to create jobs.

Indeed, the number of jobs that it was expected the stimulus was going to create was something like 2½ million. So the question is, Is it stimulating the economy? Well, a few minutes ago, the CEO of the Shands Health Care Center at the University of Florida was in my office. He told me the story of how the Shands Hospital in Jacksonville—there are a number of these Shands Hospitals; it is a true medical center complex over several cities—was short some \$35 million, and he didn't know what he was going to do and how that was going to affect their operation—possibly the shutdown of major portions of that hospital.

Remember that one part of the stimulus bill is that we were putting out money into Medicaid to help the States, and there were States that had not been doing their part on Medicaid, which is a joint State operation—generally with a funding formula of about 55 percent Federal, 45 percent State. A lot of the States hadn't been putting their share in, or they had been constricting the eligibility for the poor and the disadvantaged to have access to health care for Medicaid. Well, with the beneficence of the stimulus bill, we put a lot of money back into the States. In Florida's case, it was about \$4.5 billion, just for Medicaid. It went from a funding formula—in Florida's case—of 55 to 45 for the 2-year period of the stimulus, to a funding formula of 67 percent Federal, 33 percent State. That has allowed him to stop the major abrupt halt of that hospital in Jacksonville, FL.

Let me give another example. The big county hospital in Miami—Jackson Memorial Hospital—is a similar case of about a \$45 million whack that was going to occur because of the State of Florida constricting its Medicaid funding. The stimulus bill for Florida allowed that additional money to flow and, therefore, that hospital will not have its services terminated for a good part of the medically needy as well as the disabled.

Another example: In my State, the U.S. Army Corps of Engineers has awarded over \$100 million in stimulus funds to jump-start crucial Everglades restoration projects, such as the Picayune Strand and the Site 1 Reservoir construction. When you combine that with an additional \$140 million in stimulus money for other projects such as water quality improvements down in the Florida Keys, then the spending in Florida is going to create about 2,000 direct jobs and 5,000 indirect jobs. Overall, the stimulus bill is going to create

over 200,000 jobs in the State of Florida.

Another example: Seminole County School District. Seminole County is to the north of Orlando. It is a major bedroom community for the metro Orlando area. Well, they had a plan to eliminate 139 teachers. Because of the stimulus bill, they reversed that plan.

Clay County, to the south of Jacksonville, in northeast Florida—another bedroom community for the metro Jacksonville area. It will bring back 26 elementary school teachers who had been laid off.

Another example: I am just taking a few examples. Miami, Dade County. It has one of the largest highway improvement projects in our State—the Palmetto Expressway. It has been under construction continuously since 1994 because of the mass of people who utilize that arterial roadway. Now they are going to be able to complete that and put hundreds of people to work.

Another example: Northeast Florida. The military complex in Jacksonville—the Jacksonville Naval Hospital and Kings Bay and Mayport Naval Station. The \$40 million of stimulus funding is going to be spent over the next several years for improvements for those hospitals and at the air station and at the Kings Bay submarine base, which means architecture, construction, and engineering jobs on top of expanded hospital facilities and energy efficient upgrades.

Another example: St. Johns County, St. Augustine, FL—the oldest continuous settlement in the United States—1565. We are going to celebrate the 450 year anniversary. We have 42 years on the English settlement in Jamestown, VA. Not 1607, Jamestown; but 1565, St. Augustine. Well, their school system was going to cut teacher and staff salaries and force them to take unpaid days. Now they are going to get an infusion of an additional \$9 million this year and another \$9 million next year so these cuts won't occur.

Going over to the West Coast of Florida—Tampa. The Tampa International Airport. It is going to create 250 new jobs using \$8 million from the stimulus bill to go out there and improve a taxiway on one of the major runways. This is a job that would not have been done had it not been for this bill.

I will give one final example. Go back to north Florida. We have a huge forestry industry in Florida. But as we have seen, Mother Nature has not been kind in bringing us droughts. When a drought occurs, the forest becomes a tinderbox. When a match is struck or a lightning bolt strikes, the forest erupts into an enormous fire that becomes a contagion that can rage out of control and impinge on urbanized areas. Well, the Florida Department of Forestry is putting contractors to work on fire mitigation projects in high-risk communities using a \$900 stimulus grant.

It is helping in my State, and I suspect it is helping in all the other 49 States that are represented on the floor of the Senate.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. BURR. Mr. President, I ask unanimous consent that the Senate be in a period of morning business with Senators permitted to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. I ask unanimous consent to be recognized for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BURR. Mr. President, we are desperately working to try to make sure we can move to amendments on H.R. 1256, a bill that attempts to consolidate the regulatory responsibility for tobacco products under the FDA.

This is being sold as a public health bill. I have been now to the floor for over 3.5 hours in the balance of this week suggesting it does not meet that threshold and that, at some point today, I would have the opportunity, along with Senator HAGAN, my colleague, to give, in some detail, what is in the substitute amendment.

I am going to attempt to do that now, even though we have not moved to the consideration of the other pending amendments. But let me start with a chart I had used earlier today. The reason I make the claim that this is not a public health bill is from this chart that shows the continuum of risk of tobacco products.

It starts on my right, your left, with nonfiltered cigarettes. The baseline we use is that is 100 percent risky. The industry, at some point, probably before I was born, all of a sudden created a filter that went on the end of an unfiltered cigarette.

Because of that filter, it eliminated, it removed some of the constituencies of the combustion of tobacco. That made it 10 percent less risky. The risk went from 100 to 90 percent. Then in the 1990s we had a new product that was never marketed except in test markets. It was a tobacco-heating cigarette, where it did not actually burn the tobacco, it heated the tobacco. It

extracted the nicotine, delivered the nicotine in the system but never produced smoke.

That product was considered to be about 45 percent risky but, clearly, a reduction at the time of 45 percent. All of a sudden, in the past 12 months, 18 months, we have seen a new product called an electronic cigarette. Again, no tobacco is burned. It is a fairly expensive product, it is popular outside the United States, not as popular or readily available in the United States. But that electronic product that has a cartridge you replace actually brought the risk level down to about 18 percent. Some might be catching on. As we have introduced new products, we have brought the risk down, the health risk, the risk of disease, of death.

Now we are over here to U.S. smokeless tobacco, a product that most Americans understand. It is not the old snuff our parents and grandparents grew up with, it is ground tobacco. All of a sudden, we realize we reduced even further the health risk. It is now down at the 10-percent risk level, 90 percent below where we started decades ago with an unfiltered cigarette.

Now introduced in the marketplace in the past year is something I referred to as Swedish smokeless snus, it is now on the market. It is sold, it is pasteurized, it is spitless. It was not something the United States or U.S. tobacco companies created, it is something the Swedes created.

Part of what I will get into is how the Swedes have used this product and other innovative products, other new products, in the marketplace to move smokers from very risky products to less risky products. In the case of Swedish snus, you see a risk level of about 2, maybe 3 percent.

Then we get over to a product that has yet to hit the market except for test markets, the one I covered in great detail several hours ago on the floor, a dissolvable tobacco product, one that was covered by CNN as a candy, one that still meets the age requirements and proof of ID for somebody to purchase.

But to magnify CNN's report, they actually took that product from behind the counter and put it in the candy section next to Reese's cups and gum and had an underage person come up and take one as CNN filmed to make it even more appealing from a standpoint of a story.

But this is the product. This is the product some have come to the floor of the Senate and said looks like a cell phone. I am not sure. It does not look like my cell phone. Maybe it looks like someone's cell phone but not mine. It is not a product that is accessible for anybody who does not produce an ID and does not meet the minimum age requirements of that State.

Risk? About 1 or 2 percent. We are actually getting better with every

product that is innovative: therapies, gums, patches, lozenges, pharmaceuticals, negligible, if any, risk.

Let me explain why I started with this because the base bill that is being considered, 1256, takes these categories right here, nonfiltered cigarettes and filtered cigarettes, it locks them in forever. The legislation says to the FDA: You cannot change these categories unless you find some specific thing that would cause you to alter it. It forbids the FDA.

Even though H.R. 1256 creates a pathway to less-harmful products, it is a pathway that cannot be met because one of the conditions of new products entering the market is, you have to prove that people who don't use tobacco products will not be enticed to use these products. It also says you can't communicate with anybody in the public unless you have a product that is approved.

I ask: How do you meet the threshold of proving that somebody who doesn't use tobacco products is not going to use this product, if you can't communicate with them until you get the product approved by the FDA? I have come to the conclusion, since nobody who is a cosponsor or author of the bill has come up with an answer, it can't be done.

To claim that this is a public health bill, one would have to make a reasonable claim that these products are going to be available and maybe potentially more products in the future. But what H.R. 1256 does is, it cuts off availability of product right here. It says, on this side of the line, we have constructed a pathway that nothing will pass. I don't believe you can make a genuine claim that this is a public health bill when you have locked every user into the 90- or 100-percent category of risk.

Senator HAGAN and I have offered a substitute amendment. That amendment will be voted on about 4:30 today, if things go according to schedule. It is absolutely essential that Senators listen to their staffs who have read the bill, read the substitute amendment, listened to the debate. I know there are a lot of things that go on during the day. It doesn't allow Members to sit down and listen to what RICHARD BURR is going to say. Hopefully, staff has looked at the statistics I have presented, the facts I have brought to the table, the claims I have made, and understands I am right. H.R. 1256 is not a public health bill.

The substitute does allow this to happen. We allow it to happen because the substitute doesn't concentrate regulation in the Food and Drug Administration, an agency that, by their mission statement, is required to prove safety and efficacy of all products they regulate. Pharmaceuticals, biologics, medical devices, food safety, cosmetics, products that emit radiation—that is

the world of the FDA. They regulate 25 cents of every dollar of the U.S. economy. They are the gold standard for every American. When they get a prescription and go home to take it, they never wonder whether it is safe or whether it will work because the gold standard in the world is the Food and Drug Administration. When they go to a doctor's office and they get ready to use a device, they don't question whether it was something the doctor made in the back room. They know that device was approved by the FDA. Up until recently, they had every assurance when they bought food that that food was not contaminated, that it wouldn't hurt them or kill them. But as we know over the past several years, we have had things that have slipped through, and Americans have died. The FDA is struggling today to make sure that, in fact, they meet the demands of the regulation they have in place.

What I am saying is, don't concentrate this regulation at the FDA. Don't jeopardize the gold standard. Employees work there with a complete understanding that if it doesn't pass safety and efficacy, it does not receive approval of the FDA.

Let me say it as I said it a couple hours ago. Tobacco products are not safe. Tobacco products cause disease and death. There is no way the Food and Drug Administration, on their current mission statement, can regulate a product they can't prove safe and effective. If you try to put a square peg in a round hole, you will have reviewers at the FDA who say: The gold standard is no longer important because Congress has legislated that it is important. If I turn my head on tobacco products, I can turn my head on this medical device because it doesn't look like it is going to be dangerous. All of a sudden, something is going to slip through, a pharmaceutical product that kills somebody, a device that does somebody damage, because we lowered our guard. We lowered the threshold that every product must meet to get FDA approval.

I am not advocating for the Federal Government to sit back and do nothing with respect to tobacco. I am advocating that we craft a bill that will achieve the real goals of what Federal regulation should accomplish: To reduce death and disease associated with tobacco and to reduce youth usage of tobacco products. That is exactly what our substitute amendment does. It is designed to keep kids from smoking. But you can't keep kids from smoking if you are not willing to limit advertising.

In the base bill, H.R. 1256, they limit print advertising to black and white. In the substitute amendment, we eliminate print advertising. Let me say that again. In the current base bill, they restrict print advertising to black and white only. In the substitute amend-

ment, we eliminate the ability for print advertising. The substitute amendment is actually tougher on advertising than the base bill.

Specifically, the Burr-Hagan amendment bans outdoor advertising, youth-organized sponsorships, usage of cartoon characters, sponsorship of events that youth attend, and many other provisions, all designed to limit children's exposure to tobacco advertising.

Our amendment does not stop at print advertising. The amendment codifies the other youth marketing restrictions contained in the Master Settlement Agreement of 1998 and makes it a crime for underage youth to possess tobacco products. Let me say that again. In 1998, all the tobacco companies got together, responding to State concerns that health care costs were out of control and that tobacco contributed to it. They provided \$280 billion to all 50 States for two things: Cost share of their health care and so they could create cessation programs to get people to quit.

I covered in great detail over the last couple days that even with this money available, one State only spent 3.7 percent, not of their total money, of the amount of money CDC said was an adequate number to spend on cessation programs. No State hit 100 percent. There are some that deserve gold medals for the fact that they were higher than others.

I pointed out one yesterday. I will point it out again. The State of Ohio is a large State. Of the amount CDC recommended Ohio should take of the tobacco money and devote to cessation programs, Ohio spent 4.9 percent. When you hear these numbers, no wonder we are not doing better at moving people off cigarettes to other products or getting them to quit altogether. It is because the effort we have made through education has been pitiful. As a matter of fact, 21.6 percent of the youth in Ohio have a prevalence to smoke; 45 percent have a prevalence to alcohol; 17.7 percent have a prevalence to smoke marijuana. Yet some come to the floor and claim that if we give this to the FDA, youth smoking, youth usage will go away. If that claim were even partially correct, the marijuana usage would be zero because it is illegal. There is no age limit.

Some will claim we don't address labeling. We address labeling on packages of cigarettes to discourage children from even looking at them. We require warning labels on the front and the back. We require graphic warning labels that show gruesome and tragic cases of mouth cancer, lung cancer, and other pictures designed to deter children from smoking. As my colleagues can see, keeping kids from tobacco advertising is a key component to the Burr-Hagan substitute amendment. Compare that with the underlying bill, and they will not see the

same commitment to limit advertising that children see. The underlying bill contains graphic warning labels but doesn't limit print advertising. Tobacco companies would still be able to advertise in magazines such as *People*, *U.S. Weekly*, and *Glamour*—clearly, purchased by their parents but accessed by their kids, and they can then see the black-and-white ads.

Maybe in some weird way the authors of this bill thought children can't read black and white, that they can only read color. That is why they chose to limit it just to black-and-white advertising.

The only stipulation is, the ads would be in black and white. We can do better. We can absolutely do better than this. Keeping children from using tobacco products must be the first accomplishment of Federal regulation. The Burr-Hagan amendment accomplishes that goal with a two-pronged attack. First, our amendment encourages States to use more of their MSA payments on cessation, putting billions of dollars into the effort. In the last 10 years, States have used just 3.2 percent of their total tobacco-generated money for tobacco prevention and cessation. In 2009, no State is funding tobacco prevention programs at CDC-recommended levels. Our amendment would change this by requiring States to comply with the CDC-recommended spending levels on cessation programs. It would no longer be voluntary.

In the case of Ohio, instead of spending 4.9 percent, Ohio would be obligated by law, if we pass the substitute amendment, to spend 100 percent of what the CDC said needed to be spent for us to successfully make sure our Nation's children were given the message that the use of tobacco products is not an advantageous thing.

Studies show that when States commit the money to cessation, youth smoking and smoking in general declines. Unfortunately, the underlying bill, H.R. 1256, contains no cessation program. Even though the bill requires the manufacturers to pay up to \$700 million a year, it contains no cessation program. How can you call this a public health bill? How can we suggest this is going to reduce the risk of death or disease? How can we make the claim we are going to reduce youth usage, when there is no commitment, no requirement to cessation?

Secondly, our amendment assists current smokers who are unable and unwilling to quit by acknowledging a continuum of risk of tobacco products, what I showed here. More specifically, our amendment does not preclude reduced exposure products from entering the marketplace. The piece over here, they lock this in. We try to pull all the 100 percent, 90 percent over here to less harmful products because the objective in this bill should be to reduce death and disease.

There is a great debate underway in the academic world on tobacco controls. Some advocate abolishment of tobacco. Straight abolishment is hard to achieve and can bring many unintended consequences such as elicit trade, and we all know that. Since abolishment is not an effective solution at this point, the question remains: How do we lower death and disease rates associated with smoking? Nicotine therapy has proven to be a failure. NIH states that patches and lozenges and other things have a 95-percent failure rate. They fail because smokers don't physically use these products as they do cigarettes. They are marketed poorly and are not designed to be a long-term solution. Under H.R. 1256, the base bill, that trend continues.

Also, H.R. 1256 does not give manufacturers of nicotine products the regulatory framework needed to market and enhance smoking replacement products appropriately. Since we have scratched current nicotine therapy products and abolishment as an effective means to stop smoking, that leaves us with very few options. The most promising option the Federal Government can help perpetuate to reduce death and disease associated with smoking is low-nitrosamine smokeless tobacco products.

Until recently, the academic community resisted the fact that smokeless products could aid in tobacco harm reduction. Skeptics, many of whom helped write the underlying bill, stated that smokeless tobacco products are gateway products that will lead to more children smoking.

Experience and data shows differently. Over the last 20 years, Sweden has allowed tobacco manufacturers to promote low-nitrosamine snus, a smokeless tobacco product, as an alternative to smoking.

This quote is from the Royal College of Physicians dated 2007:

In Sweden, the available low-harm smokeless products have been shown to be an acceptable substitute for cigarettes to many smokers, while "gateway" progression from smokeless to smoking is relatively uncommon.

You get where I am going. The data is out there. I never dreamed we would use Sweden as an example of where the United States would go. But when the focus is on how you reduce the risk of disease and death, they never lost focus of what that was. They were not clouded as to the introduction of new tobacco products in a blinded effort to lock in what existed. They experimented and found new products that would actually entice smokers to switch.

The claim that in some way, shape, or form these products are gateway products, that they will take non-smokers and turn them into smokers—for the Royal College of Physicians, in 2007: "relatively uncommon."

No statistic is perfect, and I am sure there are some who might have made a decision to use one of these products. But as you saw on the chart before, had they decided to use it, the risk of that Swedish snus was not 100 percent, it was 3 percent. There was no risk of heart disease, COPD, lung cancer, the things that one might get from these products, as shown on the chart over here, that the base bill H.R. 1256 locks in.

As a matter of fact, let me bring this other chart up: Harm Reduction: Smokers, Quitters, Switchers. The question we have to ask is, do we want people to be smokers? Do we want them to be quitters? Or do we want them to be switchers? Because this graph clearly shows you that there is a reduction—quite dramatic—in the relative risk for quitters and switchers in relation to smokers. What every Member will have to ask themselves, as they get ready to decide what they are going to do on this legislation, is: Do we want the American people to be smokers? Do we want them to be quitters? Or do we want them to be switchers?

If the answer is, you want them to be quitters or switchers, then it is very easy. Support the Burr-Hagan substitute. Because the base bill, H.R. 1256, does not create any effort to have quitters or switchers. All it does is lock in smokers. And if the bill's intent is to reduce the risk of death and disease, common sense tells you, without creating quitters and switchers we are not going to do a very good job of reducing the risk of death and disease.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 4 minutes remaining of the 30 minutes granted.

Mr. BURR. I thank the Presiding Officer.

Mr. President, you see the chart behind me. The Lancet supports the goal of harm reduction. I will be honest with you, I do not know what the Lancet is. But I have been told it is a very reputable health publication. But let me quote it:

We believe the absence of effective harm reduction strategies for smokers is perverse, unjust, and acts against the rights and best interests of smokers and the public health.

A reputable health publication that basically says: The absence of effective harm reduction strategies acts against the rights of smokers and public health. But the base bill, H.R. 1256, has no effective harm reduction strategy, no pathway to harm reduction products. But they claim it is a public health bill. A health care publication says that cannot happen. It is "perverse." It is "unjust." Well, they said it. I did not. But I think what they mean is, that to consider passing H.R. 1256, with the knowledge that has been given, would be perverse, unjust.

I am not going to have an opportunity to talk fully at this time because I have a colleague who will take the floor. But let me say, I talked earlier about Camel Orbs and the way CNN portrayed this product as candy and staged a news event—well, “news” would be—let’s say “entertainment” event by taking this from behind the counter in a convenience store and putting it in the candy section and having a kid go up and pick the Orbs up out of the rack to say that it was candy.

Orbs represents a 99-percent reduction in death and disease associated with tobacco use compared to cigarettes.

I ask my colleagues, if the objective of Federal legislation is to reduce the risk of death and disease—with nonfiltered cigarettes, it is 100 percent; with filtered cigarettes, it is 90 percent; and with Orbs, it is 1 percent—isn’t it perverse and unjust not to allow the American consumer to have this product to switch from cigarettes? I think the answer to the question has already been answered.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Ohio.

Mr. BROWN. Thank you, Mr. President.

I ask unanimous consent to address the Senate for up to 10 minutes.

The PRESIDING OFFICER. Is this objection?

Without objection, it is so ordered.

Mr. BROWN. Thank you, Mr. President.

#### 20TH ANNIVERSARY OF THE TIANANMEN CRACKDOWN

Mr. BROWN. Mr. President, 1989 was a seminal year in world history. Late in the year, on November 9, the Berlin Wall fell. And like dominoes, Poland, Hungary, Czechoslovakia, and Bulgaria went from being Soviet satellites to nascent democracies.

The revolutions of 1989 would set the tone for the quick and peaceful breakup of the Soviet Union. The winds of change were bringing democracy and freedom to the oppressed. I look forward to honoring the peaceful revolutions of 1989 later this year.

But I want to speak today about the revolution that never was, an event that took place 20 years ago this week, in a country where people remain subject to totalitarianism and tyranny—a peaceful prodemocracy rally that was snuffed out with a brutality the world had not seen since the invasion of Czechoslovakia by the USSR in 1968.

It started much like the revolutions of 1989. Hu Yaobang, the Sixth General Secretary of the Communist Party of China, was famous for supporting ideas like political reform and capitalism—not much different from Lech Walesa of Poland or Vaclav Havel of Czechoslovakia.

When he died on April 15, 1989, thousands of Chinese students began a peaceful protest in Tiananmen Square in his honor and to call for support of his views. Protestors continued to assemble for weeks, calling for nothing more than a dialog with their government and party leaders on how to combat corruption and how to accelerate economic and political reforms such as freedom of expression and democracy.

More than a million people would eventually gather in Tiananmen Square in the shadow of the Forbidden City and the monument in front of Chairman Mao’s mausoleum. That 1 million people who congregated were just in Beijing. Protests had spread across the vast expanse of China, in city after city and community after community.

On the night of June 3, 1989, 15,000 soldiers with armored tanks stormed Tiananmen Square to put down the protests.

On June 4, the Chinese Red Army fired upon the protestors and those in the surrounding areas.

On June 5, as the crackdown continued, more than 300,000—300,000—Chinese troops amassed in and around Tiananmen Square.

There, the world witnessed one of the pivotal moments of the 20th century—20 years ago this week—when an unknown protestor stood in front of a column of Chinese Army tanks. He stood alone. Surely he wanted the tanks to stop. Just as surely, he wanted to stop the violent crackdown. He has become an enduring symbol of freedom and democracy in this country and around the world—but not in China, where the image and accounts of the heroic act are banned, attempts to erase it from history.

The identity and fate of this young man are not known. However, it is generally agreed that he died in a Chinese prison for his brave act of nonviolence.

The Chinese Government continues to deny Western estimates of 300 dead and 20,000 arrests and detentions during the Tiananmen crackdown.

The United States responded to the crackdown by suspending all government and commercial military sales and all high-level government-to-government exchanges.

We cannot go back and change the past. But we can begin to hold China accountable for its actions. Not only does China continue to hold people in jail based on their actions at the Tiananmen protest, but the fear from the crackdown continues to remind Chinese citizens of what they may face should they try again to bring freedom and political reform to their nation.

Today, in Beijing, police are on the streets in and around Tiananmen Square to preempt—not to control but to preempt—any observance of the anniversary.

In Hong Kong, 150,000 people showed up for a candlelight vigil in remem-

brance of those who died 20 years ago this week.

The government has shut down much of the Internet, including Western news sources, for fear that its citizens may learn what really happened. The police are using umbrellas to block cameras. It is a spectacle and it is a travesty.

For too long, the West has looked the other way as China declares a war on human rights.

For too long, the West has rewarded China with lopsided trade policies while China continues to carry out a war on minority cultures.

The United States should not endorse in any way the brutal and horrific policies of the Chinese Government. Instead, we reward them. Our trade deficit with China in the first 3 months of this year was more than \$50 billion. Last year, it was a quarter trillion dollars.

China manipulates its currency. Most economists agree that the Chinese yuan is 30 to 40 percent undervalued. That manipulation is a pure and simple subsidy—a coerced and false price reduction—on everything it produces. It puts our manufacturers at a disadvantage, but there is so much money to be made by U.S. investors that investors and large corporate interests and our government simply look the other way.

China profits from its abysmal human rights record. It profits from its nearly nonexistent environmental standards. But American investors, the American Government, American business, look the other way.

China refuses to enforce its labor laws. But there is money to be made. So American investors, American corporations, and the American government look the other way. China benefits from its human rights abuses, but again, American investors, American corporations, and the American Government look the other way.

Even before this current recession, the U.S. manufacturing sector has been in crisis. Forty thousand American factories have closed in the past decade. Since 2000, the United States has lost more than 4 million manufacturing jobs, many in the Presiding Officer’s home State of Colorado, and 200,000 manufacturing jobs in Ohio.

A 2008 study by the Economic Policy Institute found the United States has lost more than 2.3 million jobs since 2001 as a direct result of the U.S. trade deficit with China. We shouldn’t let China profit from suppression.

It is not just the Chinese who are pushing for the status quo. Investors who profit from their investments in China—American investors, American companies—actively support a regime that is trying to become a global competitor with our Nation. Multinational corporations know no boundaries. Too often these companies leave their moral compass at home.

The United States and all democratic governments should stand up to, rather

than apologize for, China's brutal regime. If China seeks to become a responsible member of the international community, its actions should match its aspirations.

Since the Tiananmen Square protest and crackdown, China has continued to deny its people basic freedoms of speech and religion and assembly. It has increased severe cultural and religious suppression of ethnic minorities such as the Tibetans, the Taiwanese, and the Uighurs in western Muslim parts of China. It has increased persecution of Chinese Christians. It has increased detention and harassment of dissidents and journalists and has maintained tight controls on freedom of speech and the Internet.

Earlier today I had the pleasure of meeting again with someone I worked with 10 years ago, Wei Jingsheng. Wei Jingsheng, who is about 60 now, has been called the "father of Chinese democracy." He spent 18 years in prison. He was an electrician at the Beijing Zoo. He spent 18 years in prison for the cause of freedom and democracy in his home country. He was jailed because the Chinese Government accused him of conspiring against it by writing about democracy. Since his release from prison for the second time, Wei Jingsheng this time was exiled to Canada. He has been a force for democratic change for his nation, founding the Overseas Chinese Democracy Coalition and the Wei Jingsheng Foundation. He has been nominated for the Nobel Peace Prize seven different times. He lives in Washington, the capital of our democracy, but he continues to fight for democracy in his home country.

The Chinese people, like Americans, are trying to live meaningful, peaceful lives and create a better world for their children. Unfortunately, they are held hostage by a brutal, one-party Communist totalitarian regime. This regime benefits from many of our country's policies, from lax trade enforcement to our lax response in the face of blatant human rights abuses. The United States, by its acquiescence, has helped to prop up the Chinese Communist party. The partner in working to prop up the Chinese Communist party is large U.S. corporations.

Wei Jingsheng told me, as we walked the halls of the House of Representatives in 1999 during the discussion and debate on the permanent normal trade relations with China, he looked me in the eye and he said the vanguard of the Communist party revolution in the United States—the vanguard of the Chinese Communist party in the United States of America—is American CEOs. It was the American CEOs who walked the halls of Congress in 1989—our Presiding Officer remembers this—who walked the halls of Congress in 1989 lobbying on behalf of the Chinese Communist party dictatorship to get trade advantages to China. It was the

CEOs of many of America's largest corporations who walked from office to office in the Senate and in the House of Representatives begging Members of the House and Senate to vote to give trade advantages to this Communist party dictatorship—this dictatorship that oppresses its people, that inflicted violence on those people in 1989, and has ever since. It was American CEOs who lobbied for trade advantages for China so that China, in the end, would take millions of jobs from the United States of America—from Gallion, OH, and Toledo, OH, and Akron and Youngstown and Dayton—hundreds of thousands of jobs in my State because American CEOs lobbied this House, this Senate, and lobbied the Congress down the hall to give trade advantages to the Communist party dictatorship in China. We have paid the price. The Chinese people have paid an even more important price.

I am proud to join with Senator INHOFE to be introducing with him a resolution acknowledging the 20th anniversary of the Tiananmen Square protest and crackdown. The resolution is simple. It honors those who died in the protest. It demands that China release its political and its religious prisoners.

Today as we look back on the Tiananmen protest, we honor the lives of those who died in a struggle for freedom. Let's remember that brave, unnamed protestor in front of the tank who 20 years ago believed, like Wei Jingsheng believes, that one person can change the world through peace and nonviolence. Think what a whole nation could do.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. Mr. President, I ask unanimous consent to be recognized for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BURR. Mr. President, when I yielded the floor to allow Senator BROWN to speak, I was in the process of describing the substitute amendment to the base bill, H.R. 1256. Before I go back to that, let me share with my colleagues the response to a letter from the Campaign For Tobacco-Free Kids. They assessed the substitute bill and they provided in a letter to the committee why they found the substitute to be wrong. I will use that word.

Let me take on some of the things they raised in that letter. One, they said that the Burr-Hagan bill would create a new bureaucracy that lacks the experience, expertise, and resources to effectively regulate tobacco products. I think I made it abundantly clear earlier today that under the current regulatory framework for tobacco, every Federal agency in the United States has jurisdiction in it, except for the Food and Drug Administration. So to suggest that the Food and Drug Administration has the experience or the expertise or the resources to effectively regulate this would be disingenuous. They have no experience, because they haven't been involved in regulation. They do have expertise, but expertise to prove safety and efficacy of products, not to come to the conclusion that a product is unsafe and kills. Yet they are not going to do anything to restrict its access or provide resources to effectively regulate tobacco products.

Incorporated in this base bill H.R. 1256 is, in fact, a surcharge on the tobacco industry of \$700 million over the first 3 years to fund—to provide the resources—for the FDA to regulate the industry. And it doesn't stop there, because they can't hire the folks, they can't set up the regulation until they have the ability to do the surcharge it requires, in putting it in the FDA, that you come up with \$200 million to fund the initial effort to set up the infrastructure to regulate this product. So, in fact, there were no resources. Within H.R. 1256, it creates the resources to create the framework, to create the personnel, to regulate a product they have never regulated before.

I remind my colleagues that in the substitute amendment, we set up a new Harm Reduction Center under the guidelines of the Secretary of Health and Human Services, within Health and Human Services, the same place that the FDA is. When we asked the Secretary of HHS how much does it take to fund that, they gave us a number of \$100 million a year; \$700 million for the baseline, H.R. 1256; \$100 million for this new Center of Harm Reduction, overseen by the same Secretary of Health and Human Services.

Granted, I will be the first to say that if we are creating a new agency, the agency for harm reduction, it does not have the experience, the expertise, or the resources yet, but it can search within the global marketplace to find the individuals, and the Secretary of HHS has already said \$100 million will permit us to do that function in a harm reduction center. So the first complaint, hopefully, I have disposed of.

The second complaint from the Campaign For Tobacco-Free Kids as to why they would not support the substitute amendment: The Burr-Hagan bill does not give the FDA any meaningful authority to require changes in tobacco



products. Well, I do hope somebody from Campaign For Tobacco-Free Kids is watching, because what the base bill, H.R. 1256, does is it locks in these products, nonfiltered and filtered cigarettes, and legislatively says to the FDA: You can't do anything with those products. They are grandfathered. As you heard me say, H.R. 1256 does not allow these reduced-risk products to come to market. So the tobacco industry, based upon how the legislation is written, would basically limit tobacco uses to these two categories, the 100 percent risky and the 95 percent risky.

I misspoke. Let me correct it, because within H.R. 1256 it does state that any product that was sold prior to February 2007 could, in fact, be sold. Some, not all, smokeless products fall into that category of having been sold prior to February of 2007.

One has to ask: Why February of 2007? Why is that magic? It is very simple. That is the last time they updated this bill. I am sure they updated before the markup in 2009, but they weren't even careful enough to change the effective date that cut off when a product could be sold. There can't be any other reason, because there is nothing magical to February of 2007, except that U.S. smokeless products were included, and if you include U.S. smokeless products and filtered and nonfiltered cigarettes, you might have one manufacturer that then controls about 70 percent of the market. And because you have grandfathered it all in and you have forbidden FDA from ever changing it, you have basically given an unbelievable market share to one company, and you have not allowed any other company in the world to participate because if they weren't sold before February of 2007, they can't be sold in the future. Because, as I discussed earlier, to bring a new product to the marketplace, you have to make the claim that no nontobacco user would use the product.

Yet how can you make that claim if the same provision disallows you from talking to a non-tobacco user about whether they would use the product? It is a catch-22. Yes, we created a pathway, but we also designed it in a way that you couldn't meet the threshold needed to have an application approved. It is very simple.

Two was that the Burr-Hagan bill doesn't give the FDA meaningful authority to require changes in tobacco products. They are 100 percent correct. Nor does H.R. 1256. As a matter of fact, not only does it not allow for changes, it legislates there cannot be changes to products sold before 2007. If the Campaign for Tobacco-Free Kids is trying to reduce the risk of death and disease and usage, it has supported the wrong bill.

Third, the Burr-Hagan bill will harm public health because it perpetuates the consumers' misconception that

they can reduce their risk of disease by switching to so-called low-tar cigarettes. Our bill goes further than the Kennedy-Waxman legislation by banning the use of terms such as "light," "ultra-light," "medium," and bans the use of candy, fruit, or alcohol descriptors on cigarettes even if not characterized in the legislation.

In addition, the risk reduction center is required to establish a relative risk ranking for tobacco and nicotine products annually and disseminate that information to the public. This preempts any unsubstantiated lower or reduced-risk consumer communications by a tobacco manufacturer. In other words, under H.R. 1256, the FDA does not have to inform the public about the relative risk of the products they regulate. So they are not going to share with the people that if you smoke filtered cigarettes, it is a 100-percent risk, and unfiltered is a 90-percent risk. In the substitute that is being offered, we require the harm reduction center to annually print a list of what the risks of the products are that are tobacco related and that they regulate.

The fourth complaint by the Campaign for Tobacco-Free Kids is that the Burr-Hagan bill doesn't strengthen warning labels in a meaningful way. Well, actually, our bill incorporates the same warning levels for cigarettes contained in the Kennedy-Waxman legislation and requires they be placed on the bottom 30 percent of a cigarette pack, including Senator ENZI's graphic warning label language. Also, our amendment goes further than H.R. 1256 by requiring the disclosure of ingredients on the back facing of a tobacco product packaging.

Let me state what the claim was: The Burr-Hagan bill doesn't strengthen warning labels. The only thing I can think is that the Campaign for Tobacco-Free Kids didn't read my bill or it doesn't know the difference between identical language in H.R. 1256 and the Burr-Hagan substitute because the wording is actually the same. In addition, we require that the ingredients in those products be listed on the pack, which I think is beneficial to consumer choice.

Fifth, the Burr-Hagan bill doesn't adequately protect consumers from misleading health claims about tobacco products. Well, once again, our bill requires the same rigorous standards used in H.R. 1256 for reducing the risk of tobacco products. Furthermore, it requires the harm reduction center to establish and publish the relative risk of tobacco and nicotine products on an annual basis. Unlike Kennedy-Waxman, this legislation also requires disclosure on individual packs of all ingredients.

The sixth complaint by the Campaign for Tobacco-Free Kids is that the Burr-Hagan bill gives the tobacco industry license to create ways to market to

youth. We have covered this. Our bill is much more comprehensive. It eliminates print advertising. There are marketing prohibitions and restrictions over and above what H.R. 1256 does.

Last, the bill gives the tobacco industry undue influence and creates gridlock on an important scientific advisory committee by giving the tobacco industry the same number of voting representatives as health professionals and scientists—a 19-member board with 10 health care experts, 4 members of the general public, 2 representatives of tobacco manufacturing, 1 representative of small tobacco manufacturing, 1 representative of the tobacco growers, and 1 expert on illicit trade of tobacco products. Somehow, 14 health care experts and 1 trade expert can be depicted by the Campaign for Tobacco-Free Kids as being the same number as 4 tobacco-related members of the advisory board. So clearly, 15 without a tie to tobacco, 4 with a remote tie to tobacco, and the Campaign for Tobacco-Free Kids said that by giving the tobacco industry the same number of voting representatives as health care professionals and scientists—Mr. President, the American people deserve an honest debate. They deserve the information on one side of a bill or another to be factual. I am not sure how you can look at 15 individuals in one category and 4 in another and portray for a minute that is the same number. But that is what the Campaign for Tobacco-Free Kids does. If, in fact, they have misled in the letter to the committee about H.R. 1256 and the substitute, what else haven't they told us or what else have they told us that is not accurate? It brings into question that effort and, clearly, in 1256, the effort is not to reduce the risk of disease or use of tobacco products.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. BURR. When I ended talking about the substitute, I held up this can of Camel Orbs and I told the Members of the Senate that this was a product that currently is rated at about a 1-percent risk, or an 89 percent reduction from typical nonfiltered cigarettes. It is an 89 percent reduction from nonfiltered cigarettes. I will hold one up. It is a dissolvable tobacco. You don't get lung cancer or COPD from it, and it doesn't cause heart disease. There is a 1-percent risk. But under H.R. 1256, this product is outlawed. Why? Because it wasn't sold before February 2007.

Let me say to my colleagues, if the intent of passing Federal regulation of the tobacco industry—and I am supportive of it—is to reduce death and disease, why would you exclude a product that has a 1-percent risk but then grandfather in products with a 100-percent likelihood of killing you? Even if you are not debating whether it is in the FDA or in the harm reduction center, how in the world can a Member of



the Senate say it is OK to eliminate the ability for an adult to choose to use this and to be locked into a certain death?

We are supposed to pass policy that makes sense and that works for the American people, that actually reduces the risk of death, disease, and usage of tobacco. When you lock them into the highest risk and likelihood of death, you haven't fulfilled that. When you don't require States to use the money they were given for cessation programs, how can you expect that you are going to reduce youth usage? When you see that 48 States have a higher prevalence of marijuana use among youth than they do of tobacco, how can you conclude that by giving the FDA jurisdiction to regulate tobacco, somehow that means you are going to have a reduction in youth usage? It is just not going to happen.

The American Association of Public Health Physicians states that this product, Orbs, is the most effective way to fight death and disease associated with current tobacco use. Again, the American Association of Public Health Physicians states that these are the best tools we have to get people to quit smoking. As a matter of fact, I am proud to say that yesterday the American Association of Public Health Physicians endorsed the substitute amendment and not the base bill because they recognize that the base bill does nothing but provide a pathway to certain disease or death.

Just so I am clear, under the base bill, H.R. 1256, Marlboro is cemented on the retail shelves. Camel Orbs, which reduces death and disease associated with tobacco use, is banned, can't be sold; It wasn't on the market before January 2007, and Marlboros are on the shelf.

Snus is banned. In the past 25 years, Swedish men showed a notable reduction in smoking-related disease, a decline in lung cancer incidence rates to the lowest of any developed nation, with no detectable increase in the oral cancer rate, improvement in cardiovascular health, and the tobacco-related mortality rate in Sweden is among the lowest in the developed world. But in our infinite wisdom in this austere body, we are getting ready to pass a bill that takes a product that Sweden used to get people off cigarettes, to reduce lung cancer, to bring down cardiovascular disease, to reduce mortality by tobacco products, and we are going to eliminate it and we are going to lock them into everything Sweden is trying to get rid of. Think about this before you do it, for God's sake. Once you pass this, it is too late.

Mr. President, the current cessation programs don't work. I said earlier that those products have a 95-percent failure rate. Giving current smokers an opportunity to migrate to a less harmful product—it is a public health initia-

tive, and not creating a pathway to reduce harmful products is not a public health bill. But those products are banned in H.R. 1256.

Senator HAGAN's and my amendment allows these products to be marketed and regulated correctly. Our amendment establishes a tobacco harm reduction center within the office of Health and Human Services. We provide the harm reduction center with the regulatory authority to better protect our children from tobacco use and significantly increase the public health benefits of tobacco regulation. We require tobacco manufacturers to publish ingredients of products. We require the harm reduction center to rank tobacco products according to their risk of death and disease associated with each type of tobacco product in order to inform the American public more fully about the risk and harm of tobacco products.

We ban candy and fruit descriptors of cigarettes. We ban the use of the terms "light" and "low tar." We give the Harm Reduction Center the authority to review smoking articles and adjust accordingly to what is in the best interest of public health. What we don't do is give an already overburdened agency the responsibility to regulate tobacco.

We have a change in administrations. As supportive as I am of the new Commissioner of the FDA, Margaret Hamburg—she will do a wonderful job—let me turn to the former Commissioner of the FDA. Two years ago, Andy von Eschenbach gave his opinion on the FDA regulation of tobacco. You might say: Gosh, this was 2 years ago. I think I already made a credible case that most of what is in this bill was written 10 years ago. Even some of the deadlines that are in the bill have not been changed since the bill was updated 2 years ago. So I think it is very credible to use the comments of the former FDA Commissioner 2 years ago:

The provisions in this bill would require substantial resources, and FDA may not be in a position to meet all of the activities within the proposed user fee levels . . . As a consequence of this, FDA may have to divert funds from its other programs, such as addressing the safety of drugs and food, to begin implementing this program.

All of a sudden, we are right back where I started 3 days ago. Why in the world would we jeopardize the gold standard of the Food and Drug Administration, the agency that provides the confidence to every consumer in the country that when they get home at night, after having a prescription filled, they don't have to worry about whether it is safe or effective; that if they go to a doctor or hospital and they use a device on them, it wasn't something crafted in the back room and nobody reviewed that it was safe or effective; that it had the gold standard, the seal of approval of the Food and Drug Administration; that as biologics

were created that did not exist 10 years ago, that we could feel certain that the FDA looked at this new product and approved it for use in humans; that when we went to buy food, our food would be safe.

Do we want to jeopardize the FDA having to divert funds from food safety right now when we have had Americans who have been killed? Do we want a reviewer at FDA, whose gold standard is to prove safety and efficacy on all the products they regulate, except for the tobacco, to lower their guard and let something through that did not meet the threshold of safe and effective?

I am not sure that is in the best interest of America. I am not sure it is in the best interest of the American people.

My colleague from Connecticut came to the floor and said the Food and Drug Administration is the only agency that has the experience, the expertise, and the resources. The Commissioner of the Food and Drug Administration said: I don't have the resources, and if you give this to me, I might have to divert funds from other programs. As a matter of fact, they would have to divert people from reviewing the applications for new drugs, new biologics. It could be that somebody who is waiting for a new therapy dies before the therapy is available because we had to divert funds or people to take care of regulating a product that the FDA has never regulated and for which Commissioners of the FDA told us they did not have the funds.

I am not sure how clear we need this. I said when I started on Monday this was an uphill climb, the deck was stacked against me. I understood the threshold was come to the Senate floor and to spend as much time as it took to convince my colleagues—Republicans and Democrats and Independents—that this was not a bill where one party trumped the other.

Senator HAGAN is a Democrat; I am a Republican. We have come to the floor passionately with our substitute amendment because we think it trumps H.R. 1256 from a policy standpoint. The American people expect us to pass the right policy, not any policy. If the FDA is not the appropriate place to put it, the American people expect us to find something else that meets the threshold of the right regulation but does not encumber the gold standard of an agency on which we are so reliant.

I am hopeful we are going to have a vote this afternoon on the substitute. It will be next week before the base bill is voted on. I say to my colleagues, they are only going to have one opportunity to change this bill. That one opportunity is to vote for the substitute amendment. If they vote for the substitute amendment, they are going to vote for a bill that actually reduces the risk of death and disease for adults who choose to use tobacco products. If they

vote for the substitute, they are actually going to vote for a bill that actually reduces youth usage in a real way. If they pass on supporting the substitute—and it will be a close vote—if they pass on supporting it, they are going to have to live with what they do to the FDA. They are going to have to live with the consequences.

When I came to the Congress, the House of Representatives, in 1995, I was given the task of modernizing the Food and Drug Administration. We opened the Food and Drug Administration in its entirety. It took 2½ years to produce a bill. It was a bipartisan bill. As a matter of fact, I think in the Senate and in the House it passed by voice vote.

Why did it take 2½ years, two Congresses? It is because we understood, at that time, the delicacy of what we were attempting to do. We were attempting to modernize the Agency and to maintain the gold standard.

At the end of the day, no Member of the House or the Senate offered an amendment to give the FDA jurisdiction over tobacco. In 1998, that bill became law. Why didn't they? It is because every Member knew it was not worth the risk of giving them the responsibilities of tobacco when we had spent 2½ years trying to protect the gold standard.

We are not that forgetful. Don't forget our commitment to make sure the gold standard of the FDA is intact. Don't jeopardize it by giving them tobacco. Don't let our kids be sold short by producing a bill that does not do the education they need so they never pick up a tobacco product. Don't lock the adults who choose to use risky products to risky products forever. Give them an opportunity to have less harmful products. That can only be done one way. That can only be done if Members of the Senate vote to support the Hagan-Burr substitute.

It does keep kids from smoking. It does preserve the core mission of the FDA. It does reduce the risk of death and disease.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I rise in support of the Family Smoking Prevention and Tobacco Control Act. We all know someone who is currently a smoker or someone who has been a smoker. I know we all worry about their health. That is with good reason.

Tobacco use is the leading preventable cause of death in the United States. It kills more people each year than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

Let me repeat that because it is hard to believe. The fact is, tobacco use kills more people each year than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined. Tobacco-related health problems affect

millions more, resulting in skyrocketing health care costs every year.

The cycle of addiction is so hard to break, and the tobacco companies work hard to attract smokers with flashy marketing campaigns and by including chemicals that are proven to be addictive. Undoubtedly, this hurts our Nation's overall health.

There is no question that one of the most important steps the Senate can take to improve health and to reduce costs is to reduce the use of tobacco. That is why this legislation is so important, why I am proud to be one of the 53 cosponsors of this legislation. Again, over half the Senate is cosponsoring this legislation.

I thank Senator KENNEDY for his leadership and work on this important issue over so many years. I thank Senator DODD for managing this bill on the floor.

Throughout my career, I have advocated for smoking prevention. We all realize the cost in lives and in health care expenses that smoking creates, not only to the consumer but also to those who are exposed to the dangerous secondhand smoke.

In New Hampshire, almost 20 percent of adults smoke cigarettes, and tobacco-related health care expenses in New Hampshire amount to \$969 million a year.

During my tenure as Governor, I was proud to sign legislation that banned the sale of tobacco products to minors, that prohibited the possession of tobacco products by children, and that required the New Hampshire Department of Health and Human Services to disclose harmful ingredients in tobacco products.

The important legislation we are considering expands on what New Hampshire has done. It will give the FDA the authority to regulate the manufacturing, marketing, and sale of tobacco products.

In New Hampshire this year alone, 6,300 children will try cigarettes for the first time. Just over a third of these children will become addicted lifelong smokers. The tobacco companies know these statistics and target much of their marketing to this vulnerable population. In fact, published research studies have found that children are three times more sensitive to tobacco advertising than adults and are more likely to be influenced to smoke by marketing than by peer pressure. This year in New Hampshire alone, the tobacco companies will spend \$128 million on marketing, much of it geared to kids.

Tobacco companies also attract children to their products by using flavors, such as Twista Lime or Kauai Kolada, which says it contains "Hawaiian hints of pineapple and coconut," or Winter Mocha Mint. It doesn't sound like we are talking about tar-filled cigarettes, does it? It sounds like we are talking

about ice cream or candy. But, unfortunately, these fruit and mint flavors not only entice kids to try them but also makes the smoke less harsh, more flavorful so it is actually easier for kids to smoke.

Unfortunately, they do not make cigarettes less dangerous or less addictive. The tobacco companies do not stop at just the flavors to attract kids. They package the flavored products in colorful and fun patterns clearly aimed at attracting children to their products.

Norma Gecks of Derry, NH, reports that her youngest child is 19 and is addicted to smoking. He buys the mint- and fruit-flavored products and by now is smoking up to two packs a day. Already at age 19, he has developed a smoker's cough.

Keith Blessington of Concord is now an adult, but he is also a victim of childhood addiction. He smoked his first cigarette after a basketball game when he was only 17. Recently, he was diagnosed with advanced stomach cancer and told me he has about a year to live. Despite this awful situation, despite the fact that he has cancer, he will tell you plainly: I am addicted. He cannot quit.

We need to enact this legislation to help people in New Hampshire and across the country, people such as Keith, people such as Norma's son. Tobacco products and marketing geared to kids need to end. We cannot afford to let another generation of young people put themselves at risk by becoming addicted to tobacco products and suffering the lifelong consequences of their addiction or, even worse, dying.

For decades, tobacco companies have targeted women and girls. But in the last 2 years, the industry has significantly stepped up its marketing efforts aimed at our daughters and granddaughters, and we have a picture of one of the ads R.J. Reynolds uses. It is their new version of Camel cigarettes targeted to girls and women, and it is Camel No. 9—sort of a takeoff on some other product descriptions we have heard. This cigarette has sleek, shiny black packaging, flowery ads, and, as you can see, the enticing slogan "light and luscious." This advertisement has appeared in *Cosmopolitan*, *Glamour*, *InStyle*, *Lucky*, and *Marie Claire* magazines, and it has been effective. Today, about 17 percent of adult women and about 19 percent of high school girls are smokers. That is more than 20 million women and more than 1.5 million girls who are at increased risk for lung cancer, for heart attacks, strokes, emphysema, and other deadly diseases. These statistics are staggering, and it is important to remember they represent mothers, grandmothers, aunts, sisters, colleagues, and friends.

Seventeen-year-old Cait Steward of Dover, NH, has seen these Camel No. 9

advertisements. She saw them in Glamour magazine. But fortunately, she sees through the marketing campaign. She says:

Tobacco companies advertise to try and get me and my friends to smoke. They try to make young girls think that smoking is sexy, glamorous, and cool. They know that if they get us to start smoking now we will be addicted for years to come.

It is not just cigarettes that we are attempting to regulate in this legislation. The tobacco companies have also developed new products that are both smokeless and spitless. They are just as addictive as those products you smoke, however, and they are just as deadly. Like cigarettes, they do not have any FDA regulation, and the consequences are dire.

I want to show a photo of a young man named Gruen Von Behrens. He is an oral cancer survivor. He has had more than 40 surgeries to save his life, including one radical surgery, and you can see how it left him in this picture. It removed half his neck muscles and lymph nodes and half of his tongue. Like too many teenagers, Von Behrens first tried spit tobacco at age 13 to fit in. By age 17, he was diagnosed with cancer. How can we let this happen? Tobacco companies are targeting our children, and it is our job to protect them.

This legislation is vital to our children and to our Nation's health. It will prevent the tobacco companies from marketing to children. It will require disclosure of the contents of tobacco products, authorize the FDA to require the reduction or removal of harmful ingredients, and force tobacco companies to scientifically prove any claims about reduced risk of products.

The FDA is the proper place to have this authority. It is responsible for protecting consumers from products that cause them harm. The FDA even regulates pet food. Yet it doesn't have the authority to provide oversight for tobacco—one of the most dangerous consumer products sold in the United States.

Under this legislation, the FDA will oversee tobacco products with the same objective and the same oversight with which it directs all of its activities—to promote and protect public health. It has the necessary scientific expertise, regulatory experience, and public health mission to do the job. We can't wait any longer to make the necessary changes that will impact the lives of so many people we know and love.

Again, I thank Senator KENNEDY for his outstanding leadership on this issue and join many of my colleagues in supporting this important legislation that will save lives in New Hampshire and across the country.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWNBACK. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

#### NORTH KOREA

Mr. BROWNBACK. Madam President, I rise to speak briefly about North Korea and what is taking place there. To put some of this in context, I think everybody knows—around the country and the world—what North Korea is doing today. Two Americans are on trial, in a crazy setting. They have a missile on a pad that can reach the United States. They have tested another nuclear device. They have tested previously a nuclear device. They are in the throes of some sort of possible change within the regime. It is a very unstable, very provocative situation in North Korea.

I raise all that because at the end of the Bush administration, they took North Korea off the terrorism list, and they did it as a way to try to negotiate, to try to get them into the six-party talks to do more things and to work with us and with the world community.

Since that period, the North Korean Government has taken the exact opposite tack. Instead of working with us, they have done everything they can to provoke us even further. President Bush, when he took North Korea off the terrorism list, said:

We will trust you only to the extent that you fulfill your promises . . . If North Korea makes the wrong choices, the United States . . . will act accordingly.

That was President Bush. He is, obviously, not President any longer. At that point in time, many of us objected to taking North Korea off the terrorism list, but he went ahead and did it anyway. Then Candidate Obama said, at roughly that same period:

Sanctions are a critical part of our leverage to pressure [North Korea] to act. They should only be lifted based on North Korean performance. If the North Koreans do not meet their obligations, we should move quickly to reimpose sanctions that have been waived, and consider new restrictions going forward.

Since President Bush said that, since Candidate Obama said that, here is what the North Korean regime has done. I mentioned some of these, but I will go into detail. They have: launched a multistage ballistic missile over Japan; kidnapped and imprisoned two American journalists; pulled out of the six-party talks, vowing never to return; kicked out international nuclear inspectors and American monitors; restarted their nuclear facilities; renounced the 50-year armistice with South Korea; detonated a second illegal nuclear bomb; launched additional

short-range missiles; are about to launch a long-range missile capable of reaching the United States; and, at this very moment, are calling the detained American journalists, Laura Ling and Euna Lee, before a North Korean court, if you could even call it that possibly, to answer for supposed crimes of illegal entry into North Korea and unexplained hostile acts. The two could face years in a North Korean labor camp. That is what has taken place since those statements.

We want to put forward an amendment on this bill or on some future bill—but I would like to do it and we should do it on this bill—to label North Korea a terrorist state again, like President Bush said we should, if they don't act right; like Candidate Obama said we should, if they don't fulfill their obligations. We think the administration should do this now, should relist them as a terrorist state. We think it would be an important vote and statement by this body if we would say the North Korean Government is a terrorist government because it is. It is one of the lead armers to provide armament to rogue regimes and individuals around the world. Some of my colleagues may have seen the story this week about a North Korean general who was one of the lead counterfeiters in the world of United States one hundred dollar bills. They were very good quality, done on state machinery I have no doubt. He is one of the lead counterfeiters around the world.

Why, then, the State Department would say earlier today that they don't think this "meets the test" is beyond me. I think this body should vote and send a very clear signal that we believe the North Korean regime should be listed as a terrorist state and a terrorist sponsor. It has taken an incredible list of provocative acts. The Obama administration has said: Let's get the U.N. to issue sanctions against them.

Let's get the United States to do our sanctions against them for what they are doing. All this amendment does that I want to vote on is have the administration place North Korea back on the terrorism list, where it rightly deserves to be and should have been all along. Of course, the amendment does allow the President to waive the requirement of relisting so long as he certifies that certain conditions have taken place, that they have met their obligations, which they clearly are not going to.

I think it is wrong for this body not to be clear on this toward North Korea. It is wrong for this country not to be clear toward North Korea of what we believe of their provocative actions, that we will not stand by and say: Yes, you can keep doing this; yes, you can keep launching missiles; yes, you can keep detonating nuclear devices, and we will not do anything. We should be

clear we are going to act. These are wrong and provocative actions, and they deserve the minimum response this is. That is why I would like to get a vote on this amendment. I would hope I would get a unanimous vote by my colleagues to relist them as a terrorist state. I would hope we could get that up on this bill. We are in negotiations now with the majority leader about this. It is time to vote. It is time to send this at least minimal message to the North Korean Government that these actions cannot stand without some response from the United States. I hope we could get a vote up on this.

I urge the majority leader and those working on coming up with an agreement to go to the next bill to allow us to vote on this North Korean amendment to provide these sanctions.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. REID. Madam President, there are a number of amendments that have been filed that are at the desk. They haven't been offered as yet. Amendments on both sides in agreement should be considered. We were very close on working out an agreement to do just that. The vast majority of the amendments will be germane postcloture. I have indicated that for those that are arguably germane, I would be willing to work with the person who offered the amendment to have a vote on it. But one Senator has held this up. That is the way things can happen around here. It is unfortunate, but it does happen. We worked for a couple of days trying to arrive at the point we are. The sad part about it is the Senator who has held all this up has an amendment that isn't remotely germane to this bill, but he has lodged an objection to this agreement that is agreeable by all other Senators. I would hope that the Senator would reconsider this objection over the next few days.

In the meantime, I have had conversations with the managers of the bill. I have spent a lot of time with Senator DODD. It is an important piece of legislation. I watched the Presiding Officer offer her speech today. What a sad thing, the man she spoke about. A picture is worth a thousand words. The picture that she had when she was talking about this bill and how important it is was worth more than a thousand words.

I will have more to say about this on Monday, but everyone in my family smokes. Sadly, my parents are dead. My dad's miner's consumption was terribly exacerbated by his smoking. So when did he start smoking? He was a kid. He started smoking as a little boy. The same with my mother. The same with my brothers. One brother started when he was in the Air Force. He was I guess 20 years old or something like that. He wasn't very old. But the others, all of my other family members, started smoking as kids. One of my brothers chewed tobacco. I can remember I had a friend who learned that my brother chewed tobacco. He was a lobbyist for the tobacco industry and he said, Oh, I will send him a case of—what kind does he chew? I didn't think that was a good idea.

In Los Angeles last week I met the first lawyer who filed litigation, serious litigation against the tobacco industry—a wonderful man. He got terribly upset with the Joe Camel advertisements, when they placed that little comic strip character on lunch boxes for kids. He also was upset because at that time the tobacco industry went through another one of their ideas to get kids to start smoking in stores, like a 7-Eleven store. They would have bins of cigarettes out there. You are supposed to pay for them, but they were there. Kids could steal them so easily. So he filed this lawsuit. He had the confidence to tell me he lost that lawsuit. But when all the lawyers got together to go after the tobacco companies big time, they pooled their money and went after the tobacco companies, and they used all of his pleadings. He said even the misspelled words they used. They didn't change anything. Ultimately, that led to the favorable ruling by the courts that tobacco companies were liable for the damages in the billions of dollars.

It is important that we move forward. I hope that cloture would be invoked on this Monday afternoon. It is one of the most popular pieces of legislation we could do. I am sorry we weren't able to work anything out on the amendments, but we simply were not able to do so. No one can complain this entire Congress that we haven't had the ability to offer amendments. We were concerned for a lot of reasons. One is we have the supplemental appropriations bill floating around here and we didn't want a lot of nongermane amendments on this, but there were no restrictions whatsoever on even nongermane amendments. We just wanted—every Republican wanted to look at ours; we wanted to look at theirs. We used to do that a lot. We can still do that. But no one can complain and use it as an excuse to not vote for this bill, that we haven't given them a chance to offer amendments.

So I hope Senators will take a look at this to move forward. Let us invoke

cloture and complete this legislation. I have already indicated I would be happy to work out something that would be fair to dispose of the amendments that are germane to this bill that have been filed.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I wanted to begin by thanking the majority leader for his efforts and those of others, and to agree with him. We are prepared to debate these germane amendments, or amendments that are arguably germane, and it is regrettable we couldn't do that. This bill has enjoyed overwhelming support in both Chambers in previous Congresses. Our colleague from Massachusetts has been the leading champion of this effort for more than a decade, if not longer. As I pointed out, every single day we fail to act on this legislation, the statistics are that 3,000 to 4,000 children will begin to smoke every day; 400,000 of our fellow citizens will die this year, not to mention thousands who will live very, very debilitated lives as a result of being contaminated by cigarette smoke and tobacco products. Here we are on the eve of a national health care debate where a major part of that will be about prevention, and what better way to begin that debate than the Congress taking a step in this area which could make such a difference.

So I thank the majority leader for his efforts. I am still hopeful we can get this done. I believe we can. People such as Senator BURR and Senator HAGAN who have legitimate interests and concerns about the legislation before us deserve to have their amendments considered, debated, and discussed. In fairness to other Members, it is regrettable that one single Member of this body, on a totally nongermane proposal, can cause us to delay or avoid meeting the obligation of the issues and concerns about tobacco and the effects on our citizenry.

So I thank the majority leader for his efforts. We will be here next week to debate those amendments and hopefully our colleagues will invoke cloture so we can get to this matter.

Mr. REID. Madam President, let me say, while the distinguished Senator from Connecticut is on the floor, the chairman of the Banking Committee and the manager of this bill, Senator ENZI has been a real partner in what we have done here. He asked that we do a committee hearing on this bill. We could have brought it to the floor under rule XIV. This bill has had lots of hearings in the past, but because Senator ENZI is such a gentleman and he thought it would be the right thing to do, we went ahead, in spite of a very difficult schedule that we had and the schedule that especially Senator DODD had, of all of the things that we were doing under the jurisdiction of that Banking Committee, but with Senator

KENNEDY's help, he was the one who was obligated to do this legislation. So we have done that. We have jumped through all the hoops. I repeat, I hope no one will use as an excuse to not vote for cloture that we have been unfair in moving forward on this bill, because it would be unfair for them to say that we have been unfair.

Madam President, I ask unanimous consent to terminate morning business and have the bill reported.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Pending:

Dodd amendment No. 1247, in the nature of a substitute.

Burr/Hagan amendment No. 1246 to amendment No. 1247, in the nature of a substitute. Schumer for Lieberman amendment No. 1256 to amendment No. 1247, to modify provisions relating to Federal employees retirement.

The PRESIDING OFFICER. The majority leader is recognized.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion on the Dodd substitute amendment to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 1247 to Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Benjamin L. Cardin, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Tom Harkin, Sherrod Brown, Debbie Stabenow, Richard Durbin, Mark Udall, Edward E. Kaufman.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk. This is on the bill itself.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Debbie Stabenow, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Richard Durbin, Mark Udall, Edward E. Kaufman, Tom Harkin, Benjamin L. Cardin, Bill Nelson.

Mr. REID. Madam President, I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent to go into a period of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. MCCAIN. Reserving the right to object, what did we do?

Mr. REID. We just went into morning business. We would like to go into morning business.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I have an amendment that I have been trying to get a vote on, I would say to the distinguished majority leader, and it certainly is important to the American people.

It is certainly important on this bill and the function of the FDA concerning the importation of prescription drugs into this country. I believe the Senator from North Dakota has an amendment. I would agree to a time agreement of an hour to be equally divided, or half hour, and then vote on it. I think the American people ought to know whether we are going to be able to import prescription drugs into this country so we can save them billions of dollars every year, rather than taking so much of their hard-earned money, especially retirees.

Mr. REID. Madam President, I am happy to respond to my friend. We have been trying for 2 days to move forward on germane amendments. I have had several conversations with Senator DORGAN. I know how important it is to him. I voted with him, and I do every time this matter comes up. As I indicated earlier, I would be happy to work out some kind of agreement.

At this time, until we get some ability to vote on the germane amendments, it doesn't seem like the right thing to do. I am willing, as I have indicated to my friend, Senator DORGAN, to work out an arrangement for him to

offer this amendment. This is something that should have been done, I am sorry to say, years ago, not weeks ago. I will work with the Senator from Arizona on this drug reimportation issue, which is important. At this stage, we simply cannot do it; I know of no way to get from here to there.

As I said—and the manager of the bill is here—if we can work something out by Monday, I will be happy to try to work something out. Nobody is trying to stop the Senator from offering that amendment. We have to have an agreement to move forward on the other stuff first because it is germane.

Mr. MCCAIN. Will the Senator yield?

Mr. REID. Yes, without losing my right to the floor.

Mr. MCCAIN. Mr. President, I am very appreciative of the difficulties the majority leader faces on a bill of this nature, the challenges of amendments being nongermane, and also the difficulties he faces in managing legislation. This issue has been around for a long time, I say to my friend from Nevada. We should address it. It is important to the American people. It does have a lot to do with pharmaceuticals in this country and the availability.

Again, I point out to the majority leader that there should not be a lot of debate on this. People have taken their positions.

I have an e-mail that was sent to us by mistake by the lobby for PhRMA, regarding how important it is to stop this amendment and not have a vote on it. If my friend will indulge me, this is urgent. This is from, as I understand it, one of the lobbyists for PhRMA:

The Senate is on the tobacco bill today. Unless we get some significant movement, the full-blown Dorgan or Vitter bill will pass as an amendment and a Cochran or Brownback safety amendment will fail.

(1) We need to locate a Democratic lead cosponsor for the second degree amendment—which will be either BROWNBACK or COCHRAN. Can the J&J, Merck, Novartis, Pfizer and the other New Jersey companies coordinate and contact Senator MENENDEZ's office and ask him to take the lead?

(2) We are trying to get Senator DORGAN to back down—calling the White House and Senator REID. Our understanding is that at least Senator MCCAIN has said he will offer regardless, so even if DORGAN withdraws, he may still go forward.

We believe we have 39 'yes' votes for a safety second degree amendment and 25 members in the 'undecided' column. KENNEDY—who whipped this for us last time—is not here.

We are scheduling a call for later this morning to follow up on our targets from yesterday's whip call. Please make sure your staff is fully engaged in this process. This is real. We only had six companies participate in the last call.

My friends, that is a little insight as to how the special interests in Washington work. I would like to have a vote on this amendment, I say to my friend from Nevada, with a full appreciation of the difficulties he has in getting this legislation through—a very important piece of legislation.

I thank my friend from Nevada for his indulgence and allowing me to read that e-mail.

Mr. REID. Madam President, that is kind of an insight—I don't know who is on first, but that is pretty interesting.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 132, the nomination of William Sessions to be Chair of the U.S. Sentencing Commission.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Madam President, we have not had an opportunity to get that cleared on this side. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Robert Groves to be Director of the Census.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Madam President, I make the same observation with regard to this nominee. We have not yet been able to clear it on this side. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

#### ORDER OF BUSINESS

Mr. REID. Madam President, for the information of Senators, there will be no more votes today. I indicated earlier that we would be out by 6 today. A number of things are going on. We will work on a number of issues over the weekend, including the tobacco issue and other issues. We will vote on Monday at 5:30 on the cloture motions that were filed earlier this afternoon.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. DODD. Madam President, I listened carefully to the conversation between the majority leader and our colleague from Arizona. As the manager of this bill on smoking, I for one have been a strong advocate for the reimportation proposal. Others have also expressed an interest in this. Most of my colleagues have expressed views, and a majority have expressed support for the idea. This is not about denying a vote on reimportation. We would all like that opportunity.

However, this bill on smoking and children is about as fragile a proposal as I have seen here in a long time. There are strong voices that wish to kill this legislation, and they effectively have. The FDA has jurisdiction over almost every product—except tobacco—including pet food. We waited 10 years trying to get to this bill. If you lose one or two votes on this—if we lose this again, we are back to the last decade.

There will be any number of attractive ideas proposed to this legislation, many of which I have either supported or would like to, but we will run the risk of breaking up the necessary 60 votes to deal with children and smoking. So no matter how appealing some amendments may be, understand what you may be doing, and that is destroying the ability to deal with the 3,000 to 4,000 kids who start smoking every day and the 400,000 people who die every year from tobacco. I want to vote on reimportation as well and a lot of other issues. If every time we bring up a bill of this significance and somebody offers a very appealing proposal—understand that the danger is that you fracture that relationship. That has denied us the opportunity to pass this for a decade, despite the fact that both bodies have voted overwhelmingly but not in the same Congress.

We are on the brink of getting this done. What better thing could we accomplish on the eve of the health care debate than to start saving lives of children? I have 76,000 kids in Connecticut who will die because they are smokers if we do nothing. There are 6 million children today who are going to die prematurely because of smoking if we do nothing. As much as I want to deal with reimportation of drugs, if we do that and it is adopted and we lose the coalition on smoking, what have we achieved? The bill dies. You lose both reimportation as well as the smoking proposal.

I appreciate the majority leader taking the position he did. I know where he stands on the issue. Senator REID has been a strong advocate of reimportation. That is not the issue here. It is whether at long last, a decade later, our colleague from Massachusetts, Senator KENNEDY, and Senator DeWine, a former colleague from Ohio,

Henry Waxman from California, Tom Davis of Virginia, who on a bipartisan basis have tried year in and year out to get this done—we can finally achieve it. So I know the game. But this is not a game, this is life and death for people. For 10 long years, we have not been able to pass legislation involving kids and smoking. We can get it done in the next few days. If people insist upon nongermane amendments based on a short-term appeal that denies us that opportunity, we will have done great damage to our country.

I appreciate the position the majority leader has taken. My colleagues know, because I went through the process last week in committee, there were any number of appealing amendments. I thank the members of the committee who wanted to vote for some of those amendments. I see Senator MERKLEY here, a member of our committee. He and I would have liked to have supported additional amendments, fines and such, for kids. We knew that if we did that, we might break that fragile coalition that would get to us the goal line of passing the bill.

I thank the majority leader for standing up on an issue he cares deeply about, the reimportation of drugs. He understands, as does the Presiding Officer, as do all of us here who have loved ones who have been smokers and have been affected by tobacco and the damage it does to our citizenry. It is the only disease I know that is self-inflicted. There are more deaths each year as a result of smoking and tobacco products than alcohol, drugs, suicide, automobile accidents, and AIDS combined. It is the greatest killer in America. We have a chance to make a difference. The day will come for reimportation. We ought to get to that. If you do it on this bill, you lose both reimportation and the smoking bill.

I thank the majority leader and yield the floor.

Mrs. BOXER. Madam President, I urge my colleagues to join me in support of the Family Smoking Prevention and Tobacco Control Act, a comprehensive effort to address the threat of tobacco products to public health.

This bill will finally give the Food and Drug Administration the legal authority it needs to prevent the sale of tobacco products to minors, make tobacco products less toxic and addictive for those who continue to use them, and prevent the tobacco industry from misleading the public about the dangers of smoking.

As the leading preventable cause of death in the United States, tobacco use kills over 400,000 Americans a year. More deaths in the U.S. are caused by tobacco use than from illegal drug use, alcohol use, motor vehicle accidents, suicides, and murders combined. This legislation takes crucial steps to save the lives of as many as 80,000 Americans every year.



Sadly, our failure to address this issue is having the greatest effect on our Nation's children. Ninety percent of all new smokers are children. In just 1 day, about 3,500 children will try their first cigarette and 1,000 more will become daily smokers. In just 1 year, kids in my home State of California will purchase 78.3 million packs of cigarettes.

Even though studies have shown children are twice as sensitive to tobacco advertising as adults and that one-third of children experiment with smoking due to advertising, marketing for tobacco products is virtually unregulated. Each year, the tobacco industry spends \$13.4 billion nationwide on advertising. Granting the FDA the authority to regulate tobacco advertising will reduce targeting of kids and crack down on false claims.

Additionally, this bill will grant the FDA the authority to regulate smokeless tobacco—particularly those products that have been designed to appeal to children, such as tobacco candy. Claims by the tobacco industry that these products are safe alternatives to smoking are dangerous and wrong. In fact, the Surgeon General has determined the use of smokeless tobacco can lead to oral cancer, gum disease, heart attacks, heart disease, cancer of the esophagus, and cancer of the stomach.

This legislation will ensure that tobacco companies can no longer market addictive carcinogenic candies targeted at children without review by the Food and Drug Administration and careful regulation to safeguard the public health.

Cigarettes contain 69 known carcinogens and hundreds of other ingredients that contribute to the risk of heart disease, lung disease, and other serious illnesses. Yet tobacco products are currently exempt from basic consumer protections like ingredient disclosure, product testing and marketing restrictions to children. Tobacco products are the only products on the market that kill a third of their customers if they are used as directed. In spite of the risks, in spite of the costs, tobacco products are the most unregulated consumer products available today.

This bill will ensure that the tobacco industry is finally required to tell us what is in the products they sell.

This legislation will also give the Food and Drug Administration the authority to require stronger warning labels, prevent industry misrepresentations, and regulate "reduced harm" claims about tobacco products. According to a 2006 Harvard School of Public Health study, the average amount of nicotine in cigarettes rose 11.8 percent from 1997 to 2005. More important, this bill will give the FDA the authority to ban the most harmful chemicals used in these products, or even reduce the amount of nicotine. The Family Smok-

ing Prevention and Tobacco Control Act is not about unfairly punishing tobacco companies or consumers of tobacco products; it merely gives the Food and Drug Administration the right to regulate tobacco products as it regulates other products to safeguard the public health.

This Congress and the President have committed to reducing health care costs through comprehensive reform. This legislation is precisely the kind of investment in prevention and wellness that will enable us to increase access to quality health care while reducing costs. Tobacco use results in \$96 billion in annual health care costs and California alone will spend \$9.1 billion on smoking related health care costs—imagine if we spent those funds on preventative medicine or wellness measures.

The passage of this bipartisan bill would be one of the single, greatest public health protections that affirms our commitment to prevention and wellness as the foundation of responsible health care in our country. I urge my colleagues to make an investment in the health of the American people and support this legislation.

Mr. HATCH. Madam President, I rise today to share my views on H.R. 1256, the Family Smoking Prevention and Tobacco Control Act of 2009.

First and foremost, I want to make it perfectly clear that I am deeply concerned about the dangers of smoking, particularly when it comes to children and teenagers. We must do everything we can to discourage our youth from using tobacco products; because once they start, it is very difficult to stop. Long term use of tobacco causes serious health conditions such as lung cancer, emphysema, or COPD—Chronic Obstructive Pulmonary Disease. There is no question that tobacco is a killer.

And not only does tobacco kill, it also results in a tremendous amount of unnecessary health care costs. Experts believe tobacco costs society billions of dollars each year. Even second-hand tobacco smoke harms those who do not smoke themselves but are merely around those who do.

Do I believe that tobacco should be regulated? Of course I do. But do I believe that the Food and Drug Administration is the appropriate agency to regulate tobacco? Absolutely not. Let me take a few minutes to explain why I feel so strongly about this issue.

The FDA's core mission is to promote and protect public health. As a member and former chairman of the Senate Health, Education, Labor and Pensions Committee, the committee with jurisdiction over the Food, Drug and Cosmetic Act, I feel very strongly that the FDA should have sufficient resources to do its current job before taking on new responsibilities. Over the years, I have worked hard to get the FDA the funding it needs to pro-

tect consumer health; approve new drugs, biologics and medical devices; and protect our Nation's food supply.

For years, FDA scientists have pleaded with Congress to give the agency more resources. In fact, according to the Alliance for a Stronger FDA, the FDA's budget is small—\$2.04 billion was appropriated for the agency and it collects nearly \$600 million in user fees. Eighty-three percent of the FDA's costs are staff-related. The Alliance, whose membership includes three former Secretaries of Health and Human Services and six former FDA Commissioners, believes that the FDA's appropriation must increase by about \$100 million per year just in order to stay even with increased costs—anything lower will result in decreased staff and programming. In addition, the Alliance believes that the FDA's base has eroded even while it was given new responsibility and "operates in a world of increased globalization and scientific complexity." To put it in perspective, the FDA receives less funding than its local school district. Montgomery County, MD, public schools received \$2.07 billion in fiscal year 2009; the FDA received \$2.04 billion in appropriated funds that same year.

Recently, we heard about peanut products tainted with salmonella. Hundreds of people became sick and nine people lost their lives. In 2008, consumers were sickened by salmonella in peppers and possibly tomatoes. Before that, it was spinach tainted with E. coli that was sold all across the United States.

Overall, the FDA has done good work on food safety, but it also needs more inspectors and more resources to conduct inspections. In fact, on March 14, President Obama stated that about 95 percent of the Nation's 150,000 food processing plants and warehouses go uninspected each year.

Unfortunately, the FDA struggles with more than just food. On the pharmaceutical side, the FDA has had to deal with safety issue after safety issue. From the withdrawal of Vioxx, to new data about suicide and SSRI antidepressants, FDA has been working to match its performance to its mission. We all know that it still has a way to go.

If the FDA is given the responsibility of regulating tobacco products, it will require the agency to expand considerably. A completely new center, the Center for Tobacco Products, will be established within the FDA and new scientific experts will have to be hired for that new Center. These individuals—epidemiologists, toxicologists and medical reviewers—could be working on evaluating cancer drugs, or new vaccines, or tracing outbreaks of food borne illness—areas where, quite frankly, they are desperately needed. Instead, they will be wasting time, effort,



and money in attempt to make a deadly product slightly less deadly.

The former FDA commissioner, Dr. Andrew von Eschenbach, expressed serious concerns in 2007 that this bill does not provide enough funding for an expansion of the FDA and does not authorize appropriations for start-up costs. He also expressed concerns that regulating tobacco would jeopardize FDA's public health mission. Dr. von Eschenbach was right—it makes no sense to expand this agency and divert its attention to tobacco products. I simply cannot understand why Congress is giving this agency any additional duties without a clear idea, in my opinion, about how much money it will cost to carry them out. Although this legislation is funded by tobacco company user fees, how do we know that enough money will be collected? And, while it is my understanding that the substitute big being considered by the Senate will require performance reports on these user fees every 3 years, I feel that these reports should be filed on an annual basis so that we in Congress may make necessary adjustments if the program is running out of money.

Another concern I have is the impact that these user fees could have on public health programs like the State Children's Health Insurance Program—CHIP—which relies on tobacco taxes for its financing. For that reason, I filed an amendment calling for the Comptroller General of the Government Accountability Office to study whether this bill will have an impact on public health programs. It is my hope that this amendment will be accepted by my colleagues.

Finally, I want to talk in more detail about the mission of the FDA, which is to protect public health. I feel that by requiring the FDA to regulate tobacco, we are putting the agency in direct conflict of this important mission. Here are two undeniable truths about tobacco: (1) tobacco is known to cause serious illnesses and death, and (2) tobacco does not have any health benefits whatsoever. So, I ask you, what sense does it make to have the FDA regulate tobacco? How does an agency in charge of protecting public health regulate tobacco, a product that is inherently unsafe?

In fact, when the bill was being considered by the Senate HELP Committee a few weeks ago, I cosponsored and strongly supported Senator ENZI's amendment to have the Centers for Disease Control and Prevention regulate tobacco products. Unlike the FDA, the CDC has the infrastructure, personnel and mission to take on tobacco. The CDC operates programs that reduce the health and economic consequences of the leading causes of death and disability, thereby ensuring a long, productive, healthy life for all people. For those reasons, I felt that

the CDC's mission was far more suited to the regulation of tobacco. Unfortunately, that amendment was not approved by HELP Committee members and, as a result, the Senate is now considering a bill that would designate the FDA as the regulator of tobacco products.

In conclusion, I am probably one of the FDA's strongest supporters in Congress. Back in the 1990s, I introduced legislation that created the White Oak campus; the unified FDA campus which I envisioned would bring prestige back to the agency. This campus is on track to be completed in 2012. I wanted FDA to be able to attract the brightest minds so we could get the best researchers in the country working together in order to ensure the safety of our drugs, medical devices and food supply. Dr. Margaret Hamburg, the newly confirmed FDA Commissioner has impressed me with her strong vision for the future of the FDA. It is my hope that by adding the regulation of tobacco to the FDA's portfolio, that vision does not go off course.

I want to make one thing perfectly clear—I support the intent of this bill which is to stop our young people from picking up that first cigarette and to protect public health by regulating tobacco. That being said, it is my hope that some of the concerns that I have raised will be carefully considered and addressed before this legislation is signed into law.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

#### PRAISE OF DR. DOUGLAS LOWY AND DR. JOHN SCHILLER

Mr. KAUFMAN. Madam President, I would like to continue what I began last month by honoring the contribution of our Federal employees.

On May 4, I came to the floor to discuss the importance of recognizing the hard work and dedicated service of our Federal employees. This is especially important because of our recovery efforts during these challenging economic times. The programs we enact, it is easy to say, will be carried out by a Federal workforce that requires people's confidence. I know from personal experience how industrious and trustworthy civil servants are. The public needs to know too.

As I said then, we also need to encourage more of our graduates to enter careers in public service. America is blessed with so many enthusiastic and

entrepreneurial citizens. We need them to lend their talents. We need their ideas, their creative minds. This is why I have made it a priority to honor excellent public servants and call attention to what Federal employees can and do accomplish.

In my previous remarks, I promised to highlight some of our excellent public servants from this desk every so often. In keeping with my promise, I rise to speak about two Federal employees whose achievements are particularly relevant to our work in this session: the current state of our health care system.

As many know, cervical cancer is the second most common cause of cancer deaths in women worldwide. It takes the lives of almost a quarter million women each year. Here in America, nearly 11,000 women are diagnosed annually.

What distinguishes cervical cancer from most other cancers is its cause. While many cancers are linked to a genetic predisposition for abnormal cell growth, nearly all cases of cervical cancer result from viral infections. The majority of these infections come from exposure to the human papillomavirus or HPV. HPV is the most common sexually transmitted disease affecting Americans.

When Dr. Douglas Lowy and Dr. John Schiller began studying HPV, little did they know that their 20-year partnership as researchers would lead to the development of a vaccine.

Working at the National Institutes of Health's National Cancer Institute Center for Cancer Research, the two discovered that previous attempts at creating a vaccine had failed because a genetic mutation existed in the virus, making it difficult for the body to produce antibodies against it.

Once Drs. Lowy and Schiller made this finding, they worked to create a modified version of the HPV without the mutation. This development is instrumental in the creation a few years ago of a vaccine that will prevent the vast majority of cervical cancer cases from developing.

Because over 80 percent of those who develop cervical cancer cases live in developing nations, Drs. Lowy and Schiller have been working with the World Health Organization to make the HPV vaccine available to women around the world.

In recognition of their achievement, the two men jointly were awarded the 2007 Service to America Federal Employee of the Year Medal.

Today, women and girls age 9 through 26 have the ability to be vaccinated against developing cervical cancer.

Once again, I call on my fellow Senators to join me in honoring Dr. Lowy and Dr. Schiller and all Federal employees who have distinguished themselves in their service of our Nation.

## HEALTH CARE REFORM

Mr. KAUFMAN. Madam President, I would like to speak on reforming our health care system. Simply put, health care reform has been delayed for far too long, and it cannot wait any longer. Most Americans are satisfied with the health care they receive today.

Let me repeat this. Most Americans are satisfied with the health care they receive today. But if we want to sustain and improve the quality of health care, we need to act now.

What they are concerned about is what future health care is going to be about, and they are also concerned about the cost of health care. We must get health care costs under control while preserving choice.

If we do nothing and allow the status quo to persist, it has been estimated that the share of gross domestic product devoted to health care will rise from 18 percent in 2009 to 28 percent in 2030.

If health care premiums continue to rise at 4 percent per year, which is actually less than the historical average, then by 2025, premiums for family coverage will reach \$25,200 a year—over \$2,000 a month. This trajectory is simply unsustainable.

We have attempted to reform our health care system several times in the past to no avail. But this year is different and has to be different. This time the call for reform is coming from people and organizations that previously opposed reform. This time businesses, along with unions that represent their workers, are asking for reform.

Businesses in America have to compete against companies from other countries. Many of them do not pay anything for health care for their workers or retirees. Others pay far less than what many of our larger corporations pay. This puts many of our businesses at a disadvantage in the global marketplace.

In addition, people in my home State of Delaware and Americans across the Nation are struggling to keep up with the crushing and seemingly constant increase in the cost of health care.

Over the last decade, Americans have watched as their health insurance premiums and deductibles have risen at much faster rates than their wages, threatening their financial stability. It also puts them at risk for losing their insurance as employers struggle to provide adequate health care coverage.

Americans rightfully value their relationships with their doctor and the care they receive. We must—and I say must—preserve these relationships. In addition, as costs rise and insurance benefits erode, Americans are also asking to protect what works and fix what is broken.

Our current health care system—the status quo—is rampant with bureauc-

racy, inefficiency, and waste. It is time for reform. It is time to reform health care for Americans so everyone has access to quality, affordable care, regardless of preexisting medical conditions. It is time to reform health care so we place a higher priority on prevention and wellness, saving lives as well as money. It is time to reform health care so all Americans can compare the costs and benefits of different health care policies. It is time to reform health care so Americans have more choices, not less, and can choose their own doctor.

I applaud the members of the Finance Committee and the Health, Education, Labor, and Pensions Committee in the Senate, as well as our counterparts in the House, for their sincere dedication, their thoroughness, and their commitment to crafting legislation that truly will transform the health care system in this country.

It is clear this is not an easy task and is one that will require true compromise from everyone across the ideological spectrum, but it is a task that must be done. Our country and the health of its citizens, as well as the economy, cannot afford to maintain the status quo.

As the members of these committees gather to discuss and ultimately mark up legislation, I encourage them to include a viable public option in a menu of insurance options from which Americans may choose. It will be—and let me stress this—it would be a purely voluntary option.

If you like your current plan, you keep it. But a public health insurance option is critical to ensure the greatest amount of choice possible for consumers. There are too many Americans who do not have real choices when it comes to health insurance, especially those who live in rural areas.

In addition, many large urban areas are dominated by one or two insurers that serve more than 60 percent of the market. In fact, there are seven States where one insurer has over 75 percent of the market share.

A public option can help Americans expand their choice of insurance provider. A public option could take various forms, and I think the committees are the proper place to determine the appropriate contours of a public option.

I think a good starting point for discussion is the proposal put forward by my colleague from New York, Senator SCHUMER. It delivers all the benefits of increased competition without relying on unfair, built-in advantages for the federally backed option.

This public option would not be subsidized by the government or partnered with Medicare. It would not be supported by tax revenue. It would compete on a level playing field with the private insurance industry. If a level playing field exists, then private insur-

ers will have to compete based on quality of care and pricing, instead of just competing for the healthiest consumers.

This is just one proposal for public option. There are others we can debate as we move forward.

Right now, more than 30 State governments offer their employees a choice between traditional private insurance and a plan that is self-insured by the State. Some of them have had them for more than 15 years.

In these States, the market share of the self-funded plans within the market for State employees typically ranges from 25 to 40 percent. This shows a healthy competition between the public option and private insurers, not domination by either type of insurer. The States provide these options because they believe it adds value to competitive offerings they give their workers.

These arrangements do not seem to be a problem or incite ideological issues at the State level. Why should it be so when discussing health reform on the national level?

A public option can go a long way in introducing quality advancements and innovation that many private insurers do not now have the incentive to implement.

Medicare and the veterans health system have spearheaded important innovations in the past, including payment methods, quality of care initiatives, and information technology advancements.

A new public option could also help lead the way in bringing more innovation to the delivery system and introducing new measures to reduce costs and improve quality.

A public option can serve as a benchmark for all insurers, setting a standard for cost, quality, and access within regional or national marketplaces. It can have low administrative costs and can have a broad choice of providers.

Simply put, Americans should have a choice of a public health insurance option operating alongside private plans.

A public option will give Americans a better range of choices, make the health care market more competitive, and keep insurance companies honest.

The key to all this, however, is that a public option will be just that, as I said—an option, not a mandate.

Some people will choose it; others will not. If you like the insurance plan you have now, you keep it. If you are happy with the insurance you get with your employer, or even the individual insurance market, you stay enrolled in that insurance plan. And if you are unsatisfied with the public option, you have the option to switch back to private insurers.

Americans firmly support the ability to choose their own doctor and value their relationships with their providers. So do I.

An overriding goal of health reform is to increase patients' access to affordable, quality health care, and offering a public option can help increase Americans' choices.

I am heartened that I was joined by 26 other Senators several weeks ago in cosponsoring a resolution introduced by Senator BROWN calling for the inclusion of a federally backed health insurance option in health care reform.

Senators who have been involved in health care issues for decades—Senators KENNEDY, DODD, ROCKEFELLER, HARKIN, BINGAMAN, and INOUE, just to name a few—have all agreed that a public option should be included.

As I said before, I admire the efforts of my colleagues on the Finance and Health, Education, Labor and Pensions Committees who will be drafting our health reform legislation.

They have an important responsibility, and I recognize that they will be debating many options regarding coverage, financing, regulations, and so on.

I simply encourage them to consider seriously a public option as a choice for Americans in any new health insurance exchange.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. SANDERS. Mr. President, I think the American people are aware that our country is in the midst of a major health care crisis. That is not a secret to anybody. Forty-six million Americans have no health insurance and, importantly, even more are underinsured, with high deductibles and copayments. Further, some 60 million Americans, including many with health insurance, do not have access to a medical home of their own. In fact, according to the Institute of Medicine, some 18,000 Americans die each year from preventable diseases because they lack health insurance and do not get to a doctor when they should.

I can recall very vividly talking to several physicians in Vermont who told me how people walked into their office, quite sick, and when they asked why they hadn't come in earlier, they said: Well, we don't have a lot of money; we didn't have any health insurance. The result is that those patients died. That happens every single day in this great country.

When we talk about health care, we have to understand that access to dental care is even worse. On top of that,

in our Nation, we pay the highest prices in the world for prescription drugs. My State of Vermont borders on Canada, and it is not uncommon for people to go from Vermont to Canada to buy the prescription drugs they need at far lower cost than in America.

In the midst of all of this—the 46 million Americans without health insurance, people being underinsured, and people paying outrageously high prices for prescription drugs—at the end of the day, our Nation pays far more for health care per person than any other country on Earth. Far more. It is not even close. Yet despite the enormous sum of money we spend, our health care outcomes—what we get for what we spend—lag behind many other countries in terms of life expectancy—how long our people live, in terms of infant mortality, and other health indices.

According to a recent report from the National Center for Health Statistics—this is just one example—the United States ranks 29th in infant mortality in the world—29th in the world. We are tied with Poland and Slovakia for 29th in the world in terms of infant mortality. In all due respect to our friends in Poland and Slovakia, we should be doing a lot better than that because we spend a lot more on health care than they do in Poland and Slovakia.

Further, according to a study published in the London School of Hygiene and Tropical Medicine, the United States has the highest rate of preventable deaths among 19 industrialized nations. Although our rate has declined over the past 5 years, it is doing so at a slower rate than other countries. According to that study, if the rate of preventable deaths in the United States improved to the average of the top three countries, which are France, Japan, and Australia, approximately 100,000 fewer residents of the United States would die annually.

When we talk about health care, we are not just talking about individuals who suffer and die because they do not have health care. What we are talking about is that the high cost of health care—as President Obama makes clear all of the time—is a major economic issue as well. In our country today, we are now spending about 16 percent of our GNP on health care, and the cost of health care is continuing to rise at a very high rate, which becomes economically unsustainable. The fact is, General Motors, which recently declared bankruptcy, spends more money on health care per automobile than they do on steel, and that creates an economic climate in which America—our companies—becomes noncompetitive with other countries around the world. But it is not just large corporations such as GM. Small business owners in Vermont and throughout this country are finding it harder and harder not only to provide health care for their workers but even for themselves.

In addition, a recent study found that medical problems contributed to 62 percent of all bankruptcies in 2007 and that between 2001 and 2007, the proportion of all bankruptcies attributable to medical problems rose by nearly 50 percent. Interestingly, 78 percent of those who experienced bankruptcy as a result of illness were insured. They were insured. These are not people who did not have any health insurance. But it speaks to the inadequacy and the lack of coverage, comprehensive coverage, in many health insurance programs.

We as a Congress, for whatever reason—and I will suggest the reason in a moment—do not really spend a lot of time discussing why the American health care system is so expensive, why it is so inefficient, why it is so complicated. We do not talk about that very much. I fear that has a lot to do with the role private health insurance plays over the political process in this country. Let me be very clear. In my view, the evidence is overwhelming that the function of a private health insurance company is not to provide health care. The function of a private health insurance company is to make as much money as it possibly can. The truth is, the more health care a private health insurance company denies people, the more money it makes. If you submit a claim for coverage and they deny it, from their perspective that is a very good thing because they make more money.

Further, in pursuit of making as much money as they can, private health insurance companies have created a patchwork system which is the most complicated, the most bureaucratic, and the most wasteful in the world. According to a number of studies, we are wasting about \$400 billion a year in administrative costs, in profiteering, and in bureaucratic billing practices. That is enough money to provide health care to all of the uninsured.

I know that is not an issue we are supposed to be talking about here on the floor of the Senate because we are not supposed to take on the insurance companies or the drug companies because of all of their power. But I believe, if we are serious about moving toward a universal, comprehensive, cost-effective health care system in this country, we have to talk about the very negative role private health insurance companies are playing in that process.

Administrative costs for insurers, employers, and the providers of health care in the United States are about one out of every four health care dollars we spend. In other words, for every \$1 we spend, one quarter of that dollar does not go to doctors, does not go to nurses, does not go to medicine, does not go to therapies; it goes to administration. That is at the root of the problem we have in terms of health care

costs in America. In California—one example—only 66 percent of total insurance premiums are used to cover hospital and physician services. One-third, \$1 out of every \$3, is spent on administration, billing, claims processing, sales and marketing, finance and underwriting.

The American people want their health care dollars spent on health care. I know that is a radical idea, but when people spend money on health care, they assume it goes to the provision of health care, not profiteering, not administration, not hiring more bureaucrats to tell us we are not covered when we thought we were covered. What the American people want is close to 100 percent of that dollar to go to health care and not bureaucracy.

While health care costs in America have soared, as everybody knows, from 2003 to 2007 the combined profits of the Nation's major health insurance companies increased by 170 percent. Health care costs are soaring, profits of the major health insurance companies have gone up by 170 percent from 2003 to 2007, and CEO compensation for the top seven health insurance companies averaged over \$14 million per CEO. To add insult to injury, some of these health care profits are going directly into campaign contributions and into lobbying to make sure, in fact, the Congress does not move forward toward real health care reform, which, in my view, means a single-payer health care system.

That is where we are right now. We have the most inefficient, wasteful, bureaucratic system of any major country on Earth. Our health care outcomes, despite all the money we spend, are way below many other countries in the world. And we are not discussing the most important issue with regard to health care spending; that is, the role private health insurance companies are playing.

We are now in the beginning of the debate on health care. I am going to do my best to make sure that issue of the role private health insurance companies are playing in the system, the very negative role they are playing, is something that, in fact, we talk about.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I commend my friend, the junior Senator from Vermont, for his words, this critique about the health insurance system—what is right about it and what is wrong with it. We know, for those with insurance, we can get good medical care in this country. We know many people do not have any insurance. We know many others have inadequate insurance. And we know that so many Americans are in a situation where they are anxious about the future of their health and the quality of health care they have. Too many Americans

have seen their health care premiums go up, their deductibles go up, and their copays go up. They end up with a private insurance company that finds ways to delay paying them, to in many cases not reimburse them at all for their health care expenses. It is insurance that does not really deliver, and that is really no insurance at all.

What Senator SANDERS said is exactly right. The behavior of health insurance companies has meant we have huge administrative costs.

More and more, we remember what the President of the United States said when he was a candidate for President. Senator SANDERS mentioned that story at the White House the other day to President Obama, how moved people in this country were when they heard the President talk about his own mother who was dying, who was fighting with insurance companies over paying for her cancer treatment while she was dying. She had to advocate for herself. Her son was advocating for her, of course, too. But she went through the trauma and pain of cancer and the trauma and pain of dealing with insurance companies. We know that. Yet some in this body want to increase the role of private insurance and allow them to continue to game the system.

We also know that private insurance companies in many ways are simply a step ahead of the sheriff. They do not mind insuring someone who is 50 and healthy, but they would rather not insure someone who is 63 and unhealthy because they can make more money on someone who is healthy, but in somebody who has a preexisting condition, they will find a way not to insure them or not to pay off to them when they get sick. We know about the inefficiencies in the health care system, in private insurance. We know the difficulties with private insurance, the bureaucracy, and we know about the administrative costs of private insurance.

Private insurance administrative costs run anywhere from 15 percent to 30 percent, depending on whether you are in a big group plan, a smaller group plan, or an individual plan. We also know Medicare, which has delivered for 44 years—it was signed by President Johnson in July of 1965—we know Medicare has delivered very well in the great majority of cases for the American people, for the elderly, but we also know Medicare has about a 2-percent or 3-percent administrative cost—again, contrasted with 15 to 30 percent with private insurance companies.

We also know, interestingly, there is a statistic—there was a study several years ago of the richest industrial democracies—France, Germany, Japan, Israel, England, Spain, Italy, Canada, and the United States—and they rated all these countries according to several health care indices: life expectancy, infant mortality, maternal mortality, inoculation rates for children, all those

things. Of the 13 countries they looked at, the United States ranked 12th. Even though we spent twice as much as any other country on Earth per capita, our outcomes were not as good. We were 12th out of 13. In one category, America ranked near the top, and that is life expectancy at 65.

If you get to be 65 in this country, the chances are you are going to live a longer, healthier life than almost any other country in the world. Why? Because we have a health care system, Medicare, that provides health insurance for everybody over 65. There are holes and gaps in coverage in Medicare; the premiums can be pretty hard for some to reach; the copay and deductibles can be a problem.

Overall people know when they have Medicare they are pretty darned well taken care of. That is not the case for people under 65. I came to the floor tonight for a few more moments, as I was listening to Senator SANDERS talk so eloquently, to share a couple stories.

Sherry, in Albany, OH, is not Medicare eligible. She is forced to consider borrowing from the equity in her home to pay her \$1,070 premium through COBRA. She had a job. She lost her job. She has to pay the employer and employee side to pay for her health insurance. That is the way COBRA works. It is a good program but a bit of a cruel hoax. If you lose your job, it is pretty hard to pay your premium and your employer's premium at the same time.

She is considering borrowing against her house to pay for her health insurance for COBRA for 18 months. She will get a little bit of help now, because in the stimulus package, we took care of some of that. She has to find a way until she is 65 to cobble together insurance.

Terry, a small business owner nearby in Columbus, expects to pay 35 percent more this year to cover his employees. He wants to cover his employees, but he has a 30-percent increase. What is he supposed to do, especially when his business—I don't know a lot about his business, but so many small businesses are squeezed more and more because of the economy. So we know these stories, and that is why it is so important that we address health care reform this year.

We want to do several things. First of all, anybody who is in a health care plan they are happy with, they are satisfied with now, they can stay in that plan. If they want to make that choice, they stay in the plan. Second, we need to do something on costs, to stop the huge increase in premiums, copays, deductibles. We have to do a better job to constrain costs in the health care plan than this government or the private sector has been able to do for decades.

Third, we need to give people full choice. That means they can stay in

their plan, as I mentioned earlier, No. 1, but they also will have a choice of private insurance plans and a public plan, a public option. So they can choose a private plan with Aetna or a private plan with United Health or a private plan with BlueCross BlueShield or they can decide to join a public plan, a public plan that might look similar to Medicare, which they can decide, perhaps they would save money or have better preventive care or a plan with lower copays or deductibles.

They can make the choice. A great majority of the Democratic caucus, and I hope Republicans will join us, an overwhelming sector wants that option, a public plan and a private plan they can choose, that might be similar to Medicare.

Anything we tried in health care, every time that health care reform was introduced, the cries of "government takeover" and "socialized medicine" were heard from by conservatives who do not think government should have a role in health care.

We are the only country in the world that thinks that, it seems like, because every other country has a major part of their health care plan, a major part is involved with the government, if not the whole plan.

We are not asking for a government takeover, we are not doing socialized medicine. That is what they always say. We heard it in 1948, when Harry Truman tried to push through Medicare. We heard it in 1965, when Lyndon Johnson and the overwhelmingly Democratic House and Senate passed the Medicare law. We heard it in 1993, my first term in the House, Senator SANDERS' second term in the House. And that is what insurers are claiming today. They are saying: Government takeover of medicine. That is not true. We want a government option plan. We want the government to provide a Medicare plan that people can choose from. You can choose a private plan or public plan.

Americans deserve no less. Our country can afford no less. The President asked us to move on this as quickly as we can and to do it right. This is our chance, and I think we are going to do it.

Mr. SANDERS. Would the Senator from Ohio yield?

Mr. BROWN. Yes.

Mr. SANDERS. I wish to thank him for his cogent remarks, talking about one of the most basic issues facing this country and that is health care. We are on the Veterans' Committee as well, and I know you spend a lot of time talking to veterans in Ohio. Has the Senator heard a veteran in Ohio tell you they want to privatize the VA?

Mr. BROWN. I have heard mostly conservative Republicans say they want to privatize the VA.

Mr. SANDERS. Every time that issue is raised, the veterans say no.

Mr. BROWN. One of the things we noticed about the Veterans' Administration is that the VA has found a way to buy, at the lowest cost possible, some of the least-expensive but good-quality prescription drugs. Because what the VA does—there are millions of veterans—they negotiate on behalf of veterans with individual drug companies for individual prescription drugs, individual pharmaceuticals, and they get a rate at about one-half of what you would pay if you went to Drug Mart or Rite Aid or any of the other stores.

The Medicare bill, when it came through the House and Senate—President Bush pushed that bill—they did not allow us to negotiate drug prices. We know what this is about. We know if we follow the lead of the drug industry and the insurance industry, which this Congress did through most of the first part of this decade with President Bush, we end up with special interest laws that protect the drug companies or insurance companies.

Or we can now pass health care with a public option plan, give the public the option of going to a Medicare-like plan instead of a private insurance company plan, if they want to, or stay in the plan they are in and then they decide on what kind of care they would like.

Mr. SANDERS. My friend from Ohio is exactly right. If you talk to the people of this country, if you talk to the veterans and say: Do you want VA health care to be privatized? Overwhelmingly, no.

In recent years, the Senator from Ohio, I, and others, have worked to substantially increase funding for federally qualified community health care centers all over this country. These are the most cost-effective ways of providing quality health care, dental care, low-cost prescription drugs, mental health counseling.

The people of this country want those. I hope we have success in expanding that program. But I get a little bit tired of hearing from some of our friends on the other side who tell us: Oh, people do not want government involved in health care. Well, you tell that to seniors. Tell them you want to privatize Medicare. Tell that to the veterans, that you want to privatize the VA.

The fact is, as the Senator from Ohio indicated, we are wasting tens and tens of billions of dollars every year in bureaucracy, in billing, in excessive CEO salaries through private health insurance companies. At the very least, the people of this country are demanding, and we must bring forth, a strong—underline "strong"—public option within any health care reform program we develop.

Mr. BROWN. I thank the Senator from Vermont. It is pretty clear, and I think this Congress is going to do the right thing. The President, when he

met with us last week, as he promised in his campaign, was strongly in favor of purchasing insurance from the Medicare look-alike plan or private plans or either one or keeping what they already have.

The President has spoken strongly on it for months. The majority of this Congress wants to do the same. I am hopeful that is what we will do in the months ahead.

#### HONORING OUR ARMED FORCES

SERGEANT JUSTIN DUFFY

Mr. NELSON of Nebraska. Mr. President, I rise today to honor Army SGT Justin J. Duffy, age 31, who was killed in Iraq on June 2, 2009.

Sergeant Duffy was born in Moline, IL. As a child, his family moved to Cozad, NE, where he graduated from high school in 1995. He earned a degree in criminal justice from the University of Nebraska-Kearney. Duffy worked at Eaton Corporation for 5 years, where he was recognized for his work ethic and leadership ability and promoted to a supervisor position. His colleagues and friends said Duffy was the kind of person who never missed a day on the job and was always on time and ready to work. This young man stood out among his peers and always sought a challenge, so it came as no surprise to his friends and family when he decided to join the Army, enlisting in May 2008.

Sergeant Duffy's father Joe said the U.S. Army had attracted his son because he wanted adventure and needed more of a challenge and he believed that desire would be fulfilled by serving in the military. His time with the U.S. Army was marked by success; one of his proudest accomplishments was his quick rise to Sergeant, beating the standard time it normally takes to achieve that rank. Sergeant Duffy was assigned to the 3rd Brigade Combat Team, 82nd Airborne Division. While in Iraq, Sergeant Duffy's team was responsible for escort security for high-ranking military leadership.

Sergeant Duffy passed away in eastern Baghdad after an improvised explosive device detonated near the humvee he was driving; three of his fellow soldiers were also wounded in the blast. Sergeant Duffy served his country honorably and made the ultimate sacrifice for his fellow Americans. His life and service represents an example we should all strive to emulate.

SGT Justin Duffy leaves behind his parents Joe and Janet Duffy of Cozad, NE; his grandfather LeRoy Hood of Moline, IL; and two sisters Jenny of Grand Island, NE, and Jackie of Yuma, AZ. He will forever be remembered by his family and friends as the kind of person who was quick to jump in wherever he was needed; some even labeled him a shepherd, as he always looked out for family, friends, and even strangers. I join all Nebraskans today in mourning

the loss of Sergeant Duffy and offering our deepest condolences to his family.

SPECIALIST JEREMY R. GULLETT

Mr. BUNNING. Mr. President, I would like to invite my colleagues to join me in recognizing Greenup County, KY, for paying tribute to Army SPC Jeremy R. Gullett.

SPC Jeremy R. Gullett served in the 4th Battalion, 320th Field Artillery Regiment of the 101st Airborne Division based out of Fort Campbell. He lost his life in the line of duty on May 7, 2008, in the Sabari District of Afghanistan.

This evening Greenup County will have a dedication ceremony to name a local bridge after Specialist Gullett, honoring his life and service to our Nation. The bridge will serve as a reminder to all of those who live or travel through Greenup County of the sacrifice Specialist Gullett made for our freedom.

A member of the Greenup County High School Class of 2003, Specialist Gullett participated in his high school's Junior ROTC program and joined our Nation's Armed Forces soon after earning his diploma. In addition to serving under our Nation's armed services, Specialist Gullett was a member of Little Sandy Volunteer Fire Department and Veterans of Foreign Wars, dedicating his life to service domestically and internationally.

Specialist Gullett's sacrifice for our Nation will forever be a reminder that freedom comes at a high cost. We should never take for granted the sacrifice that men and women make daily in all branches of the Armed Forces.

As we commemorate the life and service of SPC Jeremy Gullett, my thoughts and prayers are with his friends and family. All Kentuckians and Americans are deeply indebted to Specialist Gullett.

#### DECEPTIVE MARKETING

Mr. LEVIN. Mr. President, last month the Senate passed and the President signed H. R. 627, the Credit CARD Act of 2009. Thanks to the hard work of Senator DODD, Senator SHELBY, Representative MALONEY, many other Members of Congress, and the multitude of fed-up citizens who protested unfair treatment by credit card companies, this landmark bill to protect consumers from abusive credit card practices was passed over the objections of powerful lobbies. Millions of Americans will benefit now that some balance of power is being restored between card holders and card issuers.

Today, I want to thank Senator DODD and Senator SHELBY for including in the Credit CARD Act a provision that I authored and that was cosponsored by Senator COLLINS and Senator MENENDEZ, to stop the deceptive marketing of free credit reports. I would also like to thank Senator PRYOR for working with

me to address his concerns about the provision.

Credit reports are a record of an individual's history of receiving and repaying loans, and they frequently contain errors. At the same time, these credit reports are used to calculate the credit scores that have become so central to evaluating a person's creditworthiness. Credit scores are used to determine whether someone will qualify for a credit card, what interest rate they will get, and whether and when that rate will increase. Credit scores perform a similar function for home mortgages, car loans, and consumer lines of credit. Some companies use these scores to screen applicants for apartments, insurance, security clearances, and even jobs. The important role a credit score plays in our everyday lives makes it all the more critical that the reports used to calculate these scores are accurate and accessible to consumers.

In the United States, three large nationwide credit reporting companies, often called "credit bureaus," compile and maintain credit reports for the vast majority of consumers. Until Congress passed the Fair and Accurate Credit Transactions, FACT, Act of 2003, consumers had to pay a fee in order to access or attempt to correct the information in their credit reports.

The FACT Act gave consumers the right to a free annual report from each of the nationwide consumer reporting companies. The FTC mandated the establishment of a website, AnnualCreditReport.com, to provide consumers access to their federally mandated free credit reports. In these difficult economic times, it is critical that consumers have a clear understanding of their right to get a free annual report, an easy way to obtain those reports, and the ability to correct any mistakes since mistakes in a credit report could cost someone a loan or a job.

Today, however, television, radio, and the internet are awash in misleading advertisements for free credit reports. A cottage industry has sprung up of unscrupulous marketers who confuse or deceive consumers into buying products or services they may not need or want by tying the purchases to the offer of a so-called "free credit report." Many of these marketers deliberately obscure the difference between the free reports to which consumers have a right under Federal law—which come with no strings attached—and the "free reports" that marketers condition on purchases of credit monitoring, credit scores, or other products.

Deceptive advertisements direct consumers to contact commercial sources unaffiliated with the government-authorized AnnualCreditReport.com. Consumers who request "free" credit reports from these sources often find they have unwittingly signed up for

credit monitoring or other services they must pay for. Some of these offers include notice that they are not affiliated with the federally mandated free report, and that consumers who accept the offer will either have to pay for another product or cancel a "trial membership" within a short time to avoid being charged. These disclaimers, however, are often buried in fine print or appear in places where most consumers won't see them. They simply are not adequate to correct the overall impression that the offer is for the free, no-strings-attached credit report available under federal law. Deceptive advertisements using free credit reports as bait are particularly destructive, because they take advantage of a consumer's general knowledge that free credit reports are available under law, and subvert the law's intent to protect consumers.

The FTC has received hundreds of complaints from consumers who have been confused or deceived into paying for what they thought was their free report provided by law. The Better Business Bureau reports that just one prominent advertiser of free credit reports, FreeCreditReport.com, has been the subject of more than 9,600 complaints over the last 36 months. FreeCreditReport.com requires a potential customer to provide a credit card number in order to establish an account and request a credit report. Many consumers assume this information is necessary for the company to identify the correct credit file, because why else would you have to provide a valid credit card to receive a free report? In fact, buried in the small print it is revealed that customers that request a free credit report must also opt out of a credit monitoring service or else they will be charged \$15 a month, indefinitely.

A 2007 study by Robert Mayer and Tyler Barrick of the University of Utah for Consumer Reports WebWatch analyzed 24 websites that market free credit reports and scores and revealed them to be rife with deceptive practices. Many of the websites studied had the word "free" in the domain name; others had names similar to the FTC-mandated AnnualCreditReport.com, such as NationalCreditReport.com. Of the 58 sales pitches for credit reports or scores across the 24 websites analyzed, 41 pitches were for "free" reports or scores that in fact required purchase of a product or enrollment in a credit monitoring service. The study concluded that the "enticement of free credit reports and free credit scores is an integral part of marketing credit-related services." Interestingly, the study also revealed that of the 24 websites analyzed, nine were owned by, or closely connected to, the nationwide bureau TransUnion, and eight were owned by or closely connected to the nationwide credit bureau Experian.



The Federal Trade Commission has sued companies engaged in such misleading practices, but the deceptive advertisements have not stopped. Since 2005, for example, Experian has paid the government more than \$1.2 million in settlements over deceptive marketing of ostensibly free credit reports through the website FreeCreditReport.com. And yet FreeCreditReport.com, through its seemingly ubiquitous advertisements, continues to deceptively peddle its product. At this very moment the Florida Attorney General's office has an active investigation into FreeCreditReport.com for "Failure to adequately disclose negative option enrollment in credit monitoring with 'Free' credit report, deceptive advertising, misleading domain name, and failure to honor cancellations."

Section 205 of the Credit CARD Act, which contains the Levin-Collins-Menendez provision, will shore up the consumer protection in the FACT Act by requiring simple, honest disclosure in advertisements for "free" credit reports. Mandatory disclosures will help ensure that consumers are given accurate information about how to obtain a free credit report with no strings attached. It is an effort to end the deceptive activities of companies that attempt to trick people into buying something that they are entitled by Federal law to receive for free.

Section 205 directs the Federal Trade Commission to issue a rule by February 2010, to require companies advertising free credit reports to disclose the availability of the government-mandated free credit report in all mediums—internet, television, radio and print. Under the statute, the rulemaking must require that all television and radio ads for free credit reports include the disclaimer that "This is not the free credit report provided for by federal law." The rulemaking will also require that all internet advertisers of free credit reports prominently display on the advertiser's homepage and possibly the advertisement itself that consumers can order the free credit reports provided for by federal law from [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com).

Section 205 provides for FTC rulemaking to flesh out the disclosure requirements, such as what information should be provided, how it should be formatted, and where it should be displayed. This section will not achieve its purpose unless the mandated disclosure is made in a clear, prominent, and effective manner, a standard that disclosures in many current promotions do not achieve. The cleverly deemphasized disclosure currently on FreeCreditReport.com, for example, would not be sufficient.

The success of a disclosure in alleviating confusion and deception depends critically on the manner in

which it is presented. Even seemingly minor differences in language or presentation can make the difference between effective and ineffective disclosures. Section 205 recognizes these challenges and the FTC's unique ability to meet them by giving the agency the authority to implement this new disclosure requirement by rule. I encourage the FTC to use consumer testing to identify the most effective disclosures and to design separate disclosure requirements for each type of medium: television, radio, internet, and print.

Section 205 (b)(2)(B) states that, "for advertisements on the Internet," the FTC rulemaking shall determine "whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available." I want to be perfectly clear, as the Senator who authored this provision and ensured its inclusion in the final bill, that this provision is intended to allow the FTC to require disclosure on an internet ad, on the website to which the ad is linked, on the "home" website of the company advertising "free" credit reports, or on any combination of the three. In my view, most forms of internet advertising, such as banner ads and paid search engine links promising free credit reports, should include disclosures. It will be up to the FTC to determine the nature and extent of the disclosure on each form of internet advertising.

The goal of section 205 is to eliminate consumer confusion and deception by preventing commercial promotions from posing as the Federal free annual report program, and by ensuring that consumers know how to get their truly free annual reports. Although this provision does not prohibit the marketing of "free credit reports" per se, nothing in this section is intended to limit the FTC's authority under Section 5 of the FTC Act to prohibit unfair or deceptive practices in or affecting commerce, or its authority under the FACT Act to promulgate regulations regarding the centralized source for free credit reports. In fact, I hope the FTC utilizes all of its authority to end the deceptive marketing of free credit reports.

Today, deceptive marketing of "free" credit reports is big business. Ads appear on television, the internet, and other media. One of the leading advertisers of ostensibly free credit reports that are, in fact, linked to paid services is Experian, which vigorously opposed the disclosure requirements in Section 205. Despite its best efforts to sugarcoat its marketing practices, Experian acknowledged that if it were required in its advertising to inform potential customers of their legal right to get a no-strings-attached free credit report, it would have a harder time selling a

"free" credit report that also requires consumers to sign up for credit monitoring at \$15 per month.

Experian spends tens of millions of dollars advertising FreeCreditReport.com, dwarfing government efforts to publicize the availability of free credit reports at AnnualCreditReport.com and effectively undermining the intent of the free credit report provision of the FACT Act. So it is no surprise that Experian defended its marketing practices with aggressive lobbying. I am confident that the FTC will stand up to that kind of pressure and issue strong pro-consumer regulations by the February 2010 deadline in the law.

If, however, the FTC has not issued final rules by the statutory deadline, Section 205 requires an interim disclosure, "Free credit reports are available under Federal law at: AnnualCreditReport.com," to be included in any advertisement for free credit reports in any medium. That interim disclosure is intended to be required in all ads from February 2010, until the FTC rulemaking is finalized.

As chairman of the Permanent Subcommittee on Investigations, I have spent the last 4 years working to expose industry-wide credit card abuses. In 2007, my subcommittee held hearings which brought before the Senate not only consumers victimized by unfair practices, but also the credit card CEOs who approved those practices. In many cases, the card issuers that engaged in these practices relied upon information in a credit report.

Section 205 of the Credit CARD Act will help prevent the subversion of a key consumer protection. Again, I thank my colleagues for enacting Section 205 into law.

#### REMEMBERING TIANANMEN SQUARE

Mr. GRAHAM. Mr. President, today marks a somber anniversary. Twenty years ago today, months of peaceful protests throughout China culminated with the violent deaths of hundreds, if not thousands, of Chinese citizens advocating for democratic reforms. It is with sadness that we mark this occasion, but it is also an opportunity to renew our call for political reform in the People's Republic of China.

One of the first things you see when you walk into my office is a large poster depicting the iconic image of a lone man staring down a line of Chinese tanks. This image has come to symbolize the worldwide struggle for democracy, the rule of law, and the promotion of basic human rights. Unfortunately, a generation of students in China can't identify the image or tell you about the events leading up to June 3 and 4, 1989. This is because China has failed to acknowledge or account for the actions that led up to this event.



While the intervening years since the tragedy have seen China grow into a rapidly developing country, economically intertwined with the rest of the world, China's failure to deal with the Tiananmen events prevents the nation from making the political reforms necessary to truly become a respected member of the international community.

In the years following Tiananmen, leaders of the Communist Party of China including Jiang Zemin, declared, "If we had not taken absolute measures at the time, we would not have the stability we enjoy today. A bad thing has turned out to be good." General Chi Haotian, the General in charge of the People's Liberation Army's response to the protest later stated that, "I can tell you in a responsible and serious manner that at that time not a single person lost his life in Tiananmen Square." Leaders of the military crackdown such as Deng Xiaoping and Li Peng, have never been held accountable for the actions of the People's Liberation Army and there has never been an official acknowledgement of the number of protesters killed or put in prison. Some accounts have claimed that more than 20,000 people were arbitrarily arrested and held without trial. A number of these people remain in prison today.

Today would have been a landmark occasion for the Chinese government to announce that they were starting an independent and open investigation relating to the events of June 4, 1989. However, other than checkpoints set up in Tiananmen Square and efforts by the Chinese government to prevent international media outlets from filming in the square, there are no signs that today is anything other than an ordinary day in China.

While the events of 20 years ago by the Chinese government launched a coordinated effort to prevent further unrest, it also helped crystallize a movement that continues today. Democracy advocates in China have built upon the legacy of Tiananmen and have led various efforts to force accountability and political reforms. All who watch China applaud the tireless work of Ding Zilin, the leader of Tiananmen Mothers, Liu Xiaobo and the rest of Charter 08, as well as countless others such as Jiang Qisheng who continue to face intimidation and imprisonment, yet persist with their cause.

They can rest assured that ultimately their efforts will be successful. Today's world is increasingly interconnected. Communication and travel have gotten easier, and with the development of the internet, despite censorship efforts, information is becoming more readily available to the Chinese people. Every day it becomes more difficult for the Chinese government to keep its people in the dark. They will find out about Tiananmen, they will

find out about how the outside world operates, they will demand changes at home.

#### SRI LANKA

Mr. LEAHY. Mr. President, the recent defeat of Sri Lanka's Tamil Tigers, otherwise known as the Liberation Tigers of Tamil Eelam, or LTTE, is a very welcome development. Led by a reclusive, cult-like figure who apparently saw no evil in forcibly recruiting and brainwashing young children to become suicide bombers, the LTTE long ago forfeited any legitimate claim to representing the interests of the Tamil population. This resounding victory offers the possibility—after 30 long years of conflict, including ruthless acts of terrorism by the LTTE and other atrocities against civilians by both sides—of lasting peace for all inhabitants of that small island nation.

I first became interested in Sri Lanka when a good friend, James Spain, was the U.S. Ambassador there. He often told me of the beauty of the country and its people, and it has been painful to observe the suffering that has befallen them. That suffering was further exacerbated by the tsunami which crashed ashore in December 2004, causing immense destruction and loss of life. A member of my staff was in Sri Lanka at that time, but far enough inland to escape harm.

I have strongly supported humanitarian aid for Sri Lanka, and 2 years ago, as chairman of the State and Foreign Operations Subcommittee, I included additional funding for economic development in the north eastern region of the island after the LTTE were forced to retreat from that area. I look forward to being able to support additional reconstruction aid, so the northern communities that have been trapped in poverty and devastated by the conflict can recover. But for that to occur, several things need to happen.

The war claimed the lives of tens of thousands of Sri Lankan soldiers, LTTE combatants, and civilians. The tremendous loss and grief suffered by the families of both sides needs to be acknowledged in order for reconciliation to occur.

The government should immediately account for all persons detained in the conflict. It should provide access by international humanitarian organizations and the media to affected areas and to populations of internally displaced persons who remain confined in camps, which should be administered by civilian authorities. These people should be allowed to leave the camps as soon as possible so they can start to rebuild their lives.

As soon as possible, the government needs to begin implementing policies for the devolution of power to provincial councils in the north and east as

provided for in Sri Lanka's Constitution. This and other steps are needed to demonstrate that all Sri Lankans can live without fear and participate freely in the political process. It must address the longstanding, legitimate grievances of the Tamil population so they can finally enjoy the equal rights and opportunities to which they, like other Sri Lankan citizens, are entitled.

There is also the issue of accountability for violations of the laws of war. The LTTE had a long history of flagrant violations of human rights, including kidnappings, extrajudicial killings, disappearances, and deliberately targeting civilians. The Sri Lankan military engaged in similar crimes. Although the Sri Lankan Government prevented access for journalists to the war zone in order to avoid scrutiny of the military's conduct, video footage was smuggled out. And as the smoke has lifted from the battlefield there are reports that thousands of Tamil civilians who were trapped in the so-called safe zone perished in the last months of the war. There is abundant evidence that they were deliberately targeted with relentless shelling and aerial bombardments, despite repeated appeals by the international community that they be spared. There are also growing fears of retaliatory attacks against those who criticized such tactics.

The recent decision of the United Nations Human Rights Council rejecting calls, including by Navi Pillay, the United Nations High Commissioner for Human Rights, for an international investigation of these violations is unfortunate but not surprising. Several of the Council's members routinely arbitrarily imprison and torture political opponents in their own countries. The Sri Lankan Government, which seeks international aid to rebuild, insists that what occurred there is an "internal" matter and that for outsiders to call for an independent investigation and justice for the victims is an "infringement of sovereignty." To the contrary, the denial of basic rights and freedoms is a legitimate concern of people everywhere, whenever it occurs.

It is now incumbent on the Sri Lankan authorities to demonstrate that the rule of law is respected, that sweeping security measures that have been used to silence journalists, doctors, lawyers and other citizens who have criticized government policies are revised or repealed, that the government takes seriously its duty to defend the rights of all Sri Lankans irrespective of religious affiliation or ethnicity, and that those responsible for crimes against humanity or other violations of human rights are held accountable.

Thankfully, a long, bloody chapter of Sri Lanka's history has ended. But it is the next chapter that will determine whether justice and lasting peace can

be achieved. If the Sri Lankan Government seizes this opportunity to unite the Sri Lankan people in support of an inclusive effort to address the causes of the conflict, the United States will be a strong partner in that effort.

#### HONORING AMERICA'S WORLD WAR II VETERANS

Mr. MARTINEZ. Mr. President, this week, we pay tribute to those who fought for freedom's cause during World War II. Two monumental efforts occurred that resulted in turning the war efforts in favor of the Allied Forces. These events are D-day and the Battle of Midway. Each was a demonstration of our nation's commitment to freedom, a blow against tyranny, and the tremendous sacrifice everyday Americans are willing to make for peace and security.

This Saturday marks the 65th anniversary of D-day, the day the tide began to turn against totalitarianism in World War II. On that day, Allied troops stormed a Normandy beachhead to claim a foothold on the edge of Nazi-occupied Europe. More than 1,400 Americans sacrificed their lives during the invasion, including 130 Floridians.

As the largest land, air, and sea invasion in history, D-day brought together Allied forces and unprecedented military resources, including more than 150,000 servicemen, 13,000 aircraft, and 5,000 ships. By the day's end, more than 9,000 Allied warriors had sacrificed life and limb so that others could begin the perilous journey into Europe to defeat the forces commanded by Adolf Hitler.

D-day tested the courage and character of every American involved in the invasion. Like those who came before them, the soldiers who fought that day fought courageously for a freedom the men and women of our military still fight to defend.

Coinciding with the anniversary D-day is the 67th anniversary of the Battle of Midway, another turning point in the war. The battle claimed the lives of more than 300 Americans and helped to slow Japan's advance across the Pacific. America's forces executed the mission with tremendous skill and helped deliver one of the war's most decisive and crucial victories.

On these anniversaries, let us remember and recognize the courage of those who sacrificed their lives to restore hope through the liberation of those in occupied territories. Let us honor and thank those veterans that continue to share their unique stories from these extraordinary battles. May God bless the men and women of the U.S. military, and continue to bless our great Nation.

#### ADDITIONAL STATEMENTS

##### COMMENDING MEHARRY MEDICAL COLLEGE

• Mr. ALEXANDER. Mr. President, before I became a member of this body, I was privileged to serve as the president of University of Tennessee and as Secretary of Education under President George H.W. Bush. Therefore, I know how important it is for our nonprofits to make investments in our system of higher education. That is why I am pleased to report that Meharry Medical College in Nashville is poised to receive the single largest endowment gift in the college's 130-year history.

The Robert Wood Johnson Foundation, the largest philanthropic organization in America devoted exclusively to health care, has selected Meharry to receive a multimillion-dollar endowment and other funding to establish the Robert Wood Johnson Center for Health Policy at Meharry Medical College to produce our country's next generation of health care policy experts. Meharry will be partnering with Vanderbilt University College of Arts and Science on this project.

This gift is especially timely as the Nation grapples with economic challenges and millions of uninsured citizens amid growing bipartisan support for reforming the U.S. health care system. The new center aims to serve as a think tank for the pressing health care issues of the day; to increase the diversity of health policy scholars with doctors who are formally trained in sociology and economics; and to provide students and faculty with new curricula, research and academic offerings in health policy. The center seeks to reshape the future of America's health policies by creating a more inclusive pool of experts trained in health policy and allied disciplines.

Meharry Medical College is the Nation's largest private, independent, historically Black academic health center. It produces over 20 percent of the Nation's African-American physicians and 33 percent of the Nation's African-American dentists. These health professionals take care of those most in need: the underserved in our rural and urban communities across the country.

I know Meharry is pleased to be selected to receive this gift and produce scholars who will make a real impact on our health policy at this critical time. Though their graduates may serve the country, we Tennesseans are especially proud of Meharry and its many contributions to our State and the Nation.●

##### COMMENDING KATHLEEN L. "KATIE" WOLF

• Mr. BAYH. Mr. President, today I wish to honor my fellow Hoosier, Kathleen L. "Katie" Wolf. Today we recog-

nize the many accomplishments of Katie, a distinguished public servant and a model citizen who over the years has contributed much to her community in Monticello and to the Hoosier State.

A native of Princeton Township, IN, Katie Wolf has long been a pillar of her community. In 1967, she served as the secretary on the founding board of the White County United Fund, now known as the United Way of White County.

In 1968, Katie ran and was elected to the position of clerk of the White County Circuit Court, a role she filled for over a decade before being nominated to the Judiciary Committee for the Democratic National Committee. In 1984, Katie became the first woman to run for and win a position in her district in the Indiana House of Representatives, and during her first term she was elected Outstanding Freshman Legislator. In 1986, Katie was appointed senator for District Seven in the Indiana State Senate.

Throughout her career, Katie has been the recipient of numerous awards and designations, a testament to her stature as a model Hoosier and as a leader in public life in Indiana. She has received the Director's Award from the National Federation of Independent Businesses, the Director's Award from the Purdue University Cooperative Extension, and Legislator of the Year from the Indiana Trial Lawyers Association. Former Indiana Governor Frank O'Bannon presented Katie with the Sagamore of the Wabash Award, which is the highest honor that the Governor of Indiana can bestow. It is an award reserved for those who have made outstanding contributions to the Hoosier State. Last month, she received an honorary doctor of laws from Saint Joseph's College in Rensselaer.

Next week, Katie will receive an award from the local chapter of Women Giving Together, an organization committed to strengthening the communities of White County. I am proud to have this opportunity to recognize her for the remarkable service she has rendered on behalf of the people of Indiana and congratulate her on receiving another well-deserved distinction.●

##### 125TH ANNIVERSARY OF THE FOUNDING OF STOCKHOLM, SOUTH DAKOTA

• Mr. JOHNSON. Mr. President, today I wish to pay tribute to the community of Stockholm on reaching its 125th year. The people who make up this community are proud of their heritage and will be celebrating both their resilient history and their promising future June 13 to 14, 2009.

This strong rural community in northeast South Dakota was primarily founded by Scandinavian homesteaders who named the town after Stockholm, Sweden. Also in this area was Brown

Earth, an Indian settlement of 52 families. These communities were closely intertwined and shared churches and a post office. In 1896, the town joined together to construct a creamery, financed at \$25 a share.

In celebration of reaching this historic milestone, the town has painted 24 Dala Hasten, traditional Swedish wooden horses. There will also be a parade, races, and musical events to commemorate Stockholm's notable occasion.

The welcoming spirit of Stockholm's citizens helped sculpt this town's unique history, and I am confident that this strength of character will help them continue through the coming years. I am proud to represent this community, and I commend this town on reaching this historic anniversary.●

#### 125TH ANNIVERSARY OF THE FOUNDING OF MOUND CITY, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I wish to pay tribute to the 125th anniversary of the founding of Mound City, SD. This rural community is the seat of Campbell County in northern South Dakota. This town was built on hard work and a spirit of community 125 years ago, and those same values sustain it today.

Edward C. and his father E.H. McIntosh were the first settlers, arriving in the area on June 10, 1884. They called the town Mound City because of the small hills to the north. Soon after, an elegant hotel and post office were constructed. The first newspaper, the Mound City Journal, was started in 1886. Mound City also had a flour mill, built in 1893 by contributions by the town's citizens. After it burned down the first night of operations, the town rallied and raised enough money to again build the mill.

This perseverance and dedication illustrates what has gotten Mound City to this monumental anniversary, and I am proud to recognize them on their achievements. The citizens of this town are dedicated and hard working, demonstrating what a great State South Dakota is.●

#### COMMENDING ELMET TECHNOLOGIES

● Ms. SNOWE. Mr. President, as we are all aware, the lengthy process of globalization has made it necessary for many American businesses to promote their goods in international markets. And despite the present economic recession, Maine businesses exported a record \$3 billion in goods last year. I wish to highlight Elmet Technologies, a shining company that has been a part of that historic figure and has excelled in growing its customer base by marketing to overseas firms.

Elmet Technologies was founded in Lewiston in 1929, at the beginning of the Great Depression. At that time, the company had 50 employees and 13,400 square feet of manufacturing space. The firm now employs over 230 people and occupies a 220,000-square-foot facility. Elmet makes top-quality, high-performance advanced materials and specialized refractory metal products, such as wire, filaments, and rods. Its products have numerous applications for a variety of industries. For instance, the company's components and materials are used in electronic devices such as GPS units and digital music players and medical equipment like x-ray tubes.

Elmet supplies a wide range of customers, from IBM and Philips Lighting, to Veeco, which produces process equipment and metrology tools, and Varian, producers of medical equipment. These firms have turned to Elmet because of its high-quality products, attention to customer detail and specification, and its employees' stellar Maine work ethic. Additionally, what makes Elmet's production method so effective is that the company uses raw materials instead of base materials, allowing employees to easily customize products based on consumer specifications. The company has also earned two critical certifications for quality and environmental standards from the International Organization for Standardization, ISO.

Though an 80-year-old company, Elmet Technologies is relatively new to global trade. It began only recently promoting its products abroad and now has clients in places as far away as Europe, Israel, and China. Elmet's strategy is paying off and earning the company much-deserved recognition. Last Thursday, the Maine International Trade Center presented Elmet Technologies with its 2009 Exporter of the Year Award. The award demonstrates the determination and commitment of Elmet's leaders in forging new international marketplaces for its extensive variety of products that serve a wide range of high-tech and emerging industries—from electronics and lighting, to aircraft and automotive.

The Maine International Trade Center is Maine's small business link to the rest of the world. It is a public-private partnership between the State of Maine and its businesses. The center's goal is to increase international trade in Maine and in particular to assist Maine's businesses in exporting goods and services. Clearly it sees in Elmet Technologies the entrepreneurial spirit and innovation that make Maine's small businesses so unique and successful.

Elmet Technologies' president and CEO, Jack Jensen, has summed up his company's philosophy quite simply: "Listen. Create. Delight." Based on the company's record of success and cus-

tomers satisfaction, this motto has served the company well in any language. I congratulate everyone at Elmet Technologies on their recent recognition and wish them new and exciting export opportunities in the years to come.●

#### 130TH ANNIVERSARY OF WORTHING, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Worthing, SD. Founded in 1879, the town of Worthing will celebrate its 130th anniversary this year.

Located in Lincoln County, Worthing possesses the strong sense of community that makes South Dakota such an outstanding place to live and work. Throughout its rich history, Worthing has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Worthing has much to be proud of, and I am confident that Worthing's success will continue well into the future.

I would like to offer my congratulations to the citizens of Worthing on this milestone anniversary and wish them continued prosperity in the years to come.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bills and concurrent resolution, in which it requests the concurrence of the Senate:

H.R. 31. An act to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes.

H.R. 1385. An act to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

H.R. 2090. An act to designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the "Frederic Remington Post Office Building."

H.R. 2173. An act to designate the facility of the United States Postal Service located

at 1009 Crystal Road in Island Falls, Maine, as the "Carl B. Smith Post Office."

H. Con. Res. 109. Concurrent resolution honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1385. An act to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe; to the Committee on Indian Affairs.

H.R. 2090. An act to designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the "Frederic Remington Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2173. An act to designate the facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, as the "Carl B. Smith Post Office"; to the Committee on Homeland Security and Governmental Affairs.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1787. A communication from the Director of Regulations Management, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Headstone and Marker Application Process" (RIN2900-AM53) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Veterans' Affairs.

EC-1788. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds" (Docket No. BPD GSRs 09-01) received on May 29, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-1789. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to the country of origin and sellers of uranium and uranium enrichment services purchased by owners and operators of U.S. civilian nuclear power reactors for calendar year 2008; to the Committee on Energy and Natural Resources.

EC-1790. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to using private contributions to acquire land adjacent to a designated wilderness area in Marin County, California; to the Committee on Energy and Natural Resources.

EC-1791. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 6" (RIN3150-AI60) re-

ceived in the Office of the President of the Senate on June 1, 2009; to the Committee on Environment and Public Works.

EC-1792. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's 2009 Annual Report on the Supplemental Security Income Program; to the Committee on Finance.

EC-1793. A communication from the Secretary, Department of Health and Human Services, transmitting, pursuant to law, a report on the Food and Drug Administration Advisory Committee Vacancies and Public Disclosures for FY 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-1794. A communication from the Secretary, Department of Health and Human Services, transmitting, pursuant to law, a report relative to animal drug user fees and related expenses for Fiscal Year 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-1795. A communication from the Acting Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period ending March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1796. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1797. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Semiannual Report of the Department's Inspector General for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1798. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1799. A communication from the Acting Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1800. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Inspector General's Semiannual Report for the period ending March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1801. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1802. A communication from the Secretary of Labor, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1803. A communication from the Chairman, Board of Governors, U.S. Postal Service, transmitting, pursuant to law, the Semiannual Report on the Audit, Investigative, and Security Activities of the U.S. Postal

Service for the period of October 1, 2008 through March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1804. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Performance Budget for Fiscal Year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-1805. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-74, "Health Occupations Revision General Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1806. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-79, "KIPP DC-Douglass Property Tax Exemption Temporary Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1807. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-80, "Newborn Safe Haven Temporary Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1808. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-81, "Department of Parks and Recreation Term Employee Appointment Temporary Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1809. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-82, "Rent Administrator Hearing Authority Temporary Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1810. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-83, "Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Temporary Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1811. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-84, "Domestic Partnership Judicial Determination of Parentage Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1812. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-85, "Closing of an Alley in Square 5872, S.O. 07-2225, Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1813. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-86, "Retail Service Station Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1814. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-87, "Closing of a Portion of a Public Alley in Square 4488, S.O. 07-7333, Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1815. A communication from the Chairman, Council of the District of Columbia,

transmitting, pursuant to law, a report on D.C. Act 18-88, "Kenilworth-Parkside Partial Street Closure, S.O. 07-1213, S.O. 07-1214 and Building Restriction Line Elimination, S.O. 07-1212 Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1816. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-89, "Mortgage Lender and Broker Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1817. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-90 "Closing, Dedication and Designation of Public Streets at The Yards Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1818. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-98, "CEMI-Ridgecrest, Inc.-Walter Washington Community Center Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-1819. A communication from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to a final rule revising the NASA FAR Supplement to update NASA's Mentor-Protégé Program (RIN 2700-AD41); to the Committee on Commerce, Science, and Transportation.

EC-1820. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the 2008 Report on Apportionment of Membership on the Regional Fishery Management Councils; to the Committee on Commerce, Science, and Transportation.

EC-1821. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Beatty and Goldfield, Nevada)" (MB Docket No. 08-68) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1822. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Williston, South Carolina)" (MB Docket No. 08-201) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1823. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Nevada City and Mineral, California)" (MB Docket No. 09-9) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1824. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Reef Fish Fishery of the Gulf of Mexico; Closure of the 2009 Commercial Fishery for Tilefishes" (RIN 0648-XO64) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1825. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska" (RIN0648-XN95) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1826. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish Pacific Ocean Perch, and Pelagic Shelf Rockfish in the Western Regulatory Area and West Yakutat District of the Gulf of Alaska" (RIN0648-XN93) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1827. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (RIN0648-XO93) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1828. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of Northeastern United States; Summer Flounder Fishery; Quota Transfers (NC to VA and VA to NJ)" (RIN0648-XO65) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1829. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Limited Access General Category Scallop Fishery to Individual Fishing Quota Scallop Vessels" (RIN0648-XP03) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1830. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2009 Gulf of Mexico; Closure of the 2009 Gulf of Mexico Recreational Fishery for Red Snapper" (RIN0648-XO98) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1831. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-grouper Fishery of the South Atlantic; Closure of the 2009 Commercial Fishery for Black Sea Bass in the South Atlantic" (RIN0648-XP20) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1832. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2009 Management Measures" (RIN0648-AX81) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1833. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Guideline Harvest Levels for Charter Halibut Fisheries in International Pacific Halibut Commission Regulatory Area 2C" (RIN0648-AX17) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1834. A communication from the Acting Assistant Administrator for Fisheries, transmitting, pursuant to law, "Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures" (RIN0648-AX24) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1835. A communication from the Acting Assistant Administrator for Fisheries, transmitting, pursuant to law, "Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2009 Atlantic Bluefish Specifications" (RIN0648-AX49) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1836. A communication from the Acting Assistant Administrator for Fisheries, transmitting, pursuant to law, "Fisheries of the Northeastern United States; 2009 Specifications for the Spiny Dogfish Fishery" (RIN0648-AX57) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1837. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Use of Force Training Flights, San Pablo Bay, CA" ((RIN1625-AA00)(Docket No. USCG-2009-0300)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1838. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Copper Canyon Clean Up" ((RIN1625-AA00)(Docket No. USCG-2009-0242)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1839. A communication from the Attorney Advisor, U.S. Coast Guard, Department

of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Sea World May Fireworks; Mission Bay, San Diego, California" ((RIN1625-AA00)(Docket No. USCG-2009-0266)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1840. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Paradise Point Fourth of July Fireworks; Mission Bay, San Diego, CA" ((RIN1625-AA00)(Docket No. USCG-2009-0125)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1841. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; June and July Northwest Harbor Safety Zone; Northwest Harbor, San Clemente Island, CA" ((RIN1625-AA00)(Docket No. USCG-2009-0330)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1842. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; ESL Air and Water Show, Lake Ontario, Ontario Beach Park, Rochester, NY" ((RIN1625-AA00)(Docket No. USCG-2009-0343)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1843. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Red Bull Air Race, Detroit River, Detroit, MI" ((RIN1625-AA00)(Docket No. USCG-2009-0089)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1844. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; F/V PATRIOT, Massachusetts Bay, MA" ((RIN1625-AA00)(Docket No. USCG-2009-0424)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1845. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Allegheny River Mile Marker 0.4 to Mile Marker 0.6, Pittsburgh, PA" ((RIN1625-AA00)(Docket No. USCG-2009-0016)) received in the Office of the President of the Senate on June 1, 2009; to the Committee on Commerce, Science, and Transportation.

EC-1846. A communication from the Acting Assistant Administrator for Fisheries, transmitting, pursuant to law, "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico Gulf of Reef Fish Longline Restriction" (RIN0648-AX68) received in the Office of the President of the Senate on May 29, 2009; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 407. A bill to increase, effective as of December 1, 2009, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes (Rept. No. 111-24).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary:

David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit;

Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit; and

Thomas E. Perez, of Maryland, to be an Assistant Attorney General.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN (for himself, Mr. NELSON of Nebraska, Mr. MCCONNELL, Mr. SHELBY, Mr. VITTER, Mr. ROBERTS, Mr. GRAHAM, Mr. BROWNBACK, Mr. GRASSLEY, Mr. INHOFE, Mr. VOINOVICH, Mr. WICKER, Mr. BUNNING, Mr. COCHRAN, Mr. CORNYN, Mr. THUNE, and Mr. CHAMBLISS):

S. 1179. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 1180. A bill to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WYDEN:

S. 1181. A bill to provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals entering the Medicare program; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 1182. A bill to amend the Chinese Student Protection Act of 1992 to eliminate the offset in per country numerical level required under that Act; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. BROWNBACK):

S. 1183. A bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30

years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Relations.

By Mr. VITTER (for himself, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BUNNING, Mr. ENZI, Mr. ROBERTS, and Mr. BARRASSO):

S. 1184. A bill to amend the National Labor Relations Act to permit employers to pay higher wages to their employees; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 1185. A bill to amend titles XVIII and XIX of the Social Security Act to ensure that low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. HARKIN):

S. 1186. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs; to the Committee on Finance.

By Mrs. MURRAY:

S. 1187. A bill to amend the Homeland Security Act of 2002 to authorize grants for use in response to homeland security events of national and international significance; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REED (for himself, Ms. MURKOWSKI, and Mr. WHITEHOUSE):

S. 1188. A bill to amend the Public Health Service Act with respect to mental health services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAYH (for himself and Mr. BROWN):

S. 1189. A bill to require the Secretary of Energy to conduct a study of the impact of energy and climate policy on the competitiveness of energy-intensive manufacturing and measures to mitigate those effects; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1190. A bill to provide financial aid to local law enforcement officials along the Nation's borders, and for other purposes; to the Committee on the Judiciary.

By Mr. BAYH:

S. 1191. A bill to require the Secretary of Energy to prepare a report on climate change and energy policy in the People's Republic of China and in the Republic of India; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mr. MENENDEZ, Mr. MCCAIN, Mrs. GILLIBRAND, and Mr. ENSIGN):

S. 1192. A bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on mobile wireless communications services, providers, or property; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. KLOBUCHAR):

S. 1193. A bill to amend title 49, United States Code, to enhance aviation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL (for herself, Ms. SNOWE, Mr. ROCKEFELLER, and Mrs. HUTCHISON):

S. 1194. A bill to reauthorize the Coast Guard for fiscal years 2010 and 2011, and for



other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 1195. A bill to require the Secretary of Agriculture to carry out the Philadelphia universal feeding pilot program until the last day of the 2012–2013 school year of the School District of Philadelphia; to the Committee on Agriculture, Nutrition, and Forestry.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 168. A resolution commending the University of Washington women's softball team for winning the 2009 NCAA Women's College World Series; considered and agreed to.

By Mr. MENENDEZ (for himself, Ms. SNOWE, Mrs. SHAHEEN, and Ms. MIKULSKI):

S. Res. 169. A resolution expressing the sense of the Senate that the Government of the former Yugoslav Republic of Macedonia should work within the framework of the United Nations process with Greece to achieve longstanding United States and United Nations policy goals of finding a mutually acceptable composite name, with a geographical qualifier and for all international uses for the former Yugoslav Republic of Macedonia; to the Committee on Foreign Relations.

#### ADDITIONAL COSPONSORS

S. 211

At the request of Mr. BURR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 251

At the request of Mrs. HUTCHISON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 251, a bill to amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

S. 255

At the request of Mr. WHITEHOUSE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 255, a bill to amend the Truth in Lending Act to empower the States to set the maximum annual percentage rates applicable to consumer credit transactions, and for other purposes.

S. 538

At the request of Mrs. LINCOLN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 538, a bill to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies.

S. 554

At the request of Mr. BROWN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 554, a bill to improve the safety of motorcoaches, and for other purposes.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 581

At the request of Mr. BENNET, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 634

At the request of Mr. HARKIN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 718

At the request of Mr. HARKIN, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 758

At the request of Mr. BAUCUS, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 758, a bill to authorize the produc-

tion of Saint-Gaudens Double Eagle ultra-high relief bullion coins in palladium to provide affordable opportunities for investments in precious metals, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 823

At the request of Ms. SNOWE, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 846

At the request of Mr. DURBIN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 883

At the request of Mr. KERRY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 908

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

At the request of Mr. BAYH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 908, supra.

S. 947

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 947, a bill to amend title XVIII of the Social Security Act to provide



for the treatment of certain physician pathology services under the Medicare program.

S. 962

At the request of Mr. CARDIN, his name was added as a cosponsor of S. 962, a bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1023

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Montana (Mr. TESTER) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1050

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1050, a bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1099

At the request of Mr. COBURN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1099, a bill to provide comprehensive solutions for the health care system of the United States, and for other purposes.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1157

At the request of Mr. CONRAD, the names of the Senator from Utah (Mr. HATCH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1158

At the request of Ms. STABENOW, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1160

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1171

At the request of Mr. PRYOR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1171, a bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program.

S.J. RES. 14

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S.J. Res. 14, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Nebraska (Mr. JOHANNIS) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 167

At the request of Mr. INHOFE, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Florida (Mr. MARTINEZ), the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. Res. 167, a bill commending the people who have sacrificed their personal freedoms to bring about democratic change in the People's Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989.

AMENDMENT NO. 1242

At the request of Mr. BAYH, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 1242 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1245

At the request of Ms. STABENOW, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1245 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 1180. A bill to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to join my colleague in the House of Representatives, Congressman DANNY K. DAVIS, to reintroduce the Senior Executive Service Diversity Assurance Act of 2009. This legislation promotes greater diversity among the Federal Government's elite corps of senior executives and establishes a central office of management for these top-level Federal executives. Last year, we introduced this bill. Unfortunately, the Senate was not able to pass the bill before the adjournment of the 110th Congress.

The Senior Executive Service, SES, is the most senior level of career civil servants in the Federal Government. Senior executives are essential to an efficient and effective Federal Government in management and operations. Over the next ten years, ninety percent of the career SES will be eligible to retire. As agencies begin to consider employees for SES positions, it is important that they develop pipelines into highly qualified candidate pools that represent diverse backgrounds, and ensure that applicants of all races, ethnicities, genders, and abilities be equally considered. According to reports by the Government Accountability Office, a diverse SES can bring a greater variety of perspectives and approaches to policy development, strategic planning, problem solving, and decision making.

A 2007 Federal Equal Opportunity Recruitment Program report by the Office of Personnel Management, OPM, showed that the percentage of minorities and women at senior pay levels in the Federal Government, including SES, is lower than in the total civilian labor force and the Federal workforce as a whole. According to a 2007 GAO report, only 15.8 percent of the SES was minorities compared to 32.8 percent of the entire workforce. The Senior Executive Service Diversity Assurance Act directly addresses this gap.

This legislation would require Federal agencies to submit a plan to OPM on how the agency is removing barriers to minorities, women, and individuals with disabilities to obtain appointments in the SES.

The bill encourages agencies, to the extent practicable, to include minorities, women, and individuals with disabilities on their Executive Resource Boards as well as other qualification review boards that evaluate SES candidates.

Furthermore, the legislation re-establishes the Senior Executive Service Resource Office, SESRO, at OPM, which was dissolved during an internal reorganization of OPM in 2003. This bill would restore SESRO's responsibilities of overseeing and managing the corps of senior executives. SESRO would serve as a central resource for agencies and provide oversight of agency recruitment and candidate development. Additionally, it would be responsible for ensuring diversity within the SES through strategic partnerships, mentorship programs, and more stringent reporting requirements. For too long, ethnic minorities, women, and persons with disabilities have been under-represented and this bill attempts to reform shortcomings in the system.

In America's workforce, we need leadership that reflects its varied cultures and backgrounds. A more diverse SES will better ensure that the executive management of the Federal Gov-

ernment is responsive to the needs, policies, and goals of the Nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1180

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Executive Service Diversity Assurance Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) according to the most recent findings from the Government Accountability Office—

(A) minorities made up 22.5 percent of the individuals serving at the GS-15 and GS-14 levels and 15.8 percent of the Senior Executive Service in 2007;

(B) women made up 34.3 percent of the individuals serving at the GS-15 and GS-14 levels and 29.1 percent of the Senior Executive Service in 2007; and

(C) although the number of career Senior Executive Service members increased from 6,110 in 2,000 to 6,555 in 2007, the representation of African American men in the career Senior Executive Service declined during that same period from 5.5 percent to 5.0 percent; and

(2) according to the Office of Personnel Management—

(A) black employees represented 6.1 percent of employees at the Senior Pay levels and 17.9 percent of the permanent Federal workforce compared to 10 percent in the civilian labor force in 2008;

(B) Hispanic employees represented 4.0 percent of employees at the Senior Pay levels and 7.9 percent of the permanent Federal workforce compared to 13.2 percent of the civilian labor force in 2008; and

(C) women represented 29.1 percent of employees at the Senior Pay levels and 44.2 percent of the permanent Federal workforce compared to 45.6 percent of the civilian labor force in 2008.

#### SEC. 3. DEFINITIONS.

In this Act—

(1) the term "Director" means the Director of the Office of Personnel Management;

(2) the term "Senior Executive Service" has the meaning given under section 2101a of title 5, United States Code;

(3) the terms "agency", "career appointee", and "career reserved position" have the meanings given under section 3132 of title 5, United States Code; and

(4) the term "SES Resource Office" means the Senior Executive Service Resource Office established under section 4.

#### SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Director shall establish within the Office of Personnel Management an office to be known as the Senior Executive Service Resource Office.

(b) MISSION.—The mission of the SES Resource Office shall be to—

(1) improve the efficiency, effectiveness, and productivity of the Senior Executive Service through policy formulation and oversight;

(2) advance the professionalism of the Senior Executive Service; and

(3) ensure that, in seeking to achieve a Senior Executive Service reflective of the Nation's diversity, recruitment is from qualified individuals from appropriate sources.

#### (c) FUNCTIONS.—

(1) IN GENERAL.—The functions of the SES Resource Office are to—

(A) make recommendations to the Director with respect to regulations; and

(B) provide guidance to agencies, concerning the structure, management, and diverse composition of the Senior Executive Service.

(2) SPECIFIC FUNCTIONS.—In order to carry out the purposes of this section, the SES Resource Office shall—

(A) take such actions as the SES Resource Office considers necessary to manage and promote an efficient, elite, and diverse corps of senior executives by—

(i) creating policies for the management and improvement of the Senior Executive Service;

(ii) providing oversight of the performance, structure, and composition of the Senior Executive Service; and

(iii) providing guidance and oversight to agencies in the management of senior executives and candidates for the Senior Executive Service;

(B) be responsible for the policy development, management, and oversight of the Senior Executive Service pay and performance management system;

(C) develop standards for certification of each agency's Senior Executive Service performance management system and evaluate all agency applications for certification;

(D) be responsible for coordinating, promoting, and monitoring programs for the advancement and training of senior executives, including the Senior Executive Service Federal Candidate Development Program;

(E) provide oversight of, and guidance to, agency executive resources boards;

(F) be responsible for the administration of the qualifications review board;

(G) establish and maintain annual statistics (in a form that renders such statistics useful to appointing authorities and candidates) on—

(i) the total number of career reserved positions at each agency;

(ii) the total number of vacant career reserved positions at each agency;

(iii) of the positions under clause (ii), the number for which candidates are being sought;

(iv) the amount of time a career reserved position is vacant;

(v) the amount of time it takes to hire a candidate into a career reserved position;

(vi) the number of individuals who have been certified in accordance with section 3393(c) of title 5, United States Code, and the composition of that group of individuals with regard to race, ethnicity, sex, age, and individuals with disabilities;

(vii) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities;

(viii) the composition of executive resources boards with regard to race, ethnicity, sex, and individuals with disabilities; and

(ix) the composition of qualifications review boards with regard to race, ethnicity, sex, and individuals with disabilities;

(H) make available to the public through the official public internet site of the Office of Personnel Management, the data collected under subparagraph (G);

(I) establish and promote mentoring programs for potential candidates for the Senior

Executive Service, including candidates who have been certified as having the executive qualifications necessary for initial appointment as a career appointee under a program established under to section 3396(a) of title 5, United States Code;

(J) conduct a continuing program for the recruitment of women, members of racial and ethnic minority groups, and individuals with disabilities for Senior Executive Service positions, with special efforts directed at recruiting from educational institutions, professional associations, and other sources;

(K) advise agencies on the best practices for an agency in utilizing or consulting with an agency's equal employment or diversity office or official (if the agency has such an office or official) with regard to the agency's Senior Executive Service appointments process; and

(L) evaluate and implement strategies to ensure that agencies conduct appropriate outreach to other agencies to identify candidates for Senior Executive Service positions.

(d) **PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION.**—For purposes of subsection (c)(2)(H), the SES Resource Office shall combine data for any agency that is not named in section 901(b) of chapter 31, United States Code, to protect individually identifiable information.

(e) **COOPERATION OF AGENCIES.**—The head of each agency shall provide the Office of Personnel Management with such information as the SES Resource Office may require in order to carry out subsection (c)(2)(G).

(f) **STAFFING.**—The Director of the Office of Personnel Management shall make such appointments as necessary to staff the SES Resource Office.

#### **SEC. 5. CAREER APPOINTMENTS.**

(a) **PROMOTING DIVERSITY IN THE CAREER APPOINTMENTS PROCESS.**—Section 3393(b) of title 5, United States Code, is amended by inserting after the first sentence the following: "In establishing an executive resources board, the head of the agency shall, to the extent practicable, ensure diversity of the board and of any subgroup thereof or other evaluation panel related to the merit staffing process for career appointees, by including members of racial and ethnic minority groups, women, and individuals with disabilities.".

(b) **REGULATIONS.**—Not later than 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to implement subsection (a).

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report evaluating agency efforts to improve diversity in executive resources boards based on the information collected by the SES Resource Office under section 4(c)(2)(G) (viii) and (ix).

#### **SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECUTIVE SERVICE.**

(a) **SENIOR EXECUTIVE SERVICE DIVERSITY PLANS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, each agency, in consultation with the Office of Personnel Management and the Chief Human Capital Officers Council, shall submit to the Office of Personnel Management a plan to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities in the agency to the Senior Executive Service.

Agency plans shall be reflected in the strategic human capital plan.

(2) **CONTENTS.**—Agency plans shall address how the agency is identifying and eliminating barriers that impair the ability of minorities, women, and individuals with disabilities to obtain appointments to the Senior Executive Service and any actions the agency is taking to provide advancement opportunities, including—

(A) conducting outreach to minorities, women, and individuals within the agency and outside the agency;

(B) establishing and maintaining training and education programs to foster leadership development;

(C) identifying career enhancing opportunities for agency employees;

(D) assessing internal availability of candidates for Senior Executive Service positions; and

(E) conducting an inventory of employee skills and addressing current and potential gaps in skills and the distribution of skills.

(3) **UPDATE OF AGENCY PLANS.**—Agency plans shall be updated at least every 2 years during the 10 years following enactment of this Act. An agency plan shall be reviewed by the Office of Personnel Management and, if determined to provide sufficient assurances, procedures, and commitments to provide adequate opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the Senior Executive Service, shall be approved by such Office. An agency may, in updating its plan, submit to the Office of Personnel Management an assessment of the impacts of the plan.

(b) **SUMMARY AND EVALUATION.**—Not later than 180 days after the deadline for the submission of any report or update under subsection (a), the Director shall transmit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report summarizing and evaluating the agency plans or updates (as the case may be) so submitted.

(c) **COORDINATION.**—The Office of Personnel Management shall, in carrying out subsection (a), evaluate existing requirements under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and determine how agency reporting can be performed so as to be consistent with, but not duplicative of, such sections and any other similar requirements.

By Mr. WYDEN:

S. 1181. A bill to provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals entering the Medicare program; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I am introducing the Healthy Living, Healthy Aging Demonstration Project Act of 2009. This act will provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals who are about to enter the Medicare program. Prevention is a key to health at any age, but especially later in life. I am proud to be introducing a cornerstone of health care reform today.

American people and the U.S. Government need this prevention act for two main reasons. Health care costs continue to rise exponentially and chronic diseases are the number one cause of death and disability in the U.S. One hundred thirty-three million Americans, representing 45 percent of the total population, have at least one chronic disease. Chronic diseases kill more than 1.7 million Americans each year, and are responsible for 7 out of every 10 deaths in the U.S. Furthermore, the vast majority of cases of chronic disease could be better prevented or managed.

The World Health Organization has estimated that if the major risk factors for chronic disease were eliminated, at least 80 percent of all heart disease, stroke, and type 2 diabetes would be prevented, and that more than 40 percent of cancer cases would be prevented. In addition, depressive disorders are common, chronic, and costly. The World Health Organization identified major depression as the fourth leading cause of worldwide disease in 1990, causing more disability than even certain types of heart disease. Research shows that mental health screenings after disease diagnosis for diabetic patients can be cost effective and improve health.

The Healthy Living, Healthy Aging Demonstration Project Act of 2009 will address these costly and chronic health problems before people enter the Medicare program. It calls for the Secretary of Health and Human Services to provide 5-year grants to community partnerships that include the state or local public health department and other community stakeholders such as health centers, providers, small businesses, and rural health clinics to fund evidence-based community-level prevention and wellness strategies. The types of community-based prevention strategies we are looking at in this program include walking programs, group exercise classes, anti-smoking programs, programs to highlight healthy dining options at restaurants, and expanding access to farmer's markets, nutritious foods, and other programs and services recommended by the Task Force on Community Preventive Services.

The Secretary, acting through the Administrator of the Centers for Medicare and Medicaid Services, CMS and in partnership with the Director of the Centers for Disease Control and Prevention, CDC would implement the demonstration program to test whether these public health interventions targeting 55-64 year olds result in lower rates of chronic disease and reduce costs for the Medicare program. One assessment level of the act will measure the effects of adopting healthy lifestyle strategies on specific individuals who enroll in prevention programs in their communities.

More specifically, program requirements in this act include an individual health screening conducted by the state or local public health department or its designee. An individual health screening will include the appropriate test for diabetes, high blood pressure, high cholesterol, obesity, and tobacco use. Insured individuals who screen positive for chronic disease will be referred for treatment and for mental health screening and treatment to their existing providers or in-network providers. Individuals identified with chronic disease risk factors, such as high blood pressure or obesity, would be engaged in the community health interventions funded through the demonstration, such as walking programs, group exercise classes, or anti-smoking programs. Uninsured individuals who screen positive for chronic disease would be referred to the pre-selected clinical referral source for the demonstration site. Uninsured individuals who do not screen positive for chronic disease will receive information on healthy lifestyle choices and may also enroll in community level prevention interventions.

This program will not only conduct community-based prevention strategies, screenings and health assessments, but also help support follow-up care for uninsured individuals identified with chronic diseases, including determining eligibility for public programs.

I would like to thank Dr. Mary Polce-Lynch from Randolph-Macon College, who has been working in my office through the American Psychological Association and the American Association for the Advancement of Science, and Daniella Gratale from Trust for America's Health, for their work on this important prevention bill.

I urge all of my colleagues to support this important legislation to help Americans adopt the healthiest lifestyles possible and to prevent chronic diseases in later life.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1181

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Healthy Living and Health Aging Demonstration Project Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Chronic diseases are the leading cause of death and disability in the United States. 7 in every 10 deaths are attributable to chronic disease, with more than 1,700,000 Americans dying each year. Approximately 133,000,000 Americans, representing 45 percent of the Nation's population, have at least 1 chronic disease.

(2) In 2007, the United States spent over \$2,200,000,000,000 on health care, with 75 cents out of every dollar spent going towards treatment of individuals with 1 or more chronic disease. In public programs, treatment for chronic diseases constitutes an even higher percentage of total spending, with 83 cents of every dollar spent by Medicaid programs and more than 95 cents of every dollar spent by the Medicare program going towards costs related to chronic disease.

(3) Since 1987, the rate of obesity in the United States has doubled, accounting for a 20 to 30 percent increase in health care spending. Additionally, the percentage of young Americans who are overweight has tripled since 1980. If the prevalence of obesity was at the same level as it was in 1987, health care spending would be nearly 10 percent lower per person, for a total savings of nearly \$200,000,000,000.

(4) The vast majority of cases of chronic disease could be better prevented or managed. The World Health Organization has estimated that if the major risk factors for chronic diseases were eliminated, at least 80 percent of all cases of heart disease, stroke, and type 2 diabetes could be prevented, while also averting more than 40 percent of cancer cases.

(5) Depressive disorders are also becoming increasingly common, chronic, and costly. In 1990, the World Health Organization identified major depression as the fourth leading cause of disease worldwide, leading to more cases of disability than ischemic heart disease or cerebrovascular disease. Research has shown that mental health screenings following disease diagnosis for diabetic patients can improve health while remaining cost-effective.

(6) A report by the Trust for America's Health found that an annual investment of \$10 per person in proven community-based programs to increase physical activity, improve nutrition, and prevent tobacco use and smoking could, within 5 years, save the United States more than \$16,000,000,000 annually, with savings of more than \$5,000,000,000 for Medicare and \$1,900,000,000 for Medicaid, as well as over \$9,000,000,000 in savings for private health insurance payers.

#### SEC. 3. DEMONSTRATION PROJECT FOR COMMUNITY-LEVEL PUBLIC HEALTH INTERVENTIONS.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Centers for Medicare & Medicaid Services.

(2) CHRONIC DISEASE OR CONDITION.—The term "chronic disease or condition" means diabetes, hypertension, pulmonary diseases (including asthma), hyperlipidemia, obesity, and any other disease or condition as determined by the Secretary of Health and Human Services.

(3) COMMUNITY-BASED PREVENTION AND INTERVENTION STRATEGY.—The term "community-based prevention and intervention strategy" means programs and services intended to prevent and reduce the incidence of chronic disease, including walking programs, group exercise classes, anti-smoking programs, healthy eating programs, increased access to nutritious and organic foods, programs and services that have been recommended by the Task Force on Community Preventive Services, and any programs or services that have been proposed by an eligible partnership and certified by the Director of the Centers for Disease Control and Prevention as evidence-based.

(4) DIRECTOR.—The term "Director" means the Director of the Centers for Disease Control and Prevention.

(5) MEDICARE.—The term "Medicare" means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) PRE-MEDICARE ELIGIBLE INDIVIDUAL.—The term "pre-Medicare eligible individual" means an individual who has attained age 55, but not age 65.

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Administrator and in consultation with the Director, shall establish a demonstration project under which eligible partnerships, as described in subsection (d)(1), are awarded grants to examine whether community-based prevention and intervention strategies, targeted towards pre-Medicare eligible individuals, result in—

(A) lower rates of chronic diseases and conditions after such individuals become eligible for benefits under Medicare; and

(B) lower costs under Medicare.

(2) FEDERAL AGENCY RESPONSIBILITIES.—

(A) CENTERS FOR MEDICARE & MEDICAID SERVICES.—The Administrator shall have primary responsibility for administering and evaluating the demonstration project established under this section.

(B) CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director shall—

(i) certify that community-based prevention and intervention strategies proposed by eligible partnerships are evidence-based;

(ii) administer and provide grants for health screenings and risk assessments and community-based prevention and intervention strategies conducted by eligible partnerships; and

(iii) provide grants to designated clinical referral sites (as described in subsection (d)(1)(B)(ii)(I)) for reimbursement of administrative costs associated with their participation in the demonstration project.

(c) DURATION AND SELECTION OF PARTNERSHIPS.—

(1) DURATION.—The demonstration project shall be conducted for a 5-year period, beginning not later than 2010.

(2) NUMBER OF PARTNERSHIPS.—The Administrator, in consultation with the Director, shall select not more than 6 eligible partnerships.

(3) SELECTION OF PARTNERSHIPS.—Eligible partnerships shall be selected by the Administrator in a manner that—

(A) ensures such partnerships represent racially, ethnically, economically, and geographically diverse populations, including urban, rural, and underserved areas; and

(B) gives priority to such partnerships that include employers (as described in subsection (d)(1)(C)).

(d) ELIGIBLE PARTNERSHIPS.—

(1) DESCRIPTION.—

(A) IN GENERAL.—Subject to subparagraph (C), for purposes of this section, an eligible partnership is a partnership that submits an approved application to participate in the demonstration project under this section and includes both of the entities described in subparagraph (B).

(B) **REQUIRED ENTITIES.**—An eligible partnership shall consist of a partnership between the following:

(i) A State or local public health department that shall—

(I) serve as the lead organization for the eligible partnership;

(II) develop appropriate community-based prevention and intervention strategies and present such strategies to the Director for certification; and

(III) administer certified community-based prevention and intervention strategies and conduct such strategies in association with local community organizations.

(ii) A medical facility as deemed appropriate by the Administrator, including health centers (as described under section 330 of the Public Health Service Act (42 U.S.C. 254b)) and rural health clinics (as described in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2))), that shall—

(I) serve as the designated clinical referral site for medical services, as described in subsection (e)(4)(B)(i);

(II) provide assistance to the designated public health department with organization and administration of individual health screenings and risk assessments, as described in subsection (e)(3);

(III) collect payment for medical treatment and services that have been provided to individuals under the demonstration project in a manner that is consistent with State law and applicable clinic policy; and

(IV) provide mental health services or obtain an agreement with a designated mental health provider for referral and provision of such services.

(C) **OPTIONAL ENTITIES.**—An eligible partnership may include other organizations as practicable and necessary to assist in community outreach activities and to engage health care providers, insurers, employers, and other community stakeholders in meeting the goals of the demonstration project.

(2) **APPLICATIONS.**—An eligible partnership that desires to participate in the demonstration project shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(e) **USE OF FUNDS.**—

(1) **IN GENERAL.**—An eligible partnership shall use funds received under this section to conduct community-based prevention and intervention strategies and health screenings and risk assessments for pre-Medicare eligible individuals from a diverse selection of ethnic backgrounds and income levels.

(2) **COMMUNITY-BASED PREVENTION AND INTERVENTION STRATEGY.**—An eligible partnership, acting through the State or local health department, shall promote healthy lifestyle choices among pre-Medicare eligible individuals by implementing and conducting a certified community-based prevention and intervention strategy that shall be made available to all such individuals.

(3) **INDIVIDUAL HEALTH SCREENINGS AND RISK ASSESSMENTS.**—An eligible partnership, acting through the State or local public health department (or an appropriately designated facility), shall agree to provide the following:

(A) **SCREENINGS FOR CHRONIC DISEASES AND CONDITIONS.**—Individual health screenings for chronic diseases or conditions, which shall include appropriate tests for—

- (i) diabetes;
- (ii) high blood pressure;
- (iii) high cholesterol;
- (iv) body mass index;

(v) physical inactivity;

(vi) poor nutrition;

(vii) tobacco use; and

(viii) any other chronic disease or condition as determined by the Director.

(B) **MENTAL HEALTH SCREENINGS.**—A mental health screening and, if appropriate, referral for additional mental health services, for any individual who has been screened and diagnosed with a chronic disease or condition.

(4) **CLINICAL TREATMENT FOR CHRONIC DISEASES.**—The eligible partnership shall agree to provide the following:

(A) **TREATMENT AND PREVENTION REFERRALS FOR INSURED INDIVIDUALS.**—To refer an individual determined to be covered under a health insurance program who has been screened and diagnosed with a chronic disease or chronic disease risk factors (including high blood pressure, high cholesterol, obesity, or tobacco use)—

(i) to a provider under such program for further medical or mental health treatment; and

(ii) for enrollment in an appropriate community-based prevention and intervention strategy program.

(B) **TREATMENT AND PREVENTION REFERRALS FOR UNINSURED INDIVIDUALS.**—To refer an individual determined to be without coverage under a health insurance program who has been screened and diagnosed with a chronic disease or chronic disease risk factors (including high blood pressure, high cholesterol, obesity, or tobacco use) to the designated clinical referral site—

(i) for determination of eligibility for public health programs, or appropriate treatment (including mental health services) pursuant to the facility's existing authority and funding and in accordance with applicable fees and payment collection as described in subsection (d)(1)(B)(ii)(III); and

(ii) for enrollment in an appropriate community-based prevention and intervention strategy program.

(C) **HEALTHY INDIVIDUALS.**—To provide an individual who is not diagnosed with a chronic disease and does not exhibit any chronic disease risk factors with appropriate information on healthy lifestyle choices and available community-based prevention and intervention strategy programs.

(5) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as entitling an individual who participates in the demonstration project to benefits under Medicare.

(f) **MONITORING.**—The Secretary shall develop and administer a program to evaluate the effectiveness of the demonstration project by collecting the following:

(1) **HEALTH RISK ASSESSMENT RESULTS.**—Each eligible partnership shall maintain records of medical information and results obtained during each individual's health screening and risk assessment to establish baseline data for continued monitoring and assessment of such individuals.

(2) **MEDICARE EXAMINATION RESULTS.**—The Secretary shall collect medical information obtained during the initial preventive physical examination under Medicare (as defined in section 1861(w) of the Social Security Act (42 U.S.C. 1395x(w))) for those individuals who received health screenings and risk assessments through the demonstration project.

(g) **EVALUATION.**—

(1) **INDEPENDENT RESEARCH.**—The Secretary, in consultation with the Director and the Administrator, shall enter into a contract with an independent entity or organization that has demonstrated—

(A) prior experience in population-based assessment of public health interventions de-

signed to prevent or treat chronic diseases and conditions; and

(B) knowledge and prior study of the general health and lifestyle behaviors of pre-Medicare eligible individuals.

(2) **EVALUATION DESIGNS.**—The entity or organization selected by the Secretary under paragraph (1) shall, using the information and data collected pursuant to subsection (f), conduct an assessment of the demonstration project through—

(A) a population-based design that compares those populations targeted under the demonstration project with a matched control group; and

(B) a pre-post design that measures changes in health indicators (including improved diet or increased physical activity) and health outcomes in the targeted populations for those individuals who participated in individual health risk assessments and, prior to completion of the demonstration project, became eligible for benefits under Medicare.

(h) **REPORTING.**—

(1) **PROGRESS REPORT.**—Not later than 3 years after implementation of the demonstration project, the Secretary shall prepare and submit a report on the status of the project to Congress, including—

(A) the progress and results of any activities conducted under the demonstration project; and

(B) identification of health indicators (such as improved diet or increased physical activity) that have been determined to be associated with controlling or reducing the level of chronic disease for pre-Medicare eligible individuals.

(2) **FINAL REPORT.**—Not later than 18 months after completion of the demonstration project, the Secretary shall prepare and submit a final report and evaluation of the project to Congress, including—

(A) the results of the assessment conducted under subsection (g)(2);

(B) a description of community-based prevention and intervention strategies that have been determined to be effective in controlling or reducing the level of chronic disease for pre-Medicare eligible individuals;

(C) calculation of potential savings under Medicare based upon a comparison of chronic disease rates between the populations targeted under the demonstration project and the matched control group; and

(D) recommendations for such legislation and administrative action as the Secretary determines appropriate.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out the demonstration project established under this section, there is authorized to be appropriated \$200,000,000 for the period of fiscal years 2010 through 2016.

By Mr. DURBIN (for himself and Mr. BROWNBACK):

S. 1183. A bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1183

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Haiti Reformation Act of 2009”.

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the established policy of the Federal Government is to support and seek protection of tropical forests around the world;

(2) tropical forests provide a wide range of benefits by—

(A) harboring a major portion of the biological and terrestrial resources of Earth and providing habitats for an estimated 10,000,000 to 30,000,000 plant and animal species, including species essential to medical research and agricultural productivity;

(B) playing a critical role as carbon sinks that reduce greenhouse gases in the atmosphere, as 1 hectare of tropical forest can absorb up to approximately 3 tons of carbon dioxide per year, thus moderating potential global climate change; and

(C) regulating hydrological cycles upon which agricultural and coastal resources depend;

(3) tropical forests are also a key factor in reducing rates of soil loss, particularly on hilly terrain;

(4) while international efforts to stem the tide of tropical deforestation have accelerated during the past 2 decades, the rapid rate of tropical deforestation continues unabated;

(5) in 1923, over 60 percent of the land of Haiti was forested but, by 2006, that percentage had decreased to less than 2 percent;

(6) during the period beginning in 2000 and ending in 2005, the deforestation rate in Haiti accelerated by more than 20 percent over the deforestation rate in Haiti during the period beginning in 1990 and ending in 1999;

(7) as a result, during the period described in paragraph (6), Haiti lost—

(A) nearly 10 percent (approximately 11,000 hectares) of the forest cover of Haiti; and

(B) approximately 22 percent of the total forest and woodland habitat of Haiti;

(8) poverty and economic pressures are—

(A) two factors that underlie the tropical deforestation of Haiti; and

(B) manifested particularly through the clearing of vast areas of forest for conversion to agricultural uses;

(9) the unemployment rate of Haiti is approximately 80 percent;

(10) the per capita income of Haiti is \$450 per year, which is barely one-tenth of the per capita income of Latin America and the Caribbean;

(11) two-thirds of the population of Haiti depend on the agricultural sector, which consists mainly of small-scale subsistence farming;

(12) 60 percent of the population of Haiti relies on charcoal produced from cutting down trees for cooking fuel;

(13) soil erosion represents the most direct effect of the deforestation of Haiti, as the erosion has—

(A) lowered the productivity of the land due to the poor soils underlying the tropical forests;

(B) worsened the severity of droughts;

(C) led to further deforestation;

(D) significantly decreased the quality and, as a result, quantity of freshwater and clean drinking water available to the population of Haiti; and

(E) increased the pressure on the remaining land and trees in Haiti;

(14) tropical forests provide forest cover to soften the effect of heavy rains and reduce erosion by anchoring the soil with their roots;

(15) when trees are cleared, rainfall runs off the soil more quickly and contributes to floods and further erosion;

(16) in 2004, Hurricane Jeanne struck Haiti, killing approximately 3,000, and affecting over 200,000, people, partly because deforestation had resulted in the clearing of large hillsides, which enabled rainwater to run off directly to settlements located at the bottom of the slopes;

(17) research conducted by the United Nations Environmental Programme has revealed a direct (89 percent) correlation between the extent of the deforestation of a country and the incidence of victims per weather event in the country;

(18) finding economic benefits for local communities from sustainable uses of tropical forests is critical for the long-term protection of the tropical forests in Haiti; and

(19) tropical reforestation efforts would provide new sources of jobs, income, and investments in Haiti by—

(A) providing employment opportunities in tree seedling programs, contract tree planting and management, sustainable agricultural initiatives, sustainable and managed timber harvesting, and wood products milling and finishing services; and

(B) enhancing community enterprises that generate income through the trading of sustainable forest resources, many of which exist on small scales in Haiti and in the rest of the region.

(b) PURPOSE.—The purpose of this Act is to provide assistance to the Government of Haiti to develop and implement, or improve, nationally appropriate policies and actions—

(1) to reduce deforestation and forest degradation in Haiti; and

(2) to increase annual rates of afforestation and reforestation in a measurable, reportable, and verifiable manner—

(A) to eliminate within 5 years after the date of enactment of this Act any further net deforestation of Haiti; and

(B) to restore within 30 years after the date of enactment of this Act the forest cover of Haiti to the surface area that the forest cover had occupied in 1990.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the United States Agency for International Development.

(2) AFFORESTATION.—

(A) IN GENERAL.—The term “afforestation” means the establishment of a new forest through the seeding of, or planting of trees on, a parcel of nonforested land.

(B) INCLUSION.—The term “afforestation” includes the introduction of a tree species to a parcel of nonforested land of which the species is not a native species.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

**TITLE I—FORESTATION ASSISTANCE TO GOVERNMENT OF HAITI****SEC. 101. FORESTATION ASSISTANCE.**

(a) AUTHORITY OF SECRETARY.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary, in consultation with the Administrator, may offer to enter into agreements with the Government of Haiti to provide financial assistance, technology transfers, or capacity building assistance for the conduct of activities to develop and implement 1 or more forestation proposals under paragraph (2)—

(A) to reduce the deforestation of Haiti; and

(B) to increase the rates of afforestation and reforestation in Haiti.

(2) PROPOSALS.—

(A) IN GENERAL.—To be eligible for assistance under paragraph (1), the Government of Haiti shall submit to the Secretary 1 or more proposals that contain—

(i) a description of each policy and initiative to be carried out using the assistance; and

(ii) adequate documentation to ensure, as determined by the Secretary, that—

(I) each policy and initiative will be—

(aa) carried out and managed in accordance with widely-accepted environmentally sustainable forestry and agricultural practices; and

(bb) designed and implemented in a manner by which to improve the governance of forests by building governmental capacity to be more transparent, inclusive, accountable, and coordinated in decisionmaking processes and the implementation of the policy or initiative; and

(II) the Government of Haiti will establish and enforce legal regimes, standards, and safeguards—

(aa) to prevent violations of human rights and the rights of local communities and indigenous people;

(bb) to prevent harm to vulnerable social groups; and

(cc) to ensure that members of local communities and indigenous people in affected areas, as partners and primary stakeholders, will be engaged in the design, planning, implementation, monitoring, and evaluation of the policies and initiatives.

(B) DETERMINATION OF COMPATIBILITY WITH CERTAIN PROGRAMS.—In evaluating each proposal under subparagraph (A), the Secretary shall ensure that each policy and initiative described in the proposal submitted by the Government of Haiti under that subparagraph is compatible with—

(i) broader development, poverty alleviation, and natural resource conservation objectives and initiatives in Haiti; and

(ii) the development, poverty alleviation, disaster risk management, and climate resilience programs of the Department of Agriculture.

(b) ELIGIBLE ACTIVITIES.—Any assistance received by the Government of Haiti under subsection (a)(1) shall be used to implement a proposal developed under subsection (a)(2), which may include—

(1) the provision of technologies and associated support for activities to reduce deforestation or increase afforestation and reforestation rates, including—

(A) fire reduction initiatives;

(B) forest law enforcement initiatives;

(C) the development of timber tracking systems;

(D) the development of cooking fuel substitutes;

(E) initiatives to increase agricultural productivity;

(F) tree-planting initiatives; and

(G) programs that are designed to focus on market-based solutions, including programs that leverage the international carbon-offset market;

(2) the enhancement and expansion of governmental and nongovernmental institutional capacity to effectively design and implement a proposal developed under subsection (a)(2) through initiatives, including—

(A) the establishment of transparent, accountable, and inclusive decisionmaking processes relating to all stakeholders (including affected local communities);



(B) the promotion of enhanced coordination among ministries and agencies responsible for agroecological zoning, mapping, land planning and permitting, sustainable agriculture, forestry, and law enforcement; and

(C) the clarification of land tenure and resource rights of affected communities, including local communities and indigenous peoples; and

(3) the development and support of institutional capacity to measure, verify, and report the activities carried out by the Government of Haiti to reduce deforestation and increase afforestation and reforestation rates through the use of appropriate methods, including—

(A) the use of best practices and technologies to monitor any change in the forest cover of Haiti;

(B) the monitoring of the impacts of policies and initiatives on—

(i) affected communities;

(ii) the biodiversity of the environment of Haiti; and

(iii) the health of the tropical forests of Haiti; and

(C) independent and participatory forest monitoring.

(c) DEVELOPMENT OF PERFORMANCE METRICS.—

(1) IN GENERAL.—If the Secretary provides assistance under subsection (a)(1), in accordance with paragraph (2), the Secretary, in cooperation with the Government of Haiti and, if necessary, in consultation with the Administrator, shall develop appropriate performance metrics to measure, verify, and report—

(A) the conduct of each policy and initiative to be carried out by the Government of Haiti;

(B) the results of each policy and initiative with respect to the tropical forests of Haiti; and

(C) each impact of each policy and initiative on the local communities and indigenous people of Haiti.

(2) REQUIREMENTS.—Performance metrics developed under paragraph (1) shall, to the maximum extent practicable, include short-term and long-term metrics to evaluate the implementation of each policy and initiative contained in each proposal developed under subsection (a)(2).

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that describes the actions that the Secretary has taken, and plans to take—

(A) to engage with the Government of Haiti, nongovernmental stakeholders, and public and private nonprofit organizations to implement this section; and

(B) to enter into agreements with the Government of Haiti under subsection (a)(1).

(2) BIENNIAL REPORTS.—Not later than 2 years after the date on which the Secretary first provides assistance to the Government of Haiti under subsection (a)(1) and biennially thereafter, the Secretary shall submit to Congress a report that describes the progress of the Government of Haiti in implementing each policy and initiative contained in the proposal submitted under subsection (a)(2).

(e) ADDITIONAL ASSISTANCE.—The Secretary may provide financial and other assistance to nongovernmental stakeholders to ensure—

(1) the access by local communities and indigenous people to information relating to

each policy and initiative to be carried out by the Government of Haiti through funds made available under subsection (a)(1); and

(2) that the groups described in paragraph (1) have an appropriate opportunity to participate effectively in the design, implementation, and independent monitoring of each policy and initiative.

(f) NONGOVERNMENTAL ORGANIZATION.—At the election of the Government of Haiti, or on the determination of the Secretary, in cooperation with the Government of Haiti, the Government of Haiti may enter into an agreement with a private, nongovernmental conservation organization authorizing the organization to act on behalf of the Government of Haiti for the purposes of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## TITLE II—GRANTS FOR REFORESTATION

### SEC. 201. REFORESTATION GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall establish a grant program to carry out the purposes of this Act, including reversing deforestation and improving reforestation and afforestation in Haiti.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants and contracts to public and private nonprofit organizations to carry out projects that, in the aggregate, reverse deforestation and improve reforestation and afforestation.

(2) MAXIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not award a grant under this section in an amount greater than \$500,000 per year.

(B) EXCEPTION.—The Secretary may award a grant under this section in an amount greater than \$500,000 per year if the Secretary determines that the recipient of the grant has demonstrated success with respect to a project that was the subject of a grant under this section.

(3) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded pursuant to subsection (b) may be used for activities such as—

(A) providing a financial incentive to protect trees;

(B) providing hands-on management and oversight of replanting efforts;

(C) focusing on sustainable income-generating growth;

(D) providing seed money to start cooperative reforestation and afforestation efforts and providing subsequent conditional funding for such efforts contingent upon required tree care and maintenance activities;

(E) promoting widespread use of improved cooking stove technologies and the development of liquid biofuels, to the extent that neither results in the harvesting of tropical forest growth; and

(F) securing the involvement and commitment of local communities and indigenous peoples—

(i) to protect tropical forests in existence as of the date of enactment of this Act; and

(ii) to carry out afforestation and reforestation activities.

(2) CONSISTENCY WITH PROPOSALS.—To the maximum extent practicable, a project carried out using grant funds shall support and be consistent with the proposal developed under section 101(a)(2) that is the subject of the project.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall prepare and submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) CONTENT.—Each application submitted under paragraph (1) shall include—

(A) a description of the objectives to be attained;

(B) a description of the manner in which the grant funds will be used;

(C) a plan for evaluating the success of the project based on verifiable evidence; and

(D) to the extent that the applicant intends to use nonnative species in afforestation efforts, an explanation of the benefit of the use of nonnative species over native species.

(3) PREFERENCE FOR CERTAIN PROJECTS.—In awarding grants under this section, the Secretary shall give preference to applicants that propose—

(A) to develop market-based solutions to the difficulty of reforestation in Haiti, including the use of conditional cash transfers and similar financial incentives to protect reforestation efforts;

(B) to partner with local communities and cooperatives; and

(C) to focus on efforts that build local capacity to sustain growth after the completion of the underlying grant project.

(e) DISSEMINATION OF INFORMATION.—The Secretary shall collect and widely disseminate information about the effectiveness of the demonstration projects assisted under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

### SEC. 202. FOREST PROTECTION GRANTS.

Chapter 7 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2281 et seq.) is amended by inserting after section 466 the following new section:

#### “SEC. 467. PILOT PROGRAM FOR HAITI.

“(a) SUBMISSION OF LIST OF AREAS OF SEVERELY DEGRADED NATURAL RESOURCES.—The Administrator of the Agency for International Development, in cooperation with nongovernmental conservation organizations, shall invite the Government of Haiti to submit a list of areas within the territory of Haiti in which tropical forests are seriously degraded or threatened.

“(b) REVIEW OF LIST.—The Administrator shall assess the list submitted by the Government of Haiti under subsection (a) and shall seek to reach agreement with the Government of Haiti for the restoration and future sustainable use of those areas.

“(c) GRANT PROGRAM.—

“(1) GRANTS AUTHORIZED.—The Administrator of the Agency for International Development is authorized to make grants, in consultation with the International Forestry Division of the Department of Agriculture and on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of the Government of Haiti in exchange for commitments by the Government of Haiti to restore tropical forests identified by the Government under subsection (a) or for commitments to develop plans for sustainable use of such tropical forests.

“(2) MANAGEMENT OF PROTECTED AREAS.—Each recipient of a grant under this subsection shall participate in the ongoing management of the area or areas protected pursuant to such grant.



“(3) RETENTION OF PROCEEDS.—Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

By Mr. BINGAMAN:

S. 1185. A bill to amend titles XVIII and XIX of the Social Security Act to ensure that Low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Medicare Financial Stability for Beneficiaries Act of 2009.

This legislation would ensure that low-income Medicare beneficiaries can access the benefits to which they are entitled through one of the Medicare Savings Programs, MSP, and/or the Part D Low-Income Subsidy, LIS.

More than 13 million Medicare beneficiaries have incomes below 150 percent of the Federal Poverty Level, FPL, and are eligible for assistance with their Medicare costs. Another 6 million have incomes under 200 percent FPL. These nearly 20 million beneficiaries are poorer than other Medicare beneficiaries. They also tend to be sicker, more isolated and have limited educations. These populations are more in need of medical and other health-related services, and they benefit in both access and health outcomes from financial assistance with their out-of-pocket costs.

Although seniors and younger people with disabilities would benefit tremendously from greater access to needed health care services and financial savings, the Congressional Budget Office has estimated that about 67 percent to 87 percent of individuals eligible for various MSP services do not receive benefits. Additionally, the Centers for Medicare & Medicaid Services state that more than 13 million individuals are eligible for Part D LIS but only about 9 million are enrolled. Most of those 9 million get the subsidy automatically without having to apply, due to their eligibility for other programs.

The lives of low-income beneficiaries would improve significantly with improved access to the financial assistance provided by these important programs. Barriers to enrollment in MSP and LIS include: lack of effective outreach, lack of knowledge of the programs, language issues, social and physical isolation, restrictive assets limits, income and asset documenta-

tion complexities, and other daunting application requirements. Another major barrier is the lack of alignment of eligibility rules and application processes between MSP and LIS, although both programs serve the same general population.

The Medicare Financial Stability for Beneficiaries Act of 2009 decreases these barriers through:

1. Stabilizing programs by eliminating the recurring short-term re authorizations of one of the MSPs—the Qualified Individual, QI, program and the roller-coaster eligibility/loss of eligibility some beneficiaries face due to the effects of the subsidies on eligibility for other benefits.

2. Increasing access to financial assistance for low-income beneficiaries. Research supports the conclusion that financial assistance results in greater access and better health outcomes for low-income beneficiaries. Currently full assistance is available only for those beneficiaries with incomes up to 135 percent of the Federal Poverty Level, 135 percent FPL is \$1218/month for an individual, and very limited assets, about \$8,000 for an individual; much more limited assistance is available for those with incomes up to 150 percent of FPL. People with low incomes but some savings may be disqualified altogether. Our bill increases income eligibility to 150 percent of FPL for full benefits and 200 percent FPL for partial benefits and uses a single asset standard for all programs of \$27,500 for an individual. Increasing the asset test for both MSP and LIS and increasing income eligibility levels will improve health outcomes for millions more seniors and younger people with disabilities.

3. Aligning the rules for MSP and LIS programs and authorizing cross-deeming so that qualifying for one program would automatically qualify an individual for the other programs. Currently, income and asset eligibility rules for MSP and LIS are similar, but not identical. Individuals eligible for MSP benefits are deemed eligible for LIS, without having to apply or take any other action. The reverse, however, is not true. Greater alignment of the rules of both programs makes cross-deeming sensible, and ensures that individuals will receive both benefits regardless of where they first seek assistance. The legislation will also assist LIS beneficiaries in receiving Supplemental Nutritional Assistance Program, SNAP, food stamp, and vice versa.

4. Simplifying outreach and enrollment for low-income Medicare programs by authorizing the Social Security Administration to have access to Internal Revenue Service records to identify potentially eligible beneficiaries; by making more materials, including applications, available in additional languages; and by other sim-

plifications of the application process. These provisions will benefit the millions of Americans who desperately need assistance, and will cut down on unnecessary and duplicative work for the Social Security Administration and for State Medicaid agencies.

There is strong support for this important legislation from many organizations including the American Association of Retired Persons, National Senior Citizens Law Center, Medicare Rights Center, Center for Medicare Advocacy, Inc, Families USA, National Council on Aging, National Patient Advocate Foundation, American Federation of Labor and Congress of Industrial Organizations, AFL-CIO, and the National Committee to Preserve Social Security and Medicare.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1185

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medicare Financial Stability for Beneficiaries Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Eligibility for other programs.
- Sec. 3. Cost-sharing protections for low-income subsidy-eligible individuals.
- Sec. 4. Modification of resource standards for determination of eligibility for LIS; no consideration of pension or retirement plan in determination of resources.
- Sec. 5. Increase in income levels for eligibility.
- Sec. 6. Effective date of MSP benefits.
- Sec. 7. Expanding special enrollment process to individuals eligible for an income-related subsidy.
- Sec. 8. Enhanced cost-sharing protections for full-benefit dual eligible individuals and qualified medicare beneficiaries.
- Sec. 9. Two-way deeming between Medicare Savings Program and Low-Income Subsidy Program.
- Sec. 10. Improving linkages between health programs and snap.
- Sec. 11. Expediting low-income subsidies under the Medicare prescription drug program.
- Sec. 12. Enhanced oversight and enforcement relating to reimbursements for retroactive LIS enrollment.
- Sec. 13. Intelligent assignment in enrollment.
- Sec. 14. Medicare enrollment assistance.
- Sec. 15. QMB buy-in of part A and part B premiums.
- Sec. 16. Increasing availability of MSP applications through availability on the internet and designation of preferred language.
- Sec. 17. State Medicaid agency consideration of low-income subsidy application and data transmittal.

**SEC. 2. ELIGIBILITY FOR OTHER PROGRAMS.**

(a) LIS.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as amended by section 116 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking “subparagraph (F)” and inserting “subparagraphs (F) and (H)”; and

(2) by adding at the end the following new subparagraph:

“(H) DISREGARD OF PREMIUM AND COST-SHARING SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium or cost-sharing subsidy with respect to a subsidy-eligible individual under this section shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.”

(b) MSP.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) Notwithstanding any other provision of law, any medical assistance for some or all medicare cost-sharing under this title shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility for benefits on or after January 1, 2010.

**SEC. 3. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(1) in paragraph (1)(D), by adding at the end the following new clause:

“(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.”; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

“(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2010.

**SEC. 4. MODIFICATION OF RESOURCE STANDARDS FOR DETERMINATION OF ELIGIBILITY FOR LIS; NO CONSIDERATION OF PENSION OR RETIREMENT PLAN IN DETERMINATION OF RESOURCES.**

(a) ELIMINATING THE BIFURCATION OF RESOURCE STANDARDS.—

(1) IN GENERAL.—Section 1860D-14(a)(3)(A)(iii) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(A)(iii)) is amended by striking “meets the” and all that follows through the period at the end and inserting “meets—

“(I) in the case of determinations made before January 1, 2011, the resource requirement described in subparagraph (D) or (E); and

“(II) in the case of determinations made on or after January 1, 2011, the resource requirement described in subparagraph (E).”

(2) CONFORMING AMENDMENT.—Section 1860D-14(a)(3)(D)(ii) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(D)(ii)) is amended by inserting “(before 2011)” after “a subsequent year”.

(b) INCREASING THE APPLICABLE RESOURCE STANDARD.—Section 1860D-14(a)(3)(E) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(E)(i)) is amended—

(1) in the heading, by striking “ALTER-NATIVE” and inserting “APPLICABLE”; and

(2) in clause (i)—

(A) in subclause (I), by striking “and” at the end;

(B) in subclause (II)—

(i) by inserting “(before 2011)” after “a subsequent year”; and

(ii) by striking the period at the end and inserting a semicolon; and

(iii) by inserting before the flush sentence at the end the following new subclauses:

“(III) for 2011, \$27,500 (or \$55,000 in the case of the combined value of the individual’s assets or resources and the assets or resources of the individual’s spouse); and

“(IV) for a subsequent year the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.”; and

(C) in the flush sentence at the end, by inserting “or (IV)” after “subclause (II)”.

(c) EXCLUSION OF PENSION AND RETIREMENT BENEFITS FROM RESOURCES.—

(1) IN GENERAL.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as amended by section 2, is amended—

(A) in subparagraph (E)(i), in the matter preceding subclause (I), by inserting “and the pension or retirement plan exclusion provided under subparagraph (I)” after “(G)”; and

(B) by adding at the end the following new subparagraph:

“(I) PENSION AND RETIREMENT BENEFITS EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraph (E) no balance in, or benefits received under, an employee pension benefit plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974) shall be taken into account.”

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(d) APPLICATION OF APPLICABLE RESOURCE STANDARD UNDER MEDICARE SAVINGS PROGRAM AND EXEMPTIONS FROM INCOME AND RESOURCES.—

(1) APPLICATION OF APPLICABLE RESOURCE STANDARD AND EXEMPTIONS FROM RESOURCES.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended—

(A) by inserting “without taking into account any part of the value of any life insurance policy or any balance in, or benefits received under, an employee pension benefit plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974)” after “(as so determined); and

(B) by striking “subparagraph (D)” and all that follows through “section)” and inserting “section 1860D-14(a)(3)(E)”.

(2) EXEMPTION OF IN-KIND SUPPORT AND MAINTENANCE.—

(A) IN GENERAL.—Section 1905(p)(1)(B) of the Social Security Act (42 U.S.C. 1396d(p)(1)(B)) is amended by inserting “and except that support and maintenance fur-

nished in kind shall not be counted as income” after “(2)(D)”.

(B) CONFORMING AMENDMENT.—Section 1860D-14(a)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(C)(i)) is amended by striking “and except that support and maintenance furnished in kind shall not be counted as income”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(e) CLARIFICATION RELATING TO INCLUDING RETIREMENT BENEFITS AS INCOME.—Nothing in subparagraph (I) of section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as added by subsection (c)(1), or section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)), as amended by subsection (d)(1), shall be construed as affecting the inclusion of retirement benefits as income under section 1612(a)(2)(B) of such Act (42 U.S.C. 1382a(a)(2)(B)).

**SEC. 5. INCREASE IN INCOME LEVELS FOR ELIGIBILITY.**

(a) LIS.—

(1) IN GENERAL.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(A) in the subsection heading, by striking “150” and inserting “200”; and

(B) in paragraph (1)—

(i) in the heading, by striking “135” and inserting “150”; and

(ii) in the matter preceding subparagraph (A), by striking “135” and inserting “150”; and

(C) in paragraph (2)—

(i) in the heading, by striking “150” and inserting “200”; and

(ii) in subparagraph (A)—

(I) by striking “135” and inserting “150”; and

(II) by striking “150” and inserting “200”; and

(D) in paragraph (3)(A)(ii), by striking “150” and inserting “200”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(b) MSP.—

(1) INCREASE TO 150 PERCENT OF FPL FOR QUALIFIED MEDICARE BENEFICIARIES.—

(A) IN GENERAL.—Section 1905(p)(2) of the Social Security Act (42 U.S.C. 1396d(p)(2)) is amended—

(i) in subparagraph (A), by striking “100 percent” and inserting “150 percent”; and

(ii) in subparagraph (B)—

(I) by striking “and” at the end of clause (ii);

(II) by striking the period at the end of clause (iii) and inserting “, and”; and

(III) by adding at the end the following:

“(iv) January 1, 2011, is 150 percent.”; and

(iii) in subparagraph (C)—

(I) by striking “and” at the end of clause (iii);

(II) by striking the period at the end of clause (iv) and inserting “, and”; and

(III) by adding at the end the following:

“(v) January 1, 2011, is 150 percent.”

(B) APPLICATION OF INCOME TEST BASED ON FAMILY SIZE.—Section 1905(p)(2)(A) of such Act (42 U.S.C. 1396d(p)(2)(A)) is amended by adding at the end the following: “For purposes of this subparagraph, family size means the applicant, the spouse (if any) of the applicant if living in the same household as the applicant, and the number of individuals who are related to the applicant (or applicants), who are living in the same household as the applicant (or applicants), and who are dependent on the applicant (or the applicant’s spouse) for at least one-half of their financial support.”

(2) EXPANSION OF SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB) PROGRAM.—

(A) ELIGIBILITY OF INDIVIDUALS WITH INCOMES BELOW 200 PERCENT OF FPL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)) is amended—

(i) by adding “and” at the end of clause (ii);

(ii) in clause (iii)—

(I) by striking “and 120 percent in 1995 and years thereafter” and inserting “, or 120 percent in 1995 and any succeeding year before 2011, or 200 percent beginning in 2011”; and

(II) by striking “and” at the end; and

(iii) by striking clause (iv).

(B) REVISION TO DESCRIPTION.—Section 1902(a)(10)(E)(iii) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)(iii)) is amended by striking “who would be qualified medicare” and all that follows through “but is less than” and inserting “whose income (as determined in accordance with subparagraphs (B) and (C) of section 1905(p)(1)) is less than”.

(C) REFERENCES.—Section 1905(p)(1) of such Act (42 U.S.C. 1396d(p)(1)) is amended by adding at and below subparagraph (C) the following: “The term ‘specified low-income medicare beneficiary’ means an individual described in section 1902(a)(10)(E)(iii).”.

(3) PROVIDING 100 PERCENT FEDERAL FINANCING.—The third sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: “, with respect to medical assistance for medicare cost-sharing provided under clause (i) of section 1902(a)(10)(E) for individuals with incomes greater than 100 percent of the official poverty line described in subsection (p)(2)(A) and less than or equal to 150 percent of such official poverty line, and with respect to medical assistance for medicare cost-sharing provided under clause (iii) of such section”.

(4) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on January 1, 2011, and, with respect to title XIX of the Social Security Act, shall apply to calendar quarters beginning on or after January 1, 2011.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

#### SEC. 6. EFFECTIVE DATE OF MSP BENEFITS.

(a) IN GENERAL.—

(1) EFFECTIVE DATE OF MSP BENEFITS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1), by striking “assistance or, in the case of medicare cost-sharing” and all that follows through “beneficiary” and inserting “assistance”.

(2) CONFORMING AMENDMENTS.—(A) Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking the first sentence.

(B) Section 1848(g)(3) of such Act (42 U.S.C. 1395w-4(g)(3)) is amended by adding at the end the following new subparagraph:

“(C) TREATMENT OF RETROACTIVE ELIGIBILITY.—In the case of an individual who is determined to be eligible for medical assistance described in subparagraph (A) retroactively, the Secretary shall provide a process whereby claims which are submitted for services furnished during the period of retroactive eligibility and during a month in which the individual otherwise would have been eligible for such assistance and which were not submitted in accordance with such subparagraph are resubmitted and reprocessed in accordance with such subparagraph.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010, but shall not result in eligibility for benefits for medicare cost-sharing for months before January 2010.

#### SEC. 7. EXPANDING SPECIAL ENROLLMENT PROCESS TO INDIVIDUALS ELIGIBLE FOR AN INCOME-RELATED SUBSIDY.

(a) IN GENERAL.—Section 1860D-1(b)(1)(C) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)(C)) is amended—

(1) by striking “a full-benefit dual eligible individual (as defined in section 1935(c)(6))” and inserting “a subsidy-eligible individual (as defined in section 1860D-14(a)(3))”; and

(2) by striking “1860D-14(a)(1)(A)” and inserting “subsection (a)(1)(A) or (b)(1)(A) of section 1860D-14, as applicable”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to enrollments on or after January 1, 2010.

#### SEC. 8. ENHANCED COST-SHARING PROTECTIONS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS AND QUALIFIED MEDICARE BENEFICIARIES.

(a) ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—Section 1860D-14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(i)) is amended—

(1) in the heading, by striking “INSTITUTIONALIZED INDIVIDUALS.—In” and inserting “ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

“(I) INSTITUTIONALIZED INDIVIDUALS.—In”;

and

(2) by adding at the end the following new subclause:

“(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual who is receiving home and community based care (whether under section 1915 or under a waiver under section 1115), the elimination of any beneficiary coinsurance described in section 1860D-2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D-2(b)(4)).”.

(b) REPEAL OF AUTHORITY FOR STATES TO PAY MEDICARE COST-SHARING AT MEDICAID RATES AND PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGIBLES IN MA PLANS.—

(1) REPEAL OF AUTHORITY FOR STATES TO PAY MEDICARE COST-SHARING AT MEDICAID RATES.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2);

(C) in paragraph (2), as redesignated by subparagraph (B)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “In the case in which a State’s payment for” and inserting “With respect to”;

(II) by striking “with respect to an item or service is reduced or eliminated through the application of paragraph (2)” and inserting “for an item or service”; and

(ii) in subparagraph (A), by striking “(if any)”; and

(D) by adding at the end the following new paragraph:

“(3) Each State shall establish procedures for receiving and processing claims for payment for medicare cost-sharing with respect to items or services furnished to qualified medicare beneficiaries by providers of services and suppliers under title XVIII who are not participating providers under the State plan.”.

(2) PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGIBLES IN MA PLANS.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(4)(A) Each State shall—

“(i) identify those individuals who are eligible for medical assistance for medicare cost-sharing and who are enrolled with a Medicare Advantage plan under part C of title XVIII; and

“(ii) for the individuals so identified, provide for payment of medical assistance for the medicare cost-sharing (including cost-sharing under a Medicare Advantage plan) to which they are entitled.

“(B)(i) The Inspector General of the Department of Health and Human Services shall examine, not later than one year after the date of the enactment of this paragraph and every 3 years thereafter, whether States are providing for medical assistance for medicare cost-sharing for individuals enrolled in Medicare Advantage plans in accordance with this title. The Inspector General shall submit to the Secretary a report on such examination and a finding as to whether States are failing to provide such medical assistance.

“(ii) If a report under clause (i) includes a finding that States are failing to provide such medical assistance, not later than 60 days after the date of receiving such report the Secretary shall submit to Congress a report that includes a plan of action on how to enforce such requirement.”.

(3) CONFORMING AMENDMENTS.—

(A) PROVIDER AGREEMENTS.—Section 1866(a)(1)(A)(ii) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(A)(ii)) is amended by striking “1902(n)(3)” and inserting “1902(n)(2)”.

(B) NONPARTICIPATING PROVIDERS.—Section 1848(g)(3)(A) of the Social Security Act (42 U.S.C. 1395w-4(g)(3)(A)) is amended by striking “1902(n)(3)(A)” and inserting “1902(n)(2)(A)”.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date of enactment of this Act.

(B) EXCEPTION.—The amendment made by paragraph (2) shall be effective and apply as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

#### SEC. 9. TWO-WAY DEEMING BETWEEN MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) LOW-INCOME SUBSIDY PROGRAM.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-104(a)(3)), as amended by section 4, is amended by adding at the end the following new subparagraph:

“(J) DEEMED TREATMENT FOR QUALIFIED MEDICARE BENEFICIARIES AND SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES.—

“(i) QMBS ELIGIBLE FOR FULL SUBSIDY.—A part D eligible individual who has been determined for purposes of title XIX to be a qualified medicare beneficiary is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual described in paragraph (1).”

“(ii) SLMBS ELIGIBLE FOR PARTIAL SUBSIDY.—A part D eligible individual who has been determined to be a specified low-income medicare beneficiary (as defined in section 1905(p)(1)) and who is not described in paragraph (1) is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual who is not described in paragraph (1).”

(b) MEDICARE SAVINGS PROGRAM.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by section 4, is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following new paragraph:

“(8) An individual who has been determined eligible for premium and cost-sharing subsidies under—

“(A) section 1860D–14(a)(1) is deemed, for purposes of this title and without the need to file any additional application, to be a qualified medicare beneficiary for purposes of this title; or

“(B) section 1860D–14(a)(2) is deemed, for purposes of this title and without the need to file any additional application, to qualify for medical assistance as a specified low-income medicare beneficiary (described in section 1902(a)(10)(E)(iii)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility for months beginning on or after January 2010.

#### SEC. 10. IMPROVING LINKAGES BETWEEN HEALTH PROGRAMS AND SNAP.

(a) LOW-INCOME PART D SUBSIDY PROGRAM.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320b–14(c)) is amended—

(1) in paragraph (1)(C) by striking “an application for benefits under the Medicare Savings Program.” and inserting “applications for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”;

(2) by striking paragraph (3) and inserting the following:

“(3) TRANSMITTAL OF DATA TO STATES.—

“(A) IN GENERAL.—Beginning on January 1, 2010, with the consent of an individual completing an application for benefits described in paragraph (1)(B), the Commissioner shall electronically transmit data from such application—

“(i) to the appropriate State Medicaid agency, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the Medicare Savings Program with the State Medicaid agency; and

“(ii) to the appropriate State agency which administers benefits under the supplemental nutrition assistance program, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the supplemental nutrition assistance program with the State agency that administers that program.

“(B) CONSULTATION REGARDING CONTENT, TIME, FORM, FREQUENCY AND MANNER OF TRANSMISSION.—In order to ensure that such data transmittal provides effective assistance for purposes of State adjudication of applications for benefits under the Medicare

Savings Program and the supplemental nutrition assistance program, the Commissioner shall consult with the Secretary after the Secretary has consulted with the States, regarding the content, form, frequency, and manner in which data (on a uniform basis for all States) shall be transmitted under this paragraph.”;

(3) in paragraph (5), by adding at the end the following new subparagraph:

“(D) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATIVE COSTS.—The costs of the Social Security Administration’s work related to the supplemental nutrition assistance program under this subsection shall be eligible for reimbursement under section 11(j)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(j)(2)(C)). To the extent necessary the Commissioner and the Secretary of Agriculture shall revise any memoranda of understanding in effect under such section.”; and

(4) by adding at the end the following new paragraph:

“(8) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM DEFINED.—For purposes of this subsection, the term ‘supplemental nutrition assistance program’ means the program of temporary benefits authorized under section 11(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(v)).”

(b) TEMPORARY SUPPLEMENTAL NUTRITION ASSISTANCE BENEFITS.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by adding at the end the following:

“(v) TEMPORARY BENEFITS FOR MEDICARE PART D LOW INCOME SUBSIDY APPLICANTS.—

“(1) DEFINITION OF MEDICARE PART D LOW INCOME SUBSIDY APPLICANT.—In this subsection, the term ‘Medicare part D low income subsidy applicant’ means an individual, along with any other family members, whose low income subsidy application information has been electronically transmitted to the State agency under section 1144(c)(3) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)).

“(2) PROVISION OF TEMPORARY BENEFITS.—A State agency shall provide temporary supplemental nutrition assistance program benefits to a Medicare part D low income subsidy applicant whose—

“(A) income does not exceed 150 percent of the poverty line (as determined in accordance with section 5(c)(1)); and

“(B) financial resources do not exceed the limit in effect in the State for such households under section 5.

“(3) DETERMINATION BASED ON MEDICARE INFORMATION.—For purposes of determining eligibility under paragraph (2) and the amount of temporary benefits under paragraph (5), information on household members, household income, and household resources from the Medicare part D low income subsidy application as transmitted to the State agency under section 1144(c)(3) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)) shall satisfy the requirements of this Act with regard to—

“(A) the members of the household under section 3(n); and

“(B) the gross income and financial resources of the household under section 5.

“(4) TEMPORARY BENEFIT PERIOD.—A household shall receive temporary supplemental nutrition assistance benefits under this subsection for a period of not more than 2 months.

“(5) TEMPORARY BENEFIT AMOUNT.—

“(A) IN GENERAL.—During the temporary benefit period under paragraph (4), except as provided in subparagraph (B), a household shall receive a monthly amount of supple-

mental nutrition assistance program benefits calculated under section 8(a).

“(B) CALCULATION.—In calculating benefits under subparagraph (A)—

“(i) the benefits shall be determined based on the gross income of the household rather than net income; and

“(ii) the minimum allotment described in the proviso in section 8(a) shall be equal to 40 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment.

“(6) DETERMINATION OF FUTURE ELIGIBILITY.—During the temporary benefit period under paragraph (4), the State agency shall provide to the household—

“(A) an application to apply for benefits under the other provisions of this Act; and

“(B) an opportunity to complete the application process by the month immediately following the temporary benefit period, without a delay or suspension in the benefits of the household.

“(7) LIMITATION.—This subsection shall not apply to individuals who—

“(A) are members of households that currently receive benefits under this Act; or

“(B) have received benefits under this subsection in the preceding 12-month period.”

(c) MEDICARE SAVINGS PROGRAM APPLICATIONS.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (72), by striking “and” at the end;

(B) in paragraph (73), by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (73) the following new paragraph:

“(74) provide that the State coordinates with the State agency that administers benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) to ensure that individuals applying for medical assistance provided under section 1902(a)(10)(E), as described in sections 1905(p) and 1933, have the opportunity to apply for, establish eligibility for, and, if eligible, receive supplemental nutrition assistance program benefits.”

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) take effect on the date that is 1 year after the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human

Services shall submit to Congress a report on the process each State uses to meet the requirements under section 1902(a)(74) of the Social Security Act, as added by subsection (c).

**SEC. 11. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.**

(a) TARGETED OUTREACH FOR LOW-INCOME SUBSIDIES.—

(1) IN GENERAL.—Section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114) is amended by adding at the end the following new subsection:

“(e) TARGETED OUTREACH FOR LOW-INCOME SUBSIDIES.—

“(1) TARGETED IDENTIFICATION OF SUBSIDY-ELIGIBLE INDIVIDUALS.—

“(A) IN GENERAL.—The Commissioner of Social Security shall provide for the identification of individuals who are potentially eligible for low-income assistance under this section through requests to the Secretary of the Treasury in accordance with the criterion established under section 6103(l)(21) of the Internal Revenue Code of 1986 for information indicating whether the individual involved is likely eligible for such assistance.

“(B) INITIATION OF IDENTIFICATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Commissioner of Social Security shall begin the identification of individuals through the process described in subparagraph (A) and shall, by such date and through such process, submit to the Secretary of the Treasury requests for part D eligible individuals who the Commissioner has identified as potentially eligible for low-income subsidies under this section before such date of enactment.

“(2) NOTIFICATION OF POTENTIALLY ELIGIBLE INDIVIDUALS.—In the case of each individual identified under paragraph (1) who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has applied for and been determined ineligible for such benefits based on excess income, resources, or both), the Commissioner shall transmit by mail to the individual a letter including the information and application required to be provided under subparagraphs (A), (B), and (D) of section 1144(c)(1).

“(3) FOLLOW-UP COMMUNICATIONS.—If an individual to whom a letter is transmitted under paragraph (2) does not affirmatively respond to such letter either by making an enrollment, completing an application, or declining either or both, the Commissioner shall make additional attempts to contact the individual to obtain such an affirmative response.

“(4) USE OF PREFERRED LANGUAGE IN SUBSEQUENT COMMUNICATIONS.—In the case an application is completed by an individual pursuant to this subsection in which a language other than English is specified, the Commissioner shall provide that subsequent communications under this part to the individual shall be in such language as needed.

“(5) CONSTRUCTION.—Nothing in this subsection shall be construed as precluding the Commissioner from taking additional outreach efforts to enroll eligible individuals under this part and to provide low-income subsidies to eligible individuals.

“(6) MAINTENANCE OF EFFORT WITH RESPECT TO OUTREACH.—In no case shall the level of effort with respect to outreach to and enrollment of individuals who are potentially eligible for low-income assistance under this section after the date of the enactment of this subsection be less than such level of effort before such date of enactment until at least 90 percent of such potentially eligible individuals have affirmatively responded.

“(7) GAO REPORT TO CONGRESS.—Not later than 2 years after the date of the first submission to the Secretary of the Treasury described in paragraph (1)(B), the Comptroller General of the United States shall submit to Congress a report, with respect to the 18-month period following the establishment of the process described in paragraph (1)(A), on—

“(A) the extent to which the percentage of individuals who are eligible for low-income assistance under this section but not enrolled under this part has decreased during such period;

“(B) how the Commissioner of Social Security has used any savings resulting from the implementation of this section and section 6103(l)(21) of the Internal Revenue Code of 1986 to improve outreach to individual described in subparagraph (A) to increase enrollment of such individuals under this part;

“(C) the effectiveness of using information from the Secretary of the Treasury in accordance with section 6103(l)(21) of the Internal Revenue Code of 1986 for purposes of indicating whether individuals are eligible for low-income assistance under this section; and

“(D) the effectiveness of the outreach conducted by the Commissioner of Social Security based on the data described in subparagraph (C).”.

(2) CONFORMING AMENDMENT.—Section 1144(c)(1) of the Social Security Act (42 U.S.C. 1320b-14(c)(1)) is amended by inserting “(including through request to the Secretary of the Treasury pursuant to section 1860D-14(e))” before “, the Commissioner shall”.

(b) IMPROVEMENTS TO THE LOW-INCOME SUBSIDY APPLICATIONS.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)) is amended—

(1) in subparagraph (E), by striking clauses (ii) and (iii) and redesignating clause (iv) as clause (ii);

(2) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) SIMPLIFIED LOW-INCOME SUBSIDY APPLICATION AND PROCESS.—

“(1) IN GENERAL.—The Secretary, jointly with the Commissioner of Social Security, shall—

“(I) develop a model, simplified application form and process consistent with clause (ii) for the determination and verification of a part D eligible individual's assets or resources under this paragraph; and

“(II) provide such form to States.

“(ii) DOCUMENTATION AND SAFEGUARDS.—Under such process—

“(I) the application form shall consist of an attestation under penalty of perjury regarding the level of assets or resources (or combined assets and resources in the case of a married part D eligible individual) and valuations of general classes of assets or resources;

“(II) such form shall not require the submission of additional documentation regarding income or assets;

“(III) matters attested to in the application shall be subject to appropriate methods of administrative verification;

“(IV) the applicant shall be permitted to authorize another individual to act as the applicant's personal representative with respect to communications under this part and the enrollment of the applicant into a prescription drug plan (or MA-PD plan) and for low-income subsidies under this section; and

“(V) the application form shall allow for the specification of a language (other than

English) that is preferred by the individual for subsequent communications with respect to the individual under this part.

“(iii) NO RECOVERY FOR CERTAIN SUBSIDIES IMPROPERLY PAID.—If an individual in good faith and in the absence of fraud is provided low-income subsidies under this section, and if the individual is subsequently found not eligible for such subsidies, there shall be no recovery made against the individual because of such subsidies improperly paid.”.

(c) DISCLOSURES TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR THE LOW-INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.—

(1) IN GENERAL.—

Subsection (1) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF RETURN INFORMATION TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR LOW-INCOME SUBSIDIES UNDER MEDICARE PRESCRIPTION DRUG PROGRAM.—

“(A) IN GENERAL.—The Secretary, upon written request from the Commissioner of Social Security, shall disclose to officers and employees of the Social Security Administration, with respect to any individual identified by the Commissioner—

“(i) whether, based on the criterion determined under subparagraph (B), such individual is likely to be eligible for low-income assistance under section 1860D-14 of the Social Security Act, or

“(ii) that, based on such criterion, there is insufficient information available to the Secretary to make the determination described in clause (i).

“(B) CRITERION.—Not later than 90 days after the date of the enactment of this paragraph, the Secretary, in consultation with the Commissioner of Social Security, shall develop the criterion by which the determination under subparagraph (A)(i) shall be made (and the criterion for determining that insufficient information is available to make such determination). Such criterion may include analysis of information available on such individual's return, the return of such individual's spouse, and any information related to such individual or such individual's spouse which is available on any information return.”.

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (17)” each place it appears and inserting “(17), or (21)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures made after the date of the enactment of this Act.

**SEC. 12. ENHANCED OVERSIGHT AND ENFORCEMENT RELATING TO REIMBURSEMENTS FOR RETROACTIVE LIS ENROLLMENT.**

(a) IN GENERAL.—In the case of a retroactive LIS enrollment beneficiary (as defined in subsection (e)(4)) who is enrolled under a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA-PD plan under part C of such title)—

(1) the beneficiary (or any eligible third party) is entitled to reimbursement by the plan for covered drug costs (as defined in subsection (e)(1)) incurred by the beneficiary during the retroactive coverage period of the beneficiary in accordance with subsection (b) and in the case of such a beneficiary described in subsection (e)(4)(A)(i), such reimbursement shall be made automatically by the plan upon receipt of appropriate notice

the beneficiary is eligible for assistance described in such subsection (e)(4)(A)(i) without further information required to be filed with the plan by the beneficiary;

(2) the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not make payment to the plan—

(A) in the case that the beneficiary is described in subsection (e)(4)(A)(i), for premium subsidies and cost sharing subsidies under section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114) with respect to the provision of prescription drug coverage to the beneficiary during such retroactive period; and

(B) in the case that the beneficiary is described in subsection (e)(4)(A)(ii), for direct subsidies under section 1860D-15(a)(1) of such Act and premium subsidies and cost-sharing subsidies under section 1860D-14 of such Act with respect to the provision of prescription drug coverage to the beneficiary during such retroactive period;

unless the plan demonstrates to the Secretary that the plan has provided timely and accurate reimbursement to the beneficiary (or eligible third party) in accordance with paragraph (1);

(3) the Secretary shall not make any payment described in paragraph (2) to the plan with respect to such beneficiary for any month of the retroactive enrollment period during which no expenses for covered part D drugs (as defined in section 1860D-2(e) of the Social Security Act (42 U.S.C. 1395w-102(e)) were incurred by such beneficiary (or eligible third party on behalf of such beneficiary); and

(4) any payment owed the plan pursuant to this section, taking into account paragraphs (2) and (3), shall be made at the time the Centers for Medicare & Medicaid Services reconciles payments for the entire plan year following the end of the plan year, and not before such time.

(b) ADMINISTRATIVE REQUIREMENTS RELATING TO REIMBURSEMENTS.—

(1) LINE-ITEM DESCRIPTION.—Each reimbursement made by a prescription drug plan or MA-PD plan under subsection (a)(1) shall include a line-item description of the items for which the reimbursement is made.

(2) TIMING OF REIMBURSEMENTS.—A prescription drug plan or MA-PD plan must make a reimbursement under subsection (a)(1) to a retroactive LIS enrollment beneficiary, with respect to a claim, not later than 30 days after—

(A) in the case of a beneficiary described in subsection (e)(4)(A)(i), the date on which the plan receives notice from the Secretary that the beneficiary is eligible for assistance described in such subsection; or

(B) in the case of a beneficiary described in subsection (e)(4)(A)(ii), the date on which the beneficiary files the claim with the plan.

(c) NOTICE REQUIREMENTS.—

(1) BY SECRETARY OF HHS AND COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION.—The Secretary, jointly with the Commissioner of the Social Security Administration, shall ensure that each retroactive LIS enrollment beneficiary receives, with any letter or notification of eligibility for a low-income subsidy under section 1860D-14 of the Social Security Act, a notice of their right to reimbursement described in subsection (a)(1) for covered drug costs incurred during the retroactive coverage period of the beneficiary. Such notice shall—

(A) with respect to a beneficiary described in subsection (e)(4)(A)(i), inform the beneficiary of the beneficiary's right to auto-

matic reimbursement as described in subsection (a)(1); and

(B) with respect to a beneficiary described in subsection (e)(4)(A)(ii), include a description of a clear process that the beneficiary should follow to seek such reimbursement.

(2) BY PRESCRIPTION DRUG PLANS.—

(A) IN GENERAL.—Each prescription drug plan under part D of title XVIII of the Social Security Act (and MA-PD plan under part C of such title) shall include in a notice from the plan to a retroactive LIS enrollment beneficiary described in subsection (e)(4)(A)(ii) a model notice developed under subparagraph (B) describing the process the beneficiary must follow to seek retroactive reimbursement. Such notice shall include any form required by the plan to complete such reimbursement and shall indicate the period of retroactive coverage for which the beneficiary is eligible for such reimbursement.

(B) MODEL NOTICE.—The Secretary, jointly with the Commissioner of Social Security, shall develop a model notice for purposes of subparagraph (A) and shall make such model notice available to all prescription drug plans under part D of title XVIII of the Social Security Act (and MA-PD plans under part C of such title).

(d) PUBLIC POSTING TO TRACK PAYMENTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall post (and annually update) on the public Internet website of the Department of Health and Human Services information on the total amount of payments made by the Secretary under subsection (a)(2) to prescription drug plans during the most recent plan year for which plan data is available.

(2) SPECIFIC INFORMATION.—Such information posted—

(A) in 2010 or in a subsequent year before 2016, shall include information on payments made for years beginning with 2006 and ending with the year for which the most current information is available; and

(B) in 2016 or a subsequent year, shall include information on payments made for at least the 10 previous years.

(e) DEFINITIONS.—In this section:

(1) COVERED DRUG COSTS.—The term "covered drug costs" means, with respect to a retroactive LIS enrollment beneficiary enrolled under a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA-PD plan under part C of such title), the amount by which—

(A) the costs incurred by such beneficiary during the retroactive coverage period of the beneficiary for covered part D drugs, premiums, and cost-sharing under such title; exceeds

(B) such costs that would have been incurred by such beneficiary during such period if the beneficiary had been both enrolled in the plan and recognized by such plan as qualified during such period for the low income subsidy under section 1860D-14 of the Social Security Act to which the individual is entitled.

(2) ELIGIBLE THIRD PARTY.—The term "eligible third party" means, with respect to a retroactive LIS enrollment beneficiary, an organization or other third party that paid on behalf of such beneficiary for covered drug costs incurred by such beneficiary during the retroactive coverage period of such beneficiary.

(3) RETROACTIVE COVERAGE PERIOD.—The term "retroactive coverage period" means—

(A) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(i), the period—

(i) beginning on the effective date of the assistance described in such paragraph for which the individual is eligible; and

(ii) ending on the date the plan effectuates the status of such individual as so eligible; and

(B) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(ii), the period—

(i) beginning on the date the individual is both entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act and eligible for medical assistance under a State plan under title XIX of such Act; and

(ii) ending on the date the plan effectuates the status of such individual as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act).

(4) RETROACTIVE LIS ENROLLMENT BENEFICIARY.—

(A) IN GENERAL.—The term "retroactive LIS enrollment beneficiary" means an individual who—

(i) is enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA-PD plan under part C of such title) and subsequently becomes eligible as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act), an individual receiving a low-income subsidy under section 1860D-14 of such Act, an individual receiving assistance under the Medicare Savings Program implemented under clauses (i), (ii), (iii), and (iv) of section 1902(a)(10)(E) of such Act, or an individual receiving assistance under the supplemental security income program under section 1611 of such Act; or

(ii) subject to subparagraph (B)(i), is a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act) who is automatically enrolled in such a plan under section 1860D-1(b)(1)(C) of such Act.

(B) EXCEPTION FOR BENEFICIARIES ENROLLED IN RFP PLAN.—

(i) IN GENERAL.—In no case shall an individual described in subparagraph (A)(ii) include an individual who is enrolled, pursuant to a RFP contract described in clause (ii), in a prescription drug plan offered by the sponsor of such plan awarded such contract.

(ii) RFP CONTRACT DESCRIBED.—The RFP contract described in this section is a contract entered into between the Secretary and a sponsor of a prescription drug plan pursuant to the Centers for Medicare & Medicaid Services' request for proposals issued on February 17, 2009, relating to Medicare part D retroactive coverage for certain low income beneficiaries, or a similar subsequent request for proposals.

(f) GAO REPORT.—Not later than 24 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the extent to which the provisions of this section improve reimbursement for covered drug costs to retroactive LIS enrollment beneficiaries and lower the amounts of payments made by the Secretary, with respect to such beneficiaries, to prescription drug plans under part D of title XVIII of the Social Security Act (and MA-PD plans under part C of such title).

(g) REPORT TO CONGRESS.—In the case that an RFP contract described in subsection (e)(4)(B)(ii) is awarded, not later than two years after the effective date of such contract, the Secretary of Health and Human Services shall submit to Congress a report evaluating the program carried out through such contract.

(h) EFFECTIVE DATE.—Paragraphs (2) and (3) of subsection (a) and subsections (b) and



(c) shall apply to subsidy determinations made on or after the date that is 3 months after the date of the enactment of this Act.

**SEC. 13. INTELLIGENT ASSIGNMENT IN ENROLLMENT.**

(a) **IN GENERAL.**—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)), as amended by section 7(b), is amended—

(1) in the second sentence of subparagraph (C), by striking “on a random basis among all such plans” and inserting “, subject to subparagraph (E), in the most appropriate plan for such individual”; and

(2) by adding at the end the following new subparagraph:

“(E) **INTELLIGENT ASSIGNMENT.**—In the case of any auto-enrollment under subparagraph (C), no part D eligible individual described in such subparagraph shall be enrolled in a prescription drug plan which does not meet requirements established by the Secretary.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to enrollments effected on or after November 15, 2010.

**SEC. 14. MEDICARE ENROLLMENT ASSISTANCE.**

(a) **ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.**—

(1) **GRANTS.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall use amounts made available under subparagraph (B) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(B) **FUNDING.**—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w-23(f)), of \$14,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2011, to remain available until expended.

(2) **AMOUNT OF GRANTS.**—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be equal to the sum of the amount allocated to the State under paragraph (3)(A) and the amount allocated to the State under subparagraph (3)(B).

(3) **ALLOCATION TO STATES.**—

(A) **ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.**—The amount allocated to a State under this subparagraph from  $\frac{1}{2}$  of the total amount made available under paragraph (1) shall be based on the number of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114) but who have not enrolled to receive a subsidy under such section 1860D-14 relative to the total number of individuals who meet the requirement under such subsection (a)(3)(A)(ii) in each State, as estimated by the Secretary.

(B) **ALLOCATION BASED ON PERCENTAGE OF RURAL BENEFICIARIES.**—The amount allocated to a State under this subparagraph from  $\frac{1}{2}$  of the total amount made available under paragraph (1) shall be based on the number of part D eligible individuals (as defined in section 1860D-1(a)(3)(A) of such Act (42 U.S.C. 1395w-101(a)(3)(A))) residing in a rural area relative to the total number of such individuals in each State, as estimated by the Secretary.

(4) **PORTION OF GRANT BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES TO BE USED TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.**—Each grant awarded under this subsection with respect to amounts allocated under paragraph (3)(A) shall be used to provide outreach to individuals who may be subsidy eligible individuals (as defined in section 1860D-14(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(A))) or eligible for the Medicare Savings Program (as defined in subsection (f)).

(b) **ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.**—

(1) **GRANTS.**—

(A) **IN GENERAL.**—The Secretary, acting through the Assistant Secretary for Aging, shall make grants to States for area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and Native American programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(B) **FUNDING.**—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w-23(f)), of \$10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(2) **AMOUNT OF GRANT AND ALLOCATION TO STATES BASED ON PERCENTAGE OF LOW-INCOME AND RURAL BENEFICIARIES.**—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be determined in the same manner as the amount of a grant to a State under subsection (a), from the total amount made available under paragraph (1) of such subsection, is determined under paragraph (2) and subparagraphs (A) and (B) of paragraph (3) of such subsection.

(3) **REQUIRED USE OF FUNDS.**—

(A) **ALL FUNDS.**—Subject to subparagraph (B), each grant awarded under this subsection shall be used to provide outreach to eligible Medicare beneficiaries regarding the benefits available under title XVIII of the Social Security Act.

(B) **OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.**—Subsection (a)(4) shall apply to each grant awarded under this subsection in the same manner as it applies to a grant under subsection (a).

(c) **ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.**—

(1) **GRANTS.**—

(A) **IN GENERAL.**—The Secretary shall make grants to Aging and Disability Resource Centers under the Aging and Disability Resource Center grant program that are established centers under such program on the date of the enactment of this Act.

(B) **FUNDING.**—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w-23(f)), of \$10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

tion on Aging for fiscal year 2011, to remain available until expended.

(2) **REQUIRED USE OF FUNDS.**—Each grant awarded under this subsection shall be used to provide outreach to individuals regarding the benefits available under the Medicare prescription drug benefit under part D of title XVIII of the Social Security Act and under the Medicare Savings Program.

(d) **COORDINATION OF EFFORTS TO INFORM OLDER AMERICANS ABOUT BENEFITS AVAILABLE UNDER FEDERAL AND STATE PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary, acting through the Assistant Secretary for Aging, in cooperation with related Federal agency partners, shall make a grant to, or enter into a contract with, a qualified, experienced entity under which the entity shall—

(A) maintain and update web-based decision support tools, and integrated, person-centered systems, designed to inform older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(B) utilize cost-effective strategies to find older individuals with the greatest economic need (as defined in such section 102) and inform the individuals of the programs;

(C) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding older individuals with greatest economic need and informing the individuals of the programs; and

(D) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, and follow-up strategies for the Federal and State programs.

(2) **FUNDING.**—For purposes of making a grant or entering into a contract under paragraph (1), the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w-23(f)), of \$10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(e) **MEDICARE SAVINGS PROGRAM DEFINED.**—For purposes of this section, the term “Medicare Savings Program” means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E), 1396u-3).

**SEC. 15. QMB BUY-IN OF PART A AND PART B PREMIUMS.**

(a) **REQUIREMENT.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 10, is amended—

(1) in paragraph (73), by striking “and” at the end;

(2) in paragraph (74), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (74) the following new paragraph:

“(75) provide that the State enters into a modification of an agreement under section 1818(g).”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section take effect on the date that is 6 months after the date of enactment of this Act.



(2) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 16. INCREASING AVAILABILITY OF MSP APPLICATIONS THROUGH AVAILABILITY ON THE INTERNET AND DESIGNATION OF PREFERRED LANGUAGE.**

(a) **REQUIREMENT FOR STATES.**—

(1) **IN GENERAL.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 15, is amended—

(A) in paragraph (74), by striking “and” at the end;

(B) in paragraph (75), by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (75) the following new paragraph:

“(76) provide—

“(A) that the application for medical assistance for medicare cost-sharing under this title used by the State allows an individual to specify a preferred language for subsequent communication and, in the case in which a language other than English is specified, provide that subsequent communications under this title to the individual shall be in such language; and

“(B) that the State makes such application available through an Internet website and provides for such application to be completed on such website.”.

(2) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by this subsection take effect on the date that is 2 years after the date of enactment of this Act.

(B) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(b) **REQUIREMENT FOR THE SECRETARY.**—Section 1905(p)(5) of the Social Security Act (42 U.S.C. 1396d(p)(5)) is amended by adding at the end the following new sentence: “Such form shall allow an individual to specify a preferred language for subsequent communication.”.

**SEC. 17. STATE MEDICAID AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION AND DATA TRANSMITTAL.**

(a) **TECHNICAL AMENDMENTS.**—

(1) **IN GENERAL.**—Section 1144(c)(3)(A)(i) of the Social Security Act (42 U.S.C. 1320b-14(c)(3)(A)(i)), as amended by section 10, is amended—

(A) by striking “transmittal”; and

(B) by inserting “(as specified in section 1935(a)(4))” before the semicolon at the end.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of section 113(a) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275).

(b) **CLARIFICATION OF STATE MEDICAID AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION.**—Section 1935(a)(4) of the Social Security Act (42 U.S.C. 1396u-5(a)(4)), as added by section 113(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended—

(1) by striking “PROGRAM.—The State” and inserting “PROGRAM.—

“(A) **IN GENERAL.**—The State”;

(2) in subparagraph (A), as inserting by paragraph (1), by striking the second sentence; and

(3) by adding at the end the following new subparagraphs:

“(B) For purposes of a State’s obligation under section 1902(a)(8) to furnish medical assistance with reasonable promptness, the date of the electronic transmission by the Commissioner of Social Security to the State Medicaid agency of data under section 1144(c)(3) shall be the date of the filing of such application for benefits under the Medicare Savings Program.

“(C) For the purpose of determining when medical assistance shall be made available for medicare cost-sharing under this title, the State shall consider the date of the application for low-income subsidies under section 1860D-14 to be the date of the filing of an application for benefits under the Medicare Savings Program.”.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. HARKIN):

S. 1186. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today along with Senators COLLINS, LIEBERMAN and HARKIN to introduce the Medicare Independent Living Act of 2009. This legislation would eliminate Medicare’s “in the home” restriction for the coverage of mobility devices, including wheelchairs and scooters, for those with disabilities and expected long-term needs. This includes people with multiple sclerosis, paraplegia, osteoarthritis, and cerebrovascular disease including acute stroke and conditions like aneurysms.

As currently interpreted by the Centers for Medicare and Medicaid Services, CMS, the “in the home” restriction only permits beneficiaries to obtain wheelchairs that are necessary for use inside the home. As a result, seri-

ously disabled beneficiaries who would primarily utilize a wheelchair outside the home are prevented from receiving this critical and basic equipment through Medicare. For example, this restriction prevents beneficiaries from receiving wheelchairs to access their work, the community-at-large, place of worship, school, physician’s offices, or pharmacies.

As the Medicare Rights Center in a report entitled “Forced Isolation: Medicare’s ‘In The home’ Coverage Standards for Wheelchairs” in March 2004 notes, “This effectively disqualifies you from leaving your home without the assistance of others.”

Furthermore, in a Kansas City Star article dated July 3, 2005, Mike Oxford with the National Council on Independent Living noted, “You look at mobility assistance as a way to liberate yourself.” He added that the restriction “is just backward.”

In fact, policies such as these are not only backward but directly contradict numerous initiatives aimed at increasing community integration of people with disabilities, including the Americans with Disabilities Act, the Ticket-to-Work Program, the New Freedom Initiative, and the Olmstead Supreme Court decision.

According to the Medicare Rights Center update dated March 23, 2006, “This results in arbitrary denials. People with apartments too small for a power wheelchair are denied a device that could also get them down the street. Those in more spacious quarters get coverage, allowing them to scoot from room to room and to the grocery store. People who summon all their willpower and strength to hobble around a small apartment get no help for tasks that are beyond them and their front door.”

In New Mexico, I have heard this complaint about the law repeatedly from our State’s most vulnerable disabled and senior citizens. People argue the provision is being misinterpreted by the administration and results in Medicare beneficiaries being trapped in their home.

The Independence Through Enhancement of Medicare and Medicaid, ITEM, Coalition adds in a letter to CMS on this issue in November 25, 2005, “There continues to be no clinical basis for the ‘in the home’ restriction and by asking treating practitioners to document medical need only within the home setting, CMS is severely restricting patients from receiving the most appropriate devices to meet their mobility needs.”

My legislation would clarify that this restriction does not apply to mobility devices, including wheelchairs, for people with disabilities in the Medicare Program. The language change is fairly simple and simply clarifies that the “in the home” restriction for durable medical equipment does not apply in the

case of mobility devices needed by Medicare beneficiaries with expected long-term needs for use "in customary settings such as normal domestic, vocational, and community activities."

This legislation is certainly not intended to discourage CMS from dedicating its resources to reducing waste, fraud, and abuse in the Medicare system, as those efforts are critical to ensuring that Medicare remains financially viable and strong in the future. However, it should be noted that neither Medicaid nor the Department of Veterans Affairs impose such "in the home" restrictions on mobility devices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1186

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Independent Living Act of 2009".

#### SEC. 2. ELIMINATION OF IN THE HOME RESTRICTION FOR MEDICARE COVERAGE OF MOBILITY DEVICES FOR INDIVIDUALS WITH EXPECTED LONG-TERM NEEDS.

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting "or, in the case of a mobility device required by an individual with expected long-term need, used in customary settings for the purpose of normal domestic, vocational, or community activities" after "1819(a)(1)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after the date of enactment of this Act.

By Mr. REED (for himself, Ms. MURKOWSKI, and Mr. WHITEHOUSE):

S. 1188. A bill to amend the Public Health Service Act with respect to mental health services; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce, along with Senators MURKOWSKI and WHITEHOUSE, the Community Mental Health Services Improvement Act. For decades, we have known that people suffering from mental illness die sooner—on average 25 years sooner—and have higher rates of disability than the general population. People with mental illness are at greater risk of preventable health conditions such as heart disease and diabetes. With this legislation, we are taking steps to address these disturbing trends.

We know that mental health and physical health are inter-related. Yet historically mental health and physical health have been treated separately. This legislation would integrate care in one setting.

In a recent survey, 91 percent of community mental health centers said that

improving the quality of health care is a priority. However, only one-third have the capacity to provide health care on site, and only one-fifth provide medical referrals off site. The centers identified a lack of financial resources as the biggest barrier to integrating treatment.

Accordingly, this legislation provides grants to integrate treatment for mental health, substance abuse, and primary and specialty care. Grantees can use the funds for screenings, basic health care services on site, referrals, or information technology.

This legislation also comprehensively responds to the well identified mental health workforce crisis by providing grants for a wide range of innovative recruitment and retention efforts, including loan forgiveness and repayment programs, to placement and support for new mental health professionals, and expanded mental health education and training programs.

Finally, this legislation provides grants for tele-mental health in medically underserved areas, and invests in health IT for mental health providers. These proposals address the twin goals of improving the quality of mental health treatment while expanding access to that treatment in rural and underserved areas.

This bipartisan legislation has the overwhelming support of the mental health community. It has been endorsed by the National Council for Community Behavioral Healthcare, the National Alliance on Mental Illness, Mental Health America, the Campaign for Mental Health Reform, and the American Psychological Association. I am especially grateful for the support of the Rhode Island Council of Community Mental Health Organizations, whose members treat close to 15,000 Rhode Islanders of all ages.

As a member of the Senate Committee on Health, Education, Labor, and Pensions, I look forward to our upcoming work on reforming our nation's health care system—and including important improvements to prevent and treat mental and physical illnesses and conditions. It is my hope that this year we can truly begin to address the challenge of comprehensively improving and expanding access to mental health services.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1188

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Mental Health Services Improvement Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) almost 60,000,000 Americans, or one in four adults and one in five children, have a mental illness that can be diagnosed and treated in a given year;

(2) mental illness costs our economy more than \$80,000,000,000 annually, accounting for 15 percent of the total economic burden of disease;

(3) alcohol and drug abuse contributes to the death of more than 100,000 people and costs society upwards of half a trillion dollars a year;

(4) individuals with serious mental illness die on average 25 years sooner than individuals in the general population; and

(5) community mental and behavioral health organizations provide cost-efficient and evidence-based treatment and care for millions of Americans with mental illness and addiction disorders.

#### SEC. 3. CO-LOCATING PRIMARY AND SPECIALTY CARE IN COMMUNITY-BASED MENTAL HEALTH SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et seq.) is amended by adding at the end the following:

#### "SEC. 520K. GRANTS FOR CO-LOCATING PRIMARY AND SPECIALTY CARE IN COMMUNITY-BASED MENTAL HEALTH SETTINGS.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a qualified community mental health program defined under section 1913(b)(1).

"(2) SPECIAL POPULATIONS.—The term 'special populations' refers to the following 3 groups:

"(A) Children and adolescents with mental and emotional disturbances who have co-occurring primary care conditions and chronic diseases.

"(B) Adults with mental illnesses who have co-occurring primary care conditions and chronic diseases.

"(C) Older adults with mental illnesses who have co-occurring primary care conditions and chronic diseases.

"(b) PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration and in coordination with the Director of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of coordinated and integrated services to special populations through the co-location of primary and specialty care services in community-based mental and behavioral health settings.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may require. Each such application shall include—

"(1) an assessment of the primary care needs of the patients served by the eligible entity and a description of how the eligible entity will address such needs; and

"(2) a description of partnerships, cooperative agreements, or other arrangements with local primary care providers, including community health centers, to provide services to special populations.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—For the benefit of special populations, an eligible entity shall use funds awarded under this section for—

"(A) the provision, by qualified primary care professionals on a reasonable cost basis, of—

“(i) primary care services on site at the eligible entity;

“(ii) diagnostic and laboratory services; or

“(iii) adult and pediatric eye, ear, and dental screenings;

“(B) reasonable costs associated with medically necessary referrals to qualified specialty care professionals as well as to other coordinators of care or, if permitted by the terms of the grant, for the provision, by qualified specialty care professionals on a reasonable cost basis on site at the eligible entity;

“(C) information technology required to accommodate the clinical needs of primary and specialty care professionals; or

“(D) facility improvements or modifications needed to bring primary and specialty care professionals on site at the eligible entity.

“(2) LIMITATION.—Not to exceed 15 percent of grant funds may be used for activities described in subparagraphs (C) and (D) of paragraph (1).

“(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(f) EVALUATION.—Not later than 3 months after a grant or cooperative agreement awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant or agreement.

“(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate the activities funded under this section. The report shall include an evaluation of the impact of co-locating primary and specialty care in community mental and behavioral health settings on overall patient health status and recommendations on whether or not the demonstration program under this section should be made permanent.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$50,000,000 for fiscal year 2010 and such sums as may be necessary for each of fiscal years 2011 through 2014.”.

#### **SEC. 4. INTEGRATING TREATMENT FOR MENTAL HEALTH AND SUBSTANCE ABUSE CO-OCCURRING DISORDERS.**

Section 5201 of the Public Health Service Act (42 U.S.C. 290bb-40) is amended—

(1) by striking subsection (i) and inserting the following:

“(j) FUNDING.—The Secretary shall make available to carry out this section, \$14,000,000 for fiscal year 2010, \$20,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2014. Such sums shall be made available in equal amount from amounts appropriated under sections 509 and 520A.”; and

(2) by inserting before subsection (j), the following:

“(i) COMMUNITY MENTAL HEALTH PROGRAM.—For purposes of eligibility under this section, the term ‘private nonprofit organization’ includes a qualified community mental health program as defined under section 1913(b)(1).”.

#### **SEC. 5. IMPROVING THE MENTAL HEALTH WORKFORCE.**

(a) NATIONAL HEALTH SERVICE CORPS.—Paragraph (1) of section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)) is

amended by inserting “and community mental health centers meeting the criteria specified in section 1913(c)” after “Social Security Act (42 U.S.C. 1395x(aa)).”.

(b) RECRUITMENT AND RETENTION OF MENTAL HEALTH PROFESSIONALS.—Subpart X of part D of title III of the Public Health Service Act (42 U.S.C. 256f et seq.) is amended by adding at the end the following:

#### **“SEC. 340H. GRANTS FOR RECRUITMENT AND RETENTION OF MENTAL HEALTH PROFESSIONALS.**

“(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to States, territories, and Indian tribes or tribal organizations for innovative programs to address the behavioral and mental health workforce needs of designated mental health professional shortage areas.

“(b) USE OF FUNDS.—An eligible entity shall use grant funds awarded under this section for—

“(1) loan forgiveness and repayment programs (to be carried out in a manner similar to the loan repayment programs carried out under subpart III of part D) for behavioral and mental health professionals who—

“(A) agree to practice in designated mental health professional shortage areas;

“(B) are graduates of programs in behavioral or mental health;

“(C) agree to serve in community-based non-profit entities, or as public mental health professionals for the Federal, State or local government; and

“(D) agree to—

“(i) provide services to patients regardless of such patients’ ability to pay; and

“(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

“(2) behavioral and mental health professional recruitment and retention efforts, with a particular emphasis on candidates from racial and ethnic minority and medically underserved communities;

“(3) grants or low-interest or no-interest loans for behavioral and mental health professionals who participate in the Medicaid program under title XIX of the Social Security Act to establish or expand practices in designated mental health professional shortage areas, or to serve in qualified community mental health programs as defined in section 1913(b)(1);

“(4) placement and support for behavioral and mental health students, residents, trainees, and fellows or interns; or

“(5) continuing behavioral and mental health education, including distance-based education.

“(c) APPLICATION.—

“(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) ASSURANCES.—The application shall include assurances that the applicant will meet the requirements of this subsection and that the applicant possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

“(d) MATCHING REQUIREMENT.—The Secretary may not make a grant to an eligible entity under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the activities for which the grant was awarded,

the entity will provide non-Federal contributions in an amount equal to not less than 35 percent of Federal funds provided under the grant. The entity may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services, and may provide the contributions from State, local, or private sources.

“(e) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this section shall be expended to supplement, and not supplant, the expenditures of the eligible entity and the value of in-kind contributions for carrying out the activities for which the grant was awarded.

“(f) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(g) EVALUATION.—Not later than 3 months after a grant awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant.

“(h) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to behavioral and mental health services in designated mental health professional shortage areas.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.”.

(c) BEHAVIORAL AND MENTAL HEALTH EDUCATION AND TRAINING PROGRAMS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

#### **“SEC. 506C. GRANTS FOR BEHAVIORAL AND MENTAL HEALTH EDUCATION AND TRAINING PROGRAMS.**

“(a) DEFINITION.—For the purposes of this section, the term ‘related mental health personnel’ means an individual who—

“(1) facilitates access to a medical, social, educational, or other service; and

“(2) is not a mental health professional, but who is the first point of contact with persons who are seeking mental health services.

“(b) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall establish a program to increase the number of trained behavioral and mental health professionals and related mental health personnel by awarding grants on a competitive basis to mental and behavioral health nonprofit organizations or accredited institutions of higher education to enable such entities to establish or expand accredited mental and behavioral health education programs.

“(c) APPLICATION.—

“(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) ASSURANCES.—The application shall include assurances that the applicant will meet the requirements of this subsection and that the applicant possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate

and report on the outcomes resulting from such activities.

“(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applicants that—

“(1) demonstrate a familiarity with the use of evidenced-based methods in behavioral and mental health services;

“(2) provide interdisciplinary training experiences; and

“(3) demonstrate a commitment to training methods and practices that emphasize the integrated treatment of mental health and substance abuse disorders.

“(e) USE OF FUNDS.—Funds awarded under this section shall be used to—

“(1) establish or expand accredited behavioral and mental health education programs, including improving the coursework, related field placements, or faculty of such programs; or

“(2) establish or expand accredited mental and behavioral health training programs for related mental health personnel.

“(f) REQUIREMENTS.—The Secretary may award a grant to an eligible entity only if such entity agrees that—

“(1) any behavioral or mental health program assisted under the grant will prioritize cultural competency and the recruitment of trainees from racial and ethnic minority and medically underserved communities; and

“(2) with respect to any violation of the agreement between the Secretary and the entity, the entity will pay such liquidated damages as prescribed by the Secretary.

“(g) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(h) EVALUATION.—Not later than 3 months after a grant awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant.

“(i) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to behavioral and mental health services in designated mental health professional shortage areas.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$4,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.”

#### **SEC. 6. IMPROVING ACCESS TO MENTAL HEALTH SERVICES IN MEDICALLY-UNDERSERVED AREAS.**

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et seq.), as amended by section 3, is amended by inserting after section 520A the following:

#### **“SEC. 520B. GRANTS FOR TELE-MENTAL HEALTH IN MEDICALLY-UNDERSERVED AREAS.**

“(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall award grants to eligible entities to provide tele-mental health in medically underserved areas.

“(b) ELIGIBLE ENTITY.—To be eligible for assistance under the program under subsection (a), an entity shall be a qualified community mental health program (as defined in section 1913(b)(1)).

“(c) APPLICATION.—

“(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) ASSURANCES.—The application shall include assurances that the applicant will meet the requirements of this subsection and that the applicant possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

“(d) USE OF FUNDS.—An eligible entity shall use funds received under a grant under this section for—

“(1) the provision of tele-mental health services; or

“(2) infrastructure improvements for the provision of tele-mental health services.

“(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(f) EVALUATION.—Not later than 3 months after a grant awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant.

“(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate the activities funded under this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.”

#### **SEC. 7. IMPROVING HEALTH INFORMATION TECHNOLOGY FOR MENTAL HEALTH PROVIDERS.**

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 5(c), is further amended by adding at the end the following:

#### **“SEC. 506D. IMPROVING HEALTH INFORMATION TECHNOLOGY FOR MENTAL HEALTH PROVIDERS.**

“(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration and the National Coordinator for Health Information Technology to—

“(1) develop and implement a plan for ensuring that various components of the National Health Information Infrastructure, including data and privacy standards, electronic health records, and community and regional health networks, address the needs of mental health and substance abuse treatment providers; and

“(2) finance related infrastructure improvements, technical support, personnel training, and ongoing quality improvements.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.”

By Mr. WYDEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mr. MENENDEZ, Mr. MCCAIN, Mrs. GILLIBRAND, and Mr. ENSIGN):

S. 1192. A bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on mobile wireless communications services, providers, or property; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to join my colleague Senator WYDEN in reintroducing legislation that will stop the increasing financial burden being placed on wireless consumers by discriminatory taxes. On average, the typical consumer pays 15.2 percent of his/her total wireless bill in Federal, State, and local taxes, fees and surcharges—this is compared to the 7.07 percent average tax rate for other goods and services.

The Mobile Wireless Tax Fairness Act of 2009 would ensure that these tax rates don't increase further by prohibiting States and local governments from imposing any new discriminatory tax on mobile services, mobile service providers, or mobile service property for a period of 5 years. The bill defines “new discriminatory tax” as a tax imposed on mobile services, providers, or property that is not generally imposed on other types of services or property, or that is generally imposed at a lower rate.

The wireless era has changed the way the world communicates. To date, there are more than 270 million wireless subscribers in the United States, and consumers used more than 2.2 trillion minutes of airtime from July 2007 to June 2008—that is more than 6 billion minutes per day! And with this growth, more people are using the cell phone as a primary communication device as well as for data and Internet services—approximately 20 percent of households have “cut the cord” and use cell phones exclusively. The increased mobility and access wireless communications provide have improved our lives, our safety, and the efficiency of our work and businesses. It is estimated that the productivity value of all mobile wireless services was worth \$185 billion in 2005 alone.

However, as more consumers and businesses embrace wireless technologies and applications, more States and local governments are embracing it as a revenue source and applying these excessive and discriminatory taxes, which show up on consumers' bills each month. In fact, the effective rate of taxation on wireless services has increased four times faster than the rate on other taxable goods and services between January 2003 and January 2007.

These excessive and discriminatory taxes discourage wireless adoption and use, primarily with low-income individuals and families that still view a cellular phone as a luxury when many Americans consider it a necessity. By banning these taxes, we can equalize the taxation of the wireless industry with that of other goods and services

and protect the wireless consumer from the weight of exorbitant fees, surcharges, and general business taxes. We cannot allow this essential and innovative industry as well as the consumers who benefit from its amazing services and applications to suffer excessive tax rates.

Placing a moratorium on new discriminatory wireless taxes will ensure that consumers continue to reap the benefits of wireless services. Congress took similar action with the Internet—passing the Internet Tax Freedom Act Amendments Act of 2007 last session—because of the incredible impact the Internet will continue to have on consumers and businesses alike. The future of wireless is just as bright and that is why we must ensure its continued growth.

It is confounding that telecommunications, one of the most essential components of our economy and our daily lives, is one of the most highly taxed sectors. That is why I sincerely hope that my colleagues join Senator WYDEN and me in supporting this critical bipartisan legislation so we can continue our efforts to curtail discriminatory taxes on these vital services so that all Americans can leverage the benefits they offer. I would like to thank Senator MCCAIN for his past leadership on this issue and for cosponsoring this consumer-friendly legislation.

By Ms. SNOWE (for herself and Ms. KLOBUCHAR):

S. 1193. A bill to amend title 49, United States Code, to enhance aviation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join with my colleague, Senator KLOBUCHAR, to introduce legislation that I believe continues to be crucial in the effort to improve aviation safety. Before I begin, I want to recognize the deliberate and unflagging efforts of Senator KLOBUCHAR, whose commitment to improve the safety of commercial aviation in this country is so admirable.

We all remember last spring's news: a U.S. carrier continued flying aircraft even though critical safety checks involving cracks in their fuselages had not been performed on approximately 50 jets. In fact, an independent review concluded that these flights potentially endangered over six million passengers. What was the punitive or disciplinary action taken against the inspector who condoned—in fact, encouraged—those aircraft to continue flying? Nothing. The PMI, or supervising inspector, continued in his role. Also, as many of you will recall, last April, American Airlines cancelled nearly 2,000 flights in order to catch up on inspections of aircraft wiring—inspections that should have been performed previously under its agreement with the FAA.

This startling news was compounded by a Department of Transportation Inspector General's report in June disclosing so-called safety inspectors are turning a blind eye to violations. Now, according to a New York Times article dated June 4, an inspector reported to his superiors that Colgan Air had been having trouble with their most recent purchase, the Bombardier Q400. The same aircraft that crashed outside of Buffalo, New York this past March. What did his superiors do with this information? They transferred the inspector to a different job, and reportedly buried the report.

The FAA's overarching role is to serve as a protector of the public trust; not as a public relations and management tool for the commercial airlines. What I find most offensive throughout these reports is the willingness by the FAA to ignore safety concerns or inspection violations, to presume that due to the tremendous level of success regarding safety protections for so long, they no longer are required to follow the procedures that created that high level of safety, instead, as the Inspector General's report indicated, they want to "avoid a negative effect on the FAA" by enforcing those measures.

That is why Senator KLOBUCHAR and I are committed to closing the revolving door between the airlines and the FAA. We need to codify our safety expectations into law and hold anyone who tries to undermine the integrity of the safety process accountable. By establishing a cooling-off period so that FAA inspectors cannot immediately go to work for an airline they used to inspect, and demanding that the FAA establish a national review team of experienced inspectors to conduct periodic, unannounced audits of FAA air carrier inspection facilities will guarantee that aircraft inspections are carried out in a rigorous and timely fashion. The American people, not the airlines, are the primary responsibility of the FAA. It is my hope that these provisions will assist in returning the FAA to their core mission: safety.

Ms. CANTWELL (for herself, Ms. SNOWE, Mr. ROCKEFELLER, and Mrs. HUTCHISON):

S. 1194. A bill to reauthorize the Coast Guard for fiscal years 2010 and 2011, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, for countless communities around the country, our oceans are the heartbeat of their histories and economies. In fact, according to a report by the Joint Oceans Commission, healthy oceans and coasts are an important means of transportation, trade, and national security. Ocean-dependent industries generate about \$138 billion and support millions of jobs in the United States' economy.

According to the National Ocean Economic Project, 30 U.S. coastal States accounted for 82 percent of total population and 81 percent of all U.S. jobs in 2006. In my home State of Washington, the Port of Seattle's facilities and activities alone support 190,000 jobs, and the State has 3,000 fishing vessels that employ 10,000 fishermen.

There is no group that is more important to the health and safety of our ports, fishing industry, and maritime community than the U.S. Coast Guard. The brave men and women of the U.S. Coast Guard are charged with many missions—from serving as our environmental stewards, performing search and rescue missions, and protecting us from terrorism, to helping clean up oil spills and enforcing fisheries laws. They are largely responsible for keeping these coastal economic engines running, and have proved time and time again that they are, as their motto says, "Always ready."

But for the Coast Guard to do its job Congress needs to support those who serve in its ranks. We have a responsibility to ensure the Coast Guard has the tools it needs to carry out the missions of today, while looking ahead to the challenges of tomorrow.

The bill I am introducing today, The Coast Guard Authorization Act for fiscal years 2010 and 2011, is designed to help the Coast Guard move toward the future, and ensure our maritime industries remain the clean and safe economic engine our nation's coastal communities have depended on for generations.

As the U.S. experiences major oil spills, tropical storms, hurricanes, and terrorism, our maritime economy faces ever-present threats. Congress needs to uphold its end of the bargain and provide the legislative backing the Coast Guard needs to do its job, and do its job well.

This bill gives the Coast Guard greater authority to work with international maritime authorities, get better access to global safety and security information, and work more cooperatively with other nations on law enforcement; allows the Coast Guard to rework its command structure and increase its alignment with other armed forces; better supports the men and women who serve in the U.S. Coast Guard by allowing greater reimbursement for medical-related expenses and allowing Coast Guard service-members to participate in the Armed Forces Retirement Home system; and directs the Coast Guard to conduct a thorough cost-benefit analysis for recapitalizing its polar icebreaker fleet so the service can prepare for future mission demands in the Arctic.

This bill also contains the most ambitious reform of its acquisitions program in the Coast Guard's history. The Coast Guard is struggling right now to replace their rapidly aging fleet of

ships, aircraft, and facilities. At a cost of \$24 billion, the Deepwater program is the Coast Guard's largest and most complex acquisition program ever. Congress has a responsibility to ensure there is transparency and oversight so this program is as efficient and effective as possible.

Unfortunately, the Coast Guard's Deepwater program has experienced major failures and setbacks. The program utilized a private sector lead systems integrator, LSI, known as Integrated Coast Guard Systems, ICGS, to oversee acquisition of a "system of systems." When the Deepwater contract was originally awarded in 2002, the Coast Guard did not have the personnel within their ranks to manage such a large contract. Congress was told that outsourcing that role to industry would save the Coast Guard time and money over the long run.

That approach, which may have seemed innovative at the time, has not produced the promised results. Instead of cost and time savings, we have seen cost overruns, schedule delays, less competition and inadequate technical oversight.

The Department of Homeland Security Inspector General, IG, released three reports in 2006 and early 2007 detailing some of the problems with Deepwater, including problems with electronics equipment, crucial design flaws and cost overruns created by a faulty contract structure and lack of oversight, and serious issues with the 123-foot cutter conversion project.

This legislation wipes the slate clean and makes fundamental changes to the Coast Guard's acquisition program. It requires the Coast Guard to abandon the industry-led Lead Systems Integrator and get back to basics—full and open competition for all future assets.

It requires a completely new "analysis of alternatives" for all future Deepwater acquisitions to ensure that the Coast Guard is getting the assets best-suited for their needs.

It requires the Coast Guard to follow a rigorous acquisitions process to make sure taxpayer dollars are spent wisely.

And, it gives the Coast Guard the tools it needs to manage acquisitions effectively, including requiring the Coast Guard to make internal management changes to ensure open competition, increase technical oversight and improve reporting to Congress.

This legislation takes major steps towards getting the Coast Guard the assets they need while ensuring responsible management of taxpayer dollars. I look forward to working with my colleagues to enact the changes I am proposing today so we can get this program back on track and help the Coast Guard accomplish its missions.

If we fail to pass legislation, we are doing a major disservice to those very people we depend on. We will do so as they continue to place their lives at

risk while they perform the mission of the Coast Guard.

This bill is good for taxpayers, good for the Coast Guard, and good for every American depending on them to be, "Always ready."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1194

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act for Fiscal Years 2010 and 2011".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

#### TITLE II—ADMINISTRATION

Sec. 201. Authority to distribute funds through grants, cooperative agreements, and contracts to maritime authorities and organizations.

Sec. 202. Assistance to foreign governments and maritime authorities.

Sec. 203. Cooperative agreements for industrial activities.

Sec. 204. Defining Coast Guard vessels and aircraft.

#### TITLE III—ORGANIZATION

Sec. 301. Vice commandant; vice admirals.

Sec. 302. Number and distribution of commissioned officers on the active duty promotion list.

#### TITLE IV—PERSONNEL

Sec. 401. Leave retention authority.

Sec. 402. Legal assistance for Coast Guard reservists.

Sec. 403. Reimbursement for certain medical related expenses.

Sec. 404. Reserve commissioned warrant officer to lieutenant program.

Sec. 405. Enhanced status quo officer promotion system.

Sec. 406. Appointment of civilian Coast Guard judges.

Sec. 407. Coast Guard participation in the Armed Forces Retirement Home system.

#### TITLE V—ACQUISITION REFORM

Sec. 501. Chief Acquisition Officer.

Sec. 502. Acquisitions.

#### CHAPTER 15—ACQUISITIONS

##### "SUBCHAPTER 1—GENERAL PROVISIONS

"Sec.

"561. Acquisition directorate

"562. Senior acquisition leadership team

"563. Improvements in Coast Guard acquisition management

"564. Recognition of Coast Guard personnel for excellence in acquisition

"565. Prohibition on use of lead systems integrators

"566. Required contract terms

"567. Department of Defense consultation

"568. Undefined contractual actions

##### "SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

"Sec.

"571. Identification of major system acquisitions

"572. Acquisition

"573. Preliminary development and demonstration

"574. Acquisition, production, deployment, and support

"575. Acquisition program baseline breach

##### "SUBCHAPTER 3—DEFINITIONS

"Sec.

"581. Definitions"

Sec. 503. Report and guidance on excess pass-through charges.

#### TITLE VI—SHIPPING AND NAVIGATION

Sec. 601. Technical amendments to chapter 313 of title 46, United States Code.

Sec. 602. Clarification of rulemaking authority.

Sec. 603. Coast Guard maintenance of LORAN-C navigation system.

Sec. 604. Icebreakers.

Sec. 605. Vessel size limits.

#### TITLE VII—VESSEL CONVEYANCE

Sec. 701. Short title.

Sec. 702. Conveyance of Coast Guard vessels for public purposes.

#### TITLE I—AUTHORIZATIONS

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for each of fiscal years 2010 and 2011 as follows:

(1) For the operation and maintenance of the Coast Guard, \$6,556,188,000, of which \$24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,383,980,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended; such funds appropriated for personnel compensation and benefits and related costs of acquisition, construction, and improvements shall be available for procurement of services necessary to carry out the Integrated Deepwater Systems program.

(3) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,361,245,000.

(4) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, \$13,198,000.

(5) For research, development, test, and evaluation programs related to maritime technology, \$19,745,000.

(6) For operation and maintenance of the Coast Guard reserve program, \$133,632,000.

##### SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 49,954 as of September 30, 2010, and 52,452 as of September 30, 2011.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:



(1) For recruit and special training, 2,500 student years for fiscal year 2010, and 2,625 student years for fiscal year 2011.

(2) For flight training, 170 student years for fiscal year 2010 and 179 student years for fiscal year 2011.

(3) For professional training in military and civilian institutions, 350 student years for fiscal year 2010 and 368 student years for fiscal year 2011.

(4) For officer acquisition, 1,300 student years for fiscal year 2010 and 1,365 student years for fiscal year 2011.

## TITLE II—ADMINISTRATION

### SEC. 201. AUTHORITY TO DISTRIBUTE FUNDS THROUGH GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS TO MARITIME AUTHORITIES AND ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

“(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—The Commandant may, after consultation with the Secretary of State, make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety and environmental requirements, classification, and port state or flag state law enforcement or oversight.”.

### SEC. 202. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, as amended by section 201, is further amended by adding at the end the following:

“(d) AUTHORIZED ACTIVITIES.—

“(1) The Commandant may transfer or expend funds from any appropriation available to the Coast Guard for—

“(A) the activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

“(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

“(C) seminars and conferences involving members of maritime authorities of foreign governments;

“(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

“(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

“(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.”.

### SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “All orders”; and

(2) by adding at the end the following:

“(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.”.

### SEC. 204. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 638 the following new section:

#### “§ 638a. Coast Guard vessels and aircraft defined

“For the purposes of sections 637 and 638 of this title, the term Coast Guard vessels and aircraft means—

“(1) any vessel or aircraft owned, leased, transferred to, or operated by the Coast Guard and under the command of a Coast Guard member; or

“(2) any other vessel or aircraft under the tactical control of the Coast Guard on which one or more members of the Coast Guard are assigned and conducting Coast Guard missions.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 17 of such title is amended by inserting after the item relating to section 638 the following:

“638a. Coast Guard vessels and aircraft defined.”.

## TITLE III—ORGANIZATION

### SEC. 301. VICE COMMANDANT; VICE ADMIRALS.

(a) VICE COMMANDANT.—The fourth sentence of section 47 of title 14, United States Code, is amended by striking “vice admiral” and inserting “admiral”.

(b) VICE ADMIRALS.—Section 50 of such title is amended to read as follows:

#### “§ 50. Vice admirals

“(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

“(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

“(B) shall perform such duties as the Commandant may prescribe.

“(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

“(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

“(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

“(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

“(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

“(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

“(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

“(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade

of rear admiral as if the officer was serving in the officer's permanent grade.

“(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.”.

(c) REPEAL.—Section 50a of such title is repealed.

(d) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

“(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

“(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.”; and

(2) by striking “Area Commander, or Chief of Staff” in subsection (d)(2) and inserting “or Vice Admiral”.

(e) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

#### “§ 47. Vice commandant; appointment”.

(2) The table of contents for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

“47. Vice Commandant; appointment.”;

(B) by striking the item relating to section 50a; and

(C) by striking the item relating to section 50 and inserting the following:

“50. Vice admirals.”.

(f) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking “subsection” in the fifth sentence and inserting “section”.

(g) TREATMENT OF INCUMBENTS; TRANSITION.—

(1) Notwithstanding any other provision of law, the officer who, on the date of enactment of this Act, is serving as Vice Commandant—

(A) shall continue to serve as Vice Commandant;

(B) shall have the grade of admiral with pay and allowances of that grade; and

(C) shall not be required to be reappointed by reason of the enactment of that Act.

(2) Notwithstanding any other provision of law, an officer who, on the date of enactment of this Act, is serving as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his duties and appointed and confirmed to another position as a vice admiral or admiral; and

(B) for the purposes of transition, may continue, for not more than 1 year after the date of enactment of this Act, to perform the duties of the officer's former position and any



other such duties that the Commandant prescribes.

**SEC. 302. NUMBER AND DISTRIBUTION OF COMMISSIONED OFFICERS ON THE ACTIVE DUTY PROMOTION LIST.**

(a) IN GENERAL.—Section 42 of title 14, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200. This total number may be temporarily increased up to 2 percent for no more than the 60 days that follow the commissioning of a Coast Guard Academy class.

“(b) The total number of commissioned officers authorized by this section shall be distributed in grade not to exceed the following percentages:

“(1) 0.375 percent for rear admiral.

“(2) 0.375 percent for rear admiral (lower half).

“(3) 6.0 percent for captain.

“(4) 15.0 percent for commander.

“(5) 22.0 percent for lieutenant commander.

The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce any of the percentages set forth in paragraphs (1) through (5) and apply that total percentage reduction to any other lower grade or combination of lower grades.

“(c) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.”;

(2) by striking subsection (e) and inserting the following:

“(e) The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.”; and

(3) by striking the caption of such section and inserting the following:

“§ 42. Number and distribution of commissioned officers on the active duty promotion list”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

“42. Number and distribution of commissioned officers on the active duty promotion list.”.

**TITLE IV—PERSONNEL**

**SEC. 401. LEAVE RETENTION AUTHORITY.**

Section 701(f)(2) of title 10, United States Code, is amended by inserting “or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 42 U.S.C. 5121 et seq.)” after “operation”.

**SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERVISTS.**

Section 1044(a)(4) of title 10, United States Code, is amended—

(1) by striking “(as determined by the Secretary of Defense),” and inserting “(as determined by the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy).”; and

(2) by striking “prescribed by the Secretary of Defense,” and inserting “prescribed by Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy.”.

**SEC. 403. REIMBURSEMENT FOR CERTAIN MEDICAL-RELATED TRAVEL EXPENSES.**

Section 1074i(a) of title 10, United States Code, is amended—

(1) by striking “IN GENERAL.—In” and inserting “IN GENERAL.—(1) In”; and

(2) by adding at the end the following:

“(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary’s family who is at least 21 years of age.”.

**SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.**

Section 214(a) of title 14, United States Code, is amended to read as follows:

“(a) The President may appoint temporary commissioned officers—

“(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine; and

“(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.”.

**SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.**

(a) Section 253(a) of title 14, United States Code, is amended—

(1) by inserting “and” after “considered,”; and

(2) by striking “consideration, and the number of officers the board may recommend for promotion” and inserting “consideration”.

(b) Section 258 of such title is amended—

(1) by inserting “(a)” before “The Secretary”; and

(2) by adding at the end the following:

“(b) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

“(1) specific direction relating to the needs of the service for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

“(2) such other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions.

Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.”.

(c) Section 259(a) of such title is amended by striking “board” the second place it appears and inserting “board, giving due consideration to the needs of the service for officers with particular skills so noted in the specific direction furnished pursuant to section 258 of this title.”.

(d) Section 260(b) of such title is amended by inserting “to meet the needs of the service (as noted in the specific direction furnished the board under section 258 of this title)” after “qualified for promotion”.

**SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.**

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) APPOINTMENT OF JUDGES.—The Secretary may appoint civilian employees of the Department of Homeland Security as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10, United States Code.”.

**SEC. 407. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME SYSTEM.**

(a) ELIGIBILITY UNDER THE ARMED FORCES RETIREMENT HOME ACT.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking “does not include the Coast Guard when it is not operating as a service of the Navy.” in paragraph (4) and inserting “has the meaning given such term in section 101(4) of title 10.”;

(2) by striking “and” in paragraph (5)(C);

(3) by striking “Affairs.” in paragraph (5)(D) and inserting “Affairs; and”;

(4) by adding at the end of paragraph (5) the following:

“(E) the Assistant Commandant of the Coast Guard for Human Resources.”; and

(5) by adding at the end of paragraph (6) the following:

“(E) The Master Chief Petty Officer of the Coast Guard.”.

(b) DEDUCTIONS.—

(1) Section 2772 of title 10, United States Code, is amended—

(A) by striking “of the military department” in subsection (a);

(B) by striking “Armed Forces Retirement Home Board” in subsection (b) and inserting “Chief Operating Officer of the Armed Forces Retirement Home”; and

(C) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) by striking “Armed Forces Retirement Home Board,” in paragraph (3) and inserting “Chief Operating Officer of the Armed Forces Retirement Home.”; and

(B) by striking “does not include the Coast Guard when it is not operating as a service of the Navy.” in paragraph (4) and inserting “has the meaning given such term in section 101(4) of title 10.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after January 1, 2010.

**TITLE V—ACQUISITION REFORM****SEC. 501. CHIEF ACQUISITION OFFICER.**

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

**“§ 55. Chief Acquisition Officer**

“(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

“(b) QUALIFICATIONS.—The Chief Acquisition Officer shall be an acquisition professional with a Level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

- “(1) the program executive officer;
- “(2) the program manager of a Level 1 or Level 2 acquisition project or program;
- “(3) the deputy program manager of a Level 1 or Level 2 acquisition; or
- “(4) a combination of such positions.

“(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

“(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

“(2) maximizing the use of full and open competition at the prime contract and sub-contract levels in the acquisition of property, capabilities, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of competitive proposals from responsible sources to fulfill the Government’s requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property or service procured;

“(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, as appropriate, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

“(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

“(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

“(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

“(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

“(8) developing strategies and specific plans for hiring, training, and professional development; and

“(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 14, United

States Code, is amended by adding at the end the following:

“55. Chief Acquisition Officer.”.

(c) SELECTION DEADLINE.—As soon as practicable after the date of enactment of this Act, but no later than October 1, 2011, the Commandant of the Coast Guard shall select a Chief Acquisition Officer under section 55 of title 14, United States Code.

**SEC. 502. ACQUISITIONS.**

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 13 the following:

**“CHAPTER 15. ACQUISITIONS****“SUBCHAPTER 1—GENERAL PROVISIONS**

“Sec.

“561. Acquisition directorate

“562. Senior acquisition leadership team

“563. Improvements in Coast Guard acquisition management

“564. Recognition of Coast Guard personnel for excellence in acquisition

“565. Prohibition on use of lead systems integrators

“566. Required contract terms

“567. Department of Defense consultation

“568. Undefined contractual actions

**“SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES**

“Sec.

“571. Identification of major system acquisitions

“572. Acquisition

“573. Preliminary development and demonstration

“574. Acquisition, production, deployment, and support

“575. Acquisition program baseline breach

**“SUBCHAPTER 3—DEFINITIONS**

“Sec.

“581. Definitions

**“SUBCHAPTER 1—GENERAL PROVISIONS****“§ 561. Acquisition directorate**

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

“(b) MISSION.—The mission of the acquisition directorate is—

“(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

“(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard’s missions and deliver the best value products and services to the Nation.

**“§ 562. Senior acquisition leadership team**

“(a) ESTABLISHMENT.—The Commandant shall establish a senior acquisition leadership team within the Coast Guard comprised of—

“(1) the Vice Commandant;

“(2) the Deputy and Assistant Commandants;

“(3) appropriate senior staff members of each Coast Guard directorate;

“(4) appropriate senior staff members for each assigned field activity or command; and

“(5) any other Coast Guard officer or employee designated by the Commandant.

“(b) FUNCTION.—The senior acquisition leadership team shall—

“(1) meet at the call of the Commandant at such places and such times as the Commandant may require;

“(2) provide advice and information on operational and performance requirements of the Coast Guard;

“(3) identify gaps and vulnerabilities in the operational readiness of the Coast Guard;

“(4) make recommendations to the Commandant and the Chief Acquisition Officer to remedy the identified gaps and vulnerabilities in the operational readiness of the Coast Guard; and

“(5) contribute to the development of a professional, experienced acquisition workforce by providing acquisition-experience tours of duty and educational development for officers and employees of the Coast Guard.

**“§ 563. Improvements in Coast Guard acquisition management**

“(a) PROJECT AND PROGRAM MANAGERS.—

“(1) PROJECT OR PROGRAM MANAGER DEFINED.—In this section, the term ‘project or program manager’ means an individual designated—

“(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

“(B) to manage cost, schedule, and performance of the acquisition or project or program.

“(2) LEVEL 1 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

“(3) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

“(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition programs and projects. The guidance shall address, at a minimum—

“(1) the qualifications required for project or program managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to project or program management positions; and

“(2) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program.

“(c) ACQUISITION WORKFORCE.—

“(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard’s acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

“(2) REQUIRED POSITIONS.—The Commandant shall ensure that members of the acquisition workforce have expertise, education, and training in at least 1 of the following acquisition career fields:

“(A) Acquisition logistics.

“(B) Auditing.

“(C) Business, cost estimating, and financial management.

“(D) Contracting.

“(E) Facilities engineering.

“(F) Industrial or contract property management.

“(G) Information technology.

“(H) Manufacturing, production, and quality assurance.

“(I) Program management.

“(J) Purchasing.

“(K) Science and technology.

“(L) Systems planning, research, development, and engineering.

“(M) Test and evaluation.

“(3) ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.—

“(A) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, the Commandant may—

“(i) designate any category of acquisition positions within the Coast Guard as shortage category positions; and

“(ii) use the authorities in such sections to recruit and appoint highly qualified person directly to positions so designated.

“(B) LIMITATION.—The Commandant may not appoint a person to a position of employment under this paragraph after September 30, 2012.

“(d) MANAGEMENT INFORMATION SYSTEM.—

“(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

“(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

“(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

“(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

“(e) CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

“(1) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

“(2) publish information on such career paths.

#### “§ 564. Recognition of Coast Guard personnel for excellence in acquisition

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

“(b) ELEMENTS.—The program shall include—

“(1) specific award categories, criteria, and eligibility and manners of recognition;

“(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

“(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

“(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the

performance of such individual so recognized warrants the award of such bonus.

#### “§ 565. Prohibition on use of lead systems integrators

“(a) IN GENERAL.—

“(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

“(2) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (b), shall use full and open competition for any acquisition contract awarded after the date of enactment of that Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations.

“(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

“(b) EXCEPTIONS.—

“(1) NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; NATIONAL SECURITY CUTTERS 2 AND 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program, the C4ISR projects directly related to the Integrated Deepwater Program, and National Security Cutters 2 and 3 if the Secretary of Homeland Security certifies that—

“(A) the acquisition is in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations; and

“(B) the acquisition and the use of a private sector entity as a lead systems integrator for the acquisition is in the best interest of the Federal Government.

“(2) TERMINATION DATE FOR EXCEPTIONS.—Except for the modification of delivery or task orders pursuant to Parts 4 and 42 of the Federal Acquisition Regulations, the Commandant may not use a private sector entity as a lead systems integrator after the earlier of—

“(A) September 30, 2012; or

“(B) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner.

#### “§ 566. Required contract terms

“(a) IN GENERAL.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 years and with a total acquisition cost that is equal to or exceeds \$10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011—

“(1) provides that all certifications for an end-state capability or asset under such con-

tract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

“(2) requires that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

“(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

“(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

“(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

“(b) PROHIBITED CONTRACT PROVISIONS.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

“(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

“(d) DEEPWATER TECHNICAL AUTHORITIES.—The Commandant shall maintain or designate the technical authorities to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 55 of this title.

#### “§ 567. Department of Defense consultation

“(a) IN GENERAL.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

“(b) INTER-SERVICE TECHNICAL ASSISTANCE.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

“(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

“(2) the use, as appropriate, of Navy technical expertise; and

“(3) the exchange of personnel between the Coast Guard and the Office of the Assistant

Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Commands, to facilitate the development of organic capabilities in the Coast Guard.

“(C) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

**“§ 568. Undefined contractual actions**

“(a) IN GENERAL.—The Coast Guard may not enter into an undefinitized contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

“(b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefinitized contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

“(c) REQUIREMENTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—

“(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

“(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

“(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

“(2) LIMITATION ON OBLIGATIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

“(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10);

“(B) operations to prevent or respond to a transportation security incident (as defined in section 70101(6) of title 46);

“(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

“(D) an operation in response to a natural disaster or major disaster or emergency des-

ignated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

“(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

“(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

“(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

“(g) DEFINITIONS.—In this section:

“(1) UNDEFINITIZED CONTRACTUAL ACTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘undefinitized contractual action’ means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

“(B) EXCLUSION.—The term ‘undefinitized contractual action’ does not include contractual actions with respect to—

“(i) foreign military sales;

“(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

“(iii) special access programs.

“(2) QUALIFYING PROPOSAL.—The term ‘qualifying proposal’ means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

**“SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES**

**“§ 571. Identification of major system acquisitions**

“(a) IN GENERAL.—

“(1) SUPPORT MECHANISMS.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for acquisitions under this subchapter.

“(2) MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

“(A) completes a mission analysis that—

“(i) identifies any gaps in capability; and

“(ii) develops a clear mission need; and

“(B) prepares a preliminary affordability assessment for the project or program.

“(b) ELEMENTS.—

“(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

“(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

“(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs for any such project or program.

“(d) DHS ACQUISITION APPROVAL.—A Level 1 or Level 2 acquisition project or program may not be implemented unless it is approved by the Department of Homeland Security Acquisition Review Board or the Joint Review Board.

**“§ 572. Acquisition**

“(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program approved under section 571(d) until the Commandant—

“(1) clearly defines the operational requirements for the project or program;

“(2) establishes the feasibility of alternatives;

“(3) develops an acquisition project or program baseline;

“(4) produces a life-cycle cost estimate; and

“(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

“(b) ANALYSIS OF ALTERNATIVES.—

“(1) IN GENERAL.—The Commandant shall conduct an analysis of alternatives for the asset or capability to be acquired in an analyze and select phase of the acquisition process.

“(2) REQUIREMENTS.—The analysis of alternatives shall be conducted by a Federally-funded research and development center, a qualified entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise and has no substantial financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

“(A) an assessment of the technical maturity, and technical and other risks;

“(B) an examination of capability, interoperability, and other disadvantages;

“(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard's overall performance needs;

“(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

“(E) when an alternative is an existing asset or prototype, an evaluation of relevant safety and performance records and costs;

“(F) a calculation of life-cycle costs including—

“(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

“(ii) an examination of likely production and deployment costs and levels of uncertainty associated with such estimated costs;

“(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

“(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

“(v) such additional measures as the Commandant or the Secretary of Homeland Security determines to be necessary for appropriate evaluation of the asset; and

“(G) the business case for each viable alternative.

“(c) TEST AND EVALUATION MASTER PLAN.—

“(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer shall approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

“(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

“(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

“(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

“(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

“(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

“(B) critical operational issues to be assessed in addition to the key performance parameters;

“(C) specific development test and evaluation phases and the scope of each phase;

“(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

“(E) early operational assessments to be performed, if any, and the scope of such assessments;

“(F) operational test and evaluation phases;

“(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

“(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

“(4) UPDATE.—The Chief Acquisition Officer shall approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

“(5) LIMITATION.—The Coast Guard may not—

“(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

“(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection

before the master plan is approved by the Chief Acquisition Officer.

“(d) LIFE-CYCLE COST ESTIMATES.—

“(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each Level 1 or Level 2 acquisition to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

“(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

“(3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

“(e) DHS ACQUISITION APPROVAL.—A project or program may not enter the obtain phase under section 573 unless the Department of Homeland Security Acquisition Review Board or the Joint Review Board (or other entity to which such responsibility is delegated by the Secretary of Homeland Security) has approved the analysis of alternatives for the project. The Joint Review Board may also approve the low rates initial production quantity for the project or program if such an initial production quantity is planned by the acquisition project or program and deemed appropriate by the Joint Review Board.

#### “§ 573. Preliminary development and demonstration

“(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life cycle cost estimates, and the development and demonstration requirements are met to confirm that the projects or programs meet the requirements described in the mission-needs statement and the operational-requirements document and the following development and demonstration objectives:

“(1) To demonstrate that the most promising design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

“(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

“(3) To ensure that the product design is mature enough to commit to full production and deployment.

“(b) TESTS AND EVALUATIONS.—

“(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset for which a master plan has been prepared under section 572(c)(1).

“(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

“(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or

operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

“(4) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

“(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

“(B) notify the Chief Acquisition Officer and include in such notification—

“(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

“(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and

“(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

“(c) TECHNICAL CERTIFICATION.—

“(1) IN GENERAL.—The Commandant shall—ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

“(2) TEMPEST TESTING.—The Commandant shall—

“(A) cause all electronics on all aircraft, surface, and shore assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 to be tested in accordance with master plan standards and communications security standards by an independent third party that is authorized by the Federal Government to perform such testing; and

“(B) certify that the assets meet all applicable TEMPEST requirements.

“(3) VESSEL CLASSIFICATION.—The Commandant shall cause each cutter, other than the National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 is to be classed by the American Bureau of Shipping before final acceptance.

“(d) ACQUISITION DECISION.—The Commandant may not proceed to full scale production, deployment, and support of a Level 1 or Level 2 acquisition project or program unless the Department of Homeland Security Acquisition Review Board has verified that the delivered asset or system meets the

project or program performance and cost goals.

**“§ 574. Acquisition, production, deployment, and support**

“(a) IN GENERAL.—The Commandant shall—

“(1) ensure there is a stable and efficient production and support capability to develop an asset or system;

“(2) conduct follow on testing to confirm and monitor performance and correct deficiencies; and

“(3) conduct acceptance tests and trails upon the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

“(b) ELEMENTS.—The Commandant shall—

“(1) execute the productions contracts;

“(2) ensure the delivered products meet operational cost and schedules requirements established in the acquisition program baseline;

“(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the system; and

“(4) prepare a project or program transition plan to enter into programmatic sustainment, operations, and support.

**“§ 575. Acquisition program baseline breach**

“(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

“(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

“(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

“(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

“(b) CONTENT.—The report submitted under subsection (a) shall include—

“(1) a detailed description of the breach and an explanation of its cause;

“(2) the projected impact to performance, cost, and schedule;

“(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

“(4) the updated acquisition schedule and the complete history of changes to the original schedule;

“(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

“(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

“(7) a description of how progress in the remediation plan will be measured and monitored.

“(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 25 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

“(1) the capability or asset or capability or asset class to be acquired under the project

or program is essential to the accomplishment of Coast Guard missions;

“(2) there are no alternatives to such capability or asset or capability or asset class which will provide equal or greater capability in both a more cost-effective and timely manner;

“(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

“(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

**“SUBCHAPTER 3—DEFINITIONS**

**“§ 581. Definitions**

“In this chapter:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

“(2) CHIEF ACQUISITION OFFICER.—The term ‘Chief Acquisition Officer’ means the officer appointed under section 55 of this title.

“(3) COMMANDANT.—The term ‘Commandant’ means the Commandant of the Coast Guard.

“(4) JOINT REVIEW BOARD.—The term ‘Joint Review Board’ means the Department of Homeland Security’s Investment Review Board, Joint Requirements Council, or other entity within the Department designated by the Secretary as the Joint Review Board for purposes of this chapter.

“(5) LEVEL 1 ACQUISITION.—The term ‘Level 1 acquisition’ means—

“(A) an acquisition by the Coast Guard—

“(i) the estimated life-cycle costs of which exceed \$1,000,000,000; or

“(ii) the estimated total acquisition costs of which exceed \$300,000,000; or

“(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

“(i) due to—

“(I) the experimental or technically immature nature of the asset;

“(II) the technological complexity of the asset;

“(III) the commitment of resources; or

“(IV) the nature of the capability or set of capabilities to be achieved; or

“(ii) because such acquisition is a joint acquisition.

“(6) LEVEL 2 ACQUISITION.—The term ‘Level 2 acquisition’ means an acquisition by the Coast Guard—

“(A) the estimated life-cycle costs of which are equal to or less than \$1,000,000,000, but greater than \$300,000,000; or

“(B) the estimated total acquisition costs of which are equal to or less than \$300,000,000, but greater than \$100,000,000.

“(7) LIFE-CYCLE COST.—The term ‘life-cycle cost’ means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

“(8) SAFETY CONCERN.—The term ‘safety concern’ means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.”.

(b) CONFORMING AMENDMENT.—The part analysis for part I of title 14, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“15. Acquisitions .....561”.

**SEC. 503. REPORT AND GUIDANCE ON EXCESS PASS-THROUGH CHARGES.**

(a) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed by a lead systems integrator under contract to the Coast Guard during the 3 full calendar years preceding the date of enactment of this Act.

(2) MATTERS COVERED.—The report under this subsection—

(A) shall assess the extent to which the Coast Guard paid excessive pass-through charges to contractors or subcontractors that provided little or no value to the performance of a contract or the production of a procured asset; and

(B) shall assess the extent to which the Coast Guard has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors.

(b) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commandant shall prescribe guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are executed with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(A) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(B) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

(C) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(2) SCOPE OF GUIDANCE.—The guidance prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract, delivery order, or task order that is—

(i) awarded on the basis of adequate price competition, as determined by the Commandant; or

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Commandant determines to be necessary in the interest of the United States.

(c) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term “excessive pass-through charge”, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower-tier contractors and subcontracts and overhead and profit based on such direct costs.

(d) APPLICATION OF GUIDANCE.—The guidance prescribed under this section shall apply to contracts awarded to a private entity acting as a lead systems integrator by or

on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of this Act.

#### TITLE VI—SHIPPING AND NAVIGATION

##### SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking “of Transportation” in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking “and” after the semicolon in section 31301(5)(F);

(3) by striking “office.” in section 31301(6) and inserting “office; and”; and

(4) by adding at the end of section 31301 the following:

“(7) ‘Secretary’ means the Secretary of the Department of Homeland Security, unless otherwise noted.”.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking “When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary” and inserting “The Secretary of Commerce or Transportation, as a mortgagee under this chapter.”.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by striking “Secretary.” and inserting “Secretary of Transportation.”.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title, as amended by subsection (a)(1) of this section, is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “Secretary; or” in subparagraph (C) and inserting “Secretary.”; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “faith; or” in subparagraph (C) and inserting “faith.”; and

(C) by striking subparagraph (D).

##### SEC. 602. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

#### “§ 70122. Regulations

“Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of such title is amended by adding at the end the following new item:

“70122. Regulations.”.

##### SEC. 603. COAST GUARD TO MAINTAIN LORAN-C NAVIGATION SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall maintain the LORAN-C navigation system until such time as the Secretary is authorized by statute, explicitly referencing this section, to cease operating the system but expedite modernization projects necessary for transition to eLORAN technology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, in addition to funds authorized under section 101 of this Act for the Coast Guard for operation of the LORAN-C system and for the transition to eLORAN, for capital expenses related to the LORAN-C infrastructure and to modernize and upgrade the LORAN infrastructure to provide eLORAN services, \$37,000,000 for each of fiscal years 2010 and 2011. The Secretary of Transportation may transfer from the Fed-

eral Aviation Administration and other agencies of the Department of Transportation such funds as may be necessary to reimburse the Coast Guard for related expenses.

(c) REPORT ON TRANSITION TO eLORAN TECHNOLOGY.—No later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of the Department in which the Coast Guard is operating, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed 5-year plan for transition to eLORAN technology that includes—

(1) the timetable, milestones, projects, and future funding required to complete the transition from LORAN-C to eLORAN technology for provision of positioning, navigation, and timing services; and

(2) the benefits of eLORAN for national transportation safety, security, and economic growth.

##### SEC. 604. ICEBREAKERS.

(a) ANALYSES.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall—

(1) conduct a comparative cost-benefit analysis of—

(A) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard,

(B) constructing new polar icebreakers for operation by the Coast Guard for operation by the Coast Guard, and

(C) any combination of the activities described in subparagraphs (A) and (B),

to carry out the missions of the Coast Guard; and

(2) conduct an analysis of the impact on mission capacity and the ability of the United States to maintain a presence in the polar regions through the year 2020 if recapitalization of the polar icebreaker fleet, either by constructing new polar icebreakers or rebuilding, renovating, or improving the existing fleet of polar icebreakers, is not fully funded.

(b) REPORTS TO CONGRESS.—

(1) Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(2) Not later than 1 year after the date of enactment of this Act, the Commandant shall submit reports containing the results of the analyses required under paragraphs (1) and (2) of subsection (a), together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

##### SEC. 605. VESSEL SIZE LIMITS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

(1) by inserting “and” after the semicolon at the end of subparagraph (A)(i);

(2) by striking “and” at the end of subparagraph (A)(ii);

(3) by striking subparagraph (A)(iii);

(4) by striking the period at the end of subparagraph (B) and inserting “; or”; and

(5) by inserting at the end the following:

“(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) and is eligible for a fishery endorsement under this section.”.

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) is amended to read as follows:

“(g) VESSEL REBUILDING AND REPLACEMENT.—

“(1) IN GENERAL.—

“(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

“(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

“(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

“(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

“(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and



mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

“(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

“(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

“(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

“(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

“(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

“(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

“(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

“(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.”.

(2) EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is amended—

(A) by inserting “and” after “(United States official number 651041)”;

(B) by striking “, NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)”;

(C) by striking “, in the case of the NORTHERN” and all that follows through “PHOENIX.”.

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended—

(A) by moving the matter beginning with “the Secretary shall” in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

“(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

“(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2008; and

“(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

“(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

“(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

“(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.”.

## TITLE VII—VESSEL CONVEYANCE

### SEC. 701. SHORT TITLE.

This title may be cited as the “Vessel Conveyance Act”.

### SEC. 702. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.

(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized by law, the Coast Guard shall transfer the vessel to the General Services Administration for conveyance to the eligible entity.

(b) CONDITIONS OF CONVEYANCE.—The General Services Administration may not convey a vessel to an eligible entity as authorized by law unless the eligible entity agrees—

(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102-37.460 of such title;

(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

(c) ELIGIBLE ENTITY DEFINED.—In this section, the term “eligible entity” means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 1195. A bill to require the Secretary of Agriculture to carry out the Philadelphia universal feeding pilot program until the last day of the 2012-2013 school year of the School District of Philadelphia; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I rise today to speak on the Department of Agriculture's decision to end the Philadelphia School District's Universal Feeding Pilot Program and to introduce legislation extending the program. While changes to the Philadelphia program may be necessary, the appropriate time to consider these changes is during congressional reauthorization of the Child Nutrition Act. Senator CASEY and I are seeking to extend the program through the 2012-13 school year. This extension is necessary to ensure that thousands of children in Philadelphia's poorest schools are not deprived of the nutritional assistance they have relied on for over 17 years.

Recognizing the value of proper nutrition to successful learning, Congress, in 1946, passed the Richard B. Russell National School Lunch Act. This act provides the authority for the School Lunch Program, as well as several other child nutrition initiatives. In 1966 Congress expanded on its commitment to child nutrition by passing the Child Nutrition Act, which authorized the School Breakfast Program. These programs have continued to evolve through changing times and changing technologies to ensure that the goal of providing nutrition assistance to our Nation's school children is met.

In 1991 the Department of Agriculture worked with the Philadelphia School District to develop a more streamlined method of reimbursing the School District for meals served under the National School Breakfast and School Lunch Program, and ensuring all eligible students receive free meals. This new method eliminated paper applications for free school meals, and replaced them with a socioeconomic survey based method of determining reimbursement rates and eligibility.

Paper applications are costly, and parents too often fail to return them. The socioeconomic survey based approach was chosen because it reduced

administrative overhead costs and is thought to better ensure that all eligible students are accounted for. In addition, by providing Universal Service the stigma associated with receiving a free or reduced price school meal is eliminated. Indeed, during the first year of the Universal Feeding Pilot Program, the Philadelphia School District saw a 14 percent increase in lunch participation in elementary schools, a 45 percent increase in middle schools and a 180 percent increase in high schools. The Philadelphia Universal Feeding Pilot Program has successfully increased student participation in the school meal program. Should this program be ended, as the Department of Agriculture would have it, children in the Philadelphia School District will have their ability to learn undermined by Washington, DC, bureaucrats.

The students and parents in 200 of Philadelphia's poorest schools have not filled out paper applications for free and reduced priced school meals in over seventeen years. It is almost certain that some parents will fail to return paper applications to the school district, resulting in the under-reporting of eligible students. In fact, the Secretary of Agriculture tacitly acknowledges the ineffectiveness of paper applications by offering outreach assistance to the Philadelphia School District.

A decrease in the amount of students claiming free or reduced lunches will lower the Department of Agriculture's reimbursement rate to the Philadelphia School District. Reducing the school meal reimbursement rate will not only cause the Philadelphia School District budgetary problems in relation to the school meals program, but because other grant funding is often based on the percentage of low income students in a district, as determined by participation rates in the school meal program, the District could potentially lose millions of dollars in other state and Federal grant funding. Federal E-rate funding, for example, which is used for educational technology, is based directly on school meal program eligibility percentages.

Congress is expected to take up the Child Nutrition Act reauthorization later this year. Universal Feeding and the National School Breakfast and Lunch Program will be a part of this debate, and this is an appropriate time and place to consider changes to the program. We know from experience that Congressional action is not always as swift as planned, and that the legislative calendar changes from week to week if not from day to day.

Therefore, Senator CASEY and I introduce legislation today to extend the Philadelphia School District's Universal Feeding Pilot Program through the close of the 2012-2013 school year to ensure that Philadelphia school children receive the necessary nutritional

assistance until Congress can enact a new policy.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 168—COMMENDING THE UNIVERSITY OF WASHINGTON WOMEN'S SOFTBALL TEAM FOR WINNING THE 2009 NCAA WOMEN'S COLLEGE WORLD SERIES

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Whereas on June 2, 2009, for the first time in university history, the University of Washington Women Huskies won the National Collegiate Athletic Association ("NCAA") national softball championship game with a 3-2 victory over the University of Florida Gators;

Whereas University of Washington pitcher Danielle Lawrie was named the Women's College World Series Most Valuable Player and the USA Softball National Collegiate Player of the Year;

Whereas the Huskies finished the 2009 season with an impressive record of 51-12;

Whereas the members of the 2009 University of Washington softball team are excellent representatives of a university that is 1 of the premier academic institutions in Washington State, producing many outstanding student-athletes and other leaders; and

Whereas the members of the women's softball team have brought great honor to themselves, their families, the University of Washington, and the State of Washington: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of Washington softball team for winning the 2009 Women's College World Series;

(2) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication helped the University of Washington win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Mark A. Emmert, president of the University of Washington;

(B) Scott Woodward, director of athletics of the University of Washington; and

(C) Heather Tarr, head coach of the University of Washington softball team.

SENATE RESOLUTION 169—EXPRESSING THE SENSE OF THE SENATE THAT THE GOVERNMENT OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA SHOULD WORK WITHIN THE FRAMEWORK OF THE UNITED NATIONS PROCESS WITH GREECE TO ACHIEVE LONGSTANDING UNITED STATES AND UNITED NATIONS POLICY GOALS OF FINDING A MUTUALLY ACCEPTABLE COMPOSITE NAME, WITH A GEOGRAPHICAL QUALIFIER AND FOR ALL INTERNATIONAL USES FOR THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Mr. MENENDEZ (for himself, Ms. SNOWE, Mrs. SHAHEEN, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 169

Whereas, on April 8, 1993, the United Nations General Assembly admitted as a member the former Yugoslav Republic of Macedonia, under the name the "former Yugoslav Republic of Macedonia";

Whereas United Nations Security Council Resolution 817 (1993) states that the international dispute over the name must be resolved to maintain peaceful relations between Greece and the former Yugoslav Republic of Macedonia and regional stability;

Whereas Greece is a strategic partner and ally of the United States in bringing political stability and economic development to the Balkan region, having invested over \$20,000,000,000 in the countries of the region, thereby creating over 200,000 new jobs, and having contributed over \$750,000,000 in development aid for the region;

Whereas Greece has invested over \$1,000,000,000 in the former Yugoslav Republic of Macedonia, thereby creating more than 10,000 new jobs and having contributed \$110,000,000 in development aid;

Whereas Senate Resolution 300, introduced in the 110th Congress, urged the former Yugoslav Republic of Macedonia to abstain from hostile activities and stop the utilization of materials that violate provisions of the United Nations-brokered Interim Agreement between the former Yugoslav Republic of Macedonia and Greece regarding "hostile activities or propaganda";

Whereas NATO's Heads of State and Government unanimously agreed in Bucharest on April 3, 2008, that "... within the framework of the UN, many actors have worked hard to resolve the name issue, but the Alliance has noted with regret that these talks have not produced a successful outcome. Therefore we agreed that an invitation to the former Yugoslav Republic of Macedonia will be extended as soon as a mutually acceptable solution to the name issue has been reached. We encourage the negotiations to be resumed without delay and expect them to be concluded as soon as possible";

Whereas the Heads of State and Government participating in the meeting of the North Atlantic Council in Strasbourg/Kehl on April 4, 2009, reiterated their unanimous support for the agreement at the Bucharest Summit "to extend an invitation to the former Yugoslav Republic of Macedonia as soon as a mutually acceptable solution to the name issue has been reached within the framework of the UN, and urge intensified efforts towards that goal."; and

Whereas authorities in the former Yugoslav Republic of Macedonia urged their citizens to boycott Greek investments in the country and not to travel to Greece: Now, therefore, be it

*Resolved*, That the Senate—

(1) urges the Government of the former Yugoslav Republic of Macedonia to work within the framework of the United Nations process with Greece to achieve longstanding United States and United Nations policy goals by finding a mutually acceptable composite name, with a geographical qualifier and for all international uses for the former Yugoslav Republic of Macedonia; and

(2) urges the Government of the former Yugoslav Republic of Macedonia to abstain from hostile activities and stop violating provisions of the United Nations-brokered Interim Agreement between the former Yugoslav Republic of Macedonia and Greece regarding “hostile activities or propaganda”.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1257. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1258. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1259. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1260. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1261. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1262. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1263. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1264. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1265. Mr. ALEXANDER (for himself, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1266. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1267. Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1268. Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment in-

tended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1269. Mr. BAYH (for himself, Ms. MURKOWSKI, Mr. BURRIS, Mr. LIEBERMAN, Mr. WARNER, Mr. WEBB, Mr. NELSON, of Nebraska, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1270. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1271. Mr. KOHL (for himself, Ms. SNOWE, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1272. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1273. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 1257. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . INCREASED CONTRIBUTIONS FROM USERS OF TOBACCO PRODUCTS UNDER FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by inserting “of this subsection and subsection (j)” after “and (4)”;

(2) in subsection (c), by striking “subsection (b)” and inserting “subsections (b) and (j)”;

(3) by adding at the end the following:

“(j)(1) In this subsection—

“(A) the term ‘enrollee’ means an employee or annuitant enrolled in a health benefits plan under this chapter;

“(B) the term ‘tobacco product’ means—

“(i) any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product); and

“(ii) shall not include an article that is a drug under subsection (g)(1) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), a device under subsection (h) of that section, or a combination product described in section 503(g) of that Act; and

“(C) the term ‘user of a tobacco product’ means an individual who has used a tobacco product within the last 12 months.

“(2)(A) If an enrollee (or any individual covered by that enrollee if enrollment is for

self and family) is a user of a tobacco product, the contribution paid by that enrollee shall be increased by 35 percent.

“(B) If an enrollee (and any individual covered by that enrollee if enrollment is for self and family) is not a user of a tobacco product, the contribution paid by that enrollee shall be reduced by 15 percent.

“(3) The Government contribution paid for each enrollee, as applicable, shall be—

“(A) reduced by the dollar amount of the increase adjusted under paragraph (2)(A); or

“(B) increased by the dollar amount of the reduction adjusted under paragraph (2)(B).

“(4) Any adjustment under this subsection shall be subject to the limitation under subsection (b)(2).”.

(b) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to contracts entered into under section 8902 of title 5, United States Code, that take effect with respect to calendar years that begin more than 1 year after that date.

SA 1258. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

#### SEC. \_\_\_\_ . ADJUSTMENT OF THE AMOUNT OF THE MEDICARE PART B PREMIUM TO REWARD BENEFICIARIES WHO REFRAIN FROM TOBACCO USE.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(2), by striking “and (i)” and inserting “(i), and (j)”;

(2) by adding at the end the following new subsection:

“(j)(1) With respect to the monthly premium amount under this section for months after December 2010, the Secretary shall adjust (under procedures established by the Secretary) the amount of such premium for an individual based on whether or not the individual refrains from tobacco use. Such procedures shall include providing an individual whose premium was increased under the preceding sentence for a year with the opportunity to have the amount of such increase for the year refunded in whole or in part if the individual demonstrates to the Secretary that the individual now refrains from tobacco use.

“(2) In making the adjustments under paragraph (1) for a month, the Secretary shall ensure that the total amount of premiums to be paid under this part for the month is equal to the total amount of premiums that would have been paid under this part for the month if no such adjustments had been made, as estimated by the Secretary.”.

SA 1259. Mr. BENNETT submitted an amendment intended to be proposed by

him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. RESTRICTIONS ON TARP EXPENDITURES FOR AUTOMOBILE MANUFACTURERS; FIDUCIARY DUTY TO TAXPAYERS; REQUIRED ISSUANCE OF COMMON STOCK TO TAXPAYERS.**

(a) **PROHIBITION ON FURTHER TARP FUNDS.**—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008 (Public Law 110-434), or any other provision of law, the Secretary may not expend or obligate any funds made available under that Act on or after the date of enactment of this Act with respect to any designated automobile manufacturer.

(b) **FIDUCIARY DUTY TO SHAREHOLDERS.**—With respect to any designated automobile manufacturer, the Secretary, and the designee of the Secretary who is responsible for the exercise of shareholder voting rights with respect to a designated automobile manufacturer pursuant to assistance provided under the Emergency Economic Stabilization Act of 2008, shall have a fiduciary duty to the American taxpayer for the maximization of the return on the investment of the taxpayer under that Act, in the same manner, and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applicable provisions of State law.

(c) **CIVIL ACTIONS AUTHORIZED.**—A person who is aggrieved of a violation of the fiduciary duty established under subsection (b) may bring a civil action in an appropriate United States district court to obtain injunctive or other equitable relief relating to the violation.

(d) **DEFINITIONS.**—As used in this section—

(1) the term “designated automobile manufacturer” means an entity organized under the laws of a State, the primary business of which is the manufacture of automobiles, and any affiliate thereof, if such automobile manufacturer—

(A) has received funds under the Emergency Economic Stabilization Act of 2008 (Public Law 110-434), or funds were obligated under that Act, before the date of enactment of this Act; and

(B) has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 90-day period preceding the date of enactment of this Act;

(2) the term “Secretary” means the Secretary of the Treasury or the designee of the Secretary; and

(3) the terms “director”, “issuer”, “securities”, and “securities laws” have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

**SA 1260.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code,

to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —TOBACCO PHASE OUT**

**SEC. —01. ESTABLISHMENT OF TOBACCO PHASE OUT PROGRAM.**

Chapter IX of the Federal Food, Drug, and Cosmetic Act (as added by section 101 and amended by section 301) is further amended by adding at the end the following:

**“SEC. 921. ESTABLISHMENT OF TOBACCO PHASE OUT PROGRAM.**

“(a) **IN GENERAL.**—The Secretary shall establish a program to require annual reductions in the sale of cigarettes.

“(b) **REQUIREMENT.**—

“(1) **IN GENERAL.**—Under the program under subsection (a), each tobacco product manufacturer shall annually certify to the Secretary that—

“(A) with respect to cigarettes made by such manufacturer, the total number of such cigarettes sold during the year for which the certification is submitted is 1 percent less than the total number of such cigarettes sold during the preceding year; or

“(B) such manufacturer has purchased an additional cigarette sales allotment from another manufacturer as provided for in subsection (c).

“(2) **INITIAL CERTIFICATION.**—With respect to the first year for which a certification is submitted by a tobacco product manufacturer, the 1 percent reduction required under paragraph (1)(A) with respect to the sale of cigarettes shall be determined using the amount of such manufacturer's cigarettes sold in the highest sales year during the preceding 5-year period (as determined by the Secretary).

“(c) **ADDITIONAL CIGARETTE SALES ALLOTMENT.**—

“(1) **IN GENERAL.**—A tobacco product manufacturer (referred to in this subsection as the ‘contracting manufacturer’) to which this section applies may enter into a contract with one or more additional manufacturers (referred to in this subsection as a ‘decreased sales manufacturer’) to purchase from such manufacturers an additional sales allotment.

“(2) **REQUIREMENT.**—A contract entered into under paragraph (1) shall—

“(A) require the decreased sales manufacturer to provide for a further reduction in the total number of cigarettes sold during the year involved (beyond that required under subsection (b)(1)) by an amount equal to the additional sales allotment provided for in the contract; and

“(B) permit the contracting manufacturer to increase the total number of cigarettes sold during the year involved by an amount equal to the additional sales allotment provided for in the contract.

“(3) **ADDITIONAL SALES ALLOTMENT.**—In this subsection, the term ‘additional sales allotment’ means the number of cigarettes by which the decreased sales manufacturer agrees to further reduce its sales during the year involved.

“(d) **ENFORCEMENT.**—

“(1) **IN GENERAL.**—A tobacco product manufacturer that fails to comply with the requirement of subsection (b) for any year shall be subject to a penalty in an amount equal to \$2 multiplied by the number of cigarettes by which such manufacturer has failed to comply with such subsection (b). Amounts

collected under this paragraph shall be used to carry out paragraph (2).

“(2) **USE OF AMOUNTS.**—

“(A) **IMPLEMENTATION COSTS.**—Amount collected under paragraph (1) shall be used to reimburse the Secretary for the costs of implementing the program under this section.

“(B) **TOBACCO USE COUNTER-ADVERTISING.**—

“(i) **ESTABLISHMENT OF CAMPAIGN.**—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall carry out a campaign of counter-advertising with respect to tobacco use. The campaign shall consist of the placement of pro-health advertisements regarding tobacco use on television, on radio, in print, on billboards, on movie trailers, on the Internet, and in other media.

“(ii) **FUNDING.**—If amounts remain available under paragraph (1) after the Secretary is fully reimbursed as provided for under subparagraph (A), such amounts shall be used to carry out the campaign under clause (i).

“(e) **PROCEDURES.**—The Secretary shall develop procedures for—

“(1) the submission and verification of certificates under subsection (a);

“(2) the administration and verification of additional cigarette sales allotment contracts under subsection (c); and

“(3) the imposition of penalties under subsection (d).”.

**SA 1261.** Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 903(a)(2) of the Federal Food, Drug, and Cosmetic Act (as added by section 101), strike subparagraph (C).

**SA 1262.** Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 102(a) of division A, strike paragraph (2) and insert the following:

(2) **ADVERTISING IN GENERAL.**—Beginning on the date that is 1 year from date of enactment of this Act, the advertisement of tobacco products, through any form of media, shall be prohibited.

**SA 1263.** Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the

Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 900 of the Federal Food Drug, and Cosmetic Act (as added by section 101), strike paragraph (16) and insert the following:

“(16) SMALL TOBACCO PRODUCT MANUFACTURER.—The term ‘small tobacco product manufacturer’ means a tobacco product manufacturer whose share, expressed as a percentage, of the total number of individual cigarettes sold in the United States, the District of Columbia, and Puerto Rico during the calendar year at issue, as measured by excise taxes collected by the Federal Government, and, in the case of cigarettes sold in Puerto Rico, by arbitrios de cigarillos collected by the Puerto Rico taxing authority, is less than 10 percent. For purposes of calculating the share under this paragraph, 0.09 ounces of ‘roll your own’ tobacco shall constitute one individual cigarette. With respect to a tobacco product manufacturer that sells tobacco products others than cigarettes and does not also sell cigarettes, the term ‘small tobacco product manufacturer’ means a tobacco product manufacturer that employs fewer than 350 employees.”.

**SA 1264.** Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 102(a)(2), insert after subparagraph (D) the following:

“(E) strike ‘and in paragraph (b)(2) of this section’ from section 897.14(b)(1), and strike section 897.14(b)(2);”.

**SA 1265.** Mr. ALEXANDER (for himself, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ RESTRICTIONS ON TARP EXPENDITURES FOR AUTOMOBILE MANUFACTURERS; FIDUCIARY DUTY TO TAXPAYERS; REQUIRED ISSUANCE OF COMMON STOCK TO TAXPAYERS.**

(a) **SHORT TITLE.**—This section may be cited as the “Auto Stock for Every Taxpayer Act”.

(b) **PROHIBITION ON FURTHER TARP FUNDS.**—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008 (Public Law 110-434), or any other pro-

vision of law, the Secretary may not expend or obligate any funds made available under that Act on or after the date of enactment of this Act with respect to any designated automobile manufacturer.

(c) **FIDUCIARY DUTY TO SHAREHOLDERS.**—With respect to any designated automobile manufacturer, the Secretary, and the designee of the Secretary who is responsible for the exercise of shareholder voting rights with respect to a designated automobile manufacturer pursuant to assistance provided under the Emergency Economic Stabilization Act of 2008, shall have a fiduciary duty to the American taxpayer for the maximization of the return on the investment of the taxpayer under that Act, in the same manner, and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applicable provisions of State law.

(d) **REQUIRED ISSUANCE OF COMMON STOCK TO ELIGIBLE TAXPAYERS.**—Not later than 1 year after the emergence of any designated automobile manufacturer from bankruptcy protection described in subsection (f)(1)(B), the Secretary shall issue a certificate of common stock to each eligible taxpayer, which shall represent such taxpayer's share of the aggregate common stock holdings of the United States Government in the designated automobile manufacturer on such date.

(e) **CIVIL ACTIONS AUTHORIZED.**—A person who is aggrieved of a violation of the fiduciary duty established under subsection (c) may bring a civil action in an appropriate United States district court to obtain injunctive or other equitable relief relating to the violation.

(f) **DEFINITIONS.**—As used in this section—

(1) the term “designated automobile manufacturer” means an entity organized under the laws of a State, the primary business of which is the manufacture of automobiles, and any affiliate thereof, if such automobile manufacturer—

(A) has received funds under the Emergency Economic Stabilization Act of 2008 (Public Law 110-434), or funds were obligated under that Act, before the date of enactment of this Act; and

(B) has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 90-day period preceding the date of enactment of this Act;

(2) the term “eligible taxpayer” means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension);

(3) the term “Secretary” means the Secretary of the Treasury or the designee of the Secretary; and

(4) the terms “director”, “issuer”, “securities”, and “securities laws” have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

**SA 1266.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which

was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ HEALTHY BEHAVIOR INCENTIVE PROGRAMS.**

(a) **MEDICAID STATE PLAN AMENDMENT.**—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)—

(A) in paragraph (72), by striking “and” at the end;

(B) in paragraph (73), by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (73), the following new paragraph:

“(74) provide that, not later than October 1, 2011, the State shall provide assurances to the Secretary that the State has in effect a program described in subsection (gg) to reward and encourage individuals determined to be eligible for medical assistance under the plan to reduce or eliminate their use of tobacco products.”; and

(2) by adding at the end the following new subsection:

“(gg)(1) For purposes of subsection (a)(74), a program described in this subsection is a program under which the State—

“(A) provides incentives to reward individuals determined to be eligible for medical assistance under the State plan who agree to participate in the program and successfully refrain from tobacco use;

“(B) notwithstanding any other provision of this title, may elect with respect to individuals determined to be eligible for medical assistance under the State plan who have attained age 19 but not attained age 65, to condition the individual's enrollment in the State plan on participating in the program;

“(C) notwithstanding any other provision of this title, may elect to vary the amount, duration, or scope of the medical assistance provided under the State plan, or to impose cost-sharing without regard to sections 1916 or 1916A, in such manner as the State determines is likely to be effective in reducing the use of tobacco products by individuals eligible for medical assistance under the State plan; and

“(D) agrees to provide the Secretary with such information as the Secretary requires for purposes of producing the State rankings required under paragraph (2).

“(2) Not later than December 31, 2012, the Secretary shall rank the States with respect to their efforts to reduce the use of tobacco products among individuals who have been determined to be eligible for medical assistance under State plans under this title and among individuals who have been determined to be eligible for child health assistance or other health benefits under a State child health plan under title XXI.”.

(b) **APPLICATION TO THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.**—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (D) through (L) as subparagraphs (E) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

“(D) Section 1902(a)(74) (relating to an incentive program for the reduction or elimination of the use of tobacco products).”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2009.

(2) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under title XIX or a State child

health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SA 1267.** Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 907 of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)(3) of title I of division A), add the following:

“(f) **PESTICIDES.**—Nothing in this section affects the authority of the Administrator of the Environmental Protection Agency to regulate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).”.

**SA 1268.** Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter IX of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)(3) of title I of division A), add the following:

**“SEC. 920. PESTICIDES.**

“Nothing in this chapter affects the authority of the Administrator of the Environmental Protection Agency to regulate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).”.

**SA 1269.** Mr. BAYH (for himself, Ms. MURKOWSKI, Mr. BURRIS, Mr. LIEBERMAN, Mr. WARNER, Mr. WEBB, Mr. NELSON of Nebraska, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate

tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**DIVISION —NURSE FACULTY LOAN REPAYMENT PROGRAM**

**SEC. 1. SHORT TITLE.**

This division may be cited as the “Nurses' Higher Education and Loan Repayment Act of 2009”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The Health Resources and Services Administration estimates there is currently a shortage of more than 200,000 registered nurses nationwide and projects the shortage will grow to more than 1,000,000 nurses by 2020, 36 percent less than needed to meet demand for nursing care.

(2) The shortage of qualified nursing faculty is the primary factor driving the inability of nursing schools to graduate more registered nurses to meet the Nation's growing workforce demand.

(3) There continues to be strong interest on the part of young Americans to enter the nursing field. The National League for Nursing estimates that 88,000 qualified applications, or 1 out of every 3 submitted to basic registered nurse programs in 2006, were rejected due to lack of capacity.

(4) The American Association of Colleges of Nursing (in this section referred to as the “AACN”) estimates that 49,948 applicants were turned away specifically from baccalaureate and graduate schools of nursing in 2008 and over 70 percent of the schools responding to the AACN survey reported a lack of nurse faculty as the number 1 reason for turning away qualified applicants. Likewise, nearly 70 percent of the associate's degree registered nurse programs responding to the most recent American Association of Community Colleges Nursing Survey reported a lack of faculty to teach as the number 1 reason for turning away qualified applicants.

(5) Large numbers of faculty members at schools of nursing in the United States are nearing retirement. According to the AACN, the average age of a nurse faculty member is 55 years old and the average age at retirement is 62.

(6) The current nationwide nurse faculty vacancy rate is estimated to be as high as 7.6 percent, including 814 vacant positions at schools of nursing offering baccalaureate and advanced degrees and, in 2006, as many as 880 in associate's degree programs.

(7) Market forces have created disincentives for individuals qualified to become nurse educators from pursuing this career. The average annual salary for an associate professor of nursing with a master's degree is nearly 20 percent less than the average salary for a nurse practitioner with a master's degree, according to the 2007 salary survey by the journal ADVANCE for Nurse Practitioners.

(8) The most recent Health Resources and Services Administration survey data indicates that from a total of more than 2,000,000 registered nurses, only 143,113 registered nurses with a bachelor's degree and only 51,318 registered nurses with an associate's degree have continued their education to earn a master's degree in the science of nursing, the minimum credential necessary to

teach in all types of registered nurse programs. The majority of these graduates do not become nurse educators.

(9) Current Federal incentive programs to encourage nurses to become educators are inadequate and inaccessible for many interested nurses.

(10) A broad incentive program must be available to willing and qualified nurses that will provide financial support and encourage them to pursue and maintain a career in nursing education.

**SEC. 3. NURSE FACULTY LOAN REPAYMENT PROGRAM.**

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846A the following new section:

**“SEC. 846B. NURSE FACULTY LOAN REPAYMENT PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with eligible individuals for the repayment of education loans, in accordance with this section, to increase the number of qualified nursing faculty.

“(b) **AGREEMENTS.**—Each agreement entered into under subsection (a) shall require that the eligible individual shall serve as a full-time member of the faculty of an accredited school of nursing for a total period, in the aggregate, of at least 4 years during the 6-year period beginning on the later of—

“(1) the date on which the individual receives a master's or doctorate nursing degree from an accredited school of nursing; or

“(2) the date on which the individual enters into an agreement under subsection (a).

“(c) **AGREEMENT PROVISIONS.**—Agreements entered into pursuant to subsection (a) shall be entered into on such terms and conditions as the Secretary may determine, except that—

“(1) not more than 300 days after the date on which the 6-year period described under subsection (b) begins, but in no case before the individual starts as a full-time member of the faculty of an accredited school of nursing, the Secretary shall begin making payments, for and on behalf of that individual, on the outstanding principal of, and interest on, any loan the individual obtained to pay for such degree;

“(2) for an individual who has completed a master's degree in nursing—

“(A) payments may not exceed \$10,000 per calendar year; and

“(B) total payments may not exceed \$40,000; and

“(3) for an individual who has completed a doctorate degree in nursing—

“(A) payments may not exceed \$20,000 per calendar year; and

“(B) total payments may not exceed \$80,000.

“(d) **BREACH OF AGREEMENT.**—

“(1) **IN GENERAL.**—In the case of any agreement made under subsection (a), the individual is liable to the Federal Government for the total amount paid by the Secretary under such agreement, and for interest on such amount at the maximum legal prevailing rate, if the individual fails to meet the agreement terms required under subsection (b).

“(2) **WAIVER OR SUSPENSION OF LIABILITY.**—In the case of an individual making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual with the agreement



involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

“(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

“(4) AVAILABILITY.—Amounts recovered under paragraph (1) shall be available to the Secretary for making loan repayments under this section and shall remain available for such purpose until expended.

“(e) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term ‘eligible individual’ means an individual who—

“(1) is a United States citizen, national, or lawful permanent resident;

“(2) holds an unencumbered license as a registered nurse; and

“(3) has either already completed a master’s or doctorate nursing program at an accredited school of nursing or is currently enrolled on a full-time or part-time basis in such a program.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2010 through 2014 to carry out this Act. Such sums shall remain available until expended.

“(g) SUNSET.—The provisions of this section shall terminate on December 31, 2020.”.

**SA 1270.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ REIMBURSEMENT OF AUTOMOBILE DISTRIBUTORS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, any funds provided by the United States Government, or any agency, department, or subdivision thereof, to an automobile manufacturer or a distributor thereof as credit, loans, financing, advances, or by any other agreement in connection with such automobile manufacturer’s or distributor’s proceeding as a debtor under title 11, United States Code, shall be conditioned upon use of such funds to fully reimburse all dealers of such automobile manufacturer or manufacturer’s distributor for—

(1) the cost incurred by such dealers in acquisition of all parts and inventory in the dealer’s possession as of the date on which the proceeding under title 11, United States Code, by or against the automobile manufacturer or manufacturer’s distributor is commenced, on the same basis as if the dealers were terminating pursuant to existing franchise agreements or dealer agreements; and

(2) all other obligations owed by such automobile manufacturer or manufacturer’s distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer’s distributor, including, without limitation, franchise agreement or dealer agreements.

(b) INCLUSION IN TERMS.—Any note, security agreement, loan agreement, or other agreement between an automobile manufacturer or manufacturer’s distributor and the Government (or any agency, department, or subdivision thereof) shall expressly provide for the use of such funds as required by this section. A bankruptcy court may not authorize the automobile manufacturer or manufacturer’s distributor to obtain credit under section 364 of title 11, United States Code, unless the credit agreement or agreements expressly provided for the use of funds as required by this section.

(c) EFFECTIVENESS OF REJECTION.—Notwithstanding any other provision of law, any rejection by an automobile manufacturer or manufacturer’s distributor that is a debtor in a proceeding under title 11, United States Code, of a franchise agreement or dealer agreement pursuant to section 365 of that title, shall not be effective until at least 180 days after the date on which such rejection is otherwise approved by a bankruptcy court.

**SA 1271.** Mr. KOHL (for himself, Ms. SNOWE, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE \_\_\_\_—PREVENT ALL CIGARETTE TRAFFICKING ACT**

**SEC. \_\_\_\_01. SHORT TITLE; PURPOSES.**

(a) SHORT TITLE.—This title may be cited as the “Prevent All Cigarette Trafficking Act of 2009” or “PACT Act”.

(b) PURPOSES.—It is the purpose of this title to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

**SEC. \_\_\_\_02. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.**

(a) DEFINITIONS.—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the “Jenkins Act”), is amended by striking the first section and inserting the following:

**“SECTION 1. DEFINITIONS; RULE OF CONSTRUCTION.**

“(a) DEFINITIONS.—As used in this Act, the following definitions apply:

“(1) ATTORNEY GENERAL.—The term ‘attorney general’, with respect to a State, means the attorney general or other chief law enforcement officer of the State.

“(2) CIGARETTE.—

“(A) IN GENERAL.—The term ‘cigarette’—

“(i) has the meaning given that term in section 2341 of title 18, United States Code; and

“(ii) includes roll-your-own tobacco (as defined in section 5702 of the Internal Revenue Code of 1986).

“(B) EXCEPTION.—The term ‘cigarette’ does not include a cigar (as defined in section 5702 of the Internal Revenue Code of 1986).

“(3) COMMON CARRIER.—The term ‘common carrier’ means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

“(4) CONSUMER.—The term ‘consumer’—

“(A) means any person that purchases cigarettes or smokeless tobacco; and

“(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

“(5) DELIVERY SALE.—The term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco to a consumer if—

“(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

“(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

“(6) DELIVERY SELLER.—The term ‘delivery seller’ means a person who makes a delivery sale.

“(7) INDIAN COUNTRY.—The term ‘Indian country’—

“(A) has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

“(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

“(8) INDIAN TRIBE.—The term ‘Indian tribe’, ‘tribe’, or ‘tribal’ refers to an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

“(9) INTERSTATE COMMERCE.—The term ‘interstate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

“(10) PERSON.—The term ‘person’ means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

“(11) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.



“(12) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

“(13) TOBACCO TAX ADMINISTRATOR.—The term ‘tobacco tax administrator’ means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

“(14) USE.—The term ‘use’ includes the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.

“(b) RULE OF CONSTRUCTION.—For purposes of this Act, a sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in interstate commerce, as defined herein, shall be deemed to have been made into the State, place, or locality in which such cigarettes or smokeless tobacco are delivered.”.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking “cigarettes” each place it appears and inserting “cigarettes or smokeless tobacco”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “CONTENTS.” after “(a)”;

(ii) by striking “or transfers” and inserting “, transfers, or ships”;

(iii) by inserting “, locality, or Indian country of an Indian tribe” after “a State”;

(iv) by striking “to other than a distributor licensed by or located in such State.”; and

(v) by striking “or transfer and shipment” and inserting “, transfer, or shipment”;

(B) in paragraph (1)—

(i) by striking “with the tobacco tax administrator of the State” and inserting “with the Attorney General of the United States and with the tobacco tax administrators of the State and place”; and

(ii) by striking “; and” and inserting the following: “, as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person.”;

(C) in paragraph (2), by striking “and the quantity thereof,” and inserting “the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and”; and

(D) by adding at the end the following:

“(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of the memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.”;

(3) in subsection (b)—

(A) by inserting “PRESUMPTIVE EVIDENCE.” after “(b)”;

(B) by striking “(1) that” and inserting “that”; and

(C) by striking “, and (2)” and all that follows and inserting a period; and

(4) by adding at the end the following:

“(c) USE OF INFORMATION.—A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice

under paragraph (2) or (3) of subsection (a) shall use the memorandum or invoice solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in the memorandum or invoice except as required for such purposes.”.

(c) REQUIREMENTS FOR DELIVERY SALES.—The Jenkins Act is amended by inserting after section 2 the following:

**“SEC. 2A. DELIVERY SALES.**

“(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

“(1) the shipping requirements set forth in subsection (b);

“(2) the recordkeeping requirements set forth in subsection (c);

“(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the specific State and place, including laws imposing—

“(A) excise taxes;

“(B) licensing and tax-stamping requirements;

“(C) restrictions on sales to minors; and

“(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

“(4) the tax collection requirements set forth in subsection (d).

“(b) SHIPPING AND PACKAGING.—

“(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: ‘CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS’.

“(2) FAILURE TO LABEL.—Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nondeliverable matter by a common carrier or other delivery service, if the common carrier or other delivery service knows or should know the package contains cigarettes or smokeless tobacco. If a common carrier or other delivery service believes a package is being submitted for delivery in violation of paragraph (1), it may require the person submitting the package for delivery to establish that it is not being sent in violation of paragraph (1) before accepting the package for delivery. Nothing in this paragraph shall require the common carrier or other delivery service to open any package to determine its contents.

“(3) WEIGHT RESTRICTION.—A delivery seller shall not sell, offer for sale, deliver, or cause to be delivered in any single sale or single delivery any cigarettes or smokeless tobacco weighing more than 10 pounds.

“(4) AGE VERIFICATION.—

“(A) IN GENERAL.—A delivery seller who mails or ships tobacco products—

“(i) shall not sell, deliver, or cause to be delivered any tobacco products to a person under the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery;

“(ii) shall use a method of mailing or shipping that requires—

“(I) the purchaser placing the delivery sale order, or an adult who is at least the min-

imum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery, to sign to accept delivery of the shipping container at the delivery address; and

“(II) the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

“(iii) shall not accept a delivery sale order from a person without—

“(I) obtaining the full name, birth date, and residential address of that person; and

“(II) verifying the information provided in subclause (I), through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery.

“(B) LIMITATION.—No database being used for age and identity verification under subparagraph (A)(iii) shall be in the possession or under the control of the delivery seller, or be subject to any changes or supplementation by the delivery seller.

“(c) RECORDS.—

“(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within the State, by the city or town and by zip code, into which the delivery sale is so made.

“(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) until the end of the 4th full calendar year that begins after the date of the delivery sale.

“(3) ACCESS FOR OFFICIALS.—Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that apply local or tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of the local governments and Indian tribes, and to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

“(d) DELIVERY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver to any consumer, or tender to any common carrier or other delivery service, any cigarettes or smokeless tobacco pursuant to a delivery sale unless, in advance of the sale, delivery, or tender—

“(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

“(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

“(C) any required stamps or other indicia that the excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

“(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale of smokeless tobacco

if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

“(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS.—

“(1) IN GENERAL.—

“(A) INITIAL LIST.—Not later than 90 days after this subsection goes into effect under the Prevent All Cigarette Trafficking Act of 2009, the Attorney General of the United States shall compile a list of delivery sellers of cigarettes or smokeless tobacco that have not registered with the Attorney General of the United States pursuant to section 2(a), or that are otherwise not in compliance with this Act, and—

“(i) distribute the list to—

“(I) the attorney general and tax administrator of every State;

“(II) common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

“(III) any other person that the Attorney General of the United States determines can promote the effective enforcement of this Act; and

“(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

“(B) LIST CONTENTS.—To the extent known, the Attorney General of the United States shall include, for each delivery seller on the list described in subparagraph (A)—

“(i) all names the delivery seller uses or has used in the transaction of its business or on packages delivered to customers;

“(ii) all addresses from which the delivery seller does or has done business, or ships or has shipped cigarettes or smokeless tobacco;

“(iii) the website addresses, primary e-mail address, and phone number of the delivery seller; and

“(iv) any other information that the Attorney General of the United States determines would facilitate compliance with this subsection by recipients of the list.

“(C) UPDATING.—The Attorney General of the United States shall update and distribute the list described in subparagraph (A) at least once every 4 months, and may distribute the list and any updates by regular mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General of the United States regularly updates.

“(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list described in subparagraph (A) any noncomplying delivery sellers identified by any State, local, or tribal government under paragraph (6), and shall distribute the list to the attorney general or chief law enforcement official and the tax administrator of any government submitting any such information, and to any common carriers or other persons who deliver small packages to consumers identified by any government pursuant to paragraph (6).

“(E) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

“(i) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on

for the purpose of determining that a delivery seller is not in compliance with this Act;

“(ii) not later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the list, which shall cite the relevant provisions of this Act and the specific reasons for which the delivery seller is being placed on the list;

“(iii) provide an opportunity to the delivery seller to challenge placement on the list;

“(iv) investigate each challenge described in clause (iii) by contacting the relevant Federal, State, tribal, and local law enforcement officials, and provide the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

“(v) if the Attorney General of the United States determines that the basis for including a delivery seller on the list is inaccurate, based on incomplete information, or cannot be verified, promptly remove the delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of the determination.

“(F) CONFIDENTIALITY.—The list described in subparagraph (A) shall be confidential, and any person receiving the list shall maintain the confidentiality of the list and may deliver the list, for enforcement purposes, to any government official or to any common carrier or other person that delivers tobacco products or small packages to consumers. Nothing in this section shall prohibit a common carrier, the United States Postal Service, or any other person receiving the list from discussing with a listed delivery seller the inclusion of the delivery seller on the list and the resulting effects on any services requested by the listed delivery seller.

“(2) PROHIBITION ON DELIVERY.—

“(A) IN GENERAL.—Commencing on the date that is 60 days after the date of the initial distribution or availability of the list described in paragraph (1)(A), no person who receives the list under paragraph (1), and no person who delivers cigarettes or smokeless tobacco to consumers, shall knowingly complete, cause to be completed, or complete its portion of a delivery of any package for any person whose name and address are on the list, unless—

“(i) the person making the delivery knows or believes in good faith that the item does not include cigarettes or smokeless tobacco;

“(ii) the delivery is made to a person lawfully engaged in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) the package being delivered weighs more than 100 pounds and the person making the delivery does not know or have reasonable cause to believe that the package contains cigarettes or smokeless tobacco.

“(B) IMPLEMENTATION OF UPDATES.—Commencing on the date that is 30 days after the date of the distribution or availability of any updates or corrections to the list described in paragraph (1)(A), all recipients and all common carriers or other persons that deliver cigarettes or smokeless tobacco to consumers shall be subject to subparagraph (A) in regard to the corrections or updates.

“(3) EXEMPTIONS.—

“(A) IN GENERAL.—Subsection (b)(2) and any requirements or restrictions directly on common carriers under this subsection, including subparagraphs (A) and (B) of paragraph (2), shall not apply to a common carrier that—

“(i) is subject to a settlement agreement described in subparagraph (B); or

“(ii) if a settlement agreement described in subparagraph (B) to which the common carrier is a party is terminated or otherwise becomes inactive, is administering and enforcing policies and practices throughout the United States that are at least as stringent as any such agreement.

“(B) SETTLEMENT AGREEMENT.—A settlement agreement described in this subparagraph—

“(i) is a settlement agreement relating to tobacco product deliveries to consumers; and

“(ii) includes—

“(I) the Assurance of Discontinuance entered into by the Attorney General of New York and DHL Holdings USA, Inc. and DHL Express (USA), Inc. on or about July 1, 2005, the Assurance of Discontinuance entered into by the Attorney General of New York and United Parcel Service, Inc. on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and Federal Express Corporation and FedEx Ground Package Systems, Inc. on or about February 3, 2006, if each of those agreements is honored throughout the United States to block illegal deliveries of cigarettes or smokeless tobacco to consumers; and

“(II) any other active agreement between a common carrier and a State that operates throughout the United States to ensure that no deliveries of cigarettes or smokeless tobacco shall be made to consumers or illegally operating Internet or mail-order sellers and that any such deliveries to consumers shall not be made to minors or without payment to the States and localities where the consumers are located of all taxes on the tobacco products.

“(4) SHIPMENTS FROM PERSONS ON LIST.—

“(A) IN GENERAL.—If a common carrier or other delivery service delays or interrupts the delivery of a package in the possession of the common carrier or delivery service because the common carrier or delivery service determines or has reason to believe that the person ordering the delivery is on a list described in paragraph (1)(A) and that clauses (i), (ii), and (iii) of paragraph (2)(A) do not apply—

“(i) the person ordering the delivery shall be obligated to pay—

“(I) the common carrier or other delivery service as if the delivery of the package had been timely completed; and

“(II) if the package is not deliverable, any reasonable additional fee or charge levied by the common carrier or other delivery service to cover any extra costs and inconvenience and to serve as a disincentive against such noncomplying delivery orders; and

“(ii) if the package is determined not to be deliverable, the common carrier or other delivery service shall offer to provide the package and its contents to a Federal, State, or local law enforcement agency.

“(B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

“(C) CONFIDENTIALITY.—Any person receiving records under subparagraph (B) shall—

“(i) use the records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco; and

“(ii) keep confidential any personal information in the records not otherwise required for such purposes.

“(5) PREEMPTION.—

“(A) IN GENERAL.—No State, local, or tribal government, nor any political authority of 2 or more State, local, or tribal governments, may enact or enforce any law or regulation relating to delivery sales that restricts deliveries of cigarettes or smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

“(i) requiring that the common carrier or other delivery service verify the age or identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

“(ii) requiring that the common carrier or other delivery service obtain a signature from the consumer accepting the delivery;

“(iii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

“(iv) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

“(v) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or is not identified on any list of delivery sellers maintained and distributed by any entity other than the Federal Government.

“(B) RELATIONSHIP TO OTHER LAWS.—Except as provided in subparagraph (C), nothing in this paragraph shall be construed to nullify, expand, restrict, or otherwise amend or modify—

“(i) section 14501(c)(1) or 41713(b)(4) of title 49, United States Code;

“(ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

“(iii) any provision of State, local, or tribal law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4)(B) of title 49 of the United States Code.

“(C) STATE LAWS PROHIBITING DELIVERY SALES.—

“(i) IN GENERAL.—Except as provided in clause (ii), nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to a delivery sale, of cigarettes or other tobacco products to individual consumers or personal residences.

“(ii) EXEMPTIONS.—No State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residences without proof that the common carrier is not exempt under paragraph (3) of this subsection.

“(6) STATE, LOCAL, AND TRIBAL ADDITIONS.—

“(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General of the United States with—

“(i) all known names, addresses, website addresses, and other primary contact information of any delivery seller that—

“(I) offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land; and

“(II) has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

“(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

“(B) UPDATES.—Any government providing a list to the Attorney General of the United States under subparagraph (A) shall also provide updates and corrections every 4 months until such time as the government notifies the Attorney General of the United States in writing that the government no longer desires to submit information to supplement the list described in paragraph (1)(A).

“(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list described in paragraph (1)(A) any persons that are on the list solely because of the prior submissions of the government of the list of the government of noncomplying delivery sellers of cigarettes or smokeless tobacco or a subsequent update or correction by the government.

“(7) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall—

“(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (6) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General of the United States; and

“(B) distribute any list or update described in subparagraph (A) to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (6).

“(8) NOTICE TO DELIVERY SELLERS.—Not later than 14 days before including any delivery seller on the initial list described in paragraph (1)(A), or on an update to the list for the first time, the Attorney General of the United States shall make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the list or update, with that notice citing the relevant provisions of this Act.

“(9) LIMITATIONS.—

“(A) IN GENERAL.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to—

“(i) determine whether any list distributed or made available under paragraph (1) is complete, accurate, or up-to-date;

“(ii) determine whether a person ordering a delivery is in compliance with this Act; or

“(iii) open or inspect, pursuant to this Act, any package being delivered to determine its contents.

“(B) ALTERNATE NAMES.—Any common carrier or other person making a delivery subject to this subsection—

“(i) shall not be required to make any inquiries or otherwise determine whether a person ordering a delivery is a delivery seller on the list described in paragraph (1)(A) who is using a different name or address in order to evade the related delivery restrictions; and

“(ii) shall not knowingly deliver any packages to consumers for any delivery seller on the list described in paragraph (1)(A) who the common carrier or other delivery service knows is a delivery seller who is on the list and is using a different name or address to evade the delivery restrictions of paragraph (2).

“(C) PENALTIES.—Any common carrier or person in the business of delivering packages on behalf of other persons shall not be subject to any penalty under section 14101(a) of title 49, United States Code, or any other provision of law for—

“(i) not making any specific delivery, or any deliveries at all, on behalf of any person on the list described in paragraph (1)(A);

“(ii) refusing, as a matter of regular practice and procedure, to make any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person or for any person not in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

“(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

“(D) OTHER LIMITS.—Section 2 and subsections (a), (b), (c), and (d) of this section shall not be interpreted to impose any responsibilities, requirements, or liability on common carriers.

“(f) PRESUMPTION.—For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.”

(d) PENALTIES.—The Jenkins Act is amended by striking section 3 and inserting the following:

#### “SEC. 3. PENALTIES.

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), whoever knowingly violates this Act shall be imprisoned for not more than 3 years, fined under title 18, United States Code, or both.

“(2) EXCEPTIONS.—

“(A) GOVERNMENTS.—Paragraph (1) shall not apply to a State, local, or tribal government.

“(B) DELIVERY VIOLATIONS.—A common carrier or independent delivery service, or employee of a common carrier or independent delivery service, shall be subject to criminal penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed knowingly—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (3), whoever violates this Act shall be subject to a civil penalty in an amount not to exceed—

“(A) in the case of a delivery seller, the greater of—

“(i) \$5,000 in the case of the first violation, or \$10,000 for any other violation; or

“(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of the delivery seller during the 1-year period ending on the date of the violation.

“(B) in the case of a common carrier or other delivery service, \$2,500 in the case of a first violation, or \$5,000 for any violation within 1 year of a prior violation.

“(2) RELATION TO OTHER PENALTIES.—A civil penalty imposed under paragraph (1) for a violation of this Act shall be imposed in addition to any criminal penalty under subsection (a) and any other damages, equitable relief, or injunctive relief awarded by the court, including the payment of any unpaid taxes to the appropriate Federal, State, local, or tribal governments.

“(3) EXCEPTIONS.—

“(A) DELIVERY VIOLATIONS.—An employee of a common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(B) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

“(i) the common carrier or independent delivery service has implemented and enforces effective policies and practices for complying with that section; or

“(ii) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes packages, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).”

(e) ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

“SEC. 4. ENFORCEMENT.

“(a) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(b) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

“(c) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(1) IN GENERAL.—

“(A) STANDING.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may bring an action in a United States district court to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

“(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(2) PROVISION OF INFORMATION.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of this Act to the Attorney General of the

United States or a United States attorney, who shall take appropriate actions to enforce this Act.

“(3) USE OF PENALTIES COLLECTED.—

“(A) IN GENERAL.—There is established a separate account in the Treasury known as the ‘PACT Anti-Trafficking Fund’. Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the Federal Government in enforcing this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing this Act and other laws relating to contraband tobacco products.

“(B) ALLOCATION OF FUNDS.—Of the amount available to the Attorney General of the United States under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

“(4) NONEXCLUSIVITY OF REMEDY.—

“(A) IN GENERAL.—The remedies available under this section and section 3 are in addition to any other remedies available under Federal, State, local, tribal, or other law.

“(B) STATE COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

“(C) TRIBAL COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

“(D) LOCAL GOVERNMENT ENFORCEMENT.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

“(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in an appropriate United States district court to prevent and restrain violations of this Act by any person other than a State, local, or tribal government.

“(e) NOTICE.—

“(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

“(2) STATE, LOCAL, AND TRIBAL ACTIONS.—It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that commences a civil action under this section should inform the Attorney General of the United States of the action.

“(f) PUBLIC NOTICE.—

“(1) IN GENERAL.—The Attorney General of the United States shall make available to the public, by posting information on the Internet and by other appropriate means, information regarding all enforcement actions brought by the United States, or reported to the Attorney General of the United States, under this section, including information re-

garding the resolution of the enforcement actions and how the Attorney General of the United States has responded to referrals of evidence of violations pursuant to subsection (c)(2).

“(2) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, and every year thereafter until the date that is 5 years after such date of enactment, the Attorney General of the United States shall submit to Congress a report containing the information described in paragraph (1).”

SEC. 03. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NON-MAILABLE MATTER.

(a) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716D the following:

“§ 1716E. Tobacco products as nonmailable

“(a) PROHIBITION.—

“(1) IN GENERAL.—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this paragraph.

“(2) REASONABLE CAUSE.—For the purposes of this subsection reasonable cause includes—

“(A) a statement on a publicly available website, or an advertisement, by any person that the person will mail matter which is nonmailable under this section in return for payment; or

“(B) the fact that the person is on the list created under section 2A(e) of the Jenkins Act.

“(b) EXCEPTIONS.—

“(1) CIGARS.—Subsection (a) shall not apply to cigars (as defined in section 5702(a) of the Internal Revenue Code of 1986).

“(2) GEOGRAPHIC EXCEPTION.—Subsection (a) shall not apply to mailings within the State of Alaska or within the State of Hawaii.

“(3) BUSINESS PURPOSES.—

“(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed only—

“(i) for business purposes between legally operating businesses that have all applicable State and Federal Government licenses or permits and are engaged in tobacco product manufacturing, distribution, wholesale, export, import, testing, investigation, or research; or

“(ii) for regulatory purposes between any business described in clause (i) and an agency of the Federal Government or a State government.

“(B) RULES.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) CONTENTS.—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is a business or government agency permitted to make a mailing under this paragraph;

“(II) the United States Postal Service to ensure that any recipient of an otherwise

nonmailable tobacco product sent through the mails under this paragraph is a business or government agency that may lawfully receive the product;

“(III) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(IV) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package;

“(V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make the information available to the Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009;

“(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to a permitted government agency or business and may not be delivered to any residence or individual person; and

“(VII) that any mailing described in subparagraph (A) be delivered only to a verified employee of the recipient business or government agency, who is not a minor and who shall be required to sign for the mailing.

“(C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(4) CERTAIN INDIVIDUALS.—

“(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

“(B) RULES.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) CONTENTS.—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package and is not a minor;

“(II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor;

“(III) that any package mailed under this paragraph shall weigh not more than 10 ounces;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) that a mailing described in subparagraph (A) shall not be delivered or placed in

the possession of any individual who has not been verified as not being a minor;

“(VI) for a mailing described in subparagraph (A) to an individual, that the United States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

“(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during any 30-day period.

“(C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer or a legally authorized agent of a legally operating cigarette manufacturer from using the United States Postal Service to mail cigarettes to verified adult smoker solely for consumer testing purposes, if—

“(i) the cigarette manufacturer has a permit, in good standing, issued under section 5713 of the Internal Revenue Code of 1986;

“(ii) the package of cigarettes mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes);

“(iii) the recipient does not receive more than 1 package of cigarettes from any 1 cigarette manufacturer under this paragraph during any 30-day period;

“(iv) all taxes on the cigarettes mailed under this paragraph levied by the State and locality of delivery are paid to the State and locality before delivery, and tax stamps or other tax-payment indicia are affixed to the cigarettes as required by law; and

“(v) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

“(II) the recipient is paid a fee by the manufacturer or agent of the manufacturer for participation in consumer product tests; and

“(III) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent.

“(B) LIMITATIONS.—Subparagraph (A) shall not—

“(i) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

“(ii) permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette sales of the manufacturer in the United States during the calendar year before the date of the mailing.

“(C) RULES.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) CONTENTS.—The final rule issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer permitted to make a mailing under this paragraph, or an agent legally authorized by

the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

“(II) the legally operating cigarette manufacturer submitting the cigarettes into the mails under this paragraph to affirm that—

“(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

“(bb) the recipient has not made any payment for the cigarettes;

“(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

“(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) not less frequently than once in every 3-month period;

“(III) the legally operating cigarette manufacturer or the legally authorized agent of the manufacturer submitting the cigarettes into the mails under this paragraph to affirm that any package mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all related State tax stamps or other tax-payment indicia have been applied;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) the United States Postal Service to maintain records relating to a mailing described in subparagraph (A) during the 3-year period beginning on the date of the mailing and make the information available to persons enforcing this section;

“(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult; and

“(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

“(D) DEFINITIONS.—In this paragraph—

“(i) the term ‘adult’ means an individual who is not less than 21 years of age; and

“(ii) the term ‘consumer testing’ means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

“(6) FEDERAL GOVERNMENT AGENCIES.—An agency of the Federal Government involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, restrictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay the recipients for participating in the consumer testing.

“(C) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco products seized and forfeited under

this subsection shall be destroyed or retained by the Federal Government for the detection or prosecution of crimes or related investigations and then destroyed.

“(d) **ADDITIONAL PENALTIES.**—In addition to any other fines and penalties under this title for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount equal to 10 times the retail value of the non-mailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

“(e) **CRIMINAL PENALTY.**—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that is nonmailable matter under this section shall be fined under this title, imprisoned not more than 1 year, or both.

“(f) **USE OF PENALTIES.**—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal fines, civil penalties, or other monetary penalties collected by the Federal Government in enforcing this section shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

“(g) **COORDINATION OF EFFORTS.**—The Postmaster General shall cooperate and coordinate efforts to enforce this section with related enforcement activities of any other Federal agency or agency of any State, local, or tribal government, whenever appropriate.

“(h) **ACTIONS BY STATE, LOCAL, OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.**—

“(1) **IN GENERAL.**—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

“(2) **SOVEREIGN IMMUNITY.**—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(3) **ATTORNEY GENERAL REFERRAL.**—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

“(4) **NONEXCLUSIVITY OF REMEDIES.**—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or

take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

“(5) **OTHER ENFORCEMENT ACTIONS.**—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

“(i) **DEFINITION.**—In this section, the term ‘State’ has the meaning given that term in section 1716(k).”

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 83 of title 18 is amended by inserting after the item relating to section 1716D the following:

“1716E. Tobacco products as nonmailable.”

**SEC. 04. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS; CIVIL PENALTY.**

Section 2343(c) of title 18, United States Code, is amended to read as follows:

“(c)(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

“(A) any records or information required to be maintained by the person under this chapter; or

“(B) any cigarettes or smokeless tobacco kept or stored by the person at the premises.

“(2) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by paragraph (1).

“(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed \$10,000.”

**SEC. 05. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.**

(a) **IN GENERAL.**—Nothing in this title or the amendments made by this title shall be construed to amend, modify, or otherwise affect—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian country;

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under Federal or State law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes, tribal members, tribal enterprises, or in Indian country;

(4) any Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, tribal enterprises, tribal reservations, or other lands held by the United States in trust for one or more Indian tribes; or

(5) any State or local government authority to bring enforcement actions against persons located in Indian country.

(b) **COORDINATION OF LAW ENFORCEMENT.**—Nothing in this title or the amendments

made by this title shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) **TREATMENT OF STATE AND LOCAL GOVERNMENTS.**—Nothing in this title or the amendments made by this title shall be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) **ENFORCEMENT WITHIN INDIAN COUNTRY.**—Nothing in this title or the amendments made by this title shall prohibit, limit, or restrict enforcement by the Attorney General of the United States of this title or an amendment made by this title within Indian country.

(e) **AMBIGUITY.**—Any ambiguity between the language of this section or its application and any other provision of this title shall be resolved in favor of this section.

(f) **DEFINITIONS.**—In this section—

(1) the term “Indian country” has the meaning given that term in section 1 of the Jenkins Act, as amended by this title; and

(2) the term “tribal enterprise” means any business enterprise, regardless of whether incorporated or unincorporated under Federal or tribal law, of an Indian tribe or group of Indian tribes.

**SEC. 06. ENHANCED CONTRABAND TOBACCO ENFORCEMENT.**

(a) **REQUIREMENTS.**—The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall—

(1) not later than the end of the 3-year period beginning on the effective date of this title, create a regional contraband tobacco trafficking team in each of New York, New York, the District of Columbia, Detroit, Michigan, Los Angeles, California, Seattle, Washington, and Miami, Florida;

(2) create a Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as the coordinator for all ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world;

(3) establish a covert national warehouse for undercover operations; and

(4) create a computer database that will track and analyze information from retail sellers of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out subsection (a) \$8,500,000 for each of fiscal years 2010 through 2014.

**SEC. 07. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this title shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) **BATFE AUTHORITY.**—The amendments made by section 04 of this title shall take effect on the date of enactment of this Act.

**SEC. 08. SEVERABILITY.**

If any provision of this title, or any amendment made by this title, or the application thereof to any person or circumstance, is held invalid, the remainder of the title and the application of the title to any other person or circumstance shall not be affected thereby.

**SEC. 09. SENSE OF CONGRESS CONCERNING THE PRECEDENTIAL EFFECT OF THIS TITLE.**

It is the sense of Congress that unique harms are associated with online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of certain tobacco products. This title was enacted recognizing the long-standing interest of Congress in urging compliance with States' laws regulating remote sales of certain tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which established reporting requirements for out-of-State companies that sell certain tobacco products to citizens of the taxing States, and which gave authority to the Department of Justice and the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the Jenkins Act. In light of the unique harms and circumstances surrounding the online sale of certain tobacco products, this title is intended to help collect cigarette excise taxes, to stop tobacco sales to underage youth, and to help the States enforce their laws that target the online sales of certain tobacco products only. This title is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validity of efforts to impose other types of taxes on, out-of-State entities that do not have a physical presence within the taxing State.

**SA 1272.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 01. LABELING CHANGES.**

Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended by adding at the end the following:

"(10) If the proposed labeling of a drug that is the subject of an application under this subsection is different from the labeling of the listed drug at the time of approval of the application under this subsection, the drug that is the subject of such application shall, notwithstanding any other provision of this Act, be eligible for approval and shall not be considered misbranded under section 502 if—

"(A) a revision to the labeling of the listed drug has been approved by the Secretary within 60 days of the expiration of the patent or exclusivity period that otherwise prohibited the approval of the drug under this subsection;

"(B) the Secretary has not determined the applicable text of the labeling for the drug that is the subject the application under this subsection at the time of expiration of such patent or exclusivity period;

"(C) the labeling revision described under subparagraph (A) does not include a change to the 'Warnings' section of the labeling;

"(D) the Secretary does not deem that the absence of such revision to the labeling of the drug that is the subject of the application under this subsection would adversely impact the safe use of the drug;

"(E) the sponsor of the application under this subsection agrees to revise the labeling of the drug that is the subject of such application not later than 60 days after the notification of any changes to such labeling required by the Secretary; and

"(F) such application otherwise meets the applicable requirements for approval under this subsection."

**SA 1273.** Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE — AUTOMOBILE VOUCHER PROGRAM****SEC. 01. AUTOMOBILE VOUCHER PROGRAM.**

(a) **ESTABLISHMENT.**—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the "Automobile Voucher Program" through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of an automobile manufactured after model year 2006, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) certify dealers for participation in the Program to accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of an automobile manufactured after model year 2006, offered for sale or lease by that dealer; and

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by such dealers, in accordance with the regulations promulgated under subsection (d);

(4) in consultation with the Secretary of the Treasury, provide for the payment of rebates to persons who qualify for a rebate under subsection (c)(2); and

(5) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the Program.

(b) **QUALIFICATIONS FOR AND VALUE OF VOUCHERS.**—

(1) **NEW AUTOMOBILES.**—A \$4,000 voucher shall be issued under the Program to offset the purchase price or lease price of a new automobile, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program.

(2) **USED AUTOMOBILES.**—A \$3,000 voucher shall be issued under the Program to offset the purchase price or lease price of a used automobile manufactured after model year 2006, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program.

(c) **PROGRAM SPECIFICATIONS.**—

(1) **LIMITATIONS.**—

(A) **GENERAL PERIOD OF ELIGIBILITY.**—A voucher issued under the Program shall be used only for the purchase or qualifying lease of automobiles manufactured after model year 2006 that occur between—

(i) March 30, 2009; and

(ii) the date that is 1 year after the date on which the regulations promulgated under subsection (d) are implemented.

(B) **NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.**—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) **NO COMBINATION OF VOUCHERS.**—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of an automobile manufactured after model year 2006.

(D) **COMBINATION WITH OTHER INCENTIVES PERMITTED.**—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of an automobile manufactured after model year 2006 shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(E) **NO ADDITIONAL FEES.**—A dealer participating in the program may not charge a person purchasing or leasing an automobile manufactured after model year 2006 any additional fees associated with the use of a voucher under the Program.

(F) **NUMBER AND AMOUNT.**—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(2) **ELIGIBLE PURCHASES OR LEASES PRIOR TO DATE OF ENACTMENT.**—If a person purchased or leased a new automobile during the period beginning on March 30, 2009 and ending on the day before the date of the enactment of this Act, the person shall be eligible for a cash rebate equivalent to the amount described in subsection (b)(1) if the person provides proof satisfactory to the Secretary that the person is eligible for such rebate.

(d) **RULEMAKING.**—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) provide for a means of certifying dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for both the amount of the vouchers and any reasonable administrative costs incurred by the dealer as soon as practicable but no longer than 10 days after the submission of a voucher for the automobile manufactured after model year 2006 to the Secretary;

(3) allow the dealer to use the voucher in addition to any other rebate or discount offered by the dealer or the manufacturer for the automobile manufactured after model year 2006 and prohibit the dealer from using the voucher to offset any such other rebate or discount;



(4) establish a process by which persons who qualify for a rebate under subsection (c)(2) may apply for such rebate; and

(5) provide for the enforcement of the penalties described in subsection (e).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly violate any provision under this section or any regulations issued pursuant to subsection (d).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than \$15,000 for each violation.

(f) INFORMATION TO CONSUMERS AND DEALERS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make available on an Internet Web site and through other means determined by the Secretary information about the Program, including—

(A) how to determine if a vehicle is an eligible trade-in vehicle; and

(B) how to participate in the Program, including how to determine participating dealers.

(2) PUBLIC AWARENESS CAMPAIGN.—The Secretary shall conduct a public awareness campaign to inform consumers about the Program and sources of additional information.

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all automobile manufactured after model year 2006, which have been purchased or leased under the Program.

(2) REPORT.—Not later than 60 days after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of automobiles manufactured after model year 2006 by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

(iii) the location of sale or lease; and

(B) an estimate of the overall economic and employment effects of the Program.

(h) EXCLUSION OF VOUCHERS AND REBATES FROM INCOME.—

(1) FEDERAL PROGRAMS.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program.

(2) TAXATION.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term "automobile" means an automobile or a work truck (as such terms are

defined in section 32901(a) of title 49, United States Code);

(2) the term "dealer" means a person licensed by a State who engages in the sale of new or used automobiles to ultimate purchasers;

(3) the term "eligible trade-in vehicle" means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that was manufactured before model year 2005;

(4) the term "person" means an individual, partnership, corporation, business trust, or any organized group of persons;

(5) the term "Program" means the Automobile Voucher Program established under this section;

(6) the term "qualifying lease" means a lease of an automobile for a period of not less than 5 years;

(7) the term "Secretary" means the Secretary of Transportation acting through the National Highway Traffic Safety Administration; and

(8) the term "vehicle identification number" means the 17-character number used by the automobile industry to identify individual automobiles.

#### SEC. 02. REALLOCATION OF APPROPRIATIONS.

From the amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the Director of the Office of Management and Budget may allocate not more than \$4,000,000,000 to carry out the Automobile Voucher Program established under this title.

#### SEC. 03. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

### NOTICE OF HEARING

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before the Committee on Energy and Natural Resources. The business meeting will be held on Tuesday, June 9, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 10 a.m. in room 106 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, June 4, 2009 at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 4, 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 10 a.m. to hold a hearing entitled "Challenges and Opportunities for U.S.-China Cooperation on Climate Change."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, on Thursday, June 4, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on June 4, 2009 at 2:30 p.m. to conduct a hearing entitled, "Are We Ready? A Status Report on Emergency Preparedness for the 2009 Hurricane Season."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 4, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. AKAKA. Madam President, I ask unanimous consent that my fellow, Louise Kitamura, be granted the privileges of the floor for today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that T.J. Kim, a fellow in my office, be granted floor privileges for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Mr. President, I ask unanimous consent that Gail Hansen, a fellow in my office, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 168, the nomination of David Heyman to be an Assistant Secretary of Homeland Security; that the nomination be confirmed, the motion to reconsider be laid upon the table; that no further motions be in order and any statements relating thereto be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

#### DEPARTMENT OF HOMELAND SECURITY

David Heyman, of the District of Columbia, to be an Assistant Secretary of Homeland Security.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1256

Mr. BROWN. I ask unanimous consent that the cloture vote on the Dodd substitute amendment occur at 5:30 p.m., Monday, June 8, and that the filing deadline for first-degree amend-

ments be 3 p.m., Monday, and the filing deadline for second-degree amendments be 4:30 p.m., Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—S. 1023

Mr. BROWN. I ask unanimous consent that notwithstanding the adjournment of the Senate, the Commerce Committee be authorized to report S. 1023, the Travel Promotion Act, on Friday, June 5, from 10 a.m. to noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMENDING THE UNIVERSITY OF WASHINGTON WOMEN'S SOFT- BALL TEAM

Mr. BROWN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 168, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 168) commending the University of Washington women's softball team for winning the 2009 NCAA Women's College World Series.

There being no objection, the Senate proceeded to consider the resolution.

Ms. CANTWELL. Mr. President, I rise today to congratulate the University of Washington softball team on their 2009 NCAA National Championship.

On June 2, led by National Player of the Year Danielle Lawrie and head coach Heather Tarr, the Huskies earned their first title in a thrilling 3-2 victory over the University of Florida.

The win caps an amazing 51-12 season that saw the team capture the hearts and minds of the entire region. Facing challenges and setbacks throughout the season, the team found the courage and determination needed to break through to highest achievement in college softball.

Following the game, National Player of the Year Danielle Lawrie added to her already lengthy resume when she was selected as the Most Outstanding Player of the College World Series. She was joined on this year's First-Team All-America team by teammate Ashley Charters who closes out her Husky career with her third All-America selection.

However, it was not individuals who won this championship; it was a team. The commitment and passion of each and every player has turned the University of Washington into one of the most feared softball teams in the Nation. This season marks the 16th straight postseason appearance by the Huskies. Competing in the indisputably

toughest conference in America, the Pac-10, the University of Washington has steadily climbed into the ranks of softball's elite.

At a time when budget shortfalls are forcing universities across the Nation to eliminate athletic programs, the University of Washington softball team stands as a testament to the role of athletics in our schools. These are not superstars headed to lucrative paychecks; they are committed student-athletes who dedicate themselves every day on the field and in the classroom. I reserve special praise for the league-leading seven Huskies named to the Pac-10 All-Academic team: Morgan Stuart, Amanda Fleischman, Alyson McWherter, Ashlyn Watson, Ashley Charters, Marnie Koziol and Alicia Blake.

Congratulations once more to our newest national champions, the University of Washington Huskies. Go Dawgs!

Mr. BROWN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 168) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 168

Whereas on June 2, 2009, for the first time in university history, the University of Washington Women Huskies won the National Collegiate Athletic Association ("NCAA") national softball championship game with a 3-2 victory over the University of Florida Gators;

Whereas University of Washington pitcher Danielle Lawrie was named the Women's College World Series Most Valuable Player and the USA Softball National Collegiate Player of the Year;

Whereas the Huskies finished the 2009 season with an impressive record of 51-12;

Whereas the members of the 2009 University of Washington softball team are excellent representatives of a university that is 1 of the premier academic institutions in Washington State, producing many outstanding student-athletes and other leaders; and

Whereas the members of the women's softball team have brought great honor to themselves, their families, the University of Washington, and the State of Washington: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulate the University of Washington softball team for winning the 2009 Women's College World Series;

(2) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication helped the University of Washington win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Mark A. Emmert, president of the University of Washington;

(B) Scott Woodward, director of athletics of the University of Washington; and

(C) Heather Tarr, head coach of the University of Washington softball team.

#### ORDERS FOR MONDAY, JUNE 8, 2009

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, June 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 5:30 p.m., with Senators permitted to speak for up to 10 minutes each; that following morning business, the Senate resume consideration of Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. BROWN. Mr. President, as a reminder, the filing deadlines are 3 p.m. Monday for first-degree amendments and 4:30 p.m. Monday for second-degree amendments. The next vote will occur on Monday at 5:30 p.m.

#### ADJOURNMENT UNTIL MONDAY, JUNE 8, 2009, AT 2 P.M.

Mr. BROWN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Monday, June 8, 2009, at 2 p.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### FEDERAL LABOR RELATIONS AUTHORITY

JULIA AKINS CLARK, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE COLLEEN DUFFY KIKO, RESIGNED.

ERNEST W. DUBESTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS EXPIRING JULY 29, 2012, VICE DALE CABANISS, RESIGNED.

##### DEPARTMENT OF JUSTICE

PREET BHARARA, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE MICHAEL J. GARCIA, RESIGNED.

TRISTRAM J. COFFIN, OF VERMONT, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF VERMONT FOR THE TERM OF FOUR YEARS, VICE THOMAS D. ANDERSON, RESIGNED.

JENNY A. DURKAN, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS, VICE JOHN MCKAY, RESIGNED.

PAUL JOSEPH FISHMAN, OF NEW JERSEY, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF FOUR YEARS, VICE CHRISTOPHER JAMES CHRISTIE, RESIGNED.

B. TODD JONES, OF MINNESOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS, VICE RACHEL K. PAULOSE, RESIGNED.

JOHN P. KACAVAS, OF NEW HAMPSHIRE, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF FOUR YEARS, VICE THOMAS P. COLANTUONO, RESIGNED.

JOYCE WHITE VANCE, OF ALABAMA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS, VICE ALICE HOWZE MARTIN.

CHRISTOPHER H. SCHROEDER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ELISEBETH C. COOK, RESIGNED.

##### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. ROBERT W. CONE

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be general

LT. GEN. RAYMOND E. JOHNS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major general

BRIG. GEN. DOUGLAS J. ROBB

##### IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

VINCENT G. AUTH  
KURT J. BROCKMAN  
SCOTT A. CURTICE  
RODNEY L. GUNNING  
SHEHERAZAD A. HARTZELL  
KURT HUMMELDORF  
JESSE W. LEE, JR.  
ROWLAND E. MCCOY  
BRENT E. NEUBAUER  
WILLIAM N. NORMAN  
MICHAEL T. RONCONE  
MARTHA P. VILLALOBOS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

SALVADOR AGUILERA  
DAVILA B. F. BRADLEY  
ARTHUR M. BROWN  
TIMOTHY R. EICHLER  
BRYAN K. FINCH  
MILTON D. GIANULIS  
GUY M. LEE  
STEPHEN P. PIKE  
JOHN A. SWANSON  
GREGORY N. TODD  
DONALD P. TROAST  
DENNIS W. YOUNG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

MICHAEL M. BATES  
DAVID A. BERGER  
TIERNEY M. CARLOS  
REBECCA A. CONRAD  
JOEL A. DOOLIN  
ANNE B. FISCHER  
HOLIDAY HANNA  
DAVID M. HARRISON  
MARY C. L. HORRIGAN  
MICHAEL J. JAEGER  
DON A. MARTIN  
JAMES R. MCFARLANE  
MARY S. REISMEIER  
GARY E. SHARP  
ERIN E. STONE  
DAVID G. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

JOHN J. ADAMETZ  
KEVIN L. BROWN  
JOSEPH E. GREALISH  
STEPHANIE M. JONES  
MICHELLE C. LADUCA  
MARKO MEDVED  
PAUL J. ODENTHAL  
CRAIG S. PRATHER

CHARLES R. REUNING  
EDWARD G. SEWESTER  
STEVEN L. SIMS  
MARSHALL T. SYKES  
DEAN A. TUFTS  
ROBERT W. TYE  
MICHAEL A. WEAVER  
RICHARD L. WHIPPLE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

KRISTEN ATTERBURY  
KHIN AUNGTHEIN  
MARGARET S. BEAUBIEN  
JUDITH D. BELLAS  
MARY A. BRANTLEYMAHONY  
DAVID T. CASTELLANO  
JAY E. CHAMBERS  
VICKI L. EDGAR  
TRISHA L. FARRELL  
SANDRA HEARN  
JAMES T. HOSACK  
LENA M. JONES  
JOHN J. KANE, SR.  
BARBARA J. KINCADE  
LORI J. KRAYER  
JOHN T. MANNING  
SANDRA A. MASON  
CAROLYN R. MCGEE  
PAMELA M. MILLER  
KATHERINE M. NATOLI  
ANGELA S. NIMMO  
MARIA E. PERRY  
JOANNE M. PETRELLI  
GORDON R. SMITH  
HARRY F. SMITH III  
CONSTANCE E. STAMATERIS  
CYNTHIA D. TURNER  
FAY B. WAHLE  
CONSTANCE L. WORLINE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

DANIEL L. ALLEN  
PATRICK W. BROWN  
WILBERT R. BYNUM  
KEVIN J. CARRIER  
MARK P. DIBBLE  
RUDOLPH K. GEISLER  
JOHN C. GROESCHEL  
SHAWN D. GRUNZKE  
MICHAEL S. HANSEN  
ERNEST D. HARDEN, JR.  
KEVIN W. HINSON  
SCOTT J. HOFFMAN  
GLENN J. LINTZ  
JOSEPH F. MAHAN  
MARK S. MURPHY  
MICHAEL B. MURPHY  
ROBERT B. OAKELEY  
DAWN D. RICHARDSON  
WALTER W. ROBORN  
JOSEPH F. RUSSELL IV  
FRANKLIN R. SARRA, JR.  
JOSEPH W. SCHAUBLE  
CLIFFORD G. SCOTT  
AARON K. STANLEY  
HARRY T. THETTFORD, JR.  
MICHAEL E. THOMAS  
JOSEPH M. VITELLI  
MARK W. WERNER  
DONALD J. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be captain

LUIS A. BENEVIDES  
RICHARD D. BERGTHOLD  
PHILIP J. BLAINE  
MICHAEL D. BRIDGES  
DANIEL J. CORNWELL  
MARY F. DAVID  
WILLIAM F. DAVIS  
EUGENE M. DELARA  
DANNY W. DENTON  
LYNN T. DOWNS  
JOHN F. FERGUSON  
MICHELE A. HANCOCK  
RICHARD J. JEHUE  
MARY E. JENKINS  
SCOTT L. JOHNSTON  
DAVID E. JONES  
MARVIN L. JONES  
JEANMARIE P. JONSTON  
KEVIN L. KLETTE  
KIM L. LEFEBVRE  
JAMES A. LETEXIER  
MARIA K. MAJAR  
MANUEL E. NAGUTT  
ROBERT E. NEWELL  
JOSEPH J. PICKEL  
ROBERT A. RAHAL  
JOHN A. RALPH  
DYLAN D. SCHMORROW

RUSSELL D. SHILLING  
LESLIE L. SIMS  
ELIZABETH A. M. SMITH  
DEBRA R. SOYK  
ANNE M. SWAP  
MICHAEL S. WARRINGTON  
TIMOTHY H. WEBER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

BRIAN A. ALEXANDER  
LYNN A. BAILEY  
KEVIN P. BARRETT  
WALTER S. BEW  
KENT A. BLADE  
MARGARET CALLOWAY  
BROOKS D. CASH  
DAVID W. CLINE  
MICHAEL J. COLSTON  
CATHERINE S. COPENHAVER  
GLEN C. CRAWFORD  
JUDITH M. DICKERT  
CHRISTINE E. DORR  
ALLAN M. FINLEY  
WALTER M. GREENHALGH  
MARK E. HAMMETT  
ERIC P. HOFMEISTER  
MICHAEL T. HOPKINS

GREGORY W. JONES  
EDWARD B. JORGENSEN  
FREDERICK C. KASS  
DAVID J. KEBLISH  
MARK A. KOBELJA  
GREGORY J. KUNZ  
KENNETH M. LANKIN  
PATRICK R. LARABY  
ROBERT P. LARYS  
JOSEPH T. LAVAN  
PATRICK L. LAWSON  
NORMAN LEE  
CON Y. LING  
JASON D. MAGUIRE  
RICHARD T. MAHON  
FREDERICK J. McDONALD  
DAVID B. McLAREN  
ROBERT D. MENZIES  
MARK E. MICHAUD  
ALLEN O. MITCHELL  
SANDOR S. NIEMANN  
RICHARD J. PAVAR  
DAVID S. PLURAD  
TIMOTHY J. POREA  
MAE M. POUGET  
KENNETH G. PUGH  
SCOTT W. PYNE  
CHRISTOPHER S. QUARLES  
RICHARD D. QUATTRONE  
JEFFREY D. QUINLAN  
JUAN P. RIVERA

MARY K. RUSHER  
CRAIG J. SALT  
JOHN W. SANDERS III  
ELIZABETH K. SATTER  
JUDY R. SCHAUER  
BRYAN P. SCHUMACHER  
ZSOLT T. STOCKINGER  
MICHAEL D. THOMAS  
WILLIAM E. TODD  
JOHN M. TRAMONT  
SHARON M. TROXEL  
GUIDO F. VALDES  
CHRISTOPHER WESTROPP  
JON S. WOODS  
PETER G. WOODSON

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CONFIRMATION

Executive nomination confirmed by  
the Senate, Thursday, June 4, 2009:

DEPARTMENT OF HOMELAND SECURITY

DAVID HEYMAN, OF THE DISTRICT OF COLUMBIA, TO BE  
AN ASSISTANT SECRETARY OF HOMELAND SECURITY.  
THE ABOVE NOMINATION WAS APPROVED SUBJECT TO  
THE NOMINEE'S COMMITMENT TO RESPOND TO RE-  
QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY  
CONSTITUTED COMMITTEE OF THE SENATE.

## HOUSE OF REPRESENTATIVES—Thursday, June 4, 2009

The House met at 10 a.m.

The Reverend Kenneth L. Simon, New Bethel Baptist Church, Youngstown, Ohio, offered the following prayer:

Gracious God, we come thanking You today for all of Your blessings and the privilege You have given each of us to serve You by serving Your people.

We thank You for our President, Barack Obama, who You have called and appointed to lead this Nation for such a time as this, and I ask Your continued blessings upon him and his family.

We ask Your blessings upon our Congressmen and -women, leaders of this great Nation who You have given the charge to govern Your people in the pursuit of liberty, justice and equality for all.

Bless this session in the midst of the many challenges our Nation faces today. May Your spirit grant wisdom and give guidance to every decision that is made in this place. Help us to move beyond our differences and party lines to the place where we can agree to differ, resolve to love and unite to serve.

In Your name, we do pray and give thanks. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California (Mr. MCNERNEY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNERNEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### WELCOMING THE REVEREND KENNETH L. SIMON

The SPEAKER. Without objection, the gentleman from Ohio is recognized for 1 minute.

There was no objection.

Mr. RYAN of Ohio. Madam Speaker, I would like to welcome Reverend Kenny Simon to the House to lead us in prayer today. He is Youngstown born and

Youngstown educated. He is a graduate of East High School and Youngstown State University. He did his biblical and religious training in Wheaton, Illinois. He was ordained in 1993, and in 1995 he succeeded his father, Reverend Lonnie Simon, as pastor of the New Bethel Baptist Church in Youngstown, Ohio.

In addition to his pastorate, Reverend Kenny Simon is very much involved in our community. He is the president of the board of Eagle Heights Academy. He is the chairman of the Mayor's Human Relations Commission. He is a board member of Crime Stoppers of Youngstown, past president of the Mahoning Valley Association of Churches, past board member of the Western Reserve Port Authority, and a 2002 graduate of Leadership Mahoning Valley. Pastor Simon is the president of the Community Mobilization Coalition, a political organization that promotes voter registration and informs the urban community about the importance of voting and voting issues.

Reverend Kenny Simon and his wife, Wendy Wainwright, have three children, Keisha, Kenny and David. And as most of us do, he stands on the shoulders of his father, who is now pastor emeritus of New Bethel Baptist Church where he has served since 1962. Reverend Lonnie Simon. He too has been involved in many community activities, including service on the Youngstown Board of Education from 1972 to 1975 and was in the first Leadership Youngstown class in 1985.

In 1965, Reverend Lonnie Simon was one of the charter leaders of the March on Montgomery under the leadership of Dr. Martin Luther King, Jr., and participated in the Poor People's Campaign here in Washington, D.C. in 1969. Reverend Lonnie Simon and his wife of 58 years, Florence, have four children, seven grandchildren and four great-grandchildren.

Madam Speaker, it was an honor for us to be addressed by such a distinguished individual with such a distinguished family here at the House of Representatives.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ALTMIRE). The Chair will entertain up to 10 further requests for 1-minute speeches on each side of the aisle.

### HONORING THE LIFE OF GORDON HAYES MEDLIN

(Mr. MCNERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCNERNEY. Mr. Speaker, I ask my colleagues to join me in honoring Gordon Hayes Medlin, also known as Gordy, who passed away last week. Gordy was born in Modesto, California, in 1922 and moved to Stockton in high school. Later Gordy enlisted in the Marine Corps to serve in World War II. Twenty-four years ago, inspired by the nearby Gilroy Garlic Festival, Mr. Medlin cofounded the Stockton Asparagus Festival. This festival is a 3-day food and entertainment festival celebrating asparagus, one of the signature crops of San Joaquin County, California. Attendance at the festival often reaches 100,000 people. To this date, the festival has raised more than \$4.5 million for participating charities. Mr. Medlin's influence on the community is tremendous, and the results of his efforts will continue to be felt for years to come.

I am saddened by Gordy's passing and proud to honor his lifetime of service and good work.

### VOTER INTIMIDATION

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a recent news story highlights political appointees at the Justice Department running roughshod over both their civil counterparts and the law itself.

In November, members of the New Black Panther Party for Self-Defense stood in paramilitary uniforms, one of them wielding a nightstick, and intimidated voters at a Philadelphia polling place. The facts are not in question. You can see the video on YouTube. Career lawyers at the Justice Department rightly pursued the case in order to bring charges. They even obtained an affidavit from a prominent civil rights activist who was present and described it as "the most blatant form of voter intimidation" that he had seen, including the voting rights crisis he was a part of in Mississippi in the 1960s. The civil suit filed claimed the individuals engaged in "coercion, threats and intimidation, racial threats and insults, and menacing and intimidating gestures."

Yet now political appointees have stepped in to order the suit dropped.

Apparently this Justice Department has no problem with voter intimidation or politicization of justice.

#### BAYONNE MEMORIAL DAY CO-GRAND MARSHALS

(Mr. SIREs asked and was given permission to address the House for 1 minute.)

Mr. SIREs. Mr. Speaker, I rise today to honor two very distinguished women for their service in our Armed Forces. Victoria Del Regno served in the U.S. Air Force from 1969 to 1972, and Isabella De Marco served in the U.S. Army from 1993 to 2004 and is currently an active duty reservist. Both women were selected as the Co-Grand Marshals for the Memorial Day parade in Bayonne, New Jersey, in my district. Ms. Del Regno and Ms. De Marco were both born and raised in Bayonne, served as nurses in the military, and both are members of the F.A. MacKenzie American Legion Post 165 in Bayonne.

Mr. Speaker, for the first time in the 91-year history of the parade, two females were selected by the parade committee to serve as Grand Marshals. I am proud that this year's parade honors the service of women in the Armed Forces. These two women and their contributions are outstanding examples of women who are serving and who have served in our military.

#### PROTECT MILITARY PERSONNEL FROM HATE CRIMES

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, on June 1 two U.S. servicemen were gunned down at an Army recruiting station in Little Rock, Arkansas. Private William Long lost his life in the attack, and another soldier remains in critical condition. Based on the attacker's own statements, these soldiers were targeted because of their affiliation with the U.S. Army. There is evidence that others were being targeted, and this is not the first time.

Under recently passed hate crimes legislation, H.R. 1913, these heroes would receive no additional Federal protections. I think we can all agree that if there is any class of citizens who deserve special protection from political or religiously motivated crimes, it is our men and women in uniform who put their lives on the line each day to protect this country.

So I have introduced House bill 2677, the Military Personnel Protection Act of 2009. This legislation will right this egregious wrong and ensure those who answered our Nation's call to service are extended the same protections afforded to other protected classes of citizens. I urge my colleagues to join me in passing this legislation and extend Federal hate crimes protections

to active, Guard, Reserve and retired members of the armed services. That is the least we can do for them.

#### NBA AGE ELIGIBILITY RULE

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, tonight millions of Americans will tune in to the NBA finals to watch a great battle between Kobe Bryant and Dwight Howard. Besides immense talent, these gentlemen share another characteristic—they went straight to the NBA from high school. Unfortunately, today's players won't have that same opportunity because the NBA prevents 18-year-olds from choosing their profession and going straight into the NBA simply because of their age. It's something that you don't see in any other sport, baseball, golf, tennis, hockey, any other sport. You don't see it in entertainment, and you don't see it when young men and women choose to join the military and fight for their country. This is part of a hypocritical system that we have which doesn't allow these people to choose their profession when they come out of high school, and it makes the term "student athlete" an oxymoron. The system does more to serve the needs of the universities and the NBA, which uses them as a farm system, than to serve the educational interests and needs of the students themselves.

Kobe Bryant and Dwight Howard have achieved outstanding success, and I look forward to watching them tonight. But there is no reason to think that today's 18-year-olds can't do the same. Age restriction should be abolished. The NBA should repeal this unfair rule.

□ 1015

#### FREE EGYPTIAN BLOGGER KAREEM AMER

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, I rise to call on Egypt to demonstrate that it is a force for tolerance in the Arab world by releasing Kareem Amer from prison.

A young human rights activist, Kareem Amer, was sentenced in February of 2007 to rot in prison for 4 years based solely on what he wrote on his blog. He is the first blogger of the Arab world to be jailed completely for his Internet comments. And his only crime was criticizing extremists who persecute women and minorities.

We have a unique opportunity to right this injustice. President Obama should call for the release of Kareem to protect the free speech of all of us on the Internet.

The Egyptian Government is heavily subsidized by the U.S. taxpayer. Americans are going through tough times and would not be happy supporting a regime that set a precedent that put the first blogger in jail solely for promoting tolerance. Egypt should not stand out as a repressive regime that stifles Internet speech. That is why Kareem Amer should be released from prison before the President leaves Egypt.

#### HONORING THE LIFE AND SERVICE OF NAVY COMMANDER DUANE WOLFE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today with a heavy heart to honor the life and service of my constituent, Navy Commander Duane Wolfe. Commander Wolfe died Monday, May 25, at Al Asad Air Force Base in Iraq. He was killed by a roadside bomb.

Mr. Speaker, words can't describe the loss felt throughout our California coastal communities by Commander Wolfe's death. He was truly a pillar in his community, spending the majority of his life on the central coast with his wife of 34 years, Cindi, and their beautiful family. Commander Wolfe served in Iraq as a Seabee. He worked at Vandenberg Air Force Base as a civilian for over 20 years and served as well as a deacon of the Los Osos Church of Christ.

By those who knew him best, he is remembered as a dedicated husband and father with a clever wit, a strong sense of work ethic, and a kindness toward those in need.

My thoughts and prayers are with Commander Wolfe and his family and friends during this heartbreaking time, as well as the families of all of our military personnel serving as they do in such danger and with such bravery. We owe our brave men and women serving in the Armed Forces and their families nothing but our full support and gratitude for their tremendous sacrifice.

#### CAP-AND-TRADE'S NEGATIVE IMPACT ON RURAL AMERICA

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, I have serious concerns about cap-and-trade legislation and its impact on the American people, especially rural communities. This, at its core, is a national energy tax which will be passed on to the American people. The stakes are even higher for our Nation's agriculture industry.

Agriculture is an energy-intensive industry, relying on fuel for the pickup

truck, fertilizer for the crops, and generators to keep heaters on during the winter.

The Third District of Nebraska is one of the largest agricultural districts in the country, home to more than 30,000 farmers and ranchers. And everyone knows that even a small increase in the operating costs would have dire results.

As higher energy prices hit other areas of our economy, farmers and ranchers will pay more for seed, equipment, steel and other supplies. As the cost of production increases, so will the price of food on the shelves in urban areas.

This national energy tax is the wrong way to go, and certainly my colleagues know that.

#### COMPREHENSIVE IMMIGRATION REFORM

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. For over a year now, I have been coming to the floor to continue to advocate for the need to pass comprehensive immigration reform. While we debate health care and energy legislation, which are important, let us not forget about another urgent situation that is getting worse in America.

To those who say that comprehensive immigration must wait, I ask, how do we humanely deal with the 14 million undocumented immigrants in this country whose lives are being affected every day? How should we respond to thousands of innocent children that increasingly are left to fend for themselves as bureaucratic and outdated immigration laws keep them from their parents?

Our immigration system does not fit the current immigration reality. We need comprehensive immigration reform that respects families and protects our borders and makes America safer.

I urge my colleagues to do the right thing. Look past politics and work with the CHC and pass comprehensive immigration reform.

#### CAP-AND-TAX, AN OVERDOSE OF NEW TAXES

(Mr. BROUN of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROUN of Georgia. Mr. Speaker, all the symptoms are clear. As a medical doctor, I rise today to diagnose the Obama administration and the majority leadership in this Congress with an addiction to raising taxes.

According to the Wall Street Journal, the Obama budget calls for more than \$1.1 trillion in new taxes over the course of the next decade, including \$646 billion in new taxes for their cap-and-tax scheme alone.

Cap-and-tax will raise the American family's energy costs by more than \$3,100 each year. That amounts to the largest tax increase in the history of our Nation.

Cap-and-tax is an overdose of new taxes. And mark my words, it will lead to catastrophic consequences. Experts almost unanimously agree that the cap-and-tax will destroy millions of jobs and devastate our economy, all of this while having marginal, if any, impact on global emissions.

I urge my colleagues and the American people to stand up against these tax increases and oppose this legislation.

#### CLEAN ENERGY JOBS

(Ms. RICHARDSON asked and was given permission to address the House for 1 minute.)

Ms. RICHARDSON. Last week, the House Energy and Commerce Committee reached an agreement on the framework for transforming our economy for decades to come while saving the planet in the process, which should be all of our goal. Before the end of the year, we hope to pass comprehensive energy and job-creating legislation to make clean, American energy available for all of us. The clean energy jobs plan is the next step to create millions of American jobs in clean energy, efficiency, modernization, and a smart electrical grid.

Energy, as a matter, is critical to our own national security and to our self-determination to stop our overarching dependence on foreign oil. And in terms of our environment with the same successful bipartisan American solution that we use to fight acid rain, we can crack down on the persistent polluters who damage our air and water.

The time for clean energy legislation is now. It will create millions of jobs, reduce our dependency on foreign oil, and it will retool America's industries.

#### FRANK LARISON: ONCE A MARINE, ALWAYS A MARINE

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, there is no such thing as a former marine. Once marines leave the military, they are still marines at heart, soul, and patriotic zeal.

One such marine is Frank Larison, who served in Vietnam—14 years in the military.

The 58-year-old combat veteran lives in Lake Highlands in Dallas, Texas. Like many marines, he has Marine bumper stickers and decals on his vehicle. But the homeowners' association claims the stickers are advertising, which is prohibited under deed restrictions.

Marine Larison has been told to remove the stickers or face fines or tow-

ing. Larison is not retreating from this battle. Marine Larison has, in the unique Marine vocabulary, "politely" refused to peel off any of the red and gold Marine decals. Larison told a Dallas reporter, "I'm not advertising. I'm just proud to have served my country."

Marine Larison will win his fight with the association because freedom of speech is still sacred in America whether the association likes it or not. There is nothing like a U.S. Marine. They are a breed of their own. They are truly unique, proud Americans. The association picked the wrong person to do battle with, a U.S. Marine. Semper fi, Frank Larison. Semper fi.

And that's just the way it is.

#### ASIAN PACIFIC AMERICAN HERITAGE MONTH

(Ms. TITUS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. TITUS. Mr. Speaker, this past Saturday, I had the honor and pleasure of participating in a wonderful Asian Pacific American Heritage Month celebration. It featured native songs and dances, beautiful flowers and costumes and excellent food from around Asia. The event was sponsored by the Clark County Asian American Democratic Caucus under the able leadership of Sanje Sadera and Raheela Haq. Community advocates were honored and scholarships were awarded.

Asian Americans are the fastest growing minority group in Nevada and are becoming an increasingly powerful and positive force in our society, our economics, and our political scene. We welcome their valuable contributions and honor their delightfully rich cultural traditions.

#### A THREE-PRONGED APPROACH TO HEALTH CARE REFORM

(Mrs. McMORRIS RODGERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. McMORRIS RODGERS. Mr. Speaker, I know that we deal with a lot of important issues here in Congress, but there is probably no issue that is more personal and important to millions of moms across the country than health care. When your son or daughter is sick, there is nothing more important than making sure that they get better. And many women all across this country who are taking care of their elderly parents or in-laws are often consumed with countless tests and doctors' appointments and wrestling with insurance companies and Medicare.

As we address health care, what does every American deserve? What does every mom demand?

First is to have access to doctors and nurses you know and trust. The doctor-



patient relationship is one of the most important relationships in our country, and it is really the foundation of our health care system.

Second is to protect the high quality of health care that we have enjoyed. We have been the innovators. We have been the ones that have been doing the research to cure new diseases, and we really have been the envy of the world.

Third is to reduce health care costs. This must be at the heart of reform.

Mr. Speaker, I look forward to working with Republicans and Democrats to address this issue.

#### THE HUMAN RIGHTS CONDITION IN VIETNAM

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, as the co-chair of the Congressional Caucus on Vietnam, I continue to be concerned about the human rights condition in Vietnam. Despite their membership in the World Trade Organization and being granted permanent normal trade relation status, Vietnam continues to deny their citizens their fundamental human rights and political liberties.

The Government of Vietnam continues to restrict Internet access and goes as far as to imprison those who would use the Internet to challenge the Communist Party.

The United States must be a leading advocate for human rights. And we must make it clear to governments like those of Vietnam that it is unacceptable to deny people their basic human rights. I hope, especially under this new administration, that Congress will be able to work together and to recommit itself to fighting for the rights of the Vietnamese people.

This weekend, our Orange County delegation will have the honor of welcoming the United States Ambassador to Vietnam to our community. And the delegation looks forward to continuing to work with the Department of State to make human rights a priority.

#### THE NATIONAL ENERGY TAX PLAN

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, despite rising gas prices across the country, Democrats in Washington continue to push for a national energy tax that will make the pain at the pump even worse. Just 1 year ago, gas prices made their steady rise to over \$4 a gallon. A return to record gas prices would be especially harmful during the current economic recession. But that is not deterring Democrats from moving forward with their national energy tax plan.

Representative JOHN DINGELL, a Democrat from Michigan, said it best when he said, "nobody in this country realizes that cap-and-trade is a tax, and a great big one." Republicans in Congress realized this startling reality, and the American people are beginning to as well.

Over the past week, Republicans held energy summits in Pittsburgh, Indianapolis, and San Luis Obispo in California. These summits provide an important opportunity to explain to the American people the devastating consequences of the Democrats' national energy tax plan and to craft better energy solutions. The American people don't want the Democrats' national energy tax. They want and deserve energy independence.

□ 1030

#### CONGRATULATING THE 2009 GRADUATES OF NORTH FOREST HIGH SCHOOL IN HOUSTON, TEXAS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to support the graduating class of North Forest High School in Houston, Texas, the 2009 graduating class, a school district, the North Forest Independent School District, that suffered the ravages of Hurricane Rita, and then right on the heels of Hurricane Rita came Hurricane Ike and destroyed many of the buildings of that particular school district. Then Forestbrook High School suffered heinous acts by vandals who destroyed the school and caused the school district to have to close one of its high schools. So today the graduating class will be the merger of those two high schools, and boy have they united.

I'm honored to be their guest speaker. And because of that, Mr. Speaker, I will miss some legislative initiatives. But I rise to support the Federal Employees Paid Parental Leave Act. I would have voted "aye" on the rule, "aye" on final passage, and I would have voted "aye" on two amendments, Mr. GREEN and Mr. BRIGHT of Alabama. And then, as well, I would have voted "no" on the gentleman's amendment from California, Mr. ISSA.

But the main point is to recognize that I am going to salute these students because they deserve it. They've overcome adversity. Congratulations to the North Forest High School Class of 2009.

#### AMERICAN RECOVERY AND REINVESTMENT ACT

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute.)

Mrs. DAHLKEMPER. Mr. Speaker, one of the first acts of the 111th Con-

gress was to enact the American Recovery and Reinvestment Act, historic legislation to jump start our economy and create good-paying jobs.

The Recovery Act money is being allocated at a pace of almost \$1 billion a week. And I'm pleased to say that we're already seeing positive effects of the Recovery Act in my district, Pennsylvania's Third.

While times are still very difficult for many families struggling to make ends meet, we have seen a glimmer of some encouraging news in recent days. During the month of April, Erie County's unemployment rate stabilized for the first time in months. And in neighboring Crawford County, the unemployment rate actually fell. This is the result of the targeted, job-creating investments in our Nation's science, clean energy, education, health care and transportation infrastructure through the Recovery Act.

Certainly there is more work to be done. And as the Recovery Act continues to take effect, we must renew our commitment to continue to create the good-paying jobs that will stay here in the United States.

#### PRIVILEGED REPORT ON RESOLUTION OF INQUIRY REGARDING DEPARTMENT OF HOMELAND SECURITY

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted a privileged report (Rept. No. 111-134) on the resolution (H. Res. 404) of inquiry directing the Secretary of Homeland Security to transmit to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of documents relating to the Department of Homeland Security Intelligence Assessment titled, "Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment," which was referred to the House Calendar and ordered to be printed.

#### PROVIDING FOR CONSIDERATION OF H.R. 2200, TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION ACT

Mr. PERLMUTTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 474 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 474

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other

purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. PERLMUTTER) is recognized for 1 hour.

Mr. PERLMUTTER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded is for purposes of debate only.

#### GENERAL LEAVE

Mr. PERLMUTTER. I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 474.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. PERLMUTTER. Mr. Speaker, I yield myself such time as I might consume. House Resolution 474 provides for consideration of H.R. 2200, the Transportation Security Administration Authorization Act of 2009. This legislation is a much-needed fix to an agency tasked with maintaining security in some of our most important fa-

cilities. The urgency is clear, especially since many programs under TSA have not been altered or revised since their original authorization in the Aviation and Transportation Security Act passed immediately after the attacks on September 11, 2001.

Since that time, we have seen threats against our transportation systems change dramatically. We've seen attacks against rail and mass transit systems in London, Madrid and Mumbai. As a result, this legislation broadens the focus of TSA to address more than just aviation security, which, for years, received an overwhelming majority of funding and manpower.

So this bill triples the funding for surface transportation systems. I'm pleased to say this increased attention to surface transportation is done in consultation with consumer groups to ensure security provided at subway stations and other facilities does not turn the daily commute into a daily mess.

In addition, we create a much-needed position of Deputy Assistant Secretary for Surface Transportation to give a voice to that component of TSA.

Another significant advance in this bill is its risk assessment allocation method. According to the FAA, there are 561 certified airports in the United States, including commercial and general aviation. Moreover, there is an untold number of bus terminals, subway stations, and rail facilities in the United States. The security of the American people demands TSA's limited resources be directed toward the modes and facilities which face the greatest risk.

This bill directs the TSA administrator to adopt a policy whereby funding is allocated based upon risk, not merely based on population or some other criteria.

Regarding aviation security, the bill provides for a strengthened perimeter security program at our Nation's airports. It also provides a pilot program for biometric identification access systems at seven airports for airport employees. And in many cases, security experts have found canines can provide unparalleled detection of narcotics and explosive materials. So this bill provides for 250 canine detection teams, and an amendment by Representative DOC HASTINGS of Washington will provide for even more.

There are plenty of other positive steps this legislation makes. But what I believe is most important about this bill is the way it has made its way through the House. The bill has been developed over several months with a great amount of input from majority and minority Members, labor and business and independent analysis. The bill passed out of the Homeland Security Committee without any dissenting votes, and as it comes to the floor, 14 substantive amendments will be de-

bated. Of those 14, eight are Republican amendments and six, obviously, are from the Democratic side.

I had the privilege to serve on Homeland Security, Mr. Speaker, and it is with pride that I say I found that committee to be among the most bipartisan committees in the House of Representatives. The efforts by Chairman THOMPSON and Ranking Member KING to work for the protection of the United States work well within the committee and allow for bipartisan effort from both sides.

The rule will provide for ample debate on this important bill and allow Members to vote on many proposals to improve it. This bill is a great example of bipartisan cooperation to address a problem our Nation wishes us to address. The security of our Nation's passengers require sensible solutions, and this bill provides them just that.

I urge a "yes" vote on the rule and the underlying bill.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, first I'd like to thank my friend, the gentleman from Colorado (Mr. PERLMUTTER) for the time. And I yield myself such time as I may consume.

First, Mr. Speaker, if I may, I'd like to remember and ask the House to recall that today is June 4. Twenty years ago a massacre occurred in Beijing. Thousands of students and other pro-democracy activists were murdered. Subsequently, they were rounded up, those who had not been murdered, who had been in the square, and thrown in dungeons and tortured. And so it's been 20 years, but we cannot forget.

The regime is still in power there. They haven't had much reason to regret their murders and their systematic oppression of the people. But over you, in something that distinguishes this Congress, we read the words "In God We Trust." And I do. I trust that justice will be done, and that those who committed the murders at Tiananmen Square in June of 1989 will be brought to justice. We can never forget, Mr. Speaker.

With regard to the rule being brought forth today, bringing forth important legislation to the floor today, in order to protect our transportation systems after the cowardly attacks of September 11, 2001, Congress passed and President Bush signed into law on November 19, 2001, the Aviation and Transportation Security Act. That legislation created the Transportation Security Administration, TSA, improving aviation security and restoring public confidence in air travel.

The underlying legislation that's being brought forth today for consideration by the Congress, by this rule, authorizes \$7.6 billion in appropriations for the TSA during the fiscal year 2010, and provides a 6 percent across-the-board increase for fiscal year 2011.

□ 1045

In their report to Congress, the 9/11 Commission criticized the existing process for allocation of Federal homeland security grants. The report recommended that, "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities," and that the distribution of the grants "should not remain a program for general revenue sharing." I have long worked to make certain that homeland security assistance follows the recommendations of the 9/11 Commission and that funds are distributed through risk-based assessments. As such, I am pleased that this legislation requires TSA to update Congress on its implementation of a risk-based system for allocating security resources.

The underlying legislation would establish an Aviation Security Advisory Committee to assist and make recommendations to the Secretary with issues pertaining to aviation security. It also establishes an Air Cargo Working Group to provide recommendations for the implementation of the cargo screening initiatives proposed by the TSA to meet the 100 percent air cargo screening mandates set forth in the "Implementing Recommendations of the 9/11 Commission Act."

I am pleased there is a provision that provides for the reimbursement of airports that took the initiative and used their own funding to install explosive detection systems after the September 11 terrorist attacks. Those airports installed the systems after receiving assurances from the Federal Government that they would be reimbursed for these expensive yet very important protection systems. Unfortunately, after all these years, we're still waiting for the Federal Government to provide the promised reimbursement. I congratulate our colleague, Mr. BILIRAKIS, for having this important provision included in the legislation.

While I plan to support the underlying legislation, Mr. Speaker, I must express concerns that the legislation was really rushed to the floor by the majority. On such an important issue as the safety of our transportation systems, one would think the majority would want the input of the very agency affected by the legislation. And yet it decided it was more important to move forward than to wait until the administration, the new administration, had selected a TSA administrator who could provide Congress the necessary input and new ideas on how Congress can improve the agency. So the majority, it can be said, used excessive haste to rush the bill to the floor.

On Thursday, May 14, the majority announced that the House would consider the Transportation Security Administration reauthorization bill the week of May 18. However, at the time of the announcement, the legislative language of the bill was nowhere to be found.

The majority kept the text, as you know upon which amendments are based or can be based, hidden under lock and key until late on Monday, May 18. And just as they released the text, they set a hard and fast deadline of 5 p.m. on Wednesday, May 20, for Members to submit their amendments. What this did was give Members, in effect, one business day to read the legislation that reauthorizes the TSA and draft and submit amendments. The majority justified their short amendment deadline by saying that the Rules Committee was going to meet the next day, Thursday, to report a rule for amendments, with the idea that the bill would be on the floor on Friday, May 22.

But the House decided to leave for the Memorial Day district work period on Thursday evening, without considering the TSA bill, and rather than allowing Members more time to review the bill, the majority pushed ahead, eliminating the opportunity for Members to further review the legislation and propose amendments to improve it.

I bring this up, Mr. Speaker, because it is not an anomaly on the majority's part, but it's business as usual. Since the majority took power in Congress in January 2007, Members have been given an average of one business day or less to submit amendments than we did when we were in the majority.

And that's important because it's important for people here representing their constituents to have time to read legislation before having to introduce amendments to try to improve the legislation.

I am pleased that the majority agreed to allow an amendment that I introduced in the Rules Committee for consideration. However, there were other amendments from Members on both sides of the aisle that were blocked.

For example, the majority blocked an amendment by Representative SOUDER that would require the TSA to place all of the detainees held at the Guantanamo Bay detention facility on the no-fly list, an amendment that I'm sure would have overwhelming support on the floor.

So I would simply urge the majority to allow an open process, as it promised in its campaign, and not just on noncontroversial legislation such as this one. This is legislation, in terms of the merits of the legislation, it was brought forth in a bipartisan manner within the committee. The chairman, Mr. THOMPSON, is known to work in a very respectful and bipartisan manner with all of the members of his committee, and I think all of us are grateful for that and commend him for it.

So I would urge, though, that not only on noncontroversial legislation but also on upcoming, for example, health care and climate change legislation, that openness be allowed in the

House. It's important. It's, I think, required by the spirit of the democratic process. So both of these upcoming pieces of legislation, energy, health care, they will obviously have far-reaching consequences for our constituents and for the economy, and so I would hope that on such important issues the majority does not block the opportunity for Members of the House to bring forth their amendments seeking to improve the legislation.

I reserve the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, I appreciate the comments of my friend from Florida. I think they would have more weight on maybe another bill than this one, where clearly there has been bipartisan effort from the very beginning. The bill has been in the works for a long time, and it passed out of the committee without objection.

So with that, I would yield 5 minutes to the chairman of the Homeland Security Committee, Mr. BENNIE THOMPSON of Mississippi.

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise to support the rule for the Transportation Security Administration Authorization Act, H.R. 2200. I would also like to thank my colleague, Mr. PERLMUTTER from Colorado, who until this session was a member of that committee and is eminently qualified to talk about homeland security issues.

As I stated, this rule reflects a bipartisan rule process in which more than half of the proposed amendments were made in order. And more than half of the amendments, Mr. Speaker, that we are considering today are sponsored by my Republican colleagues.

H.R. 2200 is the first authorization bill for all of the Transportation Security Administration since TSA was established in 2001. It authorizes over \$15.6 billion in appropriations to the Transportation Security Administration for fiscal year 2010 and 2011.

The product of months of bipartisan negotiations, H.R. 2200 was drafted with significant contributions from both Democratic and Republican members of the committee, industry stakeholders, labor representatives, the Government Accountability Office, and the Department of Homeland Security Inspector General's office.

With the change in administration, TSA is at a crossroads. It has to decide how to allocate its resources going forward and who it wants to be.

For the first 8 years, TSA acted like the Aviation Security Administration more than a Transportation Security Administration. This bill takes important steps to bring greater resources and support for the much-neglected surface transportation security mission.

On the aviation side, this bill greatly improves aviation security, and not only commercial aviation but also general aviation. Specifically, the bill establishes an Aviation Security Advisory Committee, an Air Cargo Working

Group, and a General Aviation Security Working Group to ensure robust and meaningful stakeholder input.

Also, Mr. Speaker, in the area of general aviation, the bill authorizes \$10 million for a new grant program to enhance perimeter security, airfield security, and terminal security at general aviation facilities. And I fully support and believe this provision will be strengthened even more with the passage of an amendment that the gentleman from Arizona (Mr. FLAKE) is expected to offer. It will require the issuance of these grants to be competitive and risk-based. The allocation of scarce Federal funds, specifically those from TSA, should be based on risk. Section 102 of the bill actually requires TSA to report to Congress on the extent to which it is allocating transportation security resources on the basis of risk.

The bill, Mr. Speaker, also is forward-looking and makes great strides, most notably with respect to biometrics. During the recess, I had the opportunity to observe how other countries are using biometric technology to increase security. I strongly believe that greater deployment of biometric equipment can help to address some of our most vexing security challenges. This is why I am pleased to include a provision authorizing the development of a biometric system for law enforcement officers who fly armed.

This bill, Mr. Speaker, also includes provisions on the Registered Traveler and Transportation Worker Identification Credential programs, TSA's two main biometric programs.

Another amendment that the rule makes in order is sponsored by my good friend from North Carolina, Mr. BUTTERFIELD. The amendment would enhance the underlying bill by adding facial and iris recognition to TSA's biometric toolbox.

On the surface transportation side, this bill enhances surface transportation security by authorizing a tripling of funding over fiscal year 2009. These new resources would help support a newly created Surface Transportation Security Inspection Office. This office would be responsible for training and managing inspectors that work in the field and assist surface transportation operators with security inspections.

Additionally, Mr. Speaker, this bill authorizes 300 more surface transportation security inspectors over the next 2 years and Visible Intermodal Prevention and Response Teams, called VIPER teams, to do security operations in mass transit and other surface systems.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PERLMUTTER. I yield the gentleman 2 more minutes.

□ 1100

Mr. THOMPSON of Mississippi. Thank you, Mr. PERLMUTTER.

H.R. 2200 also authorizes the creation of a Transit Security Advisory Committee, or TSAC, a Passenger Carrier Security Working Group, and a Freight Rail Security Working Group to provide robust stakeholder input to TSA on security policies that impact this sector. Given TSA's limited experience in this sector, I would expect it to be relying heavily on these groups.

Another major provision that I was particularly pleased to include would streamline the security licensing for truckers. Ms. JACKSON-LEE, lead sponsor of this bill, and I have been working with our committee colleague, Mr. LUNGREN, for years on this issue, and finally we have a vehicle to move key provisions in the SAFE Trucker Act. These provisions address redundant background security checks which we have learned are draining of financial resources on transportation workers.

I'm committed to marking up H.R. 1881, the Transportation Security Workforce Enhancement Act of 2009, later this summer, which will provide collective bargaining rights for the TSA workforce. To me, the unfinished business of the 9/11 Act was the granting of these rights to the men and women who are the backbone of TSA. I'm hopeful that these changes in the White House and at the front office at DHS will ensure that we are successful this time around.

In closing, Mr. Speaker, I ask my colleagues to support the rule and the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it's my pleasure to yield 5 minutes to a distinguished colleague who works ceaselessly for the security of the American people. Unfortunately, a very important amendment that he came to the Rules Committee on to be made in order, was denied on a party line vote by the majority, the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. I thank the gentleman and my friend from Florida for yielding time. I speak in opposition to the rule. I want to thank Chairman THOMPSON, Subcommittee Chair SHEILA JACKSON-LEE for their bipartisan effort. In fact, this is a bipartisan bill and one that there's really no fundamental reason to vote against.

In fact, some of the amendments we're voting on today, such as people being able to retrieve their cell phones, are very nice. The one on people with hip replacements is very important to me. I have three of the four biggest orthopedic companies in the United States—in fact, in the world—in my district. And Chairman OBERSTAR and others who go through the machinery with hip replacements have concern on how we do that.

But, you know, it doesn't matter very much if you can find your cell phone or get through security easier if you die. And one of the problems here is I had offered an amendment before

the Rules Committee that would have had added an important layer of security for the U.S. commercial aviation to the TSA Authorization Act. Unfortunately, on a party line vote my amendment was not made in order.

My amendment was very simple. In fact, I was shocked. I thought the debate in committee was going to be whether we were going to ask for just a voice vote or a recorded vote to make sure everybody was recorded. Instead, it was challenged. So I brought it to the committee.

It's very simple. It requires TSA to place any detainees held at Guantanamo Bay on the No Fly List. Now I think they ought to stay at Guantanamo, but it looks like I have lost that debate.

They may be coming in the United States. We have released some around the world. Many of them have already committed terrorist acts since then or reaffiliated.

But whether you agree with it or not, it seems so simple and fundamental that, if they're released in America, they ought to go on a No Fly List. For crying out loud, we have all kinds of people on the No Fly List. Why would we not automatically place somebody who is released in the United States on the No Fly List?

It is essential that we guarantee the security of the American people. The TSA Authorization bill is one of the first opportunities we have to take meaningful steps to ensure that any Gitmo detainee released in the United States is a threat to the American public and doesn't get on an airplane.

My amendment closes a potential terrorist loophole. Actually, it's not a loophole. It's a fly hole. It is so huge that it puts all of us at risk.

I offered this amendment during committee markup. Unfortunately, it was gutted by a second degree amendment. It wasn't compromised, it wasn't changed. Basically, it went right back to the current policy we have. It was totally gutted.

The Gitmo prisoners released in the United States may or may not be added to the No Fly List under this bill. It's an interesting thing. There's an option that they could be added to the No Fly List, but there's no guarantee under this bill. It was not a compromise amendment. It was a gutting amendment.

So the committee never had a choice of whether to vote. They voted unanimously on the majority side to not allow my amendment to be voted on and gutted it, saying it would be up in the air.

The transfer or release of any of these detainees is a matter of homeland security. We need to have a serious debate about whether it's appropriate to bring them on U.S. soil, where they will be kept, what will happen if they're released in the United

States. But even the President's own administration has noted that any Gitmo detainees released in the United States would need additional security and monitoring.

In May, Homeland Security Secretary Janet Napolitano stated before the Committee on Homeland Security that DHS would take efforts "to ensure that Americans are confident in their safety" and recognized that the Department had a role "to provide information on what protections are needed in the homeland should Gitmo detainees be released."

That same day, FBI Director Robert Mueller testified before Congress that bringing Gitmo detainees into the U.S., even to maximum security prisons, poses significant security risks, including radicalization of other inmates.

All I'm asking is they be placed on a No Fly List. Why wouldn't we? Maybe my amendment should have said at least they get denied an aisle seat. I mean, I don't understand this at all.

Despite earlier confirmation by Defense Secretary Gates that the Chinese Uyghurs would be released in the U.S. as soon as the final details are complete, the Solicitor General filed a brief with the Supreme Court on Friday arguing that these individuals should not be brought into the United States since they are associated with a terrorist group. They were associated with the East Turkistan Islamic Movement and they were funded and trained by al Qaeda in Afghanistan, yet they were going to release these 11 in northern Virginia so they could get on the airplanes going out of Reagan Airport. What is wrong with this? We need a guarantee that that's not going to happen.

Despite the concerns of the public and the uncertainty within his own administration, the President is forging ahead with a plan to bring some of these detainees to the United States. Even if they are transferred from Gitmo to a U.S. prison, they could fall under constitutional protections allowing for their release. And this is a very real possibility with existing precedent. Then it will be even harder to put them on a No Fly List.

Based on a Supreme Court ruling, DHS is forced to release illegal aliens, including many dangerous ones, after 180 days.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield 3 additional minutes.

Mr. SOUDER. How can we be assured that Gitmo detainees will be treated differently? The simplest way to do this is to say you will automatically be placed on a No Fly List. No debate. You're automatically on there if you are a detainee.

The detainees held at Gitmo are not low-risk, innocent people. They are they worst of the worst. Most of the

Gitmo detainees are violent radicals, hardened on the battlefield and willing to die or kill for their cause.

According to DOD, 74 of the 530 transferred from Gitmo are confirmed or suspected to have returned to the battlefield since we have released them. Some have carried out attacks. This includes Abdallah Saleh al-Ajimi. Ajimi was arrested along the Pakistan-Afghan border in December 2001, fighting alongside al Qaeda. He was transferred from Gitmo to Kuwait in November 2005. In 2008, he joined several others in a suicide bombing in Iraq, killing more than a dozen people.

This is somebody who was released from Gitmo, one of the early releasees. The ones we have now, we would deem not safe enough to release. This is somebody who we released.

According to the Department of Defense, "He was apparently living a productive life in Kuwait. It was unknown what motivated him to conduct a suicide attack."

In this second poster, this is Said Ali al-Shihri. Shihri was captured in Pakistan in December 2001. He was transferred from Gitmo to Saudi Arabia in November 2007. He fled to Yemen, declaring himself the deputy director of al Qaeda in Yemen, and is a prime suspect in the December 2008 bombing of the U.S. Embassy in Yemen.

This is one we released. This is not one of the 530 who we're still holding because they were too dangerous to release.

The security concerns and lack of a clear plan from this administration demonstrate an absolutely clear need for proactive restrictions on detainee freedom to travel within the U.S. should they be transferred here. Congress must play an active role in ensuring that any detainees released in U.S. communities do not pose a threat.

A Gallup Poll released this week found that by a ratio of 3:1, respondents oppose moving detainees to the U.S. prisons. I don't think we need a poll to find out whether they want them next to them on an airplane. In Indiana, we have an expression: You can count them on one hand and have enough fingers left to bowl.

Other than people in Congress, I can't imagine anybody who wants these people who are released on planes next to them. They make a mockery of "Fly the Friendly Skies." One slogan is "Fly with Friends." Another slogan is "Lower Fares, Fewer Restrictions."

I mean, think of the airline slogans with this. My favorite is Delta says, "Delta Gets You There." They're going to need to add, "Maybe."

If we don't have this protection, we are vulnerable. This is a matter of national security. As important as this bill is, as important as these amendments are, our number one responsibility is guaranteed safety.

I do not understand. I simply do not understand why my friends on the ma-

jority side don't even want to have a vote to say, not keep them in prison, not keep them in Guantanamo. This is about a vote should they automatically be placed on the No Fly List.

Mr. PERLMUTTER. Mr. Speaker, how much time on each side remains?

The SPEAKER pro tempore. The gentleman from Colorado has 18½ minutes remaining. The gentleman from Florida has 10½ minutes remaining.

Mr. PERLMUTTER. Thank you. I'd say to my friend from Indiana, I appreciate his concerns, and virtually everything that he is concerned about is in the bill. And I think it's important that I read from section 405, found on page 87, where it says, "The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, on or after January 1, 2009, after a final disposition has been issued by the President."

"For purposes of this clause, the term 'detainee' means an individual in the custody or under the physical control of the United States as a result of armed conflict."

So virtually everything he talked about is in this bill already, and that's why the bill came out of Homeland Security without opposition.

With that, I yield 5 minutes to the chairwoman of the Subcommittee on Transportation Security, the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the manager of the bill, and I also thank him for his knowledge as a very able member formerly of the Homeland Security Committee and Subcommittee on Transportation Security, Mr. PERLMUTTER, for his continued interest.

I also would like to rise to support the rule and, of course, the underlying bill and to acknowledge the chairman of the full committee, Mr. THOMPSON, and the ranking member of the full committee, Mr. KING, and my ranking member, Mr. DENT. This is truly a bipartisan effort.

The act is a product of months of negotiation, give-and-take, including Republican stakeholders, labor organizations, and industry groups, the Government Accountability Office, and the Department of Homeland Security's Inspector General's office.

It provides a new look and a new face to surface transportation security enhancements and particularly addresses the concerns of 9/11 from the point of view of having a comprehensive security program for the United States of America.

I am glad that it increases by three times the FY 2009 funding for surface transportation security. It authorizes an additional 200 surface transportation security inspectors for FY 2010, and an additional 100 inspectors for FY 2011.

It establishes the Surface Transportation Security Inspection Office within TSA to train and manage inspectors to conduct and assist for security activities in surface transportation systems. And I'm glad that it creates a Transit Security Advisory Committee to facilitate stakeholder input to TSA on surface transportation policy.

Every morning, millions of Americans rise and go to work on surface transportation facilities, and yet we have not paid the attention necessary to ensure that when we talk about a comprehensive security for this Nation, we truly mean comprehensive.

I am glad for the fact that we now have our eye on surface transportation. The men and women who use commuter rail, the men and women who use subways and undergrounds and elevated rail systems like in our older cities can at least experience the idea that we are concerned.

I traveled to Mumbai, India, to see the ravaging, if you will, of the terrorist acts that occurred around Thanksgiving of 2008. This is a bill overdue.

I'm delighted, of course, that we have moved on some issues dealing with airport security and screening enhancements. I'm delighted that we have directed TSA to develop a strategic, risk-based plan to enhance security of airport perimeter access controls. I am always so glad that we're paying attention to general aviation, and my subcommittee will hold a hearing on that as we move forward to extend the security of general aviation.

But also in this bill, in particular, we deal with security of the perimeter of airports. We provide flight training, self-defense training for our cabin officers, if you will, our flight attendants. It's long overdue. It's an issue that I have worked on for a number of years, and it is in this bill, where our flight attendants are being trained. And we have a wonderful compromise and working relationship with our airlines and the flight attendants.

Also, we have found that we have been slowed in technology. There are a multitude of devices that have been created to secure America. But the science and technology department or area of the Department of Homeland Security has been slow in producing, if you will, the approval for these technologies.

In this bill we now have a process, a roadmap, if you will, for our inventiveness so that these particular products, many of them coming from small and minority and women-owned businesses, can follow a process, get approved, and provide for the security of America.

We have enhanced the use of canine detection resources. And I, in fact, support the Hastings amendment that is in place to provide the added utilization of canine detection teams, the Hastings-Rogers-Jackson-Lee amendment.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. PERLMUTTER. I yield another 30 seconds.

□ 1115

Ms. JACKSON-LEE of Texas. We are also very supportive of the Hastings from Florida amendment that, within 6 months of enactment, requires TSA to submit a report to Congress on complaints and claims received by TSA for loss of property in baggage screening areas.

We have to be respectful of the idea of security but also of the rights of our particular citizens. We look forward, as we move forward with this bill, to make sure that it covers a variety of areas. Those areas, again, address the question of a Federal flight deck officer program, requiring additional training, and it directs TSA to develop a security training program for all air cargo.

Finally, Mr. Speaker, I believe that we have addressed this question of both international and domestic air cargo by suggesting that we will work with the administration to make sure that we have within a 2-year period 100 percent screening for all of our baggage no matter where it comes from.

I ask my colleagues to support the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield again 2 minutes to the distinguished gentleman from Indiana (Mr. SOUDER), who is extremely concerned about this issue, and rightfully so.

Mr. SOUDER. Mr. Speaker, we are dealing with so many important issues in this bill, but there are none as important as the issue of whether the actual people getting on board with you are terrorists, which is the fundamental thing we should be concerned about.

My amendment said: the Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee housed at the Naval Station Guantanamo Bay, Cuba, on or after January 1, 2009. For purposes of this clause, the term "detainee" means an individual in the custody or under the physical control of the United States as a result of armed conflict.

That is all in the bill. So what happened in committee? I sat on committee. It was not unanimous. I abstained. I supported the bill, but I could not support a bill with this kind of terrorist fly-through in it.

The words that were added were "after a final disposition has been issued by the President."

These people are all lawyered up. They are fighting every process to hold them. Many of them, probably, will win, partly because we don't want to go into open court, having to release the

information of how we got the information of why they're there, because—guess what? People are getting beheaded. They're exposing our entire lines of tracking information, so some will get out on that basis. Some will get out on the basis that their countries won't take them back.

It also says here: "the final disposition." Well, if they're released in the United States, lawyered up and on trial, I don't want people here who are involved in blowing us up and who have been fighting and killing our soldiers. These people who are still there are the ones we haven't already released. I earlier gave examples of people who were released, those who have gone back in, meaning, already, 20 or 30 percent of them have been re-involved.

Now, a final disposition can take anywhere from 2 years to a decade to forever. Then there is a final disposition by the President. Well, what if they're just plain released?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 2 minutes.

Mr. SOUDER. Do you think you're really going to be able to hold them if they've been released? The courts may very well rule we can't even hold them in the United States.

This amendment and anybody who goes to the legislative intent will hear the debate. The debate was not about whether or not they were all going to be placed on the No Fly List. The debate was about whether I was prejudging the people who were in Gitmo. Legislative intent will show that this amendment was meant to keep some people from being added to the No Fly List.

Any legislative intent will show that, in committee, the intent here was to say: SOUDER was trying to prejudge the people in Gitmo in that they shouldn't be on a No Fly List and that some of those people should be on a No Fly List. It's indisputable. It's in the RECORD.

So, unless we change the bill, this is a gutting amendment that does not put people on the No Fly List. It is current law which says that the President has the opportunity to put them on a No Fly List.

Ms. JACKSON-LEE of Texas. Will the gentleman yield?

Mr. SOUDER. I will yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. The gentleman is, first of all, correct in the severity of the question, but I do want the gentleman to know that it's speculation to suggest that they might be released.

The language says they will be on a No Fly List with the final disposition of the President. More importantly, those individuals will not be holding visas, and they will not be holding



passports. We have enhanced our security internationally. It is without probability of any kind that they will be coming into the United States, and those who are under lawyering, as you say, will be under lawyering, handcuffed and moved around the country. We will have this ability with your language, which I congratulate the gentleman on, as the final disposition of the FBI, of the CIA and of the military intelligence. Give us the list, and they will be on a No Fly List.

Mr. SOUDER. Reclaiming my time, I agree with the gentlewoman. If there is any logic in the world, not a single person here is not going to be on the No Fly List, but we have no assurances. We can't predict what the courts are going to do. We can't predict that.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 2 minutes.

Mr. SOUDER. We can't predict what any President or any Attorney General is going to do at any given moment. Even if this goes 8 to 10 years and even if the current President serves two terms, we can't predict it. The fact is that my amendment predicted it.

It says, if you are released in the United States, you are automatically on a No Fly List. There was at least enough risk.

Poor Congressman JOHN LEWIS keeps getting on these lists, and we keep trying to get him off. You can see what a mess sometimes our lists are. It ought to be, if you're in Guantanamo—this is simple. We have their names. We have their fingerprints. We know who they are. We know that they are potential risks. Why would you resist? Just put them on a No Fly List. Why take the gamble here?

Ms. JACKSON-LEE of Texas. Would you yield for just a moment, Mr. SOUDER?

Mr. SOUDER. I would yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. We are in agreement that these individuals are outrageous for the very reasons that you are saying. They will not be released willy-nilly into the United States. They will not be dispatched out by any court. They are going to be under military tribunals. The system is being worked out. As you well know, no one voted against this in the committee because we know that we have a process that will allow them to be on a No Fly List.

Mr. SOUDER. Reclaiming my time, we do not know anything. The only way we know it is to put it into law. We are speculating and are hopeful. Logic would suggest that my amendment is not needed. But in watching what has happened in America today, guess what? The American people look at Congress; they look at the executive branch, and they don't often see common sense at times.

Furthermore, particularly as we head into an era where courts are going to go, perhaps, more on feelings rather than on law, this is a risky time period. We need to make it clear-cut—absolutely—if you're in Guantanamo.

Now, we've already released a bunch, and a whole bunch of them are coming back and are hitting us. At the very least, if we're not going to keep them in prison, if we're not going to keep them in Guantanamo, at the very least, this Congress needs to guarantee you will absolutely, certainly, 100 percent—not hopefully, not maybe, not probably—100 percent not get on an airplane out of Reagan Airport, sitting next to us, with the ability to blow up this Capitol building and the White House.

Mr. PERLMUTTER. Mr. Speaker, again, to my friend from Indiana, I don't think the language in the bill could be any clearer about these detainees and their being part of the No Fly List.

I am going to now yield 2 minutes to my friend from New York (Ms. CLARKE), who is a member of the Homeland Security Committee.

Ms. CLARKE. Mr. Speaker and my colleagues, I would like to just highlight today section 201 of H.R. 2200, the Transportation Security Administration Authorization Act of 2009, which requires the TSA to establish a system to verify that all cargo transported on passenger aircraft operated by an air carrier or by a foreign air carrier inbound to the United States be screened for explosives within 2 years of its enactment.

Notwithstanding the contrary rhetoric we have heard from the opponents of H.R. 2200, the committee is taking the responsible, necessary steps to implement the cargo screening requirement originally authorized in the 9/11 Act by requiring that all cargo transported between the United States airports on passenger planes be screened by August of 2010, by maintaining the commitment to screen inbound cargo, by responding in a timely manner to the needs of the TSA rather than taking a wait-and-see approach until 2010, and by dedicating the committee to receiving monthly briefings on the program so that the necessary oversight is exercised to ensure that TSA will meet the 2010 deadline and the deadline for inbound cargo created by this provision.

The previous administration's delay and confusion have disadvantaged TSA and have necessitated this action.

I am committed to achieving 100 percent screening of all cargo transported on passenger planes. This is arguably the largest screening vulnerability given that all passengers, their carry-ons and checked baggage currently get screened.

I would like to thank Chairman THOMPSON and Ranking Member KING

for their vigilance and leadership, and I would like to thank subcommittee Chairwoman SHEILA JACKSON-LEE and the ranking member for their diligence and leadership on this authorization.

As a member of the New York delegation, as one who serves on this committee and as one who holds very vivid memories of the most devastating airliner-based attack on U.S. soil, I kindly ask my colleagues to support the rule of H.R. 2200 as well as the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we reserve the balance of our time.

Mr. PERLMUTTER. Mr. Speaker, I would inquire of the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Colorado has 11 minutes remaining. The gentleman from Florida has 4½ minutes remaining.

Mr. PERLMUTTER. I would like to yield 2 minutes to another member of the committee, to my friend from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Thank you, Mr. PERLMUTTER.

I want to thank Chairman THOMPSON for his leadership. I am reminded, friends, that there is a difference between leadership and management. A manager wants to do things right, and a leader wants to do the right thing.

Chairman THOMPSON has not only wanted to get this right procedurally; he has wanted to make sure that we do the right thing. He has proceeded on the premise that there is safety in the counsel of the multitudes. Everybody who wanted to be heard was heard on this bill. Labor was heard. Industry was heard. Republicans were heard. Democrats were heard. Everybody who wanted to be heard was heard. I know of no one who wanted to be heard at the subcommittee level more than the Honorable SHEILA JACKSON-LEE, who was not heard. There was nobody on the committee who had an issue that was not embraced and heard. I was there. What I'm about to say is not something that I know from second-hand, or secondarily. I don't know it tertiarily and I don't know it quaternarily. I know this from being there in person.

This issue about the prisoners at Guantanamo Bay was aired adequately, sufficiently, totally, completely, and absolutely. The man who spoke, who is my friend and who is a man I respect greatly, had his issue heard, and he did not vote against it. He did not vote against it. He was the only abstention. My brothers and sisters on the Republican side supported this as well. I say "brothers and sisters" because I believe there is just one race—the human race—and we're all related. We're probably cousins if we're not brothers and sisters. But my point is this:

This was totally, completely and absolutely thoroughly aired. Everybody



had a say. I am going to support the rule because I support the notion that there is safety in the counsel of the multitudes and that the multitudes were heard.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we reserve the balance of our time.

Mr. PERLMUTTER. Mr. Speaker, I would like to yield 2 minutes to another member of the committee, the gentlewoman from Arizona (Mrs. KIRKPATRICK).

Mrs. KIRKPATRICK of Arizona. Mr. Speaker, I am proud to speak in support of this rule and in support of the underlying bill, which has been the product of lengthy, bipartisan negotiations. It contains contributions from stakeholders throughout the private sector and government.

Before I continue, I want to take a moment to recognize the hard work and dedication of the TSA leadership and of their employees who work day in and day out to help keep our country safe. Thank you.

This bill is important because it allows us to take a look at TSA and to address any problems that have arisen over the past 8 years. One of the concerns this bill addresses is the matter of whole-body imaging, or WBI.

□ 1130

This technology allows airport screeners to clearly see items passengers may be concealing beneath their clothing anywhere on their body. However, many folks on both sides of the aisle have expressed serious reservations about the privacy implications of creating detailed images of people's bodies underneath their clothing. Therefore, one of the many amendments offered and accepted during the markup of this bill was my amendment that requires TSA to submit a report on privacy to Congress upon completion of the WBI pilot program. This will give both TSA and Congress the opportunity to reflect on this program before we jump into full implementation.

This bill has been thoroughly considered and approved in both the subcommittee and full committee levels. So I hope my colleagues will join me in support of this rule and the bill.

Mr. PERLMUTTER. Mr. Speaker, I would like to yield 3 minutes to my friend from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I introduced my first bill to enhance screening of aviation in 1987. I saw the extraordinary deficiencies of the system back then, fought for two decades with the airline industry, and it took a horrible tragedy to transform the system. Even 2 years before that bill, Mr. LIPINSKI and I looked at the workforce—minimum wage, high turnover, some of them were illegal aliens—and said we ought to Federalize the screening workforce. We need a better system.

Again, the airlines fought. Again, it took a tragedy.

Well, now, out of that we have developed the potential for a better system. This bill will move it along tremendously, both in aviation and surface security that we need to protect our Nation. This bill represents tremendous progress, tripling the funding for surface transportation and the oversight program that will require that airlines give meaningful training to flight crews—something that some of the airlines still aren't doing. They say it costs too much.

We will have new standards for foreign repair stations. We have a huge loophole. Most of our planes—or many of them—are getting maintenance overseas where there is no security. Just imagine what a terrorist operative could do to sabotage one of our planes over there. It helps with the last line of defense. Our Federal Flight Deck Officer program. And it makes other tremendous improvements.

I am a bit bemused by the gentleman from Indiana alleging that this bill somehow might allow some terrorist to somehow—who is known—not be on the No Fly List. We've got a whole bunch of really bad people in prison, not just down in Guantanamo but in our super-maximum security prisons here; some who attacked the Twin Towers before 9/11. The guy called the Unibomber. Guess what? They're not on the No Fly List because they aren't going anywhere. And if they did escape, they certainly wouldn't be flying under their own name. So we don't routinely put people who are in super maximum security prisons on a No Fly List.

But what the bill says if and when any one of those people who was detained at Guantanamo is in any way capable of getting out and getting on an airplane: If they're sent to a foreign nation for disposition and we don't know what that disposition would be, their name must go on the No Fly List. So his arguments about somehow we're undermining security or threatening the public are particularly puzzling to me. As one who has advocated long and hard for enhanced security, I'm a bit insulted by that.

Now, we need better technology for the Federal workforce to use at the point where they screen passengers. And one of those things is a walk-through device where you'll be able to see any concealed contraband on the person. That is a tremendous step forward. They've been using it in Heathrow for years now. It's an option at Heathrow.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PERLMUTTER. I yield the gentleman 1 more minute.

Mr. DEFAZIO. You can either be very intrusively frisked at Heathrow—and I have had the experience; it's not great, and it's much more intrusive than

here—or you can walk through that screening device. More than 85 percent of the people choose to walk through the screening device. And as we've proposed it here, it has extraordinary privacy protections. The person monitoring the dumbed-down image of the person's body will be remote from the actual screening area, won't be able to see that person. It's dumbed down. It's not very revealing. And this is a step forward that will enhance our security.

There are ways now to smuggle devices onboard, and we've got to deal with them. And this is one of them.

We also have to deal better with liquids and explosives, a major threat. We need to get more equipment deployed—and this committee has pushed hard and there was money in the stimulus bill—and there will be more authorization here to get better equipment to our screeners so they can detect threats before they get on our planes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would ask my friend if he has any other speakers.

Mr. PERLMUTTER. We do not.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this point I would like to thank everybody who has participated in this debate. I think it's been very fruitful, and I think it's been important.

I mentioned before that when I first spoke on this legislation that process is important because it affects fairness, obviously, but it also affects legislation. We are dealing today—we are bringing to the floor legislation that I am sure will pass by an overwhelming majority on a bipartisan basis. It's important legislation. It's been drafted through the committee process in a bipartisan fashion, and that's commendable.

I mentioned that on legislation like this—and quite frankly, also, on legislation that's coming to the floor soon that's more controversial—openness, as much as possible, is advisable. We saw an amendment described by Mr. SOUDER that is important because it basically, as it was explained by Mr. SOUDER, his interventions would take out of the hands of the President the ultimate determination of whether somebody currently held at the detention center in Guantanamo could be placed or not on the No Fly List, and it would say that automatically those people would be on the No Fly List. And that's important. It's an example of why process is important because being denied—Mr. SOUDER is being denied the opportunity to present the amendment. I think that's unfortunate.

Anyway, as I say, the underlying legislation is one that I'm certain will pass with great bipartisan support. And again, I reiterate my gratitude to all colleagues who have debated on the rule, and, obviously, I look forward to the debate on the underlying legislation.

Having said that, I yield back my time.

Mr. PERLMUTTER. Mr. Speaker, I thank my friend from Florida and I appreciated today's debate as well.

I would ask that House Resolution 474 be passed this morning, that the rule be passed.

This is a bill, H.R. 2200, involving transportation security. It's been a bill that has been long in the making and long overdue, and it is time to move forward with this piece of legislation.

The bill itself was developed over several months with a great amount of input from majority and minority Members, labor and business, and independent analysis. We heard from Representative GREEN about all of the input that went in from various perspectives and the fact that everyone was heard.

The bill passed out of the Homeland Security Committee without any dissenting votes. We've heard Mr. SOUDER complain that his amendment was modified to include the President of the United States. I mean, obvious reflection of separation of powers has to be part of the bill. Otherwise, it's exactly what he wanted. And it does not allow detainees of Guantanamo to come into the United States. They will become part of the No Fly List if they were ever detained at the Naval Station Guantanamo Bay. So the language is clear with respect to his concerns.

The bill, as it comes to the floor, will have 14 substantive amendments debated: eight by Republicans; six by Democrats. This rule will provide for ample debate on this important bill and allow Members to vote on many proposals to improve it. The bill is a great example of bipartisan cooperation. It addresses the need for risk-based determinations, surface transportation and biometrics.

I would urge, Mr. Speaker, a "yes" vote on the rule and on the underlying bill. I urge a "yes" vote on the previous question.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to traffic the well while another Member is under recognition.

Mr. PERLMUTTER. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adopting the resolution will be followed by a 5-minute vote on a motion to suspend the rules on H.R.

1817; and a motion to suspend the rules on House Resolution 196, if ordered.

The vote was taken by electronic device, and there were—yeas 243, nays 179, not voting 11, as follows:

[Roll No. 301]

YEAS—243

Abercrombie	Green, Gene	Nadler (NY)
Ackerman	Griffith	Napolitano
Adler (NJ)	Grijalva	Neal (MA)
Altmire	Gutierrez	Nye
Andrews	Hall (NY)	Oberstar
Arcuri	Halvorson	Obey
Baca	Hare	Oliver
Baird	Harman	Ortiz
Baldwin	Hastings (FL)	Pallone
Barrow	Heinrich	Pascarella
Bean	Herseth Sandlin	Pastor (AZ)
Becerra	Higgins	Payne
Berkley	Himes	Perlmutter
Berman	Hinchev	Perriello
Berry	Hirono	Peters
Bishop (GA)	Hodes	Peterson
Bishop (NY)	Holden	Pingree (ME)
Blumenauer	Holt	Polis (CO)
Boccieri	Honda	Pomeroy
Boren	Hoyer	Price (NC)
Boswell	Inslee	Quigley
Boucher	Israel	Rahall
Boyd	Jackson (IL)	Rangel
Brady (PA)	Jackson-Lee	Reyes
Bright	(TX)	Richardson
Brown, Corrine	Johnson (GA)	Rodriguez
Butterfield	Johnson, E. B.	Ross
Capps	Kagen	Rothman (NJ)
Capuano	Kanjorski	Roybal-Allard
Cardoza	Kaptur	Rush
Carnahan	Kildee	Ryan (OH)
Carney	Kilpatrick (MI)	Salazar
Carson (IN)	Kilroy	Sanchez, Loretta
Castor (FL)	Kind	Sarbanes
Chandler	Kirkpatrick (AZ)	Schakowsky
Childers	Kissell	Schauer
Clarke	Klein (FL)	Schiff
Clay	Kosmas	Schrader
Cleaver	Kratovil	Schwartz
Clyburn	Kucinich	Scott (GA)
Cohen	Langevin	Scott (VA)
Connolly (VA)	Larsen (WA)	Serrano
Conyers	Larson (CT)	Shea-Porter
Costa	Lee (CA)	Sherman
Costello	Levin	Shuler
Courtney	Lewis (GA)	Sires
Crowley	Lipinski	Skelton
Cuellar	Loebback	Slaughter
Cummings	Lofgren, Zoe	Smith (WA)
Dahlkemper	Lowe	Space
Davis (AL)	Lujan	Speier
Davis (CA)	Lynch	Spratt
Davis (IL)	Maffei	Stupak
Davis (TN)	Maloney	Sutton
DeFazio	Markey (CO)	Tanner
DeGette	Markey (MA)	Tauscher
DeLauro	Marshall	Taylor
Dicks	Massa	Teague
Dingell	Matheson	Thompson (CA)
Doggett	Matsui	Thompson (MS)
Donnelly (IN)	McCarthy (NY)	Tierney
Doyle	McCollum	Titus
Driehaus	McDermott	Tonko
Edwards (MD)	McGovern	Towns
Edwards (TX)	McIntyre	Tsongas
Ellison	McMahon	Van Hollen
Ellsworth	McNerney	Velázquez
Engel	Meek (FL)	Visclosky
Eshoo	Meeks (NY)	Walz
Etheridge	Melancon	Wasserman
Farr	Michaud	Schultz
Fattah	Miller (NC)	Waters
Filner	Miller, George	Watson
Foster	Mitchell	Watt
Frank (MA)	Mollohan	Waxman
Fudge	Moore (KS)	Weiner
Giffords	Moore (WI)	Welch
Gonzalez	Moran (VA)	Wexler
Gordon (TN)	Murphy (CT)	Woolsey
Grayson	Murphy (NY)	Wu
Green, Al	Murphy, Patrick	Yarmuth
	Murtha	

NAYS—179

Aderholt	Alexander	Bachmann
Akin	Austria	Bachus

Barrett (SC)	Gohmert	Myrick
Bartlett	Goodlatte	Neugebauer
Biggert	Granger	Nunes
Billray	Graves	Olson
Bilirakis	Guthrie	Paul
Bishop (UT)	Hall (TX)	Paulsen
Blackburn	Harper	Pence
Blunt	Hastings (WA)	Petri
Boehner	Heller	Pitts
Bonner	Hensarling	Platts
Bono Mack	Herger	Poe (TX)
Boozman	Hill	Posey
Boustany	Hoekstra	Price (GA)
Brady (TX)	Hunter	Putnam
Broun (GA)	Inglis	Radanovich
Brown (SC)	Issa	Rehberg
Brown-Waite,	Jenkins	Reichert
Ginny	Johnson (IL)	Roe (TN)
Buchanan	Johnson, Sam	Rogers (AL)
Burgess	Jones	Rogers (KY)
Burton (IN)	Jordan (OH)	Rogers (MI)
Buyer	King (IA)	Rohrabacher
Calvert	King (NY)	Rooney
Camp	Kingston	Ros-Lehtinen
Campbell	Kirk	Roskam
Cantor	Kline (MN)	Royce
Cao	Lamborn	Ryan (WI)
Capito	Lance	Scalise
Carter	Latham	Schmidt
Cassidy	LaTourette	Schock
Castle	Latta	Sensenbrenner
Chaffetz	Lee (NY)	Sessions
Coble	Lewis (CA)	Shadegg
Coffman (CO)	Linder	Shimkus
Cole	LoBiondo	Shuster
Conaway	Lucas	Simpson
Crenshaw	Luetkemeyer	Smith (NE)
Culberson	Lummis	Smith (NJ)
Davis (KY)	Lungren, Daniel	Smith (TX)
Deal (GA)	E.	Snyder
Dent	Mack	Souder
Diaz-Balart, L.	Manzullo	Stearns
Diaz-Balart, M.	Marchant	Terry
Dreier	McCarthy (CA)	Thompson (PA)
Duncan	McCaul	Thornberry
Ehlers	McClintock	Tiahrt
Emerson	McCotter	Tiberi
Fallin	McHenry	Turner
Flake	McHugh	Upton
Fleming	McKeon	Walden
Forbes	McMorris	Wamp
Fortenberry	Rodgers	Westmoreland
Fox	Mica	Whitfield
Franks (AZ)	Miller (FL)	Wilson (SC)
Frelinghuysen	Miller (MI)	Wittman
Gallegly	Miller, Gary	Wolf
Garrett (NJ)	Minnick	Young (AK)
Gerlach	Moran (KS)	Young (FL)
Gingrey (GA)	Murphy, Tim	

NOT VOTING—11

Barton (TX)	Kennedy	Sestak
Braley (IA)	Ruppersberger	Stark
Cooper	Sánchez, Linda	Sullivan
Hinojosa	T.	Wilson (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1207

Messrs. COFFMAN of Colorado, KINGSTON, and PLATTS changed their vote from "yea" to "nay."

Mr. CAPUANO changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 301, had I been present, I would have voted "yea."

JOHN S. WILDER POST OFFICE  
BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1817, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1817.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 302]

YEAS—420

Abercrombie	Castle	Giffords
Ackerman	Castor (FL)	Gingrey (GA)
Aderholt	Chaffetz	Gohmert
Akin	Chandler	Gonzalez
Alexander	Childers	Goodlatte
Altmire	Clarke	Gordon (TN)
Andrews	Clay	Granger
Arcuri	Cleaver	Graves
Austria	Clyburn	Grayson
Baca	Coble	Green, Al
Bachmann	Coffman (CO)	Green, Gene
Bachus	Cohen	Griffith
Baird	Cole	Grijalva
Baldwin	Conaway	Guthrie
Barrett (SC)	Connolly (VA)	Gutierrez
Barrow	Conyers	Hall (NY)
Bartlett	Costa	Hall (TX)
Barton (TX)	Costello	Halvorson
Bean	Courtney	Hare
Becerra	Crenshaw	Harman
Berkley	Crowley	Harper
Berman	Cuellar	Hastings (FL)
Berry	Culberson	Hastings (WA)
Biggert	Cummings	Heinrich
Bilbray	Dahlkemper	Heiler
Bilirakis	Davis (AL)	Hensarling
Bishop (GA)	Davis (CA)	Herger
Bishop (NY)	Davis (IL)	Herseth Sandlin
Bishop (UT)	Davis (KY)	Higgins
Blackburn	Davis (TN)	Hill
Blumenauer	Deal (GA)	Himes
Blunt	DeFazio	Hinchee
Bocciari	DeGette	Hinojosa
Boehner	Delahunt	Hirono
Bonner	DeLauro	Hodes
Bono Mack	Dent	Hoekstra
Boozman	Diaz-Balart, L.	Holden
Boren	Diaz-Balart, M.	Holt
Boswell	Dicks	Hoyer
Boucher	Dingell	Hunter
Boustany	Doggett	Inglis
Boyd	Donnelly (IN)	Inslee
Brady (PA)	Doyle	Israel
Brady (TX)	Dreier	Issa
Braley (IA)	Duncan	Jackson (IL)
Bright	Edwards (MD)	Jackson-Lee
Broun (GA)	Ehlers	(TX)
Brown (SC)	Ellison	Jenkins
Brown, Corrine	Ellsworth	Johnson (GA)
Brown-Waite,	Emerson	Johnson (IL)
Ginny	Engel	Johnson, E. B.
Buchanan	Eshoo	Johnson, Sam
Burgess	Etheridge	Jones
Burton (IN)	Fallin	Jordan (OH)
Butterfield	Farr	Kagen
Buyer	Fattah	Kanjorski
Calvert	Filner	Kaptur
Camp	Flake	Kennedy
Campbell	Fleming	Kildee
Cantor	Forbes	Kilpatrick (MI)
Cao	Fortenberry	Kilroy
Capito	Foster	Kind
Capps	Fox	King (IA)
Capuano	Frank (MA)	King (NY)
Cardoza	Franks (AZ)	Kingston
Carnahan	Frelinghuysen	Kirk
Carney	Fudge	Kirkpatrick (AZ)
Carson (IN)	Gallagher	Kissell
Carter	Garrett (NJ)	Klein (FL)
Cassidy	Gerlach	Kline (MN)

Kosmas	Moran (VA)	Schrader
Kratovil	Murphy (CT)	Schwartz
Kucinich	Murphy (NY)	Scott (GA)
Lamborn	Murphy, Patrick	Scott (VA)
Lance	Murphy, Tim	Sensenbrenner
Langevin	Murtha	Sessions
Larsen (WA)	Myrick	Shadegg
Larson (CT)	Nadler (NY)	Shea-Porter
Latham	Napolitano	Sherman
LaTourette	Neal (MA)	Shimkus
Latta	Neugebauer	Shuler
Lee (CA)	Nunes	Shuster
Lee (NY)	Nye	Simpson
Levin	Oberstar	Sires
Lewis (CA)	Obey	Skelton
Lewis (GA)	Olson	Slaughter
Linder	Olver	Smith (NE)
Lipinski	Ortiz	Smith (NJ)
LoBiondo	Pallone	Smith (TX)
Loeb sack	Pascarella	Smith (WA)
Lofgren, Zoe	Pastor (AZ)	Snyder
Lowe	Paul	Souder
Lucas	Paulsen	Space
Luetkemeyer	Payne	Speier
Lujan	Perlmutter	Spratt
Lummis	Perriello	Stearns
Lungren, Daniel	Peters	Stupak
E.	Peterson	Sutton
Lynch	Petri	Tanner
Mack	Pingree (ME)	Tauscher
Maffei	Pitts	Taylor
Maloney	Platts	Teague
Manzullo	Poe (TX)	Terry
Marchant	Polis (CO)	Thompson (CA)
Markey (CO)	Pomeroy	Thompson (MS)
Markey (MA)	Posey	Thompson (PA)
Marshall	Price (GA)	Thornberry
Massa	Price (NC)	Tiahrt
Matheson	Putnam	Tiberi
Matsui	Quigley	Tierney
McCarthy (CA)	Radanovich	Titus
McCarthy (NY)	Rahall	Tonko
McCaul	Rangel	Towns
McClintock	Rehberg	Tsongas
McCollum	Reichert	Turner
McCotter	Reyes	Upton
McDermott	Richardson	Van Hollen
McGovern	Rodriguez	Velazquez
McHenry	Roe (TN)	Visclosky
McHugh	Rogers (AL)	Walden
McIntyre	Rogers (KY)	Walz
McKeon	Rogers (MI)	Wamp
McMahon	Rohrabacher	Wasserman
McMorris	Rooney	Schultz
Rodgers	Ros-Lehtinen	Waters
McNerney	Roskam	Watson
Meek (FL)	Ross	Watt
Meeks (NY)	Rothman (NJ)	Whitfield
Melancon	Roybal-Allard	Wilson (SC)
Mica	Royce	Wittman
Michaud	Rush	Wolf
Miller (FL)	Ryan (OH)	Woolsey
Miller (MI)	Ryan (WI)	Wu
Miller (NC)	Salazar	Yarmuth
Miller, Gary	Sanchez, Loretta	Young (AK)
Miller, George	Sarbanes	Young (FL)
Minnick	Scalise	
Mitchell	Schakowsky	
Mollohan	Schauer	
Moore (KS)	Schiff	
Moore (WI)	Schmidt	
Moran (KS)	Schock	

## NOT VOTING—13

Adler (NJ)	Pence	Sestak
Cooper	Ruppersberger	Stark
Driehaus	Sánchez, Linda	Sullivan
Edwards (TX)	T.	Wilson (OH)
Honda	Serrano	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1215

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DRIEHAUS. Mr. Speaker, on rollcall No. 302, had I been present, I would have voted "yea."

CONGRATULATING UNIVERSITY OF  
TENNESSEE WOMEN'S BASKET-  
BALL TEAM

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 196.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 196.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. TONKO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 417, noes 0, not voting 16, as follows:

[Roll No. 303]

AYES—417

Abercrombie	Brown-Waite,	Davis (KY)
Ackerman	Ginny	Davis (TN)
Aderholt	Buchanan	Deal (GA)
Adler (NJ)	Burgess	DeFazio
Akin	Burton (IN)	DeGette
Altmire	Butterfield	Delahunt
Andrews	Buyer	DeLauro
Arcuri	Calvert	Dent
Austria	Camp	Diaz-Balart, L.
Baca	Campbell	Diaz-Balart, M.
Bachmann	Cantor	Dicks
Bachus	Cao	Dingell
Baird	Capito	Doggett
Baldwin	Capps	Donnelly (IN)
Barrett (SC)	Capuano	Doyle
Barrow	Cardoza	Dreier
Bartlett	Carnahan	Driehaus
Barton (TX)	Carney	Duncan
Bean	Carson (IN)	Edwards (MD)
Becerra	Carter	Ehlers
Berkley	Cassidy	Ellison
Berman	Castle	Ellsworth
Berry	Castor (FL)	Emerson
Biggert	Chaffetz	Engel
Bilbray	Chandler	Eshoo
Bilirakis	Childers	Etheridge
Bishop (GA)	Clarke	Fallin
Bishop (NY)	Clay	Farr
Bishop (UT)	Cleaver	Fattah
Blackburn	Clyburn	Filner
Blumenauer	Coble	Flake
Blunt	Coffman (CO)	Fleming
Bocciari	Cohen	Forbes
Boehner	Cole	Fortenberry
Bonner	Conaway	Foster
Bono Mack	Connolly (VA)	Fox
Boozman	Costa	Frank (MA)
Boren	Costello	Franks (AZ)
Boswell	Courtney	Frelinghuysen
Boucher	Crenshaw	Fudge
Boustany	Crowley	Gallagher
Boyd	Cuellar	Garrett (NJ)
Brady (PA)	Culberson	Gerlach
Brady (TX)	Cummings	Giffords
Bright	Dahlkemper	Gingrey (GA)
Broun (GA)	Davis (AL)	Gohmert
Brown (SC)	Davis (CA)	Gonzalez
Brown, Corrine	Davis (IL)	Goodlatte

Gordon (TN) Mack  
 Granger Maffei  
 Graves Maloney  
 Grayson Manzullo  
 Green, Al Marchant  
 Green, Gene Markey (CO)  
 Griffith Markey (MA)  
 Grijalva Marshall  
 Guthrie Massa  
 Gutierrez Matheson  
 Hall (NY) Matsui  
 Hall (TX) McCarthy (CA)  
 Halvorson McCarthy (NY)  
 Hare McCaul  
 Harman McClintock  
 Harper McCollum  
 Hastings (FL) McCotter  
 Hastings (WA) McDermott  
 Heinrich McGovern  
 Heller McHenry  
 Hensarling McHugh  
 Herger McIntyre  
 Herseht Sandlin McKeon  
 Higgins McMahan  
 Hill McMorris  
 Himes Rodgers  
 Hinchey McNerney  
 Hinojosa Meek (FL)  
 Hirono Meeks (NY)  
 Hodes Melancon  
 Hoeckstra Mica  
 Holden Michaud  
 Holt Miller (FL)  
 Hoyer Miller (MI)  
 Hunter Miller (NC)  
 Inglis Miller, Gary  
 Inslee Miller, George  
 Israel Minnick  
 Issa Mitchell  
 Jackson (IL) Mollohan  
 Jackson-Lee Moore (KS)  
 (TX) Moore (WI)  
 Jenkins Moran (KS)  
 Johnson (IL) Moran (VA)  
 Johnson, E. B. Murphy (CT)  
 Johnson, Sam Murphy (NY)  
 Jones Murphy, Patrick  
 Jordan (OH) Murphy, Tim  
 Kagen Murtha  
 Kanjorski Myrick  
 Kaptur Nadler (NY)  
 Kennedy Napolitano  
 Kildee Neal (MA)  
 Kilpatrick (MI) Neugebauer  
 Kilroy Nunes  
 Kind Nye  
 King (IA) Oberstar  
 King (NY) Obey  
 Kingston Olson  
 Kirk Oliver  
 Kirkpatrick (AZ) Ortiz  
 Kissell Pascrell  
 Klein (FL) Pastor (AZ)  
 Kline (MN) Paul  
 Kosmas Paulsen  
 Kratovil Payne  
 Kucinich Pence  
 Lumborn Perlmutter  
 Lance Perriello  
 Langevin Peters  
 Larsen (WA) Peterson  
 Larson (CT) Petri  
 Latham Pingree (ME)  
 LaTourette Pitts  
 Latta Platts  
 Lee (CA) Poe (TX)  
 Lee (NY) Pomeroy  
 Levin Posey  
 Lewis (CA) Price (GA)  
 Lewis (GA) Putnam  
 Linder Quigley  
 Lipinski Radanovich  
 LoBiondo Rahall  
 Loeb sack Rangel  
 Lofgren, Zoe Rehberg  
 Lowey Reichert  
 Lucas Reyes  
 Luetkemeyer Richardson  
 Luján Rodriguez  
 Lummis Roe (TN)  
 Lungren, Daniel Rogers (AL)  
 E. Rogers (KY)  
 Lynch Rogers (MI)

Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Rush  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 McCarthy (NY)  
 Sarbanes  
 McClintock  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schock  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions  
 Shadegg  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Skelton  
 Slaughter  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Souder  
 Space  
 Speier  
 Spratt  
 Stearns  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walden  
 Walz  
 Wamp  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Wexler  
 Whitfield  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

## NOT VOTING—16

Alexander Johnson (GA)  
 Braley (IA) Pallone  
 Conyers Polis (CO)  
 Cooper Price (NC)  
 Edwards (TX) Ruppersberger  
 Honda Wilson (OH)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in the vote.

□ 1223

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 2200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

## TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 474 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2200.

□ 1225

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes, with Mr. HASTINGS of Florida in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING) each will control 30 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself as much time as I may consume.

I rise today in support of H.R. 2200, the Transportation Security Administration Authorization Act. This legislation is a product of months of negotiations, and includes significant contribution from Republicans, industry stakeholders, labor, the Government

Accountability Office and the Department of Homeland Security's Inspector General.

I want to recognize the bipartisan efforts of my colleagues on the committee, most especially, Ms. JACKSON-LEE, the chair, and Mr. DENT, the ranking member. They worked hard to produce a thorough, comprehensive, well-considered bill.

H.R. 2200 is the first measure to come to the House floor that fully authorizes the Transportation Security Administration since its establishment in 2001. Since that time, TSA has made significant strides and rolled out several important programs to address security challenges. As a result, today our transportation systems are more secure than they were on September 11, 2001. However, they are not as secure as they need to be.

With the change in administrations, TSA is at a critical crossroads in its 8-year history. H.R. 2200 steers TSA on a course to becoming an effective agency that works to enhance security in all our transportation sectors, partners with key stakeholders, and does a better job of utilizing technology to address gaps in security.

Mr. Chairman, this bill fulfills our constitutional responsibility to provide a thorough road map to TSA on where it should go the next 2 years. H.R. 2200 authorizes \$15.6 billion for TSA for fiscal year 2010 and fiscal year 2011. With these resources, the bill directs TSA, for the first time, to work to achieve greater parity between security efforts to protect aviation and surface transportation systems.

In the past few years, attacks on rail stations worldwide have underscored the vulnerabilities to these systems. In response, H.R. 2200 triples funding for surface transportation over what was provided in fiscal year 2009, and authorizes 300 more surface transportation inspectors.

Among its key provisions is the creation of a Transit Security Advisory Committee to provide greater stakeholder input and a Surface Transportation Security Inspection Office to train and manage inspectors.

The bill also strengthens security training for transportation security officers, flight attendants, all cargo pilots, surface transportation workers, and Federal flight deck officers.

I'm particularly pleased that we were able to include provisions to enhance flight attendants' training and reimbursement for pilots participating in Federal flight deck officers recurrent training.

To bolster airport security and screening, H.R. 2200 authorizes a demonstration project and plan for the implementation of a secure verification system for law enforcement officers flying while armed.

Further, it directs TSA to develop a strategic risk-based plan to enhance security of airport perimeter access controls and a demonstration program for

biometric-based access control systems.

For too long we've been told that the wide-scale deployment of biometrics is too difficult and impractical. But just last week, Mr. Chairman, I saw biometrics, including readers, in use in Argentina at a port and a federal building. This bill embraces the promise of this and other 21st-century technologies to address our security challenges.

Additionally, there are a number of other noteworthy provisions that grew out of extensive committee oversight that covers such programs as Registered Traveler, Secure Flight, and the TWIC program.

□ 1230

For example, the bill directs DHS to work with port operators to help workers who are waiting for TWIC cards to be escorted so they can continue to work. The TWIC provision also puts in place strict timelines and flexibility on how cards are transmitted.

A key theme that runs throughout the bill is greater stakeholder participation.

The Aviation Security Advisory Committee is codified in this bill. So, too, is the Air Cargo and General Aviation Working Groups.

General aviation, in particular, gets a great deal of attention in this bill. Members from both sides of the aisle have expressed serious concern about TSA's approach when it comes to general aviation. Until recently, TSA displayed a lack of understanding of the uniqueness of the general aviation environment. H.R. 2200 takes some major steps forward, with the authorization of a strong General Aviation Working Group and the establishment of a new grant program for security improvements to general aviation airports.

Finally, H.R. 2200 makes key improvements to air cargo and checked baggage security. Specifically, H.R. 2200 eliminates the use of bag match as an alternative means of checked baggage screening.

It also directs TSA to develop a process to consider reimbursement claims by airports who invested in in-line explosive detection equipment on a promise that TSA would defray the costs.

With respect to air cargo, it requires TSA to report on the status of the Certified Cargo Screening Program.

TSA, Mr. Chairman, has testified that the 100 percent screening requirement for passenger planes will not be achieved by 2010 because TSA has had to expend extensive resources on trying to negotiate international agreements with foreign authorities on inbound international cargo. TSA, as a domestic security agency, lacks jurisdiction or expertise to negotiate such agreements. Achievement of this requirement is, therefore, dependent upon assistance from CBP, the State Depart-

ment and others, and, most specifically, foreign governments.

To ensure that TSA meets the statutory 100 percent screening requirement, section 201 of the bill gives TSA up to 2 more years to negotiate agreements on inbound international cargo. Enactment of H.R. 2200, therefore, will help TSA put needed focus on working to meet mandates for screening all cargo transported between U.S. airports on passenger planes, whether originating in the U.S. or abroad.

This provision in no way eliminates the 100 percent screening requirement. Instead, it sets TSA up for success and is responsive to the real-world challenges of implementing the mandate in jurisdictions where TSA has no jurisdiction.

Mr. Chairman, I look forward to our work today, and I encourage my colleagues to pass H.R. 2200 in a swift, bipartisan fashion in order to better ensure the security of all Americans.

Mr. Chairman, I submit for the RECORD exchanges of letters on this legislation.

Mr. Chair, I rise to address concerns put forth in the Minority Views section of the Committee Report for H.R. 2200. Specifically, I want to address the Minority's assertion that the Majority rejected consideration of proposed amendments during committee consideration of the bill.

As is its custom, the Committee used a roster for amendments during both full and subcommittee consideration of the TSA Authorization bill. Each amendment submitted to be placed on the roster was considered by the Committee unless the sponsor decided to withdraw it from consideration.

Each of the twenty amendments filed prior to the Full Committee markup were placed on the roster for Committee consideration. Of the twenty amendments filed, thirteen were sponsored by Minority Members. All but two of the thirteen amendments filed for the roster by Minority Members were offered. Of the eleven amendments offered by Minority Members for committee consideration, eight were agreed to and included in the reported version of the bill.

H.R. 2200, the TSA Authorization Act, is the product of months of bi-partisan cooperation and negotiations. Provisions proposed by the Minority were included in the bill at each and every stage of its consideration. Contrary to the assertion in the Minority Views, at no point during Committee consideration did the Majority prevent the Minority from putting forth amendments for consideration.

In closing, I would remind the Chair that the Committee on Homeland Security has a strong record of working in a bi-partisan fashion to ensure sound homeland security legislation is put before the House. As Chairman, I am committed to ensuring that practice continues.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 15, 2009.

Hon. BART GORDON,  
*Chairman, Committee on Science and Technology, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 2200, the "Transportation Security Administration Authoriza-

tion Act," introduced by Congresswoman Sheila Jackson-Lee on April 30, 2009.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that the Committee on Science and Technology has a jurisdictional interest in certain provisions of H.R. 2200. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Science and Technology.

I will ensure that this exchange of letters is included in the legislative report on H.R. 2200 and in the Congressional Record during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY,

Washington, DC, May 15, 2009.

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security, Washington, DC.*

DEAR MR. CHAIRMAN, I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 2200, the Transportation Security Administration Authorization Act. H.R. 2200 was introduced and referred to the Committee on Homeland Security on April 30, 2009.

H.R. 2200 contains provisions that fall within the jurisdiction of the Committee on Science and Technology. I acknowledge the importance of H.R. 2200 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces, or otherwise affects the jurisdiction of the Committee on Science and Technology, and that a copy of this letter and of your response will be included in the legislative report on H.R. 2200 and in the Congressional Record when the bill is considered on the House Floor.

I also ask for your commitment to support our request to be conferees during any House-Senate conference on H.R. 2200 or similar legislation.

Thank you for your attention to this matter.

Sincerely,

BART GORDON,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 19, 2009.

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure, Washington, DC.*

DEAR CHAIRMAN OBERSTAR: Thank you for your letter regarding H.R. 2200, the "Transportation Security Administration Authorization Act," introduced by Congresswoman SHEILA JACKSON-LEE on April 30, 2009.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that the Committee on Transportation and Infrastructure has a jurisdictional interest

in certain provisions of H.R. 2200. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill over which your Committee has a jurisdictional interest and I agree to support such a request.

I will ensure that this exchange of letters is included in the legislative report on H.R. 2200 and in the Congressional Record during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC, May 19, 2009.*

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security, Washington, DC.*

DEAR CHAIRMAN THOMPSON: I write to you regarding H.R. 2200, the "Transportation Security Administration Authorization Act of 2009".

H.R. 2200 contains provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, I agree to waive consideration of this bill with the mutual understanding that my decision to forgo a sequential referral of the bill does not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure over H.R. 2200.

Further, the Committee on Transportation and Infrastructure reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Transportation and Infrastructure for the appointment of conferees on H.R. 2200 or similar legislation.

Please place a copy of this letter and your response acknowledging the Committee on Transportation and Infrastructure's jurisdictional interest in the Committee Report on H.R. 2200 and in the Congressional Record during consideration of the measure in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC, May 19, 2009.*

Hon. NYDIA M. VELÁZQUEZ,  
*Chairwoman, Committee on Small Business, Washington, DC.*

DEAR CHAIRWOMAN VELÁZQUEZ: Thank you for your letter regarding H.R. 2200, the "Transportation Security Administration Authorization Act," introduced by Congresswoman Sheila Jackson-Lee on April 30, 2009.

I acknowledge that Section 103 of the reported version of the bill contains a provision within the jurisdictional interest of the Committee on Small Business. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Small Business. I will be offering a manager's amendment to the legislation that will strike Section 103 of the bill.

I will ensure that this exchange of letters is included in the legislative report on H.R. 2200 and in the Congressional Record during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,  
*Chairman.*

HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS,  
*Washington, DC, April 19, 2009.*

Hon. BENNIE THOMPSON,  
*Chairman, Committee on Homeland Security, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Committee on Small Business in H.R. 2200, Transportation Security Administration Act of 2009.

The Committee on Small Business recognizes the importance of the legislation and the need to move the legislation expeditiously. Therefore, while the Committee on Small Business has a valid claim to jurisdiction of Section 103 of the bill, I will agree not to request a sequential referral even though the Speaker and the Parliamentarian of the House recognize this Committee's valid assertion of jurisdiction over parts of the bill. I appreciate your willingness to striking section 103 of H.R. 2200 from the bill in the manager's amendment.

Nothing in this legislation or my decision to forgo a sequential referral waives, reduces, or otherwise affects the jurisdiction of the Committee on Small Business. I request that a copy of this letter and of your response acknowledging our valid jurisdictional interest be included as part of the Congressional Record during consideration of this bill by the House.

I share the Chairman's commitment to increase contracting opportunities for small businesses in the federal marketplace and look forward to working with him on this and other matters to achieve this.

Sincerely,

NYDIA M. VELÁZQUEZ,  
*Chairwoman, Small Business Committee.*

Mr. Chairman, I'd also like at this time to acknowledge my ranking Member, Mr. KING from New York, who played a very important role in shepherding this legislation through the committee, and I'd like to acknowledge that at this time.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the very outset, let me commend Chairman THOMPSON and his staff and the majority side for the cooperation that they extended on this bill for making a truly bipartisan effort. I also want to commend the chair

of the subcommittee, SHEILA JACKSON-LEE, for her bipartisan spirit and also, in a special way, Congressman DENT, the ranking member of the subcommittee.

This, as the chairman said, was a collaborative effort. There was tremendous cooperation. Obviously, there's some differences between what we wanted and what ended up in this bill, but basically, it's a fine bill.

And, Mr. Chairman, I also want to commend the outstanding men and women of the TSA for the job that they do day in and day out in protecting us. I see Mr. PASCRELL is here. Just in the New York-New Jersey region alone, last year they inspected 110 million passengers coming through those airports, and again, last week alone, they confiscated 23 illegal firearms that were going through airports. So they do a very, very dedicated and outstanding job. And also, as far as rail transportation, VIPER Teams have become a vital part of our homeland security apparatus.

Having said that, let me just mention some of the concerns I do have about the bill.

One is, Mr. Chairman, that there is, as of now, as of yet, no TSA administrator. Also, my understanding is that there is not even anyone in the wings. There's no one being considered, no one's being mentioned to be the TSA administrator, and yet we put together this bill, which I think is a good bill, but without any input from the head of TSA. And since this is a 2-year authorization, we're going to be basically laying out a plan, a plan of action for the next 2 years, I would have preferred that we could have waited until we got an administrator in place to work with us on it.

Additionally, Mr. Chairman, I raised the issue—and I think these two issues are now interrelated—the issue of an authorization bill and the issue of jurisdiction. This will be, as I see it, the second year in a row that the committee will not have done an authorization bill. And yet next week in the appropriations subcommittee, the Homeland Security appropriations bill will be marked up, and the appropriators will act without our committee's input on 80 percent of the Department of Homeland Security's budget. They will act without our input on 75 percent of the Department of Homeland Security's personnel. And they will consider funding of programs, like the 287(g) program, border security, student visa enforcement, FEMA's hurricane response capabilities, the Coast Guard's port security programs, Secret Service protection of the President, to name a few, all without guidance from this committee.

Now, I believe the main reason for this—and I understand the position that the chairman is in—the main, I

think, as I see the reason is that because of the multiplicity of jurisdictional claims to homeland security, it is very difficult for our committee to move forward. Now, the 9/11 Commission, one of their strongest recommendations was that homeland security be consolidated in one committee.

Several years ago, there were 88 committees and subcommittees that claimed some piece of jurisdiction over homeland security. That number is now up to 108, and this should not be a partisan issue. Both Secretary Chertoff in the previous administration and Secretary Napolitano in the Obama administration have called for consolidation, and yet it's not being done.

So, for instance, if we had gone forward and tried to do an authorization bill, we couldn't authorize the Coast Guard or FEMA because the Committee on Transportation and Infrastructure would object. We couldn't authorize Immigration and Customs Enforcement, the Secret Service, or U.S. Citizen Immigration Services because the Committee on Judiciary would object. And we can't authorize Customs and Border Protection because the Ways and Means Committee would object.

So I think it's really important that we make an effort over the next year during this Congress to implement, again, one of the most fundamental concerns of the 9/11 Commission, and that was to consolidate jurisdiction in one committee, the Homeland Security Committee.

And I believe that in 2005 and 2006, when this side of the aisle did control the committee, we did get authorization bills done, and there were jurisdictional disputes. We won them, and I think that was the direction we were going in, and the direction we should continue to go in.

I gave the chairman tremendous credit 2 years ago when we adopted H.R. 1, which implemented many of the 9/11 Commission recommendations, but this fundamental one still has not been done. And I realize that no one likes to cede jurisdiction, no one likes to give up turf, but the fact is we're talking about an issue that threatens the survival of our country, homeland security. And so long as we have this dysfunctional system where jurisdiction is spread out over so many committees of the Congress, I don't believe we can fully do the job that we should do.

The chairman does a good job, the staff does a good job, I believe we do a very good job on our side of the aisle, but we are limited because of these jurisdictional limitations. And so as we go forward on this debate today, I would hope we would keep that in mind, and as we go forward over the course of the year, we keep that in mind, also, as we try to do the job that we were established to do when we be-

came a permanent committee back in 2005.

Mr. Chairman, I ask unanimous consent that Mr. DENT, the ranking member of the subcommittee, be authorized to control the remainder of my time, and I reserve the balance of our time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. KING)?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, may I inquire as to how much time each side has remaining?

The CHAIR. The gentleman from Mississippi (Mr. THOMPSON) has 21½ minutes remaining, and the gentleman from Pennsylvania (Mr. DENT) has 24½ minutes remaining.

Mr. THOMPSON of Mississippi. Mr. Chairman, I'm happy to recognize the vice chair of the full committee for 2 minutes, Ms. SANCHEZ, for a colloquy.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise in support of H.R. 2200, the Transportation Security Administration Authorization Act, and I would like to engage the honorable Member from Mississippi, the chairman, Mr. THOMPSON, in a colloquy regarding the Transportation Worker Identity Credential, or TWIC as it is known here in the Congress.

During the full committee markup, I offered an amendment addressing several important issues within the TWIC program, and I was pleased that my amendment was passed unanimously.

A key provision in my amendment requires that the Secretary of Homeland Security work with owners and operators of facilities and vessels to develop procedures which allow those who are waiting for their TWIC card to have access to secure and restricted areas, as long as they are escorted. This also applies to those who are waiting for a reissuance of an existing card.

Without clear collaboration between DHS and port officials, individuals waiting for their TWIC card have been unable to work. Some workers have waited up to 15 months to receive their TWIC card.

And the goal of my amendment is to ensure that these workers are still able to support themselves and their families.

Many people have been negatively affected by TSA's delays in issuing the TWIC. For example, there's the case of a longshoreman in the Port of Seattle who applied for a TWIC on October 25, 2008, more than 4 months before he was required to do so at his port. And unfortunately, the gentleman was unable to work for several weeks since it took 4 months for TSA to come back to him and to ask for a copy of his birth certificate. You see, he had been born on a military base abroad, and I understand that the gentleman had to drain his savings account to support his family while he waited for his TWIC, and thus, this is unacceptable.

I hope this legislation becomes law soon, and in the meantime, we must act immediately to ensure that our port workers are able to work and support their families.

I want to thank Chairman THOMPSON for his support on this issue.

Mr. THOMPSON of Mississippi. I yield an additional 30 seconds to respond.

I appreciate the gentlewoman from California's leadership on this critical issue. I share her concerns about the impact that applications backlogs have had on port workers around the Nation and appreciate the comprehensive approach she has taken to addressing the weaknesses in the program that she has identified through her oversight work on the committee and look forward to solving the problem.

Ms. LORETTA SANCHEZ of California. Thank you, Mr. Chairman.

Mr. THOMPSON of Mississippi. I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from the State of Georgia (Mr. BROUN).

Mr. BROUN of Georgia. Recently, while I was on a hunting trip up north, I flew out of an airport in Montana. The number of screeners actually outnumbered the number of passengers. So, when this bill came before the Homeland Security Committee, I offered several amendments, one of which would have required a GAO study of the current staffing levels at TSA to determine their appropriateness and whether or not staffing levels could be reduced by consolidation of duties and functions or by enhanced use of technology.

In March 2009, GAO reported that, "TSA has not followed Federal internal control standards to assist it in implementing DHS's risk management framework and informing resource allocation." I wanted to ensure that hard-earned taxpayer funds were being used in the most cost-effective and efficient manner and ensure that TSA wouldn't become known as Thousands Standing Around.

□ 1245

I'm disappointed that my amendment was not accepted. A number of commonsense provisions were not included by the majority, or were watered down to avoid the jurisdiction of other committees. Rather than produce a good bill and negotiate final language with other committees, our committee only allowed provisions to be considered in committee that were wholly within the Committee on Homeland Security's rule 10 jurisdiction. This bill could be much better.

For example, the majority showed that they saw no value in affirming TSA employees' rights to protect themselves during a public health emergency. One of my amendments offered in committee would have simply



allowed any TSA employee to choose to wear a protective face mask in the event of a pandemic flu outbreak or other public health emergency.

TSA employees encounter 2 million domestic and international passengers every day and should not be prohibited by their supervisors from wearing the appropriate personal protective equipment in the event of a public health emergency, particularly when the disease is both contagious and deadly.

The National Treasury Employees Union, which represents many of the employees, voiced strong support for this provision designed to protect the TSA's frontline officers. The only reason this provision was essentially gutted by the majority with a "perfecting" amendment and any references to public health emergency was removed is because the provision could have allowed the Committee on Energy and Commerce to review the language requiring the Secretary of Homeland Security to collaborate with the Secretary of Health and Human Services.

Other changes were made to weaken other Republican amendments as well. At the markup, I, along with my fellow Republican members of the committee, unanimously supported an amendment authored by Representative MARK SOUDER that would have placed any detainee that is housed down at Guantanamo Bay on or after January 1, 2009, to place them on TSA's No Fly List. I think that makes sense.

Again, this amendment was gutted, giving the President the sole authority to determine if a former Guantanamo detainee should be assigned to the No Fly List. The committee must assert its jurisdiction and conduct vigorous oversight of the transfer or release of detainees currently housed at Guantanamo Bay.

The Homeland Security Committee is the primary authorizing committee for the Department of Homeland Security, which was created after the 9/11 attacks to protect our homeland. We cannot shirk our responsibility. It is justified and necessary for this committee to take a lead role in protecting and securing American citizens.

I'm pleased, however, that my cybersecurity amendment was included with others in the bipartisan en bloc amendment adopted by the committee. My amendment adds the vulnerability of cyberattack to the list of risks to be assessed and ranked by TSA.

Reports indicate that civilian air traffic computer networks have been penetrated multiple times in recent years.

The CHAIR. The time of the gentleman has expired.

Mr. DENT. I yield an additional 30 seconds to Dr. BROWN.

Mr. BROWN of Georgia. They include an attack that partially shut down air traffic data systems in Alaska. Our transportation systems are networked.

Train switches can operate remotely. Even some metro buses can change a traffic light as they approach. It is a very important amendment, and I thank my colleagues for accepting it.

In closing, I would like to thank my colleagues and the staff on this committee from both sides of the aisle for working together on this bill and on numerous other amendments in a bipartisan manner. I'm sorry we cannot come to agreement on all of our amendments.

Going forward, I hope that we can work together to address the jurisdiction concerns that have caused so many problems for our committee.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Paterson, New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I rise to speak in strong support of H.R. 2200, the Transportation Security Administration Authorization Act, as this is a necessary piece of legislation that is long overdue. In fact, we have never fully authorized the TSA since the enactment of the Aviation and Transportation Security Act of 2001.

I want to particularly thank Mr. THOMPSON, who chaired this and led this legislation through committee; along with PETER KING, the ranking member; Ms. JACKSON-LEE as the subcommittee chairwoman; and Mr. DENT from Pennsylvania. I want to congratulate all of them for working hard to have a bipartisan piece of legislation.

We recognize that the safety of the American people must be our number one job. Nothing that we do here can supercede that.

The bill authorizes \$7.6 billion in fiscal year 2010 and \$8.1 billion in fiscal 2011 for the activities of the TSA, including key increases, many of which have already been mentioned.

As an original member of the Homeland Security Committee, one thing I observed was that ever since TSA was created in 2001, its focus has been almost solely on aviation security, to the detriment of surface transportation taken by millions of Americans each day.

A strong aspect of this legislation is beginning to put surface transportation security on an equal footing with aviation security, with key surface transportation security enhancements.

I'm glad to see that this authorization also addresses the long unattended issue of airport perimeter security, whose vulnerability to infiltration I have tried to highlight for many years. I think that this is important. We're looking at it. We're studying this issue so we do not overreact but make sure that the perimeters are just as much protected as the inside.

The CHAIR. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. I yield the gentleman an additional 30 seconds.

Mr. PASCRELL. I think all of us should read Secretary Napolitano's speech yesterday at Aspen, where there were bipartisan group folks studying the security of this country. She laid out five principal areas of concern if we're going to protect America and its neighborhoods. It is a great guidepost to inclusive security. I ask that we do this.

I also ask to consider, Mr. Chairman, in the future the issue and the quality of resilience, which Joshua Cooper Ramo presented in his book which was just published in March. If we truly want to protect America, what about the resiliency and how much can we take that into consideration, God forbid we have another attack.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I rise to enter into a colloquy with the distinguished chairman of Homeland Security, Mr. THOMPSON.

Mr. THOMPSON, as we prepare to authorize appropriations for the Transportation Security Administration, I'd like to thank you for your leadership in the committee and your efforts to bring this legislation to the floor.

I would also like to bring to your attention an issue that needs to be corrected. In 2003, when I was chairman of the Transportation and Infrastructure Committee, language was included in the Vision 100 Act, Public Law 108-176, which required deployment of TSA screeners in the Alaskan communities of Kenai, Homer, and Valdez. Since that time, the Ted Stevens International Airport has improved bag screening capabilities and can adequately screen bags for the three previously mentioned airports.

Kenai, Homer, and Valdez are serviced by air carriers under a partial program. There are no regulatory requirements to screen bags for partial program carriers, so section 613 of the Vision 100 Act imposes a requirement not in effect for other similarly situated airports. The screeners are no longer needed, and TSA has asked that I repeal the language from Vision 100.

This will not cost any money. Rather, this will save TSA money. TSA has informed me that by including this legislation in the TSA Authorization, it would save \$1 million a year.

I'd like to ask the gentleman to comment on this.

Mr. THOMPSON of Mississippi. Let me say that I appreciate the gentleman from Alaska bringing this to my attention. This is a novel issue for us, but I believe there could be some efficiencies in making the change. I'm pleased to work with you on this issue as the bill moves to conference.

Mr. YOUNG of Alaska. I thank the gentleman for working with us. And this is requested by the TSA, and hopefully when this bill gets to conference, this will be included.

I thank the gentleman for working with me.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada (Ms. TITUS).

Ms. TITUS. I rise today in support of the TSA reauthorization bill and to thank Chairman THOMPSON for his leadership in this important issue. I also would like to highlight two elements of the bill that I particularly support.

It's been over 7 years since the attacks of September 11 and there are still no guidelines for security training for flight attendants. H.R. 2200 requires that these individuals undergo mandatory and standardized security training.

Flight attendants are the only working group in the cabin aboard every commercial flight. They are literally on the front lines. They are an integral part of air security.

This legislation provides for meaningful training that will equip these flight attendants with danger detection and self-defense techniques and other important skills needed in the event of a crisis. This mandatory security training, which is needed and wanted by flight attendants, is an important step in ensuring our skies are as safe as they can be.

The second aspect of this legislation that I'd like to address is general aviation. In 2008, there were more than 400,000 general aviation flights from the Las Vegas area serving an estimated 1.3 million passengers. From our three local airports, you can take one of these flights to view the grandeur of the Grand Canyon and the desert which surrounds our city.

General aviation flights are also critical to supplying goods to Las Vegas. And they also are an efficient means for business travelers to reach our great city, one of the most popular business travel destinations.

This is a vital industry to my district, and I will be a voice for it here in Congress. I am hopeful that the TSA will involve this important industry in rulemaking, and I'm confident that they will.

Mr. DENT. Mr. Chairman, may I inquire as to how much time I have remaining on this side?

The CHAIR. The gentleman from Pennsylvania has 18½ minutes. The gentleman from Mississippi has 15 minutes.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Delaware (Mr. CASTLE).

Mr. CASTLE. I thank the distinguished gentleman from the great Commonwealth of Pennsylvania for yielding. I also rise in support of H.R. 2200.

Following the attacks on September 11, 2001, our Nation took unprecedented steps to secure our Nation's airlines.

Since then, Congress has continued to provide the needed level of funding to ensure that our airlines are among the safest in the world. But until recently, however, rail and transit security grant programs remain badly underfunded given both the volume of riders carried each day and the known terrorist threat to such passengers.

Each weekday, more than 14 million people use public transportation. Nearly 30 million people ride Amtrak each year, including millions of commuters along the heavily traveled Northeast corridor. Given the attacks on rail and transit in Spain, the United Kingdom, and India, this is a vulnerability that cannot be ignored.

In response, I have worked closely with Congressmen PETER KING, RUSH HOLT, and other Members of this body to focus more of our security efforts on protecting rail and transit riders and infrastructure.

Over the last several years, we have made progress on this front by increasing rail and transit security grant funding, studying foreign rail security practices, and expanding rail and transit canine teams and public awareness campaigns.

I must say, however, that I was extremely discouraged to learn in March that TSA and FEMA have struggled when it comes to spending Federal grant dollars in a timely fashion. In fact, recent reports indicate that large percentages of grant dollars appropriated in fiscal years 2006, 2007, and 2008 had yet to be awarded to local authorities.

For this reason, I strongly support section 307 of this legislation, which requires the Department of Homeland Security's Inspector General to investigate the administration of these security grants and make recommendations for streamlining the grant award process within 180 days.

Mr. Chairman, I look forward to reading the results of the IG's report on the rail and transit security grant distribution process, and I encourage my colleagues to support this important legislation.

□ 1300

Mr. THOMPSON of Mississippi. Mr. Chairman, I recognize for 1½ minutes the gentleman from Oregon (Mr. BLUMENAUER) for the purposes of a colloquy.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy as I appreciate the chairman's leadership.

I rise in a colloquy to discuss with you the TSA revised list of prohibited items on airplanes.

In 2005, they revised rules to allow items up to 7 inches—knitting needles, scissors, screwdrivers—but they continue to prohibit tiny pen knives under 2.5 inches. I find it frustrating for the traveling public who can't understand the distinctions between these items,

and it has had a significant commercial impact.

This little Leatherman tool, which is very popular, is manufactured in my district. It is certainly less dangerous, one would think, than the items that they're already letting in the air. Since they have made those rules, it has had a significant impact on the sales because consumers don't think about this when they go through airport security lines and lose the items.

I wonder if it's possible to work with you, Mr. Chairman, to encourage the TSA to conduct periodic comprehensive reviews of this prohibited items list to ensure that it reflects the most current risk-based assessment?

Mr. THOMPSON of Mississippi. I can assure the gentleman—and I thank him for his concerns—that the committee will work with TSA in conducting appropriate and periodic reviews of prohibited items. Your graphic display of those prohibited items speaks volumes as to why this review should occur.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I appreciate your words of encouragement as I appreciate your leadership, and I look forward to working with you.

Mr. DENT. Mr. Chairman, I yield 90 seconds to the distinguished gentleman from Beavercreek, Ohio (Mr. AUSTRIA).

Mr. AUSTRIA. I thank the ranking member for yielding.

Mr. Chairman, first of all, I want to thank Chairman THOMPSON, Ranking Member KING, as well as the subcommittee that worked on this, for working in a bipartisan manner.

All of our lives changed after 9/11. This committee plays a very important role in ensuring the safety of all Americans. As a new Member of Congress and as a new member of the Homeland Security Committee, it is good to see this committee work in a bipartisan manner as we push good legislation forward that I support.

Let me just say that, as a member of that subcommittee who heard this bill, we had an opportunity to talk to and to listen to industry groups, to business coalitions, to union representatives, and to subject matter experts. However, it seems to me that we would have had a better opportunity to create an even better bill had we had an opportunity to wait for the administrator of TSA to be appointed and to understand what policies that new administrator was going to put in place. We then would have been able to work around those policies. With that being said, the other side of the aisle decided it was important to move this legislation forward.

I think we've got a good bill before us that does some good things. It will help ensure that the screening processes that are being used for passengers are working. It will help us to address other vulnerabilities in our transportation system, such as underwater tunnels and open rail lines. It will prohibit

the outsourcing of terrorist watch lists—No Fly Lists, selectee lists, verifications—to other nongovernmental entities or to private companies. I think those are good things.

I also think there were some good amendments that were offered in this committee that could have strengthened this bill, and we're going to hear about some of those amendments as we proceed.

The CHAIR. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I would like to yield the gentleman an additional 15 seconds.

Mr. AUSTRIA. Just to close, I think we have an opportunity to strengthen this bill, and I would hope that we will continue to work together in a bipartisan manner with this committee to strengthen this bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the distinguished chairwoman of the subcommittee, who also is the author of this legislation, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman for his leadership on this issue, as well the leadership of the ranking full committee member. As well, I am thankful to have had the opportunity to work with the ranking member of the subcommittee, Mr. DENT.

This has been a bipartisan effort. It has been a tough effort for my colleagues. It is important to realize that the work has been intense and that it has been concerted, direct and, I think, open. I want to applaud the process. Likewise, I would like to acknowledge the Homeland Security Committee's staff and particularly Mike Finan—the subcommittee staff director—for their leadership as well.

So I rise today with great pride in the efforts of my subcommittee and of the full committee, and I look forward to today's swift passage of H.R. 2200, the Transportation Security Administration Authorization Act.

H.R. 2200 provides TSA with the resources it needs by authorizing over \$15.6 billion for the Transportation Security Administration for FY 2010 and FY 2011. At the beginning of this Congress, Chairman THOMPSON stated that the committee will be moving to pass authorizing legislation for the Department of Homeland Security.

It is good to make good on a promise. It is good that this committee recognizes that it is sometimes the only firewall between the security of this Nation and the terrible, heinous acts of 9/11. Sometimes we forget that we are only a few short years away from that terribly tragic day that no one in America will ever forget. We continue to mourn those who have been lost, and we continue to give our support to those families who have experienced those severe and devastating losses.

Therefore, this bill comes before us in the backdrop of recognizing the ultimate challenge of our responsibility. The bill before us, the Transportation Security Administration Authorization Act, helps to further this important effort. I am proud that it is substantiated by over a dozen hearings held over the past 2 years, by countless briefings and by reports from the GAO and from the IG. I am proud of the bipartisan manner in which this comprehensive TSA bill was crafted. I am especially pleased that the gentleman from Pennsylvania (Mr. DENT), as I mentioned earlier, is an original cosponsor of this legislation.

Chairman THOMPSON and Secretary Napolitano agreed during the beginning of this Congress that surface transportation security needed to be on equal footing with aviation at TSA. This bill furthers this important objective.

As the chairwoman of this subcommittee, I have visited a number of surface transportation sites, including the 2nd Street site being built in New York—a multibillion dollar project—as there are many new starts coming about in this country. The existing rail system is utilized by millions of Americans every single day.

Mr. Chairman, this bill acts on recommendations issued in 2008 by the inspector general that were reaffirmed earlier this year by establishing the Surface Transportation Security Inspection Office to house the Surface Transportation Security Inspection Program, by streamlining its mission and by clarifying its command structure.

The CHAIR. The time of the gentlewoman has expired.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the gentlewoman an additional 2 minutes.

Ms. JACKSON-LEE of Texas. In an effort to reach out more constructively to surface transportation security stakeholders, this bill creates the Surface Transportation Security Advisory Committee to give them a formal outlet for giving TSA feedback on security issues.

My subcommittee has heard many worthy criticisms about the dissemination of surface transportation security grants over the last 2 years. Accordingly, this bill has included language that will begin to improve the process so that we can get the inventiveness of America back into the security mainstream so that we can secure this Nation.

This bill also directs the GAO to study the efforts of the Department, its components and other relevant entities to learn from foreign nations whose passenger rail and transit systems have been attacked by terrorists and to access lessons to address security gaps in the United States, such as the tragedy of Mumbai, where I visited to assess

the horrificness of the impact of that terrorist act and of the victims who were impacted. In the last several years, we have seen attacks on rail systems from Europe to Asia. H.R. 2200 takes steps to learn important lessons that can be applied at home.

In addition, I have worked with the gentleman from California (Mr. DANIEL E. LUNGREN) on a provision that creates a new class of materials requiring a security background check for truckers. This provision will target the transport of truly sensitive materials, and it will enable companies and their drivers to have a more seamless gateway to the market. I thank the gentleman for his bipartisan cooperation.

In addition to the great strides this bill makes to secure our surface transportation, it also builds on the work we have done over the years. Earlier this year, the Inspector General confirmed that TSA has in the past compromised covert testing operations. We have corrected that. The bill prohibits advanced notice of covert testing. H.R. 2200 also codifies the Aviation Security Advisory Committee. It requires it to perform specific duties. We also have concerns about TSA's proposed rulemaking covering general aviation. We have responded to that in this bill.

The bill also requires the rigorous oversight of the Secure Flight passenger watch list matching program by requiring updates to Congress every 90 days. In fact, we are not allowing Guantanamo Bay detainees to travel without, if you will, regulation at all. We are working with the White House.

I also believe it is important to note that we are training flight attendants, that we are working on technologies and are helping TSA employees.

Mr. Chairman, this is a great bill, and I ask my colleagues to support it.

Mr. DENT. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Macomb County, Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Chairman, I rise today in strong support of H.R. 2200, the Transportation Security Administration Authorization Act.

The men and women of the TSA are really dedicated professionals who ensure that our flying public arrive at their destinations safely. Although at times it might be a hassle for us to remove our shoes or to show our boarding passes and identification, these measures have made it much more difficult for terrorists to take advantage of dangerous situations or to bring weapons and explosives on commercial aircraft.

It has been almost 8 years from that horrific day on 9/11 when terrorists turned our airplanes into missiles, taking the lives of almost 3,000 of our fellow Americans. Thankfully, we've not been attacked again, and it's not just because we're lucky. It's because dedicated professionals throughout the

government are working day and night to prevent attacks, and we need to provide them with the means to prevent, to deter and to respond to terrorist attacks.

A key piece of our success is that we have not become complacent. We must remain vigilant. Part of that vigilance requires that we make certain that those charged with ensuring our safety are adequately trained. So I was especially pleased to see that a section mandating advanced security training for flight attendants was included in this bill.

As we are all too painfully aware, flight attendants were among the first victims on 9/11. Flight attendants need to know how to handle a crowd and how to be aware of all of the activity that might be surrounding them in such an enclosed space. So security training, good security training, will help prepare them for such a scenario on how to work with the other flight attendants in controlling a crowd or, again, being conscious of other things that are going on in the cabin as well.

In fact, Richard Reid, the convicted shoe bomber, was prevented from detonating his shoe, filled with explosives, because alert flight attendants interrupted him from detonating those explosives.

Also, providing adequate security to the flying public should be a principle goal of this body, so I was dismayed to see that our friends on the other side of the aisle rejected an amendment that would have placed all of the detainees from Guantanamo Bay on the No Fly List. Instead, they watered down this commonsense amendment and left that decision up to the discretion of the President. Now, I don't know about you, but I shudder to think that we might allow these detainees to actually board a commercial aircraft and to sit next to us and our families.

Isn't the whole purpose of the No Fly List to keep dangerous people off these airplanes? I would say, if the Gitmo detainees don't qualify for the No Fly List, who in the world does qualify for that list? Congress shouldn't allow these dangerous detainees to fly on commercial aircraft. I think we should err on the side of caution and put them on the No Fly List.

I want to recognize the good work of Chairman THOMPSON and certainly of Ranking Member KING. I urge my colleagues to support H.R. 2200.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY. I thank the gentleman from Mississippi, and I thank all of those who have worked on this very important bill.

I had the opportunity to serve on the committee on oversight. Last week, we had a hearing on H1N1, the flu. Most people have forgotten about the flu al-

ready. What was very startling to me was that, like many things, they come and they go in our public consciousness. This flu is coming back by all the scientists' projections, and when it comes back, it's going to have mutated into an even more deadly strain.

The CHAIR. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. I yield an additional 15 seconds to the gentleman.

Mr. KENNEDY. The average age of death of people from this flu is 19 years old. The average person in an ICU is 24 years old. So this is a whole new phenomenon in terms of your father's Chevrolet. This is a whole new issue we are dealing with. I would hope that Homeland Security would be working with public health and with everyone else to help address this.

Mr. DENT. Mr. Chairman, at this time, I would like to yield 2 minutes to the distinguished naval aviator from Sugar Land, Texas (Mr. OLSON).

Mr. OLSON. Thank you to my friend from Pennsylvania. I will be quick here.

Mr. Chairman, I rise in support of H.R. 2200, the Transportation Security Administration Authorization Act, and I urge its immediate passage.

As a member of the Homeland Security Committee, I was pleased by the serious bipartisan manner in which this legislation was considered. In fact, the hard work and dedication that the committee members showed in crafting this bill makes me hopeful that we can enact a much-needed, full Department of Homeland Security authorization bill rather than continue to legislate piece by piece.

□ 1315

I rise specifically today to speak about the general aviation security provisions in the bill and the TSA's Large Aircraft Security Program.

The TSA's notice of proposed rule-making to address the perceived threats posed by general aviation aircraft essentially took the Department's principles of risk-based security measures and threw them out the window. The deficiencies of the proposal were the direct result of consultation without collaboration. The TSA met with industry stakeholders and interested parties and then dismissed their input.

Given the terrible flaws in this process, it is not surprising that the proposed product is less than satisfactory as well. Many of the provisions will place a heavy financial burden on the general aviation community yet result in little genuine improvement in security.

Now is not the time to put a financial squeeze on an industry that contributes so much to our national economy. The TSA has proposed using third-party private contractors to re-

view general aviation manifests and conduct watch list verifications. I find it unacceptable that unaccountable contractors would have access to travelers' personal information and have the authority to bar them from a private flight. Any check against a No Fly List or Terrorist Watch List is an inherently governmental function and must be performed by a democratically accountable agency. I am glad the committee adopted my amendment that will prohibit such a practice.

But let me be clear, I strongly support improving security for general aviation and airports. What I object to is a heavy-handed approach that abandons the risk-based principles upon which TSA operates.

The provision I was able to include in H.R. 2200 is a step in the right direction but there is more to be done in the future. I thank the committee for hearing my concerns and I am pleased to join them in supporting this bill today.

I would like to thank subcommittee Chairman JACKSON-LEE and Chairman THOMPSON for making this a bi-partisan bill and bringing both sides to the negotiating table at an early stage. I would also like to thank subcommittee ranking member DENT and Committee ranking member KING for their work on this important issue.

I urge passage of the bill.

Mr. DENT. Mr. Chairman, may I inquire how much time we have remaining?

The CHAIR. The gentleman from Pennsylvania has 10¼ minutes. The gentleman from Mississippi has 7¾ minutes.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Houston, Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Chairman, I rise in support of this bill because this bill is inclusive in approach and comprehensive in scope. It's not perfect, Mr. Chairman, yet it does help perfect Homeland Security.

It provides for surface transportation, security enhancement by tripling the funds available. It provides security training and performance enhancement for significant employees. It provides that airport security and screening enhancement policies be put in place. It provides, Mr. Chairman, that foreign repair stations' security be elevated to U.S. standards. It provides transportation security credential improvements to guard against intruders. It provides for domestic air cargo and checked baggage security to better protect the traveling public. It provides for a general aviation enhancement grant program to help general aviation airports. It provides K-9 detection resources to sniff out drugs. It provides research and development to integrate transportation and security technologies.

It's not perfect, yet it does help to perfect Homeland Security. It is inclusive in approach in that we had the inclusion of all parties interested—the

partners, all of the stakeholders were brought into this, Republicans and Democrats alike, labor and industry as well. It is comprehensive in scope.

I support this bill. I thank the chairman for the wonderful work he has done, the ranking member, and also the subcommittee chair, SHEILA JACKSON-LEE, the Congresswoman from Texas, my colleague, as well as Mr. DENT, the ranking member.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Chairman, I rise in support of H.R. 2200, the Transportation Security Administration Authorization Act. This bill will help to enhance our Nation's transportation security and contains many important provisions.

I'm particularly pleased that the manager's amendment includes a provision I authored to clarify the roles and responsibilities of the Department of Homeland Security and the Department of Transportation with respect to the security of pipelines. I thank Chairman THOMPSON for working with me on this issue and for including this in the manager's amendment.

Over the past 36 years, there have been multiple instances of individuals rupturing pipelines in areas surrounding my district. Most recently in November 2007, three teenagers drilled into an anhydrous ammonia pipeline after being told that the pipeline contained money. The pipeline breach necessitated the evacuation of nearly 300 people in my district.

At the time, local officials received conflicting guidance from the Department of Homeland Security and the Department of Transportation about whether this was a security incident or a safety incident.

My provision seeks to resolve issues of this sort by requiring the Comptroller General to study the roles and responsibilities of the Department of Homeland Security and the Department of Transportation with respect to pipelines and report the results of the study to the Committee on Homeland Security within 6 months.

Finally, my amendment requires the Secretary of Homeland Security to review and analyze the GAO study and report to the Committee on Homeland Security on her review and analysis, including recommendations for changes to the Annex to the Memorandum of Understanding between DHS and DOT or other improvements to pipeline security activities at DHS. Clarifying the respective roles of DHS and DOT will help to ensure that the officials in the areas that we represent do not receive conflicting guidance in the event of a future pipeline breach.

I'm also pleased that the bill includes my provision that would provide reimbursement to airports that used their own funding to install explosive detec-

tive systems after 9/11. These airports installed such systems after receiving assurances from the Federal Government that they would be reimbursed. However, to date, they have not been reimbursed.

Congress addressed this issue in section 1604 of the Implementing Recommendations of the 9/11 Commission Act. But despite this explicit direction in 2007, TSA has not yet reimbursed a single eligible airport. My provision requires TSA to establish a process for resolving reimbursement claims within 6 months of receiving them. It also requires TSA to report to the Committee on Homeland Security an outline of the process used for the consideration for reimbursement claims, including a reimbursement schedule. This is a commonsense provision that will ensure that airports that did the right thing to protect the traveling public after the September 11th attacks will finally get the reimbursement they were promised by TSA and Congress.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding, but above all, I thank him for his masterful work in further cleaning up airport transportation security and for the cooperation he established with the minority.

I particularly thank the chair for including helicopters in the General Aviation Working Group section and for the working group itself because, Mr. Chairman, the large-scale airport requirements have begun to creep into general aviation. The best example of that is right here in the Nation's Capital, where we're down from 200 general aviation flights per month to 200 per year—only, I must say, in the District of Columbia because we don't have enough guidance as to how general aviation should be treated.

General Aviation was reopened here in the Nation's Capital for the first time only a couple years ago after the Transportation Committee threatened to hold TSA in contempt if it didn't open Reagan National Airport to general aviation. Then TSA issued regulations that essentially kept general aviation out of the Nation's Capital, signalling that, 7 or 8 years after 9/11, we still don't know how to keep our capital safe, which surely is not the case. The irrationality begins to mount. In addition, commercial helicopters had been allowed to come to Reagan with the Secret Service's permission, which had kept the helicopter port open because it served certain security purposes but has closed down commercial service now.

So I thank you, Mr. Chairman, for the General Aviation working group to straighten out these issues.

Mr. DENT. Mr. Chairman, I ask unanimous consent to have Mr.

MCCAUL control the balance of my time for our side.

The CHAIR. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MCCAUL. Mr. Chairman, I yield myself 2 minutes.

Recently, I participated in a congressional delegation down in Guantanamo, the first congressional delegation since the President ordered that Guantanamo will be closed. We saw the detainees down there. We saw the top 16 al Qaeda operatives. We saw Khalid Sheikh Mohammed praying, bowing to Mecca. To look at the man who was responsible for the death of 3,000 Americans was perhaps the most chilling experience of my congressional career.

As a former Federal prosecutor, to extend constitutional protections to these detainees as criminal defendants is, in my view, setting a very dangerous precedent. They were captured on the battlefield, and they're enemies of war.

The Souder amendment—while I do support the overall bill—the denial of the Souder amendment raises big concerns, in my view. The idea that detainees held in Guantanamo cannot be placed on the No Fly List begs the question who is qualified to be put on the No Fly List. And since that time, we've released 500 detainees from Guantanamo, 60 of whom have been captured on the battlefield trying to kill our soldiers in Afghanistan.

So I would like to pose a question to the distinguished chairman of the Homeland Security Committee, and I would be happy to yield time to him.

And the question is simply this: We have debated whether the detainees currently being held should be on the No Fly List. In my view it's a no-brainer that we should reach agreement on in a bipartisan way. But as to the 530 who have been released from Guantanamo, does the chairman know whether or not they have been placed on the Terrorist Watch List or the No Fly List?

I yield.

Mr. THOMPSON of Mississippi. At this point, I'll take it in two phases.

There are some obvious misunderstandings of this legislation.

The CHAIR. The time of the gentleman has expired.

Mr. MCCAUL. I am happy to yield myself an additional 2 minutes.

And I yield to Mr. THOMPSON.

Mr. THOMPSON of Mississippi. I thank the gentleman for yielding the time.

If you read the legislation, it talks about those detainees from Gitmo being on the No Fly List. So I don't know what is it we can do to solve the issue other than to refer people to page 87 of House bill 2200 and you can see—and we don't have a disagreement.

Mr. MCCAUL. Reclaiming my time, as to the 530 detainees who we know

are dangerous actors who have already been released from Guantanamo, do we know if they've been placed on the No Fly List and the Terrorist Watch List?

Mr. THOMPSON of Mississippi. But that has nothing to do with the legislation before us today.

Mr. McCAUL. I submit they should be.

The administration has been vague in its response on this issue and perhaps we should entertain the idea of a bill that I would be happy to work with the chairman on to ensure that those who have been captured on the battlefield in Afghanistan, those terrorist suspects who were at Guantanamo who have since been released—many of whom have been returned to the battlefield to kill our soldiers—that at the very least if we're going to put anybody on the No Fly List and the Terrorist Watch List, that these individuals should be placed on this list.

And I will be happy to yield.

Mr. THOMPSON of Mississippi. I agree with you. If those individuals have been captured who have been released, then the procedure automatically places them on the No Fly List. There is no question.

As to how many there are, I don't know. But, again, I say to my colleague from Texas, there is no real debate on the issue of being on the No Fly List.

Mr. McCAUL. There is a debate on the current detainees—and I know it's pending disposition from the President—in my view, they should automatically be placed on the list. This is not a difficult decision.

With respect to those who have been released, Congress should take a stand and not defer to the administration on this and ensure that the suspected terrorists are never allowed on a U.S. commercial aircraft.

And with that, I reserve.

□ 1330

Mr. THOMPSON of Mississippi. I would like to acknowledge and recognize the gentleman from Oregon (Mr. DEFAZIO) for 1 minute to make another attempt to clarify for this body the issue around Gitmo and detainees on the No Fly List.

Mr. DEFAZIO. I thank the chairman.

"Inclusion of Detainees on No Fly List: The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, on or after January 1, 2009, after a final disposition has been issued by the President." The quibbling seems to be over the final disposition.

The only point at which any of these people might have some opportunity to try and get on an airplane will be after they get out of Guantanamo. The President determines the final disposition, and if they are sent to a third

country or transferred elsewhere at that point, they go on the No Fly List. We have terrorists in our super maximum security prisons in the United States who aren't on the No Fly List because they're in a super maximum security prison. If they ever get parole or otherwise get released, they'll go on the No Fly List. But we don't junk up the No Fly List, which already has problems, with a whole bunch of people who are in shackles in ultra-secure locations and are in security already. It doesn't make a lot of sense.

I know you're trying to get political advantage here to say somehow we're soft on terrorism. These people will go on the list if they ever get out.

Mr. McCAUL. Mr. Chairman, may I inquire as to the remaining time.

The CHAIR. The gentleman from Texas has 3¼ minutes. The gentleman from Mississippi has 3½ minutes.

Mr. McCAUL. Mr. Chairman, I yield 2½ minutes to my distinguished colleague from Indiana (Mr. SOUDER).

Mr. SOUDER. I thank my colleague from Texas.

First, I get tired of hearing my own language read back to me. The only language that's relevant here was the part that gutted my amendment which says, "after a final disposition has issued," which eliminates, one, what are they doing until there is a final disposition? If they've been released into America, they are on the planes with us, and we're hoping that the final disposition might occur in—I don't know—2 years, 6 years, 8 years, if they're released. The amendment only covers those who are released. That's if they're on the list. They automatically go on the list. But the big concern is not if they're imprisoned, unless they escape, but whether they're released and that the final disposition, if it is that either we didn't challenge it—in other words, we just released them because we didn't want to have them in trial or that they were found not guilty.

To quote Mr. PASCRELL, my good friend—and we are good friends—he doesn't want, nor does Mr. DEFAZIO want, these potential and actual terrorists—I mean, understand in Gitmo, the people that are there, they are the ones we haven't released. Maybe they were innocently carrying an IED or a Kalashnikov, but these were picked up in Afghanistan on the battlefield. These are military detainees. These aren't kind of casual people here that we're talking about. They have been picked up on the battlefield. The only question is, how are we going to try them? How are we going to process them?

By the way, the only thing we can get out of the administration as far as the question of being in prison, many are likely already on the No Fly List. The key words here are "many are likely on the No Fly List." They

should all be on the No Fly List. Whether they're detained or imprisoned or not, they should be on the No Fly List. We also heard a reference to the Aspen Conference yesterday. Secretary Napolitano said that DHS's role would be—apparently this is a summary—to address the security aspects of the immigration issue regarding the detainees.

Now I was in the El Paso Detention Center. There I saw Arellano Felix, one of the major drug people, about to be released in Ciudad Juarez. We hope they picked him up. But this has been the process. We also had a Chinese illegal who was about to be released. He was in the high-risk detention center with Arellano Felix because he had been violent, beating up guards, particularly beating up other prisoners.

I said, What's going to happen?

They said, Well, China won't take him back. We have to release him into the United States.

So is anybody going to be warned? Are we going to track him?

No, we can't. We can only hold detainees for so long; and then if we want to proceed with another court case, they're released until then.

What happens to him?

Well, he may wind up in a prison if he beats up somebody or does something.

We have an obligation, as Congress, to make sure that none of these detainees are on an airplane with us.

Mr. Chair, during the Committee on Homeland Security consideration of H.R. 2200, Mr. PASCRELL spoke against my amendment to require all detainees at Guantanamo Bay, GTMO, to be placed on the Transportation Security Administration, TSA, No Fly List. Mr. PASCRELL argued that it was presumptive and that the President should have the opportunity to make a final disposition on each case rather than automatically require that all GTMO detainees be prevented from flying on U.S. commercial aircraft.

Specifically, Mr. PASCRELL stated, "We know that many—and it could be all—are bad actors of those 270. But we don't know that yet, do we? We don't know that. And the point of the matter is, the President has a right to exercise his authority. I'm saying, let the President act, and then we can always respond."

I originally intended to include this quote in my oral statement to demonstrate the lack of clarity and understanding regarding what will happen with the GTMO detainees given the President's decision to close the GTMO facility. I agree with Mr. PASCRELL that no one knows yet what will happen. Where I strongly disagree is that Congress should not wait to see what the President decides, which could open up a huge security loophole. Congress must take proactive measures to ensure the safety and security of the American traveling public and my amendment would have ensured that they were not going to be sitting next to a suspected terrorist from GTMO on their next flight.

Mr. THOMPSON of Mississippi. Mr. Chairman, may I inquire how much time is remaining?



The CHAIR. The gentleman from Mississippi has 3½ minutes. The gentleman from Pennsylvania has 45 seconds.

Mr. THOMPSON of Mississippi. Mr. Chair, I recognize the gentlelady from California (Ms. RICHARDSON) for 1 minute.

Ms. RICHARDSON. Mr. Chair, I rise in support of H.R. 2200, and I welcome the opportunity for us to get back on topic of what we're really here to discuss today. I want to applaud Chairman THOMPSON who has brought forward this legislation in a bipartisan manner. And if it's not my mistake, I believe this very legislation was brought forward to our committee and supported in a bipartisan fashion. So let's really talk about what this bill is about.

This bill is about ensuring that passengers in the United States, Americans everywhere, that we can have a greater ease and comfort as we travel. The power of this particular bill ensures that, yes, we will have the legislation in place to ensure that we can have training and adequate inspection.

In my district I have the Long Beach Airport and the Compton Woodley Airport less than 30 miles from Los Angeles International where we move over 3,000 tons of air cargo and 3 million passengers.

Now is not the time to play games. Now is the time to pass this legislation. I urge my colleagues, let's get past the rhetoric. Let's read the bill and look at the facts. The facts are, this bill will assist travelers, increase training and ensure that we have a vibrant economy.

Mr. Chair, I rise in strong support of H.R. 2200, the Transportation Security Administration Act of 2009, which fully reauthorizes the Transportation Security Administration (TSA) for the first time since enactment of the Aviation and Transportation Security Act of 2001. I want to thank my Chairman, Mr. THOMPSON for his leadership and skill in shepherding this important legislation to the floor.

I also want to acknowledge the efforts of Congresswoman JACKSON-LEE, the chair of the Transportation Security Subcommittee, who worked so hard to produce a bill that will strengthen the ability of TSA to fulfill its mission of securing all modes of transportation including rail, mass transit, trucking, bus, and aviation.

Mr. Chair, H.R. 2200 authorizes nearly \$16 billion for TSA for the next two fiscal years. This legislation is the result of months of bipartisan negotiations and cooperation and consultations with key stakeholders, including labor organizations, industry groups, the Government Accountability Office, and the Department of Homeland Security.

Mr. Chair, let me list a few reasons why I believe all Members should support this bill.

My district is home to two airports—Long Beach International and Compton Woodley—and is less than 30 miles from Los Angeles International. Long Beach International alone handles more than 3,000 tons of air cargo

each month and 3 million air travelers every year. So this legislation has a particular impact on my district. It protects the travelers and the cargo coming in and out of California that helps to drive the local, regional, and national economy.

#### SURFACE TRANSPORTATION SECURITY

Regarding surface transportation, the bill provides for a tripling in the amount of funding over FY09 levels and authorizes the hiring of an additional 200 surface transportation security inspectors for FY2010 and an additional 100 inspectors for FY2011.

Second, the bill establishes a Surface Transportation Security Inspection Office within TSA to train and manage inspectors to conduct and assist with security activities in surface transportation systems. This is important because personnel with surface transportation security inspection responsibilities should be trained and mentored by persons with substantial expertise in surface transportation security. That has not always been true in the past.

Third, the bill creates a Transit Security Advisory Committee to facilitate stakeholder input to TSA on surface transportation policy.

#### AIRPORT SECURITY AND SCREENING ENHANCEMENTS

Mr. Chair, airport security is of special interest to me because my district includes the Long Beach International Airport. In the area of air transport security, the bill directs TSA to develop a strategic, risk-based plan to enhance security of airport perimeters and it prohibits federal employees and contractors from providing advance notice of covert testing to airport security screeners.

The bill also enhances air travel security training and performance capabilities by:

1. Directing TSA to establish an oversight program for carrier-provided security training for flight attendants and crews;
2. Authorizing resources for the administration of the Federal Flight Deck Officer program and requires additional training sites for recurring training;
3. Directing TSA to develop a security training plan for all-cargo aircraft crews; and
4. Creating an Ombudsman for the federal air marshals.

#### MINORITY, SMALL AND DISADVANTAGED BUSINESS CONTRACTING

Finally, Mr. Chair, I support this bill because of the inclusion of section 103, which establishes reporting requirements for TSA on contracts valued at \$300,000 or more to ensure compliance with existing Federal government-wide participation goals for small and disadvantaged businesses.

For all of these reasons, I strongly support H.R. 2200 and urge my colleagues to join me in voting for the bill and in thanking the Homeland Security Chairman and Ranking Member for producing this excellent legislation.

Mr. DENT. I would like to reserve the balance of my time at this time.

Mr. THOMPSON of Mississippi. Mr. Chair, I recognize the gentlelady from New York (Mrs. LOWEY) for 1 minute.

Mrs. LOWEY. Mr. Chair, I rise in strong support of this legislation, and I thank the chairman for including two initiatives on which I've worked closely with the chairman.

One was to make sure there is notification of covert testing within our

transportation system, and last year we successfully implemented a pilot program to test the effectiveness of physically screening employees who have access to secure and sterile areas in airports nationwide.

While the underlying legislation makes significant improvements in the safety of our air system, I'm disappointed; but I'm very pleased that the chairman is going to address the inability of TSA workers to collectively bargain. Without this change, TSA workers will continue to suffer, and we need to have a strong workforce.

So I thank you, Mr. Chairman. Thank you for including several initiatives, and I look forward to continue working together.

Mr. Chair, I rise in support of H.R. 2200, the Transportation Security Administration Authorization Act. This important legislation will ensure that the traveling public is protected in our skies and on our roads and railways.

The measure incorporates two initiatives on which I have worked closely with Chairman THOMPSON. First, H.R. 2200 includes legislation I authored to prohibit the advance notification of covert testing within our transportation systems. The core principles and goals of covert testing are undermined when individuals are alerted in advance to tests, and these provisions will bolster accountability for and integrity of covert operations.

Last year, we successfully implemented a pilot program to test the effectiveness of physically screening employees with access to secure and sterile areas of airports nationwide. H.R. 2200 builds upon this pilot by testing the use of biometrics for these individuals.

We know there is criminal activity taking place at some airports, which could lead to possible terrorist activity. We cannot wait for the next security breach to take action, and biometric technology will ensure that only those who have permission to be in the most sensitive parts of our airports are granted access.

While the underlying legislation makes significant improvements in the safety of our air systems, I am disappointed that it does not address the inability of TSA workers to collectively bargain. Without this change, TSA workers will continue to suffer from high rates of injury, attrition, and lowest morale of all federal agencies.

These factors and poor workforce management in recent years have created potential gaps in our aviation security. My legislation, the Transportation Security Workforce Enhancement Act, would provide the same rights and protections as other DHS employees to TSA workers, and I look forward to working with Chairman THOMPSON to enact this legislation.

I commend the Committee for crafting H.R. 2200 to enhance our transportation security, and I urge my colleagues to support it.

Mr. DENT. I would just like at this time to thank Chairman BENNIE THOMPSON, Chairwoman SHEILA JACKSON-LEE, PETE KING, everybody else for their collaboration on this important piece of legislation. It is a good bill. I won't get into some of the deficiencies



here right now except to say that we need to deal with the Large Aircraft Security Program. I know the Chair has agreed to holding a committee hearing on that very important issue. It's important that we address that issue.

But there are a few things about this bill that are very, very important. It does prohibit tipping off TSA employees of covert testing efforts. I think that's important. This legislation also requires a secure biometrically enhanced system to verify the status of law enforcement officers traveling armed on commercial passenger aircraft. It also authorizes demonstration projects to test technology design to mitigate a terrorist attack against underwater tunnels or open rail lines. It also prohibits the TSA's outsourcing of the terrorist watch list, No Fly List and selectee list verifications to non-governmental entities.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself the balance of the time.

In closing, I would emphasize the importance of passing the Transportation Security Administration Authorization Act. This bill is the first comprehensive authorization bill for TSA since its creation in 2001. It is the product of extensive bipartisan negotiation and reflects input from GAO, DHS, IG and oversight conducted by the Committee on Homeland Security. It makes major investments in surface transportation and triples the overall funding for TSA activities.

Mr. Chairman, let me for the record say that there are 239 detainees presently housed at Gitmo. Under this legislation, all those individuals, if they were found innocent or guilty, will go on the No Fly List. So there is no question about the intent of this legislation to put those individuals on the No Fly List.

Apart from that, this is a good bill, and I urge its adoption.

Mr. NADLER of New York. Mr. Chair, I rise in opposition to the Transportation Security Administration (TSA) Authorization Act (HR 2200). For the most part, this bill is a good bill. However, it contains a troubling provision extending the deadline to screen 100 percent of air cargo on passenger planes bound for the United States.

Each year, over 6 billion pounds of cargo are transported on passenger planes within, or to, the United States. Almost half of this amount, 3.3 billion pounds of cargo, is carried on passenger planes that originate in foreign countries bound for the United States. There is no active requirement that this cargo be screened for explosives. After the 9/11 terrorist attacks, Congress passed legislation to strengthen aviation security, but it failed to address this glaring loophole.

Just two years ago, Congress finally passed legislation implementing all of the 9/11 Commission recommendations (H.R. 1 in the 110th Congress), requiring 100 percent screening of

air cargo by August 2010. Even though this deadline is more than a full year away, Section 201 of H.R. 2200 as reported by the Committee appears to grant TSA up to an additional two years from the date of enactment of this bill to screen inbound cargo for explosives. It makes no good sense to provide an extension a full year in advance of the current deadline.

We must not wait to impose security measures until cargo reaches the United States. If we wait to check for a bomb on a plane when it arrives in Newark, or Miami, or Los Angeles, it may be too late. Congress recognized this and intentionally set a deadline for screening all air cargo abroad. We will have to reach international agreements to implement the requirement, and in some cases that could be challenging, but it is precisely for this reason that Congress set an aggressive deadline. It has been almost eight years since the terrorist attacks of 9/11. We should have implemented 100 percent air cargo screening years ago. Only with vigorous oversight can we be sure that all stakeholders involved finally take action on this vital national security measure.

The Coalition of Airline Pilots Associations (CAPA) and Families of September 11th also oppose the inclusion of this provision. We search little old ladies' shampoo bottles. Certainly, we can screen cargo in the belly of the plane for explosives.

I am also concerned about Section 405 of the bill, which would require that any person detained at the Guantanamo Bay facility on or after January 1, 2009 must be placed on the no-fly list. As the Distinguished Chairman has made clear, "regardless of the nature of the disposition" of their case. This provision could lead to extremely bizarre results. For example, a person who was cleared of any wrongdoing, and who has been shown to be not a threat to the United States, would still be required to be placed on the no-fly list. Where is the sense in that? We now know that most of the people who have been held at Guantanamo at one time or another were not a threat, and were not in fact guilty of engaging in hostilities against the United States. There are people still imprisoned at Guantanamo today who are there, not because they are a threat, but because our government can't figure out what to do with them. The Uigers, who are viewed as terrorists only by the repressive regime in Beijing, would be labeled as terrorists and added to the no-fly list. Is that the policy we want on the 20th anniversary of the Tiananmen Square massacre?

I must reluctantly vote "no" on final passage.

Ms. ROYBAL-ALLARD. Mr. Chair, I rise today in strong support of H.R. 2200, the Transportation Security Administration Authorization Act.

America's vast, interconnected transportation networks are the lifeblood of our economy, safely conveying millions of Americans to countless destinations from coast to coast. Unfortunately, these arteries of commerce—so critical to our national well-being—also represent a tremendous vulnerability and the difficult task of securing them falls to a single agency: the Transportation Security Administration.

Thankfully, that organization is staffed by thousands of dedicated professionals and their

efforts to defend our transportation system will be sensibly strengthened by this legislation. With greater resources, newer technology and more innovative strategies at its disposal, TSA will be better equipped to take on the immense challenge of preserving our freedom of movement.

American aviation faces an array of threats, but guided by this bill, TSA is working to address them in ways that save tax dollars and don't unnecessarily inconvenience travelers.

The Act establishes the Aviation Security Advisory Committee, which will enhance the agency's decision-making processes by bringing together key stakeholders, both in private industry and the law enforcement community. The bill also bars TSA from providing advance notice of covert tests, thus increasing their usefulness as a performance indicator. In addition, it requires TSA to report on the deployment of advanced systems to screen air travelers' baggage, another crucial step in preventing future terror attacks.

While commercial aviation should undoubtedly remain TSA's top priority, the London and Madrid bombings tragically illustrated the vulnerability of mass transit systems. This legislation emphasizes the importance of modes of transportation that were neglected as the agency understandably focused the lion's share of its resources on securing our nation's airports in the years after 9/11.

H.R. 2200 establishes a Surface Transportation Inspection Office and directs the Secretary of Homeland Security to hire additional inspectors. By identifying vulnerabilities and enforcing regulations, these men and women play a crucial role in protecting our mass transit systems and I'm pleased that this legislation will bolster their ranks. In addition, this bill creates a grant program that would aid the efforts of state and local governments to augment the security of their public transportation networks.

While I'm confident that every member of this body is deeply concerned about the security of the nation's transportation system, the issue is especially important to me as a representative of one of America's great cities. Los Angeles is home to our largest container port complex, one of our busiest airports, and a sprawling transit network that covers hundreds of square miles.

Beset by threats both foreign and domestic, all Americans—but especially the inhabitants of urban areas like L.A.—expect that their government will do what is necessary to safeguard the buses they ride across town and the jets they fly across the country. By enacting this legislation, we are working to fulfill that responsibility to our constituents and to the dedicated TSA personnel charged with protecting them.

Please join me in supporting H.R. 2200.

Mr. LIPINSKI. Mr. Chair, I rise today in strong support of H.R. 2200, the Transportation Security Administration Authorization Act. This legislation takes great steps to enhance the ability of TSA to secure our skies, rail lines, and roads and to protect the Americans that rely on these transportation systems daily.

I am especially pleased H.R. 2200 contains a provision to help provide flight attendants with the self defense training needed to keep the traveling public safe.

Mr. Chair, for years, flight attendants across the country have raised concerns over the lack of self defense training provided by carriers. Adequate self defense training for flight attendants will increase the ability of flight attendants to work together to manage a potentially threatening situation. And because a flight attendant's main objective during an attack is to slow it down so the aircraft can land safely and quickly, self defense training is just common sense.

I would also like to point out this bill simply takes the first step in providing flight attendants with much needed self defense training. The legislation requires one day of five hour training every other year. The cost associated with this additional training—which could occur in conjunction with existing safety training programs—is a small price to pay for increased aviation security.

Mr. MICA. Mr. Chair, I would like to bring to the attention of the House a letter I received this week from dozens of airports across the country concerning a provision in the pending legislation (H.R. 2200) pertaining to background screening services for aviation workers. I ask unanimous consent that the letter, which is addressed to me as well as the distinguished leaders of the Homeland Security Committee and Chairman OBERSTAR, be included in the RECORD.

This is an important issue with which I have a great deal of familiarity as the former Chairman of the House Aviation Subcommittee. Following the tragic events of 9/11, Congress mandated that all workers with access to secure areas of airports be given criminal history background checks. While that now seems like a necessary and reasonable requirement, gaining those checks for nearly a million workers at airports was a daunting task given the fact that the Office of Personnel Management (OPM)—the entity then in charge of processing background checks for aviation workers—routinely took more than 50 days to complete the process for each worker.

Without major upgrades to the process, meeting the congressional mandate was simply not achievable without significant disruptions to the aviation system. Recognizing that fact, the Federal Aviation Administration took the initiative to create a better system to facilitate the required checks and reached out to the private sector to help accomplish that goal. The result was a unique public/private partnership with the creation of the Transportation Security Clearinghouse to process background checks for aviation workers.

The Transportation Security Clearinghouse established the first high-speed, secure connection to the federal fingerprint processing system and ensured that more than 500 airports were able to access that system and complete the necessary background checks. It is my understanding that the TSC reduced a process that took more than 50 days down to an average of four hours, with many checks occurring in a matter of minutes. I am told that error rates with transmissions were reduced to 2 percent, well below the average government error rate of 8 percent.

As a result, the initial mandate for completing background checks was completed successfully. Numerous subsequent security enhancements—issued directly by the Trans-

portation Security Administration, the agency now in charge of aviation security—have likewise been completed successfully. Notably, all aviation workers and many others in the airport environment undergo detailed Security Threat Assessments, a process that has been facilitated by the TSC.

Over the past seven-plus years, the TSC has processed more than 4 million record checks for aviation workers. The costs of the checks for aviation workers have been reduced twice and at \$27 are dramatically lower than for workers in other modes of transportation that require similar checks, including port workers and hazardous material truckers.

I raise these points to make clear that I concur with the view outlined by numerous airports on this letter. The current process for aviation workers works well and should not be disrupted as TSA seeks to comply with this legislation. Additionally, the agency needs to ensure that there is no diminution of security by requiring that any entity that seeks to provide these services in the future is capable of facilitating all current checks and can meet any other additional requirements deemed critical by the agency.

I appreciate the work of the Homeland Security Committee on this issue and look forward to working with them as this process moves forward.

JUNE 2, 2009.

Hon. BENNIE THOMPSON,  
*Chairman, House Homeland Security Committee, Washington, DC.*

Hon. PETER KING,  
*Ranking Member, House Homeland Security Committee, Washington, DC.*

Hon. JAMES OBERSTAR,  
*Chairman, House Transportation and Infrastructure Committee, Washington, DC.*

Hon. JOHN MICA,  
*Ranking Member, House Transportation and Infrastructure Committee, Washington, DC.*

DEAR CHAIRMAN THOMPSON, CHAIRMAN OBERSTAR, RANKING MEMBER KING, and RANKING MEMBER MICA: with the House poised to consider important TSA authorization legislation (H.R. 2200) in the near future, we are writing to express our strong support for the Transportation Security Clearinghouse (TSC) and to ask that attempts to address competition in security background screening services legislatively do not interfere with the critical security services that the TSC currently facilitates.

Created in the aftermath of September 11th in partnership with the federal government to meet a congressional mandate for the completion of background checks for aviation workers, the TSC has built an incredible record of success over the past seven-plus years. To date, more than four million records have been vetted against federal criminal and terrorist data bases at a cost much lower than other comparable vetting programs. A process that took weeks to complete prior to the creation of the TSC, now takes minutes, collectively saving airports and our industry hundreds of millions of dollars in operational and employee time savings that would otherwise have been spent waiting for background checks and away from their jobs.

For the federal government, the TSC serves as an invaluable partner in ensuring the highest level of security in the background screening process for aviation workers. As TSA has expanded background check requirements for aviation workers and oth-

ers in the airport environment over the years, the Clearinghouse has repeatedly risen to the occasion—most often at its own expense—to ensure that additional checks are performed quickly and effectively and in a manner that limits disruptions to airport operations. Additionally, the TSC adheres to all federal data and privacy standards and has passed rigorous DHS certification requirements.

For airports, the TSC has repeatedly proven its value in keeping costs low and services high. Difficult TSA mandates have been met with minimal disruption, and Clearinghouse fees have been reduced twice in recent years—currently \$27 per employee and significantly below the costs of similar programs. The TSC was established to serve a critical need of airports, and the incentives inherent in the TSC model ensure that it will continue to put the needs of airports and the aviation industry at the forefront.

While competition in this area is a worthy goal, it must not come at the expense of a process that works well and that has served our industry and the cause of aviation security admirably for nearly eight years. As you have the opportunity to consider legislation aimed at enhancing competition in security background screening services, we ask that you take steps to ensure that the current process facilitated by the TSC is not disrupted and that any service providers approved to perform similar functions are able to meet the same levels of security and service that are currently provided by the TSC.

We appreciate your attention to this important matter.

Sincerely,

Mr. Benjamin DeCosta, A.A.E. Aviation General Manager Hartsfield-Jackson Atlanta Intl Airport;

Mr. John L Martin, Airport Director, San Francisco Int'l Airport;

Mr. Jose Abreu, Aviation Director, Miami International Airport;

Mr. Mark Gale, A.A.E., Memphis International Airport, Acting Director, Philadelphia Int'l Airport;

Mr. Thomas Kinton, Executive Director/CEO, Massachusetts Port Authority;

Mr. James Bennett, A.A.E., President & C.E.O., Metropolitan Washington Airports Auth., Dulles International Airport/Washington Regan National Airport.

Mr. Timothy Campbell, A.A.E., Executive Director, Baltimore/Washington Int'l Thurgood Marshall;

Mr. Brian Sekiguchi, Deputy Director, State Dept. of Transportation, Honolulu International Airport;

Mr. Ricky Smith, Director of Airports, Cleveland Airport System;

Mr. Larry Cox, A.A.E., President & C.E.O., Memphis-Shelby County Airport Auth., Memphis International Airport;

Mr. Bradley Penrod, A.A.E., Executive Director/C.E.O., Allegheny County Airport Authority, Pittsburgh International Airport;

Ms. Elaine Roberts, A.A.E., President & C.E.O., Columbus Regional Airport Authority, Port Columbus International Airport.

Mr. Sean Hunter, M.B.A., ACE, Director of Aviation, Louis Armstrong New Orleans Int'l Airport;

Mr. Bruce Pelly, Director of Airports, Palm Beach International Airport;

Mr. Stephen Korta, A.A.E., State Aviation Administrator, Connecticut Department of Transportation, Bradley International Airport;

Ms. Christine Klein, A.A.E., Alaska DOT&PF Deputy Commissioner, Acting Airport Director, Ted Stevens Anchorage International Airport;

Mr. Kevin Dillon, A.A.E., President & C.E.O., Rhode Island Airport Corp., T.F. Green State;

Ms. Kryss Bart, A.A.E., President & C.E.O., Reno-Tahoe Airport Authority, Reno-Tahoe Int'l Airport;

Mrs. Bonnie Allin, A.A.E., President/C.E.O., Tucson Airport Authority;

Mr. Mark Brewer, A.A.E., Airport Director, Manchester-Boston Regional Airport;

Mr. Jon Mathiasen, A.A.E., President & C.E.O., Capital Region Airport Commission, Richmond International Airport;

Ms. Monica Lombraña, A.A.E., Director of Aviation, El Paso International Airport;

Mr. Jeffrey Mulder, A.A.E., Airport Director, Tulsa Airport Authority, Tulsa International Airport;

Ms. Susan Stevens, AAE, Director of Airports, Charleston County Aviation Authority;

Mr. Mark Earle, C.M., Aviation Director, Colorado Springs Airport;

Mr. James Koslosky, A.A.E., Executive Director, Gerald R. Ford International Airport.

Mr. George Speake, Jr., C.M., VP of Operations & Maintenance, Orlando Sanford International Airport;

Mr. Timothy Edwards, A.A.E., Executive Director, Susquehanna Area Reg. Airport Auth., Harrisburg International Airport;

Mr. Victor White, A.A.E., Wichita Airport Authority, Wichita Mid-Continent Airport;

Mr. Brian Searles, Director of Aviation, Burlington International Airport;

Mr. Richard McQueen, Airport Director, Akron-Canton Regional Airport;

Mr. Richard Tucker, Executive Director, Huntsville International Airport;

Mr. James Loomis, A.A.E., Director of Aviation, Lubbock Preston Smith Int'l Airport.

Ms. Kelly Johnson, A.A.E., Airport Director, N.W. Arkansas Regional Airport Auth;

Mr. Eric Frankl, A.A.E., Executive Director, Lexington Blue Grass Airport;

Mr. Dan Mann, A.A.E., Airport Director, The Eastern Iowa Airport;

Mr. Anthony Marino, Director of Aviation, Baton Rouge Metropolitan Airport;

Mr. Bruce Carter, A.A.E., Director of Aviation, Quad City Int'l Airport;

Mr. Gary Cyr, A.A.E., Director of Aviation, Springfield/Branson National Airport;

Mr. Thomas Binford, A.A.E., Director of Aviation & Transit, Billings Logan Int'l Airport.

Mr. Philip Brown, C.M., Director of Aviation, McAllen Int'l Airport/City of McAllen;

Mr. John Schalliol, A.A.E., Executive Director, St. Joseph County Airport Authority, South Bend Regional Airport;

Mr. Jon Rosborough, Airport Director, Wilmington International Airport;

Mr. Timothy Doll, A.A.E., Airport Director, Eugene Airport;

Mr. Torrance Richardson, A.A.E., Executive Director of Airports, Fort Wayne International Airport;

Mr. Lew Bleiweis, A.A.E., Deputy Airport Director, Asheville Regional Airport Authority;

Mr. Thomas Braaten, Airport Director, Coastal Carolina Regional Airport.

Mr. Joseph Brauer, Airport Director, Rhinelander/Oneida County Airport;

Mr. Robert Bryant, A.A.E., Airport Director, Salisbury-Ocean City Wicomico Regional Airport, Wicomico Regional Airport;

Mr. Barry Centini, Airport Director, Wilkes-Barre/Scranton Int'l Airport;

Mr. Patrick Dame, Executive Director, Grand Forks International Airport;

Mr. David Damelio, Director of Aviation, Greater Rochester International Airport;

Mr. Rod Dinger, A.A.E., Airport Manager, Redding Municipal Airport;

Mr. Shawn Dobberstein, A.A.E., Executive Director, Hector International Airport.

Mr. John Duval, A.A.E., ACE, Director of Operations, Planning and Development, Beverly Municipal Airport;

Ms. Jennifer Eckman, A.A.E., Finance and Administration Manager, Rapid City Regional Airport;

Mr. Luis Elguezabal, A.A.E., Airport Director, San Angelo Regional Airport;

Mr. Jim Elwood, A.A.E., Airport Director, Aspen/Pitkin County Airport;

Mr. Jose Flores, Airport Manager, Laredo International Airport;

Mr. David Gordon, A.A.E., Airport Director, Fort Collins Loveland Municipal Airport.

Mr. Thomas Greer, A.A.E., General Manager, Monterey Peninsula Airport District;

Mr. Rick Griffith, A.A.E., Airport Manager, Bert Mooney Airport Authority;

Mr. Thomas Hart, Executive Director, Williamsport Regional Airport;

Mr. Gregory Haug, Airport Manager, Bismarck Airport;

Mr. Glenn Januska, A.A.E., Airport Manager, Casper/Natrona County Int'l Airport.

Mr. Cris Jensen, A.A.E., Airport Director, Missoula County Airport Authority, Missoula International Airport;

Mr. Gary Johnson, C.M., Airport Director, Stillwater Regional Airport;

Mr. Stephen Luebbert, Airport Director, Texarkana Regional Airport-Webb Field;

Mrs. Cindi Martin, C.M., Airport Director, Glacier Park International Airport;

Mr. Derek Martin, A.A.E., Airport Director, Klamath Falls Airport;

Mr. Ronald Mercer, Airport Director, Helena Regional Airport;

Mr. Clifton Moshoginis, Airport Director, Kalamazoo Battle Creek Int'l Airport;

Mr. Lenard Nelson, A.A.E., Aviation Director, Idaho Falls Regional Airport;

Mr. Robert Nicholas, A.A.E., Airport Manager, Ithaca Tompkins Regional Airport.

Mr. Robb Parish, Airport Manager, Pullman-Moscow Regional;

Mr. Timothy Reid, C.M., Assistant Airport Manager, Cheyenne Regional Airport;

Mr. Richard Roof, Airport Manager/Security Coord., Barkley Regional Airport Authority;

Mr. David Ruppel, C.M., Airport Manager, Yampa Valley Regional Airport;

Mr. Darwin Skelton, Airport Director, Western Nebraska Regional Airport;

Mr. Jack Skinner, Airport Manager, Laramie Regional Airport;

Mr. John Sutton, Director of Aviation, Killeen-Fort Hood Regional Airport;

Mr. Robin Turner, A.A.E., Airport Manager, Lewiston-Nez Perce County Reg. Airport;

Mr. Bradley Whited, A.A.E., Airport Director, Fayetteville Regional Airport.

Mr. REICHERT. Mr. Chair, as of February 28, 2009 all port workers must have a Transportation worker Identification Credential, TWIC, to be granted port access. However, many longshoremen have not yet received a TWIC due to large backlogs at TSA.

This backlog is causing undue hardship on longshoremen and their families—many are being prevented from doing their jobs and earning a living. In order to get by, many are depleting their savings to support their families. This problem also unduly disrupts the operations of the ports and the flow of commerce.

Today we will consider important legislation to reauthorize the Transportation Security Administration, TSA, and enhance our surface and aviation transportation security.

I commend the committee for including language in the bill which clarifies that those who perform work in secure areas of our ports be allowed escorted access to such areas while their application for a TWIC is pending.

There is a real need to ensure the safety and security of our ports, however, we must balance this with our need to ensure workers, who pose no threat to the U.S., are able to do their job and earn an honest living.

Mr. HOLT. Mr. Chair, there are many worthy and needed provisions in this legislation. It authorizes a tripling of surface transportation security funding, to \$15.6 billion. It requires the Transportation Security Administration to field at least 100 canine teams, which are absolutely critical to our bomb detection efforts. The bill creates a \$10 million grant program for improving security measures at general aviation airports. These and many other provisions in the bill are laudable.

Unfortunately, the bill includes a provision that would allow TSA at least two more years to achieve the congressionally-mandated goal of screening 100 percent of air cargo on passenger jets. Mr. Chair, we can't keep kicking this can down the road. The traveling public has been demanding for years that we close this major airline security gap. We said we would fulfill all the recommendations of the 9/11 Commission. We haven't.

If we give TSA two more years, two years from now TSA will say "We need more time." Congress has supplied the money to achieve this goal. What we need from TSA is results-oriented leadership to get the job done. The best way to finish this job is to keep the existing deadline in place, which is why I could not support this bill. I hope that we can improve this bill during any conference with the Senate or if it is included in a larger Homeland Security authorization bill by removing this two-year extension on meeting the cargo screening requirement.

Mr. THOMPSON of Mississippi. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in

the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

H.R. 2200

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**  
(a) **SHORT TITLE.**—This Act may be cited as the “Transportation Security Administration Authorization Act”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Authorities vested in Assistant Secretary.

#### **TITLE I—AUTHORIZATION OF APPROPRIATIONS**

Sec. 101. Authorization of appropriations.

Sec. 102. Risk-based system for allocation of resources.

Sec. 103. Ensuring contracting with small business concerns and disadvantaged business concerns.

#### **TITLE II—AVIATION SECURITY**

##### **Subtitle A—Amendments to Chapter 449**

Sec. 201. Screening air cargo and checked baggage.

Sec. 202. Prohibition of advance notice of covert testing to security screeners.

Sec. 203. Secure verification system for law enforcement officers.

Sec. 204. Ombudsman for Federal Air Marshal Service.

Sec. 205. Federal flight deck officer program enhancements.

Sec. 206. Foreign repair stations.

Sec. 207. Assistant Secretary defined.

Sec. 208. TSA and homeland security information sharing.

Sec. 209. Aviation security stakeholder participation.

Sec. 210. General aviation security.

Sec. 211. Security and self-defense training.

Sec. 212. Security screening of individuals with metal implants traveling in air transportation.

Sec. 213. Prohibition on outsourcing.

##### **Subtitle B—Other Matters**

Sec. 221. Security risk assessment of airport perimeter access controls.

Sec. 222. Advanced passenger prescreening system.

Sec. 223. Biometric identifier airport access enhancement demonstration program.

Sec. 224. Transportation security training programs.

Sec. 225. Deployment of technology approved by science and technology directorate.

Sec. 226. In-line baggage screening study.

Sec. 227. In-line checked baggage screening systems.

Sec. 228. GAO report on certain contracts and use of funds.

Sec. 229. IG report on certain policies for Federal air marshals.

Sec. 230. Explosives detection canine teams minimum for aviation security.

Sec. 231. Assessments and GAO Report of inbound air cargo screening.

Sec. 232. Status of efforts to promote air cargo shipper certification.

Sec. 233. Full and open competition in security background screening service.

Sec. 234. Registered traveler.

Sec. 235. Report on cabin crew communication.

Sec. 236. Air cargo crew training.

Sec. 237. Reimbursement for airports that have incurred eligible costs.

Sec. 238. Report on whole body imaging technology.

Sec. 239. Protective equipment.

#### **TITLE III—SURFACE TRANSPORTATION SECURITY**

Sec. 301. Assistant Secretary defined.

Sec. 302. Surface transportation security inspection program.

Sec. 303. Visible intermodal prevention and response teams.

Sec. 304. Surface Transportation Security stakeholder participation.

Sec. 305. Human capital plan for surface transportation security personnel.

Sec. 306. Surface transportation security training.

Sec. 307. Security assistance IG Report.

Sec. 308. International lessons learned for securing passenger rail and public transportation systems.

Sec. 309. Underwater tunnel security demonstration project.

Sec. 310. Passenger rail security demonstration project.

Sec. 311. Explosives detection canine teams.

#### **TITLE IV—TRANSPORTATION SECURITY CREDENTIALING**

##### **Subtitle A—Security Credentialing**

Sec. 401. Report and recommendation for uniform security background checks.

Sec. 402. Animal-propelled vessels.

Sec. 403. Requirements for issuance of transportation security cards; access pending issuance.

Sec. 404. Harmonizing security card expirations.

Sec. 405. Securing aviation from extreme terrorist threats.

##### **Subtitle B—SAFE Truckers Act of 2009**

Sec. 431. Short title.

Sec. 432. Surface transportation security.

Sec. 433. Conforming amendment.

Sec. 434. Limitation on issuance of hazmat licenses.

Sec. 435. Deadlines and effective dates.

Sec. 436. Task force on disqualifying crimes.

#### **SEC. 2. DEFINITIONS.**

In this Act, the following definitions apply:

(1) **ASSISTANT SECRETARY.**—The term “Assistant Secretary” means Assistant Secretary of Homeland Security (Transportation Security Administration).

(2) **ADMINISTRATION.**—The term “Administration” means the Transportation Security Administration.

(3) **AVIATION SECURITY ADVISORY COMMITTEE.**—The term “Aviation Security Advisory Committee” means the advisory committee established by section 44946 of title 49, United States Code, as added by this Act.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

#### **SEC. 3. AUTHORITIES VESTED IN ASSISTANT SECRETARY.**

Any authority vested in the Assistant Secretary under this Act shall be carried out under the direction and control of the Secretary.

#### **TITLE I—AUTHORIZATION OF APPROPRIATIONS**

##### **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary \$7,604,561,000 for fiscal year 2010 and \$8,060,835,000 for fiscal year 2011 for the necessary expenses of the Transportation Security Administration for such fiscal years.

##### **SEC. 102. RISK-BASED SYSTEM FOR ALLOCATION OF RESOURCES.**

(a) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Assistant Sec-

retary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives, a report on the status of its implementation of recommendations from the Comptroller General with respect to the use by the Transportation Security Administration of a risk-based system for allocating security resources effectively.

(b) **ASSESSMENTS.**—The report shall include assessments of the Transportation Security Administration’s progress in—

(1) adopting security goals that define specific outcomes, conditions, end points, and performance targets;

(2) conducting comprehensive risk assessments for the transportation sector that meet the criteria established under Homeland Security Presidential Directive-7 in effect as of January 1, 2009, and combine individual assessments of threat, vulnerability, and consequence;

(3) analyzing the assessments described in paragraph (2) to produce a comparative analysis of risk across the entire transportation sector to guide current and future investment decisions;

(4) establishing an approach for gathering data on investments by State, local, and private sector security partners in transportation security;

(5) establishing a plan and corresponding benchmarks for conducting risk assessments for the transportation sector that identify the scope of the assessments and resource requirements for completing them;

(6) working with the Department of Homeland Security to effectuate the Administration’s risk management approach by establishing a plan and timeframe for assessing the appropriateness of the Administration’s intelligence-driven risk management approach for managing risk at the Administration and documenting the results of the assessment once completed;

(7) determining the best approach for assigning uncertainty or confidence levels to analytic intelligence products related to the Transportation Security Administration’s security mission and applying such approach; and

(8) establishing internal controls, including—  
(A) a focal point and clearly defined roles and responsibilities for ensuring that the Administration’s risk management framework is implemented;

(B) policies, procedures, and guidance that require the implementation of the Administration’s framework and completion of related work activities; and

(C) a system to monitor and improve how effectively the framework is being implemented.

##### **(c) ASSESSMENT AND PRIORITIZATION OF RISKS.**—

(1) **IN GENERAL.**—Consistent with the risk and threat assessments required under sections 114(s)(3)(B) and 44904(c) of title 49, United States Code, the report shall include—

(A) a summary that ranks the risks within and across transportation modes, including vulnerability of a cyber attack; and

(B) a description of the risk-based priorities for securing the transportation sector, both within and across modes, in the order that the priorities should be addressed.

(2) **METHODS.**—The report also shall—

(A) describe the underlying methodologies used to assess risks across and within each transportation mode and the basis for any assumptions regarding threats, vulnerabilities, and consequences made in assessing and prioritizing risks within and across such modes; and

(B) include the Assistant Secretary’s working definition of the terms “risk-based” and “risk-informed”.

(d) **FORMAT.**—The report shall be submitted in classified or unclassified formats, as appropriate.

**SEC. 103. ENSURING CONTRACTING WITH SMALL BUSINESS CONCERNS AND DISADVANTAGED BUSINESS CONCERNS.**

(a) **REQUIREMENTS FOR PRIME CONTRACTS.**—The Assistant Secretary shall include in each contract, valued at \$300,000,000 or more, awarded for procurement of goods or services acquired for the Transportation Security Administration—

(1) a requirement that the contractor shall implement a plan for the award, in accordance with other applicable requirements, of subcontracts under the contract to small business concerns, including small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, HUBZone small business concerns, small business concerns participating in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), institutions of higher education receiving assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.; 1101 et seq.), and Alaska Native Corporations created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), including the terms of such plan; and

(2) a requirement that the contractor shall submit to the Assistant Secretary, during performance of the contract, periodic reports describing the extent to which the contractor has complied with such plan, including specification (by total dollar amount and by percentage of the total dollar value of the contract) of the value of subcontracts awarded at all tiers of subcontracting to small business concerns, institutions, and corporations referred to in subsection (a)(1).

(b) **UTILIZATION OF ALLIANCES.**—The Assistant Secretary shall seek to facilitate award of contracts by the Administration to alliances of small business concerns, institutions, and corporations referred to in subsection (a)(1).

(c) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—The Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by October 31 each year a report on the award of contracts to small business concerns, institutions, and corporations referred to in subsection (a)(1) during the preceding fiscal year.

(2) **CONTENTS.**—The Assistant Secretary shall include in each report—

(A) specification of the value of such contracts, by dollar amount and as a percentage of the total dollar value of all contracts awarded by the United States in such fiscal year;

(B) specification of the total dollar value of such contracts awarded to each of the categories of small business concerns, institutions, and corporations referred to in subsection (a)(1); and

(C) if the percentage specified under subparagraph (A) is less than 25 percent, an explanation of—

(i) why the percentage is less than 25 percent; and

(ii) what will be done to ensure that the percentage for the following fiscal year will not be less than 25 percent.

**TITLE II—AVIATION SECURITY**

**Subtitle A—Amendments to Chapter 449**

**SEC. 201. SCREENING AIR CARGO AND CHECKED BAGGAGE.**

(a) **INBOUND AIR CARGO ON PASSENGER AIRCRAFT.**—Section 44901(g) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) **INBOUND AIR CARGO ON PASSENGER AIRCRAFT.**—Not later than 2 years after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall establish a system to verify that all cargo transported on passenger aircraft operated by an air carrier or foreign air carrier inbound to the United States be screened for explosives. The system shall include a risk assessment for inbound air cargo on passenger and all air cargo airplanes, and the Assistant Secretary shall use this assessment to address vulnerabilities in cargo screening. The Assistant Secretary shall identify redundancies in inbound cargo inspection on passenger aircraft by agencies and address these to ensure that all cargo is screened without subjecting carriers to multiple inspections by different agencies.”.

(b) **MANDATORY SCREENING WHERE EDS IS NOT YET AVAILABLE.**—Section 44901(e)(1) of title 49, United States Code, is amended to read as follows:

“(1) A bag match program, ensuring that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft, is not authorized as an alternate method of baggage screening where explosive detection equipment is available unless there are exigent circumstances as determined by the Assistant Secretary. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives within 90 days of the determination that bag match must be used as an alternate method of baggage screening.”.

**SEC. 202. PROHIBITION OF ADVANCE NOTICE OF COVERT TESTING TO SECURITY SCREENERS.**

(a) **COVERT TESTING.**—Section 44935 of title 49, United States Code, is amended—

(1) by redesignating the second subsection (i) (as redesignated by section 111(a)(1) of Public Law 107-71 (115 Stat. 616), relating to accessibility of computer-based training facilities) as subsection (k); and

(2) by adding at the end the following new subsection:

“(l) **PROHIBITION OF ADVANCE NOTICE TO SECURITY SCREENERS OF COVERT TESTING AND EVALUATION.**—

“(1) **IN GENERAL.**—The Assistant Secretary shall ensure that information concerning a covert test of a transportation security system to be conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office is not provided to any individual prior to the completion of the test.

“(2) **EXCEPTIONS.**—Notwithstanding paragraph (1)—

“(A) an authorized individual involved in a covert test of a transportation security system may provide information concerning the covert test to—

“(i) employees, officers, and contractors of the Federal Government (including military personnel);

“(ii) employees and officers of State and local governments; and

“(iii) law enforcement officials who are authorized to receive or directed to be provided such information by the Assistant Secretary, the Inspector General of the Department of Homeland Security, or the Comptroller General, as the case may be; and

“(B) for the purpose of ensuring the security of any individual in the vicinity of a site where a covert test of a transportation security system is being conducted, an individual conducting the test may disclose his or her status as an individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.

“(3) **SPECIAL RULES FOR TSA.**—

“(A) **MONITORING AND SECURITY OF TESTING PERSONNEL.**—The head of each covert testing office shall ensure that a person or group of persons conducting a covert test of a transportation security system for the covert testing office is accompanied at the site of the test by a cover team composed of one or more employees of the covert testing office for the purpose of monitoring the test and confirming the identity of personnel involved in the test under subparagraph (B).

“(B) **RESPONSIBILITY OF COVER TEAM.**—Under this paragraph, a cover team for a covert test of a transportation security system shall—

“(i) monitor the test; and

“(ii) for the purpose of ensuring the security of any individual in the vicinity of a site where the test is being conducted, confirm, notwithstanding paragraph (1), the identity of any individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.

“(C) **AVIATION SCREENING.**—Notwithstanding subparagraph (A), the Transportation Security Administration is not required to have a cover team present during a test of the screening of persons, carry-on items, or checked baggage at an aviation security checkpoint at or serving an airport if the test—

“(i) is approved, in coordination with the designated security official for the airport operator by the Federal Security Director for such airport; and

“(ii) is carried out under an aviation screening assessment program of the Department of Homeland Security.

“(D) **USE OF OTHER PERSONNEL.**—The Transportation Security Administration may use employees, officers, and contractors of the Federal Government (including military personnel) and employees and officers of State and local governments to conduct covert tests.

“(4) **DEFINITIONS.**—In this subsection, the following definitions apply:

“(A) **APPROPRIATE INDIVIDUAL.**—The term ‘appropriate individual’, as used with respect to a covert test of a transportation security system, means any individual that—

“(i) the individual conducting the test determines needs to know his or her status as an individual conducting a test under paragraph (2)(B); or

“(ii) the cover team monitoring the test under paragraph (3)(B)(i) determines needs to know the identity of an individual conducting the test.

“(B) **COVERED EMPLOYEE.**—The term ‘covered employee’ means any individual who receives notice of a covert test before the completion of a test under paragraph (2)(A).

“(C) **COVERT TEST.**—

“(i) **IN GENERAL.**—The term ‘covert test’ means an exercise or activity conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office to intentionally test, compromise, or circumvent transportation security systems to identify vulnerabilities in such systems.

“(ii) **LIMITATION.**—Notwithstanding clause (i), the term ‘covert test’ does not mean an exercise or activity by an employee or contractor of the Transportation Security Administration to test or assess compliance with relevant regulations.

“(D) **COVERT TESTING OFFICE.**—The term ‘covert testing office’ means any office of the Transportation Security Administration designated by the Assistant Secretary to conduct covert tests of transportation security systems.

“(E) **EMPLOYEE OF A COVERT TESTING OFFICE.**—The term ‘employee of a covert testing office’ means an individual who is an employee of

a covert testing office or a contractor or an employee of a contractor of a covert testing office.”.

(b) **UNIFORMS.**—Section 44935(j) of such title is amended—

(1) by striking “The Under Secretary” and inserting the following:

“(1) **UNIFORM REQUIREMENT.**—The Assistant Secretary”; and

(2) by adding at the end the following:

“(2) **ALLOWANCE.**—The Assistant Secretary may grant a uniform allowance of not less than \$300 to any individual who screens passengers and property pursuant to section 44901.”.

#### **SEC. 203. SECURE VERIFICATION SYSTEM FOR LAW ENFORCEMENT OFFICERS.**

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

“(e) **SECURE VERIFICATION SYSTEM FOR LAW ENFORCEMENT OFFICERS.**—

“(1) **IN GENERAL.**—The Assistant Secretary shall develop a plan for a system to securely verify the identity and status of law enforcement officers flying while armed. The Assistant Secretary shall ensure that the system developed includes a biometric component.

“(2) **DEMONSTRATION.**—The Assistant Secretary shall conduct a demonstration program to test the secure verification system described in paragraph (1) before issuing regulations for deployment of the system.

“(3) **CONSULTATION.**—The Assistant Secretary shall consult with the Aviation Security Advisory Committee, established under section 44946 of title 49, United States Code, when developing the system and evaluating the demonstration program.

“(4) **REPORT.**—The Assistant Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives, evaluating the demonstration program of the secure verification system required by this section.

“(5) **AUTHORIZATION OF APPROPRIATIONS.**—From the amounts authorized under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated to carry out this subsection \$10,000,000, to remain available until expended.”.

#### **SEC. 204. OMBUDSMAN FOR FEDERAL AIR MARSHAL SERVICE.**

Section 44917 of title 49, United States Code, as amended by section 203 of this Act, is further amended by adding at the end the following:

“(f) **OMBUDSMAN.**—

“(1) **ESTABLISHMENT.**—The Assistant Secretary shall establish in the Federal Air Marshal Service an Office of the Ombudsman.

“(2) **APPOINTMENT.**—The head of the Office shall be the Ombudsman, who shall be appointed by the Assistant Secretary.

“(3) **DUTIES.**—The Ombudsman shall carry out programs and activities to improve morale, training, and quality of life issues in the Service, including through implementation of the recommendations of the Inspector General of the Department of Homeland Security and the Comptroller General.”.

#### **SEC. 205. FEDERAL FLIGHT DECK OFFICER PROGRAM ENHANCEMENTS.**

(a) **ESTABLISHMENT.**—Section 44921(a) of title 49, United States Code, is amended by striking the following: “The Under Secretary of Transportation for Security” and inserting “The Secretary of Homeland Security, acting through the Assistant Secretary of Transportation Security”.

(b) **ADMINISTRATORS.**—Section 44921(b) of title 49, United States Code, is amended—

(1) by striking “Under” in paragraphs (1), (2), (4), (6), and (7); and

(2) by adding at the end the following:

“(8) **ADMINISTRATORS.**—The Assistant Secretary shall implement an appropriately sized

administrative structure to manage the program, including overseeing—

“(A) eligibility and requirement protocols administration; and

“(B) communication with Federal flight deck officers.”.

(c) **TRAINING, SUPERVISION, AND EQUIPMENT.**—Section 44921(c)(2)(C) of such title is amended by adding at the end the following:

“(iv) **USE OF FEDERAL AIR MARSHAL SERVICE FIELD OFFICE FACILITIES.**—In addition to dedicated Government and contract training facilities, the Assistant Secretary shall require that field office facilities of the Federal Air Marshal Service be used for the administrative and training needs of the program. Such facilities shall be available to Federal flight deck officers at no cost for firearms training and qualification, defensive tactics training, and program administrative assistance.”.

(d) **REIMBURSEMENT.**—Section 44921 of such title is amended by adding at the end the following:

“(1) **REIMBURSEMENT.**—The Secretary, acting through the Assistant Secretary, shall reimburse all Federal flight deck officers for expenses incurred to complete a recurrent and qualifying training requirement necessary to continue to serve as a Federal flight deck officer. Eligible expenses under this subsection include ground transportation, lodging, meals, and ammunition, to complete any required training as determined by the Assistant Secretary.”.

#### **SEC. 206. FOREIGN REPAIR STATIONS.**

Section 44924(f) of title 49, United States Code, is amended to read as follows:

“(f) **REGULATIONS.**—The Assistant Secretary shall issue regulations establishing security standards for foreign repair stations performing maintenance for aircraft used to provide air transportation and shall ensure that comparable standards apply to maintenance work performed by employees of repair stations certified under part 121 of title 14, Code of Federal Regulations, and maintenance work performed by employees of repair stations certified under part 145 of such title.”.

#### **SEC. 207. ASSISTANT SECRETARY DEFINED.**

(a) **IN GENERAL.**—Subchapter II of chapter 449 of title 49, United States Code, is amended by inserting before section 44933 the following:

##### **“§ 44931. Assistant Secretary defined**

“(a) **IN GENERAL.**—In this chapter—

“(1) the term ‘Assistant Secretary’ means the Assistant Secretary of Homeland Security (Transportation Security Administration); and

“(2) any reference to the Administrator of the Transportation Security Administration, the Under Secretary of Transportation for Security, the Under Secretary of Transportation for Transportation Security, or the Under Secretary for Transportation Security shall be deemed to be a reference to the Assistant Secretary.

“(b) **AUTHORITIES VESTED IN ASSISTANT SECRETARY.**—Any authority vested in the Assistant Secretary under this chapter shall be carried out under the direction and control of the Secretary of Homeland Security.”.

(b) **CLERICAL AMENDMENT.**—The analysis for such subchapter is amended by inserting before the item relating to section 44933 the following:

“44931. Assistant Secretary defined.”.

#### **SEC. 208. TSA AND HOMELAND SECURITY INFORMATION SHARING.**

(a) **FEDERAL SECURITY DIRECTOR.**—Section 44933 of title 49, United States Code, is amended—

(1) in the section heading, by striking “Managers” and inserting “Directors”;;

(2) by striking “Manager” each place it appears and inserting “Director”;;

(3) by striking “Managers” each place it appears and inserting “Directors”; and

(4) by adding at the end the following:

“(c) **INFORMATION SHARING.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall—

“(1) require an airport security plan to have clear reporting procedures to provide that the Federal Security Director of the airport is immediately notified whenever any Federal, State, or local law enforcement personnel are called to an aircraft at a gate or on an airfield at the airport to respond to any security matter; and

“(2) require each Federal Security Director of an airport to meet at least quarterly with law enforcement agencies serving the airport to discuss incident management protocols; and

“(3) require each Federal Security Director at an airport to inform, consult, and coordinate, as appropriate, with the airport operator in a timely manner on security matters impacting airport operations and to establish and maintain operational protocols with airport operators to ensure coordinated responses to security matters.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 114(f)(6) of title 49, United States Code, is amended by striking “Managers” and inserting “Directors”.

(2) Section 44940(a)(1)(F) of title 49, United States Code, is amended by striking “Managers” and inserting “Directors”.

(c) **TECHNICAL AMENDMENT.**—The chapter analysis for chapter 449 is amended by striking the item relating to section 44933 and inserting the following:

“44933. Federal Security Directors.”.

#### **SEC. 209. AVIATION SECURITY STAKEHOLDER PARTICIPATION.**

(a) **IN GENERAL.**—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

##### **“§ 44946. Aviation Security Advisory Committee**

“(a) **ESTABLISHMENT OF AVIATION SECURITY ADVISORY COMMITTEE.**—

“(1) **IN GENERAL.**—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Aviation Security Advisory Committee (in this chapter referred to as the ‘Advisory Committee’), to assist the Assistant Secretary with issues pertaining to aviation security, including credentialing.

“(2) **RECOMMENDATIONS.**—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to civil aviation security methods, equipment, and processes.

“(3) **MEETINGS.**—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

“(4) **UNPAID POSITION.**—Advisory Committee members shall serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

“(b) **MEMBERSHIP.**—

“(1) **MEMBER ORGANIZATIONS.**—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representation of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, and the aviation technology security industry, including biometrics.

“(2) **APPOINTMENTS.**—Members shall be appointed by the Assistant Secretary, and the Assistant Secretary shall have the discretion to review the participation of any Advisory Committee member and remove for cause at any time.

“(c) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.)



shall not apply to the Advisory Committee under this section.

“(d) AIR CARGO SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee an air cargo security working group to provide recommendations for air cargo security issues, including the implementation of the air cargo screening initiatives proposed by the Transportation Security Administration to screen air cargo on passenger aircraft in accordance with established cargo screening mandates.

“(2) MEETINGS.—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Administration’s cargo screening initiatives established to meet all cargo screening mandates set forth in section 44901(g) of title 49, United States Code.

“(3) MEMBERSHIP.—The working group shall include members from the Advisory Committee with expertise in air cargo operations and representatives from other stakeholders as determined by the Assistant Secretary.

“(4) REPORTS.—

“(A) IN GENERAL.—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide cargo screening mandate implementation recommendations.

“(B) SUBMISSION.—Not later than one year after the date of enactment of this section and on an annual basis thereafter, the working group shall submit its first report to the Assistant Secretary, including any recommendations of the group—

“(i) to reduce redundancies and increase efficiencies in the screening and inspection of inbound cargo; and

“(ii) on the potential development of a fee structure to help sustain cargo screening efforts.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“44946. Aviation Security Advisory Committee.”.

#### SEC. 210. GENERAL AVIATION SECURITY.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, as amended by section 209 of this Act, is further amended by adding at the end the following:

##### “§ 44947. General aviation security

“(a) GENERAL AVIATION SECURITY GRANT PROGRAM.—

“(1) IN GENERAL.—The Assistant Secretary shall carry out a general aviation security grant program to enhance transportation security at general aviation airports by making grants to operators of general aviation airports for projects to enhance perimeter security, airfield security, and terminal security.

“(2) ELIGIBLE PROJECTS.—Not later than one year after the date of submission of the first report of the working group under subsection (b), the Assistant Secretary shall develop and make publically available a list of approved eligible projects for such grants under paragraph (1) based upon recommendations made by the working group in such report.

“(3) FEDERAL SHARE.—The Federal share of the cost of activities for which grants are made under this subsection shall be 90 percent.

“(b) GENERAL AVIATION SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish, within the Aviation Security Advisory Committee established under section 44946, a general aviation working group to advise the Transportation Security Administration regarding transportation security issues for general aviation facilities general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

“(2) MEETINGS.—The working group shall meet at least semiannually and may convene additional meetings as necessary.

“(3) MEMBERSHIP.—The Assistant Secretary shall appoint members from the Aviation Security Advisory Committee with general aviation experience.

“(4) REPORTS.—

“(A) SUBMISSION.—The working group shall submit a report to the Assistant Secretary with recommendations on ways to improve security at general aviation airports.

“(B) CONTENTS OF REPORT.—The report of the working group submitted to the Assistant Secretary under this paragraph shall include any recommendations of the working group for eligible security enhancement projects at general aviation airports to be funded by grants under subsection (a).

“(C) SUBSEQUENT REPORTS.—After submitting the report, the working group shall continue to report to the Assistant Secretary on general aviation aircraft and airports.

“(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated for making grants under subsection (a) \$10,000,000 for each of fiscal years 2010 and 2011.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is further amended by adding at the end the following:

“44947. General aviation security.”.

#### SEC. 211. SECURITY AND SELF-DEFENSE TRAINING.

(a) Section 44918(b) of title 49, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) SELF-DEFENSE TRAINING PROGRAM.—Not later than 1 year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall provide advanced self-defense training of not less than 5 hours during each 2-year period for all cabin crewmembers. The Assistant Secretary shall consult with the Advisory Committee, established under section 44946, and cabin crew and air carrier representatives in developing a plan for providing self-defense training in conjunction with existing recurrent training.”;

(2) by striking paragraph (3) and inserting the following:

“(3) PARTICIPATION.—A crewmember shall not be required to engage in any physical contact during the training program under this subsection.”; and

(3) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(b) SECURITY TRAINING.—Section 44918(a)(6) of title 49, United States Code, is amended by adding at the end the following: “The Assistant Secretary shall establish an oversight program for security training of cabin crewmembers that includes developing performance measures and strategic goals for air carriers, and standard protocols for Transportation Security Administration oversight inspectors, in accordance with recommendations by the Inspector General of the Department of Homeland Security and the Comptroller General.”.

#### SEC. 212. SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS TRAVELING IN AIR TRANSPORTATION.

(a) IN GENERAL.—Section 44903 of title 49, United States Code, is amended by adding at the end the following:

“(m) SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS.—

“(1) IN GENERAL.—The Assistant Secretary shall ensure fair treatment in the screening of individuals with metal implants traveling in air transportation.

“(2) PLAN.—The Assistant Secretary shall submit a plan to the Committee on Homeland Security of the House of Representatives for improving security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security. The plan shall include benchmarks for implementing changes to the screening process and analysis of approaches to limit such disruptions for individuals with metal implants including participation in the Registered Traveler program, as established pursuant to section 109(a)(3) of the Aviation Transportation Security Act (115 Stat. 597), and the development of a new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of an individual who has a metal implant.

“(3) METAL IMPLANT DEFINED.—In this subsection, the term ‘metal implant’ means a metal device or object that has been surgically implanted or otherwise placed in the body of an individual, including any metal device used in a hip or knee replacement, metal plate, metal screw, metal rod inside a bone, and other metal orthopedic implants.”.

(b) EFFECTIVE DATE.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary of Homeland Security shall submit the plan for security screening procedures for individuals with metal implants, as required by section 44903(m) of title 49, United States Code.

#### SEC. 213. PROHIBITION ON OUTSOURCING.

Section 44903(j)(2)(C) of title 49, United States Code, is amended by adding at the end the following new clause:

“(v) OUTSOURCING PROHIBITED.—Upon implementation of the advanced passenger prescreening system required by this section, the Assistant Secretary shall prohibit any non-governmental entity from administering the function of comparing passenger information to the automatic selectee and no fly lists, consolidated and integrated terrorist watchlists, or any list or database derived from such watchlists for activities related to aviation security. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate when any non-governmental entity is authorized access to the watchlists described in this clause.”.

#### Subtitle B—Other Matters

#### SEC. 221. SECURITY RISK ASSESSMENT OF AIRPORT PERIMETER ACCESS CONTROLS.

(a) IN GENERAL.—The Assistant Secretary shall develop a strategic risk-based plan to improve transportation security at airports that includes best practices to make airport perimeter access controls more secure at all commercial service and general aviation airports.

(b) CONTENTS.—The plan shall—

(1) incorporate best practices for enhanced perimeter access controls;

(2) evaluate and incorporate major findings of all relevant pilot programs of the Transportation Security Administration;

(3) address recommendations of the Comptroller General on perimeter access controls;

(4) include a requirement that airports update their security plans to incorporate the best practices, as appropriate, based on risk and adapt the best practices to meet the needs specific to their facilities; and

(5) include an assessment of the role of new and emerging technologies, including unmanned and autonomous perimeter security technologies, that could be utilized at both commercial and general aviation facilities.



**SEC. 222. ADVANCED PASSENGER PRESCREENING SYSTEM.**

(a) **INITIAL REPORT.**—Not later than 90 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the progress made by the Department of Homeland Security in implementing the advanced passenger prescreening system;

(2) compares the total number of misidentified passengers who must undergo secondary screening or have been prevented from boarding a plane during the 3-month period beginning 90 days before the date of enactment of the Transportation Security Administration Authorization Act with the 3-month period beginning 90 days after such date; and

(3) includes any other relevant recommendations that the Inspector General of the Department of Homeland Security or the Comptroller General determines appropriate.

(b) **SUBSEQUENT REPORTS.**—The Comptroller General shall submit subsequent reports on the implementation to such Committees every 90 days thereafter until the implementation is complete.

**SEC. 223. BIOMETRIC IDENTIFIER AIRPORT ACCESS ENHANCEMENT DEMONSTRATION PROGRAM.**

(a) **IN GENERAL.**—The Assistant Secretary shall carry out a demonstration program under which biometric identifier access systems for individuals with unescorted access to secure or sterile areas of an airport, including airport employees and flight crews, are evaluated for the purposes of enhancing transportation security at airports and to determine how airports can implement uniform biometric identifier and interoperable security systems.

(b) **AIRPORTS PARTICIPATING IN PROGRAM.**—The Assistant Secretary shall select at least 7 airports, including at least 2 large airports, to participate in the demonstration program.

(c) **INITIATION AND DURATION OF PROGRAM.**—

(1) **DEADLINE FOR INITIATION.**—The Assistant Secretary shall conduct the demonstration program not later than one year after the date of enactment of this Act.

(2) **DURATION.**—The program shall have a duration of not less than 180 days and not more than one year.

(d) **REQUIRED ELEMENTS.**—In conducting the demonstration program, the Assistant Secretary shall—

(1) assess best operational, administrative, and management practices in creating uniform, standards-based, and interoperable biometric identifier systems for all individuals with access to secure or sterile areas of commercial service airports; and

(2) conduct a risk-based analysis of the selected airports and other airports, as the Assistant Secretary determines appropriate, to identify where the implementation of biometric identifier systems could benefit security.

(e) **CONSIDERATIONS.**—In conducting the demonstration program, the Assistant Secretary shall consider, at a minimum, the following:

(1) **PARALLEL SYSTEMS.**—Existing parallel biometric transportation security systems applicable to workers with unescorted access to transportation systems, including—

(A) transportation worker identification credentials issued under section 70105 of title 46, United States Code;

(B) armed law enforcement travel credentials issued under section 44903(h)(6) of title 49, United States Code; and

(C) other credential and biometric identifier systems used by the Federal Government, as the Assistant Secretary considers appropriate.

(2) **EFFORTS BY TRANSPORTATION SECURITY ADMINISTRATION.**—Any biometric identifier system

or proposals developed by the Assistant Secretary.

(3) **INFRASTRUCTURE AND TECHNICAL REQUIREMENTS.**—The architecture, modules, interfaces, and transmission of data needed for airport security operations.

(4) **EXISTING AIRPORT SYSTEMS.**—Credentialing and access control systems in use in secure and sterile areas of airports.

(5) **ASSOCIATED COSTS.**—The costs of implementing uniform, standards-based, and interoperable biometric identifier systems at airports, including—

(A) the costs to airport operators, airport workers, air carriers, and other aviation industry stakeholders; and

(B) the costs associated with ongoing operations and maintenance and modifications and enhancements needed to support changes in physical and electronic infrastructure.

(6) **INFORMATION FROM OTHER SOURCES.**—Recommendations, guidance, and information from other sources, including the Inspector General of the Department of Homeland Security, the Comptroller General, the heads of other governmental entities, organizations representing airport workers, and private individuals and organizations.

(f) **IDENTIFICATION OF BEST PRACTICES.**—In conducting the demonstration program, the Assistant Secretary shall identify best practices for the administration of biometric identifier access at airports, including best practices for each of the following processes:

(1) Registration, vetting, and enrollment.

(2) Issuance.

(3) Verification and use.

(4) Expiration and revocation.

(5) Development of a cost structure for acquisition of biometric identifier credentials.

(6) Development of redress processes for workers.

(g) **CONSULTATION.**—In conducting the demonstration program, the Assistant Secretary shall consult with the Aviation Security Advisory Committee regarding how airports may transition to uniform, standards-based, and interoperable biometric identifier systems for airport workers and others with unescorted access to secure or sterile areas of an airport.

(h) **EVALUATION.**—The Assistant Secretary shall conduct an evaluation of the demonstration program to specifically assess best operational, administrative, and management practices in creating a standard, interoperable, biometric identifier access system for all individuals with access to secure or sterile areas of commercial service airports.

(i) **REPORT TO CONGRESS.**—Not later than 180 days after the last day of that demonstration program ends, the Assistant Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives, a report on the results of the demonstration program. The report shall include possible incentives for airports that voluntarily seek to implement uniform, standards-based, and interoperable biometric identifier systems.

(j) **BIOMETRIC IDENTIFIER SYSTEM DEFINED.**—In this section, the term “biometric identifier system” means a system that uses biometric identifier information to match individuals and confirm identity for transportation security and other purposes.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts authorized under section 101, there is authorized to be appropriated a total of \$20,000,000 to carry out this section for fiscal years 2010 and 2011.

**SEC. 224. TRANSPORTATION SECURITY TRAINING PROGRAMS.**

Not later than one year after the date of enactment of this Act, the Assistant Secretary

shall establish recurring training of transportation security officers regarding updates to screening procedures and technologies in response to weaknesses identified in covert tests at airports. The training shall include—

(1) internal controls for monitoring and documenting compliance of transportation security officers with training requirements;

(2) the availability of high-speed Internet and Intranet connectivity to all airport training facilities of the Administration; and

(3) such other matters as identified by the Assistant Secretary with regard to training.

**SEC. 225. DEPLOYMENT OF TECHNOLOGY APPROVED BY SCIENCE AND TECHNOLOGY DIRECTORATE.**

(a) **IN GENERAL.**—The Assistant Secretary, in consultation with the Directorate of Science and Technology of the Department of Homeland Security, shall develop and submit to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, a strategic plan for the certification and integration of technologies for transportation security with high approval or testing results from the Directorate and the Transportation Security Laboratory of the Department.

(b) **CONTENTS OF STRATEGIC PLAN.**—The strategic plan developed under subsection (a) shall include—

(1) a cost-benefit analysis to assist in prioritizing investments in new checkpoint screening technologies that compare the costs and benefits of screening technologies being considered for development or acquisition with the costs and benefits of other viable alternatives;

(2) quantifiable performance measures to assess the extent to which investments in research, development, and deployment of checkpoint screening technologies achieve performance goals for enhancing security at airport passenger checkpoints; and

(3) a method to ensure that operational tests and evaluations have been successfully completed in an operational environment before deploying checkpoint screening technologies to airport checkpoints.

(c) **REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—The Assistant Secretary shall submit to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, an annual report on the status of all technologies that have undergone testing and evaluation, including technologies that have been certified by the Department, and any technologies used in a demonstration program administered by the Administration. The report shall also specify whether the technology was submitted by an academic institution, including an institution of higher education eligible to receive assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq. and 1101 et seq.)

(2) **FIRST REPORT.**—The first report submitted under this subsection shall assess such technologies for a period of not less than 2 years.

**SEC. 226. IN-LINE BAGGAGE SCREENING STUDY.**

The Assistant Secretary shall consult with the Advisory Committee and report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on deploying optimal baggage screening solutions and replacing baggage screening equipment nearing the end of its life cycle at commercial service airports. Specifically, the report shall address the Administration's plans, estimated costs, and current benchmarks for replacing explosive detection equipment that is nearing the end of its life cycle.

**SEC. 227. IN-LINE CHECKED BAGGAGE SCREENING SYSTEMS.**

(a) **FINDINGS.**—Congress finds the following:

(1) Since its inception, the Administration has procured and installed over 2,000 explosive detection systems (referred to in this section as “EDS”) and 8,000 explosive trace detection (referred to in this section as “ETD”) systems to screen checked baggage for explosives at the Nation’s commercial airports.

(2) Initial deployment of stand-alone EDS machines in airport lobbies resulted in operational inefficiencies and security risks as compared to using EDS machines integrated in-line with airport baggage conveyor systems.

(3) The Administration has acknowledged the advantages of fully integrating in-line checked baggage EDS systems, especially at large airports. According to the Administration, in-line EDS systems have proven to be cost-effective and more accurate at detecting dangerous items.

(4) As a result of the large upfront capital investment required, these systems have not been deployed on a wide-scale basis. The Administration estimates that installing and operating the optimal checked baggage screening systems could potentially cost more than \$20,000,000,000 over 20 years.

(5) Nearly \$2,000,000,000 has been appropriated for the installation of in-line explosive detection systems, including necessary baggage handling system improvements, since 2007.

(6) Despite substantial funding, the Administration has made limited progress in deploying optimal screening solutions, including in-line systems, to 250 airports identified in its February 2006 strategic planning framework.

(b) **GAO REPORT.**—The Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the Administration’s progress in deploying optimal baggage screening solutions and replacing aging baggage screening equipment at the Nation’s commercial airports. The report shall also include an analysis of the Administration’s methodology for expending public funds to deploy in-line explosive detection systems since 2007. The report shall address, at a minimum—

(1) the Administration’s progress in deploying optimal screening solutions at the Nation’s largest commercial airports, including resources obligated and expended through fiscal year 2009;

(2) the potential benefits and challenges associated with the deployment of optimal screening solutions at the Nation’s commercial airports; and

(3) the Administration’s plans, estimated costs, and current milestones for replacing EDS machines that are nearing the end of their estimated useful product lives.

(c) **UPDATES REQUIRED.**—Not later than 6 months after submitting the report required in subsection (b) and every 6 months thereafter until the funds appropriated for such systems are expended, the Comptroller General shall provide the Committee on Homeland Security of the House of Representatives an update regarding its analysis of the Administration’s expenditures for explosive detection and in-line baggage systems.

#### **SEC. 228. GAO REPORT ON CERTAIN CONTRACTS AND USE OF FUNDS.**

Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding any funds made available by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329), the Omnibus Appropriations Act, 2009 (Public Law 111–8), or the Economic Stimulus Act of 2008 (Public Law 110–185) used by the Transportation Security Adminis-

tration to award a contract for any explosive detection screening system or to implement any other screening or detection technology for use at an airport.

#### **SEC. 229. IG REPORT ON CERTAIN POLICIES FOR FEDERAL AIR MARSHALS.**

Not later than 120 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall review the minimum standards and policies regarding rest periods between deployments and any other standards or policies applicable to Federal air marshals reporting to duty. After such review, the Inspector General shall make any recommendations to such standards and policies the Inspector General considers necessary to ensure an alert and responsible workforce of Federal air marshals.

#### **SEC. 230. EXPLOSIVES DETECTION CANINE TEAMS MINIMUM FOR AVIATION SECURITY.**

The Assistant Secretary shall ensure that the number of explosives detection canine teams for aviation security is not less than 250 through fiscal year 2011.

#### **SEC. 231. ASSESSMENTS AND GAO REPORT OF INBOUND AIR CARGO SCREENING.**

Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (121 Stat. 478) is amended by inserting at the end the following:

“(c) **ASSESSMENT OF INBOUND COMPLIANCE.**—Upon establishment of the inbound air cargo screening system, the Assistant Secretary shall submit a report to the Committee on Homeland Security in the House of Representatives on the impact, rationale, and percentage of air cargo being exempted from screening under exemptions granted under section 44901(i)(1) of title 49, United States Code.

“(d) **GAO REPORT.**—Not later than 120 days after the date of enactment of this Act and quarterly thereafter, the Comptroller General shall review the air cargo screening system for inbound passenger aircraft and report to the Committee on Homeland Security in the House of Representatives on the status of implementation, including the approximate percentage of cargo being screened, as well as the Administration’s methods to verify the screening system’s implementation.”.

#### **SEC. 232. STATUS OF EFFORTS TO PROMOTE AIR CARGO SHIPPER CERTIFICATION.**

Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of the implementation of the Administration’s plan to promote a program to certify the screening methods used by shippers in a timely manner, in accordance with section 44901(g) of title 49, United States Code, including participation by shippers with robust and mature internal security programs.

#### **SEC. 233. FULL AND OPEN COMPETITION IN SECURITY BACKGROUND SCREENING SERVICE.**

Not later than 9 months after the date of enactment of this section, the Secretary shall publish in the Federal Register a notice that the selection process for security background screening services for persons requiring background screening in the aviation industry is subject to full and open competition. The notice shall include—

(1) a statement that airports and other affected entities are not required to use a single service provider of background screening services and may use the services of other providers approved by the Assistant Secretary;

(2) requirements for disposal of personally identifiable information by the approved provider by a date certain; and

(3) information on all technical specifications and other criteria required by the Assistant Secretary to approve a background screening service provider.

#### **SEC. 234. REGISTERED TRAVELER.**

(a) **ASSESSMENTS AND BACKGROUND CHECKS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and not later than 120 days after the date of enactment of this Act, to enhance aviation security through risk management at airport checkpoints through use of the Registered Traveler program, established pursuant to section 109(a)(3) of the Aviation Transportation Security Act (115 Stat. 597), the Assistant Secretary shall—

(A) reinstate an initial and continuous security threat assessment program as part of the Registered Traveler enrollment process; and

(B) allow Registered Traveler providers to perform private sector background checks as part of their enrollment process with assurance that the program shall be undertaken in a manner consistent with constitutional privacy and civil liberties protections and be subject to approval and oversight by the Assistant Secretary.

(2) **REQUIREMENTS.**—The Assistant Secretary shall not reinstate the threat assessment component of the Registered Traveler program or allow certain background checks unless the Assistant Secretary—

(A) determines that the Registered Traveler program, in accordance with this subsection, is integrated into risk-based aviation security operations; and

(B) expedites checkpoint screening, as appropriate, for Registered Traveler members who have been subjected to a security threat assessment and the private sector background check under this subsection.

(b) **NOTIFICATION.**—

(1) **CONTENTS.**—Not later than 180 days after the date of enactment of this Act, if the Assistant Secretary determines that the Registered Traveler program can be integrated into risk-based aviation security operations under subsection (a), the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate regarding—

(A) the level of risk reduction provided by carrying out section (a); and

(B) how the Registered Traveler program has been integrated into risk-based aviation security operations.

(2) **CHANGES TO PROTOCOL.**—The Assistant Secretary shall also set forth what changes to the program, including screening protocols, have been implemented to realize the full potential of the Registered Traveler program.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to authorize any non-governmental entity to perform vetting against the terrorist screening database maintained by the Administration.

#### **SEC. 235. REPORT ON CABIN CREW COMMUNICATION.**

Not later than one year after the date of enactment of this Act, the Assistant Secretary, in consultation with the Advisory Committee established under section 44946 of title 49, United States Code, shall prepare a report that assesses technologies and includes standards for the use of wireless devices to enhance transportation security on aircraft for the purpose of ensuring communication between and among cabin crew and pilot crewmembers, embarked Federal air marshals, and authorized law enforcement officials, as appropriate.

#### **SEC. 236. AIR CARGO CREW TRAINING.**

The Assistant Secretary, in consultation with the Advisory Committee established under section 44946 of title 49, United States Code, shall develop a plan for security training for the all-cargo aviation threats for pilots and, as appropriate, other crewmembers operating in all-cargo transportation.

**SEC. 237. REIMBURSEMENT FOR AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.**

Section 1604(b)(2) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (121 Stat. 481) is amended to read as follows:

“(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—

“(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a process for resolving reimbursement claims for airports that have incurred, before the date of enactment of this Act, eligible costs associated with development of partial or completed in-line baggage systems.

“(B) PROCESS FOR RECEIVING REIMBURSEMENT.—The process shall allow an airport—

“(i) to submit a claim to the Assistant Secretary for reimbursement for eligible costs described in subparagraph (A); and

“(ii) not later than 180 days after date on which the airport submits the claim, to receive a determination on the claim and, if the determination is positive, to be reimbursed.

“(C) REPORT.—Not later than 60 days after the date on which the Assistant Secretary establishes the process under subparagraph (B), the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives a report containing a description of the process, including a schedule for the timely reimbursement of airports for which a positive determination has been made.”.

**SEC. 238. REPORT ON WHOLE BODY IMAGING TECHNOLOGY.**

Upon completion of the ongoing whole body imaging technology pilot, the Assistant Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the pilot, including how privacy protections were integrated.

**SEC. 239. PROTECTIVE EQUIPMENT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary of Homeland Security shall develop protocols for the use of protective equipment for personnel of the Transportation Security Administration and for other purposes.

(b) DEFINITION.—In this section the term “protective equipment” includes surgical masks and N95 masks.

**TITLE III—SURFACE TRANSPORTATION SECURITY****SEC. 301. ASSISTANT SECRETARY DEFINED.**

Section 1301 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1111) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of Homeland Security (Transportation Security Administration).”.

**SEC. 302. SURFACE TRANSPORTATION SECURITY INSPECTION PROGRAM.**

(a) FINDINGS.—Congress finds the following:

(1) Surface transportation security inspectors assist passenger rail stakeholders in identifying security gaps through Baseline Assessment for Security Enhancement (“BASE”) reviews, monitor freight rail stakeholder efforts to reduce the risk that toxic inhalation hazard shipments pose to high threat urban areas through Security Action Item (“SAI”) reviews, and assist in strengthening chain of custody security.

(2) Surface transportation security inspectors play a critical role in building and maintaining working relationships with transit agencies and acting as liaisons between such agencies and the Transportation Security Operations Center, relationships which are vital to effective implementation of the surface transportation security mission.

(3) In December 2006, the Transportation Security Administration shifted from a system in which surface transportation security inspectors reported to surface-focused supervisors to a system in which inspectors report to aviation-focused supervisors in the field; a shift which has resulted in a strained chain of command, misappropriation of inspectors to nonsurface activities, the hiring of senior-level inspectors with no surface qualifications, and significant damage to relationships with transit agencies and inspector morale.

(b) SURFACE TRANSPORTATION SECURITY INSPECTION OFFICE.—Section 1304 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1113) is amended—

(1) by redesignating subsections (c) through (j) as subsections (b) through (i), respectively; and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) SURFACE TRANSPORTATION SECURITY INSPECTION OFFICE.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Assistant Secretary, shall establish an office to be known as the Surface Transportation Security Inspection Office (in this section referred to as the ‘Office’).

“(2) MISSION.—The Secretary shall use the Office to train, employ, and utilize surface transportation security inspectors to—

“(A) assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attacks and other security threats; and

“(B) assist the Secretary in enforcing applicable surface transportation security regulations and directives.

“(3) OFFICERS.—

“(A) DIRECTOR.—The head of the Office shall be the Director, who shall—

“(i) oversee and coordinate the activities of the Office, including all officers and any corresponding surface transportation modes in which the Office carries out such activities, and the surface transportation security inspectors who assist in such activities; and

“(ii) act as the primary point of contact between the Office and other entities that support the Department’s surface transportation security mission to ensure efficient and appropriate use of surface transportation security inspectors and maintain strong working relationships with surface transportation security stakeholders.

“(B) DEPUTY DIRECTOR.—There shall be a Deputy Director of the Office, who shall—

“(i) assist the Director in carrying out the responsibilities of the Director under this subsection; and

“(ii) serve as acting Director in the absence of the Director and during any vacancy in the office of Director.

“(4) APPOINTMENT.—

“(A) IN GENERAL.—The Director and Deputy Director shall be responsible on a full-time basis for the duties and responsibilities described in this subsection.

“(B) CLASSIFICATION.—The position of Director shall be considered a position in the Senior Executive Service as defined in section 2101a of title 5, United States Code, and the position of Deputy Director shall be considered a position classified at grade GS-15 of the General Schedule.

“(5) LIMITATION.—No person shall serve as an officer under subsection (a)(3) while serving in any other position in the Federal Government.

“(6) FIELD OFFICES.—

“(A) ESTABLISHMENT.—The Secretary shall establish primary and secondary field offices in the United States to be staffed by surface transportation security inspectors in the course of carrying out their duties under this section.

“(B) DESIGNATION.—The locations for, and designation as ‘primary’ or ‘secondary’ of, such field offices shall be determined in a manner that is consistent with the Department’s risk-based approach to carrying out its homeland security mission.

“(C) COMMAND STRUCTURE.—

“(i) PRIMARY FIELD OFFICES.—Each primary field office shall be led by a chief surface transportation security inspector, who has significant experience with surface transportation systems, facilities, and operations and shall report directly to the Director.

“(ii) SECONDARY FIELD OFFICES.—Each secondary field office shall be led by a senior surface transportation security inspector, who shall report directly to the chief surface transportation security inspector of a geographically appropriate primary field office, as determined by the Director.

“(D) PERSONNEL.—Not later than 18 months after the date of enactment of the Transportation Security Administration Authorization Act, field offices shall be staffed with—

“(i) not fewer than 7 surface transportation security inspectors, including one chief surface transportation security inspector, at every primary field office; and

“(ii) not fewer than 5 surface transportation security inspectors, including one senior surface transportation security inspector, at every secondary field office.”.

(c) NUMBER OF INSPECTORS.—Section 1304(e) of such Act (6 U.S.C. 1113(e)), as redesignated by subsection (b) of this section, is amended to read as follows:

“(e) NUMBER OF INSPECTORS.—Subject to the availability of appropriations, the Secretary shall hire not fewer than—

“(1) 200 additional surface transportation security inspectors in fiscal year 2010; and

“(2) 100 additional surface transportation security inspectors in fiscal year 2011.”.

(d) COORDINATION.—Section 1304(f) of such Act (6 U.S.C. 1113(f)), as redesignated by subsection (b) of this section, is amended by striking “114(h)” and inserting “114(s)”.

(e) REPORT.—Section 1304(h) of such Act (6 U.S.C. 1113(h)), as redesignated by subsection (b) of this section, is amended by striking “2008” and inserting “2011”.

(f) PLAN.—Section 1304(i) of such Act (6 U.S.C. 1113(i)), as redesignated by subsection (b) of this section, is amended to read as follows:

“(i) PLAN.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan for expanding the duties and leveraging the expertise of surface transportation security inspectors to further support the Department’s surface transportation security mission.

“(2) CONTENTS.—The plan shall include—

“(A) an analysis of how surface transportation security inspectors could be used to conduct oversight activities with respect to surface transportation security projects funded by relevant grant programs administered by the Department; and

“(B) an evaluation of whether authorizing surface transportation security inspectors to obtain or possess law enforcement qualifications or status would enhance the capacity of the Office

to take an active role in the Department's surface transportation security operations; and

"(C) any other potential functions relating to surface transportation security the Secretary determines appropriate."

(g) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1304 of such Act (6 U.S.C. 1113) is amended by adding at the end the following:

"(j) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated such sums as may be necessary to the Secretary to carry out this section for fiscal years 2010 and 2011."

(h) **CONFORMING AMENDMENT.**—Section 1304(b) of such Act (6 U.S.C. 1113(b)), as redesignated by subsection (b) of this section, is amended by striking "subsection (e)" and inserting "subsection (d)".

### **SEC. 303. VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS.**

Section 1303 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1112) is amended—

(1) in subsection (a) by striking "Administrator of the Transportation Security Administration," and inserting "Assistant Secretary,";

(2) in subsection (a)(4) by striking "team," and inserting "team as to specific locations and times within their facilities at which VIPR teams should be deployed to maximize the effectiveness of such deployment and other matters,"; and

(3) by striking subsection (b) and inserting the following:

"(b) **PERFORMANCE MEASURES.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a system of qualitative performance measures and objectives by which to assess the roles, activities, and effectiveness of VIPR team operations on an ongoing basis, including a mechanism through which the transportation entities listed in subsection (a)(4) may submit feedback on VIPR team operations involving their systems or facilities.

"(c) **PLAN.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a plan for ensuring the interoperability of communications among all participating VIPR team components as designated under subsection (a)(1) and between VIPR teams and any relevant transportation entities as designated in subsection (a)(4) whose systems or facilities are involved in VIPR team operations, including an analysis of the costs and resources required to carry out the plan.

"(d) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for fiscal years 2010 and 2011."

### **SEC. 304. SURFACE TRANSPORTATION SECURITY STAKEHOLDER PARTICIPATION.**

(a) **IN GENERAL.**—Title XIII of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1111 et seq.) is amended by adding at the end the following:

#### **"SEC. 1311. TRANSIT SECURITY ADVISORY COMMITTEE.**

"(a) **ESTABLISHMENT.**—

"(1) **IN GENERAL.**—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Transit Security Advisory Committee (in this section referred to as the 'Advisory Committee'), to assist the Assistant Secretary with issues pertaining to surface transportation security.

"(2) **RECOMMENDATIONS.**—

"(A) **IN GENERAL.**—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to surface transportation security planning, methods, equipment, and processes.

"(B) **PRIORITY ISSUES.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Advisory Committee shall submit to the Assistant Secretary recommendations on—

"(i) improving homeland security information sharing between components of the Department of Homeland Security and surface transportation security stakeholders, including those represented on the Advisory Committee; and

"(ii) streamlining or consolidating redundant security background checks required by the Department under relevant statutes governing surface transportation security, as well as redundant security background checks required by States where there is no legitimate homeland security basis for requiring such checks.

"(3) **MEETINGS.**—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

"(4) **UNPAID POSITION.**—Advisory Committee Members shall serve at their own expense and receive no salary, reimbursement for travel expenses, or other compensation from the Federal Government.

"(b) **MEMBERSHIP.**—

"(1) **IN GENERAL.**—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representatives from public transportation agencies, passenger rail agencies or operators, railroad carriers, motor carriers, owners or operators of highways, over-the-road bus operators and terminal owners and operators, pipeline operators, labor organizations representing employees of such entities, and the surface transportation security technology industry.

"(2) **APPOINTMENTS.**—Members shall be appointed by the Assistant Secretary and the Assistant Secretary shall have the discretion to review the participation of any Advisory Committee member and remove for cause at any time.

"(c) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee under this section.

#### **"(d) PASSENGER CARRIER SECURITY WORKING GROUP.**

"(1) **IN GENERAL.**—The Assistant Secretary shall establish within the Advisory Committee a passenger carrier security working group to provide recommendations for successful implementation of initiatives relating to passenger rail, over-the-road bus, and public transportation security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

"(2) **MEETINGS.**—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration's initiatives relating to passenger rail, over-the-road bus, and public transportation security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XIV, and subtitle C of title XV of this Act.

"(3) **MEMBERSHIP.**—The working group shall be composed of members from the Advisory Committee with expertise in public transportation, over-the-road bus, or passenger rail systems and operations, all appointed by the Assistant Secretary.

"(4) **REPORTS.**—

"(A) **IN GENERAL.**—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

"(B) **SUBMISSION.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary.

#### **"(e) FREIGHT RAIL SECURITY WORKING GROUP.**

"(1) **IN GENERAL.**—The Assistant Secretary shall establish within the Advisory Committee a freight rail security working group to provide recommendations for successful implementation of initiatives relating to freight rail security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

"(2) **MEETINGS.**—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration's initiatives relating to freight rail security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XV of this Act.

"(3) **MEMBERSHIP.**—The working group shall be composed of members from the Advisory Committee with expertise in freight rail systems and operations, all appointed by the Assistant Secretary.

"(4) **REPORTS.**—

"(A) **IN GENERAL.**—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

"(B) **SUBMISSION.**—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary."

(b) **CONFORMING AMENDMENT.**—Section 1(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53) is amended by adding at the end of title XIII (Transportation Security Enchantments) the following:

"Sec. 1311. Transit Security Advisory Committee."

### **SEC. 305. HUMAN CAPITAL PLAN FOR SURFACE TRANSPORTATION SECURITY PERSONNEL.**

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a human capital plan for hiring, training, managing, and compensating surface transportation security personnel, including surface transportation security inspectors.

(b) **CONSULTATION.**—In developing the human capital plan, the Assistant Secretary shall consult with the chief human capital officer of the Department of Homeland Security, the Director of the Surface Transportation Security Inspection Office, the Inspector General of the Department of Homeland Security, and the Comptroller General.

(c) **APPROVAL.**—Prior to submission, the human capital plan shall be reviewed and approved by the chief human capital officer of the Department of Homeland Security.

**SEC. 306. SURFACE TRANSPORTATION SECURITY TRAINING.**

(a) **STATUS REPORT.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the status of the Department's implementation of sections 1408, 1517, and 1534 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1137, 1167, and 1184), including detailed timeframes for development and issuance of the transportation security training regulations required under such sections.

(b) **PRIVATE PROVIDERS.**—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall identify criteria and establish a process for approving and maintaining a list of approved private third-party providers of security training with whom surface transportation entities may enter into contracts, as needed, for the purpose of satisfying security training requirements of the Department of Homeland Security, including requirements developed under sections 1408, 1517, and 1534 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1137, 1167, and 1184), in accordance with section 103 of this Act.

**SEC. 307. SECURITY ASSISTANCE IG REPORT.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the roles and responsibilities of the Transportation Security Administration and any other relevant component of the Department of Homeland Security in administering security assistance grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135).

(b) **CONTENTS.**—The report shall—

(1) clarify and describe the roles and responsibilities of each relevant component of the Department, including the Transportation Security Administration, at different stages of the grant process, including the allocation stage, the award stage, and the distribution stage;

(2) identify areas in which relevant components of the Department, including the Transportation Security Administration, may better integrate or coordinate their activities in order to streamline the grant administration process and improve the efficiency of the project approval process for grantees;

(3) assess the current state of public transportation and passenger rail security expertise possessed by relevant personnel involved in the grant administration or project approval processes carried out by relevant components of the Department, including the Transportation Security Administration; and

(4) include recommendations for how each relevant component of the Department, including the Transportation Security Administration, may further clarify, coordinate, or maximize its roles and responsibilities in administering grant funds and approving grant projects under section 1406.

**SEC. 308. INTERNATIONAL LESSONS LEARNED FOR SECURING PASSENGER RAIL AND PUBLIC TRANSPORTATION SYSTEMS.**

(a) **FINDINGS.**—Congress finds that—

(1) numerous terrorist attacks since September 11, 2001, have targeted passenger rail or public transportation systems;

(2) nearly 200 people were killed and almost 2,000 more were injured when terrorists set off 10 simultaneous explosions on 4 commuter trains in Madrid, Spain, on March 11, 2004;

(3) 50 people were killed and more than 700 injured in successive bombings of 3 transit stations and a public bus in London, England, on July 7, 2005, and a second attack against 4 similar targets on July 21, 2005, failed because of faulty detonators;

(4) more than 200 people were killed and more than 700 injured in simultaneous terrorist bombings of commuter trains on the Western Line in the suburbs of Mamba, India, on July 11, 2006;

(5) the acts of terrorism in Mamba, India, on November 26, 2008, included commando-style attacks on a major railway station; and

(6) a disproportionately low amount of attention and resources have been devoted to surface transportation security by the Department of Homeland Security, including the security of passenger rail and public transportation systems, as compared with aviation security, which has been the primary focus of Federal transportation security efforts generally, and of the Transportation Security Administration in particular.

(b) **STUDY.**—The Comptroller General shall conduct a study on the efforts undertaken by the Secretary and Assistant Secretary, as well as other entities determined by the Comptroller General to have made significant efforts, since January 1, 2004, to learn from foreign nations that have been targets of terrorist attacks on passenger rail and public transportation systems in an effort to identify lessons learned from the experience of such nations to improve the execution of Department functions to address transportation security gaps in the United States.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the study. The report shall also include an analysis of relevant legal differences that may affect the ability of the Department to apply lessons learned.

(2) **RECOMMENDATIONS.**—The Comptroller General shall include in the report recommendations on how the Department and its components, including the Transportation Security Administration, can expand efforts to learn from the expertise and the security practices of passenger rail and public transportation systems in foreign nations that have experienced terrorist attacks on such systems.

**SEC. 309. UNDERWATER TUNNEL SECURITY DEMONSTRATION PROJECT.**

(a) **DEMONSTRATION PROJECT.**—The Assistant Secretary, in consultation with the Under Secretary for Science and Technology, shall conduct a full-scale demonstration project to test and assess the feasibility and effectiveness of certain technologies to enhance the security of underwater public transportation tunnels against terrorist attacks involving the use of improvised explosive devices.

(b) **INFLATABLE PLUGS.**—

(1) **IN GENERAL.**—At least one of the technologies tested under subsection (a) shall be inflatable plugs that may be rapidly deployed to prevent flooding of a tunnel.

(2) **FIRST TECHNOLOGY TESTED.**—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall carry out a demonstration project that tests the effectiveness of using inflatable plugs for the purpose described in paragraph (1).

(c) **REPORT TO CONGRESS.**—Not later than 180 days after completion of the demonstration project under this section, the Assistant Secretary shall submit a report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on the results of the demonstration project.

(d) **AUTHORIZATION OF APPROPRIATION.**—Of the amounts made available under section 101 for fiscal year 2010, \$8,000,000 shall be available to carry out this section.

**SEC. 310. PASSENGER RAIL SECURITY DEMONSTRATION PROJECT.**

(a) **DEMONSTRATION PROJECT.**—The Assistant Secretary, in consultation with the Under Secretary for Science and Technology, shall conduct a demonstration project in a passenger rail system to test and assess the feasibility and effectiveness of technologies to strengthen the security of passenger rail systems against terrorist attacks involving the use of improvised explosive devices.

(b) **SECURITY TECHNOLOGIES.**—The demonstration project under this section shall test and assess technologies to—

(1) detect improvised explosive devices on station platforms, through the use of foreign object detection programs in conjunction with cameras; and

(2) defeat improvised explosive devices left on rail tracks.

(c) **REPORT TO CONGRESS.**—Not later than 180 days after completion of the demonstration project under this section, the Assistant Secretary shall submit a report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on the results of the demonstration project.

**SEC. 311. EXPLOSIVES DETECTION CANINE TEAMS.**

Section 1307 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1116) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking “2010” and inserting “2011”; and

(B) by adding at the end the following new paragraph:

“(3) **ALLOCATION.**—

“(A) **IN GENERAL.**—The Secretary shall increase the number of canine teams certified by the Transportation Security Administration for the purpose of passenger rail and public transportation security activities to not less than 200 canine teams by the end of fiscal year 2011.

“(B) **COOPERATIVE AGREEMENTS.**—The Secretary shall expand the use of canine teams to enhance passenger rail and public transportation security by entering into cooperative agreements with passenger rail and public transportation agencies eligible for security assistance under section 1406 of this Act for the purpose of deploying and maintaining canine teams to such agencies for use in passenger rail or public transportation security activities and providing for assistance in an amount not less than \$75,000 for each canine team deployed, to be adjusted by the Secretary for inflation.

“(C) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this paragraph for fiscal years 2010 and 2011.”;

(2) in subsection (d)—

(A) in paragraph (3), by striking “and”;

(B) in paragraph (4), by striking the period at the end and inserting the following: “; and”;

and

(C) by adding at the end the following new paragraph:

“(5) expand the use of canine teams trained to detect vapor wave trails in passenger rail and public transportation security environments, as the Secretary, in consultation with the Assistant Secretary, determines appropriate.”;

(3) in subsection (e), by striking “, if appropriate,” and inserting “, to the extent practicable,”; and

(4) by striking subsection (f) and inserting the following new subsection (f):

“(f) **REPORT.**—Not later than one year after the date of the enactment of the Transportation Security Administration Authorization Act, the Comptroller General shall submit to the appropriate congressional committees a report on—

“(1) utilization of explosives detection canine teams to strengthen security in passenger rail and public transportation environments;

“(2) the capacity of the national explosive detection canine team program as a whole; and

“(3) how the Assistant Secretary could better support State and local passenger rail and public transportation entities in maintaining certified canine teams for the life of the canine, including by providing financial assistance.”.

#### **TITLE IV—TRANSPORTATION SECURITY CREDENTIALING**

##### **Subtitle A—Security Credentialing**

#### **SEC. 401. REPORT AND RECOMMENDATION FOR UNIFORM SECURITY BACKGROUND CHECKS.**

Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives a report that contains—

(1) a review of background checks and forms of identification required under State and local transportation security programs;

(2) a determination as to whether the background checks and forms of identification required under such programs duplicate or conflict with Federal programs; and

(3) recommendations on limiting the number of background checks and forms of identification required under such programs to reduce or eliminate duplication with Federal programs.

#### **SEC. 402. ANIMAL-PROPELLED VESSELS.**

Notwithstanding section 70105 of title 46, United States Code, the Secretary shall not require an individual to hold a transportation security card, or be accompanied by another individual who holds such a card if—

(1) the individual has been issued a license, certificate of registry, or merchant mariner's document under part E of subtitle II of title 46, United States Code;

(2) the individual is not allowed unescorted access to a secure area designated in a vessel or facility security plan approved by the Secretary; and

(3) the individual is engaged in the operation of a live animal-propelled vessel.

#### **SEC. 403. REQUIREMENTS FOR ISSUANCE OF TRANSPORTATION SECURITY CARDS; ACCESS PENDING ISSUANCE.**

Section 70105 of title 46, United States Code, is amended by adding at the end the following new subsections:

“(n) **ESCORTING.**—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a transportation security card under this section or is waiting for reissuance of such card, including any individual whose card has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a transportation security card.

“(o) **PROCESSING TIME.**—The Secretary shall review an initial transportation security card application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a transportation security card applicant, and send a written decision or

request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant's appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.

“(p) **RECEIPT OF CARDS.**—Within 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop a process to permit an individual approved for a transportation security card under this section to receive the card at the individual's place of residence.

“(q) **FINGERPRINTING.**—The Secretary shall establish procedures providing for an individual who is required to be fingerprinted for purposes of this section to be fingerprinted at facilities operated by or under contract with an agency of the Department of the Secretary that engages in fingerprinting the public for transportation security or other security purposes.”.

#### **SEC. 404. HARMONIZING SECURITY CARD EXPIRATION.**

Section 70105(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(6) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.”.

#### **SEC. 405. SECURING AVIATION FROM EXTREME TERRORIST THREATS.**

Section 44903(j)(2)(C) of title 49, United States Code, as amended by section 213 of this Act, is further amended by adding at the end the following:

“(vi) **INCLUSION OF DETAINEES ON NO FLY LIST.**—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the no fly list any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, on or after January 1, 2009, after a final disposition has been issued by the President. For purposes of this clause, the term ‘detainee’ means an individual in the custody or under the physical control of the United States as a result of armed conflict.”.

##### **Subtitle B—SAFE Truckers Act of 2009**

#### **SEC. 431. SHORT TITLE.**

This subtitle may be cited as the “Screening Applied Fairly and Equitably to Truckers Act of 2009” or the “SAFE Truckers Act of 2009”.

#### **SEC. 432. SURFACE TRANSPORTATION SECURITY.**

(a) **IN GENERAL.**—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

##### **“TITLE XXI—SURFACE TRANSPORTATION SECURITY**

#### **“SEC. 2101. TRANSPORTATION OF SECURITY SENSITIVE MATERIALS.**

“(a) **SECURITY SENSITIVE MATERIALS.**—Not later than 120 days after the date of enactment of this section, the Secretary shall issue final regulations, after notice and comment, defining security sensitive materials for the purposes of this title.

“(b) **MOTOR VEHICLE OPERATORS.**—The Secretary shall prohibit an individual from operating a motor vehicle in commerce while transporting a security sensitive material unless the individual holds a valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

“(c) **SHIPPERS.**—The Secretary shall prohibit a person from—

“(1) offering a security sensitive material for transportation by motor vehicle in commerce; or

“(2) causing a security sensitive material to be transported by motor vehicle in commerce,

unless the motor vehicle operator transporting the security sensitive material holds a valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

#### **“SEC. 2102. ENROLLMENT LOCATIONS.**

“(a) **FINGERPRINTING LOCATIONS.**—The Secretary shall—

“(1) work with appropriate entities to ensure that fingerprinting locations for individuals applying for a transportation security card under section 70105 of title 46, United States Code, have flexible operating hours; and

“(2) permit an individual applying for such transportation security card to utilize a fingerprinting location outside of the individual's State of residence to the greatest extent practicable.

“(b) **RECEIPT AND ACTIVATION OF CARDS.**—The Secretary shall develop guidelines and procedures to permit an individual to receive a transportation security card under section 70105 of title 46, United States Code, at the individual's place of residence and to activate the card at any enrollment center.

“(c) **NUMBER OF LOCATIONS.**—The Secretary shall develop and implement a plan—

“(1) to offer individuals applying for a transportation security card under section 70105 of title 46, United States Code, the maximum number of fingerprinting locations practicable across diverse geographic regions; and

“(2) to conduct outreach to appropriate stakeholders, including owners, operators, and relevant entities (and labor organizations representing employees of such owners, operators, and entities), to keep the stakeholders informed of the timeframe and locations for the opening of additional fingerprinting locations.

“(d) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **“SEC. 2103. AUTHORITY TO ENSURE COMPLIANCE.**

“(a) **IN GENERAL.**—The Secretary is authorized to ensure compliance with this title.

“(b) **MEMORANDUM OF UNDERSTANDING.**—The Secretary may enter into a memorandum of understanding with the Secretary of Transportation to ensure compliance with section 2101.

#### **“SEC. 2104. CIVIL PENALTIES.**

“A person that violates this title or a regulation or order issued under this title is liable to the United States Government pursuant to the Secretary's authority under section 114(v) of title 49, United States Code.

#### **“SEC. 2105. COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.**

“The Secretary shall prohibit a commercial motor vehicle operator licensed to operate in Mexico or Canada from operating a commercial motor vehicle transporting a security sensitive material in commerce in the United States until the operator has been subjected to, and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is similar to the security background records check required for commercial motor vehicle operators in the United States transporting security sensitive materials in commerce.

#### **“SEC. 2106. OTHER SECURITY BACKGROUND CHECKS.**

“The Secretary shall determine that an individual applying for a transportation security card under section 70105 of title 46, United States Code, has met the background check requirements for such card if the individual was subjected to, and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is equivalent to or more stringent than the background check requirements for such card.



**“SEC. 2107. REDUNDANT BACKGROUND CHECKS.**

“(a) *IN GENERAL.*—After the date of enactment of this title, the Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check of an individual seeking to transport hazardous materials.

“(b) *WAIVERS.*—The Secretary may waive the application of subsection (a) with respect to a State or political subdivision thereof if the State or political subdivision demonstrates a compelling homeland security reason that a separate security background check is necessary to ensure the secure transportation of hazardous materials in the State or political subdivision.

“(c) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this section shall limit the authority of a State to ensure that an individual has the requisite knowledge and skills to safely transport hazardous materials in commerce.

**“SEC. 2108. TRANSITION.**

“(a) *TREATMENT OF INDIVIDUALS RECEIVING PRIOR HAZARDOUS MATERIALS ENDORSEMENTS.*—The Secretary shall treat an individual who has obtained a hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, before the date of enactment of this title, as having met the background check requirements of a transportation security card under section 70105 of title 46, United States Code, subject to reissuance or expiration dates of the hazardous materials endorsement.

“(b) *REDUCTION IN FEES.*—The Secretary shall reduce, to the greatest extent practicable, any fees associated with obtaining a transportation security card under section 70105 of title 46, United States Code, for any individual referred to in subsection (a).

**“SEC. 2109. SAVINGS CLAUSE.**

“Nothing in this title shall be construed as affecting the authority of the Secretary of Transportation to regulate hazardous materials under chapter 51 of title 49, United States Code.

**“SEC. 2110. DEFINITIONS.**

“In this title, the following definitions apply:

“(1) *COMMERCE.*—The term ‘commerce’ means trade or transportation in the jurisdiction of the United States—

“(A) between a place in a State and a place outside of the State; or

“(B) that affects trade or transportation between a place in a State and a place outside of the State.

“(2) *HAZARDOUS MATERIAL.*—The term ‘hazardous material’ has the meaning given that term in section 5102 of title 49, United States Code.

“(3) *PERSON.*—The term ‘person’, in addition to its meaning under section 1 of title 1, United States Code—

“(A) includes a government, Indian tribe, or authority of a government or tribe offering security sensitive material for transportation in commerce or transporting security sensitive material to further a commercial enterprise; but

“(B) does not include—

“(i) the United States Postal Service; and

“(ii) in section 2104, a department, agency, or instrumentality of the Government.

“(4) *SECURITY SENSITIVE MATERIAL.*—The term ‘security sensitive material’ has the meaning given that term in section 1501 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1151).

“(5) *TRANSPORTS; TRANSPORTATION.*—The term ‘transports’ or ‘transportation’ means the movement of property and loading, unloading, or storage incidental to such movement.”

**SEC. 433. CONFORMING AMENDMENT.**

The table of contents contained in section 1(b) of the Homeland Security Act of 2002 (116 Stat. 2135) is amended by adding at the end the following:

**“TITLE XXI—SURFACE TRANSPORTATION SECURITY**

“Sec. 2101. Transportation of security sensitive materials.

“Sec. 2102. Enrollment locations.

“Sec. 2103. Authority to ensure compliance.

“Sec. 2104. Civil penalties.

“Sec. 2105. Commercial motor vehicle operators registered to operate in Mexico or Canada.

“Sec. 2106. Other security background checks.

“Sec. 2107. Redundant background checks.

“Sec. 2108. Transition.

“Sec. 2109. Savings clause.

“Sec. 2110. Definitions.”

**SEC. 434. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

Section 5103a of title 49, United States Code, and the item relating to that section in the analysis for chapter 51 of such title, are repealed.

**SEC. 435. DEADLINES AND EFFECTIVE DATES.**

(a) *ISSUANCE OF TRANSPORTATION SECURITY CARDS.*—Not later than May 31, 2010, the Secretary shall begin issuance of transportation security cards under section 70105 of title 46, United States Code, to individuals who seek to operate a motor vehicle in commerce while transporting security sensitive materials.

(b) *EFFECTIVE DATE OF PROHIBITIONS.*—The prohibitions contained in sections 2101 and 2106 of the Homeland Security Act of 2002 (as added by this subtitle) shall take effect on the date that is 3 years after the date of enactment of this Act.

(c) *EFFECTIVE DATE OF SECTION 434 AMENDMENTS.*—The amendments made by section 434 of this Act shall take effect on the date that is 3 years after the date of enactment of this Act.

**SEC. 436. TASK FORCE ON DISQUALIFYING CRIMES.**

(a) *ESTABLISHMENT.*—The Secretary shall establish a task force to review the lists of crimes that disqualify individuals from transportation-related employment under current regulations of the Transportation Security Administration and assess whether such lists of crimes are accurate indicators of a terrorism security risk.

(b) *MEMBERSHIP.*—The task force shall be composed of representatives of appropriate industries, including labor unions representing employees of such industries, Federal agencies, and other appropriate entities, as determined by the Secretary.

(c) *REPORT.*—Not later than 180 days after the date of enactment of this Act, the task force shall submit to the Secretary and the Committee on Homeland Security of the House of Representatives a report containing the results of the review, including recommendations for a common list of disqualifying crimes and the rationale for the inclusion of each crime on the list.

The CHAIR. No amendment to the committee amendment is in order except those printed in House Report 111–127. Each amendment shall be considered only in the order printed in the report; by a Member designated in the report; shall be considered read; shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment; shall not be subject to amendment; and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111–127.

Mr. THOMPSON of Mississippi. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

Strike section 103 of the bill (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

In section 206 of the bill in the matter to be proposed to be inserted in section 44924(f), strike “FOREIGN” in the section heading.

In section 206 of the bill in the matter to be proposed to be inserted in section 44924(f), insert “and domestic” after “foreign”.

In section 206 of the bill, insert “security” after “comparable”.

In section 210 of the bill in the matter proposed to be inserted as section 44947(b)(1) of title 49, United States Code, strike “facilities general aviation aircraft,” and insert “facilities, general aviation aircraft, helicopters,”.

In section 212 of the bill, in the matter proposed to be inserted in section 44903(m) of title 49, United States Code, strike paragraphs (1) through (3) and insert the following:

“(m) *SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS TRAVELING IN AIR TRANSPORTATION.*—

“(1) *IN GENERAL.*—The Assistant Secretary shall carry out a program to ensure fair treatment in the screening of individuals with metal implants traveling in air transportation.

“(2) *PLAN.*—Not later than 6 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall submit a plan to the Committee on Homeland Security of the House of Representatives for improving security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security. The plan shall include an analysis of approaches to limit such disruptions for individuals with metal implants, and benchmarks for implementing changes to the screening process and the establishment of a credential or system that incorporates biometric technology and other applicable technologies to verify the identity of an individual who has a metal implant.

“(3) *PROGRAM.*—Not later than 12 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall implement a program to improve security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security, including a credential or system that incorporates biometric technology or other applicable technologies to verify the identity of an individual who has a metal implant.

“(4) *METAL IMPLANT DEFINED.*—In this paragraph, the term ‘metal implant’ means a metal device or object that has been surgically implanted or otherwise placed in the body of an individual, including any metal device used in a hip or knee replacement, metal plate, metal screw, metal rod inside a bone, and other metal orthopedic implants.”

Strike section 228 of the bill (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

In section 233(2) of the bill, insert “any” before “requirements”.



In section 234 of the bill, strike the section heading and insert the following: **“TRUSTED PASSENGER/REGISTERED TRAVELER PROGRAM.”**

In section 234 of the bill, insert “a trusted passenger program, commonly referred to as” before “the Registered”.

Strike section 307 of the bill and insert the following: (and conform the table of contents accordingly):

**SEC. 307. IMPROVEMENT OF PUBLIC TRANSPORTATION SECURITY ASSISTANCE.**

(a) IN GENERAL.—Section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110-53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by inserting “bollards,” after “including”; and

(B) in subparagraph (D), by inserting after “including” the following: “projects for the purpose of demonstrating or assessing the capability of such systems and”;

(2) by redesignating subsections (e) through (k) as subsections (f) through (l), respectively;

(3) by redesignating subsections (l) and (m) as subsections (n) and (o), respectively;

(4) by inserting after subsection (d) the following new subsection (e):

“(e) PROCEDURE.—

“(1) TIMELINE.—

“(A) AVAILABILITY OF APPLICATIONS.—Applications for grants under this section for a grant cycle shall be made available to eligible applicants not later than 30 days after the date of the enactment of the appropriations Act for the Department of Homeland Security for the same fiscal year as the grant cycle.

“(B) SUBMISSION OF APPLICATIONS.—A public transportation agency that is eligible for a grant under this section shall submit an application for a grant not later than 45 days after the applications are made available under subparagraph (A).

“(C) ACTION.—The Secretary shall make a determination approving or rejecting each application submitted under subparagraph (B), notify the applicant of the determination, and immediately commence any additional processes required to allow an approved applicant to begin to receive grant funds by not later than 60 days after date on which the Secretary receives the application.

“(2) PROHIBITION OF COST-SHARING REQUIREMENT.—No grant under this section may require any cost-sharing contribution from the grant recipient or from any related State or local agency.

“(3) ANNUAL REPORT.—Not later than the date that is 180 days after the last determination made under paragraph (1)(C) for a grant cycle, the Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate a report that includes a list of all grant awarded under this section for that grant cycle for which the grant recipient is not, as of such date, able to receive grant funds and an explanation of why such funds have not yet been released for use by the recipient.

“(4) PERFORMANCE.—

“(A) DURATION.—The performance period for grants made under this section shall be a period of time not less than 36 months in duration.

“(B) TIMING.—The performance period for any grant made under this section shall not begin to run until the recipient of the grant

has been formally notified that funds provided under the terms of the grant have been released for use by the recipient.”.

(5) by inserting after subsection (1), as redesignated by paragraph (2) of this section, the following new subsection (m):

“(m) ACCESS.—The Secretary shall ensure that, for each grant awarded under this section, the Inspector General of the Department is authorized to—

“(1) examine any records of the grant recipient or any contractors or subcontractors with which the recipient enters into a contract, or any State or local agency, that directly pertain to and involve transactions relating to grants under this section; and

“(2) interview any officer or employee of the recipient, any contractors or subcontractors with which the recipient enters into a contract, or State or local agency regarding such transactions.”; and

(6) in subsection (o), as redesignated by paragraph (3) of this section—

(A) by striking paragraph (1) and inserting the following new paragraph (1):

“(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to make grants under this section—

“(A) \$900,000,000 for fiscal year 2010, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2) of this section; and

“(B) \$1,100,000,000 for fiscal year 2011, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2) of this section.”;

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(C) by inserting after paragraph (2) the following new paragraph (3):

“(3) EXCEPTION.—The limitation on the percentage of funds that may be used for operational costs under paragraph (1) shall not apply to any costs involved with or relating to explosives detection canine teams acquired or used for the purpose of securing public transportation systems or facilities.”.

(b) TECHNICAL ASSISTANCE PILOT PROGRAM.—

(1) PILOT PROGRAM REQUIRED.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Assistant Secretary shall conduct and complete a pilot program to provide grants to not more than 7 public transportation agencies eligible for security grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110-53) for the purpose of obtaining external technical support and expertise to assist such agencies in conducting comprehensive security risk assessments of public transportation systems, resources, and facilities.

(B) METHODOLOGY.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary shall identify—

(i) a comprehensive risk methodology for conducting comprehensive security risk assessments using grants made under this subsection that accounts for all three elements of risk, including threat, vulnerability, and consequence; and

(ii) an approved third-party provider of technical support and expertise for the purpose of providing external assistance to grantees in conducting comprehensive security risk assessments.

(C) PARTICIPANTS.—

(1) IN GENERAL.—In selecting public transportation agencies to participate in the pilot program, the Assistant Secretary shall approve eligible agencies based on a combination of factors, including risk, whether the

agency has completed a comprehensive security risk assessment referred to in subparagraph (B)(i) within a year preceding the date of enactment of this Act, and geographic representation.

(ii) PRIOR EFFORTS.—No eligible public transportation agency may be denied participation in the pilot program on the grounds that it has applied for other grants administered by the Department for the purpose of conducting a comprehensive security risk assessment.

(D) PROHIBITIONS.—In carrying out the pilot program the Assistant Secretary shall ensure that—

(i) grants awarded under the pilot program shall supplement and not replace other sources of Federal funding;

(ii) other sources of Federal funding are not taken into consideration when assistance is awarded under the pilot program; and

(iii) no aspect of the pilot program is conducted or administered by a component of the Department other than the Transportation Security Administration.

(2) REPORT.—Not later than 180 days after the completion of the pilot program, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives a report on the results of the pilot program, including an analysis of the feasibility and merit of expanding the pilot program to a permanent program and any recommendations determined appropriate by the Assistant Secretary.

(3) AUTHORIZATION OF APPROPRIATIONS.—Of amounts made available pursuant to section 101 for fiscal year 2010, \$7,000,000 shall be available to the Assistant Secretary to carry out this subsection. Any amount made available to the Assistant Secretary pursuant to this paragraph shall remain available until the end of fiscal year 2011.

(c) REPORT ON RECOMMENDATIONS OF COMPTROLLER GENERAL.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of the Secretary's implementation of the recommendations of the Comptroller General with respect to the improvement of the administration of security grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110-53).

(2) REVIEW BY INSPECTOR GENERAL.—Before the Secretary submits the report required under paragraph (1), the report shall be reviewed by the Inspector General of the Department of Homeland Security. When the Secretary submits the report to Congress under paragraph (1), the Secretary shall include with the report documentation verifying that the report was reviewed by the Inspector General in accordance with this paragraph.

At the end of title III of the bill, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly):

**SEC. 312. DEPUTY ASSISTANT SECRETARY FOR SURFACE TRANSPORTATION SECURITY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Transportation Security Administration's capacity to address surface transportation security would be enhanced significantly by establishing a position of Deputy Assistant Secretary for Surface Transportation Security to lead the Transportation Security Administration's surface transportation security mission; and

(2) a Deputy Assistant Secretary for Surface Transportation Security could provide the focused leadership and resource management necessary to implement the policies and programs that are critical to securing surface transportation modes and ensure the effectiveness of the Surface Transportation Security Inspection Office, security policy and grant functions affecting surface transportation modes, and the Transit Security Advisory Committee.

(b) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the feasibility and merit of establishing a Deputy Assistant Secretary for Surface Transportation Security in the Transportation Security Administration to reflect the reality of security threats that are faced by all modes of transportation in the United States and also whether establishing the position of a Deputy Assistant Secretary for Aviation Security would more effectively streamline or enhance the operational and policymaking capabilities of the Transportation Security Administration for all transportation modes.

(2) RECOMMENDATIONS.—The Inspector General shall include in the report recommendations on—

(A) the most effective and efficient ways to organize offices, functions, personnel, and programs of the Transportation Security Administration under or among all respective Deputy Assistant Secretary positions to be created;

(B) what offices, functions, personnel, and programs of the Transportation Security Administration would best remain outside of the scope of any new Deputy Assistant Secretary positions in order that such offices, functions, personnel, and programs maintain the status of reporting directly to the Assistant Secretary; and

(C) any other relevant matters, as the Inspector General determines appropriate.

In the heading of title IV of the bill, strike "**CREDENTIALING**" and insert "**ENHANCEMENTS**".

In the heading of subtitle A of title IV of the bill, strike "**Credentialing**" and insert "**Enhancements**".

Add at the end of subtitle A of title IV of the bill the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 406. PIPELINE SECURITY STUDY.**

(a) STUDY.—The Comptroller General shall conduct a study regarding the roles and responsibilities of the Department of Homeland Security and the Department of Transportation with respect to pipeline security. The study shall address whether—

(1) the Annex to the Memorandum of Understanding executed on August 9, 2006, between the Department of Homeland Security and the Department of Transportation adequately delineates strategic and operational responsibilities for pipeline security, includ-

ing whether it is clear which Department is responsible for—

(A) protecting against intentional pipeline breaches;

(B) responding to intentional pipeline breaches; and

(C) planning to recover from the effects of intentional pipeline breaches;

(2) the respective roles and responsibilities of each Department are adequately conveyed to relevant stakeholders and to the public; and

(3) the processes and procedures for determining whether a particular pipeline breach is a terrorist incident are clear and effective.

(b) REPORT ON STUDY.—Not later than 180 days after the date of enactment of this section, the Comptroller General shall submit to the Committee on Homeland Security in the House of Representatives a report containing the findings of the study conducted under subsection (a).

(c) REPORT TO CONGRESS.—Not later than 90 days after the issuance of the report regarding the study conducted pursuant to this section, the Secretary of Homeland Security shall review and analyze the study and submit to the Committee on Homeland Security of the House of Representatives a report on such review and analysis, including any recommendations for—

(1) changes to the Annex to the Memorandum of Understanding described in subsection (a)(1); and

(2) other improvements to pipeline security activities at the Department of Homeland Security.

At the end of subtitle A of title IV (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 407. TRANSPORTATION SECURITY ADMINISTRATION CENTRALIZED TRAINING FACILITY.**

(a) STUDY.—The Secretary of Homeland Security shall carry out a study on the feasibility of establishing a centralized training center for advanced security training provided by the Transportation Security Administration for the purpose of enhancing aviation security.

(b) CONSIDERATIONS.—In conducting the study, the Secretary shall take into consideration the benefits, costs, equipment, personnel needs, and building requirements for establishing such a training center and if the benefits of establishing the center are an efficient use of resources for training transportation security officers.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding the results of the study.

THE CHAIR. Pursuant to House Resolution 474, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise to offer my manager's amendment which makes a few perfecting changes to H.R. 2200, the Transportation Security Administration authorization bill. My amendment helps make the bill even more comprehensive by addressing five areas.

First, in the area of public transportation security assistance, my amendment improves the Department of Homeland Security's Transportation Security Grant Program by streamlining the award process. My amendment ensures accountability and transparency by requiring annual reports from TSA on the status of outstanding grant awards. It was developed in response to concerns expressed by public transportation agencies about when the clock should start ticking on the grant performance period. Under my amendment, it doesn't begin until grantees are actually able to access their awards. Additionally, this amendment would prohibit cost sharing for transportation security grants to ensure that grants are awarded efficiently and fairly. It also provides public transportation agencies with the tools and support they need to conduct comprehensive risk assessments in order to better secure their systems.

Second, Mr. Chair, this amendment tackles the question of whether TSA needs to be reorganized to get TSA away from behaving like the Aviation Security Administration. Specifically, it requires an honest assessment of creating two equal positions at the deputy assistant secretary level, one for surface transportation security and one for aviation security. It also articulates a sense of congress that the creation of a deputy assistant secretary for surface transportation security will provide the focused leadership and resource management necessary to secure surface transportation in a manner commensurate with aviation security.

Third, in the area of pipeline security, the amendment contains a provision offered at the markup by the gentleman from Florida (Mr. BILIRAKIS). This provision instructs the Comptroller General to study the roles and responsibilities of DHS and the Department of Transportation with respect to pipeline security in order to better secure our pipelines against intentional breaches.

Fourth, Mr. Chair, regarding workforce improvement, the amendment instructs the DHS Secretary to study the feasibility and merits of establishing a centralized advanced aviation training facility.

Finally, Mr. Chair, the amendment contains a provision to address the special needs of travelers with artificial metal implants.

□ 1345

The amendment contains a provision requiring TSA to establish a program to screen passengers with metal implants.

I urge my colleagues to support this amendment that makes key improvements to an already robust security bill.

Mr. Chairman, I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I rise to claim the time in opposition to the amendment, although I am not opposed.

The CHAIR. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. DENT. Mr. Chairman, this amendment addresses a number of concerns raised by transit agencies and the GAO in an upcoming report. One of the biggest concerns of stakeholders was that TSA and FEMA were taking too long in distributing grant funding. This amendment requires that applications for grants be made available within 30 days of passage of an appropriations act. It then requires the transit agency to submit an application within 45 days and the Secretary to act within 60 days of receipt. These are the same deadlines that are usually required in any appropriations bills.

This amendment also codifies current practice prohibiting cost sharing required for grants. Previously, public transit agencies were required to share up to 25 percent of the cost of a project. Many agencies found this requirement prohibitive, given that they are largely funded by State and local taxpayers and that the costs associated with improving open architecture public transportation systems were considered too expensive.

This amendment also establishes a technical assistance pilot program that gives grants to transit agencies to conduct comprehensive risk assessments using approved third parties. The Office of Domestic Preparedness previously provided grants for such assessments, but these ended when ODP was combined with FEMA and Preparedness. Many State and local agencies do not necessarily have the in-house expertise to conduct comprehensive risk assessments and require outside assistance.

This amendment requires the GAO to examine the roles of the Department of Homeland Security and the Department of Transportation with respect to pipeline security. During a recent release of anhydrous ammonium from a pipeline in Florida, local response personnel were given differing opinions of which Federal agency regulated the security of pipelines. The GAO would examine if current responsibilities for protection against and responding to intentional pipeline breaches are adequately identified in interagency MOUs. The time to identify a lead Federal agency for pipeline security is never after an intentional breach.

So, again, I would just like to say I support this manager's amendment. I think it is a good revision to this legislation of which the underlying bill, of course, is a strong bill too. I support it.

At this time, I would yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, as you have heard, my

amendment helps to strengthen the underlying bill and addresses the issues of interest to my colleague. I urge its adoption.

Mr. OBERSTAR. Mr. Chair, I rise in support of the manager's amendment to H.R. 2200, the "Transportation Security Administration Authorization Act of 2009", offered by the gentleman from Mississippi (Mr. THOMPSON), the Chairman of the Committee on Homeland Security.

The manager's amendment modifies section 212 of the reported bill and directs the Transportation Security Administration (TSA) to carry out a program to ensure fair treatment in the screening of passengers with metal implants while traveling in air transportation. The purpose of this provision is to ensure that, consistent with security regulations, such individuals can travel by air with greater ease and be treated with dignity and respect.

According to the Joint Implant Surgery & Research Foundation, there are approximately 500,000 total hip and knee replacements performed in the United States each year. An estimated 11 million people in the United States currently have a medical implant, and this number will grow as the population with implants increases.

In a 2007 study, researchers at the Harvard Medical School found that 100 percent of hip replacements and 90 percent of knee replacements cause commercial airport metal detectors to alert. Whenever a passenger triggers the walk-through metal detector, additional screening must be conducted to locate and resolve the source of the alarm. A Transportation Security Officer (TSO) checks the passenger with a hand-held metal detector and conducts a pat-down inspection of any area that alarms; the TSO then conducts a whole-body pat-down. This additional screening consumes an average five minutes more of a passenger's time at security checkpoints. This excess screening of individuals with metal implants is also an inefficient use of a TSO's time.

This provision is based on H.R. 2335, a bill that I introduced to require the Department of Homeland Security (DHS) to establish a travel credential that incorporates biometric or other applicable technologies to verify the identity of an individual with a metal implant.

The manager's amendment requires TSA to submit a plan to Congress, within six months of the date of enactment, on ways to improve security screening procedures for individuals with metal implants. Within 12 months, TSA must implement the program, including the establishment of a biometric credential to limit disruptions for such travelers.

I thank Chairman THOMPSON for working with me on this provision, which is of great importance to me and millions of travelers with metal implants.

While I support the manager's amendment, I have significant concerns with Subtitle B of Title IV of the underlying bill, entitled the "Safe Truckers Act of 2009". The Safe Trucker provisions, offered as an amendment by the gentleman from California (Mr. LUNGREN) during Committee consideration of the bill, eliminate background checks for most commercial drivers who haul hazardous materials.

Currently, drivers who haul hazardous materials in a commercial motor vehicle in quan-

ties requiring vehicle placards under Department of Transportation (DOT) regulations must have a hazardous materials endorsement (HME). In 2001, Congress enacted the USA Patriot Act (P.L. 107-56), which prohibited states from issuing a license to transport hazardous materials in commerce to any individual without a determination by DHS that the individual does not pose a security risk. Drivers seeking to apply for, renew, or transfer an HME on their state-issued Commercial Driver's License (CDL) must undergo a security threat assessment by TSA.

H.R. 2200 significantly narrows the scope of this requirement. The bill requires background checks only for a small subset of drivers—as few as five percent—who haul "security sensitive materials". Limiting background checks to only those drivers who haul extremely dangerous materials stands to weaken security on our roadways.

It will be extremely difficult to enforce a requirement that only some drivers carrying hazardous materials undergo background checks. If a driver is able to carry these security sensitive materials without special credential on his or her CDL that requires successful completion of a background check, we will have to rely on roadside inspectors to find drivers hauling these materials and verify that the driver has passed a background check. Only a small group of drivers undergo inspections, conducted by the Federal Motor Carrier Safety Administration (FMCSA) and its state partners. Moreover, it will be difficult for inspectors to determine whether a driver is carrying a class of hazmat requiring special verification. To make this system work, it would be necessary to develop a special identification for trucks carrying hazmat for which a driver must have undergone a background check.

The bill repeals the hazardous materials law that sets forth the existing process of conditioning the issuance of a commercial license on the successful completion of a background check. Instead, the bill institutes a vague enforcement requirement that the Secretary of Homeland Security "shall prohibit an individual from operating a motor vehicle in commerce while transporting a security sensitive material" unless the individual holds a Transportation Worker Identification Card (TWIC). Commercial drivers are not like port or airport workers who enter a defined, secure area on a regular basis for their employment, and where verification that they have undergone a background check by TSA inspectors or TWIC card readers can routinely occur.

Roadside inspections target particular carriers with a record of safety problems, not compliance with TSA regulations. Current resources do not result in adequate oversight of this geographically broad industry: in 2008, less than two percent of motor carriers underwent compliance reviews, and 3.5 million roadside inspections were conducted on an industry of 7 million drivers and over 700,000 motor carriers. Under this system, unfortunately, carriers and drivers that are not in compliance with regulations commonly go undetected.

DHS and DOT may recognize these enforcement problems and choose to implement the Safe Trucker requirements by requiring state Departments of Motor Vehicles to have

separate processes for granting HMEs to drivers who haul hazardous materials and security sensitive materials. This approach would create a significant administrative burden for states. The associated costs will be shouldered by states, supplemented by Federal motor carrier safety grants funded out of the Highway Trust Fund. The resources diverted to meet this mandate will take away badly-needed funds from critical commercial driver safety activities.

Finally, the Safe Trucker provisions require operators hauling security sensitive materials licensed in Canada or Mexico to undergo a similar background check to U.S. drivers. The Committee on Transportation and Infrastructure included this requirement, applicable to all drivers hauling hazardous materials, in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59). TSA has failed to properly implement this requirement. Instead, TSA currently grants commercial drivers from Mexico authority to transport hazardous materials in the United States (currently limited to commercial zones on the U.S.-Mexico border) without conducting a check of their criminal history in Mexico. Our Committee will seek to address this in our broader efforts to ensure the safety of Mexico-domiciled carriers on U.S. roads.

I understand the arguments that the background checks associated with the HME and the TWIG are not well coordinated by TSA and the associated problems, including duplicate charges for drivers. I support finding a solution to these implementation issues. However, the solutions included in H.R. 2200 far exceed this problem and stand to strain insufficient motor carrier oversight and enforcement resources while potentially weakening security.

I support Chairman THOMPSON's efforts to move this bill expeditiously through the House, and have made every effort to facilitate the consideration of this legislation. I look forward to working with the gentleman from Mississippi on issues of mutual interest to our Committees as this bill moves ahead.

Mr. THOMPSON of Mississippi. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Mississippi (Mr. THOMPSON).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. MICA

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-127.

Mr. MICA. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MICA:

At the end of subtitle B of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 240. ISSUANCE OF REGULATIONS AND SECURITY DIRECTIVES USING EMERGENCY PROCEDURES.**

(a) IN GENERAL.—Section 114(1) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A) by striking “immediately in order to protect transportation security” and inserting “in order to respond to an imminent threat of finite duration”; and

(B) in subparagraph (B) by inserting “to determine if the regulation or security directive is needed to respond to an imminent threat of finite duration” before the period at the end of the first sentence;

(2) by striking paragraph (3) and inserting the following:

“(3) FACTORS TO CONSIDER.—

“(A) IN GENERAL.—In determining whether to issue, rescind, or revise a regulation or security directive under this subsection, the Under Secretary shall consider, as factors in the final determination—

“(i) whether the costs of the regulation or security directive are excessive in relation to the enhancement of security the regulation or security directive will provide;

“(ii) whether the regulation or security directive will remain effective for more than a 90-day period; and

“(iii) whether the regulation or security directive will require revision in the subsequent 90-day period.

“(B) AUTHORITY TO WAIVE CERTAIN REQUIREMENTS.—For purposes of subparagraph (A)(i), the Under Secretary may waive requirements for an analysis that estimates the number of lives that will be saved by the regulation or security directive and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.”; and

(3) by adding at the end the following:

“(5) RULEMAKING REQUIRED.—Any regulation or security directive issued under paragraph (2) that remains effective, with or without revision, for a period of more than 180 days shall be subject to a rulemaking pursuant to subchapter II of chapter 5 of title 5.”.

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to a regulation issued under section 114(1)(2) of title 49, United States Code, before, on, or after the date of enactment of this Act.

The CHAIR. Pursuant to House Resolution 474, the gentleman from Florida (Mr. MICA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. MICA. Mr. Chairman, I rise in support of this amendment, which is also offered by Congressman EHLERS, Congressman GRAVES and Congressman PETRI. This amendment would tighten standards for when TSA can issue an emergency regulation or security directive.

After 9/11, Congress wanted to ensure the TSA could act quickly to respond to terrorist threats. I was instrumental in crafting some of that legislation, and we wanted to give TSA the ability to waive the Administrative Procedures Act and issue a security directive any time they believed there was an “immediate threat to transportation security.”

Now we come some 8 years after 9/11 and we see the TSA issuing security directives when the “immediate threat” they are seeking to address is sometimes unclear. And also there are some problems with use of this authority.

First, we have security directives that change from week to week. TSA is also issuing many directives that are unfunded mandates without an opportunity to comment; others are “published” and then remain open for months. And then we have seen examples of even security directives that have been revised seven or eight times.

TSA's use of the security directive makes us ask the question: What immediate threat is TSA addressing with these security directives in the manner they are proceeding?

This amendment would ensure that the waiver of the Administrative Procedures Act occurs only when there is an “imminent threat of finite duration.” TSA would still have the ability to quickly respond to such threats, but if the directive is in place for longer than 6 months, it would be required to conduct a regular rulemaking process.

This amendment would refine TSA's security directive issuance process to make it truly responsive to imminent threats and not just the whim of the agency. That is not what we intended. So I ask my colleagues to join other colleagues here in trying to strengthen and clarify this law.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chair, I rise in opposition to the amendment.

The CHAIR. The gentleman from Mississippi is recognized for 5 minutes.

Mr. THOMPSON of Mississippi. Mr. Chair, I yield such time as he may consume to the gentleman from Oregon for the purpose of opposition debate.

Mr. DEFAZIO. I thank the gentleman for yielding me this time.

I share with the gentleman—he and I helped create the Transportation Security Administration—tremendous frustration with bureaucracy that gets over the edge for no real purpose, and I will not say that the current process is perfect. Particularly as relates to general aviation, we have had a couple of problems, one in which the chairman has been very involved, having to do with standards for what constitutes a potential threat aircraft and also the issue of background checks for those who work in the general aviation field.

But beyond that, many of these directives are based on sensitive security information or even classified information. So they could not very well, if you were dealing, say, with the gel and liquids rule, subject that to the bureaucratic rulemaking process. I don't think the way to solve inadequacies and problems with the current directive process is to create an even more lengthy, expensive bureaucratic process. I don't think on a normal day the gentleman from Florida would ever present the idea to this Congress that we should expand rulemaking and go back and revisit rules that have already been made and put them through a very lengthy and expensive process.

What he wants is more transparency. He wants common sense, and he wants stakeholder groups to have an opportunity to intervene. The legislation does bring stakeholder groups into the process, particularly as relates to general aviation.

The chairman is using his oversight authority to go after nonsensical rules and problems that have occurred. One happened recently with a group of aged veterans on a charter aircraft where the chairman has called the agency to account and asked for a review of the procedures they are using. So I would say there is a new era here.

We are going to make them responsive and responsible and make their work make more sense and meet our true security needs. But if you impose this on the entire structure, you're going to divert a lot of resources in the Transportation Security Administration over into a bureaucratic, lengthy rulemaking process. They are not going to have the flexibility to change, say, the liquids rule as they did from "all liquids are banned" to "well, prescriptions can go" to "so many ounces can go." Each of those would have required a 6-month to 2-year change in the process during which we would be locked into whatever the first emergency rule was for only 6 months under the gentleman's proposal. It is not a practical way to address this.

Mr. MICA. Might I inquire as to the balance of our time?

The CHAIR. The gentleman from Florida has 2½ minutes remaining. The gentleman from Mississippi has 2½ minutes remaining.

Mr. MICA. I yield 1½ minutes to the gentleman from Michigan (Mr. EHLERS), also a cosponsor of this amendment.

Mr. EHLERS. Somebody asked, Why do this? Just look at the history and the record of the TSA and some of the things they have done. How many of you remember whenever we would fly into Washington National Airport we had to sit in our seats for 30 minutes before landing and we had to sit in the seats for 30 minutes after takeoff? That was a totally nonsensical rule which many of us tried to change.

The point is they make nonsensical rules that are totally unresponsive to our efforts to change it. And that rule was not changed until I offered an amendment on the floor. This was the only case in history I know of where an amendment was passed by acclamation and laughter because everybody supported it.

Now they have done some more regulations about general aviation without consulting the committee, without consulting general aviation interest and doing what I think is really very strange, often stupid regulations. It is clear that they need better review and that they have to use more caution and consult with those affected when they

are developing rules. I believe that this amendment is badly needed and will force them to think more carefully and more thoroughly about what they are doing and what they are proposing to do.

So I strongly support this amendment, particularly as it affects general aviation, because that is where a lot of the problems have developed recently.

I urge the body to adopt this amendment.

Mr. THOMPSON of Mississippi. Mr. Chair, I yield 1½ minutes to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chair, may I inquire as to who has the right to close?

The CHAIR. The gentleman from Mississippi has the right to close.

Mr. DEFAZIO. I thank the gentleman for yielding.

First off, last week, I was subjected to the absolutely stupid 30-minute rule. United Airlines can't get it into their manual that it was repealed 4 years ago. I did ask to have my card sent up to the pilot, but I have complained several times. Some pilots still think that since it is apparently still in the United manual, that it was not created by the TSA. And our former Chairman MICA knows that. That was a Secret Service directive which preempted all of the agencies of the government and the newly created TSA.

The TSA agreed with us that it was an absolutely asinine rule, but we were told it was a higher authority. So that would never have gone through a rule-making process. That was imposed.

Now, those sorts of things could be imposed for 6 months still under the gentleman's rule. And I don't know that the Secret Service would claim that they could preempt even the 6-month limit. So we can't prevent all stupidity, but we push back against it.

Again, back to the gel rule. Under the gentleman's proposed amendment, they would still be amending the gel rule to get down to the 4 ounces or get to 4 ounces or whatever the current limit is. Maybe it is 3.4. I can't remember. That seems to change, too. But you don't need a 2-year process and shouldn't impose a 2-year process and an extraordinary expense to the taxpayers in that sort of a case.

Yes, there are problems. There is stupidity when it comes to the GA rule. The committee is dealing with it through oversight and pressure.

Mr. MICA. Mr. Chairman, do we have 1 minute left on our side?

The CHAIR. The gentleman has 1 minute remaining, and the gentleman from Mississippi has 1 minute remaining.

Mr. MICA. To close for our side, I would like to yield the balance of my time to another distinguished leader of the Transportation and Infrastructure Committee, the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chair, I want to quote the conclusion of the Civil Avia-

tion Threat Assessment released in December 2008 by the Department of Homeland Security. "While terrorist groups maintain the capability and intent to conduct terrorist attacks against U.S. civil aviation and have shown some interest in conducting attacks using general aviation overseas, there is little evidence to suggest that terrorists are turning their attention specifically to the general aviation sector in the homeland."

Mr. Chairman, to the best of my knowledge, to date there has not been a single terrorist attack on U.S. soil using general aviation aircraft. As a pilot more than 20 years myself, I know firsthand how general aviation security operates. The bottom line is that it works.

My remarks before Congress today are not meant to downplay the importance of the TSA. As we all know, the TSA is tasked with ensuring the safety of the traveling public. It is an extremely important and difficult task and one that we all take very seriously.

However, recently the TSA has been focusing their resources, efforts, and taxpayer dollars on further regulating the general aviation industry, which the agency itself concludes there is little evidence to suggest a threat.

Mr. Chairman, the amendment offered by Mr. MICA, co-offered by myself, Mr. PETRI, and Mr. EHLERS, is simple. It does not prohibit the TSA from issuing security directives if and when a threat exists. It simply requires them to go through the normal rulemaking process if a security directive is in place for more than 180 days.

□ 1400

Mr. THOMPSON of Mississippi. I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO) for the purpose of closing.

Mr. DEFAZIO. Where the gentleman concluded is where the debate should end, the normal rule-making process. On any ordinary day, the Republicans would not stand up and say that we need more bureaucracy; we need more 2-year rule-making on things that are important to the American people.

We are creating transparency here. We're creating a stakeholder committee.

Yes, they have done some stupid things in GA. But does that mean you're going to go to all of the things that relate to passengers and airports and baggage screening and explosives and everything else and put those out into a public rule-making process with all the sensitive security information that's involved? That's impossible. It's impractical, and it would jeopardize the safety of the American public.

Yes, let's fix the problems with GA. Somebody down there needs to be picked up and shaken upside down to understand what GA's all about. The

chairman's doing that. We'll continue to do that. We'll work with you. We're creating a stakeholder group so that GA will have a voice. But don't throw out all of the other critical security directives and the flexibility to put them in place and change them without a bureaucratic process.

Mr. PETRI. Mr. Chair, I rise in support of the amendment offered by my colleague Mr. MICA and co-sponsored by myself and fellow subcommittee members, Congressman EHLERS and Congressman GRAVES.

This amendment seeks to clarify the standard for when TSA is allowed to circumvent the rulemaking process under the Administrative Procedures Act and issue a security directive in order to respond to an "imminent threat" of limited duration. While there are circumstances in which these security directives are necessary to address immediate threats to our transportation systems, they too often have been issued under unclear circumstances and have even been known to change from week to week. This places an unnecessary burden on commercial and general aviation alike—as well as other modes of transportation.

For example, TSA recently issued a security directive that required background checks and restrictive badging requirements for general aviation at airports with commercial service. This directive placed unneeded restrictions on thousands of pilots and others without identifying what imminent threat existed. The TSA subsequently eased the requirements somewhat, but the fact remains that a security directive was used to regulate an entirely new population of airport personnel and users. This is basically regulation by policy statement—not the more proper rulemaking that provides for the opportunity for public comment, consideration of costs and operational impacts, and greater transparency and accountability. By the way, this one Security Directive has been revised 8 times!

We are all aware of the threats our nation's transportation systems face. TSA must have the authority to address imminent threats by bypassing the formal rulemaking process. But this authority should not be used to impose new security requirements that do not meet the security directive threshold as contemplated by Congress.

This amendment not only will ensure that TSA retains this needed authority, but also establishes a proper balance between security and the protection of our civil liberties by tightening the issuance standard.

I want to express my appreciation to Mr. MICA and others for their work to bring this amendment to the floor, and urge my colleagues to support its adoption.

The CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. MICA).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. THOMPSON of Mississippi. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

#### AMENDMENT NO. 3 OFFERED BY MR. MICA

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111-127.

Mr. MICA. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

#### Amendment No. 3 offered by Mr. MICA:

At the end of subtitle A of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

#### SEC. 214. KNOWN AIR TRAVELER CREDENTIAL.

(a) ESTABLISHMENT.—Section 44903(h) of title 49, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

“(7) KNOWN AIR TRAVELER CREDENTIAL.—Not later than 6 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall—

“(A) establish a known air traveler credential that incorporates biometric identifier technology;

“(B) establish a process by which the credential will be used to verify the identity of known air travelers and allow them to bypass airport passenger and carry-on baggage screening;

“(C) establish procedures—

“(i) to ensure that only known air travelers are issued the known air traveler credential;

“(ii) to resolve failures to enroll, false matches, and false nonmatches relating to use of the known air traveler credential; and

“(iii) to invalidate any known air traveler credential that is lost, stolen, or no longer authorized for use;

“(D) begin issuance of the known air traveler credential to each known air traveler that applies for a credential; and

“(E) take such other actions with respect to the known air traveler credential as the Assistant Secretary considers appropriate.”.

(b) KNOWN AIR TRAVELER DEFINED.—Section 44903(h)(8) of such title (as redesignated by subsection (a) of this section) is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following:

“(F) KNOWN AIR TRAVELER.—The term ‘known air traveler’ means a United States citizen who—

“(i) has received a security clearance from the Federal Government;

“(ii) is a Federal Aviation Administration certificated pilot, flight crew member, or cabin crew member;

“(iii) is a Federal, State, local, tribal, or territorial government law enforcement officer not covered by paragraph (6);

“(iv) is a member of the armed forces (as defined by section 101 of title 10) who has received a security clearance from the Federal Government; or

“(v) the Assistant Secretary determines has appropriate security qualifications for inclusion under this subparagraph.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this section.

The CHAIR. Pursuant to House Resolution 474, the gentleman from Florida (Mr. MICA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

#### MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I ask unanimous consent to modify the amendment with the modification which I have provided at the desk.

The CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 3 offered by Mr. MICA:

The amendment as modified is as follows:

In section 234 of the bill, redesignate subsection (c) as subsection (d) and insert after subsection (b) the following:

(c) TREATMENT OF INDIVIDUALS WITH TOP SECRET SECURITY CLEARANCES.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall establish protocols to—

(1) verify the identity of United States citizens who participate in the Registered Traveler program and possess a valid top secret security clearance granted by the Federal Government; and

(2) allow alternative screening procedures for individuals described in paragraph (1), including random, risk-based screening determined necessary to respond to a specific threat to security identified pursuant to a security threat assessment.

The CHAIR. Without objection, the amendment is modified.

There was no objection.

Mr. MICA. I yield myself such time as I may consume.

First of all, I do want to express my sincere gratitude to Chairman THOMPSON, to the majority staff, and to the staff on our side of the aisle and Members from the minority. They worked together, I think, in the best interest of trying to bring forward the best possible Transportation Security Administration authorization and legislation they could, and also worked very closely to modify an amendment that I originally proposed.

My colleagues, Congress has repeatedly directed the Transportation Security Administration to use biometric identifier technology for identification cards, travel documents and access control programs.

In fact, Mr. Chairman and Members of the House, these are the times, and I was one of the original authors of the TSA legislation, in which we included a similar directive back immediately after 9/11. But these are the times I have passed, or Congress has passed, into law directives, law after law, directive after directive to TSA to use biometric. And I'd like to submit a list of those for the RECORD.

CONGRESSIONAL MANDATES FOR THE UTILIZATION OF BIOMETRIC IDENTIFIER TECHNOLOGY FOR IDENTIFICATION CARDS, TRAVEL DOCUMENTS, AND ACCESS CONTROL PROGRAMS  
\* \* \*

USA PATRIOT Act of 2001



Aviation and Transportation Security Act of 2001

Enhanced Border Security and Visa Entry Reform Act of 2002

Maritime and Transportation Security Act of 2002

Intelligence Reform and Terrorism Prevention Act of 2004

Department of Homeland Security Appropriations Act for FY2006

Unfortunately, to date, TSA has still failed to fully implement this technology for airport security purposes. And while I'm very supportive of the Registered Traveler Program and its use of biometric technology, the TSA still has failed to utilize this program to its fullest potential.

Biometric technology, fingerprint technology, that uses the thumb, the eye, and is used for registered travelers, is very common, not only for, again, our Registered Traveler Program, but also for various Federal agencies. And I have copies of their IDs, which we use, scanning the Department of Energy, the Department of Defense. However, it is, in fact, used also for secure Federal installations, including very sensitive operations at national laboratories, at military bases and other government facilities. However, we still don't have this technology for use, again, with TSA.

The use of biometric identifier technology, I believe, will not only improve the security of our air transportation, but also the efficiency. If we know who a person is, having a thoroughly vetted background of that individual, we can, in fact, confirm their identification through the use of these credentials that incorporate this biometric technology. Then we can cut down on the amount of unnecessary screening at airports and some of the costs incurred and inefficiency. Wait times for all air travelers, hopefully, will be lessened, and the TSA will actually be able to focus their scarce resources on unknown people who do potentially pose a threat to the system.

To this end, my amendment is a simple one. It requires again the Transportation Security Administration to establish protocols, first, to verify the identity of United States citizens who participate in a Registered Traveler Program, and who possess valid Top Secret Security Clearance, and there are hundreds of thousands that do that. And that clearance is granted by the Federal Government.

It would also allow an alternative screening procedure for those alternatives. And I hope that would be part of the Registered Traveler Program, again, making it more effective, and leveraging existing biometric identifier technology.

So I think we can stop some of the duplication of efforts, the unnecessary screening, creating multiple credentials.

I want to thank, again, Chairman THOMPSON, Ranking Member KING and

staffs on both sides of the aisle for working with us to perfect this amendment. I believe it's a win-win for everybody.

And, again, I can't be more grateful for the cooperation in trying to get an amendment that, hopefully, will make a significant difference in our transportation security system.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, while not in opposition to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chair, I rise today in support of my colleague's amendment requiring TSA to establish expedited screening protocols for passengers with a Top Secret Security Clearance.

This amendment enhances section 234 by requiring TSA to establish special protocols for individuals in the Registered Traveler Program who possess a valid Top Secret Security Clearance issued by the Federal Government.

These individuals have access to some of the most sensitive secrets this country has. TSA should be able to figure out how to adopt a screening system to take into account that these passengers are well-known to the Federal Government, have this special status and, as added layers of security, are traveling with a biometric card that confirms their identity.

I'm pleased that Mr. MICA worked with me to fine-tune this amendment, and I urge my colleagues to adopt this amendment.

Mr. Chair, I yield back the balance of my time.

Mr. MICA. I only have a short period of time, but I would like to yield it to Mr. DENT.

Mr. DENT. Real quickly, I just want to say that individuals with Top Secret Security Clearance go through an extensive background check and investigation every 5 years and friends, family members, coworkers and even neighbors are interviewed during this process.

This amendment recognizes the expansive nature of the top secret investigation and the reduced risk individuals with these clearances pose. For these reasons, I strongly support this amendment and urge its adoption.

The CHAIR. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. MICA).

The amendment, as modified, was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. BACHUS

The Acting CHAIR (Mr. HOLDEN). It is now in order to consider amendment No. 4 printed in House Report 111-127.

Mr. BACHUS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BACHUS:

At the end of subtitle B of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 240. SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Section 44903 of title 49, United States Code (as amended by this Act), is further amended by adding at the end the following:

“(n) SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.—

“(1) IN GENERAL.—The Assistant Secretary shall develop and implement a plan to provide expedited security screening services for a member of the Armed Forces, and any accompanying family member, when the member of the Armed Forces is traveling on official orders while in uniform through a primary airport (as defined by section 47102).

“(2) PROTOCOLS.—In developing the plan, the Assistant Secretary shall consider—

“(A) leveraging existing security screening models used by airports and air carriers to reduce passenger wait times before entering a security screening checkpoint;

“(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

“(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (115 Stat. 613), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

“(3) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the appropriate committees of Congress a report on the implementation of the plan.”.

(b) EFFECTIVE DATE.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall establish the plan required by the amendment made by subsection (a).

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Alabama (Mr. BACHUS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama.

Mr. BACHUS. Mr. Chair, I think there are some issues that may divide us, but there are other issues that unite us as Members, and this is a perfect example of an amendment, I think, that brings us all together.

In fact, this amendment is cosponsored by DENNIS MOORE, my Democratic colleague from Kansas. And Homeland Security Committee Chairman BENNIE THOMPSON was very helpful in crafting this amendment. And I express my appreciation to you, also, the ranking member, PETER KING, and to the ranking member of the subcommittee, CHARLIE DENT, and also to the chairman of the subcommittee, Ms. SHEILA JACKSON-LEE. They and the Homeland Security Committee were most helpful.



Mr. Chairman, often, as we go through the airports of America, we and our constituents see our members of the military passing through those airports. Many of them are going to Iraq and Afghanistan. They're leaving their loved ones, facing sometimes an uncertain future. Others are coming in from Iraq and Afghanistan, going home to see loved ones. Sometimes they haven't seen them for over a year. They're often loaded down with heavy gear.

Now, also, at the same time, we see the registered travelers that we talked about earlier, we see United Premium members, we see Delta Platinum members and Gold Medallion members. We all see them getting priority, and that's okay. I have no problem with that.

But if there is any group of Americans who ought to get priority to go to the front of the line, not to skip security, but to go to the front of the line, it's men and women in uniform. So this amendment extends to them the same basic courtesy that we extend to over a million other Americans right now.

In fact, this is my Southwest A-list member. I, because I travel, I get to use that. United members do, Delta members do. But I want to see our military have this same privilege.

I will reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chair, while not opposed to the amendment, I ask unanimous consent to claim time in opposition.

The Acting CHAIR. Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chair, I am pleased to support the amendment offered by the gentleman from Alabama (Mr. BACHUS). It directs TSA to craft special security screening protocols for men and women of the Armed Forces.

All of us have been in airports. We've seen our men and women returning subject to all kinds of searches. It is absolutely important that we say thank you for putting themselves in harm's way. And I support 100 percent the directive requiring TSA to set up a protocol to recognize their value to the country.

I yield back the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield such time as the gentleman, the ranking member of the subcommittee, Mr. DENT from Pennsylvania, may consume.

Mr. DENT. Mr. Chairman, I strongly support this amendment by Mr. BACHUS. It's a good amendment. Expedited screening services are provided to frequent flier travelers and registered travelers at our Nation's commercial airports all the time. And yet our servicemen and women, many with metal items such as combat boots, medals and badges, often need additional

screening when they set off the magnetometer.

Our brave servicemen and women are on the front lines in the fight against terrorism. Surely some kind of expedited treatment at an airport checkpoint is the least our country can do for them.

Currently there is no formal TSA requirement or process in place to screen our servicemen and women in any expedited fashion. At some airports, Transportation Security Officers may escort members of the Armed Forces to the front of the checkpoint, but at other airports no such special treatment is given.

□ 1415

So Mr. BACHUS' amendment is an excellent one. It's just common sense that a formal checkpoint screening process should be established for servicemen and women who sacrifice so much for their country.

And finally, these men and women place themselves in harm's way to the benefit of our American way of life. The very least we can do is make the airport checkpoint experience as smooth and as pleasurable as possible.

Mr. BACHUS. Mr. Chairman, let me close by saying this.

We received a letter in the last 2 days from Major General Abner Blalock, who says this amendment will make a big difference for our military and for their families. And I hope it does. I think it's a small gesture that we can make.

I also received an e-mail from a young marine who was coming back from Iraq, and this is what he said:

As I returned from Iraq, where I had been for over a year, I had to remove my boots and my blouse—a military term for battle dress uniform—and then a hand wand was used over my entire body.

That was after he waited in line for some period of time. He said he felt humiliated.

There is a way to have proper security, and this amendment does nothing to change those requirements. But we can give those young men in uniform some expedited service, and we also ask TSA to look at when men and women are in uniform, under orders, to consider an expedited way to get them through security.

With that, Mr. Chairman, I ask all the Members to join with me in expressing our appreciation to the men and women who serve us and risk their life for us every day.

Mr. MOORE of Kansas. Mr. Chair, I rise today in support of the amendment I offered with my good friend from Alabama, Representative SPENCER BACHUS.

Like many of my colleagues, I travel home to my district almost every weekend, and am forced to spend a considerable amount of time in airports. I frequently see members of our armed forces at the airport traveling to fulfill

assignments, in full military uniform and often loaded down with gear and equipment.

The amendments Representative BACHUS and I introduced would help ease the burden on these service men and women traveling on official orders.

The Bachus/Moore amendment would direct the Transportation Security Administration (TSA) to establish a dedicated screening process at airport security checkpoints for military personnel travelling in uniform on official orders. The amendment would also enable family members to accompany the service man or woman through the expedited screening process.

While some airports and airlines have expedited screening policies in place for certain types of passengers, there is no group that deserves greater consideration than our brave men and women in uniform. Our servicemen and women, as well as their families, sacrifice so much as a part of their military service.

This amendment represents a small, simple gesture of kindness in order to make travel more convenient and efficient for our heroes.

Mr. BACHUS. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Alabama (Mr. BACHUS).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. HASTINGS OF FLORIDA

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 111-127.

Mr. HASTINGS of Florida. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. HASTINGS of Florida:

In title II, at the end of subtitle B add the following new section:

**SEC. \_\_\_\_ . REPORT ON COMPLAINTS AND CLAIMS FOR LOSS OF PROPERTY FROM PASSENGER BAGGAGE.**

Not later than six months after the date of enactment of this Act, the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives on complaints and claims received by the Administration for loss of property with respect to passenger baggage screened by the Administration, including—

(1) the number of such claims that are outstanding;

(2) the total value of property alleged in such outstanding claims to be missing;

(3) an estimate of the amount of time that will be required to resolve all such outstanding claims;

(4) the amount of Administration resources that will be devoted to resolving such outstanding claims, including the number of personnel and funding; and

(5) efforts that the Administration is making or is planning to make to address passenger grievances regarding such losses, enhance passenger property security, and provide effective oversight of baggage screeners and other Administration personnel who come in contact with passenger property.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Florida (Mr. HASTINGS) and a

Member opposed each will control 5 minutes

The Chair recognizes the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Chairman, I'm pleased to offer an amendment to the Transportation Security Administration authorization legislation requiring the TSA to report on the status of passenger property claims. Between 2003 and 2008, passengers filed almost \$3.5 million in claims for property lost after their bags were mishandled by the TSA, including jewelry, electronics, and other personal effects. This is unacceptable. The American people already deal with numerous hassles at the airports. Worrying about theft from their luggage should not be one of them.

This amendment ensures adequate oversight of the TSA's efforts to address passenger complaints and claims. This amendment requires the TSA to report on the outstanding claims, their value, and the agency's efforts to enhance our passenger property security and provide effective oversight of baggage screeners and other TSA personnel.

Mr. Chairman, the TSA does an outstanding job of protecting our Nation's airports and ensuring the safety and security of the tens of millions of passengers who access our air transportation network each year. This authorization bill—and I compliment Chairman THOMPSON and his staff, as well as the ranking member and their staff, for offering this very good bill—but it offers us an opportunity to improve the TSA's operations and ensure that all Americans can rest assured that their property is safely cared for under the control of TSA personnel.

I urge my colleagues to support this amendment.

I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I rise to claim time in opposition to the amendment, although I'm not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. DENT. Mr. Chairman, this amendment requires the TSA to report on the number of claims it receives for lost and damaged property, as well as the value of that property and an estimation on the time and resources necessary to resolve such claims.

The men and women of the TSA work hard every day to protect the property entrusted into their care. While the underlying premise is faulty, in that it assumes TSA personnel are to blame for loss or damage associated with baggage, the information gleaned from this report might prove useful in allocating additional resources to manage these claims.

The TSA has instituted a process in which a tag is placed inside every bag

they open and inspect. This includes bags that are sealed and require a forcible entry.

Unfortunately, the traveling public is sometimes quick to blame the TSA for any loss or damage associated with their luggage, as opposed to the air carriers, baggage handlers, or simple errors in bar code scanning.

This report may prove useful in identifying any possible improvements to the TSA notification and claims process.

So, as I said, I support the amendment.

At this time, I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Chairman, I'm prepared to yield back the balance of my time, and I do so.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS). The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA, AS MODIFIED

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in House Report 111-127.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I offer an amendment, and I ask unanimous consent that my amendment be modified in the form I have placed at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. LINCOLN DIAZ-BALART of Florida:

In section 237 of the bill, insert "(a) PROCESS.—" before "Section 1604(b)(2)".

In section 237 of the bill, insert at the end the following:

(b) REIMBURSEMENTS OF AIRPORTS FOR ELIGIBLE COSTS REIMBURSED AT LESS THAN 90 PERCENT.—If the Secretary or Assistant Secretary reimbursed, after August 3, 2007, an airport that incurred before August 3, 2007, an amount for eligible costs under section 44923 of title 49, United States Code, that was less than 90 percent of such costs, the Secretary or Assistant Secretary shall reimburse such airport under such section an amount equal to the difference for such eligible costs.

The Acting CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 6 offered by Mr. LINCOLN DIAZ-BALART of Florida:

The amendment as modified is as follows:

In section 237 of the bill, insert "(a) PROCESS.—" before "Section 1604(b)(2)".

In section 237 of the bill, insert at the end the following:

(b) REIMBURSEMENTS OF AIRPORTS FOR ELIGIBLE COSTS REIMBURSED AT LESS THAN 90 PERCENT.—If the Secretary or Assistant Secretary reimbursed, after August 3, 2007, an airport that incurred an amount for eligible costs under section 44923 of title 49, United States Code, that was less than 90 percent of such costs, the Secretary or Assistant Secretary shall reimburse such airport under such section an amount equal to the difference for such eligible costs.

The Acting CHAIR. Without objection, the amendment is modified.

There was no objection.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I'd like to thank the distinguished chairman of the committee for his consideration and another clear demonstration of bipartisanship on this House floor.

Mr. Chairman, I rise to offer an amendment that is a matter of simple fairness to airports that are installing congressionally mandated In-Line Explosive Detection Systems, known as EDS.

Airports that were offered TSA discretionary funding for EDS projects in 2008 were not treated equally. This was due to funding language that, in effect, pitted airports against each other, depending upon who was awarded in fiscal year 2008 or fiscal year 2007 appropriations.

In the fall of 2008, TSA had funding at its disposal from fiscal year 2007 and fiscal year 2008 to distribute EDS reimbursement funds. Some airports received Federal discretionary grants for 90 percent of the costs of installing the EDS for airport baggage systems from the fiscal year 2008 appropriations. At the same time, other airports were given grants for 75 percent of their costs from fiscal year 2007 appropriations. Both of these awards were distributed at the same time, in the fall of 2008.

Miami International Airport, which is located in the district that I am honored to represent, and several other large airports around the country fell into the 75 percent category, and these airports are now at a competitive disadvantage which increases costs to the airlines and, of course, to the flying public who ultimately pays the bills.

The TSA and the OMB made an arbitrary funding decision. They picked winners and losers based on no known criteria. This amendment simply restores fairness to TSA's discretionary funding of EDS projects and assures that these critical airport security projects can be completed in a timely basis.

Again, I'd like to thank Chairman THOMPSON and Ranking Member KING and their staffs for working with my office to perfect this amendment.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim time in opposition.

The Acting CHAIR. Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, this is a classic example of a

commonsense amendment. There is no reason why some airports should be reimbursed at 90 percent and others at 75 percent. This corrects that inequity. We support it.

I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back.

The Acting CHAIR. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

The amendment, as modified, was agreed to.

AMENDMENT NO. 7 OFFERED BY MS. CASTOR OF FLORIDA

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in House Report 111-127.

Ms. CASTOR of Florida. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. CASTOR of Florida:

In the heading to section 403 of the bill, insert before the period at the end the following (and conform the table of contents of the bill accordingly): “; **REDUNDANT BACKGROUND CHECKS**”.

At the end of section 403 of the bill, strike the closing quotation marks and the final period and insert the following:

“(r) **REDUNDANT BACKGROUND CHECKS.**—The Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check for any purpose for which a transportation security card is issued under this section. The Secretary may waive the application of this subsection with respect to a State or political subdivision thereof if the State or political subdivision demonstrates a compelling homeland security reason that a separate security background check is necessary.”.

The Acting CHAIR. Pursuant to House Resolution 474, the gentlewoman from Florida (Ms. CASTOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. CASTOR of Florida. Mr. Chairman, I'm pleased to offer an amendment that promotes economic growth and fairness.

My amendment eliminates redundant and expensive additional background checks that are making the Transportation Worker ID Card less effective and keeping qualified verified workers from jobs at our ports.

The Transportation Worker ID Card was designed to ensure that people working at our ports are not security risks. We now verify that port workers have not been involved in activities related to terrorism or other serious criminal activity.

The TWIC harmonizes port security across the Nation, so that any port authority in the country can be secure in the knowledge that job applicants have been examined by the TSA and deemed qualified and safe to access our ports.

While the Transportation Worker ID Card has standardized port security for the vast majority of States, in Florida a worker who holds that national TWIC card is still not allowed to access ports without additional background checks and additional fees under a parallel and duplicative State-run system. That's not fair.

A trucker delivering a load to a port in Georgia or South Carolina can simply present the TWIC card and make his or her delivery, as Congress intended when the TWIC program was designed. However, the same trucker in Florida will have to pay additional fees because the State refuses to recognize the TWIC as a sufficient security credential.

Florida is the only State in the country to require two security clearances to enter public seaports. These duplicative clearances not only defeat the purpose of having a Federal port security credential, but they put Florida's seaports, tenants, trucking companies and workers at a competitive disadvantage, and this is hurting Florida's economy. It's a terrible burden on business.

Now, in 2007, this Congress directed TSA to work with Florida to come to a mutually agreeable solution that would allow the TWIC to serve its purpose, but the ensuing years of negotiations led Florida to reaffirm this spring that it would not accept the national standard for port security but would continue to require expensive duplicative and unnecessary extra background checks.

□ 1430

The criminal background checks are almost identical. Both screen for crimes such as trafficking and narcotics, robbery and assault. Both agencies also have the ability to issue waivers to applicants when offenses are judged to represent no threat to port commerce or national security.

The price of the DHS TWIC port credential 5-year card is \$132.50. And if you're in Florida, you have to pay an additional \$100 to \$130 for the Florida clearance for the same 5-year period. This additional financial and bureaucratic burden on Florida port businesses and workers is unnecessary.

The amendment I'm offering will restore a reasonable, rational, and cost-efficient maritime business environment. Duplicative and unnecessary costs erode the efforts to stimulate and grow Florida's economy and decrease the effectiveness of national standards put in place by Congress through the TWIC program.

Now, for those that might be concerned, if Florida can justify additional background checks with legitimate homeland security concerns, this amendment gives them the opportunity to do so, and the parallel program could be maintained. But if the duplicative and expensive background

checks required by Florida are not making our ports safer, workers should not have to pay for them.

Mr. Chairman, I urge my colleagues to adopt the amendment.

I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. DENT. While the Transportation Worker Identification Credential, TWIC, card was intended to be the one security credential required of port workers nationwide, some State governments could not wait for the Federal Government to establish its programs, and they moved forward with their own.

Currently, as has been stated, Florida is one State requiring a separate and, some argue, duplicative security background check and card for workers entering port facilities. While it's unfortunate that Florida port employees are required to pay for background checks twice, TSA cannot share the results of its background checks with Florida.

Florida State law allows for individuals to be disqualified even if they were found qualified by the TSA due to differences in disqualifying crimes. Perhaps a better amendment would have been to allow TSA to share the results of its TWIC background checks with Florida. I would suggest that as a better amendment than the one currently before us.

As written, this amendment would preempt Florida from continuing their security background check program, a program that the Florida State Legislature strongly supports. Additionally, some workers in port facilities receive criminal background checks, drug and alcohol testing, and credit checks as part of their screening process.

Many have distinguished this type of employment screening from the security-focused screening of the TWIC program. It is unclear if DHS would see the Waterfront Commission's background check as being preempted under this amendment because it is an employment-safety criminal background check, not a security background check.

While the amendment does allow a State to demonstrate a “compelling homeland security reason” that a separate background check is warranted, this places an extraordinary burden on a State legislature. State legislatures should have the right to determine what offenses qualify as disqualifying offenses in their ports, and this amendment would preempt that.

I reserve the balance of my time.

Ms. CASTOR of Florida. Mr. Chairman, I'd like to thank the chair of the committee, Mr. THOMPSON from Mississippi, for his leadership on this issue

and the professional Homeland Security staff who are the committee supportive of the amendment.

I'd also submit, for the RECORD, letters of support from the Transportation Trades Department, the Florida Ports Council, Port Everglades, Port Manatee, Port of Miami, the Tampa Port Authority, and the Passenger Vessel Association.

I urge my colleagues to support the amendment and come down on the side of economic growth in a time of economic disaster; to come down on the side of the hardworking folks at our ports, to say that it's not fair in America that just because you live in one State, that you're going to be subjected to additional bureaucratic barriers to get to your job. I urge approval of the amendment.

TRANSPORTATION TRADES  
DEPARTMENT, AFL-CIO,  
Washington, DC, June 4, 2009.

SUPPORT THE TSA AUTHORIZATION ACT AND  
THE CASTOR AMENDMENT

DEAR REPRESENTATIVE: On behalf of the Transportation Trades Department, AFL-CIO (TTD), I urge you to support the Transportation Security Administration Authorization Act (H.R. 2200) which will make significant improvements to the security of our transportation network. I also urge you to vote for an amendment offered by Representative Castor which seeks to eliminate duplicative security credentials.

As we approach the 8th anniversary of the September 11, 2001 attacks on our country, we are reminded that much work remains to better secure our entire transportation system and to ensure that front-line workers are well-positioned to help address our security vulnerabilities. Toward this end, we applaud Chairman Bennie Thompson and the members of the Homeland Security Committee for reporting out legislation that will impose new security requirements and move to ensure that rules already on the books are quickly implemented.

Specifically, we support the provision in the bill that will finally ensure that flight attendants receive the uniform and mandatory security training they need to respond to threats in the aircraft cabin. Despite claims by some in industry, the costs of this program are minimal—it would add five hours of training to pre-existing safety training and would only occur every other year. This provision is a significant compromise from the original multi-day proposal and we simply do not see how industry can responsibly oppose it. The concept that workers themselves should have to pay for this mandatory training is ludicrous and we thank the Committee for rejecting this concept.

We also support the expanded training and support for the Federal Flight Deck Officer (FFDO) program. The bill provides that Federal Air Marshal Service field office facilities can be used for the FFDO activities. The section also allows for reimbursement of costs incurred by flight deck officers during requalification for this program, which is required to work as a flight deck officer. The bill also provides additional training for cargo pilots. For years, security regulations pertaining to cargo operations have been inadequate and this mandate will take an important step to address this problem.

Section 206 mandates the issuance of security standards for foreign and domestic air-

craft repair stations performing maintenance work on U.S. aircraft. The provision also mandates that security standards at foreign stations working on U.S. aircraft are comparable to the security standards for maintenance work done in this country. These regulations were originally mandated by Congress in 2003 and were supposed to be finalized in August 2004. With over 70 percent of maintenance work now outsourced to domestic and foreign stations, security rules and the required inspections must be immediately implemented.

The TSA Authorization makes several urgently needed improvements to the Transportation Worker Identification Credential (TWIC) program. Section 403 requires the Coast Guard to coordinate with owners and operators of port facilities and vessels to allow TWIC applicants to be escorted on port facilities by a TWIC holder. This will provide relief to workers who have waited up to several months in some cases to receive their credential. Many now are suffering severe financial harm because, through no fault of their own, they cannot access their job sites. This section also reiterates the need for TSA to process applications in a timely manner by instructing TSA to respond to applicants within 30 days after receiving a completed application and creating a 30-day timeline for the review of requests for appeals and waivers. Additionally, this provision addresses serious deficiencies in the TWIC distribution process by allowing credentials to be sent to a card holder's home and subsequently activated at a TWIC enrollment center. These changes are absolutely essential to the creation of a functional and trustworthy TWIC program that improves our nation's maritime and port security.

Rep. Castor's amendment would prohibit a state or local government from imposing a separate, additional security check for a purpose for which a federal transportation security card has already been issued. Workers, for example, who have already applied for and received a TWIC should not be subject to additional and duplicate security checks for entering a port or a maritime vessel. The purpose of the TWIC and other federal security checks was to create a uniform credential that minimizes costs and creates one level of security. To allow states to impose their own security checks without any limitation would defeat one of the main goals of the TWIC and make it hard for workers and cargo to move from state to state. This is a modest prohibition and can be waived by DHS if a state can demonstrate compelling homeland security reason for imposing additional security checks.

Again, I urge you to vote for H.R. 2200 and for the Castor amendment.

Sincerely,

EDWARD WYTKIND,  
President.

FLORIDA PORTS COUNCIL,  
Tallahassee, FL, June 4, 2009.

Hon. KATHY CASTOR,  
U.S. Congresswoman—11th District,  
Cannon HOB, Washington, DC.

DEAR CONGRESSWOMAN CASTOR: On behalf of Florida's fourteen deepwater seaports, I write to express our support for your amendment to H.R. 2200 concerning redundant criminal history checks.

As you know, Florida's seaports help to foster growth in trade and tourism. Our ports generate more than 350,550 jobs with an average wage of more than \$48,000 per year—well above the Florida average wage of approximately \$34,000. In addition, goods and

services that move through Florida seaports generates more than \$1.3 billion in state and local revenues. Thus, we are concerned with any unnecessary or redundant costs that impact our ability to stimulate and grow Florida's economy.

Florida has been a leader on seaport security since 2000. Florida's seaports have invested millions in infrastructure and security forces to ensure that our seaports are safe, and that passengers and cargo are protected. However, the State of Florida also has been slow to change unnecessary and duplicative seaport security requirements in light of the significant changes made by the federal government since 9/11. The Florida criminal history background check is a product of out-of-date analysis and requirements.

We believe that the threat assessment conducted by the Transportation Security Administration (TSA) under the Transportation Workers Identification Credential (TWIC) provides a significant level of protection for the country—including Floridians and visitors to Florida. This TSA threat assessment, coupled with the significant investment by Florida's seaports in infrastructure and operational security provides a level of safety and security in Florida second to none.

The redundant criminal history background check has been the law in Florida for over nine (9) years, and has become unnecessary and redundant now that the federal TSA threat assessment is in place and operational. We do not believe that an additional criminal history check provides any additional safety in Florida. However, if the FDLE can provide some compelling reason to continue requiring a second check, your amendment does allow the State of Florida to request a waiver and continue requiring a second check.

Again, thank you for your leadership on this issue, and for offering this business-friendly amendment. We appreciate your efforts to ensure that Florida's seaport have to ability to stimulate and grow Florida's economy.

Respectfully yours,  
MICHAEL L. RUBIN,  
Vice President.

BROWARD COUNTY FLORIDA,  
PORT EVERGLADES,  
Fort Lauderdale, FL, June 4, 2009.

DEAR MR. PHILLIPS: On our behalf, please sincerely thank Congresswoman Castor for her amendment to prohibit redundant background checks for any purpose for which a transportation security card (TWIC) is issued.

Port Everglades and all of Florida's seaports have invested millions in infrastructure and security forces to ensure that our seaports are safe, and that passengers and cargo are protected. We believe that the threat assessment conducted by the TSA under the TWIC program provides a significant level of protections for the country—including Floridians and visitors to Florida. This TSA threat assessment, coupled with the investment by Florida's seaports in infrastructure and operations security provides a level of security in Florida second to none.

The redundant background check in Florida has been in Florida law for over nine (9) years. It has become unnecessary now that the federal TWIC process is in place. We do not believe that this redundant check provides for any additional security. However, if the FDLE can provide some compelling reason to continue requiring a second check of

port workers, then Congresswoman Castor's amendment does allow the State of Florida to request a waiver and continue requiring a second check.

This issue is eroding efforts to stimulate and grow Florida's economy as the duplicative and unnecessary costs affect the competitive balance between Florida and other Southeastern ports as the additional cost to Florida port employers and port workers is significant. We appreciate Congresswoman Castor's attention to this issue and her business-friendly amendment.

Sincerely,

PHILLIP C. ALLEN,  
Port Director.

Hon. KATHY CASTOR,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSWOMAN CASTOR: I'm writing to make you aware of Port Manatee's support of your amendment to H.R. 2200, which prohibits states from requiring separate security background checks for access to the nation's seaports.

This important legislation eliminates a competitive disadvantage suffered by all Florida ports when competing for business with ports from other states. The Sunshine State is the only state in the Union requiring both federal and state background checks for Transportation Worker Identification Credentials and Florida port access identification cards.

Please contact me directly if I may be of further assistance regarding this matter and thank you for your continued leadership with regard to Florida's seaport system and in particular, all that you do to make Port Manatee successful.

Respectfully,

DAVID L. McDONALD,  
Executive Director,  
Port Manatee.

DEAR CONGRESSWOMAN CASTOR: Thank you for your sponsorship of the amendment to H.R. 2200 which prohibits states from requiring separate security background checks for access to seaports. Florida's duplicative system places the state at a competitive disadvantage by increasing the cost of doing business at our public seaports.

Thank you for your leadership on this important issue for the Port of Miami.

Regards,

ADDYS KURYLA,  
Manager, Intergovernmental Affairs,  
Port of Miami.

TAMPA PORT AUTHORITY,  
Tampa, FL, June 4, 2009.

Re: Amendment to H.R. 2200—Redundant Background Checks

Hon. KATHY CASTOR,  
Cannon House Office Building,  
Washington, DC.

DEAR REPRESENTATIVE CASTOR: The Tampa Port Authority supports the amendment to H.R. 2200 that you have offered to prohibit a State or political subdivision thereof from requiring a separate security background check for any purpose for which a Transportation Workers Identification Credential (TWIC) card is issued under section 403 of the bill. Only one security background check and one transportation security card should be required for entry into Florida ports. Redundant security background and transportation security cards do not enhance security at Florida ports and may place Florida ports at a competitive economic disadvantage with other deepwater ports across the United

States. Consequently, we support the proposed legislation.

Sincerely,

RICHARD A. WAINIO,  
Port Director and CEO.

PASSENGER VESSEL ASSOCIATION,  
Alexandria, VA, May 29, 2009.

Hon. KATHY CASTOR,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSWOMAN CASTOR: The Passenger Vessel Association (PVA)—the national trade association for owners and operators of U.S.-flagged passenger vessel operators of all types—commends you for your intended amendment to the TSA authorization legislation (H.R. 2200) to prohibit a state from requiring security background checks for maritime workers that duplicate those already performed by the federal government.

PVA has numerous members throughout Florida and in the Tampa area whose crew members have to obtain the expensive federal Transportation Worker Identification Credentials (TWIC). A prerequisite for obtaining a TWIC is a successful background check of an individual's criminal record and status on the terrorist watch list.

Requiring a TWIC for certain individuals that work on a dinner cruise, harbor excursion, or sightseeing vessel is burdensome and expensive enough. However, PVA's Florida operators have also had to contend with the duplicative state-mandated FUPAC credential. What additional value does this state requirement provide?

On behalf of our Florida members, including former PVA President Troy Manthey of Yacht Starship Dining Cruises of Tampa, thank you for your advocacy of your amendment. Please let us know how we can assist it in its passage.

Sincerely,

EDMUND B. WELCH,  
Legislative Director.

I yield back the balance of my time.  
Mr. DENT. Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I do rise in opposition to the amendment, the way it is crafted. I thank the gentlelady from Florida. My colleague has very good intentions, but let's look at the results here.

First of all, this isn't going to eliminate the duplication that was referred to. Florida can still issue an identity card, its own identity card. And it would be better to have just one identity card, but they can still issue one identity card.

What this amendment does is it says that the State is prohibited from conducting a separate background check. So what this becomes is a protection and cover for basically thugs and criminals who are at our ports. You cannot do a criminal background check. This actually prohibits that. That's why I'm opposed to it.

The reason we're concerned in Florida about having criminal background checks—this is the Camber Report. I was in Congress when this was conducted in 2000. One of our ports had over 60 percent of those working at the port with criminal backgrounds.

Here's part of the security assessment. I will name this port; Jacksonville. It has a large physical layout of its facilities, three noncontiguous terminals. The port represents a lucrative target to would-be smugglers and terrorists.

So this amendment, by the way it is crafted—and it should be revised—would prohibit Florida from, even if they want to, and still can with this amendment, they can issue their own card, but they can't conduct a criminal background check. That's wrong. That's wrong.

We can't provide cover for thugs and criminals. And you hear from this report that it does pose both a criminal and terrorist threat, and that needs to be addressed.

This amendment, the way it's crafted, does not do that.

Mr. DENT. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Florida (Ms. CASTOR).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. FLAKE

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in House Report 111-127.

Mr. FLAKE. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. FLAKE:

In the proposed section 44947 of title 49, United States Code, as proposed to be inserted by section 210 of the bill, add at the end of subsection (a) the following new paragraph:

“(5) PRESUMPTION OF CONGRESS RELATING TO COMPETITIVE PROCEDURES.—

“(A) PRESUMPTION.—It is the presumption of Congress that grants awarded under this section will be awarded using competitive procedures based on risk.

“(B) REPORT TO CONGRESS.—If grants are awarded under this section using procedures other than competitive procedures, the Assistant Secretary shall submit to Congress a report explaining why competitive procedures were not used.”

In subsection (c) of such proposed section 44947, add at the end the following new sentence: “None of the funds appropriated pursuant to this subsection may be used for a congressional earmark as defined in clause 9d, of Rule XXI of the rules of the House of Representatives of the 111th Congress.”

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, let me say from the outset, this is, I believe, a bipartisan amendment. A similar amendment has been adopted in previous authorizations. So I'm pleased to offer it.

H.R. 2200, as we know, establishes a new grant program that would provide grants to operators of general aviation airports for projects to enhance perimeter security, airfield security, and terminal security. Notably absent from the language, however, is the determination of how this grant money is to be spent.

Too often we have seen legitimate grant programs become vehicles for Member projects. Members will simply earmark these funds for projects back home. A great example of this is FEMA's Pre-Disaster Mitigation grant program. Originally, this program was intended to "save lives and reduce property damage" by providing funds "for hazard mitigation planning, acquisition, and relocation of structures out of the floodplain."

Rather than continuing to award grants that have traditionally been awarded on the basis of merit, using a 70-page guidance document that details requirements and criteria, Congress decided in 2007 to earmark about half of that funding.

That same grant program was earmarked in last year's Homeland Security appropriations bill. I have little doubt that it will be earmarked again this year as well, because once earmarks start to flow, you can rarely cut them off. And so you have legitimate grant programs with a legitimate purpose. You have applicants waiting to apply, only to find that the money in the account has been drained by Member earmarks.

Let me just say another example of this is the COPS grant program. It was slated to cost \$5.5 billion over the past 5 years. These are some of the most heavily earmarked programs that the Congress authorizes.

Specifically, the COPS Law Enforcement and Technology grant program appropriated about \$187 million in fiscal year 2009. That accounted for more than 500 earmarks, included in both the House and the Senate, at the cost of more than \$185 million. This means that nearly 100 percent of the funds for that particular COPS program were earmarked for particular towns and cities.

I'm mentioning this because that's an example of other areas where, in some cases like the Homeland Security program, we said many times we will not earmark these dollars, and yet unless we have a specific prohibition or language prohibiting it, it happens. And so these accounts go wanting later.

I'm offering this amendment obviously to prevent the wasteful use of taxpayer dollars. If we're going to authorize grant programs to meet specific needs, we need to ensure that these are met in a straightforward manner.

This amendment is simple. It would establish the presumption that the general aviation security grants will be

awarded using competitive means and based on risk. Should the TSA decide to use an alternative means of awarding these grants, the amendment requires that the TSA provide to Congress a report explaining that decision.

Lastly, the amendment would prohibit this grant program from ever being earmarked. If Congress is serious about enhancing security at general aviation airports, including this kind of instructive language is necessary. History shows that without it, these programs, these accounts will become earmarked and it will nullify any legitimate need for the program to begin with, and I urge support for this bipartisan amendment.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIR. Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chair, I'm pleased to support this amendment which reaffirms that grants awarded to general aviation airports under this bill are done so through a competitive process.

Mr. FLAKE's amendment, based on the competition and the risk, is the right thing to do. I support the amendment.

I yield back the balance of my time.

Mr. FLAKE. I thank the gentleman. I also want to thank the chairman for working with my staff to insert language to make sure that these programs, the awarding of these programs will be based on risk. That was a great addition to this amendment.

I appreciate being able to work with the chairman of the committee on this.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. LYNCH

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in House Report 111-127.

Mr. LYNCH. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. LYNCH:

In section 239 of the bill, strike subsections (a) and insert the following:

(a) USE OF PERSONAL PROTECTIVE EQUIPMENT.—

(1) IN GENERAL.—Any personnel of the Transportation Security Administration voluntarily may wear personal protective equipment during any emergency.

(2) WRITTEN GUIDANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish, coordinate, and disseminate written guidance to personnel of the Transportation

Security Administration to allow for the voluntary usage of personal protective equipment.

(3) DEFINITION.—In this subsection, the term "personal protective equipment" includes surgical and N95 masks, gloves, and hand sanitizer.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Massachusetts (Mr. LYNCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. LYNCH. Mr. Chairman, I want to thank Mr. THOMPSON, the chair of the Homeland Security Committee, for his great work on this bill. Specifically, this amendment that I have offered would address a difficult situation that is faced by our transit security officers, especially those on the Mexican border, but in every port of entry in the United States.

We have about 50,000 of these officers that actually come in contact, physically wanding and screening travelers. As you may remember, after the outbreak of the H1N1 virus, the epicenter was actually in Mexico City; yet the officers that we put on the border, especially Laredo, Texas, and other affected States, were not allowed—they were not allowed to wear masks, to wear gloves, or to use hand sanitizer as they proceeded to screen travelers coming through from Mexico.

A bizarre situation developed where our officers actually were able to look across at the Mexican security officers who all had masks on, they all had gloves on, yet our own TSA did not allow our workers to wear masks or gloves.

In fact, when our officers actually took the initiative to protect themselves, they were told by their superiors, Take off those gloves. Take off those masks. You're alarming the traveling public.

□ 1445

Many of these officers actually screen up to 2,000-3,000 visitors, travelers, per shift. So, to a high degree, they were actually exposed to people who were exhibiting influenza. There are a couple of stark instances we received on the committee, affidavits from officers who actually confronted travelers who were visibly sick. Yet they were told, even in those instances, they were not allowed to wear gloves and masks. So what this amendment would do would be to direct the Transportation Security Administration to basically issue guidance that would allow these workers to protect themselves.

I reserve the balance of my time.

Mr. CHAFFETZ. Mr. Chairman, I rise to claim time in opposition to the amendment, although I am not opposed.

The Acting CHAIR. Without objection, the gentleman from Utah is recognized for 5 minutes.



There was no objection.

Mr. CHAFFETZ. Mr. Chairman, I thank Chairman LYNCH for his great work in identifying this as a challenge.

We have so many great men and women who serve at the TSA on the front lines. They are dealing with literally tens of thousands of people at a time, some of whom inevitably are going to be sick. It seems reasonable to me that we should put first and foremost the protection and the safety and the consideration of those TSA employees so that, if they choose to don a mask or to put on gloves to protect themselves and consequently to protect their loved ones and their livelihoods, we should afford them that opportunity.

We saw in the committee hearing that there was a great deal of confusion with the TSA. This amendment, which I appreciate that Mr. LYNCH has brought forward, helps clarify that so there is no ambiguity and so we can make sure that the TSA employees can have the safety and security that they deserve.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. LYNCH. Mr. Chairman, I just want to point out the odd situation we have here. We have the World Health Organization that has actually brought us up to a level 5. They are now considering going to a level 6 on this influenza. Yet you have the Transportation Security Administration and DHS saying they did not think it was medically necessary for our folks to wear these. You have the Centers for Disease Control here in the United States, in Atlanta, alerting Americans just generally to cover their mouths, to avoid unnecessary travel to Mexico, to take prudent steps to protect themselves. Yet we have these officers on the border who are screening 3,000 people per day, and they aren't allowing these individuals to wear masks.

I think it points out a terrible incongruity in our policy. We've been trying to get them to change that policy. They would not do it voluntarily, so we have been put in a position where we have to do this legislatively.

Mr. Chairman, may I ask how much time I have remaining.

The Acting CHAIR. The gentleman from Massachusetts has 1½ minutes remaining, and the gentleman from Utah has 4 minutes remaining.

Mr. LYNCH. I will reserve my time at this point.

Mr. CHAFFETZ. Mr. Chairman, I would like to yield as much time as he may consume to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I stand in support of the gentleman's amendment. I think it's a commonsense amendment on government oversight. We saw how there was an inconsistency with the stated purpose of protecting not only the public in general but also

our employees. We also saw that there was a degree of, let's just say, insensitivity to the fact of allowing individuals the decency to be able to protect their own health.

Let me just say this to the author: I think that this issue also kind of addresses a problem that we didn't talk about in our committee, which is the public relations concern that has sort of trumped good common sense and public health, and I think that we should make this clear with your amendment:

Now you have got a supervisor who may be concerned with, if somebody wears a mask, I might get a complaint, and I don't want to put up with that kind of heat. With your amendment, the supervisor may say: If I get a complaint, I have the ability to point to a congressional directive here, and I have the reason as to why I can protect myself—by allowing the employee to make this call himself on behalf of his own public health.

I say this, Mr. Chairman, as a former public employee: It serves not only the public health of the employee, but it also serves the administrative structure because it eliminates and basically reduces the degree of threat they have of being attacked for allowing the employee to have that. I think the heat should stop here. I think the buck stops here. I think we set the example.

I appreciate the gentleman for proposing this amendment. I would like to point out that this is the kind of bipartisan cooperation we have in government oversight, and I am very proud of it. I am very proud to support your amendment, Mr. Chairman.

Mr. CHAFFETZ. Mr. Chairman, I urge passage, and I yield back the balance of my time.

Mr. LYNCH. Mr. Chairman, I just want to point out something that the gentleman from California (Mr. BILBRAY) just raised.

On several occasions, there have been justifications for not allowing people to wear masks and for not allowing these screeners to protect themselves on the border. The justification seems to be that the airlines and transportation officials don't want to alarm the public. I just want to point out that, when you travel around the globe, these are not large, evil-looking devices. These are very simple dust masks that can be used, and they look fairly common. You see them a lot overseas. It's quite a common thing. As they become more widely used, it will sort of, I think, become commonplace, and it will not bring alarm.

The last point I want to make is this: these employees don't have the right to collectively bargain. They don't have the right to send in a representative to file a grievance when they're told to take off their masks or gloves or when they refuse to allow them to use Purell or anything to protect themselves. If

these folks had had a collective bargaining representative, they wouldn't have had to come to me. I feel like I'm the business manager for the Transportation employees. While I'm honored to have that responsibility, I think it would be much better handled if they had the right to collectively bargain and if they had the right to have their own employee representatives intervene on their behalf when their own personal safety and the safety of their families are threatened.

Mr. Chairman, I yield back the balance of our time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. LYNCH).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. CHAFFETZ

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in House Report 111-127.

Mr. CHAFFETZ. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. CHAFFETZ:

In title II, at the end of subtitle A add the following new section:

**SEC. \_\_\_\_ LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR AIRCRAFT PASSENGER SCREENING.**

Section 44901 of title 49, United States Code, is amended by adding at the end the following:

“(1) LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that whole-body imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

“(2) PROHIBITION ON USE FOR ROUTINE SCREENING.—Whole-body imaging technology may not be used as the sole or primary method of screening a passenger under this section. Whole-body imaging technology may not be used to screen a passenger under this section unless another method of screening, such as metal detection, demonstrates cause for preventing such passenger from boarding an aircraft.

“(3) PROVISION OF INFORMATION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be provided information on the operation of such technology, on the image generated by such technology, on privacy policies relating to such technology, and on the right to request a pat-down search under paragraph (4) prior to the utilization of such technology with respect to such passenger.

“(4) PAT-DOWN SEARCH OPTION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be offered a pat-down search in lieu of such screening.

“(5) PROHIBITION ON USE OF IMAGES.—An image of a passenger generated by whole-body imaging technology may not be stored, transferred, shared, or copied in any form after the boarding determination with respect to such passenger is made.



“(6) REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Assistant Secretary shall submit to Congress a report containing information on the implementation of this subsection, on the number of passengers for whom screening by whole-body imaging technology was permissible under paragraph (2) as a percentage of all screened passengers, on the number of passengers who chose a pat-down search when presented the offer under paragraph (4) as a percentage of all passengers presented such offer, on privacy protection measures taken with respect to whole-body imaging technology, on privacy violations that occurred with respect to such technology, and on the effectiveness of such technology.

“(7) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) PAT-DOWN SEARCH.—The term ‘pat-down search’ means a physical inspection of the body of an aircraft passenger conducted in accordance with the Transportation Security Administration’s standard operating procedure as described in the Transportation Security Administration’s official training manual.

“(B) WHOLE-BODY IMAGING TECHNOLOGY.—The term ‘whole-body imaging technology’ means a device, including a device using backscatter x-rays or millimeter waves, used to detect objects carried on individuals and that creates a visual image of the individual’s full body, showing the surface of the skin and revealing objects that are on the body.”

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Utah (Mr. CHAFFETZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah.

Mr. CHAFFETZ. Mr. Chairman, I would like to recognize for 2 minutes the gentlewoman from New Hampshire (Ms. SHEA-PORTER).

Ms. SHEA-PORTER. Mr. Chair, I would like to thank Chairman THOMPSON and his staff for their hard work on this very important bill. I would also like to thank my colleague Mr. CHAFFETZ. We share a deep concern and respect for the privacy of individuals.

When this full-body imaging technology was first introduced, the TSA said that it would only be used as a secondary screening method for those people who set off the metal detectors. Now it has become very clear that the TSA intends for this technology to replace metal detectors at airports all over the country. The New York Times reported as much in an April 7, 2009, article.

The Chaffetz/Shea-Porter amendment would ensure that full-body imaging remains a secondary screening method. It would also ensure that the people who do go through it are well informed and are given the option of a pat-down.

Mr. Chair, we do not take this amendment lightly. As a member of the Armed Services Committee, I am very aware of the security threats that are facing our country. We, too, want to ensure that the Department of Homeland Security and the TSA have

the tools they need to prevent future terrorist attacks. However, the steps that we take to ensure our safety should not be so intrusive that they infringe upon the very freedom that we aim to protect.

Two weeks ago, I went to Washington National Airport to view one of these machines. I saw how the technology is being used. I saw the pictures it produces and the inadequate procedures TSA has put into place to protect our privacy. The images are incredibly revealing as I will show you here. This is a gross violation of a person’s right to privacy. It is also illogical because, if we allow this intrusion into our lives, then there should be this same scan at every single train station, at every building that we enter and on every single bus that we board.

So I ask that my fellow Members join me in voting for this resolution and for this amendment.

Mr. DENT. Mr. Chairman, I rise to claim time, reluctantly, in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. DENT. Just yesterday, I visited Reagan National Airport and took a look at the whole-body imaging machines over there, and I just have to say a couple of things about this.

I was impressed by the technology. It seems that we have a great deal of satisfaction from passengers who utilize that type of screening. There are limitations to the magnetometer. A magnetometer can pick up metallic items, like keys, but other prohibited items, like liquids and C4 for potential explosives, will be detected under the whole-body imaging technology but not under a magnetometer. So I do believe that this technology is valid.

As for the privacy concerns that have been raised, while I understand them, I think they have been overstated. There are strong, strong restrictions in place to make sure that those individuals, the transportation security officers who actually help the passengers go through the whole-body imaging scanning, are not in contact with the person who is actually viewing the image. Those people are in a separate room, so they’re separated. The face of the individual is also blurred, so that’s another protection.

So I do think that this technology is very valuable. It will help make us safer. Again, I think it is a step in the right direction. So I would reluctantly oppose the amendment. I understand the concerns expressed, but nevertheless, I feel that this technology is valuable and that it enhances security.

At this time, I would like to yield as much time as he may consume to the gentleman from California (Mr. DANIEL E. LUNGREN), who previously served as the ranking member on the Transportation Security and Infrastructure Protection Subcommittee.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding. I rise in opposition to this amendment.

I happen to be one of those people who happens to have an artificial hip. Every time I go through, I set off the screener. Every time I go through, I get hand-patted down, and even though they do it in a very nice way, frankly, that’s far more intrusive than going out to the Reagan National Airport and going through that particular system that we’re talking about with those pictures.

We have been working for many years since 9/11 to try and come up with devices which will allow us to be able to detect those kinds of things that, if brought on airliners, would be a threat to all passengers. The whole-body imaging technology, which this amendment seeks to stop in terms of its application as a primary means of screening, can detect many things such as small IEDs, plastic explosives, ceramic knives, and other objects that traditional metal detection cannot detect. Let me underscore that: this device that this amendment seeks to take off the table as a primary means of screening can detect small IEDs, plastic explosives, ceramic knives, and other objects that traditional metal detection cannot detect. That ought to be enough for us to understand this.

If you look at the privacy questions, let’s be clear: the person who actually is there, the employee of TSA who is there when you go through this machine, is not the one who reads the picture. That person, he or she, is in another room—isolated. They never see you. They actually talk to one another by way of radio. So this idea that somebody is sitting in this little room, waiting to see what you look like, frankly, is sort of overblown.

All I can say is this: I have been through many, many pat-downs because I happen to have an artificial hip. Going through this at Reagan National Airport was so much quicker and so less intrusive of my privacy than what we go through now. For us to sit here now and to pass an amendment which is going to stop this development and application, frankly, I think, is misguided.

With all due respect to the gentleman from Utah, who I know is sincere about that, and to the gentlewoman, who is also sincere, I would ask you to rethink this. From my experience, this is far more protective of my privacy than what I have to go through every time I go to the airport, number one; but more importantly, it protects me and every other passenger to a greater extent than any other procedure we have now. We aren’t doing this because we want to do it. We’re doing it because we have people around the world who want to kill us, who want to destroy our way of life, and

they have utilized commercial airliners for that purpose in the greatest attack in our Nation's history since Pearl Harbor.

□ 1500

This is a device which helps us take advantage of our technological know-how to gain an advance on the enemy. I would hope we would not do this by way of this amendment.

Mr. CHAFFETZ. Mr. Chairman, I would like to yield myself as much time as I need.

Whole-body imaging does exactly what it's going to do. It takes a 360-degree image of your body. Now, I want to have as much safety and security on the airplanes I'm flying every week, but there comes a point in which in the name and safety and security we overstep that line and we have an invasion of privacy. This happens to be one of those invasions of privacy.

Now I understand why the gentleman from California expressed his concern. Let me be clear that this amendment on whole-body imaging only limits primary screening. It can be used for secondary screening. You may get people with artificial hips or knees or something else, and they may elect this kind of screening. It's perfect for them.

But to suggest that every single American—that my wife, my 8-year-old daughter—needs to be subjected to this, I think, is just absolutely wrong. Now, the technology will actually blur out your face. The reason it does this is because there is such great specificity on their face, that they have to do that for some privacy. But down in other, more limited parts you could see specifics with a degree of certainty that, according to the TSA as quoted in USA Today, "You could actually see the sweat on somebody's back." They can tell the difference between a dime and a nickel. If they can do that, they can see things that, quite frankly, I don't think they should be looking at in order to secure a plane. You don't need to look at my wife and 8-year-old daughter naked in order to secure that airplane.

Some people say there is radio communication. There is distance. Well, it's just as easy to say there is a celebrity or some Member of Congress or some weird-looking person. There is communication.

You say you can't record the devices. Many of us have mobile phones or have these little cameras. There is nothing in this technology that would prohibit the recording of these. With 45,000 good, hardworking TSA employees, 450 airports, some two million air traffic travelers a day, there is inevitably going to be a breach of security. And I want our planes to be as safe and secure as we can, but at the same time, we cannot overstep that bound and have this invasion of privacy.

I urge my colleagues to vote in support of this amendment.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Utah (Mr. CHAFFETZ).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CHAFFETZ. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Utah will be postponed.

AMENDMENT NO. 11 OFFERED BY MS. BORDALLO

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in House Report 111-127.

Ms. BORDALLO. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Ms. BORDALLO:

At the end of subtitle B of title II of the bill, insert the following (with the correct sequential provision designations and conform the table of contents accordingly):

**SEC. \_\_\_\_\_. REPORT ON CERTAIN SECURITY PLAN.**

Not later than 90 days after the date of enactment of this Act, the Assistant Secretary shall submit a report to the appropriate committees of Congress that—

(1) reviews whether the most recent security plans developed by the commercial aviation airports in the United States territories meet the security concerns described in guidelines and other official documents issued by the Transportation Security Administration pertaining to parts 1544 and 1546 of title 49, Code of Federal Regulations, particularly with regard to the commingling of passengers;

(2) makes recommendations regarding best practices supported by the Transportation Security Administration and any adequate alternatives that address the problems or benefits of commingling passengers at such airports to satisfy the concerns described in paragraph (1);

(3) reviews the potential costs of implementing the preferred and alternative methods to address the Administration concerns regarding parts 1544 and 1546 of title 49, Code of Federal Regulations, particularly in regards to the commingling of passengers at the airport; and

(4) identifies funding sources, including grant programs, to implement improved security methods at such airports.

The Acting CHAIR. Pursuant to House Resolution 474, the gentlewoman from Guam (Ms. BORDALLO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Guam.

Ms. BORDALLO. First I want to thank Congressman BENNIE THOMPSON of Mississippi and Congresswoman SHEILA JACKSON-LEE of Texas for their support of this amendment.

Mr. Chairman, my amendment is very simple and straightforward. It would require the assistant secretary of TSA to conduct a study and to make recommendations on specific methods

by which airports in the U.S. territories, including the Guam International Airport in my district, can best and most cost-effectively comply with existing security regulations. Specifically, it asks TSA to review compliance with parts 1544 and 1546 of title 49 of the Code of Federal Regulations relating to the issue of commingling of passengers at U.S. airports. The report would evaluate alternatives and identify the costs for their implementation.

Additionally, TSA is to identify sources of Federal and non-Federal financing to implement the preferred alternative at each of these airports. Guam is a small hub, Mr. Chairman, for a domestic airline. Our airport on Guam facilitates the daily transiting of international passengers to destinations in the United States, other Pacific islands, and major cities in the Pacific Rim, including Japan, Korea, the Philippines, Taiwan, and Australia.

The current security arrangement at the airport on Guam requires significant resources to be expended in constant around-the-clock monitoring by security personnel to prevent the commingling of transiting and departing passengers. The security enhancements made subsequent to the terrorist attacks of September 11, 2001—particularly with respect to preventing the commingling of passengers at our airports all across the country—have been costly, and in some cases, difficult to fully implement. Moreover, the current decrease in tourist arrivals and departures due to the economic downturn further erodes the financial capability of small airports to implement such improvements.

The Guam International Airport Authority has been operating under a waiver from the Transportation Security Administration for several years. Both the TSA and the Guam International Airport Authority agree that the temporary solution, which amounts to placement of removable partitions and use of security staff to prevent commingling of passengers in their movements throughout the terminal, is not feasible for the long term. However, the cost of implementing security arrangements and improvements at the Guam airport to ensure compliance is costly, and since other security enhancements and expansion of the airport, have completely obligated the passenger facility charge.

The amendment before us, Mr. Chairman, simply looks to provide options for solving this problem on Guam and potentially other airports in the U.S. territories as well. More importantly, it would provide guidance for funding implementation of these security improvements.

And again, Mr. Chairman, I want to thank the chairman and his committee staff for their work with me and my staff on this amendment.

And for the record, I urge passage of the next amendment, No. 12, sponsored

by Congresswoman JACKSON-LEE and Congressman HASTINGS.

I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I rise to claim the time in opposition to the amendment, although I have no real objections to the amendment.

The Acting CHAIR. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. DENT. First, I would like to say I support the amendment. Guam International Airport does not segregate passengers traveling internationally from those passengers traveling domestically. There is no physical separation by either a separate floor or by a solid wall. Prior to 9/11, the commingling of domestic and international travelers was not a concern. Guam International is concerned about the security implications of the current system and is looking for a long-term solution to prevent the commingling of domestic and international passengers.

This amendment would simply require that the TSA review the current procedures in place at the airports of the U.S. territories and make recommendations to the airports on how best to address the commingling of passengers. I have no objections. I support the amendment.

I would yield, at this time, to Ms. JACKSON-LEE.

Ms. JACKSON-LEE of Texas. I thank the ranking member very much for yielding. And I would like to applaud the gentlelady from Guam for this very thoughtful amendment.

Mr. Chairman, if we are going to have homeland security, we must have expanded homeland security, and that includes our territories. This amendment directs TSA to identify in its report funding sources to recover the costs of any long-term security improvements that will be needed at these airports in the territories.

I believe this is crucial. This is a seamless and important part of homeland security, and I would ask my colleagues to support it, which includes U.S. territories, especially the Guam International Airport, which is subject to significant fluctuations in passenger volumes because of the tourism market.

This is a good amendment, and I ask my colleagues to support it.

Mr. FALOMAVEGA. Mr. Chair, I rise in strong support of the Bordallo Amendment (#25) that would direct the Secretary of Homeland Security to report to Congress on a review to be conducted by the Transportation Security Administration (TSA) for preferred and alternative methods of having commercial airports in the territories comply with TSA security regulations.

I thank my colleague from Guam for her leadership and continuing to look out for the interest of all the territories. This amendment is pretty straight forward. It requires TSA to report on options for improving security airports

in the U.S. territories with particular attention to the commingling of passengers that are connecting from international flights.

Moreover, this amendment recognizes the importance of the Territories to the national security of the United States. Commercial airports in the U.S. territories, especially the Guam International Airport, are subject to fluctuations in the tourism market, and making substantial security improvements is a costly endeavor for them to finance. Consequently, the amendment asks also that the TSA report would address the cost differences and financing opportunities for the territories to fully comply with the TSA regulations.

This amendment is especially important in light of the military buildup in Guam and I thank my good friend Ms. BORDALLO for bringing this amendment that would strengthen airport security not only in Guam but also in the other territories.

I strongly urge members to support this amendment.

Mr. DENT. I yield back.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Guam (Ms. BORDALLO).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. HASTINGS  
OF WASHINGTON

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in House Report 111-127.

Mr. HASTINGS of Washington. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. HASTINGS of Washington:

In section 230 of the bill, strike "The" and insert the following:

(a) AVIATION SECURITY.—The

In section 230 of the bill, add at the end the following:

(b) CARGO SCREENING.—The Secretary shall increase the number of canine detection teams, as of the date of enactment of this Act, deployed for the purpose of meeting the 100 percent air cargo screening requirement set forth in section 44901(g) of title 49, United States Code, by not less than 100 canine teams through fiscal year 2011.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I want to thank my colleagues, Ms. JACKSON-LEE of Texas and Mr. ROGERS of Alabama, for cosponsoring this very important amendment.

Mr. Chairman, highly trained K-9 teams have been successfully employed in the United States to screen airports and cargo since 1973. Dogs are extremely reliable and their mobility makes them invaluable in screening all types of cargo quickly and effectively.

As we approach the August 2010 deadline to screen 100 percent of cargo

transported on passenger airplanes, it is critical that the TSA is able to deal with all types of cargo without necessarily slowing down exports. Within my district, cherry growers transport half of the cherries they export on passenger aircraft, and K-9s are by far the most workable screening method for these highly perishable products.

My amendment would increase the number of K-9 teams specifically dedicated to air cargo by a minimum of 100 dogs. The need for additional K-9s to screen air cargo is clear. For example, the Seattle-Tacoma International Airport began screening all of its cargo earlier this year. In order to meet the needs of all exporters, TSA will bring K-9 teams to the Pacific Northwest and other parts of the country during the cherry harvest to ensure that all cherries are screened in a timely manner. Once a 100 percent screening requirement goes into effect next year, the burden on all existing K-9 teams will only increase.

At a time when our economy is struggling, we should not be adding new roadblocks for American farmers and businesses. I strongly urge my colleagues to support keeping our skies secure without interrupting commerce and vote "yes" on the Hastings/Jackson-Lee/Rogers amendment.

Ms. JACKSON-LEE of Texas. I rise to claim the time in opposition. I will not oppose the amendment, and I thank the chairman.

The Acting CHAIR. Without objection, the gentlewoman from Texas is recognized for 5 minutes.

There was no objection.

Ms. JACKSON-LEE of Texas. Again, let me thank the chairman of the full committee, Mr. THOMPSON, and as well Mr. KING and my colleague, Mr. DENT. It was a pleasure to work with Mr. HASTINGS and ROGERS of Alabama.

So I rise in support of the Hastings/Rogers/Jackson-Lee amendment. I appreciate their collegiality and their willingness to work with me on this important amendment. We have toured the Homeland Security sites that have had K-9s. I have heard from airports who said, Give me one good dog, and we will provide security for America.

TSA's explosive detection K-9 teams are important and effective tools for securing all modes of transportation in the United States. The use of K-9 teams has managed what few other security measures can boast: They are well-liked by the community and traveling public. Our committee worked hard to reaffirm our support of K-9 teams for explosive detection in the different transportation modes through H.R. 2200. I'm proud to have led these efforts.

This amendment rounds out these important provisions. As we speak, TSA continues its work meeting the hundred percent cargo screening requirement established by the 9/11 Act.

And let me, as an insert, indicate that I am very proud of the language that we have about 100 percent cargo screening. It is one that we worked on with the Department of Homeland Security. We worked with Mr. MARKEY, we worked with our chairman and our ranking member of both committees—the subcommittee and full committee.

We want to have 100 percent cargo screening. A hundred additional K-9 teams that will be deployed under this amendment will help ensure TSA's success. Mr. HASTINGS, Mr. ROGERS, and I have offered what I perceive to be a thoughtful amendment, and I urge my colleagues to support it. I thank Mr. HASTINGS and Mr. ROGERS for their collaboration.

With that, I am going to yield back.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

I want to thank my friend from Texas for her thoughtful remarks and for working on this issue. Agri-business is big in our area, and cherry season is a very tight time frame. It is important that nothing slows down the process of getting these cherries to market. So with that, I want to thank my friend from Guam for also endorsing this amendment, and with that, I urge my colleagues to vote for the amendment.

Ms. BORDALLO. Mr. Chair, I rise to express my support for this amendment, and to speak very briefly on its relevance to my district. Presently, a commercial air carrier contracts with the U.S. Postal Service to transport mail from Honolulu to Guam, and vice versa. Movement of U.S. Mail to and from Guam is handled solely by this contract—which includes transportation on both dedicated air cargo freighters as well as daily by passenger aircraft. Right now, the U.S. Postal Service requires mail patrons to affix Customs Declarations to all Guam-bound mail pieces weighing 16 ounces or more—not for customs purposes, but as a security measure to obtain a sender's identity. The reason for this onerous requirement is, in part, because the TSA and airport authorities lack the means and resources to screen all Guam mail. A few years ago, TSA trained and stood-up a canine detection team at our airport on Guam to help with the mail backlog, but this team cannot screen all the mail and keep up with the volume. Additionally, the airport in Honolulu needs a canine team dedicated to screening mail there. This amendment would help our situation. I support this amendment, urge its adoption, and thank my colleague for yielding me the time.

Mr. HASTINGS of Washington. I yield back my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Washington (Mr. HASTINGS).

The amendment was agreed to.

□ 1515

AMENDMENT NO. 13 OFFERED BY MR. BUTTERFIELD

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in House Report 111-127.

Mr. BUTTERFIELD. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. BUTTERFIELD:

At the end of subtitle B of title II, insert the following new section (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

**SEC. 240. STUDY ON COMBINATION OF FACIAL AND IRIS RECOGNITION.**

(a) **STUDY REQUIRED.**—The Assistant Secretary shall carry out a study on the use of the combination of facial and iris recognition to rapidly identify individuals in security checkpoint lines. Such study shall focus on—

- (1) increased accuracy of facial recognition;
- (2) enhancement of existing iris recognition technology; and
- (3) establishment of integrated face and iris features for accurate identification of individuals.

(b) **PURPOSE OF STUDY.**—The purpose of the study required by subsection (a) is to facilitate the use of a combination of facial and iris recognition to provide a higher probability of success in identification than either approach on its own and to achieve transformational advances in the flexibility, authenticity, and overall capability of integrated biometric detectors and satisfy one of major issues with war against terrorists. The operational goal of the study should be to provide the capability to non-intrusively collect biometrics (face image, iris) in less than ten seconds without impeding the movement of individuals.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from North Carolina (Mr. BUTTERFIELD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. BUTTERFIELD. Mr. Chairman, I rise today in support of the underlying bill, H.R. 2200, the Transportation Security Administration Authorization Act of 2009. This is a necessary bill that will help to safeguard the American people. I want to commend my friend and colleague Chairman BENNIE THOMPSON from Mississippi for steering this legislation through this process. Mr. THOMPSON, your leadership does not go unnoticed by Members of this body and the American people, and we thank you. We also thank the ranking member of this committee, Mr. KING of New York, for his leadership and for his work on homeland security as well as the other members of the committee. I particularly want to thank the hardworking staff of the Homeland Security Committee for all that they

do and for the work that they've done in getting this legislation to the floor today.

Mr. Chairman, I offer a very simple amendment to H.R. 2200. It authorizes a study on the feasibility of combining facial and iris recognition technologies for rapid and accurate identification in airport security checkpoint lines. The study would focus on merits of using the combined technologies and the potential for use. Researchers tell us, Mr. Chairman, that this new technology holds great promise for providing a highly reliable, efficient, unobstructed and accurate way to establish and verify identities. Unlike names and dates of birth, which can be changed from time to time, biometrics are unique and virtually impossible to duplicate. Biometric information is already being collected by DHS, the Department of Homeland Security, through its US-VISIT Program. This invaluable information helps prevent people from using fraudulent documents to attempt to enter our country illegally. Collecting biometrics also helps protect travelers' identities in the event travel documents are lost or stolen. One of my constituents had his passport stolen, and it was used fraudulently. He has been unable to travel overseas to visit his family now for more than 1 year. This technology would have made the issuance of new travel documents a less cumbersome process.

Utilizing advanced technologies like special cameras or imaging systems with enhanced interoperability of 2-D and 3-D facial recognition technology and systems, TSA could collect and analyze the biometric data in a few short seconds. The collection, analysis and identification of an individual, Mr. Chairman, would only take as much time as it takes a person to go through that dreaded security line at the airport. In fact, the security process would be sped up and would significantly lessen the time an individual spends in line. By combining the facial and iris recognition data, TSA officials will get an accurate identification of an individual and will have the opportunity to investigate further, if necessary. The effective use of these databases to confirm or discover personal identities is critical in maintaining our national security. Travel is made safer and, again, the technology is nonintrusive.

This study, Mr. Chairman, requested under this amendment will also help to identify any specific environmental and operational factors that might limit these biometric capabilities and provide insight and information for biometric acquisitions and procedures.

It is my hope, therefore, that Members will support this amendment. It is a commonsense approach, using technology to increase the level of security at checkpoints. I want to remind my

colleagues that this technology is totally nonintrusive and has the potential for improving accuracy and efficiency and safety for TSA personnel and travelers alike.

At this time I am going to reserve the balance of my time.

Mr. DENT. Mr. Chair, I rise to claim time in opposition to the amendment, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. DENT. I do support this amendment. It's a good amendment. I appreciate the gentleman offering it.

New advances in biometric identifications make this technology an exciting new possibility for rapidly identifying individuals approaching a security checkpoint. Imagine if someone with a warrant or a fleeing felon would approach a security checkpoint and be identified as a threat before entering the sterile area of an airport. We may be years away from any real breakthroughs in this technology, but it certainly does hold some real promise.

Some would argue that this technology goes too far or invades one's privacy, but every individual approaching a TSA checkpoint must already provide a valid form of identification. This system, if proven effective, could ensure that documentation provided at the checkpoint is, in fact, authentic.

For all those reasons, I would urge my colleagues to support this Butterfield amendment. It makes sense, and I strongly urge its adoption.

At this time I would yield back the balance of my time.

Mr. BUTTERFIELD. I want to thank the gentleman for his support of this amendment and thank him very much for his work here in this body.

At this time, Mr. Chairman, I would like to yield 2 minutes to the gentlelady from California (Ms. RICHARDSON), a hardworking member of this Homeland Security Committee.

The Acting CHAIR. The gentleman from North Carolina only has 45 seconds remaining.

Mr. BUTTERFIELD. I will yield those 45 seconds to the gentlelady from California (Ms. RICHARDSON).

Ms. RICHARDSON. Mr. Chairman, I rise in support of the Butterfield amendment. This amendment authorizes a study to combine facial and iris recognition that would rapidly identify individuals at security checkpoints. Additionally, this study authorizes the ability to consider environmental and operational factors and any capabilities that would hinder future acquisitions.

As a member of this committee, I support Mr. BUTTERFIELD and our chairman in his leadership with this bill, and I urge all of my colleagues to do the same.

Mr. BUTTERFIELD. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from North Carolina (Mr. BUTTERFIELD).

The amendment was agreed to.

AMENDMENT NO. 14 OFFERED BY MR. ROSKAM

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in House Report 111-127.

Mr. ROSKAM. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. ROSKAM:  
At the end of title III of the bill, insert the following:

**SEC. \_\_\_\_ PUBLIC HEARINGS ON SECURITY ASSISTANCE GRANT PROGRAM AND THE RESTRICTION OF SECURITY IMPROVEMENT PRIORITIES.**

(a) PUBLIC HEARINGS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall conduct public hearings on the administration of the security assistance grant program under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135). The Assistant Secretary shall—

(1) solicit information and input from the 5 urban areas that receive the largest amount of grant funds under such section, including recipients providing mass transportation and passenger rail services; and

(2) solicit feedback from such recipients on whether current allowable uses of grant funds under the regulations or guidance implementing the grant program are sufficient to address security improvement priorities identified by transit agencies.

(b) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate a report on the findings of the public hearings conducted under paragraph (1). The report shall include—

(1) the Assistant Secretary's determinations with respect to the extent to which security improvement priorities identified by transit agencies are not met by the regulations or guidance implementing the grant program; and

(2) how such regulations or guidance should be changed to accommodate such priorities, or the Assistant Secretary's justification for not addressing such priorities with the grant program.

The Acting CHAIR. Pursuant to House Resolution 474, the gentleman from North Carolina (Mr. BUTTERFIELD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. ROSKAM. Mr. Chairman, I yield myself as much time as I may consume.

First of all, I want to thank Chairman THOMPSON and the Homeland Security Committee for working with me on this amendment. I appreciate their attitude very much and their openness to this suggestion.

This is a fairly straightforward amendment. What it is trying to do is

to mirror the resources of the Federal Government and to make sure that they're in sync with the needs of local transit systems. This actually developed out of a homeland security working group dialogue that I had in my congressional district. I represent the west and northwest suburbs of Chicago and a wide range of commuters. We've got bus lines and rail lines in the Chicago area, and there is a certain level of vulnerability. So last March I invited some of the leadership of the public transit systems and some of the security agencies to really offer ideas, and this is one of the ideas that they had.

They said, Look, we have needs at the local level, and there are resources at the Federal Government, but sometimes those two things aren't really in sync. So what this is, it says simply that the Assistant Secretary of Homeland Security will hold hearings, if this amendment is passed, and those hearings are really about the subject of whether current allowable uses of grant funds are sufficient to meet the daily security needs and the transit security needs of these local agencies. Then after that happens, after this conversation happens and these hearings, to come back to Congress and to report.

I think that this is one of these areas where there's a great deal of common ground. There is uncertainty sometimes at the State and local level about how Federal funds fit into their agenda. We all know that we, in the Congress, are trying to help. And this is a structured way to have that conversation, because when it comes down to it, there's nearly 12 million Americans that are riding on passenger trains each day, and that's six times as many that fly in our skies. I think that this is a wise use of resources and urge the adoption of the amendment.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim in time in opposition.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chair, the Roskam amendment builds on this effort to require TSA to engage in an open and constructive dialogue on the security priorities that matter most to State and local transit agencies. In these difficult times, it is more important than ever that we endeavor to make sure our State and local transit agencies are able to maximize their limited resources to implement effective and cost-effective security programs. The Roskam amendment supports that effort. Therefore, I urge my colleagues to vote "aye" on this amendment.

I reserve the balance of my time.

Mr. ROSKAM. Mr. Chairman, I first of all, I want to thank the gentleman for his support. And just one other point for the record: The amendment is endorsed by the American Public Transportation Association. I am not aware of any opponents. I appreciate the gentleman's support.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chair, again, I support the amendment. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. ROSKAM).

The amendment was agreed to.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 111-127 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. MICA of Florida.

Amendment No. 10 by Mr. CHAFFETZ of Utah.

The first electronic vote will be conducted as a 15-minute vote. The second electronic vote will be conducted as a 5-minute vote.

#### AMENDMENT NO. 2 OFFERED BY MR. MICA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. MICA) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 211, not voting 9, as follows:

[Roll No. 304]

#### AYES—219

Abercrombie	Brady (TX)	Crenshaw
Aderholt	Bright	Culberson
Akin	Broun (GA)	Dahlkemper
Alexander	Brown (SC)	Davis (KY)
Altmire	Brown-Waite,	Deal (GA)
Arcuri	Ginny	Dent
Austria	Buchanan	Diaz-Balart, L.
Bachmann	Burgess	Diaz-Balart, M.
Bachus	Burton (IN)	Donnelly (IN)
Barrett (SC)	Buyer	Dreier
Barrow	Calvert	Driehaus
Bartlett	Camp	Duncan
Barton (TX)	Campbell	Ehlers
Berkley	Cantor	Ellsworth
Biggert	Cao	Emerson
Bilbray	Capito	Fallin
Bilirakis	Carter	Flake
Bishop (UT)	Cassidy	Fleming
Blackburn	Castle	Forbes
Blunt	Chaffetz	Fortenberry
Boccieri	Chandler	Fox
Boehner	Coble	Franks (AZ)
Bonner	Coffman (CO)	Frelinghuysen
Bono Mack	Cole	Gallegly
Boozman	Conaway	Garrett (NJ)
Boustany	Cooper	Gerlach
Boyd	Costello	Giffords

Gingrey (GA)	Lungren, Daniel	Reichert
Gohmert	E.	Roe (TN)
Goodlatte	Mack	Rogers (AL)
Granger	Manzullo	Rogers (KY)
Graves	Marchant	Rogers (MI)
Griffith	Markey (CO)	Rohrabacher
Guthrie	Marshall	Rooney
Hall (TX)	Matheson	Ros-Lehtinen
Harper	McCarthy (CA)	Roskam
Hastings (WA)	McCaul	Ross
Heinrich	McClintock	Royce
Heller	McCotter	Ryan (WI)
Hensarling	McHenry	Salazar
Herger	McHugh	Scalise
Hill	McIntyre	Schmidt
Hirono	McKeon	Shock
Hoekstra	McMorris	Sensenbrenner
Hunter	Rodgers	Sessions
Inglis	Melancon	Shadegg
Inslee	Mica	Shimkus
Issa	Miller (FL)	Shuler
Jenkins	Miller (MI)	Shuster
Johnson (IL)	Miller, Gary	Simpson
Johnson, Sam	Minnick	Smith (NE)
Jones	Mitchell	Smith (NJ)
Jordan (OH)	Moran (KS)	Smith (TX)
King (IA)	Murphy (NY)	Souder
King (NY)	Murphy, Tim	Stearns
Kingston	Myrick	Tanner
Kirk	Neugebauer	Taylor
Kissell	Nunes	Terry
Klein (FL)	Nye	Thompson (PA)
Kline (MN)	Oberstar	Thornberry
Kratovil	Olson	Tiahrt
Lamborn	Paul	Tiberi
Lance	Paulsen	Turner
Latham	Pence	Upton
LaTourette	Peterson	Walden
Latta	Petri	Walz
Lee (NY)	Pitts	Wamp
Lewis (CA)	Platts	Westmoreland
Linder	Poe (TX)	Whitfield
LoBiondo	Posey	Wilson (SC)
Loebach	Price (GA)	Wittman
Lucas	Putnam	Wolf
Luetkemeyer	Radanovich	Young (AK)
Lummis	Rehberg	Young (FL)

#### NOES—211

Ackerman	Delahunt	Kanjorski
Adler (NJ)	DeLauro	Kaptur
Andrews	Dicks	Kennedy
Baca	Dingell	Kildee
Baird	Doggett	Kilpatrick (MI)
Baldwin	Doyle	Kilroy
Bean	Edwards (MD)	Kind
Becerra	Edwards (TX)	Kirkpatrick (AZ)
Berman	Ellison	Kosmas
Berry	Engel	Kucinich
Bishop (GA)	Eshoo	Langevin
Bishop (NY)	Etheridge	Larsen (WA)
Blumenauer	Faleomavaega	Larson (CT)
Bordallo	Farr	Lee (CA)
Boren	Fattah	Levin
Boucher	Filner	Lewis (GA)
Brady (PA)	Foster	Lipinski
Braley (IA)	Frank (MA)	Lofgren, Zoe
Brown, Corrine	Fudge	Lowey
Butterfield	Gonzalez	Lujan
Capps	Gordon (TN)	Lynch
Capuano	Grayson	Maffei
Cardoza	Green, Al	Maloney
Carnahan	Green, Gene	Markey (MA)
Carney	Grijalva	Massa
Carson (IN)	Gutierrez	Matsui
Castor (FL)	Hall (NY)	McCarthy (NY)
Childers	Halvorson	McCollum
Christensen	Hare	McDermott
Clarke	Harman	McGovern
Clay	Hastings (FL)	McMahon
Cleaver	Herseht Sandlin	McNerney
Clyburn	Higgins	Meek (FL)
Cohen	Himes	Meeks (NY)
Connolly (VA)	Hinchee	Michaud
Conyers	Hinojosa	Miller (NC)
Costa	Hodes	Miller, George
Crowley	Holden	Mollohan
Cuellar	Holt	Moore (KS)
Cummings	Honda	Moore (WI)
Davis (AL)	Hoyer	Moran (VA)
Davis (CA)	Israel	Murphy (CT)
Davis (IL)	Jackson (IL)	Murphy, Patrick
Davis (TN)	Johnson (GA)	Murtha
DeFazio	Johnson, E. B.	Nadler (NY)
DeGette	Kagen	Napolitano

Neal (MA)	Rush	Tauscher
Norton	Ryan (OH)	Teague
Obeys	Sanchez, Loretta	Thompson (CA)
Olver	Sarbanes	Thompson (MS)
Ortiz	Schakowsky	Tierney
Pallone	Schauer	Titus
Pascarella	Schiff	Tonko
Pastor (AZ)	Schrader	Towns
Payne	Schwartz	Tsongas
Perlmutter	Scott (GA)	Van Hollen
Perriello	Scott (VA)	Velázquez
Peters	Serrano	Visclosky
Pierluisi	Sestak	Wasserman
Pingree (ME)	Shea-Porter	Schultz
Polis (CO)	Sherman	Waters
Pomeroy	Sires	Watson
Price (NC)	Skelton	Watt
Quigley	Smith (WA)	Waxman
Rahall	Snyder	Weiner
Rangel	Space	Welch
Reyes	Speler	Wexler
Richardson	Spratt	Woolsey
Rodriguez	Stark	Wu
Rothman (NJ)	Stupak	Yarmuth
Roybal-Allard	Sutton	

#### NOT VOTING—9

Boswell	Ruppersberger	Slaughter
Courtney	Sablan	Sullivan
Jackson-Lee	Sánchez, Linda	Wilson (OH)
(TX)	T.	

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). One minute remains on this vote.

#### PARLIAMENTARY INQUIRY

Mr. WESTMORELAND (during the vote). Parliamentary inquiry, Mr. Chairman.

The Acting CHAIR. The gentleman will state his parliamentary inquiry.

Mr. WESTMORELAND. Mr. Chairman, we've not had any activity on the board in the last 3 minutes. Can you tell me what determines the vote staying open for over 30 minutes?

□ 1601

Mrs. MCCARTHY of New York, Messrs. BERMAN, KANJORSKI, SIRE, GRIJALVA, TEAGUE, SHERSON of Connecticut, Ms. DEGETTE, Messrs. GORDON of Tennessee, GEORGE MILLER of California, LEVIN, Mrs. HALVORSON, Messrs. CLEAVER, RUSH, CHILDERS, SHERMAN, Mrs. KIRKPATRICK of Arizona, Messrs. CONYERS, LARSEN of Washington, DELAHUNT, HOLT, PAYNE, SCHRADER, HALL of New York, DAVIS of Tennessee, FOSTER, PERRIELLO, ACKERMAN, GUTIERREZ, BRALEY of Iowa, BERRY and MCNERNEY changed their vote from "aye" to "no."

Messrs. MURPHY of New York, HILL, HENSARLING, MATHESON, HERGER, COOPER, PAUL, BARROW, BUCHANAN, GRIFFITH, and TAYLOR changed their vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

#### PARLIAMENTARY INQUIRIES

Mr. WESTMORELAND. Mr. Chairman, parliamentary inquiry.

The Acting CHAIR. The gentleman will state his parliamentary inquiry.

Mr. WESTMORELAND. Mr. Chairman, in the previous Congress, was there not a rule in place to prohibit a vote from being held open for the sole purpose of changing the outcome?



The Acting CHAIR. It is not the purpose of the Chair to serve as a historian.

Mr. WESTMORELAND. I'm sorry, sir, could you repeat that?

The Acting CHAIR. The Chair will not serve as a historian.

Mr. WESTMORELAND. Okay, let's try one more. Parliamentary inquiry, Mr. Chairman.

The Acting CHAIR. The gentleman will state his inquiry.

Mr. WESTMORELAND. Does the rule still exist today that was in place in the 110th Congress, that was struck from the 111th Congress rules package, thus making it within the rules to hold a vote open for the purpose of changing the outcome?

The Acting CHAIR. There is no rule of that description.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Without objection, 5-minute voting will resume.

There was no objection.

#### AMENDMENT NO. 10 OFFERED BY MR. CHAFFETZ

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Utah (Mr. CHAFFETZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 310, noes 118, not voting 11, as follows:

[Roll No. 305]

#### AYES—310

Abercrombie	Brown-Waite,	Cuellar
Adler (NJ)	Ginny	Culberson
Alexander	Buchanan	Cummings
Altmire	Burgess	Dahlkemper
Arcuri	Buyer	Davis (AL)
Austria	Calvert	Davis (CA)
Baca	Camp	Davis (IL)
Bachmann	Campbell	Davis (KY)
Bachus	Cao	Deal (GA)
Baird	Capps	Delahunt
Baldwin	Capuano	Diaz-Balart, L.
Barrow	Cardoza	Diaz-Balart, M.
Bartlett	Carson (IN)	Dingell
Barton (TX)	Carter	Doggett
Becerra	Cassidy	Donnelly (IN)
Berkley	Castor (FL)	Doyle
Berman	Chaffetz	Dreier
Bishop (GA)	Chandler	Driehaus
Blunt	Childers	Duncan
Boccieri	Christensen	Edwards (MD)
Boehner	Clarke	Ellison
Boozman	Clay	Ellsworth
Bordallo	Cleaver	Emerson
Boucher	Coble	Engel
Boyd	Cohen	Etheridge
Brady (PA)	Conaway	Faleomavaega
Brady (TX)	Connolly (VA)	Fallin
Braley (IA)	Conyers	Farr
Broun (GA)	Cooper	Fattah
Brown (SC)	Costa	Filner
Brown, Corrine	Crenshaw	Flake
	Crowley	Forbes

Fortenberry	Luján	Reichert	Kratovil	Nye	Sensenbrenner
Fudge	Lummis	Reyes	Lance	Oberstar	Sestak
Garrett (NJ)	Lynch	Richardson	Latham	Obey	Shadegg
Giffords	Mack	Rodriguez	LaTourette	Olver	Simpson
Gingrey (GA)	Maffei	Roe (TN)	Lee (NY)	Paulsen	Skelton
Gohmert	Maloney	Rooney	LoBiondo	Peterson	Slaughter
Gonzalez	Manzullo	Roskam	Lowey	Platts	Snyder
Goodlatte	Marchant	Ross	Lucas	Price (NC)	Souder
Grayson	Markey (MA)	Rothman (NJ)	Lungren, Daniel	Rahall	Spratt
Green, Al	Marshall	Roybal-Allard	E.	Rogers (AL)	Thompson (CA)
Green, Gene	Massa	Rush	Markey (CO)	Rogers (KY)	Thompson (MS)
Griffith	Matheson	Ryan (WI)	Matsui	Rogers (MI)	Towns
Grijalva	McCarthy (CA)	Salazar	McCarthy (NY)	Rohrabacher	Visclosky
Guthrie	McCaul	Sanchez, Loretta	Mica	Ros-Lehtinen	Walden
Gutierrez	McClintock	Sarbanes	Miller (FL)	Royce	Waters
Hall (NY)	McCollum	Scalise	Miller (MI)	Ryan (OH)	Wittman
Hall (TX)	McCotter	Schiff	Minnick	Schakowsky	Wu
Hare	McDermott	Schmidt	Mollohan	Schauer	Young (AK)
Harper	McGovern	Schock	Murphy, Patrick	Schrader	Young (FL)
Hastings (FL)	McHenry	Scott (GA)	Norton	Schwartz	
Heinrich	McHugh	Scott (VA)			
Heller	McIntyre	Serrano			
Hensarling	McKeon	Sessions			
Herseht Sandlin	McMorris	Shea-Porter			
Higgins	Rodgers	Sherman			
Hill	McNerney	Shimkus			
Hinchee	Meek (FL)	Shuler			
Hinojosa	Meeks (NY)	Shuster			
Hirono	Melancon	Sires			
Hodes	Michaud	Smith (NE)			
Holt	Miller (NC)	Smith (NJ)			
Hoyer	Miller, Gary	Smith (TX)			
Hunter	Miller, George	Smith (WA)			
Inglis	Mitchell	Space			
Inslee	Moore (KS)	Speier			
Israel	Moore (WI)	Stark			
Issa	Moran (KS)	Stearns			
Jackson (IL)	Moran (VA)	Stupak			
Jenkins	Murphy (CT)	Sutton			
Johnson (GA)	Murphy (NY)	Tanner			
Johnson (IL)	Murphy, Tim	Tauscher			
Johnson, E. B.	Murtha	Taylor			
Johnson, Sam	Myrick	Teague			
Jones	Nadler (NY)	Terry			
Jordan (OH)	Napolitano	Thompson (PA)			
Kagen	Neal (MA)	Thornberry			
Kanjorski	Neugebauer	Tiaht			
Kaptur	Nunes	Tiberi			
Kildee	Olson	Tierney			
Kilpatrick (MI)	Ortiz	Titus			
Kilroy	Pallone	Tonko			
Kind	Pascarella	Tsongas			
King (IA)	Pastor (AZ)	Turner			
Kingston	Paul	Upton			
Kirkpatrick (AZ)	Payne	Van Hollen			
Kissell	Pence	Velázquez			
Kline (MN)	Perlmutter	Walz			
Kosmas	Perriello	Wamp			
Kucinich	Peters	Wasserman			
Lamborn	Petri	Schultz			
Langevin	Pierluisi	Watson			
Larsen (WA)	Pingree (ME)	Watt			
Larson (CT)	Pitts	Waxman			
Latta	Poe (TX)	Weiner			
Lee (CA)	Polis (CO)	Welch			
Levin	Pomeroy	Westmoreland			
Lewis (CA)	Posey	Wexler			
Lewis (GA)	Price (GA)	Whitfield			
Linder	Putnam	Wilson (SC)			
Lipinski	Quigley	Wolf			
Loeb sack	Radanovich	Woolsey			
Lofgren, Zoe	Rangel	Yarmuth			
Luetkemeyer	Rehberg				

#### NOES—118

Cantor	Fox
Capito	Frank (MA)
Carnahan	Franks (AZ)
Carney	Frelinghuysen
Castle	Gallely
Clyburn	Gerlach
Coffman (CO)	Gordon (TN)
Cole	Granger
Costello	Graves
Davis (TN)	Halvorson
DeFazio	Harman
DeGette	Hastings (WA)
DeLauro	Heger
Dent	Himes
Dicks	Hoekstra
Edwards (TX)	Holden
Ehlers	Honda
Bright	King (NY)
Burton (IN)	Kirk
Butterfield	Klein (FL)

Kennedy	Sánchez, Linda
McMahon	T.
Ruppersberger	Sullivan
Sablan	Wilson (OH)

#### NOT VOTING—11

Bishop (UT)	Kennedy	Sánchez, Linda
Boswell	McMahon	T.
Courtney	Ruppersberger	Sullivan
Jackson-Lee	Sablan	Wilson (OH)
(TX)		

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1610

Messrs. BLUMENAUER, RAHALL and MOLLOHAN changed their vote from "aye" to "no."

Mrs. MALONEY, Messrs. HASTINGS of Florida and BACA changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. MCMAHON. Mr. Chair, on rollcall No. 305, I was detained unavoidably from reaching the Chamber. Had I been present, I would have voted "aye."

Mr. KENNEDY. Mr. Chair, I regret that I was unable to participate in a vote on the floor of the House of Representatives today.

Had I been present to vote on rollcall No. 305, a Chaffetz (UT)/Shea-Porter (NH) Amendment to H.R. 2200, the Transportation Security Administration Authorization Act of 2009, I would have voted "aye" on the question.

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WEINER) having assumed the chair, Mr. HOLDEN, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes, pursuant to House Resolution 474, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.



Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mr. KING of New York. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KING of New York. I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. King of New York moves to recommit the bill H.R. 2200 to the Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendment:

Strike section 405 of the bill and insert the following:

#### SEC. 405. SECURING AVIATION FROM EXTREME TERRORIST THREATS.

(a) FINDINGS.—Congress finds the following:

(1) In 2001, Congress gave the Assistant Secretary, Transportation Security Administration, the task to “develop policies, strategies, and plans for dealing with threats to transportation security”. The individuals currently held at the Naval Station, Guantanamo Bay, Cuba, were detained during armed conflict and pose a serious and continuing threat to the transportation security interests of the United States and its allies.

(2) Terrorists, including Khalid Sheikh Mohammad, the admitted mastermind of the September 11, 2001 terrorist attacks, have clearly demonstrated their desire and intent to use airplanes as weapons to kill innocent Americans. The August 2006 liquid explosive plot to take down 10 commercial airliners over the United States is positive proof that air transportation continues to be a target.

(3) In light of al Qaeda’s propensity to conduct aviation-related attacks and the fact that, according to the Department of Defense, at least 74 former Guantanamo Bay detainees once considered “non-threatening” are recidivists to terrorism, restrictions on the air travel of former detainees are necessary to protect the public from future attacks.

(4) Therefore, individuals who are or have been detained at Guantanamo should not be allowed to fly commercially in the United States and should be added to the Transportation Security Administration’s No Fly List, until the President certifies that each individual detainee poses no threat to the United States, its citizens, or its allies.

(b) PROHIBITION OF DETAINEE USE OF COMMERCIAL AVIATION.—Section 44903(j)(2)(C) of title 49, United States Code, as amended by section 213 of the bill, is further amended by adding at the end the following:

“(vi) INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee held at the Naval

Station, Guantanamo Bay, Cuba, unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies. For purposes of this clause, the term ‘detainee’ means an individual in the custody or under the physical control of the United States as a result of armed conflict.”.

Mr. KING of New York (during the reading). Mr. Speaker, I ask unanimous consent that the reading be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes in support of his motion.

Mr. KING of New York. Mr. Speaker, this motion to recommit is very basic. It’s very direct. It specifies that any detainee who is housed at Guantanamo Bay will go on the No Fly List. Very simply, anyone released from Guantanamo will not be able to fly on an American commercial flight.

And I have listened to the debate in committee. I’ve listened to the debate on the floor, and quite frankly, I cannot understand the opposition to this amendment. We are talking about approximately 240 people who are still at Guantanamo. These are the worst of the worst, the most hardcore.

Mr. Speaker, we can have various positions on Guantanamo, whether the President was right, whether the President’s wrong, whether he’s partially right, whether he’s wrong, whether there’s going to be tribunals, what’s going to happen. But the reality is that there’s a likelihood that some of these detainees could be released into the United States, and very simply, we are saying if they are, they should not be allowed to fly on American commercial flights.

□ 1615

Now, recent reports from the Defense Intelligence Agency say that one of seven of those who have been released thus far have returned to the battlefield, have returned to take part in terrorist activities. Now, whether that number is actually one in seven or one in 14 or one in 15, I say to anyone in this House, do you want your son or your daughter or your grandson or your granddaughter possibly being on the same plane as one of those seven or one of those 15? It is too high a risk to pay.

What the majority did when this was brought up by Mr. SOUDER, who argued it very articulately in committee and on the floor, was to say that they would go on the No Fly List, the detainees, after disposition by the President.

“Disposition” is not defined. What does “disposition” mean? If the President says that this person is dangerous, does that mean he doesn’t go on the No Fly List? Suppose that case is still

pending in court. Suppose he was released on bail. What does final disposition mean? What does it mean?

Why are we having this debate? I can see if we were talking about something involving the civil rights of an American citizen or somebody who was legally in the country and we were talking about electronic surveillance or stop-and-frisk. We’re talking about a person who is a detainee at Guantanamo and we’re saying they cannot fly on an American plane. What human right is being violated by that? Let’s balance the equities.

I know in the Dear Colleague that my good friend the chairman sent out to his members, he uses a quote from the President, saying that we must have an abiding confidence in the rule of law and due process and checks and balances and accountability.

Mr. Speaker, I fail to see the question of a balance here. What equities are we balancing?

Let’s assume the worst from those who oppose this motion to recommit. Let’s assume that someone who is in Guantanamo and really pure of heart and has no malice anywhere in the system, that person will not be allowed to fly on an American plane. Life is tough. If that’s the worst he has to endure, I don’t think that’s going to shock the conscience of the Republic.

But suppose that person does return to violence and does blow up an airliner and hundreds of Americans are killed. Where is the cost-benefit ratio? What equities are we balancing here?

I would say the clear and correct thing to do here is to make it very clear that anyone released from Guantanamo should go on the No Fly List.

Now, if there are foreign policy considerations, if there are diplomatic considerations, the motion to recommit specifically says that the President can certify that that detainee is no longer a threat to American security and the President can take the person off the No Fly List.

So, if there is an injustice being done, if the President feels very strongly about this, then the President has the prerogative to exercise his power and take the person off the list.

Again, I just think this is a debate about politics for those who somehow think, if we talk about Guantanamo, that we’re trying to inject some kind of fear. We’re trying to protect the American people. And, to me, it’s a clear issue if you ask any one of your constituency, people in your district, say to them, would they rather be certain that their relatives going on a plane will not have a detainee from Guantanamo sitting next to them or would they rather have the fact that that person may have to drive his own car or take a bus rather than fly in a plane.

So I would say in the interest of justice, in the interest of basic security

for the American people and the interest of doing all we can to make this good bill much better and to give us the security that we need, that we vote "yes" on the motion to recommit.

In his statements, the chairman says that by not adopting this motion to recommit, or not using this language, that would make our skies more secure. How can our skies possibly be more secure unless we do everything we possibly can to keep Guantanamo detainees off our planes, off our commercial planes.

Those of us who lived in New York, any American, knows the horror of September 11. If we can do anything at all to prevent that without violating the civil rights of any American citizen, anyone lawfully in this country, then we should do it.

Mr. Speaker, in the interest of justice and homeland security, I ask adoption of the motion to recommit.

Mr. THOMPSON of Mississippi. I rise in opposition, Mr. Speaker, but I'm not opposed to the motion.

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Speaker, at the beginning, let me say that I am not in opposition to the motion to recommit. This motion to recommit builds on the underlying provisions of this bill. But it also recognizes that the President has significant responsibility in making sure that Americans are kept safe.

I also support the fact that anyone who was detained at Guantanamo should be on the No Fly List. This motion to recommit does that. And I support it. I can accept it.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. THOMPSON of Mississippi. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 2200, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Mississippi:

Strike section 405 of the bill and insert the following:

**SEC. 405. SECURING AVIATION FROM EXTREME TERRORIST THREATS.**

(a) FINDINGS.—Congress finds the following:

(1) In 2001, Congress gave the Assistant Secretary, Transportation Security Administration, the task to "develop policies, strategies, and plans for dealing with threats to transportation security". The individuals currently held at the Naval Station, Guanta-

namo Bay, Cuba, were detained during armed conflict and pose a serious and continuing threat to the transportation security interests of the United States and its allies.

(2) Terrorists, including Khalid Sheikh Mohammad, the admitted mastermind of the September 11, 2001 terrorist attacks, have clearly demonstrated their desire and intent to use airplanes as weapons to kill innocent Americans. The August 2006 liquid explosive plot to take down 10 commercial airliners over the United States is positive proof that air transportation continues to be a target.

(3) In light of al Qaeda's propensity to conduct aviation-related attacks and the fact that, according to the Department of Defense, at least 74 former Guantanamo Bay detainees once considered "non-threatening" are recidivists to terrorism, restrictions on the air travel of former detainees are necessary to protect the public from future attacks.

(4) Therefore, individuals who are or have been detained at Guantanamo should not be allowed to fly commercially in the United States and should be added to the Transportation Security Administration's No Fly List, until the President certifies that each individual detainee poses no threat to the United States, its citizens, or its allies.

(b) PROHIBITION OF DETAINEE USE OF COMMERCIAL AVIATION.—Section 44903(j)(2)(C) of title 49, United States Code, as amended by section 213 of the bill, is further amended by adding at the end the following:

"(vi) INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee held at the Naval Station, Guantanamo Bay, Cuba, unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies. For purposes of this clause, the term 'detainee' means an individual in the custody or under the physical control of the United States as a result of armed conflict."

Mr. KING of New York (during the reading). I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

**RECORDED VOTE**

Mr. THOMPSON of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 412, noes 12, not voting 9, as follows:

[Roll No. 306]

AYES—412

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria

Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrett (SC)  
Barrow  
Bartlett  
Barton (TX)  
Bean

Becerra  
Berkley  
Berman  
Berry  
Biggett  
Bilbray  
Billakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)

Blackburn  
Blumenauer  
Blunt  
Boccheri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Cooper  
Costa  
Costello  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Flake  
Fleming

Forbes  
Fortenberry  
Foster  
Fox  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder

Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowe  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pascarella  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg

Reichert	Serrano	Tiberi	Boucher	Gonzalez	Massa	Schakowsky	Snyder	Van Hollen
Reyes	Sessions	Tierney	Boustany	Goodlatte	Matheson	Schauer	Souder	Velázquez
Richardson	Sestak	Titus	Boyd	Gordon (TN)	Matsui	Schiff	Space	Visclosky
Rodriguez	Shadegg	Tonko	Brady (PA)	Granger	McCarthy (CA)	Schmidt	Speier	Walden
Roe (TN)	Shea-Porter	Towns	Braley (IA)	Graves	McCarthy (NY)	Schock	Spratt	Walz
Rogers (AL)	Sherman	Tsongas	Bright	Grayson	McCaul	Schrader	Stearns	Wamp
Rogers (KY)	Shimkus	Turner	Brown (SC)	Green, Al	McCollum	Schwartz	Stupak	Wasserman
Rogers (MI)	Shuler	Upton	Brown, Corrine	Green, Gene	McCotter	Scott (GA)	Sutton	Schultz
Rohrabacher	Shuster	Van Hollen	Brown-Waite,	Griffith	McDermott	Scott (VA)	Tanner	Waters
Rooney	Simpson	Velázquez	Ginny	Grijalva	McGovern	Sensenbrenner	Tauscher	Watson
Ros-Lehtinen	Sires	Visclosky	Buchanan	Guthrie	McHugh	Serrano	Taylor	Watt
Roskam	Skelton	Walden	Burgess	Gutierrez	McIntyre	Sessions	Teague	Waxman
Ross	Slaughter	Walz	Burton (IN)	Hall (NY)	McKeon	Sestak	Terry	Weiner
Rothman (NJ)	Smith (NE)	Wamp	Butterfield	Hall (TX)	McMahon	Shadegg	Thompson (CA)	Welch
Roybal-Allard	Smith (NJ)	Wasserman	Buyer	Halvorson	McMorris	Shea-Porter	Thompson (MS)	Westmoreland
Royce	Smith (TX)	Schultz	Calvert	Hare	Rodgers	Sherman	Thompson (PA)	Wexler
Rush	Snyder	Watson	Camp	Harman	McNerney	Shimkus	Thornberry	Whitfield
Ryan (OH)	Souder	Watt	Cantor	Harper	Meek (FL)	Shuler	Tiahrt	Wilson (SC)
Ryan (WI)	Speier	Weiner	Cao	Hastings (FL)	Meeks (NY)	Simpson	Tiberi	Wittman
Salazar	Spratt	Welch	Capito	Hastings (WA)	Melancon	Sires	Tierney	Wolf
Sanchez, Loretta	Stearns	Westmoreland	Capps	Heinrich	Mica	Skelton	Titus	Woolsey
Sarbanes	Stupak	Wexler	Capuano	Heller	Michaud	Slaughter	Tonko	Wu
Scalise	Sutton	Whitfield	Cardoza	Hensarling	Miller (FL)	Smith (NE)	Towns	Yarmuth
Schakowsky	Tanner	Wilson (SC)	Carnahan	Herger	Miller (MI)	Smith (NJ)	Tsongas	Young (AK)
Schauer	Tauscher	Wittman	Carney	Hereth Sandlin	Miller (NC)	Smith (TX)	Turner	Young (FL)
Schiff	Taylor	Wolf	Carson (IN)	Higgins	Miller, Gary	Smith (WA)	Upton	
Schmidt	Teague	Woolsey	Carter	Hill	Miller, George			
Schock	Terry	Wu	Cassidy	Himes	Minnick			
Schrader	Thompson (CA)	Yarmuth	Castle	Hinchee	Mitchell	Blackburn	Foxx	Nadler (NY)
Schwartz	Thompson (MS)	Young (AK)	Hinojosa	Hirono	Mollohan	Brady (TX)	Holt	Nunes
Scott (GA)	Thompson (PA)	Young (FL)	Chaffetz	Hirons	Moore (KS)	Brown (GA)	Johnson, Sam	Paul
Scott (VA)	Thornberry		Chandler	Hodes	Moore (WI)	Campbell	King (IA)	Price (GA)
Sensenbrenner	Tiahrt		Childers	Hoekstra	Moran (KS)	Conaway	Kingston	Royce
			Clarke	Holden	Moran (VA)	Conyers	Linder	Shuster
			Clay	Honda	Murphy (CT)	Deal (GA)	Markey (MA)	Stark
			Cleaver	Hoyer	Murphy (NY)	Duncan	McClintock	
			Clyburn	Hunter	Murphy, Patrick	Flake	McHenry	
			Coble	Inglis	Murphy, Tim			
			Coffman (CO)	Inslee	Murtha			
			Cohen	Israel	Myrick	Adler (NJ)	Jackson-Lee	Sánchez, Linda
			Cole	Issa	Napolitano	Blumenauer	(TX)	T.
			Connolly (VA)	Jackson (IL)	Neal (MA)	Boswell	Kennedy	Sullivan
			Cooper	Jenkins	Neugebauer	Courtney	Ruppersberger	Wilson (OH)
			Costa	Johnson (GA)	Nye	Fattah		
			Costello	Johnson (IL)	Oberstar			
			Crenshaw	Johnson, E. B.	Obey			
			Crowley	Jones	Olson			
			Cuellar	Jordan (OH)	Olver			
			Culberson	Kagen	Ortiz			
			Cummings	Kanjorski	Pallone			
			Dahlkemper	Kaptur	Pascrell			
			Davis (AL)	Kildee	Pastor (AZ)			
			Davis (CA)	Kilpatrick (MI)	Paulsen			
			Davis (IL)	Kilroy	Payne			
			Davis (KY)	Kind	Pence			
			Davis (TN)	King (NY)	Perlmutter			
			DeFazio	Kirk	Perriello			
			DeGette	Kirkpatrick (AZ)	Peters			
			Delahunt	Kissell	Peterson			
			DeLauro	Klein (FL)	Petri			
			Dent	Kline (MN)	Pingree (ME)			
			Diaz-Balart, L.	Kosmas	Pitts			
			Diaz-Balart, M.	Kratovil	Platts			
			Dicks	Kucinich	Poe (TX)			
			Dingell	Lamborn	Polis (CO)			
			Doggett	Lance	Pomeroy			
			Donnelly (IN)	Langevin	Posey			
			Doyle	Larsen (WA)	Price (NC)			
			Dreier	Larson (CT)	Putnam			
			Driehaus	Latham	Quigley			
			Edwards (MD)	LaTourette	Radanovich			
			Edwards (TX)	Latta	Rahall			
			Ehlers	Lee (CA)	Rangel			
			Ellison	Lee (NY)	Rehberg			
			Ellsworth	Levin	Reichert			
			Emerson	Lewis (CA)	Reyes			
			Engel	Lewis (GA)	Richardson			
			Eshoo	Lipinski	Rodriguez			
			Etheridge	LoBiondo	Roe (TN)			
			Fallin	Loeb sack	Rogers (AL)			
			Farr	Lofgren, Zoe	Rogers (KY)			
			Filner	Lucas	Rogers (MI)			
			Fleming	Luetkemeyer	Rohrabacher			
			Forbes	Luján	Rooney			
			Fortenberry	Lummis	Ros-Lehtinen			
			Foster	Lungren, Daniel	Roskam			
			Frank (MA)	E.	Ross			
			Franks (AZ)	Lynch	Rothman (NJ)			
			Frelinghuysen	Mack	Roybal-Allard			
			Fudge	Maffei	Rush			
			Gallegly	Maloney	Ryan (OH)			
			Garrett (NJ)	Manzullo	Ryan (WI)			
			Gerlach	Marchant	Salazar			
			Giffords	Markey (CO)	Sanchez, Loretta			
			Gingrey (GA)	Marshall	Scalise			
			Gohmert					

## NOES—12

Clarke	Filner	Nadler (NY)
Clay	Lee (CA)	Paul
Cleaver	Moore (WI)	Smith (WA)
Conyers	Moran (VA)	Waters

## NOT VOTING—9

Boswell	Ruppersberger	Stark
Courtney	Sánchez, Linda	Sullivan
Jackson-Lee	T.	Wilson (OH)
(TX)	Space	

□ 1638

Mr. MORAN of Virginia, Ms. LEE of California, Ms. MOORE of Wisconsin, and Mr. CONYERS changed their vote from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. THOMPSON of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 25, not voting 11, as follows:

[Roll No. 307]

## AYES—397

Abercrombie	Baird	Bilbray
Ackerman	Baldwin	Bilirakis
Aderholt	Barrett (SC)	Bishop (GA)
Akin	Barrow	Bishop (NY)
Alexander	Bartlett	Bishop (UT)
Altmire	Barton (TX)	Blunt
Andrews	Bean	Bocieri
Arcuri	Becerra	Boehner
Austria	Berkley	Bonner
Baca	Berman	Bono Mack
Bachmann	Berry	Boozman
Bachus	Biggart	Boren

## NOES—25

Blackburn	Foxx	Nadler (NY)
Brady (TX)	Holt	Nunes
Brown (GA)	Johnson, Sam	Paul
Campbell	King (IA)	Price (GA)
Conaway	Kingston	Royce
Conyers	Linder	Shuster
Deal (GA)	Markey (MA)	Stark
Duncan	McClintock	
Flake	McHenry	

## NOT VOTING—11

Adler (NJ)	Jackson-Lee	Sánchez, Linda
Blumenauer	(TX)	T.
Boswell	Kennedy	Sullivan
Courtney	Ruppersberger	Wilson (OH)
Fattah		

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (Ms. DEGETTE) (during the vote). Two minutes are remaining.

□ 1655

Mr. KINGSTON changed his vote from “aye” to “no.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN EN-GROSSMENT OF H.R. 2200, TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION ACT

Mr. THOMPSON of Mississippi. Madam Speaker, I ask unanimous consent that in the engrossment of H.R. 2200, the Clerk be authorized to correct section numbers, punctuation, cross-references, and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

# PROVIDING FOR CONSIDERATION OF H.R. 626, FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2009

Mr. CARDOZA. Madam Speaker, by direction of the Committee on Rules, I

call up House Resolution 501 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 501

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 626) to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. CARDOZA) is recognized for 1 hour.

Mr. CARDOZA. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. CARDOZA. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on House Resolution 501.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CARDOZA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 501 provides for the consideration of H.R. 626, the Federal Employees Paid Parental Leave Act of 2009, under a structured rule. The rule provides for 1 hour of general debate equally divided

and controlled by the chairman and ranking member of the Committee on Oversight and Government Reform. The rule makes in order three amendments listed in the Rules Committee report, each debatable for 10 minutes. The rule also provides a motion to recommit with or without instructions.

Madam Speaker, I rise today not as a Democrat or a Republican, but as a father. Nothing can replace the first few days and weeks between a parent and a newborn or a newly adopted child when the bond that is forged is critical and sets the foundation for the child's entire later life. It is in these first few moments that a child's emotional and physical health and development is established—time which cannot be made up for later in life once it's lost.

Yet many parents are unable to forge this bond simply because they cannot afford to take unpaid leave from their jobs. In fact, a 2000 Labor Department survey showed that 78 percent of employees chose not to take unpaid leave because they just couldn't afford it. And they certainly cannot do so in the trying economic times we face today when hardworking families are struggling just to get by.

□ 1700

No parent should be placed in the position of having to choose between bonding with their new child and forgoing these formative moments in their child's life in order to keep a roof over that same child's head or to put food on the table, especially when the fate of a child is ultimately at stake. This is a moral and societal situation that has legislators, parents and as protectors of God's children, we must get right.

The Federal Government, I believe, has a moral obligation to set the stage for making changes across the table. We need to do more than just help in the care and development of a child. We must take the reins and lead by example. We should be setting the standard in family-friendly workplace policies across the Nation, not lagging behind.

H.R. 626 is quite simple. Current law requires that new parents be given up to 12 weeks of unpaid leave. If they wish to be paid, they must use any unused accrued sick time or vacation time. This bill helps families by providing 4 weeks of paid parental leave for Federal employees for the birth, adoption or fostering of a child and allowing employees to use that accrued vacation or sick time for that parental leave.

This small change in law will hopefully entice other employers to follow suit but, more importantly, have an immeasurable impact on the countless parents and the well-being of their children.

Madam Speaker, I can speak to this from my own experience. My dear wife

Kathie and I have three beautiful children—one biologic and two that we adopted out of the foster care system. These children we love as much as they were our biological daughter. I will tell you from our own experience, however, that by adopting a child, especially one out of foster care, it requires special care and attention and additional time for bonding. This is not an option in their case. It is an absolute necessity. Our children—in fact, all foster children have faced and will continue to face significant challenges in their lives from the abuse that they incurred when they were in foster care. They will forever carry those unspeakable scars that every parent fears and no child should ever bear. Yet the only hope and chance that you have to save these children is to give them time to bond with those very new parents that are the ones that will be, in fact, trying to save their lives and rub away those scars. There is no other choice than to immediately give them all the love they can take and more than they've ever known; food, nutrition they desperately need, and the health care they have never had. They need the unflagging support and nurturing that they get from these new adoptive parents in order to establish a pattern of survival in their lives. I also know that without the time to forge this bond immediately after adoption, they have no hope of overcoming the enormous obstacles that they face.

Madam Speaker, you can put a price tag on a piece of legislation, but you cannot put a price on the importance of not having to worry about a paycheck and having the full and undivided attention of both parents lavishing boundless love on a disadvantaged child. I can think of no greater gift that we can give as parents to our children than the gift of time. Without it, far too many children will simply slip through the cracks, and for many more, all hope will be lost. As legislators, it is our imperative that we do what is morally right, not to let hope be lost, but rather to let hope spring eternally and to give these children, who already have so many things working against them, as I mentioned in the case of adoption and foster care, the chance at life that they deserve.

I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I want to thank my friend from California for yielding this time to me to discuss the proposed rule for consideration of the Federal Employees Paid Parental Leave Act of 2009. I yield myself such time as I may consume.

I've heard a lot of arguments here on the floor of the House of Representatives. I'm not a psychologist, but I would tend to bet that probably more than the first 12 weeks of a child's life is very important to their development. I'm kind of surprised that we don't have evidence today that says

that the first 13 or 14, 16 years of a child's life is really the most important point, and maybe we just ought to let Federal employees take 16 years off since that's the defining moment. There's just no reality with this about the first 12 weeks of a child's life. Let me tell you, it's about probably the first 14 or 15 years; and as a parent, I can tell you, I remember the first 12 weeks. I remember them very vividly for both of my boys. I'm sure that there is some bit about what my children understood about the bonding with me.

Let's just go straight to this. This is expensive. It's going to cost a lot of money, and it's for Federal employees at a time when this Federal Government needs to be more efficient, and the people of this country cannot afford it. We've done without it for this number of years, and I'm surprised that we're doing it today in the economic times that we have.

Today I will discuss my opposition to the structured rule, which limits debate and does not provide for the "open and honest Congress" my Democrat colleagues have always called for for the past 3½ years. I also rise in opposition to putting taxpayers further in debt, those people that don't work for the government, to pay for this new extension of benefits by expanding an already generous government paid leave.

The economy is in a recession. Hello. Hello. Wake up, Washington. We're in a recession, and somebody else is going to have to pay for this. Oh, I know. It's about the kids. I know it's about this bonding for the first 12 weeks. Unemployment is at a 25-year high. Government spending is out of control, and individuals and retirees that have lost trillions in their savings and retirement are now going to have to pay another billion dollars for this plan. The government should be ensuring the future of the economy before taking on additional government benefits for those who have some of the greatest job security at the expense of the people who are paying for it, namely, the taxpayer.

I rise in opposition to this so-called structured rule and to this legislation, which would provide more government benefits to bureaucrats with benefits already in excess of what most hard-working Americans in the private sector have. I guess we're supposed to sacrifice a little bit more to make sure our government employees get more benefits.

Madam Speaker, as the father of two children, I return to my home every weekend in Dallas, Texas. I have only been in this body 13 years. I have never spent a weekend in Washington, D.C. I go home when the votes end to be with my family; and I, like every Member of this body, love my family. We understand the importance of family and how strong families are to our country.

Additionally, I know how hard Federal employees work. I honor them for their work and their devotion to the people of this country and the devotion to their jobs, and they do deserve competitive compensation and a good benefits package. At the same time, I believe at this time this bill sends the wrong message at the wrong time to working Americans, the taxpayers and their families that they, themselves, are struggling to sacrifice to give a select few in this government additional new benefits.

In February of this year, my Democratic colleagues passed a \$1.2 trillion economic stimulus package with absolutely no—zero—Republican support. This was their failed attempt to provide jobs to the struggling economy. The U.S. has eliminated 663,000 jobs in March alone, an additional 563,000 in April. Over the past 12 months, the number of unemployed has risen by 6 million people to 13.7 million, and the unemployment rate has grown from 3.9 to 9 percent. We should be thinking about how we're going to struggle to get people employed in this country, not give additional benefits to government workers.

One would think that this massive amount of spending that was done this year by my friends on the other side would ensure job growth, investment and economic output. Instead, the failed policies of the Democratic Party and of this administration have led to a budget deficit that already has been announced, it's not just \$1 trillion, it has now grown to \$1.8 trillion, about \$89 billion more than was predicted in the President's budget. That is nearly four times the record set last year by my Democrat colleagues of this House. This has led even to the President's chief economic adviser, Dr. Christina Romer, while speaking on CNN to acknowledge that it is "pretty realistic" that there will be no job growth until 2010, and the U.S. will hit 9.5 percent rate of unemployment this year. Well, let's just be honest about it. The Democratic plans are that there would be 9 percent unemployment next year. That was the Democrats' blueprint, their plan that was in the budget. Nine percent, that's their best estimate, their guess. We're going to rise to 9 percent. Well, the question is not whether Congress should support families but whether it makes sense when so many Americans are already struggling with unemployment rates, increased taxes, thanks to our good friends in the Democrat majority, and an economic recession in the 3 years that the House and the Senate have been run by Democrat leadership, to increase their tax burden to pay for this increased paid time off from work, especially in light of the fact that government workers, in my opinion, have not even asked for it.

Madam Speaker, my friends on the other side of the aisle often argue that

Federal employees need greater benefits to be more competitive with private industry. There could be truth to that. But even the Office of Personnel Management has determined that Federal and private sector benefits compare favorably, and additional benefits would not help with retirement and retention. Additionally, this bill does not assist the older workforce facing retirement since it specifically deals with paid leave for having a child, adopting a child or taking care of a foster child.

The Congressional Budget Office estimates that this new benefit-in-search-of-a-problem will cost taxpayers \$938 million over the next 5 years. Madam Speaker, at a time when average hard-working American families are already struggling and working many, many, many more hours and trying to find additional income through a job that they cannot find to pay their bills, I don't believe it's appropriate for Congress to increase the paid leave of Federal bureaucrats beyond their already generous levels by using taxpayer dollars to do it.

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Since June of last year, the Federal Government workforce has grown by 37,000 employees while the private sector has shed more than 4.4 million jobs at the same time.

My colleagues on the other side of the aisle have spent trillions of the taxpayers' dollars over the past 6 months. Americans are faced with a \$1.8 trillion deficit this year alone from the Democrat majority in this administration. Their plan. Taxpayers are reaching a breaking point when it comes to subsidizing higher Federal spending at their expense. It is costing the free enterprise system jobs and the opportunity to get a job tomorrow because of the massive spending that is taking place by this Democrat majority.

Responsible American families are cutting back their costs. They are dealing with the job loss. They are doing the things to help their families and their friends, and they are looking at the destruction of their savings and retirement accounts.

I think it is simply wrong. It is wrong for the Democratic Party to move this bill. Rather than trying to create jobs, they are trying to get new benefits for Federal employees.

Madam Speaker, I will be honest. You are darn right that this is going to be a tough vote for Members of Congress. Are we going to pay attention to what is happening back home or are we just going to come up here and spend another \$1 billion?

I encourage my colleagues to vote "no." Vote "no" on this legislation.

I reserve the balance of my time.

Mr. CARDOZA. Madam Speaker, I just will respond to the gentleman that

this is less than \$100 million a year for the entire country. While every dollar that the taxpayers pay is significantly important, I would say that this particular bill is much more important in some ways than many expenditures this Federal Government makes.

It is also something that I believe is fundamentally important in many sectors, especially in the area that I talked about with adopting new children. The gentleman says that the Federal employees are some of the most stable workforce that we have in this country. Well, that is exactly the kind of people you want to adopt children, people in stable homes that have jobs that they are not going to lose, that can take the time to do what we have set forth in this bill.

While leave policies in the government generally may compare favorably with some private sector employment, the Federal Government's paid parental leave policy simply does not. Seventy-five percent of the Fortune 100 companies offer at least 6 weeks of parental paid leave and make them much more attractive to young working families who cannot afford to go without pay for that length of time.

Madam Speaker, I would like to, at this time, yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. I thank the gentleman for yielding.

I rise in strong support of the rule and the underlying bill that would provide 4 weeks of paid leave to Federal employees for the birth, adoption, or fostering of a child. It is identical to the version of the bill, H.R. 5781, which passed the House last Congress with strong bipartisan support. The vote count was 278-146, with 50 Republicans voting for the bill in the 110th Congress.

My good friend on the other side of the aisle said that Federal employees are not asking for this. That is not the truth, and I would like permission to place in the RECORD various letters written in support. They actively have been meeting with us and supporting it for the past 15 years. Majority Leader STENY HOYER and I and others have been championing this bill. And I would like to put their letters of support in the RECORD.

AMERICAN FEDERATION OF LABOR  
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, June 4, 2009.

#### LEGISLATIVE ALERT

DEAR REPRESENTATIVE: The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) strongly supports HR 626, the Federal Employees Paid Parental Leave Act of 2009. This vital legislation would provide all Executive and Legislative Branch federal employees with income support for up to four weeks of parental leave in order to facilitate bonding between parents with newborn infants or newly adopted children.

Federal workers are among those who must choose between meeting their family obligations and maintaining family income because under current law, no part of the leave under the Family and Medical Leave Act is guaranteed to be paid leave. The years when employees are most likely to become parents coincide with the early years of their career, when they are least likely to have accumulated enough savings to forgo their salary for several weeks. Workers early in their career are also least likely to have accumulated enough annual leave to cover the time needed to provide adequate care for a newborn or newly adopted child. As a result, many workers are effectively prevented from using FMLA leave at all.

Spending time with a newborn or a newly adopted child should not be viewed as a luxury that only the rich should be able to afford. Virtually all research on child development and family stability supports the notion that parent-infant bonding during the earliest months of life is crucial. Children who form strong emotional bonds or "attachment" with their parents are most likely to enjoy good health and have positive relations with others throughout their lifetimes. H.R. 626 takes as a given that all children who become new members of a family need this critical time with their parents, and provides all parents—adoptive and biological—equal treatment.

More and more private sector employers provide paid parental leave because they recognize that productivity is lost when a parent returns to work before they have found appropriate child care for a newborn or newly adopted child, or when an employee comes to work ill because all leave was exhausted during the protracted adoption process. Without the extension of paid parental leave to all Executive and Legislative branch employees, the federal government will lose good workers, trained at taxpayer expense, who decide to leave federal service for an employer who offers paid parental leave.

The benefits to children and families of four weeks of paid parental leave have been well established. The AFL-CIO urges Congress to pass the Federal Employee Paid Parental Leave Act of 2009.

Sincerely,

WILLIAM SAMUEL,  
Director,  
Government Affairs Department.

NATIONAL ACTIVE AND RETIRED  
FEDERAL EMPLOYEES ASSOCIATION,  
Alexandria, VA, June 3, 2009.

DEAR REPRESENTATIVE: On behalf of the National Active and Retired Federal Employees Association (NARFE), I am writing to urge you to support H.R. 626, the Federal Employees Paid Parental Leave Act, when it is considered by the House of Representatives on Thursday, June 4.

NARFE believes that extending paid parental leave to federal employees will assist federal agencies in their ongoing recruitment and retention efforts. Indeed, Congress needs to pass this family-friendly legislation if we are to attract the highly talented and skilled individuals necessary to take on the challenges of recovering from an unparalleled economic upheaval, fighting two wars and defending the homeland.

While federal workers need paid leave to care for a newborn or adopted baby, a growing number of "sandwich generation" employees require the same support as they struggle to provide care to their aging parents. The current trend toward an older workforce, coupled with overall increased

longevity, greatly increases the need for employers to provide adequate leave and compensation for family caregiving duties on both ends of the sandwich generation. For that reason, we urge you to work with us to ensure that paid family leave is also extended to federal workers who serve as caregivers to their parents.

NARFE urges you to honor federal employees, who work each day to better our nation, by voting for H.R. 626.

Sincerely,

MARGARET L. BAPTISTE,  
President.

NATIONAL TREASURY EMPLOYEES UNION,  
Washington, DC, June 1, 2009.

DEAR REPRESENTATIVE: On behalf of the National Treasury Employees Union (NTEU) and more than 150,000 federal employees in 31 agencies and departments across the nation, I am writing to ask you to vote for passage next week of H.R. 626, the Federal Employees Paid Parental Leave Act.

This important bill, introduced by Representative Carolyn Maloney (D-NY), provides federal employees with four weeks of full pay to use while they are on Family and Medical Leave Act (FMLA) leave for the birth or adoption of a child. It will bring the government's approach on family leave closer to that of the private sector and many industrialized nations.

This bill will help our federal government recruit and retain dedicated and talented workers, and show that the federal government truly values families. Currently, federal workers do not have any guarantee of paid leave for the birth or adoption of a new child. Some have accrued paid sick or vacation time that they may be able to use while on FMLA leave. However, others, especially younger workers who have not accrued sick or vacation time, have no choice but to take unpaid leave. This measure will allow federal workers the ability to better balance family needs and work requirements as access to paid parental leave has become a necessity for today's working families.

In the coming years, federal agencies will be hiring many new workers. Fifty-eight percent of supervisory and 48 percent of non-supervisory workers will be eligible to retire by the end of fiscal year 2010, according to a 2004 report by the Office of Personnel Management. In order to compete with the private sector and attract and retain the best workers, federal benefits must be competitive. According to a March 2008 report by the Joint Economic Committee staff, nearly 75 percent of the Fortune 100 firms offer working parents some paid time off when they have a new child. A paid parental leave policy will also save the government money by reducing turnover and replacement costs, which is estimated to be 25 percent of the worker's salary.

On behalf of our federal employees, I look forward to your vote for passage in the House of H.R. 626.

Sincerely,

COLLEEN M. KELLEY,  
National President.

NATIONAL TREASURY EMPLOYEES UNION,  
Washington, DC, June 4, 2009.

DEAR REPRESENTATIVE: As President of the National Treasury Employees Union (NTEU), with over 150,000 federal employees in 31 different agencies, I write to you today to ask that you vote no on the Issa amendment to be offered today on H.R. 626, the Federal Employees Paid Parental Leave Act of 2009.

This important bill, introduced by Representative Carolyn Maloney (D-NY), provides federal employees with four weeks of



full pay to use while they are on Family and Medical Leave Act (FMLA) leave for the birth or adoption of a child. It will bring the government's approach on family leave closer to that of the private sector and many industrialized nations.

This bill will help our federal government recruit and retain dedicated and talented workers, and show that the federal government truly values families. Currently, federal workers do not have any guarantee of paid leave for the birth or adoption of a new child. Some have accrued paid sick or vacation time that they may be able to use while on FMLA leave. Many, especially younger workers who have not accrued sick or vacation time or workers who have had health issues, have no choice but to take unpaid leave. This measure will allow federal workers the ability to better balance family needs and work requirements as access to paid parental leave has become a necessity for today's working families.

The Issa amendment would require employees to use all accrued leave before receiving additional paid parental leave and would require additional paid parental leave to be treated as a repayable advance. This amendment essentially guts the bill, while not addressing the problem. Paid parental leave is needed precisely because the present leave is not sufficient for having a child and allowing bonding time with that child. We hear stories every day from my members, from women, mostly, who have put off operations to save sick leave to have a child, or people who have cared for their terminal parents, and now have hundreds of sick leave hours to repay, and put off having a child. Women go to work ill because they have to save time for childbirth. As a matter of fact, every time this bill is mentioned in the press, NTEU receives stories of federal employees desperate to get some help so they can stay home just a few weeks with their newborn or adopted child.

Representative Issa stated during the Oversight and Government Reform Committee's consideration that federal employees will somehow "game" this new parental leave by taking in a new foster child every year, thus getting a "free" extra four weeks a year—a statement NTEU finds preposterous. Now the opposition comes in the form of an amendment requiring a zero balance in sick and annual leave before paid parental leave begins. This is putting federal employees in exactly the position we seek to avoid by this legislation.

Seventy-five percent of the Fortune 100 companies in this country offer paid parental leave, and the average amount is six weeks. In the coming years, federal agencies will be hiring many new workers. Fifty-eight percent of supervisory and 48 percent of non-supervisory workers will be eligible to retire by the end of fiscal year 2010, according to a 2004 report by the Office of Personnel Management. In order to compete with the private sector and attract and retain the best workers, federal benefits must be competitive. A paid parental leave policy will also save the government money by reducing turnover and replacement costs, which is estimated to be 25 percent of the worker's salary.

On behalf of our federal employees, I urge a "no" vote on the Issa amendment and "yes" for final passage of H.R. 626 as reported from committee.

Sincerely,

COLLEEN M. KELLEY,  
National President.

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO,  
Washington, DC, June 2, 2009.

DEAR REPRESENTATIVE: On behalf of the over 600,000 federal workers represented by the American Federation of Government Employees, AFL-CIO (AFGE), I strongly urge you to support H.R. 626, the Federal Employees Paid Parental Leave Act of 2009, introduced by Rep. Carolyn Maloney (D-NY). H.R. 626, which has bipartisan support, provides four weeks of paid leave for federal workers who are the parents of newborns and newly adopted children. AFGE commends the bill's sponsor, Rep. Maloney for her years of "commitment and tireless efforts to establish this important improvement in the work and family lives of over one million federal workers. This landmark legislation is an investment in both the federal workforce and their families.

Virtually all research on child development and family stability supports the notion that parent-infant bonding during the earliest months of life is crucial. Newborns and adopted children who form strong emotional bonds or "attachment" with their parents are most likely to do well in school, have positive relationships with others and enjoy good health during their lifetimes. These are national outcomes that should be the goal for all children, including those of federal employees. A parent should not be forced back to work immediately after the birth or adoption of a child because she or he could not do without his or her paycheck.

Those who oppose the bill cite "fiscal responsibility" as a reason to delay or deny action on H.R. 626 opposed these same provisions long before the recent economic downturn. Hard economic times are exactly the right time for the government to take responsible action on behalf of families. A recent Financial Times article stated that in this most recent recession, men account for almost 80% of job losses. A responsible worker benefit like federal employee paid parental leave provides a certain source of income that allows families to bond and households during economically troubled times.

A lack of paid parental leave negatively impacts the government when a good worker, trained at taxpayer expense, decides to leave federal service for another employer who does offer paid leave. Although federal workers do accumulate leave, by conservative estimates it would take a federal worker who uses two weeks of annual leave and only three days of sick leave per year close to five years to accrue enough sick and annual leave to receive pay during the 12 weeks of parental leave allowed under FMLA. Younger workers of child bearing years are at a moment in their careers when they can least afford to take any time off without pay and least likely to have accumulated significant savings. These so-called alternatives to a benefit of paid parental leave to federal workers are unrealistic and fail to adequately address the problems families face.

The time has come for the federal government to set the standard for U.S. employers on paid parental leave. Although there is no current law providing paid parental leave for federal workers, the federal government currently reimburses federal contractors and grantees for the cost of providing paid parental leave to their workers. Surely if such practice is affordable and reasonable for contractors and grantees, federal employees should be eligible for similar treatment. The benefits to children and families of four weeks of paid parental leave are enormous and long-lasting. AFGE strongly urges you

to support the Federal Employee Paid Parental Leave Act of 2009.

Sincerely,

BETH MOTEN,  
Legislative and Political Director.

I also would like to point out that this bill is PAYGO neutral and would not affect, and I quote, "direct spending or receipts." To be clear, there are no PAYGO implications for H.R. 626 because it does not create new expenditures. Whether or not an employee takes paid leave, the pay for that employee has already been included in the salary budget for that agency. The only cost associated with the bill is the amount that agencies currently save when employees who have a new child take their 12 weeks of unpaid leave. And the \$140 million figure for 4 weeks of paid leave in the Congressional Budget Office score is what Federal agencies currently save when employees take unpaid leave.

Paid leave can also offset costs by boosting employee morale and productivity while reducing turnover. Turnover is costly. It costs 20 percent of an employee's salary to hire and train a new worker compared to just 8 percent to provide a skilled, experienced employee with 4 weeks of paid parental leave. And the military already provides paid leave. New mothers are provided not with 4 weeks but 6 weeks of paid leave. And fathers are given 10 days.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CARDOZA. I yield the gentle lady 1 additional minute.

Mrs. MALONEY. This bill puts the civilian branch on par with the military. It has already been pointed out that a large portion of the private sector voluntarily provides paid leave. And in a study by Harvard and by the GAO, we found that we are ranked 168th in the world; 168 countries provide some form of paid leave. We are tied with Papua New Guinea, Swaziland, and Lesotho as countries that do not provide paid leave.

So this is an opportunity for this body, which constantly talks about family values, to show that they truly do value families and provide paid leave, 4 weeks, building on the 12 weeks of unpaid leave from the Family and Medical Leave Act, so that families can have support during this critical time of the birth, adoption, or fostering of a child.

I believe my time is expired. I urge a "yes" vote on the rule, and I urge a "yes" vote on the underlying bill.

Mr. SESSIONS. Madam Speaker, we have had two wonderful speakers on the majority side tell us—I think they were contradicting each other. One said it only costs \$100 million a year. Another speaker said, oh, there is no cost. As a matter of fact, PAYGO says there is nothing to it.

Well, maybe the PAYGO rules of this House say that, but let me tell what



you what the Congressional Budget Office says, their cost estimate. The Congressional Budget Office says, 5 years, \$938 million; \$938 million. Almost \$1 billion over 5 years. Now, that is real money. Oh, no, no, no. You got it wrong. We are already going to give them the money anyway, so it doesn't cost any more.

That is not reality, and that is not the way it works. The CBO is right, \$938 million over 5 years. We had our President just 3 or 4 weeks ago say, after spending all these trillions of dollars, the President said, I'm going to ask my budget to cut a whopping \$100 million from all their budgets across government; 100 million. Well, that is this bill just for 1 year, as the gentleman says, just 1 year. But the bottom line is it is \$938 million over 5 years.

You just can't have it both ways. You can't try and explain to the American people that you are really trying to do something good for them but turn around and make it more difficult. I think our friends that are in the majority party don't understand that you just can't sneak up here to Washington and do this and get away with it back home. People are going to pay attention to this.

Madam Speaker, at this time, I would like to yield 2 minutes to the gentleman from Clovis, California (Mr. NUNES).

Mr. NUNES. I want to rise in opposition to this rule. Madam Speaker, when our government can't ensure water to the people that live in this country, the government has failed. And I want my colleagues to know, particularly those in the Democratic leadership, that this government is presiding over a manmade drought in California. Thanks to this, my district is at 20 percent unemployment. Some communities are at 50 percent unemployment. And despite this crisis, today, the Obama administration announced a new biological opinion that will end water deliveries in California, laying waste to billions of dollars worth of infrastructure and starving the State of water. We must not allow this to happen, and this body must act.

I would like to conclude by addressing my friends in the Democratic leadership in this country. I want to express my congratulations for dealing with this crisis. You have managed to make the crisis worse.

Madam Speaker, we need to stop the spending, stop the bailouts, and get back to the basic responsibilities that this government has, like providing water to people.

With that, Madam Speaker, I urge a "no" vote on this rule.

Mr. CARDOZA. Madam Speaker, I respond to my colleague from California and my colleague from Texas in this way. My colleague from California knows that I support him in his efforts to try and solve the California water crisis, and, in fact, I have been a leader in trying to do that. I don't always agree. I have come to this House floor and argued with my own leadership with regard to the issues that have dealt with the causes of the California regulatory drought.

I would also like to remind the gentleman, who loves to blame the Democrats for everything that goes wrong, that it was a Republican bill and a Republican judge that put both of those concerns that are causing much of our water problems on the map.

With regard to my friend from Texas and his claim that this is all about the cost, I can tell you that as an adoptive parent, if I hadn't taken the actions I did by adopting two children, they would not have filled the place they hold in my heart, but they would have also cost the Federal Government much, much more. When we take kids out of an abusive home and put them into foster care, we do so in order to try and recapture their lives.

My children came out of a home where they were being neglected and abused by a drug-addicted mother. The scars that they will carry from that time in their lives are profound. Had I not had the ability to spend time with them, the challenges that we face with the emotional difficulties of those young people that I love so much would be, in fact, much worse than they are even today.

The gentleman can talk about how this is a cost issue, but let me tell you, if people can't get the time to do what is right about adopting young kids, they won't do that. And it will cost the Federal Government much more.

We argued this in a bill last year where we gave the opportunity for our troops to adopt young people and take that leave. It was the right thing to do then, and it passed. Last year, this bill was on the floor, and 58 of the gentleman's colleagues from Texas voted in support of this. This is the right thing to do for our country. It is the right thing to do for our kids. I believe in it profoundly. And, yes, this government wastes a lot of money in many different ways, but I can tell you that money spent in this area on this particular set of young people that I have talked about so much today is money well spent and will pay dividends many

times over in the future. I have no question about that.

At this time, Madam Speaker, I would like to inquire of the gentleman from Texas if he has any remaining speakers.

Mr. SESSIONS. I thank the gentleman for the inquiry. As a matter of fact, I do have at least one more speaker. I would anticipate that if you do not have any additional speakers, I will then offer my close and then we could allow you to do the same, and then we can move on through this rule.

Mr. CARDOZA. I will reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I appreciate the gentleman for that opportunity to move forward on this important bill.

Madam Speaker, I would like to insert into the RECORD the cost estimate for H.R. 626 from the Congressional Budget Office.

H.R. 626—FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2009

Summary: H.R. 626 would amend title 5 of the United States Code, the Congressional Accountability Act, and the Family and Medical Leave Act of 1993 (FMLA) by creating a new category of leave under FMLA. This new category would provide four weeks of paid leave to federal employees following the birth, adoption, or fostering of a child. In addition, the legislation permits the Office of Personnel Management (OPM) to increase the amount of paid leave provided to a total of eight weeks based on the consideration of several factors such as the cost to the federal government and enhanced recruitment and retention of employees.

Under current law, federal employees who have completed at least 12 months of service are entitled to up to 12 weeks of leave without pay after the birth, adoption, or fostering of a child. Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment." Employees may get paid during that 12-week period by using any annual or sick leave that they have accrued. The leave provided by this bill would be available only within the 12-week FMLA leave period.

CBO estimates that implementing H.R. 626 would cost \$67 million in 2010 and a total of \$938 million over the 2010-2014 period, subject to appropriation of the necessary funds. Enacting H.R. 626 would not affect direct spending or receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 626 is shown in the following table. The costs of this legislation would fall in all budget functions (except functions 900 and 950).

		By fiscal year, in millions of dollars—					
		2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level .....		69	215	219	221	224	947
Estimated Outlays .....		67	209	218	221	223	938

Basis of estimate: For this estimate, CBO assumes that H.R. 626 will be enacted by October 1, 2009, and that the necessary amounts for implementing it will be appropriated each year. Under the legislation, the new category of leave would become available six months after enactment (that is, around April 2010). As a result, the cost of the legislation in 2010 reflects implementation for only half of the year. After 2010, CBO has included in its estimate a 50 percent probability that OPM will use its authority to increase the amount of paid leave available from four weeks to eight weeks. Costs in future years are projected to grow with inflation.

CBO assumes that the potential users of the new leave would be primarily the roughly 700,000 civilian employees who are between the ages of 20 and 44 and have been employed at least 12 months. (This figure excludes employees of the Postal Service because H.R. 626 amends title 5 of the United States Code, which does not apply to them.)

Estimating an adoption rate based on data from the Department of Health and Human Services and applying birth rate information for the relevant age cohorts from the National Center on Health Statistics to the roughly 313,000 women eligible for the new leave yields about 17,800 women who might give birth or adopt in a given year. Based on average salary information from OPM, CBO estimates that four weeks of paid leave—the maximum amount guaranteed by the bill—for female employees would cost between \$2,800 (for those in the youngest age cohort) and \$5,400 (for those in the 40-44 age cohort). Assuming that nearly all of those women took the maximum amount of leave, CBO estimates the cost of the leave to be \$77 million this year (if it were available for the entire 12-month period).

Applying those same calculations to the 390,000 men in the affected age groups, CBO estimates that roughly 24,000 men would be eligible for the four weeks of paid leave, at an average cost of between \$3,100 and \$6,000 per male employee. Assuming that eligible men would take the leave at about one-half the rate of women, CBO estimates that men would use another \$54 million worth of leave this year (if it were available for the entire 12-month period), bringing the total to \$130 million.

Since CBO assumes that the new leave would not be available until half-way through fiscal year 2010, there would be no costs for 2009 and the 2010 costs would represent only six months of the year, totaling \$67 million. Beyond 2010, CBO assumes a full year of availability and has included a 50 percent probability that OPM would increase the amount of paid leave available to employees. As a result, anticipated costs increase to \$209 million in 2011. (The 2011 costs would be about \$140 billion if the benefit were kept at a maximum of four weeks.)

The effects of this bill on the budget derive from the provision of a new form of paid leave. To the extent that such a new benefit enables people to take advantage of paid leave rather than taking leave without pay, the costs are clear. However, employees who would currently use annual or sick leave upon the birth, adoption, or fostering of a child may choose to use this new form of paid leave and save their accrued leave for a later date. CBO has no basis for estimating the magnitude of such substitution, but the deferral of annual and sick leave also represents a cost either in terms of increased availability of paid leave or cash payments upon separation.

In addition, providing a more generous benefit to employees may enhance the federal government's ability to retain employees after the birth or adoption of a child and thereby lower recruitment and training costs. CBO estimates that such potential savings are likely to be relatively small over the next five years.

Intergovernmental and private-sector impact: H.R. 626 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Barry Blom; Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Mr. SESSIONS. Madam Speaker, I would like to insert into the RECORD a newsletter with information provided by the National Federation of Independent Business, known as the NFIB. This letter provides information about strongly opposing this bill.

NFIB: FMLA SHOULD NOT GRANT PAID LEAVE FOR FEDERAL EMPLOYEES

WASHINGTON, D.C., June 4, 2009—Susan Eckerly, senior vice president, public policy for the National Federation of Independent Business, the nation's leading small business association, released the following statement asking the U.S. House of Representatives to defeat the Federal Employees Paid Parental Leave Act of 2009 (H.R. 626).

"This legislation mandates an alarming expansion of the Family and Medical Leave Act from an unpaid leave program into one that would provide partial paid parental leave for federal employees. By carving out four of the 12 weeks of FMLA as paid parental leave, we are deeply concerned that H.R. 626 sets a precedent for future discussions over expansion of FMLA.

"In addition to creating a new paid leave component of FMLA at a great cost to the taxpayers, the bill doesn't require federal employees to first use accumulated vacation or sick leave before taking the paid parental leave. Again, this would set a bad precedent for the private sector. Currently, if an employee has accrued paid time off, an employer may require them to use some or all of their accrued paid time for some or all of the FMLA leave.

"Small businesses are struggling to survive in our tough economic times, and are very concerned that creating an expensive, new paid leave benefit for federal employees will eventually lead to new paid leave mandates on small business, something that's neither practical nor affordable. We are strongly urging the House to defeat this bill."

Mr. SESSIONS. At this time, Madam Speaker, I would like to yield 2 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE of New York. I thank the gentleman from Texas for yielding.

I rise to oppose the rule on the legislation in consideration of H.R. 626. Having run a business, I understand how important it is to look out for workers and to be supportive, especially in these difficult economic times, when families are making tough choices with regard to how they spend their money and their time.

I believe this debate should be focused on whether Washington should

be granting additional fringe benefits to public sector employees in a period when private sector workers in hard-hit areas, like western New York where I come from, are struggling to hang on to their jobs. This is why I offered a simple amendment that said that legislation would not take effect until the national unemployment rate is down to 4 percent and no State has an unemployment rate greater than 7 percent.

I regret that the House will not have the opportunity to consider this amendment, because I think it provides a commonsense way to address the timing of this measure. Take an area of my district like Niagara County where tens of thousands of jobs are tied to the auto industry. The unemployment rate there is nearly 11 percent, a figure that was reported before General Motors and Chrysler began their restructuring, which we already know will lead to more job losses.

□ 1730

We also know that these workers who are able to hang on will have to accept significantly reduced compensation packages in order to stay employed.

These are tough times, regardless of what industry you're in. But think about these auto workers, the farmers, the retail workers who are being forced to do more with less just to keep their jobs and to keep their heads above water. Think about them when Washington turns around and proposes more generous fringe benefits for public sector employees. It sends the wrong message at the wrong time, and it's just another example of how Washington continues to find ways to spend money it doesn't have.

Again, I'm disappointed that the House will not have the opportunity to consider my amendment.

Mr. SESSIONS. Madam Speaker, I appreciate the gentleman from New York.

Madam Speaker, I did engage in an agreement with the gentleman from California. The gentleman has given concurrence. We had another speaker from the Republican Party who would choose to speak, and so, going back on my word, but with agreement, the gentleman is allowing me to extend 3 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. I think this will be better for Mr. ISSA too so I don't get into his time, so I thank the chairman for letting me do this. And I thank you.

I rise in support of the bill, and I just wanted to give you some reasons. One, I supported the bill in the last session.

Two, our military today currently gets 6 weeks of parental pay leave. And the first person killed in Afghanistan was from my district, a civilian along side of the military, and so for the FBI, the CIA, the DIA, the DEA, the ATF they deserve basically the same thing.

Secondly, I was the ranking member on Children, Youth and Family years

ago. And Dr. Brazelton, the leading child pediatrician, came in and pointed at the initial moment of birth—and I have five children and 13 grandchildren and soon to have two more—at the initial moment of birth, when the mother breathes on the baby, the bonding process begins. It begins. Those early days, weeks are absolutely positively critical. And so, for me, on a family issue, and a family value issue, I think that's really important.

The last thing is I just want to remind my colleagues that one of the leading people in this Congress, one of my heroes, two of the people that I looked up to more than anybody, one, Congressman Henry Hyde and former Congressman Dan Coats, who later went on to be a Senator, both supported parental leave.

Let me read to you what Henry Hyde said. The words of Henry Hyde, during the debate on family leave, and it was not paid family leave, so there was a difference just as important. He reminded us that "the family supplies the moral glue that holds society together, and it is a central institution that stands between us and social disintegration."

And so, one, the military gets 6 weeks. Two, that bonding process is when the baby comes out, you want the mother to be there. It is critically important. And, thirdly, one of the giants from the beginning of this Hall that ever served, Congressman Henry Hyde, led the effort and made the most passionate case on why family leave should have been passed years ago.

And with that I rise in support of the bill and thank the gentleman for yielding me time.

Mr. SESSIONS. Madam Speaker, I appreciate the gentleman from Virginia, not only for coming to the floor, but also the gentleman from California for allowing me to extend to an additional speaker. And I thank the gentleman very much.

Madam Speaker, we should have a different title to this bill. This bill should be the bill for what Congress needs to do to expend Federal benefits, benefits to Federal employees, while knowing that in April there were over 611,000 private sector jobs that were lost. That should be the name of the bill. This is what this Congress is going to do to respond to some almost 3 million jobs that have been lost, while this administration is in power. That's what this bill really should be known for.

This is the answer to 3 million job losses in the private sector. We're going to extend benefits, further benefits to the Federal Government.

Hey, I understand that because the Federal Government employment has risen about 100,000, and with, you know, car companies and banks and everything else, no telling how many Federal employees that we'll end up

with at the end of this year. So maybe I was wrong. Maybe there is a strong demand out there for Federal Government employees who want additional benefits.

But we should remember that back home, where I'm from, and where a lot of people are from, 611,000 jobs disappeared in the month of April. And this is the response from our Democrat majority and our President: let's go spend more money, new benefits for Federal Government employees.

I get it. I think you will too, Madam Speaker, when we hear from people back home.

Madam Speaker, in closing I'd like to reiterate the horrible precedent that I think this legislation sets to those Americans who today that I just talked about, some 611,000 in April alone in the private sector who lost their jobs. Millions of Americans are jobless, and due to the out-of-control spending of this Democrat Congress, no analyst or White House official believes jobs will bounce back this year. None of them. Nobody.

As a matter of fact, the Democrat Party is on record and it's going to get worse next year and we're planning on it already. We already understand that. We ought to be saying that instead of extending benefits that it's going to cost another billion dollars.

Why are my friends on the other side afraid of risking more of the taxpayer dollars to provide Federal employees who already have the most job security and excellent benefits? Why are they afraid to back away and wait on this? Why are they pushing this? I wonder.

I wonder really who is more important and who they're hearing from, because evidently it's not people back home. Maybe it is the government workers that they're listening to. Maybe government workers are more important to this party than people back home. Maybe that's why this is happening.

Look, Republicans are providing quality solutions. We think we understand what the American people are going through. We understand what's happening with the taxing, the borrowing and the spending. Huge deficits and unemployment rates continue on and on and on.

I oppose this bill, and I hope that the American people understand that the taxpayer was heard today on the floor of the House of Representatives. They were heard by the speakers of the Republican Party who said we should not be extending benefits right now. We should not increase the spending and the cost of \$1 billion over the next 5 years. We should understand what real people are going through.

I'm going to vote against this bill.

I yield back my time.

Mr. CARDOZA. Mr. Speaker, I've sat here and listened this evening to the gentleman from Texas (Mr. SESSIONS)

talk about how this is a terrible waste of dollars, and how the Republicans are saying that this is a terrible waste of money.

But I'd wish to correct the gentleman. Today this isn't a partisan issue. In fact, I would predict that there are a number of his colleagues, the gentleman from Texas, on the Republican side of the aisle, like Mr. WOLF, who understand what this is about.

This is about America's children, about children coming into this world and bonding with a mother and a father and having the opportunity to do that in this hectic world that we live in today. It's about foster parents that come in and do the right thing, taking care of abused and victimized children, and needing that time to do it right.

It's about adoptive parents who, when they reach out and bring into their home permanently children who have been victimized by society's ills, having the opportunity to do it right so we can start healing those children.

There are a number of Republicans on that side of the aisle that are going to do the right thing tonight. They're going to vote for this rule, and they're going to vote for this bill because it's the right thing for America and building families.

They call themselves the "Family Values Party." Tonight they can prove it by coming in here and voting to do the right thing.

Mr. Speaker, tonight I'd like to submit for the RECORD the statement of administration policy.

#### STATEMENT OF ADMINISTRATION POLICY

The Administration supports the goal of H.R. 626, which would provide Federal employees with access to paid leave upon the birth, adoption, or fostering of a child.

Being able to spend time at home with a new child is a critical part of building a strong family. The initial bonding between parents and their new child is essential to healthy child development and providing a firm foundation for the child's success in life. Measures that support these relationships strengthen our families, our communities, and our nation. The Federal government should reflect its commitment to these core values by helping Federal employees to care for their families as well as serve the public. Providing paid parental leave has been successfully employed by a number of private-sector employers, and can help to make job opportunities accessible to more workers.

The Administration is currently reviewing existing Federal leave policies to determine the extent of their gaps and limitations. The Administration looks forward to working with Congress to refine the details of this legislation to make sure it meets the needs of Federal agencies and employees, as well as their families.

You know, the gentleman from Texas talks about how much money this government has wasted. He's right, there's a lot of money that gets wasted.

But over the last 8 years, as our country was being absolutely raped by those defense contractors in the Middle

East with no accountability, where was the gentleman to stand up against that?

No, ladies and gentlemen, he's not willing to stand up against that, or wasn't during the last 8 years. But tonight he will criticize us spending a few dollars to get it right for our families in America.

Mr. Speaker, the fact of the matter is that while most parents wish to stay home with their new child, they just can't afford to take unpaid leave, which directly affects that child's well-being.

We can start with having the Federal Government lead by example to set the stage for making changes across the table. To paraphrase Mahatma Gandhi, we must be the change we wish to see in this world. I believe that couldn't be more true.

I ask the Members of both sides of the aisle to support the parents of America, to support the children of America, and be the change that we wish for our world.

I urge a "yes" vote on this rule and on the previous question.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2009

The SPEAKER pro tempore (Mr. LYNCH). Pursuant to House Resolution 501 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 626.

□ 1743

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 626) to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes, with Ms. DEGETTE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. LYNCH) and the gentleman from California (Mr. ISSA) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. LYNCH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today I rise in strong support of H.R. 626, the Federal Employees Paid Parental Leave Act of 2009, which was introduced by our col-

league, Congresswoman CAROLYN MALONEY, on January 22, 2009.

As chairman of the subcommittee on the Federal Workforce, Postal Service and District of Columbia, I'm proud to serve as an original cosponsor of this bill, along with 55 other Members of Congress.

H.R. 626 takes an important step toward improving the Federal Government's ability to recruit and retain a highly qualified workforce by providing paid parental leave to Federal and Congressional employees for the birth, adoption or placement of a child for foster care, which is a benefit that is extended to many in the private sector as well as to all government employees in other industrialized countries.

□ 1745

In considering H.R. 626, the Subcommittee on the Federal Workforce, Postal Service and the District of Columbia marked up the bill on March 25, 2009, and favorably recommended the measure to the full Committee on Oversight and Government Reform. The full committee then held markup on H.R. 626 on May 6, 2009, and ordered the bill to be reported to the floor by a voice vote.

The bill being considered today will allow all Federal and congressional employees to receive 4 weeks of paid leave taken under the Family Medical Leave Act, also called the FMLA, for the birth, adoption or placement of a foster child.

As many of my colleagues are aware, the current FMLA statute provides workers up to 12 weeks of unpaid leave for the birth, adoption or placement of a foster child with an employee. Madam Chairman, the bill before us does nothing more than permit those Federal employees, first, to receive paid leave for 4 weeks out of the 12 weeks to which they already have access and if the leave is connected to the birth, adoption or placement of a foster child; and secondly, provides employees the option to use accrued sick or annual leave, if available, for the remaining 8 weeks.

Let us be clear. The bill currently being considered does not provide Federal workers any additional time or expand beyond the 12 weeks already given under current law.

The bill before us has also been strengthened by granting the director of the Office of Personnel Management the authority to increase paid parental leave from 4 weeks to 8 weeks after considering a thorough cost and benefit analysis.

Parental leave is a pertinent concern around the world, and unfortunately, America is lagging behind in offering paid leave for parents. The governments of 168 countries offer guaranteed paid leave to their female employees in connection with childbirth. Ninety-

eight of these countries offer 14 or more weeks paid leave. Currently, the Federal Government, as an employer, guarantees zero paid leave for parents in any segment of the workforce. However, H.R. 626, once enacted, will, in fact, change that.

While the 12 weeks of unpaid leave, as authorized by the Family Medical Leave Act of 1993, has helped millions of families during some of the most precious moments or, in some cases, the most challenging times of their lives, most Federal employees cannot afford to take unpaid leave. This often forces these employees to choose between spending more time with their newborn child or maintaining an income to support their families, which is a difficult decision that Federal workers will hopefully not have to make after the passage of this Federal Employees Paid Parental Leave Act.

The United States of America, and in particular, the Federal Government, is supposed to be a world leader in this area. Yet, for years, we have been followers. I'm sure you will agree with me when I say that it is high time for us to catch up with the rest of world and provide our dedicated employees with paid parental leave of this limited time.

Providing Federal employees with paid parental leave will increase worker morale and improve productivity by creating a more family friendly environment for Federal employees. Further, providing 20 days, or 4 work weeks, of paid leave to our dedicated Federal employees should not be described as an overgenerous or excessive fringe benefit, but rather, as a necessary benefit to help strengthen American families and promote the healthy development of our children.

We also need to recognize that the Federal Government is the largest employer in the United States, and its policies in this area do set a tone for the country. No employee should have to choose between caring for a newborn child or their paycheck. This is especially true during an economic downturn.

Therefore, Madam Chairman, I'd like to once again reiterate my support for H.R. 626, the Federal Employee Paid Parental Leave Act of 2009, and I urge my colleagues to join me in voting in favor of this measure.

I reserve the balance of our time.

Mr. ISSA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, H.R. 626 sends the wrong message at the wrong time to working American taxpayers and families that are struggling in difficult times. Our economy is in crisis, and deficits are already soaring.

Excess government spending created record deficits that have continued to rise for years, in good times and bad, meaning government already spends too much of the taxpayers' money and

has been running deficits before, and now during, the Obama administration.

But more than that, jobs are being lost. In the time since the last time this bill was considered and not passed into law, 4.3 million Americans have lost their jobs, while 36,000 net new Federal jobs have been created. My voters, my taxpayers, my constituents are suffering. So are yours, Madam Chairman. So are the people on the other side. But in fact, there's no suffering in Washington.

We have some of the lowest unemployment. We have a growing quality of life, and even home prices are not falling very much here. It's not a surprise why. Salaries are not falling here. Those of us who will speak here today are making nearly \$170,000 a year, and many of our staff, a great many of our staff, make over \$100,000 a year, as do a great many of the Federal workforce.

This bill does not have one provision to say if you make \$170,000 a year, why do we have to give you this benefit, because you have to choose between feeding your children and being with your children? Certainly not. There are no protections against, in fact, those who do not need this special benefit getting it. There are no safeguards at all. As a matter of fact, this bill envisions the \$1 billion over 5 years or more than \$2 billion over 10 years swelling to \$4 billion over 10 years or more because, in fact, they believe it should be 8 weeks of special leave.

Now, in the Rules Committee, I was told I just didn't understand, that Germany gives a year when you have a child. You know, the amazing thing is Germany and France and many of these countries are now going the opposite direction because they recognize that they were losing competitiveness and that these generous benefits, although good to have, were unsustainable, and they're particularly unsustainable when the only people that can afford it are those of us who live off the taxpayers—I'd like to say generosity, but in fact, it's not generosity. This money is taken involuntarily and spent at the whims of Congress.

Madam Chairman, Federal employees enjoy one of the highest levels of job security, without a doubt, anywhere in the United States. I would venture to say many of them the highest. More importantly, in good times and bad, they keep their jobs.

Even if you look at the protections against being arbitrarily let go or hired at will, that's not even the point. The point is, in a bad time, when tens of thousands of auto workers are being laid off, when 40,000 employees of Chrysler dealerships have just gotten from this administration a 26-day pink notice to go because their franchise has been taken arbitrarily, at that time we have grown the Federal Government by 36,000, and we're looking at a new ben-

efit that could easily cost \$4 billion over the next 10 years.

Now, this bill was scored at nearly \$1 billion over 5 years, but of course, that's only if it remains at 4 weeks. And let's talk about those 4 weeks. This bill is not 4 weeks. This is 12 weeks.

Most Federal workers when they retire have a significant amount of, even when they leave in general, accrued sick leave, and you might ask why. Well, because the typical sick leave for Federal workers is 13 days a year. That's nearly 3 weeks a year you get to be sick, depending upon your seniority, 20 to 26 days a year of vacation. So you're looking at 5 weeks of vacation. On top of that you're looking at nearly 3 weeks of sick leave, and we're being told by the majority that they can't make those tradeoffs to use some of that when a child is born.

It's a joyous occasion when a child is born. It's an important occasion when a child is adopted. It's sometimes a critical time when a foster child, battered, beaten, or simply unloved, is brought into the home. The minority has no question at all about the importance of this. It's been a long time since 1993. This is well-established to be something in which people make the sacrifices without sacrificing their jobs, and we certainly have no objection to the current practice which is common throughout the Federal workforce to allow employees to take some or all of their sick leave.

As a matter of fact, an amendment which has been ruled in order, will be considered tonight, calls for employees, Federal employees to be not only able to use all of their accrued sick leave, but to borrow against future sick leave. So, if they want to take the whole 12 weeks and every single day receive a full paycheck, we're willing to meet the majority more than halfway. We're willing to make the kind of compromise the American people would like us to make with the majority. It doesn't mean that this is the ideal solution. There are safeguards that are not in this legislation that we would like to see, and we will work with the Senate to see if we can't get that, but in fact, we offer an amendment that would at least cause there to be no net new cost to the American people.

And I know that the majority will come back and say this is PAYGO neutral. Well, PAYGO is a wonderful term but let's understand. If you create additional days the Federal workforce will be off, you can only have one of two choices. Either their labor wasn't needed and, as a result, doesn't need to be replaced, or their labor was needed and will be replaced. Replacement costs money. That ultimately will lead to a higher cost.

I believe CBO's scoring of approximately \$1 billion over 5 years is, in fact, low, but I'm not going to argue

with it. We accept theirs because they are, in fact, a neutral arbiter of these differences about what something costs or is worth.

So here the Republicans are going to offer to support codifying what many agencies are already doing in the Federal Government, but not without the American people understanding that if we add a new additional off-time benefit of 4 or 8 additional weeks, on top of the 5 weeks and nearly 3 weeks that are already granted to most Federal employees, I think that the American people, rightfully so, will send us packing. They will send us packing because we would be so out of touch, so inconsistent with what the small mom-and-pop and the not-so-small companies in America are experiencing.

Earlier, Madam Speaker, I said that 4,353,000 net jobs have been lost since the last time this bill was considered. That's not the true story. The true story is reflected in the State tax revenues and now in the Federal tax revenues, where we realize it's not just those who lost their jobs; it's those who lost a great percentage of the earnings they were making on their job. Overtime is gone, and in fact, profits, profit-sharing and additional commissions are generally gone. As a result, people aren't just out of work, but people who were still technically fully employed may be making less than half of what they were making just a year or two ago.

So, Madam Chairman, we on this side of the aisle will oppose the bill in its current form but not without offering viable alternatives, reasonable alternatives, some ruled, some not ruled, so that we can make this at least a bill that America can understand why we would consider doing it at a time in which so many Americans are suffering.

With that, I reserve the balance of my time.

Mr. LYNCH. Madam Chairman, I just want to address a single point that's been made by a number of the speakers on the other side who I have great respect for, the gentleman from Texas earlier and now the gentleman from California.

There is a drumbeat of justification that seems to be grounded in the fact that the economy is not in good shape right now, and that's a fact in my State, in my district, as well as all across America. But before we accept the argument that this is why it's being opposed, this bill is being opposed at this time, I just want to give a little brief history.

This bill has been presented for 15 years. This bill has been presented for 15 years before this body. In 2008, when a majority of the Republicans opposed this important benefit, the unemployment then was 5.6 percent, pretty good.

□ 1800

During the 109th Congress when the Republicans refused to bring this bill

to the floor, the unemployment rate was never higher than 5.4 percent. During the 108th Congress when the Republicans again refused to bring this legislation to the floor, the unemployment rate ranged between 5.4 and 6 percent, relatively low.

During the 107th Congress when the Republicans refused to bring this legislation to the floor again, the unemployment rate never rose above 6 percent, and was below 4.5 percent for most of the year. During the 106th Congress when the Republicans again refused to bring this legislation to the floor, the unemployment rate never rose above 4.4 percent.

So there's a whole history here of my esteemed colleagues on the other side of the aisle opposing this bill, during good times and average times, and now in lousy times. But that is not the underlying reason that they're opposing the bill. The evidence does not support that.

At this time, I'd like to yield 3 minutes to the lead sponsor of this bill, who has been there for the entire 15 years fighting for this measure, our chairwoman from the 14th District, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. I thank the gentleman for yielding and for his leadership in moving this bill to the floor and so many other areas in this Congress. And I'd like to thank all of my colleagues that have supported this on both sides of the aisle in its overwhelming passage in the past Congress, and of course today, especially Majority Leader STENY HOYER who, with me, introduced this bill 15 years ago. And Chairman TOWNS, who has led our committee so well, and Ranking Member WOLF, DAVIS, LYNCH, and former Congressman Tom Davis for all of their leadership on this issue.

We are here today to show that this Congress doesn't just talk about family values; it values families. This bill, H.R. 626, that grants 4 weeks of paid leave for the birth or fostering or adoption of a child is the first bill to pass balancing work and family since 1993.

In 1993, we passed the landmark Family Medical Leave Act that provided 12 weeks of unpaid leave, which allowed women to have children and not lose their jobs. And this is very important since most women have to work. Many are single heads of household, but it takes two family incomes to make ends meet. This bill builds on those 12 weeks by providing 4 weeks of paid leave.

Many on the other side of the aisle have said that this economy is in recession and we should not be doing this. But I'd like to point out, in addition to the points that Mr. LYNCH made earlier, that they have been opposed to it in good times, bad times. They're just opposed to it.

But paid leave ensures that the birth of a child does not further destabilize

families who are struggling to make ends meet during these troubled times. During this recession, working families need all the help they can get. 11.6 million Americans are unemployed today, which means that every paycheck counts more than ever.

Millions of dual-earner couples were struggling to stay afloat on two incomes before the economic crisis, and massive job losses mean that many of those families are now scrambling to pay the bills on just one income.

Without paid leave, the birth of a child means that many working families are left with no income at all. By extending benefits to Federal workers, we can diminish the risk of real economic hardship for the 1.8 million employees of America's largest employer, the Federal Government.

A new parent spends an average of \$11,000 in additional spending in the first 2 years of a child's life, according to a study by the U.S. Department of Agriculture. By ensuring that family incomes remain steady while a parent is at home taking care of a new child, paid leave ensures that new parents' consumption remains steady, too. This consumption drives economic growth, which is precisely what our economy needs to recover.

In a downturn, workers who take parental leave without pay are at risk of serious financial hardship. Those workers may qualify for Federal or State benefits such as TANF or SNAP, which places an additional burden on our systems that are already strained by ballooning caseloads.

I have a great deal more to say on this issue, and I will place in the RECORD the remainder of my comments.

We need common-sense reforms like this, that reflect the way families live now. Many workers today, including Federal employees, simply cannot afford to go without a paycheck for any length of time.

Most families rely on two incomes to get by, and having one parent stay at home may not be an option. Without paid leave, the birth of a child can leave them with no income at all.

The U.S. should be a leader in family friendly workplace policies, but unfortunately we are falling behind. 168 countries guarantee some form of paid leave. The United States, along with Lesotho, Swaziland, and Papua New Guinea, does not.

Federal employees are noticing the lack of family friendly work policies in the Federal Government.

The Office of Personnel Management's Federal Human Capital Survey for 2008 indicates that issues of work-life balance are becoming a major concern for more and more Federal employees, because outdated leave policies are not addressing their needs.

At the same time, they report less support from their supervisors on this issue than at any time in the past. Statistics like these are clear evidence that this bill is overdue.

Our Armed Forces are to be commended for taking the lead on this issue. They already

provide their new mothers with paid leave for the birth of a child.

My colleague Congressman STARK has introduced legislation which would provide paid parental leave to employees in the private sector.

It is time for us to bring the Federal Government up to speed.

Opponents of this bill say it will cost too much, but H.R. 626 is PAYGO neutral, and according to CBO "enacting H.R. 626 would not affect direct spending or receipts."

Let me be clear: There are no PAYGO implications for this bill. This is not to say that implementing paid parental leave is free of cost.

CBO says that providing 4 weeks of paid leave provided for in this bill would total \$140 million starting in 2011, which would increase to \$209 million if and only if the Office of Personnel Management chooses to increase the amount of paid leave to 8 weeks.

What this number represents is the value of the salaries of the 17,800 female and 12,000 male federal employees that the CBO assumes will take 4 weeks of paid parental leave in the bill's first year of implementation.

In other words, it is what agencies currently save when those employees go without pay under the current system.

Not reflected in the CBO score is the money we can save by providing paid parental leave.

Over the next few years, providing paid parental leave will increase employee morale and productivity while reducing turnover costs.

It can also help boost the economy in general. New parents spend an average of \$11,000 in added expenses in the year a child is born. By insuring that new families' incomes stay steady, paid leave insures that their consumption remains steady too, and this is exactly what our economy needs to recover.

Critics of this bill have said that it sends the "wrong message at the wrong time" to families and taxpayers.

That is not the message I hear.

Passing H.R. 626 today would send a strong message to hardworking families across the country that healthy and happy families are central to the well-being of this country, and that we never want a parent to have to make the terrible choice between getting a paycheck and caring for their new baby.

I urge my colleagues to support working families and to vote "yes" on H.R. 626.

Mr. ISSA. At this time, I'd like to yield 3 minutes to a ranking subcommittee member and somebody who has worked very hard on trying to make this bill better, the gentleman from Ohio (Mr. JORDAN).

Mr. JORDAN of Ohio. I thank the gentleman for yielding and for his work on this issue and many others in the Congress.

Madam Chair, on Monday, June 1, 2009, in Ontario, Ohio, in our district, 1,200 General Motors employees found out that they're losing their job. The Obama task force said in 12 months from now 1,200 families will face the consequences of unemployment. Yet, here we are today, ready to pass a new billion-dollar entitlement for Federal workers at a time when our economy is



in turmoil and millions of Americans are struggling with joblessness.

It is unconscionable that this Congress heap even more spending onto the backs of American families and businesses. At a time when taxpayers already have to tighten their belts, we are now asking them for an additional \$1 billion. And worse, the spending is unnecessary.

Federal employees are already entitled to 12 weeks of unpaid leave during any 12-month period because of a birth, adoption, or the taking in of a foster child. In many cases, Federal workers can use accrued sick leave and annual vacation leave. In fact, if you have been a Federal employee for just 3 years, you already have 4 weeks of annual leave and 2½ weeks of sick leave each and every year.

With this new benefit for the Federal Government, we are also putting small businesses at a disadvantage. Think about this. Only 57 percent of the private sector offer any independently defined sick leave. Now they will have to compete for workers against this expanded benefit for government workers. This moves us exactly in the wrong direction.

We need to incentivize the growth and renewal of a vibrant private sector, yet instead we are subsidizing an ever expanding Federal Government that will crowd out the private sector and, I think, frankly, stifle innovation and entrepreneurialship.

The American people are watching us. In these difficult economic times, they expect their government to do exactly what they have done, cut the waste and tighten our belts. That is the message I have heard all across our district. It's what I've heard from families experiencing unemployment and small businesses that have had to shut their doors. Instead, this Congress continues to spend and spend and spend.

Rather than taking steps to improve the economy to create jobs for the 14 million unemployed Americans, we are giving a better deal to the 2.7 million people who are already employed in the Federal sector. This is the wrong message to send, and I encourage my colleagues to vote against this legislation.

Mr. LYNCH. Madam Chair, I yield 3 minutes to the full chairman of our committee, the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. I would like to thank the Federal Workforce Subcommittee chairman, Mr. LYNCH, for the outstanding job that he has done. I'd like to thank Chairwoman MALONEY for her leadership on this issue. I would like to thank the majority leader, STENY HOYER, for his work on it, and I'd also like to thank Congressman CONNOLLY for his work as well.

The gentlewoman from New York has worked tirelessly to make the Federal Government an environment that is supportive of working mothers and fa-

thers. I want to thank her for her efforts and, may I add, a job well done.

We need to recognize that the Federal Government is the largest employer in the United States and that its policies should set a tone for the country. H.R. 626 provides Federal employees with 4 weeks of paid parental leave for the simple reason that no employee should have to choose between caring for a new child or their paycheck.

By providing 4 weeks of paid parental leave, H.R. 626 makes a strategic investment in the Federal workforce. This bill will help the government recruit and retain young, talented employees. As the Federal Government prepares for a wave of upcoming retirements, we need to attract this segment of the population to help us take on some of the challenges facing this country.

This bill also provides potential cost savings to the American people. The taxpayers directly benefit when the government retains existing employees rather than having to hire, retrain, hire, retrain. That is expensive.

Let me also add, the country is better served by an experienced and productive Federal worker that is able to adequately provide for the health and well-being of their newborn or newly adopted child. The long-term societal benefits of promoting healthy families and early child development are enormous.

We in the Federal Government have a unique obligation to set an example for the rest of the Nation, both in values that we promote and in the way we responsibly manage taxpayer-funded programs. This bill accomplishes both goals. It benefits children and families and will enable us to recruit and retain top-notch Federal employees whose work benefits the entire Nation.

For all these reasons, I urge all the Members to support this family-friendly legislation that says to the world we care about our children.

Mr. ISSA. Madam Chair, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. I thank my friend and our ranking minority member, Mr. ISSA, for yielding the time and for his leadership here.

In an earlier life of mine, when I was with the Select Children Family Committee back in the eighties, my then boss—I was a Republican staff director—my then boss, Dan Coats, was one of the Republicans who supported the Family Medical Leave Bill, which I didn't agree with.

But I remember when he told me I could sit in all the meetings and we worked with how that law was going to be drafted. People said, Oh, it'll never be paid. This is just to cover people for unpaid. You're just a paranoid conservative because you keep talking about this becoming paid.

We watched this move into the government arena, and all of us understand the tensions here. My daughter just had our second grandchild. She's a schoolteacher. The struggle was how was she going to deal with the time she was going to take off. Was it going to be paid? Was it during a school year? What do you do when you have—Grant's 2 and Reagan, which won't shock anybody that my daughter picked the name Reagan. She has two little kids. How do you do this? What's fair? My oldest son, Nathan, and his wife both work in the government. They would love to have paid medical leave.

But there's some problems here. Quite frankly, one of the most controversial problems is what to do with the husband and should he be able to get time off when a baby is born. Forget all the medical questions. What do we do with air traffic controllers? What do we do with DEA agents who may be working in the final bust on a drug case? What about Homeland Security, where they've been working 2 years on the case, the wife has a baby. Can they take sudden leave as this case is going to trial?

There are very complicated fundamental questions in the challenge of how this would practically work.

The second challenge is, in case people haven't heard, we've been printing a lot of money or obligating a lot of future debt, and the question is: Is this the time that the Federal Government should be doing something that is, quite frankly, generous, would help many families, but do we really have the money to do this at this time?

I represent the number one manufacturing district in the United States, both in jobs and percent of jobs, at least if you counted before the recession started. I imagine I still may be there.

My best county, where Fort Wayne is, the biggest city of around 260,000, has a 9.5 percent unemployment rate. Whitley County has 11.6; Kosciusko, 12.2; DeKalb, 13.4; Noble County, 16.6; Steuben County, 15.1; LaGrange County, 17.7; Elkhart County, 17.8, where the President went in for the first stimulus package.

Now I'm supposed to go back to my district and say that government employees are going to get paid parental leave when they're looking at how they get unemployment and how they ever get a job.

The CHAIR. The time of the gentleman has expired.

Mr. ISSA. I would yield an additional 1 minute to the gentleman.

Mr. SOUDER. That generosity and kindness to families is important, but we also have to balance is this going to be mandated on the private sector, is this really workable. Have we thought through the particulars in the Federal sector? Do we have the money to do



this? Lastly, is this the time, while millions of people are laid off, where others don't know how they're even going to pay their house payments, how they're going to pay their health care, to say, but we in the Federal Government are going to be generous with our employees and give them paid parental leave and family medical leave with their tax money?

□ 1815

Mr. LYNCH. Madam Chairman, I yield 2 minutes to one of our newest but most energetic and dynamic members of the subcommittee (Mr. CONNOLLY) from the 11th District of Virginia.

Mr. CONNOLLY of Virginia. I thank the distinguished subcommittee chairman, and I also thank, Madam Chairman, the distinguished chairman of the committee and Mrs. MALONEY from New York for her leadership on this very important issue.

Madam Chairman, I thought we had finally identified an issue where we could count on the support of the minority party. After enduring decades of sanctimonious speeches about family values, here we are, poised to take action. H.R. 626, the Paid Parental Leave Act, would allow federally employed mothers and fathers to spend time with their newborn children without sacrificing their income. Surprisingly, the minority party objects to such a notion.

In the Committee on Oversight and Government Reform, of which I am a member, the minority actually proposed during markup to prohibit paid parental leave being used for foster children. I can't even speculate about what the origin of that antipathy toward foster children might be; but I am reminded of a speech in this Chamber, Madam Chairman, made not so long ago by former Republican Majority Leader Tom DeLay. He spoke passionately about the plight of foster children and implored Congress to "listen to the stories of these children and the stories they tell. Study the broken system we've created for them, and help them. For God's sake, help them."

Madam Chairman, H.R. 626 will not solve all or even most problems with the foster care system, but it will allow more Federal employees to spend more time with very young foster children. We have a wealth of data that demonstrates that this parent-child interaction is essential for the cognitive and emotional development of these children. Yet the minority party introduced amendments in the committee that would actually punish foster children.

Now, here on this floor, the minority party endeavors to gut this legislation and to prevent mothers and fathers from spending time with their very young children. This bill is what real family values are all about. I ask my colleagues to support the bill.

Mr. ISSA. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. SCHOCK).

Mr. SCHOCK. Madam Chairman, I rise today in opposition to H.R. 626.

You know, ladies and gentlemen, what we do here in the United States House and in the United States Congress—the standards that we set and the expectations that we have in terms of benefits—really sets a precedent not only for the people whom we employ in the Federal Government but also for whom small businesses and large businesses around our country employ.

Like everyone else, I enjoy Federal benefits. My employees here with me enjoy our great benefits plan. Unfortunately, back home in central Illinois, many individuals there are not employed by the Federal Government. By and large, they're employed by the private sector. Unfortunately for them, this is a time when they're not looking to expand their benefit programs, when they're not going to their employers and asking for more. They're thankful for the paychecks they've got.

It seems to me a little disingenuous by those in support of this legislation that, at a time when we're talking about stimulating the economy and at a time when we're talking about feeling the pain of the American people, we know the truth—that our constituents are having to do the opposite. They're having to cut back. They're having to do with less. This bill and this measure seek to do the opposite.

Expanding 4 weeks of paid parental leave will not only add a cost to the Federal Government by the Congressional Budget Office's own figures of \$1 billion over the next 5 years, but it will undoubtedly set a precedent for the private sector. Unfortunately, for the private sector, they cannot print the money or tax the American people to pay for their benefits.

The unemployment rate in my State of Illinois was just over 9 percent as of April. This includes over 24,000 jobs that were lost by my hometown employer, Caterpillar. When I go back there this weekend, I will have to tell those individuals who are now unemployed, not only do they not have jobs, but my colleagues in this body decided that our employees, who have not felt the economic impact of a downturn, are not only getting to keep their jobs, but they will also have added benefits at their expense as taxpayers.

I don't know how we can honestly vote for more benefits, for more pay, and for more cost to the Federal budget at the expense of taxpayers and of those people who are cutting back and losing their jobs.

I urge a "no" vote.

Mr. LYNCH. Madam Chairman, I yield 2 minutes to the gentlewoman from California's Sixth District (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Chairman, America should be a world leader in

helping parents balance their work and family responsibilities.

As the chairwoman of the House Subcommittee on Workforce Protections, I find it totally unacceptable that the country I live in—the United States of America—is one of only four countries not providing paid leave to new mothers and fathers. Today in the United States, 51 percent of new parents don't have paid leave. So, as a result, some take unpaid leave if they can afford it; some quit; and some are fired for taking too much time off.

That's why I strongly support H.R. 626, so we can ensure that Federal employees won't be forced to choose between their paychecks and their families at one of the most important times of their lives—the birth or the adoption of a child. Investing in our working families is the best way to strengthen our workforce. It is the best way to stimulate our economy, and it is the best way to strengthen our country.

So I ask my colleagues to join me in voting for this important legislation authored by Congresswoman MALONEY. Support working families. Don't force them to choose between putting food on the table and having dinner with their children and getting to bond with their new babies. Vote for this legislation because the United States of America needs to stand proud among other countries in this world.

Mr. ISSA. Madam Chair, I trust the gentlewoman from California was only misunderstood or had misspoken when she said someone would lose his job for taking parental leave. That would be a crime under the 1993 act.

I would yield to the gentlewoman to correct that.

Ms. WOOLSEY. Right. I said: for taking too much time off beyond the family medical leave.

Mr. ISSA. Beyond the 12 weeks?

Ms. WOOLSEY. Yes.

Mr. ISSA. I thank the gentlewoman. Madam Chairman, I would now like to yield 4 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

Madam Chair, I rise in opposition to this legislation. It offers a new \$1 billion benefit to Federal workers. I have no doubt that the Federal workers deserve this benefit, but to non-Federal workers, they don't deserve having their paychecks docked \$1 billion to pay for it. That's what we're talking about. That's if the non-Federal Government workers are fortunate enough to still have their jobs in this troubled economy. Again, it's a great benefit. I wish every new parent could have that. I want to create a more prosperous economy in America so that every American could enjoy it, but this is absolutely nothing more than a wealth transfer of \$1 billion from non-Federal Government workers to Federal workers. It is just patently unfair.

Why would you want to dock the pay of everybody else in this troubled economy to pay for this?

Already, if you look at the benefits that Federal Government employees receive—and listen, there are great Federal employees, and I want to keep them, and many of them are incredibly dedicated public servants. Yet look at the annual leave of the Federal Government versus the annual leave, on average, in the private sector. Federal workers are already receiving a better deal.

Look at the annual sick leave of the Federal Government compared to the average sick leave in the private sector. The Federal Government worker is already receiving a better deal.

Look at the family medical leave. You can see that Federal Government workers already receive, on average, a better deal than those in the private sector.

So, again, on average, when they're enjoying greater benefits and when they're enjoying greater job security, what a slap in the face to every worker in America who doesn't receive a government paycheck to see that, all of a sudden, they're going to have to pay for a new benefit for Federal workers.

This is on top of the fact that, today, the Federal Government is already having to borrow, Madam Chair, as you well know, 46 cents on the dollar. We are awash in red ink. Already, this body, under Democratic control, passed a budget that will triple the national debt in 10 years, costing taxpayers \$148,926 per household. It will triple the national debt in the next 10 years. We are about to see more debt placed on this Nation, more debt in the next 10 years than in the previous 220.

You know, Madam Chair, there was a time in America's history where you worked hard today so that your children could have a better life tomorrow. Instead, a bill like this is saying: You know what? Let's go ahead and let the government work easy today so that our children have to work even harder tomorrow. Again, it's just unfair to everybody who doesn't receive that Federal Government paycheck.

At some point, Madam Chair, you have to ask: When does the debt and the spending stop?

We will never run out of good ideas. We will never run out of opportunities to take money away from one group of citizens and give it to another group of citizens. Those opportunities are there each and every day. Again, if you care about all of the children in America, you will quit placing an unconscionable burden of debt upon them.

So this bill must be rejected out of fairness and out of fiscal responsibility.

Mr. LYNCH. Madam Chairman, I yield 1 minute to the Representative from Maryland's Fourth District, DONNA EDWARDS.

Ms. EDWARDS of Maryland. Madam Chair, I rise today in support of H.R.

626, the Federal Employees Paid Parental Leave Act of 2009.

I would like to thank the gentlewoman from New York (Mrs. MALONEY) for her long-time leadership on this legislation and for her ongoing efforts to ensure family-friendly workplaces. That must begin at least with the Federal Government.

It is so tiresome and tedious to stand on this floor every day and to listen to the demagoging of Federal employees. They are the people who get up every single day and inspect our food. They make sure that we have clean water. They process Social Security checks. They do all of the business of this government, and it is so sad that, even when offering a simple parental leave act, we have to demagogue Federal employees in the process.

The legislation provides 4 weeks of paid parental leave for new mothers and fathers for the birth, adoption or fostering of a child. America's 1.8 million Federal employees will benefit from this time to learn how to care for and to bond with their new additions to their families. It's what many in the private sector already do, and it's what we strive for. The Federal Government needs to set an example.

The CHAIR. The time of the gentlewoman has expired.

Mr. LYNCH. I would like to yield the gentlewoman an additional minute.

Ms. EDWARDS of Maryland. This will also help employee morale, and it will allow the Federal Government to attract and to retain young and talented employees in our aging workforce.

Madam Chair, as a Representative of the Fourth Congressional District of Maryland—proudly the home to at least 70,000 Federal employees—for my neighbors, for my friends, for the people who work hard every day, this important legislation will advance family-friendly policies. It will allow new parents the time necessary to care for their children, and it will set a standard for the Federal Government and for the private workforce.

There are times when it is simply the right thing to do, and this is one of those times. I urge my colleagues to support this legislation.

□ 1830

Mr. ISSA. Madam Chair, I yield 2 minutes to the gentleman from Louisiana (Mr. SCALISE), a member of the Energy and Commerce Committee and somebody who well knows about the challenges that people face in the workforce today.

Mr. SCALISE. I want to thank my colleague from California for yielding the time.

Madam Chairman, some of the greatest joys in my life were the two births of my daughter and son. Two years ago, my daughter, Madison, I was able to be there for the birth with my wife, one of

the great joys of my life. And then just 4 weeks ago tomorrow, the birth of my baby boy, Harrison, and I was there as well. Just wonderful, wonderful times that every family should spend together. Those opportunities already exist today in law. There is nothing in this bill that either takes away or gives the ability of parents to do that. They already have that right today, as they all should.

Why I rise in objection to this bill is it adds an extra \$938 million in new entitlements, in new debt, money that we don't have in this country, to an already growing deficit. We're at a \$1.9 trillion deficit this year alone. Projections are that in the next 5 years, this administration will double the national debt. And at what time do we stop and look out for those children? My son that was born 4 weeks ago, when do we look out for his future, his opportunity, so that he doesn't have to inherit another billion dollars in debt that this bill will give him?

I think it's very ironic in the same week that General Motors became "Government Motors" because of primarily health benefits, benefits that were added on and added on for employees to the point where the benefits of the employees bankrupted the company. And so what's Congress' answer to that? Congress' answer in the same week is to add more benefits at a time when people are losing their jobs, money that we don't have, almost a billion dollars. There used to be a saying "a billion here, a billion there, pretty soon you're talking about real money." I think the public has spoken out. They said, Enough is enough. We've got to control spending and look out for our future generations.

Mr. LYNCH. I just want to clarify.

The way this has been scored by CBO is that the salaries are paid to the employees already. The cost and/or savings recognized in the CBO estimate that has been cited here reflect the fact that by forcing Federal employees to take leave without pay, they realize a savings from that. But there is no new debt acquired here.

What the savings here that CBO is recognizing is the fact that they have budgeted for these salaries but then people take a certain amount of time off without pay, and that realizes a gain in the budget that's recognized in the CBO estimate.

At this time I would like to yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I very much thank my good friend from Massachusetts (Mr. LYNCH) and Mrs. MALONEY and my colleagues who have fought hard for this bill.

There are a couple of reasons why I am a proud cosponsor of this legislation. One is that we are in the midst of an economic crisis in this Nation, and who do we turn to? We turn to the Federal workforce to reset our economy,

to put our Nation's investments where they need to be. We turn to them because we know that they are incorruptible. This is the most professional, least corruptible organization, civil service, in the world. We should be very proud of our civil servants.

Now, as the corporate board of directors of the largest workforce in the Nation, it's incumbent on us to let them know how we see them, to recognize them, to incentivize them, to recruit the very best and brightest people in this Nation and to retain them. And how do we do that? By leading in terms of the benefits that other large corporations provide. We should be leading by example. But the reality is that other large workforces oftentimes provide much better benefits than the Federal Government. We need to be in the leadership. This enables us to catch up. We recognize these employees by doing things that are tangible, and this is a tangible benefit.

The second reason is that we recognize that the most important time in anyone's life are those first few weeks after birth where a parent has the opportunity to nurture, where the child can bond, where the child's brain can be stimulated, where the child can understand they will grow up in a secure, safe environment.

The CHAIR. The time of the gentleman has expired.

Mr. LYNCH. I yield the gentleman an additional minute.

Mr. MORAN of Virginia. I very much thank my good friend.

And I would hope that those who are in kind of knee-jerk opposition to this legislation would reconsider, because Mr. WOLF perhaps expressed it best: These are the days that matter, the weeks that matter. We want the healthiest workforce, we want the strongest society possible. And if we are to do that when we are the corporate board of directors of the largest workforce, we should lead by example by providing paid parental leave so a child can bond with their parents, so they can get them off to a healthy start. That's what this is all about. A strong society, enabling every child born in America to have the full opportunity to realize their potential.

This legislation enables the Federal workforce to achieve that objective. It's a noble national objective. It's what America ought to be about. Let's get this legislation passed.

Mr. ISSA. Madam Chair, may I inquire as to how much time is remaining on each side?

The CHAIR. The gentleman from California has 6¼ minutes remaining. The gentleman from Massachusetts has 7 minutes remaining.

Mr. LYNCH. I am prepared to close, so I reserve at this time.

Mr. ISSA. Madam Chair, I am prepared to close, so I yield myself the balance of my time.

Madam Chair, in a few short minutes we will complete general debate; we will go to amendments. At that time, I'm hopeful that the amendment offered by the committee, the Republicans on this committee, will be considered favorably. If it is, then what seems to be unreconcilable as our differences can be resolved.

Clearly, we agree that 14 million Americans are out of work. We agree that we're in a recession. We agree that Americans are suffering. We agree that whether you're having a child, adopting a child, or bringing a foster child in need into your home, that that bonding time is worthwhile now, just as it was in 1993 when we overrode all States and all employers to provide that option without fear of retaliation or loss of a job.

I think we agree that this bill is 12 weeks, 8 of which may be paid by the use of sick and other leave. I know we agreed that if you serve 15 years in the government you'll have about 8 weeks a year of paid leave already accrued. We only disagree on whether or not a new cost, a new entitlement will be borne by the American people. We seem to disagree on whether going from not paying somebody when they're off to paying them is, in fact, a cost to the government. We certainly disagree on whether or not when it becomes an additional 4 weeks of pay, many will choose to take it. As a matter of fact, Madam Chair, when the CBO scored, they made the assumption that half of all men would not take any benefits under the Parental Leave Act as they currently don't. But, of course, when you're offered 4 weeks free, completely free of sick leave, perhaps it will be irresistible to take some, in which case the \$1 billion over 5 years could rise above that figure.

So there are some things we disagree on.

But if we take what we agree on, which is the American people are watching mounting deficits, the American people do believe that at times we're out of touch, that we don't feel their pain. The gentleman from Virginia talked about the Federal workers in his district. The Federal workers have grown in his district at a time in which the gentleman from Illinois has seen 40,000 workers lose their job at Caterpillar. Those were good-paying jobs. They had benefits. They may have even had some parental leave benefits. Today, they have no benefits. They're not choosing between having a paycheck or being with their child; they're choosing whether or not to go out and find some minimum-wage job or do something to try to bring a little money into the house, because in fact, they no longer have the good-paying jobs that have evaporated in this recession.

We did a stimulus package, and we disagreed on a lot of how it was done,

but we understood we needed to get Americans rolling again, we needed to get them the opportunities. What those 14 million have given up—and countless millions more have given up in loss of some of their income—is what we disagree about.

So, Madam Chair, I would ask that the CBO document scoring this be placed in the RECORD so there is no question as to what we all agree on, the NFIB letter opposing this, and the letter from the Independent Electrical Contractors also be placed in the RECORD at this time.

#### H.R. 626 FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2009

Summary: H.R. 626 would amend title 5 of the United States Code, the Congressional Accountability Act, and the Family and Medical Leave Act of 1993 (FMLA) by creating a new category of leave under FMLA. This new category would provide four weeks of paid leave to federal employees following the birth, adoption, or fostering of a child. In addition, the legislation permits the Office of Personnel Management (OPM) to increase the amount of paid leave provided to a total of eight weeks based on the consideration of several factors such as the cost to the federal government and enhanced recruitment and retention of employees.

Under current law, federal employees who have completed at least 12 months of service are entitled to up to 12 weeks of leave without pay after the birth, adoption, or fostering of a child. Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment." Employees may get paid during that 12-week period by using any annual or sick leave that they have accrued. The leave provided by this bill would be available only within the 12-week FMLA leave period.

CBO estimates that implementing H.R. 626 would cost \$67 million in 2010 and a total of \$938 million over the 2010-2014 period, subject to appropriation of the necessary funds. Enacting H.R. 626 would not affect direct spending or receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 626 is shown in the following table. The costs of this legislation would fall in all budget functions (except functions 900 and 950).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010-2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	69	215	219	221	224	947
Estimated Outlays .....	67	209	218	221	223	938

Basis of estimate: For this estimate, CBO assumes that H.R. 626 will be enacted by October 1, 2009, and that the necessary amounts for implementing it will be appropriated each year. Under the legislation, the new category of leave would become available six months after enactment (that is, around April 2010). As a result, the cost of the legislation in 2010 reflects implementation for

only half of the year. After 2010, CBO has included in its estimate a 50 percent probability that OPM will use its authority to increase the amount of paid leave available from four weeks to eight weeks. Costs in future years are projected to grow with inflation.

CBO assumes that the potential users of the new leave would be primarily the roughly 700,000 civilian employees who are between the ages of 20 and 44 and have been employed at least 12 months. (This figure excludes employees of the Postal Service because H.R. 626 amends title 5 of the United States Code, which does not apply to them.)

Estimating an adoption rate based on data from the Department of Health and Human Services and applying birth rate information for the relevant age cohorts from the National Center on Health Statistics to the roughly 313,000 women eligible for the new leave yields about 17,800 women who might give birth or adopt in a given year. Based on average salary information from OPM, CBO estimates that four weeks of paid leave—the maximum amount guaranteed by the bill—for female employees would cost between \$2,800 (for those in the youngest age cohort) and \$5,400 (for those in the 40–44 age cohort). Assuming that nearly all of those women took the maximum amount of leave, CBO estimates the cost of the leave to be \$77 million this year (if it were available for the entire 12-month period).

Applying those same calculations to the 390,000 men in the affected age groups, CBO estimates that roughly 24,000 men would be eligible for the four weeks of paid leave, at an average cost of between \$3,100 and \$6,000 per male employee. Assuming that eligible men would take the leave at about one-half the rate of women, CBO estimates that men would use another \$54 million worth of leave this year (if it were available for the entire 12-month period), bringing the total to \$130 million.

Since CBO assumes that the new leave would not be available until half-way through fiscal year 2010, there would be no costs for 2009 and the 2010 costs would represent only six months of the year, totaling \$67 million. Beyond 2010, CBO assumes a full year of availability and has included a 50 percent probability that OPM would increase the amount of paid leave available to employees. As a result, anticipated costs increase to \$209 million in 2011. (The 2011 costs would be about \$140 billion if the benefit were kept at a maximum of four weeks.)

The effects of this bill on the budget derive from the provision of a new form of paid leave. To the extent that such a new benefit enables people to take advantage of paid leave rather than taking leave without pay, the costs are clear. However, employees who would currently use annual or sick leave upon the birth, adoption, or fostering of a child may choose to use this new form of paid leave and save their accrued leave for a later date. CBO has no basis for estimating the magnitude of such substitution, but the deferral of annual and sick leave also represents a cost either in terms of increased availability of paid leave or cash payments upon separation.

In addition, providing a more generous benefit to employees may enhance the federal government's ability to retain employees after the birth or adoption of a child and thereby lower recruitment and training costs. CBO estimates that such potential savings are likely to be relatively small over the next five years.

Intergovernmental and Private-Sector Impact: H.R. 626 contains no intergovernmental

or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate Prepared by: Federal Costs: Barry Blom, Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle, Impact on the Private Sector: Paige Piper/Bach.

Estimate Approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS,  
Washington, DC, June 3, 2009.

DEAR REPRESENTATIVE: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing to notify you of our opposition to H.R. 626, the Federal Employees Paid Parental Leave Act of 2009.

The legislation mandates an alarming expansion of the Family and Medical Leave Act (FMLA), from an unpaid leave program into one that would provide partial paid parental leave for federal employees. By carving out 4 of the 12 weeks of FMLA as paid parental leave, NFIB is concerned that H.R. 626 sets a precedent for future discussions over expansion of FMLA.

In addition to creating a new paid leave component of FMLA, the bill does not require federal employees to first use accumulated vacation or sick leave before taking the paid parental leave. Currently, if an employee has accrued paid time off, an employer may require them to use some or all of their accrued paid time for some or all of the FMLA leave.

Small businesses are struggling to survive in our tough economic times, and are very concerned that creating an expensive, new paid leave benefit for federal employees will eventually lead to new paid leave mandates on small business. I urge your strong opposition to this legislation.

Sincerely,

SUSAN ECKERLY,  
Senior Vice President, Public Policy.

INDEPENDENT ELECTRICAL CONTRACTORS,  
Alexandria, VA, June 3, 2009.  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE: I am writing on behalf of the 2,700 merit shop contractor members of the Independent Electrical Contractors (IEC), who urge you to oppose H.R. 626, the Federal Employees Paid Parental Leave Act, which would expand the Family and Medical Leave Act (FMLA), as it applies to federal employees, to mandate four weeks of paid FMLA leave, on top of existing leave.

Please let me be clear that our opposition to this bill is based solely on the precedent it sets for the private sector, and has nothing to do with the individuals who work for the federal government.

IEC is concerned that, in radically expanding FMLA to include paid leave, Congress is laying the groundwork for mandating paid sick leave on private sector employers. One-size-fits-all leave mandates, such as the Healthy Families Act (H.R. 2460/S. 1152), fail to take into account the varied natures of our nation's industry segments, and the individual employers whose unique business models are exactly the factor that determines their success or failure.

And, most importantly in this debate, it is paramount that Congress ascertain the real world impact of mandating paid sick leave on the private sector. Small business owners

craft their pay, leave, and work rules based on the business model that keeps them competitive, grows their business, and creates more jobs. If Congress stunts the flexibility of these individual business models, then it will be directly threatening this competitiveness and the jobs that come with it.

IEC encourages Congress to seriously consider the precedent that is set by this expansion of FMLA, and oppose H.R. 626.

Thank you for your consideration.

Sincerely,

BRIAN WORTH,  
VP of Government and Public Affairs.

Lastly, Madam Chair, I believe that the intentions of the majority are generally good, but I believe that this bill contains something the American people may not have heard, and in closing, I want them to hear.

This bill not only gives 4 weeks of new paid leave for the mom who may be coming home immediately following the birth of the child, but it gives that 4 weeks of additional pay to the father. It does so whether it's an adult child they're adopting, someone 15 or 16 going off to school every day. It does it for both mom and dad, and it does it on top of the 8 weeks they can take in other ways already.

So I want the American people to understand not only does it do that, but it is anticipated by the majority that after an OMB study—which they fully believe will show that on balance this is still a good motivator and positive for the workforce—this benefit will rise from 4 weeks of additional pay to 8 weeks of additional pay for both men and women in the Federal workforce at a time in which 14 million Americans have no income at all.

With that, Madam Chair, I hope that the majority will see that they're out of touch if they don't think the American people are concerned that this is, in fact, showing a disconnect between the American people suffering and in fact, the new benefits to the one portion of the workforce that is not suffering, the one portion that has not seen a pay cut but in fact a pay raise, the one portion that has not seen cuts in their numbers but in fact increases in their numbers, and that's the wonderful men and women who make up the Federal workforce in all areas. They're good people, but they understand. And listening tonight, I believe the Federal workers in my district will understand that in fact this is a time for them not to look for big gains when, in fact, people on both sides of their homes are losing their homes.

So, Madam Chair, I would urge that we not support the bill in its current form, and I look forward to the amendment that we plan to offer being in fact favorably considered so we can make a bill that balances this good effort with those 14 million people who today have no solution for parental leave and in fact do not understand why we would add 4 or 8 weeks of additional paid time for people at this time no matter how well-intentioned.

And with that, I yield back the balance of my time.

Mr. LYNCH. Madam Chair, this bill is narrowly tailored to specific circumstances. It would provide 4 weeks of paid parental leave. The specific instances are the birth of a new child, an adoption, or someone taking a child into foster care. That's how you qualify for receiving these 4 weeks of benefits. And I think that this makes a strategic investment in the Federal workforce.

□ 1845

This will help the government retain and attract young talented employees; and in so doing, it provides potentially an ultimate savings to the American people since there's a direct benefit when the government retains existing employees rather than having to hire and retrain new ones. We are all familiar with the revolving door in the Federal Government, where we bring in people, we train them, they become very competent in their areas of expertise, and then private industry steals them away because they can offer them much greater benefits and much, much higher pay. This provides a basic and decent benefit of 4 weeks for the occasions that I mentioned.

Before closing, I'd like to also point out that the Obama administration, in their recently issued statement of administration policy on H.R. 626, also recognized the benefits of supporting families during the birth of a child, adoption of a child or for foster care. According to the President's policy position, the Federal Government should reflect its commitment to helping Federal employees care for their families as well as serve the public. Measures such as H.R. 626 support this commitment and strengthen our families, our communities and our Nation. Given that statement alone, I urge my fellow Members to join me in voting in favor of H.R. 626.

Mr. VAN HOLLEN. Madam Chair, I rise in strong support of the Federal Employees Paid Parental Leave Act.

H.R. 626 provides four weeks of pay to federal employees to use while they are on family or medical leave. Having this option is of special importance to our younger employees and employees seeking to start a family.

As the federal workforce ages, the government will have to hire many new workers. Indeed, by 2010, more than 50 percent of managers, and almost 50 percent of other federal workers will be eligible for retirement. The federal government will have to compete with the private sector to attract the best and brightest to federal service to replace them. But the federal government lacks an important benefit enjoyed by 75 percent of Fortune 100 companies—paid leave for parents of newborns.

This legislation permits federal employees to take up to four weeks of paid leave for the birth or adoption of a child. For younger employees, the lack of paid leave forces them to choose between using accrued sick leave or

vacation time, which for newer employees is in short supply, or to simply go without pay when having a newborn.

I encourage my colleagues to join me in helping to show the public that the federal government values families. Support H.R. 626, the Federal Employees Paid Parental Leave Act.

Mr. STARK. Madam Chair, I rise today in support of H.R. 626, the Federal Employees Paid Parental Leave Act of 2009. As a long-time advocate of paid family leave, I believe our nation's largest employer—the U.S. Government—must also be our nation's model employer and set a progressive example for healthy workplace policy. The legislation on the floor today will provide real security to those who serve our nation's government and their families.

The 1993 Family and Medical Leave Act (FMLA) was landmark legislation that established job-protected leave and it has helped millions of workers care for their families without fear of losing their job. The FMLA, however, requires only unpaid leave, and many workers must choose between taking leave to care for their families or not paying their bills. Research has shown that nearly 75 percent of FMLA-eligible workers do not take leave because they cannot afford it. Even before the hardship caused by the current recession, millions of workers could not access family or medical leave because of financial constraints. Paid leave is a vital resource to help workers balance their family and work obligations.

Paid parental leave provides benefits well beyond the purely monetary. It also benefits our society as a whole. A 1999 report by the President's Council of Economic Advisers found that since 1969, children have lost 22 hours per week with their parents. Studies have shown that increased parental involvement and care giving are linked to gains such as shorter hospital stays, improved behavior, and higher educational achievements for their children. Providing paid parental leave will make leave more accessible, allowing parents to spend more time with their children—clearly an investment worth making.

Individual states have begun to successfully implement paid family and medical leave programs. Since 2004, my home state of California has led the country in the provision of paid leave and the law has been a boon to both the state's families and businesses. According to a Harvard study published four years after the enactment of California's paid leave policy, California had a lower rate of foreclosures than other states due to income loss arising from the need to care for a household member. We can and should replicate this success nationwide.

It is the responsibility of the Federal government to take the lead in the promotion of workers' economic security and family-friendly policies, which is why I am pleased to lend my full support to the Federal Employees Paid Parental Leave Act. Providing parental leave to federal workers is an important first step toward what must be our ultimate policy goal of providing paid family and medical leave to all workers, and I look forward to the day when all workers have the chance to care for their families and still be able to pay the bills.

Mr. POLIS. Madam Chair, I rise in support of H.R. 626, the Federal Employees Paid Pa-

rental Leave Act of 2009. Let me thank my friend from New York, Mrs. MALONEY for her continued dedication to this issue. I also applaud Chairman TOWNS and my colleagues on the House Oversight and Government Reform Committee for championing the cause of paid parental leave for federal employees.

This legislation helps families employed by the government, offering up to four weeks of paid leave for parents to care for a new child. It recognizes a fundamental and basic need of new parents, namely, the importance of caring for and spending time with their young children.

As Americans workers struggle to weather the economic storms that have beset our nation, we need to ensure that our primary safety net—the American family—remains strong and intact. In doing so, this bill establishes the federal government—as an employer—as a champion for the American family, making it a model for the rest of the country to follow.

The Federal government is one of the country's largest employers, with over 1.8 million civilian employees. According to the Department of Health and Human Services 18,000 women and 24,000 men will qualify for parental leave this coming year.

Under existing law, federal employees are allowed to take unpaid parental leave. Sadly, in 2000, it was reported that as many as 78 percent of these eligible employees did not take leave, simply because they could not afford it. Under present economic conditions, the desire to remain at work and forgo unpaid leave is even stronger. With the government playing such a significant role in the American workforce, we can no longer afford to punish such a large portion of our workforce for taking a few weeks leave to help raise a child.

Economic loss affects not just the worker, but all those who rely on the head wage-earner for support, and oftentimes the hardest hit group is the American family.

Today, in the midst of a recession, it is essential that working parents have the resources to care for and support both themselves and their families. This bill provides a necessary lifeline for new parents who must simultaneously provide round-the-clock care for their young children and keep their jobs in an increasingly competitive and shrinking economy.

Too often, families are forced into a bind, having to choose between earning enough to survive and caring for a child. No parent wants to decide between a child and work, but under current conditions, many federal employees must.

Families are helpless in this situation, and it is both the employer and employees that suffer for it. Federal employers have a high turnover rate, due to families searching for employers with better benefits or leaving the workforce to care for a child.

Even more importantly, this bill encourages parents to provide care during a period of crucial development for children. The education of children starts from day one, and in many ways, it is the earliest experiences of a child that will set the course for the rest of their life. The care children receive in their earliest days can provide them with the necessary building blocks to succeed in school and the workforce later on.

This bill also takes steps to accommodate the changing and often varied types of households that make up the American family, which current law does not take into account. Many families today don't have a stay-at-home member, making it all the more difficult for working parents to accommodate their family needs. Stay-at-home dads, friends, partners, siblings, aunts, uncles, or grandparents are all assuming the role of primary care-giver. Federal employee benefits need to take these new family dynamics into account.

This legislation will provide a gain to federal employers as well as the economy. According to the Congressional Budget Office (CBO), this legislation accrues no extra cost for taxpayers. Federal employers can save losses from turnover rates and improve retention of some of its most reliable and adept employees.

In times of economic turmoil we must keep families strong. By strengthening the family, in turn we strengthen our workforce. Healthy families make productive employees and raise engaging and innovative children, giving an extra boost to the economy and the current and future American workforce.

Madam Speaker—this legislation is needed today, more than ever before! It will create a more progressive and family-oriented benefit system for the current federal workforce, setting an example for similar positive developments within all sectors of the economy. It will help working families to care for and support their young children, during a time when economic struggles often overshadow parents' most basic duties of childcare.

On behalf of all those who have spent time in creating this bill, as well as almost two million federal employees and their families, I urge my colleagues to support and vote "yes" on H.R. 626.

STATEMENT OF ADMINISTRATION POLICY  
H.R. 626—FEDERAL EMPLOYEES PAID PARENTAL  
LEAVE ACT OF 2009

(Rep. Maloney, D-New York, and 55  
cosponsors, June 3, 2009)

The Administration supports the goal of H.R. 626, which would provide Federal employees with access to paid leave upon the birth, adoption, or fostering of a child.

Being able to spend time at home with a new child is a critical part of building a strong family. The initial bonding between parents and their new child is essential to healthy child development and providing a firm foundation for the child's success in life. Measures that support these relationships strengthen our families, our communities, and our nation. The Federal government should reflect its commitment to these core values by helping Federal employees to care for their families as well as serve the public. Providing paid parental leave has been successfully employed by a number of private-sector employers, and can help to make job opportunities accessible to more workers.

The Administration is currently reviewing existing Federal leave policies to determine the extent of their gaps and limitations. The Administration looks forward to working with Congress to refine the details of this legislation to make sure it meets the needs of Federal agencies and employees, as well as their families.

Mr. LANGEVIN. Madam Chair, I rise in support of H.R. 626, the Federal Employees Paid

Parental Leave Act, which would provide four weeks of paid parental leave and eight weeks of unpaid leave for all federal employees after the birth or adoption of a child. Under this measure, these employees may also use accrued annual or sick leave to receive compensation for the unpaid weeks. Currently, employees may take up to twelve weeks of unpaid leave under the Family and Medical Leave Act to care for a newborn or adopted child.

H.R. 626 will help the United States Government compete with the private sector in order to recruit the best and brightest employees and retain that talent. In 2007, a Government Accountability Office report found that countries offering paid parental leave experienced increased employee retention and a reduction in the amount of time women spend out of the workforce. Disappointingly, the GAO also reported that the U.S. lags behind other industrial nations in providing policies that support working parents and their children. In fact, 169 countries guarantee women leave with income in connection with childbirth.

The U.S. Census Bureau reports that women are more likely to work before and after pregnancy than they were 30 to 40 years ago, and Congress must legislate according to the changing makeup of our workforce. So far, we have not met that mark. I know that many of my colleagues have already met or exceeded the requirements of this bill, and I applaud their efforts. I know from firsthand experience that allowing new parents guaranteed paid leave helps balance the demands between work and family. For the hard work they provide for us, we owe our employees the time to enjoy the bonds that matter most in their lives.

I strongly urge my colleagues to support this measure. It is time that the Federal Government sets the standard for working parent policies.

Mr. HONDA. Madam Chair, I rise today to express my strong support for the Federal Employee Paid Parental Leave Act of 2009 (H.R. 626). As the country's largest single employer, the Federal Government is responsible for over 2.7 million employees. The Federal Government is facing the retirement of 40% of its workforce over the next ten years and must be able to compete with private sector opportunities in order to attract talented new employees. Under current law, federal employees who want paid time off for the birth or adoption of a child only have the option of using their accrued sick days and vacation time to supplement unpaid leave. It is difficult for relatively new employees or those who experience reoccurring health problems to save up enough time for paid parental leave. Even for older employees who rarely get sick, unpredictable life events can make it equally difficult to accrue sufficient parental leave time. Parents should not be forced to choose between their new child and their paycheck.

The Congress' Joint Economic Committee has found that Fortune 100 firms offer paid leave that typically lasts six to eight weeks. This is also consistent with the amount of leave typically offered by Congressional offices. The lack of a Paid Parental Leave policy for newly born or adopted children puts the Federal Government in the minority, not only in relation to U.S. companies but also among

developed nations. The European Union requires that member countries offer 14 weeks of paid maternity leave and most offer more than the required amount, and the U.S. is one of only five countries out of 165 surveyed that does not guarantee paid parental leave.

The Federal Employee Paid Parental Leave Act of 2009 will make the Federal Government a more family-friendly, competitive employer. It will cost relatively little compared to the benefit to American families and workers that it would bring. It is past time for federal employees to enjoy the benefits offered to employees of private companies and fix a flaw in our current system.

Mr. HOYER. Madam Chair, I am proud to support this bill to strengthen America's families. Strong families are the cornerstone of our Nation's future. They enhance children's well-being, improve their self-esteem, and significantly increase the odds that they will succeed in school and grow up to be good parents themselves. And study after study shows that a strong predictor of child well-being is the degree to which a parent and child bond in the first months after birth. The more constant and nurturing that bond is in the early months of life, the better off that child will be in the years to come.

One of the most important things Congress did to help parents and children strengthen that bond was to pass the Family and Medical Leave Act (FMLA) in 1993. It was the first bill signed by President Clinton. Under its protection, eligible workers receive 12 weeks of leave every year, so that they can care for a newborn or adopted baby, or help a loved one recover from illness, or get better themselves—without the worry that, when they return, their job will be gone.

The FMLA has been an outstanding success. But it has not been enough. Because the FMLA does not entitle anyone to receive an income while on leave, far too many people with the right to leave are unable to take it. They rush back to the workplace after giving birth, or send their sick children to school, or leave their ailing parents at home to somehow make it through the day—because there is no other option. In fact, when it comes to the failure to guarantee paid maternity leave, America stands virtually alone in the world.

It's time to realize that a right to paid leave, especially for new parents, is more than a family matter—it is a public good that means healthier families, more productive children, and, in the end, a stronger economy for all of us.

Today, we have a valuable chance to establish that right for some of our most dedicated public servants: Federal employees. Currently, the Federal Government does not provide them with paid parental leave. This bill would change that—providing four weeks of paid leave to Federal employees for the birth, adoption, or foster placement of a child.

As the Nation's largest employer, the Federal Government has the opportunity to set a valuable and lasting example for a responsible leave policy. It is time for America to catch up with the rest of the world, and this bill is a vital step in that direction. I urge my colleagues to support it.



Mr. JOHNSON of Georgia. Madam Chair, I rise in strong support of H.R. 626, the "Federal Employees Paid Parental Leave Act of 2009."

This legislation will update federal employee benefits to reflect the way families live today by providing four weeks of paid parental leave for federal employees. The 90,000 federal employees living in my home state of Georgia need us to pass this bill.

A generation ago, the overwhelming majority of families had a mother who stayed at home to provide full-time childcare.

Today, tens of thousands of families depend on the income of more than one income-earner to make ends meet.

When these families prepare to welcome a new child into their homes they are often faced with an impossible decision—forgo a paycheck or forgo the most critical period of time to care for and bond with their new baby.

As the Nation's largest employer, the Federal Government should lead the way in establishing family-friendly leave policies.

I urge my colleagues to support H.R. 626 to ensure that no federal employee is forced to choose between their new child and their job.

Mrs. LOWEY. Madam Chair, I rise today in strong support of the Federal Employees Paid Parental Leave Act. This long overdue and deficit-neutral measure will make the federal government a more family-oriented workplace.

As a mother of three and a grandmother of eight, I understand the challenges families face. Balancing work with child care, especially after the arrival of a new baby, is a challenge Congress can and must do more to address. By providing federal employees with four weeks of paid parental leave after the birth or adoption of a child, H.R. 626 is an important first step in this worthwhile effort.

As the nation's largest single employer, the United States government should be leading the way in adopting family-friendly employment policies, not struggling to catch up. Not only do 75 percent of Fortune 100 companies already provide paid parental leave, but a Harvard University study of 165 nations revealed that the United States joins Lesotho, Liberia, Swaziland and Papua New Guinea as the only nations that do not guarantee paid parental leave to their federal employees. Like many of my colleagues, I am pleased that the House of Representatives will act tonight to rectify this embarrassing discrepancy.

According to the Office of Personnel Management, roughly three million federal employees or nearly 60 percent of the current federal workforce will be eligible to retire within the next ten years. The bill under consideration this evening represents a strategic investment in the future of our federal workforce, ensuring that the United States government is able to recruit and retain young, talented professionals.

Madam Speaker, with our nation embroiled in two armed conflicts and confronting the worst economic recession in decades, I believe that this measure is an essential step toward maintaining and enhancing the quality of the federal workforce in years to come. I urge my colleagues to join me in supporting the Federal Employees Paid Parental Leave Act.

Mr. LYNCH. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule.

The text of the bill is as follows:

H.R. 626

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Paid Parental Leave Act of 2009".

#### SEC. 2. PAID PARENTAL LEAVE UNDER TITLE 5.

(a) AMENDMENT TO TITLE 5.—Subsection (d) of section 6382 of title 5, United States Code, is amended—

(1) by redesignating such subsection as subsection (d)(1);

(2) by striking "subparagraph (A), (B), (C), or" and inserting "subparagraph (C) or"; and

(3) by adding at the end the following:

"(2) An employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of subsection (a)(1) any paid leave which is available to such employee for that purpose.

"(3) The paid leave that is available to an employee for purposes of paragraph (2) is—

"(A) subject to paragraph (6), 4 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved; and

"(B) any annual or sick leave accrued or accumulated by such employee under subchapter I.

"(4) Nothing in this subsection shall be considered to require that an employee first use all or any portion of the leave described in subparagraph (B) of paragraph (3) before being allowed to use the paid parental leave described in subparagraph (A) of paragraph (3).

"(5) Paid parental leave under paragraph (3)(A)—

"(A) shall be payable from any appropriation or fund available for salaries or expenses for positions within the employing agency;

"(B) shall not be considered to be annual or vacation leave for purposes of section 5551 or 5552 or for any other purpose; and

"(C) if not used by the employee before the end of the 12-month period (as referred to in subsection (a)(1)) to which it relates, shall not accumulate for any subsequent use.

"(6) The Director of the Office of Personnel Management—

"(A) may promulgate regulations to increase the amount of paid parental leave available to an employee under paragraph (3)(A), to a total of not more than 8 administrative workweeks, based on the consideration of—

"(i) the benefits provided to the Federal Government of offering increased paid parental leave, including enhanced recruitment and retention of employees;

"(ii) the cost to the Federal Government of increasing the amount of paid parental leave that is available to employees;

"(iii) trends in the private sector and in State and local governments with respect to offering paid parental leave;

"(iv) the Federal Government's role as a model employer; and

"(v) such other factors as the Director considers necessary; and

"(B) shall prescribe any regulations necessary to carry out this subsection, including, subject to paragraph (4), the manner in which an employee may designate any day or other period as to which such employee wish-

es to use paid parental leave described in paragraph (3)(A)."

(b) EFFECTIVE DATE.—The amendment made by this section shall not be effective with respect to any birth or placement occurring before the end of the 6-month period beginning on the date of the enactment of this Act.

#### SEC. 3. PAID PARENTAL LEAVE FOR CONGRESSIONAL EMPLOYEES.

(a) AMENDMENT TO CONGRESSIONAL ACCOUNTABILITY ACT.—Section 202 of the Congressional Accountability Act of 1995 (2 U.S.C. 1312) is amended—

(1) in subsection (a)(1), by adding at the end the following: "In applying section 102(a)(1)(A) and (B) of such Act to covered employees, subsection (d) shall apply.";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following:

"(d) SPECIAL RULE FOR PAID PARENTAL LEAVE FOR CONGRESSIONAL EMPLOYEES.—

"(1) SUBSTITUTION OF PAID LEAVE.—A covered employee taking leave without pay under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

"(2) AMOUNT OF PAID LEAVE.—The paid leave that is available to a covered employee for purposes of paragraph (1) is—

"(A) the number of weeks of paid parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental leave available to Federal employees under section 6382(d)(3)(A) of title 5, United States Code; and

"(B) any additional paid vacation or sick leave provided by the employing office to such employee.

"(3) LIMITATION.—Nothing in this subsection shall be considered to require that an employee first use all or any portion of the leave described in subparagraph (B) of paragraph (2) before being allowed to use the paid parental leave described in subparagraph (A) of paragraph (2).

"(4) ADDITIONAL RULES.—Paid parental leave under paragraph (2)(A)—

"(A) shall be payable from any appropriation or fund available for salaries or expenses for positions within the employing office; and

"(B) if not used by the covered employee before the end of the 12-month period (as referred to in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1))) to which it relates, shall not accumulate for any subsequent use."

(b) EFFECTIVE DATE.—The amendment made by this section shall not be effective with respect to any birth or placement occurring before the end of the 6-month period beginning on the date of the enactment of this Act.

#### SEC. 4. CONFORMING AMENDMENT TO FAMILY AND MEDICAL LEAVE ACT FOR GAO AND LIBRARY OF CONGRESS EMPLOYEES.

(a) AMENDMENT TO FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 102(d) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(d)) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR GAO AND LIBRARY OF CONGRESS EMPLOYEES.—

"(A) SUBSTITUTION OF PAID LEAVE.—An employee of an employer described in section 101(4)(A)(iv) taking leave under subparagraph



(A) or (B) of subsection (a)(1) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

“(B) AMOUNT OF PAID LEAVE.—The paid leave that is available to an employee of an employer described in section 101(4)(A)(iv) for purposes of subparagraph (A) is—

“(i) the number of weeks of paid parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental leave available to Federal employees under section 6382(d)(3)(A) of title 5, United States Code; and

“(ii) any additional paid vacation or sick leave provided by such employer.

“(C) LIMITATION.—Nothing in this paragraph shall be considered to require that an employee first use all or any portion of the leave described in clause (ii) of subparagraph (B) before being allowed to use the paid parental leave described in clause (i) of such subparagraph.

“(D) ADDITIONAL RULES.—Paid parental leave under subparagraph (B)(i)—

“(i) shall be payable from any appropriation or fund available for salaries or expenses for positions with the employer described in section 101(4)(A)(iv); and

“(ii) if not used by the employee of such employer before the end of the 12-month period (as referred to in subsection (a)(1)) to which it relates, shall not accumulate for any subsequent use.”

(b) EFFECTIVE DATE.—The amendment made by this section shall not be effective with respect to any birth or placement occurring before the end of the 6-month period beginning on the date of the enactment of this Act.

The CHAIR. No amendment to the bill is in order except those printed in House Report 111-133. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. ISSA

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111-133.

Mr. ISSA. Madam Chair, I have an amendment made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ISSA:

Page 3, strike lines 9 through 13 and insert the following:

“(4) Notwithstanding any other provision of this section, an employee may not use any paid parental leave described in paragraph (3)(A), in connection with a birth or placement, until such employee has exhausted all annual and sick leave which, as of the date of such birth or placement—

“(A) has been accrued or accumulated by such employee under subchapter I; and

“(B) may, under applicable provisions of law, rule, or regulation, be used for the purpose involved.

Page 6, strike lines 17 through 22 and insert the following:

“(3) LIMITATION.—Notwithstanding any other provision of this section, an employee may not use any paid parental leave described in paragraph (2)(A), in connection with a birth or placement, until such employee has exhausted all annual, sick, and other paid leave which, as of the date of such birth or placement—

“(A) has been accrued or accumulated by such employee under a formal leave system; and

“(B) may, under applicable provisions of such leave system, be used for the purpose involved.

Page 8, strike lines 18 through 24 and insert the following:

“(C) LIMITATION.—Notwithstanding any other provision of this section, an employee may not use paid parental leave described in subparagraph (B)(i), in connection with a birth or placement, until such employee has exhausted all annual and sick leave which, as of the date of such birth or placement—

“(i) has been accrued or accumulated by such employee under subchapter I of chapter 63 of title 5, United States Code; and

“(ii) may, under applicable provisions of law, rule, or regulation, be used for the purpose involved.

Page 9, after line 15, add the following:

**SEC. 5. ADDITIONAL PAID PARENTAL LEAVE TO BE TREATED AS A REPAYABLE ADVANCE.**

Notwithstanding any other provision of this Act or any amendment made by any other provision of this Act, any paid parental leave under section 6382(d)(3)(A) of title 5, United States Code (as amended by section 2), section 202(d)(2)(A) of the Congressional Accountability Act of 1995 (as amended by section 3), or section 102(d)(3)(B)(i) of the Family and Medical Leave Act of 1993 (as amended by section 4)—

(1) shall be treated as an advance of paid leave; and

(2) shall be subject to recovery by the United States to the same extent and in the same manner as any other advance of paid leave.

The CHAIR. Pursuant to House Resolution 501, the gentleman from California (Mr. ISSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ISSA. Thank you, Madam Chair. I yield myself as much time as I may consume.

My amendment to H.R. 626 is a commonsense amendment. I believe the legislation bridges the differences between the majority and the minority, recognizing that the Federal workforce should, in fact, be able to use accrued and earned time they have, recognizing that it is already the policy of many, but not all, Federal agencies to allow all accrued leave, both vacation, if you will, and sick leave, to be used by somebody wishing to avail themselves of their 12 weeks of family medical leave.

Having said that, we do take away the question of 4 weeks of additional paid or 8 weeks of additional paid leave. We recognize, though, that not every person, particularly a young family new to the Federal workforce, may have accrued leave sufficient to do 12 full weeks. Therefore, my amend-

ment allows for that worker to take an advance against future sick leave and other leave in order to ensure that they may remain with their new child for the full 12 weeks allowed within the law. This would, in fact, eliminate the contradiction between various government agencies. It would streamline the process. It would make clear that no Federal worker would ever have to choose between being with their newborn and receiving a paycheck.

So with that, I urge the strong support of this amendment as a commonsense middle ground.

I reserve the balance of my time.

Mr. LYNCH. Madam Chair, I rise to claim the time in opposition to the amendment.

The CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. LYNCH. I yield myself as much time as I may consume.

Madam Chair, I absolutely cannot support the amendment at hand, as it totally goes against the bill's fundamental purpose. To begin, this amendment actually guts the bill. It does little more than restate the status quo with regard to the type and amount of leave that is currently available to new parents in the Federal Government.

To be clear, I support H.R. 626 because I want to support working families across the country. I oppose the amendment because we should not replicate the current inadequate system that forces new moms and dads to choose between their paycheck and caring for a newborn. The gentleman's amendment, however well intended, would strike the bill's core requirement that Federal employees receive 4 weeks of paid parental leave. Instead, it would require new mothers and fathers to take advance leave in order to take care of their newborn or newly adopted child. In other words, new employees would be required to go into debt in their available leave as a cost of caring for their child.

I do want to point out an odd result of the gentleman's amendment. For the new employees who have unpaid leave right now, it would force them to take unpaid leave at a point in time—for instance, for a new mom right after she has the baby, it would force her to take unpaid leave; and then later on after the 8 or 12 weeks had expired, at a point maybe when that mom was ready to come back to work, it would then give those employees, mom and dad, 4 weeks of paid leave. So rather than come back to work, they'd be facing the opportunity to take paid leave at that point; and I think in some cases it may turn out that this may increase the cost. While it actually devalues the benefit to the employee up front, it also, by perhaps getting a higher utilization rate, in the end may cost the government more money. So it's sort of a lose-lose situation. Longer-term

employees would be required to exhaust any available prior leave before being eligible to take the additional advance leave; and under most circumstances, they may already do this.

So the amendment's only alleged new benefit to employees is to allow newer hires to go into a deficit on their leave in order to get some days paid during their parental leave. But, again, Federal agencies can already offer employees advance leave, so there's really no new benefit here. The true effect of this amendment is to gut the primary purpose of the bill, which is to support families and child development by providing 4 weeks of unconditional paid leave to new mothers and fathers in the Federal workforce.

In addition to gutting the bill, the amendment is inequitable because it would impact new employees and older employees differently. Moreover, the amendment is not good policy because employees should not be forced to use up all of their accrued annual sick leave to care for a new child. This can leave employees in a desperate situation if any emergency arises or if they become seriously ill down the road.

This amendment is somewhat shortsighted. It ignores the strategic investment that H.R. 626 makes in the Federal workforce at a time that we need to be attracting young talented employees to prepare for a wave of upcoming retirements. Currently we have about 315,000 Federal employees that are eligible to retire; and unfortunately those are the most experienced and, in some cases, the most ablest employees that we have in the Federal Government.

This amendment ignores the social benefits to society as a whole that result from supporting families with progressive work-life policies, such as a paid parental leave program. Because this amendment guts the pending legislation, I do have to oppose it for all the reasons that I have stated in spite of the gentleman's good intentions. I ask that Members continue to support the bill and oppose this amendment.

I reserve the balance of my time.

Mr. ISSA. Madam Chair, I now proudly yield 1 minute to the ranking member of the subcommittee, somebody who is very aware of family values and the importance of this legislation, Mr. CHAFFETZ of Utah.

Mr. CHAFFETZ. Madam Chair, there's no more precious time than those with your children. We want to be as compassionate as we can. But at a time when we have literally millions and millions of people who are out of work, when we are looking at a \$1.8 trillion budget deficit just this year alone, I don't want to saddle leave that new child who is coming into the world with this unbelievable debt. So it's something that I would like to do. But I think what Mr. ISSA's amendment offers is a very reasonable alternative to

create the atmosphere and create the program and create the way that our Federal employees can tap into something that they have earned. But I think we have an obligation to recognize the proper role of government. We have to remember for every dollar, every benefit that we want to hand to a Federal worker, we're going to have to take that money from somewhere; and we're going to have to take it from the American people's pockets to give it to someone else.

The CHAIR. The time of the gentleman has expired.

Mr. ISSA. I yield an additional 30 seconds to the gentleman.

Mr. CHAFFETZ. I appreciate what Mr. ISSA is proposing here. Let's remember that it's the American people's money. It's not Congress' money. It's the American people's money. At a time of deficit, now is not the time to go out and spend billions of more dollars when we're so far in debt.

Mr. LYNCH. Madam Chair, I am prepared to close and continue to reserve the balance of my time.

The CHAIR. The gentleman from California has 2 minutes remaining. The gentleman from Massachusetts has 30 seconds remaining.

Mr. ISSA. Madam Chair, I yield myself the remaining time.

Madam Chair, I just want to review one more time why we believe that doing this within the existing means of the program dollars that are already available to the Federal workforce is a commonsense compromise.

Meeting the majority halfway, recognizing that 14 million Americans are making no money, except for their unemployment insurance, and those who are making so much less this year demand that we find ways not to increase our spending. So, Madam Chair, I would just like to review one last time. The Federal workforce, if you've been in for only 3 years, you have 4 weeks of paid vacation and 13 days, which is nearly 3 weeks, of sick leave per year. You already have that every year. Isn't it family values to be willing to give up some of that to be able to stay with your family? Why wouldn't you use some of that first?

Madam Chair, I want to recognize that the Federal workforce is a good workforce, and we want it to be a great workforce. But at a time in which 14 million Americans are looking for jobs, we are actually not having a hard time finding people who would like to come to work for the Federal Government. We're offering jobs. We're hiring. We're growing. So if we're ever going to need an inducement, it will be at a boom time, at a time in which we have to compete against higher salaries and bonuses, not at a time in which Americans are suffering and being laid off in record numbers.

Lastly, Madam Chair, I would like to refer to the President's statement,

which was quite a weak statement, in support of this bill. He recites the bill and then says, "The administration is currently reviewing existing Federal leave policies to determine the extent of their gaps and limitations. The administration looks forward to working with Congress to refine the details of this legislation to make sure it meets the needs of the Federal agencies and employees, as well as their families."

Madam Chair, what that says to me is, this is not the right bill. They'd like to work with us to make it better. Hopefully this amendment will make it better here today.

I yield back the balance of my time.

Mr. LYNCH. Madam Chair, for the purpose of closing, I would like to yield the balance of my time to the gentlewoman from New York (Mrs. MALONEY) who, along with Congressman HOYER, has championed this bill for the past 15 years.

The CHAIR. The gentlewoman from New York is recognized for 30 seconds.

□ 1900

Mrs. MALONEY. I appreciate my colleagues' hard work and effort, but I rise in opposition to this amendment. The amendment would do absolutely nothing but maintain the status quo. It asks Federal employees to continue to cobble together sick and annual leave if they want to get a paycheck while they care for their new child.

This policy does not help relatively new employees, younger workers, or those with health problems who have little accrued leave to draw on. And it also puts the health and well-being of our employees and their families at risk.

The CHAIR. The time of the gentlewoman has expired.

Mrs. MALONEY. I would like to place in the RECORD the Statement of Administration Policy.

STATEMENT OF ADMINISTRATION POLICY  
H.R. 626—FEDERAL EMPLOYEES PAID PARENTAL  
LEAVE ACT OF 2009

(Rep. Maloney, D-New York, and 55  
cosponsors)

The Administration supports the goal of H.R. 626, which would provide Federal employees with access to paid leave upon the birth, adoption, or fostering of a child.

Being able to spend time at home with a new child is a critical part of building a strong family. The initial bonding between parents and their new child is essential to healthy child-development and providing a firm foundation for the child's success in life. Measures that support these relationships strengthen our families, our communities, and our nation. The Federal government should reflect its commitment to these core values by helping Federal employees to care for their families as well as serve the public. Providing paid parental leave has been successfully employed by a number of private-sector employers, and can help to make job opportunities accessible to more workers.

The Administration is currently reviewing existing Federal leave policies to determine

the extent of their gaps and limitations. The Administration looks forward to working with Congress to refine the details of this legislation to make sure it meets the needs of Federal agencies and employees, as well as their families.

The CHAIR. The question is on the amendment offered by the gentleman from California (Mr. ISSA).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. ISSA. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. AL GREEN  
OF TEXAS

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-133.

Mr. AL GREEN of Texas. Madam Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. AL GREEN of Texas:

Page 4, line 19, strike "and".

Page 4, after line 19, insert the following:

"(v) the impact of increased paid parental leave on lower-income and economically disadvantaged employees and their children; and"

Page 4, line 20, strike "(v)" and insert "(vi)".

The CHAIR. Pursuant to House Resolution 501, the gentleman from Texas (Mr. AL GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. Madam Chair, I yield myself such time as I might consume.

Madam Chair, this bill allows OPM, that is the Office of Personnel Management, to increase the amount of paid parental leave up to 8 weeks. It allows this after considering a variety of factors: benefits to the Federal Government, cost to the Federal Government, trends in the private sector, the government's role as a model employer, and such other factors as the director considers necessary.

This amendment, Madam Chair, will require the Office of Personnel Management to consider the needs of some of our lower-level employees. This amendment would not require any additional funding. It merely requires the office to consider the impact that increasing the number of weeks will have on some of our lower-level employees.

Now, I would like to introduce a term that I'm not exceedingly pleased with. It is called a "poverty spell." A poverty spell is defined as entering poverty for at least 2 months. Twenty-five percent of all poverty spells begin with the birth of a child, 25 percent. I would

also note that 78 percent of the persons who are eligible for FMA, this leave that we have been discussing today, do not take it because they cannot afford to lose a paycheck.

No one should go into poverty because of the birth of a child if we can prevent it. This bill will help many of our lower-level employees avoid a poverty spell.

I will reserve the balance of my time.

Mr. ISSA. Madam Chair, because there is no objection to this common-sense evaluation as to the low-income and economically disadvantaged, we claim in opposition and then yield back immediately.

Mr. AL GREEN of Texas. Madam Chair, I will yield to the manager such time as he may consume.

Mr. LYNCH. I want to thank the gentleman for his thoughtful and prudent amendment, and we are prepared to accept it at this time.

Mr. AL GREEN of Texas. At this time, Madam Chair, I'm grateful to Mr. LYNCH. I'm also grateful to Mrs. MALONEY for her outstanding work on this. It has been a tireless effort over many years, and I'm honored that they are accepting this amendment. And I am going to ask all of my colleagues to please vote for it if a recorded vote is called for. I shall not be calling for one.

I yield back.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. BRIGHT

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111-133.

Mr. BRIGHT. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BRIGHT:

At the end of the bill insert the following:

**SEC. 5. CLARIFICATION FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.**

(a) EXECUTIVE BRANCH EMPLOYEES.—For purposes of determining the eligibility of an employee who is a member of the National Guard or Reserves to take leave under paragraph (1)(A) or (B) of section 6382(a) of title 5, United States Code, or to substitute such leave pursuant to paragraph (2) of such section (as added by section 2), any service by such employee on active duty (as defined in section 6381(7) of such title) shall be counted as service as an employee for purposes of section 6381(1)(B) of such title.

(b) CONGRESSIONAL EMPLOYEES.—For purposes of determining the eligibility of a covered employee (as such term is defined in section 101(3) of the Congressional Accountability Act) who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (pursuant to section 202(a)(1) of the Congressional Accountability Act), or to substitute such leave pursuant to subsection (d) of section 202 of such Act (as added by section 3), any service by such employee on active duty

(as defined in section 101(14) of the Family and Medical Leave Act of 1993) shall be counted as time during which such employee has been employed in an employing office for purposes of section 202(a)(2)(B) of the Congressional Accountability Act.

(c) GAO AND LIBRARY OF CONGRESS EMPLOYEES.—For purposes of determining the eligibility of an employee of the Government Accountability Office or Library of Congress who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993, or to substitute such leave pursuant to paragraph (3) of section 102(d) of such Act (as added by section 4), any service by such employee on active duty (as defined in section 101(14) of such Act) shall be counted as time during which such employee has been employed for purposes of section 101(2)(A) of such Act.

The CHAIR. Pursuant to House Resolution 501, the gentleman from Alabama (Mr. BRIGHT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama.

Mr. BRIGHT. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I rise today in support of my amendment to the Federal Employees Paid Parental Leave Act. Put simply, this amendment would ensure that Federal employees called to active duty in the National Guard or Reserves are not penalized for their service. It would clarify the intent of the bill so that these individuals can count the time they serve in active duty towards the time they are employed so they may remain eligible for the benefits under this bill.

Too often we have seen our servicemen and women across all branches denied the benefits they rightly deserve due to governmental red tape. There is absolutely no reason that National Guard or reservists should be denied any of the benefits they deserve after honorably serving their country.

Again, this amendment will allow members of the Guard and Reserve to be able to count the time they were deployed towards their total time of employment. If passed, this amendment will give the men and women who have served our country needed time with their newborns and tend to their family responsibilities after a birth. This time is even more important when you consider that these warriors have already spent months on end away from their families.

Madam Chair, this amendment is simple and straightforward. It clarifies the intent of the bill for our guardsmen and our guardswomen and our reservists and ensures that they won't be penalized for their service to our great country.

I urge its passage.

I reserve the balance of my time.

Mr. ISSA. Madam Chair, although we do not object to this, we claim the time in opposition.

The CHAIR. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. ISSA. Madam Chair, briefly, this amendment seems to be a good one that would try to clarify some of the many, many, many, many elements of this bill that were not worked through thoroughly in committee, so I applaud the gentleman. I believe that, in fact, if we would have done more of this in committee, if more people would have looked and said, We want, as the committee that is charged by the Congress to fight waste, fraud, and abuse, that, in fact, if we had tightened up this bill much better earlier, we would have been more accountable to the taxpayers.

So I applaud the gentleman and recommend that this be voted positively.

I yield back all time.

Mr. BRIGHT. Madam Chair, I would yield 1 minute of my time to Mr. LYNCH.

Mr. LYNCH. I thank the gentleman for yielding.

I also thank the gentleman from Alabama for his thoughtful amendment. This amendment makes certain that Federal employees who are members of the National Guard or Reserve will remain eligible for this benefit and be able to care for their newborn children in the same manner as all other employees. I thank the gentleman for his astute observations and his clarification.

I urge the Members to support this amendment.

Mr. BRIGHT. Madam Chair, in closing, I would like to thank Congresswoman MALONEY from New York. Thank you very much for your hard work on this, and also Chairman TOWNS and his staff on the Oversight and Government Reform Committee for their attention to this issue and for working with my staff to draft this amendment. I would also like to thank Chairwoman SLAUGHTER on the Rules Committee for ruling in favor of the amendment and allowing me to offer it on the floor today. Finally, I want to thank my colleagues for their continuing support and commitment on this issue. And, again, I urge all my colleagues to support this amendment.

I yield back my time.

The CHAIR. The question is on the amendment offered by the gentleman from Alabama (Mr. BRIGHT).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. ISSA

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ISSA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 258, not voting 24, as follows:

[Roll No. 308]

AYES—157

Aderholt	Fox	Miller, Gary
Akin	Franks (AZ)	Minnick
Alexander	Frelinghuysen	Moran (KS)
Austria	Gallegly	Myrick
Bachus	Garrett (NJ)	Neugebauer
Bartlett	Gerlach	Nunes
Barton (TX)	Gingrey (GA)	Olson
Biggert	Gohmert	Paul
Bilbray	Goodlatte	Paulsen
Bilirakis	Granger	Pence
Bishop (UT)	Graves	Petri
Blackburn	Guthrie	Pitts
Blunt	Hall (TX)	Platts
Boehner	Harper	Poe (TX)
Bonner	Hastings (WA)	Posey
Bono Mack	Heller	Price (GA)
Boozman	Hensarling	Putnam
Boustany	Herger	Radanovich
Brady (TX)	Hoekstra	Rehberg
Broun (GA)	Hunter	Roe (TN)
Brown (SC)	Inglis	Rogers (AL)
Brown-Waite,	Issa	Rogers (KY)
Ginny	Jenkins	Rohrabacher
Buchanan	Johnson, Sam	Rooney
Burgess	Jones	Roskam
Burton (IN)	Jordan (OH)	Royce
Buyer	King (IA)	Ryan (WI)
Calvert	King (NY)	Scalise
Camp	Kingston	Schmidt
Campbell	Kline (MN)	Schock
Cantor	Kosmas	Sensenbrenner
Capito	Lamborn	Sessions
Cassidy	Latham	Shadegg
Castle	Latta	Shimkus
Chaffetz	Lee (NY)	Shuster
Childers	Lewis (CA)	Simpson
Coble	Linder	Smith (NE)
Coffman (CO)	Lucas	Smith (TX)
Cole	Luetkemeyer	Souder
Conaway	Lummis	Terry
Crenshaw	Lungren, Daniel	Thompson (PA)
Culberson	E.	Thornberry
Davis (KY)	Mack	Tiahrt
Deal (GA)	Manzullo	Tiberi
Dent	McCarthy (CA)	Turner
Diaz-Balart, M.	McCauley	Walden
Dreier	McClintock	Wamp
Duncan	McHenry	Westmoreland
Ehlers	McKeon	Whitfield
Fallin	McMorris	Wilson (SC)
Flake	Rodgers	Young (AK)
Fleming	Mica	Young (FL)
Forbes	Miller (FL)	
Fortenberry	Miller (MI)	

NOES—258

Abercrombie	Chandler	Edwards (TX)
Ackerman	Christensen	Ellison
Adler (NJ)	Clarke	Ellsworth
Altmire	Clay	Emerson
Andrews	Cleaver	Engel
Arcuri	Clyburn	Eshoo
Baird	Cohen	Etheridge
Baldwin	Connolly (VA)	Faleomavaega
Barrow	Conyers	Farr
Bean	Cooper	Fattah
Becerra	Costa	Filner
Berkley	Costello	Foster
Berman	Crowley	Frank (MA)
Berry	Cuellar	Fudge
Bishop (GA)	Cummings	Gonzalez
Bishop (NY)	Dahlkemper	Gordon (TN)
Bocieri	Davis (AL)	Grayson
Boren	Davis (CA)	Green, Al
Boucher	Davis (TN)	Green, Gene
Brady (PA)	DeFazio	Griffith
Briley (IA)	DeGette	Grijalva
Bright	DeLauro	Gutierrez
Brown, Corrine	Delauro	Hall (NY)
Butterfield	Dicks	Halvorson
Cao	Dingell	Hare
Capps	Doggett	Harman
Cardoza	Donnelly (IN)	Hastings (FL)
Carnahan	Doyle	Heinrich
Carney	Driehaus	Herseth Sandlin
Carson (IN)	Edwards (MD)	Higgins
Castor (FL)		Hill

Himes	McIntyre	Sarbanes
Hinchey	McMahon	Schakowsky
Hirono	McNerney	Schauer
Hodes	Meek (FL)	Schiff
Holden	Meeks (NY)	Schrader
Holt	Melancon	Schwartz
Honda	Michaud	Scott (GA)
Hoyer	Miller (NC)	Scott (VA)
Inslee	Miller, George	Serrano
Israel	Mitchell	Sestak
Jackson (IL)	Mollohan	Shea-Porter
Johnson (IL)	Moore (KS)	Sherman
Johnson, E. B.	Moore (WI)	Shuler
Kagen	Moran (VA)	Sires
Kanjorski	Murphy (CT)	Slaughter
Kaptur	Murphy (NY)	Smith (NJ)
Kennedy	Murphy, Patrick	Smith (WA)
Kildee	Murphy, Tim	Snyder
Kilpatrick (MI)	Murtha	Space
Kilroy	Nadler (NY)	Speier
Kind	Napolitano	Spratt
Kirk	Neal (MA)	Stark
Kirkpatrick (AZ)	Norton	Stupak
Kissell	Nye	Sutton
Klein (FL)	Oberstar	Tanner
Kratovil	Obey	Tauscher
Kucinich	Oliver	Taylor
Lance	Ortiz	Teague
Langevin	Pallone	Thompson (CA)
Larsen (WA)	Pascarella	Thompson (MS)
Larson (CT)	Pastor (AZ)	Tierney
LaTourette	Payne	Titus
Lee (CA)	Perlmutter	Tonko
Levin	Perriello	Towns
Lewis (GA)	Peters	Tsongas
Lipinski	Peterson	Velázquez
LoBiondo	Pierluisi	Visclosky
Loeback	Pingree (ME)	Walz
Lofgren, Zoe	Polis (CO)	Wasserman
Lowe	Pomeroy	Schultz
Lujan	Price (NC)	Waters
Lynch	Quigley	Watson
Maffei	Rahall	Watt
Maloney	Rangel	Waxman
Markey (CO)	Reichert	Weiner
Markey (MA)	Reyes	Welch
Marshall	Richardson	Wexler
Massa	Rodriguez	Wittman
Matheson	Ros-Lehtinen	Wolf
Matsui	Ross	Woolsey
McCarthy (NY)	Rothman (NJ)	Wu
McCollum	Roybal-Allard	Yarmuth
McCotter	Rush	
McDermott	Ryan (OH)	
McGovern	Salazar	
McHugh	Sanchez, Loretta	

NOT VOTING—24

Baca	Courtney	Ruppersberger
Bachmann	Davis (IL)	Sablan
Barrett (SC)	Giffords	Sánchez, Linda
Blumenauer	Hinojosa	T.
Bordallo	Jackson-Lee	Skelton
Boswell	(TX)	Stearns
Boyd	Johnson (GA)	Sullivan
Capuano	Marchant	Wilson (OH)
Carter	Rogers (MI)	

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1934

Messrs. ROTHMAN of New Jersey, RODRIGUEZ, PALLONE, BERMAN, HILL, SCOTT of Georgia, Ms. WASSERMAN SCHULTZ and Mrs. MALONEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mrs. BACHMANN. Madam Chair, on rollcall No. 308, had I been present, I would have voted "aye."

Mr. STEARNS. Madam Chair, on rollcall No. 308, I was unavoidably detained. Had I been present, I would have voted "aye."

Ms. GIFFORDS. Madam Chair, on rollcall No. 308, I arrived on the floor and the vote

had closed. Had I been present, I would have voted "nay."

The CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. TAUSCHER) having assumed the chair, Ms. DEGETTE, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 626) to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes, pursuant to House Resolution 501, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mr. ISSA. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ISSA. In its present form, yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Issa moves to recommit the bill H.R. 626 to the Committee on Oversight and Government Reform with instructions to report the bill back to the House forthwith with the following amendment:

At the end of the bill, add the following:

#### SEC. 5. LIMITATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, if the deficit for fiscal year 2009 or any subsequent fiscal year exceeds \$500,000,000,000, the amendments made by this Act shall terminate as of the 30th day of the next fiscal year thereafter.

(b) DEFICIT DEFINED.—For purposes of this section, the "deficit" for a fiscal year is the amount by which total outlays of the Government for such fiscal year exceed total receipts of the Government for such fiscal year, if at all.

Mr. ISSA (during the reading). Madam Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

#### GENERAL LEAVE

Mr. ISSA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ISSA. Madam Speaker, the motion to recommit would ensure that nearly 14 million Americans who have lost their jobs will not see an additional 1, 2 or \$4 billion of the new benefits paid to Federal workers unless this Congress is able to get its house in order.

Under the motion to recommit, we recognize that according to the Office of Management and Budget the deficit is currently approximately \$1.841 trillion. The motion will very simply tie the enactment of this new and expensive and overly generous benefit to the national debt.

The motion dictates that if the deficit for any fiscal year exceeds \$500 billion, the act will then terminate on the 30th day of the next fiscal year.

Madam Speaker, in a commonsense way, it means we can have this expensive—we object to it—but this expensive new benefit go into effect this year, but if this House and this Congress cannot get its house in order in the following years, then this act would not continue.

We believe that this is the last and best effort to try to reach a compromise to allow the majority to have its way on this expensive, new benefit but not allow it to continue on the backs of 14 million unemployed Americans, until or unless we're able to bring the deficit at least in line with where it was just two short years ago.

Madam Speaker, in closing I believe that the majority in this case has ignored one after another commonsense opportunities to amend this bill. In committee, we were shut out; here on the floor, each of our amendments, including one that would have simply allowed for every Federal worker to have 12 weeks of paid medical leave in the case of the birth, adoption or taking on of a foster child, but to do so with existing benefits, including sick leave, even allowing them to borrow sick leave.

Since that's been rejected, our motion to recommit seeks only to recognize that this new benefit on the backs of 14 million unemployed Americans and countless millions who are making much less this year than last year cannot be sustained if we cannot bring our fiscal house in order.

And with that, I would urge passage of the motion to recommit.

I yield back the balance of my time.

Mr. LYNCH. Madam Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. LYNCH. Madam Speaker, I oppose the motion to recommit for the basic reason that it guts the entire bill. If this amendment were to pass, we would leave Federal employees exactly where we find them today.

I also want to comment on the mechanics of the motion to recommit. It basically prohibits paying parental leave to Federal employees until the deficit is below \$500 billion. I view it, I guess, that somehow that is the justification for not extending these benefits.

However, history and the evidence before us does not support this position. It's disingenuous.

I just want to point out a couple of things. Briefly, I just want to lay out what the record is here. My friends from the other side of the aisle have been consistent, and I give them credit for that. Whether we have been projecting a surplus or a deficit, the Members from the Republican Party have been opposed to this parental leave under every circumstance that we could possibly face here.

When during the Clinton administration we had projected surpluses, the Republican Members opposed parental leave. In June of 2008 when the majority of the Republicans opposed this important benefit, the unemployment rate was only 5.6 percent, and we had a very strong economy.

During the 109th Congress when Republicans again refused to bring this legislation to the floor, the unemployment rate was never higher than 5.4 percent.

During the 108th Congress when the Republicans again refused to bring parental leave to the floor, the unemployment rate was averaging about 5.8 percent.

During the 107th Congress when the Republicans refused to bring this legislation to the floor, the unemployment rate never rose above 6 percent and was below 4.5 percent for most of 2001.

And again, during the 106th Congress when Republicans refused to bring legislation to the floor for parental leave, the unemployment rate hovered around 4 percent, which most economists believe is near full employment.

So, regardless of the circumstances, my friends—and again, I commend you for your consistency—you have opposed parental leave, which is a basic and decent benefit for folks in three circumstances: When they have the birth of a child, Federal employees have a birth of a child; the adoption of a child; or taking a child in for foster care.

Those are the narrow set of circumstances that this benefit is applied to. Madam Speaker, this is the 15th year—15 years ago this bill was brought to this floor, and it's been opposed by my friends on the other side

of the aisle for that 15 years, and we all know our positions, and with that, I ask the Members to support this measure.

I yield back the balance of my time.

□ 1945

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ISSA. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 171, noes 241, not voting 21, as follows:

[Roll No. 309]

AYES—171

Aderholt	Flake	McMorris
Adler (NJ)	Fleming	Rodgers
Akin	Forbes	Mica
Alexander	Fortenberry	Miller (FL)
Austria	Fox	Miller (MI)
Bachmann	Franks (AZ)	Miller, Gary
Bachus	Frelinghuysen	Minnick
Barrett (SC)	Gallely	Moran (KS)
Bartlett	Garrett (NJ)	Myrick
Barton (TX)	Gerlach	Neugebauer
Biggert	Gingrey (GA)	Nunes
Bliley	Gohmert	Nye
Bilirakis	Goodlatte	Olson
Bishop (UT)	Granger	Paul
Blackburn	Graves	Paulsen
Blunt	Guthrie	Pence
Boehner	Hall (TX)	Perriello
Bonner	Harper	Petri
Bono Mack	Hastings (WA)	Pitts
Boozman	Heller	Platts
Boustany	Hensarling	Poe (TX)
Brady (TX)	Herger	Posey
Bright	Hoekstra	Price (GA)
Brown (GA)	Hunter	Putnam
Brown (SC)	Inglis	Radanovich
Brown-Waite,	Issa	Rehberg
Ginny	Jenkins	Roe (TN)
Buchanan	Johnson (IL)	Rogers (AL)
Burgess	Johnson, Sam	Rogers (KY)
Burton (IN)	Jones	Rohrabacher
Buyer	Jordan (OH)	Rooney
Calvert	King (IA)	Ros-Lehtinen
Campbell	King (NY)	Roskam
Cantor	Kingston	Royce
Capito	Kirk	Ryan (WI)
Cassidy	Kline (MN)	Scalise
Castle	Kosmas	Schmidt
Chaffetz	Lamborn	Schock
Childers	Latham	Sensenbrenner
Coble	Latta	Sessions
Coffman (CO)	Lee (NY)	Shadegg
Cole	Lewis (CA)	Shimkus
Conaway	Linder	Shuster
Crenshaw	Lucas	Simpson
Cuellar	Luetkemeyer	Smith (NE)
Culberson	Lummis	Smith (TX)
Davis (KY)	Lungren, Daniel	Souder
Deal (GA)	E.	Stearns
Dent	Mack	Terry
Diaz-Balart, L.	Manzullo	Thompson (PA)
Diaz-Balart, M.	McCarthy (CA)	Thornberry
Dreier	McCaul	Tiahrt
Duncan	McClintock	Tiberi
Ehlers	McCotter	Turner
Emerson	McHenry	Upton
Fallin	McKeon	Walden

Wamp  
Westmoreland

Whitfield  
Wilson (SC)

Young (AK)  
Young (FL)

NOES—241

Abercrombie	Hastings (FL)	Olver
Ackerman	Heinrich	Ortiz
Altmire	Herseth Sandlin	Pallone
Andrews	Higgins	Pascarella
Arcuri	Hill	Pastor (AZ)
Baird	Himes	Payne
Baldwin	Hinchey	Perlmutter
Barrow	Hirono	Peters
Bean	Hodes	Peterson
Becerra	Holden	Pingree (ME)
Berkley	Holt	Polis (CO)
Berman	Honda	Pomeroy
Berry	Hoyer	Price (NC)
Bishop (GA)	Inslee	Quigley
Bishop (NY)	Israel	Rahall
Bocchieri	Jackson (IL)	Rangel
Boren	Johnson, E. B.	Reichert
Boucher	Kagen	Reyes
Brady (PA)	Kanjorski	Richardson
Braley (IA)	Kaptur	Rodriguez
Brown, Corrine	Kildee	Ross
Butterfield	Kilpatrick (MI)	Rothman (NJ)
Cao	Kilroy	Roybal-Allard
Capps	Kind	Rush
Cardoza	Kirkpatrick (AZ)	Ryan (OH)
Carnahan	Kissell	Salazar
Carney	Klein (FL)	Sanchez, Loretta
Carson (IN)	Kratovil	Sarbanes
Castor (FL)	Kucinich	Schakowsky
Chandler	Lance	Schauer
Clarke	Langevin	Schiff
Clay	Larsen (WA)	Schrader
Cleaver	Larson (CT)	Schwartz
Clyburn	LaTourette	Scott (GA)
Cohen	Lee (CA)	Scott (VA)
Connolly (VA)	Levin	Serrano
Cooper	Lewis (GA)	Sestak
Costa	Lipinski	Shea-Porter
Costello	LoBiondo	Sherman
Crowley	Loebuck	Shuler
Cummings	Lofgren, Zoe	Sires
Dahlkemper	Lowe	Slaughter
Davis (AL)	Lujan	Smith (NJ)
Davis (CA)	Lynch	Smith (WA)
Davis (TN)	Maffei	Snyder
DeFazio	Maloney	Space
DeGette	Markey (CO)	Speier
Delahunt	Markey (MA)	Spratt
DeLauro	Marshall	Stark
Dicks	Massa	Stupak
Dingell	Matheson	Sutton
Doggett	Matsui	Tanner
Donnelly (IN)	McCarthy (NY)	Tauscher
Doyle	McCollum	Taylor
Driehaus	McDermott	Teague
Edwards (MD)	McGovern	Thompson (CA)
Edwards (TX)	McHugh	Thompson (MS)
Ellison	McIntyre	Tierney
Elsworth	McMahon	Titus
Engel	McNerney	Tonko
Eshoo	Meek (FL)	Towns
Etheridge	Meeks (NY)	Tsongas
Farr	Melancon	Van Hollen
Fattah	Michaud	Velázquez
Finer	Miller (NC)	Visclosky
Foster	Miller, George	Walz
Frank (MA)	Mitchell	Wasserman
Fudge	Mollohan	Schultz
Giffords	Moore (KS)	Waters
Gonzalez	Moore (WI)	Watson
Gordon (TN)	Moran (VA)	Watt
Grayson	Murphy (CT)	Waxman
Green, Al	Murphy (NY)	Weiner
Green, Gene	Murphy, Patrick	Welch
Griffith	Murphy, Tim	Wexler
Grijalva	Murtha	Wittman
Gutierrez	Nadler (NY)	Wolf
Hall (NY)	Napolitano	Woolsey
Halvorson	Neal (MA)	Wu
Hare	Oberstar	Yarmuth
Harman	Obey	

NOT VOTING—21

Baca	Courtney	Rogers (MI)
Blumenauer	Davis (IL)	Ruppersberger
Boswell	Hinojosa	Sánchez, Linda
Boyd	Jackson-Lee	T.
Camp	(TX)	Skelton
Capuano	Johnson (GA)	Sullivan
Carter	Kennedy	Wilson (OH)
Conyers	Marchant	

□ 2003

Mr. HALL of New York changed his vote from “aye” to “no.”

Messrs. ADLER of New Jersey and CUELLAR changed their vote from “no” to “aye.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. MALONEY. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 258, noes 154, answered “present” 1, not voting 20, as follows:

[Roll No. 310]

AYES—258

Abercrombie	Dicks	Kissell
Ackerman	Dingell	Klein (FL)
Adler (NJ)	Doggett	Kratovil
Altmire	Donnelly (IN)	Kucinich
Andrews	Doyle	Lance
Arcuri	Driehaus	Langevin
Baird	Edwards (MD)	Larsen (WA)
Baldwin	Edwards (TX)	Larson (CT)
Barrow	Ellison	LaTourette
Bean	Ellsworth	Lee (CA)
Becerra	Engel	Levin
Berkley	Eshoo	Lewis (GA)
Berman	Etheridge	Lipinski
Berry	Farr	LoBiondo
Bishop (GA)	Fattah	Loebuck
Bishop (NY)	Finer	Lofgren, Zoe
Bocchieri	Fortenberry	Lowe
Bouffer	Foster	Lujan
Boucher	Frank (MA)	Lynch
Brady (PA)	Fudge	Maffei
Braley (IA)	Giffords	Maloney
Bright	Gonzalez	Markey (CO)
Brown, Corrine	Gordon (TN)	Markey (MA)
Butterfield	Grayson	Marshall
Buyer	Green, Al	Massa
Cao	Green, Gene	Matheson
Capito	Griffith	Matsui
Capps	Grijalva	McCarthy (NY)
Cardoza	Gutierrez	McCollum
Carnahan	Hall (NY)	McDermott
Carney	Halvorson	McGovern
Carson (IN)	Hare	McHugh
Castle	Harman	McIntyre
Castor (FL)	Hastings (FL)	McMahon
Chandler	Heinrich	McNerney
Childers	Herseth Sandlin	Meek (FL)
Clarke	Higgins	Meeks (NY)
Clay	Hill	Melancon
Cleaver	Himes	Michaud
Clyburn	Hinchey	Miller (NC)
Cohen	Hirono	Miller, George
Connolly (VA)	Hodes	Mitchell
Conyers	Holden	Mollohan
Cooper	Holt	Moore (KS)
Costa	Honda	Moore (WI)
Costello	Hoyer	Moran (VA)
Crowley	Inslee	Murphy (CT)
Cuellar	Israel	Murphy (NY)
Cummings	Jackson (IL)	Murphy, Patrick
Dahlkemper	Johnson (IL)	Murphy, Tim
Davis (AL)	Johnson, E. B.	Murtha
Davis (CA)	Kagen	Nadler (NY)
Davis (TN)	Kennedy	Napolitano
DeFazio	Kildee	Neal (MA)
DeGette	Kilpatrick (MI)	Nye
Delahunt	Kilroy	Oberstar
DeLauro	Kind	Obey
Diaz-Balart, L.	Kirk	Olver
Diaz-Balart, M.	Kirkpatrick (AZ)	Ortiz

Pallone	Sanchez, Loretta	Thompson (CA)	Sánchez, Linda	Skelton	Waters
Pascarell	Sarbanes	Thompson (MS)	T.	Sullivan	Wilson (OH)
Pastor (AZ)	Schakowsky	Tierney			
Payne	Schauer	Titus			
Perlmutter	Schiff	Tonko			
Perriello	Schwartz	Towns			
Peters	Scott (GA)	Tsongas			
Peterson	Scott (VA)	Turner			
Pingree (ME)	Serrano	Upton			
Platts	Sestak	Van Hollen			
Polis (CO)	Shea-Porter	Velázquez			
Pomeroy	Sherman	Visclosky			
Price (NC)	Shuler	Walz			
Quigley	Sires	Wasserman			
Rahall	Slaughter	Schultz			
Rangel	Smith (NJ)	Watson			
Reichert	Smith (TX)	Watt			
Reyes	Smith (WA)	Waxman			
Richardson	Snyder	Weiner			
Rodriguez	Space	Welch			
Rogers (AL)	Speier	Wexler			
Ros-Lehtinen	Spratt	Wittman			
Ross	Stark	Wolf			
Rothman (NJ)	Sutton	Woolsey			
Roybal-Allard	Tanner	Wu			
Rush	Tauscher	Taylor			
Ryan (OH)	Teague	Yarmuth			
Salazar					

## NOES—154

Aderholt	Gallegly	Miller, Gary
Akin	Garrett (NJ)	Minnick
Alexander	Gerlach	Moran (KS)
Austria	Gingrey (GA)	Myrick
Bachmann	Gohmert	Neugebauer
Bachus	Goodlatte	Nunes
Barrett (SC)	Granger	Olson
Bartlett	Graves	Paul
Barton (TX)	Guthrie	Paulsen
Biggart	Hall (TX)	Pence
Bilbray	Harper	Petri
Bilirakis	Hastings (WA)	Pitts
Bishop (UT)	Heller	Poe (TX)
Blackburn	Hensarling	Posey
Blunt	Herger	Price (GA)
Boehner	Hoekstra	Putnam
Bonner	Hunter	Radanovich
Bono Mack	Inglis	Rehberg
Boozman	Issa	Roe (TN)
Boustany	Jenkins	Rogers (KY)
Brady (TX)	Johnson, Sam	Rohrabacher
Broun (GA)	Jones	Rooney
Brown (SC)	Jordan (OH)	Roskam
Brown-Waite,	Kanjorski	Royce
Ginny	King (IA)	Ryan (WI)
Buchanan	King (NY)	Scalise
Burgess	Kingston	Schmidt
Burton (IN)	Kline (MN)	Schock
Calvert	Kosmas	Schrader
Campbell	Lamborn	Sensenbrenner
Cantor	Latham	Sessions
Cassidy	Latta	Shadegg
Chaffetz	Lee (NY)	Shimkus
Coble	Lewis (CA)	Shuster
Coffman (CO)	Linder	Simpson
Cole	Lucas	Smith (NE)
Conaway	Luetkemeyer	Souder
Crenshaw	Lummis	Stearns
Culberson	Lungren, Daniel	Stupak
Davis (KY)	E.	Terry
Deal (GA)	Mack	Thompson (PA)
Dent	Manzullo	Thornberry
Dreier	McCarthy (CA)	Tiahrt
Duncan	McCaul	Tiberi
Ehlers	McClintock	Walden
Emerson	McCotter	Wamp
Fallin	McHenry	Westmoreland
Flake	McKeon	Whitfield
Fleming	McMorris	Wilson (SC)
Forbes	Rodgers	Young (AK)
Fox	Mica	Young (FL)
Franks (AZ)	Miller (FL)	
Frelinghuysen	Miller (MI)	

## ANSWERED "PRESENT"—1

Kaptur

## NOT VOTING—20

Baca	Carter	Johnson (GA)
Blumenauer	Courtney	Marchant
Boswell	Davis (IL)	Rogers (MI)
Boyd	Hinojosa	Ruppersberger
Camp	Jackson-Lee	
Capuano	(TX)	

□ 2011

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. CAPUANO. Madam Speaker, due to the fact that I had to return to my district for family reasons, I was unable to take rollcall votes 308, 309, and 310. Had I been present, I would have voted "no" on rollcall vote 308; "no" on rollcall vote 309; and "aye" on rollcall vote 310, in favor of final passage of H.R. 626, The Federal Employees Paid Parental Leave Act of 2009.

## RECOGNIZING TOYS FOR TOTS LITERACY PROGRAM

The SPEAKER pro tempore (Mr. MAFFEI). The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 232.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TONKO) that the House suspend the rules and agree to the resolution, H. Res. 232.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. I yield to the gentleman from Maryland, the majority leader, for the purpose of announcing next week's schedule.

Mr. HOYER. I thank the gentleman from Virginia for yielding.

On Monday, the House will meet at 12:30 p.m. for morning-hour debate and at 2 p.m. for legislative business with votes postponed until 6:30 p.m.

This transparency issue has apparently come up again.

On Tuesday, the House will meet at 10:30 a.m. for morning-hour debate and at noon for legislative business. On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business. On Friday, as is usual, the House will meet at 9 a.m. for legislative business.

We will consider several bills under suspension of the rules. The complete list of the suspension bills will be announced by the close of business tomorrow.

In addition, we will consider Representative BETTY SUTTON's bill, the

Consumer Assistance to Recycle and Save Act of 2009; H.R. 2410, the Foreign Relations Authorization Act for fiscal years 2010 and 2011; and H.R. 1886, the Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009.

We will also expect to consider a conference report on H.R. 2346, the supplemental appropriation bill. I was hoping to consider that tomorrow, but discussions between the Senate and the House have not been concluded.

I yield back.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I would say to the gentleman that he just referred to and announced that we would be considering the war funding supplemental conference report next week. I would ask the gentleman: Does he expect the very controversial Senate-passed provision providing for the IMF money to be included in the conference report?

I yield.

Mr. HOYER. I thank the gentleman for yielding.

As you know, the Senate added the IMF funding to the bill. It is a loan guaranty. We expect the probability that there will be no out-of-pocket money for the United States, but there is a loan guaranty to the IMF.

As you know, the G-20 met. Our President, obviously, participated in that meeting of the G-20 with 19 other leaders of major nations in the world, talking about how we can bring not only each individual country out of the recession but, in some cases, depression that some countries are in; that there was a need to invest sums in assisting particularly smaller, poorer countries to try to recover from the devastation that has occurred by, in some cases, the very sharp economic downturn of the larger, more prosperous countries.

□ 2015

The G-20 agreed that they would come up with \$500 billion. The United States, the wealthiest of the G-20 by far, has a 20 percent share of that. The President agreed that the United States would, with the G-20, meet its part of the obligation that had been agreed upon. The Senate included that. And the answer to the gentleman's question is, I fully expect that to be in the supplemental that we'll consider on the floor.

Mr. CANTOR. I thank the gentleman.

And, Mr. Speaker, I say to the gentleman that the belief on our side is the purpose of the war funding bills should be to provide our troops with the support they need, not this controversial global bailout money. Mr. Speaker, I would say more than that, what we believe is—currently from the reports is that the bill would eliminate \$5 billion from the defense spending directly for our troops and provide that \$5 billion credit towards the guarantee that the United States would have to provide to the IMF.



Mr. Speaker, even further, we understand that in this provision in the bill, in essence we would be providing for more money for foreign countries in terms of a global bailout than we would be for our own troops.

And the even more troubling part to many of us, Mr. Speaker, is the fact that the IMF program allows eligibility for countries like Iran, Venezuela, Zimbabwe, Burma and others. And that these countries, Mr. Speaker, are not necessarily in pursuit of policies that help the national security of this country. And given the fact that our President has said we don't have the money, how is it, Mr. Speaker—and I would ask the gentleman—does he think that we ought to be delaying the funding of our troops by including the provisions that we've just spoken of? And I yield.

Mr. HOYER. I thank the gentleman for yielding.

The gentleman's premise is incorrect. None of us on this side think we ought to delay this bill. None of us. We believe that the troops need the funds, our President has asked for the funds, we're for passing those funds. Very frankly, in the Senate, as you know, they added a lot of extraneous matters. Some Republicans added extraneous matters that, very frankly, we're not happy about on this side of the aisle. Large sums of money which have nothing to do with the troops. They were added because those Members of the Senate, who happen to be very high-ranking Republicans, believe those matters are very important.

Furthermore, let me say to the gentleman we just honored a President that you believe was a great President of the United States. We honored him yesterday with a statue. I know you'll be interested in some quotes from that President:

"I have an unbreakable commitment to increased funding for IMF." Ronald Reagan, September 7, 1983.

He went on to say in that same speech, "The IMF is the linchpin of the international financial system."

He went on to say on July 14, "The IMF has been a cornerstone of U.S. foreign economic policy under Republican and Democratic administrations for nearly 40 years." That was, of course, in 1983.

I suggest to the gentleman it has continued for the 26 years after that.

And it remains, he said, a cornerstone of the foreign economic policy of this administration.

Another President on September 25, 1990, said this: George Bush, President of the United States, "The IMF and World Bank, given their central role in the world economy, are key to helping all of us through this situation by providing a combination of policy advice and financial assistance." September 25, 1990.

He went on to say, "As we seek to extend and expand growth in the world

economy, the debt problems faced by developing countries are central to the agenda of the IMF. The international community's strengthened approach to these problems has truly provided new hope for debtor nations."

I would suggest to you, also, that 11 of the Members—which is to say approximately a little over 25 percent of the votes, Republican votes in the United States Senate—supported this legislation in this bill. So it came to us in a bipartisan fashion from the United States Senate.

Our President has indicated that the United States of America will in fact participate with the other 19 leading industrial nations of this world in trying to lift out of the mire of economic distress some countries whose distress will impact our recovery as well.

That is why I say to my friend no one, no one, no one wants to delay this bill. I would hope that we have the 368 votes that voted for this bill the first time it passed intact when it comes and be consistent with the principles enunciated by Ronald Reagan and George Bush in the 1990s.

Mr. CANTOR. Mr. Speaker, I thank the gentleman.

And first of all, there is obviously a delay in this bill. We were expecting to see the bill and the war supplemental for our troops to come through tomorrow, and I would ask the gentleman, number one, does he know the amount of support given to the IMF back when Ronald Reagan made those quotes? That's number one.

And is it appropriate in a war-spending bill for the taxpayers of this country to be guaranteeing \$108 billion dollars to the IMF when we're only providing our troops \$80-some billion? So that's more than we're providing our troops for a global bailout. And that is the first line of questioning, Mr. Speaker.

Secondly, does he expect to produce more than the 200 votes that the gentleman's side produced on the first go-round on this supplemental bill? Because if not, then he would need to have some support from this side of the aisle. And Mr. Speaker, I would say to the gentleman, the New York Times has pointed out May 27, Hezbollah, the Shiite militant group, has talked with the IMF and the European Union about continued financial support.

So is he aware that this money that we are affording the IMF to extend to countries who are in need would include countries where Hezbollah would have some impact on the disbursal of those funds?

And I yield.

Mr. HOYER. I thank the gentleman for yielding.

The last time Iran got money from the United States of America was 1984. You recall who was President of the United States in 1984, I'm sure. That was the last time Iran got money from

the United States—excuse me, from the IMF.

With respect to your second observation, the gentleman knows how the IMF works. The gentleman knows the United States is involved, as are the other countries, in overseeing the distribution of IMF funds. There is no intention—and there will be no action, certainly, that the United States would support—to give any assistance.

I don't know whether they've talked to the IMF or not. The gentleman may have more information than I do.

Mr. CANTOR. Mr. Speaker, reclaiming my time.

I will tell the gentleman, New York Times, May 27, 2009, pointed out Hezbollah, the Shiite militant group involved in Lebanon and its government, had talks with the IMF to discuss the possibility of the extension of credit. And are we not, I would ask the gentleman, affording the IMF the ability to extend credit to groups such as that, in countries such as that, as well as the potential for countries to access the credit, including Iran, Venezuela, Zimbabwe, Burma, et cetera?

We are very, very concerned. There is a real possibility that some of the world's worst regimes will have access to additional resources that will be provided to the IMF, and is he not concerned about that?

And I yield.

Mr. HOYER. Of course. We're all concerned about the fact that any money would go to those regimes. The fact of the matter is the IMF could have given to very bad regimes during the Reagan administration or the Bush administration. The reason the Reagan administration and the first Bush administration—and I might say, although I don't have a quote from the second Bush administration, the second Bush administration, as well, was a supporter of the IMF as the gentleman, perhaps, knows.

The fact of the matter is the United States will play a very significant role in the decisionmaking of the IMF because we're a very significant contributor. It is a red herring, from my perspective, to raise the fact that money could go somewhere. Of course money could go somewhere.

Mr. CANTOR. Reclaiming.

Mr. HOYER. If the gentleman is going to reclaim his time—the gentleman asked me a question.

Any money that we appropriate could go any place. It could go to a bad place. We don't want it to go to a bad place. And I don't think any of the 19 other nations want it to go to Hezbollah or other organizations that might be negative in the use of those funds as far as we're concerned.

What we do want, however—and that's what Ronald Reagan was talking about, that's what George Bush was talking about, and that's what President Obama is talking about—we do want to see the international economy

rebound as well because it impacts on us as we impact very severely on it. That is why the G-20 made this determination.

I yield back.

Mr. CANTOR. Mr. Speaker, I thank the gentleman.

I just say to Mr. Speaker, he points out the difficulty that the U.S. taxpayers will have in holding accountable this Congress and the IMF for the direction of that spending. And given the unprecedented economic situation this country and its taxpayers are facing, it is a belief on our side of the aisle that we ought not be extending the ability to the IMF to extend \$108 billion when the primary purpose of this particular piece of legislation is to provide support for our troops. And let's get on with it, Mr. Speaker, I would say to the gentleman.

Now, Mr. Speaker, I would also say to the gentleman that today, the Speaker of the House acknowledged that she is continuing to receive national intelligence briefings from the CIA. Now, Mr. Speaker, as the gentleman knows, the Speaker has made serious allegations about the CIA's truthfulness to Congress in the briefings. As the gentleman also knows, the Speaker of the House is one of only four Members of this body who receives the highest level of briefings from the CIA in accordance with the practices of this body in our oversight capacities. These briefings, Mr. Speaker, are an essential part of the House's oversight responsibility of the Nation's intelligence, and in fact, our national security.

So I ask the gentleman that, in accordance with the custom of this House, shouldn't the House temporarily designate a replacement for the Speaker in these briefings to maintain the integrity of our oversight? And I yield.

Mr. HOYER. Absolutely not. Nobody has questioned the Speaker's integrity.

Mr. CANTOR. Mr. Speaker, I would respond to the gentleman. If the Speaker has alleged that there is untruthfulness, if there is a lack of candor on the part of those giving the briefings, isn't it somehow compromising in those briefings the national security of our country? And I yield.

Mr. HOYER. Absolutely not. There is no belief, I think, of anybody in this House, I hope—and I certainly do not believe that in any way the Speaker has ever, nor would she ever compromise in any way the security of our country, the security of our troops, and the security of our people, period.

Mr. CANTOR. Mr. Speaker, I would respond to the gentleman and say, what has changed? Because the Speaker has made very serious allegations about the veracity of the briefings that are given by the CIA, and if we are to believe that she is correct, shouldn't we be either having an investigation of

those allegations, or is it that she has now changed her mind and believes that the briefings are worthwhile because we can count on the veracity of the information given in those briefings? And I yield.

□ 2030

Mr. HOYER. I thank the gentleman for yielding.

I must say, I really have difficulty following the gentleman's reasoning, with all due respect. The fact of the matter is that we have oversight. I see Mr. HOEKSTRA on the floor. I don't know that Mr. REYES is on the floor. But we have a mechanism for oversight of the CIA and of our intelligence units. My presumption is that intelligence oversight is, in fact, working. I certainly hope it's working. My expectation and belief is that it is working. The fact of the matter is that a number of people on both sides of the aisle have raised questions from time to time with respect to the information they have received. Vice President Cheney on television just the other day made some allegations with respect to information that he had received. The fact of the matter is that it seems to me that the gentleman somehow interprets the fact that somebody in an intelligence agency may have given wrong information—may have—that somehow the receiver of the information is the guilty party. I cannot follow that reasoning. I tell my friend from Virginia.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I ask the gentleman again, hasn't the Speaker of this House—not just any Member, but the Speaker of the House, second in line to the President, the constitutional officer presiding in this House—hasn't she indicated her belief and her position that there has been a pattern of misleading information given to this body by the CIA? And if that is the case, I would ask the gentleman, what value is it for the Speaker then to engage in these briefings if she cannot trust the veracity of the information?

Mr. HOYER. The gentleman's reasoning continues to somewhat confound me. The fact of the matter is, I am hopeful that the intelligence agencies are, in fact, giving accurate assessments of what they believe to be the situation as it relates to America's national security interests to the Speaker and to any others that they might brief, including myself from time to time. I expect that to be the case. I think the Speaker expects it to be the case. I'm sure that every other person being briefed expects it to be the case. I certainly hope that it is the case. But whether it is the case or not, the gentleman's logic, therefore, that the Speaker shouldn't listen I don't follow.

Mr. CANTOR. I reclaim my time to try and clarify my logic, Mr. Speaker.

I think the gentleman and I both agree that we have heard the Speaker

indicate her position that she is not being told the truth. And if she continues to have the briefings, has something changed? Has something been restored to the process that there is integrity in these briefings? And if so, does that mean that the Speaker of the House has retracted her position that somehow we've been misled by the CIA?

I would yield.

Mr. HOYER. I thank the gentleman for yielding.

The gentleman continues to state his position. I continue to tell him that his reasoning confounds me; and, therefore, I find it not worthwhile to repeat it for a fourth time.

Mr. CANTOR. I thank the gentleman for his patience and would say, again, that we have still not given the American people the transparency on this issue that they deserve. The Speaker of this House has made allegations in a very serious way about our intelligence community. This House is given the oversight responsibility for our Nation's intelligence structure and operation. We all are here sworn to uphold our duty in that respect and the paramount duty of this body, to ensure this Nation's security. It is our belief that we should get to the bottom of this. We should have some sense of an investigation that can ensue to understand why the Speaker made such allegations. That is our position, Mr. Speaker. And if the gentleman doesn't agree that there needs to be something to shed some light on this on behalf of the people, then I guess we agree to disagree.

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. I yield.

Mr. HOYER. I will repeat, we have a mechanism to do exactly what the gentleman suggests, finding out whether the truth has been told with respect to the briefings. Obviously there are differences of opinion. The gentleman knows that Senator Graham, a former chairman of the Senate Intelligence Committee, says that he was not briefed on the issues in question. He is a former governor of Florida, a respected Member of the United States Senate, mentioned for the presidency of the United States, a gentleman for whom I have great respect, as I have great respect for the Speaker. There is a mechanism that is in place, that is available; and I would certainly hope, very frankly, that the committee is, in fact, pursuing the facts as they perceive them to be necessary to be disclosed.

So there is a mechanism in place. I hope that mechanism is being pursued. But it does not relate to the Speaker. The gentleman wants to focus on the Speaker, in my opinion, for partisan reasons.

Mr. CANTOR. I reclaim my time, Mr. Speaker.

Again, the gentleman and I can have a discussion here without such allegations being made on the floor. The position that we have taken is in response to direct statements made by the Speaker. There is no partisan accusation here. This is in response to direct statements made by the Speaker. We have a situation that we need some type of independent third party to intervene here. If there is ever an analogous situation in a court of law when one party accuses another of not being truthful, there must be some way, some independent mechanism to determine whether and what was the truth. This is my question again, and the gentleman may continue to be confounded.

My question again is, what has changed? If the Speaker doubts the veracity of the information she receives from the CIA but continues to receive that information, how is it that that process doesn't harm the national security of this country?

I yield to the gentleman.

Mr. HOYER. I continue to be confounded. I presume and hope, and the Speaker hopes, I'm sure, and everybody who receives information from the intelligence community believes and hopes that it is accurate and is as good an assessment and as honest an assessment as can be given. Everyone hopes that. Mr. HOEKSTRA, who is on the floor, hopes that. Mr. REYES, who is the chairman of the committee, hopes that. I hope it when I am briefed. I am sure you do as well when you are briefed. But if it's not, I don't hold myself culpable, you culpable, Mr. HOEKSTRA culpable or Mr. REYES culpable.

So I continue to be confused that your focus is on the Speaker, not on the quality of the information.

Mr. CANTOR. Reclaiming my time.

Mr. HOYER. Every time you don't like my answer, frankly, Mr. CANTOR, you reclaim your time. I regret that.

Mr. CANTOR. Mr. Speaker, I would just respond to the gentleman. I am focusing on the Speaker because that's where the statements came from.

Mr. HOYER. No. The statements came from the CIA, apparently.

Mr. CANTOR. The statements came from the Speaker that she believes she has been misled, and this Congress has been misled. And she said again today that she is continuing the process of being briefed. What has changed? I would ask the gentleman, what has changed in the Speaker's mind that she continues to receive briefings when she alleges mistruths?

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding. Let me pose to the gentleman a question:

The CIA briefs you. You believe the information that you have received is inaccurate. But on your premise if you

say I believe it is inaccurate, the solution you suggest is that you no longer get briefed. That is what confounds me. That is what I think is perverse reasoning and with which I do not agree. That is my answer. I think this discussion is not bearing fruit.

Mr. CANTOR. Again, Mr. Speaker, I would respond by saying that the American people deserve some transparency. We deserve to get to the bottom of the very serious allegations that have been made about the CIA and their conduct in front of this body.

So with that, Mr. Speaker, I thank the gentleman.

I yield back my time.

#### ADJOURNMENT TO MONDAY, JUNE 8, 2009

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning-hour debate, and further, when the House adjourns on that day, it adjourn to meet at 10:30 a.m. on Tuesday, June 9, 2009, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### PERMISSION TO FILE REPORT ON H.R. 2454, AMERICAN CLEAN ENERGY AND SECURITY ACT

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until 11:59 p.m. on Friday, June 5, to file its report to accompany H.R. 2454.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### GENERAL MOTORS AND HEALTH CARE REFORM

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. We all know the terrible situation in the auto industry and in the Nation in general. On Monday, General Motors filed for Chapter 11 bankruptcy. I know that GM will emerge from the court poised to again lead the world in the automotive sector, but the process will be painful. The company will cut 21,000 employees, 34 percent of its workforce; and this does not include elimination of 2,600 more dealers. Furthermore, it comes on the heels of Chrysler's layoffs and downsizing.

Unfortunately, this problem is not at an end. A recent study for the Center for Automotive Research shows that

when you include jobs losses from suppliers and other companies tied to GM and Chrysler, we could see 250,000 jobs, or more, lost over the next 19 months.

This week GM announced they are closing the Willow Run transmission plant in Ypsilanti Township, Michigan, in my district, along with 13 other plants, six of them in Michigan. By 2010, 1,110 more GM workers will lose their jobs in my district. This is associated with not just loss of jobs and retirement, but loss of comprehensive health care for our people. This becomes now a major reason for us to pass major health care reform and a greater reason to see to it that we address this problem of health care reform and legacy costs so that our industry will not be destroyed.

#### THE IMPORTANCE OF NUCLEAR ENERGY TO AMERICA

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I listened with interest to the President as he spoke in Egypt today. There are a lot of things to talk about, but in 1 minute you can't talk about most of them.

Let me just make one comment. It was interesting that the President made a very pointed statement that the country of Iran deserves to have the opportunity to use nuclear power in a peaceful way. I find it very interesting that the President thought that that was a part of energy that he ought to emphasize overseas.

My question is this: When will the President, when will his administration, when will this House understand that energy produced from nuclear power is appropriate not only for Iran and other countries around the world, but for the 50 States in the Union? When will the President understand that nuclear energy is a source that we ought to look at? And as the President gives us his various plans under the climate change rhetoric, why does he not realize the importance of nuclear energy for his own people?

#### STOP E-VERIFY DELAYS AND PROTECT AMERICAN WORKERS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, 13 million Americans are out of work, but 8 million illegal immigrants hold jobs in the United States. Yet the Obama administration has just delayed for the third time a requirement that Federal contractors use E-Verify to make sure that they hire legal workers. U.S. citizens and legal immigrant workers should not have to compete with illegal

immigrants for employment, especially taxpayer-funded Federal contract jobs. The Federal Government has several hundred billion dollars worth of contracts, each with good jobs that rightfully belong to American workers. E-Verify is the best tool to ensure job security for them. E-Verify works. It immediately confirms 99.6 percent of work-eligible employees. More than 127,000 companies now use E-Verify, and Federal contractors should be required to use it. The Obama administration should put American workers first. They must stop delaying the requirement that Federal contractors hire legal workers.

□ 2045

#### HEALTH CARE REFORM

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, Republicans stand for health care reform, and there are a number of things that we think should be a part of it.

Number 1, we want good intelligence. We want high technology so that Americans can figure out what are the best procedures, who are the best doctors, who are the best providers, and what are the best prices. We think we should take advantage of all the IT that is out there.

Number 2, we want medical savings accounts. We believe that the market should be put into action so that people can save money and be incentivized to put some of that money in their pocket if they don't spend it by the end of the day.

Number 3, we don't believe that health care decisions should be made by insurance companies, HMOs or Washington bureaucrats.

Number 4, we believe there should be less frivolous lawsuits. We certainly want to protect the tort laws in America, but we don't want frivolous lawsuits.

Number 5, we believe the patient-doctor relationship should be preserved and that we should not have a British-, Canadian- or German-style centralized government planning where the doctor-patient relationship is destroyed.

#### WHY ARE AUTOMOBILE DEALERSHIPS BEING CLOSED?

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Kansas. Mr. Speaker, I rise tonight to express confusion and concern. For much of the week, I have tried to find an answer to the question about why automobile dealerships across the country are being closed. I thought maybe this week I would re-

turn to Washington, D.C., and find the solution, that someone would know and provide an explanation. I cannot understand how closing automobile dealerships, those who sell automobiles, is advantageous to the bottom line, the profit of General Motors or Chrysler. This can't be a market-based decision. There must be some political consideration that is ongoing to encourage these dealerships to be closed.

The closing of those dealerships is devastating to communities as well as the businesses that we are closing, and at the same time provide no economic improvement in the bottom line of our automobile manufacturers.

So, Mr. Speaker, I again ask those of my colleagues and those at the White House, the automobile task force, is it a political consideration that is occurring to encourage General Motors and Chrysler to disenfranchise their franchisees or is there some market-based decision on which this is based? And yet no one can provide that answer.

#### THE INTELLIGENCE COMMITTEE LACKS INFORMATION FROM THE SPEAKER OF THE HOUSE

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, I was listening to the colloquy this evening as we were talking about what next week might bring in terms of the business. And as the majority leader and the minority whip were going through the process, the question that was asked was: Is the intelligence committee or was the intelligence committee assumed to be moving forward on investigating the allegations that the Speaker has made that the CIA, over a long period of time, consistently lied to Congress?

I can inform the Members that now that process and that investigation is not going on because one of the things that has not happened is that the Speaker of the House has not outlined or directed the committee as to where she believes she was lied to over this period of time. And she has presented no evidence that backs up the claims that she has made.

If that information is provided to the committee as to the direction and to the evidence that this action actually took place by the CIA, I think the committee hopefully would be ready to move forward. But at this point in time, we wouldn't know what to take a look at, and we wouldn't know what direction to move in.

#### HONORING CARTERSVILLE HIGH SCHOOL FOR WINNING THE 2009 GHSA STATE BASEBALL CHAMPIONSHIP

(Mr. GINGREY of Georgia asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY of Georgia. Mr. Speaker, I rise to recognize a very talented group of young men from Cartersville, Georgia, in District 11. This past weekend, the Cartersville High School Purple Hurricanes claimed the Class AAA Georgia High School Association State Baseball Championship. Success on the baseball diamond is nothing new for Cartersville High School, which has won back-to-back State titles and claimed five championships since 2001. However, this year's title was extra sweet, as the Canes rallied back from a 7-5 deficit in the third game of the championship series, defeating the Columbus Blue Devils, who were the third ranked high school team in the Nation. The final score was Cartersville 10, Columbus 7.

I ask that all my colleagues join me in recognizing Coach Stuart Chester and the Cartersville High School baseball team for their successful season as well as the hard work that got them there. And with a team that has made winning a tradition and brought home two straight State championships, the next question is: Can Cartersville make it a three-peat?

I feel sure that they can, Mr. Speaker.

#### NATIONAL CPR/AED AWARENESS WEEK

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise today as an emergency medical technician to express my support for the National CPR and AED Awareness Week.

Only 8 percent of sudden cardiac arrest victims survive. But with simple training, anyone can attempt to save the life of a sudden cardiac arrest victim with cardiopulmonary resuscitation and with automated external defibrillators. Prompt delivery of CPR more than doubles the chance of survival, and using AEDs helps save lives because they can restore normal heart rhythm.

The American Heart Association, the American Red Cross, and the National Safety Council are all promoting training and awareness this week. But this lifesaving training must extend throughout the year.

A bill we passed this week, the Josh Miller HEARTS Act, authorizes funding for schools to purchase AEDs and to train staff in CPR.

For 30 years, I have responded to such emergencies in rural Pennsylvania, and with H.R. 1380, our rural schools will be prepared to handle cardiac emergencies.

Please join me to celebrate National CPR and AED Awareness Week and learn to save a life.

## FAREWELL TO PAGES

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, as chairman of the House Page Board, I would like to take this opportunity to express my personal gratitude to all the pages, some of whom we have here tonight, for all they have done to serve so diligently in the House of Representatives during the 110th and 111th Congresses.

I have attached a list of the fine young men who have served this House as pages, along with the young ladies, who when I first came here were not pages. You have seen the progress of this country also.

I have attached a list of the fine young people who have served this House as pages, and their names will be made part of the CONGRESSIONAL RECORD.

We all recognize the important role that congressional pages play in helping the U.S. House of Representatives operate. These groups of young people, who come from all across our Nation, represent what is good about our country.

To become a page, Mr. Speaker, these young people have proven themselves to be academically qualified. They have ventured away from the security of their homes and families to spend time in an unfamiliar city. Through this experience, they have witnessed a new culture, made new friends, and learned the details of how our government operates.

As we all know, the job of a congressional page is not an easy one. Along with being away from home, the pages must possess the maturity to balance competing demands for their time and their energy. In addition, they must have the dedication to work long hours and the ability to interact with people at a personal level. At the same time, they face a challenging academic schedule of classes in the House Page School.

You pages who are here tonight, and those who may be listening, have witnessed the House debate issues of war and peace, hunger and poverty, justice and civil rights. And between the 110th and the 111th Congress, you have seen the occupant of the White House change.

You have lived through history.

You have seen Congress at moments of greatness and you have seen Congress with its frailties. You have witnessed the workings of an institution that has endured well over 200 years.

No one has seen Congress and Members of Congress as close up as have you. I am sure that you will consider your time spent in Washington, D.C., to be one of the most valuable and exciting experiences of your lives, and that with this experience, you will all move ahead to lead successful and productive lives.

Mr. Speaker, as chairman of the House Page Board, I ask my colleagues to join me in honoring this group of distinguished young Americans. They certainly will be missed.

As I walk by the desk on both sides, I like to say hello to you. And I'm proud of you, and you have given the Page Board much to be proud of this year. You certainly will be missed.

And before yielding, Mr. Speaker, I would like to thank the members of the House Page Board who provide us such fantastic service to this institution:

Congressman ROB BISHOP, the vice Chair of the Page Board; Congresswoman DIANA DEGETTE; Congresswoman VIRGINIA FOXX; Clerk of the House, Lorraine Miller; Sergeant at Arms, Bill Livingood; Ms. Lynn Silver-smith Klein and Mr. Adam Jones. I want to thank them for their service on the House Page Board.

I thank you all, our departing pages.

And, Mr. Speaker, at this time, I yield my time to the vice Chair of the Page Board and my friend, Mr. BISHOP of Utah.

Mr. BISHOP of Utah. I thank my good friend from Michigan for yielding time.

It has been an enjoyable time being a part of the Page Board as part of the page process. To the pages who are here and the ones who are not here because you still have to do work in the morning, we are very grateful for your having joined us here, some for a semester, some of you for a year, but for your time and your dedication in helping to serve the House of Representatives.

I think, if nothing else, you have written many eloquent words about what you have seen and what you have not seen and what you have experienced here. But, if nothing else, I hope that it instilled within you this idea the United States had of self-government still does work, that you put together people who are not experts, not trained to be parliamentarians, put us all together and give us the information and still, in a very cumbersome process, we can come up with the right answers and with solutions.

Man can govern himself.

Through all the years that I have stayed involved in politics, first in the State legislative system and then here in Congress, I still come back to that one belief: The system of self-government does work. People can govern themselves.

And that is the positive element that I hope you take with you back home as you return from this experience here in Washington, D.C.

So the pages who are here, the pages who are still part of the program and not here this evening, we are thankful for you. We are grateful for you. We hope you have had a wonderful experience, and we hope you take back some

kind of thrill of the idea of participating in government with you as you go back to your homes and continue on with your education.

Mr. KILDEE. If I might add, that among all of your accomplishments here, one thing the pages have done, you and your predecessors have really seen at least one unit of the House that is totally nonpartisan. We work together so closely because of our concern for you that we always arrive by consensus at the decisions we make in the Page Board. Our concern for you is that great.

I consider ROB BISHOP one of my very special friends. We don't always vote alike on other things, but we always reach agreement when it comes to the pages to help us realize that we should come together on those things that are extremely important, and there are probably some other things we can probably do that on, too.

Thank you very much. God bless all of you.

FALL 2008 SESSION PAGES  
REPUBLICAN PAGES (24)

Corinne Austin-R  
John Brinkerhoff-R  
Sara Bromley-R  
Riley Brosnan-R  
Paige Burke-R  
Eaghan Davis-R  
Ella Davis-R  
Evan Elsmo-R  
Adidoreydi Gutierrez-R  
Caroline Hill-R  
Rebecca Jacobson-R  
Audrey Knickel-R  
Elizabeth Matenkoski-R  
Denee McKoy-R  
Caroline Miller-R  
Parker Mortensen-R  
Andy Nguyen-R  
Nathan Pike-R  
Emily Raines-R  
Trace Robbins-R  
Rory Roccio-R  
Jessica Starr-R  
Nebyat Teklu-R  
Sean West-R

DEMOCRAT PAGES (36)

Jonathan Bigelow-D  
Priscilla Brock-D  
Rachel Chavez-D  
Campbell Curry-Ledbetter-D  
Joseph Dellasanta-D  
Julie Ebling-D  
Michelle Flores-Carranza-D  
Trevor Foley-D  
Rachel Fybel-D  
Daniel Grages-D  
Haley Hannon-D  
Erin Hawkins-D  
Jasmine Jennings-D  
Leah Jones-D  
Sara Katz-D  
Evan Kolb-D  
Monica Laskos-D  
Alexander Leiro-D  
Alexander Lichtenstein-D  
Anjelica Magee-D  
Sophia Mai-D  
Nicole Mammoser-D  
Edson Martinez-D  
Margaret Mikus-D  
Mary Miller-D  
Eric Polanco-D  
Tre'Shawndra Postell-D

Anna Pritchard-D  
Manasa Reddy-D  
Sacha Samotin-D  
Samantha Schiber-D  
Joseph Tanner, Jr.-D  
Raven Tarrance-D  
Nicholas Wisti-D  
Cameron Younger-D  
Anam Zahra-D

SPRING 09 PAGE CLASS (68 PAGES)

DEMOCRATIC PAGES

1. Kate M. Loneragan  
2. Rena L. Wang  
3. Jose Echevarria-Acosta  
4. Ashley M. Sharpe  
5. Ashlee E. Dubra  
6. David G. Greenblatt  
7. Benjamin D. Talkington  
8. Joseph T. Oslund  
9. Marissa E. Williams  
10. Stephen E. Seely  
11. Allison Ko  
12. Sally Phang  
13. Margaret A. McDermut  
14. Caleb C. Overgaard  
15. Tucker A. Travis  
16. Olivia H. Rutter  
17. Megan E. Jeffries  
18. Hayden M. Hislop  
19. Bernadette V. Silva  
20. Sarah C. Kovar  
21. Cameron W. Smalls  
22. Logan C. Davis  
23. Crystal Williams  
24. Matthew J. Furlow  
25. Haley P. Whiteside  
26. Haian H. Nguyen  
27. Sabrina E. Anderson  
28. Blagica Madzarova  
29. Campbell Curry-Ledbetter  
30. Samantha Schiber  
31. Sacha Samotin  
32. Michelle Flores-Carranza  
33. Manasa Reddy  
34. Jasmine Jennings  
35. Raven Tarrance  
36. Anam Zahra  
37. Alex Leiro  
38. Sophia Mai  
39. Erin Hawkins  
40. Alex Litchenstein  
41. Nicole Mammoser  
42. Anjelica Magee  
43. Monica Laskos  
44. Priscilla Brock

REPUBLICAN PAGES

45. Alexander C. Gaillard  
46. Melissa M. Young  
47. Samantha L. Heaslip  
48. Audrey C. Scagnelli  
49. Levi S. Craghead  
50. Dillon L. Shoemaker  
51. Taylor A. Imperiale  
52. Hannah M. Dudley  
53. Courtney A. Doolittle  
54. Anna E. Wherry  
55. Nicholas R. Humann  
56. Anthony R. Siviglia  
57. Cody D. Willming  
58. Alex R. Bruner  
59. Jessica L. Schneider  
60. Ella Davis  
61. John Brinkerhoff  
62. Sean West  
63. Emily Raines  
64. Rory Roccio  
65. Andy Nguyen  
66. Audrey Knickel  
67. Trace Robbins  
68. Nebyat Teklu

*Italics indicate returning Pages*

□ 2100

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DROUGHT IN THE SAN JOAQUIN VALLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COSTA) is recognized for 5 minutes.

Mr. COSTA. Mr. Speaker, I rise this evening to discuss what continues to be pernicious drought conditions that affect the people of the San Joaquin Valley, those in my district and my colleague's district.

I hope that most of the Members, if not all of you, recognize that we are now in three continuous dry year conditions in the San Joaquin Valley that is not only affecting the richest agricultural region in the United States, in California, but the entire State as well. A drought caused by Mother Nature, expanded and impacted by numerous judicial decisions and legislative changes, has very, very much devastated the economy of the valley I represent.

Water is the lifeblood of the agricultural communities in my district, supplying over a \$20 billion industry in the San Joaquin Valley that provides half the Nation's fruits and vegetables, Number two in citrus production, Number one in production of wines, the list goes on and on, 300 commodities that are grown and produced; Number one dairy-producing State in the Nation.

Sadly, if this drought continues, we will find not only the San Joaquin Valley but the entire State of California, that is already economically depressed, further set back.

Today, unfortunately, the National Marine Fisheries Service finalized a biological opinion asking for modifications in the Central Valley Project and the State Water Projects that would divert even more water away from the agricultural communities and the San Joaquin Valley. This biological opinion, I think, on top of the additional reallocations of water, could relocate a very, very significant amount of water and make a very fragile system even more difficult to operate.

We have a sad situation where communities have 41 percent, 38 percent, 34 percent unemployment. While we have a deep recession facing all parts of our country, when you have those kinds of unemployment numbers, they are depression-like circumstances that we're facing.

We have food lines. I have been with my constituents in those food lines, some of the hardest working people you'll ever meet that, sadly, today, are asking for food. These people would normally be working if the water was there. If you had water, you'd have jobs, you'd have food. They would be working to put food on America's din-

ner table, but they're not today because of this man-made and Mother Nature-combined drought.

There are numerous factors that come together to issue this biological opinion, but I don't believe that the biological assessment supports the biological opinion because it only deals with one of the contributing factors that are cause for the decline in fisheries in the Sacramento San Joaquin Delta. What the biological opinion ignores is the presence of invasive species, striped bass that were actually planted there, non-native in the 1920s, tertiary treatment from sewage facilities in Sacramento and Stockton which caused ammonia to leak into the Sacramento San Joaquin River systems. It would cost \$2 billion for Sacramento City to fix this ammonia problem, but they don't want to deal with that.

We have over 1,600 pumps in the delta that divert water that are unscreened. And we have non-point source pollution from the surrounding urban areas because they've quadrupled in population.

In sum, this administration must understand that, while we've lost over 30,000 jobs this year, if this drought, God forbid, extends a fourth or a fifth year, there will even be greater impact. Without water there is no work and there is no food, and that impacts not just California but the entire Nation.

We must work together to address the drought crisis in California in the short term and in the mid term. These fixes include factors that could lead to improving and moving water around, to get water supplies to those who need them, to deal with pump schedules and conflicts that arise, to increase the water bank, to ensure that in the next 6 months and the next year and beyond, that we do everything possible on the State, with the Federal Government's collaboration, to ensure that we deal with not just the fisheries of California, but people who have lost their jobs and whose lives have been impacted. That's what we need to do.

We have a water system in California that was designed for 20 million people. Today we have 38 million people. By the Year 2030 it's estimated that there may be 50 million people in California. It's now time to fix the problems in the delta in a comprehensive fashion, not simply by impacting those who grow the food in our Nation.

Mr. Speaker, I will submit the rest of the information for the RECORD.

I rise to discuss the drought that continues in our San Joaquin Valley.

As you all should know by now, we have faced three years of drought conditions in the San Joaquin Valley, further exacerbated by numerous judicial decisions and legislative changes to benefit fisheries and water quality in other areas of California.

Unfortunately, we are still a long ways from bringing solutions to our Valley.

While we have found some short-term fixes such as water transfers and temporary

projects that will bring drought relief to our distressed communities, we must not forget the fact that this drought could continue for a fourth, fifth, or sixth year.

Water is the lifeblood of communities in my District, supplying a robust \$20 billion industry in the Valley that provides over 50 percent of the nation's fresh fruits and vegetables.

If this drought continues into the years ahead, we must be prepared to ensure that those hard-working people in the San Joaquin Valley who work to put food on America's dinner table will not stand in food lines and go hungry.

This is unacceptable, and we cannot sit by and watch it happen.

Today, the National Marine Fisheries Service finalized a biological opinion asking for modifications to the Central Valley and State Water Projects that would divert even more water away from agricultural communities in the San Joaquin Valley to protect salmon, steelhead, and green sturgeon populations in the Delta.

Over the past several years, more than three million acre-feet of the Central Valley's federal water supply has been reallocated as a result of similar decisions.

All the while, fisheries such as the Delta smelt are still on the decline!

If this system were working, we would not see this happening.

Today's biological opinion adds yet another 330,000 acre-feet to that total.

This decision is unwise, and will have very serious implications for Valley farmers and communities.

Agricultural communities south of the Delta, especially in my District, will bear the entire brunt of today's biological opinion facing further reductions in water supply allocations when they already face Depression-level unemployment numbers and food insecurity.

People are standing in food lines and being turned away; unemployment has risen above 35 percent in many Valley towns.

There are numerous factors that can lead to the decline of fisheries in the Delta, but federal agencies continue to only focus on the state and federal pumps that supply agricultural communities in the Valley.

Federal policy should take all factors into account, such as: the presence of invasive species such as striped bass, tertiary treatment from sewage facilities in the Sacramento and Stockton area which cause ammonia to drain into the Delta, over 1,600 private pumps in the Delta diverting water without screens, and non-point source pollution from the surrounding urban areas, among other factors.

In sum, the administration must understand that over 30,000 farm-workers have lost their jobs due to limited water supply allocations.

How much more can we stand?

Without water, there is no work; there is no food on the table. There is no San Joaquin Valley.

We must work together not only to address the drought crisis in the short-term, but also to find long-term solutions to California's water supply needs.

In the short-term, the Administration must get more creative in finding ways to fix the Delta.

This includes looking at all factors that could lead to the decline of fisheries, not just federal and state pumps.

It also includes expediting transfer activities that will get water supplies to those who need them.

Resolving pumping schedules and conflicts before they arise.

And identifying any present or near future yields for south of the Delta water users.

Beyond this, we have a system that was designed for 20 million people, and we have 38 million now. We might have 50 million by 2030.

We must work to address California's long-range infrastructure needs.

#### D-DAY JUNE 6, 1944

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, Saturday, June 6, 2009, will mark the 65th anniversary of the invasion of Normandy. Operation Overlord was the code name, but most folks know the massive invasion by its military term. We call it D-day.

We honor the amazing men who stormed the beaches at Normandy on that historic day. Utah, Sword, Gold, Juno and Omaha beaches were the names of the invasion sites.

June 6, 1944, was a wicked day of weather. The seas were high and the rain came in hard. The sky only broke occasionally for the Allied air cover to protect the landings.

Our boys laid claim to the beach-heads inch by bloody inch. The Rangers climbed the cliffs at Pointe du Hoc under heavy, brutal German fire. The sand was stained red with the blood of young American warriors and that of our friends, our allies.

Felix Branham went ashore at the second wave of Omaha Beach as a demolition man. Felix had joined the National Guard in 1938. Branham said of his landing: "The water was so rough. The guys were getting seasick. I saw water spilling up over the sides of our landing crafts.

"The seawater was splashing in on us from shells bursting and rifles hitting our boat. But I never raised up and looked over to the side of that boat. None of us did.

"When we got off the landing craft, the water was up to my knees. Of course, the tide was rising a foot every 10 minutes and we had to get in quick, because high tide would cover up the obstacles in the water that we used for cover and we would be blown out of the water. They were firing at us from everywhere.

"When we got to the beach, there were Rangers who were separated from their units piling in with us at the same time.

"My team was the first one to go over the sea wall; and I saw some of my friends die.

"In my team of 30 men, we had lost only about five or six of those men. We

were lucky. God knows how lucky we were. We went up the hill and then we crossed over Omaha Beach and eventually made it to a little French town.

"The day after D-day, I walked up to the beach, went up and down the beach and saw guys lying on the beach who were dead. They were there with their eyes open, their rifles ready. They were solid in their death."

Mr. Speaker, these brave men who cracked the Nazi grip on Europe began with the liberation of France 65 years ago. And then from there they went on to Germany. Nothing like it had ever been done before in history. Over 150,000 Allied soldiers hit the beaches during the assault landings on the 6th of June. By the 4th of July, over 1 million joined the invasion force through Normandy. It was a miraculous feat for 1944.

These young men were from every State and territory of the United States. They were young and hailed from places in the rural farmlands to the big cities. Many had never been but a few miles from home until they went ashore and overseas. They have been called the Greatest Generation.

Growing up, I learned that my dad, a farm boy, served in the great World War II as a soldier in Europe. He was only 18. That's all I knew. Neither he nor my mom, a war bride, ever said anything about my dad's service until they went to a certain place. Here is that place, Mr. Speaker, a place called Normandy.

They went on the 50th anniversary of the D-day landing. When he came back to Texas after this grave-site visit here in this photograph, he started talking about his buddies, those that had lived, and those that had died. He talked about the concentration camps he saw like at Dachau, and how he nearly froze in the Battle of the Bulge, and much, much more.

But he claims to be no hero, even though he is my hero. He says the real heroes are buried right here in this cemetery at Normandy, his fellow warriors who gave up their youth so our country could have our future.

Mr. Speaker, some today forget the feats of these warriors of World War II. Those World War II troops went to liberate but not to conquer. They fought for a people they didn't even know in a land they had never seen. They freed an entire continent of Europeans from tyranny and wanted absolutely nothing in return.

Mr. Speaker, here are some of those Americans that never came home: 9,387, to be exact, still buried in graves in Normandy. Buried on the cliffs, their white crosses and their Stars of David shine and glisten in the morning sunshine over Omaha and Utah beaches.

Mr. Speaker, others are buried in unmarked graves all over Europe, known only to God. They were great Americans and we should always remember



them. We will always be proud, and we will always be free because of them.

And that's just the way it is.

#### REMEMBERING L. WILLIAM SEIDMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this evening to remember L. William Seidman, known to many as Bill. Among his many life accomplishments, he served as chairman of the Federal Deposit Insurance Corporation through the recovery of the savings and loan industry following the massive scandals and excesses of the 1980s. He was a patriot, a wry intellect, and a very sharp financial system regulator.

Sadly, America lost Bill in mid-May, but his legacies will remain with us for years to come. Beyond his financial expertise, he led the effort for the creation of a State college in his home State, in the Grand Rapids, Michigan, area known as Grand Valley State University.

Education is a key indicator of individual success, and through the leadership of Bill Seidman, young and old alike can further their learning and obtain new skills to achieve their dreams. I can see why this achievement was said to have been one of Bill's proudest.

I've had the great privilege in my life of working with Bill Seidman during my own career, and most recently I invited him here to Congress to meet Members to engage his experience, along with that of Bill Isaac, another former effective Chair of the Federal Deposit Insurance Corporation, on the current financial crisis and the paths these two experts could suggest to resolve it and accelerate its resolution.

Of his major concerns, based on a life dedicated to finance and prudent banking system regulation and performance, Bill Seidman felt that the lack of regulation in the derivatives market, including credit default swaps, was a severe and continuing problem. He discussed how former Federal Reserve Chair Alan Greenspan opposed regulating these instruments because they were agreements between sophisticated parties and need not be regulated.

□ 2115

Seidman strongly disagreed, stating that he felt that the credit default swaps market was a dishonest one. His words were prophetic.

Seidman also felt that securitization lay at the heart of the housing crisis because of the way the practice is carried out. He said they take a bunch of mortgages, they bundle them up, and then they sell them off without any connection to the value of what they are selling. He said, "If you can make money off garbage, go ahead and sell

garbage, as long as you don't have to deal with it later."

Both Bill Seidman and Bill Isaac really advised America that we needed to fix securitization, including making sure that bankers have real "skin in the game," that is, hold on to some of the risk rather than passing it all forward. I couldn't agree more strongly. It's time for transformation in these instruments and in the overall financial system.

Our Members were honored to be discussing such matters with Mr. Seidman, as he had served as financial adviser to four Presidents, served as Chair of the Federal Deposit Insurance Corporation during a most difficult time as he helped steady our economic ship of State. And during his tenure, one of the Nation's largest banking scandals, the savings and loan crisis, unfolded, arising again out of a housing crisis.

Under his watch, the FDIC, through the Resolution Trust Corporation, was created to take over the troubled thrifts and resolve them. Bill oversaw that as Chair of the FDIC and closed or reorganized 747 institutions during the banking excesses of the 1980s. Their assets totaled over \$400 billion.

The assets were seized and sold at bargain prices through the Resolution Trust Corporation, and the goal of getting the maximum for those toxic assets and reducing taxpayer exposure was primary. Still, that mess cost over \$124 billion to the U.S. taxpayer. Stability was established at a great price, but after his tenure, rather than Congress tightening down on bad behavior and improving financial system regulation, it just opened the doors and rewarded bad behavior, and it carried us to our current sad state of affairs.

America will miss Bill Seidman's wisdom, his insight, his experience. He continued his knowledge and advice right up until the day we lost him. May we remember Bill. We thank his family for his hard work and dedication to his callings and the lessons he learned and taught us. We need to reread his words and to act thoughtfully and swiftly to solve the current crisis facing our Nation. I know he would want that for sure.

I extend the sympathies of this Congress and our hope for strength to his family in the coming days to endure his loss, to Bill's wife, his children, his grandchildren, and great-grandchildren. He truly was a great American.

Our country was strengthened by his service and it is with a sad and grateful heart and mind that I yield back the balance of my time this evening.

#### LET'S QUIT RUNNING UP THE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, I very much appreciate my friend Ms. KAPTUR's comments and appreciate her insights. It's always very valuable.

And she believes, as I do, that we're making a big mistake by running up the deficit like crazy. Well, some say, well, it was going on back under the Bush administration. Yes, it was, and it wasn't right then, and it's even worse now that it's being multiplied many times. Every week, we're running up more of a deficit. It's got to stop.

China continues to buy our debt. We just sent the Secretary of the Treasury over to China to encourage them to keep buying America. Buy our debt because we cannot control ourselves. Can you imagine a parent going into a bank and saying, I need a loan because I can't control my spending, but you see my little children over there, I've even got some grandchildren, I am going to pledge to you that some day—I can't pay it back, but some day they will? Well, there would be a move to take the children away from somebody that irresponsible.

And yet we sent our Secretary of State over to beg China to keep buying our debt because we couldn't control our spending. We send our Secretary of the Treasury over there to tell them to keep buying our debt because we can't control our spending.

We've done things in the last weeks, like \$25 million we voted for in this Chamber to buy land in foreign countries for rare dogs and cats. China has some. We'll borrow that money from China to buy land from China, so that they can have rare dogs and cats, if they're not eaten by people that are starving. And we are paying for that with interest while we run up our debt even higher. It makes no sense at all.

You know, I went back and did some looking. I remember pretty good—having been a history major, I've loved to follow things as they occur because we're told those who fail to learn from history are destined to repeat it, which as a corollary to that, those who do learn from history will find new ways to screw up, but that's another story. Right now, we're not learning from history.

But you can look back at the Soviet Union, and we were reminded by that by bipartisan speeches just yesterday as Ronald Reagan's statue was unveiled. It's a great statue, a great tribute to a great President. But as he pushed the SDI, the missile defense system, and the Soviets tried to keep up, they were spending too much money. They were running up too much debt, and people were nervous about loaning the Soviet Union more debt.

Do you remember as Eastern Europe, the Baltic States started rebelling,

what happened? Russia had seen that happen before. The Soviet Union would roll in with tanks. They could put it down. But for some reason, they didn't roll in with tanks and suppress it like they had in years past.

Well, it appears there's information indicating that they were needing us to loan them \$100 billion, which 20 or so years ago was real money, \$100 billion to keep them afloat. And we gave them word, We got your country, but if you roll in with tanks, we're not going to be able to loan you that money. We owned their future, so we could dictate what they could or couldn't do. Does it ring any bells?

If we keep selling our debt as we can't control it, we can't control the spending—we vote in here tonight to spend millions and millions of dollars to pay people for not working, while they're called employees, when they are millions and millions of Americans who are champing at the bit to go back to work and to get paid to actually work. And this is what we're passing?

You know, some believe here in this body that running up the debt is what's going to save the country, and I've been told, look, we don't think we're wrong, but if we were wrong, we can always come back and fix it. The Soviets couldn't because at some point when you no longer own your future, you don't have a future.

We owe the people we represent. We owe our own children better than that. Let's quit destroying this Nation's future. Let's quit running up the deficit. I yield back.

#### THE PROGRESSIVE MESSAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Good evening, Mr. Speaker. I'm about to grab some boards but I will claim the hour, and we'll get started.

Well, Mr. Speaker, welcome to the progressive message. This is the hour that the Progressive Caucus comes forward to offer a progressive vision for America where we put down markers, and we signal to the American people that there is a progressive vision, there is a way forward, and that way forward does include principles like generosity, like inclusion, like vision, like openness, like fairness, like sharing, not a vision of fear, not a vision as, Oh, my goodness, what's going to happen, we have to throw someone off the bus, but a vision of saying, You know what, we can include people, we can have peace, we can have a society where people are treated equally and fairly.

In fact, a few weeks ago we had a Special Order where the premise was, why the progressives? And we detailed

how important it was to take note of the great contributions that progressives have made to America.

So, with that, I just want to introduce the wonderful array of leaders we have with us tonight, and I have to start with the co-chair of the Progressive Caucus, the person who's given more 5-minute speeches than anybody ever on the issue of peace, including Iraq but not limited to Iraq, also Afghanistan, demilitarization, the whole nine, none other than our own co-Chair LYNN WOOLSEY, and I yield to the gentlelady from California.

Ms. WOOLSEY. Thank you very much, and I thank you again for your progressive hour. Every week, the progressive hour is a gift to every person that watches us and wants to know what we stand for.

And we have two new women with us tonight. So we've all heard from me a lot, and I'm going to stand here and be part of the dialogue, but I think MAZIE HIRONO and Congresswoman JAN SCHAKOWSKY bring something that is new and fresh tonight.

Mr. ELLISON. Who do you want to yield to?

Ms. WOOLSEY. For me to yield? I will yield to Congresswoman HIRONO from Hawaii.

Ms. HIRONO. Thank you very much. We are going to be focusing on health care tonight for this hour, and I just wanted to share with all of you a little bit of my background because I know what it's like not to have health care.

I came to this country as an immigrant. My mother brought me and my brothers to Hawaii, lucky me, and raised us as a single parent. We didn't have much, and she worked for many years in a job that did not have any benefit, no vacation, no health care, and I remember growing up that my greatest fear was that my mother would get sick, and if she did, she wouldn't be able to go to work, and if she didn't go to work, there literally would not be money for food or rent.

So, today, in our country over 45 million people have no health insurance. I know what that's like. Our current system does not serve these millions of people, nor does our current system serve those who have health insurance because of rising costs which have not kept up with wages.

Our current system also does not serve our businesses well, where employer-based health insurance premiums have nearly doubled since 2000 and continue to rise.

We're spending in this country over \$2 trillion annually on health care with no one happy, certainly not 45-plus million people without any insurance, certainly not the business community, certainly not those people who literally, many of them, in fact, many individuals who file for bankruptcy in our country do so because of catastrophic health problems and costs.

And our current system is spending almost 16 percent to 18 percent of the gross domestic product on health insurance, and yet with this kind of expenditure are we getting the kind of results that you would expect for each of us, spending something like \$67,000 a year on health care? No.

American children are two times as likely to die by the age of five as children in Portugal, Spain, or Slovenia. Pretty amazing, isn't it?

Ms. WOOLSEY. It is an embarrassment.

□ 2130

Ms. HIRONO. It is. Did I mention the costs go up and up and up? There's no end in sight, frankly, to rely upon the private health insurance carriers to resolve this problem which has been with us. Remember, when I came here and my mother didn't have health insurance, it was a number of decades ago. I won't tell you how many, but the problems remain.

And this is why the Progressive Caucus is very much focused as we focus on reducing costs and maintaining access and choice for doctors and health care plans and really focusing on affordable quality health care, that we want to have a public option, a public option to give the people of our country a choice as to whether or not, if they have their current private carrier insurance and they're happy with it, they can stay with that. But for those who want to have another option, who want to see competition in the health insurance market through a public option, that's what the Progressive Caucus wants to see.

This is why so many people from all across the country are supporting health care reform. It's not just top down. We have all been having reforms all across the country, in my own State, and I can talk about that a little bit more. I think I have been sort of hogging the time, so why don't I send it over, if you don't mind.

Mr. ELLISON. Will the gentlelady yield back? Let me just say the gentlelady is right. Thank you for kicking off our subject tonight of health care. You did a fabulous job. None of us are surprised, because you always do.

But let's get one of our great champions from the great State of Illinois, a fighter for justice from Chicago. Let's say that JAN SCHAKOWSKY has been a dedicated advocate for people for many years in her work, not just in Congress, but before that when she was a social worker.

Ms. SCHAKOWSKY. Actually, I was a community organizer from Chicago.

Mr. ELLISON. This public option, Congresswoman SCHAKOWSKY, do you have any views on it you would like to share before you launch into some prepared remarks you might have?

Ms. SCHAKOWSKY. No. I have had people come into my offices—I'm sure

you have too—day in and day out and talk about how they're so scared. They can't get the health care they need. They have a child with a disability or a spouse who's lost his job and lost his health care. And also people come in and say, you know, I'm 63 years old. I hope I can live another 2 years so I can get Medicare, a government-provided health care for our seniors and for persons with disabilities.

We know that Medicare is one of the most successful programs that we have had. It's something that passed in 1965 and lifted the burden of health care costs off of the most vulnerable people, our elderly and persons with disabilities. This is something that I think many young people are jealous of, wish they had this government-provided health care program that is really a universal program for people over 65 and persons with disabilities.

Well, now we have an opportunity, something I have been working and waiting for all of my adult life, that we're going to have a health care program for all Americans. And what is it going to look like?

It's going to give Americans a choice. If they like what they have, they can keep it. Nobody has to worry about anything being taken away from them that they like. But if they don't want to go back to a private insurance company and want something that we know is reliable because we have done it with Medicare and the Veterans' Administration, they can choose a public health insurance option.

The good news about that is not only will it be there to provide the package of benefits that they want, but it's also going to be something that's really going to save money and make the private insurance industry have to compete with that and make them even better.

Let me just read from a letter that the President of the United States, Barack Obama, from my home State, a former community organizer, sent yesterday to the chairman of the Senate Finance Committee, MAX BAUCUS, and the chairman of the Senate Health, Education, Labor and Pensions Committee, Senator EDWARD KENNEDY.

He wrote, "I strongly believe that Americans should have the choice of a public health insurance option operating alongside private plans. This will give them a better range of choices, make the health care market more competitive, and keep insurance companies honest."

The other thing he could have said is that it's also going to save us money by helping to reduce the costs all around for health care. In fact, there's been estimates that over 10 years about \$3 trillion can be saved because there will be this choice of this health care option. And it is about time that the United States joined the rest of the industrial world and said, Yes, our people

are going to get the health care they need, that it's going to be a right and not just a privilege for those who can afford it.

Let me just tell a couple of stories before I yield back, quick ones. The other day, a friend of mine proudly showed me a picture of her daughter that just had a baby in the hospital, a darling picture of mother and baby and mom holding the baby in one arm and a cell phone in the other.

I said, Isn't that adorable? She must be calling friends and family and telling about the birth of this beautiful baby. And my friend said, Oh, no. She was on the phone with her insurance company right after the birth of the baby to make sure that things are covered.

You know, there are lots of insurance policies, private insurance policies, that don't cover maternity care. People sometimes aren't aware of that until they have a baby.

The other is I met a farmer about a month ago who told me he and his family had a \$10,000 dollar deductible policy. Now, this man is included when we count who is insured in the United States of America, but the truth of the matter is this family isn't insured for most things. Unless something horrible happens, a terrible, catastrophic accident on the farm, for everyday health care they are absolutely uninsured, paying out-of-pocket costs.

So, Congresswoman HIRONO, you talked about the 47 million uninsured. Over half of all Americans last year reported that they had to forego or postpone some health procedure or prescription drug that they needed. And so we know it goes way beyond those who are uninsured into most Americans.

And now I got a new report today; 60 percent of all personal bankruptcies are due to health costs, and 75 percent of those people have insurance, so-called. That is, until they get sick.

Mr. ELLISON. Will the gentlelady yield back?

Ms. SCHAKOWSKY. Absolutely.

Mr. ELLISON. By the way, ask anybody to yield whenever you want them to. We will just toss the ball around kind of quick.

But you made a point that made me, like, leap to my feet. I just want to draw attention to this chart. Medical bills underlie 60 percent—I think, Congresswoman, that's the point you were making—of the U.S. bankruptcies. This is according to a recent study, Washington Reuters. Medical bills are involved in more than 60 percent of U.S. personal bankruptcies, an increase of 50 percent in just 6 years.

Now, we've had certain kind of folks running this place over the last 6 years, right?

Anyway, the U.S. researchers reported on Thursday that more than 75 percent of these bankrupt families had health insurance—another point that

Congresswoman SCHAKOWSKY just made—but were still overwhelmed by their medical debts, the team at Harvard Law School, Harvard Medical School, and Ohio University reported in the American Journal of Medicine, a very, very reputable institution.

This is a quote from the study. "Using a conservative definition, 62.1 percent of all bankruptcies in 2007 were medical. Ninety-two percent of these medical debtors had medical debts over \$5,000 or 10 percent of their pretax family income," the researchers wrote.

Another startling quote, "Most medical debtors were well educated, owned homes, and had middle class occupations."

Now, that's pretty serious. I just want to just ask one of the three of you, do any of you have any reactions to this startling study?

I yield to the gentlelady from California, Cochairwoman WOOLSEY.

Ms. WOOLSEY. Well, you're actually telling my story. I think we all remember that. I've said it so many times to all of you.

Mr. ELLISON. We never get tired of it.

Ms. WOOLSEY. It was 40 years ago and my children were 1, 3, and 5 years old, and their father was emotionally ill and just abandoned us. I went to work. And I was like the 45 million people that are uninsured in this country right now; 85 percent of them are working. I mean, imagine that. So we can't depend on employers to provide all of the health care.

Well, I was working, too, and it was going to be months before I was eligible for health care. And certainly my husband's health care didn't cover us anymore.

And I want to tell you, I would wake up in the middle of the night and sit straight up and think what if one of my children got sick, what would I do. I mean, it would just overwhelm me.

Now, they were too young to worry about what would happen if I got sick, but I never thought I would, so I didn't even worry about that. But I had two boys and a little girl, and the boys were always breaking something, their arms. They played ball and they were rough and tough. They didn't dare do any of that while we were uninsured because I had no way to pay for it.

I was working. I was on welfare. But because of getting public assistance, then we were eligible for Medicaid, Medi-Cal in California. Then I stopped waking up in the middle of the night, frightened, so that I would have no breath because what if one of my children got sick, what was I going to do.

So if you wonder why—first of all, I would really support a single-payer system, and I will support nothing less than a good, robust public plan and a choice for every single American, even if they're covered by their employer. I want them to have that choice of no,

I'd really rather go on this public plan because it's going to be good.

When we say "robust"—I mean, we have talked about what does "robust" mean. Of course, it's quality care and it's accessible and it has benefits, comprehensive benefits, from prevention all the way through long-term care, so there's a way of meeting the needs of every single American.

Now, somebody who chooses their private plan, that's perfectly all right, but they get to have that choice. If they don't want their private plan, they have the choice of the public plan, and we're working on that.

We are really appreciative of this letter from the President today. And Senator KENNEDY is putting a lot of spirit behind a good, robust public plan.

But the Progressives are defining what that means. We're not going to leave it up to somebody else to decide for us that this is robust enough because we think—there's 80 of us in the Progressive Caucus and we have a big voice and this is very important to every single American.

Mr. ELLISON. If the gentlelady yields back, I would just encourage Congresswomen SCHAKOWSKY or HIRONO, would you care to respond to the recent study? I think Congresswoman SCHAKOWSKY already made a few comments on it.

Ms. HIRONO. Will the gentleman yield?

Mr. ELLISON. I will certainly yield.

Ms. HIRONO. I also mentioned the fact that so many of our working families who file for bankruptcy do so because of catastrophic medical expenses. And in a country that is spending \$2 trillion a year on medical care and 45 million-plus people not insured, it's astounding that we continue this system, which obviously is not working for people who are working, middle class families, for businesses.

We have to do something. And the great thing is that we have an opportunity now, looking at all of this data, to come together to make some changes. For the first time, we have this wonderful opportunity, in over 15 years, to make some changes to the system that is not working for anybody, really.

Mr. ELLISON. Would the gentlelady yield for just a quick moment?

Ms. HIRONO. Yes, I'll yield.

Mr. ELLISON. Now, according to this study, it shocked me a little bit, Congresswoman, because I was under the impression that only people that were struggling in poverty—and the Progressive Caucus is all about fighting for people who are dealing with poverty, but I was under the impression this is just poor folks' problem. But this study seems to say something else.

□ 2145

I mean, what about this fact here? The medical debtors were well-edu-

cated, owned homes and had middle class occupations.

I would yield back to the gentlelady. Is this not a middle class problem?

Ms. HIRONO. It just points out how broken this health care system is when people who are working, when people who are educated and when people who have good jobs cannot afford their health care. So, again, it points out that there are things we need to do.

In fact, I had mentioned earlier in my remarks that many of us have been having health care forums in our communities. I had one in my community last week on the big island of Hawaii, and we had representatives from the hospitals, from the medical profession and from the dean of our medical school. While this whole health care issue is very complicated, certain common themes came out.

First of all, of course, is the recognition that the cost is astronomical and that there is no end in sight. In terms of what we can do, I was really interested to know that there was this focus on prevention, on primary care. These are two areas that our current system does not reward, that it does not pay attention to, so we've got this topsy-turvy kind of a system where we're actually paying a lot of money for quantity, not quality, because if you really cared about saving cost—just focusing on the cost of health care for a moment—we would be spending a lot more on prevention so that people wouldn't have to go for long periods of time until their illnesses would be exacerbated and then they would have to go to the emergency rooms or wherever they would have to go to get much more expensive care. So prevention is really important, but our current system does not really pay attention to prevention.

Also, if we had more emphasis and support for primary care providers, it would be the same thing. We would probably save billions and billions of dollars every year by enabling people to see their primary care providers. Of course, we know that we don't have as many primary care physicians and nurse practitioners and others as we need; but if we spent more time on the primary care side, then we would avoid some of these really expensive kinds of treatments later on. So this system is very topsy-turvy.

I yield back.

Mr. ELLISON. I thank the gentlelady for yielding back.

Let me open the floor back up to Congresswoman SCHAKOWSKY. If you don't mind, I just want to pose to you a question. We have a Web site called [www.progressivecongress.org](http://www.progressivecongress.org). These are folks who want to talk to us, right? They posed a question. The question was: Doesn't employer-funded health care help to make American business less competitive globally?

Would you like to respond to this question?

Ms. SCHAKOWSKY. Absolutely.

If you think about the cost of an automobile, which a lot of people do think about—and we certainly want to encourage people to buy American cars, but there is now more cost for health care than there is for the steel in that car. That's how much it is.

Now, when you want to sell your cars around the world and be competitive and when you're competing against countries in which they have a national health care system and where they control their costs of health care, then it's pretty hard to do when employers are facing these double-digit rising costs in health insurance every year for their employees, those employers who are good enough to provide it or who have negotiated with their workers to provide health care benefits.

So, clearly, we have to find a way to get these health care costs under control. One of the best ways to do that is to have an efficient and quality public plan, and that's one of the reasons it's so important. Not only is the quality going to be great, but there will be cost-effectiveness.

I see you've got a chart about the administrative costs of health care. What we know is that, of all of these public plans that we have—Medicare, Medicaid, Veterans Administration—the administrative costs are very low compared to the private insurance companies.

As a progressive and as a community organizer—and still having that mindset—one of the things that we do as progressives is to engage grass-roots support.

Mr. ELLISON. Yes.

Ms. SCHAKOWSKY. That is one of the great things about our Web site, too, is that they can talk directly to us.

Let's face it: as we push for comprehensive health care for all Americans, the people who are profiting from the system as it is are going to be out there pushing against us. Mainly, we're going to find that the insurance industry is fighting tooth and nail in having to compete against a public plan. They're out there now and are saying that it's unfair and that it's not right that they should have to compete. Come on. They have had the market to themselves for all of these years, and here we are right now with a crisis in our country in health care.

When people think about the economy, lots of times what they're thinking about is health care. If they lose their jobs, what are they thinking about? Health care. If they had employer plans, they don't have them now. So what we have to do is organize. We have to mobilize. We have to have people out there demanding the kind of plan that's going to help their families, that makes sure that they can get the preventative care that they need and

that they can take their kids to the doctor. They don't have to go to an emergency room and wait until the last minute until there is a really serious illness before they get any kind of help.

So I think one of the things that the Progressive Caucus can do is to go out and help mobilize people around the country to get behind a plan that does have a robust public health insurance option in it, too, because without that, you'd better believe that we're going to see the lobbyists from the insurance companies and probably from the pharmaceutical companies, like on the Medicare part D fiasco. So we want to create a partnership in the Progressive Caucus with Americans who want real change in health care.

Ms. WOOLSEY. If the gentlelady will yield.

Ms. SCHAKOWSKY. Absolutely.

Ms. WOOLSEY. Well, do you remember Harry and Louise in 1994 when the Clintons were proposing a national health care plan? The insurance companies got behind this ad about a couple, an ad that cost millions of dollars. It was talking about how bad this health care plan would be for America. Well, the insurance companies had enough industry and had enough funds to play that ad over and over and over. Also, the Clinton plan was much too complicated. Nobody could explain it to anybody. It never got all the way to being finished in the first place. Do you know what? People would not be bullied by that kind of ad now.

Mr. ELLISON. Right.

Ms. WOOLSEY. They absolutely have gone through enough fear of losing their own insurance, if they have it and if they're employed. They pay more and get less every year for what is offered, and they never know if it's going to be there the next year.

Those are the people who were saying: No, don't fool around with my insurance coverage. It's good. I've got mine.

Then there were the seniors, retired folks: Well, I have my retirement. It's good. I'm really worried.

Then Harry and Louise scared them to death that we were going to take it away from them.

Ms. SCHAKOWSKY. You know, we're still hearing those same arguments against the public health insurance option. They're saying: Do you want the government standing between you and your doctor? Do you want the government telling you when you can go to the doctor?

That's just baloney.

Ms. WOOLSEY. Well, they're lies.

Ms. SCHAKOWSKY. It's absolutely baloney.

Ms. WOOLSEY. I truly believe that they are not going to pull the wool over the eyes of the majority of Americans. Doctors come to me or call me or stop me, and they say: Look, I was

really against the Clinton plan because I was afraid of what I might lose.

One of my favorite doctor friends tells me that he would much rather deal with Medicare than with the insurance companies, point blank.

Mr. ELLISON. Right.

Ms. WOOLSEY. He said that they're not perfect, but that they're way better to deal with.

So I think that there is going to be a whole different set of supporters for this when we get it down and out and when we let people know exactly what it is.

Ms. SCHAKOWSKY. Let me just say one thing.

Senator WHITEHOUSE said that this is not a Harry and Louise moment; this is a Thelma and Louise moment. You'll remember in the movie that they were driving toward a cliff. Actually, as the President pointed out when he said it, they fell off the cliff. We don't want to drive off a cliff, but that's where we're heading right now in this country with health care. The kind of plan that gives the choice to Americans and that allows all Americans to be covered will keep us from falling off the cliff and more. It will make our society much more healthy.

Mr. ELLISON. That's a very important point.

Let me yield to the gentlelady from Hawaii.

Congresswoman HIRONO, you had talked about the forums that you've had and that others have had, and that makes me kind of think about what Congresswomen SCHAKOWSKY and WOOLSEY are talking about in terms of organizing people.

What kind of coalitions do you see gathering at these forums? Are these folks who you didn't expect to see working together in the past but now maybe are?

I yield to the gentlelady.

Ms. HIRONO. Thank you for yielding.

That's the thing. This system is so broken that you've got people from all segments. You have Republicans and Democrats. You have doctors, nurses, hospitals, and providers.

Mr. ELLISON. Businesses. Small businesses.

Ms. HIRONO. Small businesses. You have them all coming in, saying: Let's really fix this. Let's identify the problem and let's fix it.

In our country, we like competition, but I don't think anybody could really say that there is competition going on among the private health insurance carriers. It's all very complicated. JAN talked about how, if you don't read the fine print, you don't even know if you're not covered for something that you think you're covered for. So it's all very nontransparent.

That's why the Progressive Caucus is supporting a public insurance option that is accountable and that is transparent. Believe me, those two adjectives

do not apply to the private insurance carriers, because insurance is traditionally regulated, or in a manner of speaking, very little regulation actually occurs at the State level. I'll use Hawaii as an example.

The State of Hawaii regulates the rates for automobile insurance because Hawaii is a "no fault" State. The State regulates the rates for workers' compensation. I would say most States regulate workers' compensation insurance rates, but there is no rate regulation, and there is no review of the rates that private insurance health care carriers charge. In fact, most States, I would venture to say, don't even require any kind of information from their private insurance carriers. That is why there is no competition.

As Americans, we like competition. We want to see competition between a transparent, accountable public insurance option and a private option. Believe me, if people like their private options, or their private carriers, then that's what it is. It's a choice, and they can keep it. If they are satisfied, they ought to be able to keep it.

Mr. ELLISON. If the gentlelady would yield back, I want to ask a question of you, if I may. The question is: What do you think Americans say on this poll question: Do you think it is the responsibility of the Federal Government to make sure that all Americans have health care coverage or is it not the responsibility of the Federal Government?

Does anybody want to venture a guess on what most Americans say?

Ms. WOOLSEY. I think the Federal Government is responsible.

Mr. ELLISON. What do you think most Americans say?

Ms. WOOLSEY. I think they say the Federal Government is responsible.

Mr. ELLISON. You're right. Sixty-four percent of Americans said it is. Thirty-three said it's not. I think most people running for office would like to have those kinds of numbers.

Could I ask another question for anybody?

Ms. WOOLSEY. Sure.

Mr. ELLISON. Here is another poll question:

Which comes closest to your view, that the United States should continue the current health care insurance program in which most people get their health insurance from their private employers but some people have no insurance? That's one option. Two: The United States should adopt a universal health insurance program in which everyone is covered under the program, like Medicare, that is run by the government and financed by taxpayers?

Which one do you think Americans chose and what percentage?

Congresswoman SCHAKOWSKY.

□ 2200

Ms. SCHAKOWSKY. I don't know the exact number. I am not going to make

a guess. But I think it's overwhelming that people feel that the government needs to be a player here in providing health care.

Ms. WOOLSEY. Well, KEITH, when one in every three Americans under the age of 65 was uninsured at some point in 2007 and 2008—imagine, every one of those people knows that they weren't being taken care of, that they needed something that was not available to them.

Ms. SCHAKOWSKY. So what's the answer? How many?

Mr. ELLISON. Well, the answer is, when it says, which comes closest to your view, 65 percent said the United States should have a universal health insurance program under which everyone is covered, and only 33 percent said no. And as I said, there's not one person in this body who wouldn't feel pretty good about those numbers. I know some people win by a higher percentage than that, but 65 percent is pretty good for anything. Overwhelming, as you said. So that leads me to a question that I want to offer to all three of you. Do Americans want the change that we're talking about? Or is a public option some kind of a lefty, far-out-there viewpoint that doesn't have any support?

Congresswoman HIRONO, do you have any points of view on this?

Ms. HIRONO. I think that when the American public finds out what we're talking about with a public option that they will support it because it's choice. Nobody is forcing anything down anyone's throat. So when the American public receives accurate information, as opposed to being scared to death, I think they know what the appropriate answers are. That's part of what we need to do here. That's what we're doing tonight, to talk about these options that we have to talk about, what kind of focus we should have in terms of how we're going to use our health care dollars: Are we going to use it for prevention? Are we going to use it for primary care? Are we going to make those kinds of decisions with regard to how we spend \$2 trillion every year? We hope we can reduce that. But with accurate information, I think the American public is perfectly able to make the correct decisions or appropriate decisions.

Ms. SCHAKOWSKY. I was on FOX News not too long ago, and they said, Well, how do you know that the government is going to be able to really provide health care and it's not going to just be another big expensive bureaucracy? I said, Well, you know, we don't have to guess about it. We can just take a look at the record of the provision of health care. It's not just the low overhead cost. You go into a room of older Americans, 65 and older—and I am proud now to have my Medicare card. I just got it last week—and you say, Republicans or Democrats, do

you think that we should just get rid of Medicare and send you out into the private market—actually, that's what we did with the prescription drug program—and there isn't going to be a person in that room who would support that kind of idea. I mean, people are longing to get old enough, hoping to make it until they get on Medicare because it really is a very effective program. Could it be better? It could be even better. We could have a Medicare prescription drug plan, and that would be a whole lot better than a private plan.

Ms. HIRONO. When you talk about the people who are already being covered by Medicare or are about to get there, the fact of the matter is that our country is a rapidly aging country; and, in fact, Hawaii has one of the fastest aging populations in the entire country. So the issue of health care coverage and how we're going to do it is very much on people's minds. When you talk about, how are people supposed to take care of their long-term care needs, that is a huge, huge concern in our country.

So what we should be also talking about is, how are we going to help our elders age in place as opposed to having to be institutionalized where the costs are so much greater? There are just so many choices that we can be making that truly enables the people of our country to sleep soundly at night, knowing their needs are being met.

Ms. WOOLSEY. One of the things we are going to hear, and we're already hearing is, Well, we can't make the insurance companies compete with a public plan. It won't be fair to the insurance companies. Well, excuse me. The insurance companies have a huge marketing budget. They have an overhead that's so much more than the public Medicare program.

Ms. SCHAKOWSKY. I've heard their CEOs get paid pretty well, too.

Ms. WOOLSEY. Oh, and their CEOs get paid so much. If they can't compete with a public plan, oh, too bad. They'll either, you know, plus up and get better and only pay their CEOs so much or more people will go on the public plan. And if we have a good public plan, over the years—and I don't know how long it will be—it can lead to a single universal coverage.

Ms. SCHAKOWSKY. What we're going to have is an exchange that will allow for all these different choices for Americans. But let's face it, even the private companies now are going to have to play by different rules. For example, pre-existing conditions are not going to be a reason to exclude anyone on public or private plans any longer. There will be some defined benefits that have to be covered so you don't find out when you get sick that, Uh-oh, this wasn't covered, and we thought it was.

Congresswoman HIRONO, you talked about transparency and all of this

whole industry of health care, which it really is in this country now, is going to be much more family-friendly, people-friendly, where you can understand actually what you're getting, and then you can decide what you want.

Mr. ELLISON. Can I just ask the question here, what is wrong—and I think as progressives we do have to address this question—with just having single payer? Let me just say, 2,275 people wanted to know that. That was from [www.progressivecongress.org](http://www.progressivecongress.org).

Ms. WOOLSEY. If the gentleman will yield to me, in 1993 I was actually a freshman, my first month, just sworn in to this House of Representatives. I was the first freshman to sign on to the single payer bill. JIM MCDERMOTT was then the author. I have been a single payer supporter. I would be so happy if we could move into single payer. The arguments I hear make some sense that by disrupting everything right now at once would be more harmful than putting together a plan that can get to the single payer. But I can tell you in my district—and I represent Marin and Sonoma Counties, probably as progressive as anyplace in this country—when I say what I just said, that we're not pushing for single payer, although the great majority, 90 percent of the Progressive Caucus would vote for a single payer right now today; but that's not 90 percent of the Congress, House and Senate. But when I tell my constituents that, I will tell you, they look like they could cry. They are so disappointed in me. I mean, it's like, What, you?

Ms. SCHAKOWSKY. Actually, when you ask the American people if you want either all private or all public or a choice of the two, the overwhelming response is that people want to have the choice of a private or a public. And so what we're doing now is building on what people feel comfortable with, and we certainly don't want to have people worrying that they're going to lose something that they feel pretty good about right now. So I think that the notion of having this competition between the two is the kind of plan that can move us forward to get everyone covered right now in the United States of America. We'll see how this multiplicity of choices actually evolves or turns out, or maybe it will be the thing that can last and be successful in providing all Americans with health insurance. But we're not in the business of scaring people that they're going to lose something that they find really works for them. Instead, we're in the business of giving people rational, good, quality choices.

Mr. ELLISON. For the record, I will not vote for any health care that does not include a public option. I will not do it. That's a guaranteed "no" vote.

□ 2210

And I cannot be dissuaded from that. And I also want to say I am a dedicated

single-payer advocate. I am going to continue to raise this issue. I have before. But the fact is politics is the art of the possible, and we do have the limitation, as the gentlelady from California mentioned, of not having 100 percent of all the Congress yet being Progressives. And so we have to do what we have to do. And I have absolute faith that with the public option along the lines of Medicaid, Medicare, or the VA, that it will outcompete what these other guys are doing. And if they can't outcompete them, that is fine, but the fact is I believe that they will.

Let me yield to the gentlelady. Do you want to respond to this question that 2,275 people asked from [www.progressivecongress.org](http://www.progressivecongress.org)? Do you want to answer that question, what is wrong with just having the single-payer? Or do you want to pass it?

Ms. HIRONO. I don't think there is anything wrong with the single-payer. But as you say, we are dealing with a lot of interests and ideas, and as President Obama said, this is a time when all of the perspectives ought to be given consideration and due respect. And I think that moving this discussion to a consideration of a public insurance option is a pretty large step, in my view. And if you add that in addition to the promoting of the use of information technology for medical records, and there are a number of other things we can do to move the ball so that we can get quality medical care for more people and have it affordable, I think that what we are talking about right now with the public option moves that ball in that direction.

Mr. ELLISON. We have a progressive America out there, and there are certain things they want answered. Another question they had was why do insurance companies have so much input into the health care reform debate; 1,704 people asked that question. Again, why do insurance companies have so much input into the health care reform debate?

Do any of one of you want to grab that one?

Ms. WOOLSEY. I will make a stab at it. They are organized. They have associations. They have a lot of money, and they will spend that money on advertising. They will spend that money on helping Members of Congress get elected. And I am not saying that every Member of Congress that takes donations from anybody or any industry votes with them, but I'm saying—

Mr. ELLISON. It sure helps.

Ms. WOOLSEY. This particular industry has wielded a lot of money and a lot of power around this Congress, but it is mostly that they have been able to choke off the information that the grassroots was not able to receive the first time around. That is not going to happen again. We are not going to let that happen.

All the money in the world is not going to be able to close down our voices, the thousands of people that are e-mailing us on our [congress.org](http://congress.org), and they know where we are with them and we are going to keep this. And the Democrats are with them for the most part. We are going to make it happen. The President is with them.

Mr. ELLISON. If the gentlelady would yield back, I just want to remind everybody by saying that, you know, President Obama did say that if we were starting a health care system from scratch he would be pushing single-payer, but we are not. You have people who have vested interests, who have settled expectations, and so if people are committed to the plan they have, they can keep that. But there will be a public option for people who want to do that, and under no circumstances can these insurance companies deny people for preexisting conditions and things like that.

Do you want to take another question?

Ms. SCHAKOWSKY. Sure.

Mr. ELLISON. Here is an important question people have. Why can't the public have the same insurance that Members of Congress have? And 953 people wanted to know that.

Ms. SCHAKOWSKY. Actually, that is exactly what we are talking about, making sure that everybody has a plan at least as good as the Members of Congress. It can be even better. Our Federal employee benefit plan, we have a choice of only private insurance companies that we can pick from. I think maybe people think that we have—and I'm certainly not complaining. We can pick a good plan, but it is not like Cadillac insurance. We pick among a number of different insurance policies, some better, some that provide less coverage, depending on how much you want to spend.

But what we will give people is something as good as Congress gets, and I think better, if there is this choice of a public option.

Ms. WOOLSEY. I echo Congresswoman SCHAKOWSKY, so I don't have to take up your time. So you can ask another question.

Ms. HIRONO. Ditto for me.

Mr. ELLISON. I would like to put this one out to you. What is it going to take for you—I think they mean us—to wake up and smell the catastrophe that profit health care is?

Ms. SCHAKOWSKY. Let me just say, first of all, I don't know what a catastrophe smells like. But I think a lot of people out there are getting that whiff of what a wreckage the current so-called—we don't really have a health care system. It is kind of a hodgepodge.

I did want to say, talking about even our Federal plan, between 2007 and 2008, 14 different insurance plans dropped out of the Federal employees plan. And so thousands of Federal employees who

have a plan like we do had to look for new coverage. And so when you have got a public option, it is going to be there. It is not going to go out of business and you have to search around for something to replace it.

Ms. WOOLSEY. Because for senior care, when HMOs took on senior care, Medicare Advantage, et cetera, I went to one of my providers in my district, and they were telling me about this wonderful plan that was very good. And I said, Well, what are you going to do when people start using it? And they looked at me like I was just a nut on Earth. And guess what? In 2½ years, when seniors started using the plan that they had purchased, this group went out of business, and those seniors had to find someplace else in the district because people were using the plan.

Mr. ELLISON. Well, if the gentlelady yields back, it is a lot easier to make money when you're just collecting the money as opposed to when you actually have to pay it out.

Ms. SCHAKOWSKY. There are a lot of people who, quite correctly, feel as if health insurance is for the healthy, that if you get sick, forget it. It is not always there for you. We all know that.

Mr. ELLISON. The fact is that many insurance companies, I think the whole industry identifies when a person goes to a doctor and needs to actually use that coverage, they call that a medical loss. They see that as a loss to them. That is messing with their money when somebody says, Hey, I actually need to use the coverage that I'm paying you an arm and a leg for. That is why some of these companies go out of business. It is not designed to do that.

The fact is we talked about how medical expense costs families tremendously and also ends up people having to declare bankruptcy so often. The fact is that is one side of the coin.

The other side of the coin is the overwhelming amount of profit that the industry makes. And I just want to point out that in an industry where you have CEOs making \$1.6 billion like Bill McGuire of United Health Group made, how can you get that kind of money unless a whole lot of people are not getting the health care that they should get? How can you have these exorbitant profits that people are turning over and still cover everybody? Well, you can't do it. You either have to cut people out of coverage, you have to deny claims, and then you can pay exorbitant profits. Or you have to actually run a decent system that extends coverage, but in that case you don't have people making goobers of money, and so you really do have to make a basic and essential choice.

Ms. HIRONO. As I had mentioned earlier, it is generally the States regulate, so-called regulate, insurance companies. So most States do not have the kind of resources or even the laws that



allow them to look at what the health care insurance companies are doing, how they are basing their cost increases or their premium increases. So there really is a lack of transparency and accountability. And when you don't have the ability to look at the relationship between the rates they are charging and what the claims are, how can you even begin to say that people's needs are actually being met or that cost containment is actually occurring? You can't.

□ 2220

You can't.

Mr. ELLISON. Well, if the gentlelady yields back, let me tell you. Cost containment, remember, any time I charge you and you paid me, I now made some money, right? I'm not against making money. This is America, and we have a free enterprise system. But there is such a thing as abuse.

Let me point out, profits at 10 of the country's largest publicly traded health insurance companies rose 428 percent—I'd say that's pretty good—from 2000 to 2007. In 2007, alone, the chief executive officers at these companies collected a combined total compensation of \$118.6 million, an average of \$11.9 million each. And if it's an average, you know some made more and some made less. And the fact is that that is 468 times more than the \$25,000 a year that an average American worker makes. So the fact is, these folks are making 468 times more than the average wage of an average worker in the United States. And we're wondering why we've got problems. There's no wonder why we have problems. That's why we need a universal, single-payer system. But if we can't get it now, let's get a system where you keep your insurance, and we have a public option.

Ms. SCHAKOWSKY. You know, we've heard horror stories for years about how insurance companies hire people who are essentially told, at least on the first ask, just to deny the procedure, to just say no. And there was, I remember a very brave doctor who ended up working for an insurance company and denying a procedure for somebody who actually died. And she came to cleanse her soul, to essentially apologize; left that company with enormous amounts of guilt, and said that that's how the business operated.

And what we're trying to create is a health system, a health care system, not one that is designed to make anybody a profit. It's to keep people healthy. And that's what I've said to an insurance company that said, well, you know, how are we going to compete?

I said, look, the object of this policy discussion is to figure out how are we going to provide health care to Americans. The goal, you know, if companies can make money doing that and working within the system that we pre-

scribe, God bless them. That's what we're heading toward right now. But the goal is not to figure out how to maintain their high profits when it's done at the expense of the health care of millions and millions of Americans. That's the bottom line.

Ms. WOOLSEY. And if the gentlewoman will yield. Insurers have increased premiums 87 percent over the last 6 years. And the premiums have doubled in the last 9 years, increasing four times faster than wages. So, what for? To pay the high salaries of the CEOs and to hire more bean counters.

Mr. ELLISON. I do have to say, let's get the last one, because we've got about 30 seconds to go, and I think Congresswoman HIRONO is going to get the last word. And this has been the Congressional Progressive Caucus, and you're going to take us out.

Ms. HIRONO. Health care is a right, not a privilege, and everyone in our country deserves quality, affordable health care with choice.

Mr. ELLISON. And I think that pretty much does it. This has been the Progressive Caucus with the progressive message, and we'll see you next week.

#### REPUBLICAN FRESHMAN PERSPECTIVE

The SPEAKER pro tempore (Mr. CONNOLLY of Virginia). Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Wyoming (Mrs. LUMMIS) is recognized for 60 minutes as the designee of the minority leader.

Mrs. LUMMIS. Mr. Speaker, my name is Cynthia Lummis. I am the Member of Congress from Wyoming. I am a freshman and a Republican.

This is the first time that the freshman Republicans have engaged in a Special Order, and it's my privilege to be joined by members of the Republican freshmen. This is our opportunity to share with you our perspective on these first 5 months in Congress that we have shared together as freshmen, to tell you a little bit about ourselves and about our views about this process, about where we have been in the last 5 months and where we think, as fiscal conservatives, the Nation should be going instead.

And I'm so pleased to be joined, first of all, by one of my freshmen colleagues, who has a very interesting background. GLENN THOMPSON, from Pennsylvania, is in addition to his professional career a volunteer firefighter and has volunteered for the Boy Scouts for 30 years. I yield to him to talk to you about why he chose to run for Congress and what he is accomplishing here, and how he feels that if this Congress could work together more closely on fiscal conservatism, how this Nation would currently be better off and on the road to recovery.

I yield to Mr. THOMPSON.

Mr. THOMPSON of Pennsylvania. Well, I thank the gentlewoman from Wyoming, and it's a pleasure to be with you tonight here and sharing our reflections on these first 5 months as Members of the 111th Congress. It's an honor to serve in Congress. It's an honor today.

In health care, my background was health care. I always had one boss. And today I consider that I have 660,000 very smart people that I work for in the constituents of the Pennsylvania Fifth Congressional District, and frankly, it's an honor to serve those individuals and this great Nation.

And I'm proud to be a part of this freshman Republican class. We come with diverse backgrounds, as you began to talk about, but we have a common characteristic of bringing real change to Congress. And it's change that the American citizens deserve and need to have. It's a vision of fiscal accountability, of preserving individual freedom and liberty and returning America to the values that this country was built upon.

And you touched off, the gentlelady has really touched off with the first one for this evening for our discussion, fiscal responsibility. And I would put in with that, fiscal accountability and transparency in terms of how the taxpayer dollars are being spent. We are guardians of, we are trusted. We have a responsibility to make sure that those dollars that the American citizens work hard for, that they are spent wisely here in Washington, and only on those things that they should be spent on and not wasted and spent in a way that's transparent and that's accountable.

You know, Washington, DC, really doesn't have a revenue problem. We have a spending problem. We hear time and time again with the legislation being proposed, well, you know, under the last administration we had a spending problem. Well, as the freshman class we recognize that. I think we agree with it. That's one of the reasons we came to Washington, because we knew that there was out of control spending here and that the American people deserved better. They deserve the same fiscal responsibility from their Federal Government that they exercise in their own household budgets every day.

American families make tough decisions when things get tough fiscally. You know, they don't go out. They don't put more money—they know enough not to go out and do deficit spending and fill up all the credit cards and take out loans where they have no idea who's going to be able to afford to lend them the money, if somebody will. But the Federal Government has been doing that.

You know, the freshmen, the Republican freshmen, all came here to restore fiscal accountability and responsibility. And that's why we're united in

opposing the massive waste-filled stimulus, or as I prefer to call it, "stimuleless" bill that we had.

And I don't think it's a reflection on my public education, but I have to say before I came to Congress I had no idea how many zeros were in a trillion.

□ 2230

The fact is I really didn't think it was physically possible to be able to spend almost \$2 trillion in 3 months, but frankly, my friends and colleagues, Democratic colleagues, proved me wrong with that. In the President's first 100 days, it's estimated he spent \$11.9 billion for each day he was in office. That's a number that's very difficult to wrap our brains around in terms of that amount of money. That means more new debt will be created under this one budget than all the combined debt created by the previous 43 Presidents, going all the way back to George Washington.

That's a lot of debt, and that's debt that the American people do not deserve to have. It's debt that I don't consider I will be in a position to pay back, my children, my grandchildren I don't have yet, great-grandchildren—I don't know how many greats we're going to have to go out in order to get enough generations to be able to satisfy that debt that we've wracked up just in 5 months here in Congress.

Mrs. LUMMIS. I have the privilege of serving on the House Budget Committee, and yesterday Dr. Bernanke testified at our hearing and expressed his concern over the need for Congress to develop a plan to come up with a way to deal with these debts and our deficit issues. They are part of a risk that is presented to our country long term if we don't begin to address them now, and after passing a \$700-plus billion stimulus package, over \$1.1 trillion when you consider the interest on top of that; also, the \$410 billion budget for the current fiscal year; and then approving in the Budget Committee, over the objection of all of the Republicans a nearly \$3.6 trillion budget for the next fiscal year, I firmly agree with the gentleman from Pennsylvania about the concerns that we all have as freshmen, Republicans, for the tremendous debt and the tremendous deficit that is being undertaken.

I would like to ask a couple of other colleagues to join in this conversation. Next, calling on BLAINE LUETKEMEYER of Missouri, who is another member of our freshman Republican class who is the rarest of rare commodities in Congress in that he has operated and continues to operate a small business. He currently operates a 160-acre farm after serving as a leader in a number of other small businesses. And if any entity within this Congress does not get the attention it deserves, I would suggest that it is small business.

And I yield to my colleague, Mr. LUETKEMEYER from Missouri.

Mr. LUETKEMEYER. I thank the gentlelady from Wyoming (Mrs. LUMMIS). It's a great evening that you've put together for us here.

You know, we've been here a little over a 100 days, about 120 days now, and we've all got some first impressions of what this body is all about, what our work is all about, and it's been kind of an eye-opening experience for me coming from the Midwest.

My little community in my district I think is a true slice of Americana, in that it's full of small towns and it's where you know your neighbors and where you wave at them as they go by. You know, we still have gun racks in the back of pickups where I come up. But we also have some great people, and that's the reason that I was excited to be able to represent those folks.

You know, where I come from people still believe in limited government, lower taxes, self-reliance on the individual, common sense, and balanced budgets, whether they're their own or the local political entity.

It's kind of ironic, though. When you get here, things seem to change. In my mind, what a difference 2,000 miles make in the way governance takes place. Coming from the statehouse in Missouri, I know it's completely different, but yet it's the same type of process; although that kind of seems to be completely different.

You know, here, instead of limited government, we seem to be content and intent on expanding government by leaps and bounds into every aspect of people's lives, into the businesses.

Instead of lower taxes, we're about to consider the largest tax increase in the history of this country, which I think will push us off an economic cliff. I have some grave concerns about it. As I go home and talk to my constituents about the carbon tax, the cap-and-trade bill that's coming up shortly, they're alarmed and they're very concerned.

Another one that I mentioned was self-reliance. It's interesting that today we passed another bill which adds to the government payroll, the government bailout, the government, people on our payroll, instead of allowing people to be able to take care of themselves.

And if you'd mind, I've got a little story to tell about some good folks at home that are just like everybody else's, but it's interesting to see and to note we had a terrible tragedy that ran through my district a few weeks ago. We had a tornado that went through and actually killed three folks, very tragic, did thousands of dollars worth of damage. It happened during the week when I was here in DC. So I called up my folks at home and asked a couple of my guys to be sure and go out and talk to those folks and give them some help, whatever help they needed, and assure them we'd be there to help them in whatever way we could.

I went there the next day when I did get home and met with the local leaders and it was amazing. All the emergency folks, the community leaders had everything under control, and it was amazing how ordered and how orderly they were. There was no Federal Government running in there to tell them what to do. They were all doing it themselves with their own plans.

Then I went out and talked to the local folks who had sustained the damage, who had endured this tragedy. And while they were upset and distraught and certainly you know, not in the best frame of mind, they still were very thankful because they had a community of folks that was around them, that was giving them the support that they needed to be able to withstand this ordeal and get through it.

And the strength of the community is a thing that really was impactful to me, from the standpoint that that community came together, and there was such an outpouring that there was probably more help than they actually needed to help with the cleanup and to give them the support they needed to get back on their feet.

And that's the kind of people that we have in this country, all over this country. Given the chance, they can be that self-reliant people that can bring this country back to what it is.

With regards to the common sense I mentioned a minute ago, it's one of the most often heard comments I hear when I go back home. What in the world are you guys doing in DC? And of course, my response is, well, common sense is something a little in short supply here in DC sometimes. Just, it's kind of a foreign concept.

Mrs. LUMMIS. That is exactly what I hear when I go home. Wyoming people want Wyoming common sense. It is the same kind of common sense that you discussed was evident among people that were experiencing a tragedy in your district and who got together and solved the problem, and that is something that we as a class of freshman Republicans hope to do as well.

We represent 20 States. We span in age from 28 years old, our youngest Member, to 64 years old. Five are physicians or work in health care, and as Mr. THOMPSON mentioned, he works in health care. One of our physicians is with us this evening, Dr. PHIL ROE, and we will be visiting with him shortly. We have two college athletes, six with military backgrounds among our 22 freshmen Republicans, four former State treasurers and 16 State legislators or statewide officers.

And I know Mr. LUETKEMEYER was a State legislator, as was I, as is our next freshman who's going to visit with us, a gentleman from Minnesota, ERIK PAULSEN, and I yield to the gentleman from Minnesota who first I might mention still finds time to teach Sunday

school at his Lutheran church, Missouri Synod, of which I am also a member, and who as State legislator helped eliminate Minnesota's \$4.5 billion State budget deficit without raising taxes. So this is someone that we desperately need working to pull off a similar success story here in Washington.

I yield to the gentleman from Minnesota.

Mr. PAULSEN. Well, I thank the gentlelady for yielding and organizing our little get-together tonight, and I have to tell you it's been a wonderful opportunity to serve as a freshman Member of Congress, not only with our good Republican Members who are here taking some time on the House floor tonight, but even with some of the Democrat counterparts who have been trying to work on a bipartisan basis. I think a lot of us, to be honest, are frustrated with the leadership around here that doesn't necessarily give us the opportunity to offer amendments, to offer change that Washington in particular I think really does need, the American people more than anything really need right now.

You mentioned small business earlier. I have to tell you, one of my observations here after being a freshman Member, not only being away from family, spending time away from family, but the frustration of trillions of dollars of new spending, driving up the Federal budget deficit at an alarming rate and the Federal debt at an alarming rate.

□ 2240

But it's really a lack of focus on small business. Think of it. Seven to eight of every ten new jobs comes from small business. That is really the engine of economic growth in this country.

Rightfully so, the new administration and this Congress wanted to focus on a stimulus package to help the economy. Unfortunately, I think we really missed an opportunity to help small businesses.

I held some small business roundtables in my district and, boy, some of the stories I heard from those folks were a little bit alarming. One gentleman in particular said he basically felt that high taxes were the hindrance. High taxes were the hindrance to his continued economic growth. He's been forced indefinitely now to delay a multimillion-dollar project.

Another gentleman that came to that small business roundtable, he told me specifically that small businesses should be able to save more of their money for a rainy day. And they're all going through a rainy day right now, like a lot of the American public is going through, unfortunately. But the tax code penalizes them for doing that, so we're not helping small business.

There's one other gentleman who owns a company. He basically was frus-

trated that the credit markets are hurting his ability to get additional capital. If he could just get a couple more hundred thousand dollars of credit from a community bank, from a bank of some sort, he could hire some more people. He's been hiring brand new employees that have never been employed in the workforce before. So he has got some good success stories to tell. We want to keep that going, however.

So, as a member of the Financial Services Committee, I have been frustrated because it seems all of our discussion here in Washington is about too big to fail; how are we going to help all these big companies. But how are we going to help small business? That's where we really, I think, have to focus our time and attention, because if we're going to pull ourselves out of this economic recession, we have to help the small business owner down the road because that's the person who has put in all the risk, all their individual capital, the entrepreneurship, that spirit of America that founded this country. That's where I think we really need to have our effort going forward.

And you think of the problems we have seen lately with the government now buying the large auto companies and having a stake—60 percent ownership that the taxpayers who are watching us tonight now own General Motors. That's very troubling. Very troubling.

In particular, I have met—and I think all of you, Congresswoman LUMMIS and others, have met with small business people who come and seek our help as they walk the Halls of Congress saying, Here's what you can do to help us get some business tax relief.

This week I met with small business people who are frustrated. They receive a letter of notice in the mail saying they had to close their operation because that was the will of the auto task force from the administration. And I think these auto dealers who have put in so much time and effort—many of these are family businesses and they have, unfortunately, invested their time, their capital. They own the land. They own the company. They're selling cars. They employ people, and they're forced to lay off folks.

And so I'm frustrated. I'd like to see the government not picking the winners and losers here.

So I'm just really encouraged. We have got a good class of freshmen that want to help small business. I know Congressman SCHOCK has an initiative to go forward that will temporarily provide some payroll tax relief for the employers and the employees, which I think is so critical from a real economic stimulus plan.

And I'm working on an economic plan for small business right now to separate business income from personal

income because, as we all know, many of these small businesses unfortunately pay their taxes at that individual rate. And when they're paying at that individual rate, it's a higher rate, especially under the new tax plan that was passed by Congress.

So now they're going to be paying higher taxes, so they can't hire somebody. They can't buy more equipment. So, if we can separate those streams of income, I think we have tremendous opportunity to help small business.

So I want to keep working with you on that effort.

Mrs. LUMMIS. Will the gentleman yield?

Mr. PAULSEN. I'd be happy to yield.

Mrs. LUMMIS. You know, that is very much a bipartisan frustration right now. I read of Senators and other House Members who are tremendously concerned about their local dealers, GM, Chrysler, having to give up a profitable business because of this takeover. Both sides of the aisle on both sides of the Capitol building share in their tremendous frustration over the manner in which the bankruptcy of GM and Chrysler are playing out.

I want to give a moment to another member of our freshman class who has joined us, Dr. ROE. The gentleman from Tennessee served as a doctor for 2 years in the U.S. Army Medical Corps and has delivered close to 5,000 babies. He also has been the mayor of his small town and was very successful in using their landfill as a source of energy for that community. And being a mayor of a town of people of very modest means requires an amount of creativity that is unique in this country.

Welcome, Dr. ROE. Please join our discussion.

Mr. ROE of Tennessee. Thank you. It's great to be here tonight. I, too, echo Congressman PAULSEN. We do have a very, very fine, diverse freshman class. I think we add a lot to the debate.

I guess many of the speakers tonight sort of mentioned why they ran for Congress. I do have one distinct advantage. I delivered a lot of my own voters. So that's a huge advantage when you're out on the trail and you deliver babies.

I ran, really, to serve my country. I have had a very successful medical career in Johnson City, Tennessee, which is where I'm from. And for those of you who don't know, so you can remember, it's the only congressional district in America that's had two Presidents, Andrew Jackson, Andrew Johnson, and Davy Crockett served in this body as a Congressman. Andrew Jackson was the first person to sit in this seat, so it's a very historic seat in northeast Tennessee.

Mrs. LUMMIS. Will the gentleman yield? I understand that in the old Senate Chamber that still exists in this building that you can go see Congressman Crockett's desk. Is that the case?

Mr. ROE of Tennessee. Yes, that is correct. That is correct. The reason that I—it was about 10 years ago. I have never had service in the State government or Federal Government before. I really wanted to take this time just to serve my country as I did my patients over the years. So I was asked to be on the city commission and ran and was fortunate enough to win, and then became mayor of Johnson City after my second win.

I brought a very simple philosophy to government, and that is: Spend less than you take in. It's not complicated.

Well, how do we do with that philosophy? Well, we had 6 years ago in our city of 60,000 people, we had \$2 million, approximately \$2 million in reserve. When I last came to Congress, we had \$24 million in reserve. We have not raised taxes, and our bond rating went up during 2008 when everybody else's had gone off a cliff.

The city has a great management, has a great commission. They're going to balance this budget. And every single budget we passed had a surplus.

Now, the philosophy in Washington, D.C., I found, is you borrow more than you take in. You spend that and what you take in also. That's what we've done here this year. As you probably have mentioned, we start our fiscal year on 1 October. And by the 26th of April of this year, we had spent all the money that the taxpayers had sent us for the year. So everything we're running on now is borrowed money.

The folks back home, as they have you all, ask you what is your biggest frustration or surprise or whatever. A lot of them think it's the workload. It's not that. To me, it's the partisanship and, second, it's the spending. I just can't get over the staggering amount of money that we spend up here.

And to give you an example, in our local city, we've put \$120-plus million in water and sewer improvements. Didn't raise taxes. We were able to do that. We paid for it. We didn't have the Federal Government pay for it. We paid for it locally.

Mrs. LUMMIS. Will the gentleman yield?

Mr. ROE of Tennessee. Yes.

Mrs. LUMMIS. How did you pay for it?

Mr. ROE of Tennessee. Well, we just spent less than what we took in. It wasn't complicated. In the city where we were, we have one of the lowest tax rates in the State of Tennessee. So smaller government, less people working. We had fewer employees than we had 8 years ago. And lean government. They reward you. The taxpayers like that and they reward you for that kind of work.

The other thing we did was we could see—and all of you all dealt with this in State governments—the new ozone levels that the EPA came down with

when they lowered that from 80 to 75 parts per billion, a lot of people around don't understand what that means. Well, if you go into nonattainment, meaning you don't attain those standards, the EPA has a right to freeze all building permits, so you cannot grow your community.

And we understood where we were. If you had the infrastructure, the roads, water, sewer, and schools, you could grow and business would want to come there. As ERIK pointed out, you want an environment where business can flourish.

And we looked at the challenge we had with energy and said, Okay, how do we manage this energy problem we're having? Did we look at raising taxes on power? No. What we did was this. We had a landfill, as you've mentioned, and we looked at this as an opportunity. And we went into a private-public partnership with a private company, zero tax dollars, and formed this partnership where we went to our landfill, we capped the landfill, drilled wells into it, sent a pipe 4 miles over to our VA, which is a hundred-acre VA, the Quillen College of Medicine, named after Congressman Quillen who served here for 34 years. Huge campus. They heat and cool that campus with the gas, the methane gas, which is the second largest greenhouse gas outside of carbon dioxide.

You, the Federal taxpayer, get a 15 percent discount on your bill. We, the local taxpayer, make money off royalties—about half a million-plus per year—and the private company created jobs and made money. That's the way you do it.

We cut our consumption from a million gallons of fuel a year to 850,000 gallons. And when gas was \$4 a gallon, that's very, very significant.

□ 2250

To give you another example about what you could do: around the country, we did some simple things like just change the lights in a stoplight from the 150-watt bulb to an LED bulb. In every intersection over the period of that lighting, you can save almost \$800 per intersection. Multiply that across the country. It's the carrot versus the stick that we're seeing now.

You all may have talked about this before I got here, but within days of getting here, we were faced with the stimulus package, which arrived as a 450-page document that went to the Senate and came back as 750 pages. It then came back at conference at 1,071. I carry it around in the trunk of my car and show people how big it is. We had 4 hours or 5 hours to read it here on the House floor. We got it, I think, at 9 o'clock on Friday morning and put it on at 2 o'clock that afternoon.

Then we were faced with the omnibus spending bill. The 110th Congress had 12 appropriations in the bill, and we

have them every year. Only three had been passed. Every local government, every business, every State in the Union tightens their belts when their revenue is down. So what did we do? We went up 8 percent. We passed an 8 percent increase. I felt like I was in the twilight zone. Then we got the next budget after we got a \$1.8 trillion deficit. Guess what? We raised that 8 percent. Then there is this year's budget that's coming along, and that's \$3.9 trillion. People back home—I'm talking about Democrats, Republicans, Independents, and apolitical people—do not understand that, and I don't understand that kind of spending. It is not sustainable.

Now we've got two big issues that we're going to be facing that are coming up ahead of us: our health care—and I'm really glad to be in the middle of that discussion—and the carbon tax.

I yield back.

Mrs. LUMMIS. Thank you.

Let me tell you about a few of our other classmates who could not be here this evening. We anticipated that we would have votes tomorrow and that we would have more members of our freshman class able to join us, but because of votes not being taken tomorrow, some people tried to get home tonight so they could visit with both their families and their constituents.

Among them is CHRIS LEE from New York, who has spent two decades as a business entrepreneur in New York; TOM MCCLINTOCK of California, another of our freshman colleagues, who was first elected to the California State Legislature at the age of 26; PETE OLSON of Texas, a naval aviator for 9 years, who had missions in the Persian Gulf, also a naval liaison officer in the U.S. Senate; another, BILL POSEY of Florida, an accomplished stock car racer. We have all become, of course, Pittsburgh Steeler fans due to our good friend and fellow freshman, TOM ROONEY of Florida, who also played college football and was a special assistant U.S. Attorney at Fort Hood and taught military law.

With that kind of diversity in our freshman class, it has been really helpful to me. For example, between votes, I can sit down on the floor next to Representative ROONEY and ask him about things like enhanced interrogation techniques.

Well, look. He just walked in the room.

I didn't know you were still here. I'm so pleased to see you. It's that kind of expertise that makes our class such a close group and very helpful to each other as we are dealing with the many issues at hand.

So, with the magical appearance of Representative ROONEY, I'm delighted that you have chosen to join us this evening.

I yield to the gentleman from Florida.

Mr. ROONEY. Well, thank you very much.

I thank the gentlelady from Wyoming for giving us the opportunity to reflect on our first 100 days and on, really, where we're going as a country and on the direction that we, as freshmen, when we all ran for Congress, thought we were going to go when we got here and on how we were going to try to make a difference, not only in our individual communities but in the country as a whole.

I was watching earlier on C-SPAN the former speakers talk about the spending and the size of government. I think that that's really the lighthouse that I use as a direction as to who we want to be as Americans and as to who we want to be as Congressmen. We really have a decision to make here as we move forward with all of the things that we have to consider.

I've got to be honest with you. It's very disheartening to see, as the father of three very young children, what we're leaving them as a legacy so far. Although, I am very encouraged by my fellow freshmen and by the people whom I meet on the treasure coast of Florida, in central Florida, in western Florida, and in the district that I represent, the 16th District of Florida. They remind me of why they sent me to Washington and of why they sent all of us to Washington.

It's never going to fall on deaf ears for me that the American people whom I represent and the American people whom I talk to believe in a strong United States of America, one with a strong military but one that lets the free market dictate who they're going to be without inhibiting where they're going to go.

It just breaks my heart to hear this week that auto dealers that employ hundreds of people and that contribute so much to my community are being closed. For what reason? They're not really sure. It's just because they were the ones picked even though, for decades, they've been profitable companies. People that own certain automobiles—I won't go into what they are—may have to travel over an hour now to get their cars serviced. Really, again, it's who we want to be as Americans.

I just want to thank the freshmen personally. The reason I really wanted to be here tonight was to thank you, personally, for signing up to a letter that I sent to the Speaker of the House today, asking her to not include a global bailout, really, of foreign countries on the backs of our American servicemen and women who are fighting.

As a former Army captain with my fellow colleague, who is a former marine—or a current marine—DUNCAN HUNTER, we asked the freshmen Republicans to ask the Speaker not to include something that has nothing to do with funding our troops in the service

that they're providing, which is putting themselves in harm's way for our liberty and for our freedoms, and really holding a military funding bill hostage with this IMF funding bill that has nothing to do with military spending.

To do that, for me, honestly, has been the biggest disappointment in my short tenure here in Congress. I have to explain to those men and women—and a lot of them are still active duty who my wife and I served with—that there is a problem with putting ammunition in their weapons or in giving them the body armor that they deserve or in up-armorizing vehicles that they have to drive in because the majority has put into this bill something that has nothing to do with military spending. To try to explain that and to try to even justify to myself that what we're doing is the right thing is very difficult.

As we move forward as freshmen, whatever we decide to do on a lot of these issues, we can never forget why we're here and who sent us here.

Again, I just really thank you very much for giving us the opportunity to reflect and also for giving us the hope to move forward on a lot of the things that we're about to do here in Congress.

Mrs. LUMMIS. Will the gentleman yield?

Mr. ROONEY. Absolutely.

Mrs. LUMMIS. Thank you for your statement.

Now, we have six freshmen here of the Republican class and, indeed, a seventh member in the Chair. Our Speaker this evening is a member of the majority party, a Democrat. It would be really fascinating at some point to have a Special Order some evening with our Democrat colleagues who are freshmen as well, because I think many of us came to Congress with a different perspective, with a new perspective, regardless of party, about how we think America can move forward.

As freshmen Republicans, we did support legislation that would stimulate economic growth. It would have cost \$315 billion less than the bill that Congress adopted, the Democratic bill; and it would have created twice as many jobs.

□ 2300

In my district in Wyoming, it would have created 50 percent more jobs; but in many districts that are suffering mightily, it created twice as many jobs. That because we really targeted and took to heart what President Obama asked us to do, and that was to be targeted and temporary. Unfortunately the bill that was adopted was neither targeted—it was a shotgun approach to economic stimulus—and it is not temporary. Many provisions in that bill are built into the ongoing spending of government and inflate the costs of government, as Dr. ROE pointed out earlier, by adding to the base-

line of expenditures that will go up and up and up in the future.

One of the things that Representative ROONEY just mentioned that is so frustrating to all of us, I think on both sides of the aisle, is seeing legislation that is not germane to the subject of the bill being attached to the bill. In the case that Representative ROONEY was just discussing with us, it was the funding for our military men and women in Iraq and Afghanistan and in Pakistan, and the addition to that bill would lend money or guarantee money to the International Monetary Fund. No connection whatsoever. And the IMF funding has created a situation where we're not voting tomorrow on that bill because there are not sufficient votes to pass it by virtue of an amendment that was not germane being added to a bill. In the Wyoming legislature you cannot do that. You cannot amend a nongermane topic to a piece of legislation or it is ruled out of order. If that rule were in effect here, we would see much better legislation. We would see people having a better opportunity to vet that legislation, discuss that legislation and then vote with their heart rather than having to grit their teeth and vote for a couple things that are just not a good pairing.

I can give an example of where it pained some people on the other side of the aisle. I am a big supporter of Second Amendment rights, but there was an amendment put on a credit card bill to allow concealed weapon permits in national parks. I firmly support allowing concealed weapons in national parks because they are so part and parcel to the State of Wyoming and to our right to bear arms, but attaching it to a credit card bill is wrong. It's just wrong.

Mr. ROE of Tennessee. The gentlelady will remember our first weekend or two here when we, both the freshman Democrats and Republicans—and I might add that I think there are 33 new Democrats and 22 Republicans, I believe, is that correct? We have them outnumbered finally. I will point that out.

You remember, we went there, and the economists told us, if we don't spend this money rapidly, the earth's going to end? I remember saying, Well, that sounds counterintuitive to me to spend your way to wealth. Well, guess what, the economy is beginning to turn around, thank goodness, I think, for a lot of people. The signs are feeble, but it looks like the economy may have bottomed out; and the same people are telling us in the third and fourth quarter that the economy probably will show some growth. We've spent less than 10 percent of the stimulus package. The economy did that on its own without the stimulus package. I think the target is what we were talking about earlier; and if we truly had done this, if we truly had looked at infrastructure. For example, the State of

Tennessee is going to get \$55 million in water and sewer projects, and the small city of 60,000 people I am from is already putting \$100 million in the ground. So it was a spending bill that had some little bit of stimulus in it.

Look at energy, for instance. If we had invested \$100 billion, \$200 billion in nuclear power how much further along would we be to energy independence. We chose not to do that. In 2 years the money will be spent, and I don't think we will have much to show for it.

Mrs. LUMMIS. Mr. LUETKEMEYER, this gets into an area that you're involved in deeply now. Any comments on either your service in the State legislature in Missouri and how you would compare it to process here in Washington and how process here in Washington impedes that or the energy issues specifically? Either one.

Mr. LUETKEMEYER. Yes. The process in my home State where I served in the House both in the minority and in the majority, and in the leadership and as a committee chairman—so I have a pretty wide background there in the house. It's not unlike Missouri, but yet it's different. Here we don't necessarily run everything through committee. Another thing, it has to be germane. Not always are you allowed to offer amendments. It's an amazing process where I thought that it would be more open, more transparent. That was the promise from the administration, yet we see little of that. During the discussion here, it's been interesting to listen to all my colleagues and yourselves. They've got some great stories to tell and great perspectives on how we should be governing ourselves, how we, as a people, should be governing ourselves. And it's interesting to me that if you look at our Constitution, it says, "We, the people." It doesn't say "We, the government;" and to me, I think that is very important. We stop and think about our framers. When they put this very special document together, this American experiment that they were trying, they said, "We, the people." They wanted the people to be where the power was, to be where the ability to control their lives was, not the government. It seems as though very quickly when you get here, the perspectives are clearly different. Here the government is where the power always emanates from, and they want everybody to be subservient to. It's that sort of mindset. It's that sort of situation that we find ourselves in here that I think is very frustrating to our constituents. They see this as well; and over the last several weeks as I've gone home, this concern continues to well up with regards to where we're going as a country, where we're going as a government. They don't see themselves as being a part of it anymore, and they want us to be their voice.

It's an honor to serve them, and it's an honor to be here. But I think the

perspective of this body needs to be that of serving people, rather than to be served. I sometimes think we get that switched around.

Mrs. LUMMIS. The gentleman from Minnesota also was a leader in his State legislature. Observations comparing the two?

Mr. PAULSEN. I thank the gentleman for yielding. One of the biggest surprises and frustrations that I have noticed is that it's been a little bit more partisan than I ever thought it would be; and I can say that, having served in both the majority and the minority in the Minnesota State legislature; and I was majority leader for awhile. I think a lot of being a successful legislator and making yourself a successful State, and now a successful country, is being able to build relationships to get things done and be results-oriented. In the Minnesota Legislature we were always allowed to offer an amendment to a bill as long as it was germane, just as you were mentioning a little while ago. But here in Congress we have to get permission to offer an amendment from the Chair of the Rules Committee or from the Speaker of the House. So it's a very closed process, and it's not an open flowing process where I think it's easier to breed partisanship. I think if the rank-and-file Members, both Republican and Democrat, can get together to kind of break the grips of that leadership power, I think we could really do great things for the American people.

Mrs. LUMMIS. We have other Members who are not here tonight who I'd like to mention. One was mentioned earlier by Mr. ROONEY. DUNCAN HUNTER, a member of our freshman class from California, quit his job after 9/11 to serve in the Marine Corps. He has served three combat tours, including two in Iraq and one in Afghanistan. And along with Mr. ROONEY and Mr. COFFMAN of Colorado, who took unpaid leave from the Colorado State House to serve in the first Gulf War and gave up being Colorado State treasurer for a tour of duty in Iraq—and I was Wyoming State treasurer at the same time Mr. COFFMAN was State treasurer and at the same time when another of our fellow freshmen, LYNN JENKINS, was the State treasurer in Kansas. We were proud of our colleague, Mr. COFFMAN, for leaving his job as Colorado State treasurer to do a tour of duty in Iraq. The experience of our servicemen and -women in this Congress is invaluable, and I applaud them and appreciate their efforts.

I want to call on Mr. ROONEY one more time to discuss our specific concerns about the issue that prevents all of us from being here tonight, that being the fact that an amendment has been placed on a military funding bill that is not germane.

Would you care to elaborate further? And then I would like to yield to Mr. THOMPSON.

□ 2310

Mr. ROONEY. Well, the bill that we had originally sent to the Senate was just a clean war funding bill that the President asked us for and that we delivered as a House of Representatives to the Senate.

I did not serve in politics before running for Congress, so all this is new. But unfortunately, by the time it came back from the Senate to us, it had an additional amendment on it which included funding for the IMF, which is basically our borrowing money from somewhere else or printing money to loan it to another country. And that might seem ridiculous to a lot of people that may be listening, since everybody knows that America is going through tough times right now. People in my district are really hurting. The middle class needs help. They need tax cuts. They need to feel that their job is secure. They need to feel that the Federal Government is helping them, not impeding them. And to think that we are going to borrow or print money to send abroad, some of it to people that we might not necessarily want to lend money to, and have to put that on the backs of our servicemen and -women, because they know that it will be difficult for us as Republicans to vote against it, is really, in my opinion, shameful in a lot of ways.

I understand there are differences in ideology. There are differences in principles about what governing should be. But if we have a clean military funding bill, then it should stand on its own. If you have a clean IMF bill to loan money to foreign countries, then it should stand on its own. The majority is the majority. If it is a good idea, it will pass. They have the Congress. They have the White House. Why should it be attached to something that has nothing to do with funding our soldiers abroad?

I recently got back from Iraq and Afghanistan. Recently I visited Guantanamo Bay, Cuba. And the one thing that impressed me more than anything else is the men and women that wear our uniform. They never talk about politics. They never talk about policy or how they stand on certain issues. They are there to do a job. They are putting themselves in harm's way so we can stand here tonight and discuss these issues and talk about what we think is best for the future.

To think that politics is being played with the ammunition that goes in their guns or the body armor or the vehicles that they drive or anything that they have to rely on from us as a Congress to pay for what we are sending them there to do is just unconscionable to me. And it is something that I hope, as you said earlier, has been delayed, and hopefully that delay is felt, continues on to next week, and maybe we can reconsider what we are doing and what we talk about. Politics should have no

place when it comes to funding what we send our men and women in uniform to do abroad.

Whether you agree with these wars, whether you agree with the war on terror, whether you agree with anything that we are doing, we are sending them there. We should give them a clean bill. And as of right now, we are not. But maybe, just maybe, cooler heads will prevail and we will give them a clean bill for what they are doing and what they are serving us for.

Mrs. LUMMIS. I would like to acknowledge two other Members of our Republican freshman class who have also served in the military: JOHN FLEMING, who is a family physician from Louisiana, was also a medical officer in the U.S. Navy; and BRETT GUTHRIE, one of our colleagues from Kentucky, served as a field artillery officer in the 101st Airborne Division (Air Assault) at Fort Campbell. And we have other veterans as well.

I want to turn now to a subject that is on the front burner in Congress, House and Senate, both energy and health care. And we have a wonderful array of talent in our class on both subjects. We have two medical care providers with us to discuss that issue. I know I was listening briefly to the Progressive Caucus before we had this little opportunity to visit this evening, and they were espousing the benefits that they see in providing health care by way of a government-funded option.

I might point out before I turn it over to Mr. THOMPSON that government payers, and this was an independent study, found out that Medicaid and Medicare have shifted a total of \$89 billion per year in costs on to other payers. As a result, families with private health, and I'm quoting from the study, families with private health insurance spend nearly \$1,800 more per year, \$1,512 in higher premiums and \$276 in increased beneficiary cost sharing to cover the below-market reimbursement levels paid by Medicare and Medicaid.

My concern is, if we go to a government option that is side by side with private sector insurance, that it will be less expensive and it will recruit people to gravitate from private insurance to this government system. But the reason that it may be cheaper for the government to provide insurance is that they are continuing to shift costs and to fail to reimburse providers accurately and adequately.

I know in my State of Wyoming, where health care is the number one issue right now, that there are physicians who are no longer accepting Medicare and Medicaid patients. They cannot afford to accept them anymore because reimbursement levels in rural hospitals and to rural physicians are so low. And if that is the manner in which our country intends to get ahold of the cost of health care, we are in big trouble.

I yield to the gentleman from Pennsylvania.

Mr. THOMPSON of Pennsylvania. First of all, I would be remiss if I didn't thank my good friend and colleague from Florida and also Mr. HUNTER from California for your leadership in making sure that we don't compromise the bill that funds our troops' needs. As a Member of Congress and, frankly, as a proud father of a United States soldier, I thank you. I know my son, Logan, and his comrades thank you as well.

Health care has been my life. For 28 years, I have worked in rehabilitation. That is how I got involved in public service actually, being frustrated with the Federal regulations that were being piled on the health care system that was decreasing access, increasing costs, and making the health care system more challenging. And that is the Federal system.

We are blessed in this Republican freshman class, as you said, in terms of the tremendous health care experience that we have, and I think we have a lot to offer to this debate. Hopefully we will have access and opportunity to engage in that debate a little more than what we have had in the past. Huge issues have come before this body.

Health care is a three-legged stool. It is about access, and that is what we hear a lot about today in terms of talking about the uninsured in today's debate. But it is access, affordability, and quality. I happen to believe, and I have seen evidence, that we have the best health care system in the world. I'm not saying that it is perfect and there is not opportunities that we can continue to improve upon it, but the Democratic proposals that are being bandied about and discussed would, in my opinion, in the long run, increase access issues and, frankly, lower the quality of care that we have all come to expect as Americans. This is a place where people come from around the world when they need life-saving, quality health care services.

The other side would argue that this is to provide access to those who are currently uninsured. If we identify those individuals that make a decision to not purchase health care insurance but could afford it, and we eliminate those folks from that number, we are talking about approximately 9 percent of individuals who do not have insurance. And the lack of insurance does not necessarily mean that they don't have access to health care services.

In my district, we have agencies such as federally qualified health centers. An agency that was just in to see me today near my home town is called the Tapestry of Health. We have another one called Centre Volunteers in Medicine that stand in the gap. Can we do better in health care? Absolutely. Absolutely. But do we need to ruin our health care system by reducing access and quality for all in doing this? Absolutely not.

I think the Republican freshmen stand uniquely prepared to bring solutions based on real life medical experience and health care experience to this important debate.

□ 2320

My district is just like the rest of rural America. You know, our health care debate has to include things that aren't being talked about right now in this body, things like peeling away the regulations on health care that were instituted 40 years ago and have long since outlived their usefulness, and only serve to add cost and decrease access.

We need to reduce the practice of defensive medicine by eliminating the fears of liability that our physicians have where they order tests because they need them as a part of, not the medical record, but the evidence record, should they be sued. And that is so frequent today.

We need to level the reimbursement system, frankly, that I see as favoring urban big city health care over rural America, specifically on issues related to the wage index.

We need to address the health care workforce crisis. I have not heard that addressed at all in this body, and yet we can redefine the payment system any way you want, but if you do not have qualified doctors and nurses and technicians and therapists to provide the services then there is no health care access. And today we are facing tremendous retirements with the baby boomer generation of those health care professionals.

There are some real health care reform issues that we need to be addressing that just have not been, and I think this class is well prepared to bring that to the health care debate.

Mrs. LUMMIS. I look forward to that discussion. Another of our colleagues, Dr. BILL CASSIDY from Louisiana, in his practice, co-founded a health clinic to match uninsured patients with doctors who provide services free of charge. So we have some very qualified, very caring medical care providers and physicians in our class, and I'm proud to serve with them.

Of course, Doctor PHIL, you are among them. Would you please comment on this subject.

Mr. ROE of Tennessee. Just a couple of things that Congressman THOMPSON talked about. One, is accessibility to care, and that is the crisis of personnel. If you look in the next 20 years, over half of our registered nurses can and will retire. We'll need a million new registered nurses in the next 8 years.

In the next 10 to 12 years there will be more physicians retiring and dying in this country than we're producing in this country. We are not investing in the medical infrastructure to increase the class size, and I don't know where that anybody thinks who's going to



provide this care. So that is very correct. It is a huge issue.

The challenge here is affordable health care, and that's accessible to people. It's not going to be easy. I've dealt with this for over 30 years, and this is going to be very, very complicated to do.

We do not need to do this fast. We need to do it right. And I think that's one of the worries that I have is that we're going to go and have this arbitrary deadline of 60 days from now. Who says 60 days from now we should have this right, have it done? We need to get it right. If it takes 6 months we need to get it right because it affects every American.

Let me just give you a couple of little examples. In this country, we have 47 million people that are uninsured. That's about 15 percent of our population.

In the State of Tennessee several years ago, about 15, 16 years ago, we had a Medicaid waiver. And for those out there that understand what Medicaid is for the uninsured and poor in this country, and Medicare is for our citizens over 65, this was a Medicaid waiver to form a managed care plan called TennCare. And what it did was, it was a very rich blended plan that provided a lot of care for not much money. And what we found in the State was that 45 percent of the people who got on TennCare had private health insurance but dropped it.

Well, then I asked the providers, what percent of your costs does TennCare actually pay in our district, in our area? And I went to several different hospital systems. About 60 percent. And Medicare pays about 90 percent. And as you pointed out very clearly, and then the uninsured pay somewhere in between.

And what you pointed out very clearly was that what happens is that cost is shifted and more cost, so your private health insurance goes up each year, part of it not because of what you do, but because of what the government has done, which is not pay the freight. And my concern is, when we get a public plan that's "competitive", it also will offer a lot of benefits but won't pay the costs of the services, once again, causing a shift to the private health insurer, meaning they will be crowded out. And over time, I'm afraid you'll end up with a single-payer system. And a single-payer system is not what the American people, I think, want. And certainly that's something that's going to be discussed in great detail in the future.

Mrs. LUMMIS. I might mention the three officers of our freshman Republican class who couldn't join us this evening, and two of our more unique members who I hope will be able to join us if we have the opportunity to do this again. Our class president is STEVE AUSTRIA of Ohio. He was a force in get-

ting Jessica's Law and the Adam Walsh Child Protection Safety Act passed into State law. Our representative on the Steering Committee, GREGG HARPER of, Mississippi, is an attorney with a child whom he has brought to share his unique health concerns with us. And we've all learned a lot from him.

And of course, our Policy Committee representative, JASON CHAFFETZ, who is a former Division I football player at Brigham Young University, my University of Wyoming's nemesis, but a dear colleague of ours, and two wonderful freshmen who are plowing new ground. The very first Vietnamese American to serve in the United States Congress, JOSEPH CAO, born in Saigon, Vietnam, escaped at the age of 8 to the United States, lost his home during Katrina, and fought to return electricity and telecommunications to Louisiana residents after Katrina.

We also boast the youngest Member of this U.S. House of Representatives, Aaron Schock, the youngest school board president, Illinois State Rep, and a Member of Congress with whom we are privileged to serve.

I thank the gentlemen for joining me this evening. I thank our Speaker, the gentleman from Virginia, who was very patient with his fellow freshmen colleagues from the other party, and look forward to the opportunity to have a bipartisan freshman discussion at an early opportunity.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COURTNEY (at the request of Mr. HOYER) for today after 3 p.m., June 5 and 8.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COSTA) to revise and extend their remarks and include extraneous material:)

Mr. COSTA, for 5 minutes, today.

Ms. GIFFORDS, for 5 minutes, today.

Ms. PINGREE of Maine, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. GOHMERT) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, June 11.

Mr. POE of Texas, for 5 minutes, June 11.

Mr. JONES, for 5 minutes, June 11.

Mr. PAUL, for 5 minutes, June 9, 10 and 11.

Mr. GOHMERT, for 5 minutes, today.

#### ADJOURNMENT

Mrs. LUMMIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until Monday, June 8, 2009, at 12:30 p.m., for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2014. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Promoting Diversification of Ownership In the Broadcasting Services [MB Docket No.: 07-294] received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2015. A letter from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to License Requirements and License Exception Eligibility for Certain Thermal Imaging Cameras and Foreign Made Military Commodities Incorporating Such Cameras [Docket No.: 0612242573-7104-01] (RIN: 0694-AD71) received May 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

2016. A letter from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Removal of T 37 Jet Trainer Aircraft and Parts from the Commerce Control List. [Docket No.: 090406632-9631-01] (RIN: 0694-AC74) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

2017. A letter from the Associate Director, PP&I, OFAC, Department of the Treasury, transmitting the Department's final rule — Darfur Sanctions Regulations — received May 19, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

2018. A letter from the Associate Director, PP&I, OFAC, Department of the Treasury, transmitting the Department's final rule — Democratic Republic of the Congo Sanctions Regulations — received May 19, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

2019. A letter from the Senior Procurement Executive, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAC 2005-32, Technical Amendments [FAC 2005-32; Docket 2009-0003; Sequence 3] received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

2020. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration final rule — Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments [Docket No.: 0809121213-9221-02] (RIN: 0648-AX84) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2021. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands [Docket No.: 0810141351-9087-02] (RIN: 0648-XO13) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2022. A letter from the Deputy Assistant Administrator For Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Pacific Halibut Fisheries; Catch Sharing Plan; Correction [Docket No.: 0812311655-9645-03] (RIN: 0648-AX44) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2023. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0810141351-9087-02] (RIN: 0648-XO85) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2024. A letter from the Chief, Border Security Regulations Branch, Department of Homeland Security, transmitting the Department's final rule — Establishing U.S. Ports of Entry in the Commonwealth of the Northern Mariana Islands (CNMI) and Implementing the Guam-CNMI Visa Waiver Program; Change of Implementation Date [Docket No.: USCBP-2009-0001] [CBP Dec. No. 09-14] (RIN: 1651-AA77) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2025. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30658 Amdt. No. 3314] received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2026. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Arriel 2B and 2B1 Turboshaft Engines [Docket No.: FAA-2007-28077; Directorate Identifier 2007-NE-20-AD; Amendment 39-15889; AD 2009-09-03] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2027. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; EADS-PZL "Warszawa-Okecie" S.A. Model PZL-104 WILGA 80 Airplanes [Docket No.: FAA-2009-0371; Directorate Identifier 2009-CE-021-AD; Amendment 39-15890; AD 2009-09-04] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2028. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318-100 and A319-100 Series Airplanes; A320-111 Airplanes; A320-200 Series Airplanes; and A321-100 and A321-200 Series Airplanes [Docket No.: FAA-2007-0391; Directorate Identifier 2007-NM-271-AD; Amendment 39-15891; AD 2009-09-05] (RIN:

2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2029. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company (Type Certificate previously held by Columbia Aircraft Manufacturing (previously The Lancair Company)) Models LC40-550FG, LC41-550FG, and LC42-550FG Airplanes [Docket No.: FAA-2009-0395; Directorate Identifier 2009-CE-023-AD; Amendment 39-15895; AD 2009-09-09] (RIN: 2120-AA64) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2030. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment to Restricted Areas R-6402 A&B, R-6404 A, B, C & D, R-6405, R-6406 A & B, and R-6407; Utah [Docket No.: FAA-2009-0353; Airspace Docket No. 09-ANM-5] (RIN: 2120-AA66) received May 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2031. A letter from the Director of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule — Expansion of Enrollment in the VA Health Care System (RIN: 2900-AN23) received May 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2032. A letter from the Office of Regulation Policy & Mgt, VA, Department of Veterans Affairs, transmitting the Department's final rule — Presumptive Service Connection for Disease Associated With Exposure to Certain Herbicide Agents: AL Amyloidosis (RIN: 2900-AN01) received May 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2033. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — State Parent Locator Service; Safeguarding Child Support Information (RIN: 0970-AC01) received May 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2034. A letter from the Program Manager — ODRM — HHS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2009 (RY 2010) [CMS-1495-NC] (RIN: 0938-AP50) received May 4, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON of Mississippi: Committee on Homeland Security. House Resolution 404. Resolution directing the Secretary of Homeland Security to transmit to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of documents relating to the Department of Homeland Security Intelligence Assessment titled, "Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment", with an amendment (Rept. 111-134). Referred to the House Calendar.

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 1320. A bill to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes (Rept. 111-135). Referred to the Committee of the Whole House on the State of the Union.

Mr. BERMAN: Committee on Foreign Affairs. H.R. 2410. A bill to authorize appropriations for the Department of State and the Peace Corps for fiscal year 2010 and 2011, to modernize the Foreign Service, and for other purposes, with an amendment (Rept. 111-136). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CONYERS (for himself and Mr. SHUSTER):

H.R. 2695. A bill to amend the antitrust laws to ensure competitive market-based rates and terms for merchants' access to electronic payment systems; to the Committee on the Judiciary.

By Mr. MILLER of North Carolina (for himself and Mr. JONES):

H.R. 2696. A bill to amend the Servicemembers Civil Relief Act to provide for the enforcement of rights afforded under that Act; to the Committee on Veterans' Affairs.

By Ms. SCHAKOWSKY (for herself and Mr. HALL of Texas):

H.R. 2697. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of professional services of optometrists that are otherwise covered when furnished by a physician; to the Committee on Energy and Commerce.

By Ms. GIFFORDS:

H.R. 2698. A bill to improve and enhance the mental health care benefits available to veterans, to enhance counseling and other benefits available to survivors of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. GIFFORDS:

H.R. 2699. A bill to improve the mental health care benefits available to members of the Armed Forces, to enhance counseling available to family members of members of the Armed Forces, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Mr.

ALTMIRE, Mr. ARCURI, Ms. BALDWIN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOUCHER, Ms. CLARKE, Mr. CLAY, Mr. CLAVER, Mr. CLYBURN, Mr. COHEN, Mr. CONNOLLY of Virginia, Mr. COSTELLO, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. EDWARDS of Texas, Mr. FATTAH, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia,

Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE of California, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. ZOE LOFGREN of California, Ms. MCCOLLUM, Mr. McDERMOTT, Mrs. MALONEY, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICHAUD, Mr. MOORE of Kansas, Mr. NADLER of New York, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. ORTIZ, Mr. PAYNE, Mr. PASCRELL, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. RUSH, Mr. RYAN of Ohio, Ms. LINDA T. SANCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Ms. SHEA-PORTER, Mr. SIRES, Mr. STARK, Ms. SUTTON, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. WEINER, Mr. WELCH, Mr. WEXLER, Ms. WOOLSEY, and Mr. YARMUTH):

H.R. 2700. A bill to amend part D of title XVIII of the Social Security Act to assist low-income individuals in obtaining subsidized prescription drug coverage under the Medicare prescription drug program by expediting the application and qualification process and by revising the resource standards used to determine eligibility for such subsidies, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYES:

H.R. 2701. A bill to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. SMITH of New Jersey:

H.R. 2702. A bill to suspend the application of Generalized System of Preferences for Brazil until such time as Brazil complies with its obligations toward the United States under the Convention on the Civil Aspects of International Child Abduction; to the Committee on Ways and Means.

By Ms. HARMAN (for herself and Mr. DICKS):

H.R. 2703. A bill to prohibit the Secretary of Homeland Security from obligating or expending funds for the National Applications Office of the Department of Homeland Security; to the Committee on Homeland Security.

By Ms. HARMAN:

H.R. 2704. A bill to direct the Secretary of Homeland Security to close the National Applications Office of the Department of Homeland Security; to the Committee on Homeland Security.

By Mr. McDERMOTT:

H.R. 2705. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for advance directives; to the Committee on Ways and Means.

By Mr. MARCHANT:

H.R. 2706. A bill to amend title II of the Social Security Act to provide for the reissuance of Social Security account numbers to young children in cases in which the confidentiality of the number has been compromised by reason of theft; to the Committee on Ways and Means.

By Mr. SMITH of Washington (for himself and Mr. REICHERT):

H.R. 2707. A bill to establish a program to improve freight mobility in the United States, to establish the National Freight Mobility Infrastructure Fund, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Mr. RAHALL, Mr. KILDEE, Mr. YOUNG of Alaska, Mr. GRIJALVA, Ms. BORDALLO, Mr. BOREN, Mr. INSLEE, Mr. BACA, Mr. HEINRICH, Mr. TEAGUE, Ms. MCCOLLUM, Ms. LINDA T. SANCHEZ of California, Mr. KAGEN, Mr. LUJÁN, Mr. SALAZAR, Mr. SCHAUER, and Mrs. BONO MACK):

H.R. 2708. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act, and for other purposes; to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BACA, Ms. BALDWIN, Mr. BLUMENAUER, Mrs. CAPPS, Mr. CAPUANO, Ms. CLARKE, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Ms. DEGETTE, Mr. DELAHUNT, Mr. DOYLE, Mr. ELLISON, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Ms. HIRONO, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE of California, Mrs. MALONEY, Mr. MARKEY of Massachusetts, Ms. MATSUI, Mr. MCGOVERN, Mr. MORAN of Virginia, Mr. NADLER of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. PALLONE, Mr. PAYNE, Mr. POLIS of Colorado, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABLAN, Ms. LINDA T. SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. STARK, Ms. WASSERMAN SCHULTZ, Mr. WEINER, Mr. WELCH, Mr. WEXLER, Ms. WOOLSEY, and Mr. WU):

H.R. 2709. A bill to amend the Immigration and Nationality Act to promote family unity, and for other purposes; to the Committee on the Judiciary.

By Mr. HONDA (for himself, Mr. CHANDLER, Mr. DOYLE, Ms. JACKSON-LEE of Texas, Mr. WU, Mrs. CAPPS, Mr. COURTNEY, Mr. FOSTER, Mr. GALLEGLY, Mr. HARE, Mr. HINOJOSA, Ms. LEE of California, Mr. LOEBSACK, Mr. MEEKS of New York, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLT, Mr. STARK, Mr. LYNCH, Mr. MCNERNEY, Mr. MILLER of North Carolina, Mr. BRADY of Pennsylvania, Mr. KENNEDY, Mr. BLUMENAUER, Ms. BORDALLO, Mr. McDERMOTT, Mrs. NAPOLITANO, Mr. SESTAK, Mr. WEXLER, Mr. CLEAVER, Ms. HIRONO, Ms. SUTTON, Ms. SPEIER, Mr. GRAYSON, Mr. COHEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. REYES, Mr. POLIS of Colorado, Mr. SIRES, Mr. PAYNE, Mr. BUTTERFIELD, and Mr. JOHNSON of Georgia):

H.R. 2710. A bill to stimulate collaboration with respect to, and provide for coordination and coherence of, the Nation's science, technology, engineering, and mathematics education initiatives; to the Committee on Education and Labor, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan (for himself, Mr. FOSTER, Mr. TOWNS, Mr. KRATOVIL, Mrs. KIRKPATRICK of Arizona, Mr. LYNCH, Mr. CUMMINGS, Mr. BILBRAY, and Mr. WOLF):

H.R. 2711. A bill to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties; to the Committee on Oversight and Government Reform.

By Mr. CONAWAY:

H.R. 2712. A bill to provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DONNELLY of Indiana (for himself, Mr. HALL of New York, Mr. BOOZMAN, Ms. HERSETH SANDLIN, Mr. BILIRAKIS, Mr. SPACE, Mr. ELLSWORTH, Mr. HILL, Mr. SOUDER, Mr. UPTON, and Mr. ARCURI):

H.R. 2713. A bill to amend title 38, United States Code, to make certain improvements in the service disabled veterans' insurance program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ADLER of New Jersey (for himself, Mr. SMITH of New Jersey, Mr. ANDREWS, Mr. LOBIONDO, and Mr. HOLT):

H.R. 2714. A bill to ensure pay parity for Federal employees serving at Joint Base McGuire/Dix/Lakehurst; to the Committee on Oversight and Government Reform.

By Mrs. BACHMANN (for herself, Mr.

BOEHNER, Mr. HENSARLING, Mr. PRICE of Georgia, Mr. JORDAN of Ohio, Mr. BRADY of Texas, Mr. KLINE of Minnesota, Mr. CAMPBELL, Mr. MCKEON, Mr. CARTER, Mr. WOLF, Mr. BOUSTANY, Mr. SCALISE, Mr. LUETKEMEYER, Mr. OLSON, Mr. GOHMERT, Mr. MARCHANT, Mr. NUNES, Mrs. LUMMIS, Mr. WAMP, Mr. FLEMING, Mr. KINGSTON, Mr. ISSA, Mr. AKIN, Mr. WESTMORELAND, Mr. KING of Iowa, Mr. BURTON of Indiana, Ms. FALLIN, Mrs. BLACKBURN, Mr. SESSIONS, Mr. LAMBORN, Mr. HELLER, Mr. HARPER, Mr. LATTI, Ms. FOX, Mr. BOOZMAN, Mr. GALLEGLY, Mr. PLATTS, Mr. CASSIDY, and Mr. GARRETT of New Jersey):

H.R. 2715. A bill to prohibit the Department of Housing and Urban Development from providing any assistance to any organization that has been indicted for a violation under Federal or State law relating to an election for Federal or State office; to the Committee on Financial Services.

By Mr. BECERRA (for himself and Mr. DOGGETT):

H.R. 2716. A bill to amend title XIX of the Social Security Act to provide financial stability for seniors and people with disabilities through improvements in the Medicare Savings Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOREN (for himself, Mr. YOUNG of Alaska, and Mr. COLE):

H.R. 2717. A bill to exempt guides for hire and other operators of uninspected vessels on Lake Texoma from Coast Guard and other regulations, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER:

H.R. 2718. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY:

H.R. 2719. A bill to extend the temporary suspension of duty on certain ceiling fans; to the Committee on Ways and Means.

By Mr. CROWLEY (for himself and Mr. DREIER):

H.R. 2720. A bill to amend the Internal Revenue Code of 1986 to make permanent the election to treat the cost of qualified film and television productions as an expense which is not chargeable to capital account; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois (for himself, Mr. CUMMINGS, Ms. NORTON, Mr. GONZALEZ, Mr. JOHNSON of Georgia, and Mr. CLAY):

H.R. 2721. A bill to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service; to the Committee on Oversight and Government Reform.

By Mr. FILNER (for himself and Mr. BUYER):

H.R. 2722. A bill to amend title 38, United States Code, to modify and update provisions of law relating to nonprofit research and education corporations, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GERLACH:

H.R. 2723. A bill to amend the Social Security Act to provide for an exemption to allow an individual otherwise ineligible to travel outside the United States to do so for employment purposes to pay child support arrearages, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT (for himself, Mr. INSLEE, and Mr. CARNAHAN):

H.R. 2724. A bill to amend title 49, United States Code, to establish national transportation objectives and performance targets for the purpose of assessing progress toward meeting national transportation objectives; to the Committee on Transportation and Infrastructure.

By Mr. HOLT (for himself, Mr. HIMES, Mr. RODRIGUEZ, Mr. ISRAEL, Mr. ADLER of New Jersey, and Mr. MASSA):

H.R. 2725. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension for the real property standard deduction and to adjust such deduction for inflation; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 2726. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase criminal penalties for the sale or trade of prescription drugs knowingly caused to be adulterated or misbranded, to modify requirements for maintaining records of the chain-of-custody of prescription drugs, to establish recall authority regarding drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES:

H.R. 2727. A bill to provide for the implementation of a system under which each financial institution will report on the financial condition of the institution to the public, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ZOE LOFGREN of California (for herself and Mr. DANIEL E. LUNGREN of California):

H.R. 2728. A bill to provide financial support for the operation of the law library of the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. LUJÁN:

H.R. 2729. A bill to authorize the designation of National Environmental Research Parks by the Secretary of Energy, and for other purposes; to the Committee on Science and Technology.

By Mrs. MCCARTHY of New York (for herself, Mrs. CAPPS, Mr. PASCRELL, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. GRIJALVA, Ms. BORDALLO, Mr. MOORE of Kansas, Mr. CRENSHAW, Ms. WASSERMAN SCHULTZ, Mr. MCMAHON, Mr. BISHOP of New York, and Mr. MCGOVERN):

H.R. 2730. A bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to eligible States for the purpose of reducing the student-to-school nurse ratio in public secondary schools, elementary schools, and kindergarten; to the Committee on Energy and Commerce.

By Mrs. MCCARTHY of New York:

H.R. 2731. A bill to fund comprehensive programs to ensure an adequate supply of nurses; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCLINTOCK (for himself, Mr. McKEON, Mr. KLINE of Minnesota, Mr. JORDAN of Ohio, Mr. CHAFFETZ, Ms. FALLIN, Mr. BARTLETT, Mr. MARCHANT, Mr. HENSARLING, Mr. HUNTER,

Mr. SHADEGG, Mr. PITTS, Mrs. BLACKBURN, Mr. LEE of New York, Mr. CAMPBELL, Mr. BILBRAY, and Mr. ROONEY):

H.R. 2732. A bill to amend the National Labor Relations Act to permit employers to pay higher wages to their employees; to the Committee on Education and Labor.

By Mr. MEEKS of New York (for himself, Mr. PRICE of Georgia, Mr. CLEAVER, Mr. PAUL, Mr. BOSWELL, Mr. SENSENBRENNER, Mr. CLAY, Mr. KLINE of Minnesota, Mr. FATTAH, Mr. LATHAM, Mr. POMEROY, Mr. SESSIONS, Mr. LATOURETTE, Mr. DRIEHAUS, Mr. BRADY of Texas, Mr. MCCAUL, Mr. KIND, Mr. WILSON of Ohio, Ms. JENKINS, Mr. CULBERSON, Mr. WELCH, and Ms. FUDGE):

H.R. 2733. A bill to clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933; to the Committee on Financial Services.

By Mr. PERRIELLO:

H.R. 2734. A bill to amend section 1781 of title 38, United States Code, to provide medical care to family members of disabled veterans who serve as caregivers to such veterans; to the Committee on Veterans' Affairs.

By Mr. RODRIGUEZ (for himself and Mr. NYE):

H.R. 2735. A bill to amend title 38, United States Code, to make certain improvements to the comprehensive service programs for homeless veterans; to the Committee on Veterans' Affairs.

By Mr. SARBANES (for himself, Mr. CLAY, Mr. HASTINGS of Florida, Mr. CARNAHAN, Ms. LINDA T. SANCHEZ of California, Mr. FILNER, Mr. RUPPERSBERGER, Ms. NORTON, Ms. DELAURO, Mr. MICHAUD, Mrs. NAPOLITANO, Mr. ELLISON, Mr. HINCHEY, Ms. WOOLSEY, Ms. RICHARDSON, Mr. HALL of New York, Mr. COSTELLO, Mr. CUMMINGS, Mr. BACA, Mr. RUSH, Mr. BRADY of Pennsylvania, Mr. JOHNSON of Georgia, Mr. MOLLOHAN, Mr. PALLONE, Mr. DELAHUNT, Mr. HOLT, Mr. SERRANO, Mr. SCHAUER, Mr. WALZ, Mr. KAGEN, Ms. CORRINE BROWN of Florida, Mr. GENE GREEN of Texas, Mr. LANGEVIN, Mr. PETERS, Ms. SHEA-PORTER, Mr. CONYERS, Mr. VAN HOLLEN, Mr. PAYNE, Ms. GIFFORDS, Mr. AL GREEN of Texas, Mr. TIM MURPHY of Pennsylvania, Mr. MILLER of North Carolina, Mr. GRIJALVA, Mr. SPACE, Mrs. MALONEY, Ms. TSONGAS, Mr. TIERNEY, Ms. TITUS, Mr. LEVIN, Mrs. DAVIS of California, and Mr. NYE):

H.R. 2736. A bill to ensure efficient performance of agency functions; to the Committee on Oversight and Government Reform.

By Mr. SMITH of New Jersey (for himself, Mrs. MALONEY, Mr. BURTON of Indiana, Mr. LATOURETTE, Mrs. MYRICK, Mr. PAULSEN, Mr. PERRIELLO, Mr. PLATTS, Mr. MCGOVERN, Mr. UPTON, Ms. ESHOO, Mr. MCDERMOTT, and Mr. KIRK):

H.R. 2737. A bill to provide United States assistance for the purpose of eradicating trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes; to the Committee on Foreign Affairs.

By Mr. TEAGUE:

H.R. 2738. A bill to amend title 38, United States Code, to provide travel expenses for family caregivers accompanying veterans to

medical treatment facilities; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of California (for himself, Mr. RADANOVICH, Mr. MEEK of Florida, and Ms. GINNY BROWN-WAITE of Florida):

H.R. 2739. A bill to amend the Internal Revenue Code of 1986 to treat trees and vines producing fruit, nuts, or other crops as placed in service in the year in which it is planted for purposes of special allowance for depreciation; to the Committee on Ways and Means.

By Mr. VAN HOLLEN (for himself and Mr. SESSIONS):

H.R. 2740. A bill to amend the Individuals with Disabilities Education Act to permit a prevailing party in an action or proceeding brought to enforce the Act to be awarded expert witness fees and certain other expenses; to the Committee on Education and Labor.

By Mr. WALDEN:

H.R. 2741. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the City of Hermiston, Oregon, water recycling and reuse project, and for other purposes; to the Committee on Natural Resources.

By Mr. WEXLER (for himself and Mr. SHUSTER):

H.R. 2742. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Azerbaijan; to the Committee on Ways and Means.

By Mr. CROWLEY (for himself and Mr. KING of New York):

H.J. Res. 56. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes; to the Committee on Ways and Means.

By Mr. CAPUANO (for himself and Ms. GRANGER):

H. Con. Res. 144. Concurrent resolution recognizing the value, benefits, and importance of community health centers as health care homes for millions of people in the United States; to the Committee on Energy and Commerce.

By Mr. ALTMIRE (for himself, Mr. KIND, Mr. GRIJALVA, Mr. MCGOVERN, and Mr. BRADY of Pennsylvania):

H. Res. 503. A resolution recognizing National Physical Education and Sport Week, and for other purposes; to the Committee on Education and Labor.

By Mr. SMITH of New Jersey (for himself, Mr. LIPINSKI, Mr. WOLF, Mr. KANJORSKI, Mr. PITTS, Mr. HASTINGS of Florida, Mr. MARIO DIAZ-BALART of Florida, Ms. KAPTUR, Mr. MCCOTTER, Mr. DINGELL, Mr. COHEN, Mr. KIND, Mr. GUTIERREZ, Mr. QUIGLEY, Mr. MCGOVERN, Mr. MCMAHON, and Mr. COURTNEY):

H. Res. 504. A resolution recognizing and congratulating the Republic of Poland on the 20th anniversary of the Polish parliamentary elections on June 4, 1989; to the Committee on Foreign Affairs.

By Ms. SLAUGHTER (for herself, Ms. DEGETTE, Ms. BALDWIN, Ms. WOOLSEY, Mrs. LOWEY, Mrs. CAPPS, Mr. HINCHEY, Ms. FUDGE, Mr. JOHNSON of Georgia, Mr. DOGGETT, Mr. WEXLER, Mr. COHEN, Ms. LEE of California, Mr. WAXMAN, Mr. TOWNS, Ms. NORTON, Mr. ARCURI, Mr. HIGGINS, Mr. HASTINGS of Florida, Ms. SCHAKOWSKY, Ms. MCCOLLUM, Ms. SUTTON, Ms. EDWARDS of Maryland, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MAT-

SUI, Ms. ESHOO, Ms. HARMAN, Mrs. MALONEY, Ms. ZOE LOFGREN of California, Mr. DEFAZIO, Mr. SCHIFF, Mr. THOMPSON of Mississippi, Mr. VAN HOLLEN, Ms. HIRONO, Mr. KUCINICH, Mr. GONZALEZ, Mr. DELAHUNT, Ms. DELAURO, Ms. CLARKE, Mrs. KIRKPATRICK of Arizona, Mr. SIREN, Mr. GEORGE MILLER of California, Mr. TIERNEY, Mr. PRICE of North Carolina, Mr. FARR, Mr. LEVIN, Mr. EDWARDS of Texas, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. BAIRD, Mr. CROWLEY, Mr. THOMPSON of California, Mr. BOYD, Mr. MILLER of North Carolina, Mr. LARSON of Connecticut, Mr. BRALEY of Iowa, Mr. NADLER of New York, Mr. MAFFEI, Mr. SCOTT of Virginia, Ms. WATSON, Mr. CHANDLER, Mrs. DAVIS of California, Ms. TSONGAS, Mr. ISRAEL, Mr. ACKERMAN, Mr. PERLMUTTER, Ms. CASTOR of Florida, Ms. TITUS, Ms. PINGREE of Maine, Mr. WEINER, Mr. KAGEN, Mr. WELCH, Mr. HARE, Mr. MCGOVERN, Mr. KILDEE, Ms. SPEIER, Mrs. NAPOLITANO, Mr. HONDA, Mr. ROTHMAN of New Jersey, and Mr. BRADY of Pennsylvania):

H. Res. 505. A resolution condemning the murder of Dr. George Tiller, who was shot to death at his church on May 31, 2009; to the Committee on the Judiciary.

By Mr. CARTER:

H. Res. 506. A resolution expressing support for designation of the first week of June as "National Education Freedom Week", and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. COURTNEY (for himself, Mr. MURPHY of Connecticut, Mr. MAFFEI, Mr. CARNEY, Mr. MICHAUD, Mr. RODRIGUEZ, Mr. TEAGUE, Mr. KIND, Mr. THOMPSON of Pennsylvania, Mr. HOLDEN, Mr. KILDEE, Mr. ARCURI, Mr. HARE, Mr. WELCH, Mr. SHUSTER, Ms. MARKEY of Colorado, Ms. HERSETH SANDLIN, Mr. MCGOVERN, Mr. HINCHEY, Mr. MCHUGH, Mr. BARTLETT, Ms. DELAURO, Mr. KENNEDY, Ms. MCCOLLUM, Mr. TONKO, Mr. OLVER, Mr. CAMP, Mr. LANGEVIN, Mr. MASSA, Mr. HALL of New York, Mrs. DAHLKEMPER, Mr. SPACE, Mr. LEE of New York, Mr. GARY G. MILLER of California, Mr. SCHAUER, Mr. CUELLAR, Ms. BALDWIN, Ms. WOOLSEY, and Mr. GERLACH):

H. Res. 507. A resolution supporting the goals of National Dairy Month; to the Committee on Agriculture.

By Mr. FORTENBERRY:

H. Res. 508. A resolution expressing the sense of the House of Representatives that the general aviation industry should be recognized for its contributions to the United States; to the Committee on Transportation and Infrastructure.

By Mr. HASTINGS of Florida (for himself and Mr. HONDA):

H. Res. 509. A resolution encouraging the United States to fully participate in the Shanghai Expo in 2010; to the Committee on Foreign Affairs.

By Mrs. MCCARTHY of New York (for herself and Mr. SMITH of New Jersey):

H. Res. 510. A resolution recognizing the need for safe patient handling and movement; to the Committee on Education and Labor, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provi-

sions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mr. BAIRD, Ms. BALDWIN, Mr. COHEN, Mr. ELLISON, Mr. FARR, Mr. FILNER, Mr. HINCHEY, Mr. HONDA, Mr. KUCINICH, Ms. LEE of California, Mr. MCGOVERN, Mr. OLVER, Mr. RAHALL, and Mr. STARK):

H. Res. 511. A resolution commending efforts to teach the history of both Israelis and Palestinians to students in Israel and the West Bank in order to foster mutual understanding, respect, and tolerance; to the Committee on Foreign Affairs.

By Mr. QUIGLEY:

H. Res. 512. A resolution expressing sympathy for the victims and victims' families of Air France Flight 447; to the Committee on Foreign Affairs.

By Mr. ROSKAM (for himself, Mr. HOLDEN, Mr. CARTER, Mr. ETHERIDGE, Mr. GOODLATTE, Mrs. BLACKBURN, Ms. KILPATRICK of Michigan, Mr. BOUSTANY, Mr. LOBIONDO, Ms. BERKLEY, Mr. BILIRAKIS, Mr. GINGREY of Georgia, Mr. MORAN of Kansas, Mr. WOLF, Mr. WILSON of South Carolina, Mr. SCHIFF, and Mr. SMITH of Washington):

H. Res. 513. A resolution supporting the goals and purpose of Gold Star Mothers Day, which is observed on the last Sunday in September of each year in remembrance of the supreme sacrifice made by mothers who lose a son or daughter serving in the Armed Forces; to the Committee on Oversight and Government Reform.

By Ms. WATSON (for herself, Mr. CAMPBELL, Ms. WOOLSEY, Mr. SHERMAN, Mrs. TAUSCHER, Mrs. HALVORSON, Mr. COHEN, Mr. THOMPSON of California, Mr. WAXMAN, Ms. KAPTUR, Ms. HARMAN, Mr. SCOTT of Virginia, Mrs. NAPOLITANO, Ms. LORETTA SANCHEZ of California, Ms. RICHARDSON, Mrs. CAPPS, Mr. ROHRBACHER, Mr. CARDOZA, Mr. DAVIS of Illinois, Ms. ZOE LOFGREN of California, Ms. ESHOO, Mr. SALAZAR, Mr. GRIJALVA, Mr. REYES, Mr. PALLONE, Mr. MANZULLO, and Mr. GALLEGLY):

H. Res. 514. A resolution commending the University of Southern California Trojan men's tennis team for its victory in the 2009 National Collegiate Athletic Association (NCAA) Men's Tennis Championship; to the Committee on Education and Labor.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. MCDERMOTT, Mr. HEINRICH, Mr. SMITH of New Jersey, and Ms. TSONGAS.

H.R. 22: Mr. CUELLAR.

H.R. 24: Mr. CUMMINGS, Mr. MURPHY of Connecticut, Mr. ROTHMAN of New Jersey, Mr. SHADEGG, Mr. MCHENRY, Mr. CONNOLLY of Virginia, Mr. SAM JOHNSON of Texas, and Mr. DEFAZIO.

H.R. 33: Mr. FARR and Ms. BORDALLO.

H.R. 108: Mr. MCCOTTER and Mr. WITTMAN.

H.R. 133: Mr. MCCOTTER.

H.R. 137: Mr. MARCHANT.

H.R. 197: Mr. PENCE and Mr. GARRETT of New Jersey.

H.R. 204: Ms. LEE of California, Ms. MATSUI, Mr. WU, Mr. SHERMAN, Mr. TIERNEY, Mr. MARKEY of Massachusetts, Mr. NADLER of New York, Mrs. NAPOLITANO, Mr. MORAN of Virginia, Mrs. CHRISTENSEN, Mrs. CAPPS, Mr.

CARDOZA, Mrs. DAVIS of California, Ms. ESHOO, Mr. FARR, Ms. HARMAN, Ms. ZOE LOFGREN of California, Mr. MCNERNEY, Mr. GEORGE MILLER of California, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Ms. SPEIER, Ms. WATERS, Ms. WATSON, Ms. WOOLSEY, and Ms. HIRONO.

H.R. 205: Mr. McCOTTER and Mr. BUYER.  
H.R. 211: Mr. CALVERT, Mr. BACA, Mr. GERLACH, and Mr. WHITFIELD.

H.R. 235: Mr. BAIRD and Ms. FUDGE.  
H.R. 268: Mr. FORBES and Mr. KLINE of Minnesota.

H.R. 391: Mr. PRICE of Georgia.  
H.R. 433: Mr. GINGREY of Georgia.  
H.R. 468: Mr. MORAN of Virginia.  
H.R. 470: Ms. GRANGER.  
H.R. 482: Mr. COHEN.  
H.R. 510: Mr. BISHOP of Georgia and Mr. BOUCHER.

H.R. 528: Mr. KUCINICH.  
H.R. 556: Ms. WOOLSEY and Mr. FRANK of Massachusetts.

H.R. 571: Mr. MCGOVERN.  
H.R. 574: Mr. LYNCH.

H.R. 613: Mr. TONKO, Ms. FALLIN, Mr. RODRIGUEZ, and Mr. McCOTTER.  
H.R. 621: Mr. ROGERS of Kentucky, Mr. BERRY, and Mr. JACKSON of Illinois.

H.R. 673: Mr. LARSEN of Washington.  
H.R. 678: Mr. HUNTER and Mr. MURPHY of Connecticut.

H.R. 690: Mr. PATRICK J. MURPHY of Pennsylvania and Mr. SCALISE.

H.R. 708: Mr. DANIEL E. LUNGREN of California and Mr. CASSIDY.

H.R. 734: Mr. ROE of Tennessee, Mr. SARBANES, and Mr. CAO.

H.R. 745: Mr. RYAN of Ohio, Ms. EDWARDS of Maryland, and Mr. ALEXANDER.

H.R. 775: Mr. REHBERG, Mrs. LOWEY, Mr. BILIRAKIS, Mrs. NAPOLITANO, Mr. REICHERT, Mr. FRANK of Massachusetts, and Mr. MITCHELL.

H.R. 795: Mr. ROSS.  
H.R. 808: Ms. EDWARDS of Maryland.

H.R. 836: Mr. BUYER, Mr. DENT, Mr. SCHAUER, Mr. CLEAVER, Mr. HASTINGS of Florida, Mr. HODES, Mr. MARIO DIAZ-BALART of Florida, and Ms. WOOLSEY.

H.R. 847: Mr. MCCAUL.  
H.R. 873: Ms. MCCOLLUM and Mr. FOSTER.

H.R. 914: Mr. GUTHRIE.  
H.R. 932: Mr. KUCINICH and Mr. HINCHEY.

H.R. 949: Ms. WOOLSEY.  
H.R. 950: Mr. SABLAN.

H.R. 952: Ms. KILPATRICK of Michigan and Mr. MCINTYRE.

H.R. 959: Mr. KLEIN of Florida.

H.R. 1016: Mr. CARNEY, Mr. KLINE of Minnesota, Mr. PETERSON, Mr. GRIFFITH, Ms. TSONGAS, Mr. KILDEE, and Mr. POE of Texas.

H.R. 1017: Ms. BERKLEY.  
H.R. 1024: Mr. KENNEDY, Mr. PALLONE, and Mr. MEEKS of New York.

H.R. 1064: Mr. QUIGLEY, Ms. KAPTUR, Mr. BLUMENAUER, Mr. ROTHMAN of New Jersey, Ms. BERKLEY, and Mr. FORBES.

H.R. 1067: Mr. POE of Texas.  
H.R. 1074: Mr. PENCE.

H.R. 1085: Ms. WOOLSEY.  
H.R. 1103: Mr. JONES.

H.R. 1132: Mr. BROUN of Georgia, Mr. SCHAUER, Mr. BLUMENAUER, Mr. MOORE of Kansas, Mr. WOLF, Mr. GONZALEZ, and Mr. SCHOCK.

H.R. 1147: Mr. TOWNS, Mrs. MALONEY, and Ms. ROYBAL-ALLARD.

H.R. 1173: Mr. PAULSEN.  
H.R. 1177: Mr. CONAWAY.

H.R. 1179: Ms. DELAURO.  
H.R. 1182: Mr. JACKSON of Illinois, Mr. ROSS, Mr. ORTIZ, Mr. HINOJOSA, and Mr. FORTENBERRY.

H.R. 1188: Mr. CAMPBELL, Mr. MARKEY of Massachusetts, and Mr. CONNOLLY of Virginia.

H.R. 1189: Mr. MOORE of Kansas and Mr. LYNCH.

H.R. 1204: Mr. SCALISE.  
H.R. 1207: Mr. KING of New York, Mr. HOLDEN, Mr. LIPINSKI, and Mr. KRATOVIL.

H.R. 1210: Mr. McCOTTER and Mr. CHILDERS.  
H.R. 1211: Ms. CORRINE BROWN of Florida and Mr. MEEK of Florida.

H.R. 1213: Mrs. BLACKBURN, Mr. PITTS, and Mr. WHITFIELD.

H.R. 1230: Mr. SESTAK.  
H.R. 1240: Mr. POMEROY.

H.R. 1242: Mr. ROSKAM and Mr. LUETKEMEYER.

H.R. 1250: Ms. SCHAKOWSKY and Mr. LIPINSKI.

H.R. 1308: Mr. MCINTYRE and Mr. CARNAHAN.

H.R. 1327: Mr. MARKEY of Massachusetts.  
H.R. 1329: Mr. CLEAVER and Mr. TONKO.

H.R. 1346: Ms. PINGREE of Maine and Mr. EDWARDS of Texas.

H.R. 1351: Mr. SARBANES, Mr. ETHERIDGE, and Mr. PITTS.

H.R. 1362: Mr. SESSIONS and Mr. HARPER.  
H.R. 1382: Mr. RYAN of Ohio.

H.R. 1392: Mr. YARMUTH.  
H.R. 1396: Mr. AL GREEN of Texas.

H.R. 1405: Mr. COURTNEY and Ms. SHEA-PORTER.

H.R. 1407: Ms. DEGETTE.  
H.R. 1408: Ms. MCCOLLUM.

H.R. 1410: Mr. TONKO.  
H.R. 1415: Mrs. NAPOLITANO.

H.R. 1428: Mr. SCOTT of Virginia, Mr. WEXLER, Mr. DONNELLY of Indiana, Mr. GONZALEZ, Mr. RANGEL, and Mr. CUMMINGS.

H.R. 1430: Mr. SPRATT.  
H.R. 1441: Mr. BOOZMAN.

H.R. 1454: Mr. CHANDLER, Mr. DOYLE, Ms. MCCOLLUM, Mrs. NAPOLITANO, Mr. CARTER, and Mr. MORAN of Virginia.

H.R. 1458: Ms. BERKLEY and Ms. ROYBAL-ALLARD.

H.R. 1466: Mr. CLEAVER.  
H.R. 1479: Mr. CAPUANO.

H.R. 1505: Mr. WITTMAN, Mr. GUTHRIE, Mr. DUNCAN, Mr. SOUDER, Mr. SMITH of New Jersey, Mr. CAO, Ms. WATSON, and Mr. PETRI.

H.R. 1509: Ms. MARKEY of Colorado.  
H.R. 1521: Mr. CUELLAR, Mr. HOLT, Mr. SMITH of New Jersey, Mr. SIREN, Mr. OLSON, and Mr. SIMPSON.

H.R. 1523: Mr. NADLER of New York, Ms. PINGREE of Maine, Mr. MCGOVERN, Ms. MCCOLLUM, and Mr. BRALEY of Iowa.

H.R. 1548: Mr. BUTTERFIELD, Mr. LATHAM, and Mr. MATHESON.

H.R. 1549: Ms. SCHAKOWSKY, Mr. DELAHUNT, Ms. MOORE of Wisconsin, and Mr. SCHIFF.

H.R. 1558: Mr. WU, Mr. MCGOVERN, and Ms. BERKLEY.

H.R. 1581: Ms. BALDWIN and Mr. PAYNE.  
H.R. 1612: Mr. SABLAN.

H.R. 1615: Mr. COURTNEY and Mrs. BIGGERT.  
H.R. 1616: Mr. ABERCROMBIE and Mr. ROTHMAN of New Jersey.

H.R. 1618: Mr. KLEIN of Florida, Mrs. DAVIS of California, and Mr. PASCRELL.

H.R. 1620: Mr. GARRETT of New Jersey.  
H.R. 1624: Mr. BOOZMAN.

H.R. 1625: Mr. SCHRADER and Mr. ROE of Tennessee.

H.R. 1633: Mr. FRANK of Massachusetts.  
H.R. 1640: Mr. ABERCROMBIE.

H.R. 1661: Mr. COHEN, Mr. TAYLOR, Mr. BISHOP of Georgia, Mr. BOREN, Mr. SCHIFF, Ms. WASSERMAN SCHULTZ, Ms. SUTTON, Mr. BERRY, Mr. CARNEY, Mr. BOSWELL, Mr. BRIGHT, Mrs. DAVIS of California, Mr. CLEAVER, Ms. WATSON, Mr. ENGEL, Ms.

HERSETH SANDLIN, Mr. SALAZAR, Mr. GRIJALVA, Mr. GONZALEZ, Mr. REYES, Ms. MCCOLLUM, Mr. STUPAK, Mrs. TAUSCHER, Mr. HOLT, Ms. SCHAKOWSKY, Mr. RODRIGUEZ, Mr. GENE GREEN of Texas, Mr. ACKERMAN, Mr. DAVIS of Tennessee, Mr. SHERMAN, and Mr. WEXLER.

H.R. 1671: Mr. BOSWELL, Mr. DEFAZIO, and Mr. HERGER.

H.R. 1683: Mr. FILNER.

H.R. 1684: Mr. BARRETT of South Carolina, Ms. FALLIN, and Mr. RADANOVICH.

H.R. 1691: Mr. QUIGLEY.  
H.R. 1692: Mr. CHANDLER and Mr. COBLE.

H.R. 1693: Mr. BOUCHER.  
H.R. 1708: Ms. WOOLSEY and Mrs. NAPOLITANO.

H.R. 1721: Mr. JACKSON of Illinois.  
H.R. 1740: Mr. HASTINGS of Washington, Mr. RUPPERSBERGER, Mr. LIPINSKI, Mr. ADERHOLT, Mr. DEAL of Georgia, Mr. DUNCAN, Mr. GALLEGLY, Mr. DANIEL E. LUNGREN of California, Mr. MCCARTHY of California, Mr. MCINTYRE, Mr. GARY G. MILLER of California, Mr. WALDEN, Mr. YOUNG of Alaska, and Mr. FRELINGHUYSEN.

H.R. 1743: Mr. HERGER.  
H.R. 1818: Mr. McCOTTER.

H.R. 1826: Ms. MCCOLLUM, Ms. ZOE LOFGREN of California, and Mr. SESTAK.

H.R. 1829: Mr. MORAN of Virginia and Mr. LATOURETTE.

H.R. 1835: Mr. BROWN of South Carolina and Mr. CAPUANO.

H.R. 1868: Mr. WITTMAN and Mr. ISSA.  
H.R. 1884: Mrs. MILLER of Michigan, Ms. MARKEY of Colorado, Mr. ADLER of New Jersey, Mr. FRANKS of Arizona, Mr. ARCURI, Mr. MCMAHON, and Mr. WELCH.

H.R. 1912: Ms. EDWARDS of Maryland, Ms. KOSMAS, Mrs. DAHLKEMPER, and Mr. YARMUTH.

H.R. 1924: Mr. SIMPSON.  
H.R. 1932: Mr. TONKO.

H.R. 1956: Mr. LEE of New York.  
H.R. 1958: Mr. HINOJOSA, Ms. ROYBAL-ALLARD, Mr. PASTOR of Arizona, Mr. LUJÁN, and Mrs. NAPOLITANO.

H.R. 1960: Mr. McCOTTER.  
H.R. 1963: Mr. SCHAUER and Mr. RUSH.

H.R. 1977: Mr. PAYNE and Mr. ISRAEL.  
H.R. 1980: Mr. MORAN of Kansas.

H.R. 1982: Mr. SCHAUER.  
H.R. 1995: Mr. GORDON of Tennessee, Mr. NEAL of Massachusetts, and Mr. FILNER.

H.R. 2002: Mrs. BONO MACK, Mr. YOUNG of Florida, and Mr. BURGESS.

H.R. 2005: Mr. GARRETT of New Jersey.  
H.R. 2014: Mr. ETHERIDGE and Mr. WELCH.

H.R. 2017: Mr. MARSHALL, Mr. NYE, Mr. BUYER, and Mr. JACKSON of Illinois.

H.R. 2026: Mr. PAULSEN.  
H.R. 2054: Ms. SCHAKOWSKY, Mr. MCDERMOTT, Mr. COHEN, Ms. WOOLSEY, and Ms. PINGREE of Maine.

H.R. 2055: Ms. ZOE LOFGREN of California, Mr. REICHERT, Mr. GRIJALVA, and Mr. REHBERG.

H.R. 2057: Mr. FILNER, Mr. ROTHMAN of New Jersey, Mr. ETHERIDGE, Ms. SHEA-PORTER, Mr. SESTAK, Mr. HARE, and Mr. HONDA.

H.R. 2060: Ms. SCHWARTZ.  
H.R. 2064: Mr. ROONEY.

H.R. 2067: Mr. MASSA.  
H.R. 2083: Mr. PLATTS.

H.R. 2095: Mr. TONKO.  
H.R. 2103: Mr. STARK, Mr. CONNOLLY of Virginia, Mr. RYAN of Ohio, and Mr. JACKSON of Illinois.

H.R. 2106: Mrs. MCMORRIS RODGERS.  
H.R. 2124: Mr. NEAL of Massachusetts.

H.R. 2134: Mr. HINCHEY.  
H.R. 2139: Mr. CONNOLLY of Virginia and Ms. MCCOLLUM.



- H.R. 2141: Mr. McDERMOTT.  
H.R. 2159: Mr. BISHOP of New York.  
H.R. 2178: Mr. RUSH.  
H.R. 2194: Mr. FRELINGHUYSEN, Mr. HIMES, Mr. TIM MURPHY of Pennsylvania, Mr. McNERNEY, Mr. LATHAM, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ROGERS of Michigan, Mr. RODRIGUEZ, Mr. ARCURI, and Mr. KRATOVIL.  
H.R. 2196: Mr. QUIGLEY.  
H.R. 2201: Mr. BOOZMAN.  
H.R. 2209: Mr. BOOZMAN.  
H.R. 2213: Ms. HIRONO and Mr. MORAN of Virginia.  
H.R. 2227: Mr. THOMPSON of Pennsylvania, Mr. SCHOCK, Mr. BROWN of South Carolina, and Mrs. LUMMIS.  
H.R. 2251: Mr. HASTINGS of Florida, Ms. BERKLEY, Mr. MCGOVERN, Mrs. MALONEY, Mr. KLEIN of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. McMAHON, and Mr. MOORE of Kansas.  
H.R. 2254: Mr. EDWARDS of Texas, Mr. THOMPSON of California, Mr. PIERLUISI, Mr. STEARNS, Mr. CARNAHAN, Mr. FLEMING, Mr. JOHNSON of Georgia, Mr. KING of Iowa, Mr. GRAVES, Mr. BOUCHER, Ms. ROS-LEHTINEN, Mr. HINOJOSA, Mr. CARNEY, Mr. LOEBSACK, and Mr. COSTELLO.  
H.R. 2263: Mr. CARSON of Indiana and Mr. MCINTYRE.  
H.R. 2266: Mr. RANGEL, Mrs. MCCARTHY of New York, and Mr. MORAN of Virginia.  
H.R. 2267: Mrs. MCCARTHY of New York, Mr. RANGEL, and Mr. MORAN of Virginia.  
H.R. 2275: Mr. KILDEE, Mr. GORDON of Tennessee, Mr. ISRAEL, Mr. PAYNE, Mr. BISHOP of Georgia, Mr. MCGOVERN, Mr. MARSHALL, Mr. MCHUGH, Ms. LEE of California, Mr. SCHIFF, Mr. JOHNSON of Georgia, Mrs. MALONEY, Mr. FRANK of Massachusetts, and Ms. KAPTUR.  
H.R. 2296: Mr. KAGEN, Mr. TANNER, Mr. BARRETT of South Carolina, Ms. FALLIN, Mr. OLSON, Mr. SHULER, Mr. PENCE, Mr. CRENSHAW, and Mr. JORDAN of Ohio.  
H.R. 2304: Mr. HOLT and Mr. SMITH of New Jersey.  
H.R. 2314: Ms. BORDALLO and Mr. FALEOMAVAEGA.  
H.R. 2329: Mr. HOLT and Mr. RODRIGUEZ.  
H.R. 2339: Mr. PAYNE.  
H.R. 2372: Mr. SHIMKUS, Mr. NUNES, and Mrs. BLACKBURN.  
H.R. 2373: Mr. LATHAM, Mr. BOSWELL, Mr. JOHNSON of Georgia, Mr. FRANK of Massachusetts, Mr. KENNEDY, Mr. DENT, and Mr. BROUN of Georgia.  
H.R. 2378: Mr. SENSENBRENNER, Mr. MURTHA, and Mr. PETERS.  
H.R. 2392: Mr. TOWNS.  
H.R. 2393: Mr. BOOZMAN, Mr. MILLER of Florida, Mr. GINGREY of Georgia, and Mr. ROGERS of Kentucky.  
H.R. 2403: Mr. ROSS and Mr. RYAN of Ohio.  
H.R. 2404: Mr. QUIGLEY.  
H.R. 2406: Mr. POE of Texas, Mr. WESTMORELAND, Mr. SESSIONS, Mrs. BACHMANN, Mr. McCAUL, Mr. CULBERSON, Mr. NEUGEBAUER, and Mr. MCCOTTER.  
H.R. 2413: Mr. MURPHY of Connecticut and Mr. BARROW.  
H.R. 2452: Mr. PETRI.  
H.R. 2472: Mr. MCCOTTER, Mr. ROHRABACHER, and Mr. MARCHANT.  
H.R. 2474: Ms. MATSUI, Mr. McNERNEY, and Ms. SPEIER.  
H.R. 2478: Mr. McDERMOTT.  
H.R. 2488: Ms. BORDALLO, Mr. CARNEY, Mr. MCGOVERN, Mr. REYES, Mr. LUJÁN, and Mr. MASSA.  
H.R. 2497: Mr. PASCRELL and Mr. FILNER.  
H.R. 2499: Mr. SCHOCK, Mr. WELCH, Mr. BISHOP of Utah, Mr. ROONEY, and Mr. SIRES.  
H.R. 2516: Mr. BUCHANAN.  
H.R. 2521: Mr. LYNCH, Mr. HINCHEY, Mr. JACKSON of Illinois, and Mr. MURPHY of Connecticut.  
H.R. 2562: Mr. NYE.  
H.R. 2567: Mr. HONDA, Mr. RUSH, and Ms. WATERS.  
H.R. 2570: Mr. FILNER.  
H.R. 2592: Mr. McMAHON and Ms. ROS-LEHTINEN.  
H.R. 2594: Mr. MILLER of Florida.  
H.R. 2597: Ms. WOOLSEY and Mr. COSTELLO.  
H.R. 2607: Mr. JOHNSON of Illinois, Mr. REHBERG, Mr. BISHOP of Utah, Mr. PETRI, Mr. HOEKSTRA, Mr. BRADY of Texas, Mr. HENSARLING, Mr. WILSON of South Carolina, Mr. BURTON of Indiana, Mr. McHENRY, Mr. GOODLATTE, and Mr. HERGER.  
H.R. 2625: Mr. CLYBURN and Mr. SESTAK.  
H.R. 2640: Mr. McNERNEY.  
H.R. 2648: Mr. WATT, Mr. BISHOP of Georgia, and Mr. THOMPSON of Mississippi.  
H.R. 2651: Mr. LARSEN of Washington.  
H.R. 2652: Mr. LARSEN of Washington.  
H.R. 2662: Mr. DEFazio, Mrs. LUMMIS, Mr. VAN HOLLEN, Mrs. BONO Mack, and Mr. CONNOLLY of Virginia.  
H.R. 2667: Mr. MCGOVERN.  
H.R. 2670: Mr. LEVIN.  
H.R. 2676: Mr. COSTA.  
H.R. 2680: Mr. ABERCROMBIE and Ms. HIRONO.  
H.R. 2681: Ms. JACKSON-LEE of Texas.  
H.R. 2682: Mrs. MYRICK.  
H.R. 2683: Mr. COHEN.  
H.R. 2687: Mr. MCCOTTER and Mr. SMITH of New Jersey.  
H.R. 2692: Mr. BUYER, Mr. GORDON of Tennessee, Mr. WILSON of South Carolina, and Mr. MORAN of Kansas.  
H.J. Res. 47: Mr. LATTI, Mr. NEUGEBAUER, Mr. CONAWAY, and Mr. SMITH of New Jersey.  
H.J. Res. 50: Mr. KING of Iowa.  
H.J. Res. 54: Mr. LATTI, Mr. PRICE of Georgia, Mr. FLEMING, Mr. BILBRAY, Mr. AKIN, Mr. SHIMKUS, Mr. WESTMORELAND, Mr. KING of Iowa, Mr. BURTON of Indiana, Ms. FALLIN, Mrs. BLACKBURN, Mr. KLINE of Minnesota, Mr. CAMPBELL, and Mrs. BACHMANN.  
H. Con. Res. 49: Ms. KAPTUR, Mr. HASTINGS of Florida, and Mr. CAO.  
H. Con. Res. 50: Mr. MEEKS of New York, Ms. KILPATRICK of Michigan, and Mr. FARR.  
H. Con. Res. 51: Mr. AUSTRIA and Mr. MICHAUD.  
H. Con. Res. 59: Mrs. MILLER of Michigan.  
H. Con. Res. 70: Mr. TIAHRT and Ms. ROS-LEHTINEN.  
H. Con. Res. 79: Mr. AL GREEN of Texas, Mr. THOMPSON of Mississippi, Mr. RANGEL, Mr. CLEAVER, Mr. CLYBURN, and Ms. NORTON.  
H. Con. Res. 96: Mr. COURTNEY.  
H. Con. Res. 119: Mr. SCOTT of Virginia, Mr. AL GREEN of Texas, Ms. EDWARDS of Maryland, Ms. CLARKE, Ms. KILPATRICK of Michigan, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Mr. PAYNE, Mr. BISHOP of Georgia, Mr. WATT, Mr. RANGEL, Mr. CLEAVER, Mr. CLYBURN, Ms. NORTON, and Ms. JACKSON-LEE of Texas.  
H. Con. Res. 121: Mr. BARRETT of South Carolina.  
H. Con. Res. 127: Ms. WOOLSEY and Ms. WATERS.  
H. Con. Res. 130: Mr. HIMES, Mr. FRELINGHUYSEN, Mr. LEE of New York, and Mr. McMAHON.  
H. Con. Res. 131: Mr. FRANKS of Arizona, Mr. NEUGEBAUER, Mr. CAMPBELL, and Mr. BARTON of Texas.  
H. Con. Res. 132: Mr. BUYER.  
H. Con. Res. 142: Mr. KING of New York, Mr. JACKSON of Illinois, Mr. GALLEGLY, and Mr. CASTLE.  
H. Res. 69: Mr. MCGOVERN.  
H. Res. 81: Mrs. EMERSON, Mr. KAGEN, and Mr. BONNER.  
H. Res. 89: Mr. MCGOVERN and Mr. McMAHON.  
H. Res. 111: Ms. SCHWARTZ, Mr. ADLER of New Jersey, Mr. REHBERG, and Ms. HERSETH SANDLIN.  
H. Res. 160: Mr. McMAHON.  
H. Res. 185: Mr. MCGOVERN and Mr. COHEN.  
H. Res. 225: Ms. GINNY BROWN-WAITE of Florida, Ms. ROS-LEHTINEN, Mr. FORTENBERRY, Mr. BARRETT of South Carolina, and Mr. BUYER.  
H. Res. 260: Mr. DRIEHAUS, Mr. BURGESS, and Mr. MARSHALL.  
H. Res. 317: Mr. TIAHRT.  
H. Res. 318: Mr. DANIEL E. LUNGREN of California, Mr. BUYER, and Mr. MARIO DIAZ-BALART of Florida.  
H. Res. 322: Mr. FILNER.  
H. Res. 333: Mr. HOLT and Mr. McDERMOTT.  
H. Res. 351: Mr. NYE.  
H. Res. 356: Mr. CAMPBELL, Mr. ADERHOLT, Mr. MCHUGH, Mr. TIAHRT, and Mr. SABLAN.  
H. Res. 363: Mr. HOLT.  
H. Res. 397: Mr. SMITH of Nebraska.  
H. Res. 404: Mr. NEUGEBAUER.  
H. Res. 410: Mr. GERLACH, Mr. CARNEY, Mr. WITTMAN, Mr. MARCHANT, Mr. McDERMOTT, Mr. McCAUL, Mr. SHADEGG, Mr. BAIRD, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. MICHAUD.  
H. Res. 428: Mr. CARDOZA.  
H. Res. 433: Ms. SPEIER, Ms. MCCOLLUM, Mr. SHERMAN, Mr. BACA, Ms. CLARKE, and Ms. DEGETTE.  
H. Res. 445: Mr. CONAWAY, Ms. BORDALLO, Mr. SESSIONS, Mr. BURGESS, Mr. McCAUL, Mr. EDWARDS of Texas, Mr. SMITH of Texas, Mr. RODRIGUEZ, Mr. CARTER, Mr. JOHNSON of Georgia, Mr. BROWN of South Carolina, Mr. AKIN, Mr. MARCHANT, and Mr. REICHERT.  
H. Res. 462: Mr. COSTELLO.  
H. Res. 465: Mr. NYE and Mr. LINCOLN DIAZ-BALART of Florida.  
H. Res. 466: Ms. CASTOR of Florida, Ms. ESHOO, and Mr. GENE GREEN of Texas.  
H. Res. 472: Mr. ALTMIRE, Mr. BOYD, Mr. DAVIS of Kentucky, and Mr. GARY G. MILLER of California.  
H. Res. 476: Ms. VELÁZQUEZ, Mr. WEINER, Mr. JACKSON of Illinois, Mr. FILNER, Mr. FRANKS of Arizona, Mr. DELAHUNT, Mr. BOYD, Mr. OBEY, Mr. KILDEE, Mr. YARMUTH, Ms. KAPTUR, Ms. WATERS, Mr. GONZALEZ, Mr. KANJORSKI, Mrs. SCHMIDT, Mr. HASTINGS of Florida, Mr. CONNOLLY of Virginia, Mr. BACHUS, Mr. HARE, Mr. TOWNS, and Mr. TEAGUE.  
H. Res. 480: Mr. COHEN.  
H. Res. 491: Mr. McMAHON.  
H. Res. 492: Mr. CHANDLER, Ms. MATSUI, Mr. DOYLE, Mr. LOEBSACK, Mr. BAIRD, Mr. HODES, and Mr. BLUMENAUER.  
H. Res. 496: Mr. WOLF and Mr. JONES.



## EXTENSIONS OF REMARKS

KATIE GUAY

## HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Katie Guay who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Katie Guay is a senior at Wheat Ridge High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Katie Guay is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Katie Guay for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

NICHOLAS JOSEPH BROWN

## HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Nicholas Brown of Liberty, Missouri. Nicholas is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 320, and earning the most prestigious award of Eagle Scout.

Nicholas has been very active with his troop, participating in many scout activities. Over the many years Nicholas has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Nicholas Brown for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING THE 15TH ANNIVERSARY OF THE PEACHTREE CHAPTER OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS

## HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CROWLEY. Madam Speaker, I rise today to pay tribute to a chapter of an organization that has helped millions of Americans around the country. The Peachtree Chapter of The American Association of Retired Persons (AARP) is now celebrating its 15th year of accomplishing great things in Co-op City.

The Peachtree Chapter has continued to provide assistance to retired persons and carrying out the work of the national AARP, which is in its 51st year of operation. In 1993, Bernard Aronowitz founded the Peachtree chapter. Meetings were initially held in St. Michael's Church, where members established an Executive Board. However, as membership increased, the chapter moved to the Dreiser Auditorium. It was here that the chapter, which was previously known as the Co-op City chapter, adopted the name Peachtree, after a typo by Washington. The four presidents that have led the chapter, Bernard Aronowitz, Joseph Mattice, Caroline Smith and now Josephine Collins; have furthered the efforts of the chapter to bring help to the elderly population of Co-op City.

The chapter has provided the citizens of Co-op City with support in the challenging times over the past 15 years. The chapter has touched many lives with its commitment to public service.

As a Representative from the Bronx, I know what great change and improvement the Peachtree Chapter has provided and continues to provide for all the citizens of the area.

I send my best wishes to this great chapter, and the organization it represents and I know it will continue to provide service to the community for years to come. Congratulations to the Peachtree Chapter of AARP in Co-op City on 15 great years of service.

## PERSONAL EXPLANATION

## HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BECERRA. Madam Speaker, on Wednesday, June 3, 2009, I missed rollcall No. 295–300. If present, I would have voted “aye” on rollcall votes 295, 297, 298, 299 and 300 and “nay” on rollcall vote 296.

NIKI GARCIA

## HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Niki Garcia who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Niki Garcia is an 8th grader at North Arvada Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Niki Garcia is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Niki Garcia for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

## INTRODUCING A RESOLUTION TO ENCOURAGE UNITED STATES PARTICIPATION IN THE SHANGHAI 2010 EXPO

## HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. HASTINGS of Florida. Madam Speaker, I rise to introduce a resolution to encourage full United States participation in the Shanghai 2010 Expo. The upcoming 2010 Shanghai Expo—the World's Fair—includes more than 170 countries, tens of millions of visitors, and thousands of displays of new and emerging technologies and products to spur economic growth and trade. But the United States is in danger of being a no-show. While we have made verbal commitments to participate, the necessary diplomatic and fundraising efforts have lagged, throwing into doubt an important opportunity to demonstrate our global leadership, improve relations with China, and convey to millions of visitors our country's many technological and cultural achievements.

Madam Speaker, the World's Fair is a lasting and venerable international institution dating back to the mid-19th century. It is older than the modern-day Olympics, and remains behind only the Olympics and the World Cup in global economic and cultural impact. The United States has a long history of involvement in the World's Fair, hosting over 20 fairs. Few people realize that these fairs, in addition to showcasing important American technological and cultural achievements, have also

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

left behind lasting reminders of their importance, such as the Seattle Space Needle, the San Francisco Palace of Fine Arts, and the Chicago Museum of Science and Industry. Unfortunately, in the last decade the United States has declined to participate in many World's Fairs and other international expositions, depriving the international community of experiencing unique features of American economic and cultural life.

Madam Speaker, the upcoming Shanghai Expo presents a unique and important opportunity for the United States to apply our "soft power" in relations with the international community, especially China. The Chinese government has generously allocated over 60,000 square feet for the American pavilion to anchor one side of the central promenade, sharing that honor only with China. This prominence will afford 170 other nations and millions of citizens the occasion to appreciate the United States' technological innovations, cultural traditions, our participation in peaceful and beneficial global events, and our national respect for other nations and cultures. As a global leader, the United States has a responsibility to fully participate in this international affair.

I urge my colleagues to support this resolution.

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INTRODUCTION OF THE "CREDIT  
CARD FAIR FEE ACT OF 2009"

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CONYERS. Madam Speaker, today I am introducing the "Credit Card Fair Fee Act of 2009," legislation that would help level the playing field for merchants and retailers negotiating with banks for the cost of certain fees, and ultimately reduce the costs of everyday goods for consumers. I am joined by Representative BILL SHUSTER.

Every time a consumer uses a payment card—at the mall, at the grocery store, at a gas station, or on the Internet—the merchant is charged a fee. This fee gets divided up three ways—between the merchant's bank, the consumer's bank, and the credit card company. It covers processing fees, fraud protection, billing statements, and other expenses such as system innovations.

As much as 90 percent of this fee comprises a so-called "interchange fee," which is the payment made by the merchant's bank to the consumer's bank. The percentage is set by the credit card companies, generally Visa or MasterCard, and averages 1.75 percent of the total purchase. In 2008, interchange fees from these two companies totaled approximately \$48 billion, an increase of 189 percent since 2001. These fees are ultimately passed on to all consumers in the form of higher prices for goods and services, whether the consumers purchase these items by credit card, check or cash. The average U.S. family paid an estimated \$427 in interchange fees in 2008, nearly triple the amount in 2001.

These interchange fees are set by the credit card companies. The two largest, Visa and

MasterCard, control over 73 percent of the volume of transactions on general purpose cards in the United States and approximately 90 percent of the cards issued. Banks that are members of the Visa association are often also members of the MasterCard association.

Merchants are forced to deal within this system because it is simply not an option to refuse to accept Visa or MasterCard from their customers. They are presented with take-it-or-leave-it options and are not part of the process by which the fees are set.

The bill creates a limited antitrust immunity for negotiating voluntary agreements. This legislation is intended to give merchants a seat at the table in the determination of these fees. It is not an attempt at regulating the industry and does not mandate any particular outcome. This legislation simply enhances competition by allowing merchants to negotiate with the dominant banks for the terms and rates of the fees.

It is time to level the playing field for merchants and consumers. I am hopeful that Congress can move to enact this worthwhile and timely legislation.

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**CARLOS GONZALES**

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Carlos Gonzales who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Carlos Gonzales is an 8th grader at Drake Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Carlos Gonzales is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Carlos Gonzales for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

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HONORING THE EFFORTS OF THE  
FIRE MARSHAL JOHN J. HENRY

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BURGESS. Madam Speaker, I rise today to honor Fire Marshal John J. "Jody" Henry for his tireless and persistent efforts to solve the arson case of the old Cooke County Courthouse. His determination over past three years resulted in the conviction of Timothy York.

In his 30 years of service as a firefighter, this incident was one of the most important to

Fire Marshal Henry. When the Cooke County Courthouse was attacked on February 21, 2006, Henry began combining efforts with members of different governmental agencies to find the person responsible for the attack on the district judge and courthouse. He spent endless hours pouring over the details of the case in order to put it to rest.

Fire Marshall Henry shares the credit of success of this case with the individuals with whom he worked closely. His confidence and his teamwork earned him the respect of his peers. He served as the first vice president of the Texas Fire Marshal's Association and received the Jack Sneed Memorial Commendation Award. The Gainesville Fire Chief considers Henry one of the most dedicated public servants the city has known. He is known in the community for working passionately for the safety of firefighters and citizens alike.

Madam Speaker, I am proud to recognize the diligent efforts of Fire Marshall John J. Henry in solving the Cooke County Courthouse case. He has been an invaluable firefighter and his continuing efforts in saving lives in the Cook County Community are greatly appreciated. It is an honor to represent Fire Marshal John J. Henry in the 26th District of Texas.

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TRIBUTE TO THE YMCA OF CENTRAL MASSACHUSETTS MINORITY ACHIEVERS, WORCESTER, MASSACHUSETTS

**HON. JAMES P. MCGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. MCGOVERN. Madam Speaker, I rise today to recognize the work and achievements of Fred Alexis, Brandon Wood, Robert Hill, Devon Moore, Tiera Givins, Josh Alexander, Sheena Agyemang, Ricordo Myers, Zakee Jenkins, Anesia Wright, Rohan Amarsingh, Latricia Harris, Amenze Enoma, Angelique Berry, Kofi Owusu, Malcom Evans, and Roshorn Morales. These students are high school seniors who are graduating from the Minority Achievers Program of the YMCA of Central Massachusetts.

Madam Speaker, through academic support, the YMCA of Central Massachusetts Minority Achievers Program creates a diverse, inclusive, and challenging environment for middle and high school students. This program helps primarily minority students advance and reach their academic goals and prepares them for the transition to college. It creates and inspires a diverse pool of future leaders by providing an environment in which students can realize their potential.

These students worked together and empowered each other while perfecting their own knowledge and learning to become well-rounded individuals. However, these achievements would not have been possible without the help and guidance of dedicated adult mentors. I also recognize Marie Boone, Mark Bilotta, James Bonds, Marion Wilson, and Annie Cox for their passionate commitment and unyielding belief in their students.

Madam Speaker, I ask my colleagues in the United States House of Representatives to

join me in honoring these graduates of the Minority Achievers Program for their hard work along with the mentors who guided and supported them. They represent the tremendous promises of education and deserve our recognition.

RECOGNIZING FATHER JOHN A. FARRY

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. QUIGLEY. Madam Speaker, I rise today to recognize the long and distinguished career of Father John A. Farry. On June 30, 2009, Father Farry will retire from his position as Pastor at Saint Andrew Parish, the most recent parish in his 44 years of dedicated service.

Born in Bronx, New York, Father Farry graduated from Quigley Preparatory Seminary in Chicago and continued on to St. Mary of the Lake Seminary—Mundelein in Mundelein, Illinois, where he was ordained a priest in 1965.

Throughout his career, Father Farry has served many areas of the Chicago community, including Saint Bernard Parish in Englewood, Saint Thomas the Apostle Parish in Hyde Park, and Saint Andrew Parish in Northcenter.

Father Farry also served in positions other than pastor when the community needed it, such as Catholic Community of Englewood Coordinator, leader of the Team Ministry at Saint Bernard Parish, and religion teacher at various schools in the area. He reached out to all members of the diverse community and is known for his selflessness and his compassion.

Madam Speaker, I congratulate Father Farry on his lengthy and influential career, and thank him for his many outstanding contributions to the city of Chicago. I wish him the best of luck and continued happiness in his retirement and all his future endeavors.

CELEBRATING THE 20TH ANNIVERSARY OF THE SUSAN G. KOMEN RACE FOR THE CURE IN OUR NATION'S CAPITAL

**HON. RON KLEIN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. KLEIN of Florida. Madam Speaker, I rise in strong support of H. Res. 109, recognizing the 20th anniversary of the Susan G. Komen Race for the Cure in our nation's capital. The Susan G. Komen Race for the Cure has not only raised substantial funds for breast cancer research, but serves as a day to pay tribute to the loved ones we've lost, empower those who have survived, and support those who continue to battle this disease. Like many other Americans, my family has been touched by breast cancer. But due to advances in treatment, greater awareness, and increases in early detection, we can now fight this disease head on and bring new hope to

the mothers, sisters, daughters, wives and friends that are diagnosed each year.

Susan G. Komen unfortunately lost her battle with breast cancer, but her story and her sister's perseverance to put an end to breast cancer once and for all has helped advance research, educate women on the importance of early detection, and bring men and women from all walks of life together to share their stories and struggles with this disease. I was proud to cosponsor this resolution, and participate in the Susan G. Komen Race for the Cure in my own community in Florida.

I'd like to thank my colleague, Congressman DONNELLY, for introducing this important legislation and urge adoption of the resolution.

HONORING MICHAEL KRASOWSKI

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Michael Krasowski a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 145, and in earning the most prestigious award of Eagle Scout.

Michael has been very active with his troop participating in many scout activities. Over the many years Michael has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Michael Krasowski for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING LOTTE SCHILLER

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. WOOLSEY. Madam Speaker, I rise with sadness today in honor of my friend Lotte Schiller who passed away on May 4, 2009, just before her 89th birthday. Lotte was well-known in Marin County, California, where she actively promoted the causes she believed in—from art and the public school system to progressive politics and voter education.

Born in Germany in 1920, Lotte was forced to flee to Palestine 14 years later with her Jewish family. She attended the Hebrew Teachers College for Women and then taught school and owned a nursery school in Jerusalem. She married architect Hans Schiller in 1940 and moved to Mill Valley in 1947 when Hans' practice with famed architect Erich Mendelsohn relocated to San Francisco.

With her strong background in education, it is no surprise that Lotte served four terms as a trustee for the Tamalpais Union High School District, including 12 years as President, as well as playing a part on education boards and commissions at the local, state, and na-

tional levels. Other affiliations included Family Service Agency of Marin, KQED Community Advisory Committee, National Women's Political Caucus, and the New Voter Education Research Foundation (of which she was a founding member).

Lotte and Hans were both active in the Democratic party, where we shared a commitment to achieving progressive goals. Hans was an architectural activist, who believed in public access to parks and open spaces.

Hans predeceased Lotte in 1998, and she is survived by her children Peter and Anita as well as three grandchildren and two great grandchildren.

Madam Speaker, I will miss Lotte Schiller's activism and commitment. Her example inspire many of us and I will carry on, as she would have wished, to promote the causes we shared.

PERSONAL EXPLANATION

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, on Thursday, May 21st, I was unable to vote on rollcall votes 288, 289, 290, and 291 because of the graduation of one of my daughters from high school. The pending matter was H.R. 915, the Federal Aviation Administration Reauthorization Act. My constituents in Colorado's seventh congressional district deserve safe airways, convenient and affordable passenger aircraft service, and adequately maintained airports. H.R. 915 accomplishes these goals and many others. I am pleased to see it passed the House. Had I been present, I would have voted in the following manner: on rollcall vote 288 (Burgess of Texas amendment) I would have voted "yes"; rollcall vote 289 (McCaul of Texas amendment) I would have voted "yes"; rollcall vote 290 (Motion to recommit) I would have voted "no"; and rollcall vote 291 (Final passage) I would have voted "yes."

HONORING 14 CONGRESSIONAL CERTIFICATE OF MERIT WINNERS

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor the accomplished students who earned the Certificate of Congressional Merit for their exemplary citizenship and academic excellence. Fourteen students from Minnesota's Sixth District were nominated by their schools for this prestigious award and it is a great privilege to be able to share their accomplishments with this Congress.

These students have shown that they can set and achieve goals, work as a team member or a leader, contribute to a larger cause, all while making time for study and friendships as well. They have made significant contributions to their schools and communities and

stand out to faculty and staff as students that would never ask for recognitions for their efforts.

I rise today, Madam Speaker, to honor these fourteen students for their successful high school careers and to wish them all the best in their bright futures:

Mr. Chris Neumann of Winsted, Holy Trinity School; Mr. Joshua Putnam of Woodbury, New Life Academy; Mr. Kevin Capp of Andover, Andover High School; Ms. Jacqueline Lee of Becker, Becker High School; Ms. Mysee Chang of Corcoran, Buffalo High School; Mr. Michael Roth of Delano, Delano High School; Mr. Tyler Rausch of Elk River, Elk River Senior High School; Mr. Thomas Linn of Watkins, Kimball Area High School and ALC; Ms. Kayla Ruff of Monticello, Monticello High School; Mr. Russell O'Fallon of Paynesville, Paynesville Area Secondary School; Ms. Tracy Skluzacek of Cold Spring, Rocori High School; Mr. Jacob Horn of St. Michael, St. Michael-Albertville High School; Ms. Courtney Ledo of Stillwater, Stillwater High School; and Ms. Rebecca Lauer of Albany, Immaculate Conception Academy.

It was best said by beloved children's author, Dr. Seuss, "The more that you read, the more things you will know. The more that you learn, the more places you'll go." These students are the bright future we have to look forward to in Minnesota and in our nation. We are looking forward to the successes they will have and the dreams they will follow and, the places they will go.

#### PERSONAL EXPLANATION

#### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mrs. MYRICK. Madam Speaker, I was unable to participate in the following votes due to illness. If I had been present, I would have voted as follows:

June 3, 2009: rollcall vote 298, on motion to suspend the rules and agree—H. Con. Res. 109, Honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009, and for other purposes—I would have voted, "aye"; rollcall vote 299, on motion to suspend the rules and agree, as amended—H. Res. 471, Expressing sympathy to the victims, families, and friends of the tragic act of violence at the combat stress clinic at Camp Liberty, Iraq, on May 11, 2009—I would have voted, "aye".

INTRODUCTION OF THE RESOLUTION COMMENDING EFFORTS TO TEACH THE HISTORY OF BOTH ISRAELIS AND PALESTINIANS TO STUDENTS IN ISRAEL AND THE WEST BANK IN ORDER TO FOSTER MUTUAL UNDERSTANDING, RESPECT, AND TOLERANCE

#### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. MORAN of Virginia. Madam Speaker, at a time when there is intense division between Israelis and Palestinians, it is vital that the historical perspectives of both people be taught to both sides. While forces and events pull people in the Middle East away from each other, dedicated teachers in Israel and the West Bank are helping their students to confront their apprehensions and prejudices through better understanding of the "other."

By teaching Palestinians about the Holocaust and Israeli-Jews about the Palestinian perspective of the 1948 war, the children in the region will hopefully grow to understand better, and fear less, those with whom they share the Holy Land. It is those kinds of initiatives that exemplify the small steps needed to be taken on the long road to peace. Let us recognize them and encourage others to do the same. Thank you.

#### COSPONSORS OF LEGISLATION

The Honorable Brian Baird, The Honorable Tammy Baldwin, The Honorable Steve Cohen, The Honorable Keith Ellison, The Honorable Sam Farr, The Honorable Bob Filner, The Honorable Maurice Hinchey, The Honorable Michael Honda, The Honorable Dennis Kucinich, The Honorable Barbara Lee, The Honorable Jim McGovern, The Honorable John Olver, The Honorable Nick Rahall, and The Honorable Fortney Pete Stark.

#### HONORING NATHAN WHITLOCK

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Nathan Whitlock a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 145, and in earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Nathan Whitlock for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE IDEA FAIRNESS RESTORATION ACT

#### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. VAN HOLLEN. Madam Speaker, I rise today to introduce the IDEA Fairness Restoration Act to clarify Congressional intent and help parents of students with disabilities ensure that their children have access to the free and appropriate education guaranteed by this Congress in 1975. I thank Mr. SESSIONS, who joins me in offering this bill, for his work on this important issue.

It is vitally important that parents and schools cooperate and collaborate to educate our nation's children. When Congress passed the Individuals with Disabilities Education Act, it recognized the value of this partnership in special education. For the most part, this relationship has worked very well. But occasionally, the school system cannot or does not provide an appropriate education. In those rare cases, the Congress recognized that parents should have the ability to challenge the school's decision and advocate for a new Individual Education Plan.

As both school systems and parent build their cases, they bring expert witnesses to assess the student and testify about the quality of the education plan. In 1986, when Congress amended IDEA, it explained in the Conference Report that when parents win their case, a judge could award attorney's fees, including, and I quote, "reasonable expenses and fees of expert witnesses and the reasonable costs of any test or evaluation which is found to be necessary for the preparation of the parent or guardian's case." For years, prevailing parents were awarded expert witness fees, as Congress intended. But unfortunately, while Congress was very clear in its explanation of the bill, it did not include this provision in the legislative language. In 2006, the provision was challenged and the Supreme Court ruled that because Congress did not make its intention explicit in statute, courts could no longer award these fees.

IDEA guarantees students with disabilities a free and appropriate education. But, as a result of this decision, parents can be faced with many thousands of dollars of expert witness fees in order to ensure their child gets the education plan he needs. A single expert witness can charge anywhere from \$100–\$300 per hour. Confronted with these costs, parents are discouraged or outright barred from bringing meritorious cases to secure the rights of their children. Low- and middle-income families are particularly hard hit.

Today, I introduce a bill to clarify Congress's intent and restore the expert witness fee provisions. It will allow parents to recover the high cost of expert witnesses if, and only if, they win their dispute with the school district. I want to be very clear—this bill does not impose any additional costs on school districts that comply with IDEA. The provisions apply only when a school system has been found, after an impartial hearing, to have wrongfully denied a child an appropriate education as defined in IDEA.

Madam Speaker, we must ensure that we keep the promise of IDEA and provide every

child with a free and appropriate education. This bill will level the playing field and help parents be effective advocates for their children's best interests.

#### PERSONAL EXPLANATION

#### HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. YARMUTH. Mr. Speaker, I was unable to cast the recorded vote for rollcall 293, H.J. Res. 40, On Motion to Suspend the Rules and Pass. Had I been present I would have voted "yes" for this measure.

#### CONGRATULATIONS TO THE DECALOGUE SOCIETY ON ITS 75TH ANNIVERSARY

#### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. SCHAKOWSKY. Madam Speaker I rise today to thank and congratulate the Decalogue Society of Lawyers, which this year celebrates its 75th anniversary.

Founded in 1934 to fight anti-Semitism and other forms of discrimination and intolerance, the Decalogue Society has a proud record of achievement. It is the oldest Jewish Bar Association in the United States, representing the values and concerns of the Jewish community while working to protect the rights and privileges of all Americans.

All of us are proud to be a nation of laws, and we strive to ensure that "equal justice under the law" is not just a motto but a reality. The Decalogue Society recognizes that lawyers play an essential role in maintaining a free society committed to equal justice. It works to ensure that we as a nation understand and value the role of the legal profession in reaching that goal, even as its lawyers participate in social action and cooperate in diverse movements for the public welfare.

Access to competent legal representation is an essential ingredient for making sure that the laws of the land are just and fairly enforced. The Decalogue Society extends critical educational and financial support to those lawyers who work to end discrimination and represent the rights of the most vulnerable among us. The Decalogue Foundation was created in the 1960s to provide scholarships for deserving law students. It has established nine endowment funds at the Hebrew University Law School and six Chicago-area law schools. It also provides free continuing legal education to assist members and non-members alike in becoming better informed lawyers.

I hope that my colleagues will join me in congratulating the Decalogue Society for its commitment to the ideals of religious freedom and racial tolerance and for its efforts to encourage and assist those women and men who want to pursue future legal careers in public service. Chicago, Illinois and the United

States all benefit from its activities and from its commitment to the principles of law and equality.

#### MARISSA GARCIA

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Marissa Garcia who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Marissa Garcia is an 8th grader at Arvada Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Marissa Garcia is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Marissa Garcia for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

#### IN MEMORY OF F.P. SIEDENTOPF

#### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. WILSON of South Carolina. Madam Speaker, I am honored to have this opportunity to recognize the life and service of Frederick Paul Siedentopf. A 31-year veteran of the United States Marine Corps, Mr. Siedentopf passed away on May 25th, Memorial Day. He served with honor and distinction as an avionics technician throughout the later part of the 20th Century including active roles during the Vietnam War and the Cold War. His service and commitment to this Nation earned him broad respect by his fellow Marines as well as the Good Conduct Medal, the Navy Achievement Medal, the Navy Commendation Medal, and the Meritorious Service Medal.

Following his retirement as a Master Gunner Sergeant in 1990, Siedentopf was determined to continue to give back to his country. He remained active in numerous community organizations as well as being an avid contributor to local newspapers with his frequent letters to the editor. The people of Beaufort, South Carolina were honored to have had an individual of Siedentopf's character as part of their community for several years.

Our thoughts and prayers are with his wife Judy, their two daughters, Cindy and Debra, two grandchildren, and three great grandchildren. As we paused to recognize the service and sacrifice of so many brave Americans on Memorial Day, it is fitting that we remember the lifetime of service by Frederick Paul

Siedentopf. Our Nation is blessed to have men and women of such commitment and love for their country.

#### A TRIBUTE IN RECOGNITION OF THE REGIONAL WINNERS OF THE AMERICAN ADVERTISING FEDERATION'S 2009 NATIONAL STUDENT ADVERTISING COMPETITION

#### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. ROYBAL-ALLARD. Madam Speaker, I rise today to commend the regional winners of the American Advertising Federation's 2009 National Student Advertising Competition.

Of the 142 schools that participated in this year's contest, 18 regional winners are gathering during the first week of June in our nation's capital for the final competition. The teams proudly represent the following distinguished colleges and universities: the University of California, Berkeley; Johnson & Wales University; The George Washington University; Syracuse University; University of Virginia; Florida State University; Ohio University; Columbia College Chicago; Northwood University; The University of Alabama; University of Minnesota; the University of Nebraska-Lincoln; Texas Tech University; Portland State University; Art Center Design College-Tucson; Hawai'i Pacific University; Chapman University; and Texas Christian University.

This highly respected contest is the nation's leading competitive program to showcase emerging student talent in the advertising field. Each year, student advertising clubs at colleges and universities across the nation compete to create a winning integrated advertising campaign for the competition's sponsor.

The 2009 competition challenge is particularly innovative. For the first time in the 36 year history of the competition, the students are being asked to tackle a social issue via public service advertising. This year's contest is focused on preventing binge drinking—a dangerous activity commonplace on many college and university campuses that all too often leads to grave and tragic consequences.

To understand how serious of a problem this is, you need only look at recent statistics. According to the Monitoring The Future Study, 40 percent of college students reported binge drinking in the past year. Tragically, this alarming statistic has remained relatively unchanged since 1993. In addition, numerous studies confirm excessive drinking by college students can lead to difficulty concentrating, memory lapses, mood changes as well as other problems that impact a person's daily life. Binge drinking also carries more serious risks such as alcohol poisoning, and physical and mental health issues such as lower brain function, personality changes, depression and even alcoholism.

I commend the competition sponsor and organizers for tackling this importance issue that jeopardizes the health and safety of so many of our young people. This year's competition was made possible due to the collaborative efforts of the Century Council, the competition's

sponsor, the Ad Council and the American Council on Education.

Madam Speaker, on the occasion of the competition's national finals in the Washington, D.C. area June 4-5, I ask my colleagues to please join me in recognizing these remarkable students for their contribution to attacking the critical issue of binge drinking and for their talents, creativity and hard work. Each team spent many months developing their concepts, testing their messages on campus and creating evaluation criteria. Their winning concepts will not only provide fresh and innovative ideas for a communications campaign, but will also help us to better understand how to fight this serious problem. It is also my hope that long after this year's competition ends the participants and their universities will continue their work on this topic by sharing their messages with fellow students. Together, we can save lives by reducing binge drinking on college campuses.

IN HONOR OF VENTURA COUNTY  
UNDERSHERIFF CRAIG HUSBAND

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GALLEGLY. Madam Speaker, I rise to honor Craig Husband, Undersheriff for the Ventura County, California, Sheriff's Department, who retires Friday after more than 32 years with the department and 10 years as Undersheriff.

During his tenure, Undersheriff Husband made his mark on literally every aspect of the Sheriff's Department. His assignments have included custody, patrol, personnel, narcotics and crime prevention. He has commanded the Sheriff's Training Academy and the Major Crimes and Narcotics Bureaus.

In 1997, Husband became Chief of Police for the City of Camarillo, which contracts with the Sheriff's Department for law enforcement services. Chief Husband developed, implemented or expanded National Night Out, Neighborhood Watch, Stranger Danger, Mobile Police Storefronts, Kidprint, Citizen Patrol, foot patrol, bike patrol, horse patrol, the Citizen Academy and tactical crime analysis, among other programs.

In June of 1999, he was appointed Undersheriff. In that post, second only to the Sheriff, Husband oversees a \$200 million budget and a 1,200-person department with 750 sworn peace officers. Undersheriff Husband's responsibilities also include the coordination of the Sheriff's Department's four divisions—Detention Services, Patrol Services, Special Services and Support Services. These four divisions include the jails, court security, five patrol contract cities, disaster preparedness, the Air Unit and Search and Rescue.

Undersheriff Husband's commitment and professionalism has not gone unnoticed. Sheriff Bob Brooks was recently quoted as calling Undersheriff Husband a "loyal and helpful partner and friend" whom he would trust with his life.

Undersheriff Husband serves as a volunteer on numerous boards, including the Camarillo

Healthcare District, Camarillo Breakfast Rotary and the Camarillo Boys and Girls Club. He was selected as the 1999 Public Servant of the Year by the Camarillo Chamber of Commerce.

He was named the Tri-Counties Narcotics Officer of the Year and the State of California (region 6) Narcotics Officer of the Year. He also was awarded the Medal of Merit for bravery and is a lifetime member of the Professional Baseball Players Association. Undersheriff Husband holds a sixth-degree black belt and is considered one of the foremost authorities of that discipline in the world.

Madam Speaker, I know my colleagues will join me in thanking Undersheriff Craig Husband for his decades of dedication, professionalism and service to the Ventura County Sheriff's Department and the people it serves, and in wishing Craig and his wife, Cecilia, a long and productive retirement.

AUSTIN GALLEGOS

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Austin Gallegos who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Austin Gallegos is an 8th grader at Arvada Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Austin Gallegos is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Austin Gallegos for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

WESLEY WILSON

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Wesley Wilson of Weston, Missouri. Wesley is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 249, and earning the most prestigious award of Eagle Scout.

Wesley has been very active with his troop, participating in many scout activities. Over the many years Wesley has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Wesley Wilson for his ac-

complishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING MAYOR ANDY  
WAMBSGANSS

**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. MARCHANT. Madam Speaker, I rise today to honor a great friend and tremendous public servant, former Mayor Andy Wambsganss, for his years of service to the City of Southlake and the North Texas region.

Since assuming the mayor's office in 2003, Mayor Wambsganss guided Southlake with an immense degree of dedication, passion and competence. He served as mayor for nine years, from 2003 to 2009, and prior to his mayoral tenure he served on the Southlake City Council, as Mayor Pro Tem, and as a judge in the community. Andy has always strived to better his community, and his broad experience served his constituents well.

Under Andy's principled leadership and sound management, the City of Southlake experienced tremendous economic growth while at the same time maintained the city's unique small town charm. He managed the city with great efficiency and responsible fiscal discipline. Andy selflessly served the City of Southlake for many years, and his positive impact on the city will long endure in the future.

Throughout the years, Andy Wambsganss contributed his expertise to many local and regional organizations. He was President of Southlake Crime Control and Prevention; on the Southlake Teen Court Board of Directors; Director of the Airport YMCA; Director of Metroport Cities Fellowship; member of the Tarrant County Mayor's Forum; member of the Northeast Leadership Forum; and much more.

Andy Wambsganss is a longtime resident of Southlake, a kind and apt public servant, and a family man. His wife, Leigh, and their two boys, are involved in many community and philanthropic endeavors.

It is a distinct privilege to call Andy a friend of mine. He has been an outstanding public servant to the City of Southlake and his honest leadership will be sorely missed. On behalf of the 24th Congressional District of Texas, I extend my sincere appreciation to Andy Wambsganss and wish him the very best of luck in the future.

THE PASSING OF MS. KOKO TAYLOR,  
THE "QUEEN OF THE  
BLUES" JUNE 4, 2009

**HON. JESSE L. JACKSON, JR.**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. JACKSON of Illinois. Madam Speaker, I rise today to express my condolences to the family, friends and colleagues of one of my most prestigious constituents, from Country Club Hills, Ms. Koko Taylor the "Queen of the

Blues". Ms. Taylor passed away yesterday afternoon at Northwestern Memorial Hospital.

For more than 40 years, Koko Taylor's powerhouse vocals have thrilled audiences, from little bars in Chicago's South Side to giant international festivals. Ms. Taylor has been described by Rolling Stone as "the great female blues singer of her generation."

She's been in movies, on television, on radio and in print all over the world and has received just about every award the blues world has to offer, including 29 Blues Music Awards, and a Grammy Award in 1984. I personally had the privilege of presenting the National Endowment of the Arts National Fellowship Award to Ms. Taylor in 2004.

Undoubtedly, Ms. Taylor's contributions to the music world have been innumerable. I am deeply saddened by her passing and I rise today to honor her many achievements and offer my condolences to her family, friends, and fans across the country.

ALEXANDRIA HAFKEY-HAIGHT

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Alexandria Hafkey-Haight who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Alexandria Hafkey-Haight is an 8th grader at Faith Christian Academy and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Alexandria Hafkey-Haight is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Alexandria Hafkey-Haight for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

CONGRATULATING LORRAINE  
BERGMAN ON BEING RECOGNIZED AS THE BUSINESS WOMAN  
OF THE YEAR BY THE TEMPE  
CHAMBER OF COMMERCE

HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. MITCHELL. Madam Speaker, I rise today in recognition of Lorraine Bergman, who was recently named Business Woman of the Year by the Tempe Chamber of Commerce.

Ms. Bergman is currently the President and CEO of Caliente Construction, a company originally started by her late husband Thomas Bergman. After his passing in 2005, Lorraine

stepped up and rebuilt the company herself. Under her leadership, Caliente Construction has more than doubled in its percentage of growth and in number of employees. The success of this local business was previously recognized by the Tempe Chamber of Commerce when Lorraine received the Business Excellence Award in 2008.

In addition to the success of her own company, Lorraine has made many contributions to the surrounding business community. She is a founding member of Advancing Women in Construction, as well as the East Valley Branch of Fresh Start, a program that assists women whose lives have been impacted by traumatic events. Lorraine is a graduate of both the Gilbert and Tempe Leadership programs whose experience, dedication and body of work truly deserve to be honored.

Madam Speaker, please join me in recognizing Lorraine Bergman's many contributions to our community.

THE DEDICATION OF THE SAN BENITO  
MEMORIAL PARK AND MEMORIAL  
FREDDY FENDER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. ORTIZ. Madam Speaker, I rise today to recognize the dedication of the San Benito Memorial Park on Saturday, June 6 where a memorial honoring the life of Freddy Fender stands.

Born Baldemar Garza Huerta on June 4, 1937, in San Benito, Texas, Freddy Fender was the son of Serapio and Margarita Garza Huerta, a laborer and migrant farm worker. He was the eldest of nine children.

The love of music came early to young Balde, as everyone called him then. He was only five years old when he acquired an old three-string backless guitar which he quickly learned to play. He may have come from a very poor upbringing, but his optimism was undeniable, using music as a means to make life happier. "Music always made it better," as he would say.

The family would follow the seasonal crops for harvesting. They traveled north to work beets in Michigan, bale hay and pick tomatoes in Indiana, harvest cucumbers in Michigan and onions in New Mexico. Then, it was back home to San Benito for the winter where he spent time entering and winning talent contests.

Baldemar Huerta's professional career was ignited in November 6, 1956, as El Bebop Kid, when he originally recorded Spanish-language versions of Don't Be Cruel and Holy One, hits in Texas, Mexico and South America, that reflected his unique fusion of love songs and rock 'n roll. For a short time he also recorded under the names of Scotty Wayne and Eddie Medina.

He signed with Imperial Records in 1959 after taking the name Fender from the neck of his Fender guitar and Freddy because it sounded good. He first recorded his mega-hit, Wasted Days and Wasted Nights in 1959.

Fender is credited with being the first American Hispanic Rock & Roll recording artist in

Anglo Latino music history. He was also the first Mexican-American artist to cross over into mainstream pop and country music, and with introducing Tex-Mex music into the American and world music scene.

Freddy Fender was more than just an artist; he was my dear friend who I had the honor of knowing and working with for many years. Through this dedication, we pay tribute to a man who traveled around the world singing songs that brought smiles and joy to the lives of many, including myself. Freddy never forgot where he was from—his roots and upbringings remained intact throughout his professional career as a singer.

Today, we remember him through his songs, his spirit and his love for the Rio Grande Valley, especially San Benito.

On October 14, 2006, we all lost a dear friend, companion, singer, and San Benito native, when Freddy went to be with the Lord. Before his passing, he asked his beloved wife, Vangie, that he wanted to return to San Benito to be buried. His wish was carried out and that is why we stand here today in honor of a man that encompasses the true meaning of success through hard work, dedication and determination.

Most recently, the San Benito Economic Development Corporation funded this project, budgeting about \$250,000 for the construction of the monument in honor of Freddy. The San Benito Memorial Park will be home to 300 resting souls, including Freddy, who was the first one to be buried there.

Today, I ask that my colleagues join me in commemorating the dedication of the San Benito Memorial Park and the memorial honoring the life of Freddy Fender.

A TRIBUTE TO SHERIFF SID  
CAUSEY

HON. MIKE MCINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. MCINTYRE. Madam Speaker, I rise today to pay tribute to New Hanover County Sheriff Sid Causey. As Sheriff Causey prepares to retire on July 1, 2009, I ask that you join me in recognizing his long and honorable career of service.

Sheriff Causey began his career in 1970 with the Carolina Beach Police Department, and then moved to the sheriff's office in 1973. In 1978, he moved to the county Alcoholic Beverage Control board, then returned to the sheriff's office in 1986. For seventeen years, he effectively commanded the office's vice narcotics unit and since being elected as the New Hanover County Sheriff in 2002, drug control has been his priority, and he has made major strides in reducing this underlying cause of crime within the community. I am inspired by his courage in the fight against drugs, and I salute him for his many contributions and sacrifices.

Madam Speaker, Sheriff Sid Causey has served in New Hanover County law enforcement for over 39 years and done so with distinction. As he prepares to close the final chapter of his career, I wish Sheriff Causey



and his family God's richest blessings. I ask that you join me today in recognition of his impressive career of enduring public service.

HONORING THE WORK OF THE  
451ST CIVIL AFFAIRS BATTALION

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GENE GREEN of Texas. Madam Speaker, I rise today to pay tribute and honor to the 451st Civil Affairs Battalion out of Pasadena, Texas, and welcome them home from their most recent deployment in Afghanistan. While they returned last fall, this Saturday, June 6, will be their Welcome Home Ceremony, and I look forward to attending to thank them personally for their service to our country.

As a civil affairs unit, the 451st was broken up into smaller groups across Afghanistan. Over the July 4, 2008 break I led a "Texas" Congressional Delegation visit to Afghanistan with Congressmen MICHAEL MCCAUL, HENRY CUELLAR, and myself. We visited several of the forward operating bases, or FOBs, where members of the 451st were stationed with other units. Because they were so spread out across the country, we were only able to visit a few members of the 451st, but being at the FOBs gave us the opportunity to see how primitive areas of Afghanistan can be, and what an impact the work of the 451st made.

When deployed, whether in Afghanistan during their most recent deployment or in their previous deployment to Iraq, the 451st Civil Affairs Battalion serves as a liaison between the military and the host community to better serve their needs and direct aid, supplies, and expertise. While stationed in Afghanistan, the 451st worked with the Afghan government and international humanitarian organizations to rebuild infrastructure and restore stability in areas devastated by war or natural disasters. The teams also worked with representatives from U.S. government agencies such as the State and Agriculture departments and the U.S. Agency for International Development.

As President Obama refocuses our efforts on Afghanistan, the 451st helped lay the groundwork for bringing security and stability to that country by building trust and relationships among the Afghan population, and I am proud we can say the unit is from Pasadena in Texas's 29th Congressional District. After dedicated service to their country, the members of the battalion have returned home. I have the honor of joining with their friends, family, and community in welcoming them this Saturday, June 6.

BRITTANY GENTRY

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Brittany Gen-

try who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Brittany Gentry is a senior at Wheat Ridge High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Brittany Gentry is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Brittany Gentry for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

HONORING DAVID J. APPLEBURY

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize David J. Applebury a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 145, and in earning the most prestigious award of Eagle Scout.

David has been very active with his troop participating in many scout activities. Over the many years David has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending David J. Applebury for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

H.R. 2703 AND H.R. 2704

**HON. JANE HARMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. HARMAN. Madam Speaker, some of the most powerful military and intelligence satellites in the world are designed and produced in my Congressional District. They are remarkably formidable tools that daily assist our troops in Iraq, Afghanistan and elsewhere, and are indispensable in learning and thwarting the plans of those who would do us harm.

But imagine, for a moment, what it would be like if one of these satellites were directed on your neighborhood or home, a school or place of worship—and without an adequate legal framework or operating procedures in place for regulating their use. I daresay the reaction might be that Big Brother has finally arrived and the black helicopters can't be far behind.

Yet this is precisely what the Department of Homeland Security proposes to do in standing up the benign-sounding National Applications Office, or NAO.

Despite objections by the civil liberties community, a series of letters sent by Members of Congress, an established record of opposition by the House Homeland Security Committee and the prior fencing of funds, the DHS has requested funding in the classified annex to its FY2010 budget for the NAO.

The Appropriations Committee has repeatedly expressed skepticism about the need for the NAO, and fenced funding for the office last year. I understand that the Committee intends to send a strong message again this year. I introduce two bills today to stop the Department of Homeland Security from moving ahead with the misguided National Applications Office.

The first bill, introduced with Representative NORM DICKS, prohibits DHS from expending any funds on this office. The second bill de-authorizes the NAO, requiring the Secretary of Homeland Security to close the office immediately.

As proposed, the NAO, housed in the DHS Office of Intelligence & Analysis, the NAO would manage the tasking of military intelligence satellites over the United States—despite the absence of a clear legal framework, legitimate Posse Comitatus concerns, and even though the Interior Department already has existing circumscribed authority to deploy satellites over large-scale public events or natural disasters.

In its current form, the NAO would enable a group of undefined law enforcement and homeland security "users" greater access to imagery collection capabilities of the intelligence community—purportedly to supplement data already available during disasters or to aid in "investigations." It would serve as a clearinghouse for requests by law enforcement, border security, and other domestic homeland security agencies to access real-time, high-quality feeds from spy satellites. Except law enforcement officials haven't asked for the additional capability and major law enforcement organizations do not believe it is necessary.

The new DHS leadership has assured me in my role as the Chair of the Homeland Security Subcommittee on Intelligence and Terrorism Risk Assessment that the issue is under review. Although Congress last year withheld most funding for the NAO, the Department has again budgeted for the office (the exact amount is classified) without prior notification of the relevant congressional committees.

Well, not if we can help it.

Today, we introduce legislation to shut down the NAO—period.

TRIBUTE TO ARMY SERGEANT  
JUSTIN DUFFY

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. SMITH of Nebraska. Madam Speaker, I rise today to honor and pay tribute to Army Sergeant Justin Duffy, a proud son of Nebraska who lost his life earlier this week. Sgt. Duffy was killed when a roadside bomb exploded near his vehicle in eastern Baghdad.

Sergeant Duffy was assigned to the 3rd Brigade Combat Team, 82nd Airborne Division,

Fort Bragg, North Carolina. He had served in Iraq since November, where he provided escort security for a general, a colonel and other high-ranking Army officers.

Sergeant Duffy graduated from Cozad High School and then the University of Nebraska at Kearney with a criminal justice degree. He rose to supervisor at a Kearney manufacturing plant before joining the Army in May 2008.

My thoughts and prayers go out to Sgt. Duffy's family and friends. He was known as "The Shepherd" because of his concern for others. This trait drove him to protect even those he didn't know.

We all owe Sgt. Duffy a debt of gratitude we can never repay. His courage, love of family, and strength should set the bench mark for us all.

#### RECOGNIZING ERNEST P. KLINE

### HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, it is with great sadness that I rise today to pay tribute to Ernest "Ernie" P. Kline, the 25th Lieutenant Governor of Pennsylvania and a tireless public servant.

Since his days as Class President of Rostraver High School, Ernie always took charge to organize and lead in the groups of which he was a member.

Ernie was indefatigable in his work for the people of Pennsylvania. Beginning his political career as a councilman in the City of Beaver Falls, PA, Ernie was elected to the State Senate in 1965 and then as Lieutenant Governor in 1970.

As Lieutenant Governor, Ernie chaired commissions on education and energy, showing his devotion toward creating a better world for future Pennsylvanians.

Beyond public life, Ernie and his beloved wife Josephine were always involved in the community, be it establishing the Ronald McDonald House of Hershey Medical Center or umpiring softball games. Ernie was also president of Kline Associates Ltd., a government consulting firm, which allowed him to continue to serve the State of Pennsylvania after leaving elected office.

Devoted to his Catholic faith, the Democratic Party, and his country, Ernest P. Kline was committed to serving the Commonwealth. Madam Speaker, please join me, Congressman HOLDEN, and all Pennsylvanians, in honoring this great man, whose public service legacy will be fondly remembered by many.

#### SAVANNAH GARCIA

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Savannah Garcia who has received the Arvada Wheat Ridge Service Ambassadors for Youth award.

Savannah Garcia is a 7th grader at Drake Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Savannah Garcia is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Savannah Garcia for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

#### HONORING THE 248TH MEDICAL COMPANY

### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GINGREY of Georgia. Madam Speaker, I rise to recognize the 248th Medical Company, which is scheduled for deployment to Balad, Iraq on Friday, June 5, 2009, after a month of training at Fort Lewis in Washington State. The 248th is stationed at the Marietta National Guard Armory in my hometown, Marietta, Georgia. As a physician, this group of citizen soldiers holds a special place in my heart as their primary mission while in Iraq will be to treat any medical problems or issues that their fellow troops may experience. The unit includes doctors, nurses and physician assistants who will trade their white lab coats for Army green fatigues to help care for those on the frontlines in the Global War on Terror.

I ask that my colleagues join me in recognizing the courage and bravery of each member of the 248th and thanking them for their service to this country. Know that you and your families will be in our thoughts and prayers, and please do not hesitate to contact my office if there is any way that we can assist you over the next twelve months. God Bless you and your families and God bless America.

#### INTRODUCTION OF A BILL TO AUTHORIZE THE NATIONAL ENVIRONMENTAL RESEARCH PARKS

### HON. BEN RAY LUJÁN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. LUJÁN. Madam Speaker, today I am pleased to introduce a bill to authorize the seven National Environmental Research Parks (NERPs) at Department of Energy (DOE) sites, including the Los Alamos Environmental Research Park in my district. These parks are unique outdoor laboratories that offer secure settings for long-term research on a broad range of subjects including, wildlife biology, ecology, climate change effects, environmental remediation, and maintenance of freshwater

ecosystems. The parks also provide rich environments for training future researchers and introducing the public to environmental sciences. They are located within six major ecological regions of the United States which cover more than half of the nation.

In the mid-1970s, DOE developed a policy for current and future research parks. The mission of the parks is to: conduct research and education activities to assess and document environmental effects associated with energy and weapons use; explore methods for eliminating or minimizing adverse effects of energy development and nuclear materials on the environment; train people in ecological and environmental sciences; and educate the public. The Parks maintain several long-term data sets that are available nowhere else in the U.S. or in the world on amphibian populations, bird populations, and soil moisture and plant water stress. These data are uniquely valuable for understanding wildlife biology, ecology, and for the detection of long-term shifts in climate.

The federal government's interest in and need for ecological research evolved after World War II as we sought security and safety by producing nuclear weapons in isolated regions surrounded by large buffer zones of undeveloped land. DOE's predecessor, the Atomic Energy Commission, AEC, recognized a need to track both radioactive fallout from the testing of nuclear weapons and inadvertent radioactive releases from nuclear weapons production facilities into the environment. Out of the radionuclide research grew new technologies for quantifying the movement of natural materials such as nutrients and fluids and of introduced pollutants through the ecosystem. The maintenance of the Parks by DOE conforms with statutory obligations to promote sound environmental stewardship of federal lands and to safeguard sites containing cultural and archeological resources.

In 1972 AEC established the first NERP at the Savannah River Site in South Carolina. The plan for a research park emerged during a formal review of the environmental research activities at Savannah River. The review team consisted of scientists, representatives from other Federal agencies, and members of the newly formed President's Council on Environmental Quality.

The Los Alamos NERP was designated in 1973. Its 40 square miles include the entire site of Los Alamos National Laboratory and a landscape of canyons, mesas, mountains, and the Rio Grande providing a diverse range of ecosystems to explore. The Park's ongoing environmental studies include: interaction between its local ecosystems and the hydrologic cycle; contaminant transport; elk, deer, and raptor population dynamics; landfill cap performance; woodland productivity; and long-term data sets developed to monitor climate change effects, soil moisture, and fire ecology providing valuable baseline reference information. Over 125 publications related to the ecology and interaction between lab operations and the environment have been written about Los Alamos and the Pajarito Plateau it rests on.

The National Environmental Research Parks have been conducting critical activities for our nation and the world's environmental research portfolio for decades. They are one of our nation's most valuable environmental research

assets, and it is time for them to be recognized in law and explicitly provided the resources they need to continue their valuable work. This legislation offers guidance for the Parks' research and monitoring programs as well as their education and outreach activities, and it authorizes a small amount of core funding needed to support their important work. I look forward to working with my colleagues in both parties and both Chambers of Congress to bring this bill to the President's desk as soon as possible.

SAMANTHA GREEN

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Samantha Green who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Samantha Green is an 8th grader at Moore Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Samantha Green is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Samantha Green for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

MINNESOTA INDEPENDENT  
SCHOOL DISTRICT 197 150TH AN-  
NIVERSARY

**HON. BETTY McCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. McCOLLUM. Madam Speaker, today I rise to congratulate Minnesota Independent School District 197 (ISD197) on the occasion of its 150th Anniversary. For nearly as long as Minnesota has been a state, the school district has provided high quality public education to generations of students in what are now the communities of West St. Paul, Mendota Heights, Lilydale, Mendota, Sunfish Lake, Eagan and Inver Grove Heights.

In 1852, pioneers began to settle in the area now known as the city of West St. Paul. In 1856, the township of West St. Paul and the village of Mendota Heights were formed. As families grew, the need for schools to provide public education for their children became clear. Early on, twelve students were taught by Miss Margaret Brown in the first single-room schoolhouse built in 1859 near what is now the border of West St. Paul and Mendota Heights. The school was relocated in 1863 to

the current site of Somerset Elementary School on land donated by Minnesota's first Governor, Henry Sibley. By 1957, schools had grown so large in West St. Paul, Mendota Heights and Eagan, that they were consolidated into Independent School District 197.

For 150 years, the public schools serving West St. Paul, Mendota Heights, Lilydale, Mendota, Sunfish Lake, Eagan, and Inver Grove Heights have given our children the ability to learn, grow, and follow the American dream. Today, the school district operates five elementary schools, two middle schools and one high school, serving approximately 4,500 students in the surrounding communities. In keeping with the spirit of the early pioneers who traveled the world to settle in this part of Minnesota, students in the district come from all over the world, speaking more than a dozen languages. Faculty, staff, and the community are all working hard to prepare students to compete globally in the 21st Century.

This past April, I had the opportunity to tour several schools in the district with Superintendent Jay Haugen. I visited classes with teachers and students ready and eager to learn and also saw inventive programs such as a lunchroom reuse and recycling project at Heritage Middle School that won a national Energy Star Award.

Public education in our schools is an integral part of our community and our nation, providing a world class opportunity for young people to become engaged citizens who will support a strong democracy and compete in an international economy.

Today in honor of the students, parents, families, community members, teachers and staff in ISD197 public schools, I submit this statement for the official CONGRESSIONAL RECORD. I would like to personally congratulate the school district for 150 years of providing high quality public education in our community, and look forward to celebrating milestones in public education in the years to come.

FILM AND TELEVISION  
EXPENSING LEGISLATION

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CROWLEY. Madam Speaker, I rise with my colleague from California, Congressman DAVID DREIER, to introduce legislation to amend Federal tax law to allow for the immediate tax write-off of the first \$15 million (or \$20 million in those select cases where the production is made in a distressed community) of production expenditures for qualifying domestic film and television productions.

This provision, Section 181 of the Internal Revenue Code, was first enacted in the American Jobs Creation Act of 2004 and extended in 2008. It was added to protect the U.S. television and film industry that is increasingly filming in foreign locations, such as Canada.

In so doing, Congress recognized the important contribution our television and film production industries make to sustaining jobs in communities across the country. These pro-

ductions provide good jobs not just for actors, writers and directors, but also for the local carpenters and electricians, the drivers and equipment operators, the caterers and hotel keepers who provide services to these productions.

Adoption of Section 181 also represented Congressional recognition of the fact that this vital sector faces increasing competition from foreign production companies whose governments subsidize television and film production.

In 2001, the Commerce Department's International Trade Administration reported that made-for-television production of "movies of the week" in the U.S. had declined by 33 percent since 1995 and that production at foreign locations increased by 55 percent.

The Directors Guild of America noted at the time that "globalization, rising costs, foreign wage, tax and financing incentives, and technological advances, combined are causing a substantial transformation of what used to be a quintessentially American industry into an increasingly dispersed global industry."

Section 181 of the Internal Revenue Code allows production companies to deduct the cost of qualified U.S. productions immediately rather than capitalizing the costs and deducting them slowly over time.

The incentive accelerates the timing of deduction but it does not change the amount of the deduction. In order to qualify, at least 75 percent of the total compensation paid for the production must be for services performed in the U.S. by actors, directors, producers and other production staff personnel. The deduction applies to the first \$15 million (\$20 million for productions in low income communities or distressed area or isolated area of distress) of a qualified film or television production. The cost of the production above the dollar limitation is capitalized and recovered under the taxpayer's method of accounting.

I believe that this was an appropriately targeted provision, designed to encourage television and film producers to stay here in the United States and keep those jobs in our communities. In the last decades, New York City and in particular my home borough of Queens has seen a resurgent television and film production sector bring new jobs and revenue into the community. This bill will help to ensure that those jobs stay here in the U.S.

The Center for Entertainment Industry Data and Research's Year 2005 Production Report concluded that Section 181 "is having a positive effect on television production in the U.S." Since 2004, it reported that made-for-television movie production in the U.S. increased by 42 percent, while it fell in Canada by 15 percent.

Along with my Republican sponsor, Congressman DAVID DREIER of California and myself who hails from Queens, New York, the television and film industries are both major employers and major tax providers to our local, state and national economies. This legislation works to protect these industries and stem the flood of production to non-U.S. locations.

Section 181 will expire in 2009. It ought to be made a permanent provision of our tax code in order to keep television and film production jobs in the United States.

RECOGNIZING THE BUDDY CAMP  
OF ALEXANDRIA, LA

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. ALEXANDER. Madam Speaker, I rise today to pay tribute to the Buddy Camp of Alexandria, La., for enhancing the quality of life for many of this community's youth. I am privileged to have such a dedicated and compassionate group of individuals in my district.

Buddy Camp was founded by Stacey Debevic for her own son, Kyle Debevic, who is bound to a wheelchair. Working as a pediatric occupational therapist and as the mother of a physically limited child, Stacey noticed there was little to no opportunity for children with disabilities to enjoy the experience of attending summer camp.

After many years of planning, Buddy Camp was officially launched in the summer of 1999. Today, Buddy Camp is a community-wide project that allows children ages 5–12, both with and without developmental challenges, to participate in a week-long summer day camp. Held at the United Methodist Church of Alexandria, the camp places participants into buddy pairs to foster and develop friendships, as well as build confidence.

As Buddy Camp looks forward to celebrating its 10th anniversary, the number of young people that have truly benefitted from the unique opportunities this program provides continues to grow.

I hope my colleagues will join me in recognizing the outstanding achievements of the Buddy Camp.

HONORING ARON MICHAEL WALLIS

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Aron Michael Wallis a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 145, and in earning the most prestigious award of Eagle Scout.

Aron has been very active with his troop participating in many scout activities. Over the many years Aron has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Aron Michael Wallis for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

A TRIBUTE TO DR. JOHN HOPE  
FRANKLIN

**HON. MIKE MCINTYRE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. MCINTYRE. Madam Speaker, I rise today to pay tribute to a truly outstanding North Carolinian, Dr. John Hope Franklin. As we grieve his loss, we also celebrate his life and commitment to bettering his world as a distinguished scholar, historian, author, professor, and man of rare and outstanding character.

Madam Speaker, during his 94 remarkable years, John Hope Franklin worked for equality and understanding, and his immeasurable contributions to the world in these capacities shall never fade. We will not forget the goodness, humility, and passionate giving that defined the life of John Hope Franklin. As we mourn his loss, may God continue to bless all of his loved ones, the work he did, and the greatness that he inspired within all who knew him.

THE 150TH ANNIVERSARY OF THE  
IMMACULATE CONCEPTION CA-  
THEDRAL IN BROWNSVILLE,  
TEXAS

**HON. SOLOMON P. ORTIZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. ORTIZ. Madam Speaker, I rise today to recognize the 150th Anniversary of the Immaculate Conception Cathedral with a celebration scheduled on June 8 in Brownsville, Texas.

The Immaculate Conception Cathedral, the Diocese of Brownsville's most historical church, traces its roots to a small wooden church that served as the first church in Brownsville.

In 1850, Father Adrien Pierre Telmon, one of the first Missionary Oblates of Mary Immaculate to come to Brownsville, built a small wooden church between Adams and Jefferson streets that accommodated about 300 people. The first mass was celebrated on June 29, 1850, and three years later Father Jean Marie Casimir Verdet started the design and construction of a larger church to replace the temporary wooden structure.

The cornerstone to the cathedral was laid on July 6, 1856, and over 250,000 clay bricks were made for the church in the village of Santa Rosalia, about three miles east of the old town site of Brownsville.

The church was completed in 1859 and blessed by Father Augustin Gaudet on June 12, 1859; 10 years after the Missionary Oblates of Mary Immaculate first arrived in the Valley. The church was credited with being the largest in Texas at the time. The rectory behind the church was the site of the first Texas Oblate seminary and served as a haven for priests fleeing revolutions in Mexico.

The historical church was elevated to a cathedral in 1874 when the large Texas diocese

was divided and the Vicariate Apostolic of Brownsville was established. It remained as such until 1912 when the Vicariate Apostolic of Brownsville was converted into the Dioceses of Corpus Christi.

The Immaculate Conception church was designated a Cathedral again in 1965 by Bishop Adolph Marx upon the creation of the Diocese of Brownsville. The church, built in a Gothic Revival style, became a reality through the generous contributions of its parishioners throughout the years. The utmost care and detail went into the construction of the church. The ceiling is of specially prepared canvas painted blue, and at one time it was covered with gold stars. The pulpit was built in native Mesquite by a local cabinetmaker and a concealed spiral stair provided access to the pulpit.

In 1970, the original altar, rail and two chan-deliers were removed from the cathedral in an effort to modernize the church when the present altar was built. Time has taken its toll on this historic church. However, just as early Catholics came to its aid in its early days, they are doing the same in the twenty-first century.

Today this historic Cathedral continues to beckon Catholics through its doors. Thousands of Baptisms, First Communions, Confirmations, Weddings and Funerals have been celebrated there.

And for many years, generations of generations of residents of Brownsville and the Rio Grande Valley have called the Immaculate Conception Cathedral home. I am honored that this beautiful cathedral is located in the 27th Congressional District of Texas, which I so humbly represent.

I join the Diocese of Brownsville, the residents of the city and the Rio Grande Valley in celebrating the cathedral's anniversary.

Today, I ask that my colleagues join me in celebrating the 150th anniversary of the historic Immaculate Conception Cathedral in Brownsville, Texas, on the tip of South Texas, along the U.S.-Mexico border.

HONORING THE CARTERSVILLE  
HIGH SCHOOL FOR WINNING THE  
2009 GHSA STATE BASEBALL  
CHAMPIONSHIP

**HON. PHIL GINGREY**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GINGREY of Georgia. Madam Speaker, I rise to recognize a very talented group of young men from Cartersville in Georgia's 11th District. This past weekend, the Cartersville High School Purple Hurricanes claimed the Class AAA Georgia High School Association State Baseball Championship. Success on the baseball diamond is nothing new for Cartersville High School, which has won back to back state titles and claimed five championships since 2001. However, this year's title win was extra sweet, as the Canes rallied back from a 7–5 deficit to win Game 3 of the championship series—defeating the Columbus Blue Devils, who were the 3rd ranked team in the nation, by a final score of 10–7.

I ask that my colleagues join me in recognizing Coach Stuart Chester and the

Cartersville High School Baseball Team for their successful season as well as the hard work that got them there. And with a team that has made winning a tradition and brought home two straight state championships, the next question is can Cartersville make it a three-peat?

#### HONORING JOHN GILBERT STRONG

#### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Ms. WOOLSEY. Madam Speaker, I rise today with sadness to honor Mr. John Gilbert Strong of Petaluma, who passed away on April 25, 2009, at the age of 67. John spent much of his life dedicating his time and resources to addressing humanitarian issues at home and around the world.

As a member of the Petaluma Valley Rotary, John presided as Club President and District Governor. His altruistic endeavors included a number of Rotary projects, which included supporting the Cool Kids Camp for Abused Children, providing furniture to schools in Guatemala and facilitating Rotary Youth Leadership Activities.

His passion for helping others took him on adventures around the world. He promoted economic self-sufficiency in Thailand and Vietnam and built a library in a Central American village.

He had limitless compassion and supported projects benefitting people in his local community. He provided emergency food relief to firefighters during the Oakland Hills fire, supported the Petaluma Library, and volunteered for the Committee on the Shelterless and the STRIVE program for at-risk youth.

John's generous spirit and engaging leadership led to an impressive list of accolades, including the Rotary Club's Lifetime Achievement Award and the Citizen of the Year Award from the Petaluma Area Chamber of Commerce.

John Strong, who battled Parkinson's later in life, was also a champion for continued research to find a cure for the disease.

In addition to being a role model of civic responsibility, John was a skilled coppersmith. A native of England, he acquired coppersmith skills from working in the shipyards and attending the Liverpool College of Technology. After immigrating to the United States in 1963, he purchased Acme Sheet Metal and later started Copperworks, where he exhibited his talented craftsmanship by creating range hoods and other custom items.

John is survived by his wife, Mamie Strong, his son, Karl Strong, his step-sons Curtis and Bradley Boomhower, as well as grandchildren, nieces and nephews. He was predeceased by his step-daughter, Lolita Lynn Boomhower Courts.

Madam Speaker, Mr. John Strong's passion for helping others will live on through those people around the world that he has positively influenced. His legacy will continue to serve as a shining example of the power one person holds to make a positive difference in our world.

MAYRA GARCIA

#### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Mayra Garcia who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Mayra Garcia is a senior at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Mayra Garcia is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Mayra Garcia for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

#### IN HONOR OF MAYOR VIC BURGESS

#### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. BURGESS. Madam Speaker, I rise today to honor the former Mayor Vic Burgess for his years of service to the City of Corinth and the North Texas Region.

After a public service career that spans nearly three decades, Vic Burgess retired this year after three terms as Mayor of Corinth, Texas. Prior to being elected Mayor, Mr. Burgess served as the Denton County Judge, as well as City Councilman in Lewisville, Texas.

During his tenure, Mayor Burgess was known for his enthusiasm, dedication and mediation skills. Under his leadership, the City Council worked to stabilize the city's budget and financial reporting. With an eye towards the future, Corinth's development codes became more efficient.

Vic Burgess' service to the community goes beyond elected office. As a concerned citizen, he served on the Lewisville Planning and Zoning Commission. His first volunteer duties were as a Reserve Officer for the Lewisville Police Department. He performed duties as a Reserve Officer for the Denton County Sheriff's Department as well. Mayor Burgess is also a man dedicated to family.

It is with great honor that I recognize Mayor Vic Burgess for his years of hard work and dedication given to the citizens of Corinth and North Texas. I am proud to represent him in Washington. His service sets a standard of devotion and true leadership, one that will endure.

IN HONOR AND IN MEMORY OF  
USAF LT. COL. MARK STRATTON  
OF FOLEY, ALABAMA

#### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. BONNER. Madam Speaker, I rise today to honor the life of one of southwest Alabama's own who recently made the ultimate sacrifice in the defense of freedom abroad.

United States Air Force Lieutenant Colonel Mark Stratton, a long-time resident of Foley was deployed to Afghanistan in November, where he served as commander of the Panjshir Provincial Reconstruction Team. The team worked on civil affairs initiatives with the Afghan population and was building a road to provide access to an isolated mountain region northeast of Kabul. It was here where Mark was killed on Memorial Day, when an improvised explosive device detonated as his convoy was passing.

Mark set a standard of excellence and displayed the qualities of discipline, devotion, and dedication to country that are hallmarks of men and women throughout the long and distinguished history of the American military. A graduate of Foley High School in Foley, Mark went on to study at Texas A&M University, where he received his bachelor's degree in 1991. He received his commission from the Reserve Officer Training Corps one year after graduation. Before deploying to Afghanistan, Mark was stationed in Washington, D.C. He served as an executive assistant for the deputy director for Asian politico-military affairs at the Pentagon. In conversations with his friends and family, it was mentioned time and again that Mark was someone who loved God, loved his family, and loved the Air Force. Beyond that, Mark loved the country he served until the very end. His commendations for his service include a Purple Heart and a Bronze Star.

Madam Speaker, I feel certain his many friends in Baldwin County and his comrades in the United States Air Force, while mourning the loss of this fine young man, are also taking this opportunity to remember the many accomplishments of his service to the nation and to recall the fine gift they each received simply from knowing him and having him as an integral part of their lives.

I urge my colleagues to take a moment and pay tribute to Lieutenant Colonel Mark Stratton and his selfless devotion to our country and the freedoms we enjoy.

We should also remember his wife, Jennifer; their three young children, Delaney, Jake, and A.J.; his mother, Jan York and her husband Buddy; his brothers, Michael Stratton and Frankie Little; and his other family members and many friends. Our prayer is that God will give them all the strength and courage that only He can provide to sustain them during the difficult days ahead.

It was Charles Province who said, "It is the Soldier, not the minister, who has given us the freedom of religion. It is the Soldier, not the reporter, who has given us the freedom of the press. It is the Soldier, not the poet, who has given us freedom of speech. It is the Soldier, not the campus organizer, who has given us

freedom to protest. It is the Soldier, not the lawyer, who has given us the right to a fair trial. It is the Soldier, not the politician, who has given us the right to vote. It is the Soldier who salutes the flag, Who serves beneath the flag, And whose coffin is draped by the flag, who allows the protester to burn the flag."

Make no mistake, Mark Stratton was not only a dedicated member of the Air Force who made the ultimate sacrifice serving in the uniform of his country, but he was also a true American hero.

May he rest in peace.

RECOGNIZING THE HONOREES OF  
THE 62ND ANNUAL ANNANDALE  
CHAMBER OF COMMERCE  
AWARDS BANQUET

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Honorees of the 62nd Annual Annandale Chamber of Commerce Awards Banquet.

The Annandale Chamber of Commerce is a thriving volunteer organization with over 200 active members. The members represent businesses, industries and professionals who work together to maintain a favorable business climate while improving the quality of life for all residents.

Each year, the Annandale Chamber of Commerce honors a select few who have distinguished themselves as exemplars of the community. It is my honor to recognize these fine individuals and the contributions that they have made to the community. This year, the Annandale Chamber of Commerce has expanded the categories with the addition of an Award of Valor which honors the services of two Public Safety professionals. The following are the Honorees of the 62nd Annual Annandale Chamber of Commerce Awards Banquet.

Award Recipients in the Student Category are:

William Law, Northern Virginia Community College

Luis Inarra, Annandale High School

Michell Addington, Falls Church High School

The recipient of the 2009 Citizen of the Year Award is Shel Youtz. Shel has been a cornerstone of the Annandale community. In addition to his reliable presence each year at the Fall Festival, Shel chairs or sponsors events and fundraisers in support of the Student Education Foundation and in support of our military veterans.

The Award of Valor for a member of the Fairfax County Fire and Rescue Department has been awarded to Lt. Jeff Allen. Lt. Allen is a 22 year veteran of the Fire and Rescue Department and a member of the Hazardous Materials Emergency Response Team. Throughout his tenure, Lt. Allen has consistently gone above and beyond the call of duty, providing leadership and courage during emergencies and other hazardous incidents.

The Award of Valor for a member of the Fairfax County Police Department has been awarded to PFC Kathleen O'Leary. Although

PFC O'Leary has been with the force for only 3 years, she has already distinguished herself as an exceptional public servant, placing the needs of the community ahead of her own personal safety.

Madam Speaker, I ask that my colleagues join me in recognizing the Honorees of the 2009 Annandale Chamber of Commerce Awards Banquet and to thank them for their service. Each honoree is a role model for his or her peers and an invaluable member of the community as a whole.

TRIBUTE TO THE HANCOCK  
COUNTY CONSERVATION BOARD

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. LATHAM. Madam Speaker, I rise today to congratulate the Hancock County Conservation Board on their 50th anniversary. The Hancock County Conservation Board serves over 12,100 citizens in Hancock County in North Central Iowa.

The first board was appointed by the Hancock County Board of Supervisors (HCCB) in 1959. One of HCCB's priorities is to provide park areas and protect the natural areas for wildlife habitat and outdoor recreation. In the past 50 years they have acquired 4 parks, 15 wildlife areas, 2 wildlife refuges for a total of 21 areas, and 1,211 acres of valuable wildlife habitat.

I applaud HCCB's long history of impressing the importance of conservation from one generation to the next. I know my colleagues in the United States Congress join me in congratulating the Hancock County Conservation Board, Director Tom Haan, and Naturalist Jason Lackore for their fifty years of success, and I wish them an equally storied future.

PERSONAL EXPLANATION

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. WILSON of South Carolina. Madam Speaker, I submit to the RECORD the following remarks regarding my absence from votes which occurred on June 2nd. Due to inclement weather that caused my connecting flight from Charlotte, North Carolina to Washington on Tuesday, June 2 to be delayed, I missed a series of votes that were held. Listed below is how I would have voted if I had been present.

H. Res. 421—recognizing and commending the Great Smoky Mountains National Park on its 75th year anniversary (Roll no. 292)—Aye

H.J. Res. 40—to honor the achievements and contributions of Native Americans to the United States, and for other purposes (Roll no. 293)—Aye

H. Res. 489—recognizing the twentieth anniversary of the suppression of protesters and citizens in and around Tiananmen Square in Beijing, People's Republic of China, on June 3 and 4, 1989 and expressing sympathy to the

families of those killed, tortured, and imprisoned in connection with the democracy protests in Tiananmen Square and other parts of China on June 3 and 4, 1989 and thereafter (Roll no. 294)—Aye

RECOGNIZING MINNESOTA'S SIXTH  
DISTRICT 2009 CENTURY FARM  
FAMILIES

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mrs. BACHMANN. Madam Speaker, I rise today to honor the Sixth District farms that have been recognized as 2009 Century Farms by the Minnesota State Fair and the Minnesota Farm Bureau. Being a Century Farm is no easy task. Farms must be at least 50 acres and stay in a continuous family ownership for 10 years. Since the program began in 1976, more than 8,700 Minnesota farms and families have been named a "century farm." As the family farming tradition that made America strong is encroached upon by development and urbanization, this designation becomes an even more significant accomplishment. It is my honor to recognize these farms before this Congress today.

America was founded as an agricultural nation full of hope and promise for bountiful harvests year after year. The families that tilled the first soil on Minnesota's golden plains instilled a work ethic that today's farmers still follow. Two hundred years ago it was not uncommon to have three or even four generations involved with a single farm at any given time. Between sowing and harvest, feeding livestock and maintaining equipment and buildings, farm life was a full time job for entire families. But as the times have changed, to see one family still taking care of the land and homes their parents worked on and lived in is a great joy. In fact, I can recall the time that I spent living and working on my in-laws' dairy farm in Wisconsin—a farm that my mother-in-law and brothers-in-law still call home.

I rise, Madam Speaker, to honor these families and the past generations that have made this accomplishment possible:

Corrigan family of Foley, since 1909.

Magnuson family of Foley, since 1909.

Burggraff family of Royalton, since 1898.

Bernard J. and Natalie Niewind of Eden Valley, since 1909.

Leilani Rolles of Freeport, since 1883.

Brothers Andrew and Richard Holdvogt of Melrose, since 1907.

Kenneth Schaefer family of Melrose, since 1897.

Harvey and Marilyn Lieser of Paynesville, since 1892.

James A. Moores of Monticello, since 1903.

RECOGNIZING DANIELLE  
MARGUERITE LYLE

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize Danielle Marguerite Lyle for her leadership and commitment to the community that she has displayed in Prince William County.

Since the age of 5, Danielle has been involved in community activities. She has spent hundreds of hours volunteering with local organizations and other community activities. Since then, she has volunteered with numerous organizations such as the Hilda Barg Homeless Shelter, the Arc of Prince William County, senior homes, her local church and other programs. When asked, she says that she loves helping people and the community.

Danielle also knows how to take initiative and lead. She participated in the Junior National Young Leaders Conference (Jr. NYLC) in April 2009, and served as President of the Future Leaders Children's Book Club. Danielle has also been recognized for her leadership and intellectual abilities through the Johns Hopkins Center for Talented Youth Program, George Mason University Young Writers summer and weekend workshop, and the University of Virginia Summer Enrichment Program.

Along with Danielle's volunteer and leadership accomplishments, she has also received many accolades. These include many semesters on her school's honor roll and winning the Martin Luther King Jr. writing contest for the 5th grade.

With all of this, she still finds time to play the violin and piano, be a member of the Creative and Performing Arts Center and participate in track and field, basketball and gymnastics.

Danielle's accomplishments would be noteworthy for any person. When her current age of 11 is factored in, these accomplishments are nothing short of remarkable.

Madam Speaker, I ask that my colleagues join me in recognizing this bright young student and applauding her commitment to volunteerism and leadership. Our communities benefit greatly from the action and dedication of citizens like Danielle.

TRIBUTE TO ANDREY DANILSON

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. LATHAM. Madam Speaker, I rise to recognize Andrey Danilson, a 13-year-old seventh-grade student from Sacred Heart School in Boone, Iowa.

Andrey recently won the Boone Lions Club "Peace Poster Contest." Each day, Sacred Heart students take time to pray, and Andrey has taken it upon himself to focus on peace. Using his passion for art to further the cause for world peace, Andrey's art advanced to the state level of competition after it won the district level.

Adopted from Russia less than four years ago and unable to speak English at the time, Andrey's success in art and dedication to important causes serve as a wonderful example of the promise of today's youth as tomorrow's leaders. I am proud to represent Andrey Danilson, his family, teachers and classmates in the United States Congress, and I know that all my colleagues join me in congratulating Andrey on his success and commending him for his devotion to peace and making a positive difference.

CONGRATULATING SERGEANT JACQUELINE ARNOLD ON THE OCCASION OF HER RETIREMENT

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BONNER. Madam Speaker, it is with great pride and pleasure that I rise to honor the long and distinguished career of Sergeant Jacqueline F. Arnold on the occasion of her retirement from the Prichard Police Department.

Jacqueline has served the city of Prichard for four decades. She began her career in public service as a crossing guard for Ella Grant Elementary School and later served as an emergency radio dispatcher for the city. In 1977, she made history by becoming Prichard's first female police officer.

Throughout her career, Jacqueline has worked in almost every division, including a patrol officer, detective, and the supervisor of the records division.

In 1996, Jacqueline was assigned as a juvenile officer. She was both a role model to juvenile offenders and an encouraging mother figure to many young people who would otherwise not have had a positive influence in their lives. She was also an inspiration to a number of other female officers, seven of whom followed her example and joined the Prichard Police Department.

In recognition of her many remarkable accomplishments, Jacqueline has been awarded numerous departmental commendations throughout her distinguished career. Last month, Mayor Ron Davis, Prichard City Council members, and Police Chief Lawrence Battiste named Sergeant Jacqueline Davis Officer of the Year.

Madam Speaker, I ask my colleagues to join me in recognizing a dedicated community leader and friend to many throughout Alabama. Sergeant Jacqueline F. Arnold is an outstanding example of the quality of individuals who have devoted their lives to law enforcement. On behalf of all those who have benefited from her good heart and dedicated service, permit me to extend thanks for her many efforts in making Prichard and south Alabama a better place.

On behalf of a grateful community, I wish her the best of luck in all her future endeavors.

A TRIBUTE TO HAMILTON  
SOUTHEASTERN HIGH SCHOOL

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BURTON of Indiana. Madam Speaker, I rise today to congratulate the students of Hamilton Southeastern High School for receiving Honorable Mention at the annual "We the People" Contest recently held here in Washington, D.C. The "We the People" contest is a grueling 3-day-long event where teams of students from every State of the Union and several U.S. Territories compete in a series of simulated congressional hearings to apply constitutional principles and historical facts to contemporary situations. The event culminates with the Top Ten teams conducting their mock hearings right here on Capitol Hill in either a Senate or House hearing room.

I am proud to say that Indiana teams have made the Top Ten almost every year the competition has been held; and this year will mark Hamilton Southeastern High School's second trip to the Top Ten. I ask all my colleagues to join me in recognizing the outstanding Hoosiers of Hamilton Southeastern High School, students and staff, for their hard work and dedication to academic excellence. And I ask my colleagues to join with me to congratulate the Hamilton Southeastern High School Team—Teacher Jill Baisinger, and students, Kellie Devore-Gogola; Adam Gauthier; Alex Gillham; Caitlin Graovac; John Holt; Alana Kane; Matthew Knafel; Jaclyn Lauer; Matthew Lymbcropoulos; Mark Mace; Samuel Morgan; Eric Ogle; Jonathan Sorg; Julia Strzeskowski; and Mitchell West—for their outstanding performance at the 2009 "We the People" contest. I look forward to next year's competition when I'm sure that Hamilton Southeastern High School will not only be back in the Top Ten but win it all.

HONORING NANCY OLMSTEAD

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Nancy Olmstead for her dedication to her family and community. Mrs. Olmstead passed away on Saturday, May 30, 2009 at her home in Madera, California after a long battle with cancer.

Nancy Olmstead was born in Des Moines, Iowa to Cecil and Ethel Olson. She worked for Sears for a number of years. In 1970 she went into the insurance business. During her twenty-five-year career in the insurance business, she was a member and past president of the Fresno Life Underwriters Association. Mrs. Olmstead was also an active member of the Madera Republican Party and the California Republican Party.

Mrs. Olmstead is preceded in death by her parents and her brothers, Richard and Jerry Olson. She is survived by her husband, John



Olmstead; her daughter, Diana Nole of Fresno; her son, Rodney Ede of Springfield, Oregon; and granddaughter, Jennifer Nole of Fresno.

Madam Speaker, I rise today to posthumously honor Nancy Olmstead. I invite my colleagues to join me in honoring her life and wishing the best for her family.

TRIBUTE TO MASTER SERGEANT  
DOUGLAS A. RUSTAN

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. LATHAM. Madam Speaker, I rise today to recognize MSG Douglas A. Rustan of Ayrshire, Iowa, as a recipient of a Bronze Star Medal for heroic achievement during combat operations in support of Operation Iraqi Freedom. The Bronze Star is the fourth highest award that the Department of Defense gives for bravery, heroism, and meritorious service.

Master Sergeant. Rustan earned the Bronze Star while serving at an overseas forward operating base. Master Sergeant. Rustan, a 1982 graduate of Ayrshire High School, is a senior intelligence analyst with 20 years of military service and is assigned to the 70th Intelligence Surveillance and Reconnaissance Wing, Fort Meade, Laurel, Maryland.

I commend MSG Douglas A. Rustan's courageousness and service to our great nation. His sacrifices go above and beyond what we are asked of as citizens of this nation. I am honored to represent Master Sergeant. Rustan in the United States Congress and I know that all of the members of this body join me in thanking him for his service to this great nation and wishing him the best in his future service.

HONORING THE MEMORY OF MR.  
ROBERT ERASTUS HANKS

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BONNER. Madam Speaker, the city of Mobile and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Mr. Robert Hanks, known to his many friends as Coach Hanks or Colonel Hanks, was a Jones Mill native and became a lieutenant in the U.S. Navy. He was in command of the landing craft aboard the USS *Adair* and took part in the invasions Okinawa, Leyte and Luzon in the Philippines. He earned Bronze Stars for his service.

Following the war, Mr. Hanks returned to Alabama and began a 32 year teaching, coaching, and administration career at Mobile's University Military School (UMS). He earned Master's Degrees in Physical Education and School Administration from the University of Alabama, and while at UMS, he served as a history teacher, football and basketball coach, assistant superintendent, and superintendent.

As headmaster, Mr. Hanks supervised the transition from UMS to UMS Preparatory School. He was also a devoted member of Dauphin Way Baptist Church for 60 years where he served as Sunday School director and chairman of the deacons. His influence of integrity, honor, and self discipline shaped the lives of hundreds of individuals.

Madam Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout Alabama. Mr. Robert Hanks will be deeply missed by his family—his wife of 66 years, Katherlin Hanks; his sister, Robbie McEachern; his daughter, Kathy Gault; his son, Dr. Robert Hanks; his grandchildren, Jennifer Dodge, Amy Coggin, Brian Hanks, and Dr. Meredith Gault; his great-grandchildren, Logan, Kate and Abby Dodge, and John Mark, Audrey and Julianne Coggin—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all at this difficult time.

IN TRIBUTE TO DABNEY MONTGOMERY, AN AMERICAN HERO

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mrs. MALONEY of New York. Madam Speaker, I rise to pay tribute to Dabney Montgomery, a member of the ground crew of the Tuskegee Airmen, who later served as a bodyguard for Martin Luther King during the historic 1965 march from Selma to Montgomery, Alabama. Mr. Montgomery is being honored by the International Brotherhood of Teamsters, Local 237, at an event in my district on Friday, June 5, 2009. Mr. Montgomery is a retired New York City Housing Authority housing assistant.

Mr. Montgomery was born in Selma, Alabama in 1923. He was inducted into the armed forces in 1943 and underwent basic training in Biloxi, Mississippi, followed by a course in the mechanics of army supplies at Camp Lee, Virginia. He was one of three men in his course who were selected for the Army Air Corps in Oscoda, Michigan. By the time he arrived in Michigan, the unit was already packing to ship out. He was assigned to the 1051st Company of the 96th Air Service group, in charge of making sure that the units were supplied with food and clothing.

Tuskegee Institute was awarded the U.S. Army Air Corps contract to help train America's first Black military aviators because it had already invested in the development of an airfield, had a proven civilian pilot training program and its graduates performed highest on flight aptitude exams. The project was considered an experiment because it was designed to refute a racist 1920s theory that suggested that blacks could not tolerate the sharp curves and dives that were needed to fly a fighter plane. Eleanor Roosevelt was much impressed by the pilots she met at the Tuskegee Institute in 1941, and persuaded her husband to use these talented men in combat missions. With nearly 1,000 pilots and as many as 19,000 support personnel ranging from me-

chanics to nurses, the Tuskegee Airmen were credited with shooting down more than 100 enemy aircraft. Their success paved the way for today's integrated armed forces.

Some members of the Tuskegee Airmen went home and lived quiet lives. Mr. Montgomery went on to become actively involved in the civil rights movement. Mr. Montgomery first met Martin Luther King, Jr. as a student in Boston where Mr. Montgomery studied. They shared the same godmother.

In 1965, Mr. Montgomery was living in New York City, working as a social service investigator for the Welfare Department. One night he saw a news broadcast of blacks being beaten and gassed in Alabama for wanting to vote. Outraged that this could happen in America, he decided to return to Selma to take part in the protests. He took a leave of absence from his job, and arrived in Selma on the bus. He didn't tell his parents or his friends that he was in town, but went directly to the Brown Chapel AME Church, the march headquarters.

Mr. Montgomery had experienced Alabama's discriminatory registration practices himself, and remembers the anger and frustration he felt at being denied the right to vote. In 1946 when he returned to Selma after the war, he went to the courthouse to register. He was given three forms that had to be signed by three white men testifying that he was "a good boy." He persuaded three men who knew his father to sign the forms, but that was not sufficient. He also had to show that he owned \$3,000 worth of land—not cash, which he had, but real property. So he gave up. As he walked down the courthouse steps, he met a white veteran going to register to vote. The white man just signed up—no forms, no attestations, no real property. Having experienced the discrimination himself, Mr. Montgomery wanted to change the system. He was moved by having the opportunity to join with the other protesters, where they prayed on the steps of the very courthouse where his registration had been rejected. A sheriff with a large gun came by and advised them to go pray in church. Mr. Montgomery says he told him, "We feel sorry for you. All you have on your side is your gun. We have truth on our side, we have God on our side, and the truth and God will last forever; your gun will disintegrate."

Mr. Montgomery volunteered to be a bodyguard for Mr. King during the march from Selma to Montgomery. The first time the marchers tried to cross the bridge, they were turned back. A federal court gave permission and more than 3,000 people marched over the Edmund Pettus Bridge. White people drove by and called them names. Undeterred, they made the 54 mile march that helped bring about the Voting Rights Act saying that all Americans should have the right to vote. In recent years, Mr. Montgomery's service is earning him honors. In 2007, he and the other surviving Tuskegee Airmen were awarded the Congressional Gold Medal of Honor. On the morning of his inauguration, President Barack Obama had breakfast with the Tuskegee Airman, and Mr. Montgomery was there. He also took part in the reading of the U.S. Constitution at the Newseum. Fittingly, he was given Amendment 24, sections 1 and 2, barring a poll tax. Local 237 President Greg Floyd will

present him with a Trailblazer Award at the Retiree Division's Founders Day celebration tomorrow.

Madam Speaker, I ask my distinguished colleagues to join me in recognizing the achievements of Dabney Montgomery, an outstanding veteran, hero, civil rights activist and civil servant.

RECOGNIZING THE DEDICATION OF  
SAMUEL L. GRAVELY, JR. ELE-  
MENTARY SCHOOL

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise to recognize the dedication of the Samuel L. Gravelly, Jr. Elementary School in Haymarket, Virginia. The school is named in honor of Vice Admiral Gravelly, a Virginia native, who forged the way for a more diverse United States Navy. I cannot think of a more appropriate person to inspire our children to break barriers and achieve their highest potential.

On December 14, 1944, Samuel L. Gravelly, Jr. became the first African American to be commissioned as a United States Naval Officer through the Navy Reserve Officer Training Course. He went on to become the Navy's first African American vice admiral.

During his distinguished 38-year career in the Navy, Vice Admiral Gravelly became the first African American to command a warship, the USS Theodore E. Chandler; the first African American to command a major warship, the USS Jouett; the first African American to achieve flag rank and eventually vice admiral; and the first African American to command a numbered fleet.

However, his service was not just one of firsts. Admiral Gravelly was highly decorated with the Legion of Merit, a Bronze Star, the Meritorious Service Medal, and the Navy Commendation Medal. He moved to Haymarket, Virginia upon his retirement in 1980, and passed away on October 22, 2004.

Just two weeks ago, the U.S. Navy commissioned a new Arleigh Burke-class destroyer in honor of Vice Admiral Gravelly during a ceremony at the shipyard in Pascagoula, Mississippi. His widow, Alma Gravelly broke a bottle of champagne across the bow to christen the vessel.

Vice Admiral Gravelly's life accomplishments and service to his country represent the values that we would like to instill into our future generations. The Prince William County Public Schools' vision statement identifies a commitment to a diverse, multicultural education that produces students who enjoy a life-long pursuit of learning. Vice Admiral Gravelly lived up to these ideals by setting a precedent of diversity in our nation's military and continuing his education throughout his life. Whether it was at Virginia Union University, Columbia University or the Naval War College; his thirst for knowledge never ceased. Vice Admiral Gravelly's life embodied the vision that the Prince William County School System has for its students.

Madam Speaker, I ask that my colleagues join me honoring this American hero and endorsing the example he set for our nation's younger generation. I applaud Prince William County Public Schools for their decision to dedicate this school to Vice Admiral Samuel L. Gravelly, Jr.

ADDRESS TO ESCAMBIA COUNTY  
HIGH SCHOOL'S CLASS OF 2009  
AS READ BY TRAY SMITH,  
CLASS SALUTATORIAN

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BONNER. Madam Speaker, last month I had the privilege of giving the commencement address to Escambia County High School's Class of 2009. My friend, Tray Smith of Atmore, the class salutatorian, also had the opportunity to address his fellow classmates. In just 18 years, Tray has already compiled an impressive list of accomplishments. In 2008, he served as a page in the U.S. House of Representatives in Washington, D.C., and earlier this year, he was named Atmore's 2008 "Citizen of the Year."

I rise today to ask that his address be entered into the CONGRESSIONAL RECORD for I believe it to be one of the finest and most inspiring addresses given by a high school student that I have ever heard:

LEAVING OUR CHILDREN A BETTER COUNTRY  
THAN WE INHERIT  
(By Tray Smith)

Thirty-five years ago, my father graduated from ECHS. Then, the country was shaken by the scandal of Watergate and the Vietnam War. Every year since, a different group of faces has arrived here during its own unique period in our history. Over time, America and the world have greatly changed. So now, we, the Class of 2009, come to graduate under different circumstances than those that faced our parents. Yet, the challenges that face us are just as great as those that faced them. And just as our moms and dads responded to the problems facing our nation by spreading freedom to every continent and the Internet to almost every home, we will meet our own challenges. For we know as our parents knew, that our greatest responsibility as Americans is to leave our children a better country than the one we are about to inherit.

Graduation means we are ready to meet this task—not because we know everything we will ever need to learn, but because we know how to learn anything we will ever need to find out.

I have the honor of commemorating this moment as the salutatorian of a class that has many talented students. And it is a special honor to stand before Joy Marshall, our valedictorian and my good friend. Joy, I am so proud for you, I will miss you, and I know this school will miss you, as well.

Congressman Bonner, Mr. Means, parents, teachers, friends, guests, and members of the community; thank you all for being here to join with us in this great moment in our lives. And on behalf of the entire Class of 2009, I extend a sincere thanks to you all, especially our parents and grandparents, for the contributions you have made to make this moment possible.

I want to specifically thank Congressman Bonner for making this event a priority. Congressman, the fact you are here signifies your strong commitment to our young people, and our future. While in Congress, you have done many great things for this district. On a personal basis, though, I am most appreciative for the life changing doors you have opened for me, a young kid from Atmore. I can't imagine my high school years without the experiences I had working in Washington as your page. And the reason my class wanted you to come speak tonight is because, as we look forward to the future, there is no better person for us to emulate. Again, thank you.

Even though we graduate tonight, we will still depend on many of you in this room. I am sure I will not be the only member of the Class of 2009 to call Mom every time I have to do laundry in college. I still have no clue how to work the machines. Okay, I might be alone on that one. But I want our parents and mentors to know we will always be open to your advice and appreciate your insight.

Mom and Dad, Nee Nee and Paw Paw, Aunts and Uncles, Mrs. Bonnie and Mrs. West, other family members and friends, I love you all and I am so thankful for the role you have played in my life. And I know for all of my 132 fellow graduates, there are an equal number of people who share in the credit for this day, and who will share in the credit for the successes that come in the future.

When Mom asked me to describe my first day at ECHS years ago, I said it was like walking through the mall. But now, after having spent several years with classmates in school, at events, and serving our extra-curricular responsibilities, the faces that were once like strangers in the mall to me are now the familiar faces of friends I pass daily in the hallway.

They are the faces of Nakeidra Brown and Brittney Martin arguing with Gordon Nichols and me in Algebra. They are the many happy faces of Lashae Powers defending me in SGA meetings. They are the ever-frustrated faces of Katie Coon, adamantly insisting that she and I are not related. And they are the almost indistinguishable, but always smiling, faces of the Forney twins.

And these faces will remain familiar long after this commencement exercise is over. Because the bonds that exist between us are not only the bonds of classmates, they are the bonds of friends, and they will endure.

They will endure because they have been forged in a place where everyone looks out for their neighbors, in a town that respects traditional values, by people who cherish family and friendship. Growing up in Atmore, we may not have had easy access to Wal Mart or Starbucks, but we have had each other. That, my friends, has made all the difference.

From this moment, we will all go down different paths: some of us will go on to college, others will enter the workforce, and some will start families. Yet, as graduates, we are now all adults in the world's greatest and most democratic country. As such, we have both an opportunity to make a difference and a responsibility to make a contribution.

Regardless of where we end up, there will be fatherless children in need of mentors and hungry people in need of food. These needs belong not just to individuals, but to the entire nation. And as President John Fitzgerald Kennedy once said, by lending a helping hand to those people, we serve not only our fellow countrymen, but also our country.

Our record at ECHS gives me faith in our ability to live up to that standard of service.

In our four years here, we have had three principles and five assistant principals. In these periods of transition, students have had to step forward and carry the mantle of leadership. I am confident that we leave behind a dedicated team with Mr. Means, Mrs. Shuford, and Mr. Lanier, but I am also proud to say future students at this school will benefit from what the Class of 2009 accomplished, from saving the newspaper to starting the scholars' bowl team to reinvigorating our athletic programs.

However, the difficult tasks that come with significant roles in society are much more consequential and much more trying. Thankfully, some of our classmates are already rising nobly to those challenges. Tonight, I want to ask Hierry Carter, Cortina James, Thomas Johnson, and Wade Johnson to stand.

As the rest of us enjoy our newfound freedom as graduates, these members of the Class of 2009 have chosen to serve as the guardians of that freedom in perhaps distant and dark corners of the world. They have chosen to join the United States Military. They deserve our respect, our admiration, and our applause. Thank you.

As we go forward, let us remember with gratitude these brave individuals. Let their willingness to sacrifice selflessly for a cause greater than themselves inspire us all. And let us all remember that God put us in this place in history, at this moment in time, because He trusted no other generation with the charges that are already confronting us. And it is in God's glory that we must heed the call of duty to defend our freedoms, preserve our values, and maintain our way of life. So that when we are all long gone and the history of this generation is written, it can be said that the graduates of the ECHS Class of 2009 were men and women of integrity, who did not give into the false choices and pretexts that so often corrupt our way of thinking, bow to the forces of mediocrity that so often restrain our true potential, or enslave ourselves to the prejudices and stereotypes that have for years crippled our society.

Let it be said that we, the Class of 2009, never forgot the lessons learned growing up here, in Atmore. That we, the Class of 2009, never forgot the people—moms and dads, teachers and administrators, pastors and friends and grandparents—who raised us. That we never forgot the importance of service or the significance of being Americans. That we never forgot our purpose, and worked tirelessly to make sure our purpose was fulfilled. Thank you. May God bless you and may God bless this honorable class.

COMMEMORATING NATIONAL  
SMALL BUSINESS WEEK: MAY 17–  
MAY 23

**HON. ELIJAH E. CUMMINGS**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CUMMINGS. Madam Speaker, over the last decade, small businesses have created 70 percent of our new jobs, and they are responsible for half of all the jobs in our nation's workforce. In fact, in my home State of Maryland, more than 500,000 small businesses provide our State with more jobs than any other source—except the federal government.

This job creating potential is even more important during economic downturns like the

current one. It is interesting to note that, despite declines in corporate America, the entrepreneurial spirit is alive and well. Every month, 400,000 new businesses start up across the country. For these reasons, providing small businesses with the tools they need to grow and thrive again will be critical to the nation's overall economic recovery. It is with this knowledge and appreciation that I proudly express my support for President Obama's declaration of May 17–May 23 as National Small Business Week.

As a former small business owner for nearly 20 years, I know first-hand that one of the most pressing challenges facing small businesses is access to affordable credit and capital. I know how hard it can be to meet one's payroll, day after day and week after week. I also know what it is like to be turned down for the business loan that you desperately need (and deserve)—even while other less qualified competitors somehow receive that essential capital support.

In my thirteen years in the U.S. House of Representatives, I have supported efforts that have uplifted the small business community—and 2009 has been another marquee year. During National Small Business Week, the House passed a number of bills aimed at providing business owners with the requisite tools. H.R. 2352, the Job Creation Through Entrepreneurship Act of 2009 would provide critical resources to help businesses grow and adapt. Specifically, it creates a grant program designed to assist small firms in securing capital, supplementing the new small business lending generated by the American Reinvestment and Recovery Act, which was signed into law by President Obama in February 2009.

These entrepreneurial development programs are a wise investment in our economy. It is estimated that for every \$1 spent on these programs, there is a \$2.87 return to the Treasury—and these programs have helped to create 73,000 jobs in 2008 alone.

As I close, I will also take this opportunity to align myself with the vision expressed by President Obama, who recently stated that “it is imperative that we do all we can to celebrate the achievements of small business owners and encourage the creation of new businesses.”

Americans are exploring new ways to conduct business, and small business owners are an invaluable resource in this national effort. They are the real heroes of American industry—and May 17–May 23 is deservedly theirs.

TRIBUTE TO CHRISTOPHER H.  
MOFFITT

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. LATHAM. Madam Speaker, I rise to recognize Christopher H. Moffitt, an automobile dealer and resident of Boone, Iowa.

Christopher, president of Moffitt's Ford Lincoln Mercury, was recently nominated for the 2009 TIME Magazine Dealer of the Year award sponsored by TIME Magazine and

Goodyear Tire. Christopher was nominated by Gary W. Thomas, President of the Iowa Automobile Dealers Association, and recently was honored at the National Automobile Dealers Association Convention & Exposition in New Orleans. The TIME Magazine Dealer of the Year award is one of the auto industry's most prestigious awards, recognizing both success in auto sales and outstanding community service.

Christopher is a third generation family dealer who owns a dealership that was first opened by his grandfather over 81 years ago. He began washing cars at the dealership at age 13, and while attending college at Iowa State University, he began selling cars part-time before becoming a full time sales manager after graduating in 1987.

In addition to his dedicated service at the dealership, Christopher has spent considerable time giving back to the community. From 1993–2000, Christopher was chairman of Good Connections, an organization that employed mentally and physically challenged individuals. He also received a YMCA Leadership Award after playing a pivotal role in re-opening the Boone County Family YMCA in 2005 while serving as board chairman. The location had closed in the 1990's but is now growing and serving all of Boone County.

I know my colleagues in the United States Congress join me in congratulating Christopher Moffitt for his nomination for TIME Magazine Dealer of the Year, and thank him for his dedicated community service efforts. It is an honor to represent Christopher in Congress, and I wish him and his family happiness and success in the future.

HONORING THE MEMORY OF  
MAYOR C.W. SKIDMORE

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BONNER. Madam Speaker, the city of Saraland and all of southwest Alabama recently lost a dear friend, and I rise today to honor C.W. Skidmore and pay tribute to his memory.

Mayor Skidmore, known to his many friends as “Bill,” was a native of Russellville and longtime resident of Saraland. He served as a city councilman from 1957, when Saraland was incorporated, until 1960. In 1964, he was elected mayor and served two terms.

Bill set out to be the mayor of Saraland with the intention of changing the reputation the city had received after the murder of its first mayor. During his time serving as mayor, Bill also focused on commercial and residential growth, as well as the development of city services.

When Saraland celebrated its 50th anniversary, Mayor Skidmore was honored. The city also named a football park on Norton Avenue in his honor. In addition to a lifetime of public service, Mayor Skidmore owned and operated Skidmore Oil Company and Skidmore Construction. He also served on the South Alabama Regional Planning Commission.

Madam Speaker, I ask my colleagues to join me in remembering a beloved friend to many

throughout southwest Alabama. Mayor Skidmore will be dearly missed by his family—his wife, Took; his children, Billy and his wife Sheila, Mary and her husband Bruce, and Tammie and her husband Rick; his 13 grandchildren; and his great-grandchildren—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all during this difficult time.

#### HONORING JOHN BRENNEMAN

#### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PUTNAM. Madam Speaker, today I rise to recognize John Brenneman, an outstanding naturalist and public servant from the 12th Congressional District of Florida. John has worked tirelessly for the Florida Cooperative Extension Service and Imperial Polk County for 30 years. His devotion to improving local water quality and educating lakefront homeowners is evident through his continuing commitment to serve the public with excellence and integrity.

John's academic achievements have shaped his career in water management. He earned both his B.S. in Agriculture and his Masters of Agricultural Management and Resource Development from the University of Florida. He is also a certified instructor for the Florida Master Naturalist Program Wetland, Coastal and Upland Modules. With this certification, he actively assists rural pond owners in becoming good stewards of their water property. He has taught them how to manage surface waters and fisheries to enhance the aesthetics of their pond, while maintaining sound water quality.

John has an obvious passion for educating the public and is responsible for developing a program to educate lakefront residents entitled, "Living at the Lake." This primer has been used extensively for Florida's lakefront homeowners and by others interested in central Florida's lake resources. John also coordinates the Polk County Extension Water School. This program is designed to provide local officials with valuable information to prepare them for addressing important water issues and policies.

John has also molded young minds and shaped lives through his work as a 4-H Agent. For many years, John chaperoned trips to 4-H Congress and 4-H Camps where he taught courses, led fishing expeditions and counseled young people on character and values. His own example is what provides the best lesson for a life of service, love, and faith. I say this as one who benefited from his mentoring.

John's experience and influence reaches beyond Polk County lines. For ten years, John worked to educate businesses and residents through the natural resource education program as a multi-county agent. Additionally, John has worked with volunteers associated with the University of Florida's LAKEWATCH program which was designed to monitor water quality in local lakes. As a result of John's efforts, data was collected from local lakes on a

monthly basis and entered into an extensive database used for profiling the local waterscape.

John and his wife, Terri, have been married for almost 36 years. They have one daughter, Emily, and three sons Jacob, Adam, and Joseph. When not tending to his work or bragging about his grandkids, John is a Sunday school teacher and Deacon at the First Baptist Church at the Mall.

#### GLOBAL WARMING PETITION SIGNED BY 31,478 SCIENTISTS

#### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. PAUL. Madam Speaker, before voting on the "cap-and-trade" legislation, my colleagues should consider the views expressed in the following petition that has been signed by 31,478 American scientists:

"We urge the United States government to reject the global warming agreement that was written in Kyoto, Japan in December, 1997, and any other similar proposals. The proposed limits on greenhouse gases would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind.

There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the Earth."

Circulated through the mail by a distinguished group of American physical scientists and supported by a definitive review of the peer-reviewed scientific literature, this may be the strongest and most widely supported statement on this subject that has been made by the scientific community. A state-by-state listing of the signers, which include 9,029 men and women with PhD degrees, a listing of their academic specialties, and a peer-reviewed summary of the science on this subject are available at [www.petitionproject.org](http://www.petitionproject.org).

The peer-reviewed summary, "Environmental Effects of Increased Atmospheric Carbon Dioxide" by A. B. Robinson, N. E. Robinson, and W. Soon includes 132 references to the scientific literature and was circulated with the petition.

Signers of this petition include 3,803 with specific training in atmospheric, earth, and environmental sciences. All 31,478 of the signers have the necessary training in physics, chemistry, and mathematics to understand and evaluate the scientific data relevant to the human-caused global warming hypothesis and to the effects of human activities upon environmental quality.

In a letter circulated with this petition, Frederick Seitz—past President of the U.S. National Academy of Sciences, President Emeritus of Rockefeller University, and recipient of

honorary doctorate degrees from 32 universities throughout the world—wrote:

"The United States is very close to adopting an international agreement that would ration the use of energy and of technologies that depend upon coal, oil, and natural gas and some other organic compounds.

This treaty is, in our opinion, based upon flawed ideas. Research data on climate change do not show that human use of hydrocarbons is harmful. To the contrary, there is good evidence that increased atmospheric carbon dioxide is environmentally helpful.

The proposed agreement we have very negative effects upon the technology of nations throughout the world; especially those that are currently attempting to lift from poverty and provide opportunities to the over 4 billion people in technologically underdeveloped countries.

It is especially important for America to hear from its citizens who have the training necessary to evaluate the relevant data and offer sound advice."

We urge you to sign and return the enclosed petition card. If you would like more cards for use by your colleagues, these will be sent."

Madam Speaker, at a time when our nation is faced with a severe shortage of domestically produced energy and a serious economic contraction; we should be reducing the taxation and regulation that plagues our energy-producing industries.

Yet, we will soon be considering so-called "cap and trade" legislation that would increase the taxation and regulation of our energy industries. "Cap and-trade" will do at least as much, if not more, damage to the economy as the treaty referred by Professor Seitz! This legislation is being supported by the claims of "global warming" and "climate change" advocates—claims that, as demonstrated by the 31,477 signatures to Professor Seitz' petition, many American scientists believe is disproved by extensive experimental and observational work.

It is time that we look beyond those few who seek increased taxation and increased regulation and control of the American people. Our energy policies must be based upon scientific truth—not fictional movies or self-interested international agendas. They should be based upon the accomplishments of technological free enterprise that have provided our modern civilization, including our energy industries. That free enterprise must not be hindered by bogus claims about imaginary disasters.

Above all, we must never forget our contract with the American people—the Constitution that provides the sole source of legitimacy of our government. That Constitution requires that we preserve the basic human rights of our people—including the right to freely manufacture, use, and sell energy produced by any means they devise—including nuclear, hydrocarbon, solar, wind, or even bicycle generators.

While it is evident that the human right to produce and use energy does not extend to activities that actually endanger the climate of the Earth upon which we all depend, bogus claims about climate dangers should not be used as a justification to further limit the American people's freedom.

In conclusion, I once again urge my colleagues to carefully consider the arguments made by the 31,478 American scientists who have signed this petition before voting on any legislation imposing new regulations or taxes on the American people in the name of halting climate change.

CONGRATULATING MAYOR  
CHARLES MURPHY FOR BEING  
ELECTED VICE PRESIDENT OF  
THE ALABAMA LEAGUE OF MU-  
NICIPALITIES

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. BONNER. Madam Speaker, it is with great pride and pleasure that I rise today to congratulate Robertsdale Mayor Charles Murphy for being elected vice president of the Alabama League of Municipalities. As the elected vice president, Mayor Murphy will become president of the League in 2010 and will also become the fourth Baldwin County mayor to preside over the Alabama League of Municipalities in the organization's 74 year history.

Born in Missouri, Mayor Murphy was raised on a cotton and cattle farm near Bossier City, Louisiana. After high school, he began his career with the U.S. Navy. After his discharge, he joined South Central Bell, now BellSouth, in 1973. In 1976, BellSouth transferred him to south Alabama to work in the company's construction department. He continues to work for BellSouth today and is currently the manager of the supply division for the Gulf Coast.

Mayor Murphy's public service career began in 1983 when he was appointed to Robertsdale's Zoning Board of Adjustments. In 1988, he was elected to the city council, and just four years later, he was elected mayor of Robertsdale. He serves on the board of directors for the Alabama Municipal Insurance Corporation and is the chairman of the Baldwin County Mayor's Association.

As president of the Alabama League of Municipalities, Mayor Murphy will oversee an organization that serves as the voice of the cities and towns of Alabama. Since 1935, the organization has brought municipalities together to promote legislation, provide legal advice, and establish education programs for city and town officials.

Madam Speaker, on behalf of the city of Robertsdale and Alabama's First Congressional District, I ask my colleagues to join me in recognizing a dedicated community leader and friend to many throughout Alabama. On behalf of all those who have benefited from his good heart and generous spirit, permit me to extend thanks for his many efforts in making Robertsdale and all of Alabama a better place.

# INTRODUCTION OF THE MEDICARE SAVINGS PROGRAM IMPROVEMENT ACT OF 2009

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Mr. BECERRA. Madam Speaker, I rise today to introduce the Medicare Savings Program Improvement Act of 2009 with my colleague Congressman LLOYD DOGGETT (D-TX). Senator BINGAMAN (D-NM) is introducing similar legislation in the Senate. This legislation makes long overdue improvements to the Medicare Savings Program by providing additional assistance to modest income seniors for their health care out-of-pocket expenses.

Numerous advocacy groups have endorsed the bill, including AARP, Families USA, Consumers Union, the Center for Medicare Advocacy, the Medicare Rights Center, the National Committee to Preserve Social Security and Medicare, the National Council on Aging, and the National Senior Citizens Law Center.

Currently, the Medicare Savings Program provides needed financial assistance for more than 6.2 million of the sickest and most vulnerable Medicare beneficiaries. The program has three major categories of beneficiaries: Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs) and Qualified Individuals (QI). These categories provide varying amounts of benefits to Medicare beneficiaries whose annual incomes are less than 135 percent of the federal poverty level (annual incomes of \$14,623 for an individual and \$19,670 for couples in 2009) and annual resources are no more than \$4,000 for individuals and \$6,000 for couples.

Unfortunately, the Medicare Savings Program does not reach many eligible beneficiaries because the benefit rules are very restrictive and confusing, and it is difficult to apply for the program. The Congressional Budget Office estimated that only 33 percent of eligible QMBs and 13 percent of eligible SLMBs actually are enrolled in the program. This enrollment rate is much lower than other federal benefit programs. For instance, 75 percent of eligible beneficiaries receive the Earned Income Tax Credit, 66 to 73 percent of eligible recipients enroll in the Supplemental Security Income program and 66 to 70 percent of eligible beneficiaries enroll in Medicaid.

The National Academy of Social Insurance found that many potential beneficiaries do not apply for these benefits because they incorrectly assume that they have too many resources. And for many more modest-income Medicare beneficiaries, the extremely low asset test of the Medicare Savings Program disqualifies them from receiving these important benefits. A 2002 Commonwealth Fund study found that only 48 percent of those who met the income requirements for the Medicare Savings Program in effect that year also met the asset requirements.

This inability to access the Medicare Savings Program benefit has real consequences for these seniors and individuals with disabilities. MedPAC has cited a study finding that QMB qualifying nonenrollees were twice as likely to avoid visiting a physician because of

cost than QMB enrollees. As a result, QMB qualifying nonenrollees are more likely to access hospital emergency rooms than QMB enrollees.

Both the National Academy of Social Insurance and the Henry J. Kaiser Family Foundation in separate studies cite similar reasons for the low enrollment in the Medicare Savings Program. They include: enrollment in Medicaid offices (welfare stigma), asset reporting, lack of awareness (79 percent of unenrolled eligible beneficiaries never heard of the program), hard-to-reach population (eligible individuals are older, poorer, sicker and often cannot read or speak English), and a burdensome application process (two-thirds of enrollees need help with the application).

Recognizing the shortcomings of the current program, Congress did make modest, but important modifications in the rules of the program last year. As part of "The Medicare Improvements for Patients and Providers Act" (P.L. 110-275), Congress allowed seniors to begin their application process in Social Security offices, modestly increased asset limits and eliminated a provision that allowed states to recover assets upon a beneficiary's death. These provisions did simplify the application process, make more individuals aware of the program and increase outreach to hard-to-reach individuals. However, much more needs to be done.

Even with these changes, the Medicare Savings Program's current design still makes it difficult for eligible seniors to enroll for the benefits and its eligibility requirements are significantly stricter than the Medicare low-income drug subsidy program. Recognizing these issues in 2008, MedPAC recommended that Congress raise the Medicare income and asset criteria to conform to the low-income drug subsidy and standardize program requirements so that the Social Security Administration could screen low-income drug subsidy applicants for federal Medicare Savings Program eligibility.

In response, the Medicare Savings Program Improvement Act of 2009 proposes to accomplish three goals. First, the bill aligns the Medicare Savings Program with the low-income drug subsidy program by reducing it to two beneficiary categories and standardizing the definition of income and assets for both programs.

Second, it would expand access by increasing the income eligibility limits for Qualified Medicare Beneficiaries up to 150 percent (an annual income level of \$16,245 for individuals and \$21,855 for families in 2009) and Specified Low-Income Beneficiaries up to 200 percent (an annual income of up to \$21,660 for individuals and up to \$29,140 in 2009) of the federal poverty level. And annual resource limits would be raised to \$27,000 for individuals and \$55,000 for families. Representative DOGGETT has introduced legislation that changes resource and income limits for the Medicare low-income drug subsidy program to the same levels as this bill.

Finally, the bill continues to simplify the application process. For instance, the legislation makes it easier for non-native English speaking Medicare beneficiaries to access enrollment materials.

Improving the Medicare Savings Program will create increased access to health benefits

for our sickest and poorest seniors and the disabled. I urge my colleagues to support this bill and ensure that low-income Medicare beneficiaries are able to fully access the important health benefits provided by Medicare.

THE INTRODUCTION OF THE  
CLEAN UP ACT

**HON. JOHN P. SARBANES**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. SARBANES. Madam Speaker, I rise today to introduce the Correction of Long-standing Errors in Agencies Unsustainable Procurements, CLEAN UP, Act. This legislation will reform the badly flawed competitive sourcing process—saving taxpayer dollars and reinvigorating our civil service.

This bill is about good government. Over the last decade, we have been much too quick to outsource many of government's most basic functions to the private sector. The desire to do so reflected a political ideology of shrinking government at all costs—even if it meant diminishing the quality of certain government services that are paid for and overwhelmingly supported by American taxpayers. This course of action negatively impacted everything from national defense and border security to the collection of taxes and the stewardship of our public lands. In many cases, work was outsourced with little or no competition—subverting the public interest and wasting billions in taxpayer dollars.

This bill is not about punishing the contractor community or criticizing the work that they do. The vast majority of these firms want to do the right thing and have performed many important functions on behalf of the government. However, there is some government work that is not appropriately awarded to the lowest bidder. Often this work is about providing a service as a matter of policy without regard to profit. The process by which we make decisions to hire government workers or to contract with the private sector for certain functions must reflect a mature understanding of the real differences between the mission of government and that of business.

More recently, the Congress has begun to reign in Administrative procurement policy by requiring more robust competition in contracting and ensuring that the core functions of government are performed by government employees. The CLEAN UP Act seeks to reverse the damage that has already been done by requiring agencies to develop plans to bring inherently governmental work back in-house and ensuring that future procurement decisions are made based on the best interest of the government and the taxpayer. The CLEAN UP Act will make the contracting process fair to federal employees and accountable to taxpayers.

Congress has heard from federal workers and advocates in and out of government and their conclusions are the same—the current system is broken. We must develop a clear, government-wide standard for what work should or must be performed by government workers and put in place a fair process for

competing all other work. That is why, with the support of 50 of my colleagues of both parties, I have introduced the bipartisan CLEAN UP Act.

The CLEAN UP Act will: Impose a uniform, government-wide standard for government work, distinguishing between the functions which can and must be done by our civil servants and those functions that may be done competently by the private sector; incrementally bring work that should be performed by federal employees back in-house; encourage agencies to consider assigning new work to federal employees if they would be more efficient rather than pursuing a policy of contracting-out, frequently through sole-source or limited competition contracts; require agencies to determine where there are or will be shortages of federal employees and develop plans to address these shortages; maintain the existing suspension of the use of the Office of Management and Budget, OMB, Circular A-76 process until OMB determines that the reforms required by this legislation have been implemented; direct Agencies to implement an alternative to the A-76 process in order to continually improve and streamline services—developing a more efficient process without the costs and controversies of the A-76 process.

We have some of the best and brightest in our civil service; public servants with a deep and abiding love for this country. They have important missions—to make the next scientific breakthrough; to protect our nation from foreign threats; to keep our communities safe from crime or disaster; to maintain our critical infrastructure. By enacting the CLEAN UP Act, we have an opportunity to support our federal workforce, save taxpayer dollars, restore good government, and reduce waste, fraud, and abuse.

HONORING SANDY REMPE

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. GRAVES. Madam Speaker, I rise today to recognize Sandy Rempe of the Missouri Department of Public Safety. Her direction of the department's Juvenile Justice Program and the dedication and compassion she has shown for today's youth is to be commended. Due to her exemplary leadership, she has earned the prestigious Tony Gobar Award, an honor that recognizes excellence in the field of juvenile justice.

Ms. Rempe has worked as the Department of Public Safety Juvenile Justice Program Manager for 12 years. Under her leadership, the program distributes federal grants that provide funding to 60 state and local agencies in Missouri to help support juvenile justice and delinquency prevention initiatives. Additionally, grant funds are utilized for training on juvenile justice, systems improvements, and intervention programs. Ms. Rempe also serves on many groups, committees and commissions including the Mental Health Transformation Leadership Work Group and the Drug Court Commission.

Madam Speaker, I proudly ask you to join me in commending Sandy Rempe for this

prestigious accomplishment with the Missouri Department of Public Safety and for her tireless efforts in helping Missouri's youth.

IN MEMORY OF HAROLD F. "HAL"  
EBERLE, JR.

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. WILSON of South Carolina. Madam Speaker, on May 27th, South Carolina lost a long time friend and leader with the passing of Hal Eberle. Hal spent a lifetime in service to his nation and his community. As a young man, he served as a pilot, navigator, bombardier, and radar observer during World War II. In Washington, he worked as an Administrative Assistant to the late Congressman Robert J. Corbett of Pennsylvania and Victor V. Veysey of California from 1961 to 1972. From 1972 to 1973, he served as Congressional Relations Chief of the Overseas Private Investment Corporation. From 1973 to 1974, he was Congressional Relations Chief of the Office of Management and Budget. From 1975 to 1977, he served President Ford as Assistant Secretary of the Treasury for Legislative Affairs.

After retiring, Hal traveled the world visiting numerous nations including the former Soviet Union, Bulgaria, Australia, Africa, and South America. He was known for taking great enjoyment in sailing along the Atlantic Coast and down to the Bahamas. In 1988, he became Executive Vice President of the South Carolina Policy Council serving with President Ed McMullen.

The South Carolina Policy Council, founded by the legendary Tom Roe, has transformed the political landscape of South Carolina. Hal was the author and editor of the Policy Council Scorecards of the State Senate and State House votes. His rankings of conservative/liberal ratings were crucial to promote accountability in the State House. For the first time, recorded votes were required on all crucial issues promoting extraordinary reforms of state government. Hal was tireless in his monitoring of the State Senate from the gallery, and during votes, the question was respectfully asked "What is the Policy Council position?" Hal advanced the ideals of limited government and expanded freedom promoting the Reagan Revolution on the state level.

Hal was buried on June 2nd at the Fort Jackson National Cemetery in South Carolina. Our thoughts and prayers are with his friends and family including his son Mark and sister Betty.

THE INTRODUCTION OF THE  
REUNITING FAMILIES ACT

**HON. MAZIE K. HIRONO**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Ms. HIRONO. Madam Speaker, aloha! I rise today in support of the Reuniting Families Act,

a bill introduced by Congressman MICHAEL HONDA. I am proud to be an original cosponsor of this important bill.

There are currently 5.8 million people in the family immigration backlog waiting unconscionable periods of time to reunite with their family members. The Reunifying Families Act takes important steps toward fixing our broken family immigration system by reducing the waiting times for legal immigrants.

One important piece of Mr. HONDA's bill is the inclusion of the Filipino Veterans Family Reunification Act (H.R. 2412), a bill I have introduced for the past two congressional sessions. My bill would exempt the sons and daughters of Filipino World War II veterans from the cap on immigration numbers that have resulted in waiting periods for up to two decades for immigrant visas to the United States.

I have listened to many heartbreaking stories of our Filipino veterans, many of whom are in their 80s and 90s, waiting patiently with the hope that one day that their children will be able to come to the United States to care for them. I am glad that the Filipino Veterans Family Reunification Act is a part of the Reuniting Families Act.

The family bond is precious and it is the bedrock of society. Any policy that would keep family members apart for decades at a time, husband from wife, mother from child, is not morally defensible. The real solution is to reward immigrants for following the law, not punish them with unreasonably long separations.

I look forward to working with my colleagues by providing for the reunification of all our families.

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HONORING THE MEMORY OF  
WALTER WYATT SHORTER

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**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. BONNER. Madam Speaker, the city of Camden and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to the memory of Walter Wyatt Shorter.

For more than 50 years, Mr. Shorter dedicated his life to serving his country, church, family and career.

Born in New York City, Mr. Shorter survived polio as a young child. In 1949, he graduated from the Fishburne Military Academy in Waynesboro, Virginia. He then enrolled in the Virginia Military Institute where he attained the rank of company commander of C Company and earned a Bachelor of Arts in Chemistry. He was commissioned as an officer in the Marine Corps and rose to the rank of captain where he admirably served his country on several military campaigns.

Mr. Shorter continued his education and received a Master of Science in Pulp and Paper Science and Chemical Engineering from the University of Maine and was inducted into Tau Beta Pi and the Society of the Sigma Xi.

Throughout his lifetime, Mr. Shorter was devoted to serving the community in the paper industry. He was a frontrunner in the develop-

ment of recycled paper use in corrugated containers. He spent 21 years working for Union Camp Corporation and held the positions of vice president and residential manager at the Prattville mill. He became president of MacMillan Bloedel, Inc. in 1978 and managed the successful expansion of MacMillan Bloedel in Pine Hill.

Mr. Shorter served as national president of the Paper Industry Management Association, president of the Alabama State Chamber of Commerce, chairman of the Alabama Alliance of Business and Industry, director of the Four-drier Kraft Board Group and was a member of the Alabama Council on Economic Education.

He had a genuine love for the people of Camden, serving as a volunteer for his church, local school systems and the J. Paul Jones Hospital. He served as a trustee for Huntingdon College, a Lay leader in the Episcopal Church and a member of the "13" in Montgomery. He also served on the boards of the First Alabama Bankshares, Jenkins Brick Corporation, and The Nature Conservancy of Alabama.

Madam Speaker, Walter Wyatt Shorter dedicated his entire life to the service of others, all-the-while being a devoted husband, father to five children, and grandfather to 11 wonderful grandchildren.

He will be missed by his family—his wife of 51 years, Gayle Prince Shorter; their children, Walter Wyatt Shorter Jr., Margaret Shorter Robinson, Mathew Peasley Shorter, John David Shorter, and Charles Christopher Shorter; his grandchildren, Mary Margaret Wadsworth, Samantha Glenn Shorter, Margaret Ashley Shorter, Emily Wyatt Shorter, Katherine Gibbs Shorter, Jackson Sean Ours, Olivia Grace Shorter, Noelle Elizabeth Shorter, Calder Christopher Shorter, Davis Troy Shorter, Maggie-Alisabeth Gayle Shorter; and his nephews, Jeffery Douglas and Edward Morfel—as well as the many countless friends he leaves behind. Our thoughts and prayers are with them all during this difficult time.

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TIANANMEN SQUARE MASSACRE  
CONTINUES IN CHINA OFTEN  
OUT OF SIGHT BEHIND CLOSED  
DOORS

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**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. SMITH of New Jersey. Madam Speaker, the brave and tenacious heroes of Tiananmen Square will never be forgotten nor will their huge sacrifice—for some torture and for others even death—be in vain.

Future generations of Chinese—and other advocates of democracy worldwide—will forever honor their courage, vision and dream of democracy. The Chinese people deserve no less. The Chinese are a great people—and deserve democratic institutions and respect for the rule of law that reflects that greatness.

Twenty years after Tiananmen, pro-democracy advocates remain in concentration camps subjected to torture, myriad forms of humiliation and degrading treatment.

They must be freed, unconditionally.

The Tiananmen Square massacre was a turning point in China—and not for the better. The hard-liners in Beijing have since unleashed unprecedented cruelty on labor leaders, political prisoners, religious believers, and have committed massive crimes against women and children through forced abortion.

The ugly spirit of the Tiananmen Square massacre continues today unabated throughout China, with brutality and efficiency only the Nazis could love.

With some notable exceptions including last year's savage crackdown on Tibetans the Chinese leadership has taken their murder and torture behind closed doors, where the cries, screams, and tears of thousands of dissidents are heard by no one except the torturers themselves.

For its part, the international community has failed to seriously challenge China's massive human rights violations—and that includes the weak and feckless response of the United States of America. That includes the Bush Administration, that includes the Clinton Administration, that includes the Obama Administration and that includes Congress.

That must change.

When Secretary of State Hillary Clinton visited China a few months ago to peddle U.S. treasury bonds to finance U.S. debt, she said human rights shouldn't be allowed to "interfere" with that and other issues.

Wittingly or not, that attitude enables the Chinese dictatorship to continue brutalizing its own people.

And while I respect President Obama's outreach to Muslims in Cairo today, that event surely could have been scheduled for any other day but the 20th Anniversary of the Tiananmen Square massacre.

This solemn remembrance of the victims of mass murder at Tiananmen Square and the crushing of their bodies and hopes by tanks and bayonets, should have been the White House's major event today.

Meanwhile, on this tragic 20th anniversary of the Tiananmen Square Massacre, I am afraid that, American technology and know-how is actually enabling the Chinese Government to repress the truth about what happened on that day—about which it is absolutely vital that the Chinese people know the truth. After all, it is the truth about their history.

Similarly, while the internet has opened up commercial opportunities and provided access to vast amounts of information for people the world over, the internet has also become a malicious tool: a cyber sledgehammer of repression of the government of China. As soon as the promise of the Internet began to be fulfilled—when brave Chinese began to email each other and others about human rights issues and corruption by government leaders—the Party cracked down. To date, an estimated 49 cyber-dissidents and 32 journalists have been imprisoned by the PRC for merely posting information on the Internet critical of the regime. And that's likely to be only the tip of the iceberg. Of course, one of the points on which the Chinese Government is most eager to crack down is dissemination of the truth about Tiananmen.

Tragically, history shows us that American companies and their subsidiaries have provided the technology to crush human rights in



the past. Edwin Black's book *IBM and the Holocaust* reveals the dark story of IBM's strategic alliance with Nazi Germany. Thanks to IBM's enabling technologies, from programs for identification and cataloging to the use of IBM's punch card technology, Hitler and the Third Reich were able to automate the genocide of the Jews.

U.S. technology companies today are engaged in a similar sickening collaboration, decapitating the voice of the dissidents. In 2005, Yahoo's cooperation with Chinese secret police led to the imprisonment of the cyber-dissident Shi Tao. And this was not the first time. According to *Reporters Without Borders*, Yahoo also handed over data to Chinese authorities on another of its users, Li Zhi. Li Zhi was sentenced on December 10, 2003 to eight years in prison for "inciting subversion." His "crime" was to criticize in online discussion groups and articles the well-known corruption of local officials.

Women and men are going to the gulag and being tortured as a direct result of information handed over to Chinese officials. When Yahoo was asked to explain its actions, Yahoo said that it must adhere to local laws in all countries where it operates. But my response to that is: if the secret police a half century ago asked where Anne Frank was hiding, would the correct answer be to hand over the information in order to comply with local laws? These are not victimless crimes. We must stand with the oppressed, not the oppressors.

I believe that two of the most essential pillars that prop up totalitarian regimes are the secret police and propaganda. Yet for the sake of market share and profits, leading U.S. companies like Google, Yahoo, Cisco and Microsoft have compromised both the integrity of their product and their duties as responsible corporate citizens. They have aided and abetted the Chinese regime to prop up both of these pillars, propagating the message of the dictatorship unabated and supporting the secret police in a myriad of ways, including surveillance and invasion of privacy, in order to effectuate the massive crackdown on its citizens.

Through an approach that monitors, filters, and blocks content with the use of technology and human monitors, the Chinese people have little access to uncensored information about any political or human rights topic, unless of course, Big Brother wants them to see it. Google.cn, China's search engine, is guaranteed to take you to the virtual land of deceit, disinformation and the big lie. As such, the Chinese government utilizes the technology of U.S. IT companies combined with human censors—led by an estimated force of 30,000 cyber police—to control information in China. Websites that provide the Chinese people news about their country and the world, such as AP, UPI, Reuters, and AFP, as well as Voice of America and Radio Free Asia, are regularly blocked in China. In addition, when a user enters a forbidden word, such as "democracy," "China torture" or "Falun Gong," the search results are blocked, or you are redirected to a misleading site, and the user's computer can be frozen for unspecified periods of time.

Google censors what are euphemistically called "politically sensitive" terms, such as

"Tiananmen," "democracy," "China human rights," "China torture" and the like on its Chinese search site, Google.cn. A search for terms such as "Tiananmen Square" produces two very different results. The one from Google.cn shows a picture of a smiling couple, but the results from Google.com show scores of photos depicting the mayhem and brutality of the 1989 Tiananmen square massacre.

Google claims that some information is better than nothing. But in this case, the limited information displayed amounts to disinformation. A half truth is not the truth—it is a lie. And a lie is worse than nothing. It is hard not to draw the conclusion that Google has seriously compromised its "Don't Be Evil" policy. It has become evil's accomplice.

And that continues. Last summer Frank Wolf and I were in Beijing. We tried to look up "Tiananmen Square" on the tightly-controlled Chinese Internet. Of course, mere mention of the slaughter has been removed from the Chinese Internet. We walked across Tiananmen Square—officials searched us before we entered the square, and squads of police surrounded us while we were on it, terrified we might hold up a simple sign or banner.

Standing for human rights has never been easy or without price, and companies are extremely reluctant to pay that price. That's why our government also has a major role to play in this critical area, and that a more comprehensive framework is needed to protect and promote human rights.

This is why I have re-introduced The Global Online Freedom Act, H.R. 2271. I believe it can be an important lever to help disseminate the truth—about Tiananmen and so many more things in the history of China—to the Chinese people by means of the Internet.

I'd like to ask you to support this bill, which would prevent U.S. high-tech Internet companies from turning over to the Chinese police information that identifies individual Internet users who express political and religious ideas that the communists are trying to suppress. It would also require companies to disclose how the Chinese version of their search engines censors the Internet.

In the last Congress, the bill passed the Foreign Affairs Committee and was ready for a floor vote, but influential lobbies prevented a vote on the bill.

I also want to mention the exciting firewall-busting technology that a group of dedicated Chinese human rights activists are promoting. They have technology that enables users in China to bypass the Chinese government's so-called "Golden Shield" censorship effort and surf the Internet freely. With this technology, which has been demonstrated to me in my office, Chinese users can visit the same Internet you and I do, and there is nothing the Chinese government can do about it. I think we should all ask the State Department to financially support this technology—which could produce a human rights and rule of law revolution in China.

Today provides us an important reminder that the fight the Tiananmen protestors took on 20 years ago is still going on, in the streets, the internet café's and here today. To the brave men and women who continue to fight for the rights of the Chinese people—we say, we stand with you, we remember you,

and we will not abandon the fight for your freedoms.

## HONORING THE SERVICE AND SACRIFICE OF D-DAY WARRIORS

**HON. GABRIELLE GIFFORDS**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 2009

Ms. GIFFORDS. Madam Speaker, sixty-five years ago, our nation's greatest military minds gathered with our European allies deep beneath London to set into motion a plan called Overlord. Unsure if the weather would clear long enough for the operation, planners reluctantly gave the order—advance to Normandy.

On the morning of June 6, 1944, forces approached from the sea in silence, under cover of darkness seeking single points on a map. Their names—Omaha and Utah, Juno, Sword and Gold—are forever stained by the fateful events of that day.

All told, the Allies mustered nearly 3 million Soldiers, Sailors and Airmen. Nearly 160,000 troops came across the English Channel on D-Day with another 2 million in the months after.

Those brave many boarded landing craft and aircraft, bound for an uncertain fate against a war-tested opponent that had become the most feared army to cross Europe in two millennia.

Tossed by rough seas and unsettled by the distant echo of machine gun fire, young men from every corner of America stepped into the breach, wading through neck-deep water to open a beachfront in France and blaze a trail of liberation to Berlin.

American landing forces at Utah beach faced the lightest resistance of the invasion's 50 mile breadth. 197 brave souls lost their lives at Utah, but most of the 23,000—men like Raymond Jackson, a Tucsonan with the 15th Cavalry Recon Squadron—came ashore and linked up with the 101st Airborne in Normandy's first major success.

Omaha was less absolute. High bluffs were defended by mortars, machine gunners and pillboxes. The German forces atop the steep, sandy cliffs were highly trained and combat tested. They repelled Allied landing craft and destroyed American tanks as they hit the beach. Commanders considered abandoning Omaha. But our brave Soldiers persisted.

Led by signalmen like Norm Hartline from Tucson, more than 50,000 men in all came ashore at Omaha. More than 5,000 wouldn't advance past the surf line. Killed and wounded lay in the wake and behind parapets for hours or days. History tells us that it took until June 9th for American infantry units from Omaha to successfully establish a beach head at Omaha.

Today, we once again pull back the curtains of history to honor those American and Allied heroes who stood as the point of liberty's spear. Within boundless volumes on World War II are the eulogies of Bradley and Eisenhower, Patton and Montgomery—leaders of the Allied liberation of Europe.

But where we find D-Day's true heroes are not within the dust jackets of history books or

news clippings from the day. They haven't lived lives of great fanfare. Our greatest generation arose from America's factories and farms, from our inner cities to our outlying territories. And to these places they returned.

On their backs we won a great victory for freedom and liberty, against oppression and hatred. Then on those same backs we built the world's greatest democracy, serving as a beacon of light, a shining city atop a hill. Many of the true heroes of D-Day have forever gone unrecognized because they sought not the special recognition afforded their heroism. To these heroes, it was a patriotic duty—a level of selfless sacrifice that transcends medals and citations. And in small towns and big cities across America, the few remaining true heroes of D-Day continue to live quiet lives.

But as these standard bearers for virtue pass on and the torches that marked their trail to liberty are extinguished, we take a proud moment to offer our sincerest gratitude and our indebted praise to those brave warriors who stood between humanity and evil to save mankind from the brink.

And we remember in our hearts and prayers those who gave their last full measure of devotion—for freedom.

IN RECOGNITION OF THE FANNIE  
W. FITZGERALD ELEMENTARY  
SCHOOL DEDICATION

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 4, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the dedication of Fannie W. Fitzgerald Elementary School in Woodbridge, Virginia. Mrs. Fitzgerald was one of four African-American educators who took on the task of integrating Prince William County public schools in the 1960s. I consider myself fortunate to live in a time when we celebrate the accomplishments of a woman like Mrs. Fitzgerald and honor the sentiment of her life's work.

The unanimous Supreme Court Decision, *Brown v. Board of Education*, was handed down in 1954, calling for the desegregation of America's public schools. Ten years later in 1964, it was Mrs. Fitzgerald's challenging task to integrate Fred Lynn Elementary and Middle School. "With all deliberate speed," Mrs. Fitzgerald desegregated the school by the following September. Her success will forever be remembered in the diversity of the Prince Wil-

liam County Public School System and its mission statement, which identifies a commitment to a diverse and multicultural learning environment.

Mrs. Fitzgerald's work in the Prince William education system continued for twenty-three years after desegregation. As an elementary school teacher and learning disabilities specialist she witnessed the realization of the changes she initiated in 1964. President Barack Obama, the United States' first African-American President, was just three years old at the time of Mrs. Fitzgerald's desegregation efforts. His landmark Presidency is a testament to the courage and hard work of Mrs. Fitzgerald and her vision for this country's children.

Madam Speaker, I ask that my colleagues join me in honoring this remarkable educator and champion of civil rights. She has enriched the lives of Prince William students with an unqualified opportunity for education, and it is time we thank her for her contribution to our school system. I commend the Prince William County Public School System for this most appropriate dedication. I know Fannie W. Fitzgerald will inspire children to attempt the difficult and accomplish the unlikely for years to come.